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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, October 5, 1989*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. YATES).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 5, 1989.

I hereby designate the Honorable SIDNEY YATES to act as Speaker pro tempore on today.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

Rev. Samuel Billy Kyles, Monumental Baptist Church, Memphis, TN, offered the following prayer:

Our Father and our God, we thank Thee for these moments in life, time, and the history of mankind. We thank Thee for this day and for every opportunity it presents us to do good.

Father God we pray for the leaders of this great Nation. May they look above party and region, and ever hold to that which is right. And that which is just. And that which is true. We pray now for world peace.

We pray for the hungry, the homeless, the helpless, and for those who feel that there is no reason to hope. Let Your spirit go forth in this place so that all will know that the men and women of these hollowed halls do care, and that the less fortunate are not just numbers and percentages, but individuals who are flesh and blood and whose hearts are filled with a desire for a reasonable portion of goods that serve to make life comfortable.

And Father we pray in a special way, for those families whose lives have been torn asunder by the devastation of the hurricane.

And, finally, Dear God, let us not be as the two, on the dangerous Jericho Road, who passed by on the other side, but as the one—the good one, who risked his own well-being and comfort and stopped to pour in the oil and bind the wound and set the wounded on his beast, took him to an inn and paid the tariff for as long as needed.

Help us in this sacred place, to be binders of wounded hopes, wounded dreams, and wounded hearts.

In his name we pray. Amen.

□ 0910

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BARTLETT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 91, answered "present" 1, not voting 48, as follows:

[Roll No. 271]

YEAS—292

Ackerman	Bateman	Boxer
Akaka	Bates	Brennan
Alexander	Beilenson	Brooks
Anderson	Bennett	Broomfield
Andrews	Bereuter	Browder
Annunzio	Berman	Brown (CA)
Anthony	Bevill	Brown (CO)
Archer	Bilbray	Bruce
Aspin	Boggs	Bryant
Atkins	Bonior	Bustamante
Ballenger	Borski	Byron
Barnard	Bosco	Callahan
Bartlett	Boucher	Campbell (CA)
Campbell (CO)	Harris	Morrison (WA)
Cardin	Hatcher	Mrazek
Carper	Hayes (IL)	Murtha
Carr	Hayes (LA)	Myers
Chapman	Hertel	Nagle
Clarke	Hiler	Natcher
Clement	Hoagland	Neal (MA)
Coleman (TX)	Hochbrueckner	Nelson
Combest	Horton	Nowak
Condit	Houghton	Oakar
Conte	Hubbard	Obey
Cooper	Huckaby	Olin
Costello	Hughes	Ortiz
Cox	Hutto	Owens (UT)
Coyne	Inhofe	Packard
Darden	Johnson (CT)	Pallone
Davis	Johnson (SD)	Panetta
de la Garza	Johnston	Parker
DeFazio	Jones (GA)	Patterson
Derrick	Jontz	Payne (NJ)
Dicks	Kanjorski	Payne (VA)
Dingell	Kaptur	Pease
Dixon	Kasich	Pelosi
Donnelly	Kastenmeier	Penny
Downey	Kennedy	Perkins
Dreier	Kennelly	Petri
Duncan	Kildee	Pickett
Durbin	Kleczka	Pickle
Dwyer	Kolter	Porter
Dymally	LaFalce	Poshard
Early	Lancaster	Price
Eckart	Lantos	Pursell
Edwards (CA)	Laughlin	Quillen
Edwards (OK)	Lehman (CA)	Rahall
Emerson	Lehman (FL)	Rangel
Engel	Lent	Ravenel
English	Levin (MI)	Ray
Erdreich	Levine (CA)	Rhodes
Espy	Lewis (GA)	Richardson
Evans	Lipinski	Rinaldo
Fascell	Livingston	Ritter
Fawell	Lloyd	Robinson
Fazio	Long	Roe
Feighan	Lowey (NY)	Rose
Fish	Luken, Thomas	Rostenkowski
Flippo	Markey	Rowland (CT)
Foglietta	Martin (NY)	Rowland (GA)
Ford (TN)	Martinez	Roybal
Frank	Matsui	Russo
Frenzel	Mavroules	Sabo
Frost	Mazzoli	Saiki
Gallo	McCloskey	Sangmeister
Gaydos	McCollum	Sarpalius
Gejdenson	McCurdy	Savage
Geren	McDade	Sawyer
Gibbons	McDermott	Saxton
Gillmor	McEwen	Schaefer
Gilman	McHugh	Schiff
Glickman	McMillan (NC)	Schneider
Gonzalez	McMillen (MD)	Schulze
Gordon	McNulty	Schumer
Gradison	Meyers	Sharp
Grandy	Michel	Shaw
Grant	Miller (WA)	Shuster
Guarini	Mineta	Sisisky
Gunderson	Moakley	Skaggs
Hall (OH)	Mollohan	Skeen
Hall (TX)	Montgomery	Skelton
Hamilton	Moody	Slattery
Hammerschmidt	Morrison (CT)	Smith (FL)

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Smith (IA)	Tallon	Walsh
Smith (NE)	Tanner	Watkins
Smith (VT)	Tauzin	Waxman
Smith, Denny (OR)	Thomas (GA)	Weiss
	Thomas (WY)	Weldon
Snowe	Torres	Whitten
Solarz	Torricelli	Williams
Spratt	Towns	Wilson
Staggers	Traficant	Wise
Stallings	Traxler	Wolpe
Stearns	Unsoeld	Wyden
Stenholm	Valentine	Wylie
Stokes	Vento	Yates
Studds	Visclosky	Young (FL)
Swift	Volkmer	

NAYS—91

Armey	Henry	Paxon
Baker	Holloway	Regula
Barton	Hopkins	Ridge
Bentley	Hunter	Rogers
Bilirakis	Ireland	Rohrabacher
Bliley	Jacobs	Ros-Lehtinen
Boehlert	James	Roukema
Buechner	Kolbe	Schroeder
Bunning	Kostmayer	Schuette
Burton	Kyl	Sensenbrenner
Chandler	Lagomarsino	Shays
Clay	Leach (IA)	Sikorski
Coble	Lewis (CA)	Slaughter (VA)
Coleman (MO)	Lightfoot	Smith (TX)
Coughlin	Lowery (CA)	Smith, Robert (NH)
Craig	Lukens, Donald	
Dannemeyer	Machtley	Solomon
DeWine	Madigan	Spence
Dickinson	Marlenee	Stangeland
Dorgan (ND)	Martin (IL)	Stump
Dornan (CA)	McCandless	Sundquist
Douglas	McGrath	Tauke
Gallegly	Miller (CA)	Thomas (CA)
Gekas	Miller (OH)	Upton
Gingrich	Molinari	Vucanovich
Goodling	Moorhead	Walker
Goss	Morella	Weber
Hancock	Nielson	Wheat
Hastert	Oxley	Whittaker
Hawkins	Parris	Wolf
Hefley	Pashayan	

ANSWERED "PRESENT"—1

Synar

NOT VOTING—48

Applegate	Gray	Owens (NY)
AuCoin	Green	Roberts
Clinger	Hansen	Roth
Collins	Hefner	Scheuer
Conyers	Herger	Shumway
Courter	Hoyer	Slaughter (NY)
Crane	Hyde	Smith (NJ)
Crockett	Jenkins	Smith, Robert (OR)
DeLay	Jones (NC)	
Dellums	Leath (TX)	Stark
Dyson	Lewis (FL)	Udall
Fields	Manton	Vander Jagt
Flake	McCrery	Walgren
Florio	Mfume	Yatron
Ford (MI)	Murphy	Young (AK)
Garcia	Neal (NC)	
Gephardt	Oberstar	

□ 0936

Mr. SCHAEFER changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mrs. BOGGS). Will the gentleman from Nebraska [Mr. HOAGLAND] please lead the House in the Pledge of Allegiance.

Mr. HOAGLAND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2653. An act to authorize appropriations for fiscal year 1990 to carry out the Export Administration Act of 1979.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 978. An act to authorize the establishment within the Smithsonian Institution of the National Museum of the American Indian, to establish a memorial to the American Indian, and for other purposes;

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard; and

S 1074. An act to extend the Tied-Aid Credit Program of the Export Import Bank, and for other purposes.

The message also announced that pursuant to sections 1928a–1928d, title 22, of the United States Code, as amended, the Chair on behalf of the Vice President, appoints Mr. PELL, Mr. MOYNIHAN, Mr. WIRTH, and Mr. ROBB, as members of the Senate delegation to the North Atlantic Assembly Meeting during the first session of the 101st Congress, to be held in Rome, Italy, October 6–10, 1989.

REV. SAMUEL BILLY KYLES

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. FORD of Tennessee. Madam Speaker, we in the Memphis community are extremely honored to have in our midst, the Reverend Billy Kyles, pastor of the Monumental Baptist Church.

Reverend Kyles has touched the core of the community's social conscience, and will thereby affect the lives of many for years to come. His voice of compassion has always spoken out in an unyielding manner for the community's less fortunate. Under his guidance, Monumental Church has emerged as a forerunner in the defense of individuals rights.

Thanks to Reverend Kyles' insistence, Monumental is headquarters for the local chapter of Operation PUSH [People United to Save Humanity]. His leadership of this group, along with his aggressiveness in working to eliminate the injustices present in the lives of people in the community, has served as an inspiration to us all. I commend Reverend Kyles for his dynamic leadership in the city of Memphis, and for the work he has done in making his goals a living reality for many people.

Madam Speaker, it is my pleasure to introduce to you the Reverend Billy Kyles.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Other 1-minute speeches will be postponed until conclusion of the legislative business of the day.

OMNIBUS RECONCILIATION ACT OF 1989

The SPEAKER pro tempore. Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3299.

□ 0939

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

□ 0940

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 4, 1989, the amendment offered by the gentleman from California, [Mr. PANETTA] had been disposed of.

It is now in order to consider amendment No. 9 printed in section 2 of House Report 101–261.

LEGISLATIVE PROGRAM

(By unanimous consent Mr. PANETTA was allowed to speak out of order.)

Mr. PANETTA. Mr. Chairman, I do this for the purpose of advising Members where we are heading.

We have a point of order that will be raised by the Committee on Ways and Means against an item included in the package from the Committee on Education and Labor. That will take some 30 or perhaps 40 minutes to dispose of. It is a long point of order and a controversial one.

We will then move to the child care provisions, and the Edwards amendment will be first up for 2 hours and then the Stenholm amendment for 2 hours. Then it is our hope that we can proceed to final passage.

POINT OF ORDER

Mr. FRENZEL. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Chairman, I make a point of order against section 3201 of the bill, beginning on page 151.

Mr. Chairman, I make a point of order against section 3201 on the grounds that it is a tax measure which is in violation of paragraph B, clause 5 of House rule 21.

Mr. Chairman, section 3201 imposes fees on the filing of certain forms required to be filed annually in connection with maintaining pension and benefit plans. The authors of the provision argue that these fees are user fees because they are paid out of plan assets to finance the enforcement of Federal pension laws. They argue that plan assets are the deferred wages of employees, and hence, the fee is a user fee paid by the employees as beneficiaries of increased enforcement of the fiduciary standards of title I of the Employee Retirement Income Security Act of 1974 [ERISA].

Mr. Chairman, while the payment of taxes is mandatory, user fees are generally voluntary payments made in return for additional governmental services. It is hard to imagine how the mandatory filing of a form can be associated with the sort of voluntary activities we have come to associate with user fees.

In addition, I raise the question of whether proper enforcement of our pension laws is a "use" that should be subject to a "fee" imposed merely for proper enforcement of duly enacted statutes. Often when laws are enacted, certain classes of individuals are particularly benefited. Occupational health and safety laws, employment discrimination laws, and pension fiduciary laws fall in this category. But is the enforcement of the laws that protect these individuals a special benefit or special use? I would argue that proper enforcement of these laws is both an expectation and a basic right. I believe it would set a very troubling precedent to acknowledge that individuals might be assessed user fees for nothing more than the enforcement of the laws enacted to protect them.

Mr. Chairman, this provision is clearly a tax and I urge the Chair to sustain my point of order.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in opposition to the point of order.

The issue before you is whether the fee required by section 3201 is a tax. We believe that the fee is clearly not a tax, but rather is a user fee as you have described such a fee in your ruling yesterday on several points of order against provisions in H.R. 3299.

You stated in your ruling that user fees or regulatory fees are "paid by choice in that the party paying the fee has the option of not utilizing the governmental service or avoiding the regulatory activity * * * Furthermore, fees are collected merely to compensate the governmental entity for providing the service, or in the case of regulating activities, for the expenses incurred in regulating the activity * * *" The fee in section 3201 fits squarely within your definition of a user fee.

Section 3210 imposes user fees on a pension plan for the filing and processing of certain forms with the Department of Labor. DOL uses the forms as the principal means of insuring that those who have filed the fee are meeting the fiduciary standards of ERISA which help assure the fiscal integrity of the pension plan. This regulatory function performed by DOL directly benefits both the employer who sponsors the plan and the employee participants in the plan. All of the fee is to be used by DOL in their handling of the required forms.

The fee required is also clearly a voluntary one because no one is required by law to have a pension plan. The decision to establish a plan is purely a voluntary one worked out between employers and employees. However once the decision is reached, the provision requires the payment of a fee to pay for government regulation which benefits those who have made the decision to establish a plan. The voluntary decision to have a plan triggers the requirement to pay a fee. The fee is then used exclusively for a government service that benefits those who have paid the fee. In every respect the fee required by section 3201 meets the definition of a user fee as articulated by the Chair yesterday. It also has the same characteristics of numerous other existing fees that have long been considered user fees not taxes.

Some have argued that it is a troubling precedent to acknowledge that individuals might be assessed user fees for nothing more than the enforcement of the laws enacted to protect them. We might agree that the need for user fees to fund essential government services is indeed troubling. But funding government activities is what user fees by definition are always used for. The question before you Mr. Chairman is whether the fee proposed in section 3201 is a tax. Whether or not user fees should be utilized to fund government activities is a wholly separate policy issue.

We believe the fee created by seciton 3201 fits squarely within the definition of a user fee and is clearly distinguishable from a tax. The point of order should be overruled.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the point-of-order against section 3201 as a violation of clause 5(b) of House Rule 21.

As ranking Republican on the Committee I acknowledge that there is an element of turf here. Most often I support my Committee's jurisdiction but in this instance the interpretation is not sustainable.

These provisions to impose so-called user fees on pension and welfare plan reports required to be filed with the Department of Labor and Pension Benefit Guaranty Corporation are indeed taxes, within the meaning of this House rule. It is clear that this provision cannot be characterized as a user fee for existing enforcement efforts. The amounts exceed cost of enforcement by 14 times. The outlays for such efforts of enforcement are currently about $40 million. The $580 million raised by this fee is over 14 times that amount.

Undoubtedly the offices of my colleagues, like mine, have been inundated with constituent letters asking that these user fees be deleted from budget reconciliation. They should be, not only because they were added just to pay for other revenue losers, but because they are insidious on their own, represent new taxes, not germane to reconciliation, and will discourage pension and health plan coverage.

Added solely to make up for revenue losses of $1.6 billion over 5 years which would result from another title III provision prohibiting excess asset reversions, this second Member of what I have called the pension gang-of-three would levy over a half billion dollars annually on the Nation's 5.4 million pension and welfare benefit plans. As emphasized by the gentleman from Minnesota these charges are not user fees because the required filings under ERISA are not voluntary and the sponsors of such plans derive no specific benefit from such filings. These taxes, in another name, increase plan costs while doing nothing to enhance retiree security.

Because these provisions, among others, pose a serious threat to the viability of the Nation's voluntary private pension system, the administration also strongly opposes their inclusion in budget reconciliation.

In conclusion, I support my colleague's point of order because it is a tax measure that raises revenues 14 times the amount that can be spent for its stated purposes. Because the effect on plan participants of any plan is completely disproportionate to the fee paid, for example since plans with thousands of participants pay almost the same fee as the plans with a few. And because the benefit of the enforcement of this Nation's laws, in this case as in any other is a public benefit spread among the citizenry, and not confined to those whose protection is the object of the law.

□ 0950

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. BARTLETT. Mr. Chairman, I rise in support of the point of order against section 3201, under clause 5(b) of rule 21, raised by my colleague from Minnesota Mr. FRENZEL.

Clause 5(b), of course, provides that "no bill * * * carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures * * *." Section 3201, reported out by the Education and Labor Committee, requires pension and employee benefit plans to pay what the section calls a user fee to the Department of Treasury when filing a form 5500 annual report, a summary plan description, a summary of material modification, or a notice of qualified transfer of express pension assets. These so-called user fees would range from $100 to $500. The first three forms are required to be filed under current law; the fourth would be required to be filed under the retiree health transfer provisions at section 3052 of the bill. None are optional. The amounts generated by these fees are to be transferred by the Treasury to the Department of Labor for enforcement and will be considerable—over $580 million, according to the Congressional Budget Office.

Well, is this so-called user fee actually a fee or is it a tax, reported in violation of clause 5(b)? The gentleman from Minnesota has already raised compelling arguments on this point but perhaps it may also be useful to lay out some basic definitions concerning the key terms involved here. Blacks Law Directory—1979 edition—citing case law, defines a "fee" as a "recompense for an official or professional service or a charge * * * or compensation for a particular act or service * * *." I think this fits what most of us believe a fee is, a payment in return for something specific or compensation for some direct government service; an entrance fee to use a park would be a common example. Under section 3201, of course, no service is being offered at all—the forms are required under law and must be filed and will ostensibly be used to check employer compliance. To say this is a service would be an interesting twist in Orwellian newspeak, and a problem which has required the authors of the provision to make the rather bizarre argument, as already suggested by my colleague from Minnesota, that the service being provided here is the enforcement of laws Congress has already provided for. Let's call this what it is—a tax. Again, Black's is helpful here, defining a "tax" as a "pecuniary burden laid upon individuals to suggest the government and is a payment exacted by legislative authority * * *. Essential characteristics of a tax are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority." The alleged user fee—a required payment on a required form—for which no service is provided squarely fits within this definition and, therefore, violates clause 5(b), in that the charge did not originate from the committee with jurisdiction over tax measures; that is Ways and Means.

Fortunately, Jefferson's Manual refers us to helpful, if not directly on point, precedents. In one case, at pages 10749-10751 of the CONGRESSIONAL RECORD of March 29, 1972, an amendment to an environmental bill was being considered. The amendment required that entities which discharged waste effluents be charged a sum calculated according to a certain schedule based on the discharge; the "charges"—the term used by the legislation—were to be paid to the Treasury which was then to place the money in a fund for the use of the Environmental Protection Agency [EPA] to asist water control programs. Sound familiar? A point of order was raised on the grounds that the charge was a "tax on effluents and raises revenues" and was, therefore, solely within the jurisdiction of the Ways and Means Committee. The Chair upheld the point of order, rejecting an argument that the charges were basically user charges, ruling that the charge was, in fact, a "provision for collecting revenues or taxes." While the Chair was specifically addressing an issue of germaneness at the time—5(b) of rule 21 was not promulgated until 1983 and was thus unavailable as a point of order—the reasoning that the charges required to be paid by law were revenue raisers and, thus, taxes—remains on point.

On September 12, 1984, CONGRESSIONAL RECORD, page H9407, a point of order was also raised under 5(b), against an amendment to expand the authority of the Customs Service to seize and use the proceeds from the sale of contraband to defray operational expenses on the basis that the amendment would "result in a significant increase in Customs revenues." The point of order was conceded and sustained. Can any one doubt that the nearly $600 million raised by section 3201 is a significant increase in revenues?

Of course, true user fees can also generate funds—but in those instances, as already discussed, and unlike section 3201, a direct service—the value of which generates the fee—is provided.

Section 3201 imposes a required fee for a required activity for which no service is provided. It, therefore, cannot be called a user fee, it is a tax, and its inclusion in this bill violates clause 5(b) of rule 21.

The CHAIRMAN (Mr. MAVROULES). Are there other Members who desire to speak on the point of order? If not, the Chair is prepared to rule.

The gentleman from Minnesota [Mr. FRENZEL] makes a point of order against section 3201 of H.R. 3299 on the ground that it carries a tax measure in a bill reported by a committee—the Committee on the Budget—not having jurisdiction to report tax measures, in violation of clause 5(b), rule XXI.

Section 3201 of the bill would impose certain fees incident to the filing of various employee benefit plan reports required under the Employee Retirement Income Security Act of 1974 [ERISA]. Funds so received would be transferred from the Treasury to the Department of Labor for the enforcement of title I of ERISA.

The point of order is grounded on the fact that the payers of the filing fees in question would not merely be providing recompense for some Government activity that they occasion. Rather, the revenues gathered by such fees would be applied to more General Government activity of broader benefits, to wit, the enforcement of title I of ERISA, generally.

The Chairman believes that a provision gathering revenue to finance such a General Government activity is properly characterized as a tax within the meaning of clause 5(b), rule XXI. Accordingly, the point of order is sustained against section 3201.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. EDWARDS of Oklahoma:

Strike subtitle E of title III of the bill.

Strike subtitle I of title XI of the bill and insert the following:

Subtitle I—Child Care Provisions

SEC. 11901. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsections (a) and (b) of section 32 (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 17 percent of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection (without regard to subsection (b)) for any taxable year shall not exceed the excess (if any) of—

"(A) 17 percent of $5,714, over

"(B) 12 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) SUPPLEMENTAL YOUNG CHILD CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual with a qualifying child, the credit allowable under subsection (a) (without regard to this subsection) shall be increased by the credit percentage of so much of the

earned income for the taxable year as does not exceed $10,000.

"(2) CREDIT PERCENTAGE.—

If the taxpayer has:	The credit percentage is:
1 qualifying child	10
2 qualifying children	13
3 or more qualifying children	15.

"(3) PHASEOUT OF SUPPLEMENTAL CREDIT.—If the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year exceeds $17,000, the credit allowable by reason of this subsection shall be reduced (but not below zero) ratably between $17,000 and $24,000 for each $100 by which such income exceeds $17,000."

(b) QUALIFYING CHILD DEFINED.—Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFYING CHILD.—The term 'qualifying child' means any child (within the meaning of section 151(c)(3)) of the eligible individual if—

"(A) such individual is entitled to a deduction under section 151 for such child (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

"(B) such child has the same principal place of abode as such individual for more than one-half of the taxable year, and

"(C) such child has not attained age 5 as of the close of the calendar year in which or with which the taxable year of the taxable ends.

An individual shall not be a qualifying child for purposes of this section for the taxable year if credit is allowed to the taxpayer under section 21 for such year and employment-related expenses with respect to such individual are taken into account in computing the amount of such credit."

(c) ADVANCE PAYMENT PROVISIONS.—

(1) PAYMENT BASED ON NUMBER OF QUALIFYING CHILDREN.—

(A) Subsection (b) of section 3507 is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) states the number of qualifying children (as defined in section 32(c)(3)) of the employee for the taxable year."

(B) Subparagraphs (B) and (C) of section 3507(c)(2) are amended to read as follows:

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i)(I) of not more than 17 percent of earned income not in excess of the amount of earned income taken into account under subsection (a)(1) of section 32, which

"(II) phases out between the amount of earned income at which the phaseout begins under subsection (a)(2) of section 32 and the amount of earned income at which the credit is phased out under such subsection, and

"(ii)(I) of not more than the credit percentage under section 32(b) of earned income not in excess of the amount of earned income taken into account under subsection (b)(1) of section 32, which

"(II) phases out between the amount of earned income at which the phaseout begins under subsection (b)(3) of section 32 and the amount of earned income at which the credit is phased out under such subsection, and

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i)(I) of not more than 17 percent of earned income not in excess of ½ the amount of earned income taken into account under subsection (a)(1) of section 32, which

"(II) phases out between amounts of earned income which are ½ the amounts of earned income described in subparagraph (B)(i)(II), and

"(ii)(I) of not more than the credit percentage under section 32(b) of earned income not in excess of ½ the amount of earned income taken into account under subsection (b)(1) of section 32, which

"(II) phases out between amounts of earned income which are ½ the amounts of earned income described in subparagraph (B)(ii)(II).

"For purposes of this paragraph, the determination of the credit percentage under section 32(b), and the determination of the amounts referred to in subparagraphs (B)(ii) and (C)(ii), shall be made on the basis of the information specified in the earned income eligibility certificate."

(C) Clause (i) of section 3507(e)(3)(A) is amended by inserting before ", or" the following: "(or changing the percentages applicable to the employee under section 32(b) for the taxable year)".

(2) EXPANDED PARTICIPATION IN ADVANCE PAYMENT PROGRAM.—Subsection (e) of section 3507 (relating to furnishing and taking effect of certificates) is amended by adding at the end thereof the following new paragraph:

"(6) EMPLOYERS REQUIRED TO COLLECT CERTIFICATE OR STATEMENT OF INELIGIBILITY, ETC.—On or before the date of commencement of employment with an employer, the employer shall require the employee to furnish to the employer a signed earned income eligibility certificate or a signed statement that such employee does not meet the requirements of paragraphs (1) and (2) of subsection (b). As of the beginning of each calendar year, the employer shall require each employee with respect to whom an earned income eligibility certificate is in effect to determine whether there has been a change in circumstances requiring a new certificate or revocation of such certificate.".

(3) REPEAL OF CALENDAR YEAR LIMITATION ON EFFECTIVENESS OF CERTIFICATE.—

(A) Subparagraphs (A) and (B) of section 3507(e)(1) are each amended by striking "had been in effect for the calendar year" and inserting "is in effect".

(B) Paragraph (2) of section 3507(e) is amended—

(i) by striking "for any calendar year", and

(ii) by striking "during such calendar year".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) is amended—

(A) by inserting "under subsection (a) and" before "under subsection (b)" each place it appears, and

(B) by adding at the end thereof the following new sentence:

"Separate tables shall be prescribed for taxpayers with no qualifying child, I qualifying child, 2 qualifying children, and 3 or more qualifying children."

(2)(A) Subparagraph (B) of section 32(i)(1) is amended by striking "begins," and all that follows and inserting "begins by substituting for 'calendar year 1987' in subparagraph (B) thereof—

"(i) 'calendar year 1984' in the case of the dollar amounts referred to in clauses (i) and (ii) of paragraph (2)(B), and

"(ii) 'calendar year 1989' in the case of the dollar amounts referred to in paragraph (2)(B)(iii)."

(B) Paragraph (2) of section 32(i) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amount referred to in clause (i) of subparagraph (B),

"(ii) 1987 in the case of the dollar amount referred to in clause (ii) of subparagraph (B), and

"(iii) 1991 in the case of the dollar amounts referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to this subparagraph are—

"(i) the $5,714 amount contained in subsection (a),

"(ii) the $9,000 amount contained in subsection (a)(2)(B), and

"(iii) the $10,000, $17,000, and $24,000 amounts contained in subsection (b)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 11902. ELIMINATION OF CHANGES IN TREATMENT OF EARNED INCOME CREDIT IN DETERMINING CERTAIN AFDC BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 402(a)(8) of the Social Security Act is amended by striking clause (viii) and by adding "and" at the end of clause (vi).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to payments under title IV of the Social Security Act for calendar quarters beginning on or after January 1, 1991, without regard to whether regulations to implement such amendments are promulgated by such date.

(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under section 402(a) of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 11903. PHASEOUT OF DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) DEPENDENT CARE CREDIT.—Subsection (a) of section 21 is amended by adding at the end thereof the following new paragraph:

"(3) PHASEOUT OF CREDIT FOR TAXPAYERS WHOSE ADJUSTED GROSS INCOMES EXCEEDS $70,000.—If the taxpayer's adjusted gross income for the taxable year exceeds $70,000, the applicable percentage shall be reduced

(but not below zero) by 1 percentage point for each $1,000 of such excess."

(b) EXCLUSION FOR DEPENDENT CARE ASSISTANCE.—Paragraph (2) of section 129(a) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new paragraph:

"(B) PHASEOUT OF EXCLUSION FOR TAXPAYERS WHOSE ADJUSTED GROSS INCOMES EXCEEDS $70,000.—If the taxpayer's adjusted gross income for the taxable year exceeds $70,000 ($35,000 in the case of a separate return by a married individual), the dollar amounts in subparagraph (A) shall be reduced (but not below zero) by $250 for each $1,000 of such excess."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Conform the table of contents of the bill.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 60 minutes in support of his amendment, and the gentleman from California [Mr. HAWKINS] will be recognized for 60 minutes in opposition to the amendment.

Mr. HAWKINS. Mr. Chairman, I ask unanimous consent that my time be equally divided between myself, representing the Education and Labor Committee and the gentleman from Florida [Mr. GIBBONS] representing the Ways and Means Committee.

□ 1000

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Republican substitute on child care represents a well-reasoned, consistent, and manageable solution to the child care needs of low-income working Americans, especially families with young childen.

Before discussing what the Republican substitute does for the working poor, let me tell you first what it does not do:

It does not set up a New Federal bureaucracy to oversee paper shuffling between daycare providers and Government agencies as the Hawkins bill does because that doesn't help working families.

It does not force States to establish handwashing regulations for childcare providers as both Hawkins and Downey do because that doesn't help working families.

It does not regulate isolated individuals who, in their private homes, care for a child that does not live with them as the Downey/Hawkins bill does because that doesn't help working families.

It does not set up a national advisory committee on model child care standards as Hawkins and Downey do because that doesn't help working families.

It does not authorize over $200 million a year—that's more than $1 billion over 5 years—to be spent on coordinating activities, as Hawkins and Downey do because that doesn't help working families.

The way to help working families meet their child care needs is to give them more money and let them use it in the way that best addresses their particular child care needs and that is what the Republican substitute is all about. No fancy matching grant programs or regulatory requirements; no new authorizations or advisory committees; the Republican plan relies on a simple tax cut for working families with kids, leaving to families the choice of how to use that additional income to meet their personal child care needs.

The Edwards amendment on child care funnels every dollar to the people who need it—the low- and moderate-income mothers and fathers with children, especially preschool children, who are having a tough time making ends meet. Not a dollar goes to bureaucrats, but over the next 5 years the Edwards amendment would put $15.1 billion into the pockets of families with children.

Families with qualifying incomes who earn over half their child's support are not discriminated against just because only one parent works outside the home or because the family does not pay for child care services. If their income qualifies them for the credit, they get it.

For families that owe taxes at the end of the year, we reduce their tax burden and allow them to keep more of what they are already earning. Because the credit is refundable, parents who don't owe taxes still receive the benefit, in regular installments in their paychecks if they choose.

In short, the Edwards amendment stands for using the Tax Code to identify the neediest families with children, and, without discrimination, helping them meet their personal child care needs by supplementing their income through lower taxes.

Under the Edwards amendment, low-income working families receive special assistance in two specific ways: First, through a general increase to the earned income tax credit; second, through an additional, more generous tax credit to families with preschool children.

In the first place, we raise the standard credit available under the earned income tax credit from 14 to 17 percent for any parent who is the head of a household and earns more than half the support for a dependent child. Families earning the maximum credit now would receive a credit worth $216 more should the Edwards amendment pass.

In the second place, we add a new, more generous supplemental credit for low- to moderate-income families with one, two, or three children under 5 years of age. Families earning between $10,000 and $17,000 in 1991 qualify for the maximum supplemental preschool child credit. This credit affects an even broader population of working families than the standard EITC which is fully phased in at the $7,150 income level and begins phasing out for families earning over $11,270.

The supplemental young child credit gives families with incomes between $10,000 and $17,000 an additional $1,000 tax credit if they have a child under 5. They receive $1,300 if they have two children under 5 and $1,500 if they have three children under 5.

The Standard EITC is estimated in 1991 to phase out completely for families earning more than $21,280, but the supplemental preschool child credit in the Republican package continues to benefit families earning up to $24,000.

Families are eligible to receive both the enhanced earned income tax credit and the supplemental credit, and they can opt to forego the supplemental young child credit for the dependent care tax credit if the DCTC nets them a higher benefit.

By focusing 100 percent of our benefits on the poor and moderate income families, we can put $15.1 billion back into the pockets of deserving working families, but the Republican plan still spends almost $8.6 billion less than the Downey-Hawkins bill over 5 years, and $3.1 billion less than the Stenholm bill.

By phasing out and reducing tax breaks for the rich, we save an additional $1.1 billion over 5 years.

Mr. Chairman, the difference between the approach taken in the Edwards amendment and the approach taken by Hawkins-Downey is not hard to understand. It is the difference between, on the one hand, approaching the child care problem by establishing new HUD-style influence peddling bureaucracy best suited to writing reports, issuing regulations, and setting up elaborate systems to trickle down benefits to the people who really need them, or on the other hand, solving the child care problem by putting $15.1 billion directly into the pocketbooks and checking accounts of working families with children.

Instead of giving bureaucrats a choice, let's give parents a choice.

Maximizing family choice in the area of child care in not only the best way to help those families in the greatest need, it is also the best way to monitor the quality of child care services being provided. No government regulator or annual inspector will be

more effective at monitoring the quality of child care standards than a parent, paying for services, who observes the quality of care his or her child receives on a daily basis. To the extent that basic health and safety concerns must be addressed, the States already do that. Like any other business, child care providers who fail to meet the expectations of their clients will either improve or go out of business.

The Republican substitute stands for targeting all benefits to families in the greatest need, adding no new regulations, not asking the taxpayers to subsidize new advisory committees. It stands for giving parents greater freedom in child care options. I urge my colleagues to support the Republican child care package.

The CHAIRMAN pro tempore (Ms. KAPTUR). The gentleman from California [Mr. HAWKINS] is recognized for 30 minutes.

Mr. HAWKINS. Madam Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Edwards' substitute.

Today, we are considering a proposal to address the child care crisis confronting our Nation. What Mr. EDWARDS offers is not child care. Rather, it is assistance provided by tax credits. It is income that can be used for living expenses, but not necessarily for child care.

This is not to say that the supporters of H.R. 3299 are opposed to tax credits. We are not. However, we favor a comprehensive approach which combines direct services for child care with tax credits. In addition to direct services and tax credits, our proposal also includes an expansion of Head Start, an early childhood education component, before- and after-school care, and business incentive grants.

Our proposal addresses quality, affordability and availability of child care. The Edwards substitute addresses none of these critical issues.

The supporters of H.R. 3299 are committed to a national child care policy. We certainly support tax credits as an integral part of such a policy. However, make no mistake about it: Tax credits alone do not constitute child care.

I urge my colleagues to vote against the Edwards substitute. It does not adequately address the child care crisis facing America today.

□ 1010

Mr. BARTLETT. Madam Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Texas.

Mr. BARTLETT. Madam Chairman, my question is to try to clear up what may be misinformation going on.

Madam Chairman, I serve on the Committee on Education and Labor with the gentleman from California [Mr. HAWKINS], and the Committee on Education and Labor placed into H.R. 3, three explicit prohibitions against religious activities in child care centers using these funds. There are rumors all over the House floor suggesting that it would be the intention of the leadership to drop those three provisions in the conference committee. Those rumors seem to be very explicit at this point, and I wonder if the gentleman from California [Mr. HAWKINS] could tell us whether that is so or not so, or just for the purpose——

Mr. HAWKINS. Madam Chairman, I have no knowledge. I cannot speak to that. I can only say categorically that under the proposal which we crafted no church is denied the opportunity to participate in the program which we have recommended.

We have in addition to that offered through the combination of EITC with the Committee on Education and Labor the opportunity to provide funding for everyone who qualifies as a provider.

Obviously there are viewpoints that must be reconciled. We must reconcile our viewpoint with the Committee on Ways and Means.

Now how we do that will eventually be left up to a conference. I would only say that, unless the package in reconciliation is one which is adopted today, we will not have an opportunity even to move either direction when the eventual conference is held. The adoption of Stenholm eliminates the Committee on Education and Labor, and it also eliminates child care. It eliminates education and child care. It eliminates the opportunity of providers to benefit under any program. That is the end of the road, and so 3 years of work will have gone down the drain. Now that is the only thing.

Madam Chairman, what we do in conference is another matter. A conference consists of a compromise. Obviously there will be some movement, and I think that we can get together with the Committee on Ways and Means, reconcile our differences with them and also reconcile our differences with the Senate which has a proposal quite different from ours.

Mr. BARTLETT. Madam Chairman, if the gentleman will further yield——

Mr. HAWKINS. Madam Chairman, I am limited to time, may I indicate? I think that I have stated already that the ones who have in the last 30 hours surfaced were not the ones who asked to be heard before the committee. They have surfaced in support, not necessarily of the Edwards substitute, but another substitute, the Stenholm, so-called Stenholm substitute, which has not been heard by any committee, which has originated in a few hours within the last 3 weeks. We do not know where it came from. We do not know who wrote it, and we do not know where it is headed.

Mr. HENRY. Madam Chairman, will the gentleman yield?

Mr. HAWKINS. Madam Chairman, if time has not been allocated, I would yield to the gentleman from Michigan.

Mr. EDWARDS of Oklahoma. Madam Chairman, I will certainly yield 30 seconds of my time to the gentleman from Michigan [Mr. HENRY].

Mr. HAWKINS. Madam Chairman, I reserve the balance of my time.

Mr. HENRY. Madam Chairman, I thank the gentleman from California [Mr. HAWKINS] for this dialog.

Let me simply point out, first of all, that the opposition is very visible. The reason it surfaced only in the last several weeks is we only got the rule in the last several weeks. When we considered this bill in the Committee on Education and Labor——

Mr. HAWKINS. Madam Chairman, is the gentleman from Michigan [Mr. HENRY] talking about Edwards?

Mr. HENRY. Stenholm as well, and the reason the procedure was made necessary is when we discussed this bill in committee the chairman very generously historically has argued for open rules, or fairly open rules, for Ed and Labor bills, but it came to us through reconciliation, thereby eliminating our opportunities to consider and revisit matters we considered in committee and assumed we could bring on the floor.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HENRY. Even the gentleman from Michigan [Mr. KILDEE] went to the Committee on Rules, and he was turned down an opportunity to present an amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan [Mr. HENRY] has expired.

Mr. HAWKINS. Madam Chairman, I would like to be informed of what time has been credited to me, and what time to the other side.

The CHAIRMAN pro tempore. The gentleman from California [Mr. HAWKINS] has 23 minutes remaining, the gentleman from Oklahoma [Mr. EDWARDS] has 51½ minutes remaining, and the gentleman from New York [Mr. DOWNEY] has 30 minutes remaining.

Mr. HAWKINS. Madam Chairman, I reserve the balance of my time.

Mr. DOWNEY. Madam Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Chairman, I rise in opposition to the Edwards substitute for child care. This proposal would do little to address many of the needs for more child care, and it does even less to improve the quality of child care.

The earned income tax credit is a very good mechanism for providing assistance to poor Americans. That is why the Ways and Means Committee has included a substantial increase in the EITC in this budget reconciliation package. However, tax credits alone cannot provide adequate resources for the very poorest Americans to pay for child care. The maximum tax credit under EDWARDS' proposal is $2,700 for a family with three preschool children. The average child care slot is estimated to cost $3,000 per year, so a family would need an estimated $9,000 to provide day care for three children. This gap is too large for us to say that we have provided child care through the EITC alone.

In addition, tax credits do not efficiently reimburse a family's expenses until after the family has paid for child care. Thus a parent who does not have the cash up front will not be able to benefit from this approach at all.

This tax credit bill leaves out improvements to Head Start—a program which we know works—and to school-based care, which means we are not tapping into an easily available resource which is education oriented.

Tax credits do not address standards, which means our children could be warehoused with too many children being looked after by too few caretakers. At worst, our children will be in actual physical danger. At best, they may fail to receive the care and attention they need to develop and grow into healthy, productive citizens. It is a very short-sighted approach.

On top of all this, the EITC which is described in both Representative EDWARDS' and Representative STENHOLM's substitute amendments is not the same as that which we approved in the Ways and Means Committee. The EITC included in these substitutes would be counted as income, affecting the eligibility of poor families for AFDC, for Medicaid, and for public housing. Thus, our attempt to assist poor families by helping them to pay for child care could backfire to a point where children lose their homes, their health care, and even their daily sustenance. This certainly is not what we intended when we started working on child care proposals 5 years ago.

Madam Chairman, I oppose this amendment. Tax credits alone do not fulfill our promise to the American people that we will provide relief for their struggle to find adequate child care. After 5 years of hard work, after the expectations and momentum which we have built up over that time, we can do better than this. We must do better than this.

□ 1020

Mr. EDWARDS of Oklahoma. Madam Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Madam Chairman, I thank the gentleman from Oklahoma for yielding me this time.

I would like to pay tribute to the leadership of the gentleman from Oklahoma [Mr. EDWARDS] and that of our whip, the gentleman from Georgia [Mr. GINGRICH], as well as the gentleman from Louisiana [Mr. HOLLOWAY] for trying to find a workable solution to child care. Their dedication and concern about the American family is preeminent.

We have before us today two very different approaches to address the child care needs of American families. One approach, as outlined in H.R. 3, creates a new bureaucracy within the Federal Government, institutes regulations, and necessitates Federal and State intervention. The better approach, the Edwards-Holloway-Schulze substitute, uses tax credits and returns hard-earned money to families to defray the costs of child care. A pure tax credit proposal avoids problems created by government intervention, maximizes parental choice, and solves the true crisis facing young families—overtaxation.

Without the adoption of the Edwards amendment, H.R. 3 would require States to impose a litany of regulations on grant-receiving child care providers. For example, H.R. 3 would dictate that States train every child care staffer at least 15 hours annually. This requirement would apply to grandmothers, and mothers and fathers operating local child care centers. H.R. 3 would require States to train inspection personnel. It would require States to establish a committee on licensing which would issue reports and more standards. H.R. 3 would even require States to issue regulations on the number of times child care workers must wash their hands during the course of a day.

In these times where money is scarce and national deficits are threatening, the Government cannot squander money in this manner. Imagine spending Government money to train a grandmother how to change a diaper. This is a true example of wasteful spending.

Without burdensome regulations and bureaucracy, our proposal solves the real problem faced by families with young children—overtaxation. Around 1950, families paid only 2 percent of their income in Federal taxes. Today, families pay on average up to 24 percent of their income to the Government—a 1,200-percent increase in that time period. As taxes have increased, so have the costs of rearing children. In 1950, Johnson's baby soap cost 49 cents. Today it costs $2.29.

Inflation and heavy tax burdens strike continual blows against young and low-income families. In most every family situation, the Republican proposal gives more tax relief to more families than H.R. 3.

Since Republicans first initiated the idea of expanding the earned income tax credit, studies have shown that this approach is one of the most effective incentives in keeping people employed. The earned income tax credit is the only program which effectively links Government benefits to work incentives. The earned income tax credit fits nicely with the proposal to cut the capital gains tax. New jobs created by the cut in capital gains taxes will mean more low-income people will receive the earned income tax credit.

Finally, votes for H.R. 3 are votes for huge increases in Government spending, much of which are not scored under Gramm-Rudman-Hollings budget rules. While H.R. 3 will increase the deficit significantly, it does not score for meeting budget targets a $2.5-billion increase for Head Start, $2.4 billion in school grant money, $2.1 billion for administrative purposes, $310 million for incentives for standards, and $98 million for a business grant. These hidden authorizations are enormous increases in Government spending and are clearly an overt attempt to deceive American taxpayers. Additionally, history has shown that these new grant programs explode in out years. This translates to more Government spending in future years and everlasting deficits.

A tax credit for families as proposed in the Edwards amendment is the cleanest and best approach to ensure affordable, equitable care for America's children. Tax credits avoid needless regulation and Government Bureaucracy and will help to offset the unfair tax burdens on today's young families. Let's help families care for their own children and keep the Government out of our homes.

Mr. HAWKINS. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Madam Chairman, I rise in opposition to the Edwards substitute to the child care provisions in H.R. 3299.

The child care challenge facing our Nation defies simple answers like tax credits alone.

Testimony before the Education and Labor Committee clearly indicates that parents face three barriers to obtaining child care.

These are: First, affordability, second, availability; and third, quality of care.

Certainly, families benefit from more favorable tax policies, and tax changes have been included in H.R. 3299.

However, many families facing high child care costs will still need additional help.

The average cost of child care in the United States is $3,000 a year. While

assistance received through a tax credit may make care marginally more affordable, the actual cost of care will remain beyond the reach of many low-income families.

H.R. 3299 assures parents that the actual cost of child care will be met by basing assistance on the total cost of child care.

A Lou Harris poll released last week illustrates the difficulties parents face in locating child care across the Nation. It found that parents use an average of three different types of child care each week.

Tax credits do nothing to expand the supply of child care providers.

H.R. 3299 expands the supply of child care by providing grants to child care providers to expand and improve their facilities, to improve the quality of their services, and to businesses for the establishment of child care facilities.

Finally and most importantly, tax credits alone do nothing to improve the quality of care available to families.

Last week's Lou Harris poll reported that the dissatisfaction among parents with the quality of child care has risen 13 percent between April and August of this year.

The April poll reported that 85 percent of those questioned felt the Federal Government should address issues related to the quality of child care.

Not only does the substitute not address quality, it eliminates provisions of H.R. 3299 that call on the States to do so.

The Federal Government does not rely on tax credits to meet the health care needs of our country, we have the Medicare and Medicaid Programs.

We do not rely on tax credits to meet the income needs of the elderly, we have created the Social Security Program. Families, too, need more assistance with child care than a tax credit alone can provide.

Do we really want the IRS to be the Federal agency with primary responsibility for our children.

Madam Chairman, I believe that a tax credit in combination with a comprehensive child care proposal will address each of the barriers families face in obtaining child care.

This substitute does not address those barriers and I urge its defeat.

□ 1030

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, let me address a couple of issues which have already been brought up by the other side.

First of all, the gentleman, the chairman of the committee, brings up that we do nothing for child care. Who in the world thinks that government can take care of children better than parents? I think he is really slapping the parents of this country in the face when he says that the Government can take care of their children better than they can. I resent that very much and feel that we should think of the 93 percent of the people who do not use commercial child care.

They say this bill does nothing for child care. This bill benefits 100 percent of the American families between zero and $24,000. The other side of the aisle only benefits 7 percent of the day care needs of this country, so to me the bill that we offer today is so much more practical for this country and good for this country that they do not compare.

The only part of H.R. 3 that they have funded at this point, that the Committee on Ways and Means has made available, is for tax credits. All the rest of the money that we see is only authorized, and we know the problems we have today with trying to find money for the war on drugs. What is going to take second place? Where are we going to come up with the money to fund the agencies and the $27 billion that they are saying that they are going to spend?

The only money that they are going to spend is the money on tax credits, and I think that our bill offers much more tax credits for this country.

Why do we always make things so complicated? You say that things are not as simple as we want to make them sometimes. This is a simple bill, a very practical bill, which meets the needs of the people of this country, the family, which the gentleman before said were taxed 2 percent in 1950 and are now taxed at 24 percent.

To me, the issue is very simple. The Edwards substitute is a much better bill for us to vote for.

I want to touch on one thing real quickly and that is very important to us at this point, and that is the religious argument. Titles II, III, and IV of the Hawkins-Downey bill states that no child care provider shall receive financial assistance under this subchapter who shall engage in sectarian activity, including sectarian worship and instruction, and in the program for which assistance is received. I think that states that a religious day care center is going to go out of the day care business. They are there for a service. They are there to help the community. The inner cities in this country receive the best child care there is available through the religious community. One-third of the organized day care in this country is handled through religious providers. To take it away from them, I think, hurts us in more ways than we can ever say.

Studies show that youths with religious influence in the inner city are 47 percent less likely to drop out of school, 54 percent less likely to use drugs, 50 percent less likely to engage in criminal activities, and to me if we take day care away from the churches, we destroy probably the best child care that a family can turn to.

When considering single mothers today, 75 percent of their children are cared for by a family member, 75 percent are cared for by family. The other side does nothing for that group. We give single mothers the same benefits as other mothers.

I encourage the Members very strongly to look at the Edwards substitute. It does address child care, because it targets the money to preschool children who are in the greatest need of child care in the country today.

I urge the Members to support the Edwards amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I am taking this 1 minute to follow up on an exchange I had with the chairman of the committee earlier and to correct a couple of things.

First, it is true that if the Edwards substitute passes, the Committee on Education and Labor will not be involved in the conference, but if the subsequent Stenholm-Shaw substitute passes, the Committee on Education and Labor will very much be a part of the conference, because Stenholm-Shaw includes Head Start and other Education and Labor provisions.

Second, the opposition to the religious-provider prohibition was heard at the committee. It was heard from, among others, by the gentleman from Michigan [Mr. KILDEE] and others who eloquently pled the cause of permitting, of permitting religious providers to be part of this bill, but we lost at the committee. We had sought the opportunity, as I know the gentleman from Michigan [Mr. KILDEE] had to bring an amendment to the floor to correct that on the floor.

One could say that the correct vote today for people who want religious providers included in child care would be to vote for Edwards or the Stenholm-Shaw and then suggest to the Committee on Education and Labor that they bring back the ABC bill under an open rule so the House floor can consider that issue squarely and forthrightly. I think that would be a better approach.

Mr. DOWNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first try to address the religious question and explain how, for purposes of explanation, we did it in the Committee on Ways and Means and how I think it is both appropriate constitutionally and operationally effective.

What the Committee on Ways and Means attempted to do was to be silent on the church-state issue. There are some here, and I do not imagine any of them are on the floor, who would like to use this to sanctify the role of religion in child care, and there are some, probably not here either, who want a definitive statement with respect to whether vouchers are constitutional or unconstitutional and to have the House or the Senate make those statements.

This process is either constitutional or not. What we say or do here will not make it constitutional. We have, as we all know, the presumption of constitutionality when we pass our acts, but that does not mean that it is not subject to review by the court later on.

We in the Committee on Ways and Means sought to channel the additional money for child care through title XX of the Social Security Act, and we chose that mechanism for several reasons. First, we chose it because it is an existing body of law, and the States have wide experience with delivering services including child care. They have, the States, this prospect of dealing with church-state conflict in front of them all the time. And the States, and I see the gentleman from Texas standing, have very effectively dealt with these issues.

□ 1040

They are sensitive to the issue of discrimination and nondiscrimination, sectarian use and nonsectarian use, and without, I am not a constitutional scholar, getting into the various requirements of the establishment clause of the first amendment, the court has left open some intervening factors; namely, whether or not the money goes to a parent who ultimately makes the choice.

It would be my hope, and I believe it is the position of our leadership, that when we go to conference that the position that the Ways and Means Committee has taken, that the position of the Senate providing the widest possible latitude, the existing order that the States have created, would be continued.

Mr. Chairman, I will not yield to the gentleman at this time, but am happy to yield on this point because I understand the gentleman from Texas is anxious to find some conflicts, because in the conflict he might be able to find some votes.

Let me make it clear to the gentleman as we debate this, the position of the Ways and Means Committee is to use title XX and to use the law as it exists so that if there are child care providers currently receiving them in the State of Texas where there are sectarian purposes that are not specific, but there are intervening factors in the case of the money going to the parent in the form of the voucher, that will continue. It is inappropriate, incorrect, misleading, and demagogic to suggest that what we have attempted here is in any way inimical to the established order. We do not seek that. We do not seek to undermine what in fact is working today.

So much for religion. Let me now address some of the questions of the Edwards substitute. I will be happy to have a dialogue with my colleague in a moment.

The Edwards substitute, as far as it goes, is not a bad idea. It is not a bad idea because it recognizes that we need to put some money into the pockets of working poor people so that they are empowered by this additional money to make some choices. As far as it goes, it is a good idea.

But it does nothing about the quality of child care. It does nothing about the affordability of child care. It does nothing to create child care.

The Edwards approach, it has been the mantra of the Republican Party, is that the marketplace will decide this issue. We will send our children into the marketplace and the parents of all our children will suddenly be empowered with the knowledge and the ability to select healthy environments, well-regulated environments for our kids.

Oh, that that would be true. The fact is that some of the States do a fine job for our children and some of the States do not. Our children, whether they are from the State of Louisiana, from the State of Texas, or New York, or California, deserve the absolute finest and best care we can provide for them.

What does that mean? Well, what it means simply is that in this panoply of regulation that exists in our country, where we regulate the type of food we eat, the quality of drugs we ingest, the type of beverages we have, that the Federal Government has found it appropriate for us to have clear and convincing regulations so that our health is protected.

Clearly our health is important, and so are our children. All we are saying, whether it is in H.R. 3 or in the Ways and Means provisions of the bill, is that we want to make sure the child care providers are educated, have some sense of nuturance, have some ability to like the teachers that we have educating our children. That does not seem to me to be an onerous requirement, 15 hours of education and training for our children.

The Edwards approach is silent on this. It says no, the marketplace will take care of it. The marketplace has not taken care of it. Others will say well, if we have some regulation that will not guarantee that we will not have Jessica McClures falling down into a well because there was an unregulated situation, one poor woman attempting to care for nine children.

Maybe Members would prefer to have a situation where we take that risk. I do not. I do not want to risk any child in this country.

The gentleman says Federal regulation will not solve that problem. I say it may. I would prefer to err on the side of safety. With me are not only many colleagues in my party, but about 85 percent of the American people who do not think it appropriate for us not to have regulation for safety, for health, for training. That is an appropriate Federal response.

We lament, do we not, the fact that our children have varying standards of education in this country. We should further lament the fact that certain numbers of our children who are young and the most vulnerable can be put in positions that may threaten their life.

No, no, my friend. This is a classic example of two different forms of approach. Not burdensome regulation, but safety and health and education versus the vulgarities of the marketplace.

The Edwards substitute is going to fail because the American people do not want to risk their children. The reason that the Democratic provision hopefully will prevail is because we understand the important role of the Federal Government in this critical matter.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding. I am seeking an understanding of what is in the bill.

The gentleman is correct it seems to me about what he said on the Ways and Means portion of the bill on title XX as far as it goes.

The question is then is the gentleman going in conference to intend to eliminate the education and labor portion of the bill which we are voting on today contained in the legislation of three explicit prohibitions against sectarian activities by child care providers receiving these funds? That is the issue, not what the Ways and Means Committees did with the vouchers.

Mr. DOWNEY. The gentleman from Texas has no quarrel I assume then with the approach that the Ways and Means Committee has taken with respect to the delivery of services under title XX and is silent on this issue?

Mr. BARTLETT. Mr. Chairman, if the gentleman will yield, I have less quarrel with the Ways and Means approach. My quarrel, and I think it is a quarrel shared by Members of the gentleman's side of the aisle on the Education and Labor Committee, the gentleman from Michigan, Mr. KILDEE,

for example, with the Education and Labor Committee language. What is the intent of the gentleman from New York with respect to those prohibitions which stay in the bill as of today?

Mr. DOWNEY. Mr. Chairman, let me try if I may in a friendly manner to pin down the gentleman from Texas a bit on this issue of remaining silent on church-state matters.

If, for instance, the conference were to address this issue and say that neither the Senate nor the House language was appropriate, but that we will deliver the services of child care through title XX, the gentleman would accept then, would he not, the fact that the State of Texas would have additional money through title XX and would continue to operate as it currently operates. The gentleman would have no problem with that, would he?

Mr. BARTLETT. As far as that goes, that is correct. We are seeking the States to be able to set their own rules within the bounds of the Constitution. But H.R. 3 does not say that.

Mr. DOWNEY. Mr. Chairman, that would be my preference and what I would work for in conference.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield on that point?

Mr. DOWNEY. Yes, I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I agree with the gentleman absolutely and I know how hard he has worked for this. I support the gentleman in his effort to put the money for services into the system through title XX and through Head Start. But in fact the Education and Labor Committee bill does not say this and the Education and Labor Committee foundered on this very issue in the last session. It was this issue that prevented the bill from coming to the floor.

I have no confidence that those provisions can be stripped out of the bill in conference unless action is taken on the House floor here today, because the interest groups that back H.R. 3 are very adamant on this matter. It is one of the reasons why the gentleman's side would not allow his amendment to H.R. 3, which would have provided a very healthy policy.

Mr. DOWNEY. The interest groups I would say to the gentlewoman, will not be arguing in conference. The Members of Congress will be arguing in conference.

I think for further clarification so that we can argue on the competing ideologies of how we want to deliver child care and set aside this issue, the leadership will come forward, the gentleman from Missouri [Mr. GEPHARDT] at some point to further address this issue, because it is my desire very firmly to allow the States to continue to do what they are doing today and to make sure that is clear in the law. That would be my intention when I go to the conference.

Mrs. JOHNSON of Connecticut. I appreciate that. Does the gentleman think he could get that provision to govern the new programs in H.R. 3?

Mr. DOWNEY. I also want to be clear with respect to the Senate language, which I do not want to torture us with here, which attempts to make certain activities constitutional that may not be. So I think unless we are anxious to pick a fight over this, and I sense the gentlewoman is not and we are not, that we have to do some work with the Senate to make sure that the States can continue to do what is currently being done.

Mrs. JOHNSON of Connecticut. Certainly. I am not anxious to pick a fight on this issue, but I am convinced from attending a forum on this very issue at Harvard with the lawyers who have been doing the litigating on this matter that the only way we can avoid it is in fact through sending our money down through title XX where there are established pathways. By establishing new grant programs under H.R. 3 we will be entrapped in this very issue. The money in H.R. 3 will not be allowed to go to religious institutions.

Mr. DOWNEY. If I may say to my friend and colleague, the gentlewoman from Connecticut, I am happy to engage and continue this dialog, but I would prefer to do it on her time.

Mrs. JOHNSON of Connecticut. I thank the gentleman from New York.

□ 1050

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. DOWNEY] has consumed 12 minutes of his time and has 15 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, it indeed is satisfying to me that the day care debate has generated support for a natural family support policy in America. In this time when we have often anguished over the reality of the lives of an increasing number of America's children who are growing up in poverty, we are doing, through adopting an expansion of the earned income tax credit that specifically reflects the number of children in low-income families, a policy that goes to the heart of the issue of children living in poverty.

We have seen what a difference it has made to have Social Security for our seniors and how the poverty rate among seniors has dropped as a consequence of Social Security.

I see us today as taking a giant step forward on the issue of children in poverty by adopting an income support policy that was proposed by my Republican colleagues and supported by a Republican President.

Indeed, I think this is an important day for women and children in America.

But adoption of an income support policy is important for another reason: If you read the polls carefully, people want more day care options and they want quality care, but they also want the right to take care of their own children.

Increasingly, women and men are making the decision to change the patterns of their work life in order to be able to care for their own children.

Indeed, with the expansion of day care has come the realization that parents provide a quality of care that is irreplaceable. What is important about this policy, the expanded EITC, is that it will allow many parents, particularly where there are two parents, to work part time and to, through this income expansion, have the liberty of working only nights or weekends or in some way maximizing their time to care for their child, maximizing their mate's time to care for their child and minimizing out-of-home care for children in America.

The CHAIRMAN pro tempore. The gentleman from Oklahoma [Mr. EDWARDS] has 39½ minutes remaining, the gentleman from California [Mr. HAWKINS] has 19 minutes remaining, and the gentleman from New York [Mr. DOWNEY] has 15 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong opposition to the substitutes by Mr. EDWARDS and Mr. STENHOLM.

We have an historic opportunity today to vote for a comprehensive child care plan that responds to the real child care needs of families across the Nation.

That plan is already contained in the reconciliation bill. It is the Hawkins bill, H.R. 3, along with the Downey amendment. And every Member of this body who wishes to respond to the real needs of America's families should support the provisions of the reconcilation bill and vote against the Edwards and Stenholm substitutes, which simply do not promote sound child care policy.

Why is the Hawkins-Downey bill a superior approach? Because our Nation's child care crisis is not only a question of supplemental funding for the families in need of care. It is also a crisis of availability, of quality, and of safety.

The Hawkins bill contains essential provisions that will not only put additional dollars in the hands of parents,

but also expand the availability of care, improve the quality of care, and ensure the safety of our children. And it contains essential incentives for enhancing business involvement in providing child care services.

The American people understand full well that our children are our most precious resource. And if we are to preserve and protect that precious resource, the Federal Government must do more than enact a simple tax credit. We must expand the successful Head Start Program for disadvantaged youth. We must promote child care programs in our schools. We must support child care in centers, churches, synagogues, and family day care settings. We must ensure that our children's health, safety, and development are fully protected by essential quality assurances. And we must support our nation's employers who are seeking to provide child care benefits for their employees.

The Hawkins-Downey bill accomplishes these important tasks. But the substitutes do not. They do not expand Head Start. They will not increase availability, improve quality, or ensure safety. They do not adequately support our Nation's employers. These substitutes amount to an abandonment of our children in their time of need. They will not protect and nourish our most precious resource, and they deserve to be defeated soundly and overwhelmingly by this body.

Mr. Chairman, I urge my colleagues to support sound child care policy. Support Hawkins-Downey. Defeat Edwards and defeat Stenholm.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I rise in support of the Edwards amendment. Frankly, if this were my amendment, I would structure the details of its tax credits slightly differently. But the basic principles behind this amendment are much more important to me, and I believe those principles are clear, sound, and supported by most of the public.

The first principle is that any additional Federal money for child care should go 100 percent directly to parents, and zero percent to bureaucrats. A second principle is that the money should be concentrated on low-income families, where the need is greatest. A third principle is that the money should be distributed fairly across all eligible families in the relevant income range. A fourth, and crucial, principle is that we should not discriminate against families which care for their own children. The cleanest, most efficient way to advance all these principles is a pure tax credit approach to the issue as found in the Edwards amendment.

The "ABC" type approach embodied in the bill before us violates all these principles. It proceeds from a totally different philosophy. Its philosophy is that parents cannot be trusted to decide what kind of care is best for their children; that an assortment of Government officials, interest groups, and social engineers should decide what's best; that the type of care to be favored is regulated center-based child care with no religious association; and that parents who make sacrifices, often the biggest economic sacrifices of anyone, in order to take care of their own children, should get no help. Granted, the Ways and Means Committee EITC reform provisions in the bill do not proceed from that philosophy, but the rest of the reported provisions do, for the most part.

From the beginning, the Republican approach to this issue has been vastly different. It has been first to ask what the problem is that we are trying to address. The problem is not availability—the child care market is alive and well and meeting increased demand in a myriad of ways. And similarly there is no quality problem that parents and the States cannot solve better than the Federal Government.

No, the basic problem is that children cost money. It costs money to feed, clothe, house, and provide activities for them, and it costs a lot of money to take care of them all day, whether parents pay others to do that, or whether parents diminish their own earnings in order to stay home and do it themselves. Either way, the children need to be looked after and a real cost is borne by someone to do that. Because of that cost, and the others associated with raising children, low-income families especially are having a hard time making ends meet.

The problem, then, is too little income for low-income working families with children. And the solution is to supplement their incomes directly, according to need as determined by family size, through reform of the EITC. For me the choice is clear, give the money to the parents.

It's really the same problem we talk about in the minimum wage debate—except in that context we are concerned about all the costs of raising children, while in the child care context. we talk about just one of the major costs.

In any case, today we are debating how to spend a pot of new Federal money labeled "child care" money. We can give it all to low-income parents as the Edwards amendment would do. Or we can give much of it to bureaucrats and providers, and wreak havoc in the child care marketplace at the same time, as the reported provisions would do.

For me, the choice is clear. Give the money to the parents. Let the parents decide how to spend it. Let the parents decide what kind of care their children need. Let the parents care for their own children, if they so wish, and get the same support as anyone else.

Vote for the Edwards amendment.

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. TALLON].

□ 1100

Mr. TALLON. Mr. Chairman, I rise in opposition to the Edwards and Stenholm substitute, and in strong support of the Hawkins-Downey bill.

Mr. Chairman, today I am proud to support the child-care provisions in the 1990 budget reconciliation package without amendment. This commitment to the children of America is long overdue. Providing quality affordable day care to all children is not a public assistance program—it is a national necessity.

This commitment means that the Government recognizes that each child is an individual citizen to be nurtured and cherished. It is the difference between recognizing a child's potential and treating some of them like common cattle.

If we cannot think of them as our most silent and meekest constituency then at least we can see that these young ones hold the very key to our future.

National security, the technology deficit, and the drug problem will become permanent characteristics of American society if so many of our children spend every day in an understaffed and overcrowded environment that denigrates the value of the individual.

It is simple injustice if we wait until our children drop out, fail an SAT, become illiterate adults or arrested for selling drugs before the Government will pay any attention to them.

Moreover, it is fiscally irresponsible for our Government to wait. Let us look beyond fiscal year 1991 or 1992. Let us look 20 years ahead to fiscal year 2009. What we are honestly giving to our children now that gives us any hope that they will be more productive or competitive than their Japanese, Soviet, or even Chinese counterparts in the year 2009?

Families today cannot ensure America's future alone. They need tax assistance. Once they get that money, they need the assurance their children will be cared for in a safe and a productive environment. Neither of these components have been provided on a private or local government level to combat the magnitude of the problem.

In Congress, we take risks all the time in the name of preserving our democratic future. Food aid to Poland, the freedom fighters in Nicaragua, even grain trade with the Soviet Union. The stakes go even higher. Surely, America's children are worth

at least two of our Stealth bomber fleet—regulations and all.

The child-care provisions in reconciliation are only a drop in the bucket to what we should be building for our children but it is a giant step in the right direction.

Mr. HOLLOWAY. Mr. Chairman, will the gentleman yield?

Mr. TALLON. I am happy to yield to the gentleman from Louisiana.

Mr. HOLLOWAY. Does the gentleman know what this will do to the cost of South Carolina child care in South Carolina, with the regulations, and what will happen to this, that the value that Members will be giving these people is going to be down the well because the cost will go to the sky?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, let me just say to the gentleman from New York, that in North Carolina, the marketplace is working. In my own county we have founded three new corporate day care centers, and I would like to speak about one I founded 10 years ago.

Pure and simple, we needed workers in my part of North Carolina, with an unemployment rate of less than 3 percent. We set up a day care center for welfare mothers, using CETA workers. Obviously, none were high school educated, most of the students were black. Even my own grandson went there. We were educating kids as well as babysitting for them. We now have 100 students, 60 of them are supported by welfare. We receive aid from the State, United Fund, local businesses, and Federal Government's title 2. The reason for all the additional funds that we get is to hold our costs down so welfare mothers, if they want to go to work, can leave their children with the center for $30 a week.

At the present time, we have enough regulations that make it almost impossible for the center to continue at the rate of $30 a week. We think we will have to raise our rates. The Federal Government, because of title 2 and because of the funds that we get for feeding their children, paperwork is unbelievable. It costs the center so much to operate, but even at that, the students that we have turned out have gone to our school systems, and they are mostly black students, and we believe that the guidance counselors and principals of the schools say they can recognize kids from our day care center when they get to school.

We skate on the edge. Our little daycare center skates on the edge of closing every month. We have to review all of our regulations and our costs and so forth. With another 170 new regulations, it will close the center by just exploding our costs. I have a feeling that when this is all over, and this passes, the rich will still have day care but the poor will lose whatever they have. We do not need more Federal regulations in North Carolina day care.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] has 33½ minutes remaining, the gentleman from California [Mr. HAWKINS] has 17 minutes remaining, and the gentleman from New York [Mr. DOWNEY] has 12 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in opposition to Mr. EDWARD's amendment and any other amendment that moves to promise everything and deliver very little.

Mr. Chairman, in the minds of some, earned income tax credits are the panacea for all social needs. When in reality it benefits only those who earn enough to pay taxes and that is good but it is a subsidity to those who do not at the expense of the tax payer. Further, poor people will spend that money for their highest priority, which may or may not be childcare. H.R. 3299 provides EITC in a way that it will be used for child care. On the otherhand, the Edwards proposal does not provide parents with enough money to make any real difference when it comes to child care, although the money might help with groceries or an occasional babysitter. The Edwards amendment does nothing to increase the supply or the quality of child care.

I urge my colleagues to strongly support H.R. 3299 because it is the only measure before us today that: First, increases the supply of child care; second, provides local and state-based consumer protection; third, supports church participation without locking our churches up in litigation; and fourth, extends the EITC to help poor parents. It creates real choices rather than forcing parents to choose between no child care and bad child care. H.R. 3299 builds on what works. It helps parents who stay at home, and it assures safe educational care for children whose parents work.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 30 seconds to the gentlemen from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise in opposition to the provisions in the bill and to the pending amendment.

However, I rise in support of the Stenholm amendment to the reconciliation bill. This amendment takes a common sense and responsible approach to child care, and minimizes the amount of Federal Government involvement in this area.

In rural America, families depend on a variety of day care sources, such as religious facilities, head start, and elderly providers. The Stenholm amendment allows for parental choice in child care services, without discimination against those who are able to stay at home with their children. This amendment is also good for small business, as it encourages these businesses to establish child care for their employees.

Mr. Speaker, I think most of us would agree that each State is better equipped than the Federal Government to determine the child care needs of its citizens. Each State is also better prepared to establish its own standards, rather than having strict regulations handed down by a newly created child care bureaucracy.

Child care is not a Democratic or Republican issue, and a number of groups along the political spectrum have endorsed the Stenholm amendment as sound, responsible child care policy. The Stenhom amendment is good for families, small business, government, and rural America, and I strongly encourage my colleagues to support it.

Mr. HAWKINS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise today in support of the child care provisions included in the budget reconciliation bill and in opposition to the Edwards and Stenholm amendments. Both the Edwards and Stenholm amendments fall short of providing a diversity of programs needed to ensure that families have choices in selecting quality child care.

The Stenholm substitute would drastically reduce funds available for child care and eliminate the expansion of preschool education programs provided in the reconciliation bill. It also would deny parents any assurance that their children would be safe and well-cared for while they worked.

The Edwards substitute would delete all direct funding for child care and preschool education in the reconciliation bill. As an alternative, it would provide tax credits that would not assure decent child care or access to preschool education for America's most vulnerable children.

Mr. Chairman, as a father and former teacher, I feel it is very important to provide maximum child care for America's youth. Work demands and family responsibilities have increasingly come in conflict as mothers have become a large and permanent part of the work force. It is no longer a luxury in many families to have both parents work, it is a necessity to say nothing of the millions of American families led by single parents. Our children are the future of America and it is important for the Government to provide them with educational and developmental opportunities.

The child care provisions included in this bill offer a comprehensive plan that builds on the diversity in available child care programs. I urge my colleagues to vote against the Stenholm and Edwards amendments and support the child care sections included in the Hawkins-Downey budget reconciliation bill.

□ 1110

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, we have heard many of the proponents gush on about how wonderful the child care provisons are in this package. I am reminded of a debate we had on catastrophic health care just a year ago. But that is another topic.

When I served in Arizona's Legislature, I remember very well tackling these very issues of child care in committee and on the floor. I think we did a good job of setting State requirements and enforcement procedures. But, we did it based on conditions in Arizona—not New York or California. It is ludicrous for the Federal Government to force, yes, force States to adopt its list of recommended standards.

Any claims that this bill will create more child care slots are just plain false. The heavy doses of regulations and reports are all aimed at restricting current child care providers. Requiring States to set training and ratio requirements and requiring them to file reports on every possible infraction will shrink the number of current day care providers. All H.R. 3 will do is drive up prices and diminish the supply of care.

Another very wrong direction this package takes us is in early childhood education. Experts in early childhood development—and I don't pretend to be one—will tell you that the type of care needed in these years is very different than school age years. What this bill asks schools to do is to take on this new role. It is a role they are unprepared, untrained and ill-equipped to handle. Our school systems are already overtaxed with responsibilities.

Either schools will have to spend large amounts of funds to train and staff early childhood care or they will have to shift their focus from education to childrearing. Twenty-nine percent of the funds will be directed to this effort. With all of the problems facing our education system, this is another mandate the system can not handle. So let's not give it to them.

But the most important issue that is ignored in the committee's proposal is parental responsibility and choice. With all of the funds going toward administration, training and subsidies to large day care centers, parents are just plain left out of the process. Unfortunately, the backers of this measure have missed the boat in the national revolution toward parental choice in education. Or maybe not; perhaps they are trying to nip it in the bud.

We do have options available to us that would allow for parental responsibility and choice, less Federal mandates, and a retention of our education system. The Edwards amendment will allow the maximum choice for parents without restricting the child care market. Expanding the earned income tax credit puts more money into the pockets of all working poor, not the coffers of bureaucrats and administrators.

The Stenholm-Shaw amendment is the Edwards amendment plus more funds for the successful Head Start and Social Service Block Grant programs. This allows parents to exercise all of their options while encouraging State and local government to find ways to increase day care slots.

I urge my colleagues to seriously consider the options available. We can give parents responsibility and choice or we can subsidize another Federal bureaucracy. Let us not repeat the mistake of catastrophic health legislation by completely misreading the needs and desires of those we are trying to help. For surely if we pass this monstrosity we will be back a year from now attempting to fix it—or repeal it. We can save ourselves a lot of grief by adopting either the Edwards or the Stenholm-Shaw amendment today.

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the Edwards amendment and in support of the Ways and Means Committee's child care provisions.

I firmly believe that these provisions are far more responsive to the needs of low-income parents who work to support themselves and their children.

The Ways and Means Committee's provisions in H.R. 3299 expand the earned income credit, and adjust the credit so that it is larger for families with more children. These provisions reflect the fact that large families have a harder time making ends meet than do smaller ones. The Edwards amendment provides some expansion in the credit, but allows an adjustment for family size only in the case of children under the age of 5.

Under H.R. 3299, the maximum credit available to a family with three children over the age of 5 is $1,790. Under the Edwards amendment the maximum credit available to the same family would be only $1,120, or $570 less. I believe that expenses of clothing, feeding, and caring for children do not vanish when the children turn 5, and I urge the support of this House for the Ways and Means Committee's provisions in H.R. 3299.

In addition to the expanded, adjusted basic credit, the Ways and Means Committee's provisions of H.R. 3299 include an additional credit for families with any children under the age of 6; this credit is worth a maximum $430 in 1991. This supplemental credit reflects the fact that small children are not in school, and require a greater amount of supervision during the day than school-age children. The less expansive Edwards amendment ignores the fact that 5-year-olds in most States are not in school. The cut-off age of 6 in H.R. 3299 shows a more realistic evaluation of the day care needs of low-income working families.

H.R. 3299 provides the expanded credit in addition to the present law credit for dependent care assistance. I believe both of these provisions are important for the support of parents who work and have to provide for the care and safety of their children at the same time. The Edwards amendment gives with one hand and takes away with the other since under this amendment, parents who use the additional credit for very small children are not allowed to take the dependent care assistance credit.

In the Family Support Act of 1988, Congress decided that amounts provided to working parents under the earned income tax credit would not diminish a family's eligibility for AFDC. H.R. 3299 expands this approach, and provides that the credit would not affect a family's eligibility for housing assistance, food stamps, or any other State or local means tested assistance program. The Edwards amendment would take us backwards, and repeal the provision enacted in the Family Support Act, as well as strike the provisions in H.R. 3299.

Mr. Chairman, I strongly urge the House's support for the Ways and Means Committee's provisions in H.R. 3299. By enacting the earned income tax credit, we decided to encourage parent's decision to work to support themselves and their families.

I believe we should not undercut this encouragement by providing that the credit only takes away some other Government benefit.

I believe that wealthy individuals are not the only ones who are sensitive to the effect of high marginal rates on work effort. I urge you: do not agree to a provision that would continue to make parents weigh the rewards of working against the burdens of the loss of housing, food, and medical care.

Under H.R. 3299, as under present law, the dependent care credit is available for working parents in all income ranges. It is larger for lower income families, because of their greater need. But it is available to all working parents to reflect the fact that child care

expenses are inevitably borne when parents of young children work outside of the home. The Edwards amendment phases out the dependent care credit for families whose income exceeds $70,000.

I strongly believe we should not eliminate our recognition of the special needs of all families with dependent children, and I urge the House's support of the Ways and Means Committee's provisions of H.R 3299.

I strongly urge a "no" vote against the Edwards amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise in support of the Edwards substitute and, more importantly, to oppose H.R. 3, which is the bill that we are considering.

I want to note for all the Members in the House that it is in the nature of the rule and in the nature of including a massive child care bill in a tax bill that tells us that in fact this is the only debate we can have, and indeed there is not an opportunity to debate or amend the specifics of H.R. 3. I would note that sometimes these issues have gotten fuzzied up in the last several days or several weeks, so I think it is important that we concentrate on the massive new and revolutionary changes in child care in this country as proposed by H.R. 3, which is what we are voting on.

Indeed it seems to me that the burden of proof of passing this bill ought to be on the proponents of H.R. 3 and not on the opponents. There are several things we know about it. The first thing we know is that it is new, and that it provides for a massive new Federal role in child care, which does not happen now. We also know that it creates at least three new programs, and we know that there is much in H.R. 3 that we know nothing about.

We also know that the only way to defeat H.R. 3 and send it back to committee and bring it back to the House floor under an open rule for free-standing consideration is to vote for the Edwards substitute and/or for the Stenholm-Shaw substitute, because the Members of this body will not get a free-standing vote on child care in this session. If we defeat either the Edwards or the Stenholm substitute, the result will be that H.R. 3 will pass.

There are several problems with H.R. 3. The first one is the cost. H.R. 3 creates three brandnew Federal programs that vastly expand the Federal role in child care in this country. Here we are in days of contemplating sequestration, of cutting NASA, of cutting drug funds, cutting Head Start, and of cutting education, and with a sequestration that may happen on October 15, and yet on the House floor, in a tax bill, in a budget reconciliation, we are proposing three new Federal programs. Here we are in the days when we cannot fully fund title 20, when we are not fully funding Head Start, when we are not fully funding WIC, and we are not fully funding chapter 1, and yet the Education and Labor Committee would propose that we create three new Federal programs, no doubt also to be not funded, and to take away funding of existing Federal programs.

The three programs are chapter 4, mandating 38,000 local development councils, with the mandating of a mandatory school-based child care program. Many Members in this body support school-based child care, and that is fine. The Stenholm substitute does it right. The Stenholm substitute permits the use of title 20 money for school-based child care, but H.R. 3 mandates a new school-based child care program by the Federal Government.

Last, there is a Federal regulatory child care day care grant system, originally called ABC. The second thing we know about H.R. 3 is that it imposes new mandates to the system.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The time of the gentleman from Texas [Mr. BARTLETT] has expired.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, the child care provision in the budget reconciliation bill is no "Johnny" or "Charlie" or "Mickey-come-lately." This Budget Committee provision is the result of 3 years of hearings in two committees of this Chamber. Testimony was received from scores of witnesses, and it has the support of over 150 professional organizations.

Now we find that after those 3 years of extensive deliberations, there remains some who would prefer to do this otherwise. But let us look carefully at some of those proposals.

No simple tax provision by itself, however worthy for its own sake, and no repackaging of tax breaks under the rubric of child care will add to the supply of safe, affordable child care in this country.

Neither of the substitutes being offered today authorize any new funds for Head Start. Neither expand Head Start to full-day, full-year services, offer before and after-school care or give direct assistance to States to care for infants and toddlers or empower the States to set their own standards of quality and excellence, in addition to giving families in need the underlying support of an earned income tax credit.

□ 1120

Mr. Chairman, the bill before us does this within the discipline of the budget authority for which the committee fought. I urge my colleagues to support the work of the gentleman from California [Mr. HAWKINS], the gentleman from Michigan [Mr. KILDEE], and the gentleman fron New York [Mr. DOWNEY] and so many others who have worked so hard to make this bill one of quality and affordability. This is one provision in reconciliation that has been well considered and carefully deliberated. The genuine child care provision in the budget reconciliation bill deserves my colleagues' vote. It is a blend of responsible tax policy and supports the best child care and early child development programs in every community in this Nation.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chaiman, who should choose the type of child care a child receives, the child's parents, or the Federal Government?

When we vote on child care later today, that is the choice we must make. The Edwards or Stenholm-Shaw alternatives provide most of the Federal child care benefits directly to parents, allowing the parents to choose the kind of care that will be best for their children.

The Downey and Hawkins approaches provide much of the funding to institutions and bureaucracy. They restrict the types of care parents can obtain for their children under the bill. I believe parents are a much better judge of what's best for their children than the Federal Government. I urge us all to keep this point in mind when we vote on child care today.

Mr. DOWNEY. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 3, the Education and Labor reported bill to provide for the establishment of a child care policy at the Federal level, and the tax credit provisions supplied by the Ways and Means Committee, both of which are included in H.R. 3299, the fiscal year 1990 budget reconciliation bill. No substitute intended to be offered here today is adequate to the Nation's needs. The country needs and wants the comprehensive approach to child care as provided in the Education and Labor Committee's bill, and it welcomes the added benefits to low-income families with dependent children provided through the tax credit provision added by the Ways and Means Committee.

H.R. 3, as reported by the Education and Labor Committee on which I serve, known as the Early Childhood Education and Development Act, is one of the most important domestic policy statements to come before the 101st Congress so far this year. It con-

tains initiatives to help meet the desperate need of American parents for quality, accessible, affordable child care. H.R. 3 is the product of nearly 3 years of exhaustive hearings and intensive research by literally thousands of child care experts. Our bill was reported by the Education and Labor Committee with broad bipartisan support. The programs thereunder will improve the quality of programs for preschool children by expanding the Head Start program to day-long, year-round services for those qualifying for Head Start. Title II of H.R. 3 provides for schoolbased before and afterschool care for children of working parents. This will enable latch-key children to remain in a constructive, supervised educational setting until their parents return home from work, rather than going home to empty houses, into neighborhoods often dangerous, often drug-ridden, and totally unsafe for young, impressionable, and vulnerable children.

Title III of H.R. 3 provides money to the States to enable them to provide operating funds to existing, and to newly interested child care providers whether center based, family, or group homes, and would expand services to working families with infants and toddlers, a much more difficult child care service to find that is safe and affordable. This funding is intended to allow States to increase both the quantity and quality of available child care slots, making child care available to parents who seek it for children from infancy to school age and beyond in safe, affordable settings.

It is well documented that every day, 5,000 mothers turn down paid jobs because of a lack of adequate, affordable child care. Every day, 2 million children from working families spend another day alone and unsupervised, due to a lack of access to affordable child care. Every day, more than 3 million children are put at risk in unsafe day care arrangements.

H.R. 3 includes voluntary, not mandatory, standards for health and safety in child care, and offers incentives to States to see that these standards are met.

Members of the Education and Labor Committee have agreed with President Bush, that a tax credit for children of low-income families for child care purposes is a desirable goal. But we did not, in the first place, have jurisdiction in our committee over tax-related legislation. In the second place, we are adamantly opposed to enacting a tax credit in lieu of H.R. 3. The committee has reported a comprehensive means of providing care for the children of working parents, particularly low-income parents, and parents on welfare, many of whom will go off welfare and into paid jobs if adequate and affordable child care is made available to them.

We do not oppose a tax credit that will be used, where necessary, for child care purposes. But we must also have a well-structured program that does more than provide custodial care for young, preschool children who need the education and developmental opportunities that are embraced under H.R. 3.

After nearly 3 years in the making, working closely with child care experts, educators, early childhood development specialists, the National Governors' Association and others, the Education and Labor Committee has recommended to the whole House a bill which vastly expands the child care network nationwide. The Federal role must be a major one—one of discerning a national need of overwhelming human significance, but a need that regrettably has not and cannot be met solely from State and local resources. Child care is unquestionably an unmet socioeconomic need of national significance.

H.R. 3 is a bill that is flexible in its approach to providing child care, and has a great capacity for change that will allow State and local governments and the people they serve to adapt the several approaches embodied in the bill to their own special needs and demands. We have given States and localities the opportunity, and financial incentives through a combination of the involvement of business, public schools, and private providers—along with the continued involvement of churches which now provide more than a third of day care the Nation has to offer—through which the Federal Government can help assure the availability of child care at affordable costs for the working poor.

H.R. 3 does not create or cause unwarranted Federal intervention in State child care standards through over-regulation. What it does do is to create a national environment and atmosphere in which the improvement and enhancement of child care can occur, through the Federal Government's generous financial commitment to excellence.

I have reviewed the 54-page licensing requirements for day care centers for the State of West Virginia, and I daresay the State has in place strong requirements for health, nutrition, safety, child-staff ratios, personnel preservice and inservice training requirements, and other licensing approval requirements, including announced and unannounced site inspections of licensed facilities. West Virginia's child care standards would require very little, if any, changes or upgrading to meet recommended child care standards contained in the bill. I believe the State of West Virginia has imposed rigorous requirements for the knowledge and skill base of the people who provide child care in the State in licensed facilities. This is a great source of reassurance to me, and to working parents, that their children are in safe and happy environments, and those standards are strengthened through well-planned parental involvement in the day care services provided. H.R. 3's early childhood education and development programs will, in turn, reinforce the State's care standards and encourage broad-based parental involvement.

I believe the programs contained in H.R. 3 signify the Federal Government's major commitment to building a decent child care system for American workers and their children, and that the programs embody the characteristics of good, decent, safe, and affordable child care that have won the public's strong support for this legislation.

The recent education summit brought to light the collective belief of the Governors of the 50 States that the Federal Government ought to take over and be responsible for making certain that every 5-year old entering our public school system will be a healthy child, ready for a beginning career in education in every way, who have had a head start in gaining appropriate developmental, social, and motor skills necessary for successful, sustained learning experience in the public school system. The Governors recommended Federal assistance for programs such as these for all preschoolers. H.R. 3's comprehensive child care programs for preschool children will go far in assuring that those 5-year-old children will have had a structured head start in early childhood education and development before entering the school system.

It is my sincere hope that both substitutes for H.R. 3 will be defeated today, and that H.R. 3, along with the Ways and Means tax credit for child care will remain in the reconciliation bill so that we can go to conference with the Senate on its similar bill, which also contains a tax credit provision.

Establishing a child care policy in the United States is, for me, an exciting challenge and something I am proud to be part of. I believe this is an historical event and worthy of great notice.

I commend our esteemed chairman of the Education and Labor Committee AUGUSTUS HAWKINS, and the chairman of the committee's Subcommittee on Human Resources, Mr. KILDEE, first for their foresight, and then for their enduring patience, in working together in a spirit of true comity to bring the various and sundry supporting groups together, and for reaching an understanding that allowed this important legislation to reach the floor of the House. I am pleased to have had a small, but nevertheless a direct part in the development of H.R. 3 in

our committee, and to have had the support of the committee for my amendment which included universities as eligible applicants to become providers of campus-based nonresidential child care centers.

Mr. Chairman, it is my hope that my colleagues will join me in defeating the two substitutes for H.R. 3 being offered today, and allow the child care programs contained in the budget reconciliation bill to be retained and sent to the House-Senate conference committee for resolution of outstanding differences between the two versions of this vital child care legislation.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I begin by complementing the efforts of Mr. EDWARDS in providing the leadership necessary to bring the Republican child care proposal to fruition. Mr. TAUKE, Mrs. JOHNSON, Mr. PETRI, Mr. BARTLETT, Mr. GOODLING, and Mr. FRENZEL were also instrumental in helping us shape this proposal. And I want to extend special compliments to Mr. HOLLOWAY and Mr. SCHULZE whose advocacy of tax breaks for families is having more and more influence in our party.

When the child care debate began nearly 2 years ago, the only proposal on the table was the ABC bill. For us, the ABC bill has continued to serve as a model of child care policy that should be avoided at all costs. Its central flaws are: Creating several new grant programs that could mushroom into fiscal bombs in later years; imposing hundreds of severe Federal regulations on day care at the State and local level, thereby creating havoc in the day care market; favoring institutional child care as against small, family-based, informal arrangements; discriminating against families in which one parent stays home to take care of children; outlawing public support of sectarian care, including care involving no religious instruction or workship taking place in churches; and in general, putting child care in the hands of bureaucrats and professional child care providers.

Realizing our party's objection to all or most of these effects of the ABC bill, Republicans quickly countered by saying that the whole ABC approach was based on an incorrect diagnosis of the major problem facing families. Proponents of ABC said that families needed better out-of-home day care; Republicans responded by saying that families needed more money to raise their children properly.

For million of families, the major problem was taxation. Counting Federal, States, and local taxes of all types, it is not unusual for families to spend up to 40 percent of their income paying taxes. For low-income families, the tax burden is particularly onerous.

The solution we proposed was simple: reduce the tax burden on all families and expand tax credits for low-income families that have little or no tax liability.

And so it is that today we bring a stark and innovative proposal before the House. This proposal was formulated by a task force representing a wide range of views within our party.

I know that the vast majority of Members think the Nation is experiencing a child care crisis. Many also believe that the Federal Government should intervene and fix things up. But there are many in our party who believe that the so-called crisis in day care is exaggerated, and that the States are moving aggressively to improve the supply and quality of child care.

The proper role of the Federal Government, then, is not to disrupt either the private market or the public effort at the State and local level. Rather, our role is to make sure that parents have enough money to effectively use whatever type of care they think most appropriate—including maternal care in the home.

And for my friends who want to pour billions of dollars into formal, institutional forms of child care, I want to call one undisputed fact to their attention. For all the fuss about day care and day care centers, only a little over 10 percent of America's preschool children are in day care centers.

The advantages of our approach are numerous: We would provide direct benefits to at least 13 million families with over 20 million children; some working families that have preschool children will receive as much as $2,500 in cash to improve their standard of living; all of this money will go to families with a minimum of bureaucratic jumble and the income supplements will go to families either in their regular paychecks or in a tax refund at the end of the year—the efficiency of this approach is unmatched; and families that make the financial sacrifice to have one parent stay home with the children will not be discriminated against.

And finally, I want to call the attention of Members to what I regard as the most important achievement of this legislation. For the second time in 2 years, the Congress is taking crucial steps toward changing the direction of American social policy. The Family Support Act of 1988 signaled the intention of Congress to spend a great deal of money on helping welfare families achieve independence by preparing for work in the private sector.

Now, with this vast increase in the earned income tax credit, we are telling the low-income citizens of this country that we want to spend tax dollars to help people who participate in the work force.

Make no mistake. Times are changing. Federal social policy is changing. And Republicans are leading that change by designing policy the old-fashioned way: We help those who help themselves.

□ 1130

Mr. HAWKINS. Mr. Chairman, I yield, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, those of us who care about children will put aside our considerations of our positions on the church-state issue as we vote on this critical legislation. As we have pursued our own political agendas, we have raised the visibility of the church-state relationship to such a point that the probability is that no matter which program passes, it is going to be bogged down in court suits. This matter is going to be thrown into the courts and the courts are going to have to decide the issue of church-state relationshps.

We should recognize, however, that the cornerstone and the foundation of our educational program in this Nation starts with early childhood education. Everybody agrees to this. There is no controversy about it.

H.R. 3, in contrast to the Edwards amendment and the Stenholm amendment, which I oppose, H.R. 3 is sound legislation, structured in consultation with experts, with experienced providers, and with parent groups.

We have deliberated on it for quite some time. We have come to conclusions that are sound, based on what already exists. It is not revolution. It builds on existing programs, like Head Start. For the first time, it calls for an expansion of Head Start, which will allow Head Start to become all-day programs better suited for working mothers.

There is nothing new and revolutionary about this approach. It does include taking care of youngsters after school, older youngsters, which is something not included anywhere else.

There are a number of things done which need to be done in H.R. 3, and only in H.R. 3.

Those who would recommend the earned income tax credit approach are abandoning the children who need it most. The children who need it most will not be benefited by an earned income tas credit approach.

Also, no matter how you play with those formulas for any tax credit, it cannot pay for decent day care. Certainly in New York it will not pay even half the cost of decent day care in New York State. I know that for a fact. I doubt seriously if any place in the country the earned income tax juggling, no matter how you bring it out, will pay for decent day care.

We also have created new bureaucracies to take care of the savings and

loan associations. I do not know why the creation of a few new Government regulations to take care of this situation is not acceptable.

Mr. Chairman, let us give the money to those who need it the most, the children.

Mr. Chairman, for the past several years, the American people have heard politicians from both parties and from across the ideological spectrum loudly boast of their commitment to quality child care. Today is the day that they will find out who in this House will keep those promises and who will not.

As the Education and Labor Committee has tried to fashion comprehensive child care legislation over the last few years we have found time and time again that there were an awful lot of ifs, buts, and other exceptions made in those otherwise enthusiastic expressions of support for a child care bill. Many of our colleagues told us they would support a bill if only we'd change this, or amend that, or ask for less money, or throw out the standards, or include a tax credit and on and on. And so very carefully and deliberately the leadership of the Education and Labor Committee has tried to respond to each and every one of those concerns, compromising on some points and completely capitulating on others. No other legislation considered here in recent memory has been developed with such openness and willingness to compromise and respond to each and every objection and concern that was raised. Some of us think we might have given too much away. But we did it because we took you at your word. You said you wanted a child care bill you could support and we tried to give you one.

There are no more ifs, buts, and exceptions to hide behind. Either you support quality child care and you vote for H.R. 3 as reported or you don't. It is that simple.

The rationales being offered for the destructive Edwards and Stenholm substitutes cannot withstand close examination. They just do not make sense.

We are told, for example, that H.R. 3 spends too much money on child care. Yet the proponents of the killer amendments know full well that the committee slashed the authorization for H.R. 3 by 50 percent during its deliberations to address the concerns of fiscal conservatives. What are we left with, even if fully funded, will scarcely make a dent in the Nation's child care crisis. It represents an investment of less than one-half of 1 percent of what we sink into the bottomless pit of national defense every year. It is just 1 percent of what we voted to spend this summer to bail out the bankrupt and corrupt savings and loan industry. It is but a token contribution to meeting the needs of working families. Yet even this, we are now told, is still too much.

The leaders of the efforts to destroy and derail this child care initiative have also rationalized their opposition to H.R. 3 with the fatuous argument that the bill discriminates against families in which both spouses do not work and others who do not need child care. It is worth noting that most of those who are now leading the charge against this so-called discrimination against traditional families are the same ones who, during last year's welfare reform debate, were ridiculing women on AFDC who wanted to stay home with their preschool children as lazy and demanding that they be forced into work fare almost the moment they first emerge from the maternity ward. This discrimination complaint is just too inane to take seriously. If we cannot enact a child care program that working parents need because it would discriminate against those who stay home, then we will have to reconsider our policies in other realms as well. Subsidies for farmers would have to go; they discriminate against people who don't have farms. Pell grants would be out; they discriminate against people who don't go on to college. And on and on; taken to its logical conclusion, this argument would mean that just about any Federal program that is not universal would go out the window.

Supporters of the killer amendments have also claimed that H.R. 3 would prohibit parents from placing their children in programs run by churches and synagogues. This, too, is a falsehood. Over the past 2 years, the committee has worked closely with representatives of all of the major religious denominations in the development of this bill to assure that the superb child care programs provided in many of the Nation's churches and synagogues would be eligible for funding under the act. Representatives of most of the major denominations strongly support H.R. 3. A vocal minority, however, does not support it, but for reasons which have nothing to do with child care. Their complaint is not that the bill would not support church-based child care programs; it most certainly would and they know it. Instead, their complaint is that the bill would not permit Federal funds to be used to subsidize religious worship and other sectarian activities. Without even getting into the obvious unconstitutionality of such an approach, I think most taxpayers would agree that the Federal Government has enough problems trying to address compelling unmet needs in our communities without now getting into the business of subsidizing the operating costs of every synagogue, mosque, and church in America.

Another complaint we have heard is that buried somewhere in H.R. 3 is a virtual mountain of redtape and restrictive regulations. But read the bill closely—it's not there. The bill did have Federal standards to protect the health and safety of children at one time, but they were taken out months ago. All that's left now is a requirement that the States have at least some standards, but does not specify what they should be. All but a handful of States already do have standards in most of the areas specified in the bill. The suggestion that even this minimal requirement is too intrusive is absurd.

The complaints and the carping we hear today do not hold water. Each of them has already been addressed in the development of this bipartisan compromise. For the good of our children, painstaking efforts have been made to forge a real consensus, to settle all our differences, and bring this urgently needed legislation forward. The question before us now is not how we will respond to the child care needs of our constituents. The question now is whether we will respond at all.

I urge my colleagues to defeat the killer amendments offered by Mr. EDWARDS and Mr. STENHOLM.

Mr. DOWNEY. Mr. Chairman, it is my privilege to yield 2 minutes to the gentleman from West Virginia [Mr. WISE], one of our newest parents, whose wife gave birth to a 7-pound baby girl.

Mr. WISE. Mr. Chairman, I appreciate the gentleman's kind remarks. There is nothing like being a new parent to become an instant expert, is there?

Mr. Chairman, on the issue of child care, I am happy to say that Robert, our son, is in child care now. His young sister, Alexandra Stewart, will be shortly, and in that spirit I rise today in favor of the committee bill, the committee version, the reconciliation version, and in opposition to the Edwards and Stenholm substitutes.

I want to speak particularly in my limited time to one issue, and that is the church-state issue, because my State depends heavily upon religious institutions to provide child care. In fact, 80 percent of the child care in my State is provided by religious institutions, the Nazarene churches, the Catholic churches, the Baptist churches, other religious institutions heavily provide child care. We appreciate it. We are grateful for it. They have been the leaders in it. So therefore, I am not going to vote for any version that challenges that or that could undercut that. That is why I oppose the Edwards amendment and the Stenholm amendment, because I know that the protection for those churches is in the existing bill.

The committee version does not forbid them to continue doing what they are already doing and doing well.

Indeed, the language in the Senate bill, which our leadership has indicated will accept in its concepts, the language in the Senate bill goes further to guarantee that religious institutions will continue doing what they do well.

I look at this bill to make sure that the church on the corner can still operate and operate as effectively as it has already. Nobody has to take religious symbols off the wall. Nobody has to provide totally neutral settings.

I see this brings so many to their feet, but you all will have to wait. I have got them all on their feet.

The law that permits these facilities to operate will now still be in effect.

The simple fact is that churches that provide child care now will be able to do this in the future. Thank goodness, because we need that child care, but we need it with the flexibility that the bill and the reconciliation measure provides.

You all are just talking about child care, nibbling around the edges, a few dollars here to look like you are for children. Your child care manual sounds like something Charles Dickens wrote. So that is why I support

the measure over here. I support real child care.

Mr. Chairman, I appreciate the opportunity to speak on this.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I wonder, if this bill was so freely and widely debated in the committee, why it was not just brought to the floor as a free-standing piece of legislation?

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise today in support of the Edwards amendment, and if it should not pass, the Stenholm-Shaw child care substitute. I believe these substitutes effectively address the child care situation in the United States, without creating burdensome Federal regulations and oppressive, overlapping Federal and State bureaucracies.

As I have stated in the past, the best child care policy evolves from the bottom up, using Federal funding to support and involve parents, religious groups, businesses, and local government in day care. In the 19th District of California, and around the Nation, innovative ideas in child care are being conceived and implemented. The Federal Government should assist and nurture these innovative ideas, rather than create demanding Federal policy which will hamper creativity, limit flexibility and restrict freedom of choice among families and child care providers.

By expanding the current earned income tax credit [EITC] and creating a new EITC, the Republican substitute provides needed tax relief for families while equalizing treatment, regardless of the employment status of the mother. By combining flexible grant programs such as Head Start, title XX, and child care for small businesses, with an enhanced EITC, the Stenholm-Shaw substitute includes the programs needed to provide adequate child care, while excluding those provisions which take child care decisions away from families and child care providers.

At the Federal level, we must allow those closest to child care issues to make essential decisions on local child care problems. Parents should have the right to make choices. These substitutes recognize individual child care needs rather than create stringent Federal standards pertaining to hand washing and training of day care employees.

Mr. Chairman, our children are our most precious resource, and deserve the best caring environment we can offer. I believe the substitutes we are considering today will provide the resources and direction needed to provide essential care for our Nation's youth.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, the good news today is that I think all of us have recognized that there is a legitimate role for child care at the Federal level.

The bad news is that unless we pass one or both of the substitutes, we are not going to have a new child care bill. We are going to have the new Paperwork and Bureaucratic Expansion Act of 1989.

I want to call the attention of my colleagues very quickly, get a copy of the reconciliation bill, look at chapter 4. You are going to find 37 pages of child care and early childhood development coordinating activities.

Now, I want you to take a look at those activities, because one of the first ones you will find on page 223 is that for the first time in the history of the Federal Government we are going to require a ratio of State inspectors to child care centers.

Now, I have heard of parent-teacher ratios and all those kind of things. When have we heard of a ratio of inspectors to centers, as we see in this particular bill?

Then I want you to go on a couple more pages and go over to page 228. They have local Child Care Development Councils. Do you know what, we talk about the availability of child care in this bill, the reality is that for any State that participates in the child care provisions of the legislation in the bill, all local municipal governments in that State must create a Childhood Development Council. They must do all these assessments. They must file all these reports with the United States.

We are talking about 38,000 municipalities with new paperwork requirements under this bill.

Finally, we talk about the religious section, and my good friend, the gentleman from West Virginia, was referring to the Senate language on religion. May I say to my friends, the Senate language on religion only affects vouchers, and there are no vouchers in your program. There are not even vouchers in our program. So the Senate language on religion is irrelevant.

If you want to pass legislation today that truly provides your child care centers the opportunity to have any kind of a little prayer or learn "Away In The Manger," you have got to vote for the two substitutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Edwards substitute. As I do that, I would like to take a moment to commend by colleague, the gentleman from Louisiana [Mr. HOLLOWAY], who was one of the first people who proposed dealing with this problem through tax credits.

□ 1140

He has certainly been tenacious for the past 2 years. It is a tribute to his good work that every proposal that we will examine today includes some element of tax credits.

Mr. Chairman, the Hawkins-Downey plan, which the Edwards substitute would replace, creates or expands seven grant programs that will cost $22.7 billion over 5 years, and that increase in costly programs and service to special interests will exist by discrimination against the majority of American families.

Before we commit that kind of excessive spending and discrimination against the majority of American people, we ought to look at the facts. The notion that this child-care shortage exists comes from the sensational juxtaposition of two unrelated facts, one, that there are 12.6 million children in need of child care in America, and, two, there are about 2.1 million spaces in formal child care centers, and then upon that assertion that every family ought to care for their children in child care centers.

This assertion discriminates against the vast majority of the American families. Of all the children we have in America, over half of them are cared for at home or by relatives and neighbors. Thirty-three percent of them are cared for by nonrelatives in a private home. Eight percent are enrolled in nursery schools. There are 2.1 million in formal day care centers. Millions of Americans are exercising their responsibility and their prerogative as parents to choose their own best-favored way to care for their children.

It turns out that as we look at the child care centers, there is no shortage relative to the need. Child care centers have increased in the last 10 years from 18,300 to 39,429. From 1976 to 1988, the number of slots have doubled from 1.2 to 2.1 million. In addition, national child care chains such as Kinder Care, Gerbers, and La Petite report average vacancy rates of 25 percent. The National Child Care Association, representing 50 percent of the formal day care market, reports average vacancy rates of 18 percent. No, there is no shortage of formal child care centers.

What there is, is a shortage of take-home pay and purchasing power on the part of families, because they are overtaxed.

Mr. Chairman, if we believe in the rights of parents and the welfare of children, leave the power to decide and the money to implement with the parents.

Mr. DOWNEY. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, let me just say to the House that this debate is a long time coming. We have confronted and we have aired these issues over the past decade in almost every committee of the Congress, in special forums and seminars. All across the country this debate has been raging.

The question that we are going to confront here today in a little while is whether or not the children of America deserve the very best we can give them, whether or not we think our children are so very valuable and so very important to this Nation and so very important to their parents that we are going to give them first-class quality child care. If we believe that, then I believe that we will support the Hawkins-Downey proposal and that we will repudiate the notion that we can give our children a second-class system by buying into the Edwards proposal or the Stenholm proposal.

The question is whether or not we are going to have comprehensive quality care. That is all the debate is about. It is expensive. It is also worthwhile.

Mr. Chairman, we could fill the well of this House with study after study that tells us that the children who have quality, comprehensive child care do better. They do better within their families. They do better with their friends in socialization. They do better in school, and they do better later on in life. Why? Because we cared enough to surround them with quality. That quality ought to be available to every child who because of their family circumstances needs child care.

Why do people need it today? Because families are struggling to make it in the American economic system like they have never struggled before. We have sent women into the workplace to try to hold families above the poverty line so that families could educate their children, so that they could buy a home, so both spouses are working, and that requires that those families be provided some support and some rewards for being out there and trying to support their families.

One of the things that we know we can do, one of the things that we know that makes individuals more productive is knowing that their children are safe, is knowing that they have quality child care. Our committee, the Select Committee on Children, Youth and Families, has listened to parents describe to us the trauma of having bad child care, of worrying about whether their child is with a decent person who will provide the protection, about not having the availability of child care, about the stress of they may lose their job because they are running around the neighborhood trying to find child care and they are going to be late for work and they do not have a very good job to begin with, so the employer does not really care about their child care problems, and he may fire them.

Let us relieve that stress from our families, from our families who are out there working.

I must tell the Members that neither the Edwards bill nor the Stenholm bill do that. They are part of the puzzle. They are part of the answer. But why do we not have the courage and the conviction to go all the way and provide a comprehensive quality system? That is what the Committee on Education and Labor and that is what the Committee on Ways and Means are asking us to do here today.

I have listened to so many of my colleagues come into this well and tell us that the children are the future of this country, who tell us that the children are the most important resources in this country, but we have never followed through. We have never had the courage of that conviction to invest in those children. This is the chance today to take a major stride on behalf of this Nation's children. We ought to do it. We ought to do it with our heads up high and facing the proud fact that for the first time we are saying our children are important to us, to our future and to our Nation.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Chairman, since the Human Resources Subcommittee began hearings on child care some 2 years ago, we have come a very long way, and in all seriousness, I say to my colleagues let us not spoil it now. We have a tremendous opportunity to be in a position to get child care legislation enacted into law.

Frankly, if we go to conference with the Hawkins-Downey position, we are not going to be able to get a piece of legislation that will be signed by the President. If we are interested in actually enacting law rather than making political points, it appears to me that we will look seriously at the substitutes that are being offered.

Mr. Chairman, as we look at those substitutes, however, more than politics must come to mind. We also have to look at the substance, and the first major question that faces every Member of this body is: Who is better able to make good choices about child care for children, parents or the bureaucracy?

□ 1150

Do we as Members of Congress want to empower parents to make decisions for their children, or do we prefer to empower a bureaucracy to make those decisions for children?

My judgment is that parents are better able to make judgments about appropriate care. That is reflected in the substitutes that are being offered.

The second question that we need to ask is: Is it wise to say to parents that they must work, have both parents working in order to be able to receive any kind of assistance? My judgment is that sometimes parents are the best child care providers, and if we can empower them to be child care providers, and they choose to do that, my goodness, we ought to take that pro-choice position.

Third, it seems to me that it is very important that we understand that we want to include the entire current child care infrastructure in the legislation we enact. The Hawkins-Downey approach excludes churches from being able to offer child care services by the mechanisms that are contained in the legislation.

In my State, 40 percent of the child care is offered by churches. In many of the inner cities, three-quarters or more of child care is being offered by the churches. How can we exclude them from the infrastructure with this policy?

There are other problems as well with Hawkins and Downey. It is very poorly targeted. The money goes to the nonpoor. It distorts the Head Start Program, trying to make it a child care program instead of a program of development for the young people who need that assistance.

It establishes a huge bureaucracy with five new grant programs and a distortion of title XX. As a result, it is not nearly as cost effective.

Mr. Chairman, substantively the substitutes are better. But in addition, I would say they offer the best opportunity to actually get a major new piece of child care policy enacted into law.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from New York [Mr. DOWNEY] has 1 minute remaining.

Mr. DOWNEY. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I would like to respond to my friend, the gentleman from Iowa [Mr. TAUKE]. With all due respect, what the gentleman has said simply is not true. The fact is what we intend to do with this legislation when we go to conference is to move through the Ways and Means Committee provision which says that there shall not be anything new with respect to requirements on the States than they already impose on themselves. So if the State of Iowa chooses to use a voucher, and I do not know offhand what the State of Iowa does, it can continue to do that.

We have surveyed 20 States attempting to find out whether there is a problem under the social service block grant for child care with respect to vouchers in particular. There is no problem. Let us not create one. We do not want to create one, and I know the gentleman does not want to create one.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I am happy to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, the problem in the bill is, first of all, the parent does not have absolute freedom because the State provides and contracts directly with the vendors. The

language is only permissive, so it does not promise in any way a voucher of choice to the parent. The parent is limited only to those agencies the State contracts with.

Mr. DOWNEY. I would suggest to the gentleman from Michigan that he take a look at the Ways and Means Committee provision on this. If the State of Michigan has imposed requirements that the gentleman does not like for the State of Michigan, then he can address the State assembly and the State senate.

It is our intention, I will say again ad nauseum, to move toward language and move toward a provision that funnels the money through the existing title XX grant, so that the State of Michigan and all of the other States of the Union can continue to do what they are currently doing.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. DOWNEY] has expired.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have to comment on the fact that we keep being asked to rely on what is going to be done hopefully in conference. We are not talking about the conference, we are talking about legislation that is here on the floor. That is what we have to deal with, not vague promises of what we hope will happen in conference.

Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, nearly everything in the media about day care in recent years has been negative. Children are injured, or abused. Children are ignored. Children are exposed to communicable illnesses. Child care providers are inadequate or worse. Because people's major sources of information about day care are TV, newspapers, and magazines, they are likely to conclude that America's children are in great jeopardy.

We are not engaged in a policy debate about the Federal responsibility for day care. Many Members on both sides of the aisle are entering this debate assuming that the conventional wisdom on quality of care—namely, that it is lousy—is correct. They assume that there is a big problem with quality and that the Federal Government should make sure its money is spent to improve quality. The rhetoric on this point knows few limitations.

Because Members assume there is a big problem with poor quality care, and because they think it is a Federal responsibility to do something about it, many now support the idea that the Federal Government should intervene in the day care market and tell States and parents how to regulate care.

There is no doubt that both the Downey bill and the Hawkins bill are full of regulatory provisions. Both biils are jammed with regulations and mandates on State and local governments. I shall place in the RECORD a 5-page summary of these mandates.

Members may think we have a crisis in the quality of child care. They may think children are in danger. And they may now support a bill that would impose burdensome mandates on States to save the children. Before voting today, Members are invited to consider the following.

First, anecdotes are not evidence. Hearings in both the House and Senate are full of anecdotes about risks children are exposed to in day care. And yet there is not one single systematic survey or study showing that children in day care are at greater risk of these bad conditions than children in other settings, or that children in unregulated day care are at greater risk than children in regulated day care. If anybody has such a study, I hope he or she will produce it for the rest of us to see. Without such evidence, the Congress doesn't even know there is a problem we need to fix—let alone by imposing five pages of onerous mandates on the States.

Second, the Congress has little or no evidence that these new regulations and mandates would even solve the problem that may or may not exist. Can any Member tell us about studies, surveys, or other evidence from their States that regulations solved any of the quality problems with day care? Any legislative remedy ought to have a reasonable chance of success before Congress enacts it. It is a truism that Federal regulations are frequently counter-productive. Therefore whoever wants to regulate should provide some evidence that regulation will do some good. Hard evidence on positive values for these regulations is miniscule to nil.

Third, it is also well known that regulations increase prices. Day care is no exception. A recent study by day care advocates in North Carolina estimated that the price of child care would approximately double if regulations and standards similar to those in the Hawkins-Downey bill were to become law. As always, price increases will fall most heavily on the very people we are trying to help—the poor.

Fourth, Members should know that in approving the Downey-Hawkins bill, they will be directly interfering in an area that the legislatures of every State have addressed. All 50 States have regulations that apply to day care centers, and all but four States have regulations that apply to the smaller, informal family day care homes. In mandating new regulations, we are telling State legislators and governors that we in the Federal Government know better than they do what is needed to protect children in their State.

Fifth, there is some interesting evidence that the quality of day care provided now is not bad. First, the largest study ever done of day care homes—where about half the Nation's out-of-home child care is provided—was published by HHS in 1981. It was based on scientific observations and interviews of about 800 regulated and unregulated day care homes in three American cities. The scientists who conducted the report concluded that even unregulated care is "stable, warm, and stimulating" and that it "catered successfully to the developmentally appropriate needs of children in care." That's not a bad endorsement. So far I have not been able to find any study of comparable magnitude that says unregulated care is dangerous.

More recently, we have had two careful studies of how much children attending day care are at risk. In one study, conducted by scientists at the University of New Hampshire, a national survey found that children were about twice as likely to be subjected to sexual abuse in their homes and neighborhoods as in day care settings. In the second study, released just last week, medical researchers at the Centers for Disease Control in Atlanta found that children are more than twice as likely to be injured in their home as in day care.

All in all, reasonable observers will conclude that the problems with day care reported incessantly in the media and congressional hearings are not as bad as previously thought. A review of the evidence shows that day care seems to be in pretty good shape. Parents and States ought to continue their own, apparently successful, efforts to insure that America's children are in safe day care arrangements. If we pass the Hawkins-Downey plan, we will undoubtedly only make things worse.

The CHAIRMAN pro tempore. The gentleman from Oklahoma [Mr. EDWARDS] has 12 minutes remaining and the gentleman for California [Mr. HAWKINS] has 9½ minutes remaining. For the information of the gentleman from California [Mr. HAWKINS], the gentleman from Oklahoma [Mr. EDWARDS], has requested that he be given 4 minutes of his 12 minutes' time to close debate.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am not going to talk long now. I am going to talk perhaps a little longer on the Stenholm amendment.

Let me make a couple of things clear. Title III of the Education and Labor Committee provision does not exclude church participation. Let me repeat that. Title III of the Education

and Labor Committee provision does not exclude church participation.

I prefer and I support the approach of the Senate in this and the approach on church-state relations of title XX. But some Member has said that title III excludes churches. It does not exclude the partipation of churches.

Let me also say that with regard to the Governors, we have a Governors' conference here whose executive secretary apparently sent out a letter saying that the only bill that fit the Governors' criteria for child care was the Stenholm bill. Many Governors have disavowed that letter, with great embarrassment to separate Governors and to the Governors Association. They have sent a letter out saying that this did not express the views of the Governors. Governor Clinton, who is in charge of the Child Care Division of the Governors' Association, said this was done without his knowledge, and did not in any way give the views of the Governors' Association on this.

□ 1200

We have Governors who have written to us individually; the Governor of Ohio, the Governor of Maryland, the Governor of Michigan has disavowed this, the Governor of Minnesota.

Again, I think it is very important. You will find DALE KILDEE in agreement with many of you on the church-state issue. But let us not confuse the situation by misinterpreting what title III does. Title III, again, does not exclude participation of the churches. I want even a greater participation, but it certainly does not exclude them at all.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute and 15 seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, there has been a good deal of debate about whether this bill includes Federal mandates on States. I have prepared and will enter into the RECORD a list of 182 new separate specific mandates that would be imposed on States, local governments and child care providers.

I list this in a roll that I would offer to the House debate. These mandates are very specific. Some mandates are not very burdensome at all individually. Other mandates are quite burdensome in terms of the cost and lowering of quality which would be added. The one thing you can say about these mandates is there are 182 of them. Each one of them will result in its own separate set of regulations which would make these 182 pale by comparison.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, the issue of mandates is a very serious one. One of them says that if States change their regulations of day care in a way that could be perceived as a reduction in standards, they have to get the permission of the Secretary of HHS. The directions to the Secretary are so narrow that they could not in fact get an exception. In Connecticut this would have denied us access to Federal funds every one of the last 3 years even though our standards are much higher than most any other State.

Mr. BARTLETT. The gentlewoman is correct.

The list referred to follows:

REGULATIONS IMPOSED ON STATE GOVERNMENTS BY THE HAWKINS-DOWNEY CHILDCARE BILL

CHAPTER IV

Sections 659D and 659F

1. Requires that the state establish a local child development council in each local general purpose government. (There are 38,000 such local governments.)

2. Requires that the state lead agency shall provide funds and support services to each local child development council.

3. Requires that on each "local child development council" at least 25 percent of the members will represent Head Start programs.

4. Requires that on each local child development council at least 25 percent of the members will be directors of child care programs or child care workers.

5. Requires that on each local child development council at least 25 percent of the members shall be representatives of labor, business, government, or child service organizations.

6. Requires that on each local child development council at least 25 percent of the members shall be early childhood development teachers or school board members.

7. Requires that on each local child development council, among the above specified council members, one quarter must also be parents in addition to meeting the previous criteria.

8. Requires that each local child development council shall prepare a written assessment of child care needs.

9. Requires that each local child development council shall include in the written report an assessment of the effectiveness of existing childcare services.

10. Requires that the report be revised every four years (for a total of nearly 120,000 separate reports by the year 2000).

11. Requires that the council, in preparing the report, address the following areas: Needs of low income children; needs of migrant children; needs of foster children; needs of disabled children; needs of children of adolescent parents; needs of homeless children; needs of children who are not native English speakers; and needs of children receiving protective services.

12. Requires that the state "collate" all the "local needs assessments" (an average of 760 per state) produced by the local child development councils into a single state document.

13. Requires that a copy of the document be sent to HHS.

Section 659E

14. Requires the state to submit an application to HHS for Chapter 4 funds including all information the Secretary may require and assurances that the state will comply with all regulations.

15. Requires that Chapter 4 funds be administered by a designed state "lead agency."

16. Requires that the state must provide Chapter 4 funds to local "resource and referral" systems.

17. Requires that the state provide Chapter 4 funds for training in early childhood development.

18. Requires that the state provide Chapter 4 funds for monitoring and enforcing daycare regulations.

19. Requires that Chapter 4 funds be provided to raise the salaries of staff in government daycare programs.

20. Provides that extra funds under Chapter 4 shall be used for the option of: Improving early childhood development resources in public libraries; daycare grants to business; and grants or loans to non-profit daycare providers who meet federal, state, and local daycare standards.

21. Requires that the state provide training in child development, health and safety, child abuse, disability needs, and program management for all daycare inspection workers.

22. Requires that the state impose personnel requirements on daycare inspectors so that, to the maximum extent possible, they are responsible only for childcare services.

23. Requires that inspectors make at least 1 visit to each daycare center annually.

24. Requires that at least 25 percent of regulated family care providers be inspected each year.

25. Requires that the state maintain inspection staff sufficient to perform the above functions.

26. Mandates state regulations requiring that all regulated or registered child care providers receiving government funds including those caring for only one child must provide written policy and program" goals to parents.

27. Mandates state regulations requiring that all regulated or registered child care providers receiving government funds including those caring for only one child must provide access by parents to the daycare facility or provider's home.

28. Mandates state regulations requiring that all regulated or registered child care providers receiving government funds including those caring for only one child must provide complaint procedures concerning daycare.

29. Mandates state regulations that prohibit daycare employers from taking any adverse personnel action because an employee has provided information on regulatory non-compliance. Employees could thus effectively insulate themselves from any discipline by informing officials of any lapse in regulatory compliance.)

30. Requires the state to make consumer information available to parents concerning daycare regulations.

31. Mandates the state to establish regulations requiring that any registered daycare provider receiving government funds including those caring for only one child must post the telephone number of the regulatory agency on premises.

32. Mandates that states maintain a record of all parental daycare complaints.

33. Requires that the state make the record of complaints available to the public.

34. Requires that the state submit to the Secretary information on how the childcare needs of children of different ethnic groups,

disabilities, and language groups are being fulfilled.

35. Requires that the state submit to the Secretary data on the type and number of childcare programs within the state.

36. Requires that the state submit to the Secretary data on the type and number of childcare providers, care givers, support personnel within the state.

37. Requires that the state submit to the Secretary data on the cost of childcare services.

38. Requires that the state submit to the Secretary data on the salaries of childcare staff.

39. Requires that the state submit to the Secretary data on the extent of growth in childcare services.

40. Requires that funds for raising salaries of childcare workers under Chapter IV shall be divided, in specific ratios stipulated in the bill, among staff in Head Start programs, early childhood development workers under Chapter II, and staff daycare programs funded under Chapter III.

41. Requires the state to report to the Secretary in 2 year intervals on how funds under Chapter IV were allocated.

42. Requires the state to justify, to the Secretary at 2 year intervals, why the Chapter IV money was allocated as it was.

43. Requires the state to identify for the Secretary at 2 year intervals those state funds which were allocated to: Resource and referral; training; regulatory enforcement; daycare needs assessment; and raising daycare staff salaries.

Section 659G

44. Requires that each state receiving funds establish a "State Committee on Child Care Licensing."

45. Requires that 1 member of the committee be a representative of the state department of health.

46. Requires that 1 member of the committee be a representative of the state department of human services or social services.

47. Requires that 1 member of the committee be a representative of the state department of education.

48. Requires that 1 member of the committee be a representative of the different types of providers (including care givers and directors) of child care services, including providers who serve school-age children.

49. Requires that 1 member of the committee be a representative of resource and referral programs.

50. Requires that 1 member of the committee be a pediatrician.

51. Requires that 1 member of the committee be a parent of children receiving or in need of child care services, including parents whose children are receiving or are in need of subsidized child care services.

52. Requires that 1 member of the committee be a representative of fire marshals and building inspectors.

53. Requires that 1 member of the committee be a representative of child protective services.

54. Requires that 1 member of the committee be a representative of local educational agencies and teachers involved in providing child care services.

55. Requires that the committee shall review child care licensing and regulation.

56. Requires that the committee submit a report to the state executive officer covering current daycare regulation and enforcement and an assessment of the need for further regulation and regulatory personnel.

57. Requires that the committee provide written comments on the model national child care standards.

58. Requires that the committee provide recommendations for standards for local educational authorities receiving childcare funds.

59. Requires that the chief executive officer of the state shall submit the report of the State Committee on Child Care Licensing to the Secretary of HHS along with a plan for correcting deficiencies or making improvements identified by the Committee in childcare services and regulations.

60. Requires that the state reimburse members of the licensing committee by standards established by the Secretary of HHS.

61. Requires that the state provide sufficient funds to the committee to undertake its tasks.

Section 659H

62. Requires that the state establish or designate an official resource or referral agency in each local area within the state.

63. Requires that the state fund the local resource and referral agencies to collect data and identify existing child care services.

64. Requires that the state fund the local resource and referrral centers to provide childcare training.

65. Requires that the state fund the local resource and referral centers to collect information on childcare demand in the area.

66. Requires that each state-selected resource and referral agency must provide parents with a checklist for identifying quality childcare as defined by the referral agency.

67. Requires that each state-selected resource and referral agency in a locality be a public agency or community-based organization.

68. Requires that the resource and referral agency have a database on childcare in the area and respond in a timely fashion to requests for information.

69. Requires that each state-selected resource and referral agency shall coordinate with other government agencies carrying out activities under the Education of the Handicapped Act.

Section 569I

70. Requires that each state receiving Chapter IV funds shall set up a lead agency clearinghouse to collect and disseminate materials on childcare training.

71. Requires that each state also shall make grants to public agencies, non-profit organizations, and universities to develop childcare training programs.

72. Requires that each state shall make grants to public agencies, non-profit organizations, and universities to provide childcare training.

73. Requires that each state receiving funds shall make grants to non-profit organizations to enable such organizations to develop and carry out training for family day care providers (providers caring for children in their own homes).

74. Requires that non-profits receiving the above grants train family daycare workers to: provide night time childcare services, care for sick children, and care for infants.

75. Requires that non-profit organizations receiving funds provide curriculum materials.

76. Requires that non-profit organizations receiving funds provide grants to selected family day care providers to pay for new equipment.

77. Requires that the training provided by local agencies, government agencies, resource and referral agencies, local nonprofit agencies, and universities shall be divided as follows: 29 percent to Head Start staff; 29 percent to staff who provide services under Chapter 2; and 42 percent to providers who receive funds under Chapter 3.

78. Requires that states distribute information to businesses on model child care programs or undertake other activities to encourage businesses to provide childcare services for children of different socio-economic backgrounds.

Section 659K

79. Requires that states shall promote the involvement of public libraries and elementary school libraries in developing improved childcare services.

80. Requires the state to make grants to public libraries and elementary school libraries to purchase early childhood development resources (including the option to create "early childhood development bookmobiles").

Section 659L

81. Prohibits the use of funds to renovate any facility unless the recipient organization promises to reimburse the state if it ceases providing designated services.

82. Requires that states receiving Chapter IV funds must also receive Chapter II or III funds.

CHAPTER III

Section 658C

83. Requires the state to establish a lead childcare agency.

84. Requires the state to assure HHS that all childcare providers receiving government funds comply with state childcare regulations.

85. Requires that state regulation be imposed "uniformly on providers who give care in similar childcare arrangements."

86. Requires that the state establish procedures to insure that all chidcare providers required by the state to be registered or regulated comply with state regulations whether or not government funds were received. (Nearly all states regulate "family daycare providers", eg., women who care for one to four children in their own homes. In general these women care for one or two children and are friends of the parents of the child they care for. Half the states require that a woman caring for even one neighbor's child in her own home must be registered and/or regulated. But few of these informal providers actually comply with these requirements. For a state to be eligible for federal funds, it must establish a gargantuan "daycare police" to ferret out and regulate hundreds of thousands of mothers providing "illegal" childcare to neighbor's children. Many of the 1.6 million unregulated mothers providing care in their own homes will stop providing childcare because of the regulatory intrusion.)

87. Prohibits the state from ever reducing the types of childcare providers regulated in the state.

88. Permits the state to make daycare regulations stricter, but once regulations have been increased, it prohibits the states from ever lessening those regulations.

89. Requires that states provide funds in a "timely fashion."

90. Requires that providers who receive funds shall wherever possible provide services to a mix of children from different socio-economic background.

91. Requires that childcare services are available to children identified in the "local needs assessment."

92. Requires that services be provided to parents who work non-traditional hours.

93. Requires that funds be provided to a variety of types of childcare providers.

94. Requires that services provided shall be reimbursed at the "market rate."

Section 658D

95. Provides that the state shall provide funds only as "grants" or "contracts" to providers or local governments. Providing funds directly to parents is not permitted.

Section 658F

96. Requires the state to demonstrate to HHS that all regulated childcare providers who receive public funds are required to be regulated and comply with state minimum standards specified in Chapter 4.

97. Requires the state to establish a minimum training requirement of 15 hours per year for daycare workers who receive public funding.

98. Requires the state to establish a sliding fee scale to determine fees paid by parents under Chapter III, adjusting fees for income, family size and extraordinary medical expenses.

99. Requires that the state shall establish minimum group size limits on centers that receive public funds and are regulated.

100. Requires that the state shall establish minimum child-staff ratios on centers that receive public funds and are regulated.

101. Requires that the state shall establish minimum personnel qualifications on centers that receive public funds and are regulated.

102. Requires that the state shall establish minimum in-service training requirements on centers that receive public funds and are regulated.

103. Requires that the state shall establish health standards on centers that receive public funds and are regulated.

104. Requires that the state shall establish nutrition standards on centers that receive public funds and are regulated.

105. Requires that the state shall establish safety standards on centers that receive public funds and are regulated.

106. Requires that the state provide standards for family care providers concerning group size.

107. Requires that the state provide standards for family care providers concerning age of caregivers.

108. Requires that the state provide standards for family care providers concerning health.

109. Requires that the state provide standards for family care providers concerning nutrition.

110. Requires that the state provide standards for family care providers concerning safety.

CHAPTER II

Section 8003

111. Requires that funds under this section must be given to programs operated 5 days per week.

112. Requires that funds cannot be used to extend regular academic programs.

113. Requires the state to submit an application for funds.

114. Requires each local education authority to submit a 2 year plan to the state.

115. Requires that the children served by the childhood development program must be within the local area.

116. Requires that children served by the childhood development program must have working parents.

117. Requires that early childhood development programs be provided at no cost to low income families.

118. Requires a sliding fee scale for children in families between the poverty level and $33,000.

119. Requires full cost fees from children in early childhood development in families above roughly $33,000.

120. Requires that programs for school age children must be at such times of day when regular instruction is not provided.

121. Requires that the programs shall provide an educationally and culturally enhancing environment (thereby begging for very detailed federal regulations).

122. Requires that school age children in programs have employed parents or parents in training.

123. Requires that the program for school age children be provided at no cost to families at poverty level.

124. Requires that children in school age programs from families with incomes between the poverty level and $33,000 be charged on a sliding fee basis.

125. Requires that school age children in programs in families with incomes above roughly $33,000 be charged at full cost.

126. Requires that programs for school age children be available for the full working day.

127. Requires that programs for school age children be available for a full calendar year.

128. Requires that children in private schools shall be eligible for before and after school programs run in public schools.

129. Requires that the state shall not provide tests to evaluate the early childhood development program.

130. Requires that the program for school age children shall be "developmentally appropriate" (which will call for even more detailed federal regulation.)

131. Requires that programs provide nutritious meals (calling for more federal regulations).

132. Requires that the program provide accompanying social service.

133. Requires coordination with other agencies on health services.

134. Requires coordination with other agencies on social services.

135. Mandates referrals to all other government social service programs to which a child in early childhood development program is eligible.

136. Mandates referrals to all other health programs to which the child enrolled in the early childhood development program would be eligible.

137. Requires instruction and programs be provided to parents in native language where possible.

138. Requires that the local education agency receiving funds shall coordinate with other public and non-profit agencies.

139. Requires that a local educational authority in providing grants for early childhood development programs shall give priority to public schools.

140. Requires that a local educational authority in providing grants to operate a before or after school program shall give priority to public schools.

141. Requires that a non-profit organization receiving a grant to provide early childhood education has a history of enrolling linguistically diverse children or that the non-profit will give assurance it is willing and able to do so.

142. Requires that a non-profit organization receiving a grant to provide early childhood education has a history of enrolling ethnically and economically diverse children or that the non-profit will give assurance it is willing and able to do so.

143. Requires that a non-profit organization receiving a grant to provide early childhood education has a history of enrolling children with disabilities or that the non-profit will give assurance it is willing and able to do so.

144. Requires that a non-profit organization receiving a grant to provide before or after school programs has a history of enrolling linguistically diverse children or that the non-profit will give assurance it is willing and able to do so.

145. Requires that a non-profit organization receiving a grant to provide before or after school programs has a history of enrolling children of ethnically and economically diverse backgrounds or that the non-profit will give assurance it is willing and able to do so.

146. Requires that a non-profit organization receiving a grant to provide before or after school programs has a history of enrolling disabled children or that the non-profit will give assurance it is willing and able to do so.

147. Prohibits any provider receiving funds for before or after school services from including any religious activity in the program.

148. Prohibits any provider receiving funds for early childhood development programs from including any religious activity in the program.

Section 8004

149. Requires that the state to be eligible for Title II funds meets the requirements of paragraphs 2 and 5 of the General Education Provision Act establishing accounting procedures.

150. Requires that the state establish group size standards for early childhood development programs which receive any funds under Chapter 2.

151. Requires that the state establish child-staff ratios standards for early childhood development programs which receive any funds under Chapter 2.

152. Requires that the state establish staff qualification standards for early childhood development programs which receive any funds under Chapter 2.

153. Requires that the state establish health requirement standards for early childhood development programs which receive any funds under Chapter 2.

154. Requires that the state establish nutrition requirement standards for early childhood development programs which receive any funds under Chapter 2.

155. Requires that the state establish safety requirement standards for early childhood development programs which receive any funds under Chapter 2.

156. Requires that the state establish parent involvement standards for early childhood development programs which receive any funds under Chapter 2.

157. Requires that the state shall establish standards for staff training for before or after school programs which receive any funds under Chapter 2.

158. Requires that the state shall establish standards on health for before and after school programs which receive any funds under Chapter 2.

159. Requires that the state shall establish standards on nutrition for before or

after school programs which receive any funds under Chapter 2.

160. Requires that the state shall establish standards on safety for before and after school programs which receive any funds under Chapter 2.

161. Requires that the state shall establish standards on parental involvement for before or after school programs which receive any funds under Chapter 2.

162. Requires that the state submit to the Secretary of HHS that it has complied with all the above regulatory requirements.

163. Requires that the state distribute not less than 97 percent of Chapter 2 funds to local educational authorities.

164. Requires that any local educational authority seeking funds under Chapter 2 submit a 2-year plan describing how the authority will carry out the objectives of the chapter.

Section 8005

165. Requires that the state establish a sliding fee scale system adjusting fee size by income, family size, and extraordinary medical expenses.

Ways and Means Regulations on Social Service Block Grants (All regulations that are simply duplicative of regulations under Chapter 3 of the Education and Labor bill are omitted below)

166. Requires that the state establish daycare standards for centers receiving public funds similar to Chapters III and IV, but in addition the state must regulate for the prevention of infectious disease.

167. Requires regulations on injury prevention and treatment for centers receiving government funds.

168. Requires regulations on child abuse for centers receiving government funds.

169. Requires regulations concerning children with special needs for centers receiving government funds.

170. Requires regulations on building standards for centers receiving government funds.

171. Requires separate regulations on family daycare providers receiving government funds concerning control of infectious disease.

172. Requires separate regulations on family daycare providers receiving government funds concerning injury prevention and treatment.

173. Requires separate regulations on family daycare providers receiving government funds concerning building requirements.

174. Requires separate regulations on family daycare providers receiving government funds concerning health.

175. Requires separate regulations on family daycare providers receiving government funds concerning nutrition.

176. Requires separate regulations on family daycare providers receiving government funds concerning children with special needs.

177. Requires separate regulations on family daycare providers receiving government funds concerning prevention of child abuse.

178. Requires separate regulations on family daycare providers receiving government funds concerning parental involvement.

Section 2011

179. Requires the state to demonstrate to HHS that all childcare providers who receive government funds are licensed or regulated as required by state law.

180. Requires the state to demonstrate to HHS that all childcare providers who receive government funds comply with state minimum child care standards as required by state law.

181. Requires the state to demonstrate to HHS that all childcare providers who receive government funds are subject to regulatory enforcement provisions in the act.

182. Requires that the state spend not more than 20 percent of funds under the chapter on administration, training, and enforcement.

Ways and Means Provisions (Title VI)

183. Requires that the state government, in order to receive funds under this chapter, must submit an application to the Secretary describing: current status of childcare regulation; projected improvements of regulation; expected use of funds; and any other information HHS may want.

Ways and Means Title VI (Regulations on local agencies receiving demonstration grants)

1. Public or private agencies receiving demonstration funds under Title VI must must demonstrate that they will establish a "child development model".

2. Public or private agencies receiving demonstration funds under Title VI must must provide a detailed plan for recruiting, training, and supporting family care satellites.

3. Public or private agencies receiving demonstration funds under Title VI must provide a detailed plan for evaluating child care satellites.

4. Public or private agencies receiving demonstration funds under Title VI must provide a plan detailing expenditures which will be made.

5. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that resource materials will be available.

6. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that support services will be available to satellites including a "toy lending library" and regular visits from a resource specialist.

7. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that at least one satellite will provide care to ill children.

8. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that at least one satellite will provide care to handicapped children.

9. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that at least one satellite will provide care to non-English speaking children if such need exists.

10. Public or private agencies receiving demonstration funds under Title VI must provide an assurance that the agency will provide child development training.

11. Requires that each agency evaluate family care satellites by 10 detailed criteria.

12. Requires that each agency report to the Secretary on the above evaluation.

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this debate has gone on long enough.

Due to the confusion that has been created by those who are opposed to child care, they are opposed to the welfare of children, they are seeking to confuse the issue by saying things that do not——

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. Mr. Chairman, the gentleman has had his time.

Mr. EDWARDS of Oklahoma. Not to say things like that, I did not.

Mr. HAWKINS. Well, we can document the fact.

The gentleman does not in any way advocate in his proposal any child care features. It is purely a tax feature, and we agree with that. I would hope the gentleman would agree with us that the children of America and their working parents deserve more than just an addition to their income. They deserve both. For those who come up here and say they are for Head Start and then bring up all the problems that Head Start has restrictions in it, we did not put them in there. The gentleman says they are for it. Then he comes up and says, "We don't want restrictions," Well, it means you do not want Head Start.

I think this stuff has gone on long enough.

Mr. Chairman, I yield back the balance of my time.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield for a comment?

Mr. EDWARDS of Oklahoma. May I yield out of the gentleman from California's time? I do not have any extra time.

Mr. HAWKINS. I will be glad to. I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

The CHAIRMAN. Is the gentleman from California [Mr. HAWKINS] reclaiming his time?

Mr. HAWKINS. I reclaim my time, Mr. Chairman.

The CHAIRMAN. Without objection, the gentleman from California reclaims his time.

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. DOWNEY] is recognized for 1 minute.

Mr. DOWNEY of New York. Mr. Chairman, I want to stipulate to the fact that I believe the gentleman from Oklahoma [Mr. EDWARDS] and the gentleman from Texas [Mr. BARTLETT] and my Republican colleagues feel as deeply about the children of America as do I and that this is a matter of the best way to approach how to help all our children. That we argue and debate is good for our country, and I welcome it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, let us be explicit first of all: The key contention between us, first of all, is freedom of choice for a parent to choose what is best for his or her child.

We will give you and we will concede anything you want on regulation and standards. We will even accept your interpretation of church and state issues. But we say that mother knows best, father knows best, not that Uncle Sam knows best in terms of where our children should be placed.

But let us talk about the church-state issue. Do not tell us you do not interfere with established rights of religious organizations, because you do.

The bill is not silent on this question. It imposes new language in the Jontz language which overrides the Kendrick decision, overrides the Lemon decision and establishes new criteria for any church-affiliated or vended child care.

That is the issue.

Sure it allows churches to provide child care, but under new restrictions than those already permitted by the courts.

Why did you not simply remain silent and let existing constitutional law prevail? Why did you not reference every existing constitutional court case and every existing statutory provision and put it in? But you did not. You added new language which fundamentally attacks the ability of church groups to offer child care.

Listen to the Catholic Conference letter to us as representatives to this Nation.

> Most child care offered by religious groups for qualifying families would be ineligible unless they significantly altered their programs to conform to rigid and unwarranted standards of complete secularization. To exclude these religious providers in this much needed program would significantly reduce the options for families.

The issue here is freedom. It is freedom for the parent to choose the vendor under whatever restrictions you want to put in. Put in your restrictions, but let the parent choose.

But why put in these restrictions? There are thousands of people fleeing statism, fleeing on freedom trains from East Germany in revolt against statism. They are taking their children with them.

We will not allow our own parents with their children to ride that freedom train here in the United States of America.

That is what this issue is about. The issue is about choice of for the parent. Father knows best, mother knows best, not Uncle Sam.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I probably come from a more common background than most Members of this House. But for someone to say that my mother or the mothers of this country do not best understand what child care is all about is the most ridiculous statement ever made.

I am so tired of bureaucracy, bureaucracy, bureaucracy. It seems to be all the other side knows sometimes, to create more bureaucracy.

The gentleman from New York says we do nothing for the low-income people. Every dollar of our money goes to low-income people.

Our credit goes to families that make under $24,000. Under our credit, a family with a $10,000 income, with one child, would receive $2,200.

How can you go back to your district and say we do nothing for the low-income families of this country?

To the gentleman from West Virginia who said he has 80-percent religious day care in his district. I would fear for my job if I had 80-percent religious day care in my district and I was supporting the bill that is on the other side.

I close today in saying that our bill is a bill for the families of this country. We represent the people.

I ask a vote for the Edwards substitute.

□ 1210

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the Republican whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me first of all say that a great deal of credit is due to the gentleman from Oklahoma [Mr. EDWARDS] and to the gentleman from Louisiana [Mr. HOLLOWAY] and the gentleman from Pennsylvania [Mr. SCHULZE] for having developed this substitute. I think this substitute represents a very fundamental choice.

I was, frankly, concerned when my good friend from California suggested that there is anyone in this House who does not care about children. I think that both sides are concerned about children, and both sides are concerned about child care. I appreciate the gentleman from New York's comments. However, the liberal side believes that bureaucracy deserves the money. Well we believe that parents deserve the money. The liberal side believes the bureaucracy is smarter than parents and would shift power to the bureaucrats. The fact is, we believe that parents are smarter, and we would shift resources directly to parents so that parents would be empowered to exercise their choice for their children. The liberal side discriminates against mothers who want to stay at home, and for the very first time sets up an educational program which openly says only mothers who go to work can have access to that program. Clear, explicit discrimination against those who stay at home. We think that mothers who decide that they can provide the best care should also have an equal chance to get help from their government. The liberal side believes that religion is somehow inappropriate.

There are three places in the bill, three places where Members specifically say that no provider of a program shall engage in any sectarian activity. Three different places, not just one. Now, what does that mean? The Justice Department said the following:

> We believe that the broad proscription in these provisions would certainly be construed to prevent day care center staff from leading, encouraging or assisting children in any religious activities whatever—even prayers of thanks before meals, or at any other time during the day. The legislation would thus effectively deny the children attending day care centers any opportunity for prayer. Additionally, such provisions would prohibit any and all encouragement, endorsement, assistance or formal accommodation of the religious needs or wishes of children attending day care centers. We do not believe that such sweeping prohibitions are compelled by the Constitution.

The saddest thing about this debate is very simple: Your side has not been able to stand up and openly defend the language that, in my judgment, the House has not been accurately informed about the meaning of the language. In fact, there has been a consistent effort to evade the real meaning of the bill as written. This bill is essentially against mothers who stay at home, against parents being empowered, against freedom of religion.

The CHAIRMAN. The Chair would inform the gentleman from California [Mr. HAWKINS] that the gentleman from Oklahoma [Mr. EDWARDS] has one remaining speaker.

Mr. HAWKINS. Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, to conclude debate, I yield the remaining 4 minutes to the Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, expansion of the earned income tax credit, an original proposal of Republican Members of the House, in my judgment, is the best way to assist low-income families.

It says to people that if you work, but are earning a relatively low wage, we will financially assist you through the tax system to enable you to better provide for your families. There are no strings attached; there are no dictates from the Federal Government on how the money is to be used. It can be used for day-care or for other necessities if care is provided in the home.

That is the beauty of the EITC approach. It preserves maximum choice for the families themselves. It is based on a fundamental idea: freedom works. It is a far better approach to helping the working poor than a major minimum wage increase, because it preserves jobs rather than the possibility of losing them.

It is encouraging to see that many on the other side of the aisle have to come to recognize the value of the EITC approach, and that it is included

as part of the other alternatives before us.

However, the Edwards amendment is the only option providing a straight earned income tax credit. It is not encumbered by a lot of heavy-handed regulations, that has been alluded to so many times by our friends here in support of our position, or a number of narrowly focused grant programs. It keeps things simple, thereby keeping down excessive administrative costs, and most importantly maximizing choices for low-income families themselves.

They, not the Government, will be able to make the decisions on how the resources are to be utilized.

In summarizing the positive aspects of the Edwards amendment, there are several points that should be made: It provides the greatest amount of funding for the EITC of all the alternatives available to Members today; it provides the highest benefit for families with preschool children, those with the greatest child care needs; and it does the best job of redirecting resources from the wealthy to those with the greatest need.

It caps the existing dependent care tax credit and child care flexible spending account. Under present law, such benefits are available to the wealthy, regardless of income. I guess people earning half a million a year are eligible up to $960 in dependent care tax credits. Well, the wealthy hardly need Government assistance to pay for child care. However, the Hawkins-Downey Democratic proposal would retain that plum. We cap it, and redirect the savings to low-income families.

The Edwards amendment provides tax credit for low- to moderate-income families earning up to $24,000 in income, higher than any of the other alternatives.

The Edwards amendment does not impose new regulations on families, day-care centers, or the States.

There is no "big brotherism" involved. We do not take the attitude that we know better than the people at the State or local levels as to whether new standards need to be established. The Edwards amendment costs far less than Hawkins-Downey approach. The Edwards amendment, I guess, is at roughly $14.1 million over 5 years, a significant amount, no small change, to be true. However, that is compared to $22.7 billion for Hawkins-Downey, and maybe $3 billion less than the Stenholm-Shaw proposal. This reconciliation bill supposedly was designated to cut the deficit. This should be no small consideration.

So for all these reasons, the Edwards amendment, clearly, in my judgment, outshines the others. I would urge my colleagues to vote for it, as I intend to.

Mr. FAUNTROY. Mr. Chairman, after literally years of thinking and talking, the day has finally arrived when we in the House of Representatives have the opportunity to put our words into action and pass legislation which would provide for a responsible approach to alleviating the critical shortage in child care for American families. I urge my colleagues to delay no longer in our response to this desperate need among our Nation's working families and to pass the comprehensive child care package incorporated into H.R. 3299, the Omnibus Budget Reconciliation Act of 1989, without any substitutions or weakening amendments.

Today few would argue against the demonstrated need for Federal support of child care opportunities nationwide. Right now, 60 percent of all mothers with children under the age of 6 work outside the home; and by the year 2000, it is estimated that four out of five infants under 1 year of age will have mothers in the work force. The estimated number of preschoolers requiring care is expected to grow from 6 to 14.6 million in just the next 6 years. The need for improved and expanded child care alternatives is already critical for most families and will mushroom dramatically in the years to come.

The child care provisions presently embodied in H.R. 3299 have been thoughtfully crafted and championed by the distinguished chairman of the House Committee on Education and Labor, Congressman AUGUSTUS F. HAWKINS, and by the distinguished chair of the Human Resources Subcommittee, Congressman DALE KILDEE. Emerging from years of studied deliberation and refinement, these provisions successfully address the three critical areas so vital to child care that will really work for American families: accessibility, affordability, and quality. The child care component of H.R. 3299 builds on effective, proven programs such as Head Start, early childhood education programs, and other State initiatives. It also combines a tax credit approach with a direct services approach, offering the best compromise to the myriad options evaluated over the past few years.

A number of proposed amendments would serve only to weaken the bill. For example, the Republican substitute would provide only for tax credits without a comprehensive approach to expanded and improved services. Another substitute, offered by Congressmen STENHOLM and SHAW, lacks any education or early childhood development component, would eliminate quality assurances, and would also eliminate the provisions providing for parental involvement and access. It would also cut out $1.75 billion allocated directly for child care assistance and would substitute instead only $200 million under title XX social services block grants for child care.

The bottom line is that we need to provide affordable, accessible, quality child care services that will allow parents to work without fear for the well-being of their young children and which will provide opportunities for our children to become well prepared to succeed in school. The child care provisions in H.R. 3299 would be a giant step forward toward accomplishing this objective. I urge my colleagues to pass these provisions without amendment.

Mr. MFUME. Mr. Chairman, I rise in support of the Hawkins-Downey child care language of the budget reconciliation, H.R. 3299 and urge our colleagues to vote against both the Edwards and the Stenholm substitutes.

Mr. Chairman, opponents of Hawkins-Downey contend that they do not want Government raising their children. They argue that Americans do not want their children raised by Uncle Sam. Opponents of the current language offered by the Education and Labor Committee chairman claim that the expansion of the earned income tax credit [EITC]—the Edwards substitute—is the most effective way to maintain parental choice in child care. Supposedly, lower income families will have additional funds for child care, additional funding, and the freedom of choice in selecting the type of care their children will receive.

I believe that the expansion of ETIC's is an entirely inadequate response to our Nation's child care crisis. The Education and Labor/Ways and Means provision is a comprehensive plan which can improve the quality, availability and supply of child care facilities. The expansion of EITC's are just a small fraction of an appropriate child care package for our Nation. Under the substitute offered my Mr. EDWARDS, the amount of credit a family would receive would drop dramatically when a child reaches the age of 6. Am I assume, Mr. Chairman, that the Edwards substitute was crafted with the naive notion that children over 6 years of age, whose parents are gainfully employed, do not need child care services?

Additionally, there is no guarantee that the tax credit income will be used solely for child care. One of my greatest fears is that such a windfall my force hard pressed lower income families to apportion the funds to other household necessities.

With respect to the Stenholm amendment, I wish to raise a special point of clarification. First, the Stenholm amendment is a stealth amendment. Meaning that it simply came out of nowhere, virtually overnight. There have never been any hearings on this measure and quite frankly I personally have problems with some key provisions.

Mr. Chairman, our colleague, Mr. STENHOLM, tried his best to combine the Republican substitute with other acceptable child care provisions. However, the substitute does not meet the needs of the American family. Hawkins-Downey, not the Stenholm or Edwards amendments protects parental choice. By eliminating funds for school-based programs and State grants for child care, the inducements to increase the supply of child care and assistance to lower income families is critically undermined.

Regarding the church/state controversy, the Hawkins-Downey language permits funding of church sponsored child care, but the bill restricts discrimination based on religion as stipulated in current law. Hawkins-Downey also respects first amendment prohibition against the establishment of religion. The bill language disallows child care providers from receiving funds if they are engaged in sectarian activities, including worship and instruction.

In closing, Congress needs to move quickly on our child care crisis for the benefit of working parents and America's children. I again urge all of our colleagues to accept the Haw-

kins-Downey language and vote down both the Edwards and Stenholm substitutes.

Mr. DREIER of California. Mr. Chairman, I rise in support of the Edwards amendment to the child care provisions included in the Budget Reconciliation Act. This Nation's child care crisis is not going to be solved by pumping Federal dollars into programs which restrict parental control of their children's day care. What we need is an increase in earned income tax credits for working poor families and incentives on the State level in order that parents can choose which means of child care works best for them.

We are faced with an overwhelming demand for quality child care in this country. There is no question about the seriousness of the need for available, affordable day care. With 54.4 percent of all mothers of young children in the work force, child care has become an increasingly important issue for families. The current lack of child-care options, especially for those in the low-income category, often keeps women from finding gainful employment.

The Federal Government, however has neither the authority nor the ability to provide for this country's needs in that respect. Expanding Government programs and appropriations seems like an overly simplified answer to a very difficult problem. The need for parents across the country are too diverse for the Federal Government to start dictating standards, require schooling for young children, and caring for the Nation's young people.

Where in the Constitution does it say that the government has a role as parential overseer and the body which fills the gap in parental shortcomings. Public education is failing and yet the only answer this Government seems to give is more money, expanded programs, and national standards. This rhetoric is no longer the answer to our problems, and it is time that we tried something innovative without reaching into the taxpayers pocketbooks.

The provisions contained in this reconciliation bill discriminate against parents who have chosen to work out of their homes and care for their children at home. I heard from one woman this morning, Mrs. Donna Lucas of Claremont, CA, who called imploring me to work against legislation that would discriminate against her choice to care for her children at home. Her request is one of hundreds that I have received from the silent thousands who will be affected by this discriminatory legislation.

What about parents who choose to let their parents care for their children? Are we going to regulate Grandma in order for her to care for her own grandchildren. I am certain that most Americans would disagree with this type of invasion of personal and individual choices.

The child care provisions also discriminate against religious schools which produce students well above the national average in academic achievement. They are merely a bandaid to a problem that appears to suffer from hemophilia. It is time for the Federal Government to start encouraging programs which give power back to the parents when making individual choices about child care and early child development. Earned income tax credits and education vouchers allow parents to make those choices at a lower cost to the taxpayer without creating programs which are impossible to monitor on the Federal level.

Mr. Chairman, I wholeheartedly support Mr. Edwards amendment. Programs which assist all parents, and not discriminate against others, are necessary for solving this Nation's child-care crisis.

Mr. MILLER of Ohio. Mr. Chairman, today we vote on legislation that will affect the emotional, social, intellectual, physical and possibly even the spiritual well-being of millions of young children in America. Our votes will influence these children's sense of security, their self-esteem, their ability to have compassion for others and to cooperate, their ability to assimilate and apply intellectual concepts, their wellness, their reaction to authority and their ability to differentiate between right and wrong.

Nurturing the development of a child is an awesome task. In a sense, all 435 of us here in the House of Representatives have temporarily assumed the role of godparents to the Nation's youth. What this Congress approves will affect the choices available to many of America's biological and adoptive parents to nurture their children.

Congress has been hard at work, spending great time and energy to fashion the child care legislation that is now before this House in the budget reconciliation bill. It is obvious to me that those who have tried very hard to meet the child care need challenge, have done so with great dedication. However, I fear that this bill with its formula for the Nation's child care needs, overlooks the fact that children are complex individuals for whom a formula for care cannot be devised and dictated by Federal regulations.

Amazingly, children's personalities often emerge within weeks of their birth. Some parents quickly discover that while one infant may thrive in a highly tactile and stimulating environment, others may withdraw from such stimulation. As a toddler, one such child will flourish in an institutional day care setting while the other youngster will do better in a quieter and more nurturing home setting. With this in mind, I think you will realize that there are no pat formulas for children and that the regulations for child/teacher ratios, group size, parent interaction, as contained in this reconciliation bill, should not be things that we as legislators should dictate to parents and children.

I believe the greatest gift we can give hardworking parents and their children is the opportunity to choose the kind of care that is best for the child. I believe the Edwards child care proposal for tax credits and advances will make it possible for working, low-income families to make the best choices for their children. The proposal expands the earned income tax credit and creates a new earned income tax credit for preschoolers. Such tax credits could be put toward different kinds of care whether it be provided in a home by mom, or dad, when one parent works while the other parent forgoes income to raise the child or by a relative or neighbor, or in a church-affiliated setting, or in an institutionalized day care setting. I like this approach because it does not promote a national bias toward institutional care, rather than care at home or in a church-affiliated children's program.

The Edwards child care proposal has my support because it will give working families the best chance to choose a child care setting that will give children a good developmental basis for life.

Mr. PAYNE of New Jersey. Mr. Chairman, today I rise in support for child care provisions currently included in the reconciliation measure now before the House, and stand in strong opposition to the substitute amendments that threaten to exclude many of the essential improvements in Federal support for child care carefully crafted by the Education and Labor Committee.

We are facing a child care crisis in America that cannot be addressed merely through tax credits or modest increases in title XX block grant funds. I believe that it would be irresponsible for Congress to approve measures that simply throw money at the problem without providing real solutions. We need a mechanism for providing direct assistance to low and moderate income families, we need expanded investments in successful national programs like Head Start and preschool education and we need protections for parents and children to assure safe and quality child care. The substitute measures before this House today would strip the reconciliation package of substance, leaving parents who are struggling to obtain safe, affordable child care simply twisting in the wind.

In my State of New Jersey alone, more than 15,000 children would be denied direct and adequate assistance by the exclusion of the Hawkins-Downey provision. But, for the Nation as a whole, help for more than three-quarters of a million children and their parents is at stake by the adoption of any of pending substitutes.

America's hopes to build a strong and competitive work force for the next century begins by providing our children with a safe and healthy start in life, and its response to the new realities and pressures posed to working parents can only be achieved through adequate funding of quality programs. Absent the Education and Labor's provisions, however, Congress would fail to accomplish this task at the expense of millions of parents and children alike. Mr. Speaker, it is a price too high to pay. I therefore urge my colleagues to summarily reject the substitutes offered today, and vote to adopt the child care provisions currently included in budget reconciliation.

Mr. GUNDERSON. Mr. Chairman, today we face a choice among three plans to address America's child care needs. Each of these plans represents an honest effort by Members of this House to help America's families. And each plan proposes a Federal role in child care. The critical question we must address today is, what should that Federal role be? In other words, where does Federal "guidance" end and Federal interference begin?

Our emphasis in this debate should be on helping working families meet their child care needs. That requires us to accept the fact that these needs vary among States, among rural versus urban areas, among communities, and even among families. We are cheating America's families if we don't allow maximum flexi-

bility in any Federal role in child care. A national policy isn't fair. Worse, it won't work.

Consider this: 90 percent of all families depend on home-based or church-based care for their children. How will we help this group at all if we shift the responsibility for child care to Federal- or State-administered centers? In fact, we won't. There is no reason to radically alter the way American families care for their children in order to conform to new Federal policy. Shouldn't the process work the other way around? Shouldn't we tailor the policy to meet the desires of America's families?

H.R. 3, the Democratic proposal, puts total emphasis on a Federal response for child care. It sets up a new bureaucracy at every government level, requiring a committee to establish Federal model standards, another committee at the State level to establish licensing standards, and a council to assess child care needs at the county level. How much child care money will go to providing child care, and how much will go to maintaining a child care bureaucracy?

The Democratic plan also establishes five pages of regulations the States must impose on every child care provider; regulations requiring minimum training for all child care workers, including grandparents and parents providing neighborhood care, and unannounced inspections of day-care centers, even if in private homes. the plan even requires States to set a policy on how many times child care workers must wash their hands each day. Is this the kind of guidance on child care American families are looking for?

Also under H.R. 3, those parents who count on their community churches for child care help are abandoned under this proposal. In effect, we would be telling these parents, "If you want Federal assistance, find a new child care center." Imagine the stress on families, especially those in inner urban areas, where parents count on the church as a primary source of child care outside the home.

Finally, this Federal plan discriminates against the mother who chooses to stay home and care for her children. Under H.R. 3, she will only qualify for assistance if she gets a job outside the home and lets someone else care for her children. This simply makes no sense. Why should a family making $30,000 with two parents working outside the home get more assistance than a family making the same amount, but with only one income? In my mind, caring for children is a full-time job, at least worthy of the consideration we give to any other job. Any policy that penalizes a mother for caring for her own children should be seriously questioned.

Two other proposals offered meet our child care needs without building new bureaucracies, without placing onerous burdens on child care providers, and without stripping parents of the flexibility to place their children with the care provider of their choice. The Republican substitute to H.R. 3 simply expands the earned income tax credit [EITC] to provide cash in hand for low-income parents to meet their child care needs. The EITC would be expanded for those with incomes up to $24,000, providing a maximum benefit of $1,500 per year. This concept should be a cornerstone to any final package passed by Congress. It allows parents more money, through tax breaks and refunds, to apply to child care expenses of any kind—including church- and home-based care.

The middle ground between H.R. 3 and the Republican substitute is a bipartisan package designed to incorporate the EITC concept with State-based programs. The Stenholm-Shaw approach maintains maximum flexibility for parents. Where H.R. 3 places two-thirds of its grant funding in school-based and institutional care, the bipartisan package increases title XX funding—under the Social Services Act—to allow States to choose among the many child care options available. The difference here is, States won't be forced to adopt federally mandated programs which may not work best for them, though nothing in H.R. 3 is disallowed under the Stenholm-Shaw plan. Also, this package pours over $4.5 billion into an expanded Head Start Program—compared to $3.3 billion under H.R. 3—over 5 years to include child care services. It also matches H.R. 3 in a grant—$1.75 billion over 5 years—to business for providing on-site child care. Finally, it virtually matches the EITC concept adopted in H.R. 3 by returning to families $12.5 billion in taxes over 5 years—compared to $13.5 under H.R. 3. The bipartisan package accomplishes all of this while still saving $6 billion over the Democratic proposal—an important fact given the current budget crisis.

The bottom line is, a Federal response to America's child care needs shouldn't come at the expense of a parent's right to place children where he or she sees fit. Let's not assume the Government knows better than parents what's best for their children. We have an opportunity to help families afford child care without forcing them to give up freedom of choice. Let's not supplant parents for another bureaucracy. It wouldn't be fair, and it's not the best solution.

Mrs. COLLINS. Mr. Chairman, I am delighted to see that there is so much interest in child care today. Ten years ago, when I raised the issue no one listened.

Finally, everyone has seen the statistics. Finally, the link between child care and employment opportunity is understood. Finally, it is realized that child care is not so much a "woman's issue" as a "national economic issue." Finally, legislation has reached the floor of the House of Representatives.

Considering the past decade of my involvement in child care, this is a most gratifying moment. Over the years, I have called for an expanded Government role in increasing the availability, quality and affordability of child care for middle-class families as well as the poorest of Americans. Through the Subcommittee on Government Activities and Transportation, which I chair, I have stimulated the General Services Administration to offer child care services in Federal facilities across the country, including Chicago. Also, I have successfully encouraged the Department of Defense to broadly expand child-care services to their military and civilian employees, both in the United States and abroad.

However, most notable among my child-care initiatives has been my legislative proposals. I have introduced bills since 1981 enunciating my views on the Federal Government's role in the child care effort and offering specific recommendations. I am extremely pleased to see that the principal features of my legislation are some of the key features of the Education and Labor Committee's language in the Budget Reconciliation Act. These include the focus on: Priority of services to children from needy families; a sliding payment scale based on family income; high-quality standards for child care services, including training requirements for child care personnel; and coordination and sharing of information with the States, including linkage with the child care clearinghouses of individual States.

I am also pleased to see the tax credit provisions in the Ways and Means Committee's title. As I have indicated in my child care bills, although tax credits are not sufficient by themselves, they are an appropriate augmentation to a broader child care approach.

I would like to compliment many of my colleagues in the House on their endurance and tireless commitment to child care, without which we would not be discussing this here today. Chairman HAWKINS, Representative GOODLING, Chairman KILDEE, and Representative TAUKE have all made tremendous contributions to the child care effort which cannot be understated. I would also like to thank my Chicago neighbor, Chairman ROSTENKOWSKI, as well as acting Chairman DOWNEY for further propelling child care to the forefront.

The national need for these services is well documented. Presently, over 55 percent of all women work outside the home and over 60 percent of them have children under 18. Nearly 50 percent of American mothers return to work before their baby's first birthday, and 70 percent of mothers who have school-aged children are working or looking for work. If current trends continue, in 1995, two-thirds of all preschool children will have mothers in the work force. According to a Department of Labor report released on April 15 of this year, in 1950, only 35 percent of women age 25 through 34 were working; now, that figure has doubled to 70 percent. In 1950, only 12 percent of mothers with children under the age of 6 were working; now, that figure has exploded to 57 percent. In 1950, the typical American family was thought of as the family where the father worked and the mother stayed at home with the children; now, only 10 percent of American families fit this description. Considering that the baby boom generation is having children now, these percentages translate to huge numbers.

In Chicago and elsewhere, employment opportunities multiply greatly with the presence of adequate child care services. Parents, with rare exception, cannot bring their children to work. So, if there is no place to bring the children, there is no way to go to work. This simple problem is one of the primary reasons that the welfare lists include so many parents of young children. Child care services that are easily accessible and affordable will give many people the liberty to find regular jobs and, in the process, uplift many of them out of the welfare system.

Child care services benefit the employer as well as the employee. Studies have shown that when parent-employees know that their children are being well cared for during working hours, those employees are less distract-

ed and more productive. Similarly, absenteeism and tardiness are greatly decreased. In addition to these day-to-day benefits, recruitment efforts are greatly enhanced and worker turnover is reduced by a strong Company Child Care Program. The net effect is a national economic boost that will be concrete and substantial.

The language in the budget reconciliation bill is an appropriate, badly needed and long overdue Federal voice in the child care debate. Consequently, I must stress that any weakening of this language would be an obvious, disastrous regression. Any weakening would amount to an insensitive, inadequate answer to a compelling problem. The proponents of the weakening amendments suggest that the bill goes too far. My response to them is that the Federal Government is long overdue in acting on this and we must make up for past inaction. Leaving most of the discretion to the States, as they prefer, would perpetuate the problems. The States had their chance for leadership and passed it up. If a State has not taken significant measures so far, chances are that they will continue to resist. Strong Federal guidance and leadership is now imperative.

Mr. Chairman, today we are witnessing a landmark transformation. Today is the official recognition by the House of Representatives of child care's valuable place in American society. I urge my colleagues to be bold. I urge my colleagues to support the bill's language and defeat all weakening amendments.

Mr. DORNAN of California. Mr. Chairman, I rise today in strong opposition to the Democratic child care bills proposed by Mr. DOWNEY and Mr. HAWKINS and in strong support of the Republican substitute.

Mr. Chairman, the last thing America needs is another Democratic federally subsidized nightmare. The Federal Government has no business interfering in what is the responsibility of individual parents—how to care for our children. The Republican amendment avoids this potential horror by offering freedom of choice for parents seeking child care by providing tax relief for low-income families with small children through increases in the earned income tax credit, or EITC.

The two Democratic bills, on the other hand, are destined to fail because they substitute the wisdom of the Government for the wisdom of the parent. Now the Democrats claim that their bill offers choice, but it is the Government which gets to choose, not the parents. In order for parents to get information about locations and programs they will have to call a referral service agency created as part of the $2.5 billion allocation. In other words, the Government will decide which agencies are suitable for subsidized child care, not the parents.

Moreover, under the Democratic plan, traditional families get no assistance at all. Yet, they will be forced to share in the cost of providing benefits to others. This is the sort of Robin Hood in reverse scheme for which the Democrats have become rightly infamous. They take money from families where the mother stays at home to pay for day care for yuppie couples. Indeed, the Democratic plans offer a substantial incentive for families not to care for their own children and will enhance the credibility of those who argue that "Traditional families are a thing of the past." Should this be our goal? Is this good social policy?

Not only are the Democratic plans antifamily, they are antichurch as well. Sectarian institutions will not be able to get, either directly or indirectly, funds to provide child care services. Thus, religious child care centers will have a choice to secularize their service or lose children to federally approved centers. However, Government-regulated centers are the least desirable and most expensive. The end result will be that church centers decline and the Government centers expand. Again, this is not good public policy.

And as usual, the Democrats have gone regulation crazy. Any center which accepts an eligible child will be held to all Federal and State regulations. But again the Democrats have missed the point. What does the height of sinks or the width of the doors in the centers have to do with the quality of care?

Last, Mr. Chairman, the Democratic proposals are an inefficient means of providing child care assistance. Consider that some 55 percent of children are cared for at the home by a parent, 14 percent are cared for by a sitter at home, 17 percent by a neighbor, 4 percent by the mothers while working, and 3 percent by religious centers. As you can see, the Democratic plan is catering to a small minority, whereas the Republican plan would target everybody with children, but especially those who can least afford the expense of child care.

Mr Chairman, it is important that any child care legislation contain three features. It must be targeted to those who need it most; it must offer parents choice; and it must promote competition in the provision of child care services. Parents are intelligent enough to choose the child care which best suits their children. And when given a choice, most parents choose a nonlicensed, informal center for child care. Democrats want to take this option away.

The Edwards Republican substitute, which I wholeheartedly support, is the ideal solution to the child care issue. It assumes, rightly so, that the best way to assist low-income working families meet their child care costs is to put more money into their pockets, and the best way to do that is to ease their tax burden. Expanded use of the EITC represents the most efficient way to target families which need financial help and the most effective way of getting the help to them. Over 5 years, the Edwards amendment would put $15.1 billion into the pockets of families with children through increased tax credits and refunds. Not a dollar would go to new bureaucracies or new national advisory committees for the purpose of developing new Federal standards. That is why I will be voting for the Edwards proposal.

Recently, Mr. Chairman, a gentleman from Pennsylvania, Richard Orloff, visited my office to discuss child care. He had wanted to testify at one of the many hearings on this issue but was unable to do so. He brought for me a copy of the testimony he intended to give and I think it addresses many of the concerns average Americans have with the Democratic proposals. I would like to submit that testimony for the RECORD and would urge all my colleagues to read it and consider its arguments when voting on this issue:

A CITIZEN'S TESTIMONY ON CHILD CARE

INTRODUCTION

The key question that faces our Nation today on child care issues is "Are our children better off being cared for in the home or are they better off in day care?" This question would have seemed absurd or ever abhorrent 25 years ago. Since the answer favors child rearing in the home, then lets have legislation that helps the home. This does not ignore the single parent. Legislation that supports the traditional family can:

(1) help prevent married parents from becoming single parents,

(2) build a network of neighborhood and relative home care that can provide safe, inexpensive quality child care for single parents and for those married parents who choose to work or have to work, and

(3) eliminate a costly bureaucracy that creates cost for the provider to be paid for by the parent.

In these assertions, I am in step with 88% of American mothers who agreed to the statement "That if I could afford it, I would rather be at home with my children." By almost two to one, women under age 44 said they did not view the increase of children in day care as positive.(1)

REASONS TO OPPOSE (H.R. 30-55)

(1) Regulatory Mess

ABC is being advertised as an assistance to parents with small children. In fact, the bill's 78 pages refer to the term license or similar terms at least 30 times.(2) The substance of the bill is an attempt by the Federal Government to regulate child care and child rearing through a myriad of laws and regulations on the Day Care Industry. It does nothing to alleviate the financial burdens on the family as I will explain later.

(2) No Bang for the Buck

Of the $2.5 billion allocated in the first year much of the funding would go to set up and fund an agency to regulate the state controlled day care centers. (I would like to know how much and so would the American people.) On the other hand, of moneys paid to parents through tax credits, virtually 100% goes directly to parents as benefits.

(3) Tax and Spending Nightmare

Because the bill authorizes "such sums as may be necessary" for fiscal 1991 and beyond, the program will grow in scope and dimension (much the same as Medicare and Social Security) to the point where the Federal Government will be forced to impose major new taxes to finance this program. Edward Zigler of the Center in Child Development at Yale predicts it will cost the U.S. $75-$100 billion to solve "this child care problem".(3) Zigler has been pushing for a nationalized system of child care (currently under legislative consideration in H.R. 3). This "Child Care Problem" is in Mr. Zigler's mind. Parents are capable of solving their own child care problems if the government stays out of their paychecks. Douglas Besharov of the American Enterprise Institute estimated that a full subsidy would cost $32 billion annually and perhaps more.(4) These price tags contrast sharply to the approximate $15 billion currently being spent on all forms of child care.(5)

It doesn't make sense to tax families for the purpose of providing child care then turn around and return that money in the

form of Day Care Service with a Bureaucratic broker.

(4) Government Tax and Spending Deception

Of the $15 billion spent in the United States for child care, the Federal Government already spends in direct payments or foregoing tax revenues $5.6 billion or 37% of the cost.(6) All of this assistance goes for out of the home child care. The traditional family does not receive $1 in direct benefits, yet the traditional family shared in the cost of providing this benefit. The traditional family also only earns $.66 for every $1 earned by a two-wage earner family.(7) For every $1 in tax benefits received by a traditional family, $2 in tax and spending benefits are received by non-traditional families.(8) If ABC passes, this will rise to a $3:$1 ratio in the first year.(9)

Furthermore, government tax and spending policies are helping to fulfill the prophecy that the "Traditional Family" is a thing of the past. In 1948, the Federal tax burden was 2% of median family income. In 1988, the same burden is now 24%.(10) In 1948, the personal exemption shielded 42% of per capita income. In 1988, only 13% of per capita income is shielded.(11)

The growing use of daycare is a direct result of the government's tax and spending policy over the past four decades.

(5) Unreglated Centers Provide Higher Quality Care Than Regulated Centers

Overall, about 90% of the estimated 1.7 million family or home day care centers operate without regulation or license. The National Day Care Home Study conducted by the Department of Health and Human Services found no indication that unlicensed family day care was harmful. A conclusion of the report follows:

"Stable, warm, and stimulating * * * caters successfully to the developmentally appropriate needs of the children in care; parents who use in home daycare report it satisfactorily meets their child care needs * * * the study's observers were consistently impressed by the care they saw regardless of regulatory status."

The study further noted the following characteristics in the unregulated provider:

(1) Providers are primarily engaged in caring for their own children; they care for one or more neighborhood children as a modest means of supplementing the family income. Often the provider has been requested to perform the service.

(2) Over half of the parents with children in unregulated family daycare had known the caregiver for six months or longer before placing their children in the provider's care.

(3) One-third of parents with children in unregulated care stated that they had a close personal friendship with the caregiver; another third regarded the caregiver as a casual friend.

(4) Over half of the children in unregulated family daycare lived within a few blocks of the caregiver's home.

(5) Over three-fourths of parents said that their children had a "loving" relationship with the caregiver, and 22 percent said their children had a "friendly relationship.

(6) The child to caregiver ratio in the unlicensed setting is lower than that of a licensed setting.

By contrast large, licensed daycare centers are major transmission centers for hepatitis, severe diarrhea, and other diseases. According to Dr. Stephen Hadler, Center for Disease Control, about 14% of all infectious hepatitis cases in the U.S. are acquired through daycare facilities.

While the overall rate of meningitis among children in the general population is 40-60 per 100,000 each year, nearly one percent or 1,000 per 100,000 children in large day care centers under the age of one, suffer a meningitis attack each year. About 10% of those will die and 33% of those will suffer long-term neurological damage.

To conclude on this point, unregulated home care (whether by the mother or a neighbor) is superior than the large licensed and regulated day care. The bill seeks to increase licensure and regulation and will in fact reduce the quality of care and perpetuate the spread of disease among infants and contribute to the unnecessary death of some infants. (12)

(6) Regulated Centers Are More Costly

The prices charged by large regulated day care centers are higher than those in unregulated informal settings. (13) Historically, regulation adds to cost. ABC would enforce a myraid of law and regulation on the informal neighborhood setting and even make it more costly for the larger centers. The proponents of the bill claim it will reduce cost of care to the consumer, it will in fact increase cost by adding the cost of unnecessary regulation and driving the low cost providers out of business leaving only the high cost providers offering day care services.

(7) ABC Will Help Less Than 14% of the Pre-School Day Care Census

The parents of the other 86% in effect subsidize the recipient of ABC. Of the preschool child census: 54% have mothers who are not employed; 11% have parents that are a "tag team"; 4% have mothers doing double time; 11% are cared for by relatives or neighbors.

Only 20% of the pre-school census use large day care facilities. Of the remaining 20% almost 33% or one third are cared for out of religious or sectarian institutions. Under the provision of this bill, it is doubtful that religious or church-based day care centers will receive any benefits.

Therefore, only 14% of the pre-school children of parents would be eligible at the outset, before financial means tests are applied for one to receive benefits from ABC.

(8) Discrimination Against Church and Traditional Family

The bill is blatantly anti-family and anti-church. As previously noted, the Grove City Statute is attached to the ABC bill. Grove City in effect prohibits any sectarian institution from receiving funding either directly or indirectly. One of the ways it does this is to apply tests of discrimination against the entire institution with broad interpretation of what constitutes discrimination or violation of an individual's civil rights.

Over time this law will destroy of severely limit church-based day care while benefiting purely secularized day care. Since almost one third of the large day care centers are church-based and a good portion of those are in poor inner city neighborhoods, economically oppressed parents, in order to receive benefits, will move their children to government day care centers. The church-based day care center having fixed costs and a declining census will be forced to close. The secularized day care center having limited capacity and a rising census will be encouraged to expand.

The second amendment states that "Congress shall make no law respecting the establishment of religion or preventing the free exercise thereof." The power to tax is the power to destroy. By taking public funds derived from the entire public's tax contributions and applying them to the exclusive benefits of nonsectarians, in effect Congress has passed a law preventing the "free exercise thereof." We all live in an economic continuum that is inescapable. A better law would allow the parents vouchers to be used at the institution of their choice.

The same dilemma faces mothers of preschoolers who choose to stay home with their children. The current ratio of government benefits given to families who sacrifice to have mothers stay at home as opposed to parents who place their children in day care is $1:$2. If ABC passes the ration will rise to $1:$3 against traditional families.

(9) Contradiction Within Itself

(A) In Section 670H of the bill, parental referrals are placed under government control. This means that parents must consult government approved referral services in order to get information about the location and program of a given preschool. Proponents of ABC claim the bill offers choice. If the government controls the referral service then the government is free to choose!

(B) The bill imposes the Grove City statute which makes it illegal to violate the civil rights of individuals on the basis of race, sex, handicap, religion or age. Sounds fair! However, under the broad interpretation of "sex" or "handicap" a drug addict, alcoholic, or homosexual would have to be hired. At the same time, the bill pushes for licensure and "nationally recognized child development credentials" (Page 47(C)(1)). Licenses and credentials are set up to insure safety, reliability, integrity and credibility. We would not let a pilot have a license if he was a drug addict yet the bill by being attached to Grove City would allow a drug addict to provide child care.

(C) About one third of the large day care centers are church-based. (15) The Senate passed an Amendment that allowed church-based centers to benefit from the bill. The same Senate then voted down an amendment which would have required the entire bill to be struck down if a court struck down that amendment. The Senate didn't have any confidence in it's own amendment. Therefore, a bill that purports to help expand the availability of day care will automatically strike down and impose economic hardship on almost one third of the available large day care supply. (The ACLU has announced it will seek to preclude church-based day care from receiving any aid. Church-based day care centers will not be allowed to say grace before meals, tell bible stories or do arts and crafts involving religious symbols).

ALTERNATIVES TO ABC (H.R. 30-S5)

(1) Expanded child care credit to all parents with pre-schoolers.

(a) Eligibility based on means only.

(b) Payment made to parents through Tax Returns regardless of total tax liability (i.e., even if a parent paid no taxes, they could still receive the credit).

(2) Eliminate Social Security Tax for low income parents with pre-school children and require the employers matching contribution be paid to parents. A one-year freeze or reduction of COLA would finance this.

(3) A number of stay-at-home mothers care for children of working and single mothers under the table and require that the working parent forego use of current child care deductions.

This network of providers should be legitimatized by allowing neighborhood care givers to earn up to $8,000 tax free and allowing the parents to still use their child care deductions. This would expand the supply of day care. Increasing supply and constant demand would lower prices.

(4) Tax incentives should be offered to employers for offering "work site child care" where economies of scale make sense.

(5) Rules for "Not for profit" status should be tightened and enforced. Large Day Care Organizations should be required to disclose financial results according to guidelines set up by the AICPA. Management and Administrative Salaries not connected with the direct cost of providing care should be reported separately. Related party transactions should be fully disclosed to the consuming public.

(6) Allow Senior Citizens who work in child care to earn income without a reduction in their Social Security Income.

Mr. WEISS. Mr. Chairman, one of the central concerns of the American family, and of this Nation, is the care of our children. Today, we have a long overdue opportunity to address the child care crisis that threatens the development of the children of this country. The child care package in the Omnibus Budget Reconciliation Act of 1989 represents one of the most significant and urgently needed domestic programs before us in this Congress. I strongly support this plan, and I urge my colleagues to oppose any weakening amendments.

Few disagree that finding adequate child care is a serious problem for millions of Americans. The most common family situation for children today is that of both parents in the labor force. Yet many parents cannot afford child care. Others cannot find child care programs. And still others who can afford child care have difficulty finding quality programs.

The question is not whether there is a need for broad improvements in child care, it is how to best approach achieving this goal. I believe that the child care package in the reconciliation bill is the most comprehensive, carefully crafted proposal before us for meeting the needs of the child care crisis. These provisions reflect not only the tremendous effort, time and research on the part of Members of Congress and staff, but also the advice and experience of thousands of child care experts across the country.

Neither the substitute offered by Mr. EDWARDS nor the substitute offered by Mr. STENHOLM comes close to providing the breadth of services or assurance of quality set forth in the bill. In contrast to the piecemeal approach taken by both substitutes, the bill includes the essential components necessary for a complete, responsible child care policy. The bill not only builds on existing Head Start and school-based programs, it creates a number of new avenues toward increasing availability and accessibility of child care, such as grants to States for services, incentives for businesses to provide services, and increased tax credits for low-income families.

The amendment by Mr. EDWARDS is hardly a child care measure, as it simply expands the earned income tax credit with no guarantees that these increases in credit would be put toward child care services. And it does not even address the very basic issues of safety or quality in care. The expansion of the EITC is a sound idea for supplementing the income of low-income families, but it represents only a component of an adequate child care policy. In addition, the reconciliation bill already includes provisions to expand the EITC, and goes further than the Edwards amendment by providing an increase in credit for families with two or more children.

While more comprehensive than the Edwards measure, the Stenholm substitute nonetheless falls far short of the bill. One of the most troubling aspects of the Stenholm amendment is the language that expressly allows the use of Federal moneys for sectarian purposes. In contrast, the reconciliation bill language concerning sectarian providers was painstakingly drafted in order to avoid challenging the establishment clause of the Constitution. The Education and Labor Committee took great time and care in drafting the church-state provisions in the bill, and it would be irresponsible to simply throw this work out as the Stenholm amendment does.

Clearly, across the board, the child care package in the bill is superior to the substitute proposals. I urge my colleagues to take a step toward playing an active, positive role in the care of the Nation's children by supporting the child care provisions of H.R. 3299 and voting against the Edwards and Stenholm substitutes.

Mr. PACKARD. Mr. Chairman, the issue we are considering today touches the heart of every American family. For most parents, child care is the most important concern they face.

These days when two-income and single parent families are the norm, day care plays an integral part in American society. The question we now must face is to what degree the Federal Government should get involved in the right of families to choose how to raise their children. Should we set up federally funded centers with strict regulations or should we allow parents a choice of where to send their children? Should we only help those families who send their children to these mandated centers or should we recognize that raising children is a full-time job and help those who keep their children at home.

I believe that child care is a personal decision. Each family is a separate entity with distinct demands. Each parent should be allowed to decide what is best for them. It should not be federally mandated. Who knows better than a parent the needs of their children? Certainly not the Federal Government.

I am concerned that we are mandating a new policy without fully studying the situation. This can only lead to new programs which will not truly meet the needs of those we are trying to help. I am also concerned that the Federal Government may be taking on a major obligation when it cannot effectively fufill the heavy fiscal and social obligations currently facing the Nation.

In the final analysis, I believe that a family knows its own needs and it is better to leave the choice of child care to the parent.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 3, the Early Childhood Education and Development Act. I want to first commend my distinguished colleague, Congressman AUGUSTUS HAWKINS, for his leadership and tenacity in pulling together such a comprehensive and important piece of legislation. Of all the issues that captured our Nation during the past Presidential election, child care ranked among the top. This measure addresses our concerns in a significant manner.

As you know, there is a growing need for quality and affordable child care in the United States. This situation is a result of the growing numbers of mothers joining the workforce. Consequently, we find ourselves in a situation where we do not have adequate and affordable child care for our children.

This issue has involved the U.S. Congress in a major debate as to how to best provide child care assistance to America's families. The Early Childhood Education and Development Act has responded to this problem by incorporating all the elements that educators and child caregivers know to be effective and important in raising our youth.

Mr. Chairman, we must ensure that future generations are protected and nurtured into productive adults. Moreover, if we as a Nation are to meet our long-term economic and social goals, business, labor and the Federal Government must play a greater role in ensuring that family child care needs are met. Only with this cooperation and collaboration can we remove barriers that impede productivity and often prevent individuals from seeking work or that deter committed workers in an ever demanding and competitive workforce. Further, we make a commitment to the American family by safeguarding and protecting their children, as well as making a long-term investment in our children's, and our Nation's future.

Again, I commend the Chairman for the direction he has provided in offering this legislation and encourage my colleagues to vote in favor of this measure. Support our families. Let's take care of our kids.

Mr. POSHARD. Mr. Chairman, I rise in opposition to the Edwards amendment. I believe that the school-based provisions of the child care package are one of the most important parts of the Education and Labor Committee's portion of the bill, and it is crucial that the committee's language be preserved.

Right now America is in a child care crisis. Mothers across the country are finding it necessary to work outside the home to make ends meet and their children need proper care.

The Education and Labor Committee's package includes school-based child care, expansion of Head Start, and funds for private child care. All three of these programs are necessary for us if we are to help develop a comprehensive national child care strategy.

Both of the amendments we are considering today cripple our efforts to give our children quality child care. The Stenholm amendment, in fact, would provide my State, Illinois, with barely a third of the title 20 funds which the Education and Labor Committee's version provides.

Mr. Chairman, America needs good child care and we need it now. The child care provisions reported to the House best meet the needs of the Nation and I urge all of my colleagues to oppose these amendments, and accept the good judgment of the committee. The bottomline is that the committee's language implements the critical educational

component of child care that we have needed in this country for so long. Support the committee and defeat these amendments.

Ms. PELOSI. Mr. Chairman, today I rise in support of the child care provision included in the budget reconciliation bill. I commend my colleagues on the Committee on Education and Labor, Chairman HAWKINS, Chairman GEORGE MILLER of the Select Committee on Children, Youth, and Families and Chairman TOM DOWNEY on the Ways and Means' Subcommittee on Human Resources for their diligent work on the child care bill. They have devoted considerable time and energy to develop a good child care bill for America's families.

It has been 20 years since Congress had debated child care, and I am pleased to have the opportunity to vote in favor of this important legislation. In 20 years, we have witnessed democratic changes in the American family structure. We have seen over half of the mothers with young childrn leave the home to enter the workforce. The number of single parent families with children under 10 will have risen 48 percent during the 1980's alone. On average, in two-parent families with children, working mothers contribute 41.3 percent to total family earnings. Employment treads over the last decade indicate that families now rely on having both parents in the workforce to maintain family economic security.

These fundamental changes in the structure of the family require fundamental changes in our child care system. We cannot wait any longer to address these changes and to help our working families who defend on child care.

I have received letters from my constituents who are concerned with the constitutionality of the child care legislation and the issue of separation of church and state. I believe Chairman HAWKINS has provided us with child care legislation that addresses the separation of church and state. This child care initiative is similar to California State law and its Head Start Program. Since 1972, the California State Department of Education has funded many church-sponsored child care centers with Head Start funds, provided there was no religious instruction involved. In San Francisco, St. Patrick's Child Care Center has been under contract since 1972 with the California State Department of Education and serves a majority of the Filipino families in the city. In San Francisco, we have not had any problems with State funds being allocated to St. Patrick's Child Care Center and we are proud to have the services of St. Patrick's. I believe H.R. 3 addresses the important role churches can play in providing child care and also preserving the separation of church and state.

I urge my colleagues to support the child care bill in the budget reconciliation bill and oppose any weakening amendments. This child care reform is desperately needed if we are to have any long-term success in welfare reform. We need to be able to provide child care to working families so that women can further their education and improve their job skills to support a family. Unamended, this bill strikes a good balance providing both grant monies and tax credits. H.R. 3299 is the best choice for our families.

Mr. CLINGER. Mr. Chairman, today the House will debate what has come to be the biggest family issue of this decade—child care.

Since I came to Congress in 1979, helping to decide what the Government's role in child care should be has been a major concern of mine. I have long believed that the appropriate Federal role is to allow parents and families to make their own child care decisions, rather than to place decisionmaking authority and responsibility in the hands of government bureaucrats.

My vote today will be for the plan which I believe constitutes the most reasonable and responsible approach to the child care issue, that which takes the most constructive ideas from various child care proposals, and discards those whose actual effect would be to limit availability and creativity, flexibility, and freedom to choose. As I have said many times in the past, I strongly believe the success of developing a solid national day care structure relies on our ability to achieve these things.

Family choice can be preserved through an effective tax credit plan which would provide direct assistance to parents; and State flexibility can be ensured by limiting Federal regulatory mandates, such as regulation, training and enforcement of child care standards. States should be free to target child care money where it is needed, and not impeded by burdening restrictions that mistarget Federal funds.

Head Start should be expanded, as long as program increases are geared toward helping those families with the greatest needs—those with young children and the lowest incomes.

Parents should be allowed to keep church-based care as an option and businesses should be given incentives to provide creative care options for their employees.

All these things are critical to fashioning a practical, well-balanced solution to this problem. I have worked to see this accomplished and that is why, today, I will support the package that can achieve this.

Over the years, I have had the opportunity to share views with a number of individuals, from child care workers to legislators and concerned parents in and outside of my congressional district. I appreciated this exchange, it helped to shape my views and encouraged my interest and I thank all of these people for their interest in children and in promoting this issue.

As we continue the child care debate this year, and, in the years following, I look foward to continuing our work together, sharing common concerns and resolving differences.

Mr. SHUMWAY. Mr. Chairman, the Early Childhood Education and Development Act being debated today is based on three fallacies. First, there is a critical shortage of day care in the United States. Second, the Government, rather than parents, is a better judge of quality child care. Last, federally subsidized institutions provide the best form of child care. All of these statements are untrue and unfounded.

There is no critical shortage of day care in the United States. Day care is one of the most rapidly growing industries in the economy. Over the past quarter century, spaces for children in day care facilities has increased at a rate of nearly 10 percent annually. When shortages persist, it is usually due to excessive regulation, the type we will be debating today, not lack of willing providers. Between 1960 and 1986, the number of children in formal group care centers jumped from 141,000 to 2.1 million. The market responded and the number of centers grew from 4,400 to 39,929. Today, there are at least 1.65 million unlicensed, informal neighborhood day care providers. Critics of the current system would prefer to see children cared for in institutionalized day care centers.

Most Americans believe that the family itself is the best and most important child care institution. Approximately 70 percent of mothers state that they would prefer to remain at home with their children if they could afford to do so. By a ratio of 2 to 1, mothers under the age of 44 state that they do not regard the increasing use of day care centers as being a positive development.

A recent Harris Poll found that 82 percent of respondents felt that the best form of child care is that in which one or both parents or other family members care for their children. When parents themselves cannot care for their children and family members are not available, parents prefer to have their children cared for by a trusted neighbor. This care is more personalized, easily accessible and the cost is less prohibitive than a formal day care center. Nearly 95 percent of the Nation's 1.75 million neighborhood providers are unlicensed and unregulated.

However, the liberal policymakers in this country would have us believe that the highest qualify of care, where children experience a safe, healthy, and enriching environment, is in federally approved day care centers. Studies prove this is not true. Child psychologist Jay Belsky of Pennsylvania State University found that infants who spend 20 or more hours per week in substitute care are more likely than other children to avoid or ignore their mothers. This detachment, according to Belsky, reflects the baby's "underlying doubt or mistrust about the availability of the mother." Advocates of institutionalized day care believe that these discrepancies could be eliminated by mandating "high quality" day care. However, a recent study of children who attend the University of North Carolina's highly respected Frank Porter Graham Child Development Center found that these youngsters were much more likely than other children to hit, push, swear, tease, threaten, and argue.

Essentially, what this debate boils down to is, who will determine what child care arrangement is best for our children? The Hawkins proponents believe that the Government should determine what child care is best for your child. They believe that a licensed worker is a better caretaker than a trusted family friend. This reasoning reflects an antifamily bias. This type of Government intervention will serve to further erode the institution of the family.

Child care policy must recognize parental choice. It must adhere to the importance of providing parents the freedom to choose the child care arrangement best suited for their child's needs—whether that be informal care

in the home of the parent, relative, neighbor, or friend, or in a formal day care center. It should minimize cost, and maximize relief. The substitutes being offered today by Representatives EDWARDS, STENHOLM, and SHAW would preserve parents' choice by providing funds directly to parents rather than to the Government or the day care industry. By expanding the earned income tax credit [EITC], it targets those most in need: low- to middle-income working families. I urge my colleagues to support these substitutes and thus support the family.

Mr. MARTINEZ. Mr. Chairman, I rise in strong support of H.R. 3299—and in strong opposition to the Edwards and the Stenholm amendments.

I am delighted to see Mr. EDWARDS working to increase tax credits for low income families under EITC, which is an old democratic program. H.R. 3299, also increases the EITC to help poor families whether parents stay at home or work outside the home.

But we must be absolutely clear that Mr. EDWARDS' spending proposal does nothing to provide childcare. It does not provide parents with enough money to make any real difference when it comes to child care—although the money might help with groceries, the rent or an occasional babysitter. EITC provides a maximum of $215 per year for children over the age of 6, and $645 maximum for children under age of 6. This makes little impact when most families face child care bills in excess of $3,000 a year. Let us be clear: The Edwards amendment does nothing to increase the supply or the quality of child care. It simply does not deal with the problems facing America.

The Stenholm amendment does not solve problems—it creates them. A recent docudrama told of a little girl in child care in Texas who fell down an uncapped well. We do not need near tragedies. We need local and State-based consumer protection. Stenholm does nothing; H.R. 3299 protects consumers.

H.R. 3299 supports church-based care, Stenholm drags it into court. Stenholm allows chruches to participate only by opening the door to endless litigation. HR. 3299 supports church-based care, allowing church participation under every one of its titles. This approach has been proven to work in supporting church-based care. In California, churches have participated in a similar program since 1972 without problem. H.R. 3299 is supported by the National Council of Churches, and many other churches and church groups, including the United Church of Christ, the Episcopalians, the Methodists, the Presbyterians, and many others.

What about Head Start which has such an excellent record of helping children develop to their full potential. While Stenholm slashes $400 million from Headstart, H.R. 3299 expands Head Start into a full-day, full-year program so that it will help working parents.

Finally, both Stenholm and H.R. 3299 expand the earned income tax credit. I support that extension, but we must recognize that it does nothing to provide quality child care. It does not even assure that the credit will be used for child care.

Stenholm makes EITC countable under means-tested programs. As a result certain low-income families could lose some or all their AFDC benefits, some could lose Medicare benefits and some could find their rent for assisted housing going up. H.R. 3299 expands tax credits to help all low-income parents—including those who stay at home. The Stenholm amendment would leave many parents and children worse off.

I urge my colleagues to strongly support Head Start as a full-time program. I urge my colleagues to strongly support local and State-based consumer protection. I urge my colleagues to strongly support the important role of churches in providing child care without locking up the churches in litigation. I urge my colleagues to support the extension of the EITC that does not leave poor parents worse off than before. I urge my colleagues to vote for H.R. 3299 because it is a balanced approach that builds on what has been proven to work.

Mr. FLORIO. Mr. Speaker, I strongly support the Hawkins-Downey child care measures that are in the budget reconciliation bill. This package is a comprehensive and sound approach to meeting the needs of America's families.

Our Nation's families have waited for almost two decades for legislation that addresses the needs of working parents. The failure to act, to provide parents with the assistance they need to care for their children has produced a situation where parents are unable to find decent, affordable child care for their children. As a result, the safety and well-being of children are jeopardized.

I have two grandchildren, both of whom will grow up in a society that is far different from the days of Ozzie and Harriet. These are the days of latchkey children, of single parents, of a generation that is growing up without the security that we had as children. Unless we act today, we will miss the opportunity to help a generation at risk.

The Hawkins-Downey child care provisions help parents pay for the child care of their choice and, importantly, provide parents with assurances of safe, quality child care.

The strong need to pass the Hawkins-Downey proposal is there not only for our children, but also for our Nation's future. Our work force cannot be productive and our Nation cannot be competitive if working parents face constant pressures of finding someone to care for their children as they work to feed and clothe them.

We need to give our children a good start in life. The Edwards and Stenholm substitutes are false starts in this effort. I strongly endorse the Hawkins-Downey proposals and urge my colleagues to defeat any substitutes.

Mr. MARLENEE. Mr. Chairman, today the House of Representatives debates creating a new day care entitlement program. Yesterday, we repealed a major fiasco in the catastrophic health care bill. Let's make sure that we do not repeat a similar mistake.

Before this body are two different philosophies on how to address a divisive but critical social problem. As we all know, working mothers comprise a growing percentage of the labor force. Liberals believe that only the Government can insure adequate day care programs for our children. Creating structured environments and regulating everyone remotely associated with child rearing is their solution to the day care problem. This approach is reflected in the act for better child care services—the ABC bill—which has now been incorporated into an amendment introduced by Democrat Representative TOM DOWNEY of New York into the budget reconciliation bill that we debate today.

The Downey provision would give grants to States for expanded child care services to families earning up to 115 percent of the median family income, which for Montana is salaries up to $32,200. The projected cost is estimated at $22.7 billion over 4 years.

In addition, the ABC amendment creates four new grant programs in two Federal departments that will consume substantial resources for administrative and bureaucratic functions rather than actual child care services. Yesterday, I received a letter from the National Governors' Association imploring Congress to give the greatest amount of flexibility to States in creating child care policy. Many Americans do not know that every State already oversees day care centers and all but four States regulates even small child care providers. The Downey provison imposes unwanted "solutions" from Washington upon the States. This is another attempt to trample on States rights and ignore local conditions that may not be the same across America.

Finally, I am extremely concerned about the constitutionality of the ABC amendment. The first amendment to the U.S. Constitution guarantees freedom of religion, but under the Downey amendment religious day care providers would have to remove all references to their religious beliefs if they accept a certain level of funding from the Federal government. Here we go again, trying to force secular ethics upon people who choose to believe in God. This is one of the problems I predicted last year with the Grove City legislation, which forced a Christian college in Pennsylvania to adopt some programs in violation of their religious beliefs, and now the chickens are coming home to roost.

However, the other approach puts faith in the American people to make their own decisions regarding day care for their children. Parents know what's best for their children, and the Federal Government should be enacting policy that reinforces the greatest amount of choice among child care options.

Earlier this session, I cosponsored H.R. 2008, along with 118 of my colleagues, which would increase the dependent care tax credit. The revised tax credit, based on the poverty level, would go directly to needy families and not to a State bureaucracy or day care center. The family would then be given freedom of choice among various day care options—homemaker, family, neighbors, religious institutions, or secular child care centers.

I was pleased that the House leadership permitted a clear up or down vote on this tax credit alternative. Republican Representative MICKEY EDWARDS of Oklahoma has offered an amendment to the budget reconciliation bill similar to H.R. 2008, with a provision to increase the earned income tax credit [EITC] to 17 percent, which will actually put more money in the pockets of poor people. The cost of this amendment over 4 years is about

40 percent less than the Democract's day care bureaucracy alternative.

Mr. Chairman, I can think of no starker choice before this body than this vote—help the truly poor with day care assistance or appear to solve the day care crisis by shuffling kids off to massive Government run day care centers devoid of religious symbols or references. I encourage my colleagues to vote for the Edwards amendment. It promotes freedom of choice and directs day care funds to the most needy. Let's enact a sensible day care policy and avoid the pitfalls of over-regulation and top-heavy bureaucracies.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in reluctant support of H.R. 3299, the Omnibus Budget Reconciliation Act of 1989. This legislation is important in getting on with the business of balancing the Federal budget. But it is my hope that the conference committee will take care of the more flagrant abuses of the legislative process.

I have not been a member of this institution long—only 5 months, this week. But I have participated in the legislative process, having served 5 years in the Wyoming State Legislature. What has disturbed me since I arrived in Congress, particularly as I look at this bill and the ensuing debate, is the apparent belief by the leadership of this institution that the people of this country don't know or understand what is going on around here.

We are facing a fiscal crisis in this country because of the inability to balance the Federal budget. We entered a technical sequester under Gramm-Rudman on October 1, and it will take full effect on October 15. H.R. 3299 will not address this problem.

We have funded the Government only through October 25 because we have been unwilling and unable to pass appropriation bills in accordance with the budget laws Congress has enacted.

Later this month we must increase the statutory debt limit of this country to more than $3 trillion.

Our response to these facts is legislation and legislative shenanigans that address politics, not sound economic policy. We're expected to go back to our districts and tell our constituents that we have done a good job, yet we know that is not the case.

I support certain aspects of this bill. I support the Jenkins-Archer provision to reduce the capital gains tax over the next 2 years and index it in the future. Contrary to the class-warfare arguments pushed by the Democrat leadership, this provision will help the small business owners, home and ranch owners and those Wyomingites who choose to deal with the financial markets.

I support the repeal of the catastrophic health plan that was forced upon the seniors of this country last year. In talking to hundreds of seniors over the past few months, they were in almost unanimous agreement that the catastrophic tax increase was a catastrophe. The plan forced many to pay for coverage that they already had and for services that they would never use. This is an issue that needs to be addressed in a serious manner, not as an amendment to a bill of this magnitude.

I support the repeal of the section 89 provisions which unfairly increased the operating costs on the small and mid-sized businesses which are the backbone of Wyoming's economy.

I support the Stenholm-Shaw approach to child care which doesn't put the Federal Government in the business of licensing grandmothers. Parents should have the right to choose whatever child care they want with government only intruding when it can be shown that the care is detrimental to the children. Unfortunately, this amendment did not pass.

Given the provisions that have been adopted by the House, I have little choice but to support H.R. 3299. But that does not negate the fact that these issues were bundled into a tax bill and not considered as stand-alone legislation. H.R. 3299 is apparently the "last train out" for the tax-and-spend crowd in this institution, so they wanted to make sure their "baggage" was all aboard. This is not right, and it's going to come back to haunt us.

The taxpayers deserve better—much better. We have to address the deficit. We do so by just grabbing any little provision that will save $50 million here, add $22 million there, push a pay date back a month without thinking of the long term consequences. It's a game—it's smoke and mirrors—and it doesn't work!

If Congress and the White House are truly serious about addressing the deficit, then they had better start by agreeing to stop the games and gimmicks. The fact remains that the deficit has increased over the past 2 years in spite of Gramm-Rudman.

Believe it or not, the folks back home know what's going on. It's time for the "leadership" in Washington to get the message.

Mr. KOLBE. Mr. Chairman, there is no more important natural resource than the children of our Nation. We are now focusing on the care of young children because our society has been hit by a double whammy of dealing with a changing work force and realizing that early childhood experiences shape individuals for the rest of their life.

The work force has changed. More women with children work. Family structure has changed. There are fewer nuclear families—fewer intergenerational families—more single parents struggling to balance the physical and emotional needs of their children. These changes have created increased needs for child care.

We are struggling with drug problems, the problems of juvenile gangs, the quality of education, the deterioration of traditional values. And we have learned that many problems that involve young people and adults could have been avoided with earlier intervention. These problems have created increased needs for child care.

When I served in Arizona's legislature, I remember very well tackling these very issues of child care in committee and on the floor. I think we did a good job of setting State requirements and enforcement procedures. But, we did it based on conditions in Arizona * * * not New York or California. It is ludicrous for the Federal Government to force, yes, force States to adopt its list of "recommended" standards.

The need is to create more child care. The claims that this bill will create more child care slots are just plain false. The heavy doses of regulations and reports are all aimed at restricting current child care providers. Requiring States to set training and ratio requirements and requiring them to file reports on every possible infraction will shrink the number of current day care providers. All H.R. 3 will do is drive up prices and diminish the supply of care.

But the most important issue that is ignored in the committee's proposal is parental responsibility and choice. With all of the funds going toward administration, training and subsidies to large day care centers, parents are just plain left out of the process. Unfortunately, the backers of this measure have missed the boat in the national revolution toward parental choice in education. Or maybe not; perhaps they are trying to nip it in the bud.

We do have options available to us that would help provide more and more affordable child care, provide more choice for parents, and resist the urge to strangle child care providers in Federal redtape. The Edwards amendment will allow the maximum choice for parents without restricting the child care market. Expanding the earned income tax credit puts more money into the pockets of all working poor, not the coffers of bureaucrats and administrators.

The Stenholm-Shaw amendment is the Edwards amendment plus more funds for the successful Head Start and Social Service Block Grant programs. This allows parents to exercise all of their options while encouraging State and local government to find ways to increase day care slots.

I urge my colleagues to seriously consider which options will best meet the real need that exists for more accessible and affordable health care. We can focus on the children and the parents or we can build another Federal bureaucracy. Let us not repeat the mistake of catastrophic health legislation by completely misreading the needs and desires of those we are trying to help. For surely if we pass this monstrosity we will be back a year from now attempting to fix it—or repeal it. We can save ourselves a lot of grief by adopting either the Edwards or the Stenholm-Shaw amendment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. EDWARDS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 285, not voting 7, as follows:

[Roll No. 272]

AYES—140

Archer	Bilirakis	Combest
Armey	Bliley	Cox
Baker	Broomfield	Craig
Ballenger	Brown (CO)	Crane
Barnard	Buechner	Dannemeyer
Bartlett	Bunning	DeLay
Barton	Burton	DeWine
Bateman	Callahan	Dickinson
Bennett	Chandler	Dornan (CA)
Bentley	Coble	Douglas
Bereuter	Coleman (MO)	Dreier

Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goss
Gradison
Grandy
Grant
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jones (NC)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
McCandless
McCollum
McEwen
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nielson
Oxley
Packard
Parris
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Rhodes
Ritter
Roberts
Robinson
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schiff
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Whittaker
Wolf
Wylie
Young (AK)

NOES—285

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clarke
Clay
Clement
Clinger
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Coyne
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
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Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Regula
Richardson
Ridge
Rinaldo
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
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Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (FL)

NOT VOTING—7

Courter
Florio
Garcia
Parker
Pashayan
Scheuer
Yatron

□ 1236

Mr. HEFLEY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in section 2 of House Report 101-261.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STENHOLM:

Strike subtitle E of title III of the bill and insert the following:

Subtitle E—Child Care Services

CHAPTER 1—EXPANDED HEAD START

SEC. 3401. AUTHORITY TO PROVIDE CHILD CARE SERVICES.

Section 638(a) of the Head Start Act (42 U.S.C. 9833(a)) is amended—

(1) by striking "; and (2)" and inserting ", (2)"; and

(2) by inserting the following before the period at the end: ", and (3) may provide developmentally appropriate child care services".

SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by striking "$1,198,000,000" and all that follows through "1988,"; and

(2) by striking "and $1,405,000,000 for fiscal year 1990" and inserting "$1,552,000,000 for fiscal year 1990, $1,852,000,000 for fiscal year 1991, $2,152,000,000 for fiscal year 1992, $2,452,000,000 for fiscal year 1993, and $2,752,000,000 for fiscal year 1994".

SEC. 3403. LIMITATION ON EXPENDITURES ALLOWED FOR CHILD CARE SERVICES UNDER THE HEAD START ACT.

Section 645 of the Head Start Act (42 U.S.C. 9840) is amended by adding at the end the following:

"(d) Of the funds received under this Act by a Head Start agency for any fiscal year, such agency may not expend more than the following amounts to provide child care services authorized by section 638(a)(3):

"(1) $150,000,000 for fiscal year 1990,

"(2) $300,000,000 for fiscal year 1991,

"(3) $450,000,000 for fiscal year 1992,

"(4) $600,000,000 for fiscal year 1993, and

"(5) $750,000,000 for any fiscal year after fiscal year 1993."

SEC. 3404. SENSE OF THE CONGRESS.

It is the sense of the Congress that each Head Start program should provide, as authorized in section 645(c) of the Head Start Act (42 U.S.C. 9840(c)), more than 1 year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located, after such program provides Head Start services to all eligible children 4 years of age who request such services.

SEC. 3405. HEAD START RESEARCH STUDY.

(a) RESEARCH AND REPORTS.—After consulting with experts in research design and preschool programs, the Secretary of Health and Human Services shall conduct a longitudinal research study on the effects of Head Start on children's development. Such study, which shall be conducted on a nationally representative sample, shall include information on school grades, grade retention, special education placement, high school graduation, delinquency, teenage pregnancy, welfare participation, college attendence, employment, and similar outcomes deemed appropriate by the Secretary. Such sample shall be followed for at least 20 years, during which time the Secretary shall make periodic reports to the Congress on the study's findings. Such study shall begin not later than September of 1991.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $2,000,000 for each of the fiscal years 1991 through 2011.

CHAPTER 2—SMALL BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 3421. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible small businesses—

(1) to pay start-up costs incurred to provide child care services; or

(2) to provide additional child care services; needed by the employees of such businesses.

SEC. 3422. ELIGIBLE SMALL BUSINESSES.

To be eligible to receive a grant under section 3421, a small business shall submit to the Secretary an application in accordance with section 3423.

SEC. 3423. APPLICATION.

The application required by section 3422 shall be submitted by a small business (separately or jointly with 1 or more other small businesses) at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such small business shall expend, for the purpose for which

such grant is made, an amount not less than 300 percent of the amount of such grant;

(2) an assurance that such small business will expend such grant for the use specified in section 3421, as the case may be;

(3) an assurance that if the employees of such small business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such small business, the excess of such child care services shall be made available to families in the community in which such small business is located;

(4) an assurance that such small business shall employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 3424. APPLICABILITY OF PROVISIONS OF THE HEAD START ACT.

Sections 654, 655, and 656 of the Head Start Act (42 U.S.C. 9849-9851) shall apply with respect to this chapter to the same extent and in the same manner as such sections apply with respect to such Act.

SEC. 3425. DEFINITIONS.

As used in the chapter:

(1) SMALL BUSINESS.—The term "small business" means a person that—

(A) is engaged in commerce and whose primary activity is not providing child care services; and

(B) has fewer than 50 full-time (or the equivalent) employees.

(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

SEC. 3426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this chapter.

CHAPTER 3—APPLICATION OF OTHER ACTS

SEC. 3521. APPLICATION OF OTHER ACTS.

Title IX of the Education Amendments of 1972, as amended from time to time, shall be deemed applicable to any program or activity assisted under any provision of this subtitle, or to any amendment made by this subtitle, to the same extent and in the same manner as any program or activity included within the meaning of such term under such title IX. References in this subtitle, or any amendment made by this subtitle, to section 654 of the Head Start Act shall be construed so as to be consistent with such title IX.

Strike subtitle I of title XI of the bill and insert the following:

Subtitle I—Child Care Provisions

PART I—EXPANDED TITLE XX CHILD CARE

SEC. 11901. CHILD CARE.

(a) ESTABLISHMENT.—Title XX of the Social Security Act (42 U.S.C. 1397 et seq.) is amended—

(1) by inserting after the title heading the following:

"SEC. 2000. LIMITATION ON ENTITLEMENT.

"For payments to which States are entitled under this title, there are authorized to be appropriated to the Secretary—

"(1) $2,900,000,000 for fiscal year 1990, of which $200,000,000 shall be for payments under section 2007;

"(2) $3,250,000,000 for fiscal year 1991, of which $350,000,000 shall be for payments under section 2007;

"(3) $3,500,000,000 for fiscal year 1992, of which $400,000,000 shall be for payments under section 2007; and

"(4) $3,700,000,000 for each fiscal year after fiscal year 1992; of which $400,000,000 shall be for payments under section 2007.";

and

(2) by adding at the end the following:

"SEC. 2007. CHILD CARE.

"(a) PAYMENTS TO STATES FROM SPECIAL ALLOTMENTS.—

"(1) ENTITLEMENT.—Each State which is eligible for funds under this section for a fiscal year shall be entitled to payments in an aggregate amount equal to the special allotment of the State for the fiscal year.

"(2) PAYMENTS.—The Secretary shall provide funds to each State which is eligible for funds under this section for a fiscal year from the special allotment of the State for the fiscal year, in accordance with section 6503 of title 31, United States Code.

"(3) SPECIAL ALLOTMENTS.—The special allotment of each State for any fiscal year equals the amount that bears the same ratio to the amount appropriated under section 2000 for payments under this section for such fiscal year, as the number of children who have not attained the age of 13 years residing with families in the State bears to the total number of children who have not attained the age of 13 years residing with families in all States, determined on the basis of the most recent data available from the Department of Commerce at the time the special allotment is determined.

"(4) EXPENDITURE OF FUNDS BY STATES.—Except as provided in paragraph (5)(A), each State which receives funds under this section for any fiscal year shall expend such funds in such fiscal year or in the succeeding fiscal year.

"(5) RESDISTRIBUTION OF UNEXPENDED SPECIAL ALLOTMENTS.—

"(A) REMITTANCE TO THE SECRETARY.—Each State which receives funds under this section for a fiscal year shall remit to the Secretary that part of such funds which the State intends not to, or does not, expend in such fiscal year or in the succeeding fiscal year.

"(B) REDISTRIBUTION.—The Secretary shall increase the special allotment of each State not remitting any amount to the Secretary for a fiscal year pursuant to subparagraph (A) by an amount equal to—

"(i) the aggregate of the amounts so remitted; multiplied by

"(ii) the adjusted State share for such fiscal year.

"(C) ADJUSTED STATE SHARE.—As used in subparagraph (B)(ii), the term 'adjusted State share' means, with respect to a fiscal year—

"(i) the special allotment of the State for such fiscal year (before any increase under subparagraph (B)); divided by

"(ii)(I) the special allotments of all States for such fiscal year; minus

"(II) the aggregate of the amounts remitted to the Secretary for such fiscal year pursuant to subparagraph (A).

"(b) LEAD AGENCY.—

"(1) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized under this section shall designate, in an application submitted to the Secretary under subsection (c), an appropriate State agency that carries out the responsibilities described in paragraph (2) to act as the lead agency.

"(2) RESPONSIBILITIES.—

"(A) ADMINISTRATION OF FUNDS.—The lead agency shall administer the funds made available to the State under this section to support programs and services authorized under this section.

"(B) COORDINATION.—The lead agency shall coordinate with State and local governments in developing the State plan required under subsection (c) to provide services under this section.

"(C) INTERAGENCY COORDINATION.—The lead agency shall establish procedures for assuring that appropriate State agencies work together to carry out the purposes of this section.

"(c) STATE PLAN REQUIREMENTS.—

"(1) APPLICATION.—To be eligible to receive funds under this section for a fiscal year, a State shall prepare and submit an application to the Secretary that shall be subject to the approval of the Secretary and that complies with the requirements of paragraph (3).

"(2) APPROVAL.—Not later than 90 days after the date of the submission of the State application under paragraph (1), the Secretary shall either approve or disapprove such application. If the Secretary disapproves the application, the Secretary shall provide the State with an explanation and recommendations for changes in the application to gain approval.

"(3) STATE PLAN REQUIREMENTS.—The application submitted under paragraph (1) shall contain a plan which—

"(A) identifies the lead agency in accordance with subsection (b);

"(B) describes the activities that the State will carry out with funds provided under this section for the fiscal year;

"(C) provides assurances that the funds provided under this section will be used to supplement, not supplant, State and local funds as well as Federal funds provided under any Act and applied to child care activities in the State during fiscal year 1989;

"(D) provides assurances that the State will not expend more than 7 percent of the funds provided to the State under this section for the fiscal year for administrative expenses;

"(E) provides assurances that the State will give priority to programs that serve low-income families and geographical areas;

"(F) ensures that child care providers reimbursed under this section meet applicable standards of State and local law;

"(G) provides assurances that the lead agency will coordinate the funds provided under this section with other Federal resources for child care provided under this Act, and with other Federal, State, or local child care and preschool programs operated within the State; and

"(H) provides for the establishment of fiscal and accounting procedures that may be necessary to—

"(i) ensure a proper accounting of Federal funds received by the State under this section; and

"(ii) ensure the proper verification of the reports submitted by the State under subsection (e)(2).

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section shall be used to address deficiencies in the supply of child care, and to expand and to improve child care services, with an emphasis on providing such services to low-income families and geographical areas. Subject to the approval of the Secretary, States receiving funds under this section shall use such funds to carry out child care programs and activities through cash grants, certificates, vouchers, or contracts

with families, or public or private entities as the State determines appropriate.

"(2) SPECIFIC USES.—Each State which receives funds under this section may expend such funds for—

"(A) child care services for infants, sick children, children with special needs, and children of adolescent parents;

"(B) after-school and before-school programs and programs during nontraditional hours for the children of working parents;

"(C) programs for the recruitment and training of day care workers, including older Americans;

"(D) grant and loan programs to enable child care workers and providers to meet State and local standards and requirements;

"(E) child care information and referral services;

"(F) child care programs developed by public and private sector partnerships;

"(G) liability insurance pools to serve child care providers;

"(H) programs to promote and ensure the health and safety of children and caregivers, to improve the quality of all types of child care, and to train child care providers in health and safety practices;

"(I) State efforts to provide technical assistance designed to help providers improve the services offered to parents and children; and

"(J) other child care-related programs consistent with the purpose of this section and approved by the Secretary;

"(3) USE OF FUNDS WITH PROVIDERS WITH SECTARIAN ACTIVITIES AS PART OF CHILD CARE PROGRAM.—It is the sense of the Congress that, as is the case under current law, and unless prohibited by State law or regulation, any parent who receives funds under this section in the form of vouchers may use such vouchers with any eligible child care provider that has sectarian activities as part of a program of child care if such provider is chosen by the parent, and that if parents have freely chosen sectarian child care from among the available alternatives, such parents may use vouchers for such purpose without violating the constitutional prohibition on establishment of religion.

"(4) ELIGIBLE ENTITIES.—Entities eligible to receive funds under this section, and meet the requirement of subsection (c)(3)(F), shall include—

"(A) units of State and local governments, and elementary, secondary and post-secondary educational institutions;

"(B) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

"(C) professional or employee associations;

"(D) consortia of small businesses; and

"(E) proprietary for-profit entities, child care providers, and any other entities that the State determines appropriate subject to approval of the Secretary.

"(5) PROHIBITED USES.—Any State which receives funds under this section may not use any of such funds—

"(A) to satisfy any State matching requirement imposed under any Federal grant;

"(B) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility; or

"(C) to provide any service which the State makes generally available to the residents of the State without cost to such residents and without regard to the income of such residents.

"(e) REPORTING REQUIREMENTS.—

"(1) NOTICE TO SECRETARY OF UNEXPENDED FUNDS.—Each State which has not completely expended the funds received by the State under this section for a fiscal year in such fiscal year or the succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(2) STATE REPORTS ON USE OF FUNDS.—Not later than 18 months after the date of the enactment of this section, and each year thereafter, the State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the State's use of funds received under this section, including—

"(A) the number, type, and distribution of services and programs under this section;

"(B) the average cost of child care, by type of provider;

"(C) the number of children served under this section;

"(D) the average income and distribution of incomes of the families being served;

"(E) efforts undertaken by the State pursuant to this section to promote and ensure health and safety and improve quality; and

"(F) such other information as the Secretary considers appropriate.

"(3) GUIDELINES FOR STATE REPORTS; COORDINATION WITH REPORTS UNDER SECTION 2006.—Within 6 months after the date of the enactment of this section, the Secretary shall establish guidelines for State reports under paragraph (2). To the extent feasible, the Secretary shall coordinate such reporting requirement with the reports required under section 2006 and, as the Secretary deems appropriate, with other reporting requirements placed on States as a condition of receipt of other Federal funds which support child care.

"(4) REPORTS BY THE SECRETARY.—

"(A) REPORTS TO THE CONGRESS OF SUMMARY OF STATE REPORTS.—The Secretary shall annually summarize the information reported to the Secretary pursuant to paragraph (2) and provide such summary to the Congress.

"(B) REPORTS TO THE STATES ON EFFECTIVE PRACTICES.—The Secretary shall annually provide the States with a report on particularly effective practices and programs supported by funds received under this section, which ensure the health and safety of children in care, promote quality Child Care, and provide training to all types of providers.".

"(b) ALTERNATIVE ENTITLEMENT LEVELS IF RECONCILIATION BILL INSUFFICIENTLY FUNDS TITLE XX OF THE SOCIAL SECURITY ACT.—

(1) AMENDMENT.—Section 2000 of the Social Security Act, as amended by subsection (a)(1), is amended to read as follows:

"SEC. 2000. LIMITATION ON ENTITLEMENT.

"For payments to which States are entitled under this title, there are authorized to be appropriated to the Secrtary—

"(1) $3,050,000,000 for fiscal year 1991, of which $350,000,000 shall be for payments under section 2007; and

"(2) $3,100,000,000 for each fiscal year after fiscal year 1991, of which $400,000,000 shall be for payments under section 2007.".

(2) EFFECTIVE DATE.—The amendment made by paragrpah (1) shall take effect on the effective date of the reconciliation legislation reported under section 310(b) of the Congressional Budget Act for the fiscal year 1990, if such legislation does not have the effect of amending subsection (c) of section 2003 of the Social Security Act so that the amounts specified in such subsection (c) for purposes of subsections (a) and (b) of such section 2003 are—

(A) $2,900,000,000, for fiscal year 1990;

(B) $3,250,000,000, for fiscal year 1991;

(C) $3,500,000,000, for fiscal year 1992; and

(D) $3,700,000,000, for each fiscal year after fiscal year 1992.

PART II—TAX CHANGES RELATING TO CHILD CARE

SEC. 11911. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Subsections (a) and (b) (relating to earned income tax credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable yer an amount equal to the credit percentage of so much of the earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under this subsection for any taxable year shall not exceed (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17	12
2 qualifying children	21	15

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. STENHOLM] will be recognized for 1 hour, and a Member opposed will be recognized also for 1 hour.

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent that my time of 1 hour be equally divided between myself and the cosponsor of this amendment, the gentleman from Florida [Mr. SHAW].

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HAWKINS. Mr. Chairman, I ask unanimous consent that the time allocated in opposition to the amendment be divided so that 30 minutes will be under the control of the chairman of the Committee on Education and Labor and 30 minutes will be under the control of the chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, the gentleman from New York [Mr. DOWNEY].

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1240

Mr. STENHOLM. Mr. Chairman, I ask unanimous consent that a technical change to address the question of AFDC and EITC be allowed to be

made by the proponents of my amendment.

The CHAIRMAN. The gentleman will have to submit the modification in writing, the Chair would notify the gentleman from Texas. Does the gentleman have the modification?

Mr. STENHOLM. I do not have it at this time, Mr. Chairman. I thought I heard an objection, but we will have it at a later time.

The CHAIRMAN. The gentleman may proceed.

Mr. STENHOLM. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, there has been a lot of debate, but the thing that bothers me the most about what has occurred on my amendment today and that of the gentleman from Florida [Mr. SHAW] is the amount of misinformation that has been circulated by so many well-meaning people about what our amendment does and does not do.

Now, first I want to compliment the Ways and Means Committee. My objection to the proposal on child care is not with the Ways and Means Committee, because I believe that 90 to 95 percent we are in agreement with what the Ways and Means Committee has proposed to do.

My reason for being here today is my objection to H.R. 3 and what it does, which is clearly spelled out in the legislation.

Now, this gentleman from Texas, CHARLIE STENHOLM, is concerned about child care, and those who support my amendment today, the Stenholm-Shaw amendment do advocate child care. We believe that there are other things that should be done besides the EITC. We believe, though, that H.R. 3 has some terrible weaknesses.

My first question to the House is why are we here doing this today? Why in reconciliation are we attempting to do new legislation at a time when we are finding it difficult to fund that which we have already approved? Why are we here?

To those who suggest that the gentleman from Texas [CHARLIE STENHOLM], has advocated the elimination of Head Start or that we put no new money into Head Start, why did you not read our amendment before you made that accusation? Why did you not read where we authorize, according to the CBO, a doubling of Head Start money in the next 4 years? Why would you put out information across these United States that we cut Head Start? Why would you make the argument back home in our States that we are going to get less money if the Stenholm amendment passes, when you know that the only way we are going to get additional money to our States in fiscal year 1990 is through the title 20 funds of the Ways and Means section?

Do you now know, my colleagues, that right now in the conference on appropriations that in Head Start we are going to be appropriating less money than we advocate in our bill today, in our amendment? Do you not know that?

Why would you say that the Education and Labor Committee is going to be authorizing more money, when you know in your hearts that we are not going to appropriate it? Why would we be doing that?

Why would we be leading the expectations of the people out there who truly care about child care that we are going to do all these wonderful things, when we know that we are not going to be doing them?

You know, yesterday we repealed catastrophic care. That cost us for reconciliation, which this bill is all about, $4.2 billion with the Panetta amendment. We have been told in the budget that we set aside $1.2 billion for child care.

Mr. Chairman, something is wrong with our arithmetic if we set aside $1.2 billion and we spend $4.2 yesterday. There is something wrong with our arithmetic, and yet the whole debate back in our States is that if the Stenholm-Shaw amendment passes, then you are going to lose x million dollars that we did not have in the first place. That is the big objection we have with H.R. 3. It promises the moon, but just as we found out yesterday, when we have to pay for it we have got problems.

Why could we not do this in the regular legislative process? Why did we have this shoved down our throats in a bill like this in which the only way we have is an opportunity to have an amendment that does provide for child care?

If we win and we go to conference, we will have the best opportunity of getting the kind of a child care bill that will do something for children.

I do not disagree with the good things that are in the Education and Labor part, the ABC bill. I agree with all those wonderful intentions. The problem is, how do we deliver? Why should we start our expanding the Head Start Program in the other areas before we do the job that we are already supposed to be doing in Head Start? If we are only serving 20 percent of those poor children available today, why would we start off in seven different directions with new programs, when we cannot even adequately fund the current program?

Now, if you support the Stenholm-Shaw amendment today, what you are doing is saying unequivocally that you believe the family is the best determiner of the adequacy of child care. You believe that the family, the mother and father are the best determiners, not the Federal Government. You are going to be asking and voting for new money for child care, but you are going to be saying absolutely no new Federal mandates for that program.

Listen to the voices coming from your respective districts. What they are telling us is that they want no new Federal mandates. They want the Federal Government to stay out of their business.

Why at this point in time would we do what H.R. 3 proposes to do and then not have the honesty to say that there is no new money available in fiscal year 1990?

We ought to do this debate next year when we can truly do someting for the outyears.

Mr. DOWNEY. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the Stenholm substitute.

Today, over half of all mothers with young children work. This rate has doubled since 1967. Our economy depends more than ever on the participation of both men and women. By the year 2000, women will make up half of the country's work force.

Child care is critical to our economy. Here is why:

Fifty percent of all new mothers will return to work before their child's 1st birthday—an increase of over 60 percent since 1976.

One-fourth of all nonworking mothers of children under age 5 would return to work if satisfactory child care were available at a reasonable cost.

U.S. businesses lose $3 billion each year when parents are absent from work due to child care problems.

In the future, two-thirds of all new jobs will go to women.

The United States cannot remain competitive without adequate child care.

The issue of child care is particularly important to the South:

Southern States have 50 percent of all mothers with young children in the work force. This is a greater percentage than the rest of the Nation.

Three out of four Southern voters—the highest proportion in the Nation—believe that there is a shortage of affordable, quality child care and that the Federal Government should help.

Voters in the South are more likely than voters in the rest of the country to name child care as an important issue for working families.

□ 1250

The child care legislation in the bill before us meets the challenges of the changing workforce. The earned income tax credit and title 20 provisions put more resources into the hands of those who most need child care assistance without discriminating against the mothers or fathers who choose not to work. The model stand-

ards in the bill encourage States to improve the quality of child care.

The Stenholm substitute falls short of this challenge. There are four good reasons to oppose the Stenholm substitute:

First, it has no model standards for the health and safety of children in day care. The reconciliation bill says to the States that they must establish some health, safety, and staffing standards—achievable standards, which the State of Texas, in fact, has already met. It does not dictate what those standards have to be. Instead, it establishes national goals for the States to follow if they choose.

We are simply giving Federal guidelines to the States for spending money on child care as we do with prisons, roads, and airports. We owe this much to our country's children and to the American taxpayers as we decide to spend over $7 billion dollars each year on child care.

Second, the Stenholm substitute provides no new funds for Head Start and school based child care programs. Head Start is one of the most successful and popular Federal programs. We must realize that child care also effects the future productivity of our children. According to the Commission on the Future of the South, investments in preschool programs that are made early enough in children have a three to one payback when they become working adults.

Third, the Stenholm substitute does not provide for any coordination of local child care services. Currently, few States coordinate child care and child development programs. We should not continue down the path of throwing money at problems without assessing problems locally and without fully utilizing existing programs.

For example, Head Start often operates on a half-day schedule while title 20 child care is generally full-day. What happens to the children of the working mother in Head Start for only half of a day? We cannot ignore our responsibility to help answer this kind of question at the local level.

Finally, the Stenholm substitute would cause working mothers to lose Medicaid if they use the earned income tax credit. Last year, the House overwhelming adopted welfare reform. We offered Medicaid to welfare recipients if they choose to go to work. We should not take that away today.

This is an important day in Congress. By passage of this legislation, we will recognize the changing workforce and the important part that working women play.

We have the opportunity to speak to those young mothers in rural Mississippi and in South Texas and say to them that we are going to help you with day care so you can work. We know that if we can reach that young mother, we have a chance of saving her children from the vicious cycle of poverty.

The cost of not acting today, especially to the South, is too high. If we fail to help these young mothers, we will continue to live in the past.

As Abraham Lincoln said to Congress in 1862:

> The dogmas of the quiet past, are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves, and then we shall save our country.

I urge your support for the reconciliation bill and your opposition to the Stenholm substitute.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset, I compliment the efforts of the gentleman from Texas [Mr. STENHOLM]. Once again, he has proven to be a leader in budget issues and legislation designed to help America's children and families.

Nor can I fail to mention the gentleman from New York [Mr. DOWNEY]. Tom deserves a great deal of credit for whatever action the House takes on child care this year.

Tom will remember our first conversation about committee action on child care. To our mutual surprise, coming from different poles of political society we had independently arrived at nearly identical child care proposals—to give parents more money to spend on their children by expanding the EITC and to give States more money to spend on child care by expanding the Title 20 Program. Unfortunately, we were poles apart on Mr. DOWNEY's position that we needed to include a new layer of Federal regulations and other mandates in our child care bill. With some assistance from the Rules Committee, the leadership then decided to offer his bill as part of H.R. 3, most of which I most strongly oppose. I must say that I oppose it even though I dearly love children, but I have a great deal of faith in our State governments, and most of all, the parents of these children.

In any case, Mr. DOWNEY and other Members of the Ways and Means Committee will recognize that in fashioning this bipartisan bill with Mr. STENHOLM, I have held to the basic outlines of my initial position with Mr. DOWNEY.

A host of distinguished speakers from both parties will follow me in support of the Stenholm-Shaw amendment. My task here at the outset of debate is simply to call the attention of our Members to the three major reasons to support the Stenholm-Shaw amendment.

First, how can this body possibly justify establishing or expanding seven new grant programs? Amazingly, the Hawkins-Downey proposal would do precisely that. Rather than creating all this new bureaucracy, it is far better to select one or two programs to expand. We have selected the title 20 program because it already exists, because it has proven itself to be a popular and useful program with the States, and because it provides the flexibility necessary to allow States to use child care money in the ways they think will do the most good.

Second, the standards and mandates both H.R. 3 and Downey place on States are truly awful. Every State already regulates day care centers; all but four States already regulate the smaller day care homes. It follows that citizens, and especially State legislators, will see our interference in child care regulation for what it is—heavy-handed Federal meddling in matters that belong to States, localities, and, most of all, American families.

And don't let anybody tell you that we're not interfering if we don't pass the Stenholm-Shaw amendment. I have here a summary of the most noxious mandates the Downey-Hawkins bill would put on the States. I am including a copy of that summary in the RECORD. Consider just one example of burdensome Federal requirements.

All providers who accept money from the programs established by Downey-Hawkins must have 15 hours of training per year. Do our Members realize that around 40 percent of the out-of-home care in the Nation is provided by women taking care of two or three children in their own home? Now I ask you, how are these women supposed to get 15 hours of training? Are they going to go at night? On the weekend? If not, who will take care of the chidren while they are being trained during the day? This seemingly simple requirement could raise havoc with the very people who provide most of the Nation's out-of-home child care.

Let us be wise and leave decisions about standards and mandates to the States, counties, and cities of the Nation, and to the parents of our children.

The third reason to vote for Stenholm-Shaw is to save money and spend precious dollars more wisely. In order to set up and feed their own grant authorities, the Downey-Hawkins bill requires lots of money for bureaucrats. If you love bureaucrats, you will love Downey-Hawkins. By contrast, Stenholm-Shaw will put $15 billion dollars directly into the hands of American families to spend on their children, $3.2 billion dollars into the Head Start program, more than doubling its size by 1994, and $1.6 billion into the hands of State administrators already responsible for child care.

And get this: Stenholm-Shaw will do all this and still save the Federal

Treasury $5.5 billion over 5 years as compared to the Downey-Hawkins bill.

The choice seems clear. If we want to waste over $5 billion, and I might say they may be stealth dollars, because I do not know where they are coming from, if we want to further bloat the Federal and State bureaucracies and drown the States in new regulations, if we do not want to do this, vote for the Stenholm substitute. If we want to put those precious dollars back in the hands of parents, Head Start directors, and State day care officials without simultaneously tying their hands, then I urge my colleagues to vote for the Stenholm-Shaw substitute.

H.R. 3 AND THE QUESTION OF REGULATIONS

Note: This is a partial list of requirements included in H.R. 3, both as the Education and Labor Committee (Hawkins) passed it and as amended by the Ways and Means Committee (Downey). It is important to note that regardless of which form is approved, all of these regulations would be included in either Hawkins alone of in the Hawkins/Downey hybrid, because the Downey amendment simply replaces Title III with a social services block grant, but mirrors the ABC regulations of Hawkins' version of that Title.

Many of these provisions, taken individually, are good ideas and should be implemented by many states. The question, however, is whether each and every one should be mandated and dictated by the federal government for each and every state, every community, every provider, and every family. We believe they should not.

States do need money to assist in assuring that adequate quality child care is available. General standards and guidelines are useful. Low-income parents do need tax relief to meet child care costs and to maximize their individual child care options. We believe, however, that parents, neighbors, communities and states are capable of making reasonably good decisions about what is best for themselves and their children if they are given the resources and the assistance necessary. To reach that end, we believe the CDF compromise is the answer.

What H.R. 3 supporters say: The bill simply establishes federal model standards. Discretion is still left to the states to implement the programs in the ways they see fit.

What H.R. 3 says (a partial list of requirements):

States must have standards in place for: group size, staff/child ratios, qualifications of personnel, special needs children, child abuse prevention, health, safety and nutrition (with specificity to the point of regulating hand-washing), staff in-service training, parental involvement, and reimbursement rates. Hawkins: Title II, p. 16 [1] and Downey: Title III, p. 6-8.[2]

States must train every child care staffer at least 15 hours annually. Hawkins: Title III, p. 15 and Downey: Title III, p. 8.

States must have at least annual unannounced inspections of each day care center and of 25% of the group and family day care homes. Hawkins: Title IV, p. 21 and Downey: Title III, p. 10.

States must train inspection personnel in child development, health and safety, child abuse prevention and detection, needs of disabled children, program management and law enforcement. Hawkins: Title IV, p. 20 and Downey: Title III, p. 10.

States must maintain a record of parental complaints. Hawkins: Title IV p. 20 and Downey: Title III, p. 12.

States must establish a committee on licensing which: reviews licensing laws; issues a report on the effectiveness of the federal law and model standards, describes deficiencies in current licensing, etc. Hawkins: Title IV, p. 23.

States must establish eligibility criteria based on the bills' prescription that family income must not exceed 160% of the lower living standard income level, services must be free to families below the poverty line, and a sliding scale must be used for families between poverty and 160% of the lower living standard. Hawkins: Title II, p. 9, 10 (Downey is less prescriptive on the sliding scale but requires some form of sliding scale; p. 8, 9).

With Title IV funds, states must: provide funds for local resource and referral programs at least one year in each four; improve the quality of care by providing training every year; improve the monitoring and enforcement of regulations every year; collate in a single document the needs assessments at 4-year intervals; and improve staff salaries in at least one year of every four. Hawkins: Title II, p. 20.

With any money in Title IV funds after above mandates, states must do one or more of these "optional" activities: make grants or low interest loans to providers so that they are able to comply with all the regulations; make low interest loans for facility renovations of non-profit providers; make grants to providers who have a 3-to-1 matching arrangement with businesses; and promote involvement by local public libraries in providing childhood learning resources. Hawkins: Title IV, p. 20.

States must collect and provide to the federal government data showing: by race, sex, ethnicity, disability and English language proficiency how child care needs are being met in their state; number of children, type and number of child care providers; cost of child care services and salaries of child care staff; and extent to which child care services have been increased. Hawkins: Title IV, p. 21.

States must develop reports which contain: number of children served, grouped according to income as a percentage of poverty; average cost for child care services by geographical area; out of pocket costs for families grouped according to income as a percentage of poverty; percentage of child care benefit recipients who receive public assistance; and criteria applied in determining eligibility for child care benefits. Downey: Title III, p. 17-19.

States, in carrying out the mandate to award grants for staff training, must allocate their funds: 29% for developmentally appropriate child care services under Head Start; 29% for school-based programs; 42% for ABC programs; and then, States must submit a report showing: how funds were spent; why funds were spent in such a way; and what other state money was used for related activities. Hawkins: Title IV, p. 25.

States must designate multiple "resource and referral agencies" within each state which: maintain databases on child care services; provide resource and referral services in a timely fashion to care givers and parents; and respond to requests for information. Hawkins: Title IV, p. 24.

In addition, among other requirements, H.R. 3 says:

Providers must: have written policies and program goals and provide them to parents; have consumer education information available; and post on the premises the phone number of the State regulatory agency. Hawkins: Title IV, p. 21 and Downey: p. 11-12.

Providers of early childhood development programs must provide services including referrals to health and social services, meals and snacks, social services, and information in a language the parents understand, to the extent practicable. Hawkins: Title II, p. 8.

Providers of early childhood development programs must not use norm-referenced and criterion-referenced standardized tests. Hawkins: Title II, p. 8.

Providers (each staffer) must receive 15 hours a year of state training. Hawkins: Title II, p. 15 and Downey: Title III, p. 8.

Additionally, local cities and counties must establish a local Child Development Council (with composition federally prescribed) to conduct child care needs assessments. Hawkins: Title IV, p. 22.

The federal government must establish an advisory committee to draw up federal model standards. Hawkins: Title III, p. 15 and Downey: Title III, p. 29.

Mr. HAWKINS. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in strong opposition to the Stenholm substitute.

For 3 years, the Committee on Education and Labor has worked to develop a comprehensive child care proposal that best meets the needs of parents and children alike. I believe that our proposal and the Ways and Means proposal are responsible approaches which provide quality child care and help to ensure the health and safety of our children while they are cared for outside the home.

These provisions, which are incorporated in H.R. 3299, build on effective, existing programs like Head Start, early childhood education and initiatives by the States that address the critical issues of affordability, availability, and quality of child care.

The Stenholm substitute does not target funds to increase the supply of quality child care.

The Stenholm substitute does not contain an education or early childhood development component.

The Stenholm substitute undermines quality child care.

The Stenholm substitute permits children to be cared for by unfit caregivers in unhealthy and unsafe programs.

The Stenholm substitute does not provide for parental involvement in, and access to, child care programs.

Recently, Mr. STENHOLM wrote, "Few issues strike a deeper personal chord in most Americans than that of how their children are treated."

Today, each of us must ask ourselves which of these proposals provides the best care for our children.

[1] Page numbers on Hawkins refer to Education and Labor Committee Report 101-190.

[2] Page numbers on Downey refer to legislative bill pages.

I believe that H.R. 3299 responds best to parents' concerns about how their children are cared for. We have put forth a comprehensive proposal which increases access to, and expands the supply of, child care and includes successful early childhood development and education components.

If you share our view of quality child care and really want to do what's best for America's children, you will vote against the Stenholm substitute.

□ 1300

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in strenuous opposition to the Stenholm substitute.

Mr. Chairman, I rise in opposition to the amendment. For the first time, we would be permitting the use of federally subsidized vouchers in sectarian institutions to pay for religious instruction and worship and would not clearly prohibit all discrimination in hiring and admissions. This would advance religion in violation of Supreme Court standards.

Vouchers in this context are indirect assistance to religious institutions. Contrary to what some of our colleagues would like us to believe, the fact that the assistance is indirect does not remove the constitutional problem. By explicitly allowing parents to use vouchers for sectarian purposes, the Stenholm amendment, if enacted, would not only be a step backward for church-state separation, it would be a massive step backward for child care as well. The program will be tied up in years of litigation, ultimately resulting in no child care at all.

Neither H.R. 3, which I support, nor the title XX program raises these problems. I urge my colleagues to vote no on the Stenholm amendment, and by doing so, vote yes for the first amendment and for child care.

The CHAIRMAN. Does the gentleman from California [Mr. HAWKINS] wish to yield time?

Mr. HAWKINS. Mr. Chairman, we are alternating, I assume?

The CHAIRMAN. The Chair is trying to give equal time to those who have time at this point. The gentleman from Florida [Mr. SHAW] has 23½ minutes remaining; the gentleman from Texas [Mr. STENHOLM] has 24 minutes remaining; the gentleman from California [Mr. HAWKINS] has 26 minutes remaining; and the gentleman from New York [Mr. DOWNEY] has 26 minutes remaining.

The gentleman from Texas [Mr. STENHOLM] will have the right to close debate. He is the proponent of the amendment. To try to keep some balance, the Chair requests that the gentleman from California yield time.

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY], a member of the Ways and Means Committee and a leader in this process.

Mrs. KENNELLY. Mr. Chairman, I would like to oppose the Stenholm child care substitute. We who are supporters of child care programs have been working for over 5 years to craft legislation that would provide child care for people who cannot now afford it. We need child care because too many families are struggling to get by and are forced to send both parents into the work force.

We need child care because we have 11 million single mothers in this country and we have told them, "You should not take AFDC. Get a job."

We need child care because we cannot tolerate young children being left at home alone for hours each day while their parents go to these jobs.

But we do not need just any kind of child care.

We must be sure that if we're going to give increased numbers of Federal dollars to day care these dollars should have some protections. The standards language which we included in the reconciliation package is the same compromise as that which was included in the Senate bill, S. 5. It provides the States with maximum flexibility, requiring only that they establish standards of some sort, and not dictating any minimum at all for those standards.

Currently it is a fact that much child care is completely unregulated. Those regulations which do exist are not adequately enforced by many of the States. The Stenholm proposal would leave the status quo, in spite of the fact that the status quo clearly needs to be changed.

But even if the physical well-being of our children is assured, it is not enough. We know how very important those early years are in the development of a child's learning skills. The money we spend through H.R. 3 will insure education for our children through Head Start and school-based care, and by insuring a minimal amount of training for day care providers.

Without this kind of care, the inequalities will widen and the gap between privileged and under-privileged children will be impossible to close by the time they reach the first grade. By the time they reach high school the better-off kids will be making plans for college while the poorer kids will be dropping out of school and hanging out on street corners, and we will have the same mess that we have right now.

We know how to change that. It is through early childhood development. How then can we allow Federal dollars to pay for the type of care which perpetuates it?

This is not a States' rights issue. This is an issue of how we steward Federal funds.

My friends, we must have child care, and we must have child care where our children are safe and healthy and able to develop to their full potential. I urge you to vote against the Stenholm child care plan, and to support an approach that includes at least minimal State standards, and which encourages education rather than just warehousing of this Nation's children.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I am pleased to rise in strong support of the Stenholm child care substitute and I commend my colleagues who worked diligently to craft this compromise proposal and bring it before the full House. I believe it is the most thoughtful, straightforward and effective approach before us today and should be adopted with all possible speed.

We all recognize the need for quality day care in this country. In fact, I have formed a day care task force in my own congressional district to help me assess the needs of families, children and providers in the Third Congressional District of Tennessee. What we have found is that tremendous resources are required to meet the growing demand for child care but that our States, communities, and families need maximum flexibility to ensure that their varied and essential needs are addressed. The Stenholm substitute does just that. It provides additional funding to States to assist in assuring that adequate quality child care is available while allowing the States to allocate the Federal funding provided to the programs which they deem essential to their local efforts.

By giving the States the opportunity to ensure that their priority programs are funded, we are involving all concerned segments of our society in the planning, administering and providing of essential child care services.

My colleagues we are creating a new Federal program. Time and time again in creating new programs our constituents beseech us to spare them the burden of additional red tape. Instead of creating yet another layer of Government bureaucracy, the Stenholm proposal will enhance and build on existing programs and make them more responsive to each communities needs.

The Stenholm substitute also recognizes that church and synagogue child care programs have contributed in significant ways to meeting pressing child care needs in this country.

This is sound legislation which deserves to be adopted. I urge my colleagues to join with me in supporting the Stenholm childcare initiative. Let's provide for a program we will be proud of today, 5 years and 10 years from now.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I rise in opposition to the Stenholm amendment. The gentleman from Texas [Mr. STENHOLM] has indicated that there has been some misrepresentation about the Head Start part of his program. I agree there has been some. He and I have talked about this on the phone.

□ 1310

And I sympathize with him because there has been a great deal of misrepresentation about the Hawkins-Downey proposal too.

We will try to clarify those things. However, the Stenholm substitute does authorize, at least, less for Head Start than does Hawkins-Downey. Hawkins-Downey reserves 25 percent of the $1.75 billion or $437.5 million to provide child care through Head Start agencies.

Those $437.5 million are in addition to the $1.552 billion as passed in H.R. 1300, which the gentleman supported on the floor.

Those dollars are in addition to that. So we have really under the Downey-Hawkins proposal almost $2 billion for Head Start.

Now Mr. NATCHER has been very creative in that Appropriations Committee in taking care of Head Start. He has reserved, first of all, $1.2 billion for child care, and that has been retained in the conference report.

He can use part of that $1.2 billion for this new aspect of Head Start, the child care aspect, at $437.5 million.

In addition to that he still has room to raise the appropriations for the regular Head Start Program.

So I think that our bill is far more generous in authorization and more likely to secure appropriations for Head Start than that of the gentleman from Texas [Mr. STENHOLM].

Now let me address one other issue here, Mr. Chairman, the question of church-state.

No one is more concerned as to the important role of churches in child care than DALE KILDEE. I have fought this battle for 3 years now, I have made friends, I have made enemies. At one time I was able to get both sides mad at me. And it is not—well, I think maybe it is easy to do that around here.

My record is long, however, and it is consistent and clear on this. I have always felt there should be a significant role for the churches who deliver a great deal of the child care in this country.

I went before the Committee on Rules asking for an amendment on this—I was turned down. But that is the reality.

But that approach which I have been trying to put forward for 3 years is substantially contained in the Downey part of this bill because the Downey part allows vouchers. States now use vouchers for child care.

Case law indicates in many cases, and with good precedent, that such vouchers can be used without restrictions on sectarian activities.

You know the Mueller versus Allen case. It is very clear on that. I also feel that when this bill gets into conference, we will have the Downey provision which the gentleman will admit is very close to his own provision here on the church-state.

We will have that. I will be urging that conference committee to move closer to the Senate position on this. And I think we will be successful in doing that.

Mr. SHAW. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSTON], a leader in the Head Start Program.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the Stenholm-Shaw amendment.

Stenholm-Shaw is sound family policy. By supporting it, you help put in place, through a greatly expanded earned income tax credit, a new family policy that will directly attack the problem of children growing up in poverty. Putting money directly in parents' pockets, as the EITC does, also gives them the freedom to choose the kind of care best for their child, be it home-based care, center care, or even care by the child's own parents. America needs a policy that directly helps low-income families and these families deserve a choice about who cares for their children.

Stenholm-Shaw is also sound workforce policy. Repeatedly, studies point to serious problems with the quality of our workforce as we move into a period of labor shortages. It is imperative that we target our day care service dollars to those children who most need our help to enter school, ready to learn. By providing additional dollars for Head Start, now serving only one in four eligible children, and earmarking child care dollars to title XX, also plagued by long waiting lists, Stenholm-Shaw focuses on the very group of children most in need of attention—low-income, disadvantaged kids. In contrast, the Hawkins and Downey proposals mandate Head Start Program expansions and open eligibility to non-poor children, effectively diluting our efforts to realize the promise of Head Start for the poor.

The National Governors' Association has endorsed the Stenholm-Shaw amendment because it expands resources without dictating solutions. It specifically authorizes, but does not require, all the uses of day care funds that Representatives DOWNEY and HAWKINS mandate—before and after school care, training, et cetera. It does not mandate, as Downey and Hawkins do, specific percentages of funds for specific program uses or detailed requirements that drain service dollars into administration and do not, in fact, affect quality. In addition, Stenholm-Shaw allows States to set up liability risk pools and provides incentives for older Americans to provide child care, options the Downey and Hawkins proposals to not offer.

The Stenholm-Shaw alternative provides the same money next year for day care that is provided in reconciliation and, over 5 years, allots $17.5 billion for national child care policy—roughly $5 billion less than the Stenholm-Shaw package. With the need for money to fight drugs and other worthy objectives, we believe that Stenholm-Shaw is realistic. Because it is closer to what will actually be appropriated, it does not promise children and families what it cannot deliver.

Stenholm-Shaw is good policy. The House should not relinquish its lawmaking responsibility and allow the conferees to decide among a menu of new programs proposed by Hawkins-Downey. Rather the House should send into conference an integrated and responsible child care program. Vote "yes" on Stenholm-Shaw.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I was not totally in favor of the Edwards bill; I am not totally in favor of the bill before us. But it is by far 100,000 times better than the other alternative that we have. To the 140 Members who voted for the Edwards bill, I ask each of you to please support the Stenholm bill.

There are two reasons why I ask you to support the Stenholm bill. No. 1 is the religious aspect. No matter what we say, we are looking at two bills, we are not looking at one bill on the other side of the aisle. We do not know what we are going to face in conference, whether it is Mr. DOWNEY's bill or Mr. HAWKINS', whether Mr. DOWNEY's is going to be chosen or Mr. HAWKINS'. With that in mind we have to support Mr. STENHOLM.

Anyone who says there is no regulation in H.R. 3 with respect to churches is foolish.

The regulations are there, they are going to be tough. Church day care centers are going to be put out of business because they are not going to conform to the rules of the Hawkins-Downey bill.

No. 2, the bureaucracy that H.R. 3 puts in place. What will happen to the cost of child care in this country in the years to come? We are spending $27 billion under Downey, we say we will need $100 billion.

Mr. DOWNEY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, it seems that every time I take the well of this House for speaking on something, it has to do with the religious issue that should not be a religious issue.

When the Grove City bill was on the floor, the people in my district and the State of North Carolina were being flooded and they were being told that if you vote for the Grove City bill that you are going to be forcing your churches to hire practicing homosexual drug addicts as youth pastors. They were told that Social Security recipients, if they give to their church, it would bring the churches under the jurisdiction of all the civil rights laws. They were being told that if veterans cashed their checks at a mom-and-pop grocery store, that this mom-and-pop grocery store would be brought under the jurisdiction of all the civil rights laws.

Now, it troubles me. We should be here talking about children. If you would permit me to be a bit personal, I have two grandchildren and I have a week-old grandchild that is over at the Children's Hospital fighting for his life today. We should not be talking about the religious aspect of it. We should be talking about what is going to be best for the children.

□ 1320

In all due respect to my dear friend, the gentleman from Texas [Mr. STENHOLM], I am not so sure if Members give tax credits that have absolutely no strings attached, they will use this money for child care. The same argument could be made for food stamps and for these other things for child support, including AFDC, that participants may not use the money for children.

I think we should do something that would be pinpointed for children. If Members would permit me to quote a bit of scripture, "Any that you have done it to, the least of these my brethren, you have done it unto me." It is time we worked to try to get a program for children to see they get a start.

The State of North Carolina's Head Start has been a great program. It is run in the churches. I would not support one thing that would prohibit Members having Head Start and child care centers in our churches, God forbid, and I am going to take the word of the leadership that we are going to go to the language of the Senate. If it is unconstitutional, let the courts strike it down. I would not vote for anything that would put extra regulations on people.

I checked with the regulations in North Carolina. There is only one regulation we would have to meet. We already meet all the rest of them under this bill. The only one we would have to pass would be to do a background check on people that work in day care centers. That is the only change we would have to make in the State of North Carolina.

I am for children, and in all due respect to the others. I am not sure it gets the money there. I am not sure I like all the parts of this bill, but I am going to take the word, if the leadership will give it to me, the assurance, that these conferees will go on the religious aspect to the Senate position. I will vote for it. If I do not get that assurance, I will not, because I feel that strongly about it.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

□ 1322

MESSAGE FROM THE SENATE

The SPEAKER pro tempore (Mrs. SCHROEDER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2978. To amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

The SPEAKER pro tempore. The Committee will resume it sitting.

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

The Committee resumed its sitting.

Mr. STENHOLM. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, it's being said all of us are for children. Yes we are. It's being said that all of us support child care centers. We do indeed.

The question before us today is not whether we are for children, but rather, are we for all the children regardless of where they receive their child care?

As one who has served 15 years in the House, as one who is a Democrat, and as one who is a member of the Democratic leadership serving as an elected zone whip for the States of Kentucky, Delaware, Maryland, Virginia, and West Virginia, naturally, I want to believe our House leadership. They urge us today to believe if we just pass the Downey-Hawkins approach to child care that when we get to conference we will correct this situation about child care provided by religious institutions being excluded in H.R. 3 from receiving Federal funds.

In fact, we are promised today that funds providing for child care provided by religious institutions will be an item on the conference agenda.

We are further told by House leadership that House conferees should and will move toward the Senate position on this issue. We can expect, according to House leadership, that this question will be resolved in a way that is acceptable to those of us who want to ensure the option of child care being provided by religions institutions for American parents.

Well, as one who comes from Kentucky where many of our child care centers across the Commonwealth are provided by religious institutions, I believe that this important issue will be taken up during conference. However, I ask, why wasn't this taken up earlier?

Why weren't provisions allowing Federal funds for child care by religious institutions included in H.R. 3?

Why didn't the Rules Committee address the issue?

Why is leadership saying to us today, defeat Stenholm-Shaw and your religious institutions will be taken care of during conference?

All across Kentucky and all across the Nation, the Catholic, Baptist, Church of Christ, Pentecostal, and Jewish communities, among others, are watching the House debate this matter, hoping that the House elects to do what the Senate earlier did when passing S. 5.

S. 5, the Act for Better Child Care, as passed overwhelmingly by that body, ensures maximum parental choice and the fullest participation of church-based child care providers permitted under the Constitution.

Specifically, S. 5 includes language that permits religious institutions to receive direct grants from States to establish child care facilities or to subsidize ABC eligible children.

Yes, the Senate bill takes care of our religious institutions who have child care facilities just as our House bill should.

The fact of the matter, however, is that H.R. 3, the child care bill, as currently written, specifically includes restrictions on religious child care providers—a significant source of child care, especially in the Commonwealth of Kentucky.

Simply put H.R. 3 specifically prohibits child care funds to be used for sectarian or religious child care.

I trust each of my colleagues would look at the bill before us today and look at, specifically, chapter 2 establishing the Early Childhood Development and School-Related Child Care Program.

Chapter 2 of H.R. 3, section 8004, states:

No provider of a program receiving assistance under this title shall engage in any sec-

tarian activity, including sectarian workship and instruction, in such program.

In other words, if you have a Baptist or a Catholic or a Pentecostal child care center out there, if you are the recipient of Federal funds, you better not have a prayer or read the Bible while the children are there or you will lose your Federal funds.

I urge my colleagues to look at chapter 3 of H.R. 3, establishing the Child Care Services for Infants, Toddlers, and Young Children Program, section 658J, page 210, and I quote:

No child care provider receiving financial assistance under this subchapter shall engage in any sectarian activity, including sectarian worship and instruction, in the program for which such assistance is received.

The vote before us today is not on a motion to instruct our conferees but on H.R. 3 as currently written.

To meet this issue head on, I would tell my Democrat and Republican colleagues to vote today to correct this matter by voting for the Stenholm-Shaw amendment.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in opposition to the Stenholm amendment and in support of the basic bill.

Mr. Chairman, I rise today in strong support of the child care provisions contained within the Omnibus Budget Reconciliation Act. This legislation represents a ray of hope in the struggle to fulfill America's need for better child care and it must not be overshadowed. It is an opportunity to correct our past neglect. If we miss this chance today, we will have failed to provide not only for the well-being of our children, but for the future of our Nation. We will have lost the means to implement a range of national laws and policies which we embraced as recently as the last Congress.

It has been 20 years since any legislation has held this magnitude of hope and promise for children. Rapidly occurring changes in our society have now brought the lack of affordable, quality child care to the level of a national crisis. We can no longer deny that the escalating costs of raising healthy and literate children have taken their toll. By 1995, four out of five school-age children will have working mothers. While for some this is an elected choice, for many others it is an economic necessity. One quarter of our working mothers in this country are the sole supporters of their children. Thankfully, however, the child care provisions reported by the Committee on Education and Labor and the Committee on Ways and Means offer a real solution. Combining the essential ingredients necessary to produce a successful program, the Hawkins-Downey provisions address the most crucial child care needs of our Nation's parents: affordability, safety, availability, and quality.

Mr. Chairman, it is crucial that we address each of these issues while we have the chance. To do less would be a hoax. Yet we stand here today and simultaneously declare the urgent need for child care while considering amendments that would dismantle the most important provisions of child care contained within H.R. 3299.

Mr. Chairman, we must be careful. The amendment offered today by my colleague, Mr. STENHOLM, is woefully inadequate. Although it is being portrayed as an alternative to the child care provisions crafted by the Committee on Education and Labor and the Committee on Ways and Means it doesn't come close to meeting current child care needs. The adoption of the Stenholm amendment would eliminate the minimal training standards which would ensure that our children are being cared for by professionals in a safe environment. It would eliminate the provision which would allow parents to drop by and determine first hand the type of care their children are receiving. And it would fail to ensure an increase in the supply of child care, which after all is what the child care issue is supposed to address. In a nutshell, Mr. Chairman, this amendment would fail to meet the most basic needs of American families.

If we vote today to accept either of the alternatives and not the provisions offered by the Committee on Ways and Means and the Committee on Education and Labor we will have demonstrated our inability to understand the lesson which has been taught to us many times. Providing funding without guidelines to ensure that it is spent in the intended manner is a certain way to fail in obtaining the purpose of public policy. Good intentions are not enough—we must make the law effective and workable.

Mr. Chairman, I specifically urge my colleagues to oppose the Stenholm amendment. Over 150 major organizations—including most of the Nation's major labor, education, children's, and religious affiliated groups—have seen fit to support the provisions within the reconciliation package. We should too. After all, the primary assistance that the Stenholm amendment provides is the earned income tax credit [EITC]. But this is only one facet of the child care program and is insufficient by itself to achieve the stated objective.

For those families with an annual income below $7,000, the EITC would provide an additional $630 a year for child care. For those families who earn between $8,000 to $10,000 annually the EITC provides $645 a year; and for families who earn $15,000 a year there will be an additional $412. This is appropriate and important progress, Mr. Chairman, but it amounts to less than $12 a week. By itself, this is certainly not enough to spark the flood of new child care providers that are necessary to fill in the current gap. When the cost of child care can run between $3,000 to $4,000 a year these few extra dollars a week won't cut it. It's like throwing a stick to a drowning person. It won't hold your head above water.

Also, unlike the committee version of the EITC, what support the Stenholm amendment does provide it manages to take back through other assistance programs. While the Downey tax credit provisions are careful to protect those most in need, Mr. STENHOLM is not so considerate. His amendment, in fact, specifically repeals a current law which would exempt child care tax credits from being counted as income under the aid to families with dependent children [AFDC] eligibility formula. Medicaid benefits and rental assistance for Federal housing would also feel the bite of the Stenholm amendment since their eligibility formulas are similar to AFDC's. H.R. 3299, on the other hand, assures that these Federal or other State or local means-tested programs will be left unaffected by child care assistance and existing exemptions are expanded so that they don't work at cross purposes.

Mr. Chairman, we have already failed during the 101st session to provide for almost half of those who are eligible to receive WIC funding. We have already in this measure been wasteful and overly generous with the capital gains policy change. President Bush vetoed the minimum wage law capable of providing the working class poor in this country the opportunity to raise themselves above the poverty level and we failed to override his veto. And just yesterday we failed to protect the most rapidly growing sector of our society from unforeseen illness when this House recommended full repeal of the Catastrophic Health Care Act.

Mr. Chairman, this is not a record of solutions, it is a record of avoiding problems and indifference. But today we have a chance to start anew. We can and must address the needs of families. Millions of Americans need our assistance and not our indifference to their everyday concerns and dreams. Not since the early 1970's has Congress been this close to enacting serious, comprehensive child care legislation. The tireless efforts of the grassroots groups who brought us to this point cannot go unattended—American children should not continue to be inadequately cared for. Today, let's make the most of this opportunity and support the child care provisions of H.R. 3299. Vote against the Stenholm and Edwards amendments and ensure that child care is made not only affordable and available, but that it is provided by qualified personnel in a safe environment. This is essential if we are to realize a renewed commitment to the American family. We must keep this ray of hope alive for children today and tomorrow.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise in opposition to the Stenholm-Shaw substitute, and in favor of the comprehensive approach taken by the Downey-Hawkins reconciliation bill.

With speculation and opinion having run rampant on the question, I thought I would take a few moments to provide facts that would shed illumination.

First of all, I repeat, this bill does not, does not mandate a standard. Instead, it sets forth 8 years where States must develop their own standards. No State will lose funds if they set in place their own standards within 4 years of enactment of the reconciliation provisions.

Members can decide for themselves which areas of the Frankenstein-like creation the Stenholm proponents have tried to portray.

Is it unreasonable to ask that States develop their own standards on group

size limits for infant care? Most Members can recall from their own experience how difficult it is to take care of 1 child, let alone 8, 10, 12, 15. However, the Stenholm plan does not think it is necessary to ask States to give them the incentive to set standards on group size. That is despite horrifying incidents which have occurred in a facility, for example, in Waukegan, IL, in which they discovered 47 children, 32 of which were under the age of 2, being taken care of by 1 adult, in a basement, with no exit.

Is it reasonable to ask States to develop their own standards concerning health and first-aid training? Do you not believe most parents want assurances, they want assurances that if their child gets a cut, that the provider knows what to do? Or is it unreasonable for States to develop their own standards regarding immunization? Should not the parents have the assurances that all children in a facility are immunized against polio, tuberculosis, rubella, diphtheria?

We do know that the Stenholm proponents think it is unreasonable to have States develop their own handwashing standards.

□ 1330

But they leave out one key point. We are talking about handwashing after diapering, which is already required, I might add, in 43 States. Ironically, those who ridicule this are the same ones who denigrate child care centers as incubators for infectious disease. Yet handwashing after diapering is an extremely effective means of preventing infectious disease.

Is it unreasonable to have States develop their own standards allowing unlimited parental access to their children in a facility? Without such standards, on one hand, there is no assurance of quality care in the Stenholm proposal, and then, on the other hand, they have no means of access to that day care facility if the States do not set up such standards. In fact, I think these are all highly reasonable. Yet the Stenholm proponents are willing to spend $17 billion without any concern for the quality of care, and from their objections to State-developed standards, one would think that this was an unusual and novel idea for the Federal Government to set program standards.

It is hardly novel. We have enacted standards for the Clean Air Act, the Clean Water Act, education for the handicapped, school lunch programs, workplace safety, Medicaid, AFDC, highway safety, and even meat inspection. Why? Because we think these goals are worthy, worthy enough to warrant at least our minimum attention.

Mr. Chairman, I think the Stenholm proposal is a laissez faire child care approach, and the American people reject that. We are told that 85 percent say they support the standards.

The CHAIRMAN. The time of the gentlewoman from Maine [Ms. SNOWE] has expired.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, recognizing the fact that the standards the gentlewoman from Maine was referring to were in violation of Illinois standards, putting in another layer of standards would not have altered that at all. I would also like to point out that my good friend, the gentleman from North Carolina, who quoted very eloquently from the Scriptures, pointed out that this type of thing would have been outlawed in the day care centers should the Hawkins-Downey provision be passed.

Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, I think there is some confusion over the position of the National Governors' Association. If I may, I would like to take just a moment to clarify what the Governors have said concerning the position of NGA.

On October 1, both the gentleman from Florida, Mr. CLAY SHAW, and the gentleman from Texas, Mr. CHARLIE STENHOLM, received a letter from Raymond Scheppach, who is the Executive Director of the National Governors' Association, and he pointed out in his words, referring to the Stenholm-Shaw bill, that "Only your bill is consistent with the Governors' child care policy * * *."

Now, yesterday a bit of confusion was introduced by Governor Bill Clinton of Arkansas when he wrote to Chairman HAWKINS and he said:

It is my understanding that the NGA, whenever asked, always answers a question on whether a bill is or is not consistent with NGA policy.

That statement is being used today to say that the NGA letter really does not mean anything, that they did not really take a position in favor of Stenholm-Shaw. They did. Governor Clinton is mistaken.

In a followup letter, Mr. Scheppach has gone on to say this:

Yesterday NGA sent a letter to the Members of the House of Representatives indicating that the bipartisan Stenholm-Shaw child care proposal is most consistent with the Governor's policy on child care.

Then he goes on to say:

We have tried for the past year to work with Chairman HAWKINS, and despite the Governors' effort to work with Representative HAWKINS, his bill, H.R. 3, still contains the following mandates, as a condition of funding.

Then he lists them and says they are unacceptable. He points out that NGA only supports the Stenholm-Shaw amendment.

The letters referred to follow:

NATIONAL GOVERNORS' ASSOCIATION
Washington, DC, October 3, 1989.

Hon. E. CLAY SHAW,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE SHAW: As the House moves to floor consideration of child care legislation, I would like to provide you with the position of the nation's Governors.

The Governors' policy on child care calls for a balanced approach between a flexible grant program and a tax credit in order to address comprehensively the issues of supply, quality and affordability.

In the past few years, Governors have undertaken many new initiatives to address the growing child care needs in the states. Not only have states increased their financial investment in child care programs but they have also strengthened training requirements and procedures for licensing and enforcement to help ensure quality of care. A national child care policy must recognize and build on existing state efforts.

Therefore, the Governors are opposed to mandates which reduce states' flexibility to target scarce resources in the most cost-effective ways.

Only your bill is consistent with the Governors' child care policy because it provides for a grant program that allows states the flexibility to tailor programs to meet their individual needs.

Sincerely,

RAYMOND C. SCHEPPACH.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock AR, October 4, 1989.

HON. AUGUSTUS HAWKINS,
House of Representatives, Rayburn House Building, Washington, DC.

DEAR GUS: I am pleased we had the opportunity to speak last evening so that I might clarify my position in regard to the child care legislation pending before the House at this time.

I negotiated with Senator Dodd in good faith on the Act for Better Child Care (S. 5) and personally continue to support it as passed because of its balanced approach between a flexible grant program and a tax credit. I appreciate your statement of last evening indicating that if your bill moves forward to conference, you will work to reconcile the differences between your bill and ABC with regard to training and inspection requirements. These requirements are my only concern in your bill and the additions to be submitted by Representative Downey.

Neither I nor to my knowledge any other Democratic governor authorized the version of the National Governors' Association letter to Representatives Stenholm and Shaw stating their bill is the "only" bill before the House consistent with the NGA policy. Our organization sent a letter to Senator Dodd signed by four governors on June 12, 1989, stating our active support of the agreement reached on ABC which later passed the Senate. As I stated above, I continue to support that bill and its components.

It is my understanding that the NGA whenever asked always answers a question on whether a bill is or is not consistent with NGA policy. Ray Scheppach, Executive Director of NGA, said he felt bound by this policy to write a response to Representatives Stenholm's and Shaw's inquiry about whether their bill was consistent with NGA policy.

I repeat, neither I as the Democratic co-lead governor on child care nor any other

Democratic governor approved the language in the NGA letter saying the Stenholm/Shaw bill was the "only" bill consistent with NGA policy. I personally prefer the Senate ABC bill and will gladly support H.R. 3 if its provisions on training and inspection requirements for the states can be made consistent with the Senate bill.

Sincerely,

BILL CLINTON.

NATIONAL GOVERNORS' ASSOCIATION,
Washington, DC, October 4, 1989.

To All Governors:

Yesterday, NGA sent a letter to members of the House of Representatives indicating that the bipartisan Stenholm/Shaw child care proposal is most consistent with the Governors' policy on child care.

The Stenholm (R-TX)/Shaw (R-FL) child care proposal: Includes an increase of new funds in Title XX to be earmarked for child care of $200 million in FY 90, $350 million in FY 91 and $400 million per year thereafter (same funding amounts as in the Downey child care proposal). The proposal does not contain any federal mandates and permits maximum state flexibility. The proposal includes an authorization to increase the Head Start program by $300 million per year through FY 94. It would also expand the Earned Income Tax Credit and adjust the credit for family size. (In essence, the Stenholm/Shaw proposal is just like the Downey/Miller proposal but contains no state mandates.)

For the past year the lead Governors on child care, at the direction of the NGA Executive Committee, have lobbied for a child care bill with a grant program with no federal mandates and a tax credit to help low-income families. Despite the Governors' efforts to work with Rep. Hawkins, his bill H.R. 3 still contains the following mandates, as a condition of funding:

States would be required to provide 15 hours of training annually to all child care workers who work in facilities receiving public funds. This training mandate extends even to family care providers; does not allow a child care worker's credentials, such as a college degree in childhood development, to count towards the training requirement; and does not allow states to set different requirements according to the staff position of the worker as most states currently do.

States must inspect 25 percent of all registered family day care providers annually.

States are required to spend part of their allocation to support funding of local councils which are required to be established in each political subdivision of the state. States must provide funds, administrative services and personnel, to these councils. The bill does not limit the amount of a state's funds that can be spent to support these councils.

States must spend their funds to meet extensive data collection requirements such as reporting the salary for every child care worker in the state.

States will only have 2 percent of their funds for administration of the child care program.

For further information, contact Wendy Adler, NGA, at (202) 624-7819.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director.

Mr. DOWNEY. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. HAWKINS. Mr. Chairman, I also yield 1½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 3 minutes.

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. Mr. Chairman, I rise in strong opposition to the Stenholm amendment and in full support of the child care package offered by the gentleman from New York [Mr. DOWNEY] and the gentleman from California [Mr. HAWKINS].

Mr. Chairman, I am here today because I support the child care package included in the House reconciliation bill—and I urge the House to adopt it without any weakening amendments.

The child care package is vital to our States and our schools as they attempt to deliver their commitment to better educate our Nation's children. H.R. 3 will offer low-income families direct child care assistance to help them choose and pay for decent child care, and will help assure parents at all income levels that their children are well cared for and safe.

The child care provisions, and no other substitutes, offer parents a full range of choices in day care providers while ensuring that quality day care is available to the broadest number of children. What our bill does is to provide States and communities with the flexibility and the resources to build upon and improve existing child care services.

A great concern of mine surrounds the sometimes confusing question of church-state issues. Religious institutions provide over 30 percent of this Nation's child care.

Contrary to popular belief, H.R. 3 does not preclude religious institutions from providing sectarian instruction.

As long as churches comply with current law, they can provide child care. Government funding of education programs under section 654 of the Head Start Act does in fact preclude religious education in Head Start Programs, but this regulation does not apply to child care programs.

Mr. Speaker, voting for the Stenholm amendment would not change current law.

The availability of affordable, safe, quality child care should be all of our concerns and H.R. 3 would help break the cycle of poverty and increase the opportunity for economic self-sufficiency for all children.

I urge my colleagues to support H.R. 3 without any weakening amendments.

Mr. TRAFICANT. Mr. Chairman, I rise in strong opposition to the Stenholm amendment and in full support of the child care package offered by the gentleman from New York [Mr. DOWNEY] and the gentleman from California [Mr. HAWKINS].

I oppose the Stenholm-Shaw amendment. Although I have heard a lot of discussions relative to the merits of individuals and their intentions, I think we are all very concerned about child care. I think the real tragedy today, though, is that we are dealing with this important issue as a reconciliation bill and as part of a tax bill.

I think this matter is so important for America, as is a national health care program that is so desperately needed and as is long-term nursing care, which we must address, that it has enough merit to be brought to this floor freestanding for debate and scrutiny in all areas.

I support the chairman of the committee, the gentleman from California [Mr. HAWKINS], and the gentleman from New York [Mr. DOWNEY] for one reason. I keep hearing through the debate that we have got to get Government out of education, and I hear that we have got to get Government out of the home and we have got to get Government out of the kitchen. I remember when we got Government out of banking. We have now bailed out the savings and loan people, and they say it will be one-half of a trillion dollars before it is over. Now the banks want some help, too.

What if we do get Government out of education? The truth of the matter is that America would rebel and march against Congress. One of the foundation programs we have in America has been Head Start. Chairman HAWKINS deserves a lot of credit for that. He has stood there and helped to maintain that program, and if it were not for a targeted program to children, there would not be any.

What good is a tax credit if you do not have much disposable income to start with?

And the second point is, how do we know it is going to be used for child care? It must be targeted. I do not like having to vote on this in a tax bill.

In closing, let me remind the Members that they say by 1991 the interest payment on the national debt will be $180 billion. In addition to that, no one is mentioning that there will be $120 billion that we owe in interest payments to trust funds. That is $300 billion, more than we are spending for defense.

Nowhere in this bill do we deal with foreign investments and adjustments that should be made to those. Nowhere in this bill do we deal with section 954. Our American companies are moving overseas, escaping the Tax Code, taking advantage of loopholes, and taking our jobs. That would raise one-half of a billion dollars right there, and it would address section 954 on foreign-based income.

So I am going to support Chairman HAWKINS and the gentleman from New York [Mr. DOWNEY]. I commend them for their efforts. But we are fooling ourselves here because this is not the place to really be dealing with this important measure. I think the alternatives offered by the gentleman from Texas [Mr. STENHOLM] and the gentle-

man from Florida [Mr. SHAW] may work at some point, but I think at this point they are idealistic in a very realistic, rough world in America. These programs supported by Chairman HAWKINS are more realistic.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, we all want to be effective Members of Congress, but in order to be an effective Member of Congress, we must learn how to dream. We must have a vision of what we would like to see the future of this country be like—a country at peace, a country that is strong enough to defend itself, a country that can produce enough food and fiber of its people, a country that has a strong belief in its God, and a country that is willing to give of itself to help those other people who are not as fortunate, to help its senior citizens, its families, and its children.

Lyndon Johnson had such a vision of this country when he worked so hard to create the Head Start Program. But I do not think he had any idea at that time that this country would be facing the problems we are facing today. In this country today we have over 14 million children who are poor, we have almost 10 million children who have no regular source of medical treatment or medical care, we have approximately 20 million children who have never been to a dentist, and we have each year 550,000 teenagers who are becoming mothers. We have children who are having children.

Every day there are 30 teenage girls who give birth to their third child. This is a tremendous problem that we must deal with.

□ 1340

Mr. Chairman, I heard this week in committee of a young teenage girl who was left with the dilemma of what to do with her child. She wanted to attend vocational school, but she had no place to take her child, nobody to care for that child. So, instead she chose to tie that child up with a ribbon for 2 hours every day while she attended vocational school. Today she is in custody for child abuse.

How fortunate we are today to be addressing the problem so that we can help some of those mothers that are struggling to become productive citizens.

Mr. Chairman, probably the strongest item in the Stenholm-Shaw proposal is that it does more in the Head Start Program. Today we are only addressing 20 percent of those poor kids. But in the Stenholm-Shaw proposal, it expands that. There is no question about it, that it gives more money than the Downey-Hawkins proposal.

Mr. Chairman, I encourage each one of my colleagues to vote for the Stenholm-Shaw proposal. Vote for our future. We must realize that these children are our future. They will sit where we are sitting. They will run our cities, our States and our Nation. They will take over our churches, our schools and our universities.

So, Mr. Chairman, any investment that we make in our young people, we are making an investment for that vision of America that we all dream about, and I encourage each one of my colleagues to support the Stenholm-Shaw proposal.

Mr. DOWNEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FLAKE], my friend from Queens.

Mr. FLAKE. Mr. Chairman, one of the most interesting things I found in this debate today as a pastor who continues to pastor a church while I am in Congress, a church that provides day care, a church that provides a school; in hearing the argument it seems that once again we are trying to act as if what we do this day in H.R. 3 will destroy our most sacred institution.

Mr. Chairman, let me assure my colleagues that I could not stand on the floor of this House of Representatives and support any bill which would in any way endanger the survival of or the reality of the necessity of providing for religious nurture and development for our young people.

I believe this is a sound bill. I believe it is a good bill. I believe that the leadership here has made its statement, has given its support, has an understanding that we will do all in our power to make sure that those young children in those schools will be able to continue to participate as they have.

Let us not try to scare people by suggesting that this in any way will destroy the church. I have been a service provider for the last 14 years. It will not destroy the church. I have been an ordained clergyman since the age of 19. I assure my colleagues this will not destroy the church. I operate a church, and in most urban communities in America day care programs are operated in churches and in most southern regions of this country.

Mr. Chairman, we would not come into this House of Representatives and dare to do anything that would destroy those service providers. We need them, and I assure my colleagues this day that, as I stand before them, before God, before this Nation, that this bill makes sense. It makes sense for those of us who are religious, those of us who are a part of whatever other kind of amendments we may have to bring forth.

My colleagues, let us work together. Let us assure the American people that this is not an attack on religion. Let us separate religion from politics. Let us do the right thing for the people and for the children.

Mr. SHAW. Mr. Chairman, I yield 1½ minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank the gentleman from Florida [Mr. SHAW] for yielding this time to me.

Mr. Chairman, I stand here in support of the Stenholm amendment. I would like to address my remarks on the religious issue also.

Mr. Chairman, the issue today is not whether we are going to destroy the church or not. The issue is whether we are going to address child care in churches and synagogues. I happen to think that it is a good way of teaching children. Forty percent of America's day care centers are in churches or synagogues.

Mr. Chairman, the questions that I would like to ask are on three points:

If church and synagogue child care is so important to the Hawkins amendment, why is it not in there already? Why is the last minute are we hearing we are going to take care of this problem? If it is so important, why is it not there?

Second, why are some people respectfully for the Hawkins amendment? I respect them and do not doubt their intentions, but the fact is many people support the Hawkins proposal because it does exclude child care in church and synagogue. I understand that, but I say to my colleagues, "You can't have it both ways. You can't have those who are for it for one reason and those who are for it for another reason. You can't have it."

My colleagues, do not rely on conferees to solve this religious question. Vote for Stenholm.

Mr. HAWKINS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, there is a critical need for child care. There are 24 million children under the age of 13 who need care while their parents work. One out of four children in this country are alone for part of the day when their parents work. Parents work because they must work.

Mr. Chairman, I believe strongly, with all due respect to the gentleman from Texas [Mr. STENHOLM] that the Stenholm bill guts the child care package.

In my State alone 27,200 poor children would be served by the Hawkins-Downey bill versus 3,500 children under the Stenholm bill. That is the central issue.

Mr. Chairman, this is a comprehensive package by the gentleman from California [Mr. HAWKINS] and the gentleman from New York [Mr. DOWNEY]. It is not under the gentleman from Texas [Mr. STENHOLM].

However, Mr. Chairman, I want to address the church care child care issue. Being a Catholic, having been

educated in religious schools most of my adult life, I would not stand here and support this bill if I were not concerned, as the gentleman from Michigan [Mr. KILDEE] is, and others.

So, Mr. Chairman, I would like to engage in a colloquy with the gentleman from California [Mr. HAWKINS] on this important issue.

Is it true that under H.R. 3 parents may select child care services provided by churches and synagogues?

Mr. HAWKINS. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, yes, and may I say to the gentlewoman from Ohio [Ms. OAKAR] that is absolutely true.

Ms. OAKAR. And, Mr. Chairman, is it not true that the only restriction on child care services provided by churches and synagogues under H.R. 3 are the same ones already provided to Head Start programs?

Mr. HAWKINS. The gentlewoman from Ohio [Ms. OAKAR] is correct again. That is very true.

Ms. OAKAR. And, Mr. Chairman, is it true that Head Start programs which exist in many areas are run by churches and are found in church basements, including my own district?

Mr. HAWKINS. The gentlewoman from Ohio [Ms. OAKAR] is correct. That is true, and it will continue to be true.

Ms. OAKAR. Mr. Chairman, this issue has unfortunately confused some of our Members, and is it not also true that this issue will be further clarified in conference with the Senate?

Mr. HAWKINS. Yes. For the benefit of those who apparently do not read very well the English language, we will attempt to clarify it again.

Ms. OAKAR. Mr. Chairman, if there is need for further clarification, and I would certainly rather have the version that is in the portion on the Committee on Ways and Means and the Senate version that is two against one, the leadership has promised that the need for clarification will exist, and we will yield to the Senate version and the Committee on Ways and Means version. There is no reason. If my colleagues do not want to support child care, they do not support it, then they can vote for Stenholm. If my colleagues want to support child care, get on board and support Hawkins and Downey.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, some of our colleagues have suggested that Democrats who support Shaw-Stenholm are operating in a manner that is contrary to the Democratic policy. I have heard that the Children's Defense Fund lobbyists are accusing supporters of Stenholm-Shaw as being antifamily. I am outraged by those assertions. I would like to know why it is Democratic policy and how it helps needy children to create a new Federal child care program which will simply compete for limited resources with existing programs for children. Head Start has been on the books for 20 years, and yet today less than 20 percent of the eligible children receive that service.

□ 1350

I predict that 20 years from now we are going to be looking at a new child care program and Head Start and other children's programs still totally underfunded. That is the legacy of creating new programs when we do not even have the resources to take care of existing programs.

I think there is a better way. Stenholm-Shaw would target our resources to existing programs, like Head Start and title 20. I think that is consistent with democratic policy. I think that is profamily.

I would like to know why it is democratic policy and how does it help needy children to expand eligibility for Head Start to nonpoor families. Under existing law, only 10 percent of the participants in Head Start can come from nonpoor families. We now raise that to 50 percent, and the prospect is that families with incomes in excess of $20,000 may now be participating in Head Start, when we are not even serving the poorest children adequately with this program.

I think there is a better way. Stenholm-Shaw would keep our program targeted to the poor children of America. I think that is democratic policy, and I think that is profamily.

I would like to know why it is democratic policy and how it helps needy children to continue a tax break for child care for the wealthiest Americans, because the alternative today does not eliminate existing law which keeps the dependent care tax credits available to every single taxpayer, regardless of how high their income.

I think there is a better way. Stenholm-Shaw phases down that tax credit and phases it out entirely between $70,000 and $90,000 of income, and saves the Treasury $1 billion.

I think that is good democratic policy and I think that is profamily.

I think there has been enough garbage about the Stenholm-Shaw substitute.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STENHOLM. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. PENNY. Mr. Chairman, I think there has been enough garbage about the Stenholm substitute being contrary to democratic policy and being antifamily, because there is not just one way to help America's children. We all know that there are many ways that we can provide assistance to America's needy families, and today in so many ways I think the Stenholm-Shaw proposal represents the better way.

Mr. Chairman, the Stenholm/Shaw substitute is a balanced and workable compromise which brings together proposals which target the Head Start Program, school-based programs, and the expansion of the social services block grant in addition to an expansion of the earned income tax credit. There are several aspects of the Stenholm substitute which merit support:

First, the Hawkins-Downey plans unnecessarily change the structure of Head Start by allowing middle-income families to qualify for its services. Head Start is an excellent program that unfortunately does not come close to fully serving its eligible population.

When only 17 percent of low-income children are currently served, there is no sense in altering it by opening it up to other children. It was created with the intent of giving disadvantaged children a strong foundation to close the opportunity gap that poverty creates. The Stenholm substitute channels money to this needed program with the option of full-day care but does not expand the eligibility to families with higher incomes.

Second, States need money to assist them in assuring that adequate quality child care is available. However, parents and States are capable of making decisions about what is best for them and their children. The Stenholm substitute funds existing programs and maintains State flexibility by not imposing cumbersome Federal guidelines on child care centers and providers. Further, the Stenholm plan expands the earned income tax credit. It puts greater financial resources in the hands of low and medium-low income families. This makes parents better able to afford child care and maximizes the options they can choose. This plan also phases out the dependent care tax credit benefits for families with incomes between $70,000 and $90,000 dollars. Phasing out the DCTC for wealthy taxpayers would save an estimated $1 billion a year.

The Stenholm substitute is the practical and affordable option. It targets Head Start to the neediest families. It gives States choices and flexibility in providing child care and in regulating child care centers. It expands the EITC giving options directly to the working parents.

The Hawkins/Downey proposals represent a conglomeration of programs that create expectations which can't be met and remove options for families rather than broadening them. I urge support for the Stenholm substitute.

Mr. DOWNEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, there is an old saying that "immitation is the sincerest form of flattery," and I suppose that if the immitation of the gentleman from Texas [Mr. STENHOLM] of what the Ways and Means Committee bill was just the lifting of a one-liner, that we would not be so concerned about it, but it goes much more deeply than that. There are some very fundamen-

tal differences between what the gentleman from Texas [Mr. STENHOLM] and the gentleman from Florida [Mr. SHAW] have done and what the Ways and Means Committee has done, and I want to spend a few minutes in trying to explain those critical differences.

It is true that with respect to the tax credit, the gentleman from Texas [Mr. STENHOLM] has listed pretty much what the Ways and Means Committee did.

I see the gentleman from Wisconsin on the floor, who is one of the fathers of the earned income tax credit.

This is a wonderful opportunity for us to recognize that it is time for us to do something for the working poor, and we do that in the Stenholm proposal and in the Hawkins bill and in my bill. It is something that needs to be done, I think we can all agree to that.

But there is one critical difference between what the gentleman from Texas [Mr. STENHOLM] has done and we have done in Ways and Means. We had a proposal last year, you remember the welfare reform bill, that said we want to encourage work. We want to say to the mother who is attempting to work her way out of welfare that every additional hour that she spends at work, she will be able to keep that money, and if she became eligible for something like the earned income tax credit, it would be there for her.

Well, the amendment of the gentleman from Texas [Mr. STENHOLM] flies directly in the face of that. It says if that woman is working her way out of poverty, we are going to count the earned income tax credit against the meager AFDC benefits that she gets. That is the absolute wrong direction for us to go, and it is a very, very fundamental difference between what the gentleman from Texas [Mr. STENHOLM] has done and what we have done in Ways and Means. If we did not have any other differences, that would be reason enough to defeat it.

Now, let me talk about this question of flexibility versus accountability. I do not think there is anybody here who believes that we should have kibbutizum type of regulations, where we attempt to socialize the whole world. I know my Republican friends are not that, and neither are my Democratic friends.

And on the other end of the spectrum, I do not think there is anybody here who believes that the marketplace alone should be allowed to govern regulation. We do not return to, as the gentleman from West Virginia said, Charles Dickens' like care for children, but there is something in between the spectrum of the kibbutizum and Charles Dickens', and that is what the Ways and Means Committee has attempted to do, and in fact does. It provides flexibility to the States. It does not create additional programs and it provides accountability.

Now, the numbers, and they are moving targets, I would say, for all of us in terms of who is actually on child care, but let me try if I can for a moment, explain who is getting what. The latest and best reports, as far as we can determine, from the Census' current population report in a particular book called, "Who Is Minding The Kids—The Winter of 1984-85," and they try to take a look at who is where in child care. They said basically that for child care for employed mothers, there were approximately 2.3 million, about 31 percent, of the children cared for in the child's home, primarily by the relative. We do not want to touch that. I think we all understand that the government should not intrude into the home, and it is specifically stated in the Ways and Means provision that not be touched.

So what are we talking about? Well, we are talking about the other categories; 3 million children, or 37 percent were cared for in another home primarily by a nonrelative. There we have, in our opinion, a State interest. Another 1.8 million, 23 percent or about one-quarter, were in some sort of congregate group care. There I believe we have a further interest.

Now, what is this further interest? Well, we list it for those of you who would like to see the committee report on page 33 of the Ways and Means Committee report. We outline, not what the States must do, although there are some things that the States must do, but what we think the States should do—should do. I do not think there is any disagreement, is there, about the fact that we want to know how many infants are being cared for by one person. I do not think that is unreasonable, and the vast majority of the States have that regulation already.

Are we concerned, as we of course should be, about the age of the person who is providing care? Of course, we are. Of course we are not going to say that health and safety standards should be compromised for our children. The vast majority of the States already have that, but we want to make sure that those that do not, do.

The CHAIRMAN pro tempore (Mr. CLEMENT). The time of the gentleman from New York [Mr. DOWNEY] has expired.

Mr. DOWNEY. Mr. Chairman, I yield myself 2 additional minutes.

We do not want to take any chances with our children.

Now, let me deal with one other very important point. In the attempt of the gentleman from Texas [Mr. STENHOLM] to be flexible, what he has done is that he has given up not only the question of accountability, but the requirement that is in the Ways and Means proposal that 80 percent of the money be used for the creation of day care slots, 80 percent of it. The other 20 percent probably will be used for training, administration, enforcement, and standards.

Now, there is nothing to stop a State from using 80 percent on training, enforcement, and standards, if they so choose, or on administration.

Now, as a practical matter, they probably will not do that, but why run the risk? Why not say that we want to create child care for children, which is what the Ways and Means Committee bill does.

It is a good idea to use title 20. We avoid the issue of church-state, and it is our fervent hope that when we get to the conference that we will be able to prevail on the gentleman from California [Mr. HAWKINS] and some of our friends in the Senate to use the existing bureaucracy and to stay silent on this question of church-state. This is not a matter for us to deal with today. This is not important. The vast majority of the states already provide vouchers, and there are no problems.

What we have fashioned is a plan that will work, that will provide child care and will make a very big difference in terms of how we raise our children in the future.

The gentleman from Texas [Mr. STENHOLM] provides us the hope that the money may be spent, but not the guarantee. America's children, America's mothers, America's working poor deserve more than the hope that the money will be there. They deserve the reality that it will be.

□ 1400

Mr. SHAW. Mr. Chairman, I yield 30 seconds to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, I come from a whole different attitude than virtually everyone who has spoken.

I am the one you are talking about. I was the working mother, the single mother who had to find day care. I do not think a lot of you have ever had to do that.

I did not look at the bills of the Democratic leadership or my own leadership. I will admit selfishly that I said, "Which one of them would have helped me when I desperately needed all three kinds of day care just mentioned?" I did not know what the answer was going to be. But it was the bill of the gentleman from Florida [Mr. SHAW] and the gentleman from Texas [Mr. STENHOLM].

If the mothers matter, I hope the Members check that out.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. PETRI], an early advocate of the EITC.

Mr. PETRI. Mr. Chairman, I rise in support of the Stenholm-Shaw bipartisan substitute. I do for several reasons.

First, it clears out of the bill the ABC-type social engineering philosophy—the philosophy that says government officials, interest groups, and social engineers, rather than parents, should decide what type of child care should be favored for America's children.

Second, it retains, and makes more central to the bill, the earned income tax credit reform provisions reported by the Ways and Means Committee. As one who has worked for EITC reform for over 2 years now, I am pleased that both alternatives left before us contain this major step in the direction many of us have been advocating for so long. To be sure, we could have taken the same amount of money and the same basic credit structure, and targeted that money a little better toward the lowest end of the income scale. But let us not quibble too much. The fact is that these EITC provisions represent a decent compromise between my original Family Living Wage Act and the original bill introduced by our colleagues from New York and California, Mr. DOWNEY and Mr. MILLER. If they survive the conference with the other body, they will provide very substantial help to working poor families with children.

The Stenholm-Shaw bipartisan substitute, by clearing out the excess ABC baggage from the bill, makes EITC reform the clear centerpiece of the House position on child care. It thereby strengthens the case for EITC reform in the conference and makes it far more likely that this reform will become law.

Finally, I would like to stress that the bipartisan substitute makes one critical improvement in the Ways and Means EITC provisions. It reverses a terrible feature of the 100th Congress welfare reform law by providing that EITC amounts shall count as income for purposes of phasing out welfare benefits. It thereby strengthens a crucial feature of the EITC; namely, that it is designed to help people get off welfare and into the work force.

If we do not count EITC as income, we'll just increase welfare and give more people incentives to get on it. It is the exact reverse of the policy we ought to be following.

For many years, I have believed, along with many others, that we should require all able-bodied welfare recipients to work and then we should supplement their earnings from work if needed. To do otherwise is unfair to those who do work to support themselves and debilitating for those who do not. The welfare reform law took a step in this direction by allowing States to institute so-called work fare requirements, but only if welfare clients could make more working than they could receive on welfare. If we do not count EITC as income, we undermine that whole policy advance.

And there is no legitimate reason for it. EITC clearly is income—it amounts basically to a wage increase. It is ludicrous not to consider it as such. Moreover, we do count unemployment compensation, disability income, and a number of similar items as income for purposes of phasing out welfare. I cannot imagine why EITC dollars, which are just as green, and just as acceptable at the grocery, should be any different.

Therefore, I urge all my colleagues to vote for the Stenholm-Shaw bipartisan substitute—to rid the bill of the ABC social engineering philosophy, to make EITC reform the centerpiece of the House child care position, and to advance the cause of welfare reform by declaring EITC dollars to be, in fact, real dollars.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, today the parents of 836,521 children are waiting to see if their representatives will pass a bill that will create space for their children in local child care programs.

If my colleagues fail to retain the child care language now in the omnibus budget reconciliation H.R. 3299, then at best, only 80,000 of those children will be served. For the Stenholm substitute only allocates enough funds to serve 80,000 children nationwide. It will not ensure the parents of those children that they will be in safe, and healthy centers.

The reality today is that almost two-thirds of all mothers in the work force are single, divorced, separated, or have husbands who earn less than $15,000 a year. Of 21.7 million children in the United States under age 6, 10.5 million have mothers who work outside the home. We cannot ignore these numbers much longer.

These families deserve a good, effective, strong child care policy that provides a safe, healthy, and educationally challenging environment for their children. To pass a bill that does not authorize new funds for Head Start is not good enough. To pass a bill that does not ensure the safety of children in federally funded centers is not good enough. The language in reconciliation will create new options for moderate and lower income families by expanding some of the effective programs that already exist, and encouraging the development of new slots and new programs.

There are 836,521 reasons to vote "no" on the Stenholm substitute, and they are all under the age of 6.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I say to the gentlewoman from Colorado that the excellent child care and education she received in Texas did come without Federal mandates and Federal dollars, and that was proven.

Let me say also to the gentlewoman from Ohio who made the comments about the low-income children who are going to be denied if the Stenholm-Shaw amendment fails, the numbers that have been circulated all over is 800,000 low-income children will be denied.

It was very difficult for me to understand this when it went out. If we take the children defense fund's own estimates, the cost of child care is $3,000 per child per year. If there are 800,000 children of that age, at $3,000 per year, that is $2.4 billion in cost in the Hawkins bill alone. They provide for $1.775, which we make the argument we do also.

Where they come up with these numbers I do not know.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman and members of the committee, it was Yogi Berra who was blamed for using the expression, "It looks like deja vu all over again." For the gentleman from California [Mr. HAWKINS] and me, it is, because we went through and heard all of the arguments we have heard today on this floor in the spring of 1965 when we passed the Elementary and Secondary Act. It was the first time, after 50 years of trying that the Committee on Education and Labor, with the help of a President who was gung-ho to get something done about Federal aid to education, and people of good will in groups that could not get their act together before, ranging from the Catholic bishops to the civil rights groups and on across the spectrum, finally it came together, and we, in a spirit of compromise and without looking at everybody as if they were trying to do us in, came up with a program that has ever since then provided educational assistance to both public and nonpublic school children.

For 50 years before that, every attempt had fallen apart. Do we know why it fell apart? Because the arguments, like the arguments we are hearing here today about church-state, got in the way of common sense and shot that legislation down time after time after time.

During that same period of time, we were there to work with CARL PERKINS and others to put together something called Head Start.

It is interesting that everybody loves Head Start today. Everybody did not love Head Start when we passed it. As a matter of fact, there were a number of Southern States where not one public school would have a Head Start Program in it, because the Head Start

programs were identified with simultaneous events happening here in Washington to integrate public schools and if they had a Head Start Program, that might speed up integration. The result was that Head Start was started in many States exclusively in churches, not a little bit in churches, but the churches were the only ones who would have them.

The gentleman from California [Mr. HAWKINS], the chairman of our committee, was on that committee and there when we made it possible for them to do it.

What he is asking the Members to do is have enough faith to believe that the 25 years of his record means something and that, indeed, we have dealt fairly with people on the church-state issue. We have dealt reasonably and we have done something that is very important for some of the people beating their chests about what they want to do for the churches here. Some of the Members want to do so much for them, they are going to help them right into a Federal court and get a court order that says, "No nonpublic school or church-related school gets dollar one until we get through the Supreme Court 5 years from now."

We are not doing a thing for the church-related programs if we help them so much that we boost them into the Federal court. We should be supporting the gentleman from California [Mr. HAWKINS].

You should be ashamed of yourself if you do not appreciate his 25-year record on this subject.

H.R. 3, the Early Childhood Education and Development Act, I would like to explain briefly why we need this legislation and what it would do.

According to the U.S. Bureau of Labor Statistics, 57 percent of married mothers with children below the age of 6 worked outside the home in 1987, compared with 30 percent in 1970. In other words, traditional families with very young children have almost doubled their demand for child care services in less than two decades.

In Washtenaw County one in three children cannot be placed in an approved child care home or facility. In Michigan as a whole, about 44 percent of the children who need quality out-of-home care do not have access to it.

The reconciliation bill provisions for child care would authorize $1.75 billion to carry out a three-pronged delivery system of child care.

Twenty-five percent of the funds would expand the Head Start Program to offer full-day, full-year programs to children from low-income families.

Twenty-five percent of the funds would flow directly to public schools to help them establish or expand early childhood development programs and before and after school care.

Thirty-five percent of the funds would be made available to a variety of providers in States, including group homes, family day care, and institution-based providers, serving families with infants and young children.

The remaining 15 percent of the funds would be used by States for coordination activities, such as developing comprehensive resource and referral systems, identifying needs, and promoting training and enforcement of State standards.

In addition, a separate authorization of $25 million is included for a program aimed at encouraging businesses to respond to the child care crisis.

The reconciliation bill also contains two additional features. It will send $200 million to States through the title XX social services block grant earmarked specifically for child care. It will also lower taxes for families earning under $20,000 by expanding the earned income tax credit beginning in 1991.

The Senate passed its version of child care last June. I urge my colleagues in the House to follow suit by approving the reconciliation bill's child care proposals without delay.

□ 1410

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Stenholm-Shaw amendment.

Mr. Chairman, why should the Government discriminate against traditional families and religious child care providers? Why should the Government create a new, expensive bureaucracy to help solve the so-called crisis in child care? These would be the results if we pass H.R. 3 today.

I believe that the Government should not on either count. Our Government should not discriminate against families who want to care for their own children, and it should not create a new bureaucracy.

First, the language of H.R. 3 clearly discriminates against traditional families. The Family Research Council contends that the bill perpetuates the bias in Federal tax policy against these families by taxing them to pay for the almost $3 billion in grants and subsidies to day-care centers, from which traditional families receive no benefit.

Hawkins-Downey also continues the discrimination in the Tax Code by denying traditional families tax benefits available to day-care users.

Moreover, Hawkins-Downey blatantly discriminates against religious child care providers and those who use religious care. Concerned Women for America has pointed out that H.R. 3 would only allow religious providers to receive title XX funds if they operate under secular State regulations.

Churches currently provide one-third of the center-based care in the United States today. Hawkins-Downey would be blatantly antireligious in its result.

Second, we sure do not need another bureaucracy. Many of our Nation's problems in other areas have stemmed from too much Government interference. I have said many times, Mr. Chairman, that people know better how to spend their money than a bunch of bureaucrats in Washington.

The Joint Committee on Taxation estimates that H.R. 3 will cost at least $25 billion. With our current budget deficit and national debt, we simply cannot afford to create more red tape at such an exorbitant price.

Mr. Chairman, many people who claim that there is a child care crisis in this country never give any statistics to prove it. That is because Census Bureau data show that 54 percent of all U.S. children are cared for by a full-time mother at home.

The Family Research Council says that 11 percent of the children are cared for by a grandmother or other relative. Seven percent have parents who work different shifts and both care for the child. And 4 percent have mothers who care for their child while babysitting other children or otherwise working at home. That means that three-fourths of all children in this country are presently cared for by relatives.

Additionally, only 29 percent of all married mothers with preschool children are employed full-time year around.

Mr. Chairman, let me emphasize this next fact. Only 7 percent of all preschool children are primarily cared for by a secular day-care center. Hawkins-Downey would only be helping 7 percent of all the preschool children.

Therefore, the best solution to our child care crisis is a tax credit. A tax credit puts money back in the pockets of parents. It also avoids the church-state worries of both sides. A tax credit would give parents a choice in acquiring good child care from the provider they want for their child.

Let us keep the Government out of the child care business. Do not let the Government discriminate against parents or church-related providers. Let us give a tax credit to parents.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Chairman, the child care debate has not been over whether or not the Government should provide additional assistance, but rather over the extent of future Government involvement. Families in my district, indeed across the country, have made their sentiments on this issue clear. Quite simply, the Federal Government's role should be minimal and we should take a profamily, full-choice approach.

Any child care policy implemented by Government should not preclude parents from making "real" choices. Instead, such policy should afford parents the opportunity to select the kind of child care arrangement they believe is best. This includes church-based supervision, in-family, and paternal child care. It would also encourage private employers to provide child care benefits programs to assist parents while they are working.

These kinds of profamily, full-choice provisions are contained in my own child care bill, H.R. 2350 and, I am quite pleased that many of these ideas have been incorporated in the Stenholm-Shaw amendment.

This amendment is a bipartisan approach which does not promote programmatic or regulatory changes. Rather, it offers States an opportunity to decide how funds should be used to assist residents with their child care needs. The amendment also expands the earned income tax credit [EITC] to families so that they receive financial assistance for whatever their child care arrangements might be.

I heard my colleague, the gentleman from New York [Mr. FLAKE] say he was ordained at 19 and he is not worried about H.R. 3. Well, I got my law degree at 25, and I tell him, do not trust a conference committee or a bureaucrat to respect your wishes.

The Stenholm-Shaw amendment is not a perfect solution to solve the child care crisis. However, it's an acceptable alternative compared to H.R. 3, which fails to accommodate the variations in child care arrangements and blatantly prohibits awarding of funds to child care providers in religious settings. While the Constitution provides for the separation of church and state, in my view there is no way to construe it as precluding the provision of child care in religious settings.

Another primary problem with H.R. 3 is the option of institutional care. This measure promotes the misguided notion that parents who dedicate themselves to the care of young children in the home have some type of diminished social value. That's simply wrong.

Mr. Speaker, I urge my colleagues to join me in voting for the Stenholm-Shaw amendment. By doing so we will show our commitment to the continued growth and security of the American family.

Mr. DOWNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, I rise to speak against the gentleman from Texas, Mr. STENHOLM'S amendment. I do it with great respect for the work that he has done on this amendment, because I know that he has worked very hard to offer this amendment and to put something in front of the Members that he feels very strongly about.

I also know that there is a great deal of concern among members of the committee about the question of church-state, the question of whether churches and religious institutions can be involved in child care.

As I understand it today, in most States, churches are involved in child care. As I understand the Ways and Means Committee language, that would not be changed. Child care could still be delivered in religious institutions.

In my own church in St. Louis we have child care. I think that is a good thing. I do not think the Members want to change that in any way.

A lot of Members in the last few days have been asking me as a Member of the leadership on the Democratic side what our attitude would be when this bill gets to conference if this amendment is not gone along with, what our attitude would be about resolving these issues.

My feeling from listening to the debate today is that we should move toward the Senate language. I think the silence in the Ways and Means Committee version is useful because it would continue to allow religious institutions to have child care within their institutions.

There is the additional question that some have about whether or not vouchers, as some States have, would continue to be allowed, and whether or not they could be allowed in certain kinds of religious institutions.

Let me try to make this as clear as I can. The leadership on the Democratic side is committed to a conference report on this issue that deals with this question in a way that would be appropriate for the religious institutions that are now delivering child care. We do not want to be in a position, we do not want to be in a world, where you could not have our children in church basements, could not have our children in religious institutions, receiving child care.

We will be working toward that end if this amendment is refused and if this bill goes to conference, as I devoutly hope that it will.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. I thank my friend, the gentleman from Texas, for yielding time and rise in strong support of his compromise, the preferable of the two Federal child care endowments before us today.

Why? There is a very simple difference. The Stenholm-Shaw proposal rewards foresight; H.R. 3 rewards oversight.

Let us talk about something that we all have some experience with, and that is grandparents, elderly people.

Under the innovative Stenholm-Shaw approach we bring those people into the child care universe in greater numbers by allowing them to disregard their earnings against their Social Security earnings test.

Under H.R. 3 we do not enfranchise, we encumber. We say well, we like grandparents too, but you have to get licensed and you have to have 15 hours of annual training, for a grandparent, perhaps even to take care of their own grandchild.

We have heard a lot of talk today about how what we really need here, what we really are buying, is a comprehensive quality system. Like what? Our comprehensive quality educational system, K through 12, which the Governors last week at the educational conference said needs radical changes? Like our comprehensive quality health care system, which none of us seem to like.

The problem in this particular institution is when we get into these kinds of questions, we do not wind up doing quality, we wind up doing volume. That is why I support Stenholm-Shaw and encourage my colleagues to join in, because the money will go to the parents and not the providers, and church-based institutions will be allowed to deliver church-based child care. They will not have to take the crucifixes and the Stars of David off the wall and be nothing more than architectural shelters. That is the argument.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me. I want to indicate to my colleagues that grandparents are not all elderly people.

Mr. Chairman, I rise in strong support of the child care package included in H.R. 3299, the reconciliation bill. I believe that the provisions of H.R. 3, the Early Childhood Development and Education Act, as approved by the Committee on Education and Labor, and the Ways and Means Committee expansion of the earned income tax credit and title 20 funding complement each other, and differences will be worked out in the House/Senate conference. Several alternative proposals are before us today, but they should not substitute for the comprehensive provisions of the reconciliation bill.

The provisions of the reconciliation package address the most important elements of the current child care debate: The need to expand the accessibility and affordability of quality child care. National statistics clearly demonstrate this urgent need. According to the Children's Defense Fund, almost two-thirds of all mothers in the work force are single, widowed, divorced, separated, or have husbands who earn less than $15,000 per year.

Nationally, the average cost of child care is approximately $3,000 per child annually; infant care is significantly higher. Working parents with children rate child care as their fourth largest expense after food, housing, and taxes, according to the Committee on Education and Labor report on H.R. 3. Thus, the committee reports that more than half of family income is spent on child care in a family with two children in

which both parents earn the minimum wage.

There is a desperate shortage of licensed, affordable child care available. The Maryland Committee for Children estimates that for the 588,157 children under the age of 12 with working mothers in Maryland, there are only 89,539 spaces in licensed child care. The number of children who are currently receiving care from unlicensed providers is staggering.

The reconciliation child care provisions are clearly the best solution before us today. They represent the only truly comprehensive package which addresses the three major needs for low-income working parents: The lack of affordable, accessible quality child care.

The alternatives which are being considered today only partially address these objectives. The Stenholm substitute does not provide the direct child care assistance for approximately 800,000 infants, todders, and school-age children provided in the reconciliation provisions. Instead, the Stenholm amendment only provides the $200-million increase in title 20 funding, already included in the reconciliation bill. The Stenholm substitute does not address the issue of the quality of care, failing in any way to ensure the health and safety of children. In addition, the substitute does not increase the authorization for Head Start; it merely duplicates the bill approved by the House earlier this year. The package is clearly inadequate, despite the good intentions of its sponsors.

The reconciliation proposal is a comprehensive plan which includes a vital expansion of Head Start to provide full-time, full-year care, providing an additional $412 million to the $300 million it will receive under H.R. 1300, the House-passed supplemental Head Start authorization legislation. Head Start has a proven record of success and is an integral element to any Federal child care initiative. The National Head Start Association, the membership association representing the 1,900 Head Start programs, supports the provisions of the Education and Labor Committee expansion, and contends that it "represents a sound approach to providing high-quality, affordable and accessible child care for low-income and working families."

The package includes the provision of grants to States and local education agencies to establish before and after school care for school-age children and/or early child development programs for 3- or 4-year-olds in public schools. This program is an important one which is not included in the Stenholm substitute. By providing care in the schools, working parents would be assured that child care would be available to their children at one location for the entire day.

Most Americans agree that child care should provide more than just babysitting, but should also meet educational needs as well. The school-based care provisions include both social and educational components. Early education has been widely recognized as an increasingly important need for preschoolers, and approximately 3,000 of the Nation's 15,000 school districts now provide early education programs. The Hawkins provisions would provide this opportunity to all school districts.

During hearings before the Education and Labor Committee, Dr. Edward Zigler, the director of the Bush Center at Yale University and child development expert, testified that no comprehensive child care policy can be developed without including the schools. He asserted:

> The fact is, the problem has reached such crisis proportions that we cannot continue to address it in a band-aid manner. Rather, we must begin to establish a child care system that is reliable, accessible to all children, and becomes part of the very structure of society. The school, which is a major societal institution with which parents and children are familiar, can provide us with the structure for creating such a child care system, enabling us to offer good quality care to all children.

In a recent publication, the Child Care Action Campaign asserted that the schools "appear to be [the] obvious choice, as an agency that could add to the supply of care. Every community has a public school. They are a known institution. Their structure and administration is well developed * * *." While not every school will want to offer child care, and many parents will want to have their children cared for in different settings, schools should be part of any comprehensive plan. As the committee report asserts, the availability and access of the schools, and the affordability of their use are some major reasons to include a separate program of child care and childhood development programs in the schools.

The package is strongly supported by education organizations, including the National Association of Elementary School Principals, the National PTA, the National School Boards Association, the American Association of School Administrators, the National Education Association, the American Federation of Teachers, and the Council of Chief State School Officers.

Title 3 of the Education and Labor Committee provisions allocates 35 percent of the funding for grants to States for child care services for children under age 13 from low-income families where the parents work or are in training. Eligible providers may include, but are not limited to, school-based providers, family child care providers, religiously affiliated providers, nonprofit and for-profit providers, group home care providers, business, and universities.

Parental choice would be a priority. Parents would choose the care which they deemed appropriate for their children, and the assistance provided would be no lower than the market rate of care for the area in which the family resides. Thus, low-income parents would be able to compete with parents who can afford to pay the full cost of care. Parental representation would be required on the local child development council, the National Advisory Committee on Model Standards, and the State licensing committee.

The bill would establish a National Advisory Committee to develop model Federal child care standards, with separate standards for center-based child care, family child care services, and group home child care services. Three years after enactment, States would be required to adopt minimum standards in all categories specified in the model standards. Thus, the bill would give States the flexibility to determine their own standards, while also ensuring better quality child care. It is important to stress the fact that the States will not be required to implement the Federal model standards—they are suggested guidelines for the States, not mandates.

Data clearly demonstrates the need for quality assurance by the States. According to the Children's Defense Fund, 28 States do not require training in child development or any prior experience for family day care providers. Eight States do not require handwashing before or after diapering, and before food preparation, even though it is one of the best methods to prevent infection and certainly one of the least costly.

Thirteen States require no immunizations for infants in family day care homes, and six States have no required immunizations for infants in child care. Thirty States do not require unlimited parental access to child care centers. This is a very brief list of the gaps in quality assurance among the States. These standards are very basic ones, and certainly represent some of the bare minimum requirements for the health and safety of infants and children. Funding would be provided to help providers meet any new standards required in their respective States.

I am pleased to submit for the record a letter of support from Maryland Governor William Donald Schaefer in support of the reconciliation bill language, which I include at the end of my statement.

The bill allocates 15 percent for State grants to increase the availability of quality child care. States would develop a 4-year plan to improve the supply of such care, including funding for the training of child care provid-

ers, resource and referral activities, licensing activities, and salaries for child care providers. Funding could also be used to provide low-interest loans to family and nonprofit child care providers for renovations and improvements.

It also provides $25 million for a program of matching grants to businesses to provide child care for their employees and families in the community, if possible.

The issue of the separation of church and State is addressed in the bill in a way intended to avoid future court challenges which could delay the rapid implementation of the program. The reconciliation bill provisions link child care with education, and thus prohibit Federal funding from being used by providers engaged in religious or discriminatory practices. Certainly, no one will deny the importance of the child care services provided by our religious institutions. However, federally subsidized programs must meet constitutional requirements and comply with nondiscrimination statutes. Programs such as Head Start already are subject to such standards. The provisions of the new and expanded program would simply be subject to these same protections.

As a result, churches could provide child care services and receive Federal assistance as long as they refrained from religious teaching in the program and did not discriminate in enrollment and hiring decisions. Many Head Start programs operate in churches; there is no reason why child care services could not also be provided in or by churches. Nevertheless, this issue will be a subject of debate in conference, when the participation of religiously provided child care programs is ultimately clarified.

Mr. Chairman, I believe that the reconciliation provisions are the best possible legislation at this time. Our primary objective must be to assist low-income working parents, in providing not only financial assistance, but also expanded accessibility to quality care. This bill successfully achieves this goal, while also maintaining flexibility for parents and the States. I urge my colleagues to join me in supporting the child care proposals included in reconciliation, and in opposing any amendments to the bill.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Washington, DC, October 2, 1989.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, 2181 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in support of the child care provisions contained in the pending House Budget Reconciliation bill, H.R. 3299. While I know some of the details of the legislation still need to be worked out, I strongly support the provisions in the bill designed to guarantee quality in child care.

As you know, the lack of safe and affordable child care is a national crisis. That is why I testified in January before the U.S. Senate Subcommittee on Children and Families in support of the Act for Better Child Care, the ABC bill. The bill is an ideal complement to my child care initiatives in Maryland because it gives States the resources we need to expand child care services, while at the same time, ensuring that the child care provided is of the highest quality.

Mr. Chairman, thank you for your strong leadership on this important issue. I urge you to keep working hard to make sure that any Federal child care legislation contains quality assurance provisions.

Sincerely,

WILLIAM DONALD SCHAEFER,
Governor.

□ 1420

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT], who has been an advocate of child care.

Mr. BARTLETT. Mr. Chairman, as the debate draws to its close, I think we each need to examine the facts and examine what we know about the bill before us entitled H.R. 3.

First we know that H.R. 3, the child care bill, passed by the Committee on Education and Labor, could not stand on its own on the House floor and has not been brought to the House floor. It has been brought to the House floor only in a nonamendable way as part of reconciliation.

We know the only way to vote against the ABC bill, H.R. 3—we know that the House is not provided with a direct way to vote against H.R. 3. The only way to vote to delete H.R. 3 is to vote for the Stenholm-Shaw substitute. We know Mr. STENHOLM and Mr. SHAW offer child care in the right way. They accept the basics of the Downey provision on the earned income tax credit. They add funding flexibility for Head Start, and they expand title 20 on the State block grants.

We know that there is a lot wrong with the ABC bill. We know there are reasons why H.R. 3 could not come to the House floor.

The reasons are, first of all, they are mandates. We know there are 182 separate mandates in H.R. 3. I provided the House with a list of these mandates that will be read into the CONGRESSIONAL RECORD. We know that each one of these mandates will have its own separate set of regulations, and we know that there are Federal mandates on the State and local child care providers.

We know that H.R. 3 explicitly prohibits religious activity in a child care facility under this bill. We know, while it is true a church may be able to provide child care in their basement, the children in that basement will not be allowed to pray before their noon meal or sing a hymn with their morning milk.

We know the fact is that the Senate does not fix that at all. In fact, the Senate language explicitly prohibits the same religious activities in the Senate bill of the child care activities as does the House.

We have heard some vague references to perhaps it will be fixed in conference. I would submit it is not conferenceable.

Mr. SHAW. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, one of the reasons that I have been nervous about the child care legislation in all of its manifestations today is because of the enormous cost.

If we take the authorized amount for Hawkins, the automatic spending amount for Downey, we are talking about an expense of more than $22 billion over 5 years. And in the fourth fiscal year, fiscal year 1993, we are talking about annual expenditures of almost $7 billion. What that means, of course, is that in these out-years it becomes more and more difficult for us to reach whatever Gramm-Rudman targets are there for us.

Our problem, as I see it, is that we always have these priorities which I think are legitimate, but we never want to give up anything we already have to stretch for the higher priority. We always want the new priority but no one ever suggests that we cut anything.

Here we have annualized spending of $7 billion. And who will pay the $7 billion and the interest on it? It will be the very same children that we want to take care of. The United States has a role to play in child care, but that role should not be sending a huge bill to our grandchildren.

I raise that point because it is a great problem for me. That problem exists in all of the versions of child care before us. But I raise it also because there is great expectation that something good is going to happen to the Hawkins portion of H.R. 3 in fiscal year 1990.

On the contrary, as far as I know, there was nothing in the appropriation that this House passed that covers any of these H.R. 3 authorizations. So we are really looking at authorizations only. So anybody who is expecting his or her State to get the big bonanza may in fact receive it in fiscal year 1990, but more likely will not. There is nothing to indicate that you will get anything at this point.

For me, granting that all of these programs are very expensive, we still get down to what is the difference? The difference is whether you choose parents or whether you choose the bureaucrats.

Those of you who talk about quality care, may I submit the thought that a buildup of the bureaucracy has never

been a guarantee of quality in anything. Usually, it has meant the opposite.

Mr. Chairman, I rise in opposition to both Mr. HAWKINS' child care bill, H.R. 3, and Mr. DOWNEY'S version of H.R. 3. These proposals are very expensive, and both concentrate scarce resources in the wrong places while burying the States in regulations and requirements.

The Hawkins' child care proposal is estimated to cost $1.9 billion per year by 1993. Mr. DOWNEY'S amended verison of H.R. 3 will cost a whopping $5.1 billion annually by 1994. That is real money, taxpayers' money. Before the House throws sums of that magnitude at child care, we should cure the obvious faults in these flawed child care proposals.

Child care is a serious need that has become increasingly important as more and more women enter the work force. I believe that child care needs Federal leadership and funds. But it does not need a Federal bureaucracy. Nor should it be a simple depository for the dumping of large amounts of money without clear goals.

We can pay the bureaucracy, or we can pay the parents. The Hawkins and Downey bills pay the bureaucracy. More work rules and mandates of more employees do not make child care more accessible, nor more affordable. I believe that parents are the proper ones to make child care choices.

Our main goal ought to be to give families assistance and flexibility so they can make their own decisions. I believe that parents are fully capable of making reasonably good decisions about what is best for themselves and their children.

Now 75 percent of parents choose noncenter-based care for their children. Any plan like the Hawkins or Downey plan that builds bureaucracy and regulations hurts the huge group of families who prefer to use home-based care.

The Federal Government should not be in the business of burdening families and States with overzealous and needless Federal regulations. Affordable and flexible child care options ought to be the goals of any child care bill, rather than unnecessarily burdensome standards and requirements. The States can provide needed regulations wtihout Federal mandates. All States have already established some child care regulation.

I am against the Hawkins H.R. 3 not only for its exorbitant costs but also because I think the regulations and new programs it mandates will fail miserably at improving day care in this country.

The Hawkins bill is little more than a centralized, national child care system. It expects the bureaucracy that manages AFDC and food stamps, and housing programs, to deliver good day care. If you believe that you will love the Tooth Fairy and the Great Pumpkins.

All States have some regulation for day care centers, and all but four States regulate smaller day care facilities. The Hawkins bill calls for a multitude of new regulations that are likely to drive needed providers out of the business. The Hawkins bill provides a perverse sort of protection to parents and children by denying them services, or narrowing their choices. It will create work rules, featherbedding, and unnecessary cabooses for the employees of the over-regulated centers.

Representative DOWNEY'S version of H.R. 3 is even more expensive. It is superior to the Hawkins proposal but similar. It merely substitutes title 20 for Hawkins' title 3. Its spending costs, especially in the out-years, will add up to over $15.4 billion by 1994. This would add a fat $5.1 billion in fiscal year 1994 to the Federal deficit.

The title 20 expansion is not a bad idea except that it earmarks money. The whole idea of a grant program, such as title 20, is to give the resources to the States while allowing them the flexibility to meet each States' different needs. The States know their problems better than we do. They are spending a lot of that title 20 money on day care right now. We are not smarter than our Governors and legislators and they are a lot closer to home than we are. Local control is a fundamental to success in child care as is parental choice. The Federal Government is the bully.

On the other hand, I do feel the Edwards child care bill has merit in its approach, despite its high cost. It is deserving of support simply because it is cleaner than the other versions and allows more choice for parents and States. The price tag of $14 billion by 1994 is way too high but its fundamentals are right. The EITC is a fair and correct approach, giving tax relief to low-income families.

It does not mandate certain types of child care as both versions of H.R. 3 would propose. It gives relief to those who need it most and trusts them to spend that money accordingly. By trusting the people to make their own choices and the States to draw their own regulations, it avoids the fatal flaws of the Hawkins and Downey proposals.

As my second choice, I intend to vote for the Stenholm-Shaw substitute. Although it, too, is too expensive, it is certainly less centralist and antichoice than the Hawkins bill or the Downey amendment, even if it is somewhat less attractive than the EITC expansion. The Stenholm-Shaw substitute eliminates the superfluous provisions in Hawkins' bill, such as complicated reporting requirements and cumbersome data collection. The bill also succeeds in shaving off some of the funding which is called for in the Downey version. The Stenholm-Shaw substitute uses a successful existing program, title 20, and increases its resources without the cumbersome criteria required in the other bills.

No one should be surprised that, during a time when we are coming face to face with the Gramm-Rudman hatchet, Members will vote for expenses that will make Gramm-Rudman targets unreachable in the future. To spend grandly, and probably futilely, for a newly created child care bureaucracy, does not enhance Congress' fiscal reputation, nor its legislative reputation.

Our goal ought to be to offer parents affordable day care of their choosing. The Federal Government should not be deciding when, where, and how much money should be spent towards child care—these decisions should be left to the States and individual families.

If the two flawed versions of H.R. 3 go to conference, it guarantees a flawed public law. This would be a disaster for child care as well as a huge legislative blunder. I urge my colleagues to vote for the Edwards and Stenholm-Shaw substitutes to avert a catastrophe in child care.

Mr. DOWNEY. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in opposition to the Stenholm substitute. Supporters of this substitute say they want to increase the availability and quality of child care, a worthy goal which I support. They say they also want to give States and child care providers as much flexibility as possible. Another worthy goal. But they have left one important consideration out of the equation. What do parents want?

When it comes to the child care issue, our most important constituents are the millions of mothers and fathers in America who must rely on someone else to help care for their children. A recent public opinion poll conducted just a few weeks ago found that 7 out of 10 families with young children want Federal action on child care this session. That is no small constituency. These parents are worried about the cost of care, about finding care, and about the quality of the child care they can afford. On every count, the substitute before us misses the mark.

First, consider the question of quality. The Nation's Governors have agreed that they can do a better job of assuring that federally subsidized child care is safe, reliable, and responsive to the needs of children. They support a requirement for improved State child care standards. The Stenholm substitute deletes this requirement, a bit of counterproductive second guessing in my view.

I am most troubled, however, that the substitute proposes to put Federal child care policy on automatic pilot, authorizing over $1 billion in child care funding over the next 5 years with almost no direction to the States on what to do with these funds.

Under the Stenholm substitute, States could spend the added title 20 money on everything but actual child care if they choose—from the recruitment and training of child care providers to expanding resource and referral efforts. Now all of these things probably need some attention. But, I for one, think Uncle Sam ought to require States to spend at least some of this money on what parents tell us they need most—help with the skyrocketing costs of child care.

The Stenholm substitute would also exempt child care earnings from the Social Security retirement test. This is an inequitable, administratively burdensome provision that has no place in the child care debate. It would give preferential treatment under the re-

tirement test to one group of individuals—those with child care earnings—while excluding others with earnings from equally meritorious activities. Does this mean we should also exempt teachers' earnings or the pay of police officers fighting the war on drugs? For what reason should we violate Social Security's historic, unerring neutrality toward specific occupations by providing golden halo treatment to a single job?

Make no mistake about it, Mr. Chairman, child care is an extremely important issue. I am confident that many working parents feel, as I do, that it would probably be best for young children if one parent was at home. In today's economy, however, that just isn't possible. Child care is their only choice. Our job is to help them make that choice as safe and affordable as possible. With the Stenholm substitute, the only thing these parents would get is more empty promises.

I strongly urge my colleagues to vote "no" on the Stenholm substitute.

Mr. SHAW. Mr. Chairman, I yield 4½ minutes to the gentleman from Iowa [Mr. TAUKE].

□ 1430

Mr. TAUKE. Mr. Chairman, the house of cards is collapsing. H.R. 3 and the Committee on Ways and Means proposal have been unable to stand on their own as they have been debated on the floor. So we have the majority leader come to the floor to tell Members that, "Well, do not pay much attention to what is in the bill, instead just realize that we are promising that we will do a better job in conference."

I say to all my colleagues who are on the other side of the aisle, that this debate over church-state relations is not an accident. It is not something that has just arisen.

Let me take Members through a little history. This item was discussed at great length in the subcommittee on which the gentleman from Michigan and I served during the course of the debate on this legislation. It was discussed in the full Committee on Education and Labor, and the chairman of the subcommittee offered the amendments to try to correct it. Those amendments were vigorously opposed by the groups supporting H.R. 3. It was defeated in committee. The chairman of the subcommittee went to the Committee on Rules, asked for permission to be able to offer those amendments on the floor, and can Members believe it, the subcommittee chairman was turned down—was not even given permission to offer amendments. Why? Because the interest groups said, "No."

Now, we come to the point where the problem has arisen about what are we going to do about church-provided day care. The majority leader says, "We will take care of it." Let me observe that in 1969 and 1972, the issue that brought down child care was how we were going to solve the church-state problem. It is not any easier in 1989. To suggest that promises about what will happen in conference will deal with the issue is, in my judgment, to suggest something that is unrealistic. Understand, that those who are promising are playing games.

They say, "We will ensure that we provide child care in the basements of the churches." That is not a problem. The problem is, will there be religious symbols on the wall? Will there be the ability of churches to control the personnel who are offering the child-care services? Will there be the ability to pray or tell a Bible story? The answer to all those questions, under the Senate language or the proposed House language, is no.

Yet they say, "But we will have child care in the basements of the churches." The reality is that the churches who provide child care will not accept those restrictions, and therefore the money will not flow to them, and Members will undermine the infrastructure that is providing most child care in rural America, and most child care in inner cities.

Beyond that fundamental issue, ladies and gentlemen, there is another issue here, and that issue is essentially this: Who should be empowered to make the decisions about child care? As Members of this body, do Members believe that parents will make better decisions, or do Members have more faith in the ability of governments to make decisions about child care? I can tell Members that for my part, I trust the parents of America more than I trust the bureaucrats of America. I trust the families of America, more than I trust the Government of this Nation to make decisions about child care. I believe that better decisions will be made by the parents of the Nation, and that is why it is critical that we support the Stenholm child care substitute.

Last, let me say under the Stenholm bill, the funds flow first to those who need it the most. In both the Headstart and in a tax structure, the reconciliation provision sends the money to the more wealthy. Under Headstart, they are destroying the essence of the Headstart program at a time when we serve only 17 percent of those who are currently eligible for Headstart, and they want to open it up so that 50 percent of the slots can go to the middle income families, rather than to low-income students. Under the tax structure they keep sending money to the wealthiest families in America.

The bottom line is for religious reasons, for family reasons, and for targeting reasons, we should accept the Stenholm substitute.

The CHAIRMAN. The gentleman from New York [Mr. DOWNEY] has 5½ minutes remaining, the gentleman from California [Mr. HAWKINS] has 6½ minutes remaining, the gentleman from Texas [Mr. STENHOLM] has 8 minutes remaining, and the gentleman from Florida [Mr. SHAW] has 3 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, in the midst of all this oratorical splendor, it is hard for one to control his emotions. Couched in deception, I agree with the gentleman from Florida when he says we are trying to achieve budgetary saneness.

We are, I guess, on different paths on that effort. It is hard for me to understand how we are going to attain budgetary saneness, and spending $9 million as we did yesterday, and sending money to Nicaragua, and do not even know if the money will actually get there; or spending half a billion dollars on a bomber that we do not even know will fly. We do not know yet the cost of the trial that the Federal Government spent for Colonel North, to make a kind of a hero, who can collect $25,000 or $50,000 for one speech.

I want to say to Members, as a member of the Committee on Education and Labor, I firmly support H.R. 3. I think we ought to begin to be concerned more about the children that we are trying to represent here in this august body of ours. I am sick and tired of being in the position where we talk about what we want to do, but when it comes to doing it, we do not find the time to do it.

I have a lot of respect for the gentleman from Texas, but I am much opposed to this method of trying to try to have child care for kids. I represent a district that is very poor. We do not have problems between church and state, and practically every church in my district that wants child care facilities in their church, they can have it, if they get the money to do it. H.R. 3 provides that kind of money.

I would like to see Members continue to do that, and not take this away.

Mr. Chairman, I rise in support of H.R. 3, the Early Childhood Education and Development Act as approved by the House Education and Labor Committee, and in opposition to the Stenholm and Edwards substitutes.

Mr. Chairman, as a member of the House Education and Labor Committee, and one who has worked extensively on crafting the committee bill, I have been privy to hours of expert testimony and findings from some of the Nation's leading academic scholars and researchers in the area of early childhood development. Much of the information provided during our hearings, while helpful in laying the foundation for the legislative need for H.R. 3, certainly was not new. As a matter of fact, if

any Members of this body has taken the time to visit with, and listen to his or her constituents, they have heard the same stories—the supply of affordable child care is severely limited, and in many cases, nonexistent.

As the U.S. Representative for the South Side of Chicago, I have seen first hand, the needs of working families and the needs of those who cannot find work.

The unfortunate reality of life in my district is that many children are growing up in single parent, female headed, households. Many of these women are unemployed and if they can find employment, cannot take advantage of it due to a lack of child care services, affordable or otherwise.

My constituents are in desperate need of affordable and safe child care services. H.R. 3 provides opportunities for my constituents to not only reenter the mainstream of society, but to also ensure the well-being of their children. I urge the Members of this Chamber to defeat all substitutes to H.R. 3 and support the Committee on Education and Labor in passing this much needed legislation.

Mr. DOWNEY. Mr. Chairman, I yield the remaining 5½ minutes to the chairman of the Select Committee on Children, Youth, and Families, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, today is the end of a very long journey with how this Nation will deal with the issue of child care. Some years ago we referred to this as day care, but then we learned that the days will take care of themselves. We have to take care of the children.

When we made that fundamental shift in our minds, we had to ask, how are this Nation's children being taken care? Over the last decade, we have asked that question in every State of the Union. It has been asked by nonprofit entities. It has been asked by universities and researchers. The answer that has come back is "not very well."

The notion of the Stenholm-Shaw amendment is that somehow out there in America is an abundance of quality care, and any mother or any father can simply pick and choose among all of the quality care. It shows a basic misunderstanding of the child care supply in America today because that is not the situation. Rather, what we have is we have a hodgepodge of care. Some of it is good, and some of it is real bad, and what America's children do not need is bad care.

So, Mr. Chairman, we have got to make a decision here today, and we are about to make it in a few minutes. Either we can have a child care program that is built in the spirit of providing quality care to this Nation's children, or we can choose to have a program that is built on the model of Sam Pierce. We put the money out there, and hope for the best, and not worry about the billions of dollars.

Mr. Chairman, we should not be doing that. We should be making sure that, as we go home and tell our taxpayers, our constituents, our friends, the parents, the mothers and fathers of these children, that when we made a decision to vote for national child care policy, we made that decision to make sure that they would get the maximum return on their investment, that we made that decision that the child who will go into child care will be nurtured, will have the benefit of what we now know about child development, that we now understand that these children at very young ages are capable of so much more, that we now understand that we can take a young child and with proper care and proper nurturing we can change the course of that child's life.

My colleagues, we can dramatically improve the chances of our children for success in America. We cannot simply put a child into custodial care, we cannot simply put a child in front of a TV for 6 or 8 hours or simply put dozens of children with one caretaker. The choices that are provided under the reconciliation bill will allow us to take a generation and help them become the smartest, the fastest, the brightest children in the history of this country, and we are going to need them because we do not have very many of them. Children are falling as a proportion of our population in total numbers. Each one of them has got to be able to work to the fullest potential that they are born with, and, if we couple a quality child care bill with prenatal and maternal and child health care bills, as we have done in the past, we then can launch a child on a path of success.

My colleagues, if we do not do this, if we run away from standards, and we run away from quality, we launch our children on a path of failure.

Most of my colleagues have spent their time in Congress authorizing money and appropriating money to make up for the failures. We spend most of our time paying for our failures. Why not, why not for a moment, think about investing our constituents' money in success? That is the opportunity that is being given to us today under the proposals of the Committee on Education and Labor and the Committee on Ways and Means. This is an investment portfolio. This is a portfolio that will guarantee us a positive return on the dollars we invest.

Mr. Chairman, under Stenholm-Shaw we get the opportunity to do nothing more than we have done in the past, and that is simply spend money. No guarantees on rates of returns, no guarantees on the quality of care, no guarantees on the development of our very young children in our Nation.

This is a place in the road where we must make a decision. Are we going to do business as we have done it in the past and suffer all of the failures, or should we choose a program of quality, of care, of nurturing, of child development, and watch our children flower and succeed? That is the issue we will vote on. There are no other issues. It is the future of our children.

Mr. Chairman, I rise in strong support of the child care provisions of H.R. 3299, the Omnibus Budget Reconciliation Act of 1989. This legislation will, for the first time, give States the authority, guidance, flexibility, and financial assistance to significantly improve and expand child care opportunities for the Nation's working families. I want to thank my colleagues from the Committee on Education and Labor and the Committee on Ways and Means for their leadership in developing this bill.

Today represents a historic moment. For the first time in nearly 20 years, the Congress has the chance to approve a comprehensive child care program which will aid families throughout the Nation to fulfill their responsibilities as parents and as workers. After decades of disagreement about the role of the Federal Government in child care, we have reached consensus about what families need and what the components of a sound and responsible national child care policy should be.

CHILD CARE NEED BURGEONS IN THIS DECADE

In 1984, the Select Committee on Children, Youth, and Families, which I chair, brought renewed attention to child care through a year-long investigation. At the end of this extensive review, the committee concluded in a unanimous report, "Families and Child Care: Improving the Options," that the need for child care far outweighed the supply of safe and reliable care, and that the Federal Government had a significant role, in partnership with States and localities and the private sector, in responding to this growing domestic need.

By 1988, 65 percent of all mothers with children under 18 were in the labor force, an increase of nearly 50 percent since 1975. With more mothers working out of economic necessity, the demand for child care has escalated. But the supply of child care, and especially of quality care, remains woefully inadequate. The result is haphazard and tumultuous arrangements for families, and too often unsafe and even dangerous environments for children.

The committee also recognized the keen and enduring importance of attending to children's development and safety needs and strongly recommended that future legislation address the quality of child care, especially in the areas of training and compensation of child care workers, through model health and safety standards, enforcement, and parental involvement. We suggested offering guidance to States

to upgrade the quality of existing programs, and provide resources to do so. I continue to believe that this must be an essential element of any legislation this House approves.

RECONCILIATION MEETS QUALITY ASSURANCE TEST, STENHOLM FAILS

Mr. Chairman, I have been involved in this issue for a long time. I've seen and heard a lot about what a good national child care poicy should be.

I am extremely gratified that the reconciliation bill we are considering today includes such landmark child care legislation addressing the financial assistance families need, but one that assures that children are nurtured, healthy, and safe and that their developmental needs are being met. Many congressional committees, many State and local elected officials, key academic researchers, and hundreds of national, State, and local organizations at the grassroots level were instrumental in bringing these issues to our attention and recommending appropriate policy responses.

Mr. Chairman, this bill contains provisions which make crucial improvements over current child care practices. These provisions will improve the quality of new and existing child care services by enhancing the health and safety of children in out-of-home child care. The provisions recognize that the Federal Government can offer direction to States for improving training, monitoring, and enforcement activities, the availability of resource and referral services, and salaries and compensation of child care providers—among the most critical elements in establishing and maintaining a child care system where children are protected and parents have assurances about the health and safety of their children.

These criteria are critical, because they determine the environment in which millions of American children will spend formative years.

It is largely because of the absence of provisions in the Stenholm amendment to assure quality child care that I cannot support that substitute. The Stenholm substitute is not a policy—it gives States no guidance, provides no leadership or direction, and only pays lip service to what the child development experts have proven that children need. We cannot continue to perpetuate a system, especially with Federal dollars, that ignores the evidence about child health and development.

At a minimum, parents want and should be guaranteed peace of mind, to know that their children are safe and well cared for while they are at work. And the Federal Government has a responsibility to make sure that taxpayer dollars are not going to programs which are unsafe or inadequate. We know what quality care is and the Federal Government can offer guidance and leadership to promote that knowledge.

We are responding to a clear message from the public. In a recent Harris Poll, 89 percent of the public felt that setting standards for child care would help ensure that all facilities offer reasonably adequate care and would give parents peace of mind. Yet, in a significant number of States, even these minimum protections do not exist.

A strong quality component in our child care legislation should not be an afterthought: It must be an essential part of our program.

Our bill doesn't contain burdensome Federal standards. It doesn't force each State to meet one set of standards established by some bureaucrat in the Department of Health and Human Services.

It gives maximum flexibility to the States to meet essential quality criteria.

Mr. Chairman, the bill we are considering today provides each State with the flexibility to determine the content of its own quality standards, while helping those States with no criteria at all to move toward minimum protection for children in out-of-home care in the following areas: Group size and staff-child ratios, basic standards for health and safety, and parental involvement.

GOOD CARE HAS MORE ADVANTAGES THAN DISADVANTAGES

These criteria are not costly or intrusive—they are commonsense, proven approaches for assuring the basic health and safety of children, and include the basic standards recommended by the American Academy of Pediatrics and the American Public Health Association. Ohio and Maryland have both recently implemented new quality assurances and strengthened others, without any significant cost increase. And in these States, the supply of child care not only has not diminished, but it is increasing.

After a decade of research, there is a very strong consensus about training. When adequately trained, well-compensated and consistent carefibers are present, opportunities for positive, stimulating and nurturing child care experiences are greatest. Child care that incorporates enriching and comprehensive early childhood development components can have long-lasting and significant effects on a child's academic and social behavior and achievement.

The BankAmerica Foundation in California has also demonstrated in a model public-private venture that expanding training opportunities for family day care providers can be a powerful recruitment and retention tool. Since the implementation of this California child care initiative, the supply of family day care providers has been dramatically increased. In my own district of Contra Costa County alone, one of the original pilot sites for the initiative, the supply of family day care increased by more than 60 family day care homes with a capacity to serve over 300 children.

OVERSIGHT EASES PARENT'S FEARS/INCREASES PARENTAL INVOLVEMENT

Without adequate monitoring and regulatory enforcement, parents cannot be assured that their children are well-cared for and safe while they are at work. Yet, dwindling resources have hampered States' abilities to oversee child care in their State. I believe that the responsibility for regulatory enforcement clearly lies with the State, and I am assured by the provisions of this bill that will enable States to carry out these responsibilities regularly and with well-trained staff.

Such policies do not, however, obviate the need for parental involvement. The Select Committee on Children, Youth, and Families documented that resource and referral services, as provided for under this act, not only help parents find care, but also increase their involvement by helping them become more knowledgeable about child care quality and better consumers of care generally. Resource and referral agencies also play a vital role in training child care providers and in increasing the supply of trained family day care providers. Again, California has led the way with its statewide, comprehensive child care resource and referral program that has become a model for many other States.

CHILD CARE PROVIDERS KEY TO QUALITY

We should also note that researchers have determined the importance of well-trained, well-paid, and stable staff.

Yet, as the use of child care has soared in the past decade, staff turnover has nearly tripled. And child care workers—while better educated than the average worker—have watched their salaries fall by more than 20 percent, to an average hourly wage of $5.35.

FEDERAL MONEY WITHOUT DIRECTION IRRESPONSIBLE—EVEN DANGEROUS

Last week, President Bush and all of the Governors made a major commitment of tax dollars to upgrade education. But he didn't propose simply throwing money at the problem without directing it to improve the quality of the classroom. And today, we have exactly that same obligation when we finance the child care centers in which young children are nurtured.

This Congress should not allocate billions of dollars of public funds to buy bad child care. But child care without quality criteria, child care without oversight, child care without guidance will be bad child care, and that will be bad for children.

Some say that the States individually will develop and enforce these essential quality standards on their own, based on this overwhelming research evidence. The evidence is to the contrary. The most recent State-by-State review of standards shows that many States have failed to enact these basic health and safety standards despite incontrovertible research.

We have hundreds of examples of how good child care can reap enormous benefits for children and their families. We should be building policy based on those examples. But because policies which fail to protect children persist and resources for child care, there are still children in the current child care system who are at risk. In the last 15 months alone, news accounts from around the country have reported more than 22 babies, toddlers, and small children in child care facilities who have died or been seriously injured. In addition, recent press reports include cases of neglect and accidental injury in family day care homes that were unregulated, unsafe, overcrowded, and inadequately supervised by untrained or underage providers.

The Nation watched and waited to see if 2-year-old Jessica McClure would survive after she fell down a well in the backyard of an unregulated family day care home with too many young children.

Tragically, because of the insufficiency of quality care in so many regions of this country, some families have no choice. In 1988, after the State of Illinois closed down an unlicensed family care home in Waukegan where 47 children were found spending their days in a small Cape Cod-style home, parents protested because it was the only child care alternative that they could afford.

In June, the California State Legislature passed a bill that would require smoke detectors in all day care homes—11 days after 2 babies died of smoke inhalation at a family day care home. This is not the way States would make policy—by waiting for another tragedy to strike before deciding that safety precautions are a good idea. That is why the guidance for States included in the reconciliation child care provisions is the responsible policy approach for Congress to take.

Our bill isn't micromanagement, it's responsible management of public dollars. And most important, it will not only finance more child care, it will promote—with the cooperation of States and child care providers—a quality environment for millions of children.

EARLY CHILDHOOD/SCHOOL-BASED COMPONENTS

Low-income children especially need quality environments. Head Start has provided the comprehensive early childhood and social services that the youngest, most vulnerable children need—but to less than 20 percent of the eligible low-income children. That is why earlier this year, along with a majority of my colleagues in the House, I voted for a significant 1-year increase in the Head Start authorization to extend the core group of early childhood services to more eligible children.

I also continue to fully support provisions of this bill to expand Head Start to a full-day, full-year program to meet the needs of low-income working families, and chapter 1 expansions to heighten critical school involvement in the provision of early childhood education, as well as before and after school child care for school age children.

The Stenholm substitute, however, takes us no further than we've already come. It merely increases the Head Start authorization to the same level already passed by the House last March and makes child care one of a number of authorized uses of Head Start funds.

TITLE XX APPROACH GUARANTEES FUNDS

To avoid the vagaries of an annual appropriations process, however, I support a new child care program under title XX, the social services block grant, as a substitute funding mechanism for title III of H.R. 3. I believe strongly that title XX, as an entitlement, is the more reliable funding mechanism and that adequate funds are more likely to reach those in need than through an appropriations process where funds have to be fought for every year.

STENHOLM VIOLATES CONSTITUTIONAL SEPARATION OF CHURCH/STATE

In addition, I strongly oppose the provisions in the Stenholm amendment, which when implemented would violate the constitutional separation of church and state. Almost one-third of child care is housed in church buildings, contributing significantly to the supply of quality child care in their communities. While I support their right to continue to provide nonsectarian child care for the community as a whole, I cannot support language which would expressly permit parents to use Federal money in sectarian programs.

EITC EXPANSION

Finally, as an original sponsor of the Employment Incentives Act, I strongly support the significant expansions of the earned income tax credit contained in this bill. This approach complements and is integral to comprehensive national child care policy, for there is no greater disincentive to family self-sufficiency than to work all year and still be poor.

Nearly 20 million American children and their parents—more than half of the entire poverty population—live in families where an adult works but the family is still poor. And 5.5 million of this number live in families where someone is working full time, all year round. These families live everyday at the economic margins. Minor incidents like the car breaking down or the babysitter not showing up can mean lost work days, lost jobs, and lost wages.

For the past 6 years, the economy has created jobs for millions of new entrants into the labor force—many of them mothers—but it has often failed to increase their economic security or that of their children. The minimum wage has declined in real terms to well below poverty standards. And while family incomes have largely registered real increases, among low-income families with children, family income has dropped 22 percent for the poorest families and 3 percent for the next poorest. Over the past 8 years, budget cuts in programs like AFDC and unemployment insurance have hit working poor families the hardest.

The EITC expansion in this bill is predicated on a simple proposition—the more you work, the more you benefit. The EITC presently provides low-income working parents with children a credit on their earnings, but it fails to consider family size in determining the amount of that credit. This bill would increase the amount of the EITC, adjust the credit by family size, and permit more parents to receive this credit in advance. This provision will increase the rewards from working as well as make the credit more equitable for different size families.

RECONCILIATION MOST COMPREHENSIVE APPROACH TO HELP FAMILIES

Based on what I know about child care—and I have been in this business for a long time, Mr. Chairman—the provisions in reconciliation offer the best ingredients for a child care policy that works for children and their families. I urge my colleagues to support this bill that will not only help families purchase the critical child care they need and protect their economic security, but also will allow States to build a quality child care system that has as its foremost goal, the developmental and safety needs of children.

□ 1440

Mr. SHAW. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman from Florida [Mr. SHAW] for yielding this time to me.

My colleagues, the need for Federal action in the area of child care is certainly indisputable. There is absolutely no sense in reviewing the lament on both sides of the aisle of the personal tragedies, missed opportunities, and the other social problems attendant to the absence of child care in this country. So, once we have admitted that there is a problem, we come down to

the more difficult question of deciding how do we go about resolving the problem.

How do we go about resolving this problem and selecting between the alternatives that are before us? I would like to share with my colleagues a couple of questions I asked myself and answered in making my decision to strongly support Stenholm-Shaw.

Which of the alternatives builds on existing proven programs? Which takes what we have and builds upon that?

As my colleagues know, it is not only this piece of legislation, but other pieces of legislation that we promote in this body, where we ignore what we have done in the past, that has done well by us and been a partial remedy for the problems that we are trying to correct, and we have ignored it and tried to design something different. We have done it in the homeless area. We had people and agencies out there dealing with the homeless issue before it became fashionable for the Federal Government to deal with it, and yet, when we designed legislation, we made sure those people, those agencies who had been working on those problems, did not get it, and we are doing the same thing here. We have people, churches, and associations out there in existing structures already dealing with the problem.

Which of these two alternatives gives us the opportunity to build on what has gone before us that is already dealing with this problem? Stenholm-Shaw.

Which offers the promise of dollars, and which offers the promise of programs, promises that we, as legislators, can keep?

I say to my colleagues, when you promise money that you will not deliver, when you promise programs that you will not deliver, shame is upon you, and harm befalls those whom you've promised. It is a cruel, immoral, mischievous hoax to promise more than you can deliver, and H.R. 3 does that.

We know in this body that we authorize more than we ever know will be appropriated in these different areas. Which of these two bills makes promises that, as legislators who are responsible for delivering the goods on those promises—I say the Stenholm-Shaw meets those promises. Which of the alternatives is less likely to get the Federal Government in the day care/care business?

I urge my colleagues enthusiastically and strongly to support Stenholm-Shaw.

□ 1450

Mr. SHAW. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we have had a very good debate. We have had a very fruitful debate, but one thing constantly came up during the debate which you as legislators are going to have to look at very carefully. Are you going to trust your vote to the Stenholm-Shaw substitute, or are you going to trust it to conferees? This is the question. When we kept bringing up one after another the shortfalls in the Hawkins-Downey proposal, we saw the Members getting up and saying, "Oh, we are going to take care of this in conference."

Mr. Chairman and my colleagues, what the gentleman from Texas [Mr. STENHOLM] and I went out and sought to do was to build a consensus and to build a good bill, one that we could fulfill and one that we could be proud of and one that we could finance. It is a real bill. It is truth in legislating, and I would say to you, this is your vote. Do not give your proxy to some yet unnamed conferees. You have problems with the Downey-Hawkins proposal. Exercise your vote and express your concerns by supporting Stenholm-Shaw.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, just a few years ago in this Chamber we would not have been conducting a debate on whether or not there needs to be a Federal, a national response, to the issue of child care. Today we are engaged in such a discussion, so I think congratulations are in order to all, to the gentleman from Florida [Mr. SHAW], to the gentleman from Texas [Mr. STENHOLM], to the gentleman from Oklahoma [Mr. EDWARDS], to the gentleman from New York [Mr. DOWNEY], and to the gentleman from California [Mr. HAWKINS]. We all have very carefully examined the proposals they have advanced.

I have given this a good deal of thought, because I happen to be one of those who believe that child care is one of the critical unmet needs in our society today. And after this careful examination, I have concluded that support is warranted for the Education and Labor Committee and Ways and Means Committee package.

I say that because I see it as the most comprehensive, the most thorough. I say that because I like the preschool and the after-school component. I like the idea of full-day day care because it is needed so urgently, and I like the education component. As I think of that great summit between the President of the United States and our Nation's Governors just 2 weeks ago, talking about the future of this Nation and the need to upgrade our educational system, the Hawkins-Downey measure has that critical education component.

I also think about the debate that has been conducted here about church-based centers. Not for one minute would I entertain supporting any measure that I thought would deny the opportunity for church-based child care centers, because I recognize, as we all do, their importance. That is a ruse.

Mr. Chairman, this is a good measure brought forward by the committee. I urge support for it. What better investment in our future than to invest in our children.

Mr. HAWKINS. Mr. Chairman, I yield the balance of my time to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of Hawkins-Downey. We need the emphasis, we need the direction that is contained in Hawkins-Downey.

There is nothing, I say to my colleagues and to the ladies and gentlemen of this Nation, there is nothing any more vital to our national security than how we rear our children. Today we have parents who are paying for child care, child care that is detrimental to the development of their children. We have children who are entering kindergarten today less prepared to succeed than they were 20 years ago.

How are our children going to go out in this world and compete with our Japanese trading partners and competitors if they are not prepared to succeed in school?

We are not talking merely about child care any longer. We are talking about early childhood education. Child care is no longer graham crackers, juice and wiping runny noses. It is early childhood education.

We in this country must provide every child with the right for the very best rearing that is possible, whether that is with the parents, whether that is in an institution, or whether that is in another home, they have that right. Early childhood education, we know a dollar invested will save $4.75 in reduced welfare, reduced crime, and reduced unemployment. Early childhood education, expanded day care, expanded year, and expanded, yes, to the working poor, this is what our children need now. Let us support Hawkins-Downey.

The CHAIRMAN. To close out the debate, the gentleman from Texas [Mr. STENHOLM] is recognized for 7 minutes.

REQUEST FOR MODIFICATION TO AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, at the beginning of debate I asked for unanimous consent to offer a technical correction to our amendment that inadvertently would do damage to Medicaid recipients. I now ask for that same unanimous consent.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. STENHOLM: In section 11911(d)(2)(B) of the amendment, insert at the end of paragraph (1) of the matter proposed to be inserted as a new section 402(d) of the Social Security Act the following: "Any such refund or payment shall not be considered as income or a resource for purposes of determining eligibility, or the amount of benefits payable, under title XIX.".

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the modification to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Is there objection to the initial request of the gentleman from Texas?

Mr. STARK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. STENHOLM. Mr. Chairman, I would like to ask my colleague, the gentleman from Florida, if he would concur that should our amendment pass, it would certainly be our intention as members of the conference to see that this correction be in the final resolution of this question.

Mr. SHAW. Mr. Chairman, if the gentleman will yield, I certainly would concur with the gentleman, and I am sure my friend, the gentleman from New York [Mr. DOWNEY] would also see that that correction was made in conference.

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for that.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, I thought that we were being criticized for trying to adopt something in conference. Is the gentleman suggesting that the current proposal is not affected, and that the gentleman is going to do it sometime possibly in conference also?

Mr. STENHOLM. No, sir. The chairman well knows this is a technical correction that was inadvertently omitted. It has already been objected to. The question is resolved. The chairman knows full well what this amendment does.

Mr. HAWKINS. No, this gentleman does not know. Is the gentleman saying it is only technical?

Mr. STENHOLM. Yes.

Mr. HAWKINS. I thank the gentleman.

Mr. STENHOLM. Mr. Chairman, we are now at the end of the debate. We have a very, very clear choice before us. If you vote for Stenholm-Shaw you do correct a lot of things that bother all of us, many of us, some of us, concerning the H.R. 3 ABC bill.

There is very little dispute with the Ways and Means Committee on the job they have done.

We have heard letters quoted from the Governors, and I would just read the last paragraph of the last letter from Governor Clinton in which he says:

I personally prefer the Senate ABC bill and will gladly support H.R. 3 if its provisions on training and inspection requirements for the states can be made consistent with the Senate bill.

That was a letter to the chairman, the gentleman from California [Mr. HAWKINS].

That is again why many of us decided to have a substitute. There are so many corrections that need to be made, or differences of opinion, I should say, of various Members of this body that need to be made.

□ 1500

I commend the gentleman from Florida [Mr. SHAW] for the hard work that he has put in on this in working in a bipartisan way to offer the Members a clear choice today. We can do the things, whether it be on religion and the debate that we have had there, and it is interesting if there is no problem today why we have had to have statement after statement that if we go to conference we are going to clear up the problem.

Read the bill. Read the bill. There are tremendous problems in H.R. 3, and if Members vote against Stenholm-Shaw, they are in fact voting for going to conference on H.R. 3, and they are then going to put their vote, their representation of their people back home on the line in a conference in which they cannot possibly know the outcome.

Let me say that we do have a clear choice today. To those who suggest that there is something wrong with letting the family be the first decider of what is adequate child care, I disagree with that. It is one of the major reasons why I am in this well and why we have worked so hard for a compromise. I believe the family, not the Federal Government, is the best judge of what the child care programs and facilities of this country ought to be.

We provide new money, $17 billion of money, that we do not have in the budget, folks, but we provide it. We have been told that is not nearly enough.

We suggest that there is something wrong with going off on a program, increasing the funding for other new programs for the nonpoor when we are not adequately taking care of the current poor, and we have been told that we are wrong for doing that. We suggest we ought to trim back the benefits for those making over $90,000 in order to have some more money available in the appropriating process, not in the authorizing process, and we have been told that there is something wrong with that.

We have been told that there is something wrong with allowing our States, and that our States do not have the capability of deciding what is safe child care, and that is ridiculous. That is ridiculous.

We have been told that local governments are not the best. What H.R. 3 says is we have to have a supermandate from the Federal Government in order to deliver child care. I disagree with that.

Those who vote with us today are going to be saying very clearly they agree with us and disagree that the Federal Government is the all-wise determiner of child care for our children.

CHARLIE STENHOLM and those who vote with me care deeply about child care, but believe that the family should be the first decider, and the Federal Government the last decider. That is the choice under the rule.

Members either vote with us, and if they vote no, they are saying by their vote that H.R. 3 and all of those things that are being promised to be taken out are going to go to conference, and they are going to depend on that conference to put together a final resolution to provide child care.

My vote is not to be that way. I am going to cast it with a clear choice, and I hope the Members join with us in support of the Stenholm-Shaw amendment today, which I truly believe will deliver the child care that all of us have talked about today and would want to see, and do it in a much more honest and affordable manner.

Mr. GALLO. Mr. Chairman, there is very little disagreement today on the importance of child care. We need to take decisive action to meet the needs of our young families in today's society.

To my mind, these initiatives are provided by the Stenholm-Shaw amendment, which I am supporting today.

I cannot, in good conscience, support the child care provisions contained in the Hawkins-Downey proposal, because I believe that bill does not do what the people of this country really want.

Earlier this week, we voted to repeal the catastrophic health care law, which was sold to us as the greatest thing since sliced bread in 1988, until our senior citizens began to read the fine print.

The child care provisions in this bill, the so-called Hawkins-Downey provisions, will do to us tomorrow, in the eyes of our American families, what the catastrophic health care law has done in the eyes of our seniors, and we will be back here trying to fix this bill.

I find it hard to believe that there are those in this House who are not content with taxing our parents and our grandparents, but also want to license them to care for their grandchildren.

Among my reasons for supporting the Stenholm-Shaw amendment while not being able to support Hawkins-Downey without change

are—parents, not the Government, should determine how children should be raised.

We should not tax families even further while creating a Government day care empire, but rather to make available financial resources to families with children.

Stenholm-Shaw would not create a huge Government day care bureaucracy. It promotes parental choice by directing resources to low-income parents with young children rather than by financing a wasteful bureaucracy and Government-controlled day care centers.

Stenholm-Shaw would not seek to convert public schools into day care centers. It continues to channel Head Start funds toward disadvantaged children. And, it seeks to expand choices for parents who wish religious instruction for their children.

But, mainly I oppose the Hawkins-Downey provisions because they turn our care givers into bureaucrats and our grandparents into licensees of the State if they wish to provide the care that they naturally have provided since the beginning of time.

Hawkins-Downey imposes a vast array of new regulations on grandparents.

To receive the social service block grant [SSBG] day care funds provided in current provisions of Hawkins-Downey, a grandmother caring for her own grandchild must comply with a variety of federally mandated regulations including building standards in her home, safety standards, nutrition regulations, injury prevention and treatment regulations, child abuse prevention regulations, and health regulations. In addition, care givers would be inspected periodically by the State government to verify compliance with redtape.

And, the redtape doesn't stop with grandparents. A woman seeking to have her next-door neighbor care for her child would face even greater regulatory barriers—she would be required to take 15 hours of annual training and would be required to provide a written statement of her child care program goals to the parent.

Unamended, the Hawkins-Downey provisions will give money to institutions, not parents.

It gives the Government, rather than parents, the right to select what child care will be subsidized.

And, it discriminates against parents who care for their own children.

In short, Mr. Speaker, our choice is clear. Do we want to license our grandparents, or give them our help to provide the loving care that they offer? Do we want paperwork jockeys or care givers for our children? Do we want to provide opportunities for real individual choice, or a new bureaucracy that will eat our money and little else?

Mr. Chairman, I believe that this is one vote that will be studied very closely, the way the catastrophic health care vote has been studied, and at the end of the day, I believe the supporters of the Stenholm-Shaw amendment will be seen as the visionaries when this law comes back to haunt the Members of this House.

Mr. BRENNAN. Mr. Chairman, I urge you today to vote for children. I urge you to vote for a proven effective early childhood development program, and I urge you to offer more low income children an opportunity to be better prepared to face the social and economic realities of this competitive world. I am urging you to vote for Head Start.

For every $1 invested in quality preschool programs like Head Start, between $4 and $7 are saved down the road because of the positive, lifelong impact of early childhood education. Despite this profitable investment in our Nation's youth, Head Start services in my State had to be reduced last year. Maine was only able to give approximately 1,600 low-income children a better chance for success, but those 1,600 kids had a head start in life. The $8.3 million more that Maine will receive under the Downey-Hawkins child care package will provide Head Start service for hundreds of additional children. I believe those kids are worth the effort.

The Stenholm amendment provides no new support for Head Start. Head Start requires additional funding. I urge you to leave the current reconciliation child care language intact, and by doing so, to ensure a child care package of early childhood development programs, and tax credits. Let's give the children of this Nation what they need—a proven head start in life—a better chance.

Mr. McDERMOTT. Mr. Chairman, I strongly support the Hawkins-Downey provisions in H.R. 3299. There has been a lot of talk here on the floor today about freedom. Hawkins-Downey ensures one of the most basic freedoms we know—the freedom to work. The Stenholm substitute, on the other hand, is inadequate in supplying quality, affordable child care to allow mothers to get off welfare and go to work. Instead, Stenholm could make parents ineligible for other means-tested programs and, thus, would leave some poor families even worse off.

It is true that Stenholm will provide extra money for parents to pay the rent, the electric bill, and maybe buy groceries and some new clothes for the children. But the amendment does not provide these parents with an affordable child care system which allows them peace of mind to know that their kids are being cared for while they earn their paycheck.

Our choice today is between passing a comprehensive child care bill and essentially expanding the earned income tax credit and title XX. I am certainly not opposed to expanding the EITC and title XX—I think this is necessary. However, we should call a spade a spade here. Stenholm is hardly a child care bill. Therefore, we should not treat these two proposals as different approaches to the same solution. They do not seek to do the same thing.

If we want to pass a child care bill, we should vote against the Stenholm amendment.

Mr. MATSUI. Mr. Chairman, I rise in opposition to the Stenholm child care amendment and in support of the Hawkins-Downey child care provisions contained in H.R. 3299.

The United States is in the midst of a severe child care shortage. Presently, three out of five mothers with children under the age of 6 work outside the home. It is estimated that the number of children requiring care outside the home will grow from 6 million now, to 14.6 million by 1995.

The provisions included in the budget reconciliation package do a lot to meet this growing need. The Stenholm proposal, however does little to assist families who need child care services. This substitute puts relatively little new money into child care services. It does not provide the substantial increase in Head Start funding, new money for school-based care, or the extensive funding for infant and toddler care contained in the reconciliation package. In fact, under the Stenholm substitute, the State of California would receive only $22.7 million, as compared to $196.8 million in child care assistance we would be entitled to under the reconciliation provisions.

American families need the assurance that their children will be cared for in a safe facility and are cared for by qualified, well-trained professionals. The child care provisions included in the reconciliation package provides these assurances. Neither the Stenholm nor the Edwards substitutes offer these guarantees to our Nation's families. The minimum Congress can do is to provide for families the same health and safety promise it offers to auto or steel workers or to truck drivers.

The Stenholm substitute purports to provide the same expansion of the earned income tax credit that was approved by the Ways and Means Committee. This is not true. Under the Stenholm amendment, the effect on low-income families of electing to take advantage of the expanded EITC would be a loss in other benefits, such as AFDC, Medicaid, and assisted housing. Unlike the Ways and Means Committee language, the Stenholm amendment would repeal a provision of current law that specifies that the EITC not be counted as income for purposes of determining AFDC eligibility. The Stenholm amendment also does not include the same specification approved by the Ways and Means Committee that the EITC is not to be counted as income for purposes of determining benefits for other means-tested programs.

This is not what the Ways and Means Committee set out to do when we voted on an expansion of the earned income tax credit for low-income families.

When you vote today, support a comprehensive child care policy that provides early childhood education, that provides health and safety protections, and that meets the needs of America's families, and vote against the Stenholm amendment.

Mr. BORSKI. Mr. Chairman, I rise in opposition to the substitute amendments on child care being offered today and in support of the child care provisions in the budget reconciliation bill.

In Philadelphia alone, 26,000 parents had to leave a job or refuse an employment opportunity because quality day care for their children was not available. That represents nearly one in five Philadelphia families. Furthermore, for every 1 child receiving day care in Pennsylvania, 10 others must go without.

These figures stagger the mind and force us to face up to the dire need for assistance in child care all over our Nation. It is a myth that mothers work outside the home only to expand their horizons and extend their careers. In fact, for many American women, their paychecks are their family's only protection

from poverty. Almost two-thirds of all mothers in the work force are single, widowed, separated, divorced, or have husbands who earn less than $15,000 annually. The bottom line is that American mothers work out of economic necessity.

Therefore, we must pass legislation to address the critical problems related to child care across the Nation. This legislation includes a comprehensive child care policy to meet the concerns of all American families. In addition to providing resources for low-income families to purchase adequate day care, the provisions in the bill ensure minimum standards for health, safety, and education of young children. It also expands the Head Start Program for early childhood education and full-day child care services.

On the other hand, the substitutes we have before us today would replace the child care program with an expansion of the earned income tax credit [EITC] and cut the minimum standard requirements. Many families will be ineligible for the EITC available under the substitutes. Furthermore, tax credits alone will not provide the funds necessary to obtain reasonably priced day care in many areas of our country. The substitutes allow approximately $215 annually for a school-age child and $645 annually for a child under 6. Yet, day care for the same children would cost at least $2,500 each year. Obviously, these credits fall far short of the needs of low-income families.

Mr. Chairman, we often refer to our children as our Nation's greatest resource. Yet, our priorities do not reflect that. One in four children in America lives in poverty—in Philadelphia, that number is one in three. The children of the working poor are not only so-called latchkey kids, they also lack basic health insurance.

Today, we have legislation before us to begin to address the glaring needs of children in America and I fully support the child care program in this bill. I ask my colleagues to support this measure as well.

Mr. FRENZEL. Mr. Chairman, I commend my colleagues for laboring for over 2 years on child care legislation. I know of no more important pursuit than ensuring the health and welfare of our children.

It is with the well-being of our children in mind that I urge caution as we consider child care legislation. I fear that our concomitant actions on child care, together with other new initiatives and the budget, may cause our children more long-term harm than short-term good.

Lest anyone be mistaken, each of the major child care alternatives before us is incredibly expensive. Let me begin with the Education and Labor child care provisions in the reconciliation bill. These provisions set authorization levels which double from a little over a half a billion in fiscal year 1990 to $1.1 billion in fiscal year 1994 for Head Start and three new grant programs. In fact, by fiscal year 1994 the Federal Government would be spending more on child care than on such major programs as the Job Corps, Impact Aid, and Refugee Assistance.

Ironically, the Education and Labor provisions are a mere drop in the bucket compared to those of Ways and Means which combine an increase in title XX with an expansion in the earned income tax credit. The cost of these proposals will skyrocket from $137 million in fiscal year 1991 to over $5 billion annually by fiscal year 1994.

Over 5 years, the child care provisions in H.R. 3299 will cost the Nation over $15 billion. In effect, we would be spending more on child care than we do on all job training programs and a little less than half as much as we do on all elementary, secondary, and vocational programs. Moreover, Congress will have little ability to control spending for these programs because they are largely entitlements which are not subject to the appropriations process.

It is really outrageous that we are poised to open up a brandnew area of Federal spending commitments at the same time we are struggling to meet our prior commitments. I ask my colleagues to consider the budgetary implications of what we are about to do today.

First, passage of the reconciliation proposals or the proposed amendments will increase the amount of deficit reduction we must achieve over 5 years by $15 to $22 billion. Do not be misled into thinking that child care is somehow free. Ultimately, any money spent on child care will come out of the hide of other programs * * * or from increased taxes.

Second, this legislation will place more pressure on domestic discretionary programs which have borne the brunt of past budget cuts.

Third, this legislation will impede our ability to respond to new challenges and crises. I need not remind my colleagues of the trouble we are having in coming up with enough money for a modest drug program.

Fourth, this bill will signal to the already skeptical credit markets that we are not serious about grappling with the deficit.

Last, unanticipated program growth might have long-term budgetary consequences. One need only recall the creation of a small public assistance program for the elderly which transformed into a virtually universal Social Security Program which accounts for a quarter of all Federal spending. Or the small Medicare Program begun in the mid-1960's.

What most disturbes me is that we have the audacity to justify this commitment of Federal dollars on behalf of our children when they are the ones who will bear the burden of the resulting debt. After all, it is our children who will have to make sacrifices to cover the growing interest payments on the debt. It is our children who will suffer a lower standard of living as resources are diverted from investment to consumption related activities. And it is our children who may one day be squeezed out of the housing market as massive Federal borrowing forces up interest rates.

In conclusion, I ask my colleagues to carefully weigh the budget implications of the bills before us along with their substantive merits. Let us not only ask how we can provide our children quality child care but also how we can ensure they have the opportunity to share in the prosperity we have so long enjoyed.

COMPARISON OF ALTERNATIVE CHILD PROPOSALS

[Deficit impact in billions of dollars]

	Fiscal year—					5-year total
	1990	1991	1992	1993	1994	
Ways and Means/reconciliation/Downey:						
Direct spending	0.120	0.681	4.432	4.760	5.073	15.066
Subject to appropriations	0.017	0.068	0.075	0.075	0.075	0.310
Grand total	0.137	0.749	4.507	4.835	5.148	15.376
Education and Labor/H.R. 3/Hawkins:						
Direct spending	0.000	0.000	0.000	0.000	0.000	0.000
Subject to Appropriations	0.522	1.777	1.949	1.962	1.108	7.363
Grand total	0.522	1.777	1.949	1.962	1.108	7.383
H.R. 3 as amended by Ways and Means:						
Direct spending	0.120	0.681	4.442	4.760	5.073	15.076
Subject to appropriations	0.579	1.763	1.983	2.023	1.307	7.655
Grand total	0.699	2.444	6.425	6.783	6.380	22.731
Republican policy substitute:[1]						
Direct spending	0.000	0.300	4.500	5.000	5.300	15.100
Subject to appropriations	0.000	0.000	0.000	0.000	0.000	0.000
Grand total	0.000	0.300	4.500	5.000	0.400	15.100
Stenholm substitute:[2]						
Direct spending	0.120	0.666	4.360	4.694	5.100	14.940
Subject to appropriations	0.071	0.934	1.928	2.290	2.571	7.794

COMPARISON OF ALTERNATIVE CHILD PROPOSALS—Continued

[Deficit impact in billions of dollars]

	Fiscal year—					5-year total
	1990	1991	1992	1993	1994	
Grand total	0.191	1.600	6.288	6.984	7.671	22.734

[1] Excludes savings over 5 years of $1.1 B. [2] Excludes savings over 5 years of $1.17 B. Source: Minority Staff, House Budget Committee.

Mr. DORGAN of North Dakota. Mr. Chairman, one of the questions raised on the child care issue is whether this legislation will allow Federal child day care moneys to be used to pay for those services which are housed in religious institutions.

Church and synagogue child care programs represent as much as one-third of all child care centers in the United States. These programs have contributed in significant ways to meeting pressing child care needs in this country. We all recognize that some of the finest examples of child care today are found in the basement of our local churches.

Unfortunately, the child care provisions of the ABC bill would prohibit child care providers housed in a religious institution from receiving ABC funds if the center engages in any sectarian instruction or any other religious-oriented activity. This takes away an important right of the family, the parents, to make the decision as to what kind of child care is best for their child.

I do intend to support the committee version of the child care legislation today, but with the understanding that the Democratic leadership here in the House of Representatives is committed to accepting the Senate position that will make religious institutions eligible for child care assistance. The leadership has announced today that it is indeed working toward that end, and I have received a letter of intent from the leadership of how it will resolve the religious question when this legislation goes to conference committee with the Senate.

It's very important that low-income families be permitted to select the child care setting of their choice, and that should include sectarian care, if that is their wish. The issue we are debating is to provide quality and affordable child care for our Nation's children. I do not want to undo the excellent work that has come out of the Ways and Means and the Education and Labor Committees on the child care debate. With the assurances of the House Democratic leadership, I can cast my vote in good faith against the Stenholm amendment and for the committee bill, knowing that my vote today in favor of the committee bill will be resolved in conference with the Senate in a way that will not deny parents the right to choose the type of care that they feel is most appropriate for their children.

[From the Washington Post, Oct. 4, 1989]

THE HOUSE VOTES ON CHILD CARE

Until now the Senate and House have done pretty well with the child care issue. The Senate in passing a bill this spring moved from just the federal spending program originally envisioned by sponsors to a more appealing mix of spending and tax credits, and gave some needed recognition to the good sense of most of the states by making the spending program less prescriptive. The great but correctable flaw in the Senate work is that it would open the door to public funding of sectarian child care programs.

The House committees tried to avoid this church-state problem. They made the interesting suggestion that some of the grant money be funneled through existing institutions—Head Start and the schools—instead of a brand new child care program. On the tax side—in the name of, but not limited to, child care—they proposed a major expansion of aid to the working poor.

A good combination of increased aid to the poor and for child care seemed likely to be the result in conference. But two amendments are to be offered on the House floor that would jeopardize that outcome by carrying the dilution of the spending programs too far.

The first, by the House Republicans, would knock out the spending programs entirely. The House venture into child care would be only what the president proposed—an expansion of the existing refundable earned-income tax credit or negative income tax for the working poor with children, no matter whether the mother is in the work force or stays home. That's fine as aid to the poor but doesn't do what the government should about either child care or early-childhood education. The House is expected to vote it down.

It should vote down the second even more emphatically. Billed as a compromise between the Democratic and Republican approaches, this would in fact be an evisceration of the Democratic proposals by another name. Offered by Rep. Charles Stenholm of Texas, it would (1) partly vitiate the increase in the earned-income tax credit by reducing welfare and certain other forms of aid to the poor accordingly; (2) give limited child care grants to the states but with almost no instructions, so that the federal government would lose all ability to direct the use of the funds; and (3) endorse the spending of the money in sectarian programs, if parents chose, through the use of vouchers.

It would be better if child care weren't part of the massive reconciliation bill in the House. It deserves to be taken up separately. But that is spilled milk. The serious legislating is now going to be done in a conference committee. The House by killing these amendments will be able to enter the conference with a full deck.

Mr. MILLER of California. Mr. Chairman, I rise in vigorous support of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989 which include an important package of Medicaid initiatives and improvements in the Maternal and Child Health Block Grant to reduce infant deaths and improve the health of the Nation's children. I want to thank my colleague Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment, for his outstanding leadership and unwavering persistence on behalf of the health of the Nation's women and children.

This bipartisan package draws on legislation I introduced, along with Mr. WAXMAN and most of the Democratic members of the Select Committee on Children, Youth, and Families, the Child Investment and Security Act. This act would implement a multiyear, cross program strategy to ensure that all eligible young children receive the services of a core group of proven, cost-effective prevention programs, including Medicaid, WIC, and the Maternal and Child Health Block Grant, among others.

The legislation we are considering today would continue to build on critical Medicaid reforms enacted in recent years by phasing in mandated Medicaid coverage for: First, pregnant women and infants living in families earning up to 185 percent of the Federal poverty level; second, children up to age 18 in families with incomes up to 100 percent of the Federal poverty level; and third, certain groups of children with disabilities.

The bill package also takes some important first steps to reduce bureaucratic barriers that keep so many women and children out of care, and requires States to improve Medicaid payments to physicians to enhance their participation in the program.

In addition, a critical component of welfare reform enacted last year, transitional Medicaid coverage for AFDC recipients who obtain employment, would be extended at State option for an additional 12 months.

This bill also reexamines the intent and scope of services currently provided under the Maternal and Child Health Block Grant and makes significant improvements in the existing program to assure the health of pregnant women, infants, and children, including children with special health care needs.

INFANT MORTALITY INITIATIVES

Mr. Chairman, in the past few years, Congress has made significant advances toward assuring that certain vulnerable groups of women and children have access to essential preventive health care. But new studies show that despite our efforts, the problem continues to outstrip our response.

Every year in this decade nearly 1.5 million women give birth without receiving adequate prenatal care or receiving none at all. For black women, the percentage getting early comprehensive care has actually declined over the last decade. This is especially disheartening in light of new evidence from a recent California study which found that as the level of prenatal care rose, the rates of low birthweight decreased, vastly decreasing the likelihood of infant death and disability. Adequate prenatal care has even more salient effects among black infants than among whites.

Black babies are twice as likely as white infants to be born dangerously small, and this racial disparity has been increasing. As a

result, the black-white differential in infant deaths during the first month of life reached its widest point in 1986.

Regardless of race, Mr. Chairman, when families have no health insurance, the health of their baby is placed in great jeopardy. A study released just last month of more than 100,000 births in the San Francisco Bay area revealed that babies whose parents have no health insurance are about 30 percent more likely than those from insured families to die or be seriously ill at birth.

Limited access to care is taking a serious toll, according to the National Center for Health Statistics. In 1987, the percentage of infants born at low birthweight, the greatest determinant of infant death and disability, actually rose for both black and white infants to the highest level observed since 1979.

Mr. Chairman, many of my colleagues are familiar with the indisputable evidence that in addition to saving lives, a dollar invested in early, comprehensive prenatal care of high-risk women saves more than $3 in hospitalization costs during the first year of life. The Southern California Child Health Network also reported that, by investing $43.2 million to provide health care to the 36,000 pregnant women who go without prenatal care each year, that State alone would achieve a net savings of over $30 million through avoided hospitalization of newborns.

HOME VISITING

Hearings held by the Select Committee on Children, Youth, and Families have confirmed that in addition to financial barriers, significant bureaucratic, cultural and social impediments contribute to compromising early, comprehensive prenatal care. Both the prestigious Institute of Medicine and the National Commission to Prevent Infant Mortality recommended that priority be given to eliminating such barriers.

I am especially gratified that a provision from my bill, "The Child Investment and Security Act," to provide support through Medicaid funding for one of the most promising approaches to overcoming these barriers—prenatal and post partum home visitation services—has been incorporated into this bill. The provision would allow States the option of covering prenatal and postnatal home visits under Medicaid to provide a more stable source of funding, essential to the success of such programs. The bill also is designed to allow State flexibility in designing a home visitor program and in utilizing skilled nurses or trained lay workers, depending on whether the program includes direct medical services or social support and referral.

Mr. Chairman, home visitor programs have proven to be an important source of social support as well as an effective method of delivering primary care services to at-risk populations, especially pregnant women and infants. A preliminary GAO review of home visiting as a way to improve child health and well-being reveals that researchers and practitioners alike believe that home visiting is a cost-effective and efficient way to improve health and decrease the risk of child abuse and developmental delay.

According to the Institute of Medicine, ample data show that with social support, high-risk women can be helped to obtain adequate prenatal care to secure the ancillary services they need. The National Commission to Prevent Infant Mortality also recommended a home visitors program for pregnant women and new mothers, particularly those in high-risk populations.

CHILD HEALTH CARE

New evidence from the Office of Technology Assessment warns that older children are increasingly at risk as well. Nearly 5 million adolescents ages 10 to 18 were without public or private health coverage in 1987, an increase of 25 percent since 1979. Not surprisingly, Mr. Chairman, OTA also documented that adolescents in poor or near-poor families are much more likely to be uninsured than others.

That is why I am especially pleased to support the provisions in this bill which phase in mandated Medicaid coverage for children up to age 18 in poor families, perhaps the most medically neglected of all age groups.

MODEL APPLICATION AND OUTREACH

A select committee report, "Opportunities for Success: Cost-Effective Programs for Children, Update 1988," documented that a core group of successful, cost-effective programs targeted to pregnant women and children ages 0 to 6 are often denied to a significant proportion of the high-risk eligible population.

While Congress has made substantial progress in extending eligibility for the most vulnerable under Medicaid, this alone has not always ensured that all Medicaid eligible women and children receive any or all of the services they need. Because there are different authorities and requirements for the variety of Federal programs serving this population, coordination and better access could help improve health outcomes. One step to enhance coordination and accessibility is to simplify the often overwhelming and complicated application process for program recipients.

The bill we are considering today includes another provision from my "Child Investment and Security Act," which directs the Secretary of Health and Human Services to develop, in consultation with the Secretary of Agriculture, a "model application" form for use in applying simultaneously for the Maternal and Child Health Block Grant Program, the Medicaid Program, the Migrant and Community Health Centers Program, the grant program for the homeless, the WIC Program, and the Head Start Program.

In addition, this bill includes language similar to that passed in the recent WIC authorization to improve coordination among two of the most successful programs—Medicaid and WIC. States would be required to coordinate their Medicaid operations with their WIC operations, and to notify and refer all women who are pregnant, breast-feeding, or postpartum, and all children below age 5 who are Medicaid eligible of the availability of WIC benefits. This provision is especially timely and compelling given the increasing uniformity in eligibility for these two programs.

COMMUNITY-BASED SERVICES FOR DISABLED CHILDREN

Finally, as the Select Committee on Children, Youth, and Families has learned, families with disabled children or other family members who desperately want to care for them at home, have been forced to institutionalize them because of Medicaid's current funding bias. These families will now have an expanded opportunity for community-based alternatives under the "Community and Facility Habilitation Services Amendments" included in this bill.

This new State Medicaid option relieves States of the restrictive eligibility criteria and other administrative burdens imposed by the current waiver authority. I am especially pleased that the bill would require that if the State elects this option, they must provide a core group of critical support services, including respite care, case management, and personal attendant care.

CONCLUSION

Mr. Chairman, we have made progress in recent years. Let's continue to move forward and build on what we know works. I urge my colleagues to join in support of this critical and timely legislative package for the Nation's children.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 230, answered "present" 1, not voting 6, as follows:

[Roll No. 273]

AYES—195

Archer	Emerson	Kasich
Armey	English	Kolbe
Baker	Erdreich	Kyl
Ballenger	Fawell	Lagomarsino
Barnard	Fields	Lancaster
Bartlett	Flippo	Leath (TX)
Barton	Frenzel	Lent
Bateman	Gallegly	Lewis (CA)
Bennett	Gallo	Lewis (FL)
Bentley	Gekas	Lightfoot
Bereuter	Gillmor	Livingston
Bevill	Gingrich	Lloyd
Bilirakis	Goodling	Lowery (CA)
Bliley	Goss	Lukens, Donald
Broomfield	Gradison	Madigan
Browder	Grandy	Marlenee
Brown (CO)	Grant	Martin (IL)
Buechner	Green	Martin (NY)
Bunning	Gunderson	McCandless
Burton	Hall (TX)	McCollum
Byron	Hammerschmidt	McCrery
Callahan	Hancock	McCurdy
Campbell (CA)	Hansen	McDade
Chandler	Harris	McEwen
Clinger	Hastert	McGrath
Coble	Hatcher	McMillan (NC)
Coleman (MO)	Hefley	Meyers
Combest	Henry	Michel
Coughlin	Herger	Miller (OH)
Cox	Hiler	Miller (WA)
Craig	Holloway	Molinari
Crane	Hopkins	Montgomery
Dannemeyer	Houghton	Moorhead
Darden	Hubbard	Morrison (WA)
DeLay	Huckaby	Myers
Derrick	Hughes	Nielson
DeWine	Hunter	Oxley
Dickinson	Hutto	Packard
Dornan (CA)	Hyde	Parker
Douglas	Inhofe	Parris
Dreier	Ireland	Pashayan
Duncan	James	Patterson
Edwards (OK)	Johnson (CT)	Paxon

Payne (VA)	Schiff	Stangeland
Penny	Schuette	Stearns
Petri	Schulze	Stenholm
Porter	Sensenbrenner	Stump
Pursell	Shaw	Sundquist
Quillen	Shumway	Tauke
Ravenel	Shuster	Tauzin
Ray	Skeen	Thomas (CA)
Regula	Skelton	Thomas (GA)
Rhodes	Slattery	Thomas (WY)
Ridge	Slaughter (VA)	Upton
Ritter	Smith (NE)	Vander Jagt
Roberts	Smith (NJ)	Vucanovich
Robinson	Smith (TX)	Walker
Rogers	Smith, Denny (OR)	Walsh
Rohrabacher	Smith, Robert (NH)	Watkins
Ros-Lehtinen	Smith, Robert (OR)	Weber
Roth	Solomon	Weldon
Rowland (CT)	Spence	Whittaker
Rowland (GA)	Stallings	Wolf
Sarpalius		Wylie
Saxton		Young (AK)
Schaefer		Young (FL)

NOES—230

Ackerman	Foglietta	Moakley
Akaka	Ford (MI)	Mollohan
Alexander	Ford (TN)	Moody
Anderson	Frank	Morella
Andrews	Frost	Morrison (CT)
Annunzio	Gaydos	Mrazek
Anthony	Gejdenson	Murphy
Applegate	Gephardt	Murtha
Aspin	Geren	Nagle
Atkins	Gibbons	Natcher
AuCoin	Gilman	Neal (MA)
Bates	Glickman	Neal (NC)
Beilenson	Gonzalez	Nelson
Berman	Gordon	Nowak
Bilbray	Gray	Oakar
Boehlert	Guarini	Oberstar
Boggs	Hall (OH)	Obey
Bonior	Hamilton	Olin
Borski	Hawkins	Ortiz
Bosco	Hayes (IL)	Owens (NY)
Boucher	Hayes (LA)	Owens (UT)
Boxer	Hefner	Pallone
Brennan	Hertel	Panetta
Brooks	Hoagland	Payne (NJ)
Brown (CA)	Hochbrueckner	Pease
Bruce	Horton	Pelosi
Bryant	Hoyer	Perkins
Bustamante	Jacobs	Pickett
Campbell (CO)	Jenkins	Pickle
Cardin	Johnson (SD)	Poshard
Carper	Johnston	Price
Carr	Jones (GA)	Rahall
Chapman	Jones (NC)	Rangel
Clarke	Jontz	Richardson
Clay	Kanjorski	Rinaldo
Clement	Kastenmeier	Roe
Coleman (TX)	Kennedy	Rose
Collins	Kennelly	Rostenkowski
Condit	Kildee	Roukema
Conte	Kleczka	Roybal
Conyers	Kolter	Russo
Cooper	Kostmayer	Sabo
Costello	LaFalce	Saiki
Coyne	Lantos	Sangmeister
Crockett	Laughlin	Savage
Davis	Leach (IA)	Sawyer
de la Garza	Lehman (CA)	Schneider
DeFazio	Lehman (FL)	Schroeder
Dellums	Levin (MI)	Schumer
Dicks	Levine (CA)	Sharp
Dingell	Lewis (GA)	Shays
Dixon	Lipinski	Sikorski
Donnelly	Long	Sisisky
Dorgan (ND)	Lowey (NY)	Skaggs
Downey	Luken, Thomas	Slaughter (NY)
Durbin	Machtley	Smith (FL)
Dwyer	Manton	Smith (IA)
Dymally	Markey	Smith (VT)
Dyson	Martinez	Snowe
Early	Matsui	Solarz
Eckart	Mavroules	Spratt
Edwards (CA)	Mazzoli	Staggers
Engel	McCloskey	Stark
Espy	McDermott	Stokes
Evans	McHugh	Studds
Fascell	McMillen (MD)	Swift
Fazio	McNulty	Synar
Feighan	Mfume	Tallon
Fish	Miller (CA)	Tanner
Flake	Mineta	Torres
Torricelli	Visclosky	Williams
Towns	Volkmer	Wilson
Traficant	Walgren	Wise
Udall	Waxman	Wolpe
Unsoeld	Weiss	Wyden
Valentine	Wheat	Yates
Vento	Whitten	

ANSWERED "PRESENT"—1

Kaptur

NOT VOTING—6

Courter	Garcia	Traxler
Florio	Scheuer	Yatron

□ 1522

Mr. JONES of North Carolina changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ROSTENKOWSKI. Mr. Chairman, at the beginning of this year, we had a tremendous opportunity to face up to the deficit. We had a new President, a new Congress, and a growing public awareness of the need to put our fiscal house in order. The failure to take advantage of this opportunity is expressed in the Omnibus Budget Reconciliation Act of 1989. As a vigorous advocate of real, credible deficit reduction, I cannot vote for this legislation.

When we decided in the spring that this would be the year for a "slide by budget," I thought we were making a mistake. I believed that we could and should do much more to reduce the deficit than just try and get by. As disappointing as the "slide by" decision was, it never occurred to me that it would result in a budget reconciliation bill that would make our deficit problems worse. Yet that is exactly what this legislation does. The deficit will actually increase if this legislation is passed.

Whatever semblance of budget discipline that existed at the beginning of this year's legislative process has all but disappeared in recent weeks. In the process of considering this legislation, we have waived the rules of the House and of the Budget Act in an effort to pretend that we are meeting our responsibilities to reduce the deficit. In addition to abandoning fiscal responsibility, we have fully retreated on several important health policy initiatives, and have begun the assault on tax reform.

I have been particularly distressed with the cynicism of the President's economic advisors, and their supporters in the Congress, in their approach to the entire budget debate. The Director of the Office of Management and Budget has taken great pleasure in decrying "now-nowism:" The pursuit of immediate gratification rather than planning for the future. Yet they have substituted "slide-by" budget plans, blue smoke and mirrors, "off-budget" financing, and short term revenue "surges" for sound budget discipline. The President's budget advisors have been driven by political concerns, with little, if any, regard for the real consequences of their budgetary actions.

Sooner or later the President must face up to his responsibility to lead the deficit reduction effort. Passage of this legislation will make his job that much tougher. But make no mistake, it is his job, and his alone.

Mr. MILLER of Ohio. Mr. Chairman, as one who has long opposed deceptive actions by the Congress, I take this time to share with the American people some of the budget gimmicks, fiscal chicanery, and program expansions contained in this year's budget reconciliation bill. In many instances this legislation is a victory of form over substance and appearance over reality.

Here are some examples of the smoke and mirrors being used to achieve the bogus savings in fiscal year 1990 as reported in this bill: $420 million is to be saved under the agriculture title by returning the financial assistance corporation to an off-budget status; $1.7 billion is to be saved by taking the Postal Service off-budget; by accelerating from fiscal 1991 to fiscal 1990 the Postal Service's payment to the Federal Government for worker's compensation benefits, the bill claims to reduce the deficit by $330 million; Medicare payments to hospitals and health providers are delayed for 2 days starting in fiscal year 1990 to produce claimed savings of half a billion dollars, and payments are suspended for 5 days at the end of fiscal year 1990 for an additional savings of $2 billion. Bookkeeping gimmicks like these may help us meet the deficit targets under the Gramm-Rudman-Hollings law, but they ignore the reality that Congress is still spending well beyond its means.

Not only does this bill claim false savings of nearly $5 billion, it also undertakes an expansion of the Medicaid Program that will cost an additional $200 million in fiscal year 1990 alone. We have no estimate on what this expansion will cost in the future. Consequently, we are unable to predict its budgetary impact. Clearly, a provision to expand the Medicaid Program is inappropriate in a budget reconciliation bill. Given the content of this legislation, its no wonder the people of this country hold this Congress in such low esteem.

Mr. SKAGGS. Mr. Chairman, H.R. 3299, the Budget Reconciliation Act of 1989, reconciles little, aggravates a lot, and ought not to pass this House.

As we consider this bill, we need to stop and ask what we're supposed to accomplish with it. Our objective is supposed to be to adjust entitlements and revenues sufficiently to reduce the deficit to the level required under Gramm-Rudman. Otherwise, we face the across-the-board cuts known as sequestration.

Sad to say, the reconciliation process has been infected with the unfortunate legislative disease of rank expediency. We stuff as much unfinished business as we can into this hapless parliamentary creature—business that is wholly ungermane to the real purpose of reconciliation. We've acquired the habit of focusing so much on a mish-mash of short-term goals that we're sacrificing sound, long-term budget policy and, with it, real deficit reductions.

In May, I voted against the fiscal year 1990 budget resolution because I believed that it neither reflected the honest economic assumptions nor prescribed the responsible decisions that we needed to get the deficit under control. And now I see a budget reconciliation bill that uses the same account-

ing tricks and indulges in the same economic self-deception to meet the immediate need of meeting fiscal year 1990 deficit reduction targets.

The bill would defer benefit payments for disabled postal employees, accelerate agriculture deficiency payments, defer 50 percent of postal employee lump sum retirement benefits, and freeze or defer physician payments under Medicare. And all this under the guise of deficit reduction.

How long are we going to go on trying to fool ourselves and the public? These provisions are not reductions in spending. They are accounting maneuvers that don't save us a cent. Congress is becoming a master in the art of delaying the inevitable.

That makes prospects for reaching Gramm-Rudman targets in fiscal year 1991 even less likely, and the likely consequences down the road even more alarming. In fiscal year 1991, we will face having to reduce the deficit by over $60 billion. There won't be $60 billion in shifted paydates or other gimmicks available next year. We may finally have to face reality.

And what about the following years? The House voted last week for a reduction in the capital gains tax. After an initial and temporary increase in revenues, this provision alone will spill $20 billion more in red ink over 5 years. This isn't sound economic policy—it's a disastrous continuation of shortsighted appeal to immediate gratification and quick-fix budgeting that have characterized the last decade. As we proceed willy-nilly to borrow more and more from abroad to finance our overconsumption, we're putting our economic security and our children's future at grave risk.

At the same time that we avoid dealing straightforwardly with deficit reduction, we're making enormous policy decisions on issues ranging from child care to pension reform to catastrophic health insurance that have no business being in a reconciliation bill. Too often, other factors that drive this bill mean that we're making decisions on those extraneous issues without the open debate and full consideration they deserve. Those issues are important, and each deserves to be considered on its own, not lumped together into one 1,935-page document.

I urge my colleagues to oppose this bill. We need to send a strong message to the public, to the administration, and to one another that we are able to impose better discipline on our own process, make some tough choices, and face the budget deficit in a responsible manner.

Mr. LIGHTFOOT. Mr. Chairman, I would like to take this opportunity to voice my support for the omnibus budget reconciliation of 1989. I am not wholly convinced this is the most responsible reconciliation package this body could adopt. However, the bill contains numerous improvements over current law which I strongly support.

I am tremendously relieved my colleagues saw the wisdom of repealing the section 89 restrictions. These so-called nondiscrimination requirements were counterproductive and extremely burdensome. I was pleased to support the amendment offered by my colleague, Mr. ARCHER. The section 89 repeal is, in my view, a critical component of this legislation.

I also was pleased to see the House adopt the amendment by Congresswoman ROUKEMA to repeal the Visclosky amendment on pension plan management. The Roukema amendment corrected a glaring problem in this reconciliation package.

Additionally, as a member of the House Public Works and Transportation Committee, I was pleased to support the successful amendment offered by my committee chairman, Congressman ANDERSON, to restore the aviation trust fund tax trigger as in current law. In this way, we can protect the integrity of the aviation trust fund and ensure the correct future use of the taxes paid by aviation users.

A major factor in my support of this package is the inclusion of the temporary capital gains tax rate reduction. The impact of capital gains taxes upon investment and productivity in this country is significant. This 2-year reduction in this capital gains tax rate will go a long way toward increasing investment in the United States, and will also bring in higher levels of tax revenues to the Treasury. The future indexation of capital gains for inflation goes a long way toward improving fairness in our Tax Code. It's also good news for farmers.

Statistics show that over half of all taxpayers showing capital gains had incomes of $50,000 or less—not the wealthy taxpayers many of the capital gains cut opponents claim. While I am a supporter of restoring full deductibility for individual retirement accounts [IRA's] as was proposed as an alternative to the capital gains reduction, the IRA provision also had a tax increase attached to it—I have consistently voiced my opposition to tax increases and will not support such a move.

Another provision in this bill is of major importance to farmers, and that is the extension of the 25-percent deduction for health insurance premiums paid by self-employed individuals. While I would like to see a permanent, full deduction for these premiums for farmers, I am glad to see at least a partial deduction extended under this bill.

In addition, Mr. Chairman, the reconciliation bill addressed the issue of catastrophic health care. I voted in favor of an amendment to repeal the Medicare Catastrophic Coverage Act of 1989. Hundreds of seniors from my district contacted me to express their opposition to this act.

Also, the cost of this program was greatly underestimated. In 1988, Congressional Budget Office [CBO] estimated the program would cost $30 billion over 5 years. Just 15 months later, CBO revised their estimate and said the program would cost approximately $48 billion. Mr. Chairman, as it stands, the catastrophic coverage program could possibly run a $6 billion deficit. I do not believe this is prudent fiscal policy.

Finally, I regret the Stenholm-Shaw amendment was not adopted as a substitute to H.R. 3, the Early Childhood Education and Development Act of 1989. This amendment provided a responsible alternative to the Hawkins-Downey child care bill. I strongly believe parents should have the opportunity to decide which type of child care service is best for their children. Mr. Chairman, I hope the conference committee will give thought to adopting provisions similar to those outlined in the Stenholm-Shaw amendment.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3299) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990 pursuant to House Resolution 249, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The amendments printed in section 1 of House Report 101-261 are considered to have been adopted.

Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. PETRI. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PETRI moves to recommit the bill H.R. 3299 to the Committee on the Budget with instructions to report back the same forthwith with the following amendment: Page 707, beginning on line 3, strike out all of subsection (b) of section 4702 through page 709, line 24, and redesignate the succeeding subsection accordingly.

PARLIAMENTARY INQUIRY

Mr. PANETTA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PANETTA. Mr. Speaker, will this gentleman from California be recognized for 5 minutes in opposition to the motion?

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 5 minutes.

Mr. PANETTA. I thank the Chair.

Mr. PETRI. Mr. Speaker, I wish that under the rules I were permitted to offer this motion in order to recommit the bill with instructions to remove H.R. 3, but I am not. I am offering instead a motion to recommit the reconciliation bill to the Committee on the Budget with instructions that the bill should be reported back forthwith with an amendment to strike the fairness doctrine.

The fairness doctrine is an extraneous nonbudgetary item in this bill which could cause problems in the conference with the other body and to which the President is opposed.

The provision should be stricken from the bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I think there is probably no intention to ask for a recorded vote here. We have just had one of these recently on that same subject.

But I would like to address the question of final passage.

We have had a very long period of debate. We on the Republican side have won a couple of votes, which we have enjoyed immensely. Today we have taken a kick in the head and the Democrats have won. And I hope they enjoy it as much as we enjoyed our victories.

The net of it is, however, that we must pass a reconciliation bill if we wish to avoid sequester.

While Republicans may not like the Hawkins-Downey version and Democats may not like capital gains, it is incumbent on both sides to furnish a responsible majority to pass the bill, to put us into negotiations in conference.

Remember that you will all have a chance to vote against it if you do not like what the conference does.

But I think at this time neither side would like to carry the responsibility of causing a delay which might put us into sequester.

So I would urge, particularly on my side, that Members take that sequester problem into consideration. I hope there will be sufficient votes for passage.

Mr. MICHEL. Mr. Speaker, will the gentleman from Wisconsin yield?

Mr. PETRI. I yield such time as he may consume to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I take this time allotted to the gentleman from Wisconsin only to embrace totally the comments just made by the gentleman from Minnesota [Mr. FRENZEL]. I think there is plenty of victories to be shared here, particularly on our side and, yes, the last one was won on the other side. I think it is absolutely imperative that we pass the reconciliation bill and get it over to the other body. It is my understanding that they will be working all weekend. It is only through the marriage of the two Houses on reconciliation that we ultimately get an answer here.

I would urge Members particularly on our side, if we have a degree of influence, to vote for reconciliation.

□ 1530

Mr. PETRI. Mr. Chairman, I yield the remainder of my time to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from Wisconsin for yielding.

Last week, the gentleman from Pennsylvania [Mr. GRAY], walked over here and shook my hand about 12 minutes into a vote. This week, I walked over and shook the gentleman from Pennsylvania, Mr. GRAY's hand. However, I must say either winning or losing, I appreciate the comity of the leadership and the way we are handling this bill.

I will vote yes on final passage with repeal of section 89, repeal of catastrophic, the capital gains tax that I like. In conference we will work for fulfilling the commitment made on the floor by the majority leader, the gentleman from Missouri [Mr. GEPHARDT], to reform child care provision to meet religious institution and other concerns.

While I will vote yes today, if the child care section is not improved in conference, I will vote against the conference report. I would urge the President, at that point of time, to veto the reconciliation bill.

This is a temporary step forward. However, if the concerns are not met, I am confident that we have the votes to sustain a veto in this body.

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, I will not take, hopefully, the 5 minutes remaining.

First of all, I want to take the opportunity to thank the committees that worked on this legislation, to thank the Members for their patience in this long debate that has gone on these last few days, and also to thank those who debated these issues, because they are crucial issues.

The House, in the end, has worked its will on all of them. All Members recognize that as controversial as these issues are, whether it is capital gains, or repeal of catastrophic, or child care, it is true they have very little to do with reconciliation. It was my preference they not be here, but we had little choice but to present them to the Members.

Ultimately, the purpose of reconciliation is to try to achieve sufficient savings to meet our budget targets, and get Members past sequestration. We started out with $13.4 billion; we came to the floor with $16.6 billion; we are now, because of repeal of catastrophic and section 89, somewhere down around $11 billion. The end result is that we have a very tough battle in conference to try to resolve our differences, to try to deal with these extraneous issues, and ultimately to find sufficient savings to avoid sequestration.

However, we owe it to ourselves to make that try. The Senate is on a fast timetable. My understanding is they intend to work throughout the weekend to complete reconciliation on Sunday. My hope is we can then go into conference by the middle of next week to try to see if we can resolve these issues. The choice today is between this bill, providing some $11 billion in savings, plus all of the issues that a majority of this House voted for; or nothing, and certain sequestration, which means certain failure.

With this bill, at least we have a hope in conference to try to do what is right for this country. I believe, at this point in time, we owe it to our constituents, we owe it to ourselves, and we owe it to the House to move reconciliation forward to conference.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE.

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 333, noes 91, not voting 8, as follows:

[Roll No. 274]

AYES—333

Ackerman	Bilirakis	Chandler
Alexander	Bliley	Chapman
Anderson	Boehlert	Clarke
Andrews	Boggs	Clay
Annunzio	Bonior	Clement
Anthony	Borski	Clinger
Archer	Bosco	Coble
Armey	Boucher	Coleman (MO)
Aspin	Brooks	Coleman (TX)
Atkins	Broomfield	Collins
AuCoin	Browder	Combest
Baker	Brown (CA)	Condit
Ballenger	Brown (CO)	Cooper
Barnard	Bruce	Costello
Bartlett	Bryant	Coughlin
Barton	Buechner	Coyne
Bateman	Bunning	Craig
Bennett	Bustamante	Crockett
Bentley	Byron	Darden
Bereuter	Callahan	Davis
Berman	Campbell (CA)	de la Garza
Bevill	Campbell (CO)	Derrick
Bilbray	Carper	Dickinson

Dicks	Kolter	Ritter
Dingell	Kostmayer	Roberts
Dixon	Kyl	Robinson
Donnelly	Lagomarsino	Rogers
Douglas	Lancaster	Ros-Lehtinen
Dwyer	Lantos	Rose
Dymally	Laughlin	Roth
Dyson	Leach (IA)	Roukema
Eckart	Leath (TX)	Rowland (CT)
Edwards (CA)	Lehman (CA)	Rowland (GA)
Edwards (OK)	Lehman (FL)	Roybal
Emerson	Lent	Saiki
Engel	Levine (CA)	Sangmeister
English	Lewis (FL)	Sarpalius
Erdreich	Lightfoot	Savage
Espy	Lipinski	Sawyer
Evans	Livingston	Saxton
Fascell	Lloyd	Schaefer
Fawell	Lowery (CA)	Schiff
Fazio	Lowey (NY)	Schneider
Feighan	Luken, Thomas	Schulze
Fields	Lukens, Donald	Schumer
Fish	Machtley	Shaw
Flake	Madigan	Shays
Flippo	Manton	Shuster
Foglietta	Markey	Sikorski
Ford (TN)	Martin (IL)	Sisisky
Frank	Martin (NY)	Skeen
Frenzel	Martinez	Skelton
Frost	Mavroules	Slattery
Gallegly	McCandless	Slaughter (NY)
Gallo	McCloskey	Slaughter (VA)
Gaydos	McCrery	Smith (FL)
Gekas	McDade	Smith (IA)
Geren	McGrath	Smith (NE)
Gibbons	McMillan (NC)	Smith (NJ)
Gillmor	McMillen (MD)	Smith (TX)
Gilman	McNulty	Smith (VT)
Gingrich	Meyers	Smith, Denny (OR)
Glickman	Mfume	Smith, Robert (NH)
Goodling	Michel	Smith, Robert (OR)
Gordon	Miller (WA)	Snowe
Goss	Mineta	Solarz
Gradison	Moakley	Solomon
Grant	Molinari	Spence
Gray	Mollohan	Spratt
Green	Montgomery	Staggers
Guarini	Moorhead	Stallings
Gunderson	Morella	Stangeland
Hall (OH)	Morrison (CT)	Stearns
Hall (TX)	Morrison (WA)	Stenholm
Hammerschmidt	Mrazek	Stokes
Hansen	Murtha	Studds
Harris	Myers	Stump
Hastert	Natcher	Sundquist
Hatcher	Neal (MA)	Swift
Hawkins	Neal (NC)	Synar
Hayes (IL)	Nelson	Tallon
Hayes (LA)	Nielson	Tanner
Hefley	Nowak	Tauke
Hefner	Oakar	Tauzin
Henry	Olin	Taylor
Herger	Ortiz	Thomas (CA)
Hiler	Owens (NY)	Thomas (GA)
Hoagland	Owens (UT)	Thomas (WY)
Hochbrueckner	Packard	Torres
Horton	Pallone	Torricelli
Houghton	Panetta	Towns
Hoyer	Parker	Udall
Hubbard	Parris	Unsoeld
Huckaby	Pashayan	Valentine
Hughes	Paxon	Vander Jagt
Hunter	Payne (NJ)	Visclosky
Hutto	Payne (VA)	Vucanovich
Hyde	Perkins	Walgren
Inhofe	Pickett	Walker
Ireland	Pickle	Walsh
James	Poshard	Watkins
Jenkins	Price	Weber
Johnson (CT)	Pursell	Weiss
Johnson (SD)	Quillen	Weldon
Johnston	Rahall	Wheat
Jones (GA)	Rangel	Whittaker
Jones (NC)	Ravenel	Whitten
Kasich	Regula	Wilson
Kennedy	Rhodes	Wolf
Kennelly	Richardson	Wyden
Kildee	Ridge	Wylie
Kolbe	Rinaldo	Young (FL)

NOES—91

Akaka	Boxer	Carr
Applegate	Brennan	Conte
Bates	Burton	Conyers
Beilenson	Cardin	Cox
Crane	Kastenmeier	Porter
Dannemeyer	Kleczka	Ray
DeFazio	LaFalce	Rohrabacher
DeLay	Levin (MI)	Rostenkowski
Dellums	Lewis (CA)	Russo
DeWine	Lewis (GA)	Sabo
Dorgan (ND)	Long	Schroeder
Dornan (CA)	Marlenee	Schuette
Downey	Matsui	Sensenbrenner
Dreier	Mazzoli	Sharp
Duncan	McCurdy	Shumway
Durbin	McDermott	Skaggs
Early	McEwen	Stark
Ford (MI)	McHugh	Studds
Gejdenson	Miller (CA)	Stump
Gephardt	Miller (OH)	Traficant
Gonzalez	Moody	Upton
Grandy	Murphy	Vento
Hamilton	Nagle	Volkmer
Hancock	Oberstar	Waxman
Hertel	Obey	Williams
Holloway	Oxley	Wise
Hopkins	Patterson	Wolpe
Jacobs	Pease	Yates
Jontz	Pelosi	Young (AK)
Kanjorski	Penny	
Kaptur	Petri	

NOT VOTING—8

Courter	McCollum	Traxler
Florio	Roe	Yatron
Garcia	Scheuer	

□ 1551

Mr. WISE and Mr. ROHRABACHER changed their vote from "aye" to "no."

So the bill was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3299, OMNIBUS BUDGET RECONCILIATION ACT OF 1989

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3299, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill (H.R. 3299), to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. PASHAYAN. Mr. Speaker, earlier in the day, the bells in my office were not working, and I inadvertently missed the vote on the amendment offered by the gentleman from Oklahoma [Mr. EDWARDS].

Had I been present, I would have voted "aye" on the Edwards amendment, which was rollcall No. 272.

ELECTION AS MEMBER TO COMMITTEE ON FOREIGN AFFAIRS

Mr. LEWIS of California. Mr. Speaker, I offer a privileged resolution (H. Res. 259) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 259

Resolved, That Representative Ros-Lehtinen of Florida be and is hereby elected to the Committee on Foreign Affairs.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 26

Mr. BROWN of Colorado. Mr. Speaker, I ask unanimous consent that the Honorable ROD CHANDLER be removed as a cosponsor from my bill, House Concurrent Resolution 26, a concurrent resolution expressing the sense of the Congress in opposition to the European Community's ban on importing U.S. meat products.

Mr. CHANDLER's name was inadvertently added to the list of cosponsors on January 31, 1989.

The inclusion was solely my fault and had nothing to do with the activities of the gentleman from Washington.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado.

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M., FRIDAY, OCTOBER 6, 1989, TO FILE THREE LEGISLATIVE REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m., Friday, October 6, 1989, to file three legislative reports. They are:

H.R. 2806, Forfeiture Amendments; H.R. 3007, Drug Aftercare; and S. 248, Major Fraud Act Amendments of 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2712, EMERGENCY CHINESE ADJUSTMENT OF STATUS FACILITATION ACT OF 1989

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2712) to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants, with a House amendment to the Senate amendment there-

to, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The Speaker will appoint conferees to the bill at a later time.

REQUEST TO MAKE IN ORDER A MOTION TO TAKE FROM SPEAKER'S TABLE H.R. 2978, FLAG PROTECTION ACT OF 1989, AND CONCUR IN THE SENATE AMENDMENTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that it shall be in order to consider in the House a motion to take from the Speaker's table the bill H.R. 2978 with the Senate amendments thereto, and to concur in the Senate amendments; that debate on the motion shall continue not to exceed 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and that the previous question be considered as ordered on the motion to final adoption without intervening motion.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: page 2, line 1, after "defaces," insert: "physically defiles."

Page 2, line 1, after "burns," insert: "maintains on the floor or ground,".

Page 2, strike out all after line 16 over to and including line 11 on page 3, and insert:

"(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible."

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SENSENBRENNER. Reserving the right to object, Mr. Speaker, I would ask the gentleman from Texas [Mr. BROOKS] to explain what this motion is and whether it has been cleared with the ranking Republican member, the gentleman from New York [Mr. FISH].

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I think the gentleman from New York [Mr. FISH] felt very likely there would be an objection, but not from him.

This is to take up the flag bill and to pass it today, as amended by the Senate. In plain English, that is what we are proposing to do, and send it on to the President. It was passed by the Senate this afternoon with several amendments, and I think we ought to just pass it and send it on as they managed it.

Mr. SENSENBRENNER. Further reserving the right to object, Mr. Speaker, I happen to be the ranking minority member on the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary which considered this legislation. The first I heard of the motion of the gentleman from Texas is when the gentleman stood up now to make it. This is highly unusual, particularly since legislative business is winding down. If the unanimous-consent request is agreed to, there will be a debate on this motion and a rollcall. Many of the Members have already left for the airport on the assumption that the last rollcall of the day has been had.

For that reason, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, OCTOBER 6, 1989, TO FILE CONFERENCE REPORT ON H.R. 2990, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow. October 6, 1989, to file a conference report on the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEFENSE PRODUCTION ACT OF 1950 EXTENSION

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3281) to extend the expiration date of the Defense Production Act of 1950, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment, as follows:

House amendments to Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the House bill, insert the following:

SECTION 1. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

SEC. 3. REPORT ON FEDERAL ASSUMPTION OF FLOOD INSURANCE PROGRAM.

Section 1340(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4071(b)) is amended to read as follows:

"(b) Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

"(1) state the reason for such determinations,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable.

The Director shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.".

SEC. 4. AUTHORIZATION FOR STUDIES.

Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated for studies under this title not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

SEC. 5. SEA LEVEL RISE STUDY.

The Director of the Federal Emergency Management Agency shall conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps. This study shall also project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region. The Director shall report the results of this study to the Con-

gress not later than one year after the date of enactment of this Act. Funds for such study shall be made available from amounts appropriated under section 1376(c) of the National Flood Insurance Act of 1968.

SEC. 6. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended—

(1) by striking "September 30, 1989" and inserting "September 30, 1991"; and

(2) by striking "5 percent" and inserting "15 percent".

(d) ANNUAL REPORT.—Section 1234 of the National Housing Act (12 U.S.C. 1749bbb-10d) is amended to read as follows:

"REPORTS ON OPERATIONS

SEC. 1234. The Director shall report to the Congress not less than annually on the program authorized by this title. The reports under this section shall include—

"(1) full and complete information on the operations and activities of the Director under this part, together with such recommendations with respect thereto as the Director may deem appropriate; and

"(2) a detailed justification of any increase in premium rates charged for crime insurance made during the period for which the report is submitted.".

SEC. 7. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the National Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the National Housing Act of 1949 is amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(d) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311(d) of the of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 8. EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 9. DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF PROGRAMS.—The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1989" and inserting "August 10, 1990".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.".

Amend the title so as to read: "An Act to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.".

Mr. WYLIE (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. WYLIE. Reserving the right to object, Mr. Speaker, I reserve the right to object to allow the gentleman from Texas [Mr. GONZALEZ] to explain what we are doing here.

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield under his reservation, I will explain my unanimous-consent request. As the Members will recall, the House on two occasions passed legislation to reauthorize the Flood and Crime Insurance Program, several housing programs and the Defense Production Act. Final enactment of legislation has been delayed because of disagreements over the terms of the reauthorization of the Crime Insurance Program. This morning the appropriate House and Senate committee and interested Members reached agreement on a proposal to reauthorize the Crime Insurance Program. My unanimous-consent request will strike the Senate amendment to H.R. 3281, insert the rest of House Joint Resolution 412 as it passed the House with a single change in the text of that resolution concerning the compromise on the Crime Insurance Program.

The Senate amendment would have allowed the Crime Insurance Program to expire, the House passed bills would have reauthorized the program for 2 years and permitted the crime insurance premiums to increase by no more than 5 percent per year. The legislation before us today will reauthorize the program for 2 years and permit the insurance premiums to increase by no more than 15 percent per year.

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Final enactment of legislation has been delayed because of disagreements over the terms of the reauthorization of the Crime Insurance Program mostly in the Senate. This morning the appropriate House and Senate committees and interested Members reached agreement on a proposal to reauthorize the Crime Insurance Program, which was the only thing in disagreement.

My unanimous-consent request will strike the Senate amendment to the bill, insert the rest of House Joint Resolution 412 as it passed the House originally with a single change in the text of that resolution concerning the compromise on the Crime Insurance Program. The Senate amendment would have allowed the Crime Insurance Program to expire.

The House-passed bill would have reauthorized the program for 2 years, permitted the crime insurance premiums to increase by no more than 5 percent per year, and the legislation before us today will reauthorize the programs for 2 years and permit the insurance premiums to increase by no more than 15 percent per year.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, I will urge adoption of the resolution.

The House considered House Joint Resolution 412 on September 28, 1989, and I voiced concern about the extension of the Crime Insurance Program at that time, especially the cap on premiums. The other body has agreed to increase the present 5-percent cap on premiums to 15 percent, which I think is an improvement, and it calls for a study, an annual report by the Director of the Federal Insurance Administration, on the feasibility of a buyout option for crime insurance programs and a justification for the increase in premiums. Although I still maintain that the Federal Crime Insurance Program is one program that we could live without since more and more States are opting out of it and are beginning to provide alternatives to crime insurance programs, I believe the study will verify this conclusion, but as the chairman has mentioned, we do need to continue the Flood Insurance Program. We need an extension of the Defense Production Act, in my judgment, and there are certain rural housing programs which are extended by this resolution which I think are most critical.

Therefore, I urge adoption of this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the initial request of the gentleman from Texas?

Mr. BARTLETT. Mr. Speaker, reserving the right to object, I do reserve the right to object to this unanimous-consent request, and I do not know at this moment whether I will, indeed, object or not.

I object both on the process, or I reserve my right to object both on the process as well as on the legislation itself.

First, on the process, there are four unrelated programs that we are providing a simple extension for even though they are unrelated. We are putting them into one bill and extending those programs for 1 year.

These four programs are vastly in need of a fresh look, of a new look, by the committees and by the House as a whole. The process had a rather limited debate in committee and even more limited debate on the floor, passing on a voice vote, even more limited in the Senate, in the other body, and then when it came time for conference, no conferees were appointed. Apparently the modest changes or agreements that were made were made between, directly between, the principals.

I do have serious reservations about the process.

I further have reservations about the process of extending four Federal programs without attempting to make any judgment, first of all, as to whether they are needed and, second, whether there ought to be any improvements.

I also have reservations about the programs themselves, Mr. Speaker, and I will say that.

All four of these programs share one thing in common, and that is that they are all four outdated. They are rather ill-considered, and they are, at best, unnecessary, and several of them are, in fact, costly and counterproductive themselves.

Mr. Speaker, I will say that since these four programs are being given a 1-year extension to extend, as I understand the legislation, to September 30, 1990, and since recognizing the reality of the end of the session, that if I were in fact to lodge a formal objection at this point, the sponsors of the bill could bring the bill back up on the floor next week, and no doubt could get sufficient votes to pass them on the floor; then I will not object to this legislation at this time.

But I will say on the record that 1 year from now, September 30, 1990, I would intend to object to any further extension of this legislation, and would, as one member of the Committee on Banking, Finance and Urban Affairs, insist that we do a full review and make a conclusion as to whether these four Federal laws ought to simply be abolished, which is my conclusion that they should.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Further reserving the right to object, I am happy to yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank my distinguished fellow Texan.

I would very much like to allay his fears and also, in a way, sympathize with his sense of, I guess, incongruity because of the processes.

What we are facing here is the need to extend the programs. The merits and the demerits of the programs, as the gentleman will recall, were based on subcommittee considerations.

In the case of flood and crime insurance, the chairman of the subcommittee that has jurisdiction, the gentleman from Alabama [Mr. ERDREICH], has committed himself to having, as soon as possible, immediate oversight hearings on this, particularly the crime insurance. So the gentleman will have ample opportunity, as one of the most active and probably one of the most knowledgeable members of the Committee on Banking, Finance and Urban Affairs, and I think he is on the subcommittee of the gentleman from Alabama [Mr. ERDREICH], if I am not mistaken.

Mr. BARTLETT. Further reserving the right to object, that is correct.

Mr. GONZALEZ. We will have ample opportunity to hit the merits.

At this point, I would strongly urge my friend to help us to preserve these programs that technically expired as of October 1.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I agree with the gentleman from Texas. The procedure is not all that good in this case except to say that all of these programs were passed by the House under the suspension calendar except for the rural housing programs. The rural housing programs are very meritorious on their own. They do need to be extended, and the House has had an opportunity to consider the others. I would also suggest that in the case of the Flood Insurance Program, that is included in the reconciliation bill, and I suppose what we are doing is sort of ratifying what they have done under the jurisdiction of our Committee on Banking, Finance and Urban Affairs, but I would hope that the gentleman would not object.

Mr. BARTLETT. Further reserving the right to object, I want to say to my distinguished chairman and distinguished ranking member that during the course of considering these programs on their own merit, I would just urge and insist that the next time it comes up that the committee and the Congress face a threshold question as to whether or not we ought to extend these programs at all. We need to face the question. One of the options we could do is simply allow these Federal programs to expire. They are, in fact, not necessary, many say.

One could make a judgment one way or the other, but just because they are ready to expire does not mean that we ought to necessarily extend them for another year.

Mr. Speaker, given that and given that my distinguished colleagues could easily bring the bill, with trouble but could do it, could bring the bill back up and pass it on the floor of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I ask for this time for the purpose of inquiring of the distinguished majority leader the program for the next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Obviously we are finished with business today. There will be no more votes today.

The House will meet at 10 a.m. tomorrow, and there will be no legislative business.

The House, on Monday, October 9, will not be in session because of the Columbus Day observance.

Tuesday, October 10, the House will meet at noon and consider five bills on suspension. Recorded votes on suspensions will be postponed until after debate on all suspensions, and we want to hold votes until 4:30 or so in the afternoon.

We will have H.R. 1113, authorization for the Office of Environmental Quality; H.R. 2587, North American Wetlands Conservation Act; H.R. 2806, amendment to the Controlled Substances Act of 1988; H.R. 3007, Drug and Alcohol Dependent Offenders Treatment Act of 1989; and S. 248, Major Fraud Act Amendments of 1989.

On October 11, the House will again meet at 10 a.m. We would expect a motion to concur in the Senate amendment on the flag following consideration by the Committee on Rules on Tuesday. We also believe the Committee on Appropriations hopes to conclude conference and file four conference reports by this time. This will include conference action on 7 of the 13 appropriations bills completed by the House.

It is likely that the four following conference reports will be called upon and probably this will happen on Wednesday.

Those would be the conference reports on Treasury Postal Service,

Labor, HHS and Education, the District of Columbia, and rural development, agriculture.

We will not be considering the Oil Pollution, Prevention, Response, Liability and Compensation Act of 1989 on that day.

On Thursday, October 12 and Friday, October 13, the House will meet at 10 a.m. We will consider H.R. 3661, Arms Control Authorization Act of 1989; and H.R. 2748, Intelligence Authorization Act for fiscal year 1990.

Many Members have been asking about floor action on Friday, and we have been trying to alert Members to the fact that we may have floor action on that day, and we have scheduled it for that day, especially in light of the fact of sequestration coming on October 16. We may need to be on the floor that day relating to sequestration, avoiding sequestration, and finishing the work on reconciliation and other appropriations bills.

Mr. GINGRICH. I thank the majority leader.

If I might ask about three issues, first of all, as the gentleman knows, I have been recently inquiring about the Nuclear Regulatory Commission Act which one of our colleagues is extremely concerned about, the gentleman from Pennsylvania [Mr. RITTER], who has an amendment pending. Do we have any further information when that act might reach the floor?

Mr. GEPHARDT. I cannot give the gentleman a definitive answer. I know that this is the third or fourth time that the gentleman has inquired.

I realize that there is a great deal of desire on the part of the gentleman from Pennsylvania [Mr. RITTER]. I will endeavor to get the answer out of the committee and relay that to both gentlemen.

Mr. GINGRICH. I thank the gentleman.

Second, there is some talk about a new approach to the minimum wage bill and that coming to the floor possibly sometime in the near future. I wonder if there might be any information on when minimum wage might be coming up?

Mr. GEPHARDT. We are discussing the possibility of bringing a minimum wage bill to the floor. It is possible that it could happen on one of the days next week, but that is very much up in the air, undecided at this point.

We will obviously give plenty of advance notice if the decision is to go with it next week.

Mr. GINGRICH. Finally, of course, a number of our colleagues will want to be bringing up the flag bill which came from the Senate. Could the gentleman let us know when that might be coming up?

Mr. GEPHARDT. We would expect that it will go before the Rules Committee on Tuesday, October 10. We would expect the motion to concur in the Senate amendments on the flag on Wednesday, October 11.

Mr. GINGRICH. Good. I thank the gentleman very much. Again, it is very good to work with the gentleman from Missouri, even if today was not quite as good on our side as some we have had. I do appreciate so much the way the gentleman from Missouri has been running the House.

Mr. GEPHARDT. I thank the gentleman.

ADJOURNMENT FROM FRIDAY, OCTOBER 6, 1989, TO TUESDAY, OCTOBER 10, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 6, 1989, it adjourn to meet at noon on Tuesday, October 10, 1989.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 6, 1989, TO FILE REPORT ON H.R. 2494.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until midnight tomorrow, Friday, October 6, 1989, to file a report on H.R. 2494.

Mr. Speaker, this has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1487, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1487) to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. SMITH of New Jersey moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 1487, be instructed to agree to section 1042 of the Senate-passed bill which reads as follows:

At the end of the bill add the following new section:

"SEC. . CHINESE FLEEING COERCIVE POPULATION CONTROL POLICIES.

"(a) Pursuant to paragraph (42)(A) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)(A)), all adjudicators of asylum or refugee status shall give fullest possible consideration to applications from

"nationals of the People's Republic of China who express a fear of persecution upon return to that country because they refuse to abort a pregnancy or resist surgical sterilization in violation of Chinese Communist Party directives on population, if such refusal is undertaken with full awareness of the urgent priority assigned to such directives by all levels of the Chinese government, and full awareness of the severe consequences which may be imposed for violation of such directives."

"(b) In view of the urgent priority assigned to the "one couple, one child" policy by high level Chinese Communist Party officials and local party cadres at all levels, as well as the severe consequences commonly imposed for violations of that policy, which are regarded as 'political dissent,' refusal to abort or to be sterilized, as described in subsection (a) of this section, shall be viewed as an act of political defiance justifying a 'well founded fear of persecution' sufficient to establish refugee status under paragraph (42)(A) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)(A)).

"(c) All other factors which may contribute to a determination of asylum or refugee status in such cases are to be given additional weight by asylum and refugee adjudicators, such factors including, but not limited to, overt political activities while in the United States or third countries, membership in an ethnic or religious minority, family background and history, or suspicion of 'counterrevolutionary' activities by Chinese Communist Party officials.

"(d) Nothing in this section shall be construed to necessitate a grant of asylum or refugee status to any individual who is ineligible for admission to the United States under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

"(e) The Secretary of State and the Attorney General shall, within 30 days of enactment of this section, promulgate regulations and guidelines to carry out the provisions of this section.".

"(f) Nothing in this section shall be construed as—

"(1) Shifting the burden of proving, in each individual case, facts sufficient to establish a claim of asylum or refugee status as described in subsection (a) of this section, from any person making such claim of

asylum or refugee status to the Attorney General; or

"(2) Requiring the Attorney General to disprove such claim in the absence of proof of facts sufficient to establish a claim of refugee or asylum status as described in subsection (a) of this section by any person making such claim.".

"(g) The number of persons receiving political asylum status solely because of the provisions of this section shall not exceed 1,000 in any fiscal year."

"(h) The Attorney General shall not be obligated to grant political asylum to any person claiming to qualify under subsection (a) if the Attorney General proves by clear and convincing evidence that such person has claimed such status solely for the purposes of evading the immigration laws of the United States."

"(i) The provisions of this section shall take effect on the date of enactment of this Act, and notwithstanding the provisions of subsection (e) of this section or any other provision of law, all adjudicators of asylum or refugee status shall apply the provisions of this section to every case, administrative or judicial proceeding, or appeal that is pending on the date of enactment of this Act, and to any claim that arises on or after such date of enactment.".

Mr. SMITH of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion instructs conferees to accept a Senate amendment to H.R. 1487 that simply provides that all adjudicators of asylum or refugee status give the "fullest posible consideration" to applications from nationals of the People's Republic of China [PRC] who express a fear of persecution upon return to that country, because they refuse to either abort their unborn child or because they resist mandatory sterilization—in violation of Chinese Communist Party directives.

This amendment, offered by Senators ARMSTRONG and DECONCINI, passed the Senate unanimously 95 to 0.

Currently there are about 50 PRC nationals who have sought asylum in the United States pursuant to Justice Department guidelines issued in August 1988.

Mr. Speaker, the amendment establishes a ceiling of 1,000 persons per fiscal year which should allay fears that the number of applicants will exceed our capacity to properly dispose of each case.

Mr. Speaker, that the PRC continues a comprehensive, intrusive, coercive population control program is beyond dispute. Since 1977, China has mandated one child per couple—and has used coercion to enforce compliance.

Mr. Speaker, it should be abundantly clear to all that the People's Republic of China, through its one-child-per-family policy, continues to employ systematic coercion and brutality in achieving population control. Human life is incredibly cheap to the Deng Xiaopings of this world and babies—especially unborn children—are prime candidates for elimination and abuse in the cause of population control. The same iron fist that brought the prodemocracy students to their knees in Tiananmen Square has, since 1979, been using forced abortion, coercive sterlization and mandatory IUD insertion to control the masses. The simple fact of the matter is the people of China have no rights whatsoever concerning family planning matters. A couple's legitimate desire for a family is of no concern or consequence to the Chinese population planners and their cheerleaders in the population control community.

The result of this cruel and inhumane assault on the family has been nearly 110 million children aborted since 1979—a number equal to the combined population of England and France—and most of these abortions are the result of some degree of government coercion. The result has also been millions of women and men sterilized under government compulsion or threat of punishment and still millions more women who have undergone mandatory IUD insertions.

There's no pretense of choice or freedom in the PRC. The government demands, bullies, and orders—the people obey or are punished.

In their exhaustive 1988 study on population trends in the PRC, China experts, Judith Banister and Karen Hardee-Cleaveland of the U.S. Bureau of the Census conclude:

> Today, Chinese couples still are not given a choice about whether they practice family planning, how many children they have, when they have the allowed birth or births, whether or not to sign family planning contracts, or what form of birth control they will use.

Recent information clearly suggests that coercion is actually getting worse—not better in the PRC.

Therefore, Mr. Speaker, I strongly urge Members to support my motion to instruct conferees.

This is clearly a humanitarian effort that should be supported by all.

Mr. Speaker, I am including a fact sheet on the Armstrong-DeConcini amendment at this point in the RECORD.

FACTSHEET

ARMSTRONG-DECONCINI AMENDMENT ON ASYLUM FOR PRC NATIONALS

Current Law: A section of the Immigration and Naturalization Act (8 U.S.C. 1103) empowers the Attorney General to issue policy guidelines to be followed in the adjudication of applications for asylum. The Attorney General issued guidelines instructing asylum adjudicators to give "careful consideration" to applications from PRC nationals who seek asylum because they have defied their government's population control policies.

Current Practice: The INS has not implemented these guidelines. It continues to seek deportation orders against PRC nationals who fear persecution because they have not complied with the government's "one couple, one child" policy. Moreover, the Board of Immigration Appeals in a May 12 decision to deport a PRC national, said that it was not bound by the DOJ guidelines.

Armstrong Amendment: The Armstrong amendment would codify and expand existing DOJ policy by requiring the Secretary of State and the Attorney General to promulgate regulations and guidelines that would require asylum and refugee adjudicators to give the "fullest possible consideration to applications from nationals of the PRC who express a fear of persecution upon return to that country because they refuse to abort a pregnancy or resist sterilization in violation of Chinese Communist Party directives on population."

WHY THIS AMENDMENT SHOULD BE ADOPTED

The Chinese government's population control policy that bars families from having more than one child is strictly enforced—often by means of compulsory abortions and sterilizations.

About 50 PRC nationals have sought asylum in the U.S., fearing stringent sanctions because of their defiance of their government's population control policy. DOJ guidelines, noting that the PRC government views such defiance as an act of "political dissent," state that "a finding of the requisite 'well-founded fear of persecution' under these circumstances is reasonable." This constitutes persecution for "political opinion" under the Immigration Act and would result in a grant of asylum.

The INS nevertheless continues to fight such asylum requests, even in the most extreme circumstances. For example, they are seeking to deport Mr. Zhao, a PRC national. In October 1984, according to court depositions, Chinese police burst into Mr. Zhao's home and brought his wife to a hospital in order to abort her child. Mrs. Zhao, who was in the ninth month of her pregnancy, was beaten and went into labor enroute to the hospital. Her child, born alive, was strangled by government officials while Mr. Zhao tried to intervene. Mr. Zhao subsequently escaped to the U.S. and sought asylum. Annette S. Elstein, an Immigration Judge in New York, ordered Mr. Zhao deported, arguing that he had not demonstrated a "well-founded fear of persecution."

An INS attorney in New York recently filed a brief in opposition to an asylum request from a PRC national who feared persecution because he had not complied with the "one couple, one child" edict. The INS brief argued that the request for asylum "does not rise to the level of a finding of a well founded fear [of persecution]" because the policy has been "applied to the nation as a whole." This directly contravenes DOJ guidelines which state that "a finding of the requisite 'well-founded fear of persecution' under these circumstances is reasonable."

The agency is also seeking to deport Mr. Yun Pan Lee, a Roman Catholic who was prohibited from working for a period of six

months and whose family's supply of food and water was cut off after the birth of his second child. When Mrs. Lee became pregnant with their third child, Mr. Lee fled the country and sought asylum in the U.S. Mrs. Lee was subsequently compelled by the government to have an abortion. An immigration court judge, citing the DOJ guidelines, found in Lee's favor. The INS has appealed this ruling to the Board of Immigration Appeals.

The Board of Immigration Appeals has argued that it is not bound by the DOJ guidelines. In a May 12 ruling, the board found that these guidelines "were directed to the Immigration and Naturalization Service, rather than the immigration judges and this board." It ordered Jin Han Chang, who had sought asylum under the DOJ guidelines, deported.

Thus, neither the INS nor the Justice Department's Board of Immigration Appeals have implemented the DOJ guidelines. Indeed, the INS has made only the most minimal efforts to make its various offices aware of the guidelines. Despite the Attorney General's instruction to the INS Commissioner to "insure that these guidelines are immediately distributed to INS headquarters, all regional, district and local offices," it appears that the INS has not disseminated the policy guidelines. Duke Austin, an INS spokesman, recently told the New York Times that his agency's district directors were made aware of the guidelines at a conference held in San Diego last September, but that "no corresponding additional instructions were put out."

The INS continues to seek deportation orders against Chinese nationals who fear persecution because they have defied their government's "one couple, one child" policies, and the Board of Immigration Appeals continues to deny them asylum.

The Armstrong amendment would by statute apply the DOJ policy to all relevant agencies, including INS and the Board of Immigration Appeals. It would thereby assure that applications for asylum by Chinese nationals who fear persecution because they have defied the party's population control policies would be given the fullest possible consideration.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New Jersey [Mr. SMITH].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Speaker will appoint conferees upon his return.

PERSONAL EXPLANATION

Mr. WISE. Mr. Speaker, I would note that yesterday I was unavoidably detained and happily detained for the birth of our second child, and in so doing unfortunately missed four votes.

Had I been present, Mr. Speaker, on the Donnelly amendment, recorded vote No. 267, I would have voted "no."

On the Stark amendment, recorded vote No. 268, I would have voted "aye."

On the Durbin amendment, recorded vote No. 269, I would have voted "no."

On the final passage of H.R. 3299, recorded vote No. 270, I would have voted "aye."

The SPEAKER pro tempore. The Chair would inquire if the gentleman would like to add to that the name of the child and weight?

Mr. WISE. I would be happy to, Mr. Speaker. Alexandra Stewart Wise was born at 1:36 p.m. weighing 7 pounds and 14 ounces and she and her mother are doing fine.

WAYS AND MEANS COMMITTEE OVERSIGHT SUBCOMMITTEE INVESTIGATION OF GOVERNMENT-SPONSORED ENTERPRISES

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I wish to call my colleagues' attention to remarks I made yesterday in a special order of the House, concerning the efforts of the Ways and Means Oversight Subcommittee to better understand the risks associated with Government-sponsored enterprises. These remarks are printed on page H6649 of the CONGRESSIONAL RECORD for October 4, 1989.

When I speak of GSE's, I am referring to organizations such as Fannie Mae, Freddie Mac, Sallie Mae, and the Farm Credit System. GSE's are corporations created by Federal charter, which are backed by the implicit guarantee of the U.S. Treasury, but which are completely off the Federal budget.

I primarily want to alert the Members of the House that because GSE's have the implicit backing of the Federal Treasury, they represent an inherent risk to the taxpayer. Over the past 3 years these potential risks have become all too real, and Congress has had to spend tens of billions of dollars in bailouts. Mr. Speaker, let me be clear, I do not wish to leave the inference that any GSE is presently in financial difficulty, and I do not feel that there is any reason for public alarm. However, I do believe that these operations merit careful scrutiny.

It is for this reason that I joined with Congressman GRADISON and Congressman SCHULZE to initiate legislation requiring the Treasury Department to study and report on GSE's. The public, the Congress, and the administration all have a strong interest in seeing that GSE's are soundly managed so as to anticipate and minimize the risks inherent in carrying out their important public purpose. We hope to keep the House informed of the progress made by the Treasury Department in carrying out this study, and I urge my colleagues to give careful consideration to these important issues.

TRIBUTE TO JOSEPH WHEELER SEWELL, BASEBALL GREAT

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, Monday will be a great day for the wonderful State of Alabama for on this day, 91 years ago, October 9, 1898, in the town of Titus, one of baseball's greatest players and one of Alabama's greatest sons was born. Named after his father's confederate war hero, Joseph Wheeler Sewell was born the son of a country doctor and loving mother, Wes and Sudie Sewell. Little did Joe's proud parents realize that three of their six children, Tommy, Luke, and Joe, would all make their mark as major league baseball players.

Upon his graduation from the University of Alabama in 1920 where Joe had met his future loving wife of 63 years, the former Ms. Willie Veal, Joe stopped in New Orleans where he helped the New Orleans Pelicans to the Southern League championship before making his way to the 1920 Cleveland Indians. In Cleveland, Joe was again instrumental as the starting shortstop to that team's winning its first-ever World Series.

Many remember Joe as the man who both preceded Babe Ruth in the batting lineup and roomed with Lou Gehrig for the 5 years that Joe was a New York Yankee, but Alabama remembers Joe Sewell as the most difficult man in baseball history to strike out. That's right—no one since the beginning of baseball has been tougher to whiff than the 5'8" Alabama son. I submit that Joe's strikeout records of fewest for a career—114 times in 14 seasons; most consecutive games played without striking out—115; and fewest strikeouts in a season for an everyday player of 3, done in both the 1930 and 1932 seasons, will stand for as long as the national pastime of this glorious Nation is played.

Great as these records are, Joe Sewell was also an excellent fielder who led his league in fielding twice, and as if all this weren't enough, Joe Sewell is also one of baseball's ironmen whose 1,103 consecutive games played still ranks sixth on the all-time major league list.

But Monday, on his 91st birthday, while he happily resides with his son Jimmy and daughter-in-law Sue at their home in Mobile AL, wants our Nation to recognize Joseph Wheeler Sewell not as a member of the Alabaman and National Baseball Halls of

Fame, but as a great American and a wonderful Christian who has lived his life as a true American hero, a man who never refuses—even today—the autograph requests of this Nation's great and adoring youth who forever search for and need role models like Joe. On your big day Joe, this Nation salutes you. We hope you live for another 91 years. God Bless you Joe Sewell, and happy birthday.

□ 1620

WE SHOULD GET A MUCH BETTER EXPLANATION OF THE SITUATION IN PANAMA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, when President Bush was elected, I, as many other people, applauded his statement that he wanted a kinder and gentler America. But I did not know that that was going to extend to Noriega. I must say that I, as many others, have been very, very perplexed by the administration's explanation of what happened.

We keep hearing they did not get enough invitations to the coup. I mean, how often do you have any information about a coup?

They then said, well, they did not have enough intelligence. My goodness, we have got South come down there. That is the headquarters of our commander of the whole south region, with tens of thousands of soldiers. And we are talking about not a huge continent, we are talking about Panama, very small place. What do you mean, with all that notice, that we did not know where Noreiga was and we did not know what to do and this and that and the other? I really find all of this very, very troubling.

I certainly hope that we can get a much better explanation. There has got to be more than we have heard so far or we are really in trouble.

THE UNITED STATES MISSED A GOLDEN OPPORTUNITY IN PANAMA

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, you know, it seems to me that I recall just a couple of weeks ago the President of the United States told the American people that he was committed to taking whatever steps are necessary to win the war on drugs.

Yesterday this administration and this country took a giant step backwards. It was given a golden opportunity to end a reign of terror, the golden opportunity to do away with a thug who has been indicated by two grand juries; given a golden opportunity to say to the rest of Central and South America that we mean what we say and we stand behind what we mean.

But I am sorry to stand in this well and tell you that the administration, the President, froze at the controls, froze at the controls, and has let an opportunity pass to do away with this tin dictator who is allowing the importation of drugs into this country that are killing our youth and going to the very roots of our society.

THE AMERICAN PEOPLE DESERVE SOME ANSWERS ABOUT WHAT WAS OR WAS NOT DONE IN PANAMA

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the American people deserve some answers about what was or was not done in their name in Panama.

For years we have been declaring war against drugs. Tuesday some reports indicate that we were given a chance to capture the most notorious drug dealer in the world. What did we do? Did we pass up an opportuntity to capture the man personally responsible, the man indicted in our courts for shipping tons of drugs onto our streets? That is the question the American people should have answered.

Mr. President, it is time for a full accounting. There are more different conflicting versions of what happened in Panama floating around, most from different people in your administration, than Carter has Little Liver Pills.

We have had one version saying the rebels did not want to give Noriega up; another version saying it was too risky to capture him; a third version saying it was a plot to trick us; and another version saying we could not make up our minds in time.

Mr. President, which is it? What happened? Why did we miss the opportunity and pass up one of the world's greatest thugs?

Mr. President, the American people support your tough words on drugs, but they would support tough action as well.

SOME REFLECTIONS ON THE PANAMA COUP

(Mr. DYSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, everyone in this country, and most of the civilians in Panama, followed Tuesday's attempted coup against General Noriega with hopeful expectation. We all would like to see Noriega toppled by the very troops who have been the basis of his support.

The coup, as we learned with disappointment, failed. A small company of PDF soldiers, whose primary responsibility is to guard Noriega's central command headquarters, took control of the building for a few hours. They lost it to Noriega-loyalist troops who laid siege to the headquarters almost as soon as the dissident officers claimed to have secured it.

My first concern is for the safety of American lives and property, and for the security of the Panama Canal. But tense and inherently dangerous as the situation was, there appears to have been no direct threat to U.S. citizens or interests.

Now the question is whether it would have been in our interest to have done more to make the coup attempt a success.

The facts on the coup are still coming in, but I can tell you this much. The very day of the coup a rumor began circulating that Noriega had been under house arrest, that the leaders of the coup had attempted to deliver him to U.S. custody, but that the U.S. had refused to accept him.

If it appears that there is some truth to this story. I am disappointed by what I have learned. As chairman of the House Subcommittee on the Panama Canal, I have worked to support this country's policy toward Panama. I have done so for two reasons. First, because I have always believed that an internal coup, initiated by the PDF, was the best solution to getting rid of Noriega. Second, because the administration has let me know, in no uncertain terms, that this is precisely what they believed as well, and that a coup would be the inevitable result of our pressure to isolate Noriega.

If it is the case that we have let our best hope for getting rid of Noriega slip away out of confusion or because we simply weren't prepared, I will have to reconsider my support for the administration's entire Panama policy. I believe many of my colleagues in the Congress are already wondering why we weren't more aggressively involved.

But while we wait for the smoke to clear and to get a complete picture of the coup attempt, there is something important to keep in mind.

The United States can drive a jeep into downtown Panama City and take custody of Noriega anytime we believe it will serve our interests to do so. We know precisely where he is at all times. We can disarm his guards, put him in handcuffs and toss him into an American jail in the span of a few short hours.

Our ability to do this isn't in question. The issue is only that, for the time being, such an action would not serve our interests or purposes. At this

time, such an action would only compound our problems without in fact improving the situation in Panama very much.

Right now, if Noriega forces this country to take direct military action against him, we would certainly win the battle, but he would win the war.

Noriega should keep in mind that times change. He isn't invulnerable. The PDF have now made two attempts to depose him. They will or should make a third.

And he should keep in mind that the people of this country are not going to give up or go away. There may come a day when our interests are best served by taking Noriega forcibly into U.S. custody. If that day comes, the American people, I believe, would support such a move.

APPOINTMENT OF CONFEREES ON H.R. 2712, EMERGENCY CHINESE ADJUSTMENT OF STATUS FACILITATION ACT OF 1989

The SPEAKER. The Chair appoints the following conferees on H.R. 2712, the Emergency Chinese Adjustment of Status Facilitation Act of 1989:

Messrs. BROOKS, MORRISON of Connecticut, BERMAN, SMITH of Texas, and MCCOLLUM.

APPOINTMENT OF CONFEREES ON H.R. 1487, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991

The SPEAKER. The Chair appoints the following conferees on H.R. 1487, Foreign Relations Authorization Act, fiscal years 1990 and 1991:

From the Committee on Foreign Affairs, for consideration of the entire House bill and the entire Senate amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, SOLARZ, WOLPE, CROCKETT, GEJDENSON, DYMALLY, SMITH of Florida, BERMAN, BROOMFIELD, GILMAN, LAGOMARSINO, LEACH of Iowa, ROTH, and Ms. SNOWE.

As additional conferees from the Committee on Armed Services, for consideration of sections 1016 and 1030 of the Senate amendment, and modifications committed to conference: Messrs. MAVROULES, MCCURDY, and MCCRERY.

As additional conferees from the Committee on Banking, Finance, and Urban Affairs, for consideration of sections 631, 632, 633, 1021, 1025, and 1030 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. FAUNTROY, Ms. OAKAR, Mr. WYLIE, and Mr. BEREUTER.

As additional conferees from the Committee on Education and Labor, for consideration of section 134 of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, WILLIAMS, and GUNDERSON.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 221 through 229 of the House bill and sections 208, 701 through 707, and 1025 of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, MARKEY, and RINALDO.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of section 1041 of the Senate amendment, and modifications committed to conference: Messrs. UDALL, VENTO, and YOUNG of Alaska.

As additional conferees from the Committee on the Judiciary, for consideration of sections 138 and 213 of the House bill and sections 111, 114, 120, 131, 502, 503, 504, 1008, 1037, 1042, 1046, 1047, 1048, 1049, and 1057 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, MORRISON of Connecticut, FISH, and SMITH of Texas.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1013, 1038, and 1044 of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, DYSON, DAVIS, and YOUNG of Alaska.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 120, 121, 141 through 152, 161 through 164, 1011, and 1051 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, ACKERMAN, SIKORSKI, HORTON, and MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 116 and 221 of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, OBERSTAR, BOSCO, HAMMERSCHMIDT, and PETRI.

As additional conferees from the Committee on Rules, for consideration of sections 1002 and 1036 of the Senate amendment, and modifications committed to conference: Messrs. DERRICK, BEILENSON, and QUILLEN.

As additional conferees from the Permanent Select Committee on Intelligence for consideration of section 1008 of the Senate amendment, and modifications committed to conference: Messrs. BEILENSON, MCCURDY, and LIVINGSTON.

□ 1600

TRIBUTE TO BONNIE PUGH

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I rise to say a formal farewell with family members and friends, to Bonnie Pugh, and to salute her exemplary service to this country. Bonnie Pugh, of course, is the wife of Robert Pugh, our Ambassador to Chad, who was killed on the fateful flight from Chad to Paris most recently.

Bonnie Pugh was educated at the University of California at Berkeley. She married a young Marine officer, and she was his stalwart companion throughout his military service. When he joined the State Department, Bonnie became one of those wonderful Foreign Service wives who extends the service of their husbands, rendering to our Nation.

I had the honor of knowing her work first hand when they were stationed in Greece. My daughter, Cokie Roberts, and her husband, Stephen, were there at the same time. We all had an opportunity to see some of Bonnie's fine work when her husband, Robert, was a congressional liaison for the State Department.

However, it was in Beirut where she really shone in her love and her extension of service to Members and to our country. It was there that she stayed the entire time that her husband was stationed in Beirut, giving comfort and strength and courage to the whole American community, and to those other diplomats who were strong enough and courageous enough to stay there.

It is a very sad note that a woman such as Bonnie Pugh had to be inadvertently engaged in an act of terrorism. I would say in her words, she would wish to be remembered making certain that she served all of the areas of our country's life and of our country's intention, throughout the world, and that she would be glad to be a martyr in the cause of peace.

PANAMA NEEDED THE UNITED STATES

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, it is unfortunate indeed what happened on Tuesday in Panama. While I, like some of my colleagues before me, would criticize the President of the United States and the chain of command all the way down, for failing to be ready for an event for which we, ourselves, have been calling for months and months, and for failing to have the intelligence capability to know where the man whom we wish to have removed is, every single minute of the day, especially after notification in advance of an impending coup. Notwithstanding that, it is really a sad day because the losers in this are, once

again, the people of Panama who have been denied the right to charter their own course, their own will, for democracy. Once again, the people of Panama have been given the short end of the stick. They had the guts to go and obtain, through an election process, a victory for freedom. They won that election, and it was stolen from them by General Noriega.

They then had the courage in the shape of a small band of loyal officers to decide if it was time to do something, for their own reasons, but also for democracy, and let it not be lost that they issued a call on the radio for immediate elections under OAS supervision as soon as possible, while they still had control.

It was through these people and the attempts that the Panamanians have shown that drew feelings, and we were not for them. We found a lot of reasons on Tuesday not to be there for the Panamanians, but nobody else was, either. The shame of this whole incident is that it mirrors the ineffectiveness in this whole hemisphere of policies not implemented, and rhetoric hollow in words.

It is time to start standing up for democracy. Not only do Americans desire that, but the Panamanians and others in this hemisphere deserve it.

TOO MUCH RECONCILIATION

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, after much debate, I voted against passage, final passage, of the budget reconciliation measure.

While there were several good features in this bill, such as child care provisions, I felt that the overall bad outweighed the overall good. For instance, the budget reconciliation bill is to reduce the deficit, but I have a sneaking suspicion the bill which was to reduce the deficit may end up increasing it.

Second, the bill almost completely eliminates major Medicare without replacing care for low and middle income, and comes on top of the capital gains reduction which only adds to the deficit while giving little relief to middle income persons.

Third, this bill became a legislative barbell, with more and more weighty matters getting hung on the end. After a while, Mr. Speaker, it simply cannot be lifted.

Finally, I am glad it is over. I am glad it is over, Mr. Speaker, because this reconciliation process is like the reconciliation process I used to see in practicing domestic relations law. Too much reconciliation, and after a while, nobody can talk to one another anymore.

NOBEL PEACE PRIZE

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, I am very pleased to stand before my colleagues and compliment the Dalai Lama for the receipt of the Nobel Peace Prize earlier today. There could be a no more deserving recipient of this extraordinary honor than the Dalai Lama. In fact, Mr. Speaker, the Nobel Peace Prize is the perfect award for this noble champion of peace. I cannot help but compare and contrast with real sadness the Dalai Lama's face of peace that is presented to the world, with the face of repression and brutality provided and given to the world by the current government of the Chinese People's Republic. It is with real sadness, Mr. Speaker, that I heard that the government in Beijing was critical of the bestowing of the Nobel Peace Prize on the Dalai Lama, because, in fact, with the exception of that government, I believe that people throughout the world, including the people in China, have every reason to rejoice that a man of peace, a man who has symbolized nonviolence, courage, a man who has stood up to oppression, and a man who has symbolized nonviolence, has been awarded the Nobel Peace Prize earlier today.

The Dalai Lama has become, over the past 30 years, a symbol of peace and a leading international spokesman for the cause of nonviolent social change. His spiritual and political leadership of Tibetans has been the principal force for the preservation of the Tibetan culture and the Tibetan way of life. By his example, and by his leadership, nonviolence remains the tool of the Tibetan people, in their resistance to oppression.

He was selected to become the Dalai Lama at the age of 2, after which he pursued a rigorous 18-year course in metaphysics. In a recent Time magazine profile of him entitled "Tibet's Living Buddha," Time concludes that:

> The single most extraordinary thing about him may simply be his sturdy, unassuming humanity. He is, in his way, as down to earth as the Hardy Brown oxfords he wears under his monastic robes, and in his eyes is still the mischief of the little boy who used to give his lamas fits with his invincible skills at hide-and-seek.

Times quotes his brother as saying:

> I recall one summer day—I must have been about 7—when my mother took me to the summer palace to see his holiness * * * when we got there his holiness was watering his plants. The next thing I knew, he was turning the hose on me.

The Dalai Lama is renowned for teaching compassion and love rather than vengeance or hate. In response to China's repression of his own people, he has said:

> There is no point in developing hatred for the Chinese. Rather, we should develop respect for them and love and compassion.

Indeed, it would be difficult to devise an award that would take note of all the roles and functions which His Holiness was fulfilled in such an exemplary way. He is, of course, a spiritual leader. However, his spirtual leadership extends not only to Tibetan Buddists, but to all people of religious faith, both through his devout example and through his officiation at numerous interfaith services. As an international statesman, he kept alive the hopes and cause of his land and his people and has shown great leadership and initiative in advancing the cause of a peaceful resolution to the status of Tibet. And as an advocate of human rights, nonviolence and peaceful change he is an inspiration and example to all who seek justice. Truly, the Nobel is the only award that does justice to the work of this man.

I join my colleagues and his Holinesses' many well-wishers throughout the world today in celebrating the wise and fitting choice of the Nobel Committee in honoring the Dalai Lama's wisdom, his leadership, and the strength of the human spirit in the face of adversity, which his life so profoundly demonstrates.

□ 1640

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2505

Mr. STANGELAND. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2505.

The SPEAKER pro tempore (Mr. OLIN). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PANAMA AND NORIEGA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO. Mr. Speaker, the coup in Panama by mid-level officers against the notorious drug trafficker, Manuel Noriega, failed after several hours of fighting in the capital.

Rebellious troops occupied the Panama Department Forces headquarters in Panama City, but units loyal to Noriega regained control of the main barracks after heavy fighting.

Noriega, who was apparently held prisoner, condemned the uprising and called it "yet another attempt by the United States to prevent the implementation of the Torrijos-Carter treaties—on turning over the Panama Canal—and install a government of sellouts."

President Bush has denied that the U.S. Government instigated the coup attempt. However, other administration officials have said word had passed at least three times this week that an attempt against Noriega was im-

minent. Others have said that his fate was discussed with a U.S. officer while being held prisoner.

President Bush's desire that Noriega be ousted has been clear in numerous statements since he took office, including one in May when he called on Panama's Defense Forces in the strongest terms to reject Noriega. "The will of the people should not be thwarted by this man and a handful of these Doberman thugs," Bush said at that time, calling on Panamanians to "do everything they can to get Mr. Noriega out of there."

Yet in this instance, the President did nothing. The Bush administration had the opportunity to intervene on the side of the coup leaders. He missed a precious opportunity to oust Noriega.

The question is, did we know, Mr. President? And if we did know, as some in your administration suggest, why did we do nothing?

BANK EXAMINER WARNS OF INSUFFICIENT EXAMINATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on August 1, 1989, I outlined to the House some of the serious problems that I have found with the Comptroller of the Currency [OCC] supervision of our national banks. At hearings on the health of the deposit insurance funds before the Financial Institutions Subcommittee 2 weeks ago, the regulators played down problems of inadequate supervision.

The generals may say we are winning the war, but the troops in the field know better.

I have received a letter from a concerned OCC bank examiner—an individual on the front lines of bank supervision. The writer warned:

> I am afraid if you * * * [do] not do something soon the National Banking System could end up like the Savings and Loan mess. Remember they were "self regulated" and that is what the OCC wants their banks to do. Please require the OCC to spend more time in their banks doing on-site work with procedures to make sure all areas are reviewed. . . .

The examiner enclosed a copy of a recently completed OCC employee attitude survey that showed that 75 percent of OCC employees believed more on-site supervision of banks was necessary.

This examiner's worries trouble me. They come from someone on the front lines in our battle to preserve the safety and soundness of our Nation's banks. Further, they mirror concerns I raised to this body 2 months ago. And they bring home a principle that I raised earlier—we must act now to improve bank supervision—there is no time for delay.

Close bank supervision is the key to protecting the banking system. Where supervision is inadequate, as with the thrift industry, the costs to the American taxpayer can be astronomical. Yet, where adequate supervision is provided, the banking system can be operated in a safe and efficient manner, providing much needed funds to families and businesses throughout our country.

At the heart of the supervisory process is the full-scale, on-site safety and soundness examination. Correctly done, this examination provides regulators with important information on the financial condition of the institution. It will uncover fraud and mismanagement. It will protect the taxpayer from having to foot the bill for unscrupulous bank operators looking to fleece the American public.

Yet my review last August of the OCC's examination techniques discovered serious flaws in the OCC's supervisory system. Increased reliance is being placed on so-called off-site supervisory techniques—computer analysis of data, review of call reports, rumor analysis—at the expense of more traditional examination activities. On-site examinations, where the examiner goes into the institution annually, rolls up his sleeves and reviews the institution's whole portfolio, have been phased down. Now OCC employees share my concerns.

This deemphasis of on-site supervision is unacceptable. I again call upon the Comptroller of the Currency to reverse this trend and place a renewed emphasis on full-scale in-depth on-site examinations.

My concerns are even more pressing at this time because I believe that our Nation's banking system stands at a critical juncture. At the hearings before the Subcommittee on Financial Institutions, which I chair, it was made clear to me that potentially serious problems exist in the banking industry which, if not addressed now, may have serious repercussions down the road. Banks are failing in record numbers—nearly 1,000 have failed or received FDIC assistance in the last 6 years alone. Reserve amounts in the Bank Insurance Fund decreased by $4.2 billion last year. Problem banks, those rated 4 or 5 on the CAMEL rating system, number over 1,000, putting an additional $200 billion in assets at risk. Further, bank exposure to such high-risk activities as LDC debt and LBO transactions is substantial. Many of our Nation's major money center banks have recently acknowledged that large portions of their LDC debt portfolio will never be repaid and have suffered huge losses as a result.

This is not the time to be decreasing the level of on-site supervision in national banks.

The OCC must change its ways. The safety and soundness of our Nation's banking system depends upon it.

RECENT EVENTS IN TIBET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

Mr. ROSE. Mr. Speaker, recent events in Tibet and China have drawn the eyes of the world to the tragic circumstances under which the Tibetan and Chinese people suffer. Many firsthand accounts from tourists, human rights advocates, and journalists confirm that China continues to apply oppressive measures against the Tibetans that are reminiscent of the infamous "Cultural Revolution." Certainly, the world takes no pleasure in witnessing, and being reminded of, the inhumane and terrifying treatment that some people, or groups of people, mete out to fellow human beings. Unfortunately, mankind has not yet determined how to free itself of the recurrence of such tragedies as the Holocaust, the Killing Fields of Cambodia and the Cultural Revolution.

Perhaps one bright spot, in this otherwise abysmal situation, is that the world has become intimately acquainted with the character and leadership of His Holiness the Dalai Lama and the courage of the Tibetan people. Even under the most dire circumstances, the Tibetan people, as a whole, continue to heed the Dalai Lama's call to express their desire for independence from Chinese rule and to confront their oppressors in a peaceful manner. The Dalai Lama recently summed up his philosophy in a recent interview with a Time correspondent by saying, "As people who practice Mahayana Buddhist teaching, [Tibetans] pray every day to develop some kind of unlimited altruism. So there is no point in developing hatred for the Chinese. Rather, we should develop respect for them and love and compassion." In this spirit, the Dalai Lama has formally made proposals to the Chinese Government for a peaceful, negotiated settlement of the ongoing crisis in Tibet. Although the Chinese have rebuffed the Dalai Lama's offers to begin earnest negotiations on the future status of Tibet and have condemned international expressions of concern for the tragic situation in Tibet, the Dalai Lama and his representatives continue to pursue a peaceful resolution to the growing conflict in Tibet. Indeed, such leadership is rare today and can easily be placed in the same mold that made such leaders as Martin L. King, Jr. and Mohandas K. Ghandi.

I have had the great pleasure of knowing the Dalai Lama for a number of years, and I can personally attest to the fact that, in all my associations with him, whether in public or in private, he never fails to express his sincere concerns for the need of all human beings to act with universal responsibility and compassion toward one another. Although the Dalai Lama serves in many capacities, from the leader of the Tibetan people to a "simple Buddhist monk," he is known first and foremost as a man of peace, tolerance, and great understanding.

In these days when many world leaders have turned to terrorism as an expression or act against a policy or a government, I sincerely believe that the peaceful efforts of the Dalai Lama and the Tibetan people to end oppressive rule in Tibet should be strongly supported by all governments—not only in an effort to end human rights abuses in Tibet, but also as a strong statement that efforts to peacefully resolve conflicts take precedence over and transcend acts of violence and terrorism. It is my sincere hope that each of us will give careful consideration to the signiificance of the Nobel Committee's decision to award His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize; take heart to the plight of the Tibetan people; and renew our commitment to aid the Dalai Lama and the people of Tibet in their efforts to bring democracy to Tibet and to China through peaceful means.

H. CON RES. 209

Whereas His Holiness the XIV Dalai Lama of Tibet is the spiritual mentor to mil-

lions of Buddhists throughout the world and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

THE DRUG AND ALCOHOL DEMAND REDUCTION EFFECTIVENESS DEMONSTRATION ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, I am introducing today, along with Mr. DELLUMS, chairman of the House District of Columbia Committee, Mr. FAUNTROY, D.C. Delegate, Mr. WHEAT, Mr. DYMALLY, and Mr. MORRISON of Washington, a bill which will:

First, establish a comprehensive demonstration program in the District of Columbia for the treatment of drug and alcohol abuse;

Second, provide for treatment of drug and substance abuse as a major line of defense against the drug problem;

Third, make inroads in controlling the massive increase in crime related to drug and substance abuse;

Fourth, provide for increases in worker productivity through coordination with social services and other interventions in the treatment process;

Fifth, assist in controlling the spread of AIDS through effective treatment and education concerning the role of substance abuse in the AIDS epidemic;

Sixth, accept that different severities and conditions of addiction will require different treatment modalities;

Seventh, incorporate the concept of triage and case management, key elements in the assurance of proper treatment referral and compliance;

Eighth, mandate the evaluation of clinical effectiveness and cost effectiveness of various treatment modalities and providers leading to the termination of ineffective approaches;

Ninth, require copayment by patients, while not denying treatment to the needy;

Tenth, mandate the development and implementation of an effective prospective payment system to control costs and ensure the most effective treatment of addiction; and

Eleventh, encourage a broad socioeconomic mix, but mandate that a minimum of 50 percent of the program's patients will be from the ranks of the working poor and the unemployed.

The bill which we are introducing rests on the well-founded concept that drug dependency is a chronic relapsing disease for which initial therapy must be followed by a prolonged period of followup care to prevent relapse. This concept has a medical and psychological basis and fits with the observations of law enforcement experts, who see recidivism as the usual outcome of programs which provide only initial treatment.

As a member of the House Committee on the District of Columbia, I believe we must do something to move forward the effort to limit the disastrous consequences of the drug abuse epidemic in the Nation's Capital. In the area of substance abuse treatment, we believe we can act to develop a comprehensive, responsible, cost conscious system of care to address the demand side of the war on drugs in the District of Columbia.

This bill fits closely with the President's national drug control strategy. We note especially the sections on pages 40–42 which focus on the need to improve system inefficiencies in the drug treatment and rehabilitation system and to promote demonstration programs which will make such improvements, gather data, evaluate effectiveness, increase coordination with other human service systems, assure accountability, and control costs. The legislation we have introduced includes many of these same objectives.

This bill allows entry into a treatment program only after the formal assessment of the individual's severity of addiction. With proper triage, the most clinically effective, most cost-effective treatment will be selected for each individual. Costly, ineffective treatments will not be reimbursable.

This bill also calls for the production of much-needed data on the effectiveness of various therapeutic modalities. Data will be collected on the number of applicants, time between application and start of therapy, severity of addiction profile, treatment regimen prescribed, compliance, duration of therapy, maintenance of secondary prevention regimen, and outcome. These data will be analyzed by an independent academic evaluator, allowing an objective review of the program.

The emphasis on the criminal justice approach to the control of drugs, or the control of the supply is, by itself, inadequate. This bill's treatment-based approach is a complement to law enforcement, not a replacement. The program will provide the methodology for establishing and monitoring treatment so that only effective therapeutic programs are paid for. The drug abuser will pay according to ability, but it does not deny therapy to the poor.

Now is the time to take action by mounting this tightly controlled, comprehensive approach to dealing with drug abuse treatment in the District of Columbia.

COUNT IT ALL: REDEFINING DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 20 minutes.

Mr. ALEXANDER. Mr. Speaker, American citizens deserve to know how much their Government owes. Today I am introducing a bill to redefine the term "deficit." My bill would require the President to include in his budget a statement of the estimated size of the deficit excluding trust fund transactions. This is the Federal funds deficit—the real deficit.

This is the most straight forward way of defining the deficit. The real deficit is the dollars the Federal Government borrows to fill the gap between its income and its spending.

Current procedures for calculating the deficit masks the size of the real deficit—the Federal funds deficit. The result is confusing, deceptive, and threatening.

The American people are confused about what the real deficit is. Rose-colored pronouncements deceive them into believing that the deficit is on a reducing diet when, in fact, the Federal funds deficit is growing fatter with the passing years. The capacity of the Federal Government to meet future obligations is threatened. Opportunities for the Congress to respond to national needs are curtailed by the booming growth in interest payments on the national debt.

Although supplementary documents provided with the President's budget do identify the Federal funds deficit, the principal budget document focuses on the "unified budget deficit." The unified budget deficit figure is reached by subtracting from the real deficit—the Federal funds deficit—the so-called surplus revenues collected by trust funds. Those are not surpluses. That money was collected for a specific purpose, whether it is spent this year, next year or 10 years from now.

The jungle of deficit confusion is easily seen by reviewing the data in table 1 covering the fiscal years 1980 through 1994. It includes the data for the Federal funds deficit, trust fund surpluses, the unified budget deficit, and, beginning with fiscal year 1985, the "maximum allowed deficit" under the Gramm-Rudman-Hollings deficit management scheme.

TABLE 1

[In billions of dollars; — deficit, + surplus]

Fiscal year	Federal funds	Trust funds	Unified budget	G-R-H maximum amount
1980	—82.6	+8.8	—73.8	
1981	—85.8	+6.8	—78.9	
1982	—134.2	+6.3	—127.9	
1983	—230.8	+23.0	—207.8	
1984	—218.2	+32.9	—185.3	
1985	—266.4	+54.2	—212.3	—171.9
1986	—283.0	+61.8	—221.2	—144.0
1987	—222.3	+72.9	—149.7	—144.0
1988	—252.9	+97.8	—155.1	—136.0
1989	[1] —283.0	+121.0	—161.0	—100.0
1990	[1] —276.0	+135.0	—141.0	—64.0
1991	[1] —287.0	+143.0	—143.0	—28.0
1992	[1] —291.0	+150.0	—141.0	0
1993	[1] —304.0	+162.0	—143.0	([2])
1994	[1] —303.0	+175.0	—128.0	([2])

[1] Data in these lines are from table II–6, "The Economic and Budget Outlook: An Update," Congressional Budget Office, August 1989.

[2] Current law does not contain Gramm-Rudman-Hollings numbers for fiscal year 1993 and 1994.

Note: The "Trust Funds" column includes surpluses in the following trust funds: Social Security, Medicare, Military Retirement, Civilian Retirement, Unemployment, Highway and Airports and Airways.

Data sources: "Historical Tables, Budget of the United States Government, Fiscal Year 1990," submitted to the Congress by the President and "The Economic and Budget Outlook: An Update," Congressional Budget Office, August 1989.

Under the Gramm-Rudman-Hollings scheme, the American people have been given empty promises that the budget deficit is being cut and that the budget will be balanced by 1992. The facts show just how false that assurance is. Not only will the budget not be in balance, but the August estimate of the Congressional Budget Office [CBO] projects a record high Federal funds deficit for 1992.

Further, in August the CBO estimated that the 1989 Federal funds deficit would be 250 percent larger than it was in 1980.

Such budgetary game playing is surely one of the reasons the American people view the Congress with deep cynicism. It is also one of the reasons the American people have been wary of agreeing to the steps which must be taken to control Federal budget deficit. There is no practical relationship between the Gramm-Rudman-Hollings maximum deficit amount and the real deficit—the Federal funds deficit.

Using the trust funds to borrow from tomorrow to pay today's bills threatens the Nation's capacity to keep its pension and health care pledges to senior citizens.

Because of the rising Federal funds deficit, net interest payments on the Federal debt has been stuck on the up escalator. A large share of that interest money is going offshore, to foreign creditors who have lent the U.S. Government money to pay its bills. In 1981, net interest on the debt was $69 billion. CBO has estimated that the net interest payments on the debt will reach $169 billion. That is a $100 billion difference.

More to the point, Congress had:

$100 billion less to spend on educating our children.

$100 billion less to fight the war on drugs.

$100 billion less to aid victims of disasters like Hurricane Hugo.

$100 billion less to help keep rural hospitals open.

$100 billion less to fund farm programs.

$100 billion less to flood control, highways, housing, generating private sector jobs, water and sewer systems, and public transportation.

It is time to strip the deficit debate down to the core of truth. It is time to abandon fantasy land and face up to the real world challenge of controlling the Federal funds deficit. My proposal to redefine deficit will put the problem face up on the table and help us hammer the deficit into surrender.

H.R. 3411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROJECTED DEFICIT.

Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(27)(A) the amount (if any) by which estimated expenditures exceed estimated receipts of the Government, excluding trust fund transactions, for the current fiscal year and the fiscal year for which the budget is submitted, and the 4 fiscal years after that year; and

"(B) the amount (if any) by which expenditures exceed receipts of the Government, excluding trust fund transactions, in the prior fiscal year.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to any budget submitted by the President after the date of enactment of this Act as required by section 1105(a) of title 31, United States Code.

CONFERENCE REPORT ON H.R. 3026

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-270)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3026) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective House as follows:

That the Senate recede from its amendments numbered 20.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 6, 9, 10, 12, and 13, and agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended to read as follows:

SEC. 137. For the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 3, 4, 5, 7, 8, 11, 14, 15, 16, 18, 19, 21, and 22.

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
STENY H. HOYER,
BOB CARR,
JAMIE L. WHITTEN,
DEAN A. GALLO,
BILL GREEN,
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER,
J. ROBERT KERREY,
ROBERT C. BYRD,
PHIL GRAMM,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

Amendment No. 1: Appropriates $8,685,000 for the first quarter payment as proposed by the Senate instead of $34,740,000 for the full year payment as proposed by the House. The reduction of $26,055,000 below the House level will be paid by Federal agencies and other organizations from their own budgets. The conferees are recommending under amendment number 16 that the District's Public Works Act of 1954 be amended to allow for a one-year trial in which Federal agencies and other organizations will pay for water and sewer services provided to them by the District government. A further discussion of this issue may be found under amendment number 16.

CRIMINAL JUSTICE INITIATIVE

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $20,300,000 for fiscal year 1991 for the construction of the 800-bed Correctional Treatment Facility within the District of Columbia. The cost of the facility is estimated at $85 million with completion expected in November 1991. The $20,300,000 recommended by the conferees will provide a total of $70,300,000 in Federal Funds with the balance of $14,700,000 coming from long-term borrowings by the District government as provided for in the fiscal year 1989 supplemental (103 Stat. 117; Public Law 101-45, approved June 30, 1989).

Correctional Treatment Facility.—The conferees express concern about the need to mitigate the adverse effects that construction of the new Correctional Treatment Facility (CTF) being built in Southeast Washington will have on the historic Congressional Cemetery and the adjacent residential neighborhood. The conferees also agree that the CTF should be constructed as quickly as possible. The conferees direct that District officials continue to meet with representatives of neighborhood groups, residents, and the Cemetery association about mitigating the effects of the facility on their neighborhood. One option with merit could be an integrated landscaping plan designed to maximize screening of the neighborhood and Congressional Cemetery from the new facility.

The conferees are also concerned about the effect of water run-off from the construction site of the CFT onto the Congressional Cemetery. The conferees direct the District's Department of Public Works (DPW) to submit a plan by November 30, 1989 to the House and Senate Committees on Appropriations to resolve the water run-off problem during construction and after

the facility has opened. DPW may consult with any other appropriate agency of the District or Federal governments that it deems necessary in preparing its plan.

It is the conferees' express intent that these consultations and report are not intended to delay the project in any way whatever.

DRUG EMERGENCY

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $31,772,000 in Federal funds to close open-air drug markets, to increase police visibility, and to provide for speedier court processing of drug-related violent cases. These funds will be used to hire 700 new police officers, to provide eight additional Superior Court judges and supporting staff, and to fund drug prevention programs in the public schools and drug treatment programs in the Department of Human Services. A further discussion of these programs is included under amendments number 5, 9 and 10, and 12. Appointment of the eight additional judges is contingent upon enactment of authorizing legislation which is discussed under amendment number 18.

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes $150,000 in local funds and language proposed by the House earmarking the funds for Admission to Statehood and inserts language proposed by the Senate that provides an additional $150,000 in local funds to remain available until expended to close open-air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases. The conferees recommended the transfer of these funds to the Metropolitan Police Department under amendment number 5 for the purposes specified by the Senate amendment.

Census Regulations.—The conferees have become aware that prisoners housed at the District's Lorton Prison Complex are counted at the location under Census Bureau regulations. While this is the normal practice when taking a census, the unique nature of the Lorton Complex, i.e., the prison facility of one jurisdiction within the borders of another jurisdiction, was certainly not contemplated when those regulations were promulgated. As the Mayor's Commission on Budget and Financial Priorities begins its work, the conferees believe that the financial effects of this regulation should be considered as part of deliberations on the appropriate level of the Federal payment. The conferees also agree that the appropriate authorizing committees with jurisdiction over census matters and District government affairs may want to review the equity of the present regulations.

PUBLIC SAFETY AND JUSTICE

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$861,341,000, of which $150,000 shall be derived by transfer from "Government Direction and Support"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $861,341,000 including $150,000 to be derived by transfer from "Government Direction and Support," instead of $833,206,000 as proposed by the House and $861,191,000 as proposed by the Senate. The increase of $28,135,000 above the House allowance will finance additional activities in the District's war on drugs.

Metropolitan Police Department.—The conference agreement appropriates $250,041,000 including $150,000 to be transferred from "Governmental Direction and Support" instead of $232,411,000 as proposed by the House and $255,560,000 as proposed by the Senate. The increase of $17,630,000 above the House level provides nine-month funding for the department to hire an additional 700 new police officers to increase police visibility on the streets, to close down open-air drug markets, and to stem the increases in drug-related crime in the Nation's Capital. With the 700 new hires recommended by the conferees and the 300 new police officers already included in the District's budget request, the Metropolitan Police Department will have a total of 5,133 authorized police positions in fiscal year 1990, which exceeds the previous department high of 5,100 reached in fiscal year 1970 and maintained through fiscal year 1974. The conferees recognize that it will not be possible to hire 1,000 new police officers early enough in the fiscal year to require the use of all of the funds provided and that reprogramming requests will no doubt be necessary for increased recruitment efforts and other measures designed to deal with the current emergency. The conferees are also recommending language under amendment number 7 to allow the $17,630,000 provided for the 700 new police officers to remain available until expended. District officials are directed not to use these carryover funds to replace part of the base in the Department's fiscal year 1991 budget. Nor is the department to absorb a disproportionate share of mandatory increases, such as pay costs, than other District agencies.

The situation with crime in the District should not be viewed as business as usual, and in order to provide police officials with maximum flexibility in managing the department in its efforts in the war on crime, the conferees direct that the drug emergency funds of $17,630,000 shall be available exclusively to the department with the first priority given to the hiring of new police officers to bring the level up to the authorized strength of 5,133. If not expended for personal services, the funds may be used to purchase goods and services in the non-personal object classes including support and other materials as well as capital items.

The conferees request that quarterly reports be provided to the House and Senate Committees on Appropriations showing the amounts obligated and expended and the purposes, in detail, for which the funds were obligated and expended.

A summary of the number of sworn officers authorized and funded for fiscal years 1969–1990 follows:

METROPOLITAN POLICE DEPARTMENT—UNIFORMED (SWORN) POLICE OFFICERS

	Number authorized	Number funded
Fiscal year:		
1969	4,100	3,341
1970	5,100	4,295
1971	5,100	5,013
1972	5,100	4,727
1973	5,100	4,974
1974	5,100	4,909
1975	4,750	4,700
1976	4,630	4,567
1977	4,470	4,333
1978	4,150	4,096
1979	4,120	4,120
1980	4,242	4,096
1981	4,025	3,880
1982	4,121	3,880
1983	3,958	3,880
1984	3,958	3,845
1985	3,958	3,845
1986	3,958	3,845
1987	3,958	3,855
1988	3,958	3,855
1989	4,133	4,055
1990	5,133	5,055

Court of Appeals.—The conference action provides $4,996,000 for the Court of Appeals as proposed by the Senate instead of $4,707,000 as proposed by the House. The increase of $289,000 above the House allowance will cover mandatory fringe benefit costs and increases in the cost of computerized legal research as well as necessary expenses of replacing and maintaining court equipment and printing of the court's decisions. The increase agreed to by the conferees will provide interim assistance for the Court of Appeals in handling its caseload although it does not address the congestion and delay problems identified in recent studies of the court by various judicial organizations.

Superior Court.—The conference action provides $64,939,000 as proposed by the Senate instead of $62,339,000 as proposed by the House. The increase of $2,600,000 above the House allowance includes $1,500,000 to fund eight additional associate judges, subject to the enactment of authorizing legislation, and 56 related staff to assist the court in attempting to address the critical emergency resulting from the increasing numbers of violent crimes cases. The conferees agree that the increases recommended are a conservative response to the action needs of the Superior Court and relate solely to the increases of 700 police officers. While the additional eight associate judges recommended by the conferees, the Superior Court will consist of chief judge and 58 associate judges. The conferees recognize that the eight new judges will not be appointed immediately since the appointment is contingent upon the enactment of authorizing legislation, and are commending language in amendment number 7 to allow these funds to remain available until expended so they can be used for their intended purpose and possibly reduce the Superior Court's requirement in fiscal year 1991. As noted earlier, appointment of the eight new judges is contingent upon action by the authorizing committee and is discussed under amendment 18. The conferees urge those committees to act swiftly in keeping with the emergency nature of the action by the conferees in recommending an additional appropriation of $31,772,000 for the drug emergency.

An additional $100,000 is included for overtime costs in the Superior Court to allow the Court to be open more hours to deal with the increased caseload.

D.C. Court System.—The conference action provides $22,125,000 as proposed by

the Senate instead of $20,178,000 as proposed by the House. The increase of $1,947,000 includes $1,500,000, for a security system for the courthouse that will use contract guards who will be trained, certified, deputized and supervised by the U.S. Marshals Service. The conferees direct that the courts and the District include this amount in the budget base for courthouse security in future years. The conference action also includes $374,000 and nine court reporter positions transferred from the Superior Court, $56,000 and one training officer position transferred to the Superior Court, and $129,000 to restore funds for staff training and staff overtime to better handle the increasing caseloads in the D.C. court and for premiums for judges' liability insurance which would not be necessary except for the fact that the Council for the District of Columbia has failed to complete action on legislation amending the D.C. Code to ensure appropriate liability for judicial employees comparable to that provided for medical employees under D.C. Code, sec. 1-1215(b). The need for this legislation results from the liability exposure created by the Supreme Court decision in the case of *Pulliam* v. *Allen* (1984) 104 S. Ct. 1970. This issue was first called to the attention of District officials in House Report 99-223, dated July 24, 1985. The report stated that —

• • • the Committee urges the Mayor and Council to pursue the expedited passage of legislation amending the D.C. Code to ensure appropriate coverage for judicial employees thereby eliminating the need for funds to cover insurance premiums in fiscal year 1986.

That was over four years ago.

Office of the Corporation Counsel.—The conference action provides $13,989,000 instead of $13,384,000 as proposed by the House and the Senate. The increase of $605,000 is for 10 additional attorneys and five supporting staff to assist the office in fighting the war on drugs which ranges from direct prosecution of juvenile drug offenders to defending anti-drug legislative initiatives and employee drug testing programs. The Office is also involved in bringing forfeiture actions against property used by drug dealers, fighting against false arrest and Constitutional tort lawsuits brought by drug arrestees, and dealing with the societal consequences of drug abuse such as abused and neglected children. The conferees agree that the Office of the Corporation Counsel is part of the prosecutional apparatus for the District and should be included in efforts to deal with the war on drugs.

Department of Corrections.—The conference action provides $232,529,000 instead of $227,465,000 as proposed by the House and the Senate. The increase of $5,064,000 will restore the undetermined reductions recommended by the Senate to cover the fiscal year 1989 fourth quarter payment to the Federal Bureau of Prisons which was forgiven in the fiscal year 1989 supplemental (103 Stat. 117, Public Law 101-45, approved June 30, 1989). The conference agreement provides $36,311,000 for payment to the Federal Bureau of Prisons to cover the costs of housing District inmates in Federal facilities as proposed by the Senate.

FIRE DEPARTMENT

Amendment No. 6: Deletes language proposed by the House and stricken by the Senate which would have required the District to maintain staffing levels of two-piece engine companies in accordance with the Fire Department Rules and Regulations until final adjudication by the relevant courts or October 1, 1990, whichever occurred later. The conferees agree that District officials are required to abide by the Fire Department Rules and Regulations and should not submit budget requests which are inconsistent with its own rules and regulations. While the conferees are deleting the subject language without prejudice, District officials are directed to submit budget requests which are consistent with, rather than contrary to, the District's existing rules and regulations.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That $17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides that the additional funds provided to the Metropolitan Police Department to hire 700 new police officers and to the Superior Court for eight new judges and related staff in connection with the Drug Emergency shall remain available until expended. The conferees believe it will not be possible to hire 700 new police officers or to nominate and confirm the eight new judges at the beginning of the fiscal year, and are therefore recommending that those funds remain available until expended.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $36,311,000 for payment to the Federal Bureau of Prisons to cover the costs of housing District inmates in Federal facilities. The $36,311,000 includes the fiscal year 1989 fourth quarter payment of $5,064,000 previously forgiven in the fiscal year 1989 supplemental (103 Stat. 117, Public Law 101-45, approved June 30, 1989).

PUBLIC EDUCATION SYSTEM

Amendment Nos. 9 and 10: Appropriate $691,120,000 of which $502,346,000 is for the public schools as proposed by the Senate, instead of $689,353,000 of which $500,579,000 is for the public schools as proposed by the House. The increase of $1,767,000 above the House allowance includes (1) $1,347,000 as proposed by the Senate for after-school activities to provide students with safe places to spend their out-of-school hours and constructive alternatives to street life, and (2) $420,000 as proposed by the Senate to fund 70 to 100 slots by contract in the Options Program at the National Children's Museum. The Options Program was developed by the National Learning Center to provide a drug intervention program of educational therapy for high risk students from ages 10 to 14.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That funds provided under this head in Public Law 100-202 (101 Stat. 1329-94) to match private contributions to the District of Columbia Public Schools Foundation shall be available until September 30, 1990.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action extends the availability of $200,000 in District funds for the D.C. Public Schools Foundation ACCORD Program to September 30, 1990 instead of September 30, 1989 as proposed by the Senate. The ACCORD Program is a partnership between business and civic communities, government agencies and the public schools charged with developing a five-year model demonstration project to provide high school students with necessary skills to obtain entry level career employment in both the public and private sectors.

This $200,000 was appropriated in fiscal year 1988 (Public Law 100-202, approved December 22, 1987) contingent upon receipt of $200,000 in private sector contributions which the Foundation has not yet raised.

The conferees request that detailed quarterly reports be provided to the House and Senate Committees on Appropriations on the ACCORD Program setting out the progress made to date as well as a comparison of the program's goals and objectives with the accomplishments.

HUMAN SUPPORT SERVICES

Amendment No. 12: Appropriates $827,918,000 as proposed by the Senate instead of $825,898,000 as proposed by the House. The increase of $2,020,000 above the House allowance will fund a program to locate and provide treatment on demand for drug abusers who are pregnant in an effort to combat the striking increases in crack cocaine infants who are born with an addiction to cocaine as a result of drug abuse by their mothers.

Project Volta.—The conferees find the amount of time it has taken the District's Department of Human Services to consummate a contract with Alexander Graham Bell Association for the Deaf on Project Volta to be completely unacceptable. It has been two years since $990,000 was made available for the early infancy detection program to identify hearing-impaired children. The conferees have been advised that the problem has been over a District requirement that contracts be entered into only for services rendered, which is a sound requirement. However, if District officials were committed to this project, a way would have been found to make a portion of the amount available as a grant, or to pay at the beginning of the month rather than at the end. The conferees direct that the amount made available for this program be made as a grant to the Bell Association. The conferees further direct that DHS make monthly reports to the House and Senate Committees on Appropriations on the status of this project, including when the grant will be made. The reports are to continue until such time as the grant is made.

Emergency shelter and exorbitant costs.—The District has a serious housing problem. In 1984, the District provided services for a total 541 families. In 1988 that was the number who entered shelters daily.

The Mayor has pledged to end the use of the Capital City Inn. But, as noted in the news media, little progress has been made because as soon as people move out, the same number of persons need to move in. This need precludes the closing of any facilities, even those in such conditions as the Capital City Inn.

The District is also facing a new law which limits the stay for homeless people to 15 days in hotels and six months in transitional housing.

This year, the Federal Department of Housing and Urban Development (HUD) proposed goals and timetables for the District for the repair and habitation of vacant units for housing. Little action has been recorded.

Therefore, the conferees strongly request a thorough explanation of the status of the goals and timetables proposed by HUD and the identification of those officials responsible for implementation. Most important, the report should delineate the District's plan for breaking the pattern of homelessness and the use of hotels for those without shelter. The conferees request District officials to provide a report in time for review of the fiscal year 1991 budget.

Transitional housing needs.—It has recently come to the conferees attention that in order to comply with court orders on the provision of emergency shelter, as required by Initiative 17 (D.C. Law 7-86), the city plans to terminate two $300,000 programs that have longer-term goals.

According to city documents, the ConServe program is considered a model program that enables homeless families to improve their living conditions by helping them find apartments and providing rent subsidies for up to a year. This type of program is essential when the number of homeless families continues to grow, and 75 percent of the District's expenditures for homeless assistance is directed toward providing for family needs.

The other program, New Endeavors for Women, provides shelter, meals and counseling assistance, and after one year of operation has placed 80 percent of its women in permanent housing. New Endeavors operates from District-owned space that will have to be converted to emergency shelter by the first of the year.

These two programs, and others like them, provide homeless individuals with the means to become self-sufficient again and offer the best opportunity to break the cycle of homelessness and hopelessness.

PUBLIC WORKS

Suitland Parkway.—The conferees are aware that the National Park Service is currently renovating the Suitland Parkway. The Congress has strongly supported this project and has provided funding to complete the important safety and physical improvements to the parkway. The conferees are also aware that the District Government owns and is responsible for maintenance on that portion of the parkway within the District of Columbia. In order to accomplish completion of the total renovation to this gateway to the capital from the south, including the portion within the District of Columbia, the conferees direct the District to develop a plan, along with a schedule and cost estimates for completion, to the House and Senate Committees on Appropriations by April 1, 1990.

CAPITAL OUTLAY

Amendment No. 13: Restates the total amount appropriated for the "capital outlay" appropriation as proposed by the Senate to clarify that the $20,300,000 for the Correctional Treatment Facility is included in that total and is not over and above the total. This amendment is related to amendment number 14.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies that $20,300,000 in Federal funds appropriated for fiscal year 1991 in amendment number 2 is available solely for the Correctional Treatment Facility to be constructed in the District of Columbia.

GENERAL PROVISIONS

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the number stricken and inserted by said amendment, insert the following: *39,262.*

Sec. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:

((1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or

(2) The position is to be filled as follows:

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(b) Subsection (a) of this section shall not apply to any position for which the City Administrator certifies that:

(1) the position is necessary to the fulfillment of an identified essential governmental function; and

(2) the position cannot be filled from within the District of Columbia government:

(A) At a grade level that is equal to the grade level of the position to be filled; or

(B) by a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(c) The City Administrator shall submit the certification required by subsection (b) of this section to the Council on the 1st day of each month.

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.—the Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over an employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

(2) EDUCATIONAL SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Service.

"(B) The Mayor shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides an employment ceiling of 39,262 instead of 38,475 as proposed by the House and 39,569 as proposed by the Senate. The increase of 787 above the House allowance relates primarily to the drug emergency and consists of 700 new police officers, 10 additional attorneys and five support positions for the Office of Corporation Counsel, eight additional associate judges and 56 support positions for the Superior Court, and eight court reporters for the Court system.

The conference action inserts language in section 110A submitted under section 132 of the District's budget which, according to information received by the conferees, is designed to reallocate existing personnel resources to eliminate nonessential positions and favor the filling of essential positions. As vacancies occur in areas where required services may suffer without refilling the po-

sitions, the language is supposed to provide an incentive to move existing personnel from nonessential positions where the existing employees may be underemployed, to the essential positions where employees and their capabilities and talents will be maximized.

The conference action inserts language in section 110B relating to a hiring preference system for career and educational employees of the District government. The conferees are sensitive to the issue of Home Rule, but are concerned that residency should not remain a prerequisite for employment with the District of Columbia government.

As urged in House Report 100-680 accompanying the fiscal year 1989 District of Columbia Appropriations Act (Public Law 100-462, approved October 1, 1988), the District government has taken steps to implement a hiring preference system that supersedes the residency requirement imposed upon District government employees since 1980.

The conferees have included bill language under section 110B that codifies major portions of the regulations proposed by the Mayor implementing the Residency Preference Amendment Act of 1988 (D.C. Law 7-203). The language recommended by the conferees is intended to assure that the District of Columbia government implements a residency preference system rather than a residency requirement for career and educational service positions.

The language recommended by the conferees makes the new preference system effective as of March 16, 1989. No provision of the Residency Preference Amendment Act of 1988 or any regulations promulgated pursuant to that Act are to be imposed retroactively on District of Columbia employees in the Career or Educational Services. Further, the District Government and the Board of Governors of the School of Law, the District of Columbia Board of Education and the Board of Trustees of the University of the District of Columbia shall not impose upon any employee in the Career or Educational Services an obligation of residency unless that individual selected a preference option on or after March 16, 1989. For the Career Service, the effect of the language proposed by the conferees provides:

A maximum five point preference to new employees;

Residency will be a tie-breaker to resident who claims a preference on promotions;

In case of a reduction-in-force, a maximum of one (1) year of service will be added to the service of a resident who claimed the preference;

The five (5) year District Residency Requirement will apply only to applicants who claim the preference and are appointed on or after March 16, 1989 and those individuals promoted on or after March 16, 1989 who claim the preference.

For the Educational Service, District of Columbia residency will be required of only those employees who have received or who will receive a residency preference in regard to their hiring or promotion on or after March 16, 1989. Such employees will be required to live in the District of Columbia for a period of five years following the date of their employment or promotion as is required under current law.

All Expected Service employees and Executive Service employees of the District hired after December 31, 1979, will continue to be required to live in the District of Columbia for the duration of their employment in the Excepted and Executive Services as required under current law.

The conferees agree that District officials are not required to provide the report concerning the hiring preference system that was requested in House Report 101-186 and Senate Report 101-124 accompanying H.R. 3026.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 133. (a) It is the purpose of this section to improve the means by which the District of Columbia is paid for water and sanitary sewer services furnished to the Government of the United States or any department, agency, or independent establishment thereof.

(b) Section 106 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 102; D.C. Code, sec. 43-1552) is amended by—

(1) striking in subsection (a) all that follows the sentence beginning with "Payment shall be made as provided in subsection (b)"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for water services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, quarterly payments to the District shall be made from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made from funds available to the United States Treasury. Amounts made available to the District shall be provided no later than the second day of each fiscal quarter, without further justification, and shall not be less than the aggregated sum of the adjusted quarterly estimates provided for in paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide, for each fiscal quarter, the total estimated cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a quarterly or yearly basis shall reflect such adjustments as are necessary to account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th.

"(3) Each Federal department, independent establishment, or agency receiving water services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to the adjusted quarterly estimates of said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(c) Section 212 of the District of Columbia Public Works Act of 1954 (68 Stat. 108; D.C. Code, sec. 43-1612) is amended by—

(1) striking in subsection (a) all that follows ": Provided, That"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for sanitary sewer services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, quarterly payments to the District shall be made from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services. In the absence of sufficient funds in said account, payment shall be made from funds available to the United States Treasury. Amounts made available to the District shall be provided not later than the second day of each fiscal quarter, without further justification, and shall not be less than the aggregated sum of the adjusted quarterly estimates provides for in paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide, for each fiscal quarter, the total estimated cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a quarterly or yearly basis shall reflect such adjustments as are necessary to account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th.

"(3) Each Federal department, independent establishment, or agency receiving sanitary sewer services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to the adjusted quarterly estimates of said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(d) The first sentence of subsection (d) of section 207 of the District of Columbia Public Works Act of 1954 (68 Stat. 106) is amended to read as follows: "Whenever a property upon which a sanitary sewer service charge is a public park, or uses water from the water supply system of the District for an industrial or commercial purpose in such a manner that the water so used is likewise not discharged into the sanitary

sewage works of the District, the quantity of water so used and not discharged into the sanitary sewage works of the District may be excluded in determining the sanitary sewer service charge on such property, if such exclusion is previously requested in writing by the owner or occupant thereof and approved in writing by the District government in advance of the billing period involved.".

(e) The amendments made by this section shall take effect January 1, 1990, and shall terminate September 30, 1990.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement amends the District's Public Works Act of 1954 to authorize the District government to bill and receive payments directly from Federal departments, independent establishments, and agencies traditionally funded under the account "Federal Payment for Water and Sewer Services." This provision is effective on a trial basis for fiscal year 1990 only and will be reviewed in connection with the fiscal year 1991 budget request to determine the efficiency and effectiveness of this new system of billing and collecting for water and sanitary sewer services which the District government provides to Federal departments and independent establishments. There are sound management and resource conservation reasons for Federal agencies to be more alert to their water consumption. One tool to heighten Federal managers' awareness of consumption would be the requirement that they budget and pay for these services.

The language proposed by the conferees in Section 133 of the bill authorizes the District government to receive direct quarterly payments from the Federal government. These payments, to be based on estimated usage, are to be made to the District by the United States Treasury not later than the second day of each fiscal quarter than the first day of each quarter under the present system. It is the conferees' intent that the District not bill individual Federal agencies. According to information provided by the Office of Management and Budget, a total of $38,100,000 has been budgeted in fiscal year 1990 within the budgets of various agencies for this purpose, even though the actual amount requested in the President's Budget for Fiscal Year 1990 (H. Doc. 101-4, page I-Z13) is $34,700,000 or $3,600,000 less. It should be noted that the District government has not requested this change in procedure and there is some question as to whether they are prepared administratively and/or financially to implement these revisions.

Since the Office of Management and Budget has reported that the required funds are included in agency budgets and concurrent with the sound management and resource conservation reasons for Federal agencies to be more alert to their water consumption as they are with their rental and maintenance costs, the language proposed by the conferees requires the United States Treasury to be responsible for the quarterly payments, including making the payments itself if funds for such payments are not available in the Treasury account "Federal Payment for Water and Sewer Services" by or on the second day of each fiscal quarter. It is the intent of the conferees that the United States Treasury, in conjunction with the Office of Management and Budget, ensure that Federal agencies budget for and quarterly reimburse the Treasury account. The conferees believe that this system will enhance Federal managers accountability for these resources while not burdening the District with directly billing and collecting from the Federal and independent agencies' accounts.

To ensure the accuracy of this system, the language directs the District to verify the estimated payment amounts by reading meters in Federal facilities not less than once per fiscal year. These actual usage readings will provide the basis for adjustments to estimated usage. The District Government, as part of each April 15th submission to the Office of Management and Budget, is required to adjust estimated costs to reflect actual usage during the most recently completed fiscal year. The conferees anticipate that the April 15th estimate of cost will reflect both actual usage for the fiscal year ended six months previously to April 15th and the estimated cost for usage commencing with the start of the fiscal year eighteen months hence or when the President's budget for which the April 15th estimated was furnished is enacted. Under this system, each agency's estimated costs will be adjusted for actual usage not later than two years after the conclusion of each quarter; for example, the actual usage for the first quarter of fiscal year 1989 would be reflected as an adjustment to the estimated costs during the first quarter of fiscal year 1991.

The conferees direct the District government to provide a report on the operation of this new procedure during hearings on the fiscal year 1991 budget.

Amendment No. 17: Amends language proposed by the House and stricken by the Senate requiring the District government to pay interest on its fiscal year 1990 quarterly payments to the United States Treasury that are made more than 60 days after receipt of the itemized statement from the Federal Bureau of Prisons showing the amounts due for the preceding quarter. The language proposed by the House required such interest payments to be made for fiscal year 1990 and for every fiscal year thereafter whereas the language agreed to by the conferees is for fiscal year 1990 only. The conferees will revisit this issue during hearings on the District's fiscal year 1991 budget.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 138. Section 11-903, District of Columbia Code, is amended to read as follows:

"§ 11-903. Composition.

"Subject to the enactment of authorizing legislation, the Superior Court of the District of Columbia shall consist of a chief judge and fifty-eight associate judges."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action changes the section number and amends the D.C. Code to increase the number of associate judges for the Superior Court from 50 to 58, subject to the enactment of authorizing legislation. The conferees agree to the need for eight additional judges because of the current and projected caseload resulting from the drug epidemic and the additional case filings expected from the 1,000 new police officers funded in this bill. Funds for the increase of eight judges and support staff are included under amendment number 5. It is important to the integrity of the criminal justice system that drug offenders be tried and punished as swiftly as possible after they are arrested.

Accordingly, the conferees urge the authorizing committees to act swiftly in keeping with the emergency nature of the recommendation made by the conferees in the accompanying bill.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number "138" named in said amendment, insert, *"139"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action changes the section number and allows the release of $6,700,000, appropriated in fiscal year 1988, to the consortium of institutions of higher education in the Washington, D.C. metropolitan area for the purpose of constructing and equipping an academic research library to link the library and information resources of the universities participating in the consortium. The conferees have been advised that the universities involved have committed a total of $9,000,000, excluding the value of the land which has been donated for the facility.

Amendment No. 20: Deletes language proposed by the Senate which would have rescinded language exempting the Federal payment to the District from the apportionment process.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which establishes a "Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy". The conferees direct that coordination of services for pregnant substance abusing women and their infants will include linkages with medical care providers, local health departments, department of social services, providers of shelter to abused and homeless women, and public housing programs. The services for pregnant and post-partum females subject to coordination shall include substance abuse and addiction treatment (outpatient, inpatient hospitalization, and residential), prenatal and post-partum health care, support such as child care and transportation, education and skill building services such as parenting and job seeking classes, innovative methods of outreach to target women at risk early in pregnancy, effective screening procedures, and after care. Services for infants and very young children at risk shall also be subject to coordination, including direct, intervention, treatment or rehabilitation services, support, and resources for their biological or foster parents. Strategies for coordinating the delivery of services shall include co-locating multiple facilities, case management, and involving significant others such as the male partners of pregnant females to aid in outreach. In addition, coordinated training programs for social service, public health, and medical professionals working with pregnant substance abusing women and their infants shall also be made a priority.

The task force is required to submit a report to Congress within one year after the date of enactment of this Act at which time it will cease to exist.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 141. Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization to deny:

(a) the use of any facility service or benefit set aside for the practice or promotion of religion; or

(b) the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, the promotion of any homosexual or heterosexual lifestyle or belief that is contrary to its religious doctrine.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recommend language under section 141 which may allow discriminatory practices by educational institutions in the free exercise of their religious liberties where specific homosexual and heterosexual lifestyles or beliefs are contrary to that institution's particular religious doctrine.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

FEDERAL FUNDS	
New budget (obligational) authority, fiscal year 1989	$556,910,000
Budget estimates of new (obligational) authority, fiscal year 1990	532,310,000
House bill, fiscal year 1990	532,310,000
Senate bill, fiscal year 1990	538,027,000
Conference agreement, fiscal year 1990	538,027,000
New budget (obligational) fiscal year 1989	−18,883,000
Budget estimates of new (obligational) authority, fiscal year 1990	+5,717,000
House bill, fiscal year 1990	+5,717,000
Senate bill, fiscal year 1990	
DISTRICT OF COLUMBIA FUNDS	
New budget (obligational) authority, fiscal year 1989	*$3,365,193,000*
Budget estimates of new (obligational) authority, fiscal year 1990	*3,424,193,000*
House bill, fiscal year 1990	*3,449,993,000*
Senate bill, fiscal year 1990	*3,481,765,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	*+116,572,000*
Budget estimates of new (obligational) authority, fiscal year 1990	*+57,572,000*
House bill, fiscal year 1990	*+31,772,000*
Senate bill, fiscal year 1990	

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
LES AUCOIN,
STENY H. HOYER,
BOB CARR,
JAMIE L. WHITTEN,
DEAN A. GALLO,
BILL GREEN,
RALPH REGULA,
SILVIO O. CONTE,
Managers on the Part of the House.

BROCK ADAMS,
WYCHE FOWLER,
J. ROBERT KERREY,
ROBERT C. BYRD,
PHIL GRAMM,
PETE V. DOMENICI,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. CALLAHAN) to revise and extend his remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. FAZIO, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Mr. SCHUMER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. ROSE, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. ALEXANDER, for 20 minutes, today.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CALLAHAN) and to include extraneous matter:)

Mr. DUNCAN.
Mr. DORNAN of California in four instances.
Mr. BARTON of Texas in three instances.
Mr. BILIRAKIS.
Mr. LAGOMARSINO in two instances.
Mr. SUNDQUIST.
Mr. MICHEL.
Mr. DANNEMEYER.
Mr. MILLER of Ohio in two instances.
Mr. COX.
Mr. GUNDERSON.
Mr. COUGHLIN.
Mr. GEKAS.
Mr. MARLENEE.
Mr. BEREUTER in two instances.
Mr. GILMAN in two instances.
Mr. DONALD E. "BUZ" LUKENS.
Mr. BLAZ in two instances.
Mr. SMITH of New Jersey.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. STOKES.
Mr. GIBBONS.
Mr. JACOBS.
Ms. PELOSI.
Mr. RAY.
Mr. SMITH of Florida.
Mr. BEILENSON.
Mr. FAZIO.
Mr. KANJORSKI.
Mr. HOCHBRUECKNER.
Ms. SLAUGHTER of New York in two instances.
Mr. HUBBARD.
Mr. HAMILTON.
Mr. TRAXLER.
Mr. STARK.
Mr. KOSTMAYER.
Mr. MARKEY.
Mr. MAZZOLI.
Mr. LANTOS in two instances.
Mr. RICHARDSON.
Mr. LANCASTER.
Mr. DELLUMS.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1091. An act to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard; to the Committee on Banking, Finance and Urban Affairs.

S. 1704. An act to extend the Tied-Aid Credit Program of the Export Import Bank, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Friday, October 6, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1794. A letter from the chief executive officer, Corporation for Public Broadcasting, transmitting a report on satellite replacement needs of public radio and television, pursuant to 47 U.S.C. 396 nt.; to the Committee on Energy and Commerce.

1795. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by William Clark, Jr., of the District of Columbia, Ambassador Extraordinary and Plenipotentiary-designate to India, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1796. A letter from the Acting Administrator, General Services Administration, transmitting a draft of proposed legislation to amend section 204 of the Federal Property and Administrative Services Act of 1949, to authorize the use of proceeds of dispositions of surplus real and related personal proper-

ty to cover costs of land use services; to the Committee on Government Operations.

1797. A letter from the Secretary of Agriculture and Administrator of Agency for International Development, transmitting their third quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development Missions, prusuant to 7 U.S.C. 1736b-4; jointly, to the Committees on Agriculture and Foreign Affairs.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2587. A bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats; with an amendment (Rept. 101-269). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on Oct. 3, 1989, the following report was filed on October 5, 1989]

Mr. DIXON. Committee of Conference. Conference Report on H.R. 3026 (Rept. 101-270). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 3411. A bill to amend chapter 11 of title 31 of the United States Code to require that the President's budget include a statement of the size of the estimated deficit excluding trust fund transactions; to the Committee on Government Operations.

By Mr. BENNETT (for himself, Mr. GEJDENSON, and Mr. BROWN of California):

H.R. 3412. A bill to amend the National Historic Preservation Act, the Historic Sites Act, and the Archaeological Resources Protection Act, and certain related acts to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BOUCHER (for himself, Mr. POSHARD, Mr. RAHALL, Mr. KOLTER, Mr. HARRIS, Mr. PERKINS, Mr. COSTELLO, Mr. WISE, Mr. GAYDOS, Mr. APPLEGATE, Mr. MCCLOSKEY, Mr. STAGGERS, Mr. NAGLE, Mr. MILLER of California, Mr. MURTHA, Mr. EVANS, and Mr. TRAFICANT):

H.R. 3413. A bill to provide for stabilization of the process of providing coal industry health benefits, to clarify Federal tax treatment of the transfer of excess coal pension plan assets to coal health plans, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. BROWN of Colorado:

H.R. 3414. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts withdrawn from individual retirement plans for payment of long-term health care insurance premiums; to the Committee on Ways and Means.

By Mr. COURTER (for himself, Mr. GALLO, and Mr. SHAYS):

H.R. 3415. A bill to amend title 49 of the United States Code relating to preemption of excessive State registration requirements for motor carriers; to the Committee on Public Works and Transportation.

By Mr. DARDEN (for himself and Mr. JENKINS):

H.R. 3416. A bill to amend the Water Resources Development Act of 1986 relating to removal of cabins from any Federal water resources project; to the Committee on Public Works and Transportation.

By Mr. DYSON:

H.R. 3417. A bill to amend the Controlled Substances Act to provide enhanced penalties for persons who distribute, possess with intent to distribute, or manufacture a controlled substance in or on, or within 1,000 feet of, a military installation located in the United States, and for other purposes; jointly, to the Committees on Energy and Commerce, the Judiciary, and Armed Services.

By Mr. JENKINS:

H.R. 3418. A bill to extend the temporary duty-free treatment for certain types of hosiery knitting machines and parts thereof and certain types of knitting needles; to the Committee on Ways and Means.

H.R. 3419. A bill to extend the temporary suspension of duties for certain hosiery knitting machines and hosiery knitting needles and to include in the suspension single cylinder coarse gauge machines and parts; to the Committee on Ways and Means.

By Mr. LAGOMARSINO (for himself, Mr. VENTO, Mr. UDALL, Mr. YOUNG of Alaska, Mr. BROOMFIELD, Mr. SOLARZ, Mr. FALEOMAVAEGA, Mr. BLAZ, Mr. LEACH of Iowa, Mrs. SAIKI, Mr. GALLEGLY, Mr. MADIGAN, Mrs. VUCANOVICH, Mr. RHODES, Mr. CLARKE, and Mr. LIGHTFOOT):

H.R. 3420. A bill to provide further authority to the Secretary of Agriculture for international foresty cooperation, for tropical forestry cooperation in the South Pacific, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Agriculture, and Foreign Affairs.

By Mr. LEVINE of California (for himself, Mr. WAXMAN, and Mr. (GILMAN):

H.R. 3421. A bill to provide for the control of anabolic steroids under the Controlled Substances Act and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEWIS of Florida (for himself, Mr. BILIRAKIS, Mr. SMITH of Florida, Ms. ROS-LEHTINEN, Mr. JAMES, Mr. GOSS, Mr. NELSON of Florida, Mr. JOHNSTON of Florida, Mr. IRELAND, Mr. GRANT, Mr. MCCOLLUM, and Mr. YOUNG of Florida):

H.R. 3422. A bill to amend title XVIII of the Social Security Act to permit the Secretary of Health and Human Services to make payments to fiscal intermediaries and carriers for administrative costs on other than a reasonable cost basis; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MCDERMOTT (for himself, Ms. PELOSI, and Mr. SCHUMER):

H.R. 3423. A bill to provide appropriate housing for individuals with acquired immune deficiency syndrome and related diseases; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARLENEE (for himself, Mr. ROBERTS, Mr. ROBERT F. SMITH, Mr. STENHOLM, Mr. CRAIG, Mr. HERGER, Mr. OLIN, Mr. MORRISON of Washington, Mr. YOUNG of Alaska, and Mr. HANSEN):

H.R. 3424. A bill making punishable under Federal law any willful act which injures or damages the property of any person, corporation, or business organization while such property is being used for a commercial or beneficial purpose in or on Federal property in the pursuit of a lawful activity, making punishable the solicitation of another to engage such acts of violence against private property in or on Federal property, and for other purposes; to the Committee on the Judiciary.

By Mr. MICHEL:

H.R. 3425. A bill to amend the Federal Election Campaign Act to provide comprehensive campaign finance reform, to lessen the power of special economic interests and to restore competition to American Congressional elections; jointly, to the Committees on House Administration, Post Office and Civil Service, and the Judiciary.

By Mr. STARK (for himself, Mr. DELLUMS, Mr. FAUNTROY, Mr. WHEAT, Mr. MORRISON of Washington, and Mr. DYMALLY):

H.R. 3426. A bill to establish a program in the District of Columbia under which a coordinated system of treatment providers, assessment and case-management experts, and case and program evaluators shall provide treatment services to persons suffering from drug or alcohol addiction; to the Committee on the District of Columbia.

By Mr. BONIOR (for himself, Mr. TORRICELLI, Mr. PASHAYAN, Mr. LEHMAN of California, Mr. DORNAN of California, and Mr. MOORHEAD):

H.J. Res. 417. Joint resolution designating April 24, 1990, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-1923"; to the Committee on Post Office and Civil Service.

By Mr. OWENS of Utah:

H.J. Res. 418. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons; to the Committee on Foreign Affairs.

By Mr. ROSE (for himself, Mr. LEVINE of California, Mr. GILMAN, Mr. LANTOS, Mr. PORTER, Mr. LEVIN of Michigan, and Mr. DOUGLAS):

H. Con. Res. 209. Concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize; to the Committee on Post Office and Civil Service.

By Mr. COURTER:

H. Con. Res. 210. Concurrent resolution expressing the sense of the Congress that Palestine Liberation Organization Chairman Yasir Arafat should be denied a United States visa if Arafat should apply for such a visa in order to address the United Nations General Assembly in New York; to the Committee on the Judiciary.

By Mr. OWENS of Utah:

H. Con. Res. 211. Concurrent resolution authorizing use of the rotunda of the Capitol for a ceremony incident to placement of a statue of Philo T. Farnsworth in National Statuary Hall, and authorizing printing of the transcript of the ceremony; to the Committee on House Administration.

By Mr. MICHEL:

H. Res. 259. Resolution electing Representative Ros-Lehtinen of Florida to the

Committee on Foreign Affairs; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

261. The SPEAKER presented a memorial of the Legislature of the State of California, relative to certain employee benefit plans; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mrs. MARTIN of Illinois introduced a bill (H.R. 3427) for the relief of Phil Bollman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. CAMPBELL of Colorado and Mr. WISE.

H.R. 48: Mr. FASCELL.

H.R. 104: Mr. GLICKMAN.

H.R. 746: Mr. THOMAS of Wyoming and Mr. VISCLOSKY.

H.R. 931: Mr. EDWARDS of California, Mr. ACKERMAN, and Mr. POSHARD.

H.R. 1046: Mr. PASHAYAN.

H.R. 1078: Mr. KLECZKA and Mr. FISH.

H.R. 1221: Mr. TAUZIN, Mr. WHITTAKER, Mr. HANCOCK, Mr. HATCHER, and Mr. PACKARD.

H.R. 1574: Mr. BATES, Mr. WEISS, and Mr. KOSTMAYER.

H.R. 1636: Mr. PETRI and Mr. FISH.

H.R. 1676: Mr. GEJDENSON.

H.R. 1727: Mrs. ROS-LEHTINEN.

H.R. 2025: Mr. BRYANT, Mr. FLORIO, Mr. HOPKINS, Mr. FAUNTROY, Mr. TOWNS, Mr. MORRISON of Connecticut, Mr. WILLIAMS, Mr. MARKEY, Mr. WYDEN, Mr. STARK, Mrs. COLLINS, Mr. OWENS of New York, Mr. FAZIO, and Mr. FROST.

H.R. 2080: Mr. BATES.

H.R. 2168: Mr. PRICE, Mr. GONZALEZ, and Mr. WISE.

H.R. 2174: Mr. BEILENSON and Mr. NAGLE.

H.R. 2192: Mr. SMITH of New Hampshire.

H.R. 2222: Mr. POSHARD and Mr. HARRIS.

H.R. 2269: Mr. ARCHER.

H.R. 2285: Mr. TRAXLER, Mr. FAZIO, Mr. STALLINGS, Mr. LANTOS, and Mr. BOEHLERT.

H.R. 2319: Mr. LEVINE of California, Mr. DWYER of New Jersey, Mr. TORRICELLI, Mr. FLORIO, and Mr. BRYANT.

H.R. 2404: Mr. JOHNSON of South Dakota.

H.R. 2407: Mr. GILMAN.

H.R. 2418: Mr. NEILSON of Utah, Mr. MORRISON of Connecticut, Mr. HYDE, and Mr. ROBERT F. SMITH.

H.R. 2437: Mrs. SAIKI.

H.R. 2460: Mr. ROBINSON, Mr. SPENCE, and Mr. LANCASTER.

H.R. 2648: Mr. AKAKA.

H.R. 2664: Mr. GONZALEZ and Mr. DELLUMS.

H.R. 2700: Mr. FISH.

H.R. 2711: Mr. MCCOLLUM.

H.R. 2718: Mr. ROBINSON.

H.R. 2918: Mr. SISISKY.

H.R. 2951: Mr. BONIOR and Ms. SLAUGHTER of New York.

H.R. 2952: Mr. BONIOR and Ms. SLAUGHTER of New York.

H.R. 3005: Mr. LENT and Mr. ENGEL.

H.R. 3164: Mr. EMERSON, Mr. ROBINSON, Mr. JONTZ, Mr. JONES of North Carolina, Mr. WATKINS, Mr. FLIPPO, Mr. PARKER, Mr. HATCHER, Mr. STENHOLM, Mr. CAMPBELL of Colorado, and Mr. HARRIS.

H.R. 3171: Mrs. JOHNSON of Connecticut and Mr. BERMAN.

H.R. 3256: Mr. TOWNS, Mr. PALLONE, Mr. CHAPMAN, Mr. FROST, Ms. ROS-LEHTINEN, Mr. FAUNTROY, Mr. LEWIS of Georgia, Mr. OXLEY, and Mr. KOSTMAYER.

H.R. 3280: Mr. DEFAZIO, Mr. CHAPMAN, Mrs. BOXER, Ms. SLAUGHTER of New York, Ms. SNOWE, Mr. VANDER JAGT, Mr. ANDERSON, Mr. HORTON, Mr. TOWNS, and Mr. FORD of Tennessee.

H.R. 3290: Ms. SLAUGHTER of New York.

H.R. 3292: Mr. KOLTER, Mr. PALLONE, Mr. PASHAYAN, Mr. SHUMWAY, Mr. TOWNS, Mr. PANETTA, and Mr. GLICKMAN.

H.R. 3296: Mr. JOHNSON of South Dakota, Mr. MILLER of California, Mr. BATES, Mr. OWENS of New York, Mr. KOSTMAYER, and Mr. STUDDS.

H.R. 3321: Mr. SPRATT, Mr. COSTELLO, Mr. LANCASTER, Mr. THOMAS of Wyoming, Mr. OLIN, Mr. MONTGOMERY, Mr. SARPALIUS, Mr. SENSENBRENNER, Mr. PICKETT, Mr. BURTON of Indiana, Mr. DONALD E. LUKENS, and Mr. RICHARDSON.

H.R. 3323: Mr. NIELSON of Utah.

H.R. 3336: Mrs. COLLINS, Mrs. SCHROEDER, Mrs. BOXER, Mr. GEJDENSON, Mr. FAZIO, Mr. FROST, and Mr. JONTZ.

H.R. 3398: Mr. ANNUNZIO.

H.R. 3399: Mr. OWENS of Utah.

H.J. Res. 146: Mr. FROST, Mr. THOMAS of Georgia, Mr. HENRY, Mr. MCGRATH, Mr. MURTHA, Mr. PACKARD, Mr. OBERSTAR, Mr. PAYNE of New Jersey, Mr. RAVENEL, Mr. MILLER of Washington, Mr. QUILLEN, Mr. RICHARDSON, Mrs. BENTLEY, Mr. MILLER of California, Mr. CONTE, Mr. ERDREICH, Mr. PALLONE, Mr. BRENNAN, Ms. PELOSI, Mr. HAYES of Louisiana, Mr. GUARINI, Mr. MOLLOHAN, Mr. HANCOCK, Mr. GINGRICH, Mr. VANDER JAGT, Mr. SMITH of Texas, Mr. SISISKY, Mr. MURPHY, Mr. SAWYER, Mr. OWENS of Utah, Mr. PASHAYAN, Mr. NATCHER, Mr. ROWLAND of Georgia, Mr. TRAXLER, Mr. KASICH, Mr. SUNDQUIST, Mr. HAMMERSCHMIDT, Mr. HERGER, Mr. LIPINSKI, Mr. LEHMAN of Florida, Mr. DONALD E. LUKENS, Mr. BATES, Mr. MCDERMOTT, Mr. HAMILTON, Mr. SAXTON, Mr. HEFNER, Mr. HYDE, Mr. DELLUMS, Mr. DIXON, Mr. IRELAND, Mr. INHOFE, Ms. KAPTUR, Mr. KILDEE, Mr. FASCELL, and Mr. BONIOR.

H.J. Res. 171: Mr. BARNARD, Mr. CROCKETT, Mr. DARDEN, Mr. FRANK, Mr. MCHUGH, Mr. YOUNG of Florida, Mr. GOODLING, Mr. DEWINE, and Mr. MARTINEZ.

H.J. Res. 198: Mr. FROST and Mr. WALSH.

H.J. Res. 286: Mr. LANCASTER, Mr. LEWIS of Georgia, and Mr. FROST.

H.J. Res. 338: Mr. SLATTERY, Mr. DEWINE, Mr. FAZIO, Mr. MANTON, Mrs. UNSOELD, Mr. BONIOR, Mr. ENGEL, Mr. HUCKABY, Mr. FISH, Mr. UPTON, Mr. MOAKLEY, and Ms. SLAUGHTER of New York.

H.J. Res. 346: Mr. RHODES, Mr. COURTER, Mr. THOMAS of Georgia, Mr. FISH, Mr. SAXTON, Mr. MARKEY, Mr. PORTER, Mr. MARTINEZ, Mr. TOWNS, Mr. HOCHBRUECKNER, Mr. INHOFE, Mr. GINGRICH, Mr. CHANDLER, Mrs. BENTLEY, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. ACKERMAN, Mr. LANTOS, Mr. MCCRERY, Mr. MOLLOHAN, Mr. MURTHA, Mr. MURPHY, Mr. HASTERT, Mr. THOMAS A. LUKEN, Mr. PAYNE of Virginia, Mr. BROWN of California, Mr. SCHEUER, Mr. STALLINGS, Mr. HAMILTON, Mr. PERKINS, Mr. NAGLE, Ms. OAKAR, Mr. SKAGGS, Mr. RITTER, and Mr. TAUKE.

H.J. Res. 364: Mr. BONIOR, Mr. BUNNING, Mr. DEWINE, Mr. FISH, Mr. JACOBS, Mr. KOSTMAYER, Mr. SHUSTER, and Mr. SOLARZ.

H.J. Res. 373: Mr. ROBERTS, Mr. WOLF, Mr. CARR, Mr. SMITH of Texas, Mr. ALEXANDER, and Mr. BLAZ.

H.J. Res. 375: Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. HORTON, Mr. GALLO, and Mr. FALEOMAVAEGA.

H.J. Res. 381: Mr. YATRON, Mr. HATCHER, Mr. HAWKINS, Mr. ASPIN, Mr. GRANDY, Mr. SHUMWAY, Mr. VOLKMER, Mr. ROBINSON, Mr. BROWN of Colorado, Mr. SMITH of New Hampshire, Mr. BOEHLERT, Mr. CAMPBELL of Colorado, and Ms. SLAUGHTER of New York.

H.J. Res. 385: Mr. HAYES of Illinois, Mr. MOORHEAD, Mr. YOUNG of Florida, Mr. HEFLEY, Mr. LEVIN of Michigan, Mr. NIELSON of Utah, Mr. DORGAN of North Dakota, Mr. RAVENEL, Mr. FLIPPO, Mr. BLAZ, Mr. KOSTMAYER, Mr. MILLER of Washington, Mr. BURTON of Indiana, Mr. YOUNG of Alaska, Mr. TRAFICANT, Mr. LEHMAN of Florida, Mrs. PATTERSON, Mr. DARDEN, Mr. CROCKETT, Mr. APPLEGATE, Mr. MINETA, Mr. PICKETT, Mr. LEWIS of Georgia, Mr. DIXON, and Mr. PASHAYAN.

H. Con. Res. 69: Mr. HUGHES, Mrs. SAIKI, Mr. CARPER, Mr. BRENNAN, Mr. HOCHBRUECKNER, and Mr. MANTON.

H. Con. Res. 172: Mr. BONIOR and Ms. SLAUGHTER of New York.

H. Con. Res. 208: Mr. MCEWEN, Mr. GEJDENSON, Mr. DORNAN of California, Mr. LEVINE of California, and Mr. BARTON of Texas.

H. Res. 130: Mr. VISCLOSKY.

H. Res. 220: Mr. VISCLOSKY.

H. Res. 240: Mr. PURSELL.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 26: Mr. CHANDLER.

SENATE—*Thursday, October 5, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be offered by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

See then that ye walk circumspectly, not as fools, but as wise, Redeeming the time, because the days are evil. Wherefore be ye not unwise, but understanding what the will of the Lord is.—Ephesians 5:15-17.

Eternal God, perfect in truth and justice, in holiness and love, somehow help us to understand that Thy will is good, acceptable, and perfect, leading to our full potential, individually and corporately. Help us to see that indifference is worse than rejection. Help us to overcome the reluctance which keeps us away from Thee. Forgive the pride which refuses to acknowledge human limitations and look to Thee for help in time of need. Midst the controversy and conflict of legislation, lead us in paths of righteousness.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

The majority leader is recognized under the standing order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. This morning, following the time reserved for the two leaders, there will be a period for morning business until 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Beginning at 10:30 a.m., there will be three rollcall votes in succession in relation to the flag-burning statute. The first will be a 15-minute vote on the Wilson amendment; the second a 10-minute vote on a Dole amendment; and the third, on final passage of the bill. The third is also a 10-minute vote. There is no time remaining for debate on this measure prior to the three votes.

Therefore, I urge my colleagues, since this will be a 15-minute vote followed by two 10-minute votes, to remain in the Chamber after the first vote so that we do not encounter the situation of other Senators having to wait for one Senator who leaves and then must return.

Once we have completed action on the flag bill, the Senate will return to consideration of S. 1711, the drug bill, with Senator HELMS to be recognized to continue debate on his amendment regarding Panama.

I alert Senators to the likelihood—indeed, I think it fair to say with certainty—that there will be votes throughout the day and into the evening.

It is my hope to complete action on the drug bill today, then to turn to other matters, including, at some point during the day, the catastrophic health care legislation.

Therefore, Senators should be prepared for a lengthy session today, and into this evening with the possibility of numerous votes.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of both leaders is reserved.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1727 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senate will receive a message from the House of Representatives.

At 10:16 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 251. A resolution amending the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the United States District Court for the Southern District of Mississippi; and

H. Res. 252. A resolution notifying the Senate of the amendment to the articles of impeachment against Judge Walter L. Nixon.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES, AMENDED ARTICLES OF IMPEACHMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the message just received from the House of Representatives be spread upon the Senate Journal and printed in the CONGRESSIONAL RECORD for the information of the Senate, and that the clerk be instructed to read the message of the House in full for the information of the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will proceed to read the message in full.

The assistant legislative clerk read as follows:

H. RES. 251

Resolved, That the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the United States District Court for the Southern District of Mississippi, are amended in the second paragraph of article II and in paragraph (2)(G) of article III, by striking "in any way influence anybody" and inserting "that in any way influenced anybody".

H. RES. 252

Resolved, That a message be sent to the Senate by the Clerk of the House, informing the Senate that the House of Representatives has adopted amendments to the articles of impeachment exhibited against Walter L. Nixon, Jr., a judge of the United States District Court for the Southern District of Mississippi, and that the amendments will be presented to the Senate.

Mr. MITCHELL. Mr. President, I ask unanimous consent that counsel for Judge Nixon be allowed 3 days from today to file such responsive pleadings to the amended articles of impeachment as counsel may choose to file, and that the House managers

be allowed 3 days from the filing of any responsive pleadings to the amended articles of impeachment by Judge Nixon to file a replication.

I further ask unanimous consent that the procedures authorized by sections 3 through 9 of Senate Resolution 127 of this Congress for the handling and printing of pleadings in this impeachment proceeding, including printing in the Senate Journal, in the CONGRESSIONAL RECORD, and as a separate Senate document, shall be utilized with respect to pleadings filed under this unanimous-consent agreement.

The PRESIDENT pro tempore. Without objection, the various requests of the majority leader will be granted.

Mr. MITCHELL. Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business with Senators permitted to speak therein for not to exceed 5 minutes.

The junior Senator from Kentucky [Mr. MCCONNELL] is recognized for not to exceed 5 minutes.

Mr. MCCONNELL. I thank the Chair.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 1727 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MCCONNELL. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE FLAG PROTECTION ACT OF 1989

Mr. KASTEN. Mr. President, I rise today in support of the Flag Protection Act of 1989. Even though I am a cosponsor of a constitutional amendment to protect the American flag, and I continue to believe that such an amendment is necessary to truly accomplish what we purport to do here today, I will support this statutory approach.

The flag is indeed a special symbol of our great land. As Justice Stevens said in his dissenting opinion in Texas versus Johnson, "It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. * * * The value of the flag as a symbol cannot be measured." The ideas born in 1776, and culminating in the Constitution of the United States, are ideas that have grown and the power of which even today we see being expressed in societies throughout the world.

My constituents have expressed to me their desire to see their flag protected. They all have different reasons, but they echo the words of Justice Stevens quoted above. Many have buried family members who have returned from foreign lands after laying down their lives to protect the values and ideas symbolized by the flag that draped their coffins.

I do not believe that preventing the burning or desecration of the flag impinges upon the first amendment rights which we all cherish. There is the alternative mode of expression available of uttering words critical of the flag and what it represents. That will not be altered by the constitutional amendment which I continue to support.

However, the matter before us tonight is an attempt to provide, by statute, the protection our flag deserves. Given the decision of five Supreme Court Justices that the statute in Texas versus Johnson violated the Constitution, I don't believe this vehicle will work. But I will support this effort until the Senate considers the constitutional amendment which will provide the protection the flag deserves.

THE FLAG PROTECTION ACT OF 1989

Mr. THURMOND. Mr. President, we are now ready for the vote on final passage of this bill. I want to take this opportunity to thank the distinguished chairman of the Judiciary Committee for his efforts with this legislation.

I believe we share the same goal, that being the protection of the American Flag. We differ on the most appropriate way to protect the Flag in light of the Johnson decision.

While the Senator from Delaware is enthusiastic that a statute can adequately protect the Flag from physical desecration, I believe that any statute we pass will be suspect as unconstitutional before the current Supreme Court and we can only speculate as to how a different Supreme Court would rule on this matter.

Therefore, I have stated that while a statute might get results, and I will support this bill, a well drafted constitutional amendment is the most sound and prudent course to ensure the integrity of the American Flag.

We will soon have the opportunity to vote on a constitutional amendment. I see no reason why this Congress should not pass both measures. The Federal statute would be in place while the State legislatures act on a proposed constitutional amendment.

Again, I thank the distinguished chairman. We have accepted amendments which I believe improves this bill and I encourage my colleagues to support final support.

MOHAMED HASSAN GAWALY

Mr. KASTEN. Mr. President, I was deeply saddened to learn of the untimely death in Cairo of Mohamed Hassan Gawaly, who was Minister at the Egyptian Embassy in Washington from 1985 through July of this year.

Minister Gawaly was a familiar figure to most of us in Congress, and a friend to many. He was a superb diplomat, who represented his country with true devotion and dedication. He was strongly committed to strengthening the United States-Egyptian relationship, as well as to the goals of peace and stability in the Middle East. His knowledge of the foreign assistance process was unmatched, and he understood the importance of cooperating closely with Members of Congress. My staff and I had the pleasure of working often with Minister Gawaly, and we always found that his professionalism and expertise made him an excellent representative of the Egyptian Government and people. I speak for many of my colleagues when I say how greatly he will be missed.

Minister Gawaly had completed his 4 year assignment in Washington in early August, and had returned to Cairo to assume new duties with the Egyptian Foreign Minister. He had previously served in the Egyptian Consulate in San Francisco, and at posts in the Soviet Union and Somalia. Between foreign assignments, he had served in Cairo as an assistant to the Foreign Minister and the Prime Minister. The Government of Egypt has lost a truly hardworking, dedicated servant; I am certain his future would have been great.

On behalf of my colleagues, I wish to extend my deepest condolences to Minister Gawaly's family and to his colleagues at the Egyptian Embassy in Washington and at the Foreign Ministry in Cairo.

RESTART OF THE SAVANNAH RIVER REACTORS AND BUILDING OF THE NEW PRODUCTION REACTOR

Mr. THURMOND. Mr. President, 2 weeks ago, Secretary of Energy Watkins announced that early next year the Department of Energy would restart the reactors at the Savannah River site and resume tritium production. This was the first critical step in ensuring that our Nation maintains its

nuclear weapons stockpile in a usable state for the coming years.

This step, however, is only an interim solution. The reactors that will be restarted are almost 40 years old and are nearing the end of their design life. Since tritium, unlike plutonium, decays at a rate of 5.5 percent a year, the Department of Energy has placed the highest priority on continued production of tritium. To maintain a reliable source of tritium into the future, we must commence with the construction of the new production reactors or face an involuntary disarmanent of our nuclear stockpile.

In that regard, Mr. President, I ask unanimous consent to insert into the RECORD an article from the September 10, 1989, Aiken Standard, by Mr. Louis H. Roddis, Jr. titled, "Tritium Shortage Could Disarm U.S." Mr. Roddis is the former chairman of the Energy Research Advisory Board and former president of the American Nuclear Society.

I believe the article fully identifies the problems the United States is facing with regard to tritium production, the potential impact on our nuclear weapons stockpile, and the future of our Nation. I hope my colleagues will read the article and keep its message in mind when the Senate considers further funding for the construction of a new production reactor.

Thank you, Mr. President.

TRITIUM SHORTAGE COULD DISARM U.S.

(By Louis H. Roddis, Jr.)

We are witnessing serious problems in nuclear materials production in the United States, because weapons facilities built in the early 1950s are in deteriorating condition and cannot meet current defense needs.

These problems, if not corrected soon, could lead to a shortage of nuclear materials and a unilateral reduction in effective nuclear forces, with dangerous consequences for national security. There's a good deal of uncertainty about the rate at which this disarmament might occur, but there's no doubt about the direction of the trend, or the reason for it.

Events over the past 16 months show just how grave the problem is. In April 1988, the United States lost its remaining means of producing tritium and plutonium, essential ingredients of nuclear warheads, when the three existing reactors at the Savannah River Site in South Carolina were shut down for safety upgrades and other improvements.

TRITIUM DECAYS

Although plutonium lasts tens of thousands of years and stockpiles are reasonably satisfactory, tritium steadily decays into helium at a rate 5.5 percent a year, resulting in its loss. This means that tritium in a nuclear weapon must be replenished periodically to maintain the weapon's explosive yield. In fact, tritium not only enhances the strength of the explosion; it allows warheads to be smaller and lighter than they would otherwise be.

Even in the unlikely circumstance that no new warheads are built, the existing warheads would have to be refurbished with new stores of tritium. If supplies of the material become totally exhausted, the United States would be forced to retire about 1,200 warheads a year—effectively disarming us over a 20-year period. Therefore, even a temporary shortage could force this country to reduce its existing arsenal by removing tritium from some weapons to keep others in working order.

The government expects at least one of its military reactors at Savannah River to resume tritium production next year. However, the reactors are almost 40 years old and nearing the end of their original design lifetimes. For the long term, the United States cannot depend on its aging military reactors, if this country is to have an assured supply of tritium in the years ahead.

The U.S. Department of Energy, the agency responsible for the production of nuclear materials, has placed the highest priority on resolving this issue. The purely technical problem of developing new sources of tritium was examined by a special panel of DOE's Energy Research Advisory Board, of which I was a member.

After studying different technologies, the panel recommended construction of two new tritium-producing reactors—one a modern version of the heavy-water reactors that have supplied weapons materials during nearly 40 years of use at Savannah River. The new heavy-water reactor will have "passive safety" features and use modern electronics and computerization, improved control-room design and other state-of-the-art advances. It will be constructed at the Savannah River Site. And the reactor will be big enough to supply tritium for the entire nuclear weapons program.

The other reactor is the prototype of an advanced high-temperature gas-cooled reactor, and it will be capable of providing the nation with 50 percent of the needed tritium capacity. Because of a requirement to produce tritium at two different locations to ensure military security, the Department of Energy proposed building the gas-cooled reactor in Idaho.

Congress is presently considering this dual-reactor strategy. Some questions have arisen about the wisdom of constructing two new production reactors rather than obtaining tritium through other means.

Why not simply produce tritium at existing nuclear power plants? Two problems. First, designs based on light-water technology have never been used to produce tritium in the United States. Commerical nuclear plants would require major conversion, since the uranium fuel used in light-water type plants would not provide adequate tritium production without increased enrichment and with possible adverse effects on their safety. Second, the use of civilian reactors to produce tritium for military ends would require changes in the longstanding national policy of prohibiting the use of civilian reactors for such military purposes.

OTHER COUNTRIES?

Why not just obtain tritium supplies from other countries?

It's true that reactors presently operating in Canada and other countries produce tritium as a byproduct of their nuclear systems. For political reasons, however, the Canadian government has refused to export tritium even for industrial use or scientific research. Other nations are also unlikely to export the material. In any event, the United States should not depend on other countries for crucial nuclear materials.

What about building a linear accelerator to supply tritium?

The concept of using a high-voltage particle beam device, or accelerator, is not new. During the late 1940s it was considered as an alternative to the Savannah River-type reactors. Our panel rejected the accelerator approach because the technology is too immature even to estimate the cost of buildng a tritium-producing accelerator and because an accelerator would require about ten times as much power as a heavy-water reactor.

Why can't we just obtain tritium trapped in the heavy water that flows through the reactors at Savannah River?

TIME CONSUMING

Extracting tritium from heavy water would require construction of a new isotope separation plant at Savannah River. By the time this facility could be completed, however, a significant fraction of the tritium would have decayed.

Finally, some would have us stop tritium production together in hopes of achieving a strategic arms-control treaty with the Soviet Union. This seems to me a dangerously bad idea. These arms-control advocates ignore the reality that the Soviet Union can produce needed quantities of tritium in civilian reactors, and that its leaders have shown no inclination to stop producing the material. Wishful thinking about arms control cannot be allowed to dominate our consideration of the defense issue to the extent that we fail to maintain our strategic nuclear deterrent. If we halt U.S. production of tritium, it will take about 10 years to get a new reactor on line, while the Soviets continue producing nuclear weapons.

The real issue is whether we would prefer a world in which the Soviets have tritium-producing capability and we do not. Such an outcome seems to have little to commend it.

We can't stop producing tritium indefinitely, or we"ll be going into the next century unable to deter war or respond to threats to U.S. interests. Congress must move promptly to provide funds to begin building the new reactors. Our national security calls for no less.

(Louis H. Roddis, Jr, is a consultant on nuclear energy who lives in Charleston. From 1981 to 1984, he was chairman of the Energy Research Advisory Board, a group of outside experts that counsels the U.S. Department of Energy on science issues. He is a former president of the American Nuclear Society.)

FLAG DESECRATION STATUTE

Mr. KERRY. Mr. President, I support this statute, although I believe very deeply our flag is well protected without it. I am convinced the statute in no way threatens the integrity of the first amendment. On the other hand, I will oppose a constitutional amendment to protect the flag because such an amendment is unnecessary and diminishes the Constitution.

In reality, the American flag is vibrant and strong enough to need no protection. The flag protects itself. It is the fundamental symbol of our Nation. No one has the ability to damage it, because it stands for what we are and what we believe in and that idea does not merely reside in any one physical flag, but the very concept of our flag.

Nevertheless, I also believe that the physical integrity of the flag is some-

thing that we have the power and the right to protect. In my view, physically injuring the flag is no different from writing graffiti on a public subway: It is defacing public property, and the particular message that one seeks to convey is irrelevent. In protecting our subways, or our monuments, or our flags, from graffiti, burning or other forms of desecration, we are restricting malicious conduct against property—not speech.

I intend to speak in greater depth on this subject when we return to the issue in considering a constitutional amendment to protect the flag.

MOTOR VEHICLE AIR-CONDITIONER OZONE DEPLETION ACT OF 1989

Mr. KERRY. Mr. President, I rise today in support of the efforts in the reconciliation measure, which will soon be considered by the Senate, to eliminate the use of dangerous chlorofluorocarbons [CFC]. I particularly want to commend Senator BAUCUS, chairman of the Committee on Environment and Public Works, for his longstanding efforts in this important area. I am pleased that as part of this package the committee included portions of legislation I introduced earlier in this session of Congress, S. 1051, the Motor Vehicle Air Conditioner Ozone Depletion Act.

My legislation would require the Environmental Protection Agency to set up the following minimum standards establishing a ban on the domestic sale or export of automobiles which contain air-conditioners that use CFC's. Beginning with model year 1993, 25 percent of the cars manufactured with air-conditioners in the United States, or imported into the United States, must be free of CFC's. This would increase to 50 percent for model year 1994, and to 100 percent by model year 1995. Just as important, this legislation requires the certification of all equipment used to install, maintain, and repair car air-conditioners, and requires that CFC's are reclaimed, recycled, or safely destroyed.

The committee provision contained in this bill will ban the sale of auto air-conditioners which are dependent on CFC 12 as a refrigerant by the model year 1994. This proposal also stops the practice of venting or releasing CFC's from auto air-conditioners and requires the recapture, recycling, and safe disposal of CFC's. It also bans by January 1, 1991, the sale of do-it-yourself CFC canisters.

Mr. President, by eliminating the largest end use of CFC's in our Nation, those used in mobile air-conditioners, this proposal will help meet the serious threat we face by the continued deterioration of our protective ozone layer.

We know what the consequences of damage to the ozone layer can be—they include increased incidences of cancer, skin cancer, cataracts, harm to marine life, and worldwide damage to agricultural crops. In addition, CFC's are greenhouse gases, and some scientists believe they will account for 25 percent of the total warming over the next half century.

Chlorofluorocarbons are very stable and can last in the atmosphere for decades. When CFC's reach the stratosphere 10 to 20 miles above the Earth, CFC molecules break apart releasing chlorine which depletes the ozone layer. One single atom of chlorine can destroy 100,000 molecules of ozone. Even if all CFC's were banned today, depletion would still continue for quite some time.

For these reasons it is imperative that the process of reducing and eliminating the use of CFC's is accomplished in the most expeditious manner possible. Again I am pleased with the CFC-reducing provisions in this bill and believe that they represent a major step toward saving the ozone and protecting the health and welfare of people everywhere.

THE 1,664th DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,664th day that Terry Anderson has been held in captivity in Beirut.

As Terry Anderson and each of the remaining hostages continue to be held, their families are, in a sense, also held captive.

I ask unanimous consent that an article on this subject from the Los Angeles Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Dec. 23, 1987]

HOSTAGES' KIN SEND LETTERS ASKING RELEASE

BEIRUT.—Families of eight Americans held by pro-Iranian groups expressed hope in letters published today that the kidnapers' "hearts will soften" and they will release the hostages this holiday season.

In the two letters published in the An Nahar newspaper, they also told the captives: "We pray that God will grant you strength, courage and grace during this long and painful ordeal."

The families said they were approaching the holiday season "with heavy hearts," but assured the hostages, "Your are not forgotten by us or by the American poeple.

"We work and pray for peace and justice throughout the Middle East and especially for the people of Lebanon."

One of the letters was addressed to the hostages and the other "to the captors of the American hostages in Lebanon."

In the second letter, the families said they sympathize with the Lebanese people who have suffered through 12 years of civil war.

"We pray daily for our hostages but we also hold the people of Lebanon in our hearts and prayers," they said.

"Let us pray together that this holiday season will mark the end of the pain and hostility that is tearing your country and our hearts to pieces."

Peggy Say, the sister of hostage Terry Anderson, the longest-held American, said from her home in Batavia, N.Y., that the letters also were published in the Beirut newspaper As Safir but she did not know of any personal letters sent to the hostages or their captors.

Say said she and her pastor, the Rev. Thomas Vickers of Batavia, wrote the letters and circulated them among hostage families for approval.

Say said the letters are more important this year than similar pleas in the last three years Anderson has been a captive because the kidnaping of Anglican Church envoy Terry Waite has left the hostages without much hope.

PROTECTING THE FLAG

Mr. HATCH. Mr. President, the debates of yesterday afternoon and this morning on the subject of the constitutionality of legislation such as H.R. 2978—which, I am convinced, attempts to amend the Constitution by means of a statute—would be incomplete if the arguments of the bill's proponents were allowed to go unrebutted.

Let me note at the outset that, of course, some statutes which are found unconstitutional can be cured by a legislative response, depending on the nature of the constitutional defect. The question is, is this such a circumstance? I think it is not. Of course, the Federal flag desecration statute itself has not been found to be unconstitutional. I have assumed, however, as have proponents of H.R. 2978, that the rationale of the Texas versus Johnson decision, striking down the Texas flag desecration statute, would invalidate the Federal flag desecration statute, 18 U.S.C. 700.

Despite the many assertions that H.R. 2978 is not an effort, in effect, to amend the Constitution, it was clear from the substance and tone of these debates that that is precisely what is being attempted here. The opinion of the Supreme Court in Texas versus Johnson was a constitutional decision; one which involved the application of the 1st and 14th amendments to the Constitution. For the reasons I explained yesterday at some length, no statute banning flag desecration will survive after the Texas versus Johnson decision.

The distinguished chairman of the Judiciary Committee, Senator BIDEN, presented three examples to support his assertion that he is not attempting to alter the Constitution by statute.

One of the chairman's examples is relevant to this issue, although readily distinguishable. The other two examples are so far off the point, and so utterly unhelpful, that I can only con-

clude that proponents of the statutory response to Texas versus Johnson are hardpressed to defend that approach on the constitutional merits.

The excerpt from Prof. Walter Dellinger's testimony, that "Congress is free to correct any flaw that may have rendered an act of Congress unconstitutional, in response to a Supreme Court decision," may serve to appear to provide a patina of academic respectability to the chairman's response to my arguments, but it obviously begs the question: Are the defects in the Federal flag desecration statute, in light of Texas versus Johnson, curable by statute? If not, the effort to overturn that decision by statute circumvents the Constitution. Again, I will not repeat the arguments I made yesterday concerning the futility of any statutory response to the Texas versus Johnson decision, but will briefly explain why the chairman's three examples are completely unavailing.

Two of the examples, Bowsher versus Synar and Buckley versus Valeo, are beside the point, with respect to the issue before us, namely, how can we assure protection of the flag from desecration.

Buckley v. *Valeo*, 424 U.S. 1 (1976), upheld major portions of the Federal Election Campaign Act. The Court, however, declared the composition of the Federal Elections Commission violative of article II, section 2, clause 2—the appointments clause—with respect to all but its investigative and informative powers. Since a majority of the Commission's voting members were appointed by Congress, it could not engage in enforcement activity. Obviously, Congress can correct that error by reconstituting the Commission and it did so.

In *Bowsher* v. *Synar*, 478 U.S. 714 (1986), the Court reviewed a part of the Gramm-Rudman-Hollings Act under which mandatory spending cuts were put in place if the Comptroller General issued a report estimating that the budget deficit exceeded the amount permitted by the act. The Court held that the powers vested in the Comptroller General under the Gramm-Rudman-Hollings Act violate the constitutional requirement that Congress play no role in the execution of the laws. It was easy for Congress to respond by giving its role, of designating mandatory spending reductions, to someone else. It did so by giving that authority to the Director of OMB.

Neither of these cases helps us decide whether Texas versus Johnson can be constitutionally redressed through a statute. They are simply not on point.

The *Shacht* v. *United States* case, 398 U.S. 58 (1970), is more on point, but still unpersuasive as a justification for H.R. 2978.

In Shacht, the Court looked at two Federal laws. One prohibited any person "without authority [to wear] the uniform or a distinctive part thereof * * * of any of the Armed Forces of the United States"; 18 U.S.C. 702.

Another Federal law said:

> While portraying Army, Navy, Air Force, or Marine Corps, an actor in a theatrical or motion-picture production may wear the uniform of that armed force if the portrayal does not tend to discredit that armed force; 10 U.S.C. 772(f).

Shacht did wear parts of an Army uniform in an antiwar theatrical production, and was not a member of the Armed Forces.

The Court indicated that 18 U.S.C. 702, making it an offense to wear a military uniform without authority, standing alone, is facially constitutional. But it does not stand alone, since 10 U.S.C. 772(f) authorizes such wearing in a theatrical production. The Court ruled that the last clause of 10 U.S.C. 772(f) is an unconstitutional infringement on freedom of speech because it allowed use of a uniform in a skit praising the Army, but not in one condemning the Army.

But the neutral protection of the military uniform does not, by analogy, support the so-called neutral protection of the flag. The neutral protection of the military uniform, which the Court indicated would be constitutional, serves other than symbolic purposes. For example, it can protect people from unscrupulous persons trying to con them. The misuse of a uniform could lower public esteem for the military, affecting recruiting, or lower morale in the Armed Forces. These are not symbolic purposes of a blanket ban on use of the military uniform, these are practical purposes. In contrast, the flag, unlike the military uniform, has only symbolic purposes. A statute protecting the flag, whether couched in neutral terms or not, only serves to protect the flag as a symbol. Thus, the constitutionality of a neutral statute prohibiting misuse of a military uniform does not support the constitutionality of a neutral flag desecration statute. The latter protects an object solely for its symbolic purposes. And Texas versus Johnson teaches us that desecration of this symbol for expressive purposes is constitutionally protected.

Moreover, Mr. President, the bill supported by Senator BIDEN, H.R. 2978, is not neutral. It permits the burning of the flag for disposal purposes—a respectful treatment of the flag—but for no other purposes.

One Senator made the observation that we should not lionize Gregory Johnson or his despicable act of political protest. I agree. But that lionization has already occurred. The Supreme Court has lionized Gregory Johnson by giving constitutional protection to his conduct. Congress has a duty to reverse that lionization, to restore to Congress and the States the power to protect the flag from physical desecration. If we fail to amend the Constitution, Texas versus Johnson will stand for the right to burn the flag—Johnson will in fact continue to be lionized by those who agree with him.

Among the other fallacious arguments heard in these debates, none is perhaps so disingenuous as the claim heard yesterday that passing a constitutional amendment to empower the Federal Government and the States to prohibit flag desecration would raise the specter of numerous, onerous, varying laws that could hardly be complied with. To begin with, it should be pointed out that the possibility of multiple laws being passed on the same subject is inherent in the nature of our Federal system. That possibility did not present a problem for the drafters of the Constitution, nor should it long delay us today. Many of the most fundamental matters of life and death with which legislators must deal—from murder to abortion—are addressed in State statutes which reflect the varying values of the States of this Nation.

It should also be pointed out that we already have 49 different flag desecration statutes, and no Senator has risen in these debates to point out a single problem that has occurred from the maintenance of these various differing statutes on the books for decades.

But even if there were some rational basis for the Nation to fear a multiplicity of laws on this subject, the most important answer to be made to this argument is simply: H.R. 2978 does nothing to prevent the possibility and, in fact, would, if the constitutional amendment fails, be an incentive to the enactment of a whole round of new, no doubt differing State statutes on flag desecration. The bottom line is this: If Congress can avoid the effect of the Johnson case by simply passing a law, then so can every State legislature and every city council.

If a constitutional amendment is passed to state clearly that Congress and the States shall have the power to prohibit the physical desecration of the flag, then most of the 48 statutes on the books will become enforceable without the need of further legislative action. Just as the mere fact that those statutes differ has presented no problem in the past, it can be anticipated that their variety will present no problem in the future.

If, on the other hand, H.R. 2978 becomes law—despite the Justice Department's assertion that its constitutionality "cannot be seriously maintained"—and no constitutional amendment is passed, then every State will be encouraged to enact new so-called

content-neutral flag desecration statutes patterned after H.R. 2978. What variations there will be in each State can hardly be anticipated.

Implicit in the argument of those who advocate a single national standard for flag desecration is the apparent belief that H.R. 2978 would be given some preemptive effect. There is no basis for believing this: The current Federal statute has never been given such effect, but has existed alongside the various State statutes for years. Nor is there any language in the law to state the intention of Congress to preempt the State laws. This is as it should be. Flag desecration is a proper subject of State as well as Federal legislation.

Basically, I believe that those who fear the multiplicity of flag desecration statutes that could be enacted if Senate Joint Resolution 180 were to be adopted, actually fear the people and their elected representatives. They are the ones who will have the power to enact the statutes, and I trust they will do so in a responsible way. I regret that the critics of a constitutional amendment do not, apparently, share my faith in the wisdom and good sense of the people.

I'm also surprised at how many Senators have presented a single argument for the constitutionality of the statutory approach that bears no relation to the bill we are considering. One Senator accurately stated that, "Constitutional scholars testified before the Judiciary Committee that this proposal will pass muster by the Supreme Court because it outlaws flag burning in all circumstances." But H.R. 2978 does not outlaw flag burning in all circumstances. S. 1338 did, and that was the bill to which the testimony of the constitutional scholars appearing before the Senate Judiciary Committee was directed. The argument, even if once valid, simply has no applicability when applied to H.R. 2978.

A word should also be directed to the true positions of the constitutional law scholars who appeared before the Judiciary Committee. Far from being overwhelming in their support of the constitutionality of the statutory approach, they were more evenly divided between advocates of the statute and advocates of the amendment. But what I found most significant is the ironic fact that every law professor, historian, and lawyer who testified in favor of the constitutionality of the statute-only approach went on to urge that the Senate do nothing about the Johnson case or to otherwise cast doubt on the advisability of correcting that decision. Among those witnesses who agreed with the professed view of the majority of the committee that the result of Johnson should be overturned, there was a remarkable unanimity of opinion: Every witness—from Judge Bork to Charles Cooper to the Department of Justice—agreed that this result could be obtained only through the adoption of an amendment to the Constitution.

FLAG PROTECTION ACT OF 1989

Mr. BIDEN. Mr. President, I would like to thank my very good friend and distinguished colleague, and the ranking member of the Judiciary Committee, STROM THURMOND, for his assistance and cooperation in passing H.R. 2978. My good friend provided invaluable assistance in putting together the committee's four hearings and in ensuring that we had a knowledgeable and thoughtful complement of witnesses. As always, it is an honor and a pleasure to work with him.

DESECRATION OF THE FLAG

Mr. NUNN. Mr. President, I rise today in strong support of H.R. 2978, the Flag Protection Act of 1989. I salute the Senator from Delaware and the other members of the Judiciary Committee for their prompt, yet thorough, review of this important matter.

This legislation will prohibit any individual from mutilating, defacing, burning, or trampling the flag of the United States. The measure would extend protection to any flag of the United States, or any part thereof, in a form that is commonly displayed. I believe this proposal will thwart intentional desecration of our flag.

Earlier this year, I was deeply disappointed by the Supreme Court's 5-to-4 decision to nullify the flag desecration laws of the States and the Federal Government. In my view, the American flag represents the preeminent symbol of our Republic. The American flag also serves as a living memorial to our Nation's brave war veterans, those still living, the over 1 million who died while serving, and those who today still bear the wounds of war.

The Supreme Court's majority opinion treats the American flag as just another symbol like many others, and thus held desecration of the flag to be a form of political expression protected under the first amendment.

I agree with Justice Stevens who stated in his dissent that the American flag is "more than a proud symbol of the courage, the determination, and the gifts of nature that transformed 13 fledgling colonies into a world power" and that "the interest in preserving that value for the future is both significant and legitimate."

I believe that this statutory approach, as recommended by a number of constitutional scholars, is the most appropriate and effective way to resolve this important issue. As some of my colleagues have noted, the constitutional amendment process is, as it should be, a cumbersome process. I favor this statutory approach because it provides a swift response to the Supreme Court's recent opinion. While I will consider seriously a constitutional amendment if it becomes necessary, I believe that we should first attempt to rectify this situation by a statutory remedy with an accelerated appeals process.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

FLAG PROTECTION ACT OF 1989

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2978, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

The Senate resumed consideration of the bill.

Pending:

(1) Wilson Amendment No. 951, to prevent the defiling of the American flag.

(2) Dole Amendment No. 952, to require that desecration of the U.S. flag be public in order to be a criminal act.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection it is so ordered.

AMENDMENT NO. 951

Mr. BIDEN. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDENT pro tempore. The pending question before the Senate is on the adoption of the amendment by Mr. WILSON, amendment No. 951 to H.R. 2978.

Mr. BIDEN. Mr. President, I move to table the amendment.

Mr. WILSON. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware, Mr. BIDEN, to table amendment No. 951 of the Senator from California, Mr. WILSON. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 31, nays 69, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—31

Adams	Dodd	Mikulski
Biden	Glenn	Mitchell
Bingaman	Inouye	Moynihan
Boren	Johnston	Pell
Bradley	Kennedy	Robb
Bumpers	Kerrey	Sanford
Burdick	Lautenberg	Sarbanes
Cranston	Leahy	Simon
Daschle	Lieberman	Wirth
DeConcini	Matsunaga	
Dixon	Metzenbaum	

NAYS—69

Armstrong	Gore	McClure
Baucus	Gorton	McConnell
Bentsen	Graham	Murkowski
Bond	Gramm	Nickles
Boschwitz	Grassley	Nunn
Breaux	Harkin	Packwood
Bryan	Hatch	Pressler
Burns	Hatfield	Pryor
Byrd	Heflin	Reid
Chafee	Heinz	Riegle
Coats	Helms	Rockefeller
Cochran	Hollings	Roth
Cohen	Humphrey	Rudman
Conrad	Jeffords	Sasser
D'Amato	Kassebaum	Shelby
Danforth	Kasten	Simpson
Dole	Kerry	Specter
Domenici	Kohl	Stevens
Durenberger	Levin	Symms
Exon	Lott	Thurmond
Ford	Lugar	Wallop
Fowler	Mack	Warner
Garn	McCain	Wilson

So, the motion to lay on the table the amendment (No. 951) was rejected.

The PRESIDENT pro tempore. The vote recurs on the Wilson amendment No. 951 to H.R. 2978. The yeas and nays are ordered. The clerk will call the roll. This is a 10-minute rollcall vote.

Mr. BIDEN. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. BIDEN. I apologize. I did not hear what the Chair said was about to come next.

The PRESIDENT pro tempore. The vote recurs on the Wilson amendment No. 951 to H.R. 2978.

Mr. BIDEN. Mr. President, I suggest we vitiate that vote.

Mr. LEAHY. Mr. President, we do not have order.

Mr. DOLE. We want the yeas and nays on this vote.

The PRESIDENT pro tempore. The yeas and nays have been ordered. Will the Senator restate his request.

Mr. BIDEN. I withdraw my suggestion.

The PRESIDENT pro tempore. The yeas and nays are ordered on the Wilson amendment No. 951. The clerk will call the roll. This is a 10-minute rollcall vote, as is the one to follow.

The bill clerk called the roll.

The result was announced—yeas 76, nays 24, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—76

Adams	Gore	Murkowski
Armstrong	Gorton	Nickles
Baucus	Graham	Nunn
Bentsen	Gramm	Packwood
Bond	Grassley	Pressler
Boschwitz	Harkin	Pryor
Breaux	Hatch	Reid
Bryan	Hatfield	Riegle
Burns	Heflin	Rockefeller
Byrd	Heinz	Roth
Chafee	Helms	Rudman
Coats	Hollings	Sanford
Cochran	Humphrey	Sasser
Cohen	Jeffords	Shelby
Conrad	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kerry	Specter
Daschle	Kohl	Stevens
Dixon	Levin	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	Wilson
Ford	McClure	Wirth
Fowler	McConnell	
Garn	Mikulski	

NAYS—24

Biden	Dodd	Lieberman
Bingaman	Glenn	Matsunaga
Boren	Inouye	Metzenbaum
Bradley	Johnston	Mitchell
Bumpers	Kennedy	Moynihan
Burdick	Kerrey	Pell
Cranston	Lautenberg	Robb
DeConcini	Leahy	Sarbanes

So the amendment (No. 951) was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The question now recurs on the Dole amendment No. 952. On this question, the yeas and nays have been ordered.

Mr. BIDEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I move to table the Dole amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of Mr. DOLE.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of the Senator from Kansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll. This will be a 10-minute rollcall vote.

The clerk will repeat the name and vote of each Senator after he responds.

The assistant legislative clerk called the roll.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—53

Adams	Dodd	Lieberman
Baucus	Exon	Matsunaga
Biden	Ford	Metzenbaum
Bingaman	Fowler	Mikulski
Boren	Glenn	Mitchell
Bradley	Gore	Moynihan
Breaux	Graham	Nunn
Bryan	Harkin	Pell
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Johnston	Rockefeller
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
Danforth	Kohl	Simon
Daschle	Lautenberg	Specter
DeConcini	Leahy	Wirth
Dixon	Levin	

NAYS—47

Armstrong	Hatch	Nickles
Bentsen	Hatfield	Packwood
Bond	Heflin	Pressler
Boschwitz	Heinz	Pryor
Burns	Helms	Reid
Chafee	Hollings	Roth
Coats	Humphrey	Rudman
Cochran	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Dole	Lott	Stevens
Domenici	Lugar	Symms
Durenberger	Mack	Thurmond
Garn	McCain	Wallop
Gorton	McClure	Warner
Gramm	McConnell	Wilson
Grassley	Murkowski	

So the motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was tabled.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, under the unanimous-consent agreement entered into last night, it was anticipated that there would be three votes this morning, all but the first to be 10-minute votes. Because one of the tabling motions failed, there will now be four votes and unless the consent is obtained, it will be a 15-minute vote.

I ask unanimous consent that the vote now on final passage be limited to 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on final passage of the bill, H.R. 2978. The yeas and nays have not been ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk will please repeat the response of Senators. Hopefully, the Senators will heed unless they be recorded as not voting.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—91

Adams	Fowler	Mikulski
Armstrong	Garn	Mitchell
Baucus	Glenn	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bingaman	Graham	Packwood
Bond	Gramm	Pell
Boren	Harkin	Pressler
Boschwitz	Hatfield	Pryor
Bradley	Heflin	Reid
Breaux	Heinz	Riegle
Bryan	Helms	Robb
Bumpers	Hollings	Rockefeller
Burdick	Inouye	Roth
Burns	Jeffords	Rudman
Byrd	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Simpson
D'Amato	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Symms
DeConcini	Lott	Thurmond
Dixon	Lugar	Wallop
Dodd	Mack	Warner
Domenici	Matsunaga	Wilson
Durenberger	McCain	Wirth
Exon	McClure	
Ford	McConnell	

NAYS—9

Chafee	Hatch	Kerrey
Dole	Humphrey	Metzenbaum
Grassley	Kennedy	Moynihan

So the bill (H.R. 2978), as amended, was passed.

Mr. BIDEN. I move to reconsider, Mr. President, the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The PRESIDENT pro tempore. Is there objection to the motion to reconsider and motion to table?

Hearing none, the question is on the motion to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I will only take a moment of the Senate's time—and it is a bit unusual for me. I always generally thank staff, but there is one particular staff member of mine, Jeff Peck, who has learned more about and is probably the Nation's leading expert, including the Court, on the constitutionality and all the law surrounding, not only all the law, but traditions and local customs relating to the flag and the use of the flag.

I have always known Jeff as an extremely fine lawyer. Jeff came back to the Senate at some great sacrifice, like many, many, if not all, of the staff members here do, and was assigned this topic. As I said, he literally, I believe at this moment is the leading expert in America on the constitutional questions relating to the flag. He has done a phenomenal job and has done more work on this than I think he ever, ever thought he would have to do on any single issue, particularly on the flag.

I just want to publicly thank him. There are many other staff members of mine and Senators on the Republican side of the aisle and in the Judiciary Committee who did phenomenal jobs. As I said, it is the first time in 17 years, I think, I ever publicly picked someone out, but this poor fellow has spent hundreds and hundreds of hours of doing nothing but research on this issue, and I want to publicly thank him.

Mr. President, I have nothing further to say on that except to ask the Chair, do we now move back to the drug bill?

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The PRESIDING OFFICER. Under the order, the Senate will now resume consideration of S. 1711, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1711) to implement the President's 1989 National Drug Control Strategy.

The Senate resumed consideration of the bill.

Pending:

(1) Biden Amendment No. 924, to provide for civil enforcement procedures in the eviction from places maintained for manufacturing, distributing, or using controlled substances.

(2) Kennedy Amendment No. 934, to provide for substance abuse prevention and treatment programs.

(3) Helms Amendment No. 935 (to amendment No. 924), to provide authority for the President to use the armed forces of the United States to secure the removal of General Manuel Noriega for the illegal control of the Republic of Panama.

The PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. If the Senator will suspend until there is order in the Senate.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair very much.

I ask unanimous consent that the distinguished Senator from Rhode Island [Mr. PELL], who is chairman of the Foreign Relations Committee, of which I am the ranking member, be permitted to call up a resolution with respect to the Dalai Lama receiving the Nobel Peace Prize, which he and I are cosponsoring. I ask that the order which provided for my having the floor be delayed until that is disposed of.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I thank my colleague from North Carolina very much indeed.

SENATE CONCURRENT RESOLUTION 75—CONGRATULATING HIS HOLINESS THE XIV DALAI LAMA OF TIBET FOR BEING AWARDED THE 1989 NOBEL PEACE PRIZE

Mr. PELL. Mr. President, the Norwegian Nobel Committee has recognized His Holiness the XIV Dalai Lama of Tibet with the 1989 Nobel Peace Prize for his personal struggle for the liberation of Tibet through peaceful means. It is my hope that this award will inspire and empower the Tibetan people and the people of China to pursue, in the words of the Dalai Lama, a "middle path" to peace, rejecting violence and embracing compromise through dialog.

Moreover, it is my prayer that this award will focus the attention of the international community to the plight of the Tibetan people and draw global support for their efforts to save Tibetan culture.

In the 88 years of the Nobel Prize's existence, surely no one has been more deserved than the Dalai Lama whose life philosophy has been one of reverence for all things living. In our interdependent earth, he affirms that man is not alone. Nature, too, has its rights in his vision of a better world, one that neither the Chinese, nor any other power, can morally violate.

Just 2 years ago, on September 22, 1987, His Holiness was my guest at a luncheon here in Senate. Our tribute today is an extension of our tribute then. In January I was one of many who nominated His Holiness the Dalai Lama of Tibet for the 1989 Nobel Peace Prize. I wrote then that the world may then note:

That a man of peace secured for his people a voice and a venue to meet the challenge to peace and freedom in his homeland.

Today the world did take note.

Mr. President, I ask unanimous consent that a letter to Mr. Egil Aarvik be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, January 13, 1989.

Mr. EGIL AARVIK,
Chairman, Nobel Peace Prize Committee, The Nobel Institute, N-0255 Oslo 2, Norway.

DEAR MR. AARVIK: As you consider nominations for the 1989 Nobel Peace Prize, I urge you to give consideration to awarding this high honor to His Holiness the Dalai Lama of Tibet.

Since the diaspora of 1959, the Dalai Lama has shepherded the Tibetans in exile while struggling to secure peace and justice for his countrymen in Tibet. The Dalai Lama has never wavered from his advocacy for a peaceful resolution of the status of Tibet within the greater body of China. Even in the face of armed repression of the Tibetan people, the Dalai Lama has responded with pleas for non-violent resistance and constructive dialogue.

It is with this dialogue in mind, and in combination with his long record of inspirational leadership and a true commitment to the well-being of all the world's peoples, that I envision the Dalai Lama's nomination as a proclamation that his peaceful approach can be a persuasive tool in resolving a truly difficult and complex situation. The world may then note that a man of peace secured for his people a voice and a venue to meet the challenge to peace and freedom in his homeland.

The Dalai Lama's message, indeed his life, exemplify the ideals of the Nobel Peace Prize. I urge that his nomination be given your serious and favorable consideration.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, I send to the desk a concurrent resolution. A similar one is being submitted in the House, I believe, at this very same time. It is being cosponsored by Senators HELMS, MOYNIHAN, BIDEN, PRESSLER, SIMON, SANFORD, and SARBANES.

If it is in order I ask for its immediate consideration.

The PRESIDENT pro tempore. If the Senator will send the resolution to the desk, the clerk will state the resolution.

Mr. PELL. I send it to the desk, Mr. President, but withdraw my request.

The PRESIDENT pro tempore. Does the Senator wish to withdraw his request for immediate consideration?

Mr. PELL. I withdraw my request for immediate consideration.

The PRESIDENT pro tempore. The request is withdrawn.

The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, this morning the Norwegian——

The PRESIDENT pro tempore. If the Senator will suspend momentarily the Chair will inquire of the senior Senator from Rhode Island if he still wishes to introduce the resolution?

Mr. PELL. I thought by sending it to the desk I had submitted the concurrent resolution.

The PRESIDENT pro tempore. Very well, the concurrent resolution will be appropriately referred.

Is that the wish of the Senator?

Mr. PELL. Or held at the desk, I would hope.

The PRESIDENT pro tempore. That would require a unanimous consent.

Mr. PELL. I thank the President pro tempore of the Senate for his indulgence. I ask this to be held at the desk.

The PRESIDENT pro tempore. Is there objection to holding the resolution at the desk until further action?

If the Chair hears no objection, the request is granted.

Mr. PELL. I thank the President and relinquish the floor.

The PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, for the information of Senators who will be interested, I am sure, it is contemplated that this resolution will be cleared, perhaps quite soon today. In any event, it will be acted upon this evening before we leave.

Let me make a few comments with respect to the honor accorded to a good friend of mine and a good friend of Senator PELL's, the Dalai Lama.

Mr. President, this morning the Norwegian Nobel Prize Committee announced that they had awarded the 1989 Nobel Peace Prize to His Holiness, the Dalai Lama. The resolution we are introducing today commends the committee for having recognized the justice of the Tibetan cause and congratulates His Holiness for having received the award.

Mr. President, the cause of Tibet which the Dalai Lama has championed all his life is one which the American people unanimously support. We know that the people of Tibet have a separate language and culture and have had a national homeland on the high plateaus of Central Asia for centuries.

Nevertheless, beginning October 7, 1950 the Chinese Communist Army invaded and occupied Tibet. This unwarranted invasion and occupation which was completely contrary to international law has led to unprecedented suffering for the Tibetan people. Between 1959 and 1979 over 1 million Tibetans perished as a direct result of the executions, torture, and deliberately induced famine engendered by the policies of the Government of the People's Republic of China.

Since 1950 and particularly during the ravages of Mao's cultural revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's cultural achievements, were destroyed and their irreplaceable legacy of art and literature to the world was lost or stolen.

On October 1, 1987, Chinese Communist police in the Tibetan capital of Lhasa fired on unarmed demonstrators, killing at least six and wounding scores of others. Since that time the people of Tibet have been victimized by a new wave of violence and repression culminating in the imposition of martial law on March 7, 1989.

Mr. President, the problem of Tibet is not a conflict between the people of Tibet and the people of China. The massacre of Peking on June 4, 1989, demonstrates that both peoples suffer from the effects of forceable imposition of the same Communist system. Having successfully imposed martial law on the people of Tibet in March, the Communists then extended it to all of China in May.

The founders of the Democratic Front for China have expressly recognized this point. At their recent meeting in Paris, their chairman noted that both the Tibetans and the Chinese democracy movement fight against dictatorship and for justice and human rights.

Mr. President, in spite of all of the crimes committed against his people, the temporal and religious leader of the Tibet, the Dalai Lama, has consistently pursued a policy of peace, hope, and reconciliation. Just as consistently, the Chinese Communists have rejected the hand of friendship offered to them.

Today I am pleased to join with the distinguished chairman of the Senate Foreign Relations Committee, Mr. PELL, and others to commend the Nobel Committee and His Holiness. However, I do not believe this is enough. To be blunt about it, we need to pass sanctions and cause pain to the Communists in Peking so that they will release their stranglehold on the Tibetan and Chinese peoples. Their cause is just and they will prevail, but they need our help and they need it now.

Mr. PELL. Will the Senator yield?

Mr. HELMS. I certainly will, yes.

Mr. PELL. Mr. President, I want to commend the Senator for his words and speech and I associate myself with them.

Mr. HELMS. I thank the Senator sincerely.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

AMENDMENT NO. 935 TO AMENDMENT NO. 924

Mr. HELMS. Mr. President, momentarily I am going to ask unanimous consent that I be permitted to vitiate the yeas and nays on the pending amendment so I can send a modified form to the desk. Unless the distinguished manager, Mr. BIDEN, desires that I do that now?

Mr. BIDEN. If the Senator would yield for a comment, the Senator from Delaware is not at this moment in a position to be able to grant that unani-

mous consent. I am checking with several of my colleagues who have a keen interest in this subject. I will be able to shortly tell the Senator from North Carolina whether or not we are prepared to do that, although it is being considered.

Mr. HELMS. I understand. I would like to save the Senate as much time as possible and not get into a rancor over this thing.

Mr. President, over the past several hours, several hours up to about 34 or 36 hours, I have managed to piece together the story of the tragic inaction of the United States on Tuesday in the face of a strong plea from patriotic Panamanians for help, but this cry for help went unheard, obscured by a cacophony of official international visits and a total lack of any advanced planning. I was intrigued to note that last night's TV news programs and this morning's news programs have confirmed the remarks that I had prepared to make last evening.

Mr. President, I believe the U.S. Government had advanced warning that an action was planned against General Noriega, and I also believe, to my sorrow, that no contingency plans had been set in place, other than to do nothing. I believe that the opposition troops in Panama had Mr. Noriega in captivity for at least 5 hours and I believe longer than that, and they were anxious to turn him over to the United States for trial but received not the slightest encouragement from United States officials. I believe that the leaders of our Government were perhaps a little bit too preoccupied with entertaining Noriega's strongest supporter in Latin America, the President of Mexico.

In any case, Mr. President, on Tuesday I discovered in my initial contacts with United States officials, both here and in Panama and elsewhere, that they had little information about what was happening in Panama and, frankly, some of them did not seem to care. I talked to secure lines; I talked to open lines; I talked to well-known and prominent people in this Government and formerly in this Government all of whom have exceedingly vast knowledge of Panama and the situation there.

A great deal of information, therefore, has come to me from various sources, both American and Panamanian. None of this information—none—was restricted by security classification. Some of my sources were in direct contact with the opposition forces in general headquarters. Yesterday, I received further information which corroborates the information that I received earlier, and it is my intention to share that information with the Senate today.

Frankly, it is a mystery to me that one obscure U.S. Senator can assemble information from open sources that appears to be more complete and more accurate than anything the administration has chosen thus far to make public. In fact, the administration, which is my administration, has not even been able to spell correctly the name of the leader of the opposition forces Major Giroldi. For their information it is G-i-r-o-l-d-i.

I mention this to emphasize that I decided not to attend any classified hearings or briefings on this matter so that I would be able to speak publicly—originally I intended to do it last night—but in any case, I wanted to speak publicly about the information that I assembled. With that in mind, Mr. President, let me summarize Tuesday's events for the purposes of the CONGRESSIONAL RECORD and anybody else who may be interested.

Tuesday morning at 7:45 Panama time, which of course was 8:45 Eastern time, troops in opposition to the criminal regime of Manuel Noriega entered the general headquarters of the Panama Defense Forces at the time that Noriega arrived, and they placed him under detention. This was the first step, do you not see, in a carefully planned scenario. Indeed, two members from Noriega's own special security forces were part of this operation, and they were reporting on his every movement.

I realize that there have been attempts to deny that Noriega was ever held in custody, but the truth is beginning to emerge even on that. Now it is being acknowledged, but until last evening, sources were still, in this administration, saying they were not sure whether he was ever in detention. But my sources, and they are credible, assure me that Noriega was, in fact, held for 5 hours in the general headquarters and that his detention was a key element in the fruitless negotiations that were carried on with U.S. officials.

About 9 a.m. Panamanian time, the opposition troops went to talk to officers of the United States Southern Command. They told the U.S. officers that they were holding Noriega captive and they requested U.S. assistance to take custody of Noriega and remove him to the United States. That is what they reported to me Tuesday and since. However, the U.S. officers informed the opposition troops that the Southcom did not have the authority to apprehend Noriega and that the opposition troops would have to bring Noriega to the U.S. base.

Now let me say parenthetically right now that that is the purpose of this amendment. There is no question about the President having the authority to do what should have been done Tuesday. This amendment simply spells out, reaffirms that he does have that authority.

You say, "Senator, why are you offering this amendment?" I will tell you why I am offering this amendment. I want there never to be another occasion where the Keystone Cops run around and bump into each other and say we do not know whether we have the authority or not. I want it spelled out in a reaffirmation which is contained in this amendment.

The opposition troops stated they did not have the military capability to take Noriega out of the general headquarters and bring him to U.S. authorities. Somehow this scenario has been twisted in various public pronouncements and confidential pronouncements that I have heard about to imply that the opposition troops refused to turn over Noriega to the United States. Not so. They were eager to turn over Noriega, but the fact is that the United States refused to leave the United States base in Panama to get him. Those are the facts, ma'am, as they used to say on television.

Mr. President, I am informed that at this point, Southcom contacted the Joint Chiefs of Staff in Washington. The wheels on the bureaucracy grind slowly, always, but they just totally almost shut down Tuesday. Eventually, the Joint Chiefs reported back that their decision was not to make a decision. Southcom had to report back to the opposition troops that they could not help in any way.

Various representatives of the news media have told me that the Department of Defense originally put out press guidance sheets and orally to deny that the United States Government was ever asked for help by the Panamanian opposition troops. Unfortunately, I am told by unimpeachable sources within the administration that the DOD press guidance was incorrect.

So where does that leave us? The decision to do nothing conforms completely to the opinion of the Chairman of the Joint Chiefs of Staff, who has told me personnally in the past on another occasion that he is opposed to any kind of military action in Panama. He is entitled to that opinion. I would not deny it. But as I believe I said to him at the time, it is difficult for this Senator to understand what the purpose of a military force is if it is not to defend U.S. vital interests.

Something has been said about armchair generals, we do not need armchair generals at the Joint Chiefs of Staff.

It has also been reported to me from nonintelligence sources that Southcom asked the CIA to assist but that the CIA refused. At some point during this debate I hope the distinguished chairman of the Senate Intelligence Committee, my good friend from Oklahoma [Mr. BOREN], may speak so far as he is privileged to speak, because of the classified nature of a lot of material. But I reiterate that I have not received any classified material so I am

free to speak and say what is on my mind, and that is what I am doing at this moment.

In any event, Mr. President, meanwhile civilian representatives of the opposition had contacted me by 9:30 Washington time on Tuesday asking me to urge the administration to make a show of military force around the general headquarters and to block the highway from Tocumen Airport to the general headquarters to prevent Noriega's troops from entering the city. That could have been easily done and should have been done.

I immediately tried to reach various high officials in our Government, but, as I said earlier, they were previously indisposed. They were, as the saying goes, I suppose, wining and dining with the President of Mexico, which is all right, but they had about a third or fourth level bureaucrat answering the phone down at the State Department. And as Sam Ervin used to say, quoting a town character in Morgantown, "he did not know anything and he had that tangled up," so it was impossible to get through.

I am told that representatives of the civilian opposition in Panama also contacted the administration directly to ask not for combat but simply for a display of military force and assistance in getting Noriega out of Panama.

Meanwhile, back at the ranch, or back at the State Department, a so-called task force was finally set up to deal with the situation, if you can call it that, because everybody else was done at the White House meeting with the Mexican President. This task force was constituted at the Deputy Assistant Secretary level. Moreover, the task force had authority only to "monitor the situation", not to make recommendations or decisions. We all know how that goes in this city. No one was available at a higher level to give information to Senators. And by that time other Senators were calling, and they tell me they had the same situation confronting them that I did. As a matter of fact, one Senator has stated that when he asked for more information, what do you reckon this task force told him? They said, "Senator, turn on CNN television."

I have information that no high level meetings on Panama were held until 2:30 Tuesday afternoon when Secretary Baker and Assistant Secretary Aronson went to the President to tell him that the coup attempt had failed. Of course it had failed. What else did they expect?

Meanwhile, the opposition troops in the general headquarters began to negotiate with Noriega. They were trying to stall for some time, still hoping, do you not see, that up there in Washington, DC, somebody would make a decision that would be helpful in terms of moving back to a democratic government in Panama and getting Noriega, the drug trafficker, the money launderer, indicted by the United States Government and wanted in Miami for trial.

But while the opposition troops were waiting for the U.S. bureaucracy to make a decision, what happened? Noriega's troops had time to mobilize and move to recapture the general headquarters.

If you will look at a map of Panama, you will see that Noriega's major military base is at Rio Hato, which is a former United States World War II airfield 75 miles west of Panama City. Rio Hato is the headquarters of the 7th Infantry. The 7th Infantry is commanded by Capt. Lucho Gonzalez, one of Noriega's faithful associates who is widely believed to share in Noriega's drug profits. Noriega has his own luxurious house at Rio Hato. Rio Hato is also reported to be the refuge for the notorious Colombian drug kings Pablo Escobar and Jorge Ochoa. The executive officer of the 7th Infantry is Capt. Mario del Cid. Captain Cid has been publicly accused by the Spadafora family—and I hope nobody in this Chamber will ever forget what happened to Dr. Spadafora. The Spadafora family is still trying to get justice. Captain del Cid has been publicly accused, as I say, of being present at and participating in the torture and decapitation of Dr. Huga Spadafora.

Members of the Spadafora family have been in my office on a number of occasions and, of course, they are not going to get any justice in Panama with Noriega there.

So it is clear that the 7th Infantry is the hard core of Noriega's support—brutal men who have no future other than serving Manuel Noriega. About 300 troops from the 7th Infantry were flown to Tocumen Airport in Cessna 212 light planes and one 727. Tocumen Airport is about 12 miles east of Panama City where the general headquarters is situated. There is only one major highway that leads from this airport to the city, and that is the Interamerican Highway. It crosses several bridges, and do you know what the opposition forces had hoped for and asked for? They asked simply that there be a display of U.S. force blocking this highway at strategic points, thereby preventing any troop movement from the airport. They did not get it. We were too busy doing nothing in Washington, DC.

Moreover, another Panamanian military base is at Fort Cimmaron, about 15 miles east of Tocumen Airport and here is based the Battalion 2000 under the command of Maj. Federico Olochea.

According to reports I have received—and I believe them to be accurate; no one has misrepresented them—Olochea remained neutral during the action. Nevertheless, Battalion 2000 was created by Noriega in 1983 as the military unit that would protect the Panama Canal in the year 2000 when the canal is supposed to be fully turned over to Panama. This Battalion 2000 is especially loyal to him.

So the scenario is that the two military units met at Tocumen Airport, a combined force of about 1,300 men. From there they took 19 2½-ton trucks and 4 armored vehicles and headed down the Interamerican Highway toward the general headquarters.

Meanwhile, about 11 a.m. Panama time, the opposition troops announced in a communique that Noriega was under detention and was on a list of senior officers to be retired from the Defense Forces. At that point, the opposition troops declared victory. They stated that the arrest of Noriega was not a political action, but an internal action against the senior officers. This was an attempt to get breathing space.

Nevertheless, do you not know that the Noriega troops had already rallied together at Tocumen and were on the road? They were going to rescue that thug, that drug trafficker, that money launderer, that brutal dictator. They were able to move down the highway unimpeded and arrived at the general headquarters in about 20 minutes. I guess it is worthy of mention that this road takes them right past the United States Embassy in Panama. Had they met with fully armed U.S. troops in full force on the highway, they would never have dared even to open fire.

The Noriega troops surrounded the general headquarters, but did not enter because their leader was captive at that time inside. Instead, the forces of the Department of Investigations [DENI]—the feared intelligence unit responsible for many detentions, interrogations, and disappearances in Panama, began to round up the mothers and wives of the leaders of the opposition forces, and forced these mothers and wives to telephone the leaders in the general headquarters. The message of the women was simple: Please surrender, or we will be killed.

By this time, the opposition troops had been told that the United States was not going to do anything. But the point is that the whole plan had been predicated upon the concept that the United States, as we have said over and over again, was anxious to apprehend Noriega, and would give at least passive support to the action. They took us at our word, and they made a mistake.

At 1:30 p.m. Panama time, a Panamanian helicopter landed at the general headquarters and took Noriega away. About half an hour later, the opposition troops surrendered. Hundreds of opposition troops were taken into custody and herded into buses and taken away. Who knows where they are now?

About 6:30 p.m. Panama time, Noriega went on television live and said that he was in control of the situation and would investigate the situation to see what happened. You bet your boots. I do not know how many people are already dead there as a result of the typical Noriega investigation.

The leader of the opposition troops, Maj. Moises Giroldi—they called him Moses—is now dead. We know that. I received a report from Panama that Noriega personally shot the major. Administration spokesmen have been saying that there was "confusion" because the major was supposedly pro-Noriega. Yet persons knowledgeable about the Panamanian Defense Forces say that he is a professional officer untainted by drug corruption concerned about the future of the Panamanian military—exactly the sort of person the United States should have been cultivating.

Mr. President, I ask unanimous consent that a list of other Panamanian officers executed after the movement collapsed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL LIST OF PANAMA DEFENSE FORCE OFFICERS OPPOSING NORIEGA KILLED DURING AND AFTER ATTEMPTED COUP

Major Moises Giroldi
Captain Tejada
Captain Sandoval
Lieutenant Bonilla
Lieutenant Concepcion
2nd Lieutenant Ortega

PARTIAL LIST OF PDF OFFICERS IN OPPOSITION TO NORIEGA CURRENTLY HELD PRISONER

Col. Julio Ow Young
Col. Guillermo Wong
Lt. Col. Palacios Gondola
Major Agustin Degracia
Major Agustin Pajarro
Captain Nicasia Drake
Captain Sanchez
Captain Jesus Balma

NOTE.—In addition to these military officers killed and jailed, there are also hundreds of troops who were killed or are now in prison.

Mr. HELMS. Mr. President, this morning the security forces—including the DENI and the G-2—began to arrest key leaders of the civilian opposition. I am informed that Guillermo Endara, the opposition leader who was elected President in the elections Noriega canceled last May, has gone into hiding. Ten others that we know of have been arrested.

Mr. President, three military groups in Panama have attempted to take action against the Noriega regime. The first attempt was led in March 1988 by Col. Leonid Macias. All the men involved were tortured and jailed. To this good day, no one knows whether they are alive. The second action was led by Col. Eduardo Herrera, who was Panama's Ambassador to Israel. United States officials brought him back to the United States from Israel last year to plan an action against the regime. He started organizing his plan, but certain circles in the U.S. Government—lower echelon officials who kept Noriega on the U.S. payroll for years and years—complained that Herrera's plan might result in the death of Noriega—an accusation that Herrera strongly denies. The third action was yesterday's abortive attempt. After this can anybody imagine that any member of the Panama defense forces can be expected to act against Noriega? I cannot imagine it.

In this instance, the United States was informed at least 2 days in advance that opposition forces intended to apprehend Noriega. And that was done. In fact, the opposition forces report that U.S. officials even encouraged them to go ahead. But at the moment of truth, the United States was nowhere to be found.

Mr. President, this is why I proposed my amendment. I did it Tuesday evening.

I thought about it a lot. I reviewed in my mind the repeated suggestions that I heard throughout the day from our Government that well, you know, the authority to do this or that is not certain.

All this amendment, which is at the desk, is intended to do is eliminate at least the argument the next time, if there is a next time, because I want the amendment to say that this Congress reaffirms the President's authority, authority that he already had. And there should never have been any doubt about it in anybody's mind. We are always contending over and over again that the President's authority is vague or unclear or that Congress would never support military action to depose Noriega or help the Panamanian people to restore a constitutional government.

If this amendment is approved, there can be no doubt in anybody's mind.

Mr. SYMMS. Will the Senator yield?

Mr. HELMS. Let me say one more thing, and I will be happy to yield, provided I do not lose my right to the floor.

In accordance with suggestions from Senators whom I respect, and who support what I am trying to do, it is my wish, my intent, if I am permitted to do so, to modify the original amendment to abbreviate it somewhat, and focus on the point I have tried to make. Let me read what I propose to be the modified amendment:

Notwithstanding any other provision of the law, the President's authority is hereby reaffirmed to use the Armed Forces of the United States to secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to, A, bring General Noriega to trial in the United States under the terms of his February 1988 indictment on drug trafficking charges; and B, protect the Panama Canal pursuant to the Panama Canal Treaties of 1978.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Idaho without losing my right to the floor.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I want to compliment the Senator from North Carolina on his excellent statement. It is a sad statement, but I think it speaks to the very problem in Central America.

It is obvious to this Senator that the policy of this administration—our administration—is not to exercise our rightful role in Panama. And it is absolutely tragic.

We watched the election fraud in Panama earlier where two out of every three people voted for the legitimate opposition to General Noriega. We say we are for a democratic process on one hand, and then when those two out of three people that had no guns had to confront the one out of three people who voted for Mr. Noriega and had all the guns, they had a fraudulent election.

I related this story to my constituents in Idaho and reminded them that one of the reasons that we have free and fair elections in the United States is that all people are allowed the right to own firearms, so the politicians and the Government authoritarians cannot overrule the people in the elective process.

Following the Panamanian elections, I called the administration and stated—that the world opinion, which so much foreign policy is based on in this modern world, would have most likely supported the United States if we exerted our military strength and placed into power the people who won the election legitimately.

If our policy is to not exert the rights of the 1977 treaty to protect the American interests pursuant to the Panama Canal Treaty, or replace General Noriega with the rightful people who won the election, we might as well make that our new Government policy.

There is a great deal of confusion about which side the United States of America is on. There is no question in this Senator's mind that we are the most powerful Nation on Earth. We have the strongest military, the best trained and equipped, the most capable, experienced and educated officers, and the best NCO corps; there is no question in mind that we have the strongest ability in the military.

We have the strongest economy in the world too, but it takes one other portion to that. You have to have a strong political will. If we do not have the will to export the ideas of freedom and to occasionally use our military strength to see that the interests of

our people are protected in our own backyard, all I can say is, God, help us.

I think the Senator has done a great service to this country, and I am happy to see that many Members are interested in this. The American people need to know this story, so they can, in fact, relay their outrage to their elected officials that America should do better than this.

I have heard the replies of the administration about our inaction in the failed coup: "We were not sure, it could have been a trap."

Even if that is the case, why should we apologize to anyone if we attempt to see that the people who truly won the election in Panama are placed into power? Is that such an immoral, improper, or unethical position for the United States of America to be in? What does our Constitution mean?

How can we export freedom to those people in the world that reach out for it and cling to it; how can we export it if we cannot stand upright in Panama where we have bona fide interests by treaty which, incidentally, this Senator was not in favor of, but is the law of the land?

I think we need to have this showdown now. It is not that I do not have great respect for our President, our Secretary of Defense, or the Secretary of State, whether they are Republicans or Democrats. It is an American issue.

The Senator from North Carolina is absolutely doing his country and the Senate and the administration a favor by bringing this issue up, and I salute him for it. I am happy to be able to support his amendment.

I do not know whether he is asking for cosponsors, but, if he gets to that point, I would like to be added as a cosponsor.

Mr. HELMS. I thank the Senator. He is not only eloquent, he is right, which is more important.

The Senator from New York [Mr. D'AMATO] and Senator SYMMS and Senator WALLOP have asked to be cosponsors, and I ask unanimous consent that they be added.

The PRESIDENT pro tempore. Without objection, the names of the cosponsors will be added.

Mr. HELMS. I thank the Chair.

Mr. President, I would be glad to yield to the Senator from New York on the same conditions I yielded to the Senator from Idaho.

Mr. SIMON. Mr. President, reserving the right to object, I have no objection if he wants to yield for a question, but I have been here for some time hoping to speak briefly in opposition to the amendment.

Mr. HELMS. There will be time for that. Senator D'AMATO has been here as well.

Mr. SIMON. With due respect to the Senator from New York, I believe I have been here longer. If the Senator from North Carolina wishes to yield for a question from the Senator from New York I have no objection, but if it is to yield for a speech, I do object and I want to speak.

The PRESIDENT pro tempore. Objection is heard.

Mr. HELMS. Very well.

Mr. D'AMATO. Mr. President, I raise a question with the Senator from North Carolina. Is it the view of the Senator from North Carolina that the United States should have come to the aid of those who raised this coup against General Noriega?

Mr. HELMS. As I think I made clear in the statement, and I know it is a rhetorical question, the Senator is absolutely correct.

Mr. D'AMATO. We have heard some public reports, if I am not mistaken, that there was a question as to the character of the individual leading the coup, Major Giraldi, who, by the way, I understand has been executed. Does the Senator agree with me that choir boys do not lead coups? Wasn't that a rather limp, lame excuse put forth as to why we would not go to the aid of those leading the coup?

Mr. HELMS. I share the Senator's view, of course.

Mr. D'AMATO. There was a question also that seems to arise that there was some concern that possibly this was a ruse to entrap the United States into undertaking an action against Noriega. Does that seem credible when we had our own helicopters flying over observing the situation?

Mr. HELMS. I hate to be critical of an administration which I support, but again, as Senator Ervin used to say, I say to my friend from New York that does not even make good nonsense.

Mr. D'AMATO. I am also told there was a very real question as to what was taking place. But I understand that the PTF headquarters is visible from our installations on the mountaintop and that it could be seen that there was indeed a battle taking place, in addition to telephonic communication with the rebels or those leading the coup against Noreiga. So again it would seem incredible that this was a ruse.

Mr. HELMS. The Senator from New York and this Senator have been to Panama, and we know the geographical and topographical case. No, it does not make sense to me.

Mr. D'AMATO. I think it was, if I am not wrong and the Senator might correct me, that it was President Franklin Delano Roosevelt who said that America is the arsenal of democracy. Would the Senator agree with me that our arsenal seems to have run out of firepower at a critical time at this juncture?

Mr. HELMS. I think the Senator made an interesting observation. While he brings up Roosevelt, I wonder how Teddy Rossevelt would have reacted to the coup.

Mr. D'AMATO. I would like, at the appropriate time, to make some observations in the form of questions in support of a policy that would say America has not only a right but an obligation to come to the assistance of those who seek democracy and particularly the people of Panama in their own hemisphere. I commend the Senator from North Carolina for having the courage to raise this issue. Whether or not this amendment is adopted, the overall principle is the issue here.

The PRESIDENT pro tempore. The Senator from North Carolina may yield only for a question.

Mr. D'AMATO. I thank the President.

Mr. HELMS. Mr. President, under the same conditions as available to the previous two Senators, I will be glad to yield to my friend and neighbor, Senator SIMON.

Mr. SIMON. I thank my colleague.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in opposition to the amendment. I know it is well motivated. If the question were in the United States Senate should we somehow send the message to the people of Panama that we do not like Noriega, that would be unanimous. There is no question about that.

But let me add, in fairness to this administration, that the account that we just heard from the senior Senator from North Carolina differs dramatically from the account we heard yesterday afternoon from the Secretary of Defense and the Chairman of the Joint Chiefs, not in minor details, but it differs dramatically. I am not in the position to know whether the Secretary of Defense and the Chairman of the Joint Chiefs are right or whether the Senator from North Carolina is right. But there was a dramatic disparity.

I happen to agree with the Senator from North Carolina on the matter of spending U.S. money in elections in other countries. He opposed use of United States tax funds in the election in El Salvador, and so do I. He opposed the use of United States tax funds in the election in Nicaragua, and so do I. We may differ on why it should be done.

My own reason for opposing it is, No. 1, I think this is a decision the people in these countries ought to be making freely and without our interference; and No. 2, it is counterproductive.

If were running as a candidate in some other country where the United States was putting money on the other side, I know that I would make it the issue that the opposition is a puppet of the United States. So I agree with

the distinguished Senator from North Carolina on that issue.

But for that same reason we ought to be very, very careful in how we exercise our military might and what we do in Latin America particularly. The image of the United States in——

The PRESIDENT pro tempore. The Chair wishes to interrupt the Senator from Illinois. It is the Chair's desire to protect the rights of Senators. Should the Senator from North Carolina leave the floor and go into the cloakroom, he would have yielded the floor.

The Senator from Illinois.

Mr. SIMON. Mr. President, in order not to inconvenience my senior colleague, if I could just ask for the floor on my own, but that is his preference, I would be pleased to do that.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina has the floor.

Mr. HELMS. I understand. We are trying to work out a scenario. I do not know how to address this matter. I see no point now in my holding the floor. I know the Chair would recognize the first Senator who seeks recognition here after I have made my comments.

I am going to yield the floor and let the Senator from Illinois have it in his own right.

Mr. SIMON. I thank my colleague from North Carolina.

The PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, the image of the United States in Latin America is too frequently the image of a bully and exploiter. Sometimes that image is accurate. Sometimes it is inaccurate. But we should not conduct ourselves in such a way as to reinforce that image.

When we indicated Noriega and then took some actions immediately afterward, there were a great many people in Panama who were strong opponents of General Noriega, who said to us, "What you are doing is really reinforcing the power of Noriega." And I fear they are correct.

What we ought to do is let the people of Panama make that decision, make clear we are on the side of human rights, but also make clear that we are not going to interfere in their process.

This brings up a very basic question that we have not faced in Congress. It is a very fundamental question. Should we use the power of U.S. troops, the power of U.S. weapons, to overturn governments we do not happen to like? Let us face it, that is about two-thirds of the governments on the face of the Earth. If we are going to do that, we are going to be heavily involved everywhere.

Or do we say we stand up for human rights as we did under President Jimmy Carter? One of the things that happened after his Presidency and during his Presidency is we saw the change from dictatorships in Latin America and elsewhere. The cause of human rights was aided. Do we stand up that way and say we will use American force when American interests are directly threatened or American citizens are directly threatened but only then? Otherwise, the people of Panama and the people of other countries have to make their own decision about who is to rule in the country.

It seems to me that basic decision is one we ought to be making. I think the American people back it. I think it is prudent. Right now, when there is some difficulty in any country, the government in power can take extreme action and say it is because of the CIA. And there has been enough evidence of our involvement from time to time that it becomes plausible. It hurts us politically and does our cause no good.

My understanding—and I have not heard this directly—my understanding is that the administration opposes the Helms amendment, and properly so. The President of the United States has ample authority right now to deal with any emergency that arises in Panama or anywhere else on the face of the Earth. I see no reason for the passage of this particular amendment. The President of the United States, I think, or the administration is right in opposing this particular amendment.

In general, when we are in doubt, our policy overseas ought to be a bipartisan policy. When we strongly differ, as the Senator from North Carolina does, then it is proper to offer this kind of an amendment. But I think the majority of us, I hope, will draw the conclusion that it is not wise, nor prudent to pass this kind of an amendment.

Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The point of no quroum has been raised and the clerk will call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, perhaps it is worthy of the record at this point. This is not the first time that I discussed on this floor the activities of Mr. Noriega and his former boss, Omar Torrijos.

I had staff do a little research. On February 20, 1978, more than 11 years ago, I did my best to discuss the problems which the United States would have, in my judgment, if we went into partnership with a drug trafficking regime. In that speech, I noted how deeply Noriega—and I called him by name on February 20, 1978—how deeply Noriega was involved in drug running activities of the Torrijos regime. Noriega was in fact a front for a boss.

Let me read you a few words that I said over 11 years ago. And I am quoting myself.

> The (Panama Canal) Treaties would make us an intimate partner with a corrupt regime which uses the machinery of government for criminal gain. The benefits which will be conferred on Panama will be placed in the trust of this corrupt regime. The daily knowledge of the citizens of Panama that the United States is supporting this regime in power and pouring millions of dollars into corrupt hands will inflame hostility and hatred against us. The overriding object of the treaties purportedly is to improve relations with the Panamanian people; but it is far more likely that our relations will become worse.

Mr. President, I ask unanimous consent that my statement of February 20, 1978, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Senate, Feb. 20, 1989]

DRUG TRAFFICKING IN PANAMA: AN APPRAISAL OF THE PROPOSED PARTNER OF THE UNITED STATES

Mr. HELMS. Mr. President, tomorrow, under a unanimous-consent agreement, the Senate will go into a closed session to discuss the allegations that have been brought against Panama with regard to trafficking in drugs. Such a procedure has both advantages and disadvantages. While it will allow Senators to examine and debate material now sealed in the files of the Select Committee on Intelligence, it will also prevent the American people from forming their own conclusions of the evidence. We have seen in the fruits of the Warren Commission the distrust and uncertainty which such a procedure breeds when it is applied to deeply felt, emotional issues. There must be no hint of coverup, no suggestion that secrecy has been imposed to silence politically damaging revelations.

If these treaties are ratified, the American people will be entering a 22-year partnership that confers great benefits upon a foreign government—benefits that could have been kept for the American people. The American people will be justifiably angered if it turns out that the Panamanian Government is controlled by an international gangster.

A major problem involved in the discussion of such matters in a closed session is that it imposes serious constraints upon any Senator who participates. A Senator must bend over backwards to avoid discussing privileged matters; he has to err on the side of too much caution. Sometimes the procedure has the effect of putting a gag upon knowledge already in the possession of a Senator before he is given access to classified matters. Since the Senator from North Carolina has not yet had access to the files of the Intelligence Committee, he would like to discuss today the publicly known issues and facts before the record is closed. What I hope to do today is to lay down some basic principles as a public framework for the closed debate tomorrow.

BASIC PRINCIPLES

Here are the considerations we ought to keep in mind:

First. The issue is not an internal matter of Panama. The Panamanian drug traffic has very much involved the health and welfare of the United States.

Second. The Panamanian drug traffic is not a matter which is to be viewed as a problem in which many nations are involved in the general context of international relations; we have always had a special relationship with the Republic of Panama.

Third. Panamanian drug traffic has itself been stamped with a special character; the role of Panama has been unique and far reaching.

Fourth. The overwhelming evidence on the public record of the Panamanian drug traffic in the early seventies is not to be dismissed as past history; the participants today occupy positions of trust in the present regime in Panama.

Fifth. The absence of aggressive investigative or diplomatic action by the United States since the signing of the Kissinger-Tack agreement of February 1974 is not to be taken as evidence that Panama has been "cleared"; rather, the obvious self-interests of both governments suggest either a cover-up or a temporary cessation of activity during negotiations and Senate debate.

Sixth. Although it is important to sift all evidence relating to the complicity of Omar Torrijos himself, Torrijos himself is not the issue. The focus should be on Panama as such; its form of government; its record of enforcement and cooperation over the past 10 years; and the complicity of a broad range of Panamanian officials and their relatives and friends.

Seventh. The evidence we are looking for with regard to the Panamanian dope traffic does not have to be limited to the type of evidence that would convict in a U.S. court. We are debating the conferring of a great benefit in Panama, at great expense to ourselves, and we are not trying to convict in a court of law.

Eighth. Finally, it is not correct to treat the Panamanian drug problem as a side issue to the treaties; for the treaties would place the United States in an intimate and mutual partnership with Panama that would be unparalleled in our relationship with any other nation in the world. Moreover, the provisions of the treaty and its related agreements place our Nation in the position where the United States is specifically prohibited from enforcing drug traffic controls in a U.S. Government facility that has great potential for criminal abuse.

THE EVIDENCE

The evidence now available shows that Omar Torrijos has aided, abetted and protected the drug traffic in Panama. In brief form, the evidence for the complicity of high Panamanian officials in the narcotics traffic is this:

First. Panama's geographic location and its transportation facilities make it an ideal location for the transfer and control of narcotics shipments either by sea or by air.

Second. In a 1973 report based on testimony and on-the-spot investigation by the House Merchant Marine Committee, Panama was found to be the conduit for one-twelfth of the heroin coming into the United States—enough for the daily supply of 20,000 addicts.

Third. Cases involving drug trafficking reached the highest levels of the Panamanian Government. Omar Torrijos and his Foreign Minister Juan Tack led public efforts to discredit and cover up revelations of such drug trafficking incidents.

Fourth. Moises Torrijos, brother of Omar, was indicted by a grand jury of the U.S. District Court for the Eastern District of New York as a coconspirator in a New York case in which five Panamanians were convicted and imprisoned for narcotics trafficking. The indictment still stands, and Moises Torrijos is liable for arrest if he steps on U.S. soil.

Fifth. According to the sworn statement of Leland L. Riggs, Jr., former Customs attaché at the U.S. Embassy in Panama, a warrant had been issued to arrest Moises Torrijos on the basis of the indictment, and that he, Riggs, was ordered to arrest Moises upon his scheduled arrival in the Canal Zone from Spain by passenger ship. However, Moises was forewarned, disembarked in Venezuela, and arrived by air, landing in Panama. Mr. Riggs points out that only the U.S. State Department and the CIA had advance knowledge of the planned arrest, and "Moises Torrijos could only have been alerted to the planned arrest by U.S. authorities."

Sixth. John Ingersoll, then Director of the Bureau of Narcotics and Dangerous Drugs, traveled to Panama, met with Col. Manuel Noriega, Chief of Panamanian Intelligence, and with Gen. Omar Torrijos, and discussed the indictment and warrant.

Seventh. Moises Torrijos had earlier been Panamanian Ambassador to Argentina, and had been declared persona non grata for his activities in that country. Even though he was persona non grata in Argentina, even though he was indicted in the United States, even though his government had been informed of the indictment, he was named Ambassador to Spain. He now enjoys high favor and currently is also director of treaty information for Panama. Despite this new responsibility, Moises Torrijos has never come to the United States since his indictment, not even for the treaty signing ceremony on September 7, 1977.

Eighth. The arrest of Raphael Richard Gonzales at the John F. Kennedy Airport on July 8, 1971, with 151 pounds of heroin, led to a series of arrests and convictions of Panamanians and to the indictment of Moises Torrijos. Richard was the son of the Panamanian Ambassador to the Republic of China (Taiwan) and was attempting to use a diplomatic passport to bring in the heroin without customs inspection. Under international law, Richard was not entitled to a diplomatic passport; yet he bore such a passport signed by the Panamanian Foreign Minister, Juan Tack. Richard had made successfully four previous such deliveries of heroin undetected.

Ninth. The arrest and conviction of Joaquin Him Gonzales, air traffic controller of Panama's Tocumen International Airport, pointed up the crucial role which Tocumen has played in international smuggling. Him directed planes carrying millions of dollars worth of heroin to special areas of the airfield, where the cargoes were guarded by uniformed members of the Panamanian Guardia Nacional. Him was arrested in U.S. territory in the Canal Zone, and convicted in Texas, where he had arranged heroin deliveries. He was also an associate of Moises Torrijos.

Tenth. The Yolanda Sarmiento case points up the role of the Colon, Free Zone in international smuggling. Intended to be a duty-free location for the import, display, and sale for export of manufactured goods, the Free Zone is not under the control of Panamanian Customs, but of the Guardia Nacional. According to Leland Riggs, Jr., the U.S. Customs attaché in Panama, Yolanda Sarmiento was responsible for shipping 100 pounds of heroin monthly to the United States. This heroin was stored in the Colon Free Zone. The Free Zone is 50 miles across the isthmus from Tocumen Airport; reportedly the heroin was shipped from the airport to the Free Zone in Guardia trucks. The United States recently agreed to the expansion of the Free Zone by leasing Old France Field, which is in U.S. territory, to Panama for $1 a year.

Eleventh. Another Torrijos brother, Hugo, is in charge of the Panamanian state gambling casinos and the national lottery, operations which generate large amounts of unaccounted-for cash. He also owns a large nightclub which is a center for prostitution and retail drug dealing. The arrest of Gerado Sanclemente for narcotics in June 1977 created consternation. Sanclemente is married to a cousin of the Torrijos brothers; he was induced to come to Panama from Colombia and to set up various business enterprises under their protection. He lived in a building owned by Hugo, which was also the offices of the National Casinos. His apartment in this building was the center of drug dealing. According to depositions taken in Panama, Hugo intervened to urge Sanclemente to give himself up. Subsequently, Sanclemente was taken to a medical clinic near a private airport used by the Guardia and Government planes; he escaped from the clinic and was taken away by a waiting plane.

Twelfth. A third Torrijos brother, Marden, is traveling ambassador extraordinaire for the Government of Panama. Although no further information is available as to his duties and activities, the documented use of diplomatic passports for narcotics trafficking casts a cloud over the legitimacy of his appointment.

Thirteenth. Several investigative sources report that Omar Torrijos is a business partner with Frank Marshall Jimenez in several businesses relating to transportation, including trucking firms, buslines, and nonscheduled airlines. Also included in their interests is a freight forwarding firm that controls shipments into and out of the Colon Free Zone. Marshall is a fugitive from Costa Rica a former member of the Costa Rican legislature, who used his legislative immunity to cover extensive liquor smuggling operations. When his immunity was lifted by Costa Rican authorities and arrest threatened, Marshall fled to Panama.

IMPLICATIONS

The facts related above have profound implications for the consideration of the Senate during the debate on the Panama Canal treaties. The first considerations go to the integrity of the Panamanian Government; the second go to the effect on the treaties of the treaties themselves.

It is sometimes said that the integrity of the Panamanian Government or the character of its leaders are irrelevant to the treaty debate; it is said that the treaties represent the universal aspirations of the Panamanian people no matter what government might be in charge. Nevertheless, the only way that we can deal with the Panamanian people is through their government. It is self-evident that the treaties are agreements made with the government, not with the people. Therefore, even if it be granted for the sake of argument that the treaties do represent the aspirations of the people, if

the government is deeply flawed it cannot be the vehicle for the fulfilment of those aspirations.

Although corruption exists in almost every government, including our own, the key to integrity is whether there also exist the checks and balances which can identify that corruption and eliminate it. No one can pretend that the Panamanian Government is a representative government, or that it contains checks and balances. Even outside the governmental system, there are no political parties, no free press, or other countervailing political forces. In form it is a military dictatorship, in practice it is a flefdom for the Torrijos family and their favored cronies.

Although the Panamanian Government has made a great show of narcotics enforcement, in practice most of those arrested are small dealers, or third country nationals who are attempting to muscle in on the territory. The market for the Panamanian dope trade is not Panama, but the United States. Only those with the right connections can prosper; those who are arrested know that they are subject to extortion if they want their freedom.

This posture is evident in the restrictions which were placed upon U.S. agents working out of the U.S. Embassy in Panama. They received cooperation from Panama only so long as their cases dealt with "little people." Before they could proceed to investigate a case, permission had to be obtained from Panamanian officials: the moment the case involved any member of the National Guard or substantial amounts of drugs, permission was denied. On the side of the U.S. Government, State Department officials worked hand in glove to reinforce these restrictions on U.S. narcotics agents. The actions taken to thwart the impartial justice of the U.S. judicial system in the case of Moises Torrijos is a sensational example; but the daily effect of similar actions in operational activities is bound to have a chilling effect on the effectiveness and output of U.S. narcotics agents.

The impact of the narcotics trade upon the United States hardly needs to be discussed. It takes a toll not only in the thousands of addicts whose lives are ruined, but in the climate of crime and fear in our cities, the toll of robberies, injuries and deaths suffered by thousands of innocent citizens, the increased costs of welfare and medical attention, and the social costs of the decay of our great cities. The fact that Panama's leaders would participate in or condone such injuries to the United States should make us pause before we confer substantial benefit upon them.

IMPACT OF THE TREATIES

The ratification of the treaties would have the following impact:

First. The treaties would make us an intimate partner with a corrupt regime which uses the machinery of government for criminal gain. The benefits which will be conferred upon Panama will be placed into the trust of this corrupt regime. The daily knowledge of the citizens of Panama that the United States is supporting this regime in power and pouring millions of dollars into corrupt hands will inflame hostility and hatred against us. The over-riding object of the treaties purportedly is to improve relations with the Panamanian people; but it is far more likely that our relations will become worse.

Second. Panama would take total jurisdiction over customs. The treaties and related agreements specifically provide that offenses in narcotics trafficking will be under Panamanian jurisdiction, even in the canal operating areas. At the present time, U.S. Customs officials are able to search ships, make arrests (as, for example, in the case of Joachim Him, and in the attempt on Moises Torrijos) and to pass on information to Customs officials waiting at ports in the United States. None of this will be possible under the treaties.

Third. Panama will take charge of the Ports of Balboa and Colon, including piers, warehouses, and security. Thus it will be possible for a corrupt government to control completely the shipments of narcotics by sea, just as the Panamanian Government now controls Tocumen Airport.

Fourth. The Panama Canal Company presently has an Internal Security Division, which includes a narcotics intelligence unit. When the treaty is implemented, the canal organization no longer will collect narcotics intelligence. The canal operation, which has thousands of Panamanian workers, many of them in daily contact with foreign ships, will be a U.S. Government agency under the treaty; yet the United States will not be able to enforce or even collect information on the violation of U.S. narcotics laws on U.S. Government property.

Fifth. The unique geographic location of Panama at the midpoint between the two continents makes it ideally suited as a center for drug smuggling by airplane. The United States will be hampered in its drug enforcement programs because we will no longer have agents free to operate in the Canal Zone; U.S. enforcement personnel attached to the U.S. Embassy will continue to be under restrictions from officials who put good relations with Panama above the broader interests of the American people.

Mr. President, in order to provide a basis for the debate on the drug problem tomorrow, I ask unanimous consent that the following documents be printed at the conclusion of my remarks:

First. The statement of Leland Riggs, Jr., for the use of the Subcommittee on Separation of Powers;

Second. A series of articles by UPI reporters Nicholas Daniloff and Cheryl Arvidson on the drug situation in Panama:

Third. Excerpts from the book, "The Secret War Against Dope," by Andrew Tully, dealing with the Raphael Richard case;

Fourth. Excerpts from a 1973 report of the House Merchant Marine Committee dealing with narcotics trafficking in Panama.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT OF LELAND L. RIGGS, JR.

I, Leland L. Riggs, Jr., being duly sworn, deposes and says as follows:

Leland L. Riggs, Jr., am a retired Special Agent in Charge of the United States Drug Enforcement Administration. I am familiar with facts involving narcotics intelligence collection in Central America.

I first became a criminal investigator for the U.S. Bureau of Customs in January, 1964, after having spent 8½ years as a highway patrolman. I was first assigned by the Bureau of Customs to duties in California where I conducted narcotics smuggling investigations for a period of 6½ years. Therefore, I was promoted from Customs Special Agent to Senior Customs Representative and was transferred to Mexico City, Mexico. Inasmuch as I am bilingual and speak Spanish, my assignment to Mexico was deemed to be advantageous to the agency.

While assigned to Mexico City, I had sole responsibility for Customs narcotics intelligence gathering and for conducting follow-up investigations forwarded to me by our domestic offices of investigation. My area of responsibility included not only the Republic of Mexico but additionally all of Latin America. However, 95 percent of my investigative time concerned either Mexico or the Republic of Panama.

During the time I was in Mexico in 1970 and 1971, I conducted several investigations in Panama. Subsequently, in June of 1972, I was appointed Customs Attache and instructed to establish an office in the American Embassy in Panama City, Panama. This occurred during the period when the entire Bureau of Narcotics and Dangerous Drugs agents force had been expelled *persona non grata* from Panama. I served as Customs Attache until July 1, 1973, at which time the Drug Enforcement Administration was formed, and I then also assumed command of the Panamanian functions of the Bureau of Narcotics and Dangerous Drugs when the Bureau of Customs functions were merged with those of the BNDD. In short, I became the Special Agent in Charge of the combined office.

I left Panama on June 17, 1974, to become the Special Agent in Charge of the DEA District Office in Brownsville, Texas. Thereafter while on temporary assignment as Project Manager for a special DEA operation in Colombia directed against clandestine cocaine processing laboratories in Colombia, on November 30, 1975, I was attacked, beaten, and pushed off a retaining wall to a street below and suffered several fractured vertebrae, a broken ankle, kidney damage, and assorted cuts and bruises. The DEA subsequently retired me on August 24, 1976, for medical disability reasons.

When I first began conducting investigations in Panama, the BNDD Agent in Charge advised me that we had to be very careful about informing Panamainan government officials concerning our work since they were corrupt and also involved in narcotics trafficking. I soon learned from personal experience that this advice was sound.

During September, 1970, I traveled to Panama to conduct a follow-up investigation regarding a Yolando Sarmiento case involving shipments of heroin from Panama to New York. Although I do not have presently in my possession intelligence reports prepared by me at that time, I do recall certain aspects of the case. Yolanda Sarmiento reportedly was smuggling approximately 100 pounds of heroin monthly into the United States. This heroin was reported to be stored in the Colon Free Zone in the Republic of Panama.

The Colon Free Zone is a large, fenced-in, heavily guarded section of Colon, Panama, on the Atlantic side where duty-free items are displayed in numerous stores for purchase, by persons and businesses based primarily in South America. I was advised by U.S. Canal Zone officials and a confidential source that the Guardia Nacional controlled and guarded this enclosed area. I later did manage to gain entrance with a U.S. Canal Zone official: however, we were only permitted to go into the showcase areas of the various stores. The Colon Free Zone is entered at a gate guarded by uniformed members of the Guardia Nacional. Although the Government of Panama does have a Customs Office and there are Panamanian Customs

Agents, Panamanian Customs does not have responsibility for control of the Free Zone.

During 1970, United States Customs Agents in New York were able to effect the arrest of Yolanda Sarmiento, Emillo Diaz Gonzales, and others: however, Yolanda Sarmiento was released on bail, subsequently fled the country, and became a fugitive in Argentina. As best I recall, Emillo Diaz Gonzales escaped from prison in New York and is believed also to have fled the country.

My efforts to continue a follow-up investigation of the Sarmiento case were essentially unsuccessful because of the problem inherent in free movement within the Colon Free Zone resulting from the control of the Free Zone by the Guardia Nacional of the Government of Panama.

During my trips to Panama. I became aware of a BNDD investigation concerning the Panamanian chief air controller, Juaquin Him Gonzales. Juaquin Him was reportedly directing heroin from Panama into Texas and using his official capacity in the Government of Panama to facilitate the movement of this heroin. He was subsequently indicted by a U.S. Grand Jury in Texas and was arrested when he entered the U.S. Canal Zone to attend a softball game. Juaquin Him was tried and convicted for facilitating the transportation of narcotics into the United States.

I understand that the arrest of Juaquin Him caused considerable dissension between the Ambassador and the U.S. narcotics agents in Panama. I experienced similar problems in connection with the Raphael Richard-Moises Torrijos case.

I learned of the Richard-Torrijos case after my assignment as the Customs Attache to the American Embassy in Panama. In fact, I became directly involved in the investigation concerning Moises Torrijos, now Panamanian Ambassador to Spain, and Raphael Richard Gonzales, the son of the then-Panamanian Ambassador to Taiwan. Richard was arrested on the evening of July 8, 1971, at John F. Kennedy Airport in New York in possession of 151 pounds of heroin. Immediately prior to his arrest, he claimed diplomatic immunity and asserted that his suitcase could not be opened and searched due to his diplomatic passport. A U.S. customs inspector advised him that he was accredited as a diplomat in Taiwan, not in the United States, and therefore had no diplomatic status in the United States. Also arrested that evening was Nicolas Polanco, a reported chauffeur-bodyguard of Moises Torrijos. Moises Torrijos was then the Panamanian Ambassador to Argentina; and he is the brother of Dictator Omar Torrijos.

The day following the Richard arrest, Guillermo Alfonso Gonzales was also arrested upon his arrival in New York City from Panama for the purposes of accepting delivery of the heroin Richard had attempted to bring into the country. Others arrested the same day were Jose Francisco Oscar San Martino, an Argentine, and Cesar and Amarico Altanirano, both Panamanians.

Subsequent investigations of the same case led to the indictment of Moises Torrijos by a Grand Jury of the U.S. District Court for the Eastern District of New York. Torrijos was indicted as a co-conspirator with the above-mentioned defendants. Thereafter, a warrant for the arrest of Moises Torrijos was issued by the U.S. Court for the Eastern District of New York. On the basis of the evidence of a warrant, I was instructed to be on the alert to effect an arrest in the event Moises Torrijos traveled from Spain through the U.S.-controlled Panama Canal Zone.

During either late 1972 of early 1973, I was advised that Moises Torrijos, accompanied by his wife, was traveling from Spain to Panama on a passenger vessel. Subsequent information showed that the vessel would dock in Cristobal, Panama, within the U.S.-controlled Panama Canal Zone. Arrangements were therefore made to effect the arrest of Moises Torrijos in the U.S. territory upon his arrival. However, Moises Torrijos was obviously informed of his impending arrest and departed the vessel at Caracas, Venezuela, where he flew by commercial airliner to Tocumen Airport within the Republic of Panama. When the vessel arrived, only Mrs. Moises Torrijos disembarked. Inasmuch as the only parties aware of the planned arrest of Moises Torrijos other than BNDD were the U.S. Department of State and the Central Intelligence Agency, Moises Torrijos could only have been alerted to the planned arrest by United States authorities.

During my tenure as Special Agent in Charge of Drug Enforcement, I did not have another opportunity to effect the arrest of Moises Torrijos. In fact, during my tour of duty as Customs Attache before assuming command of the combined Customs and BNDD forces, I was advised that Washington officials of the Bureau of Narcotics and Dangerous Drugs traveled to Panama, met with Colonel Noriega, Chief of Panamanian Intelligence, and with General Omar Torrijos, and alerted them both to the existence of an indictment and warrant concerning the General's brother, Moises. To the best of my knowledge, the warrant for the arrest of Moises Torrijos is still in existence and presumably, if he touches U.S. soil, he is still liable to arrest.

During my tour of duty in Panama, several cases which were presented to the Panamanian enforcement officials were mysteriously terminated or not given proper attention. Due to my knowledge of their involvement, many cases were not presented to Panamanian enforcement officials so as not to compromise my investigation. Finally, I did not feel that I had the full support of the diplomatic community in the pursuit of my assigned mission in Panama, especially in those matters which tended to implicate officials of the Government of Panama. In any event, due to the eventual assignment of a State Department employee as the narcotics coordinator, I was relegated to a secondary position. Similar conditions now exist in most embassies where Drug Enforcement personnel are assigned, and in almost all cases the Department of State employee has no narcotics training nor expertise. It is my opinion that Department of State personnel are placed in the position of narcotics coordinator primarily to insulate and protect the activities of the Department of State from any so-called disrupting incident regarding narcotics enforcement directed against an official of the host government.

Given under my hand and seal on this the first day of December, 1977, in the City of Washington, District of Columbia.

LELAND L. RIGGS, Jr.

UPI INVESTIGATION OF DRUG TRAFFICKING IN PANAMA—PART I

(By Nicholas Daniloff and Cheryl Arvidson)

WASHINGTON.—Since 1971, the U.S. government has received a stream of allegations linking Panama's Supreme Revolutionary Leader, Gen. Omar Torrijos, his family and associates to drug trafficking, a UPI investigator has disclosed.

The allegations—some from officials, others admittedly second-hand—come from informants, drug pushers and agents. They are in files of the Canal Zone government, the Drug Enforcement Administration, the U.S. Army, the CIA, and congressional committees.

Attorney General Griffin Bell wrote Sen. Jesse Helms, R-N.C., last October that a grand jury had reviewed allegations against Torrijos and found insufficient evidence to warrant action.

The Justice Department says Torrijos has been "neither the subject nor target of an investigation." Federal drug enforcement chief Peter Bensinger states the disclaimer more cautiously: "General Omar Torrijos has never been the target of investigation."

President Carter is aware of the allegations. Carter, Bell and Bensinger met last fall to discuss their implications in the uphill battle to win Senate ratification of the treaties that would turn the Panama Canal over to Panama.

The allegations prompted the Senate to schedule a rare closed session Feb. 21 to examine them.

Treaty supporters call the drug questions peripheral to the canal issue.

But Sen. Robert Dole, R-Kan., says they involve the integrity of the Panamanian government and its ability to stand behind the agreements.

The current Senate ratification battle is so close opponents feel the drug issue could defeat the treaties. Supporters, short of the needed two-thirds majority, have accepted changes in the treaties, but hope to avoid the volatile drug issue.

United Press International began its investigation in January. Two UPI reporters examined scores of documents, many supplied by treaty opponents. These included investigative reports, affidavits, congressional testimony and interviews with officials in Panama and Washington.

Among at least 45 files on "the Panama connection" compiled by DEA, there are dossiers on Omar Torrijos, his brother Hugo, head of Panama's casinos; his brother Moises, Panama's ambassador to Spain; Col. Manuel Antonio Noriega, chief of Panama's intelligence service; and other officials and associates.

During the investigation, UPI confirmed that Moises Torrijos was indicted in the Eastern District of New York for heroin trafficking in 1972. A bench warrant for his arrest was issued May 16, 1972.

An attempt to arrest Moises Torrijos in December 1972 in the Canal Zone failed, according to several sources, because the Torrijos brothers were tipped by high U.S. officials. So far as is known, Moises is still subject to arrest on U.S. territory.

UPI also learned of a series of unusual actions to safeguard DEA files on the Panamanian situation. The files were moved several times during one week in October and rumors circulated on Capitol Hill that some documents may have been removed.

U.S. concern about narcotics smuggling through Panama goes back to the Vietnam War period. U.S. narcotics agents estimate up to 47 tons of narcotics arrive in this country from Panama each year.

This volume has led U.S. officials to suspect that the "Panama connection" operates either with the aid or negligence of Panamanian officials.

"There's no doubt that senior officials in that country are involved," one former official told UPI. The source, who asked not to

be named, had direct responsibility for stopping the narcotics flow from Panama.

Panama, linking the oceans and North and South America, is a natural transit point for contraband. Whenever goods are consigned to bonded warehouses for transshipment, smugglers have opportunity to hide drugs in legitimate cargoes.

For at least the last 17 years, drug agents have watched goods and passengers transiting the canal, the U.S. Canal Zone, Panama's free trade zone at Colon and Panama City's Iocumen International Airport.

One airport official, Jose Delgado, was named by two Panamanian informants as a connect for cocaine packages from Colombia destined for Omar Torrijos.

Former Panamanian intelligence agent Alexis Watson told House investigators Jan. 5 about an incident he witnessed at the airport in November 1976:

"There is a Colombia guy . . . he says he is Torrijos' second cousin. He used to come to Panama each week. When he came . . . this is something that I investigated and I saw the package . . . he carries some packages. He was received by Torrijos himself. They went to a place in the free zone of the airport . . . a guy named Delgado, and left the package there."

Watson told House Merchant Marine Committee investigators he did not see the contents, but was convinced they were drugs. He said a Panamanian Air Force pilot told him he was flying to El Salvador to deliver just "one package that Delgado has from Torrijos."

A second Panamanian informant also named Delgado and others in sworn testimony: "Their actions and involvement with Torrijos and other Panamanian officials make it highly probable that they are either actively involved or at least very knowledgeable of narcotics being smuggled into and out of Panama."

Watson told House investigators the Transit S.A. company, which he said was operated by Omar Torrijos and Noriega, handles Colombian coffee with cocaine inside.

Watson said in November 1975 he saw associates of Torrijos take "three sacks of two kilos of cocaine" out of coffee bags. He said Carlos Duque, manager of Transit S.A., and Orejita Ruiz, a former Torrijos bodyguard, and a Lt. Col. Cecilio Fisher of the National Guard were involved. The second Panamanian witness also said Duque and Fisher were in the drug traffic.

In 1972, Watson also said he saw Omar Torrijos, Panamanian President Demetrio Lakas and a suspected drug dealer named "Padilla" in Lakas' office dividing about $200,000 in $100 bills. "I think if Padilla is there, it was drugs," Watson said.

Noriega, who last week called Watson "a paranoid and an embezzler," was praised recently by Bensinger for anti-narcotics efforts. But in DEA intelligence reports, Noriega is mentioned along with other drug traffickers.

Watson also testified Noriega ordered him in 1971 to release Padilla's brother and an American he had arrested in Panama City.

"I called my commander and told him I had two people with cocaine, five or six pounds. I gave their names, I had their identification in my hand. Immediately I received the order. 'Put those people on liberty.'"

The House interviewers asked: "Who was your commander?"

WATSON. "Noriega."

INVESTIGATOR. "You called Noriega on the radio?"

WATSON."He didn't speak to me, but the order received by radio said: 'Number One says to free those people.'"

INVESTIGATOR. "'Number One' meant Noriega?"

WATSON."Yes."

The congressional testimony meshes with the picture emerging from the following DEA documents:

A 1973 document states that Colombian suspect Andres Velasquez planned a trip to Tocumen Airport to make a drug drop for the Torrijos brothers.

A 1974 report quotes an informant as saying Frank Marshall Jimenez "worked directly with and for Gen. Omar Torrijos in Panama and that between the two of them, they control the contraband traffic from the free zone of Colon, Panama."

It also states the Torrijos brothers "own 33⅓ percent interest in the gran Hotel de Costa Rica and that the gambling casino there was operated by the Torrijos interests . . . This hotel has been suspected of being a contact point for international narcotics couriers."

A 1975 document states Ramiro Rivas, owner of a Panamanian cement company, tried to buy a freight company to help move drugs for Omar and Hugo Torrijos.

In an interview, a high U.S. diplomat in Panama criticized Omar Torrijos of retaining Hugo as director of national casinos: "It's just too much of a temptation."

Hugo Torrijos' name surfaced when Panama seized 145 pounds of cocaine at Tucumen Airport on June 9, 1977.

One suspect was Gerardo Sanclemente, a Colombian married to a Torrijos relative Gloria Nubia Quinceno. Sanclemente allegedly helped move narcotics through the airport. He carried a "courtesy of the port" card, which assured him favored treatment and a letter from Hugo Torrijos to Delgado.

Senora Sanclemente quoted Hugo as telling her in a phone call, "I want Gerado to give himself up, it's the only way I can help him. I want him to call Dario Arosemena (chief of Panama's equivalent of the FBI) at 22-2415, and turn himself in; he won't be mistreated or anything."

Sanclemente complied. Because he was ailing, he was confined to a hospital near Panama City's Paitilla airport.

In October of last year, a second suspect held in Paitilla medical center bribed a guard and escaped to Colombia. Rumor's swept Panama City that Sanclemente had escaped, too. U.S. authorities in Washington and Panama City denied the rumors.

Questions about Hugo Torrijos' activities still circulate.

"Hugo Torrijos has a background from 20 years before as a cocaine addict," Watson told investigators. "Everybody in Panama knows. If you ask someone in Panama, 'Where can I buy cocaine.' They will tell you, 'go to Hugo."

Watson recalls, too, seeing Omar and Hugo publicly snorting cocaine in a bar run by Hugo in 1961: "We started drinking when about 12 midnight, I saw him and Hugo take drugs. And I asked (a companion) what is Omar doing?

He said: "They are big, so you don't have do anything about it."

Watson is convinced Omar Torrijos no longer handles drugs personally.

Omar can't be so stupid to handle this thing in that way, Watson told UPI in a telephone interview Feb. 10 before leaving the United States for a hiding place abroad. Watson fears his disclosure will provoke Torrijos to reprisals.

Next, the supreme leader's brother—an indictment and a tipoff.

PART II

WASHINGTON.—One of the best documented instances of Panamanian government involvement in narcotics led to the indictment of Omar Torrijos' brother Moises, now Panama's ambassador to Spain, for heroin trafficking.

A two-month UPI investigation of the case turned up allegations that the Panamanian "Supreme Revolutionary Leader" was tipped off to the indictment against his brother by high U.S. officials and that Moises was able to evade arrest.

On July 3, 1971, Rafael Gonzalez, the 23-year-old son of the Panamanian ambassador to Taiwan, was arrested at New York's Kennedy Airport with 154 pounds of heroin in his suitcase.

Richard was carrying a diplomatic passport signed by Juan Tack, then foreign minister, who represented Panama in canal treaty negotiations during the Nixon-Ford years.

Richard claimed diplomatic immunity, but customs agents determined he did not have legitimate diplomatic status.

Also arrested was Nicholas Poianco, chauffeur for Richard's uncle, Guillermo Gonzalez, a former bodyguard of Moises Torrijos, was believed to be a ringleader in heroin smuggling.

Customs agents discovered the trip was Richard's fifth trip with similar amounts of heroin, according to police reports. On previous trips, Guillermo Gonzalez had accompanied Richard, but this time, Richard and Polanco were to telephone Gonzalez in Panama on delivery of the heroin.

The agents persuaded Richard to call his uncle and urge him to come to New York. When Gonzalez arrived, he was arrested. Three others, an Argentine and two Panamanians, also were arrested. Gonzalez was convicted of heroin smuggling and sentenced to seven years in prison.

When the news reached Panama, according to one Panamanian who was present, Col. Manuel Noriega, Panama's intelligence chief, told an associate. "You heard this———kid stuck his foot in it?"

Another Panamanian informant told House Merchant Marine subcommittee investigators that the associate replied, "Yes, yes, we're going to fix it."

Subsequent investigations resulted in the indictment of Moises Torrijos as a co-conspirator in the transportation of heroin. The indictment was handed down by a grand jury in Eastern District of New York, in May 1972 and a bench warrant for the arrest of Moises was issued on May 16, 1972, U.S. sources said. As far as is known, the indictment and warrant remain in force, meaning Torrijos is subject to arrest on U.S. territory.

A former high government official familiar with the case told UPI the evidence against Moises went far beyond helping obtain a diplomatic passport for Richard: "I've been told fairly recently that we have one hell of a good case against Moises Torrijos."

At the time of the Richard arrest, Moises was Panama's ambassador to Argentina. Later in 1971, he was recalled at Argentina's request after causing offense at a diplomatic reception. He was then assigned as Panama's ambassador to Spain.

The indictment has never been unsealed although the Miami Herald last October

quoted Justice Department sources as confirming its existence.

UPI learned that U.S. narcotics agents tried to arrest Moises Torrijos in Decmber 1972 but failed because other U.S. officials apparently had tipped Omar Torrijos to the indictment.

UPI was told by three sources that John Ingersoll, former head of the Bureau of Narcotics and Dangerous Drugs—DEA's predecessor—went to Panama and passed the information to the Panamanian leader.

Retired DEA agent Leland Riggs, who tried to apprehend Moises Torrijos, gave a sworn affidavit to a Senate Judiciary subcommittee stating he was assigned to the case on his arrival in Panama in June 1972: "I was instructed to be on the alert to effect an arrest in the event Moises Torrijos traveled from Spain through the U.S. controlled Panama Canal Zone."

Riggs said in December 1972, "I was advised that Moises Torrijos, accompanied by his wife, was traveling from Spain to Panama on a passenger vessel. Subsequent information showed that the vessel would dock in Cristobal, Panama, within the U.S. controlled Panama Canal Zone."

Riggs said arrangement were made to arrest Torrijos in Cristobal when the ship arrived.

"However, Moises Torrijos was obviously informed of his impending arrest and departed the vessel at Caracas, Venezuela, where he flew by commercial airliner to Tocumen Airport within the Republic of Panama. When the vessel arrived, only Mrs. Torrijos disembarked.

"Inasmuch as the only parties aware of the planned arrest of Moises Torrijos other than BNDD were the U.S. Department of State and the Central Intelligence Agency, Moises Torrijos could only have been alerted to the planned arrest by United States authorities," the Riggs affidavit said.

UPI determined that on June 21, 1972, six months before the arrest attempt, BNDD chief Ingersoll went to Panama to discuss the indictment with Omar Torrijos.

The following is a second-hand account which Senate investigators say they obtained from a "principal" at the meeting:

Omar Torrijos was sitting in a hammock with his feet propped up and smoking a cigar when Ingersoll and his group arrived.

Ingersoll told Torrijos he was reluctant to discuss the situation but "in fairness" he thought the general should know that his brother, Moises, had been indicted in New York for heroin smuggling and a warrant had been issued for his arrest.

"The guy at the meeting said Torrijos made no move at all. He continued to smoke his cigar and there was no change in his facial expression. He didn't even take his feet down," the Senate source said.

Ingersoll offered to send someone to Panama to discuss the indictment with Moises, but the general said that wouldn't be necessary. But some time later, Torrijos contacted U.S. officials to send someone to meet with his brother.

Riggs, when questioned informally by Senate investigators, said he didn't know about the Ingersoll trip. But Riggs said his diary noted a Jan. 30, 1973, visit to Panama by Jerry Strickler, who Riggs identified as head of a Latin American division of BNDD in Washington.

After discussions with American officials, Strickler and agent Ed Heath met with Moises Torrijos, a session Riggs said he had assumed was the "first official notification" of the indictment.

UPI reached Ingersoll in Paris where he now works for IBM. He was asked about his trip to Panama in June 1972.

"I don't know what you're talking about," Ingersoll replied. "You expect me to remember what I was doing in June of 1972?"

Ingersoll said he had traveled to Panama "several times" to meet with Omar Torrijos but told the reporter to ask "the DEA people." * * *.

"I'm not denying or confirming it, and I suggest to you that if you want a denial or a confirmation that you refer your quote allegation unquote to the Department of Justice," Ingersoll said.

UPI learned from three sources—all in narcotics enforcement at the time—that a "government decision" led to Ingersoll's meeting with Torrijos where information on Moises' indictment was relayed.

Two sources said they believed the decision was made to put "pressure" on the Torrijos government.

One said the purpose was to reinstate agents who had been expelled from Panama in March 1972, after press leaks about the Richard investigation implicated Moises and Tack. The other source said Ingersoll might have offered to "go light" on Moises if Panama would strengthen anti-narcotics efforts.

The third source said the trip was made to avoid "an international incident." He said three White House meetings were held to discuss the tipoff. At these meetings, the source said, were Ingersoll, Egil Krogh, chairman of Nixon's cabinet level narcotics committee, Vernon Acree, former U.S. customs commissioner, and State Department representatives.

Ingersoll, the source said, got the assignment because of his "acquaintanceship" with Torrijos "and could approach him on a discussion basis."

"After the indictment was returned, there was a lot of concern and consternation over that fact because it did involve the brother of Torrijos. . . . The concern was if he came to the United States, he would be arrested. I think some of the State Department people were concerned over the fact that this might cause or create some kind of international incident," this source said.

PART III

WASHINGTON.—A UPI inquiry into drug trafficking allegations against Panamanian strongman Omar Torrijos poses questions about what happens when U.S. foreign policy objectives and narcotics law enforcement collide.

Several sources interviewed by UPI during a two-month investigation left a clear impression U.S. officials sometimes give "preferential treatment" when drug investigations—often based on hearsay—lead to officials of foreign governments, including but not limited to Panama.

The policy goes back at least to the early 1970's. It exists, sources indicated, because diplomatic and political considerations frequently take preference over narcotics enforcement efforts. In these cases, it is not deemed in the best U.S. interest to vigorously pursue the leads.

It also was suggested that despite known Panamanian government involvement in drug dealing, U.S. narcotics agents still need a working relationship with the country's police to stop other drug smuggling to the United States.

"Some (cooperation) is better than none," one current drug official commented.

A former enforcement official told UPI. "We have to do business there. If they're corrupt, we have to find out how they're being corrupted."

"I have no doubt that what the U.S. government really knows about these allegations will eventually become known," one American diplomat in Panama said.

"But in the meantime," he said, "the United States is in a real dilemma. Our intelligence files contain potentially libelous information on many world leaders. Are we to make these known to the public? Or should we withhold them because they may be libelous and because their release might affect foreign policy interests?

The Carter administration inherited this policy, but the practices followed in the past became highly meaningful when Carter's negotiations reached agreement on treaty proposals to phase out U.S. control of the canal.

Alleged drug involvement by Torrijos, his brothers and his government may be peripheral to the question of ratifying the treaties, as their supporters claim, but it also could bolster opponents attacks on the integrity of the Torrijos regime! In fact, conservative opponents concede the drug allegations may now be their only hope to stop the treaties.

Faced with intense conservative opposition and an uphill ratification battle last fall, the Carter administration apparently decided last fall to take extraordinary efforts to keep the drug questions out of the public eye.

Included were administration pressures to quash a congressional inquiry that could have brought some allegations to light, secret movement and possible removal of DEA documents relating to the drug charges, and a decision to limit congressional access to the materials by giving them to the Senate intelligence committee.

In late September, Sen. James Allen, D-Ala., a leading treaty opponent, held the first hearings on the treaties before his Judiciary subcommittee.

Allens' subcommittee knew nothing of the drug allegations, Instead, it was fousing on reports involving U.S bugging of Omar Torrijos.

The subcommittee wanted to find out whether Torrijos used knowledge of the bugging to blackmail American negotiators into making concessions. This suggestion was later denied by the Senate intelligence committee.

Allen's subcommittee issued two sets of subpoenas to an Army sergeant who supposedly sold the information to Torrijos and top officials of intelligence agencies and the Justice Department.

The first subpoenas dealt specifically with the bugging incident. A second set—far more broad—was issued later, Quentin Cronnelin, staff director of the Allen subcommittee, believes the broad scope of the second subpoenas caused alarm because they might have opened up the drug issue.

Attorney General Griffin Bell, in a Sept. 29 letter to James Eastland, D-Miss., chairman of the Judiciary Committee, said the subpoenas were "overbroad" and said they "could result in a serious misunderstanding" between the Intelligence and Judiciary committees.

The administration enlisted help from Senate Democratic Leader Robert Byrd, like Eastland a member of Allen's subcommittee, and from the top members of the intelligence committee—Sen. Daniel Inouye, D-

Hawaii, and Sen. Barry Goldwater, R-Ariz.—to stop the Allen hearings.

After what one individual described as "the most intense pressure I've ever seen" on Allen, including threats of Senate censure, the Alabama Senator backed off. The hearing was canceled and the subpoenas became moot.

About this time, two vocal treaty opponents, Sens. Jesse Helms, R-N.C., and Bob Dole, R-Kan., were getting hints of raw intelligence data in government files relating to the Torrijos regime and narcotics.

The Allen subcommittee hearings were cancelled on Sept. 30—a Friday.

Documents and rumors circulating on Capitol Hill suggest that on the following Monday, there was a White House meeting between Bell, President Carter and others.

The Justice Department confirms that Bell met with Carter that day, but the White House claims to have no meeting recorded. However, the White House press office said that Carter might have met with Bell without a record of the session being made.

Congressional sources told UPI that at the Oct. 3 session and at another meeting later that week—reportedly Thursday, Oct. 6—there was considerable discussion about the drug material and its ramifications on the treaty debate if it became public.

A suggestion reportedly was made to Carter that he classify all government doucments on the subject as "national security" material.

The President rejected this suggestion, sources said, and accepted a second option—limited disclosure to "safe" congressional sources, including the Senate intelligence committee, Byrd and Senate Republican Leader Howard Baker.

UPI ascertained that Bell and DEA chief Peter Bensinger did, in fact, brief Baker, Byrd, Inouye and Goldwater Oct. 6 on the drug allegations.

According to congressional sources, at this meeting Byrd told Bell and Bensinger that the best way to keep the lid on the drug allegations would be to send the files to the intelligence committee where strict security could assure "no leaks."

Later in the day, sources said the same briefing was given House Speaker Thomas O'Neill, who reportedly told Bensinger that "under no circumstances" should the files be sent to any House committee because of possible leaks.

A large number of drug files were moved from DEA to the Senate intelligence committee in late October or early November. Senators must sign a pledge not to reveal what they read in committee files under threat of action by the Senate Ethics Committee.

An intelligence committee report based on these documents was presented in secret session to the Senate Foreign Relations Committee, and a "sanitized version" is due to be released soon.

A closed session of the Senate will also be based on the material in the hands of the intelligence committee.

Although administration officials have repeatedly stated that all the government's files relating to Panama drug ties were sent to the intelligence committees, UPI was told that some material may have been removed before it reached Capitol Hill.

There have been suggestions that some sensitive material may have been placed in Bell's office safe or may have been destroyed.

In addition, UPI received reports that the DEA files relating to Panama were moved at least four times during one week in October—all but once without the usual accounting and receipting procedures to protect them—before they reached the intelligence committee.

Dole made the first public mention of files being moved from the DEA headquarters to its Washington field office during Senate debate on Oct. 13. The movement of files also came up with State Department officials during a hearing by Allen's subcommittee Nov. 15.

But when UPI attempted to get more information, reporters had to gather details indirectly, apparently due to a Bensinger warning on Oct. 7 that any DEA employee who leaked material on Panama would be fired and face criminal charges.

Congressional sources gave UPI details said to come from a DEA employee afraid to provide information directly to reporters. The information passed through two people before being relayed to UPI.

UPI was told that on Oct. 7, the Panama files were moved under high security from their normal storage site in DEA to the 10th floor of the building. One of the offices on the 10th floor is that of Gordon Fink, assistant DEA administrator for intelligence.

The following was the procedure as described to UPI:

With armed guards posted, the files were spread across table tops and examined, and particularly sensitive material removed. Bill Link, an assistant to Bensinger, was identified as supervisor of the operation.

Once the files reached the 10th floor, Link reportedly ordered the normal procedure known as a "paper trace"—requiring people in possession of files to sign receipts for them—suspended.

The files were sifted until 9 p.m. Between 11 p.m. and midnight, Bensinger went to the White House to brief Carter. Carter reportedly voiced concern over the impact of the information on the treaties if it became public.

The White House said it had no record of a late night visit by Bensinger on Oct. 7 but because of the lateness of the hour, conceded it might not have been recorded.

On Saturday, Oct. 8, an individual provided details on the file movement to a congressional source. At that time, he expressed concern about the security of the files.

On Sunday, Oct. 9, the files were moved to the field office. They were returned to headquarters Thursday, Oct. 13, to an individual identified as "Goe," head of Latin American security. Bob Goe is chief of the Latin American section of the Office of Intelligence.

A former high federal narcotics enforcement official, being interviewed on a different subject, volunteered that he had heard the files also were moved at during that week to Bell's office.

"I know first hand that when all this erupted (the allegations of Torrijos' involvement in drug traffic), the files were moved from DEA to Justice," the source said. "I was told. There's no question about it."

A congressional source said he understood some material might have been put in Bell's office safe.

UPI also was told that on Oct. 11, a DEA secretary for routine reasons asked for a file labeled "Panama-Miami." She was denied the file and questioned for three hours by Fink's security division to find out if she was the source of a leak.

UPI was also told—again by congressional sources who said the material was coming from high in the DEA—that the Panamanian drug files allegedly contain information about members of Congress.

These sources said at least one current senator is named as receiving a campaign contribution that may have come from a foreign government and that the files hint of intelligence work done by DEA involving members of Congress.

Dole filed a Freedom of Information request with the DEA on Oct. 14, 1977, for material on the Panamanian drug allegations. He listed 45 specific files relating to the possible involvement of Torrijos, his family and his government in drug dealing.

After some delay, Dole received a 75-page report with none of the material requested. Dole said it was "heavily censored" and "almost totally sanitized."

"All I ended up with was a bunch of newspaper clippings," the senator said.

When Dole protested, Bensinger replied that DEA "was conforming to the specific request and direction of the Senate leadership of both parties that files regarding Panamanian officials and the family of Gen. Omar Torrijos be made available specifically to the Senate intelligence committee."

Bensinger told Dole: "We have complied fully with that directive and have furnished them complete file information. As we indicated at that time, Gen. Omar Torrijos has never been a target of investigation."

But, in an earlier letter to Sen. Jesse Helms, R-N.C., Griffin Bell conceded Omar Torrijos was the object of a grand jury investigation.

Helms had written Bell in October enclosing a raw intelligence file naming Omar Torrijos and asking for information.

Bell responded that DEA learned CBS planned a report on the document, and the Justice Department public information office "informed CBS that a grand jury investigation based on the report had failed to produce any evidence linking the chief of state to the illegal drug traffic."

In practice, Bell said, "DEA and the Department of Justice should not give credibility to such hearsay allegations by announcing the steps, if any, taken to investigate them."

Bell said he therefore had instructed the Justice Department spokesmen to state that none of the allegations have resulted in investigations of Torrijos.

The order stuck: to this day the Justice Department refuses to state there was a grand jury investigation of Omar Torrijos.

Dole, on his return from Panama, wrote Bensinger that Omar Torrijos had promised to contact DEA and help the senator secure the drug files. But Bensinger replied with information about cooperation between the Panamanian authorities and the DEA on drugs. Dole fired back a letter saying, "I believe you misunderstood the point of my communication to you."

Bensinger then conceded there were two matters involved and suggested "with respect to DEA file material, I would again recommend that you contact the Senate Select Committee on Intelligence which has copies of all DEA files regarding this matter."

When UPI requested a briefing on the Panamanian drug situation from DEA, reporters were told there could be no questions about Torrijos.

UPI tried to contact Leland Riggs, a retired DEA agent who once attempted to arrest Moises Torrijos, about an affidavit the agent gave to Senate investigators.

A congressional source placed an introductory telephone call for the reporter. After declining to answer four calls from the reporter, Riggs told the congressional staffer he had received word from an individual in DEA whom he knew and trusted. Riggs said the DEA official cautioned him "not to talk to anybody except the Senate Intelligence Committee."

"I'm on ice," Riggs said.

UPI also sought to reach a DEA agent in Denver who had been involved in the investigation that led to the indictment of Moises Torrijos. The agent, Wilbur Place, said he needed permission from Bensigner before talking to anyone.

That, he conceded, was unlikely.

THE SECRET WAR AGAINST DOPE

(By Andrew Tully)

CHAPTER 10—DIPLOMATIC STEW

Cases like that of the heroin-carrying picture frames have caused United States Customs inspectors everywhere to adopt an amiably sardonic attitude toward their more glamorous colleagues in the investigative Customs Agency Service. The mostly anonymous inspectors, many of them now women, like to joke that the sleuths are "the first line of defense against junk—after us." In point of fact, this is true because the overwhelming majority of dope smugglers try to sneak their stuff into the United States through the legal channels provided by the Customs inspection routine. If the inspector misses the contraband in a suitcase or picture frame, the agent has no case. But in the past decade Customs inspectors have become more than just people in uniform who paw through a traveler's personal effects with infuriating care. They have been trained in their own investigative procedures. They have learned to recognize the smuggler's "profile," to be suspicious of numerous visa and entry stamps showing extensive travel and to take a second look at an individual whose passport bears the seal of a country with a casual, if not corrupt, attitude toward smuggling. Among other characteristics, the average inspector tends to view with leery eye the wayfarer with diplomatic credentials. He has learned that some members of this elegant tribe are wily practitioners of the old shell game and that it is unwise to take them on faith. Thus the interest shown in a young Latin American who arrived in the United States on a summer evening in 1971.

As any poker expert can testify, a successful bluff depends to a large extent on an accurate appraisal of the other player's intelligence. Raphael Richard Gonzalez, twenty-four, son of the Panamanian Ambassador to Nationalist China, was handsome and personable, but he was not very bright. It had never occurred to him, apparently, that United States Customs inspectors knew a thing or two about the international regulations applying to diplomatic passports.

When Richard arrived at New York's Kennedy International Airport from Panama shortly after 7 p.m. on July 8, 1971, he was carrying a diplomatic passport that showed he was a member of the ambassador's family. The passport bore a B-2 visa issued at the United States Embassy in Panama for multiple entries into the United States until August 31, 1974. With a special elegance befitting his position, Richard presented the passport to Customs Inspector Joseph Ania, who greeted him with the courteous respect due an envoy's son.

But if Ania was courtly, he also had the instinctive suspicion of his breed. He wondered about that multiple-entry visa and about Richard's luggage, which consisted of four large Samsonite suitcases and an attaché case.

"What's in your bags, sir?" Ania asked Richard.

"Summer clothing," replied Richard, abstractly.

Ania hefted one of the large suitcases. It seemed unusually heavy for a bag containing "summer clothing." He also noted that when he turned the suitcase from one end to the other, the contents shifted.

Customs, in the person of Inspector Joseph Ania, had good reason to be interested in travelers entering the United States from Panama. Despite the preceding eighteen months, the little "republic" operated by the strong man General Omar Torrijos had become one of the principal conduits for illicit dope trafficking aimed at the American market. One estimate was that as much as one-twelfth of the heroin used by American addicts passed through Panama, which means that approximately 20,000 drug users in the United States got their daily supply by this route.

Moreover, the Panama Canal Zone was an American military base, and law enforcement people were concerned over the statistic which revealed that one-third of the prison population in the Zone was incarcerated on drug charges. Diplomatically, too, there was the danger that the narcotics traffic could complicate months-old negotiations on a new Panamanian sovereignty over the 500-square mile Zone but keep the defense and operation of the canal under American control.

There was also gossip, some of which found its way into print in American newspapers, that cronies of General Torrijos and officials of his regime were involved in the heroin trafficking and were stashing huge profits in Swiss bank vaults. Thus Richard's diplomatic passport made him suspect rather than giving him the privileged respectability such a document commonly bestows on its holder. Customs had no desire to meddle in foreign policy, but the bureau willy-nilly had an official, obligatory curiosity about the baggage of potential smugglers.

"Would you mind opening your bags?" Ania asked Richard.

Richard politely demurred. Waving his passport languidly, he told Ania, "I have diplomatic immunity."

"I'm afraid not," replied Ania. "Your passport shows that neither your father nor you is accredited to the United States, only that your father is accredited to Taiwan. Immunity granted only by the country to which a diplomatic is accredited."

There was a brief legal discussion. Then Richard informed Ania that, anyway, he was in transit to Madrid and therefore his luggage was subject to examination only when it reached its final destination. If that was true, Ania retorted, why was Richard's luggage not in the custody of Braniff Airlines for transshipment to Spain? Richard as unable to account for this. "It's the airline's fault," he said. At any rate, Richard was not about to stand still for an examination there and then of his luggage.

Inspector Ania went through channels. He notified Supervisory Inspector Leonard Simon of the impasse, and Simon escorted Richard to a small conference room for a little chat. Richard steadfastly refused to open his bags. He now explained that, anyway, he had lost the keys to the luggage. Thereupon, Simon dispatched an aide on an errand. The aide was back in a few minutes with a set of duplicate keys obtained from a large Customs collection at the airport.

Simon opened all four suitcases and the attaché. case. None contained clothing or toilet articles. They did yield 140 plastic bags of white powder. A simple field test of the powder revealed a positive finding for heroin.

Special Agent John Giery was summoned, and he placed Richard under arrest for violation of the federal narcotics laws. After Richard had been informed of his rights under the Constitution. Agent Giery offered the young man some fatherly advice. Richard thought things over, then agreed to cooperate.

He told his interrogators that he had traveled from Panama with Nicola Polanco, "a kind of bodyguard." Polanco, said Richard, had already cleared Customs and had observed his arrest from the "Fishbowl" area of the observation deck in the International Arrivals Building. Both Richard and Polanco had been instructed to contact the heroin shipper, an uncle of Richard's named Guillermo Alfonso González López, upon their arrival in New York. Richard gave Agent Giery González' telephone number in Panama—645-357.

An alert was placed with the New York Telephone Company to put a hold on any calls to the Panama number. Meanwhile, according to Richard's instructions, the agents checked the young man into Room 897 of the McAlpin Hotel at 34th Street and Broadway.

At about 10 p.m., Customs got a call from the telephone company. Agents forthwith descended on a public telephone booth at 42nd Street and Eighth Avenue. There they arrested Polanco while he was waiting to get through to González. An agent hung up the phone for Polanco. Customs hoped to have its own little chat with González, later, an eventuality Polanco's warning call would have thwarted.

Thus when agents escorted Richard to his room at the McAlpin about midnight, they were delighted to hear the telephone ringing. Richard had his instructions. When the caller turned out, as hoped, to be González, he told his uncle, "Everything is okay."

The agents heard González ask Richard why he was so late checking into the hotel.

"I got lost," Richard told him. He also informed his uncle that Polanco, by then incarcerated in a cell in the Federal House of Detention, was "downstairs getting a sandwich."

"Okay," González told Richard. "I'm leaving on a Lan-Chile flight arriving at ten o'clock this morning at Kennedy. Stay in your room and wait for me."

As the official Customs report put it: "Arrangements were made in New York for the expected arrival of Guillermo González." Some arrangements. A call was put through to the Customs office in Miami, and instructions were given to the agent in charge there to put a man on the plane González would be taking to New York. Thanks to Richard, the Miami office could be provided with a description of the youth's uncle—Panamanian, five feet, five inches tall, slim build, about 135 pounds, mustache, black hair, white complexion, forty-two to forty-six years of age.

Then Richard talked some more. He told his interrogators he had made five previous flights from Panama to the United States with heroin in his luggage—four in the fall of 1970 and one in January, 1971. On all these flights, Richard said, González accompanied him as "bodyguard."

González arrived at Kennedy Airport at 11:30 a.m. via Miami. Unknown to González, it was a couple of Customs agents who escorted him to a taxicab operated by Special Agent Mario Sessa. González told Sessa to take him to the McAlpin Hotel. En route, the Panamanian informed Sessa that he had a friend in the Hotel Edison and asked if Sessa knew the Edison address. Sessa gave him the address. González thanked him and remarked that he must remember to call his friend that night.

Upon his arrival at the McAlpin, González went directly to Room 897, where he greeted Richard and made some small talk. Then, with Customs men eavesdropping, González told his nehew to place a call to the Hotel Edison. When the call was put through, González took the phone and was connected with an Oscar San Martín in Room 834. González and San Martín arranged to meet in the bar of the Edison within the hour. When González hung up, he was arrested by agents who had been sequestered in an adjoining room.

Like Richard, González was willing to talk. He explained that his arrangement with San Martin for delivery of the heroin required him to place the four suitcases and attaché case in the locked trunk of a rented car, then leave the car in a public parking lot and deliver the parking ticket to San Martin. Ten minutes later, agents had rented a car and stashed Richard's luggage in the trunk. Under surveillance, González drove to a parking lot at 1250 Broadway where he left the car, then set off to deliver the parking ticket to San Martin.

With Customs men still dogging his footsteps, González dutifully arrived at the Hotel Edison, where he met San Martin and turned over the ticket. With González and his guardian agents standing by, San Martin placed a phone call from the hotel lobby. González then departed with his agents, while other Customs men remained to keep an eye on San Martin. Within a few minutes, a man later identified as Américo Altamirano arrived at the Edison and had a brief conversation with San Martín, after which San Martin returned to his hotel room under surveillance.

Agents followed Altamirano to a building at 310 West 47th Street. He left the building several minutes later, accompanied by a man later identified as his brother, César. The brothers walked around in aimless fashion for more than twenty minutes before arriving at the lot where the rented car was parked. There they separated, with César proceeding to the parking lot office while Américo strolled about in the immediate neighborhood.

César presented the parking ticket to a uniformed attendant named Duane Lane, whose full-time job was special agent of the Bureau of Customs. Lane drove the rented car from its space and delivered it to his customer. Then, as César attempted to climb into the car, he was arrested. When César refused to talk, his brother, Américo, was arrested on a nearly street. At about the same time, agents arrested San Martín at the Hotel Edison.

It was a little after 4 p.m. on July 9, 1971. It had taken Customs less than twenty-four hours to round up all six persons involved in the smuggling attempt. Agents had seized 151 pounds of pure heroin with a street value estimated at up to $27,000,000—enough to supply the habit of every addict in New York City for almost a month.

The apprehension of Guillermo Alfonso González López also provided the Customs' Intelligence Division with some raw intelligence to be squirreled away for possible use on another day, in another case with diplomatic ramifications. On González' person were found various papers and an address book, which, in Customs' carefully calculated—and absolutely necessary—double-talk, "indicated" that González had had "associations with" some big names in Latin-American governmental and diplomatic circles, including at least one head of state, at least two ambassadors, assorted Cabinet ministers, and a couple of high-ranking military officers.

As one Customs official put it: "All these names make fascinating reading, but we couldn't lay a glove on their owners even if we had admissible evidence. They're a problem for their own countries unless they get in trouble on American soil and even then we probably couldn't hold them. In the meantime, we're not in the business of toppling foreign governments no matter what kind of creeps they have running their stores."

Besides, Customs at the time was preoccupied with its part in the final disposition of the case of Raphael Richard, et al. As receiver of the heroin, Óscar San Martin drew the stiffest penalty—a twelve-year prison sentence on each of three indictment counts, to run concurrently. Gonzalez, the operation manager, got seven years in the pen, and Richard three and a half years after both pleaded *nolo contendere*. Americo and César Altamirano each got two years, but charges against Richard's bodyguard, Nicolas Polanco, were dismissed by the United States Attorney's office after he had served almost six months in jail awaiting trial.

Meanwhile, however, Congress had become inquisitive about the drug situation in Panama, and in March, 1972, Customs' intelligence on official Panamanian involvement in heroin trafficking became a matter of public record. The vehicle of this exposé was a draft report by the unlikely Panama Canal subcommittee of the House Merchant Marine and Fisheries Committee headed by Representative John M. Murphy, Democrat, of New York.

The connection lay in the fact that the subcommittee had been studying and conducting hearings on the United States position in Panama vis-a-vis the future operation of the Panama Canal and jurisdiction over the Canal Zone. Among the experts to which the subcommittee turned was Customs Commissioner Myles J. Ambrose, who arranged a briefing for the panel by a group of special agents on January 24.

In a far-ranging review, the briefing agents cited some chapter and verse on thirty major heroin seizure cases during the preceding eighteen months. The seizures ranged from 13 pounds to several hundred pounds, and five of the seizures—or one-sixth of the total—involved the Republic of Panama. According to the subcommittee's draft report, "The briefing team concluded that based on the Customs investigation" the Richard case "reached into the highest levels of Panamanian officialdom and included Moises Torrijos, the brother of General Omar Torrijos, and the Panamanian Foreign Minister, Juan Tack."

The report on the briefing also noted that Nicolas Polanco, Richard's bodyguard, was a chauffeur for Richard's uncle Guillermo Gonzalez, and that Gonzalez was a longtime friend and former bodyguard of Moises Torrijos. Added the report: "The Customs agents claimed that because Richard's father was in Taiwan at the time of these transactions that he got his diplomatic passport from Moises, who had access to them as a Panamanian ambassador. Customs confirmed the Bureau of Narcotics and Dangerous Drugs' report that Juan Tack had signed the diplomatic passport."

Although the subcommittee acknowledged that narcotics trafficking was "basically an American problem run, in part, by Americans and criminals in other countries . . . as in every other part of the world, local nationals and officials succumb to the enticement of easy money and are lured into the drug traffic. This has happened in Panama."

The subcommittee was almost as rough on the State Department, which it charged "has had an historic policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments . . . The question is [whether] the United States is negotiating a treaty that involves a 70-year, five-billion-dollar U.S. commitment, not to mention the security of the United States and this hemisphere, with a government that condones or is actually involved in a drug-running operation into the United States."

Although it flopped, the Richard caper combined two smuggling methods—one as old as international relations and the other a product of the jet age. A proper diplomatic passport has been the perfect *laissez-passer* for the carrier of contraband since the days of ancient Canaan. Travel by commercial airline enables the dope supplier in Marseilles to promise speedy, often same-day delivery to the wholesaler in New York. Miami or Chicago, and payment within a matter of days. It has brought to the narcotics trade the rapid turnover of the supermarket.

However he travels, an accredited diplomat's person and baggage are safe from customs inspection. The same is true of the individual traveling with a head of state or high government leader paying an official visit to a foreign country, no matter how clerkly his status. By courtesy and tradition, none of the visiting team's baggage is examined: and, of course, the diplomatic "pouch"—which might be as big as a piano box—is always inviolate. Occasionally, however, authorities are able to gather enough evidence of suspicious associations to move against even these privileged persons, in what might be called "the international interest"—for want of a handler term.

Excerpts From Report on Activities During the 92d Congress of the Committee on Merchant Marine and Fisheries

An Overview of the Narcotics Problem in Panama

One of the most pressing problems facing the United States—drug use and drug trafficking—has apparently not been overlooked by the young Americans in the Panama Canal Zone. According to reports coming to the Subcommitte, young dependents of military and civilian families "turn on" to "Panama Red", the local brand of marijuana, as readily as their counterparts in the United States turn to similar hallucinogenic drugs. A large percentage of the prison population in the Canal Zone is being held on drug charges.

Subcommittee investigators have been told that American G.I.'s have sought assignment to Panama because of the easy availability of cheap high grade dope. And

this is not a recent development. As far back as 1968 members of the 101st Airborne Division reportedly volunteered for duty at the jungle training schools in Panama because of the lure of drugs. The Subcommittee has been told by U.S. drug law enforcement officers that the Panamanians have complained about the use of marijuana by U.S. troops and have charged that our G.I.'s have corrupted Panamanian troops by introducing them to drug use during what they ironically describe as "joint" maneuvers.

Since a clamp-down on major Mexican airports, Panama has become the conduit through which passes enormous quantities of dope—an estimated one twelfth of the heroin in a recent one year period—used by U.S. addicts. This means that at one point in time roughly 20,000 American drug addicts were getting their daily supply by this route. Large quantities of cocaine have also transited the Zone into this country.

With the increase in heroin and cocaine coming through the Canal Zone, the possibility of drug epidemics that have plagued our military bases and the dependents of both military and civilian support personnel in most parts of the world is a constant threat. This happened for example, in the sprawling U.S. air base, Ching Chuan Kang (CCK), Taiwan, on Okinawa, in the Philippines, and, of course, on a massive scale in Vietnam. Wherever this happens, our military strength is sapped, our image before the people of the host countries is tarnished and our capabilities to operate defense positions and vital installations such as the Panama Canal are diminished.

Given the sensitive nature of our current relations with Panama, we cannot afford to have the picture distorted by the use of drugs or the activities of mercenary American nationals, "soldier of fortune" pilots, and others who are making small fortunes by running thousands of pounds of the world's illict dope through the Republic of Panama. There are, of course, many points surrounding the United States where criminals transship narcotics into the United States—but these areas do not have a canal vital to the defense and commerce of the Americas and the entire world.

As Chairman Garmatz of the Merchant Marine and Fisheries Committee said in mandating the Subcommittee, we must keep abreast of all of those factors affecting the smooth and efficient operation of the Canal.

The narcotics traffic is a threat to our people there, to their children, to the American image in that country and to the relationships between our two countries. We must not let international dope peddlers and drug traffickers imperil the American position in Panama. It should be and must be stopped as quickly as possible and the Subcommittee intends to see that the Bureau of Narcotics and Dangerous Drugs Panama Task Force does this as quickly and efficiently as they did in Okinawa where a special BNDD led task force arrested 71 traffickers in nine months—mostly American servicemen and dependents—and all but wiped out the traffic on that island which contains 50,000 U.S. troops and civilians.

The Subcommittee in no way wishes to cast all of the blame on Panama or its officials for the sudden emergence of Panama as a pipeline for heroin and other drugs into the United States. It is basically an American problem run, in part, by Americans and criminals in other countries. * * *

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Another case which prompted the original BNDD assessment of Panamanian official involvement centered around Joaquin Him Gonzalez, a notorious smuggler who was arrested in the Canal Zone by U.S. authorities on February 6, 1971. Within two weeks he was brought to Dallas, Texas, for his active participation in the drug market and tried for conspiracy.

Him Gonzalez was international transit chief at Panama's Tocumen Airport and he used his high position to protect shipments of drugs to the United States. He was accused on this occasion of sending to Dallas somewhat over a million dollars worth of heroin. Gonzalez was allegedly a Torrijos protege and this relationship was made clear when the Panamanian Government mobilized all its resources, something it had not done until that point, for the offender to be returned to Panama. Reports in the press cited the "angry outbrust" and "outraged" protest of the Panamanian Government—led by Juan Tack—over the arrest of Gonzalez.

An indication of the duplicity of certain Panamanian officials is found in a comparison of their public statements and their private or official actions in this regard. For example, in October 1972, Colonel Manuel Noriega, the Intelligence Chief of the National Guard, proclaimed a desire for Panama to become the enforcement center for fighting the drug traffic in Latin America. Yet that same month intelligence reports of the United States Government sustains the 1971 BNDD assessment and we still find that Panamanian officials and security agents are allegedly involved in narcotics trafficking. A similar "offer" was made on April 8, 1972, which received worldwide publicity. However, U.S. officials, when questioned by the Subcommittee, were unaware of any direct contact by the Panamanian Government which would have brought this about.

The arrest of Manuel Rojas Sucre, the nephew of Panama's Vice President Arturo Sucre at Kennedy International Airport on December 3, 1972, with cocaine, liquid hashish, and a diplomatic passport (his mother is Panama's consul general in Montreal) is further indication of a need for continued efforts by the United States Government to impress upon the Panamanians the seriousness with which we view the drug problem.

THE POSITION OF THE DEPARTMENT OF STATE

The State Department has had a history policy of ignoring or denying the involvement in the narcotics traffic into the United States of high-ranking officials of friendly foreign governments.

While the Department has taken a "soft" approach to the narcotics problem generally, in Panama it has reached an absurd extreme. For example, the Subcommittee was told by the director of the BNDD that as a result of the strong Panamanian objections to the arrest of Him Gonzalez it is highly doubtful that the State Department would ever again allow the arrest of a Panamanian national in the Canal Zone; BNDD agents claimed the Panamanians were only paying lip service to narcotic drug enforcement and that the big trafficking was going on full tilt with the knowledge, sanction and even involvement of certain Panamanian officials and Guardia members.

After a preliminary Subcommittee report was released in March of 1972, on the involvement of Panama's Foreign Minister and others in that government in the narcotics traffic, three BNDD agents assigned to work out of the U.S Embassy in Panama City were declared persona non grata and given 12 hours to leave the country. This ultimatum was delivered on national television by Foreign Minister Juan Tack. This was done after Tack had arranged for the agents to sign letters written by the U.S. Ambassador in Panama denying they had discussed with the Chairman of this Subcommitee the relationship of government officials of Panama to narcotics smuggling into the United States. In subsequent testimony before this Subcommittee, one of the agents stated that he had, in fact, discussed with staff members of the Subcommittee such high-level involvement. There were public denials by various administration agency heads of the charges made in the Subcommittee report—the most heated coming from the Department of State. However, a recent government document supplied to the Subcommittee compiled from information and intelligence gathered by the several agencies with a responsibility for international narcotic law enforcement reached the following conclusion on the so-called "Latin connection":

"Generally speaking, the greatest detriment to effective enforcement in Latin America is corruption. The corruption goes all the way to the top of some Latin American governments. One of the more glaring examples of official corruption is the country of Panama, . . ."

This Subcommittee is in accord with the proposal made by the authors of this report when they concluded:

". . . Because of the known involvement of Panamanian government officials in the international narcotics traffic, the U.S. Government should take a firm stand in the current negotiations of a new treaty for the continued use of the Panama Canal Zone.

"The new treaty should continue to vest authority for the Canal Zone in the Canal Zone Police. The U.S. should not abrogate its authority to arrest fugitives from the U.S. who appear in the Zone, regardless of their nationality. The U.S. should not forego the right to remove such fugitives to the appropriate federal jurisdiction. By taking a strong stand, the U.S. will continue to provide adequate protection to the large number of U.S. citizens who reside in the Canal Zone. It will also prevent international traffickers from obtaining refuge in the Zone as they now do in Panama. More importantly, it will also demonstrate to the rest of the continent that the U.S. is completely serious about controlling the flow of narcotics into the country. It is recognized that by taking this stand, the Government of Panama will attempt to retaliate by creating incidents similar to those that occurred in 1964."

In summary, the Department of State has put a higher priority on placating an increasingly hostile and demanding regime in Panama than it has on taking a firm stand against government that is a major factor in allowing the international flow of heroin and cocaine presently inundating the United States. This is in spite of a wealth of evidence and intelligence that would dictate a firmer course of action.

The question that has apparently been left for the Congress to answer is: Is the United States negotiating a treaty that involves a 70 year—5 billion dollar U.S. investment, not to mention the security of the United States and this hemisphere with a government that condones or is actually involved in a drug-running operation into the United States?

In view of the weak reaction of the Department of State to the narcotics traffic in Panama, it is the conclusion of this Subcommittee that it is incumbent on the Subcommittee to let the Congress—and in turn the Panamanians—know that the United States will not tolerate the use of diplomatic channels and the attendant immunity to be used to funnel drugs into this country.

Mr. HELMS. Mr. President, a number of Senators, as I indicated earlier, suggested to me that while they agreed with the amendment I had offered on Tuesday, they would feel somewhat more comfortable emphasizing that the President already has such authority as the amendment proposes to grant.

Senator may recall—or they may not—that I had stressed that point in my statements both on Tuesday evening when I offered the amendment, and earlier today, as well as during various conversations with individual Senators. I say again, in an effort to accommodate the concerns, I expressed the willingness to modify the amendment slightly to say that "the President's authority is hereby reaffirmed to use the Armed Forces of the United States" rather than the original text which says "the President is authorized to use the Armed Forces."

I personally do not see much difference, but if it will help other Senators, I am certainly willing to make the modification. As a matter of fact, I have it here to offer if, as, and when I am allowed to do so.

I had also included in the amendment that the purpose of using force was to protect the people of Panama in their struggle. And it is a struggle, psychologically, physically, and every other way, to rid themselves and rid their nation of the brutal oppression of the Noriega regime and to restore the constitutional government of Panama.

As Senator SYMMS and Senator D'AMATO have so eloquently said, I share the view that the United States Senate should stand with the courageous people in Panama who have attempted to get rid of Mr. Noriega.

The Senator from Delaware, my good friend, Mr. BIDEN, appeared on Tuesday night to be particularly troubled by these aspects of the amendment. Thus I expressed to him that evening a willingness to delete these two provisions, leaving the text,

To bring General Noriega to trial in the United States under the terms of his February 1988 indictments for drug trafficking charges and to protect the Panama Canal pursuant to the Panama Canal treaties of 1978.

I am willing to make those changes if they will meet and resolve the concerns of any Senator. However, I am well satisfied with the amendment in its original form. If it is the preference of the managers to vote on it in its original form, so be it. That is the way I want it to be. But I am trying to accommodate Senators in their concerns and, therefore, I have modified the amendment and it is ready to be sent to the desk.

I realize the administration has been working all night long, trying to get some amendment up which I understand Senator WARNER is going to offer, which would dilute what I have attempted to do. Senator WARNER was good enough to advise me that he was going to do that and I appreciate that. I respect and admire the Senator, even though I do not agree with him in this instance.

I do not think we ought to water down what ought to be done and what I am trying to do. But, if they want to play games on this, I can always come back on the same drug bill and offer the modified amendment and have Senators vote on that. I made clear at the outset, this morning, when I took the floor that my interest was in saving a little time for the Senate. I do not know much about the rules, but I know a little bit, and I believe that sooner or later I can get a vote on a modified version notwithstanding anything that has gone on before.

Furthermore, I have had only one call from the upper echelons of the administration about this entire matter. They have been dealing with others. It is the old game of circumvent and dilute.

We will see. Senators can take their stands. They can vote yea or nay, pro or con. I am used to that. But I still say we need it on the record that the Congress of the United States has reaffirmed the President's authority to do whatever is necessary, using our military forces, to bring Mr. Noriega to account in Miami, FL, on the drug charges, the money laundering charges on which he has already been indicted. And also to protect the Panama Canal, which is part of the treaty. Both things, admittedly, are in the law now.

But there were a lot of folks in the administration, purporting to speak for the administration. And by the time they bumped into each other in the corridors, it was too late. The next time, if there is a next time, I want some action, and I do not want to have any excuse. I do not know whether there will be another time. I imagine there are a lot of people in Panama who are sick to their stomachs of the help they did not get on Tuesday. Not to mention some of the excuses that have been voiced since.

So, this is not a personal thing with me except that I am absolutely convinced that we ought to stop dillydallying and live up to all of what we have been saying, in all of our exhortations of rhetoric.

I doubt there is a single Senator who has not said in stump speeches back home: We have to get Noriega out of there. The distinguished President of the United States, who is my friend, whom I supported as vigorously as I guess anybody, has said it over and over again about Mr. Noriega.

But the time for talk is over, and the time for action is now. Or the next chance we get, if we get a chance. My word to the people of Panama is: Do not give up. Maybe the next scenario will be done right. That is the way I feel about it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

Mr. President, the amendment offered by the distinguished Senator from North Carolina presents an occasion to discuss generally the use of extraterritorial jurisdiction to bring people into custody in the United States when they are under indictment. That is a policy which this Senator favors and has advocated for the past 6 years.

The specific issue which is framed by the amendment by the Senator from North Carolina is, really, how much force should be used and under what circumstances should the execution of a warrant of arrest take place. There is no question that General Noriega is under indictment and that the law of the United States of America calls for the execution of a warrant of arrest.

Just a comment by my distinguished colleague, the chairman of the Judiciary Committee.

There is no question, Mr. President, about the authority to execute a warrant of arrest. And that is a responsibility which is vested with the executive branch of the Government. Characteristically, it is lodged with a U.S. marshal as opposed to the President of the United States as Commander in Chief. But I believe it to be true that the executive branch has that authority.

The circumstances in Panama in the last 2 days, remain somewhat unclear, although there have been briefings on the subject. It was essentially a Presidential call as to whether it was appropriate to use the requisite force to take General Noriega into custody. But I believe it to be plain, under U.S. law, that the authority does reside in the President of the United States.

We have pursued the path of extraterritorial jurisdiction since 1984, when we enacted the Omnibus Crime Control Act and for the first time made it a violation of U.S. law to hijack or kidnap U.S. citizens abroad. We expanded that extraterritorial jurisdiction with 1986 legislation which this Senator offered which makes it a violation of U.S. law to assault, maim, or murder a U.S. citizen anywhere in the world. I believe it is very impor-

tant that there be a very vigorous pursuit of this kind of extraterritorial jurisdiction.

(Mr. SIMON assumed the chair.)

Mr. SPECTER. Mr. President, this kind of extraterritorial jurisdiction, Mr. President, has been adopted by the Congress with respect to terrorism. Extraterritorial jurisdiction applies generally if someone somewhere else sets into action a chain of events and by his or her conduct a crime is committed in the United States as, for example, the drug violations for which General Noriega was indicted. The issue of when you take people into custody is one that has to be very carefully calculated.

We have made efforts in the United States to organize a surgical strike force to be able to take terrorists into custody, to be able to take into custody anyone who has violated United States laws who may be outside the territorial limits of the United States. But that power of arrest has to be executed with care, and it is important to use reasonable force. It is a Presidential decision, in terms of whether United States citizens in Panama dependent on our military there would be in danger, and that is a Presidential call.

There is an event which has just occurred, Mr. President, that I think is worthy of comment directly related to the subject, and that is the sentence which was imposed yesterday in the U.S. district court here in Washington, DC, on a terrorist by the name of Fawaz Yunis. This defendant was the first person apprehended under the 1984 U.S. law extending extraterritorial jurisdiction. I suggest, Mr. President, that the sentence was lenient. Fawaz Yunis could have been sentenced to life imprisonment under the statute. Instead, he received a sentence of 30 years, according to press reports, which make him eligible to be released in 8 years. Yunis was a very major terrorist, a very major highjacker who, along with other people, seized a Jordanian airliner in 1985; took control of the Jordanian airliner; made a 30-hour voyage over several days in order to deliver a demand on behalf of their Shiite compatriots in Lebanon.

It is true there were certain extenuating circumstances that were present. Two passengers were allowed to leave because they required medical treatment, and it is true that no one was murdered in the course of that hijacking, but there were 70 people, including two U.S. citizens, held captive for some 30 hours, terrorized, subjected to that kind of an excruciating experience.

Under the laws of the United States, kidnaping has been punished by the death penalty. It is the view of this Senator—and I have offered legislation to this effect—that the death penalty ought to be a sentencing option for the offenses of terrorism, kidnaping, and hijacking. Certainly, where death results, the death penalty might be appropriate.

The arrest of Fawaz Yunis was a very calculated approach by U.S. authorities, principally the Federal Bureau of Investigation. Fawaz Yunis was lured onto a boat in the Mediterranean, taken into custody under very difficult circumstances, brought back to the United States, charged with the offense of hijacking and could have been subjected to a life sentence. This is the first time that these laws have been used, and they are very, very difficult to apply.

Most people do not know that at the present time there are more than a dozen terrorists under U.S. indictment. Efforts are being made to try to locate those terrorists to bring them into custody, and that is a very difficult matter because we do not wish to use the kind of force which would endanger other people who may be near those terrorists. We can locate these terrorists and bring them into our custody only with the most carefully conceived plans. That is why it is frustrating to have a man like Fawaz Yunis brought back to the United States and tried, but not punished to the fullest extent of the law.

Yunis was given all of the rights of any person who is in our courts, whether they are a citizen or not; and I think anybody brought into the U.S. courts for trial ought to have those rights. There were elaborate pretrial pleadings and efforts made to suppress his confession. Some of these efforts were successful. But you have a terrorist like Fawaz Yunis who shows no sympathy, compassion, no regard for anyone, taking 70 people into custody and subjecting them to a terrifying hijacking experience.

Of course, we are going to give him the benefits of our laws as we should. But consider this Yunis case in which U.S. officials first had to identify this man, which was hard to do, to locate him, which was very hard to do, to take him into custody, which was even harder to do, to bring him back to this country, to give him all the due process rights of the most civilized, sophisticated jurisprudence system devised by man and then have him convicted—after all of that, the sentence is not nearly what it ought to have been.

The Fawaz Yunis case has recently been cited in Colombia to let the drug lords know extraterritorial jurisdiction is possible; we can take people into this country and bring them to trial.

We recently had the celebrated case of Sheik Obeid who was taken into custody by the Israelis because he violated Israeli law and an arrest was made in Lebanon under existing principles of international law. One of the items reputedly that Sheik Obeid was most worried about was the possibility that he could be extradited to the United States for trial. You cannot buy your way out of a U.S. prosecution. You cannot buy your way out of custody and jail. You cannot buy your way out of the courtroom. Sentencing is a matter of discretion for the trial judge. I suggest, Mr. President, that 30 years was an inappropriate sentence for Fawaz Yunis under the facts of this case.

Mr. President, when we first talked about the extraterritorial jurisdiction concept, many people were surprised to find out that the law of the United States authorized taking into custody someone wherever he or she might be found without regard to the factual circumstances as to how they were taken into custody.

My own son, Shanin Specter, was studying international law in Cambridge in 1983 and called my attention to a case called Ker versus Illinois, a decision by the Supreme Court in 1886. While we lawyers frequently read some of the old case books, I have never gone back to 1886 for casual reading and had never known about this case. Frankly, I was very surprised, even shocked to find on the facts of that case that the kidnaping of this fellow, Ker, the defendant, was upheld by the Supreme Court. The facts of that case are worth a moment's recitation.

Ker was under a charge of fraud from Illinois, a civilized State, as the presiding official here, Senator SIMON of Illinois, will attest to, and there was a fraud indictment out of Illinois. This fellow Ker fled to Peru, and extradition papers were obtained. But then the arresting personnel, not even law enforcement officers, although it is not plain in the decision, went to Peru and they kidnaped Ker. That is the way the Supreme Court of the United States describes it. They kidnaped Ker and brought him back to Illinois. He was tried there and was convicted. He took the case to the Supreme Court of the United States.

In 1886, the Supreme Court of the United States said that when a person is brought back into the jurisdiction of a court, it does not matter how he was brought back, even if he was kidnaped. That principle has been upheld repeatedly, Mr. President.

In the 1952 Frisbie case, in an opinion written by Justice Hugo Black, a noted civil libertarian, the Supreme Court upheld jurisdiction over a defendant resulting from what Justice Black called forcible abduction. That is a more polite way of describing a kidnaping. When Fawaz Yunis was taken into custody, he was similarly forcibly abducted. But, under international principles of law, it is appropriate to take a person into custody in that manner, as the Israelis took

Sheik Obeid into custody, as we could take General Noriega into custody, forcibly, if we are able to do so in a context where it constitutes the reasonable use of force.

Mr. President, I believe it is important to exercise extraterritorial jurisdiction to vindicate the laws of the United States against a man like Noriega who is under indictment for violation of serious drug laws. He has been indicted by a U.S. district court and he ought to be tried in the United States, but it has to be carefully and meticulously done so as to be a reasonable use of force, not to be excessive and not to endanger American citizens, or others, in the execution of that kind of a warrant of arrest. But there is no question on international law that the President has the authority to execute that warrant of arrest.

But it is hardly worthwhile to undertake these kinds of high-risk ventures as illustrated in Fawaz Yunis if at the end of the trail somebody is going to be eligible for release after only 8 years in jail.

We are working, Mr. President, on a variety of remedies to try to locate the more than one dozen terrorists now under indictment. This body agreed to an amendment calling on the CIA and Department of Defense to tell us what resources are necessary for human intelligence to locate our hostages, to see if it is possible to rescue them with reasonable safety, and to identify terrorists to bring them into custody. This is an important part of U.S. law enforcement which ought to be done, Mr. President. So that I think the amendment offered by the Senator from North Carolina is worthy of our attention, and the pursuit of Noriega ought to be undertaken but it has to be the President's call as to what is an appropriate use of force under very complex circumstances.

I thank the Chair and yield the floor.

Mr. BIDEN. Mr. President, I will only take a moment.

Let me compliment my friend from Pennsylvania. The notion that some of the most objectionable persons on the face of this Earth are going to find themselves or have found themselves in the position in the case that has been cited that they will be eligible for parole in less than a 10-year period is I think outrageous. I want to compliment him for coming to the floor and making the case.

I concur in the second point—and I will at a later time speak at greater length—that the intent of the Senator from North Carolina is well-founded, but the method by which he is proposing to deal with a real and serious, genuine problem in the person of Mr. Noriega is one that has implications that go far beyond the arrest and trial and conviction of Mr. Noriega.

But I wanted to rise to compliment my friend from Pennsylvania, who has been as diligent as anyone has and has been as persistent as anyone has in the Senate in the years he has been here trying to call the attention of this body and the Nation to the fact we are not nearly as resolute as we should be.

Mr. SPECTER. If the Senator from Delaware will yield for a comment, I thank my friend for those remarks. I think that the internationalization of law enforcement is very important in many respects. This line of extraterritorial jurisdiction is vital. The trial of drug dealers and terrorists really will need an international court in order to get extradition. We passed legislation on a multinational drug strike force authorizing funds from the Department of Defense for that purpose.

But when the story on Fawaz Yunis appears on page 39 of the Washington Post—it was not in the New York Times or the Philadelphia Inquirer today—that is a matter of utmost concern. We spend our time passing these laws to bring these people to justice and we appropriate money for the FBI. They are able finally to find one man and he must be made an example. I know that the drug dealers in Colombia are aware of the Fawaz Yunis case. I discussed this matter with Ambassador McNamara who said that in Colombia the Yunis case is a big case. I had not heard that the Yunis case was specifically invoked when Sheik Obeid was being taken into custody in Israel, but I have reason to believe on reliable information that Sheik Obeid is worried about being extradited to the United States.

I think we should bring Noriega into court if we find the right circumstances and I hope we do, if we can do so with a reasonable amount of force. But if he comes into this country and he is tried in Federal court, he should receive a significant sentence.

A comment on a sentence by a Federal judge is not something that this Senator takes lightly. I have a very high regard for the judicial system, a reverence for the law, but nobody, including Federal judges, is immune from a comment or a criticism. Maybe the judge is right. I do not think he was. But I think this case ought to be a subject of interest in this body. We have to make our point to influence future handling of such cases.

Mr. BIDEN. I concur with the Senator from Pennsylvania, and I yield the floor.

Mr. President, I apologize for the Senate not moving a little quicker today on this drug bill.

Just to review the bidding here, I ask the unanimous-consent request, we are on the drug bill, the drug amendments. But the pending business is the Helms second-degree amendment to a Biden amendment that is designed to eliminate crack houses.

We are at the moment attempting to see if we can reach a resolution whereby we can at a minimum agree on an order with a means by which we would deal with disposing of the Helms amendment, and possibly whether or not there could be a compromise reached which we could all support.

As we speak, as they say, various staff persons are holed up in one of the rooms off the floor of the Senate trying to draft such language.

The Senator from North Carolina had to be necessarily absent from the floor for a few moments. So I will indicate now that when he gets back while this effort is underway I may ask him if he would be willing to allow us—I am not asking this now—to temporarily set aside the Helms amendment on Panama to consider some of the dozen or so amendments we still have remaining on the drug bill.

In the interest of time, I will indicate to the Chair, to my colleagues, and to their staffs who may be listening that I will at some point, at the first reasonable opportunity, be proposing a Biden amendment on State and local drug enforcement.

The intent of the amendment, which I will discuss in more detail, will be to provide more help for rural America in their fight against drugs. As the Senator from Illinois, the Presiding Officer, well knows, in the rural parts of the State that he lives in, drugs have not in fact decided that they will only reside in inner-city areas. It is a major problem throughout our country.

It is the view of the Senator from Delaware that we are doing much too little to assist State and local law enforcement, and State and local governments in their efforts to deal with the drug problem in rural America.

In addition to that, the amendment also has a second part which would provide for help through a drug block grant to local communities, and in this part there is much credit which should be given for the amendment that will be sent up to Senator KOHL of Wisconsin, which adds $15 million for citizen action groups to fight drugs in drug-blighted neighborhoods.

Then there is a third part of this amendment which we have passed in other forms in the past in our committee, and that is dealing with the particular focus on antigang efforts. It is not only the so-called Bloods and Crips—and I hate even mentioning their names because it gives them the kind of notoriety that I think they most seek, and they are thugs. But the Bloods and Crips are the most high-profile examples. There are other examples in over 250 cities in this country which are also dealing with a gang problem.

It provides help for juvenile antigang initiatives to the Department of Justice. It also contains provisions for funding of 1,000 new drug prevention projects, including youth programs and projects in public housing, particularly Boys Clubs and Girls Clubs.

One of the reasons we are now having so much difficulty in public housing is the obvious one relating to poverty, but there are also reasons relating to no access or availability of reasonable outlets for young men and women in those communities.

So that will be the first amendment I will be sending to the desk, I say to those who may be listening in their offices.

I just wanted to put them on notice in the hope that Senator HELMS will be willing, as he was so gracious to do yesterday, as we agreed to 31 different amendments of significantly strengthening the antidrug package proposed by the President, to temporarily set aside almost in every instance his Panama amendment while we attempted to work it out.

Mr. President, while we are awaiting the return of the Senator from North Carolina, who is necessarily absent, I would like to take this occasion to discuss a little bit about the drug bill.

Mr. President, as I have said time and again, and apparently as a number of my Republican and Democratic colleagues agree, my debate thus far with the President of the United States and the administration on his drug strategy has been about the very heart of the strategy.

I disagreed with the strategy. The strategy that has been put forward is one that has set within the strategy certain goals that the President says will be measures of our success or failure.

He is required by the law that you and I and others in this body wrote, the so-called drug director law, to set out a strategy once a year which he has done faithfully in the first strategy, and also to set out a series of goals that he hopes to be able to achieve within certain timeframes.

The reason I wrote that into the law when the law was written some years ago was not to put this President or the last President, President Reagan, or the former President, President Carter, or the next President, whomever it may be, in a ticklish position, a particularly difficult position. The reason that I wrote it into the law was that the only way we can measure it, whether or not we are succeeding or failing in our war against drugs, is to have some sense of what progress we are making. And, further, it is necessary to lay out goals so that you can measure the allocation of effort and resources that has been made available against the success or failure of reaching a goal.

It may be, for example, that it is wiser to expand money after a year of attempting to do it in one area and seeing that it does not reap much of a benefit—to reallocate that money—and put it into another area in the drug bill.

So, Mr. President, I will be, at some point, considering proposing this as an amendment as well, although I have not made that decision.

I would like to go down for a moment and discuss some of the goals that have been set forward by the President and illustrate why I have such a fundamental disagreement with the goals and the strategy. For example, the President sets in his strategy a goal regarding current monthly overall use. That is basically the so-called casual drug use. If the President will observe on the chart which has been put up, since 1985, in terms of total number of people who use the drug at least monthly, we have seen that it has dropped from about 25 million people to slightly less than 15 million people, for a 37-percent drop, almost 10 percent per year between 1985 and 1988.

President Bush's plan says that they will have succeeded in their strategy—if you look at the chart in the back of the Chamber—if, by 1991, there has been an additional 10 percent reduction among casual users. Now, as you can see, Mr. President, the line representing the reduction of consumption by casual users was going down at a fairly steep rate, actually a little more than 10 percent per year.

Now, the President's goal and ambition is to—you see the red dot line; it almost levels off. He says we will have succeeded if we reduce it by 10,000 in the next 2 years. Well, that is less than we have been doing every year for the past 3 years, without a drug strategy. The Senator from Delaware suggests that our goal should be an additional reduction of 37 percent in the number of people reporting any illegal use of drugs within the past month. We think that is not particularly ambitious and is a more appropriate goal. That represents the black line, the so-called proposed goal. It is essentially a continuation of the rate of reduction that has taken place over the last 3 years.

In fairness to the administration, Mr. Bennett argues that, well, the reason it dropped so drastically in the last 3 years is that we got all the easy folks off, and the only ones left are harder users. By definition, they are not harder users, because they are people who only use drugs once a month. They are not addicts. I think we should be less timid and more ambitious in our fight in this war on drugs.

A second goal that you will see up here is the weekly cocaine users, which most people refer to as the addicts, people who use it on a weekly basis. Now, we have had a disturbing trend, acknowledged buy the administration and others. That is, in 1985, you can see there were roughly 647,000—to be more precise—cocaine addicts in America. In 1988, at the very time when casual users were dropping in number, the number of cocaine addicts was increasing in number. By 1988, the number of hardcore cocaine users or addicts was 862,000 people, up from 647,000.

Now, the administration came along and said, "Look, by 1991, within the next 2 years, what we the administration would view as winning, as success, is if we reduced the rate of increase by 50 percent." Said another way, success would be success if that red line continues, and it goes from 862,000 hardcore cocaine users to 970,000 hardcore cocaine users, an increase of over 110,000 cocaine users. So, the President says, "My strategy will have succeeded if within the next 2 years, by 1991, we have an additional 110,000"—to be more precise, 112,000, I think it is—"more cocaine addicts."

Now, I understand that the President may think that is all that can be done with the limited resources he is willing to apply to the job, but I think that is the wrong strategy and the wrong goal for the United States to set. I do not think we will have won the war, or been on our way to winning the war, if within 2 years we say, aha, now we have almost 1 million cocaine addicts, and before we only had about 850,000 cocaine addicts. I do not consider that success.

I think we should have as a strategy and as a goal reducing by 10,000—and it is not all that ambitious—but reducing in absolute terms by 10,000 the number of cocaine addicts that are out there within the next 2 years. That is where we see the black line, the Biden-proposed goal, that black dotted line. This is so that we get the trend going down and not continuing up, although admittedly continuing up at a less steep rate, but still at a steep rate.

Mr. President, this debate that we have had with the administration—apparently most of my Republican colleagues agree with me, because they have been voting with me the last 2 days to add resources and effort—is not about money, is not about taxes. It is not proposing any new taxes. It is about what the goals and ambitions of this Nation are relative to drugs. I wonder if the American people would say we have succeeded, if success was defined in terms of adding 110,000 cocaine addicts in 2 years.

Mr. President, there are other goals that we are in disagreement with, that the Senator from Delaware and many of his Democratic, and I suspect Republican colleagues as well, have strong disagreement with. That is the

notion set out in the strategy by the President that those monthly users who are adolescents are in a position where, if you look at that chart, we find ourselves talking about a reduction that has taken place over the last 3 years. That reduction that has taken place over the last 3 years has been—let me get my proper chart here—adolescent monthly users. That reduction, you can see, that has taken place has dropped from roughly 3,260,000 adolescents—think of that! That is people between the ages of 12 and 17. It dropped from 3,260,000 adolescents, who have, on a monthly basis, used an illegal drug, down to 1,866,000. This is before the drug war was declared, before the President's strategy. That is a decrease over the past 3 years of almost 42 percent. That is without this new strategy.

Now, Mr. President, the President says that we will have succeeded if within the next 2 years that reduction does not continue at over 10 percent a year, over 13 percent a year. That is not success. He says success will be if in the next 2 years that reduction almost levels off and you only reduce it 5 percent per year or 10 percent in the next 2 years, again a fundamental disagreement. We think that is an inappropriate goal and we think that with the proper strategy we are capable of reducing that number.

For those who are current monthly users, who are adolescent, we believe we can continue that reduction significantly. If you look at the black line, we think we can reduce the number of monthly adolescent users by double what is there, by another 40 percent, or thereabouts.

We see no reason why we cannot do that, given the right education programs, given the right treatment programs and given the right law enforcement effort. That is not an overly ambitious goal.

We also have, if you look at the other chart, Mr. President, the President's goal for treatment on demand. He says that if you look at the percentage of people on the left who require receiving treatment on demand—that is people out there, by the way, who are now addicted and are raising their hands and saying; "Look, I am committing crimes. I am ruining my life, but I am addicted. I cannot get off this drug. I need help. I want to get into a drug treatment program."

Right now, according to State and local agencies around the country, there are over some 50,000 of those people who are literally standing around, some may be in the gallery, literally, literally seeking help, and they go to the agency and say: "I need help. I do not have the money. I do not have the insurance plan. I want help to get off the drugs." And those people cannot be treated now.

There is on average, about an 8-month wait in major cities in America. In small cities, you are down to around 2 months' time. It takes time. The President's plan says they want to help those able to get it on demand now which is less than, looking at the chart, about 12 percent. They say they will have succeeded if by the year 1993, not 1991; in the next 4 years, they have increased that to roughly 25 percent.

So one in four people who need help and are asking for it can get help.

There is a simple reason for wanting to help these people. It is not out of the goodness of my heart. It is not because I am a humanitarian. It is not because I am such a decent fellow and want to help my fellow man. It is real simple. I do not want my wife beat up, bludgeoned in the supermarket parking lot on her way home; I do not want my mother burglarized tonight in her home and have her television taken and her jewelry, by people who are addicted and who have no choice as a practical matter unless they own a bank, but to get money to go out and pay for their cocaine, or their heroin or their crank or their crack or their ice or their parachute, or any of the other names that the various drugs are known by.

We have one of two choices. You arrest them and put them in jail, which we went a long way in doing yesterday when the Biden amendment was agreed to, increasing the number of FBI agents by 1,000, the number of DEA agents by over 300, et cetera, and received unanimous support in the Senate. That is one way of doing it.

There is a second way. You get them into a treatment program even before you can catch them or arrest them and you get them off the drug so they do not have to do that.

Or you continue to try to chase them down and in the meantime those 5,000 people or many more who are seeking help to get off, you only treat one in four of them, meaning that three out of four out there are going to burglarize our homes tonight or use violence to deprive us of our property so they can provide for their drug habit. It is not humanitarian; it is pure naked self-interest on the part of American society.

Even if they are not cured, crime among addicts in treatment regimes at the time drops by 80 percent. And the average cocaine addict, the average heroin addict, as the Senator from New York can tell you, who is on the floor, better than anyone, they commit tens of thousands and thousands and thousands of crimes. Six percent of all the violent criminals in America commit about 80 percent of all the violent crime in America.

Mr. D'AMATO. Mr. President, will the distinguished gentleman yield just for an observation?

Mr. BIDEN. I yield.

Mr. D'AMATO. Mr. President, as relates to those statistics, the fact is there has been a study, as I know that my colleague is aware of, done in Baltimore some years ago; and I recall the first time it indicated that the study as conducted related to 242, I believe, heroin addicts who were tracked over a period of 11 years. That was both when they were incarcerated and free. A good deal of this time they spent in prison, you have to understand, which will make these statistics even more staggering. It was estimated that the 242 criminals had committed in excess of 500,000 crimes. That might seem staggering, but I think it bears out that which Senator BIDEN, my colleague, is talking about, the need to see to it that the recidivists are taken off the street, kept off the street, because it does not make any sense to make an arrest and put them back out there, which is literally what we are doing in my State and the city of New York.

If you do a little multiplication, that would come out to about 109-plus crimes each year each committed; multiply 242 times 11, and that is what you get. While it might sound absurd, the fact is they are walking crime machines.

I commend the Senator for his observation as it relates to this.

Mr. BIDEN. I thank my colleague, but when you think about it, it is staggering, 192 crimes per year per heroin addict. Think about that. Unless a herion addict is already a wealthy woman or man, owns a bank or has an incredibly wealthy mother or father who is going to support his habit, think about it. What happens it is a little like what happened to the caveman. They did not have refrigeration; they had to go out and club their fowl every single day in order to be able to eat the next day. That is what happens here. One hundred ninety-two times means that 2 out of every 3 days they have to be out there, almost 2 out of the 3 days they have to be out there committing crime to get the money by stealing my television and selling it on the market. A hot television brings enough money just for a day's worth of heroin.

This is not something crazy. This is real, this is real life. Crack addicts are required physically and mentally as a practical matter to hit up 12 to 20 times a day. Just assume they are buying a little $5 piece. Twenty times 5 gets up there. On a weekly basis it is fairly expensive; on a monthly basis it is staggering; on a yearly basis it is incredible. And none of these people have jobs.

I know it sounds almost ludicrous to say it, but unless we get them into treatment and/or prison and treatment while they are in prison so they

break the habit, we are the victims. And the President's proposal is that we are going to have to only be able to increase treatment on demand by about 12 or 13 percent. We believe by 1993, in the next 4-year period, we should be able to have total treatment on demand for our own safety's sake.

Again disagreement with the President's strategy as evidenced by his goals.

Education programs in America. Now everybody says, with regard to education, that the public agrees, the experts agree, everyone agrees that in order to keep young people off of drugs the single most significant thing we can do beyond, in addition to and including reinforcing their values in their family life, et cetera, is to educate them as to the dangers of drugs.

Senator KENNEDY has pointed out in a study that came out of his committee that his committee talked about, that there is in fact success in education. They took a control group of students. They said we are going to take one group of students and we are going to expose them on a fairly regular basis to prevention and education programs. They said, OK. What we are going to do is we are going to take those kids between 6th and 10th grades and we are going to measure the group that we have educated against the group we have not educated. We found out that those students who receive no education on the dangers of these drugs, among those who did not between the grades 6 and 10, 7 percent became heavy marijuana users; And those that received education, only 3 percent became heavy marijuana users.

Then, with regard to cocaine, those who received no education on the dangers of cocaine, 3.7 percent of all the students in America between grades 6 and 10 became cocaine users. Of those that received education, only 1.4 percent became heavy cocaine users.

It did not help eliminate all the use of marijuana or cocaine, but it is a decrease by almost a third—almost a third fewer students ended up using cocaine and more than 60 percent fewer students ended up using marijuana heavily. It works.

My argument with the strategy here is that if the strategy of the President is allowed to be put in place and not altered—right now we reach one in four students in America with any drug education program. By 1990, we will have reached about 27 percent of the students. By the year 1992, the President says we will have succeeded—success will be accomplished in the area of education—by enabling us to reach about 28 to 30 percent of those students; 3 in 10. We believe there is no reason on Earth why, within the next 2½ years, we cannot put in place programs that 100 percent of the students in American schools will have been exposed to a drug education program. Fundamental disagreement with the President of the United States.

I do not mean to suggest the President does not want to have everybody educated. I am sure he does. I am sure he does not want anybody to use cocaine or marijuana or PCP or heroin or anything else. But I suggest, Mr. President, this is not merely a battle about funding. This is a battle about what our objective is. We believe—and I know the Presiding Officer who is a leader in the education field in this body and was when he was in the House and is recognized as such nationally—we believe education works. The President acknowledges that it works. If it does, we believe it should be a priority so we do not have another portion of a generation lost because we have waited incrementally to raise the education level on this issue.

Mr. President, the last chart.

I saw my friend from North Carolina was back and my friend from New York is here. He is waiting to speak. I will have plenty of time to speak to this.

Let me just speak to the last question here. The last question relates to the number of crimes that are drug related violent crimes. I emphasize, not property crimes, but violent crimes.

In the year 1986, the number of drug related violent crimes was about 1.3 million. The President, when he set out the drug strategy, set no goal for what we would measure as success. If the trend continues, by 1991, the number of violent crimes, drug related violent crimes, will have increased to about 1.8 million in America.

We believe we should set a goal of a net reduction by the year 1991 of moving back to the 1986 level so that it could continue to go down, a net reduction of about 250,000 violent crimes in America.

Now these are not just numbers the Senator from Delaware has pulled out of his hat. These are numbers and goals that we believe, after speaking to the experts around the country, that we can accomplish by wisely allocating resources and wisely increasing efforts in particular areas.

There are specific plans associated with how we get to those goals. The Senator from Delaware has already on the floor and will again propose teacher training programs and the placement of drug experts in school districts for training that will allow us to reach 100 percent of the students by the year 1992. The same can and will be said for all the rest of these areas.

Mr. President, there are others on the floor who wish to speak. My friend from New York has been waiting to be recognized. I know he has been here a long time.

Let me say two things in conclusion: One, we can have the capability, we know how to reduce in real terms the danger that the drug epidemic is posing to America. We know how to do it. But first we must do one important thing. We must mean what we say. Our goals and our actions must match our rhetoric. If, in fact, drugs are the single most important problem facing America and threatening our youth and elderly alike, then there is a no reason we cannot find the $57 million out of our $1.3 billion this year to hire a thousand FBI agents.

We adopted that yesterday. Now we have to appropriate the money.

There is no reason why we cannot do that if it is that much of a priority. We came out here last week on the floor of the U.S. Senate and, without any debate to speak of, we passed—bang—almost $1.2 billion in disaster relief to help our friends and fellow citizens in Puerto Rico and South Carolina, the victims of Hurricane Hugo.

We should do that. We had no problem. We moved—bang—$1.2 billion.

Yet the Senator from Tennessee, the Senator from Delaware, and the Senator from New York sat up night after night after night after night for 3 weeks in a room one floor down in a wrenching debate with the administration about providing another $900 million to fight the war on drugs.

What is the story here, Mr. President? Do we mean it or do we not mean it?

I respectfully suggest to the Presiding Officer that unless someone can tell me that I am wrong about our capability of educating children, wrong about our capability of targeting and destroying drug organization networks, wrong about our capability of reducing the consumption of drugs among casual users, wrong about our capability of reducing the number of hard-core drug addicts in America—unless they can tell me that, then they must do one of two things: They must say drugs are not our most important priority and that is why we are unwilling to make the resources available; or they must say they are and here are the resources, even at the expense of other worthwhile things.

That is what this debate is about, Mr. President. The press on occasion—and the administration—keeps saying well, the debate with Senator BIDEN and others is really not about strategy, it is really not about goals, it is only about money.

With all due respect, Mr. President, that is hokum. The debate is about strategy, it is about goals, it is about priorities.

I am now prepared to yield to a man with whom I have worked very closely on this drug issue since he has been in the U.S. Senate. I know several who have worked as hard but I do not know anybody who has worked any

harder. And I do not know anybody who represents a constituency for whom this problem is more urgent than my friend from New York.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The Senator from New York.

Mr. D'AMATO. Mr. President, I thank my colleague, the distinguished Senator from Delaware, chairman of the Judiciary Committee, and say I look forward to working with him to attain the goals he has set forth, particularly in the area of education and the reduction of drug use. I think we should set a lofty target and fight to attain that target. In order to begin to win this war, we must put the resources behind it and the commitment behind it and undertake the kinds of programs that are going to make a difference.

Making a difference is not just simply saying yes, we are going to help the Government of Colombia. Because if we help them and they are victorious, what about Peru and Bolivia and Brazil where the cartel will move to and seek sanctuary? Are we going to just talk about it or tackle the tough ones?

What about drug testing? Oh, do not mention it. But I will tell my colleagues, if we want to get youngsters to stop taking drugs, let them know there are privileges they may lose if they use drugs.

Drivers' licenses; why should there not be drug testing for first time applicants for a driver's license?

We say, yes, there should be drug testing for people who are in positions of responsibility where the safety of the general public is at stake. In fact, there is a big furor right now. How is it that two airline pilots who piloted USAir flight 5050 2 weeks ago, that had an aborted takeoff and landed in the East River, with two people dead—we could not find the crew for 2 days?

I do not know whether they were or were not under the influence of anything, and I do not make that accusation. But we better have a law that requires that people who are the engineers or crew of common carriers to be available for testing, instead of taking off someplace.

We will hear the civil libertarians on the other side saying, oh, no, you are violating their constitutional rights. What about the constitutional rights of the millions of people who travel on common carriers, who are being victimized by crime as a result of the drug situation, or the tens of millions who are afraid to leave their homes to go to the parks or to use our mass transit systems? What about the tens of millions in the future? Are we going to continue to have fancy rhetoric and yet not back it up?

I believe the Senator from Delaware is correct when he says we need to set high goals and we should shoot for them and work for them. We know we do not always hit the mark the first time in our efforts to galvanize this country to win this war.

Mr. President, talking about words, I believe the pending business before us is the Helms amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, I do not think the Helms amendment goes far enough. I have heard people saying this would be a declaration of war. Well, maybe it is about time we said, we are going to have a war against an international drug cartel. Here we have a thief, a murderer. Here we have somebody who rules by way of the gun. Here we have someone whose people have total disdain for him, the Panamanian people. Here we have an avowed enemy of the United States, a drug trafficker and a dictator.

We have spoken out about him. We violated every cardinal rule of diplomatic language. We induced the President of Panama to leave office under absolutely implied promises and specific promises of United States aid. That is right. We forget that President Duvalier risked everything—family, fortune, life—because the United States said to him, if you call for the removal of Noriega, we will support you.

Well, we imposed economic sanctions. They are certainly crushing the people of Panama. Oh, yes, some countries closed their embassies. Noriega is held in great disdain and we say repeatedly that we want him out. But the PDF, the Panama Defense Forces, have to lead the action aganist him.

So this past Tuesday, that is exactly what happened. A group of PDF officers took us at our word, Mr. President. They took the United States at its word. They led a insurrection against him. They actually had Noriega.

There was no question as to our policy about Noriega. We wanted him out. The President says we want him out. The Congress says we want him out. As a matter of fact he is a wanted man here in the United States.

Now we are told, well, we had no reason to believe that these people were reliable, that we could trust them. The leader of this crew, Major Giraldi's character is in question. I said before and I say again: Do we expect choirboys to lead a revolution? Lead an insurrection?

What nonsense. Do we run a background check on people who are fighting for freedom and asking for help?

They say we may have made a mistake to trust him. It could have been a trap. How could it have been a trap if we were watching it happen? And I am told that U.S. installations there could see clearly into PDF headquarters where the battle was taking place.

Did they think the gunfire was a lark? Did they think the shooting and explosions they observed, that they were not concrete, they could not put belief in them? Did they think people came to seek sanctuary with us because they were not afraid for their lives?

Oh, they say the rebels did not want to give us Noriega. That is what I hear.

Well, my friends in Panama tell me the fact of the matter is the rebels could not transport Manuel Noriega through the streets with gunfire raging and a battle going on. So when they say, well, they were not willing to deliver him, that is true; that is true.

But it is not the whole truth. Because the full truth is that they could not. The rebels reportedly said send a helicopter in to take him out. I am told that they finally gave Noriega up. Why did they give him up? I am told because the families of those officers who were leading this coup, this insurrection, were captured, held hostage, and the rebels were told that their wives and daughters and children would be slaughtered unless Noriega was released.

So, an effort to get rid of a dictator, to create an opportunity for freedom and for democracy for the people of Panama has been lost. It has been in vain.

Mr. President, let me say this. There is a saying: No pain, no gain. We talk about it in athletic competitions. This is not an athletic competition but I, for one, am tired of seeing the United States get the blame, get the pain, and make no gain. I think it is about time that we had a policy that said that we are dedicated to the cause of freedom and democracy in Panama and will assist in a meaningful way those who put their lives at risk for this cause. There are some risks attendant to democracy—in obtaining it and preserving it.

Our forefathers took those risks. Those people that came to the aid of America when we needed it, they took that risk. And I cannot believe we flinched from the risk because—oh, my gosh, this may be a trap.

What about the nine officers whom we have reason to believe have been executed by Manuel Noriega? What do you say to them, and what do you say to their families? And what do you say to Mrs. Giraldi whose husband has been executed?

This is a sorry time for the United States of America.

Maybe it is about time we said, yes, very clearly we will use whatever force is necessary to bring about the removal of this killer, this tyrant, this minion of the drug cartel. Action, not just words gives true meaning to what

America should be about. As Franklin Delano Roosevelt said, America is the arsenal of democracy. I do not think that arsenal is depleted.

I hope that some in the military and some who are concerned only about politics will begin to examine what has given strength, liberty, and greatness to this country. It is not weak-kneed explanations for a failure of coordination, of planning, and of the ability to move decisively when the opportunity provided itself.

Who now will step forward in the PDF after this botched opportunity this incredible stain on us, on the United States, because of our failure to act? Mr. President, if we are going to be blamed, I hope that we would respond in our own interest and for the interest of democracy. We do not need a resolution that says that the President has that authority. He does. What we need is some resolve. What we need is some leadership as it relates to the military and the intelligence community that begins to do what is best for world peace, for our security and for freedom in Panama.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Tennessee.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION

Mr. SASSER. Mr. President, I wish to call to the attention of my colleagues an article that appeared in today's Wall Street Journal authored by two of the most credible journalists on Capitol Hill, Mr. Alan Murray and Mr. John Yank, an article that, in my judgment, lays to rest any doubts about where the administration's true priorities are with regard to deficit reduction.

Just let me quote from the story written by these distinguished journalists for the Wall Street Journal: "The administration couldn't have made it clearer: Cutting the capital gains tax was a higher priority than cutting the budget deficit."

Mr. President, that is a conclusion drawn by the Wall Street Journal. And what is the basis for that judgment? The fact is that the administration killed a proposal offered by the bipartisan leadership of the House of Representatives to move to a stripped-down reconciliation bill. The facts are, as I understand them, that the minority leader, Mr. MICHEL, communicated with the Speaker of the House of Representatives and indicated to him that the extraneous matters should be stripped off the reconciliation bill. The distinguished Speaker of the House of Representatives agreed with the minority leader and said they should be, but also said that capital gains was an extraneous matter which also should be stripped off. As I understand it, there was agreement between the two leaders that all of these matters would be stripped and, in return, the Speaker of the House of Representatives would give the minority leader and the administration an up-or-down vote on the capital gains issue.

The Speaker of the House of Representatives knew that capital gains was, indeed, an extraneous issue to the budget resolution. He knew it was extraneous to the budget summit negotiations that took place during the spring of this year because the then majority leader, now Speaker, Mr. FOLEY, was an active participant in almost every moment of those negotiations. Those negotiations indicated that $5.3 billion in revenues would be raised. These were the revenues that had been allocated in the Reagan budget. These revenues would be agreed upon between the administration and the Congress, and they would be so-called nonduck revenues. There would be no finger pointing. We would act responsibly and together to deal with the problem of the deficit and the fiscal danger that this country faces.

But when Mr. MICHEL was given the opportunity to move forward with a stripped-down reconciliation bill with the caveat that he could have an up-or-down vote on capital gains, he seized the opportunity, and rightfully he did because the distinguished minority leader in the House of Representatives saw immediately that the only real opportunity we have to abide by the terms of the budget agreement that we negotiated last spring was to move as we had agreed to last spring. That was the only real opportunity to avoid sequester.

Mr. President, that clear and simple and sensible proposal was torpedoed by none other than the Director of the Office of Management and Budget, Mr. Darman, and the Chief of Staff, Mr. Sununu, at the White House. Frankly, I was stunned and, I might say, saddened that the Director of the Office of Management and Budget, Mr. Darman, who has made so many public displays of his deep concern for the long-term economic needs of this Nation, opted so instinctively for short-term political gain. And that about sums it up, Mr. President. That is why we are looking right down the gun barrel of a sequester today.

I indicated to the Director of the Office of Management and Budget today in the Governmental Affairs Committee that part of his responsibility and my responsibility and the responsibility of every Member of this body is to have an orderly management of our Government, and if there is a sequester, it signals a failure of leadership; a failure of leadership from the White House all the way down. It will mean that chaos will ensue and with this chaos will come a lack of confidence in this Government and in those who seek to lead it.

I say that this failure of leadership can be traced directly to the motives that led to the rejection of a proposal that was agreed upon by the Speaker of the House of Representatives and the distinguished minority leader there.

The efforts that we have seen over the past few days by the minority in this body to slow down the U.S. Senate, to stall it, even as we move toward sequester, I think, are part of the same cynical logic.

I say to my friends in the administration and my friends on the other side of the aisle that the administration may get its Maypo and it may get its Maypo now, but the cost is likely to be more than just a sequester. The cost is likely to be a shattered hope for any kind of long-term resolution of our deficit problem, a resolution that the American people, I think, are entitled to.

Let me restate a point, Mr. President, that it seems to me self-evident but it is one that nonetheless needs to be restated, given the prospects we face in this body over the next few days, and I might add the next few nights.

We are approaching a protracted debate on a time-sensitive reconciliation bill, a debate created by the administration's obsession with a capital gains tax cut. The simple irreducible fact is this: A reduction in the capital gains tax rate is not deficit reduction. It has no business on a reconciliation bill.

I submit, Mr. President, that the administration understands that. The administration does have a right to present their capital gains proposals. It is a legitimate issue in the country. There are Members on both sides of the aisle who favor capital gains.

I say to you, quite frankly, that, properly structured, this is one Senator who could support the concept of capital gains that does, indeed, encourage people to hold their property for long-term capital gains.

But this proposal before us is not a deficit reduction matter. The debate about the benefits and cost of the capital gains reduction ought not, I say ought not, to be swallowing up the larger debate about this Nation's fiscal condition. And I do believe that our friends in the administration understand that as well. If they do not, they ought to.

We are allowing a collateral matter, a digression, to displace the main topic of discussion. We are, once again, allowing the luster of easy money to ob-

scure the task ahead. We have allowed ourselves to get into a bidding war as to what should be the final resolution of this matter.

I well remember the last bidding war between a former administration and this Congress. It resulted in the 1981 tax bill which, by the Reagan administration's own OMB figures, has cost the U.S. Government $1.8 trillion in forgone revenues since 1981.

I say to my colleagues there is your budget deficit; that is why you have seen a doubling and tripling of the national debt over the short space of just 8 years.

We opted in 1981 for the perverse logic that tax cuts would stimulate investment, promote economic activity, and swell the Treasury, and now we are being offered to swallow the same rope-a-dope once again.

Once before we bought that piece of swampland that is about 10 feet underwater, and we know what happened then. We are still up to our necks in the water as a result of it.

For that reason, there is certainly a measure of irony, I say, in the fact that the reconciliation bill which is meant to correct the deficit crisis created by the 1981 supply-side tax cut is becoming the vehicle for supply-side No. 2. Here we are arguing about a tax cut, no deficit reduction, while at the same time we face a sequester on October 16, and we are probably going to repeal the catastrophic health bill that puts another $5-billion-hole in the budget.

I submit to my colleagues that those who willfully ignore the past are condemned to repeat it, and I suspect that is where we are now headed.

That, I fear, is the road we are about to embark upon. The truth is we simply cannot afford the capital gains tax cut. It will, like the 1981 tax cut, be a drain on the Treasury. The Joint Economic Committee and the Congressional Budget Office tell us it will lose $21 billion in the next few years. It will be a drain that adds to the steady flow of red ink that we have not, even with the Gramm-Rudman-Hollings or any other such artificial device, really found a way to slow.

The Joint Tax Committee, as I said earlier, estimates that the Jenkins capital gains proposal will begin losing large sums of money in fiscal year 1993. The losses it creates will nearly double the gains that it achieves by fiscal 1994. By the end of the 1990's the net revenue loss will be $21.5 billion.

Over the long run, the capital gains tax cut will negate every single penny we have saved this year from the deficit reduction measures included in the reconciliation bill. Let me restate that. If capital gains prevails, we will not have made a penny's worth of progress on the deficit. What we will have done instead is to cut Medicare benefits, cut payments to farmers, reduced spending on numerous discretionary programs, and for what? Not to reduce the deficit but, rather, to pay for a tax cut for the wealthiest segment of our society.

Mr. President, I do not think it is populist demagoguery to oppose that kind of tradeoff. It is not soak-the-rich rhetoric to say that this particular zero sum game is simply inequitable. It is bad fiscal policy. It is bad tax policy. It is bad policy for the American people, in my judgment. But be that as it may, this capital gains controversy has no business on this budget reconciliation bill.

Once again, I say to my colleagues that we need to separate the whole capital gains-IRA debate from budget reconciliation. We should move quickly to pass a clean reconciliation bill which succeeds in meeting the terms of the bipartisan budget agreement that was solemnly reached early this year.

We are going to have plenty of opportunity to debate the relative merits of capital gains. We are going to have plenty of opportunity to debate the relative merits of the individual retirement accounts. But we only have until October 16, I remind my colleagues, before we trigger the automatic, across-the-board cuts that in my view are absolutely unnecessary.

How are we going to look to the American people? How are we going to look to the elderly Medicare recipient who gets a Medicare check that has a 2-percent cut in it? Why? Because the administration, the Congress, cannot agree over this divisive issue of capital gains. Why? Because the administration and the Congress cannot even agree to carry out their agreement made in this spring's budget negotiations, an agreement that was solemnly written, and announced by the President of the United States at the White House in an elaborate and impressive Rose Garden ceremony. That is all out the window, all out the window because some say we want our Maypo now, and we want it today.

Mr. President, I yield the floor.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am recognized; is that correct?

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I am a little bit confused about the delay. I have been ready to vote for 1½ or 2 hours on the amendment. I made a proposition to the managers of the bill to allow them to modify it to meet the concerns of some Senators. I do not share those concerns, but I am willing to cooperate with the Senate.

I fail to see why we cannot move along and have a vote. In the meantime, Mr. President, let me ask unanimous consent that a summary of the charges against General Noriega be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Let me quote from two press releases, of February 5, 1988, from the Middle District and the Southern District of Florida, outlining General Noriega's complicity in drug operations. First of all, Noriega and one other man identified as a prominent Panamanian businessman and close associate of Noriega, were indicted on charges of conspiracy to import and distribute marijuana and the attempted importation of in excess of 1 million pounds of marijuana. The press release goes on in the next paragraph:

> The grand jury alleges that millions of dollars in U.S. currency representing the proceeds from the successful importation, in June of 1983, of 280,000 pounds of marijuana into the United States * * * the money was transported to Panama and laundered through Panamanian banks and businesses.

The indictment further alleges that Noriega and this man Pretelt, a prominent businessman and a close associate of Noriega, and a man named Ceasar Rodriguez-Contreras approved the operations. Reading further from the press release from the U.S. Department of Justice, Middle District of Florida, U.S. attorney's office there:

> The indictment further alleges that Noriega, Pretelt and Rodriguez agreed to facilitate the importation of 400,000 pounds of marijuana and the laundering of more than $100 million dollars in proceeds.* * *

It further alleges that during the course of the conspiracy these men authorized and approved marijuana smuggling and money laundering activities within Panama, and had agreed to future payments and so forth.

But the entire summary of the statement from the U.S. attorney of the Middle District of Florida, of February 5, will be very informative to Senators, I hope, as to the kind of man we are dealing with, the kind of man who escaped Tuesday after being taken into custody. He could have been transported to Florida where he would have been tried on the charges on which he is indicted.

So I ask unanimous consent that this entire information be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

DEPARTMENT OF JUSTICE, U.S. ATTORNEY, MIDDLE DISTRICT OF FLORIDA,

Tampa, FL, February 5, 1988.

PRESS RELEASE

Robert W. Merkle, United States Attorney for the Middle District of Florida, announced today that a federal grand jury in Tampa returned a three count indictment against General Manuel Antonio Noriega and Enrique Pretelt, citizens of the Republic of Panama. Noriega and Pretelt are charged with conspiracy to import and distribute marijuana and the attempted importation of in excess of 1,000,000 pounds of marijuana. General Noriega, 49, is the Commander-In-Chief of the Panamanian Forces of Defense. Enrique Pretelt, 45, is a prominent Panamanian businessman and close associate of Noriega.

The charges relate to the importation and planned importation of enormous quantities of marijuana during the years 1983 and 1984. The grand jury alleges that millions of dollars in U.S. currency representing the proceeds from the successful importation, in June of 1983, of 280,000 pounds of marijuana into the United States by Steven Michael Kalish, Leigh Bruce Ritch and others, were transported to Panama and laundered through Panamanian banks and businesses. This illegal activity is alleged to have been conducted with the approval and assistance of Noriega, Pretelt and their since deceased co-conspirator Ceasar Rodriguez-Contreras ("Rodriguez") also a prominent Panamanian businessman and a close associate of Noriega. The indictment further alleges that Noriega, Pretelt and Rodriguez agreed to facilitate the importation of 400,000 pounds of marijuana and the laundering of more than $100 million dollars in proceeds that Kalish and Ritch expected to realize from the importation of in excess of 1,000,000 pounds of marijuana during 1984. It also alleges that during the course of the conspiracy, Kalish made payments to Noriega, Pretelt and Rodriguez of approximately 1 million dollars for Noriega's authorization and approval of marijuana smuggling and money laundering activities within Panama, and had agreed to future payments.

The indictment alleges that it was part of the conspiracy that Noriega, Pretelt, Rodriguez, Kalish and others deposited drug proceeds in various financial institutions within the Republic of Panama. It alleges that the group also planned more aggressive laundering efforts through such institutions in the future. The indictment alleges that it was part of the conspiracy that Noriega, Pretelt, Kalish, Rodriguez and others would, among other things, invest the deposited drug proceeds in various businesses owned by Servicios Turisticos, S.A., a Panamanian corporation in which Noriega, Pretelt, Kalish and Rodriguez had an interest. The indictment further alleges that it was also a part of the conspiracy to launder proceeds from the distribution of marijuana and cocaine by drug organizations other than the Kalish and Ritch organization. Toward this end, the indictment alleges that, among other things, Kalish purchased and caused to be purchased a Boeing 727 aircraft for the Panamanian Forces of Defense to be used for, among other things, the transportation of U.S. Currency derived from illegal drug trafficking activities from the United States to Panama.

The indictment also alleges that Noriega authorized the transshipment through Panama from Colombia of 400,000 pounds of marijuana destined for importation into the United States, disguised as a containerized cargo of plantains, a banana like fruit. Pretelt assisted in arranging for the transshipment through Panama. It is alleged that as part of this conspiracy: Kalish paid $50,000 to Panamanian shipping agent for the facilitation of the transportation of the containerized shipment of marijuana; that Noriega approved the issuance of a Panamanian diplomatic passport to Kalish and authorized the payment of $185,000 to an official of Panamanian customs to obtain official Panamanian Customs seals indicating the contents originated in Panama and not Colombia.

It is further alleged that as part of this conspiracy, Kalish and Ritch purchased the Cari Cargo I, a Panamanian vessel. They sent the Cari Cargo I from the Cayman Islands to Port Everglades, Florida, where it was outfitted for transport of the containerized shipment of marijuana. Kalish and Ritch then sent the Cari Cargo I from Port Everglades to Colon, Panama. It is also alleged that during the Spring of 1984, 400,000 pounds of marijuana was collected and packaged in Colombia for shipment to the United States aboard the Cari Cargo I. It is further alleged that $800,000 was paid to Eugene Davis, a teamster official, for assistance in the use of a New York City, New York, pier to off-load the Cari Cargo I of its 400,000 pounds of marijuana. Mr. Davis is currently under indictment in the Eastern District of Michigan on related charges.

These efforts came to a halt with the July 26, 1984 arrest of Kalish in Tampa, Florida.

Counts One and Two of the Indictment each carry maximum sentences of 15 years imprisonment and $125,000 fines. The maximum sentence that can be imposed on Count Three is 5 years imprisonment and a $15,000 fine. * * *

EXHIBIT 2

DEPARTMENT OF JUSTICE, U.S. ATTORNEY, SOUTHERN DISTRICT OF FLORIDA,

Miami, FL, February 5, 1988.

NEWS RELEASE

Leon B. Kellner, United States Attorney for the Southern District of Florida, announced today the unsealing of a 12 count indictment returned yesterday by a Federal Grand Jury in Miami, Florida. The indictment charges General Manuel Antonio Noriega, the Commander-in-Chief of the Defense Forces of the Republic of Panama and fifteen other defendants with federal narcotics violations including the Racketeer Influenced and Corrupt Organizations Act ("RICO"), manufacture, importation, and distribution of cocaine, interstate and foreign travel in aid of racketeering activities, and conspiracy to commit racketeering offenses and violate United States narcotics laws.

The indictment charges the defendant, Manuel Antonio Noriega, with exploiting his official position as head of the intelligence section of the Panamanian National Guard and then as Commander-in-Chief of the Defense Forces of the Republic of Panama to receive payoffs in return for assisting and protecting international drug traffickers including Pablo Escobar-Gaviria, Gustavo Dejesus Gaviria-Rivero, Jorge Ochoa-Vasquez, and Fabio Ochoa-Vasquez, members of the Medellin Cartel in conducting narcotics and money laundering operations in Panama.

According to the indictment, Manuel Antonio Noriega protected cocaine shipments flown from Medellin, Colombia through Panama to the United States; arranged for the transshipment and sale of ether and acetone, including such chemicals previously seized by the Panamanian Defense Forces, to the Medellin Cartel; provided refuge and a base for continued operations to the members of the Medellin Cartel after the murder of the Colombian Minister of Justice, Rodrigo Lara-Bonilla; agreed to protect a cocaine laboratory being constructed in Darien Province, Panama; and assured the safe passage of millions of dollars of narcotics proceeds into Panamanian banks. In return for these services, according to the indictment, Noriega received in excess of $4.6 million.

Among the specific acts of racketeering charged in the indictment are the movement through Panama of in excess of 2000 kilograms of cocaine destined for the United States, and the transshipment of ether and acetone to a laboratory at a location as "Tranquilandia" in Colombia. Also detailed is the June 15, 1984 flight of Inair Airlines into Miami, Florida with over a ton of cocaine.

If convicted of all counts, Manuel Antonio Noriega faces 145 years imprisonment and $1,145,000 in fines.

Mr. HELMS. I thank the Chair.

I thought I saw the distinguished—I did see the distinguished majority leader. He is now conferring with the minority leader. I want to inquire about the prospects of a vote. There can be a motion to table, or whatever.

Mr. MITCHELL. If the Senator is interested in a vote, it is surely in my interest. We have devoted what I believe is more than adequate time to this subject. If the Senator is interested, I think the best thing would be for me to simply make a motion to table, or some other interested Senator might. Then we will have a vote on it.

Mr. HELMS. That is all right as far as I am concerned. I thank the majority leader. I thank him very much. I am, like he, waiting for something to happen.

Mr. MITCHELL. Is this all right with the majority leader?

Mr. DOLE. Yes.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I thank the Chair. I want to reiterate what I said earlier that some Senators, even some who favor strongly the original version of the amendment, have said they would feel a little more comfortable if we made the amendment read in modified form as follows:

Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the armed forces of the United States to (a) secure the removal of General Manuel Antonio Noriega from his illegal control of the Republic of Panama in order to bring General Noriega to trial in the United States under the terms of his February 1988 indictments on drug trafficking charges, and (b) protect the Panama Canal pursuant to the Panama Canal Treaty of 1978.

Now, I am comfortable with the amendment either way. I hope it will not be a motion to table the original amendment.

I want to make one more effort, if I may, to ask unanimous consent that the yeas and nays on the original amendment be vitiated and that I be permitted to offer a modified version of the amendment.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I want to respond to my good friend from North Carolina.

We had a brief discussion, he and I, earlier this morning on his amendment. I indicated to him at the time that we were seeing whether or not there was any possibility that we could work out a compromise, so that we would either move with an amendment allowing him to amend his original proposal, or see if he, along with the Senator from Delaware and the Senator from Georgia and several others, would be able to come up with a single proposal. And we have not been able to do that.

There is a proposal that many of us believe is appropriate and would meet the desired ends of the Senator from North Carolina. Obviously, the Senator from North Carolina speaks for himself, so I guess I should amend that to it would achieve the stated purposes of the Senator from North Carolina, without in any way doing violence to what the Senator from Delaware and others believe to be the relative or relevant provisions of the War Powers Act.

One of the problems that the Senator from Delaware and others have with the proposal, even as it would be amended, as proposed by the Senator from North Carolina, is that it assumes the President has authority, which we believe under the Constitution he does not have. So we have prepared a resolution, under the leadership of the Senator from Georgia, that would in fact allow, in a differently stated form, the ability of this administration to accomplish all that the Senator says he would like to accomplish, and we know he would like to accomplish, without getting us into the business of having inadvertently passed a 1989 version of the Tonkin Gulf Resolution, or without us inadvertently having amended the War Powers Act, without a debate on the War Powers Act, or having given congressional authority, which resides under the Constitution within the Congress, to the President, setting a precedent for future administrations to claim that they have the authority to do things, which the Senator from Delaware and others believe he does not now have under the Constitution and the authority to do without the consent of the Congress.

So I will not do it. But at the appropriate time, the Senator from Georgia will be here to explain the approach that we wish to take. It has been the sense of those on this side, and I believe a couple on the Senator's side of the aisle—although I cannot say that with certainty—that we should not allow the Senator to amend his amendment, and that we should go straight to a vote on the Senator's amendment, and after the vote on the Senator's amendment, go to a vote on the amendment that is going to be, at some point, proposed by the Senator from Georgia, that has been worked out in conjunction with the Senator from Delaware and a number of others, even including the leader.

Hopefully, we will be able to agree to that and, hopefully, that will meet the ends, although in a way different than the Senator from North Carolina would like.

That is a very fancy way of saying to the Senator from North Carolina, no.

Mr. HELMS. No.

The PRESIDING OFFICER. Is the Senator from Delaware objecting?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from Delaware objects. The Senator from North Carolina has the floor.

Mr. HELMS. I believe I got the message. I do not think anything involved in the War Powers Act is involved. I have not seen or been consulted about any negotiations on any other amendment. The Senator has folks on his side and perhaps some on our side. All I am saying is that we ought to send a message to Panama that we are not going to have any more of this foolishness, and from now on, the "Keystone Cops" will not be bumping into each other and saying we are not sure whether we are authorized to do this or not, which is what happened. I understand where the Senator is coming from, and I have no objection to it.

I do hope that the Senators will come in so we can get a vote on this thing. I have been sitting around for an hour and a half or 2 hours. I know the majority leader wants to move this along.

Mr. MITCHELL. I sure do. So Senators can be aware of it, we still have to complete action on the drug bill today and then take up catastrophic, and we hope to complete action on that today. One of the reasons that the Senate spends so much time considering matters at night is that we get so little done during the day. It seems to be a problem here.

I share the Senator's view, and I hope that momentarily the Senator from Georgia will be here and we will be able to proceed.

Mr. HELMS. I thank the distinguished majority leader.

Mr. BIDEN. Mr. President, while we are waiting for the Senator from Georgia, I would like to speak for a moment to the merits of the Senator's position and his proposed amendment, why the Senator from Delaware is not inclined to support giving unanimous consent for amending the amendment.

In the provision that is before us, and the proposed amendment to it, the Senator from North Carolina has proposed a change, which we have not given unanimous consent to allow to happen, and I will explain why.

It says, "Notwithstanding any other provision of law"—I will cease by the way, immediately upon the arrival of the Senator from Georgia, if that is what we are waiting for. I do not wish to hold this up.

This is how the Senator from North Carolina's proposed change reads as given to me by the Senator.

Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the Armed Forces of the United States to secure the removal of Manuel Antonio Noriega from his illegal control of the Republic of Panama.

Mr. President, that is reaffirming an authority that the President does not now have. The President has the authority under the proper circumstances, under existing treaties or under the Panama Canal Treaties, to take actions that are allowed by the treaties to engage in multilateral actions with the Organization of American States, but he does not have the authority now to go in, for whatever reason, and start a war, or to use force to go in and remove a particular person.

For example, the administration, the Attorney General, and Dr. Bennett point out to us that they do not even want the power to be able to shoot down drug-loaded planes flown by drug lords coming to the United States. They say that authority is not an authority they have now, and they do not want it.

They point out that they are against the proposal of the Senator from Delaware to have an international strike force which would be able to go

into various countries. They point out that they do not want—and rightfully so—and do not think they have the authority to use American military forces in Colombia right now.

We have indicted drug narcoterrorists in Colombia and Bolivia, and in other countries, and the President says, when asked why we do not go in and get them, that we have no constitutional authority to do that, and he is right.

He has no constitutional authority to do that. But here in the proposal by the Senator from North Carolina, and I think it is probably unintentional, he is reaffirming an authority that the President acknowledges he does not have, it is a very bad precedent. For if the President has the existing authority to go in and get Manuel Noriega because he is under indictment, he obviously has the authority to go get the Ochoa brothers, he obviously has the authority to go in and get Pablo Escobar, and obviously has the authority to go in any country if it is to get any of these indicted drug kingpins if he knows where they are.

So to reaffirm an authority is a fundamentally unsound constitutional notion because there is no such authority under the Constitution.

The administration might come up and they might like the change for all I know. I do not know that. But to suggest that they have the authority under the Constitution now to send in military forces to get Noriega when American citizens are not in danger, if they were not, when it is not in conjunction with an existing treaty, when it is not because of the violations of the Panama Canal Treaty, to suggest that there is just a blanket authority to go in implies that you could go into any country as long as you indict the leader. You indict the leader of the country, and you have under the Constitution unlimited authority as President of the United States to use military force to go in and get him.

Let us assume we decide Mikhail Gorbachev turns out to be a bad guy. We do not like him so much. Let us indict him. I am sure we can get a Federal grand jury somewhere in this country to indict him. We would then be able to declare war on the Soviet Union without any congressional authority, without the Congress doing anything at all.

Under this amendment, the President would have the authority—it has just been pointed out to me that the administration opposes the Helms amendment and the modification, so I now know they do not want this authority—but if this amendment becomes law, we would be setting the precedent that says "all you have to do is indict the leader of a country for whatever reasons and then the President has a total free hand. He need not even discuss with the Congress the use of military force in the name of going into that country.

I do not believe anybody really wants to set that precedent here. I do not even think the Senator from North Carolina intends that. I do not think he has any desire to do that.

But it is clear that that would be the effect of the proposed perfecting amendment were it approved. Let me read it again. The amended proposal says, "Notwithstanding any other provision of law, the President's authority is hereby reaffirmed."

Quite frankly I do not like either, but if I had to vote for one of the two I would vote for the way it is rather than the way it was. At least the way it is we are saying, "Mr. President, we in the Congress think you should declare war on Panama." At least we are in the game. At least the Constitution is involved.

But the other way it says, "Mr. President, you have the authority," which he does not have I respectfully suggest, "to use the Armed Forces, to remove Noriega, to bring him to trial in the United States and to protect the Panama Canal." He has the authority to protect the Panama Canal. There is no question about that in my view consistent with the treaties, but he does not have the authority to go in and bring him to justice by using the Armed Forces. And again I say that it is for a sound reason.

I am sure the Senator from North Carolina does not intend it. But under this proposed change we would have set a precedent that all we have to do is indict someone and from that moment on the President of the United States has authority, without ever checking with the Congress, to go get him.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BIDEN. I am happy to yield.

Mr. HELMS. Senator SPECTER discussed that at some length very persuasively this morning. He disagrees with the Senator.

Could I ask the Senator a question?

Mr. BIDEN. Yes.

Mr. HELMS. Does the Senator think President Reagan had the authority to send military forces into Grenada?

Mr. BIDEN. I do, because he was excercising the authority he has inherent under his power as the Commander in Chief to protect American citizens who were demonstrably in danger, or that was the claim.

The President said,

> I am not sending these troops in to rescue that country from communism. I am not sending these troops in to rescue the country from danger. I am sending these troops in specifically to protect the American medical students who I say are in danger.

Mr. HELMS. I will say to the Senator we read the Constitution differently as to the President's authority. The Senator is certainly entitled to his view of it. I believe it is much broader than the Senator from Delaware does.

Mr. BIDEN. I acknowledge that.

Mr. HELMS. Yes.

Mr. BIDEN. I acknowledge one thing further. If the view of the Senator from North Carolina is correct, then this administration did a horrible thing. This administration had the full authority, if the Senator's view is correct, to go in and do anything they wanted to do in order to get Noriega.

I understand why the Senator from North Carolina is so aggrieved by the failure of this administration to act because of the position from which he starts. If you acknowledge that the position of the Senator from North Carolina is correct—that the President has that authority now—then I must acknowledge that I fully understand and fully would concur with his sense of outrage and anger about what did not happen in Panama in the last 2 days. But in fairness to the administration—far be it for me to be their defender—I believe they do not have that inherent authority under the Constitution.

Mr. HELMS. I thank the Senator. I think we split enough hairs.

Mr. BIDEN. The only reason I am talking is I want to speak to the merits of this on the record while waiting for the other interested Members to arrive on the floor.

I yield the floor.

Mr. MITCHELL. Mr. President, it is my understanding that the Senator from Georgia will be here momentarily, at which time I expect he will make just a brief statement describing the alternative which he intends to propose. Then we will have a motion to table and proceed as earlier suggested.

So Senators should be aware that a rollcall vote is expected in the next few minutes. And it is my hope that we could then get a time agreement on the alternative so that we can dispose of this matter and proceed to the remainder of the pending bill.

Mr. HELMS. Will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. HELMS. I am certainly amenable to that. I will be off the floor. The majority leader may assume I am agreeable to any time he may work out.

Mr. MITCHELL. I thank the distinguished Senator. Boy, do I wish I had that authority generally.

Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Before he does that, we will talk about that.

Mr. MITCHELL. I thank the Senator.

The PRESIDING OFFICER (Mr. GORE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHOM SHOULD WE SNATCH AND WHERE SHOULD WE PUT HIM?

Mr. BYRD. Mr. President, the distinguished Senator from North Carolina [Mr. HELMS], has put a tempting proposal before the Senate. One could call it the officially sanctioned snatching provision. The dictator of Panama, Manuel Noriega, is abhorrent to all of us, to all Americans who cherish freedom, who oppose drug peddling, who care about the people of Panama, who respect the rule of law.

The international community, rudimentary as the standards that govern that community may be, does have certain time-honored practices in order to regulate the trial in one country of personages in other countries who violate the laws of the first country. Extradition treaties exist for the purpose, as we all know, of extraditing people like Noriega for trial in a proper forum in the United States. Noriega has been indicted in the southern district of Florida for drug-related crimes, and we do have a treaty with Panama, under which he could be extradited—except of course, as dictator he is not going to turn himself in to the authorities in the southern Florida district. We have bilateral extradition treaties with most other countries in the world, including most of the countries of Latin America. In addition we are a signatory, with most of the countries of this hemisphere, of the Inter-American Convention on Extradition, originally ratified in 1933, which provides that each state assumes the obligation of surrendering to any of the other signatory states any person who has violated the law of the demanding state, provided that the act would also violate the law of the state which would do the extraditing. Under this convention, as well as the many bilateral extradition treaties we have with the other states of the hemisphere, grounds do exist to deliver Noriega to the United States for trial. Knowing this, of course, we would be surprised if Noriega were to put himself in a position for that to occur, but that is the rule of law that pertains to this situation.

Mr. President, there is a sense of great frustration, which I am sure has galvanized my friend, the Senator from North Carolina in his effort in this amendment, to get the Noriega problem behind us. Surely we are all disappointed that the attempt to remove him from power did not succeed. But in our frustration, shall we succumb to the frustration of the moment and authorize the Army to take military action to snatch him, to remove him and bring him to trial in the United States? What kind of precedent would that be for us? What would be the repercussions for us in our relations with the other states of the hemisphere in the long run? What standard would it set for us in the future in similar cases?

Mr. President, I do not like the Libyan leader, Mr. Qadhafi. I do not know many Senators, if any, who do like him. The Senator from North Carolina, if his activism on the matter of the recent brutality by the Chinese leadership is any guide, is far from enamored with the Chinese leadership. There is probably no continent in the world without its share of unsavory leaders whose removal, in our hearts, we would applaud. The question is this. Who is to decide on who gets snatched? Where does the snatching end? Lots of Senators here would like to snatch Ortega. There are some retrograde Eastern European leaders who could do with a good snatching. The snatchees could be readily deposited in Alcatraz, which is now open for tourism, but could just as easily be a great detention spot for snatchees.

Mr. President, sending the U.S. Army into Central America or anywhere else to snatch leaders we believe are brutalizing their people, who jeopardize and work against our long-term interests, is an easy and tempting solution to a frustrating problem. But I think it creates far more mischief than it corrects, and it leads us into an unlawful quagmire where snatching standards are impossible to set. The point is that we must not enact a provision which establishes a policy allowing the U.S. military to run all over the globe snatching foreign leaders whom we don't like. I share the frustration of the Senator from North Carolina as to Panama, but, I still must oppose his solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, in a few moments I will move to table the Helms amendment. I want to be sure the Senator from North Carolina understands that. I understand before I came on the floor that had already been discussed but it is not my intent in any way to preempt him or move to table prematurely. But it is my understanding from others who have been on the floor, the debate has been pretty much completed on that amendment.

If the Helms amendment is tabled, then I will have an amendment along the same line; but, hopefully, more precisely drawn. That will be cosponsored by Senator LUGAR, Senator BIDEN, Senator COHEN, Senator KASSEBAUM, Senator JOHN KERRY, Senator BOREN, Senator MITCHELL.

Without getting into a long detailing of this amendment, because I know the time is ticking away and we have many other important matters, let me just say I think it is extremely important what this body asserts in the way of our authority to use military forces in the world. It is important from the point of view of the U.S. Constitution. It is important from the point of view of the declaration of war powers that, as is clearly set forth in the Constitution, belongs to this body. It is important from the point of view of treaty commitments in this hemisphere and, indeed, treaty commitments thoughout the world. It is important in terms of our base rights.

I do not know how many people have followed the Vice President's trip to the Philippines. I have not had a chance to talk to him, but I followed the news reports. It is obvious we will have some crucial negotiations going on in the Philippines in the near future about two of the most important military bases in the world for us and indeed for the Pacific allies, that is Subic Bay and Clark Air Force Base.

I think we would find almost unanimous opinion in the military that, particularly Subic Bay, is almost irreplaceable.

The question of what countries in the world allow U.S. military forces to be stationed there is crucial for our security.

Also, I think all of us sometimes get swept away for the moment and forget what the original purpose of all this was.

We are concerned about the continued rule of Noriega. I certainly share the sentiments of the Senator from North Carolina on that subject, I would say completely. We are so concerned about that, not because of his appearance or personality, although neither are entirely pleasing to many observers, but because our system of justice has, under our procedures, accused him with indictment of engaging in drug trafficking.

We all know the drug problem in this country is the most serious domestic problem we have now and, in many people's minds, including my own, has indeed become a national security problem.

What is the role of Panama in the drug situation? Certainly any time we have any leader in a foreign country involved in any way in drug trafficking, it is of great concern to us. But primarily, Panama is a place that drugs are being shipped through and also a place where cash is being washed.

The places where we really have to crack down on the drug growing are Peru and Bolivia and Colombia. We had a whole set of hearings last week in the permanent Subcommittee on Investigations. In that testimony it was, without rebuttal, testified to by a number of people that almost 100 percent of the cocaine coming into this

country comes from those three countries.

We are in the process right now of trying to encourage those countries to do more in terms of eradication, in terms of substituting crops, in terms of coordination with U.S. military and police functions including our Drug Enforcement Administration.

We have military special forces that are engaged, either in this country or in some cases in the host country, in helping train their people. But we have been very, very careful because it is so sensitive in those areas where drugs are grown, about U.S. military involvement.

They are sensitive. They do not want us to come in. All three Ambassadors told us this clearly last week. Their Ambassadors testified. They said: "The last thing we need is U.S. military forces coming in here to enforce our laws. We do not want them. If you do that, it is going to undermine the government. If you undermine the government, we are likely to end up with a Communist kind of insurgency."

So, there is a lot at stake here: The U.S. Constitution, the declaration of war powers of the Congress, the authority of the Commander in Chief, treaty commitments in this hemisphere and around the world, base rights in the Philippines and Greece and other places in the world, and also the fundamentals of what we are trying to do in the drug traffic.

I would like to see Noriega not only indicted, he has been indicted, but also brought to justice. I certainly would like to see him out of Panama.

I will have some more statements to be made this afternoon. I have been spending an enormous amount of time in the last 2 days looking at what has happened in Panama in the last 48 to 72 hours, trying to figure out, first what the United States policy is; second, whether it has been carried out properly; and, third, whether we had the type of response by our intelligence and military people in that area that was required by the circumstances. And, finally, what authority they had from the President of the United States.

I have not resolved those questions in my own mind. I will have some more to say about that later.

But the point I want to make before I move to table the amendment of the Senator from North Carolina is the substitute amendment, we have had a number of cosponsors on both sides of the aisle; it is totally bipartisan; it has been worked out carefully.

The substitute amendment will set forth the sense of the Congress that the President in his capacity as chief executive and Commander in Chief has authority—has authority, not that we are conveying it by this amendment—the authority as Commander in Chief under the Constitution of the United States, and consistent with the relevant laws of the United States and treaty commitments of the United States, to protect United States citizens and property throughout the world, to protect and defend the Panama Canal, and to enforce the laws of the United States.

We cannot pass a statute taking away the President's constitutional authority. It is my view that we should not try to supplement that authority when the President has not requested it and when the authority is already ample under the U.S. Constitution for him to take actions he needs.

We have had a lot of debates on the War Powers Act. The War Powers Act does not prohibit the President from taking action that he has under the authority as Commander in Chief. It puts a time limit on certain reports. It also gets into consultation with the Congress. But he is not inhibited from taking military action anywhere where he believes it consistent with his constitutional authority by the War Powers Act.

I want everyone to know before I move to table the Helms amendment that there will be another amendment that will be offered. It has broad sponsorship. I happen to believe that it sets forth fully and clearly what we believe the authority of the President of the United States is in his role as leader of this country and as Commander in Chief.

When the leadership indicates it is the appropriate time, and I certainly do not want in any way to preempt the Senator from North Carolina, I will at the appropriate time move to table. I would like to reserve my rights to the floor to see if there are any other observations from the leadership before I make that move.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Without objection, the majority leader is recognized on the time of the Senator from Georgia.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the disposition of the Helms amendment, the Senator from Georgia be recognized to offer his amendment; that there be 40 minutes of debate on his amendment equally divided and in the usual form; and that upon the completion of that debate or the yielding back of time, the Senate proceed without any intervening debate or action to a vote on or in relation to the Nunn amendment.

The PRESIDING OFFICER. Is their objection?

Mr. NUNN. Mr. President, I certainly do not intend to object, but would that preclude any other amendments to my amendment? It is a second-degree amendment to the Biden amendment?

The PRESIDING OFFICER. The Chair will advise, the amendment of the Senator from Georgia, as the Chair understands it, would be a second-degree amendment and, as a result, would not be amendable.

Mr. NUNN. I thank the Chair.

The PRESIDING OFFICER. Pending is a unanimous-consent request by the majority leader. Is there objection?

Mr. HELMS. I have no objection to that whatsoever.

The PRESIDING OFFICER. Hearing none, the request is agreed to.

According to the unanimous-consent agreement, the time reverts to the Senator from Georgia.

Mr. HELMS. No, no.

Mr. NUNN. I believe the tabling motion would have to be made before we get to that point.

The PRESIDING OFFICER. The Senator from Georgia asked to retain his right to the floor on the conclusion of the comments of the majority leader.

Mr. NUNN. I yield to the Senator from North Carolina for a question.

Mr. HELMS. No, no. Are we in a situation where no Senator can get the floor in his own right? I do not understand that procedure. I do not want to delay the Senate.

The PRESIDING OFFICER. The Senator from Georgia asked unanimous consent to yield to the majority leader for the purpose of making the unanimous-consent request.

Mr. NUNN. I do not in any way want to cut off the Senator from North Carolina; I said that when I first came on the floor. So I will just yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the Helms amendment, which apparently will be tabled, is pretty much in a fix that a rustler would get into if he was hung and thereafter given a fair trial.

I have not seen the amendment. I asked for it now and Senator BIDEN says he does not have a copy of it. But there has been no conference with me. I do not guess that is necessary around this place. I do not object to it, as it has been described to me.

Let me say a few words most respectfully, not in response to, but in connection with, comments by my dear friend from West Virginia, the President pro tempore of the Senate.

In essence, Mr. President, the Helms amendment, which will shortly be tabled, provides authority to deputize the Armed Forces of the United States to bring Mr. Noriega to justice in the United States.

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I say to my distinguished colleague that neither Qadhafi, whom he mentioned, nor the Chinese, are under indictment, insofar as I know, in the United States, and thus those examples are not analogous to the situation in Panama and have really no relevance to the pending amendment one way or another.

I have already inserted maybe 2 hours ago into the CONGRESSIONAL RECORD a description of the charges, very serious charges of drug trafficking and money laundering, on which Mr. Noriega and a couple other thugs have been indicted in this country.

I am not going to repeat them, but I wish to have them understood. I am ready to go to a vote. If the majority wants to move to table, that is fine.

Mr. SANFORD. Mr. President, I cannot let the events in Panama go by without expressing my outrage at our complete lack of action to help the people of Panama achieve the freedom they so justly deserve, and have risked their lives to obtain. I find such inaction particularly ironic in light of our policies elsewhere in the Western Hemisphere.

In Nicaragua, we created, armed, and financed the Contras for the express purpose of overthrowing that government. We mined their harbors. We have placed United States troops in neighboring Honduras and conducted extensive training exercises to intimidate them. Most recently, I personally have participated in several meetings over the past few weeks with the administration to work out a package to aid the political opposition in Nicaragua. It is only because of the strong negative reaction by Congress that the option of covert operations to influence the elections were abandoned.

Do not get me wrong—I do not support the Sandinista government, and would very much like to see democracy restored in Nicaragua. We all would. All I am saying is, in that instance, this administration and its predecessor showed no reluctance whatsoever to use every weapon at their disposal to influence the internal affairs of that country.

Yet in Panama, a few hundred miles away, a vicious drug-dealing dictator rules with an iron fist. He has deprived the Panamanian people of the democratic government they freely chose by stealing the elections. He has violated U.S. law, then thumbed his nose and laughed when we indicted him. He is a cold-blooded murderer.

Furthermore, the United States has vital interests in that country—the Panama Canal and the headquarters of our Southern Command are located there.

For months the President has been urging the Panamanian Defense Forces to overthrow Noriega. Just yesterday he said:

I would repeat in hopes that it be conveyed instantly to Panama: we have no argument with the Panamanian Defense Forces. Our argument has been, as has many other countries, with Mr. Noriega, who aborted the democratic will of the people of Panama.

And what did we do to help when courageous elements of the PDF took him at this word and tried to topple the dictator? Nothing, that's what. Absolutely nothing.

And why is that? Because, the White House tell us, we do not interfere with the internal affairs of other countries. Since when?

The OAS tried to handle the situation diplomatically, and failed. Only the United States has the strength to protect the people of Panama.

When Noriega stole the elections, I and most Members of this body supported the President when he committed and sent additional troops to Panama. But now we have to ask, why are they there?

I am further outraged because what we had to do was so little—block one road, just one road. About 12,000 troops in Panama and we cannot block one road.

To its credit, this administration has expressed and displayed a desire to work with Congress to forge a bipartisan foreign policy. For this I commend them, and in that spirit offer this advice:

Read our lips: help the Panamanian people. Preserve our interests. Get rid of Noriega.

Mr. NUNN. Mr. President, I move to table the Helms amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—74

Adams	Cohen	Hatfield
Baucus	Conrad	Heinz
Bentsen	Cranston	Inouye
Biden	Danforth	Jeffords
Bingaman	Daschle	Johnston
Bond	DeConcini	Kassebaum
Boren	Dixon	Kennedy
Boschwitz	Dodd	Kerrey
Bradley	Domenici	Kerry
Breaux	Durenberger	Kohl
Bryan	Exon	Lautenberg
Bumpers	Ford	Leahy
Burdick	Fowler	Levin
Burns	Glenn	Lugar
Byrd	Gore	Matsunaga
Chafee	Gorton	McCain
Coats	Grassley	Metzenbaum
Cochran	Harkin	Mikulski
Mitchell	Reid	Sasser
Moynihan	Riegle	Simon
Murkowski	Robb	Specter
Nunn	Rockefeller	Stevens
Packwood	Roth	Warner
Pell	Rudman	Wirth
Pryor	Sarbanes	

NAYS—25

Armstrong	Hollings	Pressler
D'Amato	Humphrey	Sanford
Dole	Kasten	Shelby
Garn	Lieberman	Symms
Graham	Lott	Thurmond
Gramm	Mack	Wallop
Hatch	McClure	Wilson
Heflin	McConnell	
Helms	Nickles	

NOT VOTING—1

Simpson

So the motion to lay on the table amendment no. 935 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my understanding that under the previous order the Senator from Georgia is now to be recognized to offer his amendment and there will be 40 minutes of debate on that with a vote following that. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Therefore, Senators should be aware that a vote will occur on or in relation to the Nunn amendment not later than 40 minutes from now and, if all time is not used then, perhaps somewhat prior to 4:40.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. President, that is my understanding and I will not delay the time of the Senate except to say the Senator from North Carolina was badly treated. He was made to wait all afternoon, to come trumbling down here with a new thing and not allowed to modify his own amendment to say essentially what this pending amendment is going to do. It was a waste of the time of the Senate for an extra 40 minutes, and is basically unfair.

I just want to observe that I think comity in the Senate does not deserve that kind of behavior if we are going to achieve it over the course of the next few days.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Without objection, the majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to say to the Senator from Wyoming that since I have been majority leader, I have made every effort to be fair to all concerned.

Mr. WALLOP. I agree with the Senator. I was not accusing him of being unfair, but the process by which the

Senator from North Carolina was denied the ability to change his own amendment was not becoming to the Senate. It was not the majority leader's fault.

Mr. MITCHELL. I thank the Senator. We best let it pass, and maybe we can proceed.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized for the purpose of offering an amendment.

AMENDMENT NO. 954 TO AMENDMENT NO. 924

(Purpose: To express the sense of the Congress regarding efforts to restore constitutional government to Panama)

Mr. NUNN. Mr. President, on behalf of myself and Senators LUGAR, COHEN, WARNER, BIDEN, DODD, BYRD, KASSEBAUM, JOHN KERRY,, BOREN, MITCHELL, and LEVIN, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. LUGAR, Mr. COHEN, Mr. WARNER, Mr. BIDEN, Mr. DODD, Mr. BYRD, Mrs. KASSEBAUM, Mr. KERRY, Mr. BOREN, Mr. MITCHELL, and Mr. LEVIN, proposes an amendment numbered 954.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with.

The amendment reads as follows:

In the amendment on page 3, line 4, strike out "(2) submit a report to Congress" and all that follows through the end of the amendment and insert in lieu thereof the following:

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

SEC. 43. POLICY TOWARD EFFORT TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government of Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama;

(B) The President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) The President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the step he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

Mr. NUNN. Mr. President, I believe that the remarks I made a few minutes ago indicate generally what this amendment is all about. I think it is enormously important, when this body goes on record as to the use of military forces, that we do it carefully, precisely, and that we understand the effect of what we do, both in this country and abroad. I think all of us agree with the situation in Panama, and all of us in this body, I think, wish we had a legitimate government there and wish that the coup had succeeded.

I have a lot of questions that I will be posing later this afternoon relating to what happened in Panama. I have made no public statement on the subject. Every time I believe I have gotten all the facts, I hear something else and start checking, and I find perhaps I did not have all the facts. Until I get all the facts, I am going to withhold my conclusions about whether we took the appropriate action and whether we took advantage of the opportunity that had been presented.

Mr. President, what this amendment does—and I am not sure 40 minutes will be necessary, although I want to give everyone a chance to speak—is it has Congress going on record as to certain findings about General Manuel Noriega. First, that he runs one of the most pervasive police states in the Western Hemisphere; second, that he—

The PRESIDING OFFICER. The Senate will suspend. The Senate is not in order. Those Senators and members of the staff conducting conversations will please cease conversations.

The Senator from Georgia.

Mr. NUNN. First, that he runs one of the most pervasive police states in the Western Hemisphere; second, he has usurped the power of the legitimate Government of Panama; third, that he has undermined the economy of Panama; fourth, that he has been indicted in the United States for international drug trafficking and money laundering; fifth, that he is opposed by the overwhelming majority of the Panamanian people; sixth, that he has lost support of all democratic governments in the Western Hemisphere; and seventh, that he has, as evidenced by the coup of October 3, 1989, lost a significant amount of support within the Panamanian Defense Forces.

This amendment goes on to state that—and this is the heart of the amendment—it is the sense of the Congress that the President, in his capacity as Chief Executive and Commander in Chief, has the authority under the Constitution and consistent with the relevant laws of the United States and treaty commitments, including the treaty concerning the permanent neutrality and operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance, known as the "Rio Treaty," to protect U.S. citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

It goes forward to say the Congress hereby supports the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama. It also goes forward to say the President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama and, the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal Treaties which entered into force in 1978.

Mr. President, the point of this amendment is to basically say what we all know, and that is, the President of the United States has enormous powers, as Commander in Chief and as the leader of our Government, to commit U.S. military forces where he believes it is necessary for the defense of this country or for the protection of our citizens or for the enforcement of our laws.

I have not heard a single person in the administration, not one, since the coup failed in Panama, saying that the President did not have enough authority under the law, or saying that he was impeded from taking action because of any kind of legal requirement under the War Powers Act or any other act of the Congress. They have not said that.

There are a lot of debates about what went on down there. I have serious questions about what went on. I have serious questions about whether we have received all the facts. I have not reached conclusions, and I do not

intend to until I get the answers to these questions. But we should not believe that by passing a statute here, we are going to change the authority of the President's inherent rights under the Constitution. This amendment sets forth the clear and, I believe, very much historically accepted, constitutional authority of the President of the United States.

We also have constitutional responsibilities in this body, and I think it is important for us, even in the heat of the moment, to sort those out and make sure that we have precise language. So I hope that this amendment will be accepted. I do not believe anybody who voted to table the Helms amendment was against the sentiments expressed by the Senator from North Carolina as to the outcome in Panama, but I do think a number of us had some very serious concerns, not about how this amendment be read in critical countries that we are trying to work with now, like Peru and Bolivia and Colombia, on the drug problem.

That is where 100 percent of the cocaine comes from, those three countries. We have very good relations with those countries at this time. Those countries, although, have very severe economic problems, very severe political problems, and also in the case of Peru, very active Communist insurgency.

The last thing we want to do in this body is, in an effort to show how strong we are here in our support for removing Noriega, to take an action that would be counterproductive to our overall drug efforts in those areas where 100 percent of the cocaine comes from.

I also think it is very important for us, as the Vice President just noted, to understand the sensitivity of what is happening in the Philippines, the base rights there. We are going to have a very substantial number of people in the Philippines who oppose the renewal of United States military bases there. The last thing I will negotiate is the need for this body to go on record about the use of military force in a way that offends the sensitivities of those people in the Philippines who support United States military bases. That same thing can be said in other countries in the world. So things that might play well at home, we have to put in a broader perspective.

In terms of the Senate of the United States, our responsibility is to have a broad periscope and to look beyond simply the moment and look to the overall question of what we are doing and the effect on our national security all over the world, as well as the effect on our military forces all over the world. We do not want every country in the world that hosts American military to believe that we are asserting the right of those people to be policemen in other countries of the world. We cannot afford that to happen, unless we want to come home and basically forget about the commitments we have abroad, because that is the quickest way I know for the American military to become the "ugly American" instead of being received, and received well, in those places in the world.

So I think the President has plenty of authority. I do not think anything that happened in Panama, whatever the circumstances and facts prove to be, happened because of a lack of authority of the President of the United States. He clearly had the authority to take action if that action was consistent with his overall responsibilities to this country and consistent with his constitutional duties.

Mr. President, I do not have any further remarks. I think the amendment is clear. I would hope the Senate will support the amendment.

The PRESIDING OFFICER. The time in opposition to the amendment will be controlled by the Republican leader's designee, if the chairman of the committee is in favor of the amendment.

The Chair is advised that Senator HELMS will be designated for the Republican leader for those 20 minutes.

The Senator from Georgia has 11 minutes and 39 seconds remaining. The Senator from North Carolina has 20 minutes remaining.

Who yields time?

Mr. COHEN. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I am glad to yield. How much time does the Senator need? I will be glad to yield 3 minutes to the Senator from Maine.

Mr. COHEN. Mr. President, I commend the Senator from Georgia for proposing his amendment and commend him for the statement he has just made.

One of the points that he made was that as a practical matter, this particular amendment is unnecessary. It is designed to reaffirm something the President already has, and that is power. He has the power to take action to protect our interests, including the lives of U.S. citizens, their property, and the interests of our allies under existing treaties. He can do that now, so this amendment would not add anything to his powers. So the problem is not an absence of power.

The real question is whether there has been an absence of policy. Was a policy established for Panama: if a policy was established, did we take appropriate action pursuant to that policy?

There is also the issue of whether or not we have accurate information. The Senator from North Carolina has raised questions and they are legitimate questions. There is information that continues to percolate up through the system.

I would say on behalf of my colleague, the chairman of the Intelligence Committee, and myself, that we are going to continue to inquire into the facts surrounding the attempted coup in Panama. We are not at this point satisfied we have received all the facts, and this afternoon, this evening, and tomorrow, we will continue to try to make an assessment as to whether or not we have accurate information. We will continue to pursue the issue of whether or not we had contingency plans to deal with such circumstances, and whether those plans were consistent with the announced policy.

As I understand it, our announced policy is that we will not use force to remove Mr. Noriega from power. If that is the case, then perhaps we need a change of policy. But according to the facts that I have at this time, the administration acted with prudence, caution, and appropriately under the circumstances. That may change as new facts continue to surface. But we will assure the Senator from North Carolina that we are going to make a very good faith effort to get to the bottom of all these circumstances and report back to the Senator and to the full Senate as soon as we can. But, in the meantime, I think that the Senator from Georgia has offered an important amendment that puts the Senate on record reaffirming the Presidential power to take action in Panama as provided for by the Constitution.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, will the Senator from North Carolina be kind enough to yield to the Senator from Idaho 4 minutes?

Mr. HELMS. Yes, and then following the Senator from Idaho, I will yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, the Senate never ceases to amaze the Senator from Idaho. When George Orwell wrote 1984, I think he would have classified the activity here today as a clear case of doublespeak.

Senator HELMS has an amendment here. The language is very clear:

> Notwithstanding any other provision of law, the President's authority is hereby reaffirmed to use the Armed Forces.

Is that the language the Senator had? Was it reaffirmed or was it affirmed?

Mr. HELMS. Reaffirmed, that was the modified amendment that was never permitted to be.

Mr. SYMMS. This is what the Senator wanted to offer.

Mr. HELMS. Exactly.

Mr. SYMMS. He wanted to offer language to hereby use the Armed Forces of the United States and so forth, to protect the Panama Canal pursuant to the Panama Canal treaties of 1978. Now we have this other language. This is what I find real doublespeak. On page 3, the Senate is commending the efforts of the United States to restore a constitutional government to Panama and to remove General Manuel Noriega from illegal control of the Republic of Panama.

I think the Senator from Maine just made a very good statement. I happen to agree with what the Senator from Maine said. If there ever has been a case where we have a very blurred policy, it seems to be in Panama.

It is very clear to the world with regard to the election in Panama, the people with all the guns thwarted the democratic efforts for freedom and fair election. Two out of three people in Panama voted to throw Manuel Noriega out of office. Yet the United States of America, the bastion of liberty and freedom, the strongest, most powerful Nation on Earth stands by wringing its hands as if there is nothing we can do about it.

Then we have to go out and explain to our constituents why it is they pay for the finest military in the world. I think the Senator from North Carolina made a very good point on the floor when he said he asked one of our outstanding American military officers what is our military for if we are going to publicly say we will never use it under any circumstances to defend freedom and justice.

I think this amendment—I am not going to vote against this amendment because, in general, I favor having some kind of a statement here from the Senate to encourage the administration that, for heaven's sakes, stand up for what is right in this world. We need to send a statement that says we will support our friends and oppose our enemies.

I have listened to the statements of other Senators, and if we cannot come up with some kind of a plan for Panama that is more efficient than the ones we have been coming up with, God help this country.

I find it somewhat amazing that my colleagues would vote against the Helms amendment. All it says is we reaffirm what the President's authority already is; we will try to have a show of support.

The PRESIDENT pro tempore. The 4 minutes yielded to the Senator from Idaho have expired.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have 2 minutes, I believe. I would like to ask the distinguished sponsor of the bill a couple questions. The first question is, Why are we doing this? As I understood the Senator from Maine, he indicated this was not necessary.

Mr. NUNN. I believe that the Senate of the United States is going on record stating what authority we perceive the President to have, and that authority is clearly set out in the Constitution of the United States.

I also believe we will be going on record saying that the President shall take all appropriate steps, including political, economic, and military options to carry out the goal of all of us which is to bring Manuel Noriega to justice and to restore true democracy to that country and to recognize the legitimate Government of Panama.

As a matter of fact, I think one of the things that is so lagging in our policy now is recognizing the government that was elected. The Endara government has not officially been recognized, I understand, which is very complicating and perplexing from a legal point of view and from the point of view of basically trying to ascertain not only what our policy is but what our people on the ground should do.

For instance, I will not go further on that answer, but I believe the Senate of the United States does not need to confirm additional authority on the President. But I do believe from time to time when we get in a heated debate like this, it is informative to the people and instructive to all of us to set forth what we think the constitutional authority is.

Mr. CHAFEE. I agree with the Senator from Idaho it is hard to vote against this. I am not sure why we are doing it. I guess we could follow on with a resolution dealing with that too and open our position in the Far East and spend a lot of time on these matters.

I did not quite understand what the Senator from Georgia was saying. Is it that we have to indicate further we are not going to go barging into Bolivia, Ecuador, and Colombia, and other nations with Armed Forces. That is what has been suggested.

The PRESIDENT pro tempore. The 2 minutes yielded to the Senator has expired.

Mr. CHAFEE. Maybe I could get an answer on his time.

Mr. NUNN. Could I give an answer on the time of the Senator from North Carolina?

Mr. HELMS. How long?

I will give the Senator 1 minute.

Mr. NUNN. I will be very brief.

The answer is, yes, a number of people have suggested that we deploy military forces in those countries. A number of people have talked about an international force, including the United States. The Ambassadors from those countries testified last week clearly that they did not want U.S. military intervention and, indeed, that it could very well lead, like in Peru, to worse problems for the government with the guerrillas. So it has been suggested.

Mr. CHAFEE. I think we all accept that.

Mr. SYMMS. Will the Senator yield so I could ask another question of the distinguished Senator?

The PRESIDENT pro tempore. Who yields time?

Mr. SYMMS. Will the Senator from North Carolina yield me 30 more seconds?

Mr. HELMS. Yes.

Mr. SYMMS. I would like to ask my good friend and distinguished chairman of the Armed Services Committee, what kind of message does he think it sends both to the administration and to the rest of the world to have the Senate just vote down the Helms amendment. It is very clear in what it says. It says it reaffirms what authority the President already has. And we voted that down. What kind of message does that send?

Mr. NUNN. Well, it must be the message the administration wanted, because I understand they opposed the Helms amendment and support this amendment. So I think they clearly understand.

I think we have to be sensitive, as I said a few minutes ago, to what other nations think from time to time. I believe that this is one of those times that we have to be sensitive.

Mr. SYMMS. I thank my good friend. I just say that in my opinion what it says is, "Don't stand up for freedom because the United States will not be there."

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. NUNN. If the Senator is implying that those who voted against the Helms amendment were not in favor of Noriega being kicked out of power, I would say he is absolutely wrong. That did not have that implication.

The PRESIDENT pro tempore. Who yields time?

Mr. NUNN. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BOREN. I thank my distinguished colleague from Georgia.

A number of points have been made here. I first, at the outset, want to state that the Intelligence Committee is looking into this matter right now to determine the facts. We are working with the Armed Services Committee. We are not going to stop our work. We are demanding an explanation of all the facts and a chronology of what actually occurred. We are going to get that information and we are going to get to the bottom of it because I am convinced the full facts have not been laid out to us or to the American

people. We intend to get to the bottom of it.

Second, let me say that I think that the Nunn amendment is very carefully drawn to allow the President to act in appropriate situations to use a military power, if necessary. That is the reason I support this amendment.

I would not say that in any possible circumstance, it would be appropriate to use military force even in the situation in Panama. But yesterday or the day before, when the coup attempt was made, I do think that was an appropriate circumstance for us to use such force to come to the aid of those people who were acting bravely, who had General Noriega in custody for a period of 2 hours, Mr. President. For 2 hours, while they had him in custody where obviously other military leaders, Panamanian units as close as 600 yards, the additional crack military unit, the top military unit of Panama in Panama City, they sat there watching. They did not move. They did not come to the rescue of General Noriega.

Why? They were waiting to see if the United States might act to protect those people who had taken control of that headquarters and to somehow take General Noriega under control. They were on the fence waiting. And they got their answer, Mr. President. They got their answer. The United States would not act. And when they saw that the United States was not going to act, it was then—I ask the Senator from North Carolina to yield me some additional time.

The PRESIDENT pro tempore. The Senator is recognized for 1 additonal minute.

Mr. BOREN. It was then, Mr. President, that 500 members of a motley crew came in and took control of that situation.

Now, if the United States had shown any sign that it was willing to enter into that situation and protect those people, do you think 500 people could have broken in there when we had 12,000 troops in Panama? Do you think they could have? Absolutely not.

But I would add, Mr. President, that I think the real failure here is why has there not been an American policy? Why has there not been a contingency plan? For 2 years now this administration and the President has been saying we hope the PDF will move to throw out Noriega; we hope they will take the situation in hand themselves. And yet we did not have a contingency plan.

Why not? If we were encouraging people to act, why did we not have a plan to say what they would do when they did act? Why had we not, as Senator NUNN said, already cleared up the legal situation? Why had we not recognized the legal Government of Panama? When President Delvalle's rightful term ended, why did we not act to recognize the Endara government that the whole world said had won the election? Then we would have in place a legal entity to request help from the United States when a situation occurred like occurred this week.

We had no policy, Mr. President, in spite of the fact that time and time again many of us have said, "What is our policy? What government do we recognize? What legal authority could we turn to if we had this kind of a situation? What will we do if the PDF and the Panamanian people do what we have been asking them to do, rise up against Noriega?"

For 2 years we asked them to act. They did and we did nothing. Because for 2 years we had not put a policy in place. That is inexcusable, Mr. President, inexcusable.

Mr. NUNN. Will the Senator yield for a brief question?

Mr. BOREN. Yes.

Mr. NUNN. Mr. President, I commend the Senator for his, I believe, very pertinent point here about not having a government recognized. Would the Senator agree with me that if we had a recognized government there in Panama, that we recognized a legally elected government by the Panamanian people, and we told our people down there on the ground, "Look, anyone that takes control down there needs to recognize that government, first of all," then if that government says to us, "We want you to help us," it would put us in a totally different legal situation and totally different political situation; would the Senator agree with me?

Mr. BOREN. I would agree.

I might ask if I might be granted an additional minute to answer fully Senator NUNN's question.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BOREN. Senator NUNN has asked a very, very important question. We know that we were informed of this coup before it happened. The White House has said so. They said we learned about rumors from three parties. We learned it on very good authority that it was going to happen.

What I wonder is, What did we say to the people that were going to be involved when we learned this coup attempt was going to take place? Did we say to them, as Senator NUNN said, you have to recognize the Endara government, make it clear you are recognizing them so there is a proper legal authority? Or did we say to them we will not help you? Did we say to them that clearly it is our policy not to move any military force on the Panamanian soil?

Did we let them know or did we simply listen and nod gravely as we heard this information?

I would ask, Mr. President, after our Government had said time and time again that we would help you rise up and throw out General Noriega, if someone had come to tell us that information and we sat and nodded gravely, do you think they would feel we were going to help them, since we urged them to act, or do you think they would think we would not help them in their time of need?

The PRESIDENT pro tempore. Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require.

I wonder if any Senator can identify the man who won the election in May of this year in Panama. I am sure Senator KERRY can. What is his name?

Mr. KERRY. President Endara.

The PRESIDENT pro tempore. The Senator must stand if he is to engage in a colloquy.

Mr. HELMS. He said, Mr. Endara, and he is correct.

Do you know where Mr. Endara is? He was just arrested by General Noriega. He is the man who won the election by 2 to 1 in May.

Now, then, about the pending amendment. Several Senators have asked me how I am going to vote. Of course, I am going to vote for it. You know, any time I can get to case a vote that is equivalent to a passionate kiss of my sister, I am going to vote for it. And that is what this is. If ever a mountain labored and brought forth a mouse, this is it. Who can take exception to what is in it? But when you get down to the nitty-gritty, it is the sense of the Congress.

Now, we just defeated the Helms amendment. That is fine. I am used to that.

But, if we want to do something about it, if Congress wants to speak, they had a chance a while ago and they marched up like little tin soldiers and said "aye" on tabling it. Aye, aye—I sat back there in the cloakroom, and I could anticipate the vote of everybody who voted. No, there was one who fooled me a little bit.

Mr. President, I think I am one of three Senators now a Member of this body who voted against the War Powers Act. I think it is an intrusion upon the constitutional power of the President of the United States. I thought so then. So did Sam Ervin. So did Howard Baker. Bartlett, Bellmon, Bennett, Curtis, Eastland—I mentioned Ervin—Fannin.

I ask unanimous consent that the rollcall vote on that be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE PASSAGE—JULY 20, 1973

[No. 312 Leg.]

YEAS—72

Aiken, Allen, , Bayh, Beall, Bentsen, Bible, Biden, Brock, Brooke, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cranston,

Dole, Domenici, Eagleton, Fong, Fulbright, Hart, Hartke, Haskell, Hatfield Hathaway, Hollings, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits, Johnston, Kennedy, Long, Magnuson, Mansfield, Mathias, McGee, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Proxmire, Randolph, Ribicoff, Roth, Saxbe, Schweiker, Scott, Pa., Sparkman, Stafford, Stevenson, Symington, Taft, Talmadge, Tunney, Weicker, Williams, Young.

NAYS—18

Abourezk, Baker, Bartlett, Bellmon, Bennett, Curtis, Eastland, Ervin, Fannin, Gravel, Griffin, Gurney, Hansen, Helms, Hruska, McClure, Thurmond, Tower.

NOT VOTING—10

Buckley, Cotton, Dominick, Goldwater, McClellan, McGovern, Percy, Scott, Va. Stennis, Stevens.

VETO OVERRIDE—NOVEMBER 7, 1973

[No. 478 Leg.]

YEAS—75

Aiken, Allen, Baker, Bartlett, Beall, Bentsen, Bible, Biden, Brock, Brooke, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Case, Chiles, Church, Clark, Cook, Cranston, Dole, Domenici, Eastland, Fong, Fulbright, Gravel, Hart, Haskell, Hatfield Hathaway, Hollings, Huddleston, Hughes, Humphrey, Inouye, Jackson, Javits, Johnston, Kennedy, Long, Magnuson, Mansfield, Mathias, McClellan, McClure, McGee, McGovern, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Nunn, Packwood, Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Roth, Schweiker, Scott, William L., Sparkman, Stafford, Stennis, Stevenson, Symington, Taft, Tunney, Weicker, Young.

NAYS—18

Abourezk, Bellmon, Bennett, Buckley, Curtis, Dominick, Eagleton, Ervin, Fannin, Griffin, Gurney, Hansen, Helms, Hruska, Saxbe, Stevens, Thurmond, Tower.

Mr. HELMS. Mr. President, I do not have anything more to say. Of course we are going to pass this, and probably unanimously. Maybe Senator CHAFEE will not vote for it. Let us go ahead and vote, and kiss our sister and kiss the mouse that was just brought forth into this world by the mountain.

I yield the remainder of my time.

Mr. SYMMS. Will the Senator yield me 1 minute?

Mr. HELMS. Certainly; I yield the Senator 2 minutes if he needs it.

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. SYMMS. In the rush of debate, I wanted to be sure my good friend from Georgia understood I am not impugning the motives of the Senator.

What bothers me—and I agree much with the discussion that has gone on here by the Senator from Maine and the Senator from Oklahoma in appealing for a policy—we would like to know what it is we are doing to successfully win this. I asked the rhetorical question, What kind of a message does this send? In my view, the action of the United States and the entire Panama question and the entire Central America question, the Contras, Panama, other people who have clung to freedom, when we do things like this we send a message: Do not stand up and be counted for freedom because Uncle Sam may not be there.

Yet we have been doing it since 1945, through Hungary, Czechoslovakia, and Cuba. It is a history we should turn around.

I think the Helms amendment is something we can understand. I am going to vote for this amendment—I am sorry it is not stronger—to send a message not only to the world, but to Pennsylvania Avenue, that maybe, just maybe the great United States should start taking the responsibility that it has as the leader of the free world; to demonstrate that we are strong economically, militarily, and we have a political will that will stand up for peace and freedom for both our own citizens and our friends.

That is what we are not doing. It is a tragedy that we have been so inept; that we have not seen a legitimate government of Panama rise to be able to give those people the legitimate leadership that they deserve, that they voted for, that was taken away from them because they did not have any guns and Noriega had all the guns. That is the point I am making.

The PRESIDENT pro tempore. Who yields time?

Mr. CRANSTON. Mr. President, I ask Senator NUNN yield me 2 minutes.

Mr. NUNN. I am committed to the Senator from Virginia first, the Senator from Massachusetts second, the Senator from Rhode Island third, the Senator from California fourth, and I have 6 minutes.

I yield 2 minutes to the Senator from Virginia.

The PRESIDENT pro tempore. The Senator is recognized for 2 minutes.

Mr. KERRY. Mr. President, parliamentary inquiry.

Mr. WARNER. Does the President wish to recognize another Senator?

The PRESIDENT pro tempore. Does the Senator wish to yield on a parliamentary inquiry?

Mr. WARNER. I will yield.

The PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. May I now proceed for some 2 minutes?

The PRESIDENT pro tempore. Please.

Mr. WARNER. Mr. President, I think the one thing we know for certain is the uncertainty of the facts in the situation.

Members of the Intelligence Committee have been briefed. Members of the Senate as a whole have been offered a briefing. There are additional facts being brought to the attention of the Senate from various sources even now. So I think at this point in time, we should give our President every benefit of the doubt that he acted prudently, based upon the facts that he possessed at the time; he had to make a decision.

Often, it is harder for a Chief Executive to restrain the use of force than it is to use force. This is one of those situations.

Mr. President, all of us are familiar with the constitutional provisions. Article II of the Constitution makes the President both the Commander in Chief of our Armed Forces and the Chief Executive of our Nation. We have been on this floor many times debating these provisions, usually as part of a debate about the War Powers Act. Now fresh in my mind are the debates on the Persian Gulf, where our President did use, very prudently, limited force, and many on this floor sought to prevent that limited force.

The Constitution, in the judgment of this Senator, provides that only the Commander in Chief can make the decision to use force. We as a body cannot compel him to use force, even if the Congress were to declare war, only the President can actually employ the Armed Forces.

There are legitimate constitutional questions, once force is commenced, as to the role of Congress. We have debated those questions many times in the context of the War Powers Act. But the President is best able to determine whether to initially use our Armed Forces.

So my recommendation to the Senate is that we give our President the benefit of the doubt, until such time as the factual situation is clarified.

Mr. NUNN. Mr. President, I yield 2 minutes to the Senator from Massachusetts, but before I do that, I ask unanimous consent there be an additional 10 minutes to be equally divided.

The PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object—I shall not—I wonder if the managers will make the request on behalf of all Senators that, given the limited time, we might have printed in the RECORD additional remarks.

Mr. NUNN. I certainly have no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Without objection, there is 10 minutes equally divided.

Mr. NUNN. I yield to the Senator from Massachusetts 3 minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY], is recognized for 3 minutes.

Mr. KERRY. Mr. President, it occurs to me there are not any words and probably no resolution that we can pass or we can utter that is really going to make up for what has brought us to this point with respect to the lack of policy in Panama.

I suggest that that is really the real meaning of this particular resolution. It is not, clearly, giving the President additional power.

Therefore, the question is: Why pass it? I think what the Senate is really trying to say to the President, as well as to the Panamanian people, if they will even listen to us now, is that it is, as the Senator from Oklahoma said, far past the time that this country, given the indictment against General Noriega, given the criminal enterprise he is engaged in against this country, given the theft of a democracy he is engaged in, it is long since time that we had a policy.

There is a failure, and even without the facts all in—and they are not all in—there is clearly a lost opportunity because there is no strategy, Mr. President. I have been working on this issue for 2½ years now or more. I met with the Vice President at his request at his office here with Senator DURENBERGER, with Senator KENNEDY, with Senator MACK, Senator D'AMATO, and others, to talk Panamanian policy.

At that time we said you do not have an end game. You have to have strategy in place. As long as you exhort the Panamanians to some kind of action and as long as you tell the opposition to do something, but do not know what you will do when they do it, you will never remove General Noriega.

We know at this point that we were notified of what happened. We do know that. We do not know the entire chronology, and it is important to have it.

But, Mr. President, it is clear that the United States raised expectations, the United States put sanctions in place, the United States sent additional combat troops to the region, the United States made clear its determination to get rid of Noriega, and people acted on our actions and on our beliefs.

This Senator believes that, under the Canal Treaty, under the Rio Treaty, under the Organization of American States Charter, and under the international law of self defense and rights that we have to defend the interests of these people, the President already had adequate power to deal with this issue.

The problem is the intelligence has not been adequate, the strategy has not been adequate, the contingency plans have not been in place. We are suffering, today, the Senate's frustration with a need to try to say to the President: It is time to end the timidity. It is time, finally, to put in place a real strategy that will not desert the people of Panama.

I received news today. I met with the Panamanian ex-Ambassador this morning. It was his news, directly from Panama and from the people there, that Major Giroldi and Major Sandoval were personally shot by General Noriega. That is the news he related, and that at least seven or eight of the other participants, the lieutenants, sergeants—and I have their names here—are now dead and the others are in jail.

Mr. President, I think we need to take more seriously our responsibility with respect to the lives of these people and to their expectations of our activities. To not have had an adequate strategy to do so I think is a black mark on our diplomacy, as well as on our goals and values.

The PRESIDENT pro tempore. Who yields time? The Senator from Georgia controls the time.

Mr. NUNN. Mr. President, I committed to the Senator from Rhode Island 2 minutes, and then to the Senator from California 2 minutes. And then I will be glad to yield to the Senator—I committed to the Senator from Maine 1 minute, and the Senator from Nebraska I will be glad to yield to, if I have any time left.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PELL. Mr. President, my understanding of the phrase "appropriate diplomatic, economic, and the military options in the Republic of Panama" as stated in the amendment would mean the United States would only use American troops either to protect the canal in accordance with the Panama Canal Treaties, or to defend American lives in self-defense, or to be part of the multilateral forces that might be created by the OAS or the United Nations to restore democracy to Panama.

And in this regard, I would also like today to congratulate President Bush on the way this problem has been handled; congratulate him on his restraint, and hope that restraint will be visible in the future, also.

Mr. President, I well understand the sense of frustration in this body and in the Nation as a result of Tuesday's failed coup attempt against General Noriega. The frustration level even before Tuesday was high because of the prolonged inability to deal effectively with the problems posed by Noriega. To use the phrase originated by the Senator from New York a little "benign neglect" might be in order here, in this case. I caution my colleagues to think very carefully about the grave implications of the unilateral use of United States troops to oust Noriega.

The situation should be resolved by the people of Panama themselves. This was underlined yesterday morning by the democratic opposition's Vice Presidential candidate Billy Ford who spoke against the use of U.S. troops. It would have been easy for President Bush to have respond to the calls for the participation of U.S. troops in actions to throw out Noriega. But if he had done that we would have reaped the bitter frustration of that exercise for many years to come. The nations of the hemisphere would see it as one more example of belligerence on the part of the United States in the region. Unilateral U.S. action would be in violation of international law and would violate the principle of nonintervention which is a precept that the Latin American nations hold sacred. We would most certainly alienate the nations of the region whose support we absolutely need if the policy to force Noriega out is to succeed.

Intervention by United States troops also would be in violation of the Panama Canal Treaties. It would place into question the commitments that the United States has made in hundreds of treaties and base rights agreements with foreign nations. To my mind, as I said before, the only time that United States troops should be used in Panama is either to protect the canal in accord with the Panama Canal Treaties, or to defend American lives, or to be part of multilateral forces that might be created by the OAS or the United Nations to restore democracy to Panama.

Any foreign action must be conducted within the bonds of international law through the use of instruments available such as collective action through the Organization of American States. I will agree that thus far, the OAS effort has been disappointing but I believe that with an even stronger effort by the United States, measures can be taken to isolate the Noriega regime.

I urge my colleagues to move back a few steps and take a reasoned look at the situation in Panama. We should increase our efforts on the international level and we should step up our efforts to support the democratic opposition in Panama. Even the threat of unilateral U.S. military intervention as was embodied in the Helms amendment could serve to give more credence to Noriega's branding the opposition as lackies and puppets of the United States. It could hurt rather than help the opposition today.

Finally, think about the real significance of what happened on Tuesday, even in the failure coup attempt. General Noriega's hold on the armed forces is much weaker today than it was Tuesday morning. He has received a strong signal that there are important elements within the Panama Defense Forces that have had enough of his arbitrary and illegal power. There are important elements in the military who believe that Noriega must go. According to reports, among those arrested by Noriega were three members of the Military High Command. It is especially significant that the officer who is credited with leading Tuesday's coup attempt, is the very same officer who had supported Noriega in a coup

attempt that took place a year and a half ago.

I believe that the fissure that finally has appeared in the PDF will enlarge to become a huge crack that Noriega will not be able to repair. More and more members of the PDF will come to realize that it is in their institutional interests as well as in the interest of the Nation of Panama that Noriega relinquish power. The mid-level and junior-level officers of the PDF will realize that after Noriega the credibility of the Panama Defense Forces will be restored and that the United States will support efforts to reform and professionalize the military.

I hope my colleagues will support this more rational approach to the situation in Panama.

Mr. NUNN. I yield 2 minutes to the Senator from California.

The PRESIDENT pro tempore. The senior Senator from California [Mr. CRANSTON], is recognized.

Mr. CRANSTON. Mr. President, we share views on the desirability of getting rid of Mr. Noriega, obviously, and we must do everything we can within reason to accomplish that. I read this as carefully as possible just to make sure there is no Gulf of Tonkin resolution here, and I do not think there is. I would like to ask a few questions.

One, the question that states the President's utilization of the full range of appropriate diplomatic, economic, and military operations in the Republic of Panama, supporting that does not suggest anything other than what is presently required in consultation with Congress; is that correct?

Mr. NUNN. It is not the intent of the author of this amendment to change the existing law. We cannot change the existing Constitution. The President has certain options, as I mentioned in the dialog with Senator BOREN. If we had recognized that government, which we had not, and that is one of the problems of our policy, if they ask our help in defending that legitimate government there, in that case, that is to me an appropriate military option in protecting our people down there and protecting the canal. If our people are in danger, I think we have the right to take appropriate military steps.

Mr. CRANSTON. Protecting American lives is the principal purpose that is implied and covered by this provision.

Mr. NUNN. And the canal. I think in international law and in our Constitution, the President has a right to help another government in terms of self-defense. The key here, though, is recognizing. If we want a policy to work, we have to recognize the government. The Senator from North Carolina and the Senator from Oklahoma and I agree on that. If we recognize the government down there and somebody takes over and recognizes that government, then that puts us in a totally different legal position. But the problem is we do not have a policy of recognition. That makes everything we do down there much more difficult, and it makes the problem of our military people down there much more difficult. So I would agree with those who are saying we do not have an adequate policy.

Mr. CRANSTON. I thank the Senator.

Mr. NUNN. It is not the intent of the authors of this amendment to change the War Powers Act or the Constitution of the United States.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CRANSTON. I ask unanimous consent for one more minute to address a question to Senator BIDEN.

The PRESIDENT pro tempore. Is there objection.

The Chair hears none. Without objection, it is so ordered.

Mr. CRANSTON. Does the President have constitutional authority to take military action to enforce the Panama Canal Treaty if there is any violation, no matter how minor, or is this a judgment——

Mr. BIDEN. The answer is, no, he does not. He has the power to come to the Congress. Our international treaties are not self-enforcing, and in almost every case we write into a treaty that the President has to conform with the constitutional limitations and requirements that exist on the President. For example, he could not automatically commit troops, with a single exception: When the supreme national interest of the United States is at stake.

I disagree with my friend and the cosponsor of this amendment when he says if we recognized the government, the President could automatically move in. It is clear in this Senator's view he could not do that unless it was concluded by the President that the supreme national interest of the United States was at stake, unless that case could be made.

For example, we have treaties with Japan. Japan as a recognized government could say, come join us and invade China. We could not merely because a recognized government and ally of ours asked us to do that, could we? The President does not have the constitutional authority to do that unless the supreme national interest of the United States is at stake, in which case it is possible under the scenario outlined by the Senator from Georgia.

Mr. CRANSTON. I thank the Senator. That is very helpful.

The PRESIDENT pro tempore. Who yields time?

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. I yield to the distinguished Republican leader such time as he requires. How much time remains?

The PRESIDENT pro tempore. Nine minutes, twenty-one seconds. The Republican leader is recognized for such time as he may require.

Mr. DOLE. Mr. President, let me say first that I agree with the distinguished Senator from Wyoming, who spoke earlier, that it is unfortunate the Senator from North Carolina was not given consent to modify the amendment that has just been tabled. I had some reservations about that amendment and, in my view, at least, the President does not need the authorization of Congress to use our Armed Forces to defend the vital interest of the United States or the lives of U.S. citizens. He already has that authority under the Constitution. My guess is that the Senator from North Carolina agrees with me on that interpretation.

I was concerned that the very fact of offering this amendment inadvertently reinforces an already unfortunate tendency here in Congress that we retain to ourselves a right of the President. The Senator certainly had the right aims. He deserved to have a chance to have his amendment voted up or down. So I was pleased to join him in voting against the tabling motion.

Despite the fact the Helms amendment has been tabled, I think it is worthwhile to send a strong signal to Panama and to the world that we are prepared to back the President. All this talk about we do not have any policy is all politics. The same people were up here beating their chests when Ronald Reagan saved Grenada saying it was the wrong policy. Now it is no policy. Next time it will be something else. We understand the politics of it.

I think the President acted properly. He does not need to come to Congress to get our consent to do what he does or does not do. He is in charge of foreign policy, and we can fault him if we wish, but one can think of all kinds of scenarios that might have happened had he taken action. We would have been up here on the floor pounding him daily for doing too much or doing it the wrong way. So I say any President has a difficult job, Republican or Democrat.

As I understand the resolution before us, we are supporting the President, and I support the effort by Senator NUNN and others because it does send a strong message. I also believe it is neutral on some of the contentious questions of Presidential powers. At least that is my interpretation of the Senator's language. I think it is the same interpretation just given by the Senator from California, and I support

the amendment. But I do hope we are not using this—at least I know the principal author is not—to beat the President over the head. But others have been up here giving me a little dose here and there. Maybe that is a fair game and maybe it is not. Maybe we do not have all the facts. Maybe additional facts will indicate otherwise.

But in any event, I am prepared to support what the President did. I think he acted based on the facts he had. And from what I read on the last page of this resolution, it seems to me that we are sending a message that we do support the President of the United States. In this case, the President happens to be Republican. Next time, it might be a Democrat, hopefully not too soon, but it may be some day.

It seems to me we are doing the right thing in supporting the President.

Mr. HELMS. Mr. President, I yield 2 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. I want to say I am sorry this has turned into a political attack on the President. We heard all kinds of terms tossed around here today about timidity on the part of the administration. I must say, things have changed around here. Suddenly this place is filled with hawks. All I can remember is the Persian Gulf, every time the President wanted to move and do anything in the Persian Gulf, all we heard about was the War Powers Act and Grenada and Angola. I think we better be careful about the terms we use. The President moved with great discretion. He did not throw his power around, and he did the right thing in Panama. I think we ought to acknowledge it. I think it is a little odd where the objections are now coming from that they did not take all the actions that armchair generals can now direct him to do with that marvelous incisiveness that comes with 20-20 hindsight. I want to thank the distinguished Chair.

Mr. MURKOWSKI addressed the Chair.

Mr. HELMS. How much time does the Senator need?

Mr. MURKOWSKI. A minute or two.

Mr. HELMS. I yield 2 minutes.

Mr. MURKOWSKI. I thank the Senator from North Carolina. Mr. President, I think on balance, as we reflect on the debate that has occurred here today, we owe a debt of gratitude to the Senator from North Carolina. The merits of the amendment pending and the amendment of the Senator from North Carolina have their own individual interpretation from each Member.

I think we, as a majority, support the President and certainly support the responsibility associated with the action. Nevertheless, there is a democratic process going on here where we are questioning, based on the knowledge available to us, which we all have in different degrees, over the action because we all abhor the situation in Panama as it is relevant to Noriega.

We are aware of numerous contingency plans. We had hoped somehow through economic sanctions and various other means to have a situation where Noriega would no longer be head of the Panamanian Government. We have seen an opportunity fail. Time will tell whether we should have taken action. I think it is quite appropriate to not address the significance of the political motivations or opportunities associated with being critical, but nevertheless send a message that when we look at alternative plans one has to question why the opportunity was not taken, perhaps why it was not successful, and as we reflect in retrospect the reality that there will probably be few opportunities again, particularly with the disposition and the shooting by Noriega, as alleged, of the principals.

So obviously we are going to have to pursue perhaps other alternatives in Panama, and the alternatives are not too numerous. I thank the Chair. I appreciate the yielding of time by the Senator from North Carolina.

The PRESIDENT pro tempore. Who yields time?

Mr. WARNER addressed the Chair.

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. WARNER. Mr. President, I shall briefly engage in a colloquy with my distinguished chairman and the principal sponsor of this amendment. I listened very carefully to Senator NUNN's opening comments about how Presidents, both this one and his predecessors, here exercised a certain amount of restraint in this hemisphere because we cannot simply focus on one country; our focus must be interlocking throughout the hemisphere.

But when we say we have no policy and no contingency plans, I must reply that we do not publish our contingency plans, the military contingency plans, in the Federal Register. I am certain that Members of this body repose a confidence in this President, as other Presidents, to have contingency plans for this part of the world as other parts of the world. I ask my dear friend if he wishes to reply.

Mr. NUNN. I do not recall having said there was no policy. I do believe that perhaps the Senator from Oklahoma made the statement along that line.

I believe what I said was, and what I intended to say, I think we have to decide clearly what our policy is. One way to decide that—and I think the essential first step—is who do we recognize as the legal government in Panama. That is very important from the point of view of legality; it is important from the point of view of our people on the ground and what they basically communicate to anyone who may wish Noriega to leave the country or to be brought to justice.

So I think part of our policy needs to be clarified. And I also believe that we have to make it clear to our people on the ground what their ground rules are in advance for assisting people who may want to remove Noriega from power, whether that assistance is diplomatic or whether it is economic, and under what conditions it could be military. Those conditions have to be carefully set forth.

I say to my friend from Virginia, if we have such clarity, I have not been able to discern it.

The PRESIDENT pro tempore. The Senator from Georgia has 10 seconds remaining. The Senator from North Carolina has 2 minutes 51 seconds remaining.

Mr. HELMS. Mr. President, I am almost ready to yield back what little time I have remaining, but let me restate the proposition once more.

This entire debate occurred because the administration was just not prepared on Tuesday to deal with it. As I said in my remarks earlier today, there was nobody available to commend or respond to questions except a Deputy Assistant Secretary of State. I do not want to do the young man an injustice, but I never heard of him. Everybody was down at the White House or somewhere wining and dining the President of Mexico. What I heard all day long was, "We don't know whether the President has the authority" to do this or that. And there was confusion.

I do not know of anybody—certainly have not—who has criticized the President of the United States. What I am doing is raising a question about being ready next time, I say to my friend from Virginia. Nobody has criticized George Bush. He is our President. We do not have but one President at a time. But he needs better advice, I think, based on the reinformation I have assembled, than he got on Tuesday, because it is very clear in my mind that had he had full information that even a lowly Senator like me was able to assemble, then I believe he might have thought twice about saying we are not going to get involved. That is the only point I am making.

Now, several Senators, as I said earlier, have asked, "How are you going to vote on this?" I am going to vote for it, and I urge all Senators to vote for it, if there is a rollcall vote. I am not even going to ask for a rollcall vote on it because this is a fait accompli. But I am saying that this is a sense-of-Congress resolution, and I will close as I began. It is a passionate kiss of one's sister to vote on this one way or another. I yield back the remainder of my time.

Mr. NUNN. Mr. President, I ask unanimous consent for 2 additional minutes, 4 additional minutes if the Senator from North Carolina wants 2.

Mr. HELMS. No.

Mr. NUNN. Two additional minutes, one to be yielded to the Senator from Maine and one to the Senator from Nebraska.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I indicated earlier that the amendment does not deal with the issue of the absence of Presidential power, but the absence of a policy that would have permitted the use of force to remove Noriega. That really is the heart of the issue.

Our policy is not to use force to remove Noriega. I happen to agree with that policy. We can take out Noriega tomorrow if we have to or we want to.

The real question is, Does the Senate want to go on record to send forces into Panama to remove Noriega and, if so, under what circumstances? After a popular vote, was that the time to send them in? After a coup is underway, do we send them in then?

What I object to is encouraging people to either revolt or vote and take to the streets—with the implied but ambiguous promise that we are going to come to their aid with physical assistance. If that is the case, I think we have an obligation to help them. In sum, I think the President acted appropriately under the circumstances as we know them today. But I also think we need to review and clarify our policy.

The PRESIDENT pro tempore. The Senator from Nebraska is recognized for 1 minute.

Mr. EXON. I thank the Chair. I rise in strong support of the amendment offered by Senator NUNN. I think it is precisely on point. It does what I think most of us want to do, which is to dismiss Noriega at the earliest possible moment.

The grumblings I have heard about the President's lack of action remind me some, Mr. President, of walking out from a football game on one or two occasions when Oklahoma defeated Nebraska and people have said, "Well, if the coach had done this or the coach had done that." But I know the coach in this case, the Commander in Chief, did absolutely the right thing. I think the President would not be hesitant in the proper use of our forces if there was a chance of real success, which I may be proven wrong from later developments, but from what I know now—and I think I know what most of the other Members of the Senate know—he did the right thing given the circumstances that confronted him. There is no need for Presidential bashing at this time at least.

Mr. LEVIN. Mr. President, I commend Senator NUNN on this resolution. I am a cosponsor, because I share the conviction that Noriega should be removed from his illegal control of Panama as quickly as possible. The United States should utilize the full range of appropriate diplomatic, economic, and military options available to resolve the crisis in Panama and the hemisphere, and help restore democratic and constitutional government in Panama.

Mr. President, I am a cosponsor of this resolution because it is well crafted, and expresses the outrage of the American people that this thug has illegal control of Panama. Just last week the Senate approved an amendment I authored which expressed the Senate's conviction that the President should intensify unilateral, bilateral, and international efforts directed at removing Noriega from any position of power in Panama. As I stated last week, this expresses administration policy, the intent of Congress, the fervent desire of the American people, and the hope of civilized people everywhere.

Mr. President, I voted to table the earlier resolution by the Senator from North Carolina because it was poorly crafted. Noriega must go, but that resolution was not the best way to achieve that goal. The administration opposed that resolution, as did the overwhelming majority of the Senate.

I am deeply disappointed that Noriega is still in power. It is in the national security interests of the United States that this dictator be removed, as well as in the interests of people in Panama and throughout the hemisphere.

The PRESIDENT pro tempore. All time has expired. The question is——

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. There is a request for the yeas and nays. Is the demand sustained? Obviously there is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the amendment No. 954. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—99

Adams	Bradley	Cochran
Armstrong	Breaux	Cohen
Baucus	Bryan	Conrad
Bentsen	Bumpers	Cranston
Biden	Burdick	D'Amato
Bingaman	Burns	Danforth
Bond	Byrd	Daschle
Boren	Chafee	DeConcini
Boschwitz	Coats	Dixon
Dodd	Kassebaum	Packwood
Dole	Kasten	Pell
Domenici	Kennedy	Pressler
Durenberger	Kerrey	Pryor
Exon	Kerry	Reid
Ford	Kohl	Riegle
Fowler	Lautenberg	Robb
Garn	Leahy	Rockefeller
Glenn	Levin	Roth
Gore	Lieberman	Rudman
Gorton	Lott	Sanford
Graham	Lugar	Sarbanes
Gramm	Mack	Sasser
Grassley	Matsunaga	Shelby
Harkin	McCain	Simon
Hatch	McClure	Simpson
Heflin	McConnell	Specter
Heinz	Metzenbaum	Stevens
Helms	Mikulski	Symms
Hollings	Mitchell	Thurmond
Humphrey	Moynihan	Wallop
Inouye	Murkowski	Warner
Jeffords	Nickles	Wilson
Johnston	Nunn	Wirth

NAYS—1

Hatfield

So the amendment (No. 954) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We will have order in the Senate, please. All conversations on the floor will cease.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending business is on amendment 924 of the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, that amendment is the amendment relating to crack houses, giving civil authority to local officials to be able to close these crack houses down. Believe it or not, we debated it in another life, some time ago, prior to us getting off on the drug-related amendment to Panama, and I would, if there is no opposition to the amendment on the part of my Republican friends or anyone on the floor, I suggest we move to that amendment. I urge its passage.

Mr. HATCH. I have been informed there may be some opposition. Maybe we can work that out.

Mr. BIDEN. Apparently, Mr. President, there is some possible concern. I will not bother the Senate again with further debate on the issue.

May I make another parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state inquiry.

Mr. BIDEN. Once the Biden crack house amendment is disposed of, what will be the pending business?

The PRESIDING OFFICER. At that time, the pending business will be amendment No. 934 proposed by the

Senator from Massachusetts [Mr. KENNEDY].

Mr. BIDEN. Mr. President, I yield to the Senator from Utah with regard to the crack house amendment.

Mr. HATCH. We are ready to proceed with the crack house amendment, Mr. President.

Mr. BIDEN. I urge the adoption of the amendment and suggest that we all vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 924) was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 955

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD. Mr. President, will the distinguished Senator from Texas yield to me for a unanimous consent? I want to read a short statement and get it into the RECORD?

The PRESIDING OFFICER. For the information of the Senator there is a pending amendment.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

Mr. BIDEN. Mr. President, reserving the right to object and I do not believe I will object, I indicated to the Senator from Massachusetts that his amendment is the pending business and I was under the impression he was prepared to move immediately.

So I would like to make the following suggestion: Reserving the right to object, I would like to ask unanimous consent in the meantime while we are trying to work this out to allow the Senator from Kentucky who wishes to make a statement on an unrelated matter to proceed if that is all right with the Senator from Texas.

Mr. GRAMM. If I might ask, Mr. President, where will that leave us when the Senator from Kentucky is finished?

The PRESIDING OFFICER. Then the amendment would be pending at that point.

Mr. GRAMM. And I would have the floor, Mr. President?

The PRESIDING OFFICER. If the unanimous-consent request is agreed to.

Mr. GRAMM. I have no objection, Mr. President.

Mr. McCONNELL. Will the Senator yield for a question?

Who has the floor?

Mr. FORD. I have the floor. I am delighted to yield to my colleague for a question.

Mr. McCONNELL. I thank the Senator from Kentucky.

I say to the Senator from Delaware, if I could have the attention of the Senator from Delaware, a question for the Senator from Delaware: Is it the plan of the managers to establish some rotation here? If so, I would like to get aboard.

Mr. BIDEN. It is the plan of the managers to give everyone an opportunity to propose their amendments. What I would suggest is that each of the Senators wishing to propose amendments, not that it is required, but it may be a help to let each of us know, each of the managers know, and then we will try to work out an order in which we could do that.

Mr. McCONNELL. Since the Senator from Kentucky has been here, would the Senator from Delaware have objection to agree that I follow the Senator from Texas?

Mr. BIDEN. I would, because I have an amendment I wish to send to the desk. I have no objection to us alternating back and forth, Republican, Democrat; Republican, Democrat.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. FORD. I am glad to get out of this.

The PRESIDING OFFICER. The senior Senator from Kentucky has the floor. Does he yield the floor?

Mr. FORD. For what purpose? Do you want me to yield it completely?

Mr. HATCH. It is up to the Senator. I want to make sure we get this sequence.

Mr. FORD. Why do the managers not work this out while I make a statement about a great Kentucky product?

Mr. HATCH. Can I make a comment before the Senator does?

Mr. FORD. I yield for that purpose only.

Mr. HATCH. If I could have the attention of the Senator from Delaware, since we are moving fast, why do not we do this to expedite matters: Let the distinguished Senator from Texas set aside the pending amendment and then go to the distinguished Senator from Delaware and then go to the distinguished Senator from Kentucky on our side of the floor, Senator McCONNELL, and then go from there?

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am prepared to do that only on the condition that we have a time agreement on the amendment of the Senator from Texas because the Senator from Massachusetts has been waiting for 2 days to move on his amendment, and he has had it before the body. It is the pending business. In his absence I am reluctant to set it aside for an indefinite period of time.

Mr. HATCH. Will the Senator yield, 10 minutes divided equally, if the Senator will agree?

Mr. BIDEN. I agree.

Mr. HATCH. I propose a unanimous-consent agreement for recognition of the distinguished Senators from Texas, Delaware, and Kentucky, in that order.

Mr. BIDEN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. If the Senator will suspend just so we can keep abreast of the sequence of things here, does the senior Senator from Kentucky continue to yield the floor? He has the floor.

Mr. FORD. Mr. President, I certainly do and hope that they can work out an agreement so I can have my 2 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. I propose a unanimous-consent request that we permit the distinguished Senator from Texas to have 10 minutes divided equally between his side and the other side to present his amendment and then move to the distinguished Senator from Delaware for his amendment and then the distinguished Senator from Kentucky.

Mr. BIDEN. Mr. President, reserving the right to object, I suggest we go with the first unanimous-consent request and let the Senator from Texas go on the amendment for 10 minutes and see if we can work out an order.

Mr. HATCH. That will be fine.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. BIDEN. We are just getting started, I say to the Senator.

Mr. FORD. I thought I might do this and give them the opportunity to work things out without disturbing the Chair.

SECRETARIAT

Mr. FORD. Mr. President, Kentucky lost a living legend yesterday. Secretariat, arguably the greatest racehorse of all time, was humanely put down late Tuesday morning. This most difficult decision was made by Seth Hancock, president of Claiborne Farm where Secretariat stood at stud for 16 years.

Secretariat was diagnosed on September 4 as having laminitis, an inflammation of the sensitive tissues inside the hoof wall. Although he received the best medical care available and was thought to be on the road to recovery, his condition suddenly deteriorated, putting him in extreme pain. He was buried by sundown near his father, Bold Ruler, in a 6-by-6-foot coffin lined with orange fabric, the color of Claiborne's racing silks.

Secretariat won the Kentucky Derby in 1973 when I was Governor of the Commonwealth. I will never forget how he ran like the wind, his gleaming coat the color of a new penny. He finished in 1 minute and 59 and two-fifths seconds. Secretariat went on to become a Triple Crown winner, winning the Belmont Stakes by an astonishing 31 lengths. His records remain unbroken today.

Mr. President, even people who were uninterested in racing knew and loved Secretariat. "Big Red" was a phenomenal athlete—the perfect running machine who captured the hearts of the American people. Every year over 10,000 people came to see the great stallion who always hammed it up when cameras appeared. He truly was America's horse and we mourn our loss.

I ask unaminous consent that two articles about Secretariat from this morning's Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SECRETARIAT: A TRUE HERO PASSES ON

(By Andrew Beyer)

The film of the 1973 Belmont Stakes is grainy and faded now, but even if you have seen it a hundred times before you can't help feeling a chill when the big red horse pulls away to a lead of 10 lengths, then 15 lengths, then 20 lengths. Announcer Chick Anderson's voice captures the emotion of the moment, the sense that history was being made before your eyes: "Secretariat is blazing along! Secretariat is widening now! He is moving like a tremendous machine!"

When Secretariat crossed the wire 31 lengths ahead of his closest pursuer, shattering the track record and completing his sweep of the Triple Crown, his performance was hailed as the greatest in the history of the sport. And when he died yesterday, the victim of an incurable inflammation in his foot, that opinion still prevailed. No thoroughbred has ever run more brilliantly.

Nor has any racehorse of modern times captured the public's imagination as Secretariat did.

In the era of Watergate and Vietnam, a time of cynicism and disillusionment, he was a genuine hero. People wanted to believe in him so much that his failures—his inexcusable defeats, his disappointing performance at stud—never blemished his image.

His name remains synonymous with excellence, and his death brought sorrow to people who might not have imagined that they could grieve over a 19-year-old horse.

Secretariat's biographer, Bill Nack, was visiting Claiborne Farm yesterday, and he said: "People were crying; they were inconsolable. Even people who weren't big racing fans were touched by his death. The emotions this horse stirred!"

A horse who shows extraordinary talent will commonly be labeled a "freak," but Secretariat was no freak of nature.

He was the end product of the best American breeding—a son of the dominant stallion Bold Ruler, who was a son of the great and influential Nasrullah. And he packed these genes into a body that was the perfect running machine.

Charles Hatton, the late columnist for the Daily Racing Form, described to Nack his feelings when he walked into the Saratoga paddock in the summer of 1972 and saw this chestnut 2-year-old:

"You carry an ideal around in your head and boy, I thought, 'This is it.' I never saw perfection before. . . . The body and the head and the general attitude. I couldn't believe my eyes, frankly, I've made a thing of looking at horses since before the First World War, but I never saw a horse like that."

And Secretariat was dazzling on the track too.

I have never seen a 2-year-old do so many exciting things, show so many dimensions to his talent. In his first stakes race, the Sanford at Saratoga, he was facing the protem leader of his generation, Linda's Chief, and was trapped behind a wall of horses while the favorite surged to a seemingly commanding lead. Secretariat lowered his head and bulled his way through—Hatton wrote that it was like "a fox scattering a barnyard of chickens"—and then accelerated explosively to catch Linda's Chief.

At the end of the season he was voted horse of the year; he was syndicated for future stud duty for the astonishing sum of $6.08 million; he stirred hopes that maybe, just maybe, he had a chance to capture the Triple Crown.

No horse had accomplished the feat since Citation in 1948; many racing experts were beginning to doubt that any horse would ever do it again. The 1973 Triple Crown series generated widespread national attention, and Secretariat responded with performances that even the most casual fan could appreciate.

He set a track record in the Kentucky Derby that still stands.

He set a track record in the Preakness but was deprived of it by a malfunctioning electric timer.

He set a track record in the Belmont Stakes that may never be broken.

Before Secretariat came along, Gallant Man's world record of 2:26⅘ for 1½ miles was considered the most formidable mark in the sport; it had stood for 17 years. Secretariat demolished it.

He raced head and head with his archrival Sham at a sprinter's pace—six furlongs in 1:09⅘—and kept running strongly all the way to the wire, covering the distance in a stunning 2:24 flat. In my system of speed figures, Secretariat earned a rating for the Belmont that no thoroughbred has ever approached. As Hatton wrote, "His only point of reference is himself."

After that performance, anything Secretariat did was going to be an anticlimax. Although he did deliver other sensational performances, his record was marred by losses to Onion in the Whitney Stakes and to Prove Out in the Woodward Stakes, and those losses undermine his claim to being the best horse of all times. The great ones aren't supposed to have so many blots on their records.

SECRETARIAT'S EARNINGS

Year	Sts	1st	2d	3d	Purses
1972	9	7	1	0	$456,404
1973	12	9	2	1	860,404
Total	21	16	3	1	1,316,808

And his stud career was a disappointment. When Secretariat went to Claiborne Farm, there were hopes that he was going to transform his species. While he did sire many outstanding horses, including Risen Star and Lady's Secret, he never lived up to the unrealistically high expectations of him.

His failures, however, will fade from memory. But his triumphs—and his Belmont triumph in particular—will be remembered as long as the sport exists.

SECRETARIAT LAID TO REST NEAR SIRE, BOLD RULER

(By Vinnie Perrone)

Secretariat, whose 31-length victory in the 1973 Belmont Stakes earned him throughbred racing's Triple Crown and affirmed his greatness, was humanely destroyed yesterday following complications from an incurable hoof disorder. He was 19.

The legendary chestnut horse was put down at Claiborne Farm in Paris, Ky., where he had been a stallion since 1974. He was buried at the farm late yesterday afternoon near his father, 1957 horse of the year Bold Ruler.

Secretariat's physical problems came to light after he foundered early last month. He was diagnosed as having laminitis, an inflammation of the inner hoof.

Claiborne assistant manager Gus Koch told the Associated Press that the horse's condition "rapidly worsened" on Tuesday and that he was in "extreme pain for the first time."

"When the inflammation occurs, swelling results," Koch said. "And since there is little room for swelling, this is a very painful condition."

Walter Kaufman, Claiborne's resident veterinarian, administered the lethal injection at 11:45 a.m., putting to rest one of America's fastest and most popular thoroughbreds of all time.

Secretariat was foaled by the Princequillo mare Somethingroyal on March 30, 1970, at Helen Chenery's Meadow Stable in Doswell, Va. The burnished colt, with a white star on his forehead and three white feet, became known as "Big Red" for his accomplishments as much as his size.

He made his racing debut at Aqueduct on July 4, 1972, and placed fourth, his worst finish ever. When he was retired to stud after his 3-year-old season, Secretariat had become the first Triple Crown champion in 25 years, winning 16 of 21 races, earning $1.3 million and establishing two world records and a host of track records.

He was voted horse of the year in 1972—the first 2-year-old thoroughbred ever to receive the honor—and again in 1973 after becoming the ninth 3-year-old to win the Kentucky Derby, Preakness and Belmont Stakes, and the first since Citation in 1948. There have been two Triple Crown winners since, Seattle Slew in 1977 and Affirmed in 1978.

Of those who mastered the Triple Crown, American racing's most demanding and elusive of challenges, none did it quite like Secretariat. After a third-place finish in the 1973 Wood Memorial Stakes, the Lucien Laurin-trained colt won the Kentucky Derby by setting a Churchill Downs track record that still stands: 1 minute 59⅖ seconds for 1¼ miles.

He made an explosive move through the first turn at Pimlico and went on to win the Preakness Stakes by the same margin he won the Derby—2½ lengths—and would have had another track mark had the teletimer not malfunctioned. Secretariat was clocked in 1:54⅘ for 1⅜₁₆ miles, but the

record was not recognized because it was hand-timed.

Then came the June 9 Belmont Stakes, in which Secretariat secured a place in racing lore. His 31-length victory at odds of 1 to 10 seemed nearly mythical, the 1½-mile time of 2:24 crushing the world record even though jockey Ron Turcott never even cocked his whip.

Three months later, Secretariat set another world mark at Belmont Park when he won the 1⅛-mile Marlboro Cup Handicap in 1:45⅕.

The last two races of his career were his only ones on turf. He won them by five and six lengths, respectively.

Secretariat's true likeness never emerged in his progeny; his most talented offspring probably was Risen Star, who could have won the 1988 Triple Crown had he been subject to a less circuitous trip in the Derby. He won the Preakness and Belmont.

Secretariat also sired Lady's Secret, 1986 horse of the year, and more than 40 other stakes winners.

SECRETARIAT'S RACING RECORD

[Stakes races]

Date	Race	Track	Length	Finish	Purse
Aug. 16, 1972	Sanford	Saratoga	6 fur.	1st	$16,650
Aug. 26, 1972	Hopeful	Saratoga	6½ fur.	1st	51,930
Sept. 16, 1972	Futurity	Belmont Park	6½ fur.	1st	82,320
Oct. 14, 1972	Champagne	Belmont Park	1 mile	2nd	32,320
Oct. 28, 1972	Laurel Futurity	Laurel	1⅛ e.	1st	83,395
Nov. 18, 1972	Garden State	Garden St. Park	1⅛ e.	1st	179,199
March 17, 1972	Bay Shore	Aqueduct	7 fur.	1st	16,650
April 7, 1973	Gotham	Aqueduct	1 mile	1st	33,330
April 21, 1973	Wood Memorial	Aqueduct	1⅛ mi.	3rd	13,788
May 5, 1973	Kentucky Derby	Churchill Downs	1¼	1st	155,050
May 19, 1973	Preakness	Pimlico	1⅛ e.	1st	129,900
June 9, 1973	Belmont	Belmont Park	1½	1st	90,120
June 30, 1973	Arlington Invitat'l	Arlington	1⅛	1st	75,000
Aug. 4, 1973	Whitney	Saratoga	1⅛ mi.	2nd	11,847
Sept. 15, 1973	Marlboro Cup	Belmont Park	1⅛ mi.	1st	150,000
Sept. 15, 1973	Woodward	Belmont Park	1½ mi.	2nd	23,804
Oct. 8, 1973	Man o' War	Belmont Park	1½ mi.	1st	68,160
Oct. 28, 1973	Canadian Internat'l	Woodbine	1⅝ mi.	1st	92,755

Mr. FORD. Mr. President, I yield the floor.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 955

(Purpose: To increase the mandatory minimum sentences for adults who involve juveniles in drug offenses)

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I have sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 955.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN DRUG OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

Mr. GRAMM. Mr. President, this is a very simple amendment. It is an amendment that we adopted in the Omnibus Drug Act of 1988. We went to conference with the House and in the waning hours of the session the amendment was deleted. It is an amendment that I feel very strongly about. It is an amendment that imposes a mandatory prison sentence without parole for people who sell drugs to minors or who use minors in drug trafficking.

As we look at our problem with drugs and as we ponder its impact on our society and on us as a people, I think more than anything else the part of it that most enrages us, the part of it that most frightens us, is the selling of drugs to children.

Mr. President, this amendment simply requires 10 years in prison without parole for those who sell drugs to a minor. It does not matter who their daddy is or how society has done them wrong; if they sell drugs to a child and they are apprehended and convicted in the Federal system under this amendment they will go to prison for 10 years and they will serve every single day of that 10 years in prison. The second part of the amendment says that on the second offense they will serve 20 years in prison without parole.

Mr. President, if there is one thing that I have heard over and over again in more than 90 counties where I have met with the local sheriff, local police officers, the department of public safety, the drug task force, it is that we are losing the credibility of the

criminal justice system because people know that they are not going to spend time in jail.

In my State, which has been famous in the past for tough justice, if someone is convicted of selling drugs to a child in the State system and they are sentenced to 10 years in jail, they are probably going to do about 11 months in prison and in all probability they are going to be right back out on the street selling drugs to a minor.

What we do here is establish a Federal standard to assure that that will not happen in the Federal system. And in doing so, we set a standard that the 50 States and the District of Columbia can then replicate.

I believe that this is an important amendment. I think under ordinary circumstances that allowing the judge to have some discretion might be good policy. But I do not believe, Mr. President, that these are ordinary circumstances. I think, given the problem that we face, that we have to have an effective deterrent, and I believe that this gives us an effective deterrent.

I urge my colleagues to adopt the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

Mr. BIDEN. Mr. President, I do not intend to oppose the amendment. I would just like to lay out a few points very briefly.

We have in the last 3 years increased this offense for selling to minors, I believe, on three different occasions. Most recently in the drug bill, we went up to 5 years. And by the sentencing guidelines, there is a 5-year minimum mandatory now. That is just going into effect now.

I have no argument with the Senator from Texas in wanting to get tough with those who sell to minors. But statistically, we are building into the criminal justice system a very, very difficult dilemma.

We have thousands of minimum mandatory sentences out there now, and we are talking about taking literally years and years and years to clear the dockets and provide prison space for these folks.

But I am not going to object to it. I think it is wiser to let the sentencing guidelines, which will just go into effect beginning November 1 of this year, to work. We just bumped it up to 5 years, and now we are going to do it to 10 without even having moved on the 5 years.

Again, I would rather not have the amendment, but I understand the intention of the Senator. It is not something I have any philosophic disagreement with. I have a practical concern about the ability of the system to tolerate all these minimum mandatory sentences.

I yield the floor.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from Texas. He knows that the only way we are going to ever resolve these problems is to get tough on them.

So by asking for the mandatory sentence to go to 10 years, as I understand it, he is going to get tough about it. Agreed, I am concerned, as the distinguished Senator from Delaware is, that we might not have the jail space for some of these people. But I would rather work on that problem in a separate way, and I agree with the distinguished Senator from Texas.

Mr. KENNEDY. Mr. President, as I understand it, we are on a time limitation. Will the Senator from Delaware yield me 2 minutes?

Mr. BIDEN. I do not control the time.

The PRESIDING OFFICER. For the information of the Senator from Massachusetts, we are not under any time agreement. That unanimous-consent request was not offered.

Mr. KENNEDY. Mr. President, I certainly welcome both the interest and involvement of my friend, the Senator from Texas, in incorporating certainty and predictability in sentencing. As he is probably familiar, the chairman of the Judiciary Committee, myself, and others worked hard to ensure that we were going to have certainty and predictability with the establishment of the U.S. Sentencing Commission.

During the long range of hearings that we had setting that Commission up, we were cautioned by those involved in law enforcement and the criminal justice system about instituting mandatory minimum sentences. We have seen some retreat from that position over recent years.

In a 1989 study entitled "Drugs and Justice, A System Abandoned" by the Boston Bar Association Task Force and Drugs and the Courts—I will include the study itself in the RECORD—concluded on the issue of mandatory minimums:

> Even if a dealer is not immediately released, mandatory sentences have created an intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to two years to try a drug trafficking case in Suffolk Superior Court. This is exactly the wrong message to send as a deterrence to illegal drug dealers.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Boston Bar Association]

DRUGS AND JUSTICE: A SYSTEM ABANDONED

(Report and Recommendations of the Boston Bar Association Task Force on Drugs and the Courts)

PREFACE

With a current membership of about 7,000, the Boston Bar Association is one of the oldest and most prestigious bar associations in the United States. Historically the Association's activities were concentrated in two areas—its section and committee work dealing with substantive law matters and its pro bono efforts dealing with the delivery of legal services to the poor. At its October, 1988 Retreat, after a long and vigorous debate, the Council (governing body) of the Association decided to add a third focus—active involvement in civil and community affairs. At a Boston City Hall press conference later that month, the Association announced the first specific project undertaken in furtherance of this new goal—the formation of a special Task Force to examine how the criminal justice system is coping with the virtual flood of drug cases entering the system. This report contains the preliminary findings and recommendations of that Task Force.

The observations and findings of the Task Force are disturbing. Essentially the Task Force concludes that we are currently losing the War on Drugs. This is a message many will not want to hear. I would suggest, however, that we ignore it at our peril. The group conveying the message has collectively well over a hundred years of experience in dealing with our criminal justice system and no vested interest to protect or further their own ends. Their concern is only the well being of our metropolitan community. Hopefully those who share this concern will heed their warning and give prompt and careful consideration to their recommendations.

All of us who are concerned with the health of our community owe a deep debt of gratitude to the Task Force members who have contributed so much of their time to this important effort. This is particularly true with respect to the chair of the Task Force—Allan van Gestel, one of the most able and respected litigators in the city. Our thanks must also go to Allan's firm, Goodwin, Procter & Hoar, and its Chairman Bob Fraser for their unstinting support of the project, both moral and logistical, and to Pandick Press which has printed the report without charge as a public service to the bar and to the community.

EDWARD F. HINES, Jr.,
President.

INTRODUCTION

Over the past six months, the Boston Bar Association Task Force on Drugs and the Courts has conducted a study of the effect of the efforts of public safety forces to enforce the narcotics laws through the criminal justice system in the Boston metropolitan area. Some initial observations and recommendations are reflected in this interim report. We intend to file several detailed "action plans" by September 30, 1989. The focus of those plans will be discussed below.

The members of this Task Force unanimously agree that we are losing the War Against Drugs. On every battlefront the forces of law and order, whether police prosecutors, judges, probation officers, sheriffs or correction officials, are being overrun. In many cases, major elements of our criminal justice systems are in total retreat and chaos.

Of far greater concern to this Task Force is the overwhelming evidence that there is no real strategy to win any major battles, let alone the War itself. We seem determined to arrest more drug offenders without any consideration for the fact that they will not receive punishment for one to two years. We seem determined to increase mandatory sentencing provisions of our drug

laws with no consideration of the substantial evidence that those laws, however well intentioned, have greatly contributed to the collapse of the criminal justice system. The infrastructure itself is literally falling apart. There are too few judges, in too few courtrooms, to send too many inmates to too few jail cells.

In all our work we have discovered one point of consensus. It is the simple truth that "justice delayed is justice denied." We speak not only of the justice for the criminal offender but also for the victims of this drug plague. We have substantial evidence that entire sections of our cities are under the increasing control of drug-based gangs. If we cannot develop a winning strategy in the very near future, then we are destined for total defeat.

The members of this Task Force can assure the Bench, the Bar and the public that recourse to traditional solutions will not have any significant impact in the years ahead. What this crisis demands is a new and invigorated will to set aside agency rivalries, turf battles and personality conflicts. The public wants this problem solved. It is up to our elected and appointed leaders, as well as all members of the legal profession, to demand a strategy based on reason, not emotion of political advantage.

This interim report will focus on much of the evidence we have received describing the magnitude of the problem. It does not, in most instances, offer any detailed program to solve these problems. That is not our purpose here. We seek merely to alert the reader that this problem requires a reaffirmation of our public will to survive as a civilized society as well as our public commitment to share in the solution.

A. OUR LOCAL CRIMINAL JUSTICE SYSTEM

The picture does not improve when we focus on our local criminal justice system.

Here there really is no system at all. Our criminal justice program aptly can be seen as the orphan of government, the wastebasket of society, for what it receives and the manner in which it is treated by almost everyone who comes in contact with it. At every level, and in all departments, we find too few people, with too little financial support, grossly inadequate facilities, shackled by inconsistent and wholly uncoordinated rulings and legislation, for the most part neglected by the executive and legislative branches of government, and ignored by a society which, through its own actions, has revealed a stunning ambivalence to the drug problem. To suggest any modification of the legislated penalties against narcotic use or sale or to suggest decriminalization in any form evokes instant reactions of extreme rejection. These reactions, however, come from the same people who won't hire, train, supervise or pay more police, won't site or build more penal or treatment facilities, won't appropriate more funding for more judges, won't fund more court and probation department support personnel, in short, won't pay for or permit in their neighborhood, any of the several extensive and expensive tools that are needed to enable our criminal justice system to effectively attack the drug problem.

Justice Holmes taught us that the law is not what judges or others say it is, but what actually happens to people who transgress the apparent behavioral code. Thus, the first and largest question to be asked is whether we really are involved in a War Against Drugs, whether society really wants or expects its criminal justice system to solve the narcotics problem. The response to date, at almost all levels, does little to suggest that it does.

The failure to address the problem of drugs in a coordinated and effective way, has overwhelmed the local criminal justice at all levels. Followers, as well as leaders, have let the system down. There is a crisis of will. Until adequate funding for each of the inter-connected parts of the criminal justice system is provided, and until major changes are introduced, the war will continue as a lost cause.

Drug arrests have increased dramatically in recent years. There are, however, few additional judges, and no additional courtrooms, to try existing or new cases, and grossly inadequate jail space to hold those awaiting trial and after sentence. Because there is no space in the jails, many drug dealers who are awaiting trial are released back into the neighborhoods legitimizing the charge of "revolving door justice". Even if a dealer is not immediately released, mandatory sentences have created an intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to two years to try a drug trafficking case in Suffolk Superior Court. This is exactly the wrong message to send as a deterrence to illegal drug dealers.

Speedy dispositions of drug cases are not possible under existing circumstances. This leads the residents of communities most impacted to identify the criminal justice system with the problem rather than the solution. Until swift and certain justice is possible, public confidence in the courts will continue to erode.

Today's drug problem is not only different in degree, it is different in kind. Crack, a relatively new drug, can easily be manufactured in the home, creating a growing cottage industry. Barriers to entry into the crack business are virtually nonexistent. Violence on our streets has escalated to an unprecedented level. Sophisticated weaponry, particularly automatic weapons, have proliferated to protect and expand drug networks. Innocent victims have been caught in the deadly crossfire of a private war between competing drug gangs. Drug dealers will become more bold as the perception grows that society is impotent to stop them.

Tragically, drug traffickers have become role models emulated by the young. It is difficult to say "no" to drugs when profits are so large and meaningful punishment only an abstraction.

The criminal justice system can be saved, but only if public indifference to the problem can be moved out of the way.

B. TASK FORCE RESOURCES

Our study included conversations with a wide and diverse number of individuals experienced, involved and interested in all facets of the problem. In each instance, everyone we spoke with was extremely cooperative and supportive of the effort. Included were representatives of Boston Mayor Raymond Flynn; representatives of the Boston Police Department; judges at all levels of the court system, including the Supreme Judicial Court, the Chief Administrative Justice, and the Superior and District Court Departments of the Trial Court; key personnel in the Suffolk County District Attorney's Office; the Sheriff of Suffolk County; the Attorney General and members of his staff; the Governor's Legal Counsel; representatives of the Corrections Department; public and private defense counsel; and private citizen representatives from affected neighborhoods. Visits were made to District Courts in the metropolitan area, the Boston Municipal Court, the Suffolk Superior Court and the Special N Part Narcotics Prosecution Court Project in New York City. Numerous publications from federal and state legislative groups, criminal justice agencies, academics, editorial writers, the local and national press, and others have been gathered and studied. Statutes, court decisions and rules of practice have been reviewed.

C. SIGNIFICANT OBSERVATIONS

In the process, we observed the following:

1. The illegal narcotics problem itself is overwhelming. There are too many narcotics users, too many narcotics dealers, too many narcotics traffickers and too many offshoot narcotics related crimes. The inability to keep illegal narcotics out of our maximum security prisons demonstrates the utter futility of attempting to seal off the borders of Massachusetts or the United States. There are simply too many ways and too many willing participants to ever hope to mount a successful interdiction program which will eliminate the supply of narcotics. In fact, the evidence suggests that as we have stepped up interdiction, the supply of drugs have grown steadily more plentiful, of better quality and of lower prices.

There are misunderstandings at all levels about drugs and the problem they cause. Simplistic solutions overlook the fact that different responses are required to different drugs, different uses of the same drug, and different users. Heroin, for example, with its reliance on needles and tie-in with AIDS, is quite different from cocaine. Snorting cocaine is quite different than smoking crack.

2. Law enforcement agencies appear to be losing an uphill battle and are themselves becoming buried and battered in the process. The largest police department in the metropolitan area, the Boston Police Department, reports making arrests on narcotics charges at a current rate in excess of 7,000 per year. There is no way that 7,000 people can be tried each year in the courts of Suffolk county, or jailed or treated, should it turn out that they warrant or need one of the other.

The Boston Police Department is incapacitated by a Drug Control Unit that is too small, having only approximately 60 officers assigned to it. The DCU is overburdened by court appearances, its officers often being called to testify in multiple courts at the same time on the same day.

Language problems, Hispanic, Oriental, and others, and complications presented by justifiable constitutional limitations, make it nearly impossible for the Boston Police Department to conduct an effective wiretap investigation of a narcotics ring. Seemingly simple things like the safe storage of drugs, money, equipment, and even automobiles, seized by the Boston Police Department present immense problems. The officers assigned to the Drug Control Unit are subjected, on a daily basis, to ever-increasing and deadly personal risks as the greater use of weapons and violence pervades and infects the illegal drug trade. Temptations abound and the potential for corruption within police departments is frightening.

And, as the Boston Police Department gets more sophisticated and more effective, the Balkanized local governmental structure in the greater Boston metropolitan area invites those conducting illegal drug activities to avoid that sophistication by moving their operations a few miles or a few subway stops over the city line to Quincy, or Cambridge, or Chelsea, or Revere, or any of the

other nearby, but wholly-separate governmental entities in the metropolitan community.

Perhaps most significant of our observations about the law enforcement side was the near total lack of trust, cooperation and coordination among and between the agencies involved. In Boston for example, drug arrests are made by the Boston Police, the Metropolitan District Commission Police, the State Police, the MBTA Police, Housing Authority Police and Federal Drug Enforcement Agency officers, to name only the most active of the group. Those various police agencies seem in constant turf wars and appear wholly distrustful of each other. Certainly they do little to work in any coordinated manner. Not only is this wasteful and duplicative of resources, it is also extremely dangerous for those who are performing undercover operations. On more than one occasion, officers from one force have come close to arresting or shooting at officers from another force that they did not realize were involved in undercover activities. We observe the anomalous situation where the head of the Federal Drug Enforcement Agency in Boston and the newly designated United States Attorney want to join in combat with the Boston Police and the request is rejected.

3. The situation with regard to jails, houses of correction and prison facilities is complicated, expensive and wholly inadequate for the task. The jail problem is probably the biggest current impediment to an effective drug program. Setting aside for the moment the serious societal question of who should be imprisoned, for what, and whether we imprison too many people, it is absolutely clear that police departments, district attorneys' offices and courts are being asked to arrest, prosecute and incarcerate vastly more people than the existing jail facilities can ever hope to accommodate.

The situation is as bad for post-trial incarceration as it is for pre-trial detainees. Almost every local jail has, or is about to have, imposed upon it, by some federal or state court order, a cap or limitation on the number of people it can accept and house. These orders, valid in every instance, come from a variety of different courts and different judges, are not coordinated in any way, and seem oblivious to the realities and burdens placed on the sheriffs and courts which have to deal with the situation.

The example at the Charles Street Jail in Boston is revealing. There a Federal judge has furthered an earlier order of that court regulating conditions at the jail which has resulted in an effective upper limit of 342 inmates. A justice of the Supreme Judicial Court, has issued orders with regard to the steps which can or must be taken by the Suffolk County Sheriff and the Superior Court in attempting to deal with problems when the cap is reached. Those orders require that certain kinds of pre-trial detainees must remain in jail, while others can be considered for release to halfway facilities, or even the street, at the times when the cap is to be exceeded. Until recently, those included among the group who could not be released were people awaiting trial on charges of operating a motor vehicle while under the influence of alcohol, a legalized drug. The result was bizarre. People charged with trafficking in cocaine, an illegal drug, were eligible for release to halfway houses, and in some instances to the street, because there wasn't enough room at the Charles Street Jail, while people charged with operating under the influence of a legal drug were kept locked up.

Even more peculiar is the result that, in order to protect the constitutional rights of prisoners to a single cell at the Charles Street Jail, the Sheriff has had to move prisoners, at enormous expense and personnel dislocation, to other jails throughout the Commonwealth. When moved, however, the detainees often end up in facilities in other counties not subjected to the Federal court order and, therefore, in cell situations with multiple prisoners, under conditions far worse than if they were simply double-bunked at the Charles Street Jail.

The ability of the state and local governments to construct prisons is immensely hampered by the rigid laws which were enacted during the tenure of the Ward Commission, particularly Chapter 579 of the Acts of 1980. Worse is the reluctance of the General Court to fund the construction, and the unwillingness of the people themselves, often acting with the assistance of their local state legislators, to allow the facilities to be built in their communities. The construction of jails is a very expensive, time-consuming operation and, it seems, as soon as a new jail is built, it is immediately filled. The numbers being arrested will probably increase rather than decrease, thus still further exaggerating and aggravating the jail problems. No one, however, seems to be considering alternative sentencing for drug offenders.

As bad as the situation may be with the siting, funding and construction of prisons, the problem of treatment facilities is much worse. There is almost no attention or funds, being made available for treatment.

4. The District Courts are the courts closest to the people in our system. The inner-city District Courts, particularly those in Dorchester, Roxbury, West Roxbury and Chelsea, are being swamped with proceedings related to narcotics arrests. Similar problems exist in other urban District Courts, particularly in Springfield, New Bedford, Lawrence, Worcester and Lowell. Of the 69 District Courts in the system, the nine listed here account for nearly 50% of all drug cases.

The Court buildings are, for the most part, in deplorable physical condition, understaffed by judges and greatly lacking in sufficient support personnel. The allocation of judicial resources is complicated by the fact that judicial vacancies remain too long unfilled. New judges under last year's Judicial Needs Bill, Chapter 206 of the Acts of 1988, are only now starting to be appointed by the Governor. Their compensation, however, has not been fully funded yet. Additional court support personnel are also in great need. Under an economy measure in the FY '89 budget, vacancies in court support personnel that occur by attrition may not be filled. This has caused a 10% diminution in the number of court employees in a system which needs more, not fewer, people in support positions. An equally serious complication is that although judges can be moved around from court to court under certain circumstances, the same movement of clerk personnel cannot be accomplished under present laws.

It is the belief of some in the District Court Department that a different approach is taken to the inner-city courts from those in the more affluent suburban cities and towns. Conditions that would not be tolerated in the less urban community courts are the routine in places like Dorchester, Roxbury, West Roxbury and Chelsea. These courts have no particular supportive constituency and the neighborhoods themselves seem unable to generate concern on the part of those controlling the situation.

5. The Superior Court in Suffolk County suffers from similar limitations in resources, facilities and support personnel to those which plague the District Courts. There are not enough Superior Court judges, nor are there enough clerks, stenographers and support personnel to assist them. Like the District Court system, the provisions for the Superior Court in the Judicial Needs Bill have been abandoned in the current fiscal crisis. Judicial positions created almost a year ago are just now being filled, and those judicial offices remain significantly unfunded in the proposed budget.

Demands for creating specialized narcotics courts or night courts can hardly be taken seriously when present vacancies and deficiencies in the courts remain unattended to.

Another complicating factor in the Superior Court is the implementation of the Supreme Judicial Court's Time Standards Order. This plan, designed to reduce the huge backlog in civil cases, is already straining the system to the core. Any shift of resources to the criminal side will surely cause that laudable and necessary program to fail.

6. There is concern that the criminal defense bar, both public and private, is, for the most part, too small, too inexperienced and too underfunded to be able to effectively handle the crush of business which could come about if corrections were made in the other parts of the system. Compensation for private counsel, engaged in cases through the auspices of the Committee for Public Counsel Services, remains at $25.00 per hour for out-of-court time and $35.00 per hour for in-court time. These amounts have not been adjusted since 1981. Compensation for entry level prosecutors is equally poor. The Suffolk County District attorney's office starts its lawyers at as low as $21,780 per year.

There is very little to attract lawyers to criminal defense or prosecution work of the nature needed in the District Courts, and even the Superior Court. Compensation is low, the conditions are as poor as most clients, and, for the defense bar at least, community opprobrium is all too frequent. There is even less to hold them in those kinds of positions when their colleagues can practice civil trial work, or non-trial law, in elegant downtown office buildings and command 2, 3 and 4 times as much in compensation for such "clean" legal work.

7. The laws, decisions and court rules that deal with narcotics cases are a hodgepodge of inconsistency, adopted with the best intentions, but resulting in as much aggravation to the problem as the unwillingness of the other two branches of government to provide the necessary funding and support for the courts. Mandatory sentencing is perhaps the most pernicious of the problems. Intended to show a toughness and intolerance for the evils of narcotic violations, the effect is to clog the courts and make them even less able to handle the crush of business because the opportunity to resolve cases by plea bargaining is all but eliminated. Criminal defense lawyers are forced to "play for the fumble" by raising every conceivable defense and insisting on a full and complete trial in the hopes that the government somewhere along the line will stumble in a way that will provide relief for the accused.

Laws relating to the allocation of jurisdiction, even despite the recent *Cedeno* decision by the supreme Judicial Court, remain

uncertain. Bail presents similar problems. If it is set too high, it can't be met and the people involved must be held in jail awaiting trial. The jails, however, are subject to caps and are already crowded beyond the overflowing stage and, therefore, there is no real room. Thus, courts must consciously keep bail at a lower level so that people can post it and return to the street while awaiting trial. As noted earlier, this creates the "revolving door justice" phenomenon, a legitimate concern in the neighborhoods where drug trafficking is rampant, and a source of demoralization and anger for police and other public officials.

8. Given the problems in arresting, prosecuting, trying and punishing those involved with illegal drugs, thoughts turn to the other side, which involves treatment. Here, like everything else, there is far too little available. There is almost no treatment that is realistically up to the task of attempting to cure those who have become seriously addicted. Certainly, there is essentially no treatment in our prisons. Treatment facilities, however, like everything else are expensive and their siting, because people don't like those people who go there for treatment, is as difficult as siting a prison.

9. Even in relatively small and technical areas, problems abound. The Public Health Drug Analysis Laboratory at Jamaica Plain analyzes most of the materials seized in Boston from drug dealers. The laboratory is too slow. The average response time as of this writing is about six weeks. Judges' suggest even longer delays, predicated upon statements by prosecutors that seek trial continuances because the lab reports are not back. It is unclear, however, whether the problem isn't perhaps a bit more complicated. There certainly seems to be room for improvement at the laboratory, a situation that should not be terribly expensive. Simply adjusting the lines of communication between the laboratory, the police and the District Attorney's office would be an easy start.

At the same time, it appears that on some occasions, those responsible for picking up and delivering the drug results, the police department generally, may have been using the laboratory as an excuse for their own purposes. Similarly, there may be occasions in which a prosecutor who is not really ready for trial for another reason uses the laboratory as a convenient scapegoat. Improvements at the laboratory and tightening up on supervision at both the police departments and in the District Attorney's office would seem a simple cure.

10. There is a significant lack of coordination between and among federal, state and local agencies; federal legislative and state legislative bodies; the federal executive branch and the state executive branch; and federal courts and state courts, in their dealings with drug issues. Given the magnitude of the problem and the immense amounts of money that is being spent in connection with it, it is unfortunate that a vastly greater degree of inter-agency, interdepartment and inter-government cooperation cannot be fostered. Many metropolitan areas run coordinated drug task forces where resources of people, information and statutory power are pooled. This not only prevents confusion and waste, but makes available to local authorities the federal resources and forfeiture laws that work.

11. Interdiction, the prevention of the importation of drugs into this country, is a failed effort. The United States' borders are far too large and far too vulnerable to be able to be policed effectively. The American public is far too willing to pay for drugs that are brought in. The business community cites drug use by employees as one of its greatest problems. Foreign countries where drugs are produced are too small, too weak, too corrupt, or too antagonistic towards the United states to mount any effect programs within their own boundaries to control the drug lords who start the entire chain. And even if any of that were effective, it seems certain that the ingenuity of the criminal mind, given the immense temptation of the huge amounts of money involved, would enable those criminals to produce the product within the boundaries of the United States if the borders ever could be sealed.

12. The present approach, criminalizing everything, has not succeeded. It has made many criminals extremely rich, has increased the number of offshoot crimes and violence, and has placed many of the most needy neighborhoods in total jeopardy, held hostage to drug trafficking and the misery that follows in its wake. This Committee concludes that locally, at least, the problem cannot be solved. Like the medical profession's battle with cancer, the most that can happen is that it can be better controlled and managed. Even the latter, however, will only be a realistic possibility if society demonstrates that it really cares enough to support the effort and demands action from its leaders. We have serious doubts that the Massachusetts Legislature or the Executive, in the absence of strong public demand, will appropriate the funds and revise the legislation necessary to attempt to effectively control the problem. Nevertheless, we reach the following conclusions and make the following recommendations. With regard to each major recommendation, we intend to prepare or commission, and publish, a detailed plan for its implementation. We submit our recommendations now because we believe them important and believe that they will help to provide public understanding and a basis for free and open discussion.

D. CONCLUSIONS

It is clear from what we have observed, that the present strategy is not succeeding; that we need a new set of tools and approaches. To develop those tools, to select policies which have a chance of success, we need to know much more than we do today. The Committee, therefore, publicizes the findings of Mark A.R. Kleiman and Kerry D. Smith of the Program in Criminal Justice Policy and Management at the Kennedy School of Government at Harvard University. In a January 31, 1989, paper in progress, entitled "State and Local Drug Enforcement: In Search of a Strategy" Messrs. Kleiman and Smith said:

"In principle, the right way to choose a drug policy for a city would be to describe the problem, invent some alternative approaches to addressing that problem, predict the costs and the likely result of each approach, and choose the least painful. Then, after a while, one could measure the results and compare them with the predictions. Unexpected results or new situations would call for changes in policy.

"In practice, no city has anything resembling a quantitatively accurate description of its own drug problem. Nor is there a well-worked-out body of theory or experience to allow predictions of the likely results of alternative approaches.

"Theory and experience agree that neither high-level enforcement nor unfocused retail-level enforcement is likely to contribute much to solving the problem under current big-city conditions. Yet local drug enforcement consists primarily of a mix of those two strategies. A growing share of local law enforcement budgets is thus being committed to programs that are both unproven and implausible.

"Law enforcement agencies, like boxers, need to learn to fight their weight. In a city that has a small crack market, for instance, investing early and heavily may succeed in keeping the market small or driving it out. Where a large crack market already exists, consideration should be given to whether even maximal efforts are likely to have much effect. There will come a point of diminishing returns, when throwing more police resources into the pot will no longer produce significant social benefits. Refining the techniques for making those calculations poses a substantial intellectual and practical challenge.

"Crackdowns focused on particular neighborhoods have some theoretical advantages, and a little experience to suggest they can work. But the extent to which they simply push the problem around is undetermined. For neighborhood crackdowns to be a viable citywide strategy, it must be possible after a time to move enforcement resources to a new area and repeat the process. That, in turn, requires both the development in the crackdown area of indigenous capacity to resist the return of drug dealing and a willingness on the part of residents to see the focus of police attention shift once the problem has subsided. How local governments can create that capacity and that willingness remains an open problem.

"Drug markets dominated by warring youth gangs will leave more corpses behind them than drug markets not so dominated. Routine drug enforcement may have little to contribute to gang control; police need to learn how to make life particularly miserable for gang-related drug dealers (and gang members committing other crimes).

"There is some evidence—not yet much—that putting police in the classroom as "drug education" teachers can reduce the rate at which adolescents are initiated into illicit drug use. Whether such programs are an efficient use of police work-years depends in part on the value of alternative uses of the same work-years. If current drug activities are already overloading the capacity of prosecutors, courts, and jails, the arrests sacrificed by putting some police in classrooms may not matter much.

"Considering how much of the public concern about drugs centers on the link between drugs and crime, it is surprising how ill-designed current policies are to discourage the long drug/crime careers characteristic of heroin users (and almost certainly of some crack users). Mandatory drug abstinence for drug-involved offenders, verified by testing and backed with the threat of reincarceration, ought to be a centerpiece of any serious 'career criminal' or 'dangerous offender' program.

"Research, which has contributed relatively little to the current decisionmaking process, seems ill-positioned to contribute much more. The most obvious need is for a set of plausible, computable models of local drug sales activity as a function of local enforcement activity. This would likely involve some combination of microeconomics and operations research.

"But better models will be of limited practical use unless someone collects the data to feed them with. Numbers of users, numbers of sellers, numbers of transactions, total revenue; all of these data are needed, and

needed down to the neighborhood level. This requires some very expensive data collection: surveys, street ethnography, and the development of user, ex-user, and potential-user panels. No police chief will ever know as much about the cocaine market in his or her city as the local manager for R.J. Reynolds knows about the cigarette market, but we can be, and need to be, much closer to that position that we now are.

"One way to start would be to collect more information about drug enforcement. Local, state and national data collection systems often fail to make essential distinctions or to be kept in comparable categories; the Uniform Crime Reports, for example, lump heroin and cocaine together. Questions of the form, "How many crack sellers were arrested in Chicago last year, and how many aggregate years of confinement were they sentenced to?" need to be routinely answerable before any serious study can be made of the results of alternative strategies.

"Beginning to collect at least the minimal level of information would suggest a new level of seriousness about developing responses to the drug problem that produce publicly valuable results. Until then, state and local drug enforcement will remain a collection of activities in search of a strategy."

E. SHORT-TERM RECOMMENDATIONS

1. We conclude that it is far more important that justice be swift, than that sentences be long. Adjustments must be made and programs instituted in the District and Suffolk Superior Court Departments of the Trial Court to provide swift, efficient and certain justice. This should include consideration of a fast-track drug offender's program in the Superior Court and a modification of the New York N Part approach for the District Courts. This system is based on a speedy initial hearing program. In New York, laboratory results are produced within 6 days of arrest. At that time a defendant is given an opportunity to plead to an offense for which he will face a less severe penalty or be directly indicted on the most serious charge. District Courts should adopt a similar system supported by speedy test results, swift indictments and the opportunity to plead to a less serious offense in the District Court prior to an indictment.

Early intervention and more careful screening of cases should be instituted in the District Courts by experienced Superior Court Assistant District Attorneys in an effort to dispose of more cases at that level and to determine if the more serious trafficking cases can, or should, be the subject of direct indictments in the Superior Court. The continued use of probable cause hearings in the District Courts is recommended, but they must be tied to better case screening and a better allocation of judicial resources to conduct those hearings, particularly in Roxbury, Dorchester and Chelsea. At the same time, particularly if there is to be a fast-track drug offenders program and more direct indictments, there ought to be assigned 3-4 judge teams to Suffolk Superior Court, each team to sit for 3-6 months, with one judge hearing pleas, deciding motions and assigning trial dates, and the others presiding on trials. Both the District Court N Part type program and the Superior Court Drug offenders plan will also require the infusion of money and resources at the laboratory, in order to produce fast and accurate test results.

Attention must be given by the Governor and the Legislature to the implementation of last year's Judicial Needs Bill, such that it gets fully funded and the judges authorized thereunder are promptly appointed. There will be a need for an immediate addition of new court clerk and probation office personnel in those courts most seriously affected (Roxbury, Dorchester, West Roxbury, Chelsea, Suffolk Superior, etc.).

2. Means should be devised for coordination among the critical federal, state and city agencies and among all affected parties. In particular, there should be a major coordination among police departments in the Metropolitan Boston area somewhat like the Allied governments got together and cooperated against a common enemy in World War II. Every opportunity to develop a joint task force should be considered, even if it means hiring more Boston patrolmen or promoting them to detective rank. There also should be coordination among the judges in the various courts including the Supreme Judicial Court, the Appeals Court, the Superior Court, the District Court, the Boston Municipal Court, the Housing Court and the Federal Court. Similar kinds of cooperation and coordination should be worked out with the offices of the Suffolk, Middlesex. Norfolk and Essex County District Attorney's office, the U.S. Attorney's office and the State Attorney General's office. There should be established a permanent coordinating group with representatives of courts, prosecutors, police departments, the organized Bar and neighborhood spokesmen which meets on a regular basis to discuss problems of common interest and avoids inconsistent and counter-productive efforts. A similar multi-interest group should be created to review and assist in the drafting and passage of related legislation.

3. Massive public educational programs about the function, role and workings of the criminal justice system and all of its branches, including explanations of the roles of prosecutors, defense counsel, District Courts, Superior Courts, Sheriffs, jails, Probation Departments and explanations of legal principles, such as those relating to bail, jurisdiction, sentencing, constitutional rights, etc., etc., should be undertaken. *The Boston Globe, The Boston Herald* and the major local television and radio stations should be asked to set aside their rivalries and join in this effort. A Special Education Committee or the Criminal Justice Section of the Boston Bar Association could be asked to attend to this task and to coordinate its activities with the Boston Against Drugs program already in place.

4. In order to bring the most affected communities into the process and to provide them with support, the formation of Community Advisory groups should be encouraged in order to coordinate and meet on a regular basis with representatives of the Courts, of the District Attorney's office, of the Police Department, and of such other agencies as may deal with the problem at any given time. The Mayor should consider the appointment of a Deputy Mayor specifically charged to lead this effort.

5. The Police Department needs more, and better trained, officers in its Drug Control Unit. More senior officers need to pay greater attention to the day-to-day activities of the Drug Control officers. The City should provide its Police Department with the facilities necessary for the Drug Control Unit to operate efficiently. These facilities should include ample and secure room for the safekeeping of drugs, money, and other things recovered, and the disposal thereof. There must be far greater coordination between the District Attorney's office and the Police Department so that the officers are given better guidance on the important legal and constitutional principles that apply to their daily activities.

But most of all there needs to be a leadership effort by the Police Commissioner to redirect the police approach to the drug problem. This redirection should be along the lines which proved so successful a decade and more ago when the current Commissioner led the Community Disorders Unit in the battle against racial violence. At one time, as fire bombing and violence engulfed several neighborhoods, that battle too seemed beyond the power of the police alone to win; prejudice and racial hatred was too ingrained in Boston's ethnic neighborhoods, went the prevailing wisdom, for the police and the criminal justice system to turn matters around. But turn them around they did. Through a process of open information exchange between citizens and police, through building a sense of public trust, through never waivering decisions of Superior Court judges in their support of what was lawful and right, the police and the justice system finally made the difference.

It can be done again, but it will require application of the same principles, building the same trust and opening up and keeping open the same informational exchange between citizens and police. It will require true community policing, police that become a part of the neighborhood to which they are assigned. It will require citizens willing to help and assist and inform those police. It will require close coordination with the Drug Control Unit. It will require from the police and courts assurance that punishment for offenders will be swift and certain. It will require the development of ways to mobilize the resources of the local community to work closely with the Police Department. Combined with the other reforms to the criminal justice system suggested by this report, all of these requirements should be capable of being met successfully.

6. The prison system is perhaps the largest single impediment to the effectiveness of the present program. Its solution is complex and expensive. Nevertheless, early attention must be given to commandeering sites to hold pretrial detainees; much more speedy construction of modular prison units must be accomplished; and, as the Governor has recently urged, changes in the Ward Commission law, Chapter 579 of the Acts of 1980, must be made to permit faster attention to the construction of new facilities. The Legislature should consider requiring a prison inmate impact statement before any new law becomes effective which would result in increasing the prison population. The Governor and the Mayor must each be convinced to proceed much more aggressively with the siting of facilities and must not permit localized opposition to stand in the way. The Mayor's Office should undertake an immediate program to inventory and identify all unused or underutilized city property to locate sites which can readily be converted to emergency pretrial holding facilities. A similar project is needed to develop locations for sentenced Suffolk County inmates. The Governor should conduct the same kind of inventory for the same reasons, at the state level. The Federal court should be asked to re-examine its orders regarding the Suffolk County Jail upon completion of the new facility.

In addition, and clearly much more important, there should be careful attention given to alternative sentencing and punishment

techniques. Programs should be devised to control and regulate offenders outside of prisons, using the latter only as a last resort.

7. The laws that relate to drug violations should be subjected to an immediate study with the object of clarifying them, coordinating them, and putting them together in a cohesive whole. In that regard, serious attention should be given to eliminating, or modifying radically, mandatory sentencing to better facilitate plea bargaining and the processing of cases in court. The laws should be amended to permit judges the discretion to override mandatory sentencing for first time offenders and those who cooperate with the prosecution. Defining the crimes themselves in a way that realistically attends to the situation as it exists is equally important. A more clear allocation of jurisdiction between and among the courts is needed. A forfeiture bill, such as that sought by the Attorney General, is highly recommended. At the same time we consider the proposed change in drug sentencing to include a ⅝ parole requirement, rather than the more usual ⅓ provision, to be counterproductive.

8. The Suffolk County District Attorney's office has a unique opportunity to play a leadership role in the fight against drugs. The assistants involved in drug cases need better training and supervision and must be encouraged to work much more closely with the Police Department and neighborhood groups. Far greater flexibility in charging on drug cases should be encouraged. Compensation adjustments are needed to attract people to longer terms of service as prosecutors.

Similarly, the criminal defense bar needs augmentation and support. Among other things, the budget of the Committee for Public Counsel Services ought to be expanded so that the payment for private counsel can be brought up to more realistic levels above the $25.00/$35.00 per hour rate currently in effect.

9. The Boston Bar Association ought to give consideration to the creation of a Drug Corps or a Criminal Justice Corps whereby the private civil bar would be encouraged to support, with people, a program that makes bright, young lawyers available: to assist the District Attorney's office as prosecutorial aides; to advise the Police Department as law enforcement counsellors on search warrants, wire taps, etc.; to help the Committee for Public Counsel Services with legal research and case preparation; and to aid the Courts, as research and case management assistants. This would serve the purpose of getting some of the rest of the Bar involved directly with the criminal justice system and, hopefully, would have a spill-over effect that would cause an upgrading and greater support for that system.

F. LONG-TERM RECOMMENDATIONS

1. The drug problem is overwhelming and devastating in its effect, not only on Metropolitan Boston, but on Massachusetts and the country as a whole. It is contributing significantly to the breakdown in the criminal justice system. It is in danger of seriously corrupting law enforcement entities. It is causing the expenditure of immense amounts of tax dollars in a losing fight. It is making criminals immensely wealthy and destroying our most vulnerable and needy neighborhoods. Under all of the circumstances, it would be an abdication of responsibility for this Committee not to recommend that a very serious, long-term and detailed study based upon information derived from our conclusion about the need for hard data, should be made of the basic strategic approach we are following in dealing with narcotic drugs.

It may be that expecting the problem to be cured by the criminal justice system is wholly unrealistic and that, in fact, the problem is destroying the criminal justice system and at great expense. It may also be that the problem lies at the other end of the scale and that, in fact, an approach aimed at arresting and jailing all users would be a more effective way to break the drug culture than concentrating only on dealers and suppliers. Society's ambivalence about the use of drugs and its utter unwillingness to date to pay the high cost of having the criminal justice system effectively address the problem, makes the study of basic strategies logical and proper for this Committee to advocate.

2. Our study has revealed a criminal justice system which, wholly separate from the strains imposed upon it by the drug problem, is in desperate condition. It truly has become the orphan of government. Resources, both personnel and physical, and of all kinds, are needed at all levels. There are not enough judges, and they are not compensated well enough. There are not enough clerks and probation personnel, and they are not compensated well enough. Laws have been passed which inhibit the efficient utilization and mobilization of personnel resources to affected courts and communities. Court buildings are crumbling and falling down around the people who attempt to work in them. The whole system has been grossly neglected. The courts lack an advocate and a constituency. As a result, the system is archaic, medieval, bizarre in its details—wholly inadequate to its high mission of administering and delivering justice to our society.

A massive effort must be made by responsible parties and institutions to develop and build a constituency of support for our state justice system. The courts are not just another agency, they are a co-equal branch of government which, much more than the legislative and executive branches, exist to protect the rights of the people. The Boston Bar Association ought to devise a long-term program, perhaps in conjunction with the Massachusetts Bar Association, whereby ongoing and substantial support for the justice system is made a regular and expected duty of every lawyer who practices in the state. Ways must be found to educate and build a constituency to rebuild this vital branch of our state government.

3. American society imprisons offenders at a far greater rate than any other non-communist society except South Africa and yet, at the same time, we seem to have a crime rate that generally outstrips our civilized neighbors. It is not unusual leniency that distinguishes ourselves from less violent nations. It has been asserted that the United States differs from other industrial societies in several dimensions of social and economic life that are crucial in accounting for our high levels of criminal violence. These include a wider spread of inequality, greater extremes of poverty and insecurity, the relative absence of effective policies to deal with unemployment and subemployment, greater disruption of community and family ties through job destruction and migration, and fewer supports for families and individuals in the face of economic and technological change and material deprivation. Social mobility contributes greatly to the breakdown in societal mores and sociological control.

It is certainly true that the growth and threat of drug-related criminal activities is at its greatest in those communities that suffer most from our extremes of inequality and the wide disparities between the rich and the poor. If, as seems likely, the causes behind the vulnerability of our poorest, most segregated neighborhoods to drugs lie in the social deprivation from which these communities suffer, the lack of decent, affordable housing, good jobs, and an adequate public education system, then the solution must lie in improvements to these areas as well. Simply building more prisons and writing more laws will not be a sensible or productive means of addressing the problem in the long run if major efforts are not begun to improve the conditions of inequality and deprivation under which too many Americans presently live.

Respectfully submitted,

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MAY 23, 1989.

Mr. KENNEDY. Mr. President, this situation that we are confronting in Boston is replicated in many jurisdictions, and certainly in New York, New York City.

One of the outstanding district attorneys in the country, Bob Morgenthau, who has been about as tough on criminals and has been as tough at obtaining sentences as any district attorney, has cautioned Congress about moving in this area just to demonstrate that somehow Congress is being tough on the drug sellers.

So I had hoped, Mr. President, that we would have an opportunity to examine this concept as it relates to our criminal justice system, the speediness of trials, and whether we are really going to achieve the objectives which I share with the Senator from Texas.

We have now seen, as a result of the mandatory sentencing provisions that we included on the omnibus drug bill last year, the judicial conferences of the 3d, 8th, 9th, and 10th circuits, of the courts, have adopted resolutions condemning mandatory minimum sentences, just like those being proposed, as being counterproductive in trying to ensure swift and speedy justice for

those that are involved in drug trafficking. Copies of those resolutions were included in the Senator from Delaware's remarks and I commend them to every Member of the Senate.

I could go on, Mr. President. I understand what the Senator from Texas is attempting to achieve. But I do think that the kinds of concerns which have been expressed by the chairman of the committee and those who are involved in the prosecution of these criminals, prosecutors like Bob Morgenthau, who takes a place second to none in this country in being tough on drug traffickers, realize now that as many as 60 percent of those who are actually arrested for trafficking are out, and the principal reason that they are out is because the courts are jammed. And the principal reason the courts are jammed is because of minimum sentencing.

We are trying to address the jamming in the courts with a number of reforms which are included in the amendments of the Senator from Delaware on the criminal justice system. But I would just caution those that want to ensure that those that are trafficking and selling to children—and all of us realize now the penalty is 5 years—we put the mandatory in.

I am just wondering how many others that are caught up in the whole drug syndrome that may not either be tried or may be out on the streets, and are involved in drug trafficking while awaiting trial.

So I just mention those brief points, Mr. President, so we have some idea of what the basic substantive issue is.

Mr. GRAMM. Mr. President, I do not want to get into a long debate here. Let me first say that one of the reasons our courts are so crowded is we keep trying the same people over and over again.

The advantage of my amendment is if we try them once and we convict them, we do not have to try them again for 10 years. In my State, we try the same people over and over and over again because they are not being kept in prison.

It is true that we are moving in the direction of tougher sentencing, but the Senate expressed itself very strongly on this bill last December. We adopted a 10-year mandatory sentence. That, then, died in conference. As long as we are debating the drug bill, it gives us an opportunity to go back to our position.

Also, let me remind my colleagues that we just provided over $1 billion to build new prison space. We are going to build almost 24,000 new prison beds. Who better to put in these beds than people who are selling drugs to children?

So, I do not understand how mandatory sentencing, 10 years in prison without parole, crowds the court docket. In fact, I think it lessens the crowding by assuring we only try these guys every 10 years on the first offense and every 20 years on the second one.

Second, building all this new prison space, I believe that people who sell drugs to children ought to be first in line in getting an opportunity to use it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think the Senator from Texas is right about who he wants to fill the beds first. I might add it was the Senator from Massachusetts who first introduced the notion of same time for the same crime, setting up the sentencing commission so the judges would not have discretion so when we gave them a sentence they went to jail, they did not get out on parole or probation.

So we are all in agreement here. The problem is—and I am prepared to accept the amendment—that the RECORD should show several things. One, that of all those folks in Texas and Delaware and Massachusetts and Utah that we all want to put away, 98 to 99 percent of them are under State jurisdiction, and this law will not affect them at all. It will have absolutely no impact on them at all.

As a matter of fact, one of our problems is that, until the other night, if we followed President Bush's proposal of not providing significantly larger numbers of prosecutors and not providing a significantly larger number of police, we were not even able to or willing to try those cases in Federal court where we had jurisdiction and where they were ours. We were passing them off to the State courts.

That is why the State court dockets are so crowded, in part because the Federal Government is not imposing the penalties that they could impose if they wished to. The Federal Government says the reason we are not is we do not have enough prosecutors, we do not have enough people in the system to do it.

The Senator from Texas has been forthright and helpful in providing, notwithstanding the fact there has been some opposition downtown to it, more money and more authorization to provide for more prosecutors and more agents. So we are on our way. But I want the RECORD to show that my folks in Delaware are not going to be affected much by this amendment, which I am prepared to support.

Second, I would like to have printed in the RECORD a resolution of the Committee on Criminal Law and Probation Administration concerning mandatory minimum sentences that have been passed by the 3d, 8th, 9th, and 10th judicial circuits, where they plead with us to reconsider the issue of whether we are going to continue to add minimum mandatory sentences in light of the fact we now have a sentencing commission.

I might add, I may be wrong but I think I was the first one to get passed a minimum mandatory law for life imprisonment for certain crimes here.

So I share the view of my colleague. I think we are going to have to be a little cautious here.

I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION OF COMMITTEE ON CRIMINAL LAW AND PROBATION ADMINISTRATION CONCERNING MANDATORY MINIMUM SENTENCES

The Judicial Conference Committee on Criminal Law and Probation Administration's ongoing review of the impact of guideline sentencing on the federal courts has disclosed that a significant number of sentences imposed are effectively determined not by Sentencing Guidelines that reflect the judgment of the United States Sentencing Commission but by mandatory minimum sentences set by the Congress.[1]

As has been noted by several Sentencing Commissioners, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act. Additionally, many district judges have reported that mandatory minimum sentences have frequently had to be imposed in factual situations in which the district judge was convinced that Congress could not have intended that such defendants receive long mandatory minimum sentences without parole. Those judges have also expressed the view that sentences in such cases would be more appropiately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels. Such Guideline Sentences would, however, import some measure of flexibility into the system because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved.

Concerned about the matter in view of the foregoing, the Committee requests the Administrative Office Statistical Analysis and Reports Division, the Federal Judicial Center, the U.S. Bureau of Prisons and the U.S. Sentencing Commission to study the problem, develop data on the number of sentences that are driven by the mandatory minimums, and assess the impact of such sentences on the system. The Committee will reconsider the matter after receiving these reports and make an appropriate recommendation.

Resolved on June 23, 1989.

RESOLUTION CONCERNING MANDATORY CRIMINAL SENTENCES SUBMITTED BY THE DISTRICT AND CIRCUIT JUDGES OF THE THIRD CIRCUIT

Whereas, over the past several years congress has enacted numerous laws requiring the district courts to impose mandatory prison sentences for various offenses;

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[1] Moreover, a number of the Guidelines themselves reflect the impact of mandatory minimum sentences that pre-dated the Guidelines.

Whereas, as has been noted by several members of the United States Sentencing Commission, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act;

Whereas, these statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose long sentences, not subject to parole, which are inordinately harsh;

Whereas, sentences in such cases would be more appropriately governed by sentencing guideliens in which the Congress directed the Commission to set the guidelines at certain high levels, but would at least permit some measure of flexibility because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved; and

Whereas, the Judges of the Third Circuit look with disfavor on statutory minimum sentences for these reasons;

Now, therefore, be it resolved that the Third Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION OF THE EIGHTH CIRCUIT JUDICIAL CONFERENCE, JULY 19, 1989

The Judicial Conference Committee on Criminal Law and Probation Administration's ongoing review of the impact of guideline sentencing on the federal courts has disclosed that a significant number of sentences imposed are effectively determined not by Sentencing Guidelines that reflect the judgment of the United States Sentencing Commission but by mandatory minimum sentences set by the Congress.[1] As has been noted by several Sentencing Commissioners, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act. Additionally, many district judges have reported that mandatory minimum sentences have frequently had to be imposed in factual situations in which the district judge was convinced that Congress could not have intended that such defendants receive long mandatory minimum sentences without parole. Those judges have also expressed the view that sentences in such cases would be more appropriately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels. Such Guideline Sentences would, however, import some measure of flexibility into the system because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved.

Concerned about the matter in view of the foregoing, the Eighth Circuit Judicial Conference (Executive Session) requests the Administrative Office Statistical Analysis and Reports Division, the Federal Judicial Center, the U.S. Bureau of Prisons and the U.S. Sentencing Commission to study the problem, develop data on the number of sentences that are driven by the mandatory minimums, and assess the impact of such sentences on the system.

[1] Moreover, a number of the Guidelines themselves reflect the impact of mandatory minimum sentences that pre-dated the Guidelines.

RESOLUTION NO. 6—MANDATORY CRIMINAL SENTENCES

(Submitted by the Chief District Judges of the Ninth Circuit)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Chief District Judges of the Ninth Circuit look with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Ninth Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION—MANDATORY CRIMINAL SENTENCES

(Submitted by the Tenth Circuit District Judges Association)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Tenth Circuit Judicial Conference looks with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Tenth Circuit District Judges Association urges the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to revisit and reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

Mr. BIDEN. Unless someone wishes to continue to debate the issue, I am prepared to accept the amendment.

Mr. HATCH. We are prepared to accept the amendment.

Mr. GRAMM. I want to thank the distinguished chairman. We are moving greater resources into the Federal system which will give us the capacity to prosecute more people in the Federal system. Almost everybody guilty of a drug crime can be prosecuted in either the Federal or State system based on our resources and on the will of the prosecutors. I think this mandatory minimum sentence of 10 years in prison without parole for selling drugs to minors will put more people into the Federal system.

Finally, let me say I am hopeful, given our standard, that Delaware and Texas and Utah and all other States will move to a similar, and hopefully some day a single, standard.

I thank the distinguished chairman.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 955) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I realize the pending business is the Kennedy amendment, but I ask, consistent with the unanimous-consent request submitted earlier, upon completion of the Kennedy amendment may we move to the McConnell amendment? A half hour equally divided?

Mr. McCONNELL. That is fine.

Mr. BIDEN. Half hour equally divided, and then move to a Biden amendment. I am prepared to have a half hour equally divided, hopefully with no amendments in order on either of those amendments.

Mr. KENNEDY. Reserving the right to object, and I do not intend to object, we have one amendment, but it is in two parts, two amendments considered en bloc. So I imagine the consent means disposing of both, either one amendment or the two amendments en bloc; am I correct?

Mr. BIDEN. I say to my colleague, my unanimous-consent request does not apply to the Senator's amendment at all. It just applies to what we do after the completion of the amendment of the Senator from Massachusetts. It only applies to the time agreement and no amendments in order to Senator McCONNELL's amendment and the amendment of the Senator from Delaware.

Mr. HATCH. Reserving the right to object, I am informed on our side there may possibly be amendments or at least debate with regard to the Biden amendment.

Mr. BIDEN. I withdraw the unanimous-consent request. We will make more progress.

Mr. HATCH. Let us just go ahead. That will be good enough. Let us not set any ground rules.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 934, AS MODIFIED

Mr. KENNEDY. Mr. President, I send a modification of my amendment to the desk and ask that it be divided into two amendments and considered en bloc.

The PRESIDING OFFICER. Is the Senator suggesting division of the originally proposed amendment?

Mr. KENNEDY. Yes. I would like to have it divided into two amendments but considered en bloc.

The PRESIDING OFFICER. Is there objection to dividing the amendment proposed into two parts and for consideration en bloc? Hearing none, without objection, it is agreed to.

The amendment, as modified, is as follows:

DIVISION I

At the appropriate place, insert the following new sections:

SEC. . STATEWIDE DRUG TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) CONFORMITY.—Beginning in fiscal year 1991, no payment shall be made to a State under section 1914 for the substance abuse portion of its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Secretary shall establish a model State drug abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.

"(h) ADMINISTRATIVE COSTS.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914.".

(b) REGULATIONS.—The Secretary shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(c) EFFECTIVE DATE.—

(1) PERFORMANCE CRITERIA AND WORKPLACE REQUIREMENT.—Sections 1916B (a)(4) and (a)(5) of the Public Health Service Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under subsection (b) are published in the Federal Register.

(2) REMAINING PROVISIONS.—The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. . USE OF ADAMHA ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State request such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu therof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(3) in subsecton (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

DIVISION II

At the appropriate place, insert the following new section:

SEC. . DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Drugs for the Treatment of Addiction to Illegal Drugs

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of an addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507, or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of an addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of an addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary shall designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safely serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 102(6) Schedule I of the Controlled Substance Act (21 U.S.C. 892(6)).

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505,

"(2) issues a certification under section 507, or

"(3) issues a license under section 351 of the Public Health Service Act

for a drug designated under section 529A for the treatment of an addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of seven years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of an addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such seven-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOB THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of an addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

Mr. KENNEDY. Mr. President, last week the Senate approved a substantial increase in funds for the President's war on drugs in the area of treatment. As a result, the so-called ADAMH block grant, the principal source of Federal funds to the States for alcohol and drug treatment programs, will be doubled—from $500 million in fiscal year 1989 to $1 billion in fiscal year 1990.

These funds are a welcome—and long overdue—increase, but they are still far from adequate to meet the current demand for treatment of drug abuse and drug addiction. It is essential, therefore, to see that our limited resources are used as wisely and stretched as widely as possible.

The amendment I am proposing is designed to reach this goal by requiring the Secretary of Health and Human Services to establish guidelines for the States in allocating block grant funds for treatment of drug abuse.

President Bush's drug strategy makes a number of worthwhile recommendations for the types of treatment programs to be supported, such as patient referral services, better training for drug treatment professionals, and

earmarked funds for geographical areas of greatest need.

But without at least minimum guidelines to ensure that the recommendations of the national drug strategy are actually carried out, the goals we are setting are less likely to be met.

The guidelines to be developed by the Secretary of HHS under this amendment will apply to each of the programs recommended in the President's program. In addition, the guidelines will require State and local treatment programs to include three additional important types of services:

Aftercare, to help clients who have successfully completed formal, intensive treatment programs;

A targeted program to treat women and minorities, in order to expand the services available to those who need help the most;

A stopgap assistance program to provide interim services such as counseling and referral for addicts who make the decision to seek treatment, but who find themselves condemned to waiting lists because local treatment prgrams are overcrowded.

In addition, the amendment contains three other provisions.

First, it gives States greater flexibility to meet local needs by permitting grant funds to be used for in-patient treatment; under current law, such funds are limited to nonhospital residential facilities.

Second, block grant funds may also be used to provide counseling and other services to families of substance abusers, since the role of family members may well be critical in ensuring lasting results of treatment.

Third, the amendment permits State matching requirements to be waived, so that Federal dollars can be used to pay for the construction of treatment facilities. Construction is costly and is usually not the top priority for treatment funds. But in some communities, existing facilities are so overcrowded that the highest priority for the next treatment dollar is the construction of new facilities.

The second amendment I intend to offer contains an imaginative provision originally suggested to me by Senator BIDEN. The idea is to encourage new investment in pharmaceutical therapies to treat addiction by enabling antiaddiction drugs developed for this purpose to obtain the benefit of the Orphan Drug Act.

The Orphan Drug Act is designed to encourage research and development on drugs to treat so-called orphan diseases—those which afflict relatively small numbers of people, and which therefore offer little potential for profit to drug firms that make investments in these areas.

The Orphan Drug Act has worked brilliantly—far beyond the expectations of Congress when we originally enacted it in 1983. Nearly 300 drugs have received orphan designations from the Food and Drug Administration, entitling the firms to FDA assistance in designing research and testing protocols; 36 drugs have completed the process and obtained final FDA approval, entitling the firms to exclusive marketing of their drugs for 7 years.

Although the estimated number of addicts in the Nation is in the range of 6 million—far above the 200,000 person cutoff in the Orphan Drug Act—the need for new antiaddiction drugs, especially to treat cocaine addiction, is so great that it is time to enlist the concept of the Orphan Drug Act in the war on drugs.

To preserve the current unique character of the Orphan Drug Act as an independent program, the amendment establishes a parallel orphan-drug-type program in the FDA for antiaddiction drugs. Our hope is that with these new incentives, the pharmaceutical industry will invest more heavily in the war on drugs and help us win the war.

Finally, let me just say that many of us who whole heartedly support the Orphan Drug Act have been concerned in recent years that in certain cases it has been too successful, in the sense that the marketing exclusivity feature has enabled particular firms to reap windfall profits by charging exorbitant prices and tapping far larger markets than were anticipated for an orphan drug.

We are continuing to monitor this problem closely, and we intend to do the same for the new Antiaddiction Orphan Drug Program, since with the larger population of addicts, there is even greater potential for abuse.

These two treatment amendments are important contributions to the national drug strategy. They go hand-in-hand with the expansion of treatment resources that we obtained last week, and I urge the Senate to accept them.

I am enormously grateful for the help and the support of my good friend and colleague, the Senator from Utah, who has been very much involved in the fashioning and the shaping of both these amendments as were other members of our committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased the distinguished Senator from Massachusetts was willing to work out a compromise to improve legislation to require States to develop statewide treatment plans. In essence, this compromise will require the Secretary of Health and Human Services to publish guidelines so that States may understand what is required to be in compliance with this new law. These guidelines will not be mandatory upon the States and no Federal minimum standards will be developed which will be imposed upon the States.

In addition, the Secretary will prepare a model statewide treatment plan and provide technical assistance to those States who need help in developing their programs.

I believe that these three new additions will only strengthen the State's ability to better allocate resources for treatment, and I want to applaud the distinguished Senator from Massachusetts for his help.

In addition, I believe that the current plan required by the States should include information on aftercare for those who have completed services; expansion of treatment opportunities for specific populations, including women and minorities; and stopgap assistance so that individuals who cannot be treated immediately will not be lost from the treatment system.

On therapies to treat addictions, Mr. President, I want to thank my esteemed colleague from Massachusetts for modifying his language to provide incentives to companies to develop drugs for cocaine addiction, heroin addictions, and other addictions of class 1 controlled substances.

I also appreciate his willingness to add an authorization to appropriations so this will not not go into effect until there is funding. We have given the Food and Drug Administration, it seems to me, too many responsibilities without the sufficient resources to carry them out. So I thank the Senator from Massachusetts for his help on this.

Further, I would just like to ask a question or two of him so we can clarify the record. It is my understanding that this is not part of the Orphan Drug Act, but it is going to be a new program established similar to or patterned after the Orphan Drug Act.

Mr. KENNEDY. The Senator is exactly correct. The initial proposal we were looking at amended the Orphan Drug Act, but we found we were able to find and achieve our objectives by not amending that act, by developing another title which basically tracks that act. We are not in any way affecting the orphan drug legislation.

Mr. HATCH. I thank my colleague. Further, I would like to enlist my colleague's support and ask him for his assurance that we will not in conference allow a fallback on this particular amendment, a fallback to the Orphan Drug Act and other controls; in other words, we will fight to keep this a separate program and see how it works and hope that it does work.

Mr. KENNEDY. I think the Senator makes a good point. Maybe if we are successful in this area we can use that particular model perhaps in some other areas of national need, and I think it is fair to see how this procedure would work. I believe it can make an important impact and, if it is suc-

cessful, then it will be available to go into other areas. But in the meantime, we will not in any way disturb the integrity of the Orphan Drug Act.

Mr. HATCH. I hope the Senator can work side by side with me to keep it separate. I believe that little act has proven to be one of the most efficient, well thought out, and workable statutes that we have ever passed here in the Congress. It has really been working. If every statute worked like the Orphan Drug Act has worked, I think the American people would have a lot more confidence in the Congress.

I want to thank my dear colleague for that. I really enjoy working with him in this area. In fact, I enjoy working with him in all areas in which we work, and that is a pretty broad coverage here in the Congress. But in this particular area, it is a real rare privilege to work with one of the leaders in all public health and related matters in the Congress of the United States. I have learned a lot from my colleague, and I certainly want to compliment him for his work in this area and hope we can continue to work together in the future.

Mr. KENNEDY. Mr. President, in working out our agreement, the amendment dealing with guidelines for block grant funds, we agreed that it was our intention that the Secretary incorporate certain key items in the guidelines that could be considered to be covered generally in the legislation, but were not identified as specifically as we desired or as would be necessary to achieve the objective of the amendment. Is this correct?

Mr. HATCH. Yes. We both agree that the Secretary will need to give far more specific guidance to the States and that there are some key things that need to be addressed in the State plan.

Mr. KENNEDY. Let me outline the areas that, at a minimum should be addressed in the State guidelines.

TARGETING

The guidelines should specify that States should direct funds into the areas of greatest need within the State and should make clear that the State should take into account at least the following factors in identifying priority areas for support:

Current unmet treatment needs in the State, including both the inpatient, outpatient, and long- and short-term drug treatment service needs of defined populations and the availability of essential ancillary services;

The incidence of deliveries of infants who are adversely affected by the maternal use of drugs;

The incidence of communicable diseases transmitted by drug abuse.

PERFORMANCE CRITERIA FOR LOCAL TREATMENT PROGRAMS

The guidelines should include requirements for:

The provision of outpatient aftercare for those individuals completing residential treatment, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic appointments with the patient to monitor the patient's progress and provide support services or additional treatment as needed, and, for those individuals completing outpatient treatment, periodic contacts, to the extent feasible, to monitor the individual's progress and provide the individual with, or refer the individual for, additional services or treatment as needed;

The coordination and referral of patients to social, health, and employment services in order to assist patients in need of counseling, psychiatric or medical treatment, or job training services to function in society and remain drug free;

The provision of employment, educational, or social services, directly or by referral or arrangement, by facilities that serve a clientele for whom such services are essential to improve treatment outcomes;

The retention of patients in treatment until such treatment is appropriately completed, taking into account the characteristics of patients that may make retention more or less difficult and any other performance-based measures of quality programming as may be appropriate.

WOMEN AND MINORITIES

The guidelines should specify that specialized treatment opportunities for minorities and women should be expanded, if needed.

MONITORING

The guidelines should specify that State plans should include mechanisms for monitoring compliance of federally funded treatment facilities with any standards established in the State plan pursuant to the guidelines.

TRAINING

The guidelines should specify reasonable standards for the training and retraining of employees of publicly funded treatment facilities to assure that employees remain informed about the most effective diagnostic and treatment techniques.

REFERRAL

The guidelines should provide for a referral method to be established in each area of the State that shall assure that each individual is, to the extent feasible, appropriately assessed and referred to the most appropriate treatment facility, and that a current list of unfilled treatment slots is available to assist in such referrals.

STOPGAP ASSISTANCE

The guidelines should provide for the establishment of a program of stopgap assistance for individuals who apply for treatment but who must wait for the availability of treatment opportunities that shall include:

Treatment ready education and counseling; and

Referral to, or provision, of other necessary health and social services that may include primary health care, nonmedical education, and vocational training services.

PATIENT TESTING

The guidelines should make clear that patient drug testing should not be performed more frequently than is necessary to achieve the objective of such testing and that policies established to deal with patients failing such tests should be clinically appropriate.

Mr. HATCH. The Senator has correctly identified the items that, at a minimum, must be part of the guidelines if they are to achieve their purpose.

Mr. KENNEDY. Mr. President, finally, I want to thank the Senator from Utah for his kind words. Basically, what we have attempted to build into our national program are the few but very extraordinary successes that we have seen both educationally and from a community and from community-based systems. We have done that in a strong bipartisan way with members of our committee making very substantial and significant contributions in fashioning these amendments. I think we built upon what I think were important recommendations that the President made and which have generally been included. We have built on them on the basis of the experience of the committee.

We can give assurance to the Senate that with these amendments, we will give careful oversight on these measures because I believe, as the Senator from Utah does, that how we as a Nation are going to deal with the issues of education, prevention, rehabilitation treatment and developing our research capabilities in these areas, and doing it in a responsible and effective way, is going to be enormously important as we are challenged by the scourge of drugs.

I believe that we are off to a very good start and, to a great extent, it has been because of the good work of the Senator from Utah and the members of our committee who have been enormously helpful in shaping and fashioning these amendments.

As I said earlier, the idea of the development of this orphan drug research, which I think is a brilliant idea, was recommended initially to me by the Senator from Delaware. I think it can make a very important and significant contribution to our understanding and treatment of drug addiction.

Mr. HATCH. Mr. President, I thank my distinguished colleague from Massachusetts. I appreciate what he is

trying to do in this Kennedy-Hatch set of amendments. I am happy to cosponsor them with him and work with him in all ways in these areas. I think he has done a great job of bringing them together in the committee where everybody has worked together on these issues, and I think we have a better package as each one of them comes up.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. BIDEN. Mr. President, I will not take the Senate's time except to say that as one who does not know as much about the area as either Senator KENNEDY or Senator HATCH, I am absolutely convinced of what I do know, that one of the most promising areas in this whole question of dealing with drug abuse in this country is in pharmacology and the whole public health area and research and development. I thank Senator KENNEDY for the overgenerous comments.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 934), as modified, was agreed to.

Mr. KENNEDY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 956

(Purpose: To provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] for himself, Mr. KERRY, and Mr. D'AMATO, proposes an amendment numbered 956.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

GENERAL AUTHORITY

SECTION 1. (a) The purpose of this amendment is to provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft.

(b) Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

PROCEDURAL SAFEGUARDS

SEC. 2. (a) The United States Customs Service, United States Coast Guard, and Drug Enforcement Administration are required to adopt regulations to implement section 1 of this Act, providing that neither a warning shot, nor disabling or deadly force, may be used against an aircraft until all of the following safeguards have been met:

(1) public notice has been provided, through the Federal Aviation Adminstration, informing all private aircraft operators entering United States airspace that they are required to obey any instructions from United States law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force;

(2) such aircraft is flying outside of flight corridors established and maintained by the Federal Aviation Administration, which shall in no case be lower than an altitude of three thousand (3,000) feet, except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions;

(3) the airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotics trafficking;

(4) the airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land;

(5) if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land;

(6) if such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on ground of the circumstances and seek permission to fire into the aircraft; and

(7) no use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that, under the circumstances, innocent person would be harmed by the use of disabling or deadly force against such aircraft.

(b) The regulations required by this section shall be promulgated and adopted by the United States Customs Service, United States Coast Guard, and Drug Enforcement Administration not later than January 1, 1990.

(c) No officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration shall be deemed to have the authority provided under section 1 of this Act until the regulations required by this section have been promulgated and adopted.

(d) For the purposes of this section, "airborne law enforcement officer" means an officer in command of an aircraft operated by the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration.

INDEMNIFICATION

SEC. 3. The person commanding an aircraft of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, and all other persons acting under such person's direction, shall be indemnified from any penalty or action for damages resulting from the firing at or into any aircraft pursuant to section 1 of this act. If such person or persons are arrested or prosecuted as a result of such firing pursuant to section 1 of this Act, such person or persons shall be forthwith admitted to bail.

Mr. McCONNELL. Mr. President—

Try to imagine drug gangsters murdering both Attorney General Dick Thornburgh and his predecessor Edwin Meese. Next, pretend that drug triggermen and their guerrilla allies rub out Justices William Brennan, Sandra Day O'Connor, Byron White and Antonin Scalia—along with hundreds of prominent Federal judges.

Expand the list to include Washington Post Editor Ben Bradlee and Los Angeles chief of police Darryl Gates, both slain; add Amy Carter, kidnaped and held as a warning to authorities who might get tough with narco-barons.

Then the grand climax: the 1987 assassination of George Bush, murdered at a campaign rally just as he had become the favorite to be elected President the following year.

In the U.S. such carnage would be unbelievable. yet an almost precisely equivalent list of crimes has been committed in Colombia. * * *

Mr. President, I have just read Time magazine's opening paragraph for a September 4 story on the crisis in Colombia.

Over the last several years, 178 judges, nearly half the Supreme Court, one attorney general, the leading candidate for the Presidency, the chief of police and the editor of El Espectador have been gunned down by assassins led by the drug cartels.

Last month, President Bush offered emergency aid to Colombia and President Barco, to help fight these vicious, unprincipled, and heavily armed drug thugs.

As a nation, we have asked the Colombian people for their courage and conviction in sustaining their war on drugs.

In the face of the drug cartel's reign of ruin and terror, we have asked each Colombian, including President Barco, to put their lives on the line—literally—as they try to escape from the cartel's stranglehold.

The war against drugs and drug dealers must begin in Colombia, but the course of consumption leads to the United States. We must make every effort at each point along that chain linking source countries to our communities—to stop the flow. That means improving education and local

law enforcement as the President recommended in his national drug control strategy, but it also means that we must step up interdiction efforts.

On August 1, the Senate voted to improve our interdiction capabilities by giving the U.S. Coast Guard, Customs Service, and Drug Enforcement Administration the authority to use disabling, and if absolutely necessary, deadly force to interdict drug smuggling aircraft. The Senate responded to the fact that roughly 50 percent of all cocaine coming into the United States is smuggled on board private aircraft.

Since introducing the amendment, I have discussed the issue at length with several of my colleagues, constituents, private pilots and representatives of the Aircraft Owners and Pilots Association. I decided to revise the amendment to respond to some of the legitimate concerns I heard expressed, and I offer it today in a new form which includes in the text of the legislation all necessary safeguards to prevent the possibility of accident.

First, the Federal Aviation Administration must issue a public notice advising all private pilots to comply with any instruction to land given by a properly marked and identifiable law enforcement aircraft—which I might note is consistent with current law and practice. The FAA must advise the public that failure to comply with such instructions may result in the use of force against a suspect aircraft.

At the suggestion of the Aircraft Owners and Pilots Association, I have added language requiring the FAA to establish and maintain flight cooridors for private aircraft. While the width of the corridor is undefined, pilots will not be allowed to fly below 3,000 feet unless they are experiencing an emergency or, in fact, are intending to land. AOPA advised me that most private pilots fly around 4,000 to 5,000 feet.

I think the concept of flight corridors is a good one because it essentially protects the legal pilot flying home on vacation. If he's in a designated corridor, he will not have a problem with airborne law officers. The problem the legislation addresses is the drug smuggler who may fly a legal route within a designated corridor, but most, sooner or later, drop to 1,000 feet to kick out his lethal cargo or risk having it explode on impact.

Once below the corridor's 3,000-foot floor, force still may not be used unless a series of tests are met. The airborne law enforcement officer must visually confirm that the aircraft has engaged in illegal activity. I believe this is the most effective of all safeguards since the law enforcement officer knows he must see proof that will hold up in court.

Once having identified illegal activity, the law enforcement aircraft still must make every effort to communicate with the suspect aircraft. The FAA and the International Civil Aviation Organization recognize an extensive list of methods of communication including by radio on any number of emergency frequencies, or visual signals such as by crossing the path of the intercepted aircraft and rocking wings or by flashing landing lights. The pilots I have quizzed all have acknowledged familiarity with each of these signals.

So let's review the scenario and safeguards: we have a private plane which has left a landing strip in a remote part of Colombia. It proceeds along a designated corridor until it enters U.S. airspace when it suddenly drops below the 3,000-foot corridor floor.

A few miles from the Florida Keys, the suspect aircraft's back door opens and 10 to 15 40-pound bales are kicked out of the plane. An average smuggling flight drops about 1,000 pounds of cocaine.

As the smuggler turns south for safe haven and the promise of an average $200,000 paycheck per run, a clearly marked Customs Service aircraft pulls along side and radios the suspect, ordering it to land.

This is where Secretary Bennett has pointed out our law enforcement officers are usually given—and I quote: "the most emphatic hand signals by the suspect," and to press the point, I don't think they are waving goodbye.

Without the amendment I am offering today, this would be the end of the encounter right here: The drug smuggler flies back to safety, ready to load up another deadly cargo for delivery to the United States.

But under my proposal, this frustrating outcome may turn out differently: First, that twin-engine Customs Service plane could be armed with light air-to-air weapons.

After the drug smuggler communicates his intention with his hand signal, the law enforcement officer still would have to make every effort to advise the smuggler to land. He communicates on the radio, and by rocking his wings and flashing his lights.

After he has repeated and exhausted every single option, he reports to his commander on the ground and seeks approval to fire a warning shot.

Once that authority is granted and exercised, the law enforcement officer again tries to communicate instructions to land. If he is still unsuccessful, he must again seek authority from the ground to fire into the aircraft. When he finally fires, he does so only over water.

One final safeguard, which really becomes a judgment call, is the law enforcement officer may decide not to use force if he believes he will risk innocent lives.

I think that with all of the safeguards now written into the language of the bill, I simply can't see the room for error.

I have made every effort to satisfy those who are justly concerned about the possibility of accident—without compromising the basic principle that our law enforcement officers should have the authority to use force when it is absolutely necessary and when absolutely every other effort to compel an aircraft to land fails.

Short of this authority, there simply is no real deterrent to smuggling drugs into the United States by air.

I think the Senate—like the courageous combatants in Colombia—has reached a crossroads. We either are serious about stopping half the cocaine smuggled into the United States—which comes in by air—or we will stand by and see a steady increase in the use of our air routes by continuous cocaine airlifts into the United States.

The Senate has voted once before on this issue. A strong, bipartisan majority of the Senate is on record on the Defense bill in support of this amendment.

In anticipation that the conferees on the Defense bill may decide that my amendment has no bearing on the Defense Department and should be stripped off the authorization package, I believe my colleagues should have an opportunity to vote once again to give our law enforcement agencies the authority they need to effectively end the air war on drugs.

Right now, when our narcotics agents see 1,000 pounds of cocaine kicked out the back of a suspect aircraft, they can only wave goodbye. Our law enforcement community needs our support to secure our skies and close down the drug dealers avenue of safe access and choice: the air.

Fifty percent of the cocaine coming in is smuggled on private planes. Cutting 50 percent of the supply of cocaine is not the final cure, but it would be a meaningful advance in this war we are waging.

Mr. President, it is time to stop the cocaine airlift. Back in August, the Senate approved an amendment that I offered to the Department of Defense authorization bill which dealt with a very serious problem, and the problem is this. Fifty percent of the cocaine coming into this country is coming through private aircraft. Under current rules, regulations, and the law, there is simply nothing that our authorities can do other than shoot film of these drug smugglers kicking bundles of drugs out the back of their airplanes.

Mr. President, that has to stop. It is the opinion of the Senator from Kentucky that if we leave this loophole open, if we leave this gaping gap in our defenses, pretty soon a lot more than 50 percent of the cocaine is going

to be coming into this country. I am not going to take the time of the Senate to describe what a serious problem that is. We all know. So let us get right down to the nub of the issue.

The Senate, in approving the amendment to the DOD bill 55 to 45 in August, said that it wanted to do something about that. That amendment is currently pending before the conference committee of the House and Senate on the DOD authorization bill. There are some Senators who feel it should not be on that bill because, frankly, it has nothing to do with the Defense Department. My amendment authorizes Customs, Coast Guard, and DEA. It has nothing to do with the Defense Department whatsoever. And so, Mr. President, since this is a bill about drugs, it appeared to this Senator that this amendment should be offered to this particular bill.

In addition, I think it is important to point out that this is not the same amendment the Senate approved in August 55 to 45. We have made substantial changes. We have made substantial changes in order to reassure those who had some legitimate concerns that some innocent pilot might be wrongfully fired upon.

We have crafted a new amendment which I think meets virtually all of the objections that have been made about the previous amendment which the Senate nevertheless supported. I have been told by a number of Members of the Senate on my side that they will support the amendment today even though they did not support it in August because they are convinced that the safeguards we have added have virtually eliminated the possibility of some innocent pilot being shot out of the sky.

The purpose of my amendment, obviously, is to create a deterrent to stop the wholesale use of our skies as the drug smugglers' avenue of choice into Main Street U.S.A. Without this deterrent, Secretary Bennett has testified that we can expect to see a large increase in air drug smuggling. My amendment gives drug enforcement agents the authority to use force in compelling drug smugglers to land for inspection and arrest.

Now, let us look, Mr. President, at the changes that I have made in this amendment as compared to the previous amendment which, as I repeat, the Senate approved 55 to 45.

To prevent any mistake in use of force against innocent persons, I have incorporated all of the safeguards that I discussed the last time this provision was considered into the actual text of the amendment which is at the desk. Further, Mr. President, we have met with the AOPA, the Aircraft Owners and Pilots Association, and we have incorporated a suggestion that they made.

Now, I am not going to imply that they are for this amendment. They are not. But we have, in an effort to compromise and to further reassure them that there would be no loss of innocent lives, adopted one of their important suggestions. So, Mr. President, let us go right down the list of safeguards that are incorporated in this amendment. First, the FAA has to notify all private pilots that they must land if ordered to do so by a properly marked and identifiable law enforcement aircraft. Failure to comply with such orders may result in the use of force.

No. 2, at the suggestion of the AOPA, I have added language requiring the FAA to develop flight corridors for private aircraft and no force may be used against any aircraft unless it is flying outside of the corridor. So as I said, Mr. President, we have incorporated into this amendment a useful suggestion made by the AOPA.

At a minimum, such a corridor would have to be at least 3,000 feet above ground level. The only thing we are saying to FAA is the corridor has to begin at last 3,000 feet and up except for access to airports in emergency flying conditions. That is where the corridor would have to start.

AOPA has advised me that most private pilots fly around 4,000 to 5,000 feet. Flight corridors are a good idea because they protect the legal pilot flying home on vacation. Drug smugglers, Mr. President, on the other hand, need to drop below the corridor to make a drug drop to boats waiting below.

Even if an aircraft is flying below the flight corridor, force may not be used unless the airborne officer visually confirms that the aircraft is engaged in illegal trafficking activity.

This provision in my amendment clarifies language in the 1986 drug bill that we passed which makes it a crime to drop drugs from an aircraft to awaiting boats below. This requirement is the most effective of all safeguards since the law enforcement officer knows he must actually witness proof that will hold up in court.

Now, the next safeguard, Mr. President. Having seen this, the airborne officer must make every effort to communicate with the smugglers' aircraft. My amendment requires the officer to use an extensive variety of methods approved by the FAA and international civil aviation organizations including radio contact on many internationally known emergency frequencies and by visual signals such as crossing the path of the intercepted aircraft and flashing the landing lights.

Next, Mr. President, if the smugglers' aircraft still refuses to land, after we have gone through all of that—you have tried to communicate by radio, by visual warnings—if the smugglers' aircraft still refuses to land, the airborne officer must notify his ground commander of the situation and ask for permission to fire a warning signal in the direction of the other plane.

Let me repeat, Mr President, you could not even fire a warning signal without permission from somebody else on the ground. Not even a warning signal.

If that permission is granted, the airborne officer may then, as I indicated, fire the warning signal. If the aircraft still refuses to land or make preparations to land, the airborne officer must once again—once again—notify his ground commander of the situation and request permission to use disabling or deadly force against the other aircraft.

If that permission is granted, Mr. President, then only if the airborne officer is absolutely certain that no innocent person will be harmed, the airborne officer may use force against the smuggler's aircraft.

Mr. President, the issue is this: There has been a lot of talk by the AOPA and some critics of the earlier amendment, and I suspect there will be additional discussion about this amendment as to the possibility some innocent pilot may be shot out of the air.

With all of these safeguards, Mr. President, I think it is virtually impossible for that to happen. I will not stand before the Senate and say there will be no accidents in life. There are accidents in life. One of us may get hit by a car on the way home tonight. But we have incorporated numerous safeguards that make it virtually impossible for that to happen.

Mr. President, we need to weigh that which is virtually impossible to happen against what we know is happening. What is happening is that 50 percent of the cocaine is coming through the cocaine airlift into this country. What is happening is that there are 5,000 new cocaine addicts every day.

What is happening is that lives are being ruined and 50 percent is coming in through private aircraft, and I predict that unless this loophole is closed, unless this gap in our defenses is closed, pretty soon well more than 50 percent of the cocaine will be coming in through private aircraft because it is a mesage to the cartel: "Get yourself a plane and come right on in. Get yourself a plane and come right on in."

Mr. President, this loophole has to be closed. It is not the intent of the Senator from Kentucky to delay consideration of this amendment. I have gone over the safeguards in some detail here. I do want to add as cosponsors of the amendment Senator KERRY of Massachusetts, Senator

D'AMATO of New York, and for the moment, Mr. President, I am happy to yield the floor.

Mr. BIDEN. Mr. President, I liked the last bill, so I like this one. I voted with the Senator last time. I would like to mention two things. I will be very brief. The first is the concern that we are going to shoot down an innocent party.

Well, first of all, I thought there were enough safeguards the first time. Safeguards have been added this time significantly increasing or diminishing—depending on how you look at it—increasing the safety or diminishing the prospects of an accident occurring. But I hate to say this: the police in my city, Wilmington, DE, or Washington, DC, or anywhere in the country this very night if they are in hot pursuit of a criminal will speed through the streets at 20, 35, 50, 70, 80 miles an hour, depending on what is needed in order to catch that criminal. Innocent people sometimes get killed. I do not say that cavalierly. When you are dealing with going after people who in fact are breaking the law and are a public hazard, sometimes accidents happen.

The notion that anything short of 99 percent of the people would not land, would not respond, or could not respond, to everything but a scene from "Top Gun" when the kid flew upside down and just about touched his canopy on top of the other guy's canopy—short of that, that is the only thing we are not demanding be done here.

So something may happen. But the fact of the matter is that it is a big problem, and this has many safeguards built in.

There is a second concern people raise; that is, the broader concern of whether or not we should be forcing down aircraft in the sky. Let me make this point. I will only make it once tonight, and I will cease and desist on this point.

We had no reluctance when the CIA was informed and in turn informed our military by informing the President that the terrorists who were involved in the *Achille Lauro* hijacking were on board a non-U.S. commercial airliner leaving from territory that was not the United States and landing in territory that was not the United States, in another part of the world, not even near our border. We had no reluctance to force a commercial aircraft down on a NATO air force base, not a United States Air Force base, and in fact hold at bay the Italian authorities while we took the terrorist off the airplane.

If we are willing to do that, as I think we should be willing to do, my goodness, the idea that we are going to tie the hands of those attempting to interdict aircraft coming into the United States seems to me somewhat bizarre.

I use this example when the Senator from Kentucky and I discussed this with our colleagues, I believe, in the Foreign Relations Committee. I said no one in this body would say that if the military received information and saw on the radar screen that there was an incoming jet aircraft, that was a fighter aircraft loaded with bombs and ordnance, no one would suggest that there be any reluctance to shoot it down after giving it appropriate warnings to turn or to land.

I would respectfully suggest more damage is done to the American people by one carload of cocaine, which can reach in tons and hundreds and thousands on occasion kilos, of cocaine being flown into the United States on twin engine aircraft, and sometimes on Lear jets and other aircraft, more damage is done by that than can be done to the United States of America by any aircraft flying in here, other than being equipped with a hydrogen weapon. And we would not hesitate to shoot that one down.

I realize these are two separate issues. One is knowledge that the aircraft we are ultimately giving the authority to shoot down if need be—that is one issue, whether or not that aircraft—is, in fact, figuratively speaking an enemy aircraft with a drug dealer flying it. But some have argued this is a separate issue, and that we should not be doing it anyway even if a drug dealer was flying it.

I respectfully suggest I have no hesitation were I in the position to be able to have the authority to do anything about it to suggest to anyone under my command, had I anyone under my command, to blow that aircraft out of the sky after sufficient warning.

Second, the likelihood of there being an innocent—we used to hear about the dentist from Peoria and his family going to Disney World. Well, the dentist from Peoria going to Disney World is not likely to be flying 400 feet above the ground coming off the Caribbean in the middle of the night heading due north. If the dentist from Peoria is doing that, the dentist is probably a drug dealer.

Mr. McCONNELL. Will the Senator yield on that point?

Mr. BIDEN. There are some dentists who are drug dealers.

Mr. McCONNELL. If the dentist wanted to fly below 3,000 feet, he could stay over the land, and then he still would not be covered. The amendment applies if you are over water. The Senator is right on the mark with every point he has made. There is virtually no chance that the dentist from Peoria is going to get shot out of the air.

Mr. BIDEN. Mr. President, in all law enforcement undertakings there is a chance that someone will be hurt. I am not promising, by supporting this amendment, that will not happen. There are people hurt when police officers go in and raid places where there are people engaging in illicit activity; even though some there are engaging in licit activity, people are hurt by stray bullets, and it will happen.

I cannot believe that this is an issue where we are going to find that our law enforcement and military operations are going to act irresponsibly on this. Obviously, if that is shown to be the case, we would have to respond. Obviously, there could be a mistake. My goodness, we are not talking about people flying from Peoria to Disney World. We are talking about people flying from Colombia to Miami or Texas or South Carolina, or other shore points to drop off these drugs.

I am prepared to accept the amendment, and I do not know whether or not there is an objection to the amendment.

Mr. McCONNELL. I would like to ask for the yeas and nays, but I want to make a final point. The authority that we are talking about here is not all that unusual. The Coast Guard has had this authority, with regard to boats, for quite some time. It has been exercised very responsibly. Over the last 9 years, there have been 1,500 interdictions, gunfire on 18 occasions, two people injured, and no one killed.

This authority is being given, not to DOD, but to Customs, Coast Guard, and DEA. They are three law enforcement agencies that, I think, know what to do with this additional authority. The drug czar is in favor of this amendment. I suspect that the majority of the Senate is in favor of this amendment. Mr. President, I have concluded my remarks, and I am happy to vote.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I hope the Senator would consider withholding the request for the yeas and nays. There appears to be uniform support here. We have a lot of amendments. We have been in here late every night for the past 3 weeks. There are about 15 amendments to go. When we both practiced law and were trial lawyers, it was a good idea when you are winning to sit down, but——

Mr. McCONNELL. Mr. President, there are a number of people on my side who voted against the amendment in August, who tell me they are going to vote for it this time. I would like to have the yeas and nays. It is not my desire to delay the Senate. I have been prepared to offer this amendment for 2 days, and I know there have been other sorrows and problems.

Mr. BIDEN. I understand, Mr. President. All politics is local, though.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am only going to take a minute, I say to my friend.

NEW MEXICO HELPING VICTIMS OF HURRICANE HUGO

Mr. DOMENICI. Mr. President, as Hurricane Hugo victims continue to rebuild their lives after the devastating storm, I want to take a couple minutes to recognize a medical team from New Mexico that performed an invaluable service to the people of St. Croix, a team of New Mexicans, all members of the National Disaster Medical System, which consists of 71 medically trained people who volunteered a week of their time to care for people who have nowhere to seek treatment because the island hospital was destroyed during the storm.

This New Mexico team was selected as the best-trained medical group available and was first to be sent to this disaster area. The team is made up of 11 physicians, 6 registered nurses, 27 emergency technicians, and a number of other valuable people.

I can only begin to imagine what conditions are like there, and this New Mexico team has gone there to treat victims and help to get this island hospital operating again. They are volunteering their own time, medical equipment, and clothing. Such volunteer service to the people of St. Croix deserves recognition.

I commend these fine New Mexicans, and I ask unanimous consent that an article contained in the Albuquerque Journal be printed in the RECORD. I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW MEXICO VOLUNTEERS BRING MEDICAL CARE TO ISLAND

New Mexico has sent a disaster response team of 71 medically trained people to hurricane-ravaged St. Croix in the Virgin Islands.

The volunteers will spend about a week helping to care for people who normally would seek treatment at the island hospital. The hospital building was destroyed by Hurricane Hugo Sept. 17-18.

All the team members are part of the National Disaster Medical System, established in 1984 to respond to disasters anywhere in the United States.

The New Mexico team was selected as the best prepared and became the first team to be sent to an actual disaster area.

At its first staff meeting in the open field Saturday morning, the team gathered in a circle around Dr. Cy Stockhoff and listened to his admonishments against "freelancing the medical care here."

"If someone you never saw before comes and grabs you by the arm and wants you to go somewhere to treat someone, don't do it. We can't have members of this team running off to all parts of the island on individual missions, not without telling someone and knowing what it entails."

Stockhoff said the team's principal mission would be to put medical care on St. Croix back on its feet. "What they need us to do is to open this hospital and get it functioning. Medical people here have been pretty much overwhelmed; we need to give them a break," he said.

"We raised a lot of our own money to come down here," said Dr. Albert Vogel. "We bought our own medical equipment and clothing. Everyone on this team, including communications personnel, has medical training of some sort. We won't take anyone off to a disaster who can't contribute medically."

The team is made up of 11 physicians, six registered nurses, 27 emergency medical technicians and paramedics, and 27 support staff and lab technicans.

Many members of the team declined to be identified for security reasons. But personnel for the New Mexico Disaster Medical Assistance Team have listed the members of the coordinating staff. All but one are from the University of New Mexico Medical Center. They are:

Dr. Paul Roth, medical director.

Dr. Al Vogel, Public Health Service liaison.

Dr. George Key, lead doctor.

Sally Coan, lead nurse,

Rebecca Dickerson, lead paramedic.

Cy Stockhoff, team administrator.

Denis McKeon, assistant administrator.

Col. Robert Blair, Kirtland Air Force Base, communications coordinator.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this weekend, over a dozen law enforcement officers dressed in military fatigues descended on a crack house. The officers found a large quantity of what appeared to be illegal drugs. They found dozens of hypodermic needles, pipes, and other drug paraphernalia. They found equipment used to process cocaine into crack. Where were they? Helena, MT; not the inner city, not the areas of the country where one would expect to find the crack house, in the District of Colombia; Helena, MT.

During a recent hearing before the Senate Governmental Affairs Committee a witness mentioned that members of a Columbia drug cartel had purchased land in the United States, laundering their drug proceeds.

I found out that some of this land is in one if the most beautiful spots in this country, the Flathead Lake region in my home State of Montana.

I am joining my colleagues, Senators PRYOR and BIDEN and others to once again stress the need for an adequate Federal commitment to the rural war on drugs.

A crack house in Helena and drug money in the Flathead brought home to me the enormity of the drug problem in this country. It is everywhere. Just last March I came to the floor in support of William Bennett's nomination as the first director of national drug control policy. At that time, I stressed the need for an overhaul of Federal policy concerning drug interdiction in rural areas.

Last July, I introduced a bill to increase funding for law enforcement efforts in rural States, because of dramatic increases in drug-related crime. For instance, Drug Enforcement Administration cocaine arrests in Montana have increased 100 percent in the last 5 years. My colleague from Arkansas, Senator PRYOR, tells me his State has experienced a similar increase.

Rural areas are especially conducive to methamphetamine production, since crack labs are less easily detected in the countryside than they are in the cities. A crank high—that is a substance made from various drugs which is, I think, even worse than crack—is similar to a cocaine high, except for one major difference: The cocaine high lasts for a few minutes, at most, but a crank high lasts for hours. And drug dealers do not have to import crank. They can make it anywhere. They can make it in rural areas, they can make it in America, and, unfortunately, they are making it in Montana and Arkansas and other rural States.

The Federal Government can no longer afford to underestimate the effects of drug-related crime in rural areas.

Last week Senator PRYOR and I joined together in introducing a bill to encourage the implementation of treatment programs in rural areas. In addition, we introduced another bill to provide for the establishment of a clearinghouse for information on rural drug education progams.

Substance abuse, including alcoholism, has taken its toll in Montana, as it has in Arkansas, California, New York, and other places across our country. But access to treatment is not readily available in many rural areas. This must change.

Senator BIDEN, Senator KENNEDY, and Senator HATCH worked with Senator PRYOR and myself to incorporate major provisions of our legislation into amendments to the bill that we are now considering. I hope these provisions are accepted.

I appreciate the cooperation of my colleagues. They realize that the battlefield for the war on drugs stretches across the entire country. No State, no city, no county, is exempted.

Mr. President, I also wish to thank Senator BIDEN, chairman of the committee, for being very, very helpful in incorporating these rural drug provisions. I thank him at this time.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I rise today in support of the rural drug provisions contained in Senator BIDEN's State and local law enforcement amendment. I take pride that these rural drug provisions are based on several measures that I have introduced with Senator BAUCUS. In fact, these amendments include all central features of S. 1634, the Drug-Free Rural America Act, and S. 1353, the Rural Drug Initiative Act.

I applaud the distinguished chairman of the Judiciary Committee for recognizing that the scourge of drugs is not confined to our Nation's large cities, but has spread to small towns and rural areas throughout our country. The sad fact is that no community is safe from illegal drugs and the dangerous criminals who sell them.

Let me cite a few examples from my home State of Arkansas:

In El Dorado, a community of 25,000 in southern Arkansas, drug arrests have almost doubled in a single year. The police chief attributes almost all of this to the introduction of crack cocaine early last year.

Los Angeles street gang members have been seen walking the streets of several southern Arkansas communities.

As of July 1989, the DEA had already located and shut down seven clandestine drug labs operating in remote areas of Arkansas.

Admissions at State-funded substance abuse treatment facilities outside the Little Rock region increased 33 percent between 1985 and 1988.

As of August 1989, the average waiting period at State-funded treatment facilities in Arkansas was 3 weeks.

These alarming facts illustrate the growing severity of the drug problem in rural areas of our country. Now is the time to declare war against the drug crisis in rural America. It is a war we must wage on two fronts: Reducing the supply of drugs through increased support for rural law enforcement and cutting demand for drugs through expanded rural treatment and prevention programs.

Tuesday night, the Senate provided needed assistance to one front of the rural drug war. By establishing a rural drug clearinghouse and authorizing grants to rural substance abuse treatment and education programs, the Senate brought rural America one step closer to the goal of providing treatment to all drug abusers who seek help. These proposals originated in two rural drug treatment and education bills I introduced with Senator BAUCUS. I am pleased that these proposals had the support of the distinguished chairman and ranking minority member of the Labor and Human Resources Committee.

Today, I urge my colleagues to assist rural America on the other key front of the rural drug war by increasing support for rural drug interdiction. Senator BIDEN's law enforcement amendment establishes a $20 million rural supplement to the law enforcement block grant program, targeting $10 million to special-need rural States, such as my home State of Arkansas, and channeling another $10 million for use in rural areas within other States. This measured block grant supplement will send Federal resources to rural law enforcement officers who are crying out for help in the fight against drugs.

Again, I wish to praise the chairman of the Judiciary Committee for including rural drug provisions in his State and local law enforcement amendment. Rural Americans will surely welcome this assistance in their fight against drug abuse in their communities.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, we are all busy around here, and I am no exception. I have been in a number of meetings today. I did not realize this particular subject was going to come up again this soon. Although I did not have a fully prepared speech, when I found out this was on the floor and about to be voted I felt compelled to come to the floor to speak on it, if only briefly.

One of the biggest shocks I have had since I have been in the U.S. Senate was when this matter came up before, just a few weeks ago, and passed. I had not even come over to talk about this, because I thought it was such a ludicrous proposal I was not going to bother with it. I supposed it would go down by 8 or 10 votes and that would be it, but in fact it passed by a substantial margin.

I have done a quite a bit of flying. I have an airplane of my own. I have experience as a private pilot, as well as flying militarily. I have been in aerial combat and know about airplanes and being shot at.

How some of these provisions in this thing are to be carried out, I do not know. If I have ever seen anything that I thought was posturing on behalf of the U.S. Senate, this is it. All we have to do is go into a frenzy around here to get our names on it quick so we can release our press releases.

Here we are saying nothing about the frequencies, the kinds of warning shots, and what about international situations, saying nothing about night flying when most of this occurs. It says nothing about flying around our borders, which I do occasionally, and have done in my own airplane.

So I will run through this very briefly here. I do not plan to take a lot of time because I do not want to delay the Senate's time on this. But I just do not see how any of this really, truly works.

Now, the only thing to be said on the other side is that we do have lined up a number of things here that have to be met, which, if we really put a strict interpretation on this, which we have to do to keep from losing lives unnecessarily, means that all we are doing is setting up something that looks like we have done something that will never possibly be used, as I see it.

The amendment reads:

> Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

Fire, shoot him down, kill him.

Now, let me go back to this: "* * * an aircraft displaying proper identifying insignia." That is the No. 1 qualifier right there.

Let us say I am flying my Beech Baron, flying around the Mexican border, well on the American side on a beautiful night. There is no requirement for me to have the radios on, even if I am flying on a visual flight plan, as it is called. I am navigating, in that case, by looking from one town to another, going along, flying at the proper altitude. I do not even have to be on a particular frequency, and there is not any FAA requirement.

Let us say the aircraft that comes up to challenge me on that night flight has identifying insignia. I cannot see him. I do not know what he is doing. He has no searchlights on him or anything like that. I have no floodlights that I can illuminate an aircraft with. I might not even see him if he comes up behind me. But he is supposed to

have identifying insignia and then he instructs me to land.

Now, how does he instruct me to land? That is a good one.

Senator HUMPHREY is here. He is a former airline pilot. He knows all these same things. How does somebody instruct you to land at night on a VFR flight plan? There is no way that you could do that that I know of.

Mr. HUMPHREY. If the Senator will yield, I agree with the Senator. I would not want anyone in a pursuit aircraft maneuvering close to me at night, close enough so that he could signal me by hand that he wants me to land, because he is going to bump into me.

Mr. GLENN. I tell the Senator that I agree with him 100 percent. If I am flying my airplane and someone comes flying up beside me at night and I see him up close enough that I could get some sort of signal, I am going to turn my lights off and take evasive action. And he will not hit me. I will guarantee that. I have had practice doing that, as a matter of fact.

So I think the whole thing is just so ridiculous to assume that this can be done.

Now, then we get into the procedural safeguards, all of which have to be met, I grant you, so there will not be anybody shot at if—and this is a big "if"—if the Customs Service and people like that do not get carried away with this new authority and go ahead and do some dumb things and shoot at airplanes.

We are supposed to adopt regulations "providing that neither a warning shot, nor disabling nor deadly force, may be used" unless all the safeguards have been met.

Now, what does this warning shot consist of? Is this a very pistol? Is it a tracer?

In the original legislation, there was going to be a warning shot fired. I would ask the author of this legislation: Has he ever watched a shot go by? You do not see many of them. Yet, we are going to fire a warning shot. We do not say if it has to be a tracer. What if I am not looking out when this warning shot goes past? What if I am in my airplane, flying in there, talking to somebody, looking down on the floor at instruments, picking up a chart or something, and somebody fires a warning shot and I do not see the warning shot? Then, supposedly, they can shoot me down?

Mr. JOHNSON. Will the Senator yield for a question?

Mr. GLENN. Yes.

Mr. JOHNSTON. When we were down in El Salvador, Senator CHILES and I, our helicopter came under fire from the ground. We were told later by the other helicopter that they were shooting tracers at us, but we did not see the tracers. We could hear the bullets, and some hit the helicopter.

The Senator from Ohio has been shot at with tracers a lot. Can you always see the tracers?

Mr. GLENN. No; I have been hit 12 times by antiaircraft fire, never saw a single bullet coming that hit me yet; five times in World War II, seven times in Korea.

Now, I have seen tracers go by. It scares the devil out of you, I can tell you that.

The first thing you do is take evasive action and get out of there as fast as you can.

Let me continue on some of these. We are going to fire these warning shots. You cannot fire a warning shot nor disabling or deadly force unless you have some other things met first. The FAA has to provide public notice. They have to inform "all private aircraft operators entering U.S. air space that they are required to obey any instructions from U.S. law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force."

Who identifies these airplanes? What tells me that they are a U.S. law enforcement agency if I see an aircraft coming toward me out there, particularly at night? You do not see them coming. How on Earth do I know that this is a U.S. law enforcement airplane that is coming at me out there? And yet, failure to obey such instructions may result in use of force. And I am completely innocent, flying, with my family, along the border space.

Well, No. 2: "Such aircraft is flying outside of flight corridors" and the flight corridors are 3,000 feet wide.

Now, I would ask anybody that does any flying these days—well, this is 3,000 feet lower. OK. This is altitude.

Now, what if you are flying over land? Is this 3,000 feet altitude above ground level? Airplanes fly these days above sea level. Even though you are going to Denver, when you land at Denver, your altitude on your airplane indicates 5,000 feet or so because that is what you are interested in, avoiding running into the ground when you are one of these flights.

Let us say you are going along in this airplane——

Mr. McCAIN. Will the Senator yield on that point.

Mr. GLENN. No, not on that point. I want to continue. Then I will respond to anything the distinguished Senator has to offer on this. But I would like to complete this while I have my thoughts going here.

So we find out here that we are not even specifying here. Are we saying an altitude of 3,000 feet above mean sea level? Is that what they mean? That is what they are flying at.

Now, if they get below that, are we saying that if all other criteria have been met now that we can shoot at them? Are you going to shoot somebody down?

We do not even spell out these things in this proposed legislation. Yet we are sayng that "in no case be lower than an altitude of 3,000 feet except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions."

How on Earth does the other airplane know that there are emergency flight conditions? I have no way of informing somebody else. There is no requirement to be on emergency frequency here. There is no requirement to be on anything. And if I am flying into a field out here at some elevation, it does not even say whether I am above cloud level or above sea level, which is the normal way of flying.

No. 3:

The airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotic trafficking.

Can anybody tell me how they can look in another airplane and tell me that that other airplane has in it, not just my wife and my two kids, but a load of cocaine in the backseat? I really do not know how we know something like that.

No. 4:

The airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land.

I, as a private pilot flying in this country, am not required to monitor a single one of those frequencies. As a domestic pilot, I do not have to monitor international emergency frequencies.

The rocking of wings? What if I am flying at night. I do not look at somebody rocking wings at me in the middle of the night. How on Earth do I see him? I do not have floodlights on this thing. This gets a little crazy. I cannot believe people took this seriously and voted on this. Flashing landing lights. That is fine, but landing lights are on the forward part of the airplane and they face forward.

When somebody comes up to my airplane he has to be behind me when he flashes his landing lights. No. 1, if he is behind me, I cannot see his landing lights and if he is ahead of me, he is out ahead of me and I cannot see his landing lights. So how does he flash his landing lights to signal me to do anything? He cannot do it.

Rocking his wings. That is a great one in the middle of the night. I am going to rock my wings until I wear out the wheel on the airplane and it is not going to make any difference. This is supposed to be part of our signaling system.

Then, if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land; undesignated as to what type signal. What is it? We fire a bullet? Do I watch that bullet go by? Then I know I should land real quick when I see that bullet. That is a good one.

Tracers? What intensity of tracer? Tracers will get my attention but what if it is at night and I am looking down in the cockpit getting a chart or something and I do not see that tracer go by? Are you going to shoot me down? My wife, my kids, me, private pilot flying along minding my own business?

We are going to fire a warning signal to land yet we do not designate even what that warning signal is.

No. 6:

If such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire into the aircraft.

I certainly hope the command authority is consulted on that.

No. 7:

No use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that under the circumstances, innocent persons would be harmed by the use of disabling or deadly force against such aircraft.

How on Earth can an intercepting aircraft come up and fly alongside my Beech Baron cruising along and know whether there are innocent people inside or not? There is no possible way we can do the things we are talking about here.

Then we get off of all those things and say, "The regulations required by this section shall be promulgated and adopted by the U.S. Customs Service, U.S. Coast Guard, and Drug Enforcement Administration not later than January 1, 1990."

If anybody can tell me how they are going to do that and how this thing will not have the potential of creating much more havoc than it is going to correct, I just do not know what it is.

And then, on top of this we finish up by saying that if anybody makes a mistake and shoots down innocent people we are going to indemnify them and say they are not held responsible for just doing what they did.

As I said, I did not even come over before when this was up because I trusted the judgment of the U.S. Senate to be more mature than it was. I think we have to fall back once in a while, even if it is drugs, even hard drugs. No one has been more consistent in calling for penalties on hard drugs than I have, but let us not go into a piranha-like feeding frenzy here every time somebody says drugs. We all rush to support something if somebody says it is against drugs, even with the potential of shooting down innocent people in private airplanes.

Do I want to stop that kind of drug traffic? Of course I want to stop that kind of drug traffic. But not at the expense of taking a chance of having innocent people shot down in their private airplanes.

I will not belabor this any further. My colleagues may guess from this I am against this piece of legislation. I think it is ludicrous and I suggest that everybody vote against this thing and let us send it back where it came from before we kill some innocent people out there. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have voted against this amendment every time I had an opportunity to vote against it, but I must say I have never heard a more compelling, persuasive reason than the Senator from Ohio has just delivered.

I say there is not a person here in this body who commands more respect than the Senator on almost any issue, and certainly on this one.

Here is a decorated marine combat pilot who has been shot at, who has been hit, and who understands what it is like in the air, and who understands what it is like in the air at 2 a.m. That expression over in the House, "if you fly you die," may be some hyperbole. But I can tell my colleagues one thing, I can conceive of 20 scenarios in the middle of the night, of an innocent family coming back from the Bahamas or St. Croix or St. Johns in their little Beech Baron, the father a weekend pilot, off the corridor, off the beaten path. My gosh, if a KAL Airlines 747 can get out of its corridor, pop, who is a weekend pilot, can certainly get out of the corridor.

This is just a disaster waiting to happen, if the Senate ever takes leave of its senses and approves this thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have to confess from listening to the distinguished Senator from Ohio, if one were to take any one of the points that he makes—we may say flashing lights cannot be seen from behind, but then if they are behind, then they are tail lights, and they get ahead—certainly, we might say, that is not adequate warning.

Mr. President, let me suggest, though, that there is a comprehensive set of procedures delineated and there will be additional procedures as they relate to the rulemaking capability of CAB, FAA, and also the other agencies involved.

But these are some of the safeguards. We are not talking about anyone. We are not talking about a visual contact that somebody makes with plane that he or she does not recognize and therefore becomes a target. That is nonsense.

We are not talking about shooting planes down over land, over a populated area. The legislation specifically says that it will only be used over waters. It does not have land mass. This is nonsense.

The FAA publishes announcements to all pilots. All pilots are going to know. This is not going to be implemented without there being the widest possible dissemination. The FAA establishes and maintains air corridors with a floor of 3,000 feet. Aircraft dropping below this floor for anything other than emergency landing, yes, they know that they will be suspect. They will know that.

There is the issue of transponders, whether or not they can be utilized in furtherance of this.

Law enforcement agencies visually confirm illegal activity. There has to be a reason. Not just that the plane is below 3,000 feet and has not been identified. We are not just going to come out and shoot them down. They see things such as emptying bales, suspicious activities, place of origination.

We are not going to find a plane that happens to cross our path and we do not know where it started. Most of these planes are going to be tracked from the airfield they take off from when there is pretty darned good reason to know and suspect they are drug planes, involved in illegal activity. We have those capabilities.

This is nonsense to say it is just going to be the poor guy coming from the Bahamas on a family trip and he has lost his way and we are going to shoot him down. That is not the case at all. And if he lands on a field in America and is held there we are going to follow him in. The problem is when he heads to Mexico to outrun us, or heads to another country. That is the problem.

What do we do then? What about hot pursuit? What about the local law enforcement people?

When somebody commits a bank robbery, shoots people, hops in a car and takes off, how do you know that was the car that was identified?

Day in and day out our law enforcement officers are called upon to make critical choices and critical decisions. We can say, following the same logic, does a bad guy run around with a headlight behind him that says I am a bad guy? I am the guy that did it.

It is just about as silly as taking every single one of these and saying any one of these is fatal. Take the totality of the law. Law enforcement agencies must repeatedly attempt to

communicate by radio and visual signals to instruct the suspects to land.

We have to trust in the common sense of our law enforcement officers. These are law enforcement officers, DEA people, customs people, trained in this. They certainly are going to give every benefit of the doubt, and err on the side of caution. Unless they know and unless everything possible has been done, and yes unless they ascertain that these are people who are trying to run.

The PRESIDING OFFICER. The Senate will be in order.

Mr. D'AMATO. Mr. President, this discussion goes further. It says if this decision is not made by the fellow up there in the sky who may become trigger happy, he has to seek permission from the ground commander before firing a warning shot. We are not saying just a warning shot, the kind of warnings that are necessary that would be given.

These decisions are made every day on the ground, on the water and, Mr. President, we are suggesting it is about time we had it in the air. Let me tell you why. Because our people are being brutalized on the ground. They are being killed. There are 200,000 crack babies born addicted. Nineteen thousand planes it was estimated crossed our border by the DEA. We intercepted 1 percent of it. Hopefully, by using the kind of technology we will have, we will be able to do better. And if we shoot down a couple of these guys, maybe there will not be 19 planes to carry in the bulk of cocaine.

Mr. President, we can find a way to pick at anything. I suggest we stop picking and start going after the drug dealers. I am pleased to support this legislation.

Mr. McCONNELL. Will the Senator yield just for an observation?

Mr. D'AMATO. Yes, certainly.

Mr. McCONNELL. The Dominican Republic went to this procedure 2 years ago. They do not have a flight problem. It stopped, it ended it. It stopped once and for all. I thank the Senator from New York for his support for the amendment and articulate comments.

Mr. D'AMATO. The Cubans do not have an overflight problem that they do not want and do not know about. People know. You do not hear people getting shot down willy-nilly. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am a supporter; I am a cosponsor and I think the Senator from Ohio has done a masterful job of ridiculing a plan, but it is not this plan, No. 1, and I think that a great many of his comments, which I enjoyed listening to, also, simply do not apply to what this particular piece of legislation is trying to do. There are few Americans with the distinguished flying record of the Senator from Ohio, with the distinguished combat record, and the combination of the two is powerful when he speaks to this. Very powerful.

I am a pilot with a mere 1,200 civilian hours. I have never flown in combat, although I have been in combat and I have had tracers fired at me and I worked under rules of engagement, very complicated rules of engagement in Southeast Asia. But as a private pilot with an instrument flight rules commercial rating, I am not intimidated by what this represents to me as a private pilot. There is not a pilot who is worth their salt flying across a body of water, which is what this contemplates, who does not check with their notice to airmen, who does not first file a flight plan on almost all occasions, who is not tuned in to the frequencies, checking in if you are leaving from Miami, whatever, which is controlled air space, talking with the tower and the flight center and eventually with the arrival authorities in another country.

This specifically does not apply over land. It is not meant to. It also specifically contemplates that regulations are going to be issued by the appropriate people; specifically, regulations would be issued by the Coast Guard, Customs, the DEA and until those regulations are adopted, obviously nothing can happen. I presume, and we have to make some presumptions of common sense here, that the Coast Guard, the DEA and Customs are going to issue regulations which are within the realm of common sense with respect to any kind of engagement, No. 1.

No. 2, this legislation is directed only at that situation where there has been a visual confirmation of illegal narcotics activity. What this is specifically designated to do is not to deal with the dentist flying from Peoria. They do not come under this whatsoever. There has to be a visual confirmation of bags of heroin, whatever, being kicked out in a drop, that is, in the Bahamas or somewhere.

Why is this legislation designed this way? Because we have heard from countless agents and we have seen the films. With infrared photography, you can see at night. And with the infrared photography, we have seen the actual films of these people flying low, dropping their drugs and then dipping their wings and flying away. Our agents who film these are powerless to do anything about it—powerless. We have had daytime photography and we actually had daytime sightings where as they fly in and drop the drugs, they turn around and the pilot flips the bird to our agents and flies away with impunity. Now that is what this bill is supposed to deal with. There is no permission going to be granted if there is any doubt whatsoever if there has not been a visual observation of illegal narcotics activity.

So the distinguished Senator from Ohio has spoken effectively, and he has adequately ridiculed the concept of shooting down planes anywhere over the United States. I agree with that ridicule. That would be folly. It would be insanity. But that is not what this legislation does or is intended to do. It applies only to that situation where you have visual sightings of narcotics trafficking taking place; where you have rules and regulations; where you have checked with the authorities and it is over water, and it is specifically designed to deal with flights from Colombia, flights from the islands.

I think that regulations can be put together within the realm of common sense that allow our enforcement officials to stop being made into people who are put out on this line without the ability to do anything about it. I respectfully suggest that it is simply not the kind of open-ended turkey shoot that the Senator from Ohio has suggested it is.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Chair recognizes the Senator from Ohio.

Mr. GLENN. Madam President, let me go to the authorities on this. I was a bit emotional a while ago. Let me be a bit dispassionate at this time and quote from those people who are charged with enforcing the drug enforcement laws of this country. The chief operations officer for the drug enforcement agency came before the Permanent Subcommittee on Investigations on September 26. During that hearing, he was asked some questions by Senator NUNN with regard to this particular situation. His name is David Westrate, chief operations officer for DEA. Senator NUNN said:

> I want to get back to the source in a moment, but just one other question, because we are having to struggle with it, or will soon, in conference. What do you think the need is, is there a need for the ability of law enforcement to shoot down aircraft in this country that do not respond to orders to land?
>
> Mr. WESTRATE. Well, Mr. Chairman, that is a very sensitive thing. I have been trained as an agent. I have 25 years of experience, and one of the fundamentals we learn as Federal agents is you never shoot at a fleeing felon. If a felony were committed in my presence here on the streets in Washington, let's say we had 5 hand-to-hand purchases of drugs from somebody, we went to arrest him and that person ran, or jumped in a car and ran, we can't shoot at him as a matter of policy.
>
> So, first of all, when we talk about shooting down an aircraft, you are talking about shooting at a fleeing felon, in a sense, one nobody.
>
> Senator NUNN. Suspected felon.
>
> Mr. WESTRATE. Right, suspected. I mean, who knows who is in the airplane, is it perhaps an undercover agent somebody doesn't

know about it? Is it an informant? Is it some innocent people along with a guilty party? What are we really dealing with here? So, you know, is it somebody maybe who doesn't have a full understanding of the language? Who knows, there are a million possibilities here.

On the other hand, I think we have to have some strength in our interdiction activities. I don't think a shootdown policy is something that will ultimately come to pass, in my view. It might, but I don't think it will.

Senator NUNN. You don't think that is needed now, or desirable?

Mr. WESTRATE. Well, I don't think it is, for the reasons I have said. You know, we have a constitutional rule that says you are innocent until proven guilty, and to me proven guilty means a trial.

Now, when you shoot across the bow of a vessel or you shoot into the engine compartment of a vessel, that is disabling fire and that boat stops and you arrest the people. When you shoot an aircraft, there is only one way that plane is going and that is down. I mean, the odds of someone surviving that, I don't think are very strong.

Senator NUNN. So there is no such thing as shooting not to kill in terms of downing an aircraft.

Mr. WESTRATE. Not that I know of. You would have to be awful lucky.

Senator NUNN. What I was trying to get at in terms of percentage, is the question of how much cocaine comes in by air, what percentage of the cocaine coming into America comes by air, therefore how important is this, even if the authority was given?

Mr. WESTRATE. A rough guess, between *10 and 20* percent. I will get you the specific estimates, but I would say 10 to 20 percent.

But let me add something real quick. If we do not have a shootdown policy, I still think we have the opportunity to address these people if we are organized as police forces multi-nationally. That is why we can pursue these people back. If the Colombians have the air capacity to chase an aircraft that has gone to the Bahamas, seen law enforcement presence and decided to flee back to Colombia, we have every capability of being able to communicate, to track through radar, U.S. military, U.S. Customs, U.S. Coast Guard, to track that aircraft all the way to Colombia, having alerted our Colombian counterparts. They will make a seizure of that airplane when it lands, simple.

The question is having the Colombia police or the Colombian military, whatever their choice is, to be able to fly to a target and arrest them, it is not a difficult thing to do.

That is the Chief Operations officer of the Drug Enforcement Administration.

Mr. KERRY. Will the distinguished Senator yield for a question?

Mr. GLENN. I will yield but I think that says it all, in addition to what I said before. As soon as the remarks are finished, I will move to table.

Mr. MITCHELL. I will ask if both Senators will yield.

Mr. GLENN. I am finished.

HL RECONCILIATION

Mr. MITCHELL. Madam President, if the Senator from Ohio has yielded the floor, I seek recognition.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I remind Senators that for this week we must complete action on the pending measure. Then we have to complete action on the catastrophic measure, on which we hope we will be able to obtain a time agreement, limiting the amendments, but that would still take several hours under the best of circumstances. And then we must proceed to the reconciliation bill.

I have already indicated that we will be in session this weekend in an effort to complete that prior to Sunday evening. If we fail to do that, then the Senate will return to session on Tuesday and continue until such time as we do complete action on the reconciliation bill.

There has been a great deal of discussion and comment and analysis about the reconciliation process. The House passed their bill today. I have several times in the last few days, beginning with the lengthy Finance Committee meeting earlier this week, said to the distinguished Republican leader it is my belief that the best approach we could take as a Senate, as a Congress, and as a Government is to attempt to return the reconciliation process to its original intention, which was a limited process, to achieve meaningful deficit reduction.

For a variety of reasons, which need not be detailed now, it is apparent that that process has gone awry and the reconciliation process, because it contains limitations in an effort to give prominence to the original objective of deficit reduction, has by virtue of those limitations served as a magnet to a great deal of other legislation.

One need only look at the House bill passed today as dramatic evidence of the statement I have just made.

To help move us toward the public policy that is in the best interest of the country, I have met on several occasions with the distinguished chairman of the Budget Committee and the distinguished chairman of the Finance Committee.

I have advised the distinguished Republican leader of our discussions in this regard and of our intention to present a suggestion to our colleagues this evening on how best to proceed in that regard.

Accordingly, Madam President, I am going to ask that we permit that discussion to occur now, having been notified the former chairman of the Budget Committee and ranking member, the Senator from New Mexico, is present, as is the distinguished Republican leader.

I will yield, asking that the chairmen of the Budget Committee and the Finance Committee be recognized to make a suggestion, and then yield to the distinguished Republican leader or, if he wishes, to yield to him now to respond.

Mr. DOLE. Only briefly now. I am more interested in trying to get a tighter agreement on catastrophic. I would just say to all Senators we submitted a list I think of four amendments plus there will be a budget waiver, which I think both sides will have to do if you are going to have any plan, and the time is about 4½ hours.

I was prepared to go back to those Senators to see if we could reduce that time. This thing has been argued so often I cannot believe we need more than 30 minutes equally divided on any plan or at most 40 minutes equally divided.

I think I can encourage Senator MCCAIN and others to abide by that because it would be my hope, if we take up catastrophic, we could vote on these various plans and complete action in a day or less because, as the majority leader indicated, there is a lot of work to be done.

So I did submit earlier today a proposal to the majority leader. I understand now that he has had some indication on his side of the number of amendments.

I urge my colleagues on both sides, if we want to leave on Sunday sometime, then we should not take—I think I counted last time 15 hours on the catastrophic bill—15 hours. By the time you have quorum calls and rollcalls, you are talking about a good day and a half of an all-night session.

As far as catastrophic is concerned, I think the principal person on this side, Senator MCCAIN, would be willing to settle for less than an hour, much less than an hour, and all those who feel constrained to speak could speak sometime during the day on one of the amendments or one of the plans.

So I want to join the majority leader in suggesting if we can put that consent agreement together tonight, that would be something we might be able to do starting early tomorrow morning and maybe finish it by 2 or 3 o'clock.

Mr. DOMENICI. Will the leader yield on catastrophic?

Mr. DOLE. Yes.

Mr. DOMENICI. I might say to the distinguished majority leader——

Mr. DOLE. I do not have the floor.

Mr. MITCHELL. Certainly.

Mr. DOMENICI. On catastrophic, there is a genuine concern about the point of order. If you have five or six agreed-upon amendments, I think all of them that I have seen would technically require a waiver of the Budget Act.

I think our Republican leader will be suggesting that we find a mechanism whereby we could test the Senate on a waiver of the budget process for all of them, once they have been looked at, so we either vote yes or no.

I am not suggesting that. I am saying there is talk about it. It might alleviate some of the problems. I would think it makes sense. I merely suggest it. I think our Republican leader is aware of it.

Mr. MITCHELL. I thank the Senator. I thank the distinguished Republican leader and join him in requesting restraint from all Members. Senators constantly ask me during the evenings why we are here so long. The answer is—it is, of course, a rhetorical question in reality because everyone knows why we are here for so long—because we move slowly during the day, and then there are a number of amendments and lengthy debate.

Mr. McCAIN. Madam President, will the distinguished majority leader yield?

Mr. MITCHELL. Yes.

Mr. McCAIN. I thank the majority leader.

I was looking at the proposed amendments. There are several of them that say they request 2 hours equally divided, 90 minutes equally divided. They are issues well-known to all of us. I hope we can agree to, on some of these, 15 minutes to a side.

I might also add that some of them are basically minor iterations of other amendments.

It seems to me, Mr. President, that particularly given the knowledge that most of us have on this issue, we should be able to cut this down to 4 or 5 hours. I hope the distinguished Finance chairman will agree with that.

Mr. BENTSEN. I say that I certainly share the viewpoint that we ought to be able to cut them substantially. I hope we can do it. We are much more familiar, of course, with the amendment of the Senator from Arizona, although he just changed it some. I understand he is asking permission to further change it to an additional form.

But if we have a few amendments that have quite a different approach to it, it is not one of those things that we can settle in 15 minutes with some of those, but to the extent I can convince those members to cut back on time, amendments from our committee, I will be so doing.

Mr. MITCHELL. I will urge that. I would like, according to my prior statement, to yield to the distinguished chairmen of the Budget Committee, and the Finance Committee, who are prepared to present the suggestion to which I earlier alluded, and then obviously the opportunity to respond will be available to the distinguished ranking member of the Budget Committee. And I would like to make some additional comments as well.

Mr. SASSER. I thank the distinguished majority leader for yielding.

Mr. President, it is critical that we avoid sequester. I have taken the floor of this Chamber three times this week to speak on the question of sequester and about the necessity of avoiding sequester. Sequester will take place on October 16 unless we pass reconciliation in both Houses and a reconciliation in the conference is agreed to.

October 16 is only a short time away. When you deduct from the remaining time the 2 weekends and the holiday for Columbus Day, and a religious holiday, that gives us 7 working days to avoid sequester.

In the event of sequester, that is going to create chaos. It will be a chaotic condition.

It is elementary that one of the fundamental duties of government is to bring order to human affairs. If government is there for no other reason, it is for that. And for us to allow a sequester to take place I believe destroys confidence in government and destroys confidence in those who are responsible for government, whether they be in the White House, whether they be in the U.S. Senate, or in the House of Representatives.

I am pleased to see the distinguished ranking member of the Senate Budget Committee on the floor because I know he shares my concern about sequester and the consequences of sequester.

He and I worked hand in hand for long hours, long days, and weeks to come up with what we thought was a fair bipartisan budget agreement. And the driving force behind that was that we could bring order to the budget process for fiscal year 1990.

We are faced now with the task of avoiding a sequester with time running out. We are faced with a reconciliation bill here in the U.S. Senate that is fairly heavy with extraneous matter.

I say to my colleagues that many, in fact most, of these extraneous matters are meritorious. They are matters that I think most of us would support. But the fundamental fact is that they have no place on a reconciliation bill. They simply load it down, and make it too heavy to carry.

I have been in meetings with the distinguished majority leader, the very distinguished chairman of the Senate Finance Committee, and I think we have concluded jointly—the chairman of the Finance Committee can certainly speak for himself. But I think we have concluded there is only one responsible course to take at this very late hour; that is, to strip the bill, the reconciliation bill, of every extraneous provision, every single one of them, and we must lay aside the capital gains debate, lay aside all matters that would keep us from finishing the reconciliation bill in time to avoid sequester.

That I think is the only responsible course to take at this particular time.

I know that the distinguished ranking member of the Budget Committee shares my concern about extraneous matters. He circulated a letter which detailed the various extraneous provisions on the House reconciliation and on the Senate reconciliation at the time it was circulated. I say to may friend form New Mexico that we picked up quite a few more heavy matters since then. The reconciliation bill has been weighted down even more.

So the proposal that I would like to lay before this body this evening is that all Senators, our friends on the other side of the aisle, join us in restoring the improved function of the reconciliation bill, join us in stripping it clean, join us in laying aside the debate over capital gains which has been so divisive, and let us simply let the Finance Committee go forward and raise the $5.3 billion and no more which was the basis of the bipartisan budget agreement that we made a few months ago—a bipartisan budget agreement that was announced with such fanfare in the Rose Garden, one that some of us took some dubious pride in, and certainly it was one supported by the administration and by our friends on the other side of the aisle.

We simply have an obligation to move forward, meet our fiscal responsibilities to this reconciliation bill, and then deal with extraneous matters and capital gains on another day.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Madam President, we have reached a critical position in trying to achieve a cut in the deficit that we think is important to our country. It is impeded by the fact that we have a difference of opinion on what to do on capital gains. The President of the United States thinks that we ought to move on the capital gains. This Senator thinks that should be a lower priority. But that kind of a debate is going to continue. When you reach that kind of an impasse, then I think it is time to look at the procedures to see if we should not take a different approach.

We fought part of this fight night before last. And the chairman's position was debated, and we won that point. We are now in the position where the capital gains provision would take 60 votes to be able to win that point and establish a waiver.

So from a tactical standpoint at least the IRA has the advantage for the moment. But we have a higher priority. I am well aware of that; that is, to try to achieve what we have to do, reach the Gramm-Rudman targets, and avoid sequester.

So with that in mind, in spite of a great amount of work done by the members of the Finance Committee,

whether we are talking about rural health or talking about child tax credit, et cetera, whether we are talking about earnings limitations raised on Social Security or talking about the elderly, which I feel so strongly about.

I am ready, if the leadership on both sides is ready, to see that we move to a stripped-down bill, and that would be the removal of the IRA's, and that would also mean no capital gains offer. If we take out some of these measures that so much work and so much effort has been made on, that does not mean that they will not be visited at another time after we get past reconciliation.

They will be coming back. Capital gains will come back, and the IRA will come back, child tax credits will be coming back, and certainly raising the earnings limitations on Social Security will be coming back.

I am prepared to explore with the majority leader and with the chairman of the Budget Committee and the leadership on the Republican side to see if we cannot arrive at an accommodation, so we can get the job done and do it in time to meet the sequester deadlines. I will tell you, my friend, I am ready to do that, if it will accomplish an objective.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will be very brief. The two chairmen have stated well the situation and the mechanism we propose to deal with. I simply say to my colleagues that this is a good faith, serious suggestion. It would obviously require participation by Senators from both sides of the aisle in making determinations as to what is extraneous, what should be excluded, and what should not be.

But every single Senator, without exception, has made countless speeches on the problem and threat to our future and our economy posed by the Federal budget deficit and the rapidly growing Federal debt. We devised a mechanism that attempted to focus our energy and effort on dealing with it, and each of us now knows that that mechanism is not achieving its intended purpose.

What we must do is restore a sense of responsibility and discipline when dealing with the deficit. This would not disadvantage anyone, any proposal or legislative initiative or amendment to be offered at some other time to some other measure. It simply says that we have a crisis in this country, we have an impending deadline, and I hope that we can join together and deal with it in a serious and responsible way.

This is not a gimmick; this is not a mechanism to gain tactical or other advantage; this is a serious effort to deal with a very serious problem, and I hope very much that we will be able to do so.

I thank my colleagues for their patience. I am pleased to yield the floor.

Mr. PACKWOOD. Madam President, I think the words of the chairman of the Budget Committee and the majority leader and the chairman of the Finance Committee have been most generous. I am totally inclined to agree for a variety of reasons, and one more that I will add on my own. It is responsible to strip this out.

Second, it does not serve any of us well, the majority or minority, to start this body down the process where the majority decides to use the reconciliation process—It started out as itsy, bitsy things, and now it has become a super appropriations finance budget bill and put everything into it you can, prohibit debate on it, and that does not serve this body well, Republican or Democrat, majority or minority.

I think this offer is a generous, intelligent offer. I hope we can sit down and honestly try to bargain out what is extraneous and what is not. We may have slight differences of opinion, but I will wager that on 95 percent of the things in that bill, we will go yes, yes, that is extraneous. Even if there are things we want, we know if they are extraneous.

I thank the majority leader and the chairman of the Budget Committee and the chairman of the Finance Committee.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Let me first thank the distinguished Senator from Oregon who had to rush back to be here. As I started to say earlier, the reconciliation process which was established in 1974, and I was here at that time, and I remember all the debate we had and all the good intentions that went into that.

There were a lot on both sides of the aisle. I remember, particularly, Senator Muskie and Senator Percy spent many hours trying to put something together on a bipartisan basis.

But the process has been used for unintended purposes since it was first initiated, making it sort of a mockery. The inclusion of unrelated provisions, referred to extraneous matter in reconciliation legislation, has long been criticized since it was started by the Congress and the Senate in 1980.

That was a Democratic-controlled Senate, but I must say Republicans thought it was a pretty good thing, and it was continued.

We tried to curb the practice with the adoption of the Byrd rule, which happened in a Republican Senate, to eliminate extraneous provisions. But I must say, I think we have sort of gone back to where we were in the early eighties.

In addition to the extraneous provisions, another concern is "what type of deficit reduction is considered appropriate for reconciliation measures?" The type of provision that produces only one-time savings and that may result in greater costs in the future years, such as asset sales or shift in payments and other transactions from one fiscal year to another are harmful and we use them all the time. They should not be considered reconciliation.

Under the 1985 Balanced Budget Act asset sales and loan payments generally may not be counted as deficit reduction. This year we adopted a sense-of-the-Congress provision that asset sales and loan payments should be counted as reconciliation.

The 1987 Balanced Budget Reaffirmation Act expanded the definition of extraneous matters under the Byrd rule to include provisions increasing outlays for decreasing revenues in fiscal years beyond those covered by the reconciliation measure, and extended the expiration date of the rule to September 30, 1992.

The act also prohibited counting as deficit reduction the transfer of any government transaction including any payment, expenditure, asset sale, or revenues from one fiscal year to another, with certain exceptions. But it is clear that the exceptions are too broad, so we found all kinds of ways to get around that.

It seems to me that when we come up with the bill that we now have the question is, "Is it a reconciliation bill at all?" We might ask for a ruling on whether this is a reconciliation bill. It seems to me that there may be an opportunity here to set a precedent for fiscal sanity.

I know that there is concern about the capital gains reduction. If that prompted this, maybe it is worth it. If we start cleaning up our own act, perhaps we can deal, as the chairman of the Finance Committee indicated, with some of the other matters later on.

I think there may be other questions that arise, speaking from this side, and I certainly consider the offer to be in good faith and not a gimmick or whatever. We would want to know who determines what is extraneous. Is it going to be a joint decision? Are Republicans going to be invited to that meeting? I assume they will, based on the statements made by the majority leader and others.

Can we get a commitment from the House to follow suit? I know the majority leader has spoken to the Speaker. I know the Speaker feels as strongly about this as the majority leader does, and I think I can say that the minority leader, Congressman MICHEL, feels about the same even though the

vote on the House side today was overwhelming.

But, if we strip ours and the House keeps theirs, then I am not certain what happens in conference, and I guess we would have to know what is the plan for all those items that are stricken out of reconciliation. Is there somebody who has already thought how we will put them all on a revenue bill and send them out next week or the following week? I do not oppose that necessarily. At least we would not be under time constraint or under some 20-hour rule. And when you combine all these measures that are kicked out and stripped out into one package, it will be a number of packages, and I would guess that would depend on whether or not the chairman of the Finance Committee has any revenue measures that he could make available for the IRA package or any other revenue packages.

But having said that, I can tell the majority leader and anyone else who may be interested that I want to put the record of the vote on the Byrd rule back in the RECORD because I think we did try to deal with it at that time thanks to the distinguished President pro tempore now because we knew it was getting out of hand, it was being abused by everyone on both sides. Everybody waited for reconciliation; we could not get it passed, stick it in reconciliation. What was surprising to me, you did not put minimum wage in reconciliation. That is about the only thing that has been overlooked. So it would seem to me that if, in fact, we can have some time to sit down with Senator DOMENICI meeting with Senator SASSER, and Senator PACKWOOD meeting with Senator BENTSEN and other appropriate committees, the two leaders, we might be able to put together a deal that would be good for the country for a change.

Madam President, I ask unanimous consent to print in the RECORD the vote to which I made reference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOTE No. 254

YEAS—96

Republicans: Abdnor, Andrews, Armstrong, Boschwitz, Chafee, Cochran, Cohen, D'Amato, Danforth, Denton, Dole, Domenici, Durenberger, East, Evans, Garn, Goldwater, Gorton, Gramm, Grassley, Hatch, Hawkins, Hecht, Heinz, Helms, Humphrey, Kassebaum, Kasten, Laxalt, Lugar, Mathias, Mattingly, McClure, McConnell, Murkowski, Nickles, Packwood, Pressler, Quayle, Roth, Rudman, Simpson, Specter, Stafford, Stevens, Symms, Thurmond, Trible, Wallop, Warner, Weicker, Wilson.

Democrats: Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Bumpers, Burdick, Byrd, Chiles, Cranston, DeConcini, Dixon, Dodd, Exon, Ford, Glenn, Gore, Harkin, Hart, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerry, Lautenberg, Leahy, Levin, Long, Matsunaga, Melcher, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Proxmire, Pryor, Riegle, Rockefeller, Sarbanes, Sasser, Zorinsky.

Nays—0.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, first, I want to say that I join the distinguished Republican leader in saying that I believe this offer is made in good faith and obviously it is directed at solving a very, very thorny problem that is serious.

I would just like to make a couple of points to my good friend, the chairman of the Budget Committee. The target is continually moving, so I assume in the last few days he has found more potentially extraneous material than we did. We think there are at this point 300 known provisions on the Senate side that are probably extraneous, and you note, I say to the distinguished chairman of the Appropriations Committee, the Senator from New Mexico said "probably" because I submit that the Byrd rule on extraneousness and all the rules we adopted are pretty subjective. We could not draw them as objective as our precedents on germaneness, and the like. So right off I am delighted that the Senator is suggesting that this is not an easy task. Clearly, we have plenty to work on without any question.

Second, I do want to make a couple of points that the Republican leader made. Frankly, I think I would start working on this, if I am asked to, with the idea that we may not have a reconciliation bill at all. That is not terribly relevant if we make a deal, but I think it is important in terms of how we negotiate because this whole thing may not be a reconciliation bill. I am not sure how the Parliamentarian is going to rule when it is all packaged up, but I have looked at it, and I really have some serious doubts about the precedents of the Senate, the Byrd rule in its entirety.

I do not know that we have a reconciliation bill. I am concerned when I look at our reconciliation bill and it is vested with all of the negative aspects that Senators have all talked about, including our leader on this side. But I submit, if that is the case, the House bill is vested with perhaps three times as many and in some cases they are far more important issues from the partisan standpoint to maybe that side of the aisle or this side of the aisle.

I think it is important that we know whether we are working to fix something that needs fixing and then we are going to go to the House with a package that is absolutely enormous and try to negotiate what we would call a stripped-down bill. I think there is a lot of danger in that.

Just two more points: I am not at all sure that we do not already have a sequester.

So I say to my good friend, the chairman of the Budget Committee, as I read the law, we already have one. I am not so sure how we get out of it, but I would like to act in such a way that we really reduce the deficit. So I am interested in that as we talk about cleaning up this bill because there are so many ways to figure out that you cut the deficit when you have not, that the spirit and the words are genuine, that we are here because we have a deficit and we want to fix it. When we have finally agreed, if we do, I am kind of interested in whether we really have had a positive effect on the deficit or not.

Last, since it has not been said by either of the two Republicans, the Senator from New Mexico is not at all sure that unless we want to agree to this that capital gains of necessity by definition is subject to the Byrd rule and extraneous. We may end up agreeing we are not going to take up capital gains. But I just want to make the point that we do not know yet that a capital gains amendment cannot be crafted and drafted which is indeed not extraneous and not subject to the Byrd rule. That is entirely possible. That is an important issue on this side and important to the President of the United States.

So while I am saying we are taking a good step forward with the Senator's ideas to come back to our senses, I wish we would have had our senses as we produced the bills that are packaged up in that reconciliation bill, and I wish we would have had our senses about us in the last 3 or 4 weeks when we even produced some new ones. I am not speaking of Finance. We could not get finished. We even had committees report a second time within the last 2 or 3 weeks.

So I am willing to work on this under the direction of our leader, but, frankly, we have to make sure we know that we have a game plan. It could go on forever, and we could have all kinds of definitions. I do not want to be part of that. I do not want to be that referee, but I do not mind working, and I do not mind doing my share if I know what I am trying to do.

So I thank the majority, including the chairman of the Finance Committee and Budget Committee and the distinguished majority leader for the proposal here. I do not want the palaver here tonight exhilarated. We are a long way from solving the problem of avoiding a sequester, but what we do should at least reduce the deficit. I am sure we are not talking about other things that will reduce the deficit. I am not sure the reconciliation we are talking about and appropriations we are talking about and everything else that we all fund, that we would reduce the deficit. But I am sure the sequester will.

I am willing to do what the distinguished leader suggests and I thank him for the proposal.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will yield in a moment.

I wish to respond to one question and one point that were raised.

The distinguished Republican leader asked who will make the decisions. Will they be joint? Will Republicans be invited?

Let me assure him that the only decision that was not joint, that was unilateral, was the decision to make this suggestion. I made that decision after consultation with the chairmen of the Budget Committee and the Finance Committee, and I emphasize that it could not conceivably succeed in any event if this be unilateral in any sense; it must be a joint effort.

I propose that the chairmen of the Budget and Finance Committees begin meeting with the ranking members of those committees promptly to address the admittedly difficult questions which the distinguished Senator from New Mexico has pointed out. No one disputes the difficulty of this course of action. On the other hand, no one can dispute the difficulty of the alternative. And that is proceeding down the road which this reconciliation process is now taking us.

We expend so much energy and effort here seeking to gain and retain tactical partisan advantage that it is often difficult to keep a focus on what our central objective is, and that is to deal with the very serious problem in a responsible way. That is all that motivates this.

I am heartened by the response, and I suggest that the four Members whom I have just indicated meet as promptly as possible to begin to address it to see if there is some way to work through these very difficult, admittedly very difficult, questions.

Madam President, I yield the floor.

Mr. BRADLEY. Madam President, let me compliment the majority leader and the distinguished chairmen of the Finance Committee and the Budget Committee for making this offer to the Republican side. Let me also compliment the Republican leader for his willingness to entertain this. This is really an effort to let reconciliation be reconciliation.

In the Finance Committee, on the revenue side, that means raising $5.3 billion. That is clearly what is required for us to do. I hope that we would do that and little if anything else. I think then we could be fulfilling our responsibilities and reducing the deficit in the process.

I thank the majority leader for making this offer and I hope the Republican side will take it up seriously and use reconciliation to reduce the budget deficit.

Mr. PRYOR. Madam President, I am a member of the Senate Finance Committee. I, like my colleagues and the distinguished chairman, worked diligently with our colleagues on the Republican side until 3 a.m. the night before last.

Frankly, as I was walking back to get in my car, I heard many, many people in the respective offices kind of opening champagne bottles and celebrating individual victories that some of us had accomplished in getting our little deal in the tax bill, and winking at this person for slipping this in, and having someone else put this in for us.

Madam President, I must tell you—this is not an admission, this is a fact—I come to the floor tonight as one who ended up with a busload of extraneous matter.

It was nothing more or nothing less than a feeding frenzy. What started simply as a $5.3 billion reconciliation bill ended up, Madam President, to be a $37 billion bill.

As I was driving home, I did not feel very good about myself. I truly did not. I also felt, Madam President, that somehow or other that we did not act responsibly. I felt that after all this frenzy was over, had I gone back there to the lobby of the Dirksen Office Building outside the Finance Committee room, and looked down that long hall of lobbyists, I should say, well-meaning, good people, representing a lot of fine institutions and companies, whatever, I sometimes wondered during the course of that evening if I went out there and shouted down the hall, "Does anyone out here represent Maude Smith?" Somehow or other I felt like Maude might not have been represented that night.

I think what the proposal has been, and the advancement of this idea of stripping and of being responsible, would probably send a shock wave through this country that for once we have done something extremely responsible on the eve of a sequester, a tremendous national debt, uncertainties about the market. But more than anything else there is the fear that we do not have the discipline to do it.

Madam President, I hope we will have that discipline. I also hope we will have that joint leadership between both sides of the aisle in this good-faith effort. I hope that we will succeed. I am willing to be a part of attempting to make it succeed, even though I would like IRA's, I say to my distinguished chairman; even though I am one who would like to see at some time some form of capital gains. I think that there will be another day. But I think this day should be marked as one when we must be responsible.

The majority leader has proposed, I think, a responsible package. I appreciate very much the comments of the minority leader, Senator PACKWOOD and the distinguished chairman. I hope it will work. I yield the floor.

Mr. DOLE. Madam President, I am not going to prolong this because I think we heard some statements that I know are sincere on each side. But if I did not make it clear, there is one other person in this town who has an interest in what we do, and obviously many more than that, and that is the President of the United States. I have not discussed this with him. He will be visiting up here in the morning about 9:30. I know by then he will have heard about this. In fact, we have already had a call from somebody in the White House, some unidentified source. [Laughter.]

So I would be very happy to start the process, however the majority leader wishes to proceed. I know the ranking Republican on the Budget Committee is prepared to do that.

I indicated earlier I want to put the vote on the Byrd amendment in the RECORD. I was reminded by the distinguished Senator from West Virginia that it was fairly unanimous. It was. It was 96 to 0. There were four absentees.

So it indicated on that date we felt pretty much as we feel tonight. That was October 24, 1985. So perhaps there is still time to come to grips with this issue.

I wish to thank the distinguished Senator from Arkansas, because I thought he had done pretty well that night. [Laughter].

And he did. As we all did. The chairman was very generous. Those are difficult things to do in the Finance Committee.

I also noted that large group of public-spirited citizens, who were just there observing the process, out in the audience. Some were happy and some were a little sad after it was over.

Mr. DOMENICI. Did they know the Byrd rule, Mr. President? Were they aware of the Byrd rule?

Mr. DOLE. They were in flight, but I do not think so. They were not concerned about the Byrd rule.

In any event, I am prepared to do whatever the majority leader wishes to do. We could start meeting now on our side or we could start early in the morning. I do not know what the plan is for the rest of the evening.

Mr. MITCHELL. Under the circumstance, I do not think we have any alternative but to proceed this evening on the pending measure and hope to complete action on it as soon as possible. I implore all concerned to show restraint in the amendment that they offer.

We are going to return to the pending amendment, I believe, by the distinguished Senator from Kentucky. I hope there will be vote on that soon and then we will just proceed.

Mr. DOLE. I am advised that on the night we were marking up the bill in the Finance Committee there were 31 amendments agreed to on this bill. I do not have the foggiest notion what is in each of those amendments. But I understand there are some on each side who were a little displeased when they found many of the amendments had been accepted.

I now understand there are between 12 and 20 on this side and maybe a dozen that side. That means there are at least 20 or 30 on the drug bill. This amendment has taken a couple of hours. If that is the case, we will probably not be able to complete action this evening.

Mr. DOMENICI. If the distinguished majority leader will yield on this point, I do not know if the distinguished Senator from Arkansas [Mr. PRYOR] was here when I spoke. But I was here at the end of his discussion. I want to just repeat again my observation.

It has been referred to as a package. I think we have a proposal to try to negotiate a bill that is something that we could all call a reconciliation bill. But the discussion now seems to be that we can take up capital gains at some later time. I am not so sure that you all suggested that capital gains is off the table. If that is the case, then I am not so sure we are ready to talk.

I thought we were supposed to talk about getting a reconciliation bill that we were absolutely certain met the Byrd test on extraneousness, but that we were not here negotiating what the tax package might look like that met the test of reconciliation or amendments that might meet the test of the Budget Act. So I hope nobody thinks that my agreement means that.

We can offer amendments, if you get 60 votes that pass here, that become a part of reconciliation whether they are extraneous or not. You can offer nonextraneous amendments. There is not much latitude, they are pretty limited, but you can. A package that is discussed that could be within the most narrow definition could be negotiated. Certainly the Senator from New Mexico is not saying capital gains is off the table here.

Mr. MITCHELL. Let me just say that no one is attempting to establish preconditions. But I say to the Senator, we understand the practical reality is that, if we are going to strip this down, it means effectively stripping those things that are involved with both sides. We are simply not going to have a bill that takes things out that one side is concerned about without an agreement on the other.

Mr. DOMENICI. That is not in any bill, is my point.

Mr. MITCHELL. I understand that. The IRA's are in. Of course my colleague's remark is there is no point debating it now, negotiating it now. The Senator said he may be able to come up with a capital gains amendment now that is germane. The IRAs do not need that. He is able to take the IRA's out even though they do not need to meet that test; and a great many other things that are of keen concern to Members on this side.

I think it is most useful not to attempt to reach a decision on negotiations now; that we will enter the negotiations without precondition. But as a practical matter that is going to be, obviously, a major part of the decision.

Mr. DOMENICI. I understand.

Mr. MITCHELL. I yield.

IMPLEMENTING THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, on the matter we are returning to, the so-called drug bill, I heard the distinguished Republican leader—I apologize, I was in the Cloakroom—indicate how many amendments there were.

I have been working with his staff—he has been extremely cooperative—and with some of my colleagues with whom I have been trying to be extremely persuasive. I do not know that I have been. But right now there are a total of 46 amendments.

It is the hope of the Senator from Delaware we could reduce that to less than 18 to 20 amendments, and that we would be able to voice vote them. My proposal, that the Senator's staff will soon make to him, is that we take all of the amendments we are ready to accept on both sides, put them in one package and tell every Senator if he wants to posture on his amendment, wait until we pass the bill, stay later tonight, have their statements printed in the RECORD, and then from 11 p.m. to 3 a.m. this morning come to the floor ans speak to those issues, depending on what time zone they find themselves in.

But I really mean this sincerely. I think we are able to package the amendments that can be agreed to and put them in one package. We would be able to do literally in 5 minutes what otherwise will take 3 hours, of what we are willing to accept.

The Senator from Delaware has about nine amendments. I will not propose those amendments. There are only three in one package that I am prepared to propose, and I think they will be accepted. I may be wrong. If there is one piece that is not, we can even negotiate that.

But I strongly urge my colleagues, if in fact they come to the floor and the managers of the bill are willing to accept their amendments, it will be only on the condition that they do not speak. I mean this sincerely.

If a Senator speaks, this manager will not accept the amendment and will fight the amendment. I mean if the Senator speaks at all. Come and send the amendment to the desk, put the statement in the RECORD and come later when we pass the bill and make the speech.

Most of the ones who want to speak the most on both sides are in different time zones anyway and they will be all right. But, please, please let us see if we can work this out. And I think we can.

Mr. DOLE. Will that take care of all the amendments?

Mr. BIDEN. That will take care of every amendment. In other words, we have a total of 46 amendments. I believe we can talk our colleagues out of 24 to 26 of them, and that will leave 18 to 20. Of those, somewhere between 10 and as many as 14 can be agreed to. And we really can get ourselves down to, hopefully, somewhere between four to eight that would be debatable.

I see my friend, the chairman of the Finance Committee who is used to having to deal with this a lot, looking at me like: Young man, it is nice for you to try. And, he is new to this business. And the Senator is right. I have only been here 17 years. I might not be able to do this. But I think everyone on the floor is probably drugged out.

Mr. LEAHY. So to speak.

Mr. BIDEN. So to speak.

I might say, by the way, staffs on boths sides of the aisle have been ready to admit to me when I have been sitting with the staff trying to negotiate this, that both sides are running out of things that they can think of to put on the bill.

Of those 46 amendments, at least 26 represent runout ideas. And so hopefully we can move. I really think with a little bit of effort in the next half hour we ought to be able to finish this whole matter this evening, by 10 p.m. If there is any good will.

If we cannot finish by 10 p.m. and there is not any good will here, then we are in for God knows how long.

Mr. DOLE. As I understand it there would only be about four that may require rollcalls? Is that what the Senator is saying?

Mr. BIDEN. My most optimistic projection would be four requiring rollcalls. My most pessimistic would be eight, if we can get any agreement. I do not think we have to get to eight. I think we can move to four.

I know the Senator from California has been on the floor and he is willing to give up some of his amendments. I am willing to give up some of my amendments. The Senator from Massachusetts has in the past given up some of his. And so on.

So I think the best thing for us to do is get moving, vote on the one before

us without any further debate, let our staffs continue to work and try to package this thing.

Mr. DOLE. Anything we cannot take care of we will put in reconciliation.

Mr. BIDEN. Since I am the only one not in that conference, I think that is a good idea. Let us vote on that McConnell amendment.

AMENDMENT NO. 956

The PRESIDING OFFICER (Mr. BREAUX). Is there further debate on the amendment of the Senator from Kentucky, Senator MCCONNELL? The yeas and nays have been ordered. Is there further debate?

Mr. GLENN. Mr. President, I move to table.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on the motion to lay on the table the amendment of the Senator from Kentucky. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 52, nays 48, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—52

Bentsen	Glenn	Mikulski
Bingaman	Gore	Mitchell
Boren	Harkin	Moynihan
Bradley	Hatfield	Murkowski
Breaux	Hollings	Nunn
Bumpers	Humphrey	Pell
Burdick	Inouye	Riegle
Byrd	Jeffords	Robb
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Danforth	Kohl	Simon
Daschle	Lautenberg	Simpson
Dodd	Leahy	Warner
Durenberger	Matsunaga	Wirth
Ford	McCain	
Fowler	Metzenbaum	

NAYS—48

Adams	Garn	McClure
Armstrong	Gorton	McConnell
Baucus	Graham	Nickles
Biden	Gramm	Packwood
Bond	Grassley	Pressler
Boschwitz	Hatch	Pryor
Bryan	Heflin	Reid
Burns	Heinz	Rockefeller
Chafee	Helms	Roth
Coats	Kasten	Shelby
D'Amato	Kerry	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Exon	Mack	Wilson

So the motion to lay on the table the amendment (No. 956) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the motion to table the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 958

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 958.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is a follows:

On line 3 of the bill, strike "Section" and all that follows through the period on line 4 and insert the following:

CHAPTER .—RURAL DRUG ENFORCEMENT ACT

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Drug Enforcement Act."

SEC. 2. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this chapter referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 3. RURAL DRUG ENFORCEMENT ASSISTANCE.

(e) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each non-rural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term "rural State" means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by:

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with the funds provided by a grant under section 509.".

SEC. 4. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 * * *; the Attorney General shall attempt to assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 3 of this Act.

SEC. 5. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By no later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this Act.

SEC. 1002. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of re-

maining funds described in this paragraph as the population of such State bears to the population of all the States.".

(c) MATCHING REQUIREMENTS.—Section 504 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 percent of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SHORT TITLE

SEC. . (a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

At the end of the bill add the following new section:

SEC. . ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within 100 days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the results) of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

Subtitle C—Juvenile Justice Anti-Drug Grant Program

SEC. 21. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part * * * by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs"

; and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile correction system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use of gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troups and little league.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.".

"(c) Of the funds made available to each State under this section (Formula Grants) 50 percent of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could reused, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary funds for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 percent of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,200,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (formula grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (discretionary grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 2322 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 22. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

SEC. 2. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

Mr. BIDEN. Mr. President, I am sure all my colleagues are working hard, and the reason they are talking on the floor is to eliminate the number of amendments that are on this bill, but I would suggest the Senate is not in order.

The PRESIDING OFFICER. The Senator from Delaware is correct. The Senate is not in order.

Mr. BIDEN Mr. President, this amendment is in three parts. The first part adds $150 million to State and local drug block grants above the level provided in last week's drug bill. And I might note that it also adds $15 million for citizen action groups to fight drug-plagued neighborhoods.

Many organizations have joined with police departments and formed citizens coalitions to take back their neighborhoods. This is an idea that has been put forward by the junior Senator from Wisconsin [Mr. KOHL]. It is of significant merit in my opinion.

The second part of this amendment is for rural drug initiative. I think most of my colleagues, whether they are from an urban or rural State, understand that in the rural parts of their States there is significant trouble and there is a need for help.

This week the DEA chief, John Lawn, told me that DEA simply does not have the resources to pursue major drug cases in rural areas. I might add, to make it clear to my friends on the minority side who were concerned about this amendment, I originally wrote this law so that it would require the DEA to have at least 10 DEA agents in every State. Keep in mind now, just the other day you voted for a Biden amendment that added 300 DEA agents. DEA is in desperate need of more agents. The rural communities are in desperate need. I gave as one example, so I will not be too parochial, the State of Montana. The State of Montana, a vast State, is becoming the home of the synthetically produced methamphetamine that is being distributed throughout the country.

I see my friend from South Dakota [Mr. PRESSLER] on the floor. His State as well is becoming a place in which methamphetamine is being distributed. Methamphetamine is equally as addictive as crack. It has similar properties. It is called the poor man's crack. It is becoming a major epidemic in this country. In the State of Montana, I believe, there are only three agents and only two in South Dakota. This is a place where there is a major need in such a vast territory.

So I insisted at first there be a requirement that in every State there be at least 10 DEA agents. I have withdrawn that. I have amended the amendment to say that we recommend that the DEA place no fewer than 10 agents in every State. It would add 14

States, I might point out, which do not fall within this category.

Also, this provides a $20 million grant for rural drug agencies at the State and local level. They could establish rural drug-enforcement task forces in over 200 rural counties. There are certain counties in the country, we know, where there are particular problems. Again, I will not take the Senate's time.

Anyone who has followed this area—I know all my colleagues on the floor have been deeply involved in this drug issue—all of them will tell you, I suspect, the degree to which the law enforcement agencies in this country need help in rural States. It is a problem, and a big problem.

Third, this would require Federal law enforcement training, the Federal Law Enforcement Training Center at Glynco, GA, to develop a specialized training course for rural drug enforcement and provide the money to train an additional 700 police officers for those rural agencies. That totals $1 million.

We are not talking about breaking the bank. But the idea here is to require us to put more focus on the problems in—I see my friend from Wyoming is here—Wyoming and southern Delaware.

There is no city in my State with more than 85,000 people. It is a rural State; the same with a number of people on the floor. Essentially, the DEA and the trained police agencies have had to ignore these areas. I am suggesting that there be training money here.

There is slightly more in there. I will not take the time to go into it.

The third part of this amendment is the portion that my friends on the other side may have trouble with, and that is it establishes a juvenile justice antidrug and antigang initiative in the Department of Justice. We all know the extent to which gangs are not only a menace in our communities, but they have become the vehicle by which the dissemination of some of the most dangerous drugs in America takes place.

This is a means, an attempt to deal, through the Justice Department, with setting up juvenile antidrug and antigang initiatives. It would allow us to do so in over 250 cities, and this amendment would fund 1,000 drug prevention projects, including youth sports programs, projects in public housing, and boys and girls clubs.

So, Mr. President, I obviously could and I and I obviously will not go on in greater detail. But these proposals here are designed in summary to basically do three things: One, to help train and help provide the expertise for the drug war in rural America; two, in the urban areas to provide for antigang and juvenile progams that provide for outlets not only for those gangs and those gang members, but within the housing projects within those communities; and, third, it provides for block grant money that is distributed not based on any formula other than the one that exists now in the law to provide help for State and local law enforcement agencies which would include the suburban areas, as well as what we particularly focus on with regard to rural America.

I yield the floor.

Mr. KOHL addresssed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, Senator BIDEN's package of amendments contains many thoughtful proposals, and I am pleased that he continues to be a leader on this important issue. I want to spend a few moments addressing one particularly exciting provision. It was inspired by Senator CRANSTON, and it is something that he and I have worked hard to promote. And it is finally coming to fruition. In fact, later today I will be joining the senior Senator from California when he offers the amendment to establish a related program in HHS.

The idea is community-based action against drugs. As I discussed this morning, grassroots activity produces creative and lasting solutions. Local communities know what they need; how to achieve it; and whether it works. The best thing Washington can do is spur coalitions in each city among business leaders, neighborhood activists, municipal officials, teachers, parents, labor unions, police organizations, religious groups, and others. We're talking about community self-help, community self-reliance, and community repair.

This amendment will spark such action. It would authorize the Attorney General to assist communities in planning and implementing comprehensive drug abuse programs. A community that organizes a representative coalition may receive a grant through the Bureau of Justice Assistance. That money would be used to plan strategies and coordinate prevention activities. But the coalition would also be required to identify and solicit funding source to make its activities self-sufficent. In other words, we're talking about seed money only. We're providing seeds for trees planted and nurtured by the neighbors—not by Federal agencies.

I think all of us could agree that we need to concentrate on the next generation. Accordingly, receipient coalitions must involve those who work with children, such as teachers and coaches. Also, coalitions must include police and social service agencies.

Mr. President, I am actuely aware of the need to assess our antidrug efforts as we go along. We simply cannot afford to throw money at problems. We have to make sure each program is getting results, and in a cost-efficient way. That's why this amendment requires every coalition to provide an annual report to the Attorney General. In turn, the Attorney General must evaluate the effectiveness of the grant program in an annual report to the House and Senate Judiciary Committees. In this way, Congress will maintain oversight of the entire program and can make any necessary modifications.

I want to close by emphasizing the promise of community-based activity. Take the case of Kansas City. Leaders there organized a comprehensive community program involving parents, local groups, the media, and the schools. They targeted teens with an antidrug message—and it worked. Adolescents who participated in the program were less likely than their peers to use cigarettes, alcohol, or marijuana, which are the gateways to harder drugs. The authors of the study said it was because of "multiple environmental influences"—a fancy way of saying that they got the whole community involved.

Mr. President, I hope my colleagues will support this important proposal. Community self-help is not a partisan issue. It's a matter of letting the people who experience a problem devise methods for fixing it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 958) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Do we need to ask unanimous consent to set anything aside?

The PRESIDING OFFICER. The bill is open for amendment.

AMENDMENT NO. 959

(Purpose: To authorize additional judicial positions for the Courts of Appeals and District Courts of the United States)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 959.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. .—AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eighth	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection is first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"Districts:	*Number of judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	8
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	8
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachusetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1

Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	5
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(a)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. HATCH. I do not expect to take very long.

This is a very serious and significant amendment. This particular amendment I am offering of the drug bill is the Federal Judgeship Act of 1989. This is as proposed by the Judicial Conference. This amendment would authorize 11 new Federal Appeals Court Judges and 60 new Federal District Court Judges.

These numbers reflect the Conference's recommendations as of the end of 1987, and if anything, the situation is much worse. These are new positions that the Conference recommended even before the enactment of the 1988 omnibus drug bill and the changes in the drug laws that we have voted upon in the last couple of weeks.

So these are very, very needed judges. If we need 1,000 FBI agents, 350 DEA agents, new U.S. marshals and others, you can imagine the need we must have for Federal judges in both the district and circuit courts.

Mr. President, these additional judges are clearly needed even without the new drug legislation. In other words, they were recommended before the legislation. You can imagine the pressure this legislation is going to bring.

Criminal caseloads particularly on drug issues are increasing dramatically. One of the concerns expressed by many court commentators has been the burden of these caseloads on the Federal judges. Given the provisions of the 1988 drug bill and the measures that we have included in this and the appropriations bills, it is reasonable to expect that these caseloads will increase.

Just last night, as well as in the appropriations bills, we voted to increase by several hundred the number of Federal agents and Federal prosecutors. If they do the job that we expect them to do, we will shortly be confronted with a severe bottleneck in the criminal justice system of our Federal courts. And it will occur in the courts.

Federal speedy trial rights will require that these cases be disposed of in an expeditious fashion or be dismissed. We must not let the fine work of these agents and prosecutors be wasted due to the lack of judges to hear these cases.

The following jurisdictions will benefit under this bill with the addition of new district court judges: Alabama, Arkansas, California, Connecticut, Florida, Hawaii, Illinois, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, and the Virgin Islands.

Mr. President, it is my fear that we are overburdening our Federal courts. It is stated in the judiciary speech that the Chief Justice indicated we need additional judges. And with the changes we are making in the laws today, and with the bill we passed last week, we are increasing that need dramatically. Without more judges to handle the increased case load, I am afraid that the results of all of our efforts of the last couple of weeks will be greatly reduced.

So I urge my colleagues to support this amendment so that the war on drugs can be fought and won. I hope nobody is going to raise the issue that this is just a Judicial Conference recommendation. We have always followed those recommendations.

As a matter of fact, they have been conservative, if anything. I think we just simply have to get serious about what we are doing in this country, and if we are going to need all these other officers which the distinguished chairman of the Judiciary Committee called for yesterday, and which we passed, then we certainly are gong to need the judges.

Even if we did not have the additional FBI agents, the additional DEA agents, additional marshals, and other courtroom officials, we would still need these judges, because the judicial conference recommended this in 1987, which is 2 years before today, and they were necessary then, and you can imagine the increased need today.

Mr. THURMOND. Mr. President, I just want to endorse this amendment. The judicial conference had already recommended these people before this vital drug question came up. We have to have these judges sometime, and there is no use delaying it. I think now is a good time to get these judges so they can be installed into office and go to work, because we need them very badly. I hope the amendment will be adopted.

AMENDMENT NO. 960 TO AMENDMENT 959

(Purpose: To authorize the appointment of 20 additional district court judges in districts with heavy caseloads of drug-related prosecutions)

Mr. BIDEN. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 960 to amendment No. 959.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, 20 district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transferred to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than 120 days after the date of enactment of this section.

Mr. BIDEN. Mr. President, I cannot argue with the Senator from Utah. I do not like to do that anyway. I cannot argue with him on the basic premise that he has put forward, that we need

more judges, because there is no question about that.

The problem that the Senator from Delaware has is that notwithstanding the fact that the judicial conference recommended these 80 judges, it is not clear that the assignment program—and let me ask this as a question, actually. Are we agreeing, I ask the Senator from Utah, if we were to accept his amendment, to the assignment as proposed by the Judicial Conference?

Mr. HATCH. We are, and my amendment, as proposed by the Judicial Conference—because we have always abided, as far as I recall, by their recommendations with regard to assignments. That does not mean that we cannot change that.

Mr. BIDEN. I thank the Senator for his answer. I want to discuss briefly what my perfecting amendment does. My perfecting amendment says that we will now authorize 20 judges tonight and 80 judges, and those 20 judges must be distributed around the country by the Judicial Conference, based upon high intensity drug areas.

For example, that will mean that, if the amendment of the Senator from Delaware were to be adopted, we would have the Judicial Conference probably sending additional judges to Miami and Houston and Los Angeles and the southern district of New York and so on, where there is phenomenal overload. That is No. 1.

No. 2, the remaining 47 judgeships which are vacant and for which we have no nominees, and 56 vacancies total that we have sitting out there, would mean that in the very near term, we would be able to put—if the administration would move and nominate people—on the bench, roughly, 80 judges. And I will commit, as I have, and no one ever suggested I would not, to take up the judgeship bill now in committee, as we had planned to do anyway, and ask the Judicial Conference to update their recommendations.

For example, I see the Senator from California here. He badly needs additional judges in California, particularly in the Los Angeles and San Diego area. He needs it throughout the State, but particularly there. I made a commitment to the former Republican Senator from Florida, Senator Paula Hawkins, when she was here, that I would try to get more judges for south Florida, which are badly needed because of the drug problem.

I am recommending the following: That the combination of adding the 20 new judges, requiring them to place those judges in high intensity areas, and couple that with the 57 vacancies that now exist, 47 or thereabouts for which we have no nominees. This is not January or the day before. This is 8 months ago that these vacancies have existed. We will end up with roughly 77 judges instead of 80, and it will give us the chance to do what we should be doing, intelligently studying this proposal by the judicial conference.

Mr. President, I hope that the purpose of the Senator from Utah will be fulfilled. Let me set one thing aside, by the way. I am sure that there are some on the floor on both sides who know that over the past 20 years, depending on who is President, the other team that may be in power will say, hey, wait a minute, we do not want to let this President appoint x number of new judges.

Well, the record of the Senator from Delaware shows that has not been his position. I think we badly need additional judges, and whether it is a Republican President and a Republican Congress or a Democratic President and a Democratic Congress, it does not matter. I come in here on the floor tonight as chairman of the Judiciary Committee. I will move rapidly to expand the number of judges, but make a sound recommendation that after everything, the Judicial Conference will come in and make their recommendation and update it for us this year.

So, Mr. President, I again suggest that adding 20 judges immediately to drug-impacted areas, plus the 57 vacancies or 54 vacancies that now exist—do not hold me to the precise number—over 50 vacancies now that are not filled, we will be able to meet the needs the Senator talks about and also do what we normally do. We do not just come to the floor and one night add 80 judges, bingo.

That has not been the practice. I do not think we should start it now, and I hope that my colleague will consider accepting my modification on the absolute commitment to him that it will come out of the Judiciary Committee; if not, I will come with him to the floor, before this Congress is over, to add additional judges to the district courts. I make that commitment to him now that, even if the Senator and I cannot get it passed out of the committee—and I believe we can—I promise the Senator I will come to the floor and introduce legislation moving on additional judgeships beyond the 20 that I am offering tonight.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me ask my distinguished colleague from Delaware a question. As I understand what my friend is saying, he is not ignoring the fact that the Judicial Conference has called for these additional judges?

Mr. BIDEN. I am not ignoring that fact.

Mr. HATCH. And he is saying what was true in 1987 is probably true today?

Mr. BIDEN. Probably more, quite frankly.

Mr. HATCH. We listed these States that need these judges, and that is probably true?

Mr. BIDEN. Probably true.

Mr. HATCH. The distinguished Senator wants to discuss this further with members of the Judiciary Committee and, of course, his friend from Utah. The Senator would like to approve 20 judges tonight?

Mr. BIDEN. Correct.

Mr. HATCH. Then that is, before the end of this Congress and in time to get it through both Houses?

Mr. BIDEN. Correct.

Mr. HATCH. We should bring up additional judges?

Mr. BIDEN. Maybe even more, I say to my friend.

Mr. HATCH. Maybe more.

Mr. BIDEN. That is more than have been put forward here tonight. There is no question additional judges are needed. My friend from Utah knows full well I am not one who ever subscribed to the school of thought I will not vote for more judges because a Republican President is going to appoint them. If I subscribed to that theory when I came to the Senate we would never have any additional judges.

Mr. HATCH. I would also like to ask my friend: The Judicial Conference recommendation embodied in my amendment does indicate we need 60 district judges and 11 appellate court judges?

Mr. BIDEN. Correct.

Mr. HATCH. Does my friend from Delaware have any appellate court judges in his?

Mr. BIDEN. No, the Senator's friend from Delaware does not. Only trial court judges, 20 of them.

Mr. HATCH. I wish to have a chance to talk to my friend about having 11 appellate court judges, so we get those done. I suspect that is where we are going to have a major logjam in this country.

Mr. BIDEN. I would respectfully decline because as we both know the appellate court is where there is the most controversy as to what the workload is. There is no controversy relating to the trial court. Everyone knows the trial courts are up to their ears in cases.

Let me say further to my friend from Utah—and I just note this and I think my friend from Utah supported me in this this time last year when we had the drug bill up—last year he will recall we wanted to add 20 judges in drug-impacted areas. The administration, as well as my colleagues on the Republican side, opposed that at that time. So what I am coming back to here now is referencing that original request of 20 for drug-impacted areas and let the Judicial Conference make the recommendations where they should go.

As we all know, and I say to my friend from South Carolina who has forgotten more about appointing judges than this Senator is going to know, we will and should continue to make our views known to the Judicial Conference as to where we think those judges should go. We have never been reluctant to do that in the past and I am not inclined to reluctance to do that now.

Although I greatly respect the Judicial Conference, the Judicial Conference consists of what we might call a lot of home boys; they are all getting together, they know what they want, where they want it; they make their deals, not deals in a bad way, in a nefarious way, but they make their own arrangements and allegedly based on statistical need. The fact of the matter is we have not hesitated to intervene.

My view is we would be much wiser to let the committee work its progress. I commit, and I have no doubt the ranking member will commit, we will move on the judgeship bill quickly and like we have in the past with genuine hearings, bringing people before us, bringing the Judicial Conference up. And if I remember correctly the last time we did this the ranking member, the Senator from South Carolina, was the chairman, and at that time as he will recall I remember making an argument to him that the third circuit needed an additional judge and the Judicial Conference resisted. But we ended up putting an additional judge on the third circuit. That is in the normal process the way it works.

I would commit to continue that because I believe there is no question the Senator from Utah is right. As we add additional prosecutors, additional prison space, and additional agents, we are adding additional workload on the court.

Mr. HATCH. If I could make a comment, I can appreciate what the distinguished Senator from Delaware is saying. As a matter of fact, I take his word, because I know it is good, that he will proceed in an expeditious fashion to come up with Judicial Conference recommendations, move to the Judiciary Committee, and move through the Judiciary Committee these judges.

But there is one thing I need to point out. The distinguished Senator from Delaware knows as well as I that it will take time to get a bill through the committee and right now we have a stack of bills that literally makes it impossible to get it out before the end of the year.

Mr. BIDEN. I go on to suggest that if we cannot get it out of committee in time to be deliberated by the total body, the House and the Senate, then what I will do is, I will come to the floor and attach a judgeship bill based on our hearings without having had it reported out of committee, because we need additional judges. I might add some of my Democratic friends are not really crazy about the commitment I am making, I am sure.

Mr. HATCH. I understand.

Mr. BIDEN. But I believe they are needed. I do not want to do it without having hearings on the conference recommendations.

Mr. HATCH. I would do the same thing if I were in the distinguished Senator's position, if there were a Democratic President, because I think we need these judges. I have confidence that George Bush will appoint decent strong judges.

Let me just make one other request of my dear friend. I appreciated his comments, and I do appreciate his commitments here on the floor. I know he will live up to those and I have not the slightest doubt about that. I am grateful to him. If we needed 60 additional district court judges and 11 appellate court judges in 1987, 2 years ago before the legislation and this pressure came to bear, we need them more today.

I, myself, agree with the Senator that this administration has to get more serious about getting these judgeships up here because we do have some vacancies that are putting even additional pressures on our current judges. I will do everything in my power to encourage and help the administration to do that. The process is a very slow process, as I see it, but perhaps a necessary one. But is it possible that the distinguished Senator knowing that they recommended 60 district court judges and 11 appellate court judges would go with a higher number than 20 here tonight, maybe 30.

Mr. BIDEN. The answer is no, Mr. President, and the reason for that is that is as far as I can get consent for us to move tonight.

Mr. HATCH. On the Senate's side. I think I can get 100 percent on our side who would support the 71 judges, but I know I could get them to support 10 judges. I cannot see why the Senator's side would not do the same since we need them.

Mr. BIDEN. Mr. President, we beg the question a bit. The Senator from Utah is assuming that the Judicial Conference recommendation is legitimate, that is the one that is needed and the numbers are correct. That is the reason I want to hold the hearings, No. 1, and No. 2, I have always had the unfortunate habit of being frank. It is clear that the Senator's side opposed 20 judges last October or September.

Mr. HATCH. No; it was a bipartisan position. There were some on the Democratic side.

Mr. BIDEN. It was not bipartisan. The GOP flat out opposed it. It was simple. They looked at the polling data and then the Governor of Massachusetts was wining in the polls and they said "no."

I, unlike my colleagues tonight, am saying we have a Republican President; no wonder, of course, the Senator's side would get 100 percent of the vote tonight. They would not take 20 before the election because they wanted to know what the outcome would be. That is not the Senator from Utah, in particular.

Mr. HATCH. I was for it.

Mr. BIDEN. The Senator did not want to take 20 before he knew the outcome of the election. I was for 20 before, I am for 20 now. I was for more judges before and for more judges now.

The issue is how many the Judicial Conference recommends, and how many we think they recommend are, in fact, needed. We have historically cut back on their recommendations and sometimes added to their recommendations.

So, I really think in the interest of time we should end the discussion. I hope my friend will take the 20 judges with the modification that was sent to the desk and drop his insistence on the remainder of the judges for this evening.

Mr. HATCH. Let me just say this one final sentence. I appropriate the commitments of the distinguished Senator from Delaware here this evening. I think even 20 is a move in the right direction, and certainly he is committed to do much better than that within a short period of time. I have no qualms or difficulties about hearings.

I do want to make it clear though that I certainly was for 20 judges back then and a lot more than that, regardless of who was going to be elected President. I have always taken that position. I am for the 71 judges today and, frankly, I think the Judicial Conference will come up with more judges as they look at the burdens that have been placed upon the court by the legislation that we passed just the last couple of weeks, not considering other legislation that we passed over the last couple of years, the intervening years since the 1987 recommendation.

So with the recommendation of the distinguished chairman of the Judiciary Committee and his good commitments here this evening, I would agree to his amendment that modifies or that is amended to my amendment.

Mr. BIDEN. Mr. President, I would like the RECORD to show, so later it is not assumed that the Senator from Delaware did not know, I am aware of the modification, I accept the modification to my amendment, and I yield back my time.

Mr. HATCH. I urge the amendment of the distinguished Senator.

The PRESIDING OFFICER. The Chair will note for the record that the

modification was to the amendment of the Senator from Utah.

Mr. BIDEN. Mr. President, I think what we are trying to get at here is I am prepared to go with 20 judges with the Judicial Conference dispensing them as modified by the request of the Senator from Utah.

The amendment, as modified, is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eight	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, one additional district judge for the district of South Carolina, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the distinct of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York, one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection in first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"Districts:	*Number of judges*
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	3
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachussetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3

North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(A)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. HATCH. Mr. President, I think, since the distinguished Senator from Delaware does not recommend where the judges will be placed but merely that there will be 20 judges, we will then make those determinations in the Judiciary Committee. I am sure the modification of the distinguished ranking member will be considered at that time.

Mr. BIDEN. Mr. President, let me make sure how my amendment is hereby being modified.

The Senator from Utah has been kind enough to withdraw his amendment—not withdraw. I should not say that. I am not being very articulate here.

Mr. HATCH. I am happy to accept the amendment of the distinguished Senator from Delaware.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor this alternative. A winning strategy against drug abuse involves three approaches: Law enforcement, prevention, and treatment. Each is vital, and none can be downgraded or ignored.

We have stepped up the pressure on the law enforcement component in the drug war, with enhanced resources and penalties. These enhancements have taken many drug traffickers off our streets, but at the same time we have put a tremendous strain on our criminal justice system.

Our efforts over the past several years have already saddled us with a criminal justice system that is bursting at the seams, causing prosecutors, courts, and prisons to call out for help.

We need to address the fact that Federal court dockets are heavily clogged by narcotics prosecutions. The current number of district court judges—575—is based on 1984 caseload needs. Since 1984, the criminal caseload has increased 20 percent from 36,000 to 44,000 cases. The burden on the courts is continuing to increase under the 1986 and 1988 drug legislation, and it will become even heavier under the new national strategy. An omnibus judge bill has no place as part of this important drug bill, however. An omnibus bill should be given full consideration by the Judiciary Committee.

This compromise proposal, to authorize 20 new judges to be assigned to districts whose dockets are hardest hit by drug prosecutions, is the same proposal I included in the 1988 Democratic drug bill. My proposal fell victim to partisan opposition last year. If we had prevailed last year, the criminal caseload in the Federal courts would not have been as pressing.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Delaware? If not, the question is on agreeing to the amendment of the Senator from Delaware [Mr. BIDEN] to the amendment of the Senator from Utah [Mr. HATCH].

The amendment (No. 960) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment, as amended, of the Senator from Utah.

Mr. BIDEN. Mr. President, as amended, is the only thing left in the amendment of the Senator from Utah what was the Biden amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. I thank the Chair very much.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment, as modified, as amended, of the Senator from Utah [Mr. HATCH].

The amendment (No. 959) as modified, as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WALLOP. Mr. President, the Senator from Wyoming would just note that he has been on his feet waiting for recognition for an hour.

The PRESIDING OFFICER. The Senator from California sought recognition.

AMENDMENT NO. 961

(Purpose: To provide for comprehensive community substance abuse programs)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The legislative clerk read as follows:

The Senator from California, [Mr. CRANSTON], for himself, Mr. HARKIN, Mr. KOHL, Mr. DECONCINI, Mr. GRAHAM, Mr. KENNEDY, and Mr. LEAHY], proposes an amendment numbered 961.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(B) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term com-

prehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended, is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implementing such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encouraging the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section, such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made substance abuse prevention a high priority, as determined by the Secretary.

"SEC. 509. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Progam shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizing development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizing staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aaa(d)(2)) is amended by striking out "$5,300,000" and inserting in lieu thereof "$4,000,000".

Mr. CRANSTON. Mr. President, let me say to my friend from Wyoming that I will be very brief. I believe we are rotating back and forth between both sides and the last amendment came from that side. I will be exceedingly brief in stating the reason for this amendment, as is my usual custom, and it is my hope that will help lead to enthusiastic support from as many as possible who know that we should be completing our business as rapidly as possible.

Mr. President, my amendment would address the one area of the drug war that I believe has been most neglected—substance abuse prevention. Specifically, it would establish a community-based substance abuse prevention program. I am delighted that the amendment is cosponsored by Senator HARKIN, the chairman of the Labor-HHS Appropriations Committee, Senator KOHL, and Senator DECONCINI—all of whom I know share my belief that drug prevention must be a high priority in our drug efforts. Also co-

sponsoring the amendment are Senators GRAHAM, KENNEDY, and LEAHY.

Mr. President, if we as a society are ever going to be successful in stopping drug abuse, and increasingly violent crime that often goes along with it, we must stop the demand. We can step up efforts to stop the flow of drugs at our borders and increase law enforcement efforts to crack down on drug trafficking—and I think these activities are important—but they cannot ultimately stop people using drugs.

Unfortunately—until this year—substance abuse prevention programs—particularly those that focus on community efforts—have received very little attention or funding. Communities represent an untapped resource in our war against drugs. I believe, with some assistance, community coalitions would be a very effective force in helping young people stay off of drugs.

Mr. President, the Senate-passed Labor-HHS Appropriations Act as amended by the Byrd-Hatfield amendment provides a total of $60 million for community substance abuse prevention efforts.

Mr. President, I believe that this money will be well invested. However, this is a substantial amount of new money for which very little congressional direction is provided. I believe—to ensure that the program has the greatest chance to succeed—we should more clearly spell out its intended use.

Early this summer I introduced legislation—S. 1233, the Comprehensive Community Substance Abuse Prevention Act of 1989—that would provide a blueprint for a program to support community prevention efforts. My amendment, which is based on S. 1233, would complement the appropriations action. It would specifically authorize for 3 years an initiative to assist communities in planning, developing, and implementing a substance abuse prevention and intervention program. It would provide direction for what community prevention coalitions should be composed of and provide guidelines for assigning priority to grants. It would also stipulate that 35 percent of the funding must go to communities with populations of no more than 250,000 individuals.

The legislation would also establish a national substance abuse prevention training program. Although an amendment was adopted last week that would expand training of drug treatment professionals, training programs for individuals in substance abuse prevention were not included.

COMMUNITY-BASED PREVENTION PROGRAMS WORK

Mr. President, recent research has found that a comprehensive community program—involving schools, businesses, parents, community organizations and leaders, and the media—is the most successful in preventing drug and alcohol use. A recent study conducted in the Kansas City area has followed sixth- and seventh-graders for the last few years who have participated in an experimental drug prevention program which involved parents and family members, community organizations, and the media in addition to the schools. After the first year, students who participated in the experimental program reported that they used drugs and cigarettes far less than those who did not. I am informed that the program effects may even be greater in the subsequent 2 years.

Mr. President, I have seen such coalitions in action, and I have been greatly impressed by their ability to rally people to develop innovative responses to the drug problem. Over the last few months I have been holding community forums throughout California to learn about what they are doing and what needs to be done to stop the scourge of drugs.

I have heard from ordinary citizens rising to the challenge of fighting back. Communities coming together with limited resources and unlimited heart to send a strong and united message that goes beyond urging young people simply to say "no" to drugs.

Mr. President, the Appropriations Committee has provided the funding for these prevention projects, and I congratulate Senators BYRD, HARKIN, and others for their efforts. My amendment would provide the blueprint to carry out the program. It would provide for program evaluation and instill accountability. It would help ensure that Congress knows how the funding for community prevention efforts is spent. I urge all my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 962

(Purpose: To recognize the organization known as the 82d Airborne Division Association, Inc.)

Mr. THURMOND. Mr. President, I send an amendment to the desk which grants a Federal charter to the 82d Airborne Division Association. This legislation currently has bipartisan support.

The PRESIDING OFFICER. The Chair must inform the Senator that there is a pending amendment which is offered by the Senator from California.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the pending amendment, because we have to anyway while we are waiting, and give the Senator from South Carolina the opportunity to propose for no more than 5 minutes his amendment.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object, but I would hope that this would not be viewed by the Chair as an alternation between the Democratic side and the Republican side. This Senator has been standing here, while other Senators have been off eating dinner, waiting to present an amendment, and people who just wander in on the floor seem to be able to get recognition.

Mr. BIDEN. Mr. President, that is not the intention of the Senator from Delaware. I am just attempting to accommodate the senior Senator here, and it will then go to the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this amendment grants a Federal charter to the 82d Airborne Division Association. This legislation currently has the bipartisan support of 49 cosponsors and the companion legislation on the House side has 221 cosponsors. Identical legislation which I introduced last Congress passed the Senate with 55 cosponsors.

The 82d Airborne Division was activated initially as an infantry division which participated in three of the major campaigns of World War I: Lorraine, St. Mihiel, Meuse-Argonne. On May 27, 1919, the 82d Airborne was inactivated. The division was reactivated on March 25, 1942, under the command of Maj. Gen. Omar Bradley and became the Army's first airborne division under the command of Maj. Gen. Matthew B. Ridgway. Deployed to North Africa in 1943, the 82d made parachute and glider assaults on Sicily and Salerno. In a 2-year period during World War II, the regiments of the 82d saw action in Italy at Anzio, in France at Normandy, where I landed with them, and at the Battle of the Bulge.

Following the end of the war, the sky soldiers of the 82d were ordered to Berlin to serve as "America's Guard of Honor" for 5 months of 1945. Due to logistical problems associated with the servicing of an airborne division overseas, the division returned to the United States where it was greeted with a New York City tickertape reception as it marched triumphantly on Fifth Avenue, on January 12, 1946.

The division was assigned to Fort Bragg, NC, to become a leading element of the Nation's military reaction force as well as to participate in a number of peacekeeping missions. Elements of the division have valiantly served in Korea, the Dominican Re-

public, Vietnam, and Grenada. Peacekeeping units have served in Sinai.

Designed to move quickly to any part of the world and to be prepared to fight immediately upon arrival, the members of the 82d Airborne have served with distinction for over 45 years. They have demonstrated a tireless commitment to our Nation's defense and ideals. Therefore, I can think of no other military association more deserving of the recognition given by Congress in the granting of a Federal charter. I urge my colleagues to join me in supporting the passage of this measure to grant such a charter to the 82d Airborne Division Association.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 962.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

CHARTER

SECTION 1. The 82d Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82d Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82d Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may insure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be summitted at the same as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 962) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 961

The PRESIDING OFFICER. The question now occurs on amendment of the Senator from California.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, in the interest of time, I have to say this amendment of the distinguished Senator from California is going to require a new grant program for comprehen-

sive community substance abuse activities. I am extremely supportive of prevention efforts, especially those in local communities. As a matter of fact, we, in Congress, have been so supportive of such efforts that we have already established several such programs in current law.

For example, we created the Office of Substance Abuse Prevention to provide demonstration grants to local communities for the development of community-based prevention activities. We have also set aside a part of the Drug-Free Schools Act for community-based prevention activities. And, we have a 20-percent set-aside in the Alcohol, Drug Abuse and Mental Health Services Block Grant for community-based prevention activities relating to substance abuse.

Mr. President, if we need to modify our existing efforts, let us discuss it and decide. However, I reject the idea that we should abandon our current efforts, or at the worst duplicate these programs, just so we can claim we are fighting the war on drugs.

If we are going to do it, let us do it with common sense and practicality, not duplication of the funding or more bureaucracy. That is what this amendment does. It just duplicates an existing number of programs already in existence that are in the prevention area that will do this as well, if not better.

I might add, the administration is opposed to this amendment as well. Why do it? Why add another bureaucracy on top of four or five already existing ones and on top of OSAP which is very capable of seeing that these funds are well utilized.

That is the problem here, and I hate to let this amendment through. On the other hand, I do not want to hold colleagues up by having a rollcall vote.

I am going to make it clear. I have to say it is not cleared on this side. I have been trying to clear it just to let it go through and hopefully knock it out in conference, but, frankly, I cannot even get that kind of clearance.

Mr. President, I am going to ask the distinguished Senator from California to allow us to set this aside while I try to clear it. If I cannot clear it, I will try to come up with some other solution while we go to the amendment of the Senator from Wyoming. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Hearing no objection, the Chair recognizes the Senator from Wyoming.

AMENDMENT NO. 912

(Purpose: To require drug testing for applicants for title IV, Social Security Act benefits aid to families with dependent children)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself and Mr. NICKLES, proposes an amendment numbered 912.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end insert the following new section:

SECTION . DRUG TESTS FOR CERTAIN INDIVIDUALS APPLYING FOR OR RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.

Section 402 (a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(41) provide that the State agency—

"(A) shall require each applicant who is a parent or caretaker of a dependent child, as a condition of eligibility for aid under this part, to submit to a confidential test for illegal drugs approved by the Secretary;

"(B) shall implement a drug testing program under which any individual who receives aid under this part may be selected to submit to a confidential test for illegal drugs approved by the Secretary (such individuals selected for testing under this clause shall be selected on a random basis);

"(C) shall require that any individual required or selected to submit to a test for illegal drugs under this paragraph resulting in evidence of illegal drug use by such individual shall register for and participate in a drug treatment program approved by the State as a condition for continued eligibility for aid under this part; and

"(D) shall provide that—

"(i) if an individual who is required or selected pursuant to the provisions of this paragraph to submit to a test for illegal drugs and without good cause fails to submit to such test or refuses to participate in the State approved drug treatment program the needs of such individual shall not be taken into account with respect to such individual's family under paragraph (7) of this subsection, and if such individual is the parent or other caretaker relative, payments of aid of any dependent child in the family in the form of payments described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made;

"(ii) any sanction described in clause (i) shall continue—

"(I) In the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer); and

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure.".

SEC. . DEFINITION OF ILLEGAL DRUGS.

Section 406 of the Social Security Act (42 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(i) The term 'illegal drugs' means a controlled substance in Schedule I or II, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)); the possession of which is unlawful under such Act. The term 'illegal drugs' does not include a controlled substance used pursuant to a valid prescription or authorized by law.".

SEC. . REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as the Secretary deems necessary to implement the illegal drug testing program and required by the amendments made by section 2.

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall become effective on October 1, 1990.

Mr. WALLOP. Mr. President, the Senator from Wyoming always thought he knew why America's legal bills are so high. He has now seen it along, of course, with the rest of America who may be watching on C-SPAN. Why, when the clock runs, the lawyer's fees go up.

We have had a surfeit of redundancy, I would suggest, in the last couple of amendments. But this one, Mr. President, I hope will go quickly.

The amendment I offer is similar to a proposal that I offered in the 100th Congress to the Welfare Reform Act. During the debate on the welfare bill it was suggested by the bill's managers—Senator MOYNIHAN in particular—it would be more appropriate to offer my amendment to the drug bill. They agreed with the concept behind my amendment but wanted it debated in the context of the Omnibus Drug Act.

However, when we got to the Drug Act, it was on a fast track, late in the session, and amendments were strongly discouraged.

Today, we have an opportunity to revisit my amendment. The proposal is simple. As a condition of eligibility for aid to families with dependent children, the title 4 AFDC benefits, a parent applicant must submit to a drug test.

If the individual tests positive for abuse of illegal substances, he or she must register for a drug treatment program to obtain eligibility for benefits. Random drug testing of current welfare recipients would also be required.

There are, Mr. President, already a number of requirements to be eligible for AFDC benefits. Individuals must, of course, have dependent children. They must register for employment training. They have to meet income limits.

A drug testing requirement is but one more simple eligibility requirement. It is based on a concept of individual responsibility that is all too often missing from public policy.

It is my belief that if we do not require some sort of self-discipline, some accountability on the part of those who benefit from the generosity of the American taxpayer and the public welfare program, we will never have any success in our campaign against drug abuse.

This is nothing more than a recognition of the extent of and the extant problem of drug abuse.

America's low-income neighborhoods are ravaged by drugs. Drug lords prey on the poor. The poor are America's most vulnerable population. We have just passed the Byrd amendment which increases funding for drug education and treatment. Earlier, we passed an amendment of the Senator from California, Mr. WILSON, that, in the process of cutting down some of the Senate's own self-promotion, provided money for the treatment of children of drug-dependent mothers.

We have the resources to respond to drug addiction. It seems now only appropriate to take the steps to ensure that those most in need can no longer evade their addiction and can find treatment for it in the process of receiving the other generous help that America provides for them.

It is not appropriate to evade an addiction at the expense of the American taxpayer. The generosity of the American people should not be obliged to pay for a drug habit. The generosity of the American people has already been expressed in a desire to pay for a treatment of drug problems. How are we to discover drug problems in families with dependent children if we are not going to do the testing suggested in this amendment?

When I introduced my amendment as a bill earlier this year, I cited a recent news story about the Democratic mayor of San Diego, a liberal, self-professed, woman. She had spent some time on her own initiative acting as, behaving as and living amongst the homeless people to learn about the extent of that problem in her community. Her shocking discovery was the openness of the drug trade in low-income communities and how dependent the drug dealers were on the benefits of their victims. Sales picked up noticeably on the days when welfare checks were distributed. This is not right. It is not right for the recipients; it is not right for America's contributors.

Some will argue that my amendment discriminates against the poor. In my opinion, it is an attempt to help the poor. The whole purpose of America's welfare program is to elevate people from the binding poverty, from the binding ignorance, and it should be the binding addictions of that world.

We already, Mr. President, require Federal contractors to have drug-free workplaces. We already require America's military to submit to drug testing. Just last week the Senate approved random drug testing for transportation workers. The purpose of my amendment is not discrimination but in elevating these folks who necessarily have become dependent on the aid that America gives in the welfare system to totally rehabilitate.

It is not possible to rehabilitate when we ask somebody to register for job training if that same individual is drug dependent. It is impossible to suppose that in job training, whatever dimension it is, that jobs will be the ultimate result and freedom from dependency upon the welfare system will be the ultimate consequence.

So the purpose of the amendment is not discrimination. It is accountability; accountability for the program of welfare; accountability for the recipients of welfare. I challenge my colleagues to explain why this might be a bad idea.

Drug testing, since it is a condition of eligibility, would be funded out of the administrative expenses of the title 4 program. One estimate we have received from the Department of Health and Human Services is that the cost of a drug test is $26 per applicant, a small cost to pay in a war against drugs and an even smaller cost to pay if in the process of receiving treatment and counsel and freedom from addiction, we would have saved the American taxpayer a bundle of money and America's welfare recipients, some few of them at least, the possibility of evading a lifetime of addiction to debilitating substances.

Mr. President, that is my amendment. It would be my hope that the managers might see their way fit to accept it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I do not know that I am up to the challenge, but I will rise to the challenge of trying to show the Senator why his amendment is not a good idea, with all due respect.

First of all, I know of no statistics that demonstrate that women receiving welfare, women receiving aid to dependent children, have a higher percentage of drug addiction than any other percentage of the population. That may be a stereotypical prejudice we have, but I know of no evidence to prove that, and I would be delighted to be educated if that, in fact, is not the case, if there is evidence. There may be; I know of none.

Can the Senator tell me how many people are receiving AFDC now?

Mr. WALLOP. Roughly 10 million. I would say to my friend that is including children. That figure is not just parents. I would also say to my friend no longer, because of changes we have made, is it just women who receive AFDC.

Mr. BIDEN. But is the Senator suggesting all persons receiving AFDC be drug tested?

Mr. WALLOP. All parents.

Mr. BIDEN. So the man or woman receiving AFDC would be required to be drug tested and the cost of that, by the Senator's admission, if they are drug tested once a year, is $26 million. It is $26 a test, we agree. If there are roughly 1 million people, and let us assume that.

Mr. WALLOP. But I say to my friend, it would not be $26 million. I point out again that it is 10 million people who are recipients. That includes a number of children. It would be down closer to a figure less than 5 million.

Mr. BIDEN. I am prepared to say only 1 million. It may be 5 million. Even if it is only 1 million people that will be tested, that is $26 million per test.

Mr. WALLOP. Will the Senator yield, not $26 per test. I would say to my friend that it only applies to initial applicants.

Mr. BIDEN. I see. How about people, I ask my colleague from Wyoming, who already are receiving AFDC, would not they have to be tested under this amendment?

Mr. WALLOP. We are talking about new applicants.

Mr. BIDEN. Only new applicants?

Mr. WALLOP. Under the amendment, there is some provision for random testing, but it would not be universal among the recipients.

Mr. BIDEN. If I understand correctly, then, every new applicant for AFDC would have to be drug tested, and all those who receive AFDC would be subject to random testing. Does the Senator have any idea what the cost of this testing program would be per year?

Mr. WALLOP. The Senator has not received a specific figure on that, but I ask my friend to contemplate how much money, talking in the abstract, one would save by elevating people off of AFDC, which would not be possible to us so long as they are drug-dependent.

Mr. BIDEN. Mr. President, I am not at this moment trying to argue the case. I am trying to ascertain the facts. Let me now go to arguing the case from the position of the Senator from Delaware.

Again, let me point out that to the best of my knowledge—and there are enough qualified staffs on both sides of the aisle that can correct me if I am wrong—the Senator from Delaware is unaware of any study to indicate that recipients of AFDC are more or less likely to be drug addicted.

Now, assume for the moment the Senator from Delaware is correct about that. If that is true, then there is no reasonable rationale for us, it

seems to me, not to go out and insist on drug testing for Social Security recipients, Medicare recipients, Medicaid recipients in States, small business administration loans, farm benefits, grazing rights on Federal land, student loan programs, veterans benefits, aid to disabled, unless the underlying rationale is that somehow AFDC types are those who are likely to be the ones to break the law and be addicted, and that once we find out whether or not they are addicted we will somehow tell them they will not receive benefits, ergo they will no longer participate in drug abuse and therefore they will have elevated themselves out of poverty, because the presumption is the only thing that keeps them in poverty is their drug addiction.

Now, it seems to me to be somewhat circular reasoning we would have to subscribe to to reach that conclusion.

I think it is a notable idea and a worthy notion that the Senator from Wyoming puts forward that anyone who would test positive would be able to go into a drug treatment program.

I would like to point out to my friend from Wyoming that NASADAD points out, after having recently done a survey, that the State agencies have come back and said there are 58,460 persons currently listed—not guessing—on treatment program waiting lists—58,460 persons.

In addition to that, I would add that as estimated by the Federal and local drug agencies, there are roughly 10,262,878 people including 8,333,000 adults and 1,451,000 adolescents who are in need of drug treatment programs now. The money we came up with, and the States have available to them, allows for fewer than 50 percent of these people to be able to receive treatment.

Further, the average waiting list for people to get into a treatment program runs anywhere from 8 months in large cities to 30 days in other cities. So although the notion arguably about providing treatment for people who in fact test positive is a good one, it only works if we are willing to add, to allow treatment on demand, $6.1 billion tonight.

If we add $6.1 billion, we will be able to provide treatment on demand so that the program the Senator from Wyoming says he wishes to be able to make available to people, which is to put people into treatment programs in order that their children continue to receive those benefits, is something that would be needed.

If you have to wait 8 months to get into a treatment program after having tested positive, as I understand the amendment of the Senator from Wyoming, you would in the meantime I assume be kicked off of the AFDC anyway. Who are we hurting when we do that? The 9 million children that we acknowledge make up part of the 10 million people with whom we are dealing.

Roughly, we are saying, for the sake of argument, 1 million people are adults and 9 million people are children. So a parent comes in and tests positive. In order to accept this amendment, you have to adopt the rationale that the reason to do it is because they are more likely to be abusers; and second, once you determine they are abusers, you will be able to provide them treatment immediately so they can get off their habit to help their children and society, and to get off their addiction to welfare as well, and further, that if they were faced with the prospect of this occurring, they would become productive citizens because by implication the only thing that keeps them on AFDC in the first place is their drug addiction.

Mr. President, I think it would be equally as reasonable to say that among the criminal element there are a lot of drug addicts. A significant portion of the criminal element either illegally goes out and buys guns or legally buys guns. It would make sense to insist there be a drug treatment program for anyone seeking a license to go fishing or hunting, a drug treatment program for the protection and the welfare of society. It would be equally as reasonable to come along, and I am not suggesting it, and say that some day in order to purchase a gun someone should have a drug treatment program.

I respectfully submit if we want to deal with the safety of society and the money society spends through taxes on things they could otherwise avoid spending, then maybe we should go back to the recommendation of the former Governor from Delaware, Governor du Pont, who said all students getting a driver's license should be drug tested.

Most of the people who commit accidents driving under the influence are not student age. They are older. So why not implement a program in the name of the welfare of America that everyone who seeks renewal of their driver's license has to be drug tested.

The rationale is in terms of cost to the public in reducing the number of police that are required to go to accidents, reducing the number of bills that come as a consequence of having to deal with everything from the tow truck to the hospital bill, and the insurance rates that go up, we will save society a lot more money by doing that. And unlike with AFDC, we have statistics showing the percentage of accidents that involve people under the influence of drugs.

So I would respectfully suggest that this is, unintentionally, incredibly discriminatory, and incapable, notwithstanding its discriminatory nature, of solving the problem it allegedly intends to solve, which is to cause people to raise themselves up by their bootstraps, because once they shed this drug dependency, which it is implied they have, if in fact they are going to seek welfare, they will have become productive citizens.

I respectfully suggest it does not comport with reality or with the facts. But I understand that it may sound appealing to some to suggest that.

For example, we do know the percentage of drug users among adolescents and college-age students. We know from statistics what they are. Should we not drug test every person who receives a student loan?

I yield the floor, Mr. President.

At some appropriate point, if the Senator does not withdraw the amendment, and he is perfectly entitled not to withdraw it—this side cannot accept the amendment—I will move at the appropriate time to table the amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I just have a few comments to make about this amendment. I hope the distinguished Senator from Delaware will not do that, because this is a commonsense amendment. The taxpayers of this country are not opposed to helping those who are in need.

What they are opposed to is helping those who do not want to help themselves. That is where we get into trouble. We are helping too many people who will not do anything to help themselves, who cannot.

It is not too much to expect for a person receiving Federal benefits to be drug-free. It is not too much to expect they will be law abiding. Do not forget the use of drugs is, after all, illegal. That is what we are attacking here.

This amendment, as I understand it, would require persons applying for Federal benefits, such as AFDC or food stamps, to have a drug test. If the test is positive, then these persons can be enrolled in appropriate treatment programs. That is the bottom line. If it is positive, they are going to get the treatment they need.

It is not an excuse for cutting Federal benefits to those who are in need. It is a way of identifying users and getting them into the treatment programs. There are a lot of users who are on AFDC. I do not want them to lose their benefits. Mothers receiving AFDC may love their children, but they cannot be truly good parents if they do not get help to kick their drug or alcohol dependence problems. Their first priority is their next dose of crack, and their children often come second. We are not helping these families if we continue to send them checks and make no requirement that these individuals are identified and enrolled in treatment programs. That has to be

the first step toward helping them get their lives together. Job training, education, and the other programs that might help these families receiving these benefits cannot be effective if the individual is still abusing drugs and alcohol.

So persons receiving public assistance cannot reclaim their self-esteem and get the welfare monkey off their backs if they first cannot throw out the gorilla that amounts to drug addiction or alcohol.

So, I think that the distinguished Senator from Wyoming is right. It is not an attempt to hurt these people. It is not an attempt to deprive them of benefits. It is an attempt to get them help.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. BIDEN. The Senator is as well-schooled in this as anyone I know. Does the Senator know if there is any evidence to indicate a recipient of AFDC is more likely to be a drug addict than someone who is not?

Mr. HATCH. I do not know of any particular study that would show one way or the other except we know it exists. We know the problems are there. We know many of these people are in many cases not as highly educated—they have been deprived of education and opportunities that others benefit from. The purpose of this amendment is to get them help. We know a number of the people in our society on some of these programs have these problems.

Mr. BIDEN. Will the Senator yield for another question?

Mr. HATCH. Yes.

Mr. BIDEN. Is it not true that you cannot be a truly good hunter or a truly good driver if you are on drugs?

Mr. HATCH. I think it is probably true that you cannot.

Mr. BIDEN. Is it not true that you cannot be a truly good anything if you are on drugs? I believe the Senator from Utah, one of the most capable debaters in this body, is engaged in a series of nonsequiturs that are quite fascinating. He says we want to get people off drugs because you cannot truly be a good mother. Obviously, you cannot. You cannot be a truly good driver. Why not test all drivers? You cannot be truly a good hunter. Why not test all hunters?

Mr. HATCH. Some may suggest that. On the other hand, here we have a group of people who cannot help themselves, where hunters and drivers can. Here we have a group of people who basically need this type of help, some of them.

This is a way of determining and finding it out. I personally have lots of difficulties in forcing anybody to take any kind of a test. Here is a situation where I believe a fairly substantial number of people would benefit from this amendment. But be that as it may, I understand the distinguished Senator's argument, and I think we ought to move ahead.

Mr. BIDEN. I am going to move to table at the appropriate time. I do not want to cut off the Senator from Wyoming.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I have no hope of trying to displace the Senator from Deleware, but let me suggest to him it is not the point whether fewer or more families with dependent children are drug addicted than other ones. One can site any number of statistics. One can quote from the Washington Post article last Saturday in which they stated the Washington infant mortality rate has soared because of mothers addicted to crack—low-income, and a large proportion of them on welfare. Mortality has increased 50 percent, comparable to Third World Nations.

I want to clear up a few of the things that my friend from Delaware said because he has a habit of creating a monster when there is a relatively simple point at hand.

I did not state, and would not state, that AFDC parents are more likely to break the law, but ask only that having been tested, they register for treatment if found positive. This is the same eligibility requirement, Mr. President, that we have now. They lose their benefits if they do not register for job training. They lose them, straight out.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. WALLOP. Yes.

Mr. HATCH. Does the Senator think there are any programs available for treatment that they could get into? Is the Senator aware of the statistics that there are no programs?

Mr. WALLOP. The Senator is totally aware, and the Senator from Delaware once again makes this thing somehow or another they are going to lose their benefits if they are not in treatment. That is not the amendment. The amendment merely requires that they register. If it is not available, they do not lose it. But the same thing with job training as a matter of fact. There are some communities in America where job training is not available. But we have eligibility requirements for all other kinds of other professions—military, and I mentioned transportation. We are not suggesting that they ask for treatment on demand. I am also not suggesting to the Senator they would be kicked off but for the fact that a drug treatment program was available and they did not accept the treatment.

I say to my friend that this does not deny children of AFDC parents any benefit. It denies parents benefits; the children are still eligible as they are if they fail to register for job training. The children are taken care of under this. Current law treats parents who will not register for job training the same way. They lose their benefits.

I made no such implications, I say to my friend from Delaware, that these people seek welfare because they are drug dependent. But I would say this: The American taxpayer has no obligation to sustain a drug habit. The American taxpayer has every obligation to provide humane welfare programs and benefits to get people elevated out of the welfare trap. That was the whole purpose of the welfare reform.

Mr. President, I am not going to state any more about this tonight. I know the Senator from Delaware is going to move to table. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of the Senator from Wyoming. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to to vote?

The result was announced—yeas 75, nays 24, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—75

Adams	Dodd	Lugar
Baucus	Durenberger	Matsunaga
Bentsen	Ford	Metzenbaum
Biden	Fowler	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gore	Moynihan
Boren	Gorton	Nunn
Bradley	Graham	Packwood
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Warner
Dixon	Lieberman	Wirth

NAYS—24

Armstrong	Hatch	Murkowski
Boschwitz	Helms	Nickles
Dole	Kasten	Pressler
Domenici	Lott	Simpson
Exon	Mack	Symms
Garn	McCain	Thurmond
Gramm	McClure	Wallop
Grassley	McConnell	Wilson

NOT VOTING—1

Humphrey

So, the motion to lay on the table the amendment (No. 912) was agreed to.

AMENDMENT NO. 963 TO AMENDMENT NO. 961

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from California?

Mr. HATCH. It is an amendment to the amendment of the Senator from California.

The PRESIDING OFFICER. The amendment is in order.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposes an amendment numbered 963 to the Cranston amendment numbered 961.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following: Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended is amended by adding at the end thereof the following new section:

SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations and substance abuse prevention specialists and including representatives from among the following: Clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance, and support for community training on substance abuse prevention.

Mr. HATCH. Mr. President, this amendment is agreed to not only by the distinguished Senator from California but by this side and I believe the other side, as well. I ask that the amendment be adopted.

Mr. CRANSTON. Mr. President, I will accept the compromise proposed by the Senator from Utah [Mr. HATCH]. Although I have agreed to drop some of the specifications regarding the types of services and programs that the coalitions should provide, I believe that the amendment retains the core elements: Community coalitions to develop and implement comprehensive substance abuse prevention programs; evaluation of the programs' effectiveness; training in substance abuse prevention; and model curricula for community substance abuse prevention.

I thank the Senator from Utah for his cooperation and urge adoption of the amendment. I thank too, the Senator from Delaware for his helpfulness.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Utah, Mr. HATCH.

The amendment (No. 963) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS.

The PRESIDING OFFICER. The Chair would remind the Senator that the amendment just agreed to was a second-degree amendment to the amendment offered by the Senator from California. Final consideration of that amendment has not taken place.

The question is on agreeing to the amendment of the Senator from California, Mr. CRANSTON.

The amendment (No. 961) was agreed to.

AMENDMENT NOS. 964 THROUGH 975

Mr. HATCH. Mr. President, I send an amendment (No. 964) to the desk for and on behalf of Senator STEVENS; an amendment (No. 965) for and on behalf of myself; an amendment (No. 966) for and on behalf of the distinguished Senator from New Mexico, Mr. BINGAMAN, and also Mr. BOND; an amendment (No. 967) for and on behalf of Senator D'AMATO; an amendment (No. 968) by Senator KOHL on TV drugs; an amendment by Senator KOHL on a study——

Mr. BYRD. Mr. President, may we have order in the Senate? There is important business being transacted here. Some of us cannot hear.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Utah.

Mr. HATCH. Three amendments by Senator KOHL.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator will suspend.

The Senator from Utah.

Mr. HATCH. Mr. President, I send four amendments to the desk on behalf of Senator KOHL; two (Nos. 972 and 973) by Senator GRAHAM of Florida; one (No. 974) by Senator BIDEN; and another one (No. 969) by Senator SIMON. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask that all of these amendments be agreed to en bloc. They have been accepted by both sides.

Mr. BIDEN. Mr. President, we accept them, as well.

The amendments are as follows:

AMENDMENT No. 964

On page 1, line 8, strike "(21 U.S.C. 802(6))," and insert "(21 U.S.C. 802(3)) except when authorized under the Controlled Substances Act".

On page 1, line 10, strike "the second undesignated paragraph of subsection (h)" and insert "the first undesignated paragraph following subsection (i)".

AMENDMENT No. 965

(Purpose: To require the Secretary of Defense to educate senior officers of the Armed Forces of the United States on the policies, strategies and related purposes of the national drug control effort, with emphasis on the military interdiction activities of such military personnel)

At the appropriate place, insert the following new section:

MILITARY INTERDICTION EDUCATION PROGRAM

SEC. . (a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the United States Government organizations mandated to implement it.

(4) The history of United States Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, and functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to

coordinate with the Secretaries of Defense, State, Commerce, Transportation and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

Mr. HATCH. Mr. President, this amendment fills a gap in our drug control strategy—it establishes a program to educate military personnel on drug interdiction policy and strategy.

It is my understanding that the amendment has the support of the chairman of the Senate Armed Services Committee.

Last year, the Defense Department provided over 28,000 hours surveillance support from the air, and over 2,000 ship-days of support to the Coast Guard. As we all know, the revisions to posse conmitatus doctrine allow for extensive military involvement. My amendment seeks to assure that military personnel assigned to interdiction duties clearly understand the President's policy, and, more importantly to me as a member of the Judiciary Committee, the constitutional and statutory restraints on their conduct when engaged in interdiction assistance to law enforcement officials. For example, military personnel cannot make arrests or seizures of traffickers—and there are very real limits on their use of force—all of which assures that innocent persons are not harmed in the midst of the authorized use of force or in arrest situations.

The amendment therefore directs the Secretary of Defense to take two basic actions:

First, prepare appropriate instructional materials on drug policy and strategy to be included in the curricula of military schools that provide training for the senior officers of our Armed Forces.

In addition, the Secretary of Defense will establish at the National Defense University, instruction that is oriented to interagency cooperation, especially between the military services and the Coast Guard, DEA, Customs, Justice, FBI, CIA, and others

I happen to know that this type of instruction is not currently provided. Yet, because of the level and scope of military involvement, we simply can't afford to do without it

The President, Secretary of Defense, and the National Security Adviser have all acknowledged that drug trafficking is a threat to our national security interests. This amendment asks Congress to endorse that commitment, while assuring that military persons engaged in interdiction understand exactly the purpose and importance of their mission.

AMENDMENT No. 966

Amendment No. 938, offered by the Senator from New Mexico [Mr. BINGAMAN] and adopted on October 3, 1989, as an amendment to S. 1711, is hereby amended as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

AMENDMENT No. 967

At the appropriate place, insert the following:

SEC. . STATEMENT OF CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the progam.

SEC. . STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

(a) REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project;

Mr. D'AMATO. Mr. President, I rise today to propose on behalf of myself, Senators DECONCINI, DOMENICI, and GRAHAM, an amendment to S. 1711, the bill to implement the President's 1989 national drug control strategy.

The National Institute of Justice has prepared a proposal entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia." The proposal grows out of concern at the Justice Department that there has been a great deal of interest in so-called boot camps or shock incarceration for drug offenders, but too few standards or guidelines for these programs.

The National Institute of Justice proposal contains a number of suggestions for those wishing to establish boot camp or shock incarceration programs that go beyond mere detention. It addresses the need for literacy and job skill training, as a means to reduce and prevent criminal activity by young people living in areas of high drug use and crime.

It calls for a program to instill in them discipline, self-respect, and a personal commitment to family values and the community.

It calls for a program that targets both those young people who are under the formal authortiy of the juvenile justice system and young people who, although not under the formal authority of the juvenile justice system, are considerably at-risk for drug involvement.

It suggests separate tracks for youth in different age groups—for example, 16 to 18, 18 to 22. It calls for separate programs for sentenced drug offenders and for at-risk youth who have committed no crimes.

For those in the juvenile justice system it suggests: discipline training, confidence training—for example, outward bound-type programs—and community aftercare.

For those with no criminal history it suggests: junior reserve officer training corps recruit training and community aftercare.

It emphasizes the need to help graduates improve their literacy and vocational skills to give them career opportunities after graduation.

It calls on all levels of government and society to participate in the program, and suggests possible ways for them to do so.

Mr. President, we need to find innovative ways to deal with the problem of drugs and crime among our youth. I believe that this program should be reviewed and, if it is favorably considered by the Director of National Drug Control Policy, it should be implemented.

I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent that the National Institute of Justice proposal be printed in the RECORD.

There being no objection, the proposal was ordered to be printed in the RECORD, as follows:

"ABOUT FACE" CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA

Introduction: The Civil-Military Youth Leadership Program concept paper describes an approach for containing the costs associated with the achievement of major domestic policy goals. The paper focuses on the control of drug abuse and related criminal activity among youth in the District of Columbia and is based on the following premises: Existing civil-military resources at the Federal, state and local levels must be mobilized to meet National goals.

Cost containment: Concentration of effort will result in greater efficiency and cost-effectiveness and will reduce the demand for additional resources.

Purpose: To interrupt drug-related criminal activities and behavior of participating District of Columbia youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to social values and the community.

To provide an opportunity to test a cost containment strategy involving Federal, state, and local government agencies working together to control drugs and crime by marshalling existing civil-military resources.

Benefits: Executive leadership and model development.

Efficiency and cost savings: Trained staff, existing facilities, and quick start-up.

Reduces social cost of drugs and crime in the community.

Urban revitalization.

Environmental advocacy.

Replicability.

This concept paper introduces a framework for the development of a comprehensive domestic policy initiative to reduce drug abuse and interrupt drug-related criminal activity among the inner city youth in the District of Columbia. A pilot demonstration program is proposed, under the leadership and direction of the Attorney General, that is civil-military in nature and coordinates the resources of a broad range of Federal agencies. If successful, this program could be replicated in other jurisdictions nationwide.

A summary of the target population, eligibility/discharge criteria and processes, program elements, and potential agency involvement is displayed in matrix form in Exhibits A and B.

Program design criteria: The following factors were considered key to this initiative and incorporated into the conceptual design presented in this document.

The strategy should provide a key role for the Department of Defense to play in the "war on drugs" through use of the agency's existing resources and expertise in the provision of socialization programs.

The program design will be consistent with established military standards and practice for basic training. A by-product of this effort will be operational standards needed by correctional jurisdictions that have instituted or are planning "boot camp" type facilities. Currently, there are no guidelines for the operation of this type of program.

Any programming strategy for intervention in the District of Columbia's problem with drugs and crime must consider the profile of the District's inner-city youth population; discipline and incarceration alone do not provide the skills necessary for them to adopt an alternative lifestyle.

The strategy must recognize that for any programming to be successful it must ensure that the district's inner city, to which participants will return, has the resources to support returning program graduates and reflects an environment that is conducive to perpetuating a positive alternative lifestyle.

The program should be congruent in content with intensive substance abuse programming currently being provided in the pilot program for the proposed Correctional Treatment Facility by the D.C. Department of Corrections, i.e., voluntary, skill development intensive.

Program design should build on the positive aspects of basic military training; that reinforces and encourages internalization of discipline, responsibility and teamwork; and applies those traits to the improvement of literacy and vocational skills in ways that lead to legitimate career alternatives when participants return to their community.

An underlying philosophy: a theme and a message should characterize the program. This must include society's intolerance for crime and drug abuse. But it must also extend opportunities for meaningful employment, personal growth, and prosperity to residents of the community and program participants, including those who don't presently perceive American society as truly available to them, and those who have violated its laws; the proposed program provides this opportunity.

Purpose: To reduce recidivism by interrupting the drug-related criminal activities and behavior of participating District of Columbia youth through instilling discipline, self-respect, literacy, social, and vocational aptitude training that will provide them with the skills required to engage in a meaningful alternative lifestyle when the program is completed. This would include a commitment to accepted social values and their community. The program will provide the opportunity for the successful participant to either volunteer for the armed forces or to return to the community where a support system will facilitate his entry into community-based vocational training or apprenticeship programs, education, and meaningful work opportunities. It also includes the commitment of Federal and local resources to the inner-city community to which program graduates will return, to develop the support necessary to assist them in maintaining an alternative lifestyle as a contributing member of their community.

Target population: At-Risk Youth from the District of Columbia. Three categories of youth are identified who could benefit from the proposed program. They are divided into three tracks for the purpose of programming.

TRACK 1

Youth sentenced under the DC Youth Rehabilitation Act (YRA) between the ages of 18 and 22 years and serving indeterminant sentences. The following provisions of the YRA make these individuals promising candidates for the proposed program:

An extensive diagnostic evaluation has been conducted from which the judge determines YRA sentencing based on each individual's potential for rehabilitation.

Under the YRA, successful rehabilitation can result in the individual's record being expunged.

If the individual does not demonstrate progress in rehabilitative programming, he/she can be returned to the court for a "no benefit" determination, which results in resentencing as an adult.

Eligibility criteria: Sentenced, drug user or convicted of a drug-related charge, no history of mental illness, non-violent, not an escape risk, has received a formal orientation to the program, motivated, volunteers. The selection process is described under Phase I of the program (below).

Discharge Criteria: *Positive:* Program staff recommendation to the DC Board of Parole. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit" as determined by the treatment team, participant request.

Discharge Process: The process for positive discharge from the residential phases of the program would require a report to the DC Board of Parole recommending parole release to the community aftercare phase of the program, with parole supervision. Discharge for other reasons would require formal program staff review and consideration prior to a determintion to return the individual to the custody of the DC Department of Corrections. For participants who are not progressing satisfactorily, discharge would entail a staged review through which expectations for progress would be defined to the individual to provide him/her with a minimum of at least three opportunities to meet expectations prior to discharge.

TRACK 2

Juvenile offenders pending commitment to custody of the DC Youth Services Administration (YSA). Between the ages of 16 and 18 years. The program would represent a commitment alternative to sentencing in a YSA facility.

Eligibility criteria: Unsentenced, drug user or convicted of a drug-related charge, no history of mental illness, non-violent, not an escape risk, has received a formal orientation to the program, motivated and, is offered the opportunity to volunteer for, and complete, the program in lieu of incarceration. The selection process is described in Phase I of the program below.

Discharge criteria: *Positive:* Program staff determination. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit", as determined by the treatment team, and participant request.

Discharge process: The process for positive discharge from the residential phases of the program would require a report from program staff to the DC Superior Court Family Services, Juvenile Probation Division, of the individual's progress and pending discharge to the community aftercare

phase of the program, with probation supervision. Discharges for other than successful completion may require that the individual be returned to family court for further disposition. Similar to Track 1 participants, formal staged review by program staff would be required for participants who are not progressing satisfactorily.

TRACK 3

Underprivileged youthful volunteers. Between the ages of 15 and 18 years. These youth are not under the formal authority of the juvenile justice system, but are considerably at-risk. They will have had a history of poor academic performance, truancy, and parental ability to control the individual is minimal.

Eligibility criteria: Has received a formal orientation to the program, is suspected to be a drug user or involved in drug sales, is a potential drop-out, and volunteers. The selection process is described under Phase I of the program (below).

Discharge criteria: *Positive:* Program staff determination. *Negative:* Infraction of cardinal rules (drug use, sex, violence), finding of mental disorder, finding of "no benefit" as determined by the treatment team, participant request.

Discharge Process: The discharge process for these participants would be similar to that for juveniles, except that they would be returned to the care of their family or other responsible sponsor in the community.

The Civil-Military Youth Leadership Program: The program is divided into two subprograms: the Correctional Youth Leaders Program and the Junior Leaders Program. Each consists of several phases, beginning with screening and selection of volunteer candidates. Selected participants progress through a rigorous regimen that is varied in length according to which program the individual is assigned, ending with the individual returning to the DC community where they will participate in a mandatory aftercare program. The aftercare phase of the program requires that graduates participate in mandatory community based aftercare activities in addition to participating in vocational training, work, school, or community service projects.

The Correctional Youth Leaders Program (CYLP). This program is designed to be conducted by civil jurisdictions. Successful Track 1 participants proceed through the program and are paroled to the community and the aftercare phase of the program upon completion of the residential phases.

The Junior Leaders Program (JLP). This program is designed to be conducted initially at military facilities with some military assistance. It is designed for juveniles who are not convicted felons and for juveniles who come from high risk areas. In the early phases of the program participants would progress through military self-discipline/self-confidence training prior to entry into the civilian corps phases that are the foundation of the Civil-Military Youth Leadership Program.

CORRECTIONAL YOUTH LEADERS PROGRAM

Phase I—Screening

Location: DC Department of Corrections Youth Center.

Objectives: Screening, Referral, and Selection.

Duration: Approximately 4 weeks.

YRA Candidates—Screened and referred to the program by DC Department of Corrections Youth Center staff. Interviewed and selected by program staff.

Phase II—Discipline Training

Location: DC Department of Corrections Youth Leaders Facility Objectives: Self-Discipline and Team Building.

Duration: Approximately 9 weeks.

Program Elements—Track 1:

Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment.

Military discipline/physical training.

Academic education/intensive literacy training/English as a second language.

Substance abuse education and treatment.

Physical training and athletics.

Family counseling.

Religious services.

Phase III—Confidence Training

Location: Remote Non-Military Facility With Appropriate Training Facilities and Challenging Terrain.

Objectives: Self-Confidence, Team Building, Skill Training.

Duration: Approximately 7 weeks.

Program Elements—Track 1:

Continued acdemic education, intensive literacy training and English as a second language.

Continued substance abuse education and treatment.

Continued family counseling.

Outward bound training: Leadership, confidence building, endurance, and team building.

Physical training and athletics.

Self-maintenance and life skills development.

Religious services.

Phase IV—Conservation Corps

Location: Controlled Rural or Urban Work Site.

Objectives: Civil Conservation Tasks.

Duration: Approximately 20 weeks.

Program Elements—Track 1:

Continued remedial education, intensive literacy training, English as a second language.

Continued substance abuse education and treatment.

Continued family counseling.

Physical training and athletics.

Conservation and environmental education/training: Watershed protection and enhancement projects, rural and urban renewal projects.

Religious services.

Transition preparation planning (emphasis is placed on this aspect of programming throughout this phase).

Graduation.

Phase V—Community Aftercare

Location: District of Columbia Community.

Objective: Community Reintegration/Independent Living.

Duration: Approximately 1 year.

Program Elements—Track 1:

Work.

Apprenticeship program/trade school/community college programs (grants for tuition where required).

GED preparation/examination.

Continued substance abuse treatment (residential for those requiring it, aftercare follow-up, AA and NA).

Continued literacy training.

Structured aftercare (this phase of the program would be developed by interested community groups in each Ward that are pro-active in community enhancement and social programs): Structured leisure time, family support services, team meetings, church group affiliation, and community service.

Parole supervision.

JUNIOR PROGRAM LEADERS

Phase I—Screening

Location: District of Columbia.

Objectives: Screening, Referral, and Selection.

Duration: Approximately 4 weeks.

Juvenile Candidates—Screened by DC juvenile probation office/Youth Services Administration, who recommend program to the District Family Court judge. Judge then refers the juvenile to the program. Interviewed and selected by program staff.

Underprivileged volunteers—Referred by a local community agency and/or school in consultation with the family, screened and referred to the program through an armed forces recruiting office. Interviewed and selected by program staff.

Phase II—Junior Reserve Officer Training Corps Recruit Training

Location: Military Basic Training Facility.

Objective: Self-Discipline and Team Building.

Duration: Approximately 9 weeks.

Program Elements—Tracks 2 and 3:

Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment.

Military discipline/physical training.

Academic education/intensive literacy training/English as a second language.

Substance abuse education and treatment.

Physical training and athletics.

Family counseling.

Religious services.

Phase III—Adventure Training

Location: Remote Federal Facility With Appropriate Training Facilities and Challenging Terrain.

Objectives: Self-Confidence, Team building, Skill Training.

Duration: Approximately 7 weeks.

Program Elements—Tracks 2 and 3:

Continued academic education, intensive literacy training and English as a second language.

Continued substance abuse education and training.

Continued family counseling.

Adventure training: Leadership, confidence building, endurance, and team building.

Physical training and athletics.

Self-maintenance and life skills development.

Religious services.

Community transition planning (Tracks 3 only).

Phase IV—Conservation Corps

Location: Controlled Rural or Urban Work Site (Could be the same location as Phase III).

Objectives: Civil/Military Conservation Tasks.

Duration: To be Determined.

Program Elements—Track 2, and 3 on a voluntary basis:

Continued remedial education, intensive literacy training, English as a second behavior and skills.

Continued substance abuse education and treatment.

Continued family counseling.

Physical training and athletics.

Conservation and environmental education/training: Watershed protection and enhancement projects, rural and urban renewal projects.

Religious services.

Transition preparation planning (emphasis is placed on this aspect of programming throughout this phase).

Graduation.

Phase V—Community Aftercare

Location: District of Columbia Community.

Objective: Community Reintegration/Independent Living.

Duration: Approximately 1 year.

Program Elements—Tracks 2 and 3:

A. Military service for those qualified and wishing to volunteer.

B. Community Reintegration:

High School/Community College/GED program.

Apprenticeship program/trade school.

Continued substance abuse treatment (residential for those requiring it, aftercare follow-up, AA and NA).

Community service projects.

Aftercare participation activities: Structured leisure time, family counseling, team meetings, and church/social group affiliation.

Probation Supervision (Track 2 only).

Reintegration to the community and the need for revitalization of the inner city: Regardless of how well a program can change the attitudes and behavior of participants while they are separated from the negative influences of their community, it is well documented that the environment to which programmed youth will return has significant effect on their ability to iternalize newly acquired behavior and skills. Program graduates will return to their communities and will be expected to become successful and productive citizens. However, unless there are legitimate opportunities available to them for employment, personal growth, and prosperity, the probability of failure is greater than the probability for success. Therefore, consistent with the national goals articulated for uban development, the Youth Leadership Program proposes focus of these efforts in the DC inner city. This would require that priority be placed upon creating jobs, encouraging entrepreneurship, expanding home ownership and affordable housing opportunities, and empowering the inner city poor through resident management and homesteading.

In addition, to encourage graduates of the program to remain in their communities as they become successful citizens, incentives could be developed for which interested graduates and inner-city residents would be eligible. Examples of these incentives are:

Develop enterprise zone benefits.

Support rural conservation, community development, and urban revitalization projects.

Provide continued education and career development opportunities.

Develop business opportunities: Special youth/business tax benefits, utility hookups, zoning and building code considerations.

Program size: The optimal size of each pilot program is envisioned to be 200 slots. Once these participants move on to Phase III (Track 1) or Phase IV (Tracks 2 and 3), another program cycle would begin.

Location: Phase II of the Correctional Youth Leaders Program would be conducted at a new DC Department of Corrections facility at Lorton, Phases III and IV would be conducted at national or state park facilities that have the appropriate terrain and resource to support the program. Phase II of the Junior Leaders Program would be conducted at a military recruit facility, Phase III at a military facility that has appropriate terrain and resources to support the program, and Phase IV would be conducted at a national or state park facility.

Administrative responsibility: The National Institute of Justice, Department of Justice, would provide overall program planning, design, and evaluation; assume administrative responsibility for fiscal resources, and coordinate the efforts of other agencies providing resources in the form of facilities or direct services.

The designation of potential agency involvement and administrative responsibility to implement the various phases of the program and provide the resources required in the community is envisioned as follows:

Overall Responsibility: Department of Justice.

Lead Agency: National Institute of Justice.

Planning, Design, and Administration: Dept. of Justice/NIJ.

Phase I—Sponsoring Agency: District of Columbia; Support Agency: Dept. of Defense.

Phase II—Sponsoring Agency: Dept. of Defense/DC Department of Corrections; Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.

Phase III—Sponsoring Agency: Dept. of Defense/Interior; Support Agencies: Education, HHS, Justice, Labor, EPA, DC/DOC, DC/YSA, NIDA.

Phase IV—Sponsoring Agency: Interior; Support Agencies: Defense, Education, HHS, Justice, Interior, Labor, EPA, USDA, DC/DOC, DC/YSA, NIDA, HUD.

Phase V—Sponsoring Agency: Labor/Labor Unions; Support Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC/Board of Parole, DC/Probation Department.

Support for D.C. Inner City Community.

Monitoring and Evaluation: Department of Justice/NIJ.

Military support required: as these programs are based on a military style of operation, the involvement of the military is considered critical to the success of the program.

Correctional Youth Leaders Program

Phase I—None.

Phase II and III—Assistance in the development of training standards, programs, lesson plans, instruction, methods of evaluation, and training support.

Assistance in the design of training facilities.

Assistance in the training of trainers.

Phase IV—None.

Phase V—None.

Junior Leaders Program

Phase I—The development of a system of referral through a DC based military recruitment office.

Phase II—The use of military recruit training facilities and the design implementation of JROTC recruit training process.

Phase III—The use of military facilities.

Assistance with implementation of the program; the use of retired military personnel

Phase IV—The intent is to seek assistance from the military to use retired military personnel to act as troop leaders and program supervisor for the National Park Service.

Phase V—None.

Implementation: As the primary research arm of the Justice Department, the National Institute of Justice has a history of basic and applied research, program development, training, field tests, and demonstration activities. The institute is currently evaluating "shock incarceration" programs in a number of jurisdictions and has recently published "Shock Incarceration: An Overview of Existing Programs". In considering a locus for development of the Civil-Military Youth Leadership Training Initiative, the Institute would play a lead role, coordinating the efforts of all involved Federal agencies, the DC Department of Corrections, labor unions, private entrepreneurs, and DC community leaders.

Intended results: A comprehensive cabinet-level domestic policy initiative that concentrates the resources of a broad range of Federal agencies into a rigorous civil-military youth leadership program designed to assist inner-city youth in resisting substance abuse and crime. The program would be thoroughly evaluated to determine effectiveness and potential for replication in other jurisdictions nationwide.

EXHIBIT A—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS

[Track 1: Correctional Youth Leaders Program]

	Program elements	Potential agency involvement
Target Population	Youth Sentenced under the Youth Rehabilitation Act (YRA)—ages 18–22	Overall Responsibility: Department of Justice.
Eligibility Criteria	Sentenced, non-violent, not escape risk, drug user or drug charge, no history of mental illness, formal program orientation, motivation, volunteers.	Lead Agency: National Institute of Justice.
Phase 1: Screening (4 weeks)—Location: District of Columbia; Objectives: Screening, Referral, and Selection.	Screened and referred to program by DC Department of Corrections staff. Interviewed and selected by program staff.	Sponsoring Agency: District of Columbia. Supporting Agency: Department of Defense.
Phase 2: Discipline Training—Location: DC Correctional Youth Leaders Facility; Objectives: Self-Discipline and Team Building.	Intensive medical, psychiatric, psychological, substance abuse, academic, and vocational assessment; Academic education/intensive literacy training/English as a second language. Substance abuse education and treatment. Physical training and athletics. Family counseling. Religious services.	Sponsoring Agency: District of Columbia. Support Agencies: Education, HHS, Justice, Defense, NIDA.
Phase 3: Confidence Training (7 weeks)—Location: Remote Non-Military Facility with appropriate training facilities and challenging terrain; Objectives: Self-Confidence, Team Building, Skill Training.	Continue Phase 2 Program elements, plus: Outward Bound Training: Leadership; Endurance; Confidence Building; and Team Building. Self-maintenance and life skills development.	Sponsoring Agency: Interior. Support Agencies: Education, HHS, Justice, DC/DOC, NIDA, Defense.

EXHIBIT A—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS—Continued

[Track 1: Correctional Youth Leaders Program]

	Program elements	Potential agency involvement
Phase 4: Conservation Corps (20 weeks)—Location: Controlled Rural or Urban Work Site; Objectives: Civil Conservation Tasks..	Continued remedial education/ESL, substance abuse education and treatment, family counseling, physical training, religious services. Conservation and environmental education/training: Watershed protection and enhancement; and Rural and urban renewal projects. Transition preparation planning. Graduation.	Sponsoring Agency: Interior. Support Agencies: Defense, Education, HHS, Justice, Interior, Labor, EPA, USDA, DC/DOC, NIDA.
Phase 5: Community Aftercare (1 year)—Location: District of Columbia; Objectives: Community Reintegration and Independent Living.	Community Reintegration: Work; Apprenticeship program/trade school/community college program; GED preparation and exam; Continued substance abuse treatment. Structured aftercare: Structured leisure time; Family support; Team meetings; Church groups; Community service; and Continued literacy training. Parole supervision.	Sponsoring Agency: Labor/Labor Unions. Support Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC Board of Parole. Federal Support for DC Inner City Community: Federal Oversight Committee. Monitoring and Evaluation: National Institute of Justice.
Discharge Criteria	Positive: Program staff recommendation to DC Board of Parole. Negative: Infraction of cardinal rules (drugs, sex, violence), finding of mental disorder, finding of "no benefit" as determined by treatment team, participant request.	Not applicable.
Discharge Process	Report to the DC Board of Parole recommending parole release to community and community aftercare phase of the program with parole supervision. Discharge for other reasons would require formal review by program staff. Such review would be staged to allow participants at least three opportunities to meet expectations prior to return to custody of DC/DOC.	Not applicable.

EXHIBIT B—"ABOUT FACE" CIVIL/MILITARY YOUTH LEADERSHIP PROGRAM FOR THE DISTRICT OF COLUMBIA: TARGET POPULATION, ELIGIBILITY/DISCHARGE CRITERIA, AND PROGRAM ELEMENTS

[Tracks 2 and 3: Junior Leaders Program]

	Track 2	Track 3	Potential agency involvement
Target Population	Juveniles Pending Commitment to Custody of YSA (ages 16–18).	Underprivileged youthful volunteers (ages 15–18)	Overall Responsibility: Department of Justice.
Eligibility Criteria	Non-violent, not escape risk, drug user or drug charge, no history of mental illness, formal program orientation, motivation, volunteers.	Drug user or involved in drug sales, potential school dropout, formal program orientation, volunteers.	Lead Agency: National Institute of Justice.
Phase 1: Screening (4 weeks)—Location: District of Columbia; Objectives: Screening, Referral, and Selection.	Screened and recommended to court by DC Juvenile Probation Office/YSA. Judge refers juvenile to program. Inerviewed and selected by program staff.	Referred by local community agency and/or school in consultation with family through an armed forces recruiting office. Interviewed and selected by program staff.	Sponsoring Agency: District of Columbia. Support Agency: Department of Defense.
Phase 2: Recruit Training (9 weeks)—Location: Military Basic Training Facility; Objectives: Self-Discipline and Team Building.	Intensive medical, psychiatric, psychological, substance abuse, academic and vocational assessment: JROTC recruit training indoctrination. Academic education/intensive literacy training/English as a second language. Substance abuse education and treatment. Physical training/athletics. Family counseling. Religious services.	Same as Track 2	Sponsoring Agency: Department of Defense. Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.
Phase 3: Adventure Training (7 weeks)—Location: Remote Federal Facility with appropriate training facilities and challenging terrain; Objectives: Self-Confidence, Team Building, Skill Training.	Continue Phase 2 program elements, plus: Outward Bound training; Leadership; Confidence building; Endurance; and Team Building. Self-maintenance and life skills development.	Same as Track 2	Sponsoring Agency: Department of Defense. Support Agencies: Education, HHS, Justice, DC/YSA, NIDA.
Phase 4: Conservation Corps (Duration to be determined)—Location: Controlled Rural or Urban Work Site; Objectives: Civil-Military Conservation Tasks.	Continued remedial education/ESL, substance abuse education and treatment, family counseling, physical training, religious services Conservation and environmental education/training: Watershed protection and enhancement; and Rural and urban renewal projects. Transition preparation planning. Graduation.	Voluntary	Sponsoring Agency: Interior. Support Agencies: Defense, Education, HHS, Justice Interior, Labor, EPA, USDA, DC/YSA, NIDA.
Phase 5: Community Aftercare (1 year)—Location: District of Columbia community or military service; Objectives: Community Reintegration/Independent Living.	Military Sevice for qualified volunteers Community Reintegration Work; Apprenticeship program/trade shcool/community college: GED prep. and exam; Continued substance abuse treatment: and Continued literacy training. Structured aftercare: Structured leisure time; Family support; Team meetings: Church groups; and Community Service. Probation supervision.	Same as Track 2 except no probation supervision	Sponsoring Agency: Labor/Labor Unions. Suppport Agencies: HUD, Defense, Education, HHS, Justice, Interior, EPA, USDA, DC Probation Department. Federal Support for DC Inner City Community: Federal Oversight Committee. Monitoring and Evaluation: National Institute of Justice.
Discharge Criteria	Positive: Progam staff recommendation to court Negative: Infraction of cardinal rules (drugs, sex, violence), finding of mental disorder, finding of "no benefit"; as determined by treatment team, participant request.	Positive: Program staff determination. Negative: Same as Track 2.	Not applicable.
Discharge Process	Report to the DC Superior Court, Family Services, Junvenile Probation Division recommending probation supervision. Discharge for other reasons may result in participant's return to family court for disposition.	Return to family or other responsible community sponsor	Not applicable.

AMENDMENT No. 968

Section 5111 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof:

"Application; *Provided,* That not less than $3,000,000 shall be used for—

(1) providing or arranging for the provision of intervention services for female inmates, including—

(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

(B) support services (such as counseling to address family violence and sexual assault);

(C) life skills training (such as parenting and child development classes);

(D) education services (such as literacy and vocational training); and

(E) after care services; and

(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

Mr. KOHL. I have worked with the leadership and they have accepted an amendment on behalf of myself and my esteemed colleague from Arizona, Senator DECONCINI, and Senators D'AMATO, KERRY, and GRAHAM.

Mr. President, my amendment would establish pilot programs at State and local prisons to provide comprehensive substance abuse treatment services for women. The need for such treatment

is critical in my State of Wisconsin, in Arizona, and in other States across the Nation. And with addiction levels for cocaine soaring as high for women as for men in this country, this need will only continue to become more pressing.

Experts working with incarcerated women at Taycheedah—the maximum security prison for women in my State—tell me that patterns of substance abuse among women differ dramatically from those of men. These women are more likely to have been the victims of family violence and sexual assault. Their drug and alcohol abuse has revolved around male partners. And their need for life skills training, including parenting and child development classes, is critical. Right now, 85 percent of the women at Taycheedah need drug and alcohol treatment services.

Mr. President, my amendment would enable the Bureau of Justice Assistance to set up model projects to meet the special substance abuse treatment needs of female inmates. Such projects would include substance abuse treatment services, support services, training and education, and community based after care. These programs would also provide the services necessary to help women in prison maintain contact with their children and to provide their children with substance abuse education and counseling.

Mr. President, by providing women in prison with the substance abuse treatment designed to meet their special needs, we can promote rehabilitation, but down recidivism, and help break the tragic cycle of addiction for these women and their children. I thank my colleague from Arizona for all his assistance in drafting the amendment. And, I thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, for accepting it.

AMENDMENT NO. 969

At the appropriate place, insert the following:

SEC. . FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release".

(c) This provision takes effect six months after enactment.

Mr. SIMON. Mr. President, I send to the desk an amendment to provide for mandatory drug testing for Federal prisoners as a condition of parole.

Mr. President, in our Nation's Federal prison population, over 50 percent of those incarcerated are serving sentences for drug-related offenses. This comprises the fastest growing segment of Federal prisoners. Of those incarcerated, many were using illegal drugs to or during the commission of the crime for which they were imprisoned.

Illegal drug use and drug-related activity does not necessarily cease as a result of incarceration. Surprisingly, inmates have access to drugs and other contraband smuggled in by staff and visitors. Many prisoners continue well-organized criminal endeavors while in custody.

According to the Federal Bureau of Prisons [BOP], as of August 10, 1989, over 26,000 Federal prisoners are eligible to be released on parole. Currently, there is no requirement for drug testing to determine whether a soon-to-be released inmate is using one or more illegal substances. Nor is being drug-free a condition of release. Prisoners using drugs are therefore released and returned to our communities. This is obviously unacceptable.

One could predict that a prisoner using drugs would, upon release, continue illegal use, and the criminal activity necessary to support it. A cycle of crime, arrest, prosecution, and incarceration is perpetuated. This certainly contributes to a recidivism rate that, according to the Bureau of Prisons, is as high as 43 percent for Federal prisoners.

To break this most destructive cycle, we in Congress must act to ensure that inmates using illegal drugs are not eligible for release into our communities.

In furtherance of this goal, my amendment provides that any Federal inmate eligible for parole must pass one urinalysis test before and two tests after release from a Federal correctional facility.

If an individual is found in violation of these provisions, he or she will continue serving the imposed prison sentence until a random urinalysis test is passed. Those individuals on parole will be subject to revocation of such a sentence and return to prison if testing positive for use of an illegal substance. Such a test is relatively inexpensive, only about $7 per test. The savings to our communities and our criminal justice system are potentially great.

Mr. President, I urge my colleagues to support this amendment, which can be a potent weapon in the war against illegal drugs.

AMENDMENT NO. 970

(Purpose: To exempt certain activities from provisions of the antitrust laws)

At the appropriate place insert the following:

SEC. . (a)(1) Actions specified in subsectin (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

Mr. KOHL. Mr. President, Senator HEFLIN and I have an amendment at the desk. It would grant the television industry a limited antitrust exemption that would help it fight drug abuse. It passed the Senate overwhelmingly in May, as part of the Television Violence Act, and it has been cleared on both sides of the aisle.

First, I want to say what a pleasure it was to work with Senator HEFLIN in drafting this amendment, which we believe will help the television industry raise its powerful voice against illegal drugs. I also want to commend the distinguished gentleman from Illinois, Senator SIMON, for inspiring this approach.

For better or for worse, television is a major influence in our lives and our children's lives. More than 96 percent of American homes have at least one television set. The average youngster spends more time watching TV than in the classroom. Given the vast exposure of children to television, it's appropriate that we examine the consequences.

I applaud the television industry for its efforts in fighting the drug scourge. Many broadcasters have taken voluntary efforts to educate the public about the dangers of drugs. But I believe that television's occasional glamorization of drug use may send our children the wrong message—that you'll be more popular, or wittier, or more beautiful if you use illegal substances. Nothing, of course, could be further from the truth.

Broadcasters are justifiably reluctant to take joint action because of possible antitrust exposure. Moreover, any attempt by the Federal Government to restrict the content of televi-

sion programing would raise serious first amendment concerns.

But while there is no easy answer, I believe that this provision would help broadcasters move toward their own solution. It would provide a narrowly drawn antitrust exemption to the television industry, which would permit the industry to discuss and develop guidelines on illegal drug use. The measure also includes a 3-year sunset provision.

Our amendment would simply place the responsibility for regulation where it ought to rest—on the shoulders of public-spirited broadcasters, cable operators, and producers. It would untie the broadcasting industry's hands so that it could help eliminate the harmful effects of illegal drug use on television.

AMENDMENT No. 971

(Purpose: To require the Secretary of Health and Human Services to conduct a study of the child and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration)

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or prepared within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

Mr. KOHL. I thank the leadership for accepting this amendment on behalf of myself and Senators SIMON and KENNEDY.

Mr. President, this amendment calls upon the National Academy of Sciences to assist the Department of Health and Human Services by conducting a comprehensive review of the Child Welfare and Youth and Family Assistance Programs they administer.

Over the past decade, the pressing problems facing children and families have overwhelmed the child welfare system. Parental substance abuse, the spread of HIV infection to mothers and children, poverty, and homelessness have all reached epidemic proportions. Instead of being safe havens, far too many American families have become dysfunctional to the point of being dangerous for the children growing up in them.

In an effort to protect these children and assist families, the child welfare system has been strained to the breaking point. Reported cases of child abuse and neglect soared 74 percent between 1980 and 1986. Both foster and adoptive parents are in increasingly short supply. As a result, workers' caseloads in too many cities prevent them from being able to intervene effectively—leaving countless children at risk.

Mr. President, parental substance abuse is playing an increasingly dominant and dramatic role in jeopardizing the health and safety of children and families. Here in our Nation's Capital, 90 percent of all caretakers reported for child abuse last year had abused drugs or alcohol. As the tragic case of Lisa Steinberg should remind us, 73 percent of all child abuse fatalities in New York City in 1987 were related to parental drug abuse. In Milwaukee County in my own State, reports of child abuse and neglect skyrocketed from under 3,000 in 1983 to 8,000 this year due to cocaine addiction alone. And the terrible link between child maltreatment and drug use is seen in small towns and rural areas too. A review of the child welfare system should therefore be part of the omnibus drug legislation we are enacting today.

This review will include the current array of programs addressing the special needs of children with substance abusing parents, children with chronic diseases, including HIV infection, and children without adequate housing. In undertaking this study, the National Academy of Sciences will also examine how health care, juvenile justice, and other related programs interact with child welfare and family assistance programs.

In closing, Mr. President, I thank the chairman of the Judiciary Committee for accepting this review of the child welfare and family assistance system. Such a review will give us new options for improving local, State, and Federal efforts to protect children and youth and support families.

AMENDMENT No. 972

(Purpose: To direct the United States Sentencing Commission to establish penalties that constitute a meaningful deterrence to deported aggravated felons reentering the United States)

At the appropriate place, insert the following:

SEC. . DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

AMENDMENT No. 973

(Purpose: To make technical amendments to the Immigration and Nationality Act regarding the treatment of aliens who have committed aggravated felonies)

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43))

shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—

Sec. 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

* * * * *

AMENDMENT NO. 974

On page 1, strike lines 5 through 8.

AMENDMENT NO. 975

(Purpose: To amend Amendment No. 938 to S. 1711)

Amendment No. 938, offered by the Senator from New Mexico [Mr. BINGAMAN] and adopted on October 3, 1989, as an amendment to S. 1711, is hereby amended as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

Mr. KOHL. Mr. President, earlier this week Senator BINGAMAN offered an amendment to the drug bill which was designed to deal with the problem of alcohol abuse on college campuses. I was not aware that the amendment would be offered and did not have an opportunity to review it until after it was adopted. When I did, I found that I agreed with the goal of the amendment; I even agreed with many of the specific steps it advocates. But I was also deeply concerned about several provisions which, in my mind, raise profound constitutional issues as well as serious practical concerns.

Mr. President, the amendment which the managers of the bill accepted would prohibit the distribution "of any promotional material for alcoholic beverages" on college campuses; it would prohibit "the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event or competition * * * by any alcoholic beverage company or industry" on a campus; and it would restrict "alcoholic beverage advertisements—in college newspapers and other publications—to price and product identification."

I know that alcohol abuse on campus is a major problem. I had the chancellor of the University of Wisconsin at Madison in my office a few weeks ago and she told me that alcohol, rather than drugs, is the major problem on her campus. I think we need to deal with this problem. But I was concerned about the language of the amendment. It is very broad and does not focus on what I see as the real problem: illegal and irresponsible use of alcohol. After all, unless we want to go back to prohibition, we don't want to prevent drinking; we want to prevent excessive or irresponsible drinking. Despite the good intentions of the amendment, I was afraid that it was too broadly drafted and might even have the effect of preventing us from focusing on the issue of excessive and irresponsible drinking. For example, the language of the amendment might prevent a beer company from placing an ad encouraging responsible drinking in a college newspaper—and beer companies run a great many ads like that as a public service.

In any event, Mr. President, I discussed my concerns with the distinguished Senator from New Mexico, Mr. BINGAMAN. He was, as he always is, most cooperative. Working together, I believe we have crafted language which preserves his goals while addressing some of my concerns. While I still have some reservations about this language, I want to commend Senator BINGAMAN for his leadership on this issue; I want to thank him for his willingness to work with me; and I want to congratulate him on his modified amendment which may make a contribution to addressing a problem that we all recognize exists.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendments numbered 964 through 975, en bloc.

The amendments (Nos. 964 through 975) were agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for the interest of the Senate, we are now down to a maximum of six Senators who have amendments. Let me list them and suggest very rapidly that maybe good judgment will overcome our colleagues and they will not insist on them.

Senator KERRY of Massachusetts is negotiating as we speak for acceptance of up to three of his amendments. I would respectfully suggest that he do it quickly or we move to third reading.

Senator D'AMATO is about to propose an amendment, which I support, but which I strongly urge him not to offer because it is subject to a constitutional point of order of raising taxes on a Senate bill.

Senator HELMS has listed a spot for five amendments, none of which has been submitted to us. I assume he did not mean it.

Senator WILSON has two amendments, one on Mexican air interdiction and one on drug education for pregnant women, which the Senator from Delaware is prepared to accept, and I hope the Senator from Utah is prepared to accept.

Senator GRAMM, of Texas, we hear, may have one more amendment on minimum mandatory sentences beyond the one he introduced. I truly hope he will withhold it. If he would, we can, in fact, if all will be cooperative, go to third reading in the next 5 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

AMENDMENT NO. 976

Mr. HATCH. Mr. President, while we are waiting for people to consider the recommendation of the distinguished chairman of the Judiciary Committee, the majority floor manager, I send an amendment to the desk on behalf of Senator THURMOND that has been cleared on both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. THURMOND, proposes an amendment numbered 976.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. THURMOND. This amendment makes several needed minor and technical criminal law amendments. These amendments have been requested by the Department of Justice and will greatly facilitate the Department's efforts in the war of drugs. Most of these amendments are to various parts of the "Anti-Drug Abuse Act of 1988" which Congress passed last year. Whenever such an effort as massive as last year's drug bill is undertaken, technical amendments are not uncommon. This amendment, although minor and technical in nature, will enhance prosecution efforts in the war on drugs.

For these reasons, I urge my colleagues to support this important amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that an analysis of certain minor and technical amendments included as the last part of amendment No. 976 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR BIDEN'S SUPPLEMENTARY ANALYSIS OF AMENDMENT NO. 976

SUBTITLE F—MISCELLANEOUS

Minor and Technical Amendments Section 65 contains technical corrections necessary to correct errors in the Anti-Drug Abuse Act of 1988.

Section 66 resolves a minor inconsistency in the money laundering statute. That statute makes it an offense to launder the proceeds of any form of "specified unlawful activity". It is not required that the launderer know what form of unlawful activity was involved as long as he knows that it was some offense that would be a felony under "state or federal law."

The inconsistency is that while the "specified unlawful activity" could be an offense under foreign law, section 1956(c)(7)(B), the knowledge requirements relates only to "state or federal law". Thus a person who launders the proceeds of a foreign offense might not be prosecutable under the statute as currently drafted because the underlying offense would not be covered by the knowledge requirement. The amendment resolves this possible problem by expanding the knowledge requirement to include foreign offenses.

Section 67 contains two amendments to the drug trafficking penalties in 21 U.S.C. 841. The first amendment merely corrects a typographical error in section 6470(g) of the Anti-Drug Abuse Act of 1988.

The second amendment responds to an inequity discussed in several recent cases involving LSD. See, e.g., *United States v. Bishop*, 704 F. Supp. 910 (N.D. Iowa 1989). In these cases the courts determined that the weight of carriers such as sugar cubes, gelatin cubes and blotter paper used to transport and consume substances such as LSD should be counted in determining whether the weight of the "mixture or substance" was sufficient to trigger a mandatory minimum penalty.

The inequity in these decisions is apparent in the following example. A single dose of LSD weighs approximately .05 mg. The sugar cube on which the dose may be dropped for purposes of ingestion and transportation, however, weighs approximately 2 grams. Under 21 U.S.C. 841(b) a person distributing more than one gram of a "mixture or substance" containing LSD is punishable by a minimum sentence of 5 years, and a maximum sentence of 40 years. A person distributing less than a gram of LSD, however, is subject only to a maximum sentence of 20 years. Thus a person distributing a 1,000 doses of LSD in liquid form is subject to no minimum penalty, while a person handing another person a single dose on a sugar cube is subject to the mandatory five year penalty.

The amendment remedies this inequity by removing the weight of the carrier from the calculation of the weight of the mixture or substance.

Section 68 clarifies Section 841(b)(6) of title 21 which was added by section 6254 of the Anti-Drug Abuse Act of 1988. The intent of the 1988 amendment was to provide for a maximum five year penalty in cases where a drug distributor or manufacturer's activities resulted in the pollution of federal land.

Taken literally, the provision imposes this penalty on anyone who pollutes the federal land in the course of committing a violation of section 841(a), the general purpose drug trafficking statute. The penalty for a simple violation of section 841(a), however, is twenty years for most controlled substances, with higher and lower penalties provided depending on the nature and quantity of the substance, and the defendant's criminal history. Therefore, the new section may actually lower the maximum penalty from twenty years to five years for a trafficking offense that results in the polluting of federal land.

The amendment avoids this unintended result by eliminating a completed violation of section 841(a) as an element of the offense, and requiring instead only that the defendant have been using chemicals with the intent to commit a trafficking violation.

Section 69. Section 7303 of the Anti-Drug Abuse Act of 1988 amended 18 U.S.C. 3563 to make it a mandatory condition of probation, for all sentences imposed on or after January 1, 1989, that the defendant not possess any controlled substance. The same section of the 1988 Act amended 18 U.S.C. 3565 to require the automatic revocation of probation of any person found in violation of this condition, and the resentencing of such person to "one-third of the original sentence".

Because sentence for offenses committed after the effective date of the Sentencing Reform Act of 1984 (November 1, 1987) may not include suspended sentences, the phrase "one-third of the original sentence" has no meaning for such sentences. Therefore section 3565 is amended to provide only for resentencing to some term of imprisonment that might have been imposed at the time of the initial sentencing.

Section 70. The first amendment makes a minor substantive change in sentencing policy. Presently 18 U.S.C. 3553(e) provides that on the motion of the government, the court may sentence a defendant to less than the mandatory minimum sentence prescribed by statute if the defendant has assisted the government in the investigation for prosecution of another person. This provision is considered helpful to the government in that it makes it possible to obtain the cooperation of persons who would otherwise have no incentive to assist the government because of mandatory minimum sentences.

A number of criminal statutes, including some that have mandatory minimum sentences and some that do not, prohibit the court from imposing a probationary sentence. *See, e.g.*, 18 U.S.C. 3561(a)(1) (barring probation for any class A or B felony); 21 U.S.C. 845b(e) (barring probation for certain drug crimes involving children and pregnant women). These provisions affect cooperating witnesses in the same way as mandatory minimum sentences. That is, a defendant who might be induced to cooperate with the government in return for a probationary sentence has no incentive to do so if the court is barred from imposing such a sentence. The amendment would allow such a sentence in the same circumstances as a sentence below the mandatory minimum is allowed.

The second amendment is purely technical. Currrently, section 3553(e) makes reference to the sentencing guidelines "issued . . . pursuant to section 944 of title 28". Sentencing guidelines, however, may be issued pursuant to other statutory authority (e.g., section 21 of the Sentencing Act of 1987) and may be enacted directly by Congress. Therefore the reference to section 994 of title 28 is unintentionally limiting and inappropriate. Amendments removing similar references from other statutes was enacted in the Anti-Drug Abuse Act of 1988. *See* Section 7103, Public Law 100-690.

Section 71 contains a series of technical amendments renumbering sections 844a, 845, 845a and 845b of title 21. The renumbering has no substantive effect but will avoid the confusion that occurs in citing, for example, sections 845 (a) and (b), 845a(b), and 845b(a).

Section 72. The penalty provisions of sections 845, 845a, and 845b are amended to clarify an ambiguity. All three statutes currently provide for imprisonment or a fine up to twice (or three times) that authorized by section 841, with a minimum term of imprisonment of at least one year. Unfortunately, the use of the phrase "or a fine, or both" implies that a judge could sentence a defendant only to a fine, which contradicts the notion of a mandatory prison sentence. Also the phrase "imprisonment . . . up to twice that authorized" leaves it unclear whether violators of these statutes are subject only to twice the maximum penalties authorized by section 841(b), or also to twice the *minimum* penalties set forth in that statute. Doubling the maximum penalty is all that was intended.

In each statute, therefore, the phrase "is punishable by a term of imprisonment, or fine, or both up to twice that authorized by section 841(b)" is to be replaced by "is subject to twice the maximum punishment authorized by section 841(b)".

Section 73. Section 1955 of title 18 prohibits illegal gambling. Subsection (d) of that section, enacted in 1970, provides for the forfeiture of property involved in the gambling violation. Since 1970, forfeiture laws applicable to drug and money laundering violations have been enacted that go into much greater detail regarding the types of property that may be forfeited and the procedures that must be followed.

The amendment simply makes forfeiture under the gambling statute the same as forfeiture for drugs and money laundering by cross-referencing the provisions of 21 U.S.C. 853. (A similar cross reference appears in the money laundering forfeiture statute, 18 U.S.C. 982). In so doing, the amendment resolves a split in the circuits as to what types of property are forfeitable.

Section 76. Federal criminal statutes are haphazard and inconsistent in their coverage of territories and possessions. Many laws, such as 18 U.S.C. 513 and 1961, define the term "State" to include territories and possessions, while other laws do not, although frequently the congressional purpose underlying the offense strongly argues for inclusion. In some cases, where the intent of Congress seems clear, the courts have construed "state" to include territories and possessions. See, e.g., *United States* v. *Steele*, 685 F.2d 793, 804-5 (3d Cir.), cert. denied, 459 U.S. 908 (1982) (holding that the Travel Act, 18 U.S.C. 1952, which proscribes certain offenses committed in violation of the laws of the locus State or of the United States covered crimes in violation of the laws of Puerto Rico as if Puerto Rico were a State). In other cases, the courts have adopted a strict reading of "State" and declined to extend its reach to territories and possessions. See, e.g., *United States* v. *Bordallo*, 857 F.2d 519, 523-4 (9th Cir. 1988), (holding that 18 U.S.C. 666, which proscribes bribery and theft by an agent of a State or local government, did not cover bribery by a former governor of Guam, because Guam is not a "State").

Recently, the Department of the Interior surveyed title 18, United States Code, with a view toward identifying those criminal statutes which could most benefit from an amendment either clarifying or extending their applicability to territories and possessions. In some instances, the recommendations involve arcane or seldom prosecuted statutes where, on review and reflection, the effort seems not worthwhile. Section 1512 makes amendments in those instances in which it is believed that the law could materially profit from the express extension to territories and possessions, by means of the insertion of an appropriate definition of the term "State".

Section 77 corrects an error that occurred inadvertently when the definition of burglary was deleted from the Armed Career Criminal statute in 1986. The amendment reenacts the original definition which was intended to be broader than common law burglary.

Section 78 clarifies that the mandatory penalty for carrying a firearm in a crime of violence is a penalty enhancement, not a separate crime. 18 U.S.C. 924(c). This codifies the consensus among the circuit courts on this issue. It also clarifies that the mandatory 20 year penalty for second offenders applies to offenses committed after a previous sentence under 924(c) has become final. This resolves an ambiguity discussed in *United States* v. *Rawlings*, 821 F.2d 1543 (11th Cir. 1987) and conforms to the penalty for subsequent offenders under the narcotics laws, 21 U.S.C. 841(b)(1)(A). Finally, the amendment designates portions of paragraph (1) as separate paragraphs for clarity. This provision has no substantive effect.

Section 79 reflects the substance of an amendment to the federal Rules of Criminal Procedure suggested by the American Bar Association. Currently, the rules provided that the government and the defense have the same number of peremptory challenges in selecting a jury in capital and in misdemeanor cases, but for an unequal number in felony cases. No reason for this discrepancy appears. The amendment provides for 8 peremptory challenges by each side in felony cases. Further, in the case of multiple defendant cases, the rule would permit the court to give the defense additional challenges, to give the government additional challenges to maintain a rough balance, but it would not require the government to be given a total equal to the total given to the defense.

Mr. HATCH. Mr. President, since the amendment was agreed upon by both sides, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 976) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I am prepared to move to third reading.

Mr. DOLE. Will the Senator yield?

Mr. BIDEN. I will.

Mr. DOLE. Whether or not we go to third reading depends on whether or not we get unanimous consent with reference to the transportation bill. I see the distinguished chairman of the Appropriations Committee.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 977

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of the Senator from California [Mr. WILSON] and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes an amendment numbered 977.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . CRIMINAL FINES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an individual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subjected to the limits otherwise provided by section 3571 of title 18, United States Code.

Mr. HATCH. Mr. President, this amendment has been agreed to by both sides. I recommend its approval.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 977) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on table was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The motion to lay on the table had been agreed to.

Are there further amendments?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, I was going to offer an amendment which would permit Americans to make contributions to the special forfeiture fund to aid their war against drugs. I believe that, given the fact there are more than 80 million Americans who receive refunds, if given that opportunity we can raise substantial funds that will be dedicated to that specific area in our battle against drugs: For prevention, for education, for law enforcement.

This measure has received the approval of the drug czar, the IRS, and Treasury. Having said that, Mr. President, I discussed the matter with the chairman of the Finance Committee. This matter would be subject to a point of order. We have agreed that I will lay this aside and not offer it this evening and offer this amendment at the proper time when the revenue measure does come due so it will not be subject to that point of order so we will have an opportunity to vote on that.

I thank the distinguished chairman of the Finance Committee for offering me that opportunity.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I am concerned about the war on drugs, as is the Senator from New York. I am most appreciative of his efforts. I will have several more Gramm-Rudman measures that will be brought before the Members of the Senate, and that, from a jurisdictional standpoint, will be the appropriate place.

Mr. D'AMATO. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 978

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], proposed an amendment numbered 978.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

Mr. COHEN. Mr. President, this amendment requires the Director of National Drug Control Policy to submit a detailed report to Congress on the structure and organization of the President's proposed Drug Control Research and Development Committee. It also requires the President to examine whether or not we should establish, in addition to the proposed policy coordination committee, an office that would have management and budgetary responsibilities for terrorism and drug enforcement research and development projects.

As many of my colleagues may know, the President's report on the National Drug Strategy indicates that the President intends to establish an interagency committee to perform the following functions:

First, to identify national research and development priorities for the drug czar's office;

Second, to review, monitor and coordinate Federal research, data collection, and evaluation activities;

Third, to eliminate gaps and duplication in data collection;

And finally, to assist different Government agencies in acquiring and using new technologies that may prove helpful in either interdiction or treatment.

Mr. President, I believe that we clearly have a need for an interagency group to perform these functions. At the present time, there is no high-level organizational focus within our Government to identify requirements, establish priorities, provide advocacy, or ensure coordination of Federal research and development projects pertaining to illegal narcotics. This is a problem that I have been concerned with since July, when I had a meeting with Dr. Robert Kupperman of the Center for Strategic and International Studies, and two scientists from the Los Alamos national laboratories.

During the course of our meeting, the scientists from Los Alamos expressed their frustration with the lack of interest and funding available for promising research and development projects related both to drug trafficking and terrorism. They advocated the establishment of an interagency committee to provide Federal coordination on these matters, as well as a separate office to implement policy and perform management and budgetary functions. What they clearly had in mind, in addition to an interagency policy committee, was a civilian counterpart to the Defense Advanced Research Projects Agency [DARPA] for the civilian law enforcement community. Because this proposal strikes me as one that may have merit, this amendment requires the administration not only to clarify its intentions with regard to the President's proposed Drug Control Research Committee, but also to evaluate the desirability of establishing a separate organization to handle budgetary and management responsibilities associated with law enforcement R&D projects.

Some examples provided to me by the Los Alamos scientists of promising technologies waiting to be exploited include:

Plant pathogens that could inhibit the growth of poppies or render them useless as illegal narcotics.

Laser radar tracking devices that could detect organic emissions from drug processing sites or vehicles carrying illegal narcotics.

Devices to render dirt airstrips inoperable for lengthy periods of time in order to deny their use to drug dealers.

Devices that could degrade or neutralize explosives.

Devices that could disable vehicles, without causing permanent damage, in order to assist in the apprehension of drug traffickers by law enforcement personnel.

In addition to these technologies, there is the potential for medical treatments that may help addicts recover from their addiction and resume a normal role in society.

This is a very incomplete list, but one that serves to illustrate the point, namely that there are many areas where technology can make a contribution to stemming the flow of drugs into the United States and dealing with the violence and addition that the narcotics trade produces. Clearly, a mechanism to help identify requirements and provide advocacy and coordination will allow us to move forward more efficiently and effectively in the war on drugs.

The President's national drug strategy recognizes this fact, and I commend the administration for having come forward with a proposal to establish an interagency committee to perform these important functions. At the same time, I am not yet convinced that the arrangements for the proposed interagency committee are going to allow it to function effectively. I have not yet been able to determine, for example, whether this organization will have a dedicated staff, which seems to me to be essential if the committee is to perform its assigned role. I have questions regarding the size and expertise of the staff. I also have questions regarding the scope of the committee's jurisdiction. For example, there is considerable overlap between

the issues of drug trafficking and terrorism. Should this committee have a jurisdiction that pertains only to drug trafficking, or should it also serve as a focal point for considering research and development proposals that have related but wider applications? Finally, I wonder whether or not, in addition to an effective interagency committee, we should also establish an office with budgetary and management responsibility for research and development projects for the law enforcement community. As many of my colleagues probably know, there are numerous, often uncoordinated efforts presently underway, involving the Coast Guard, Customs, the Federal Bureau of Investigation, the Drug Enforcement Agency, and other organizations.

In conclusion, Mr. President, the administration has already recognized a problem and is moving forward to implement a solution. It is not yet clear, however, whether that proposed solution is going to get the job done. This amendment will help us to evaluate the President's proposed research and development committee to determine whether further steps are necessary. It will also put the administration on notice that we are concerned about this issue and intend to follow the implementation of his proposal carefully. I would hope that my colleagues will support this amendment.

Mr. HATCH. Mr. President, I urge the adoption of the amendment.

Mr. President, is the D'Amato amendment pending?

The PRESIDING OFFICER. Amendment No. 978 is the pending business.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 978) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE].

AMENDMENT NO. 979

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 979.

At the end of the bill add:

To amend section 1915(a)(1) of the Public Health Service Act add after programs: (including those for juvenile and adult substance abusers in state and local criminal justice systems).

Mr. CHAFEE. Mr. President, today I am offering an amendment on behalf of myself, Senator BIDEN and Senator D'AMATO to provide funding for States through the alcohol, drug abuse, and mental health block grant for State prisons.

Over the past year, and particularly the past month, the Senate has avidly debated the drug problem. Yet, there is one issue that Congress has failed to address adequately—the availability of rehabilitation programs in prison.

Congress has been working to solve the prison overcrowding problem by increasing funds for prison construction. I agree that we need prison beds, and have been supportive of these efforts. Nonetheless, we must recognize that part of the prison overcrowding problem can be attributed to repeat offenders. Many are released from prison only to return again to patterns of criminal behavior—a phenomenon known as recidivism. One of the primary causes of recidivism is crime directly and indirectly caused by addiction to drugs. Thus, part of the solution lies in breaking this cycle of crime by providing comprehensive drug rehabilitation programs in State and Federal prisons.

Drug-related crimes have overwhelmed our criminal justice system. To illustrate my point, let me share some startling statistics:

In Washington, DC, in 1985, 25 out of 148 homicides were drug related. In 1988, 225 out of 372 homicides were drug related. That is a 43-percent increase.

In a 1980 study, on the average, heroin addicts committed crimes 178 days per year, primarily to support their habit.

At least 60 percent of prisoners nationwide had substance abuse problems before incarceration.

Of 2,000 arrestees tested for drug use in 12 cities, between 53 and 79 percent tested positive for illicit drugs in the 24-48 hours after their arrest.

Recidivism appears to be linked to drug abuse among many offenders. One study found that 62 percent of the approximately 100,000 inmates released in 11 States were arrested again within 3 years—41 percent returned to prison. Of those originally arrested on drug offenses, 50 percent were arrested again within 3 years of their release.

Several States have begun to implement drug rehabilitation programs in their correctional facilities. One program worth noting is the 13-year-old "Stay'n Out" program in New York which has been extremely successful in rehabilitating inmates and reducing the rate of recidivism. Independent studies have shown an 80-percent success rate—that means that 8 out of 10 inmates who complete the program are not rearrested, do not use drugs, and do not commit more crimes after being released.

This amendment will allow States to use the alcohol, drug abuse, and mental health block grant for developing programs in State prisons and juvenile facilities.

It is not our intention to replace existing funds in these programs. These funds are to be used to expand existing programs or to create new programs. I hope the conferees on this bill will concur in our intentions.

The criminal justice system currently does little to rehabilitate inmates—many just get out of jail, commit more crimes, and return to jail. Now, inmate rehabilitation by itself will not solve the prison overcrowding problem. However, programs that reduce the rate of recidivism must be an essential component of a cost-effective solution. Without drug rehabilitation programs in prisons we will continue to release hardened criminals into our communities to sell drugs to our children and rob our homes for money to buy drugs.

I thank Senator BIDEN and Senator D'AMATO for joining me in this effort to prevent transgressors from repeating crimes and overcrowding our prisons. In addition, I appreciate the efforts of Senator HATCH and BIDEN for cosponsoring this proposal.

Mr. HATCH. Mr. President, we accept this amendment on this side.

Mr. BIDEN. Mr. President, we accept it on the majority side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 979) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I want to thank the managers on both sides.

The PRESIDING OFFICER. The President pro tempore, Senator BYRD, is recognized.

PROVIDING AUTHORIZATIONS FOR ANTIDRUG ABUSE APPROPRIATIONS

Mr. BYRD. Mr. President, this is a request that has been cleared with the leadership on both sides.

I ask unanimous consent that the Senate proceed to the immediate consideration of the following bill S. 1735, which I send to the desk. The bill contains the provisions relating to antidrug abuse funding that was passed by the Senate as a portion of H.R. 3015, the fiscal year 1990 transportation appropriations bill on September 27, spe-

cifically amendments 137 through 144 printed on pages 89-140 of H.R. 3015 as passed by the Senate; and that the bill be considered as having been read three times, passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection to the request?

Mr. DECONCINI. Mr. President, I object until I can ask a question of the chairman.

Will the chairman tell us what that is? Does that change any of the substance in the transportation bill, as amended by the drug amendment?

Mr. BYRD. Mr. President, Senators will recall that in connection with passage of the modified Byrd amendment on the fiscal year 1990 Transportation appropriation bill, H.R. 3015, an agreement was entered into by the bipartisan Drug Task Force that allowed certain legislative amendments that related to antidrug abuse programs to be included on the Transportation appropriation bill.

Those amendments, which are amendments 137 through 144, are printed on pages 89 through 140 of H.R. 3015 as passed by the Senate.

There was a commitment by the task force to support not only the drug funding levels included in H.R. 3015, but these legislative provisions as well, in conference with the House.

Mr. President, it has now become very clear that the House Appropriations Committee is not in a position to conference these legislative provisions. The Speaker and the chairman of the House authorizing committees with jurisdiction over these legislative amendments have met on several occasions over the last few days and these authorizing committees feel very strongly that they should have a right to consider these provisions in their committees, rather than allowing them to be conferenced in an appropriation bill.

Therefore, the bill at the desk includes all of the legislative provisions related to antidrug abuse that were adopted by the Senate in the Transportation appropriation bill. Upon passage by the Senate, this bill will enable these provisions to be considered by the appropriate House authorizing committees and will enable the Appropriations Committee to proceed with its conference on H.R. 3015.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

The request that the bill be considered to be read three times and passed and the motion to reconsider be laid on the table is agreed to.

The bill (S. 1735) was passed, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of Health and Human Services, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or his designee, shall use amounts made available under paragraph (4) to make a grant to an institution of the type described in paragraph (2) for the establishment of a National Resource and Information Center for Perinatal Addiction.

(2) The grant under paragraph (1) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in providing educational services to maternal substance abusers and their exposed infants.

(3) The Center established under paragraph (1) shall—

(A) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

(B) develop and distribute training and educational information and materials concerning maternal substance abuse;

(C) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

(D) develop and manage a national toll free hotline to provide information and referrals;

(E) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

(F) provide any other services designed to carry out the purposes of this subsection.

(4) There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.

(b) Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POSTPARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration or his designee, shall make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and postpartum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems; and

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 percent of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(f) There are authorized to be appropriated to carry out this section, $50,000,000 in

fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 2. (a) The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new subsection:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section part shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families; and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b)(1) Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 3. Title V of such Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, school of nursing, schools of public health, school of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATION.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 4. DRUG-FREE SCHOOLS AND CAMPUSES.—(a)(1) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof a new section 1212 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provisions of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.".

(2) The provisions of paragraph (1) shall take effect on October 1, 1990.

(b)(1) Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding at the end thereof a new section 5145 to read as follows:

"CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS

"SEC. 5145. (a) Notwithstanding any other provisions of law, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) mandatory, age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide in-

formation about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(I) determine its effectiveness and implement changes to the program if they are needed; and

"(II) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

"(d)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) sanctions, up to and including the termination of any form of financial assistance, for local educational agencies that fail to implement their programs or to consistently enforce their sanctions.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.".

(2) The Drug-Free Schools and Communities Act of 1986 is further amended in section 5126(c)(2) by—

(A) striking out subparagraphs (E), (F), and (G); and

(B) redesignating subparagraphs (H) through (M) as subparagraphs (E) through (J), respectively.

(3) The provisions of paragraphs (1) and (2) shall take effect on October 1, 1990.

(c) Notwithstanding any other provision of this section, this section shall not take effect until enactment of a law containing the following provisions:

"SECTION 1. (a) This section may be cited as the 'Transportation Employee Testing Act of 1989'.

"(b) The Congress finds that—

"(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

"(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, railroads, trucks, and buses to perform in a safe and responsible manner;

"(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, railroads, trucks, and buses;

"(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

"(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

"(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

"(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

"(c)(1) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"'ALCOHOL AND CONTROLLED SUBSTANCES TESTING TESTING PROGRAM

"'SEC. 613. (a)(1) The Administrator shall, in the interest of aviation safety, prescribe regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"'(2) The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"'(3) In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"'PROHIBITION ON SERVICE

"'(b)(1) No person may use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"'(2) No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"'(3) Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"'(A) engaged in such use while on duty;

"'(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c) of this section;

"'(C) following such determination refuses to undertake such a rehabilitation program; or

"'(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"'PROGRAM FOR REHABILITATION

"'(c)(1) The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) of this section in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1) of this section. The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in coopera-

tion with any other air carrier or foreign air carrier.

"'(2) The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"'PROCEDURES

"'(d) In establishing the program required under subsection (a) of this section, the Administrator shall develop requirements which shall—

"'(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(B) establish the minimum list of controlled substances for which individuals may be tested; and

"'(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and renovation of certification of laboratories to perform controlled substances testing in carrying out this section;

"'(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individuals' confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"'(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'EFFECT ON OTHER LAWS AND REGULATIONS

"'(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"'(2) Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"'(3) In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"'DEFINITION

"'(f) For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Susbstances Act (21 U.S.C. 802(6)) specified by the Administrator.'.

"(2) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"'Sec. 613. Alcohol and controlled substances testing.
"'(a) Testing program.
"'(b) Prohibition on service.
"'(c) Program for rehabilitation.
"'(d) Procedures.
"'(e) Effect on other laws and regulations.
"'(f) Definition.'.

"(d) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"'(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"'(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"'(B) requires, as the Secretary considers approprate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"'(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"'(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"'(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"'(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"'(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"'(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"'(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"'(5) For the purposes of this subsection, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.'.

"(e)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following:

"'SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"'(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"'(b) TESTING.—

"'(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"'(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"'(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"'(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"'(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"'(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"'(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"'(B) establish the minimum list of controlled substances for which individuals may be tested; and

"'(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"'(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"'(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"'(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"'(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"'(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"'(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"'(e) EFFECTIVE ON OTHER LAWS AND REGULATIONS.—

"'(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"'(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"'(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"'(f) APPLICATION OF PENALTIES.—

"'(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"'(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"'(g) DEFINITION.—For the purposes of this section, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.'.

"(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"'Sec. 12020. Alcohol and controlled substances testing.'.

"(f)(1) The Secretary shall design within nine months after the date of enactment of this subsection, and implement within fifteen months after the date of enactment of this subsection, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

"(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

"(3) The Secretary shall ensure that the States selected pursuant to this section are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

"(4) The pilot program authorized by this section shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

"(5) Not later than thirty months after the date of enactment of this section, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

"(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

"(7) For purposes of this subsection, the term 'commercial motor vehicle' shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).".

SEC. 5. No local educational agency shall use any of the funds which are released by this section unless funds are made available for each fiscal year to the chief executive officer of a State which may be used with existing power for random drug testing programs for students voluntarily participating in extracurricular activities and using existing power such testing is done only in schools which voluntarily choose to participate in such a program.

SEC. 6. AMENDMENT RELATING TO THE SPECIAL FORFEITURE FUND.—(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended to read as follows:

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1). For each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: Provided, That such amounts will be transferred on a quarterly basis: Provided further, That an amount not to exceed $15,000,000 or, if determined by the Attorney General to be necessary to meet asset specific expenses, an amount equal to one-tenth of the previous year's obligations, may be retained in the Fund and remain available for appropriation.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended to read as follows:

"(b) DEPOSITS.—In each of fiscal years 1990, 1991, 1992, and 1993, there shall be transferred to and deposited in the Fund, from the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. 524(c)(9), not to exceed $150,000,000: Provided, That amounts specified in the second proviso of said section may be retained in the Assets Forfeiture Fund and remain available for appropriation.".

SEC. 7. (a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990: Provided, That, none of the funds made available under this Act for the Office of National Drug Control Policy from the special forfeiture fund may be used by the Director of National Drug Control Policy after February 1, 1990, if the Director has not by that date designated high-intensity drug trafficking areas pursuant to section 1005(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690).

SEC. 8. (a) Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(d) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(e) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b)(1) The Secretary of Health and Human Services shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(2)(A) Sections 1916B (a)(4) and (a)(5) of such Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under paragraph (1) are published in the Federal Register.

(B) The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. 9. WAIVER AUTHORITY FOR INTERNATIONAL PROGRAMS.—Funds appropriated to carry out the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act may be made available for any narcotics-related activities in Colombia, Bolivia, and Peru to carry out any provisions of such Acts notwithstanding the provisions of—

(1) section 620(q) or section 660 of the Foreign Assistance Act; or

(2) section 518 of the Foreign Operations, Export Financing, and Related Appropriations Act, 1989, or any other provision that similarly restricts the furnishing of assist-

ance to countries in default on payment to the United States of principal or interest on any loan.

SEC. 10. Of amounts made available under this Act, $462,584,000 shall be used for the block grant program under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to make grants to carry out substance abuse programs, except that such amount shall not be used to calculate amounts to be used for programs and activities relating to substance abuse as required by section 1916(c)(7)(B) of such Act.

SEC. 11. Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (2), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(2) in paragraph (3), by inserting "and those infants who are victims of parental substance abuse" before ", to reside";

(3) in paragraph (4), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(4) in paragraph (5), by inserting "and those infants who are victims of parental substance abuse" before the semicolon;

(5) in paragraph (6), by inserting "and those infants who are victims of parental substance abuse" before the semicolon; and

(6) in paragraph (7), by inserting "and those infants who are victims of parental substance abuse" before the period.

SEC. 12. Section 1912A of the Public Health Service Act (42 U.S.C. 300x-1a) is amended—

(1) in subsection (a)(4)(B)(i)—

(A) by striking out "0.4" in subclause (I), and inserting in lieu thereof "0.2"; and

(B) by striking out "indicated by the most recent data collected by the Bureau of the Census" in subclause (II), and inserting in lieu thereof "determined by multiplying the percentage of the State's population that resides in urbanized areas of the State (as indicated by the most recent decennial census compiled by the Bureau of the Census) by the most recent estimate of the total population of the State";

(2) in subsection (a)(4)(B)(ii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(3) in subsection (a)(4)(B)(iii)(I), by striking out "0.2" and inserting in lieu thereof "0.266";

(4) in subsection (a)(4)(B)(iv)(I), by striking out "0.2" and inserting in lieu thereof "0.267";

(5) in subsection (b), to read as follows:

"(b)(1) In fiscal year 1989, each State shall receive a minimum allotment under this subpart of the lesser of—

"(A) $8,000,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the State received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the State received under part C for fiscal year 1988.

"(2) In subsequent fiscal years, each State shall receive a minimum allotment under this subpart that is equal to the amount that such State received in fiscal year 1989 under paragraph (1) for the minimum amount that such State was entitled to under such paragraph plus an amount equal to such minimum multiplied by the percentage increase in the amount appropriated under section 1911(a) in such subsequent fiscal year above the amount appropriated for the immediately preceding fiscal year."; and

(6) in subsection (f), to read as follows:

"(f) For purposes of subsection (e), the applicable amount for each fiscal year is $330,000,000.".

SEC. 13. (a) Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$375,000,000".

(b) Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—

"(1) IN GENERAL.—From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2) REQUIREMENTS.—

"(A) INITIAL GRANTS.—In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundries of the local educational agency. Such grant shall be of sufficient size, scope, and quality to be of value and effective.

"(B) LOCAL AGENCIES.—After satisfying the requirements of subparagraph (A), the chief executive officer of a State receiving a grant under this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problems that affects schools and students within the boundries of the local educational agency.

"(3) WAIVER.—The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking out "IN GENERAL.—Not" and inserting in lieu thereof "REMAINDER.—From the remainder available to carry out this section, not".

Mr. BYRD. I thank the leadership on both sides.

IMPLEMENTATION OF THE PRESIDENT'S 1989 NATIONAL DRUG CONTROL STRATEGY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

AMENDMENTS NUMBERED 980 AND 981

Mr. HATCH. Mr. President, I send two amendments to the desk on behalf of Senator WILSON and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes amendments numbered 980 and 981.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 980

(Purpose: To express the sense of the Senate regarding education to prevent the use of drugs and beverage alcohol during pregnancy)

At the appropriate place, insert the following:

SEC. . (a)(1) DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(A) FINDINGS.—The Senate finds that—

(i) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(ii) 375,000 infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(iii) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(iv) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(v) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(vi) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(vii) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(viii) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States;

(ix) preventive drug abuse resistance education programs Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(b) Part B of the Drug Free Schools and Communities Act of 1986 is amended as follows:

"SEC. 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy."

AMENDMENT NO. 981

(Purpose: To provide for a study of infants born drug-exposed due to maternal substance abuse during pregnancy)

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

Mr. HATCH. Mr. President, both amendments have been approved by both sides, and I urge their adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendments numbered 980 and 981, en bloc.

The amendments (Nos. 980 and 981) were agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, it is my understanding that we have only one other amendment to which we will agree on both sides, and that is the amendment by the distinguished Senator from Massachusetts [Mr. KERRY]. We have a number of other amendments that others have threatened to bring to the floor. We will be able to keep them off the bill if this is the last amendment.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I have a slight correction. There are two that have been agreed to, both being physically typed. One I see made it to the floor, and the other is 30 seconds behind. We have agreed to them on both sides. One is the Wilson amendment and one is the Kerry amendment. As long as either agrees to not speak at all on either amendment, we will agree to them.

AMENDMENTS NOS. 982 AND 983

Mr. HATCH. Mr. President, I send two amendments to the desk, en bloc, in behalf of Senators WILSON and KOHL, and ask for their immediate consideration. These were inadvertently left out of the last package.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HATCH. May I have the amendments read?

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. WILSON, proposes an amendment numbered 982, and for Mr. KOHL, (for himself, Mr. KENNEDY and Mr. SIMON) proposes an amendment numbered 983.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 982

SEC. . UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the governments of the United States and Mexico, pursuant to Sec. 4407 of P.L. 100-690, have a Letter of Agreement committing Mexico to reduce drug production, drug consumption, and drug trafficking within its own territory," and "increase cooperation with United States drug enforcement officials;"

(2) between 30 and 33 percent of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 percent of its illegal cocaine seizures in the Southwest Border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least 11 major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the U.S. Customs Service estimates that such illicit traffickers have approximately 2,000 clandestine runways at their disposal on the American side of the border;

(5) Section 2013 of P.L. 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs.

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the agreement, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to section 2013 of P.L. 99-570.

Mr. WILSON. Mr. President, I rise to introduce an amendment for the purpose of trying to defuse what has become an agonizing annual struggle among the administration, Congress, and the Government of Mexico.

I refer to the certification process for narcotic-producing nations mandated by the Anti-Drug Abuse Acts of

1986 and 1988. As a result of the prerogative of Congress to pass resolutions decertifying the yearly Presidential reports on whether a foreign government has fully cooperated with the United States, to curb the flow of drugs entering the United States, the Senate has endured two bruising battles with regard to the interdiction record of the Mexican Government.

During these debates, I was once on the losing side and once on the winning side. In 1987, the Senate refused to adopt a resolution of decertification on Mexico, while in 1988 we approved one by nearly a two-thirds margin. But I have witnessed few debates in this body that have left so much misunderstanding and bitterness on both sides concerning the role of Congress in the process of judging another country's efforts to fight the international drug cartels.

Perhaps the central question that gave rise to all of the anger and accusations was the somewhat ambiguous definition of the term full cooperation as it appears in the law. Many of my colleagues legitimately asked what full cooperation meant and how a distant legislative chamber could measure it and then evaluate its merits or shortcomings. The Mexican Government argued that while Congress ignored its achievements in confronting the drug menace, it seized on minor and unavoidable flaws in performance or imposed unclear conditions impossible to fulfill.

The Anti-Drug Abuse Act of 1986, Mr. President, began to remedy some of the shortfalls in the certification process that we learned from our prior debates on the matter. To give more definition to the term of full cooperation, it required the United States Government to negotiate a letter of agreement with Mexico that would outline specific bilateral steps to curb the production and traffic of illicit narcotics.

As negotiated and signed on February 23, 1988, however, this agreement simply restates both nation's commitment to undertaking joint drug interdiction programs. It does not, Mr. President, spell out any new initiatives and it was cobbled together as a pro forma compliance with the law.

My resolution attempts to move the Congress and the administration away from such pro forma rhetoric that has caused so much consternation on this floor since 1987 and toward a specific benchmark or milestone of cooperation on which both nations can work as we approach the next certification period in March 1990.

The smuggling of narcotics by air, Mr. President, clearly presents the most difficult trafficking problem between the United States and Mexico. More than 60 percent of the cocaine that seeps into our land from locations south of the border come by clandestine aircraft. The American Southwest is dotted with some 2,000 makeshift landing strips on which the airborne trafficker can drop his supply. But without wings and propellors, the South American drug cartels would shrivel—losing their speed and evasiveness in the skies, they would have to rely on mules, riverboats, cars, and millions of willing feet. Indeed, the success of the United States-Bahamas task force in combatting the seaborne traffic of drugs has only forced the kingpins to rely even more on the clouds and the air.

This resolution, Mr. President, declares that the President should initiate discussions with the Government of Mexico to conclude a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. It further states that if the administration certifies that both sides have made significant progress on the conclusion of such an agreement, including hot pursuit, joint crewing, and overflight arrangements, the Senate would consider this development as a credible sign of the Mexican Government's desire to cooperate fully with the United States in illegal drug interdiction programs.

Since the Congress created the certification process, Mr. President, we have an obligation to identify the results that we anticipate from it. By targeting one of the largest fundamental problems in the United States-Mexican narcotics control program, this resolution certifies our own commitment to helping devise an international drug interdiction strategy instead of annually bemoaning its absense.

AMENDMENT NO. 983

(Purpose: To require the Secretary of Health and Human Services to conduct a study of the child and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.)

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

Mr. HATCH. Mr. President, I urge adoption of the amendments.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendments 982 and 983.

The amendments (Nos. 982 and 983) were agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendments were agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 984

(Purpose: To improve the ability of States and localities impacted by narcotics related crime to monitor, track, and prosecute major narcotics offenders, money launderers, and youth gangs involved in narcotics activity by improving intelligence regarding narcotics trafficking and money laundering operations)

Mr. KERRY. Mr. President, on behalf of myself and others, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. LEVIN, Mr. D'AMATO, Mr. SANFORD, Mr. HARKIN, and Mr. MURKOWSKI, proposes an amendment numbered 984.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new sections:

SEC. . Section 501b of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 3711 et seq) as amended by the

Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"21. Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"22. Organizing, educating and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.".

At an appropriate place add the following new subsection:

"States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

Mr. KERRY. Mr. President, on behalf of myself, Senator LEVIN, Senator D'AMATO, Senator SANFORD, Senator HARKIN, and Senator MURKOWSKI, I send to the desk an amendment designed to help States and localities fight the war against drugs by providing them with assistance for drug intelligence.

In the original version of this bill, which I will move in the future, we would have authorized $120 million in new funds to help States and localities impacted by narcotics-related crime to improve their drug intelligence operations, including direct formal grants to cities of over 100,000 in population.

We were not able tonight to achieve an agreement with the administration that would have been necessary to secure both passage and the assurance of funding for that legislation. Accordingly, I am instead tonight moving a compromise, which should provide some help to localities as they seek to improve their ability to fight drugs, but not nearly that which is urgently needed.

It is clear to me that today we have a serious gap in drug law enforcement: Specifically, law enforcement at the street level cannot compete with the drug dealers themselves in getting adequate intelligence as to what is going on, on the street.

Today the crime problem in the United States is the drug problem. In those cities where cocaine usage has gone up the most, violent crime has gone up the most, too. The result is that local law enforcement are swamped. They are making more arrests—putting more people in prison—but the price of cocaine continues to go down as supplies increase.

It is clear we must improve the quality of our arrests and prosecution. We can do that best by focusing our resources on improved narcotics intelligence, aimed at making the best cases against the biggest drug and money laundering enterprises—and the youth gangs they are using as some of their principal distribution networks.

The appropriate way to do that best would be by providing cities over 100,000 with direct grants, and by providing the States with additional funds to create drug intelligence and information networks for smaller urban, suburban and rural areas, an approach developed in the original amendment I had intended to offer, the Drug Intelligence Assistance Act of 1989.

In its final form, following negotiations with representatives of the Justice Department, the amendment that I am instead proposing tonight focuses on this problem by adding additional purposes to the current authorized purposes of Federal justice assistance funds. Specifically, it directs that the States may use justice assistance grants to develop better narcotics intelligence networks and systems, and to organize and train special drug intelligence units to combat narcotics trafficking and money laundering criminal enterprises.

The current pool available for these purposes, along with the other purposes authorized by justice assistance will be about $450 million, which I hope will begin to make a significant difference to our States and localities as they try to combat the narcotics menace.

This amendment also directs, however, that in making allocations for drug intelligence, that the States give priority to the "most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations." That means that the cities, which have been having the hardest time keeping up with the new burdens imposed on them by drug related crimes, should receive the most assistance for drug intelligence under these provisions.

This amendment is the first step in what I intend to be a series of steps designed to leverage a discrete amount of Federal support into significant improvements in the ability of States and localities to locate, track, arrest, and prosecute major narcotics enterprises. Too often today localities do not possess the technical means to combat the enormous enterprises that now control the drug trade.

Over the summer, I chaired a series of field hearings in Massachusetts as head of the Subcommittee on Terrorism and Narcotics of the Foreign Relations Committee, to ask local law enforcement officials what they most needed to fight a drug war. The answer was clear: They don't have adequate resources in place for drug intelligence, and to get it, they need Federal assistance.

And I would like to quote just a few of the comments I received at that time:

From Kim Jajuga, Essex County Drug Task Force, in Massachusetts:

The people in Lawrence and Lynn do not see the international drug trafficker. They do not see Fabio Ochoa in downtown Lawrence. But they cannot live in Lawrence and Lynn in some of these streets. They cannot go outside their houses. They are fearful for their lives.

Mr. Jajuga told me then that there was something he hated to bring up, because it was so basic:

We do not have currently a statewide criminal intelligence network similar to the NADDIS system that is run by the DEA where myself or any one of the other local police chiefs or detectives sitting at this table can access that computer for criminal intelligence. In 1989, Senator, we still have to rely on the old word of mouth and the telephone, and only on personal contact will we get the information necessary.

What kind of equipment do the law enforcement officers on the street have to fight major drug enterprises? According to Mr. Jajuga:

We do not have any sophisticated equipment. There are no pools of sophisticated equipment that are readily available to us.

Lynn has a growing heroin problem—

Mr. Jajuga testified—

Lynn's problem is directly related to New York. Yet there are no formal communications, no formal centralized computer system, no formal anything other than just that one-on-one contact that I have with the New York City Police or the New York City Drug Task Force. It is ludicrous in 1989 that we are still working on this type of system.

Ludicrous, yes. And today, the Federal Government isn't doing anything about it.

When I was a State prosecutor in the mid-1970's, the Federal Government was spending $875 million in 1975 dollars in State and local law enforcement assistance. Last year, that figure was only $150 million total, and even now at $350 million, we have no program for helping the States and cities with drug intelligence.

To quote Plymouth County District Attorney Ron Pina,

Most of the information dealing with crimes and drugs come from the local offices. * * * And that information gets into an office, and then does not get out appropriately to DEA or to the State police * * *. There is no central location.

District Attorney Pina said that if there were a central drug intelligence data base for the sharing of information, it would have a significant impact in his ability to determine the size and location of major narcotics organizations and thereby increase the likelihood of an effective prosecution to shut them down.

There has to be a system by which we share this information and it has got to be on an organized basis, not on a hit-and-miss, case-by-case basis.

And this amendment would make it possible for States and localities to begin the creation of precisely such an organized network.

As Kevin Burke, district attorney, Lawrence, MA, testified before me:

If there is a message that we would like to have you bring back to Washington regarding this new strategy that seems to be emerging, it is that we on the battlefields want a real war on drugs. There has never been one conducted in the 11 years that I have been district attorney. If rhetoric and words are ammunition, then there has been a considerable amount of ammunition fired in the direction of drug dealers, but unfortunately, we found out that the drug dealers are simply not reading the press releases.

We are talking about an investment of billions of dollars that has to be committed on a long-term basis.

All we are doing on the streets is fighting a holding action.

In the words of James O'Neil, attorney general of the State of Rhode Island:

We operate within a criminal justice system that is essentially bankrupt; we operate on shoe-string budgets. We have clear thinkers, but we do not have the resources that allow you to gain the leadership that is necessary.

Attorney General O'Neil testified that drug assistance such as contained in this amendment is the "most glaring need we in the State and local level have."

In the words of Massachusetts Attorney General Jim Shannon:

Priority must be given to those who are out on the frontlines of this war. That means before we fund any studies or plans or Ph.D.'s to tell us we have a problem, let us instead bolster our troops. That means more investigators * * * it means better surveillance equipment.

It's the same story around the rest of the United States, and our cities have the biggest problems of all. We all have heard about what has been happening in Washington, DC, because we're all here, at least during the week.

But the trouble spreads across our land, Mr. President. Major cities across the country experienced significant increases in homicides last year, violent crime is up, serious crime is up, and all the while, Federal assistance has remained at a fraction of the level we provided in the 1970's.

As the U.S. Conference of Mayors and police chiefs found this year, when they developed and adopted a comprehensive national antidrug strategy:

A direct Federal-city relationship must be instituted in the Federal antidrug grant programs to make sure that the funds will be used quickly and effectively in the areas where they are needed most.

In the months to come, I intend to return to this body to request direct aid to cities for law enforcement assistance, as would have been provided under the original version of this legislation. I believe that it is in the interests of the Nation that the Federal Government do its share to help States and cities fight drugs, and that it can best do so by providing not just grants to the States, but to the cities directly.

I urge adoption of the amendment.

Mr. SANFORD. Mr. President, I rise in support of the amendment of my colleague from Massachusetts and commend him for his efforts. I am proud to be an original cosponsor of this legislation when it was introduced as a free-standing bill.

As we all know, the drug epidemic ultimately manifests itself in the form of crimes in our cities and towns. Accordingly, most of the burden of dealing with it falls upon our local law enforcement agencies and officers—sheriffs, the police, and prosecutors.

In a recent trip to North Carolina, I met with several law enforcement officials in our rural areas. I learned that the scourge of drugs has reached even our small towns and farming communities. Crack factories are sprouting up in isolated areas.

Our police are doing the best they can to fight this overwhelming problem, but their resources are limited and the problem is huge. They need our help—and we owe it to them.

This amendment would provide just that help. It would provide badly needed funds to our State and local governments to improve their intelligence gathering capabilities, thus resulting in more arrests, prosecutions, and convictions. Furthermore, this assistance would be made available to cities, where street violence is soaring, and to rural areas to combat their own special problems.

The drug war must be fought on all levels, and this amendment helps achieve that goal.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 984.

The amendment (No. 984) was agreed to.

Mr. BIDEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent to include a statement explaining my amendment on civil enforcement of the crack house statute at the appropriate place in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SUBTITLE D—CIVIL ENFORCEMENT

Use of civil statutes to close crack houses. Section 416 of the Controlled Substances Act (21 U.S.C. 856) makes it a crime to operate a place for the purpose of manufacturing, distributing or using a controlled substances. This covers places such as "shooting galleries" and "crack houses." Presently this provision is enforceable only as a criminal offense which carries a maximum term of 20 years or a fine of up to $500,000.

Section of the bill amends this provision to provide for civil enforcement. Under the amendment, the Attorney General could shut down a crack house by seeking a civil injunction or eviction and could seek a civil penalty of up to $100,000. The maximum civil penalty is set substantially lower than the maximum criminal fine to make clear that this is a civil regulatory action, not a substitute for charging and proving a criminal offense.

Mr. HATCH. Mr. President, I would like to enter into a short colloquy with my friend Senator BOND.

Yesterday he offered an amendment to S. 1711 amendment (No. 918), in which I joined, to transform the bill's State and local testing requirement into a demonstration project within the Federal criminal justice system. I would like to clear up a possible misunderstanding regarding the scientific and technical standards to be incorporated into that program.

Mr. BOND. Certainly.

Mr. HATCH. The amendment states that the program "shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results." Do I understand correctly that the Secretary of Health and Human Services is to render scientific and technical advice to the Attorney General in designing the program, but that this does not mean that the Secretary of Health and Human Services has approval over the program elements?

Mr. BOND. Yes, that is correct. While the Attorney General will want to draw upon the expertise of the Department of Health and Human Services in purely technical matters, he is not expected, for example, necessarily to follow existing DHHS guidelines for other Federal programs. Indeed, he is peculiarly aware of the special circumstances of the Federal criminal justice system, and we expect him to adapt the program to reflect those realities.

Mr. HATCH. That is my understanding also, and I thank the Senator for that clarification before we proceed to final action on the bill.

LOSING THE EDUCATION AND TREATMENT BATTLE IN THE DRUG WAR

Mr. SANFORD. Mr. President, while I applaud his efforts, the drug war that President Bush outlined in his address to the Nation on September 5, is not a total war and it does not mobilize our resources adequately to win that war. If we are going to declare war on drugs, I am in favor of an all out war. I am in favor of waging a war on both the supply and the demand sides of the drug abuse problem that is thriving in America.

The administration's proposal fails by assuming that by emphasizing law enforcement and increasing prison

space, as if this would eradicate the problem of drugs. However the drug abuse problem in America is all encompassing and needs to be addressed fully on all fronts: decreasing supply through interdiction and law enforcement, as well as decreasing demand through prevention, education, and treatment.

Make no mistake about it. I favor increased strict enforcement of drug laws and increased eradication and interdiction programs. I favor helping Colombia fight their terrorist drug lords. I favor enforcement and heavy sentences for drug dealers, pushers, and users. I favor seizing drug dealers' profits and property. I favor punishing even the most casual drug user.

But none of that will win the war if we are not willing to decrease the demand for drugs through education and rehabilitation, and dispelling the reasons many Americans turn to drugs.

Every time a youth turns to drugs either from ignorance or despair or poverty, we pay the price. We pay increased taxes for jails and the confinement of more and more inmates. We pay increased medical bills because the violence of the drug trade has jammed our hospitals and emergency rooms with wounded drug dealers, gangsters, bystanders, overdosed users, and crack addicted infants. And soon, we will be paying the prices of a generation lost to the emotional, physical, and social tyranny of drugs.

If one tries to find a place for cure and treatment, the lack of sufficient facilities becomes obvious. Even though it makes economic and moral sense, we are doing very little to discourage users and almost nothing to rehabilitate and cure them.

Mr. President, on Monday, September 25, I visited with high school students in Fayetteville, NC. I spoke to them about the hazards of drug abuse and listened to their fears and reactions to the drug abuse problems they witness among their peers. When I asked them if they knew where they could take a friend for drug treatment, only three students raised their hands. I was amazed that out of the entire high school, only three knew of facilities that were available to help with drug treatment and rehabilitation.

This experience has impressed upon me the extreme need for us to focus a significant part of our efforts in this drug war on education, treatment, and rehabilitation. For this reason I supported the compromise drug package that was put together by Members on both sides of the aisle. This package added to the strength of the Bush proposal by fully funding the President's anticrime and antidrug budget requests. But it went further to add $800 million for prevention, education, and treatment. We can watch to determine whether this will be adequate.

The bill before us today, S. 1711, embodies the Bush-Bennett drug plan by requiring States and local governments to implement drug testing programs before they can receive any Federal funding. Mr. President, I believe the adminstration's focus must be adjusted. The drug plan must help our States implement drug rehabilitation and treatment, not make it more difficult for the States to receive drug assistance. This drug-testing mandate will increase the financial burden upon the States, and once the drug tests are performed the plan offers little assistance to help those individuals who have tested positively. I believe it is imperative for us to turn our efforts away from mandating States to perform drug-testing, and turn to increasing our efforts in assisting States in their implementation of drug rehabilitation and treatment programs. Testing can come after we have enough rehabilitation facilities, if at all.

I urge a continuation of efforts to further respond to the growing needs for prevention, education, and treatment programs. If we expect to win this war against drugs we must focus our resources not only on continuing the drug problem through interdiction, eradication, and law enforcement efforts. We must go to the beginning of the drug problem and provide resources for those programs which will help reduce the demand for drugs among the American people and rebuild their self-esteem and their desire to achieve.

Still, we have a long way to go. I would like to see every American, but especially minors and pregnant mothers have available and receive treatment on demand. Moreover, I would like to place emphasis on drug education programs so that every student, from rural North Carolina to Los Angeles, CA, knows where to seek treatment and help for themselves and their friends.

Until we devote enough resources to education and treatment in the drug war, we may be fighting a losing battle. We will be fighting a war with shotguns filled with rock salt. We may sting the drug lords and sellers, but only temporarily. If we do not stop the users, producers and manufacturers will continue to have an arena where they can peddle their harmful goods.

Mr. HEFLIN. Mr. President I rise today in support of President Bush's drug control strategy. I also support the democratic initiative which was made a part of this strategy. The passage of this legislation represents the final part of the first step in what we hope will be a coordinated effort to pursue the fight against illegal drugs. We started this process last year with the passage of the Anti-Drug Abuse Act of 1988 which created the Office of National Drug Control Policy. The provisions contained in that legislation as well as the funding provided in the President's drug control strategy should give drug agencies the necessary tools to make some significant gains in the war on drugs.

No one expects an easy victory in this fight. It will be a long drawn-out battle. We must not lose our will to win. All Americans must become involved and be willing to make sacrifices and do their part if we are to be successful.

This summer I held drug hearings in my State. Almost every witness who testified at these hearings was of the opinion that education is the key to success in this fight. I, too, believe that education is the answer. I did not think that the President's strategy as originally proposed did enough in the area of education and treatment. The Byrd/Democratic initiative does much to correct that deficiency. I think that any well conceived drug strategy must seek a balance between enforcement and education/treatment.

As the funds from this drug legislation are expended we in the Congress must be alert to those programs which are found to be successful. We must provide adequate funding for them and deny funding for those which do not work. In this time of deficit spending we must ensure that we are getting the most for our money even in the war on drugs.

This legislation represents a total package of $9.4 billion. The American people will consider it well spent if we are able to show some progress in our fight to remove the scourge of illegal drugs from our midst.

Mr. GRASSLEY. Mr. President, the drug epidemic in America has left no corner of our Nation untouched, including America's heartland.

President Bush and Drug Control Policy Director William Bennett have formulated a national drug control strategy as a first step toward mobilizing the Nation to respond to this very pressing problem.

The strategy provides a balanced plan of attack by all levels of Government, by the private sector, and by individual Americans against the common energy of drugs.

It may be true that there is nothing radically new in the strategy. It is modest in that it calls for a little more of everything.

But it is radical in its tone, candor, and moral seriousness.

The strategy invokes our society's dependence upon individuals to act within traditional bounds of civility and responsibility—a code of conduct based on traditional values of family, home, and community.

Our society, based on these traditional values, has a right to expect us to conduct ourselves as individuals who are a part of a larger body. It has

a right to expect individuals to respect its traditions. But it also has a right to expect us to be ultimately responsible for the consequences of our own actions.

The use of drugs represents the ultimate act of individual selfishness that rejects any responsibility for oneself, for one's actions, or for one's place in the larger society.

The use of drugs is a part of a culture that places blame for any negative conditions upon the whole society. Drugs represent a "do-your-own-thing" mentality that grew out of the 1960's, which saw our culture suffer from a massive and collective nervous breakdown.

The ultimate goal of the strategy is to reduce the number of Americans who choose to use drugs. This can only be accomplished if individuals who use drugs—whoever they are—are made accountable and responsible for the consequences of their actions.

The roots of our drug crisis are not in the jungles of Bolivia, Colombia, or Peru. They are in the streets of Washington, DC, Des Moines, IA, and other cities. And the drug problem must be solved at the door-step of the over 14 million American drug users—both casual and hardened addict—by curbing their appetite for drugs.

If there are no customers for drugs, there will be no demand. If there is no demand, the supply will rot and wither naturally.

Those who are involved with drugs—either as sellers or buyers—are at war with our society.

The drug problem is not a foreign policy problem—although interdiction and erradication in source countries is an important key to end the use of drugs in the United States; it is not a public health emergency; it is not an addiction crisis; nor can the drug problem be blamed on the chemical or biological effects of drugs.

These just mask the real culprit—we have met the problem and it is us.

Consequently, the drug epidemic is really a cultural—not a political—problem.

Do we coddle the user? Do we provide excuses for him or her? Do we give them clean needles? Do we subsidize their habit? Do we assist him or her on the best mechanics of drug-taking? No.

This is the same thinking that gives us calls for legalization. And like legalization, it is surrender of a different form, but surrender nonetheless.

Families—the most cost-effective social program ever invented, and actually, the first department of health, education, and welfare—along with churches, schools, and police, must all be involved.

The Government is relatively powerless against cultural problems. But it can delegitimize a particular societal want through the force of law. The Government has done so with some success with alcohol and tobacco.

The strategy is a strong affirmation through its effort to stigmatize the use of drugs, that we are going to attempt to do the same with cocaine.

The strategy embodies several other principles.

First, ever mindful of the responsibility to reduce the still-present Federal budget deficit, the war against drugs requires a reordering of our Nation's spending priorities—by all governmental entities.

There are those who believe that the answer to our drug problem is the expenditure of increased Federal funds. This solution will only achieve increasing the already insatiable appetite of the Congress to spend money.

We all know that spending money is the crack-cocaine habit of the Congress. We must remember that increased Federal spending will not win the war on drugs any more than increased Federal welfare spending won the war on poverty in the 1960's.

And we all need to remember that this is not solely a Federal problem.

Second, the criminal justice system must be reinvigorated to restore order and civility to neighborhoods that are now controlled by drug traffickers and their associated gangsters and thugs.

Some claim that the strategy places too much emphasis on law enforcement as the solution to the demand for drugs. Some may even say that the strategy lacks compassion.

These folks contend that in order to eliminate the demand for drugs, the Government—meaning the Federal Government—must institute programs that will employ the unemployed, feed the hungry, and shelter the homeless. In other words, we need to get at the root causes of our drug problem.

We can spend more funds for programs that make us feel good if we like. But an uzi-toting, drug pushing gang member won't be persuaded by compassion. That person already thinks he's got all the answers anyway.

While a great deal of law enforcement is aimed at the supply of drugs in the country through a coordinated program of domestic and foreign interdiction and erradication, vigorous law enforcement also has an effect on demand.

Most individuals who don't use drugs or who have stopped using drugs, do so either because their internal moral compass tells them it is wrong, or because its use is against society's written law.

Law enforcement is used not only to apprehend those who break the law, but also to deter individuals from breaking the law in the first place.

Why else do we enforce any law—from preventing speeding to preventing drug use? We enforce laws not only to apprehend wrongdoers; we enforce laws to deter wrongdoers.

Therefore, the stricter law enforcement tools contained in the strategy will reduce demand for drugs, as well as the supply of drugs.

The strategy supports putting more police in the streets; more presecutors and judges in the courtroom building, more prisons—both State and Federal; and stiffer jail terms for hardened addicts and establishing shock incarceration or boot camps for some who can be brought into the mainstream before they become habitual criminals.

We cannot excuse criminal activity as a product of drug taking. Drug use is not a crutch to be used to excuse all sorts of antisocial behavior. Drug users must be held accountable for all of their actions—even their illegal activity.

We cannot give up on users—but when they break society's rules, users should suffer the consequences.

Swift, sure, and certain punishment for those who do not respect the rights of others must never go out of style in our arsenal of weapons against any criminal element—but especially against drug sellers and buyers.

Third, our local communities must be mobilized to create an atmosphere in which drug use will not be tolerated.

The strategy does not place the burden of the fight against drugs onto the States—even though 96 percent of all drug cases are prosecuted in State courts.

The strategy does—however—place expectations on the States, including increases in State funding for State programs, to perform their fair share of the burden of the fight against drugs.

The strategy encourages the States to pass legislation to:

Establish mandatory minimum sentences for serious drug crimes such as drug trafficking, possession of large amounts of drugs, selling drugs to children, and using children to sell drugs; establish alternative sentencing statutes for first-time nonviolent drug offenders; establish asset forfeiture laws to seize real and personal property derived from illegal drug transactions involving both casual users and drug traffickers; establish schoolyard laws to create drug-free zones around locations frequented by minors and which penalize with stiff minimum and mandatory sentences anyone caught distributing drugs to minors in these zones; establish tough user accountability laws such as suspension of drivers' licenses for a period of years; suspension of State benefits—such as loans, grants, and contracts—for a period of years; and criminalization of offers, attempts, and solicitations to sell or buy drugs; establish drug-free

workplace statutes, for not only State employees and contractors, but also those professions that are licensed by State licensing agencies.

Only with a comprehensive, coordinated plan of action. Federal, State, local, individual—do we have a chance at winning this war.

Fourth, where appropriate, testing should be instituted of prison inmates at various points of their incarceration and of individuals in certain occupations that affect the public health and safety.

Finally, we need to improve on the quality and accountability of education, treatment, and rehabilitation programs.

Mr. President, S. 1711 is the Senate's first legislative response to the drug control strategy and I support it.

There are many of its provisions that I strongly support. They go a long way to implementing the goals of the strategy.

There are, however, some provisions of the bill I may not wholeheartedly agree with. But, as the strategy will change annually to meet new challenges and priorities—because we trust its goals are met—we will have an opportunity to make necessary modifications.

I look forward as we have further opportunities to revisit this very important issue.

Mr. DURENBERGER. Mr. President, today I rise to praise not only the managers of the bill, the Senators from Delaware and Utah, and the chairman of the Senate Labor and Human Resources Committee, Senator KENNEDY, but to praise President George Bush. It was President Bush's leadership that led to this day. It is his strategy that we are implementing. He has pulled the Nation together to fight the common enemy of drugs.

Last week, on the transportation appropriations bill we appropriated an additional $3.2 billion to fight drug abuse. This is on top of the $7.1 billion in the President's budget. Of this amount, nearly $2 billion will go toward education and prevention. And over $5 billion will go toward law enforcement, including $1 billion for prison construction. The additional expenditures will come from an across-the-board cut .43 percent cut of expenditures. Although the cut includes defense spending, it does not affect entitlements like Social Security.

Mr. President, the problem of drug abuse cannot be solved by the Government alone. We will not overcome this scourge until the society as a whole changes its attitude toward drugs. We know education and prevention programs have begun to make a difference on individual attitudes toward the dangers of drugs and have led to a decline in the number of casual users of drugs in this country. That is why I applaud the leaders of the Senate Committee on Labor and Human Resources, the Senators from Massachusetts and Utah. They have developed a package of amendments that is not only bipartisan, but addresses real education and treatment needs for those who abuse drugs.

Included in the leadership package are several amendments of mine. One amendment requires the House of Representatives and Senate establish Employee Assistance Plans [EAP]. EAP's provide those who are having personal problems, especially drug abuse, a program of treatment, rehabilitation, and after care. My amendment will make EAP's available to all congressional members, officers, staff, and family members. It also builds upon the amendment I offered to the 1986 drug bill that required EAP's be made available to all Federal employees. Ideally, these will become a model for private industry throughout the country.

Also included in the leadership package is my proposal to allow the Secretary of Health and Human Services make grants to increase the supply of drug treatment professionals. As we continue to learn about what works and what does not in preventing drug abuse, comprehensive community prevention has proven to be a shining light at the end of the tunnel. Yet no where in the current 28 programs that deal with the war on drugs is there money available to train professionals in community prevention services. My amendment will change this. For the first time, Federal funds can be used to train community prevention professionals.

In addition, I worked with the leaders in drafting an amendment to require treatment facilities to provide a program of posttreatment or "after care" to address the long-term needs of substance abusers. This is a very important aspect of recovery. Statistics show that we are making progress on the easy cases, but are failing when dealing with the hard cases of chronic and hardcore substance abusers. This begins with early targeting and intervention and continues with a solid program of posttreatment or after care. The amendment that the managers and I worked out will help States develop these long-term treatment and support programs.

I also commend the committee leaders and the managers of the bill for recognizing the importance of preventing the use of so-called gateway drugs. The use of gateway drugs like alcohol and tobacco often lead to more dangerous drug use. Of the high school seniors using cocaine, 60 percent began drinking beer, and 56 percent began smoking cigarettes before the age of 13. There is a clear linkage between the use of gateway drugs at an early age and the later use of illicit drugs. If we are to stop our children from using illegal drugs we need to start early and educate children about the dangers of not only illegal drugs, but also the dangers and future implications of legal, gateway drugs as well.

Finally, Mr. President, I am pleased to see that the managers understand that State and local communities have differing needs. The Committee on Labor and Human Resources recently heard testimony about the critical need for adolescent treatment beds in Mississippi. In the whole State of Mississippi there are only 26 adolescent treatment beds. By contrast, Minnesota does not have a shortage of treatment facilities. In fact, in Minnesota you can find 26 adolescent treatment beds in just one of many treatment facilities in the State. Thus, Minnesota does not need adolescent treatment funding like many other States and that is to her credit. Instead what Minnesota needs is money to address the long-term needs of the hard-to-serve chronic substance abusers. The point here, Mr. President, is that different States have different needs in their battle against drugs.

To conclude, the bill we are passing today is the culmination of the President's leadership and the Congress' willingness to follow his lead into a battle we must win. And this bill equips all facets with the essential resources to do so. We will build more prisons, have more judges and better equipped police to catch, sentence, and hold criminals. We will have more treatment facilities to handle those who wish to surrender themselves to a better, more productive drug-free life. And, we will increase the measures already taking place to inoculate the future generation from the attraction and addiction of drugs. These are important steps, that I think are in the right direction to win the battle that has cost all of us so much.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, Senators who are interested in the catastrophic bill should be aware that following this vote, which will be the last rollcall vote this evening, the distinguished Republican leader and I will be here and will be seeking to obtain unanimous consent to an agreement governing the disposition of the catastrophic bill tomorrow. We have dis-

cussed it with, I believe, all of the individual Senators who have amendments. Senators should be aware of that. It is my expectation that we will go on to the catastrophic bill as soon as the Republican Senators complete their caucus in the morning, and that means at about 10:30. I will discuss that further with the distinguished Republican leader.

So if anyone wants to participate with respect to the catastrophic bill, we are going to seek the agreement this evening. We will be on that at 10:30 tomorrow. I hope to get an agreement to limit the number of amendments and the time so we can dispose of that in an orderly fashion tomorrow. We will be on that bill at or about 10:30 tomorrow morning.

I thank my colleagues. I very much thank the managers for their diligence in handling this bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

NAYS—0

So the bill (S. 1711), as amended, was passed.

S. 1711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RURAL DRUG ENFORCEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 102. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 103. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 104. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, the Attorney General shall attempt to assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 103 of this Act.

SEC. 105. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

SEC. 106. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 per centum shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

(c) MATCHING REQUIREMENTS.—Section 504(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 per centum of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SEC. 107. SHORT TITLE.

(a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of three of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

TITLE II—JUSTICE ASSISTANCE AND DRUG TESTING

SEC. 201. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750–3766b) the following:

"DRUG TESTING DEMONSTRATION PROGRAM

"SEC. 523. (a) DEMONSTRATION PROGRAM.—The Attorney General shall establish a Federal drug testing demonstration program under this section, which shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the program may include guidelines or specifications concerning—

"(1) the classes of persons to be targeted for testing;

"(2) the drugs to be tested for;

"(3) the frequency and duration of testing; and

"(4) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(b) There is authorized to be appropriated $5,000,000 in fiscal years 1990, 1991, and 1992 to carry out the section.

"(c) STATE IMPACT STUDY.—Of funds appropriated to the National Institute of Justice for fiscal year 1990, not to exceed $400,000 shall be made available to the National Criminal Justice Association to carry out a study of the fiscal and other impacts in States of implementing drug testing programs for targeted classes of arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail. Six months following enactment of this section, the association shall report on its preliminary study findings. The final report on the study shall be completed one year after enactment of this section.

"(d) In issuing regulations pursuant to subsection (b) of this Act, the Attorney General shall also take into account any limitations on the ability of a State to meet the requirements of this Act due to the schedule of its regular legislative sessions and its procedural time requirements for adopting legislation and regulations.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end of the item relating to part E the following:

"Sec. 523. Drug testing program.".

TITLE III—MISCELLANEOUS

PART 1—MANDATORY DETENTION BY SERIOUS OFFENDERS

SEC. 301. SHORT TITLE.

This part may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 302. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 303. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

PART 2—TECHNICAL AMENDMENTS

SEC. 311. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun, or a destructive device, to imprisonment for ten years," after "sentenced to imprisonment for five years,".

TITLE IV—PUBLIC CORRUPTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1989".

SEC. 402. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes the use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents what he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United

States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 404. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 405. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE V—FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1989

SEC. 501. This title may be cited as the "Federal Debt Collection Procedures Act of 1989".

Subtitle A—Debt Collection Procedures

SEC. 511. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal Government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 per centum of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 per centum of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for one year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United

States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect one hundred and eighty days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING:

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within twenty days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within five days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as

provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within five days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within three days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within thirty days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within thirty days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the

sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within five days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property; or

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant; or

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any secu-

rity for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 per centum of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien coextensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of twenty years.

"(2) The lien may be renewed for one additional period of twenty years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first twenty-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 per centum of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.

"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 per centum of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for one year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within ten days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within seven days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within ten days of service of the notice and discovery request or within ten days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within four days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; coowned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of postjudgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memo-

randum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least three weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than twenty-five days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address of the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, coowners and tenants, at least twenty-five days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than fifty acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for ten days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 per centum of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the nondelivery of the property according to the terms of the delivery bond, and nonpayment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable ninety days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; coowned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee: *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within ten days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instructions explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within twenty days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving

them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within ten days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within five days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within ten days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within twenty days after it receives the request of the debtor or garnishee. Within ten days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within ten days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within ninety days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.
"3401. Exempt property.
"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and Aid to Families With Dependent Children benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall

not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within ninety days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 per centum or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 per centum or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 per centum or more of the outstanding voting securities of the debtor, other than the person who holds the securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) A transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for three successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others'. Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.
"3702. Deficiency rights on federally guaranteed or insured loans.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

Subtitle B—Amendments to Other Provisions of Law

SEC. 521. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 522. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal law enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 523. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due seven years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 524. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim or six years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 525. Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraphs (5) and (11) of section 523(a)".

SEC. 526. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 527. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 528. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 529. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the

date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 530. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 531. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 532. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 533. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 534. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 per centum of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or nontax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 535. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers".

SEC. 536. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 537. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 538. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 539. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 540. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 541. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

TITLE VI—TREATMENT, PREVENTION AND EDUCATION

SEC. 601. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

Title V of the Public Health Service Act is amended by inserting after section 508 (42 U.S.C. 290aa-6) the following new section:

"SEC. 508B. GRANTS FOR TRAINING OF DRUG TREATMENT PROFESSIONALS.

"(a) ESTABLISHMENT.—The Secretary shall establish a grant program to make grants to eligible institutions to enable such institutions to provide training services to increase the supply of drug treatment professionals, including professionals trained to work with adolescents, and professionals trained to work with community prevention activities.

"(b) ELIGIBLE INSTITUTIONS.—Institutions eligible to receive a grant under this section shall include medical schools, schools of osteopathy, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and other appropriate educational institutions that submit an application in accordance with subsection (c).

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FISCAL YEAR 1990.—The Secretary shall use amounts appropriated under section 508 for the fiscal year ending September 30, 1990, to carry out this section in fiscal year 1990.

"(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to make grants under this section in each of the fiscal years 1991 and 1992, such sums as may be necessary.".

SEC. 602. NATIONAL RESOURCE AND INFORMATION CENTER.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. NATIONAL RESOURCE AND INFORMATION CENTER.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall use amounts made available under subsection (d) to make a grant to an institution of the type described in subsection (b) for the establishment of a National Resource and Information Center for Perinatal Addiction.

"(b) TYPE OF INSTITUTION.—The grant under subsection (a) shall be awarded, after a competitive search, to a private nonprofit institution that has an extensive background and experience in performing research on maternal substance abuse and in disseminating such information to professionals, policymakers, the general public and the media, as well as experience in pro-

viding educational services to maternal substance abusers and their exposed infants.

"(c) DUTIES.—The Center established under subsection (a) shall—

"(1) coordinate and disseminate research on maternal substance abuse, treatment options for such women and infants of such women, and prevention strategies;

"(2) develop and distribute training and educational information and materials concerning maternal substance abuse;

"(3) act as a clearinghouse for information on treatment programs for pregnant women who are addicted to illegal substances;

"(4) develop and manage a national toll free hotline to provide information and referrals;

"(5) provide policy analysis and program evaluation to the Secretary of Health and Human Services; and

"(6) provide any other services designed to carry out the purposes of this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph, $2,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

SEC. 603. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) (as amended by section 602) is further amended by adding at the end thereof the following new section:

"SEC. 5091. GRANTS FOR SUBSTANCE ABUSE TREATMENT FOR PREGNANT AND POST-PARTUM WOMEN.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall subject to amounts available in appropriation Acts, make grants to entities to provide assistance to outpatient and residential substance abuse treatment programs relating to pregnant and post-partum women and their infants, that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) DISTRIBUTION.—In making grants under subsection (a), the Administrator shall ensure that grants are reasonably distributed among projects that provide outpatient and residential treatment.

"(2) SERVICES.—An entity shall not be eligible for a grant under subsection (a) unless such entity provides the Administrator with an assurance that such entity will use assistance provided under such grant to provide, arrange for the provision of, or refer individuals to, services that shall include—

"(A) intervention services for pregnant and post-partum women, including—

"(i) substance abuse and addiction treatment services;

"(ii) support services (such as child care and transportation services);

"(iii) education and skill building services (such as parenting and job seeking skill services);

"(iv) integration and coordination of substance abuse treatment services with prenatal or post-partum health care services;

"(v) innovative methods of outreach to identify and recruit target populations for services early in the pregnancy of individuals of such populations;

"(vi) medical screening procedures of pregnant women for past and present substance use and abuse; and

"(vii) after care services;

"(B) interventions where infants are at risk, including—

"(i) direct intervention, treatment, or rehabilitation of infants, which may include other siblings, to reduce or prevent the impact of maternal substance abuse on such children; and

"(ii) supportive services for biologic or foster parents of infants affected by maternal substance abuse;

"(C) service delivery strategies that may include—

"(i) strategies for the coordination, for purposes of identification or service delivery, of family violence and homeless shelter programs, programs under part A of title IV of the Social Security Act, and section 17 of the Child Nutrition Act of 1966, crisis pregnancy centers programs, public housing programs, and prison programs, with other likely points of access for high risk women;

"(ii) strategies concerning the involvement of significant others (such as male partners of pregnant women) as direct intervention targets or strategies to aid in the outreach and service delivery processes for women;

"(iii) strategies for co-locating multiple facilities to facilitate the delivery of services; and

"(iv) innovative strategies (such as case management) to ensure the coordinated utilization of generally unrelated service systems;

"(D) other services necessary to improve pregnancy outcomes, reduce substance abuse among women of childbearing age, and increase the stability of the family home environment.

"(c) APPLICATION.—The Administrator shall not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out this section; and

"(4) the application contains an assurance that the applicant will provide funds, other than Federal funds, in an amount that is not less than 10 per centum of the amount of the grant under subsection (a).

"(d) CONSTRUCTION.—Nothing in this section shall be construed to permit the Secretary to discriminate in the awarding of grants under subsection (a) against applicants that propose or provide residential or outpatient rehabilitation services under applicable requirements of State law, including applicants that provide services to substance abusing pregnant and post-partum women that receive treatment by order of a court or other appropriate public agency, so long as all such applications include measures that encourage substance abusing pregnant and post-partum women to seek prenatal care and rehabilitation.

"(e) There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal year 1991.".

SEC. 604. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

(a) ESTABLISHMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding after section 8 the following new section:

"SEC. 8A. EMERGENCY PROTECTIVE CHILD SERVICES GRANTS.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish a grant program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be State or local agencies that are responsible for administering protective child services or child abuse intervention services. Such agencies shall include those agencies responsible for administering foster care, child welfare, child protective services, and child abuse intervention programs.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where substance abuse has placed substantial strains on social service and law enforcement agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of the emergency situation with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multidisciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child protective services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse;

"(4) the recruitment of additional foster care families;

"(5) the recruitment of additional adoptive families; and

"(6) the establishment or improvement of coordination between the agency administering the grant and—

"(A) child protection and welfare organizations;

"(B) hospitals and health care providers;

"(C) public health and mental health professionals;

"(D) judicial and law enforcement officers;

"(E) child advocates;

"(F) public educational institutions;

"(G) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants;

"(H) public housing officials;

"(I) providers of shelter to abused and homeless females and families; and

"(J) parents and representatives of parent groups.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

make grants under this section, $40,000,000 in fiscal year 1990, and such sums as may be necessary in each subsequent fiscal year.".

(b) CHILD ABUSE GRANTS.—

(1) FINDINGS.—Section 402(A) of the Joint Resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", (approved October 12, 1984, Public Law 98-473, 98 Stat. 2198, 42 U.S.C. 5116d) is amended—

(A) by inserting after paragraph (3), the following new paragraph:

"(4) parental substance abuse places children at great risk of abuse and neglect;"; and

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8) respectively.

(2) STATE ELIGIBILITY.—Section 405(4)(A) of such Act (98 Stat. 2198, 42 U.S.C. 5116c) is amended by inserting "services to substance abusing parents, including pregnant and post-partum women," after "perinatal bonding,".

SEC. 605. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256 et seq.) is amended—

(1) by adding after the subpart heading the following:

"CHAPTER 1—GRANT PROGRAM";

(2) in section 340(q), to read as follows:

"(q) FUNDING.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2, $61,200,000 for fiscal year 1989, $73,600,000 for fiscal year 1990, and $76,200,000 for fiscal year 1991.

"(2) USE OF FUNDS.—Of amounts made available under paragraph (1) in excess of $63,600,000 in fiscal year 1990 and $66,200,000 in fiscal year 1991, the Secretary shall use up to $10,000,000 in each of such fiscal years to carry out chapter 2.

"(3) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were made received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection."; and

(3) by adding at the end thereof the following new chapter:

"CHAPTER 2—PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM

"SEC. 340A. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) DEFINITION.—As used in this section, the term 'acute and primary pediatric care' means general outpatient services such as immunizations, general physical examinations, treatment of otitis media and simple pneumonias, assessment of growth and development, and referrals.

"(b) AUTHORITY.—The Director may make grants and enter into contracts with public and nonprofit organizations, agencies, and institutions, and with individuals to pay part or all of the costs of establishing programs (such as the New York Children's Health Project) designed to provide high quality acute and primary pediatric care to economically disadvantaged children and adolescents for the purposes described in subsection (c), or operating such programs, or both.

"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section to—

"(1) provide child health stations or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to conduct health assessments, acute care, physical exams, and simple lab tests.

"(2) establish an extensive follow-up system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) provide adolescent health services that are coordinated by an adolescent health physician and that relate to specific programs for—

"(A) prenatal care for teenage pregnancies;

"(B) the identification of potential chemical substance abuse;

"(C) an intensive substance abuse prevention program; and

"(D) other adolescent health problems;

"(4) provide psychological services directly or through references, including screening, evaluation, and treatment by a psychologist under the direction of a developmental pediatrician;

"(5) establish a child abuse identification and management referral program;

"(6) establish a health service program for children in foster care;

"(7) establish a program to provide medical services and community referrals to runaway and homeless youth;

"(8) establish a program to provide services to children with special medical needs, such as a physical handicap or chronic illness; or

"(9) establish programs for other underserved children.".

SEC. 606. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(10)—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by adding at the end thereof the following new subparagraph:

"(C) establish a program to provide grants to hospitals, community health centers, and chemical dependency treatment centers that serve non-metropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, chemical dependency treatment or education services; and"; and

(2) by adding at the end thereof the following new subsection:

"(e)(1) In carrying out subsection (b)(1)(C) the Director shall provide grants in accordance with this subsection.

"(2) To receive a grant under subsection (b)(1)(C), a hospital, community health center, or treatment facility shall—

"(A) serve a non-metropolitan area or have a substance abuse treatment or education program that is designed to serve a non-metropolitan area;

"(B) by operating, or have a plan to operate, an approved substance abuse treatment program or an approved community education program;

"(C) agree to coordinate substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(D) prepare and submit an application in accordance with paragraph (3).

"(3)(A) To be eligible to receive a grant under subsection (b)(10)(C), an entity shall submit an application to the Director at such time, in such manner, and containing such information, including an assurance that assistance received under this section shall be used in accordance with paragraph (4), as the Director shall require.

"(B) State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants under paragraph (2).

"(4) An entity that receives a grant under subsection (b)(10)(C) shall use such grant to assist or establish projects that serve nonmetropolitan areas in which the need for substance abuse treatment services is greater than the capacity of available treatment facilities at the time of such grant.

"(5)(A) To receive a grant under subsection (b)(10)(C), a project shall serve nonmetropolitan areas in which the need for substance abuse treatment facilities is greater than the capacity of such existing treatment facilities.

"(B) In awarding grants under subsection (b)(10)(C), the Director shall give special consideration to—

"(i) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(ii) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(iii) projects that are designed to serve areas that have no available existing treatment facilities.

"(6) The term of each grant shall not exceed 3 years.

"(7) To the extent feasible, the Director shall provide grants to fund at least one project in each State.".

SEC. 607. DRUG ABUSE TREATMENT IMPROVEMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) (as amended by sections 602 and 603) is further amended by adding at the end thereof the following new section:

"SEC. 509J. DRUG ABUSE TREATMENT IMPROVEMENT.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, shall, subject to the availability of appropriations establish and implement a Substance Abuse Treatment Improvement Program that shall make grants to, and enter into contracts or cooperative agreements with, State and local drug abuse entities, and public and private nonprofit agencies to—

"(1) increase the total number of drug abuse treatment slots available for individuals in the United States;

"(2) improving drug abuse treatment efficacy;

"(3) provide emergency treatment expansion for geographic areas with high incidences of drug abuse among particularly vulnerable populations, including racial and ethnic minorities, adolescents in urban and rural areas, pregnant and post partum drug addicts and their infants, intravenous drug abusers, and residents of public housing projects; and

"(4) increasing public acceptability of treatment facilities within local communities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 in fiscal year 1990, of which $10,000,000 shall be made available for treatment crisis grants, and such sums as may be necessary in fiscal year 1991.".

SEC. 608. RURAL DRUG EDUCATION.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended by adding at the end thereof the following new subsection:

"(d) Not less than 5 per centum of the funds made available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for substance abuse education programs serving individuals who reside in non-metropolitan areas. The Secretary may grant a waiver of this subsection for good cause.".

SEC. 609. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

SEC. 610. EMPLOYEE ASSISTANCE PROGRAMS.

Section 2101 of the Anti-Drug Abuse Act of 1988 (20 U.S.C. 566) is amended—

(1) in subsection (d), by striking out "$5,000,000" and all that follows through the period and inserting in lieu thereof "$5,300,000 for each of the fiscal years 1990 and 1991 of which $300,000 shall be made available to carry out subsection (d).";

(2) by inserting after subsection (c), the following new subsection:

"(d) CONGRESSIONAL EMPLOYEE ASSISTANCE PLANS.—The Clerk of the House of Representatives and the Sergeant at Arms of the Senate shall each develop and implement an Employee Assistance Program under this section for Congressional members, officers, staff, and families of such individuals. Prior to submitting an application under subsection (b), the Clerk and the Sergeant at Arms shall obtain approval of its plan from the House of Representatives and the Senate."; and

(3) by redesignating subsection (d) as subsection (e).

SEC. 611. STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) assess drug treatment and prevention programs in effect on the date of enactment of this Act;

(2) identify those drug treatment and prevention programs that are effective;

(3) determine whether the programs referred to in paragraph (2) can and should be expanded or extended to other areas;

(4) determine whether Federal assistance for treatment and prevention programs in effect on the date of enactment of this Act should be discontinued; and

(5) recommend an overall Federal medical and public health effort to treat individuals who are addicted to illegal drugs and to further prevent the use of such drugs.

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of General Medical Science to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of General Medical Sciences, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences and the National Institute of General Medical Sciences decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other appropriate nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c).

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committees on Energy and Commerce and Judiciary of the House of Representatives and the Committees on Labor and Human Resources and Judiciary of the Senate, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

SEC. 612. COMPREHENSIVE DRUG PREVENTION PROGRAMS.

Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended—

(1) in subsection (b)(8), by inserting before the semicolon the following: ", including a program that shall establish a comprehensive approach to drug prevention"; and

(2) in subsection (c)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) To be eligible to receive assistance under subsection (b)(8), as a program taking a comprehensive approach to drug prevention, an institution shall establish or expand a drug prevention program that is comprehensive in nature, and that includes—

"(A) an anti-drug policy;

"(B) peer to peer drug abuse programs;

"(C) the provision of complete and accurate information concerning drugs;

"(D) the involvement of the family and community; and

"(E) the participation of the institution in a communication system established by the county that such institution operates in for the purpose of sharing drug prevention and education information with local agencies.

SEC. 613. DRUG-FREE WORKPLACE REQUIREMENTS.

(a) FEDERAL CONTRACTORS.—Section 5152(a)(1)(B) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

(b) FEDERAL GRANT RECIPIENTS.—Section 5153(a)(1)(B) of such Act (41 U.S.C. 702(a)(1)(B)) is amended—

(1) in clause (iii), by striking out "and" at the end thereof;

(2) in clause (iv), by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new clause:

"(v) the dangers of drug abuse among children, including the information parents need to know to identify the early signs of drug use by children;".

TITLE VII—FORFEITURE

SEC. 701. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is

amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 702. RESTORING EQUITABLE SHARING.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking the semicolon and "and" after the semicolon in subparagraph (A) and inserting a period;

(2) striking the dash and "(A)"; and

(3) striking subparagraph (B).

(b) EFFECTIVE DATE.—Section 6077 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4324-25), is amended by striking subsection (c).

SEC. 703. DISPOSITION OF FORFEITED PROPERTY AND STATE LAW.

(a) Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended by—

(1) striking subparagraph (B);

(2) striking the dash and "(A)"; and

(3) striking "; and" and inserting a period.

(b) Section 6077 of the Anti-Drug Abuse Act of 1988 is amended by striking subsection (c).

(c) The amendment made by subsection (a) shall be effective with respect to fiscal years beginning with fiscal year 1990.

SEC. 704. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 705. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 706. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 707. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 708. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 709. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 710. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 711. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

SEC. 712. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 713. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 714. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

TITLE VIII—CIVIL ENFORCEMENT AND CONSTITUTIONAL GOVERNMENT IN PANAMA

Subtitle A—Civil Enforcement

SEC. 801. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 802. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such

remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

Subtitle B—Constitutional Government in Panama

SEC. 811. POLICY TOWARD EFFORTS TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government in Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—(1) It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama;

(B) the President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the steps he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

TITLE IX—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 901. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1990, the following sums (which shall be in addition to any other appropriations):

(1) For the Federal Bureau of Investigation: $57,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration: $47,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals; and

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries;

(3) For the United States Courts: $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States Attorneys: $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For Defender Services: $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States Marshals: $9,000,000.

TITLE X—JUVENILE JUSTICE ANTI-DRUG GRANT PROGRAM

SEC. 1001. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart J—General Grant Programs";

and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troops, and little league;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (Formula Grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

TITLE XI—82ND AIRBORNE DIVISION

SEC. 1101. CHARTER.

The 82nd Airborne Division Association, Incorporated a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

SEC. 1102. POWERS.

The 82nd Airborne Division Association, Incorporated (hereinafter in this title referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 1103. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SEC. 1104. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1105. MEMBERSHIP.

(a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

SEC. 1106. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1107. OFFICERS OF CORPORATION.

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1108. RESTRICTIONS.

(a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 1109. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 1110. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1111. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

SEC. 1112. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

SEC. 1113. RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER.

The right to amend, alter, or repeal this title is expressly reserved to the Congress.

SEC. 1114. DEFINITION OF STATE.

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1115. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

SEC. 1116. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this title, the charter granted by this title shall expire.

TITLE XII—CONTROLLED SUBSTANCES AND MONEY LAUNDERING AMENDMENTS

SEC. 1201. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 1202. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 1203. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1204. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking out "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking out "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

SEC. 1205. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 1206. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 1207. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1208. CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

SEC. 1209. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1210. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1211. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

TITLE XIII—PENALTIES AND SENTENCING AMENDMENTS

SEC. 1301. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking out "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting in lieu thereof "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 1302. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1303. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 1304. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.

Section 1864(c) of title 18, United States Code, is amended by striking out "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

TITLE XIV—MISCELLANEOUS AMENDMENTS

SEC. 1401. RESTORATION OF INADVERTENTLY DELETED DIAL-A-PORN REMEDIES.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended by adding at the end thereof the following paragraphs:

"(3) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4)(A) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1).".

SEC. 1402. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.

Section 5032 of title 18, United States Code, is amended in the first paragraph by striking out "or section 922(p) of this title,".

SEC. 1403. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(1) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(3) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV) are amended by

striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(4) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(5) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(6) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(7) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(8) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(9) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(10) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(11) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(12) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(13) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(14) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(15) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(16) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(17) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(18) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(19) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(20) Section 1466(b) of title 18, United States Code, is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(21) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(22) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(23) Section 3583(e) of title 18, United States Code, is amended—

(A) in paragraph (2) by striking out "or" after the semicolon;

(B) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(C) by redesignating paragraph "(5)" as paragraph "(4)";

(24) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(25) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(26) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 1404. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 1405. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grant jury".

SEC. 1406. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 1407. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.

The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 1408. APPLICATION OF VARIOUS OFFENSES TO PROSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1409. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(1) Section 45 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1410. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1411. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(a) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(b) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 1412. FRAUD THROUGH USE OF A FACILITY OF COMMERCE.

(a) Section 1343 of title 18, United States Code, is amended by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce or attempts to do so".

(b) The heading of section 1343 of title 18, United States Code, is amended to read: "Fraud by use of facility of interstate commerce".

(c) The table of sections for chapter 63 of title 18, United States Code, is amended by striking out the item relating to section 1343 and inserting in lieu thereof: "1343. Fraud by use of facility of interstate commerce.".

SEC. 1413. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1414. CLARIFICATION OF ONE YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1415. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 1416. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1417. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1418. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 1419. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 1420. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1421. REDESIGNATION OF SECTION.

The second section 3117 of title 18, United States Code, enacted by section 6477(b) of the Anti-Drug Abuse Act of 1988, is redesignated as section 3118 and the section analysis for such section is redesignated accordingly.

TITLE XV—MISCELLANEOUS

SEC. 1501. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 1502. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 1503. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram".

SEC. 1504. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 1505. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 1506. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 1507. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 1508. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 1509. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding insti-

tuted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1510. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1511. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1512. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentenced under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1), by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 1513. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

TITLE XVI—GENERAL PROVISIONS

SEC. 1601. YOUTH GANGS.

(a) The Office of the National Drug Control Policy is directed to develop a coordinated policy in conjunction with State and local governments to counteract youth gang involvement in the distribution, sale, and use of illegal drugs.

(b) The coordinated policy to be developed, as referenced above, include, though not be limited to, programs or means to prevent young people from joining a gang and methods to reform, rehabilitate, educate, or train gang members and turn them away from illegal gang activities.

(c) This policy be implemented as soon as practical but no later than February 1, 1991.

SEC. 1602. EXCLUSION FROM THE LEASE AND GRIEVANCE PROCEDURE FOR ANY EVICTION OR TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, in accordance with subsection (l)(5). An agency may exclude from its procedure any other grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.".

SEC. 1603. NOTIFICATION BY PUBLIC HOUSING AGENCY TO THE UNITED STATES POSTAL SERVICE THAT TENANTS HAVE BEEN EVICTED FROM PUBLIC HOUSING FOR DRUG-RELATED CRIMINAL ACTIVITIES.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Where a public housing agency evicted any member of the household from a dwelling unit for engaging in criminal activity the public housing agency shall notify the local post office serving that dwelling unit that the household member is no longer residing in the dwelling unit.".

SEC. 1604. STUDY OF ANTI-DRUG ASSISTANCE TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that—

(1) the operations of international narcotics trafficking organizations pose a direct threat to the national security of the United States and Latin America;

(2) international narcotics trafficking operations have grown so large and powerful that they threaten the democratic governments of the Andean region;

(3) recent events in Colombia make clear the need for addressing the threat of international narcotics trafficking in Peru and Bolivia before situations there further deteriorate;

(4) for any antinarcotics strategy to work in the Andean region an integrated program of economic development, interdiction, and eradication must be developed;

(5) United States Government anti-narcotics policies toward the Andean region have not in the past been coordinated with our country's trade and economic policies as exemplified by recent negotiations over the international coffee agreement;

(6) any successful strategy for combating the influence of international narcotics trafficking in the Andean region must address the economic situation in that region;

(7) many of the farmers who produce coca leaf in the Andean region do so as the sole means of economic livelihood for themselves and their families;

(8) many of these farmers would stop growing coca if provided with alternative means to earn a livelihood;

(9) the economic assistance component of an Andean strategy must reduce the political pressures generated by a successful interdiction and eradication program, offset its negative economic impact on the countries foreign exchange earnings, create jobs for people who lose their livelihood, and in the long run, deal with the region's fundamental structural and development problems;

(10) individual country resources are not adequate to manage the immediate and short-run economic and social issues, much less solve the narcotics problem, neither will indigenous resources grow fast enough to sustain present levels of development, unless the economies grow briskly and the political systems are stabilized and reinforced; and

(11) national, regional, and United States resources, combined, are also insufficient and the overall effort must be internationalized to include Japan, Canada, and Western Europe.

(b) REPORT TO CONGRESS.—Not later than sixty days after the conclusion of the international conference, known as the International Conference on Combating Illegal Drug Production, Trafficking, and Use in the Western Hemisphere, required by section 4104 of title IV of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), or one hundred and eighty days after the date of enactment of this Act, whichever comes first, the President shall report to Congress on—

(1) the outcome of the International Conference;

(2) his strategy for increasing economic development to the Andean region, to be used in conjunction with a program of interdiction and eradication;

(3) his program for coordinating trade and economic policies of our Government with our Nation's overall antinarcotics strategy for the Andean region;

(4) his strategy for internationalizing the economic development assistance to the Andean region in order to include assistance from Japan, Canada, and Western Europe;

(5) the cost over the next five years for a program of economic assistance that would provide an alternative to coca production in the Andean region;

(6) the cost over the next five years of the eradication and interdiction components of the Andean strategy;

(7) the feasibility and cost of purchasing the entire coca crop in the Andean region; and

(8) any recommendations for the modification of United States debt strategy to take into account the unique and exceptional burden imposed on the Andean economics by terrorism and drug trafficking.

(c) BUDGET REQUEST.—The President shall submit to the Congress, with the submission of the budget required by section 1006 of Public Law 100-690, such supplemental budget requests for fiscal years 1990 and 1991 covering the United States share of the cost of additional economic assistance as is necessary to carry out his Andean antinarcotics strategy.

SEC. 1605. SUBSTANCE ABUSE TREATMENT SERVICES UNDER MEDICAID.

(a) PURPOSE OF TITLE XIX.—Section 1901 of the Social Security Act is amended by striking "and" before the number "(2)", and inserting after "self-care," the following: "and (3) at State option, substance abuse treatment services so that treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment,".

(b) SUBSTANCE ABUSE TREATMENT SERVICES.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"SUBSTANCE ABUSE TREATMENT SERVICES

"SEC. 1927. (a) At the option of the State, the State plan for medical assistance described in section 1902(a) may include as medical assistance, substance abuse treatment services and related case management services (described in subsection (b)) under the plan to all individuals eligible for assistance under this title who desire to rid themselves of their substance abuse problems.

"(b) DEFINITIONS.—(1) The term 'substance abuse treatment services' includes—

"(A) inpatient substance abuse treatment services, including counseling, which are provided in a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law;

"(B) outpatient substance abuse treatment services, including counseling, which are provided by a hospital (or distinct part thereof) or other entity if such entity is legally authorized to provide such treatment under State law; and

"(C) substance abuse treatment services, including counseling, which are provided in a residential substance abuse treatment center or other entity if such entity is legally authorized to provide such treatment under State law.

"(2) The term 'case management services' means, for purposes of this section, services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(c) The amendments made by this section shall take effect on October 1, 1990.

SEC. 1606. LATCHKEY CHILDREN.

SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than eleven hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

SEC. 1607. USE OF THE MAILS TO SEND CONTROLLED SUBSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 1716 of title 18, United States Code, is amended—

(A) in subsection (a) by inserting "all controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))) except when authorized under the Controlled Substances Act" immediately following "reptiles,"; and

(B) in the first undesignated paragraph following subsection (i) by striking the period at the end thereof and inserting ", or if the nonmailable matter was a controlled substance (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), shall be fined not more than $60,000 or imprisoned not more than ten years, or both, or in the case of a second or subsequent violation in which the nonmailable matter was a controlled substance, shall be fined not more than $90,000 or imprisoned not more than fifteen years, or both.".

(b) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended—

(1) by striking "$30,000, or both" and inserting "$30,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than ten years, a fine of not more than $60,000, or both"; and

(2) by striking "$60,000, or both" and inserting "$60,000, or both, or if the communication facility used was the mail, a term of imprisonment of not more than fifteen years, a fine of not more than $90,000, or both".

(c) INCREASED COOPERATION WITH FEDERAL, STATE, AND LOCAL AUTHORITIES.—The United States Postal Service shall assist to the fullest extent possible Federal, State, and local authorities in the implementation of this Act and any other Act dealing with controlled substances.

SEC. 1608. ADAMHA IV DRUG ABUSE WAIVER.

(a) INTRAVENOUS DRUG USERS.—Section 1916(c)(7) of the Public Health Services Act (42 U.S.C. 300x-4(a)(7)) is amended by adding at the end thereof the following new sentence: "The Secretary shall waive the provisions of the preceding sentence for any State which has submitted application for such a waiver to the Secretary prior to September 30, 1989.".

(b) EFFECTIVE DATE.—Subsection (a) shall be effective for fiscal year 1989 and subsequent fiscal years.

SEC. 1609. SINGLE USE SYRINGES AND NEEDLES.

Within one year of enactment, the Secretary of Health and Human Services shall report to Congress on the cost, feasibility, and effectiveness in reducing intravenous drug abuse and the spread of diseases such as AIDS which would result from eliminating syringes and needles which are capable of being used more than once and replacing them with syringes and needles which are only capable of being used a single time.

SEC. 1610. ALTERNATIVE SCHOOLS FOR YOUTHS WITH DRUG PROBLEMS.

(a) Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by adding after paragraph (6) the following new paragraph:

"(7) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment, and counseling.".

(b) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by adding after paragraph (13) the following new paragraph:

"(14) model alternative schools for youths with drug problems that address the special needs of such students through education, treatment, and counseling.".

SEC. 1611. HIGHER EDUCATION ACT OF 1965.

(a) THE HIGHER EDUCATION ACT OF 1965.—Section 1212 of the Higher Education Act of 1965 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a) by—

(A) striking "of law," and inserting "of law, and except as provided in subsection (d),";

(B) striking "and has implemented" and inserting "a plan with a timetable to implement";

(C) striking "and" at the end of paragraph (1)(D);

(D) striking "impose sanctions" and inserting "impose sanctions developed by the institution" in paragraph (1)(E);

(E) inserting at the end of paragraph (1) the following new subparagraph (F):

"(F) a description of the institution's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (1)(A)."; and

(F) by striking "ensure that" and inserting "a description of how" in paragraph (2)(B);

(2) by inserting at the end thereof the following new subsection (d):

"(d) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(b) SECTION 5145.—Section 5145 of the Drug-Free Schools and Communities Act of 1986 as added by the Department of Transportation and Related Agencies Appropriations Act, 1990, is further amended—

(1) in subsection (a)—

(A) striking "of law," and inserting "of law, and except as provided in subsection (e),";

(B) striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(C) striking the semicolon at the end of paragraph (1), and inserting a comma and "and complies with the provisions of section 5126(a)(2)(H);";

(D) striking "statement that sanctions" and inserting "statement that sanctions, developed by the local educational agency," in paragraph (4);

(E) renumbering paragraphs (6), (7), and (8), as paragraphs (7), (8), and (9), respectively;

(F) inserting after paragraph (5) the following new paragraph (6):

"(6) a description of the local educational agency's drug and alcohol abuse prevention and intervention program, including alternative support, education and re-entry programs for students who are expelled as a result of violating standards required by paragraph (3);";

(G) striking the semicolon at the end of paragraph (7) (as renumbered in paragraph (1)(E)) and inserting ", and the information required in paragraphs (5) and (6)";

(H) striking "ensure that" and inserting in lieu thereof "a description of how" in paragraph (9)(II) (as renumbered in paragraph (1)(E)); and

(2) in subsection (c) by striking "and has implemented" and inserting in lieu thereof "a plan with a timetable to implement";

(3) in subsection (d) by striking "5126(c)" and inserting "5126(a)" in paragraph (2); and

(4) inserting at the end thereof the following new subsection (e):

"(e) Upon application by a State educational agency, the Secretary shall grant a waiver of the sanctions authorized by this section to each State educational agency which demonstrates that it is in the process of developing and implementing a plan required by subsection (a). Such waiver shall be for a period not to exceed one year from the date of enactment of this section.".

(c) SECTION 5125.—Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(d) Any local or intermediate education agency or consortia that cannot make the assurances described in section 5126(a)(2)(H) shall use any amounts made available under section 5124(a), that is in excess of the amount made available under such section in fiscal year 1989, for purposes described in section 5126(a)(2)(H).

(d) SECTION 5126.—Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) contain assurances that the local or intermediate educational agency or consortia under section 5124(a) is currently providing, or will provide, in accordance with section 5125(c), antidrug education and prevention services targeted at students in grades 4 through 9 (and lower grades in areas of high drug use), that shall—

"(i) include prevention of the use of gateway drugs, such as alcohol, tobacco, and marijuana; and

"(ii) to the maximum extent possible—

"(I) include, or coordinate with, community based programs;

"(II) include resistance skills training, social support for prevention, and changing social norms to include nondrug use;

"(III) include, for middle school grades, teaching refusal or resistance skills through peer counseling and other techniques, and life and social skills training;

"(IV) include, for elementary school grades, social developmental programs that include resistance skills and social skills training;

"(V) identify, provide or refer high risk youth as defined in section 5122(b)(2) to available counseling and appropriate social services; and

"(VI) include programs which involve parents, other community members, government officials, and the media.".

(e) SECTION 5127.—Section 5127(a)(1) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197(a)) is amended—

(1) in subparagraph (F), by striking out "and";

(2) in subparagraph (G), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(H) a description of how Federal and non-Federal funds were used for drug prevention and education activities within the State.".

(f) SECTION 5111.—Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by striking "$350,000,000" and inserting "$577,000,000".

(g) SECTION 5122.—Section 5122 of the Drug-Free Schools and Communities Act of 1986 is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(2) by inserting the following new subsection (a) after the section designation:

"(a) EMERGENCY GRANTS TO SCHOOLS IN URBAN AND RURAL AREAS.—(1) From the amount available to carry out this section pursuant to section 5121(a), 33.3 percent of such amount shall be used by the chief executive officer in consultation with the State educational agency or the chief State school officer of a State, to make contracts with, and emergency grants to, local educational agencies serving urban and rural communities with severe drug problems.

"(2)(A) In awarding grants under this subsection the chief executive shall first award grants to local educational agencies serving the largest city in the State to develop and implement comprehensive approaches to eliminating the serious drug problem that affects schools and students within the boundaries of the local educational agency. Such grants shall be of sufficient size, scope, and quality to be of value and effective.

"(B) After satisfying the requirements of subparagraph (A) the chief executive officer of a State receiving a grant pursuant to the provisions of this section shall make grants to urban and rural local educational agencies with severe drug problems as determined by the incidence of drug abuse in relation to the size of the school age population. Such grants shall be of sufficient size, scope, and quality to be of value and effective. Such grants to the local educational agency shall be used for the development and implementation of comprehensive approaches to eliminating the serious drug problem that affects schools and students

within the boundaries of the local educational agency.

"(3) The Secretary may waive the provisions of this subsection for States in which there is no concentration of drug problems."; and

(3) in subsection (b) (as amended in paragraph (1)) by striking "IN GENERAL.—Not" and inserting "REMAINDER.—From the remainder available to carry out this section, not".

SEC. 1612. ADMINISTRATIVE EXPENSES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 per centum of the total proceeds to cover the costs of administrative expenses.".

SEC. 1613. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

SEC. 1614. DRUG-FREE SCHOOLS AND CAMPUSES.

(a) Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following:

"ALCOHOL ABUSE PREVENTION

"SEC. 1212. (a) Notwithstanding any other provision of law, except as provided in subsection (c), no institution of higher education shall be eligible to receive any Federal funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that, after study and participation by students, student groups, and employees, it has adopted a plan with a timetable to implement a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees of such institutions, a component of which shall include—

"(1) a prohibition on the distribution of free alcoholic beverages for promotional purposes on the campus of such institution;

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the State's legal drinking age;

"(3) in the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages; and

"(5) a description of any alcohol counseling, treatment, or rehabilitation program available to students and employees through the institution and the local community.

"(b) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(1) the periodic review of a representative sample of programs required by subsection (a); and

"(2) sanctions, up to and including the termination of any form of financial assistance, for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions.

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section.".

(b) The provisions of this section shall take effect on October 1, 1990.

SEC. 1615. DEPARTMENT OF DEFENSE CONSULTATION WITH STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) CONSULTATION REQUIRED.—Part I of subtitle A of title 10, United States Code, is amended by inserting after section 380 the following new section:

"§ 381. Consultation with civilian law enforcement officials

"The Secretary of Defense shall consult with Operation Alliance officials to the extent practicable prior to and during any drug enforcement operation by armed forces personnel or other Department of Defense personnel which might affect the law enforcement activities or jurisdiction of such officials.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of the chapter relating to military support for civilian law enforcement agencies in such part is amended by inserting after the item relating to section 380 the following new item:

"381. Consultation with civilian law enforcement officials.".

SEC. 1616. ISSUANCE OF DRUG WAR BONDS.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3114. Drug war bonds

"(a) The Secretary of the Treasury shall—

"(1) issue drug war bonds of the United States Government: *Provided, however,* That the amount of the issue in any fiscal year shall not exceed that amount appropriated in that fiscal year for the purposes contained in subsection (e)(4) of this section, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.

"(b)(1) Drug war bonds may be issued under this section on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis.

"(2) The Secretary of the Treasury may—

"(A) fix the investment yield for drug war bonds issued under this section, and

"(B) change the investment yield on any outstanding drug war bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date on which the bond is issued.

"(3) Drug war bonds issued under this section shall mature not more than twenty years after the date of issue.

"(4)(A) Except as otherwise provided in this paragraph, the Secretary of the Treasury shall prescribe the denominations in which drug war bonds are issued under this section.

"(B)(i) In prescribing under subparagraph (A) the denominations in which drug war bonds are issued under this section, the Secretary of the Treasury shall ensure that a small denomination, of not greater than a $25 maturity value, be available for issuance in order to enable children and small investors to purchase drug war bonds.

"(ii) In order to compensate for the additional administrative costs of issuing drug war bonds under this section in a small denomination that does not exceed a $25 maturity value, the Secretary of the Treasury is authorized to fix an investment yield for such small-denomination drug war bonds that is lower than the investment yield on other denominations of drug war bonds.

"(5) The Secretary of the Treasury shall issue stamps, or may provide other means, that evidence payment towards the purchase of a drug war bond issued under this section in order to encourage and facilitate the accumulation of funds for the purchase of drug war bonds.

"(c) Except as otherwise provided in this section, the Secretary of the Treasury may prescribe, with respect to drug war bonds issued under this section—

"(1) the form and amount of an issue,

"(2) the way in which the bonds will be issued,

"(3) the conditions (including restrictions on transfer) to which the bonds will be subject,

"(4) conditions governing redemption of the bonds,

"(5) the sales price of the bonds, and

"(6) a way to evidence payments for, or on account of, the bonds.

"(d) The Secretary of the Treasury may authorize any financial institution which meets the requirements of section 3105(d) to make payments to redeem drug war bonds issued under this section.

"(e)(1) There is hereby established within the Treasury of the United States a trust fund to be known as the Anti-Drug Abuse Trust Fund (hereinafter in this subsection referred to as the 'Trust Fund'), consisting of such amounts as may be transferred to the Trust Fund under paragraph (2).

"(2)(A) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the proceeds from drug war bonds issued under this section.

"(B) The amounts which are required to be transferred under subparagraph (A) shall be transferred at least monthly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in subparagraph (A) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(3) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall submit an annual report to the Congress on—

"(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted, and

"(B) the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and during each of the five fiscal years succeeding such fiscal year.

The report shall be printed as a House document of the session of the Congress to which the report is made.

"(4) Funds in the Trust Fund shall only be available, as provided in appropriation Acts, for expenditures that are authorized—

"(A) by the provisions of,

"(B) by amendments made to, or

"(C) by amendments made by,

the Anti-Drug Abuse Act of 1988.

"(f) The Secretary of the Treasury shall provide notice to the public through appropriate media that the purchase of drug war bonds will assist in implementing anti-drug abuse provisions of law.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of drug war bonds.".

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107, and 3114".

SEC. 1617. STATE RUN BOOT CAMP.

The Bureau of Justice Assistance shall provide funds for demonstration grants to the States to establish shock incarceration programs as alternatives to imprisonment for first-time offenders who have committed nonviolent offenses and nonviolent drug offenses, 90 per centum of which funds shall be reserved and set aside in a special discretionary fund for use by the Director to make grants, and the remainder of which funds to make grants to provide compulsory drug treatment, as required, and literacy education, vocational education, and job training programs by the State or jointly by the State and private entities which shall be made available to nonviolent offenders selected for confinement in boot camp programs: *Provided*, That no grants shall be expended for more than 70 per centum of the cost of the project for which such grant is made and no Federal funds made available to the State shall be used to supplant State or local funds that would otherwise be used to carry out such project.

SEC. 1618. KINDERGARTEN THROUGH SIXTH GRADE GRANTS TO EDUCATIONAL AGENCIES TO RESIST USE OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.—The Secretary of Education is authorized to award grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through six to recognize and resist pressures that influence such students to use controlled substances, as defined in schedules I and II of section 202 of the Controlled Substances Act (21 U.S.C. 812), the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug Abuse Resistance Education, that meet the requirements of subsection (b).

(b) REQUIREMENTS.—A local education agency in consortium with an entity shall not be eligible for a grant under subsection (a) unless such local education agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provision of services that shall include—

(1) drug abuse resistance education instruction for students grades kindergarten through six to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under subsection (a), or beverage alcohol, including instruction in the following areas—

(A) drug use and misuse;

(B) resistance techniques;

(C) assertive response styles;

(D) managing stress without taking drugs;

(E) decisionmaking and risk taking;

(F) media influences on drug use;

(G) positive alternatives to drug abuse behavior;

(H) interpersonal and communication skills;

(I) self-esteem building activities; and

(J) resistance to gang pressure;

(2) classroom instruction by law enforcement officials;

(3) the use of positive student leaders to influence younger students not to use drugs; and

(4) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

(c) APPLICATION.—The Secretary shall not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

(3) the application otherwise is in such form, agreements, assurances, and information as the Secretary determines to be necessary to carry out this section; and

(4) the application contains an assurance that the applicant will provide funds either in cash or in kind that are not less than 10 per centum of the amount of the grant under subsection (a).

(d) SUPPLEMENTAL FUNDS.—Amounts received under subsection (a) by the entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in subsection (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 in fiscal year 1990, and such sums as may be necessary for each of the 3 succeeding fiscal years.

SEC. 1619. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member); and

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1620. STUDY ON THE RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—For assistance in designing prevention programs to reduce the likelihood of drug abuse, the Secretary of Health and Human Services shall conduct a study concerning the relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs.

(b) CONTENTS.—The study conducted under subsection (a) shall contain information concerning—

(1) the effect of advertising and marketing campaigns that promote the use of legal drugs on the public;

(2) the correlation of legal drug abuse with illegal drug abuse; and

(3) other matters that the Secretary of Health and Human Services determines appropriate.

(c) DATA AND RESEARCH.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall consider data collected and current research concerning drug abuse and gateway drugs.

(d) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,

a report containing the results of the study conducted under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

SEC. 1621. HEMISPHERE CONFERENCE ON DRUG TRAFFICKING AND DRUG ABUSE.

(a) FINDINGS.—The Congress finds that—

(1) Public Law 100-690, the Anti-Drug Abuse Act of 1988, included specific provisions (sections 4101, 4103, 4104, 4105, and 4106) relating to multilateral narcotics control efforts;

(2) the need for international cooperation in order to fight organized and violent drug traffickers, to exchange drug interdiction intelligence, and to share drug treatment research, has been recognized by countries that produce, consume, or serve as transshipment points for illegal narcotics; and

(3) the United States must assume a leadership role in the multinational movement to combat drugs.

(b) Therefore, the Secretary of State is required to submit to the Congress of the United States a report on the status of the efforts the Department of State has made or intends to make in order to carry out sections 4101, 4103, 4104, 4105, and 4106 of the Anti-Drug Abuse Act of 1988 regarding multinational drug control efforts.

(c) This report shall be submitted to Congress no later than December 1, 1989.

SEC. 1622. MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN DRUG OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 1623. STATEWIDE DRUG TREATMENT PLAN.

(a) IN GENERAL.—Title XIX of the Public Health Service Act is amended by inserting after section 1916A (42 U.S.C. 300x-4a) the following new section:

"SEC. 1916B. STATEWIDE DRUG TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit, as part of the application required by section 1916(a), an approved statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, that shall contain—

"(1) a single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data;

"(3) a description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of performance-based criteria that shall be used to assist in the allocating of funds to drug treatment facilities receiving assistance under this subpart;

"(5) a description of the drug-free patient and workplace programs, that must include some form of drug testing, to be utilized in drug treatment facilities and programs;

"(6) a description of the mechanism that shall be used to make funding allocations under this subpart;

"(7) a description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality;

"(8) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(9) a description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or properly refer those patients in need of such additional services; and

"(10) a description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove such State plans, and to propose changes to such plans.

"(c) GUIDELINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall develop guidelines for each area to be covered by the State plan prepared under subsection (a).

"(2) CONFORMITY.—Beginning in fiscal year 1991, no payment shall be made to a State under section 1914 for the substance abuse portion of its allotment under section 1912A unless such State has submitted a plan under this section that is in reasonable conformance with the guidelines developed under paragraph (1), except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the State plan shall provide a reasonable time for such conformance.

"(3) MONITORING.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(d) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports, in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports and not overly burdensome on the State.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternative treatment plan that fulfills the objectives of this section.

"(f) MODEL STATE PLAN.—The Secretary shall establish a model State drug abuse treatment plan to guide States in establishing State plans under subsection (a), and shall provide technical assistance to assist States in complying with such plan.

"(g) DEFINITION.—As used in this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.

"(h) ADMINISTRATIVE COSTS.—Expenses incurred for the training of individuals as required under any plans submitted under this section shall not be included in determining the costs of administering funds made available under section 1914.".

(b) REGULATIONS.—The Secretary shall promulgate regulations necessary to carry out section 1916B of the Public Health Service Act (as added by subsection (a)) not later than 6 months following the date of enactment of this section.

(c) EFFECTIVE DATE.—

(1) PERFORMANCE CRITERIA AND WORKPLACE REQUIREMENT.—Sections 1916B (a)(4) and (a)(5) of the Public Health Service Act (as added by subsection (a)) shall become effective on October 1, of the second fiscal year beginning after the date that final regulations under subsection (b) are published in the Federal Register.

(2) REMAINING PROVISIONS.—The remaining provision of such section 1916B shall become effective beginning on October 1, of the first fiscal year beginning after the date final regulations under paragraph (1) are published in the Federal Register.

SEC. 1624. USE OF ADAMHA ALLOTMENTS.

Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended—

(1) in subsection (b)—

(A) by inserting after the comma in paragraph (1), the following: "except that funds may be used to pay for inpatient hospital drug treatment services pursuant to a contractual arrangement with a hospital if—

"(A) needed residential treatment services could not otherwise be provided; and

"(B) the rates paid for such services do not exceed 125 percent of the cost of the rates typically required for comparable residential services."; and

(B) by inserting after the fifth sentence in the matter following paragraph (5), the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.";

(2) in subsection (c)(1)—

(A) by inserting "including social and health services necessary to improve treatment outcomes," after "drug abuse in subparagraph (A),";

(B) by striking out "and" at the end of subparagraph (B);

(C) by striking out the period and inserting in lieu thereof "; and" in subparagraph (C); and

(D) by adding at the end thereof the following new subparagraph:

"(D) to provide counseling to family members of drug abusers, including such family members in group and family counseling service settings for the treatment of drug abusers."; and

(3) in subsection (d), by adding at the end thereof the following new sentence: "Expenses incurred for the training of individuals as required under this subpart shall not be included in determining the costs of administering funds made available under section 1914.".

SEC. 1625. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) IN GENERAL.—The sponsor of a drug for the treatment of an addiction to illegal drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) RECOMMENDATIONS FOR INVESTIGATIONS.—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of an addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) REGULATIONS.—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—

"(1) REQUEST.—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of an addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act;

the approval, certification, or license would be for use for treatment of such addiction, the Secretary shall designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(2) DEFINITION.—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) reduce the craving for abused drugs;

"(ii) block the behavioral and physiological effects of abused drugs;

"(iii) safely serve as replacement therapies for the treatment of drug abuse;

"(iv) moderate or eliminate the process of withdrawal;

"(v) block or reverse the toxic effects of abused drugs; or

"(vi) prevent, where possible, the initiation of drug abuse in individuals at high risk;

"(B) the term 'addiction' means the state of an individual where that individual habitually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such individuals addiction; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 102(6) Schedule I the Controlled Substance Act (21 U.S.C. 892(6)).

"(b) CONDITIONS.—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) NOTICE.—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) REGULATION.—The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505,

"(2) issues a certification under section 507, or

"(3) issues a license under section 351 of the Public Health Service Act.

For a drug designated under section 529A for the treatment of an addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of seven years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of an addiction to illegal drug, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the seven-year period beginning on the date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the

holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such seven-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of an addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992.".

SEC. 1626. ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within one hundred days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the results of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

SEC. 1627. AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, twenty district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transmitted to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than one hundred and twenty days after the date of enactment of this section.

SEC. 1628. FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least two periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release.".

(c) This provision takes effect six months after enactment.

SEC. 1629. ANTITRUST LAW EXEMPTIONS.

(a)(1) Actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antitrust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

SEC. 1630. STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal Government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that address the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than six months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

SEC. 1631. DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

SEC. 1632. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

"(a)(2) Pending a determination of deportability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

SEC. 1633. CRIMINAL FINES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an individual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subject to the limits otherwise provided by section 3571 of title 18, United States Code.

SEC. 1634. REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

SEC. 1635. JUVENILE AND ADULT SUBSTANCE ABUSERS.

Amend section 1915(a)(1) of the Public Health Service Act after "programs" insert: "(including those for juvenile and adult substance abusers in State and local criminal and juvenile justice systems)".

SEC. 1636. DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(a) FINDINGS.—The Senate finds that—

(1) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(2) three hundred and seventy-five thousand infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(3) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(4) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(5) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(6) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(7) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(8) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States; and

(9) preventive drug abuse resistance education programs, Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(c) Part B of the Drug-Free Schools and Communities Act of 1986 is amended as follows:

Section 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy.".

SEC. 1637. UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the Governments of the United States and Mexico, pursuant to section 4407 of Public Law 100-690, have a Letter of Agreement committing Mexico to "reduce drug production, drug consumption, and drug trafficking within its own territory," and "increase cooperation with United States drug enforcement officials";

(2) between 30 and 33 per centum of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 per centum of its illegal cocaine seizures in the Southwest border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least eleven major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the United States Customs Service estimates that such illicit traffickers have approximately two thousand clandestine runways at their disposal on the American side of the border;

(5) section 2013 of Public Law 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs."

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for

the joint crewing of United States and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the agreement, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of United States and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to section 2013 of Public Law 99-570.

SEC. 1638. PREMIUM PAY FOR CERTAIN FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 5545(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the rate of basic pay for the employee in that position, as determined by taking into consideration the frequency and duration of irregular, unscheduled overtime duty required in the position.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to overtime duty performed after September 30, 1989.

SEC. 1639. NARCOTIC OFFENDERS.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by the Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"(21) Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"(22) Organizing, educating, and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.

States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

SEC. 1640. SUBSTANCE ABUSE PROGRAMS.

(a) Part A of title V of the Public Health Service Act (42 U.S.C. 280aa et seq.), as amended, is amended by adding at the end thereof the following new section:

"SEC. 509H. COMMUNITY COALITION ON SUBSTANCE ABUSE.

"The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.".

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social services agencies, community-based organizations, and substance abuse prevention specialists and including representatives from among the following: clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance and support for community training on substance abuse prevention.

SEC. 1641. MILITARY INTERDICTION EDUCATION PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the United States Government organizations mandated to implement it.

(4) The history of United States Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, and functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to coordinate with the Secretaries of Defense, State, Commerce, Transportation, and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

SEC. 1642. STATEMENT OF CONGRESSIONAL FINDINGS.

FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the program.

SEC. 1643. STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project.

SEC. 1644. DRUG TREATMENT FOR WOMEN PRISONERS.

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof: "application: *Provided*, That not less than $3,000,000 shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classes);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

SEC. 1645. STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born

drug exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, State, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than eighteen months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 1726

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of S. 1726, the McCain, et al., bill, to repeal medicare catastrophic coverage provisions, and for other purposes, it be considered under the following time agreement:

That there be 1 hour on the bill to be equally divided between Senator McCAIN and Senator BENTSEN or their designees; that Senator McCAIN be recognized first to modify S. 1726; that a point of order with respect to the bill or amendment being in violation of the Budget Act follow immediately after the McCain modification, and at that time Senator McCAIN be recognized to make a motion to waive the Budget Act for consideration of the bill and all amendments; that there be 1 hour equally divided on the motion, and that no other points of order; that the following amendments then be considered under the following time limitations and in the order listed.

Mr. EXON. And what?

Mr. MITCHELL. And in the order listed.

An amendment by Senator KENNEDY, with 30 minutes of debate, equally divided, which amendment would eliminate the surtax and retain the drug and hospital benefits; an amendment by Senator WALLOP, with 30 minutes of debate, equally divided, which amendment would make the program voluntary; an amendment by Senator GRAHAM of Florida, with 30 minutes, equally divided, which amendment provides for modified repeal; another amendment by Senator GRAHAM of Florida, with 30 minutes of debate, equally divided, which amendment provides that if there is no repeal then there will be established conditions for voluntary opting out of the program; an amendment by Senators HARKIN and LEVIN, with 1 hour of debate, equally divided, which repeals the surtax and finances the benefits by extension of the 33-percent income tax bracket; an amendment by Senator EXON, with 30 minutes of debate, equally divided, which repeals the surtax and supplemental benefits, part B flat premium, and directs the Finance Committee to determine what benefits could be paid for with the flat premium total repeal occurring on December 31, 1989, if no new legislation is enacted by that time; an amendment by Senators DURENBERGER and MITCHELL, one with 1 hour of debate, equally divided, which amendment would retain parts A and B of the program; an amendment by Senator RIEGLE and Senator CHAFEE, with 1 hour of debate, equally divided, which amendment would eliminate the surtax and provide catastrophic coverage with a flat premium, other benefits to be optional; an amendment by Senators DANFORTH and ROTH, with 1 hour of debate, equally divided, which amendment would repeal the program; a possible amendment by Senator BRADLEY, with 10 minutes of debate, equally divided, which amendment deals with the respite provision; and then, finally, the McCain bill itself, which will have 1 hour, equally divided, under the previous provision of this unanimous-consent request; that the above-mentioned amendments be first-degree amendments; that no other amendment be in order; that no motion to commit the bill be in order; that no motion to table be in order; that it be in order to offer any of the foregoing amendments notwithstanding the adoption of another amendment; and that following the disposition of the amendments and the using or yielding back of time on the bill, the Senate proceed without any intervening action to third reading and final passage of S. 1726, as amended, if amended; provided further, that the bill, if adopted, remain at the desk and the language of S. 1726, as amended, if amended, be offered as an amendment to any revenue bill other than the reconciliation bill coming from the House on which there would be 1 hour of debate equally divided and against which no point of order would lie and no amendment to the amendment would be in order.

Mr. EXON. Reserving the right to object, would the leader kindly advise me? I was trying to keep track here. After the Riegle amendment, what was the next one after that?

Mr. MITCHELL. It would be the Danforth-Roth amendment.

Mr. EXON. Is that the repeal measure?

Mr. MITCHELL. Yes.

Mr. EXON. How much time on that?

Mr. MITCHELL. One hour, equally divided.

Mr. EXON. Let me further see if I understand. When we open debate on the McCain bill, which would be the underlying bill, it would be discussed for 1 hour; is that correct.

Mr. MITCHELL. There would be 1 hour on the bill, but I believe that it is Senator McCAIN's intention to reserve all or most of the hour for debate at the conclusion of the disposition of all the amendments and prior to the vote on his bill, which would be the last vote.

Mr. EXON. I understand the majority leader to say when he made these listings that the McCain amendment would have an hour at the end; is that correct?

Mr. MITCHELL. The McCain provision will be the underlying bill. He has 1 hour on that. He could use that at the opening of the debate, or some portion of it, and the balance could be used prior to the vote on the underlying bill, which would be the last vote.

Mr. EXON. So that would be 2 hours on the McCain amendment.

Mr. MITCHELL. No. He has only 1 hour.

Mr. EXON. What is the hour to start with?

Mr. MITCHELL. He has an hour and he can use some portion of it at the beginning and some portion at the end, but he has no more than an hour.

Mr. EXON. I have no objection to that.

I do not know, and was not in on the discussions, but if this unanimous-consent agreement is made and entered into, then we would take the amendments up by agreement in the order that the Senator just stated?

Mr. MITCHELL. Yes.

Mr. EXON. This Senator was not consulted as to how the amendments would fall. Would there be any objection to the Senator from Nebraska requesting that this amendment be placed at a different location on the list?

Mr. MITCHELL. I have no objection to that. Not all of the Senators were consulted. Most of those who were consulted said they had no preference as to where they appeared on the list. Others were not consulted and this was an effort to go back and forth between Republicans and Democrats to the extent possible. But I would be pleased to consider any request the Senator would like to make.

Mr. EXON. I would appreciate it very much if the leader and the others could agree to the Exon amendment that you have accurately described be placed further down on the list. I would like to have it immediately preceding the Danforth amendment. If I understand it correctly, the Danforth amendment, the second one from the bottom above the closing argument, whatever time was left by Mr. McCAIN, if the Exon amendment could just precede that particular amendment to be offered by Senator DANFORTH and Senator ROTH, as I understand it.

Mr. MITCHELL. The purpose of my announcing that we would seek this argument was to alert Senators, like the Senator from Nebraska, that we would be doing this. I asked all those Senators who have an interest to be present on the floor. So I will inquire of those Senators who are present if they object.

Mr. DURENBERGER. If the majority leader will yield, I think the majority leader has tried his best during the course of the day to elicit all of the amendments and then in the last hour or 2 to try to accommodate all of us to give the widest opportunity for debate on various approaches to catastrophic.

My inquiry to the Senator from Nebraska would be, I do not know the content of the amendment of the Senator and to some degree, as I understand the way the majority leader went through this, as he indicated in part, it is a matter of going from one side of the aisle to the other.

Also, in part, there is some logic in leaving the repeal amendments for somewhere near the end of the process.

Does the Senator from Nebraska have a repeal?

Mr. EXON. I have no objection to that. In fact, I just had requested that, if I understood the Senator from Minnesota. I have no objection to that. I am simply asking that the unanimous consent that we are now trying to propound be entered into, with the amendment offered by the Senator from Nebraska placed in the slot immediately ahead of the consideration of the repeal amendment by Senator ROTH and Senator DANFORTH, if I understand it, which was the next-to-the-last one before going to the amendment offered by the Senator from Arizona.

Is that correct? Is that the right sequence?

Mr. MITCHELL. Yes.

Mr. EXON. I am merely asking if the amendment of the Senator from Nebraska could be changed from the position that it held under the announcement made by the majority leader to a spot immediately preceding the debate on the amendment by Senator ROTH and Senator DANFORTH.

Mr. DURENBERGER. My only inquiry was as to the content of the amendment of the Senator from Nebraska. What is the purpose of the Senator's amendment?

Mr. MITCHELL. As I stated, and I will read from the summary description that has been provided to me, Senator EXON's amendment would repeal the surtax and supplemental benefits retained in part B flat premium, direct the Finance Committee to determine what benefits could be paid for with the flat premium, but provides further for total repeal of the program on December 31, 1989, if no new legislation has been enacted by that time.

Mr. DURENBERGER. I have no objection.

Mr. MITCHELL. Does any other Senator present have any objection to Senator EXON's amendment being placed immediately preceding the Danforth-Roth amendment?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I am advised there may be objection. But I have to say that I specifically stated, prior to the last vote, that any Senator who is interested should remain on the floor to protect his rights. That is the very reason the Senator from Nebraska is here. I asked all Senators to be here.

If a Senator has an objection, it is incumbent upon that Senator to come to the floor and express an objection.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask that my request be modified in the following four respects:

First, that there be added the following provision, that the agreement be in the usual form with respect to the division of time;

Second, that at that point in the request in which I stated that Senator McCAIN be recognized to make a motion to waive the Budget Act, that there be inserted at that time, Senator McCAIN or Senator DOMENICI be recognized to make a motion to waive the Budget Act;

Third, that the provision prohibiting motions to commit not be applicable to the Harkin-Levin amendment, which has, I am advised, already been drafted as a motion to commit;

And fourth, that the order of amendments be altered to provide that the amendment by Senator EXON immediately precede the Danforth-Roth amendment, and follow the Riegle-Chafee amendment, rather than in the order stated.

So there should be no misunderstanding, I will then now reread the proposed order of considering amendments for everyone's consideration and understanding. The amendments will be in the following order, after the motion to waive amendments by Senators KENNEDY, WALLOP, GRAHAM of Florida, then Graham of Florida, Durenberger-Mitchell, Riegle-Chafee, then Exon, then Danforth-Roth, then Bradley with a possible amendment, and then the underlying McCain bill.

Mr. President, I apologize. I left out the Harkin-Levin amendment, which should follow the second Graham

amendment and, under the revised list, precede the Durenberger-Mitchell amendment.

Mr. EXON. Reserving the right to object, when we get down to all the amendments, you come down to the Riegle amendment, then the Exon amendment, then the amendment to be offered by Senator ROTH and Senator DANFORTH with regard to outright repeal. Then I understood that the last amendment would be the amendment by Senator MCCAIN. Was there another amendment?

Mr. MITCHELL. Senator BRADLEY has requested a possible amendment regarding respite provisions which would be 10 minutes, which I understand he has discussed with Senator MCCAIN.

Mr. EXON. If I understand it, the Bradley amendment would be some kind of an addition to the list that the Senator from Arizona is proposing; is that correct?

Mr. MCCAIN. That is correct.

Mr. EXON. One last question. I appreciate the fact that the Senator from Arizona very kindly agreed to setting aside the freestanding arrangement, so forth and so on. Was there any agreement at that time when it was properly agreed that the Senator from Arizona be recognized first that we could also have the right to amend his amendment at that time? Or is that part of the unanimous-consent agreement that you are requesting at this time?

Mr. MITCHELL. It is my understanding that there was no provision to that effect at that time and that this is now being included in this unanimous-consent request at the request of the Senator from Arizona.

Mr. EXON. In that regard, I had assumed, and I had thought that most of the Members of the body had assumed, and I believe there were some questions, if I remember correctly, at the time that the amendment would be offered by Senator MCCAIN. Would that essentially be the amendment that he had previously offered and then thoughtfully agreed at the request of the majority leader to put off to another time? I guess before I can agree to that, can I have some degree of explanation from the Senator from Arizona as to what proposed changes in his original amendment he is going to make tomorrow before we agree to allow that?

Mr. MCCAIN. If I might illuminate, it is a modification I am seeking which basically allows for a delay of 1 year in two programs in order to reduce the costs in order to meet the OMB budget numbers. They are minor in nature. I though about doing them just as a technical modification, but I sought a modification which is a delay of two of the small programs for 1 year, to reduce the overall costs in order to reach the OMB numbers. It in no way changes the basic thrust of the amendment. It in no way changes the basic proposal that I have. It is simply a bookkeeping measure, a 1-year delay in two of the small programs in order to meet the OMB numbers.

Mr. EXON. To some extent, the Senator is cutting down the benefits or delaying them so as to better meet the number figure; is that correct?

Mr. MCCAIN. That is exactly right.

Mr. EXON. I have no objection to that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? Hearing none, the unanimous-consent request is agreed to.

The text of the agreement is as follows:

Ordered, That at the hour of 10:30 a.m., on October 6, 1989, the Senate turn to the consideration of S. 1726, to repeal Medicare catastrophic coverage provisions, and for other purposes, and that the Senator from Arizona [Mr. MCCAIN] be recognized first to modify S. 1726.

Ordered further, That a point of order with respect to the bill, or amendment, being in violation of the Budget Act, follow immediately after the McCain modification and that either the Senator from Arizona [Mr. MCCAIN] or the Senator from New Mexico [Mr. DOMENICI] be recognized to move to waive the Budget Act on the bill and amendments, on which there shall be 1 hour debate, to be equally divided.

Ordered further, That no other points of order be in order.

Ordered further, That the following amendments be first degree amendments, be the only amendments in order, be offered in the following order, and with the time thereon, where specified, to be equally divided and controlled:

Kennedy: Eliminate surtax, retain drug and hospital benefits, 30 minutes;

Wallop: Making the program voluntary, 30 minutes;

Graham: Modified repeal, 30 minutes;

Graham: If no repeal, then establish conditions for voluntary opting out, 30 minutes;

Harkin-Levin: Repeals surtax, finances benefits by extension of 33 percent income tax bracket, 1 hour;

Durenberger-Mitchell: Retaining parts A and B of the catastrophic insurance, 1 hour;

Riegle-Chafee: Eliminates surtax, provides catastrophic coverage with a flat premium, other benefits optional, 1 hour;

Exon: Repeals surtax and supplemental benefits, part B flat premium, directs Finance Committee to determine what benefits could be paid for with flat premium, total repeal on 12/31/89 if no new legislation enacted, 30 minutes;

Danforth-Roth: Repealing the insurance (identical to House language), 1 hour;

Bradley: Respite provisions, 10 minutes.

Ordered further, That all amendments be in order, notwithstanding the adoption of another amendment.

Ordered further, That no motion to commit, with the exception of the Harkin-Levin amendment, be in order and that no motion to table be in order.

Ordered further, That time for debate on the bill be limited to 1 hour, to be equally divided and controlled by the Senator from Arizona [Mr. MCCAIN] and the Senator from Texas [Mr. BENTSEN], or their designees.

Ordered further, That following the disposition of the amendments, and the using or yielding back of the time on the bill, the Senate proceed without any intervening action to third reading and final passage of S. 1726, as amended, if amended.

Ordered further, That the bill, if adopted, remain at the desk and the language of S. 1726, as amended, if amended, be offered as an amendment to any revenue bill, other than the reconciliation bill, coming from the House on which there would be 1 hour for debate, to be equally divided, and against which no point of order would lie and no amendment to the amendment be in order.

Ordered further, That the agreement be in the usual form. (Oct. 5, 1989).

Mr. MITCHELL. Mr. President, I thank all of my colleagues. I thank the Senator from Nebraska and the Senator from Arizona and the others here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLAG DESECRATION BILL

Mr. DOLE. Mr. President, all of us by now have heard of the Supreme Court's decision in Texas versus Johnson—the infamous flag-burning case. In this case, the Supreme Court said—unbelievably—that flag burning was a lawful hobby in this country. The Court also suggested that our Federal flag desecration statute violates the first amendment and is, therefore, unconstitutional.

Over the past couple of months, lawyers—acting more like a team of surgeons—have been tinkering with the language of the Federal flag desecration statute in a desperate effort to restore its constitutionality. They believe that the statute would somehow be constitutional if Congress removed a few of the statute's words—words like "cast contempt upon," "publicly," and "defiles." According to the lawyers, a Federal flag desecration statute without these words would not violate the first amendment, since the statute would only prohibit acts of conduct against the flag, not words of speech. The statute, the lawyers say, would

also be constitutional since it would view the flag neutrally.

At first, I thought a little surgery could do the trick—that the Federal flag desecration statute could indeed be revived with a Senate bill that deleted a few simple words.

But then I thought a little bit more—and then I realized what a bad idea this Senate bill was after all. Let me tell you why.

By removing the words "cast contempt upon," "publicly," and "defiles," the Senate bill would prohibit all sorts of conduct—conduct that Congress has absolutely no business regulating. The Senate bill, for example, would prohibit public and private acts, intentional and unintentional acts, contemptuous and uncontemptuous acts. You name it—the Senate bill covers it.

Let's talk about the word "publicly" for a moment. By deleting this word from the Federal flag desecration statute, the Senate bill would punish even those who unintentionally soil the flag in the privacy of their own homes. The Senate bill—in other words—could give the police a hunting license to enter our homes and arrest even the innocent child who spills some milk on the flag while in the family kitchen. A far fetched example? Perhaps. But such an arrest could be perfectly legal under the Senate bill. I repeat: Perfectly legal.

You know, I cannot quite understand why Congress is so defensive about this issue. I cannot understand why Congress is in such a mad rush to conform with a Supreme Court decision about which 97 Senators—97 Senators—expressed their "profound disappointment." And I cannot understand why Congress is so eager to pass a bill that is patently overbroad and still probably unconstitutional.

I will make no bones about it: I want a Federal flag desecration statute that punishes what it is supposed to punish—flag desecration. I want a statute that protects the cherished values that the flag symbolizes, not a statute that views the flag neutrally—as if it were some rock. And I want a statute that punishes people who "publicly cast contempt upon the flag," not a statute that lumps the innocent with people like Gregory Johnson.

Now, I will be the first to admit that the current Federal flag desecration statute is now unconstitutional as a result of the Texas versus Johnson decision. But the way to preserve that statute is not to neuter it. The way to protect the Federal statute—as well as the 48 State flag desecration statutes—is through an affirmative step, through a constitutional amendment. Pure and simple.

So, Mr. President, Old Glory is waving today—waving goodbye to protection; the kind of protection the American people are demanding and that the symbol of our Nation deserves. It is clear to me—especially after today's votes—that the statute "fix" is really no "fix" at all. It does not work. It will never work.

It was an effort that began with hope, but has now become hopeless. The only guarantee that can do the job is a constitutional amendment. If there was any doubt about it before, there's no doubt about it now.

AMERICAN VALUES

Mr. NUNN. Mr. President, we all know the President pro tempore of the Senate, ROBERT BYRD of West Virginia, is a man who lives what the exhorts others to do. He does not merely admire music, but makes music for all to enjoy. He is not content to complain that traditional formal wear is uncomfortable and urge that men be liberated from it, but has courageously liberated himself from the strictures of tuxedos without inhibiting his social life. Having worked his way from the coal fields of West Virginia to the mine fields of the U.S. Senate, he did not just advocate life-long education for others, but continued his own formal education, earning his law degree with honors while carrying out his growing Senate responsibilities with distinction. Fortunately for all of us, he continues his study of history, literature, and the Bible and is kind enough to share the knowledge and insights thus gained with his colleagues and friends.

On Wednesday, Senator BYRD spoke to the weekly Senate prayer breakfast on a subject that concerns us all—American values. He held a mirror up, not just to the perpetrator of the latest scandals around the Nation, but to our own daily conduct, and the standards we set and habits we encourage. I ask permission to share his valuable thoughts with the entire Senate, and to have them printed, in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MEDITATION FOR PRAYER BREAKFAST, OCTOBER 4, 1989

(By Senator Robert Byrd)

In his letter to the Church at Philippi, the Apostle Paul wrote: "Finally, breathen, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things."—Philippians 4: 8

Paul was a sophisticated man of the Roman world—a much-traveled man, a learned man, an informed man.

Paul was not ignorant of the society and civilization in which he lived.

Paul knew, for instance, that many Greek and Roman temples were glorified houses of prostitution—religious centers wherein, for a price, a man might buy sexual favors from a priestess.

Paul knew that in the arenas of the Mediterranean world, roaring, laughing, drunken crowds might enjoy watching animals tearing human beings apart or gladiators battling one another to the death.

Paul knew that under Roman law slaves might be put to death on the whim of their owners, and that some men had deliberately turned their backs on their own masculinity to affect female attire and pursue sex with their own gender.

And certainly Paul was aware that, in just his maturity, the glorious Roman Empire had been ruled by one emperor—Caligula—who had wed his sister, murdered her with his own sword, declared himself a god, and made his horse a Roman senator, and another emperor—Nero—who had murdered his own mother and his wife.

Roman civilization, for all of its superiority and strength, was a cesspool of pornography, sexual excess, drunkenness and drug-taking, murder, faithlessness, and public immorality.

Yet, against all of that, Paul counsels, "whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things."

Why would Paul write such Pollyanna advice to the Church at Philippi?

First, Paul had been reared in a strict Jewish tradition—the tradition of the one people in the Ancient World who saw themselves as witnessess to the purity, righteousness, and justice of the Living God; and second, Paul believed that the Gospel he proclaimed called on those who believed it to witness to that same Biblical holiness and purity of life in that debauched Roman world.

To Paul, Jew and Christian alike were called to the mission of shunning the evil and moral slime of their day and to live a higher life.

Paul likewise knew that those who allowed their outward lives to wallow in degradation and pollution would soon find their inner lives drowning in that same degradation and pollution.

Unfortunately, I wonder if Paul would judge our own society in which we live—morally much superior to his own.

To be sure, we no longer allow gladiators to kill one another for public amusement or animals to devour human victims at RFK Stadium or Memorial Stadium.

But take a look at what we do permit:

A drug epidemic of such vicious proportions that some addicted mothers have been reported to offer their own young daughters to any man who would pay the price of a "fix"; television programs that come into our homes touting prostitutes, murderers, drug pushers, homosexuals, and whorehouse madams as heroes and heroines.

One of the leading writers, Ms. Judy Blum, of books for teenage girls is most noted for the sprinkling of profanity and scatological dialogue throughout her stories; our movies, newspapers, magazines, and television alike play on violence, greed, terrorist, lust, adultery, infidelity, and crime; murderers like Charlie Manson are interviewed as celebrities on prime time, and actors and entertainers known for their drug abuse, promiscuity, and bohemian lifestyles are treated by tabloids and serious press people alike as idols and authorities even on the most complex issues of the day.

Even now, the rock group "The Rolling Stones" is touring this country, singing to packed auditoriums and stadiums songs with titles like "Sympathy for the Devil" and "Let's Spend the Night Together."

One might paraphrase Paul to declare that the model advice of today's culture is: "Finally, brethren, whatsoever is lurid, whatsoever is filthy, whatsoever is base, whatsoever is corrupting, whatsoever is low and common and demeaning, whatsoever is unfaithful and unbelieving, glorify this!"

I was not born yesterday. Like Paul, I have a certain degree of sophistication. I know that we are living in an age of far-flung communications and an age of pluralistic values.

I know likewise that the Senate is neither a church nor a monastic community.

But, as a Senator and as a concerned American, I would like to know where we are permitted to draw a line? In this era of tolerance and levelling of all values, is every perversity, every moral deformity, and every degree of looseness to be allowed to flourish without question? Is profanity to be accepted as the aesthetic equivalent of reasoned, circumspect conversation? In the name of freedom of expression and novelty, are we expected to stand idly by while this great country and all that made her the greatest nation in world history are drowned in a rising tide of vulgarity and licentiousness?

Imagine a young child who watches television or attends movies in most American communities.

By the time that child reaches his or her adulthood, how many extramarital affairs has that child witnessed on the soap operas? How many murders? How many drug addicts inserting how many needles into their arms? How many depictions of rape, incest, burglaries, car thefts, assaults, orgies, tortures, and drug sales?

Worse, what kind of interpretation of life and citizenship will that child carry into his or her maturity?

And what kind of citizen will that child become in later life?

How differently did we once nurture the young mind!

For generations, young boys and girls across America learned their values from the old McGuffey's Readers. An examination of just the sixth book in that series is instructive.

There, the young reader could read poems by Shakespeare, Dryden, or William Cullen Bryant; there one read Rip Van Winkle by Washington Irving or A Psalm of Life by Longfellow; there were The Death of Little Nell by Dickens or The Memory of Our Fathers—prose and poetry geared to challenge the mind, massage the conscience, and teach values like courage and patriotism and decency.

In most homes the Scriptures of the Hebrew Bible and the New Testament were learned along with the ABC's and the multiplication table.

In most homes The Ten Commandments were taught and observed as the sine qua non of civilized behavior and acceptable human virtue.

In recent decades the word "Puritanism" has had woven about it the mystique of prudishness, priggery, and pre-Freudian neuroticism.

But historical English Puritanism arose from the reasoned decision of large numbers of thoughtful people in Britain that seventeenth-century public morality had become decadent, perverted, and debauched.

That Puritanism was not about fostering prudery, but about fostering a higher, healthier lifestyle among the people of England.

I see nothing miguided about that kind of Puritanism, and I would welcome its return among us today.

Be that as it may, I think that we as United States Senators have a particular role to play in the moral toning-up of our society today.

Instead of standing quietly by in expected acquiescence to whatever new outrages the cultural elites of this country and Western Europe decree as the new morality, I believe that we have both the prerogative and the responsibility to call into question whatever would degrade or further debase our culture.

We should have no fear of public ridicule from the self-appointed grand viziers of glamor and trendiness if, in both precept and personal example, we lend our prestige to the religious ethic, work ethic, to honesty, to marital fidelity, to decency, to family values, and to the highest standards forged by Western civilization.

Teddy Roosevelt said that the Presidency was a bully pulpit.

The same might be said of a seat in the United States Senate!

Let us, then, not be afraid to call attention to the emperor's lack of clothes when the occasion calls.

Let us remember that, like the Jewish people and the Early Church that Paul knew so well, we too must witness to our Lord.

THE FLAG PROTECTION ACT OF 1989

Mr. CONRAD. Mr. President, I rise today as a cosponsor of H.R. 2978. I strongly support this legislation, which will immediately afford the flag the protection it deserves—protection from physical desecration.

On June 21, 1989, the Supreme Court ruled 5 to 4 that a protester in Texas who burned a U.S. flag should not have been convicted of a crime. This decision overruled State laws against burning the flag in 48 States. I shared my colleague's sense of deep dismay that the Supreme Court did not see fit to protect the flag from desecration.

The decision in Texas versus Johnson focused on a particularly blatant set of circumstances. During the Republican National Convention in Dallas in August 1984, Gregory Johnson participated in a series of demonstrations against the policies of the Reagan administration and the Republican Party. One demonstration, which culminated with a rally at Dallas City Hall, included activity in which Johnson unfurled an American flag, doused it with kerosene and set it on fire. While the flag burned, the protestors chanted "America, the red, white and blue, we spit on you."

Mr. President, every American feels strongly about the flag. In my home State of North Dakota, people of all ages and walks of life have been deeply offended by this incident, and want to restore respect and integrity to the flag. Recently, a high school senior from Hatton, ND, wrote to me to express his concern about the flag-burning controversy. In the letter, he said:

> This is a subject that bothers me a lot. My father is a veteran of the Vietnam War as well as the commander of our local American Legion Post. To see the Supreme Court make it legal to desecrate Old Glory is enough to make the man cry.
>
> I'm a veteran of sorts too, a veteran of Boys' State. If I or others there learned anything it was that our flag and country are two of the most important parts of American lives.

Mr. President, the flag is certainly an important part of American lives. The American flag is a symbol of the liberty and justice which all citizens of this great country enjoy. School children across the country begin each day by pledging their allegiance to the flag. Millions of men and women have fought under the American flag to ensure that this country remains the land of the free and the home of the brave. Many have sacrificed their lives for the flag, and the republic for which it stands. From Iwo Jima to the Moon, the Star Spangled Banner has proudly flown around the world and beyond, as a symbol of American freedom, bravery, humanity, and pioneering spirit.

I oppose the burning of the American flag, one of this Nation's most precious symbols. I believe that we must protect the flag, just as we have fought to protect the principles upon which this country was founded. Earlier this year, I joined my colleagues to pass Senate Resolution 51, expressing the Senate's disappointment with the Supreme Court ruling. I also supported a later Senate amendment rewritting Federal antidesecration law, making it illegal to display our flag on the floor or ground, or burn, mutilate, or deface our national emblem.

Mr. President, I am pleased to be a cosponsor of the legislation before us today, and I urge my colleagues to support it. According to constitutional scholars, the flag can be protected through Federal legislation such as this bill.

This legislation would make it an offense to knowingly mutilate, physically defile, deface, burn, or trample upon a flag of the United States. The American flag deserves protection from physical desecration, and this bill is the quickest way to ensure that this sacred symbol is protected and maintains its integrity. Mr. President, I urge rapid consideration and passage of this important legislation.

RAOUL WALLENBERG RECOGNITION DAY

Mr. PELL. Mr. President, 8 years ago today, Raoul Wallenberg was made an honorary U.S. citizen. As the Senate sponsor of the resolution giving Wal-

lenberg this status and as a member of the Raoul Wallenberg Committee of the United States, I want to join in paying tribute to this "lost hero of the Holocaust."

At the behest of the U.S. Government, Raoul Wallenberg courageously and selflessly risked his life to save thousands of Hungarian Jews from death at the hands of the Nazis during World War II. His heroic work has proven to be a unique contribution in the history of the salvation of European Jews from the Holocaust. Wallenberg himself, who has not been heard from since January 1945 when he was seized in Budapest by Soviet authorities, has become, for millions of people, a symbol of our deepest humanitarian values.

Over the years, the United States has made several attempts to obtain information from the Soviet Union about Wallenberg's fate. The Soviet Government has repeatedly refused to open the records or to cooperate with any who seek to solve the mystery of his disappearance. Despite mounting evidence that Wallenberg might still have been alive as recently as a few years ago, Soviet authorities continue to insist that Wallenberg died of a heart attack while in a Soviet prison in 1947.

Raoul Wallenberg undertook his humanitarian mission and put his own life in jeopardy at the request of our Government. Without a doubt, the United States has a responsibility to Wallenberg and his family to resolve the question of his fate and to save him as he saved so many others. I have raised the Wallenberg case with Soviet officials on many occasions. I urge the Bush administration to do so as well so that the "lost hero of the Holocaust" will be lost to us no more.

THE FLAG PROTECTION ACT

Mr. CHAFEE. Mr. President, I think it is important that during discussion on the American flag, and how best to protect its integrity, we take a step back and reevaluate what we are trying to do, and why.

Every individual in this room is a patriotic American. Each and every one of us respects and values the American flag. If the protection of the flag, and all that it stands for, is our goal, then we, as legislators, I believe, should not undertake legislative action.

In the Bill of Rights we find the most fundamental American values, including the right to freedom of speech, expression, assembly, and religion. All of these rights are an integral part of the history of the United States. In fact, it is on these rights that we base our collective identity as Americans. Our belief in these rights is what makes even the most bitter national debate a unifying and strengthening experience.

The American flag is domestically and internationally, recognized as a symbol of freedom: Freedom to express one's opinions, in speech or print, freedom to worship; freedom from intolerance. Whenever we exercise these freedoms, we reaffirm everything for which the flag stands.

In my view, we in Congress have inadvertently already given a lone protester in Texas far more attention than his protest ever merited. By doing so, we have probably accomplished more than his actions intended, and fulfilled his wildest dreams. He's received his "15 minutes of fame" and considerably more. And yet his act in no way threatened our Nation's confidence in itself and its own strength.

Mr. President, I do not condone or salute the actions of Mr. Gregory Johnson. But I believe he has the right to express himself. In the words of the commonly used expression, I firmly believe he is entitled to his wrong opinion. In a peculiar way, his burning of an American flag actually legitimized, in the strongest manner possible, everything for which our flag stands.

There is no doubt in my mind that the intent of the Senate in this matter is well-meant, and certainly heartfelt. But no matter whether by statute or by amendment, we are stumbling into a morass. How, for example, do we define the term "desecration?" Where does veneration end, and desecration start? If I wear a flag pin, am I defiling the flag? What about bumper stickers with flags on them—which, incidentally, would cover most political election decals? What about works of art that depict the flag? Or cocktail toothpicks with little flags on them?

I think we must recognize that when people wear, or copy, or even pattern hooked rugs after the flag—as patriots did in the 19th century—they often are showing their pride and respect for a symbol they hold dear.

I would also urge caution before approving a constitutional amendment to "correct" Mr. Johnson's unpleasant behavior. The Bill of Rights is a beautifully crafted document. Amending the Bill of Rights, or any part of the Constitution, is a process that should be undertaken with great caution. If we rush to amend the Constitution, without a "cooling-down" period, without careful and thorough examination of what is involved, we risk much that is set forth in the Constitution. With the best of intentions, we could end up doing considerable damage.

Mr. President, I would make just one last point. Simply put, we cannot mandate respect and pride in the flag. It is far better to act from motives of love and respect than out of obedience.

Like many of my colleagues, I am a veteran. Even more importantly, I am a U.S. citizen. I value our flag. But I value far less the cloth of the flag than the beliefs and rights for which it stands. When I fought, I fought for freedom.

The burning of the flag is not, nor ever has been, an imminent threat to national security. Our tolerance of the act of burning the flag—however contempitible that act may be—is an affirmation of our most fundamental values, our strength, and our wisdom.

MESSAGES FROM THE HOUSE

At 10:16 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolutions:

H. Res. 251. A resolution amending the articles of impeachment exhibited by the House of Representatives against Walter L. Nixon, a judge of the U.S. District Court for the Southern District of Mississippi; and

H. Res. 252. A resolution notifying the Senate of the amendment to the articles of impeachment against Judge Walter L. Nixon.

At 7:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 2712) to facilitate the adjustment or change of status of Chinese nationals in the United States by waiving the 2-year foreign residence requirement for "J" nonimmigrants; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BROOKS, Mr. MORRISON of Connecticut, Mr. BERMAN, Mr. SMITH of Texas, and Mr. MCCOLLUM as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3281) to extend the expiration date of the Defense Production Act of 1950; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that he had signed the following enrolled bill and joint resolution, which had previously been signed by the Speaker of the House:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civil Achievement Award Program in Honor of the Office of the Speaker of the House of Representatives, and for other purposes; and

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month".

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 5, 1989, he

had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 122. Joint resolution to designate October 1989 and 1990 as "National Down Syndrome Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK from the Committee on Environment and Public Works, with amendments:

S. 804. A bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats (Rept. No. 101-161).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Harold B. Steele, of Illinois, to be a member of the Farm Credit Administration Board, Farm Credit Administration, for the remainder of the term expiring May 21, 1992;

Catherine Ann Bertini, of Illinois, to be an Assistant Secretary of Agriculture; and

Bruce L. Gardner, of Maryland, to be an Assistant Secretary of Agriculture.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Warren G. Leback, of New Jersey, to be Administrator of the Maritime Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably a nomination list in the Coast Guard which was printed in full in the CONGRESSIONAL RECORD of August 4, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Thomas E. Collins III, of Mississippi, to be Assistant Secretary of Labor for Veterans Employment and Training;

Edward T. Timperlake, of Virginia, to be an Assistant Secretary of Veterans Affairs;

Raoul Lord Carroll, of the District of Columbia, to be General Counsel, Department of Veterans Affairs;

S. Anthony McCann, of Maryland, to be an Assistant Secretary of Veterans Affairs (Finance and Planning);

Allen B. Clark, Jr., of Texas to be an Assistant Secretary of Veterans Affairs (Veterans Liaison and Program Coordination); and

JoAnn Krukar Webb, of Virginia, to be Director of the National Cemetery System, Department of Veterans Affairs.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. MCDONNELL, and Mr. SIMPSON) (by request):

S. 1727. A bill to amend the Federal Election Campaign Act to provide comprehensive campaign finance reform, to lessen the power of special economic interests and to restore competition to American Congressional elections; to the Committee on Rules and Administration.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, and Mr. SANFORD):

S. 1728. A bill to provide disaster assistance to timber producers who suffered losses of trees due to Hurricane Hugo to help them reestablish private timber stands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, and Mr. KERREY):

S. 1729. A bill to amend the Commodity Exchange Act to reauthorize such act and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM:

S. 1730. A bill to affirm that certain orders issued by the Federal Energy Regulatory Commission were and are within the Commission's authority under the Natural Gas Act and the Natural Gas Policy Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. MITCHELL, Mr. BURDICK, and Mr. BENTSEN):

S. 1731. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 1732. A bill to amend the Internal Revenue Code of 1986 to allow monthly deposits of payroll taxes for employers with monthly payroll tax payments under $10,000, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 1733. A bill to suspend temporarily the duty on a certain specialty thermostat resin; to the Committee on Finance.

By Mr. BREAUX:

S. 1734. A bill to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BYRD:

S. 1735. A bill to provide authorizations for antidrug abuse appropriations, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROTH (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Mr. MCCLURE, Mr. PACKWOOD, Mr. SPECTER, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. BURNS, Mr. HUMPHREY, Mr. BIDEN, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. BRYAN, Mr. CRANSTON, Mr. DECONCINI, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. CONRAD, Mr. JOHNSTON, Mr. SASSER, Mr. NUNN, Mr. ADAMS, Mr. KOHL, and Mr. EXON):

S. Res. 191. Resolution to recognize the bicentennial of the American Morgan Horse and to designate the period commencing October 9, 1989 and ending October 15, 1989 as "National Morgan Horse Week"; considered and agreed to.

By Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BIDEN, Mr. PRESSLER, Mr. SIMON, Mr. SANFORD, Mr. SARBANES, and Mr. DURENBERGER):

S. Con. Res. 75. Concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. MCCONNELL, and Mr. SIMPSON) (by request):

S. 1727. A bill to amend the Federal Election Campaign Act to provide comprehensive campaign finance reform, to lessen the power of special economic interests and to restore competition to American congressional elections; to the Committee on Rules and Administration.

COMPREHENSIVE CAMPAIGN FINANCE REFORM ACT

Mr. DOLE. Mr. President, the baseball season is drawing to a close; the regular season had ended and the playoffs are under way. But there is one season that never ends—I'm talking about the political campaign season.

Even in this so-called nonelection year of 1989, many States have already had important special elections, reminding us all how high the stakes can be, and how much preparation it takes to get the job done.

It also reminds us that election day 1990 is only 398 days away. To my coleagues who are up for re-election in 1990, it probably seems even closer. Still, the campaign finance issue remains unsolved.

Today, I am pleased to announce that the Republican Party—under the leadership of President Bush—continues its commitment to campaign reform. I want to underscore that commitment today by introducing President Bush's Comprehensive Campaign Reform Act of 1989. My distinguished colleague from Kentucky—Senator MITCH MCCONNELL—has been our leader on this issue, and I am pleased he is with me to help introduce this important presidential initiative.

THE IMPORTANCE OF COMPETITION

The No. 1 goal of the President's package is to restore competition to congressional elections. Let's face it, politics is all about competition; or at least is should be. But statistics tell us that competition is on the endangered list.

If you are looking for a sure thing, take a look at incumbency on Capitol Hill. During the past decade, incumbents in the U.S. House of Representatives have posted an astounding 97.7 percent re-election rate. We have seen some turnover in the U.S. Senate, but Senators seeking re-election have still won 85 percent of the time. Those are pretty good odds—unless, of course, you are a challenger.

Of the 410 U.S. Representatives who sought re-election in 1988, only 8 were defeated; of those 8, 3 were under indictment, and 1 was actually convicted.

New York Times correspondent Hedrick Smith once wrote—and I quote—"The lack of authentic competition in so many election undermines the essence of representative government"—end quote. If you want to talk about why we need campaign reform, this is the place to start—right here. What we need is more competition, not less.

INCUMBENT ADVANTAGES

Of course, we incumbents enjoy plenty of advantages over any potential challenger. The most visible is the multimillion dollar franking privilege.

THE ABUSE OF THE FRANK

Although there is a legitimate need for reasonable use of the frank, it is no secret that in an election year franked mail pours out of congressional offices, and that almost 90 percent of this mail is unsolicited. A recent study conducted by the Congressional Research Service found that when taken together, the House and Senate sent out nearly four times as much mail—805 million pieces—as they received—210.4 million pieces—during the 1988 fiscal year. The study also found that congressional use of franked mail jumped from $63.6 million to $113.4 million between 1987 and 1988, a 78.3 percent increase in an election year.

The President's plan bans the use of the frank for unsolicited mass mailings, and requires Members to file quarterly reports of the money they spend on franked mail. This provision is not intended to prohibit a Member of Congress from responding to his or her constituents; its purpose is to halt the tidal wave of junk mail that is flooding the taxpayers' mailboxes.

President Bush also takes on another juicy incumbent advantage, and that is the campaign war chest savings plan. The President says it's time to stop incumbents from rolling over excess campaign money from one campaign to the next, and to prevent members from using excess campaign funds for personal use.

GERRYMANDERING

In my view, any meaningful campaign reform package will have to deal with the problem of gerrymandering. Congressional boundaries will be redrawn after the 1990 census and that will have a dramatic impact on the composition of Congress in 1992. The redistricting standards contained in this bill are among the most important provisions in the President's plan.

I firmly believe that this issue must be addressed as part of any meaningful campaign finance reform package. Politicians should not be allowed to manipulate congressional district boundaries as part of some self-serving partisan scheme.

President Bush agrees. His plan features a non-partisan Federal standard for congressional districts that would go a long way toward making congressional races fair and competitive.

STRENGTHENING POLITICAL PARTIES

Another key ingredient in the President's reform package is an initiative which was part of the Congressional Campaign Reform Act of 1989 (S. 7), a bill I introduced with 15 Republican cosponsors this past January. These provisions would strengthen the role of the political parties in Federal elections, a change advocated by a number of neutral, academic observers who study our political system.

In simple terms, the Bush plan raises the cap on the amount of funds parties can give to candidates. This change benefits all candidates, by giving them an opportunity to spend more time raising issues and less time raising money. Stronger political parties also make it easier for challengers to mount credible campaigns with a nest egg free of special interest obligations.

THE DISPROPORTIONATE INFLUENCE OF SPECIAL INTERESTS

No doubt about it, a growing number of Americans are becoming disgusted with a political system that appears to be captive to special interests. In Kansas, we have a strong tradition of grass-roots politics, where the individual can—and does—make a difference. But, here in Washington, the special interests with all their clout and their millions of dollars seem to be the ones calling the shots. Here's why:

The Democratic Party is the majority party on Capitol Hill, a fact not lost on political action committees. PAC directors know the numbers, and they want to bet on winners. They recognize that incumbents are the heavy favorites to win re-election. As a result, most PAC dollars now go to incumbents.

It has even gotten to the point where a candidate's position on the issues has taken a back seat to incumbency in determining where PAC dollars go. PAC directors justify their response to a lopsided system that favors incumbents as earning a good return on their contributors' investment.

A recent article by Brooks Jackson of the Wall Street Journal—Sept. 15, 1989—underscored the importance of PAC dollars to House Democrats. The article showed that while donations to the Democratic Congressional Campaign Committee declined by nearly two-thirds in the 12 months ended June 30, political action committees [PAC's] increased their giving during the same period by 18 percent, to $1.9 million.

President Bush has a plan to deal with special interest influence. His proposal bans PAC's sponsored by corporations, labor unions and trade associations, and increases disclosure requirements on so-called soft money contributions and independent expenditures, the kind of contributions that big labor and other well-financed organizations can dump into a campaign without limitation. For the so-called ideological PAC's that are protected under the first amendment's freedom of association, the President would slash the contribution limits from $5,000 per candidate per election to $2,500 per candidate per election.

INCREASED DISCLOSURE

The first amendment guarantees each American the right to freedom of speech. The Supreme Court has held that political expenditures are a form of political speech. But, if we are genuinely concerned about the level of money in the political system, we need to know where the dollars come from and how they are being spent. Under these circumstances, disclosure is the best solution.

CONCLUSION

Mr. President, George Bush has taken the lead in the campaign finance reform debate with this initiative.

By curbing the influence of the special interests, reducing incumbent advantages, strengthening political parties and increasing the level of competition in congressional elections with-

out shifting the burden of campaign reform onto the backs of the American taxpayers, George Bush has developed a comprehensive reform plan that would go a long way toward restoring public confidence in the current campaign financing system.

I look forward to a lively discussion of these proposals in the Senate Rules Committee and on the Senate floor.

I ask unanimous consent that a section-by-section analysis, the letter of transmittal, and a press release of the White House appear with the text of the bill in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. That this Act may be cited as "Comprehensive Campaign Finance Reform Act of 1989".

LIMITATIONS ON POLITICAL ACTION COMMITTEES

SEC. 2. (a) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by deleting all of the text following subsection (b)(2)(B).

(b) Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by striking out "5,000" and inserting in lieu thereof "2,500" in subseciton (A), and by placing a period after the word "committee" and striking all that follows in subsection (C).

(c) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by inserting the following text as a new subparagraph "(c)":

'(c) It is unlawful for any bank, labor organization, or corporation referred to in Subparagraph (a) of this Section to make any contribution or expenditure for the establishment, administration, or solicitation of contributions to any political committee.".

LIMITATIONS ON MULTIPLE POLITICAL COMMITTEES

SEC. 3. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended as follows:

(1) Subsections (a)(6) through (a)(8) inclusive are renumbered (a)(7) through (a)(9) inclusive, and,

(2) The following text is inserted as subparagraph (a)(6):

"For the purposes of the limitations provided by paragraphs (1) and (2) of this subparagraph, all contributions made to any political committee which is established or financed or maintained or controlled by any candidate or federal officeholder shall be deemed to be a contribution to said individual.".

(b) Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by deleting subsection (e)(3)(B).

PROTECTIONS FOR EMPLOYEES

SEC. 4. (a) Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(9) For purposes of this subsection–

"(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate;

"B) in all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient; and,

"(C) no conduit or intermediary shall deliver or arrange to have delivered contributions from more than two persons who are employees of the same employer or members of the same labor organization.".

(b) Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) in paragraph (2), by inserting "political committee," after "campaign committee,";

(2) by inserting the following new paragraph after paragraph (2):

'(3)(A) Subparagraphs (A) and (B) of paragraph (2) apply only to labor organizations which—

"(i) provide to all employees within the labor organization's bargaining unit(s), at least once annually, and to new employees within 30 days after commencement of their employment, written notification presented in a manner to inform any such employee of the following information:

"(I) that an employee cannot be obligated to pay, through membership dues or any other mandatory payment, for the political activities of the labor organization, including but not limited to, political communications to members, voter registration and get-out-the-vote campaigns;

"(II) that an employee may elect to pay an agency fee to the labor organization, in lieu of formal membership in such organization and the payment of full membership dues;

"(III) that the amount of such agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to its bargaining unit(s), i.e., collective bargaining, contract administration, and grievance adjustment;

"(IV) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities, from funds contributed by membership dues;

"(V) that the cost of the labor organization's exclusive representation services and the amount of spending by such organization for political activities from funds contributed by membership dues, shall be computed according to the immediately preceding fiscal year of such organizations; and

"(VI) the amount of labor organization full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of such agency fee, for the current year.

"(ii) for the purpose of verifying the cost of such organization's exclusive representation services, submit to an annual inspection, by an independent certified public account, of financial statements supplied by such organization which reveal the cost of such services; and

"(iii) maintain procedures to determine which costs may properly be charged to agency fee payors as costs of exclusive representation, and explain such procedure in the written notification required in clause (i)(I) of this subparagraph.

"(B) Any labor organization which does not satisfy the requirements of paragraph (3)(A) shall finance any expenditures specified in subparagraphs (A) or (B) of paragraph (2) with funds properly collected under the Act. For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications for political purposes.".

DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 5. Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 441d) is amended by renumbering subsection (b) thereof as subsection (c), and by inserting a new subsection (b):

"For purposes of subsection (a)(3) of this section, the term "clearly" shall mean that the statement regarding sponsorship of the communication:

"(1) is given at the beginning of the communication;

"(2) is given at the end of the communication;

"(3) is easily readable or audible;

"(4) is in such a format or design as to be completely unambiguous regarding the actual payor and sponsor of the communication, and

"(5) contains the statement that the communication is "not authorized by any candidate.".

INCREASED ROLE FOR POLITICAL PARTIES

SEC. 6. (a) Sections 315(d) (2) and (3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d) (2) and (3)) are amended by substituting the words "5 cents" for the words "2 cents" each time they appear in said subsections.

(b) Section 315(d)(3)(A)(ii) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)(A)(ii)) is amended by striking out "20,000" and inserting in lieu thereof "50,000.".

(c) Section 315(d)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)(B)) is amended by striking out "10,000" and inserting in lieu thereof "25,000.".

EXCESS CAMPAIGN FUNDS PROHIBITIONS

SEC. 7. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a), is hereby amended to read as follows:

"439a. USE OF SURPLUS CAMPAIGN FUNDS.

"(a) Amounts received as contributions by the authorized political committee of a candidate that are in excess of the amount necessary to defray the expenditures incurred by that political committee, may be transferred without limitation to any national, state or local committee of any political party; or may be refunded to contributors on a pro rata basis.

"(b) Any amount of surplus campaign funds that has not been disposed of in accordance with the terms set forth in subparagraph (a) of this Section shall be transferred to the Treasurer of the United States and applied to the National Debt Retirement Account.

"(c) It shall be unlawful for any political committee authorized by a candidate, or for any person acting as an agent of such a political committee, to utilize or dispose of surplus campaign funds in any manner except as described in subparagraphs (a) or (b) of this Section. It shall also be unlawful for any person to accept or receive or receive surplus campaign funds for purposes, or in a

manner, other than that specified in Subparagraphs (a) or (b) of this Section.

"(d) All dispositions of surplus campaign funds shall be reported through an itemization of each such expenditure pursuant to section 304 of the Federal Election Campaign Act as amended (2 U.S.C. 434) on the post election semi-annual report that is filed on or before July 31 of the year following the election for which they are raised.

"(3) This section shall apply to any surplus campaign funds existing on November 7, 1990, and thereafter.

"(f) For purposes of this section "surplus campaign funds" means the balance remaining, if any, between the contributions made for the purpose of influencing the election of the candidate who authorized the campaign committee and the expenditures made by said committee for the purpose of influencing the election of said candidate.".

TIGHTENING ENFORCEMENT

SEC. 8. (a) Section 406 of the Federal Election Campaign Act of 1971 (2 U.S.C. 455) is repealed.

(b) Section 309(a)(12) of the Federal Election Campaign Act of 1972 (2 U.S.C 437g(a)(12)(A)) is amended by adding thereto the following text as a new subsection "(C)":

"(C) Nothing in this Section shall be deemed to prohibit or prevent the Federal Election Commission from making information contained in compliance files available to the Attorney General, at his request, in connection with an investigation and/or a trial.".

LIMITATIONS ON CONGRESSIONAL FRANK

SEC. 9. (a) Subsection (a) of section 3210 of title 39, United States Code, is amended—

(1) in paragraph (6)(A), by placing a period after the words "franked mail" and deleting all that follows;

(2) in paragraph (6)(C) by placing a period after the words "franked mail" and deleting all the following: and,

(3) by deleting paragraph (6)(D).

(b) Effective October 1, 1989, subsection (a)(2) of section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "from funds appropriated to (or otherwise available from) the Senate (for costs attributable to the Senate) and from funds appropriated to (or otherwise available from) the House (for costs attributable to the House of Representatives).".

(c) Subsection (c) of section 3216 of title 39, United States Code, is repealed and subsection (d) of such section is redesignated subsection (c).

(d) Effective October 1, 1989, there shall be—

(1) within the contingent fund of the Senate, a separate appropriation account to be known as the "Senate Official Mail Costs Account", which shall be administered by the Secretary of the Senate, and

(2) within the fund for Contingent Expenses of the House, a separate appropriation account to be known as the "House Official Mail Costs Account", which shall be administered by the Clerk of the House of Representatives.

(e) The Senate Select Committee on Ethics and House Commission on Congressional Mailing Standards shall prescribe for each respective House rules and regulations governing any franked mail. Such rules and regulations shall include, for each Member of each respective House, an allocation from the amount appropriated for official mail. For Members of the Senate, such allocation shall be related to the population of the state represented. The costs for postage for such franked mail mailed by or for a Member in excess of the amount of the allocation shall be charged to such Member and shall be paid by such Member (if the allocation is from the Senate) in accordance with rules and regulations as may be prescribed by the Senate Committee on Rules and Administration, and (if the allocation is from the House) in accordance with such rules and regulations as may be prescribed by the House Commission on Congressional Mailing Standards.

(f)(1) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings, as defined in subparagraphs (iv) through (vii) of section 3210(a)(6)(C) of title 39, United States Code, processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs and shall distinguish the costs attributable to different classes of mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be printed in the Congressional Record next printed after the statements are received by the Committee and shall be included in the semiannual Report of the Secretary of the Senate. Such summary tabulations shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the State from which the Senator was elected.

(2) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the House Commission on Congressional Mailing Standards shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings, as defined in subparagraphs (iv) through (vii) of section 3210(a)(6)(C) of title 39, United States Code, processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to different classes of mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be printed in the Congressional Record next printed after the statements are received by the Committee and shall be included in the quarterly Report of the Clerk of the House. Such summary tabulations shall set forth for each Member the following information: the Representative's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the cost of such mail divided by the total population of the district from which the Member was elected.

SOFT MONEY DISCLOSURE AND ALLOCATION

SEC. 10. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. § 434(b)(6)) is amended by adding the following new subsection:

"(c) All accounts maintained by any political committee subject to registration under this Act shall be subject to the provisions of this Section.".

(b) The following new section is added to the Federal Election Campaign Act as amended as a new section 324 thereof:

"324. REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES MADE FOR MIXED PURPOSES.

"(a) Within 180 days of the effective date of this Act the Commission shall issue final regulations providing for a uniform and realistic method for allocating the costs for any mixed activity between Federal and non-Federal accounts.

"(b) Such regulations shall—

"(i) recognize the importance of Federal races in affecting the solicitation and distribution of funds for mixed activities, by requiring that a certain minimum proportion of the funds shall be allocated to the Federal race or races, which proportion in no event shall, except in extraordinary circumstances, be less than 33 percent; and,

"(ii) require any reporting of disbursements on a mixed activity under this Act to indicate the method and rationale used in allocating the cost of the mixed activity as well as the amount and percentage of the overall expense of the activity allocated to one or more Federal or non-Federal accounts.

"(c) For purposes of this Section, the term "mixed activity" shall include any activity the expense of which must be allocated between Federal and non-Federal accounts because such activities affect both Federal and non-Federal races. Such activities shall include, but not be limited to, voter registration and get-out-the-vote drives in connection with elections which involve both Federal and non-Federal races, and general political advertising, brochure, or other material, which includes reference, however incidental, to Federal as well as non-Federal candidates, or which urge support for or opposition to all the candidates of a political party.".

LIMITATIONS ON GERRYMANDERING

SEC. 11. (a) Section 22 of the Act entitled "An Act To provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929, as amended (2 U.S.C. 2a) is amended by striking out subsection (c)(1-5).

(b) The second paragraph (relating to congressional redistricting) of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for Congressional redistricting" approved December 14, 1967 (2 U.S.C. 2c) is repealed, and in lieu thereof the following sections are added:

"(c) In each State entitled in the 103rd Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the provisions of subsection (b) of this section, there shall be established in the manner provided by the law thereof a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than one Representative. Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later

than such time as is reasonably sufficient for their use in the elections for the 103rd Congress and in each fifth Congress thereafter.

"(d) The number of persons in Congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census. The enumeration established according to the Federal decennial census pursuant to Article I, Section II, United States Constitution, shall be the sole basis of population for the establishment of Congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent and effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner as to minimize the division of cities, towns, villages and other political subdivisions.

"(j)(1) It is the intent of the Congress that Congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the Congressional reapportionment and redistricting process, are made available to any officer or public body in any State, such materials shall be made available by such State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965, as amended.

"(l) Any State may establish by Law criteria for implementing the standards set forth in this section. Nothing in this section shall be construed as limiting the power of a State to strengthen or add to these standards, nor to interpret these standards in a manner consistent with the Law of the State, to the extent that such additional criteria or interpretations are not in conflict with this section.".

(c)(1) The District Courts shall have exclusive jurisdiction to hear and determine any action to enforce section 11 of this Act. Any person meeting a State's qualifications for voting in an election of a Member of the House of Representatives from such State may bring an action in the district court for the district in which such person resides, without regard to any amount in controversy, to enforce the provisions of section 11 of this Act with regard to the State in which such person resides.

(2) Notwithstanding any other provision of this section, the district court shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with the section.

(3) With the exception of actions brought under subsection (c)(2), the district court for the purposes of this section shall be a three-judge district court pursuant to 28 U.S.C. § 2284. Upon motion of any party in accordance with 28 U.S.C. § 1657, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into complaince with this Act. Any such action with respect to the establishment of Congressional districts in a State after a Federal decennial census may not be brought after the end of the nine-month period beginning on the date on which the last such district is so established.

(4) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with 28 U.S.C. § 1253.

(5) If the district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

(6) If the district court determines that the districts established by the State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with section 11. The district court shall retain jurisdiction over the case after remand.

(7) If, after remand in accord with subsection (6) of this section, the district court determines that the districts established by the State's redistricting authority under the remand order are not consistent with section 11, the district court shall enter an order establishing districts that are consistent with section 11 of this Act for the next general congressional election.

(8) If any question of state law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify that question to the highest court of the state whose law is in question. Such certification shall not stay proceeding in the district court.

(9) With the exception of actions brought under subsection (c)(2), an appeal from a decision of the district court under this section shall be taken in accord with 28 U.S.C. § 1253. An appeal under this section shall be noticed in the district court and perfected by docketing in the Supreme Court within 30 days of the entry of judgment below. Appeals brought to the Supreme Court under this subsection shall be heard as soon as practicable.

(10) For purposes of this section, "redistricting authority" shall mean the officer, officers, public body, public bodies, or any combination thereof, having initial responsibility for the Congressional redistricting of each State.".

(d) The first sentence of section 1657 of title 28, United States Code, is amended by striking out "or" and inserting in lieu thereof "any action under section 11 of the Comprehensive Campaign Reform Act of 1989, or".

(e) Section 141(c) of Title 13, United States Code is amended to add at the end of that section the following: "Where this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or where the Secretary otherwise provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of each State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, "political party" shall mean any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the five most recent general Congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census.".

SEVERABILITY

SEC. 12. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 13. Unless otherwise stated herein, this Act and the amendments made by this Act shall become effective on November 7, 1990 and shall apply to all contributions and expenditures made after such date.

SECTION-BY-SECTION ANALYSIS

Section 1. This section provides that the title of the Act will be "The Comprehensive Campaign Reform Act of 1989."

Section 2. Limitation on Political Action Committees.

This section eliminates the exception in law which permits the organization of political committees connected to corporations, unions or trade associations.

It prohibits the use of any corporate, union or trade association funds for the purpose of paying any of the costs of "non-connected" or independent political committees.

It decreases by half the amount "non-connected" political committees may give to candidates from $5000 to $2500 per election.

Section 3. Limitations On Leadership PACs.

This section limits contributions to so-called "Leadership PACs" by including the amount of contributions to such PACs toward the total given to the campaign committee of the candidate or federal officer holder associated with such PACs, for the purposes of determining contribution limits under the Federal Election Campaign Act. This will prevent "double" contributions by individuals and political committees to the same candidate. These new restrictions would apply to Presidential as well as Congressional candidates.

This section also closes the loophole that permits transfers between candidate committees.

Section 4. Protections For Employees.

This section deals with the problem of coercion in "bundling" by intermediaries or conduits.

It prohibits any intermediary or conduit from delivering or arranging to have delivered contributions from more than two persons who are employees of the same employer or members of the same labor organization or trade association.

This section also codifies the Supreme Court decision in *Beck* and sets forth the following rights:

Employees cannot be obligated to pay for the political activities of their union through membership dues;

Employees who choose to pay agency fees are only obligated to pay for the cost of the collective bargaining services the union provides;

Employers who choose to pay membership dues have the right to have their dues reduced by a pro rata share of the amount the union spends out of the membership treasury on political activities; and,

Employees must be informed of the amount of the full membership dues and related fees; the amount of reduced fees; and the cost of the political activities.

Unions are required to disclose these rights their members.

Section 5. Disclosure of Independent Expenditures.

This section increases the disclosure requirements of unauthorized independent expenditures. Information regarding the sponsorship of such an advertisement would have to be given at the beginning and the end of the communication; would have to be clearly readable or audible; and, would have to include the statement that it is not authorized by any candidate.

Section 6. Increased Role For Political Parties.

This section increases by 150% the amount a national, State or local committee of a political party may contribute to federal elections through coordinated expenditures.

Section 7. Excess Campaign Funds Prohibitions.

This section prohibits the rollover of excess campaign funds into the next election cycle; eliminates the "grandfather clause" that allows some members of Congress to convert excess funds to personal use; prohibits Senators from supplementing their official accounts with excess funds; and, requires that any excess funds be returned pro-rata to contributors, be given to national, State or local party committees, or be used to retire the federal debt.

Section 8. Tightening Enforcement.

This section repeals the shortened 3-year statute of limitations for violations of the Act and returns to the general 5-year statute of limitations.

It also permits the Attorney General to have access to FEC compliance files pursuant to a criminal investigation or trial.

Section 9. Limitations on Congressional Frank.

This section bans the use of the congressional frank for unsolicited mass mailings and requires quarterly reports by Members of Congress and Senators of the amounts spent on franked mail.

Section 10. Soft Money Disclosure and Allocation.

This section requires the disclosure of all soft money accounts by all political committees regulated by the FEC. It also requires political parties, corporations and labor organizations to allocate the costs of general political activities affecting the election of federal and non-federal candidate between their federal and non-federal accounts.

Section 11. Limitations On Gerrymandering.

This section sets out new standards for congressional reapportionment and redistricting. It codifies current case law and maintains previous statutory requirements that congressional districts be of equal population, and be contiguous and compact in form. It repeals current statutory provisions to the extent that they may permit multimember congressional districts, and reiterates a requirement of single-member congressional districts. New subsections would also limit the division of county and political subdivision boundary lines, as well as restricting egregious partisan gerrymandering.

It expresses the intent that the congressional redistricting process be open and subject to public scrutiny, and provides for equal access to federally funded census materials.

It also provides that nothing in the Act shall be construed as superseding any provision of the Voting Rights Act of 1965, as amended. Accordingly, the Act supplements the Voting Rights Act.

Finally, it establishes an expedited federal judicial review procedure of the congressional redistricting process, and gives the federal courts exclusive jurisdiction to enforce the standards set out in the Act.

Section 13. Severability.

If any portion of this Act is held invalid, the remaining portions of the Act shall continue in full force and effect.

Section 14. Effective Date.

This Act is effective November 7, 1990.

LETTER OF TRANSMITTAL

To the Congress of the United States:

I am pleased to submit for your consideration and enactment the "Comprehensive Campaign Finance Reform Act of 1989." This legislative proposal would implement the reforms I announced earlier this summer. It represents comprehensive campaign finance reform legislation designed to reduce substantially the power of special economic interests, while enhancing the role of individuals and political parties. The proposal also restores competition to Congressional elections by reducing the advantages of incumbency.

I look forward to working with Congress on these critical issues.

GEORGE BUSH.

THE WHITE HOUSE, *September 26, 1989.*

[From the White House Office of the Press Secretary, Sept. 26, 1989]

FACTSHEET ON THE COMPREHENSIVE CAMPAIGN FINANCE REFORM ACT OF 1989

Today the President transmitted to Congress comprehensive campaign finance reform legislation designed to lessen the power of special economic interests and restore competition to American Congressional elections. This legislative proposal implements the reforms already announced by the President.

While curtailing the influence of special economic interests, the proposal enhances the roles of individuals and the political parties in the electoral process. It is also designed to reform a system which has led to a "permanent Congress". In the 1980s, House incumbents have had a 97.7 percent reelection rate and Senate incumbents an 85 percent reelection rate. Below is an outline of the major proposals:

Elimination of political action committees (PACs) supported by corporations, unions or trade associations, and a prohibition on any such entities paying for the overhead or administrative costs of any independent PAC.

Reforms to address the problem of the "permanent Congress" by reducing the unwarranted advantages of incumbency. Specifically, the proposal would prohibit the personal use of excess campaign funds, drastically reduce congressional franked mailings, ban the rollover of campaign funds from one election cycle to the next, and legislate fair neutral criteria for the redistricting that will follow the 1990 census.

A strengthening of political parties by increasing the amounts they can spend on behalf of congressional candidates. This source of funds would permit legislators to spend less time fundraising, would ensure that challengers have greater resources with which to challenge incumbents, and would further limit the role of special economic interests in elections.

Full disclosure of all "soft money" spent by the political parties and all labor unions, corporations, and trade associations to influence a federal election.

Mr. McCONNELL. Mr. President, I am here this morning to commend the President of the United States and the Republican leader for their interest in and leadership on the subject of campaign finance reform.

Having been involved in the formulation of the President's bill, I might say that I think it is a very effective approach to the question of campaign finance reform. As a student of this issue over the last 5 years, and for a period of time as a professor on a part-time basis in college on this very subject, it seems to me that of all the various proposals that have been presented, the President's bill is probably the best.

Nevertheless, when we talk about campaign finance reform, we, of course, are talking about the rules of the game. In our democracy and in our strong two-party system, each side would love to write the rules in a way that would benefit their cause. So at some point, obviously, there must be a compromise.

It seems to me that there are a number of significant measures in this particular field of campaign finance reform that could be addressed on a bipartisan basis. I hope at some point we will get to that stage. Maybe it has already begun.

The Senator from Nevada, Senator REID, and I, introduced last week a proposal that we think does not tilt the playing field either way against either party, and would provide for meaningful campaign finance reform.

Nevertheless, whatever we do I hope at some point we will do something, because I do not think that any of us are satisfied with the status quo in this particular field of campaign finance reform.

But principally this morning I am here to commend the President of the United States for his leadership, to state that I think his proposal that Senator DOLE and I are introducing this morning is truly an outstanding one.

The bill is an urgently needed new bill: The President's election and campaign reform bill.

For a number of years, Congress has talked about lack of competitiveness in the world market. But one of the biggest problems in this country today is the lack of competitiveness in Congress.

Over the last several years, the reelection rate to the House has been over 95 percent. There is more political competition in the Soviet Politburo than there is in the United States House of Representatives.

This is because of unfair election practices like black market soft money and gerrymandered electoral districts.

For too long, Congress has been playing a game of protectionist politics—using the campaign finance rules and the advantages of incumbency to shut out the competition.

What the President is proposing in this bill is fair play in the political marketplace. He is urging the elimination of special interest PAC's, which fund incumbents overwhelmingly over challengers.

The bill requires public disclosure of the millions of dollars spent each year by unions, corporations, and parties in the form of soft money and independent expenditures.

Further, the President's bill requires unions to let their members know if they are using union dues for political activities; and gives workers a right not to pay for political operations they object to.

Finally, this bill sets some minimum standards of fairness with regard to redistricting. It is time to redraw the electoral lines to abolish the old-fashioned political fiefdoms in Congress.

In introducing President Bush's election reform bill, I fully expect it to come under fire from those with a vested interest in maintaining the current system.

Some people benefit a great deal from the current system, and they are well-insulated from any kind of political competition because of the present rules of the game.

The President's bill, however, would strip away their insulation, and expose them to potentially tough competition.

Some people won't like that. But competition, after all, is what Americ a is all about—competition in business, in sports, even in the arts.

It is time to rewrite the rules of the election game to make Congress a competitive playing field once again.

I commend the President and the Republican leader for taking an interest in this issue, which has been one of my major concerns since long before I came to this body.

By Mr. THURMOND (for himself, Mr. HELMS, Mr. HOLLINGS, and Mr. SANFORD):

S. 1728. A bill to provide disaster assistance to timber producers who suffered losses of trees due to Hurricane Hugo to help them reestablish private timber stands; to the Committee on Agriculture, Nutrition, and Forestry.

HUGO FORESTRY RESTORATION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation which will help reforest the many thousands of acres of timberland destroyed when Hurricane Hugo passed through South Carolina, North Carolina, Puerto Rico, and the U.S. Virgin Islands.

The distinguished Senator from North Carolina [Mr. HELMS], the distinguished Senator from South Carolina [Mr. HOLLINGS], and the distinguished Senator from North Carolina [Mr. SANFORD], join me in the introduction of this bill.

This storm caused damage unseen in modern history. Approximately 36 percent, or 4.4 million acres, of the 12.2 million acres of forested land in South Carolina were damaged. Of the 46 counties in my State, 23 suffered significant timber damage and 7 of those are classified as extensively damaged. Estimates are that Hugo damaged a total of 6.7 billion board feet of sawtimber. Since South Carolina normally harvests only 2.2 billion board feet annually, it would take 3 years under normal conditions for loggers to cut this amount of timber. Approximately 660,000 homes could be built with the volume of sawtimber damaged. This would be enough timber to house nearly all of the population of West Virginia or the city of Philadelphia. The 30,000 South Carolinians employed in the forest industry will suffer for many years from this catastrophe.

Mr. President, from these examples you can see that this hurricane caused serious damage to our forests and natural resources. The legislation I am introducing today is similar to the Forestry Incentive Program [FIP], which provides land owners who cut timber an incentive to replant trees. Specifically, this bill would authorize $100 million to aid the land owners in their reforestation efforts and be administered through the local Agricultural Stabilization and Conservation Service offices. Land owners would have until December 31, 1995, to apply for funds under this program.

Financial assistance will be provided on a cost-share basis between the Federal Government and the land owner. For persons owning less than 1,000 acres, assistance could be as much as 75 percent of the total cost of implementing eligible practices. For owners of more than 1,000 acres, cost-share could be as much as 50 percent of the total cost of the recommended practices.

Land owners who apply for assistance for site preparation and reforestation will have to complete a forest management plan in consultation with the State forest service. Currently, this practice is required for the FIP and helps assure that the forests are restored in a beneficial manner.

This bill is needed to help renew the natural resources destroyed from Hurricane Hugo. Without this assistance, the natural resources will suffer severe hardships. I look forward to expeditious considerations of this important issue.

Mr. President, I might say that we requested the Agriculture Department to prepare this legislation, and they kindly did this.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1728

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled.

SECION 1. SHORT TITLE.—This Act may be cited as the "Hugo Forestry Restoration Act."

SEC. 2. COST-SHARE ASSISTANCE.—(a) The Secretary of Agriculture shall develop and implement a tree planting reimbursement program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties and contiguous counties declared by the President to be disaster areas as a result of damage caused by Hurricane Hugo in South Carolina, North Carolina, Puerto Rico, and the U.S. Virgin Islands. The purpose of such program is to encourage tree owners to reestablish their damaged stands with commercial tree seedlings for the production of timber and related products. Practices which shall be eligible for assistance are: (1) reforestation of damaged stands, (2) site preparation, and (3) other timber stand reestablishment practices as may be prescribed by the Secretary.

(b) For the purpose of this Act, the term "private timber stands" means trees existing prior to Hurricane Hugo which would have become suitable for commercial harvest for the production of wood or related products. Such trees must have been owned prior to the damage, and must, at the time the request for assistance is made, be owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity, except agencies of Federal, State, or local governments.

(c) A request for assistance shall only be approved by the Secretary after individual forest management plans have been developed by the tree owner in cooperation with, and approved by, the State forester or equivalent State official. The Secretary shall encourage States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest management plans.

(d) The Secretary shall agree to share the cost of those practices for which the Secretary determines that cost-share assistance is appropriate. The portion of such cost (including labor) to be shared shall be that

portion of the cost that the Secretary determines is necessary and appropriate.

(e) Requests for assistance under this Act must be filed with the Secretary not later than December 31, 1995.

(f)(1) For any person owning 1,000 or less acres of land planted to trees, regardless of their type, size or condition, assistance made available under this Act shall be limited to 75 percent of the total cost of implementing eligible practices.

(2) For any person owning more than 1,000 acres of land planted to trees, regardless of their type size or condition, assistance made available under this Act shall be limited to 50 percent of the total cost of implementing eligible practices.

(3) For the purpose of this subsection, the Secretary shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985, as amended.

(g) The Secretary may use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out the provisions of this Act, except that the Secretary may not use funds of the Corporation for such purpose unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this Act.

(h) There is hereby authorized to be appropriated not to exceed 100 million dollars to remain available until expended to carry out the provisions of this Act.

(i) The Secretary or the Commodity Credit Corporation shall issue regulations to implement the provisions of this Act as soon as practicable after the date of the enactment of this Act, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

By Mr. LEAHY (for himself, Mr. LUGAR, and Mr. KERREY):

S. 1729. A bill to amend the Commodity Exchange Act to reauthorize such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FUTURES TRADING PRACTICES ACT

Mr. LEAHY. Mr. President, in the past 9 months, regulation of the futures industry has suffered a nervous breakdown. Last January, the Justice Department's sting operation directed at the Chicago futures markets hit the front pages. In February, the Commodity Futures Trading Commission's critical rule report criticized audit trails systems. In April, 22 Chicago bond traders were charged with "ginzy" trading. In May, 59 New York exchange members' records were subpoenaed. In July there was the Chicago emergency, in August the indictments of 46 Chicago traders and in September the GAO report of deep flaws in exchange audit trail systems.

The events add up to one inescapable conclusion—the system is not working. Rules are being ignored; customers are not being protected. We will not allow the crimes of a few to damage the futures markets. These markets are simply too essential a part of our national economy for us to stand by and allow this to happen. Without the public's trust, the markets can no longer function. They can no longer serve the needs of our country. Today, that trust is damaged.

White collar crime has reached epidemic proportions in America. We will not tolerate it—on Wall Street, LaSalle Street, or Main Street. Criminals will be punished. Weak laws will be strengthened. Law enforcement officials will be given the tools to crack down. Senator LUGAR and I are today introducing the "Futures Trading Practices Act of 1989." It is a bipartisan, comprehensive package of reforms designed to restore faith in futures markets. This bill is tough, but fair. It is a code of conduct that any honest trader can live by.

But let me make it clear: Any floor trader caught cheating will be severely punished. Any exchange not policing its floor will be forced to clean up its act. The Commission will be given the money and tools to police the exchanges. I expect them to use these tools to the full extent allowed by law. This is their duty. There is no other course of action.

This bill was written following a comprehensive and exhaustive review of futures regulation by the Committee on Agriculture, Nutrition, and Forestry. The committee held four public hearings, received written comments from scores of individuals and groups, reviewed thousands of pages of CFTC documents, and directed GAO to undertake a major study of trading practices. We consulted with Chicago U.S. attorney Anton Valukas on the undercover investigation of those markets. Finally, in drafting this bill, we informally tapped the knowledge of experts at GAO, the CFTC, and in the futures industry.

This bill is tough and not everyone will agree with all its language. It imposes costs and liabilities. It demands an overhaul of trading practices some of which date back 100 years. Controversy will be inevitable.

We have kept one goal consistently in mind—design a workable system that is efficient, effective and fair.

Among other things, the legislation takes these basic steps:

First, beef up the CFTC enforcement powers, boost its funding authority by 50 percent over 5 years, and expand its power to charge service fees;

Second, require the exchanges to install new audit trails able to record the times of trades "independently, precisely, and completely" as proposed by GAO;

Third, through a new system of "deficiency orders" backed by stiff penalties, expand CFTC's powers to demand prompt improvements in exchange oversight, compliance, and disciplinary programs;

Fourth, if an exchange fails to prevent abuses, dual trading will be barred. If the public interest would be harmed, the CFTC could impose other "deficiency order" remedies;

Fifth, allow punitive damage recoveries against traders by customers. Awards up to twice the actual loss in civil lawsuits and arbitrations will be allowed. Retail brokerage firms will be made accountable for the violations of floor brokers they choose to execute orders;

Sixth, authorize the exchanges to conduct limited undercover operations to investigate suspected abuses; and

Seventh, require the exchange to open their governing systems to public participation and to bar insider deals.

This is tough medicine for a tough time. Tough medicine is necessary if the futures industry can regain the public's confidence. We cannot avoid action.

I plan to move this bill fast. On October 17, the Agriculture Committee will hold a hearing on the bill and I plan to move it through the Senate this year.

Mr. President, I ask unanimous consent that a summary of the provisions of the Futures Trading Practices Act of 1989 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY ON THE FUTURES TRADING PRACTICES ACT OF 1989—KEY ELEMENTS

I. BEEFING UP THE CFTC

The Act authorizes a 50 percent budget increase for the CFTC over five years (adjusted for inflation and annual government-wide salary increases). Authorized funding would rise from $41 million in FY 1990 to $66 million in FY 1994.

These added resources would make possible greater CFTC presence on trading floors, stengthened oversight of exchange self-regulatory programs, heightened monitoring of computer technology, and more staff to develop and prosecute enforcement actions.

The CFTC may establish a pay system comparable to federal bank regulators and the SEC under pending new legislation. This would help the CFTC retain skilled personnel, particularly in regional offices suffering high turnover. The CFTC could not implement this new authority without Congressional review.

The CFTC today is a "permanent" federal agency, and the five-year extension will give it a chance to put needed reforms in place. We will hold annual oversight hearings on the CFTC's progress in this effort and we will make any legislative changes needed along the way.

Service fees

To help finance this funding boost, the Act expands the CFTC's authority to charge service fees reflecting its cost in monitoring trading floors and insuring compliance by exchanges with self-regulatory standards. The CFTC could consider phasing in fee increases to accommodate other up-front costs required by this bill, particularly for with regard to new audit trail systems.

II. NEXT GENERATION AUDIT TRAIL TECHNOLOGY

The futures industry has committed itself to developing this technology; Congress must insist that it be done.

This legislation requires each futures exchange to implement within three years a new audit trails capable of capturing transaction times independently, precisely, and completely as proposed in GAO's recent study.

The CFTC, with GAO comments, would report to Congress within two years on the progress of exchanges in installing the new systems, including their advice on whether the timetable or statutory standards need adjustment.

III. EXCHANGE ACCOUNTABILITY

The bill greatly expands the CFTC's power to force exchanges to improve their trade practice oversight and disciplinary systems.

The CFTC would be required to assess each exchange system—including both the audit trail as well as other floor oversight and compliance efforts—on a two-year cycle. If the CFTC finds flaws at any time, it can issue an interim "deficiency order"—which becomes final under expedited procedures—requiring that corrections be made under a CFTC-set timetable. If the exchange violates this order, it becomes subject to possible suspension or revocation of its license to operate and to penalities of fines up to $500,000 per violation and a cease and desist order; it is violates the cease and desist order, fines escalate up to $500,000 per day.

Under this system, the CFTC could require an exchange—

1. To institute improvements in its trade monitoring, compliance, or disciplinary systems needed to bring it into compliance with self-regulatory standards;
2. Satisfy objective performance criteria for compliance wih those standards;
3. Hire additional staff or deploy or upgrade technology;
4. Suspend dual trading where appropriate; or
5. Remove particular officers, directors, staff or committee members after a hearing on the record if they have willfully abused their authority, failed in their regulatory duties, or rendered themselves unfit.

The CFTC could also delay approval of new contracts for an exchange while a deficiency order is in effect.

Dual trading

During the first year after enactment, the CFTC must suspend dual trading at each exchange under a deficiency order unless the exchange demonstrates that its trade oversight system, including the audit trail, can and does detect dual trading-related abuses. If defects do exist but there is substantial likelihood that a dual trading suspension would harm the public interest, then the CFTC would impose other "deficiency order" remedies. The CFTC can fashion the dual trading suspension to the particular circumstances of the affected exchange.

IV. EXCHANGE "SUNSHINE"

The legislation requires that exchanges and registered futures associations open their governing procedures to a broad crosssection of market and public interests and that conflicts of interest and insider deals be prevented.

Board of directors

Exchange boards would be required to include meaningful representation of such interests as brokerage firms, producers and consumers of commodities traded on the exchange, floor traders and brokers. At least 20 percent of the board must be qualified non-member public directors.

Disciplinary panels

Major disciplinary panels must be diverse enough to ensure fairness and prevent special treatment or preference in disciplinary proceedings and assessment of penalties. Where appropriate for fairness—such as where an exchange director or disciplinary committee member is the subject of a proceeding or where price manipulation is alleged—non-members of the exchange must be included.

Conflict of interest

The bill adopts two key CFTC staff proposals made after the 1979/1980 silver market crisis designed to prevent conflict of interest in exchange emergencies (such as the July Chicago soybean order): (1) Exchange directors must abstain from any matter were they, or a close associate, are a direct, specific party in interest. (2) Before any emergency deliberation, board or committee members must disclose positions in the market, including positions held to their knowledge in accounts at affiliated firms. The board would then take full, knowing responsibility for deciding whether the "interested directors" may participate. Exchanges also must prevent insiders from exploiting official access to non-public information for personal gain.

Members with disciplinary records

Members having violated federal commodity laws or other rules reflecting on their fitness are barred from serving on exchange oversight or disciplinary panels for an appropriate time as defined by the CFTC.

V. CIVIL LIABILITY/PUNITIVE DAMAGES

The legislation allows customers victimized by floor traders willfully and intentionally breaking the rules to sue for recovery and punitive damages of up to double the amount of their actual losses (triple damages altogether) in private lawsuits or reparations claims. Arbitration systems under NFA (National Futures Association) and exchanges must also provide for punitive damages where appropriate.

Accountability of brokerage firms

The Act clarifies that in a lawsuit brought by an aggrieved customer, a retail brokerage firm (futures commission merchant) is responsible to the customer for any losses caused by the malfeasance of a floor broker it selects to execute that customer's order on the exchange floor. If the brokerage firm willfully and intentionally failed to exercise due diligence in selecting the floor broker or monitoring the trade, it would pay punitive damages as well.

Customer notification

Exchanges will be required to notify victimized customers whenever the exchange takes final disciplinary action against a member-floor broker or trader for floor trading violations so that the customer will know to begin exploring legal action.

Class action suits

The CFTC is authorized to adopt rules providing for class action suits under the reparations system if it decides that it can manage the resource burden involved in such complex cases and that it can provide a useful forum for these actions compared with federal court.

VI. PENALTIES

The legislation stiffens penalties for wrongdoers by:

1. Authorizing the CFTC to assess fines against rule violators of the higher of $100,000 (the current ceiling) or triple the monetary gain per violation;
2. Extending criminal penalties to those who willfully provide false information to self-regulators (such as by making fraudulent audit trail entries) or who willfully violate CFTC rules;
3. Raising top civil penalties against exchanges from $100,000 to $500,000 per violation;
4. Including restitution to customers as a penalty which the CFTC could impose against defendants in CFTC enforcement actions;
5. Updating commodity anti-fraud laws to make standards consistent among regulated entities;
6. Incorporating two ideas proposed by the CFTC in response to Chairman Leahy's 11 reform suggestions from March 9, 1989, expanding its flexibility to assess tough penalties against those who violate the rules or fail to pay fines.

Penalties Study/Guidelines

Within one year, the CFTC must report to Congress on a study of penalties assessed for trade practice violations. The study would—

a. Analyze whether systematic differences exist in penalties assessed by different exchanges and why, and

b. Propose guidelines to assure that exchange and CFTC penalties are consistent, including possibly minimum penalties or penalty ranges for various offenses.

VII. BROKER ASSOCIATIONS

All trade, business, or financial affiliations among or between floor brokers and traders, such as partnerships, cost-, profit-, or capital-sharing agreements, or other joint arrangements, must be disclosed to the exchange and the CFTC. Beginning in 270 days, trading among broker-group members, including customer order executions, would be barred unless the CFTC adopts rules governing such trading which it certifies to Congress will inhibit abuses.

Oral orders

Also after 270 days, orders on exchange floors for member-for-member trades would be barred unless the CFTC adopts rules governing this practice which it certifies to Congress will likewise inhibit abuses.

VIII. UNDERCOVER INVESTIGATIONS

The legislation gives the CFTC direct authority to conduct limited undercover investigations where it has reason to believe that violations of the commodity exchange act may be taking place and the Justice Department has declined to do so. The CFTC would be required to inform the Department of Justice before initiating any such investigation; in conducting the investigation, the CFTC would seek to work with other relevant law enforcement officials as appropriate.

IX. FLOOR TRADER REGISTRATION

As proposed by the CFTC, floor traders would be required to register and undergo fitness checks, including fingerprinting and FBI background investigations.

X. HOUSE PROVISIONS/CFTC, GAO, NFA PROPOSALS

The legislation incorporates a number of proposals from H.R. 2869, the Commodity Futures Improvements Act of 1989 recently passed by the House of Representatives. These include provisions on telemarketing fraud, requirements that futures industry

professionals attend periodic ethics training sessions, and the mandated GAO study of delivery points in agricultural futures markets. The legislation expands the proposed GAO study to include an examination of the feasibility and relative merits of cash delivery for agricultural contracts and the special concerns raised by the presence of multinational firms with global delivery needs in these markets.

Also included are proposals by the CFTC to authorize greater cooperation in international enforcement investigations and to amend venue and service of process rules in certain futures litigations.

As requested by GAO, the GAO is given explicit access to data maintained by futures self-regulators under the same confidentiality restrictions as the CFTC.

Finally, the legislation incorporates two proposals by the National Futures Association to tighten registration standards and to allow NFA to appeal certain rulings of the CFTC.

Mr. LUGAR. Mr. President, I am pleased to join Senator LEAHY in introducing the Futures Trading Practices Act of 1989.

The credibility of U.S. futures markets has been eroded as a result of the events in the last 9 months. The credibility of the Commodity Futures Trading Commission and its effectiveness to deal strongly with this industry has been called into question by the General Accounting Office and others acknowledgeable about futures issues.

Against this background, the Senate Agriculture Committee must reauthorize the Commodity Futures Trading Commission. In doing so, we have undertaken efforts with this legislation to strengthen the regulatory authority of that agency and restore public confidence in the U.S. futures markets.

Our actions to shore up confidence in this system are extremely important to the well-being of the entire U.S. economy. These markets serve as the risk transfer and price discovery mechanisms upon which commerce, both domestically and abroad, depend. For many years, most of the major agricultural commodities grown in this country have traded on U.S. futures such as Treasury bonds has been remarkable.

The CFTC reauthorization effort has undergone a considerable transformation since the beginning of this year. In January I was prepared to launch the reauthorization effort with the introduction of a simple reauthorization bill. In the intervening months, however, the markets have been buffeted by indictments and conflict of interest charges.

This past spring, the FBI announced indictments of futures traders in Chicago. This undercover operation was conducted by the FBI over the course of 18 months by agents posing as brokers in the trading pits of the largest futures exchanges. Agents observed first hand the trading practices and techniques utilized on exchange floors. Evidence gathered during this investigation resulted in the filing of 4 indictments implicating 46 traders. Of those traders indicted, 20 traders came from one particular pit—representing nearly 10 percent of the traders in that pit. Testimony received from the FBI suggests that the trading abuses may extend far beyond the indictments issued thus far.

The markets suffered an additional setback when in July the liquidation of the soybean contract became the focus of charges of market manipulation and self dealing. The Chicago Board of Trade instituted an emergency order calling for all traders having positions in the July soybean contract in excess of 3 million bushels to liquidate their positions by 20 percent per day. This emergency order had the effect of forcing the sale of millions of bushels of soybeans by the largest holder of July soybean futures contracts, resulting in a price decline of nearly $1 per bushel over a 1-week period of time. Concerns were immediately raised about the composition of the Chicago Board of Trade panel that recommended and instituted the emergency order. A review of the positions held by the members of that panel demonstrated that a significant number of those members held positions or their firms had positions for customers that benefited from a price decline.

The Agriculture Committee has received testimony and input from the CFTC, the General Accounting Office and several commodities exchanges, and has been provided a great deal of background and insight into the issues that have emerged as focal points of this debate. This bill attempts to correct deficiencies in the statute or regulatory practices to address concerns such as inefficient audit trails, dual trading, and self dealing.

In our last hearing, the GAO testified that the trade monitoring controls and procedures currently used in the markets provide dishonest floor participants with the opportunity to cheat customers. GAO made recommendations to the committee on the types of changes that could be employed to vastly reduce those opportunities for trading abuses. Many of those recommendations are included in this bill.

Without question, the most important aspect of this bill is the requirement that the exchanges develop an audit trail that will capture the trade data necessary to detect and thus deter trading abuses. Within 3 years from the date of enactment, audit trails will be required to record the essential data of a trade, including the time the trade is executed, in a manner that cannot be altered. The Chicago investigations and indictments pointed to the need for a better method of recording trading activity, and the GAO report outlined the benefits a detailed audit trail system will bring to the ability of the CFTC to carry out its regulatory function.

The bill greatly expands the authority of the CFTC to oversee exchanges and make changes in methods of monitoring trade practices. The CFTC would be required to assess and determine the effectiveness of the trade monitoring system used by an exchange to detect trading abuses. The bill provides the CFTC with the authority to order exchanges to make corrections in their trade monitoring systems, and to set specific time limits for exchange compliance with such orders. Penalties of $500,000, which could escalate to $500,000 per day, are designed to encourage exchange compliance with CFTC directives.

Within 1 year from enactment of the bill, dual trading will be suspended unless the CFTC determines that the exchange's trade monitoring system has the ability to detect trading abuses. This provides further incentive for contract markets to develop and implement effective trade monitoring systems while putting the onus on proof on the traders who engage in this dubious endeavor.

The bill provides the CFTC with the authority to conduct its own undercover investigations on the various futures exchanges. The Chicago investigations provided a clear example of the value of this authority.

To address concerns about conflicts of interest on exchange and futures association governing boards, the bill requires a diversity of interests on those governing boards. The bill also contains provisions to ensure that members of governing boards do not participate when the member knows that he or she is a party to the subject under deliberations.

To ensure that the futures markets continue to perform their historical function, the bill instructs the GAO to conduct a study of delivery points and mechanisms on agricultural futures. This study is intended to explore the relationship between cash and futures prices in order to determine the effectiveness of the current delivery system. The independent analysis of GAO will provide significant insight into a system that so greatly impacts cash prices received by U.S. farmers.

The bill requires complete disclosure of any association between brokers to address concerns of secret dealings. The bill also requires that trading among brokers groups be banned unless the CFTC adopts rules to govern this trading practice.

Finally, in order to carry out the additional regulatory mandates of the bill we increase funding authority by 50 percent for the CFTC over the next 4 years. An increase in the size of the CFTC is justified, indeed absolutely necessary then you consider that since

the last reauthorization trade volume has increased from 216 million contracts in 1986 to over 321 million contracts in 1989, as 48-percent increase. The number of CFTC staff years over the same period increased by only 9.5 percent.

The bill however is also mindful of the budget impact of such an increase. Accordingly, the bill provides authority for fees to be charged for services provided by the CFTC to the exchanges. These fees are to be reflective of the CFTC's cost for trade surveillance, supervision, new contract analysis and other appropriate activities.

Mr. President, if the United States is going to retain its preeminant position in the world's commodity futures markets, those markets must have integrity. The reforms contained in this legislation will allow the United States to continue to compete abroad. If confidence in the commodity markets is not restored, this business could go elsewhere.

Mr. President, I want to commend Senator LEAHY for his attention and leadership on this issue. This bill is indeed reform legislation, and as such is not likely to be embraced by the futures industry. I believe the bill, however, represents a necessary step in restoring public confidence in these markets. I urge my colleagues to support the provisions set forth by Senator LEAHY and me on this very important issue.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. MITCHELL, Mr. BURDICK, and Mr. BENTSEN):

S. 1731. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North America wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committee on Environment and Public Works.

CONSERVATION AND RESTORATION OF COASTAL WETLANDS

Mr. BREAUX. Mr. President, today I am pleased to be joined by Senators JOHNSTON, MITCHELL, BURDICK, and BENTSEN in introducing comprehensive legislation to address the rapid rate of loss of our Nation's wetlands by establishing a program to restore our coastal wetlands and to conserve our important North American wetlands ecosystems.

This bill modifies and combines several legislative proposals now pending in the Senate. Title I of the bill, entitled the Coastal Wetlands Planning, Protection and Restoration Act, addresses the loss of coastal wetlands. This title combines significant features of S. 630, which I had previously introduced, and Senate amendment 2229 offered by Senator JOHNSTON. Both of these provisions have been the subject of hearings during this session.

Subtitles A and B address the unprecedented wetlands loss currently ongoing in the Mississippi River Delta. Forty percent of the coastal wetlands are located in the State of Louisiana, yet, that area is experiencing 80 percent of the Nation's total loss of coastal wetlands. This rate of loss is an estimated 40 to 60 square miles per year. These wetlands are a critical national resource valuable for fish and wildlife habitat, pollution and flood control, and hurricane protection. These vitally important wetland areas require further protection and restoration.

Subtitle C of title I provides grant assistance to coastal States for carrying out coastal wetlands conservation projects. Such projects are intended to address losses in all coastal States through wetlands acquisition, restoration and long term preservation.

Title II of the bill entitled the North American Wetlands Conservation Act, contains a modified version of S. 804, sponsored by Senator MITCHELL, and previously reported by the Senate Committee on Environment and Public Works. This title is a crucial program directed toward preserving vital wetland habitat as a means to maintain healthy populations of migratory birds in North America. Populations of such birds have declined due, in a large part, to declines in habitat.

Finally, title III of the bill clarifies that the Corps of Engineers has the authority to engage in environmental restoration activities. As the need for new projects which the corps has traditionally constructed diminishes, the mission of the corps should be redirected to environmental restoration. This provision would help accomplish that, and simply provides that the corps has the authority to give equal consideration to projects that benefit the environment with projects that benefit navigation and flood control. This was a provision originally included in S. 630.

Wetlands loss is a national concern. This proposal would provide a national response to this concern. Our wetlands are being lost every minute of every day. This bill, Mr. President, will take steps immediately upon enactment to restore and conserve our Nation's wetlands.

Restoring and conserving our wetlands will require that we provide the necessary resources. The Senate Finance Committee has reported legislation establishing a wetlands trust fund which is intended to fund a program substantially identical to the program outlined in this bill. The support of the chairman of the Finance Committee in taking action on this wetlands crisis is most appreciated.

Mr. MITCHELL. Mr. President, I join Senators BREAUX, JOHNSTON, BURDICK, and BENTSEN today in introducing legislation to restore and conserve coastal and inland wetlands.

This legislation is intended to authorize and direct expenditure of moneys from the new wetlands trust fund approved by the Finance Committee and included in the reconciliation legislation for fiscal year 1990 which the Senate will consider shortly.

The wetlands trust fund would consist of receipts from fees on natural gas and oil produced from the Outer Continental Shelf, and I commend Senator BENTSEN and my colleagues on the Finance Committee for establishing this new source of revenues to meet one of the Nation's most pressing environmental needs.

The wetlands of this continent, like the forests of Central America and tropical South America, are libraries of nature which contain volumes of priceless genetic information. They are North America's most biologically productive areas, and roughly a third of the continent's endangered species of animals are dependent on them.

And like the tropical forests, we have subjected our wetlands to much destruction.

From the 1950's to the 1970's, Americans drained, filled, and cleared 9 million acres of wetlands in the 48 contiguous States. Less than half of the original 200 million acres remain, and the destruction continues today at a rate of half a million acres per year—an area 12 times the size of the District of Columbia.

Since the turn of the century, Louisiana has lost more than a million acres of coastal wetlands, and if the present loss rate remains unchanged, Louisiana will lose 2.4 million acres over the next 50 years.

Total wetlands loss in Canadian prairie provinces of Alberta, Saskatchewan, and Manitoba is estimated to be 40 percent of the original wetlands acreage.

The State of Maine has lost approximately 100,000 acres of wetlands since European settlement began.

The coastal wetlands in Lousiana account for 40 percent of the Nation's coastal wetlands, and they support over 30 percent of the Nation's fish and shellfish harvest and provide wintering habitat for two-thirds of the 6 million ducks and geese in the Mississippi Flyway.

The tremendous loss of the Nation's wetlands in Louisiana is due largely to the dramatic reduction in the amount of sediment carried by the Mississippi River into the coastal zone.

The Army Corps of Engineers, at the direction of Congress and with the support of the State of Louisiana, has managed the Mississippi River primarily for navigation and flood control.

Unfortunately, the river control structures that were built for these purposes also have transported wetland-building sediments to the edge of the Outer Continental Shelf where they are dumped into deep waters of the gulf. Starved of these sediments, soft wetland soils subside, erode, and are lost.

The legislation being introduced today would direct expenditures from the wetlands trust fund for coastal wetlands restoration projects. These projects would create, restore, and protect coastal wetlands by means of diverting sediment and fresh water from the Mississippi River to nearshore areas where wetlands have eroded and disappeared. They would not have substantial navigation or flood control benefits, and they would not include construction of seawalls, levees, or impoundments.

This measure will start us on the road to restoring our wetlands in coastal Louisiana and eliminating future loss of these magnificent areas and the valuable resources they support.

The legislation also would direct expenditures from the wetlands trust fund to restore and conserve other coastal wetlands in the United States.

Finally, the legislation incorporates the provisions of the North American Wetlands Conservation Act, which I introduced earlier this year and which has been approved by the Environment and Public Works Committee, and directs expenditure from the wetlands trust fund to carry out wetlands conservation projects in the United States approved under that act.

One of the principal goals of the North American Wetlands Conservation Act included in this legislation is to begin a long-term commitment to work with Canada and Mexico in implementation of the North American waterfowl management plan.

The plan is the best, and maybe the last opportunity we will ever have to halt the decline of many species of ducks, geese, and other migratory birds.

But the plan is only a statement of needs and objectives.

The North American Wetlands Conservation Act will establish a structure to meet these needs and objectives. And it will provide the Federal matching funds essential to encouraging public and private partnership, for wetlands conservation projects in Canada and Mexico, as well as in the United States.

The destruction of wetlands throughout North America, where many migratory bird species breed, spells disaster for these species just as surely as the destruction of forests in Central and tropical South America, where they winter.

The average number of North American ducks in recent years has been lower than any comparable period on record.

Of the 30 species of migratory nongame birds that are currently of management concern to the U.S. Fish and Wildlife Service because of their uncertain status, nearly one half are dependent upon coastal and freshwater wetlands.

Thirteen of some of our most abundant and widespread songbirds, like the American goldfinch and the eastern meadowlark, have declined at an average rate of nearly 3 percent per year over the past 20 years.

Introduction of this legislation in conjunction with establishment of the wetlands trust fund will enable us to restore and maintain wetlands throughout the nation and the continent to protect the fisheries, shellfisheries, migratory birds, and the many other public benefits that these valuable aquatic areas provide.

Mr. JOHNSTON. Mr. President, I am pleased to join today with my colleagues, Senators BREAUX, MITCHELL, BURDICK, and BENTSEN, in sponsoring legislation to provide for the restoration and creation of coastal wetlands and to conserve North American wetland habitat. My friend Senator BREAUX has been dedicated to resolving this issue and has played a leadership role in this regard. Likewise, my friend Senator MITCHELL has long exhibited a strong interest and concern for a variety of wetlands issues, especially regarding the North American waterfowl plan and related matters.

I have worked closely with Senator BREAUX and the leadership of the Senate Committee on Environment and Public Works in developing this legislation. I am pleased that we have been able to combine the BREAUX, MITCHELL, and JOHNSTON approaches to resolving this problem.

In recent years, numerous studies and reports have documented the serious and deteriorating condition of our coastal marshes and wetlands. Nowhere is this situation more critical than the Gulf Coast and no portion of this region is more seriously impacted than the coastal wetlands of Louisiana. While the State contains over 40 percent of the Nation's coastal wetlands, it experiences over 80 percent of the annual wetland loss. Today, this loss ranges between 40 to 60 square miles annually. Estimates are that unless significant steps are taken, Louisiana will lose an additional 2.4 million acres of coastal wetlands between now and the year 2040.

These losses threaten an almost $1 billion a year commercial fish and shellfish industry; 40 percent of the Nation's annual harvest of wild fur and hides; valuable habitat for nearly 5 million migratory birds; areas of significant recreation use and potential—especially for sport hunting and fishing; and billions of dollars of infrastructure investments.

Mr. President, it will take a significant commitment of resources to address this serious problem. My friends on the Finance Committee, and most particularly, my good friend Senator BENTSEN, the distinguished chairman of that committee, are to be commended for establishing the wetlands trust fund, which will provide the level of substantial funding needed for coastal wetlands restoration and conservation.

Mr. President, it is my expectation that the moneys in the wetlands trust fund will be expended in accordance with the provisions of the legislation we introduce today. This legislation provides funding for priority coastal wetlands both nationwide and in Louisiana, where by far the greatest loss is occurring. It also authorizes the State of Louisiana to develop a wetlands conservation plan, having as its goal no net loss of wetlands in the coastal areas of Louisiana as a result of development activities. Finally, the bill provides for the conservation of North American wetland habitat.

Mr. President, I urge my colleagues to join me in supporting this important legislation. I believe this is good legislation that will go far in addressing this critical situation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1731

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,

TITLE I—COASTAL WETLANDS CONSERVATION AND RESTORATION

SECTION 101. SHORT TITLE.

This title may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act."

SEC. 102. FINDINGS.

The Congress finds and declares that—

(1) wetlands provide multiple benefits and are vital to the Nation's environmental and economic health;

(2) the environmental benefits of wetlands include, among others, providing critical habitat to avian, terrestrial, and aquatic species; maintaining water quality; forming barriers to waves and erosion; helping to reduce flood damage; nurturing valuable commercial and recreational fisheries; and providing habitat for rare and endangered species;

(3) scientists estimate that since European settlement began in the United States, more than 50 per centum of the wetlands in the 48 coterminous States have been lost due to manmade and natural causes;

(4) the State of Louisiana contains a significant portion of the Nation's wetlands including 40 per centum of the Nation's coastal wetlands;

(5) the coastal wetlands of Louisiana are of particular value to the Nation for they contribute 46 per centum of the Nation's annual shrimp harvest; contain the wintering grounds of millions of migratory birds

and are crucial to meeting the United States' international migratory bird treaty obligations with Canada, Mexico, Japan, and the Soviet Union; contribute 40 per centum of the Nation's wild fur and hide harvest; contribute 16 percentum of the Nation's total production of petroleum and 20 per centum of the Nation's total production of natural gas; and buffer the destructive effects of hurricanes, storms, and floods;

(6) Louisiana is losing up to 50 square miles of these valuable coastal wetlands per year which is 80 per centum of the total loss of the Nation's coastal wetlands; at this rate of loss, between now and the year 2040, it is estimated that nearly one million additional acres of coastal wetlands will be lost—an area 1⅓ times larger than the State of Rhode Island—bringing the total loss of such wetlands to an estimated 2.4 million acres by the year 2040;

(7) the loss of coastal wetlands in Louisiana means a loss of valuable fish, shellfish, migratory bird, and fur resources that will jeopardize valuable public investments including 100 miles of Federal and State highways, 55 miles of hurricane protection levees and floodwalls, 27 miles of railroad tracks, 1,570 miles of oil and gas pipelines, and 383 miles of gas, water, electric power, and telephone lines;

(8) an estimated 75 per centum of coastal wetlands in Louisiana are privately owned, and the loss of such wetlands adversely affects landowners;

(9) the Mississippi River drains 40 per centum of the United States and has been developed by the Federal Government to provide navigation and flood control benefits to the entire Nation, including construction and maintenance of three of the largest deepwater ports in the country that service producers nationwide; development of an extensive inland navigation system that helps connect producers with the ports and world markets; and the construction of flood control levees that have prevented an estimated $111.3 billion of flood damages;

(10) these flood control and navigation activities conducted by the Federal Government have contributed significantly to the loss of coastal Louisiana wetlands because development of the Mississippi River has resulted in fresh water and sediment no longer nurturing coastal wetlands of the Mississippi River delta, but are being dumped instead into the deep waters of the Gulf of Mexico;

(11) navigation, access, and pipeline canals and other activities related to the exploration, development and production of oil and gas along the Gulf Coast and on the Outer Continental Shelf, have had adverse effects on many of the coastal wetlands of the Gulf Coast region;

(12) in order for the citizens of the United States to continue to reap the environmental benefits from the coastal wetlands of Louisiana, efforts must be made to significantly reduce the rapid rate of loss;

(13) a coastal wetlands restoration plan that includes engineering solutions to restore and conserve coastal wetlands is critical to arrest the loss of wetlands;

(14) in addition to the need for a plan to restore wetlands, a program to conserve coastal wetlands in the State of Louisiana to achieve a goal of no net loss of wetlands as a result of development activities would be beneficial; and

(15) because of the large portion of the Nation's coastal wetlands located within the State of Louisiana, the disproportionate rate of loss of these wetlands, and the unique causes of the loss, there needs to be a unique solution to address the rapid rate of loss of coastal wetlands in the State.

SEC. 103. STATEMENT OF PURPOSE.

The purposes of this title are to—

(a) provide for the planning, identification and implementation of priority coastal wetlands restoration projects in Louisiana;

(b) encourage the State of Louisiana to develop a plan with the goal of achieving no net loss of coastal wetlands as a result of future development activities; and

(c) provide for grants to coastal States to implement coastal wetlands conservation projects.

SEC. 104. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Losusiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means a technically feasible project to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, restoring and maintaining barrier islands through pumping of sand and planting vegetation, and other measures which the Secretary finds will significantly contribute to long-term restoration of the physical, chemical, and biological integrity of Louisiana's coastal wetlands. A "coastal wetlands restoration project" can be a complete project or an individual phase, portion, or component thereof. A "coastal wetlands restoration project" shall not provide substantial navigation or substantial flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon; and (8) "Governor" means the governor of Louisiana.

Subtitle A—Priority Projects for Louisiana Coastal Wetlands.

SEC. 105. PRIORITY PROJECTS.

(a) PROJECT LIST. (1) Within 45 days after the date of enactment of this title, the Secretary, in conjunction and consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Governor, shall initiate a process to identify and prepare a list coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) Until completion of the plan required by section 108 of this title, such list shall include only those coastal wetlands restoration projects which can be substantially completed during the five-year period commencing on the date the project is placed on the list.

(3) Starting with the year after completion of the plan required by section 108, the coastal wetlands restoration projects placed on the list shall be those identified in such plan.

(4) To assist in the preparation of the list provided for by subsection (a) of this section and the plan required by section 108, the Secretary of the Treasury shall make funds available from the Wetlands Trust Fund (hereinafter in this title referred to as the "Wetlands Fund") to the Secretary to prepare preliminary assessments; general or site specific inventories; reconnaissance, engineering, or other studies; preliminary design work; and such other studies as may be necessary to identify and evaluate the feasibility of such coastal wetlands restoration projects. Such of these funds as are determined to be necessary by the Secretary, but not to exceed the aggregate amount of $5 million annually, shall be allocated by the Secretary to the federal agency heads identified in paragraph (1) of this subsection and the Governor based on the need for such funds and such other factors as the Secretary in consultation with the other federal agency heads and the Governor, deems appropriate to carry out the purposes of this section.

(b) TRANSMITTAL OF LIST.—No later than one year after the date of enactment of this title, the Secretary shall compile and transmit the initial list of high priority coastal wetlands restoration projects to the Congress. Thereafter, the list shall be updated and transmitted to the Congress annually as part of the President's budget submission. Such transmittal shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from the Wetlands Fund.

(c) LIST CONTENTS.—The list shall include, but not be limited to, the following:

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead federal agency to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each such project.

(d) BENEFITS.—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural bene-

fitgs, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Secretary finds to contribute significantly to wetlands restoration.

SEC. 106. FUNDING FOR PRIORITY COASTAL WETLANDS RESTORATION PROJECTS.

(a) ALLOCATION OF FUNDS.—Except with respect to mcneys made available from the Wetlands Fund pursuant to paragraphs 105(a)(4) and 109(c)(1) of this title, all moneys in the Wetlands Fund available for coastal wetlands restoration projects under this subtitle shall be allocated in accordance with the priorities set forth on the list prepared in accordance with subsection 105(a) of this subtitle.

(b) FUNDING FOR PROJECTS.—The Secretary of the Treasury is authorized and directed, one the date one year after the initial list prepared in accordance with subsection 105(a) of this subtitle is transmitted pursuant to subsection 105(b), and one the first day of February of each succeeding year, to make moneys from the Wetlands Fund directly available to the head of the appropriate Federal agency for the purpose of carrying out coastal wetlands restoration projects as identified on such list. Seventy-five percent of the total amount deposited in the Wetlands Funds during a given fiscal year shall be available for carrying out the provisions of subtitles A and B of this title, and shall remain available until expended.

SEC. 107. COST-SHARING.

(a) FEDERAL SHARE.—The amount made available from the Wetlands Fund for any coastal wetlands restoration project under this subtitle shall be 80 percent of the cost of such project.

(b) FEDERAL SHARE UPON PLAN APPROVAL.—Notwithstanding the previous subsection, if the State develops a Coastal Wetlands Conservation Plan pursuant to Subtitle B of this title, and such plan is approved pursuant to that subtitle, the amount made available from the Wetlands Fund for any coastal wetlands restoration project under this subtitle shall be 90 per centum of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer such plan, the amount made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 80 percent of the cost of the project: *Provided, however,* That this shall not occur until the State has been provided notice, 90 days to take corrective action, and a hearing on the matter.

(c) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of land, easements, or rights-way, or any other form of in-kind contribution.

SEC. 108. FEDERAL AND STATE PROJECT PLANNING.

(a) PLAN PREPARATION.—The Secretary, in conjunction and consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Governor, shall prepare a plan to identify coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such plan shall be completed within three years from the date of enactment of this Act.

(b) PURPOSE OF THE PLAN.—The purpose of the plan is to develop a comprehensive approach to arrest the loss of coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(c) ELEMENTS OF THE PLAN.—The plan developed pursuant to this section shall include the following elements—

(1) identification of the entire area in the State that contains coastal wetlands;

(2) identification, by map or other means, of coastal areas in Louisianas is in need of coastal wetlands restoration projects;

(3) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in paragraph (2);

(4) a listing of such coastal wetlands restoration projects in order of priority to be submitted annually, taking into account the list submitted under section 105;

(5) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(6) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(7) the benefits to be realized by each such project;

(8) an estimated timetable for completion of each coastal wetlands restoration project;

(9) an estimate of the cost of each coastal wetlands restoration project;

(10) identification of a lead Federal agency to undertake each proposed coastal wetlands restoration project listed in the plan;

(11) demonstration of public consultation and review during development of the plan; and

(12) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal loss in Louisiana.

(d) PLAN MODIFICATION.—The Secretary, in conjunctions and consultation with those parties listed in subsection (a) of this section, may modify the plan from time to time as necessary to carry out the purposes of this title.

(e) PLAN SUBMISSION.—Upon completion of the plan, the Secretary shall submit the plan to the Congress and to the Governor.

(f) PLAN EVALUATION.—Not less than every three years after the completion of the plan provided for by this section, the Secretary shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands.

Subtitle B. Louisiana Coastal Wetlands Conservation Planning.

SEC. 109. AGREEMENT TO DEVELOP A WETLANDS CONSERVATION PLAN.

(A) AGREEMENT. The Secretary and the Administrator are directed to enter into an agreement authorized by subsection (b), with the Governor upon notification of the Governor's willingness to enter into such agreement.

(b) AGREEMENT. (1) Upon receiving notification pursuant to subsection (a), the Secretary and the Administrator shall promptly enter into an agreement with the State described in paragraph (2) (hereafter in this title referred to as the "agreement").

(2) The agreement shall—

(A) set forth a process by which the State agrees to develop, in accordance with this title, a Coastal Wetlands Conservation Plan (hereafter in this title referred to as the "Plan");

(B) designate a single agency of the State to develop the Plan;

(C) assure an opportunity for participation in the development of the Plan, during the planning period, by the public and by federal and State agencies;

(D) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the plan to the Secretary and the Administrator for their approval; and

(E) upon approval of the Plan, obligate the State to implement the Plan.

(c) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(1) the Secretary of the Treasury shall make funds available from the Wetlands Fund to the Secretary who shall make grants in the aggregate amount of $2,500,000 annually during the development of the Plan to assist the designated State agency in developing the Plan: *Provided, however,* That the total of such grants shall not exceed $10,000,000; and

(2) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

SEC. 110. WETLANDS CONSERVATION PLAN.

If a Plan is developed pursuant to this title, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities.

SEC. 111. ELEMENTS OF THE PLAN.

The Plan authorized by this title shall include the following elements—

(a) identification of the entire coastal area in the State that contains coastal wetlands;

(b) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(c) identification of measures that the State shall take using existing Federal authority and existing or modified State authority to achieve a goal of no net loss of wetlands as a result of development activities;

(d) a system that the State shall implement to account for gains and losses of wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(e) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(f) a program to be carried out by the State for the purpose of educating the public of the necessity to conserve wetlands;

(g) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(h) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

SEC. 112. APPROVAL OF THE PLAN.

(a) SUBMISSION TO SECRETARY AND ADMINISTRATOR.—Upon the completion of the Plan, the Governor is authorized to submit the Plan to the Secretary and the Adminis-

trator for their approval. The Secretary and the Administrator shall, within 180 days following the submission to them of the Plan, approve or disapprove such Plan.

(b) APPROVAL.—The Secretary and the Administrator shall approve such Plan, if they determine that—

(1) the State has adequate authority to fully implement all provisions of the Plan;

(2) such Plan is adequate to attain the goal of no net loss of wetlands and is in compliance with the other requirements of sections 110 and 111; and

(3) the Plan was developed in accordance with the agreement provided for in section 109.

(c) COMPLIANCE.—If the Secretary and the Administrator, under subsection (b) find that the Plan is not in compliance with the requirements of this subtitle, they shall submit to the Governor a statement explaining why the Plan is not in compliance and how the Plan should be changed to be in compliance. The State may correct the deficiencies and submit a modified Plan to the Secretary and the Administrator for their approval. The Secretary and the Administrator shall have 90 days to determine whether the modifications render the Plan adequate. If the Secretary and the Administrator fail to approve or disapprove such Plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(d) MODIFICATION OF PLAN.—The State is authorized, from time to time, to modify the Plan approved under this subtitle. Any such modification shall be submitted, considered, and acted on in the same manner as in the case of approval of the initial Plan.

SEC. 113. IMPLEMENTATION OF THE PLAN.

Following its approval in accordance with section 112, the Plan shall be implemented as provided therein.

SEC. 114. FEDERAL OVERSIGHT.

(a) REPORT BY GOVERNOR.—After approval of any Plan, the Governor shall, not less than annually, report to the Secretary and the Administrator on the progress of the State in carrying out the Plan, including an accounting of the gains and losses of wetlands under the system required by subsection 111(d).

(b) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement provided for by section 109 of this title, the Secretary and the Administrator shall report to the Congress as to the status of the Plan.

(c) REPORT TO CONGRESS.—At the end of each 24-month period thereafter, the Secretary and the Administrator shall report to the Congress on the status of the Plan and provide an evaluation of the effectiveness of the Plan in meeting the provisions of this subtitle.

Subtitle C.—Coastal Wetlands Conservation Grants

SEC. 115. GRANTS.

(a) GRANTS FOR COASTAL WETLANDS CONSERVATION PROJECTS.—For each fiscal year, the Secretary of the Treasury is authorized and directed to make available to the Secretary of the Interior an amount equal to 10 per centum of the total amount deposited in the Wetlands Fund during such fiscal year for use by the Secretary of the Interior in making matching grants to any coastal state to carry out coastal wetlands conservation projects.

(b) PRIORITY.—Subject to the cost-sharing requirements of this subtitle, the Secretary of the Interior may grant or otherwise provide matching moneys from the Wetlands Fund to any coastal state which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary of the Interior shall give priority to coastal wetlands conservation projects that are—

(1) in areas affected by or likely to be affected by offshore oil or gas exploration, development, or production activities;

(2) in coastal states that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces; and

(3) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921).

(c) CONDITIONS.—The Secretary of the Interior may only grant or otherwise provide matching moneys from the Wetlands Fund to a coastal state for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subtitle shall not become part of the National Wildlife Refuge System.

SEC. 116. COST-SHARING.

(a) FEDERAL SHARE.—Grants to coastal states of matching moneys from the Wetlands Fund by the Secretary of the Interior for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: *Provided, however,* That such matching moneys may be used for payment of not to exceed 75 per centum of the costs of such projects if a coastal state has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural areas or open spaces.

(b) FROM THE STATE SHARE.—The matching moneys required of a coastal state to carry out a coastal wetlands conservation project shall not be derived from a Federal source.

(c) PARTIAL PAYMENTS.—(1) The Secretary of the Interior may from time to time make matching payments to carry our coastal wetlands conservation projects as such projects progress, but such payments including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (a) of the section.

(2) The Secretary of the Interior may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the cost of such project from subsequent moneys in the Wetlands Fund if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this subtitle.

SEC. 117. WETLANDS ASSESSMENT.

Notwithstanding the foregoing sections of this subtitle, $2,500,000 shall be made available by the Secretary of the Interior in fiscal year 1991 to the State of Texas for an assessment of the status, condition and trends of wetlands in that state.

TITLE II—NORTH AMERICAN WETLANDS CONSERVATION

SEC. 201. SHORT TITLE.

This title may be cited as the "North American Wetlands Conservation Act."

SEC. 202. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and other habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive manmade control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging groundwater, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 per centum of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels; distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988 by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service and the Director of the United States Fish and Wildlife Service provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as Waterfowl Habitat requires promotion of conservation and wise use of wetlands.

(b) PURPOSE.—The purposes of this title are to encourage partnership among public agencies and private interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America;

(2) to maintain current or improved distributions of migratory bird populations; and

(3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) The term "Agreement" meant the tripartite agreement signed in March 1988 by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service and the Director of the United States Fish and Wildlife Service.

(2) The term "appropriate Committees" means the Committee on Environment and Public Works of the United States and the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(3) The term "flyway" means the four administrative units used by the United States Fish and Wildlife Service and the States in the management of migratory bird populations.

(4) The term "migratory birds" means all wild birds native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act, including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.), and species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901-2912).

(5) The term "Migratory Bird Conservation Commission" means the commission established by section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a).

(6) The term "Plan" means that North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(9) The term "wetland conservation project" means—

(A) the obtaining of a real property interest in lands or waters, including water rights, from willing sellers or donors if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon;

(B) the restoration, management, or enhancement of wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

SEC. 204. ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council which shall consist of the Director of the United States Fish and Wildlife Service and eight other members who may not receive compensation as members of the Council. Of the remaining Council members—

(A) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a State Director;

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702); and

(C) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out the wetlands conservation projects under the Act, the Plan or the Agreement.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) of this section—

(A) until a vacancy referred to in subsection (b)(3) of this section is filled; or

(B) in the absence of such a member from any meeting of the Council.

(b) APPOINTMENT AND TERMS.—(1) Except as provided in paragraph (2), the term of office of a member of the Council appointed under Subsection (a)(1)(C) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after the date of enactment of this title, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(3) Whenever a vacancy occurs among members of the Council appointed under subsection (a)(1)(C) of this section, the Secretary shall appoint an individual in accordance with that subsection for the remainder of the applicable term.

(c) EX OFFICIO COUNCIL MEMBERS.—The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Council representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetland conservation projects under this title, the Plan or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, which are participating actively in carrying out one or more wetlands conservation projects under this title, the Plan or the Agreement; and

(3) non-profit charitable organizations and native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this title, the Plan or the Agreement.

(d) CHAIRMAN.—The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected chairman may serve a term of less than three years.

(e) QUORUM.—A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public. If a Council member appointed under subsection (a)(1)(C) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(3).

(g) COORDINATOR.—The director of the United States Fish and Wildlife Service shall designate an employee of the Service—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for administration of this title; and

(3) who shall be compensated with the funds available under section 208(a)(1) for administering this title.

SEC. 205. APPROVAL OF WETLANDS CONSERVATION PROJECTS.

(a) CONSIDERATION BY THE COUNCIL.—The Council shall recommend wetlands conservation projects to the Secretary based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this title, the goals of the Plan or the Agreement;

(1) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 208(b) of this title;

(2) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(3) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921);

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conserva-

tion projects under this title, Plan or the Agreement.

(b) RECOMMENDATIONS TO THE SECRETARY.—The Council shall submit to the Secretary and the appropriate Committees by January 1 of each year, a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Secretary approved for Federal funding under this title and the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title.

(c) COUNCIL PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

(d) APPROVAL OF COUNCIL RECOMMENDATIONS BY THE SECRETARY.—The Secretary, in consultation with the Migratory Bird Conservation Commission, shall make available the Federal funding provided under this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title, for the wetlands conservation projects in the order of priority recommended by the Council unless the Secretary determines, based on review of the factors in subsection (a) of this section, that any such projects should not receive such Federal funding or that the order of priority for such Federal funding of recommended projects should be modified.

(e) NOTIFICATION OF APPROPRIATE COMMITTEES.—The Secretary shall submit annually to the appropriate Committees a report including a list and description of the wetlands conservation projects approved by the Secretary for Federal funding under subsection (d) of this section in order of priority; the amounts and sources of Federal and non-Federal funding for such projects; a justification for the approval of such projects and the order of priority for funding such projects; and a list and description of the wetlands conservation projects which the Council recommended, in order of priority, that the Secretary approve for Federal funding.

SEC. 206. CONDITONS RELATING TO WETLAND CONSERVATION PROJECTS.

(a) PROJECTS IN THE UNITED STATES.—(1) Subject to the allocation requirements of section 208(a) and the limitations on Federal contributions under section 208(b) of this title, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved under section 205(d) of this title, with the Federal funds made available under sections 207(b) and 207(c) of this title.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under sections 207(b) and 207(c) of this title to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

(3) In lieu of including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this title, the Secretary may grant or otherwise provide the Federal funds made available under sections 207(b) and 207(c) of this title or convey without cost to a State, or to another public agency or other entity, any real property interest acquired in whole or in part with the Federal funds made available under sections 207(b) and 207(c) of this title. The Secretary shall not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this title, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this title. Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.

(b) PROJECTS IN CANADA OR MEXICO.—Subject to the allocation requirements of section 208(a) and the limitations on Federal contributions under section 208(b) of this title, the Secretary shall grant or otherwise provide the Federal funds made available under section 207(b) of this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by section 207(a) of this title, to public agencies and other entities for the purpose of assisting such entities and individuals in carrying out wetlands conservation projects in Canada or Mexico that have been approved under section 205(d) of this title: *Provided,* That the grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Secretary. The Secretary may only grant or otherwise provide Federal funds if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

SEC. 207. AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) AID IN WILDLIFE RESTORATION.—(1) Section 3 of the Act of September 2, 1973 (16 U.S.C. 669b) is amended—

(A) by inserting "(a)" before "An amount" in the first sentence thereof; and

(B) by adding at the end thereof the following:

"(b)(1) The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the fund as is not, in the Secretary's judgment, required for meeting a current year's withdrawals. For purposes of such investment, the Secretary of the Treasury may—

"(A) acquire obligations at the issue price and purchase outstanding obligations at the market price; and

"(B) sell obligations held in the fund at the market price.

"(2) The interest on obligations held in the fund—

"(A) shall be credited to the fund;

"(B) constitute the sums available for allocation by the Secretary under section 208(a)(3) of the North American Wetlands Conservation Act; and

"(C) shall become available for apportionment under this Act at the beginning of fiscal year 2006.".

(2) Section 4(a) of the Act of September 2, 1937 (16 U.S.C. 669c(a)) is amended by inserting "(excluding interest accruing under section 3(b))" after "revenues" in the first sentence thereof.

(3) The amendments made by this subsection of this title take effect October 1, 1989.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsection (a) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 208(a) of this title not to exceed $15,000,000 for each of fiscal years 1991, 1992, 1993, and 1994.

(c) ADDITIONAL FUNDING.—In addition to the amounts made available under subsections (a) and (b) of this section, the Secretary of the Treasury is authorized and directed to make available to the Secretary an amount equal to 15.0 percent of the total amount deposited in the Wetlands Trust Fund during a given fiscal year for purposes of allocation under section 208(a) of this title: *Provided, however,* That such moneys shall not be made available to carry out projects in Mexico or Canada.

(d) AVAILABILITY OF FUNDS.—Sums made available under this section shall be available until expended.

SEC. 208. ALLOCATION OF AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) ALLOCATIONS.—(1) Such amount of the sums available to the Secretary for any fiscal year under sections 207(b) and 207(c) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, as considered necessary by the Secretary (but not more than 4 per centum) is available to defray the costs of administering this title during such fiscal year.

(2) The sums available to the Secretary for any fiscal year from the Wetlands Trust Fund under section 207(c) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 206(a) of this title.

(3) The sums available to the Secretary for any fiscal year under section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by section 207(a) of this title, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 206(b) of this title.

(4) Such percentage of the sums available to the Secretary for any fiscal year under section 207(b) of this title (but at least 50 per centum and not more than 70 per centum thereof) which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation

projects in Canada and Mexico in accordance with section 206(b) of this title.

(5) Such percentage of the sums available to the Secretary for any fiscal year under section 207(b) of this title (but at least 30 per centum and not more than 50 per centum thereof), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 206(a) of this title.

(b) FEDERAL CONTRIBUTION FOR PROJECTS.—The Federal moneys allocated under subsection (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects, or many be used for payment of 100 per centum of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters. The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs.

(c) PARTIAL PAYMENTS.—The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this title.

SEC. 209. REFUGE REVENUE SHARING.

No payment of any money allocated under sections 208(a)(2) and 208(a)(5) may be made by the Secretary for any fiscal year to acquire lands and waters for inclusion in the National Wildlife Refuge System under this title unless there are appropriated under section 401(d) of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act;" 16 U.S.C. 715(s)(d), for such fiscal year an amount equal to the difference between the total amount of net receipts and the aggregate amount of payments required to be made for such fiscal year.

SEC. 210. RESTORATION, MANAGEMENT, AND PROTECTION OF WETLANDS AND HABITAT FOR MIGRATORY BIRDS ON FEDERAL LANDS.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency. In the consideration of land disposal alternatives, the head of each such agency shall give priority to the transfer of real property interests for conservation purposes under would contribute to furtherance of the purposes of this title and the goals of the Plan and the Agreement.

SEC. 211. REPORTS TO CONGRESS.

The Secretary shall report to the appropriate Committees on the implementation of this title. The report shall include:

(a) a biennial assessment of—

(1) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(2) trends in the population size and distribution of North American migratory birds; and

(3) the status of efforts to establish agreements with nations in the western hemisphere pursuant to section 217 of this title.

(b) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.

SEC. 212. REVISIONS TO THE PLAN.

The Secretary shall, in 1991 and at five-year intervals thereafter, undertake with the appropriate officials in Canada to revise the goals and other elements of the Plan in accordance with the information required under section 211 and with the other provisions of this title. The Secretary shall invite appropriate officials of Mexico to participate in any revisions of the Plan made pursuant to this section.

SEC. 213. RELATIONSHIP TO OTHER AUTHORITIES.

(a) ACQUISITION OF LANDS AND WATERS.—Nothing in this title affects, alters, or modifies the Secretary's authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

(b) MITIGATION.—The Federal funds made available under this title and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this title, may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4235).

SEC. 214. TECHNICAL AND CONFORMING AMENDMENTS TO THE MIGRATORY BIRD TREATY ACT.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) by striking "and" after "1936,"; and

(2) by inserting after "1972," the following: "and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976."

SEC. 215. OTHER AGREEMENTS.

(a) The Secretary shall undertake with the appropriate officials of nations in the western hemisphere to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 13(a)(5) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2912(a)). When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(b) Section 13(a) of the Fish and Wildlife Conservation Act (16 U.S.C. 2912(a)) is amended by adding at the end the following:

"(5) identify lands or waters in the United States and other nations in the western hemisphere whose protection, management or acquisition will foster the conservation of species, subspecies and populations of migratory non-game birds, including those identified in paragraph (3).".

TITLE III.—GENERAL PROVISIONS

SEC. 301. ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.

(a) The Chief of Engineers of the Department of the Army is authorized to carry out projects for the protection, restoration, and creation of vegetated wetlands. In carrying out such projects, the Chief of Engineers shall give such projects equal consideration with projects relating to navigation and flood control.

(b) The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

By Mr. BENTSEN:

S. 1733. A bill to suspend temporarily the duty on a certain specialty thermoset resin; to the Committee on Finance.

TEMPORARY DUTY SUSPENSION ON A SPECIALTY THERMOSET RESIN

● Mr. BENTSEN. Mr. President, today I introduce a bill to suspend temporarily the duty on a specialty thermoset plastic resin called XU-71787. This bill would suspend through 1992 the current 5.8 percent rate of duty on the importation of XU-71787.

XU-71787 is a highly specialized thermoset resin imported into the United States from Switzerland. It is an experimental resin used in high-speed computer applications and in producing advanced plastic composites for aerospace, sports equipment, industrial, and automotive applications. Experiments are being conducted with this resin for some military applications such as the advanced tactical fighter and advanced tactical aircraft programs.

The manufacture of XU-71787 involves a multistage chemical process. The first stage is performed in the United States, but the remaining stages are carried out in Switzerland because there is no United States chemical manufacturer with the raw materials and processing equipment needed to complete production. The capital investment required to perform the additional stages of processing in the United States would make such production unprofitable at this point, while the product is still in the early stages of market development and product volumes are small. According to an International Trade Commission analysis, there was no domestic production of XU-71787, or any viable substitute, in the years 1984 through 1988.

Duty-free importation of this resin will allow domestic users of the resin to obtain it at a lower cost until domestic production becomes feasible.

Because XU-71787 competes with less than 5 percent of the total plastic resins market in the United States and there is no domestic manufacturer of the resin, temporary duty suspension should be noncontroversial. In addition, temporary duty suspension should cost only approximately $95,000 over the 3-year period it is in effect.

In sum, Mr. President, I believe that this legislation is desirable and noncontroversial, and I urge my colleagues to support it. I ask unanimous consent that a copy of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

"9902.30.07	XU-71787 (hydrocarbon novolac cynate ester) (provided for in subheading) 3911.90.30) ...	Free	No charge	No charge	On or before 12/31/92".

SEC. 2. The amendment made by the first section of this act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this act.●

By Mr. BREAUX:

S. 1734. A bill to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERSTATE GREYHOUND RACING ACT

● Mr. BREAUX. Mr. President, the bill that I am introducing today, the Interstate Greyhound Racing Act of 1989, will regulate commerce with respect to interstate parimutuel wagering on greyhound racing.

Eleven years ago a similar bill, the Interstate Horse Racing Act of 1978, was considered by the Congress and passed both the Senate and the House by voice vote. This legislation would provide a statutory structure for greyhound racing comparable to that currently provided for horse racing.

Mr. President, this bill does not require that we spend Federal money. It does not create a new agency of government, and it does not legalize off-track betting. The decisions as to whether racing or wagering are to be permitted are left to the States.

This legislation provides that an interstate wager on a greyhound race taking place in one State may not be placed with an off-track betting office in another State without the consent of:

First, the racetrack at which the race is to be run;

Second, the racing commission of the State where the race is to be run; and

Third, the racing commission of the State where the off-track betting choice is located.

Greyhound wagering across State lines will not take place without the agreement of these indispensable parties. State interests in the regulation of racing are protected, as are the interests of greyhound and racetrack owners. A host racetrack must have a written agreement with the greyhound owners' group, specifying the terms and conditions under which the track will consent to an interstate wager with an off-track, out-of-State system. Thus, the proprietary interests of greyhound owners would be protected in the same manner as those of horse owners.

Mr. President, this bill allows the regulation of wagers placed in one State on the outcome of a race taking place in another State. This system would require the concurrence of all the parties involved, including the State racing commissions, the racetracks, the greyhound owners, and the off-track establishments. This system is, Mr. President, one that would prevent abuses and ensure that the interests of all the parties and institutions are properly protected. I urge my colleagues to join me in advancing this worthwhile legislation.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. SYMMS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 89, a bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986.

S. 346

At the request of Mr. WIRTH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Washington [Mr. ADAMS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 619

At the request of Mr. SARBANES, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 659

At the request of Mr. SYMMS, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 1081

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1081, a bill to authorize the Secretary of Housing and Urban Development to carry out a cost-effective community-based program for housing rehabilitation and development to serve low- and moderate-income families.

S. 1245

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1245, a bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

S. 1361

At the request of Mr. FOWLER, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays under certain conditions, and for other purposes.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1385

At the request of Mr. LOTT, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1385, a bill to establish a tropical cyclone reconnaissance, surveillance, and research program under the joint control of Secretary of Defense and the Secretary of Commerce.

S. 1399

At the request of Mr. SARBANES, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1399, a bill to improve forest management in urban areas and other communities, and for other purposes.

S. 1560

At the request of Mr. SYMMS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1570

At the request of Mr. PRYOR, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1570, a bill to amend the Social Security Act to partially deregulate the collection of fees for the representation of claimant in administrative proceedings.

S. 1571

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1571, a bill to amend the Social Security Act to establish in the Social Security Administration the Office of Chief Administrative Law Judge, and for other purposes.

S. 1618

At the request of Mr. BOSCHWITZ, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1618, a bill to amend the Internal Revenue Code of 1986 to allow less frequent deposits of payroll taxes for employers of certain lower paid employees.

S. 1626

At the request of Mr. DOMENICI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1626, a bill to establish within the Office of Minority Economic Impact the Department of Energy programs involving loans and grants to enhance the development and operation of minority business enterprises with respect to energy related business, to amend the Nuclear Waste Policy Act of 1982 to permit the investment of certain funds in the Minority Bank Deposit Program of the Department of the Treasury, and for other purposes.

S. 1645

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1645, a bill to protect the right of workers to choose whether their collective bargaining dues or any other payment required as a condition of employment shall be used for political purposes.

S. 1676

At the request of Mr. PELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

SENATE JOINT RESOLUTION 177

At the request of Mr. BOND, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 177, a joint resolution designating October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day."

SENATE JOINT RESOLUTION 190

At the request of Mr. HEINZ, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 190, a joint resolution designating April 89, 1990 as "National Former Prisoners of War Recognition Day."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989 as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 204

At the request of Mr. NUNN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 204, a joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day."

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. NUNN] was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

AMENDMENT NO 912

At the request of Mr. NICKLES, his name was added as a cosponsor of amendment No. 912 proposed to S. 1711, a bill to implement the President's 1989 National Drug Control Strategy.

AMENDMENT NO. 952

At the request of Mr. DOLE, the names of the Senator from California [Mr. WILSON], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. SYMMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of amendment No. 952 proposed to H.R. 2978, a bill to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

SENATE CONCURRENT RESOLUTION 75—CONGRATULATING HIS HOLINESS THE XIV DALAI LAMA OF TIBET FOR BEING AWARDED THE 1989 NOBEL PEACE PRIZE

Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. BIDEN, Mr. PRESSLER, Mr. SIMON, Mr. SANFORD, Mr. SARBANES, and Mr. DURENBERGER) submitted the following concurrent resolution which was considered and agreed to:

S. CON. RES. 75

Whereas His Holiness the XIV Dalai Lama of Tibet spiritual mentor to millions of Buddhists throughout the world and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

SENATE RESOLUTION 191—RECOGNIZING THE BICENTENNIAL OF THE AMERICAN MORGAN HORSE

Mr. ROTH (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COATS, Mr. COHEN, Mr. D'AMATO, Mr. DOLE, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Mr. MCCLURE, Mr. PACKWOOD, Mr. SPECTER, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WILSON, Mr. BURNS, Mr. HUMPHREY, Mr. BIDEN, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. BRYAN, Mr. CRANSTON, Mr. DECONCINI, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. LEAHY, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. CONRAD, Mr. JOHNSTON, Mr. SASSER, Mr. NUNN, Mr. ADAMS, Mr. KOHL, and Mr. EXON) submitted the following resolution; which was considered and agreed to:

S. RES. 191

Whereas the American Morgan Horse is the only horse perpetuated as a breed by the United States Government at a Government breeding farm for use by the military;

Whereas the American Morgan Horse served in every major American war from the 1800's through the 1940's and should be recognized for its contribution to America like any other war hero;

Whereas the American Morgan Horse served as this country's early American work horse, clearing the land, plowing the fields, and settling the West;

Whereas the American Morgan Horse is the progenitor of America's light horse breeds and was used to contribute to the de-

velopment of the American Saddlebred horse, the Standardbred, and the American Quarterhorse;

Whereas the American Morgan Horse continues to serve the people of this country in a variety of ways including farming, cattle ranching and recreation; and

Whereas the American Morgan Horse provides entertainment and sport to Americans in all 50 States as well as foreign countries by means of trail and endurance rides, carriage driving, showing, dressage, western riding, hunter/jumpers and serving the handicapped riding programs: Now, therefore, be it

Resolved, That the period commencing October 9, 1989, and ending October 15, 1989, is designated as "National Morgan Horse Week", and the President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED

IMPLEMENTATION OF PRESIDENT'S DRUG CONTROL STRATEGY

WILSON AMENDMENT NO. 953

(Ordered to lie on the table.)

Mr. WILSON submitted an amendment intended to be proposed by him to the bill (S. 1711) to implement the President's 1989 national drug control strategy, as follows:

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

NUNN (AND OTHERS) AMENDMENT NO. 954

Mr. NUNN (for himself, Mr. LUGAR, Mr. COHEN, Mr. WARNER, Mr. BIDEN, Mr. DODD, Mr. BYRD, Mrs. KASSEBAUM, Mr. KERRY, Mr. BOREN, Mr. MITCHELL, and Mr. LEVIN) proposed an amendment to amendment No. 924 proposed by Mr. BIDEN to the bill S. 1711, supra, as follows:

In the amendment on page 3, line 4, strike out "(2) submit a report to Congress" and all that follows through the end of the amendment and insert in lieu thereof the following:

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

SEC. 43. POLICY TOWARD EFFORT TO RESTORE CONSTITUTIONAL GOVERNMENT IN PANAMA.

(a) FINDINGS.—The Congress finds that General Manuel Noriega—

(1) runs one of the most pervasive police states in the Western Hemisphere;

(2) has usurped the power of the legitimate government of Panama;

(3) has undermined the economy of Panama;

(4) has been indicted in the United States for international drug trafficking and money laundering;

(5) is opposed by the overwhelming majority of the Panamanian people;

(6) has lost support of all democratic governments in the Western Hemisphere; and

(7) has, as evidenced by the attempted coup of October 3, 1989, lost significant support within the Panama Defense Forces.

(b) POLICY.—(1) It is the sense of the Congress that the President in his capacity as Chief Executive and Commander-in-Chief has authority under the Constitution and consistent with relevant laws of the United States and treaty commitments of the United States, including the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Inter-American Treaty of Reciprocal Assistance (also known as the "Rio Treaty"), to protect United States citizens and property, to protect and defend the Panama Canal, and to enforce the laws of the United States.

(2) The Congress hereby supports—

(A) the efforts of the President of the United States to restore constitutional government to Panama and to remove General Manuel Noriega from his illegal control of the Republic of Panama.

(B) The President's utilization of the full range of appropriate diplomatic, economic, and the military options in the Republic of Panama; and

(C) the President's authority to exercise, to the fullest extent, the rights and obligations of the United States to protect the Panama Canal and American citizens in Panama pursuant to the Panama Canal treaties which entered into force in 1978.

(3) It is further the sense of the Congress that the President should inform the Congress of the steps he has taken to provide timely assistance for the establishment of a coordinating office for the Panamanian democratic opposition.

GRAMM AMENDMENT NO. 955

Mr. GRAMM proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

Sec. . MANDATORY MINIMUM SENTENCES FOR ADULTS WHO INVOLVE JUVENILES IN OFFENSES.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—Section 405 of the Controlled Substances Act is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than one year."

and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Nowithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extend a greater minimum sentence is otherwise provided by section 401(b) of this title, a term of imprisonment under this subsection shall be not less than 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

McCONNELL (AND OTHERS) AMENDMENT NO. 956

Mr. McCONNELL (for himself, Mr. KERRY, and Mr. D'AMATO) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place add the following:

GENERAL AUTHORITY

SECTION 1. (a) The purpose of this amendment is to provide Federal drug interdiction agencies with the authority to use necessary and appropriate force to compel airborne drug traffickers to land their aircraft.

(b) Whenever any law enforcement officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, commanding an aircraft displaying proper identifying insignia, instructs an aircraft to land on the basis of knowledge that the aircraft is transporting illegal narcotics on board, and the aircraft does not land or make preparations to land; then, after observing all appropriate safeguards established under section 2 of this Act, the law enforcement officer is authorized to fire a warning signal; and if the aircraft does not land or prepare to land in response to such warning signal and other previous instructions, the law enforcement officer is authorized to fire into the aircraft.

PROCEDURAL SAFEGUARDS

SEC. 2. (a) The United States Customs Service, United States Coast Guard, and Drug Enforcement Administration are required to adopt regulations to implement section 1 of this Act, providing that neither a warning shot, nor disabling or deadly force, may be used against an aircraft until all of the following safeguards have been met:

(1) public notice has been provided, through the Federal Aviation Adminstration, informing all private aircraft operators entering United States airspace that they are required to obey any instructions from United States law enforcement agents, including instructions to land their aircraft, and that failure to obey such instructions may result in use of force;

(2) such aircraft is flying outside of flight corridors established and maintained by the Federal Aviation Administration, which shall in no case be lower than an altitude of three thousand (3,000) feet, except to provide reasonable access to designated airports and landing strips, and provide for emergency flight conditions;

(3) the airborne law enforcement officer has visually confirmed that such aircraft is engaging in illegal narcotics trafficking;

(4) the airborne law enforcement officer must use all means of communication that are available, internationally recognized, and accepted by the International Civil Aviation Organization, including, but not limited to, radio communications on the international emergency frequencies, rocking of wings, and flashing landing lights, to order such aircraft to land;

(5) if such aircraft fails to comply with such instructions to land, the airborne law enforcement officer must notify his command authority located on the ground of the circumstances and seek permission to fire a warning signal to land;

(6) if such aircraft fails to comply with such instructions to land after a warning signal has been fired, the airborne law enforcement officer must notify his command authority located on ground of the circumstances and seek permission to fire into the aircraft; and

(7) no use of disabling or deadly force shall be permitted while such aircraft is over land, or if the airborne law enforcement officer has reason to believe that, under the circumstances, innocent person would be harmed by the use of disabling or deadly force against such aircraft.

(b) The regulations required by this section shall be promulgated and adopted by the United States Customs Service, United States Coast Guard, and Drug Enforcement Administration not later than January 1, 1990.

(c) No officer of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration shall be deemed to have the authority provided under section 1 of this Act until the regulations required by this section have been promulgated and adopted.

(d) For the purposes of this section, "airborne law enforcement officer" means an officer in command of an aircraft operated by the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration.

INDEMNIFICATION

SEC. 3. The person commanding an aircraft of the United States Customs Service, United States Coast Guard, or Drug Enforcement Administration, and all other persons acting under such person's direction, shall be indemnified from any penalty or action for damages resulting from the firing at or into any aircraft pursuant to section 1 of this act. If such person or persons are arrested or prosecuted as a result of such firing pursuant to section 1 of this Act, such person or persons shall be forthwith admitted to bail.

REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS

WALLOP AMENDMENT NO. 957

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (S. 1726) to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes, as follows:

At the end, insert the following

SECTION 1. ELECTION TO RECEIVE CATASTROPHIC COVERAGE BENEFITS.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by adding at the end thereof the following new sections.

"ELECTION TO RECEIVE CERTAIN BENEFITS UNDER PARTS A AND B

"SEC. 1893. (a) An individual is described in this section for any period of time in which the individual elects in accordance with subsection (b) to receive the additional benefits under this title established by the amendments made by the Medicare Catastrophic Coverage Act of 1988 and to pay the appropriate monthly catastrophic coverage premium amount under section 1839(g) and (if required for such individual) applicable supplemental premium under section 59B of the Internal Revenue Code of 1986.

"(b) An election made under subsection (a) shall be made under procedures established by the Secretary and (subject to section 1894) shall be effective with respect to any calendar year beginning after the date on which the election is made.

"CONSTRUCTION OF TITLE WITH REGARD TO MEDICARE SUPPLEMENTAL POLICIES

"SEC. 1894. Nothing in this title shall be construed as to prohibit the offering of a medicare supplemental policy which provides benefits that duplicate any benefits provided by any section of this title which is subject to voluntary participation.".

"(b) MODIFICATION OF SUPPLEMENTAL PREMIUM.—Section 59B(b) of the Internal Revenue Code of 1986 (26 U.S.C. 59B(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) such individual elects in accordance with section 1893(b) of the Social Security Act to pay the appropriate monthly catastrophic coverage premium amount under section 1839(g) of such Act and is otherwise subject to a premium under this subsection and elects to pay such premium in accordance with section 1893(b) of such Act.".

(c) ADJUSTMENT OF MEDICARE PART B BENEFITS.—Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking out "the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection" in paragraph (1)(A) and inserting in lieu thereof "the monthly premium, otherwise determined without regard to

this subsection, for each individual enrolled under this part and who elects in accordance with section 1893(b) to pay the appropriate monthly catastrophic coverage premium amount under this subsection"; and

(2) by striking out "the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection" in paragraph (4)(A) and inserting in lieu thereof "the monthly premium, otherwise determined without regard to this subsection, for each individual enrolled under this part and who elects in accordance with section 1893(b) to pay the appropriate monthly catastrophic coverage premium amount under this subsection";

(d) FUTURE ADJUSTMENT OF PREMIUMS.—The Secretary of Health and Human Services shall report to Congress within 120 days after the date of enactment of this Act with regard to the effect of the amendments made by this section on the financing mechanism for catastrophic coverage benefits established under the Medicare Catastrophic Coverage Act of 1988.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to elections under section 1893 of the Social Security Act (as added by subsection (a) of this section) made on or after the date of enactment of this Act.

BIDEN AMENDMENT NO. 958

Mr. BIDEN proposed an amendment to the bill S. 1711, supra, as follows:

On line 3 of the bill, strike "Section" and all that follows through the period on line 4 and insert the following:

CHAPTER .—RURAL DRUG ENFORCEMENT ACT

SECTION . SHORT TITLE.

This Act may be cited as the "Rural Drug Enforcement Act."

SEC. 2. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this chapter referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 3. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each non-rural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term "rural State" means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people.".

(b) Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by:

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with the funds provided by a grant under section 509.".

SEC. 4. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall attempt to assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(b) In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 DEA special agents; the Attorney General shall attempt to assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 3 of this Act.

SEC. 5. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By no later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this Act.

SEC. 1002. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS.

(a) AUTHORIZATION.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $600,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the programs under parts D and E of this title.".

(b) BASE ALLOCATION.—Section 506(a) of part D of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)) is amended to read as follows:

"(a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.40 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

(c) MATCHING REQUIREMENTS.—Section 504 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended to read as follows:

"(a) A grant made under this subpart may not be expended for more than 75 percent of the cost of identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.".

SHORT TITLE

SEC. . (a) This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1989".

(b)(1) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activi-

ties in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, shall submit an annual review to the Committees on the Judiciary of the United States Senate and United States House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, and $25,000,000 for fiscal year 1992.".

(2) The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

At the end of the bill add the following new section:

SEC. . ENHANCED STATE AND LOCAL LAW ENFORCEMENT PROGRAMS.

Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraphs:

"(11) A certification that State and local law enforcement agencies, prosecuting attorneys, and courts have in place, or are committed to develop, arrangements, to the extent permitted by law, for—

"(A) the prosecution and sentencing of drug offenders within 100 days after arraignment;

"(B) the use of civil injunctive and other remedies to limit illegal activities; and

"(C) the use of civil and criminal forfeiture proceedings, including—

"(i) authority to seize real property, cash proceeds, cash found in proximity to a criminal enterprise or activity, and substitute assets;

"(ii) civil remission or mitigation and innocent owner protections; and

"(iii) distribution of forfeited proceeds from illegal drug activity evenly between State supply and demand reduction programs (after reimbursement of agencies of the cost of conducting forfeiture proceedings).

"(12) An agreement to report to the Bureau concerning—

"(A) the result of the programs described in paragraph (11); and

"(B) the need for changes in State laws to allow more effective use of the programs described in paragraph (11).".

Subtitle C—Juvenile Justice Anti-Drug Grant Program

SEC. 21. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs"

; and

(2) adding at the end thereof a new subpart III, as follows:

"Subpart III—Juvenile Drug Trafficking and Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs to reduce the use and sale of illegal drugs by juveniles, including education, prevention, treatment and enforcement programs.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To develop within the juvenile justice system, including the juvenile correction system, new and innovative means to address the problems of juveniles convicted of serious criminal, drug-related and gang-related offenses;

"(3) To reduce juvenile involvement in organized crime drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use of gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls club, boys club, scout troups and little league.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide drug abuse education and prevention involving police and juvenile justice personnel in demand reduction programs.".

"(c) Of the funds made available to each State under this section (Formula Grants) 50 percent of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 percent shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could reused, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary funds for use by the Administrator to carry out the purposes specified in section 231. Grants made under this section may be made for amounts up to 100 percent of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,200,000 in fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 and 1992 to carry out the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year to carry out the purposes of section 231 (formula grants) the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (discretionary grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 2322 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State governments under sections 505 and 508 respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 22. CONFORMING AMENDMENTS.

(a) Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E of title II of such Act is redesignated as part D.

SEC. 2. AMENDMENT RELATING TO JUSTICE ASSISTANCE AND DRUG TESTING.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

HATCH (AND BENTSEN) AMENDMENT NO. 959

Mr. HATCH (for himself and Mr. BENTSEN) proposed an amendment, which was subsequently modified, to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . AUTHORIZING ADDITIONAL JUDICIAL POSITIONS.

(a)(1) The President shall appoint, by and with the advice and consent of the Senate, two additional circuit judges for the third circuit court of appeals, four additional circuit judges for the fourth circuit court of appeals, one additional circuit judge for the fifth circuit court of appeals, two additional circuit judges for the eighth circuit court of appeals, and two additional circuit judges for the tenth circuit court of appeals.

(2) In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeship authorized as a result of subsection (a)(1) of this section, such table is amended to read as follows:

"Circuits:	*Number of judges*
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	15
Seventh	11
Eight	12
Ninth	28
Tenth	12
Eleventh	12
Federal	12".

(b)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the western district of Arkansas, two additional district judges for the northern district of California, six additional district judges for the central district of California, two additional district judges for the district of Connecticut, two additional district judges for the middle district of Florida, one additional district judge for the northern district of Illinois, one additional district judge for the southern district of Iowa, one additional district judge for the western district of Louisiana, one additional district judge for the southern district of Mississippi, one additional district judge for the eastern district of Missouri, three additional district judges for the district of New Jersey, one additional district judge for the district of New Mexico, one additional district judge for the southern district of New York, one additional district judge for the eastern district of New York, one additional district judge for the southern district of Ohio, one additional district judge for the northern district of Oklahoma, two additional district judges for the western district of Oklahoma, one additional district judge for the district of Oregon, three additional district judges for the eastern district of Pennsylvania, one additional district judge for the eastern district of Tennessee, one additional district judge for the district of South Carolina, three additional district judges for the southern district of Texas, one additional district judge for the western district of Texas, and one additional district judge for the district of Utah.

(2) The President shall appoint, by and with the advice and consent of the Senate, one additional district judge for the northern district of Alabama, one additional district judge for the eastern district of California, one additional district judge for the district of Hawaii, one additional district judge for the central district of Illinois, one additional district judge for the southern district of Illinois, one additional district judge for the district of Kansas, one additional district judge for the middle district of Louisiana, one additional district judge for the district of Maryland, one additional district judge for the district of Massachusetts, one additional district judge for the western district of Michigan, one additional district judge for the eastern district of Missouri, one additional district judge for the district of Nebraska, one additional district judge for the district of Nevada, one additional district judge for the northern district of New York one additional district judge for the northern district of Ohio, one additional district judge for the southern district of Ohio, one additional district judge for the western district of Oklahoma, one additional district judge for the eastern district of Pennsylvania, one additional district judge for the middle district of Tennessee, one additional district judge for the eastern district of Texas, and one additional district judge for the eastern district of Virginia. The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring five years or more after the position for that district authorized by this subsection in first filled, shall not be filled.

(3) The existing district judgeships for the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington heretofore authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28 of the United States Code, and the incumbents in those offices shall henceforth hold the office under section 133, as amended by this Act.

(4) The existing two district judgeships for the eastern and western districts of Arkansas, heretofore provided by section 133 of title 28 of the United States Code, shall hereafter be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall henceforth hold the offices under section 133, as amended by this Act. The existing district judgeship for the northern and southern districts of Iowa, heretofore provided by section 133 of title 28, shall hereafter be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall henceforth hold the office under section 133, as amended by this Act. The existing district judgeship for the northern, eastern, and western districts of

Oklahoma, heretofore provided by section 133 of title 28 and the occupant of which has his official duty station at Oklahoma City on the date of enactment of this Act, shall hereafter be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hereafter hold the office under section 133, as amended by this Act.

(5) In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (b)(1), (b)(3), and (b)(4) of this section, such table is amended to read as follows:

"

Districts:	Number of judges
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	2
California:	
Northern	14
Eastern	6
Central	28
Southern	7
Colorado	7
Connecticut	3
Delaware	4
District of Columbia	15
Florida:	
Northern	3
Middle	11
Southern	15
Georgia:	
Northern	11
Middle	3
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	2
Maryland	10
Massachussetts	12
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	2
New Jersey	17
New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	13
Western	4
North Carolina:	
Eastern	3
Middle	3
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	7
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	5
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	8
South Dakota	3
Tennessee:	
Eastern	3
Middle	3
Western	4
Texas:	
Northern	10
Southern	16
Eastern	6
Western	8
Utah	4
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	3
Western	7
West Virginia:	
Northern	2
Southern	4
Wisconsin:	
Eastern	4
Western	2
Wyoming	2".

(c)(1) The President shall appoint, by and with the advice and consent of the Senate, one additional judge for the District Court of the Virgin Islands, who shall hold office for a term of 10 years and until a successor is chosen and qualified, unless sooner removed by the President for cause.

(2) In order to reflect the change in the total number of permanent judgeships authorized as a result of subsection (c)(1) of this section, section 24(a) of the Revised Organic Act of the Virgin Islands, Chapter 558, 68 Stat. 506, as amended (48 U.S.C. § 1614(A)), is further amended by striking out "two" and inserting in lieu thereof "three".

(d) This Act shall take effect on the date of enactment of this Act.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

BIDEN AMENDMENT NO 960

Mr. BIDEN proposed an amendment to amendment No. 959 proposed by Mr. HATCH to the bill S. 1711, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) UNITED STATES DISTRICT COURT JUDGES.—(1) In accordance with the provisions of paragraph (2), the President shall appoint, by and with the advice and consent of the Senate, 20 district judges in addition to those appointed pursuant to section 133 of title 28, United States Code.

(2) Prior to the appointment of any judge pursuant to paragraph (1), the number and locations of such judges among the several judicial districts shall be established by law after consideration, by the Congress, of the recommendations of the Judicial Conference of the United States submitted pursuant to subsection (b).

(b) JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal district courts. Such report shall contain recommendations as to how the additional United States District Court judges should be allocated based on criminal drug-related felony filings per judgeship in each district. The report shall be transmitted to the Committees on the Judiciary of the United States Senate and the House of Representatives not later than 120 days after the date of enactment of this section.

CRANSTON (AND OTHERS) AMENDMENT NO. 961

Mr. CRANSTON (for himself, Mr. HARKIN, Mr. KOHL, Mr. DECONCINI, Mr. KENNEDY, and Mr. LEAHY) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . COMPREHENSIVE COMMUNITY SUBSTANCE ABUSE PREVENTION PROGRAMS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) preventing substance abuse is the key to reducing the demand for illegal drugs and stopping the drug epidemic;

(B) substance abuse prevention activities have been seriously ignored and underfunded;

(C) successful prevention efforts require the involvement of all segments of the community including those in leadership positions and other concerned individuals and organizations on the grassroots level;

(D) many communities lack the tools, resources, and knowledge to mount an effective and comprehensive substance abuse prevention program; and

(E) the Federal Government should be a partner with local and State governments and community organizations in an effort to prevent substance abuse.

(2) PURPOSE.—It is the purpose of this section to assist communities in planning, developing, and implementing long-term comprehensive substance abuse prevention strategies and programs—

(A) by developing communicative and cooperative relationships between various organizations, agencies, businesses, clergy, schools, parents, youth, and interested citizens regarding substance abuse prevention activities; and

(B) by assisting communities in training individuals in methods of planning, developing, and implementing substance abuse prevention and intervention programs and activities.

(b) COMMUNITY PARTNERSHIPS.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended, is amended by adding at the end thereof the following new sections:

"SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

"(a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations, and substance abuse prevention specialists; and

"(2) at least three representatives of the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to eligible coalitions in order to—

"(1) plan a comprehensive long-term program for substance abuse prevention;

"(2) implementing such substance abuse prevention program, including the development of materials, public awareness campaigns, and community events;

"(3) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(4) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(5) develop and implement a consensus regarding the priorities of a community concerning substance abuse;

"(6) provide outreach prevention services to target populations; and

"(7) coordinate substance abuse services and activities, including establishing referral linkages, between prevention activities in the schools and communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under paragraph (1) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encouraging the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Secretary in order to receive a grant under this section, such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem including any identifiable target groups;

"(2) describe the activities and services needing financial assistance;

"(3) describe the substance abuse prevention plan;

"(4) identify participating agencies, organizations, and individuals;

"(5) identify the agency, organization, or individual that has responsibility for leading the coalition and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(6) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5); and

"(7) contain such additional information and assurances as the Secretary may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to preventing substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) EVALUATION.—The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under this section in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

"(g) AUTHORIZATION OF APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1990, $70,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992.

"(2) SIZE OF COMMUNITIES.—The Secretary shall allocate at least 35 percent of the amount appropriated under paragraph (1) for a fiscal year to communities, with populations of no more than 250,000 individuals, that have made substance abuse prevention a high priority, as determined by the Secretary.

"SEC. 509. SUBSTANCE ABUSE PREVENTION TRAINING.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the Office, shall establish a National Substance Abuse Prevention Training Program (hereinafter in this section referred to as the 'Program').

"(b) PROGRAM DIRECTOR.—The Progam shall be headed by a Director who has extensive experience in substance abuse prevention (hereinafter in this section referred to as the 'Program Director').

"(c) DUTIES.—The Program Director shall—

"(1) develop a substance abuse prevention training curriculum for community groups in organizing development, program operation, prevention concepts, and models;

"(2) provide technical assistance and support for community training on substance abuse prevention, including organizing the community, developing skills, and establishing program goals;

"(3) provide technical assistance and support for advanced prevention and intervention training for the community organizating staff and State and local substance abuse agency staff;

"(4) develop specific training modules for problem areas such as substance abuse, teen pregnancy, and acquired immune deficiency syndrome and for professional groups that work with children and adolescents, such as juvenile court judges, pediatricians, coaches, and counselors;

"(5) provide substance abuse prevention outreach and support to communities with substantial minority populations through workshops and collaborative initiatives with organizations serving such populations;

"(6) disseminate successful curricula and training practices in substance abuse prevention in communities through involvement with parents, civic groups, members of the business community, clergy, law enforcement representatives, and community leaders; and

"(7) evaluate the appropriateness and effectiveness of substance abuse prevention training.

"(d) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 509J. SPECIALIZED TRAINING PROGRAM.

"(a) GRANT PROGRAM.—The Secretary, acting through the Director of the Office, shall make grants to States, local agencies, and community organizations in order to—

"(1) provide substance abuse prevention training to representatives of such organizations and agencies;

"(2) provide substance abuse prevention training to parents, teachers, clergy, the business community, and civic groups;

"(3) coordinate with other community resources and programs; and

"(4) provide specialized training programs for professional groups that work with children and adolescents, or that are targeted to specific population groups.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $20,000,000 for each of the fiscal years 1990 through 1992.".

"(c) OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Section 508(d)(2) of the Public Health Service Act (42 U.S.C. 290aaa(d)(2)) is amended by striking out "$5,300,000" and inserting in lieu thereof "$4,000,000".

THURMOND AMENDMENT NO. 962

Mr. THURMOND proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place add the following:

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it

carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may insure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be summitted at the same as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

HATCH AMENDMENT NO. 963

Mr. HATCH proposed an amendment to amendment No. 961 proposed by Mr. CRANSTON (and others) to the bill S. 1711, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following: Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as amended is amended by adding at the end thereof the following new section:

SEC. 509H. COMMUNITY COALITIONS ON SUBSTANCE ABUSE.

(a) The Director of the Office of Substance Abuse shall develop model programs for community prevention activities.

(b) The Director of the Office of Substance Abuse Prevention shall provide assistance to coalitions consisting of public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, community-based organizations and substance abuse prevention specialists and including representatives from among the following: Clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties in order to develop and implement comprehensive substance abuse programs.

(c) The Director shall establish a mechanism to evaluate the effectiveness of community coalitions established under subsection (b) in preventing substance abuse and to disseminate the results of such evaluations to community coalitions.

(d) The Director shall develop a substance abuse prevention training curriculum for community coalitions and shall provide technical assistance, and support for community training on substance abuse prevention.

STEVENS AMENDMENT NO. 964

Mr. HATCH (for Mr. STEVENS) proposed an amendment to the bill S. 1711, supra; as follows:

On page 1, line 8, strike "(21 U.S.C. 802(6))," and insert "(21 U.S.C. 802(6)) except when authorized under the Controlled Substances Act".

On page 1, line 10, strike "the second undesignated paragraph of subsection (h)" and insert "the first undesignated paragraph following subsection (i)".

HATCH AMENDMENT NO. 965

Mr. HATCH proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

MILITARY INTERDICTION EDUCATION PROGRAM

SEC. (a) PROGRAM REQUIRED.—The Secretary of Defense or his designee, shall provide that instruction on the military role in drug interdiction will be established for all senior officer personnel in the Armed Forces of the United States at basic, intermediate and advanced military educational facilities, to be selected at the discretion of the Secretary of Defense.

(b) PROGRAM CONTENT.—Instruction at such facilities shall include, but shall not be limited to the following topics:

(1) The nature of the threat posed to the national security of the United States by drug trafficking.

(2) Posse comitatus and other legal and constitutional restrictions on the participation of military personnel in law enforcement activities.

(3) The national drug control strategy of the United States and the U.S. Government organizations mandated to implement it.

(4) The history of U.S. Armed Forces' participation in drug interdiction, to include the types of assistance and equipment generally employed by DOD for such purposes.

(5) Other instruction, as appropriate, tailored to the specific mission, roles, organization, an functions of the military service providing such instruction.

(6) The Director of the Office of National Drug Control Policy is further directed to coordinate with the Secretaries of Defense, State, Commerce, Transportation and Treasury, and with the Attorney General in establishing at the National Defense University a program designed to foster interagency cooperation on drug interdiction matters, emphasizing joint and combined operations between and among the participating agencies and the military services.

(c) REPORTING REQUIREMENTS.—The Secretary of Defense will submit to Congress not later than December 14, 1990, a report to the President on the value and status of such training, along with recommendations appropriate to the future value of interagency cooperation and education on drug interdiction activities involving the use of military assistance.

BINGAMAN (AND DANFORTH) AMENDMENT NO. 966

Mr. HATCH (for Mr. BINGAMAN, for himself and Mr. DANFORTH) proposed an amendment to the bill S. 1711, supra, as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of Law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement"

(3) Strike sections 1212(a) (2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;"

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

D'AMATO (AND OTHERS) AMENDMENT NO. 967

Mr. HATCH (for Mr. D'AMATO, for himself, Mr. DECONCINI, Mr. DOMENICI, Mr. GRAHAM, and Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

SEC. . STATEMENT OF CONGRESSIONAL FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens;

(2) there is an urgent need to interrupt drug-related criminal activities and behavior of our youth through instilling discipline, self-respect, literacy, social and vocational skills, and a personal commitment to family values and the community;

(3) the proposals for addressing that need contained in a National Institute of Justice paper, entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" needs to be evaluated by the Office of National Drug Control Policy; and

(4) said paper proposes applying the positive aspects of basic military training, which reinforces and encourages discipline, responsibility and teamwork. It also proposes a program to improve literacy and vocational skills of program participants in ways that lead to real career opportunities for participants returning to their community after their participation in the program.

SEC. . STUDY ON THE FEASIBILITY OF A CIVIL-MILITARY YOUTH LEADERSHIP PROGRAM.

(a) REPORT TO THE CONGRESS.—Not later than February 1, 1990, the Director of National Drug Control Policy shall submit a report to the Congress containing:

(1) an evaluation of the Department of Justice, National Institute of Justice concept paper entitled "About Face: Civil-Military Youth Leadership Program for the District of Columbia" (hereinafter referred to as the "Program");

(2) the feasibility of implementing the Program; and

(3) the feasibility of implementing the Program as a five-city pilot project.

KOHL AMENDMENT NO. 968

Mr. HATCH (for Mr. KOHL, for himself, Mr. DECONCINI, Mr. D'AMATO, Mr. KERRY, Mr. GRAHAM, and Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "application." and inserting in lieu thereof: "application: *Provided,* That not less than $3,000,000 shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classses);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling."

SIMON AMENDMENT NO. 969

Mr. HATCH (for Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL PRISONER DRUG TESTING ACT OF 1989.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1989".

(b) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to paroled release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance during the period of paroled release.".

(c) This provision takes effect six months after enactment.

KOHL AMENDMENT NO. 970

Mr. HATCH (for Mr. KOHL, for himself and Mr. HEFLIN) proposed two amendments to the bill S. 1711, supra, as follows:

At the appropriate place insert the following:

SEC. (a)(1) Actions specified in subsection (b) shall be exempt from the antitrust laws of the United States.

(2) For purposes of this section—

(A) "antirust laws" has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12), and shall also include section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(B) "person in the television industry" means a television network, any entity which produces programming for television distribution, including theatrical motion pictures, the National Cable Television Association, the Association of Independent Televison Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(C) "telecast" means any program broadcast by a television broadcast station or transmitted by a cable television system.

(b) The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate any negative impact of illegal drug use in telecast material.

(c)(1) The exemption provided in subsection (b) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (b) shall apply only to activities conducted within 36 months after the date of enactment of this section.

KOHL (AND OTHERS) AMENDMENT NO. 971

Mr. HATCH (for Mr. KOHL, for himself, Mr. SIMON, and Mr. KENNEDY) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the Office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data col-

lection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of new related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

GRAHAM (AND D'AMATO) AMENDMENT NOS. 972 AND 973

Mr. HATCH (for Mr. GRAHAM, for himself and Mr. D'AMATO) proposed two amendments to the bill S. 1711, supra, as follows:

AMENDMENT No. 972

At the appropriate place, insert the following:

SEC. . DEPORTED AGGRAVATED FELONS REENTERING THE UNITED STATES.

Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326) shall be assigned an offense level under chapter 2 of the sentencing guidelines that constitutes a meaningful deterrence to the commission of such offense.

AMENDMENT No. 973

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed as an amendment to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e) Pending a determination of excludability, the Attorney General shall take into custody an alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody.".

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;"

(g) CUSTODY PENDING DETERMINATION OF DEPORTABILITY).—

Sec. 242(a)(2) (8 U.S.C. 1252) is amended, as follows:

"(a)(2) * * *

BIDEN AMENDMENT NO. 974

Mr. HATCH (for Mr. BIDEN) proposed an amendment to the bill S. 1711, supra, as follows:

On page 1, strike lines 5 through 8.

KOHL (AND OTHERS) AMENDMENT NO. 975

Mr. HATCH (for Mr. KOHL, for himself, Mr. BINGAMAN, Mr. BOND, and Mr. DANFORTH) proposed an amendment to the bill S. 1711, supra, as follows:

Amend section 1212 of the Higher Education Act of 1965 as follows:

(1) In subsection (a), strike "of law," and insert in lieu thereof "of law, except as provided in subsection (c),"

(2) In subsection (a), strike "and has implemented" and insert in lieu thereof "a plan with a timetable to implement".

(3) Strike sections 1212(a)(2), (3), and (4) and insert in lieu thereof the following:

"(2) a policy that restricts distribution on campus of any promotional material that encourages consumption of alcoholic beverages by persons under the state's legal drinking age;

"(3) In the case of the financing, sponsoring, or supporting of any athletic, musical, cultural or social program, event, or competition of such institution by any alcoholic beverage company or industry, the acknowledgement of such financing, sponsorship, or support in promotional material shall be limited to statements of corporate identification;

"(4) a policy that encourages such institution's newspapers and other publications to reject advertisements promoting irresponsible or illegal consumption of alcoholic beverages;".

(4) Add a new subsection (c) to read as follows:

"(c) Upon application by an institution of higher education, the Secretary shall grant a waiver of the sanctions authorized by this section to any institution of higher education which demonstrates that it is in the process of developing and implementing a plan required by subsection (a), for up to one year from the date of enactment of this section."

THURMOND AMENDMENT NO. 976

Mr. HATCH (for Mr. THURMOND) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following:

TITLE II—CONTROLLED SUBSTANCES AND MONEY LAUNDERING AMENDMENTS

SEC. 201. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.—Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 202. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 203. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.—Sections 3142(e) and (f) of title 18, United States Code, and sections 994(h)(1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)";

SEC. 204. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—(a) Section 401(b)(1)(B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) and sections 1010(b)(1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking out "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking out "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of

a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking out the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";.

SEC. 205. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.—Section 1113(1)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(1)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 206. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".—Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 207. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and find a minimum of $1,000,".

SEC. 208. CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038(d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), or (3)),".

SEC. 209. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 210. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.—Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 212. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.—(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(A) striking out "or" at the end of subparagraph (F);

(B) inserting "or" at the end of subparagraph (G); and

(C) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more or a mixture, or substance containing a detectable amount of methamphetamine, its salts, isomers, or sales of its isomers.";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.CL. 960(b)(2)) is amended by—

(A) striking out "or" at the end of subparagraph (F);

(B) inserting "or" at the end of subparagraph (G); and

(C) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

TITLE III—PENALTIES AND SENTENCING AMENDMENTS

SEC. 301. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.—Section 3742(b) of title 18, United States Code, is amended by striking out "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting in lieu thereof "The Government, with the approval of the Attorney General for the Solicitor General, may appeal."

SEC. 302. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.—Section 3 of title 18, United States, is amended by striking out "ten years" and inserting in lieu therefor "twenty years".

SEC. 303. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.—Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 304. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.—Section 1864(c) of title 18, United States Code, is amended by striking out "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. RESTORATION OF INADVERTENTLY DELETED DIAL-A-PORN REMEDIES.—Section 223(b) of the Communications Act of 1934 (27) U.S.C. 223(b) is amended by adding at the end thereof the following paragraphs:

"(3) in addition to the penalties under paragraph a(1), whoever in the District of Columbia or a interstate or foreign communication, violates paragraph (1) shall be subject to a fine of nor more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute to a separate violation.

"(4)(A) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1).".

SEC. 403. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.—Section 5032 of title 18, United States Code, is amended in the first paragraph by striking out "or section 922(p) of this title,".

SEC. 404. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.—

(1) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(2) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "supervised" each place that words appears and inserting in lieu thereof "supervised";

(3) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(4) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(5) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(6) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(7) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(8) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(10) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(11) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845b(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(12) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(13) Section 12 of title 18, United States Code, is amended by striking out "every officer and employer of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(14) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(15) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(16) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(17) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(18) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(19) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(20) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(21) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section" ' and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(22) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,"

(23) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "NON-APPLICABILITY TO VISUAL DEPICTIONS.—";

(25) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(26) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(27) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(28) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 405. CORRECTION OF ERRONEOUS CROSS-REFERENCE.—Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(s)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 406. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.—Section 2705(a)(1)(B) of title 18, United States, Code, is amended by inserting "or trial" after "grand jury".

SEC. 407. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.—Section 1516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof; "and".

SEC. 409. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.—The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 410. APPLICATION OF VARIOUS OFFENSES TO POSSESSION AND TERRITORIES.—(1) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(a) by striking out "and" at the end of the paragraph (2);

(b) by striking out the period at the end of paragraph (3) and inserting in lieu thereof"; and"; and

(c) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands";

(9) Section 1952(b) of title 18, United States Code, is amended—(a) inserting "(i)" after "As used in this section"; and;

(b) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code is amended—

(a) by striking out "and" at the end of paragraph (1) ;

(b) by striking out the period at the end of paragraph (2) and inserting in lieu thereof"; and"; and

(c) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, terrority or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—(a) by inserting "(a)" before "Whoever"; and

(b) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(a) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(b) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 411. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.—(1) Section 45 of title 18, United States Code, is repealed; (2) the table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 412. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.— (1) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(2) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 413. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c) by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or sections 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 414. FRAUD THROUGH USE OF A FACILITY OF COMMERCE.—Section 1343 of title 18, United States Code, is amended by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce or attempts to do so".

(2) The heading of section 1343 of title 18, United States Code, is amended to read: "Fraud by use of facility of interstate commerce".

(3) The table of sections for chapter 63 of title 18, United States Code, is amended by striking out the item relating to section 1343 and inserting in lieu thereof: "1343. Fraud by use of facility of interstate commerce.".

SEC. 415. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 to Cover Fraudulent Schemes Involving Foreign as Well as Interstate Travel.—The second paragraph of section 2314 of of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 416. CLARIFICATION OF ONE YEAR PERIOD.—Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof"; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense."

SEC. 417. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.—(1) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service";

(2) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed;

(3) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 418. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.—Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: And provided further,".

SEC. 419. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.—Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "If the property is not disposed of by marshal's sale".

SEC. 420. CORRECTION OF CROSS-REFERENCE.—Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, subsection (f) of section 4243,".

SEC. 421. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.—

(a) INCLUSION OF THIRTEEN AND FOURTEEN YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of 12 years; or

"(2) has attained the age of 12 years but has not attained the age of 14 years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years of life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER 16 YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) is subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) REDESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 422. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.—Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 423. REDESIGNATION OF SECTION.—The second section 3117 of title 18, United States Code, enacted by section 6477(b) of the Anti-Drug Abuse Act of 1988, is redesignated as section 3118 and the section analysis for such section is redesignated accordingly.

Subtitle F—Miscellaneous

PART 1.—MANDATORY DETENTION BY SERIOUS OFFENDERS

SEC. 65. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests."

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(g) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 66. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 67. PENALTY PROVISIONS RELATING TO DRUG QUANTITIES.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841) is amended in paragraph (1)(A)(vii) by striking "100 grams" the second time it appears and inserting "1 kilogram"; and

SEC. 68. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 69. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by—

(1) striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 70. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 71. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(e) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.
"519. Production control of controlled substances.".

SEC. 72. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as designated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 402 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 73. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955(d) of title 18, United States Code, is amended to read as follows:

"(d) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 76. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(1) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(2) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(3) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(4) Section 666(d) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia,

and any commonwealth, territory, or possession of the United States.".

(5) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(6) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

(7) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(8) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(9) Section 1952(b) of title 18, United States Code, is amended—

(A) by inserting "(i)" after "As used in this section"; and

(B) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(10) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(11) Section 1958(b) of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(12) Section 2313 of title 18, United States Code, is amended—

(A) by inserting "(a)" before "Whoever"; and

(B) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(13) Section 2315 of title 18, United States Code, is amended by adding at the end the following undersignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(14) Section 5032 of title 18, United States Code, is amended—

(A) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(B) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 77. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding a new subparagraph, as follows:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 78. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) and (4) and (5), respectively;

(2) in the second sentence of paragraph (1), by striking "In the case of his second or subsequent conviction under this subsection" and inserting "(2) When a person is sentence under this subsection for an offense that was committed after a prior sentence under this subsection has become final"; and

(3) in the third sentence of paragraph (1) by inserting "(3)" before "Notwithstanding" and by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 79. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

WILSON AMENDMENT NO. 977

Mr. HATCH (for Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, add the following:

SEC. . CRIMINAL FINES.

(a) IN GENERAL—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall consider promulgating guidelines, for inclusion in its next submission to the Congress, to provide that an idividual convicted of violating provisions of the Controlled Substances Act relating to sales or possession shall, in addition to being sentenced to any authorized term of imprisonment or assessed costs, be sentenced to pay a fine that constitutes a percentage of such individual's income, from all sources, during the twelve months prior to the commission of the offense for which the individual was convicted.

(b) AFFECT OF OTHER LAWS.—Any guidelines issued after the consideration mandated by subsection (a) or any subsequent changes thereto shall not be subject to the limits otherwise provided by section 3571 of title 18, United States Code.

HATCH AMENDMENT NO. 978

Mr. HATCH proposed an amendment to the bill S. 1711, supra, as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . REPORTS ON DRUG-RELATED RESEARCH AND DEVELOPMENT.

(a) Not later than December 31, 1989, the Director of National Drug Control Policy shall submit to the Congress a detailed report on the Drug Control Research and Development Committee (referred to hereinafter as "the Committee").

(b) The report required by subsection (a) shall include:

(1) a list of the members of the Committee and a description of the Committee's structure;

(2) a description of the staffing of the Committee, including the number of full-time employees assigned to the staff and the relationship between the Committee's staff and the staff of the Office of National Drug Control Policy;

(3) an estimate of the funding requirements to support the Committee, including the Committee's staff;

(4) a detailed description of the responsibilities and authorities of the Committee, including the authority of the Committee to give direction to the agencies participating on the Committee and the extent to which the Committee will have responsibility for research and development related to countering terrorism; and

(5) an interim plan and schedule for the Committee's activities, including the identification of national requirements for drug-related research and development, the establishment of national priorities for drug-related research and development, and the review and coordination of Federal research and development, data-collection, and evaluation activities.

(c) Not later than December 31, 1989, the President shall submit to the Congress a detailed plan to establish within the Department of Justice or elsewhere in the executive branch an office to provide centralized management of counterterrorism- and drug enforcement-related research, development, test and evaluation activities conducted by the Federal Government and an assessment of the desirability of implementing such a plan.

CHAFEE AMENDMENT NO. 979

Mr. CHAFEE proposed an amendment to the bill S. 1711, supra, as follows:

At the end of the bill add:

To amend section 1915(a)(1) of the Public Health Service Act, add after programs: "(including those for juvenile and adult substance abusers in state and local criminal and juvenile justice systems).".

WILSON AMENDMENT NOS. 980 AND 981

Mr. HATCH (for Mr. WILSON) proposed two amendments to the bill S. 1711, supra, as follows:

AMENDMENT NO. 980

At the appropriate place, insert the following:

SEC. . (a)(1) DRUG EDUCATION TO PREVENT THE USE OF DRUGS AND BEVERAGE ALCOHOL DURING PREGNANCY.

(A) FINDINGS.—The Senate finds that—

(i) the use of drugs or the excessive use of beverage alcohol during pregnancy poses risks and serious injury or impairment to mother and child;

(ii) 375,000 infants are born to mothers who engage in substance abuse during pregnancy and that number appears to grow exponentially each year;

(iii) the initial cost of providing care to infants born exposed to maternal substance abuse during pregnancy is over $13,000,000,000 annually;

(iv) the human cost in suffering and loss to society in terms of wasted human potential of both the abusing mother and especially the abused and innocent child is both incalculable and avoidable;

(v) drug and beverage alcohol abuse during pregnancy produces severe and lasting or even irreversible physical, mental, and emotional damage to the child, including low birthweight, prematurity, congenital deformities, risk of child abuse and death;

(vi) it is essential to reduce the incidence of substance abuse by pregnant women and the birth of infants addicted or otherwise injured or impaired by such abuse, both for the sake of the mother and especially in order to reduce the avoidable cruel suffering of and damage to infants so afflicted, and to reduce the unaffordable costs in tax dollars that will be required as the necessary alternative to successful preventive measures;

(vii) preventive drug abuse resistance education, including instruction by medical staff and experts in the field of maternal substance abuse during pregnancy, is needed to reduce the incidence of infants born exposed to maternal drug abuse during pregnancy;

(viii) preventive drug abuse resistance education is especially needed to reduce the exploding incidence of cocaine use which has resulted in unprecedented infant mortality rates in many cities across the United States;

(ix) preventive drug abuse resistance education programs Drug Abuse Resistance Education and Substance Abuse and Narcotics Education, have proven successful in reversing the destructive use of drugs during pregnancy.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that preventive drug abuse resistance education programs which seek to reduce the incidence of maternal substance abuse during pregnancy are essential to our efforts to win the war on drugs.

(b) Part B of the Drug-Free Schools and Communities Act of 1986 is amended as follows:

"SEC. 5122(a)(6) is amended by striking the period and inserting the following: "and education regarding the risks of drug and beverage alcohol abuse during pregnancy."

AMENDMENT NO. 981

(Purpose: To provide for a study of infants born drug-exposed due to maternal substance abuse during pregnancy)

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) Unwillingness to enter into.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) Nonprofit private groups.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) Consultation.—The entity that conducts the study under subsection (a) shall consult with the Director of the National Institutes of Health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

AMENDMENT NO. 981

At the appropriate place, insert the following new section:

SEC. . (a) STUDY BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT.

(a) SCOPE OF UNDERTAKING.—The Secretary of Health and Human Services, shall arrange to have a study conducted to—

(1) provide an analysis of the historical development of the problem of infants born drug-exposed due to maternal substance abuse during pregnancy;

(2) determine the number of infants born drug-exposed due to maternal substance abuse during pregnancy annually;

(3) determine the impact of maternal substance abuse during pregnancy on infant mortality;

(4) assess other costs, including but not limited to, the medical, educational, developmental, social, and fiscal costs associated with the care of infants born drug-exposed due to maternal substance abuse during pregnancy;

(5) quantify the costs identified in paragraph (4) to Federal, state, and local government;

(6) assess the costs associated with providing inpatient residential drug treatment to drug abusing pregnant and postpartum women and their infants, including but not limited to, prenatal and postnatal medical services, drug abuse treatment and education services, crisis counseling services, support group services, parent training services, and child developmental services, such as the Winnie Mandela House in Oakland, California;

(7) project the number of infants expected to be born exposed to maternal substance abuse during pregnancy through the year 1995; and

(8) project the costs, as defined under paragraph (4), of providing care for infants, as described in paragraph (7).

(b) ARRANGEMENTS.—

(1) REQUEST.—The Secretary of Health and Human Services shall request the National Academy of Sciences and the National Institute of Child Health and Human Development to conduct the study required by subsection (a) under an arrangement whereby the actual expenses incurred by such Academy and Institute in conducting such study shall be paid by the Secretary.

(2) UNWILLINGNESS TO ENTER INTO.—If either the National Academy of Sciences or the National Institute of Child Health and Human Development, but not both, decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph solely with the Academy or Institute that is willing to conduct such study.

(3) NONPROFIT PRIVATE GROUPS.—If both the National Academy of Sciences or the National Institute of Child Health and Human Development decline to participate in the conduct of the study under an arrangement under paragraph (1), the Secretary shall enter into an arrangement similar to that required under such paragraph with other nonprofit private groups or associations under which such groups or associations shall conduct such study and prepare and submit the report required under subsection (c);

(4) CONSULTATION.—The entity that conducts the study under subsection (a) shall

consult with the Director of the National Institutes of health.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress, a report concerning the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000.

WILSON AMENDMENT NO. 982

Mr. HATCH (for Mr. WILSON) proposed an amendment to the bill S. 1711, supra, as follows:

SEC. . UNITED STATES-MEXICO JOINT AGREEMENT ON THE INTERDICTION OF AIRBORNE NARCOTICS SMUGGLERS.

(a) FINDINGS.—The Congress finds that—

(1) the governments of the United States and Mexico, pursuant to Sec. 4407 of P.L. 100-690, have a Letter of Agreement committing Mexico to "reduce drug production, drug consumption, and drug trafficking within its own terroritory," and "increase cooperation with United States drug enforcement officials;"

(2) between 30 and 33 percent of all marijuana, heroin, and cocaine entering the United States moves through or originates in Mexico;

(3) the Drug Enforcement Administration reports that nearly 60 percent of its illegal cocaine seizures in the Southwest Border area of the United States are air-related;

(4) the Drug Enforcement Administration knows of at least 11 major landing strip locations in Mexico which serve as launching points for airborne cocaine smugglers to fly to the United States and the U.S. Customs Service estimates that such illicit traffickers have approximately 2,000 clandestine runways at their disposal on the American side of the border;

(5) Sec. 2013 of P.L. 99-570 empowers Congress to evaluate the required annual reports of the President on whether narcotics-producing nations have "cooperated fully with the United States to prevent the cultivation, sale, and traffic of illegal drugs.

(b) POLICY.—The Senate declares that—

(1) the President of the United States should initiate discussions with the Government of Mexico to develop and implement a bilateral agreement to monitor, pursue, and capture airborne smugglers of illicit narcotics. Such an agreement should include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of U.S. and Mexican drug enforcement aircraft.

(2) the President should report on the status of negotiations concerning this agreement in the annual International Narcotics Control Strategy Report on Mexico.

(3) if the President certifies in this report that the United States and Mexico have made significant progress toward the conclusion of the government, to include provisions for reciprocal overflight and hot pursuit authority as well as arrangements for the joint crewing of U.S. and Mexican drug enforcement aircraft, described in subsection (1), the Senate would consider such a declaration as a credible sign of the Government of Mexico's desire to "cooperate fully" with the United States on illegal drug interdiction programs pursuant to Sec. 2013 of P.L. 99-570.

KOHL (AND OTHERS) AMENDMENT NO. 983

Mr. HATCH (for Mr. KOHL, for himself, MR. KENNEDY, and Mr. SIMON) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . STUDY OF FAMILY ASSISTANCE, CHILD WELFARE AND YOUTH SOCIAL SERVICE PROGRAMS.

(a) GENERAL.—The Secretary of Health and Human Services, acting through the National Academy of Sciences, shall conduct a study consisting of a comprehensive review and examination of the child welfare and youth social service programs administered or operated within the office of Human Development Services and the family assistance programs administered or operated within the Family Support Administration.

(b) CONTENTS OF STUDY.—The study shall include—

(1) an assessment of the current content and organization of programs and data collection activities, including the relationship of local, State, and Federal government efforts, to protect children and youth and support families;

(2) an identification of the gaps and deficiencies in the activities described in paragraph (1);

(3) a review of the available options for improving the structure and delivery of services and collection of data concerning the activities described in paragraph (1); and

(4) an examination—

(A) of the current array and alignment of programs that addresses the special needs of children with substance abusing parents, children with disabilities and chronic diseases, including HIV infection, and children without adequate housing; and

(B) of how related programs and activities, such as health care and juvenile justice programs, interact with social service and family assistance programs.

(c) REPORT.—Not later than 6 months after the completion of the study required under subsection (a), the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study, including a response by the Secretary to the report and the recommendations of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000.

KERRY (AND OTHERS) AMENDMENT NO. 984

Mr. KERRY (for himself, Mr. D'AMATO, Mr. LEVIN, Mr. SANFORD, and Mr. MURKOWSKI) proposed an amendment to the bill S. 1711, supra, as follows:

At the appropriate place in the bill, add the following new sections:

SEC. . Section 501b of the Omnibus Crime Control and Safe Streets Act of 1968 (42 USC 3711 et seq) as amended by the Anti-Drug Abuse Act of 1988 is amended by adding paragraphs 21 and 22 as follows:

"21. Developing better interstate and intrastate narcotics intelligence networks and systems, including the acquisition of appropriate electronics and computer technologies for the purpose of detecting and monitoring narcotics trafficking and money laundering activities;

"22. Organizing, educating and training special drug intelligence units to combat narcotics trafficking and money laundering enterprises.".

At an appropriate place add the following new subsection:

"States shall give priority to allocations under paragraphs (21) and (22) that reflect the most complex and serious drug intelligence problems confronting units of local government, with particular emphasis on urban populations.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 5, at 4 p.m., to hold hearings on ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 5, at 3 p.m., to hold a hearing on Barbara Zartman, to be Deputy Director of the Peace Corps.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 5, beginning at 10 a.m., to conduct a hearing concerning the National Acid Precipitation Assessment Program and the scientific understanding of acid precipitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, October 5, 1989, 9:15 a.m. for a hearing to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner; and on S. 972, S. 1304, and any other legislation pending before the committee related to the environment, safety, and health aspects of operation of the Department's nuclear facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, October 5, 1989, at 10 a.m. to conduct oversight hearings on the condition of the banking system.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 5, 1989, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 5, 1989, at 5 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 5, 1989, at 9:30 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 5, at 9:30 a.m., for a hearing on the subject: OMB's response to management problems in the U.S. Government.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 5, 1989, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BIDEN. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a meeting to consider the nomination of Thomas E. Collins III, to be Assistant Secretary of Labor for Veterans' Employment and Training and the following Department of Veterans Affairs nominations: Raoul L. Carroll to be General Counsel, Allen B. Clark, Jr., to be Assistant Secretary for Veterans Liaison and Program Coordination, Edward T. Timperlake to be Assistant Secretary for Congressional and Public Affairs, Jo Ann K. Webb to be Director of the National Cemetery System, and possibly S. Anthony McCann to be Assistant Secretary for Finance and Planning on Thursday, October 5, 1989, directly following the first rollcall vote after 4 p.m., in the reception room off the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GILA WILDERNESS CELEBRATION

● Mr. BINGAMAN. Mr. President, I rise today to bring to the attention of my colleagues the 25th anniversary of the Wilderness Act. I had the privilege of attending a celebration of this landmark legislation this past weekend. I want to commend the U.S. Forest Service, the Friends of the Gila Forest, and Western New Mexico University for the well organized series of events commemorating the silver anniversary of the Wilderness Act. I would like to express my utmost appreciation to the sponsors of the celebration, especially the dedicated employees of the southwestern region of the U.S. Forest Service who made this such a successful event.

The ceremony was timely as this is the silver anniversary of the Wilderness Act and what more appropriate place to recognize the creation of the National Wilderness Preservation System than on the national forest which is the site of the first wilderness in the United States. The Gila Wilderness is especially significant in the history of the wilderness movement. In 1924, Aldo Leopold, a great New Mexican conservationist, a U.S. Forest Service employee, and a cofounder of the Wilderness Society, urged the Forest Service to protect the Gila National Forest. That same year, the Gila became the Nation's first administratively designated wilderness.

The Forest Service is to be commended for its foresight in recognizing the wilderness concept and for its continued professional role in wilderness management. Dave Jolly is to be congratulated for his effective management in the southwestern region.

While the Gila and other areas were protected administratively before 1964, the Wilderness Act was necessary to ensure their protection forever. We are especially indebted to the late Senator Clinton P. Anderson for making the Wilderness Act a reality. Senator Anderson of New Mexico was a leader of the conservation Congress, which earned its name by passing a sparkling collection of conservation measures in 1963 and 1964. The jewel in that particular crown was the Wilderness Act which was signed on September 3, 1964.

Today, thanks to Senator Anderson and his colleagues, there are 474 units in the National Wilderness Preservation System, encompassing about 91 million acres. Our Nation's Wilderness Preservation System is envied throughout the world.

On Saturday, September 30, the Forest Service unveiled a bronze plaque commemorating the contributions of Senator Anderson to the establishment of the National Wilderness Preservation System. We all owe a debt to Senator Anderson for helping protect these special pristine wilderness lands that provide valuable solitude, critical watershed, wildlife habitat and a legacy of our natural heritage.

Wilderness enthusiasts and managers, particularly the Forest Service, have made incredible progress in the last 25 years since the passage of the Wilderness Act. Some people have criticized the Federal Government for adding more wilderness and for managing wilderness in strict accordance with the Wilderness Act. But I believe no apologies are necessary for accomplishing the intent of the Wilderness Act. The framers of the Wilderness Act has a strong and purposeful vision that should serve as guidance for our actions today and in the future.

In closing, I would again like to acknowledge the Gila National Forest, the southwestern region of the USDA Forest Service, Western New Mexico University, and the Friends of the Gila Forest for sponsoring the Gila Wilderness celebration. It is entities such as these that brought the Wilderness Act to fruition and that continue action in wilderness designation, management, and education. We are deeply indebted to their fine efforts.●

WESTVACO COMPANY EXPANSION

● Mr. WARNER. Mr. President, I traveled earlier this week, together with my colleague Senator ROBB, to Covington, VA, to participate in ceremonies marking a $400 million expansion of the Westvaco Co.'s paper mill operations there.

The Westvaco Co. is a major employer in the Commonwealth of Virginia, and it uses state-of-the-art technology to produce its products, approximately 9 percent of which it exports overseas.

During the ceremonies, Westvaco's president and chief executive officer, Mr. John A. Luke, delivered some thought-provoking remarks on two areas of importance to his enterprise—one dealing with the challenge to

American firms of trading in today's international markets, and the other with his company's experience in complying with Federal and State environmental laws.

Mr. President, I found Mr. Luke's comments to be of considerable significance. I ask permission to enter a copy of his address into the RECORD, so it might be shared with my colleagues and others.

The remarks follow:

REMARKS OF JOHN A. LUKE: COVINGTON EXPANSION ANNOUNCEMENT, OCTOBER 2, 1989

This is a very important day for Westvaco and its Covington mill. I believe that it is an equally major day for this area and the Commonwealth of Virginia. And I know that today's news will be welcomed, as well, by our customers here in America and throughout the world.

All of us in Westvaco are very pleased to have such a distinguished assembly of guests here to share in our announcement. We are deeply honored by your presence.

There are two matters I want to address prior to sharing with you our announcement, and both are environmental. One relates to the business environment and the other relates to the natural environment.

The first dealing with the business environment is that we live and work in an increasingly competitive world. We respect and we welcome competition—it is the force that drives progress, and we fully accept our responsibility to meet the demands it places on us. We always have done everything in our power to be fully competitive, and we will continue to do so in the interest of our shareholders, our customers, our employees, and the communities where we are located.

The world is now one market, and its needs are served by suppliers from all parts of it. Our competitors are no longer only those here in America. They are located in every region of the globe, and they are able, aggressive, and determined. Their plants are increasingly modern and efficient, and their products are very, very good.

Beyond this, the markets of the world are not nearly as open and free as those in this country, and this is the international business environment that we face. Others have in place a variety of barriers designed to protect their own industry, and most are also directly subsidized by their governments—sources of competitive advantage that we in America do not share. These countries also have many forms of very forgiving regulatory support which are carefully designed to enhance the competitive position of their industry. The world is a long way from being a level playing field with the game played under the same rules for all teams.

While we must compete in the world with products made in other countries, we have equally demanding and intense competition right here at home in America. There are no protective market barriers, but there are variations among the domestic business environments. These measure the extent to which a state and local community assures that its industry has the same positive support as do others against which it competes. A business environment describes just how strongly a community feels about the competitive position of its industry. Business environment is a broad combination of factors, but two which are most readily visible are taxation and regulation, and in these, comparisons can readily be made. It is easy to see whether an industry is penalized with high taxes or more costly regulation than are its competitors elsewhere.

Higher than competitive taxation and more costly regulation clearly and directly affect an industry's ability to compete. As such, we take them very seriously. We cannot disregard anything that weakens our ability to compete. Westvaco stands ready now and always to work closely with its state and local communities to be sure that competitive equity is our joint product, and that each business environment is just as state-of-the-art as the organization and facilities it supports.

The competitive situation constantly tests our ability to its utmost limits, and it means that there is practically no margin between success and failure. As such, I cannot emphasize strongly enough the importance that we attach to the need for us all—this community, this state, all of our salaried and hourly employees, our suppliers—to work closely and positively together in our independent, but very interrelated roles. Team work is essential to the future strength of this mill and its potential for steady employment and economic contribution to this area. I expressed these same views last January when I spoke at the Chamber of Commerce meeting in Hot Springs. They were true then, and they are even more true today.

Following that speech, we were very heartened by the commitment of support that we received. And, believe me, that response has played a very significant role in the decision I will announce today. We welcome your support, and we honor it in the spirit offered. Together we are going to do great things.

The second matter I want to address deals with the natural environment and particularly one aspect of it. It is this, quite honestly, that has delayed our decision-making because of the uncertainty surrounding it. Westvaco has had a long-standing commitment to the environment and to the safety of its products, its workplaces, and its communities. As a company, we have invested $300 million in assuring its protection—$130 million of it right here in Covington. Our investments began well before the EPA was born, with many being voluntary and well ahead of regulatory requirement. In terms of regulation, I can assure you that every Westvaco facility is in full compliance with every regulatory standard governing it. We have done more than has been necessary, and we will continue to do so because we believe in it. It is good business, and a healthy environment is important for society. It is that simple.

Against this background, the natural environmental aspect that has delayed our expansion decision is dioxin. When we became aware, as a result of a congressionally mandated study, that dioxin was being found in minute quantities below bleached paper mills, we began a major, voluntary, scientific effort to ascertain the facts in our mills and to correct any problem that might exist. Our investigations determined that dioxin was being produced in trace quantities as an unwanted by-product of the pulp bleaching process, and our technology promptly pointed the way to process changes to reduce the potential for its creation. We were the very first company to announce a voluntary and comprehensive dioxin reduction program, and our remarkable progress since then has put us at the cutting edge of industry progress.

The result of this work is that Covington's products do not contain detectable dioxin at the limits of today's analytical technology and neither does its effluent. This is a dramatic accomplishment—it is a credit to our scientists and to our operating personnel at all levels. It has required an investment of $10 million here in Covington and a total of $30 million across the company, and it has been done on Westvaco's own initiative and ahead of any regulatory requirement.

The EPA is studying the future regulation of dioxin discharges, but it will be at least several years before final standards are promulgated, and there is presently no way to know exactly what they will finally be. However, levels seem to be under consideration that are literally 750 times beyond the ability of today's most advanced science to even measure.

Further, EPA uses a dioxin potency factor 1,600 times more severe than Canada, and some 150 times more severe than the Netherlands, Germany, and other developed, industrial nations. Additionally, EPA's risk assessment assumptions are very different and substantially more severe than other agencies in our own government. There is no rationality of standards whatsoever between the agencies of our own government or between the world's industrial nations. These matters are, potentially, very serious competitive disadvantages to Covington and the U.S. paper industry.

To put the dioxin matter in yet another perspective, the whole of the U.S. paper industry accounts for less than 1 percent of all the dioxin generated in this country. The total quantity of dioxin released in the combined wastewater from all of the 104 bleached paper mills in this country over the period of a whole year amounts to just two ounces. Yes, two ounces from all 104 mills in a whole year! We calculate, but cannot measure, that any wastewater discharge of dioxin from Covington would, at most, amount to less than one hundredth of one ounce over a whole year, and this would be diluted in 175 billion gallons of river flow.

Extensive fish samplings have been conducted independently by Westvaco and the State of Virginia at various locations along the river during the past year. All test results are safely below the criteria used by the U.S. Food and Drug Administration to express a level of concern associated with fish.

Finally, it remains an absolute fact that no causative link between dioxin and any serious human health problem has ever been demonstrated.

Since final dioxin standards on a national basis cannot be accurately forecast, and since uncertainty will prevail for a number of years, we ask only that sound science and regulatory reason be the compelling forces in their development. We ask as well that any standard which Virginia may adopt be based on eqaually sound science and regulatory reason. We are counting on this, and we are counting equally on your active and personal participation in the country's political process to assure that this is the regulatory approach. Your sound judgment and your active involvement can well be critical.

Despite regulatory uncertainty, Westvaco can no longer wait to respond to the growing market demand for the bleached board products made here at Covington. I have said many times that we are developing the world's best products and that we intend to meet the market demand they create. Thereafter, I am very pleased to announce that Westvaco's Board of Directors has approved the largest single investment in the

company's history. This investment in the amount of $400 million, which will be made in Covington, will be for an additional increment of pulping capacity and for a large, state-of-the-art, new paper machine which will initially produce 600 tons per day, but which will have an eventual capability in the range of 1,000 tons per day. The new facilities will incorporate state-of-the-art environmental protection throughout, and there will not be any adverse environmental impact.

When added to the $130 million already authorized for the new recovery boiler, today's new investment represents a financial commitment of $530 million in a period of six months to the Covington mill and to the markets it serves. It also represents, by far, the largest industrial capital investment ever made in the Commonwealth of Virginia.

This major investment will significantly strengthen Covington's competitive position in its markets, and it will also significantly strengthen the job security of all who work here. The additional pulp will be produced incrementally, but we will create about 50 new jobs to staff the paper machine.

Construction will proceed promptly so that the new machine can be operational in June 1992. The construction contracts will be awarded to qualified contractors on a competitive basis to assure the very best construction performance at the very lowest cost. We expect that over the course of construction, more than 1,200 construction workers will be required.

Expansion at Covington is more than just another step in Westvaco's history. It is a very key part of our future. We are a strong company today because of the members of our organization and also because of the vision and commitment of those who have gone before. We are a strong company because we have always had a firm sense of purpose and direction. Our current performance is based on clearly defined earlier plans, and our future performance will be the result of more of the same—able people, organizational commitment, and clear programs and objectives of the type represented by today's announcement. We feel very positively about the future and the opportunity it holds for Westvaco. We are investing in it aggressively and at record levels.

I have absolute confidence that our Westvaco organization will perform with distinction as it brings this record $530-million investment to operational reality and market success.

I have the same absolute confidence that, as the Westvaco team goes about its job, the unflagging support of the fine people and able leaders in this area and this state will be right there with us. This is the ingredient that is now crucial to competitive success.

In conclusion, I want to add that we particularly value this opportunity to share our plans and aspirations with you, because we deeply believe in clear, forthright, and proactive communication throughout our organization and throughout our communities.

Thank you.●

TRIBUTE TO PARTICIPANTS OF THE NATIONAL HISPANA LEADERSHIP INITIATIVE

● Mr. GRAHAM. Mr. President, today I rise to offer a tribute to 25 outstanding women selected to participate in the "National Hispana Leadership Initiative" because of their significant contributions to their communities.

Hispanic women are part of the rich diversity of America, and help lead this Nation in business, education, law, religion, public service and in family life.

The leadership initiative has, as its goal, to help prepare local Hispanic leaders for positions of national impact. They have studied public policy, management, goal setting, action planning and executive leadership, and have attended training sessions on national issues facing the Hispanic community today and tomorrow.

The women selected represent different regions, ethnic subgroups, professions and ages. I would like to recognize these leaders: Yolanda Alvarado, Conchi Bretos, Patricia Carpio, Maria Del Rosario Castro, Margarita Colmenares, Ivette Del Rio, Rosa Elsbree, Alicia Fernandez, Nely Galan, Anita Gomez-Bennett, Carmen Lomellin, Olga "Cookie" Mapula, Rosa Montano, Theresa Nieves, Pauline Nunez, Ella Ochoa, Deborah Ortega, Gloria Parra, Janice Payan, Mercedes Pena, Janice Petrovich, Hermelinda Pompa, Lula Rodriguez, Miriam Singer and Maria Vizcarrondo-DeSoto.

These outstanding citizens already have demonstrated their commitment and leadership abilities—our Nation is ready for them.●

MY GRANDFATHER'S LIFE

● Mr. GRASSLEY. Mr. President, during each recess period I make it a point to set up listening post meetings to obtain the views and concerns of my constituents. Because I am a strong believer in participatory democracy, I visit all of the 99 counties in my State at least once every year.

Through the course of these meetings, Mr. President, I believe I am given a rare opportunity to not only hear the concerns of my constituents, but also to feel the emotion in their voice, a fact that does not always come through in a written letter or postcard.

Mr. President, I am always struck by the articulation of those I visit and the knowledge each possesses on the issues we are dealing with in the Congress. At one of these listening post meetings in Pocahontas, IA, during the month of August I received a letter from a gentleman in attendance by the name of Herman C. Aaberg. The letter was somewhat different than I normally receive, in that Mr. Aaberg did not write to me about any problem, but rather to share a personal moment between his granddaughter and himself.

Because I was so impressed by the granddaughter's research on her grandfather, I would like to share those words with you and the rest of my colleagues. I ask to insert, at this point in the RECORD, a tribute to Mr. Aaberg by his granddaughter, Noonie Benford, entitled My Grandfather's Life: "The Son of Poor Norwegian Immigrants Contributes to Agriculture, Public Health and Society."

Mr. President, I sincerely hope that our grandchildren, colleagues, and friends will speak as well of us regarding our accomplishments. Hard work, perseverance, and dedication appear to be the key elements of Mr. Aaberg's life. This is an example we can all use to guide our daily lives.

MY GRANDFATHER'S LIFE: "THE SON OF POOR NORWEGIAN IMMIGRANTS CONTRIBUTES TO AGRICULTURE, PUBLIC HEALTH AND SOCIETY"

(By Noonie Benford)

This is the story of my grandfather, Herman C. Aaberg, son of Norwegian pioneers, and his extraordinary service to American agriculture and the nation.

He was born in 1902 on a primitive Nebraska homestead, during a time when farmers, ranchers and many other people were suffering from life-threatening diseases transmitted from livestock, such as tuberculosis and brucellosis.

My grandfather lost his mother to tuberculosis when he was but six years old. She called him to her bedside a few hours before she died, and asked God to take care of her little boy. He credits her prayers with giving him the strength and ability to assume a leading role in the eradication of this disease.

Tuberculosis also claimed the lives of three of his sisters and one brother; and my grandpa himself became infected as a young teenager. He was not expected to live. Banished to a small tent, isolated from his family and friends for several months, he was never able to attend high school.

He determined that if his life would be spared, he would pledge his years on earth to eradicating tuberculosis and other livestock diseases that had such a profound and devastating impact on his whole family.

The cost of vaccinating to control hog cholera alone was $1 million a week. The dollar loss from the death of hogs was many millions more. More than 7,000 people were infected with undulant fever each year, and a high percentage of cattle and hogs were aborting their calves and pigs.

Tuberculosis was the most serious disease of both livestock and humans at that time. Hundreds of costly sanitariums were built for treating human infected with this dreaded disease. The sanitariums were of little value in eradicating the disease, since they did not deal with the source of the problem.

Although my grandpa had missed all of high school, he eventually scraped together enough money from farming in the lower Rio Grande Valley in Texas to complete a two-year noncollegiate course in agriculture at Iowa State University, finishing near the top of his class. He also met the "most perfect human being he has ever known," Iris Leith, who later became my wonderful Grandma. They have been married for 64 years.

Grandpa's first job after college was a supervisor of the Lake Mills-Scarville cow testing association, for which he earned $65.00 a month (minus the cost of his own transportation). A horse and buggy sufficed for the first few months, until he was able to buy an old Ford for $65.00. He says this was val-

uable job experience; and at the end of 21 months, at age 23, he was employed as the County Extension Director in Winnebago County, succeeding a Dr. Carson, who had initiated a tuberculosis eradication program.

With the help of the Farm Bureau in Winnebago County, Grandpa took the leadership in ridding the world of tuberculosis in poultry, hogs and cattle. Winnebago was the first in Iowa to be rid of this disease.

After work as County Extension Director in Winnebago and Sioux Counties for seven years, Gramp was selected as Assistant Secretary of Agriculture for Iowa, where he served for four years. He took an active role in livestock disease control and eradication, and in the eradication of a most serious outbreak of grasshoppers and chinch bugs, which threatened crops. Only after he distributed more than 300 carloads of poisonous bran and creosote, with the full cooperation of the County Farm Bureaus and Extension Service, were the pests taken care of.

In the early 1930s, Gramp had charge of administering the first Federal Corn Loan Program of 45¢ per bushel. With the help of three assistants, County warehouse boards and corn sealers were set up and trained in a matter of a few weeks. Corn loans were being made at the rate of $1 million a day, totaling more than $50 million, at a cost of one-half cent per bushel. Corn prices more than doubled in one month. Thousands of Iowa farmers were able to save their farms, and every loan was paid in full.

After leaving the Iowa Department of Agriculture, my grandfather was employed as Iowa Representative of the Chicago Producer Livestock Commission Company, which was organized by the Farm Bureau in the early 1920s, and also represented the Livestock Producers Credit Corporation of Chicago.

While engaged in this work, Gramp, with the help of the Iowa and County Farm Bureaus and the Extension Service, organized 70 Cattle Feeders Associations to help livestock producers solve their marketing problems. Study and research committees were set up in these counties. Livestock marketing problems were uncovered, and solutions suggested. A state report of this activity was made to the American Farm Bureau, where a national committee had been established. A well-known agricultural economist, who later became President Kennedy's ambassador to India, was employed. This work was temporarily discontinued due to the outbreak of World War II.

My grandpa was asked to discuss the Iowa report at the American Farm Bureau Convention in Chicago in 1939. This renewed Farm Bureau interest in livestock marketing, and in 1944 he was asked to take charge of this work. Gramp not only headed the Livestock Department, but was later to help set up commodity departments for field crops, poultry, dairy products, and fruits and vegetables. He later became Director of the Commodity Marketing and Research Division. He drafted the National Hog Cholera Bill, and presented it to Congressional committees on behalf of the Farm Bureau, where it passed unanimously.

When asked, my grandfather feels that his significant service to American agriculture was made possible by the Farm Bureau organization structure, the establishment and work of special committees, livestock industry representatives, as well and the State and U.S. Department of Agriculture.

Gramp became very active in the Methodist Church, the Masonic Lodge and Kiwanis Club, which, under his direction as president, landscaped the historic town of Mineral Point, Wisconsin, after a severe ice storm. The Wisconsin-Upper Michigan Kiwanis Club gave him special recognition for this project; and hundreds of trees planted there and in other cities are a living memorial to his work.

Many awards for distinguished service to agriculture were presented to my grandfather by the United States Department of Agriculture, the Iowa, and the Pocahontas County Farm Bureaus.

When he retired from the Farm Bureau in 1968, Gramp was commended by the Board of Directors as follows:

"Whereas: This is the last meeting of the Livestock Advisory Committee at which Herman Aaberg will serve as Staff Secretary;

Whereas: The efforts and abilities of this man have been of utmost benefit to AFBF and its members, as well as the livestock industry and agriculture in general;

Whereas: The activities of this man in the field of agriculture have been both a credit and an asset to AFBF:

BE IT RESOLVED that we, the members of the Livestock Advisory Committe commend Herman Aaberg for outstanding services rendered to AFBF and the agricultural industry."

At his family's request, Gramp has written the story of his life for his descendents. At the request of Carl Hamilton, vice president of Iowa State University, a copy of his life story, plus about 100 pounds of records of his work and publications covering four decades, have been placed in the University Library as a historic record of Iowa, as well as American agriculture for research by graduate students and historians.

My grandfather is the only person who has received the Animal Health Award from the Animal Health Division of the Agricultural Research Service, U.S. Department of Agriculture. It reads, "For advancing animal health programs by creating a harmony of purpose among people in industry and government, and by linking the spirits and energies of people in a common objective."

I would like to digress from my grandpa's distinguished career for just a moment and relate a side of him of which only a handful of his thousands of friends and colleagues throughout the world are aware. In 1962, my parents' marriage broke up and my mother, my sister, age six months, and me age two years, in tow, came to live with her parents. My sister and I have always felt that our grandparents were responsible for raising us, and giving us the love, self esteem and values we will carry with us throughout life.

When my grandpa retired from the American Farm Bureau in 1968, he moved us to Mineral Point, Wisconsin, where he and my Grandma had purchased a farm with a 140-year-old historic stone house. The five of us lived a story book life on this wonderful farm.

On a trip to the Mayo Clinic for routine check-ups, it was discovered that I had to have emergency brain surgery; an operation my grandpa sold several acres of land to pay for. Worse yet, my mother was found to have cancer. She died a few months later.

I feel I could never have made such complete recovery, and gone on to thrive, had my grandparents not been so completely supportive and encouraging. No grandchildren and grandparents have ever been closer. No matter what kind of jams my sister and I got ourselves into over the years, Grandma and Grandpa have always been there to help us out and guide us. And while the effect of this contribution may not be felt as widely as my grandpa's wide-ranging agriculture work, it seems just as remarkable.

Farm Bureau made it possible for this little country boy to save many lives and to help make this world a little better place in which to live.●

REID BUNDY: A CAREER IN JOURNALISM

● Mr. CRANSTON. Mr. President, as those who know me would confirm, I have a great deal of respect for the members of the press. In fact, so great is my regard for the value of the work they do that a career as a "newspaperman" was the first one I pursued right out of college. My view then, as now, was that the importance of the role of the press in a free society cannot be overstated.

The individuals who dedicate themselves to ensuring continuing coverage of local events deserve our thanks. One such individual, Reid Bundy of the Palos Verdes Peninsula News, deserves not only our gratitude, but also our best wishes. After nearly 40 years in journalism, Reid is retiring.

Although I do not wish to make my colleagues from Kansas jealous, Reid left their fine State to go to California in the years following World War II. As a student at the University of Southern California, he honed his journalistic skills as managing editor of the the Daily Trojan. After college, he settled in what is known as the South Bay area of Los Angeles County and contributed his knowledge and expertise to the Torrance-Herald, the Torrance Press-Herald, and the South Bay Daily Breeze from 1950 to 1972, when he became the editor of the paper from which he now retires. Over the last 40 years, Reid has also served his community through his leadership role on a number of civic and service organizations.

People who have committed themselves to serving their community in both their professional and their private lives deserve special recognition. I am very pleased to be able to help make sure that Reid Bundy gets the recognition he so definitely deserves. And I wish him the very best for a happy and healthy retirement.●

COMEBACK IN INDIAN COUNTRY

● Mr. McCAIN. Mr. President, I would like to bring to the attention of my colleagues an article appearing in the October edition of Reader's Digest entitled, "Comeback in Indian Country."

The article highlights some of the most successful Indian economic development projects in the country today. I know there are many more tribes who are ready and willing to pursue business opportunities, but complicat-

ing their efforts are federal policies that present some of the most significant roadblocks to successful economic development. I believe flexible and consistent economic policies are needed—such as the bill I introduced, S. 1203, the Indian Economic Development Act of 1989—in order to assist Indian tribes to attract private sector investment. While I do not agree with every recommendation presented, this article focuses some long overdue attention on the success stories in Indian country and highlights problems in Federal Indian policy that merit our attention.

Mr. President, I ask that a copy of the article entitled, "Comeback in Indian Country" appear immediately following my remarks.

The article follows:

COMEBACK IN INDIAN COUNTRY

(By Randy Fitzgerald)

Today the arid land that is home to the Ak-Chin Indians blooms a brilliant green, much as it did in their ancestors' time. The tribe had farmed the flat deserts of the Southwest for centuries—until 1947 when the Bureau of Indian Affairs (BIA) took over management of their lands.

The BIA decided to lease out the arable portions of the Arizona reservation to non-Indians, returning—at best—$10,000 a year to the Ak-Chin. The tribe's several hundred members lived in huts made of railroad ties and mud, without electricity or running water. Lacking jobs or any control over their land, most had resigned themselves to a life of poverty.

But one family hadn't. In the early 1960s, Leona Kakar and her brothers asked the BIA not to renew the leases so the tribe could begin its own farming operation.

"You can't do that," a local BIA official admonished them. "Farming is too risky here. You'll fail!"

Ignoring this advice, Kakar's older brother, Richard Carlyle, secured a loan and borrowed farm equipment. He hired a local, non-Indian farmer as manager, and ultimately the tribe planted 2000 acres in cotton and grain. Within two years the operation began turning a profit, half of which was pumped back into the business and half into new tribal housing.

Meanwhile, Kakar contacted local BIA welfare offices. "If any people from our tribe come in, send them back to us if they can work, and we'll find them jobs." Soon the tribe's dependence on the government was broken.

Farm profits today exceed $1.5 million a year, a job is available for every tribal member who wants one, and almost every family boasts a modern home. "If we had listened to the BIA," Leona Kakar reflects, "we would still be nothing."

Across "Indian Country," islands of prosperity are emerging, the result of a revolution in attitudes. Native Americans are beginning to declare their economic independence.

Mississippi's Choctaw tribe has turned its reservation into an economic enterprise zone, with no natural resources, just people. Under the leadership of Chief Phillip Martin, the Choctaws attracted an electronics plant, a car-parts assembly factory and a greeting-card manufacturer to their reservation. Over 1,400 jobs have been created for people who had lived largely on welfare.

In Ledyard, Conn., the Mashantucket Pequot tribe operates numerous businesses, including a restaurant and a sand-and-gravel operation. Profits from these enterprises enable the tribe to employ all its members and to maintain its own roads and fire station.

The hills of northeastern Oklahoma are home to the country's second-largest tribe, the nearly 100,000-strong Cherokee nation. In 1975, 90 percent of all the tribe's income came from the government. Today, nearly 60 percent of Cherokee revenues are from its own enterprises and other tribally generated funds. Cherokee Nation Industries, Inc., grossed $24 million last year constructing military components. General Dynamics, one of the prime contractors, cited Cherokee Industries for producing "high-quality products with speed of delivery."

Bitter despair. Sadly, these islands of prosperity exist in a sea of privation. Most Indians have been trapped in a dependent welfare culture. According to the 1980 census, there are more than 1.5 million Native Americans, about half of whom live on or near the 304 reservations in the United States. More than one-third live below the poverty line. Unemployment on many reservations exceeds 65 percent. One in four Indian homes lack indoor plumbing. Alcoholism, crime and suicide are rampant.

And yet $3 billion in federal funds flows to the reservations annually. The Navajos, for example, received more than $250 million from the BIA alone last year. Without those funds, the reservation—25,000 square miles spread over four Southwestern states—would collapse. The nation's largest tribe has a per-capita annual income of about $2,400. Half the 200,000 Navajos are unemployed, and most of those with jobs are employed by the tribal government or local BIA offices.

Navajo lands, however, are abundant in resources. The reservation is estimated to hold up to 40 million tons of uranium, four billion tons of coal and millions of barrels of oil. But the wealth of this resource-rich land lies virtually untapped; its pastures are badly over-grazed; its people are bitter and despairing. Compounding the Navajo's problems is an overly bureaucratic tribal government, riddled with corrpution.

The Navajos' predicament is hardly unique. All tribal lands combined contain about 25 billion tons of surface coal reserves (approximately 15 percent of U.S. holdings) along with billions of dollars' worth of uranium, oil, gas and timber.

So why do the majority of Indian tribes remain among the poorest groups in the United States? In part, the blame lies with federal policy, which has undergone a dizzying series of reversals and contradictions.

Uncle Sam's Promises: By 1868 the last of 370 treaties between the tribes and the federal government had been signed. And though hostilities would continue for another two decades, most Indians were forcibly settled on the reservations designated for them—lands held in "trust," which Uncle Sam promised to protect and enhance.

Then, in 1887, Congress adopted a policy of assimilating Indians into American society. Although it was not widely implemented, the General Allotment Act called for elimination of collective tribal ownership of land. Each Indian family would receive a plot of 40 to 160 acres, and the tribes would be encouraged to become farmers. But most Indians lacked the capital or expertise to farm; many had to sell their lands just to survive. Others were swindled out of their property.

In 1934 this allotment policy was reversed by the Indian Reorganization Act. But by then Indian land holdings had shrunk from 136 million acres to less than 50 million.

Congress changed course once more in 1953 when it voted to terminate the government's special relationship with the tribes. Thousands of Indians were relocated to urban areas, an attempt to solve the reservations' economic problems by reducing their population. Ths strategy was also a failure.

"Termination" was quietly abandoned in the '60s, and an array of social-welfare programs was introduced, which further increased Indian dependence on government aid. Soon almost every reservation contained white-elephant projects, ranging from bankrupt furniture factories to abandoned motels, all foisted on the tribes by Washington. The Economic Development Administration built 37 "industrial development parks" on Indian lands. Nearly a decade after their construction, only two of them had achieved even a 50-percent occupancy rate; five had no tenants at all.

The federal government has invested a total of $30 billion over the past decade to lift reservations out of poverty. While some needed services have been provided, many projects and policies have failed because they were imposed from above, by bureaucracies. In contrast, the investments that have proved successful are the ones the tribes themselves made.

Tribal Enterprise. Along the Columbia River in Oregon, the Wasco and Warm Springs tribes lives as salmon fishermen and traders until 1857 when the government forcibly moved them over 90 miles south, away from the river, to a mountainous desert region of their land. Later joined by a band of Paiutes, they eked out a bare existence as farmers. In 1938 they organized themselves as the Confederated Tribes.

Jeff Sanders, a Wasco Indian who is now general manager in charge of public safety, grew up on the reservation in the '40s and '50s and remembers the tar-paper shacks without indoor plumbing or electricity.

But in one generation the lives of the Confederated Tribes were dramatically transformed. They turned themselves around by organizing their nearly 3000 members as a corporation in 1967, purchasing a sawmill (later building a plywood plant) and harvesting their own timber resources. Under the leadership of business manager Kenneth Smith, only the second member of his tribe to graduate from college, timber revenues were invested in a 160-room recreational resort and a home-building corporation.

In 1979 the tribe installed a hydroelectric generator in a dam on the Deschutes River, becoming the first tribe to receive a federal power license. Today Pacific Power and Light, a subsidiary of PacifiCorp, purchases electricity from the tribe, paying approximately $4 million a year.

Tribal enterprises employ 1200 people, and there's a job for every resident who is able to work. In 1988 revenues exceeded $65 million. "We now control our own destiny," says Sanders, proudly.

Another tribe with reason for pride is the Apache. A century ago, the Apache chief Geronimo surrendered to federal troops, marking the end of armed Indian resistance. Today the descendants of Geronimo maintain their fierce independence on nearly 720 square miles of the Sacramento Mountains in southern New Mexico.

"We are on the road to progress while preserving our heritage," explains Ouida Geronimo Miller, granddaughter of the legendary chief and director of tribal programs for children and the elderly. During her 60 years on the Mescalero Apache reservation, she has seen the tribe struggle to its feet, shedding the yoke of poverty by asserting its independence from federal policymakers.

Fortunes began to change for the Apache with the election of Wendell Chino as tribal president in 1953. In the tradition of strong leaders like Geronimo and Cochise, Chino used the pride and independence of his people to motivate them for economic self-determination. Throughout the '60s he battled the BIA's bureaucracy and their directives on such matters as how to use funding for education and community services.

In 1962 the tribe purchased a mountainous area next to the reservation that it hoped to turn into the southernmost ski resort in the United States. Some BIA officials predicted the venture would fail. Indians had never before been in the ski business. Yet within two decades the ski resort had to be expanded—from one lift to eight—because it was so jammed each weekend. In 1975 the Mescalero opened a $22-million luxury resort called Inn of the Mountains Gods, featuring a 250-room hotel, a 100-acre man-made lake, tennis courts and a golf course. The tribe opened a sawmill in 1987 to complement its logging operation and owns a herd of 4500 cattle.

No More Roadblocks. Four attributes separate successful tribes from their destitute brethren: strong, visionary leadership; a policy of keeping tribal politics out of business decisions; a willingness to hire non-Indian managers to run tribal enterprises as corporations; and determined independence from the federal bureaucracy.

If other tribes are to realize self-sufficiency, roadblocks, must be removed. Regulatory restrictions that obstruct Indian development of their natural resources should be lifted. Action could also be taken on a 1986 Interior Department task-force report that proposed turning reservations into enterprise zones, and offering tax incentives to companies that locate there. Such legislation has been introduced by Sen. John McCain (R., Ariz.), a member of the Senate Select Committee on Indian Affairs.

A 1984 Presidential Commission Report concluded that the BIA should be dismantled. The commission found that the BIA was moving too slowly in assisting tribes to gain more economic independence. The BIA controlled two-thirds of its $1-billion budget, while tribes had decision-making control over only 27 percent of BIA funds.

"The best thing that could happen would be for the tribes to direct the use of federal funding and to assume accountability for their decisions," says Ross Swimmer, who headed the BIA from 1985 to 1989 after a decade as chief of the Cherokee nation. "Abolish the BIA system because it keeps the tribes dependent. Let Native Americans be put in charge of helping themselves to achieve economic independence."

The successes of the Ak-Chin, the Apaches, the Cherokees and other tribes have shown that Native Americans are ready to venture into the economic marketplace on their own terms. As Chief Old Person of the Blackfeet says: "We will make mistakes. But they are less painful than suffering the consequences of other people's mistakes."●

RAOUL WALLENBERG

● Mr. MOYNIHAN. Mr. President, I rise today to honor the memory of Raoul Wallenberg, an honorary citizen of the United States, and an extraordinary man who risked his life to save thousands from the maw of the Nazi Holocaust. He issued Swedish passports to more than 15,000 Jews and indirectly helped approximately 100,000 Hungarian Jews to escape extermination. Today is Raoul Wallenberg Recognition Day, and it is proper and fitting that we observe this day. Raoul Wallenbeg personified all that is noble in the human spirit and he acted to frustrate the maniacal acts of those who personified the bestial possibilities still lurking in the hearts of men.

It is a terrible irony that when Hungary was liberated, Wallenberg was seized not by the Nazis but by the Soviet Union in violation of international standards of diplomatic immunity. He was taken to Lubianka prison in Moscow. He was never released and his fate has never been established. The Soviet Union has refused to investigate reports that he is still alive, maintaining that he died in prison at the age of 35.

I take this occasion to remind my colleagues that I have offered Senate Concurrent Resolution 60 which expresses the sense of the Senate that the Soviet Union should at long last cooperate in an investigation of Raoul Wallenberg's fate, including releasing his prison records. I urge those of my colleagues who have not yet joined as cosponsors of this resolution to do so.●

THE AFRICA GROWTH FUND

● Mrs. KASSEBAUM. Mr. President, sub-Saharan Africa's struggle to develop is a problem that has challenged the international community over the years. As chairman and now ranking member of the Subcommittee on Africa, I have followed these efforts closely.

One of the keys to development and recovery in Africa is a vigorous private sector. In recognition of this, I am pleased to announce that last week the Overseas Private Investment Corporation launched an initiative, the Africa Growth Fund, to help develop the undercapitalized African private sector.

The Africa Growth Fund is a new concept in international venture capital financing. It will provide up to $30 million in loans and guarantees to stimulate private investment in sub-Saharan Africa. Initially, Africa Growth Fund services will be available in some 40 African countries with which OPIC has reached bilateral agreements for offering its political risk insurance.

The fund was announced last week by Fred M. Zeder, President and Chief Executive Officer of OPIC. I would like to include Mr. Zeder's remarks about the fund and the importance of private sector development in the RECORD.

The remarks follow:

AFRICA GROWTH FUND, INAUGURAL RECEPTION, SEPTEMBER 26, 1989

(Remarks of Hon. Fred M. Zeder)

INTRODUCTION

Welcome Ambassadors, president N'Diaye of the African Development Bank, delegates to the Annual Meetings of the World Bank and the International Monetary Fund, Members of the United States Congress, Members of the Board of Directors of the Overseas Private Investment Corporation, clients of OPIC, friends, and particularly the owners and management of the Africa Growth Fund.

As I am sure you all know, we are here this afternoon in these magnificent surroundings to celebrate an historic undertaking by American business—the inauguration of the Africa Growth Fund.

This is not a casually conceived enterprise. This Fund is the natural result of our realization that Africa is a continent going through a profound economic change, a change that offers opportunities for sustainable growth based on the transfer of technology, of know-how, and of competitive access to world markets for quality goods and services.

This economic growth will bring benefits to people throughout Africa in the form of more and better-paying jobs, heightened demand for goods and services from small firms across the continent, and increased revenues to pay for social services: modern schools, health care and hospitals, and up-to-date communications reaching all the people with information they need to make democracy work.

THE AFRICAN GROWTH FUND

The Growth Fund is precisely the right type of operation to spark this dynamic economic activity in Africa. First, because it is privately owned and privately managed, it will be able to be more creative and flexible than a rigidly structured government agency. It can help African and U.S. business react quickly and effectively to the business opportunities that the policy changes in Africa are creating.

Second, it can help start and expand efficient business operations to produce goods and services that people need and are willing to pay for. It will mean that Africa can be competitive without subsidizing business and consumers and thereby diverting scarce resources from essential public services. It is self sustaining.

Third, this Fund will be professionally managed for success—supporting sound business ventures. The highest priority will be given to solid business planning, care for the quality of products and services, and responsiveness to—market demands—what customers need and want. Where there is a human need, there is a human opportunity; and where there's opportunity, there's investment; and with investment, there's sustained economic growth.

Finally, the Africa Growth Fund will be an equity investor. Occasionally, we forget that sub-Saharan Africa, no less than Latin America, Eastern Europe, and some other areas, suffers from a superabundance of loans and a scarcity of successful, equity-funded business enterprises to earn the money with which to service their debt. The

Africa Growth Fund, the first regional equity investment company—anywhere—to be formed in the past twenty years, addresses that problem.

AFRICAN BUSINESSMEN'S ROUNDTABLE

Of course, economic growth in Africa depends on African investment. And I was pleased to learn from Babacar N'Diaye about the steps he is taking to highlight private investment and private sector growth. I understand that he has engaged 25 outstanding independent businessmen in Africa to advise the bank; and he is planning to lead them on a visit to the States early next year. OPIC will be pleased to support this endeavor and to play a welcoming role for their visit. I am sure that our friends from the Africa Growth Fund will also be part of your welcome committee.

IN SUMMATION

I sense a new day in Africa. The leadership of the private sector is making itself heard, and it is producing results * * * results that will benefit all Africans over many years ahead. The Africa Growth Fund will be part of this. American business and industry will be a part of this. So will OPIC.

The U.S. Agency for International Development is also actively involved in this worthy undertaking, and I want to express the appreciation of all of us associated with the development of the Fund for their timely financial support in helping assure its realization.

A great debt of gratitude is owed to the owners of the Africa Growth Fund for their energies and their judgment: the Coca-Cola Company, the Lummus Company, Citicorp and Citibank, the Rockefeller family, and your company, Tom Ryan, M.W. Kellogg.

Thanks, too, to Citicorp Investment Bank, the Fund's private sector financial advisor, Vice presidents Michael Clare and Douglas Warwick, who worked tirelessly in helping us to put the Fund together; and finally the Equator organization, which has given us incredible, long-term support through its extraordinary commitment to creating this Fund, their long and detailed knowledge of Africa, and the unqualified professionalism of president Frank Kennedy, Vice presidents Tom Wescott and Ellen Johnson-Sirleaf, and the ever-present Kenneth Locklin, who has emerged to become the Fund's day-to-day operational manager.●

IN RECOGNITION OF CHINESE DOUBLE 10 DAY

● Mr. WILSON. Mr. President, I rise today to honor a trusted and valued ally to the United States. The Republic of China will be celebrating its national day of independence on October 10, otherwise known as Double 10 Day, and I wish to extend the good wishes of this body and those of the American people to the people of that nation.

The Republic of China has been a bastion of economic opportunity and a staunch friend of the United States and a defender of our national security interests throughout the Pacific Rim basin.

Nowhere have our bonds been stronger than in the areas of commerce and trade. The Republic of China has grown vastly within the past two decades to become an economic power rivaling other Asian nations such as Japan and the Republic of Korea. That economic relationship has been especially close between California and the Republic of China.

The growing importance of open and free trade has become more apparent as we move further into a unified, global marketplace. Even though Congress passed a 1,000-page trade bill giving new powers to the President to break down protectionist barriers locking out United States businesses from foreign markets, the Republic of China has not been a nation that violates the goodwill and trust of the American people.

I have no doubt many of these new initiatives will strain relations with our closest friends and trading partners, but we can rest assured that the relationship enjoyed by our two nations will continue to be strong and resilient.

What I have been especially proud of has been the cultural exchange between our two peoples and the attendant benefits. It is fitting that we also celebrate the 200th anniversary of Chinese immigration to the United States.

Americans of Chinese descent have contributed much not only to California, but to the entire Nation through their thrift, hard work, and intelligence. Their traits are as admirable and deserving of commendation as those of our own forefathers as they set foot in the New World so many years ago.

Chinese-Americans have risen to great heights of prominence within our society and they continue to contribute to our economy, culture, and humanity.

Underlying this relationship, though, is our common and determined opposition to the type of totalitarian extremism that has been practiced across the sea in the People's Republic of China.

On June 4, the world witnessed the terrible price people who yearn for freedom have paid all too often throughout history. The people of Hong Kong and the Republic of China have just cause to fear for the future when they are given such a barbaric and cruel glimpse of it.

The United States remains committed to its security alliances with the Republic of China and we shall not shrink from the responsibility to our friends. We will always be reminded of that warm spring day when the grown children of Mao's cultural revolution began a quiet one of their own by stating that armed force cannot be a substitute for freedom.

The students of Tiananmen Square have shown that tanks and truncheons cannot bury the hopes for liberty that burn in the hearts of millions of Chinese. From Beijing to Tibet, youngsters, workers, mothers, and monks have raised their voices on behalf of tolerance and pluralism before the gun barrels of the world's largest communist power.

The United States and the Republic of China are tied together by the hope and promise that freedom and peace bring to each of our peoples.

It is my hope that our two nations and people will continue the rich and fruitful relationships that we have nurtured together. On this anniversary of their national day of celebration, I urge this body and the people of the United States to wish our neighbors and friends across the Pacific another 100 Double 10 Day celebrations.●

RAOUL WALLENBERG RECOGNITION DAY

● Mr. SIMON. Mr. President, on October 5, 1981, Raoul Wallenberg was declared an honorary citizen of the United States, an honor bestowed on only three other people in U.S. history. This year, President Bush signed a law designating October 5, 1989, as "Raoul Wallenberg Recognition Day." I would, therefore, like to take this time today to recognize the heroic achievements of this extraordinary individual.

What makes Raoul Wallenberg so extraordinary was his willingness to immerse himself in the horror of World War II. A member of an aristocratic family in Sweden, Raoul Wallenberg easily could have remained unassociated with the war. Instead, Raoul chose to accept the request of both the United States and Swedish Governments in 1944 to serve as the First Secretary at the Swedish Legation in Budapest, Hungary. His assignment was simply to save as many Jews as possible from the Nazis. With an almost superhuman effort, Raoul did just that: He saved thousands of Jews from the Holocaust.

Raoul Wallenberg was creative in his rescue approach. In his official capacity, he declared numerous large apartment buildings to be extensions of the Swedish Embassy. In these "safe houses" he set up soup kitchens, hospitals, orphanages, and schools. In addition to this, he saved Jews already bound for death camps by pulling them off trains and helping them to escape. One of the most incredible achievements was the saving of over 70,000 Jews in a single night by helping to reverse an order given by Eichmann.

Another example of Wallenberg's heroism was his redesign of the pass that allowed Jews who could prove they had relatives in Sweden to be placed under Swedish protection. This new design, which was more official looking, fooled many Nazis and prevented the deportation of many of its bearers.

When the advancing Russian Army reached the city of Budapest, 120,000 Hungarian Jews were still alive—the largest surviving Jewish population in all of occupied Europe. Unfortunately, Raoul was unable to save himself. In 1945, he was arrested by Russian soldiers. His fate is still unknown to this day.

Raoul Wallenberg was a light to thousands during the dark days of the Holocaust. His heroic achievements impress upon us the need and the wish to honor him today on the anniversary of his becoming an honorary U.S. citizen.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 285, 370, 371, 375, 378, 379, 380, 383, 384, 391, 392, and 393. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notifed of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL TRADE COMMISSION

Deborah Kaye Owen, of Maryland, to be a Federal Trade Commissioner for the unexpired term of seven years from September 26, 1987.

FEDERAL ELECTION COMMISSION

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1995.

Joan D. Aikens, of Pennsylania, to be a member of the Federal Election Commission for a term expiring April 30, 1995.

DEPARTMENT OF THE INTERIOR

John M. Sayre, of Colorado, to be an Assistant Secretary of the Interior.

ALASKA LAND USE COUNCIL

Curtis Virgil McVee, of Alaska, to be Federal Cochairman of the Alaska Land Use Council.

DEPARTMENT OF THE TREASURY

John T. Martino, of Pennsylvania, to be Superintendent of the Mint of the United States at Philadelphia.

Barbara E. McTurk, of Colorado, to be Superintendent of the Mint of the United States at Denver.

DEPARTMENT OF LABOR

Gerard F. Scannell, of New Jersey, to be an Assistant Secretary of Labor.

William James Tattersall, of Pennsylvania, to be Assistant Secretary of Labor for Mine Safety and Health, vice David Courtland O'Neal.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Daphne Wood Murray, of Texas, to be Director of the Institute of Museum Services.

DEPARTMENT OF EDUCATION

Leonard L. Haynes III, of Louisiana, to be Assistant Secretary for Postsecondary Education, Department of Education.

Christopher T. Cross, of Maryland, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

STATEMENT ON THE CONFIRMATION OF JOHN M. SAYRE TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR WATER AND SCIENCE

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of John M. Sayre to be Assistant Secretary of the Interior for Water and Science by a unanimous vote.

I am very pleased with the President's nomination of John Sayre. I have known Mr. Sayre and worked with him for many years, both during the time I've served in the Senate as well as in the House, and believe him to be one of the foremost water attorneys in this country today.

Mr. Sayre is currently a partner in the law firm of Davis, Graham & Stubbs in Denver, CO. He has long represented the Northern Colorado water conservancy district and its municipal subdistrict, and in his capacity as counsel has gained extensive experience in municipal and water law issues. He has handled matters involving the Department of the Interior, the Federal Energy Regulatory Commission, the Colorado Water Congress and the National Water Resources Association. I believe Mr. Sayre to be extremely well-qualified for the position to which he has been nominated and I recommend him highly.

Mr. President, I urge my colleagues to join me in supporting Mr. Sayre's confirmation as Assistant Secretary of the Interior for Water and Science.

STATEMENT ON THE CONFIRMATION OF CURTIS V. MC VEE TO BE FEDERAL COCHAIRMAN OF THE ALASKA LAND USE COUNCIL

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of Curtis V. McVee to be Federal cochairman of the Alaska Land Use Council by a unanimous vote.

Mr. McVee is well-qualified for the position of Federal cochairman of the Alaska Land Use Council. From 1971–1984, he served as the State Director of the Bureau of Land Management in Anchorage, AK. During this period, major land legislation was passed and implemented, to include the Alaska Native Claims Settlement Act, the Federal Land Policy and Management Act, and the Alaska National Interest Lands Conservation Act. From 1984–1986, Mr. McVee was president of a joint venture company in Anchorage—Alaska Community Engineering Services. He currently serves as the executive director for the Alaska Miners Association.

Mr. President, I urge my colleagues to join me in supporting Mr. McVee's confirmation as Federal cochairman of the Alaska Land Use Council.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

HEAD START AUTHORIZATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 39, H.R. 1300, the Head Start Authorization Act for fiscal year 1990.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1300) to amend the Head Start Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1300) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRATULATING THE DALAI LAMA—S. CON. RES. 75

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 75 congratulating the Dalai Lama on being awarded the 1989 Nobel Peace Prize.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) congratulating the Dalai Lama on being awarded the 1989 Nobel Peace Prize.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 75

Whereas His Holiness the XIV Dalai Lama of Tibet, spiritual mentor to millions of Buddhists throughout the world, and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

Mr. MITCHELL. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 392 to designate October 1989 as "Italian-American Heritage and Culture Month."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 392) to designate October 1989 as "Italian-American Heritage and Culture Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 392) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. ROTH. I move to lay that motion on the table.,

The motion to lay on the table was agreed to.

BICENTENNIAL OF THE AMERICAN MORGAN HORSE

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a resolution recognizing the bicentennial of the American Morgan horse.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 191) to recognize the bicentennial of the American Morgan Horse.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROTH. Mr. President, I am pleased to submit today a resolution commemorating the bicentennial of the American Morgan horse.

Two hundred years ago, shortly after the birth of our Nation, the first Morgan horse was born in Springfield, MA. This was the beginning of a strong new breed of horses that went on to serve this country as part of the military in every subsequent major American war through the 1940's. The Morgan was found to be an intelligent, hearty, versatile, and easily trained breed, making it well suited for the needs of the military.

The Government continued to raise this horse until the 1940's when the last Government-owned and operated breeding farm was closed. The service of the Morgan horse in the civilian sector has also proven to be invaluable. Many Americans have benefited from its labors by means of farming, logging, carriage drawing, as police mounts, and in handicapped riding programs. They are also proudly displayed for their beauty, talent and dexterity at equestrian shows and exhibitions across the country.

Today there are approximately 115,000 registered American Morgan horses throughout the United States. In my State of Delaware alone, there are total of 172 horses. This horse symbolizes the great pride of this country in being a breed of horse characterized by courage, strength and endurance and is an authentic and important part of our American heritage. I ask you to join me in supporting this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 191) was agreed to.

The preamble was agreed to.

The resolution and its preamble are as follows:

S. RES. 191

Whereas the American Morgan Horse is the only horse perpetuated as a breed by the United States Government at a Government breeding farm for use by the military;

Whereas the American Morgan Horse served in every major American war from the 1800's through the 1940's and should be recognized for its contribution to America like any other war hero;

Whereas the American Morgan Horse served as this country's early American work horse, clearing the land, plowing the fields, and settling the West;

Whereas the American Morgan Horse is the progenitor of America's light horse breeds and was used to contribute to the development of the American Saddlebred horse, the Standardbred, and the American Quarterhorse;

Whereas the American Morgan Horse continues to serve the people of this country in a variety of ways including farming, cattle ranching and recreation; and

Whereas the American Morgan Horse provides entertainment and sport to Americans in all 50 States as well as foreign countries by means of trail and endurance rides, carriage driving, showing, dressage, western riding, hunter/jumpers and serving the handicapped riding programs: Now, therefore, be it

Resolved, That the period commencing October 9, 1989, and ending October 15, 1989, is designated as "National Morgan Horse Week", and the President is requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Mr. ROTH. I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HOSTAGE AWARENESS DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 400, which designates October 27, 1989, as "National Hostage Awareness day."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 400) designating October 27, 1989 as "National Hostage Awareness Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be

no amendment to be offered, the question is one the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 400) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACTION ON AMENDMENT NO. 966 VITIATED

Mr. MITCHELL. Mr. President, I ask unanimous consent that action this evening on Amendment No. 966 be vitiated, and that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 10 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow, Friday, October 6; and, that following the time for the two leaders there be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10:30 a.m. on tomorrow the Senate begin consideration of S. 1726, the catastrophic health bill, under the provisions of the unanimous-consent request previously agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate recess under the previous order until 10 a.m. tomorrow, Friday, October 6.

There being no objection, the Senate, at 11:56 p.m., recessed until Friday, October 6, 1989, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1989:

FEDERAL TRADE COMMISSION

DEBORAH KAYE OWEN OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF 7 YEARS FROM SEPTEMBER 26, 1987.

FEDERAL ELECTION COMMISSION

JOHN WARREN MCGARRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 1995.

JOAN D. AIKENS, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30 1995.

DEPARTMENT OF THE INTERIOR

JOHN M. SAYRE, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

ALASKA LAND USE COUNCIL

CURTIS VIRGIL MCVEE, OF ALASKA, TO BE FEDERAL COCHAIRMAN OF THE ALASKA LAND USE COUNCIL.

DEPARTMENT OF THE TREASURY

JOHN T. MARTINO, OF PENNSYLVANIA, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT PHILADELPHIA.

BARBARA E. MCTURK, OF COLORADO, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT DENVER.

DEPARTMENT OF LABOR

GERARD F. SCANNELL, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF LABOR.

WILLIAM JAMES TATTERSALL, OF PENNSYLVANIA, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAPHNE WOOD MURRAY, OF TEXAS, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM SERVICES.

DEPARTMENT OF EDUCATION

LEONARD L. HAYNES III, OF LOUISIANA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

CHRISTOPHER T. CROSS, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES, COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THE FIGHT FOR FREEDOM AND DEMOCRACY IN BURMA

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. COX. Mr. Speaker, I would like to insert into the RECORD the text of a speech by Ms. Paula Dobriansky entitled "The Fight for Freedom and Democracy in Burma." It details the terrible abuse of human rights by the military dictatorship in Burma. Further, this speech sheds much light on the plight of the democratic Burmese students who fled to the Thai-Burma border following the violent suppression of prodemocracy demonstrations 1 year ago.

Paula Dobriansky is the Deputy Assistant Secretary of State for Human Rights. She delivered this speech on September 19, 1989, before the Federation for Human Rights and Democracy in Burma.

Ms. Dobriansky's insight into the situation in Burma is well worth each Member's close attention.

THE FIGHT FOR FREEDOM AND DEMOCRACY IN BURMA

(Speech by Ms. Paula Dobriansky)

A year ago, on September 18-19, the world witnessed bloodshed and violence on the streets of Rangoon. These tragic events were not an isolated episode in Burmese history. For a long time, the legitimate democratic aspiration of the Burmese peoples have been neglected and suppressed. In fact, since 1962, a repressive military government has ruled Burma, without either obtaining a mandate from the people or even respecting fundamental human rights. Large-scale indiscriminate killings, torture and arbitrary detentions have marked the regime's standard response to Burmese citizens' peaceful attempts to express their desire—and fundamental right—for a return to a multi-party democratic system. Regrettably, the most recent demonstrations culminated in yet another military crackdown.

While repression is not new in Burma, the extent of the repression of 1988 was unprecedented. Burmese law proscribes summary executions and the tenets of Buddhism—a faith with many followers in Burma—stress the sanctity of life. Yet, throughout 1988, lethal force was indiscriminately used by the dictatorial regime to crush peaceful demonstrations and expressions of political sentiment. In March and June alone, hundreds of courageous students paid with their lives to protest ruthless police brutality, repression of political rights and the government's mishandling of the Burmese economy. In August 1988, in just five days, reportedly more than 2,000 Burmese died at the hands of their government, although precise numbers will never be known. Only a month later in September, the military again indiscriminately fired without warning on peaceful, unarmed demonstrators—who were merely expressing their political beliefs. On those two tragic days, some 1,000 persons were killed. Ironically, as it was suppressing any opposition to its repressive rule by the massive application of force, the military leadership also announced its intention to relinquish power shortly and vowed to hold multi-party elections. As we know, these promises were not fulfilled.

Since last year, the military regime has also sought to stamp out political opposition. By decree, gatherings of more than four persons are considered illegal and within only the last two months, thousands of members of the opposition political parties have been arrested in military roundups throughout the country. The entire leadership of the People's Progressive Party, and members of the Executive Committee of the League of Democratic Allies have been imprisoned. The regime has actively blocked the activities of Burma's most energetic, popular and respected political leader, Aung San Suu Kyi, the daughter of Burmese national hero Aung San. As the leader of Burma's largest opposition political party, the National League for Democracy, she has been under house arrest since July 20.

The regime's crackdown on dissent has been pervasive and ruthless. Torture, beatings and mistreatment of political prisoners are frequent and in some instances have resulted in death. In a number of cases, prisoners are crowded into small cells, knee deep in water or forced to stand in water while being interrograted. Sleep deprivation, beatings resulting in severe eye and ear injures, electric shock to the genitals and other reprehensive torture tactics appear to be routine methods for questioning.

In addition, the judicial system, the police, and penal institutions have lost any semblance of independence, and have been turned into instruments of oppression. In July, local military commanders were bestowed with summary powers of trial and execution, resulting in accused persons being deprived of any legal means to defend themselves. Military tribunals, composed of people completely lacking in legal training, make the final determination on all cases, political or criminal. Defense lawyers are severely limited in what they are allowed to say and reportedly under warning that too vigorous a defense can result in negative consequences for both the client and the lawyer.

Human rights abuses have also continued to be inflicted upon the ethnic insurgents. For many years, the military has rounded up ethnic minorites and have pressed them into service as porters forced to carry heavy supplies and to walk in the vanguard of troops when ambushes, booby traps, or minefields were expected. Reports abound that following the military takeover of last September, the Burmese military has been using young ethnic Burmans for forced labor.

As a result of the continuing reprehensible violations of human rights, from three- to four-thousand Burmese students now find refuge in the Thailand-Burma border area. Any who have not fled the cities remain subject to arrest, torture and possible execution. Many of those who voluntarily returned to Rangoon in the aftermath of the coup were allegedly executed.

The 1988 coup dealt our hopes for progress toward democracy in Burma a severe setback. The Burmese people today live in a repressive, military state where political and civil liberties are restricted, allegations of torture, arbitrary detentions, and executions abound, and the general living conditions are extremely poor.

Given these egregious human rights abuses and the suffering of the Burmese people, what are the prospects for free and fair elections next May, as promised by the present Burmese government? With the regime's campaign to eradicate any free political expression or opposition, it is difficult to conceive how a fair election will be held in May. Additionally, the government has taken steps to implement the election law in a way which appears to favor the National Unity Party, the successor to the Burma Socialist Program Party. The government has also stated that only elections to a Constituent Assembly will be held in May, with the military remaining in power until a new constitution is ratified.

Despite the rigid controls placed on society and brutal punishments meted out to members of the opposition, the courageous Burmese people have not been deterred in their struggle for freedom and democracy. Strong, relentless appeals for democratic change and reform ring loudly throughout Burma. This attitude is not surprising—courage and perseverance are traditional traits of the Burmese people.

What can and should the United States do to help the Burmese people in their valiant fight for freedom and democracy? Appropriately, the United States' response following the government's bloody crackdown on the demonstration last year was to suspend all U.S. economic and military assistance to Burma. In addition, we have repeatedly raised directly with the Burmese authorities and also in our public statements our concern about human rights violations in Burma. Throughout, we have sought to enlist the support of other nations. And our efforts have borne fruit. Other democracies and international organizations have joined us in criticizing Burmese human rights violations and demanding a return to democracy.

For example, earlier this year, the United Nations Human Rights Commission issued a statement calling for the Burmese Government to take the necessary steps to assure human rights and fundamental freedoms of the people of Burma. The Commission will also review cases of alleged human rights abuses when the full Commission meets in February and March of 1990. Meanwhile, on September 8, the European Community released a strong statement expressing its concern about the worsening human rights conditions and requesting that the Burmese authorities end repression and respect the Burmese people's desire to establish a democratic society through free elections.

Aside from our concern about continued human rights violations in Burma, we have been mindful of the plight of Burmese students who have taken temporary refuge in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Thailand and near the Thai-Burmese border. We support the provision of continued timely humanitarian assistance to them to ease their stay. Private voluntary organizations functioning through the Burma Coordinating Group, are attempting to meet their existing needs. Despite these endeavors, such items as malaria pills, mosquito netting, food, essential medical commodities remain in short supply. We believe that these efforts deserve backing and are exploring ways to assist them.

We are also committed to allowing entry into the United States of those Burmese who meet the criteria for refugee or parolee status. Several Burmese have already arrived in the United States under humanitarian parole status.

For years, the heroic Burmese people have been deprived of the opportunity to exercise their right of self-determination. Nevertheless it is clear that using brute force against peaceful demonstrations is not the answer. No oppression, however awesome, can forever deny to the people the realization of their fundamental human and political aspirations. As Thomas Jefferson said, "the desire for freedom is universal." History, through the passions and energies of freedom-loving men and women has a way of rejecting sooner or later, non-viable ideas and solutions. Sooner or later the dream of the Burmese people will be realized. It is toward this goal that we should all strive.

INTRODUCTION OF THE INTERNATIONAL AND SOUTH PACIFIC FORESTRY COOPERATION ACT OF 1989

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LAGOMARSINO. Mr. Speaker, there is a growing awareness of the need to protect, preserve, and properly manage the world's tropical forests. It is becoming increasingly apparent that the quality of life of mankind is being threatened by the rapid loss of tropical rain forests worldwide.

Much of the deforestation is due to the sheer growth of the world's population and the accompanying pressures to meet basic needs. Wood remains as a basic source of fuel for cooking and heating for much of the developing countries. Forests are cleared to provide additional acreage for cash crops and to raise cattle. The expansion of cities are encroaching upon heavily forested areas.

The demand to fulfill the basic needs of mankind is understandable and a natural consequence of our growing and developing planet. It is unrealistic to believe that countries will not continue to tap their tropical forestry resources to some degree. The outright preservation of tropical forests in their untouched state should be a major portion of all countries' tropical forestry management plans. However, a sound and balanced tropical forestry management regime should be utilized for acreage already disturbed and under pressure to be used.

There exists fast-growing species of trees that can be cultivated and harvested for fuel. The technology of agroforestry is developing many new methods for growing crops and raising cattle in and among forests; multiple uses reduces the need to disturb untouched tropical forests. Certain types of fast-growing trees have been and are being identified that can be planted to provide timber for construction and thereby lessening the demand for wood milled from tropical forests.

A well-planned approach is needed if the United States is to substantively assist other countries in conserving and managing their tropical forestry resources. While our domestic institute of tropical forests in Puerto Rico was established many years ago to assist in tropical forestry research and education in the Western Hemisphere, and separate legislation has been introduced to focus on augmenting the facilities and capacity of that institute, there exists a great need to focus assistance upon the large topical forestry belt below the Equator that extends across the South Pacific.

I am introducing legislation today to provide the authority necessary for certain Government departments and agencies to assist in tropical forestry research and education in the South Pacific; and, to share existing and new techniques and information with the countries of the South Pacific.

The legislation provides for the establishment of the South Pacific Tropical Forestry Research and Education Center in coordination with the land grant college of American Samoa Community College. American Samoa is located south of the Equator and in the center of the South Pacific. American Samoa has close historical, cultural, and linguistic ties with most of the countries of the South Pacific and represents an ideal location to train specialists from other countries. The training will be done at a United States institution and at reasonable costs due to the relatively close proximity of Samoa to the rest of the Pacific countries and the established transportation links across the Pacific from American Samoa's international airport.

The bill also provides for the establishment of the American Samoa experimental forest. The islands have sizable tropical forestry acreage that is undisturbed as well as additional acreage that is being used. One of the most important actions that the United States can take to demonstrate leadership in the conservation of tropical forests is to provide for the proper management of our own domestic acreage. The American Samoa experimental forest will enable those individuals who are engaged in research and education to have actual test plots in which to learn and demonstrate. Specialists from other countries can verify the actual methods used and progress made in agroforestry and tropical forestry management.

The legislation calls upon certain departments to cooperate and consult in the execution of these tropical forestry initiatives in the South Pacific. Through the coordinated leadership of the Secretaries of Agriculture, Interior, and State, the United States can implement tropical forestry management and outreach efforts which are culturally sensitive, environmentally sound and cost effective. Efficient results are critical given today's fiscal constraints and the absolute necessity to take action that will actually improve the environment. The extension of specific international authority to the Secretary of Agriculture is seen as necessary to carry out the objectives of tropical forestry outreach.

I want to acknowledge the wide support of many of my colleagues in agreeing to cosponsor this legislation. It is fortunate indeed to have a sizable number of Members who have witnessed first hand the pressing need to provide constructive assistance in the conservation and management of the region's vast tropical forestry resources. I believe the implementation of the provisions of the International and South Pacific Forestry Cooperation Act of 1989 will significantly contribute to the protection of an extremely important component of our world's ecosystem: Tropical forests.

KHALISTAN—THE ONLY SOLUTION TO THE PUNJAB PROBLEM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BLAZ. Mr. Speaker, around the world people are fighting to be free of despots. Today, in India, one of the major struggles for freedom in the world is taking place. It is the struggle of the Sikh nation to gain independence from the government of India.

The Sikhs ruled the Punjab from 1770 to 1849, when the British conquered the Punjab. When India won its independence from the British, there were three political parties recognized for the transfer of power: the Muslim League Party represented the Muslims; the Akali Party represented the Sikhs; and the Hindus were represented by the Congress Party.

In 1947, when India became indpendent, a separate country, Pakistan, was formed purely on the basis of religion, Islam. India was created for the Hindus and the Sikhs agreed to take the Punjab as their homeland, with the solemn assurance from the Hindu leaders, Nehru and Mahatma Gandhi, that the Sikhs would be treated as equals in a free India.

As soon as India became independent, the majority Congress Party broke all its promises of justice and equality made to the Sikhs prior to independence. The two Sikh representatives to the Indian constitutional convention refused to sign the final draft of the constitution because it contained no guarantee of the rights of minorities. In the Indian Constitution today, the Sikh religion is not recognized, while Hinduism and Islam are.

Mr. Speaker, as we can see, the worst fears of the Sikhs have been realized. Today they are a hunted and severely persecuted people. Their most sacred religious shrine, the Golden Temple in Amritsar, was attacked by a military force of the Indian army in 1984. As the slaughter and persecution of Sikhs increased, Sikh leaders declared their independence from India on October 7, 1987, and severed all relations with the Indian Constitution. They called their new nation Khalistan.

They did this because they recognized that it was the only means of survival available to them. Since then India has only redoubled its efforts to break their spirit and kill their patri-

ots. I, for one, endorse that right of the Sikh people to self-determination and the pursuit of life, liberty, and religious freedom. The Young Republican Federation has recently endorsed this right of the Sikhs for freedom and independence as well. I stand with them in support of this courageous people and their God-given right to live their lives free from persecution and oppression.

Today the people of Khalistan, the Skihs, face the devastation of genocide at the hands of the police and paramilitary forces of the Indian Government. These forces are essentially an army of occupation.

Over 80,000 Sikhs—men, women, and children have been murdered since 1984, mainly by this paramilitary army of occupation, but also by frenzied mobs whipped up into a murderous, anti-Sikh furor by known instigators of the Indian Government. Some of those instigators, who triggered the New Delhi massacre of Sikhs in 1984, now hold cabinet positions in the Indian Government.

We often hear the Indian Government blaming the Sikhs for every act of violence in the Punjab or elsewhere in India or even terrorist acts abroad. The evidence suggests otherwise. We now have written a book called Soft Target. This book shows that India's secret intelligence service, "The Third Agency," engineered the terrorist bombing of an Air-India jetliner in 1985—a bombing previously blamed on the Sikhs.

It is becoming harder and harder for New Delhi to blame the Sikhs when India's own newspapers are every day exposing brutal police and parliamentary atrocities against innocent Sikhs in the Punjab. We are not talking about isolated cases here. We are talking about a well-documented assault on an entire culture, religion and race in which police are daily gang-raping Sikh teenage girls, torturing mothers, arresting young Sikh men for torture interrogations in torture centers all over the Punjab. They are killing those young men in faked shoot-outs with police after which the bodies are often cremated to destroy evidence of their torture and murder.

Punjab, homeland of the Sikhs, is today a completely lawless place. So-called antiterrorist laws put on the books by New Delhi since 1984 now give police the right to pick up Sikhs at will and to torture Sikh women in their own homes, while their husbands sit hopelessly in jail without trial or legal recourse. The Punjab Human Rights Organization, headed by the hightly respected former Indian High Court judge, Justice A. Bains, has just released a report from the Punjab which states that over 7,000 young Sikh men have been murdered in the last 2 years in so-called "faked encounters" with Punjab police and paramilitary troops. That is about 10 murders per day. I ask you, who are the terrorists in the Punjab?

Justice Bains' organization also states that there are over 15,000 Sikh political prisoners in Punjab jails who have no hope of trial for at least three years. This is the world's so-called "largest democracy," as India's Ambassador to the United States is so often heard saying?

Enough of this talk of democracy in India while the Sikhs are being slaughtered and tortured all over their homeland. Let the Sikhs enjoy the same freedom we Americans so cherish.

Mr. Speaker, I insert into the RECORD an article from India-West verifying that the Young Republicans have indeed endorsed independence for the Sikhs as well as freedom fighters throughout the world:

[From the India-West, Aug. 4, 1989]

YOUNG REPUBLICANS SUPPORT INDEPENDENT STATE FOR SIKHS BY SUNITA SOHRABJI

WASHINGTON.—The national organization of Young Republicans last month adopted a policy that supports an independent state for Sikhs.

At their national convention in Nashville, Tenn., the Young Republicans, as part of their 1989 platform, adopted a passage July 19 that reads: "The tradition of this nation, dating back to the Declaration of Independence and our revolution, is to support the right of people to revolt against tyranny."

The passage then called for enhanced aid to opposition factions in Nicaragua, Afghanistan, Angola, Ethiopia, and South Yemen and "all other peoples fighting communist and totalitarian opposition," and concluded, "We reaffirm our support for Sikh self-determination in the Punjab."

Alan Dubow, deputy counsel for the organization, told India-West the Young Republicans had supported an independent state for Sikhs since their last convention in 1987, and had written the resolution passed at that time into their policy this year.

Dubow said Dr. Gurmit Singh Aulakh, president of the Council of Khalistan in Washington, had attended the national conventions of the organization since 1985, and had brought information of "terrorism" against Sikhs by the Indian government.

COMMUNIST GOVERNMENT

"We feel that this group of people are having their rights abridged by a Communist influenced government," said Dubow, adding the organization thus supported the rights of Sikhs for an independent homeland.

Dubow said the Young Republicans have many connections with the Republican members of Congress, and the organization will attempt to put their policy into action by asking Republican members of Congress to support measures that deal with the issue.

He referred specifically to a measure currently before the House, sponsored by Representative Wally Herger, R-Calif., that would do away with India's most favored nation trading status for alleged human rights violations.

Aulakh called the move "a tremendous breakthrough," saying, "It is wonderful to find friends of freedom among these young Americans, who are on fire for liberty and who have not grown complacent though they were born free in a free land."

In a speech before convention delegates July 16, Aulakh said since 1984, over 80,000 Sikh men, women and children have been killed by Indian police or paramilitaries.

NEUTRALIZED MILITARY

"Let me assure you, my friends, as fellow Americans, and on behalf of the entire Sikh nation, that as soon as the Sikhs achieve freedom in a free Khalistan, India's military powers will be neutralized overnight," Aulakh told the convention delegates, adding, "in a free Khalistan, the U.S.A. will have access to military bases and other necessary defense arrangements."

TRIBUTE TO JULIA SMITH VIELEHR

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BARTON of Texas. Mr. Speaker, I rise before my colleagues today in memory of an outstanding member of the national and international music community. Ms. Julia Smith Vielehr passed away on April 27, 1989. Her untimely death was just days before she was to attend the premiere of her latest opera, "The Cockrow" in Fort Worth, TX.

Best known by her professional name, Ms. Julia Smith was an award-winning composer whose compositions have been performed by the New York Philharmonic and symphony orchestras in Baltimore, San Francisco, Oklahoma City, Toledo, Dallas, Fort Worth, Houston, Cleveland and other U.S. cities. Several European orchestras have also performed her works.

Ms. Smith was born and raised in Denton, TX. She attended the University of North Texas and wrote the alma mater when she was a sophomore in 1922. In 1970, she was named a distinguished alumna of the university. After graduating from the University of North Texas, she attended the Julliard School of Music.

An outstanding role model for all Texans, Ms. Smith's first opera, "Cynthia Parker" premiered at north Texas in 1939. She wrote a total of five operas, including "Daisy," which was based on the life of the founder of the Girl Scouts of America. In 1965, she composed "Remember the Alamo," for Lyndon B. Johnson's inauguration concert. This year she was honored by the American Society of Composers, Authors and Publishers for 50 years of service.

The passing of Ms. Julia Smith Vielehr is a great loss to the world of music, but she leaves behind her work that the American people will enjoy forever.

TRIBUTE TO DR. MOSES GROSSMAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Ms. PELOSI. Mr. Speaker, I would like to share with my colleagues a special event occuring in San Francisco.

Today, October 5, 1989, a new center is opening up in San Francisco which integrates psychosocial and health care services for children placed in protected custody by the department of social services. This new child protective center will be located at San Francisco General Hospital and will be dedicated to Moses Grossman, MD.

Dr. Grossman has been teaching pediatrics at the University of California, San Francisco School of Medicine since 1951. He is the chief of pediatrics at San Francisco General

Hospital and has been the vice chairman of the department of pediatrics since 1970.

Dr. Grossman has a long list of contributions in the area of advocacy for children. He was integral in establishing the first child abuse council in California in the early 1970's and served on the California Child Abuse Prevention Advisory Committee from 1976 to 1985.

He is a well known expert in childhood infectious disease; his current focus is on childhood immunization and HIV. He serves as a State and local consultant on pediatric HIV infection.

Moses Grossman's tireless advocacy, and countless years of service in all areas of children's health are recognized today with the opening of the Moses Grossman Child Protection Center which would not exist without his leadership and commitment to interdisciplinary care for abused and neglected children.

SOUTH KOREA'S MODEL INTERNATIONAL ADOPTION PROGRAM

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Ms. SLAUGHTER of New York. Mr. Speaker, the South Korean Government has recently enacted a restrictive policy on international adoptions that will severely curtail, and may eventually reduce to zero, the number of South Korean children who can be adopted by American families. Unfortunately, the South Korean Government's actions have been spurred by irresponsible media reports criticizing the Government's adoption policy.

This negative media attention is unfortunate not only because it has had devastating results but because it is unwarranted. According to many adoption specialists, South Korea is a model for intercountry adoption. Foreign adoptions fall under the purview of four agencies licensed and regulated by the Seoul government. Very strict guidelines must be followed when choosing adoptive parents.

Orphaned South Korean children should not be denied an opportunity to have a family. United States and South Korean immigration statistics show that about 10,000 South Korean infants are annually placed in orphanages. According to the National Committee for Adoption, 2 million American couples would like to adopt. Many of these couples would welcome a South Korean infant with warm and loving arms. In my district, in Rochester, NY, over 500 families have already adopted South Korean children. Many others are eager to do so.

I call upon all my colleagues in the House of Representatives to join with me in praising the humanitarian goals of international adoption and the South Korean Government's efforts to place its orphaned children in loving, caring families.

THE STATUS OF THE STRATEGIC ARMS TALKS: PAYOFF FOR "PRUDENCE"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BEREUTER. Mr. Speaker, the recent Wyoming summit produced results that far exceed most expectations. The progress at Jackson Hole seems particularly significant for from the very first the Bush administration has made it clear that negotiations on conventional forces in Europe would be the focus of U.S. efforts.

The Wyoming summit is significant because the Soviets have now agreed to delink strategic arms negotiations from the strategic defense initiative. As long as the Soviets linked the two, no progress in START could be achieved. In addition, the Soviets agreed to dismantle the Krasnoyarsk radar, an installation that unambiguously violated the ABM Treaty and which has for years been one of several obstacles to progress in arms negotiations. These moves by the Soviets are welcomed and a healthy sign.

Major areas of negotiation remains. SDI is still a crucial concern of the Soviets. The question of an appropriate deployment scheme for mobile missiles must be resolved. The role of conventional and nuclear sea-launched cruise missiles remains to be settled. The issue of airlaunched cruise missiles [ALCM] and bomb loads for strategic bombers needs to be negotiated. Countless details of a proper verification and compliance scheme must still be hammered out.

Despite the number of unresolved issues, there is reason for great hope. Some issues, such as the SDI and SLCM's may well be handed outside of a START agreement. The remaining issues are matters that can be resolved if the United States and the Soviet Union make a good-faith effort to reach agreement—and Secretary Baker and Mr. Shevardnadze have made it clear they are willing to make the effort.

Mr. Speaker, this Member would note a September 26, 1989 editorial in the Washington Post entitled "Payoff for 'Prudence'." This perceptive essay highlights the extent to which President Bush and General Secretary Gorbachev have moved their nations toward a common goal—the goal of reducing strategic nuclear inventories and superpower tensions and arms expenditures.

[From the Washington Post, Sept. 26, 1989]

PAYOFF FOR "PRUDENCE"

President Bush's "prudent" approach to Moscow has led to a harvest of concessions that may produce the very strategic arms treaty that doubters had feared was beyond his political reach. This was unquestionably the chief result—and an extremely important one—of Soviet Foreign Minister Shevardnadze's meetings last week with the president and secretary of state. A Soviet-American connection that the minister had found dulled by American "timidity" just two weeks ago he now pronounces to be moving "energetically" on a broad front. Although plenty of difficulties remain, it appears Mr. Bush is putting his own mark on the superpower relationship. His first summit is now due next year.

In arms control, Mr. Bush had given early priority to conventionl reductions in Europe rather than the stategic cuts his predecessor pursued in the Start talks. The emphasis on conventional forces fitted the new circumstances of a turbulent Europe, and had the additional political benefit of postponing any clash with the Republican right. Deeply suspicious of Start, this element threatens to carve up any Start treaty not to its liking.

Mr. Bush's hestitation posed a real problem to Mikhail Gorbachev, who has made Start central to is plans to redirect Soviet resources. He has now united some part of that knot by proposing that two major unresolved issues in Start—Star Wars and SLCMs—be handled outside a treaty.

In no longer demanding that an agreement on defense in space be written into an agreement to limit offensive weapons, Mr. Gorbachev does not flash a green light to Star Wars or to the more modest versions of it favored in the Bush administration. But he seems to acknowledge the general shrinking to size that time and reflection have wrought in both hopes and fears for space defense, and he may count on having a skeptical Congress on "his" side. He would deal directly with the residual treaty by a new mutual affirmation of the 1972 Anti-Ballistic Missile Treaty and by consultations on testing.

The problem with sea-launched cruise missiles is how to tell the tactical and conventional ones that the U.S. Navy insists on from the strategic and nuclear ones that stand to be controlled. Verification does not get easier when it is diverted to side talks outside the treaty, but the move does perhaps simplify a prospective treaty's Senate passage. It sounds odd for Mr. Gorbachev to be helping Mr. Bush over the latter's political hurdles, but the benefits that may result would accrue to them both.

CHILD CARE PROVISIONS IN RECONCILIATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. SYNAR. Mr. Speaker, today I voted for the Education and Labor and Ways and Means Committees' child care provisions in the reconciliation package and opposed both substitute amendments, the first offered by Congressman EDWARDS and the second by Congressmen STENHOLM and SHAW.

Only the reconciliation provisions will increase both the supply and affordability of quality child care. The provisions build on proven programs, adding over $400 million to Head Start and expanding both before and after school day-care programs. They also will strengthen current State efforts to provide child care services for infants, toddlers, and young children. The reconciliation bill sets up quality guidelines for child care providers while leaving ultimate decision on setting up requirements up to the States.

Neither of the substitute amendments have provisions comparable to the Education and Labor Committee's contribution to the reconciliation package. While the Stenholm-Shaw amendment purports to expand Head Start, it

actually adds no new money to the program above the $300 million already approved by the House earlier this year. Both substitutes ignore the importance of improving health and safety in child care centers and ensuring parental access to these centers.

It's also important to note that the amendment offered by Congressmen STENHOLM and SHAW will result in the counting of the earned income tax credit [EITC] as income when determining eligibility for various forms of assistance. The loss of AFDC eligibility, for example, may result in the loss of Medicaid benefits, and the increased income level will lead in an increase in rent for assisted housing. The Stenholm substitute may result in trading these benefits for child care benefits.

Many of us are concerned about the bill's effect on church-based child care. I was happy to hear that the Democratic leadership is committed to ensure in conference that State vouchers will be allowed to go to church-based child care under the final bill. This should be done in a manner which does not result in entangling child care in the courts, the likely result if the Stenholm amendment has passed.

I support the child care provisions in the reconciliation package because they are our only chance for a comprehensive approach to providing quality child care nationwide. Such an approach is truly needed today, as our children are being born into a world dominated by an increasingly competitive international economy. They will need to be better educated at an earlier age, and their parents will be forced to spend even more time at work. The provisions in the reconciliation bill are a reaction to these changes, and show Americans that we in Congress are indeed ready to pay more attention to their children's needs.

ADMISSION OF PHILO T. FARNSWORTH STATUE TO STATUARY HALL ON BEHALF OF THE PEOPLE OF UTAH

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. OWENS of Utah. Mr. Speaker, I take the floor today to introduce legislation that would authorize the placement of a second statue for the State of Utah in the Capitol's National Statuary Hall, The people of the State of Utah have chosen Philo T. Farnsworth, the father of television, as our distinguished representative to stand next to Brigham Young in Statuary Hall.

As Utahns, I believe we share a great deal of pride in our pioneer heritage and our people. Dr. Farnsworth represents that Utah pioneer spirit. He is known to most of us as the inventor and father of television. However, his contributions extend much further. He developed the technology for sophisticated applications such as sonar and radar and even newborn infant incubators. He brought us closer to our universe through astronomers' telescopes, and delivered the live pictures of the first man on the Moon. His achievements and innovations have impacted each of our lives and influenced the way we experience our world. We wish to honor this truly remarkable inventor and bestow his statue as a permanent example of that enterprising Utah spirit.

I am proud he has been chosen to represent the people of Utah and encourage my colleagues in the House to support our efforts to present a statue on behalf of the people of Utah to the citizens of our Nation.

PANAMA'S TROUBLES UNABATED

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. COUGHLIN. Mr. Speaker, I know I join many of my colleagues in the House in expressing great disappointment over the fact that the window of opportunity that was created by the coup attempt in Panama was just a little too small, and open not quite long enough, to enable the United States to assist Panamanians in ousting Gen. Manuel Noriega.

According to Defense Secretary Richard Cheney and Chairman of the Joint Chiefs of Staff Colin Powell, we received information on Sunday night that a coup against Noriega might occur on Monday. These reports were treated cautiously, however; the reported leader of the coup, Maj. Moises Giroldi, was suspect because he commanded Noriega's security battalion and because he was instrumental in putting down an anti-Noriega coup only last year. As the hours passed on Monday without anything happening, doubts grew. Then U.S. officials received a report that the coup was postponed to Tuesday.

Indeed, on Tuesday it appeared that a coup was in fact taking place. United States forces attached to the Southern Command [Southcom] heard shots being fired in and around Panama's military headquarters, lasting about 2 hours.

Though tips provided to United States officials about the coup were vague, it soon became evident that units of the Panama Defense Forces [PDF] which were allegedly to defect to the rebels' side were in fact not defecting.

In the end, the coup was so short-lived that the United States had little opportunity to take action. The coup leaders never established a perimeter around PDF headquarters that would have enabled the United States to extract Noriega, or to assist at acceptable risk to American lives. In fact, the information available indicates that the coup leaders never offered to deliver Noriega to the United States. Instead, they sought his retirement from his post, but wanted him to remain in Panama.

This is the most regrettable aspect of this episode. Noriega is an indicted drug offender and a corrupt dictator who has frustrated hope for democracy in Panama. I would like nothing more than to see him ousted from power and delivered to the United States to stand trial on his drug charges.

I hope that, if nothing else, this latest affair will persuade our Latin American allies, who in too many cases have been reticent to pressure Noriega, that only strong sanctions and other measures against Noriega will restore democracy to Panama.

THE NEED FOR A MARKET ECONOMY HEALTH CARE SYSTEM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DUNCAN. Mr. Speaker, many people are beginning to realize that the main cause of skyrocketing medical costs is too much government involvement in the health field.

Some experts have even said that the United States presently has one of the most regulated health care systems in the world.

Far too much of the medical dollar today is going for administrative, bureaucratic costs—some estimates are as high as 45 to 50 percent—and not for actual care of patients.

I would like to submit for the RECORD two recent thought-provoking articles, which I commend to my colleagues' attention.

If we are ever going to reduce medical costs in this country, we need to consider new and innovative approaches.

We certainly do not need more government control or a totally nationalized system that will only and inevitably lead to long waits for many types of medical care, ever-increasing costs to the taxpayer, and even a black market health system.

LET CONSUMERS PULL THE HEALTH-CARE PURSE STRINGS

(By Clark S. Judge)

Some issues get rolling and there's no stopping them. A case in point is national health insurance, growing in popularity in policy circles even as the nation's elderly cry for relief from the catastrophic burden of federal catastrophic care insurance.

Now, in New York, the Cuomo team has barged into the act. David Axelrod, the governor's chief health official, has proposed a program requiring businesses to buy health insurance for their employees or contribute to a state fund for the uninsured. The state would pay all medical bills—hospitals, doctors, everything—and in turn bill the patient's private insurer or the state fund.

The idea is to extend coverage to the 2.5 million uninsured New Yorkers while giving state government the monopoly buying power to force costs down. The problem is that the proposal takes to the logical extreme all the trends that have made for trouble in our health-care system: more central funding, more central control.

Until recently, conservatives didn't figure in the health-care financed debate, except as no-men. But over the summer a flagship think tank of the right, the Heritage Foundation, startled the nation's capital by putting forward its own plan for reform of our national health system.

Heritage noted that the tax code has virtually shut market forces out of U.S. health care. More than anything else, its study observed, this is why the system is in trouble. Here's how it works:

Most of us consider company-paid health-insurance premiums as extra income, yet they don't count as income for taxes. In essence, we receive tax credits if our employ-

ers foot the bill. But if we pay for a policy or for a health service directly, there's no tax break. We pay in after-tax dollars. Not surprisingly, employers provide comprehensive health insurance for nearly two-thirds of the nation.

As a result, the health-care system has turned into a one-industry example of national industrial policy. It is run by a consortium of business, labor and government with the consumer out of the picture.

In a market economy, the consumer balances what he pays with what he gets. But this run-from-above health-care economy is more like a command economy. And as in command economies, the cost of service is virtually invisible to the consumer. Freed from consumer supervision, the incentives for producers all point to more production at greater expense. The bumbling giants of business, labor and government cannot substitute for the supple marketplace. As with command economies around the world, the balance between cost and service has been lost.

Stuart Butler and Edmund Haislmaier, the editors of the Heritage study, believe that the U.S. health-care system must either come under more centralized control or adopt real market controls. At the moment, Washington is toying with a rigid system of fees for specialties and procedures. Dr. Axelrod's proposal would let New York state impose its own system. Mr. Butler notes that this "relative value system," as it is called in Washington, is just the labor theory of value—anchor of the economics in collapse most places east of the Iron Curtain but apparently resurgent on this side of the Atlantic.

The Heritage answer? Reverse the tax incentives. Give us tax credits when we purchase health insurance and health service ourselves; count as taxable income any purchase through our companies. As employers shifted dollars out of premium payments and into paychecks, our real after-tax incomes wouldn't change. But we, not our companies, would soon be in control of our health purchases. Messrs. Butler and Haislmaier would require us to buy catastrophic coverage. (If we are poor, they would extend government-provided coverage to us.) How we pay for other services—directly or through insurance—would be our choice.

As Rand Corp. found in studies certain to figure prominently in the debate, when people pay a fee for health services (emergency rooms were Rand's focus), use becomes wiser and more sparing. Health improves even as visits to the hospital drop off. Messrs. Butler and Haislmaier believe that this is just what will happen when ordinary people take a long, hard look at insurance premiums and other health costs and ask, "Am I getting my money's worth?" A true market in health services will spring to life, putting a brake on health-care inflation and creating an environment in which it will be easier for government and business to insure those not now insured .

The Heritage team is not alone in its general conclusions. Harvard Business School Prof. Regina Herzlinger, for example, has developed a similar plan, calling for tax deductions rather than credits. She would have the money raised through taxing the newly counted income go to pay for health coverage for the poor.

Whatever the details, outside of Washington and New York, who can doubt any more that market economics is superior to command economics? And who wouldn't agree that our health-care system doesn't need another dose of the portion that has already put it under the weather? It needs real medicine for a real cure.

THE COST OF CHAOS

Watching Congress wrestle with Medicare's catastrophic insurance program—created only a year ago—is a depressing reminder of why our health-care system is out of control. Americans want more health care without paying for it. There's a dreamlike quality to our thinking and expectations. The result is a chaotic health system which, although it still gives good care to most Americans, will continue to breed rising public confusion, frustration and discontent.

Chaotic? You can't describe our system, let alone control it. It's not socialized medicine. It's not private medicine. We want the security of welfare without the invasiveness of government control. Our health-care system is a jumble of groups (doctors, hospitals, government agencies, health-maintenance organizations, private insurers) working under a bewildering array of regulations and pursuing different objectives. No one is in charge. Power is fragmented. But there's a method to this madness. It's intended to mask basic contradictions in public attitude about health care.

We know what we want from our health-care system. Everyone generally agrees that it should:

1. Provide good care regardless of ability to pay. Except for the wealthy, no one can afford the costs of a serious illness.

2. Allow free choice. We want to pick our doctors, while doctors want to practice as they see fit. Both doctors and patients want the best available technology.

3. Keep costs down. We don't want to be impoverished by skyrocketing health costs.

The trouble is that no health system can meet all these worthy goals. If people can get all the good care they want, they will want more and more. Patients and doctors will encounter no limits. Someone else (insurers, the government) will always pay. But controlling costs by defining who gets coverage or which treatments qualify inevitably limits patients' access and doctors' autonomy. We are simply unwilling to face up to the contradictions.

Catastrophic health insurance is a good case in point. In 1988 Congress expanded Medicare's coverage of hospital stays, nursing-home care and nonhospital drug costs. To pay for the plan—originally estimated to cost $31 billion through 1993—Congress imposed new taxes on the elderly. All 33 million Medicare recipients pay an extra flat fee, rising to $122 a year in 1993. In addition, up to half the wealthiest Medicare beneficiaries pay a new surtax. By 1993, it would reach a maximum of $2,100 for a couple (at an estimated $65,000 to $75,000 of income) and $1,050 for an individual (at about $40,000 to $45,000 of income).

Well, all hell broke loose. Legions of elderly are now clamoring that Congress end the surtax—that is, tax someone else—or scrap the program. Regardless of what happens, the remarkable thing about the controversy is its visibility. Choices are being discussed. Is the coverage worth the cost? To whom? Congressmen and senators are shell-shocked. They're uncomfortable because the debate is embarrassingly open and is so uncharacteristic of the obscurity normally enveloping health-care issues.

Denying contradictions: Obscurity and complexity are defense mechanisms. No one wants to make basic choices or be seen making them. We resolve contradictions by denying them. Every group pursues its own goals. Doctors and hospitals try to maximize their independence and profits. Patients (usually as members of a group) try to maximize their insurance, public or private, at someone else's expense. Drug companies and equipment manufacturers promote new technologies. Government wants all good things, but the federal government wants the states to pay and vice versa. The resulting system baffles experts—costs are routinely underestimated—and increasingly fails to meet any of our basic goals.

Since 1980, employer-paid insurance costs have risen nearly three times faster than wages. Total health spending now exceeds 11 percent of the gross national product, up from 9 percent in 1980. Adequate access to good care is inadequate. An estimated 31 million Americans lack any health insurance. Patients' and doctors' freedom is increasingly checked by government and private cost-containment programs. Paperwork is a big burden. Doctors are besieged by "armies of claims clerks, administrators, auditors, form processors, peer reviewers, functionaries and technocrats of every description," one doctor wrote recently in The New England Journal of Medicine.

In theory, it's possible to improve the system. There's waste: excessive overhead costs; unneeded tests and operations. We could adopt a Canadian-like system of government insurance with stringent cost controls on doctors and hospitals. Or we could make patients and doctors more cost-conscious by limiting insurance to cover only serious illness and not normal medical expenses (say, 5 percent of income). One way to do that would be to restrict the tax deductibility of employer-paid insurance.

But such sweeping approaches collide with public preferences. People want more, not less, insurance. Even if tough cost controls ended all waste, there remains a more basic source of rising health spending: expensive new medical technologies. Lower spending in Canada and other countries (usually 6 to 9 percent of GNP) partly reflects limits on technology. The journal Health Affairs reports that six new technologies are generally two to seven times more available in the United States than in Canada or West Germany. Whether we have too much or they have too little is unclear. But rationing Americans' access to new technologies through long waits would provoke loud protests.

Just about every group involved with the health-care system is increasingly dissatisfied, though for different reasons. Gaps in coverage are glaring. Rising insurance costs (even if employer-paid) depress workers' spendable earnings through either lower wage increases or higher taxes. So, there will be more efforts to control costs and improve access. They will be complex and, given political realities, inconsistent because they will have to accommodate contradictory public pressures. No grand solution is in sight. How could there be? Our unrealistic expectations have created an insolvable problem.

TRIBUTE TO SANTA BARBARA BEAUTIFUL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LAGOMARSINO. Mr. Speaker, today I ask my colleagues to join me in recognizing the members of Santa Barbara Beautiful as they celebrate their 25th anniversary of service to the community of greater Santa Barbara this Sunday, October 8.

Santa Barbara Beautiful was founded on September 15, 1965 for the purpose of working closely with and serving as a complement to the current and future mayors and city councils to stimulate community interest and action toward the enhancement of Santa Barbara's beauty.

Santa Barbara Beautiful annually awards certificates of merit to properties, nominated by the community, for their enhancement of Santa Barbara's environment. In addition, they have established a monthly award program intended to recognize the efforts of individual homeowners who have done their own landscaping and maintenance, thus enhancing their neighborhood and community.

On August 11, 1966, Santa Barbara Beautiful proposed and later established a street tree program for city parkways and has, to date, planted over 5,000 trees. In fact, the city of Santa Barbara has been designated a Tree City U.S.A. by the National Arbor Day Foundation in each of the past 9 years.

One of the organization's more interesting contributions to the city was its instrumental role in naming the Hibiscus as the official city flower.

Santa Barbara Beautiful also works with the schools and community to sponsor beautification projects such as litter cleanup programs and the cleaning, weeding, and replanting of unsightly areas.

IN SUPPORT OF THE X-30 NATIONAL AEROSPACE PLANE PROGRAM

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BLAZ. Mr. Speaker, with so many defense programs competing for limited funding, it is often difficult to pick one program over another to recommend for consideration. For that reason, I have resorted to using certain yardsticks by which to judge a program. One of those yardsticks is what the program's potential is for the future—in this case, of the Nation's aviation.

In my view, Mr. Speaker, the United States X-30 National Aerospace Plane Program is one that can insure the Nation's continuing preeminence in global aerospace. Unfortunately, this program is not receiving the support that it deserves if it is to continue. Fortunately, on the other hand, the House of Representatives does and manifests its support by raising the 1990 NASP budget from $127 to $285 million.

The October 2, 1989 issue of Aviation Week and Space Technology carried an article entitled "Preserve the X-30 NASP", which I recommend to my colleagues. I urge review of this fine piece and support of the program which has so much promise and potential for the future of aviation.

For the benefit of my colleagues, I am inserting the Aviation Week's article in the RECORD.

[From Aviation Week and Space Technology, Oct. 2, 1989]

PRESERVE THE X-30 NASP

The U.S.'s X-30 National Aero-Space Plane program faces a critical funding decision before a House/Senate conference committee this week, and it appears that future prospects for this manned, hypersonic, single-state-to-orbit vehicle are gloomy at best.

The Senate Appropriations defense subcommittee wants to kill it. The Subcommittee recently zeroed the 1990 Defense Department/NASA X-30 budget, and told the U.S. industry to go to Europe or Japan, hat-in-hand, for funds.

Secretary of the Air Force Donald Rice also opposes it. He and his former colleagues at Rand Corp have been steadfast, implacable opponents of the program.

NASA Administrator Richard Truly does not want it, at least not badly enough to fight for X-30 funding. The NASP would be a drain on resources he desperately wants to support NASA's Freedom space station program.

Apparently President Bush, Vice President Quayle and the Space Council do not want the NASP either. Despite their previously announced "strong support," none has voiced a concern that the program could be starved of funds and effectively canceled this week.

Who supports the X-30? We do, for one, and we strongly endorse continued funding for it. The industry team that has committed treasure and labor to the project continues to push for NASP, as does the House of Representatives, which raised the Defense Department's 1990 NASP budget to $285 million from the $127 million proposed by the Space Council. The support is commenmdable.

The U.S. taxpayers also should support it, since the NASP decision can affect the U.S.'s future preeminence in global aerospace. NASP airframe and propulsion needs are driving development of high-strength, high temperature, low-weight aerospace materials in the U.S. NASP's requirement to model hypersonic airflows and combustion processes is pacing computational fluid dynamics codes and development of advanced supercomputers.

Despite Rice's protestations, these technologies are within reach and their development can be accelerated with sufficient funding. The NASP is the right program for this and now is the right time to do it.

When the conference committee meets this week it must set the Defense Department's 1990 NASP contribution at $285 million and NASA's at $98 million—as a minimum. If Congress doesn't, the NASP program will die.

If this happens, engineers now working on NASP will have to explain to their children and grandchildren how a handful of shortsighted men and women squandered their nation's aviation legacy because they lacked the vision, wisdom and fortitude to continue the United State's drive to explore the unknown.

DO SOMETHING ABOUT TERRORISM

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BARTON of Texas. Mr. Speaker, the most recent act of terrorism we have witnessed is the bombing of a French DC-10 airliner which killed a constituent of mine, Mr. Pat Wayne Huff of Franklin, TX. The bomb exploded just 23 minutes into the flight to Paris, France, blasting the plane apart over Africa and killing 171 people, Mr. Huff is survived by his wife, Ermine, two children, Mandy and Jerrod, and his parents, Mr. and Mrs. Jim Huff, also of Franklin, TX. I extend my sincere sympathy to his family and friends.

Mr. Huff worked for Parker Drilling Co. of Tulsa, OK, and had been in Chad for several months. He was returning to be with his family. The senseless act of terrorism has now affected innocent people in the Sixth Congressional District of Texas. If the U.S. does not demonstrate to these killers that we will not tolerate such vicious acts, then terrorists will continue to perceive and exploit the weaknesses in our position. Terrorism will only be deterred when the United States exhibits the will to do so.

I have introduced legislation, H.R. 1515, the Anti-Terrorism Act of 1989, which would widen the range of possible sanctions against nations that support terrorism. I was surprised and disturbed to discover that some of these governments, such as Iran, Libya, and Syria, which are currently under certain product-specific administrative trade sanctions, still enjoy most favored nation status with the United States. We cannot allow our citizens abroad like Pat Huff, to be in constant danger from terrorism.

I realize that this legislation will not end all terrorism and its threat, but it will utilize the American market power as a bargaining tool to thwart terrorist attacks against innocent Americans. Special trading preferences should be reserved for our friends and allies, not terrorist nations.

The United States must not blatantly continue to support terrorist countries. There must be a penalty for being an American enemy. Striking these countries below the economic belt is at least one step America can and should take as an antiterrorist policy, not to mention incorporate in American international trading policy.

INTRODUCTION OF THE AIDS HOUSING OPPORTUNITIES ACT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Ms. PELOSI. Mr. Speaker, today I am proud to join with my distinguished colleagues, Representatives MCDERMOTT and SCHUMER, in introducing the AIDS Housing Opportunities Act. This bill would authorize $290 million in 1990

and 1991 for programs to prevent homelessness and provide short-term and permanent housing and services for people with AIDS.

There are more than 50,000 persons living with an AIDS diagnosis in the United States and an estimated over 1½ million people infected with the AIDS virus. People with AIDS fight a daily battle for survival. They are faced with uncertainty about the provision of basic medical services, about the effectiveness of possible treatments and about how they will pay for their basic needs. The burden of day-to-day life for people with AIDS is great enough without the added fear of homelessness. The AIDS Housing Opportunities Act will reduce that uncertainty by ensuring that safe housing for people with AIDS is available.

A 43-city survey in 1988 estimated that there are roughly 20,000 homeless people with AIDS. The daily problems of homelessness are magnified for these people. It is impossible to fight a deadly disease and at the same time, fight the streets. These people cannot wait for housing to become available. Each day on the streets or living with the fear of imminent homelessness takes a direct and immediate toll on the health of a person with AIDS.

The AIDS Housing Opportunities Act is a comprehensive bill designed to address the special housing needs of people with AIDS and related illnesses at several levels. It would authorize programs to prevent homelessness; it would provide short-term housing with supportive services for homeless people with AIDS; and, it would provide permanent housing. These programs would assist in enhancing the quality of life of persons with AIDS and related diseases and at the same time, provide residential alternatives that reduce the cost of institutional care, thus lessening the cost burden of this tragic disease.

The legislation would expand access to independent living opportunities and provide new residential alternatives for individuals incapable of fully independent living, but not in need of hospital care. In the city of San Francisco, we have several successful models for housing programs for people with AIDS, including the Peter Claver House, run by Catholic Charities, and Shanti housing, run by the Shanti project. These projects do an excellent job with limited resources, but they cannot keep up with the growing need.

It costs roughly $850 a day for inpatient care for one AIDS patient in San Francisco. Peter Claver House costs approximately $40 per day per person. Shanti costs approximately $30 per day. Providing housing resources will clearly reduce the immediate costs of living for people with AIDS. It will also reduce long-term costs as these individuals will say healthier and will be able to continue to participate as active members of their communities.

The final report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic included amongst its more than 600 recommendations the need for the Department of Housing and Urban Development [HUD] to become more involved in meeting the housing needs of people with AIDS. The AIDS Housing Opportunities Act would take specific steps toward meeting that goal. I urge my colleagues to cosponsor this important bill.

COLUMBUS DAY: A NATIONAL CELEBRATION

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Ms. SLAUGHTER of New York. Mr. Speaker, the day that bears the name of Christopher Columbus has become a national celebration of our imminent roots. Hundreds of thousands of Italian immigrants voyaged to our great shores for the opportunity to achieve their full potential. Columbus Day is a time to pay tribute to that courageous spirit.

I am proud to say that I recently cosponsored House Joint Resolution 374, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States, and House Joint Resolution 392, the Italian-American Heritage and Culture Month resolution. Supported by a strong value system and a commitment to hard work, Italian immigrants in particular have used their special talents to make their vision of a better life a reality. America continues to benefit from their many political, economic, and cultural contributions.

Italian-American organizations throughout the United States have provided a better understanding of the past. The Italian-American Businessmen's Association, Italian-American War Veterans, and Italian Civic League are just a few of the organizations in my district that have been sharing their heritage and history with others for years.

So, Mr. Speaker, as we prepare to celebrate the 500th anniversary of Columbus' voyage to America in 1992, we, as a nation, must also renew the effort to develop a keener appreciation for the cultural treasures all our immigrants have bestowed upon us. Columbus Day offers a tremendous opportunity to demonstrate our profound gratitude not only for the eternal gifts of Italian-Americans, but those of all our immigrants as well.

A JOB FOR EUROPEAN NEIGHBORS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BEREUTER. Mr. Speaker, Hungary and Poland currently are endeavoring to escape from the economic chaos brought on by over 40 years of Socialist mismanagement. To accomplish this lofty objective, however, assistance from the West is necessary. However, aid must not be delivered in a fashion that undermines the very enterprises that we are trying to sustain. For example, food aid to Poland is necessary to prevent starvation, but Western generosity should not undermine prices and force Polish farmers out of business.

Careful planning is required at every level if the Western aid is to achieve its desired objective. With American agreement and encouragement the European Commission [EC] has taken the lead in organizing the Western effort. The EC technical experts have only recently returned from an exhaustive review of Polish development requirements. The result is to be a $660 million assistance package that will focus on agricultural production and distribution, business management education, and environmental clean-up.

To its credit, the Bush administration has hailed the EC's willingness to step forward. The United States has made it clear that it will participate—$200 million requested by the administration—but aid to Poland and Hungary should be seen primarily as a European-led initiative.

The European Commission's willingness to come to the aid of its Eastern neighbors should be hailed as an entirely appropriate position. The EC's efforts are designed to heal old wounds, to encourage democratization and liberalizations, and to reunite a Europe that has been divided for decades.

Mr. Speaker, this Member would commend to his colleagues a September 29, 1989, editorial in the Omaha World-Herald entitled "A Job for European Neighbors." As the editorial notes. "The possibility exists that the collapse of the Marxist order will leave behind the seeds of a new order in Europe—one that is held together not by the blood-and-iron policies of the past but by friendship and economic cooperation." The leadership of the EC is helping to make this restructured European order a reality.

A JOB FOR EUROPEAN NEIGHBORS

It is fitting that the European Economic Community's executive commission has proposed a greater role for Western Europe in providing aid for Poland and Hungary. The proposal calls on 24 Western industrial democracies to provide $660 million to the two eastern bloc nations that are looking for a post-communist solution to their economic difficulties.

The 24-nation package would lift some of the burden of expectations that has fallen on the United States since President Bush's visit to Eastern Europe in July. The Bush administration has asked Congress for more than $200 million in emergency food aid and other assistance to the two nations.

The European-sponsored $660 million aid package would include assistance with agricultural productivity, pollution abatement and management training that the sponsors hope will help Poland and Hungary break free of the unproductive central controls of Communist-style economic life.

The world's democracies, particularly those of Europe, should be at the head of the line in welcoming into their fold those countries that are trying to restore democratic traditions after decades of Marxist repression. Both Poland and Hungary have reached a delicate point in their political and social transformations. The Soviet Union has neither economic nor moral resources to lure them back. A helping hand from the West could be instrumental.

If Poland and Hungary led the way with an economic recovery based on the principles of democracy and free enterprise, the Soviet Union and other Eastern European countries would have more incentive to follow.

A united, peaceful Europe has been an elusive dream. Now the dream is becoming less elusive. The possibility exists that the collapse of the Marxist order will leave behind the seeds of a new order in Europe—one that is held together not by the blood-

and-iron policies of the past but by friendship and economic cooperation.

KUDOS FOR WILMER-HUTCHINS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BRYANT. Mr. Speaker, today the House voted in favor of the Early Childhood Development and Education Act which I have cosponsored. That act, which is part of the budget reconciliation package, is comprehensive child care legislation that includes Federal investments in preschool education.

Consequently, I call attention to a program currently operating in my district under the direction of Mr. Charles Matthews, superintendent of the Wilmer-Hutchins Independent School District. Mr. Matthews was recently honored as the region 10 Administrator of the Year by the Texas Association of School Boards and Texas Association of School Administrators.

I hope the following editorial from the Dallas Times Herald will encourage others to find innovative and successful ways to teach our children during their most formative years.

[From the Dallas (TX) Times Herald, Oct. 2, 1989]

KUDOS FOR WILMER-HUTCHINS

In the Wilmer-Hutchins school district, new programs are being used to make school a place where children make discoveries and find success. One program in particular, a preschool program for 3-year-olds, already is a model for similar programs across the state, even though the program has been in place only two years at Wilmer-Hutchins.

Open to any 3-year-old in the district, the program provides children with structure, not pressure. It's a five-day, seven-hour curriculum that exposes children to reading and writing without pushing them.

For students in the district's regular curriculum, there are Saturday classes for any student who falls behind in any three-week reporting period. There also are special tutoring programs available during the regular school day.

All the programs and all the efforts of the staff are aimed at sending kids home every day feeling successful. The notion is that kids who arrive at the end of the school day feeling they have mastered something that day will keep coming back the next day, hungry for more of school, more of knowledge, more of life. For that, the district makes an extra and heartfelt effort.

Wilmer-Hutchins is not a rich district. The 3-year-old and Saturday programs are possible, in part, because district supervisory personnel run them on a volunteer basis and because teachers are willing to staff them at nominal wage. These exciting new ventures at Wilmer-Hutchins have come about under the administration of Superintendent Charles Matthews.

Mr. Matthews was honored this weekend in San Antonio where the Texas Association of School Boards and Texas Association of School Administrators named him at their joint annual convention as the Region 10 Administrator of the Year. The award is a fitting tribute to a fine program and a fine administrator, but it falls beyond Mr. Matthews' shoulders alone. It's a fitting tribute to an entire school district and the finest goal to which any of us can aspire—making the world bigger and better for children.

TRIBUTE TO TONY COELHO

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. JACOBS. Mr. Speaker, the following story from the Washington Post of October 2, belongs in the CONGRESSIONAL RECORD.

Tony Coelho is an extraordinarily gifted human being whose gifts have only been enhanced by adversity.

He quite clearly subscribed to and lives day by day by the verity that "to whom much is given much is expected."

[From the Washington Post, Oct. 2, 1989]

PERSONALITIES

By Chuck Conconi

Speculation is that Tony Coelho, the former House majority whip who's being honored tomorrow at a black-tie dinner, is about to announce he will become a managing director with Wertheim Schroder & Co., a New York investment banking firm. Unlike some other former members of Congress, Coelho wants to avoid any future employment that would have him using Capitol Hill connections. From the numerous business and university positions Coelho has been offered, it seems likely that he will also establish lecturing positions at UCLA and Georgetown University.

Tomorrow's dinner at the Capitol Hill Hyatt Regency, emceed by CBS anchor Dan Rather, honors Coelho's work on behalf of those with epilepsy and is developing into a testimonial for the highly respected Coelho. It is sponsored by the leadership of the Senate and the House and is expected to bring out such colleagues as House Speaker Tom Foley and Senate Majority Leader George Mitchell. Among the scheduled speakers one might not expect to see at a dinner honoring a California liberal Democrat are House Minority Whip Newt Gingrich and Senate Minority Leader Robert Dole. Coelho, whose epilepsy destroyed a youthful ambition to become a Catholic priest, has over the years raised $3 million through his Coelho Fund for the Epilepsy Foundation and the UCLA School of Medicine. Tomorrow's dinner will serve as the first public recognition of support since the resignation of the 47-year-old former congressman, who many said would one day become speaker before he resigned in May.

ENCOURAGING SAVING TO MEET LONG-TERM HEALTH CARE NEEDS

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BROWN of Colorado. Mr. Speaker, today, many older Americans cite long-term care as the most important health care need facing seniors.

Medicare, the Federal health insurance program for the elderly and disabled does not address long-term care needs. It focuses primarily on acute health care. Medicare coverage of nursing home care, for example, is limited to short stays in certain kinds of nursing homes. Neither it nor the ill-conceived Medicare catastrophic program addresses the needs of chronically ill individuals who require not only medical attention, but also daily help in the home, or in a community or institutional setting, with activities such as eating, bathing, and dressing.

Only one public program, Medicaid, the Federal-State health program for the poor, covers long-term stays in nursing homes. It does so, however, only for those persons who meet strict income and asset rules.

About half of long-term care costs are paid for privately. Nearly all, 97 percent, of private spending is paid directly by consumers out-of-pocket. Paying for long-term care services, especially nursing home care, which averages about $25,000 annually, can represent a catastrophic expenditure that impoverishes many elderly persons and their families.

Long-term care is expected to become more pressing in years to come as the number of elderly in our population grows. There is no single solution to meet the growing need for long-term care. One simple and immediate action the Government can take is to encourage personal saving to finance health care costs.

Today, I have introduced legislation to allow individuals 59½ years of age or older to exclude from annual gross income up to $2,000 withdrawn from an individual retirement account to pay for premiums for long-term health care insurance.

Such a tax incentive will encourage saving to meet health care needs, make accessible affordable, comprehensive long-term care, and preserve personal freedom of choice regarding participation and coverage.

A summary of my bill follows:

SUMMARY OF BILL

IRA EXCLUSION FOR LONG-TERM HEALTH CARE INSURANCE

Allows individuals 59½ or older to exclude from annual gross income up to $2,000 ($1,000 in the case of a separate return filed by a married individual) withdrawn from an Individual Retirement Account to pay premiums for long-term health care insurance.

The distribution must be used during the year to pay premiums for any qualified long-term health care insurance policy for the benefit of the payee, distributee, or the spouse of the payee or distributee if the spouse is age 59½ or older on or before the date of the distribution.

COST-OF-LIVING ADJUSTMENT

The dollar amount eligible to be withdrawn from the IRA shall be adjusted annually to take into account changes in the medical component of the Consumer Price Index.

DEFINITIONS

"Long-term health care insurance" means an insurance contract through which long-term care benefits are provided and the renewal of the contract is guaranteed.

"Long-term health care" means providing necessary diagnostic, preventive, therepeutic, and rehabilitative services, or maintenance, or personal care services, required by a chronically ill individual in a facility by a qualified provider.

"Qualified facility" means a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution licensed under state law. It also means an individual's home if a licensed physician certifies that without home care the individual would have to be cared for in an institution. A home shall be treated as a "qualified facility" to the extent the cost of services is not greater than the cost of similar services in other qualified facilities.

"Chronically ill individual" means an individual certified by a licensed physician as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"Qualified provider" means a medical practitioner licensed under state law, registered nurse, qualified therapist, trained home health aide employed by a licensed home health agency, or trained home health aide licensed under state law, but does not include a relative or other person who ordinarily resides in the home.

Effective Date. Applies to taxable years beginning after Dec. 31, 1989.

TRIBUTE TO WILLIAM SHRYOCK

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BARTON of Texas. Mr. Speaker, I rise before my colleagues today in memory of a friend of mine, Mr. William (Bill) Alexander Shryock. Bill was from Granbury, TX, and passed away on June 29, 1989. An outstanding American, Bill Shryock served his community and his country in both the public and the private sector and always donated his time to many civic activities.

Born and raised in St. Paul, MN. Bill graduated from the University of Minnesota and received his master's degree in business administration from Georgetown University. After a distinguished career in the U.S. Navy, he was an aerospace consultant and was program director on the F1-11B until 1976. In 1980, Bill was the first Republican elected to the Hood County Commissioner's Court. From 1984, until his death, he served on my Hood County Advisory Committee.

It was a privilege to know Bill Shryock, a man who was a great inspiration to others. The contributions to his country and his community will be missed by those he left behind.

TRIBUTE TO WILLIAM P. CLARK, JR.

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LAGOMARSINO. Mr. Speaker, it gives me special pleasure to rise today to pay tribute to an outstanding citizen of our country, Mr. William P. Clark, Jr. He is being honored by the Villanova Board of Trustees for all that he has done for the Villanova Preparatory School on Saturday, October 14, at a groundbreaking ceremony and celebration for the new William P. Clark, Jr., Gymnasium.

Mr. Clark entered public service in 1967 as cabinet secretary to Gov. Ronald Reagan, and as a member of the Governor's Task Force on Governmental Reorganization. The following year he was appointed executive secretary and chief of staff by Governor Reagan.

In 1969, Mr. Clark was apppointed judge of the California Superior Court, San Luis Obispo County. Two years later he was appointed an associate justice, California Court of Appeals in Los Angeles. In 1973, Mr. Clark was named by Governor Reagan as an associate justice of the California Supreme Court in San Francisco, an office he held until called to Washington, DC, early in 1981.

During President Reagan's term in office, Mr. Clark served as Deputy Secretary of the Department of State, advisor to the President for national security, and Secretary of the Interior.

Following completion of 18 years of full-time public service, Mr. Clark was asked by President Ronald Reagan to serve as Chairman of the Task Group on Nuclear Weapons Program Management, as Presidential emissary to the chairmen of the Navajo and Hopi Indian Tribes, as a member of the Commission on Defense Management—Packard Commission, as a member of the Defense Department's Commission on Integrated Long-Term Strategy, and as trustee of the Ronald Reagan Presidential Foundation and Library.

Mr. Clark became counsel to the law firm of Rogers & Wells in March 1985 and is currently chief executive officer of the Clark Co., a family held California corporation.

Mr. Speaker, I ask my colleagues to join me in acclamation of William Clark, a distinguished community leader and an exemplary citizen.

MILITARY INSTALLATIONS—DRUG FREE ZONES

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DYSON. Mr. Speaker, today I am introducing important legislation that will assist our Nation on the war that is ravaging our Nation and killing our children. Mr. Speaker, I am speaking of the war against drugs.

Today I am introducing legislation which will make our Nation's military installations "Drug Free Zones." This legislation will impose mandatory penalties for the distribution, manufacture, or possession of illegal drugs with the intent to distribute, on or within 1,000 feet of a military installation in the United States. This legislation also calls for tougher penalties and fines for those with prior drug sale convictions.

Mr. Speaker, we have already made our schools and playgrounds drug free zones. Now is the time for this great Nation to reclaim its Federal military installations and issue a message to those who would work to destroy them and the communities surrounding those facilities. That message is this: "If Drug Dealers are Caught on a Federal Military Facility, They Will be Severely Punished."

There are several reasons why I am introducing this legislation. First, we cannot permit the compromise of our Nation's defense to those who will knowingly weaken it by providing illegal drugs to our soldiers, sailors and airmen. Second, many of our facilities are the largest employer in the towns or counties in which they are located. Often the surrounding communities look to the base for leadership and support of local projects.

By passing this legislation, we will tell those communities to get tough on drug sellers, because Uncle Sam is tough on drug sellers. Furthermore, this bill will send a strong anti-drug message to other Government agencies and to private industry.

Finally, our constituents are looking for ways to remove drugs from our society and they look to their elected officials for help. In fact, it was the men and women of the Andrews Air Base NCO Preparatory School who came to me and said that enough was enough: make it tough to get drugs on military bases. Like these outstanding men and women who took the initiative to get personally involved in this war, we must also take the extra steps that are required to win the drug war.

I urge my colleagues to examine this bill and support its passage. This legislation will help to ensure that America's military bases, like its schools, will remain a place that drug dealers want to stay away from.

H.R. 3417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Free Military Installations Act of 1989".

SEC. 2. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

(a) ENHANCED PENALTIES.—(1) The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANUFACTURE OR DISTRIBUTION IN OR NEAR MILITARY INSTALLATIONS

"SEC. 418. (a)(1) Except as provided in subsection (b), any person who violates section 401(a)(1) or section 416 by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within 1000 feet of, a military installation located in the United States is punishable—

"(A) by a term of imprisonment or fine, or both, up to twice that authorized by section 401(b); and

"(B) by a term of supervised release of at least twice that authorized by section 401(b) for a first offense.

"(2) Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection may be not less than one year.

"(3) The mandatory minimum sentencing provisions of paragraph (2) shall not apply to offenses involving 5 grams or less of marijuana.

"(b) If, after the prior conviction of a person under subsection (a) becomes final, such person violates section 401(a)(1) or section 416 by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, a military installation located in the United States, such person is punishable—

"(1) by the greater of—

"(A) a term of imprisonment of not less than three years and not more than life imprisonment; or

"(B) a term of imprisonment of up to three times that authorized by section 401(b) for a first offense;

"(2) by a fine up to three times that authorized by such section for a first offense; or

"(3) by both a term of imprisonment determined under paragraph (1) and a fine determined under paragraph (2).

"(c)(1) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted.

"(2) Each sentence imposed under such subsection shall include a term of supervised release of at least three times that authorized by section 401(b) for a first offense.

"(3) An individual convicted under such subsection shall not be eligible for parole under chapter 311 of title 18, United States Code, until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section, the term 'military installation' means a base, camp, post, station, yard, center, or other activity which is located in the United States and is under the jurisdiction of the Secretary of a military department.".

(2) The table of sections at the beginning of such Act is amended by adding at the end the following new item:

"Sec. 418. Manufacture or distribution in or near military installations.".

(b) TECHNICAL AMENDMENTS.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended—

(1) in the material preceding paragraph (1), by striking out "section 405 or 405A" and inserting in lieu thereof "4045, 405A, 418"; and

(2) in clause (iv) of paragraph (1)(A), by striking out "section 405, 405A, or 405B" and inserting in lieu thereof "404, 405A, 405B, or 418".

(c) EFFECTIVE DATE.—Section 418 of such Act, as added by subsection (a), shall apply with respect to a violation of section 401(a)(1) or section 416 of such Act—

(1) described in section 418; and

(2) occurring after the date of the enactment of this Act.

SEC. 3. ENHANCED PENALTIES FOR A COURT-MARTIAL INVOLVING MANUFACTURE OR DISTRIBUTION OF A CONTROLLED SUBSTANCE IN OR NEAR A MILITARY INSTALLATION.

(a) ENHANCED PENALTIES REQUIRED.—If a violation of section 912a of title 10, United States Code (article 112a of the Uniform Code of Military Justice), consists of the distribution, possession with intent to distribute, or manufacture of a controlled substance in or on, or within 1000 feet of, a military installation, a court-martial shall direct a punishment that corresponds to the penalties required by section 418 of the Controlled Substances Act.

(b) REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the President shall prescribe regulations to carry out subsection (a).

A STEP TOWARD RESOLVING THE NATIONAL CHILD CARE CRISIS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. MARKEY. Mr. Speaker, this Nation is facing a child care crisis that touches every American family with young children. Twenty-three percent of the Nation's families have children age 6 or younger. Right now, the average family uses more than three different types of child care every week, indicating the instability of today's typical child care program. Beginning in 1990, two-thirds of women with preschool children will be working. Approximately 25 percent of today's working mothers are the sole economic support for their children. The composition of the Nation's work force has changed—last year, 51.6 million women made up 45 percent of the total labor force.

The typical family of mom staying home with the kids while dad goes off to work each day has changed. Many of today's families are predominantly single-parent households in which the sole parent works or double-parent households in which both parents work. It is a tragedy that the children of this country are made to suffer due to a lack of national quality child care programs.

I rise in support of the child care proposal in the House reconciliation bill. This proposal builds on expanding efforts already underway at both the Federal and State level to assist poor and low-income families in paying for child care: 25 percent of the funds are reserved to assist existing Head Start programs—expanding the program to full-day, year-round services for children. Twenty-five percent of the funds are reserved for school based early childhood programs, as well as for before- and after-school child care. Thirty-five percent of the funds are reserved to strengthen current State programs for infants and young children by allowing parents the choice of neighborhood, community-based, or other child care centers.

There is also a tremendous need to improve the quality of the child care available. Providing quality child care is a major concern for many parents. The United States is one of few industrialized nations that lack child care standards that regulate child care programs throughout the country. Without any Federal standards, many parents, especially low-income parents are forced to leave their children in substandard, even dangerous situations each day. It is important that we, as legislators recognize and address this need for quality child care choices for children. This child care proposal addresses this need of improving the quality of child care available. Under title IV, 15 percent of the funds are designated to improve the system of enforcing standards that regulate the centers. Part of this initiative includes strengthening the ability of parents to monitor child care centers, encouraging more participation and feedback from parents. Title IV also helps States to implement referral systems, to improve child care workers' salaries and to fund training for providers. This provision also helps increase the pool of available child care options by helping states to start new community and neighborhood centers.

Studies indicate that quality child care programs ultimately pay for themselves. The need for business interaction is crucial, because it benefits both the employer and employee. Decent, safe day care ensure that our Nation's children grow to be stable, productive, and competitive individuals and early preschool day care makes an even greater positive impact on the child. The child care proposal in H.R. 3299 helps to expand the business community's important role in providing child care. Employees are more competitive and focused when their children are being cared for in safe, comfortable, child care facilities. Businesses benefit by attracting and keeping employees who will not spend work hours worrying about the quality and availability of day care. Nationwide, employers report that providing child care services employees results in lower absenteeism and turnover and higher productivity and morale. This provision creates a matching grant program to assist businesses in starting or improving child care facilities.

The child care proposal in the House of reconciliation bill best addresses the child care needs of the families of this country. It helps poor working parents by assisting them in the initial cost, and it helps low-income working parents through a tax credit. It also addresses the concerns of all parents in search of decent child care. This child care proposal is a necessity for the working parents of this country. It is a solid approach to a basic, growing need that is growing larger each day. Mothers with preschool-age children continue to enter the work force in great numbers. It provides the assurance that parents will finally have the quality, affordable child care they desperately need.

Inadequate child care is a precursor to illiteracy, teen student drop-out and drugs in our schools. Just last week, President Bush and the Nation's Governors set goals for our education system that recognized a fundamental truth: If a child does not arrive at school ready to learn, no amount of teaching is likely to overcome this deficiency. By ensuring that parents of all income levels have quality choices for their children from infancy to the teen years, we are ultimately beginning to address a host of later problems. The child care provisions in this bill build on existing child care programs, assuring parents a range of choices in child care, and offering direct assistance to help parents pay for care. I strongly support this comprehensive national child care proposal.

A TRIBUTE TO THE CENTINELA VALLEY UNION HIGH SCHOOL DISTRICT'S BOARD OF TRUSTEES AND THE SUPERINTENDENT, DR. McKINLEY M. NASH, FOR SUCCESSFULLY IMPLEMENTING THE JOBS FOR AMERICA'S GRADUATES PROGRAM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DYMALLY. Mr. Speaker, I rise to pay tribute to the Centinela Valley Union High School District's Board of Trustees and the superintendent, Dr. McKinley M. Nash. These individuals are to be commended for implementing the Jobs for America's Graduates Program in the Centinela Valley Schools which is located in an urban multiethnic, multicultural setting in the State of California.

Jobs for America's Graduates is a national program which, for the past 9 years, has conducted highly successful research, demonstration, and national replication of the program. After serving more than 70,000 young people in more than 280 high schools in 14 States, there is conclusive evidence that the program accomplished its goals. This program has reduced youth employment by 40 percent among those youth most at risk who are still in school, and doubled the chances that a minority youth will get and keep a job, once he or she graduates. Moreover, the Jobs for America's Graduates Program increased earnings for at-risk youth by more than 20 percent—$1,000 in the first year after graduation—and by more than 50 percent—$2,250 for minority youth. These gains have been documented in several evaluation studies of the program. All the above, Mr. Speaker, has been accomplished at a cost well below half of the national average for comparable youth job training programs, while including a full 9-month followup with young people on the job.

Mr. Speaker, the Jobs for America's Graduates noted that the program's success has been based on the following key elements: A strategy of prevention, basing program activities in the public schools and focusing on at-risk youths; operating as a nonprofit corporation which is strictly accountable to the success of its goals; namely, to motivate, train, and place young people in employment, and to ensure that they get a raise or promotion after placement; a statewide mobilization effort, utilizing not only government and educational institutions, but also the business and private sectors to accept responsibility for the sustained success of the program through participation of the board of directors; a properly trained and motivated staff which becomes the lynchpin in building students' self-confidence, employability, and an ability to graduate and succeed on a job.

Mr. Speaker, because of these achievements and the personal dedication of the board members as well as Superintendent Nash, I am confident that you will join me in commending Dr. Nash and the Centinela Valley Union High School District's Board of Trustees for their successful implementation of the nationally known Jobs for America's Graduates Program, and offering currently as the Jobs for Centinela Graduates Program.

THE INTRODUCTION OF HOUSE RESOLUTION 257, PROTESTING THE EUROPEAN ACTION ON TV BROADCASTING

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. GIBBONS. Mr. Speaker, yesterday, I introduced House Resolution 257, to protest the adoption of a highly restrictive and discriminatory TV broadcasting directive by the European Community [EC]. On Monday of this week, the Council of Ministers of the EC approved this directive as part of its program to unify Europe by the end of 1992.

The problem is, the particulars of this TV broadcasting directive violate the letter and the spirit of our trade rules under the General Agreement on Tariffs and Trade [GATT], and erect a trade barrier against U.S. exports of films and other entertainment products. The EC directive contains a local content requirement that reserves a majority of the programming time for European works, and thus acts as an absolute barrier to U.S. programs.

This type of protectionism is a direct violation of the GATT. It is exactly the type of protectionism which many people feared would result from the EC–1992 movement, and I am greatly dismayed to see that the EC Council of Ministers is feeding those fears. I would like to see the unification of Europe, but only in a manner which removes trade barriers, not erects them.

The resolution I introduced, and which I invite all of my colleagues to join me in sponsoring, denounces the adoption of this discriminatory TV broadcasting directive, and strongly urges the President and the U.S. Trade Representative to take all appropriate and feasible action under their authority to protect and maintain U.S. access to the EC broadcasting market.

The text of the resolution is reprinted below. I believe it is imperative that we not let this action by the EC go unnoticed, and that we send a strong signal to the Europeans that we will not tolerate a Europe with barriers. I urge my colleagues to join me in sending this message.

A copy of the resolution follows:

H. RES. 257

Whereas the European Community (EC) Council of Ministers adopted on October 2, 1989, a broadcasting directive (entitled "Council Directive on the Coordination of Certain Provisions Laid Down by Law, Regulation or Administrative Action in Member States Concerning the Pursuit of Television Broadcasting Activities") that obliges member states of the EC to take steps to ensure that each broadcaster reserves a majority of programming time for European works; Such broadcasting directive contains a local content requirement, in the form of both a quota and a minimum floor, that infringes upon the ability of United States broadcasting, film, and related industries to market their goods in the EC;

Whereas such local content requirement violates the General Agreement on Tariffs and Trade (GATT), specifically Article I relating to most-favored-nation treatment and Article III relating to national treatment;

Whereas the adoption of this restrictive and discriminatory broadcasting directive is inconsistent with claims by EC officials that the program to achieve the economic integration of Europe by the end of 1992 is not a program of protectionism and will not deny market access to non-European entities;

Whereas section 301 of the Trade Act of 1974 requires the United States Trade Representative to take action when the Trade Representative determines that rights of the United States under any trade agreement are being denied, or an act, policy, or practice of a foreign country violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or is unjustifiable and burdens or restricts United States commerce; and

Whereas such section 301 also authorizes the United States Trade Representative to take action in response to an act, policy, or practice of a foreign country that is unreasonable or discriminatory and burdens or restricts United States commerce: Now, therefore, be it

Resolved, That the House of Representatives—

(1) denounces the action taken October 2, 1989, by the EC Council of Ministers in adopting a broadcasting directive that is trade restrictive and in violation of the GATT;

(2) deplores the damage which will be inflicted on United States broadcasting, film, and related industries as a result of the implementation of the GATT-Wegal restrictions under the broadcasting directive;

(3) regrets the adverse consequences which the EC action will have on—

(A) the bilateral trade relationship between the United States and the EC, particularly with respect; to EC steps to achieve economic integration, and

(B) efforts to strengthen the multilateral trading system and achieve open and fair trade through the GATT Uruguay round of negotiations;

(4) strongly urges the President and the United States Trade Representative to take all appropriate and feasible action under its authority, including possible action under section 301 of the Trade Act of 1974, to protect and maintain United States access to the EC broadcasting market;

(5) requests the United States Trade Representative to consult regularly with the Committee on Ways and Means of the House of Representatives on the status of this dispute and any action which it is considering with respect to the dispute; and

(6) directs the clerk of the House to transmit a copy of this resolution to appropriate officials in the EC.

TRIBUTE TO DR. DAVID A. MEDINA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to David A. Medina, M.D.,

F.A.A.P., who has recently been selected as the recipient of the 1989 Community Service Award by the Santa Barbara Hispanic Achievement Council in recognition of his professional accomplishments and community contributions.

Having served in the U.S. Armed Forces from 1961 to 1963, Dr. Medina received his bachelor of science degree in chemistry at St. Mary's University in San Antonio, TX, interned at Cottage Hospital in Santa Barbara, and entered private practice as a pediatrician in Santa Barbara in 1966.

He has distinguished himself as member of the Santa Barbara County Medical Society, Southwestern Pediatric Society, Santa Barbara County Pediatric Society, chairman, department of pediatrics, Cottage Hospital, and chairman, department of pediatrics, St. Francis Hospital.

He is one of the founders of the medical clinic at Casa de la Raza, board member of Santa Barbara Scholarship Foundation, member of Santa Barbara Rotary Club, member of Catholic Charities, past board member of Los Ninos Nursery School, founding board member of Terry Toon Foundation, and eucharistic minister at Old Mission Santa Barbara.

Dr. Medina has discharged his professional duties with a great respect for the dignity of his fellow human beings and with a deep and continuous concern for the health of his community.

I ask my colleagues to join me in recognizing Dr. David A. Medina for his exemplary record of professional and civic achievements.

SPEECH BY CRAIG MILLER

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BEILENSON. Mr. Speaker, I had the privilege 2 weeks ago of participating in the opening ceremonies of the Fifth Annual AIDS Walk Los Angeles, which was an extremely moving and impressive occasion.

The most thoughtful words were delivered by Mr. Craig Miller, the coproducer of AIDS Walk Los Angeles, and I wanted to share them with my colleagues in the House of Representatives.

The speech follows:

SPEECH BY CRAIG MILLER

For so many of us here today, this fifth anniversary of AIDS Walk Los Angeles is marked with a mixture of pride, sadness, and anger.

Pride in how we have helped build AIDS Project Los Angeles into such an able and compassionate source of support for people with AIDS.

Sadness in remembrance of all those we've lost over the last five years.

Anger in how alone our government has left us throughout so much of this struggle.

When we first gathered on this famous motion picture lot five years ago, our intention was to play a supporting role. Our intention was to support APLA and, at the same time, awaken our President to the urgency of this national health emergency.

But the actor/President wouldn't act. Instead of taking center stage—exerting leadership—and helping our country avoid the burgeoning epidemic, he gave in to his own personal biases and prejudices and shrank from any constructive role in this crisis. And he left the leading role to be played by people like all of us here today.

Well, we may not have intended to play the leading role, we may not have wanted to play the leading role, but when faced with the alternative of just sitting by and watching this disease spread unchecked, we acted as best we could. And we acted very well.

Our actions have made a profound difference. We have helped usher in a new, brighter era of greater hope and longer, better lives for people with AIDS. Time and time again our actions have prevented our state and our country from taking that dangerous road toward AIDS prejudice, unfounded fear, and the absurdity of quarantine. We have also used the power of our collective voice to make it uncomfortable and unacceptable for any responsible national leader to be as indifferent to the AIDS crisis as the actor/President was.

Now we have a new president. And he shows signs of being far more compassionate than his predecessor. So it's time once again to try to get our government to assume its rightful role—to play the leading role—that it should have been playing all along. We must seize this opportunity to help our new President focus on the things that really matter. We must help our new President understand that in this, the time of AIDS, human life has to be the top priority.

The American flag is a great symbol. And, yes, it deserves respect. But our flag derives its greatness not from the fabric of which it is made, but from the lives it represents. So when a flag becomes frail and falls, it can be created again. But as a million and a half of our people, infected with the AIDS virus, gradually become frail and fall, a part of the real fabric of our country is lost forever and can not ever be replaced.

We assemble here today to help our new President and all of our elected leaders muster as much enthusiasm and vigor for protecting our nation's health as they have for protecting our nation's symbols.

Because the spirit of America is desecrated every time prejudice and ignorance are allowed to hinder efforts to stop the spread of AIDS.

And American lives are desecrated every time the Food and Drug Administration takes years to look at promising new AIDS drugs when it should have taken months.

We must insist that President Bush make conquering a national priority. Nothing could be kinder. Nothing could be gentler. And nothing could be more patriotic.

For those of you who have been walking on this road with us for so many years now, I say keep walking, keep talking, keep challenging, and keep supporting AIDS Project Los Angeles. Your efforts really do make a difference. And here's hoping that a tenth annual AIDS Walk Los Angeles will not be necessary.

WITHOUT HONEST MONEY CITIZENS HAVE NO INCENTIVE TO SAVE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DANNEMEYER. Mr. Speaker, most economists agree that the root problem of our economy is the insufficiency of savings. Personal savings, as a percentage of disposable personal income in the United States, has declined from a high of 9½ percent in 1972 (the last year the dollar had an honest definition) to a low of 3¼ percent in 1987 (the year of the stock market crash). With a better savings rate the problems of the budget and the trade deficit, the lack of competitiveness due to deteriorating productivity, and the high cost of capital due to a high interest rate structure, could be solved and the economy could be restored to health.

Wayne Angell, an incumbent governor of the Federal Reserve System, has recently provided a diagnosis revealing the causes of the pernicious anemia of personal savings. He says that without an honest money citizens do not have a meaningful incentive to save. He goes on to suggest the remedy. A simple announcement that the Government is committed to fiscal and monetary reforms based on an honestly defined monetary unit would do miracles. It would generate instant enthusiasm, a feeling of well-being, and a high level of personal savings. It would unleash new individual incentives, and unfetter the productive talents of the people. With an honest monetary standard at its disposal, the Government would be less likely to make unnecessary and costly mistakes.

It is indeed very satisfying to know that the common sense to see the virtues of honest money—and the expertise to reform the dollar accordingly—does exist right in the nerve-center of our monetary system: the Federal Reserve Board. Governor Angell is on record as saying that the rate of interest on the public debt could be as low as 2 percent, if the Government could only bring itselves to make money honest once more.

I wish to insert an interview by Izvestia, the Soviet Government daily newspaper, with Governor Angell, as it was excerpted on the editorial page of the Wall Street Journal, October 5, 1989.

[From the Wall Street Journal, Oct. 5, 1989]

PUT THE SOVIET ECONOMY ON GOLDEN RAILS

The Soviet newspaper Izvestia is to publish, in interview form, an exchange between a state Gosbank representative and Wayne Angell, a Federal Reserve governor visiting last month. Excerpts:

What in you opinion is necessary to cure the ills of the Soviet economy, to put it "on new rails"?

You cannot address the apparent ills of the Soviet economy without first introducing a monetary standard of value. I believe the first thing your government should do is define your monetary unit of account, the ruble, in terms of a fixed weight of gold, and make it convertible at that weight to Soviet citizens, as well as to the rest of the world.

A gold-convertible ruble is a most unusual proposal. We have heard convertibility proposed as an eventual goal but not as a first step. Why do you think it should be done first?

Your perestroika reforms face many difficult adjustment problems as you move toward market-oriented socialism. These become impossible problems without a monetary standard of value that is recognized as having predictable value throughout the Soviet Union—and the rest of the world—now and in the future. Having such a standard for your money would ease the difficulties of all your adjustment problems.

Do you mean perestroika cannot succeed without a gold-convertible ruble?

Some believe it might succeed with a mark-, yen- or dollar-convertible ruble, but they realize it would take many years for the Gosbank to obtain central-bank powers and credibility to enable the ruble to trade as a hard currency. Yes, it is my belief that without an honest money, Soviet citizens cannot be expected to respond to the reforms—as they do not have a meaningful incentive. A gold-backed ruble would be seen as an honest money at home and would immediatley trade as a convertible currency internationally. Indeed, I have offered a prediction to several officials of the Soviet government that on the present slow course, the reforms run a very high risk of being set back by a general collapse of confidence in the ruble—an inflationary disintegration.

Why is that?

As long as the Soviet economy was completely controlled at the center, the absence of a real money merely caused a gradual decline in efficiency of your economy relative to the Western market economies. Now that you have decided to move toward growth and competitiveness with the West, opening up market opportunities through cooperatives and other market-oriented initiatives, your system has been divided in half. One still relies on wage and price controls and a state budget allocations system in rubles; the other unleashes individual incentives and is dominated by an attempt to obtain hard currencies, especially the dollar.

How does this affect the confidence of the ruble?

The two systems compete and the market system every day wins new followers because it is more efficient. So each day the ruble system loses a fragment of its utility. The Soviet government, meanwhile, further subsidizes the ruble system by increasing the budget deficit. The budget deficit is funded by issuing more ruble bank notes and accounts. Thus, even as demand for the ruble declines, the supply increases. Where you had been deteriorating at an arithmetic pace, you are on the verge of deteriorating a geometric pace.

If this is so, inflation will accelerate?

Exactly. I have advised officials of your Gosbank of my analysis—that unless something is done quickly, the Soviet economy will face increasing difficulties.

Why do you say a gold standard for the U.S.S.R. is called for? No other country is now on such a convertible standard.

The Western economies have at least a history of gold converitibilty which enabled their currency to start with a base value as they abandoned the Bretton Woods system in 1971. So, the Soviet people can gain if their government issues an understandable monetary unit of value based on gold. Besides, your State Bank does not have the power or authority to limit the growth of bank notes or ruble accounts so as to stabilize the ruble's value. Even if it were to get that authority from the government, it is not likely to have the independence to use it.

Why do you, a central banker in a country that has demonetized gold, select gold in advising the U.S.S.R.?

For one thing, I believe gold and other commodity-price signals have become much more important to U.S. policy making in recent years, as we have experienced inflation pains under a floating exchange-rate system. Gold, after all, remains the most monetary of all commodities, and therefore is the best single conveyor of information as to the appropriate scarcity of money. Secondly, a single commodity with the universal monetary role of gold is much more simple than attempting to explain a properly weighted commodity price index base. Thirdly, the U.S.S.R. has vast gold monetary reserves it is not now using effectively. Your government is one of the largest holders of gold bullion in the world, which would give it great power to establish the credibility of such a policy.

Wouldn't you fear these reserves would be stripped from the government as Soviet citizens sought to convert surplus rubles into gold?

That depends entirely on two questions that the government could easily answer. The first is the ruble/gold exchange rate that the government would announce it would accommodate and defend with its resources. It cannot be too low or reserves will spill out. It cannot be too high or it will force additional inflation on the society, robbing Soviet savers of rubles of the reward of their past labors. The second is the willingness of the U.S.S.R. to commit itself to the discipline of confining government deficits to the level limited by the gold payments of principal and interest required of the gold bonds. You cannot go on a gold standard, then continue to fund unlimited budget deficits with State Bank money creation.

Could you guarantee that by introducing ruble convertibility Soviet gold reserves would not flow out of the country?

All gold reserves will not flow out of the country or flow into hoards held by Soviet citizens provided that the State Bank not accommodate the government budget deficit. This means that the current domestic deficit must be financed with bonds, which of course become readily marketable in Moscow, Leningrad, New York and London if the bonds carry the promise to pay principal and interest in gold. Indeed, I would expect the Soviet Union could step to the front of the line in seeking credit at the lowest possible interest rate. I would bet such bonds would be snapped up around 3%, which would be the lowest governmental interest rate on earth, including Japan's. As markets gain experience with Soviet gold-backed bonds, interest on the bonds could be expected to decline, perhaps approaching 2%, the going rate for U.S. gold-mining-company gold bonds.

What interest rate would Soviet bonds need if the Gosbank had an independent monetary power similar to the Fed?

The exercise of such independent monetary power would require years to gain credibility. In the meantime, Soviet bonds would require an inflation-offsetting premium and an uncertainty premium of perhaps 4% to 6% over that of gold bonds. For instance, if Soviet inflation is currently at 10%, then the expected interest rate would be initially around 18%. If the inflation rate is higher, then it would take proportionally higher interest rates to stabilize the rate of inflation.

Other experts in the West advise that the Soviet Union cannot move to ruble convertibility without more consumer goods in our stores, to "mop up" the surplus ruble overhang. Does this not concern you?

My point is that in a modern industrial economy, consumer goods will not be produced unless there is a predictable monetary value reward. Once the government of the U.S.S.R. announces that it will maintain the ruble's gold value with its considerable resources, demand for the ruble will climb. Soviet citizens and others around the world will want to acquire rubles—not get rid of them. The only way to acquire rubles is to work to get them or, as foreigners, exchange foreign work income for them in the form of foreign exchange. Undoubtedly over time there would be a reserve currency demand for the gold ruble, particularly among countries with close economic and political ties to the U.S.S.R.

How soon do you think it would be before we would see palpable benefits from your plan?

My guess is that the simple announcement would generate instant enthusiasm, a feeling of well-being, among the citizens of the U.S.S.R. Street speculation would disappear overnight and the so-called ruble overhang would be willingly held in deposits by Soviet citizens.

This sounds very optimistic. Would this be all you think is required to assure the success of perestroika?

Not at all. There are important, critical questions of implementing market-oriented reforms leading to the role of prices in allocating resources, and of tax policies that will have to be set right as well. But I advise that your government establish a monetary standard, so that you will be less likely to make unnecessary and costly errors on these other important decisions.

A NEED FOR REASONABLE GUN CONTROL

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. HUBBARD. Mr. Speaker, I have spoken previously to my colleagues here in the House of Representatives about the tragic events of recent weeks which have occurred in Kentucky.

In Louisville, KY, last month, 8 innocent people lost their lives and 12 others were seriously wounded due to their being assaulted by a crazed individual using an AK–47 assault rifle. In McKee, KY, last month, 12 classmates were held hostage for hours by a heavily armed 15-year-old boy. Due to these events and for other reasons, I have become a cosponsor of H.R. 1190, the Semiautomatic Assault Weapons Act of 1989, legislation which would prevent the importation of and the domestic manufacture of semiautomatic assault weapons with large ammunition feeding devices.

I have received numerous letters and telephone calls about my decision. Some people agree with my decision; some do not. At this time, I would like to share with my colleagues

an excellent September 19 letter from my friend and constituent Edgar F. Arnold, Jr., of Madisonville, KY. Mr. Arnold raises several interesting points while explaining why he, too, has changed his views about gun control. For example, he advises that his father raised him "to use guns safely and to respect the National Rifle Association." However, my constituent strongly believes that the unrestricted flow of all kinds of fatal weapons, including armor-piercing bullets, Uzis, and AK-47's, must be halted.

I urge my colleagues to read the letter to me from Edgar F. Arnold., Jr. The letter follows:

September 19, 1989.

Hon. CARROLL HUBBARD,
Rayburn Office Building, Washington, DC.

DEAR CONGRESSMAN: I cannot tell you how pleased I am at the news that you have "seen the light"—as have many of your constituents who formerly supported the NRA—about a need for some reasonble gun controls.

My late father was probably a charter member of the National Rifle Association and wrote articles for the American Rifleman when I was a kid. He raised us to use guns safely and to respect the NRA, which used to sponsor lots of good things like local contests for young people, safety forums and even collection of guns to send to the British Home Guard in the dark days when England "stood alone" against the Nazis. I gave them a pretty little .410-gauge double barrel shotgun—and I'm still proud of it. But it's been some time since I was proud of the NRA.

I quit the NRA a couple of years ago when they became a "lunatic fringe" that supports armor-piercing bullets that will penetrate policemen's "flak" suits and bullet-proof vests, opposes any restrictions on plastic handguns that can be smuggled aboard airliners by hijackers, Uzis and AK-47's for everyone and God knows how many other crazy things that honest hunters and homeowners do not need.

Our society is too densely populated and too complicated to allow the unrestricted flow of all kinds of fatal weapons. Just think—repeating shotguns have been restricted to three shots (without reloading) for lots of years, and nobody protests that.

Rifles ought to be restricted to five or six shots and no guns should be available for sale without a reasonable waiting period. Thank you so much.

Sincerely,

EDGAR F. ARNOLD, Jr.

PAIN POLICE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DORNAN of California. Mr. Speaker, there is something wrong with a society that does not tolerate peaceful dissent. I am referring to the phenomenon of "pain police", law enforcement officers who have been putting "choke holds" and "pain grips" on passive, nonviolent protesters involved in Operation Rescue missions. This is the sort of inhumane treatment we witnessed 20 years ago during the civil rights movement; I was as outraged then as I am now. I dare say that years from now when we look back upon the American tragedy of abortion we will deeply regret the brutal treatment of these peaceful protestors.

Mr. Speaker, I call your attention to an unpublished article by Mrs. Judie Brown of the American Life League which details this opprobrious activity. I urge my colleagues to take notice:

POLICEMEN, PRO-LIFERS AND BABIES

(By Judie Brown)

The Armstrong amendment to the 1990 Federal Housing Budget has been causing quite a stir! This amendment simply requires cities and towns to adopt and enforce a policy which would prevent local police from using "unnecessary force" in dealing with "non-violent civil rights protestors."

It seems that those who are usually staunch advocates of civil rights are a bit dismayed by the thought of pro-life protestors actually being treated with respect by local police forces. Even though all civil rights demonstrators would be protected by this new Congressional amendment, the thought of pro-lifers being protected caused one pro-abortion Denver attorney, Terre Lee Rushton, to explain: "I'm generally in favor of protecting people who are validly trying to protect their civil rights. But this scares me." [1]

Though the many instances of police brutality toward pro-life protestors have not generated national attention, the fact remains that such unjust treatment does occur. While peaceful protests have always been a part of the fabric of this American society, the instances of such excessive police abuse during arrests of pro-life protestors have no historical equal, at least not in the United States.

Imagine arrested women in Pittsburgh being strip-searched by male guards. Contemplate a priest and a bishop in Hartford being dragged across the pavement with their faces pressed to the ground; or men in Los Angeles having their arms and wrists broken.[2]

I am not describing the arrests of armed criminals here. I am describing the arrests of peaceful, non-violent protestors who knew they would be arrested and simply went limp rather than leave the entrances of abortion chambers where babies were to be executed by abortion.

Because of these abuses of a protestor's civil right to defend the innocent from harm, Congress has determined that police brutality is really not necessary. Why does this scare anti-life attorneys too?

". . . the common-law privilege of necessity would justify one in entering somebody's house to prevent the latter from knifing a person to death, it would not justify intrustion to prevent him from destroying his own property." [3] But the Supreme Court stated in 1973 that the preborn child is not a person, but rather, the "property" of the pregnant mother. So when pro-life protestors decry the killing by public demonstrations and sit-ins, they become anathema to those who are dedicated to abortion on demand.

The pro-life protestor becomes the living witness to the living person in the womb who will soon be denied life if business goes forward as usual. The pro-life protestor is to be shunned; his or her civil rights are to be ignored or denied; the idea that the innocent baby also has civil rights is to be denied; the rights of Americans to protest the killing are to be challenged at every opportunity!

The Armstrong amendment, then, gives credence to the civil rights of people who "scare" some because they are trying to save the lives of others.

The non-violent pro-life protester has learned the following:

"What modern science tells us about the complexity of the single-celled human zygote—already 'programmed' to transform itself into the trillions of cells which make up the adult human body—easily persuades us that it is in no sense 'rudimentary' or 'simple' life; it is complex and marvelous, as a single cell, as the human organism is at any subseqent stage of its natural development. The zygote, or the blastocyst, or the embryo, or the fetus—names of the same human organism at different stages of continuous natural development—is every bit as much as the child or the adult, as the Psalmist says: 'fearfully and wonderfully made.' (Psalms 138:13)" [4] Indeed, Jeremiah 1:5 specifies: "Before I formed you in the womb, I knew you."

Or, in simpler terms, an innocent human being's life begins at the moment of fertilization and, thus, is deserving of protection under the law from that moment on.

So, while it is legal to arrest those who non-violently protest, who are asked to leave, and who choose to stay, it should not be legal to abuse these people. As they are carried away to jail, their prayers ascend the heaven—prayers for the policemen who are only doing their civil duty, prayers for the doctors who are only doing their civil duty, prayers for the doctors who are killing babies, prayers for the mothers who are destroying their children.

And, I believe I am accurate in stating that as long as one innocent baby's life is threatened by the abortionist's greed or the pharmacist's prescription, there will be loving pro-life people who will place their bodies between life and death. A broken arm will not stop them, a scarred face will not deter them for in their suffering they have a peace in Christ that those who deploy the armaments for aborting children do not now know.

Be gentle, Mr. Policeman. They love you! And, God loves you too.

[1] "The Abortion Report," American Political Network Inc., Vol. 1, No. 46, September 21, 1989.

[2] ALL News, various editions, 1989.

[3] Rice, Charles, "Beyond Abortion," Franciscan Herald Press, 1978, p. 113.

[4] Whitehead, K.D., "Respectable Killing," CUF, '72, p. 51.

A TRIBUTE TO BISHOP JOHN T. WALKER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DELLUMS. Mr. Speaker, today this city and this Nation laid to rest a good and decent man, Bishop John T. Walker, the Episcopal Bishop of Washington and Dean of Washington National Cathedral.

Bishop Walker was truly a man for all seasons, because he daily lived out the gospel mandate that, here on Earth, God's work must truly be our own.

During the years that I worked with him on a variety of issues, both domestic and foreign,

I found him to be a person of extraordinary wisdom and understanding, but most of all, one of those rare people whose very essence was that of true compassion and charity toward all God's children.

Bishop Walker was in the forefront of the struggle here in Washington and across America for social and economic justice, especially for the most disadvantaged and least fortunate among us. He carried that concern for true human rights and personal freedom into the international arena, where he was an outspoken advocate against the evil system of apartheid in South Africa. More than most, he understood the dark night of the soul that must give way to the new dawn of hope for all in that oppressed land.

In 1982 Bishop Walker also testified before my ad hoc hearings panel on the full implications of the military budget. In eloquent terms he made the moral case for the restoration of sanity in defusing cold war tensions and an end to the escalating madness of the nuclear arms race. He asked us to go beyond the constricting boundaries of nationalism and ideology to search for new international common denominators of justice and brotherhood and sisterhood.

We, the living, can best honor him in death by renewing and intensifying our collective commitment to the cause of peace and social justice for all—goals for which he struggled so nobly and so humanely during the course of a life devoted to his God and to the service of his fellow human beings.

INTRODUCTION OF AIDS HOUSING OPPORTUNITIES ACT

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. JAMES A. McDERMOTT. Mr. Speaker, one of the tragic difficulties confronting people living with AIDS and related illnesses is the lack of decent, affordable, and appropriate housing. In addition to the devastating effects of the illness itself, people with AIDS must also often cope with sudden impoverishment, discrimination, and the lack of resources to help meet their needs. Consequently, many individuals with AIDS are confronted with few choices—life on the street, inadequate care in emergency shelters, or isolation in a hospital.

The AIDS Housing Opportunities Act, which I developed jointly with my colleagues Repesentatives PELOSI and SCHUMER, is intended to address only one of the many complicated issues regarding AIDS today—but it is one of the most fundamental problems facing persons with AIDS. As a physician, I know it is impossible for patients to fight an illness on the streets.

Persons living with AIDS face extraordinary circumstances. They cannot wait for the bureaucracy to slowly work its way around to them, or for housing assistance that may become available months or years down the road, or for backed-up courts to act on unlawful discrimination. For persons living with AIDS, a waiting list is no prescription for relief.

The choice between homelessness and institutionalization is both dehumanizing and unnecessarily expensive. In Seattle, 1 day in a hospital bed costs the taxpayers $650, while living independently in a rental apartment costs less than $40 a day plus services. This legislation will expand access to independent living opportunities and provide new residential alternatives for those incapable of living fully independently, but not in need of hospital care.

PRESIDENTIAL COMMISSION

In 1988, the final report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic contained more than 600 recommendations. Among them was the need for greater involvement by the U.S. Department of Housing and Urban Development in meeting the housing needs of persons living with AIDS and related illnesses.

Persons living with AIDS have urgent and unique housing needs that are not adequately addressed by current HUD programs. While some existing programs could be useful, they are already overburdened with long waiting lists and are not tailored to the special needs of this population group.

As the number of persons with AIDS increases so will the need for decent and appropriate housing. Meanwhile, progress in improving the quality of life for persons living with AIDS offers hope for prolonging lives. Such welcome advances will create even greater pressure on the limited housing resources appropriate for these individuals.

MEETING A SPECTRUM OF HOUSING NEEDS

Persons living with AIDS have a spectrum of housing needs including emergency short-term housing and supportive services for the homeless, emergency aid to prevent homelessness by enabling individuals to remain in their own homes, rental subsidies for individuals capable of independent living, community residential living for those individuals unable to live fully independently, and more intensive care for individuals who become more ill.

The AIDS Housing Opportunities Act will address a number of these housing needs by authorizing $290 million in 1990 and again in 1991. The act has three primary goals: To prevent homelessness among persons with AIDS; to reduce the costs of care for persons living with AIDS; and to enhance the quality of life of persons with AIDS by enabling them to participate more fully in community life.

The legislation seeks to fulfill these goals by providing funds for a variety of programs. Each of these programs would be administered by HUD:

First, grants to provide housing information to people with AIDS and to coordinate efforts in local communities to increase AIDS housing resources.

Second, demonstration projects to prevent homelessness and to provide short-term supported housing and services for persons living with AIDS and related diseases.

Third, permanent and transitional housing for persons living with AIDS and related diseases, through section 8 certificates for existing housing, McKinney Act section 8 assistance for moderate rehabilitation of single room occupancy dwellings, and a new grant program for community residences and services.

HOMELESSNESS

The most urgent need we must address is the growing number of homeless persons with AIDS. The emergence of homelessness among this group is symptomatic, as is homelessness among the general population, of the much larger problem of a shortage of affordable and appropriate housing.

The Presidential Commission's report touched in detail on the needs of homeless persons with AIDS, and the lack of adequate shelter and services for these individuals. Even when homeless persons with AIDS have access to temporary shelter, most of these facilities do not provide the critical support services they need. Persons with AIDS are especially vulnerable to communicable diseases, and they are at great risk on the streets and in shelters, where communicable diseases are prevalent.

Currently, there are more than 50,000 persons living with AIDS in America and an unknown number of the estimated 1.5 million Americans infected with the AIDS virus have HIV-related illnesses. A 43-city survey in 1988 estimated the number of homeless persons living with AIDS at 20,000. Roughly 25 percent of these individuals live in New York City, and that number is expected to triple in the next 5 years. Of the cities surveyed, 94 percent urged that special funds be earmarked through Federal programs to homeless persons with AIDS.

Our first priority, and the most cost-effective approach, must be to prevent homelessness—providing mortgage, rent, or utility payments to avoid eviction or foreclosure. That is one of the lessons learned from the Stewart B. McKinney Act passed in 1987.

For those individuals that fall through the safety net, then we must begin to fund short-term supportive housing that not only meets emergency needs, but leads to opportunities to permanent housing linked with appropriate services.

Finally, we must provide better opportunities for those who are unable to live fully independently, but who do not require hospitalization. Such alternatives not only delay or prevent more costly institutionalization, but enable individuals to maintain a degree of self-reliance and live in dignity.

EMERGING PROBLEMS AMONG FAMILIES AND MINORITIES

With roughly 1½ million Americans infected with the AIDS virus, we can expect the housing crisis for persons with AIDS to deepen. We should begin preparing for this reality now by putting in place the programs that can make such a difference in the lives of these individuals and their families.

We should also begin preparing for the new paths this disease will take. Increasingly the HIV virus is being transmitted through intravenous drug use. As we know too well, drug use affects individuals and families among all walks of life and in all communities. Perhaps the most tragic example is the transmission of the AIDS virus from mother to infant.

While the magnitude and rate of spread of AIDS is not precise, it is expected that the incidence of AIDS will continue to increase among heterosexual individuals and their families. We have seen the desperate effects of

poverty and homelessness on children and families. We need to do all we can to prevent families from facing the triple burdens of poverty, homelessness, and AIDS.

We must also pay special attention to the needs of the minority community, which experiences, a disproportionate share of AIDS cases. In 1987 AIDS was the 10th leading cause of death for blacks, compared to 15th for the general population. Since January 1988, more than half of all AIDS cases reported have been among minority groups. According to reports last year, of all cases of AIDS in women, 51 percent are black and 20 percent are Hispanic.

We already know that a glaring disparity exists in health care generally between whites and minorities. We should make a special effort to see that this illness does not widen that gap.

SUCCESSFUL MODELS

The human devastation wrought by this illness leads many of us to despair and a sense of hopelessness. In reality, community-based models, have emerged in many cities like Seattle, San Francisco, and New York. While the resources are lacking to fully meet all needs in these cities, we are beginning to understand which approaches can work.

In my local community, the public sector has joined with the private and nonprofit sectors—including the Northwest AIDS Foundation, AIDS Housing of Washington, and numerous foundations and religious organizations—to piece together a network of housing opportunities. These housing options range from independent housing to the development of a new 32-bed facility to provide a continuum of care for people living with AIDS. But even these forward-looking efforts are projected to be able to help only 25 percent of those who will need housing assistance in 1991.

Persons with AIDS face enough tough choices without having to worry about a roof over their heads. Our local communities are showing us the way to address this problem and this legislation will provide the resources and flexibility to help fuel these community-based efforts to provide housing opportunities for persons living with AIDS.

I want to thank Representatives SCHUMER and PELOSI for their cosponsorship of this legislation, and I urge my colleagues to support our efforts to provide persons with AIDS the chance to live decently and with dignity.

DANGEROUS ENVIRONMENTAL SITUATION WITHIN THE SOVIET UNION

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, perestroika and glasnost are initiatives which are slowly permitting the world to penetrate the Iron Curtain of the Soviet Union. The country's sick economic and ecological situation, as well as social and regional issues are obvious to the world.

The world had not, however, been aware of the truly dangerous environmental situation within the Soviet Union. It is so disastrous that in some areas the country is already beyond help. The effects of unchecked and inefficient industrialization have devastated portions of the country.

Although the obstacles that face Gorbachev in his efforts to reform the backward Soviet economy have been well documented, few are aware of the serious Soviet environmental situation. When compared to the United States, the Soviet condition is startling. The EPA estimates that the U.S. emits 2.7 billion pounds of toxic chemicals into the air each year. In the Ukraine alone, 22 billion pounds of toxic materials were discharged into the atmosphere by local industries. In fact, in one Ukrainian city, Zaporozhe, industry annually discharges 800 million pounds of toxic garbage into the air annually. That is one-fifth of the U.S. total.

One-fifth of the entire Soviet population face severe health risks. Air-pollution levels in 104 Soviet cities are believed to be 10 times above acceptable levels established by the Soviet Government. If you can believe it, gas masks have been issued to thousands of families living in the Ukrainian city of Khnelnitskii because of unhealthy air.

The Soviet water supply also has not been spared. In the Smolensk district, where a light bulb factory operates on the shores of the Dnieper River, mercury levels rose 140 times above acceptable levels. Local doctors and managers of the factory conspired to cover up this catastrophe. Only when local schoolchildren began suffering from loss of eyesight, trembling hands, and various other symptoms that are indicative of mercury poisoning, did this poisoning come to light.

The Aral Sea, which at one point, was the world's fourth largest inland sea, has lost 60 percent of its water and most of its fish. Salt from the dry beds blow 200 miles and enters the drinking water of Nukus, capital of the Karakalpak Autonomous Republic of 1.2 million in Central Asia.

The cause of the shrinkage was diversion of the Amu-Darya and Syr-Darya Rivers to irrigate Uzbekistan's cotton fields. Concerns were expressed in 1962 regarding the risks, but cotton took priority. From 1960 to 1980 Government and party officials exaggerated crop yields by 15 to 30 percent, were paid for these fictitious amounts and unforgivably pocketed millions of rubles.

The effects of this total neglects of the environment in the Soviet Union is now beginning to take its toll on the population. Estimates as high as 16 percent of all Soviet babies are born with some sort of physical or mental defect. In Moscow, where life expectancy in the past 20 years has dropped by an average of 10 years, people there have 50 percent more birth defects than the national average.

And finally, in the city of Sumgait in Azerbaijan, authorities estimate 65 percent of all newborn children are blue babies. The reason is that there is not an adequate amount of oxygen in the mother's womb. The irreversible damage to future generations that has already been done is clear.

In the Soviet Union there is no equivalent to the Environmental Protection Agency. The most recent effort to establish such an agency was doomed to an already infamous Soviet bureaucratic powerplay. In January 1988, a Fydor Morgun was appointed to head the State Committee for the Protection of Environment, known as the Goskompriroda. Morgun was given such broad powers that it appeared the environment was to be the next priority concern, after disarmament, for the Soviet Government. Morgun genuinely seemed to be a go-getter and not an apparatchik. However, Morgun resigned in June 1989, just 6 months after an unsuccessful attempt to reform the Soviet environmental bureaucracy. Since then eight people declined the post before the position was finally filled.

What is responsible for this very disturbing situation? The Communist system of government is responsible, of course, with its apathy inside of, or on top of, an already top-heavy bureaucracy. Despite accounting for only about 10 percent of the entire Soviet population, the Communist Party, the lone political party in the Soviet Union, controls policy throughout the country. That policy is devoutly aligned with Marxist ideology, which, among other things, states that the land and the water are free goods and accessible to any enterprise.

Since the Government owns the means of production, there is no incentive to protect the environment. Ecology is not considered when calculating the cost of producing goods. There is also no compelling need to monitor the environment. In a market-oriented atmosphere, it is quite profitable for manufacturers to use energy efficient machinery, equipment, and proficient fuels to run that equipment. The incentive is inherent in the system. In such an economy, political pressure is allowed to have a tremendous impact on the extent to which environmental concerns are addressed. This pressure is applied by various special interest groups, which are becoming more powerful and vocal, not only in this country, but in parts of the world.

In the Soviet Union these groups are emerging. The Green movement is becoming more vocal but their influence is still minimal Some have estimated that one-fourth to one-third of the Members of the Congress of People's Deputies could be considered a Green. The number will certainly increase with future free elections.

With the deficit gobbling up about 12 to 14 percent of the entire Soviet GNP and the ruble valued at about 10 cents on the black market—a more realistic estimate than the artificial rate of $1.50 established by the Soviet government—stiff austerity measures seem sure to be implemented. This exemplifies one of the various "catch-22" situations facing Soviet leaders.

In the last 4½ years the economic status of the average Soviet citizen has actually deteriorated. Local dissatisfaction is becoming more widespread and vociferous. Many are beginning to remember the years of Brezhnev more fondly. It is fair to say that Gorbachev is more popular in this country than in his own.

The deadly environmental situation in the Soviet Union has not been addressed, and the likelihood of it being satisfactorily addressed in the future is bleak. The estimated price-tag to clean up the Aral Sea alone is

over $88 billion. Mr. Gorbachev and his supporters obviously have other priorities. Contrary to rhetoric, the Soviet Union continues to spend billions of dollars, both directly and indirectly, on foreign military adventures, rather than on the health of the Soviet people.

Between January and May of this year, the Soviet Union made 29 arms shipments to Nicaragua worth approximately $175 million. This was the most expensive investment to the Sandinistas since they came to power. What a waste of money. What a foolish priority.

The average monthly arms shipments by the Soviet Government of Najibullah have been increased to $300 million. It is another foolish priority.

Perestroika and glasnost are visionary initiatives when put in the context of the past 70 years of Communist rule. Gorbachev's effort to reform his country is a monumental chore that should be encouraged. But when one looks beyond rhetoric, one must question the true intentions and motives of these current Soviet leaders. After almost 5 years, the air is still lethal to breathe and the water is not fit to drink.

These conditions belong to a Third World nation, and should not continue to be ignored by a world class leader, or groups of leaders of a major power. Soviet ecological policy, or lack thereof, is killing people.

TRIBUTE TO BILL MOTT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. FAZIO. Mr. Speaker, I rise to pay tribute to a dedicated and honorable public servant, Mr. William Penn Mott.

Bill, an honorary life fellow of the American Institute of Park Executives, has dedicated many years to his State and Nation through his work with the Park Service. His contributions stretch considerably beyond his more than 20 years as a park executive. I know that my colleagues will agree that Bill's devotion to his work and community warrants our honoring him on the auspicious occasion of his 80th birthday on October 19.

Bill's work with the Park Service began in 1946 when he was the superintendent of parks in Oakland, CA. His distinguished Park Service career continued as general manager of the East Bay Regional Park District, director of California State Department of Parks and Recreation, and director-consultant of Moraga Park and Recreation Authority. He has also been the Director of the National Park Service since 1985.

His impact on the lives of others has stretched beyond the border of the United States. He was a consultant to the Commonwealth of Australia's Department of the Interior. He also worked as a consultant for the U.S. Department International Cooperative Administrations of U.S. Operations mission to Costa Rica for the Institute of Inter-American Affairs.

Even more impressive is Bill's continued devotion to the community through public service. He has been a president or director of the following organizations: Save the Redwood League, Metropolitan YMCA of Alameda County, Goodwill Industries of Oakland, Diablo Valley United Crusade, Booth Memorial Hospital, Save San Francisco Bay Association, Rotary Club of Oakland, California Conservation Council, Oakland Council of Churches, and the California Roadside Council. As well, Bill is a member of numerous associations and the recipient of many prestigious awards.

This long list of credentials is based on a solid educational background which has made Bill an asset to the Park Service and community. He received his bachelor of science in landscape architecture from Michigan State University. He continued his education at the University of California, Berkeley, where he received his master of science in the same field.

Mr. Speaker, I know that my colleagues join with me today in the sincere best wishes to Bill not only on the occasion of his 80th birthday, but in future endeavors as well. Bill Mott's devotion, hard work, and dedication are an inspiring example to us all. I extend my best wishes to Bill Mott and his family.

CAPITAL GAINS FOLLIES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. STARK. Mr. Speaker, I would like to call to the attention of my fellow Members an article in today's Washington Post on the folly of a capital gains cut. There is no correlation between tax benefits and increased savings, increased productivity, increased competitiveness, or new jobs. What we have learned all too well is that tax benefits can increase investments in tax shelters such as jojoba bean farms, oyster farms, windmills, and empty office buildings.

Tax benefits are an inefficient way to change economic policy. The inefficiency of even the most hallowed of tax incentives, the R&D tax credit, has recently been demonstrated by a GAO report. According to the GAO, the R&D tax credit cost $7 billion in tax revenues from 1981 to 1985 but stimulated between $1 billion and $2.5 billion over the same period. That means that for every dollar that was untaxed due to the R&D tax credit, there was an increase in R&D of only 15 to 36 cents over the R&D that would otherwise have been achieved.

There is no reason to think a capital gains cut will be any more efficient in spurring new investment. The one thing we do know about a capital gains cut is that it will give a major tax cut to the richest Americans at a time when our Federal deficit is still over $100 billion. To my way of thinking, that is reason enough to oppose a capital gains reduction.

The article follows:

BUSH'S FOLLY

(Robert J. Samuelson)

Every so often, Congress and the White House pass a law that is farsighted and courageous. The Tax Reform Act of 1986 was such a law. It embraced the sensible motion that the tax system's main purpose is to raise government revenues and not to engage in dubious feats of economic or social engineering. Subverting this accomplishment is an act of folly. It is George Bush's folly.

Of course, Bush disclaims any desire to undo tax reform. But should Congress heed his advice to lower the tax on capital gains—as seems increasingly likely—there can be no other effect. Cutting the capital gains tax once again legitimizes the silly notion that the economy can be "micromanaged" through the tax system. This is merely a respectable camouflage for what's really happening. The tax code is again being used as pork barrel, with favors distributed to powerful interest groups.

So it's back to the future. Already, the tax game is being played as it was before 1986. Rival packages of tax goodies are vying for public support. In the House, a coalition of Republicans and breakaway Democrats has passed a version of Bush's plan. And the Democratic leadership is countering with a proposal to expand Individual Retirement Accounts.

Passage of tax reform was a magic moment in politics. President Reagan wanted a dramatic reduction in tax rates as a part of his legacy. A majority in Congress recognized that the proliferation of tax breaks (credits, deductions and other preferences) had gotten out of control. People say the system as increasingly arbitrary and unfair. Every group wanted its own tax break because it felt every other group had a break. The 1986 law struck a new bargan. Tax breaks were trimmed in return for a sharp cut in overall tax rates.

Capital gains are profits from the sale of financial assets (stocks, bonds) or property. Part of the 1986 compromise involved eliminating the special low rate on these gains. The maximum capital gains rate was then 20 percent compared with a top individual rate of 50 percent. Under the 1986 law, capital gains are taxed at the same rates as ordinary income, with the top rates varying between 28 and 33 percent.

The argument that a lower capital gains rate would stimulate saving or create jobs is mostly propaganda, New high-tech companies are often protrayed as major beneficiaries, but most of the money for these firms comes from tax-exempt investors (such as pension funds) that aren't affected by capital gains taxes. More important, repeated efforts to influence total savings or investment through the tax code have yielded meager results.

Consider the 1980s' experience. At the start of the decade, the combination of changes in Federal Reserve policy and the 1981 tax act created a host of incentives for higher saving:

"Real" (inflation-adjusted) interest rates rose. This made saving more profitable.

Inflation dropped. This made saving less risky.

Overall tax rates declined, allowing individuals and businesses to keep more of their income from saving.

The top tax on capital gains dropped. This allowed investors to keep more of their profits.

Special incentives for saving—tax-exempt IRAs—were dramatically liberalized.

Each of these changes favored higher saving. Together, they should have had a clear impact. So what happened? The private savings rate (business plus individual savings) declined slightly. Between 1982 and 1986, it averaged 17.1 percent of gross national product, down from 18 percent between 1975 and 1981.

In fact, the private savings rate (savings as a share of GNP) hasn't changed much since the late 19th century, as economist Edward Dension of the Brookings Institution has repeatedly pointed out. This stability has prevailed despite huge rises in federal taxes, big gains in life expectancy and major changes in institutions (including the advent of Social Security and private pensions). We can't explain the stability, but it means that savings can't be altered easily by changes in the tax code.

As a practical matter, lowering the capital gains tax would mainly reduce taxes on the sale of existing investments. The wealthiest 10 percent of households own about 90 percent of the individually held stocks and bonds. They would be the major beneficiaries, along with any business owners or farmers who sell property. These are articulate groups that are big political donors. Helping them would be fine if the tax cuts also stimulated higher economic growth. Not only is this unlikely, but a permanent cut would probably reduce tax revenues. Either the budget deficit or someone else's taxes would go up.

Tax reform aimed to stop—or at least slow down—the constant rearranging of tax burdens. Of course, the law wouldn't be instantly dismantled if the capital gains rate is cut. But Bush's crusade undermines the reform in two critical ways.

First, it declares an open season for new tax breaks. To survive, tax reform requires mutual self-restraint by Republicans and Democrats. Every politician wants to win preferential treatment for some group or cause. Resisting that impulse requires a political climate in which everyone agrees to forgo short-term advantage for a larger public benefit. Political leaders, starting with the president, must decry selective tax breaks as an undesirable form of back-door spending. This consensus was always fragile. Bush is rapidly destroying it.

The second problem is arithmetic. By eroding the tax base, new tax breaks create pressures to raise overall tax rates. In turn, higher rates spur more groups to seek new tax breaks. The bigger the bite on taxable income, the greater the reason to have income declared nontaxable or to have it taxed at a lower rate. This is the vicious circle that the 1986 law tries to break.

Perhaps the Senate can detail the capital gains bandwagon. But if not, the winners will ultimately be all the lobbyists, lawyers and accountants who feast on a complex, ever-changing tax code. They must be celebrating. George Bush is their kind of president.

A NEW WORLD'S RECORD OF COCAINE SEIZURES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. GILMAN. Mr. Speaker, I rise to commend Federal and local law enforcement authorities for their narcotics seizure on September 29, 1989, of 20 metric tons of cocaine, along with $10 million in cash, that was stashed in a Los Angeles warehouse.

This enormous 44,000 pounds of cocaine, a new world's record seizure, has an estimated wholesale value of $2 billion and, if sold on the streets would yield an estimated $7 billion.

The seizure also breaks the world's record seizure by Colombian law enforcement officials who had seized 10 metric tons of cocaine at a jungle laboratory in Tranquilanda, Colombia in March 1984, and it far exceeds the U.S. record of 4 metric tons of cocaine seized at Fort Lauderdale, FL in November 1987.

Hopefully, the $10 million cash seizure will be distributed to our front line Federal and local law enforcement agencies to enhance their efforts in combatting the drug traffickers.

This record Los Angeles cocaine seizure is surprisingly only one of the major seizures recently. Yesterday in Harlingen, TX, authorities seized almost 18,000 pounds of cocaine in a rural house 5 miles north of the Mexican border. That seizure is the largest cocaine seizure in Texas and is second in the United States, topped only by the Los Angeles seizure.

Also on October 4, the U.S. Coast Guard escorted to New Orleans a ship carrying 11,500 pounds of cocaine. The seizure represents the largest maritime cocaine seizure in history. The 185 foot offshore supply vessel was flying the Panamanian flag.

These record cocaine seizures clearly indicate that first rate intelligence pays off. Our law enforcement agents and intelligence specialists should be commended for their cooperative efforts in making these seizures possible.

As we commend these successes we must not become complacent; rather, we must intensify our efforts to provide our Federal, State and local law enforcement officials with the adequate personnel, and equipment, and technology to combat the drug traffickers, whose ruthless reign of terror is paralyzing the political, economic, and social institutions of nations throughout the world.

AMERICAN JEWISH COMMITTEE HONORS KENNETH JENNE II

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. SMITH of Florida. Mr. Speaker, on October 19, the Institute of Human Relations of the American Jewish Committee will honor Kenneth C. Jenne II with the Learned Hand Award for superior contribution to the betterment of society and the legal profession.

I have had the pleasure of calling Ken Jenne my dear friend for many years. For a part of that time, I also called him colleague. We entered the Florida Legislature together in 1979; he to serve in the senate, while I took a seat in the House. During the 10 years that he served in the Florida senate, he was the recipient of the Allen Morris Award for Most Effective Member of the senate on three occasions and the recipient of the Legislator of the Year Award in 1982 from the Human Services Advocates of Broward County.

Ken also held office on the local level. He has served the community in numerous capacities and continues to play an active role today. He has served as director of the Broward County Charter Commission as well as a member and later chairman of the Broward County Commission. He is currently a senior partner in the law firm of Atkinson, Jenne, Diner, Stone and Cohen of Hollywood, FL, while continuing to serve on the boards of many community and professional organizations.

The many contributions to public service that Ken Jenne has made over the years has earned him the highest respect among his friends and colleagues. Ken exemplifies the qualities of integrity and commitment by which he has lived his life on a personal, professional, and political level. His outstanding leadership and tireless commitment to serving the people of the State of Florida has earned him well-deserved accolades. He is truly worthy of this latest recognition.

Ken is a devoted family man, and I know that his wife, Caroline, and children, Evan and Sarah, are very proud of him. I ask my colleagues to join me in congratulating Ken Jenne on receiving this prestigious honor.

INTRODUCTION OF THE NATIONAL HISTORIC PRESERVATION POLICY ACT OF 1989

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BENNETT. Mr. Speaker, today, SAM GEJDENSON, GEORGE BROWN, and I are introducing the National Historic Preservation Policy Act of 1989, a comprehensive rewrite of our Nation's historic preservation laws.

Our country has numerous laws such as the National Historic Preservation Act, the Historic Sites Act, and the Archeological Resources Protection Act designed to protect our national heritage. Despite that, according to a 1985 National Park Service study, that year 430 indicents of vandalism to archaeological sites were reported on just Federal land, and the number has grown since then.

Despite all the legislation on the books, there is no coordinated Federal policy on historical preservation. This bill will clarify and strengthen our national policy goals, particularly for Federal lands and for lands that may be developed with Federal assistance, and also provides practical guidance and assistance to private developers to spur them to make preservation-oriented decisions when developing property.

I am excited about this legislation, which was really drafted by my good friend from Georgia, Senator WYCHE FOWLER, a noted conservationist and friend of historic preservation. He deserves the credit for pulling this bill together, and I look forward to working with him and the various congressional committees in enacting this, or similar legislation.

I urge my colleagues to join SAM, GEORGE, WYCHE, and me in sponsoring this important legislation.

LEGISLATIVE ACTION NEEDED ON ASSAULT WEAPONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. MAZZOLI. Mr. Speaker, I rise again today in support of Federal legislation banning assault weapons and legislation creating a Federal 7-day waiting period before a handgun can be purchased.

Months before the tragic shooting in September at the Standard Gravure plant in my hometown of Louisville, City Alderman Jerry Kleier was spearheading local efforts to outlaw assault weapons.

This is not a simple task since Kentucky State law seems to prohibit passage of local ordinances limiting firearm use or ownership. Alderman Kleier, in cooperation with members of the Jefferson County delegation to the Kentucky General Assembly, is preparing legislation for the 1990 session of the assembly to allow local elected officials to address firearm issues.

The September 14 shooting has brought renewed attention to these commendable efforts. I salute Alderman Kleier—and all the other elected leaders whom I have cited in my earlier floor statements on the subject—for their interest and their efforts to pass responsible firearms legislation. I wish them good luck and am ready to help in any way I can.

TRIBUTE TO HIS HOLINESS THE DALAI LAMA OF TIBET—RECIPIENT OF THE NOBEL PEACE PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LANTOS. Mr. Speaker, today, is a historic day for human rights. Today, the Nobel Peace Prize Committee in Oslo, Norway, announced that the Peace Prize for this year will be awarded to His Holiness the Dalai Lama of Tibet.

There could be no more fitting or appropriate recipient of this high honor. His Holiness has led the struggle for human rights for his Tibetan people, who have been subjected to brutal Chinese repression and denial of their fundamental rights and freedoms, and he has been a beacon of inspiration around the globe to all those who seek change through peaceful, nonviolent means. Mr. Speaker, the Noble Committee could have made no better choice of an individual who exemplifies the ideals of the Nobel Peace Prize.

There could be no more fitting or appropriate day to receive this joyful announcement than October 5. Today marks the anniversary of the signing of legislation making the Holocaust hero Raoul Wallenberg an honorary citizen of the United States. In New York last July, His Holiness the Dalai Lama was the recipient of the Raoul Wallenberg Congressional Human Rights Award, given in recognition of his outstanding international contributions to the cause of human rights by the Congressional Human Rights Foundation. The awarding of the Nobel Peace Prize adds additional emphasis and recognition for his outstanding contributions to peace and brotherhood.

Mr. Speaker, we in the Congress are delighted to see His Holiness receive this most deserved honor. We have had a long and warm relationship with him. In September 1987, at a meeting with members of the Congressional Human Rights Caucus, the Dalai Lama unveiled his "Five Point Peace Plan" for the peaceful resolution of the Tibetan issue with China. That presentation was tragically followed by protests in which Chinese soldiers responded to peaceful demonstrations with violent and brutal reprisals against the Tibetan people.

We in the Congress have supported in the past—and we will continue to support in the future—the human rights of the Tibetan people against the brutal Chinese efforts to suppress them. In recognition of the outstanding contribution of His Holiness the Dalai Lama to peaceful cooperation and the observance of human rights, the Congressional Human Rights Caucus was delighted to nominate the Dalai Lama for this honor.

Mr. Speaker, we are truly delighted to pay tribute to His Holiness today on his being awarded the Nobel Prize.

RECOGNITION OF WORLD WAR II SERVICE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a lady in Harrisburg, PA, who is as much a casualty of war as any soldier. She is also as brave and resilient as any solidier I have ever known.

During World War II, Marie Bachman Rhine was a nurse in the Pacific. Her experiences include being locked in the hold of a transport ship in a convoy under kamikaze attack. She was buffeted by typhoons, felled by a shelling and exposed to DDT and the fallout of two atomic attacks on Japan.

She served in the 233d General Hospital Unit on Okinawa. This unit consisted of 84 nurses, 58 doctors, and more than 500 support personnel. Marie was part of a 10-nurse detachment assigned to treat naval personnel.

Marie Rhine risked her life and her health to serve this country. As a result of her commitment, she has been in and out of hospitals since her return to the United States in 1945. She was diagnosed with cancer 2 weeks after her arrival, followed by a circulatory disease that eventually claimed her right leg.

But at the age of 82 Marie is going strong. In fact, she has been actively involved in organizing the first-ever reunion of the 233d General Hospital Unit in Harrisburg.

I urge my colleagues to join me in recognizing Marie Bachman Rhine and the courageous Americans with whom she served so well in World War II.

SALUTE TO THE GENE TAYLOR VETERANS OUTPATIENT CLINIC

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BUECHNER. Mr. Speaker, I rise today to salute my retired colleague from my home State of Missouri, and to thank Mr. HAMMERSCHMIDT from Arkansas for his recent initiative which would name the new Department of Veterans' Affairs hospital in Mount Vernon, MI, the Gene Taylor Veterans' Outpatient Clinic. It is an admirable salute to a distinguished career of public service, and it is a fitting honor to our retired colleague from southern Missouri.

In his 16 years in the House, Gene became known as a straightforward, hard-working legislator who was not given so much to the high debate characteristic of this assembly, nor to the pomp and circumstance involved with Congress. Instead, our colleague concerned himself with the day-to-day business of legislation, with the sort of to-the-point industrious approach characteristic of the Ozark country where he was raised.

He was untiring when it came to representing the people of the Missouri's Seventh District, and his commitment to the welfare of our Nation's veterans was unparalleled. His consistent support of VA hospitals in the Seventh District makes it seem especially fitting that he should be commemorated by an institution he consistently worked to augment and protect.

Mr. Speaker, we as Congressmen have a unique opportunity to serve people and causes, and we can only hope that when we retire, we can look back on our careers content with the fact that we consistently worked to do just that. Gene Taylor is certainly an example of a former Congressman whose career was always one of service first. I know that the Gene Taylor Veterans' Clinic will reflect our retired colleague's commitment to public service.

RECOGNITION OF THE 75TH ANNIVERSARY OF THE 4-H YOUTH PROGRAM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. TRAXLER. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to one of the truly outstanding programs offered to our Nation's young people—the 4-H Youth Program. Seeing as how the first full week in October is traditionally celebrated as "National 4-H Week" and that this year marks the 75th anniversary of 4-H, I feel that it is only fitting that we take a moment to recognize the past accomplishments of the 4-H Program and to reflect on 4-H's potential to assist youth in the future.

Of course, when many people think of 4-H, the first thing that comes to mind are images of farm children raising livestock, poultry, and

crops. While this is certainly one aspect of 4-H, the 4-H Program offers both urban and rural youth much more.

Through the more than 130 projects and initiatives that it offers, 4-H works to develop leadership skills, citizenship, and self-esteem among our youth. Moreover, 4-H's growing involvement with schools on issues such as drugs, youth at risk, and latchkey kids has demonstrated that 4-H can and does have a positive effect in preparing our young people to deal with all aspects of life.

Today, approximately 5 million youth across this country participate in the 4-H Youth Program. Of those, 22 percent live in central cities of over 50,000. While many people don't realize it, 4-H—which as any good 4-H'er knows stands for head, heart, health, and hands—is the Nation's largest out-of-school youth development program for youngsters 9 to 19 years.

But that's not all—last year alone over 640,000 4-H volunteer leaders worked directly and indirectly with youth. The average 4-H volunteer donated 220 hours in preparing for and teaching these youngsters, while they drove 300 to 400 miles for 4-H in their personally owned car and spent $40 to $60 on teaching materials. The estimated value of the total time volunteers devote to 4-H plus their out-of-pocket expenses is about $1.1 billion annually.

Earlier this year, President Bush announced a national initiative to actively engage youth in service activities in their local communities. For 75 years now, the 4-H Program has worked to do just that in an effort to make the best better. I have no doubt that 4-H will continue to do so for the next 75 years.

SUPPORT OF MEDICARE/MEDICAID BUDGET RECONCILIATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. RICHARDSON. Mr. Speaker, we are considering many worthwhile and necessary changes in Medicare and Medicaid in the budget reconciliation bill. I am supportive of many of these changes, but for brevity's sake I will not mention all of them.

PHYSICIAN PAYMENT REFORM

I would however like to mention my support of the reform of physician payments. It is high time that we instill logic and reason into the way in which we reimburse physicians under Medicare. The proposals in the bill begin this process by compensating doctors on the basis of the work performed, including their time, mental and physical effort, judgment, and technical skill. The legislation before us would phase the relative value fee schedule in over 4 years giving Congress ample time to correct problems that arise and preventing specialty groups that stand to lose under RVS from losing too much in any one year. More importantly, this legislation will begin to address inequities in our reimbursement system that exist between urban and rural areas. Primary care doctors, who most frequently serve our rural populations will now be recognized with higher reimbursements which will hopefully address the issue of access for rural populations. I am also pleased at the addition of an amendment at the subcommittee adjusting the work effort index. This amendment will help ensure that physicians will not leave rural areas to relocate in urban areas for higher reimbursement.

INFANT MORTALITY AND CHILD HEALTH LEGISLATION

I am also pleased the legislation includes Medicaid. Initiatives designed to reduce the effects of poverty on the health of infants and children. While the State of New Mexico has expressed concerns about increasing Medicaid Program expenditures through additional mandates, I believe it is important that we pass this legislation to help our children live productive and healthy lives. It is with anguish that I must report that poverty in New Mexico has increased 24 percent over the last 8 years. Despite this, New Mexico ranks 42d among all States with respect to the total percentage of its budget that is committed to assisting our poor. Unfortunately, this has dire consequences for New Mexico's children. New Mexico ranks the lowest in providing sufficient prenatal care for our pregnant mothers. As a result, our mothers give birth to a higher percentage of low birth weight babies than the United States as a whole. This in turn gives rise to a whole host of problems including increased numbers of infants dying in the first month after birth, and increased numbers of children born with physical impairments, disability, and handicaps. The quality of life for these children is greatly reduced and in the long run New Mexico will spend a greater percentage of its budget trying to atone for harm that could have been prevented with the simple commitment of genuine resources to providing health care for our children. The infant mortality and child health initiative will phase in mandatory coverage of pregnant women and infants up to 185 percent of poverty by July 1993 and phase in mandatory coverage of children below the poverty level.

FRAIL ELDERLY LEGISLATION

This year, budget reconciliation will also include frail elderly legislation allowing States to offer community care to the functionally disabled elderly at their option. This legislation covers both those that are physically impaired and those that are mentally impaired in performing at least two activities of daily living. There was initially some question as to whether the mentally ill would be included in this legislation. I am thus greatly pleased that mentally ill individuals are included in the revised draft of this legislation. To have excluded the mentally ill would have set a precedence for their exclusion in future legislation. More importantly, the problems of the mentally ill have been ignored for far too long by the Federal Government. Now is the time to right this inequity.

HOSPICE COVERAGE

I am also pleased that hospice care language has been included with provisions correcting a problem that exists for New Mexico hospice programs as well as for hospice programs in some other States. Specifically, the Consolidated Omnibus Budget Reconciliation Act of 1986 [COBRE] made hospice available to Medicaid beneficiaries living in nursing homes who are also eligible for Medicare. To ensure that hospice would retain professional and financial responsibility and to avoid duplicative payment for overlapping hospice and nursing home duties such as room and board, Congress established a unified payment rate. HCFA has yet to develop rules for the implementation of this provision. As a result, States like New Mexico have attempted to implement the COBRE provisions of 1987 without guidance and in some cases have inadvertently reimbursed in such a way as to discourage nursing homes from contracting with hospice. This provision will insure that terminally ill Medicaid patients may also have the benefit of palliative hospice care in their last days of life.

SOVIET SPACE LASERS AT SARY SHAGAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. HAMILTON. Mr. Speaker, I wish to call the attention of my colleagues to recent correspondence I have had with the Department of Defense on the Soviet space laser site at Sary Shagan in Kazakhstan.

A July 31, 1989 article in the Christian Science Monitor by Mr. Stephen Green raised a number of questions about the manner in which the Pentagon has portrayed the threat posed to the United States by the Sary Shagan lasers. In a letter on August 3, 1989, I asked the Pentagon to address the issues raised in this article.

The article and the correspondence follow:

[From the Christian Science Monitor, July 31, 1989]

QUESTIONING PENTAGON AUTHORITY

(By Stephen Green)

Remember those bumper stickers you used to see on old Volvos and Volkswagens at the end of the Vietnam war—the one that said simply, "Question Authority?"

The Defense Department has been providing many innovative and expensive reasons to remember and follow this maximum, but none are as clear as The Great Soviet Laser Hoax.

Since the first year of the Reagan administration, the Department of Defense (DOD) has annually issued a pamphlet titled Soviet Military Power (SMP), which hypes Soviet weapons systems in order to justify greater US weapons spending. SMP features lurid depictions of secret research and development of Soviet space weapons at isolated sites in Russian. The most intriguing is the huge space laser at Sary Shagan in Kazakhstan.

Soviet Military Power described the laser threat as "by far the largest in the world," and "three to five times the US level of effort.

"By the late 1980's said DOD, "the Soviets could have prototypes for ground-based lasers." Even now they "have two ground-based test lasers" for use against satellites.

In the 1985 edition of SMP the Soviets had over 10,000 scientists working on laser developments, over a half dozen R&D facilities and test ranges. The most important of these was the anti-ballistic missile and di-

rected-energy test site at Sary Shagan. The lasers there could (in 1985) "interfere" with US satellites, and could be deployed by the late 1980s. SMP now referred to this weapon as "the strategic defense laser."

The 1986 SMP focused directly on Sary Shagan lasers: "Facilities there are estimated to leave several lasers for air defense, lasers capable of damaging some components of satellites in orbit," and ballistic missiles defense lasers. SMP also said the USSR "has ground-based lasers" with a limited ability to attack satellites.

The 1987 SMP signed by Caspar Weinberger described Soviet antisatellite lasers in similar language. To provide guidance for congressmen wondering how to meet this threat, Weinberger added: "The Soviet laser weapons program would cost roughly $1 billion a year in the U.S."

What Weinberger and others in DOD did not predict was that in July 1989 a team of American weapons scientist and congressmen, including a member of the House Armed Services Committee, would be given a five-hour tour of the Sary Shagan facility.

The Soviet Academy of Sciences arranged for a Sary Shagan visit a group chosen by the Natural Resources Defense Council (NRDC) in Washington, D.C. They allowed photographs, and videotapes.

A Pentagon spokesman has confirmed to me and to NRDC scientist Tom Cocharan that the facility, buildings, and lasers they saw at Sary Shagan were the same reported on in Soviet Military Power since 1982.

What did they find? Well, one of the lasers was a tabletop device, an array of ruby lasers with an output of 100 watts. The other was a carbon dioxide, infrared laser with an output of 20 kilowatts, of which only one or two kilowatts went into the laser beam.

At a news conference after they returned, the US scientists indicated that a laser at White Sands in New Mexico has an output 1,000 times greater than the largest at Sary Shagan, and is itself too small to down a satellite. Moreover, the computer at Sary Shagan was a aged, 1960s model—to slow to track satellites, let alone an incoming ballistic missle. The Soviet technicians at Sary Shagan assured the US team, convincingly, that they had never successfully tracked a satellite. But they were working on it.

Frank von Hippel, a Princeton physicist, says that a two-year college in America could produce the same laser. John Pike of the Federation of American Scientists, concluded that the "laser gap" of the 1980s was in fact a gap in America's favor. Tom Cochran surmises that the facility was at one time engaged in anti-ballistic missile research, but was abandoned or fell into disrepair in the early 1970s.

The Pentagon might have shown embarrassment or contrition at having been caught in a distortion of truth. But no. There is, it seems, a valid reason for the inconsistency between what Soviet Military Power described all those years and what the US scientists found at Sary Shagan.

The Soviet laser could indeed damage sensors at the back of a telescope in a US spy satellite, the defense spokesman explained, if it were focused at the exact time the laser was tracking the satellite . . . if the laser could track satellites, that is. The satellite's telescope would be looking down the laser beam. Some attack. Some anti-satellite capability. Some threat.

Things began to change when Frank Carlucci took over. Suddenly, US and Soviet military lasers were "generally comparable," and in advanced laser weapons concepts such as free-election lasers the Soviets were "slightly behind."

The disinformation was larceny—the diversion of funds from other public needs to fund a laser project to meet a threat that wasn't there. How much of the rest of Soviet Military Power was smoke and mirrors?

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 3, 1989.

Hon. DICK CHENEY,
Secretary of Defense,
Department of Defense,
The Pentagon.

DEAR MR. SECRETARY: I write to you concerning the attached article, "Questioning Pentagon Authority," by Mr. Stephen Green that appeared in *The Christian Science Monitor* on July 31, 1989. I would welcome your comments in general with respect to the article as well as your specific answers to the following questions:

Do you share the judgment of a team of American weapons scientists and congressmen that visited Sary Shagan in July 1989, that "a laser at White Sands in New Mexico has an output 1,000 times greater than the largest at Sary Shagan, and is itself too small to down a satellite"?

Do you share the judgment of this team that "the computer at Sary Shagan was an aged, 1960s model—to slow to track satelites, let alone an incoming ballistic missile"?

Why did the US change its assessment from an earlier description in Soviet Military Power of the Soviet laser (as quoted by Mr. Green) as "by far the largest in the world," and "three to five times the US effort," to an assessment under Defense Secretary Carlucci that US and Soviet military lasers are "generally comparable," and in advanced laser weapons concepts such as free electron lasers the Soviets were "slightly behind"?

In the aftermath of this visit to Sary Shagan, what is your judgment of the overall capabilities of the Soviet laser program and its capabilities in comparison with those of the US?

What space objects can Soviet lasers track, and what are they able to attack?

What is your judgment of the resources the Soviets are devoting to this military laser effort today?

Are there wide discrepancies in our present assessment of the Soviet laser program in comparison with our assessment of the early 1980s?

If so, why?

Is our intelligence about the Soviet military laser program much better today than it was in the early 1980s?

Your prompt answers to these questions is much appreciated, and I look forward to your early reply.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, September 18, 1989.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. Earlier we had provided a response to your queries and request for comments on the subject of the article by Stephen Green titled "Questioning Pentagon Authority" and published in the July 31, 1989, issue of The Christian Science Monitor. Your office has further requested a totally unclassified version of the response. This is attached.

Our comments remain the same. The article reflects some apparent misconceptions which arose after the visit to Sary Shagan by a group of Congressmen, journalists and others. The group visited parts of one of the several laser facilities at Sary Shagan. They were shown laser projects which involved relatively low power laser technology. Intelligence analyses indicate that other sites within Sary Shagan and other locations within the Soviet Union contain laser facilities which are much more advanced and which include high energy laser systems. Other facilities within the large Sary Shagan test range currently are assessed by the Intelligence Community to include possible laser anti-satellite [ASAT] capabilities, but were not included in the group's visit.

Little of the previous response was required to be changed. I hope this version will be useful to you.

Sincerely,

CHARLES A. HAWKINS, Jr.,
Deputy Assistant Secretary of Defense (Intelligence).

Attachment.

ATTACHMENT

Question. Do you share the judgment of a team of American weapons scientists and congressmen that visited Sary Shagan in July 1989, that "a laser at White Sands in New Mexico has an output 1,000 times greater than the largest at Sary Shagan, and is itself too small to down a satellite?"

Answer. We agree that the Mid-Infrared Chemical Laser (MIRACL) at White Sands is about 1,000 times more powerful than the claimed output of any of the lasers the US group saw at Sary Shagan. However, the Soviets have lasers which are more powerful than those shown to the group. There are Soviet lasers at least comparable in power to MIRACL. These lasers are located at various sites in the Soviet Union, including sites within Sary Shagan. As an example, on August 16, 1989, another US delegation in the Soviet Union was shown a live firing of a megawatt class laser (i.e., with power levels similar to that of MIRACL) at Troitsk, near Moscow. The Soviets admitted that this laser receives military funding and that the military remains interested in laser weapons.

As for anti-satellite capabilities, a megawatt class laser is capable of causing a significant level of damage to some satellites if the laser system is supported by the appropriate pointing and tracking equipment. The damage would most probably involve disabling solar cells, sensors or other critical subcomponents; causing the satellite to overheat and thus malfunction; or causing limited structural damage. In each case the mission of the targeted satellite could be expected to be degraded or denied.

Question. Do you share the judgment of this team that "the computer at Sary Shagan was an aged, 1960's model—too slow to track satellites, let alone an incoming ballistic missile?"

Answer. Despite what the group was shown, we do not believe current Soviet computer technology is limited to 1960's vintage models. Even if Soviet computers were limited to 1960's technology, we believe they still would have sufficient capability to

enable them to engage satellites. In fact, several demanding space-related tasks were carried out during the 1960's. Early space missions and manned lunar landings used the computers then available.

Question. Why did the US change its assessment from an earlier description in Soviet Military Power of the Soviet laser effort (as quoted by Mr. Green) as "by far the largest in the world," and "three to five times the US effort," to an assessment under Defense Secretary Carlucci that US and Soviet military lasers are "generally comparable," and in advanced laser weapons concepts such as free electron lasers the Soviets were "slightly behind?"

Answer. Our assessment has not changed; the statements refer to different aspects of the Soviet program. The assessment in the earlier editions of Soviet Military Power refers to the size of the Soviet effort in this area relative to the resources then being committed by the US. The later assessment refers to the level of technology advancement. We have always judged that the overall level of Soviet high energy laser technology was roughly comparable to that of the US, even though characterized by a stronger Soviet commitment of resources to specific weapons projects. In recent years, the US has made significant progress in advanced laser concepts such as the free electron laser, much as a result of the Strategic Defense Initiative (SDI) program, and the US probably holds a slight lead in this area of technology.

Question. In the aftermath of this visit to Sary Shagan, what is your judgment of the overall capabilities of the Soviet laser program and its capabilities in comparison with those of the US?

What space objects can Soviet lasers track, and what are they able to attack?

What is your judgment of the resources the Soviets are devoting to this military laser effort today?

Answer. Our assessment of the Soviet program is essentially unchanged. The Soviets continue to investigate several different types of high energy lasers for a variety of military missions. We judge that they have reached the stage where they could produce prototypes for some applications. While the Soviets do not enjoy an overall lead over the US in laser and other technologies required to build high energy laser weapons, each country enjoys advantages in some of the specific types of lasers that are applicable to such weapons.

With regard to Soviet tracking and attack capabilities: The Soviets are able to track satellites and other space objects with radar and optical devices. Intelligence Community analyses indicated there are Soviet laser facilities which do present significant threats, and these include ASAT capabilities.

With regard to resources: The Soviets continue to maintain more than a half dozen major military laser test facilities as well as numerous lesser facilities or laboratory installations. In general, these facilities continue to expand. The Soviets also have devoted large amounts of manpower to this effort. In recent years, estimates of the Soviet military laser power program have indicated that the US would have to spend roughly a billion dollars per year to support a similar sized effort.

Question. Are there wide discrepancies in our present assessment of the Soviet laser program in comparison with our assessment of the early 1980's?

If so, why?

Answer. There are no major discrepancies between our present and our early 1980's assessments of this program.

Question. Is our intelligence about the Soviet military laser program much better today than it was in the early 1980's?

Answer. The Soviet policy of "glasnost" has fostered some increased degree of access as evidenced by the visits to Sary Shagan and Troitsk. However, the Soviets still deny full and open access to military programs, including laser programs.

SOVIET JEWRY AND THE START OF THE JEWISH NEW YEAR

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today as part of the continuing congressional vigil on behalf of Soviet refuseniks.

September 30 of this year marked the beginning of the year 5750 in the Jewish calendar. According to Judaism, the following 10 days until October 9, Yom Kippur, is the period during which God decides each person's fate for the coming year: Who will live and who will die, who will be freed and who will remain captive.

This past year has shown a great increase in the level of emigration from the Soviet Union for Soviet Jews, Armenians, and Evangelical Christians. In total, over 32,500 people emigrated from the Soviet Union between January and July 1989. I know everyone here welcomes this increase. However, despite the progress that has been made, there are still many families which remain separated, and many people who have lived for too long awaiting permission to emigrate. Vladimir Raiz of Vilnius has been awaiting permission to emigrate since 1972—over 17 years. Mikhail Kazanevich of Leningrad has been refused permission to emigrate since 1973.

I hope that these refuseniks, as well as the many other people who are still awaiting permission to emigrate as they celebrate the Jewish New Year, will by this spring, when the holiday of Passover is celebrated, realize the hope they expressed last Passover—"Next Year in Jerusalem."

I thank my colleagues for their attention, and I would like to take this opportunity to wish a Shanna Tova, a good year, to my constituents and to the refuseniks in the Soviet Union.

ST. ADALBERT CHURCH OF GLEN LYON, PA, CELEBRATES CENTENNIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to St. Adalbert's Church of Glen Lyon, PA, on the occasion of its centennial celebration.

St. Adalbert's was named after the 13th century bishop and martyr who converted the Poles in the north of Poland. The parish was established on a plot of land donated by the Susquehanna Coal Co. at the request of 75 Polish families. The foundation of the church was laid in 1889 under the guidance of Rev. Benuto Gramlewicz, pastor of St. Stanislaus. The cornerstone was blessed and dedicated by Bishop William O'Hara.

The first Mass was celebrated in the basement of the church by Rev. Andrew Zychowicz before construction on the rest of the building was completed.

The parish grew rapidly in the next two decades as the number of immigrants looking for work in the coal mines increased. In 1909, St. Adalbert's faced its first major setback when fire destroyed the church; however, showing the indomitable spirit of the parish, the church was rebuilt to its present state in 1914.

In 1938, Msgr. John J. Podkul was appointed pastor. Monsignor Podkul was instrumental in establishing the Catholic League for Religious Assistance to Poland.

Through the years St. Adalbert's has undergone many changes. During the tenure of Rev. Theopilus Wroblewski both a chapel and a new rectory were constructed. Under the current leadership of Rev. Edward Masakowski, St. Adalbert's has had extensive renovations in preparation for its centennial. The altars, ceiling murals, marble columns, and the beautiful grotto of Lourdes have all been painstakingly restored to their original splendor.

Mr. Speaker, it is with distinct pleasure that I congratulate the St. Adalbert's parish community on their 100th anniversary. Their dedication and generosity stand as an example to us all.

TRIBUTE TO DR. THOMAS H. BREWER, SR.

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. RAY. Mr. Speaker, I rise today to pay tribute to Dr. Thomas H. Brewer, Sr., of Columbus, GA. Dr. Brewer was a leader in Columbus' march toward desegregation and was shot to death in 1956 for these views.

Thomas Brewer was born in Pike County, AL, and attended high school and college in Selma. He received his medical degree from McHarry Medical College in Nashville. Dr. Brewer brought his medical practice to Columbus in 1920.

Dr. Brewer was an excellent doctor and was respected throughout the black and white communities. However, he may have performed his most important work outside of his medical practice. He became a champion for blacks in Columbus and all of Georgia.

Dr. Brewer helped in the establishment of the Colored Columbus Medical Association, the SOC–C–25 Club, the local chapter of the NAACP, the Manly Taylor Recreation Center, and the Fourth Street Library. Dr. Brewer was also instrumental in the Primus King case which allowed blacks to vote in the Democratic primary, served as a delegate to the National Republican Convention, helped get the first

four blacks on the Columbus Police Department, and was named Columbus' Negro of the Year. Additionally, he served as president of the alumni association of Selma University and as member of the McHarry Medical College.

Dr. Brewer led the way in the fight to end segregation in the Columbus area. Sadly, he had to give his life for this cause. However, his work in life is remembered as being a vital part of Columbus' growth as a city.

INTRODUCTION OF PRESIDENT'S CAMPAIGN FINANCE REFORM BILL

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. MICHEL. Mr. Speaker, today I am introducing the President's comprehensive campaign finance reform bill. This significant piece of legislation demonstrates to this Congress the President's commitment and dedication to campaign reform.

I welcome the President's package and welcome his participation in the debate on this important topic of the day. The President's strong desire to enact campaign reform puts the debate on a higher plain and greatly enhances the possibility of passage in this Congress.

As you know, the House Republican Conference has endorsed a sweeping package of campaign reform proposals. The submission of the President's proposal widens the parameters of debate and brings the executive branch to the negotiating table. Welcome, Mr. President, and let us all rededicate ouselves to reforming campaign practices.

THE CATASTROPHIC HEALTH INSURANCE ACT AND BUDGET RECONCILIATION ACT

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. EARLY. Mr. Speaker, yesterday, I voted against the repeal by this House of the Catastrophic Health Insurance Act because I believe that in the long run, this is a step in the wrong direction. In fact, I believe that this repeal has promise of being a catastrophe of mammoth proportions. I vigorously oppose the action which the House has taken, and I grieve over what I feel will be devastating long-range effects of what we have done. I am convinced that we could have taken the current law and found innovative ways to adjust the premiums which our elders would have been required to pay. I am further convinced that when the majority of seniors realize that the House has repealed critical catastrophic benefits, they will be horrified and will be gravely disappointed in us, their Representatives.

When the Catastrophic Health Insurance Act was signed into law 15 months ago, it was hailed as a major accomplishment in social policy. It was designed to protect our elderly citizens from the spiraling costs of catastrophic illness. It filled gaps in the Medicare Program which had allowed our neediest seniors to fall through the cracks of our health care system. This creative bill, crafted, nurtured, and championed by the late Honorable Claude Pepper, responded to the outcry of our seniors about out-of-pocket medical costs. By an overwhelming margin, we voted to address the medical vulnerability of millions of elderly citizens.

And now, we have reversed that noble action. We allowed the most affluent of our seniors to pressure us into turning away from 20 million elders who needed these benefits most desperately. Let us be clear on precisely what we have done. By repeal action, we have eliminated the following provisions from the law:

Unlimited hospitalization benefits;

Vitally-needed help in paying for prescription drugs;

Mammogram coverage which promotes early detection of breast cancer;

A cap on out-of-pocket payments for doctors' bills;

Improved coverage for nursing home care which is critical for our expanding aging population;

Improved benefits for those needing skilled care in the home; and

Expanded hospice benefits to help those with terminal illnesses to die surrounded by loving caretakers.

Our retreat on catastrophic health care benefits leaves unresolved a number of burning questions. How are our elderly going to pay for long-term health care? How are 37 million in the United States who have no health insurance at all going to manage? When will we in the House muster enough courage to tackle, once again, the issue of expansion or revision of Medicare benefits?

And, is health care benefit policy and tax policy always to be established under the influence of those who are organized enough and vocal enough to push us in their direction? The small minority of elderly citizens who would have paid the surtax outshouted the impoverished and less wealthy middle-income elders who are the real losers in this retreat.

I strongly supported the Catastrophic Health Insurance Act at time of passage, and I stand by that vote as a responsible and compassionate act. I strenuously denounce the repeal of this act. When an elderly American looks with shock at a noncapped doctor's bill, you and I are accountable. When nursing home care drives a middle-income family to financial ruin, you and I share responsibility for their crisis. Indeed, we shall face the repercussions of this repeal action for many years to come.

I voted against the Rostenkowski-Gephardt-Stenholm amendment to the Omnibus Budget Reconciliation Act of 1989 (H.R. 3299). The amendment contained a very major step toward tax equity in the United States. It eliminated the so-called bubble which is found in the current Federal tax laws. The "bubble," as it exists today, results in a situation in which those Americans at the very highest income levels, some of whom make well in excess of $1 million per year, actually pay a 5-percent lower income tax rate than do Americans earning much lower annual incomes. When the tax rate reduces as the taxpayer's income rises, something is very wrong. This aspect of the Rostenkowski-Gephardt-Stenholm amendment would not only have been a step in the direction of fairness and common sense, it would also have reduced the Federal deficit by some $19.1 billion over the upcoming 3 fiscal years and some $38.8 billion over the upcoming 5 fiscal years. Given the opportunity to vote for this change alone, I would have wholeheartedly supported it. Given the opportunity to vote alone on the issue of capital gains taxation, I would have voted against the change recommended in the committee report. If the Reconciliation Act, as finally enacted, contained provisions consistent with my view of each of these issues, we would have seen a projected reduction of $40.3 billion in the amount of the Federal deficit over the upcoming 5 years.

The problem with the amendment was that it ended up in a form in which other provisions, such as the tax benefits provided for timber operators and the treatment of IRA's, effectively spent most of the funds saved by the desirable portions of the amendment. The amendment, in total, was far too close to the "tax and spend" stereotype which has plagued the Democratic Party over recent years.

A large portion of the press has pictured the vote on the Rostenkowski-Gephardt-Stenholm amendment as a "single issue" vote, up or down on the capital gains tax revision contained in the committee report. It was not.

My priorities are simple. I want the Congress to make the difficult decisions which will help control the deficit and avoid across-the-board cuts. There is no doubt in my mind that we shall soon see a round of devastating across-the-board cuts as a result of the Congress' and the administration's inability to make the difficult decisions setting the priorities which would avoid such across-the-board cuts. These cuts will hurt chapter I education programs; they will hurt programs for the homeless; they will lessen our commitment to prenatal care of children; they will hurt programs of medical research; they will hurt the elderly. In short, they will hurt precisely the people and programs who should not have this budget problem solved on their backs.

The basic reason for reconciliation legislation is to reconcile, the financial budget of the Federal Government in a manner which coincides with the budget resolution. In reconciliation the Congress and the administration should make the difficult, but necessary, decisions which result in a real world budget which lives within the Gramm-Rudman budget law. If we fail to make these hard decisions, setting priorities, the result is the across-the-board cuts. These are cuts which will often affect those least able to cope with their financial repercussions. As sure as the Sun rose yesterday, we are heading down the road toward across-the-board cuts.

The Reconciliation Act which the House is considering is a terrible piece of proposed legislation. The bill not only avoids doing what needs to be done—it goes out of its' way to do things which should rightfully be avoided.

Pasted onto this financial bill, like a patchwork of mismatched pieces of wallpaper, are a myriad of de facto pieces of legislation which have no place in this budget bill. Let me state a few examples:

First, we have seen a lengthy debate and rollcall vote in the House on a piece of regulatory legislation related to private pension funds while the House considered the Reconciliation Act. This debate dealt with the issue of whether or not single employer, private pension fund trusts, should be required, by Federal law, to have labor trustees along with management trustees. Now this is an important issue and one on which there is vigorous, good-faith debate and disagreement. This is not, however, an issue which should find itself wrapped up in a Federal budget bill. The reality is that there is little or no measurable effect on the Federal budget or the level of the Federal deficit from the actions of the House—either way—on this issue. Why is this item, which should be a separate piece of legislation, debated deliberately and voted upon alone, tied to the reconciliation bill?

Second, another de facto piece of substantive legislation added to the Reconciliation Act is the question of the so-called fairness doctrine of the Federal Communications Commission. The fairness doctrine is a matter related narrowly to the manner in which the Federal Communications Commission regulates the holders of private radio and television station broadcast licenses. Again, the issue is important and there is genuine disagreement among people of good faith as to how we should deal with it. Again, however, the actions of Congress—either way—on the fairness doctrine will have no direct effect on the size of the Federal budget or the Federal deficit.

I could list other such items. The point is that these items should not be appended to the reconciliation bill. The manner in which we are considering this bill requires Members of the House to trade off, in an entirely inappropriate fashion, their views on essentially unrelated pieces of substantive legislation. How should a Member vote who, in the final analysis, agrees with the fairness doctrine provisions of the reconciliation bill, but who disagrees with the provisions related to the private pension plans? Should such a Member, in effect, trade off his dissatisfaction with the pension plan provisions, to see de facto enactment of the FCC fairness doctrine provision with which he or she might agree? What about another Member who happens to disagree with the fairness doctrine provisions of the Reconciliation Act, but who happens to agree with the pension plan regulatory provisions? Should that Member trade off his or her beliefs as to the fairness doctrine, as the price of seeing de facto enactment of the pension plan regulatory provisions? I think that answer is obvious. We should not append a myriad of unrelated, substantive legislative issues to a budget reconciliation bill, thereby compelling Members to vote yea or nay in a single bill to an irrational grouping of unrelated, but important, legislative issues, some of which they may agree with and some of which they may disagree with.

It is all the more offensive to see a Budget Reconciliation Act loaded up with a potpourri of unrelated legislative acts, when that same Budget Reconciliation Act fails so clearly at the purpose of a budget reconciliation act—that of reconciling Federal revenues and expenditures in a fashion which would avoid the use of the across-the-board budget device which is coming.

I call upon our Members and our leaders to get about the difficult, but so very important issue, of dealing with the Federal deficit. Stop peddling the public these "snake oil solutions." Make the difficult decisions on the budget which will start us back on the road to fiscal sanity. If we continue to travel the current path, we shall be rightfully remembered by our children and our grandchildren as the generation which began to financially dismantle the foundation on which our free enterprise economy has been based for more than 200 years. Surely we can, and hopefully, we have the will to, leave a better legacy than that.

REPUBLIC OF CHINA ON TAIWAN'S 78TH NATIONAL DAY

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. LANCASTER. Mr. Speaker, last year I had the opportunity to visit the Republic of China on Taiwan with several of my colleagues. I am pleased to report that Representative and Mrs. Ding recently had a successful visit to my congressional district. During their visit I learned a great deal more about the latest developments in their country and the Dings were able to see for themselves the potential for greater economic and cultural ties between Taiwan and North Carolina. Of particular interest to my constituents were our discussions of improved foreign trade, especially the prospects of Taiwan's opening their consumer markets to poultry products grown and processed in my district.

Even though Taiwan still enjoys a trade surplus with the United States, it appears that Taiwan is trying to reduce that surplus. I am informed that a "Buy American" mission from Taiwan will soon visit the United States, and hopes to purchase $4 billion worth of United States made products. The delegation will visit North Carolina and 17 other States in an effort to reduce existing trade surpluses.

On the eve of Taiwan's 78th National Day—October 10, 1989—may I extend to President Lee Teng-hui and the people of the Republic of China on Taiwan continued economic prosperity at home and abroad.

HONORING ADAMSVILLE, TN

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. SUNDQUIST. Mr. Speaker, a few weeks ago, the National Association of Development Organizations presented an important award to the small community of Adamsville, TN. Adamsville is in my congressional district, so I want to take a moment to tell my colleagues something about this community and its citizens and what they accomplished in order to win this significant honor.

The National Association of Development Organizations does not hand out community awards lightly; out of some 500 contenders, only 35 were selected. Adamsville, TN, a town of perhaps 1,500 people, is in proud and select company.

The national association singled out Adamsville for community involvement, and for its commitment to better education. It recognized Adamsville's aggressive planning effort for schools and park development; for its community festival; for the dedication of a museum honoring the late McNairy County sheriff and Adamsville Police Chief Buford Pusser—many of you have heard of Buford Pusser, he was the no-nonsense law-and-order sheriff whose career was brought to the screen in the "Walking Tall" movies.

That's not all. Adamsville has built a new library, a new waste water treatment facility, and low-income housing for its elderly.

What you find in Adamsville, TN, are good, caring people, who have involved themselves in the life of their community and made it a better place. Adamsville symbolizes much of what is good about America's small communities—a sense of place, a spirit of community, a willingness to be good neighbors, and a living example of people working together for the common good.

I congratulate my friend, Mayor Harry Boosey and the many civic leaders in Adamsville whose efforts have brought Adamsville this very select honor and this special place among America's communities. I hope this House will join me in extending congratulations and greetings.

OPRY QUEEN DIES, BUT HER MEMORY LIVES ON

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to a lady who was known as the "Queen of the Ivories" for her distinctive instrumental stylings as a piano player, country music performer, and longtime member of the "Grand Old Opry" in Nashville.

Del Wood passed away on Tuesday, October 3, 1989, but the memory of her music and the contributions she made to country music live on.

Del was a personal friend of mine and a mother figure to many of the younger performers on the "Grand Old Opry." She will be sorely missed.

In tribute to Del, I'd like to submit for the RECORD a copy of an excellent newspaper article by Robert K. Oermann from the October 3, 1989, edition of the Nashville Tennessean. The article outlines Del Wood's contributions to the industry and I urge my colleagues to examine the article and join me in tribute to a great talent.

[From the Nashville Tennessean, Oct. 3, 1989]

OPRY'S "QUEEN OF THE IVORIES" DIES

(By Robert K. Oermann)

Grand Ole Opry star Del Wood, known as "The Queen of the Ivories," died yesterday evening at Baptist Hospital.

The widely-loved, 69 year-old keyboardist suffered a stroke last Wednesday, Sept. 27, while preparing for the "Legendary Ladies Country Music" show at The Station Inn that night.

Her sister Emily Burge found her unconscious when she went to pick her up for the concert. Ms. Wood never regained consciousness, according to Nashville journalist and family friend Pat Harris.

Del Wood is the only million-selling female solo instrumentalist in music history. Her rollicking piano rendition of *Down Yonder* became a pop and country smash in 1951.

Born Polly Adelaide Hendricks Feb. 22, 1920, Ms. Wood was one of the few country music stars who are Nashville natives. Her family farm was located near the present I-65/Trinty Lane interchange, and she could trace her ancestry in Middle Tennessee to back before the Civil War—her great-grandfather owned a tobacco store at 6th and Charlotte downtown that was raided by Union troops.

The famed pianist worked for the Public Health Department prior to her music stardom. She also worked for a time at a five-and-dime, playing sheet music for customers. Ms. Wood mainly pursued her musical aspirations at night and on weekends in the late 1940s.

During one weekend stint her distinctive style caught the ear of radio DJ Jim McKinney, who helped her join a recording group called Hugh "Baby" Jarrett and His Dixieliners. Jarrett was also a member of the famed Jordanaires vocal group. As a Dixieliner, Ms. Wood played on a jazzy version of Lefty Frizzeil's big 1950 hit *If you've Got the Money, I've Got the Time.* This led to a solo recording offer.

She originally chose L. Wolfe Gilbert's old ministrel tune *Down Yonder* as the flip side of her recording of *Mine All Mine.* To her surprise, the oldie became a big pop hit, one of Nashville's earliest million-selling records.

In a 1988 Tennessean interview she said that her signature tune, "liberated me from the typewriter keys to the '88s."

In the early 1950s she toured with such pop celebrities as Tony Bennett, Guy Mitchell and The Four Aces.

Her stage name was calculated so that radio programmers wouldn't know she was female.

"Back then, women weren't accepted too well," she recalled. The ambiguous "Del" was contracted from Adelaide. The "Wood" half of her stage name came from Hazelwood, the last name of an ex-husband she referred to as "my one big mistake."

On Nov. 13, 1953 Ms. Wood was tapped to replace wild-living Moon Mullican as the resident honky-tonk piano stylist on the Grand Ole Opry. She immediately became a national radio star on the NBC-broadcast Opry segments.

She recorded prolifically throughout the 1950s and 1960s for labels such as Tennessee, RCA, Class, Deca, Lamb & Lion and Mercury. There are more than 20 Del Wood albums, and more than 60 singles bear her name. Among her other notable disc performances were *Piano Roll Blues, Muskrat Ramble* and *Johnson Rag.*

Her "barrelhouse" piano-pounding style was once cited by rockabilly wildman Jerry Lee Lewis as his chief inspiration.

"Critics have called my playing 'honky-tonk,' 'jazz-country' and 'dixiepop,' but personally do not look for labels," she said in a 1983 Tennessean interview. "It's just self-expression to me."

Ms. Wood toured internationally in the 1960s, to Vietnam, the Philippines and South Korea. As recently as 1988 she was headlining in Australia.

Fellow Opry cast member Dolly Parton picked Ms. Wood to portray one of the hillbilly bandmembers in the 1984 feature film *Rhinestone.*

Behind the scenes, Ms. Wood was a longtime union activist. She was a board member of the Nashville chapter of AFTRA (American Federation of Television & Radio Artists) and was also active in the American Federation of Musicians.

She was the only woman to have served on the AFM board. She tirelessly championed the cause of her fellow Opry stars to the show's management.

She was also active in ROPE (Reunion of Professional Entertainers), the organization that aims to build a retirement home for country performers.

Ms. Wood was one of the Opry cast's most amusing story-tellers and a "mother hen" to many younger performers on the show.

Survivors include son Wesley Hazelwood and daughter-in-law Leslie, and sisters Emily Burge and Margaret Hamilton, all of Nashville.

Funeral arrangements were incomplete last night.

TRIBUTE TO MALCOM RANDALL

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. BILIRAKIS. Mr. Speaker, I want to share with my colleagues the tremendous achievements of Mr. Malcom Randall who is the Director of the VA Medical Center in Gainesville and the Director of Medical District 12. Malcom will be honored this evening as "Mr. VA U.S.A." by the Marion County Veterans Council in Ocala, FL.

The State of Florida and her 1.5 million veterans are honored to have such a diligent, trustworthy veteran such as Malcom Randall in the public service. His 40 years of service to veterans is an incredible achievement matched by few.

During my last four terms in Congress as a member of the House Committee on Veterans' Affairs, Malcom has frequently offered his formidable knowledge in veterans matters to the committee. He has worked diligently for funding of VA facilities which are so desperately needed in the State of Florida.

Malcom Randall's countless achievements have not gone unnoticed by his peers. He has received the two highest awards conveyed by the Department of Veterans Affairs; the Meritorious Service Award in 1984 and the Exceptional Service Award in 1985. In addition, President Ronald Reagan awarded Malcom the Presidential Rank Award in 1984 which is given only to a select few senior Federal executives.

I wish Malcom Randall continued health and success in all of his endeavors. I am certain that I speak for all of Florida's 1.5 million veterans in thanking him for his unyielding commitment to veterans.

COMPLEXITY OF FIGHTING THE NARCOTICS WAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. RANGEL. Mr. Speaker, earlier this week my colleague and friend, BEN GILMAN, addressed a group of medical professionals at the national naval hospital in Bethesda, MD. The topic was the complexity of the drug war. He discussed the origins of our current drug epidemic and outlined some of the challenges we will face in the future in combating this scourge. I am inserting, at this point in the RECORD, the full text of his remarks for my colleagues attention:

COMPLEXITY OF FIGHTING THE NARCOTICS WAR

(Remarks by Rep. Benjamin A. Gilman)

INTRODUCTION

I am delighted to be here at the Bethesda Naval Hospital this morning to discuss the narcotics issue. For more than a decade I have served on the House Select Committee on Narcotics Abuse and Control, the only congressional committee dedicated full time to examining all aspects of the drug problem. I am also a senior member of the House Foreign Affairs Committee and the cochairman of the Foreign Affairs Committee Narcotics Task Force. Fighting drugs has been my top priority since coming to the Congress in 1972.

DEFINING THE PROBLEM

There is no greater challenge facing our Nation nor more difficult nor more complex than combating drugs. President Reagan, in 1982, accurately labeled drugs a national security threat to our Nation.

The "drug problem" is a composite of a number of inter-related problems, including foreign drug production, drug trafficking, domestic drug abuse, drug-related crime and violence and drug-related health problems. All these issues must be attacked simultaneously on every level if we are truly to make progress. That means attacking the problems of: (1) drug crop eradication; (2) interdiction; (3) local law enforcement; (4) education and prevention; and, (5) treatment and rehabilitation.

We are often questioned if the drug crisis is primarily a supply problem or a demand problem. I do not believe it is possible to separate the issues. Supply helps create demand, and demand certainly leads to increased supply. For example, the Soviet Union never had a major heroin problem until its soldiers had access to that deadly drug while occupying Afghanistan. Now, after years of benign neglect on the drug issue, the Soviets have a serious drug abuse problem and are anxious to cooperate with us in fighting drugs. Similarly, one of the groups with the highest ratios of drug use is medical professionals—mostly due to easy access to drugs. Readily available supplies certainly leads to increased consumption. Producing countries inevitably become con-

suming countries, suggestions that we focus solely on demand reduction are misguided.

On the other hand, reducing demand, must be a fundamental part of our anti-drug effort. I firmly believe that anti-drug education efforts in our schools, starting at an early age, as early as elementary levels, can help to discourage young Americans from trying illicit drugs. Drug treatment, to get those already addicted to drugs to break the habit, is not only humane, but since each drug addict tends to breed additional addicts, it will help supress demand.

HISTORICAL PERSPECTIVE

Let me briefly outline the development of our current drug problem. Momentarily, we are focusing primarily on cocaine, but back in the early 1970's cocaine was not a substantial problem and crack was just an idea in some chemist's mind. We were still in the traumatic Vietnam years when drug use, mostly LSD and marijuana, was considered by certain segments of the day's youth as something of a protest statement.

At that time our Nation's policy makers were focusing primarily on combatting heroin produced in Asia and marijuana grown domestically, in Mexico, South America, and in a number of other places. In this drug war we had some success. Asian production was dampened through the dismantling of large trafficking organizations and Mexico implemented a successful paraquat spraying program which slashed their marijuana production.

Unfortunately, events took a turn for the worse in the late 1970's and early 1980's. Organizations and trafficking routes which had been trafficking marijuana from Latin America shifted to cocaine trafficking. The United States was especially vulnerable to a cocaine epidemic because a number of so called experts had denied that cocaine was a dangerous or addictive substance. Furthermore, for certain high-profile groups in our country, cocaine became a new status symbol and was made part of their "trendy night-life."

Once cocaine became widely available in this country it was only a matter of time before the death and tragedy which it brings began to be appreciated by many Americans. The introduction of crack, processed, smokable cocaine dramatically accelerated this trend. The key event in changing our nation's attitude towards cocaine occurred in 1986 with the tragic crack overdose death of college basketball star, Len Bias. He was a young man, in top physical condition, who had just been picked by the Boston Celtics as their top draft choice. He celebrated this personal triumph by consuming crack, paying for this tragic mistake with his life.

WHAT HAS BEEN OUR LEGISLATIVE RESPONSE TO THE DRUG EPIDEMIC?

Our Nation was shocked and outraged by the death of Bias and the subsequent death, one week later, of a professional football player. That frustration encouraged the Congress to enact the Anti-Drug Abuse Act of 1986 which increased our annual drug budget from just over $2 billion in fiscal year 1986 to over $4 billion in fiscal year 1987, toughened penalties for drug offenses, and created many new anti-drug programs, including grants to State and local law enforcement. The 1986 Anti-Drug Act was followed by a second omnibus drug bill in 1988, which created a new agency to coordinate our Nation's entire anti-drug effort, the Office of National Drug Control Policy, currently headed by its director William Bennett.

The legislation which created the "drug czar's" office required the submission to Congress of a comprehensive coordinated, national drug strategy. The announcement on September 5th by President Bush of the new drug strategy signaled a new Federal commitment to the war against drugs. The plan called for substantial funding increases, for the first time fully recognized the Federal Government's responsibilities on the demand side, and launched a new Andean initiative to help Colombia, Peru and Bolivia combat the illicit production and trafficking of drugs.

The Senate this week added nearly $1 billion to the President's budget recommendations, for a total proposed fiscal year 1990 drug budget of $9.4 billion. I believe even more is needed, but considering that this amount is more than four times the 1986 budget, we are making good progress.

DRUG LEGALIZATION: A BAD IDEA

I would like to discuss some other especially pertinent narcotics issues which are of great concern to me. I am continually disappointed when prominent individuals call for the legalization of illicit drugs. I appreciate that their motives are good, but as our select committee's two-day hearing on the subject indicated, there can be no such thing as a workable, positive legislation policy.

For legalization to have any impact on drug-related crime and violence an inexhaustible supply of the most potent drugs must be made cheaply and easily available to all who want them. Otherwise, unsatisfied drug addicts would seek additional drugs on the street, a new blackmarket would develop, and the hoped for decline in drug-related crime and violence would not materialize.

Our Government would have to set up 24-hour "drug stores" with drive-thru windows to distribute deadly drugs like crack, heroin and PCP. Some drug users might quietly go home to smoke their one rock of Government crack, but many others would keep coming back for more. More than a few drug addicts would consume their favorite drugs until they killed themselves.

Furthermore, removing legal and moral sanctions against drug consumption will encourage more people to try drugs and would inevitably create more drug abusers and more drug addicts. Ultimately, any legalization policy enacted would be a tragic failure and would have to be reversed. It may sound logical on paper, but in practice legalization would be a disaster. We must avoid "quick fix" solutions like legalization which will only make a severe problem even worse.

THE ANDES: FIGHTING DRUGS AT THE SOURCE

Another great concern of mine pertains to the drug situation in the Andes. The Colombians have long suffered greatly at the hands of the cocaine cartels. The Colombian drug traffickers have murdered over 200 judges, 11 Supreme Court judges, a Minister of Justice, an Attorney General and numerous public officials, journalists, law enforcement officers and civilians in a continuing campaign of terror. However, when the cartels assassinated the popular Presidential candidate, Juan Carolos Galan, they went too far. The Colombian people and the Government, led by President Virigilio Barco, were so outraged that a widespread and severe counterattack against the traffickers was implemented.

In recent weeks the Colombian authorities have rounded up over 12,000 drug suspects, seized millions of dollars worth of property and assets belonging to the drug traffickers, and have aggressively gone after Colombian cocaine processing labs and clandestine airstrips. Perhaps most importantly, on August 19, 1989, President Barco issued an executive decree which effectively revived extradition by taking the Colombian judiciary out of the extradition decision making process. Already a major Colombian money launderer, Eduardo Martinez Romero, has been extradited to the United States for prosecution.

The United States has already provided Colombia with $65 million worth of emergency military equipment to help them combat the drug traffickers, as well as $2 million to help protect judges. More assistance will follow later this fiscal year as part of the President's $2 billion, 5-year Andean assistance package.

In the past there have been other crackdowns on traffickers and other waves of mass arrests in Colombia. This time, however, I believe that the anti-drug effort will be more effectively sustained. The United States and other nations have come to fully recognize the tragic impact of drug trafficking and are now prepared to take needed actions to help our besieged ally.

In Peru and Bolivia a policy of disrupting trafficker activities is being implemented. Such a policy offers great hope because the vast majority of global coca production is found in just a few huge growing regions in the Andes (the upper Huallaga Valley in Peru and in the Chapare and the Yungas in Bolivia). The coca leaf is usually processed into coca paste and base near the growing areas and then flown out, primarily to Colombia, for further processing into cocaine hydrochloride (HCL). Much of the cocaine is then trafficked, in various ways, into the United States.

The Drug Enforcement Administration, working closely with foreign law enforcement officials, are working in "Operation Snowcap," to destroy coca paste and base labs and clandestine airstrips in Peru and Bolivia. Complementing Operation Snowcap is a program to prevent the export into coca growing regions of essential precursor chemicals used in cocaine production. Many of these chemicals, including ether and acetone, are produced in the United States.

If the anti-narcotics forces can destroy a sufficient percentage of drug labs and air strips and prevent the transportation of chemicals to the processing sites, the traffickers will not be able to process their coca or get it out of the growing regions. The amount of coca grown will become virtually irrelevant. Hundreds of tons of coca will pile up and rot and the local coca farmers will be unable to find a buyer for their illicit product.

Too many pundits and politicians mistakenly insist that supply reduction is a mission impossible, or that the only way to achieve supply reduction is through drug crop eradication. Eradication, at least until cocaine producing nations are prepared to launch a massive aerial herbicidal program, has only a limited value. In contrast, disruption efforts offer great hope.

Of course, cocaine is not our only problem. Heroin production is on the rise, and the use of methamphetamines is increasing along with other synthetic illicit drugs. Nonetheless, due to the addictive power of cocaine, I believe it makes good sense to make every effort to prevent it from reaching our communities.

CONCLUSION: HOPE FOR THE FUTURE

In conclusion, let me say that as severe and as multi-faceted as our drug problem is, we should not and must not become discouraged. We have seen in the past, that we can change attitudes towards drugs, we can reclaim our neighborhoods from the drug dealers, and we can find ways to limit the flow of drugs into our streets. If Federal, State, and local officials, as well as the private sector and private citizens continue to work together we can bring this epidemic under control.

In addressing this professional group, I would like to suggest that too little attention has been given to what motivates so many Americans from all sectors of our society to try dangerous illicit drugs. The root causes of addiction must be researched and understood if we hope to make long-term progress in fighting this drug epidemic.

Furthermore, with regard to treatment, efforts must be made to evolve more effective modalities of treatment and rehabilitation. The very best treatment programs run by the medical profession still have too high a recidivism rate. The military, whose anti-drug policy has proven highly successful, also has a problem with high recidivism in its treatment program. It can not be the policy of our society to give up on the millions of Americans who are addicted to drugs. For their sake, and for the sake of our country, workable, practical, and effective treatment and rehabilitation programs must be developed and made available to those in need.

A WILDERNESS REVOLUTION FOR THE 1990'S—CONGRESSMAN VENTO ADDRESSES THE FUTURE OF OUR NATION'S WILDERNESS AREAS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 5, 1989

Mr. KILDEE. Mr. Speaker, on September 12, 1989, our colleague, Representative BRUCE VENTO, gave a speech before the National Wilderness Conference in commemoration of the 25th anniversary of the Wilderness Act.

This speech is important reading for those who share Chairman VENTO's concern for the future of our Nation's federally designated wilderness areas. Since the Wilderness Act was signed into law 25 years ago, the Congress has designated over 90 million acres as wilderness areas to be protected much as they came from the hand of God.

However, we need to remember that the designation of wilderness is only the starting point, and not the finish line, in protecting these beautiful lands. As Chairman VENTO warns us in this vibrant speech, Federal wilderness areas are facing threats of degradation as a result of the low priority wilderness currently receives within our Federal land agencies, and the lack of funding by the Congress for wilderness management.

Mr. Speaker, Chairman VENTO wisely points out that the Congress must work much more closely with our public land agencies to ensure that these wilderness areas are properly managed so these beautiful lands can be enjoyed by our children, and our children's children. This indeed, would be a wilderness revolution for the 1990's.

A WILDERNESS REVOLUTION FOR THE 1990'S—COMMEMORATING THE WILDERNESS ACT ON ITS 25TH ANNIVERSARY

(Address by Congressman Bruce F. Vento)

Thank you, Regent Schertler. I appreciate your kind introduction. I asked you not to be so generous in your remarks, but how can I criticize such passionate devotion to the truth. You've always been there for me and you are here for me again today.

I also appreciate the wonderful turnout today, especially on a day to celebrate the 25th anniversary of the Wilderness Act. There is certainly much to celebrate. Since the act's passage 25 years ago, the national wilderness preservation system has grown 10-fold from over 9 million acres to over 90 million, with tens of millions more yet to be designated tomorrow. Today almost every State has some designated wilderness, and wilderness has grown from a limited land designation to a major use of the national public lands. What would Arthur Carhart, Aldo Leopold, Bob Marshall and Howard Zahniser, the founders of the wilderness system, think if they were here today to see the results of their vision, their handiwork? They would surely be amazed at the magnitude of success enjoyed by the concept of wilderness they envisioned and developed. They would be pleased to note that because of their efforts the Wilderness Act became law and is now 25 years young and Americans of future generations will have a heritage of wilderness with all the scientific, economic, recreational, wildlife and spiritual benefits that wilderness resources can provide.

Certainly, I congratulate and thank the organizers of this national wilderness conference. Bringing together the Nation's wilderness managers to access and discuss management of the system of wilderness that the law designated is a fitting way to celebrate the 25th anniversary of the Wilderness Act. I commend Dean Skok and the University of Minnesota, the Forest Service, the National Park Service, the Bureau of Land Management and the U.S. Fish and Wildlife Service for joining in sponsoring this conference and for making it possible for such a distinguished gathering to take place. Also to be commended are the many cosponsors who have given this event their strong support. But we particularly owe a debt of gratitude to the conference's two co-chairs—Dick Joy of the Forest Service and Dr. David Lime of the University of Minnesota. Over a year of their sweat and toil went into making this conference. I appreciate their dedication and good work.

How can we best commemorate the Wilderness Act? True commemoration is surely more than talk. The most fitting way to commemorate this landmark legislation is through current and future actions. New dedication this week is in order to improve the quality of wilderness management in this country. By providing the national wilderness preservation system the level of management that it needs and requires, we can truly commemorate the Wilderness Act. Without such commitment, our commemoration and our celebration here today would be hollow, words without substance.

In a way, the wilderness movement has been a revolution. This revolution has its roots in the earliest history of our Nation, based on an ethos of conservation which is the life blood of values that sustains order in public land use. America as a young land had unexplored, untapped, pristine land in which a native population lived in near harmony with wilderness. This wilderness was taken for granted early in our history.

Because the Federal Government did not have the tax dollars to sustain action, its role was to expend the land for a myriad of public purposes from education, transportation and extractive industry development to homesteads. The University of Minnesota, incidentally, is a land grant institution and one of the reasons that we are here today. This policy spread the land's wealth in a haphazard manner. Well, it didn't take long for land wars to develop. Even in the so-called midst of plenty, folks found reasons to be contrary regarding land use practices and decisions. As a result, public land management agencies developed at both the national and State levels.

Wilderness was, of course, embraced by public policy relatively late in the land use classification scheme, not because it was an afterthought but rather because of the humble assumption that wilderness would always be with us—that even man in all his vain glory could not and would not have the power to destroy such a wealth of wild lands endowed to our Nation. Furthermore, policy makers believed that other conservation land designations such as national forests, national parks, wildlife refuges, and natural and scientific areas would preserve the essence of wilderness. As unfettered activities occurred, the limits and failures of such land designations became apparent and the wilderness designation was finally born—born out of protest, frustration and desperation, but with very noble intentions.

Needless to say, there has been a national evolution of all land management roles and techniques. Land management has been dynamic and has utilized new knowledge to best accomplish the implementation of policy and law effectively. Wilderness designation, however, was a revolution because it broke out of the mind-set that had tied agency land management to a specific use and purpose for and by man. This revolution said that wild lands managed as wilderness areas were to be, in perpetuity, the areas that man has not and will not affect or change. And rather than create a new land management agency, the wilderness revolution wisely recognized that all national agencies which managed lands should inventory their lands as candidates for this important new national public land designation.

Well, the wilderness revolution continues today. The wilderness system at 25 years is filling out. Wilderness is not a 98-pound weakling anymore. After 25 years of care and feeding, it is growing with new hope and new life. The process of study and nomination of lands from all land management agencies is working, strengthening and enlarging the wilderness system. With 90 million acres of wilderness lands designated and with tens of millions more awaiting congressional action, the momentum and action continue. Public support remains very strong for wilderness as more and more of our population becomes urban. Especially relevant is all the support for wilderness with its nonconsumptive purposes in the Western States which have significant amounts of national lands. The 1990's will bring additional wilderness classification at a fast pace. Right now the Forest Service, National Park Service, U.S. Fish and Wildlife Service and the Bureau of Land Management are studying over 134 million road-

less acres for suitability for wilderness designation. Congress will designate many of these acres and will ask you—the land management agencies, the conservation organizations and the public—to implement the law and bring quality management to these new areas.

Each of us has a role, and these roles are changing as the wilderness system matures. My focus today won't be on the role of Congress or of conservation groups, but rather on the role of land managers. It's not an election year so I need not brag about congressional wilderness achievements. It is important that we focus today on the dilemma facing those land managers with wilderness responsibilites. Ideally everyone should love you as wilderness managers and agree with the law and the policies of your agency. I wish that were true but wishing doesn't make it so. Your job is to translate law into practice despite an often reluctant and angry constituency. This is hard and controversial work, but, as the Romans say, it is more important to be respected than loved. The controversial nature of wilderness laws and policies as well as other problems may have led some managers to be tentative in the way they implement these laws and policies. The time has come to end tentativeness in wilderness management. Now is the time for strong and aggressive wilderness management leadership.

The wilderness revolution has changed the way the American people use and view their public lands and transformed land management patterns and priorities in the United States. Surprisingly, however, this wilderness revolution has not been mirrored to date within the agencies charged with the nomination and management of the wilderness areas that the revolution created. Although wilderness today is a major land allocation, it apparently remains a low agency priority and wilderness management clearly has not kept pace with wilderness designation. Let me assure you again that wilderness designations will go forward. Even in the adverse political environment of the 1980's, significant new designations occurred, and the 1990's undoubtably will be a much better environment for wilderness designation, believe me.

Perhaps we need a new, second wilderness revolution today, a 1990's revolution inside the Federal agencies that finally changes the way they view and carry out their wilderness management responsibilities. This conference could be the opening salvo of the wilderness revolution of 1990's.

Do you question that a 1990's wilderness management revolution is necessary? Some who are put off by the lack of response by the agencies to wilderness management needs seek a separate special agency and authority to manage wilderness or else seek to change dramatically the multiple use concept calling it unworkable and filled with internal contradictions. Others question whether any change actually is needed in the way the Federal agencies manage their wilderness areas. Well, we do not need a special new agency to treat wilderness lands as being special nor do we need absolute exclusivity to overcome passivity. What we do need is proactive wilderness management to lead a wilderness management revolution in the 1990's.

Let me explain my concerns. The U.S. General Accounting Office at my request has conducted a 15-month study of Forest Service wilderness mangement. The Forest Service was not selected for special analysis or pain and suffering but for the simple reason that it historically and currently manages most of the designated wilderness areas in the lower 48 States. The GAO's final report is about to go to the printers and soon will be released to the general public. Because I feel that this GAO study can help you in your deliberations this week, I have brought along some copies of the report which I will leave with Dick Joy and Dave Lime to share with you. My hope is that this report will be viewed by the Forest Service not as an attack, but as a useful tool that it can use to strengthen its program.

To conduct its study, the GAO established a team of investigators who interviewed Forest Service wilderness employees, visited 10 wilderness areas—five in the west and five in the east—and sent a comprehensive questionnaire to every Forest Service ranger district with wilderness management responsibilities in the country. Five hundred and forty of these districts, 92 percent, responded. I hope that they don't view this as providing the ammunition for their own firing squad. Their responses were candid and positive and I appreciate that.

Several of GAO's findings cause concern:

1. The GAO found that extensive resource damage was occurring particularly on trails and around popular wilderness camping areas. The report cites numerous examples such as stock and human wastes polluting waters in the Frank Church—River of No Return Wilderness in Idaho, soil eroding into the middle fork of the Salmon River, deep gullying in the trail system of the Holy Cross Wilderness in Colorado, and excessive garbage and litter in the Pecos Wilderness of New Mexico.

2. Despite extensive degradation, the GAO reports that 61 percent of the ranger districts who filled out the questionnaire indicated that they had not prosecuted or fined a single wilderness violator in the last 4 years, and 72 percent had not determined the carrying capacities of their wilderness areas.

3. The GAO discovered that the Forest Service has no nationwide monitoring system to measure trends in the condition of the wilderness resource. Seventy six percent of the ranger districts, for example, had not implemented the limits of acceptable change method of monitoring and managing conditions or anything equivalent. According to the GAO, no wilderness condition data has been collected in the Sispey Wilderness in Alabama, the Cohutta Wilderness in Georgia, and the Shining Rock Wilderness in North Carolina, since their study and designation many years ago. As a result of this monitoring vacuum, the Forest Service has no scientific way to determine just how widespread and how rapidly degradation may be occurring in the national wilderness preservation system.

4. The GAO reports an $87 million backlog in wilderness trail maintenance and reconstruction. For example, its report states that two-thirds of the 1,000 mile trail system in the Pecos Wilderness is substandard and that 45 percent of the trail system in the Bob Marshall Wilderness in Montana needs reconstruction. Typical problems are erosion, gullying, mud, and multiple treads. In the Frank Church—River of No Return Wilderness, trail junctions often have signs of different styles and eras with contradictory information or have no signs at all. Is Congress at fault for not funding the trails program? If you don't ask, you surely won't receive. Neither the Forest Service nor the administration have asked for the necessary funds.

5. The GAO discovered that some outfitters and guides are violating Forest Service policies and the terms and conditions of their special use permits. In the Frank Church, they found elaborate outfitter cmaps with firewood cut by chain saw. In the Pecos, GAO discovered that, at least in one district, managers had no program at all to monitor outfitter performance.

6. Most Forest Service managers indicated on GAO's questionnaire that public outreach and education on wilderness regulations and good camping ethics were inadequate. Sixty nine percent of the ranger districts reported that they were educating fewer than 20 percent of their wilderness visitors. This is less than 1 visitor in 5.

7. And finally, the GAO report states that Forest Service professionals spend little time working on wilderness management issues and even less time actually in the wilderness. Most professionals with wilderness management responsibilities that the team interviewed had so many other duties assigned to them that wilderness received scant attention. One hundred and thirty ranger districts with wilderness responsibilities reported that they did not have a single employee who spent 10 percent or more of his or her time on wilderness management.

This General Accounting Office report is not the only indication of problems with the Forest Service wilderness management program. The GAO findings echo what we learned at the congressional wilderness management oversight hearings that I chaired last year. Although Congress has conducted countless hearings on wilderness designation, this was one of the only congressional hearings on how these areas are managed after they are designated. Again, the focus on the Forest Service made sense because it is the largest wilderness management agency in the lower 48 States. Testifying were a diverse group of witnesses that included Forest Service wilderness rangers, conservation organizations, wilderness users, and researchers from the Forest Service and the academic community.

There was surprising unanimity in their testimony. They all agreed that the wilderness resource is deteriorating under the Forest Service's stewardship and that, compared to its other resource programs, wilderness has a low priority. The wilderness rangers pointed out that the national forest wilderness system is run by seasonal technicians with no career ladder or job security. They indicated that there were wilderness rangers who had never been visited in the field by their supervisors. Furthermore, many of these supervisors had no previous wilderness management experience. One wilderness ranger testified that in the past 5 years she had worked for three different officials, none of whom had worked before in wilderness or recreation programs.

The university researchers substantiated the statements of the wilderness rangers with the data from scientific studies. Dr. Glen Haas of Colorado State University testified that his research shows that only one-fourth of Forest Service units with wilderness responsibilities have a full-time employee with wilderness management as his or her primary duty. Dr. Joseph Roggenbuck of Virginia Polytechnic Institute and University testified about his study of wilderness management in region 8, a large Forest Service region that stretches from Virginia to Texas. He found that although the region has 73 wilderness areas, it employs only a single, full-time wilderness

ranger, a single seasonal wilderness ranger and 7 wilderness volunteers. George Leonard, associate chief of the Forest Service, was quite candid with us about these weaknesses in the wilderness program. He also testified that only one-third of national forest wilderness areas have management plans.

Surely I should not single out the Forest Service as the only agency with wilderness management problems. The other three agencies have unique problems of their own. Almost 50 percent of the national park system's total acreage is now wilderness, over 38 million acres. The National Park Service is now the biggest wilderness agency and, yet, the Park Service has no budget line item for wilderness, no wilderness management research program, no completed management plans for any of its 40 wilderness areas and not a single full-time wilderness professional in Washington or in any of its regional offices to oversee this 38.5-million-acre system. National leadership for wilderness has been assigned to a GS-13 position, many levels down in the Washington office bureaucracy, and even this position has wilderness as only one-third of its responsibilities The U.S. Fish and Wildlife Service has a similar inadequate organizational structure.

Because the Bureau of Land Management is just beginning its wilderness management responsibilities, it is too early to tell just how effective its program will be. However, there already is some cause for concern. Although it has only 450,000 acres of wilderness, BLM's enforcement of the provisions of the Wilderness Act in the 25 BLM areas that have been designated has been hit and miss, resulting in widespread trespass by off-road vehicles in many areas. In the Juniper Dunes wilderness in the State of Washington, for example, dune buggies roam as freely as they did before the area was designated.

The Federal agencies do not share all of the blame for the sad state of wilderness management in the country today. The national environmental and conservation organizations must share some of the responsibility. Because most of their resources have been utilized for wilderness designation battles, they have not been able to focus on wilderness management issues. Clearly the wilderness management revolution of the 1990's needs to be across the board in the Federal agencies, in the conservation community and in Congress.

I realize that all these criticisms sound tough, but the integrity of 91 million acres is at stake. And there are tens of millions more to be added. One of the most difficult aspects of this problem is that some key leaders in the Federal agencies do not yet recognize that there is a serious problem. Congressional hearings and scientific studies apparently have not made enough of an impression. Wilderness areas will not only get the management they need, once we collectively realize and agree that present programs are not doing the job. The wilderness system would be in a lot better shape today if more folks who know what the problems are were absolutely free to speak out candidly and clearly. Permitting professional land managers greater autonomy with accountability must remain in a major policy objective.

I certainly intend to continue to speak out in Congress. The Members of Congress did not spend the last 25 years of blood, sweat and tears creating a 91 million acre wilderness system, only to stand idly by while it gradually deteriorates from lack of administrative direction. We must keep in mind that the national wilderness preservation system is an irreplaceable resource of profound meaning and of vital importance to the American people. It deserves more than the leftovers, more than haphazard, off the cuff, second class management. Wilderness management cannot be permitted to evolve into the lowest common denominator.

Yesterday's faith in natural wilderness systems and their spiritual values is being enhanced today by hardcore scientific and economic values that underline and justify today's wilderness preservation system and tomorrow's expansion of it. Today more than yesterday we are beginning to realize the implicit benefits of natural ecosystems for maintaining biodiversity, protecting gene pools and strong carbon to slow global warming. As the world rapidly approaches a global environmental crisis with atmospheric change, holes in the ozone layer, ocean pollution and tropical and temperate deforestation, wilderness areas have become increasingly precious as a major contributor to the health and homeostasis or balance of our planet. Furthermore, these lands are among those that are most readily harmed. America's wilderness system benefits not just Americans, but mankind on a global basis.

You should not be satisfied until the wilderness system receives the management it merits. You should not be satisfied until our Nation's land management agencies manage wilderness as a very high priority. You must not stop fighting until the Forest Service, the National Park Service, the Bureau of Land Management and the U.S. Fish and Wildlife Service revolutionize their approach to wilderness management.

There are signs, small but certain, that the wilderness revolution of the 1990's has begun. In this room are many dedicated Federal employees who are making significant contributions to improving wilderness management within their agencies. Because of your interest, concern and efforts, there are several recent developments that give me hope that significant and meaningful change is in the wind. Some new insights and new approaches to wilderness management can be observed. Since I singled out the Forest Service for focus and critical analysis, let me first recognize some positive signs of hope within this important agency.

1. The Forest Service has developed a plan for a national education campaign on no-trace camping.

2. The Lolo National Forest has renovated the historic Ninemile Ranger Station, making it a training center for wilderness managers.

3. The Forest Service is giving more of its wilderness rangers permanent appointments enabling the agency to keep their valuable experience and expertise.

4. Forest Service managers of the Bob Marshall complex have pioneered the limits of acceptable change management model and have implemented it throughout this vast 1½-million-acre area.

5. The chief and associate chief of the Forest Service are speaking candidly about problems in wilderness management and have given wilderness some new emphasis the past 2 years.

6. Conservation organizations, often staffed by some of the best and the brightest from our land management agencies who know their own agency's shortcomings firsthand, are in the forefront too, pushing for professionalism and integrity in land management agencies. In Montana, Bill Worf, a retired Forest Service regional director of recreation, has founded Wilderness Watch, a citizen's organization to focus on wilderness management issues. Already his group is fighting several attempts to weaken Forest Service wilderness policies. The Wilderness Society has begun a wilderness management oversight program and one of its employees, Frank Beum, is completing the society's first comprehensive look at Forest Service wilderness management.

7. The National Park Service, also, has strengthened its wilderness policies. It is now requiring a management plan for each of its wilderness areas and has restricted the use of aircraft in wilderness for administrative purposes.

8. The Bureau of Land Management has developed a model wilderness organization that the other agencies would do well to emulate. Rejecting the seasonal technician approach to wilderness management, the BLM has built an organizational structure of 150 full-time professionals complete with a built-in wilderness career ladder. These positions are located at every level of the organization. The agency's Washington office, for example, has a wilderness branch with seven professional employees, more than are found in the other three agencies' Washington offices combined. Five of these officials rose in the ranks of the wilderness program, bringing to Washington years of wilderness experience. Although many of the BLM's wilderness employees are focused on its large wilderness study effort, two of the Washington office positions are devoted entirely to actual management and each of BLM's 25 wilderness areas has a full-time wilderness professional in charge and either a draft or final management plan in place. None of the other agencies can make similar claims.

As impressive as these new developments are, they are clearly not enough. They are only a limited beginning. Some major tasks still need to be accomplished and institutionalized to bring quality management to the wilderness system:

1. (A) The Forest Service needs to provide a career ladder for its wilderness employees by creating more professional positions with full-time wilderness responsibilities. Only then will wilderness get the same priority given to other Forest Service resource programs that already have full-time professionals in charge. A forester should be able to work principally on wilderness and not be forced to leave the wilderness field in order to have a successful career in the Forest Service. A Forest Service employee should not have to abandon his or her work in wilderness to receive recognition and promotions.

(B) The Forest Service needs to redraw some of its unit boundaries to stop the harmful practice of subdividing wilderness areas among ranger districts, national forests and even regions. The Frank Church—River of No Return Wilderness, for example, is managed by 12 ranger districts, 6 national forests and 2 regions. Most of these units have nonwilderness lands that take precedence over the wilderness resource. It is no wonder that the GAO report identifies numerous management problems in this wilderness area crisscrossed with administrative boundaries that have little relevance to the needs of the wilderness resource. Those national forest wilderness areas which are managed as one unit with one organization in charge and those ranger districts that are predominantly wilderness clearly have the

most aggressive and comprehensive wilderness programs in the Forest Service today. The strong, creative programs at the Gila Wilderness in New Mexico, the Eagle Cap Wilderness in Oregon, the Superstition Wilderness in Arizona and the Selway-Bitterroot Wilderness in Idaho and Montana with its all wilderness Moose Creek ranger district are good working examples.

2. The National Park Service needs to set even better examples for its visitors by ending its widespread use of motorized equipment and vehicles inside wilderness for administrative purposes. This motorized use practice flies into the face of wilderness regulations and in fact suggests an attitude of do as the National Park Service says not as the National Park Service does. The park service also clearly needs to complete the aircraft overflight study mandated by Congress and quit its foot-dragging on this important project.

3. The Bureau of Land Management will need to fight to keep its impressive wilderness organizational structure in place and resist dilution once the statewide wilderness studies are completed in 1991. The BLM will need this organization to manage the millions of acres that Congress is today working hard to add in the decade of the 90's to the BLM's portion of the wilderness system.

4. (A) All four agencies, the National Park Service, the Fish and Wildlife Service, the Forest Service, and the Bureau of Land Management need to launch aggressive local, regional and national education programs on wilderness regulations and good camping ethics.

(B) All the agencies need to expand wilderness management and use research.

(C) All the agencies need to implement a nationwide monitoring system to measure trends in the condition of the wilderness resource.

(D) All the agencies need to add wilderness to the annual performance evaluations of line officers to hold them accountable for the condition of the resource. Seventy percent of the Forest Service ranger districts that responded to GAO's questionnaire reported that wilderness management was not a critical element on the performance appraisals of any of their employees.

(E) And the Forest Service, Park Service and Fish and Wildlife Service need to follow the BLM's lead and have directors of wilderness in their Washington and regional offices. Only then will wilderness have status and emphasis equal to that of other resource programs which already have directors of their own. There are directors of timber, range, wildlife, recreation, minerals and watershed. Is wilderness less important than these resources?

5. Congress needs to appropriate more money for wilderness management. I don't believe you are carpers who only complain that you need more money and I know that you understand that wilderness cannot be funded at the expense of other programs within your purview. I have worked closely with the House Appropriations Committee to increase wilderness funding without cutting other programs. For example, the Committee on Interior and Insular Affairs' report to the Budget Committee for fiscal year 1990 includes our subcommittee's recommendations for large dollar increases for wilderness. I followed up this committee report personally by testifying in April before the Appropriations Interior Subcommittee. These efforts are beginning to show results. The House version of the 1990 Interior Appropriations bill boosts funding for wilderness, trails and recreation. Unfortunately, the Senate version of the bill does not include these same increases for the Forest Service. These differences will now be worked out in the House/Senate conference in progress this week.

What a glorious birthday party for the wilderness act it would be if in the next decade we had a 1990's wilderness management revolution. If we could accomplish most of these tasks, it would truly be a second wilderness revolution. We can make it happen only with a positive, concerted effort on the part of all of us. We may not necessarily need new laws, new agencies and new missions. What we certainly need is to implement the existing wilderness laws and policies much more effectively.

The history of wilderness designation has had many heroes who were able to accomplish tasks just as difficult. Bob Marshall is a favorite. His list of accomplishments are awesome. He could hike 50 miles a day in tennis shoes—they don't make them like that anymore. Bob Marshall climbed every major peak in the Adirondacks. He lived with the Eskimos and wrote a best seller on Eskimo culture. Bob Marshall was one of the first explorer's of Alaska's Brooks Range. He was a founder of the Wilderness Society. And ultimately he rose to be the national director of recreation for the Forest Service, where he established America's first national wilderness preservation system, the foundation of the system we have today. And all this despite the fact that some of his professional colleagues thought he was an eccentric crackpot. And all this before he died at the early age of 39.

My enduring faith is that there may be a little of Bob Marshall in each of us—some of you may have even hiked in tennis shoes. My goal is to craft public policy and shape law which will let your good qualities blossom into the same spirit of wilderness so beautifully expressed by Bob Marshall. Surely nothing worthwhile comes easy, but you did not take a role as a public land manager and policy maker because it was easy. No, your role is not the route of least resistance. It is the route of a pathfinder who is exploring ways to excel in the intelligent and reasoned utilization and management of our wilderness resource. Have a great and successful conference and may the spirit of Bob Marshall and the spirit of wilderness be with you as you lead the Nation in a 1990's wilderness management revolution.

HOUSE OF REPRESENTATIVES—*Friday, October 6, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that in the midst of weakness You give us strength; in the midst of despair, there is the gift of hope; with hurt, there is also healing; in doubt, there is faith; and in death, there is life. While we see so clearly, O God, the concerns that are before us, so keep us to see also Your eternal spirit that surrounds us and never lets us go. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. McEWEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. McEWEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE NEW FOOD CONTAMINATION PREVENTION ACT

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, back in June I stood in the well of the House and introduced legislation to end the disgusting and dangerous practice of backhauling garbage in trucks which also transport food. That legislation, H.R. 2681, received broad bipartisan support in the House. Today, after additional investigations and congressional hearings, I am pleased to join with my good friend MATT RINALDO, and over 30 other Members of Congress, to introduce a new and refined version of the Food Contamination Prevention Act.

Mr. Speaker, despite almost universal condemnation of this practice by food producers, processors, wholesalers, retailers, and transporters there is clear evidence that this practice continues. The pictures in front of me clearly show that: First tractor-trailers are continuing to haul a substantial volume of garbage to our Nation's landfills; second, that refrigerated trucks, which are specifically designed to haul fresh foods, are clearly hauling garbage; and third, that it will take more than a broom to remove the residues of garbage from these trucks.

It is time for Congress to put forward a comprehensive plan to regulate the transportation of garbage in vehicles used for other purposes.

Mr. Speaker, the legislation I am introducing amends the Solid Waste Disposal Act so that any vehicle which transports solid waste is prohibited from carrying food or related products. All refrigerated vehicles, which are specially designed to carry fresh meat and other foods, would be banned from ever transporting garbage regardless of the content of their previous or future loads.

Mr. Speaker, the new Food Contamination Prevention Act mandates that any vehicle which transports solid waste be labeled as such in order to let shippers know that the vehicle has previously carried garbage. In addition, new subclasses of solid waste are created to accommodate the differences between empty bottles being returned for reuse, bundled newspapers destined for recycling, and garbage going to landfills.

Mr. Speaker, I urge quick action on this bill.

OUR AIRLINES AND OUR CREDIT SOCIETY ARE IN TROUBLE

The SPEAKER. Under a previous order of the House the gentleman from North Dakota [Mr. DORGAN] is recognized for 30 minutes.

Mr. DORGAN of North Dakota. Mr. Speaker, today I would like briefly to address two subjects. The first, ever so briefly, is in this morning's Washington Post. The headline says Trump makes $7 billion bid for American Airlines.

Mr. Speaker, Donald Trump bid $7 billion for American Airlines. What concerns me about Mr. Trump's bid for American Airlines is that it is the next bite in the complete consumption of the healthy airlines in this country by those who want to convert equity to debt and make some money through quick speculation.

This country has about six or seven healthy airline carriers. Of these healthy airlines, several are targets of leveraged buyouts. The leveraged acquisitions began with Northwest, followed by United, and now with American. It will likely embrace the other healthy carriers, too. Speculators will put in play the airline companies and load them with debt. This will require interest payments that, in some cases, are greater than the net incomes of those airline carriers. All for speculative purposes. Airlines are especially vulnerable to economic swings, so when the next recession comes around, we will see our major airlines in serious economic trouble.

Guess who is going to be asked to bail out the airline industry? Yes, the American taxpayer. Now, the Secretary of Transportation and I think the Bush administration is privately concerned, but, generally speaking, publicly silent about these potential problems. I wonder why? I wonder why, when the public interest clearly conflicts with private greed and private speculation that is unhealthy for this country, this administration will not decide that it's time to stand up and wonder whether this kind of speculation in the airline industry should not be halted.

Mr. Speaker, I have written today to President Bush and Secretary Skinner asking that they pay some attention to what is going on. What is going on is not healthy for this country. Airline takeovers might make short-term profits for some speculators and even some current stockholders, but they pose a serious threat to this country's airline industry, and I think it ought to be stopped.

Mr. Speaker, the second subject that I want to discuss today concerns the issue of savings. In the last month we have had a tremendous amount of controversy on the floor of this House about something called capital gains. Some people say that the reason we need a tax preference that gives most of its benefits to the wealthy is because we need incentives for savings in this country.

Well, that sounds good because savings equal investment; investment equals economic growth. I am reminded, however, that the desire to increase savings in this country conflicts with almost everything that everybody in this country is confronted with every single day.

I say to my colleagues, "You walk down the street a couple of blocks from this Capitol, or down the street on any main street in this country, and you'll see a picture window beckoning to you. It says, 'Come over here, customer. We want to talk to you. We want you to buy this product that's in the picture window. We don't care

that you don't need it. It doesn't matter to us that you haven't saved up for it. It doesn't matter to us you can't afford it. You come and buy it, and take it home. You don't have to make the first payment for 6 months, and we'll send you a rebate 2 months from now.' "

Mr. Speaker, that is the whole mentality of this credit society. It pervades Main Street and Wall Street.

□ 1010

The credit mentality barrages consumers at every turn, and I, for the last 6 months, have been getting a great deal of mail as I bet every American gets.

About 6 months ago I thought to myself, "Well, I will just save some of it, and someday go down to the floor of the House and share with those who are interested in the kind of mail I get." I am sure it is the kind of mail everybody gets. It is a literal barrage of mail from people who want me to take their credit cards. It does not matter that I do not want it, or that I do not know these folks. I have never written to them. They are probably nice people, but they have become my pen pals. I want to describe to everyone, and I want all of us to think about, as I do this, the admonition of Members in the House who say that what we really need to do is increase savings. They want to increase savings by giving a tax preference to the rich, even when faced with this sort of behavior in our mails, the behavior of those companies who preapprove us, all of us, for massive amounts of credit that we do not want and we do not need. Then we say we want to increase savings.

Let me go through some of these if I might. Here is a letter I received from a major banking center. In fact, it is from the vice president, and it says:

DEAR MR. DORGAN: Your new Visa card with a $3,000 credit line puts more sunshine in your life. We have already preapproved it for you. It has been reserved in your name. In fact, our card now has a new look reflecting new benefits. Because you have an excellent credit record, your Visa Card is waiting with a reserve $3,000 credit. All you have to do is sign your name, and, again, you will like the look of our card.

Well, Bank X, thank you very much. I did not write to you, and I am not interested in your card; but it is nice to know that you have changed the look, and it will put sunshine in my life if I decide to take it.

Another major bank wrote to me. I do not know Bank Y, I have not written to it, but they wrote to me, and they said that they have available for me, preapproved, a Gold Visa Card. They preapproved a $6,000 credit line in my name, and it is at only half the price of the first year's membership fee. It says that this card is so special that it is being offered only to a select few individuals in America, "and with it you are going to enjoy immediate credit worldwide made available by the Bank Y, a name everyone knows." That sure made me feel good, despite the fact that I had not written to them, and did not want their credit card. Nevertheless, they have told me that up to $6,000 in credit has been preapproved.

I then got a letter from Visa again. This was from yet another company. It says:

Chances are, Mr. Dorgan, that you use your credit card as a means of managing your money, so we have a new Visa card designed just for you.

That is pretty comforting to know that this company, as big as it must be, has designed a card just for me. They say that if I will take their card, my annual interest rate is only going to be 15.9 percent. God bless them. I have no idea how this California company got my address. Again, we are not pen pals, but I sure appreciate their thinking of me.

That was followed on its heels by another letter I received just a couple of days later in my mailbox. This "consumer bank," said:

Mr. Dorgan, up to $10,000 in credit has been put aside for you, and there is no membership fee at all for the first 4 months.

They do say in their first line of their letter something that makes some sense. They say:

Why on earth do you need another credit card? You have probably been offered more cards than you will ever need.

Boy, they have that right.

Wouldn't you still be interested in one that actually gives you more for less money.

They ask, and that is precisely what this consumer bank has to offer.

This Gold MasterCard gives you a better deal, much lower annual fees, $5,000 and up to $10,000 approval. Later you can apply for $25,000. $25 annual membership fee.

A real deal, and then only 15.9 percent interest rate. Of course, considering the fact that inflation is only about 4 percent, that means one is only paying about 11.9 percent on their money. I can understand, that is quadruple the traditional or predictable rent on money, but it is only 15.9 percent rent, they say. The chairman of the board who wrote to me, and it is very unusual to get a letter directly from the chairman of the board addressed to me saying he has taken his time to give me a $10,000 credit line. I appreciated that, too, but did not decide to get that credit card.

Then several days later I received this in the mail, another preapproved credit card loan from a worldwide bank. This is a big company and widely known. They loan to Brazil and Mexico. Why on Earth would they think of just ordinary folks? But they do. The director of consumer credit wrote to me, and he said:

Dear Mr. Dorgan, we have already approved you. You are going to get our credit with no annual fee.

He says:

You have been approved for $5,000.

That is a heck of a deal when one gets a letter from a director, an executive of a worldwide company that loans to foreign governments, and they tell one that they think about you, that they care about you, and they have already made a corporate decision to preapprove you for $5,000. It makes one feel good if they do not get any other mail.

Then a couple of days later, I got an even fancier looking letter. This one is on that fancy cloth-type stationery, which costs a lot of money to buy stationery with rag content. It offers a special access credit line. I did not get much mail that day, and I felt kind of good, because I opened it and here is a letter from the president of yet another big bank. Who on Earth would expect to get letters from presidents of banks? Does anyone know what the president said to me? He said:

You know something, Mr. Dorgan, I am pleased to enclose your personal application for an extraordinary line of credit up to $25,000 requiring no collateral, and it is a highly competitive interest rate of only 16.5 percent.

God bless this company. Can they do any more for America?

A couple of days later, the worldwide bank wrote back to me, and this time by a different fellow. They apparently had forgotten that they wrote to me only a few days before. This letter said:

Because you have an excellent credit rating, we have reserved for you $3,000 in preapproved credits.

They had just sent me something that said they had already reserved $5,000, so it occurred to me to write to them and ask them, "Does this mean I get $8,000 from the worldwide bank?" But I decided not to bother, because this second letter came from the president, and when the president of the bank says, "You only have $3,000 set aside for you," and one of the directors of the consumer finance division says $5,000, my guess is that the president is going to prevail anyway.

In the middle of all of this in the past couple of months we had a new store move to town, and they just sent this puny little letter. It was a top-drawer merchandise store. They sent a little note that said, "By the way, you have been preapproved to get our credit card." This is nice. I do not know that I have ever shopped at this store. But it is nice of them to think of me, and I expect everybody else in the neighborhood.

I had not received any mail from one credit card company in this 6-month period, but sure enough, it showed up.

Again, the copresident wrote to me, and she said:

With your excellent credit history, you ought to be paying less for credit, yet most of the credit cards you have to choose from charge 18 to 21 percent, but not us. We only charge 13.8 percent. In fact, we have preapproved for you a line of credit of $4,000.

That was sure nice of them, because I had never chosen this card either, knew nothing about them, and here is the copresident deciding to write to me and tell me they personally have made a decision to preapprove me for a $4,000 line of credit.

I have very few cards, as a matter of fact, but one company wrote to me, and it said, "You are already approved to receive our card." This was a little bit unimaginative, because it was sort of a commercial-looking envelope, but inside the envelope was a letter from its president, as well, and it makes one feel awfully good. They probably could have afforded a better envelope for this, but it makes one feel good that the president is writing himself. He said, "You know, Mr. Dorgan, you are preapproved for a credit line of $2,500."

□ 1020

I maybe should have written back to him and said did you know that a Wall Street bank thought I was worth $8,000 in preapproval? Not that I need any of this, but he said $2,500 was available for preapproved credit.

He said, do you know what is different about us? We give you cash-back bonuses.

Heck, how can you refuse cash-back bonuses when you buy?

I thought all of that was nice. That is a lot of mail you get when you do not get any other mail.

But there actually is better mail. This is probably the fanciest I have gotten. This actually has gold lettering on the envelope. It says, "Carry an additional degree of financial flexibility."

This is what you call up-town stationery. This is good rag content. It looks real pretty.

This comes from the senior vice president. The senior vice president says:

Your continued financial responsibility has earned you the status of a gold card member and the ability to apply for our ultimate credit card.

Apparently there are different levels here. There is the ability to go gold, and then to the ultimate level. I did receive a request to apply for a platinum card as well, but I could not find the envelope this morning. My guess is had I been forced as a consumer to choose, that platinum would have been a close choice with the ultimate card, depending on what their annual rate was and depending on how much their presidents had personally decided to preapprove me for credit.

There are more, but it seems to me with that kind of deluge of mail from companies that want to give all of us credit, and my guess is anybody listening to this understands, that it is not just what I get in my mailbox, it is what everybody gets in their mailbox, unsolicited credit card applications, preapproved credit cards.

Two nights ago, I received a call at 8 o'clock in the evening, picked up the phone, and it was a credit card company saying we would like you to sign up for a credit card. We want to send you this credit card, by telephone solicitation.

Everybody is besieged and barraged by these unsolicited credit cards that are flooding this country. Then we have people stand up here in the U.S. Congress saying do you know what we really need to do? We need to stimulate more savings in America.

How on Earth do you stimulate more savings when the entire private sector is choking on credit?

In the old days my grandmother, who is 93 years old, will tell you that people would talk about saving enough to buy something. Has anybody heard anybody talking about saving up to buy something?

You do not have to save up to buy anything in America today, you just buy it. You get a rebate before you have to make the first payment.

You wonder a little bit about why does this not make sense? It does not make sense because in other countries there is a premium on savings. In our country there is a premium on consumption, even consumption you do not need and consumption you cannot afford.

In Japan, you simply cannot buy a house unless you have a significant downpayment. That is unfortunate, but that is a fact. In Japan you cannot go in and buy a car unless you have a significant downpayment. That is not very convenient, but it forces people to save up if they want to buy a car.

In this country we say it does not matter. Heck, you can go through bankruptcy and we will send you a card right after the bankruptcy because then you are a good risk, they say.

This country is awash in this sort of baloney. At some point it has to stop and we have to get back to basics.

This country's economy will be healthy once again and survive and succeed once again when two things happen: First, we decide that we are going to start saving, we are going to save up to buy things and buy what we can afford; and second, what we can afford is a product that has, a different subject, but it is just as important, the old notion of quality.

A friend of mine from Bismarck, ND, last Christmas in the parking lot as he was pulling out, having just put a Japanese television set in the trunk of his German car, waved and said, "Byron, when are you going to get things straightened out down there in Washington?"

As I drove away I kind of smiled a little bit, because it occurred to me if tomorrow we straightened everything out with just a snap of the finger, we would still have serious problems.

He is not stupid. He, as a consumer, bought a Japanese television set and a German car I assume because he thought they were the best products for the best price for him.

In the long run for us to succeed, not only do we have to save and get away from this wash in credit, but we also have to be able to purchase products that are quality products.

That commitment to quality means that in the long run across the world someplace that when someone buys something with a tag that says "made in the USA," they have to believe immediately, I know what that means. That means that is the finest I can buy.

Think of how much things have changed. Thirty years ago if your folks gave you something for Christmas that said "made in Japan," you thought it was junk, and much of it was.

Consumer products made in Japan and many areas these days represents quality. Some people do not like American products because they do not think they are well made. In the international competition and international marketplace we will succeed, it seems to me, if we have a basic commitment to quality. Part of having a basic commitment to quality is being able to produce with the latest technology available.

Part of that is to have the investment capital to buy it. A major part of this is to have the savings available for the investment capital to be available. Savings relates to this.

There is solicitation, the unwanted and unwarranted solicitation all over this country by people who possess credit cards and want to sell them to us at enormous interest rates at enormous fees. When they say to us on these applications that if we take their credit cards they will only charge us 17- or 18- or 19-percent interest rates, I wonder what on Earth are they thinking of. Do they think the customers are stupid?

Inflation is at 4 percent. Traditional rent for money would bring another 4 or 5 percent. Interest rates should be 9 percent tops.

They are saying we are going to give you a deal. We will send the credit card you do not want with interest rates you should not have to pay.

That is not the road for this country. The road is a more thoughtful road that requires us to begin saving,

to develop a commitment to saving, and turn away from this credit.

It is not just the private sector. It is the public sector especially. We have a nearly $3 trillion debt and a nearly $200 billion per year deficit. I know some people say the deficit this year is $100 billion or $120 billion. They surely are smarter than that. They surely know that the deficit is closer to $200 billion.

It is just that they, like everyone else for the last 10 years, have bought into this notion that we do not want to give anybody bad news because we do not want to force anybody to make choices they do not want to make. This country has to make a choice. We raise about 19 percent of our GNP in revenue and spend 24 percent in spending. We have got an annual deficit of about $200 billion, a $3 trillion debt, and a cancer in the Federal budget growing faster than any other program which is called interest on the debt.

Interest on the debt does not do anything for anybody. It does not provide prenatal care for babies, it does not provide child care, it does not provide education, it does not provide defense. It does not provide anything for anybody. Yet, it is a cancer that is the fastest growing item in the Federal budget.

At some point in the public sector and in the private sector this society, this country, had better sober up.

We face increasingly difficult international competition. It is competition we will not win unless we get our economic house in order and put an end to the public and private credit binges.

Mr. Speaker, I yield back the balance of my time.

UPDATE ON ACTIVITIES OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I would like to mention that our distinguished colleague, the gentleman from North Dakota [Mr. DORGAN] has touched upon some points that are of great interest. I would like to point out to the gentleman that the invitations he has had for these banks and bank presidents are something that I have not received, so he must be very carefully selected for credit availability.

Perhaps it has to do with the fact that he may be feared because he is the author of the anti-junk-bond amendment to the S&L legislation that we considered here a few months ago. Maybe they just have respect for Mr. DORGAN and want to keep him on the right side of things by making these very gorgeous offerings.

On a more serious vein, this is a very similar reflection on some of the things that are out of joint and have for voting implications for our country.

□ 1030

Mr. Speaker, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I do not want anybody to think that I am getting solicitations that the gentleman is not getting. My guess is that the gentleman just throws them away. I throw a lot of them away without opening them because they are just junk solicitation.

I just happened to decide to open all these financial solicitations. The gentleman probably throws them all away. But I know he is getting the same solicitations.

Mr. GONZALEZ. Actually there has been no change whatsoever since I assumed the chairmanship of the Committee on Banking, Finance and Urban Affairs. Actually I do not recall receiving that kind of an invitation. I have had some Visa card invitations, no particular line of credit other than what they traditionally offer, I guess. But those two, I think, one fundamental thing the gentleman touched upon in comparing the savings history and practices in Japan, the actual purchase of a home, we are talking about a very different societal structure. Also I would like to point out that Japan has pretty strict controls of interest rates. They have no upward permissibility beyond 9 percent, at the most. The average is about 7 percent. We have not had any. As a matter of fact, I have pointed that out ad finitum or ad nauseam, whichever the point of view is, over the course of 28 years of being in this House, that it was the 1865 National Currency Act which was debated and approved just about the time President Lincoln was shot. That actually set the predicate for what has turned out to be a national banking system. But it also eliminated the interest control legislation that had been on the books since the founding of the Nation.

As a matter of fact, as I point out again as a point of history, the very beginning of our nationhood, we must remember that the first 10 years we had the First and the Second Continental Congress and nobody bothered to think of such a thing as an office of a president or the phrase used in the Constitutional Convention, "Chief Magistrate," because that was a feared office.

But as everybody knows, at the bottom of everything is banking, finance. Behind everything throughout history as far as we can find any recording of human history is this question of financing or banking. The question of interest, for instance, in the Code of Hammurabi, 7,000 years before Christ, there are strict prohibitions, on what we call usury.

The ancient Hebrew rulers and kingdoms had absolute prohibition of usury. In fact, they had the 50-year jubilee in which all debts were forgiven after 50 years. That was the first meaning of that word "jubilee," which we jubilantly use sometimes.

So that all through history at the time that our Lord Jesus Christ was preaching, it was a fearful punishment for anybody accused of usurious behavior. And also throughout history.

But our country has had absolutely no interest controls since 1865.

I dug out the history of interest in out country, the interest legislation some 25 years ago, and did quite a bit of research. At the time that the 1865 act was approved, there was no such thing as reporters of debates, no such thing as a CONGRESSIONAL RECORD.

You had journals that were prepared by private entrepreneurs and reporters.

Researching some of those was most interesting.

Now my distinguished colleague, the gentleman from North Dakota [Mr. DORGAN], touched on some points that I had intended to discuss here. First, this is a continuation of what I committed myself to my colleagues to do the very first week that the 101st Congress convened in January. In fact, I think it was the second day, on January 4, that I first addressed the House and reported on the activities, as chairman of the Banking, Finance and Urban Affairs Committee, as it is now called.

Incidentally, the beginning of a banking committee in the U.S. House of Representatives also goes back to the 1865 National Currency Act. At that time there was no such thing as a banking committee in the House. It was the Ways and Means Committee. It was an overall committee.

Subtracted from that as a result of the 1865 National Currency Act was the beginning of what we call the Banking Committee which is now one of the historical full or standing committees of the House. But it actually sprung from, as many other committees did subsequent to 1865 in recognizing the country's changing and growing nature and characteristic, from the overall committee.

But behind everything is financing.

Thomas Jefferson, even Alexander Hamilton, who was considered a centralist, both were very preoccupied in the First Continental and the Second Continental Congresses with the question of what to do. Everybody has to have a banker. Nations, States, other entities, kings all had to have their bankers or their sources of credit.

So when the First Continental Congress met, they were trying to figure

out a solution. So the bankers in Philadelphia then said, "Well, we will provide, but you are going to have to pay this much interest."

Well, that set forth Mr. Thomas, Jefferson, who history will reveal, if you study his words, was the most critical public man in the history of the Nation, of the bankers as a class.

So they said, "Absolutely not. We will charter," what turned out to be the first bank of North America, "but you are going to have to limit yourself to no more than 6 percent interest." And by golly, the bankers who had said "We can't do it" came in and did it.

The same thing happened with the subsequent, Second Continental Congress.

Now the question that I pose and that I pose to the gentleman from North Dakota, and if he does not have a chance to listen to me I hope he will read the RECORD, to the gentleman from North Dakota [Mr. DORGAN] is: Even what the gentleman mentioned as being reasonable, 9 percent, is not. It is not reasonable. You do not have a viable society based upon that kind of interest rate level.

So that what today is taken for granted as 12 percent being average is absolutely still a punishing and an exaction that is unconscionable, that has ended up in wrecking and turning around the whole nature of the American economy and actually opening the breach for what is now considered to be a very serious dilemma confronting us all.

Interest rates by definition are the mechanism by virtue of which wealth is transferred within a given society. This is what has happened in our country, particularly since the absolutely abusive and conscriptive interest rate instabilities.

□ 1040

The idea that a so-called prime interest will have reached the level of 20 or 21 percent in 1979 and 1980 is absolutely impossible to believe, even in my own mind. Some of my predecessor chairmen and great Americans, I am sure, must have turned over in their grave a hundred times. However, it has managed to transfer wealth. What has happened now is what I think a forecast of an eventual social crisis, because constantly and inexorably for almost 10 years we have had an extraction of wealth from the lowest and least affluent sectors of our society to the top 3 to 5 percent of our society. That, I think, is not only unconscionable, the full impact and the detrimental effect of that has yet to be established.

My predecessor speaker also mentioned Japan and the fact that it has, for instance, made inroads. He referred to the Japanese-made automobile and television set. However, all that has begun with financing, mostly by American interests a couple of decades ago, a decade and a half ago. In Europe, which is something, incidentally, which I have discussed since the middle 1960's, we now have the full development of what seems to be by 1992 the single market or the one European development. In the financial and international financial world, that is pretty much in place. I first mentioned this after the economic summit meeting on May 1, 1979, in Bonn, Germany, at which time President Carter attended. The communique that came out of that summit meeting, it was a great communique, relatively speaking, but the least line of that communique said, "We agree in principle to the European monetary system and the European currency unit."

At that time, no American newspaper reported it other than those papers like the New York Times, I believe, that had the text of the communique. However, nobody even referred to that last line. I did. All that summer the RECORD will show I discussed the implications of it. By the time that President Reagan went to the same Economic Summit meeting at the same place in Bonn, Germany, in 1985, again the first week in May, the reports in the American papers would lead Members to believe that the President went there for one purpose, and that was to lay a wreath of flowers at Bitburg Cemetery, which aroused such controversy because that was a Nazi soldier cemetery.

However, the real truth is that what came out of that conference was the fact that EMS and ECU had been fully fleshed out. That was done the month prior to May in Palermo by the finance officers of the European countries or at least by the big 7 or 10, whichever point of view a person has, and today it is fully in place. Almost all of the financial transactions today reported in the financial papers, in other papers in Europe, whether they be French, British, German or in terms of ECS's European currency units, the ECU, right now is worth better than a dollar and a quarter. It has a stability that the dollar does not have.

The big fear, as I have repeated, and again as what I said in 1979, seems to arouse very little interest on the part of anybody, is that the threat of the dollar being replaced as the international reserve unit is very, very present and clear to my mind.

Now, some of the big and influential bankers that I have mentioned this to seem to think that well, at some distant future that may be a possibility. However, they do admit there is that possibility. What I think they are dead wrong in, is to not see that all the conditions are there for it happening any time soon. It depends on unforeseen activities now, but which are predictable. Now when that happens, given what my predecessor colleague mentioned or referred to, and that is the debt structure that we have piled on ourselves within the last 6 years, particularly, it can be calamitous.

The liberties, and above all, the economic freedom of our country is gone because all of this huge debt, and we must remember the gentleman is quite correct when he said our public debt is almost $3 trillion, well, it is more than that, if we add a so-called contingency debt. This is what the Europeans call our off-budget obligations. Those are now approximating $2 trillion. In the meanwhile, the Japanese, sure, they have invested and they continue to invest in incremental increase amounts in assets in our country, but the British have done so twice as much, and nobody seems to say much about that. Maybe, perhaps, there is little element of racism there. I do not know.

All I know is that the big question is, in what sectors, and to what extent has this intervention and penetration changed from indirect to direct as set acquisition. For that reason, I wanted to report to my colleagues that the committee I chair is intensely concerned, and I have begun on a staff level to lay the predicate for what will be a very intense looking into this by the committee. However, we are so burdened now with so many of the issues that have joined and conjoined that we had foreseen, but which, unfortunately, have been allowed to compound and join at a critical juncture in our developmental history so that it is a question of to what extent.

Now Canada, for example, years ago, created controls, and they have a screening commission on foreign investments of acquisition through direct asset acquisition. In the case of banking, of course, Canada has much less banking activities or institutions than the United States, but the fundamental principle is the same. Now, we have nothing. There is no oversight. This is a reason that we are also contemporaneously going into the question of the Federal Reserve Board, and what do we need to do to bring to a new modern world a structure of the Federal Reserve Board that goes back to 1913 where the country was an entirely different country. As a matter of fact, it was not until just last year that the San Francisco Federal Reserve Regional Bank was even allowed to participate. Maybe not as a voting member, because the structure, as I say and repeat, goes back to 1913, but at least be present at the open market committee deliberations. The open market not being open, but closed, and which has the faith and the power to determine the rise or fall of any administration through their control, directly and indirectly, of such things as

interest rates, through the purchase and the price fixing of Treasury bills and yields.

□ 1050

Mr. Speaker, the British used to have a similar system until they reformed it after the war. The old Chancellor of the Exchequer used to have that power, and in many instances he could determine the rise and fall of a given British administration.

We are still doing business in a rather outmoded way, so we intend to have, and the staff has been laying the groundwork for that, the Federal Reserve Board, 75 years later, because 75 years ago we had—so, anyway, time is awasting. We have so much to do and so very few resources to do it with, but these, I think I ought to report to my colleagues, are on the top billing. They have everything to do with the fate of our country.

At the bottom of everything is financing and banking. I have raised that issue since 1964.

I had been asking the chairman and the subcommittee chairmen on Appropriations what part of the defense bill represented a percentage cost for the so-called defense of Europe. All through the years the chairmen would say, "Well, we can't tell you that because these items are scattered all through the budget and the defense budget," and I would say, "Well, I have extrapolated a figure based on an analysis of what I would say was directly and indirectly attached to the cost," and I figure in 1967, I figured even with Vietnam having gone up to almost $45 billion, that the net cost in that budget was about 50 percent. By the time it reached $315 billion, about the second or third year of the Reagan administration, I figured that from 60 to 63 percent, as it is today, represents what would be reflective of our costs for the so-called defense of Europe.

Mr. Speaker, I was also pointing out since 1964 that this was unrealistic, that our leadership in and out of the country and the Presidency was still of the mindset of a Europe of 1947 and that that was gone forever and a day.

And I have implored three Presidents, including just 2 months ago in my last special order a plea to President Bush, and this was before we had this phenomenon of the East Germans telling West Germany, saying that actually World War II had not ended, there is no peace treaty and that the American leadership should be exerted, convoke a meeting, and with the change and the dropping of the tremendous fears the Russians have had about a revanchist Germany, that the time was right for American leadership to say, "Hey, we've got to review this. The whole predicate of our defense for Europe is gone."

Mr. Speaker, the whole thing had built up in a cold war atmosphere because of the so-called fundamental German question which was the beginning of the argument that led to the cold war nervousness for all of these decades. Now the Germans and the others fear us more than they do the Russians. Why? Because even though we have changed the designation of our troops from occupation to defense, we are still occupation to that average German.

Mr. Speaker, we have over 300,000 of our military in Germany alone, not counting the families. How many has Great Britian had? How many have the French had all along? Nobody wants to ask those questions.

What was the big premise, Oh, that we would be protecting them from an inland, through Middle Europe, Russian invasion. But what was the fear? That Russia would want to come through Germany, and what? Take France? Well, that was preposterous from the beginning. Anybody even distantly aware of the thinking and of some of the internal history of Russia would have said, "Hey, look. You're picturing a Russian that is really stupid, and they're not."

Mr. Speaker, why would the Russians that cannot even handle Poland or Czechoslovakia want to think in terms of coming to France?

And then France itself left NATO. Their basic premise under deGaulle was that, "We don't need the American umbrella. We can take care of ourselves. We will develop a force de frappe that's superior."

So, in light of that changing world there is no recognition on our level of that, and I think it is a fatal error.

At the same time domestically we have piled up the most tremendous internal debt among just us, the citizens, the greatest domestic, private debt in history. The corporate debt is astronomical so that we have this kind of continuation of instability as we see now in the value of the dollar. So, it rises.

In fact, Mr. Speaker, the newspapers this morning, the New York Times, talked about intervention, which I think has been absolutely a foolish, contradictory thing. The Federal Reserve Board, which everybody considers our central banker, which really in a way is more than and in another way it is less than the central banks of Europe, has been spending millions and billions of dollars. The Japanese are supposed to have intervened to shore up the value of the dollar.

Then just a few years ago economists came before our committee and said, "No, we've got to let the dollar drop so that we can compete with the competitors in trade."

When I asked these outstanding economists, "Well, how far do you think the dollar should be allowed to drop?" nobody had thought of that.

So, I said, "What makes you think that you have the control today to fine tune a drop of a dollar?"

Mr. Speaker, that is gone from us. We have lost control. There are now forces in the external world, and have been for about 8 years, over which we no longer have control. The Reagan so-called well-being or prosperity, which is usury, has been fed by borrowed money. Foreign capital; that is fickle, but has come here attracted by high interest yields.

So, I would ask these economists, "Well wait. Given the gridlock you have now where the Federal Reserve Board itself has lost the power to control, you don't have the world you had 10 years ago."

Mr. Speaker, we do not even have the world we had 5 years ago in that respect in the international financial world. Wars are lost or won at the finance tables. I say to my colleagues, "Even if you win in the field, it could be lost at the finance tables."

All during the Vietnam era, in fact in 1972, to illustrate the point, when President Nixon finally had that big breakthrough in going to China, the Chinese would not let the Presidential plane get there until we had guaranteed in advance payment of costs, $10 million in gold equivalent.

At this moment gold reserves: for instance, France has never demonetized. We did. I will never forget how unsuccessfully I battled in 1975 and beginning with January 1, 1976.

Secretary Bill Simon, Secretary of the Treasury, then on the first day of January announced that the Treasury was going to auction gold. In talking with him I said, "But, Mr. Secretary, you know where the gold is going to go.

□ 1100

"You are going to take it out of Fort Knox, and it is going to end up in the Central Bank of France." He said, "No, we have prohibition in the auction that no central bank can bid." I said, "But, my God, don't you know that you have agents that will come in as individual persons and bid?" He had two auctions, and then they stopped. Why did they stop? He laughed at me and said, "Well, this is just to prove that as far as we are concerned gold is out as a monetary factor. It is demonetized." I said, "You can't do it unilaterally."

Proof: Lately with all of the Third World debt transactions that our private banks, which I warned about in August of 1979, 10 years and 2 months ago, I was in this well, pointing out that in less than 1 year's time from $3 billion, the overhang on these debts to countries that could not pay back, and those are the words I used, had grown from $3 billion to over $45 billion by

the key, private banks of the United States.

What would you think if your local banker or your board were to go out and make loans in excess of your capitalization with no collateral and to clients that had no ostensible means of paying back? When I raised those issues, and I will say that there is one man who did pay attention, and that was then Chairman of the Federal Reserve Board, Arthur Burns, who the day after my speech appeared in the RECORD, called me and asked me to have breakfast with him. After I had breakfast with him, I was more troubled than ever. He said, "You know, you are right. When I raised this issue to the bankers at the convention in Honolulu, HI, they almost threw me out." I said, "But, Mr. Chairman, you are the Chairman of the Federal Reserve Board. Do something." He said, "I do not know what I can do. It's private." I said, "You have section 14(b) and another section in the Federal Reserve Board Act in which you can say, 'Look, fellows, you want to do that, we are going to demand additional reserves." "I don't know that I can do it.' " At that point I said, "Mr. Chairman, when I came in, I was flattered and hopeful. Now I don't know what to think. All I know is I am very pessimistic, because unless action is taken now, this will reach a point in which the safety and soundness of our banking system could be affected." That, I think, he did not accept.

What is happening today? By all accounts, that is one factor and, as a matter of fact, I recognized it, because we had not even organized the Committee on Banking, Finance and Urban Affairs on January 5 when we had hearings on the Third World debt situation. These are sovereign debts, that is, these are private American bankers, to sovereign countries. The whole history of sovereign debt is most pessimistic, going back to the Spanish kings and the French kings and even the British kings who wanted to wage war, borrow money, and then not pay back. The whole history is very dreary, and I do not think it is going to be any different in our case today except that, of course, now the banks want the Government or the taxpayer to come in and say, "No matter what, we will rescue you from this folly."

In 1979 when I raised the issue, "But how can you go on this overhang," I was chairman of the Subcommittee on International Finance, and I was well aware of the financial structure of these particular countries that had been loaned this money. I said, "Look, here is their inability." They said, "Oh, but this is recycled Arab oil money," meaning that this was money that had been deposited in these banks by the Arab oil-exporting countries. I said, "But that is still money on your books that you are lending. You still have to account for it. You are still going to have to try to get some payment."

So where are we now? They have to write down, they have added reserves. What does that mean? As the chairman of Citicorp said, after the Mexico deal which incidentally does not leave Mexico any more viable, it just continues the same old thing, where money is loaned to the country to pay over interest, but not 1 penny on principal, so that the amount of the debt keeps growing and the inability to pay gets worse. Of course, the taxpayer will be looked to in the name of saving, what, the safety and soundness of our banking system. So much for that.

But let us go to the other. All wars have to be financed. The method of financing has been the same. In the case of sovereign debt, the history is that those sovereign debts were never paid back. Unlike the Latin American countries where almost 100 percent of that borrowing has been government or sovereign from private bankers, the African countries are the other way around. There we have less sovereign debt and mostly with the international structure such as the World Bank and the International Monetary Fund.

All of these are creatures of a world that emerged from World War II, and that world financial structure collapsed by the late 1960's. I remember in 1968 the first forewarnings, that the dollar was going to have to be devalued with the so-called Roosa dollar, and this was a so-called two-tier based on the gold exchange that existed.

How many of my colleagues realize that it was President Nixon who devalued the dollar 10 percent when we took the country off the gold exchange system on August 15, 1971? Why no, that is supposed to be done by liberal Democrats. It was the conservatives who did it all. It was Mr. Nixon who devalued.

Then we had an additional devaluation a year or two later. Fortunately, and with a great sense of humility, but a sense of responsibility, I put all of that thinking in the RECORD by the use of this forum, this great hallowed forum.

Today the question is: What are we willing to do at this time? It is almost impossible to think of reform, control of interest rates.

My goodness, I introduced a cap bill several years ago, and I could not get one single sponsor and did get a lot of criticism in the financial world.

As I said, behind every war there has to be a banker for financing. We learn nothing. The democracies in people's wars have learned very little, unfortunately, from the day of king-made wars. The only thing is we go at them differently and more awesomely, and the destruction has been exponentially increased to the point now where we can extinguish each other.

As I have said time and time again, I guess it is a rat race between the world learning that we are all created equal or be cremated equally.

The bottom of it all is financing. This is the reason that through the 28 years and from the beginning when I was assigned, when I first came onto the Committee on Banking, Finance and Urban Affairs, I have stayed on the Committee on Banking, Finance and Urban Affairs. It is really my line of interest.

The so-called war against or war on drugs, which I think is a misnomer, behind it all is banking.

Around 1975, I had reports in my hometown of San Antonio of some very questionable international, that is Mexico-United States transactions. To my surprise, we had no laws controlling. So after much imposing on the then chairman, finally getting the subcommittee chairman, later chairman of the full committee, finally to come to San Antonio, we had hearings, and we brought up some very, very disagreeable facts about some questionable financial transactions, cross-border, and how some unfortunate American investors had been taken to the cleaners, and how the safety and viability of some of the financial institutions, S&L's and banks had been actually reduced to nothing, in fact, led to the downfall of those institutions.

□ 1110

I would invite my colleagues to get the printed hearings of the proceedings of our committee from San Antonio and read them, because you will see that that was the forerunner of the legislation that took 4, 5, maybe even 6 years before we had a little bit of legislation on what we call money laundering.

Unfortunately, the legislation we enacted but had at least some impact, by the time the administration became interested and the Justice Department established the task force and we began to pinpoint points in Florida, Texas, and California, it was obvious and there was no question from the volume of cash transactions that this was drug money being laundered. There was no question of that. The FBI, Treasury officials and other intelligence agency officials all came before our committee and reported the same thing. We realized we had to improve the legislation. In the meanwhile when Mr. Reagan took office, he delegated to the Vice President, now President Bush, the task of being head of the war against drugs. Unfortunately the Vice President did not understand the finance of it.

My colleagues, you can throw the entire Treasury into the war against drugs and you will get nowhere until you have control.

The ancient book of wisdom, the Talmud of the Hebrews or Jews, has a story about how this rabbi commented on these thieves, the equivalent of our car prowlers and whatnot who would steal these goods.

The question was, what do you do to stop it? This rabbi said, well, where do they dispose of the goods? He said the hole where the fox takes his food and whatnot. You first have to close that hole.

In other words, you have to stop the fence, the outlet, the market. Unless we stop the profitable aspects of the banks in laundering these now billions of dollars of drug money, we will get nowhere, my colleagues, nowhere.

When this legislation comes up, I intend to have some input from that standpoint.

In the meanwhile, my predecessor chairman did not follow through on perfecting the law on money laundering.

I have nothing but very deep and abiding respect and affection for our President. He served in the House from the Houston district in Texas. I have known him as a very caring and warm and most respected individual. But it kind of hurt me to see the reports that appeared in the paper a few days after he made his speech on national television and produced a plastic bag of drugs and said it had been procured just a block away. Then the story was brought out that this was a concocted transaction, that the drug enforcement officials had to give some prop to the speech.

I think more awesome is that the biggest banks that the task force, which Mr. Bush when he became head of drug enforcement abolished and could not be interested in banking, the laundering aspect, and unfortunately killed that momentum, the biggest culprit bank in Florida was left untouched after the so-called Vice Presidential Task Force, and now has a branch less than two blocks from the White House, right here in the District of Columbia.

Have they stopped money laundering? The statistics coming from the Federal Reserve Board still show a lot of activity. So we will go into this, and I hope by the time everybody starts getting into the parasitism of legislating on the drug war that we will try to offer something in the way of money laundering.

To sum up, the forecast is gloomy. We have built up this tremendous feverish speculative force. The stock market, for instance, is no longer a true reflection of actual transactions in the industrial world, output, manufacturing. It is a reflection of feverish paper transactions.

One of the most troubling things which I reported last year is that 10-year Treasury bonds are being held less than 30 days.

Yesterday's story was that the stock market had reached the highest levels ever in history. That is exactly the gyrations which existed before the big busts both in 1929 and 1987. So we are all on tender hooks here, and I believe that people should know it.

My primary concern above all is the safety and soundness of the American financial system. It is under great threat. I think that, God willing, and with our colleagues being informed, the main thing is to get the information to our colleagues, and we will find a resolution of even these most difficult and knotty of problems.

Mr. Speaker, I yield back the balance of my time.

NEWSPAPER RECYCLING

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, I want to take a few moments to talk about a story that was on NBC News last night concerning the buildup of newspaper in recycling centers that no longer have a market for their product.

This is at a point in time when the major cities of the United States, cities like Washington, are just beginning to do newspaper recycling. Recycling has been the key solution in the eighties, and as we head toward the nineties, for much of our garbage problem.

However, the crisis that is developing is that there is no market. What a year ago was selling for $25 and $30 a ton, recycled newspaper, now has a negative value. If the cities and towns that we represent bring a truckload of newspaper to the local recycling center, they now have to pay $25 a ton to have that paper taken from them. It is not a bad deal in the sense that oftentimes it costs $60 to $100 a ton to landfill or incinerate this paper. But there is a much better solution.

NBC News last night focused on the dilemma that this massive influx of recycled paper has created in the recycled paper market.

As I said a moment ago, from $25 to $30 a ton in value, you now have to pay $25 or $30 a ton to have the recyclers take it from you. The Boy Scouts used to pick up paper. If they did that today they would not only not make money, they would lose money.

I have introduced H.R. 1691. It is a piece of legislation that makes an agreement with the paper industry on the percentage of recycled products that the Federal Government would buy in various types of paper.

One of the problems here is that you cannot recycle each paper in the same percentage, but there are certainly uses for virtually every kind of paper.

What we say is if that percentage of paper is not met nationally as it is sold by the manufacturers, then there would be a tax on the portion that was supposed to be recycled paper and was not. That tax would be an incentive to shift from virgin material to recycled paper.

A few days ago the House passed the capital gains break, something I voted against. It is going to be another incentive to use virgin product over recycled product. Our agricultural and forest policies have incentives; our tax policies have incentives. There are direct grants from the Federal Government to turn trees into pulp.

□ 1120

When the Boy Scouts tried to collect old newspapers, there are no incentives. Frankly, the newspapers of this country that have done a great job in writing editorials in favor of the environment, suddenly when they get a chance to participate and support recycling of newsprint they are awfully silent.

As a matter of fact, one of them came to me and said they were concerned about the cost. Well, there is a cost in inactivity. And it is tremendous to the communities around this country.

Here we have an opportunity to help the free market work, provide an incentive to the major paper manufacturers of the world to use recycled products. The bill is 1691.

Cities and towns around this Nation know the cost. I would hope they would write to their Senators and Congressmen and ask them to give us some help with 1691 to create a more stable and strong market for recycled paper.

CONFERENCE REPORT ON H.R. 2990

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-274)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2990) "making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 9, 17, 22, 23, 32, 40, 55, 60, 61, 70, 72, 74, 85, 86, 95, 96, 97, 98, 99, 100, 107, 120, 125, 130, 146, 149, 151, 161, 163, 164, 165, 166, 173, 174, 175, and 177.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 18, 19, 21, 24, 25, 30, 45, 65, 66, 68, 69, 80, 83, 89, 105, 115, 124, 126, 127, 138, 140, 142, 152, 155, 160, and 171, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$64,693,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,907,746,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$70,000,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from it disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,100,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from it disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,150,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from it disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$282,360,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from it disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$79,640,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from it disagreement to the amendment of the Senate Numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$270,748,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,400,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,101,559,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,664,000,000*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,091,264,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$591,887,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$497,096,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$846,318,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$241,205,000*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$233,264,000*; and the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$243,509,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$171,681,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$119,000,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$33,969,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended as follows:

In lieu of the sum named insert *$60,000,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$15,556,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$108,987,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$61,600,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$27,000,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,837,389,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$86,806,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$80,577,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,434,777,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate num-

bered 103, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,408,581,000*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$33,197,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

From the amounts appropriated for part A of chapter 1, an amount not to exceed $125,000,000 may be obligated to carry out a new Merit Schools program and an amount not to exceed $50,000,000 may be obligated to carry out a new Magnet Schools of Excellence program only if such programs are specifically authorized in law prior to March 1, 1990.

And the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$578,500,000*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$123,500,000*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert *section 6115 and chapter 5 of subtitle A of title VI*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate Numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,232,895,000*; and the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$899,494,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$188,674,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$31,913,000*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,740,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$68,600,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,138,040,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$23,333,000*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,083,000*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$22,250,000*; and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$632,736,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$18,128,000*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$8,740,000*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$182,446,000*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,500,000*; and the Senate agree to the same.

Amendment numbered 150:

That the House recede from its disagreement to the amendment of the Senate numbered 150, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$96,375,000*; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$136,646,000 of which $18,900,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act which shall remain available until expended*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$274,946,000*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$327,280,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$76,250,000*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$26,785,000*; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,557,000*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,950,000*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$39,287,000*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$9,375,000*; and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,650,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 8, 12, 13, 14, 15, 16, 26, 27, 28, 29, 33, 34, 36, 37, 44, 51, 57, 59, 62, 63, 64, 71, 75, 76, 77, 78, 79, 82, 84, 87, 90, 91, 92, 93, 94, 101, 104, 108, 109, 111, 114, 119, 123, 128, 129, 132, 139, 141, 156, 172, and 176.

WILLIAM H. NATCHER,
NEAL SMITH,
DAVID OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
BERNARD J. DWYER,
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JAMIE L. WHITTEN,
SILVIO O. CONTE,
CARL D. PURSELL,
JOHN EDWARD PORTER,
BILL YOUNG,
VIN WEBER,
Managers on the Part of the House.

TOM HARKIN,
ROBERT C. BYRD,
FRITZ HOLLINGS,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
DALE BUMPERS,
HARRY REID,
BROCK ADAMS,
ARLEN SPECTER,
MARK O. HATFIELD,
TED STEVENS,
WARREN RUDMAN,
JAMES A. MCCLURE,
THAD COCHRAN,
PHIL GRAMM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

Amendment No. 1: Appropriates $64,693,000 instead of $63,193,000 as proposed by the House and $66,193,000 as proposed by the Senate.

The conference agreement includes $2,000,000 for the Bureau of Apprenticeship and Training to begin a series of pilot and demonstration projects testing the feasibility of applying the apprenticeship concept of training to a disadvantaged and discouraged youth population. This includes an additional two FTE, for a total of 1,755 full-time equivalent staff for program administration.

TRAINING AND EMPLOYMENT SERVICES

Amendment No. 2: Appropriates $3,907,756,000 instead of $3,903,562,000 as proposed by the House and $3,924,252,000 as proposed by the Senate.

The conference agreement includes $5,692,000 for training and technical assistance, $4,434,000 for labor market information and $3,000,000 to continue the Samoan employment and training initiative, including services to other Pacific Islander and Asian immigrants in the State of Hawaii. Of the total, $2,000,000 is for the State of Hawaii, $750,000 is for California and $250,000 if for Washington, as the vast majority of the target populations reside in these States.

Amendment No. 3: Earmarks $70,000,000 for migrants and seasonal farmworkers instead of $68,540,000 as proposed by the House and $71,282,000 as proposed by the Senate.

Amendment No. 4: Earmarks $4,100,000 for activities conducted by and through the National Occupational Information Coordinating Committee instead of $3,000,000 as proposed by the House and $5,000,000 as proposed by the Senate.

Amendment No. 5: Earmarks $5,150,000 for rural concentrated employment programs instead of $5,500,000 as proposed by the House and $3,000,000 as proposed by the Senate.

Amendment No. 6: Appropriates $50,432,000 for Job Corps capital costs as proposed by the Senate instead of $49,432,000 as proposed by the House.

Amendment No. 7: Deletes language proposed by the Senate that would have earmarked $1,000,000 for expansion and renovation of a particular Job Corps center.

The conferees agree that $1,000,000 is included for expansion and renovation of the El Paso Job Corps center.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the sum proposed by said amendment, insert the following: *$13,000,000, of which $1,500,000 shall be available for obligation for the period October 1, 1990 through September 30, 1991,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The agreement appropriates $13,000,000 for homeless job training as proposed by the Senate instead of $10,000,000 as proposed by the House and provides that $1,500,000 shall become available on October 1, 1990.

Amendment No. 9: Appropriates $13,492,000 for prior year Job Corps operating costs as proposed by the House instead of $13,000,000 as proposed by the Senate.

The conferees are agreed that the nonresidential Job Corps II demonstration projects are to be continued in program year 1990.

The conferees are also agreed that funding is included to provide materials to be used for Job Corps project involvement in the 1990 Goodwill Games.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 10: Appropriates $282,360,000 for national grants or contracts instead of $276,120,000 as proposed by the House and $288,600,000 as proposed by the Senate.

Amendment No. 11: Appropriates $79,640,000 for grants to States instead of $77,880,000 as proposed by the House and $81,400,000 as proposed by the Senate.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,575,200,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $25,000,000 to administer the Targeted Jobs Tax Credit and $12,500,000 for Employment Service automation grants.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following: , *and of which $19,148,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1990, through December 31, 1990, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement makes funds for unemployment insurance automation grants available for obligation for the period April 1, 1990 to December 31, 1990.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following: , *and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1990, through June 30, 1991, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

On page 64 of the House engrossed bill, insert after line 5 the following:

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services Program Operations; Alcohol, Drug Abuse, and Mental Health; Low Income Home Energy Assistance; Interim Assistance to States for Legal-

ization; and Community Services Block Grant.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

Amendment No. 17: Extends the availability for obligation of $1,500,000 previously appropriated as proposed by the House instead of $5,850,000 as proposed by the Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

Amendment No. 18: Makes available $640,985,000 from the Black Lung Disability Trust Fund as proposed by the Senate instead of $640,326,000 as proposed by the House.

Amendment No. 19: Earmarks $21,350,000 for transfer to Departmental Management, Salaries and Expenses as proposed by the Senate instead of $20,691,000 as proposed by the House. The conference agreement is an increase of $659,000 over the House bill and 16 full-time equivalent staff for the Benefits Review Board.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 20: Appropriates $270,748,000 instead of $270,248,000 as proposed by the House and $271,248,000 as proposed by the Senate.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 21: Appropriates $170,593,000 as proposed by the Senate instead of $170,093,000 as proposed by the House.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Amendment No. 22: Appropriates $193,771,000 as proposed by the House instead of $193,171,000 as proposed by the Senate.

Amendment No. 23: Makes available $49,518,000 from the Unemployment Trust Fund as proposed by the House instead of $49,118,000 as proposed by the Senate.

DEPARTMENT MANAGEMENT

SALARIES AND EXPENSES

Amendment No. 24: Earmarks $2,880,000 for the President's Committee on Employment of People With Disabilities as proposed by the Senate instead of $2,540,000 as proposed by the House.

Amendment No. 25: Appropriates $115,072,000 as proposed by the Senate instead of $114,732,000 as proposed by the House.

GENERAL PROVISIONS

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 105. (a) Within sixty days after the enactment of this Act, the United States, acting through the Secretary of Labor (or an official of the Department of Labor duly authorized by the Secretary of Labor) shall convey to the State of Oregon without consideration, all rights, title, and interest of the United States, in real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property commonly known as the "Emerald Heights Housing Complex" located in the city of Astoria, Clatsop County, Oregon.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the matter inserted by said amendment, insert the following:

On page 41 of the House engrossed bill, insert after line 19 the following:

SEC. 220. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES PROGRAM OPERATIONS

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *X, XXIV,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,782,271,000, of which $11,885,000 for health care for the homeless shall be available for obligation for the period October 1, 1990 through September 30, 1991*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree with the concern expressed by the Senate regarding the current discrepancy between the allocation of community health center funds between urban and rural centers relative to the numbers of patients served by urban and rural centers. Funds provided to community health centers should reflect accurately the location of patients served by centers unless there are compelling reasons not to allocate funds equitably between urban and rural centers. The conferees request that the Department prepare a report on the funding allocations between urban and rural community health centers, and suggest methods, if appropriate, to eliminate the current differential within two years.

The conferees have included $2,000,000 to continue the various Pacific Basin initiatives, of which $1,660,000 shall be for the Pacific Basis Medical Officers project.

The conferees have included $1,300,000 for the Native Hawaiian health care initiatives. Of the amount provided, the conferees intend $700,000 to be used for a comprehensive health care master plan, $500,000 for health professions scholarships, and $100,000 for administrative support of the Papa Ola Lokahi.

The conferees are agreed that funding for the hemophilia treatment centers program within the Special Programs of Regional and National Significance (SPRANS) in the Maternal and Child Health Block Grant shall, at a minimum, be maintained at the current level. The conferees recognize that, due to maternal income, minority status, age and educational attainment levels, the infants of public housing residents are at a greater risk of mortality and morbidity than the general population. The conferees encourage the agency to use SPRANS funds to test the effectiveness of a coordinated, "one-stop shopping" approach to the provision of pre- and post-natal care services to this population, such as that provided in the Omaha project described in the Senate report.

The conference agreement includes $4,000,000 for organ transplant activities. It is the intention of the conferees that such amount be divided as follows: $1,400,000 for support of the activities of the Organ Procurement and Transplantation Network; $1,200,000 for continued development of the scientific registry; $700,000 for the Organ Procurement Organization grant program authorized by section 371 of the Public Health Service Act; and $700,000 for the Division of Organ Transplantation.

This amount for the Division of Organ Transplantation includes funds for the study of tissue retrieval and distribution; for the Division to work with the Health Care Financing Administration to evaluate how best to enforce the routine referral program mandated by section 1138(A)(iii) of the Social Security Act; and for the development of a new program within the Division to provide needy families with information about transplantation and the resources available in each state to assist such families with the catastrophic expenses associated with transplant surgery.

The conference agreement provides $15,000000 for pediatric AIDS demonstration projects. The conferees are aware of private sector interest in the development of model pediatric consortia to provide health and social services, research and training focused on HIV infected individuals and their families and women of childbearing years. The conferees urge the agency to fund up to three such pediatric demonstrations. These demonstrations shall, to the extent possible, provide care for children and their families in the same setting. Such model consortia shall work in collaboration with the National Institute of Child Health and Human Development, the National Institute of Allergy and Infectious Diseases, and the Office of Minority Health. Further, the conferees urge the agency to allocate fiscal year 1990 funds as expeditiously as possible.

The conferees have provided $17,438,000 for adult health care AIDS demonstrations. The conferees intend that projects funded in fiscal year 1989 be entitled to compete for additional funds in fiscal year 1990.

The conferees have provided $30,000,000 for the AIDS drug reimbursement program. The conferees direct the Secretary to permit the States to make available to eligible individuals therapeutics determined to prolong life or prevent the serious deterioration of health arising from AIDS or HIV infection. The conferees understand that the funding needs for the program may be greater than anticipated in this bill. Therefore, the conferees are agreed that this program will be carefully monitored with the recognition that a supplemental appropriation may be necessary to adequately fund it.

The conferees remain concerned about the price of AZT. Even with the recent price reduction by the manufacturer of the drug, AZT remains prohibitively expensive for most AIDS patients. While the conferees are providing additional funds for the AIDS drug reimbursement program, the conferees strongly urge the manufacturer of AZT to take further steps to make the drug more affordable and more widely accessible to low-income patients.

Amendment No. 30: Deletes language proposed by the House which would have placed a limitation on funding for health education and training centers.

The conferees have provided $4,000,000 for the new border health education centers program. The program, as authorized in P.L. 100-607, will fund contracts with schools of medicine and osteopathy to create health education and training centers that will improve the supply and quality of personnel providing health services along the border between the United States and Mexico and in other areas with demonstrated serious unmet health care needs. Funds are to be divided equally between border and non-border areas. It is the intent of the conferees that the funds made available for the border area initiative are to include those areas of the border states which are most severely affected by Hispanic immigration but not necessarily in close proximity to the border.

Amendment No. 31: Earmarks $4,400,000 for AIDS facilities renovations instead of $4,300,000 as proposed by the House and $4,500,000 as proposed by the Senate.

Amendment No. 32: Deletes language proposed by the Senate regarding eligibility for excellence in minority health education grants.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That of this amount, $30,000,000 is available until expended for grants to States for Human Immunodeficiency Virus drug reimbursement, pursuant to section 319 of the Public Health Service Act: Provided further, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have deleted bill language overriding an across-the-board cut totalling $1,360,000 for grants to four rural hospitals. The conferees have agreed that this will be the final year of funding such grants.

VACCINE INJURY COMPENSATION

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which permits the Department to use trust fund monies for administrative costs.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH AND TRAINING

Amendment No. 35: Appropriates $1,101,559,000 instead of $1,080,180,000 as proposed by the House and $1,114,338,000 as proposed by the Senate.

Within the amount provided for immunization grants, the conference agreement includes $10,000,000 for measles outbreak control and $8,000,000 for hepatitis B screening. Within the amount provided for immunization direct operations, the conference agreement includes $8,000,000 for an infant immunization initiative, $500,000 for measles outbreak control and $2,500,000 for hepatitis B screening.

Within the amount provided for chronic and environmental disease prevention, the conference agreement includes $5,000,000 and 15 FTE's for a breast and cervical cancer control program and $4,5000,000 for the disabilities prevention program.

An additional 16 FTE's are provided for the injury control program.

Within the amount provided for the National Institute for Occupational Safety and Health (NIOSH), the following increases over fiscal year 1989 are included:

Cost-of-living increase	$1,020,000
Construction safety	1,000,000 and 10 FTE's
Farm safety and health	11,500,000 and 25 FTE's
Surgeon General's Conference.	125,000
Worker notification	500,000
Musculoskeletal disorders	1,000,000
Industrial medical center	250,000

Of the amounts provided for occupational safety and health research, $11,250,000 has been included for farm safety and health. Of that amount, under surveillance, $2,000,000 is for the farm family survey and $2,000,000 is for rural hospitals; under research, $2,000,000 if provided for Agricultural Centers, which may also provide training, and $1,000,000 is provided for lung disease; and finally, under intervention, $2,150,000 is provided for agriculture health promotion, and $2,100,000 for cancer screening. An additional amount of $250,000 is provided for the Educational Resource Centers for farm safety and health.

Within the amount provided for AIDS activities, the conference agreement includes $11,154,000 for activities for the hemophilia project, $119,402,000 for confidential counseling and testing and $14,515,000 for direct grants to minority community-based organizations.

The conferees are agreed that separate funding must be provided to any local health department which serves the largest political jurisdiction in a MSA, when such MSA reported more than 2,000 AIDS cases as of June 30, 1989, and such cases represent at least 75 percent of the AIDS cases reported in that State.

The conference agreement includes funds for the development of AIDS education programs and exhibits to be located in science museums.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and anlaysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only;*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following: *And, in addition, for high priority construction project of the Centers for Disease Control, $5,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have provided an additional $5,000,000 in the buildings and facilities account of the Centers for Disease Control for high priority construction projects.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

Amendment No. 38: Appropriates $1,664,000,000 instead of $1,652,666,000 as proposed by the House and $1,668,473,000 as proposed by the Senate.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Amendment No. 39: Appropriates $1,091,264,000 instead of $1,090,930,000 as proposed by the House and $1,091,597,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Amendment No. 40: Appropriates $138,053,000 as proposed by the House instead of $137,096,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Amendment No. 41: Appropriates $591,887,000 instead of $590,276,000 as proposed by the House and $593,497,000 as proposed by the Senate.

The conferees have agreed that within the amount appropriated to NIDDK, up to $5 million is available for research on diabetic kidney disease.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

Amendment No. 42: Appropriates $497,096,000 instead of $495,203,000 as proposed by the House and $498,988,000 as proposed by the Senate.

The managers of the conference are agreed that the NINDS is urged to give all due consideration to devoting additional funds to neurogenetics research.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Amendment No. 43: Appropriates $846,318,000 instead of $845,523,000 as proposed by the House and $847,112,000 as proposed by the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment. In lieu of the amount stricken and inserted by said amendment, insert: *$691,866,000.* The conference agreement appropriates $691,866,000 instead of $692,639,000 as proposed by the House and $752,939,000 as proposed by the Senate. The Senate bill included $61,847,000 for the newly established National Center for Human Genome Research. The House bill included these funds in a separate appropriation account. The conference agreement follows the House format (see amendment no. 53). The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Amendment No. 45: Appropriates $450,593,000 as proposed by the Senate instead of $448,493,000 as proposed by the House.

The conferees encourage the National Institute of Child Health and Human Development to consider the establishment of a center grant program for child health research as described in the Senate report.

The conference committee continues to recognize the importance of a controlled study of the use of infant apnea monitoring and is concerned that the NICHD has been slow to achieve this objective. To that end the conference agreement includes funding for the implementation of the first year of the 5 year plan for sudden infant death syndrome research, applauds the other important and meritorious SIDS research initiatives outlined in the plan, and recommends implementation in an expeditious manner.

The conference agreement also includes funds sufficient for NICHD to consider additional Mental Retardation Research Centers, dependent on the results of the upcoming peer review competition.

NATIONAL EYE INSTITUTE

Amendment No. 46: Appropriates $241,205,000 instead of $240,636,000 as proposed by the House and $241,774,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Amendment No. 47: Appropriates $233,264,000 instead of $232,479,000 as proposed by the House and $234,048,000 as proposed by the Senate.

The conferees concur in the need to establish a comprehensive research program to address all aspects of toxicity of agricultural chemicals.

NATIONAL INSTITUTE ON AGING

Amendment No. 48: Appropriates $234,509,000 instead of $241,528,000 as proposed by the House and $245,490,000 as proposed by the Senate. The conference agreement includes sufficient funds to restore this institute's staffing to the level of 370 full time equivalent positions.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASE

Amendment No. 49: Appropriates $171,681,000 instead of $171,673,000 as proposed by the House and $171,688,000 as proposed by the Senate.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

Amendment No. 50: Appropriate $119,000,000 instead of $99,952,000 as proposed by the House and $121,116,000 as proposed by the Senate.

RESEARCH RESOURCES

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the amount stricken and inserted by said amendment, insert *$354,191,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the Biological Models and Materials Resources section of the Laboratory Animal Sciences and Primate Research Program, should receive sufficient funds to significantly expand research in this area.

The conferees are concerned about the proposal to increase the current eligibility threshold from $200,000 to $500,000 and to limit institutional flexibility in the Biomedical Research Support program. Raising the threshold would result in the elimination of 40 percent of the schools of nursing, 57 percent of the optometry schools, 50 percent of the allied health schools, 18 percent of the dental schools, 17 percent of the veterinary medical schools, and 11.5 percent of the pharmacy schools from the BRSG program. The conferees direct that the impact of such proposals be evaluated and reported to the House and Senate Appropriations Committees prior to proposed implementation.

NATIONAL CENTER FOR NURSING RESEARCH

Amendment No. 52: Appropriates $33,969,000 instead of $32,696,000 as proposed by the House and $34,969,000 as proposed by the Senate. The Conferees commend the efforts of the Secretary's Commission on Nursing, as established under Public Law 92-463, to address the nursing shortage in this country. Funds have been provided to fund a Commission for a period of one year, ending September 30, 1990. The conferees also encourage the Secretary to appoint a nurse as an Assistant to the Secretary to assist in the implementation of the Commission's recommendations, and to serve as an advisor to the Secretary on health care policy matters which affect nursing.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

Amendment No. 53: Restores language included by the House but stricken by the Senate amended to appropriate $60,000,000 under a separate appropriation account for the newly established National Center from Human Genome Research instead of $62,000,000 as proposed by the House. The Senate bill did not include a separate account for this center but had included $61,847,000 for this purpose under the National Institute of General Medical Sciences.

JOHN E. FOGARTY INTERNATIONAL CENTER

Amendement No. 54: Appropriates $15,556,000 instead of $15,579,000 as proposed by the House and $15,532,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

Amendment No. 55: Appropriates $83,311,000 as proposed by the House instead of $80,729,000 as proposed by the Senate.

OFFICE OF THE DIRECTOR

Amendment No. 56: Appropriates $108,987,000 instead of $106,987,000 as proposed by the House and $127,570,000 as proposed by the Senate.

The conferees are agreed that sufficient funds up to $2,000,000 is available within the Office of the Director to establish an intramural research program on diagnostic radiology.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided further, That in addition, the Secretary shall transfer $15,000,000 from appropriations available to each of the Institutes which shall be available for extramural facilities construction grants if authorized in law and if awarded competitively including such amount as he may deem appropriate for research animal production facilities.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement requires the Secretary to transfer $15,000,000 from the individual institutes for the purpose of funding extramural facilities construction projects, if such projects are identified by the Director of NIH as of urgent national importance, are authorized in law and are awarded competitively. The conferees have deleted the earmarks for seven extramural construction projects as proposed by the Senate without prejudice. The conferees believe that these are meritorious projects which should be well received in the normal competitive process.

BUILDING AND FACILITIES

Amendment No. 58: Appropriates $61,600,000 instead of $81,600,000 as proposed by the House and $41,600,000 as proposed by the Senate. The conferees have provided sufficient funds for the next phase of the Child Health/Neuroscience Building.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,934,177,000, of which $7,359,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991, and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

While the conferees encourage the National Institute of Mental Health to fund clinical training activities that include a payback requirement, the conferees do not intend that funding be limited only to activities with payback. The conferees intend, however, that the funds for clinical training be distributed on an equitable basis across the five core mental health professions. The conferees urge the Institute to give priority in awarding clinical training funds to trainees who provide service in public facilities and mental health underserved areas.

The conferees intend that up to $4,000,000 of the funds provided above the budget request for Community Support Demonstra-

tions be used for prevention services demonstration projects, as authorized in section 520A(b) of the Public Health Service Act, and demonstration projects for the prevention of youth suicide, as authorized by section 520A(a) of the Act.

The conferees continue to be very supportive of prevention activities, noting in particular that the suicide rate for those between the ages of 15 and 24 has almost tripled during the past thirty years. Accordingly, the conferees intend that the National Institute of Mental Health significantly increase its financial commitment to prevention projects during fiscal year 1990. The Institute should submit a detailed report on this directive prior to the 1991 budget hearings.

Amendment No. 60: Deletes language proposed by the Senate that would have earmarked mental health research funds for specific populations.

The conferees have deleted without prejudice bill language earmarking funding of mental health research. The conferees direct the National Institute of Mental Health to fund not less than $7,000,000 in rural mental health research and not less than $3,000,000 in Native American mental health research in fiscal year 1990. The conferees urge the Institute to work closely with researchers in these two areas.

The conferees are aware that the University of Denver, the University of Utah, and the University of California at Berkeley have developed American Indian social work programs and would be willing to work with local tribal and urban Indian communities to determine the effectiveness of family-centered mental health services.

The conferees further encourage the Institute to establish an Office of Rural and Native American Mental Health to coordinate the research, and expect the Institute to report to the Appropriations Committees on the progress of the rural and Native American mental health research initiatives prior to the fiscal year 1991 budget hearings.

Amendment No. 61: Deletes language proposed by the Senate that would have earmarked funds for a Presidential addiction research award.

The conferees nevertheless encourage the National Institute on Drug Abuse to establish such an award within existing funds if sufficient legislative authority exists.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which maintains the availability of funds previously appropriated for maintenance and administrative activities.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the sum proposed by said amendment, insert the following: *$77,352,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees intend that $1,000,000 be provided to the 1989 International Winter Special Olympics Games Committee, for the purpose of supporting the 1989 International Winter Special Olympics Games.

The conference agreement includes $6,000,000 for the National Vaccine Program established under Public Law 99-660. The conferees intend these funds to support the National Vaccine Program Office ($1,500,000 and 13 FTE's) and basic and applied research and clinical trials of pertussis vaccines ($4,500,000 and 7 FTE's). Development, testing and approval of new acellular pertussis vaccines are the highest priority of the vaccine program. Neither limited fiscal resources nor limited opportunities for appropriate field testing sites should be wasted in a diffuse approach. Therefore, the conferees expect that the National Vaccine Program Interagency Group will coordinate all pertussis trials funded through the National Vaccine Program or other funding sources in the Department. In addition, by funding another trial, the conferees do not wish to impede possible approval of any acellular pertussis vaccines currently under review by the Food and Drug Administration.

In conjunction with the Decade of the Brain, commencing on January 1, 1990, the conferees direct the Assistant Secretary for Health to work with the National Academy of Sciences/Institute of Medicine to sponsor a symposium event to bring together leading scientists from all relevant disciplines to discuss the state of the art and discourse upon short- and long-term goals. Funding shall be provided from available funds, including the one-percent evaluation set-aside.

No funds are provided or to be used for the reorganization of the Public Health Service regional offices, prior to approval of a reprogramming request.

The conferees are agreed that the amounts provided for AIDS activities within the Public Health Service include funds for the Indian Health Service, not to exceed the total for these costs estimated in the President's Budget.

Amendment No. 65: Changes legal citation as proposed by the Senate.

Amendment No. 66: Deletes language proposed by the House and stricken by the Senate to earmark $1,500,000 for the National Commission on Acquired Immune Deficiency Syndrome and $4,000,000 for the Abandoned Infants Assistance Act. These activities are funded elsewhere in the bill.

MEDICAL TREATMENT EFFECTIVENESS

Amendment No. 67: Appropriates $27,000,000 instead of $30,000,000 as proposed by the Senate and $5,000,000 as proposed by the House.

Amendment No. 68: Authorizes the transfer of $5,000,000 from the Medicare trust funds as proposed by the Senate instead of $15,000,000 as proposed by the House.

The conferees are agreed that both Federal and trust fund amounts are available for the full range of Medical Effectiveness Research activities.

The conferees agree that medical effectiveness studies of new and emerging technology are appropriate. The conferees are aware that such studies involving positron emission tomography can be conducted under this account.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

Amendment No. 69: Appropriates $30,136,654,000 as proposed by the Senate instead of $29,616,497,000 as proposed by the House.

PROGRAM MANAGEMENT

Amendment No. 70: Appropriates $101,908,000 as proposed by the House instead of $102,908,000 as proposed by the Senate.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,917,172,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that Medicare contractor operations shall be continued at current services levels, adjusted to reflect new responsibilities and higher workload volume in fiscal year 1990. The rate of operations should maintain payment safeguard activities commensurate with the fiscal year 1989 audit activity effort level, including claims review, and recoveries of third party liabilities.

The conferees intend that any funds included in the budget request for the implementation of the catastrophic health insurance program which may not be required for such purpose shall be made available for ongoing operations, including as a first priority Medicare payment safeguard operations.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

Amendment No. 72: Appropriates $9,098,758,000 as proposed by the House instead of $9,095,758,000 as proposed by the Senate. The conferees are agreed that not less than $3,500,000 shall be used for new outreach activities for potential Supplemental Security Income recipients particularly the elderly. The conferees encourage this initiative to include a combination of direct services and contract service with organizations such as the existing newtork of area agencies on aging and the Administration on Aging.

LIMITATION ON ADMINISTRATIVE EXPENSES

Amendment No. 73: Provides for a limitation on trust funds of $3,837,389,000 instead of $3,833,389,000 as proposed by the House and $3,847,389,000 as proposed by the Senate.

Amendment No. 74: Deletes language added by the Senate which would have established a statutory requirement that the number of employees at the Social Security Administration at the end of fiscal year 1990 should not be reduced below the level in effect on September 30, 1989. The conferees are agreed, however, that the amounts in the bill should be used to at least maintain current Social Security Administration staffing levels, and to the extent possible, partially restore past reductions, particularly in field offices. The Department of Health and Human Services is therefore directed to take no action in the fiscal year 1990 which would lower end of year employment levels below the level in effect on September 30, 1989.

FAMILY SUPPORT ADMINISTRATION

LOW INCOME HOME ENERGY ASSISTANCE

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,393,000,000, of which $60,000,000 shall become available for making payments on September 30, 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees intend that the $60,000,000 available for payment on September 30, 1990 be accomplished in the following manner: Any State or Territory with a carryover balance on October 1, 1989 will not be provided before September 30, 1990 with that portion of its allotment for fiscal year 1990 as bears the same ratio to $60,000,000 as its carryover balance bears to the total of all the carryover balances on October 1, 1989. States which historically spend their funds earlier in the fiscal year, as evidenced by lack of fiscal year 1989 carryover, are expected to receive their full allotment at the regular time. The purpose of this is to assure that those States that do not have any carryover funds in fiscal year 1990 have their full allocation of fiscal year 1990 funds available for the winter heating season. States that have carryover or transfer funds to other programs can adjust more earily to the delayed availability of funds. Nothing in this agreement shall change the amount of funds allocated to each State and Territory under the statutory formula.

REFUGEE AND ENTRANT ASSISTANCE

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $368,822,000, of which $210,000,000 shall be available for State cash and medical assistance.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recognize that the President's budget request for Refugee and Entrant Assistance falls well below the amount required to maintain current services. As a result, while the conference agreement provides $126,504,000 above the budget request overall, it remains $13,534,000 below the 1989 level. The conferees intend that the period of reimbursement for cash and medical assistance not fall below 12 months. Coupled with the enhanced resources provided for social services, the $210,000,000 provided for cash and medical assistance should allow sufficient time for States and voluntary agencies to provide the adjustment services necessary for refugees to achieve self-sufficiency.

The conferees intend that the funds provided in this bill for voluntary agencies should be available for fiscal year 1989, as well as 1990, costs, should that become necessary.

The conference agreement for targeted assistance includes $14,000,000 to increase the current program of support for communities which continue to be affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift. This program received $10,500,000 in fiscal year 1989 and in the Senate bill.

The conferees intend that 10 percent of the total appropriated for targeted assistance be used for grants to localities most heavily impacted by the influx of refugees such as Laotian Hmong and Cambodians, including secondary migrants who entered the United States after October 1, 1989. The conferees expect these grants to be awarded to communities not presently receiving targeted assistance because of previous concentration requirements and other factors in the grant formulas, as well as those who do currently receive targeted assistance grants. These grants shall be available to assist local schools, hospitals, employment services, and other institutions.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Funds appropriated for fiscal year 1990 under section 204(a)(1) of the Immigration Reform and Control Act of 1986 shall be reduced by $555,244,000: Provided, That for fiscal year 1992 $555,244,000 shall be available to States for obligation for the period October 1, 1991 through September 30, 1994 for purposes of section 204 of the Immigration Reform and Control Act of 1986 for unreimbursed costs incurred after September 30, 1989 if these costs would have been eligible for reimbursement under the original appropriation prior to the enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to shift appropriations from fiscal year 1990 to 1992 in order to more closely reflect projected outlay patterns. The conferees believe that the remaining appropriation for fiscal year 1990, when combined with the unspent appropriations from fiscal years 1988 and 1989, will be sufficient to meet the needs of State and local governments and legalized aliens in fiscal year 1990. The funds appropriated for fiscal year 1992 are made available under the same terms and conditions as they would have been in 1990.

COMMUNITY SERVICES BLOCK GRANT

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$396,680,000, of which $8,041,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which provides $3,512,000 for Demonstration Partnerships.

PROGRAM ADMINISTRATION

Amendment No. 80: Inserts a legal citation proposed by the Senate.

Amendment No. 81: Appropriates $86,806,000 instead of $82,431,000 as proposed by the House and $91,181,000 as proposed by the Senate.

The conferees intend that the $7,625,000 provided above the budget request for research and evaluation be used to initiate new projects authorized in the Family Support Act of 1988, including child access demonstrations, jobs creation demonstrations, and the national minimum benefit study.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 83: Inserts legal citation as proposed by the Senate.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the sum proposed by said amendment, insert the following: *$2,784,090,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Secretary of Health and Human Services to devote $50,000,000 of the fiscal year 1990 Head Start appropriation to increasing Head Start teachers' salaries.

The conferees direct the Administration for Native Americans to allocate $1,000,000 this year to continue funding for the Native Hawaiian demonstration revolving loan program. This will complete the level of funding authorized by P.L. 100-175.

Amendment No. 85: Deletes language proposed by the Senate that would have earmarked funds for the aging outreach program, notwithstanding current law.

Amendment No. 86: Deletes appropriation of $1,200,000,000 for child care proposed by the Senate. The conferees are deferring without prejudice consideration of this program until authorizing legislation is enacted into law. Funds have been reserved for this purpose in the section 302(b) allocations.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,380,048,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is the intention of the conferees that the Office of Human Development Services proceed to develop regulations on the collection of data on administrative costs under the foster care program. Because of the need for administrative cost data, it is expected that proposed regulations will be published for public comment no later than January 1, 1990, and issued in final form by March 1, 1990.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

Amendment No. 88: Appropriates $80,577,000 instead of $80,327,000 as proposed by the House and $90,577,000 as proposed by the Senate. The additional funds over the House bill are for rural transportation technical assistance and coordination.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 89: Appropriates $50,600,000 as proposed by the Senate instead of $49,498,000 as proposed by the House. An additional 22 FTE's are provided over the House bill.

GENERAL PROVISIONS

Amendment No. 90: Reported in disagreement.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *except that this section shall not apply to funds made available for fiscal year 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The agreement of the conferees deletes authority for the Secretary to make transfers between appropriation accounts during fiscal year 1990.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which limits the use of funds appropriated for the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration to pay the salary of an individual through a grant or other extramural mechanism at a rate in excess of $120,000 per year. This language was requested by the President but had not been included by the House. This limitation does not restrict the salary of any researcher which is a matter between that individual and his employer. This provision merely limits the portion of that salary which may be paid with federal funds.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the words "Conference Center" inserted by said amendment, insert: *International House*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 219. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $4,000,000 is to be applied to all appropriations as a result of improved procurement practices and a reduction of $10,000,000 is to be applied to all appropriations as a result of savings achieved under section 217 of this title.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This language results in savings of $14 million as a result of improved procurement practices and extramural grant salary limitations at the National Institutes of Health.

Amendment No. 95: Deletes languages proposed by the Senate related to a change in the alcohol, drug abuse, and mental health block grant formula.

The conferees have deleted without prejudice a revision to section 1912A(b) of subpart I of part B of title XIX of the Public Health Service Act. The conferees are concerned about the impact of the current formula on States whose allocations have been adversely affected by the size of the formula's minimum State grant. The conferees understand that the necessary formula change is contained in the anti-drug abuse legislation passed by the Senate.

Amendment No. 96: Deletes language proposed by the Senate allowing funds from the sale of recycled solid wastes to be credited to the appropriation accounts of various agencies of the Department of Health and Human Services.

Amendment No. 97: Deletes language proposed by the Senate related to rural referral center regulations.

The conferees have deleted this provision without prejudice. The conferees understand a similar provision is pending in reconciliation legislation, which could be retroactive to the end of fiscal year 1989, thus avoiding reduction of Medicare reimbursement levels to hospitals designated as rural referral centers. In the interim, the conferees expect that no portion of the sums provided in this bill will be used to implement regulations relating to the classification of rural referral centers, until action has been completed on the fiscal year 1990 budget reconciliation legislation.

Amendment No. 98: Deletes language proposed by the Senate regarding a study of children whose mothers abused drugs during their pregnancy.

While the conferees have deleted this bill language, they nevertheless expect the Secretary of Health and Human Services to conduct the study described.

Amendment No. 99: Deletes language proposed by the Senate that would have required the Secretary of Health and Human Services by law to submit a report to Congress providing certain information, including budgetary information, and on the 20 illnesses that are the leading causes of death in the United States. The conferees believe however that such a report is necessary and direct the Secretary to provide it prior to next year's appropriations hearings.

Amendment No. 100: Deletes language proposed by the Senate related to a Presidential award for addiction research.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 221. During the 12-month period beginning October 1, 1989, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1990, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment inserts language which establishes a one-year moratorium on the assessment of penalties under Federal foster care programs.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Amendment No. 102: Appropriates $5,434,777,000 instead of $5,580,069,000 as proposed by the House and instead of $5,080,762,000 as proposed by the Senate.

Amendment No. 103: Provides that $5,408,581,000 of funds appropriated to this account will become available on July 1, 1990 and remain available until September 30, 1991 instead of $5,559,177,000 as proposed by the House and instead of $5,052,262,000 as proposed by the Senate.

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *Provided, That $4,427,250,000 shall be available for basic grants under section 1005, $400,000,000 shall be available for concentration grants under section 1006, $285,938,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This language earmarks specific amounts for basic grants, concentration grants and migrant education.

Amendment No. 105: Deletes language proposed by the House related to migrant education. This issue has been dealt with under amendment No. 104.

Amendment No. 106: Earmarks $33,197,000 for neglected and delinquent programs instead of $34,778,000 as proposed by the House and instead of $31,616,000 as proposed by the Senate.

Amendment No. 107: Deletes language proposed by the Senate which would have earmarked specific amounts for state administration and program improvement programs. The conference agreement allows these funds to be allocated in conformance with the basic law.

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided further, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: Provided further, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement inserts language proposed by the Senate which provides for a minimum State grant under the concentration grant program of $340,000. Identical language was included in the fiscal year 1989 appropriation for this program. The agreement also inserts a new provision setting a minimum grant for State administration grants of $375,000.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts legislative language permitting evaluation and technical assistance funds to be spent whether or not final regulations have been issued for those parts of the chapter 1 program which are currently funded. The conferees are agreed that this is the last year for such an exception. The House bill included no similar provision.

Amendment No. 110: Modifies language proposed by the House but stricken by the Senate by permitting the transfer of not to exceed $125,000,000 for a new Merit Schools program and not to exceed $50,000,000 for a new Magnet Schools of Excellence program only if such programs are specifically authorized in law prior to March 1, 1990. The House bill would have allowed $350,000,000 to be transferred for these purposes. This action is not intended as a statement of support for these new programs. The decision regarding authorization of these initiatives should be made through the normal legislative process.

IMPACT AID

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment which appropriates $717,354,000 instead of $713,670,000 as proposed by the House and instead of $705,854,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 112: Earmarks $578,500,000 for payments under section 3(a) instead of $573,316,000 as proposed by the House and instead of $580,000,000 as proposed by the Senate.

Amendment No. 113: Earmarks $123,500,000 for payments under section 3(b) instead of $125,000,000 as proposed by the House and instead of $110,500,000 as proposed by the Senate.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment which appropriates $14,998,000 for impact aid construction instead of $25,590,000 as proposed by the House and instead of $26,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SCHOOL IMPROVEMENT PROGRAMS

Amendment No. 115: Modifies legal citations as proposed by the Senate to include authority for secondary schools basic skills demonstrations.

Amendment No. 116: Restores a legal citation included by the House but stricken by the Senate and inserts a new citation as proposed by the Senate. The conference agreement includes reference both to technology education programs as proposed by the House and to business education partnerships as proposed by the Senate.

Amendment No. 117: Appropriates $1,232,895,000 instead of $1,170,527,000 as proposed by the House and instead of $1,290,585,000 as proposed by the Senate.

Amendment No. 118: Provides that $899,494,000 of funds appropriated to this account will become available on July 1, 1990 and remain available until September 30, 1991 instead of $869,382,000 as proposed by the House and instead of $938,063,000 as proposed by the Senate.

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *; $8,892,000 shall be for national program activities under section 2012 and $128,440,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act; $3,964,000 shall be for grants for schools and teachers under subpart 1 and $4,500,000 shall be for family school partnerships under subpart 2 of part B of title III of Public Law 100-297; and $31,084,000 shall be for national programs under part A of chapter 2 of title I of the Elementary and Secondary Education Act*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference modifies four earmarks of funds inserted by the Senate. These amounts relate to the Dwight D. Eisenhower Math and Science program and to the Fund for Improvement of Education and Reform of Schools and Teachers. The conference agreement also includes a new earmark of $31,084,000 for national programs under chapter 2. The House bill included no similar provisions.

The conference agreement includes $15,000,000 for new star schools grants in fiscal year 1990. The conferees expect the Secretary, in awarding new awards under the Star Schools Act, to adhere to the provisions of section 905(c)(3) of that Act and give a priority to telecommunication partnerships that serve schools with a significant number of students eligible for chapter 1 services.

The conferees direct that funds provided for the Fund for Innovation in Education be allocated as follows:

Discretionary Activities (sec. 4601)	$6,928,000
Technology Education (sec. 4603 and sec. 6115)	2,250,000
Computer-based Education (sec. 4604)	5,000,000
Comprehensive School Health (sec. 4605)	4,000,000
Total	18,178,000

The conferees expect that not less than $3,000,000 of the funds available for discretionary activities (sec. 4601) be used for the initiative to improve the educational performance and employment opportunities of "underachieving" students cited in the House report accompanying the bill. The conferees further expect that within the amount made available for federal activities under the Drug Free Schools national programs activity, $500,000 should be used for innovative alcohol abuse education programs and administered as if appropriated under sec. 4607.

The conferees wish to make clear that the training and advisory services authorized by title IV of the Civil Rights Act will provide grants to 10 regional desegregation assistance centers and to civil rights units in State education agencies to enable them to assist school districts to address the problems associated with desegregation on the basis of race, sex, and national origin.

The conferees expect that the $6,500,000 appropriated for the Native Hawaiian Education Act be allocated as follows:

Model Curriculum Implementation Project	$500,000
Family-based Education Centers	2,800,000
Higher Education Program	1,700,000
Gifted and Talented Education	750,000
Special Education Program	750,000

Amendment No. 120: Deletes language proposed by the Senate related to the Star Schools program.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

Amendment No. 121: Appropriates $188,674,000 instead of $194,761,000 as proposed by the House and instead of $182,586,000 as proposed by the Senate. The conferees are agreed that the increase provided over 1989 for national programs should be used for programs in development bilingual education.

Amendment No. 122: Earmarks $31,913,000 for bilingual education training activities instead of $32,413,000 as proposed by the House and instead of $31,413,000 as proposed by the Senate.

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *including not more than $2,000,000 for the support of not to exceed 200 fellowships under section 7043*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement modifies Senate language to earmark $2,000,000 for fellowships under the bilingual education program instead of $1,500,000. The conference agreement also specifies that this will support approximately 200 trainees. The House bill included no similar provision.

EDUCATION FOR THE HANDICAPPED

Amendment No. 124: Appropriates $2,083,776,000 as proposed by the Senate instead of $2,063,827,000 as proposed by the House. The conference agreement reallocates handicapped funds in compliance with authorization ceilings in the basic law.

The conferees are agreed that the Secretary may use up to $1 million to support the development of descriptive video services for the blind if his study of this technology, which has been requested in H. Rept. 101-172, determines that the technology is commercially viable and that there is no significant opposition from the Federal Communications Commission. Should these conditions not be met, the conferences are agreed that these funds should be redirected towards other media and captioning activities unless a separate authorization for such a program is enacted into law.

The conferees intend that of the total amount provided for postsecondary programs, $2.5 million be allocated to the four postsecondary education programs serving the deaf.

Amendment No. 125: Earmarks, $1,564,017,000 for State grants as proposed by the House instead of $1,554,000,000 as proposed by the Senate.

Amendment No. 126: Earmarks $255,000,000 for preschool grants as proposed by the Senate instead of $252,000,000 as proposed by the House.

Amendment No. 127: Earmarks $80,624,000 for grants for infants and families as proposed by the Senate instead of $77,205,000 as proposed by the House.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which appropriates $1,804,870,000 for rehabilitation programs instead of $1,743,973,000 as proposed by the House and instead of $1,789,870,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have provided an increase in funding for the National Institute on Disability and Rehabilitation Research. It is the intention of the conferees that NIDRR establish a new research and training center dealing with the needs of low-functioning deaf individuals.

The conferees are also agreed that a portion of the increase provided to the National Institute on Disability and Rehabilitation Research should be used to develop improved prosthetic and orthotic devices using new technologies.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which earmarks $32,674,000 for special demonstration programs instead of $31,994,000 as proposed by the House and instead of $17,674,000 as proposed by the Senate. The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 130: Restores language included by the House but stricken by Senate earmarking $15,000,000 for comprehensive head injury centers.

The conferees note that more than 100,000 people die each year as a result of head injury, while another 70,000 to 90,000 people are permanently disabled. The Iowa Brain Injury Registry indicates over 10,000 head injuries occur in Iowa each year. Similar data are available for the State of Alabama. The conferees encourage the Department to consider those areas of high incidence of head injuries when making its awards for head-injury centers.

SPECIAL INSTITUTIONS FOR THE HANDICAPPED

AMERICAN PRINTING HOUSE FOR THE BLIND

Amendment No. 131: Appropriates $5,740,000 instead of $5,537,000 as proposed by the House and $5,492,000 as proposed by the Senate.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendent, insert the following:

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) and for activities under sec. 311 of the Rehabilitation Act of 1973, $36,553,000 of which $250,000 shall be for the endowment program as authorized under section 408 and shall be available until expended, $482,000 shall be for construction and renovation, to remain available until expended, and $900,000 shall be retained by the Secretary for the purpose of supporting a consortium of institutions to provide education and vocational rehabilitation services for low functioning adults who are deaf.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $36,553,000 instead of $35,553,000 as proposed by the House and instead of $37,553,000 as proposed by the Senate.

The conference agreement modifies language inserted by the Senate to make clear that funds are available for a new program of consortia to provide educational and vocational rehabilitation services for low functioning deaf adults. The conference agreement deletes Senate language which would have earmarked these funds for certain institutions. It is the intention of the conferees, however, that funds be allocated for one or more awards for demonstration projects across the country. The conferees note that California State University at Northridge, Gallaudet University, National Technical Institute for the Deaf, Postsecondary Education Consortium at the University of Tennessee, Seattle Central Community College, Southwest Center for the Hearing Impaired, and St. Paul Technical Institute have expertise in these areas.

The conferees direct the Secretary to grant the approval for the National Technical Institute for the Deaf to admit foreign students and that such students should pay a 50-percent tuition surcharge. The conferees intend this foreign student tuition surcharge be the same 50-percent rate for Gallaudet University and Howard University. Finally, the conferees also agree that NTID, Gallaudet University, and Howard University should have the opportunity to phase in the surcharge over a 3-year period.

GALLAUDET UNIVERSITY

Amendment No. 133: Appropriates $68,600,000 instead of $68,350,000 as proposed by the House and $68,850,000 as proposed by the Senate.

VOCATIONAL AND ADULT EDUCATION

Amendment No. 134: Earmarks $1,138,040,000 instead of $1,151,035,000 as proposed by the House and instead of $1,126,239,000 as proposed by the Senate.

Amendment No. 135: Earmarks $23,333,000 for national programs instead of $26,639,000 as proposed by the House and instead of $19,465,000 as proposed by the Senate.

Amendment No. 136: Earmarks $7,083,000 for research instead of $7,200,000 as proposed by the House and instead of $6,965,000 as proposed by the Senate.

Amendment No. 137: Earmarks $11,250,000 for demonstrations instead of $15,000,000 as proposed by the House and instead of $7,500,000 as proposed by the Senate.

Amendment No. 138: Earmarks $5,000,000 as proposed by the Senate for data collection instead of $4,439,000 as proposed by the House.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 139: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert the following: *$6,044,097,000 together with an additional $131,000,000 which shall be available only for unfinanced costs in the 1989-90 award year Pell Grant program: Provided, That $286,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,300 during the 1990-1991 program year: Provided further, That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: Provided further, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded to any student who is attending on a less than half-time basis for a period of enrollment beginning on or after January 1, 1990, except that any such student who received a basic grant for a period of enrollment beginning before January 1, 1990, shall be eligible to receive a basic grant for a period of enrollment beginning on or after such date from funds appropriated for fiscal year 1989: Provided further, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded from funds appropriated for fiscal year 1990 to any student who is attending on a less than half-time basis: Provided further, That any institution participating in any loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the loan was received, or the date on which the student completes one-half of that course and these provisos, except as specifically indicated, shall apply to all fiscal year 1990 funds*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement departs from the structure of the House and Senate bill by providing a combination of additional appropriations and legislative modifications in response to radically revised cost estimates generated by the Administration for the Pell Grant program. The President submitted a revised budget request for this program on July 25, 1989 adjusting his estimate of program costs upward by an additional $696 million. This new estimate included $331 million for a perceived shortfall in fiscal year 1989 and $365 million as a reestimate for 1990 program costs. Because of the extreme fluctuations in these estimates, the Senate Committee asked the Comptroller General to review the Administration's estimating procedures as well as the accuracy of its budget requests. The conferees look forward to reviewing this report in January of 1990.

On September 29, 1989, however, after a series of messages on this matter, some of which were confusing and contradictory, the Office of Management and Budget informed the Congress that if additional funds were not explicitly provided for fiscal year 1989 in the regular 1990 appropriations bill, the Administration would immediately seek to recover all or part of Pell Grants already awarded to 1.4 million students for

the 1989/1990 academic year. Cost estimates calculated by the Congressional Budget Office, on the other hand, indicate a 1989 funding shortfall of not more than $131 million and that program costs for 1990 are likely to be up to $300 million less than the revised budget estimate submitted by the Administration.

Based on this information, the conferees have provided an immediate appropriation of $131 million to cover the funding shortfall for the 1989/1990 academic year. Although the conferees have provided explicit legislative authority for the use of funds for the 1989 shortfall, the conferees do not necessarily concur in OMB's view that this language is necessary in order for funds to be used for this purpose. The conferees note that OMB's policy differs substantially from previous Administration practice in handling the financing of current year shortfalls. As a result of this 1989 appropriation and some 1989 savings achieved through the provisions cited below, the conferees consider any attempt to impose a linear reduction of Pell Grant awards in the current academic year to be both unacceptable and unnecessary.

The conference agreement also includes the following legislative actions intended to deal with the Pell Grant funding problem:

Legislative language identical to current law limiting the discretion of student aid administrators in adjusting Pell Grant awards at the campus level;

Legislative language implementing the Administration's proposal for the implementation of pro-rata refund policies at postsecondary institutions with loan default rates in excess of 30 percent;

Legislative language delaying the eligibility of students attending on a less than half time basis for Pell Grant awards. An exception will be made for the 1989/1990 award year for less than half time students that have been awarded a Pell Grant for a period of enrollment beginning prior to January 1, 1990.

The conferees have agreed to these legislative changes reluctantly because of jurisdictional concerns but consider these provisions to be reasonable ones which are directed at recognized problems which contribute to the funding difficulties with the Pell Grant program.

GUARANTEED STUDENT LOANS

Amendment No. 140: Appropriates $3,826,314,000 as proposed by the Senate instead of $3,651,000,000 as proposed by the House.

HIGHER EDUCATION

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *for titles I, III, IV, section 501, 523, and subpart 1 of part D of title V, and titles XII,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 142: Inserts the legal citation for the Margaret Chase Smith Library Center grant.

Amendment No. 143: Appropriates $632,736,000 instead of $634,976,000 as proposed by the House and instead of $620,711,000 as proposed by the Senate. The conference agreement includes $245,000,000 for special programs for the disadvantaged, TRIO. In allocating these funds, the conferees direct the Secretary to implement the language in the House report relating to Upward Bound, by using $7,000,000 of the increase provided in this account to fund an additional 25 applications from those already approved, but unfunded, in the recently-held competition.

The conferees also expect that within the amount made available for School, College, University Partnerships program, not less than $400,000 shall be used for a competition based on the initiative described in the Senate report accompanying the bill.

Within the amount made available for international education domestic programs, the conferees expect that not less than $5,000,000 shall be available for the international business education centers initiative authorized under section 6261 of the Omnibus Trade Act of 1988. The conferees note that a much smaller sum was competed under this program in fiscal year 1989 and that the authorizing statute does not prohibit the 1989 grantees from competing for an expanded level of support in 1990. The conferees expect continuing projects to be considered on an equal basis with new applications in the competition for 1990 funds and do not intend that any continuation grant would be automatically reduced in its second year.

Amendment No. 144: Earmarks $18,128,000 for endowment activities instead of $23,128,000 as proposed by the House and instead of $13,128,000 as proposed by the Senate.

Amendment No. 145: Earmarks $8,740,000 for Robert C. Byrd Honors Scholarships instead of $8,479,000 as proposed by the House and instead of $9,000,000 as proposed by the Senate.

Amendment No. 146: Deletes language proposed by the Senate.

HOWARD UNIVERSITY

Amendment No. 147: Appropriates $182,446,000 for Howard University instead of $184,904,000 as proposed by the House and instead of $178,928,000 as proposed by the Senate. Funds available to the various activities at Howard University may be reprogrammed if approved by the House and Senate Appropriations Committees using the normal reprogramming procedures.

The conference agreement provides for a 50 percent tuition surcharge for foreign students which is to be phased in over a three year period. The conferees expect the Secretary of Education, in concert with the appropriate University authorities, to submit a plan to the House and Senate Appropriations Committees no later than January 1, 1990 describing the procedures for implementation of this surcharge.

Amendment No. 148: Earmarks $1,500,000 for the endowment program instead of $7,458,000 as proposed by the House and instead of $1,482,000 as proposed by the Senate.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Amendment No. 149: Restores language included by the House but stricken by the Senate to provide $30,000,000 of new loans during fiscal year 1990.

EDUCATION RESEARCH AND STATISTICS

Amendment No. 150: Appropriates $96,375,000 instead of $100,330,000 as proposed by the House and instead of $95,420,000 as proposed by the Senate. The conference agreement includes $5,000,000 for the National Board for Professional Teaching Standards. These funds are provided contingent on the enactment of legislation authorizing this appropriation to the Board. These funds are to remain available for this purpose through the entire fiscal year and may not be used for any other purpose unless a transfer of these funds is approved in writing by the House and Senate Appropriations Committees through the normal reprogramming process.

Amendment No. 151: Deletes language proposed by the Senate which would have earmarked funds in statute for the National Board for Professional Teaching Standards. The conference agreement provides $5 million subject to authorization.

LIBRARIES

Amendment No. 152: Inserts citation proposed by the Senate.

Amendment No. 153: Appropriates $136,646,000 instead of $114,876,000 as proposed by the House and instead of $143,612,000 as proposed by the Senate. The conference agreement also earmarks $18,900,000 of this amount for library construction activities under title II. The Senate bill earmarked $23,000,000 for this purpose. The House bill did not provide funds for this activity.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

Amendment No. 154: Appropriates $274,946,000 instead of $269,946,000 as proposed by the House and instead of $280,646,000 as proposed by the Senate. The conference agreement includes $150,000 to conduct an evaluation conference of the law school clinical experience program as described on page 167 of House Report 101-172.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 155: Appropriates $23,381,000 as proposed by the Senate instead of $22,000,000 as proposed by the House.

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $176,642,000: Provided, That $30,750,000 shall be available for title I of the Act, of which $25,415,000 shall be available for purposes authorized under section 501(d)(1) of the Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CORPORATION FOR PUBLIC BROADCASTING

Amendment No. 157: Appropriates $327,280,000 instead of $314,060,000 as proposed by the House and $340,500,000 as proposed by the Senate.

Amendment No. 158: Appropriates $76,250,000 instead of $72,000,000 as proposed by the House and $80,500,000 as proposed by the Senate.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

Amendment No. 159: Appropriates $26,785,000 instead of $26,380,000 as proposed by the House and $27,190,000 as proposed by the Senate.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Amendment No. 160: Appropriates $1,000,000 for the National Commission on Acquired Immune Deficiency Syndrome as proposed by the Senate. The House bill provided funding for this Commission within another account.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

Amendment No. 161: Appropriates $750,000 as proposed by the House instead of $770,000 as proposed by the Senate.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

Amendment No. 162: Appropriates $1,557,000 instead of $1,157,000 as proposed by the House and $2,160,000 as proposed by the Senate.

The conferees intend that the amount provided above the House level is to be used to conduct a study of the education of students with disabilities. Such a study will be conducted by contract under the auspices of the Council, rather than a new National Commission.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

Amendment No. 163: Provides for a limitation on trust funds of $3,874,000 as proposed by the House instead of $3,722,000 as proposed by the Senate.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

Amendment No. 164: Provides for a limitation on trust funds of $3,919,000 as proposed by the House instead of $3,794,000 as proposed by the Senate.

RAILROAD RETIREMENT BOARD

LIMITATION ON ADMINISTRATION

Amendment No. 165: Makes available $63,900,000 from the railroad retirement accounts as proposed by the House instead of $67,451,000 as proposed by the Senate.

The conferees intend that the funds provided will support 1,625 full-time equivalent staff.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

Amendment No. 166: Provides that not less than $14,100,000 shall be appropriated for fiscal year 1990 as proposed by the House instead of $14,964,000 as proposed by the Senate.

LIMITATION ON REVIEW ACTIVITY

Amendment No. 167: Makes available $3,950,000 from the railroad retirement and unemployment insurance accounts instead of $3,545,000 as proposed by the House and $4,150,000 as proposed by the Senate.

The amount provided is intended to support not more than 74 full-time equivalent staff.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

Amendment No. 168: Appropriates $39,287,000 from the Soldiers' and Airmen's Home permanent fund instead of $39,000,000 as proposed by the House and $39,573,000 as proposed by the Senate.

CAPITAL OUTLAY

Amendment No. 169: Appropriates $9,375,000 from the Soldiers' and Airmen's Home permanent fund instead of $8,500,000 as proposed by the House and $10,250,000 as proposed by the Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

Amendment No. 170: Appropriates $7,650,000 instead of $6,916,000 as proposed by the House and $8,000,000 as proposed by the Senate.

The amount provided is intended to support not more than 42 full-time equivalent staff.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Amendment No. 171: Appropriates $3,250,000 as proposed by the Senate. The House bill contained no appropriation for the Conference.

TITLE V—GENERAL PROVISIONS

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended as follows:

In lieu of the "$28,643,000" named in said amendment, insert the following: *"$26,643,000"*

In lieu of the $91,037,000" named in said amendment, insert the following: *"$85,637,000"*

In lieu of the "$45,415,000" named in said amendment, insert the following: *"$41,565,000"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement places a ceiling on the amounts available to the three Cabinet Departments for advisory or assistance services. It also establishes reporting requirements and provides for Comptroller General review of the reports.

Amendment No. 173: Deletes language proposed by the Senate relating to "good faith" efforts of spousal notification. This provision is unnecessary inasmuch as the Centers for Disease Control currently requires that a "good faith" effort be made to notify the spouse of an AIDS-infected patient.

However, the conferees direct further that none of the funds provided to the Centers for Disease Control for prevention and surveillance projects regarding AIDS, shall be provided in any State unless the chief executive officer of such State provides prior written assurances to the Secretary of Health and Human Services that, with respect to such programs, such State has established standards and procedures for "a good faith" effort for confidential notification of spouses of persons with HIV infection.

Amendment No. 174: Deletes language proposed by the Senate related to restrictions on health education materials issued by agencies or grantees funded in the bill.

Amendment No. 175: Deletes language proposed by the Senate related to Medicare contractors.

Amendment No. 176: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 516. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated for Labor-Management Services, Salaries and Expenses are hereby reduced by $1,000,000 and funds appropriated for Employment Standards Administration, Salaries and Expenses are hereby reduced by $2,000,000.

SEC. 518. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Health and Human Services are hereby reduced by $15,000,000: Provided, That no trust fund limitation shall be reduced.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 177: Deletes language inserted by the Senate.

DEFINITION OF PROGRAM, PROJECT AND ACTIVITY

During fiscal year 1990, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the following information provides the definition of the term "program, project, and activity" for departments and agencies under the jurisdiction of the Labor, Health and Human Services, and Education, and Related Agencies Subcommittee. The term "program, project, and activity" shall include the most specific level of budget items identified in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the committee of conference.

CONFERENCE AGREEMENT

The following table displays the amounts agreed to for each program, project or activity with appropriate comparisons.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
SUMMARY								
Title I - Department of Labor:								
Federal Funds	6,557,888,000	6,575,107,000	6,713,077,000	6,758,228,000	6,727,814,000	+14,737,000	-30,414,000	
Current year	(6,557,888,000)	(6,575,107,000)	(6,713,077,000)	(6,758,228,000)	(6,726,314,000)	(+13,237,000)	(-31,914,000)	
1991 advance	---	---	---	---	(1,500,000)	(+1,500,000)	(+1,500,000)	
Trust Funds	(2,777,832,000)	(2,782,510,000)	(2,880,510,000)	(2,930,110,000)	(2,918,010,000)	(+37,500,000)	(-12,100,000)	
Title II - Department of Health and Human Services:								
Federal Funds (all years) (authorized)	111,658,645,000	121,774,178,000	123,780,188,000	124,255,885,000	124,225,520,000	+445,332,000	-30,365,000	
Current year	(96,811,645,000)	(105,402,178,000)	(107,008,188,000)	(106,928,641,000)	(106,870,991,000)	(-137,197,000)	(-57,650,000)	
1991 advance	(14,847,000,000)	(16,372,000,000)	(16,772,000,000)	(17,327,244,000)	(16,799,285,000)	(+27,285,000)	(-527,959,000)	
1992 advance	---	---	---	---	(555,244,000)	(+555,244,000)	(+555,244,000)	
(Unauthorized, deferred by House)	583,551,000	470,211,000	DEFER	1,907,761,000	577,863,000	+577,863,000	-1,329,898,000	
Total, authorized and unauthorized	112,242,196,000	122,244,389,000	123,780,188,000	126,163,646,000	124,803,383,000	+1,023,195,000	-1,360,263,000	
Trust Funds	(5,612,155,000)	(5,842,099,000)	(5,921,086,000)	(5,854,099,000)	(5,840,099,000)	(-80,987,000)	(-14,000,000)	
Title III - Department of Education:								
Federal Funds	22,706,836,000	23,824,562,000	23,833,191,000	23,718,536,000	24,153,175,000	+319,984,000	+434,639,000	
Current year	(22,706,836,000)	(23,824,562,000)	(23,833,191,000)	(23,718,536,000)	(24,150,425,000)	(+317,234,000)	(+431,889,000)	
1991 advance	---	---	---	---	(2,750,000)	(+2,750,000)	(+2,750,000)	
(Unauthorized, deferred by House)	15,808,000	16,345,000	DEFER	---	---	---	---	
Total, authorized and unauthorized	(22,722,644,000)	(23,840,907,000)	(23,833,191,000)	(23,718,536,000)	(24,153,175,000)	(+319,984,000)	(+434,639,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Title IV - Related Agencies:								
Federal Funds (all years) (authorized)	870,559,000	781,636,000	865,065,000	900,995,000	885,236,000	+20,171,000	-15,759,000	
Current year	(571,689,000)	(539,576,000)	(551,005,000)	(560,495,000)	(557,956,000)	(+6,951,000)	(-2,539,000)	
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(340,500,000)	(327,280,000)	(+13,220,000)	(-13,220,000)	
(Unauthorized, deferred by House)	170,420,000	170,417,000	DEFER	182,667,000	176,642,000	+176,642,000	-6,025,000	
Total, authorized and unauthorized	1,040,979,000	952,053,000	865,065,000	1,083,662,000	1,061,878,000	+196,813,000	-21,784,000	
Trust Funds	(69,231,000)	(74,152,000)	(76,711,000)	(80,617,000)	(77,116,000)	(+405,000)	(-3,501,000)	
Total, all titles:								
Federal Funds (all years) (authorized)	141,793,928,000	152,955,483,000	155,191,521,000	155,633,644,000	155,991,745,000	+800,224,000	+358,101,000	
Current year	(126,648,058,000)	(136,341,423,000)	(138,105,461,000)	(137,965,900,000)	(138,305,686,000)	(+200,225,000)	(+339,786,000)	
1991 advance	(14,847,000,000)	(16,372,000,000)	(16,772,000,000)	(17,327,244,000)	(16,803,535,000)	(+31,535,000)	(-523,709,000)	
1992 advance	(298,870,000)	(242,060,000)	(314,060,000)	(340,500,000)	(882,524,000)	(+568,464,000)	(+542,024,000)	
(Unauthorized, deferred by House)	769,779,000	656,973,000	DEFER	2,090,428,000	754,505,000	+754,505,000	-1,335,923,000	
Total, authorized and unauthorized	142,563,707,000	153,612,456,000	155,191,521,000	157,724,072,000	156,746,250,000	+1,554,729,000	-977,822,000	
Trust Funds	(8,459,218,000)	(8,698,761,000)	(8,878,307,000)	(8,864,826,000)	(8,835,225,000)	(-43,082,000)	(-29,601,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
SECTION 302B RECAP								
Federal Funds (all years)	141,793,928,000	152,955,483,000	155,191,521,000	155,633,644,000	155,991,745,000	+800,224,000	+358,101,000	
(Unauthorized, deferred by House)	769,779,000	656,973,000	DEFER	2,090,428,000	754,505,000	+754,505,000	-1,335,923,000	
Scorekeeping adjustments:								
Mandatory	-5,828,000	---	---	---	---	---	---	
Discretionary	5,828,000	---	---	---	---	---	---	
Rural referral centers	---	---	---	15,000,000	---	---	-15,000,000	
Bill total	142,563,707,000	153,612,456,000	155,191,521,000	157,724,072,000	156,746,250,000	+1,554,729,000	-977,822,000	
Mandatory, total in bill	101,376,355,000	111,880,925,000	112,052,784,000	112,533,334,000	112,594,935,000	+542,151,000	+61,601,000	
Less advances for subsequent years	-14,847,000,000	-16,772,000,000	-16,772,000,000	-16,772,000,000	-16,772,000,000	---	---	
Plus advances provided in prior years	13,750,000,000	14,847,000,000	14,847,000,000	14,847,000,000	14,847,000,000	---	---	
Total, mandatory (authorized)	100,279,355,000	109,955,925,000	110,127,784,000	110,608,334,000	110,669,935,000	+542,151,000	+61,601,000	
(Unauthorized, deferred by House)	(45,000,000)	---	---	(50,000,000)	(50,000,000)	(+50,000,000)	---	
Total, mandatory	100,324,355,000	109,955,925,000	110,127,784,000	110,658,334,000	110,719,935,000	+592,151,000	+61,601,000	
Discretionary, total in bill	40,417,573,000	41,074,558,000	43,138,737,000	43,115,310,000	43,396,810,000	+258,073,000	+281,500,000	
Less advances for subsequent years	-298,870,000	157,940,000	-314,060,000	-895,744,000	-914,059,000	-599,999,000	-18,315,000	
Plus advances provided in prior years	228,000,000	232,648,000	232,648,000	232,648,000	232,648,000	---	---	
Total, discretionary (authorized)	40,346,703,000	41,465,146,000	43,057,325,000	42,452,214,000	42,715,399,000	-341,926,000	+263,185,000	
(Unauthorized, deferred by House)	724,779,000	656,973,000	DEFER	2,040,428,000	704,505,000	+704,505,000	-1,335,923,000	
Total, discretionary	41,071,482,000	42,122,119,000	43,057,325,000	44,492,642,000	43,419,904,000	+362,579,000	-1,072,738,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Grand total, current year (authorized).....	140,626,058,000	151,421,071,000	153,185,109,000	153,060,548,000	153,385,334,000	+200,225,000	+324,786,000	
(Unauthorized, deferred by House).....	(769,779,000)	(656,973,000)	DEFER	(2,090,428,000)	(754,505,000)	(+754,505,000)	(-1,335,923,000)	
Grand total, current year (auth & unauth).....	141,395,837,000	152,078,044,000	153,185,109,000	155,150,976,000	154,139,839,000	+954,730,000	-1,011,137,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
TITLE I -- DEPARTMENT OF LABOR								
EMPLOYMENT AND TRAINING ADMINISTRATION								
PROGRAM ADMINISTRATION								
Job training programs	17,439,000	18,540,000	18,540,000	18,540,000	18,540,000	---	---	D
Employment security	3,495,000	442,000	442,000	442,000	442,000	---	---	D
Trust funds	(14,722,000)	(15,289,000)	(15,289,000)	(15,289,000)	(15,289,000)	---	---	TF
Financial and administrative management	16,902,000	14,243,000	14,243,000	14,243,000	14,243,000	---	---	D
Trust funds	(9,298,000)	(10,807,000)	(10,807,000)	(10,807,000)	(10,807,000)	---	---	TF
Executive direction and administration	3,456,000	3,683,000	3,683,000	3,683,000	3,683,000	---	---	D
Trust funds	(2,777,000)	(3,014,000)	(3,014,000)	(3,014,000)	(3,014,000)	---	---	TF
Regional operations	16,047,000	12,268,000	12,268,000	12,268,000	12,268,000	---	---	D
Trust funds	(21,523,000)	(24,707,000)	(24,707,000)	(24,707,000)	(24,707,000)	---	---	TF
Apprenticeship services	13,613,000	14,017,000	14,017,000	17,017,000	15,517,000	+1,500,000	-1,500,000	D
Total, Program Administration	119,272,000	117,010,000	117,010,000	120,010,000	118,510,000	+1,500,000	-1,500,000	
Federal funds	70,952,000	63,193,000	63,193,000	66,193,000	64,693,000	+1,500,000	-1,500,000	
Trust funds	(48,320,000)	(53,817,000)	(53,817,000)	(53,817,000)	(53,817,000)	---	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
TRAINING AND EMPLOYMENT SERVICES								
Grants to States:								
Block grant	1,787,772,000	1,787,772,000	1,787,772,000	1,750,000,000	1,768,886,000	-18,886,000	+18,886,000	D
Summer youth employment and training program	709,433,000	709,433,000	709,433,000	709,433,000	709,433,000	---	---	D
Dislocated worker assistance	283,773,000	400,000,000	450,000,000	500,000,000	470,000,000	+20,000,000	-30,000,000	D
Federally administered programs:								
Native Americans	58,996,000	58,996,000	58,996,000	58,996,000	58,996,000	---	---	D
Migrants and seasonal farmworkers	68,540,000	57,209,000	68,540,000	71,282,000	70,000,000	+1,460,000	-1,282,000	D
Job Corps:								
Operations	678,676,000	727,192,000	761,031,000	764,992,000	763,257,000	+2,226,000	-1,735,000	D
Capital, construction and renovation	63,149,000	34,432,000	49,432,000	50,432,000	50,432,000	+1,000,000	---	D
Subtotal, Job Corps	741,825,000	761,624,000	810,463,000	815,424,000	813,689,000	+3,226,000	-1,735,000	
Veterans' employment	9,517,000	9,474,000	9,474,000	9,474,000	9,474,000	---	---	D
National activities:								
Pilots and demonstrations	30,253,000	30,253,000	30,253,000	31,520,000	30,887,000	+634,000	-633,000	D
Research, demonstration and evaluation	13,429,000	18,429,000	18,429,000	15,929,000	15,929,000	-2,500,000	---	D
Other	24,893,000	15,126,000	23,126,000	25,626,000	24,376,000	+1,250,000	-1,250,000	D
Subtotal, National activities	68,575,000	63,808,000	71,808,000	73,075,000	71,192,000	-616,000	-1,883,000	
Subtotal, Federal activities	947,453,000	951,111,000	1,019,281,000	1,028,251,000	1,023,351,000	+4,070,000	-4,900,000	
Total, Job Training Partnership Act	3,728,431,000	3,848,316,000	3,966,486,000	3,987,684,000	3,971,670,000	+5,184,000	-16,014,000	
Job training for the homeless	9,386,000	13,000,000	10,000,000	13,000,000	11,500,000	+1,500,000	-1,500,000	D
Advance funding for FY 1991	---	---	---	---	1,500,000	+1,500,000	+1,500,000	D
Total, Training and Employment Services	3,737,817,000	3,861,316,000	3,976,486,000	4,000,684,000	3,984,670,000	+8,184,000	-16,014,000	
Current year, FY 1990	(3,737,817,000)	(3,861,316,000)	(3,976,486,000)	(4,000,684,000)	(3,983,170,000)	(+6,684,000)	(-17,514,000)	
Advance funding for FY 1991	---	---	---	---	(1,500,000)	(+1,500,000)	(+1,500,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS								
National contracts	268,183,000	262,080,000	276,120,000	288,600,000	282,360,000	+6,240,000	-6,240,000	D
State grants	75,641,000	73,920,000	77,880,000	81,400,000	79,640,000	+1,760,000	-1,760,000	D
Total	343,824,000	336,000,000	354,000,000	370,000,000	362,000,000	+8,000,000	-8,000,000	
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES								
Trade adjustment	270,518,000	284,000,000	284,000,000	284,000,000	284,000,000	---	---	M
Other activities	2,000,000	---	---	---	---	---	---	M
Total	272,518,000	284,000,000	284,000,000	284,000,000	284,000,000	---	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS								
Unemployment Compensation (Trust Funds):								
State Operations	(1,240,812,000)	(1,274,935,000)	(1,274,935,000)	(1,274,935,000)	(1,274,935,000)	---	---	TF
State integrity activities	(251,532,000)	(250,997,000)	(250,997,000)	(250,997,000)	(250,997,000)	---	---	TF
National Activities	(10,029,000)	(6,000,000)	(6,000,000)	(6,000,000)	(6,000,000)	---	---	TF
Contingency	(152,625,000)	(193,468,000)	(193,468,000)	(193,468,000)	(193,468,000)	---	---	TF
Subtotal, Unemployment Compensation(trust funds)	(1,654,998,000)	(1,725,400,000)	(1,725,400,000)	(1,725,400,000)	(1,725,400,000)	---	---	
Employment Service:								
Allotments to States:								
Federal funds	21,472,000	20,800,000	20,800,000	20,800,000	20,800,000	---	---	D
Trust funds	(742,280,000)	(671,300,000)	(768,900,000)	(768,900,000)	(768,900,000)	---	---	TF
Subtotal	763,752,000	692,100,000	789,700,000	789,700,000	789,700,000	---	---	
National Activities:								
Federal funds	1,087,000	1,200,000	1,200,000	1,200,000	1,200,000	---	---	D
Trust funds	(52,678,000)	(43,400,000)	(43,400,000)	(93,400,000)	(80,900,000)	(+37,500,000)	(-12,500,000)	TF
Subtotal, Employment Service	817,517,000	736,700,000	834,300,000	884,300,000	871,800,000	+37,500,000	-12,500,000	
Federal funds	22,559,000	22,000,000	22,000,000	22,000,000	22,000,000	---	---	
Trust funds	(794,958,000)	(714,700,000)	(812,300,000)	(862,300,000)	(849,800,000)	(+37,500,000)	(-12,500,000)	
Total, State Unempl. Ins. and Empl. Ser. Opers	2,472,515,000	2,462,100,000	2,559,700,000	2,609,700,000	2,597,200,000	+37,500,000	-12,500,000	
Federal Funds	22,559,000	22,000,000	22,000,000	22,000,000	22,000,000	---	---	
Trust Funds	(2,449,956,000)	(2,440,100,000)	(2,537,700,000)	(2,587,700,000)	(2,575,200,000)	(+37,500,000)	(-12,500,000)	
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	124,000,000	33,000,000	33,000,000	33,000,000	33,000,000	---	---	M
Total, Employment & Training Administration	7,069,946,000	7,093,426,000	7,324,196,000	7,417,394,000	7,379,380,000	+55,184,000	-38,014,000	
Federal funds	4,571,670,000	4,599,509,000	4,732,679,000	4,775,877,000	4,750,363,000	+17,684,000	-25,514,000	
Current year, FY 1990	(4,571,670,000)	(4,599,509,000)	(4,732,679,000)	(4,775,877,000)	(4,748,863,000)	(+16,184,000)	(-27,014,000)	
Advance funding for FY 1991	---	---	---	---	(1,500,000)	(+1,500,000)	(+1,500,000)	
Trust funds	(2,498,276,000)	(2,493,917,000)	(2,591,517,000)	(2,641,517,000)	(2,629,017,000)	(+37,500,000)	(-12,500,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
LABOR - MANAGEMENT SERVICES								
SALARIES AND EXPENSES								
Labor-management relations service	5,730,000	5,883,000	5,883,000	5,883,000	5,883,000	---	---	D
Labor-management standards enforcement	25,071,000	25,493,000	25,493,000	25,493,000	25,493,000	---	---	D
Pension and welfare benefit programs	41,478,000	43,831,000	43,831,000	43,831,000	43,831,000	---	---	D
Undistributed	---	---	---	---	-1,000,000	-1,000,000	-1,000,000	D
Total, LMSA	72,279,000	75,207,000	75,207,000	75,207,000	74,207,000	-1,000,000	-1,000,000	
PENSION BENEFIT GUARANTY CORPORATION								
Program Administration subject to limitation (Trust Funds)	(40,737,000)	(42,301,000)	(42,301,000)	(42,301,000)	(42,301,000)	---	---	TF
Other contractual services not subject to limitation (Trust Funds)	(29,097,000)	(28,053,000)	(28,053,000)	(28,053,000)	(28,053,000)	---	---	TF
Total, PBGC (trust funds)	(69,834,000)	(70,354,000)	(70,354,000)	(70,354,000)	(70,354,000)	---	---	
EMPLOYMENT STANDARDS ADMINISTRATION								
SALARIES AND EXPENSES								
Enforcement of wage and hour standards	89,229,000	91,729,000	91,729,000	91,729,000	91,729,000	---	---	D
Federal contractor EEO standards enforcement	52,030,000	53,434,000	53,434,000	53,434,000	53,434,000	---	---	D
Federal programs for workers' compensation	57,358,000	59,291,000	59,291,000	59,291,000	59,291,000	---	---	D
Trust funds	(520,000)	(1,019,000)	(1,019,000)	(1,019,000)	(1,019,000)	---	---	TF
Executive direction and support services	13,944,000	13,868,000	13,868,000	13,868,000	13,868,000	---	---	D
Undistributed	---	---	---	---	-2,000,000	-2,000,000	-2,000,000	D
Total, salaries and expenses	213,081,000	219,341,000	219,341,000	219,341,000	217,341,000	-2,000,000	-2,000,000	
Federal funds	212,561,000	218,322,000	218,322,000	218,322,000	216,322,000	-2,000,000	-2,000,000	
Trust funds	(520,000)	(1,019,000)	(1,019,000)	(1,019,000)	(1,019,000)	---	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
SPECIAL BENEFITS								
Federal employees compensation act benefits.....	251,000,000	251,000,000	251,000,000	251,000,000	251,000,000	---	---	M
Longshore and harbor workers' benefits.....	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	---	---	M
Total, Special Benefits.....	255,000,000	255,000,000	255,000,000	255,000,000	255,000,000	---	---	
BLACK LUNG DISABILITY TRUST FUND								
Benefit payments and interest on advances.....	633,435,000	590,486,000	590,486,000	590,486,000	590,486,000	---	---	M
Employment Standards Admin., salaries & expenses.....	29,847,000	28,640,000	28,640,000	28,640,000	28,640,000	---	---	M
Departmental Management, salaries and expenses.....	24,833,000	20,691,000	20,691,000	21,350,000	21,350,000	+659,000	---	M
Departmental Management, inspector general.....	509,000	509,000	509,000	509,000	509,000	---	---	M
Subtotal, Black Lung Disablty. Trust Fund, apprn	688,624,000	640,326,000	640,326,000	640,985,000	640,985,000	+659,000	---	
Treasury administrative costs (indefinite).....	756,000	756,000	756,000	756,000	756,000	---	---	M
Total, Black Lung Disability Trust Fund.....	689,380,000	641,082,000	641,082,000	641,741,000	641,741,000	+659,000	---	
Total, Employment Standards Administration.....	1,157,461,000	1,115,423,000	1,115,423,000	1,116,082,000	1,114,082,000	-1,341,000	-2,000,000	
Federal funds.....	1,156,941,000	1,114,404,000	1,114,404,000	1,115,063,000	1,113,063,000	-1,341,000	-2,000,000	
Trust funds.....	(520,000)	(1,019,000)	(1,019,000)	(1,019,000)	(1,019,000)	---	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Safety and health standards	6,670,000	6,957,000	6,957,000	6,957,000	6,957,000	---	---	D
Enforcement:								
Federal Enforcement	116,794,000	118,704,000	118,704,000	118,704,000	118,704,000	---	---	D
State programs	45,684,000	58,133,000	60,633,000	60,633,000	60,633,000	---	---	D
Technical Support	17,276,000	17,868,000	17,868,000	17,868,000	17,868,000	---	---	D
Compliance Assistance	35,645,000	37,001,000	37,001,000	38,001,000	37,501,000	+500,000	-500,000	D
Safety and health statistics	19,998,000	22,992,000	22,992,000	22,992,000	22,992,000	---	---	D
Executive direction and administration	5,920,000	6,093,000	6,093,000	6,093,000	6,093,000	---	---	D
Total, OSHA	247,987,000	267,748,000	270,248,000	271,248,000	270,748,000	+500,000	-500,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
MINE SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Enforcement:								
Coal	83,334,000	84,899,000	84,899,000	85,112,000	85,112,000	+213,000	---	D
Metal/nonmetal	32,485,000	33,256,000	33,256,000	33,256,000	33,256,000	---	---	D
Standards development	1,097,000	1,571,000	1,571,000	1,571,000	1,571,000	---	---	D
Assessments	2,179,000	2,235,000	2,235,000	2,235,000	2,235,000	---	---	D
Educational policy and development	12,005,000	12,121,000	13,121,000	13,462,000	13,462,000	+341,000	---	D
Technical support	20,561,000	21,000,000	21,000,000	21,000,000	21,000,000	---	---	D
Program administration	11,232,000	13,957,000	13,957,000	13,957,000	13,957,000	---	---	D
Total, Mine Safety and Health Administration	162,893,000	169,039,000	170,039,000	170,593,000	170,593,000	+554,000	---	
BUREAU OF LABOR STATISTICS								
SALARIES AND EXPENSES								
Employment and Unemployment Statistics	63,455,000	66,354,000	66,954,000	66,354,000	66,954,000	---	+600,000	D
Labor Market Information (Trust Funds)	(45,767,000)	(49,118,000)	(49,518,000)	(49,118,000)	(49,518,000)	---	(+400,000)	TF
Prices and cost of living	71,302,000	73,075,000	73,075,000	73,075,000	73,075,000	---	---	D
Wages and industrial relations	21,778,000	22,166,000	22,166,000	22,166,000	22,166,000	---	---	D
Productivity and technology	5,433,000	5,539,000	5,539,000	5,539,000	5,539,000	---	---	D
Economic growth and employment projections	3,336,000	3,400,000	3,400,000	3,400,000	3,400,000	---	---	D
Executive direction and staff services	22,269,000	22,637,000	22,637,000	22,637,000	22,637,000	---	---	D
Total, Bureau of Labor Statistics	233,340,000	242,289,000	243,289,000	242,289,000	243,289,000	---	+1,000,000	
Federal Funds	187,573,000	193,171,000	193,771,000	193,171,000	193,771,000	---	+600,000	
Trust Funds	(45,767,000)	(49,118,000)	(49,518,000)	(49,118,000)	(49,518,000)	---	(+400,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
DEPARTMENTAL MANAGEMENT								
SALARIES AND EXPENSES								
Executive direction	19,135,000	17,124,000	17,124,000	17,124,000	17,124,000	---	---	D
Legal services	45,407,000	44,997,000	44,997,000	44,997,000	44,997,000	---	---	D
Trust funds	(282,000)	(285,000)	(285,000)	(285,000)	(285,000)	---	---	TF
International labor affairs	6,242,000	6,361,000	6,361,000	6,361,000	6,361,000	---	---	D
Administration and management	22,685,000	19,955,000	19,955,000	19,955,000	19,955,000	---	---	D
Adjudication	12,829,000	12,836,000	12,836,000	12,836,000	12,836,000	---	---	D
Promoting employment of the disabled	2,438,000	2,540,000	2,540,000	2,880,000	2,880,000	+340,000	---	D
Women's Bureau	6,504,000	6,103,000	6,803,000	6,803,000	6,803,000	---	---	D
Civil Rights Activities	3,687,000	4,116,000	4,116,000	4,116,000	4,116,000	---	---	D
Total, Salaries and expenses	119,209,000	114,317,000	115,017,000	115,357,000	115,357,000	+340,000	---	
Federal funds	118,927,000	114,032,000	114,732,000	115,072,000	115,072,000	+340,000	---	
Trust funds	(282,000)	(285,000)	(285,000)	(285,000)	(285,000)	---	---	
VETERANS EMPLOYMENT AND TRAINING								
State Administration:								
Disabled Veterans Outreach Program	(72,962,000)	(75,167,000)	(75,167,000)	(75,167,000)	(75,167,000)	---	---	TF
Local Veterans Employment Program	(66,998,000)	(69,250,000)	(69,250,000)	(69,250,000)	(69,250,000)	---	---	TF
Subtotal, State Administration	(139,960,000)	(144,417,000)	(144,417,000)	(144,417,000)	(144,417,000)	---	---	
Federal Administration	(14,991,000)	(15,606,000)	(15,606,000)	(15,606,000)	(15,606,000)	---	---	TF
National Veterans Training Institute	(2,569,000)	(2,600,000)	(2,600,000)	(2,600,000)	(2,600,000)	---	---	TF
Total, Trust Funds	(157,520,000)	(162,623,000)	(162,623,000)	(162,623,000)	(162,623,000)	---	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
OFFICE OF THE INSPECTOR GENERAL								
Audit:								
Federal funds	20,175,000	20,691,000	20,691,000	20,691,000	20,691,000	---	---	D
Trust funds	(4,472,000)	(4,127,000)	(4,127,000)	(4,127,000)	(4,127,000)	---	---	TF
Investigation:								
Federal funds	5,966,000	6,503,000	6,503,000	6,503,000	6,503,000	---	---	D
Trust funds	(1,161,000)	(1,067,000)	(1,067,000)	(1,067,000)	(1,067,000)	---	---	TF
Office of Labor Racketeering	8,788,000	9,901,000	9,901,000	9,901,000	9,901,000	---	---	D
Executive Direction and Administration	4,689,000	4,902,000	4,902,000	4,902,000	4,902,000	---	---	D
Total, Office of the Inspector General	45,251,000	47,191,000	47,191,000	47,191,000	47,191,000	---	---	
Federal funds	39,618,000	41,997,000	41,997,000	41,997,000	41,997,000	---	---	
Trust funds	(5,633,000)	(5,194,000)	(5,194,000)	(5,194,000)	(5,194,000)	---	---	
Total, Departmental Management	321,980,000	324,131,000	324,831,000	325,171,000	325,171,000	+340,000	---	
Federal funds	158,545,000	156,029,000	156,729,000	157,069,000	157,069,000	+340,000	---	
Trust funds	(163,435,000)	(168,102,000)	(168,102,000)	(168,102,000)	(168,102,000)	---	---	
Consultant savings	---	---	---	---	-2,000,000	-2,000,000	-2,000,000	D
Total, Labor Department	9,335,720,000	9,357,617,000	9,593,587,000	9,688,338,000	9,645,824,000	+52,237,000	-42,514,000	
Federal funds	6,557,888,000	6,575,107,000	6,713,077,000	6,758,228,000	6,727,814,000	+14,737,000	-30,414,000	
Current year, FY 1990	(6,557,888,000)	(6,575,107,000)	(6,713,077,000)	(6,758,228,000)	(6,726,314,000)	(+13,237,000)	(-31,914,000)	
FY 1991	---	---	---	---	(1,500,000)	(+1,500,000)	(+1,500,000)	
Trust funds	(2,777,832,000)	(2,782,510,000)	(2,880,510,000)	(2,930,110,000)	(2,918,010,000)	(+37,500,000)	(-12,100,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
TITLE II--DEPARTMENT OF HEALTH AND HUMAN SERVICES								
HEALTH RESOURCES AND SERVICES ADMINISTRATION								
HEALTH RESOURCES AND SERVICES								
Health Care Delivery and Assistance:								
Community health centers	435,362,000	444,812,000	444,812,000	465,000,000	463,000,000	+18,188,000	-2,000,000	D
Migrant health	45,646,000	47,646,000	49,500,000	50,500,000	50,000,000	+500,000	-500,000	D
Black lung clinics	3,216,000	3,216,000	3,350,000	3,700,000	3,700,000	+350,000	---	D
Health care for the homeless	14,820,000	63,600,000	46,000,000	22,230,000	34,115,000	-11,885,000	+11,885,000	D
Advance funding for FY 1991	---	---	---	---	11,885,000	+11,885,000	+11,885,000	D
Family planning (unauthorized, House deferred) 1/.	138,320,000	138,364,000	DEFER	142,364,000	141,000,000	+141,000,000	-1,364,000	D
National Health Service Corps:								
Field placements	39,866,000	20,000,000	40,000,000	45,000,000	42,500,000	+2,500,000	-2,500,000	D
(Limitation on direct loans)	(500,000)	(50,000)	---	---	---	---	---	NA
Loan repayments including nurses	7,906,000	7,906,000	4,000,000	8,000,000	6,000,000	+2,000,000	-2,000,000	D
Scholarships	---	---	4,000,000	2,000,000	3,000,000	-1,000,000	+1,000,000	D
Subtotal, Natl Health Service Corps	47,772,000	27,906,000	48,000,000	55,000,000	51,500,000	+3,500,000	-3,500,000	
Hansen's Disease services (Carville)	18,276,000	18,493,000	18,493,000	18,493,000	18,493,000	---	---	D
Pediatric emergency care	2,964,000	---	---	4,000,000	4,000,000	+4,000,000	---	D
Payment to Hawaii, treatment of Hansen's Disease	3,260,000	2,760,000	3,260,000	3,260,000	3,260,000	---	---	D
Rural health research	1,482,000	3,100,000	3,350,000	3,500,000	3,425,000	+75,000	-75,000	D
Home health demonstration grants	2,470,000	---	---	3,500,000	3,000,000	+3,000,000	-500,000	D
Total, Health Care Delivery & Assistance	713,588,000	749,897,000	616,765,000	771,547,000	787,378,000	+170,613,000	+15,831,000	

1/ President's FY 1990 budget requests Family Planning under "Public Health Service Management" account.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Health Professions:								
Exceptional need scholarships	6,578,000	6,578,000	6,900,000	6,709,000	6,805,000	-95,000	+96,000	D
Excellence in minority health education grants	9,396,000	9,396,000	9,396,000	9,396,000	9,396,000	---	---	D
Public health/health administration:								
Public Health capitation	4,698,000	---	3,000,000	3,000,000	3,000,000	---	---	D
Public Health special projects	---	---	1,700,000	---	850,000	-850,000	+850,000	D
Health Administration grants	1,410,000	---	1,410,000	1,610,000	1,510,000	+100,000	-100,000	D
Public Health traineeships	2,819,000	---	2,819,000	3,260,000	3,040,000	+221,000	-220,000	D
Health Administration traineeships	470,000	---	470,000	700,000	500,000	+30,000	-200,000	D
Preventive medicine residencies	1,503,000	---	1,550,000	1,900,000	1,725,000	+175,000	-175,000	D
Family Medicine	32,142,000	---	33,500,000	33,200,000	33,350,000	-150,000	+150,000	D
General dentistry residencies	2,606,000	---	4,000,000	4,000,000	4,000,000	---	---	D
General Internal Medicine and Pediatrics	17,383,000	---	18,100,000	17,900,000	18,000,000	-100,000	+100,000	D
Family medicine departments	6,578,000	---	6,900,000	6,700,000	6,800,000	-100,000	+100,000	D
Physician assistants	4,511,000	---	4,650,000	5,100,000	4,875,000	+225,000	-225,000	D
Area health education centers	16,912,000	---	17,900,000	19,000,000	18,450,000	+550,000	-550,000	D
Border health education centers	---	---	4,000,000	3,000,000	4,000,000	---	+1,000,000	D
Health professions data analysis	2,679,000	---	1,879,000	1,879,000	1,879,000	---	---	D
Disadvantaged Assistance	26,897,000	26,897,000	28,000,000	26,897,000	27,449,000	-551,000	+552,000	D
Allied health grants and contracts	---	---	---	2,000,000	750,000	+750,000	-1,250,000	D
Interdisciplinary traineeships	---	---	---	5,000,000	2,250,000	+2,250,000	-2,750,000	D

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Special Projects: (sections 788 and 301)								
Health professions spec ed initiatives.....	2,349,000	---	2,500,000	2,849,000	2,500,000	---	-349,000	D
Geriatric training and research.....	13,772,000	---	14,300,000	14,300,000	14,300,000	---	---	D
Pacific Basin activities (including Medical Officer training).....	1,482,000	---	---	3,000,000	2,000,000	+2,000,000	-1,000,000	D
Native Hawaiian health care.....	---	---	---	1,700,000	1,300,000	+1,300,000	-400,000	D
Subtotal, special education initiatives.....	17,603,000	---	16,800,000	21,849,000	20,100,000	+3,300,000	-1,749,000	
Special grants to hospitals.....	1,360,000	---	---	---	---	---	---	D
Nurse training:								
Advanced nurse training.....	17,175,000	---	13,000,000	13,000,000	13,000,000	---	---	D
Nurse practitioner.....	11,777,000	---	12,200,000	13,674,000	13,674,000	+1,474,000	---	D
Special projects (includes subpart 2).....	11,972,000	---	12,400,000	13,768,000	13,084,000	+684,000	-684,000	D
Traineeships.....	12,759,000	---	13,200,000	14,288,000	13,744,000	+544,000	-544,000	D
Nurse Anesthetists.....	784,000	---	800,000	1,500,000	1,150,000	+350,000	-350,000	D
Faculty fellowships.....	1,080,000	---	---	250,000	---	---	-250,000	D
Undergraduate scholarships.....	---	---	4,000,000	---	3,000,000	-1,000,000	+3,000,000	D
Undergraduate scholarships (non-add) 1/...	---	---	---	(3,000,000)	---	---	(-3,000,000)	NA
Loan Repayment for Shortage Area Service.....	---	---	---	1,750,000	1,000,000	+1,000,000	-750,000	D
Subtotal, Nurse training.....	55,547,000	---	55,600,000	58,230,000	58,652,000	+3,052,000	+422,000	
Less transfers from loan revolving funds.....	-9,880,000	---	-10,000,000	-10,000,000	-10,000,000	---	---	D
Total, Health professions 2/.....	201,212,000	42,871,000	208,574,000	221,330,000	217,381,000	+8,807,000	-3,949,000	

1/ Transfer from student loan funds, mandated by P.L. 100-607.

2/ Funds to be transferred pursuant to P.L. 100-607 for special hospital grants.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
MCH and Resources Development:								
Maternal & child health block grant	554,268,000	554,268,000	557,000,000	564,268,000	561,000,000	+4,000,000	-3,268,000	D
Organ transplantation	4,940,000	1,600,000	3,000,000	4,940,000	4,000,000	+1,000,000	-940,000	D
Health teaching facilities interest subsidies	494,000	494,000	494,000	494,000	494,000	---	---	D
Total, Resources Development	559,702,000	556,362,000	560,494,000	569,702,000	565,494,000	+5,000,000	-4,208,000	
Buildings and facilities	889,000	---	889,000	889,000	889,000	---	---	D
National practitioner data bank	2,766,000	---	2,000,000	2,000,000	2,000,000	---	---	D
Program management including AIDS	92,738,000	88,193,000	99,750,000	101,462,000	99,900,000	+150,000	-1,562,000	D
Acquired Immune Deficiency Syndrome (AIDS) 1/:								
Training of health personnel	14,640,000	14,820,000	14,820,000	14,820,000	14,820,000	---	---	D
Facilities renovation grants	3,903,000	3,952,000	4,300,000	4,500,000	4,400,000	+100,000	-100,000	D
Pediatric health care demonstrations	7,806,000	7,904,000	15,000,000	15,000,000	15,000,000	---	---	D
Adult health care demonstrations	14,692,000	14,875,000	20,000,000	14,875,000	17,438,000	-2,562,000	+2,563,000	D
Adult health care planning grants	3,904,000	3,952,000	3,952,000	3,952,000	---	-3,952,000	-3,952,000	D
AIDS related drugs (AZT)	15,000,000	---	---	30,000,000	30,000,000	+30,000,000	---	D
Community health care services	---	10,921,000	10,921,000	20,877,000	10,921,000	---	-9,956,000	D
Home health services	---	---	---	50,000,000	20,000,000	+20,000,000	-30,000,000	D
Subacute care	---	---	---	5,000,000	1,500,000	+1,500,000	-3,500,000	D
Transfer for consolidated administration	-2,774,000	-3,740,000	-4,000,000	-5,700,000	-4,850,000	-850,000	+850,000	D
Subtotal, AIDS	57,171,000	52,684,000	64,993,000	153,324,000	109,229,000	+44,236,000	-44,095,000	
Total, Health resources and services	1,628,066,000	1,490,007,000	1,553,465,000	1,820,254,000	1,782,271,000	+228,806,000	-37,983,000	

1/ President's budget requests AIDS funding for FY 1990 under consolidated account.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
MEDICAL FACILITIES GUARANTEE AND LOAN FUND:								
Interest subsidy program	21,600,000	21,000,000	21,000,000	21,000,000	21,000,000	---	---	M
Loan asset sales	---	4,364,000	---	---	---	---	---	M
Subtotal, MFGLF	21,600,000	25,364,000	21,000,000	21,000,000	21,000,000	---	---	
HEALTH PROFESSIONS GRADUATE STUDENT LOAN FUND (HEAL):								
General funds	---	21,570,000	25,000,000	25,000,000	25,000,000	---	---	M
Offsetting collections from Federal funds	---	-15,000,000	---	---	---	---	---	M
Total, HPGSLF	---	6,570,000	25,000,000	25,000,000	25,000,000	---	---	
VACCINE INJURY COMPENSATION:								
Pre - FY89 claims (appropriation)	---	---	74,500,000	74,500,000	74,500,000	---	---	M
FY89 / FY90 claims (trust fund)	101,500,000	133,100,000	54,600,000	54,600,000	54,600,000	---	---	M
Subtotal	101,500,000	133,100,000	129,100,000	129,100,000	129,100,000	---	---	
Total, Health Resources and Services Administration	1,612,846,000	1,516,677,000	1,728,565,000	1,852,990,000	1,816,371,000	+87,806,000	-36,619,000	
Current year, FY 1990	(1,612,846,000)	(1,516,677,000)	(1,728,565,000)	(1,852,990,000)	(1,804,486,000)	(+75,921,000)	(-48,504,000)	
Advance funding for FY 1991	---	---	---	---	(11,885,000)	(+11,885,000)	(+11,885,000)	
(Unauthorized, deferred by House)	138,320,000	138,364,000	DEFER	142,364,000	141,000,000	+141,000,000	-1,364,000	
Total, authorized and unauthorized	3,364,012,000	3,171,718,000	3,457,130,000	3,848,344,000	3,773,742,000	+316,612,000	-74,602,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
CENTERS FOR DISEASE CONTROL								
DISEASE CONTROL								
Preventive Health Services Block Grant	84,704,000	113,055,000	89,716,000	84,704,000	85,210,000	-4,506,000	+506,000	D
Prevention centers	1,976,000	---	2,000,000	5,000,000	4,000,000	+2,000,000	-1,000,000	D
Lead poisoning prevention	---	---	2,000,000	5,000,000	4,000,000	+2,000,000	-1,000,000	D
Sexually transmitted diseases:								
Grants	68,172,000	68,172,000	75,000,000	68,172,000	71,586,000	-3,414,000	+3,414,000	D
Direct operations	10,528,000	10,800,000	10,800,000	10,800,000	10,800,000	---	---	D
Subtotal, Sexually transmitted diseases	78,700,000	78,972,000	85,800,000	78,972,000	82,386,000	-3,414,000	+3,414,000	
Immunization:								
Grants	126,797,000	126,797,000	126,797,000	138,188,000	133,193,000	+6,396,000	-4,995,000	D
Direct operations	8,152,000	8,361,000	8,361,000	21,361,000	19,500,000	+11,139,000	-1,861,000	D
Vaccine stockpile	3,952,000	---	---	4,000,000	3,000,000	+3,000,000	-1,000,000	D
Adverse events reporting	3,063,000	3,063,000	2,569,000	2,569,000	2,569,000	---	---	D
Subtotal, Immunization programs	141,964,000	138,221,000	137,727,000	166,118,000	158,262,000	+20,535,000	-7,856,000	
Infectious disease excluding AIDS/TB	41,455,000	37,866,000	39,866,000	40,866,000	40,366,000	+500,000	-500,000	D
Tuberculosis grants	6,622,000	---	10,000,000	6,886,000	8,443,000	-1,557,000	+1,557,000	D
Chronic & environmental disease prevention	44,681,000	40,564,000	46,025,000	52,451,000	51,323,000	+5,298,000	-1,128,000	D
Injury control	21,000,000	11,120,000	21,000,000	25,000,000	23,000,000	+2,000,000	-2,000,000	D
Occupational Safety and Health (NIOSH):								
Research	60,260,000	60,260,000	63,300,000	77,100,000	75,325,000	+12,025,000	-1,775,000	D
Training	10,095,000	10,095,000	10,600,000	10,595,000	10,598,000	-2,000	+3,000	D
Subtotal, NIOSH	70,355,000	70,355,000	73,900,000	87,695,000	85,923,000	+12,023,000	-1,772,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
National Center for Health Statistics:								
Program operations	45,186,000	44,533,000	44,533,000	44,533,000	44,533,000	---	---	D
Program support	3,165,000	3,254,000	3,254,000	3,254,000	3,254,000	---	---	D
Subtotal, health statistics	48,351,000	47,787,000	47,787,000	47,787,000	47,787,000	---	---	
Epidemic services	54,787,000	56,217,000	56,217,000	56,217,000	56,217,000	---	---	D
Buildings and facilities	1,976,000	2,000,000	2,000,000	2,000,000	7,000,000	+5,000,000	+5,000,000	D
Program management	3,058,000	3,170,000	3,170,000	3,170,000	3,170,000	---	---	D
Acquired Immune Deficiency Syndrome (AIDS) 1/	377,592,000	474,022,000	462,972,000	452,472,000	449,472,000	-13,500,000	-3,000,000	D
Total, Disease Control	977,221,000	1,073,349,000	1,080,180,000	1,114,338,000	1,106,559,000	+26,379,000	-7,779,000	

1/ President's budget requests AIDS funding for FY 1990 under consolidated account.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/								
National Cancer Institute	1,570,943,000	1,646,073,000	1,652,666,000	1,668,473,000	1,664,000,000	+11,334,000	-4,473,000	D
National Heart, Lung, and Blood Institute	1,045,732,000	1,082,497,000	1,090,930,000	1,091,597,000	1,091,264,000	+334,000	-333,000	D
National Institute of Dental Research	130,834,000	135,796,000	138,053,000	137,096,000	138,053,000	---	+957,000	D
National Institute of Diabetes, Digestive, and Kidney Diseases	559,648,000	582,629,000	590,276,000	593,497,000	591,887,000	+1,611,000	-1,610,000	D
National Institute of Neurological Disorders and Stroke	472,346,000	493,502,000	495,203,000	498,988,000	497,096,000	+1,893,000	-1,892,000	D
National Institute of Allergy and Infectious Diseases	742,277,000	842,712,000	845,523,000	847,112,000	846,318,000	+795,000	-794,000	D
National Institute of General Medical Sciences	654,664,000	682,249,000	692,639,000	752,939,000	691,866,000	-773,000	-61,073,000	D
National Institute of Child Health and Human Development	425,532,000	444,193,000	448,493,000	450,593,000	450,593,000	+2,100,000	---	D
National Eye Institute	231,292,000	239,474,000	240,636,000	241,774,000	241,205,000	+569,000	-569,000	D
National Institute of Environmental Health Sciences	223,695,000	230,848,000	232,479,000	234,048,000	233,264,000	+785,000	-784,000	D
National Institute on Aging	222,845,000	230,490,000	241,528,000	245,490,000	243,509,000	+1,981,000	-1,981,000	D
National Institute of Arthritis and Musculosketal and Skin Diseases	160,015,000	168,588,000	171,673,000	171,688,000	171,681,000	+8,000	-7,000	D
National Institute on Deafness and Other Communication Disorders	94,833,000	99,902,000	99,952,000	121,116,000	119,000,000	+19,048,000	-2,116,000	D
Research Resources	358,332,000	307,956,000	356,128,000	362,253,000	354,191,000	-1,937,000	-8,062,000	D
National Center for Nursing Research	29,132,000	30,969,000	32,969,000	34,969,000	33,969,000	+1,000,000	-1,000,000	D
National Center for Human Genome Research	27,569,000	100,000,000	62,000,000	---	60,000,000	-2,000,000	+60,000,000	D

1/ President's budget requests AIDS funds under a consolidated account.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
John E. Fogarty International Center.....	14,002,000	15,532,000	15,579,000	15,532,000	15,556,000	-23,000	+24,000	D
National Library of Medicine.....	74,413,000	78,729,000	83,311,000	80,729,000	83,311,000	---	+2,582,000	D
Office of the Director.....	68,223,000	95,658,000	106,987,000	127,570,000	108,987,000	+2,000,000	-18,583,000	D
Buildings and facilities.....	38,492,000	21,600,000	81,600,000	41,600,000	61,600,000	-20,000,000	+20,000,000	D
Procurement reform (section 219).....	---	---	---	-4,000,000	-4,000,000	-4,000,000	---	D
Extramural salary savings (sections 217 and 219).....	---	---	---	---	-10,000,000	-10,000,000	-10,000,000	D
Total, N.I.H. funding including AIDS.....	7,144,819,000	7,529,397,000	7,678,625,000	7,713,064,000	7,683,350,000	+4,725,000	-29,714,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION								
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH								
Grants to States:								
Consolidated Alcohol, Drug Abuse and Mental Health block grant	805,594,000	800,000,000	805,594,000	815,000,000	790,000,000	-15,594,000	-25,000,000	D
(Set-aside for research & evaluation, non-add)	(40,280,000)	(40,000,000)	(40,280,000)	(40,750,000)	(39,500,000)	(-780,000)	(-1,250,000)	
Grants to States for the homeless	14,128,000	35,028,000	35,000,000	21,192,000	28,096,000	-6,904,000	+6,904,000	D
Advance funding for FY 1991	---	---	---	---	6,904,000	+6,904,000	+6,904,000	D
Mental health state planning grants	4,730,000	---	---	---	---	---	---	D
Subtotal, grants to States	824,452,000	835,028,000	840,594,000	836,192,000	825,000,000	-15,594,000	-11,192,000	
Drug Treatment Grants	75,000,000	25,000,000	25,000,000	25,000,000	25,000,000	---	---	D
New Treatment Grants, crisis areas	---	30,000,000	10,000,000	15,000,000	10,000,000	---	-5,000,000	D
Mental Health:								
Research 1/	354,464,000	389,110,000	389,110,000	424,455,000	419,000,000	+29,890,000	-5,455,000	D
Clinical training	12,844,000	8,000,000	12,844,000	14,500,000	13,672,000	+828,000	-828,000	D
Community Support Demonstrations	25,920,000	19,000,000	26,000,000	27,591,000	28,591,000	+2,591,000	+1,000,000	D
Mental health prevention demonstrations	---	---	---	4,337,000	---	---	-4,337,000	D
Homeless Services Demonstrations	4,594,000	11,500,000	6,100,000	6,100,000	6,100,000	---	---	D
Protection and advocacy	12,844,000	10,555,000	12,844,000	14,144,000	14,144,000	+1,300,000	---	D
Direct operations 1/	39,229,000	41,628,000	40,628,000	40,714,000	40,671,000	+43,000	-43,000	D
Subtotal, mental health	449,895,000	479,793,000	487,526,000	531,841,000	522,178,000	+34,652,000	-9,663,000	

1/ Includes AIDS.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Drug Abuse:								
Research 1/	263,539,000	288,489,000	294,569,000	293,444,000	288,489,000	-6,080,000	-4,955,000	D
Treatment demonstrations	7,000,000	7,000,000	7,000,000	7,500,000	7,000,000	---	-500,000	D
Direct operations 1/	17,914,000	21,544,000	21,544,000	21,544,000	21,544,000	---	---	D
Subtotal, drug abuse	288,453,000	317,033,000	323,113,000	322,488,000	317,033,000	-6,080,000	-5,455,000	
Alcoholism and Alcohol Abuse:								
Research 1/	109,888,000	116,313,000	119,528,000	122,270,000	116,313,000	-3,215,000	-5,957,000	D
Substance abuse homeless demonstrations	4,545,000	17,000,000	10,000,000	9,090,000	9,545,000	-455,000	+455,000	D
Advance funding for FY 1991	---	---	---	---	455,000	+455,000	+455,000	D
Direct operations 1/	9,621,000	10,834,000	10,834,000	10,834,000	10,834,000	---	---	D
Subtotal, alcoholism	124,054,000	144,147,000	140,362,000	142,194,000	137,147,000	-3,215,000	-5,047,000	
Office of Substance Abuse Prevention:								
Prevention programs	41,168,000	42,193,000	42,193,000	42,856,000	42,193,000	---	-663,000	D
Community youth activity program	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	---	---	D
New community prevention grants	---	35,000,000	5,000,000	40,000,000	10,000,000	+5,000,000	-30,000,000	D
Training	5,000,000	5,300,000	5,300,000	7,300,000	6,300,000	+1,000,000	-1,000,000	D
Direct operations	8,685,000	9,810,000	9,810,000	9,810,000	9,810,000	---	---	D
Subtotal, Substance Abuse Prevention	69,853,000	107,303,000	77,303,000	114,966,000	83,303,000	+6,000,000	-31,663,000	

1/ Includes AIDS.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Treatment outcome evaluations	2,282,000	7,257,000	2,506,000	7,257,000	4,882,000	+2,376,000	-2,375,000	D
Buildings and facilities	198,000	198,000	198,000	198,000	198,000	---	---	D
Program management, ADAMHA	9,375,000	10,560,000	10,560,000	10,312,000	10,436,000	-124,000	+124,000	D
Extramural salary savings (section 217)	---	---	---	---	-1,000,000	-1,000,000	-1,000,000	D
Total, Alcohol, Drug Abuse & Mental Health	1,843,562,000	1,956,319,000	1,917,162,000	2,005,448,000	1,934,177,000	+17,015,000	-71,271,000	
Current year, FY 1990	(1,843,562,000)	(1,956,319,000)	(1,917,162,000)	(2,005,448,000)	(1,926,818,000)	(+9,656,000)	(-78,630,000)	
Advance funding for FY 1991	---	---	---	---	(7,359,000)	(+7,359,000)	(+7,359,000)	
ST. ELIZABETHS HOSPITAL	23,712,000	18,000,000	18,000,000	18,000,000	18,000,000	---	---	D
Total, Alcohol, Drug Abuse & Mental Health Admin	1,867,274,000	1,974,319,000	1,935,162,000	2,023,448,000	1,952,177,000	+17,015,000	-71,271,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
ASSISTANT SECRETARY FOR HEALTH								
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH 1/								
Health Services Research and Technology Assessment:								
Research	17,112,000	12,153,000	12,153,000	14,153,000	13,153,000	+1,000,000	-1,000,000	D
Trust funds	(6,916,000)	(1,037,000)	(1,037,000)	(1,037,000)	(1,037,000)	---	---	TF
Program support	1,660,000	1,693,000	1,693,000	1,693,000	1,693,000	---	---	D
Subtotal including trust funds	25,688,000	14,883,000	14,883,000	16,883,000	15,883,000	+1,000,000	-1,000,000	
Population affairs: (unauthorized, deferred by House)								
Adolescent family life	9,529,000	9,529,000	DEFER	9,529,000	9,529,000	+9,529,000	---	D
Health Initiatives :								
Office of Disease Prevention and Health Promotion	4,446,000	4,496,000	4,496,000	4,496,000	4,496,000	---	---	D
Physical fitness and sports	1,481,000	1,503,000	1,503,000	2,503,000	2,503,000	+1,000,000	---	D
Minority health	2,964,000	3,022,000	4,522,000	3,022,000	4,000,000	-522,000	+978,000	D
National vaccine program	---	---	10,000,000	4,500,000	6,000,000	-4,000,000	+1,500,000	D
Health Service Management	18,698,000	19,630,000	19,630,000	19,930,000	19,630,000	---	-300,000	D
Acquired Immune Deficiency Syndrome (AIDS) 1/	13,270,000	41,348,000	41,348,000	16,348,000	16,348,000	-25,000,000	---	D
Undistributed	---	---	---	1,000,000	---	---	-1,000,000	D
Total, PHS management, authorized	59,631,000	83,845,000	95,345,000	67,645,000	67,823,000	-27,522,000	+178,000	
(Unauthorized, deferred by House)	9,529,000	9,529,000	DEFER	9,529,000	9,529,000	+9,529,000	---	
Total, authorized and unauthorized	69,160,000	93,374,000	95,345,000	77,174,000	77,352,000	-17,993,000	+178,000	

1/ President's budget requests AIDS funding for FY 1990 under consolidated account.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS 1/								
Retirement payments	80,561,000	83,973,000	83,973,000	83,973,000	83,973,000	---	---	M
Survivors benefits	4,658,000	5,017,000	5,017,000	5,017,000	5,017,000	---	---	M
Dependent's medical care	12,402,000	13,121,000	13,121,000	13,121,000	13,121,000	---	---	M
Contingency	---	5,000,000	---	---	---	---	---	M
Military Services Credits	6,694,000	3,090,000	3,090,000	3,090,000	3,090,000	---	---	M
Total, Retirement pay and medical benefits	104,315,000	110,201,000	105,201,000	105,201,000	105,201,000	---	---	
MEDICAL TREATMENT EFFECTIVENESS								
Federal funds	---	24,000,000	5,000,000	30,000,000	27,000,000	+22,000,000	-3,000,000	D
Trust funds	---	(28,000,000)	(15,000,000)	(5,000,000)	(5,000,000)	(-10,000,000)	---	TF
Total, Medical treatment effectiveness	---	52,000,000	20,000,000	35,000,000	32,000,000	+12,000,000	-3,000,000	
Total, Public Health Service	11,773,022,000	12,340,825,000	12,644,115,000	12,912,723,000	12,764,518,000	+120,403,000	-148,205,000	
Current year, FY 1990	(11,766,106,000)	(12,311,788,000)	(12,628,078,000)	(12,906,686,000)	(12,739,237,000)	(+111,159,000)	(-167,449,000)	
Advance funding for FY 1991	---	---	---	---	(19,244,000)	(+19,244,000)	(+19,244,000)	
(Unauthorized, deferred by the House)	147,849,000	147,893,000	DEFER	151,893,000	150,529,000	+150,529,000	-1,364,000	
Total, authorized and unauthorized	11,920,871,000	12,488,718,000	12,644,115,000	13,064,616,000	12,915,047,000	+270,932,000	-149,569,000	

1/ FY90 request proposed for later transmittal.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
HEALTH CARE FINANCING ADMINISTRATION								
GRANTS TO STATES FOR MEDICAID								
Medicaid current law benefits	32,762,986,000	37,297,341,000	36,777,184,000	37,297,341,000	37,297,341,000	+520,157,000	---	M
State and local administration	1,529,000,000	1,839,313,000	1,839,313,000	1,839,313,000	1,839,313,000	---	---	M
Subtotal, medicaid program level, FY 1990	34,291,986,000	39,136,654,000	38,616,497,000	39,136,654,000	39,136,654,000	+520,157,000	---	
Less funds advanced in prior year	-8,000,000,000	-9,000,000,000	-9,000,000,000	-9,000,000,000	-9,000,000,000	---	---	M
Total, current request, FY 1990	26,291,986,000	30,136,654,000	29,616,497,000	30,136,654,000	30,136,654,000	+520,157,000	---	
New advance, 1st quarter, FY 1991	9,000,000,000	10,400,000,000	10,400,000,000	10,400,000,000	10,400,000,000	---	---	M

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CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
PAYMENTS TO HEALTH CARE TRUST FUNDS								
Supplemental medical insurance	30,712,000,000	35,925,500,000	35,925,500,000	35,925,500,000	35,925,500,000	---	---	M
Hospital insurance for uninsured	493,000,000	378,000,000	378,000,000	378,000,000	378,000,000	---	---	M
Federal uninsured payment	22,000,000	35,000,000	35,000,000	35,000,000	35,000,000	---	---	M
Total, Payment to Trust Funds 1/	31,227,000,000	36,338,500,000	36,338,500,000	36,338,500,000	36,338,500,000	---	---	
PROGRAM MANAGEMENT								
Research, demonstration, and evaluation:								
Regular program:								
Federal funds	9,880,000	14,000,000	13,000,000	14,000,000	13,000,000	---	-1,000,000	D
Trust funds	(19,760,000)	(23,000,000)	(21,000,000)	(23,000,000)	(21,000,000)	---	(-2,000,000)	TF
Mandated studies related to catastrophic HI, trust funds	(12,000,000)	---	---	---	---	---	---	TF
Rural hospital transition demonstrations, trust funds	(8,892,000)	---	(12,000,000)	(20,000,000)	(18,000,000)	(+6,000,000)	(-2,000,000)	TF
Subtotal, research, demonstration, & evaluation	50,532,000	37,000,000	46,000,000	57,000,000	52,000,000	+6,000,000	-5,000,000	
Medicare Contractors (Trust Funds):								
Operating funds, current	(1,361,588,000)	(1,439,013,000)	(1,520,000,000)	(1,439,013,000)	(1,439,013,000)	(-80,987,000)	---	TF
Contingency reserve fund	(98,800,000)	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	---	---	TF
Subtotal, Contractors	(1,460,388,000)	(1,539,013,000)	(1,620,000,000)	(1,539,013,000)	(1,539,013,000)	(-80,987,000)	---	

1/ Excludes legislative savings of $850 million proposed for later transmittal.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
State Certification:								
Medicare certification, trust funds	(63,168,000)	(92,442,000)	(92,442,000)	(92,442,000)	(92,442,000)	---	---	TF
General program support, federal funds	4,173,000	6,558,000	6,558,000	6,558,000	6,558,000	---	---	D
Subtotal, State certification	(67,341,000)	(99,000,000)	(99,000,000)	(99,000,000)	(99,000,000)	---	---	
Federal Administration:								
Federal funds	80,769,000	82,633,000	82,633,000	82,633,000	82,633,000	---	---	D
Less user fees	-1,538,000	-283,000	-283,000	-283,000	-283,000	---	---	D
Trust funds	(235,496,000)	(246,717,000)	(246,717,000)	(246,717,000)	(246,717,000)	---	---	TF
Subtotal, Federal Administration	314,727,000	329,067,000	329,067,000	329,067,000	329,067,000	---	---	
Total, Program management	1,892,988,000	2,004,080,000	2,094,067,000	2,024,080,000	2,019,080,000	-74,987,000	-5,000,000	
Federal funds	93,284,000	102,908,000	101,908,000	102,908,000	101,908,000	---	-1,000,000	
Trust funds	(1,799,704,000)	(1,901,172,000)	(1,992,159,000)	(1,921,172,000)	(1,917,172,000)	(-74,987,000)	(-4,000,000)	
HMO LOAN AND LOAN GUARANTEE FUND	---	5,000,000	5,000,000	5,000,000	5,000,000	---	---	D
Total, Health Care Financing Administration:								
Federal funds	66,612,270,000	76,983,062,000	76,461,905,000	76,983,062,000	76,982,062,000	+520,157,000	-1,000,000	
Current year, FY 1990	(57,612,270,000)	(66,583,062,000)	(66,061,905,000)	(66,583,062,000)	(66,582,062,000)	(+520,157,000)	(-1,000,000)	
New advance, 1st quarter, FY 1991	(9,000,000,000)	(10,400,000,000)	(10,400,000,000)	(10,400,000,000)	(10,400,000,000)	---	---	
Trust funds	(1,799,704,000)	(1,901,172,000)	(1,992,159,000)	(1,921,172,000)	(1,917,172,000)	(-74,987,000)	(-4,000,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
SOCIAL SECURITY ADMINISTRATION								
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	93,631,000	191,968,000	191,968,000	191,968,000	191,968,000	---	---	M
SPECIAL BENEFITS FOR DISABLED COAL MINERS								
Benefit payments	878,656,000	853,000,000	853,000,000	853,000,000	853,000,000	---	---	M
Administration	6,680,000	6,862,000	6,862,000	6,862,000	6,862,000	---	---	M
Subtotal, Black Lung, FY 1990 program level	885,336,000	859,862,000	859,862,000	859,862,000	859,862,000	---	---	
Less funds advanced in prior year	-250,000,000	-211,000,000	-211,000,000	-211,000,000	-211,000,000	---	---	M
Total, Black Lung, current request, FY 1990	635,336,000	648,862,000	648,862,000	648,862,000	648,862,000	---	---	
New advance, 1st quarter, FY 1991	211,000,000	215,000,000	215,000,000	215,000,000	215,000,000	---	---	M
SUPPLEMENTAL SECURITY INCOME								
Federal benefit payments	11,368,000,000	10,925,613,000	10,925,613,000	10,925,613,000	10,925,613,000	---	---	M
Beneficiary services	13,547,000	13,739,000	13,739,000	13,739,000	13,739,000	---	---	M
Research demonstration	2,275,000	2,275,000	5,275,000	2,275,000	5,275,000	---	+3,000,000	M
Administration	1,090,131,000	1,110,815,000	1,090,131,000	1,090,131,000	1,090,131,000	---	---	D
Subtotal, SSI FY 1990 program level	12,473,953,000	12,052,442,000	12,034,758,000	12,031,758,000	12,034,758,000	---	+3,000,000	
Less funds advanced in prior year	-3,000,000,000	-2,936,000,000	-2,936,000,000	-2,936,000,000	-2,936,000,000	---	---	M
Total, SSI, current request, FY 1990	9,473,953,000	9,116,442,000	9,098,758,000	9,095,758,000	9,098,758,000	---	+3,000,000	
New advance, 1st quarter, FY 1991	2,936,000,000	3,157,000,000	3,157,000,000	3,157,000,000	3,157,000,000	---	---	M
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds)	(3,731,398,000)	(3,833,389,000)	(3,833,389,000)	(3,847,389,000)	(3,837,389,000)	(+4,000,000)	(-10,000,000)	TF
(Contingency reserve, non-add)	(97,870,000)	(47,870,000)	(97,870,000)	(97,870,000)	(97,870,000)	---	---	NA
Total, Social Security Administration:								
Federal funds	13,349,920,000	13,329,272,000	13,311,588,000	13,308,588,000	13,311,588,000	---	+3,000,000	
Current year FY 1990	(10,202,920,000)	(9,957,272,000)	(9,939,588,000)	(9,936,588,000)	(9,939,588,000)	---	(+3,000,000)	
New advances, 1st quarter FY 1991	(3,147,000,000)	(3,372,000,000)	(3,372,000,000)	(3,372,000,000)	(3,372,000,000)	---	---	
Trust funds	(3,731,398,000)	(3,833,389,000)	(3,833,389,000)	(3,847,389,000)	(3,837,389,000)	(+4,000,000)	(-10,000,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
FAMILY SUPPORT ADMINISTRATION								
FAMILY SUPPORT PAYMENTS TO STATES 1/								
Aid to Families with Dependent Children (AFDC).....	8,897,874,000	9,345,000,000	9,345,000,000	9,345,000,000	9,345,000,000	---	---	M
Quality control disallowances.....	-63,000,000	-516,000,000	---	---	---	---	---	M
Payments to territories.....	16,346,000	16,346,000	16,346,000	16,346,000	16,346,000	---	---	M
Emergency assistance, incl. welfare hotel demos 2/....	131,200,000	157,200,000	157,200,000	157,200,000	157,200,000	---	---	M
Repatriation.....	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	M
State and local welfare administration.....	1,474,600,000	1,599,400,000	1,599,400,000	1,599,400,000	1,599,400,000	---	---	M
Work activities / child care.....	12,000,000	163,000,000	163,000,000	163,000,000	163,000,000	---	---	M
Regulatory savings, essential persons.....	-25,000,000	-55,000,000	-55,000,000	-55,000,000	-55,000,000	---	---	M
Subtotal, Welfare payments.....	10,445,020,000	10,710,946,000	11,226,946,000	11,226,946,000	11,226,946,000	---	---	
Child Support Enforcement:								
State and local administration.....	941,000,000	1,033,000,000	1,033,000,000	1,033,000,000	1,033,000,000	---	---	M
Federal incentive payments.....	260,000,000	294,000,000	294,000,000	294,000,000	294,000,000	---	---	M
Less federal share collections.....	-754,000,000	-846,000,000	-846,000,000	-846,000,000	-846,000,000	---	---	M
Subtotal, Child support.....	447,000,000	481,000,000	481,000,000	481,000,000	481,000,000	---	---	
Total, Payments, FY 1990 program level.....	10,892,020,000	11,191,946,000	11,707,946,000	11,707,946,000	11,707,946,000	---	---	
Less funds advanced in previous years.....	-2,500,000,000	-2,700,000,000	-2,700,000,000	-2,700,000,000	-2,700,000,000	---	---	M
Total, Payments, current request, FY 1990.....	8,392,020,000	8,491,946,000	9,007,946,000	9,007,946,000	9,007,946,000	---	---	
New advance, 1st quarter, FY 1991.....	2,700,000,000	3,000,000,000	3,000,000,000	3,000,000,000	3,000,000,000	---	---	M

1/ Excludes legislative savings of $350 million proposed for later transmittal.

2/ Administration proposed to fund demos under the Office of Human Development Services.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS								
New Jobs Activities program	---	254,000,000	318,535,000	329,975,000	329,975,000	+11,440,000	---	M
WIN Phaseout	91,440,000	95,975,000	31,440,000	20,000,000	20,000,000	-11,440,000	---	D
Total, AFDC work programs	91,440,000	349,975,000	349,975,000	349,975,000	349,975,000	---	---	
LOW INCOME HOME ENERGY ASSISTANCE								
Energy Assistance Block Grant: FY 1990	1,383,200,000	1,100,000,000	1,400,000,000	1,278,654,000	1,333,000,000	-67,000,000	+54,346,000	D
Forward funding	---	---	---	---	60,000,000	+60,000,000	+60,000,000	D
Total, Energy Assistance	1,383,200,000	1,100,000,000	1,400,000,000	1,278,654,000	1,393,000,000	-7,000,000	+114,346,000	
REFUGEE AND ENTRANT ASSISTANCE								
Cash and medical assistance 1/	261,820,000	201,659,000	DEFER	261,820,000	210,000,000	+210,000,000	-51,820,000	D
Social services	64,906,000	30,000,000	DEFER	69,906,000	75,000,000	+75,000,000	+5,094,000	D
Voluntary agency program	15,808,000	7,659,000	DEFER	45,808,000	40,000,000	+40,000,000	-5,808,000	D
Preventive health	5,770,000	3,000,000	DEFER	5,770,000	5,770,000	+5,770,000	---	D
Targeted assistance	34,052,000	---	DEFER	34,052,000	38,052,000	+38,052,000	+4,000,000	D
Total, Refugee Resettlement (unauthorized)	382,356,000	242,318,000	DEFER	417,356,000	368,822,000	+368,822,000	-48,534,000	
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS								
FY 1990	---	-400,000,000	---	-555,244,000	-555,244,000	-555,244,000	---	D
FY 1991	---	-400,000,000	---	555,244,000	---	---	-555,244,000	D
FY 1992	---	---	---	---	555,244,000	+555,244,000	+555,244,000	D

1/ Includes State admin. costs.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
COMMUNITY SERVICES BLOCK GRANT								
Grants to States for Community Services	318,630,000	---	297,000,000	329,255,000	323,630,000	+26,630,000	-5,625,000	D
Homeless services grants 1/	18,918,000	42,000,000	35,000,000	18,918,000	21,959,000	-13,041,000	+3,041,000	D
Advance funding for FY 1991	---	---	---	---	8,041,000	+8,041,000	+8,041,000	D
Discretionary funds:								
Community economic development	20,254,000	---	20,254,000	20,254,000	20,254,000	---	---	D
Rural housing	4,013,000	---	4,013,000	4,013,000	4,013,000	---	---	D
Farmworker assistance	2,948,000	---	2,948,000	2,948,000	2,948,000	---	---	D
National youth sports, regular activities	6,669,000	---	9,669,000	9,669,000	9,669,000	---	---	D
National youth sports, substance abuse	3,000,000	---	---	---	---	---	---	D
Technical assistance	236,000	---	236,000	236,000	236,000	---	---	D
Subtotal, discretionary funds	37,120,000	---	37,120,000	37,120,000	37,120,000	---	---	
Community Partnerships	3,512,000	---	DEFER	3,512,000	3,512,000	+3,512,000	---	D
Community Food and Nutrition	2,418,000	---	2,418,000	2,418,000	2,418,000	---	---	D
Total, Community services, authorized	377,086,000	42,000,000	371,538,000	387,711,000	393,168,000	+21,630,000	+5,457,000	
Current year, FY 1990	(377,086,000)	(42,000,000)	(371,538,000)	(387,711,000)	(385,127,000)	(+13,589,000)	(-2,584,000)	
Advance funding for FY 1991	---	---	---	---	(8,041,000)	(+8,041,000)	(+8,041,000)	
(Unauthorized, deferred by House)	3,512,000	---	DEFER	3,512,000	3,512,000	+3,512,000	---	
Total, authorized and unauthorized	380,598,000	42,000,000	371,538,000	391,223,000	396,680,000	+25,142,000	+5,457,000	

1/ Administration requested under the Office of Human Development Services.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
PROGRAM ADMINISTRATION								
Federal Administration 1/	77,882,000	73,881,000	76,431,000	76,431,000	76,431,000	---	---	D
Research & evaluation	2,750,000	2,750,000	6,000,000	14,750,000	10,375,000	+4,375,000	-4,375,000	D
Total, program administration	80,632,000	76,631,000	82,431,000	91,181,000	86,806,000	+4,375,000	-4,375,000	
Total, Family Support Administration, authorized	13,024,378,000	12,260,552,000	14,211,890,000	14,115,467,000	14,230,895,000	+19,005,000	+115,428,000	
Current year FY 1990	(10,324,378,000)	(9,660,552,000)	(11,211,890,000)	(10,560,223,000)	(10,667,610,000)	(-544,280,000)	(+107,387,000)	
FY 1991	(2,700,000,000)	(2,600,000,000)	(3,000,000,000)	(3,555,244,000)	(3,008,041,000)	(+8,041,000)	(-547,203,000)	
(Unauthorized, deferred by House)	385,868,000	242,318,000	DEFER	420,868,000	372,334,000	+372,334,000	-48,534,000	
Total, authorized and unauthorized	13,410,246,000	12,502,870,000	14,211,890,000	14,536,335,000	14,603,229,000	+391,339,000	+66,894,000	

1/ FY90 request assumes an additional $1,550,000 from user fees.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES								
SOCIAL SERVICES BLOCK GRANT (TITLE XX).....	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	2,700,000,000	---	---	M
HUMAN DEVELOPMENT SERVICES 2/								
Programs for Children, Youth, and Families:								
Head start.....	1,235,000,000	1,405,000,000	1,400,000,000	1,405,000,000	1,405,000,000	+5,000,000	---	D
Unauthorized, deferred by House.....	---	80,000,000	DEFER	80,000,000	---	---	-80,000,000	D
Child development associate scholarships.....	1,450,000	1,450,000	1,450,000	1,450,000	1,450,000	---	---	D
Family crisis program:								
Child abuse state grants.....	11,648,000	---	11,648,000	11,824,000	11,736,000	+88,000	-88,000	D
Child abuse challenge grants (Unauthorized)...	4,834,000	---	DEFER	5,000,000	5,000,000	+5,000,000	---	D
Runaway and homeless youth.....	26,923,000	---	26,923,000	28,923,000	27,923,000	+1,000,000	-1,000,000	D
Family violence.....	8,219,000	---	8,219,000	8,548,000	8,384,000	+165,000	-164,000	D
Consolidated request.....	---	46,790,000	---	---	---	---	---	D
Abandoned infants assistance 2/.....	---	---	---	4,000,000	4,000,000	+4,000,000	---	D
Subtotal, family crisis.....	51,624,000	46,790,000	46,790,000	58,295,000	57,043,000	+10,253,000	-1,252,000	
Dependent Care Planning and Development.....	11,856,000	---	11,856,000	14,856,000	13,356,000	+1,500,000	-1,500,000	D
Child welfare assistance 1/.....	246,679,000	256,053,000	256,053,000	256,053,000	256,053,000	---	---	D
Subtotal.....	1,546,609,000	1,789,293,000	1,716,149,000	1,815,654,000	1,732,902,000	+16,753,000	-82,752,000	

1/ Excludes $20 million for welfare hotel demos. considered under Family Support.

2/ Funded at $4,000,000 in House bill under Assistant Secretary for Health.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Programs for the Aging:								
Grants to States:								
Supportive Services and Centers	274,352,000	275,652,000	275,652,000	275,652,000	275,652,000	---	---	D
Ombudsman activities	988,000	988,000	988,000	988,000	988,000	---	---	D
Nutrition:								
Congregate meals	356,668,000	356,668,000	356,668,000	356,668,000	356,668,000	---	---	D
Home-delivered meals	78,546,000	78,546,000	78,546,000	81,546,000	80,046,000	+1,500,000	-1,500,000	D
Aging outreach	---	---	---	5,000,000	---	---	-5,000,000	D
Federal Council on Aging	188,000	188,000	188,000	188,000	188,000	---	---	D
Grants to Indians	10,710,000	7,410,000	12,710,000	12,710,000	12,710,000	---	---	D
Frail elderly in-home services	4,834,000	4,834,000	4,834,000	6,834,000	5,834,000	+1,000,000	-1,000,000	D
Subtotal, Aging programs	726,286,000	724,286,000	729,586,000	739,586,000	732,086,000	+2,500,000	-7,500,000	
Developmental disabilities program:								
State grants	59,774,000	59,774,000	59,774,000	62,774,000	62,774,000	+3,000,000	---	D
Protection and advocacy	19,760,000	19,760,000	19,760,000	20,760,000	20,760,000	+1,000,000	---	D
Subtotal, Developmental disabilities	79,534,000	79,534,000	79,534,000	83,534,000	83,534,000	+4,000,000	---	
Native American Programs	29,975,000	29,975,000	29,975,000	34,300,000	32,138,000	+2,163,000	-2,162,000	D

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Human services research, training & demonstration:								
New consolidated request	---	128,679,000	---	---	---	---	---	D
Comprehensive child development centers	19,760,000	---	24,760,000	25,000,000	25,000,000	+240,000	---	D
Child abuse discretionary activities	13,647,000	---	13,647,000	13,647,000	13,647,000	---	---	D
Runaway youth - transitional living	---	---	5,000,000	5,000,000	5,000,000	---	---	D
Runaway youth activities - drugs	15,000,000	---	10,000,000	10,000,000	10,000,000	---	---	D
Youth gang substance abuse	15,000,000	---	12,000,000	12,000,000	11,500,000	-500,000	-500,000	D
Temporary childcare/crisis nurseries	4,940,000	---	4,940,000	5,940,000	5,440,000	+500,000	-500,000	D
Child welfare training	3,696,000	---	3,696,000	3,696,000	3,696,000	---	---	D
Child welfare research	9,315,000	---	11,315,000	10,965,000	11,140,000	-175,000	+175,000	D
Adoption opportunities	6,027,000	---	6,827,000	6,527,000	6,827,000	---	+300,000	D
Aging research, training and special projects	22,173,000	---	26,173,000	25,173,000	25,673,000	-500,000	+500,000	D
Developmental disabilities special projects	2,901,000	---	2,901,000	2,901,000	2,901,000	---	---	D
Developmental disabilities university affiliated programs	12,570,000	---	12,570,000	13,370,000	13,370,000	+800,000	---	D
Total, Human Services Res, Trng & demonstration.	125,029,000	128,679,000	133,829,000	134,219,000	134,194,000	+365,000	-25,000	
Program direction	66,140,000	68,886,000	68,886,000	69,586,000	69,236,000	+350,000	-350,000	D
Total, Human Development Services	2,568,739,000	2,740,653,000	2,757,959,000	2,791,879,000	2,779,090,000	+21,131,000	-12,789,000	
(Unauthorized, deferred by House)	4,834,000	80,000,000	DEFER	85,000,000	5,000,000	+5,000,000	-80,000,000	
Total, authorized and unauthorized	2,573,573,000	2,820,653,000	2,757,959,000	2,876,879,000	2,784,090,000	+26,131,000	-92,789,000	
CHILD CARE (unauthorized, deferred by House)	---	---	DEFER	1,200,000,000	---	---	-1,200,000,000	D

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE								
Foster care	854,233,000	1,161,181,000	1,204,782,000	1,161,181,000	1,204,782,000	---	+43,601,000	M
Adoption assistance	111,744,000	125,266,000	125,266,000	125,266,000	125,266,000	---	---	M
Independent living	45,000,000	---	DEFER	50,000,000	50,000,000	+50,000,000	---	M
Prior year claims	532,275,000	---	226,316,000	---	---	-226,316,000	---	M
Total, Payments to States	1,543,252,000	1,286,447,000	1,556,364,000	1,336,447,000	1,380,048,000	-176,316,000	+43,601,000	
Total, Asst. Sec. for Human Development	6,766,991,000	6,727,100,000	7,014,323,000	6,778,326,000	6,809,138,000	-205,185,000	+30,812,000	
(Unauthorized, deferred by House)	49,834,000	80,000,000	DEFER	1,335,000,000	55,000,000	+55,000,000	-1,280,000,000	
Total, authorized and unauthorized	6,816,825,000	6,807,100,000	7,014,323,000	8,113,326,000	6,864,138,000	-150,185,000	-1,249,188,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
DEPARTMENTAL MANAGEMENT								
GENERAL DEPARTMENTAL MANAGEMENT:								
Federal funds	52,838,000	71,046,000	80,327,000	90,577,000	80,577,000	+250,000	-10,000,000	D
Trust funds	(5,024,000)	(5,085,000)	(31,201,000)	(31,201,000)	(31,201,000)	---	---	TF
Total, Departmental management	57,862,000	76,131,000	111,528,000	121,778,000	111,778,000	+250,000	-10,000,000	
OFFICE OF GENERAL COUNSEL:								
Federal funds	16,220,000	19,281,000	---	---	---	---	---	D
Trust funds	(25,641,000)	(26,116,000)	---	---	---	---	---	TF
Total, Office of General Counsel	41,861,000	45,397,000	---	---	---	---	---	
OFFICE OF THE INSPECTOR GENERAL:								
Federal funds	46,092,000	49,498,000	49,498,000	50,600,000	50,600,000	+1,102,000	---	D
Trust funds	(39,520,000)	(43,300,000)	(44,300,000)	(44,300,000)	(44,300,000)	---	---	TF
Total, Inspector General	85,612,000	92,798,000	93,798,000	94,900,000	94,900,000	+1,102,000	---	
OFFICE FOR CIVIL RIGHTS:								
Federal funds	15,979,000	17,567,000	17,567,000	17,567,000	17,567,000	---	---	D
Trust funds	(3,952,000)	(4,000,000)	(4,000,000)	(4,000,000)	(4,000,000)	---	---	TF
Total, Civil Rights	19,931,000	21,567,000	21,567,000	21,567,000	21,567,000	---	---	
POLICY RESEARCH	7,851,000	5,012,000	5,012,000	5,012,000	5,012,000	---	---	D
Total, Departmental management:								
Federal funds	138,980,000	162,404,000	152,404,000	163,756,000	153,756,000	+1,352,000	-10,000,000	
Trust funds	(74,137,000)	(78,501,000)	(79,501,000)	(79,501,000)	(79,501,000)	---	---	
Total, Departmental management	(213,117,000)	(240,905,000)	(231,905,000)	(243,257,000)	(233,257,000)	(+1,352,000)	(-10,000,000)	
CONSULTANT SAVINGS	---	---	---	---	-5,400,000	-5,400,000	-5,400,000	D
UNDISTRIBUTED SALARY & EXPENSE SAVINGS, GENERAL FUNDS.	---	---	---	---	-15,000,000	-15,000,000	-15,000,000	D

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Total, Department of Health and Human Services:								
Federal Funds (all years) (authorized).....	111,658,645,000	121,774,178,000	123,780,188,000	124,255,885,000	124,225,520,000	+445,332,000	-30,365,000	
Current year FY 1990.....	(96,811,645,000)	(105,402,178,000)	(107,008,188,000)	(106,928,641,000)	(106,870,991,000)	(-137,197,000)	(-57,650,000)	
FY 1991.....	(14,847,000,000)	(16,372,000,000)	(16,772,000,000)	(17,327,244,000)	(16,799,285,000)	(+27,285,000)	(-527,959,000)	
FY 1992.....	---	---	---	---	(555,244,000)	(+555,244,000)	(+555,244,000)	
(Unauthorized, deferred by House).....	583,551,000	470,211,000	DEFER	1,907,761,000	577,863,000	+577,863,000	-1,329,898,000	
Total, authorized and unauthorized.....	112,242,196,000	122,244,389,000	123,780,188,000	126,163,646,000	124,803,383,000	+1,023,195,000	-1,360,263,000	
Trust funds.....	(5,612,155,000)	(5,842,099,000)	(5,921,086,000)	(5,854,099,000)	(5,840,099,000)	(-80,987,000)	(-14,000,000)	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
TITLE III--DEPARTMENT OF EDUCATION								
COMPENSATORY EDUCATION FOR THE DISADVANTAGED								
Grants for the Disadvantaged (Chapter 1):								
Grants to local educational agencies:								
Basic grants	3,853,200,000	3,900,000,000	4,461,300,000	4,200,000,000	4,427,250,000	-34,050,000	+227,250,000	D
Concentration grants	172,900,000	262,988,000	495,700,000	300,000,000	400,000,000	-95,700,000	+100,000,000	D
Subtotal, grants to LEA's	4,026,100,000	4,162,988,000	4,957,000,000	4,500,000,000	4,827,250,000	-129,750,000	+327,250,000	
Capital expenses for private school students	19,760,000	19,760,000	30,000,000	22,000,000	26,000,000	-4,000,000	+4,000,000	D
Even start	14,820,000	14,820,000	30,000,000	19,000,000	24,500,000	-5,500,000	+5,500,000	D
State agency programs:								
Migrant	271,700,000	280,938,000	290,938,000	280,938,000	285,938,000	-5,000,000	+5,000,000	D
Handicapped	148,200,000	148,200,000	148,200,000	148,200,000	148,200,000	---	---	D
Neglected and delinquent	31,616,000	34,778,000	34,778,000	31,616,000	33,197,000	-1,581,000	+1,581,000	D
State administration	40,508,000	40,508,000	54,609,000	40,508,000	50,797,000	-3,812,000	+10,289,000	D
State program improvement	5,686,000	7,557,000	13,652,000	10,000,000	12,699,000	-953,000	+2,699,000	D
Evaluation and technical assistance	7,904,000	12,000,000	12,000,000	12,000,000	12,000,000	---	---	D
Rural technical assistance centers	3,952,000	---	---	6,000,000	4,500,000	+4,500,000	-1,500,000	D
Total, Chapter 1	4,570,246,000	4,721,549,000	5,571,177,000	5,070,262,000	5,425,081,000	-146,096,000	+354,819,000	
Migrant education:								
High school equivalency program	7,410,000	7,410,000	7,410,000	8,500,000	7,955,000	+545,000	-545,000	D
College assistance migrant program	1,482,000	1,482,000	1,482,000	2,000,000	1,741,000	+259,000	-259,000	D
Subtotal, migrant education	8,892,000	8,892,000	8,892,000	10,500,000	9,696,000	+804,000	-804,000	
Merit schools, proposed legislation	---	250,000,000	---	---	---	---	---	D
Magnet Schools of Excellence, proposed legislation 1/.	---	100,000,000	---	---	---	---	---	D
Total, Compensatory Education programs	4,579,138,000	5,080,441,000	5,580,069,000	5,080,762,000	5,434,777,000	-145,292,000	+354,015,000	

1/ Requested in President's budget under School Improvement.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
IMPACT AID								
Maintenance and operations:								
Payments for "a" children	558,220,000	578,316,000	573,316,000	580,000,000	578,500,000	+5,184,000	-1,500,000	D
Payments for "b" children	135,356,000	---	125,000,000	110,500,000	123,500,000	-1,500,000	+13,000,000	D
Payments for Federal property (Section 2)	14,820,000	15,354,000	15,354,000	15,354,000	15,354,000	---	---	D
Subtotal	708,396,000	593,670,000	713,670,000	705,854,000	717,354,000	+3,684,000	+11,500,000	
Disaster assistance (Section 7)	---	10,000,000	---	---	---	---	---	D
Construction	24,700,000	25,590,000	25,590,000	26,000,000	14,998,000	-10,592,000	-11,002,000	D
Total, Impact aid	733,096,000	629,260,000	739,260,000	731,854,000	732,352,000	-6,908,000	+498,000	
SCHOOL IMPROVEMENT PROGRAMS								
Educational improvement partnerships (Chapter 2):								
State block grants 1/	462,977,000	477,218,000	461,477,000	461,477,000	461,477,000	---	---	D
Evaluation	---	1,500,000	1,500,000	1,500,000	1,500,000	---	---	D
Subtotal	462,977,000	478,718,000	462,977,000	462,977,000	462,977,000	---	---	
National programs:								
National Diffusion Network	11,066,000	11,200,000	11,200,000	13,000,000	13,000,000	+1,800,000	---	D
Inexpensive book distribution (including RIF)	8,398,000	8,684,000	8,684,000	10,000,000	8,684,000	---	-1,316,000	D
Arts in education	3,458,000	3,582,000	3,582,000	3,900,000	3,900,000	+318,000	---	D
Law - related education	3,952,000	3,952,000	5,000,000	4,000,000	5,000,000	---	+1,000,000	D
Blue ribbon schools	889,000	1,100,000	1,000,000	1,000,000	500,000	-500,000	-500,000	D
Subtotal, National programs	27,763,000	28,518,000	29,466,000	31,900,000	31,084,000	+1,618,000	-816,000	
Total, Chapter 2	490,740,000	507,236,000	492,443,000	494,877,000	494,061,000	+1,618,000	-816,000	

1/ Forward funded.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Drug free schools and communities:								
State grants 1/	287,730,000	297,513,000	296,685,000	319,194,000	296,685,000	---	-22,509,000	D
Teacher training	7,000,000	7,238,000	7,238,000	7,500,000	7,238,000	---	-262,000	D
National programs:								
Regular programs 2/	59,770,000	61,802,000	61,630,000	66,306,000	61,630,000	---	-4,676,000	D
Urban emergency grants, proposed legislation	---	25,000,000	---	---	---	---	---	D
Subtotal, drug free schools and communities	354,500,000	391,553,000	365,553,000	393,000,000	365,553,000	---	-27,447,000	
National Commission on Drug Free School	---	---	1,000,000	1,000,000	1,000,000	---	---	D
Strengthening teaching and administration:								
Mathematics and science education:								
State grants 1/	128,440,000	132,807,000	96,000,000	145,000,000	128,440,000	+32,440,000	-16,560,000	D
National program	8,892,000	9,194,000	4,000,000	9,000,000	8,892,000	+4,892,000	-108,000	D
Subtotal, Math & science education	137,332,000	142,001,000	100,000,000	154,000,000	137,332,000	+37,332,000	-16,668,000	
Fund for the improvement and reform of schools and teaching:								
Grants for schools and teachers	3,952,000	3,952,000	3,952,000	6,000,000	3,964,000	+12,000	-2,036,000	D
Family-school partnerships	1,976,000	1,976,000	1,976,000	5,000,000	4,500,000	+2,524,000	-500,000	D
Subtotal, FIRST	5,928,000	5,928,000	5,928,000	11,000,000	8,464,000	+2,536,000	-2,536,000	
Alternative teacher/principal certification, proposed legislation	---	25,000,000	---	---	---	---	---	D
Presidential awards for excellent teachers, proposed legislation	---	7,600,000	---	---	---	---	---	D
Territorial teacher training	1,976,000	1,568,000	1,568,000	2,000,000	1,784,000	+216,000	-216,000	D
Leadership in Education Administration (LEAD) 1/	4,306,000	3,894,000	3,894,000	3,894,000	3,894,000	---	---	D
Christa McAuliffe fellowships	1,892,000	1,956,000	1,956,000	1,956,000	1,956,000	---	---	D
Total, teaching and administration	151,434,000	187,947,000	113,346,000	172,850,000	153,430,000	+40,084,000	-19,420,000	

1/ Forward funded.

2/ Includes $500,000 for innovative alcohol abuse programs under sec. 4607.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Other school improvement programs:								
Magnet schools assistance, regular program.....	113,620,000	114,620,000	114,620,000	114,620,000	114,620,000	---	---	D
Fund for Innovation in Education.....	11,150,000	15,678,000	20,678,000	15,678,000	18,178,000	-2,500,000	+2,500,000	D
(Transfer of funds) (non-add).....	(4,528,000)	---	---	---	---	---	---	NA
Javits gifted and talented education.....	7,904,000	7,904,000	7,904,000	10,000,000	9,000,000	+1,096,000	-1,000,000	D
Education of homeless children & youth:								
State activities 1/.....	4,834,000	4,998,000	4,998,000	4,998,000	4,998,000	---	---	D
Exemplary activities.....	---	2,500,000	2,500,000	2,000,000	2,250,000	-250,000	+250,000	D
Advance funding for FY 1991 1/.....	---	---	---	---	250,000	+250,000	+250,000	D
Subtotal, homeless activities.....	4,834,000	7,498,000	7,498,000	6,998,000	7,248,000	-250,000	+250,000	
Women's educational equity.....	2,949,000	---	2,949,000	1,300,000	2,125,000	-824,000	+825,000	D
Training and advisory services (Civil Rights IV-A)	23,443,000	23,443,000	23,443,000	20,000,000	21,722,000	-1,721,000	+1,722,000	D
Dropout prevention demonstrations.....	21,736,000	---	---	---	---	---	---	D
Secondary basic skills demonstrations.....	---	---	---	10,000,000	5,000,000	+5,000,000	-5,000,000	D
Business-Education partnerships.....	---	---	---	7,500,000	3,750,000	+3,750,000	-3,750,000	D
General assistance to the Virgin Islands.....	4,730,000	4,891,000	4,891,000	4,000,000	4,446,000	-445,000	+446,000	D
Ellender fellowships 1/.....	3,458,000	---	4,000,000	3,500,000	3,750,000	-250,000	+250,000	D
Follow through.....	7,262,000	---	7,262,000	7,262,000	7,262,000	---	---	D
Star schools.....	14,399,000	---	---	20,000,000	15,000,000	+15,000,000	-5,000,000	D
Native Hawaiian Education Act.....	4,940,000	---	4,940,000	8,000,000	6,500,000	+1,560,000	-1,500,000	D
Subtotal, other school improvement programs.....	220,425,000	174,034,000	198,185,000	228,858,000	218,601,000	+20,416,000	-10,257,000	
Total, School improvement programs.....	1,217,099,000	1,260,770,000	1,170,527,000	1,290,585,000	1,232,895,000	+62,368,000	-57,690,000	
Subtotal, forward funded.....	(891,745,000)	(916,430,000)	(867,054,000)	(938,063,000)	(899,494,000)	(+32,440,000)	(-38,569,000)	

1/ Forward funded.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
BILINGUAL, IMMIGRANT, & REFUGEE EDUCATION								
Bilingual programs	110,761,000	115,797,000	120,797,000	110,761,000	115,779,000	-5,018,000	+5,018,000	D
Support services	10,772,000	10,903,000	10,903,000	10,772,000	10,838,000	-65,000	+66,000	D
Training grants	30,413,000	30,413,000	32,413,000	31,413,000	31,913,000	-500,000	+500,000	D
Immigrant education	29,640,000	30,648,000	30,648,000	29,640,000	30,144,000	-504,000	+504,000	D
Refugee education	15,808,000	16,345,000	DEFER	---	---	---	---	D
Total, authorized	181,586,000	187,761,000	194,761,000	182,586,000	188,674,000	-6,087,000	+6,088,000	
(Unauthorized, deferred by House)	15,808,000	16,345,000	DEFER	---	---	---	---	
Total, authorized and unauthorized	197,394,000	204,106,000	194,761,000	182,586,000	188,674,000	-6,087,000	+6,088,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
EDUCATION FOR THE HANDICAPPED								
Education for the handicapped:								
State grants:								
Grants to States, general	1,475,449,000	1,525,614,000	1,564,017,000	1,554,000,000	1,564,017,000	---	+10,017,000	D
Preschool grants	247,000,000	247,000,000	252,000,000	255,000,000	255,000,000	+3,000,000	---	D
Grants for infants and families	69,831,000	72,205,000	77,205,000	80,624,000	80,624,000	+3,419,000	---	D
Subtotal, State grants	1,792,280,000	1,844,819,000	1,893,222,000	1,889,624,000	1,899,641,000	+6,419,000	+10,017,000	
Special purpose funds:								
Deaf-blind and severely handicapped projects:								
Consolidated program	---	19,486,000	---	---	---	---	---	D
Deaf-blind projects	14,189,000	---	14,189,000	14,757,000	14,757,000	+568,000	---	D
Severely handicapped projects	5,297,000	---	5,297,000	6,000,000	5,900,000	+603,000	-100,000	D
Subtotal	19,486,000	19,486,000	19,486,000	20,757,000	20,657,000	+1,171,000	-100,000	
Seriously emotionaly disturbed	---	---	---	2,000,000	---	---	-2,000,000	D
Early childhood education	23,147,000	23,147,000	23,147,000	24,096,000	24,096,000	+949,000	---	D
Secondary and transitional services	7,284,000	7,284,000	7,284,000	8,500,000	8,100,000	+816,000	-400,000	D
Postsecondary programs	5,770,000	5,770,000	5,770,000	8,770,000	6,600,000	+830,000	-2,170,000	D
Innovation and development	17,026,000	17,026,000	17,026,000	21,026,000	20,100,000	+3,074,000	-926,000	D
Media and captioning services	13,403,000	13,403,000	15,000,000	15,403,000	15,403,000	+403,000	---	D
Special education technology	4,730,000	4,730,000	4,730,000	5,500,000	5,500,000	+770,000	---	D
Special studies	3,594,000	3,594,000	3,594,000	1,000,000	3,594,000	---	+2,594,000	D
Special education personnel development	67,095,000	67,095,000	67,095,000	79,000,000	71,985,000	+4,890,000	-7,015,000	D
Recruitment and information clearinghouses	1,135,000	1,135,000	1,135,000	1,500,000	1,500,000	+365,000	---	D
Regional resource centers	6,338,000	6,338,000	6,338,000	6,600,000	6,600,000	+262,000	---	D
Total, Education for the handicapped	1,961,288,000	2,013,827,000	2,063,827,000	2,083,776,000	2,083,776,000	+19,949,000	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
REHABILITATION SERVICES AND HANDICAPPED RESEARCH								
Rehabilitation services State grants:								
Vocational rehabilitation State grants	1,450,000,000	1,510,900,000	1,502,123,000	1,550,000,000	1,550,000,000	+47,877,000	---	M
Reappropriation	500,000	---	---	---	---	---	---	M
Supported employment State grants	27,227,000	27,868,000	27,868,000	27,976,000	27,976,000	+108,000	---	M
Client assistance	7,775,000	7,959,000	7,959,000	8,000,000	8,000,000	+41,000	---	M
Subtotal, State grants	1,485,502,000	1,546,727,000	1,537,950,000	1,585,976,000	1,585,976,000	+48,026,000	---	
Service and demonstration projects:								
Special demonstration program:								
Regular grants	17,200,000	16,994,000	16,994,000	17,674,000	17,674,000	+680,000	---	M
Comprehensive head injury grants	---	---	15,000,000	---	15,000,000	---	+15,000,000	M
Subtotal, special demonstrations	17,200,000	16,994,000	31,994,000	17,674,000	32,674,000	+680,000	+15,000,000	
Supported employment projects	9,520,000	9,406,000	9,406,000	10,000,000	10,000,000	+594,000	---	M
Model transition grants	475,000	---	---	---	---	---	---	M
Recreational programs	2,620,000	---	2,589,000	2,620,000	2,620,000	+31,000	---	M
Migratory workers	1,100,000	1,087,000	1,087,000	1,100,000	1,100,000	+13,000	---	M
Projects with industry	17,350,000	17,142,000	17,142,000	19,000,000	19,000,000	+1,858,000	---	M
Subtotal, Service and demonstration projects	48,265,000	44,629,000	62,218,000	50,394,000	65,394,000	+3,176,000	+15,000,000	
Helen Keller National Center	4,900,000	4,841,000	4,841,000	5,000,000	5,000,000	+159,000	---	M
Independent living:								
Comprehensive services	12,678,000	12,977,000	12,977,000	13,100,000	13,100,000	+123,000	---	M
Centers	26,000,000	25,688,000	25,688,000	27,000,000	27,000,000	+1,312,000	---	M
Services for older blind	5,700,000	5,632,000	5,632,000	5,900,000	5,900,000	+268,000	---	M
Subtotal, Independent living	44,378,000	44,297,000	44,297,000	46,000,000	46,000,000	+1,703,000	---	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Training	30,500,000	30,134,000	30,134,000	31,500,000	31,500,000	+1,366,000	---	M
National Institute on Disability and Rehab Research	53,525,000	52,883,000	52,883,000	55,000,000	55,000,000	+2,117,000	---	M
Technology assistance	5,150,000	10,650,000	10,650,000	15,000,000	15,000,000	+4,350,000	---	M
Evaluation	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	M
Total, Rehabilitation services	1,673,220,000	1,735,161,000	1,743,973,000	1,789,870,000	1,804,870,000	+60,897,000	+15,000,000	
SPECIAL INSTITUTIONS FOR THE HANDICAPPED								
AMERICAN PRINTING HOUSE FOR THE BLIND	5,335,000	5,537,000	5,537,000	5,942,000	5,740,000	+203,000	-202,000	D
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:								
Operations	33,128,000	34,321,000	34,921,000	34,921,000	34,921,000	---	---	D
Endowment grants	198,000	300,000	200,000	300,000	250,000	+50,000	-50,000	D
Construction	---	932,000	432,000	532,000	482,000	+50,000	-50,000	D
Consortium	---	---	---	1,800,000	900,000	+900,000	-900,000	D
Subtotal, NTID	33,326,000	35,553,000	35,553,000	37,553,000	36,553,000	+1,000,000	-1,000,000	
GALLAUDET:								
University programs	44,688,000	46,297,000	46,297,000	46,797,000	46,547,000	+250,000	-250,000	D
Model secondary school	13,087,000	13,558,000	13,558,000	13,558,000	13,558,000	---	---	D
Kendall demonstration school	7,235,000	7,495,000	7,495,000	7,495,000	7,495,000	---	---	D
Endowment grant	988,000	1,000,000	1,000,000	1,000,000	1,000,000	---	---	D
Evaluation	---	500,000	---	---	---	---	---	D
Subtotal, Gallaudet University	65,998,000	68,850,000	68,350,000	68,850,000	68,600,000	+250,000	-250,000	
Total, Special Institutions for the Handicapped	104,659,000	109,940,000	109,440,000	112,345,000	110,893,000	+1,453,000	-1,452,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
VOCATIONAL AND ADULT EDUCATION								
Vocational education:								
New program, proposed legislation	---	942,239,000	---	---	---	---	---	D
Basic grants	831,566,000	---	860,000,000	867,870,000	862,535,000	+2,535,000	-5,335,000	D
Community - based organizations	8,892,000	---	9,200,000	12,000,000	11,000,000	+1,800,000	-1,000,000	D
Consumer and homemaking education	33,118,000	---	34,300,000	35,000,000	34,650,000	+350,000	-350,000	D
State councils	7,904,000	---	8,200,000	7,904,000	8,052,000	-148,000	+148,000	D
National program:								
Research	6,965,000	---	7,200,000	6,965,000	7,083,000	-117,000	+118,000	D
Demonstration	14,594,000	---	15,000,000	7,500,000	11,250,000	-3,750,000	+3,750,000	D
Data 1/	4,446,000	---	4,439,000	5,000,000	5,000,000	+561,000	---	D
Subtotal, national prorams	26,005,000	---	26,639,000	19,465,000	23,333,000	-3,306,000	+3,868,000	
Bilingual vocational training	3,771,000	---	3,900,000	---	3,000,000	-900,000	+3,000,000	D
Subtotal, Vocational education	911,256,000	942,239,000	942,239,000	942,239,000	942,570,000	+331,000	+331,000	
Adult education:								
Grants to States	136,344,000	160,665,000	180,000,000	150,000,000	160,000,000	-20,000,000	+10,000,000	D
National programs	1,976,000	2,000,000	2,000,000	2,000,000	2,000,000	---	---	D
Literacy training for homeless adults	7,094,000	10,000,000	10,000,000	5,000,000	7,500,000	-2,500,000	+2,500,000	D
Advance funding for FY 1991	---	---	---	---	2,500,000	+2,500,000	+2,500,000	D
Workplace literacy partnerships	11,856,000	---	11,856,000	20,000,000	20,000,000	+8,144,000	---	D
English literacy grants	4,940,000	---	4,940,000	7,000,000	5,970,000	+1,030,000	-1,030,000	D
Subtotal, adult education	162,210,000	172,665,000	208,796,000	184,000,000	195,470,000	-13,326,000	+11,470,000	
Total, Vocational & adult education	1,073,466,000	1,114,904,000	1,151,035,000	1,126,239,000	1,138,040,000	-12,995,000	+11,801,000	

1/ Includes funds for the National Occupational Information Coordinating Committees.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
STUDENT FINANCIAL ASSISTANCE								
Pell Grants 1/	4,483,915,000	5,105,000,000	4,740,000,000	4,740,000,000	4,454,000,000	-286,000,000	-286,000,000	D
Prior year shortfall, 1989	---	331,000,000	---	---	131,000,000	+131,000,000	+131,000,000	D
FY 1990 contingency	---	---	---	---	286,000,000	+286,000,000	+286,000,000	D
Supplemental educational opportunity grants	437,972,000	452,863,000	452,863,000	490,000,000	465,000,000	+12,137,000	-25,000,000	D
Work-study	610,097,000	610,097,000	610,097,000	615,000,000	610,097,000	---	-4,903,000	D
Income contingent loans	4,940,000	20,000,000	10,000,000	10,000,000	10,000,000	---	---	D
Perkins loans:								
Federal capital contributions	183,507,000	---	137,000,000	147,000,000	137,000,000	---	-10,000,000	D
(Total estimated loans from revolving fund) (non-add)	(898,000,000)	(751,000,000)	(898,000,000)	(898,000,000)	(898,000,000)	---	---	NA
Loan cancellations	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000	---	---	D
State student incentive grants	71,889,000	---	50,000,000	72,000,000	60,000,000	+10,000,000	-12,000,000	D
Total, Student Financial Assistance	5,814,320,000	6,540,960,000	6,021,960,000	6,096,000,000	6,175,097,000	+153,137,000	+79,097,000	
GUARANTEED STUDENT LOANS								
Guaranteed student loans 2/	4,066,828,000	3,826,314,000	3,651,000,000	3,826,314,000	3,826,314,000	+175,314,000	---	M
Total estimated loans (non-add)	(12,118,000,000)	(13,201,000,000)	(13,201,000,000)	(13,201,000,000)	(13,201,000,000)	---	---	NA

1/ Conference agreement includes legislative savings.

2/ Excludes amounts related to credit reform and proposed legislation totalling $167.9 million.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
HIGHER EDUCATION								
Aid for institutional development:								
Strengthening developing institutions	77,459,000	80,093,000	83,000,000	85,000,000	84,000,000	+1,000,000	-1,000,000	D
Strengthening historically black colleges & univ.	73,554,000	76,055,000	85,000,000	85,000,000	85,000,000	---	---	D
Strengthening historically black grad institutions	10,868,000	11,238,000	11,238,000	12,000,000	11,619,000	+381,000	-381,000	D
Endowment grants:								
Current law	12,696,000	13,128,000	23,128,000	13,128,000	18,128,000	-5,000,000	+5,000,000	D
Proposed legislation	---	10,000,000	---	---	---	---	---	D
Subtotal, institutional development	174,577,000	190,514,000	202,366,000	195,128,000	198,747,000	-3,619,000	+3,619,000	
Program development:								
Fund for the Improvement of Postsec. Education	11,856,000	11,856,000	11,856,000	11,856,000	11,856,000	---	---	D
Mid-career teacher training	---	---	2,000,000	---	1,000,000	-1,000,000	+1,000,000	D
Minority science improvement	5,307,000	5,487,000	5,487,000	5,487,000	5,487,000	---	---	D
Innovative projects for community services	1,454,000	---	---	1,500,000	1,500,000	+1,500,000	---	D
International education and foreign language studies:								
Domestic programs 1/	25,855,000	25,114,000	35,114,000	33,614,000	35,114,000	---	+1,500,000	D
Overseas programs	5,203,000	5,203,000	5,203,000	5,203,000	5,203,000	---	---	D
Subtotal, international education	31,058,000	30,317,000	40,317,000	38,817,000	40,317,000	---	+1,500,000	
Cooperative education	13,622,000	---	13,622,000	13,622,000	13,622,000	---	---	D
Law school clinical experience	3,952,000	---	5,000,000	3,952,000	5,000,000	---	+1,048,000	D
Student Literacy Corps	4,940,000	5,108,000	5,108,000	5,108,000	5,108,000	---	---	D
Subtotal, Program development	72,189,000	52,768,000	83,390,000	80,342,000	83,890,000	+500,000	+3,548,000	
Academic facilities:								
Interest subsidy grants	22,744,000	22,744,000	22,744,000	22,744,000	22,744,000	---	---	D

1/ Includes funds for international business education

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Special grants:								
Assistance to Guam	473,000	---	473,000	500,000	500,000	+27,000	---	D
Robert A. Taft Institute of Government	709,000	---	---	---	---	---	---	D
Subtotal, Special grants	1,182,000	---	473,000	500,000	500,000	+27,000	---	
Special higher education projects:								
Urban Education Foundation	1,600,000	---	---	---	---	---	---	D
Margaret Chase Smith Library	---	---	---	5,000,000	2,500,000	+2,500,000	-2,500,000	D
Aid to Students:								
Special program for disadvantaged (TRIO)	219,257,000	228,168,000	248,168,000	240,000,000	245,000,000	-3,168,000	+5,000,000	D
Support services:								
Veterans' education outreach	2,838,000	---	2,838,000	2,838,000	2,838,000	---	---	D
Legal training for the disadvantaged (CLEO)	1,892,000	1,956,000	2,500,000	2,000,000	2,500,000	---	+500,000	D
School, college & university partnerships	2,760,000	2,854,000	2,854,000	3,000,000	3,000,000	+146,000	---	D
Scholarships and fellowships:								
Robert C. Byrd honors scholarships	8,200,000	8,479,000	8,479,000	9,000,000	8,740,000	+261,000	-260,000	D
National Science Scholars, proposed legislat'n	---	5,000,000	---	---	---	---	---	D
Paul Douglas Teacher Scholarships	15,235,000	---	14,235,000	16,000,000	15,118,000	+883,000	-882,000	D
Patricia Roberts Harris Fellows:								
Graduate fellowships	15,711,000	16,245,000	16,245,000	16,245,000	16,245,000	---	---	D
Public service fellowships	3,320,000	---	3,320,000	3,320,000	3,320,000	---	---	D
Jacob K. Javits Fellowships	7,904,000	5,770,000	6,770,000	8,000,000	8,000,000	+1,230,000	---	D
Minority participation in graduate education	3,476,000	3,594,000	3,594,000	3,594,000	3,594,000	---	---	D
Graduate assistance in areas of national need	12,844,000	11,945,000	17,000,000	13,000,000	16,000,000	-1,000,000	+3,000,000	D
Subtotal, Scholarships and fellowships	66,690,000	51,033,000	69,643,000	69,159,000	71,017,000	+1,374,000	+1,858,000	
Subtotal, Aid to Students	293,437,000	284,011,000	326,003,000	316,997,000	324,355,000	-1,648,000	+7,358,000	
Total, Higher education	565,729,000	550,037,000	634,976,000	620,711,000	632,736,000	-2,240,000	+12,025,000	
UNIVERSITY OF KANSAS BIOSCIENCE CENTER	---	---	---	5,200,000	---	---	-5,200,000	D

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
HOWARD UNIVERSITY								
Academic program	151,357,000	156,806,000	151,806,000	151,806,000	155,306,000	+3,500,000	+3,500,000	D
Endowment grant	1,482,000	2,458,000	7,458,000	1,482,000	1,500,000	-5,958,000	+18,000	D
Reappropriation	494,000	---	---	---	---	---	---	D
Research	4,730,000	4,730,000	4,730,000	4,730,000	4,730,000	---	---	D
Howard University Hospital	20,910,000	20,910,000	20,910,000	20,910,000	20,910,000	---	---	D
Total, Howard University	178,973,000	184,904,000	184,904,000	178,928,000	182,446,000	-2,458,000	+3,518,000	
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS								
LOAN LIMITATION:								
Borrowing authority	29,640,000	---	30,000,000	---	30,000,000	---	+30,000,000	D
Interest subsidy payments	1,675,000	5,129,000	5,129,000	5,129,000	5,129,000	---	---	M
Total, College Housing	31,315,000	5,129,000	35,129,000	5,129,000	35,129,000	---	+30,000,000	
EDUCATION RESEARCH AND STATISTICS								
Education research	47,079,000	50,960,000	57,010,000	50,100,000	51,055,000	-5,955,000	+955,000	D
National board for professional teacher standards	---	---	---	5,000,000	5,000,000	+5,000,000	---	D
Statistics	21,736,000	25,320,000	25,320,000	25,320,000	25,320,000	---	---	D
National Assessment of Education Progress (NAEP)	9,386,000	12,050,000	13,000,000	15,000,000	15,000,000	+2,000,000	---	D
Education achievement experiments	---	13,000,000	5,000,000	---	---	-5,000,000	---	D
Total, Education research and statistics	78,201,000	101,330,000	100,330,000	95,420,000	96,375,000	-3,955,000	+955,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
LIBRARIES								
Proposed legislation:								
Services to the disadvantaged	---	91,000,000	---	---	---	---	---	D
Resource sharing	---	45,000,000	---	---	---	---	---	D
Research and assessment	---	1,200,000	---	---	---	---	---	D
Subtotal, proposed legislation	---	137,200,000	---	---	---	---	---	
Public libraries:								
Services	81,009,000	---	81,009,000	84,000,000	82,505,000	+1,496,000	-1,495,000	D
Construction	22,324,000	---	---	23,000,000	18,900,000	+18,900,000	-4,100,000	D
Interlibrary cooperation	19,102,000	---	19,102,000	20,000,000	19,551,000	+449,000	-449,000	D
Training and demonstrations	709,000	---	709,000	1,000,000	855,000	+146,000	-145,000	D
Research libraries	5,675,000	---	5,675,000	5,800,000	5,738,000	+63,000	-62,000	D
Library literacy programs	4,730,000	---	4,730,000	6,000,000	5,365,000	+635,000	-635,000	D
College library technology	3,651,000	---	3,651,000	3,812,000	3,732,000	+81,000	-80,000	D
Total, Libraries	137,200,000	137,200,000	114,876,000	143,612,000	136,646,000	+21,770,000	-6,966,000	

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
DEPARTMENTAL MANAGEMENT								
PROGRAM ADMINISTRATION 1/	250,464,000	279,446,000	269,946,000	280,646,000	274,946,000	+5,000,000	-5,700,000	D
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	41,635,000	45,178,000	45,178,000	45,178,000	45,178,000	---	---	D
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	18,619,000	22,000,000	22,000,000	23,381,000	23,381,000	+1,381,000	---	D
Total, Departmental management	310,718,000	346,624,000	337,124,000	349,205,000	343,505,000	+6,381,000	-5,700,000	
CONSULTANT SAVINGS	---	---	---	---	-3,850,000	-3,850,000	-3,850,000	D
Total, Department of Education	22,706,836,000	23,824,562,000	23,833,191,000	23,718,536,000	24,153,175,000	+319,984,000	+434,639,000	
Current year FY 1990	(22,706,836,000)	(23,824,562,000)	(23,833,191,000)	(23,718,536,000)	(24,150,425,000)	(+317,234,000)	(+431,889,000)	
FY 1991	---	---	---	---	(2,750,000)	(+2,750,000)	(+2,750,000)	
(Unauthorized, deferred by House)	15,808,000	16,345,000	DEFER	---	---	---	---	
Total, authorized and unauthorized	22,722,644,000	23,840,907,000	23,833,191,000	23,718,536,000	24,153,175,000	+319,984,000	+434,639,000	

1/ An additional $3 million is proposed for later transmittal.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
TITLE IV - RELATED AGENCIES								
Action (Domestic Programs):								
Volunteers in Service to America:								
VISTA operations	21,647,000	23,615,000	DEFER	25,415,000	25,415,000	+25,415,000	---	D
VISTA Literacy Corps	2,838,000	---	DEFER	3,363,000	3,096,000	+3,096,000	-267,000	D
Student Community Service	1,352,000	1,352,000	DEFER	906,000	906,000	+906,000	---	D
Subtotal	25,837,000	24,967,000	DEFER	29,684,000	29,417,000	+29,417,000	-267,000	
Citizen Participation and Volunteer Demonstration Programs	4,450,000	2,650,000	DEFER	1,333,000	1,333,000	+1,333,000	---	D
Older Americans Volunteer Programs:								
Foster Grandparents Program	58,928,000	58,928,000	DEFER	62,000,000	60,464,000	+60,464,000	-1,536,000	D
Senior Companion Program	25,135,000	25,135,000	DEFER	29,000,000	27,068,000	+27,068,000	-1,932,000	D
Retired Senior Volunteer Program	30,862,000	30,862,000	DEFER	33,000,000	31,931,000	+31,931,000	-1,069,000	D
Subtotal, Older Volunteers	114,925,000	114,925,000	DEFER	124,000,000	119,463,000	+119,463,000	-4,537,000	
Program Support	25,208,000	27,875,000	DEFER	27,650,000	26,429,000	+26,429,000	-1,221,000	D
Total, Action (unauthorized, deferred by House)	170,420,000	170,417,000	DEFER	182,667,000	176,642,000	+176,642,000	-6,025,000	
Commission on Railroad Retirement Reform	988,000	---	---	---	---	---	---	D
Corporation for Public Broadcasting: 1/								
FY 1992 (current request)	242,060,000	242,060,000	242,060,000	260,000,000	251,030,000	+8,970,000	-8,970,000	D
Satellite replacement	56,810,000	---	72,000,000	80,500,000	76,250,000	+4,250,000	-4,250,000	D
Subtotal, Corporation for Public Broadcasting	298,870,000	242,060,000	314,060,000	340,500,000	327,280,000	+13,220,000	-13,220,000	

1/ FY 1989 approp. adv. in FY87 is $228 million.
FY 1990 approp. adv. in FY88 is $232,648,000.
FY 1991 approp. adv. in FY89 is $298,870,000.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Federal Mediation and Conciliation Service.....	25,813,000	25,190,000	26,380,000	27,190,000	26,785,000	+405,000	-405,000	D
Federal Mine Safety and Health Review Commission.....	4,030,000	4,005,000	4,030,000	4,030,000	4,030,000	---	---	D
National Commission on Acquired Immune Deficiency Syndrome 1/.....	---	---	---	1,000,000	1,000,000	+1,000,000	---	D
National Commission on Children.....	790,000	---	940,000	940,000	940,000	---	---	D
National Commission on Financing Postsecondary Education.....	790,000	---	---	---	---	---	---	D
National Commission on Libraries and Information Science.....	741,000	770,000	750,000	770,000	750,000	---	-20,000	D
National Commission on Migrant Education.....	1,976,000	---	---	---	---	---	---	D
National Commission to Prevent Infant Mortality.....	494,000	---	400,000	400,000	400,000	---	---	D
National Council on Disability.....	1,160,000	1,157,000	1,157,000	2,160,000	1,557,000	+400,000	-603,000	D
National Labor Relations Board.....	136,983,000	140,111,000	140,111,000	140,111,000	140,111,000	---	---	D
National Mediation Board.....	6,472,000	6,384,000	6,384,000	6,384,000	6,384,000	---	---	D
Occupational Safety and Health Review Commission.....	5,845,000	5,970,000	5,970,000	5,970,000	5,970,000	---	---	D
Physician Payment Review Commission (trust funds).....	(2,897,000)	(3,722,000)	(3,847,000)	(3,722,000)	(3,847,000)	---	(+125,000)	TF
Prescription Drug Payment Review Commission (trust funds).....	---	(2,086,000)	(1,500,000)	(1,500,000)	(1,500,000)	---	---	TF
(By transfer, trust funds).....	(250,000)	---	---	---	---	---	---	TF
Prospective Payment Assessment Commission (trust funds).....	(3,495,000)	(3,794,000)	(3,919,000)	(3,794,000)	(3,919,000)	---	(+125,000)	TF

1/ Funded at $1,500,000 in House bill under Assistant Secretary for Health.

CONFERENCE AGREEMENT H.R. 2990 - FY 1990 APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES

	FY 1989 Comparable	FY 1990 Budget Request	House Bill	Senate Bill	Conference	Conference compared with House Bill	Conference compared with Senate Bill	Man Dis
Railroad Retirement Board:								
Dual benefits payments account 1/	350,897,000	333,000,000	340,000,000	340,000,000	340,000,000	---	---	D
Less income tax receipts on dual benefits	-30,157,000	-30,000,000	-30,000,000	-30,000,000	-30,000,000	---	---	D
Subtotal, dual benefits	320,740,000	303,000,000	310,000,000	310,000,000	310,000,000	---	---	
Federal payment to the Railroad Retirement Account	3,100,000	---	---	---	---	---	---	M
(Limitation on administration, retirement)	(59,626,000)	(60,550,000)	(63,900,000)	(67,451,000)	(63,900,000)	---	(-3,551,000)	TF
(Limitation on administration, unemployment) (non-add)	(13,950,000)	(13,450,000)	(14,100,000)	(14,964,000)	(14,100,000)	---	(-864,000)	NA
(Limitation on administration, review activity)	(3,213,000)	(4,000,000)	(3,545,000)	(4,150,000)	(3,950,000)	(+405,000)	(-200,000)	TF
Soldiers' and Airmen's Home (trust fund limitation):								
Operation and maintenance	37,248,000	37,573,000	39,000,000	39,573,000	39,287,000	+287,000	-286,000	D
Capital outlay	14,820,000	8,500,000	8,500,000	10,250,000	9,375,000	+875,000	-875,000	D
United States Bipartisan Commission on Comprehensive Health care	1,033,000	---	467,000	467,000	467,000	---	---	D
United States Institute of Peace	6,916,000	6,916,000	6,916,000	8,000,000	7,650,000	+734,000	-350,000	D
White House Conference on Library and Information Services	1,750,000	---	---	3,250,000	3,250,000	+3,250,000	---	D
Total, title IV, Related Agencies:								
Federal Funds (all years)	870,559,000	781,636,000	865,065,000	900,995,000	885,236,000	+20,171,000	-15,759,000	
Current year, FY 1990	(571,689,000)	(539,576,000)	(551,005,000)	(560,495,000)	(557,956,000)	(+6,951,000)	(-2,539,000)	
FY 1992	(298,870,000)	(242,060,000)	(314,060,000)	(340,500,000)	(327,280,000)	(+13,220,000)	(-13,220,000)	
(Unauthorized, deferred by House)	170,420,000	170,417,000	DEFER	182,667,000	176,642,000	+176,642,000	-6,025,000	
Total, authorized and unauthorized	1,040,979,000	952,053,000	865,065,000	1,083,662,000	1,061,878,000	+196,813,000	-21,784,000	
Trust funds	(69,231,000)	(74,152,000)	(76,711,000)	(80,617,000)	(77,116,000)	(+405,000)	(-3,501,000)	

1/ Legislation will be proposed to fund $83,250,000 of this amount from the Railroad Retirement account

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follow:

New budget (obligational) authority, fiscal year 1989	$142,563,707,000
Budget estimates of new (obligational) authority, fiscal year 1990	153,612,456,000
House bill, fiscal year 1990	155,191,521,000
Senate bill, fiscal year 1990	157,724,072,000
Conference agreement, fiscal year 1990	156,746,250,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+14,182,543,000
Budget estimates of new (obligational) authority, fiscal year 1990	+3,133,794,000
House bill, fiscal year 1990	+1,554,729,000
Senate bill, fiscal year 1990	−977,822,000

WILLIAM H. NATCHER,
NEAL SMITH,
DAVID OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
SILVIO O. CONTE,
CARL D. PURSELL,
JOHN EDWARD PORTER,
BILL YOUNG,
VIN WEBER,
Managers on the Part of the House.

TOM HARKIN,
ROBERT C. BYRD,
FRITZ HOLLINGS,
QUENTIN N. BURDICK,
DANIEL K. INOUYE,
DALE BUMPERS,
HARRY REID,
BROCK ADAMS,
ARLEN SPECTER,
MARK O. HATFIELD,
TED STEVENS,
WARREN B. RUDMAN,
JAMES A. MCCLURE,
THAD COCHRAN,
PHIL GRAMM,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extranenous material:)

Mr. MCEWEN, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

(The following Members (at the request of Mr. DORGAN of North Dakota) to revise and extend their remarks and include extranenous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 30 minutes, today.

Mr. OWENS of New York, for 5 minutes, on October 10, 11, 12, 13, 16, 17, 18, 19, and 20.

Mr. GONZALEZ, for 60 minutes, on October 10 and 13.

(The following Member (at his own request) to revise and extend his remarks and include extranenous material:)

Mr. GEJDENSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SCHIFF) and to include extranenous matter:)

Mr. PAXON.

Mr. RINALDO.

Mr. BROOMFIELD.

Mr. MARLENEE.

Mr. SMITH of New Jersey.

(The following Members (at the request of Mr. DORGAN of North Dakota) and to include extraneous matter:)

Mr. BOUCHER.

Mr. LANTOS.

Mr. ROE.

Mr. FAZIO.

ADJOURNMENT

Mr. GEJDENSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, at 11 o'clock and 22 minutes a.m., under its previous order, the House adjourned until Tuesday, October 10, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1798. A letter from the Mayor, District of Columbia, transmitting the actuaries review of three benefit changes to the police officers and firefighters and teachers retirement programs, pursuant to D.C. Code, section 1-772(d)(1); to the Committee on the District of Columbia.

1799. A letter from the Chairman, the President's Committee on Employment of People With Disabilities, transmitting a report entitled "People with Disabilities in Our Nation's Job Training Partnership Programs—Program Year 1987"; to the Committee on Education and Labor.

1800. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Public Health Service Act to make needed improvements in the Health Education Assistance Loans Program; to the Committee on Energy and Commerce.

1801. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially to Taiwan (Transmittal No. MC-21-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1802. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially to Germany (under a NATO program) (Transmittal No. MC-13-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1803. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Alvin P. Adams Jr., of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Haiti, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1804. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1805. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of a building project survey report for a facility to house Federal agencies in Hollywood, FL; to the Committee on Public Works and Transportation.

1806. A letter from the Director, Office of Management and Budget, transmitting a copy of his determination and certification that certain amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are in excess of the amount necessary and will be placed in BIB's currency reserve fund, pursuant to 22 U.S.C. 2877(b); jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct. 5, 1989, the following reports were filed on Oct. 6, 1989]

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 2494. A bill to amend the Export-Import Bank Act of 1945 to authorize the appropriation of not to exceed $100,000,000 to the Tied Aid Credit Fund for fiscal year 1990, and to provide for expenditures from such Fund during such fiscal year; with amendments (Rept. 101-271). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3007. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations (Rept. 101-272). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 248. An act to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States (Rept. 101-273). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee of conference. Conference report on H.R. 2990 (Rept. 101-274). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GEJDENSON (for himself, Mr. BATES, Mr. ATKINS, Mr. SMITH of Florida, Mr. MORRISON of Connecticut, Mr. HAWKINS, Mr. MRAZEK, Mr. ROYBAL, Mr. SAWYER, Mr. STARK, Mr. BROWN of California, Mr. ACKERMAN, Mr. LEWIS of Georgia, Mr. BILBRAY, and Mr. BEILENSON):

H.R. 3428. A bill to require the Secretary of Transportation to revise the Federal motor vehicle safety standards applicable to light trucks and multipurpose vehicles and for other purposes; to the Committee on Energy and Commerce.

By Mr. SLATTERY:

H.R. 3429. A bill to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. RINALDO, Mr. ROE, Mr. ACKERMAN, Mrs. BENTLEY, Mr. BEREUTER, Mr. BUSTAMANTE, Mr. COURTER, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FLORIO, Mr. FUSTER, Mr. GARCIA, Mr. GEJDENSON, Mr. HORTON, Mr. HOUGHTON, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LANTOS, Mr. MACHTLEY, Mr. MILLER of Ohio, Mr. MRAZEK, Mr. OWENS of New York, Mr. PALLONE, Mr. PAYNE of New Jersey, Mrs. ROUKEMA, Mr. SAXTON, Mr. SIKORSKI, Mr. TOWNS, Mrs. UNSOELD, Mr. WALSH, and Mr. WOLPE):

H.R. 3430. A bill to amend the Solid Waste Disposal Act to regulate the transportation in commerce of solid waste and food by prohibiting certain vehicles from transporting both waste and food, by requiring health and safety standards for certain vehicles used to transport certain waste and food, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

262. By the SPEAKER: Memorial of the Legislature of the State of California, relative to agriculture; to the Committee on Agriculture.

263. Also, memorial of the Legislature of the State of California, relative to forests; to the Committee on Appropriations.

264. Also, memorial of the Legislature of the State of California, relative to drug trafficking; to the Committee on Armed Services.

265. Also, memorial of the Legislature of the State of California, relative to Mather Air Force Base Hospital; to the Committee on Armed Services.

266. Also, memorial of the Legislature of the State of California, relative to the National Guard and Reserve; to the Committee on Armed Services.

267. Also, memorial of the Legislature of the State of California, relative to the California Army National Guard; to the Committee on Armed Services.

268. Also, memorial of the Legislature of the State of California, relative to mobilehome parks; to the Committee on Banking, Finance and Urban Affaris.

269. Also, memorial of the Legislature of the State of California, relative to the removal of hazardous asbestos from school facilities; to the Committee on Energy and Commerce.

270. Also, memorial of the Legislature of the State of California, relative to Amtrak rail passenger service; to the Committee on Energy and Commerce

271. Also, memorial of the Legislature of the State of California, relative to chronic fatigue syndrome; to the Committee on Energy and Commerce.

272. Also, memorial of the Legislature of the State of California, relative to the Anti-Drug Abuse Act of 1988; to the Committee on Energy and Commerce.

273. Also, memorial of the Legislature of the State of California, relative to Lithuania, Latvia, and Estonia; to the Committee on Foreign Affairs.

274. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to relief for the victims of Hurricane Hugo in Puerto Rico; to the Committee on Interior and Insular Affairs.

275. Also, memorial of the Legislature of the State of California, relative to the naturalization of Filipino veterans; to the Committee on the Judiciary.

276. Also, memorial of the Legislature of the State of California, relative to Federal immigration policy; to the Committee on the Judiciary.

277. Also, memorial of the Legislature of the State of California, relative to the 10th amendment; to the Committee on the Judiciary.

278. Also, memorial of the Legislature of the State of California, relative to the Federal census; to the Committee on Post Office and Civil Service.

279. Also, memorial of the Legislature of the State of California, relative to Pearl Harbor Day; to the Committee on Post Office and Civil Service.

280. Also, memorial of the Legislature of the State of California, relative to urban search and heavy rescue; to the Committee on Public Works and Tansportation.

281. Also, memorial of the Legislature of the State of California, relative to the operation and maintenance of low-use harbors and marinas; to the Committee on Public Works and Transportation.

282. Also, memorial of the Legislature of the State of California, relative to Cal-Vet bonds; to the Committee on Veterans' Affairs.

283. Also, memorial of the Legislature of the State of California, relative to medical care for veterans; to the Committee on Veterans' Affairs.

284. Also, memorial of the Legislature of the State of California, relative to the Medicare Catastrophic Coverage Act of 1988; jointly, to the Committee on Energy and Commerce and Ways and Means.

285. Also, memorial of the Legislature of the State of California, relative to refugees; jointly, to the Committees on the Judiciary and Foreign Affairs.

286. Also, memorial of the Legislature of the State of California, relative to oil tanker accidents; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

287. Also, memorial of the Legislature of the State of California, relative to the Jackson-Vanik amendment; jointly, to the Committees on Ways and Means and Foreign Affairs.

288. Also, memorial of the Legislature of the State of California, relative to the Federal Americans with Disabilities Act; jointly, to the Committees on Education and Labor, Energy and Commerce, the Judiciary, and Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 525: Mr. GILMAN and Mr. SMITH of Iowa.

H.R. 1365: Mr. BLILEY.

H.R. 1867: Mr. YATRON.

H.R. 3296: Mr. BENNETT and Ms. SLAUGHTER of New York.

H.J. Res. 241: Mr. SPRATT, Mr. MACHTLEY, Mr. HUGHES, Mrs. BENTLEY, Mr. CHANDLER, Mr. LEWIS of California, Mr. LANTOS, Mr. LAGOMARSINO, Mr. VENTO, Mr. AKAKA, Mr. INHOFE, Mr. REGULA, Mr. WEISS, Mr. GEJDENSON, Mr. NEAL of Massachusetts, Mr. BOSCO, Mr. CHAPMAN, Mr. SMITH of New Hampshire, Mr. HOYER, Mr. THOMAS of Georgia, Mr. MARTINEZ, Mr. VISCLOSKY, Mr. MOODY, Mr. FUSTER, Mr. DE LUGO, Mr. MOAKLEY, Mrs. BOXER, Mr. DURBIN, and Mr. MATSUI.

H. Con. Res. 123: Mrs. VUCANOVICH, Mr. ROHRABACHER, Mr. CONTE, and Mr. SKELTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of Oct. 5, 1989]

H.R. 2505: Mr. STANGELAND.

SENATE—*Friday, October 6, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O the depth of the riches both of the wisdom and knowledge of God! How unsearchable are his judgements, and his ways past finding out! For who hath known the mind of the Lord? Or who hath been his counsellor? Or who hath first given to him, and it shall be recompensed unto him again? For of him, and through him, and to him, are all things: to whom be glory for ever. Amen.

Sovereign Lord who made everything out of nothing, from whom and for whom are all things, manifest Thy presence in this place today. May special blessing rest upon Senators and staff who have worked so hard. Thank Thee for the special reality that is the United States. "Out of Many One." "E Pluribus Unum."

We thank Thee for our diversity and our unity, for diversity which prevents unity from becoming uniformity, for unity which prevents diversity from becoming anarchy. Save us, Lord, from both extremes. And as the Senate, which models the unity of America, functions today, grant that whatever prevents this reality be removed, that Thy will be done on Earth as it is in Heaven.

For the glory of God and the sake of the Nation. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders, there will be a period for morning business until 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10:30, the Senate will begin consideration of S. 1726, the catastrophic insurance reform bill, under the provisions of the unanimous-consent agreement granted last evening. I will not restate the agreement. It is lengthy and can be found on page 2 of the Senate Legislative Calendar.

There will be rollcall votes relative to the catastrophic bill throughout the day. We will continue in session until action on that legislation is completed today. Then as soon as possible thereafter we will take up the reconciliation bill.

Mr. President, on Wednesday I announced the schedule for the remainder of this week and for next week. I stressed, and repeated several times during my remarks, and repeat now, so that there can be no misunderstanding, that we will remain in session this week until such time as we complete action on the reconciliation bill. That means today, Friday; tomorrow, Saturday; and the following day, Sunday, if necessary.

If we are unable to complete action on the reconciliation bill by the close of business on Sunday, then, Mr. President, the Senate will return to session next Tuesday to resume deliberations on the reconciliation bill and will remain on that bill until action is complete. We simply have no other alternative.

If we complete action on the reconciliation bill at any time prior to the close of business Sunday, then the Senate will not be in session on Monday or Tuesday, and will be in session on Wednesday with no rollcall votes. So I now have said that publicly several times, privately several dozen times, and I repeat it again, so that the Senators cannot possibly have any misunderstanding as to what the schedule will be.

We must complete action on the reconciliation bill as soon as possible. If we do so by the close of business Sunday, we will not be in session on Monday or Tuesday, and we will be in session, but without rollcall votes, on Wednesday.

If we fail to complete action on the reconciliation bill by the close of business Sunday, then we will not be in session Monday, but will return to session on Tuesday and continue until such time as we do complete action on the reconciliation bill.

I thank my colleagues for their cooperation and patience in this regard.

THE EXODUS OF EAST GERMAN CITIZENS

Mr. MITCHELL. Mr. President, we are deeply moved by the enormous efforts made by tens of thousands of East Germans who hope to begin a new life in the West. At great personal cost—in some cases, high risk—these individuals are acting upon the universal desire for economic and political freedom.

The recent exodus from East Germany represents the symbolic destruction of the wall dividing East and West. While governments can attempt to enforce physical and political barriers, the East German people have by their actions declared those barriers illegitimate and void.

It is their Government's reluctance to provide these freedoms that leads the East Germans to seek such freedoms elsewhere. Unlike some of its neighbors in Eastern Europe, the German Democratic Republic refuses to acknowledge the popular desire for economic and political reform. As a result, the country has become increasingly isolated and its people increasingly desperate.

The desperation of East German citizens is borne of a lack of hope for change within their own country.

Closing borders cannot solve this problem. The East German Government must recognize this fact.

The Government must finally accept that the most appropriate and effective way to stem the tide of emigration is to provide hope to the people of East Germany.

As the Governments of Poland and Hungary have realized, this requires a willingness to provide the liberties and freedoms that people throughout the world demand.

I hope that President Bush will speak out in support of this need for change in East Germany. I hope the President will give voice to the empathy all Americans have for the hopes and desires of the East German peoples.

The President has enormous power to speak for all Americans and represent our views within the international community. We cannot be silent. The East German Government should hear our urging that its people be given reason for hope, reason to believe that opportunity and liberty can soon be found in their own land.

I hope that when President Gorbachev visits East Germany this weekend, he will work to convince the au-

thorities there that closing borders and denying visas cannot contain aspirations for a better life.

I urge President Gorbachev to help the East German Government understand the need for concrete and meaningful steps that will offer hope to the people who now despair. Surely President Gorbachev understands this need based on his own experience. He should demonstrate that the principles he attempts to uphold in the Soviet Union hold good for the rest of Eastern Europe.

I also call upon the Soviet President to demonstrate tangibly that his support for the freedom of emigration is not limited to the Soviet Union alone. I urge him to work to influence his East German ally to make the freedom of emigration real for the people of East Germany, while simultaneously making the desire and need for emigration ultimately disappear.

Self-interest and justice demand that the German Democratic Republic address the underlying problem of which the exodus of its own people is but a symptom.

Mr. President, 35 years ago I was in West Berlin. I there served as a military intelligence officer at a refugee camp, which then received over 3,000 refugees a week from East Germany to Czechoslovakia and Poland. It was that exodus which led to the construction of the Berlin wall, a pathetic admission of failure by a government which had to erect barriers to contain its own citizens.

For nearly 35 years, that wall has stood as an insult to every concept of justice and freedom. We have come full circle, and we see that by their actions, the people of East Germany have symbolically torn down that wall. They have made clear that physical barriers cannot prevent people from seeking freedom.

People the world over want freedom and economic opportunity. We must give voice to their aspirations because it is here in the home of democracy, in the home of freedom and economic opportunity, to which people look for leadership.

I urge the President to speak out on this issue and I especially urge President Gorbachev, who says he wants reform, to make good on his word. I challenge the East German leadership to do what the Soviets claim they want to do in their society, what the Poles and Hungarians and others are doing, and call upon them to destroy that wall, tear down the barriers, give their people the freedom and economic opportunity that they want as do people the world over.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and also reserve the time of the distinguished Republican leader. I yield the floor.

The PRESIDENT pro tempore. Without objection the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. The Senate now will proceed with a period for transaction of morning business to extend not beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from South Carolina is recognized for not to exceed 5 minutes.

DAY 14 IN THE WAKE OF HURRICANE HUGO

Mr. HOLLINGS. Mr. President, I rise to speak on day 14, 2 weeks after Hurricane Hugo struck my State, yet still on day 14 we have 60,000 homeless, 150,000 without electricity, and thousands who still cannot reach their homes on various islands. I, myself, cannot drive to my home on Isle of Palms. Physically you cannot get there. The bridges are down.

On the other side of the coin, Mr. President, while the crisis continues, the generosity also continues, the tremendous outpouring of clothing, food, supplies, and cash donations from across America. We are profoundly grateful in South Carolina for this helping hand from our sister States.

We are now better able to quantify the scale and magnitude of Hugo. Yesterday, we, in the Senate, had a briefing by Continental Insurance, which estimates a total loss of at least $12 billion, $4 billion of which will be liabilities to the insurance companies. Continental says that Hurricane Hugo is the most destructive storm ever to hit the United States of America. I wondered about Camille. Continental says Hugo was three times more destructive than Camille.

Mr. President, I emphasize the enormity of Hugo because I am sad to report that the administration, specifically the infamous FEMA, has still not risen to the challenge of this unprecedented disaster. The stonewalling and foot dragging continue.

This is not the kind of urgent and generous crisis management that the Congress intended when we passed Public Law 100-707 last year. We passed that law in response to a maneuver by FEMA to cut back on the percentage of costs it absorbs when responding to a crisis. FEMA is supposed to lead in the management of a disaster. Instead, FEMA has proved to be itself a disaster.

I refer to the floor remarks of Congressman TOM RIDGE of Pennsylvania, on July 21, 1987, in the introduction of his bill, he said:

> What we say in this bill is that, from this point forward, the minimum, the floor of the Federal Government's involvement in providing public assistance based on eligible cost would be 75 percent. There is the discretion to take it to 100 percent depending on the severity of the disaster and the communities' wherewithal to pay, but that codifies something we think is essential.

Yesterday, I sent a letter to President Bush putting in writing what I have been urging for several days, that he exercise his full discretion and responsibility under this law by ordering 100 percent Federal reimbursement. Of course, the communities are helping themselves. They are not sitting around waiting for Uncle Sugar to come from Washington. But I will say unequivocally that they need and deserve 100 percent Federal reimbursement for qualifying costs.

The response locally has been dramatic and dynamic in every respect. People are banding together and helping each other. Law enforcement officers are working around the clock. St. Stephen, one community out of Charleston, had only two officers, and three police officers came in from outside the county to relieve them so they could get a night's sleep. We had police departments in Mt. Pleasant, Greenville, and across the State collecting money for their colleagues in the hardest hit counties.

Churches, temples, and civic groups all over America are responding. But, despite this outpouring of voluntary assistance, we see the negative consequences of the Federal Government's failure to declare that it will absorb 100 percent of qualified expenses under the law as intended by Congress. The result is scavanging and gouging and the escalating cost of doing things that should be accomplished with minimal cost and effort.

Specifically, we have been trying to get the military in to help clean up the debris. We could get electricity turned on for thousands, and we could clear access to more homes if we had more military expertise and manpower.

Mr. President, I ask unanimous consent to print in the RECORD the letter I addressed to the President, as well as the letter addressed by Governor Campbell to Mayor Riley, dated October 4.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 5, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: In order to ensure full Federal assistance in any Federal emergency or disaster, P.L. 100-707, enacted last year, provides that for repair, restoration and replacement of damaged facilities "the federal share of assistance * * * shall not be less than 75 percent." This affirmatively granted to the President the authority to

approve 100% reimbursement. In further provisions of the Act, 100% of associated expenses is provided. Specifically, under Title IV, Section 402, Major Disaster Assistance Programs, the language is as follows:

"In any major disaster, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local assistance efforts;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organization, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks and hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety; and

"(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance."

There is no question that the language with or without reimbursement grants the President discretion for the assumption by the Federal Government of 100% of the costs in the disaster areas of the U.S. Virgin Islands, Puerto Rico and South and North Carolina. Hurricane Hugo is the largest storm in the history of the United States. I am confident from your personal visit to South Carolina you will agree the magnitude of the disaster is beyond any local or state effort. Even at the Federal level on Day 13, ten designated disaster counties by you have yet to receive a FEMA facility. Otherwise, FEMA is demanding applications, assessments, surveys and bureaucracy. Cities, towns, counties and the state have already exhausted their financial resources.

Certainly this is a situation that calls for immediate relief to protect property, public health and safety and lessen the major impact of this catastrophe. We need manpower to help manage the volunteer contributions, to remove debris and expedite housing. The military has been yearning to join the relief effort but is prevented from doing so because at every turn there is a FEMA percentage wrangle rather than assistance. And this private contract approach is impossible—and costly. At this moment in Charleston County, South Carolina the estimation for debris removal in the unincorporated portion of the county is $9 million. Conservatively then for Charleston, North Charleston, Mount Pleasant, etc., Charleston alone would exceed $20 million for debris removal. With 24 disaster counties, the cost in South Carolina would easily exceed $200 million. Thirteen per cent of this to the State would be $26 million and 12% to the cities and towns would be $24 million. State and local governments would be spending $50 million just for debris removal—nothing constructive, not a hospital or a school repaired. But with military manpower and equipment, it can be done immediately and at one-half the cost. Already out-of-state scavengers are coming in with their exorbitant prices knowing local contractors are in no position to take the work.

The problem could be solved immediately with the exercise of your discretion to approve, as provided in the statute, all of these needs without reimbursement. Please help us. Please tell FEMA that the Federal government will assume 100% of the reimbursement of the cost for the Federal assistance to the public bodies.

Sincerely,

ERNEST F. HOLLINGS.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, October 4, 1989.

Hon. JOSEPH P. RILEY, Jr.,
Mayor of Charleston, Charleston, SC.

DEAR JOE: I am in receipt of your letter concerning debris removal in the City of Charleston. In that letter, you cite health and economic reasons for requesting additional assistance in clearing your streets.

As I am sure you are aware, the City of Charleston could have and still can contract directly for assistance in this endeavor. This can be done with a 75% federal, 13% state and 12% local participating match immediately. Further, through a federal grant from the Department of Labor, you may hire workers 100% paid by the federal government to assist your regular workers. I should point out that many cities and towns are availing themselves of both of these programs.

However, you also cite the lack of technical and contract administration capability of the City of Charleston to undertake the letting of contracts to clear the debris and call upon me to get the U.S. Army Corps of Engineers to perform the tasks for you.

Therefore, in order to expedite your request, I am asking FEMA to determine, as required by law, if you actually lack the technical and contract administration capability to meet the situation. Upon FEMA's determination that this is the case. I will immediately have either the State of South Carolina, through the Budget and Control Board, or the Army Corps of Engineers undertake to handle the contracts for you. The formula funding will be the same in any circumstance.

In the meantime, my office, through FEMA, authorized trucks and drivers from the Marines to assist you temporarily until contracts can be let.

Joe, I have asked FEMA to make this determination by 5:00 p.m. today, and will do all I can to assist you.

Sincerely,

CARROLL A. CAMPBELL, Jr.,
Governor.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. HOLLINGS. I ask unanimous consent for an additional 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, I quote an excerpt from the letter of Governor Campbell to the mayor:

However, you also cite the lack of technical and contract administration capability of the City of Charleston to undertake the letting of contracts to clear the debris and call upon me to get the U.S. Army Corps of Engineers to perform the tasks for you.

Therefore, in order to expedite your request, I am asking FEMA to determine, as required by law, if you actually lack the technical and contract administration capability to meet the situation. Upon FEMA's determination that this is the case. I will immediately have either the State of South Carolina, through the Budget and Control Board, or the Army Corps of Engineers undertake to handle the contracts for you. The formula funding will be the same in any circumstance.

That is plain and simple bureaucracy. It is a gratuitous churning out of more red tape.

The Governor cites, incidentally, 75 percent Federal funding, 13 percent, State, and 12 percent local. Yet there is no provision in the law for 13 percent State and 12 percent local funding. There is no such provision whatsoever.

The law calls for 100 percent Federal funding for this kind of disaster. So what we are seeing is FEMA's effort to chill and discourage and intimidate the local mayors. Those mayors have been working around the clock and have expended all their budget and then some. In fact they are now talking about increasing the gas tax in my State to raise revenues for Hugo. They are trying their best.

But instead of a decisive Federal response, with ample military manpower and a timely declaration that the Federal Government will assume 100 percent of qualified costs, we have stonewalling and stinginess.

As a consequence we are seeing a jackal's pack of scavengers and gougers descending on my State, demanding debris-removal contracts and so on at three and four times the legitimate price. The mayors tell me that contractors are knocking on the doors and boasting about how they made so much money on Camille, so much money down in Texas during another disaster, and so on. It is brazen exploitation of descent citizens who have been left in the lurch by FEMA and the Federal authorities.

You realize how different things might have been with a timely and assertive Federal response. You have Fort Bragg, ready to move, with ample equipment and trained manpower. You have the Corps of Engineers who, to my personal knowledge, have been at work for 2 weeks trying to help but cannot break through this bureaucracy. I lay this directly at the feet of FEMA.

That crowd put on a pusillanimous kind of news conference yesterday saying they were "third in line;" that they did not have a responsibility; that people did not understand the law. Nonsense. I have cited the law, and it is unambiguous. FEMA claims they brought the military in, yet right this minute they are blocking the military with this bureacratic obstacle course and by their failure to declare their intention to assume 100 percent of qualified costs.

Why wait for a political declaration a month from now, after there are all kinds of contracts signed, we have wasted another month and spent three times the amount of money?

This is day 14. Yet, unbelievably, there still are 10 South Carolina counties declared disasters by the President that do not have a local FEMA office. This is a pure and simple outrage.

I will list the 10 counties that have been abandoned by FEMA: Calhoun, Chester, Chesterfield, Hampton, Darlington, Dillon, Fairfield, Marion, Marlboro, and York.

Mr. President, we are getting the grand political runaround. The law is clear. Congress' intent is clear. I have asked politely for nearly a week. Where is the Federal declaration?

And St. Croix is even worse off than South Carolina. They tell me there is not a tree still standing in the Virgin Islands. And it is nearly as bad in Puerto Rico.

But instead of action we have a political flyover, a hit-and-run delivery, a Presidential photo opportunity, and then they leave and forget about South Carolina.

The President hit the ball with the declaration of a disaster, but he failed to round the bases. That is what we are begging for here today, that he follow through and galvanize FEMA.

I have had good help from the Small Business Administration. Susan Engeleiter just yesterday hired 100 experts, but she still is roadblocked in opening up offices because FEMA must authorize her. So she cannot have SBA disaster loans in those 10 counties until FEMA opens an office. Yet FEMA has the gall to hold a new conference saying they are third in line and people do not understand and FEMA's critics are too emotional.

I sit in the Senate until 3 o'clock in the morning and listen to my distinguished colleagues talk about refugees from Poland and East Germany, and so on, while we have refugees right here—honest, taxpaying Americans—who have been abandoned by their own Government, which refuses to heed the law passed right in this Congress.

And, of course, it's all too predictable that a month or two down the road we will have a belated, politically inspired declaration. But it will come too late.

I would point out that there is ample precedent for a 100-percent declaration. We did it often the Mount St. Helen's disaster, among others. So it is clear what the game is here. By flaunting the specter of 25 percent non-Federal liability, they hope to hold down the number of applications and put the mayors in total turmoil. This is a shame. Those mayors have work to do and no time for letting contracts and looking at bids. Everyone is busy rebuilding as fast as they can, and they are contending with the scavengers and gougers. The military is waiting. The commanders have told me they would welcome this, that it would be a good exercise for the Marines and the Army and the Corps of Engineers if they could get involved in South and North Carolina and do this work.

I think, Mr. President, the unnecessary waste here is best summarized by an article by Mike Royko that appeared in our Columbia State newspaper, where he said, "The people in Washington are better bailing out swindlers than basements."

He said, the trouble in Charleston is we "should have immediately incorporated Charleston and the surrounding area as a savings and loan association," and then we could have gotten $14 billion lickety-split.

Mr. President, I ask unanimous consent that Mr. Royko's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STORM OF FEDERAL INACTION FOLLOWS IN WAKE OF HURRICANE

(By Mike Royko)

CHICAGO.— The phone range at 1 a.m. The call was from a friend with whom we had dinner only a few hours earlier. His Southern drawl was tense.

"It's gettin' worse and I think you better haul butt, right now," he said. "They're going to order the island evacuated at 6 a.m. and the traffic's gonna be a mess."

A fast wake-up coffee, clothes stuffed into suitcases, a last look from the condo balcony at the Atlantic Ocean, and we were in the car on our way to and through Charleston, S.C.

It was an eerie sight on the highway. Normally, in the middle of the night, there would be only the distant taillights of a truck or two.

But now it was like pre-dawn rush hour on Chicago's expressways. And few drivers heeded the posted speed limit.

Mighty Hugo was coming and they were, as my friend put it, hauling butt. Some peeled off for motels and hotels or homes of relatives and friends. Most just kept going.

Six hours later we were safely having breakfast in the sand hills and tall pine region of North Carolina.

The rest of that day, I had second thoughts and regrets about ducking out of Charleston. I had never seen a hurricane and it would have been exciting, as well as something to write about.

Then at midnight Hugo roared in. Television showed the quiet island I had been on. It took the most severe hit. You probably saw scenes of the big boats that were tossed ashore. I had been staying a five-minute walk from the marina.

That ended my second thoughts and regrets, I still haven't seen a hurricane, and I don't intend to.

For me, it was just the inconvenience of juggling vacation plans. But for most of those who lived or worked on that island, it was a total wipeout. Homes gone. Jobs gone. The island is still there, but not much that was on it.

The pity is that it hit those islands and Charleston, a city of charm and friendly hospitality.

While I wish no one harm, it would have been better if Hugo had stayed at sea a bit longer and whammed into Washington, D.C.

Had it done so, the lumbering, bumbling bureaucracy known as the Federal Emergency Management Agency might have been a bit more nimble in doing its job.

This is the outfit that we pay to provide various forms of help to victims of disasters.

This is also the outfit that South Carolina's Sen. Ernest Hollings called a "bunch of bureaucratic jackasses."

And with good cause. Although Washington is only a few hundred miles from Charleston, it took the bureaucrats a week to find their way down there and open an office. It took them several more days to open a few more.

Charleston asked for portable power generators. The reason should have been obvious. Vast areas were without electricity. Any boob could see that by turning on their TV sets.

Generators? The bureaucrats thumbed through their handbooks. Ah-hah! One cannot just ask Washington for portable power generators and expect to get them. You need generators? You must first prepare and submit a written assessment of the need for the generators.

People were holding candles while wading knee deep in mud in their living rooms—if they still had living rooms—but the bureaucrats wanted a written assessment of the situation.

Those who needed federal loans to repair or rebuild homes or businesses found themselves wrapped like Christmas packages in red tape.

You need a loan because the rain is coming through your roof? Or half of your restaurant has been blown into the next county? Let us thumb through the handbook. Ah, it says that you should come back in a couple of weeks and fill out some forms. And then, if you are lucky, in several more weeks you might get the loan. Until then, well, you might put a pot over your head when the rain comes through the roof.

I keep thinking of the thin waitress who told me, "If this place goes, I'm out of work and I have about a week's pay to live on." What form does she fill out? Or the gas station guy, on the wrong side of the bridge that was blown down. He said, "If it hits here, I don't know what I'm going to do." It hit there. And now he knows what he's going to do. He's going to fill out forms and wait and wait.

Well, it's probably Charleston's own fault. When they saw that Hugo was heading their way, the state should have immediately incorporated Charleston and the surrounding area as a savings and loan association.

Then it should have called Washington and said: "We are what is laughingly called a thrift institution and we have just squandered all of our assets on wine, women and song. How about bailing us out?"

They'd have had help fast. The people in Washington are better at bailing out swindlers than basements.

Mr. HOLLINGS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDENT pro tempore. For how long would the Senator like to proceed?

Mr. THURMOND. About 8 minutes.

The PRESIDENT pro tempore. Without objection, the Senator from South Carolina [Mr. THURMOND] may proceed for 8 minutes as in morning business.

(The remarks of Mr. THURMOND pertaining to the introduction of Senate Joint Resolution 214 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the time for morning business be extended for 5 minutes so I may proceed on a morning business subject.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

TRANSANTARCTICA EXPEDITION

Mr. DURENBERGER. Mr. President, today is day 72 for the international Transantarctica team. The team has traveled 645 miles of their 4,000-mile journey and are camped near the foot of Mount Vang.

After 10 days of uninterrupted bad weather some of the younger, less experienced dogs began to weaken. The high winds and deep snow conditions took their toll on the dogs. They are not used to sleeping and running in such extreme conditions.

The team did not want to tire the dogs out so early on the trek so 15 dogs were airlifted out Saturday to their base camp in Puntas Arenas, Chile.

Although three replacement dogs were brought in by the supply plane, the team decided to go with only two sleds.

The third sled went back to Chile with the dogs. The dogs and sled are expected to return to action in late October when the weather will be less severe. After all, it will be spring in Antarctica.

Lately, it has been the snows that have slowed the expedition, not the temperature. Over the weekend the area got nearly 4 feet of snow. That is taller than the dogs. As a result, the team could not move, even thugh the weather was crystal clear. The temperature has been a relatively warm 10 degrees above zero.

Mr. President, I have already introduced the expedition leaders of Will Steger and Jean-Louis Etienne, and the Soviet member, Victor Boyarsky. I now want to introduce Geoff Somers, the British team member. Geoff is from Keswick, England, and was invited to join the expedition largely because of his dog-handling skills and his years in Antarctica—he spent one 34-month stretch working for the British Antarctica survey. A glutton for punishment, Geoff Somers enlisted for another 9 months, after his 34-month hitch was up.

He is 39 years of age, and Geoff is an experienced Outward Bound hand, having taught courses throughout Africa and British Columbia. Born in the Sudan, he has traveled extensively around the world and endured many extremes, from being in Borneo without any water to 2 days inside an airplane cockpit in Antarctica. Yet, when asked about the challenge of dog sledding 4,000 miles across Antarctica, Geoff responded that the dog sledding was the easy part, it's the planning and logistics that was difficult.

Mr. President, as I have already indicated, the team takes very good care of their 42 dogs. Thirty-six are pulling sleds—12 to a sled. The six extra dogs are kept at the base camp. Most of the dogs are Will Steger's, but eight are from the highly respected Krabloonik in Colorado, and five are from Greenland. The Greenland huskies are direct descendants of the dogs used in Antarctica by U.S. Adm. Richard E. Byrd, who in 1929 was the first man to fly over the South Pole.

Will has been breeding and training dogs for almost 15 years at his remote wilderness cabin in northern Minnesota. His dogs are not beautiful, many have tattered ears, battered faces, and lopsided features—signs of character and experience, he calls them. The Steger dogs are called polar huskies and have the spirit of a racer, strength of a sled hauler, and loyalty of a pet.

As any dog owner knows, dogs have individual personalities. The huskies on the trip are no different. The Greenland huskies are very feisty and fight a lot. Steger compares them to rugby players. By comparison, the Colorado dogs are shy, particularly when confronted by the more aggressive dogs. They require a lot of encouragement and attention. Steger's team is a reflection of his own personality—relentless, stubborn, playful, and volatile. Their frustrations can flair into unexpected fights, and their pulling style can appear chaotic. But they never stop.

Leading Will's team is Tim, a fierce-looking black dog who is two-thirds wolf. Nearly all of the Steger dogs have wolf in their blood. Sharing the lead with Tim, is Sam. Steger adopted Sam on a training run before his 1986 North Pole trip. Sam followed Steger's team for 3 days into the Arctic until he let himself get caught and harnessed. Also on Steger's team are North Pole veterans Choochi, Hank, and Yeager—brothers and cousins who tumble together with affection 1 minute and erupt into vicious fights the next.

To prepare for the Antarctic trip, the dogs spent 3 years hauling cement, rock, sand, and other supplies at Steger's Minnesota home. Last year, they hauled 500 latrines into the Boundary Water Canoe Area Wilderness campsites in midwinter.

While in the Antarctic the dogs receive a special high-fat diet designed by Hill's Pet Products for the expedition. Called Science Diet Endurance, the 2-pound blocks of concentrated food contain 5,700 calories—three times as much a similar 90-pound house pet requires. The dogs are fed once a day at night. They will pounce on the block, eating half of it immediately. The rest will be nibbled throughout the night. For water they lick ice. At night, the dogs sleep out in the open, relying on their fur to keep warm. In addition, they will burrow into the snow for insulation. Often the team will have to use shovels to dig them out.

Mr. President, I will conclude by saying that the members of the team consider the dogs the trip's most important resource. They are so important that several weeks ago when they could not find the cache of food under the blowing snow, the team gave the dogs their own food supplies, while they, the team, went hungry.

VISIT TO THE SENATE BY THE PRESIDENT OF THE UNITED STATES

Mr. MITCHELL. Mr. President, we are pleased to welcome a former President in this Chamber who has now moved on to other things. We welcome the President as always. We are graced by his presence.

Mr. President, we are very happy to have you here and I know all Members join in welcoming you.

[Applause.]

The PRESIDENT pro tempore. The Senate will be in order.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. DURENBERGER. Mr. President, I ask unanimous consent that Mr. George Greenberg, who is a member of my staff on detail from the Department of Health and Human Services, be given the privilege of the

floor during the course of business today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes and I be permitted to speak.

The PRESIDENT pro tempore. Without objection, it is so ordered. Morning business will be extended 5 minutes. The Senator from Delaware [Mr. ROTH] will be recognized not to exceed 5 minutes, and the Senate will be in order.

BUDGET WAIVER

Mr. ROTH. Mr. President, we will soon be considering the catastrophic insurance program, and at that time there will be made a motion to waive the Budget Act. Since I have to attend a meeting on reconciliation in the Finance Committee, I will make my statement on that waiver at this time.

Mr. President, we must focus on the long-range view, not the short-term view. I submit that we must look at the program's costs 5 or 10 years from now, not just next month and next year. It is clear that costs under this program will continue to rise, as we have seen with skilled nursing, and it is my belief that 5, 10 years from now this program is going to have substantial financing difficulties. We must rethink our approach. We must give the Senate the opportunity to work its will on these amendments, and that requires that we waive the Budget Act.

The catastrophic health insurance law established a self-financing mechanism to pay for the new benefits, not to provide for deficit reduction. Any benefit derived by the surplus finances should not drive our budget considerations—that is pure budget gamesmanship. We are treating these surpluses as if they were general funds, and they are not.

Indeed, it is not clear that revenues will exceed outlays in the next fiscal year under this program. We have considered such a wide range of estimates, and I do not think anyone can say with confidence what the program's costs will be next year. What we can say with confidence, however, is that repealing this program will reduce the budget deficit over the long run. And, Mr. President, let me be clear, there is one amendment which will truly repeal the catastrophic program, that is the amendment passed overwhelmingly by the other body, and that is the amendment Senator DANFORTH and I will propose today.

We are asked to make decisions about changes on soft data and bad estimates. We are constantly getting new estimates that are always going higher. To emphasize this point, let me take just a moment to recap what has happened to date with budget estimates and catastrophic.

When the original bill passed, the program was promoted as self-financing. Then last spring, we learned the program was over funded and a surplus would result. At that time, some consideration was given to reducing the surtax by one-half. Now, CBO projects a shortfall of $200 million for 1989 alone. In fact, We were told by the Congressional Budget Office that the program was going to cost $30 billion. We are now told 1 year later it is going to cost $48 billion. We were told the skilled nursing or SNIFF, benefit was going to cost $400 million in 1989; now we are told it will cost $4.4 billion for 1990 alone.

Mr. President, I support the budget waiver. We need to let the Senate work its will—to consider the long-term implications of the decisions we hope to make today.

I yield back the floor. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. A point of order is made that a quorum is not present. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL HOSTAGE AWARENESS DAY

Mr. DOLE. Mr. President, last evening, the Senate passed House Joint Resolution 400—a joint resolution marking October 27, 1989, as "National Hostage Awareness Day."

I want to commend the original sponsor of that legislation in the House, Congressman PAUL HENRY of Michigan, for this initiative.

This day will be a very worthwhile reminder of a major piece of unfinished business on the national agenda—the fate of the eight Americans still held hostage in Lebanon. It also serves to honor two other Americans—American Embassy Officer William Buckley and Marine Lt. Col. William Higgins—who were taken hostage while on official duty, and were subsequently murdered by their captors.

As I indicated in a "Dear Colleague" sent out earlier this week, my original intent had been to introduce an identical resolution in the Senate. But the opportunity to act on this matter immediately presented itself last evening, when we received the House version of the legislation—so we did pass it.

I want to note for the RECORD those Senators who had indicated their intention to cosponsor my joint resolution: Senators REID, D'AMATO, CONRAD, MOYNIHAN, GRASSLEY, BRADLEY, ROTH, SYMMS, PELL, and MURKOWSKI.

I know all of them join me in expressing satisfaction that the joint resolution has passed, and that the Nation will have the opportunity to mark "National Hostage Awareness Day" on October 27.

CITY YEAR

Mr. KENNEDY. Mr. President, President Kennedy's call for all Americans to serve their country lives on through the work of citizens everywhere who volunteer their time, their ideas, and their energy to improve the life of the community. In Boston, Alan Khazei and Mike Brown are keeping that spirit alive through a program called City Year. City Year brings together Boston-area youth of diverse backgrounds who share a common commitment to meeting the greatest needs of the community. Boston has already benefited from over 13,000 hours of service through a summer pilot program. Now City Year is embarking on a full-year program with 60 young participants. A model for our National and Community Service Act of 1989, S. 1430, City Year has gained the attention of policymakers and the appreciation of the citizens of Boston. I commend Alan Khazei and Mike Brown for their vision and dedication to an ideal whose time has come again.

I ask unanimous consent that the following article from Harvard magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LENDING A HAND

Thomas Jefferson had one misgiving about the proposed Constitution of the United States. It established, said Jefferson, a nation inhabited by citizens where no one could truly act as a citizen. For democracy to become a reality, Jefferson felt, access for direct involvement must be the top priority. Today, as the Constitution enters its third century, the Jeffersonian notion of civic involvement is blossoming within the greater Boston area through the efforts of Alan Khazei '83, J.D. '87, and Michael H. Brown '83, J.D. '88, co-leaders of City Year.

Khazei and Brown developed their "urban Peace Corps" to expand the concepts of citizenship and public service. Designed as a "bridge year between youth and adult-

hood," City Year enables 17- to 22-year-olds to contribute their perspectives and energies to public service projects. The six-week pilot program in the summer of 1988 grabbed local media attention and demonstrated that young people could make a difference in their communities—over 13,000 hours throughout twelve communities—to such projects as the Special Olympics, the Neighborhood of Affordable Housing, and the renovation of shelters for the homeless.

Since the summer program, Khazei and Brown have been preparing City Year for its first full-year stint by raising funds and promoting the program. This fall, sixty "Corps members" will serve as "service resources" for projects judged by government agencies and City Year to be in greatest need. Funding comes through the private sector. That is the potential way, say Khazei and Brown, to get everyone—not just the government—involved. "People have a common interest in making the world a better place," notes Brown. "Nine out of ten asked were willing to help."

Willing to help indeed were 150 members of the Class of '84, who worked on eleven different team projects for a half-day during reunion week. Chosen because much could be accomplished in little time, the projects ranged from sorting 18,000 pounds of food in Roxbury to sprucing up a community garden in Dorchester. This "Class Act" was organized by Christopher Rich '84 and Jonathan Wiener '84 J.D. '87, both active promoters of City Year.

The initial motivation for City Year emerged while Khazei and Brown served as congressional interns. They realized that nearly everyone within the government supported the notion of public service, but few knew how to create effective programs—so they began developing one of their own. They entered law school to get the training to enact their "entrepreneurial public service" ideas.

"City Year has learned from other public service programs, such as New York's City Volunteer Corps," asserts Khazei, "Our mission is to provide another model program." If City Year succeeds, and others in turn learn from it, perhaps the Jeffersonian dream of a civic-minded society will someday be realized.—K.E.J.

TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise to bring to my colleagues' attention the fact that today is the 1,665th day that Terry Anderson has been held in captivity in Beirut.

UNIVERSITY RESEARCH FACILITIES

Mr. HEFLIN. Mr. President, I rise in support of the practice of making direct congressional appropriations for university research facilities projects.

In my judgment, those who oppose such projects have made, and continue to make, significant errors of fact. For example, they talk about "pork barrel science." I think they are mistaken when they use that term. Directly funded research facilities projects help to broaden the knowledge base that is essential to the Nation's future political and economic security. They are not pork. Funds for scientific research facilities are not pork. Funds for education are not pork. Funds for advanced genetic research are not pork.

As I see it, those who oppose such projects on the grounds that they have not been subjected to peer review, or "merit review," as some like to call it, are missing the fundamental distinction between funding for individual research projects and funding for research facilities. I believe that peer review is appropriate for decisions about the funding of individual research projects. Those are highly technical decisions, and they should be made by panels of scientific experts, people with strong technical backgrounds. Decisions about the location of research facilities are another matter entirely. These decisions require a whole range of social, economic, environmental, and political judgments, and in all humility I believe that we in the U.S. Senate are more qualified to make those judgments than panels of scientific experts. Isn't that why our constituents elected us to office—to make those kind of judgments? We should not be turning them over to panels of experts, no matter how distinguished those experts might be.

One thing we can use in any debate on directly funded projects is accurate information on the existence of a peer review process in the Federal science agencies through which universities can compete for funds for research facilities. The opponents of the projects assume that such a process is fully operational and has somehow been circumvented. But that assumption is wrong. No such process is in existence at the present time, and until one is, there is nothing to circumvent.

Opponents of directly funded projects make another charge. They tell us that if Congress funds such projects we are heading down the road toward mediocrity in research. I reject that charge. I believe, on the contrary, that such projects will improve the quality of scientific research in this country. The facilities and the equipment brought into being by such projects will enable the institutions receiving them to compete more effectively for Federal research support in the future. That increased competition is not a bad thing; it's a good thing—for our scientific research effort, and for the Nation as a whole.

Mr. President, when university research facilities projects emerge from an appropriations subcommittee, they have already been carefully considered, and have been found to be worthwhile. To me, that means that such projects have in fact been subjected to a rigorous form of merit review, and have passed the test. In these circumstances, I am not about to second-guess the appropriations subcommittees, and neither should the Senate. Let me repeat: A vote for such projects is not a vote for pork or for mediocrity; it is a vote for science and for research and for education; it is a vote for a broadened and expanded and more diverse scientific research infrastructure in this country; it is a vote in the national interest.

TRIBUTE TO CHARLES MARION COOPER

Mr. BOREN. Mr. President, on Tuesday of this week, those of us in the Oklahoma congressional delegation lost a valued friend and colleague—Charles Marion Cooper. For the last 6 years of his life, Charley Cooper faithfully served as a member of Representative WES WATKINS' staff. As Representative WATKINS said in his floor tribute to Charley, however, "He was more than a staffer, he was a trusted personal friend."

Words somehow seem inadequate to describe the contributions that Charley made to his State and Nation during his 63 years. He was a kind man, and had an unassuming, easy-going manner that quickly won over all those he met. Charley's good humor and commonsense approach to life were a source of inspiration and encouragement to us all.

We will all miss our friend, Charley Cooper. Our heartfelt prayers and sympathy go out to his wife, Allene. Together, they worked tirelessly on behalf of rural America. The contributions they have made will remain as a living legacy to Charley—a testimony to the good one person can accomplish during the time we each have allotted us on this Earth.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

CATASTROPHIC INSURANCE REFORM

The PRESIDENT pro tempore. The Senate will now proceed to the consideration of S. 1726, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1726) to repeal medicare catastrophic coverage provisions effective in years after 1989 and the supplemental medicare premium, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. Under the order, the Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. MCCAIN. Mr. President, under provisions of the previous agreement, I send a modification to the desk at this time and ask for its immediate consideration.

The PRESIDENT pro tempore. The modification will be received.

The modification is as follows:

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS EFFECTIVE IN YEARS AFTER 1989 AND SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL REPEAL.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 201.

(B) Subsections (i), (j), and (k) of section 202.

(C) Section 211(c)(3).

(D) Section 212 (other than subsection (b)(2)).

(E) Section 213.

(2) EFFECTIVE DATE.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) GENERAL DELAY.—

(1) Section 1834(d)(2) of the Social Security Act, as added by section 203(c)(1)(F) of the Medicare Catastrophic Coverage Act, is amended by striking "1990" and inserting "1991".

(2) Section 203(c)(2) of the Medicare Catastrophic Coverage Act is amended by striking "1991" and inserting "1992".

(3) Section 1835(a)(2)(G) of the Social Security Act, as inserted by section 203(d)(1)(C) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(4) Section 1154(a)(16) of the Social Security Act, as amended by section 203(d)(2) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(5) Section 203(g) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(6) Section 1834(e) of the Social Security Act, as added by section 204(b)(2) of the Medicare Catastrophic Coverage Act, is amended—

(A) in paragraph (2)(B)(ii), by striking "1992" and inserting "1993",

(B) in paragraph (4)(A)(i), by striking "1990" and inserting "1991",

(C) in paragraph (4)(B), by striking "1991" and inserting "1992", and

(D) in paragraph (5), by striking "1990" and "1991" each place each appears and inserting "1991" and "1992", respectively.

(7) Section 204(3) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(c) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—

(1) GENERAL REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On November 1, 1989, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the general fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—The repeal and amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(d) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary shall provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection,

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this part, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) of such Act (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate within 30 days after discharge from a hospital;

and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 of such Act (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) of such Act (42 U.S.C. 1395x(y)) is amended

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d) of such Act (42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d)(1) and (f) of section 1883 of such Act (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(3) COINSURANCE MODIFIED.—

(A) AMOUNT.—Paragraph (3) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such

services after such services have been furnished to him for 20 days.

(4) USE OF EXCESS PREMIUM REVENUES.—Nothwithstanding any other provision of law, the Secretary of Health and Human Services shall use any excess revenues resulting from the amendments made by this section to—

(A) first, reimburse the Federal Hospital Insurance Trust Fund for any costs resulting from the provision of extended care services to individuals admitted before November 1, 1989, and

(B) second, to further reduce premiums imposed under section 1839 of the Social Security Act.

(5) STUDY.—The Secretary of Health and Human Services, or the Secretary's delegate, shall study the reasons for the unexpected increase in cost estimates of the extended care services benefit under title XVIII of the Social Security Act. The Secretary shall report to the Congress no later than February 1, 1990 the results of the study, including any recommendations for further modifications to such benefit appropriate during the consideration of the provision of long-term care benefits.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after October 31, 1989, and shall apply to care and services furnished on or after such date.

(e) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act (42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(f) ADJUSTMENT IN MEDICARE PART B PREMIUM.—

(1) IN GENERAL.—Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1) by striking all after "(a)(1)" and inserting the following: "(A) The Secretary shall, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amount—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable (as determined by the Secretary) to the portion of such monthly premiums that is determined under paragraph (3)(A).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.",

(B) in paragraph (2) by striking "1983" and inserting "1989",

(C) in paragraph (3)—

(i) by striking "1983" in the first sentence and inserting "1989",

(ii) by striking the second sentence and inserting the following: "The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined under paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined under paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(iii) by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" in the third sentence and inserting "amounts of adequate actuarial rates for enrollees as provided in paragraphs (1) and (4)", and

(D) by striking paragraph (4) and inserting the following:

"(4)(A) The Secretary shall also, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be for the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable to the portion of such monthly premiums that is determined under paragraph (3)(A) (as determined by the Secretary).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(i) by striking "the Medicare Catastrophic Coverage Account) in the last sentence of subsections (a)(1) and (a)(4) and inserting "the amendments made by the Medicare Catastrophic Coverage Act of 1988",

(ii) by striking "(b), (e), and (g)" in subsection (a)(2) and inserting "(b) and (e)",

(iii) by striking "subsections (f) and (g)(6)" in subsection (b) and inserting "subsection (f)",

(iv) by striking "monthly premium" in subsection (e)(1) and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)",

(v) by inserting "basic" in subsection (e)(1) after "actuarial", and

(vi) by striking subsection (g).

(B) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the monthly actuarial catastrophic illness rate established under subsections (a)(1)(C)(i)(II) and (a)(4)(C)(i)(II) of section 1839 shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(C) Subsection (a) of section 1844 of such Act (42 U.S.C. 1395w) is amended by striking the last sentence.

(D) Subsections (a)(1)(A)(i) and (a)(1)(B)(i) of section 1844 of such Act (42 U.S.C. 1395w) are each amended by striking "twice the dollar amount of the actuarially adequate rate" and inserting "the sum of the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(E) Section 1876(a)(5) of such Act (42 U.S.C. 1395mm(a)(5)) is amended—

(i) in the matter preceding subparagraph (A), by striking "200 percent of", and

(ii) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) of this subsection shall apply to monthly premiums for months beginning after October 1989.

(B) The amendments made by paragraph (2) of this subsection shall take effect on or after November 1, 1989.

(g) REVISION OF MEDIGAP REGULATIONS.—(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), and (m);

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m)"; and

(C) by adding at the end the following new subsections:

"(m) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(1) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in paragraph (2), and

"(2) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) SENSE OF CONGRESS.—It is the sense of Congress that States should respond, at the earliest practicable date after the date of enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(3) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(4) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act of 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this section.

(5) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of Medicare Catastrophic Coverage Act of 1988 is amended by striking "subsection (f)" and inserting "subsection (e)".

(6) EFFECTIVE DATE.—The provisions of this subsection shall take effect January 1, 1990, except that the amendment made by paragraph (5) shall be effective as if included in the enactment of Medicare Catastrophic Coverage Act of 1988.

(h) SPELL OF ILLNESS REINSTATED FOR SNFF.—

(1) IN GENERAL.—Section 1813 of the Social Security Act is amended by striking "in any calendar year" and "during the year" in subsection (a)(3)(A) and inserting "during any spell of illness".

(2) CONFORMING AMENDMENTS.—

(A) Section 1832(b) of such Act is amended by inserting " 'spell of illness'," after "For definitions of".

(B) Section 1861 of such Act is amended by inserting before subsection (b) the following new section:

"(a) The term 'spell of illness' with respect to any individual means a period of consecutive days—

"(1) beginning with the first day (not included in a previous spell of illness (A) on which such individual is furnished extended care services, and (B) which occurs in a month for which he is entitled to benefits under part A, and

"(2) ending with the close of the first period of 60 consecutive days thereafter on which he is not an inpatient of a skilled nursing facility.".

(i) ADJUSTMENT TO AVERAGE PER CAPITA COSTS.—The Secretary of Health and Human Services shall adjust the per capita rate payment announced on September 7, 1989, pursuant to section 1876(a)(1)(A) of the Social Security Act (42 U.S.C. 1395mm(a)(1)(C)) to delete payment for catastrophic benefits modified by this bill. These adjusted rates shall be announced in a manner intended to provide notice to interested parties as soon as possible prior to the beginning of the calendar year.

(j) ADJUSTMENT TO THE ADJUSTED COMMUNITY RATE.—Organizations with a contract under section 1876(g) of the Social Security Act shall revise their proposed adjusted community rates submitted pursuant to section 1876(e)(3) of such Act to reflect the payment adjustments in subsection (i) as soon as possible prior to the beginning of the calendar year.

The PRESIDENT pro tempore. Under the order, a point of order is now to be made.

Mr. McCAIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. McCAIN. It is my understanding that the unanimous-consent agreement allowed for 1 hour debate on the bill to be equally divided at any time. I request to be allowed 6 or 7 minutes of my 30 minutes at this time to discuss the bill before the point of order is made.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The Senator is recognized for 8 minutes.

Mr. McCAIN. I thank the Chair.

Today at this session I think those who have followed the work of Congress for years would recognize that this is a moment of some import in that clearly this body will act to either dramatically restructure or repeal a benefit which was passed into law just a year ago.

On only two occasions that I know of, on rather obscure bills that entailed benefits or entitlements, has the Congress acted to either repeal or dramatically modify. We all know of the action of the House of Representatives a couple of days ago. Mr. President, I think what we are doing today, which will result in a dramatic restructuring or a fundamental change in the catastrophic illness insurance program, should be viewed and debated with great care and consideration, because as we fix a problem that we created, I think it is of utmost importance that we not create another problem which a year from now we may have to come back and repair.

Mr. President, my modification basically contains the following provisions which I will briefly run through and we will be debating and discussing at length later on.

The benefits that are retained are the core catastrophic benefits; long-term hospitalization protection, spousal impoverishment protection, Medicaid buy-in, and the pregnant mothers and infants program. It retains other benefits such as the blood deductible, home health, respite, mammography screening, a 1-year delay in implementation—the so-called Mitchell drugs, which is 1-year delay in implementation, and hospice. It repeals skilled nursing facility benefits, which would return to its form prior to the passage of the Medicare Catastrophic Coverage Act of 1988, and for those stays after November 1. For those stays prior to November 1, they would receive the benefit under the terms of the Medicare Catastrophic Coverage Act of 1988. The terms of the prior law were 3-day prior hospitalization, beneficiary copayment from day 21 until the end of coverage, and a 100-day limit on coverage.

This legislation instructs the Secretary of Health and Human Services to study what led to the problem with the skilled nursing benefit costs and report to Congress by March 1, 1990, its findings as well as any recommendations for future changes of this benefit.

This legislation also repeals the outpatient drug prescription program beyond the so-called Mitchell drugs and the part B out of pocket. It re-

tains the existing flat part B premium and it repeals the surtax.

Mr. President, it repeals the surtax. The surtax is the object of the anger and ire of seniors in America. I believe they deserve catastrophic illness coverage, they deserve protection against spousal impoverishment and they deserve other programs that we could provide them with the $4.90 that they are presently paying in Medicare part B.

Mr. President, this is not underfunded. I repeat, this is not underfunded and we have CBO numbers which I would be glad to provide to any Member of this body that indicate that is the case.

Also, the administration's position on this bill will be as follows. This is in a letter that I received from Mr. Dick Darman yesterday, and it says that the administration has no, repeat no, position on this issue. I will quote:

Nothing in this letter should be construed as an expression for or opposition to one catastrophic illness substantive amendment as opposed to another. Indeed, the administration is not taking an official position in favor of any one of the competing catastrophic illness health insurance substantive amendments as opposed to the others.

He also states that because of several technical changes that have taken place as of October 1, the administration will not advise that that will trigger sequester.

Mr. President, there is one major difference between what I have presented at the desk and every other amendment that will be before this body today, one major crucial difference, and that is this legislation is supported by every single seniors organization in America with the exception of one, and that is the AARP, which we all know is involved in the prescription drug business, which has clearly a vested interest in this legislation. I repeat, this modification is supported by every senior citizens organization in America, and, Mr. President, I strongly urge my colleagues not to repeal this legislation. Let us save some benefits for seniors that they can pay for with their $4.90 that they are presently paying.

For goodness sake, let us retain the surtax because if we retain the surtax with the dramatic growth in the escalation of the cost in the programs they will be right back in the same box we placed them in just a short time ago.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. McCAIN. I am glad to yield to my good friend from New Mexico.

Mr. DOMENICI. When the Senator said his proposal was not underfunded, I assume what he means is the law is on the books that he intends to modify substantially here and repeal portions of that. According to CBO, with all the taxes including the surtax, it is $600 million short in 1991, it is $3.5 billion short in 1992, and $3.9 billion short in 1993.

Frankly, the Senator from New Mexico thinks those are low but when the Senator from Arizona says his is not underfunded, he is saying in these years and future years his bill is crafted where the same people that estimate this deficiency, this deficit, these red lines go away and his program pays for itself.

Is that essentially what is "being funded" means?

Mr. McCAIN. The Senator from New Mexico is correct.

By the way, those are numbers which should be viewed by everyone as to the dramatic cost escalations.

I say to my friend from New Mexico that under my proposal the difference between revenues and costs for the year 1991 would be a surplus of $927 million, for 1992 it would be $1.5 billion, and for 1993 it would be $1.8 billion as opposed to that the Senator from New Mexico is reading there.

Mr. DOMENICI. Mr. President, I thank my friend from Arizona.

Mr. McCAIN. Mr. President, I will reserve the remainder of my time.

But let me say briefly that I hope my colleagues will pay close attention to the votes today, and the amendments because we cannot make the same mistakes we made a year ago. We owe it to the seniors of this country to address this.

I am very pleased that we have the opportunity to view a wide variety of options in order that we might give full ventilation to all points of view.

I reserve the remainder of my time.

Mr. CONRAD. Mr. President, will the Senator yield for a question?

Mr. McCAIN. Yes. I yield to my friend from North Dakota.

Mr. CONRAD. I thank the Senator.

I read in the paper this morning that Mr. Sullivan, the Health and Human Services Secretary, had endorsed the proposal by Senator DURENBERGER.

I just raise that question so we can get a clarification.

I heard the Senator from Arizona indicate that the administration, through a letter from OMB Chief Richard Darman, had indicated that the administration had not taken that position. But in this morning's Washington Post it indicates that Sullivan endorsed a proposal by Senator DURENBERGER to save most of the major benefits. To quote, in a letter to Senator BENTSEN, Sullivan said:

I believe the House action yesterday will be regretted. * * * It is critical that we preserve a catastrophic program that offers financial protection to the millions of Americans who do not have this protection. I am ware that Senator DURENBERGER has a compromise that incorporates our mutual priorities.

Mr. McCAIN. Mr. President, I am glad to respond to my friend from North Dakota, who has been heavily involved in this issue. I am deeply appreciative of all of his involvement, and concern in this area.

The letter from Darman was in direct response to what Sullivan did. He told me on the phone that Sullivan was speaking for himself, and he sent me this letter within an hour that said indeed the administration—not Mr. Darman—the administration is not making an official position in favor of any one of the competing CHI substantive amendments as opposed to the others.

Mr. President, I ask unanimous consent that this letter be made a part of the RECORD.

There being no objective, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 5, 1989.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN. We understand that you intend to offer an amendment to legislation pending in the Senate that would modify the Catastrophic Health Insurance (CHI) program.

You have provided us a copy of your amendment (description attached) and asked whether or not adoption of your amendment would yield a revised G-R-H deficit estimate that would require sequester. As we approach the crucial October 15 deadline, there are several new elements in the calculus that I would call to your attention. The DOD paydate shift, which had been a subject of dispute, has now been overtaken by events. It has already taken place. In addition, the House includes Medicare scoring language, which we did not support but which is now moving forward in the reconciliation bill. If enacted, this language would direct us to score certain shifts in Medicare payments between fiscal years that we would otherwise be prohibited from scoring. And if the emerging reconciliation bill, including the language dealing with the scoring of Medicare payment shifts, is enacted, our current estimate of the G-R-H baseline deficit would be reduced by approximately $12 billion. This would then yield a revised G-R-H deficit estimate that could accommodate your amendment without triggering sequester.

Let me be clear: This CHI amendment would unquestionably have a serious adverse effect on the actual fiscal year 1990 deficit. But in view of the scoring issues I've noted, it is now the case that your CHI amendment would not trigger a sequester if reconciliation, including the Medicare payment shift language, continues on its present course, and is passed by the Congress and signed by the President before October 16th.

I write this letter in response to your inquiry on this matter. Nothing in this letter should be construed as an expression of support for or opposition to one CHI substantive amendment as opposed to another. Indeed, the Administration is not taking an official position in favor of any one of the competing CHI substantive amendments as opposed to the others. The purpose of this letter is to report on the relationship of scoring issues to a possible sequester—as currently estimated—and to clarify that we

are not officially choosing among the competing CHI substantive amendments.

With best regards,

RICHARD G. DARMAN.

Mr. McCAIN. Mr. President, I reserve my time.

Mr. CONRAD. I thank the Senator from Arizona.

Mr. DURENBERGER. Mr. President, will the Senator from Arizona yield for a question?

Mr. McCAIN. I would like to do that later. I am running out of my 30 minutes. I will be glad to do it under the point of order that is going to be raised to waive the Budget Act. We can discuss it at that time.

Mr. President, I reserve the remainder of my time.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, in accordance with the consent agreement on this bill, I make a point of order that the bill violates section 311(a) of the Budget Act.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. Under the order, either Mr. DOMENICI or Mr. McCAIN will be recognized to move to waive.

Mr. DOMENICI. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive titles III and IV for purposes of consideration of the pending bill and all amendments under the unanimous-consent agreement of October 5, 1989.

The PRESIDENT pro tempore. The question is on agreeing to the motion to waive the Budget Act. There is 1 hour.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry: under the order how much time is allotted for the consideration of the motion to waive?

The PRESIDENT pro tempore. 1 hour.

Mr. DOMENICI. Under whose control is the 1 hour?

The PRESIDENT pro tempore. The mover and the manager in opposition.

Mr. DOMENICI. Mr. President, I want to say I do not intend to take very long. On the other hand there may be others who would like to argue on this side.

I ask unanimous consent that control of my motion when I am finished be given to the distinguished Senator from Arizona who is managing the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Budget Act of the United States is intended to protect the budget not just in 1 year but over the long run. Over the long run the catastrophic health law which we in the U.S. Senate today, the McCain amendment and other amendments that might be considered, including repeal, seek to modify, change, or repeal, a catastrophic health insurance law on the books of the United States, essentially will cost the Treasury of the United States untold billions of dollars over the years 1991, 1992, 1993, and for as far out as I can see.

Inquiring of the Senator from Arizona, Senator McCAIN, as to what he meant when he said his bill pays for itself, I used a very simple chart to explain to the Senate why we should grant a waiver and consider repeal or significant modification of the catastrophic health insurance law which is now the law of the land.

It is simple. If you have reason to use the budget law, you ought to use it to help the budget of the United States reduce its deficits, and not use it to protect a law which increases the deficit. In addition, if it is bad policy, you ought to be given an opportunity to waive the Budget Act, and consider making the policy better. We have both causes here.

These red bar graphs in this Senator's opinion—I have been at this work for awhile—are minimal explanations because I believe each of these bars will exceed CBO's estimates dramatically. And if you go out a couple more years, it will truly be a dramatic charge to the U.S. budget, thus adding to the deficit.

Interestingly enough, Mr. President, the only reason the point of order is being made is because there was an up front surplus in this catastrophic insurance that yielded unused revenues in the first year. Everybody has been counting those. So when you seek to get rid of those, you affect the budget thus needing a budget waiver. But if these three red bar graphs are anywhere close to true, and I think they are true on the low side, why should we not waive the Budget Act to try to save money for the taxpayers and the Treasury over the years 1991, 1992, and 1993, which under this very minimal estimate would be the sum total of $600 million, $3.5 and $3.9 billion. This one is going to get much bigger in 1994, so essentially, I say to my fellow Senators, if ever there was a reason to waive the Budget Act and consider a new catastrophic health bill or a modification to one or a repeal of one, it is when the law on the books of the United States spends enormous amounts of money in future years.

Why should we use the Budget Act to break the budget? Why should we use the Budget Act to not let the U.S. Senate, without a super majority, consider making a law better as to the budget?

Now, we can decide the policy, but the policy cannot get decided without 60 votes, unless you waive the Budget Act. I do not think, in my 17 years, and my 6 as chairman of the Budget Committee, the remainder, or the last year and a half as ranking member, that I have ever seen a case which cries out for using the waiver processes more than this one.

I repeat, if you use the Budget Act to cause the U.S. Senate to fail to consider modifications to an existing law, which will indeed save taxpayers dollars in the ensuing years, 1991, 1992, 1993, then of what purpose is a Budget Act?

Is a Budget Act to be so construed that it causes us to spend more money, rather than less, even when the U.S. Senate wants an opportunity to vote for less? That is the issue. I do not intend to speak any longer. Obviously, there is time on this. This is a critical vote.

If the U.S. Senate does not want to waive, we are not going to hear any policy change measures on the floor of the U.S. Senate, not only policy changes which the seniors of America want, but policy changes which will indeed help with the deficit reduction efforts, for which the Budget Act was created.

Mr. President, my last remark, and I say this because I, just 5 or 6 days ago, came to the floor of the Senate and asked the United States Senate to waive the Budget Act with reference to the reparations to the Japanese Americans who were treated improperly during the Second World War.

Well, over 60 Senators—I do not recall the number, but perhaps as many as 72 or 74, 76 U.S. Senators—voted to waive the Budget Act and create a new entitlement, because they wanted to be fair to the Japanese Americans who had been denied compensation and might be denied, unless we waived the Budget Act.

Mr. President, I joined in that because I thought it was fair and that the Budget Act should not be an instrument to be used capriciously and arbitrarily, to never grant a waiver. I say that if 70-plus Senators can waive the Budget Act for that cause, 90 Senators ought to waive the Budget Act for this cause.

Mr. DURENBERGER. Will the Senator yield on that point?

Mr. DOMENICI. Let me just finish.

The senior citizens of this country, interestingly enough, are saving the taxpayers of this country substantial amounts of money. I cannot believe we are going to turn this down, having granted other waivers; that, from the standpoint of helping with budget issues, is as dramatic as this and one

where so many millions of senior citizens are asking us to change this law.

I am finished as far as my remarks, and I am going to yield the remainder of my time to be managed by the distinguished Senator from Arizona.

I am pleased to answer a question that the distinguished Senator from Minnesota might have.

Mr. DURENBERGER. Thank you. I address my questions to my colleague because of the respect we all have for him as the Budget Committee chairman. I am glad that he added the latter point relative to his personal feelings about the policy. Obviously, the Senator, and probably the majority of the people in this Chamber, believe that the current catastrophic legislation is not the best public policy we could enact. The Senator's particular vote on that particular issue reflects the Senator's position.

Mr. DOMENICI. Yes.

Mr. DURENBERGER. As long as we have known each other, am I not correct, that with your budget hat on, so to speak, that whatever you have to say to us here has not been colored in one way or other by your individual judgment on the policy, that if you speak to the issue of the red ink or the surplus, he does that on the basis of fact and not on the basis of the Senator's particular judgment about the policy; is that true?

Mr. DOMENICI. I am human, I have a conscience, and I think I am able to make judgments in my mind. So I cannot say that every time I have either asked that you waive or ask that you not waive, in my capacity as the Senator from New Mexico and chairman or ranking member of the Budget Committee, that I did not also have some policy ideas in my mind.

But, essentially, if the Senator wants to know, I believe that the time has come to reform the health care system of this country. I am not speaking now just of Medicare. I frankly do not believe the United States of America can remain a vibrant economic force in the world for a number of reasons. But strangely enough, I would put very high on the list, continued escalation of cost of health care, which are now up near 12 percent of gross national product, three times as much as the gross national product of Japan, twice as much as Canada—not quite twice, but at least 60 to 70 percent more than any of the free industrial nations—and growing at 13 to 15 percent a year. I do not believe we can maintain economic prosperity and have that kind of escalating health cost program in the country.

So I believe we certainly should remove, as soon as we can, a program which adds this kind of additional cost, that is not paid for, but rather, comes out of a general treasury, adds to the inflationary cost of health care. So that is a matter of policy, but it also is budgetary in that sense.

Mr. DURENBERGER. Mr. President, may I ask another question? I asked the Senator that question not to begin debate on the health policy but to clarify the facts to the extent that the ranking member of the Budget Committee can recall them on whether or not current law as represented by the Medicare catastrophic bill creates deficits.

Now, my impression is that at the time we voted on this bill there was nobody standing up with charts such as yours, saying you have created deficit, am I correct?

The PRESIDENT pro tempore. Will the Senators please address each other in the third person through the Chair in accordance with the rules.

Mr. DURENBERGER. Am I correct in my recollection of the facts that when this bill passed the U.S. Senate, it was fully funded?

Mr. DOMENICI. I might say to the distinguished Senator from Minnesota, I actually made a statement. I did not make a big to do about it, but I can go dig it up. I voted for it, but I said I have some very strong suspicions that we are underestimating the costs and that, probably, we are going to find out later that the costs exceed the moneys coming into the Treasury. But other than that, the Senator is correct; I might say, nobody knew it. At least if they knew it, nobody talked about it.

Mr. DURENBERGER. Will my colleague yield for a further question?

Mr. DOMENICI. Might I say that it is not that I do not want to answer the questions, but we want to be fair on the time. I prefer to yield the floor now. I am hoping that you can get some additional time before those who want to speak on the other side.

Mr. DURENBERGER. If you will yield for a question, you are the expert——

The PRESIDENT pro tempore. Please address each other in the third person.

Mr. DURENBERGER. Will the Senator from New Mexico yield on the basis that he is the only one of whom I can ask these questions?

Mr. DOMENICI. I will answer one additional question. I really must say that I am being called by the Republican leader.

Mr. DURENBERGER. I thank my colleague. Again, I do not need the editorial comment. All I need is a yes or no, if that is possible.

Does my colleague recall that at the time that he voted for the passage of this bill, that the legislative authorization would fund this bill because of its construct, flat premium plus a supplemental premium, that if you follow it out until the end of this program a thousand years ago, you followed out legislative authority in that bill, that it would be fully funded, despite the concerns about the politics of it expressed by the Senator from New Mexico?

Mr. DOMENICI. That was the assumption under which it was adopted. I must just repeat that we have never been right in our assumptions with reference to the cost of the health care program.

Mr. DURENBERGER. I thank my colleague.

Mr. DOMENICI. I indicate that initially Medicare was going to cost $700 million. It is now $60 billion, the same program.

Mr. CONRAD. Mr. President, will the Senator yield for a brief question before he leaves?

Mr. DOMENICI. Yes, I will. If it is possible, make this the last one. I guess it is. So I will stop yielding.

Go ahead.

Mr. CONRAD. I appreciate that.

If the Senator from New Mexico will just answer, what are the budget implications for fiscal 1990 on the McCain proposal? Does the Senator have that available?

Mr. DOMENICI. I think the Senator from Arizona might have it. My recollection is it is a negative $2 billion in the first year. I believe the Senator from Minnesota will modify the number to have a current number. I think that is about right.

Mr. CONRAD. Is it correct that that would put us closer to sequester?

Mr. DOMENICI. It means $2 billion we expected to come into the Treasury as advanced funding for this program will not be there. Whether it gets us closer to a sequester depends on a lot of other things, I say to my friend.

Mr. CONRAD. I thank the Senator from New Mexico.

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia yields himself 7 minutes.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized for 7 minutes.

Mr. ROCKEFELLER. Mr. President, this is all very interesting and very important. It is a matter of great debate and enormous introspection. We are, as the Senator from New Mexico indicated, at a very important point.

The Medicare Catastrophic Coverage Act, the people need to understand, is the most sweeping expansion of benefits in the history of the Medicare Program, and it is now, and we are participating in what will happen to the future of this program.

Will it be repealed, as we watched the House virtually repeal the bill earlier this week, although we in this body, mindful of our responsibilities to seniors as well as to the budget process try to pick out a package of benefits in which we search for what is best in

this program and then make in fact a constructive effort to go ahead with that?

I really want to remind people what this program is all about and why the Congress passed it, why President Reagan created it with such enthusiasm and less than 2 years ago. The catastrophic program provides coverage for unlimited hospitalization, unlimited physician services after a catastrophic deductible, important long-term care benefits, including skilled nursing home care and home health and home respite care, all important coverages, new coverages for outpatient prescription drugs, the first preventive care benefit ever and that is mammography screening for breast cancer.

These benefits were enacted because millions of citizens could not afford to buy private insurance. That is the fact of life in our country. That is what the Pepper Commission, which I have the honor to chair, is all about, trying to help people with serious fundamental and life-threatening gaps in their health insurance coverage.

Millions have purchased on top of that inadequate policies, often multiple policies, not really being sure what they have purchased, which do not meet basic minimum Federal standards.

Yes, there are some retirees fortunate enough to purchase the kind of health insurance they want and it covers all kinds of things; and I am happy for them. For these few the catastrophic bill also provided protections against double coverage so that nobody would be forced to buy duplicative insurance. In fact, most of the public debate that has taken place over this bill has been on the financing and has not been on the benefits, the benefits to the beneficiaries of our country.

Yes, we have heard from numerous aging groups and numerous labor unions recently saying do not repeal.

Is the tide turning? I suggest it is. Do not repeal these benefits. If these benefits go down, if you repeal, if you just strip this thing absolutely clean, we understand that the seniors of our country are going to be exposed out in the cold, and that was the whole point of what we are trying to do less than 2 years ago to give them protection.

In addition to the harm repeal would do to the seniors, including those who are already hospitalized and dependent on the new coverage, people who are in effect receiving the benefits of the catastrophic bill that we have already passed, it would establish in this Senator's judgment a horrible precedent.

In this area of uninsured and underinsured we should not be wholesale repealing catastrophic. Let us take another look at the financing. The supplemental premium which was intended to be fair, progressive in its nature, and indeed it is, which is the way things have been done in this country, is perceived by many as too burdensome. The maximum premium amount and amounts well below the maximum amount which is $800 has been criticized. So in good faith we have gone back to the drawing board.

The Finance Committee has labored for weeks. I do not know how many hours we have spent in there looking at various options, trying to adjust catastrophic financing in a way which would relieve the burden and yet protect benefits, so that there is this initial concern about eliminating the entire catastrophic package because of a misunderstanding, because we did not communicate well enough about the $800 supplemental premium that come next April, when people discover that only 5.5 percent of Americans would be paying that premium if the current catastrophic bill passed they would then understand that we really have lost major protection.

So on behalf of the committee I can say that this task has not been easy and it has not been taken lightly. Now we face the range of options for modifying the catastrophic program in a manner that will be acceptable. And we will have amendments before us today; many of them will have merit with people in good faith trying to preserve benefits. I commend all of my colleagues who offer these amendments that try to preserve benefits for seniors who need these benefits as my colleagues will be offering these amendments in order to preserve benefits. And, yes, they will be adjusting financing but they will also be preserving various ranges of benefits and that is so important for coverage for senior citizens.

So, we must strengthen the Medicare Program. We must take the steps necessary to meet the elderly's unmet needs, gigantic gaps in health coverage in this country. So I hope as the day progresses my colleagues will seriously consider these various amendments and look particularly at benefits that are being protected.

Mr. President, I yield the floor while reserving the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from Texas [Mr. GRAMM].

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for 5 minutes.

Mr. GRAMM. Mr. President, our dear friend from West Virginia reminds me of the Boy Scout who sees a little old lady standing on the corner who happened to be going the other way but he decided he is taking her on across the street whether she wants to go or not. I think in the case of this bill she has decided that she does not want to go.

Mr. President, in the catastrophic coverage bill, the free-spending policies of the 1960's and 1970's ran head on into the fiscal realities of the 1980's. Under a mandated system of deficit control measures the Finance Committee attempted to write a catastrophic coverage bill that paid for itself and, as a result, for the first time in American history we provided an entitlement that people paid for directly, and the net result is that they hate it. I think we have proven that under any semblance of fiscal restraint we have reached the limits of collectivism in America and we are here today to go back and try to set things right.

I am here speaking in favor of a budget waiver. I wanted to speak on this subject with my dear friend, Senator DOMENICI from New Mexico, because some people might think it unusual that I am here, as the Gramm of Gramm-Rudman, normally busy doing the Lord's work in the Devil's City, trying to balance the budget by voting to waive the Budget Act.

Well, Mr. President, we put into the budget law waivers to deal exactly with the kind of circumstance we have here. The budget waiver is being used as a vehicle to prevent debates on legitimate business of the U.S. Senate.

By voting to waive the Budget Act, it is true that in fiscal year 1990 the deficit goes up by $3.6 billion, and that is a lot of money. But it is also true by this waiver, if, for example, we should adopt the amendment of the distinguished Senator from Arizona, that the deficit goes down by $600 million in 1991, $3.8 billion in 1992, $4.4 billion in 1993, and $4.8 billion in 1994.

So with this budget waiver, the adoption, for example, of the proposal of the distinguished Senator from Arizona, we are saving $10 billion under current estimates over the next 5 years.

Mr. President, I remind my colleagues, we have never had a medical entitlement that did not turn out to be three or four times as expensive as we initially estimated. So in voting to waive the budget here to get around a technicality that is preventing us from righting a terrible wrong in catastrophic coverage, under current estimates we are saving almost $10 billion. My guess is that we are preventing the American taxpayer from falling into a huge fiscal hole that will cost $20 or $30 billion of which to try to dig out.

So I want to urge my colleagues to right this wrong, to make this budget waiver to allow us to reduce, bring under control, and make rational a terrible mistake that the Congress made in adopting the catastrophic coverage bill.

So I urge my colleagues, no matter what option they prefer, whether they prefer to repeal catastrophic outright, whether they prefer adopting a modification which preserves the surtax of this bill, or whether they intend to adopt the proposal of the distinguished Senator from Arizona, all of those actions require a waiver.

But the waiver itself, over the next 5 years, gives us the possibility of saving $10 billion. I can assure you in strengthening these waivers and raising them to 60 votes, it was not my intent that they be used as a vehicle to stop us from saving money. It was my intent that they be used as a vehicle to save money; $10 billion, even in the Federal city, is a lot of money.

Undoing the wrong and unfairness of the catastrophic coverage bill goes far beyond money. It goes to the very heart of what is right and wrong. I yield back the remainder of my time.

Mr. ROCKEFELLER. Mr. President, I yield the senior Senator from Massachusetts 7 minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY] is recognized for 7 minutes.

Mr. KENNEDY. Mr. President, later in this debate, I intend to offer an amendment to preserve the key drug benefits for the elderly in the Medicare Catastrophic Coverage Act.

When Medicare was passed in 1965, it was the most important step forward for our Nation's senior citizens since the enactment of Social Security more than a half century ago. It is difficult to remember today that in the dark days before Medicare, every illness was catastrophic for senior citizens—because a single hospitalization could wipe out the savings of a lifetime.

Medicare was a health care bill of rights for every elderly American. But it was a bill of rights with fundamental gaps that were apparent from the day Medicare was enacted. Medicare did not cover very long hospital stays; it placed no limit on the potential liability for copayments for hospital bills; it did not cover outpatient prescription drugs; and it did not cover home care or nursing home care except on a restricted and temporary basis.

In the years subsequent to Medicare's enactment, a strong private insurance market has grown up around the solid base that Medicare provides. Eighty percent of senior citizens have either Medicaid or private Medigap coverage. When that private coverage is not provided through an employer group plan, it is often grossly overpriced. Indeed when a senior citizen buys an individual Medigap policy, he will often pay an insurance company markup that is equal to 40 percent of benefit costs—compared to Medicare's administrative costs of just 2 or 3 percent. But despite the fact that senior citizens have to pay too much for the Medigap coverage they buy, the coverage does fill some of Medicare's most glaring holes.

Virtually all private policies cover hospital deductibles, copayments, and extended stays. Coverage of copayments for physician care is almost always covered and is also often overpriced. But it does provide essential protection against hospital and doctor's bills.

The two great health insurance needs that neither private insurance nor Medicare covers are long-term care and prescription drugs. Last year's catastrophic legislation covered the latter but not the former, and it is important to understand why that decision was made, since it is an important issue in the present debate.

For three-quarters of the elderly population, prescription drugs represent the largest out-of-pocket health care expense they face. The inability to pay for prescription drugs is particularly tragic because these drugs often represent the difference between disability and death and a reasonably healthy old age. For those who can manage to pay for prescription drugs to treat long-term, chronic illness, the cost of the drugs often represents the difference between a comfortable life and perpetual poverty. No senior citizen should have to face the choice between living in pain or living in poverty.

Reasonable protection for prescription drugs is an affordable expansion of Medicare in our present budget situation. The protection will cost $3 billion a year when fully implemented, and we are serving the elderly badly if we repeal it.

Long-term care is the other vast need of the elderly, but it is also vastly expensive. The potential financial devastation that long-term care can bring, whether it is provided in a nursing home or a senior citizen's own home, is more feared by senior citizens and their families than virtually any other threat to their security.

The elderly need insurance protection against the high cost of long-term care today just as much as we needed Medicare a generation ago. But long-term care insurance under Medicare would be vastly expensive—costing tens of billions of dollars a year if reasonable protection is to be provided. It will require significant new broad-based revenues to finance it. Even if we were to enact a program of long-term care insurance tomorrow, the elderly would still need protection from the high cost of prescription drugs today.

The amendment I am proposing repeals the surtax that so many of the wealthy elderly find objectionable and that has caused the present controversy. To mix the metaphor, we should not let this firestorm throw out the baby with the bath water. It would be irresponsible for Congress to repeal the entire catastrophic program because of the surtax. There are essential benefit expansions that can and must be preserved, and that can be financed fairly.

My amendment keeps the most important coverage that the catastrophic bill provided—the provisions for prescription drugs. It delays the implementation of the benefit for 1 additional year, so that the program will begin in 1992. This benefit affects a larger proportion of the elderly than any other element of catastrophic coverage. It is also the only major benefit that is unavailable on the private insurance market.

The amendment also retains the expanded part A coverage of hospital services. The failure of Medicare to cover the hospital costs associated with long stays and repeated admissions is a serious problem. No decent private policy for the nonaged population fails to provide this coverage.

Finally, the amendment retains some of the important but less costly coverage provided by the catastrophic bill—hospice care, home health care, respite care, and mammography screening.

The amendment pays for these benefits in two ways. First, it retains the modest increase in the flat rate premium that has been accepted by the elderly and is not controversial. Second, it extends the tying of the premium to 25 percent of program costs, beginning in 1992. As program costs go up, the premium will go up too.

I hope that every Senator who is tempted to vote to repeal all of what we enacted last year will have a second thought. This is the role the Senate is intended to play under the Constitution. We are supposed to be able to stand up to ill political winds better than the House.

A recent poll of the elderly showed that 70 percent do not want the catastrophic program repealed. And there is no justification for repealing it. It is broke, so we have to fix it. We do not have to destroy it in order to save it. For the sake of millions of low- and middle-income Americans who desperately need assistance in meeting the high cost of prescription drugs, let us act responsibly and do the right thing.

The PRESIDENT pro tempore. Who yields time?

Mr. HATCH. Will the Senator yield some time?

Mr. McCAIN. Mr. President, I yield 3 minutes to the Senator from Utah [Mr. HATCH].

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized for 3 minutes.

Mr. HATCH. Mr. President, I again rise in support of the bill offered by the distinguished Senator from Arizo-

na to change many of the provisions of the Medicare Catastrophic Coverage Act of 1988. I believe that we in Congress must respond now to the firestorm of discontent among our seniors. And, we must put forth an alternative that will include some part of the current catastrophic law.

It has been almost 2 months since we offered a bill to delay implementation of provisions in the catastrophic act that have not already been implemented. The problem remains that seniors want a change in this law and they want it now. We are all still receiving letters and phone calls from angry seniors. These seniors, from all around this country, are opposed to the act for three reasons. First, they do not like the cost and the financing of the plan. Second, they do not like the particular benefits that Congress has dictated that the plan include. And, third, and perhaps most important, they do not like the Federal Government mandating participation in this new program.

Today, we will begin a deliberate and meaningful debate on the 1988 catastrophic law. The debate will revolve around three issues:

First, should we maintain any part of the catastrophic program or merely support an outright repeal;

Second, should we retain the basic program including the supplemental premium and just reduce some benefits because of cost; or

Third, should we keep the flat $4 premium and provide seniors with the benefits that $4 will cover.

Mr. President, I support the third option, which is embodied in the McCain bill, because it retains those benefits which can be paid for by the small flat premium. For a small flat premium, seniors will continue to receive their core catastrophic benefits: the long-term hospitalization protection; the spousal impoverishment protection; the Medicaid buy-in; and the pregnant mothers and infants program. This bill reverts back to prior law the skilled-nursing facility benefit, but makes the following modifications: it will provide those receiving a skilled nursing facility benefit prior to November 1, with coverage under the existing law. This bill will also retain the home health care benefit, the blood deductible, the respite care, the mammography screening, some limited drug benefits, and the hospice benefit. It will retain these benefits at a flat premium cost of under $5 in the first year. Finally, this bill will permit a lowering of the flat premium if the costs of the benefits do not require the full revenues provided by the flat premiums.

I believe this is a workable proposal that we in the Senate should support. Over the past few months, a great number of experts have been revisiting the act to try and find answers to the concerns raised by our Nation's seniors. The Joint Center on Taxation, the Congressional Budget Office, and even Secretary Sullivan have been reexamining the projected revenues and expenses associated with the act in an effort to respond to concerns about financing. During the recent Finance Committee hearing, the Congressional Budget Office released new projections which suggest that the previous estimates of an $8 to $10 billion surplus over 4 years have now been reduced to a $5 billion surplus. So, in just a few months, the CBO estimates of what the existing program will cost have increased by $3 billion. Mr. President, that is not just a rounding error. Clearly, a high degree of uncertainty continues to surround this act. And, I am fearful that if we do not put the brakes on those parts that have not been implemented, and refine the existing benefits, we will find ourselves with even more difficulties.

Mr. President, I only wish that this benefit would be optional for all seniors in America. But when I talk abut voluntary participation, I do not mean merely attaching it to voluntary participation under part B.

This proposal is a way to dupe our seniors into believing that this will make the catastrophic program voluntary. It will be voluntary only if you close your eyes and ignore the big stick above your head. They say seniors may opt out of catastrophic, but they will also lose their part B benefits. Let us face it: in reality this claim is simply a false political promise to our Nation's senior citizens. Part B benefits are subsidized at 75 percent of the cost. Part B benefits provide seniors with services they need like physician visits and outpatient services. The so-called voluntary approach is misleading, and I, for one, am not willing to lead seniors on by telling them this really gives them a true option. Our colleague from Wyoming has a proposal which makes the catastrophic program truly voluntary. This is what we should be doing—not merely making another illusory promise to placate our senior constitutents.

Also, we should make these changes proposed by Senator MCCAIN because we are overly taxing our seniors in America. There are concerns that we will have a $4.7 billion shortfall by enacting this bill, but let us be honest. If we do not change our law, we are taxing the senior citizens of America to finance the deficit. It makes our balance sheet look better so we will not have to make tough choices in other areas of Federal spending. We will not have to tighten the belts on other spending programs. Mr. President, I will not balance the budget on the backs of seniors, and I urge my colleagues to join me.

I believe the McCain bill is sound health policy and is a package of catastrophic benefits that seniors will be willing and able to purchase at an affordable cost. The protest against the current Medicare Catastrophic Coverage Act by our Nation's seniors has been long and loud. We in Congress can take a positive step to demonstrate our willingness and ability to respond to these constituents through passage of this bill. I urge all of my colleagues to vote for the McCain bill.

Mr. President, I would also like to make a statement in favor of waiving the budget point of order.

I rise in support of Senator DOMENICI's proposal to waive the budgetary point of order. I entirely agree with his assertion that we must look at two things in making the decision about waiving the budget:

First, its long-term impact on the budget;

Second, who it will affect.

First, it has a long-term impact of increasing the Federal debt $6 billion over the next 5 years. Yes, if we just look at the first year, fiscal year 1990, we have a $2 billion net deficit. But in 1991, there is a $0.6 billion ($600 million) revenue loss; in fiscal year 1992 a $3.5 billion revenue loss; and in fiscal year 1993 a $3.9 billion revenue loss, adding up to a $6 billion net deficit over 5 years. So the long-term budget impact is costly to the budget.

Second, the current catastrophic proposal is opposed by seniors in America. They do not want this plan and we should not force it upon them.

The PRESIDENT pro tempore. Who yields time?

Mr. MCCAIN. Mr. President, I yield 3 minutes to the Senator from Washington [Mr. GORTON] and inquire how many minutes I have remaining.

The PRESIDENT pro tempore. The Senator has 5 minutes and 54 seconds of which he will yield 3 minutes to the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, we are now debating whether or not to grant a budget waiver, which will allow us to debate either the repeal or the amendment of the Catastrophic Health Care Act.

I find it most impressive that the single individual, the Senator from Texas [Mr. GRAMM] responsible for the Gramm-Rudman Act which requires a budget waiver to get 60 votes, has spoken so forcefully in favor of this waiver, together with Mr. DOMENICI, who perhaps has been more responsible than any other individual in seeing to the implementation of the Gramm-Rudman law.

They have spoken in favor of this waiver because, of course, while technically this bill will add to the deficit in fiscal year 1990, it will in fact save some $10 billion over the course of the next 10 years if we grant the waiver and pass the proposal suggested by my

friend, the Senator from Arizona. As a result, I am convinced that the budget waiver will carry and will carry handsomely and substantially.

The substantive issue before us is whether or not we will continue to follow the leadership of the distinguished Senator from Arizona, due to whose efforts we are here today.

There are some, now that we are finally debating this bill, who feel that it can be repaired with just little cosmetic changes of one kind or another. I believe, Mr. President, they are wrong. There are those who think the only way to save this patient is with an ax, killing the patient entirely and starting all over again. I believe, Mr. President, they are wrong.

The distinguished Senator from Arizona has proposed surgery which will rid this bill of the single element, the surtax, which is most objectionable to most people at the cost of the least popular or least desired of all of the benefits arising out of the bill. At the same time, he does propose to save what is actually the title of the bill, catastrophic health care.

I hope and I trust this body will grant this waiver, will look carefully at each of the amendments with which we will deal today, and will finish by approving the bill introduced by the Senator from Arizona after so much time, so much patience, and so much sensitivity toward senior groups who have supported him and led us to this point today.

Mr. DURENBERGER. Will my colleague yield to me on the time of the Senator from West Virginia?

Mr. GORTON. I am not capable of yielding to the Senator on the time of the Senator from West Virginia. Perhaps he will.

Mr. ROCKEFELLER. The Senator from West Virginia will be glad to yield to the Senator from Minnesota. How many minutes?

Mr. DURENBERGER. I need 2 minutes to ask a question of the Senator from Washington.

Mr. ROCKEFELLER. If my colleague would, I am pleased to have him proceed on my time.

The PRESIDENT pro tempore. How much time does the Senator from West Virginia yield? How much time?

Mr. ROCKEFELLER. For 2 minutes.

The PRESIDENT pro tempore. The Senator may proceed for 2 minutes.

Mr. DURENBERGER. Mr. President, this is the second time now we have heard the figure $10 billion in deficit savings used. I am curious to know where this comes from, since the current authorizing legislation fully funds the current program. We have been hearing this figure $10 billion that we are saving by voting for this waiver. I am curious; does the Senator know where that comes from?

Mr. GORTON. I say to my friend, the Senator from Minnesota, that the figures I have in front of me are from the Congressional Budget Office. They list, from 1990 through 1994, the amounts of revenues to the Federal Treasury which will be lost by repealing the surtax. They begin with the figure $7 billion in 1990 and end with a figure of $8.5 billion in 1994, for a total of $37.1 billion.

The repeal benefits in the McCain bill begin with only $3.4 billion in 1990 and end up at $12.3 billion in 1994 for a total of $45.2 billion. The difference is $9.9 billion. I beg the indulgence of the Senator from Minnesota, having rounded that in my speech to $10 billion.

Mr. DURENBERGER. I thank my colleague from Washington.

Will the Senator from West Virginia yield an additional 5 minutes to me?

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. DURENBERGER] is recognized for 5 minutes.

Mr. DURENBERGER. Mr. President, I am grateful to our colleague from West Virginia, and also our colleague from Washington who explained the figure that is being used for a rationale, both for waiving the budget and a rationale, apparently, for support of the McCain legislation.

I would like my colleagues to understand that the $10 billion deficit problem is not created by the Medicare Catastrophic Act. The $10 billion deficit problem is created by those who would repeal the catastrophic bill. Whether it is the McCain repeal or the Roth-Danforth repeal or someone else's repeal, it is the efforts on this floor to repeal or substantially amend the Medicare catastrophic bill that is creating the problem of the deficit, because the current catastrophic bill is fully funded.

Yes, the costs may be going up more rapidly in some areas than people expected. Yes, it may be that politicians, like the Senator from Texas and others, who always had their doubts about our ability to contain these costs within the benefiting generation, will say that it might fall apart and fall on the taxpayer.

But the reality is, not one nickel has fallen on any general tax, on any payroll tax or on anybody else. The problem of the deficit impact is the problem created by Members on the floor of the Senate, by people with proposals like those of the Senator from Arizona and the others who propose to repeal the surtax, in particular, or some parts of the flat premium. They are creating the problem of the deficit.

So you can support waiver as proposed by my colleague from Arizona and my colleague from New Mexico, and I may well supprt the waiver as well. But it is only for purposes of making sure that whatever amendment that is on the consent list to be acted on can be acted on without requiring 60 votes. It has nothing to do with curing a deficit created by the Medicare catastrophic bill because that bill does not create any deficit whatsoever.

Mr. GRAHAM. Will the Senator yield?

Mr. DURENBERGER. I yield back whatever time I have.

Mr. ROCKEFELLER. The Senator from West Virginia has the floor.

Mr. GRAHAM. I was asking if the Senator from Minnesota would yield for a question.

Mr. DURENBERGER. I will be pleased to yield.

Mr. GRAHAM. The Senator stated that the deficit problem is created by people like the Senator from Arizona who are advocating reform in this legislation; is that correct?

Mr. DURENBERGER. I do not want to say it is created by the Senator but it will be created by the effect of the adoption of this amendment; that is correct.

Mr. GRAHAM. Would it not be more correct to say the deficit problem is created by a more fundamental problem, and that is the fact that we have improperly mixed the general revenue deficit of the Federal Government with the surpluses of various trust funds, including Social Security, in order to create an artificially lower deficit than, in fact, exists?

Mr. DURENBERGER. No, the deficit is a deficit, and I cannot acknowledge that. There is no deficit under the current legislation.

Mr. GRAHAM. The Senator does not see there is a fundamental element of fraud in having this program which was intended to provide additional health services for the elderly which was provided with a reserve in the early years in order to prepare for long-term financing of those services, and then using that reserve as a means of artificially lowering Federal general revenue deficit?

Mr. DURENBERGER. My colleague is bringing up another issue. The issue of the Federal deficit reduction caused by a surplus, either in the Social Security, OASDI trust fund which is running a current surplus in the neighborhood of $60, $70, or $80 billion a year, or in the trust fund created for catastrophic, is a very different issue from the one I raised on the floor here today. It has nothing to do with the $10 billion that is being bandied around here.

Mr. GRAHAM. I beg to differ with the Senator from Minnesota, and I ask if he does not believe that by focusing on this skin rash of the effect of adopting the proposal of the Senator from Arizona or any other proposal and saying that is the problem and ignoring the tumor that lies beneath that rash, which is the fact we have

improvidently mixed trust funds with general revenue for the specific purpose of understating the extent of our national deficit, that that is the real fundamental problem and that we should not allow that to keep us from making intelligent public policy in terms of health of senior Americans?

The PRESIDENT pro tempore. The time yielded to the Senator from Minnesota has expired. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I have to note, not without understanding, but with some regret that all the conversation virtually that has gone back and forth has been related simply to the matter of budget and simply to the matter of how much are we going to be causing ourselves to getting close to triggering Gramm-Rudman and the rest of it.

I have not heard a lot of discussions about benefits. I continue to think that it is quite clear that the original catastrophic bill is going to be amended. The cost of it is going to go down sharply; that the benefits accruing to it will go down sharply because of the reduction in the costs. But the benefits are part of what we are here for.

The seniors in West Virginia are interested in benefits and, yes, they are concerned about costs and we are going to accommodate one way or another today their concerns about costs. We will do it fairly; we will do it wisely, presumably.

But people ought to remember that there are already in skilled nursing facilities people who are at the point of death and who are being fed intravenously, kept alive by various machinery. And then if we repeal all of this and there is none left, we are going to be seeing them wheeled out desperately sick. The television cameras, I hope, and the networks would be sure to cover that because that is part of the lesson of what we are about today—if we repeal benefits and that is what we are here to do—trying to help people.

If we repeal all of these benefits we are, and I think the Senator from Arizona would agree with this, looking at a backlash of incredible proportions. Benefits are part of our conversation. They ought to be more of our conversation, not just simply the matter of the budget.

I reserve the remainder of my time. Mr. President, I yield the floor in so doing.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator controls 2 minutes, 50 seconds under the waiver. The Senator from West Virginia controls 6 minutes and 50 seconds.

Mr. McCAIN. Will the Senator from West Virginia yield 3 minutes to the Senator from Montana?

Mr. ROCKEFELLER. I will be delighted to.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized for 3 minutes.

Mr. BURNS. Mr. President, I speak today as an original cosponsor of Senator McCAIN's bill to reform the Medicare Catastrophic Coverage Act of 1988—and a strong supporter of his efforts to respond to the concerns of senior citizens on this issue.

I want to commend Senator McCAIN, and his staff, for the work they have done. I have done so many times before when we were fighting to get his delay bill, S. 335, passed. I thought that we should address the criticism of the Catastrophic Act head on. I made a comparison to section 89, and called on my colleagues not to take the seniors of this country on the same roller coaster ride that we took the small business owners on. The 1-year delay provided for in S. 335 would have given Congress time to reach a consensus on this controversial law in the most rational way.

Unfortunately, we are reaching the end of the year, and the seniors' concerns have not yet been addressed. The deadlock on this issue forced Senator McCAIN to raise it again on the Defense appropriations bill, thus bringing us to where we are today.

It also forced him to come up with a reform package. It has not been an easy road, but he has stuck to his guns and come up with the most workable solution.

I support this bill over the other options—including total repeal—for a number of reasons.

No. 1. It addresses the concerns of a majority of seniors. I have heard from thousands of senior citizens in my State just like every other Member of this body. And the No. 1 message carried to me through those letters was "get rid of the surtax." We are doing just that.

No. 2. It is solid health care policy. The McCain proposal retains the benefits that have already been implemented, retains the most meritorious benefits, repeals the benefits for which seniors have little need, and retains the principle that seniors should help pay for the costs of these benefits.

I think that it makes good sense to retain the benefits that have already gone into effect, and not to rip the rug out from under those who are already receiving these benefits. It also just so happens that those benefits are some of the best benefits in the bill.

The spousal impoverishment protection and expanded Medicaid buy-in provisions for poverty level Medicare beneficiaries and pregnant women and infants have been supported by everyone—even those who support total repeal. In fact, the spousal impoverishment provision has been hailed as a much needed long-term care reform.

In recent polls, seniors also rated as "highly important" the expanded hospitalization benefit and the mammography screening benefit which are retained in the McCain bill.

The home health, hospice, respite, and home IV therapy benefits address—to a certain extent—the need for expanded home health care coverage. These benefits either provide directly for home health care or provide services which help relatives and loved ones care for chronically or terminally ill people at home. In the case of home IV therapy, the American Society of Hospital Pharmacists states that:

> These programs have enabled patients to complete their drug treatment in their homes safely and effectively while decreasing real health care costs.

Now, that is the kind of program that deserves our support.

The benefits that are repealed are the prescription drug benefit and the part B out-of-pocket cap—the two benefits that few seniors support. Two separate polls—one done by the Wirthlin Group for the Coalition for Affordable Health Care and one done by Cooper & Secrest Associates for the National Committee To Preserve Social Security and Medicare—found that these two benefits were regarded by seniors as the least valuable benefits included in catastrophic.

The final change that I want to mention pertains to the skilled nursing facilities benefit. The McCain proposal retains this benefit, but scales it back to the way it was before the Catastrophic Act. This benefit is rated as "highly important" by seniors, but the expanded coverage under catastrophic was exceeding original cost estimates by 543 percent. The McCain proposal recognizes the importance of this benefit, while at the same time recognizing that we must be fiscally responsible, which leads me to my final point.

No. 3. This proposal is fiscally responsible and even conservative. It is financed by maintaining the part B premium increase as passed in the Catastrophic Act. Seniors in both of the polls I mentioned above indicated a willingness to help pay for additional benefits, if they were benefits they wanted. I think that this reform bill responds to that message.

The financing proposal is conservative in my opinion because it allows for a cushion each year—accumulating to a $4.5 billion cushion over the next 5 years. We have seen time and time again how Medicare benefit costs tend to get out of hand. We saw it most recently in the skilled nursing facilities benefit. This proposal recognizes that fact, and makes allowances for it.

There is also a provision in the bill that allows the Secretary of HHS to scale back the premium if the costs do

stay in line. Therefore, we are not just collecting extra revenue to hide the deficit. We are doing it to make sure we can pay for the benefits that we are promising the senior citizens of this Nation.

I know that many will argue that we should scrap catastrophic in order to start with a clean slate and to avoid piecemeal health care policy. They will say that we need overall Medicare reform. Well, I agree with them about the need for reform, but I do not think that scrapping catastrophic is the answer.

I do hope that Congress will look at Medicare reform in the near future. This program consumed 7.5 percent of the Federal budget in 1988, and is expected to consume 10.6 percent in 1993. There is no doubt that the current Medicare system does not distribute this amount of money very efficiently.

I support looking for ways to reform Medicare. I especially support looking for ways that it could help seniors with their No. 1 concern which is long-term care. I hope that Congress will undertake this task soon, but I hope no one thinks we are undertaking that task now.

Mr. President, I want to restate my support for the McCain proposal, and urge my colleagues to do the same.

In summary, Mr. President, I rise today in support of the McCain amendment, but I think what we are talking about here is the action of waiving the budget. After listening to this and seeing many graphs and bars that tell us the direction that we should be going, it would be interesting to see how many of those graphs and bars hold true 3 and 4 and 5 years later.

I think we are concerned that this started the terrible fire storm out there and we, as mortal politicians, reacted to that.

I compliment Senator MCCAIN of Arizona for taking a piece of legislation already a law, that is already on the books and reworking it to where it is acceptable both to our elder community and to our budget process. Of course, that remains to be played out. I say, again, very seldom do we see those figures be the same 2 and 3 years later.

This does address the needs of our senior citizens. I think when I first came here in January, I did not think anybody else could write letters other than our senior citizens. That is all I received by the buckets full. So we knew we had to come up with some sort of a plan to revamp this thing called catastrophic health.

It does what I think the senior citizens want, and that is what I am being told every time I go back to Montana. So I support the McCain approach. I think repeal does nothing for us. In fact, if we start all over again, we may be in worse shape than we already are. I think they want the spousal impoverishment; I think they want skilled nursing care. And one day we are going to have to look at long-term care. That will be addressed at a later date.

So I congratulate the managers of this particular legislation and look forward to its passage. I urge my colleagues to support it and also support waiving the budget. Mr. President, I want to thank you and I yield my time.

Mr. KOHL. Mr. President, I support waiving the Budget Act point of order against the McCain legislation on the Castastrophic Health Care Program. The Senate should move past this obstacle and debate the merits of the bill.

I support this waiver despite my strong concern that we not take any action to aggravate our deficit. The budget point of order lies against the bill because the Catastrophic Health Care Program actually generates extra revenues during its first year of implementation. Thus, catastrophic actually eases our deficit for fiscal year 1990. Therefore, repealing or modifying the laws called for in the McCain legislation and the pending amendments will worsen our deficit during the first year.

However, focusing only on the first year of implementation is artificially narrow, Mr., President. Whether you favor or oppose continuation of the Catastrophic Health Care Program, all must admit that will cost the Government billions more than it will generate over the long term. While sustaining the budget point of order would therefore ease our deficit problems for 1 year, it would perversely aggravate our deficit in all succeeding years.

The long-term impact of legislation on the deficit should be our concern. I therefore support waiving the budget act point of order. The issues surrounding this legislation are vexing. The bill's budget impact, however, should not be an obstacle to addressing these issues.

Mr. GRASSLEY. Mr. President, I will not be able to support the amendment of my colleague from Massachusetts [Mr. KENNEDY].

As I understand the proposal, it would retain the prescription drug benefit and the hospital catastrophic protections as well as a number of smaller benefits. In fact, I have but a couple of observations on the prescription drug benefit, Mr. President. In the first place, they are expensive. Furthermore, the original estimates by the Congressional Budget Office grossly underestimated the cost of the prescription drug benefit. I must confess to harbouring a lingering doubt about the current estimates we have from CBO. How much will we find these benefits to cost when we get CBO's next estimate, or when the true costs begin to come in?

In the second place, at least with respect to the prescription drug benefit, I do not believe that this benefit is one of those most desired by Medicare beneficiaries, at least insofar as the polls taken on the Catastrophic Program represent what our constituents are thinking. The polls show that the prescription drug benefit is not one of those seen by Medicare beneficiaries as one of the more valuable benefits in the bill.

I would just also observe that, in the mail I am getting on this subject, my constituents do not appear to be demanding preservation of this benefit.

The PRESIDENT pro tempore. Who yields time?

Mr. MCCAIN. Mr. President, I yield myself whatever time is remaining.

The PRESIDENT pro tempore. The Senator from Arizona is recognized for 2 minutes 29 seconds.

Mr. MCCAIN. Mr. President, first, I would like to associate myself with the remarks of my friend from West Virginia concerning the benefits for seniors and the result of what we do today.

I hope a lot more of our debate will center around what benefits seniors need and want and deserve. So I appreciate his refocusing this debate on that very critical part of the issue. But since my friend from Minnesota raised several points about the budget I would like to point out that in the same letter which was recently included as part of the RECORD from Mr. Darman, the Director of the Office of Management and Budget, he described several things that happened in the budget process. He says:

> And if the emerging reconciliation bill, including the language dealing with the scoring of medicare payment shifts, is enacted our current estimate of the G-R-H baseline deficit would be reduced by approximately $12 billion. This would then yield a revised G-R-H deficit estimate that could accommodate your amendment without triggering sequester.

So the administration is now saying, as they have not in the past, that if my legislation is passed it will not trigger sequester.

Let me remind my friend from Minnesota of what we are talking about here as far as $10 billion and other billions of dollars. First of all, the cost of this legislation as passed has already gone from an initial estimate of $31 billion to $45 billion and it continues up. We know where that money, due to the nature of this legislation, has to be paid, out of the surtax, which means that the surtax would continue to skyrocket.

Perhaps my friend from Minnesota does not agree that by repealing certain benefits, then certain taxes will not be raised, but that is the case. Between 1990 and 1994, because of the

repealed surtax, there would be a $37 billion loss in revenue to the Treasury. Because of the reduced outlays, because of repealed benefits, there would be a $46 billion increase in moneys that will not be spent, thereby leaving $9.9 billion which is the basis of the comments of Senator GRAMM and the Senator from Washington [Mr. GORTON].

The PRESIDENT pro tempore. The time of the Senator from Arizona has expired.

PRIVILEGE OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Margaret Van Amringe, who is on detail to Senator MITCHELL's office from the Department of Health and Human Services, be permitted privileges of the Senate floor during consideration of the pending catastrophic insurance reform measure.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I wish to use the remainder of the time.

The PRESIDENT pro tempore. The Senator is recognized for 3 minutes.

Mr. ROCKEFELLER. Mr. President, I am going to vote for this Budget Waiver Act. I am going to do it reluctantly, and I am going to do it because we simply are where we are. We have no choice. The only responsible thing to do, it seems to me, if we want to protect benefits and help seniors who desperately need help, is to waive the Budget Act in order to allow these various amendments to come before us which very in their approach to both benefits and cost.

I say, as strongly as I can summon myself, catastrophic health care and the several billions of dollars that are associated with it is just a tiny part of what it is that this body, this Congress, this Nation, and its people are going to have to face up to and make choices about in the very near future.

Let us say catastrophic ends up at $2 or $3 billion or $4 billion, depending upon what we pass. I suggest that we have 37 million uninsured Americans in this country. They have no insurance whatsoever. Twenty-five percent of them are children. That is going to be tens of billions of dollars. We cannot be a civilized nation and have people without health insurance. I suggest that there are millions of seniors and nonelderly who do not have long-term care coverage. When I am talking about nonelderly, I am saying that because when we talk about long-term care we tend to think of seniors, and indeed they are a major part of that, but we have hundreds of thousands of youngsters, of teenagers, people in their thirties and forties who have various crippling disabilities or diseases who need long-term care. It is an issue for all America. I know of no proposal that would cost less than $40 or $60 billion in addressing that program. So you have $40 billion to $60 billion for long-term care which we have to face up to on a moral basis, a human basis, and in responsibility to this Nation. We have the uninsured. You are talking about tens of billions of dollars and we are going through absolutely an orgy of destruction and agony on a relatively minor cost in a very important bill called catastrophic health care.

I urge my colleagues on both sides of the aisle to vote for this budget waiver because it is where we are and because it is what we have to do in order to protect benefits for seniors who need those benefits.

I yield the remainder of my time, Mr. President, and I am prepared to go to a vote.

The PRESIDENT pro tempore. All time has expired.

The question is on the motion to waive the Budget Act. The yeas and nays are ordered. The clerk will please repeat the responses as they are made. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—96

Adams	Garn	McClure
Armstrong	Glenn	McConnell
Baucus	Gore	Metzenbaum
Bentsen	Gorton	Mikulski
Biden	Graham	Mitchell
Bingaman	Gramm	Moynihan
Bond	Grassley	Murkowski
Boren	Harkin	Nickles
Boschwitz	Hatch	Nunn
Breaux	Hatfield	Packwood
Bryan	Heflin	Pell
Bumpers	Heinz	Pressler
Burdick	Helms	Pryor
Burns	Hollings	Reid
Chafee	Humphrey	Riegle
Coats	Inouye	Robb
Cochran	Jeffords	Rockefeller
Cohen	Johnston	Roth
Conrad	Kassebaum	Rudman
Cranston	Kasten	Sanford
D'Amato	Kennedy	Sarbanes
Danforth	Kerrey	Shelby
Daschle	Kerry	Simon
DeConcini	Kohl	Simpson
Dixon	Lautenberg	Specter
Dodd	Leahy	Stevens
Dole	Levin	Symms
Domenici	Lieberman	Thurmond
Durenberger	Lott	Wallop
Exon	Lugar	Warner
Ford	Mack	Wilson
Fowler	McCain	Wirth

NAYS—3

Bradley	Byrd	Sasser

NOT VOTING—1

Matsunaga

So the motion was agreed to.

The PRESIDENT pro tempore. The remaining time on the bill is as follows: 21 minutes under the control of Mr. MCCAIN; 3 minutes under the control of Mr. ROCKEFELLER. Under the order, the first amendment to be called up is by the Senator from Massachusetts [Mr. KENNEDY].

Mr. MCCAIN. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield for that purpose?

Mr. KENNEDY. I am glad to yield for that purpose.

Mr. MCCAIN. I was under the impression that the unanimous-consent agreement was 15 minutes each side. Am I incorrect in that?

The PRESIDENT pro tempore. On the amendment by Mr. KENNEDY there is 30 minutes equally divided. The Chair was stating the time remaining on the bill.

Mr. MCCAIN. Thank you, Mr. President.

The PRESIDENT pro tempore. The Senate will be in order before the time starts running against the Senator from Massachusetts.

The Senator from Massachusetts.

AMENDMENT NO. 985

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Pennsylvania [Mr. HEINZ] and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Senator HEINZ, proposes an amendment numbered 985.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Revision Act of 1989".

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of the Medicare Catastrophic Coverage Act (hereafter in this Act referred to as "MCCA") are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as in-

serted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(d) CONFORMING AMENDMENT.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "Federal Hospital Insurance Catastrophic Coverage Reserve Fund,".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

SEC. 102. REVISION OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraphs (2), (3), and (4), sections 101, 102, and 104(d) (other than paragraphs (2)(C) and (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this Act referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR INPATIENT HOSPITAL SERVICES.—

(A) The repeal of section 101(1) shall not apply insofar as such section amended paragraph (1) of section 1812(a) of the Social Security Act (relating to inpatient hospital services).

(B) The repeal of section 102(1) of MCCA shall not apply insofar as such section amended paragraph (1) of section 1813(a) of the Social Security Act (relating to the inpatient hospital deductible).

(3) EXCEPTION OF BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA shall not apply insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(4) EXCEPTION FOR HOSPICE BENEFIT CHANGES.—The repeal of section 101 of MCCA shall not apply insofar as such section—

(A) amended paragraph (4) of subsection (a) of section 1812 of the Social Security Act (relating to hospice care benefits), and

(B) amended subsection (d) of such section (relating to a subsequent extension period of an election).

(b) TRANSITIONS FOR EXTENDED CARE SERVICES.—

(1) In the case of an individual who on December 31, 1989, is receiving extended care services for which payment may be made under part A of title XVIII of the Social Security Act, this Act shall not apply to the provision of extended care services under such part during a continuous period of stay in 1990, but—

(A) the number of days of coverage under this subsection shall not exceed 150 less the number of days for which benefits for extended care services were payable under such for the individual in 1989, and

(B) coinsurance shall be applicable under section 1813(a)(3) of such Act only for those days (if any) in 1990 before the 9th day in which the individual was furnished extended care services in 1989 and 1990.

(2) In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to extended care services provided on or after January 1, 1990, except as may be provided under paragraph (1)—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness; and

(B) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM

SEC. 201. REPEAL OF LIMITATION ON MEDICARE PART B COST-SHARING; 1-YEAR DELAY IN IMPLEMENTATION OF OUTPATIENT DRUG BENEFIT.

(a) IN GENERAL.—

(1) REPEAL OF LIMITATION ON COST-SHARING.—Section 201 of MCCA is repealed, and the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted.

(2) 1-YEAR DELAY IN OUTPATIENT DRUG BENEFIT.—Section 1861(t)(3)(B) of the Social Security Act (42 U.S.C. 1395x(t)(3)(B)) is amended by striking "in 1990" and inserting "in 1990 or 1991".

(b) INCREASE IN THE CATASTROPHIC DRUG DEDUCTIBLE AMOUNT FOR 1992.—

(1) IN GENERAL.—Section 1834(c)(1)(C)(i)(III) of the Social Security Act (42 U.S.C. 1395m(c)(1)(C)(i)(III)) is amended by striking "1992 is $652" and inserting "1992 is $950".

(2) GAO REPORT.—Section 1834(c)(1)(C)(iii) of such Act (42 U.S.C. 1395m(c)(1)(C)(iii)) is amended by inserting after the first sentence the following: "The Comptroller General shall report to Congress, not later than 60 days after the date of publication of such proposed regulation, on the accuracy of the Secretary's proposed amount of the catastrophic drug deductible for that following year.".

(c) MODIFICATION OF COINSURANCE PERCENTAGE FOR COVERED OUTPATIENT DRUGS FOR 1993.—Section 1834(c)(2)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(c)(2)(C)(ii)) is amended—

(1) by striking "and" at the end of subclause (II), and

(2) by striking subclause (III) and inserting the following:

"(III) in 1993 is 30 percent, and

"(IV) in 1994 or a succeeding year is 20 percent.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1834(e)(1) of such Act (42 U.S.C. 1395m(e)(1)) is amended by striking "(except as provided in section 1833(c))".

(2) Section 1861(11)(4) of such Act (42 U.S.C. 1395×(11)(4)) is amended—

(A) in the first sentence, by striking "either" and all that follows through the end of such sentence and inserting "has become entitled to have payments made for covered outpatient drugs under section 1834(c).",

(B) in the second sentence, by striking "subparagraph (A) or (B)" and inserting "the previous sentence",

(C) in the third sentence, by striking "a buyout plan (as defined in section 1833(c)(5)(D)) or", and

(D) in the third sentence, by striking "subparagraphs (A) and (B), respectively," and inserting "the first sentence of this paragraph".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 202. REVISION OF MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) CONSOLIDATION OF CATASTROPHIC MONTHLY PREMIUM.—

(1) IN GENERAL.—Section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraphs (4) and (5)" and inserting "paragraph (3)",

(ii) by striking "the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the catastrophic coverage monthly premium",

(iii) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)",

(iv) in the column in the table relating to the catastrophic coverage monthly premium, by striking "$5.46", "$6.75", and "$7.18" and inserting "$7.40", "$9.20", and "$10.20", respectively, and

(v) by striking the column in the table relating to the prescription drug monthly premium; and

(B) by striking subparagraphs (B) and (D) and redesignating subparagraph (C) as subparagraph (B);

(2) UPDATE IN MONTHLY PREMIUM.—Section 1839(g)(2) of such Act is amended—

(A) subparagraph (A), by striking "or (1)(C)",

(B) in subparagraph (B)(i), by inserting "for years beginning with 1998," after "(i)",

(C) in subparagraph (C)(i)(I), by stiking "catastrophic outlays" and inserting "prescription drug outlays",

(D) in subparagraph (D)(i), by striking "or (1)(C)",

(E) in subparagraph (D)(ii), by striking "37 percent" and inserting "100 percent",

(F) in subparagraph (D)(iii)(I), by striking" "20 percent" and inserting "the percent specified in clause (iv)",

(G) in subparagraph (D)(iii)(II), by striking "or section 59B(e) of the Internal Revenue Code of 1986", and

(H) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of clause (iii)(I), the percent specified in this clause for 1994 is 75 percent, for 1995 is 50 percent, for 1996 and for 1997 is 25 percent, and for 1998 and each succeeding year is 20 percent.".

(3) ELIMINATION OF SEPARATE PRESCRIPTION DRUG MONTHLY PREMIUM.—Section 1839(g) of such Act is further amended by striking paragraph (3).

(4) TREATMENT OF RESIDENTS OF PUERTO RICO AND TERRITORIES.—Section 1839(g)(4) of such Act is amended—

(A) in subparagraph (A), by striking "(4)" and inserting "(3)",

(B) in subparagraph (A), by striking "the sum of" and all that follows through the end and inserting "the catastrophic coverage monthly premium determined under subparagrah (B).",

(C) in subparagraph (B)(ii), by striking "$3.56" and "$5.78" and inserting "$1.37" and "$2.22",

(D) in subparagraph (B)(ii), by striking "and" at the end,

(E) in subparagraph (B)(iii), by striking "catastrophic outlays" each place it appears and inserting "prescription drug outlays",

(F) by redesignating clause (iii) of subparagraph (B) as clause (iv), and

(G) by inserting after clause (ii) of subparagraph (B) the following new clause:

"(iii) in 1991 is $1.92 for a resident of Puerto Rico and $3.10 for a resident of another U.S. commonwealth or territory; and", and

(H) by striking subparagraph (C).

(5) CONFORMING AMENDMENTS.—Section 1839 of such Act is further amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by striking "the amendments made by the Medicare Catastrophic Coverage Act of 1988" and inserting "covered outpatient drugs",

(B) in the last sentence of subsections (a)(1) and (a)(4), by striking ", but shall not" and all that follows up to the period,

(C) in subsection (b), by striking "(g)(6)" and inserting "(g)(4)",

(D) by striking paragraph (5) of subsection (g),

(E) in subsection (g)(6), by striking "(6)(A)" and inserting "(4)" and by striking subparagraph (B),

(F) in subsection (g)(7), by striking "(7)(A)" and inserting "(5)(A)" and, in subparagraph (B), by striking "paragraph (4)" and inserting "paragraph (3)", and

(G) in subsection (g)(8)—

(i) by striking subparagraphs (A), (D), and (F),

(ii) in subparagraph (B)(ii), by striking "part A" and inserting "part B", and

(iii) by redesignating subparagraph (B), (C), and (E) as subparagraphs (A), (B), and (C), respectively.

(b) FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1841A of such Act (42 U.S.C. 1395t-1) is amended—

(1) in subsection (a), by striking "(a)(1)" and inserting "(a)", by striking "or under paragraph (2)", and by striking paragraph (2),

(2) in subsection (d)(1)(B), by striking "prescription drug" and inserting "catastrophic coverage", and

(3) in subsection (d)(2), by striking "and under section 59B of the Internal Revenue Code of 1986".

(c) MODIFICATION OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.—Section 1841B of such Act (42 U.S.C. 1395t-2) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "and section 59B of the Internal Revenue Code of 1986,", and

(B) in the second sentence, by striking "and for purposes of section 59B of the Internal Revenue Code of 1986";

(2) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to (i) premiums under section 1839(g), or (ii) the additional premium amounts under section 1839 that are attributable to section 1839(e) applying during 1991, 1992, and 1993, and subsequent years", and

(B) by striking subparagraph (3) and redesignating subparagraph (C) as subparagraph (B);

(3) in subsection (b)(4), by striking ", those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund,"; and

(4) in subsection (c)(2), by striking "and under section 59B of the Internal Revenue Code of 1986".

(d) SETTING BASIC PREMIUM AT 25 PERCENT FOR 1991, 1992, 1993, AND 1994 AND SUBSEQUENT YEARS.—Section 1939(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended by striking "1990" each place it appears and inserting "and subsequent years".

(e) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) The seventh sentence of section 1817(b) of such Act, inserted by section 212(c)(3) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "and those outlays" and all that follows and inserting a period.

(2) Section 1840(i) of such Act (42 U.S.C. 1395s(i)) is amended by striking "a prescription drug monthly premium established under".

(3) Section 1841(a) of such Act (42 U.S.C. 1395t(a)) is amended by striking the sentences added by section 212(b)(2) of the Medicare Catastrophic Coverage Act of 1988.

(4) Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986" and inserting "or additional premium amounts under section 1839 for months after December 1990 attributable to section 1839(e) applying during 1991, 1992, 1993, and 1994 and subsequent years".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 302. REVISION OF MEDIGAP REGULATIONS; OTHER AMENDMENTS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Association') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to reflect the changes in law made by the Medicare Catastrophic Revision Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the amended NAIC Model Regulations, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes in law made by the Medicare Catastrophic Revision Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgated such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition to reflect the changes in benefits under this title made by the Medicare Catastrophic Revision Act of 1989, or

"(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or re-

vised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B), whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policy holder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by the Medicare Catastrophic Revision Act of 1989, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in subparagraph (B), and

"(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

(d) TECHNICAL CORRECTIONS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.—

(1) CORRECTIONS RELATING TO CATASTROPHIC DRUG BENEFIT.—

(A) DEFINITION OF COVERED OUTPATIENT DRUGS.—Section 1861(t)(3)(A) of the Social Security Act, as added by section 202(a)(2)(C) of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA"), is amended—

(i) by redesignating clauses (iv) through (xiii) as clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), (xiv), (xvi), and (xviii), respectively;

(ii) by inserting after clause (iii) the following:

"(iv) Diagnostic services under subsections (s)(2)(C) and (s)(3).

"(v) X-ray, radium, and radioactive isotope therapy under subsection (s)(4).";

(iii) by inserting after clause (x), as so redesignated, the following:

"(xi) Parenteral nutrition nutrients under subsection (s)(8).";

(iv) by inserting after clause (xvi), as so redesignated, the following:

"(xv) Partial hospitalization services (as defined in subsection (ff)).''; and

(v) by inserting after clause (xvi), as so redesignated, the following:

"(xvii) Qualified psychologist services (as defined in subsection (ii)).".

(B) COVERED HOME IV DRUGS.—Section 1861(t)(4)(A) of such Act (42 U.S.C. 1395x(t)(4)(A)) is amended by striking "dispensed" and inserting "furnished by a qualified home intravenous drug therapy provider".

(C) REFERENCES TO CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—Section 1834(c) of the Social Security Act, as added by section 202(b)(4) of MCCA, is amended—

(i) in paragraph (1)(C), by striking "Subject to subparagraph (D), the" and inserting "The,

(ii) in paragraph (2)(A), by striking "under paragraph (1)(A) and except as provided in subparagraph (C)" and inserting "under paragraph (1)"; and

(iii) in paragraph (8)(E), by striking "paragraph (1)(A)" each place it appears and inserting "paragraph (1)";

(D) PAYMENT FOR ELECTRONIC EQUIPMENT FOR PHARMACIES.—Section 1842(o)(2) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (B)—

(I) by inserting ", software," after "electronic equipment", and

(II) by inserting ", or reimbursement for such equipment or software modifications," after "telephone service)";

(ii) by adding at the end the following:

"Any reimbursement under subparagraph (B) shall be contingent upon a pharmacy's system meeting the requirements specified in the contracts between the Secretary and carriers and shall not exceed the reasonable cost of the modifications or, if less, the cost of a point-of-sale terminal (as defined in such contracts).".

(E) INTERIM FUNDING OF CATASTROPHIC DRUG EXPENSES.—(i) Section 202(m)(5) of MCCA is amended by striking "January 1, 1990" and inserting "April 1, 1990".

(ii) Section 1841A(c) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "and administrative costs" and inserting "(and on or after April 1, 1990, for administrative costs)".

(F) EXPANSION OF IDENTIFIERS TO NONPHYSICIAN PRACTITIONERS.—The Secretary of Health and Human Services shall expand the identifier system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide unique identifiers to each nonphysician practitioner (physician assistants, nurse practitioners, and certified registered nurse anesthetists) who is authorized to prescribe or dispense covered outpatient drugs for which payment may be made under title XVIII of the Social Security Act.

(2) SCREENING MAMMOGRAPHY.—

(A) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1834(e)(4) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended by adding at the end the following new subparagraph:

"(D) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—In applying the limit under subparagraph (A) with respect to a nonparticipating physician, the limit applied shall be the applicable percent (as defined in the second sentence of section 1842(b)(4)(A)(iv)) of the limit otherwise established in that subparagraph.".

(B) FREQUENCY OF SCREENING.—Section 1834(e)(2)(A) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended—

(i) in clause (iii)(I), by striking "the 11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed",

(ii) in clause (iii)(II), by striking "the 23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed", and

(iv) in clause (v), by striking "23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed".

(3) ROUNDING OF PART B PREMIUM.—Section 1839 of the Social Security Act, as amended by section 211(c)(1)(E) of MCCA, is amended—

(A) in the first sentence of subsection (b) (as amended by section 202(a)(5)(C) of this Act), by striking "subsections (f) and (g)(4)" and inserting "subsection (f)",

(B) in subsection (b), by inserting after the first sentence the following new sentence: "If the resulting monthly premium is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.", and

(C) in subsection (c), by striking "the foregoing provisions of this section" and inserting "subsection (a)(3) or (e)".

(4) MISCELLANEOUS.—

(A) Clause (iii) of section 1814(a)(7)(A) of the Social Security Act, as added by section 104(d)(2)(C)(iii) of MCCA, is amended by moving its alignment 2 ems to the left so its alignment is the same as that of clause (ii) of such section.

(B) Section 1842(p)(3)(B) of the Social Security Act, as added by section 202(g) of MCCA, is amended by striking "section

1842(j)(2)(A)" and inserting "subsection (j)(2)(A)".

(C) Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(D) Section 1842(h)(5)(B)(iv) of the Social Security Act, as added by section 223(b)(4) of MCCA, is amended by striking "paragraph (2)(A)" and inserting "paragraph (2)".

"(e) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

"(f) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, expect that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes on this amendment.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, as I mentioned earlier the two greatest concerns of our senior citizens in our Nation today are, one, for home health care or long-term nursing care; and second, the issue of prescription drugs.

There are various coverages for individuals, for hospitalization and doctors' care, and so many of our elderly take advantage of those particular programs. But there is virtually no coverage for our seniors for prescription drugs, and when we are talking about the catastrophic nature of medical bills, it is in this area more than any other area that our seniors are affected.

There are 5.4 million people every year who have catastrophic health expenses just because of prescription drugs, 1.3 million for inpatient hospital benefits, and 2.3 million for physician benefits, so there is really an area of public policy of greatest concern.

No. 1, there are not available to our seniors the availability of purchasing insurance programs to deal with that. No. 2, they virtually do not exist.

No. 3, this amendment will provide for the prescription drugs for our seniors.

As indicated in this legislation, we have eliminated the surtax. We only maintain the continuation of the drug benefit portion that already exists in the legislation which is extremely modest which is included in the McCain proposal. And we fund this proposal with the savings, the difference between the 25-percent payments of seniors under the Medicare Program and the cost-of-living increase.

In 1972, because of the rise of health costs, the Congress wisely limited the increase in premiums for our elderly to what the consumer price index was going to be, recognizing that the seniors themselves could not control increasing health care costs and the seniors were not responsible for the deficit. Those were congressional actions. So the seniors should only have to pay the increase in the consumer price index.

In 1982, that policy was changed to include that the seniors were going to have to pay 25 percent of all the costs, and that amount is being used today for deficit reductions.

The seniors in our country on Medicare are paying a disproportionate amount for deficit reduction. All we are doing now is recapturing that which has been basically described as a temporary measure and has even been included in the reconciliation provision as a temporary measure just for this year. We are saying after the reconciliation of this year, we are going to go back to the wise policy up to 1982 for our seniors and use those savings to fund the drug package.

This program which we have I think of all the various programs that are going to be voted on today is the more expansive with that particular issue in mind, the prescription drug issue, and that is why I have been very hopeful that this would be an added feature to the McCain proposal.

Finally, I just say I welcome the strong support of the Senator from Pennsylvania. Senator HEINZ has been a real leader in the Senate for a number of years on the whole question of out-of-hospital prescription drugs and is one of the most knowledgeable individuals in the Senate on this issue. Having his support is, I think, very important and I am very appreciative.

Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. HEINZ] is recognized for 5 minutes.

Mr. HEINZ. Mr. President, I say at the outset I thank the Senator from Massachusetts for taking the leadership on his side of the aisle in bringing this before the Senate. To my mind it is an absolutely essential and vital amendment in the Senate today.

I really worry about the fact that because there are flaws, deep flaws, some would say, in some circumstances, I would agree with the legislation that we enacted last year, that we throw the baby out with the bath water.

There are many good provisions in the catastrophic coverage bill, but we are all aware that the financing was, until we changed it, deeply flawed. It caused 40 percent of the people to pay 82 percent of the cost of the progrm. That is unfair and outrageous, and we heard a lot about that outrage and unfairness.

There are benefits in the legislation we passed last year that are duplicative, and in retrospect we were not smart to include benefits that people did not feel they needed or wanted

What the Senator from Massachusetts and I propose to do is very simple. It is to address every single one of those issues that is of great unfairness; namely, we eliminate the supplemental premium, the surtax, the tax on the tax, as some people call it, and we get rid of the part B cap, so-called, and we keep the benefits that the people of this country, our senior citizens, and their children know are absolutely essential to staying out of the nursing home, to avoiding institutionalization.

I am referring to the long-term care benefit for home health, the preventiative care mammography. I am referring to hospital catastrophic. But above all, Mr. President, I am referring to the fact that the Kennedy-Heinz amendment retains coverage for prescription drugs.

It was just about a year ago that I was privileged to come before the Senate on the 27th of October and offer on behalf of myself and the majority leader of today, Senator MITCHELL then, an amendment to include prescription drug coverage under the Catastrophic Act.

By a vote of 88 to 9, the Senate put itself on record in favor of covering prescription drugs under the Catastrophic Act.

Mr. President, I think our reasons for doing so now are as valid as they were then, and the reason we did it then is the very simple fact that there are some 5 million senior citizens who today are experiencing out-of-pocket costs of prescription drugs in excess of $1,400.

Mr. President, the average senior citizen receives from Social Security—make no mistake about it, the average senior citizen only has Social Security to get by on—the average senior citizen gets about $500 a month in Social Security; $500 a month.

What does $1,400 a year mean if you spend $120 a month out of pocket for prescription drugs to stay active, to deal with arthritis, hypertension, and high cholesterol levels, and that is because a 25-percent chunk of their income goes for some 5 million senior citizens to just pay the cost to stay functioning, to stay independent, to stay out of needless institutionalization.

That is what the Senator from Massachusetts and I are giving the Senate a choice on in our amendment. We get rid of the surtax. Our amendment is fiscally responsible. The numbers meet. We will meet the baseline, but we keep those benefits that really touch the largest number of senior citizens and that do them the most good.

Mr. President, it would be a tragedy if we were to simply cut and run on the notion of helping senior citizens. A number of us in this body, the Senator from Minnesota, the Senator from Massachusetts, and others, serve on the Pepper Commission. Our job on

the Pepper Commission—I see Senator ROCKEFELLER, the chairman on the floor, our job on the——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. HEINZ. May I have 30 additional seconds?

Mr. KENNEDY. I yield time.

The PRESIDENT pro tempore. The Senator is yielded time.

Mr. HEINZ. Our job on the Pepper Commission is to move forward on long-term. Unless we take positive steps and resist repeal for senior citizens, we are not only taking a step back on long-term care; we may be set back so far we may not be able to take a step forward irrespective of what we might want to do on the Pepper Commission.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has remaining 4 minutes and 20 seconds.

Mr. KENNEDY. I thought I would retain that time to respond to some of the points in opposition.

Mr. HEINZ. Mr. President, parliamentary inquiry. Is the Senator speaking for or against?

Mr. DURENBERGER. I am going to be speaking against.

Mr. HEINZ. Who has the time in opposition, Mr. President?

The PRESIDENT pro tempore. The Senator from West Virginia controls the time in opposition if he opposes the amendment.

Mr. ROCKEFELLER. Parliamentary inquiry. If the Senator from West Virginia is not in opposition to the bill, speaking as the Senator from West Virginia, not representing the Finance Committee——

The PRESIDENT pro tempore. The minority leader or his designee, Mr. MCCAIN, controls the time.

Mr. McCAIN. Mr. President, I think there has been some confusion here. In an attempt to clarify it, I ask unanimous-consent that I be allowed to control the time in opposition to amendments, the logic being the bill is my bill. I find no objection from my friend from West Virginia and that way I think it makes it a much more clean and efficient debate.

The PRESIDENT pro tempore. That is not according to the usual form, but the Senator makes a unanimous-consent request. Is there objection?

Mr. ROTH. Reserving the right to object, I ask that if the change is made, those of us also in opposition be assured the right that we have an opportunity to comment.

The PRESIDENT pro tempore. Does the Chair understand that the Senator makes the request with respect to this amendment only or with respect to all amendments?

Mr. McCAIN. All amendments that are under the unanimous-consent agreement. I assure my colleague that he would control the required amount of time.

Mr. ROTH. I also want to ensure that we have a right to comment on the other proposals.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears no objection. It is so ordered.

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 5 minutes.

Mr. DURENBERGER. I thank the Chair and I thank my colleagues and I thank particularly the Senator from Arizona for clarifying his very difficult role with regard to all these amendments.

Mr. President, I rise in opposition to this amendment with some regret, particularly because, while in the beginning of the creation of catastrophic, the genesis of this wonderful plan, we did not contemplate adding the drug benefit, I think the drug benefit is a good benefit. I do not think there is any question about it. I compliment my colleagues from Massachusetts and Pennsylvania for doing what they can to try to hang onto this benefit.

So there is no doubt about my particular position on this bill, I agree with the Secretary of Health and Human Services and the previous Secretary of Health and Human Services and the previous President of the United States, who said that the catastrophic bill, despite its financing mechanism, is a very good piece of work for the elderly and disabled of America.

The Senator from Massachusetts and the Senator from Pennsylvania are trying to say to us one of those elements, the drug benefit, is a very good benefit and we ought to try to hang onto it. I rise only to suggest that there are better ways to provide drug protection or protection for prescription drugs for the elderly of this country than the proposal of my colleagues.

The amendment before us preserves part A of the catastrophic—as do most of the amendments, other than the repealers—preserves home health care, mammograms, and so forth, in addition to drugs. I believe many of the amendments also we will hear today do that. I know that my own amendment does that, preserves part A, preserves home health, preserves mammograms, preserves spousal impoverishment and the like.

The question, very simply, is what do you lose by voting for this amendment? One of the main things that you lose is part B coverage. It does not do much good to pick up part A coverage for 60 days and the 61st through the 365th day in the hospital you lose all your coverage for doctor bills. Those are the people who are in hospitals for a long period of time who also have very large medical bills. And to say that we are going to hang on to part A, but part B we are going to reject is to leave all these same people totally exposed, either personally or to the so-called supplemental market to having to pick up all of those costs.

So I oppose this amendment because it rejects part B, which is the real, genuine, needed by the elderly, by the poor, by the disabled of this country, part of this amendment.

I would also suggest, on the basis of all of the time we have spent in the Finance Committee dealing with the issue of drugs, that now is probably not the best time to adopt a drug amendment. We now know about the drug authorization in the catastrophic bill that would cost somewhere between 30 and 40 percent to administer.

I think we all know from our experience what that means: that if we do not change this drug benefit, if we keep it as a program that is going to cost 30 to 40 percent to administer, sooner or later either the premiums go off the wall so that most elderly cannot afford it or they start opting out of part B and we have not accomplished what we should accomplish.

We need a good drug program. I compliment my colleagues for wanting to hang on to what we have. I would suggest that we can do this prescription drug program better in the future, and I hope the other alternative amendments that do not have the drug benefit in it will be looked at for those of you who want to preserve the good that is in the catastrophic bill.

Mr. KENNEDY. Mr. President, just in terms of the time, we have about 4 minutes left. I would like to retain that. Would the Senator answer one or two questions on his time?

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, I yield, hoping that my friend from Massachusetts would exercise restraint.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. McCAIN. Three minutes.

Mr. KENNEDY. I must say I was almost prepared to yield 2 minutes for the first 2 minutes of the statement of the Senator from Minnesota, but resisted doing so after that.

What percent of the elderly people do have stopgap insurance for part B? As I understand, it is about 66 percent of the Medicare. And if you include Medicaid, that is about 80 percent of our seniors have some additional coverage other than part B. I agree it is a difficult thing to try and balance one

particular benefit versus another. But, we find that you have 2.3 million if we retain the coverage that would have the benefit, while ours, as the Senator from Minnesota said, is about 5.4. We are talking about out-of-pocket expenses.

So will the Senator address that Medigap and the other private insurance?

Mr. DURENBERGER. I will do it very briefly. I think the figures are approximately 60 percent of the Medicare recipients buy supplemental and Medicare picks up part of the gap.

When I came to this body, which was long after the Senator from Massachusetts did, about 10 years ago, that total figure was up somewhere in the neighborhood of 97 percent. The problem is that you cannot buy just catastrophic. You have to buy a lot of other things. And people, in particular poor people, low-income people, people who have disabling injuries and diseases, people who live in rural America, those people cannot afford to buy catastrophic insurance in this current market. And that number keeps getting larger by the hundreds of thousands each year; much quicker than the people who have catastrophic drugs. So those are the people who need catastrophic, that large number that is growing every year that cannot afford to buy these policies in that market.

Mr. KENNEDY. Mr. President, I yield on my own time.

In response, I would say, Mr. President, that there are no comparable programs out there now like Medigap in the area that you have prescription drugs. It does not exist. I would agree with my good friend from Minnesota that there is this gradually escalating problem, certainly of importance to me, that we are going to have to agree to down the road.

Mr. President, I reserve the remainder of my time.

Mr. ROCKEFELLER. Mr. President, the Senator from West Virginia asks if he could be yielded 2 minutes.

Mr. KENNEDY. Yes.

Mr. ROCKEFELLER. Mr. President, I emphasize again that in general terms I am managing the bill, but I am speaking now as the junior Senator from West Virginia. As I go through all of these amendments, as I understand them to this point, I am inclined to be in favor, in fact I am a cosponsor, of the Durenberger amendment which is yet to be before us.

But I am going to vote for the Kennedy proposal because I think the Kennedy proposal accomplishes a lot of things that would be very satisfactory to our people in West Virginia and across the country. He does, in fact, repeal the supplemental premium. That has been the primary, perhaps, cause of dissatisfaction. He is exactly right when he says drug prescription is not covered under Medigap. He puts it in. He delays it for a year.

That was done before. They were doing that anyway in the original catastrophic bill. And there is the very important aspect of protecting the benefit in the skilled nursing facilities. He grandfathers in those who were already there.

That means the problem of the escalating costs that worries us all so much is not addressed. But he grandfathers and protects those who were there, so people who are in life-threatening situations are not going to be simply pulled out of nursing homes and cast into the cold.

I think there is much to recommend this and I, speaking as the junior Senator from West Virginia, do feel it retains substantial benefits while eliminating the supplemental premium and, therefore, would include myself as one who would be pleased to vote for it.

Mr. HEINZ. Will the Senator from Massachusetts yield for 30 seconds?

Mr. KENNEDY. How much time do we have, Mr. President?

The PRESIDENT pro tempore. The Senator has 2 minutes and 15 seconds.

Mr. KENNEDY. I will yield a minute and I will take a minute.

Mr. HEINZ. I will take 30 seconds.

Mr. President, I want to make one thing clear. There are a lot of amendments we are going to be voting on. This amendment does more any way you look at it, more in terms of the amount of benefits quantitatively, more in terms of the amount of people helped, than any other benefit we are voting upon. I think it is fair to say, therefore, that a vote against the Kennedy-Heinz amendment is a vote against helping aged families stay together, stay independent, and a vote for pushing them into poverty and institutionalization.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. I yield myself 3 minutes.

The PRESIDENT pro tempore. The Senator from Arizona.

McCAIN. Mr. President, I applaud my friend from Massachusetts for recognizing the surtax is a crucial issue here. His amendment does eliminate that. I also applaud him for proposing the level of beneficiary responsibility for part of the part B program not fall below 25 percent. I think those are excellent proposals.

However, obviously a centerpiece of this amendment is the prescription drug part of the bill. I think it is of interest to know that several polls, including the Wirthlin poll recently taken, showed only 25 percent of the seniors in America rated drugs as an important provision.

Also I think it is important to reiterate what my friend from Minnesota pointed out, that the dramatic escalation in the cost of prescription drugs indicates that this proposal will pay for it, if at all, for a very short time.

I have a question for my friend from Massachusetts, to ask if he has a CBO estimate of the costs of this amendment and are parts of it already paid for out of general revenues? I think that is an important factor in evaluating this legislation.

Also, I would like to remind my colleagues that an amendment, the Stark-Gradison-Waxman amendment that was proposed in the House, was their only alternative to total repeal. Basically the centerpiece of that was prescription drugs and that was resoundingly defeated in the House of Representatives.

So I applaud my colleague from Massachusetts for his efforts in particularly some parts of this amendment. I believe it should be overall rejected.

I yield 2 minutes to my colleague from Delaware.

The PRESIDENT pro tempore. The Senator from Delaware is recognized for 2 minutes.

Mr. ROTH. Mr. President, there is no area with more soft data as to cost than the prescription drug benefit.

Let me point out that at the time of passage, according to CBO, prescription drugs were set in at $600, 17 percent of the beneficiaries were supposed to be eligible, at a cost of $6 billion.

Recent estimates say that instead of 17 percent, 33 percent of beneficiaries would be eligible and it would cost $12 billion.

Frankly, nobody has any idea as to how much this program is going to cost.

For example, it is estimated that there could be something like $700 million in claims made under this proposal each year. Whereas we have only $500 million in claims a year under Medicare.

I point out the administrative expenses of this program are tremendous because for each claim, the druggist will be paid $4.50. That means almost $2 billion a year would be paid for administrative expenses.

But the real point is the data is soft. There is a need here but it should be part of a broader study.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. I yield 30 seconds to the Senator from West Virginia.

The PRESIDENT pro tempore. The Senator is recognized for 30 seconds.

Mr. ROCKEFELLER. I want to make the point that polls may say that seniors do not want prescription drug benefits. I am not sure the polls reflect how much it is that we have communicated to seniors about prescription drugs. But I know when I

was having hearings 3 years ago, there were two things that stood out from seniors.

One was, we need help and we want help in terms of being helped with medical catastrophe; and the other was, we want prescription drugs.

Mr. KENNEDY. Mr. President, I will take the last minute.

One is to ask to have the CBO estimates incorporated in the RECORD. The CBO estimates, even with our funding mechanism, would indicate it would be over a $3 billion surplus in the next 4 years, more than a $3 billion surplus.

Second, as has been pointed out we eliminated the surtax.

Third, we maintained the drug benefit.

Fourth, this proposal is supported by the AARP.

Finally, it is fiscally responsible. We put the CBO figures in there.

Mr. President, there will be no other package considered on the floor today that will meet these criteria.

I ask unanimous consent to have the CBO estimates printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KENNEDY CATASTROPHIC PROPOSAL—SPENDING

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	4 yr
Current law benefits:					
Part A benefits:					
Hospital	1,293	1,401	1,522	1,659	5,875
Home health	129	183	194	208	714
Hospice	1	1	1	1	4
Blood deductible	9	10	11	12	42
Part B benefits:					
Respite care		1	112	227	340
Mammography screening	75	123	138	147	483
Administration	119	183	597	840	1,739
Revised benefits:					
Drugs:					
Home IV and immunosuppressive	76	162	184	225	647
Others			1,155	2,638	3,793
Total spending	1,702	2,064	3,914	5,957	14,697
Revenue sources:					
Flat part B premium	1,847	2,732	3,586	4,147	12,312
Part B 25 percent rule		875	1,793	2,779	5,447
Total revenue	1,847	3,607	5,379	6,926	17,759
Surplus	145	1,543	1,465	969	3,062

Mr. McCAIN. Mr. President, how much time remains?

The PRESIDENT pro tempore. The Senator has 4 minutes 30 seconds.

Mr. McCAIN. Would the Senator from Massachusetts like to have some more time?

Mr. KENNEDY. No. I thank my friend.

Mr. McCAIN. Mr. President, I yield to myself for the time being.

The PRESIDENT pro tempore. The Senator is recognized for 4 minutes and 30 seconds.

Mr. McCAIN. I will not take that amount of time. I want to say briefly, it is important to emphasize that every major seniors organization in America supports the McCain bill except the AARP.

Mr. President, in all due respect for that outstanding organization, I think it is well to point out the AARP is in the prescription drug business, and stands to make millions of dollars if prescription drugs are part of this legislation. I do accuse them of anything except the appearance of a conflict of interest on this issue.

Also, although the CBO estimates may indicate a $3 billion surplus, I find it hard to imagine, with the dramatic cost escalation of these drugs, that that could hold true for very long.

I yield the remainder of my time.

Mr. KOHL. Mr. President, I rise in support of the amendment offered by our distinguished colleague from Massachusetts.

His amendment addresses one of the greatest weaknesses of the alternative proposals to reform the catastrophic bill—the need to extend Medicare coverage to prescription drugs. Only 3 out of every 10 American elderly have coverage for outpatient prescription drugs and if current trends continue there is no reason to believe that number will increase. As our colleague noted in his introductory remarks, this benefit will proportionally serve more elderly than any other component of the catastrophic health care plan.

Compared with other Americans, older persons consume a disproportionately large percentage of prescription drugs. According to the Food and Drug Administration, more than 480 million prescriptions were written for the elderly in 1986. Those elderly who are fortunate enough to be living at home take between two and four prescription drugs daily. And according to the Congressional Budget Office, the average cost of a prescription in 1988 was $17.88. That cost can be expected to rise. In a recent Special Committee on Aging hearing chaired by our distinguished colleague from Arkansas, it was made clear that drug prices have risen faster than other consumer prices. In fact, from January 1980 through 1986, drug prices rose almost 80 percent—250 percent faster than the increase in consumer prices in general.

While we have a responsibility to control the growth of costs in pharmaceuticals, we also have a responsibility to assure that senior citizens have access to those therapeutics. As prices soar, the need for Medicare reimbursement for outpatient prescription drugs becomes even more severe for those millions of American elderly living on fixed incomes. There are few things as tragic as the thought of an elderly patient refusing to fill a much needed prescription simply because of inability to pay. And that denial of appropriate care can only cost us more in the long run.

So I commend my colleague from Massachusetts for his leadership with this amendment. It is this Senator's opinion that as we struggle to balance the needs for these benefits against the costs, that we must do all that we can to salvage those benefits that will provide the most assistance and will be of the greatest value to the largest number of American elderly. And in the case of this amendment, we can do that without dependence on the surtax which has proven to be so unacceptable to so many seniors.

I urge my colleagues' support of the amendment.

The PRESIDENT pro tempore. All time is yielded back.

The question is on the adoption of the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

Obviously, there is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. There being no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered. The clerk will please repeat the responses. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—35

Adams	Heinz	Nunn
Burdick	Hollings	Pell
Byrd	Inouye	Pressler
Cranston	Kennedy	Pryor
Daschle	Kerry	Riegle
DeConcini	Kohl	Rockefeller
Dodd	Leahy	Sarbanes
Exon	Levin	Sasser
Fowler	Lieberman	Simon
Glenn	Metzenbaum	Specter
Gore	Mikulski	Wirth
Harkin	Moynihan	

NAYS—64

Armstrong	Domenici	McCain
Baucus	Durenberger	McClure
Bentsen	Ford	McConnell
Biden	Garn	Mitchell
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boren	Gramm	Packwood
Boschwitz	Grassley	Reid
Bradley	Hatch	Robb
Breaux	Hatfield	Roth
Bryan	Heflin	Rudman
Bumpers	Helms	Sanford
Burns	Humphrey	Shelby
Chafee	Jeffords	Simpson
Coats	Johnston	Stevens
Cochran	Kassebaum	Symms
Cohen	Kasten	Thurmond
Conrad	Kerrey	Wallop
D'Amato	Lautenberg	Warner
Danforth	Lott	Wilson
Dixon	Lugar	
Dole	Mack	

NOT VOTING—1
Matsunaga

So the amendment (No. 985) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming [Mr. WALLOP], is to be recognized at this time for the purpose of proposing an amendment.

Mr. WALLOP. Mr. President, it is almost 2 years to the day that the Senate first voted for the Medicare catastrophic benefit legislation. This was the first step toward the passage of what was believed to be a much needed and valuable health benefit for our senior citizens. However, this legislation has been surrounded with controversy since that vote 2 years ago. Many senior citizens have besieged us with petitions, letters, and phone calls in opposition to the program. When I held a town meeting in Sundance, WY, several weeks ago, the major issue among my constituents was the Catastrophic Health Program.

The reason for their displeasure is simple. Senior citizens do not support the method used to finance the benefit. More than one-half of the program's costs are to be funded by a special income-based surtax on seniors. They have looked at the benefits, and decided that an $800 surtax—the maximum rate—was too much. This was the starting point for the debate.

But the debate has not served us well. There has been much misinformation and disinformation involving this program. And we, the Congress, have responded to this confusion with efforts to repeal or restructure the catastrophic benefit.

Beyond the precedent of repealing a major social insurance benefit, I have a concern about the message we may be sending on funding Federal social programs. When we passed the catastrophic health coverage, we decided that those who benefit from the coverage must pay the cost. The day is long gone when we can provide new promises, new benefits without worrying how to finance them.

We have no excess general revenues. We do have a $3 trillion deficit. Taxpayers strongly oppose new general taxes. If we are going to enact new social insurance programs, then the users must pay.

The Roosevelt Group, the National Committee to Preserve Social Security and Medicare, has led the attack on this benefit. They have not always been accurate, and that has been unfortunate for this debate. They did recently conduct a poll of senior citizens on this issue. About two-thirds of the respondents said they opposed the catastrophic surtax. But, they also supported the benefits provided by the program and did not want to pay more than the flat premium. This flat premium only funds 40 percent of the program costs. We cannot possibly provide these benefits with just a flat premium, so we would have to resort to general revenues. We are being driven in a dangerous direction.

The current situation is that while we think we know what senior citizens want in the way of catastrophic health benefits, we have no idea about how to pay for whatever benefits we legislate. At some point in the not too distant future, we will be asked to provide a long-term care benefit for the elderly. I frankly do not know how we are going to resolve that issue after the fiasco involving this catastrophic benefit.

I voted for the catastrophic benefit twice, though my second vote was certainly reluctant. The benefit does make sense in concept, but we erred in adopting too much of the House language relative to financing and to mandatory coverage. The Senate had directed us toward a voluntary program with a reasonable financing procedure. During the Senate debate, I offered a proposal to make the catastrophic care benefit a separate, voluntary election by senior citizens.

I have no doubt that if my proposal had been adopted, we would not be here today. The uproar we are now trying to quell is a response to the surtax. Many elderly are not convinced that the package of benefits they receive is worth the cost. At the same time, many senior citizens poorly understand the program.

Last year, I surveyed Wyoming senior citizens. The survey outlined the benefits and provided a worksheet to calculate individual premium and surtax costs. The 65 percent of my senior constituents who responded, support the program. And, they approved of the proposal to make it voluntary. My voluntary approach has always been the obvious solution.

The Part B Program is already voluntary. It is funded by a premium, as is the catastrophic benefit. Ninety-five percent of the elderly participate in part B. I would expect a similar participation rate for the catastrophic benefit. I have sought a cost estimate of my proposal, and have just been informed that the analysis of voluntary options has not been completed. So, we cannot argue numbers at this point.

Beyond cost, the other objection to my proposal is that seniors will engage in adverse selection. That is, they will not participate in the program until they need the benefit. But, adverse selection could be settled by prohibiting participation once an individual elected not to participate.

I will not offer my amendment to make the catastrophic health benefit voluntary. We should have approved it 2 years ago. We would not be here today if we had done so.

Mr. McCAIN. Mr. President, on behalf of Senator WALLOP, I ask unanimous consent to withdraw his amendment at this time.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Under the previous order, the Senator from Florida [Mr. GRAHAM] is now recognized for the purpose of introducing an amendment.

Mr. GRAHAM. Mr. President, I have two amendments listed. The first relates to a comprehensive proposal.

I ask unanimous consent to waive the offering of amendment No. 3 on the unanimous-consent list.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. GRAHAM. Amendment No. 4, Mr. President, is in the nature of a perfecting amendment at such time as we reach an amendment which would retain a portion of the surtax. In looking at the amendments that are available presently, the only amendment that meets that standard is the amendment that will be offered by the Senator from Minnesota.

So I ask unanimous consent that my amendment No. 4 be reordered to come immediately after the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Reserving the right to object, if I could have the attention of the Senator from Nebraska [Mr. EXON], who is in the Chamber, Mr. President, I wonder if the Senator is aware of the request being propounded by the Senator from Florida [Mr. GRAHAM], since I know he had great concern last night about the order of amendments.

Mr. President, pending approval of that unanimous-consent request, until I have a chance to talk to Mr. ROTH and Mr. DANFORTH, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, a parliamentary inquiry: Is the time elapsing now being taken off my time on the bill?

The PRESIDING OFFICER. The time elapsing on the quorum call is normally charged to the Senator who requested it. However, the unanimous-consent request obviated that need. In this case, the time has not been subtracted, I say to the Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

I wonder if the Senator from Florida is ready to proceed.

Mr. GRAHAM. I am ready, Mr. President.

The PRESIDING OFFICER. The Senator from Florida is recognized. The Chair advises the Senator that he has a pending unanimous-consent request.

Mr. GRAHAM. Mr. President, if I could restate the nature of the amendment that I will offer, which is inferred by the statement in the unanimous consent, which states that if there is no repeal, then it establishes a condition for voluntary opting out.

So my amendment is not a free-standing amendment but rather would be only relevant if we were to adopt as a basic position a financing plan which included a surtax on income tax, as does the current alternative.

Since the only alternative that has now a provision is the one being offered by the Senator from Minnesota, I am asking unanimous consent that I be placed in a position in the order after the Senator from Minnesota and, based on conversations with others who have an interest in this, apparently the most appropriate place would be immediately after the Danforth-Roth amendment.

So my specific request would be to allow this amendment to be taken up immediately after the Danforth-Roth amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAHAM. Given that, I intend to offer the amendment to the bill of the Senator from Arizona. I am frankly befuddled as to why it could not be offered at an appropriate place but that is not for me to decide.

AMENDMENT NO. 986

(Purpose: To provide modified benefit package for individuals having private insurance)

Mr. GRAHAM. Mr. President, I send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 986.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. MODIFIED BENEFIT PACKAGE FOR INDIVIDUALS HAVING PRIVATE INSURANCE.

(a) IN GENERAL.—Subtitle C of title XVIII is amended by adding at the end thereof the following new section:

"MODIFIED BENEFIT PACKAGE FOR INDIVIDUALS HAVING PRIVATE INSURANCE

"SEC. 1893. (a) Upon request made by an individual, in such manner and including such information as the Secretary may require, the Secretary shall determine whether such individual is entitled to hospital insurance benefits and supplementary medical insurance benefits under any benefit plan other than this title, which are equal to or greater than the benefits added by the Medicare Catastrophic Coverage Act of 1988, as amended. If the Secretary makes an affirmative determination with respect to such individual, such individual shall not be entitled under this title to such benefits, and shall not be required to pay the premium under section 59B of the Internal Revenue Code of 1986 and the premium under section 1839(g) of this title, for so long as such individual continues to be entitled to such benefits under such other plan.

"(b) An individual may request the Secretary to determine whether such individual has ceased to be entitled to such benefits under such plan, or the Secretary may make such a determination on the Secretary's own motion. If such a determination is made, such individual shall thereafter be entitled to such benefits, and shall be required to pay the premium determined under section 59B of the Internal Revenue Code of 1986 and the premium under section 1839(g) of this title.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items and services furnished in, and premiums payable for, months beginning on or after November 1, 1989.

Mr. GRAHAM. Mr. President, the purpose of this amendment is to provide an option through which individuals who currently have coverage which is essentially equivalent to that which will be provided under the plan, speaking to the plan as proposed by the Senator from Arizona, would have a means of opting out.

It essentially states that upon request by an individual in such manner, including such information as the Secretary of HHS may require, the Secretary shall determine whether such individual is entitled to hospital insurance benefits and supplementary medical insurance benefits under any benefit plan other than that provided in this title which are equal to or greater than the benefits added by this title.

If he makes such an affirmative determination, then that individual would be in a position to make a voluntary election to opt out of both benefits and payments under this plan.

At the present time, under employer-paid insurance, 11 percent of the plans in force have a fully employer-paid set of retirement benefits which would meet the test of being substantially equivalent to or greater than the benefits which are offered under the current law. So by definition they would meet the standards offered by the Senator from Arizona since his benefits are somewhat less than the current law.

Twelve percent have benefits which are partially paid by the employer, and 6 percent have employer-based plans but in which the employee makes the full payment.

It has been estimated that up to 5 to 7 million of the persons covered by the current catastrophic care plan already have, either through their previous employment or by private action, a plan which would meet the test of being essentially equivalent to that which has been provided under the 1988 catastrophic care plan.

I want to anticipate an argument, and that is the argument of adverse selection, that you are going to have people who are the healthiest, wealthiest, opt out of the plan, leaving the least able and the greatest in need to have to carry the load.

This is not an opt out plan that can be done on one's individual initiative. You have to meet the first threshold of demonstrating that you already have in place coverage that is essentially equivalent or greater than coverage which is being provided under this title. I believe that is the protection relative to the adverse selection argument.

I also underscore that, in most of these instances, these are plans which were provided for while a person was prior to retirement, while they were still in their working years, whether they were working for a private employer, or many government agencies, including the Federal Government, which have programs that provide for this type of coverage after retirement.

So the decision was not based on a health condition or an income condition at the time of retirement, but rather was made at a much earlier stage of life. Therefore, there is no reason to believe that the pool of people who will be eligible to opt out are essentially a different pool of people than the general population that will be covered by this catastrophic program, whatever form it finally takes.

Mr. President, I urge the consideration of this, what I think is just a basic fairness principle of not requiring people who have already paid to have to pay again.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. I yield 5 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, first, I want to say to my colleague from Florida that I did not object to the consideration of this because I have no respect for him. I think the issue can be dealt with, and the great concern for those of us, who were here at midnight last night trying to put this in order, is that if we agreed to one change, we may be here all afternoon agreeing to similar changes.

I have a great deal of respect for his judgment about health insurance matters in general, not only because of the State that he represents, but because of the work he did as a Governor.

I want to say two or three things about this. First, this debate we engaged in last year when we had the catastrophic before us, because there were other proposals similar to the proposal by the Senator from Florida that we provide opt out in the catastrophic part of this bill.

At that time, we had before us a rather large volume of actuarial information, which I do not presently have available to me, providing why, given the existing insurance market, both the employer-based retiree market that the Senator from Florida has talked to us about, the Medigap or supplemental market, and the current Medicare Program, the so-called adverse selection problem was a very real problem.

So on that ground alone, I think this amendment should fall. I would like to make an additional comment, and I hope that it would be a reassuring comment to my colleague from Florida, that all of us on the Finance Committee and all the others who have dealt with this issue are deeply concerned about the problems of duplicate coverage.

When I look at the advertisement, or copy of the advertisement that our colleague from Arizona sent to us all yesterday from USA Today, this list of people who belonged to the Coalition of Affordable Health Care, it looks lke 75 to 80 percent of these associations have something to do with government employees.

These people have a real problem. It a very serious problem if you are retiree, and health benefits are guaranteed for you, and then you have to pay either a flat premiun or a flat premium plus a supplemental. So there is real concern on the part of these people.

As the Senator from Florida pointed out, there is another 10 or 11 percent of people in the private-sector employment who are guaranteed very generous retirement benefits, many of which have major medical and more catastrophic. So for that reason, my amendment, all of the amendments considered in the Finance Committee, none of which are yet before us, and I think most of the amendments that we will be talking about today, will have in them an opt-out feature, so that people are able to opt out of the part B side of this plan and go back to their regular plan, their regular plan of coverage.

I think that, at least to a degree, should provide some assurance to my colleague. I must say, beyond that, in my amendment, we will be looking at a flat premium, which is the current $4 premium, and we will be looking at a supplemental premium, which is about 400 percent reduced from the original premium that upset a lot of these people.

We are looking at a tax which, at the most, will be $200, $250 a year. I think with that in mind, plus the opt out feature that is contained in my amendment—and I believe it is in the amendment of the Senator from Arizona—that there is not going to be any reason to suggest to people in the United States that they ought to try to opt out just of the catastrophic portion of this plan, because they will find that that is not to their economic advantage.

I think we will find that those who do not find that out, who go the wrong way on the street, as the Senator from Texas was talking about earlier, their getting out of Medicare is going to raise the premiums for everybody else and create a substantial adverse selection problem.

So for that reason and, again, restating my respect for my colleague from Florida, I do believe that we should oppose this amendment, and I think as time goes on this afternoon, we will see that his concerns are addressed in other ways.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield 3 minutes to the Senator from West Virginia [Mr. ROCKEFELLER].

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the distinguished Senator from Arizona. I ask the Senator from Florida if he has checked with the Social Security Administration to find out if they think they can make these equivalency comparisons in sufficient time.

Mr. GRAHAM. I have not made any independent assessment of the Social Security Administration's ability to do this, but I cannot imagine that that is beyond their managerial capabilities.

The vast number of the people who will be covered by this have coverage from a relatively small number of insurance plans or prior employer-based plans. I do not believe that this is an undue administrative burden on the Social Security Administration, in order to save the burden of duplicative coverage for some 5 million to 7 million potential beneficiaries.

Here are people who have given up income during their working years, in order to have included in their retirement program this benefit, and now we are essentially telling them that that did not count, that your prudence in preparing for the future was wasted, because now we are going to make you pay a second time for a second and unnecessary level of coverage.

Mr. ROCKEFELLER. I understand what the distinguished Senator is saying. My understanding is that the Social Security Administration is not equipped, in terms of money and personnel, to do that at this point. That is what they tell us. I think beyond that, there is concern.

Let us say you are looking for or described what is equivalent, what is fair, and try to measure it. Federal employees already have that problem, and they either realize their situation or they do not. What if you had, let us say, two plans for home health care, but one plan had a few more days than another. What do you answer? Is that equivalent?

Mr. GRAHAM. I am not saying we need to repeal the standard of judgment. We are placing our faith in the Secretary of HHS to be able to develop some standards by which judgments will be made as to whether these plans were essentially equivalent or greater than the benefits that are to be provided under what is left of the catastrophic health care plan.

I do not think that is a space rocket type intellectual exercise to ask the Secretary to undertake.

The PRESIDING OFFICER. The time yielded to the Senator from West Virginia has expired.

Mr. McCAIN. How much time remains?

The PRESIDING OFFICER. The Senator from Arizona controls 6 minutes and 40 seconds; the Senator from Florida controls 10 minutes and 49 seconds.

Mr. McCAIN. Does the Senator from Florida care to make further use of his time?

Mr. DASCHLE. Mr. President, will the Senator from Florida yield for questions?

Mr. GRAHAM. I yield.

Mr. DASCHLE. I am sorry that I have not followed the text of the amendment as well as I should have.

What happens in the case where a person opts out and then, for whatever reasons, decides down the road also to get out of the plan that he is in, that he opts out of the voluntary plan as well and decides to have no coverage?

Mr. GRAHAM. Under section B of this proposal, if a person no longer meets the test of having such an equivalent or greater coverage, then he loses his opportunity to voluntarily opt out of the catastrophic health care.

Mr. DASCHLE. That is what I thought. If the Senator will yield, that is what I assumed. I would assume then that there is some device by which the Government would know that that person no longer has coverage. What device is that?

Mr. GRAHAM. It can be either through the individual coming to the Secretary and making a recommendation of coverage upon which my volun-

tary opt out had been predicated no longer exists, or the Secretary may make his own determination that there has been a failure of coverage. For instance, if coverage for a group of individuals—and I think this is a typical case—had been provided by a particular insurance company, and it is known to the Secretary of HHS that that insurance company is now in liquidation and is unable to make its financial commitments, then there would be the class where people whose ability to opt out have been predicated on that company's financial capability would no longer be eligible to opt out of the program.

Mr. DASCHLE. I would be very concerned, I suppose, about the responsibility that the insurance companies in this case would have.

Mr. GRAHAM. I really think, if I could say, that if the argument is that the Social Security Administration cannot administer a reasonable plan to avoid duplication of coverage, a situation in which some 5 to 7 million people find themselves, then that raises the fundamental question of whether they are capable of administering the much more complex provisions of the bill itself.

Mr. DASCHLE. If the Senator will yield on that I realize I may be speaking as someone in opposition to his amendment and he has no reason necessarily to yield to me, but the plan does deal with it in two ways.

First of all, it makes it clear that duplicate coverage is illegal when this plan is implemented entirely. That is No. 1. You are not allowed to offer duplicate coverage. And the second is, in those cases where Federal employees in particular paid in, there is a rebate provision. Each month those who have paid in are rebated whatever amount was paid in. It is $3 a month at this point.

So in my view it is probably as reasonable approach to duplicative coverage, either prospective or current, that I can think of and probably deals with the issue as effectively as one might expect under these circumstances.

Mr. GRAHAM. You can make duplicate coverage in the future illegal by saying thou shalt not buy or sell coverage that will duplicate what is currently available under this Government-mandated program. You may single out for special privileges Federal employees. But what do you do about those tens of thousands of people who were employees of the State of New York or of other large public employers or private employers?

Under the current part A some 27 or 28 percent of the American employees in their current benefits package every month are taking less salary so there can be funds placed in that for their benefits upon retirement.

As to those who were in that situation in the 1950's, 1960's, 1970's and 1980's, before this Government met, how do you go back and make the world fair to them? I believe the way you make the world fair to them is to give them an opportunity to come to the administrator of this program, the Secretary of HHS, and say, "Look, I have the same coverage I have already paid for; why are you making me pay twice?" And if they determine that that is in fact the case, let them make a voluntary judgment that they want to opt out.

Mr. DASCHLE. If the Senator will yield one last time, and he has certainly studied the issue thoroughly, you can do it at either end. You can either do it on the benefits side or the payments side. The current program has chosen to do it on the payments side.

It does allow, and I just clarified this with staff to insure I am right, not only Federal employees but all employees who have paid prospectively to be eligible for a rebate benefit on a monthly basis to ensure that they are not paying for duplicate coverage. They already paid it. Why should they have to pay now? That is the whole essence behind this rebate program.

If we can toughen it up in some way, let us try that as our option. We have one of two choices. Certainly from an insurance side, a coverage side, it makes more sense to do it on payment than it does on the benefit, given the fact, as the Senator has illustrated, there really is not any way of ensuring that once a person opts out he continues to retain the kind of benefits we are talking about here in the program originally.

Mr. GRAHAM. No. 1, I do not believe that the administrative complexities of this narrow opt-out provision are nearly the scale of the administration of the basic program that we are now determining whether it should be continued or not.

No. 2, I believe we are talking about an issue of fundamental fairness. These people want to opt out on both sides. Yes; they want to opt out having to pay a second time, but they are also prepared to opt out getting any benefits. They do not want a free ride. They just do not want to have to pay twice to get on the same bus.

The PRESIDING OFFICER. Who yields time,

Mr. McCAIN. Mr. President, I yield 3 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the distinguished Senator.

Mr. President, I have concern about this amendment because it seems to me it runs into several problems.

I am troubled, for example, by the language:

> If the Secretary makes an affirmative determination with respect to such an individual, such individual shall not be entitled under this title to such benefits.

That is a little bit more than asking about equivalency. That concerns me very much.

I also am concerned that the Feds are going to be getting into the business of setting standards with respect to insurance. I know that the Senator from Florida understands, having been a distinguished Governor for 8 years, that the Federal Government does not do that for private insurance. It is the States that do that. One can argue whether or not that is correct, but nevertheless it is the law. So that seems to me the general concern I would feel about the administrative cumbersomeness of all of this.

Second, it is, I think, much more restrictive and mandatory and tends perhaps not in the interest of the individual trying to consider what plan he might have or might want, and I also think that it is much too heavy handed, too much of Uncle Sam trying to move in, kind of a section 89 type problem, and for that reason, Mr. President, I oppose the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator has 4 minutes and 40 seconds remaining.

Mr. McCAIN. Mr. President, first of all, I thank the Senator from Florida [Mr. GRAHAM], who has been heavily involved in this issue. He has been extremely sensitive to the seniors of his State. He was one of the first to recognize that this legislation needed fundamental changing.

It has been a privilege for me to have an opportunity to work with him as we try to wend our way through this maze, and at least we are about halfway through at this time. That is why I regret opposing this amendment particularly on the grounds, as the Senator from Florida stated, it would have been far more appropriate and probably supportable if full repeal had been voted. I regret he was forced to propose this amendment at this particular time because in fact the mandatory nature of the act, if the legislation stands, is gone under the present bill, because the surtax would be eliminated and we would know that part B is indeed optional.

I wish to also point out that this amendment gives options to individuals who appeal to the Secretary of HHS to opt out of the catastrophic plan if they can demonstrate they already have retiree health benefits. This option does not address the core issue that is involved in today's debate; that is, the catastrophic act provides seniors the benefits they do not want with a financing plan they do not like, and they do not like the Government mandating participation in the program.

The Graham amendment, in some respects, given the state of the legislation at this point, just adds a new regulatory wrinkle. If a senior can demonstrate to the bureaucracy of HHS that they have a benefit, then the participant may get a waiver that will cost administratively, and I do not think it will provide a guarantee to seniors.

I say to the Senator from Florida, I do not know how the legislation today is going to come out. If it is total repeal, I suggest we are going to be back revisiting this issue again.

I suggest that at that time I would certainly support an amendment or a piece of legislation along these lines that the Senator from Florida is contemplating. Because if we do totally repeal, Mr. President, we will be revisiting this issue because there will be 60 percent of the seniors who do not pay a surtax at this time who will be outraged by the fact that they are going to be deprived the benefits.

So I say to my friend from Florida, I reluctantly oppose this amendment. I understand his thrust here. If there is total repeal, I look forward to joining him in reinitiating this kind of legislation, because I think at that point it would have great potency and persuasive power.

Mr. President, unless the Senator from Minnesota would care to speak I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona has yielded back the remainder of his time.

The Senator from Florida has 4 minutes remaining.

Mr. GRAHAM. Mr. President, to close, I believe that the most significant aspect of the debate that we have heard on this relatively focused, narrow amendment is a frontal attack on this program in its totality.

If you are telling me that there can be serious questions as to whether the Secretary of HHS can be given the authority to make a determination as to whether an individual, who requests that he do so, holds equivalent insurance coverage from another source, there is that doubt about the Secretary's level of administrative competence to make that decision, how in the world can we even start the debate that indicates that he should be given the range of administrative responsibility which the current law and which most of the amendments that we are going to consider later today would provide?

Second, in response to the comments of the Senator from West Virginia, I would point out that the first phrase of that is "upon request made by an individual." So the process does not start until the individual makes the determination that they want it to start. This is not the Government coming in and putting its hands around the throat of an unwilling individual. In fact, it is a means by which the Government's hands are around the throats of people, who are unwilling because they have already paid, before they can be given some relief.

I do not consider it to be even intellectually credible to say that we are going to provide them relief by allowing them to opt out of part B.

Ninety-nine percent of older Americans make the election to be in part B, that is the portion of medicare which provides for basic physicians benefits. And to say that, in order to get out of this catastrophic plan because the person has already paid for that coverage, they then have to give up their physicians benefits program is no option at all. And clearly, it will be seen as that by senior Americans.

Mr. President, we are trying to fashion a program which balances some very difficult and maybe inherently contradictory features. It is a mandatory program. It is a program in which, whether one has previously provided for those benefits or not, is largely disregarded. It is a program which, within that mandatory framework, there is a considerable degree of income redistribution as to who will pay the cost.

It is the first time in American social policy that we have had such a program paid for totally by the beneficiaries and then made the beneficiaries internally redistribute for purposes of income inequities. Those are some very fundamental new concepts that have brought this legislation into such national disrepute.

I personally—and I am more persuaded of this position after having heard the low level of confidence of the administration in this program—I am even more inclined to vote for repeal. But if we do not repeal, at least we ought to let those people who have already paid once not be forced to pay again.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question now occurs on the amendment.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Florida [Mr. GRAHAM]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA], is necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 25, nays 74, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—25

Adams	Johnston	Pressler
Biden	Levin	Riegle
Boren	Lieberman	Sanford
Bryan	Lugar	Sarbanes
Conrad	McConnell	Simon
DeConcini	Metzenbaum	Simpson
Exon	Mikulski	Wallop
Graham	Nickles	
Grassley	Nunn	

NAYS—74

Armstrong	Ford	Lott
Baucus	Fowler	Mack
Bentsen	Garn	McCain
Bingaman	Glenn	McClure
Bond	Gore	Mitchell
Boschwitz	Gorton	Moynihan
Bradley	Gramm	Murkowski
Breaux	Harkin	Packwood
Bumpers	Hatch	Pell
Burdick	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Heinz	Robb
Chafee	Helms	Rockefeller
Coats	Hollings	Roth
Cochran	Humphrey	Rudman
Cohen	Inouye	Sasser
Cranston	Jeffords	Shelby
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
Daschle	Kennedy	Symms
Dixon	Kerrey	Thurmond
Dodd	Kerry	Warner
Dole	Kohl	Wilson
Domenici	Lautenberg	Wirth
Durenberger	Leahy	

NOT VOTING—1

Matsunaga

So the amendment (No. 986) was rejected.

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. HARKIN. Madam President, I send a motion to commit to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. LEVIN, and Mr. METZENBAUM moves to commit to the Committee on Finance S. 1726 with instructions that the committee report the bill back to the Senate, within 20 days, with a committee amendment that does the following:

(1) Repeals the Supplemental Medicare Premium Surtax enacted in the Medicare Catastrophic Coverage Act of 1988.

(2) Extends the maximum marginal income tax rate of 33 percent to those very high income taxpayers who are currently paying a marginal income tax rate of 28 percent following the phase-out for them of the personal exemption and the 15 percent bracket.

(3) Retains the Medicare flat monthly premium as enacted in the Medicare Catastrophic Coverage Act of 1988.

(4) Retains the Medicaid benefits provided under the Medicare Catastrophic Coverage Act of 1988.

(5) Retains as many of the non-Medicaid benefits provided under the Medicare Catastrophic Coverage Act of 1988 as can be financed through subsections (2) and (3) provided that program costs do not exceed revenues generated through subsections (2) and (3).

Mr. HARKIN. Madam President, might I inquire, how much time is under my control?

The PRESIDING OFFICER. Under the unanimous-consent agreement, this amendment has 1 hour of debate equally divided among proponents and opponents. The Senator from Iowa controls one-half hour.

Mr. HARKIN. Madam President, I yield myself 10 minutes at the beginning.

I want to add that I send this motion to the desk on behalf of Senator LEVIN, Senator METZENBAUM, and myself.

Madam President, my colleagues in the Senate, I have met with and heard thousands of senior citizens in my State who have told me that they want the flawed financing of catastrophic benefits corrected. They have not been asking me to scope all of the benefits but they believe the way the benefits are financed is patently unfair.

Madam President, I could not agree more that the present financing mechanism is patently unfair and that is why we introduced a bill last July to take care of this. That legislation is a constructive solution to the dilemma we find ourselves in by allowing us to preserve the benefits and eliminate the surtax while not adding to the deficit over the long run.

Under our proposal, and the motion to commit that we have sent to the desk, senior citizens would still contribute substantially to the financing of the new benefits—about one-third of the total cost through the part B catastrophic premiums. However, the surtax would be eliminated and replaced by an extension of the 33-percent tax rate to the highest income taxpayers.

Madam President, we all know that under current law there is the anomaly of the so-called bubble where joint filing taxpayers pay a maringal tax rate of 33 percent on taxable incomes of $78,000 to $208,000, and single taxpayers pay 33 percent on taxable income of $47,000 to $109,000, but above that they only pay 28 percent. What that means is, the more you make, the less you pay. In other words, the 600,000 highest earning taxpayers pay a maximum of 28 percent marginal taxes no matter how much income they earn. This is unfair. Our proposal eliminates this unfairness and raises the revenue necessary to fund the catastrophic benefits.

It is unfair to require the senior citizens of this Nation to bear the full cost of the benefits they receive under the program. We do not do this to recipients of other Government programs. Farmers do not bear the full cost of the interest on their guaranteed student loans, and under the basic Medicare Program itself the elderly do not shoulder the entire cost of benefits. In all of these cases, we, the people of this country, have made a judgment that these are valuable benefits, benefits which all of us as taxpayers must have a hand in paying for, because in every way that you look at it we all benefit from these programs. Catastrophic coverage should be no different because we all benefit, not just the elderly.

I agree with those seniors who contend that we violated the traditional social insurance concept in this country when we heeded Ronald Reagan's dictum that he would only sign catastrophic care legislation if all of the benefits were paid for by the beneficiaries.

Madam President, I ask unanimous consent to insert at this point in the RECORD the Reagan administration's letter that was sent to the House minority leader, ROBERT MICHEL, saying that he would veto the catastrophic bill unless it was fully financed by the elderly.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 21, 1987.

HON. ROBERT MICHEL,
House Republican Leader, House of Representatives, Washington DC.

DEAR MR. LEADER: H.R. 2470, the Medicare Catastrophic Protection Act of 1987, scheduled for House floor consideration this week, is totally unacceptable to the Administration. Unless the concerns discussed below are addressed in a satisfactory manner, we will recommend to the President that he veto this bill.

H.R. 2470 would undermine last year's historic tax reform by levying a new surtax on the nation's social security recipients. Unlike the Administration's simple premium approach, this series of income-related rates would substantially increase the tax burden and filing complexity for our Nation's elderly and disabled. With this surtax, and the premium increases in the bill, social security recipients would pay, on average, $700 in 1989 for Medicare coverage, a 150 percent increase. By the year 2000, a beneficiary's Medicare payment needed to finance the bill's benefit expansions would be in excess of $1,200 per social security recipient.

Morover, H.R. 2470 has become a vehicle for modifications and add-ons to Medicare. These major unrelated provisions go well beyond acute care, catastrophic coverage and jeopardize our mutual objective of assuring that social security recipients have catastrophic coverage.

The result: greatly increased future budget deficits and an unstable Medicare program. The substantial add-ons, combined with a lower out-of-pocket threshold that increases at a much slower rate than program costs, result in cost increases that quickly outpace the bill's financing. Estimates by the Medicare actuary and Treasury indicate that by the mid-1990s costs will begin to exceed revenues, with a shortfall of about $8 billion likely by the year 2000. Indeed by the year 2005, the total costs of the bill, including a drug benefit, would be close to $100 billion, adding $20 billion to the deficit.

H.R. 2470's shortfall would further threaten Medicare's solvency. The elderly and disabled will once again be faced with uncertainty regarding the solvency of their health insurance plan. This must—and can—be avoided. Any catastrophic insurance plan must be fully self-financed, such as the plan proposed by the President.

Our major concerns with the bill include the following:

A staggering long-term tax and premium increase on the middle income elderly and disabled;

Use of a complicated and unnecessary surtax in the income tax code as a means of financing the expansion of Medicare;

The outpatient Medicare prescription drug amendment. This major expansion of Medicare would prohibitively increase costs unrelated to financial catastrophes;

The inclusion of additional expansions of Medicare beyond acute care catastrophic coverage. For example, the addition of a respite (in-home) care benefit and the expansions of skilled nursing facility and outpatient mental health coverage will cause outyear costs to increase substantially;

Other changes unrelated to acute care protection such as requiring the States to pay Medicare deductibles, premiums, and copayments for elderly not now covered; and

The additional deficits, growing over time, because the bill is actuarially unsound.

If the bill in its current form is presented to the President, we would have no alternative but to recommend that he veto the measure. Acceptable catastrophic legislation must not involve a tax increase, must be self-financed on an actuarial and budgetary basis, and should be focused exclusively on acute care, catastrophic health costs.

Sincerely,

Otis R. Bowen, M.D., Secretary, Department of Health and Human Services; James C. Miller III, Director, Office of Management and Budget; James A. Baker III, Secretary, Department of the Treasury; William E. Brock III, Secretary, Department of Labor.

Mr. HARKIN. I also do not agree with those who believe the best solution is now to scrap the program entirely and go back to the drawing board. The benefits are worth preserving, and I find it quite disheartening that none of the proposals before us today will keep the benefits intact. All of the proposals in front of us today cut the benefits in one way or another.

Yes, I believe the surtax should be repealed, but it is also important to remember that 19 million of the elderly who will receive catastrophic benefits under the law will not pay any surtax. Another 4 million will pay under $100. I believe we must recognize that we have not heard hardly anything from those 23 million elderly, most of whom have relatively little in the way of resources to pay huge medical costs, but do need the benefits provided by the Catastrophic Coverage Act. I repeat, 23 million elderly Americans are either paying no surtax or paying less than $100 a year.

Madam President, the motion to commit the legislation with instructions is quite simple. It directs the Finance Committee to report back to the Senate legislation which would pre-

serve as many of the Catastrophic Coverage Act benefits as is possible and finance those benefits by raising the tax rate from 28 to 33 percent for the highest earning taxpayers of this country—600,000 taxpayers.

Madam President, preserving the benefits, I believe, in their totality will be possible by using this increase in taxes and looking at perhaps something else like delaying or raising the part B cap on out-of-pocket expenses.

Before concluding, I also want to note that our proposal was the first one to modify the financing of the catastrophic bill to receive the support of a large number of groups representing the elderly as well as workers and retired workers. These groups include the National Council of Senior Citizens, the Committee to Preserve Social Security and Medicare, the National Association of Letter Carriers, the National Council on the Aging, the United Auto Workers, the International Ladies Garment Workers' Union, the American Postal Workers Union, AFSCME, the Communications Workers of America, and the Grey Panthers. All support the motion that Senator LEVIN and I have sent to the desk. This offers us the opportunity to act in a straightforward, fiscally and socially responsible manner to resolve the problems caused by the self-financing mechanism of the catastrophic bill. It offers real tax relief to older Americans.

I know we are going to hear from some that this proposal raises taxes. Well, it is like looking at a glass of water that is half full. Is it half full or half empty? The fact is the proposal that Senator LEVIN and I have put forward reduces taxes for over 14 milion Americans—14 million elderly people who are now paying the highest marginal rates of any segment of our population. Elderly people, many of whom are out there working to make a few extra bucks to supplement their Social Security, are now paying marginal rates in excess of 40 percent and yet the Donald Trumps and others are paying marginal rates of 28 percent. This is patently unfair. What Senator LEVIN and I are saying in our motion to recommit is simply to extend the same tax rate middle-income Americans are paying to those 600,000 Americans that are making over $209,000 a year and at the same time reduce taxes for over 14 million Americans who are now in their retirement years.

I believe we have a responsibility to make sure that we are true to the ideals of social insurance, that it is broadly based. That is what this does, to make sure that we are fair to the elderly, to make sure we reduce their taxes, which this does, and to make sure that we keep as many of the benefits as possible that are now in the catastrophic care bill.

Madam President, how much time have I consumed?

The PRESIDING OFFICER. Eight minutes.

Mr. HARKIN. I reserve the remainder of my time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I yield myself 4 minutes.

I say there are several of my colleagues who said they wanted to speak on this amendment on this side. I urge them to come to the floor at this time, since we will be continuing with this amendment.

I would like to thank my friend from Iowa, Senator HARKIN, for all of the wonderful things he has done for seniors in the country, including our disabled American citizens; and his concern and his commitment is well known to all of us.

I believe this amendment, however, is one which could be described as extremely radical in that we would be basically abrogating the principle upon which the catastrophic insurance bill was passed. That was, as we all know, the beneficiary pays. In fact, that is the reason why we created the fire storm which has resulted in why we are here today.

I am not particularly academically or intellectually qualified to say whether that was a right policy decision or not. But that decision was made by the majority of both Houses of Congress and the administration, and was an integral and fundamental part of the Medicare Catastrophic Health Insurance Act of 1988.

So I suggest to my colleagues that in the form of a motion to commit which we are considering at this time we are basically repudiating the overriding philosophy of the financing of catastrophic health insurance for our senior citizens.

My point is I do not think we are prepared to make that decision on a motion to commit to the Finance Committee. Since a year ago at least the Finance Committee made clear the decision that it would be beneficiaries who pay for the benefits that would accrue from this program.

I think clearly it is a tax increase. I understand the logic of my friend from Iowa, that you are taking taxes from the elderly and putting them on rich Americans. But it also I think is clearly a tax increase.

It is one that again I say should probably be considered in a different format and a different forum than this one.

In point of fact, for taxpayers who have taxable income of $140,000 or less the average tax rate is 27.7 percent or less. In other words, middle-income taxpayers pay a lower average rate than high-income taxpayers, in my view.

I share the dilemma of my friend from Iowa, who states that the surtax is unacceptable. I agree with that, that the surtax indeed has to be eliminated, and I would also say that I share the view completely with my friend from Iowa and the cosponsor, Senator LEVIN who also strongly believed that benefits must be preserved.

I have said time after time after time that perhaps one of the most intense parts of this debate will be over the issue of whether we need to totally repeal this legislation or not. In my view, as the Senator from Iowa pointed out, some 60 percent of the beneficiaries of this program pay no surtax at all.

I am sure in the event of total repeal they will be heard from, and understandably so when they discover that benefits which they thought they were receiving have now been totally repealed, albeit some of them repealed over time.

Madam President, I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Presiding Officer advises that you have 26 minutes left.

Who yields time?

Mr. KENNEDY. Will the Senator from Iowa or the Senator from Michigan yield for a question or two?

Mr. HARKIN. Yes.

Mr. KENNEDY. In response to my friend from Arizona, he is talking about who is bearing the burden of the payment for these programs. I commend the Senators from Iowa and Michigan for the way they have developed this program.

Under the program that was supported by President Reagan, for every senior citizen, who is paying income tax, I ask the question of my friend from Iowa, their taxes would have gone up 28 percent. We had an administration that was prepared to see a 28-percent increase for the seniors who pay any tax at all, and yet we have those now that are opposing a 5-percent stabilizing or an increase on the wealthiest individuals in our country.

Do I understand the tax implications correctly in terms of what would be the ultimate result, plus preserve, as I understand, the overwhelming amount of the benefits included in the catastrophic?

Mr. HARKIN. The distinguished Senator from Massachusetts is absolutely correct. I had not thought of it in that way. He is absolutely right; they are willing to raise them by 28 percent, but we are only asking for a 5-percent increase on it.

Mr. KENNEDY. I think that is the point that should be understood, Mr. President, because we hear a great deal of tax talk about taxes, and who is bearing and who should bear the burden. There was no hesitancy by the

previous administration to divert our seniors on that, but with the Harkin-Levin amendment, we are virtually freeing ourselves or the elderly from that particular burden and shifting it, so to speak, on the wealthiest individuals in our society.

For that reason, and for the restoration of the benefits, I think the Senator from Iowa and the Senator from Michigan deserve great commendation. I look forward to supporting it, and I urge our colleagues to support it.

Mr. HARKIN. I appreciate the Senator from Massachusetts shedding that light on it. That is an important point. I had not thought of it. I thank him for pointing that out.

Several Senators addressed the Chair.

Mr. HARKIN. I yield 5 minutes to the Senator from Michigan.

Mr. LEVIN. Madam President, this amendment does a number of things, some of which I think there is a great deal of agreement on in this Chamber. Most importantly, it repeals a very odious surtax, an unfair surtax, a surtax which has caused a great deal of anxiety among our senior citizens.

It is unfair, simply unfair, to tax 40 percent or more of our senior citizens as we have done, a surtax on their income tax, to pay for this program when most of them will be paying far more in taxes each year than is the value of the benefits of this program to them. For that large number of seniors, this is not a benefits program. This is not a catastrophic health program. This is a tax bill.

We advertised it when we passed it as a catastrophic health benefit program, a benefit program for seniors. But for a large number of seniors, due to the way we finance this with a surtax on their income tax, this is a tax bill that we passed, nothing less than that.

May I tell my friend from Arizona who points out that that the Harkin-Levin amendment will indeed eliminate that surtax and that it would override the philosophy which was behind the Catastrophic Health Care Program, it indeed does override the philosophy because it was the wrong philosophy.

But what we did in the Catastrophic Health Care Program was to radically depart from what we had ever done before. The radical departure here is not this amendment. This amendment restores us to a general approach, to a benefits program where society benefits.

We say in many cases the beneficiary should pay part of the cost and society should pay any subsidy where a subsidy is required. What is unique about the Catastrophic Health Care Program is that we ask one group, we singled out one group, and said part of that group is going to pay to subsidize another part of that group. That was the departure. That was what was unique, and I think my friend from Arizona even agrees that we have to repeal that surtax.

So it was that surtax which was the departure from the general principle, and it is that surtax which I believe a majority of Members of this body want to get rid of.

By the way, I also want to commend my friend from Arizona for the work he has been doing in this area to try to restore some semblance of fairness. We disagree on the preferable method, and there may be many methods which are less than preferable. But, nonetheless, we do agree there was an unfair surtax imposed upon huge numbers of senior citizens to fund this program.

So first and foremost, our amendment gets rid of this surtax. Second, the amendment preserves most of the benefits of the Catastrophic Health Care Program. Those are important benefits. We should preserve those benefits. We put a limit finally in on out-of-pocket payments which might be owing for medical bills. We put finally a limit on what would have to be paid by individuals for long-term hospital stays.

We put safeguards in here against spousal impoverishment, prescription drug benefit, and others. We should not lose those benefits. Those are critically important to our seniors. They will keep some of our seniors, if we preserve them, from a life of poverty; so we should not throw out those benefits. They are important.

Then the dilemma comes, if we are not going to keep the surtax, which we should not do, and we want to keep the benefits, which we should do, how are we going to pay for these benefits? The answer is provided for in this amendment. We are going to substitute for an unfair surtax a very fair extension of the 33 percent tax rate, the marginal tax rate on families over $208,000 of income, that now actually pay a lower marginal tax rate than do some families with less income.

In other words, Madam President, if a family of four now earns one-half of a million dollars, they are paying a lower marginal tax rate than a family of four that has $80,000 in income. That is not fair. That is the bubble that we have talked about, where the marginal tax rate actually drops for a family of four, for instance, with income above $208,000. We cannot justify that in this society.

So what this amendment does is extends that marginal tax rate that now exists for families below $208,000 to families with income above $208,000. Frankly, I would like to do that out of a sense of fairness even in the absence of trying to pay for these benefits. We should have done that a long time ago; that is fundamental fairness.

Now we have an opportunity to do two things: One, to reduce taxes for 14 million seniors, who are going to be paying this surtax, unless we repeal it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. I thank the chair. If my friend will yield 3 additional minutes.

Mr. HARKIN. Certainly.

Mr. LEVIN. What we are able to do is basically accomplish two goals. No. 1, we will get rid of an unfair surtax. It has to go. Seniors want it to go, and I think people who understand this tax system and our benefit system and our philosophy of government should want it to go. We have singled out seniors. We have never singled out any group like this to pay this kind of surtax. We should get rid of this surtax, but we ought to keep the benefits.

We ought to do a third thing, finally get rid of this disparity in our tax system where the marginal income of families earning huge amounts of money, the tax on that income, actually drops, rather than keeps the same as for families earning less than $208,000.

It is an intolerable situation that we have in our Tax Code. It is unthinkable to me that families with huge amounts of income, our wealthiest 600,000 taxpayers, are paying a lower marginal tax rate than middle-income taxpayers. We ought to end that unfairness. We do that in this amendment. We repeal, we correct, we change, we finally, in my book, end the unfairness of the Tax Code which has created this unique situation; and we use those revenues to pay for the benefits in an important program.

Let us accomplish these goals, let us keep the benefits—to the extent we possibly can—that are important to seniors. Let us correct an inequity in the Tax Code which has our wealthiest 600,000 taxpayers, 1 percent of our taxpayers at the upper end, paying a lower marginal tax rate than middle-income taxpayers. We can do all that with the money and repeal this surtax.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Madam President. I yield 10 minutes to the Senator from West Virginia [Mr. ROCKEFELLER].

Mr. ROCKEFELLER. I thank my distinguished colleague, and I hasten to point out that really there are no words to express my respect for Senator LEVIN and Senator HARKIN. That is so often said, and people say now you oppose the amendment, which I do. But between the Senator from Michigan and the Senator from Iowa, I do not know where you can find a stronger determination to help people with human problems, people in human crises. I really want to lay that predicate down with deep feeling.

I am also very sympathetic to his effort, because he is trying to respond, and he does not want catastrophic to be repealed altogether, because he wants people to get the benefit, and he is benefit-oriented, people-oriented, which is what this Senator is trying to emphasize throughout this debate. However, I cannot bring myself to understand how this amendment would be—if we were to prevail, how it would ever get past the White House. I regret to say that, but on the other hand, I have to deal with that reality.

Second, as the Senator from Michigan knows very well, there has not been a single time in committee or on the floor where raising the top rate to 33 percent has been raised that I have not been in support of it. I think it is a shame that the wealthy are paying the same amount of income tax, for example, as schoolteachers. It is a shame; it is a disgrace to our country.

The reason that I have to oppose this is because of the enormity of the needs beyond what we are considering here today in health care, that we have to face up to and to which we are going to have to apply money in the future. Again, I know the Pepper Commission states the task before us both in terms of the uninsured and long-term care to 37 million Americans who have no health insurance whatsoever. A quarter of them—in fact more than a quarter of them—are children, and they are not paid for. Eighty percent of the folks who are uninsured are working people, full-time; and over 60 percent of the working uninsured earn less than $10,000 a year. They cannot afford it. So we have to have a change in public policy, in which we provide health insurance for every single American, as Ewe Reinhardt says, we cannot consider ourselves a civilized nation without doing that, and we have to.

Now, let me just give you an example in human terms of what I am talking about. Greg Nugent, from Phoenix, AZ, testified before the Pepper Commission. His son was diagnosed with a brain tumor at the age of 3. We all have children. We try to understand what that means.

The Nugent family could not afford to purchase insurance. Initially, they did not qualify under the State Medicaid Program, because their combined income was too high, both having to work, so they could not qualify. So Mrs. Nugent quit her job, cutting the family income in half, so that, hopefully, she felt maybe they would be able to qualify for the State system. Well, in the meantime, of course, she has no steady income, and the State eventually determined that they were qualified. Then when Mrs. Nugent returned to work, suddenly the family income of $6,000 exceeded the State's limit of $4,000. So, once again, she was without insurance, while trying to do the right thing. This is happening all over this country.

When we come, from the Pepper Commission or from whatever source, to financing the uninsured in this country, if there are going to be more revenues then involved—and certainly it is going to happen—we are going to have to go right at that bubble. I want it to be there, particularly when this bill cannot pass the White House.

The question of long-term care, 9 million Americans require help day in and day out with acts of daily living, by which I mean eating, bathing, dressing, or if there is medical instrumentation involved; they require help with meal preparation, medicine management.

Sixty percent of the long-term care population are elderly. Most people think that all of them are elderly. Forty percent of them are not elderly. They are kids. People in their twenties, thirties, and forties are not eligible.

We have 2.6 million Americans who are severely disabled, old and young; almost 2 million Americans who are chronically disabled, old and young. There is no long-term care that can help them.

Private insurance you say. What does private insurance do for long-term care in this country? The total is less than 1 percent. People do not have it. People have to have it. It is part of what we are going to have to face up to one way or another in this Congress and as a nation. It is coming.

Strikes that take place in this country now are usually because of disputes over health benefits and well they should be because corporations are beginning to back off because the cost of health care is going up. We have to find a way out of all of this.

And worse than that the problem of long-term care is expected to worsen in the future because people are getting older faster, and we know that. They are getting older faster. The elderly population is doubling. We are going to have 64 million in the year 2030, and what is even more depressing, and yet at the same time exhilarating as instrumentation medical technology picks up, we are able to allow people to live longer. And that may keep increasing and indeed will. In fact, half of the cost of health care to the average American in this country takes place in the last 3 months of that American's life. It is an extraordinary fact.

Again I want to talk about individuals and then I will conclude my remarks.

Before the Pepper Commission we had Jim and Rebecca Schienle from Los Angeles, CA. The Schienles, in fact, have been caring for his mother in their home and then placing her in a nursing home, which they did not want to do. There was the devastation to them physically, mentally, in terms of their guilt, in terms of what the mother had done for them. It is a tragic psychological trauma for a family, but they had no choice. They could not afford to keep her at home. Long-term care does not pay for that, unless of course you spend yourself and impoverish yourself so you qualify for Medicaid. That is always an out. So they live with this horrible sense of guilt because long-term care is not there for them. We are going to have to supply it.

The Russells, Deborah and Scott Russell from Grand Rapids, MI; the Russells are parents of 7-year-old twins, Daniel and Margaret. Daniel was born with life-threatening problems to his airway. He cannot breathe. The kid is 7 years old and he has had 30 operations. He must be monitored 24 hours a day. His care averages $200,000 a year. He is currently covered by his father's insurance policy but the extent of that is just about to run out.

Long-term care has to address problems like that in America, and it is not.

The final example is Marilyn Rubin from West Hartford, CT. Her husband Bill has multiple sclerosis. How old is Bill? He is 42. He is a young man. He does not qualify for anything under Medicare until he gets to be 65. That is 23 years from now. There is no help that she can get. The doctor has suggested that they place him in a nursing home because his condition is deteriorating, but they cannot do that because nursing homes will not take him, because there is no way that they could pay the nursing homes.

I just make these points because I want to reemphasize that the health agenda for America is enormous. Again if we are having this kind of conflagration about catastrophic care and maybe it will end up to $357 million; who knows at this point?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROCKEFELLER. I ask my friend for an additional 1 minute.

Mr. McCAIN. Madam President, I yield 1 additional minute to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROCKEFELLER. The point is, we have an enormous health agenda ahead of us in this country which we, in this body, and Congress are going to have to address. We are going to need that higher income, that I desperately want to see, which is in the name of equity and fairness which is what America is going to be all about.

We are going to need that and others to address these kinds of problems we have not even touched to this point.

So sadly, Madam President, I have to oppose it but I do so frankly on

strong principle grounds of the agenda that lies before us to which we will have to morally face up to as a nation.

I thank the Senator from Arizona, and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Who yields time to the Senator from Oklahoma?

Mr. McCAIN. How much time is remaining on our side?

The PRESIDING OFFICER. The Chair advises that the Senator from Oklahoma was first on his feet and sought recognition. I do not know if the Senator is a proponent or opponent of the bill. The Senator who was the opponent of the bill has 14 minutes remaining. The Senator who was the proponent of the bill has 9½ minutes remaining.

Mr. McCAIN. Madam President, I recognize the Senator from Washington for 3 minutes, as previously requested by the Senator from Washington and the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from the State of Washington may proceed.

Mr. GORTON. Madam President, to simply put this amendment back on track it proposes to relieve certain higher income elderly persons of a tax to pay for a prescription drug benefit, retains the benefit and transfers the duty to pay for that benefit to certain other higher income individuals. I oppose the amendment.

I must begin my remarks by saying that in one narrow respect I agree with the remarks of the Senator from Michigan, who is on the other side of this debate. I, too, think it wrong that we should have a top income tax rate of 33 percent on upper middle income individuals and have that rate dropped to 28 percent on even higher incomes. I would be happy to entertain a proposal which reduced the rate to 28 percent on those upper middle income recipients and transfer the 33-percent rate higher up the income scale as long as it was on a revenue neutral basis. It would provide for a more fair and for a more just income tax system.

But when I hear this amendment is proposing to use a simple increase to 33 percent for upper income individuals to pay for this prescription drug benefit, I am reminded of something which has taken place mostly on the other side of the political aisle from the very beginning of this session of Congress.

I have seen this proposed increase in income taxes used in speeches made on the floor of this Senate, mostly on the other side of the aisle, since January, for increased subsidized housing, for education in the lower grades, for more Pell grants and subsidies for university education, for science and science education, for deficit reduction, for aid to Poland, for infrastructure improvements in the United States, for health insurance for the poor, for child care, or to pay for capital gains or individual retirement account tax breaks.

It is an all-purpose tax increase. Whatever it is we are debating at a given time—as recently as yesterday, drugs—this income tax increase is going to be used for. I would hate to pass this amendment and deprive my colleagues on the other side of the aisle of an all-purpose tax increase for whatever the subject of the day happens to be.

The PRESIDING OFFICER. The Senator has used all of his time.

Mr. GORTON. I think my colleague from Arizona.

Mr. McCAIN. Madam President, I yield 5 minutes to the Senator from Oklahoma.

Mr. NICKLES. Madam President, I rise in opposition to this amendment.

Let me first say that most amendments that we have before us today, at least in this Senator's opinion, are marked improvements over present law. Unfortunately, the amendment that we have before us, the amendment of the Senator from Iowa and the Senator from Michigan is not an improvement over current law. So I certainly hope it will not be adopted.

Most of the amendments—the amendment of my colleagues, Senator McCAIN, Senator ROTH, and others have significant improvement over current law. They repeal the surtax.

The amendment before us now repeals the surtax on senior citizens and replaces it, basically, with a surtax on other individuals. I heard the statement, "Well, it is only a 5-percent increase, whereas the surtax on senior citizens is 25 percent. So isn't this more equitable?"

Actually, this is not a 5-percent surtax on wealthier individuals. It is an 18-percent surtax, if I compute it correctly. You are increasing the tax rates from 28 to 33 percent. That is a 5-percent increase of rates over 28 percent, and that would be an 18-percent increase in taxes. And so it is not 5 percent, it is an 18-percent increase on wealthier Americans.

But it does not really get to the root of the problem. It does not solve the problem. Senior citizens are upset about the Catastrophic Care Act that passed last year because it mandated a benefit on them that three-fourths of them already had. They did not ask for it. They did not want it. They certainly did not want to be taxed for benefits that they did not request nor did they desire.

My colleagues, with this amendment, just want to send it back to the Finance Committee and say, "Keep all the benefits that you can." You would keep all the duplication that already exists under current law. I think that would be a serious mistake.

We need to make significant reforms. We are going to have good opportunities to do so today. I am excited about the opportunities. I think my colleague from Minnesota has an interesting proposal. I do not plan to support it because I think there is a better one out there. I think Senator ROTH has a good proposal. We could do what the House has done. My friend and colleague from Arizona, Senator McCAIN—and I am happy to be a cosponsor of his amendment—I think has a very significant reform.

I have heard the proponents say, "Well, the surcharge on senior citizens is wrong and it needs to be repealed."

Let us repeal it. Let us repeal it really. Let us repeal it with Senator McCAIN's proposal or Senator ROTH's proposal and not just try and increase taxes on other American citizens.

A major problem with the Catastrophic Act that passed last year is the massive tax increase, but it is also a massive expansion of programs that a lot of people did not ask for, nor did they want.

The PRESIDENT pro tempore. Who yields time?

Mr. METZENBAUM. Mr. President, I ask that I may be yielded 4 minutes.

Mr. LEVIN. I yield 4 minutes to the Senator from Ohio.

The PRESIDENT pro tempore. The Senator from Ohio is recognized for 4 minutes.

Mr. METZENBAUM. Mr. President I have been around here long enough to know that some things that come out here on the floor are pretty ludicrous. I have to say that this is a ludicrous situation. I do not mean to suggest the amendment of the Senator from Arizona is ludicrous, but it is ludicrous that we have on the laws of our country a provision providing that people who make over $209,000 a year get their taxes cut. Nowhere in the world does that happen unless you happen to be in some place where it is a kingdom or empire somewhere where only the poor pay taxes and the rich do not.

How can anybody conceivably stand up and say it is right to reduce the taxes of those who make over $209,000 a year to 28 percent when a couple making between $70,000 and $209,000 are paying 33 percent? Something has gone wrong.

What we are talking about here in this amendment is being able to preserve the benefits of the people who are now being protected under the Medicare law. What we are trying to do is to save those benefits. And we do it by saying to the 600,000 people who are the richest, "You should pay the same as those who are making between $70,000 and $209,000."

What we are saying is, 600,000 people whose incomes are over that amount should be willing to accept not

an unfair burden, just the same rate that everybody else pays if they make over $70,000 a year. What we are doing is we are going to deprive 14 million people of skilled nursing, we are going to deprive them of prescription drugs, we are going to require them to pay the full limit of out-of-pocket expenditures for doctors' bills because we are not willing to ask that segment of America that is the wealthiest in America to pay just the same rate—not a higher rate, just the same rate—as those who make substantially less per year than they do.

I think that this is just as logical an amendment as I have ever heard brought to this floor. My guess is, it will not pass because too many colleagues are going to be worried about those few people in this country who make lots of money and contribute to their campaign. That is what the whole issue is about. Are we going to protect those rich people who give us $1,000 or $2,000, as the case may be?

If you want to be fair, if you want to be decent, if you want to be equitable, if you want to be just, then you have to vote for the Harkin-Levin amendment, of which I am proud to be a cosponsor. It is right. That way you will be preserving the benefits for the 14 million senior citizens; not just for the 14 million senior citizens, for all the senior citizens of this country, you will be preserving their benefits. You will not be cutting back on those benefits as the McCain amendment does, and you will be doing it in a far and equitable way. I hope that the Harkin-Levin amendment passes. I am concerned that it will not. But it is the right thing to do. It is the decent thing to do.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. MACK. I yield myself three minutes.

The PRESIDENT pro tempore. The Senator from Florida is recognized for 3 minutes.

Mr. MACK. Mr. President, with all due respect to my colleagues from Iowa and Michigan, I do not believe that this is a good amendment. The reason I say that is because it keeps in place a program that was ill-conceived.

It keeps in place a program which the seniors of my State are telling me they did not want, they do not want to pay for, they do not need. In fact, what they are telling me is roughly 90 percent of the seniors in this country have already gone out and purchased some form of protection against catastrophic illness. This is the way they say it. They say the top 10 percent of the retirees in this Nation have sufficient income to provide protection against catastrophic illness. The next 70 percent purchase Medigap insurance. The next 10 percent have no coverage. The lowest 10 percent were covered by Medicaid, leaving 10 percent of the people without coverage.

I believe that the Senator from West Virginia is correct. We have some major problems ahead of us with respect to health care. If we make the determination to use this source of revenue for the purpose of keeping in place a program that was ill-conceived, a program that the seniors in this country do not want, that means that we have taken those limited resources away from other programs that the Senators might be interested in.

So again I think it would be a mistake to approve this amendment; a mistake to keep in place a program that the seniors of this Nation do not want, that they believe that we should get rid of, and that we ought to start addressing the question about long-term health care.

That is what I have heard over and over again in the town meetings in my State. Their concern is what happens to them at the age of 80, 85, 90, 95. Again, the Senator from West Virginia is correct. The number of people above the age of 85 in the State of Florida is going to triple between now and the year 2000, some roughly 55,000 people over the age of 85 to somewhere around 150,000. The concern of the senior citizens is what are we going to do about long-term health care?

I say again, with all due respect, I think the amendment is the wrong one. It would keep a program in place that we do not need, seniors do not want, and I think it would be wrong to pass the amendment.

Mr. HARKIN. Mr. President, might I inquire how much time we have?

The PRESIDENT pro tempore. The Senator has 5 minutes and 51 seconds.

Mr. LEVIN. Mr. President, I wonder if my friend from Iowa will yield 2 minutes?

The PRESIDENT pro tempore. The Senator from Michigan may proceed for 2 minutes.

Mr. LEVIN. Mr. President, our friend from Washington said we are going to be raising taxes on some folks and cutting taxes on other folks. He equated seniors who are paying this surtax with the people who are now protected by that bubble. Let me give my colleagues the idea about the income.

Seniors paying surtax are now in the gross income level of $20,000 to $25,000 and above. Those are the folks who are paying the surtax. To suggest that those are rich seniors, or to ask "why help rich seniors out by eliminating this surtax," is absolutely wrong. These are not rich seniors. These are seniors making $20,000 a couple and up.

Most of these are lower-middle and middle-income seniors who are paying this surtax.

The 600,000 people who would pay a larger tax under this amendment are 600,000 people in the upper 1 percent of our communities who earn above $208,000 for a family of four. That is the upper 1 percent income-wise in this country.

So the tax increase here is really tax fairness, because all we want them to do is pay the same marginal rate as middle-income people. So there will be a tax increase for 600,000 folks earning over $200,000 for a family of four and there will be a tax cut for 14 million seniors under this amendment, including seniors who have incomes of $20,000 and up.

Second, my dear friend from West Virginia said let us use the bubble for something else. There are a number of ways I would like to use this bubble. The Senator is sincere when he says he would like to get rid of this bubble, out of fairness. I know him. I know he is sincere. But we have not been able to put together a constituency to get rid of this unfairness and use it for another purpose. There are a number of good purposes, but we have never been able to find the votes.

Now we have a good use—for senior health care. This is a real constituency that we believe can help us have tax fairness agreed to.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, how much time do I have?

The PRESIDENT pro tempore. The Senator controls 4 minutes 59 seconds.

Mr. McCAIN. Mr. President, I yield myself 2 minutes.

The PRESIDENT pro tempore. The Senator from Arizona is recognized for 2 minutes.

Mr. McCAIN. Mr. President, I will add one note about this amendment that I think is relevant. In 1987 Senator DOLE proposed a resolution not to raise the tax rates. On May 6, 1987—that was the date—that vote had only 10 votes opposing it.

Basically, what we are doing here is raising the tax rates. We know it. Whether that should be or should not be done, I think this body has spoken on that issue.

As I mentioned before, we should probably not view an issue of this magnitude, whether taxes should be raised or not, on a motion to commit on this particular bill—with all due respect and affection for the sponsors of the amendment.

Mr. President, I yield the remainder of my time.

The PRESIDENT pro tempore. The Senator from Iowa has 3 minutes and 50 seconds.

Mr. HARKIN. Mr. President, first of all, I want to commend the Senator from Arizona for all of the hard work that he has done on this issue and so many issues that pertain to the elderly, the disabled in our country. I par-

ticularly want to congratulate him for standing fast, holding firm, and being dogged, and bringing this body to the position we are today in addressing this inequity.

Had it not been for his diligence and his standing firm, I daresay we might not be debating this today.

I also want to again commend my dear friend, and I mean that most sincerely, from West Virginia, who is a very caring and compassionate individual. I know he cares very deeply about the issues of justice for our elderly and our low-income people in this country.

It just goes to show that people of goodwill and good reason can differ on the approaches we might take to solve a problem.

But, Mr. President, I say, yes, we voted not to raise tax rates, but that was across the board. What we are talking about here today is equity. We are talking about simple justice.

The elderly in our country today are paying a higher tax rate than anybody else. Over 40 percent marginal rates are being paid by the elderly of this country. Yet we have 600,000 of the highest income taxpayers paying less than a couple making $60,000 or $70,000 a year. It is just not fair. All we are asking for is equity, fairness. People say this is raising taxes. It is not.

These taxes are being paid but they are being paid by the elderly. All we are saying is shift it. This is a tax shift. We are going to lower the tax for 14 million Americans and shift it to those 600,000 who can really afford it.

I believe this amendment is a fair deal and a square deal for the elderly of this country who need the catastrophic health. The bubble cannot solve all the long-term health care problems. Let us raise the cap, let us raise the $48,000 cap that now exists paying into Social Security. That will take care of all the problems the Senator from West Virginia outlined which are problems we need to solve. The bubble will not handle that. Let us raise the cap to do that. Let us use the bubble to help senior citizens of our country. Let us make tax equity the basis for reducing the surtax on the elderly and giving the elderly the catastrophic health care that they so sorely need in our society today.

Mr. President, I yield the remainder of my time.

The PRESIDENT pro tempore. All time has been yielded back.

The question is on the motion to commit S. 1726 with instructions.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is obviously a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion to commit S. 1726 with instructions. The clerk will repeat the responses. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 12, nays 87, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—12

Adams	Harkin	Metzenbaum
Biden	Kennedy	Sarbanes
Burdick	Lautenberg	Sasser
Gore	Levin	Simon

NAYS—87

Armstrong	Ford	McClure
Baucus	Fowler	McConnell
Bentsen	Garn	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boschwitz	Gramm	Nickles
Bradley	Grassley	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pell
Bumpers	Heflin	Pressler
Burns	Heinz	Pryor
Byrd	Helms	Reid
Chafee	Hollings	Riegle
Coats	Humphrey	Robb
Cochran	Inouye	Rockefeller
Cohen	Jeffords	Roth
Conrad	Johnston	Rudman
Cranston	Kassebaum	Sanford
D'Amato	Kasten	Shelby
Danforth	Kerrey	Simpson
Daschle	Kerry	Specter
DeConcini	Kohl	Stevens
Dixon	Leahy	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	McCain	Wirth

NOT VOTING—1

Matsunaga

So the motion to commit S. 1726 with instructions was rejected.

The PRESIDENT pro tempore. The next order is for the recognition of Senators DURENBERGER and MITCHELL to call up an amendment on which there is a 1-hour time limitation. The Senate will be in order.

The Senator from Minnesota [Mr. DURENBERGER] is recognized.

AMENDMENT NO. 987

(Purpose: To modify various provisions of the Medicare Catastrophic Coverage Act of 1988)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of the majority and minority leaders, the chairman of the Finance Committee, and myself and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself, Mr. MITCHELL, Mr. DOLE, Mr. BENTSEN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. DASCHLE, and Mr. MATSUNAGA proposes an amendment numbered 987.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause, and insert in lieu thereof the following:

SEC. . MODIFICATIONS TO MEDICARE CATASTROPHIC COVERAGE.

(a) MODIFICATIONS TO FUNDING FOR MEDICARE CATASTROPHIC COVERAGE.—

(1) MEDICARE PART B PREMIUM.—Section 1839(g)(1)(A) of the Social Security Act is amended by striking the table therein and inserting the following new table:

"In the case of:	The catastrophic coverage monthly premium is:
1989	$4.00
1990	4.90
1991	5.46
1992	6.75
1993	7.18."

(2) SUPPLEMENTAL MEDICARE PREMIUM.—

(A) REDUCTION IN ANNUAL LIMITATION.—Subparagraph (A) of section 59B(c)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the annual premium determined under this subsection with respect to any individual shall not exceed—

"(i) $200, in 1990 and 1991, and

"(ii) $250, in 1992 and 1993."

(B) REDUCTION IN PREMIUM RATE.—Subsection (d) of section 59B of such Code is amended to read as follows:

(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE FOR YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the supplemental premium rate determined under this subsection shall equal $15."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) MODIFICATION OF MEDICARE PART B COST-SHARING LIMITATION.—Subparagraph (A) of section 1833(c)(3) is amended—

(1) by striking "1990" and inserting "1991",

(2) by striking "$1,370" and inserting "$1,600", and

(3) by striking "7 percent" and inserting "5.5 percent".

(c) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding section 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection.

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this pact, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate within 30 days after discharge from a hospital; and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) (42 U.S.C. 1395x(y)) is amended

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d)(42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d) (1) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(2) DURATION OF COINSURANCE INCREASED.—Section 1813(a)(3) (42 U.S.C. 1395e(a)(3)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished to an individual in any calendar year shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such year."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after December 31, 1989.

(d) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act 42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) APPLICATION OF LAW.—The Secretary of Health and Human Services shall apply the amendments made by section 202 of the Medicare Catastrophic Coverage Act of 1988 in order to properly implement the amendments made by this subsection.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(e) GENERAL REPEALS.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 212 (other than subsection (b)(2)).

(B) Section 213.

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On January 1, 1990, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the Federal Hospital Insurance Trust Fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—

(A) REPEALS.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(B) TRUST FUNDS AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(f) QUALIFIED PERIOD IN COMMUNITY FOR SNFF.—

(1) IN GENERAL.—Section 1813 of the Social Security Act, as amended by this section, is further amended by striking "in any calendar year" and "during the year" in subsection (a)(3)(A) and inserting "after a qualified period in the community".

(2) CONFORMING AMENDMENTS.—

(A) Section 1832(b) of such Act is amended by inserting "'qualified period in the community'," after "For definitions of".

(B) Section 1861 of such Act is amended by inserting before subsection (b) the following new section:

"(a) The term 'qualified period in the community' with respect to any individual means, with respect to any calendar year, one period of consecutive days—

"(1) ending with the first day on which such individual is furnished inpatient hospital services, and which occurs in a month for which he is entitled to benefits under part A, and

"(2) beginning with a day sixty days before the day described in paragraph (1).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(g) SPECIAL RULES FOR SNFF AMENDMENTS.—Notwithstanding any other provision of this section, any person who, on the date of enactment of the amendments made with respect to extended care services, is receiving benefits under the provisions of the Medicare Catastrophic Coverage Act of 1988 as in effect on the day before such date of enactment, shall continue to receive such services as if such amendments had not been enacted for the 150-day period.

(h) VOLUNTARY ELECTION OF PART B BENEFITS INCLUDING CATASTROPHIC COVERAGE.—

(1) IN GENERAL.—Paragraph (1) of section 59B(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) such individual is enrolled under part B of title XVIII of the Social Security Act for more than 6 full months beginning in the taxable year, and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(i) PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.—Notwithstanding any other provision of this Act, section 1847 of the Social Security Act remains in effect, and subsections (b), (c), (d), and (e) are amended to read as follows:

"(b)(1) The Commission shall submit to Congress a preliminary report no later than March 1, 1991, and a final report no later than March 1, 1992, concerning methods by which the Secretary should determine coverage and payment for outpatient prescription drugs under this Title and Title XIX.

"(2) The preliminary report shall contain background information, policy analysis of options, and recommendations regarding coverage of outpatient prescription drugs. The final report shall substantially extend the Commission's preliminary analysis and take into account comments on the preliminary report. Both preliminary and final reports shall include information and recommendations regarding such issues as—

"(A) scope of benefits under this Title and Title XIX, including the potential for and the advisability of establishing minimum standards for prescription drug benefits under Title XIX;

"(B) source or sources of financing, including the potential for and advisability of linking prescription drug benefits under this Title and Title XIX;

"(C) methods of payment for drug products;

"(D) method of administration, including information requirements necessary for proper administration, such as uniform drug nomenclature;

"(E) forms of utilization review and quality assurance, including an assessment of the potential for significant cost savings in total expenditures under this Title and Title XIX resulting from a program of prospective and retrospective drug utilization review;

"(F) Changes in manufacturers' prices, and in charges of pharmacists, for outpatient prescription drugs [current law];

"(G) changes in both the level and nature of utilization of outpatient drugs by beneficiaries of this Title and Title XIX, taking into account the impact of these changes on aggregate expenditures for outpatient prescription drugs.

"(3) The Commission shall make recommendations as to what contingency margin, if any, would be appropriate to absorb unexpected increases in outpatient prescription drug program outlays under this Title."

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplemental Medical Insurance Trust Fund.

"(e) The Commission shall cease to exist, effective December 31, 1992, after providing Congress with advice and testimony, as needed, pertaining to its final report."

Mr. DURENBERGER. Mr. President, I yield myself 5 minutes of my time.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 5 minutes.

Mr. DURENBERGER. Mr. President, I will try to be brief to describe this amendment. I have to begin with a short definition of catastrophic, which is what it is all about. Catastrophic basically is freedom from fear that one illness will wipe out everything that you have worked a lifetime to earn. That is the way my parents look at it, and that is the way 32 million Americans look at a catastrophe.

What are the two largest catastrophic expenses that are visited on elderly Americans? If it is illness, it is hospital care and doctor care. You cannot go to a hospital without a doctor. You cannot say you have provided freedom from fear for the elderly in this country unless you eliminate not only the fear of the cost of hospitalization but the fear of the concomitant doctor and other medical expenses.

This amendment preserves the original catastrophic bill proposed by the catastrophic commission, by the Secretary, by the President of the United States, and by those of us who began this process 2 years ago.

It provides that every elderly and disabled person in America eligible for Medicare, when they buy Medicare, will risk being out of pocket only 1 day's hospital costs, currently $560 going to $590 next year. After that all hospital bills are paid. This amendment also provides that after $1,780 out-of-pocket expenses for the doctor and medical expenses related either to hospitalization or doctor's medical expenses of any kind—after $1,780 out of pocket—all doctor bills are paid. There is nothing to compare with that on the floor of the Senate today.

The Riegle bill, which comes next, is $3,390, twice as much as this. All others are zero.

They dump the elderly of America and the disabled people of America on the Medigap where they are averaging somewhere between $900 and $1,400 a year for this kind of coverage.

Why do my colleagues drop part B? Simply because it costs more than anything else in the catastrophic package. It costs more than the drug package. It costs more than the skilled nursing package. It costs more than the part A hospital package. It costs $8.3 billion over the 5-year period to provide catastrophic protection for elderly Americans. Why does it cost $8.3 billion? Because that is the cost to the elderly of this country for their doctor and hospital bills—for just 5.5 percent of the elderly, and for their doctor and hospital bills in a 5-year period.

Hospital cost growths are going up 5.5 percent; doctor costs are going up—over the last 10 years, 15 percent a year. That is the catastrophe waiting to happen to elderly Americans.

So don't anybody go home from here today and say you did not have the chance to protect your elderly constituency from $8.3 billion in hospital and doctor and medical bills.

For those of you who are going to vote to repeal, go home and see if you can defend abandoning skilled nursing home care, home health care, hospice, respite care, and mammograms. I wish my wife had had a mammogram before she died. For the first time in the history of this country we are putting a preventive wellness benefit into the Medicare Program for eligible elderly women in this country. Go home you repealers and tell the elderly women of America you repealed that provision.

We are putting in a part B opt out for those who have duplicate coverage. That takes care of 75 percent of the organizations on the coalition list. We finance it with a reduced flat premium. We reduce the flat premium in the current bill by 46 percent by 1993. Those of you who are worried about the regressivity in the McCain amendment and any of these other amendments where everybody pays the same, rich, poor, whatever, take a look at the premium in the Durenberger amendment. We reduce the current premium in the catastrophic bill by 46 percent in 1993.

The supplemental premium—the people who complained about paying 28 percent of their taxable income and up to $1,050 a person are right. They had a right to complain about that much. We have reduced that one by 400 percent. I heard those people. We reduced that premium. I now have a maximum rate of only 10 percent on the tax side, a maximum payment of $200 next year, $250 in 1993, and no deficit is created.

Mr. President, just to give you an idea, and I think I have passed out to all of my colleagues a list of the impact of the supplemental premium on people, but if you look way out to 1993, 5 years from now, for the people in the $20,000-to-$25,000-a-year category, this core catastrophic premium is only going to cost $12, $12 on top of $9 of the flat rate premium. If you get all the way up to $40,000 to $45,000 a year in taxable income, that is not total, just taxable income, it is only $116 a year, not $1,050, not $800—only $116. Even at the maximum, it is only $250.

Mr. President, I suggest we can have catastrophic. We can have all the benefits that the elderly in this country need for the next 5 years. We can have it at a maximum 5 years from now for $7.18 a month for 60 percent of the people in this country, and a maximum of $27 a month for the richest person in America.

Mr. SANFORD. Mr. President, I am pleased that my colleagues in the Senate care enough about catastrophic care to make the effort to salvage it rather than eliminate a program that is so very important to millions of senior citizens throughout the country. The alternative approaches offer a variety of choices, so there is clear interest in the Senate to fix the catastrophic care program we adopted last year.

While we have all received complaints about how the catastrophic care program is financed, we have also received letters and comments in support of retaining the important protections included in this program. The Durenberger-Mitchell approach retains the core benefits already in place and ensures that those benefits will be adequately funded.

This proposal retains the protection against catastrophic hospital costs, keeping coverage for the entire year. It retains the expanded benefits for home health care, including home IV and immunosuppressives drug therapy, hospice care, and respite care that allows more senior citizens to remain at home, rather than forcing them into nursing homes or hospitals simply because Medicare or Medicaid will only reimburse institutionalized care. We will have more options under this proposal.

This compromise also retains Medicare reimbursement for mammography screening which will help detect cancer while it is still very treatable. Clearly women over age 65 are at a higher risk for breast cancer, and clearly many of these women cannot afford to pay the full cost for this lifesaving screening.

While a spouse can be male or female, the majority of people who will benefit from the Medicaid "spousal impoverishment" protection, are women. This compromise proposal keeps this very important provision to protect spouses against dire poverty when one spouse requires nursing home care. No one should be forced into poverty simply because a spouse requires nursing home care. And while this provision does not require that Medicare reimburse for routine nursing home care, it expands Medicaid coverage for nursing home care without forcing a spouse onto the welfare rolls.

The Durenberger-Mitchell compromise proposal also provides protection against excessive out-of-pocket physician expenses. Medicare beneficiaries know all too well how much their out-of-pocket expenses have increased in recent years. For the first time, they can be protected by a cap on the amount of out-of-pocket expenses for doctor bills. This is a very important provision that other proposals do not include. Doctor bills are now increasing by 15 percent a year.

And this compromise also protects those currently using the expanded posthospital skilled nursing benefit. Individuals now utilizing this expansion will be allowed to continue their skilled nursing care for the additional days covered under current law. These individuals will not be thrown into the street or forced into a nonskilled facility that could not provide the necessary care under this proposal.

Finally, this proposal dramatically reduces the cost. I do not believe that any private policy in the world could offer so much for so little. Under this proposal, the maximum cost to beneficiaries is $200 per year, not the $800 under current law. And only those filing joint returns with incomes exceeding $45,000 will pay the maximum. And this maximum is expected to increase by only $50 by 1993, 5 years after the effective date. Unlike other proposals, this financing provision protects beneficiaries against dramatic annual increases.

I believe this is a reasonable price to pay for catastrophic health care. No private policy could provide the same benefits for anything close to $200 per year. The average cost for these same benefits in the private market exceeds $1,000. This is a bargain.

But I understand that some people still may not wish to participate in this catastrophic health care plan, and this proposal offers those people the option not to participate. Anyone who does not wish to participate in part B, including catastrophic care, would be allowed to withdraw from the program under this proposal.

I urge the adoption of the Durenberger-Mitchell compromise. Thank you.

Mr. DURENBERGER. Mr. President, I would be glad to yield to the chairman of the Finance Committee, who has spent an incredible amount of time trying to resolve the problems that we are facing.

The PRESIDENT pro tempore. How much time is yielded?

Mr. DURENBERGER. Mr. President, I yield 5 minutes.

The PRESIDENT pro tempore. The Senator from Texas [Mr. BENTSEN] is recognized for 5 minutes.

Mr. BENTSEN. Let me congratulate the Senator from Minnesota for the excellent work he has done on this program. As I look at this program, I cannot help but think it is hard to compromise. I remember what Mo Udall said on that. He said the lion and the lamb can lie down together, but the lamb is not going to get much sleep.

I think this is one of those compromises that will let us sleep well tonight. The reason I think it will let us sleep well is because it preserves the basic core benefits of catastrophic as proposed by President Reagan. While voluntary and tied to part B of Medicare, it retains a lot of important benefits.

For example, extended hospital benefits, no more than one deductible per year—those are important benefits—protection against the costs associated with long hospital stays, protection against the high cost of drugs, and that includes the intervenous drugs administered in the home, and the immunosuppressive drugs administered by people who have undergone or begun transplants—hospice care, a limit on out-of-pocket costs for doctor bills, provides against coinsurance liability of more than $1,600 per year, extended health benefits, respite care benefits.

This amendment will help the elderly and the disabled stay home with relatives or friends instead of having to go into a nursing home—Medicaid benefits, especially spousal impoverishment protection, and that is high on the list of what the elderly want. Some of these things are going to be financed by general revenues. Millions of elderly and disabled people are going to use these kinds of benefits.

What will the cost eventually be? The total for this package of benefits is just under $20 billion for 5 years. How are we going to pay for that one? It will be by a dramatic reduction of that supplementary premium.

First of all, all of those beneficiaries below the poverty line would not be paying anything. Then you would have a base premium of some $4 per month. That would increase to $7.18 in 1993.

Second, the supplemental premium would be reduced to $200 for 2 years and $250 after that. Now, those kinds of costs slash the rate by two-thirds and the maximum supplemental premium by 75 percent.

One of the things that has concerned me in this entire debate is the fact that we have had a very difficult time getting the administration to show any kind of leadership. These are tough choices, and this is a controversial program; we understand that. But there is a time, when standing up for the elderly of this country, that you must make those kinds of tough choices.

I must say, Secretary Sullivan has been a great help in this and has taken a courageous stand. Let me read from his letter of October 5:

> It is critical that we preserve a catastrophic program that offers financial protection to the millions of Americans who do not have that protection.

I am aware that Senator DURENBERGER has a compromise that incorporates our mutual priorities. The same day, that afternoon, Mr. Darman writes:

> Indeed the administration is not taking any official position in favor of any one of the competing substantive amendments, as opposed to the others.

Where is the leadership in the administration? Where are they standing up for the elderly citizens of our country? My friends, this is a program that I think will take care of these kinds of concerns. In fact, this is an amendment that will let the lions and the lambs lie down and sleep together and wake up in the morning with respect for each other.

Mr. President, I yield back the remainder of my time to Senator ROCKEFELLER.

Mr. McCAIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself such time as I may consume.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I want to thank my friend from Texas, the distinguished chairman of the Finance Committee, for all of the efforts he has made on this issue. It has been a terribly frustrating period for him, and I know that he has, time after time, attempted to explore every possible option in order to cure this very difficult problem. All of us are extremely grateful for his efforts. Also I think my friend from Minnesota, who also has labored in a herculean fashion, and all other members of the Finance Committee.

Mr. President, I am not going to attempt to rebut point by point the very eloquent statement made by both of the Senators I just mentioned. Let me try to boil it down to the basics.

The only differences between the Durenberger amendment and the existing McCain bill are two: Surtax and the part B, out-of-pocket cap. I am tempted to do what was done on the floor the other day when the capital gains issue was up and someone says, "tax, tax, tax, tax, tax," by saying, "surtax, surtax, surtax."

We forget the object of the anger of the seniors in America today is the surtax. They will not be satisfied and should not be satisfied, until the surtax is eliminated. I applaud the efforts that my friend has made in order to dramatically reduce these premiums, to reduce the surtax, but the fact remains that the surtax remains in place. If the predictions of my friend from Minnesota are correct, that the health care costs will continue to increase at a double-digit inflationary pace, then sooner or later that surtax will increase again, if they are going to pay for the benefits which the Senator from Minnesota continues to contemplate. Part B out-of-pocket cap.

Mr. President, I have done a lot of work with seniors. There are seniors all over this country, organizations and individuals that have corresponded with me. The National Committee to Preserve Social Security and Medicare, known by some as the "James Roosevelt Group," wrote me a letter on October 3:

> While we obviously would prefer not to sacrifice benefits, a poll of our membership taken during the last week of August indicated that of the major benefits offered, the limit on the out-of-pocket expenses that medicare beneficiaries pay under part B is one of the least valued.

That is not my poll, Mr. President. This is a poll from the National Committee to Preserve Social Security and Medicare. A poll taken in May of 1,000 seniors all across this country found that of all the benefits in the act, the part B, out-of-pocket cap is the least valuable of all the benefits in the act. That is in the opinion of the seniors.

So what does the Durenberger amendment do? It keeps the surtax, which is the object of the anger of the seniors, and it keeps the least valued portion of the entire program.

So, Mr. President, despite the valiant efforts and the good will that has been exhibited in formulating this amendment, frankly, it does not address the concerns of the seniors.

I want to quickly address this flat premium structure issue. I think it is appropriate to mention, although there is difference in 1991, 1992, and 1993 between my premiums and that contemplated in the Durenberger amendment, I remind——

The PRESIDENT pro tempore. The staff will please take their seats. Assistants to the Sergeant at Arms will please be diligent in carrying out their responsibilities.

The Senator from Arizona.

Mr. McCAIN. I thank the President. In 1991, 1992, and 1993, there are 65-, 80-, and 90-percent cushions in the revenues that will be collected in order that, if it is appropriate to do so, the Secretary of Health and Human Services can reduce the existing premiums.

Mr. President, there are a number of my colleagues who would like to address this issue. I suggest that if we adopt this proposal, we will further enrage this Nation's seniors and keep the surtax, ignoring the overwhelming opinion regarding this issue, and we will be providing for the surtax, the benefit which they rank as the least valuable.

It is, frankly, confusing to me to understand why an amendment, which flies, frankly, in the face of the overwhelming desires of the seniors, would be approved by this body, with all due respect to the supporters of it, including the distinguished majority leader, who also has been heavily involved in this issue for many years.

I reserve the remainder of my time.

Mr. DURENBERGER. Mr. President, I would like to yield 3 minutes to the majority leader.

The PRESIDENT pro tempore. The majority leader is recognized for 3 minutes.

Mr. MITCHELL. Mr. President, last year President Reagan signed this legislation into law. It was a bipartisan bill, the result of a bipartisan effort to ensure adequate financial protection from extraordinary medical expenses.

Not all of the benefits have been fully implemented, nor are they uniformly understood by all of the elderly. Yet, we are now faced with imminent repeal, because of forceful protest against the financing provisions and possible duplication of coverage.

These protests have been heard. They will be acted upon today. But there are many whose voices have not been heard. They also deserve our attention and our concern. They constitute the majority of the elderly, those who would benefit most from this program, because they lack adequate private insurance, and they have no money to buy it.

For some, it is fashionable to ask for repeal of the basic benefits. They are reacting to constituents who say they do not want or need catastrophic protection. These constituents do not want to pay what they consider to be an unreasonably high supplemental premium for these benefits. For their sake, I hope and pray that they are correctly assessing their insurance and their medical risks.

But as we rush to make changes in response to objections over the supplemental premiums, we must not lose sight of those who have no other recourse. We must ensure that the most fundamental catastrophic provisions remain for those who need that protection and cannot get it in any way, other than through this program.

This amendment is a good one. It responds, admittedly politically, but with the objective of sound public policy.

It is first fiscally responsible. Fully funding itself over the benefit period it retains the concept albeit in a very modest manner of a supplemental agreement.

Further it keeps the crucial Medicaid improvement that helps provide an absolute safety net for the low-income elderly and disabled.

The amendment is secondly sensible in its benefit structure. It retains benefits needed during a medical catastrophy such as extended hospitalization and places a realistic cap on physician-related expenses. It retains home intravenous therapy used by a medically fragile population.

It is, third, politically responsive, by substantially reducing the supplemental premium and drastically lowering its cap.

Further it also reduces the flat premium that is paid by all the elderly including those with the least amount of income.

And, fourth, it is voluntary, allowing those beneficiaries who believe they already have adequate coverage the opportunity to opt out of this entire benefit package.

I hope my colleagues will vote for this alternative. It responds to the concerns raised in the last few months but it protects those among our elderly who are at highest risk of financial ruin. We need not abandon the advances made under the Catastrophic Act. It represents the first major benefit changes in the Medicare Program since 1965, and it will be a long time before we consider such an expansion again. This amendment is a reasonable and responsible reaction.

The PRESIDENT pro tempore. The majority leader has 2½ minutes of leader time.

Mr. MITCHELL. I will use a few seconds, Mr. President.

This is a responsible reaction to a politically difficult and medically complex situation.

I urge my colleagues to support this amendment.

I thank my distinguished colleague from Minnesota for his leadership and effort in this area.

Mr. DURENBERGER. Mr. President, I yield 3 minutes to the minority leader.

The PRESIDENT pro tempore. The minority leader is recognized for 2 minutes, and he still has 10 minutes remaining under the leader time which is reserved.

Mr. DOLE. I may need 1 minute of that. I thank the Presiding Officer.

Mr. President, this is a very important day in the U.S. Senate. I know there are a lot of people who have different views on what we should do, and some say we should not do anything, we ought to start over, and that sounds easy. Maybe it would be easy, but I doubt it.

The Finance Committee had to face, in my view, about three principles that were the basis of the committee's action.

We planned to have a package of benefits that provided protection against catastrophic costs and was not simply an expansion of benefits.

Second, given the reality of the deficit, any new benefit must be fully self-financed.

And, third, recognition of the serious problems faced by some elderly citizens who are low income and cannot finance their health care needs.

And the original bill met these goals. But there is no doubt about it. It has been called to our attention that we made a mistake. In some cases we clearly went too far.

At the time of the passage of the bill I noted this Senator's particular concern with both the drug provisions and respite care benefits as being too expensive, and I did not sign the conference report.

But since that time, our fears about the cost of some of the benefits have been realized, and the concerns of some of our elderly citizens with regard to financing mechanisms have been heard.

But, Mr. President, even given those two concerns, the answer is not to reject the program.

The amendment that is before you preserves what this Senator believes to be the critical aspects of the program that have been outlined by the Senator from Minnesota.

First, the truly catastrophic benefits; second, the principle of self-financing; and, third, the low-income elderly are provided a package of benefits they can afford.

Frankly, Mr. President, there is very little debate over the worth of most of the benefits agreed to by this body over a year ago. The real issue has been the financing mechanism.

I, for one, continue to believe that the real problem has been the extraordinary amount of misinformation that has been given to the elderly. The reality is that 60 percent of the elderly will pay no supplemental premium and only 5.2 percent of the 40 percent who pay some amount will pay the full premium. But, Mr. President, explaining this reality is impossible and it has done little to lessen the pressure for repeal, not modification but repeal.

But I believe in this case, and I come from the Midwest where we think we have as much common sense as they have in other parts of the country and we have some commitment to principle, that must outweigh the political situation. In my view, the easiest political thing is to repeal it and wait 60 or 90 days and say what happened to the poor elderly, why has not Congress acted?

So I am in support of the efforts of the Senator from Minnesota. It does preserve a little bit of the supplemental premium, not very much. The cap is not $800. It is $200.

I was in my State fair in Hutchinson, KS, a few weeks ago, and I know the people of my State. One couple in particular came by and I knew they were in a class where they could pay $200, $500, $800, but they did not like it. They wanted to raise the basic premium so everybody would pay, so that those who had the ability to pay could pay less.

I must say, as we look down the road to long-term health care and what we are going to do for senior citizens, and the American people are living longer and longer, thank goodness, if we cannot hang on to a little bit of self-financing I am not certain how we are ever going to put it together, because some of these programs are going to be very costly to finance, particularly long-term care.

I think we have to be realistic and we have to be honest and certainly we have some differences of opinion that are very strong on this floor. I do not question anyone's motives. We all represent senior citizens in our State. Some of us are in that category.

So, I do not think it is in our interest, I am talking about our interest, our State's interest, the interests of the people we represent to reject the concept of self-financing now.

I think the Durenberger proposal reflects good health policy and good fiscal policy. It protects those we should care the most about, and the people we ought to care the most about are the sickest of our elderly, in many cases people who cannot afford it. I say to those who can afford who do not want to pay anything, we cannot do it anymore. We are approaching a $3 trillion budget, $180 billion in interest on the debt. We are worried about your children and your grandchildren, and we finally said we have to have just a little bit to cover some of the costs.

Let me just repeat what the coverage is. It is not unimportant. You take it away and then we will see what happens. Hospital coverage part B out-of-pocket limits, hospice care, home health care, respite care, the so-called Mitchell drugs, catastrophic, drug, mammography, and Medicaid benefits, and there are others.

So I would say to my colleagues on both sides of the aisle, I have been in politics for some time, and I know a good political vote when I see it, but this is not a time in my view that we ought to try to figure out the best political vote. Sure we take a little heat, but I will bet in 5 months, 6 months, 7 months, those same people in many cases who thought repeal was the answer are going to be pounding on our door and saying what did you do it for, why did you not stand up in the U.S. Senate, why did you cave in to those who were writing and those who were putting on the pressure?

If we do, it is not without precedent. But I think it will not be one of the better days in the U.S. Senate.

So I am strongly in support of the measure of the Senator from Minnesota, the Senator from Texas [Mr. BENTSEN], and the Senator from Maine [Mr. MITCHELL], and I thank the Chair.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from Delaware [Mr. ROTH].

The PRESIDENT pro tempore. The Senator from Delaware [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. President, with all due respect to our colleagues who are putting forth this amendment, it is not the way to go. In all candor, I heard these same individuals urge adoption of the original legislation and we did adopt it on the grounds that it was financially sound.

Frankly, what is happening with this amendment is a perfect example of what is wrong with health care policy in general and catastrophic in particular. I have heard proposal after proposal that was supposed to be the answer and was supposed to be financially sound.

But the fact is, Mr. President, we have only soft data and we do not know what coverage these senior citizens have. It is wrong to rush things through on a piecemeal basis. And that is what has gotten us into this difficulty.

Right now, as we are talking about adding to the health programs through this amendment, tomorrow or the next day on reconciliation we will have the responsibility for cutting

back billions from our health care. The fact is that this country is spending 12 percent of GNP for health care, twice as much as England, and it just is not adequate. So I think the important fact to keep in mind is that we need to step back and look where we are going.

Frankly, one of the problems is that we have only soft figures as to what these various programs cost. Just let me point out how soft these figures are. The original catastrophic insurance program was said to cost $30 billion by the Congressional Budget Office. Now they say it will cost $48 billion, almost a 50-percent increase.

CBO said drugs would cost something like $6 billion over a 5-year period. Now they estimate it will be $12 billion. They said that SNF would cost $400 million the first year, but today they say it will cost $4.2 billion.

I think the problem is that we have adequate information: first, on the cost; and, second, on the duplication of benefits.

As my distinguished colleague from Arizona has said, the seniors are angry. They are angry not only because of the surtax, but they are angry because of the duplication of benefits. They are angry because the Catastrophic Program does not give them the kind of help they want. The key concern is long-term care.

As our distinguished Senator from Arizona pointed out, what we are doing is just cutting back on the surtax, but we are not eliminating it. I could not agree more strongly with him that it is the surtax that has particularly angered the American senior citizen.

So what are we talking about? Well, we are going to cut it back to maybe $200 per person, $400 for a couple. But let me say that is like being a little bit pregnant. They are still going to be angry if we do not eliminate the surtax.

Second, we have no facts about the duplication of benefits. Something like half of the senior citizens who would be covered by catastrophic insurance already have programs providing them with this coverage at little or no cost. This includes the military retirees; it includes Federal retirees; it includes State retirees; it includes retirees in the private sector; and it includes union members.

So until we have accurate information as to what these millions of people have in coverage, should we here today rush and adopt an amendment that was only perfected a few hours ago? In all due respect to the authors, I think it was changed twice within the last 24 or 48 hours. So no one really knows what exactly is in this program. Nobody knows exactly what it is going to cost.

Let me just point out, Mr. President, that this amendment is not going to solve the problem. It is not going to make the seniors happy. It is only going to prolong the agony.

I want to emphasize that the Roth-Danforth amendment, which will come up later, will be the only opportunity to vote for repeal and accomplish repeal by keeping it out of conference. Roth-Danforth repeals the surtax. It repeals the Medicare catastrophic care benefits. But I want to emphasize that the Medicaid provisions such as spousal improverishment will be maintained.

I yield the floor.

Mr. DURENBERGER. Mr. President, I yield 4 minutes of my time to the Senator from New Jersey [Mr. BRADLEY].

The PRESIDENT pro tempore. Mr. BRADLEY is recognized for 4 minutes.

Mr. BRADLEY. Mr. President, no amendment that we are going to consider this afternoon that has a chance of adoption, deals as thoroughly as this amendment does with catastrophic health costs and long-term care. This amendment covers hospital costs and physicians' costs. It also covers home health care, expanding it from 21 to 38 days, and it provides respite care for a lot of families in this country who need a break from the constant care that a chronically ill elderly relative demands.

The other amendments that we are considering today either do not cover physician costs, thereby, opening up a hole for senior citizen to fall in by having physicians' costs bankrupt that senior citizen, or the amendments do not acknowledge or identify or cover long-term care.

This is the only amendment that comprehensively addresses the catastrophic health care problem, which is a hospital problem and a physician problem. It is the only amendment that also addresses, although in a small way, long-term care by increasing home health care and by putting into effect a respite care program.

Mr. President, we are able to do this while at the same time we are reducing the surtax from $800 to $200; and at the same time we are reducing the tax rate from ultimately 28 percent to 10 percent.

Mr. President, you will not find on the floor today a better deal to cover catastrophic health care costs or long-term costs than the amendment offered by the distinguished Senator from Minnesota.

Mr. President, as I have heard people debate this issue and encountered people in town meetings, everybody comes up and says "Repeal this program. Repeal this program."

It reminds me a little bit of a few years ago when we enacted withholding on interest and dividends. And we were inundated by hundreds and thousands of letters, and we repealed interest and dividend withholding. There is only one difference this time, Mr. President; that is, if we repeal this bill, people will die and/or go bankrupt. This is not some small decision we are making today when we vote for repeal.

The fact of the matter is there are a million people in this country with out-of-pocket costs every year of more than $2,000. So if you vote for repeal, what are you telling that senior citizen who is very sick and who needs treatment? The senior citizen says, "Do not give me the treatment because I can't afford it," and he dies, or he says, "Give me the treatment," and he goes bankrupt. That is the choice that the Senate will provide for many people in this country who are eligible for this program if it is repealed.

Mr. President, frankly, I preferred a more modest reduction in the existing program. About 5.6 percent of the people, that is all, were paying the top $800. It would not be too much for us to cut it a little bit. But the demand of the body required that we reduce it even more.

Senator DOLE talked about what happens if we do repeal the program, and senior citizens find out about it. And next year they will say, "Why did you do this?" If we manage to salvage this program, next April, when they pay their taxes, and they find it is only $100 that is owed, they will thank us for saving this program, and this amendment now before us is the best way to save it.

Mr. President, it was just last year that the vast majority of the Members of Congress were congratulating themselves for fixing one of the three big problem areas in our health care system. We all know that the three big gaps are catastrophic health care costs for the elderly, long-term care for the elderly, and the lack of protection for the 37 million Americans who do not have any health insurance.

The Catastrophic Act really did make great strides in two of these areas. Because of the legislation, the elderly no longer have to worry about acute care catastrophic costs. The bill also made some modest steps in providing long-term care coverage for the elderly with chronic conditions.

There are many in the Congress who question the importance of the benefits that we enacted in the catastrophic bill. Many here believe that we should repeal the entire program. I believe that such an action would be devastating to the millions of older Americans who will benefit greatly by this legislation.

I urge my colleagues to show restraint in efforts to undermine the very important benefits that we enacted last year. We have all been the targets of intense pressure to undermine catastrophic. These efforts have been based in part on misguided information about catastrophic and inaccu-

rate perceptions of what Medicare provided prior to enactment of the program.

Under previous law, Medicare came nowhere close to covering all the elderly's acute care costs. After 59 days of paid hospital care, Medicare patients had to make increasingly costly hospital payments—rising from $130 per day for days 61 through 90, to $260 per day for days 91 through 150, to the full cost of care for each day beyond 150 days in the hospital. On top of this, there is a 20-percent copayment for all physician services covered by Medicare. For the elderly who have severe medical problems, the financial costs can be devastating.

And the problems financing long-term care are even larger than financing lengthy acute care illnesses. Medicaid only pays for nursing homes after the assets of the elderly person are depleted. And we have almost no home and community care system for the elderly.

We have all heard from our constituents about their concerns with the supplemental premium. I share some of these concerns. I agree that steps must be made to address the concerns of our constituents. But gutting the important benefits in this legislation is not in the best interests of the vast majority of older Americans.

Mr. President, the amendment now before us tries to continue as many of the important benefits as is fiscally practicable, given the realities facing us; and the remaining programs are financed in about as fair a way as possible.

I would be remiss, Mr. President, if I did not point out that the proposal would retain two of the catastrophic care bill's long-term care benefits: home care and respite care. I am particularly pleased that these provisions have been included, because I worked long and hard last year to get these benefits for the elderly.

Before catastrophic, Medicare guidelines allowed most patients to receive home care on a daily basis for only 2 to 3 weeks. Now they can receive it for up to 5½ weeks. It is estimated that about 200,000 elderly each year will receive additional home care through this expansion.

Most people don't even know what respite care is, but I'd like to take a moment to explain it to the Members of this body. Respite care is the provision of a modest amount of relief to family caregivers who are spending their lives caring for their chronically ill family members.

Picture this scene. An 80-year-old man who has serious limitations in his activities—whether it be inability to walk or even toilet himself. His wife is the only reason why this person has not already entered a nursing home. The catastrophic respite care benefit provides this family with support of 80 hours a year to help the caregiver in the home if the family also has high health care costs.

This is a very important program. Except for people in nursing homes, we are talking about some of the sickest older Americans—and those with high health care costs.

In summary, Mr. President, the amendment before us tries to keep as much as possible of the benefits of the program intact. It pays for the program through a lower basic premium and a very modest supplemental premium. And it continues the valuable home health expansions included in the catastrophic bill. I urge adoption of the amendment, for the sake of the Nation's senior citizens.

The PRESIDENT pro tempore. The Senator's 4 minutes have expired.

Mr. McCAIN. Mr. President, I yield.

The PRESIDENT pro tempore. Mr. HATCH is recognized for 2 minutes.

Mr. HATCH. Mr. President, Senator DURENBERGER's proposal retains the supplemental premium in order to provide limited additional benefits. I oppose retaining the supplemental premium for many reasons.

The supplemental premium is counter productive. It says to seniors all around the country that if you save money for your future, we, in Congress, are going to tax that savings and force you to pay more for some benefits than others. If a senior was prudent, this proposal would penalize them for saving and investing for their retirement. And, few will actually receive any benefits under this plan. That needs to be said.

The supplemental premium is not fair. An employee earning $30,000 does not purchase the same specific health insurance benefit at a different price than an employee working for the same employer earning $50,000. Well, if we retain the surtax that is what we are doing. That is, requiring some seniors to pay more for the same benefits than other seniors. We need to vote against any supplemental premiums. And that is the defect of the Durenberger approach.

And, do not forget, the seniors are mandated to buy it. They do not have a choice. We are not allowing them to shop for other types of benefits at lower prices, rather we are forcing the payment for this new program.

Since 1965, we have promised all seniors, regardless of income, that they would have a medical insurance program to help pay for their medical expenses after age 65.

But, if we are going to start means-testing Medicare, let us give seniors and pre-seniors some notice. Let us do it with an open debate. Let us do it fairly, if we do it at all.

I oppose the supplemental premium. I hope Senators will vote against this amendment.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I yield myself 30 seconds in response.

The fact is that the statement made by the Senator from Utah that everybody is going to get saddled with a surtax is not necessarily true. There is a supplemental premium or surtax in this bill. There is also an optional feature. They do not have to take it. The optional feature is not in the current law. It is in this amendment to change the law. If you do not like the surtax, do not like the catastrophic, do not take part B and you are fine.

Mr. President, I will be glad to yield 2 minutes to our colleague.

Mr. HATCH. Will the Senator yield?

Mr. DURENBERGER. I will not. I yield to the minority whip.

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. DURENBERGER. I yield 2 minutes, Mr. President.

The PRESIDENT pro tempore. Two minutes.

Mr. SIMPSON. Mr. President, I commend Senator DURENBERGER for his diligent work on the catastrophic coverage issue, and for the proposal he now puts forward. The Senator from Minnesota is not only a thoughtful student of this issue, he is a thoughtful teacher as well.

We are considering two things here today: First, whether to support or repeal or modify catastrophic; and second, what to do about the financing in the event that we keep some version of the program. That is, what to do about the offending supplemental premium.

I think it is pretty clear that we will modify catastrophic today. I hope, as we do this, we do it with an eye toward the future—because what works and what is politically expedient today may prove hideously catastrophic for subsequent generations of elderly.

Mr. President, let me state as clearly as I know how that outright repeal of this legislation would be the most unconscionable decision this body could make. The Medicare Catastrophic Coverage Act includes certain benefits that senior citizens simply cannot access anywhere else—and they are valuable benefits. There are people already in hospitals who are depending on those benefits. If we think we have problems now, Mr. President, when we get to repeal as the answer, let me tell my colleagues, "we ain't seen nothing yet,"—to paraphrase a former President of the United States.

Certainly the catastrophic bill has flaws—there are benefits that are in the legislation we passed last year which are duplicative. That's something we overlooked. We should correct it. Certainly it is not right to require retirees who have adequate em-

ployer-based coverage to pay a mandatory surtax for benefits they already have. Remember, Mr. President, that the Senate passed a voluntary catastrophic bill. We should restore the voluntary nature of this program, and I have supported MALCOLM WALLOP, my colleague from Wyoming, in his efforts to do that.

But when older Americans discover the benefits lost under repeal—and they most certainly will be well-informed on that score in no time—and when they discover that the whole United States has been swung around by its tail by 5 percent of their most fortunate cogenarions who don't want to pay for these benefits, my guess is we'll see a firestorm that outshines this one by many megawatts.

Mr. President, we're not hearing from the seniors who find these benefits valuable and who are quite willing—thank you—to pay for them with a small amount of money. I hope we will hear from them.

If there seems to be confusion at the White House about this issue, or in the Senate or in the U.S. House or in the committees—or anywhere else—well, is that surprising? Why should the White House not be confused at the reaction to catastrophic? To a program ushered through Congress in good faith, with the express purpose of protecting the financial independence of senior citizens from the threat of ruinous health care expenses?

We are not confused, Mr. President. We are terrorized. We are terrorized by a small group of people in the United States who want to sit it out while we go through some of the toughest, most wrenching social decisions this country has ever faced. They are going to sit it out while we deal—somehow—with the projected drawdown of the social security trust funds, and with the escalating costs of health care which right now consume 12 percent of our gross national product.

Mr. President, there will be consequences to repeal just as there were consequences of enactment. Seniors will look for those benefits one day, and they will look at us as the ones who took them away. If we repeal catastrophic, we will do grave harm. For instance, what will become of those seniors who, upon learning of the new Medicare catastrophic benefits, dropped their Medicare supplement policies as Congress intended they should? Remember when we passed catastrophic, we justified the cost to seniors by telling them they could safely drop their expensive private Medigap policies. Many have. Not the majority, but many have. What about those who did who are now uninsurable? Medicare catastrophic would be pulled out from under them while their private insurance companies won't take them back. If we repeal catastrophic, what becomes of these people?

In the frenzy over the surtax premium, Mr. President, we have lost sight of the fact that the catastrophic act was designed to help people. Over 11 million people—many of them our poorest seniors—will need and use the benefits offered under this program. There are long-term care benefits in there that will make or break families and lives. There are acute care protections that will make the difference between perpetual welfare dependency and financial security. If we repeal this program, we will be turning our backs. And I believe that is the cruel and wrong thing to do.

People are objecting that the catastrophic law seems to violate the principles of social welfare benefit financing. That may have some truth to it. I also happen to believe that that is the path this fine old country must begin to travel down if she is to survive.

Le me just also make the observation for the benefit of my colleagues that the present catastrophic financing arrangement is not the wholesale violation of social insurance principles as some might suggest. Seniors are still getting a tremendous subsidy under the Medicare law. If you take into account Medicare parts A and B and catastrophic, seniors who have contributed the average HI payroll taxes and who pay the average supplemental premium are receiving a Medicare subsidy of $2,300 per year. The subsidy for those who contribute and pay the maximum amounts is less certainly, but not insignificant. Given the demographic time-bomb, we will have to do much more income-relating of social welfare programs or our children will be paying nearly 35 percent of payroll to support those 65 and over.

For some curious reason, no one here is talking about the future. I cannot remember a time in recent history when we have failed to do that. What, exactly, are we going to leave behind with our social welfare policies? When we have the Social Security trust funds in dramatic drawdown, and the health insurance trust funds exhausted, what will become of the standard of living we profess to want our children to be able to enjoy? Let's sober up.

I support Senator DURENBERGER's proposal because it preserves the catastrophic benefits that are most critical to the financial security of senior citizens. I also applaud his decision to retain the financing principles of the original law. This is an important precedent. As the population of elderly people grows, the volume of health care benefits they consume will increase dramatically. So will the social cost of those benefits. Some are advocating broad-based financing. But today's low birth rates mean that the future tax base will remain relatively constant, so that taxes would have to rise dramatically to keep pace with the cost of benefits. In contrast, requiring that portion of population which will use the benefits to pay part of the costs will assure that the financing base grows steadily along with the demand for services. It is the only way to make this program work over the long term. I don't say this out of any lack of generosity toward seniors, Mr. President, and I am not "grey bashing." To the contrary. We made a commitment to the elderly when we enacted the Catastrophic Coverage Act that they would never again have to decide between bankruptcy and a protracted illness. I believe that if we are earnest in that commitment, we must structure the program so that it is sustainable over the long term. These are the demographic imperatives and economic realities which do and must govern our policies from here on out. We indeed owe that to those who follow us.

Senator DURENBERGER's approach retains the supplemental premium, but reduces it to a level that few could honestly complain about. And it reduces the flat premium so that the program will be less of a burden on the lower-income elderly. All this it does while preserving the important hospitalization, physician, and what I'll call "para-long-term care" benefits: home health, respite, and hospice care.

Mr. President, I have never seen anything like this issue. Are we looking at a new social experiment? Yes, it is a new social experiment: It is called paying for what you get especially if you have the wherewithall to do it. If we are going to bow to the pressure of these more fortunate seniors as they raise hob from coast to coast, what will then be the fiscal future for their children and their grandchildren? Who will pay the bill? The debt limit we will vote on this month is $3.1 trillion—quite a bill isn't it? Ready to mortgage our heirs to the hilt? Will they stand still for it? Ask them that question.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. I yield 5 minutes to the Senator from New Mexico.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. First let me say to my friend from Minnesota, he said there is an option in his proposal to not take the coverage. Everyone should know it is not an option to not take only the doctors coverage which is the only add-on here over the McCain bill. It is an option to opt out of all of Medicare part B. Everyone ought to know that. That option has been around. Seniors have rejected that regularly.

Mr. President, let me suggest for this Senator it is very difficult to argue against Senator BOB DOLE and others who are here. I happen to feel in this case they are wrong.

First, we should not be misled. This is not an argument between repeal and the Durenberger amendment. There is pending a McCain amendment. It, too, is totally self-financing. The differences are simple but profound.

To explain the first difference I call to my colleagues' attention senior citizens in the United States under the Durenberger amendment are going to have to fill out, as part of their tax return, a supplemental Medicare premium Internal Revenue form.

Normally you fill out supplemental forms because you want a tax rebate or a tax refund. But in this case, seniors will have to fill this out so they can tax you. And if you are a Government pensioner you will fill out this form plus another one. For the privilege of paying more taxes, you will fill out a Government pension adjustment to supplement the basic form. That will indicate how much you owe the Government.

I am not trying to make a political issue. But frankly, we should understand that we are taking a giant step. What is the giant step? To enter into that new arena of surtaxes on senior citizens for a little tiny piece of health care.

Many seniors are not so dumb. They are wondering, what is next? You tell them this is a $200 maximum. But they are saying, what is next?

I submit to my colleagues we ought to be on the floor reforming health care. We ought to be on the floor eliminating tort liability against the medical practitioners of this country, across the land, and beginning to cut health care costs. We are doing none of that.

Why are we doing this? From one surtax to another? Because we want to include all of the wonderful things that the Durenberger amendment covers. But I remind every Senator, they are all covered in the McCain amendment except one thing: Doctors' bills; so-called catastrophic doctors' bills after many dollars have already been spent by seniors.

The marvelous protections that the Senator from New Jersey said we should cover are covered in the McCain bill. We have many options, not just repeal. Repeal is an option which we will vote on later, or McCain, or a number of other proposals. This is not vote for this or we get repeal. We have plenty of options.

This adds catastrophic doctor coverage, for which we will pay a surtax of up to $200. And I might add, in conclusion, I do not really think we ought to kid ourselves. This coverage is nothing great for seniors, in my opinion. It only covers approved Medicare payments.

There may be many seniors shocked to find that this approved Medicare payment will not cover what many doctors charge for their services. Some doctors charge more than Medicare-approved amounts.

So, Mr. President, I am not against a pay-as-you-go plan. I think we are going to have to end up with some kind of major reform. It may include some kind of supplemental premium someday. But it should not be for this little tiny add-on to the heath care program.

When we are ready to reform the entire thing, let us look at something that is truly in the long-term interest of seniors, in the long-term interest of this country.

We are now paying 12 percent of our gross national product for health care, 2 times Japan, almost 1½ times Canada. And here today we are prompting an inflationary spiral that follows every single time the U.S. Government enters into a new health care program to help people.

Seniors understand. The surtax is a foot in the door.

If it were for something beyond one added item it seems to me it would be deserving of consideration. I do not believe it is.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I yield 2 minutes to the Senator from West Virginia.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROCKEFELLER. I thank the Senator from Minnesota.

The Senator from New Mexico says the difference between the Durenberger amendment, which I support, and the McCain amendment, is just one little thing. That is called part B.

Well, part B is where the majority of expenses, medical expenses for senior citizens, are. That is where they are. That is an $8 billion item we are talking about and that is why there is a small supplemental premium of $200. Because that is what seniors need, those doctor services. And that is what the Durenberger amendment gives them.

An elderly person, let us say, has a severe, chronic problem like cancer. Surgery is required, chemotherapy, extensive follow-up visits, rehabilitation. Then the bills start coming in from physicians, from radiologists, anesthesiologists, and all the rest. And, under the Durenberger amendment, they will get paid. Under some of the others, they will not get paid.

And that is the point: Part B is the difference. This is good health policy. This is sound financial policy, and unlike some of the other amendments, including the one that will follow, the Durenberger amendment does provide adequate reserves and a contingency fund which is crucial to a program of this type.

Mr. President, I strongly urge my colleagues on both sides of the aisle to support this Durenberger leadership bipartisan amendment.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, I yield 1 minute to the Senator from Utah, followed by 5 minutes to the Senator from Iowa.

Mr. HATCH. Mr. President, the Senator from Minnesota indicated the seniors can opt out under his program. I think it is duping our seniors to have them believe they can opt out of it, or that this will make the catastrophic program voluntary. It will be voluntary if you close your eyes and ignore the stick over your head. They say seniors may opt out of catastrophic, but if they do, they lose their part B coverage.

Let us face it: In reality, this claim is simply a false political promise to our Nation's senior citizens. Part B benefits are partly subsidized at 75 percent of cost. Part B benefits provide seniors with services they need, like physician visits and outpatient services.

The so-called voluntary approach like this one is misleading. I am just not willing to mislead the seniors with regard to this.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized for not to exceed 5 minutes.

Mr. GRASSLEY. Mr. President, I, too, rise in opposition to the proposal of my colleague from Minnesota. In the first place, it does not repeal the supplemental premium, and if there is any one thing that ought to have come through loud and clear from the grassroots over the last several months, it is that that is the major fault point that the people writing to us against this proposal have made to us. Loudly and clearly it has come home that they do not wish to pay a supplemental premium linked to their basic tax.

As I noted in June on this floor, this is not simply a question of a financial burden of such a surtax, although that is most certainly an important part of it. It is also a question of the size of the supplemental premium relative to those benefits for which it is paying, and the people out there writing to us are not ignorant about whether they are getting a good buy or not.

Finally, it is a question of subsidization of other Medicare beneficiaries that occurs in any financing method which entails a premium graduated by income.

In the second place, the proposal before us retains an expensive benefit which older Medicare beneficiaries have told us that they do not want. The Wirthlin Poll and the Cooper and Secrest Poll have already been quoted here on this floor. I am not going to repeat that.

But, again, the people who have been writing to us know what they want to buy. With the proposal before us we would force them to buy something that they do not want and is low on their priority list of things they want to buy when it comes to health care—namely, a physician benefit.

Furthermore, the proposal under consideration makes it even more difficult to get that physician benefit from the original program by raising the cap a beneficiary must meet before he or she becomes eligible for the benefit. It raises it from $1,370 to $1,780.

If the physician benefit would work as did the physician benefit under the currently enacted program, it is my understanding that a beneficiary would experience fairly substantial outlays before becoming eligible for the benefit. That, again, is something that the people perceive very clearly and that they do not like about it.

I refer not simply to the fact that the deductible has been raised to $1,780, but also to the fact that many of the expenses incurred by the beneficiaries will not count toward that cap. The Senator from New Mexico only pointed out one of those.

As I understand it, the part B deductible of $75 would count as would the 20-percent coinsurance for all Medicare approved part B changes. As I understand it further, the following expenses do not count: the hospital deductible—that is around $560 in 1989—the basic part B premium of $31.90; any physician charges not approved by Medicare; the basic flat new premium of $4 per month; and any supplemental premium amounts incurred by taxpaying beneficiaries.

The point, finally, Mr. President, is that Medicare beneficiaries could incur a fairly heavy burden of health care costs before even coming close to the new higher deductible of $1,780. We have had an opportunity to sell this program because every one of us out there at the grassroots level over the last several months have been asked about this.

We have had an opportunity to explain it, and we have not been able to convince people that the program, and this benefit now under consideration, are worth it.

The PRESIDENT pro tempore. Who yields time? Time runs equally against both sides.

Mr. McCAIN. Mr. President, I yield 3 minutes to the Senator from Texas [Mr. GRAMM].

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for 3 minutes.

Mr. GRAMM. Mr. President, the people who are arguing for this amendment are singing the old siren song that we have heard in this country for 50 years. They say this is sound health policy, this is sound fiscal policy, and what is wrong with all these people who do not like it? What is wrong with them? They say the seniors are not as smart as we are in Congress. They are confused; we are giving them something and they ought to love us as they have always loved us for giving them something.

The plain truth is we are not giving them something. We have forced them into a program that does not make sense, that lowers the living standards of the very people we claim to be helping.

The issue on this amendment is very simple, and I do not believe the American people are going to be deceived. The issue on this amendment is: Are you for the surtax or are you against the surtax? If you are for the surtax, then you will vote for this amendment. If you are against the surtax, you will vote against this amendment.

So, Mr. President, basically, the song we are hearing says you brought this fellow in, he has a cancer, and they say, look, let us compromise. Let us take half of it out and let us leave half of it in.

The U.S. Senate made a terrible mistake. We passed a law that clearly does not work. The problem is not selling it in 60 seconds. We have had a year to sell it, and we have seen newsletter after newsletter, political speech after political speech, promise after promise, and the plain truth is the American people understand that this program stinks. They understand that is it a bad buy and they do not want it. They want to be out from under it.

I urge my colleagues, let us not let the same old status quo arguments that collectivism is always wonderful, and if the people do not love it, it is because they are stupid.

Let us defeat this amendment and either adopt a legitimate reform, which is the McCain amendment, or repeal the bill outright. But a vote for this amendment is a vote for the status quo. It is a vote for the surtax. It is a vote to keep in place a bill that the American people understand, and because they do understand it, they want to be rid of it.

I yield back the remainder of my time.

Mr. HEINZ addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, could I inquire as to how much time remains on both sides?

The PRESIDENT pro tempore. The Senator from Arizona has 3 minutes 21 seconds. The Senator from West Virginia has 4 minutes.

Mr. HEINZ addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. HEINZ. Mr. President, I ask for 2 minutes from the Senator from Arizona.

Mr. McCAIN. Mr. President, I believe it is customary for the side with the most time remaining to proceed. I ask that we proceed in that fashion.

The PRESIDENT pro tempore. Who yields time? There is still some time remaining on the bill.

Mr. DURENBERGER addressed the Chair.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania be yielded 2 minutes to speak on the bill.

Mr. McCAIN. I object.

The PRESIDENT pro tempore. Time is running against both sides.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask my colleague from West Virginia, who I understand controls the time in opposition to the bill, to yield me an additional 5 minutes on this amendment.

Mr. ROCKEFELLER. The Senator from West Virginia will be glad to do so.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 5 minutes on the bill.

Mr. DURENBERGER. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, I support this amendment. I find it difficult to accept the logic of my friend from Texas. He does not recognize the importance of having a form of social insurance as the undergirding of this whole process of looking after the health care needs of our elderly people. My only reservation about supporting this program is that it really does not meet the challenges in the area of outpatient prescription drugs.

In listening to this debate, Mr. President, to those who say that what we really need is a comprehensive review, I have been interested in that for a number of years. We should not hold our senior citizens who are in real danger of absolute bankruptcy from hospital care or from doctors' care hostage until we in this Senate are going to come to grips with that particular issue, No. 1.

Second, we should not make the best the enemy of the better. This amendment now before us will make for a better system and will provide some real difference in the quality of life for

the seniors of this country and deserves the support of this body.

Mr. McCAIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota still has time remaining under his 5 minutes.

Mr. DURENBERGER. Mr. President, I am going to reserve the remainder of my time at this point.

Mr. McCAIN. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. HEINZ. Mr. President, I suppose everybody has their reasons for wanting to vote for or against, as I think most do, the Durenberger amendment, and maybe many people are inclined to vote for it because the Senator from Minnesota retains a small portion of the supplemental premium. I might say, in all candor, that had the benefit that was being retained been a drug benefit instead of the part B benefit, I would probably be supporting the Senator from Minnesota even if his amendment retained the supplemental, or a small piece of the supplemental premium.

Let me tell you why I think the drug benefit is a better deal for Medicare beneficiaries than the part B cap. First, it is a better deal because it will help a much larger percentage of Medicare beneficiaries with catastrophic health care costs. Under the current law, some 27 percent of persons would benefit from coverage of prescription drugs costs compared with the 7 percent who would be protected from costly physician services. Under the Durenberger amendment, only 5 percent benefit from the part B cap. The second, and perhaps most important, reason why the prescription drug program is a better deal, is because all Medicare beneficiaries stand to benefit from the drug utilization review screen that prevents such problems as harmful if not life-threatening drug interactions. This screen, in essence, is a drug safety program that will help every beneficiary, regardless of whether they exceed the deductible limit.

Let me hasten to add, Mr. President, that there is one class of people who stand to lose the most if the part B cap is eliminated. These are ESRD patients, end stage renal disease patients, of which percent have part B costs exceeding the current catastrophic cap. This is not an argument against helping these patients, who I believe we should help directly and in a better say. I think we could help them better if we tailored a benefit specifically for them.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Minnesota will yield a couple of minutes.

Mr. DURENBERGER. I would love to, but I cannot at this stage.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. I should like to yield 1 minute to the Senator from North Dakota [Mr. CONRAD].

The PRESIDENT pro tempore. The Senator from North Dakota is recognized for 1 minute.

Mr. CONRAD. I thank the Senator from Minnesota. I have been one who has very carefully followed this debate and been very torn between the McCain approach and the Durenberger approach. The bottom line is, as the Senator from Texas enunciated, what do the people want. We have just completed a survey of my constituents. Nearly 5,000 responded. They want the supplemental premium dramatically reduced. Durenberger does that.

The No. 1 concern on the benefit side in my State was capping the out-of-pocket physician expenses—No. 1 concern. The only proposal left before us that does that is the Durenberger approach. So I urge my colleagues to respond to the will of the people on this question and to support the Durenberger approach.

Mr. President, I yield back the time.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. I yield 1 minute to the Senator from South Dakota [Mr. DASCHLE].

The PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE] is recognized for 1 minute.

Mr. DASCHLE. I rise as well to support the Durenberger amendment. There is the question of the supplemental premium as well as whether or not we include coverage of doctor bills.

There have been a number of comments made about the limited value of the doctor coverage, but every Senator, before they vote, ought to understand that up to 30 percent of the elderly or 10 million seniors in this country have no Medigap coverage at all, and there are 300,000 senior citizens who have out-of-pocket expenses that exceed $2,000. They are the people about whom we are talking. They are the ones who are going to benefit by having that benefit included in the catastrophic program.

The second issue is one of surtax. Do we include it or do we not? This is the only opportunity we have to make the payment a progressive one. No one should be misled. The fact is, if we do not have a supplemental premium, some kind of surtax, we have a regressive system that will pay for the program. A flat fee is a regressive fee.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I direct a question to my colleague from West Virginia. I had an inquiry from the Senator from Arkansas who would like to speak to this bill. I only have several minutes remaining myself.

Mr. ROCKEFELLER. Mr. President, I would be delighted to yield 5 minutes off of my time on the bill as a whole to the Senator from Arkansas.

The PRESIDENT pro tempore. The Senator from Arkansas [Mr. BUMPERS], is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, I will not take 5 minutes. I want to start by asking the Senator from Minnesota what the budget impact of this proposal is.

Mr. DURENBERGER. In fiscal year 1990, I believe the budget impact is substantially less than the budget impact of any of the other alternatives here, $1.5 billion, which will have to be picked up out of the part A trust fund. That is a smaller amount than any of the other alternatives are going to have. After that, all of the benefits in my amendment are financed out of the financing mechanisms.

Mr. BUMPERS. I thank the Senator.

Mr. President, I am going to vote for this proposal. It certainly is not perfect, but the fact that we have 10 or 12 proposals before us shows that there is a lack of consensus in this body on how to address this problem.

I also know that the problems we are trying to address is acute. Betty and I try to take care of a 92-year-old woman in a nursing home in Arkansas, and I know something about the medical bills senior citizens face. I know what the drug bills are. Happily, she had saved all of her life and has enough to take care of most of her needs for a long while. But I am absolutely staggered every month as those medical bills—I am talking about the prescription drug bills—come in for this 92-year-old woman. I promise you she could not care less about this debate. She does not know about it. She would not understand it. There are a lot of people just like her.

The point I want to make is that turning our backs totally on senior citizens and saying that we are not going to address one of the most pressing needs in the Nation would be the height of irresponsibility.

I have voted against all the proposals so far. I thought some of them had pretty good features, but on balance I could not support them. I do not want to go home and tell my seniors the Senate did nothing about catastrophic coverage. When I was home in August, that is all I heard. I had one inquiry on the flag, and 8,000 on catastrophic illness. So I understand the volatility

of this issue. I understand the politics of it. Believe me, I understand the politics of it.

There are 360,000 people in my State over 65 years of age. But, I can tell you one thing. I do not have the slightest hesitancy in going home and talking sense to them about this issue.

I will not have the slightest hesitancy in telling them why I voted for this proposal. It is a modest one. It does not cost very much. But it provides fairly significant benefits in areas where benefits are needed so badly.

So I will plead with all who think you are going to vote for a repeal, cleanse your skirts, and go home and say to senior citizens, "I honored your request, I voted to repeal that whole disaster." When you tell them that, you should add, "I voted against any middle ground, I voted against any quarter ground, and I voted against anything that would provide some relief for you for your staggering medical bills.

Some seniors have Medigap. Some of my Federal retirees say they already have adequate coverage. Other people say they are covered. I am pleased they are. Most of them feel fortunate they are covered. But there are millions who have no catastrophic coverage. It is for them I am casting this vote. I thank the Senator for yielding.

Mr. DURENBERGER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I want to begin the conclusion of this by saying to everyone, whether it is the leadership, the followship or confused, this is a very difficult issue. It is a very difficult day for all of us. I am not going to try to correct impressions that have been left here by anyone. I do think it is important on the issue of opt out on the coalition of the Senator from Arizona and so forth. Most of these people have a real legitimate concern. They need to opt out of this because they have duplicate coverage.

So in the debate about whether or not catastrophic is elective, let us not lose sight of the fact that there are a lot of people out there who should not be part of this program, who ought to have the option to get out of it and either bill, the Senator from Arizona or mine, does that for those people.

For those who say we ought to be doing reform on the floor, we ought to be reforming this, that, I can only say I have been doing it ever since I came here.

Whenever the going gets tough, somebody stands up and says, I am for reform but do not do it that way. It is not easy to be in this position. The Senator from New Mexico has experienced that on the side of reforming the budget process system. Everybody around here is an expert on the budget. He tries to stand up, say this is the only way to do it, this is the best way to do it, I am thoughtful about it, and the rest of it, if it does not hit in our State, stand around and say we do not particularly like it. It is difficult to do.

The other day I sent somebody out to find out how many votes there were against repeal. They came back and said we have good news, and bad news. The good news is there were 63 votes against repeal. I say terrific. They said the bad news is they are all in the House.

The reality is, Mr. President, that the remaining choices other than perhaps the Riegle choice are repeal choices. You will have to go back home with either the Roth repeal, repeal the work of the McCain amendment, and say you repeal 8.3 billion dollars' worth of doctor and medical bills, for the 5.5 percent of the elderly who are in most need in this country, and you denied the other 9.5 percent the opportunity to get out of some Medigap Program that is taking advantage of them.

That is the heart of the issue. Yes, the surtax is part of this problem. But the other part that you are going to understand if you do not adopt this amendment, when you get back to New Mexico, back to Arizona, or any of those places Minnesotans go to, is this is the real catastrophe, the doctor bill and the medical bill.

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator from Minnesota has 2 minutes and 29 seconds remaining.

Mr. DURENBERGER. If someone dropped in on this debate, they would somehow believe it was a question of repeal of the Durenberger amendment. That is clearly not the case.

We will be able to vote on about two more amendments on repeal. This is whether we want to keep the surtax or not. I do not believe there is anyone in this room that believes seniors of America want to keep a surtax. I know they do not. We all know they do not. Let us vote against it. I appreciate the valiant efforts of my friend from Minnesota, and others who have brought forth I think a good effort but it is not good enough.

I yield the remainder of my time.

The PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that a series of editorials in support of saving catastrophic be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 22, 1989]

CLARIFYING A CONTROVERSY

Criticism of the expansion of Medicare benefits that went into effect Jan. 1 rages on. Thousands of senior Americans are besieging both the House and Senate with appeals to amend or set aside the so-called catastrophic coverage and other benefits now being phased into Medicare. But we have reviewed the changes again, and we think it would be a serious mistake to abandon the program.

Most of the controversy focuses on the fact that catastrophic coverage is financed by premiums and tax surcharges paid by the beneficiaries themselves. Because the surcharge will apply to only 40% of the higher-income Medicare recipients, the burden on middle- and upper-income retired persons will increase, but even they will continue to receive in benefits far more than they contribute in taxes and premiums.

A study by the Congressional Budget Office demonstrates that the average Medicare beneficiary, enrolling at this time, actually contributes, in payroll taxes, premiums and supplementary tax surcharges, only 25% of the benefits received.

It is true that the new expansion of Medicare, with its expanded acute-care hospital and prescription drug benefits, has shifted the levels of subsidies. The subsidies for low- and average-wage earners will increase slightly. For higher-income persons, however, the lifetime benefits in excess of taxes and premiums are in effect reduced by $11,400 for men and $15,900 for women, according to the Congressional Budget Office research.

"Nevertheless, for high-income retirees, the value of Medicare exceeds taxes by $1,650 a year and represents a subsidy of approximately 38% of benefits," according to the study. No program of similar quality and benefits is available to any other segment of the population. Medicare, with an overhead of about 2%, contrasts in particular with private Medi-Gap insurance policies that may pay back only 60% of premiums. Still, the surcharge will cost as much as 2% of gross income for a few this year, and close to 3% of income for a few by the year 1993.

These discrepancies reflect the unique funding of the Medicare catastrophic coverage extension. There are two sources of this funding. Everyone, rich and poor, pays a flat $4 monthly premium. Those with federal income tax obligations of $150 or more pay a surcharge. The surcharge is in addition to the basic Medicare premiums. This year, the surcharge will amount to about $78 for a person with gross income of $15,000, $307 at $25,000, up to a maximum of $800 for those with incomes of $40,000 or more.

There are some groups of Medicare beneficiaries with special problems created by the extension of coverage. One of these groups, constituting an estimated 10% of the total, already was receiving similar benefits at no cost under retirement arrangements with their employers. The law requires those employers to maintain equivalent support only for one additional year. Some government retirees feel the offset included in the law is not adequate to protect them from the disproportionate tax surcharges they face. Some fine-tuning of those rules may be appropriate in the future.

There also is controversy over the extent of the surplus that may develop in the new fund in its initial years, and the adequacy of the funding proposed for the prescription drug benefit to be phased in over future years. We agree with President Bush that the government should follow the most cautious route. Any adjustment of the tax sur-

charge should be postponed until there is a clearer picture of the surplus question. The schedule for the implementing drug benefits should be maintained.

There is, admittedly, a glaring defect in this legislation. It is not well-named. It is not, in fact, catastrophic protection, because the real catastrophe in health care for older Americans is the absence of protection against the high cost of long-term care in a nursing home. Medicare, even with some improvements in this legislation, provides only limited long-term care. In the absence of affordable private insurance for long-term care, the only effective safety net is provided by Medicaid, called Medi-Cal in California, which is provided only for low-income elderly. Clearly, Congress must not stop with the 1989 improvements to Medicare. It must proceed with long-term care protection.

But the older Americans who are angered at being asked to share the cost of the new benefits must remember that there are other health-care priorities, first among them a response to the 37 million Americans who have no health insurance of any kind. Most of them are working or are the dependents of workers. They would doubtless be among the first to object to any scheme to turn to general revenues to reduce the cost of already highly subsidized Medicare coverage.

[From the New York Times, July 6, 1989]

THE MEDICARE FLAP: NO CATASTROPHE

Congress threatens an ill-considered overreaction to angry critics of the new Medicare catastrophic health insurance. In fact, the insurance program requires only minor adjustments.

Catastrophic insurance, which began in January, reimburses Medicare beneficiaries for large hospital, doctor and outpatient drug bills. To pay for the program, Congress raised monthly fees for Medicare Part B, the program that now covers a portion of physician and outpatient costs. In order to subsidize the insurance for poorer people, Congress also imposed a surtax on elderly taxpayers.

The more affluent, who pay the largest tax, are bitterly opposed. Why, they ask, should they be the only taxpayers to subsidize low-income elderly? They also point out, correctly, that the surtax is now expected to generate a surplus that hadn't been anticipated.

Congress has three options: to end the surtax; to make the program voluntary; to cut premiums and the surtax to reduce the projected surplus.

End the Surtax? Upper-income families don't need or deserve subsidies for medical insurance. Yet Medicare heavily subsidizes even the wealthiest families. An elderly person with a $40,000 income will pay, on average, for only 67 percent of the Medicare benefits received during his lifetime—even after paying the surtax. Persons will lower income receive substantially higher subsidies. The surtax does not unfairly tax the affluent. It only diminishes their hefty Medicare subsidy. There is no reason to change that policy.

Make It Voluntary? Allowing the healthiest and wealthiest to drop catastrophic insurance would force up rates for the rest. To avoid this dilemma, Senator Lloyd Bentsen ponders offering enrollees the specious choice of forgoing catastrophic insurance by giving up all Medicare Part B coverage. Part B is heavily subsidized; few would opt out. But by linking it to catastrophic in this way, Senator Bentsen would force enrollees to think harder about benefits and costs. That is a sure way to undermine belligerence.

Reduce premiums? The Congressional Budget Office now estimates that over the next five years catastrophic insurance will generate about $2 billion more than the law requires. But five-year projections are notoriously inaccurate, especially for new programs.

There is still room for maneuver. All Congress needs to do is to set Medicare premiums every year rather than every five years, as is done now. With that flexibility, Congress could cut premiums and control surpluses without long-term risk.

Catastrophic insurance was no mistake. What if needs now is yearly tuning, not panicky retreat.

[From the St. Cloud Daily Times, July 28, 1989]

KEEP CATASTROPHIC COVERAGE ACT

Just a year after its passage, the Medicare Catastrophic Coverage Act is in the shop for possible repairs. The Senate has passed the controversial law to its Finance Committee to discuss revisions.

Critics of the innovative insurance program, strongly supported by the Bush Administration and several members of both political parties, seem to be multiplying, especially since more revenue is being collected than is necessary to fund it. The latest Congressional Budget Office estimate predicts the program will have an $8 billion surplus by the end of 1993.

Others who find the program distasteful say it's unfair to place a surtax on one group of citizens—in this case the elderly. One critic pointed out that public education costs aren't shouldered exclusively by people with children.

Not only is the catastrophic coverage financed only by Medicare beneficiaries, only 41 percent of them are paying the graduated income tax surcharge that supplements the $48 annual payment made by persons enrolled in Medicare Part B. Faultfinders of the law say that means the wealthy, who are less likely to need the insurance program, are financing it for the poor members of their age group.

Still others against the program say it doesn't provide any benefits for long-term care, which they say is the coverage the elderly need the most.

But for all its problems, the law remains one that takes care of a pressing need of all senior citizens, providing for the enormous cost of acute illness, including medications and home care that could follow hospitalization. Financed through the Medicare system, the program reaches out to alleviate one of the greatest fears of the low and middle-class senior citizen, losing everything to pay medical costs of a serious illness.

This is an issue that transcends party lines. Its authors are last year's Democratic vice presidential candidate, Lloyd Bentsen, and Minnesota's Republican Senator Dave Durenberger. Two of its staunchest supporters are Senate Minority Leader Bob Dole of Kansas and Senate Majority Leader George Mitchell, D-Maine. The law came out of the Reagan administration, but some Republicans, such as Sen. John McCain of Arizona, are its most vehement critics.

The program undoubtedly has bugs. All government programs do. But some of them, including the excess that's being collected, can be squashed with some revisions. Our growing numbers of elderly deserve to be free from worry about paying medical bills for catastrophic illness.

CATASTROPHIC CARE IS ESSENTIAL; SAVE IT

Catastrophic health care has a lot of folks upset.

It's upset senior citizens in Chicago. They besieged the car of U.S. Rep. Dan Rostenkowski, whose committee oversees Medicare financing, to jeer him because he supports Medicare's new catastrophic health plan.

It's upset some members of the American Association of Retired Persons, the USA's largest senior-citizen group. They've quit AARP because it endorsed that plan.

It's upset 71-year-old David Kuseloff of Wilmington, Del. He's suing to overturn the plan.

From Florida to Michigan, from Maine to California, seniors are writing and threatening their representatives in Congress. Why are they fighting the biggest expansion in Medicare benefits in 23 years?

You can read across this page why some seniors are angry and want the new plan repealed. They claim the payments made by seniors will be used to balance the budget.

That is wrong. A small percentage of seniors has misled many others. All of the money will be used to pay for more health care for our nation's elderly. And seniors with higher incomes will pay a higher share of the cost.

The plan includes:

All hospital bills over $600 a year.

50% of prescription drug costs over $600 in 1991, 80% after 1993.

17 additional days of home health care.

80 hours a year of help for families with bedridden parents or spouses.

Up to $50 for women's mammograms every two years.

50 additional days of skilled nursing care.

The plan also limits the cost to seniors for physician and outpatient services to $1,370 in 1990; removes the 210-day limit on hospice care, and permits spouses of nursing home residents to keep more of their income and assets.

In all, 85% of the seniors will use these benefits before they die, and 7.6 million of them will benefit from this plan in 1993.

Some seniors object to the high cost—almost $12 billion a year by 1993. The average senior will pay $285 a year.

But that's a bargain compared to the $750 they would have to pay for similar private insurance. And it will eliminate much of the $3 billion a year seniors have been spending for unneeded insurance coverage.

That's why Consumer Reports, AARP and United Seniors Health Cooperative say this is a good deal for 80% of all seniors. But it's the other 20% who are complaining.

As you can see elsewhere on this page, some seniors would have to pay more than others for this coverage. And that's what makes them mad. They say it's not fair for them to subsidize the benefits of others.

Unfortunately, some in Congress are bending. They've come up with a new plan that would make poorer seniors pay more so wealthier seniors could pay less.

That truly is not fair—and a tragic retreat. A retreat on this plan could defeat efforts to provide long-term health care, a more vital and expensive need of the elderly.

Now is no time to discard this protection. That would be a real catastrophe—for everyone.

[From the St. Paul Pioneer and Dispatch, Oct. 5, 1989]

DO NOT ALLOW UPROAR TO BLOW AWAY BENEFITS

Not all the fierce, battering winds of this hurricane season have been charted on the weather maps. One has been whipping through the halls of Congress, threatening to blow away the Medicare Catastrophic Health Care Act.

Passed with pride a scant year ago, the act has generated a storm of protest from the very people it was designed to help—older Americans. Huge numbers of them are enraged that the ones benefiting from the act will be the only ones to pay for it.

They are right that this is a change in social policy. But they are wrong to oppose it.

Until now, the cost of social programs has been spread over all the people. But the drafters of the act, including Sen. Dave Durenberger, R-Minn., correctly and repeatedly make this point: The demographics of an aging America have shifted the ground under what's fair. Look at the huge growth in the percentage of citizens in the "senior" group; look at a program that will help that group almost exclusively. Asking that group to shoulder the expense is not unreasonable.

Some older Americans with limited incomes are furious about the program because they misunderstand how little they must pay for it—$4 per month. Some middle- and upper-income seniors are equally furious because they can afford to buy "medi-gap" insurance; thus, they feel no personal need for the catastrophic coverage and don't want the surtax on their taxable income that helps fund it.

So the gale-force protests are rocking a Congress that did a good, creative, humane thing when it passed the act in 1988. Committees in the House and Senate, trying to salvage a piece of the law, may cut benefits or shift the surtax so that the comfortable pay less and the near-poor pay more. Cut the benefits if they must; but as for shifting the surtax burden, they should stand rock-solid against the storm.

It would be better to have the Catastrophic Health Care Act in some form than not to have it at all. It would be better yet if seniors who can afford medi-gap policies directed their demands for change at the insurance industry. Insurers could surely design new, optional plans with features that avoid duplicating the act's benefits.

Benefits now reeling before a wind. Benefits badly needed to keep medical disasters from blowing away all that seniors own.

[From the Washington Post, Sept. 14, 1989]

CATASTROPHIC RETREAT

For want of much else to include in his State of the Union address in 1986, an election year, Ronald Reagan announced that he was ordering his secretary of health and human services to make a study of catastrophic health insurance. A year later he proposed a limited bill. Then as now, the nation's most pressing health care problem was how to provide for the mostly poor seventh of the population that is uninsured. Mr. Reagan's bill didn't speak to that; it applied instead to Medicare beneficiaries, the mostly elderly seventh of the population that is already the nation's most heavily insured. Nor did the proposal even meet the most pressing need of the elderly—help with the cost of long-term care, which Medicare doesn't cover. His bill merely capped what patients can be called upon to pay per year as their share of the services that Medicare does provide.

A Democratic Congress was nonetheless not to be outdone by a Republican president in, of all things, aid to the elderly. An expanded bill was easily passed. The creative work was in the financing. The president himself had decreed for fiscal and distributional reasons that the elderly themselves should pay the cost; he proposed that every Medicare recipient be assessed a flat monthly premium regardless of income or ability to pay. Congress, to cover a greater cost, proposed that this be topped with an income surtax, so that the better-off would pay more.

Just about everyone loved the bill when it was passed, and the talk was mainly of the benefits. They represented the greatest expansion of Medicare since its enactment in the mid-1960s. Then the taxes came into view, the better-off elderly began to squawk—and Congress began to flee from its own creation. Both houses and parties, and the Bush administration, now seem determined to back down.

We don't think they ought to retreat, but if they do, they ought to do it in an orderly way. Ronald Reagan was right; this program should not be financed out of general revenues. There are higher uses for these—reducing the deficit, meeting the health care and other needs of the poor, any number of other purposes—than fattening up the Medicare program. If the catastrophic program is to be retained, the elderly should remain the ones to pay for it, and as much of its progressivity as possible should be preserved. Any benefit cut will be felt more by those with low incomes than by those with high ones; a benefit cut to reduce the taxes of people with higher incomes will thus be doubly regressive. When it passed the bill last year, Congress moved money from rich toward poor. In backing down, it ought to undo as little of that good work as it can.

TO CUT THE COST, SAVE THE CORE OF CATASTROPHIC CARE

(By Dave Durenberger)

WASHINGTON.—Yogi Berra once said that if people don't want to come to the ballgame, there's no way you can stop them. To say the least, America's seniors are not flocking to cheer for the Medicare catastrophic bill; they are staying away in droves. As a result, Congress will soon decide to beat a hasty retreat from an expansion of Medicare benefits signed into law only 14 months ago. The extent and direction of that retreat have profound consequences which have thus far been underestimated.

It comes as a surprise to most people that only about a third of the so-called Medicare Catastrophic Act dealt with genuine medical catastrophes. Another third of its expenditures are for the prescription drug benefit. With its massive administrative overhead and huge potential for expanded claims, this portion has added significantly to the total catastrophic care pricetag.

The final third of the program is the long-term care benefit that Congress created through the skilled nursing facility provisions of the bill. Several states now, and potentially all of them in the near future, can shift Medicaid costs of nursing homes to the federal Medicare program via the catastrophic benefit.

The irony is that the most common argument raised against the act is that it doesn't give seniors enough of what they want for what they are charged. In fact, it puts us on the road to seniors' two top priorities: drug coverage and long-term care. Unfortunately, the fiscally necessary "front loading" of the catastrophic benefit, through which surpluses are built up early to pay for future benefit outlays, has left many seniors in a "pay now, get later" situation.

The perceived mandate to Congress is to reduce the $800-per-year supplemental premium at all costs. There are only three ways to do that: (1) shift the financing burden to other taxpayers; (2) reduce the benefits or (3) suspend the laws of mathematics.

Medicare benefits, of course, are financed through payroll taxes. The average Medicare beneficiary receives about $4,000 worth of health-insurance coverage each year. Of that, about $2,600 is subsidized by taxes on workers' paychecks. The principle that the administration and the House and Senate leadership began with was that new benefits would be paid for by the beneficiaries themselves. The alternative was to exacerbate an already large intergenerational cost shift.

I have proposed a plan that would meet genuine catastrophic situations at a fraction of the current cost. First, Medicare would continue to cover catastrophic expenses under Part A (hospitals) and Part B (doctors). Second, drug coverage would be given for expensive immunosuppressive and home intravenous therapies. Third, we could maintain the protections in current law against so-called "spousal impoverishment." The government could finance such a package with a dramatically reduced supplemental premium that would have a top rate of about $300 per year.

And we need to take an additional step. Once an affordable benefit package has been established, we need to turn a watchful eye toward the private insurance market. The "medigap" policy merchants, through the voices of retired movie actors, have sold seniors coverage they don't need. Catastrophic coverage should bring some private medigap premiums down; if it doesn't, then the government must be in a position to step in to further regulate this portion of the insurance industry.

The Medicare Catastrophic Act will probably end up being an unfortunate case of "what might have been" for America's seniors and the Medicare program. Long-term care and drug benefits that came in under the catastrophic care program were a foundation on which to build future benefits. Instead, it is back to the drawing board to await the deliberations of the Pepper Commission.

But Congress can still salvage two important things in its retreat from catastrophic: first, a core group of benefits that our most vulnerable seniors desperately need, and second, the principle that Medicare expansion comes at a price, and that price should be borne primarily by those who benefit from it. Payroll taxes which are collected progressively should be paid out in new benefits in a way that reflects individuals' ability to pay.

Mr. DURENBERGER. I yield the remainder of my time. How much time do I have?

The PRESIDENT pro tempore. The Senator from Minnesota has 1 minute and 50 seconds.

Mr. DURENBERGER. Mr. President, I yield the remainder of my time.

Mr. ROCKEFELLER. Mr. President, as an original cosponsor of the amendment by my friend and distinguished colleague from Minnesota, Senator DAVE DURENBERGER, I wish to express my strongest support for this plan.

Senator DURENBERGER deserves our thanks and commendation for the yeoman work he has invested developing this amendment. Throughout the development of the Medicare Catastrophic Coverage Act and its subsequent review and redebate, Senator DURENBERGER has demonstrated the highest concern for the best interests of senior citizens, as well as for good and responsible health care policy. The Nation is fortunate, indeed, for his leadership and for his wisdom.

As all of us know, modification of the current law catastrophic program entails some difficult choices. Given the constraints imposed by the budget deficit, all of the options involve actions that most of us would prefer not to take. Nobody wants to cut benefits or raise taxes. Nobody wants to raise the flat premiums which are paid by rich and poor, alike. Nobody wants to increase the deficit. Nevertheless, these are the options we face.

Senator DURENBERGER has found a fair and workable balance. He has devised a plan to substantially reduce premiums and to preserve as many important benefits as possible.

This proposal would preserve the core catastrophic benefits—unlimited hospitalization with only one annual deductible, and 100-percent coverage for physician services after a catastrophic deductible of $1,780.

In addition, Senator DURENBERGER'S amendment would preserve some important new Medicare benefits: Coverage for home-administered intravenous drugs; expanded home health care and hospice care; preventive mammography screening for breast cancer; and a new long-term care benefit—home respite care.

The Durenberger proposal also retains the new Medicaid expansions so crucial to low-income Americans. Coverage for spousal impoverishment would be retained. Medicaid would still buy-in premiums and coinsurance for the poor elderly. And, new coverage for pregnant women and children would be protected.

With this core of benefits, the Durenberger proposal can provide for much-reduced premiums. The monthly premium, which is now $4 and which is scheduled to increase to $10.20 in 1992, would increase only to $7. This will be extremely helpful for low- and moderate-income seniors for whom the monthly Medicare premium poses a significant expense.

Further, under the Durenberger amendment, the supplemental premium—which now reaches a maximum of $800—would be cut to $200; and the rate would be cut from 15 to 10 percent. This adds up to a 65-percent reduction in the supplemental premium.

All in all, this proposal represents good health policy. It retains important catastrophic health insurance protection for seniors. This proposal is financially responsible, as well. It provides for adequate reserves and contingency margins for the Medicare Program and does not increase the Federal deficit.

For these reasons, the Durenberger proposal enjoys bipartisan support. President Bush's Secretary of Health and Human Services, Dr. Sullivan, is on record in favor of this bill. The Senate leadership—Senator MITCHELL and Senator DOLE—stand behind it, as well.

I urge my colleagues to take a careful look at this plan. It is responsible and fair. It offers good health insurance protection. Let's not repeal these benefits in a rush of political anxiety. Let's do the right thing. Vote for the Durenberger amendment.

The PRESIDENT pro tempore. All time is yielded back. The question is on agreeing to the amendment of Senators DURENBERGER and MITCHELL. The yeas and nays are not ordered.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays are requested. Is the demand sustained? The demand is sustained.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The clerk will please repeat the responses of the yeas and nays.

The question is on agreeing to the amendment of the Senator from Minnesota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—37

Armstrong	Durenberger	Mitchell
Bentsen	Fowler	Moynihan
Boren	Glenn	Pryor
Bradley	Inouye	Riegle
Bumpers	Jeffords	Robb
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Sanford
Chafee	Kerry	Sarbanes
Cohen	Lautenberg	Sasser
Conrad	Leahy	Simpson
Cranston	Lugar	Wirth
Daschle	Metzenbaum	
Dole	Mikulski	

NAYS—62

Adams	Breaux	Danforth
Baucus	Bryan	DeConcini
Biden	Burns	Dixon
Bingaman	Coats	Dodd
Bond	Cochran	Domenici
Boschwitz	D'Amato	Exon
Ford	Johnston	Pell
Garn	Kassebaum	Pressler
Gore	Kasten	Reid
Gorton	Kohl	Roth
Graham	Levin	Rudman
Gramm	Lieberman	Shelby
Grassley	Lott	Simon
Harkin	Mack	Specter
Hatch	McCain	Stevens
Hatfield	McClure	Symms
Heflin	McConnell	Thurmond
Heinz	Murkowski	Wallop
Helms	Nickles	Warner
Hollings	Nunn	Wilson
Humphrey	Packwood	

NOT VOTING—1

Matsunaga

So the amendment (No. 987) was rejected.

The PRESIDENT pro tempore. The Senator from Michigan is recognized to call up his amendment.

Mr. RIEGLE. I thank the Chair.

AMENDMENT NO. 988

Mr. RIEGLE. Mr. President, I have an amendment and I send it to the desk in behalf of myself, Senator CHAFEE, Senator EXON, and Senator BENTSEN.

The PRESIDENT pro tempore. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, Mr. CHAFEE, Mr. EXON, and Mr. BENTSEN, proposes an amendment numbered 988.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Alternative Coverage Act of 1989".

TITLE I—REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) REPEAL.—

(1) IN GENERAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") is repealed and the provisions of law amended by such section are restored or revived as if such section had not been enacted.

(2) EFFECTIVE DATE.—The repeal of section 111 of MCCA made by paragraph (1) shall apply to taxable years beginning after December 31, 1988.

(b) ELIMINATION OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—

(1) Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is repealed.

(2) Section 112(b) of MCCA is repealed.

(3) Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(4) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "Federal Hospital Insurance Catastrophic Coverage Reserve Fund,".

TITLE II—RETENTION OF MINIMUM CATASTROPHIC BENEFITS FUNDED THROUGH FLAT RATE PREMIUM

SEC. 201. DELAY AND ADJUSTMENT IN PART B COPAYMENT CAP.

Section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)) is amended—

(1) in paragraph (1), by striking "1990" and inserting "1991",

(2) in paragraph (3)(A), by striking "The part B" each place it appears and inserting "Subject to paragraph (6), the part B",

(3) in paragraph (3)(A), by striking "1990 is $1,370" and inserting "1991 is $1,780",

(4) in paragraph (3)(A), by striking "7 percent" and inserting "5.5 percent", and

(5) by adding at the end the following new paragraph:

"(6) The Secretary shall provide for an increase in the part B catastrophic limit otherwise applicable in each year in such an amount as will reduce expenditures under this part by the same amount as the additional premiums that would have been collected under this part in the year if provisions of section 1839(e) were applicable to months in 1991, 1992, and 1993.".

SEC. 202. ADJUSTMENTS IN PART B PREMIUM.

(a) ADJUSTMENT TO MEDICARE CATASTROPHIC MONTHLY FLAT PREMIUM.—

(1) IN GENERAL.—Section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraphs (4) and (5)" and inserting "paragraphs (3) and (4)",

(ii) by striking "the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the catastrophic coverage monthly premium",

(iii) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)",

(iv) in the column in the table relating to the catastrophic coverage monthly premium, by striking "$4.90", "$5.46", "$6.75", and "$7.18" and inserting "$4.00", "$7.30", "$9.10" and "$8.00", respectively, and

(v) by striking the column in the table relating to the prescription drug monthly premium; and

(B) by striking subparagraphs (B) and (D) and redesignating subparagraph (C) as subparagraph (B).

(2) UPDATE IN MONTHLY PREMIUM.—Section 1839(g)(2) of such Act is amended—

(A) subparagraph (A), by striking "or (1)(C)",

(B) in subparagraph (D)(i), by striking "or (1)(C)",

(C) in subparagraph (D)(ii), by striking "37 percent" and inserting "100 percent", and

(D) in subparagraph (D)(iii)(II), by striking "or section 59B(e) of the Internal Revenue Code of 1986".

(3) ELIMINATION OF SEPARATE PRESCRIPTION DRUG MONTHLY PREMIUM.—Section 1839(g) of such Act is further amended by striking paragraph (3).

(4) TREATMENT OF RESIDENTS OF PUERTO RICO AND TERRITORIES.—Section 1839(g)(4) of such Act is amended to read as follows:

"(3)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part (otherwise determined without regard to this subsection) shall be increased by a fraction (determined under subparagraph (B)) of the premium increase determined under paragraph (1) for residents of Puerto Rico and for residents of the other U.S. commonwealths and territories, respectively.

"(B) The Secretary shall from time to time establish, for Puerto Rico and for the other U.S. commonwealths and territories, a fraction that reflects the relative costs for the benefits under this title (which are accounted for under the Medicare Catastrophic Coverage Account) of residents in such respective areas compared to such costs in the 50 States and the District of Columbia.".

(5) PART B ONLY INDIVIDUALS.—Section 1839(g)(5) of such Act is amended to read as follows:

"(4)(A) In the case of a part B only individual during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part (otherwise determined without regard to this subsection) shall be increased by a fraction (determined under subparagraph (B)) of the premium increase determined under paragraph (1).

"(B) The Secretary shall from time to time establish a fraction that reflects the relative costs for the benefits under this title (which are accounted for under the Medicare Catastrophic Coverage Account) of part B only individuals compared to such costs for individuals entitled to benefits under both part A and this part.".

(5) CONFORMING AMENDMENT.—Section 1839 of such Act is further amended—

(A) in subsection (b), by striking "(g)(6)" and inserting "(g)(5)",

(B) in subsection (g)(6), by striking "(6)(A)" and inserting "(5)" and by striking subparagraph (B),

(C) in subsection (g)(7), by striking "(7)(A)" and inserting "(6)(A)" and, in subparagraph (B), by striking "paragraph (4)" and inserting "paragraph (3)", and

(D) in subsection (g)(8)—

(i) in subparagraph (A)(ii), by striking "part A" and inserting "this part", and

(ii) by striking subparagraph (B).

(b) CONFORMING AMENDMENT.—The last sentence of section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by inserting "or additional premium amounts under section 1839 for months after December 1990 attributable to section 1839(e) applying during 1991, 1992, and 1993" after "Internal Revenue Code of 1986".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums for months beginning with January 1990.

SEC. 203. TRANSFER OF AMOUNTS TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in subsection (a), by striking all that follows the first sentence, and

(2) by adding at the end the following:

"(j) There shall be transferred periodically (but not less often than monthly) from the Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to the Secretary's estimate of the additional amounts of expenditures made from the Federal Hospital Insurance Trust Fund that are attributable to the amendments to sections 1812(a)(1), 1813(a)(1), and 1813(a)(3) made by the Medicare Catastrophic Coverage Age of 1988.".

SEC. 204. REVISIONS TO MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

Section 1841B of the Social Security Act (42 U.S.C. 1395t-2) is amended—

(1) in subsection (a), by striking ", and section 59B of the Internal Revenue Code of 1986," and by striking "and for purposes of section 59B of the Internal Revenue Code of 1986";

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to premiums under section 1839(g), and

"(B) debited for—

"(i) outlays made under part A that are attributable to the amendments to sections 1812(a)(1), 1813(a)(1), and 1813(a)(3) made by the Medicare Catastrophic Coverage Act of 1988, and

"(ii) outlays made under this part that are attributable to section 1833(c).''; and

(3) in subsection (b)(4), by striking ", receipts that are also" and all that follows through "Reserve Fund".

TITLE III—MAKING PROVISION OF ADDITIONAL CATASTROPHIC BENEFITS OPTIONAL

SEC. 301. NEW OPTIONAL, PART C PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by redesignating part C as part D and by adding after part B the following new part:

"PART C—INSURANCE PROGRAM FOR CERTAIN ADDITIONAL BENEFITS

ESTABLISHMENT OF PROGRAM

"SEC. 1851. There is hereby established a voluntary insurance program to provide certain benefits provided under amendments made by the Medicare Catastrophic Coverage Act of 1988 in accordance with the provisions of this part for individual entitled to benefits under part A or part B who elect to enroll under such program, to be financed from premium payments by enrollees.

"SCOPE OF BENEFITS

"SEC. 18552. (a) DESCRIPTION OF BENEFITS.—Notwithstanding any other provision of this title, except as provided in this section, the amendments made by the following provisions of the Medicare Catastrophic Coverage Act of 1988 shall only apply to individuals enrolled and covered under this part:

"(1) Sections 101, 102, and 104(d), insofar as they relate to changes in benefits with respect to extended care services or hospice care.

"(2) Section 202 (relating to coverage of expenses for prescription drugs and insulin), other than subsections (g) and (m)(4) thereof.

"(3) Section 203 (relating to coverage of home intravenous drug therapy services).

"(4) Section 204 (relating to coverage of screening mammography).

"(5) Section 205 (relating to in-home care for certain chronically dependent individuals).

"(6) Section 206 (relating to extended home health services).

"(b) TREATMENT OF PART A ONLY INDIVIDUALS.—In the case of an individual enrolled under this part who is entitled to benefits under part A but not enrolled under part B, for purposes of this title the individual shall be deemed enrolled under part B but only with respect to covered outpatient drugs, home intravenous therapy services, screening mammography, and in-home care.

"(c) TREATMENT OF PART B ONLY INDIVIDUALS.—In the case of an individual enrolled under this part who is entitled to benefits under part B but not enrolled under part A, no benefits shall be available under part A by virtue of this part.

"(d) TRANSITION FOR EXTENDED CARE BENEFITS.—In the case of an individual who, as of December 31, 1989, is entitled to benefits under part A and is receiving extended care services for which payment may be made under part A, the individual shall remain entitled to extended care services under such part during a continuous period of stay in 1990 subject to the following:

"(1) LIMIT ON NUMBER OF DAYS.—The number of days of coverage under this subsection shall not exceed 150 less the number of days for which benefits for extended care services were payable under part A for the individual in 1989.

"(2) TREATMENT OF COINSURANCE.—Coinsurance shall be applicable under section 1813(a)(3) only for those days (if any) in 1990 before the 9th day in which the individual was furnished extended care services in 1989 and 1990.

"(e) 6-MONTH WAITING PERIOD FOR PREEXISTING CONDITIONS.—Except as provided in subsection (d), during the 6-month period beginning with the first month in which an individual is covered under this part, benefits are not available under this part for treatment of any condition which existed before the first day of such coverage period.

"ELIGIBILITY, ENROLLMENT, PREMIUMS

"SEC. 1853. (a) ELIGIBILITY TO ENROLL.—Every individual who is entitled to benefits under part A or enrolled under part B is eligible to enroll in the insurance program established by this part.

"(b) ENROLLMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the provisions of section 1837 (other than subsections (c), (f), and (g)) shall apply to this part in the same manner as they apply to enrollment part B, and, for this purpose—

"(A) any reference to paragraph (1) or (2) of section 1836 shall be deemed a reference to subsection (a) of this section; and

"(B) any reference to a coverage period under section 1838 is deemed a reference to subsection (c).

"(2) INITIAL GENERAL ENROLLMENT.—

"(A) IN GENERAL.—In the case of individuals who are entitled to benefits under part A, or enrolled under part B, as of December 1989, the initial general enrollment period shall begin on January 1, 1990, and end on February 28, 1990.

"(B) INFORMATION.—The Secretary shall provide for the dissemination of such information to each individual described in subparagraph (A) as may be necessary to assure the individuals are fully apprised of the benefits of this part and the requirement to enroll under this section to obtain such benefits.

"(3) SUBSEQUENT INITIAL ENROLLMENT PERIOD.—In the case of individuals who are not entitled to benefits under part A, or enrolled under part B, as of December 1989, the initial general enrollment period shall be the initial enrollment period described in section 1837(d).

"(c) COVERAGE PERIOD.—

"(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows:

"(A) In the case of an individual who enrolls under subsection (b)(2), January 1, 1990.

"(B) If the individual enrolls under subsection (b)(3), the first month of the coverage period (described in section 1838(a)) for which the individual satisfies subsection (a).

"(C) If the individual enrolls during a general enrollment period (described in section 1837(e)), July 1 following the month in which he so enrolls.

"(2) APPLICATION OF OTHER COVERAGE PERIOD RULES.—Except as otherwise provided in this subsection, the provisions of section 1838 (other than subsection (a)) shall apply to this part in the same manner as they apply to part B.

"AMOUNT AND COLLECTION OF PREMIUMS

"SEC. 1854. (a) DETERMINATION OF AMOUNT OF PREMIUM.—

"(1) IN GENERAL.—Except as otherwise provided in this part, the monthly premium for each individual enrolled under this part shall be—

"(A) $15.40, for months in 1990,

"(B) $30.30, for months in 1991,

"(C) $33.60, for months in 1992,

"(D) $35.80, for months in 1993, and

"(E) the amount determined under paragraph (2) for months in years after 1993.

"(2) PREMIUM FOR YEARS AFTER 1993.—The Secretary shall, during September of 1993 and of each year thereafter, determine the monthly premium for enrollees under this part for the succeeding year. Such premium shall be the amount the Secretary estimates to be necessary so that the aggregate amount of the premiums for such calendar year with respect to such enrollees will equal the total of the benefits and administrative costs which the Secretary estimates will be payable under this title due to the application of this part. In calculating the premium, the Secretary shall include an appropriate amount for a contingency margin.

"(3) PENALTY FOR LATE ENROLLMENT AND ROUNDING.—Under regulations of the Secretary, the provisions of subsections (b) and (c) of section 1839 shall apply to premiums under this subsection in the same manner as they apply to premiums under such section, except that the percent increase in premiums effected under section 1839(b) with respect to any individual may not exceed 80 percent.

"(d) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of section 1840 shall apply to payment of premiums under this part in the same manner as they apply to payment of premiums under part B.

"(2) TRANSITION.—In the case of individuals who enroll under this part under subsection (b)(2) (or during such succeeding period in which the Secretary is unable to apply the provisions of section 1840 under this part), the Secretary shall provide for the collection of premiums for previous months through a 1-time addition to the premium otherwise imposed or in such other manner as the Secretary determines to be appropriate.

"(3) DEPOSITS.—Amounts paid to the Secretary under this part shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 226(c)(1) of the Social Security Act and section 7(d)(1) of the Railroad Retirement Act of 1974 are each amended by striking "part C" and inserting "part D".

(2) Section 1862(a) of the Social Security Act is amended by striking "under part A or part B" and inserting "under this title".

(3) Section 104(b) of the Social Security Amendments of 1965 is amended by inserting "or part C" after "part B" each place it appears.

(c) TRANSITION PROVISIONS FOR POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act with respect to extended care services provided on or after January 1, 1990, other than for an individual entitled to benefits under part A of title XVIII of such Act in December 1989 who enrolls under part C of such title during the period described in section 1852(b)(2) of such title—

(1) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness; and

(2) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services.

SEC. 302. FUNDING AND ACCOUNTING.

(a) TRANSFER OF FUNDS TO FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1841(j) of the Social Security Act (42 U.S.C. 1395t), as added by section 203 of this Act, is amended—

(1) by inserting "(1)" after "(j), and

(2) by adding at the end the following:

"(2) There shall be transferred periodically (but not less often than monthly) from the Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to the Secretary's estimate of the additional amounts of expenditures made from the Federal Hospital Insurance Trust Fund that are attributable to individuals enrolled under part C.".

(b) REPEAL OF FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—

(1) Section 212 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) is repealed, and the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted.

(2) Any balance in the Federal Catastrophic Drug Insurance Trust Fund as of the date of the enactment of this Act shall be transferred into the Federal Supplemental Medical Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

(c) CONFORMING AMENDMENT.—Section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986" and inserting "or part C".

TITLE IV—INFORMATION TO BENEFICIARIES

SEC. 401. NOTICE TO BENEFICIARIES OF CHANGES.

The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, when I voted against the catastrophic health insurance bill

last year, a newspaper in Lewiston, ID, ran a headline that said, "McClure to Senior Citizens: Drop Dead."

Now, I do not have to explain to any of my Senate colleagues that headlines like that are not something politicians seek out.

I do not think that senior citizens would necessarily want all Members of Congress to drop dead—but they certainly have sent a clear message to us that they are not pleased with the catastrophic health insurance law. They have been telling us in increasingly vocal numbers that they do not like the coverage, they do not need the coverage, they think it is too expensive and, frankly, they want an end to it—now.

I think it is about time we listen to the will of the people we represent.

Mr. President, I do not necessarily doubt the motives of my colleagues who voted in favor of this measure. But I think the entire approach to this law was wrong from the very beginning and I shall take a few mintues to explain why.

First, this law was misnamed from the beginning. It should not be called the "Medicare Catastrophic Care Act." It should be called "Medicare, Part C." The catastrophe that most senior citizens fear the most is not prescription drug costs. It is not extended hospitalization. It is nursing home care.

Second, Congress made a fundamental error is determining that senior citizens suffer more from catastrophic illnesses than does the rest of the population. A bill was drafted which directed enormous amounts of money to one segment of the population, based on age, and totally ignored all other groups.

Is a young working couple whose child develops leukemia any less of a catastrophe than a senior citizen with Alzheimer's disease? I do not think most senior citizens feel that way either.

Mr. President, I am a senior citizen. It is entirely possible that at some point either my wife or I could suffer from a devastating illness that would deplete our savings and make us dependent on someone else for help. But I still do not think I should be afforded special consideration only because I am a senior citizen.

Instead of passing legislation that deals only with the health care needs of the elderly, Congress should have taken a look at the effects of catastrophic illness on every American, young and old. I will be the first to say I think such a proposal should have a very strict means test attached to it, but nevertheless, Congress should have addressed the needs of all citizens faced with drastic illness.

But Congress did not do that. In my view, Congress took an easier route than dealing with the larger issue and directed efforts at senior citizens who were supposed to be eternally grateful for this coverage. What a surprise to some when the outcry started.

Senior citizens are more than disturbed by this issue, Mr. Presdent. They are outraged. They are telling us in no uncertain terms that they want this law repealed, or at the very least, substantially modified. I think we have an obligation to do so.

At the risk of patting myself on the back, Mr. President, I remember saying last year that when senior citizens fully understood what this law contains, there would be an outcry the likes of which Congress has rarely seen. I honestly take no pleasure in saying today that my prediction was correct because I know this issue has been as contentious and controversial as any of my colleagues have ever seen. It has been difficult and painful.

But that does not mean we should not live up to our obligations and represent the people who elected us. After all, that is what we are here for. Senior citizens are telling us, "Hey, you made a mistake. Now undo it."

There is an old saying we use frequently around here. "It it ain't broke, don't fix it."

Mr. President, this one is definitely broke, and we had better fix it.

Mr. RIEGLE. I thank my friend from Idaho.

I hope now he will give careful consideration to what is being offered here.

AMENDMENT NO. 988

Mr. RIEGLE. Mr. President, we have gone through today several options to try to deal with the problems that we are all familiar with with respect to the catastrophic health insurance program that we enacted 2 years ago.

At this stage of the game, there are really three practical alternatives left, the one that is being offered now and which I think is the best possible of the three that remain in terms of meeting the basic health needs of seniors across the country in a fashion that is both financially and fiscally sound and in a way that seniors themselves will find to their liking and that is sensible.

At this stage of the game this option which we are offering stands beside full repeal and what is known as the McCain option which is quite different and I think far inferior, and I do not say that disrespectfully to the sponsor.

What we basically do here is we retain the catastrophic health insurance package that was enacted. We take that package and with very minor modifcation break in into two parts—one part, which will cover the catastrophic costs of hospital care and doctor care, is in the first part. This will be paid for by a basic premium, paid for by each and every citizen in the country that will come in under the reach of the program. And the cost for that premium will be exactly what is presently in the current law.

I have shown that here on this chart. It starts out in fiscal year 1990 at $4.90; in 1991, $7.40; in 1992, $9.20; and in 1993, $10.20. These are figures that are locked into the law today and they will provide protection on those two major catastrophic items.

Some have said that those are not important. Those are not important, I suppose, if you do not have them. But if you get sick today with a major catastrophic illness, the doctor bills can go through the roof. I have seen cases where they have been $10,000, $20,000, $50,000, fully apart from the question of the hospital costs. So it is important that the protection be in place to cover the hospital and the doctors, and that is what the basic premium would provide here for every citizen in the country.

The remaining part of the catastrophic program under the existing law which is paid for by a surtax would be changed fundamentally. We do away with the surtax. In fact, what we do is bundle up the remainder of the protections that are in the catastrophic health insurance program, and we make those available as a free-standing voluntary option to the seniors of this country.

They can take a look at it. If they think it is a good value, if they think it is something they want, then they have the option to say yes, I will take that, and then to pay the monthly fee for those additional protections. If they decide that they do not want it, as clearly some in the country will decide, they are under no obligation to take it. It is not stuffed down their throats and they are quite free to seek that package or another protection package that they might find.

The optional program assuming the people elect to take it, would include several things that are not present in some of the other plans that we have heard about.

With respect to the McCain language, the principal deficiency in my view is that it does not provide drug protection for outpatient drugs for people who have the chronic need for drugs of one kind or another to treat an illness or, in many cases, just to stay alive. And those bills can run up. In countless cases I have seen—in my State, where the drug bills alone can be several hundred dollars a month, it is not uncommon to find seniors with prescription drug bills that exceed $100 a month.

We retain the drug benefit in this optional package. I think it is a very important part of what this alternative offers.

We also maintain the skilled nursing home benefit. That is a very important benefit in the current catastrophic law. There used to be a requirement

for a 3-day hospital stay before one could go into skilled nursing home care. We found that to be a bad practice. It kept many people from getting the care they needed. It created a very awkward front-end requirement. We changed that, perfected that in the last law. This amendment maintains that particular protection.

We also retain the home health benefit, the respite care, and the hospice care.

We have asked the Congressional Budget Office to give us an estimate of the cost for our voluntary program that includes those very important benefits. The figures they have given us are a monthly premium cost of $15.40 in fiscal year 1990, then in 1991, when the drug benefit phases in under existing law, it moves up to $30.30 and it stays in the $30 range, $33.60, in 1992; $35.80 in 1993.

Now for these additional protections, this is a sensational bargain. It is a value that most seniors, I think, when they look at it, will decide is something that they will want, but it will be their decision. It will be their decision because they have to make that decision for themselves on a voluntary basis. And it is not connected to any other decision.

Some people will say, "Well, do we really want to get into this optional kind of arrangement?" We now have an option that has been in the law for many, many years in part B. To have that, people have to elect to do it. They have to actually make a choice. And this is simply an additional option that would be an add-on that seniors would have too look at and make their own judgment about.

But I can tell you this: As we have gone out in the private sector to price the value of this package, where you would have normal profit margins and other things built in, we do not find any private sector insurance carrier that cover this particular package for an affordable price.

So I think this is an excellent value. And the CBO estimates, as they look at the selection process, that 65 percent of the seniors would choose to elect this benefit package with this kind of a cost arrangement to it. But, in any case, that would be a decision that they would make. So it solves several problems at once. It eliminates the surtax which has been such a contentious issue. But it does something that the McCain proposal does not do; that is, it provides protection against sky-high doctor bills that can bankrupt somebody, take away a life savings. And it also provides a prescription drug coverage for cases where those costs run very high on an annual basis. It is very important that those particular benefits be retained.

As I say, people have to decide for themselves whether they want to choose that protection or not.

But with the first tier, of hospital and doctor costs, we have laid in place a protection which is essential, I think for every person in this country. We have all been familiar with any number of cases of constituents of ours where doctors bills and hospital bills run in the tens of thousands of dollars.

My 4½ year old daughter just had very serious appendicitis surgery and spent 9 days in Children's Hospital here. The hospital bill alone was $15,000. And the doctor bills, of course, came in on top of that.

But I said to myself, that is what people all across the country are facing today. Seniors are finding, if they are in the hospital for longer than that, and many of them are, that you can have an entire lifetime of earnings and savings wiped out by a single illness. The hospital takes part of it and the doctor bills take the rest.

So we provided absolute protection against the catastrophic impact of those kinds of costs with respect to both hospital and doctor bills that is a universal coverage paid for by this basic, and I think very inexpensive, premium for the protections that it affords. The rest is done all voluntarily. No surtax, but a sensible package.

I will just say one other thing. Many of us have conducted hearings in our home States on the health care needs of our senior citizens. I have done that in Michigan. I have held countless hearings across the State. Last year alone we had about seven hearings in different locations. Several hundred would come to each hearing, testifying and giving their personal examples of what was going on in their situations. They are all found in this hearings record.

What they say over and over again is the kind of protections that they most need are the ones that are in this package. And when the Congress before went through this thing, the financing obviously was not done properly. Frankly, that was a mistake that should never have occurred. A lot of it was on the insistence of people who designed the program and sent it down from the executive branch at that time.

In any event, we radically changed the financing here. But, as to the benefits structure, as to the protections that are provided, these are the protections that experience show us are the most needed. These are the ones that are most debilitating; these are the ones that drain the money out the fastest; and these are the ones that are driving people into the poor house, bankrupting families, creating poverty situations, where the spouse of the person who is sick becomes impoverished as well.

So this is a plan that is solid. It is sensible and it will work. I think the seniors like this plan. I have discussed it with many of them. We are getting a good response from them. It is far superior to the remaining two options that are before us.

I know the Senator from Rhode Island wants to speak, so I reserve the remainder of my time.

Mr. McCAIN. I yield 5 minutes to the Senator from Texas [Mr. GRAMM.]

The PRESIDENT pro tempore. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, I do not have a lot to say about this amendment, but there are two facets of it I would like Members to look at very closely. I believe if they do, they are going to recognize that, while this looks like a sweet deal, it really is not.

First of all, clearly one of the things that our senior citizens are concerned about is paying their doctor bills. Under the current catastrophic legislation, your copayment has to go up to $1,370 before you hit the point where from that point on catastrophic pays all the doctor bills. That is pretty steep because you are paying 20 cents out of every dollar. So that is a pretty high threshold before you get into the program, which is why there are so many seniors saying this is a bad deal. In fact, we have protests all over the country saying, "Look, if I have to pay $1,370 and that is only 20 percent of my doctor bill before I get catastrophic coverage, you are not giving me a lot of protection."

But, Mr. President, the amendment before us says that you do not get the protection in terms of full dollar coverage until you have spent $3,390. The current law says you must pay $1,370 in out-of-pocket copayments before you get the full coverage. But the amendment before us raises that copayment cap to $3,390.

I ask my colleagues, since that is 20 percent of the doctor bill, in a year how much coverage are we really buying here when a senior citizen has to pay $13,580 before they get full dollar coverage for the doctor bills?

I submit one of the reasons this deal looks so sweet is because they have gone through and more than doubled the copayment you have to have before you qualify to get the full benefit. That is my first point.

Mr. RIEGLE. Will the Senator yield?

Mr. GRAMM. I will when I get through, but let me finish my point because I have only a limited time.

The second point is one of the ways this amendment gives all of these nice benefit programs is by saying we are going to make them optional. Then the author of the amendment says: and of course that is going to be cheaper than the private sector.

If there is anybody here who believes that, then I am wasting my words on them because they are not

going to believe what I say. There is a trick here. There is a little gimmick.

The gimmick is that 65 percent of the senior citizens have to believe this is a good deal in order for it to pay out.

Mr. President, first of all I submit the sickest senior citizens are going to view this as a good deal. They are not going to be selected at random from the population. And their expenditures are going to be higher.

Second, what happens if only 20 percent of the people opt for it? We are told by the Senator from Michigan that the Government can buy it cheaper than the private sector. The private sector is going to be competing. If Aetna or anybody else can do it cheaper, they will go with them and not Uncle Sam. So what if 20 percent opt for it, and what if they are the sickest 20 percent?

Mr. President, it does not take much to figure out what happens if that is the case. What happens, if that is the case, is that the costs skyrocket, the program starts running heavily in the red, and then what is going to happen?

Either we are going to come back here and say: Look, we said you could choose it, but you obviously are making a mistake. You are picking Prudential; you are picking Aetna. You do not know, but the Government does this stuff better so we have to make you do what is right. We have to make you take it and then we have to make you pay for it, and we are right back with the bill we came here to change.

Or, we start running deep in the red and we say: Look, the problem is we have to go back and get young workers to pay more. So we raise their premiums.

The PRESIDENT pro tempore. Five minutes has expired.

Mr. GRAMM. I ask unanimous consent for 1 additional minute.

Mr. McCAIN. Mr. President, I yield 2 additional minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I am not an expert on the proposal before us, but there are two points that jump out at us and I ask each Member to look at them very closely before they conclude this is a good deal for my mother and for all senior citizens of America.

First of all, under the current law we have to spend $1,370 to get the full dollar catastrophic coverage for doctor bills. Under this law we have to spend $3,900. In other words, your doctor bills have to be $13,580 before this amendment comes to your aid. I submit there are going to be a lot of senior citizens who are going to be in deep trouble before that happens.

Second, this amendment pays out actuarially only if the distinguished Senator from Michigan is right and the Government can provide this voluntary benefit cheaper than Aetna and Prudential. I submit, Mr. President, we will make history. If that were true, the riots would be in Washington instead of Moscow and Beijing.

I submit that 65 percent will opt for Aetna, or will opt for Prudential. This thing will run billions of dollars into the red and we will be back here forcing senior citizens into this program. We will be back here raising the cost. And we will be right back to where we are today. Or we will make our young workers come in and pay higher and higher taxes.

I urge my colleagues, do not be fooled by another deal that looks good until somebody has to live under it. My mother and your parents and the senior citizens of America are going to have to live under what we do here today. We made a terrible mistake last year. Let us not make another mistake today.

Mr. President, let us reject this amendment. I yield the remainder of my time.

The PRESIDENT pro tempore. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to make a comment before yielding to the Senator from Rhode Island. The Senator is, of course, a cosponsor of the McCain amendment. He complains about the limit in our doctor bill proposal. There is no limit on the McCain proposal, absolutely no limit at all. The sky is the limit.

The Senator from Texas and I hope he never experiences this, but if his dear old mother or mine gets sick and runs up doctor bills, $20,000, $30,000, $40,000, they get no help in terms of catastrophic doctor bills under the proposal being offered by Mr. McCAIN.

We have a cap and that is a fundamental difference.

I yield 8 minutes to the Senator from Rhode Island.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE] is recognized for 8 minutes.

Mr. CHAFEE. Mr. President, what does this amendment do? It does away with the supplemental so-called surtax totally. It establishes a core group of benefits for which every Medicare beneficiary would pay the same flat premium. These are the basic benefits.

In addition, it establishes a new voluntary program which includes benefits that are not widely available in the private sector.

I would like to differ with my friend from Texas who said we are competing with Aetna and others. No. This provides a benefit that is not widely available in the private sector. It is paid for by a flat premium.

So, this amendment does not involve the use of general funds. It does not increase taxes like the Levin amendment that was rejected previously. And it does not have a supplemental premium.

Under part I, the standard part of the program, all beneficiaries who elect to have the standard Medicare part B that currently exists, what will they receive? They will receive unlimited hospital coverage with no copayments after paying the first day deductible, which is currently $560.

They will receive unlimited coverage of physician bills after a beneficiary reaches a deductible set at what is necessary to ensure the current flat premium.

Now, the statement was made that that deductible that the individual would have to meet is a high one. That is true. It is true it is $3,390. But this is a catastrophic program. That is what we are talking about.

When they reach the $3,390, then they are covered. That is not true under the alternative presented by the distinguished Senator from Arizona.

Our proposal includes the same part B increase as is in the current catastrophic law. As we see in the chart, it provides under the current law, it is $4.90 for the increase over the currently existing part B premium, and $7.40 in 1991, and so forth. We follow the same schedule. So there is no increase in that basic part B premium.

What else do we have here? It also provides a part II, which is optional. Nobody has to take it. Under that, the individual, if he takes this option, will receive the prescription drugs.

In my State, I met with seniors many, many times, and their principal concern is the high cost of prescription drugs. That is extremely important, I believe. In order to pay for that and a host of other benefits that are in the current catastrophic program, we provide for this optional premium.

In other words, if they take the program, obviously they have to pay the premium. With it, they receive these benefits that I believe are extremely important.

Mr. President, in the excitement of the afternoon and the intensity of the debate, let us not lose sight of a large group of people out there who need these benefits. There is a genuine need for these benefits. I believe the benefits as set forth in the original catastrophic bill were the right ones. I know the argument then came about paying for them, and somehow the Nation suddenly believed that everybody who filed an income tax return, who was over 65, was going to pay $800 additional.

That simply is not true. But, nonetheless, that is the belief out there, so we do not have the supplemental premium. I believe that is probably what brought down the prior amendment, the fact there was a supplemental premium. I believe those who are elderly want these benefits, and, under this program, they have the opportunity to obtain them. I believe this is a good

amendment, Mr. President. It is truly what we might call a catastrophic amendment. It deals with those who have the high cost of the doctors bills, as previously mentioned. I want to thank the Chair.

Mr. RIEGLE. We reserve the remainder of our time.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield myself 2 minutes. There are a lot of people who want to speak.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. McCAIN. Let us compare the two programs, $8.62, $7.21 per month in 1991. Under that proposal, the seniors will get the hospital benefit and the part B out-of-pocket cap, period. For $2.30 more, in the same year, under my legislation, seniors will get the hospital benefit, the so-called Mitchell drugs, home health, respite, mammograms, and hospice, all of those for basically the same price, Mr. President. So let us not have any doubt about what is the priority here of the proposed amendment. The priority is obviously a cap on part B out-of-pocket payments.

I would like to read from a letter from the National Committee to Preserve Social Security and Medicare. That is known to some as the Jimmy Roosevelt group.

While we would obviously prefer not to sacrifice benefits, a poll of our membership taken during the last week of August indicated that of the major benefits offered, the limit on the out-of-pocket expenses that medicare beneficiaries pay under part B is one of the least valued.

Mr. President, I ask unanimous consent that the letter and list of members be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 3, 1989.

Hon. JOHN McCAIN,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR McCAIN: The National Committee to Preserve Social Security and Medicare has reviewed your proposal to modify the Medicare Catastrophic Coverage Act and is pleased to offer our endorsement while making the following observations.

We are especially pleased that your proposal completely eliminates the surtax and finances the benefits through the increases in the flat premium, which are already contained in current law. It is our understanding that your proposal is revenue neutral.

While we would obviously prefer not to sacrifice benefits, a poll of our membership taken during the last week of August indicated that of the major benefits offered, the limit on the out-of-pocket expenses that Medicare beneficiaries pay under Part B is one of the least valued. This is an area where Medigap policies have done a good job of providing necessary coverage. We recognize that in order to bring the cost of the program to a manageable level, something must be cut, and the Part B Cap seems to be the most expendable benefit. Our members have also indicated that the long-term hospitalization benefit is of greater importance and value to them than are some of the other major benefits.

The National Committee recognizes the difficulty of the task you have undertaken and appreciates the efforts you have made to date to arrive at a solution fair to senior citizens. We hope to continue working towards a solution including broad-based financing which will be fully acceptable to our members.

Sincerely,

MARTHA A. McSTEEN,
President.

COALITION FOR AFFORDABLE HEALTH CARE
(MEMBERS AS OF OCTOBER 5, 1989)

National Association of Retired Federal Employees.
The Retired Officers Association.
American Foreign Service Association.
Mail Handlers.
National Association of Postal Supervisors.
National Association of Government Employees.
National Association of Letter Carriers.
National Association of Postmasters of The U.S.
National Association of Postal Supervisors.
International Federation of Professional and Technical Engineers.
American Foundation for the Blind.
Florida Seniors for Medicare Equity, Inc.
Marine Corps Reserve Officers Association.
EXPOSE.
Rural Letter Carriers Association.
U.S. Army Warrant Officers Association.
National Association for Uniformed Services.
Air Force Association.
Non-Commissioned Officers Association.
National League of Postmasters.
National Treasury Employees Union.
Marine Corps League.
Naval Reserve Association.
Council of Sacramento Senior Organizations.
Association of Military Surgeons of the U.S.
International Association of Fire Fighters.
California State Employees Associations.
The National Association for Public Health Policy.
United Seniors of America.
Catholic Golden Age.
Fleet Reserve Association.
Federal Postal Workers Union.
National Post Office Mail Handlers Union.
San Diego Chapter of Gray Panthers.
American Postal Workers Union.
Air Force Sergeants Association.
Reserve Officers Association.
U.S. Coast Guard Chief Petty Officers Association.
Seniors Opposing the Surtax.
Heritage Harbor Homeowners Association.
National Alliance of Senior Citizens.
Pennsylvania Association of School Retirees.
Sun City Retirees Association.
Michigan State Employees Retirees Association.
Seniors Opposed to the Surtax.
Citizens Coalitions Against the Catastrophic Act.
Association of Pennsylvania State College and University Retired Facilities.
Retired Public Employees Association, Inc.
63 Infantry Division Association.
National Committee to Preserve Social Security and Medicare.

Mr. McCAIN. Mr. President, that is an integral part, obviously, of this bill. We have another Wirthlin poll that showed that only 37 percent of over 1,000 seniors polled say out-of-pocket part B is of great value, which, by the way, ranked about last in their priorities.

Mr. President, I want to keep prescription drugs; I want to keep home health; I want to keep respite; I want to keep mammograms; I want to keep hospice. All of those are now optional in the program which will cost the people more money in the amendment proposed by the Senator from Michigan and the Senator from Rhode Island as an option to preserving part B. So it is a question of priorities.

Mr. President, I yield myself an additional 1 minute.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. McCAIN. Is there one single senior organization in America that supports your proposal? No. Every single senior organization, with the exception of AARP, supports this proposal. Every single major one does. I suggest amendments that come in at this late time obviously have some things in them which need to be examined, including the $3,400. I do not call the $3,400 part B out-of-pocket coverage, as a matter of fact.

Mr. President, I think that a good-faith effort is being made here, and I respect the desire of the Members. It is just a difference in priorities. Obviously, I feel that with the backing of some 20 million seniors who support this bill and this legislation, such as our National Association of Retired Federal Employees and others, I think we should reject the Riegle-Chafee amendment.

Mr. RIEGLE. Mr. President, I yield myself 1 minute. First of all, you talk about not liking the cap on our doctor bills. You have no cap on your doctor bills.

The PRESIDENT pro tempore. Will the Senator please address the Chair?

Mr. RIEGLE. The Chair is exactly right. I say to the Senator from Arizona, he has no cap on doctor bills. It can be $3,400; it can be $134,000; it can be $500,000. He has no cap in that area. And as for drugs, his proposal offers no prescription drugs. Yes, he has the Mitchell drugs, which we cover, but in terms of the prescription drugs that rank and file people all across this country have for all manner of illnesses that last over a long period of time, there is no protection in that package. There is protection in our package.

As to groups support it, we have the National Council of Senior Citizens

supporting ours; we have the Villers Foundation supporting ours; we have the United Auto Workers supporting ours. And I talked to the person who heads this area for the Roosevelt group.

Mr. President, I yield myself 30 additional seconds.

He indicated to us that, in indicating their support for the McCain proposal, that it was done with the express statement that that did not preclude them from endorsing any other proposal. So let us not have any misleading statements made about that. They were looking at our proposal. We have not heard back one way or the other, but they made it very clear that they reserve the right to support other proposals. That is what the record shows.

I reserve the remainder of my time.

Mr. McCAIN. I yield myself 1 minute. Obviously, the Senator from Michigan does not understand what I was saying. No, there is no part B cap because the seniors say that is the least benefit that they prize. They want the others that are kept in my proposal and are made optional in the Senator's which, by the way, if they choose to take prescription drugs, they would only pay $350.12 a year additional. So when we say optional, we also mean you pay more.

I would be interested to know if the Jimmy Roosevelt group has chosen to endorse, and I am not surprised. They have not had a chance to examine it because none of us has. It has just arrived on the floor of the Senate whereas our proposal has been around for several months.

Let me repeat again to my friend from Michigan, the least desired is the cap on part B bills as decided by the seniors by poll after poll. So I urge him to go out next time and get some more support, have some contact with the seniors rather than showing up on the floor of the Senate with this proposal which hardly anybody has had a chance to examine.

Mr. RIEGLE. Mr. President, I yield myself 20 additional seconds.

I think I probably talked to as many seniors as anybody in the Senate. I led the fight a few years ago to protect Social Security benefits. I am no late-arriving person to the fight to try to protect seniors, but what the official Government estimates show us is that there are 430,000 seniors who need this cap on doctor bills. There may not be anybody in that situation in the State of the Senator from Arizona, but I doubt it. He may be talking to the Wirthlin poll people and other people. It may be good to go out and have hearings and talk to other people in the country. Many, many people are being bankrupted by doctor bills they cannot afford and he has no cap whatsoever.

Mr. BENTSEN. Will the Senator yield?

The PRESIDENT pro tempore. How much time?

Mr. RIEGLE. I yield as much time as the Senator requires.

Mr. BENTSEN. Mr. President, I am absolutely amazed by the statement of the Senator from California when he talks about a new bill being brought before us. When I think of the vast difference from the bill he originally introduced and see the continuing changes and then asking for unanimous consent, and then he changes it again after he brings it to the floor. Talk about changes, time and time again. We have a very difficult time keeping up with what his offer is. So I am amazed at the interchange here.

Mr. RIEGLE. I thank the Senator from Texas. I yield to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, we have dealt with polls a lot and know you can elicit a response with a certain question. The bottom line is the question ought to be, do you want doctor coverage? That is the question I have asked in my senior citizen meetings in the last couple of months. Eighty to ninety percent of my senior citizens said, "Yes, I need doctor coverage. If I do not have this coverage, I do not know where to go." That is the question: Do you want doctor coverage? That is the difference in the two versions.

Mr. RIEGLE. I thank the Senator. I reserve my time.

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 18 minutes, 42 seconds.

Mr. McCAIN. I yield myself 1 minute, Mr. President.

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. McCAIN. I thank the distinguished finance chairman. Basically, he knows my proposal has always been the same. The modification was a slight delay in implementation of a couple of the programs so that we could better meet the OMB targets. We have made the chairman of the Finance Committee and others very well aware of our proposals. I appreciate his interest as we have had to make slight modifications from time to time in those proposals, and I am grateful for his attention to them. I would like to yield 5 minutes to the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania, [Mr. HEINZ] is recognized for 5 minutes.

Mr. HEINZ. Mr. President, I rise in opposition to the Riegle-Chafee amendment for several reasons. Some of them have to do with what kind of a deal it is to pay the flat premium and what you get in return for that flat premium, particularly in comparison to the McCain amendment. The deal is that under the Riegle-Chafee amendment, you get catastrophic hospital coverage; you get a better blood deductible; and you get a part B physician coverage that some of us have talked about before, but with a difference. Instead of clocking $1,500 of out-of-pocket expenses or $1,700 or $1,900, it raises that threshold by nearly twice to $3,300. The $1,900 threshold, by the way, was President Reagan's original suggestion, which was a tax attacked by a lot of people as being much too high a threshold; a ridiculously Scrooge-like threshold,

Now we have an amendment to raise that threshold by nearly twice that amount. My how the clock comes full circle.

Mr. President, the part B physician benefit in this proposal by Messrs. RIEGLE and CHAFEE is of benefit to only a tiny fraction of people and they do not know how many people that is. They cannot tell whether it is 1 percent of Medicare beneficiaries, 3 percent. They do not know. This is so far up the ladder, no one can figure out where it hits the wall.

But I can tell you that for the flat premium, you do not get home health care, respite care, mammography screening, Mitchell drugs, hospice care, all of which you do get under the McCain plan.

Then we have this optional program, and it is truly optional. We have never, in spite of some of the representations I have heard today, had an unsubsidized, truly optional program under Medicare. I hear people talking about the part B program being optional. Well, it is optional, but Uncle Sam pays 75 percent of it and the beneficiary through the part B premium pays only 25 percent. Maybe that is why 95 percent plus of all Medicare beneficiaries participate, because for every dollar they put up, someone else puts up $3. But in the Riegle-Chafee deal, Uncle Sam is not putting up a penny. This is strictly on the beneficiary's back, make no mistake about it.

It might not be a bad deal to give people that choice, if it was good health policy. I will give Senators CHAFEE and RIEGLE this. They have one benefit that I think is good health policy, the prescription drug benefit. Unfortunately, there are three very important health policy reasons why what they are proposing is, frankly, probably so deeply flawed as to make this one of the most dangerous proposals that has ever come before the Senate.

Why do I say that? The first reason is that we all know the cost estimates on many of these benefits, particularly the skilled nursing benefit, are so fluid that it is like trying to hold quicksilver in your hand. One moment the nursing home benefit costs $4 billion. In this amendment, it is priced at $16 billion or thereabouts. We have other estimates that show it is really $24 or

$25 billion. Who knows what it is. Why is that relevant? Because the $15.40 monthly premium that that would allegedly be available for this optional package is, in fact, likely to be far higher, and the higher it gets the less likely people are to participate.

Second—and no one has talked about it—you have the problem of adverse selection. They have taken the same set of incentives or disincentives as we have for the part B premium, and they are very modest—you pay 10 percent more if you drop out and want back in. Why would anyone 65 want to buy this coverage until they were sick? You are going to have a terrible case of adverse selection that will drive the premiums up even more.

But even beyond that, Mr. President, there are two other really troublesome health care problems.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. HEINZ. May I have 3 additional mintues.

Mr. McCAIN. I yield 3 additional minutes to the Senator from Pennsylvania.

The PRESIDENT pro tempore. The Senator has yielded 3 additional minutes to the Senator from Pennsylvania.

Mr. HEINZ. First we are repeating the flaw of the original catastrophic bill which has a lot of money ending up for skilled nursing home care and not enough for home health care, for respite care, and for adult day care. We are providing a lot of money for institutionalization and nearly nothing, a fleabite to prevent it. This ought to be called the adult institutionalization act, because that is for what we are giving incentives.

Second, if you are a senior citizen, you are going to be one of the most confused people in the world should this become law because there are going to be two sets of home health care benefits; one for people who get this, one for people under normal Medicare—20 days for basic Medicare; 38 days for the optional package. For skilled nursing homes there will be a totally different set of benefits—8 days with a 20-percent copay, and then 150 days free for the optional plan; 20 days free and 21 to 100 days at 80-percent copay for the regular Medicare beneficaries.

Try to explain that one to your constituents. I cannot even explain it very well here.

Finally, we are going to do something we never intended to do. We are going to go into competition in this program with the private sector. We are going to be in competition with private Medigap companies. That is a whole new kettle of fish. If there is anyone in this body who wants to go into direct competition with the private sector, this is a great way to do it. I think that is a terrible mistake, and it is going to lead to a new type of approach to the Medicare system and to our approach to the private sector. I do not think we ought to cross that line.

So, Mr. President, for all these reasons—I have about 100 more—frankly, we ought to roundly defeat this amendment.

Mr. RIEGLE. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE] is recognized for 2 minutes.

Mr. CHAFEE. I listened with care to the arguments of the distinguished senior Senator from Pennsylvania who voted for the catastrophic measure when we passed it a year ago.

Mr. HEINZ. That is right.

Mr. CHAFEE. And of course that was not a bill that put the Government in competition with the private sector. It ruled out competition whatsoever. It took it over completely. There is nothing optional about it.

Mr. HEINZ. That is right.

Mr. CHAFEE. This program, it seems to me, follows the title of the bill. It is a program for catastrophic health insurance. In the first part it provides for long-stay hospitalization coverage and the second part provides for coverage for medical bills after a deductible has been reached.

Yes, it is a high deductible, but then following that high deductible the individual is covered.

Now, that is not true in the bill of the distinguished Senator from Arizona, as has been previously pointed out.

Second, much has been made about what is called adverse selection, namely a provision in the bill that will attract only the sick, that only the sick will come forward and take this additional premium and get that additional coverage.

That just is not so, Mr. President. First of all, there is a severe penalty for an individual trying to get in and out of the optional program. Each time that individual tries to come back in after having been out, there is a 10-percent surcharge that goes on his or her premium. And if he should go out and in again, the base—in other words, the next 10 percent—goes in top of the previous 10 percent that has been added.

The estimate that we received from the CBO is that 65 percent of seniors will avail themselves—30 seconds, Mr. President.

The PRESIDENT pro tempore. The Senator's 2 minutes has expired.

Mr. RIEGLE. I yield 30 additional seconds.

Mr. CHAFEE. The estimate that we received—you can attack the source of the estimates but, after all, Mr. President, we operate on estimates all the time—the estimate that we received from the Congressional Budget Office is that 65 percent of the seniors will take the optional premium and the services that are therein provided.

Mr. RIEGLE. We reserve the remainder of our time.

The PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President I yield 4 minutes to the Senator from Utah, Mr. HATCH.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized for 4 minutes.

Mr. HATCH. Mr. President, the Riegle amendment is a seductive amendment but I want to make these points: No. 1, it provides part B coverage to the elderly but only to the tiniest fraction of the elderly. It does not trigger until they have spent $14,000 in doctor bills. That is an illusory benefit by anybody's imagination.

In order to get those benefits, however, they have to pay an additional $33 a month in 1991, every senior citizen who opts for it. The Riegle proposal is enticing with this one major flaw. How do we know that we can provide an optional benefit which includes the prescription drug benefit and the skilled nursing facility benefit especially when we cannot predict accurately what these costs are going to be?

To recap our current financial problems, in early 1989 CBO projected that the drug benefit would cost $5.7 billion over the first 4 years. However, in September 1989, CBO estimated that this benefit would cost $11.8 billion over the first 4 years. And administrative costs to run the program eat up one-half of the program costs.

That is almost a 50-percent increase. With this financial uncertainty, add to that the skilled nursing facility benefit. Hospital cost estimates have exploded over earlier analyses. Test programs changed from $31 to $48 billion.

Mr. President, let us not accept a program that is clouded by uncertainty, because I am certain there is not one Member who wants to be forced to revisit this legislation within the year because of deflated cost estimates. Let us just understand something.

The McCain amendment is understood by every senior citizen concerned with this issue in this country, and that is millions. They know what it is. They want it.

Anybody who votes for this amendment, the Riegle amendment, is going to have to explain that the rest of their lives. They are never going to be able to recover from it even if the Riegle amendment works, and it is illusory at best. If you stop and think about it, let us vote for the McCain amendment. He has earned the right. He has fought this fight. He has shown how it works. It is a minor cost compared to these other programs,

and a major benefit for that minor cost.

I reserve the balance of my time and yield to the distinguished Senator from Arizona.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. RIEGLE. Mr. President, I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. EXON. I thank my colleague. I have stood on the floor and supported many times my friend and colleague from the State of Utah. I have never heard him, I do not think, be as far off base in the opinion of this Senator as the remarks that I just heard.

If it is true that this amendment is adopted, and this Senator strongly supports it, I am not fearful of going out and facing the senior citizens of Nebraska, or the senior citizens of any other State, to explain what we are doing for them or trying to do in this bill which is a true catastrophic plan. There is no free lunch.

I did not intend to make the point, but since the Senator from Utah has attacked this bill on totally unsound ground, I can only say that if the McCain amendment becomes law, there is going to be a great deal of explaining to do because of the cap loss in the McCain provision. That is where the explanation is going to have to be made.

I suspect this bill is not perfect. I suspect, Mr. President, no bill can be perfect under the present circumstances. I thought long and hard about all of the ideas that have been put forward, including the one where the House of Representatives just simply repealed the whole act.

While that is still a possibility and a route that I may have to take, I simply believe and plead that we keep our rhetoric within due bounds, and recognize that there are going to be differences of opinion. I am not trying to destroy the merits. I am not trying to destroy the benefits of any other proposal.

I simply say that with the backing of my good friend from Michigan, my good friend from Rhode Island, and the chairman of the Finance Committee, who has jurisdiction, this bill simply could not possibly be as bad as some on that side seem to believe.

Mr. President, I rise to support the amendment. I believe it is a straightforward approach to dealing with the problems presented by last year's overwhelming passage of the Medicare Catastrophic Coverage Act.

In my deliberations on this legislation, I looked at total repeal, such as the proposal the House recently passed. While it is still an option, I do not feel that it is the best possible option at this point in time. This amendment will repeal the surtax, which is by far the most onerous portion of the catastrophic bill, retains the extended hospitalization benefits and the cap on part B doctors' bills. It also retains the spousal impoverishment and other Medicaid provisions.

More importantly, it retains all the rest of the benefits we passed last year as part of the original bill, but makes them optional. They are not tied to the other part B benefits, these new benefits are truly optional. These new optional benefits are paid for by another flat premium that starts out at $15.40 a month, rising to $30.30 a month in 1991. This is a bargain policy for the benefits it retains. For those who voluntarily want or need it. This is a true catastrophic bill.

Mr. President, I would love to be able to provide first dollar, top-notch health coverage for our elderly at no or little expense to them. Unfortunately, that is outside the current realm of fiscal reality. With that thought in mind, I believe this amendment is the best approach currently on the table. This amendment allows important benefits to be retained while paying for it with the standard minimal premium assessed to each individual receiving benefits.

As I stated earlier, I heartily endorsed the concepts put forth by the Medicare Catastrophic Coverage Act and with this amendment we can maintain that concept. We can repeal the senior surtax and still keep some of the benefits that will help the individuals faced with overwhelming medical bills.

Mr. President, I hope we can adopt this important amendment and thus be on the road to offering the solution demanded by the senior citizens of this Nation.

I reserve the balance of my time and yield back to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Mr. KENNEDY. Will the Senator yield?

Mr. RIEGLE. I yield 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, three brief points. We hear during the course of this debate what the estimated costs were at the time of the passage of the original bill, and how they are going to go up, up over the period of the next several years. There are two sides on that coin. They are only estimates, first of all. But if the estimates are accurate and it is going to be more costly, what is this going to mean? Are there going to be more and more American families that are going to be bankrupted? Somebody is going to have to pay. Somebody is going to have to fork out.

If all these figures are accurate, you are pointing to hundreds of thousands of American families that are going to be bankrupt. What we are attempting to do here is to try to minimize that possibility down the road, No. 1.

No. 2, this is the last opportunity to develop a program that is going to deal with outpatient prescription drugs. This is the last opportunity on that. There are more families that exceed the ceiling because of prescription drug costs than parts A or B, or A and B combined.

So if you are talking about hardships on families, particularly in the area of prescription drugs, this is your last chance.

Third, on the supplemental benefits, years of hearings have demonstrated that 40 percent of the cost of supplemental benefits go for administration and profits of those companies that sell them. The Riegle-Chafee approach is an imaginative, creative way to make available a choice for millions of elderly people who want and need that particular benefit.

I think the Riegle-Chafee measure should have the support of the Members of this body.

I thank the Senator.

Mr. RIEGLE. I thank the Senator. I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona controls 8½ minutes, and the Senator from Michigan controls 2 minutes and 46 seconds.

Mr. McCAIN. Mr. President, I yield 4 minutes to the Senator from Missouri [Mr. DANFORTH].

The PRESIDING OFFICER. The Senator from Missouri is recognized for 4 minutes.

Mr. DANFORTH. Mr. President, it is not often in life when you make a serious mistake, and you have a chance to undo it and start over again. That is the issue that is before the Senate today. The issue is whether we look at what we did last year and start over again, or instead whether we attempt to salvage something of last year's program, patch it up, put a retread on the tires and send it out on the road again.

What we have been doing today is voting on a series of proposals to try to salvage something of last year's catastrophic health insurance program. The Riegle amendment is just one in this line of efforts to keep the old system going.

Mr. President, I think it is not the best approach for us to try to patch something together. I think we have a rare opportunity today to undo an unpopular program of 1988 and to take a fresh look at the health care needs of this country. I think it would be a mis-

take on the floor of the Senate to try to put together some jerry-rigged approach to fixing the 1988 bill. I especially believe that it would be a mistake to pass an amendment which most of us did not know of and have not heard of as recently as an hour ago.

Senator ROTH, I, and others favor outright repeal. Why do we favor repeal? Not because we are against having a health care program for the elderly—far from it. We assume we are going to have a health care program. We assume we are going to have a new one. But, Mr. President, next spring the Pepper Commission is to be heard from. The Pepper Commission will issue a report on two recognized needs, one for long-term care, and the other for the 31 million Americans who have no health insurance whatever.

Why should we not take those needs, plus the question of cost containment, plus the question of malpractice reform, and deal with them all at the same time? I am concerned that if we enact legislation hurriedly now, just as we did in 1988, we will be repeating the 1988 mistake.

I am concerned that if we do what Senator RIEGLE wants us to do, we will be precluding the choices that we should be examining when we have an opportunity to deal with this matter comprehensively next year. For that reason, I oppose the Riegle amendment. I think it would be a serious mistake to adopt it. For that reason, I believe that the most responsible thing for us to do is to repeal the 1988 legislation with a view to starting over again at the earliest possible date.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. I yield my remaining time to the Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico is recognized for——

Mr. McCAIN. Mr. President, before doing so, I ask unanimous consent to add Senators BIDEN, SHELBY, HEFLIN, JEFFORDS, DIXON, and HATFIELD as cosponsors of the McCain bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Parliamentary inquiry. How much time do I get yielded to me?

The PRESIDING OFFICER. Four minutes.

Mr. DOMENICI. Mr. President, let me first congratulate the Senator from Missouri for his argument. I will make a slightly different argument. I think part of it will lead in the same direction.

First of all, there has been a bit of a discussion here about competition with Medigap insurers on this kind of an optional plan. Maybe that would be a good idea; maybe it would not be.

There are no Medigap private sector insurers covering this kind of coverage. I think I know why. Let me tell you the kind of things that are in this plan. We add a couple of days to home health care coverage. We add a little bit to respite care, but only if you have very high medical costs we add drug coverage and mammography screening.

Mr. President, the reason the private sector does not favor these is, on the one hand, because the package is bizarre; and second, nobody knows the cost of them. That is generally referred to as being actuarial unpredictable. That goes to the 65 percent assumption rule as to participants. We could not find out how in the world somebody assured 65 percent of seniors would participate.

Anybody can call CBO up and ask how they came up with that assumption. I am going to just use two words "very uncertain." You can use it, too, but remember "very uncertain." CBO will use it.

Does that matter? Mr. President, that matters, especially when an amendment like this is dropped onto the floor of the Senate as a suggestion to the senior citizens of the United States and U.S. Senators that we have something really good for seniors.

Mr. President, if participation is not 65 percent, the program is in trouble. You may not be able to deliver the services that the people paid you for. Mr. President, the 65 percent is assumption too high, but we will have promised the senior citizens this coverage.

Let me assure those who serve on the Finance Committee of the U.S. Senate, they will pay if this plan is adopted. We will be in here in about 2 years. This actuarial uncertainty will become a reality. This promise to all these people, if you would like to opt into this very, very new package—a little respite care, a little home health care, drugs, and we are not quite certain how much drugs are going to cost, but if you opt into that—it costs $350 per year.

I can predict that the Senator from Missouri and others will have this in their lap to supplement with tax revenues, because these premiums will not be able to pay for the benefits. That just means that we have a difficult decision to make here about a complex issue. If nothing else, we ought to act in areas that we understand.

My last thought about this is—I want to say to my good friends, the two principal sponsors, Senators, RIEGLE and CHAFEE, I do not oppose this for any reason as to who started it, whether it is yours or someone else's.

I hope you know I opposed my dear friend and my leader on this side, Senator DOLE, this morning. I oppose this in all good conscience, from my standpoint. You have come up with something difficult to develop and worked hard at it. But in this case I do not think it is the way to undo one mess by creating another mess.

To say that this is optional seems to me, on the one hand, to offer a big false promise, and on the other hand, creates potential for us having to come in and pay for it. There will be a Medicap fill-in, but it will not be by insurers. It will be by the taxpayers of the country.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. Mr. President, I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mr. ADAMS. Mr. President, as a member of the HHS authorizing committee and the appropriating committee, I am in deep support of this amendment. I have today supported the motion to waive the Budget Act with respect to the catastrophic health care bill. In so doing, I want to emphasize my desire that however we chose to deal with the question of providing catastrophic health care coverage for our Nation's elderly, we should be guided by the following objectives:

First, that some form of basic coverage be maintained; and second, that we eliminate the present surtax levied upon our elderly for the coverage provided. I believe that the amendment before us, sponsored by Senator RIEGLE and Senator CHAFEE, meets those objectives, and I urge my colleagues to support it.

Over the past months, it has become increasingly clear that many senior citizens object to the concept of a surtax in any form. They believe that a special tax for any segment of our population is unfair and unacceptable. In addition, many senior citizens who would pay substantially less than the maximum surtax of $800 have come to believe that all seniors would pay that same maximum rate. The anger and confusion that has accompanied anticipated implementation of the existing law has been divisive and confusing. In addition, the debate has focused on the difference between the interests of our seniors who have ample savings and insurance and those who do not.

I believe that Congress has an obligation to respond to the objections surrounding the surtax by repealing it, and I intend to so vote. But I also believe we have an obligation to those seniors who need coverage to protect their interests. We must maintain a basic level of benefits, based upon a flat premium, that will address those most pressing needs of our senior citizens in the area of health care. In the

years to come, we as a society will have opportunity to discuss the wisdom and the fairness of the surtax we are repealing today. Perhaps in the long run, this discussion will lead us to further explore the basic problems of health care coverage that still exist in this country, namely, the 37 million Americans who have no form of health care coverage at all. In striving to maintain the most urgently needed portions of this plan, given the difficult budget constraints we face, I hope that the final version of S. 1726 we approve today will meet the objectives of basic fairness to our senior citizens, and fiscal responsibility toward all of our citizens. Because this amendment does so, I intend to vote for it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. I yield 30 additional seconds.

Mr. ADAMS. I hope that this package will be adopted to protect that large group of people who still need basic coverage, and I compliment the Senator for bringing it forward. It is the best chance we may have in this Senate to pass a bill to provide our seniors with basic catastrophic coverage without significantly adding to our national debt.

I thank the Senator.

Mr. RIEGLE. Mr. President, may I ask how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Michigan has 1 minute. There is no time remaining on the other side.

Mr. RIEGLE. Mr. President, in that final minute, let me say that I appreciate the support of my cosponsors, Senators CHAFEE, EXON, and BENTSEN. We have held off circulating this widely, because we wanted to give others time to see what they could do.

With respect to the cost of this program, the administrative costs under private Medigap programs are estimated to be 25 percent. Under Medicare, administrative costs are at 3 percent. We can provide these benefits on a voluntary basis to seniors who want to elect them at the lowest possible costs, and we can save heartache and broken lives and broken family situations all across this country. We revised this in a way that meets the needs of the seniors.

Most of the seniors that I talked to like this plan. It is solid and meets their basic needs. We have prescription drugs. The other plans do not. We provide a cap on doctor bills. The other plans do not. This is the best possible plan under the circumstances, and I ask my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired. The question occurs on the amendment.

Mr. RIEGLE. Mr. President, on this I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—41

Adams	Exon	Metzenbaum
Bentsen	Ford	Mitchell
Bingaman	Fowler	Moynihan
Breaux	Glenn	Nunn
Bumpers	Gore	Pell
Burdick	Graham	Pryor
Byrd	Inouye	Riegle
Chafee	Johnston	Robb
Conrad	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
Daschle	Kerry	Sasser
DeConcini	Kohl	Simon
Dodd	Levin	Wirth
Durenberger	Lieberman	

NAYS—58

Armstrong	Grassley	Mikulski
Baucus	Harkin	Murkowski
Biden	Hatch	Nickles
Bond	Hatfield	Packwood
Boren	Heflin	Pressler
Boschwitz	Heinz	Reid
Bradley	Helms	Rockefeller
Bryan	Hollings	Roth
Burns	Humphrey	Rudman
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simpson
Cohen	Kasten	Specter
D'Amato	Lautenberg	Stevens
Danforth	Leahy	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Garn	McCain	Wilson
Gorton	McClure	
Gramm	McConnell	

NOT VOTING—1

Matsunaga

So the amendment (No. 988) was rejected.

The PRESIDING OFFICER. May we have order in the Chamber? Senators who are talking, if they could take those conversations to the Cloakroom. The Senate will not proceed until the Senate is in order.

Under the previous order, the Senator from Nebraska is to be recognized.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska will withhold. The Senate is not in order. The Senate will not proceed to further business until we restore order.

The Senator from Nebraska.

Mr. EXON. Mr. President, let me first make an inquiry. We are on the Exon amendment and there is 15 minutes equally divided; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. Mr. President, the amendment I am offering is a clean compromise to the problems presented by last year's passage of the Medicare Catastrophic Coverage Act.

As I stated earlier today, on October 27, 1987, I joined 85 of my colleagues here on the floor of the U.S. Senate in approving the Senate version of this bill. I supported the intent of the catastrophic bill then and I support the intent of the bill now. However, I still have reservations that the package passed last year did not do more toward the costs of long-term care. However, we can work on that once we get this catastrophic legislation under control.

My amendment will repeal the surtax, which is what the seniors of Nebraska object to most strenuously, and instruct the Finance Committee to decide which of the remaining benefits can be retained and financed by the flat part B premium, which my amendment also retains. My amendment also retains the Medicaid provisions in the catastrophic bill, the Pepper Commission, and technical corrections to OBRA 1987.

My amendment has a caveat. If legislation implementing these changes is not signed by the President by December 31, 1989, the benefits, with the exception of the Medicaid provisions, will be repealed. There is a grandfather provision included so that no one will be kicked out of the hospital if repeal takes place. I believe the Senate Finance Committee is the appropriate body to determine which combination of benefits should be retained.

The PRESIDING OFFICER. If the Senator will suspend one moment we will be able to restore order.

The Chair will also advise the Senator from Nebraska that, in order for the time to be properly allocated, the Senator from Nebraska would need to send his amendment to the desk or have time yielded off the bill.

Mr. EXON. Mr. President, I ask unanimous consent for 10 minutes, only, of time, with the understanding that I may offer the amendment at that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. Mr. President, the committee has the expertise in health issues, access to the cost data, and the staff resources to handle this issue effectively. While I could certainly pick and choose my favorites to include in this amendment, I may not pick the most appropriate combinations as to provide the most benefits or serve the greatest population of individuals.

But I have been advised by many members of that committee they do not think it is wise. For reasons best

known to them, they do not want to reconsider this proposal, which I think would properly be in their charge.

In fact, it is not only in their charge, Mr. President. It seems to me I remember a time or two when the Finance Committee has been on the floor of the U.S. Senate, having long, drawn out arguments about protecting of turf and people doing things that more properly belong in the Finance Committee.

This would be a good opportunity for the Finance Committee to not only exercise their turf, but to do what I think they could do better than anyone else. We have a chance to make positive changes. We can repeal the senior surtax and still keep some of the benefits.

Mr. President, I think this is a very good amendment. I worked very hard and I talked to many of my colleagues about it. However, I think time is extremely short. I believe the patience of the body is being tested and, Mr. President, since a case has been made on a whole series of votes on the floor today as to possible alternatives, I do not intend to offer the amendment I had planned because I feel it would be unnecessarily wasting time of this body.

Therefore, I am not going to offer the amendment in question and I hope some of my colleagues will join me in a spirit of cooperation, trying to cut down the time being used, and move our work along much more rapidly than we have. Therefore, I advise the Chair I will not offer the amendment as I previously intended.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri and the Senator from Delaware may be recognized at this time for the purposes of presenting amendments.

The Senator from Arizona.

Mr. McCAIN. Mr. President, due to the slight miscalculation about the time that was going to be consumed by the Senator from Nebraska, I do not think the Senators are here who are involved in this. I ask unanimous consent for about a 3-minute delay so people can get over here.

Mr. EXON. Mr. President, if we have to have a quorum call——

Mr. McCAIN. I withdraw my request, Mr. President.

The PRESIDING OFFICER. The request is withdrawn.

Mr. EXON. Mr. President, I see nothing wrong with a quorum call if that would accommodate all. I was trying to say, as I suggested, the time used in the quorum call be charged equally to each side in the spirit of moving things along a little bit quicker than we ordinarily like to do in this body.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Delaware.

Mr. ROTH. Reserving the right to object, taking the time from what?

Mr. McCAIN. Mr. President, I object. We are ready to move forward with the Danforth amendment.

The PRESIDING OFFICER. Objection is heard.

The Senator from Delaware.

AMENDMENT NO. 989

(Purpose: To modify various provisions of the Medicare Catastrophic Coverage Act of 1988)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. DANFORTH, Mr. NICKLES, Mr. SHELBY, Mr. REID, Mr. BRYAN, Mr. HELMS, Mr. GRAHAM, and Mr. COATS, proposes an amendment numbered 989.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to deduction for blood).

(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

(B) with respect to the limitation on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

(D) the inpatient hospital deductibles under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1989, and has not ended as of January 1, 1990.

(2) HOSPICE CARE.—The restoration of section 1812(a)(4) of the Social Security Act, effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.

(3) TERMINATION OF HOLD HARMLESS PROVISIONS.—Section 104(b) of MCCA is amended by striking "or 1990" each place it appears.

(c) TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—Section 104(c)(1) of MCCA is amended by inserting "and before January 1, 1990," after "October 1, 1988,".

(2) PPS-EXEMPT HOSPITALS.—Section 104(c)(2) of MCCA is amended—

(A) by inserting "and before January 1, 1990," after "January 1, 1989,"; and

(B) by striking the period at the end and inserting the following: ", without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.".

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 2. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA

shall apply to taxable years beginning after December 31, 1988.

SEC. 3. REPEAL OF EXPANSION OF MEDICARE PART B BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 201 through 208 of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) EXCEPTION.—Paragraph (1) shall not apply to subsections (g) and (m)(4) of section 202 of MCCA.

(b) CONFORMING AMENDMENTS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(C)—

(A) by striking "Subject to paragraph (4), deductibles" and inserting "Deductibles", and

(B) by striking "1813, section 1833(b)" and all that follows and inserting "1813 and section 1833(b)).''; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 4. REPEAL OF CHANGES IN MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) IN GENERAL.—Sections 211 through 213 (other than section 211(b)) of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(b) 1-TIME TRANSFER OF NET ADDITIONAL PREMIUMS.—There shall be transferred, as of January 1, 1990, from the Federal Supplementary Medical Insurance Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to—

(1) the amount of the premiums collected pursuant to section 1839(g) of the Social Security Act, minus

(2) the amount of administrative expenses incurred under part B of title XVIII of such Act relating to implementation of MCCA, plus

(3) the amount of interest accrued to the Federal Supplementary Medical Insurance Trust Fund attributable to balance described in paragraphs (1) and (2).

(c) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect January 1, 1990, and the repeal of section 211 of MCCA shall apply to premiums for months beginning after December 31, 1988.

SEC. 5. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (1)" and inserting "subsections (1), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Association') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) and adopted on September 20, 1988) to reflect the changes made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition to reflect the changes in benefits under this title made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, or

"(B) if the Association does not provide for a transition provision by the date described in Subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B), whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990, for purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policy holder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by the changes made in law to the Medicare Catastrophic Act of 1988 and by any additional provisions enacted relating to such changes, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most

recent available address) of the offer described in subparagraph (B), and

"(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this part.

(d) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g) (3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

SEC. 6. OTHER MISCELLANEOUS AMENDMENTS.

(a) IN GENERAL.—Sections 421 through 425 and 427 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)"

(4) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

(5) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(6) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections".

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that—

(1) the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990, and

(2) the amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Mr. ROTH. Mr. President, the people have spoken and our colleagues in the House of Representatives have listened. Two days ago, the House passed an amendment to repeal catastrophic by an overwhelming 360 to 66. I propose we do the same in the Senate.

And, to this end, I rise today, on behalf of Senators DANFORTH, NICKLES, SHELBY, REID, BRYAN, HELMS, GRAHAM of Florida, COATS, and myself to offer an amendment that repeals the Medicare Catastrophic Coverage Act of 1988. And let there be no mistake about it, this amendment is the only real opportunity Senators have to vote for repeal.

To put it simply, this amendment repeals all current and future catastrophic benefits except for some transition rules that help accomplish repeal in a manner that is not disruptive to individuals currently receiving benefits.

The surtax and all other catastrophic premiums scheduled to come into effect would be repealed. I want to emphasize that the surtax is repealed effective January 1, 1989. Any supplemental premium moneys collected will be returned to those individuals who have paid them. The catastrophic flat premium of $4 per month would be repealed as of January 1, 1990.

In addition, it is important to point out that the Medicaid changes in the Catastrophic Coverage Act would all remain intact. These changes include the provision which is designed to prevent spousal impoverishment, the Medicaid buy-in and the mom and infant program.

The choice now between repeal and the McCain proposal to retain certain catastrophic benefits. The problems is we do not have adequate information as to whether or not the McCain proposal is financially sound or meets the needs of senior citizens.

In fact, the real problem is there are no facts about catastrophic. We are asked to make decisions about changes on soft data and bad estimates. We are constantly getting new estimates that are always going higher. For example, the cost of the program has soared over 50 percent since it was passed from $30 billion to $48 billion. The Senator from Arizona claims his bill is self-financing, but I would remind my colleagues that the Finance Committee made the same claim last year.

Not only do we not know what catastrophic will cost, we do not know the extent of duplication. Clearly, we know that benefits are duplicated by coverage already provided to Federal and State employees, military retirees, and many in the private sector and unions. Catastrophic will make them pay more for benefits already provided at minimal or no cost to them. That fact leads us to the heart of the issue—Does catastrophic insurance provide what seniors want or need?

This answer is obviously not. It duplicates existing benefits and it does not address long-term care.

The path is clear. We must repeal catastrophic. A piecemeal approach to changing the catastrophic law will not work. We must stand back and take a comprehensive look at health care, so we can make a fresh start on changes for the future. Changes that meet real need and are financially sound.

The only way to accomplish that is to repeal catastrophic. I say again this amendment is the only real opportunity Senators will have to vote for repeal.

I urge my colleagues to follow the lead of the House of Representatives; to listen to their senior citizen constituents. Vote for this amendment. Vote to repeal.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Will the Senator yield?

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from Missouri who has been patiently waiting, I say to my friend from Oklahoma.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 mintues.

Mr. BOND. Thank you, Mr. President. I rise in opposition to this amendment, because I am pleased to join with the Senator from Arizona. I am sure all of us know by now, and we have heard from our seniors that they are objecting to the financing, the surtax that has come along in the catastrophic health care insurance program.

When most of my colleagues in Missouri write to me about this program, usually they refer to it as the "catastrophic tax act." We know what they are talking about. They are talking about the proposed surtax that will come into being. I have had letters saying the catastrophic surtax law is totally unacceptable and should be repealed. Clearly, these senior citizens want the surtax repealed, and I do not think there is any debate on that.

Some people have said the bill is unworkable and fatally flawed. I believe that there is one catastrophic mistake—it is not necessarily fatal to the entire bill—where virtually all the complaints can be traced. Congress decided to expand the original legislation far beyond truly catastrophic protec-

tion. The first bill proposed by the administration contained only protection from truly catastrophic events. Dr. Bowen made a very compelling case for that coverage. It was to be financed entirely by the $4 per month additional premium and participation would have been voluntary.

Once this body got a hold of the bill, it became a Christmas tree and other benefits like financing for prescription and doctors' visits became ornaments and baubles on the tree. I think these are things that are terribly important, do not get me wrong, but are terribly expensive and drove the cost of the program up.

The committee looked at the program and realized they would have to make participation mandatory for the program to work; they would have to charge the wealthier beneficiaries more than $4 a month to make it work. And all these changes were necessary to pay for the additional ornaments and balls.

We believe the cost estimates for CBO show us that the highly unpopular and unfair surtax can be eliminated, repealed without losing the core catastrophic benefits seniors still need.

The need for shelter from truly catastrophic illness has not changed. The need is the same as it was when we began this debate 3 years ago.

I do not believe that the Senate should follow our colleagues in the other body and repeal the Act outright. The surtax is what is the objectionable portion, not the additional monthly premium of $4 or so. No one who I have talked to has complained about that. The basic truly catastrophic protection benefits that went into effect early this year should not be repealed. These are the acute hospital care benefits, hospice care and protection from spousal impoverishment. I do not believe seniors object to the slight monthly increase for that kind of protection. The proposal we are offering keeps those core benefits which were at the heart of the original catastrophic health care program.

If, Mr. President, we repeal the entire program and not just its flaws, we will be right back where we were when we started out 3 years ago. The need for protection from financial devastation, from long hospital stays has not changed. The need for assurance against spousal impoverishment has not changed.

Some of my colleagues point out that one pressing need, that of long-term health care, has not been addressed, and I agree. The Senate should discuss long-term care, but that should not preempt any care, any shelter from those suffering catastophic illness. But if we can repeal the surtax and change the catastrophic Act into a program that does what we intended it to do 3 years ago, should we not do that, instead of simply throwing up our hands and trying to wipe them clean?

There is a tidal wave of opposition to the current Act, but the Senate has an obligation not to be swept aside. If we take the course that some propose and scrap it and start all over, we will be going through the same process again. I imagine the debate will be a mini replay of the debate we had 2 years ago, everyone trying to salvage favorite provisions. We will see amendments for prescription drugs, some say scale the surtax back a little bit, but we should be talking about catastrophic care, not a prescription drugs act, not a nursing home act, not a doctor's visit bill.

From the 17,000 letters I have received on the subject, the message from my constituents is clear: Long-term hospitalization protection and spousal impoverishment are the most important benefits of the Act, and they want the surtax repealed. The benefits that are scaled back, such as outpatient prescription drugs, are not widely viewed as core. Therefore, I believe that the Senator from Alabama has found the right way to go about it: Give the seniors what they need and want, give them catastrophic protection at an affordable price.

Mr. NICKLES. Will the Senator yield?

Mr. ROTH. I yield 2 minutes to the senior Senator from Nevada.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Nevada is recognized for 2 minutes.

Mr. REID. Mr. President, I rise today to voice my support for this amendment to repeal the Medicare Catastrophic Coverage Act of 1988.

I clearly acknowledge the pressing need for protection against the insurmountable costs of long-term health care for our senior citizens.

But the solution, in this case, compounds the problem. I cannot accept the present plan whereby seniors bear the full brunt of financing catastrophic care.

A broad-based tax is only one of several alternatives we need to study to produce an acceptable means of funding catastrophic care.

There are potentially 32 million Medicare beneficiaries who require protection against the financial burden of extended illness. The Catastrophic Coverage Act is not the best form of protection.

After extensive assessment of the act, I am convinced we need to explore other ways to respond to this health care dilemma.

Mr. President, the constituents in my State have been particularly vocal as to the catastrophic coverage approach. Their concern prompted me and my colleague, Senator BRYAN, to introduce the first bill in the Senate which will repeal the Catastrophic Coverage Act. This we did in January 1989.

When 18 senior citizens in Las Vegas organized a group called Seniors Coalition Against the Catastrophic Act, they probably did not envision being able to create a ground swell of support from people throughout Nevada, California, Illinois, and other parts of this great country.

When I initially introduced my legislation, I had not expected the concept would receive such widespread support. I do not think any of us did. We thought we had achieved an enormous breakthrough by passing the Catastrophic Coverage Act and by merely paying attention to the issue and taking action, we did accomplish something.

But in our haste to solve the problem—in our urgency to act—we came up with a less than adequate solution.

Our legislation has created considerable confusion among seniors. There are questions of monthly premiums, percentages to be paid, increased taxes.

Frankly, Mr. President, there are too many questions and too few answers.

Our cost estimates for the program at the time it was enacted are alarming lower than what we now envision the program will cost. So who will pay—how much—and how often?

Although I advocate this amendment to repeal the Catastrophic Coverage Act, I adamantly believe that we cannot repeal and walk away.

We must get back to the drawing board and develop a feasible plan for protecting older Americans against the exorbitant costs of long hospital stays, doctor's visits, and prescription drugs.

All Americans, Mr. President, have at least one thing in common. We all grow old. Access to adequate, affordable health care is something we all need—either now or later. I support this amendment because the approach enacted into law last year is not a proper solution to this pressing problem.

The question of long-term health care for senior citizens is an emotionally charged issue that takes on a life of its own. But in this case, we must put objectivity and practicality before our emotions Let us develop an approach that can truly be defined as a solution.

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. NICKLES. Mr. President, I congratulate Senator ROTH and also Senator DANFORTH. In addition, I congratulate Senator MCCAIN. I think both of these proposals are giant steps in the right direction, both of which would repeal the surtax, both of which would repeal a significant portion of the ben-

efits which the American people did not want and did not ask for—as a matter of fact, both of which repeal most of the benefits that we find three-fourths of the senior citizens already had when we mandated on them the so-called Catastrophic Act. I think it was appropriately named. I think it was catastrophic for senior citizens, and certainly catastrophic for senior citizens who pay taxes. It is a very expensive bill when you consider that seniors are being taxed an additional 20 percent, and it continues to escalate. It needs to be repealed. I am optimistic it will be repealed tonight.

I support the amendment of the Senator from Delaware. I really do not want to see this bill go to conference. I am afraid the primary sponsors of the legislation would create a "son of catastrophic," it may well be catastrophic for senior citizens and for taxpayers again.

I think we should pass the language in the House-passed bill. It keeps the Medicaid portion in last year's bill and I think that is appropriate. If we are going to have an expansion in health care, let us have it for those people on the lowest end of the totem pole, those people who do not have it, those people who cannot afford it. For those who have coverage let us not mandate a Federal program on top of another. For those Federal employees, for those people in the private sector, for those who had coverage, let us not duplicate it. Why have the expansion in health care from 60 to 360 days if their employer already provides it? If that is part of their retirement plan, why should we duplicate it with a Federal plan?

That is why I think the amendment of the Senator from Delaware is most appropriate. We do not need to duplicate services that were already provided. I think it is vitally important we keep the Medicaid expansion in last year's bill, that we keep spousal impoverishment. Those are good, positive changes. If further changes are needed for those people who might fall through the cracks, that would mean expansion of Medicaid. I might tell my colleagues we are doing that with the reconciliation bill. If we do need to do more for those people who cannot afford it, let us do it, but let us not mandate it for all senior citizens.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCAIN. Mr. President, I yield 5 minutes to my friend from Illinois [Mr. SIMON].

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. SIMON. Mr. President, and my colleagues in the Senate, let me talk a little practical politics first. I know there is some confusion.

There are Members of the Senate who want to vote for the McCain proposal but who want to vote for repeal if the McCain proposal does not carry. There is a very practical way of doing that, and that is vote against the repeal at this point and then, if the amendment of my friends from Delaware and Missouri does not carry, we can vote for the McCain legislation. If the amendment of the Senator from Delaware carries, then we will still get a rollcall on final passage. Those of us who really prefer the McCain amendment can at that point vote for repeal.

That, frankly, is what I intend to do. I think the McCain proposal is clearly the preferable course. The McCain proposal gives us the opportunity to move away from the income tax, the surtax on seniors. It is simply totally unjustified to have those over 65 pay the highest rate of income tax of any of our citizens.

To those who argue, well, they are the beneficiaries, we do not do that with any other part of our income tax. We do not say to farmers, you are going to pay more in income tax because of farm subsidies. We do not say to parents, you are going to pay more in income tax because of education.

And then we do a second thing with the McCain amendment. We provide protection for people.

My distinguished friend from Nevada, the senior Senator from Nevada, one of the finest Members of this body, said, speaking in behalf of the Danforth-Roth amendment, we cannot repeal it and just walk away. But with all due respect to my colleague from Nevada, that is precisely what we will do if we just have repeal. I do not think that is the course we ought to follow. I think we ought to say no to the income tax and we ought to say yes to senior citizens; we are going to give you some additional protection.

There is a very simple way of doing that. That is to vote against the pending amendment and, if that amendment is defeated, then we can vote for the McCain proposal. If the Roth-Danforth proposal carries, then those of us who want to go on record clearly in opposition to this surtax, facing that kind of choice, can get a rollcall on final passage and vote against it. But I think clearly the better alternative for us in the Senate, the better alternative for the Nation, the better alternative for senior citizens in this country is to defeat the present amendment and vote for the McCain proposal.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kansas.

Mr. DOLE. Mr. President, how much leader time do I have remaining?

The PRESIDING OFFICER. There are 6 minutes remaining.

Mr. DOLE. Mr. President, I will use about 3 minutes.

Mr. President, I do not believe I have any influence on this issue. I have already spoken on the Durenberger proposal. I am not certain how many votes we had but it was a good proposal. So now we are faced with well, now we are just going to throw everything out, give up; we made a mistake, so let us start all over. I think that would be a grave mistake. It might be for the moment perceived and maybe claimed to be a victory by some of the leaders of senior citizens groups, but I must say those who we do not hear from, the poor, the elderly and the sick are probably not going to contact us but they are going to wonder one of these days what happened to the benefits they had and they will be looking to us as those responsible for taking them away.

There is no question that our initial intention was to help protect against catastrophic costs that arose as a result of prolonged hospitalization and/or the use of physician services. What we ended up with was some of this, an attempt at adding some long-term care benefits and an entirely new and costly drug benefit. They said we do not want that, spoken loudly and clearly. We have the message. We made mistakes along the way. We passed out benefits, more than anybody anticipated, and for more than anybody wanted to pay.

But a vote for full repeal of the few catastrophic benefits along with the premiums used to finance them I think would do harm. Who are we going to hurt? If we can, let us step away from the issue of the surtax. That is behind us now. The surtax is not going to be on the floor anymore this evening. That is over with. Step away from the issue—unless we do not pass anything, and then we go to the conference with present law and repeal.

But if we can step away from the issue of the surtax, look at who loses if we repeal the entire benefit. In the frenzy over the premium, we have lost sight of the fact that this program has been to help some of the sickest among our elderly. For example, CBO estimated that 13 percent of the Medicare beneficiaries would be helped by the provision providing unlimited hospitalization; 33 percent by the limit on out-of-pocket costs; 11 percent by the new mammography screening provisions; and 27 percent by the new drug benefits.

Thirteen or thirty-three percent may not sound like much to some but it translates to between 3.9 and 9.9 million people who are sick and at risk of impoverishment because of an illness. We have been hearing from some of the wealthiest citizens speaking in opposition. That certainly is right in this country, and they have done a very good job. They have succeeded.

Surtax is gone. But let us not forget that some of our poor elderly will be helped by this new program. To repeal this program and to rescind the benefit means leaving these people without our help.

I for one think that is the wrong thing to do. I believe the House made the wrong decision and the Senate should not repeat the same error. The Senate would be the first to acknowledge, this Senate, if we have gone too far as I said earlier. We promised too much. We taxed too much. Let us not, as I said, throw it all out.

So what is the alternative? It is coming up next. I believe the next best option is still to come. That is the McCain proposal which preserves some of the critical elements of the program, and I urge my colleagues to defeat this measure.

Let us move on to the McCain measure. Senator MCCAIN has been at the forefront of this battle. I guess before the night is over, it may prove he was right from the first and some of us were mistaken.

But, in any event, we have had good debates today. It would be my hope that we reject those who would repeal the catastrophic coverage and drop back to the McCain proposal because I believe as Senator MCCAIN has told me privately and publicly on this floor many times there are many seniors out there who really do not prefer they lose everything. They never thought they were going to lose everything. They are if this repeal passes. They are going to lose everything because that is it.

How long will it take us to pass something else? We will not do it this year. It would be tough to do it next year. It is going to take a long, long time.

I know I have friends on this side who are leading the effort to repeal. I respect them. Senator ROTH, Senator DANFORTH are both on the Finance Committee doing an outstanding job. They have a different point of view. But I do not agree with them on this issue.

So I hope my colleagues on both sides of the aisle will reject the pending effort, and then vote for the proposal by Senator MCCAIN and others.

I reserve any leader time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. GRAMM. Mr. President, I think one thing ought to be made clear here at this point because we are about to make an important decision. The point I want to make clear is we would not be here tonight making history on this bill were it not for one man. There is one person who brought the United States Senate here tonight, and his name is JOHN MCCAIN. Without his courage, without his persistence, and without his leadership, there is no way that we would be here tonight.

So whatever we decide, whether we repeal catastrophic, or whether we accept his proposal, if the senior citizens of America want to know who did the job, who did the work, who stood up to the pressure, who had it done, JOHN MCCAIN had it done.

Mr. President, I am going to vote for repeal though I think the McCain proposal is a good proposal. It is a proposal that I have cosponsored. I would view its adoption as victory. But repeal gives us a guarantee that the same people who wrote this bill to begin with will not have an opportunity to do it again in conference. I think that is the strongest argument for repeal even though, let me make it clear, the adoption of the McCain amendment is victory on this issue.

Finally, let me say, Mr. President, a lot of votes I cast here on the floor, at least in my own mind, I figure I am never going to be vindicated until I get to heaven. A year ago when I voted against catastrophic coverage, I figured that down the road in heaven St. Peter would open the golden book and weigh it out and say, "You done good."

This is one of the those rare instances where within 1 year everything has changed. What has changed is that under the requirement that we pay as we go, under a requirement for deficit reduction, the giveaway policies of the past ran up against fiscal reality. We had to pay for this entitlement up front. And it proves that collectivism is never popular if the beneficiaries have to pay.

That is why we are here tonight making history. Whether the repeal passes or the McCain amendment passes, this will be the first time in American history that both bodies of Congress have voted to roll back a massive new entitlement.

Mr. President, I am proud to be here, and we would not be here tonight were it not for Senator JOHN MCCAIN, the good captain, and I am proud of him. I am sure that every senior citizen, including my momma, would like to give him a big kiss. [Laughter.]

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

The Senator from Delaware.

Mr. MCCAIN. Mr. President, the remarks of the Senator are a great embarrassment to me.

I yield 5 minutes.

The PRESIDING OFFICER. Is the Senator from Delaware wishing to yield time at this moment?

Mr. ROTH. I yield 1 minute to the Senator from New Mexico.

The PRESIDING OFFICER. Then I will recognize the Senator from Arizona.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I want to tell the Senator from Texas that one time I was at a meeting. The citizens put their hands up, and said, "That great mayor; if he is in heaven, he is paving the streets of heaven." Somebody jumped up and said, "The problem is we are afraid he went somewhere else, in the opposite direction." I wonder if the Senator from Texas was not a bit presumptuous here tonight. [Laughter.]

But, Mr. President, I just want to ask a question.

Frankly, Senator GRAMM made my argument right at the end of his remarks. I wonder what assurance we have, if the McCain bill passes. I am for it. I am a cosponsor. But it is going to go over to conference.

I really feel a little strange about sending it off to conference with those who have taken all of this time to see the light, and then only reluctantly and then only under enormous pressure. I have a little bit of doubt that we will come back here after a conference with the McCain bill. That kind of bothers me.

I wish somebody who is running the committee could come down here and tell everybody if we pass Senator MCCAIN's bill it will become law in conference. Not having any such assurance, I am not at all convinced that we ought not repeal it.

The PRESIDING OFFICER. The time has expired.

Who yields time?

Mr. MCCAIN. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. RUDMAN. I thank my friend from Arizona.

Mr. President, I listened to my friend from Texas who I agree with most of the time. I think if you think that well of someone and you give them such praise on the floor, I say to my friend from Texas you are almost obliged to vote against the pending amendment and vote for the McCain amendment.

I also join, and I think everyone here recognizes my friend from Arizona truly has made this a personal crusade. A crusader sometimes becomes very unpopular. The Senator from Arizona has taken a great deal of criticism and some abuse for his position. But he has been unswerving in bringing this issue forward. We admire that on this floor.

Mr. President, I want to speak briefly about two things: Why are we here at all? We are here because there was an enormous problem in the country recognized by the President of the United States, brought forth by his Secretary of Health and Human Services, and we acted on that. We probably acted in a faulty way but we acted on it. If we repeal this tonight, the problem that we all recognized at that time still exists.

The problem is not going away. With all due respect to my friend from Texas, if he thinks that it is going to be over tonight if we repeal it, it is not going to be over at all. When seniors around this country find out now that the entire benefit is gone, I happen to believe that the reaction will be even more strident than the reaction that we heard when they found out they had to pay for some part of that benefit, which I happen to believe was still a sound idea. I believe when we eventually reach long-term care, that idea will be revisited.

Let me say one further thing. The argument that if this goes to conference, somehow it is going to get Christmas-treed with all of those things it did the last time, just does not hold water. And my proof of that is very simple. Look at the record as to what the vote was in the House of Representatives. The vote was so overwhelming for repeal that it just defies anyone's wisdom that the House would now come back and attempt to do the same thing all over again; that just will not work; that argument just does not wash.

We should not repeal this. If we repeal it, we leave a problem with the country that we all know exists. We leave it unmet. Vote for the McCain amendment; vote to defeat this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I yield 2 minutes to the distinguished Senator from Nevada.

Mr. BRYAN. Mr. President, I rise to support the Danforth-Roth amendment to repeal the Medicare Catastrophic Coverage Act. In January of this year, my colleague, Senator REID, and I introduced a piece of legislation that called for the repeal of this legislation. I understand, although I was not a member of the 100th Congress, the enthusiasm that greeted the passage of this Act, at the urging of President Reagan. It was conceived with the best of intentions to create additional insurance for the elderly.

This was so our growing elderly population did not have to fear being dependent upon public assistance if they were indeed to be stricken by major illness. It should not be forgotten, however, that it was the last administration's insistence that the beneficiaries pay for the entire cost of this coverage that led to the onerous financing mechanism of a surtax on senior citizens.

As we review the fiasco of this program, it has become a troubling note that has entered this debate. The administration wants to keep the surtax to help to make a dent in our massive deficit. However misguided the financing of this legislation was, it was never Congress' intention to make this a tax program to reduce the deficit.

The elderly in my State have been communicating to me and to my senior colleague by the thousands, in town hall meetings, by mail, even by casual conversation. What they are saying, "These are not the benefits that we need, not the benefits we want, and this is not the financing mechanism that we feel is fair."

Mr. President, repeal of this legislation is not a hasty retreat. It is a reexamination of the priorities of our health care policies. It is an opportunity to start with a clean slate, to discuss and consider what our senior citizens really want, insurance for long-term nursing home care and skilled nursing in-home care.

For these reasons, Mr. President, I urge my colleagues to pass the Danforth-Roth amendment and repeal the Medicare Catastrophic Coverage Act. Thank you, Mr. President.

Mr. GORTON. Mr. President, will the Senator from Arizona yield?

The PRESIDING OFFICER. Will the Senator from Arizona yield?

Mr. McCAIN. I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. GORTON. Mr. President, a debate which pits the Senator from Texas on the opposite side from the Senator from New Hampshire is as entertaining as it is rare. Most people think that they are a single individual named "Gramm Rudman." The debate is a rather narrow one. The debate is over which position is most likely to settle this issue.

The Senator from Texas believes that we had better pass exactly the same proposition that the House passsed a couple of days ago, or we will lose our goal in a conference committee. The Senator from New Hampshire, I believe, has a sounder set of reasons. He points out, as I do, that 2 years ago when President Reagan recommended that we provide care for those who suffer catastrophic illnesses and are hospitalized for extended periods of time, we were providing care for which there was a very real need in our society, and care which could be provided at a reasonable cost spread across all Medicare beneficiaries.

The truth of that proposition is as clear today as it was 2 years ago. It has been obscured only by the add-ons over and above what the President originally reached. The McCain bill will get rid of the add-ons, but will leave the core, which we need.

If we repeal the entire bill, this issue is not over, Mr. President. We will simply be back in another 6 months or another year attempting to provide that catastrophic care once again, and subject to the risk once again of having a Christmas tree addition of benefits to it.

If we truly wish to settle this issue now both well and fairly to all concerned, we will vote this amendment down and vote for the McCain bill and simply show our confidence, by a very large vote, that a majority of 6 to 1 in the House of Representatives, and what I suspect will be at least as large a majority for the McCain bill, if we are able to vote on it on final passage, will in fact be carried out by our conferees. If it is not, we should reject the conference. Let us do this right and justly and vote with Senator McCAIN.

The PRESIDING OFFICER. Who yields time.

Mr. McCAIN. I yield 2 minutes to the Senator from Indiana.

Mr. COATS. I rise in support of the Roth-Danforth repeal amendment, but I also want to commend my colleague from Arizona for the time and effort and work he has put into fashioning a sensible, I think, approach to the problem. In fact, it very much parallels the measure that I introduced in the Senate several months ago, S. 1174, in terms of eliminating those unwanted future benefits and eliminating the surtax, but retaining the core provisions already in place.

I carried that proposal to seniors all across the State of Indiana. I visited personally with more than 1,000. My staff visited personally with more than 2,500, explaining the provisions of my bill, and I received tens of thousands of letters from seniors, and their response to my proposal, which was very similar to Senator McCAINS's was, "We are confused; it is not enough. Repeal the thing, go back to zero and start over."

It is for that reason that I have stood here to support the Roth-Danforth repeal bill. I have heard their message. Their message has been very clear. I think the very best and most sensible way we can approach this is to support the Danforth-Roth amendment, repeal this provision and go back and then examine what benefits we need to look at to protect seniors.

One last point: All of us should remember that the Roth-Danforth amendment does retain some very essential provisions. It retains the spousal improverishment and those Medicaid changes that reduce infant mortality by providing assistance to low-income women and children under the age of 1.

It also retains the Medicare buy-in provision for the States. So it is not as

if we are totally walking away from some of the necessary things we did when we passed this bill in the first place. I am going to support this amendment. If it fails, and I hope it does not, I will of course support the measure from my friend from Arizona.

For the past 9 months, I have met with literally thousands of Hoosier seniors about the Medicare Catastrophic Coverage Act in town meetings and senior forums. My staff has held many additional seminars that were attended by more than 2,500 senior citizens. At least 15,000 Medicare beneficiaries have written or called my office since the beginning of the year to discuss the catastrophic law. It is all they wanted to talk about. And the overwhelming message they have given me is: Please repeal this law and start all over again.

Almost before the ink dried on the catastrophic law, questions were raised about the projected costs and the wisdom of a number of the benefits. Based on my judgment about what a modestly priced package of benefits to give the elderly piece of mind protection from the catastrophic costs of an acute illness or injury and feedback from seniors, I introduced S. 1174 on June 14 in an effort to repair this flawed law. The thrust of that bill was to return the law to what it was originally intended to do: Take care of the basic acute care needs of the elderly at an affordable price. As of last summer, cost estimates of the catastrophic law began to rise, and the projected surplus began to fall. S. 1174, like the Roth-Danforth amendment, would have cut the size of the catastrophic law considerably and kept it budget neutral.

I can tell you that most of the Hoosiers I have talked with about the catastrophic law are confused and frightened by it. It changed so many times before it became law that even seniors who have studied it carefully are unsure of its provisions. One thing they do know is that this law burdens millions of seniors with a tax increase. Whatever strained credibility the surtax may have had when the bill became law has been destroyed by two critical facts: The law is much more expensive than originally thought, and the very group this law was supposed to benefit has made it clear they want no part of it.

Although some people in Washington may have been surprised to learn that the estimated cost has now ballooned to almost $49 billion from $30.8 billion as of last year, I can tell you that this news came as no surprise to Hoosier seniors. The more they learned about the catastrophic law the less they liked it.

I am not aware of any Medicare Program that has come close to meeting projected costs since this system was launched in 1965. The overruns are legendary. Common sense tells me that when the estimated costs of the program have risen 59 percent in just 1 year, there is little hope that the present law will not be severely in the red in the near future. This means that even with the taxes that seniors are paying, somebody will be left holding the bag. Based on experience, that somebody will be all taxpayers, including the elderly.

Another facet of the catastrophic law that angers Medicare beneficiaries is that many of them have duplicate coverage. It infuriates them to be forced to pay for benefits they are already receiving. According to the Congressional Research Service, 29 percent of noninstitutionalized Medicare beneficiaries have at least some health insurance coverage from a former or present employer. Although these seniors are fortunate to have medical benefits, they are still hard pressed to pay an additional tax for coverage they do not need.

S. 1174 eliminates those concerns by abolishing the surtax and offering a package of core acute care benefits similar to the Roth-Danforth plan. My bill was written based on what was known about the catastrophic law last summer. Since that time, however a lot more unpleasant information about the law has come to light, especially the escalation of costs I mentioned earlier. Because of this new information, and the widespread confusion about the catastrophic law among the elderly, I decided to cosponsor the Roth-Danforth plan. I believe we will best serve the interests of our seniors if we wipe the slate clean with the Roth-Danforth plan and start all over again.

The Roth-Danforth amendment is a compassionate repeal because it eliminates the surtax and all the provisions of the catastrophic law that have not yet gone into effect and it retains the benefits that have come on line this year. The intent is to ensure that no Medicare beneficiary will be forced out of a hospital room or nursing home bed due to repeal. These sections will remain in force until January 1, 1991.

This amendment also permanently retains three very important parts of the catastrophic law that relate to Medicaid. The critical protection against spousal impoverishment will remain in effect. This benefit will allow beneficiaries in a nursing home to qualify for Medicaid coverage without impoverishing their spouse. This will give spouses who are staying at home and doing their best to care for their mate a much deserved sense of dignity as well as more financial resources.

In addition, the Roth-Danforth amendment keeps the Medicare buy-in section that requires States to pay the Medicare premiums of the poorest elderly. This year the buy-in applies to those at 85 percent of the poverty level. That rate gradually increases to 100 percent of the poverty level by 1992. Finally, it retains the provision that is designed to reduce infant mortality by increasing access to Medicaid for low-income pregnant women and children under the age of one.

The Roth-Danforth amendment is the right way to repeal the catastrophic law because it eliminates the undesirable features of the present law. Like the bill I introduced last summer, S. 1174; it abolishes the surtax and retains the hospitalization and spousal impoverishment protection benefits. I urge my colleagues to join me in supporting this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield 3 minutes to the Senator from Pennsylvania [Mr. HEINZ].

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. HEINZ. Mr. President, this is a very critical vote, and it is one which the House of Representatives took earlier this week where, by a very substantial vote, they rolled up the entire rug of protections contained in the Catastrophic Coverage Act and put it in permanent cold storage.

I think it is critical for our debate here today to recognize exactly what will be lost if the pending amendment succeeds. Anyone who votes for this amendment is voting against the McCain amendment and anyone who votes against the McCain amendment is voting against the one piece of legislation that the elderly want, the one piece of legislation which is fiscally responsible, and the one piece of legislation which as good health policy and keeps the antispousal impoverishment protections and the home health care benefits that are the core of a good long-term care policy in this country.

If we let the rug be totally rolled up and be put into cold storage, we will sacrifice millions of patients and their families to the financial jaws of long-term hospitalization; we will withdraw life-enhancing family support in home health benefits and respite care; and, if this amendment prevails and the McCain amendment is repealed or defeated, we will send a message to thousands of terminally ill Americans that Congress now devalues the dignities and comfort of hospice care.

Mr. President, I will vote against this amendment, which repeals everything. I urge my colleagues to do the same so that we may preserve benefits that are valuable, that are responsible, that are badly needed, and which create a platform of long-term care protections on which we may build in the future.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Delaware.

Mr. ROTH. I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. SHELBY. Mr. President, I rise tonight to support the amendment to repeal. I was one of the first last year to laud the passage of the Medicare Catastrophic Coverage Act. However, a lot of us found out over the last 15 months that we come to learn that the catastrophic bill is seriously flawed and beyond repair.

I welcomed passage of the catastrophic bill as a long overdue expansion of the Medicare Program and an important first step in addressing the pressing health care needs of the Nation's elderly. However, this first step took us down the wrong path, and now we need to take a step back—back to the drawing board. Only repeal will allow us a fresh start. We need to listen to what the elderly want, instead of telling them what they need.

There is a high price tag attached to growing old in this country. The costs of hospital care, prescription drugs, home health care, preventive care and long-term care all add up to bills that push many seniors into poverty. The Medicare Catastrophic Coverage Act of 1988 was designed to protect our Nation's seniors from some of the devastating costs associated with a serious illness. And yet it is those very same citizens who realize that the high cost of the bill to its beneficiaries poses an equally great financial threat to their fixed incomes.

Mr. President, I believe that senior citizens want repeal. Today, I feel that no other alternative will satisfy the seniors in my State of Alabama. Congress must admit, as I do, that we made a mistake and vote to repeal the Act. I hope that my colleagues here will join in the repeal when we vote later.

Over the first half of this year, I traveled extensively throughout Alabama, holding town meetings in all 67 counties of the State. I remember being surprised at the reaction of many seniors at these meetings—surprised to learn that they did not want the catastrophic bill and that they would be forced to pay for benefits that they already had. Mr. President, I don't blame senior citizens one bit for opposing a law that forces them to participate in a health care plan that they neither want nor need.

At each town meeting, senior after senior would stand up and express opposition to this legislation. And I know that my experience is not unique. I commend members of this body for working to try and reach a compromise. But my constituents do not want compromise, they want repeal.

I hope that we learn from our mistakes with the catastrophic bill. First, we must not give our seniors something that they do not want, and then require them to pay for it. Second, we should listen more carefully to our senior citizens—they want coverage for nursing home care and long-term illness.

Yesterday the House voted overwhelmingly to repeal the catastrophic coverage bill. I urge my colleagues to support this amendment and do the same tonight.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield myself 8 to 10 minutes of the time remaining to me as manager of the bill on my time with the bill.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes, the time to be charged against the time allotted to the Senator on the bill.

Mr. ROCKEFELLER. I thank the Chair.

I guess I would just want to implore my colleagues, Mr. President, to not throw this whole thing away and to vote against repeal.

It is really amazing to me to think that, after all of these months and months of consideration, we come down to a decision as to whether we are going to flat-out repeal and say "no" to benefits for millions of Americans who are older, frail, unhealthy, and poor and who do not have health insurance and have no way of recourse, and we are pretty much going to say, "We could not take the heat and we are afraid of how you are going to treat us politically. We know what you want. We know what your needs are."

We know that we are elected to come to the Congress to solve problems. We know that in solving those problems we have to make tough decisions. Some of the toughest of those decisions is when you come to anything that has to do with health care because it is growing so fast. But then again so are senior citizens growing in numbers very fast, and they are growing older and they are growing more frail. So now we come to this moment to decide whether to repeal catastrophic health care benefits of all kinds.

I find that remarkable; I find that sad. And I think we will have the courage as a body not to give into that temptation.

I go back to 3 years ago to experiences that we all had going around our States and also in the recent years listening to our seniors. What they were pleading for was something they did not have, which was help in times of absolute desperation.

Seniors would stand up at town meetings and they would say:

You know, I could get cancer; I could get struck down by some traumatic physical disability or injury, and then I have a choice and that is that I can either spend myself, or my spouse can spend himself or herself into poverty so we can qualify for Medicaid, or I am out in the cold. There is no other way. I go broke; I go flat broke.

That is not the America that I understand that we are; that is not the body on the Hill that I understand that we are. The President talks about a shining city on the top of a hill, and we are here about to yank several million of those people down to the bottom of the hill and dump them in the cesspool because we cannot take the heat; cannot take the political heat, which is what this is all about.

People have been talking about cost; people have been talking about all kinds of things. But it really comes down to that. Do we have the courage to stand up and take the heat, to vote for something which we know in our hearts is good health policy, which we know that our seniors want?

We know that we failed in our communication to them about the implications of what it was that we passed in the original catastrophic bill, and then we pare that back and back and back. And now we are faced with the decision of whether to give them nothing, or at least something that they can hold onto.

There are 9 million seniors in this country who live alone. In West Virginia, they live in deep valleys or on the tops of mountains, but they live alone. Their families have dispersed, and they do not have that famed nuclear family to take care of them. The children are gone in my part of the country, maybe because they could not find work, and they are gone. So there is the mother or the farther by himself or herself alone at the top of a mountain with no help. So now we decided, are we going to strip them of hope or are we going to give them something that they can hold onto?

I know and every Member of this body knows that there are 10 million Americans who have absolutely no Medigap insurance at all. I know and this body knows that almost 27 percent of our senior citizens have no private supplemental insurance, and they are over 75 years old, and that 25 percent of them live in poverty. Poverty for a single senior is a sorry condition to behold.

The figures say 25 percent of those are not in good health. I would suggest it would be a lot more than that. A lot of it is in the mind. People live by themselves or maybe they live as a couple, but they are afraid of a medical catastrophe. It is not whether or not they get one—that is a true catastrophe—but they are afraid of getting one.

The proposition we have before us now is that we are going to take all hope away from those people and we will be able to go home and say, well, we voted against the supplemental

premium or something else that you did not like, and just drop these people into the ditch.

Mr. President, I am not prepared to do that. I am not prepared to do that for the people of my State of West Virginia.

My State is not a wealthy State. My people are not wealthy people. We need help. We have time and we have a bill that yet remains that will give help.

I think of the work we have yet to do, Mr. President, in health—and I spoke about this earlier in the day—here we are fretting, traumatized, turned upside down by something called catastrophic health care, which is a very simple concept is it not? I mean, a medical catastrophe is a pretty easy thing to understand. You get cancer, you get Alzheimer's you get hit by a truck, you get crippled. It is a pretty easy thing to understand. You give those people help. This is America. No other country in the free world does what we now do, which is not give those people some kind of help. Yes, we ask them to pay part of it. We pay part of it. Others pay part of it. But we never deny them the help, because this is America. Except, of course, that we have been and we do deny them help.

Long-term care, $40 to $60 billion. What kind of heat is that going to generate? Thirty-seven million uninsured Americans, more than one-quarter of them children. Two weeks ago I was in Cook County, Chicago, and I, along with a number of others, including Senator COATS, of Indiana, viewed 1-pound babies, 1½-pound babies, low birth weight because the mothers were on cocaine or they did not know anything about prenatal care. The figures of the children were a terrible thing to behold. The children could get out of the intensive care unit, Mr. President, but it will cost to $50,000 to $100,000 to $150,000 to $200,000 just while they are in there. But when they get out, if they get out, they are going to be developmentally disabled, intellectually disabled. They will have problems all their lives. I mean, we are either going to decide that we are going to attack problems and solve problems in this country or we are going to pay a mammoth cost.

I am of the opinion that health care and the cost of health care and the nature of health care and the morality surrounding health care and our obligation as a body toward health care is the most massive problem this country faces, other than the scourage of drugs.

We are going to have to do it, Mr. President. We are going to have to face up to these problems sooner or later. If we go with repeal now, what we will be doing is we will simply be stepping back and saying, "I cannot take the heat; I do not want to face the problems," and we will not. There is a Pepper Commission. The Pepper Commission will consider solutions, and we will give solutions on long-term care and the uninsured.

I yield myself 3 more minutes.

Mr. DANFORTH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. DANFORTH. I ask unanimous consent that the time for the inquiry not be charged to either side.

The PRESIDING OFFICER. The Senator may state his inquiry.

Mr. DANFORTH. Mr. President, as I understand the situation now, it is a doubling-up against the amendment. In other words, both sides who are controlling the time on the bill are opposed to the Roth-Danforth amendment, and therefore what they are doing is yielding themselves virtually—how much more time do they have on the bill?

Mr. MCCAIN. Will the Senator yield to me?

Mr. DANFORTH. Yes.

Mr. MCCAIN. I just agreed to yield 6 minutes of my time on the bill to the Senator from Delaware because he has an additional speaker.

Mr. DANFORTH. That I very much appreciate. But Senator DOLE has already taken 3 minutes on the bill to oppose this amendment. Senator ROCKEFELLER has already taken 10 minutes on the bill to oppose this amendment. And it is going to go on how much longer?

Mr. ROCKEFELLER. About 3 minutes.

Mr. DANFORTH. Mr. President, I would simply say I really do not think that is fair debate. I appreciate the generosity of the Senator from Arizona yielding us 6 minutes. We are still about 7 minutes behind. The Senator from West Virginia is going on for 3 more minutes and is controlling an additional 7 minutes, as I understand it.

So I simply raise the point that I think in fairness we should even out the time on this particular amendment and not have a substantially greater amount of time used up by the opponents of the amendment.

Mr. ROCKEFELLER. Mr. President, I believe the Senator from West Virginia is well within his rights in the course that he is pursuing. If the Senator from West Virginia is not within his rights, I would, of course, be willing to be instructed by the Parliamentarian or the Chair.

Mr. DANFORTH. I have stated a parliamentary inquiry.

The PRESIDING OFFICER. The Chair will answer the Senator's parliamentary inquiry. The Senator who is controlling time on the bill has the right to use that time on the bill at such point as he may wish during the course of the debate and has done so. It is my understanding that Senator MCCAIN has stated he has yielded some portion of his time to Senator ROTH on the amendment, to be used as Senator ROTH may wish. Senator ROTH is controlling the time on the amendment on his particular side. But Senator ROCKEFELLER received appropriate recognition and is entitled to use the remainder of his time, if he wishes, on the bill, but he could not then, of course, speak on the bill itself in the event this amendment fails.

Mr. DANFORTH. I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor, and his time has just expired for the first 10 minutes that he requested. Does the Senator request a further extension of that time?

Mr. ROCKEFELLER. The Chair is correct; for 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. ROCKEFELLER. I thank the Chair very much. I will close, Mr. President, with only two thoughts, and that is the work that lies before us will be tested in terms of how we make the decision on the repeal motion before us. If we repeal, we are signaling to seniors all over this country that we do not have the courage, the leadership, the vision, quite frankly, the guts to face up to the problem. We are a problem-solving body.

It comes down to me, I guess, to some folks in South Charleston, WV. Howard Murphy, his wife Sybil has Alzheimer's disease. And Howard for many years has been caring for her. He has no help. He is exhausted emotionally, physically, psychologically. He is in great pain. You watch him touch his wife, who barely responds. He is on duty 24 hours a day. He has to feed her. There is no help for him. And we simply, as a society, have to deal with that kind of a problem, Mr. President.

If we say we are going to repeal all of catastrophic health care, I think we make a mistake of the most extraordinary dimensions and tragic dimensions, not just for the catastrophic health bill which is before us, but for the whole future in terms of our institutional courage to face up to some extremely expensive and difficult problems that face older Americans and younger Americans, problems that are not going to go away.

I hope that my colleagues will vote on both sides of the aisle against this amendment and that we will not repeal catastrophic health care.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The time of the Senator from West Virginia at this point has expired.

Who yields time?

Mr. ROTH. Mr. President, I yield 2 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes.

Mr. MACK. I thank the Senator for yielding. What I believe is the core argument against repeal is that, in essence, there is going to be a backlash. There are going to be many who are going to come out and say we have taken away coverage.

Let me try to put that in perspective. I have used these statistics in the past but I want to say it one more time. Basically 90 percent of the retirees of this Nation have some form of coverage against catastrophic illness. Ten percent of the wealthiest of the Nation have sufficient assets to take care of it. The next 70 percent have some form of Medigap insurance. The next 10 percent have no coverage. The lowest 10 percent are covered by Medicaid.

Therefore, we ought to be focusing our attention on the 10 percent. Not developing an entire program to include 100 percent of the retirees. I received 115,000 pieces of mail from my State. I have gone to town meetings. I have listened to the seniors. They say they do not want this.

They are more afraid of us and what we are going to do and what Government is going to do to them than they are concerned about catastrophic coverage. They have already protected themselves.

It is time for us to repeal this act. It is time for us to listen to what they say. They are concerned about government eating up their only protection long term and that is what they have worked for, what they have set aside to protect themselves.

We see inflation eating away at their purchasing power. We see higher taxes, property taxes. We see some of them still working and they are paying payroll taxes and Social Security taxes and they are paying taxes on 50 percent of the Social Security that they are earning.

Now with the catastrophic presently in existence they are paying another $4.80 for monthly premiums, which is going to go up. They are also subject to a surtax.

It is time to reapeal this. It is time to listen to the seniors of this Nation.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. McCAIN. Mr. President, I yield 3 minutes to my colleague from Mississippi [Mr. LOTT].

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, first I would like to say as our colleagues have earlier tonight, how much I appreciate the work that the Senator from Arizona [Mr. McCAIN] has done on this legislation. Without his persistence, without his determination to get this issue considered, to get it to the floor of the Senate, it would not be here tonight. So I commend him and give full recognition to him, that he deserves. We could not get action from the committee. But because of his persistence we are here tonight and I certainly appreciate that.

It is very unusual when I am not on the same side of a particular issue as my coleague who just spoke from Florida. I have the highest regard for him and his awareness of the needs of senior citizens. But tonight I feel it is important we go back and reflect on how we got here.

As a Member of the other body in the previous Congress, I remember how this discussion began. We had a noble goal, one that certainly is still very applicable here tonight. We were looking for a way to provide some assistance to those few elderly who had long-term acute illnesses who could lose everything they had and would have no place to turn.

Obviously, it went too far. We expanded it way beyond just a few poor elderly. We got into prescription drugs and it grew and it grew. It got out of control. But it was not the concept that was wrong. The concept is still right.

Now we are about to go to the other extreme. We went too far last year. Now I think we are about to go too far here tonight. If we completely repeal this catastrophic health insurance coverage, then I think we will have thrown the baby out with the bath water.

When I go back to my State of Mississippi, what I hear from my constituents, from the elderly is they want the surtax repealed. But instead of just repealing the surtax and the prescription drugs, some of the things that went too far, we are talking about repealing everything.

If it were not for the McCain approach tonight, I would be for absolute total repeal. But Senator McCAIN, in his proposal here, has got it in the right perspective. It does repeal the surtax. It would not allow the additional costs for prescription drugs and other parts of this legislation to stay in existence or go into effect. It would provide those basic things that we do need, the long-term hospital care, spousal improverishment. Those provisions would still be there, with a very small premium.

So I urge my colleagues tonight not to completely kill the catastrophic health insurance legislation that we passed last year. It will not go away.

If we kill it now, the people who need this help will be back and they will be asking for help, and we will try to find a way to do it; maybe not this year but next year. I think the thing to do is go with what we originally intended, which is basically what Senator McCAIN has in his proposal. I urge the Senate to defeat outright repeal and pass the McCain approach.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Delaware.

Mr. ROTH. I yield 3 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, contrary to the opinion of the Senator from Mississippi, if we repeal the catastrophic health insurance bill we have not thrown out the baby with the bath. We have saved the baby and we have given the baby the opportunity to mature and live a healthy life.

The issue of health insurance for our senior citizens is not going to go away, no matter what we do with this legislation. We are going to be doing something. There is absolutely no doubt about that.

There is only one reason to vote for the McCain amendment. There is only one reason to vote against repeal. The reason to vote against repeal is that my colleagues believe the McCain legislation is the way to go in catastrophic health insurance. That is the reason to vote against repeal.

If my colleagues vote for repeal, we save the issue. If my colleagues vote for repeal, they vote to consider this matter again. And we will consider it again. But if we vote against repeal we, in effect, vote for the McCain proposition. We say, through our vote, that the McCain plan is the plan we want for catastrophic insurance.

Mr. President, today we have voted five different times to reject various plans for health insurance. Five different plans have gone down by substantial margins in votes today.

I ask the Senators who support catastrophic health insurance, the Senate, having voted against five different plans, why do you want to enact into law the McCain plan? Why do you believe that the McCain plan is the best one for this country? Would it not be better to reopen this proposition? Would it not be better to reconsider where we are going with health care for our senior citizens?

There are Members of the Senate, and particularly members of the Finance Committee, who have fought long and hard for a cap on part B coverage. The McCain plan has nothing about a cap on part B coverage.

There are Members of the Senate who have fought long and hard for a drug component to a catastrophic bill. The Senator from Rhode Island is one. Why do we want tonight to write into law a plan that does not have the drug proposal?

Mr. President, the McCain proposition has nothing for skilled nursing homes. There are Members of the

Senate who believe a skilled nursing home component is essential to a catastrophic plan. Why do we want to enact into law a program that has no space for skilled nursing homes?

The McCain proposition is a specific plan. Some people believe in that plan. Others do not. And the point that I have been making all along with respect to repeal is not that it ends a health care program, not that it ends the idea of catastrophic care, but it holds the question open.

The Pepper Commission is going to report next spring on long-term care for the elderly and on the problem of 31 million Americans who have no health insurance at all. Why should we prejudge the decision on the Pepper Commission by committing our limited resources now to the McCain plan?

So, Mr. President, again the question is whether the McCain plan is precisely what we want for catastrophic health insurance. This issue is not over. This issue is not going away. We are not deciding, as Senator ROCKEFELLER suggested, in some insensitive way, to forget about the elderly. This issue is going to be with us over and over again. But why write into law a plan that we are not sure of? Is this not a rerun of what we did in 1988?

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, at this point I ask unanimous consent to allow 6 minutes of my time from the bill to be given to Senator ROTH who is a proponent of the pending amendment.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. MCCAIN. Mr. President, I yield 3 minutes to the Senator from Kansas [Mrs. KASSEBAUM].

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, the Senate today faces the daunting task of sorting through a bewildering array of proposals to reform the Medicare Catastrophic Coverage Program. I sincerely regret that many of these options appear to have been hastily cobbled together in the last few weeks, days, or even hours. Given such haste, I fear for our ability to adequately address this extraordinarily complex and controversial issue.

But address it we must. The firestorm of public criticism that has accompanied this legislation from the beginning has now reached a fever pitch, and can be ignored no longer. On Wednesday, the House voted overwhelmingly in favor of a near-total repeal. Today, we in the Senate must decide whether to follow suit or to pursue a different approach.

Of the options proposed, the most prudent seems to me to be the Medicare Catastrophic Reform Act, introduced earlier this week by my friend and colleague, Senator MCCAIN. The chief advantage of this approach is that it would repeal the controversial supplemental premium, while at the same time preserving a substantial portion of the program's benefits.

The McCain proposal would retain all portions of the current catastrophic law except for the very expensive prescription drug, skilled nursing, and part B copayment benefits. Among those benefits which would remain in place are long-term hospitalization coverage and spousal impoverishment protection, as well as home health, hospice, and respite care reimbursement. The McCain bill would be funded entirely by the flat part B premium increase now in effect. This premium amount will total $4.80 per month next year.

Mr. President, I voted against the original catastrophic legislation because I did not believe it adequately addressed what I consider to be the most pressing health care need of our elderly—namely long-term nursing home and home health care. I feared that by asking America's seniors to pay the high supplemental premiums necessary to finance acute, "catastrophic" care, Congress risked foreclosing opportunities to finance more comprehensive services, such as nursing home care, which can literally wipe out a family's life savings.

Senator MCCAIN's proposal would remove these high premiums and significantly scale back the scope of the program. It is my sincere hope that doing so will give Congress an opportunity to refocus its attention on long-term health care protection for America's elderly. Until we put the paralyzing controversy of catastrophic health insurance behind us, this urgent need will remain unmet.

Although reform of this deeply flawed legislation is certainly overdue, I would caution against succumbing to the temptation of full repeal. One can argue quite convincingly—as the Senator from Missouri has done—that we ought to "wipe the slate clean" and start over. This argument has a certain tidy simplicity to it, and I can certainly understand why so many of our constituents have endorsed it.

Nevertheless, I question both the wisdom and the fairness of completely dismantling a major entitlement program only 1 year after enactment. Millions of senior citizens and thousands of health care providers have come to expect and depend on the catastrophic program. As we seek ways of reforming this coverage, we must take care to do it responsibly.

The part B monthly premium increase included in the current law is more than adequate to finance a significant portion of the currently envisioned catastrophic benefits. This premium increase is neither large nor controversial. I agree with the Senator from Arizona that we ought to retain this premium, as well as the considerable benefits it is capable of funding.

As we are all aware, one thorny obstacle standing in the way of catastrophic reform efforts has been the problem of the Gramm-Rudman deficit targets. Ironically, because of the way the catastrophic health insurance program has been "front-loaded" to ensure adequate reserves in later years, any move to delay the program now would increase next year's deficit figure by several billion dollars. At this point, such an increase would probably push the Federal deficit past the $110-billion deficit target required by Gramm-Rudman for 1990. If this happens, Congress runs the risk of triggering an automatic across-the-board cut, or "sequester."

This poses a difficult challenge, but I firmly believe that a solution can and must be found. In my view, it is simply unfair for Congress to hold the Nation's senior citizens responsible for its own lack of fiscal discipline. It is for this reason that I voted earlier this afternoon to waive the Budget Act on this issue.

If, in fact, we believe the catastrophic program ought to be delayed—or even repealed—we should go ahead and legislate that change. Gramm-Rudman deficit rules are meant to be guides to help Congress control deficit spending. They are not holy writ—and if we begin treating them as such, we run the risk of becoming a prisoner of our own procedures.

Mr. President, it was 2 years ago this month that the Senate passed its initial version of the Medicare Catastrophic Coverage Act of 1988. It is my hope that we will mark this anniversary by responsibly correcting the mistake we have made. I intend to support Senator MCCAIN's reform proposal, and I urge my colleagues to do the same.

I yield back the remainder of my time.

Mr. ROTH. I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Florida is recognized for 3 minutes.

Mr. GRAHAM. Thank you, Mr. President. I appreciate my colleague yielding me time. We have heard tonight a different description of what we have been hearing. I suggest that we are all listening to our own special drummer in terms of what message we have received on this issue.

I would like to comment on some of the things that I am hearing. I am hearing people who are distressed about what they see as a fundamental unfairness in the method of financing

this program; people who made preparations throughout a substantial period of their lives for exactly these eventualities and are now being told that they acted in a foolish and imprudent way because they are going to have to pay a second time; that their previous efforts at providing for their own well-being were essentially for naught.

I have heard people saying today about the proposal that will be before us, should this amendment not be adopted, that we are engaged in a governmental bait-and-switch plan. Yes, there were many people who said they wanted to have the surtax repealed, but they did not follow that by saying "and we want to have the benefits reduced."

What we are going to have before us, if we do not adopt this amendment, is for most Americans who are covered by this program the obligation that they continue to pay the same or a greater amount of their income in the form of monthly payments but have a reduction in the benefits which they would receive. I believe that we are going to hear an increasing uproar as people realize that they have been induced into a program under one set of assumptions and now are seeing their benefits substantially reduced.

I am also hearing that for the first time we are asking of a social program that only those people who benefit will pay for that program. It is not surprising that we have had an outcry. I suggest that if we were to ask the kindergarten children of America to be the only ones to pay to support kindergartens that we would have, in their small voices, a similar outcry.

I believe that for all of those funding reasons, we need to go back to base one and reevaluate how we are going to finance our Nation's program of social and health benefits for older Americans.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I yield the Senator 1 more minute.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 additional minute.

Mr. GRAHAM. I also would like to comment on what I am hearing in terms of what the real desires of our older citizens are, the fastest-growing decadal group of Americans, those Americans over the age of 85. In my State, we have almost 2 percent of our population over 85. What that population and those who look forward to the day when they will be over 85 are asking for is a program of dignified, respectful, and affordable long-term care to respond to the new realities of the aging process as they are impacting larger and larger numbers of our people. That, I say to my colleagues, is where we need to be directing our attention as we return to a reexamination of what our priorities should be.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. McCAIN. I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. DURENBERGER. Mr. President, one of the proponents for repeal, the Senator from Texas, said do not send catastrophic back to the people, bring it to us; the implication being the people in the Finance Committee. Another one of the proponents on the Finance Committee said let us wait for the Pepper Commission. I have news for you. We are one in the same. No matter how you go, the folks who are standing up here today, with the exception of the Senator from Missouri and the Senator from Delaware, at least some of us are the folks who helped create this sort of thing. Yet the way I think the system works around here is that we also are the folks who have to help repair it.

The big question is have we learned anything out of this whole process? I suggest to everybody here that what the Senator from Mississippi said about the concept is accurate. Concept was a good one; concept of catastrophic; the concept of skilled nursing facility and home health benefits and respite care for the long-term care of the elderly. That is good, too. Prescription drug benefits appropriately constructed, that is good too.

Our problem is we did too much all at once, and we decided we were going to charge them for it. It is not going to work. I am up here to say I guess that is a lesson I have learned and I trust a lot of our colleagues have learned.

I would like to take the McCain amendment to some conference. I do not know whether I would be on it or not. But the folks who gave it to you will be. I think taking the McCain amendment to that kind of conference and building on the Pepper Commission recommendations, whatever they may be, is going to be helpful.

The last encouraging sign I share with you is that I heard what the Senators from Florida said about Floridians. I would like for you to have heard what the Senators from North Dakota and South Dakota said about their constituents; very different kind of people we are listening to. Those people want catastrophic coverage. Those people in North and South Dakota are going without any insurance at all. Those are the kind of people who need some kind of catastrophic bill, and I suspect some of them may pay for it. I do not know who ended up in Florida other than the folks who started there or in Arizona, but that is one of the problems we need to deal with in this country as we come to grips with this issue.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired. Who yields time?

Mr. ROTH. I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. SYMMS. Mr. President, I think we can all agree that the Medicare Catastrophic Coverage Act has become something more than we bargained for. The rising cost estimates make it virtually impossible for us to make an educated decision and, rather than take a wild stab at a catastrophic insurance program, we should stop and take a good look at what we are doing.

When the law passed last year, it constituted the single largest expansion of a Federal social program since Medicare was created in 1965, and now the cost has far exceeded original expectations of $30 billion.

I do believe this law provides true catastrophic insurance, in fact it is far removed from the original intent that President Reagan discussed back in 1986. Catastrophic insurance should protect everyone, not just the elderly, from financial ruin due to a catastrophic illness.

I remember discussing this issue on the Senate floor back in October 1987. I expressed several concerns as to what the projections were for future years. Specifically, I questioned whether this bill would open up incentives to pour more benefits into catastrophic costs. I questioned whether this would ultimately lead to cost controls and rationing of the available medical products to the beneficiaries.

At that time, I questioned my colleagues as to where we would end up in 10 to 15 years, concerned that we would have more Federal involvement and the Federal Government paying for medical programs that it cannot afford. I was concerned as to what this would do to the Federal budget.

I voted against this law, and as I stated then, it was not because I was unconcerned about the problems many Americans face with catastrophic illness. It was because we had no idea what this program would become in 5 years. And now, the cost estimates are staggering.

Obviously, as I am sure most of the Members of this body can agree, we made a mistake with this supplemental premium. Let us admit our mistake, repeal it, and look at preparing a true catastrophic insurance program.

Mr. President, I would like to express my support for the efforts of my colleagues. Senator McCAIN has labored over this issue to find a solution to the catastrophic problem. His amendment, which I cosponsored, re-

peals the burdensome surtax on our senior citizens.

Senators ROTH and DANFORTH, my colleagues on the Finance Committee, have a proposal for full repeal. As 1 of the only 11 Senators who voted against the Catastrophic Act, I have always supported full repeal.

During the debate in October 1987 Senator WALLOP introduced an amendment to make the act voluntary—not tied to part B. I support this measure as well, allowing the seniors to choose whether they want the coverage, rather than having it forced on them by Congress.

Any of these proposals, if adopted, would be preferable to the current law and I would encourage my colleagues to support any one of them.

Mr. President, may we have learned from this experience of the passing of this catastrophy of cost, confusion, and coercion that ultimately the best medicine for our people may just be for the Members of Congress to stop the remedies, stop the remedies, of Government inteference.

Mr. President, I have always believed that in terms of adding more government intervention that we should be moderate.

Mr. President, the history of the last year and previous years tells us that this body is liberal in its willingness to use the force of government to dictate the affairs of our people.

Mr. President, during the past years that I have been interested in politics. I have repeatedly said stop the government remedies; stop trying to interfere with people; leave them alone.

Mr. President, medical services are like all scarce resources, there are only two ways to allocate them: One is by the whips and guns of government; the other by the volunteer action of free people through free institutions.

Mr. President, history shows us that the more people respect private ownership and the rule of law, the better the standard of living and the more respect for human rights people enjoy.

Mr. President, this brings me to conclude that my vote of 1 year ago against this bill was correct, if this fails. I support my respected friend, Senator MCCAIN.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired. Who yields time?

Mr. MCCAIN. Mr. President, I yield 2 minutes to the Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. The Senator from Rhode Island, [Mr. CHAFEE] is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, I would like to say this about the McCain package. Does it include everything we all want? No. We varied from it. Some have wanted prescription drugs. Some have wanted the part B premium with a cap on it. But the McCain package, nonetheless, has a lot of virtue to it, and it is worthwhile supporting because it does cover the hospital care and, furthermore, it has many preventive medicine aspects to it.

I would refer to the mammography portion of it, plus the Mitchell drugs, and the hospital care. But the point I should like to make is this, Mr. President. The suggestion is that somehow, if we repeal this act and step back, as Paul on the road to Damascus, we will be struck by a bolt of lightning and come up with a health care program that is accessible, it is rational, it is first rate in every respect, including economical.

Mr. President, those of us in the Finance Committee have wrestled with this problem, and so has the whole Nation. There has been conference after conference held in every section of our Nation dealing with how to obtain good health care for our citizens. There is no agreement. So there is not going to be any great magic solution somehow appear from the Pepper Commission. The Pepper Commission may be fine, but they are not going to solve these problems for us.

Thus, Mr. President, I think it is important we take this step. It is not irretrievable. It is not that we cannot retreat from it. It is a modest step, but it will achieve significant benefits for a portion of our population that deserves and needs this type of assistance.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. MCCAIN. Mr. President, I yield myself whatever time I need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MCCAIN. Mr. President, almost 10 hours ago in my opening remarks I stated that I felt we were on the verge of something very unusual in the history of this body, that is, that we were going to either dramatically restructure or repeal a major benefit program which was passed by the Congress of the United States just a little over a year ago.

That is, indeed, the first time a major program has been affected that way.

We are now on the verge of ending this long day. We have disposed of most of the amendments. We have had very spirited debate throughout the day. I urge my colleagues before we reach final passage, either up or down, to remember that we are indeed a Judeo-Christian nation and that this Nation is founded on principles that we do everything we can to help those who are less fortunate.

I believe an outright repeal of this bill would be a serious amendment and in some respects, with all due respect to the proponents of this amendment, an abrogation of some of our responsibilities to the poor and the elderly in our society.

What I would like to do is retain blood deductible, home health, respite, mammograms, Mitchell drugs, hospice, long-term hospitalization and spousal impoverishment.

Mr. President, we can do that with $4.90 per month on Medicare part B. Yes, the costs are going to go up. Yes, there may be some increases over time in the cost of these programs even though the most expensive of those programs have been eliminated. But let us for a very modest sum give these people protection as they reach their declining years that they both want and deserve. Let us remove those that they have found too expensive and indeed in some cases unwanted or unneeded.

I appreciate the point of view of Senator DANFORTH and Senator ROTH. They make very strong and compelling arguments. I suggest at this point in time it would be far better to retain what we have and what we can have and address and move forward together in addressing the concerns of seniors in this country and that is the issue of long-term care.

The PRESIDING OFFICER. All time controlled by the Senator from Arizona has expired.

Mr. BURNS. Mr. President, I am voting against total repeal because I believe that the best option is the McCain bill. If I voted for repeal, I would be undermining several key principles outlined in my earlier statement.

Both options address the main concern of the majority of senior citizens which is repeal of the surtax. However, total repeal also takes away valuable benefits which seniors are already receiving—it rips the rug out from under them—and I do not think that is wise.

As I said earlier, the McCain proposal retains the benefits that have already been implemented and retains some of the most meritorious benefits. It is good health care policy to retain those benefits and pay for them with the part B premium paid by the beneficiaries.

If repeal passes over McCain, then I will support repeal. I believe repeal is clearly preferable to leaving the program as is.

I wanted to clarify my position given the parliamentary situation we are facing here today.

The PRESIDING OFFICER. The Senator from Delaware controls 3 minutes and 20 seconds.

Mr. ROTH. Mr. President, I want to emphasize that Roth-Danforth is, of course, our only opportunity to vote for repeal and to accomplish repeal by keeping it out of conference.

I agree with the comment made earlier that that is critically important if we do not want the same individuals

who created the problem we have now to do it once again.

To those who say that cannot happen, let me say I remember 2 or 3 years ago being a conferee in conference with the House Ways and Means Committee and we yielded to their position. The House refused to accept our yielding to their position. So I think that is proof you cannot be certain what would happen if this legislation ended up in conference once more.

Let me point out that Roth-Danforth does repeal the surtax and it does repeal the catastrophic care benefits, but it is also important to remember that it does keep the Medicaid provisions like spousal impoverishment. But what my amendment offers—and I think this is particularly important—is it offers us the opportunity to step back and take a careful look as to where we are again.

As I said earlier, we spend nearly 12 percent for health in this country—nearly twice as much as is currently spent in England. Yet, I think most of us would agree that while there are many fine attributes of our health policy, we have some very serious problems.

So that we should take this opportunity of revoking the legislation which has so infuriated our senior citizens and take a careful look as to what kind of policies they want and how can it be financed.

The one fact we have to keep in mind is that today we do not have adequate information as to what any of these programs, including those that would be covered by the McCain amendment, would cost. We have no information as to duplication, but we do know that nearly 18 million of the 36 million senior citizens have some kind of catastrophic coverage. It is important, before we move in this area, that we find out what that coverage is so that we can develop the kind of program that will serve the maximum number of people.

Mr. President, the American people have spoken. The House has listened. It listened by a vote of 360 to 66. I hope the Senate will do the same.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time for both sides has expired.

The question is on agreeing to the Roth-Danforth amendment.

Mr. ROTH. I ask for the yeas and nays.

Mr. ROCKEFELLER. Mr. President, I yield 3 minutes from our time on the bill to Senator BYRD of West Virginia.

The PRESIDING OFFICER. The President pro tempore, Senator BYRD, is recognized for 3 minutes, the time being subtracted from the time of the Senator from West Virginia on the bill.

Mr. BYRD. Mr. President, I regret that the Senate has spent the entire day trying to eliminate or modify the catastrophic health law which the Congress passed with such fanfare and widespread support only a year ago. I am not in favor of repeal of catastrophic health coverage, and although I have indicated by my votes today that I am willing to look at alternative means of financing these benefits, the bottom line is that any modification of this program, much less repeal, will result in the loss of benefits to the elderly and will hurt many seniors in West Virginia.

I believe that repeal of this program would be a serious mistake. There are many in West Virginia who desperately need the hospital coverage, the drug benefit, and the physician coverage that this law provides. I, too, have heard from many in my State who want this program repealed. But I think there has been much misunderstanding and misinformation about this program. Perhaps we in Congress failed to explain it fully to our constituents and thus left them vulnerable to those who are intent on selling them on the belief that all seniors would pay the maximum surtax.

What is at issue here is the impact on my State of the loss of benefits from repeal or modification of this program. Contrary to what many think, the law we passed does include coverage for long-term care—and those provisions will be wiped out under repeal and under the McCain proposal.

Many—I would hazard a guess, most elderly—need coverage for prescription drugs. As our distinguished colleague from Massachusetts [Mr. KENNEDY] pointed out earlier today, prescription drug coverage is the benefit seniors say they most want and is the benefit that is not available from private insurers.

Most of the proposals to salvage some benefits retain coverage for hospitals. That is good, because the elderly are hospitalized more often than other members of the population. But they also have to see doctors more often, too—and repeal would eliminate coverage for that. I think this is a shame.

Repeal would eliminate coverage for mammograms for elderly women—a benefit that could save lives by identifying breast cancer early. It would eliminate home health care—which is much cheaper than hospitalization—respite care, coverage for immunosuppressive drugs for transplant patients, the blood deductible, and expanded hospice coverage.

West Virginians need these benefits—perhaps even more than the elderly in other States. There are more elderly and more poor elderly in West Virginia than in virtually all other States in the Union. This is a sad day for the Congress and will be an even sadder day for this country's elderly when our work on this bill is done.

Mr. HEINZ. Mr. President, we have arrived at the point where the Senate must now make a vote of conscience. We have, as of this moment, performed major surgery on what was a deeply flawed Medicare Catastrophic Coverage Act. We have eliminated the surtax on supplemental premiums. We have eliminated the most duplicative benefits. We have cut back where there were fears of inadequate controls on costs. What we are left with is the McCain amendment or, as the Danforth-Roth amendment proposes, complete repeal of every single benefit enacted last year. That includes not only the hospital catastrophic protection that most people want but the expressions of home health and respite care that we all know are needed and necessary. It would include the repeal of the anti-spousal impoverishment protections that will prevent the cruelest choices of all. That is what the Danforth-Roth amendment would do. The Danforth-Roth amendment will inflict unconscionable damage on Medicare beneficiaries and loved ones. And the only responsible principled choice of the Senate is to reject it.

Mr. President, even as we now debate the repeal of protections against acute medical costs for America's aged, this Chamber echoes with the voices that first spoke for their enactment. These voices are many. They are the voices of the elderly poor and low income and their families. They are the voices of every American family for whom a catastrophic illness can mean untenable choices of physical health or financial ruin, of institutional care or debilitating emotional stress and fatigue. They are the voices of the frail elderly who need often only modest support to avoid institutionalization and to keep their independence and dignity.

Over 2 years ago, Secretary of Health and Human Services, Dr. Otis Bowen, focused the public consciousness on the devastating potential of an acute long-term illness for our Nation's elderly. Medicare, for all the program pluses, left the beneficiary vulnerable if struck down by a so-called catastrophic hospital stay. Secretary Bowen rightfully recognized that the suffering associated with a catastrophic illness extended beyond the patient. Families also bore the emotional pain and too often broke under the financial burden.

The Secretary's 1986 report was the genesis of legislation that gave America's aged and their families a last full measure of security in a broad package of catastrophic coverage under Medicare.

Mr. President, earlier this week our colleagues in the House rolled up this

rug of protections on the run and put it in permanent cold storage. It is critical for our debate today to recognize exactly what will be lost if the Senate concurs with that vote.

What will be lost is the McCain bill. What we will have is the one piece of legislation that the elderly want which is fiscally responsible, and which, as good health policy, keeps the antispousal impoverishment and home health benefits that are the hope of a desperately needed long-term care foundation. What is more, without the McCain bill, we will sacrifice millions of patients and their families to the financial jaws of long-term hospitalization. We will withdraw life-enhancing family supports in home health benefits and respite care. We will force millions of seniors to once more choose between necessary prescription drugs and paying for rent, food, or heat.

And if we vote total repeal, we send a message to thousands of terminally ill Americans that Congress now devalues the dignities and comfort of hospice care.

Completely repealing the Catastrophic Health Care Act means the best benefits in this program will be bagged, tagged, and deep-sixed. It means a lot of truly needy people will be driven into nursing homes prematurely for lack of services in the community or when a postponed surgery turns an acute illness into a chronic condition. And it means this body, Mr. President, supposedly elected to act for the public good, will have turned our backs on that responsibility.

Some of our colleagues say the program is so fatally flawed that repeal is the only means of reform. I think repeal instead of reform is a copout; we ditch the baby with the bath water rather than change the diapers back in the nursery. I fear those who favor repeal would sacrifice the established critical needs of the silent 95 percent of this Nation's seniors to the fire of a very vocal and politically savvy 5 percent.

Our colleagues are aware of the special concerns I have had that any reform package preserve the prescription drug benefit. Outpatient prescription drug coverage is perhaps the most far-reaching of all the catastrophic benefits. It is the only long-term care benefit in the new law, and as such represents a step toward a solution to other long-term care concerns.

This benefit not only would alleviate the financial burden of medication—costs which can run in excess of $120 per month for 5 million Medicare recipients. But it also includes a drug utilization review screen to prevent such problems as harmful drug interactions. As I said earlier tonight, this screen, in essence, is a drug safety program that will help every beneficiary, regardless of whether they exceed the deductible limit.

But I know many Members of this body have been unwilling to agree with me, at least for now, on this point. While I feel that is unfortunate, I am not willing to sacrifice the whole over a battle for even this very critical part.

Mr. President, our purposes here today should be to help people, not to hurt them. Our job today is to act, not to overreact. That is why we must defeat the Danforth-Roth amendment.

I will vote against this effort to turn our backs on our elderly and disabled and I urge my colleagues to do the same.

Mr. ROTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Delaware. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. MATSUNAGA] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—26

Biden	Ford	McClure
Boren	Graham	Nickles
Boschwitz	Gramm	Pell
Bryan	Helms	Reid
Coats	Hollings	Roth
Danforth	Humphrey	Shelby
Dixon	Johnston	Symms
Domenici	Kasten	Wallop
Exon	Mack	

NAYS—73

Adams	Glenn	Mikulski
Armstrong	Gore	Mitchell
Baucus	Gorton	Moynihan
Bentsen	Grassley	Murkowski
Bingaman	Harkin	Nunn
Bond	Hatch	Packwood
Bradley	Hatfield	Pressler
Breaux	Heflin	Pryor
Bumpers	Heinz	Riegle
Burdick	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Kassebaum	Rudman
Chafee	Kennedy	Sanford
Cochran	Kerrey	Sarbanes
Cohen	Kerry	Sasser
Conrad	Kohl	Simon
Cranston	Lautenberg	Simpson
D'Amato	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Thurmond
Dodd	Lott	Warner
Dole	Lugar	Wilson
Durenberger	McCain	Wirth
Fowler	McConnell	
Garn	Metzenbaum	

NOT VOTING—1

Matsunaga

So the amendment (No. 989) was rejected.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, today we are reconsidering a program passed by the 100th Congress to provide coverage to the Nation's elderly for the costs of catastrophic illness. At that time, Mr. President, we thought we were doing a good thing. We wanted very much to ensure that no senior citizen, or his or her spouse, would ever become impoverished because of catastrophic illness. The Medicare Catastrophic Coverage Act of 1988 was intended to achieve that goal, and the Congress acted to address this important need.

At that time, Mr. President, I had serious reservations about the financing of the program. After the program was enacted, and it became clear that many of the Nation's seniors simply did not want the program, either because of its financing or because they already had similar private coverage, I cosponsored a bill introduced by Senator McCAIN to delay the program, including the surtax and certain benefits, for 1 year, so that we could carefully review and improve the program.

Mr. President, just a few moments ago, I voted to repeal this new program. I did so because I was determined to respond to the concerns voiced by so many of my constituents in Rhode Island that the catastrophic coverage program, in its present form, is simply not acceptable to them. The parliamentary situation before the vote on the Danforth-Roth amendment was that no changes had been made in the program, and that is simply not what the people of Rhode Island want. The repeal vote having failed, Mr. President, I intend to vote in favor of Senator McCAIN's bill, which provides the Senate with its very last opportunity to make needed changes and improvements in this program.

Mr. President, I support Senator McCAIN's proposal for two very important reasons: It repeals the income tax surtax which so many Rhode Islanders oppose, and it retains some of the important benefits of the original program. I believe that the McCain bill is a dramatic improvement of a well-intended program, and will address many of the concerns of the senior citizens in Rhode Island and across this Nation.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, will the Senator from New Jersey yield to permit the distinguished Republican leader and I to join in making an announcement regarding the discussions we have been having on the reconciliation bill and the schedule for the remainder of today and tomorrow?

Mr. BRADLEY. Certainly.

Mr. MITCHELL. I thank the Senator for his usual courtesy.

Mr. President, the distinguished Republican leader and I, along with Senators BYRD, HATFIELD, BENTSEN, PACKWOOD, SASSER, and DOMENICI, have just met for approximately 1 hour and 15 minutes to discuss the process by which we could proceed to consideration of and disposition of the reconciliation bill.

Following the promise that I made last evening, we had several discussions during the day, and the distinguished Republican leader had consulted with several of his colleagues. I can report to the Members of the Senate that the meeting was very open, frank, thorough, and from my perspective encouraging.

We do not yet have an agreement, but all of those who participated agreed without exception that we are moving toward an agreement with a sufficient degree of progress that justifies a further meeting tomorrow morning, that to include members of the House leadership of both parties.

Accordingly, it is my judgment, following that meeting and discussions with the distinguished Republican leader, that we should complete action on the catastrophic bill this evening and then recess until tomorrow morning, at which time the Senate will be in session and consider the Interior appropriations conference report while the meeting I have just described occurs in the hope and expectation that that meeting will result in agreement which we could then be in a position to announce to the Members of the Senate.

I emphasize that we have not yet reached an agreement, but, as I also stated, the progress was sufficiently encouraging for all of us to believe that this will be the best and most wise course of action. I cannot predict the time that will be involved in this. It is my intention that we are going to meet at 9:30 in the morning. It is my intention to have the Senate come in at 10 and go to the Interior appropriations conference report. The distinguished chairman of that committee has indicated to me that he anticipates a couple of hours. I do not see the chairman here on the floor, but he advised me he anticipated a couple of hours on that bill. By that time we should be in position to make a further announcement.

I will be pleased now to yield to the distinguished Republican leader for any comment that he may have in this regard.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I thank the majority leader.

I think the majority leader has stated correctly we have had a number of meetings today and I have met with a number of my colleagues and members of the administration.

I think we have one common interest, and as Senator BYRD indicated, we are going to destroy the Senate unless we get a handle on reconciliation. I am not blaming anyone. It has happened under the leadership of both parties. It has happened in the committees. We become like a State legislature; we have one big ball of wax every year. We are not protected by cloture waiver in the bill. You take it or leave it. You have a time limit. I think there is a genuine interest in trying to come to some resolution.

As I indicated to the majority leader, those of us on this side, and I think some on the other side, have another interest. Capital gains is of deep interest to the President of the United States. He went all through the campaign last year. It has been in the process all this year. The President obviously feels that is very important. It is very important.

So we have been trying to figure out some way to have a clean reconciliation bill and still ensure an opportunity to take up the capital gains matter at some appropriate time and hopefully pass it in the Senate.

But I guess I have said enough as far as specifics, but the point is we do not have any agreement yet. But we are all in good faith, and I believe every Senator would be saving several days in conference, or whatever, if we can come to some resolution.

Having said that, I told the majority leader I do not want to mislead anyone. In my position I have the responsibility also to the President of the United States, and I intend to carry that out.

So it is my hope that we can meet in the morning. Some of the Republican leaders are all over America, and we are trying to get them back by tomorrow morning. So I hope you will bear with us in the morning while we meet again and try to see if we can get to some resolution. It may take all day tomorrow.

I think in the long run it has been worth the effort, and we are prepared, as I told the majority leader, in good faith to see what we can do. If we cannot do it, then we have to, I guess, go the route of the reconciliation, go to conference with the two rather large reconciliation bills which might take 30 days or longer. So, I think if it works as we hope, we will meet tomorrow morning at 10, have debate on the Interior appropriations conference report while it is going on. Maybe we will be in a position by noon or shortly thereafter to make some announcement.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Accordingly, Mr. President, I understand that the amendment by the Senator from New Jersey is to be accepted by the managers, following which there will be debate and one further rollcall vote on the underlying McCain bill. That will be the final rollcall vote this evening.

The Senate will be in session at 10 a.m. tomorrow and going shortly thereafter to the Interior appropriations conference report.

Mr. BIDEN. Mr. President, will the leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. BIDEN. Does the leader anticipate votes on the Interior appropriations bill?

Mr. MITCHELL. Yes, I believe there will be at least two votes.

Mr. BIDEN. I saw a finger go up to my right.

I thank the Senator.

Mr. MITCHELL. I thank my colleagues, and I thank the Senator from New Jersey.

Mr. President, I yield the floor.

CATASTROPHIC INSURANCE REFORM

The Senate continued with the consideration of the bill.

AMENDMENT NO. 990

(Purpose: To reestablish the respite care benefit in 1991 with modifications).

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposed an amendment numbered 990.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . RESPITE CARE.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the amendments made by subsections (a), (b), (c), (d), and (e) of section 205 of the Medicare Catastrophic Coverage Act of 1988 shall take effect and apply to items and services furnished on or after January 1, 1991.

(b) AMENDMENT TO PAYMENT THRESHOLD.—

(1) IN GENERAL.—Paragraph (4) of section 1961(II) of the Social Security Act (42 U.S.C. 1395x(II)), as added by section 205 of the Medicare Catastrophic Coverage Act of 1988 is amended to read as follows:

"(4) The 12-month period described in this paragraph is the 1-year period beginning on

the date that the Secretary determines that a chronically dependent individual has incurred out-of-pocket part B cost sharing in an amount equal to $1780 in 1991 and equal to an amount in each succeeding year which is equal to an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeding year, in 5.5 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year incurring such amount. In the case of an individual who qualifies under this paragraph within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to items and services furnished on or after January 1, 1991.

Mr. BRADLEY. Mr. President, I propose a small but, in my opinion, significant addition to the legislation now before us. This amendment salvages at least part of the respite care benefit that was enacted last year.

Now, some may ask, why the fuss over this very small benefit. Before I discuss my views, I'd like to take a moment to explain to Members of this body, what respite care is. Respite care is the provision of a little relief to family caregivers who are spending their lives caring for their chronically ill spouses or parents. Often, that family member is the only thing preventing the chronically ill person, who is living at home, from entering a nursing home.

The respite care benefit provides family support of 80 hours a year to help the caregiver in the home. I want my colleagues to be sure they heard that correctly: 80 hours a year. This is no runaway benefit that will cost hundreds of billions of dollars a year. But it will provide a respite from the incredible responsibility of caring for someone with chronic illness.

The catastrophic bill provided this benefit to about 300,000 families a year. Families who had an elderly member with serious chronic conditions and very high health care costs exceeding the $1,300 cap on doctor bills or the $600 prescription drug cap would be eligible for this new benefit. Except for people already in nursing homes we are talking about some of the sickest older Americans—and those with high health care costs.

Mr. President, I realize that the catastrophic program will have to be cut back significantly if it is going to continue in any form. This is the last amendment that can be offered to this bill now before us. I hope that we do not terminate this valuable program.

Mr. President, the amendment continues the respite benefit in a little more limited form than what was in the underlying catastrophic bill but even in this scaled-down form, about 60,000 Medicare beneficiaries a year will be helped; 60,000 of the very frail elderly, who remain in their home because of the tremendous commitment their family or loved one has made to them.

Mr. President, if we do not reinstate the respite benefit in this proposal, we are missing an opportunity to really reach out and give a hand to some very needy citizens in this country.

Mr. President, I understand that the managers of the bill are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. ROCKEFELLER. Mr. President, on our side, the amendment is acceptable.

Mr. McCAIN. Mr. President, very briefly, I would like to thank the Senator from New Jersey, who has been a leader on this issue, for his very helpful contribution. Currently, due to the changes in the law made by the pending bill, the important respite benefit only applies to those qualifying for immunosuppressive and home IV drugs. Respite is important. It gives some assistance to those families caring for very ill family members.

This amendment will provide adequate protection in this area. There is enough money in the program to pay for Senator BRADLEY's proposal. For the rather nominal amount of money it would cost, we provide a good and important benefit.

I extend my appreciation to the Senator from New Jersey for proposing this amendment. We will gladly accept it on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey [Mr. BRADLEY].

The amendment (No. 990) was agreed to.

Mr. ROCKEFELLER Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I rise today to support the legislation offered by the distinguished Senator from Arizona [Mr. McCAIN].

Last year, I voted for the Medicare Catastrophic Coverage Act because I believed it contained benefits that were greatly needed and desired by millions of senior citizens in Kentucky and across the Nation. Senior citizens had informed me of their concerns regarding the catastrophic cost of prolonged illness or injury on Medicare recipients. I believe that coverage of long-term hospitalization, home health care, respite care, hospice care, and protection from spousal impoverishment, and all benefits of the act, made significant progress toward easing the concerns of seniors regarding the cost of extended illness. The Congress developed a financing mechanism which we believed would pay the costs of the new benefits without imposing huge financial burdens on Medicare recipients or increasing the Federal budget deficit. As a matter of fact, several experts informed me that over two-thirds of my State's senior citizens would pay less than $9 extra per month in the first year for the new catastrophic benefits. We also believed that this new Medicare coverage would allow senior citizens to drop their private Medigap insurance, thereby saving them money. For these reasons I supported the act when it was considered by the Senate.

Let me reaffirm that I still support the concept of the act which was to provide needed protection from the high costs of acute catastrophic illness to Medicare recipients.

I have, however, heard from my senior constituents that they have some serious concerns with the act as it is currently written. They informed me that despite wide media coverage of the legislation as it was being considered, they did not know all the provisions of the act and its effect on them until it had been signed into law. Many senior citizens believed that the act provided coverage for their true catastrophic need—coverage for long-term care. As we all know, while the Medicare Catastrophic Coverage Act does provide limited benefits for long-term coverage, it does not cover the cost of long-term custodial care in a nursing home or at home. Other senior citizens informed me that they already had the coverage provided by the act, at a lesser cost, and because the act is mandatory they were paying for the same protection twice. Finally, senior citizens told me that they had some serious concerns with the financing of the new benefits.

The new benefits were paid for by both a flat premium and a progressive supplemental premium. The supplemental premium is based on the idea that those with a higher income will pay more than those with lower incomes. I do not believe that seniors resent having to pay for their health care. Seniors are not a group of greedy malcontents who want others to pay the costs of benefits targeted only for seniors. I think they would be willing to pay a reasonable price for benefits that truly meet their catastrophic health care needs. What they resent is paying twice for the same benefits or paying for benefits they don't want or need.

Mr. President, as we all know, there has been a groundswell of opposition to the Medicare Catastrophic Coverage Act as it is currently written. Some senior citizens have called for its outright repeal while others want the financing or benefit package changed.

Earlier this year my distinguished colleague from Arizona Senator MCCAIN, introduced S. 335 which would have maintained the benefits already available to senior citizens while delaying the other benefits and the supplemental premium for 1 year to give Congress the opportunity, in a reasoned and deliberate manner, to address the concerns senior citizens have with the act. I am proud to say that I cosponsored S. 335 and voted for it twice here on the Senate floor. Unfortunately a majority of the Senate decided not to support S. 335. The Senate Finance Committee tried to craft changes in the act that were acceptable to the majority of the committee but could not do so. Senior citizens continued to express their concerns with the act and 2 days ago the House of Representatives responded by repealing the Medicare Catastrophic Coverage Act.

I do not believe that total repeal is in the best interests of Medicare recipients in my State or anywhere in the country. The act for States like mine where there is a large number of lower income senior citizens was really quite a good program. Rather I am a cosponsor and strong supporter of Senator MCCAIN's proposal to scale back the benefits but continue to provide important protections against catastrophic illness. Senator MCCAIN's proposal maintains many important benefits such as long-term hospitalization, spousal impoverishment protection, expanded home health and hospice care, respite care, mammography screening, coverage of the cost of immunosuppressive and home IV drug therapy and the Medicaid buy-in and pregnant mothers and infants program. It returns coverage of skilled nursing care to prior law and provides seniors with protection that will assure them access to the Medigap coverage they had prior to the enactment of the Medicare Catastrophic Coverage Act. The supplemental premium, part B out-of-pocket cap and outpatient prescription drug benefits are repealed. The retained benefits are paid for with the catastrophic flat premium.

I believe that the retention of these important catastrophic benefits while reducing the overall cost of the program will address the concerns of senior citizens who thought that the Medicare Catastrophic Coverage Act was too expensive. Furthermore, it maintains the semblance of a catastrophic protection program for those Medicare recipients who are not affluent and for whom the prospect of catastrophic illness is a pretty scary thought. I urge my colleagues to support the distinguished Senator from Arizona's proposal.

Mr. KOHL. Mr. President, few issues have fueled more controversy, more editorials, more misinformation, more generational slurs, and more political posturing than the Medicare Castastrophic Coverage Act. Cited as the most significant expansion of Medicare benefits since Medicare establishment 20 years ago, this bipartisan proposal that was signed into law by President Reagan lies before us today on the brink of total repeal.

I was not a part of this body when the law was passed, but both my distinguished predecessor, Senator Proxmire, any my colleague, Mr. KASTEN, supported the expansion along with 84 other Senators. I ask unanimous consent that, at the end of my statement, a recent editorial by my much esteemed predecessor be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KOHL. Mr. President, it is my strong sense that this program was designed to address a very real need and that in the course of numerous hearings that were held, there was substantial testimony that documented that need. Over a period of 18 months of House and Senate consideration in the last Congress, millions of postcards and letters poured into congressional offices at that time, asking elected representatives to support the Catastrophic Coverage Act.

Well one of the things that I have already learned in my short tenure here is that the legislative process involves a lot of negotiation. To get something done, everyone usually has to give a little here and give a little there. It is the balancing of all concerns, the identification of common goals and needs and then compromise, that allow us to move this country forward. Therefore it is no surprise that everyone is not totally pleased with the final product. And for good reason.

Like all of my colleagues, I have heard from thousands of senior citizens in Wisconsin who, for one reason or another, do not like the current law. Some do not like the nature of the surtax, arguing that it is unfair because seniors pay taxes that go to education, even though they themselves do not have children in schools; many of them want the benefits if they are financed through the General Treasury, increases in FICA taxes on working Americans, or through a whole host of new tax measures. Some think the surtax is just too expensive and most incorrectly believe that they would be paying the maximum $800 a year. Some do not like the mandatory nature of the program, arguing that they have duplicative coverage or that the Federal Government is forcing them to pay for something that they just do not need. Some would rather see Congress enact a comprehensive long-term care plan or national health insurance in lieu of taking this piecemeal approach. And others just want the whole thing repealed.

And I agree with many of those concerns. If I had my own personal preferences, I believe we need to control health care costs in this country and adopt a national health policy that provides universal access to Americans of all ages. But I understand that that will not happen overnight, and that the original authors of this legislation were trying to provide the most comprehensive expansion possible under the deficit neutral terms of the administration.

I, too, believe we need a comprehensive long-term care plan that would provide both home- and community-based and nursing home care for our elderly and disabled. But I am also aware the cost of such a program would be at least $45 billion each year and that it would be irresponsible to create such a massive new program with our current deficit and with no cost controls on home and nursing home care.

And I agree that $800 a year is extravagant for the actual benefits that would be provided to those few Americans that would pay the maximum supplemental premium. Unfortunately, the vast majority of elderly would not pay any supplemental premium and many of those individuals have certainly been misled during this debate.

I am less sensitive to the argument that all new Medicare expansions must be funded by the entire population. The perception seems to be that seniors are picking up the whole tab for Medicare A and Medicare B. To the fiscal contrary, Medicare A is being financed by current wage earners; the reserves in the trust fund contributed by today's retirees were depleted many years ago. The fund is solvent, for the time being, not because of interest earned over the years, but because of the increased amount of wages subject to the HI tax and because of the increased percentage paid by wage earners today. The demographic reality is that when Social Security passed in 1935, the average American lived to be 58 years old. We now live to be 74. While that increased longevity is a blessing and something for which we are all grateful, it means that those contributions over the years—in both Social Security and Medicare part A—simply have not stretched as far as we planned back then. Likewise, the monthly premium paid by Medicare B participants covers only 25 percent of the cost of that program. The other 75 percent comes from general revenues, which means a broad tax base. So, in reality, working families with small children are indeed sharing the burden of care for their retired counterparts.

And I am concerned with the Medigap situation. There is just conflicting information with regard to what some

of these policies cover. While millions of elderly are paying for supplemental policies, it is far from clear how many "gaps" those policies actually fill. And, despite what has actually happened since enactment of the law, insurance companies have a responsibility under law to inform their beneficiaries of duplication and to pass along those savings. Some of those savings have been minimized by the exorbitant premium increases passed along to the elderly in January of this year. But I am not altogether convinced that a good faith effort has been made by all of these policy providers to actually comply with the requirements of the catastrophic law. Because of that, there are millions of senior citizens who believe they are covered for benefits, but simply are not. To me, it is one of the greater injustices that so many elderly are being taken advantage of by their private sector providers. It is an issue I intend to explore through my service on the Special Committee on Aging.

So today we are faced with very, very difficult choices. I have told my constituents that I would support a bipartisan, good faith effort to repair the flaws in the catastrophic law. I have promised to give very careful consideration to all proposals and to support repeal only as a last resort.

I am pleased with the thoughtful proposals before us and the great leadership that has been provided by both sides of the aisle in the Senate Finance Committee.

Today I will support the amendment offered by our colleague from Massachusetts, because it is the only opportunity to save the prescription drug benefit. Only 3 out of 10 elderly have any coverage for outpatient prescription drugs. And with those costs escalating at a rate much higher than the consumer index, I think prescription drug costs will become more and more of a burden for elderly on fixed incomes.

I will oppose our colleague from Florida's proposal to make the program voluntary if the Secretary determines that the beneficiary has equal coverage from some other source. While I agree with my colleague's desire to give people options, I do not think that his proposal is workable as written. It creates another level of bureaucracy and paperwork that we simply don't need.

I will oppose the motion to finance the catastrophic benefits by removal of the "bubble." While I appreciate the desire to redistribute the cost-sharing of this program, I have three fundamental concerns with the Harkin-Levin amendment. First, this is a tax increase and the President has made it clear that he will veto any proposal that contains such a provision. Second, it is altogether unclear that the proposal could be made to work. The authors have been unable to work the numbers out. My sense is that the Finance Committee could have similar problems. And finally, I am disturbed by raising general revenues and earmarking them for this purpose.

I will very reluctantly oppose the amendment offered by Senators DURENBERGER and MITCHELL. I believe it is a very good, bipartisan, and thoughtful attempt to salvage this legislation, and I support that goal. At the same time, it is clear that the majority of the elderly at this time are unprepared to pay this surtax. Despite the fact that the cap on the supplemental premium would be $200 and despite the fact that only 14 percent of the elderly would even pay that much, it is my sense that the very nature of the surtax is fundamentally offensive to many of my constituents. I believe that, in the future, expansions of Medicare will hinge partially on the beneficiaries' willingness to bear a large share of the cost. But today, because there is a perceived injustice in the surtax, I am simply unable to support this amendment.

With regard to the amendment proposed by our colleagues from Michigan and Rhode Island, I am supportive of the inclusion of catastrophic coverage for out-of-pocket doctor bills. This is something that is missing in the McCain approach. And while our colleague from Arizona quotes polls that say that the elderly do not want nor need this benefit, I concur with our colleague from South Dakota, Senator DASCHLE, that the results of polls largely depend on how the question is asked. Medicare part B growth has not been contained. Without some benefit for catastrophic physician bills, the elderly are going to be charged increasingly high prices that are in many ways beyond their control. And I think we need to do everything we can to provide options for coverage. The voluntary option to purchase insurance for prescription drugs, respite, mammograms, hospice, and skilled nursing facility care is desirable. And as I understand this amendment, it is a truly voluntary program that would cost approximately $15 per month. These are, by and large, benefits not presently covered by the majority of private sector plans. One of the most significant losses in all of the amendments offered today is that of the skilled nursing facility benefit. While there have certainly been problems in the administration of the limited nursing home benefit under Medicare, I think elimination of the 3-day hospitalization requirement and the extension from 100 days to 150 days are desirable benefits. These provisions which were included in the catastrophic bill were first steps toward long-term care and I believe their repeal in all of the amendments, including the McCain amendment, is a step backward. While I share the concerns expressed by many of my colleagues regarding the actuarily soundness of this program and the adverse risk selection, I believe that the proposal is worthy of consideration in conference with the House.

I will support the McCain proposal. As I have indicated earlier, I regret the deletion of the physician out-of-pocket cap, the comprehensive prescription drug coverage and the expansion of the skilled nursing home benefit. But given the nature of our dilemma, and the desirability of eliminating the surtax, the proposal is sound and worthy of support.

Because of the valid alternatives offered by the previous amendments, I do not intend to support either the delay of implementation of the Medicare Catastrophic Coverage Act, nor the total repeal of the law. To extend this debate further, into next year's political election cycle, would not yield more thoughtful alternatives. I am confident that all Members in this body have put forth their best efforts to fix the current law. Likewise, I cannot in good conscience repeal an act that—while imperfect—addresses the real and serious needs of millions of Americans. It is my sincere hope that the changes made here today are solid footing for a sound reform of this act.

These have been difficult decisions and I have weighed very carefully the advantages and disadvantages of each proposal. Into each decision I have factored the voices of my constituents. While they have not spoken in a uniform voice, they have advocated change. I have done my utmost to best represent their collective concerns.

I thank my colleagues for presenting us with the wide range of alternatives that has enabled me to do so.

EXHIBIT 1

[From the Superior Telegram, Sept. 20, 1989]

ELDERLY FORCED TO MAKE FATAL CHOICES

(By William Proxmire)

A surprising number of Americans would rather die than pay more in taxes. And I really mean die.

Last year Congress finally enacted what the American Association of Retired Persons believed America's elderly need urgently: full medical care for when we are older and suffer a devastating illness that could not only impoverish us but also take our lives.

Now many of the elderly are emphatically telling Congress that they don't want catastrophic care if they have to pay taxes for it.

Nearly 60 percent of the elderly eligible for catastrophic care would be exempt, because of their low income, from paying even 1 cent of the most controversial catastrophic health care tax—the "supplementary premium."

This tax phases in as a percentage of the federal income tax liability of the care beneficiary. A single person with an income of $12,376 would pay no supplementary premi-

um tax. A married couple with an income of $17,514 would also be exempt. The tax gradually rises to a maximum of about 2 percent of taxable income. For instance a single beneficiary with a taxable income of $42,840 would pay $800 in the supplementary premium tax next April 1990 on 1989 income. By 1993 the maximum tax would rise to about 2.3 percent of taxable income.

This is what the elderly so strongly oppose. Congress believes that the serious budget crisis would not permit the government to assume the cost catastrophic health care for the elderly out of current revenues. To do so would increase an already massive deficit. Since the benefits would only be available to the elderly, Congress reasoned that the elderly should pay for it.

The highly respected American Association of Retired Persons, the principle lobbying organization for senior citizens, agreed. Now it is clear that a large proportion of the elderly who would both benefit and pay more in taxes with this legislation strongly disapprove of it. The taxpayers' revolt has been so potent that many members of Congress, who supported the legislation when it was enacted in 1988, are vigorously calling for its repeal.

Here is a dilemma that will be with Congress for many years. Medical cures that seem almost magical for the ills that will befall most of us, if we are lucky enough to survive into our old age, are coming on with a rush. Just in the past 15 years, life expectancy at birth has increased by almost four years. The medical profession has cancer and heart disease on the run. A generation from now there could be tens of millions of George Burns, 90 years old or older in America.

The cost, which will rise each year, is as horrendous as the medical technology is marvelous. The elderly like to live longer, but they hate paying for it. Advancing medical technology is offering them a contract they won't sign. They also vote like no other population group so Congress may have to repeal the catastrophic care bill.

Congress' principle tax-writing committee—House Ways and Means—has proposed a compromise. They would cut the top surtax rate in half on the elderly who take catastrophic coverage. They would also give the elderly the choice of completely avoiding the surtax by giving up catastrophic coverage and also losing care by physicians and other medical services.

The elderly would have a choice. If an an elderly person you'd rather take a chance on dying than pay more taxes, Congress may say, "Be our guest." The powerful political message here is that millions feel far more deeply about raising taxes than members of Congress realize. Congress is getting that message loud and clear.

William Proxmire, former chairman of the Senate Banking Committee, retired last year after 31 years in the Senate.

Mr. HATCH. Mr. President, I am pleased to rise in support of Senator MCCAIN's proposal which retains the flat premium and provides those benefits which can be covered by such a premium. And, it is astounding how many benefits can be retained.

What is retained is:

The extended inpatient hospital benefit;

The blood deductible;

The revised home health benefit which expands benefits from 21 to 38 days;

The respite care benefit which provides chronically dependent beneficiaries up to 80 hours of in-home services;

After 1 year, the mammography screening program;

The coverage of certain drugs, including immunosuppressive drugs and home IV drug therapy; and

The expanded hospice benefit.

All of this is financed by the existing flat premium which this year is $4 and rises no higher than $4.90 in fiscal year 1990; $7.40 in fiscal year 1991; $9.20 in fiscal year 1992; and, $10.20 in fiscal year 1993.

In fiscal year 1989, the benefits will cost $1.06 billion.

In fiscal year 1989, the flat premium raises $1.165 billion in total income.

The difference between the revenues and costs are +$150 million.

Over 5 years, the benefits will cost approximately $9.023 billion.

Over 5 years, the flat premium raises $13.477 billion.

Over 5 years, the difference between the revenues and costs is +$4.454 billion which is a comfortable cushion. Or, the Secretary also has the authority to reduce the flat premium if there are excessive revenues.

Mr. President, I believe this is a workable proposal that we in the Senate should support. It is fiscally responsible.

We keep the flat premium and provide seniors with the benefits that $4 will cover.

The McCain bill is sound health policy and is a package of catastrophic benefits that seniors will be willing and able to purchase at an affordable cost.

The seniors in America know about the McCain amendment. The seniors in America want the McCain amendment. I am pleased to support the McCain amendment. I am pleased to work with Senator MCCAIN since we started this effort in May. Mr. President, the McCain legislation is understood and is wanted by seniors.

Mr. GLENN. Mr. President, I rise in support of the pending legislation, S. 1726, the Catastrophic Insurance Reform bill, which appears to be our best hope to maintain some of the important benefits contained in the Medicare Catastrophic Coverage Act of 1988.

During debate on S. 1726, I supported an amendment offered by Senator DURENBERGER and a bipartisan group of Senators, and I regret that it was defeated. This amendment would have achieved two important goals—retention of many of the important benefits contained in the Medicare Catastrophic Coverage Act of 1988, and reduction of the supplemental premium. It was a good compromise between the current legislation and repeal, which is favored by a vocal group of seniors who object to the current financing of benefits.

In addition I supported an amendment offered by Senator KENNEDY which would have maintained the important new prescription drug benefit contained in current law. Paying for outpatient prescription drugs is a great burden for many older Americans, and this is a benefit for which there is little private insurance coverage. Unfortunately, this amendment was also defeated by a majority of my colleagues in the Senate.

I supported the Medicare Catastrophic Coverage Act of 1988, and I voted to opposition to repealing it. This legislation, the first major expansion of Medicare since it was enacted in 1965, was an important first step in providing catastrophic coverage for Medicare beneficiaries. It provides important insurance against catastrophic acute care and prescription drug costs.

In an effort to maintain some of the benefits contained in the 1988 catastrophic law, I voted for final passage of S. 1726, the Catastrophic Insurance Reform Act, introduced by Senator MCCAIN. This legislation retains the following important benefits contained in current law—hospitalization, the blood deductible, home health, respite care, mammography screening, and coverage of home IV drugs and immunosuppressives. I regret that it repeals the expanded skilled nursing home benefits, the outpatient prescription drug benefit, and the cap on part B out-of-pocket expenditures. These reductions in benefits were made so that the supplemental premium, which has received so much opposition, could be repealed. The remaining benefits would be financed by the existing flat monthly part B premium.

The House of Representatives has voted to repeal the catastrophic legislation, so this issue is still not finally resolved. It is my sincere belief that the elderly of this Nation will be best served by far if the House recedes to the legislation that was just passed by the Senate.

Mr. ROCKEFELLER. Mr. President, a great deal of debate and introspection has brought us here today. The Medicare Catastrophic Coverage Act—the most sweeping expansion of benefits in the history of the program—is at a crossroads. Will it be repealed, as we watched the other body vote earlier this week? Or will we search for what was best in this program and make a constructive effort to move ahead with that?

Let's remember what this program is about, and why the Congress and President Reagan created it with such enthusiasm less than 2 years ago.

The catastrophic program provides coverage for unlimited hospitalization; unlimited physician services after a catastrophic deductible; important new long-term care benefits, including skilled nursing home care and home

health and home respite care; new coverage for outpatient prescription drugs; and the first preventive care benefit ever—mammography screening for breast cancer.

These benefits were enacted because millions of seniors could not afford to buy private insurance protection against serious illness. Millions more have purchased inadequate policies—often multiple policies—which don't meet basic minimum Federal standards.

Yes, and some retirees are fortunate enough to have purchased excellent insurance against catastrophic coverage, or to have such coverage purchased for them. For these people, the catastrophic law provided protections against double coverage, so that nobody would be forced to buy duplicative insurance.

In fact, most of the public debate over catastrophic has been on the financing, not on the benefits. We've heard from numerous aging groups and labor unions—do not repeal the benefits. In addition to the harm repeal would do to seniors—including those who are already hospitalized and dependent on the new coverage—it would establish a horrible precedent. In this era of the uninsured and the underinsured, we should not be repealing catastrophic.

Let's take another look at the financing. The supplemental premium, which was intended to be fair, is perceived by many as too burdensome. The maximum premium amount—and even amounts well below the maximum $800—has been criticized. So, in good faith, we've gone back to the drawing board.

The Finance Committee has labored for weeks, examining options for adjusting the catastrophic financing and for corresponding adjustments in the benefit package. On behalf of the committee, I can say that this task was not easy. Nor was it taken lightly. In fact, it has brought us here today.

Now, we face a range of options for modifying the catastrophic program in a manner that will be acceptable to beneficiaries and that will preserve various benefits. I commend all of my colleagues who will offer amendments today in an effort to preserve important new coverage for senior citizens. Let us not forget that this was—and remains—our primary goal. We must strengthen the Medicare program. We must take steps to meet the elderly's unmet needs, both for acute care and for long-term care services.

Do not turn your backs on the senior citizens of this country by denying them necessary coverage. Do not repeal the Medicare Catastrophic Coverage Act.

Mr. HELMS. Mr. President, on October 27, 1987, I read the following portion of a Chicago Tribune editorial into the RECORD:

> If you're over 65 or hope to be some day, or if you love someone who is or wants to be, don't be too quick to cheer for that new catastrophic health care bill speeding through the Congress. However it's being hyped, the truth is that the legislation, as passed by the House, won't protect the elderly from the devastating costs of most catastrophic illness.

Those words are just as true today as they were in 1987.

Two years ago senior Americans were led to believe that the goodhearted Congress of the United States would provide them with all of the health benefits that they desperately needed. Many of those same seniors now know that when the Congress promises the world with a fence around it, the taxpayers had better head for the hills.

Mr. President, during my nearly 17 years in the Senate I have received thousands of letters from the senior citizens in North Carolina concerning problems with health care. The complaints usually focus on rising premiums, denial of coverage, premature discharge. The list goes on and on. But never have seniors in North Carolina been so agitated and so angered by an action of the U.S. Government as they have been by the passage of catastrophic tax. Notice I said catastrophic tax, for that is precisely what it is.

If there ever was a case in which the time-worn policy of tax and spend and spend and tax led to disillusionment and fiscal irresponsibility this is it. Lawmakers had plenty of warning, but Congress once again ignored those of us who predicted that more taxes would trigger a firestorm among retired Americans. These new taxes, by the way, paid for programs that 80 percent of retired elderly neither wanted or needed.

In fact, Mr. President, the majority of those who promoted this ill-conceived program were the hired guns of the professional Washington lobbies. Catastrophic protection was not very high on the list of health priorities for the majority of senior citizens. Yet no one wanted to vote against that enticing title, "The Medicare Catastrophic Illness Coverage Act." I was one of 11, as I recall, who did vote against what I felt was a very bad and very unfair piece of legislation.

The senior citizens of this country have made an important contribution to the debate on the future of health care in this country. They have thrown up a roadblock in the headlong drive toward the rationing of health care through socialized medicine. That is the direction we would have travelled had the seniors not stood up and declared that the benefits this act contained were already provided and more efficiently, by the private sector.

Mr. President, as a senior American myself, I was deeply offended by those in this body—and those in the media—who proclaimed that all of the uproar over this legislation was caused by greedy seniors. To that I say bullfeathers.

The senior citizens who rose up against this program are people who worked and saved all of their lives to make this country better for each and every one of us. They built this country. Now some around here are calling them names for refusing to be further burdened by more and more taxes. My hat's off to them. They have put the U.S. Congress in its place.

I commend those Senators who have joined the fight to repeal this onerous tax. It should never have been approved by Congress in the first place. I was criticized severely by the news media in my State when I, and a few other Senators, voted against this socialistic catastrophic pipe dream in 1988. It is comforting to have so many converts this year willing to repeal legislation that should never have been approved.

Mr. LEVIN. Mr. President, today we have had a number of options before us on how to address the health care needs of this Nation's senior citizens. From my perspective, the Harkin-Levin approach offered us the best chance of enacting a catastrophic health insurance program with adequate benefits and which was paid for by an equitable funding mechanism. The Senate, however, did not support this approach.

It is also clear from this debate that there is no support for the supplemental premium surtax in the current law and that a majority does not even support a somewhat reduced surtax. I believe that the surtax in the current law is fundamentally unfair and cannot support it.

The McCain approach embodied in S. 1726 is not my preferred choice, but it is the only choice available for those who support some form of catastrophic health insurance and who oppose the surtax. It provides, among other benefits, for 365-day hospital care coverage, some prescription drug coverage, mammography screening, hospice care benefits, and protection against spousal impoverishment.

This is a limited package of benefits, but important benefits, nevertheless. It is clearly preferable to outright repeal of this program, and it is for that reason that I will vote to support the McCain bill, S. 1726.

Mr. BAUCUS. Mr. President, I have talked to many, many Montana seniors about the Medicare Catastrophic Coverage Act. I have also received thousands of letters on it.

People have told me in no uncertain terms they don't like the way the program is financed. They also say they think some of the benefits—but not all—have value to them.

As a member of the Senate Finance Committee, I worked for many months on this legislation.

Mr. President, we hammered out this bill under very, very tight constraints. When we were working on this legislation over a year ago, the Reagan administration insisted on the current financing scheme.

The administration told us: If seniors want these benefits, then they must pay for them. They said it could not increase the Federal budget deficit. They said we had to build up very significant reserves, financed by beneficiaries, to ensure the fiscal solvency of the program.

Those were very strict conditions. But we met them all. We succeeded in developing a package of benefits, and the mechanisms to pay for it, under those strict conditions.

We believed that the benefits in the package were important to seniors. We believed the benefits were so important, the package would be worth it to them.

Mr. President, we acted in good faith.

But the bottom line is, do seniors want all of these benefits and the surtax, or some of the benefits and no surtax?

My many conversations with Montana seniors have convinced me that they don't want the surtax. They believe strongly that it's not necessary and it's not fair.

And they don't want or need all of the benefits the bill provides. Many of the benefits in the program are valuable. No question about it.

Spousal impoverishment. Protection from the cost of long-term hospital stays. Respite care and home health care. Mammography screening.

Others are far less important. The cap on out-of-pocket doctor payments, for example, and the prescription drug benefit.

The McCain proposal strikes the right balance. It repeals the surtax. And it keeps the benefits that Montana seniors tell me they want.

Mr. President, I will vote for the McCain proposal today. Of all the alternatives we have seen during this debate, it makes the most sense.

I also want to say that this vote does not mark the end of a debate.

As a member of the Pepper Commission, I can attest that we will soon embark on a very important debate: how to provide Americans with protection against the expenses of long-term care.

We have had many months of study, meetings, and hearings in the Pepper Commission, and we have more yet to come. Next year we will issue the Pepper Commission's report on long-term care.

I look forward to that debate. That is the debate Montana seniors have told me they want us to get on with.

Mr. KERRY. Mr. President, I rise tonight because I believe very deeply that the Medicare Catastrophic Coverage Act desperately needs reform and is unfair in some respects. But I also believe that the benefits of the Medicare Catastrophic Coverage Act are simply too important to repeal.

The catastrophic program expanded Medicare benefits to eliminate the fear that a lengthy and costly illness will devastate a family's finances. While we may hope and pray that we or someone we love does not experience a serious illness with catastrophic costs, none of us knows which of us will.

We have cast a series of important votes today in an effort to reform the act, to preserve the benefits while addressing its shortcomings. There is nothing more important to me than to make sure this program works and works fairly.

These benefits in the Catastrophic Act would remove the fear from millions of the elderly that a lengthy and costly illness will devastate their finances and those of their families: the cap on out-of-pocket expenses under Medicare part B, the limit on hospital costs, expanded home health care benefits, expanded skilled nursing care. These are major benefit expansions—the first since Medicare was enacted.

These benefits are simply too important to repeal. The act makes significant improvements in Medicare coverage for all of our elderly. Some of the benefits are unavailable in the private sector—respite care, for example. Others are very expensive in the private sector—such as the prescription drug benefit.

Today, we have voted down five different plans to reform the act. We must not repeal the act. We must vote to support the McCain bill.

I understand the anger about the increased Medicare premiums. I agree that the supplemental premium is an unfair burden and I have voted three times today to eliminate it. And, in voting for the McCain bill, my colleagues and I will have eliminated this unfair burden. Many middleclass elderly who will have to pay the supplemental premium feel that they will pay an unfair tax and not receive adequate benefits. I agree.

Some people are also very concerned that they are paying for coverage they already receive from former employers or through Medigap policies. I share that concern. Many Medicare beneficiaries have Medigap policies paid for, at least in part, by former employers. Others purchase their own policies. Under the law, duplicate coverage is supposed to phase out and private premiums are supposed to fall accordingly, but this is not happening the way it was supposed to. Our Federal retirees feel especially hard hit by duplicate coverage. They are, and we must eliminate this inequity.

These problems must be addressed, and we have tried to address them today. In deliberating how to vote today, I was guided by two goals: One was to eliminate, or, at the very least, severely cut back, the supplemental premium. The second was to retain the benefits that meet the needs of the elderly, needs that have not disappeared since last year when the Senate overwhelmingly passed this act, with bipartisan support.

In voting today, I cosponsored the amendment offered by my colleague from Massachusetts, Senator KENNEDY, because it repealed the unfair surtax while keeping vital prescription drug and hospital benefits.

I supported the amendment offered by Senator DURENBERGER although it did not completely eliminate the supplemental premium because it retained important hospitalization and physical coverage.

I also supported the amendment proposed by Senator RIEGLE and Senator CHAFEE which would have eliminated the surtax but kept hospitalization coverage and retained coverage of catastrophic physician costs, but at a much higher level. I supported this proposal even though it made some important benefits optional, some benefits, including mammography, that I believe should have been included in the mandatory category.

And, now, Mr. President, I will vote for the McCain legislation and against complete repeal. It is the only option left that preserves any of the important benefits that the act created. Catastrophic hospitalization coverage, expanded home health and hospice benefits, and respite care are preserved. While I may have preferred to preserve other benefits as well, I support the McCain bill and urge my colleagues to do so.

The PRESIDING OFFICER. No additional amendments being in order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The time remaining is 15 minutes and 3 minutes and 7 seconds for a the respective sides.

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I yield 5 minutes to the Senator from South Dakota [Mr. PRESSLER].

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, I am pleased to join my distinguished colleague, Senator McCAIN, in supporting a catastrophic health insurance program that retains many good benefits but gets rid of the excessive surtax method of financing them. Twice this past summer I have voted to support the distinguished Senator from Arizona on this matter. I voted to delay the surtax because it is opposed by senior citizens and it is bad public policy at this time. For that reason, I voted against the Durenberger-Mitchell amendment. The Durenberger amendment retained a surtax.

The debate today is evidence of the tension between paying for benefits and developing a way to pay for those benefits.

Everyone wants to help those aged most in need—the poor and frail elderly. I am among that group and that is why I support the McCain amendment. It removes the surtax which is abhorrent to the middle-income elderly. In fact, no surtax is the only acceptable approach for those elderly. At the same time, the McCain amendment preserves benefits for those aged who have no other way of financing their health care needs. It is a "happy medium" between outright repeal and a surtax to pay for benefits.

Senator McCAIN's amendment preserves the catastrophic core consisting of expanded hospital benefits, home health, respite care, mammography, hospice, blood benefit and immunosuppressive and IV drug benefits. A modified skilled nursing home benefit is preserved, along with the Medicaid buy-in provision. It is extremely important that they are the foundation for any effective long-term care program.

Outright repeal of these benefits would be a setback for seniors who are so poor they cannot afford to pay for a Medigap policy to take over where Medicare stops. That includes a significant number of elderly in America.

The poor and frail elderly are as much my concern as those who can afford their own policies. The McCain amendment respects the freedom of those who don't want a surtax and helps the poor who have no other way to obtain quality health care services.

The controversy over the catastrophic Medicare surtax has generated hundreds of thousands of pieces of mail. This clearly demonstrates that America's senior citizens want a voice in what they pay for it. They want to be part of anything we develop here. This was an example of Congress developing something without getting the grassroots support. The crafting of health care policy no longer can take place behind closed doors. During the past few months seniors let us know what they want. They have become involved in the formation of health care policy. We certainly know that they do not want a surtax, but they do want long-term care benefits.

I think the main message from this whole exercise is that the senior citizens across this country want us to hold meetings among them, want us to consult at the grass roots. They do not want us just to listen to Washington lobbyists, but to go out in the country and listen to what the people want.

The amendment of our distinguished colleague, Senator McCAIN, best represents what seniors in this country want. Of course it is not ideal. However, given the current choices of repeal, retaining the surtax and the McCain amendment, the McCain amendment is the best approach.

We should support this amendment and use it as a foundation for designing an even better long-term care policy for our Nation.

I wish to pay tribute to my colleague, Senator McCAIN, who has provided us leadership in this matter.

● Mr. SANFORD. Mr. President, I am supporting the McCain amendment because I believe catastrophic care protection is important and I do not believe we should repeal this program.

The McCain amendment eliminates the surtax while keeping many important benefits. I believed the Durenberger compromise provided better protection and was more soundly financed, and I am disappointed that this proposal was defeated. I think it was very carefully developed. Physician costs are increasing now by about 15 percent each year, significantly increasing out-of-pocket costs for beneficiaries. The McCain compromise provides no protection against these out-of-pocket increases.

But the McCain amendment does retain many good provisions in existing law like, including home health care and hospice care expansions. While I am concerned that the way this compromise is financed may not be adequate and may create problems in the future, I think we should fix the catastrophic care program and not eliminate the important benefits it now provides.●

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the Catastrophic Reform Act, legislation introduced by my colleague from Arizona to make needed changes in the Medicare Catastrophic Coverage Act.

I believe this legislation represents the most reasonable catastrophic reform proposal offered to date. It addresses the groundswell of concern among our Nation's seniors by scrapping completely the controversial supplemental surtax. At the same time, it retains the most important benefits of the Catastrophic Act, including long-term hospitalization protection, spousal impoverishment protection, home health, respite, and hospice care benefits, mammograms, and the so-called Mitchell drugs.

Like this measure, both proposals offered on the House floor on Wednesday proposed to eliminate the surtax. But there the similarities end. The Stark-Waxman-Gradison proposal, defeated by a vote of 156 to 269, would have retained none of the core benefits of the act. Instead, it would have preserved only a scaled down prescription drug benefit, home health, hospice, and respite programs. The so-called Donnelly-Archer proposal, which passed by a vote of 360 to 66, would repeal the act entirely.

I believe we can address the program of the surtax without resorting to all-out repeal—a drastic solution that would leave many senior citizens totally unprotected against potentially ruinous medical bills. Under the legislation introduced by Senator McCAIN, we can totally eliminate the surtax, while retaining the benefits our senior citizens deserve and want.

Our passage of the Catastrophic Coverage Act in 1988 contained the implicit promise that we would protect senior citizens against catastrophic health expenses—without imposing on them a catastrophic financial burden. If we are serious about keeping this promise, we can keep it—but only if we reject repeal, and support the Catastrophic Reform Act.

Mr. GRASSLEY. Mr. President, I continue to support the proposal of my colleague from Arizona, Senator McCAIN, for reasons I have already stated, and I oppose repeal.

First and foremost, Mr. President, the McCain proposal eliminates the supplemental premium which our constituents are telling us they do not want.

Second, it retains several good benefits. It retains the hospital protections, which will be used by almost 2 million Medicare beneficiaries in any given year.

At this point in the debate, of course, the question of the supplemental premium is settled, but I just want to reemphasize once again for the benefit of my constituents that the McCain proposal responds to the outpouring of protest from the elderly about this surtax.

It keeps the spousal impoverishment provision which will protect from impoverishment the spouse of a nursing home resident who continues to reside in the community. This clearly is a major benefit which we must retain.

Senator McCAIN's proposal would also keep the blood deductible, the home health, respite care, hospice, and mammography benefits as well as the home IV and immunosuppressive drug benefit.

I argued earlier this year that, although these were good benefits, they were not sufficient to generate support for the catastrophic program

given the high cost of the program to the tax paying older person.

However, in the context of the current McCain proposal, the total cost of the program would be met by the flat basic premium of around $4 per month in 1989. None of this small premium is exorbitant. Hence, in this circumstance, I believe that these benefits are worth the cost.

In addition, Senator MCCAIN's proposal retains benefits for the low-income which will be paid for through general revenues, not through the premiums paid by Medicare beneficiaries.

Mr. President, this approach is preferable to outright repeal because it keeps good benefits which otherwise would be lost.

Mr. President, I urge my colleagues to support the McCain proposal.

Mr. McCAIN. Mr. President, I yield myself such time as I may consume.

Mr. President, the hour is late and I will try to be brief. I wish to extend my appreciation to Members on both sides of the aisle who were of enormous assistance to me and, more importantly, to this cause.

I would also like to point out my deep appreciation for the patience and tolerance displayed by the chairman of the Finance Committee, who has had to wrestle with this issue for far longer than I have. He has always showed me and others in this body the utmost courtesy and consideration.

I also would like to thank my friend from West Virginia, Senator ROCKEFELLER, who I have had the pleasure of spending today with. Senator HATCH brought this issue to the fore and provided me with a great deal of assistance and, in some cases, courage. Senator SIMON and Senator HEFLIN have been very much involved in this issue for a very long period of time; and also Senator GORTON, Senator RUDMAN, Senator GRAMM, and many, many others.

No work like this is possible without staff work. I would like to thank Nancy Taylor of Senator HATCH's staff; Jeff Sanders of the Budget Committee; Ted Tottman of Senator GRASSLEY's staff; Ed Kivett of Senator GRAMM's staff; Doug Badger of the Policy Committee staff; Gwendolyn Van Paasschen, Dave McIntyre, and Chris Koch of my staff.

Mr. President, there are many others that I would like to thank.

Finally, I would like to say I think we have done something very important here tonight. We could not have done it without this body acting in a fashion that I think we can all be proud of. I believe that tonight millions of senior citizens will rest a little bit easier in the knowledge that the Congress of the United States, at least this body, has reacted in a sensitive and caring fashion.

Mr. President, I yield back the remainder of my time.

Mr. ROCKEFELLER. Mr. President, I guess it is appropriate to say that I am going to vote for the McCain bill, because I think, with respect to home health care, mammography, and a lot of other things, it has at least something to offer, and something constructive is better than nothing. I think it merits our vote.

I wish to thank Senator MCCAIN. He, as always, has been a gentleman and a pleasure to work with.

Also, I wish to thank my own staff, Tamera Stanton, Karen Pollitz, Mary Ella Payne; and also Marina Weiss and Joe Humphreys of Senator BENTSEN's staff; and all those who have put up and progressed arduously through this long day.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. MATSUNAGA] would vote "yea."

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—99

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	McCain	Wirth

NAYS—0

NOT VOTING—1

Matsunaga

So the bill (S. 1726), as modified and amended, was passed, as follows:

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS EFFECTIVE IN YEARS AFTER 1989 AND SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL REPEAL.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 201.

(B) Subsections (i), (j), and (k) of section 202.

(C) Section 211(c)(3).

(D) Section 212 (other than subsection (b)(2)).

(E) Section 213.

(2) EFFECTIVE DATE.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) GENERAL DELAY.—

(1) Section 1834(d)(2) of the Social Security Act, as added by section 203(c)(1)(F) of the Medicare Catastrophic Coverage Act, is amended by striking "1990" and inserting "1991".

(2) Section 203(c)(2) of the Medicare Catastrophic Coverage Act is amended by striking "1991" and inserting "1992".

(3) Section 1835(a)(2)(G) of the Social Security Act, as inserted by section 203(d)(1)(C) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(4) Section 1154(a)(16) of the Social Security Act, as amended by section 203(d)(2) of the Medicare Catastrophic Coverage Act, is amended by striking "1993" and inserting "1994".

(5) Section 203(g) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(6) Section 1834(e)) of the Social Security Act, as added by section 204(b)(2) of the Medicare Catastrophic Coverage Act, is amended—

(A) in paragraph (2)(B)(ii), by striking "1992" and inserting "1993",

(B) in paragraph (4)(A)(i), by striking "1990" and inserting "1991",

(C) in paragraph (4)(B), by striking "1991" and inserting "1992", and

(D) in paragraph (5), by striking "1990" and "1991" each place each appears and inserting "1991" and "1992", respectively.

(7) Section 204(3) of the Medicare Catastrophic Coverage Act is amended by striking "1990" and inserting "1991".

(c) SUPPLEMENTAL MEDICARE PREMIUM REPEAL.—

(1) GENERAL REPEAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, is hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On November 1, 1989, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the general fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—The repeal and amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(d) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary shall provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection,

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this part, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) of such Act (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) of such Act (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 of such Act (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate within 30 days after discharge from a hospital;

and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 of such Act (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) of such Act (42 U.S.C. 1395x(y)) is amended

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d) of such Act (42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d)(1) and (f) of section 1883 of such Act (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(3) COINSURANCE MODIFIED.—

(A) AMOUNT.—Paragraph (3) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days.

(4) USE OF EXCESS PREMIUM REVENUES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall use any excess revenues resulting from the amendments made by this section to—

(A) first, reimburse the Federal Hospital Insurance Trust Fund for any costs resulting from the provision of extended care services to individuals admitted before November 1, 1989, and

(B) second, to further reduce premiums imposed under section 1839 of the Social Security Act.

(5) STUDY.—The Secretary of Health and Human Services, or the Secretary's delegate, shall study the reasons for the unexpected increase in cost estimates of the extended care services benefit under title XVIII of the Social Security Act. The Secretary shall report to the Congress no later than February 1, 1990 the results of the study, including any recommendations for further modifications to such benefit appropriate during the consideration of the provision of long-term care benefits.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after October 31, 1989, and shall apply to care and services furnished on or after such date.

(e) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act (42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(f) ADJUSTMENT IN MEDICARE PART B PREMIUM.—

(1) IN GENERAL.—Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(A) in paragraph (1) by striking all after "(a)(1)" and inserting the following: "(A) The Secretary shall, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with re-

spect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amount—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable (as determined by the Secretary) to the portion of such monthly premiums that is determined under paragraph (3)(A).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.",

(B) in paragraph (2) by striking "1983" and inserting "1989",

(C) in paragraph (3)—

(i) by striking "1983" in the first sentence and inserting "1989",

(ii) by striking the second sentence and inserting the following: "The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined under paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined under paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(iii) by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" in the third sentence and inserting "amounts of adequate actuarial rates for enrollees as provided in paragraphs (1) and (4)", and

(D) by striking paragraph (4) and inserting the following:

"(4)(A) The Secretary shall also, during September of 1989 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year.

"(B) The monthly actuarial basic rate determined under this paragraph for a calendar year for shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(c)).

"(C) The monthly actuarial catastrophic illness rate determined under this paragraph for a calendar year shall be equal to the sum of—

"(i) the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from—

"(I) the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative services costs incurred in such calendar year with respect to such enrollees under section 1833(c), and

"(II) the Federal Hospital Insurance Trust Fund, which are attributable to the Medicare Catastrophic Coverage Act of 1988, as amended, and

"(ii) the amount (if any) that the Secretary estimates to be necessary to offset any amounts—

"(I) by which the monthly premiums otherwise payable under this section with respect to such enrollees for such calendar year (disregarding subsections (b) and (f)) are reduced by reason of the limitation imposed by subsection (f), and

"(II) that are attributable to the portion of such monthly premiums that is determined under paragraph (3)(A) (as determined by the Secretary).

"(D) In calculating the monthly actuarial rates under this paragraph, the Secretary shall include appropriate amounts for a contingency margin.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(i) by striking "the Medicare Catastrophic Coverage Account) in the last sentence of subsections (a)(1) and (a)(4) and inserting "the amendments made by the Medicare Catastrophic Coverage Act of 1988",

(ii) by striking "(b), (e), and (g)" in subsection (a)(2) and inserting "(b) and (e)",

(iii) by striking "subsections (f) and (g)(6)" in subsection (b) and inserting "subsection (f)",

(iv) by striking "monthly premium" in subsection (e)(1) and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)",

(v) by inserting "basic" in subsection (e)(1) after "actuarial", and

(vi) by striking subsection (g).

(B) Section 1840 of such Act (42 U.S.C. 1395s) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to the monthly actuarial catastrophic illness rate established under subsections (a)(1)(C)(i)(II) and (a)(4)(C)(i)(II) of section 1839 shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Hospital Insurance Trust Fund.".

(C) Subsection (a) of section 1844 of such Act (42 U.S.C. 1395w) is amended by striking the last sentence.

(D) Subsections (a)(1)(A)(i) and (a)(1)(B)(i) of section 1844 of such Act (42 U.S.C. 1395w) are each amended by striking "twice the dollar amount of the actuarially adequate rate" and inserting "the sum of the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(E) Section 1876(a)(5) of such Act (42 U.S.C. 1395mm(a)(5)) is amended—

(i) in the matter preceding subparagraph (A), by striking "200 percent of", and

(ii) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) of this subsection shall apply to monthly premiums for months beginning after October 1989.

(B) The amendments made by paragraph (2) of this subsection shall take effect on or after November 1, 1989.

(g) REVISION OF MEDIGAP REGULATIONS.—(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), and (m);

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m)"; and

(C) by adding at the end the following new subsections:

"(m) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(1) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in paragraph (2), and

"(2) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) SENSE OF CONGRESS.—It is the sense of Congress that States should respond, at the earliest practicable date after the date of enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(3) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(4) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security

Act of 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this section.

(5) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of Medicare Catastrophic Coverage Act of 1988 is amended by striking "subsection (f)" and inserting "subsection (e)".

(6) EFFECTIVE DATE.—The provisions of this subsection shall take effect January 1, 1990, except that the amendment made by paragraph (5) shall be effective as if included in the enactment of Medicare Catastrophic Coverage Act of 1988.

(h) SPELL OF ILLNESS REINSTATED FOR SNFF.—

(1) IN GENERAL.—Section 1813 of the Social Security Act is amended by striking "in any calendar year" and "during the year" in subsection (a)(3)(A) and inserting "during any spell of illness".

(2) CONFORMING AMENDMENTS.—

(A) Section 1832(b) of such Act is amended by inserting " 'spell of illness'," after "For definitions of".

(B) Section 1861 of such Act is amended by inserting before subsection (b) the following new section:

"(a) The term 'spell of illness' with respect to any individual means a period of consecutive days—

"(1) beginning with the first day (not included in a previous spell of illness (A) on which such individual is furnished extended care services, and (B) which occurs in a month for which he is entitled to benefits under part A, and

"(2) ending with the close of the first period of 60 consecutive days thereafter on which he is not an inpatient of a skilled nursing facility.".

(i) ADJUSTMENT TO AVERAGE PER CAPITA COSTS.—The Secretary of Health and Human Services shall adjust the per capita rate payment announced on September 7, 1989, pursuant to section 1876(a)(1)(A) of the Social Security Act (42 U.S.C. 1395mm(a)(1)(C)) to delete payment for catastrophic benefits modified by this bill. These adjusted rates shall be announced in a manner intended to provide notice to interested parties as soon as possible prior to the beginning of the calendar year.

(j) ADJUSTMENT TO THE ADJUSTED COMMUNITY RATE.—Organizations with a contract under section 1876(g) of the Social Security Act shall revise their proposed adjusted community rates submitted pursuant to section 1876(e)(3) of such Act to reflect the payment adjustments in subsection (i) as soon as possible prior to the beginning of the calendar year.

SEC. 2. RESPITE CARE.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the amendments made by subsections (a), (b), (c), (d), and (e) of section 205 of the Medicare Catastrophic Coverage Act of 1988 shall take effect and apply to items and services furnished on or after January 1, 1991.

(b) AMENDMENT TO PAYMENT THRESHOLD.—

(1) IN GENERAL.—Paragraph (4) of section 1861(ll) of the Social Security Act (42 U.S.C. 1395x(ll)), as added by section 205 of the Medicare Catastrophic Coverage Act of 1988 is amended to read as follows:

"(4) The 12-month period described in this paragraph is the 1-year period beginning on the date that the Secretary determines that a chronically dependent individual has incurred out-of-pocket part B cost sharing in an amount equal to $1,780 in 1991 and equal to an amount in each succeeding year which is equal to an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeeding year, in 5.5 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year incurring such amount. In the case of an individual who qualifies under this paragraph within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to items and services furnished on or after January 1, 1991.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, today we are reconsidering the question of providing insurance coverage for catastrophic costs to seniors in this Nation. Let me say at the outset that I believe there is a need for catastrophic health insurance in this country. Many seniors do not have adequate protection against catastrophic medical expenses, and we should make sure that they receive it.

Nonetheless, I believe that we should be governed by two major principles in deciding how to provide this coverage. Today, we have voted on many amendments. My vote on each of these proposals was cast in light of these principles.

First, I believe that the costs of a Federal program that benefits an important segment of our society should be shared by all of society—not just by the affected group. We do not ask only veterans to pay for veterans benefits; we do not ask only the disabled to pay for disability benefits; and we should not ask only senior citizens to fund Medicare benefits.

Second, I believe that we should not require people to pay for health care insurance that duplicates coverage which they already had.

In order to achieve the first principle of broad-based financing, I supported the amendment by Senators HARKIN and LEVIN to repeal the supplemental premium or surtax, and replace it with a more universal system of funding. This proposal would have corrected a basic inequity and anomalie of our current Tax Code. Right now, a single individual with a taxable income between $47,000 and $109,050, already pays a marginal tax rate of 33 percent. If that person makes more than $109,050, however, their marginal tax rate drops back down to 28 percent. This amendment would have evened out the so-called bubble, and ensured that the 33-percent rate would continue to apply for these higher incomes. This change would produce more than enough revenue to cover the funds lost by repealing the supplemental premium.

In order to achieve the principle that no one should be forced to pay for duplicative coverage, I supported the amendment by Senator BOB GRAHAM of Florida to make participation in the act voluntary. Many seniors have private insurance plans already covering some catastrophic expenses, and do not want or need the additional coverage offered by the act. Under Senator GRAHAM's amendment, any senior citizen who already has sufficient private insurance would have been allowed to opt out of the catastrophic program. This change would have met the principle of voluntariness, and avoided needless and costly duplication, while still preserving the financial integrity of the catastrophic program.

Unfortunately, the proposal by Senators HARKIN and LEVIN did not succeed, and the Senate refused to approve a broad-based funding plan. Similarly, the proposal by Senator GRAHAM failed, and the Senate refused to approve a truly voluntary program.

The next proposal before the Senate was the amendment offered by Senators ROTH and DANFORTH to repeal the catastrophic program. I voted for this amendment, because while I believe we need to provide catastrophic health insurance to those elderly who need it, I have said many times that had I been present, I would have voted against final passage of the Catastrophic Coverage Act. I oppose the current law both because it requires mandatory participation and because it is not broadly financed. Once the Senate defeated the Harkin-Levin and Graham amendments, it was clear that we could end up with a law that did not meet either test. Had the Roth-Danforth amendment been approved, I would then have begun working to provide catastrophic protection to those seniors who need it in a manner meeting the two principles outlined above. This amendment also failed, however.

Ultimately, I supported Senator MCCAIN's bill, because it was the best remaining option. First, it repealed the supplemental premium or surtax. In my view, this surtax represented the most troublesome and unfair element of the current act's financing approach. Second, Senator MCCAIN's amendment maintained a valuable package of benefits and coverage for those senior citizens who need it. Under Senator MCCAIN's proposal, we would still retain the important benefits for long-term hospitalization, protect against spousal impoverishment, provide coverage for mammography screenings, and provide some limited coverage for home health care and respite care. I consider this package to be

the best and most valuable coverage which can be financed without a supplemental premium or a broader base of funding.

Mr. President, the McCain bill represents a substantial improvement over the Catastrophic Coverage Act as it was enacted last year. Nonetheless, it is far from perfect. It still relies on a system of senior only financing, and it is still a mandatory program. I supported this legislation because it was better than the alternative, but I believe that we can and should do better. I will continue to work toward that end in the months ahead.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Mr. President, I just want to take 30 seconds to congratulate the Senate. I think we are close to the House. We recognized the limits on how far we should go on this particular issue.

I particularly want to congratulate Senator MCCAIN and indicate for the record that I am not always in support of Senator MCCAIN's view, but I think he persisted and prevailed in an appropriate way. I congratulate him and the Democrats and Republicans who have been working together. They have achieved the result, I guess, many of us felt would be the result at the close of business this evening.

The PRESIDING OFFICER. The Chair in his capacity as a Senator from the State of Iowa suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2788

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers the conference report on the Interior appropriations bill, H.R. 2788, it be considered under the following time limitation: 1 hour equally divided on the conference report under the control of Senators BYRD and MCCLURE or their designees; 90 minutes equally divided on Senator Helms' amendment to amendment No. 153; I further ask unanimous consent that the vote on the conference report be stacked to occur immediately prior to the vote on or in relation to the Helms amendment; that there be 30 minutes for Senator GORTON to debate amendment No. 167; that the managers' time may be utilized either before or after adoption of the conference report; that no other floor amendments be in order; that Senators FOWLER and ADAMS each have up to 15 minutes of debate under their control.

The PRESIDING OFFICER. Is there objection?

Mr. MCCLURE. Mr. President, we have no objection.

The PRESIDING OFFICER. The Chair hears none, and it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELEANOR SAYRE WRITES ON THE HELMS AMENDMENT

Mr. KENNEDY. Mr. President, there have been many eloquent and thoughtful analyses of the Helms amendment and its unwise attempt to restrict grants by the National Endowment for the Arts.

The Senate has devoted considerable attention to the issue and the Interior Appropriations Conference Committee members are to be commended for the diligence and sensitivity they have applied in addressing this issue.

Since the debate began, I have heard from a number of constituents on the subject of artistic expression. Many of them have expressed their strong concern over the chilling effect that the Helms amendment would have on the arts community.

One of the most eloquent letters I have received is from Eleanor Sayre, curator emeritus at the Boston Museum of Fine Arts. She is the granddaughter of President Woodrow Wilson and I am pleased that leaders as knowledgeable and committed as Ms. Sayre have taken the time to be involved in this important debate. I ask unanimous consent that her letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MUSEUM OF FINE ARTS,
Boston, MA, August 4, 1989.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: As the granddaughter of Woodrow Wilson, I take the liberty of addressing you concerning the measure voted last week to prohibit Federal funds from being used to "promote, disseminate or produce obscene or indecent materials, including but not limited to depictions of sadomasochism, homoeroticism, the exploitation of children, or individuals engaged in sex acts . . .". It seems to me that the measure would have shocked my grandfather, for he would have foreseen that it would lead to the unconstitutional practice of the Congress doubling, in effect, as censors.

I suspect that this President would also have found the wording of the measure loose and ill-considered. This aspect of it I can address more authoritatively in my role as Curator Emeritus of the Department of Prints, Drawings and Photographs at the Museum of Fine Arts. Our collection, of world importance, consists of an estimated half-million European and American works of art spanning six centuries. Artists made drawings, woodcuts, engravings, etchings, lithographs, book illustrations of almost everything of concern to man. As a curator I was at times offered as a gift, or for purchase by the museum, material that would fall within the purview of the Senate measure. What, I then asked myself, was the artist's principal intent? Merely to titillate? Or to enable the world to see more acutely than it ordinarily does the depth and complexity of human emotions? Or to arouse awareness of something simpler, such as the beauty of complex forms?

There were two prerequisites for giving an equitable answer. I could not be like a former dean of a prestigious art school whose prurient mind made him view even the most earnest and naive drawings of naked, female models by students as too erotic to hang in his university gallery. And I had to be certain that I comprehended the work. Art is a language, or rather it consists of many languages that differ from region to region and undergo drastic changes as the centuries pass. It is all too easy to denigrate works of art in languages one does not know. Under the influence of Inquisition censorship, eighteenth-century Spanish officials caused paintings by Titian, Rubens and Dürer to be removed from the Royal Palace as obscene and all but succeeded in having them destroyed, never realizing that these very paintings constitute some of the world's greatest masterpieces; nineteenth-century Frenchmen thought Impressionist paintings appalling when they were first shown; and twentieth-century Nazis literally condemned all German Expressionist works as degenerate.

The satirical prints and drawings of Francisco Goya (1746–1828), in which he attacked the follies and vices he saw around him afford an excellent example of works that were understood at the time of their creation. Read in context in Goya's own day, his graphic work was perceived as profoundly moral. After his death these same works of art came to be viewed as fantasies or the work of a disturbed mind. Learning to read them again, we are discovering that his contemporaries were right.

An exhibition of paintings, drawings and prints, Goya and the Spirit of Enlightenment, just concluded a tour of museums in Madrid, Boston and New York. Over a million vistiors saw it. It was an extremely expensive venture because the valuation of the works of art was so high. What made it possible were an indemnity granted by the Federal Council on the Arts and the Humanities and a generous grant from the National Endowment for the Humanities, a federal agency. Two banks and the New York Stock Exchange also helped.

In Boston the general public saw material some of which the Senate measure would prohibit. They understood Goya's attacks on vice because the Museum of Fine Arts provided explanatory labels that helped them do so. Far from being offended (even by an explicit satire on the molestation of little boys by men), visitors were deeply moved by the morality of a great artist. A local clergyman urged his parishioners to spend time in the exhibition during Lent.

Rather than censoring such exhibitions as this, the Senate might better exert pressure to ensure that explanatory texts (such as

labels) make the serious purpose of an artist intelligible to laymen. What is important is not the subject matter of art and literature in itself, but what the artists or author is saying.

Sincerely yours,

ELEANOR SAYRE,
Curator Emeritus.

HAPPY 90TH BIRTHDAY, IVO SPARKMAN

Mr. HEFLIN. Mr. President, I rise to bring to the attention of the U.S. Senate that today is the 90th birthday of Mrs. John J. Sparkman. Mrs. Sparkman is the widow of the late Senator John J. Sparkman. Ivo Sparkman is a great, gracious lady and many Members of the Senate, of course, remember her quite well. I spoke with her on the telephone and wished her a happy birthday today. She expressed to me the desire to let people know that she is doing fine and that she is in good health.

The city of Huntsville declared today as "Ivo Sparkman Day." She went to a luncheon, was quite chipper, and is in excellent health. I know that everyone in the Senate joins me in wishing her a happy birthday.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requested the concurrence of the Senate:

H.R. 3299. An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for fiscal year 1990.

At 1:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1487) to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the entire House bill and the entire Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. SOLARZ, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. SMITH of Florida, Mr. BERMAN, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, and Ms. SNOWE.

As additional conferees from the Committee of Armed Services, for consideration of sections 1016 and 1030 of the Senate amendment, and modifications committed to conference: Mr. MAVROULES, Mr. MCCURDY, and Mr. MCCRERY.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 631, 632, 633, 1021, 1025, and 1030 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. FAUNTROY, Ms. OAKAR, Mr. WYLIE, and Mr. BEREUTER.

As additional conferees from the Committee on Education and Labor, for consideration of sections 134 of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. WILLIAMS, and Mr. GUNDERSON.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 221 through 229 of the House bill and sections 208, 701 through 707, and 1025 of the Senate amendment, and modifications committeed to conference: Mr. DINGELL, Mr. MARKEY, and Mr. RINALDO.

As additional conferees from the Committees on Interior and Insular Affairs, for consideration of section 1041 of the Senate amendment, and modifications committeed to conference: Mr. UDALL, Mr. VENTO, and Mr. YOUNG of Alaska.

As additional conferees from the Committee on the Judiciary, for consideration of sections 138 and 213 of the House bill and sections 111, 114, 120, 131, 502, 503, 504, 1008, 1037, 1042, 1046, 1047, 1048, 1049, and 1057 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. MORRISON of Connecticut, Mr. FISH, and Mr. SMITH of Texas.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1013, 1038, and 1044 of the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. DYSON, Mr. DAVIS, and Mr. YOUNG of Alaska.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 120, 121, 141 through 152, 161 through 146, 1011, and 1051 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. ACKERMAN, Mr. SIKORSKI, Mr. HORTON, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 116 and 221 of the Senate amendment, and modifications committed to conference: Mr. ANDERSON, Mr. OBERSTAR, Mr. BOSCO, Mr. HAMMERSCHMIDT, and Mr. PETRI.

As additional conferees from the Committee on Rules, for consideration of sections 1002 and 1036 of the Senate amendment, and modifications committed to conference: Mr. DERRICK, Mr. BEILENSON, and Mr. QUILLEN.

As additional conferees from the Permanent Select Commitee on Intelligence, for consideration of section 1008 of the Senate amendment, and modifications committed to conference: Mr. BEILENSON, Mr. MCCURDY, and Mr. LIVINGSTON.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1762. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting pursuant to law, the report of the National Public Radio NPR and the Public Broadcasting Service [PBS]; to the Committee on Commerce, Science, and Transportation.

EC-1763. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Institutional Eligibility Under the Higher Education Act of 1965; as amended; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-336. A resolution adopted by the board of aldermen of the town of Brusly, LA, favoring the restoration of local regula-

tory authority over cable television systems; to the Committee on Commerce, Science, and Transportation.

POM-337. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 13

"Whereas we live in a world of finite resources where society cannot be sustained without careful conservation of natural resources; and

"Whereas inadequate attention to resource recycling is contributing to resource depletion, air and water pollution, and economic inefficiency; and

"Whereas the materials discarded daily in the United States could help assure availability of basic materials for our manufacturing industry; and

"Whereas American recycling industries, a major source of raw materials, are forced to compete with heavily subsidized virgin materials extraction and processing industries; and

"Whereas the states and cities could reduce their expensive burden of solid waste by one-third to one-half in markets for recyclable materials; and

"Whereas a national recycling policy could encourage the growth of markets for recyclable materials; and

"Whereas, The National Recycling Coalition, Inc., has petitioned the Congress of the United States for a national recycling policy; and

"Whereas, The Legislature of the State of California endorses the petition for a national recycling policy; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the legislature of the State of California respectfully memorializes the President and the Congress of the United States to instruct the administrative agencies and departments, including the Environmental Protection Agency, the Department of the Interior, and the Departments of Commerce, Agriculture, and Treasury, to prepare recommendations and guidelines establishing a national recycling policy utilizing data already developed by the Council on Environmental Quality, the National Commission on Supplies and Shortages, and the National Commission on Materials Policy; and be it further

"Resolved, That the national recycling policy shall encourage and provide incentives for the development and use of goods produced from recycled materials and reduce unfair competition from and subsidies for nonrenewable resources industries; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of the Treasury, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-338. A petition from a citizen of the State of New Jersey relative to penalties for drug related offenses; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 71 Concurrent resolution congratulating Malta on the 25th anniversary of its independence.

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the State to prohibit the physical desecration of the flag of the United States (Rept. No. 101-162).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

William P. Glade, of Texas, to be an Associate Director of the United States Information Agency;

Barbara Zartman, of New York, to be Deputy Director of the Peace Corps;

Stephen Read Hanmer, Jr., of Virginia, to be Deputy Director of the United States Arms Control and Disarmament Agency;

James David Berg, of Kentucky, to be Executive Vice President of the Overseas Private Investment Corporation;

Robert R. Randlett, of New Jersey, to be Assistant Administrator of the Agency for International Development;

Elizabeth M. Tamposi, of New Hampshire, to be Assistant Secretary of State for Consular Affairs;

Gordon K. Durnil, of Indiana, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada:

Evelyn Irene Hoopes Teegen, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Evelyn Irene Hoopes Teegen.
Post: Ambassador to Fiji, Tonga, Tuvalu and Kiribati.

Contributions, amount, date, and donee:

1, 2. Self and spouse, 1988: $85, reelect Stangeland Committee; $10, Schrimpf for Congress; $225, Durenberger reelect Committee. 1987: $185, Durenberger reelect Committee; $125, George Bush for President. 1986: $100, Barb Sykora for Congress; $25, reelect Stangeland Committee. 1985: $10, Dave Rued for Congress.

3. Children and spouses, Susan Reese Teegen, no contribution. Martha and Dean Adolph, no contributions.

4. Parents, Father—J. Wendell Hoopes, no contributions.

5. Grandparents, deceased.

6. Brothers and spouses, deceased.

Michael Ussery, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Elbert Michael Ussery.
Post: Morocco.
Nominated: June 6, 1989.
Contributions, amount, date, and donee:
1. Self, Elbert Michael Ussery, none.
2. Spouse, Elizabeth Anne Strong, none.
3. Children and Spouses Names, none.
4. Parents Names: Mary E. Ussery, Elbert Melbourne Ussery (deceased), none.
5. Grandparents Names, deceased.
6. Brothers and Spouses Names: none.
7. Sisters and spouses, Martha Ussery Johnson, none; Thomas C. Johnson, none.

Thomas F. Stroock, of Wyoming, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Thomas F. Stroock.
Post: Ambassador to Guatemala.
Contributions, amount, date, and donee:
1. Self, 1984: $200, Marlenee Congress Club; $1,000, Republican Senatorial Inner Circle; $1,000, Wyoming Republic State Committee; $5,000, Republican National Committee. 1985: $1,000, Wyoming Republican State Committee; $1,000, Republican Senatorial Inner Circle; $50, Wyoming Republican Party; $1,000, Republican Senatorial Inner Circle; $100, Republican Senatorial Inner Circle. 1986: $100, Montanans for Marlenee; $1,000, Majority Leader's Joint Trust. 1987: $100, Dole for Presidency Exploratory Com.; $150, Wyoming Republican Party. 1988: $250, George Bush for President; $750, George Bush for President; $100, Montanans for Marlenee; $150, Senator Bob Dole; $50, Wallop Senate Drive; $100, Natrona County Republican Party; $100, Wyoming Republican Party; $100, Montanans for Marlenee. 1989: $1,000, Wyoming Republican Central Committee; $1,000 Craig Thomas for U.S. Congress.
2. Spouse, Marta F. Stroock, none.
3. Children and Spouses Names, Margaret Stroock Low and Andrew Low, Sandra Stroock Leotta and Miguel Leotta, Elizabeth D. Stroock and Anne. M. Stroock, none.
4. Parents, deceased.
5. Grandparents Names, deceased.
6. Brothers and Spouses Names, none.
7. Sisters and spouses, Sandra Cowan McElwaine, None.

Glen A. Holden, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Glen A. Holden.
Post: Ambassador to Jamaica.
Contributions, amount, date, and donee:
1. Self, 1985: $10,000, RNC; $10,000, Senatorial Trust; $2,500, Republican Congres-

sional Leadership Council; $750, Symms for Senate; $1,000, Dreier for Congress. 1986: $1,000, California Unity Fund; $10,000, RNC; $2,500, Republican Congressional Leadership Council; $4,000, Fund for America's Future. 1987: $100, Dornan in 1986 (debt retirement); $2,500, Republican Congressional Leadership Council; $10,000, RNC; $1,000, Bob Dole for President; $1,000, Bush for President; $1,000, Dawkins for Senate. 1988: $10,000, Presidential Trust; $1,000, National Republican Senatorial Committee; $1,000, Californians for Pete Wilson; $1,000, Voinovich for Senate; $1,000, Roth for Senate; $1,000, Danforth for Senate; $1,000, Chaffee for Senate; $1,000, Durenberger for Senate; $1,000, Wallop for Senate; $1,000, Heinz for Senate; $1,000, Dawkins for Senate. 1989: $10,000, Senatorial Trust.

2. Spouse, Gloria A. Holden, 1985: $2,000, Californians for Pete Wilson; $1,000, Friends of Antonovich; $750, Symms for Senate; $1,000, Dreier for Congress. 1986: $1,000, Bob Naylor for Senate; $1,000, California Unity Fund; $1,000, Antonovich for Senate; $1,000, Bobbi Fiedler for Congress; $500, Kastin for Senate (Wisconsin); $4,000, Fund for America's Future. 1988: $10,000, Republican National Committee; $1,000, Bush for President.

3. Children and Spouses, Glen A. Holden, Jr., 1985: $2,500, Republican Congressional Leadership Council; $500, Symms for Senate; $2,000, Californians for Pete Wilson; $1,000, Re Elect Packwood Committee. 1986: $1,000, Antonovich for Senate; $5,000, Republican Congressional Leadership Council; $1,000, Ed Zschau. 1988: $5,000, Republican Congressional Leadership Council; $5,000, RNC; $1,000, Dole for President; $1,000, Bush for President.

Mrs. Nancy (Glen A. Holden, Jr.) Holden (daughter-in-law), 1985: $1,000, Californians for Pete Wilson; 1988: $1,000, Bush for President.

Georgianne Holden Stone (daughter), 1985: $1,000, Californians for Pete Wilson; $1,000, Re Elect Packwood Committee. 1986: $1,000, Antonovich for Senate; $1,000, Linda Chavez for Senate. 1988: $1,000, John Radcliff for Congress (Hawaii); $1,000, Gunter for Senate; $5,000, National Republican Committee; $1,000, Bush for President.

H. Richard Stone (Georgianne Holden Stone) (son-in-law), 1985: $1,000, Californians for Pete Wilson; 1988: $1,000, Bush for President.

Geannie A. Holden Sheller (daughter), 1985: $1,000, Re Elect Packwood Committee; $1,000, Californians for Pete Wilson. 1986: $1,000, Antonovich for Senate; $1,000, Linda Chavez for Senate; $1,000, Friends of Bob Graham; $1,000, Fiedler for Congress. 1988: $1,000, John Radcliff for Congress (Hawaii); $1,000, Gunter for Senate; $5,000, National Republican Committee; $1,000, Bush for President.

Michael W. Sheller (Geannie A. Holden Sheller) (son-in-law), 1985: $1,000, Californians for Pete Wilson. 1988: $1,000, Bush for President.

Note.—Any contributions made by my immediate family were made from their personal accounts.

4. Parents, Lilah Holden and Arthur Holden (both deceased prior to the requested reporting period).

5. Grandparents, deceased.

6. Brother and spouse, Robert S. Holden—not more than $50-$100 in any year; Esta Holden—not more than $50-$100 in any year.

Sisters and spouses, Helen M. Manning—under $200 in the last four year period. Loyd Manning—under $200 in the last four year period; Marilyn Smithrud—none; Paul Smithrud—none.

Sally J. Novetzke, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Sally J. Novetzke.

Post: Ambassador to Malta.

Contributions, amount, date, and donee:

1. Self, 1984-85: $500, to state Republican Party; $150, to Lincoln Club; $100, to Linn County Republican Party. 1985-86: $500, to State Republican Party; $150, to Lincoln Club; $100, to Linn County Republican Party, $250, to Tom Tauke. 1986-87: $1,000, to State Republican Party; $150, to Lincoln Club; $100, to Linn County Republican Party. 1987-88: $250, to State Republican Party; $150, to Linn Eagles; $100, to Linn County Republican Party; $1,000, to Federation of Republican Women (National).

2. Spouse, Richard, none.

3. Children and spouses, Sara Elliott, none; Wynn Elliott, none; Elizabeth and Corey Johnson, none; Richard, Jr. and Andrew, none.

4. Parents, Marjorie Johnson, to the best of her knowledge, did not contribute to a Federal candidate. She did contribute to the National Republican Party and local candidates. My father, Melvin Otto Johnson, is deceased.

5. Grandparents, Minnie and August Iserman, deceased; Hilda and Fred Johnson, deceased.

6. Brothers and spouses, David and Mary Johnson, none.

7. Sisters and spouses, none.

Nicolas Miklos Salgo, of Florida, for the rank of Ambassador in his capacity as the Special Negotiator for Property Issues.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Nicolas M. Salgo.

Post: Special Envoy, Property Issues.

Nominated: March 7, 1989.

Contributions, amount, date, donee:

1. Self, 1985: $10,000, Republican Eagles; $10,000, Republican Eagles. 1986: $2,000, Dole for Senate; $5,000, Campaign America; $1,000, Majority Leaders Joint Trust; $10,000, Republican Eagles. 1987: $10,000, Presidential Trust; $10,000, Republican National Finance Committee; $10,000, Republican National Finance Committee. 1988: $2,000, George Bush for President; $1,000, Dole for President; $1,000, Haig for President; $502,163.17, Republican National State Election Committee; $1,000, Dana Rohrabacher for Congress. 1989: $2,000, New York Republican County Committee; $5,000, Campaign America.

2. Spouse, 1985: $10,000, Republican Eagles; $10,000, Republican Eagles. 1986: $2,000, Dole for Senate; $10,000, Republican Eagles; $5,000, Campaign America. 1987: $10,000, Republican National Finance Committee; $1,000, Dole for President. 1988: $1,000, Haig for President. 1989: None.

3. Children and spouses, none.

4. Parents, none.

5. Grandparents, none.

6. Brothers and spouses, no political contributions.

7. Sisters and spouses, none.

Charles Warren Hostler, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Dr. Charles W. Hostler.

Post: U.S. Ambassador to Bahrain.

Contributions, amount, date, and donee:

1. Self, $1000, "Repub. Sen. Inner Circle"; $10,000, "Victory '88"; $90,000, "Victory '88 (Calif.).

2. Spouse, none.

3. Children and spouses, my son made no contributions.

4. Parent, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

Paul Matthews Cleveland, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Paul Matthews Cleveland.

Post: American Embassy Wellington.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Carter S., none.

3. Children and spouses, Robin, Sandra, James, and Peter, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, James and Catherine Cleveland, none.

7. Sisters and spouses, none.

Christoper H. Phillips, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Christopher H. Phillips.

Post: Ambassador to Brunei.

Contributions, amount, date, and donee:

1. Self, $1000, 1985, Fund for America's Future: $1,000, 1987, Bush for President; $200, 1988, Republican National Committee.

2. Spouse, Mabel Phillips, none.

3. Children and spouses, Charles and Miriam P. Eley, none. Andrew J. Corbett, Jr., (son-in-law), $1000, 1987, Robert Dole; $100, 1988, Republican National Committee. Victoria P. Corbett, none. David W. Phillips, none.

4. Parents, William and Caroline D. Phillips, deceased.

5. Grandparents, deceased—John and Annie T. Phillips, James C. and Charlotte A. Drayton.

6. Brothers and spouses, William Phillips, $350, 1985, Republican National Committee; $300, 1986, Republican National Committee; $500, 1987, Republican National Committee; $500, 1988, Republican National Committee; $300, 1989, Republican National Committee; $100, 1985, GOP Victory Fund; $100, 1986, GOP Victory Fund; $50, 1986, National Re-

publican Senatorial Committee; $100, 1987, Presidential Support Fund; $300, 1988, Americans for Bush; $500, 1988, R.N.C. Presidential Fund. Barbara Phillips, $15, 1985, Citizens for Reagan; $25, 1987, Citizens for Reagan; $50, 1988, Lindy Bean-Jones for Congress; $150, 1988, O'Meara for Congress.

7. Sisters and spouses, Elliott B. Strauss, $325, 1986, Republican National Committee; $70, 1986, Jeremiah for Senate; $350, 1987, Republican National Committee; $400, 1987, Bush-for-President; $50, 1987, National Republican Congressional Committee; $36, 1987, Jesse Helms Legal Defense; $50, 1988, Republican National Committee; $600, 1988, Bush-for-President; $15, 1988, Friends of Orrin Hatch; $300, 1989, Republican National Committee. Beatrice P. Strauss, none. John W. Bryant, $25, 1987, Bush-for-President. Anne P. Bryant, none.

William Ludwig Jacobsen, Jr., of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic Guinea-Bissau.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Ludwig Jacobsen, Jr.

Post: Guinea-Bissau.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Karl-Eric Jacobsen, Kristina Jacobsen, Heidi Jacobsen Happapel, Andrew Hannapel (spouse), none.

4. Parents, Dorothy B. Jacobsen, none.

5. Grandparents, N.A.

6. Brothers and spouses, James Hall Jacobsen (Tina Jacobsen), Kurth Christopher Jacobsen (Martha Hines), Byram Edward Jacobsen (Andray Jacobsen), none.

Sisters and spouses, none.

Penne Percy Korth, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Penne P. Korth.

Post: Ambassador to Mauritius.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, $200, 1985, Jim Wright; $200, 1986, Jim Wright; $200, 1987, Jim Wright; $200, 1988, Jim Wright; $200, 1989, Jim Wright.

3. Children and spouses, Fritz-Alan Korth, Jr., none. Maria Eleanor Korth, none. James Frederick Korth, none.

4. Parents, James S. Percy, deceased. Ann R. Percy, none.

5. Grandparents, Peter R. Percy, deceased. Florence Percy, deceased. Byron E. Green, deceased. Ruth Green, none.

Kenneth L. Brown of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Côte d'Ivoire.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Kenneth L. Brown.

Post: Abidjan, Côte d'Ivoire.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Bonnie Lea-Brown, none.

3. Children and spouses, Kai, Craig, Charity Brown, none.

4. Parents, Juanita Brown, none. Roy L. Brown, deceased.

5. Grandparents, Gilson and Etta Martin, deceased. Sam and Ada Brown, deceased.

6. Brothers and spouses, Gilbert and Robin Brown, none.

7. Sisters and spouses, Elaine and Art Flory, none.

Charles E. Cobb, Jr., of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Charles Elvan Cobb, Jr.

Post: Ambassador to Republic of Iceland.

Contributions, amount, date, and donee:

1. Self, 1989: $1,000, Pete Dawkins for U.S. Senate; $1,000, McConnell Senate Committee; $1,000, People for Senator Rudy Boschwitz. 1988: $1,000, David Karnes for U.S. Senate; $2,000, Connie Mack for U.S. Senate; $1,000, Ken Adams for Congress; $1,000, Senator Wallop Campaign; $10,000, Republican Eagles; $500, Bafalis for Congress; $500, Clay Shaw for Congress. 1987: $11,000, Republican Senatorial Circle; $10,000 Republican Eagles; $1,000, Vice President's Exploration Account; $5,000, Fund for America's Future. 1986: $10,000, Republican National Committee (EAGLES); $500, Claude Pepper for Congress; $500, Orrin Hatch for Senate; $5,000, Fund for America's Future. 1985: $2,000, Friends for Bob Graham; $2,000, Re-Elect Paula Hawkins; $1,000, Republican Senatorial Inner Circle; $1,000, Walt Disney Company PAC; $5,000 Fund for America's Future.

2. Spouse, 1988: $1,000, Connie Mack for U.S. Senate; $10,000, Presidential Trust; $680, Askew for U.S. Senate. 1987: $1,000 George Bush for President; $1,000, Pete duPont for President. 1986: $2,000 Bob Graham for U.S. Senate. 1985: $1,000, Packwood Committee.

3. Children and spouses, Tobin T. Cobb, 1988: $1,000, George Bush for President.

4. Parents, Father, None. Mother, deceased.

5. Grandparents, deceased.

6. Brothers and Spouses, N/A.

7. Sisters and spouses, Particia Cobb Veatch, None.

John Giffen Weinmann, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John G. Weinmann.

Post: Ambassador to Finland.

Contributions, amount, date, and donee:

1. Self, $10,100, 1984, Republican Eagles; $4,000, 1985, Louisiana Republican Foundation; $10,000, 1985, Republican Eagles; $1,000, 1985, Henson Moore Election Committee; $250, 1985, New Orleans Republican PAC; $1,000, 1986, Louisiana Republican Foundation; $1,000, 1986, Victory 86—LA Republican Party; $250, 1986, Richard Baker Campaign Fund; $10,000, 1986, Republican Eagles; $1,000, 1987, Louisiana Republican Foundation; $100, 1987, Baker for Congress; $100, 1987, Louisiana Republican Party; $10,000, 1987, Republican Eagles; $5,000, 1987, Fund for America's Future; $1,000, 1987, George Bush for President; $100, 1987, Russell B. Long Committee; $1,500, 1987, The President's Dinner; $100, 1987, New Orleans Republican Party; $10,000, 1988, The Presidential Trust; $250, 1988, Louisiana Republican Party; $250, 1988, McCrery for Congress; $500, 1988, Pete Dawkins Campaign Fund; $25, 1988, Louisiana College Republican Federation; $1,000, 1988, Clyde Holloway Campaign Fund, First Primary; $1,000, 1988, Louisiana Republican Trust; $32, 1988, Barnard Co. (Convention Host Committee); $621, 1988, Barnard Co. (Convention Host Committee); $1,060, 1988, Martin Greater Film Graphics (Convention Host Committee); $1,398, 1988, Blaine Kern Artists, Inc. (LA Rep. Party); $250, 1988, Clyde Holloway Second Primary; $33, 1989, LA Republican Party.

2. Spouse, $500; 1985, Lindy Boggs' Campaign Fund; $1,000, 1985, Henson Moore Election Committee; $1,000, 1986, Victory 86—LA Republican Party; $1,000, 1987, George Bush for President; $5,000, 1988, Victory 88.

3. Children and spouses, Winston E. Weinmann, $200, 1987, GOP Victory Fund; $250, 1988, George Bush for President; $30, 1988, Fulton County Republican Party. Brooke T. Weinmann (Mrs. Winston E. Weinmann), none. Robert T. Weinmann, $1,000, 1988, George Bush for President; John G. Weinmann, Jr., $200, 1988, George Bush for President; $1,000, 1988, Louisiana Victory 88 Fund. Clifford L. Weinmann (Mrs. John Giffen Weinmann, Jr.), none. Mary Virginia Weinmann, none. George G. Weinmann, none.

4. Parents, Mary M. Weinmann (Mother), none.

5. Grandparents, none living.

6. Brothers and spouses, no siblings.

7. Sisters and spouses, no siblings.

Marion V. Creekmore, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Nominee: Marion V. Creekmore, Jr.

Post: Sri Lanka:

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee.

Nominee: Marion V. Creekmore, Jr.

Post: Sri Lanka.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Linda R. Creekmore, none.

3. Children and Spouses, Mary Catherine Creekmore, none. Debra Lynn Creekmore, none.

4. Parents, Marion V. Creekmore, Sr. (deceased); Grace Blalock Creekmore, none.

5. Grandparents, Jessie and Velma Blalock (deceased). Thomas Coleman and Megarie Creekmore (deceased).

6. Brothers and Spouses, Robert Larry Creekmore, none. Nancy Norment Creekmore, none.

7. Sisters and spouses, N.A.

Henry Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Burdensharing.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Henry Allen Holmes.

Post: Ambassador at Large.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Marilyn J. Holmes, none.

3. Children and spouses, Gerald A. Holmes, none. Katherine and Daniel Chuba, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, Richard P. and Lucy Hubbard Holmes, $100, 1989, Jack Rains (candidate for Governor of Texas).

7. Sisters and spouses, Elsie Holmes and William Peck, none.

Henry Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador at Large for Burdensharing.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Alan Green, Jr.

Post: Ambassador to the Socialist Republic of Romania.

Contributions, year, donee, and amount:

1. Self, Alan Green, Jr., 1984: Campaign Fund for Republican Women, $150; Mark Hatfield Re-election, $1,000; Andy Ireland Campaign Committee, $300; Bentley for Congress, $150; Friends of Denny Smith, $250; Bob Smith for Congress, $250. 1985: Fund for America's Future, $5,000; Moshofsky for Congress, $100; Bentley for Congress, $100; Ireland for Congress, $350; California's Joe McCloskey, $125; Bob Packwood Re-election, $1,000. 1986: Bush for President, $750; Fund for America's Future, $2,500; Ireland for Congress, $500; Republican National Committee, $200; Mary Burrows for Congress, $250; Robert Smith for Congress, $250; Meeker for Congress, $500. 1987: Bush for President, $250; Bush for President,[1] $1,000; Friends of Denny Smith, $100; Republican National Committee, $450; Ireland for Congress, $500; George Bush Compliance Committee, $1,000. 1988: Ireland for Congress, $500; Republican National Committee, $250; Dawkins for Senate, $100; Re-elect Hatfield Committee, $1,000; Presidential Inaugural Committee, $4,190. 1989: Friends of Denny Smith, $250; Republican National Committee, $250.

2. Spouse, Joan Irwin Green 1984: Republican National Committee, $130, Ireland for Congress, $250. 1985: Republican National Committee, $400, Ireland for Congress, $100. 1986: Bush for President, $750, Ireland for Congress, $100, Fund for America's Future, $2,500. 1987: Bush for President, $250, Bush for President [1], $1,000, Republican National Committee, $100, Ireland for Congress, $100, Republican National Committee, $200.

[1] Legal maximum allowed for expenses incurred for an event held at our residence on behalf of presidential candidate George Bush and wife Barbara.

3. Children and spouses, Carter Green and Gregg Peterson (daughter and son-in-law), Frenzel for Congress Committee, 1985, $30, Republican National Committee, 1986, $25, Republican National Committee, 1987, $50, Bush for President Committee, 1988, $500, Republican National Committee, $25. Kelsey and John Grout (daughter and son-in-law), Fund for America's Future, 1986, $500, Bush for President, 1987, $300. Helen Ladd and John Mengel (daughter and son-in-law), Fund for America's Future, 1987, $500. Dorice C. Irwin (mother-in-law), Fund for America's Future, 1987, $1,000.

4. Parents, Mother: Helen Ladd Green, deceased. Father: Alan Green, deceased.

5. Grandparents, Maternal: Mr. & Mrs. Wesley Ladd—Both deceased. Fraternal: Mr. & Mrs. Charles Green—Both Deceased No Contributions

6. Brothers and spouses, none.

7. Sisters and spouses, Helen Green Labbe, deceased, married and divorced C. Henri Labbe, also deceased.

Alvin P. Adams, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Alvin P. Adams, Jr.

Post: Ambassador to Haiti.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Lex N. Adams, Tung T. Adams, none.

4. Parents, Alvin P. Adams, $750 (about), 1984, Reagan Campaign; $750 (about), 1988, Bush campaign.

5. Grandparents, none.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

David Jameison Smith, of Virginia, for the rank of Ambassador during his tenure of service as Chief Negotiator for Defense and Space.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: David Jameison Smith.

Post: Chief Negotiator for Defense and Space (Ambassador).

Contributions, amount, date, and donee:

1. Self, $66, 1985, National Republican Senatorial Committee; $10, 1985, People for Cozzens; $25, 1985, GOP Victory Fund; $100, 1985, Kolbe for Congress; $15, 1985, GOPAC; $15, 1985, GOPAC; $15, 1986, GOPAC; $20, 1986, GOP Victory Fund; $100, 1986, McCain for Senate; $100, 1986, Kyl for Congress; $25, 1988, Friends of Dick Lugar; $25, 1988, GOP Victory Fund; $25, 1988, Kolbe 88; $15, 1988, GOPAC; $25, 1988, Jon Kyl Reelection Committee; $25, 1988, Dawkins for Senate; $19.89, 1989, Jon Kyl Reelection Committee.

2. Spouse, $9.40, 1987, Dole for President.

3. Children and spouses, Kelly E. Sanborn, none.

4. Parents, David J. Smith, none; Nancy L. Carpi, none.

Grandparents, David J. Smith, Esther Smith and Alfred Lepore, all deceased. Helen Lepore, none.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 1736. A bill to temporarily suspend the duty on mercuric oxide; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself and Mr. BURNS):

S. 1737. A bill to extend the Small Business Development Center Program; to the Committee on Small Business.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1738. A bill to convey certain Oregon and California Railroad Grant Lands in Josephine County Oregon to the Rogue Community College District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 1739. A bill to establish within the Department of Health and Human Services a permanent Federal Council on Nutrition and Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. FORD):

S. 1740. To establish a research and demonstration program to promote cofiring of natural gas and coal in certain boilers, to provide Federal funding and tax incentives to carry out the program and to clarify the status of cofired electric utility or industrial boilers for purposes of new source performance standards; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. DANFORTH, and Mr. BOND):

S. 1741. A bill to amend the Federal Aviation Act of 1958 to increase competition among commercial air carriers at the Nation's major airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. LIEBERMAN):

S. 1742. A bill to further the goals of the Paperwork Reduction Act and provide for comprehensive information resources management of Federal departments and agencies and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself and Mr. SIMPSON):

S. 1743. A bill to clarify the application of the antitrust laws to certain agreements imposing territorial limitations on the distribution of trademarked products for resale; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. CHAFEE):

S. 1744. A bill to suspend temporarily the duty on 2,3,6 Trimethylphenol (TMP); to the Committee on Finance.

By Mr. BRADLEY:

S. 1745. A bill to extend the temporary suspension of duty on jacquard cards and to include in the suspension plastic jacquard cards and other cards to be used as jacquard cards; to the Committee on Finance.

By Mr. BAUCUS:

S. 1746. A bill to initiate actions under section 310 of the Trade Act of 1974 with respect to agricultural trade barriers, and to extend and initiate the triggered marketing loan program or an expanded export enhancement program, if an international trade agreement under the General Agreement on Tariff and Trade is not submitted to Congress by February 15, 1991, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. DECONCINI and Mr. DURENBERGER):

S.J. Res. 214. A joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 192. Resolution authorizing the testimony and representation of Senate employees in the case of United States v. jorge Artalego, (D.C. Superior Ct.); considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 1736. A bill to temporarily suspend the duty on mercuric oxide; to the Committee on Finance.

TEMPORARY DUTY SUSPENSION ON MERCURIC OXIDE

● Mr. GRASSLEY. Mr. President, today I am introducing a bill to temporarily suspend the duty on mercuric oxide.

Red mercuric oxide is used in the manufacturing of batteries. Up until 6 years ago there were two domestic sources for this material. Unfortunately, both of these companies have stopped production. Now most of this product is imported from such countries as England, West Germany, Spain, and the People's Republic of China.

As we are all aware batteries are used in a variety of devices such as communications equipment, medical devices and many military applications. Since there is no current domestic source for mercuric oxide I believe this legislation should be categorized as noncontroversial. I am therefore hopeful that the Finance Committee will give this legislation consideration when they take up the miscellaneous tariff bills this year.

Mr. President, I ask that a copy of this legislation be inserted in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MERCURIC OXIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.28.25	Mercuric oxide (provided for in subheading 2825.90.60)...	Free	No change	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.●

By Mr. BOSCHWITZ (for himself and Mr. BURNS):

S. 1737. A bill to extend the Small Business Development Center Program; to the Committee on Small Business.

EXTENSION OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

● Mr. BOSCHWITZ. Mr. President, today I am introducing legislation which will reauthorize the U.S. Small Business Administration's Small Business Development Center [SBDC] Program. The program is currently authorized until October 1, 1990; my bill will reauthorize SBDC's until October 1, 1995.

SBDC's are sponsored by the Small Business Administration [SBA] in partnership with State and local governments, the educational community, and the private sector. The centers provide one-stop assistance to small business. They provide counseling, training, and management and technical assistance to present and prospective small business owners. SBDC services are developed in cooperation with local SBA district offices to ensure that the SBDC's coordinate efforts, share information, and avoid duplication with other resources available throughout the State.

There are 53 SBDC's in 46 States. In each State there is a lead organization, endorsed by the Governor, which sponsors the SBDC and from which the statewide director manages the program. The lead organization coordinates program services offered to small businesses through a network of subcenters and satellite locations in each State. These subcenters are located at colleges, universities, community colleges, vocational schools, chambers of commerce or economic development corporations.

The lead center in my State of Minnesota is the Department of Trade and Economic Development. It has a variety of organizations serving as host organizations for SBDC subcenters. These include: The University of Minnesota-Duluth campus and the Extension Service Division; area vocational technical institutes; community colleages; area economic development offices; and a State legislature funded nonprofit organization specializing in high technology R&D.

SBDC assistance is specifically tailored to the local area and the needs of individual clients. In fact, the subcenter at the College of St. Thomas in St. Paul, MN, has an employee who speaks many Asian languages and dialects. He operates an Asian resource desk at the subcenter and provides great assistance to the large Asian population in the St. Paul area.

I would like to mention two examples of assistance provided by the Minnesota SBDC network. The Pine Technical College subcenter assisted a garment manufacturer whose sales had grown from $17,000 to $100,000 in 1 year. The client had borrowed small amounts from several different sources, and needed help in consolidating loans and purchasing equipment. The SBDC helped the client develop a business plan, establish a budget, and set priorities. This enabled the client to obtain financing for the necessary equipment from a local bank and from the central Minnesota initiative fund. The business now employs 21 people, and recorded $360,000 in sales volume during the first 6 months of 1989.

The Brainerd Technical College subcenter maintains an invention and innovation consultant whose services are available statewide. Recently, the subcenter helped a local pharmacist-inventor get his product tested by an officially recognized testing facility. This enabled him to market the product to a commercial and medical supply firm and obtain financing for further product development.

SBA provides 50 percent or less of the funding for the operation of each State SBDC. The applicant organization provides 50 percent or more of State program costs. These matching funds are provided by contributions from State legislatures, private sector foundations and grants, State and local chambers of commerce, State-chartered economic development corporations, public and private universities, vocational and technical schools, community colleges, and so forth. Increasingly, these matching funds are exceeding the required 50 percent matching share.

In addition to counseling, training and management and technical assistance, SBDC's also provide special programs and economic development activities. Among these are services to inventors with patentable products, international trade centers for export and import advice, business law information and guidance, procurement matching assistance, venture capital

formation and small business incubators.

The SBDC's also make special efforts to reach members of minority groups, veterans, women, the handicapped, and other current or potential small business owners. They also provide assistance to small businesses applying for small business innovation and research grants.

In 1988, approximately 80,000 small business owners and prospective owners were counseled through SBDC's. The Minnesota SBDC and its subcenters provided counseling and training to 15,000 businesses; nearly 80 percent of these businesses were outside the Twin Cities metropolitan area.

Mr. President, small business development centers provide a great deal of assistance to existing and prospective small businesses. It is necessary to reauthorize this program. I urge my colleagues to support this legislation.●

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1738. A bill to convey certain Oregon and California Railroad grant lands in Jospehine County, OR, to the Rogue Community College District, and for other purposes; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN LAND TO ROGUE COMMUNITY COLLEGE DISTRICT

● Mr. HATFIELD. Mr. President, today Senator PACKWOOD and I are introducing a bill that conveys a small parcel of Oregon and California Railroad grant land—so-called O&C land—to the Rogue Community College in Josephine County, OR. Our collleague in the Oregon congressnional delegation, Congressman BOB SMITH, is introducing an identical version today in the House of Representatives.

Located on the parcel of land identified in the bill are a number of buildings that belong to Rogue Community College, an educational institution that is important to both the southern Oregon region and our entire State. Since acquiring those facilities in 1971, the college has attempted to gain title to the land on which they sit. Currently, they are leasing the property from the Bureau of Land Management [BLM].

It was originally thought that this transfer could occur through the provisions of the Federal Property and Administrative Services Act [FPASA]. Under those provisions, the property would be transferred to the General Services Administration [GSA], deemed surplus to the Federal Government, and sold to the college.

While this scenario was supported by the BLM, the GSA as unable to implement the transfer and sale due to the property's special designation as O&C land. Because O&C lands are reacquired public domain lands, they cannot be disposed of under current law. Therefore, conveying title to the land occupied by the college requires the legislative solution which we are introducing today.

Mr. President, in general, the primary use of O&C land is timber management. That practice benefits the local countries economically be providing timber to local mills and by a special revenue sharing arrangement based on timber sale receipts. However, the land now occupied by the Rogue Community College and identified in this bill has been certified by the BLM as incapable of reforestation. Accordingly, its transfer to the college would in no way diminish the producutivity of O&C lands.

In fact, I believe just the opposite would occur. By allowing the college the certainty to plan for expansion, this transfer would enhance what I believe is a very high value use of that particular parcel—promoting educational excellence.

As some of my colleagues may remember, Senator PACKWOOD and I introduced this same bill last year during the second session of the 100th Congress. Unfortunately, there was not time for the Senate to complete action on that legislation. It is my hope during this new Congress that both the Energy and Natural Resources Committee, of which I am a member, and the entire Senate will consider and approve this legislation in an expeditious manner. Rogue Community College and its fine president, Dr. Harvey Bennett, deserve to see their facilities secured for future growth and expansion.

Mr. President, I ask that a memorandum prepared by the Department of the Interior's Pacific Northwest Regional Solicitor explaining the history of this issue and a copy of the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(3) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

(4) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

SEC. 3. PURCHASE OF LAND AFTER REVERSION.

If the land described in section 1(b) should revert to the United States by operation of paragraph (4) of section 2, the District may acquire such land from the United States, during the two year period ending after the date the land has reverted to the United States, by quitclaim deed, upon application to the Secretary of the Interior and the payment of the fair market value of such land and any improvements thereon.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Portland, OR, December 7, 1987.

HON. MARK O. HATFIELD,
United States Senator, Yamhill, Portland, OR.

DEAR SENATOR HATFIELD: This is in response to a request for drafting service for proposed legislation that would accomplish the transfer of O&C land presently leased to the Rogue Valley Area Education District.

Enclosed is a draft of legislative language that would accomplish the transfer, but yet protect any other party having valid existing rights at the time of transfer. The draft also contains language that would automatically return title to the United States in the event that the property would be used for purposes other than education and/or conveyed to another party without written approval from the Secretary of the Interior.

Additionally, and for your information, we are enclosing a memorandum prepared by the Office of the Regional Solicitor, Pacific Northwest Region which clearly and concisely sets out the entire history of the case along with the legal interpretation of the issues at that point in time.

If we can be of any further assistance in this matter, please let me know.

Sincerely,

/s/ PAUL M. VETTERICK,
FOR CHARLES W. LUSCHER,
State Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Portland, OR, April 16, 1984.

To: Oregon State Director, Bureau of Land Management (943.1).

From: Office of the Regional Solicitor, Pacific Northwest Region.

Subject: Disposal of O&C Land to Rogue Community College.

Over the past three years the BLM has been negotiating with the General Services Administration as to the possible disposal of

the O&C land on which the Rogue Community College is operating its college under a twenty-five year lease. However, the GSA has continued to question its authority to accept this property under the Federal Property and Administrative Services Act of 1949, (40 U.S.C. § 471 *et seq*), hereinafter referred to as the FPASA, because of its special status as O&C land. You have requested that our office examine the issues involved and provide you our legal opinion on this question. Based upon a careful examination of the legislation history of the O&C lands and the provisions of the FPASA we have concluded that O&C lands are reacquired public domain land which have been reserved for special purposes and that they cannot be disposed of under the FPASA.

To assist in understanding this matter it is helpful to outline the circumstances leading to the present situation.

BACKGROUND INFORMATION

The land in question consists of the SW¼ NE¼ of section 27, T. 36 S. R. 6. W. Willamette Meridian. It is located approximately 2 ½ miles southwest of the city of Grants Pass, Oregon, which is the county seat of Josephine County. The land was originally part of the public domain which was granted to the Oregon and California Railroad Company in aid of the construction of a railroad from Portland to the Oregon—California boundary by the Act of July 25, 1866 (14 Stat. 239). Because of violations of the terms of the grant, the Congress revested all unsold lands by the Act of June 9, 1916 (39 Stat. 218).

In 1965 and 1966 the Fort Vannoy Job Corps Center was constructed on the area. It consisted of approximately 36 buildings and sheds, having an estimated value in 1971 of approximately $730,000. According to BLM records no merchantable timber remains on the area. The camp was terminated in 1968 and the Rogue Community College initiated proceedings to acquire the site and its buildings. The buildings were surplused to the General Services Administration by the BLM under the FPASA and subsequently transferred to the Department of Health, Education and Welfare.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Secretary of the Interior may convey, without consideration, to Rogue Valley Area Education District the following described land in Josephine County, Oregon: Section 27, SW¼NE¼ T. 36 S., R. 6 W., W.M. Said conveyance shall be subject to all existing encumbrances, shall reserve to the United States the mineral estate, including geothermal resources, and be made subject to the Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945. Provided, that the Rogue Valley Area Education District shall not transfer said property, nor use said property for any purpose other than educational purposes without the written approval of the Secretary of the Interior. Transfer or change in use of said property without written approval from the Secretary of the Interior will automatically defeat the title to said property and will revest the same in the name of the United States and will be so noted on the records of the United States as Oregon and California Railroad Grant Lands. Provided further, that upon application for transfer or change in use and approval thereof and the payment of fair market value of the land and improvements, Rogue Valley Area Education District may transfer said property or change the use as approved by the Secretary of the Department of the Interior.

By an Agreement of Sale with HEW dated August 19, 1971, the Rogue Community College acquired the buildings on this land without cost. In accordance with the terms of the agreement the college earned a public benefit allowance for the value of the buildings by agreeing to use the property for educational purposes for 15 years. Concurrent with the sale of the buildings, the BLM leased the underlying land to the college for a period of 10 years under the terms of a Recreational or Public Purpose Lease dated July 1, 1971, for a lump sum payment of $100. The land was leased rather than sold under the R&PP Act because that act specifically provides that O&C land may only be leased. (43 U.S.C. § 869(c)) In 1973, in response to a Congressional inquiry, the Medford District Manager advised the Oregon State Director that because O&C land was involved it could not be disposed of through GSA under the FPASA and would therefore have to be exchanged or sold through special legislation. The possibilities of an exchange were explored at that time by the parties but were never fully pursued because of the complexities involved and time which this would take.

The files of the BLM also contain a copy of a memorandum of some interest from the Oregon State Director to the Director dated April 18, 1973, which, however, was apparently never sent. This draft memorandum indicates that the BLM knew of no precedent for the disposal of O&C lands by the GSA and that the Director's policy at the time the site was leased to the college was to limit disposal to a lease under the R&PP Act. While the statement sheds no light on whether the land could be legally disposed of under the FPASA, it does point out the important policy questions involved if a disposal of fee title under that act were to be pursued.

Between 1973 and 1979 no further activities were reported concerning the acquisition of the property by the college. However, approval was given by the BLM for the construction of several new school buildings.

In 1979 inquiries were again made by the college through Senator Hatfield as to the means by which the college could acquire title to the site. In response to this inquiry the Oregon State Director advised Senator Hatfield in a letter dated November 21, 1979, that sale for fair market value under FLPMA or land exchanges were the only two methods by which the college could acquire the title to the property under existing law. There is some confusion as to whether this response was intended to refer only to statutes under which the BLM operates directly or was also intended to imply that disposal by the GSA under the FPASA was not possible.

After learning that the Josephine County Commissioners and the Association of O&C Counties were agreeable to a disposal of the land through the GSA, the Oregon State Director advised the Medford District Manager on March 13, 1980, to proceed with disposal if the college formally requested such disposal and could demonstrate that the present lease was inadequate. The college was so advised and on April 24, 1980, formally requested the transfer of title.

Following the preparation of the necessary environmental analysis and land report, the District Manager reported the property available for disposal on August 4, 1980. The report was approved by the State Director and forwarded to the Denver Service Center on September 8, 1980, with the recommendation that the land be declared surplus, reported to GSA for disposal and conveyed to the college. On January 6, 1981, the Denver Service Center reported the land to GSA. Additional information was provided to GSA on February 26, 1981, including the fact that because of its isolated character and developments on the land it was uneconomical to manager and could not be restored to timber growth.

By a letter dated April 13, 1981, the GSA advised the BLM that it could not dispose of O&C land under the Federal Property and Administrative Services Act of 1949 for the following reasons: Because of the O&C land designation, we sought advice from our Regional counsel. GSA can accept excess property for disposal under the Federal Property and Administrative Services Act of 1949, as amended. However, counsel advises that the term 'property' does not include land in the public domain. It has been held that "O&C" lands are a part of the public domain and as such may not be disposed of by GSA under its authorities. Accordingly, we are returning your report of excess.

Discussion of the letter with the GSA has revealed that it was based upon the informal oral advice of the attorneys for the GSA and that no written opinions were prepared.

On May 20, 1981, the BLM resubmitted its excess land report to the GSA and advised that "property" which can be disposed of by GSA "includes lands withdrawn or reserved from the public domain when such lands have been determined by the Secretary of Interior, with concurrence of the Administration of GSA, [as] not suitable for return to the public domain because they have been substantially changed by improvements or otherwise." The resubmission then indicated that the BLM had determined that the lands in question were unsuitable for return to the public domain. This document notes that the matter had been discussed by the Solicitor's Office in Washington with the GSA and that it was felt that the initial application had been returned by the GSA because it failed to state that the lands in question were unsuitable for return to the public domain.

The GSA responded to this resubmission again questioning whether it had any authority to dispose of O&C land under the Federal Property and Administration Services Act, and that in any event if they lands were transferred to GSA for disposal there could be no assurance that they would be retransferred to the Rogue Community College.

In an attempt to resolve this impasse, our office wrote to the GSA on October 16, 1981, indicating that while we were reluctant to advise GSA as to its authorities, it appeared that GSA had authority to dispose of all property which is excess to the needs of a federal agency unless the property falls within one of the specific exemptions cited in the Federal Property and Administrative Services Act. We noted that: The O&C lands are portions of public domain which were granted to the Oregon and California Railroad Company in aid of the construction of a railroad. Upon violation of certain covenants in the grant, the lands were revested to the United States by an act of Congress on June 9, 1916 (39 Stat. 218). If such O&C lands fall within any of the exceptions which deprive the GSA of disposal authority, this would appear to be the exception for "lands withdrawn or reserved

from the public domain." However, there is specifically excluded from this exception "lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because such lands are substantially changed in character by improvements or otherwise."

It was under this exclusion to the public domain exception that BLM reported the Rogue Community College site to the GSA. We also outlined the means by which the site could be transferred to the Department of Education and thence to the college if the GSA were willing to accept the property as surplus.

In response to the comments from our office the GSA advised by a letter dated November 4, 1981, that it would only consider the acceptance of the land if it received:

1. An unqualified certification that the BLM may properly, within its authorities and existing statutes, withdraw the lands at Grants Pass from their O&C classification, determine them to be "property" as defined under the Federal Property and Administrative Services Act of 1949, and report them excess to GSA for disposal.

2. A formal land determination from the BLM that the O&C lands in question, or a portion of them, are unsuitable for retention in the public domain together with a request that GSA concur in that determination.

Certain additional information was also requested from the BLM.

Because of the delays in disposing of this property to the colleage it became necessary to extend the existing lease. On November 5, 1981, a new 25 year lease was offered to the college at a rental of $50 per five year period. This offer was accepted by the college and the new lease was approved by the BLM on November 19, 1981.

LEGAL ANALYSIS

The O&C Lands were originally portions of public domain which were granted in aid of the construction of a railroad. Their subsequent history up to the time of revestment has been succinctly set forth as follows by the Ninth Circuit Court of Appeals in *Skoko* v. *Andrus*, 638 F.2d 1154 (9th Cir. 1979), *cert. den.* 444 U.S. 927, 62 L.Ed.2d 183 (1979):

Between 1866 and 1870, Congress granted almost 4,000,000 acres of land to the Oregon & California Railroad to promote the construction of a railroad from Portland, Oregon, to the California Border. The granting statutes contained a proviso, "That the lands granted . . . shall be sold to actual settlers only in quantities not greater than one quarter section to one purchaser, and for a price not exceeding two dollars and fifty cents per acre." *Oregon & California Railroad Co.* v. *United States*, 1915, 238 U.S. 393, 403, 35 S. Ct. 908, 913, 59 L.Ed. 1360.

The railroad was built, but the proviso was violated. As a result, Congress, by joint resolution, directed the Attorney General to enforce the proviso. 35 Stat. 571 (1908). In the ensuing action, *supra*, the Court held that the proviso was a covenant, not a condition. It therefore refused to forefeit the lands still owned by the railroad, ordered the covenant enforced, and gave Congress "a reasonable time" to frame the remedy. *Id*, at 438-39, 35 S. Ct. 908.

Congress responded with the Chamberlain-Ferris Revestment Act of June 9, 1916, 39 Stat. 218, which declared all undisposed of grant lands "hereby, revested in the United States." 39 Stat. 219.

In 1912 while federal court actions were in progress to forefeit these lands, the Congress passed what has been called the "Forgiveness Act" (Act of August 29, 1912, 37 Stat. 320). This act permitted the government to compromise with and issue patents to those persons who had purchased O&C lands from the railroad grantee. It also provided in Section 2 of the Act: That none of the lands reverting to the United States by virtue of any right of forefeiture thereto as aforesaid shall be or become subject to entry under any of the public-land laws of the United States, or to the initiation of any right whatever under any of the public-land laws of the United States.

This reflects the intent of Congress that upon any successful forfeiture action the forfeited lands would not be directly disposed of under the homestead, lieu land or other statutes which were then the subject of such controversy.

The status of any reacquired O&C lands was again considered by Congress during the hearings leading up to the Revestment Act of June 9, 1916, (39 Stat. 218). As reported at page 116 of the Hearings Before the Committee on the Public Lands, House of Representatives on H.J. Res. 58, 64th Cong., 1st Sess., February 24, 1916, it was indicated by C. J. Smyth, Special Assistant to the Attorney General that the above quoted provision of the Foregiveness Act of 1912 would have no application where the Congress rather than the courts provided for the revestment of the O&C lands to the United States. He concluded that: It might be (sic) well be said that if the title to these lands was resumed by the United States without any provision for their future disposition they would become subject to the public-land laws now in existence. In fact, I do not see at this moment how that conclusion could be escaped. If, therefore, Congress concludes to revest the title in the United States, it ought at the same time to provide for some disposition of the lands.

In order to avoid subjecting the revested O&C lands to the general public-land laws then in effect, Congress specifically provided under the terms of the Act of June 9, 1916 (39 Stat. 218) for the disposition of these lands. The act provides that the lands be classified into (1) power-site lands, (2) timber lands, or (3) agricultural lands; that the timber on the lands should be sold for cash; and that the non-mineral agricultural lands should be subject to entry and sale under the homestead laws. It further provided that rights of way could be granted across such lands in the same manner as for public lands and that mineral lands (other than those suitable for power sites) were subject to entry and disposition under the mineral-land law of the United States.

This statute was later amended and supplemented by the O&C Act of August 28, 1937, (43 U.S.C. § 1181a) which provided that lands classified as timber lands be managed for timber production in support of local communities and industries. It also provided for the reclassification of lands more suitable for agricultural use.

Based upon the special history of the O&C lands and the above statutes, the Department of the Interior has on several occasions issued opinions which concluded that Congress has set aside the O&C lands for the purposes specified in the 1916 and 1937 acts and that they may not be used or disposed of for purposes or by means not provided for by the Congress.

In an opinion dated March 9, 1940, the Solicitor advised the Secretary that: [C]ongress has specifically provided a plan of utilization of the Oregon and California Railroad revested lands. This plan among other things involves the disposal of lands and timber and the distribution of the moneys received from such disposition. It must be concluded that Congress has set aside the lands for the specified purpose.

In view of this the Solicitor concluded that a presidential withdrawal of the O&C lands as an addition to the Oregon Caves National Monument was not authorized since it would conflict with the requirements of the O&C Act.

One year later on August 25, 1941, the Assistant Secretary issued an instruction advising that the mining laws were in conflict with the timber management requirements of the O&C Act and therefore did not apply to such lands. (57 ID 365) In reaching this conclusion the Assistant Secretary noted that the O&C Act required the permanent retention of lands classified for forest management and their management for timber production and other purposes specifically stated in the act. He also noted that it was a well established policy of the Congress to reserve lands from disposal except where there existed express statutory provisions for their disposition citing the case of *United States* v. *Sweet*, 245 U.S. 563, 62 L.Ed 473 (1918).

The same conclusions as to the special status of the O&C lands was reached by the Associate Solicitor for the Division of Public Lands in an opinion to the Director of the BLM dated October 7, 1966. (M-36697) Here the Associated Solicitor stated that: Congress has in a special manner sought to preserve the interests of the United States, and of the beneficiary counties, in the O&C lands and in the valuable timber resources they contain. Clearly, these lands have a special status which sets them separate and apart from the public lands of the United States. In other words, the O&C lands have been "appropriated" by the Congress.

Since such lands are appropriated for special designated purposes the Associate Solicitor concluded that they were not available as Indian Allotments under 25 U.S.C. § 334.

The care which the Congress has continued to assert concerning the preservation of the O&C lands as a special category of appropriate land has already been alluded to with respect to the Recreation and Public Purpose Act (43 U.S.C. § 869(c)) which provides for the lease but not the sale of O&C lands. More recently with the passage of the Federal Land Policy and Management Act of 1976 (FLPMA) the Congress has provided at 43 U.S.C. § 701(b) that any provisions of FLPMA which are inconsistent with timber management or revenue disposal provisions of the O&C Act must give way.

Given the historical and legal background of the O&C land, the question remains as to how these lands are to be classified and managed with respect to the Federal Property and Administrative Service Act of 1949, as amended, 40 U.S.C. § 471 *et seq.* This statute provides for the disposal of certain surplus property of the United States by the General Services Administration. The property subject to such disposal is defined in the statute as follows: The term "property" means any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior

determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government. (40 U.S.C. § 472(d))

In order to understand the place of the O&C lands within this definition it is helpful to examine the legislative history of the FPASA. In Senate Report 857 which accompanied the bill which amended the FPASA to its present general form in 1958, the term "public domain" was described as: Original public domain lands which have never left Federal ownership; also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on such lands; also, original public domain lands which have reverted to Federal ownership through operation of the public-land laws. S. Rep. No. 857, 85th Cong. 2nd Sess. (1957), *reprinted in* 1958 U.S. Code Cong. & Ad. News 2227, 2233.

Lands withdrawn or reserved from the public domain are further described in Senate Report 857 as follows: Two categories of federally owned real property may be said to fall within the term "reservations." Original public domain lands—lands to which title has been in the United States since acquisition—and withdrawn to a greater or lesser degree from the general operation of the public-land laws relating to settlement, entry, location, and sale, are "Federal reservations." So, too, are lands acquired or reacquired by the United States by purchase, condemnation, or by exchange for such purchased, condemned, or donated lands or for interests in or on such lands, and held for a specific public purpose. The term "withdraw" is used interchangeably with the term "reserve" to describe the statutory or administrative action which restricts or segregates a designated area of Federal real property from the full operation of the public-land laws relating to settlement, entry, location, and sales, which action holds them for a specific—and usually limited—public purpose.

Examples of reservations include: national forest reserve lands; national parks, monuments, and other units of the national park system; fish and wildlife refuges; petroleum, oil shale, coal, and other mineral reserves; recreation and wilderness areas; reclamation and power withdrawals or reservations; military reservations, and similar areas, all of which are held by some Federal agency for specified public purposes, and all of which may be created wholly from reserved original public domain lands, wholly from acquired or reacquired lands, or from portions of both. Other examples of Federal reservations, frequently created wholly from acquired lands, are post-office sites, weather stations, immigration and customs facilities, lighthouses, Federal courthouse sites, and the like. U.S. Code Cong. & Ad. News, *supra*, at 2233.

The recognition which Congress gave to the fact that upon revestment the O&C lands could be disposed of as any other public domain lands unless certain reservations were enacted has already been described with reference to the Forgiveness Act of 1912 and the Revestment Act of June 9, 1916. This taken together with the above description of the terms contained in the FPASA, makes it is clear that the O&C lands are reacquired public domain lands which have been reserved for those special purposes described in such statutes as the 1916 Revestment Act and the August 28, 1937 O&C Act (43 U.S.C. § 1181a *et seq.*) Because of their special reserved status they can only be disposed of in accordance with the mandate of Congress.

Such O&C lands can be sold for their fair market price in accordance with 43 U.S.C. § 203 so long as such sales would not be inconsistent with the timber management or revenue disposal provisions of the O&C Act as required by 43 U.S.C. § 701(b). Such lands can also be exchanged in accordance with 43 U.S.C. § 206. They can be leased but not sold in accordance with the Recreation or Public Purposes Act (43 U.S.C. § 869(c)). As reacquired public domain lands which have been reserved by Congress for a special purpose, the O&C lands do not fall within the definition of "property" as that term is used in the FPASA. While we indicated in our letter to the GSA on October 16, 1981, that lands reserved from the public domain which the Secretary of the Interior determined were not suitable for return to the public domain because of substantial changes in character by improvements could be disposed of under the FPASA, the present analysis of the legislature history of the O&C land makes it clear that since the Secretary has, in any event, no authority to return parcels of O&C land to the public domain, this provision of the FPASA is also inapplicable to the O&C lands. As noted earlier with respect to the attempted withdrawal of O&C lands as an addition to the Oregon Caves National Monument, only Congress can provide for the means by which the O&C lands may be disposed of. Therefore it is our opinion that without new legislation it will not be possible to exchange or sell these lands for less than their fair market value.

The suggestion has also been made that it might be possible for the FLM to dispose of the lands on which the Rogue Community College is located under 42 U.S.C. § 2704. That statute provides that: Notwithstanding any other provisions of law, the Director of the Office of Economic Opportunity shall establish procedures and make arrangements which are designed to assure that facilities and equipment at Job Corps centers which are being discontinued will, where feasible, be made available for use by State or Federal agencies and other public or private agencies, institutions, and organizations with satisfactory arrangements for utilizing such facilities and equipment for conducting programs, especially those providing opportunities for low-income disadvantaged youth, including, without limitation—

(1) special remedial programs;

(2) summer youth programs;

(3) exemplary vocational preparation and training programs;

(4) cultural enrichment programs, including music, the arts, and the humanities;

(5) training programs designed to improve the qualifications of educational personnel, including instructors in vocational educational programs; and

(6) youth conservation work and other conservation programs.

We do not believe the statute has any application to the present situation for a number of reasons. First, the Act relates to "facilities and equipment" only. There is no indication that Congress intended that it would provide the basis for the disposal of the title to federal land. Further, the statute merely provides that such "facilities and equipment" be made available for *use* by others, not that title passed. It also directs that such use be for special programs for disadvantaged youth, a purpose which at best may only make up a part of the program of education presently being offered by the Rogue Community College. In any event, in view of the specific Congressional mandate which has been laid down for the management of O&C lands it would be extremely difficult to imply a different and inconsistent use for the land on the basis of such a vaguely worded statute. In addition, the fact that the statute speaks in terms of Job Corps centers which are *being discontinued* appears to have little bearing upon a center which was discontinued in 1968, more than fifteen years ago and whose "facilities and equipment" were disposed of to the Community College under other statutory authority in 1971.

If we may be of further assistance in this matter please let us know. Your case file is returned herewith.

For the Regional Solicitor.

DONALD P. LAWTON,
Assistant Regional Solicitor,
Pacific Northwest Region.●

By Mr. HARKIN:

S. 1739. A bill to establish within the Department of Health and Human Services a permanent Federal Council on Nutrition and Health, and for other purposes; to the Committee on Labor and Human Resources.

NUTRITION AND HEALTH ACT

● Mr. HARKIN. Mr. President, today I am introducing the Nutrition and Health Act of 1989. This legislation will serve a key role in promoting the health of our citizens by establishing a central clearinghouse and focal point for current scientific information on the connection between nutrition and health.

Mr. President, few issues interest Americans as much as their personal health. That is true of the Members of the Senate and it's true of our families and our constituents. Health care costs are spiraling out of control in our Nation, stretching the budgets of the Federal Government, our State and local governments, employees and our individual families. We are all keenly aware of the need to restrain health care costs and have attempted to do so through a variety of means.

One of the most meaningful ways to restrain health care costs is by preventing the need for health care in the first place. Obviously, this is easier said than done. The human body is a complex entity that is only imperfectly understood by the best of us. Our knowledge of the causes of disease and the prevention of disease is increasing exponentially and yet we have only scratched the surface of understanding disease and the best methods for maintaining sound health.

Over the last 20 years, we have begun to understand, slowly, that nu-

trition is connected to health. What we eat and how we live has some causal connection to our chances of contracting certain diseases or adverse health conditions. As an example, the role of cholesterol in heart disease has become much more clearly understood in recent years and the role of diet in controlling cholesterol has also become better understood. Many of us have changed our lifestyles in response to this new information.

These new thoughts were discussed at the White House Conference on Food and Nutrition in 1969. Then, in 1974, the Senate Select Committee on Nutrition and Human Needs developed an extensive report on a number of aspects of nutrition and the role it plays not only in our individual lives, but in the health and productivity of our Nation. Our colleagues, Senators KENNEDY, DOLE, and CRANSTON served on that important committee which has made such a positive contribution to our Nation's understanding of the role and benefits of good nutrition.

More recently, in 1989, the Surgeon General of the United States issued his first report on nutrition and health which stated clearly that 5 of the 10 leading causes of death among Americans could be reduced through improved diet, nutrition, and life styles. The No. 1 cause of death in America is heart disease. It is responsible for more than 1 million deaths annually and costs Americans more than $60 billion annually. Most of those afflicted with this disease are unaware that it is directly related to their diets.

Earlier this year, the National Research Council issued a 3-year study entitled "Diet and Health: Implications for Reducing Chronic Disease Risk" which reviewed current nutrition research and further documented the connection between nutrition and the incidence of certain diseases and adverse health conditions. In addition, the NRC study contained a 6-page list of the existing gaps in our scientific knowledge in this important area. I must assume that this in only a partial list of what we do not know about the connection between nutrition and the incidence of certain diseases and adverse health conditions.

Mr. President, the American public is increasingly aware of and interested in good nutrition. Many of us in this Chamber have changed our dietary habits over the last few years in response to new information on nutrition. Our agricultural community and food processors are finding new improved methods of producing our foods and commodities in response to new information in this area. But all of us share a common problem: What nutrition information do we believe and where can we find solid information on nutrition?

Each year, the Federal Government spends over $300 million on nutrition research, but the information from that research and other nutrition research that is ongoing in this country and abroad is not always easy to locate.

The participants in the 1969 White House Conference on Food and Nutrition discussed the need "to expand the information about foods and nutrition that is available to the consumers." They found that "there is no central repository for nutrition data in the United States" and called for a "nutrition archive or data bank" to be established in the Department of Health, Education, and Welfare, which is now, of course, the Department of Health and Human Services.

Many of the observations made by the 1969 White House Conference were repeated in the 1974 report of the Senate Select Committee on Nutrition and Human Needs. The Select Committee found that the "quality of the Government's information on the status of nutrition and health is fragmentary, partial, improvised and unreliable," with policymakers unable to obtain "objective answers" to questions concerning the relationship betwwen nutrition and health. The committee found that there was an inadequate exchange of information on nutrition among research groups and noted a number of gaps in our base of knowledge. Finally, the Senate Select Committee recommended the establishment of a "nonpartisan publicly supported agency whose purpose it would be to collect, evaluate and disseminate information on healthful nutrition to the public."

The legislation that I am introducing today proposes one approach for addressing the need that was identified in 1969, in 1974 and, I believe, remains today: the need to gather in one place all the currently available scientific research into the connection between nutrition and health.

The Nutrition and Health Act of 1989 would establish a Federal Council on Nutrition and Health. The Council's mission will be to assemble all currently available nutrition research from our country and foreign countries, to identify and monitor the progress of ongoing research, and identify, where possible, areas where there exist gaps in our current knowledge. The Council will retain this information in retrievable and understandable form.

Mr. President, it also is important to understand the role the Council will not play. The Council will not make policy. The Council, and this legislation, will not take from any existing Federal agency any enforcement or policymaking authority in the area of nutrition and health. Rather, the Council will attempt to gather the information that can be used by others in the development of policy; that can be used by food companies and others in making their case to policymakers; that can be used by the media in communicating about nutrition and health; and, most importantly, that can be used by American consumers in making their individual choices about nutrition and health.

Mr. President, this Congress has the opportunity to make real strides in the area of nutrition. Our colleague from New Mexico, Mr. BINGAMAN, is leading an ongoing initiative that many of us support in the area of nutrition. The National Nutrition Monitoring legislation will coordinate current Federal surveys regarding the Federal Government's recommendations regarding nutrition. Our colleagues from Ohio and Rhode Island, Mr. METZENBAUM and Mr. CHAFEE, have introduced legislation that calls for changes in the labels on food packages. The purpose of this initiative is to provide sufficient information upon which the consuming public can select products of their own choosing.

The legislation I propose today provides an important and related third initiative in the nutrition arena. The choice of diet by American consumers and good public policy in the area of nutrition must be based on competent scientific information—information which is often hard to locate today. The proposed Federal Council on Nutrition and Health will gather the information and make it available for use by policymakers, consumers, food companies, agriculture, researchers, and the media.

Finally, Mr. President, I want to emphasize that my objective is to create a clearinghouse and increased focus for scientific information in the area of nutrition and health. A clearinghouse of the dimensions envisioned in this legislation does not exist today, although several existing agencies of the Federal Government have portions of this information gathered and could, perhaps, be expanded to provide this function. If during the coming legislative process it becomes clear that there is a better approach to achieve the clearinghouse function, then I am prepared to modify this legislation to adopt that better approach. My sole objective—an objective which I believe each of us share—is to provide an economical and efficient source of information regarding nutrition and health for use by the American people.

Mr. President, I encourage my colleagues to join me in this important initiative and ask that the Nutrition and Health Act of 1989 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled;

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nutrition and Health Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) as indicated in the 1988 Surgeon General's Report on Nutrition and Health, human nutrition is directly related to human health including the incidence of certain diseases and adverse health conditions;

(2) the citizens of the United States exhibit an increasing interest in reliable information concerning nutrition and the relationship of nutrition to human health, and are making personal nutrition choices based on such information;

(3) citizens often receive conflicting and confusing messages about nutrition and the relationship of nutrition of health;

(4) increased attention to good nutrition and proper personal choices about nutrition will result in the improved health of citizens and reduced health care expenditures in the future by Federal, State, and local governments as well as by individual citizens;

(5) the information base of the Nation concerning nutrition and health is fragmentary, often difficult to identify, and includes significant gaps in knowledge concerning the relationship between nutrition and the occurrence of certain diseases and adverse health conditions and

(6) the general knowledge of and practice of good nutrition by citizens would be enhanced by an increased focus at the Federal level on the identification and dissemination of sound information on the relationship between nutrition and health and the gaps in knowledge that require additional research and attention.

(b) PURPOSE.—

(1) IN GENERAL.—The purpose of this Act is to establish within the Department of Health and Human Services a Federal Council on Nutrition and Health that will assemble the existing information on the relationship between nutrition and human health, monitor the progress of ongoing research, identify the aspects of the relationship between nutrition and health that require additional research, maintain the base of information in an understandable and retrievable fashion, and serve as a clearinghouse for information on the relationship between nutrition and human health.

(2) EXISTING FEDERAL AGENCIES.—This Act shall not remove from an existing Federal agency any existing authority or responsibility concerning nutrition and health.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) COUNCIL.—The term "Council" means the Federal Council on Nutrition and Health, as established in section 4(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

SEC. 4. ESTABLISHMENT AND STAFFING OF THE FEDERAL COUNCIL ON NUTRITION AND HEALTH.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Federal Council on Nutrition and Health.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Council shall consist of nine voting members, of whom—

(A) three members shall be appointed by the President;

(B) three members shall be appointed by the Speaker of the House of Representatives, in consultation with the Majority Leader and the Minority Leader of the House of Representatives; and

(C) three members shall be appointed by the President pro tempore of the Senate, in consultation with the Majority Leader and the Minority Leader of the Senate.

(2) ELIGIBILITY FOR MEMBERSHIP.—The members of the Council shall be chosen from among individuals who are knowledgeable in the fields of health, human nutrition, food production and distribution, and agriculture. Such members shall be selected solely on the basis of an established record of distinguished service in the areas of expertise of such individuals.

(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Agriculture shall be ex officio members of the Council.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—Each member of the Council shall be appointed for a term of 3 years, except that members appointed to the initial Council shall serve, proportinately, for terms of 1, 2, and 3 years, as determined by the Secretary at the time of appointment.

(2) VACANCY.—A member of the Council who is appointed to fill a vacancy in the Council occurring prior to the expiration of the term for which the predecessor of such member was appointed, shall be appointed by the same individual who appointed such predecessor pursuant to subsection (b)(1) for the remainder of such term.

(3) EXPIRATION OF TERM.—A member of the Council may serve after the expiration of the term of office of such member until the successor for such member has taken office.

(4) ELIGIBILITY FOR SUCCESSIVE TERMS.—A member of the Council shall be eligible to serve successive terms of office.

(d) LEADERSHIP OF COUNCIL—

(1) SELECTION.—A Chairperson and a Vice Chairperson of the Council shall be selected by the President from among the members of the Council.

(2) TERM OF OFFICE.—The Chairperson and Vice Chairperson of the Council, as referred to in paragraph (1), shall serve for terms of 3 years.

(e) MEETINGS OF COUNCIL.—

(1) FREQUENCY OF MEETINGS.—The Chairperson of the Council, as referred to in subsection (d), shall convene a meeting of the Council not less than once during each 3-month period.

(2) QUORUM.—At a properly convened meeting of the Council, the presence of five Council members shall constitute a quorum.

(f) COMPENSATION.—A member of the Council shall be paid or reimbursed for travel to and from the place of service of such member and for other expenses associated with the responsibilities as a member of the Council.

(g) STAFF.—The staff of the Council shall be permanent Federal employees of the Department of Health and Human Services of such rank, grade, and function as considered to be appropriate by the Secretary.

SEC. 5. RESPONSIBILITIES OF THE COUNCIL.

(a) IN GENERAL.—The Council shall—

(1) assemble the existing information on the relationship between nutrition and health;

(2) identify and collect the ongoing research within the various Federal, State, and local governmental agencies, the private sector in the United States, and in foreign countries;

(3) identify the aspects of the relationship between nutrition and health that require additional research;

(4) monitor ongoing research into the role of nutrition in health, including—

(A) methods by which the nutritional value of domestically produced food products may be improved;

(B) the relationship between the consumption of specific foods and nutrients and the incidence and treatment of specific diseases and conditions; and

(C) the optimal level of foods and nutrients that are appropriate under various health conditions to maximize specific human capabilities;

(5) monitor the progress of nutrition education efforts among the health profession, other segments of the society, and the general public; and

(6) maintain an understandable and retrievable database of existing scientific information on the relationship of nutrition and health and serve as a clearinghouse for such information.

(b) RULES AND REGULATIONS.—The Council is authorized to adopt such rules and regulations as may be necessary to carry out this Act.

SEC. 6. RESPONSIBILITY OF OTHER FEDERAL AGENCIES TO COOPERATE WITH THE FEDERAL COUNCIL.

Each Federal agency and private entity that is performing nutrition research that is completely or partially funded by federally appropriated funds shall cooperate with the Council by informing the Council of the research of such agency or entity, and by filing a copy of the final report of the product of such research with the Council.

SEC. 7. TREATMENT OF INFORMATION ON FILE.

Submission of information or data on the relationship between nutrition and health to the Council shall not affect statutory or common law trademark status, copyright, or patent rights.

SEC. 8. REPORTS.

(a) IN GENERAL.—Not later than December 31 of each year, the Council shall submit a report to the Secretary on the progress of its work and any areas of suggested research into the relationship between nutrition and health.

(b) DISTRIBUTION.—Following the receipt by the Secretary of the annual report of the Council under subsection (a), the Secretary shall immediately distribute such report, along with recommendations of the Secretary regarding such report, to the President, the Secretary of Agriculture, and the appropriate authorizing and appropriating committees of the Congress as well as to such other agencies and departments as the Secretary considers appropriate.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. BINGAMAN (for himself and Mr. FORD):

S. 1740. A bill to establish a research and demonstration program to promote cofiring of natural gas and coal in certain boilers, to provide Federal funding and tax incentives to carry out the program and to clarify the status of cofired electric utility or industrial boilers for purposes of new source performance standards; to the Committee on Finance.

COFIRING PROMOTION ACT

● Mr. BINGAMAN. Mr. President, I rise on behalf of Senator FORD and

myself to introduce the Cofiring Promotion Act of 1989, legislation that will provide incentives for the demonstration and deployment of natural gas cofiring technologies.

Natural gas is our Nation's cleanest fossil fuel. Its combustion emits virtually no particulates, sulfur oxides, or reactive hydrocarbons, and it produces far lower emissions of nitrogen oxides per unit of energy than oil or coal. Natural gas produces only about half as much carbon dioxide per unit of energy as coal. What this adds up to is that natural gas can play an important part in achieving the emissions reductions that will be required when the Congress reauthorizes the Clean Air Act.

Cofiring refers to burning natural gas and coal together in the primary combustion zone of the same boiler. Basic natural gas cofiring involves the injection of natural gas with pulverized coal into the primary combustion zone of a boiler. Since natural gas contains virtually no sulfur or nitrogen, its substitution for a certain percentage of coal will naturally reduce emissions of sulfur dioxide [SO_2] and oxides of nitrogen [NO_x]. These two air pollutants are the precursors of acid rain. Tests have indicated that cofiring is potentially one of the most cost-effective ways to reduce SO_2 and NO_x emissions.

Duquesne Light Co., Consolidated Natural Gas Co., and the Gas Research Institute recently completed a cofiring demonstration at Duquesne's Cheswick powerplant, north of Pittsburgh. The demonstration program documented a 25 percent reduction of NO_x emissions using 6 to 10 percent natural gas cofiring. The program also documented greater than proportional reductions of SO_2 emissions under certain operating conditions. Clearly, this technology is worth pursuing.

In addition to SO_2 and NO_x emissions reductions, cofiring offers other advantages. First, cofiring offers a substantial number of operating flexibilities and efficiencies for electric utility and industrial coal plants and can help old plants operate at or near their rated capacities. Second, using natural gas in coal boilers can widen the range of coals that can be burned. Third, all of this can be accomplished at a very low capital cost and with virtually no technological risk.

In the context of the clean air debate, basic cofiring can be an important bridge technology. Basic cofiring promises to be a cost-effective means for electric utilities with older coal burning plants to achieve emissions reductions during the period preceding the commercial availability of innovative clean coal technologies. Without cofiring, electric utilities will be left with the choice between phasing out still useful old powerplants or making exceptionally large capital investments in retrofitting such plants with scrubbers.

Furthermore, cofiring might actually help to preserve mining jobs by making it possible for utilities to continue to burn high-sulfur coal. In many instances, scrubbers may be impractical. Cofiring will make it possible for electric utilities to continue to use their existing coal supplier when a powerplant would otherwise be forced to switch to low-sulfur coal, reduce output, or even close.

Advanced natural gas cofiring technologies promise to achieve even greater emissions reducitons at low capital cost. These technologies are known as gas reburn technologies. This term refers to the injection of natural gas into the upper furnace region of a boiler to produce a fuel-rich zone that reduces NO_x. Tests indicate that 20 percent natural gas cofiring in a reburn application can reduce NO_x emissions by 60 percent and SO_2 emissions by 20 percent. When mated with sorbent injection technology, gas reburn can produce a 50-percent reduction in SO_2 emissions. A demonstration project using as reburn with in-duct sorbent injection was selected for Federal cost sharing as part of the first round of the Department of Energy's Clean Coal Technology Program.

While basic cofiring technology is commercially available, further testing and full-scale demonstrations are needed. Some of the questions that remain to be answered include:

What is the optimal level of natural gas injection to achieve the maximum environmental and operational benefits of cofiring?

What influence might the use of different boiler types or different coal types have upon the effectiveness of cofiring,

In short, what is needed is a program to obtain critical operating data to define the optimum conditions for using cofiring to reduce emissions. This data will enable utilities and large industrial boiler operators to proceed with confidence in retrofitting their existing coal-fired boilers to accept cofiring.

The Cofiring Promotion Act of 1989 establishes just such a program. First, this legislation authorizes the Secretary of Energy to administer a 3-year, $18 million program for the research, development, and demonstration of cofiring technologies. Second, this legislation provides certain tax incentives to promote research and demonstration of these technologies. Third, this legislation clarifies that electric utility and industrial boiler operators that retrofit their faciltiies with cofiring technologies will not subject themselves to new source permitting review or the new source performance standards under the Clean Air Act. Similar legislation has been introduced in the House of Representatives by Congressman RALPH REGULA.

In closing, cofiring technology has demonstrated great promise. The legislation that Senator FORD and I have introduced today is a modest measure that will help to ensure that this technology will live up to its promise when the time comes for compliance with the anticipated reauthorization of the Clean Air Act. I urge my colleagues to joint Senator FORD and me in sponsoring the Cofiring Promotion Act of 1989.

Mr. President, I ask unanimous consent that a section-by-section analysis and the text of the bill that I have introduced be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cofiring Promotion Act of 1989".

SEC. 2. FINDINGS.

The Congress recognizes that—

(a) coal is an enormous domestic resources;

(b) harmful emissions from the combustion of coal will limit the percentage of the resource base which is deemed "useable.";

(c) natural gas is an abundant domestic resource that has superior environmental qualities;

(d) certain technologies combine natural gas with coal in order to reduce sulfur dioxide (SO_2) and nitrogen oxides (NO_x) emissions, particulates and carbon dioxide (CO_2) from the combustion of coal; and in some boilers improves the operating efficiency of the boiler by reducing slagging;

(e) certain technologies offer the potential to extend the usable coal resource base in the United States;

(f) the United States will continue to rely on domestic coal as a primary fuel in electric generation.

Therefore, it is in the national interest to encourage the utilization of those natural gas technologies that reduce (SO_2) and (NO_x) emissions resulting from the combustion of coal.

SEC. 101. RESEARCH AND DEMONSTRATION PROGRAM.

(a) The Secretary of Energy shall establish and carry out a program of research, development and demonstrations of cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits;

(b) The Secretary shall enter into cooperative agreements with, and provide financial assistance, under this section, to appropriate parties for application of cofiring technologies to boilers to demonstrate this technology;

(c) There is authorized to be appropriated to the Secretary not more than $6 million for each of the fiscal years 1990, 1991 and 1992 for purposes of this Section.

SEC. 102. INCENTIVES FOR COFIRING.

(a) CREDIT FOR RESEARCH AND DEMONSTRATION.—Section 41(d)(3)(A) of the Internal

Revenue Code of 1986 is amended to read as follows:

(A) IN GENERAL.—Research shall be treated as conducted for the purpose described in this paragraph if it relates to—

"(i) a new or improved function,

"(ii) performance,

"(iii) reliability or quality, or

"(iv) cofiring natural gas with coal in order to improve the coal combustion process and reduce sulfur dioxide and nitrogen oxides emissions from the coal.".

(b) FIVE-YEAR RECOVERY OF COST OF COFIRING EQUIPMENT.—Section 168(i)(11) of the Internal Revenue Code of 1986 is amended to read as follows:

"(11) RESEARCH AND EXPERIMENTATION.—The term 'research and experimentation' includes—

"(A) the same meaning as the term research and experimental has under section 174, or

"(B) equipment that cofires natural gas with coal in order to improve the coal combustion process and reduce sulfur dioxide and nitrogen oxides emissions from the coal.

(c) EXCLUSION FROM ALTERNATIVE MINIMUM TAXABLE INCOME.—Section 56(a)(1)(B) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f) or property described in (11)(B) of section 168(i).

(d) COFIRING AND NEW SOURCE PERFORMANCE STANDARDS.—Section 302 of the Clean Air Act is amended by adding a new section as follows:

"(r) the terms 'modifications' and 'reconstruction' shall have the meaning provided by regulations promulgated by the Administrator, provided that such terms shall not include any physical change or change in the manner of operation of an electric utility or industrial boiler related to cofiring natural gas with coal."

SECTION-BY-SECTION ANALYSIS OF THE COFIRING PROMOTION ACT OF 1989

Section 1: Short Title—The short title of this legislation is the Cofiring Promotion Act of 1989.

Section 2: Findings—It is found that it is in the national interest to encourage the utilization of natural gas cofiring technologies that reduce sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions resulting from the combustion of coal.

Section 101: Research and Demonstration Program.

Subsection (a): The Secretary of Energy is authorized to carry out a research, development and demonstration program to determine optimal natual gas cofiring levels for environmental and operational benefits in electric utility and large industrial boilers.

Subsection (b): The Secretary of Energy shall enter into cooperative agreements to demonstrate cofiring technolgies.

Subsection (c): Not more than $6 million is authorized to be appropriated in each of fiscal years 1990, 1991 and 1992 for the purposes of this section.

Section 102: Incentives for Cofiring.

Subsection (a): The definition of "qualified research" for purposes of the credit for increasing research activities under section 41 of the Internal Revenue Code of 1986 is expanded to include research relating to cofiring natural gas with coal for purposes of improving the coal combustion process and reducing SO_2 and NO_x emissions from coal.

Subsection (b): Cofiring equipment shall qualify for five-year cost recovery under the Internal Revenue Code of 1986. The definition of "research and experimentation" for purposes of the accelerated cost recovery system under section 168 of the Code is amended to include cofiring equipment.

Subsection (c): Section 56 of the Internal Revenue Code of 1986 which details adjustments in computing alternate minimum taxable income is amended to include cofiring equipment among the property excluded for purposes of computing alternate minimum taxable income.

Subsection (d): The status of electric utility and industrial boilers that use natural gas cofiring is clarified for purposes of new source permitting review and new source performance standards under the Clean Air Act. In particular, the terms "modification" and "reconstruction" shall not include any physical or operational change related to cofiring natural gas with coal in an electric utility or industrial boiler. Since natural gas cofiring provides a cost-effective means to reduce SO_2 and NO_x emissions from coal-fired boilers, it should not be subject to the modification/reconstruction provisions of the Clean Air Act which were intended to prevent sources from being rebuilt without complying with new source performance standards.●

● Mr. FORD. Mr. President, I am pleased to join the Senator from New Mexico [Mr. BINGAMAN] in sponsoring legislation which I believe will make a major contribution toward alleviating an important environmental concern while at the same time perserve the jobs of coal miners in my State and elsewhere in the coalfields.

What we are talking about is combining two of our country's greatest fuel resources—coal and natural gas—in establishing a meaningful research and development program to promote cofiring of these two fuels.

Although there is some existing research taking place as part of DOE's Clean Coal Program, a much more focused effort should be made by the Government and the private sector as early as possible. It is time to step up the research and provide the incentives to get this technology in the marketplace.

Mr. President, cofiring is a modest portion of the current clean coal program of DOE. In fact, five projects have been selected for DOE funding, one each in Ohio and Indiana and three in Illinois, to test various methods of cofiring natural gas with coal in different types of utility boilers. This technology combines the clean burning characteristics of natural gas with the attractive economics of existing base load coal powerplants. For certain types of boilers, combined coal-natural gas technologies may be the only practical method of achieving substantial SO_2 and NO_x reductions.

What we need to do is expand and emphasize this program. Our legislation will do this.

Without being too technical, the cofiring of natural gas with coal can be divided into three separate categories: basic cofiring, natural gas reburn, and reburn with sorbent injection. Let me briefly describe each technology and its benefits.

First, simple cofiring of natural gas with coal involves the injection of gas into the boiler to provide a fraction of its total heat input. Originally, it was thought that this technique would reduce the amount of SO_2 and NO_x emissions in the same proportion that gas was used in the boilder. However, recent experience with the Cheswick power station in Pennsylvania found that even greater than proportional reductions of SO_2 occurred. That test, which involved a 570 megawatt tangentially-fired boiler, found that cofiring 1 percent to 3 percent gas could obtain SO_2 reductions or approximately 3 percent to 10 percent. Similarly, 6 percent to 12 percent cofiring could reduce NO_x by 10 percent to 15 percent.

Second, reburn technology is aimed at reducing powerplant NO_x emissions. It also involves using gas as a small portion of the boiler fuel, but unlike basic cofiring, reburn technology involves injecting that fuel into a zone beyond the primary combustion zone to create a natural gas rich "reburn" zone. Overfire air is added in a final burnout zone to complete the overall combustion process. In this reburn zone, much of the NO_x present is converted to elemental nitrogen. Pilot tests indicate that a majority of cyclone boilers could successfully apply this technology in order to reduce their NO_x emissions by approximately 60 percent. It is particularly significant that reburn technology is effective in reducing emissions from cyclone boilers, as no commercially demonstrated combustion modification technique exists for these boilers.

Third, gas reburn with sorbent injection refers to combining reburn techniques with the injection of dry calcium-based sorbent in the overfire air area of the boiler to reduce SO_2 emissions. This method of sorbent injections avoids the cost and complexity of other systems of sorbent injection, improves sorbent utilization, and reduces the amounts of sorbent required. Using 15 to 20 percent proportion of natural gas in a reburn/sorbent injection configuration can achieve the NO_x reductions cited above and also reduce SO_2 emissions by 50 percent.

The economics of using a particular natural gas cofiring technology at any given utility facility depend on various factors, including capacity, technical options, age of the plant, capacity factors, the sulfur content of the coal used, and the availability of gas.

One reason that cofiring is so promising is that the top 100 SO_2 emitting powerplants are an average of 5 miles from a natural gas pipeline, and sometimes are that close to two or more pipelines.

Mr. President, I made reference to the positive impact a successful cofiring technology could have on both the natural gas and coal industries if it is brought to the marketplace. We know that undoubtedly pending environmental legislation is going to impact today's utility industry and adversely affect employment in the high sulfur coal industry. That is the thrust of the President's program. We need to do all we can to minimize the economic dislocation a new regulatory regime would impose.

Cofiring could, in many instances, actually help protect certain mining jobs that might otherwise be in jeopardy.

Faced with the need to reduce emissions from existing plants, utilities can choose to install a scrubber, switch to low sulfur coal, or cofire. Undoubtedly, the scrubber option will preserve current coal industry employment patterns by allowing plants to continue using the current coal supplies. But for many plants, scrubber may be impractical—scrubbers economics will be less favorable for older and smaller plants. In other cases, plants may not have the physical space for a scrubber, or an operator may need to achieve NO_x reductions in addition to SO_2 reductions. In these instances, the choice is between fuel switching, plant output reductions, and cofiring. Given these alternatives, cofiring preserves jobs by allowing plants to remain in normal operation and use current coal supplies.

A significant number of plants could be in this situation. While it is difficult to determine with precision the thresholds beyond which scrubbing becomes impractical, there are 550 boilers units under 300 MW in size and over 30 years of age. These 550 plants burn 84 million tons of coal annually which, based on industry employment indices, would support the employment of 16,000 mine workers.

Thus the employment impacts of cofiring must be viewed in light of the alternatives facing the utility. In many cases, cofiring may be the least disruptive and most economic option and may preserve jobs that would otherwise be lost.

By generating additional demand for natural gas, cofiring would also help stimulate additional employment opportunites in the gas production sector. An economic impact study done at Southern Methodist University assessed the impact of higher natural gas production in Texas on employment. The study found a potential gain of 22,614 new jobs in Texas from an increase of just 379 Bcf of natural gas production. Based on this relationship, the employment growth resulting from expanded gas demand of 200 Bcf of 750 Bcf would be 12,000 to 45,000 jobs.

Natural gas cofiring is one of the most promising and cost-effective near-term clean fuel technologies, especially or retrofitting existing coal-fired boilers. As I noted, several demonstration projects are currently being funded through DOE's Clean Coal Program, but this option should be given a higher priority within the Department and encouraged in the marketplace.

Again, I am pleased to join with Senator BINGAMAN in supporting a new initiative into this promising area. I urge our colleagues in the Senate to join us in this worthwhile effort.●

By Mr. MCCAIN (for himself, Mr. DANFORTH, and Mr. BOND):

S. 1741. A bill to amend the Federal Aviation Act of 1958 to increase competition among commercial air carriers at the Nation's major airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE COMPETITION ENHANCEMENT ACT

● Mr. MCCAIN. Mr. President, 11 years ago we deregulated the U.S. airline industry. Through the first few years deregulation worked as its promoters predicted: 215 new airlines were formed, prices were slashed, more Americans flew than ever before. Competition effectively replaced regulation to the consumers' benefit. However, over the last couple of years some disturbing trends have developed.

The industry has lost its early vitality. Only 59 of the 215 airlines remain in some form. The People Expresses and Frontiers have disappeared. The top eight airlines now control nearly 90 percent of the market, up from 78 percent at the time of deregulation. Recent studies by the General Accounting Office, the Department of Transportation, even the Air Transport Association show a direct correlation between increasing concentration at certain airports and higher fares. The evidence also indicates that concentrated markets have failed to move in the opposite direction.

I fear that we are entering, if we have not entered, a state of de facto reregulation. This is not the promise of deregulation. This will not result in long-term benefits to the consumer nor to the industry. We must find a way to reverse these trends. Today, together with the ranking member of the Committee on Commerce, Science, and Transportation, I am introducing legislation designed to address what we consider to be the most egregious airline practices that are inhibiting competition.

The Commerce Committee's Aviation Subcommittee has held 3 days of hearings over the last year, at which we examined the findings of three GAO studies, one DOT study and part of another, as well as one industry study. The legislative recommendations we are making have been based on this exhaustive examination. Additionally, Aviation Subcommittee Chairman FORD has assured us that he will give this measure prompt and complete examination.

The first area the legislation addresses is computer reservation systems. There is virtual unanimity that something must be done in this area to restore the competitive balance. We believe the cleanest answer to this problem is to separate CRS's from airlines. Currently, $300 million is transferred from have-nots to haves by way of booking fees. Also, estimates range from 10 to 15 percent of the bookings on an airline owning one of the top CRS's come from the fact of this ownership, not from some competitive factor associated with the airline service.

In conjunction with the above, we proposed to outlaw code sharing. This is when two independent airlines share the same two-letter code on the CRS screen. This stifles competition at the regional level. One flying from across country to a rural town will believe they are flying the same airline when they are not. Because of code sharing they may not realize that competition exists from a hub to a particular spoke destination.

We also propose to remedy the oversight of the Deregulation Act that failed to lift the prohibition on FTC action in the airline field. Every other deregulated industry is subject to FTC oversight. The airlines should be no different.

The next section of the legislation would amend section 411 of the Federal Aviation Act. This is a little known and little used law which theoretically gives DOT the ability to police unfair competitive practices in the airline industry. We would strengthen that section. Besides CRS's, the area most discussed as needing action is access to the actual facilities at airports. This section would give airlines wishing to begin service at a particular airport the ability to crack concentrated hubs.

In conjunction with the above, the legislation calls for a new approach to slot-constrained airports. The GAO, when asked what they considered the number one problem in the industry, responded that it was access to slot-constrained airports. We would call on DOT to construct a new mechanism that would lease such slots in a more competitive fashion.

Finally, we would give the Secretary of Transportation the authority to waive the antihead tax law in limited circumstances. If an airport is concentrated and in need of new facilities, we want to give them flexibility to do so, consistent with our National Transportation Policy. This waiver is limited

to capacity, security, and noise abatement.

I believe the facts are clear. Action is needed. This measure contains our view of what is appropriate. We welcome the views of all, there will be opportunity for expression. However, we must move forward.●

● Mr. DANFORTH. Mr. President, when Congress passed the Airline Deregulation Act, our intention was to substitute competition for regulation. We believed that vigorous competition would ensure consumers quality, low-priced service.

In the early years of deregulation it looked like we had made a good choice. We saw the creation of 215 new airlines. Many of those new airlines were aggressive, low-cost carriers that brought air fares down.

Mr. President, recently something has gone terribly awry with airline deregulation. Only 59 of those 215 new airlines have survived. Virtually all of the low-cost carriers, such as World, Capitol, Air Florida, Frontier, and People Express, have vanished.

My home State of Missouri presents two good examples of the problems with airline deregulation. In St. Louis, TWA has purchased its major competitor, Ozark, and has contructed a "fortress hub." It controls 81 percent of the gates and its share of boarding passengers has reached 82 percent. On the other hand, in Kansas City, Braniff Airlines, a medium-sized carrier, has just filed for reorganization under chapter 11 of the bankrupty laws. Its GEO, William McGee, explained that it could not compete with the mega carriers that have arisen since deregulation because of their marketing advantages, such as computer reservation systems, and their control of airport facilities and slots at capacity-controlled airports. Braniff's problems have had repercussions around the State. Service has been reduced or eliminated by Braniff and its commuter affiliates in Columbia, Joplin, Kirksville, and Springfield.

Missouri's airline passengers are facing problems that are shared by travelers across the country. Consumers are not getting the benefits that vigorous competition was supposed to provide.

Mr. President, these problems have arisen because airlines have been allowed to purchase their competitors. As a result, we now have eight mega carriers that control 90 percent of the U.S. air travel market. Moreover, airlines have changed the way in which they operate from linear patterns to hub-and-spoke systems. The dominant airlines have kept competition down at their hubs by using their control of terminal space, baggage carousels and gates to deter new entry. Finally, the marketing and pricing practices of the dominant airlines have greatly reduced the life expectancy of small- and medium-sized carriers.

Numerous studies requested by the Commerce Committee demonstrate that the concentration of the airline industry and the anticompetitive practices of the mega carriers are driving up air fares. The General Accounting Office [GAO] reported that at St. Louis, TWA was able to raise its prices three times higher than the average national fare increase in the year after it merged with Ozark. The GAO also reported that, at concentrated hub airports, dominant airlines received 27 percent higher average fares than airlines get at nonconcentrated airports. Further, it found that in 13 of 15 cases, the dominant airline at an airport is getting a higher average fare than the nondominant airlines operating out of those airports.

A Department of Transportation [DOT] study confirmed the results of the GAO's work. It found that between 1985 and 1988, fares at seven of nine concentrated airports surveyed rose at two to three times the 11-percent increase in the national average of air fares.

At the same time that dominant airlines have been growing and raising fares, new entrants and smaller competitors have been systematically eliminated. Through purchases or joint marketing arrangements the large carriers have obtained control 48 of the 50 largest regional airlines. The ability of smaller carriers to grow has been inhibited by the major carriers obtaining 20- to 40-year leases on gates at the busiest airports. A new airline must pay exorbitant fees to gain access to these gates. For example, in Detroit, Southwest Airlines pays Northwest Airlines $150 per flight to use a gate. This is 19 times what Northwest pays the airport authority for gate space. The former president of People Express, Harold J. Pareti, believes the mega airlines advantages are so great that starting a national carrier today is an impossible dream.

SOLUTIONS

Mr. President, we know what the problems are. At the Commerce Committee's urging, four reports have been done, three by GAO and one by DOT. Another DOT report is underway. The committee had 3 days of hearings on these reports. All the evidence points to the same conclusion. Concentration, anticompetitive practices and capacity limits are raising air fares. Given this knowledge, our mission is to breathe new life into fading airline competition. Today we are taking the first step by introducing the Airline Competition Enhancement Act of 1989. If enacted, the bill would eliminate barriers to entry and anticompetitive practices that are keeping airlines from providing the public quality air transportation at reasonable prices. Our proposal is divided into two parts. First, it would reduce the market power of dominant airlines by divestiture of computer reservation systems, eliminating code-sharing and providing avenues for challenges to dominant airlines' predatory pricing and stranglehold on airport facilities. Second, it would work to expand capacity by opening up slot-constrained airports and permitting the use of passenger facility charges to expand airports.

1. MARKET POWER CONTROLS.—DIVESTITURE OF COMPUTER RESERVATION SYSTEMS

Our bill would require the mega carriers to sell their computer reservation systems [CRS]. CRS's are used by travel agents to make 85 percent of airline reservations. DOT studies have found that travel agents favor CRS-owning airlines in booking flights. This is not surprising since CRS owners require travel agents to book a minimum number of their flights on the system. Moreover, the CRS-owning airline can out-maneuver its competitors because it updates its own fare and seat availability in the system more quickly than its competitors' information. CRS owners charge non-owner airlines a booking fee of about $2 a flight segment. This gives the CRS-owning airline an annual subsidy of $300 million from their competitors. If a fledgling airline attempts to create its own CRS, it finds that the travel agents have contracts that severely penalize them for switching from one CRS to another.

The mega airlines recognize the advantage a CRS gives them. Earlier this year, American Airlines attempted to sell an interest in its CRS to Delta Air Lines for half a billion dollars.

It is time to level the playing field. Our bill would require the CRS-owning airlines to sell their systems to nonairlines. This would eliminate favoritism resulting from "minimum use" requirements and penalties for switching from one airline's system to another. It would also keep CRS owners from accumulating a war chest from booking fees to fend off competitors.

ELIMINATING CODE-SHARING

Our bill would invigorate small and regional airline competition by eliminating code sharing. Under code sharing, a large airline shares its CRS two letter designation with a commuter airline. When a travel agent books a flight, the CRS shows the large carrier providing service from smaller communities to many destinations, although the display does not show that some travel takes place on commuter airlines.

This practice reduces competition in three ways. First, because travelers are led to believe that the flight takes place on a single airline, such arrangements make it more difficult for a new carrier to challenge an established car-

rier at its hub. Second, it reduces competition among small airlines. A commuter with a code-sharing arrangement gains an advantage over its rivals because it is fed passengers by the dominant airline. Finally, the small and regional airline sector used to be a fertile breeding ground for carriers that would grow to challenge big carriers in long haul markets. Now many of these small carriers opt for a cozy market division with their bigger code-sharing partners, rather than aggressively challenging them on longer routes.

By eliminating code sharing, our bill will give all commuters an equal chance to have their flights booked by a travel agent. Passengers will also know that they are flying a commuter for a leg of their flight.

THE FEDERAL TRADE COMMISSION AND ANTI-COMPETITIVE PRACTICES

Targeted pricing by dominant airlines has driven low-cost, fare-cutting airlines out of business and has kept others from expanding. For example, this summer, medium-sized Midway Airlines tried to challenge mega-carrier Northwest Airlines at its Milwaukee hub. Northwest responded by cutting prices at Midway's mini-hub at Chicago's Midway Airport and by skillfully using its CRS and fare management abilities to match Midway's low Milwaukee fares. Within 3 weeks, Midway called off its fare war.

Our bill would encourage challenges to dominant airlines by extending the Federal Trade Commission [FTC] Act prohibitions against unfair competition and unfair practices to the airline industry. Airlines are no longer regulated so the only way they are governed is through competition. They should play by the same antitrust laws as other industries. Applying the FTC Act to airlines will allow airlines who suspect they are the target of unfair pricing techniques to seek relief from the FTC. It would also enable them to challenge dominant carriers' control of terminal, gate and baggage handling facilities.

STRENGTHENING SECTION 411 OF THE FEDERAL AVIATION ACT (FAA ACT)

Section 411 of the FAA Act is a little used provision that gives the Secretary of Transportation authority to hear complaints by airlines and travel agents about unfair methods of competition or deceptive practices. Our bill would make it easier to bring a claim under this provision. It would create a presumption that a dominant airline at a hub had acted unfairly or deceptively if a complaint were filed against it. The Secretary would hear evidence and could issue a cease and desist order or go to Federal court and get an injunction to stop unfair practices. For example, a carrier could use this authority to challenge a dominant airline if it used a majority-in-interest clause in an anticompetitive way. These clauses give the big airlines power over airport expansion or improvements that would be funded by landing fees. Challenges might also be raised to long-term—20- to 40-year—exclusive leases for airport facilities and to dominate carriers' attempts to extract exorbitant fees for subleasing these facilities.

2. INCREASING AIRPORT CAPACITY—OPENING UP SLOTS

Slots are takeoff and landing rights at four important airports: Chicago O'Hare, Washington National, and Kennedy and LaGuardia in New York. According to GAO, slots affect air traffic around the whole country, because airlines want to reach slot-constrained airports from other points.

In 1985, we saw one of the great Government giveaways of all time when DOT gave airlines, without charge, the slots they were then holding. DOT allowed them to buy and sell these scarce rights, which have commanded prices of up to $1 million each. Even at this price, airlines have found that slots are too precious to be sold. During a 9-month period in 1986, there were 384 slot sales but during the first 9 months of 1988, there were only 61. Slot holders know that without a slot, no competitor can enter a market with one of these four airports as an end-point. Small or medium-sized airlines cannot afford slots and even if they could, those holding them will not sell.

Our bill would eliminate the buy-sell rule and recapture the windfall that was given the dominant airlines in 1985 by taking the slots back and auctioning them off. The proceeds of the auction would go for airport expansion, which will help eliminate capacity problems at overcrowded airports. Also, it would encourage new entry by giving entrants slot preferences and limiting the number of slots any airline can own.

PERMITTING PASSENGER FACILITY CHARGES [PFC'S] TO INCREASE CAPACITY

Mr. President, our bill would permit local airport authorities to assess PFC's. These charges on passengers using an airport were prohibited in 1973 because they were sometimes used for off-airport purposes. Instead, airport projects are bankrolled, in large part, by the Airport and Airways Trust Fund, which is funded by a Federal surcharge on airline tickets. That trust fund will not be sufficient to meet our aviation system's capacity needs. Among the needs that have been identified are: a $1 billion runway for Lambert Field in St. Louis; a $3.5 billion third airport for the Chicago area; a $1 billion Phoenix-Tucson jetport to relieve congestion in southern California; and Denver's new $2 billion airport. These needs are over and above an estimated $30 billion in airport capacity needs that will occur during the next 5 years.

Our proposal would give the Secretary of Transportation the ability to allow airport authorities to impose PFC's to meet these expansion needs. The Secretary would serve as an impartial arbiter to decide whether an airport's proposed charge and improvements were in the interest of aviation consumers and whether it was consistent with our national transportation policy.

Airports need the power to expand because capacity is critical to increasing competition in the airline industry. New entrants need ground facilities to successfully operate at a hub airport.

CONCLUSION

Eleven years ago, we had a vision that through deregulation we could create a competitive air transportation system. Today, many Americans are not reaping deregulation's benefits because competition has been trampled by predatory marketing practices and airport capacity limits.

Mr. President, I urge my colleagues to join me in supporting this proposal to ensure vigorous airline competition that will provide travelers the quality, low-priced service they deserve.●

By Mr. BINGAMAN (for himself and Mr. LIEBERMAN):

S. 1742. A bill to further the goals of the Paperwork Reduction Act and provide for comprehensive information resources management of Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL INFORMATION RESOURCES MANAGEMENT ACT

● Mr. BINGAMAN. Mr. President, I rise to introduce an important and timely bill, the Federal Information Resources Management Act of 1989. This legislation is designed to reduce the burden of duplicative government paperwork for businesses, educational institutions, and individuals; to improve the information infrastructure and statistical database of the Federal government; to set a national information resources management policy, including the improvement of public access to government information; and to improve the efficiency and effectiveness of the Office of Management and Budget's Office of Information and Regulatory Affairs [OIRA].

These issues were addressed in hearings held before the Subcommittee on Government Information and Regulation. The bill reflects the many recommendations and ideas developed from the hearings, as well as in extensive meetings with such interested parties as: the Office of Management and Budget and agency officials, the General Accounting Office, congressional staff, the business community, statisticians, scholars, librarians, and the public interest community.

I. STRENGTHENS PAPERWORK REDUCTION EFFORTS

First, the bill reauthorizes the Paperwork Reduction Act with emphasis on its original intent and purposes and increases efforts to reduce duplicative Federal information collection and minimize paperwork burden on the public.

The final report of the 1977 study by the Commission on Federal Paperwork reported that "the total cost of Federal Paperwork is huge . . . it may exceed $100 billion a year." More than a decade later, despite the significant effort to reduce paperwork burden, such burden has continued to increase. A recent report by the General Accounting Office [GAO] concludes that there has been little actual burden reduction in recent years. One business group estimates that American businesses now spend approximately 8.2 billion hours at a cost of $330 billion (7.3 percent of our GNP) each year responding to Federal paperwork requests.

It is clear that the Office of Management and Budget and Federal agencies must do more to attack the continuing growth of excessive or duplicative paperwork, and to reduce the burden of such paperwork on individuals, businesses, educational institutions, State and local government, and others. Simultaneously, information collection policy must serve the important purpose of creating an accurate, timely, and valuable Federal database.

The importance of a strong and ongoing government-wide effort to reduce the burden of unnecessary government paperwork cannot be overstated. A renewed and unified effort by the Congress, the executive branch, and Federal agencies is required to attack the mountain of paperwork faced by businesses, university researchers, and other individuals.

To continue the task of minimizing the paperwork burden, this legislation reauthorizes the existing Federal information collection review provisions of law and continues the overall reduction goal of reducing paperwork by 5 percent each year.

The bill also requires OIRA to identify initiatives to reduce paperwork burdens associated with individuals, business, educational institutions, State and local governments especially with respect to procurement and Federal grant programs. A report to Congress is required which specifically addresses the impact of burden reduction programs for those most heavily burdened.

The bill reinforces the requirements that agency information collections are necessary for the proper performance of an agency's functions, are not duplicative of information reasonably accessible to the agency, have practical utility, are written using plain and unambiguous terminology and are understandable to those who are to respond, and explain the need and ultimate use of the information to be collected, and the importance of an accurate and timely response.

II. STRENGTHENS RESOURCES MANAGEMENT

Second, the bill strengthens the information infrastructure and statistical database of the Federal Government, including improving agency capabilities and public access to Government information.

The proper functioning of the Federal Government requires accurate and timely information for decisionmaking at all levels. Federal information resources benefit Government and the public, and require sound management of information collection, archiving, dissemination, protection of security and privacy, and more. In an era of rapid technological advances more needs to be done by OMB to coordinate Government information policy. Moreover, we need to articulate a national information policy that helps to preserve and improve our information infrastructure.

The bill sets a national information resources management policy, which serves to integrate all information functions within a life-cycle management system in Federal agencies. The bill will strengthen information resources management in Federal agencies, establish stronger leadership and policy guidance from the Office of Management and Budget, and improve the level and participation by the public in the development and implementation of information policy.

Government information must be recognized as a valuable and useful resource to Government and society. As such, it must be managed in a coordinated and systematic manner based on established principles for information resources management. OIRA, in conjunction with other Government entities with centralized information management responsibilities, must take leadership in developing coherent information policy which gives balanced and needed emphasis to all information functions. Federal agencies must establish parallel, but independent, information resources management programs.

To establish the positive position of information, this legislation creates a new purpose which emphasizes public benefit, quality, and use of Government information as important priorities.

To promote the concept of information resources management as an integrating principle, the bill creates a new definition for "managing information resources" emphasizing a comprehensive life-cycle approach to information policy development. The legislation also requires the OIRA Administrator to give balanced and needed emphasis to all major information policy functions and to coordinate information policy with other central information agencies as well as encourages OIRA to devote significantly more of its limited resources to functions required under this law—for example, statistical policy, privacy, information technology—which have been neglected in the past.

The bill increases the responsibility of the OIRA Administrator in the area of statistical policy in order to strengthen the leadership and coordination of our decentralized statistical system. Specifically, there is a new overall leadership role, a new international coordination role, and an emphasis on dissemination of statistics to the public.

The bill also establishes interagency working groups to strengthen information policy coordination as part of OIRA's information policy functions. These working groups are charged with coordinating both the development and the implementation of information policy. A specific statistical policy interagency working group is also required, to be headed by the chief statistician and including at least the heads of the major statistical agencies. This working group is charged with coordinating all of OIRA's statistical functions.

III. REAFFIRMS OIRA RESPONSIBILITY FOR POLICY GUIDANCE

Third, the bill improves the efficiency and effectiveness of the Office of Management and Budget's Office of Information and Regulatory Affairs [OIRA] in carrying out all its responsibility under this law.

OIRA's responsibility for agency information activities is to ensure that they are well run, not to run them. OIRA's relationship to Federal agencies must be structured to provide policy guidance, not day-to-day approval or disapproval of agency information activities. Federal information resources management capabilities must be strengthened, and agencies must take greater responsibility for fulfilling the full range of information functions.

In this regard, the legislation requires OIRA to develop policy, guidance, and stardards to provide direction to agencies and to ensure the development of formalized training programs in information resources mangement concepts for OMB staff and agency officials. The bill clearly emphasizes OIRA's responsibilities to provide guidance, not operational authority, for agency information activities.

The bill also strengthens agency responsibility and accountability in all areas of information resources management. Each agency head is directed to appoint a career chief information resources management official with appropriate credentials, and each agency is required to establish an

agency-wide IRM program, to provide formalized training programs for agency officials, and to integrate IRM programs and agency activities.

Importantly, the bill creates a self-certification of continuing information collection activities by Federal agencies which is designed to shift OMB's resources away from "routine, reoccuring, and regular" information collection approval, and to encourage agencies to assume responsibility for the quality and necessity of information programs. This applies only to ongoing information collections which currently have to be submitted at the end of every 3 years for reapproval—and which OMB argues is a time consuming rubber stamping function. The new provision retains OMB's authority to conduct a reapproval on request.

IV. ESTABLISHES A COMMISSION ON FEDERAL INFORMATION

Mr. President, one of the tasks we seek to accomplish in this bill is to improve the quality of Federal information, especially statistical information. To this end, the bill establishes a Commission on Federal Information to look at the broad question of the health of the Federal information, including statistical, system. The functions of the Commission are to look at the contribution of information to economic and social welfare and to competitiveness, to identify long-term information needs, to identify gaps and other problems in the current system especially with respect to quality, timeliness and relevancy, to set priorities for information in light of changes in the economy and society, and to look at how better to organize the information system for better coordination and to ensure that the system is capable of keeping up with changes in the economy and society. In part, these functions represent an update of the 1970 President's Commission on Federal Statistics.

The structure of the Commission is patterend after the Federal Paperwork Commission. Membership includes two Senators (from different parties), two Representatives (from different parties), the OMB Director, two other Federal officials, two representatives of State and local government, and 7 members of the public. Except for the Members of Congress and the OMB Director, the appointments are by the President. The Commission must report back its findings to Congress by July 1991, before authorization for OIRA expires.

That our Federal statistical system is in need of an overhaul is clear. One example of the problem is our economic statistics. Earlier this year, I asked the Office of Technology Assessment to look into the question of the adequacy of our economic statistics, especially in light of the ongoing changes in the United States and global economies. Their report, "Statistical Needs for a Changing U.S. Economy" demonstrates how staggering defects in the existing statistical system can hinder the understanding of key economic issues. It also highlights the ways in which better management and coordination of existing statistical agencies can lead to improvements in the quality of the data.

The report points out that the problem with data stems from the dynamic nature of our economy. Although U.S. statistics are very good, the domestic economy is changing so rapidly and in so many different directions that keeping track of our statistical needs is becoming more and more difficult.

Recently, an example came to my attention of how outdated statistics can lead to distorted policy analysis. As many of my colleagues are aware, Congress and the administration are currently debating the issue of voluntary restraint agreements [VRA's] on steel imports. In May of this year, the U.S. International Trade Commission [ITC] published a study on the effects of such VRA's on steel users. However, the ITC's analysis was based on the 1977 input-output table of the U.S. economy instead of the 1982 version which indicates that steel input required in many manufacturing processes has declined significantly. Thus, according to a Congressional Research Service report:

> The USITC utilized information for its efforts that may have been valid in the 1970's but not for the mid-1980's. The use of the 1977 input-output table could result in a substantial overstatement of the effects of the VRAs on the U.S. economy.

Another example is the increasing number of significant revisions to many of our basic economic statistics. For example, the number of new jobs created was drastically revised in April, in May, and then again in June. May's figures for retail sales were revised from a preliminary announcement of a decline to a healthy growth. June's data for new orders for durable goods was also significantly revised as was the third quarter's GNP data. While revisions are a normal part of updating statistics, these examples are of such a magnitude that they call into question their basic soundness. We must have accurate data for decision making by both business and government. Important policy decisions of the Federal Reserve Bank and investment and production decisions of industry are determined by this data. Such large revisions undermine our ability to make these decisions correctly.

As these examples point out the United States needs good statistics in order to have good economic policy. To quote the OTA report:

> It is clear, however, that the price paid for public policy mistakes that stem from defects in national statistics can be many times higher than the entire national statistical budget.

The Commission on Federal Information created in this legislation will move us one step closer to resolving these problems and stengthening our statistical system.

V. INCREASES PUBLIC PARTICIPATION AND OIRA ACCOUNTABILITY

Mr. President, the record of the past 8 years shows that there is a need to increase public participation in, and improve the accountability of, OIRA and Federal agency decision making.

This legislation strengthens OIRA accountability by requiring OIRA to maintain a public record of any information collection or regulatory review, which includes a written justification of any OIRA denial, disapproval or modification and by requiring that OIRA provide agencies with written materials sent to OMB and a summary of oral communications involving nongovernmental representatives regarding a rulemaking activity and that OIRA invite agency heads to all scheduled meetings with nongovernmental representatives.

The bill also limits ex-parte communication by OIRA officials on regulatory review activity with nongovernmental representatives to OIRA Administrator and Deputy Director, and limits OIRA regulatory review to 30 days for nonmajor rules and to 90 days for major rules with an allowable 30-day extension if required.

To increase public participation, the bill strengthens consultation and creates advisory committees on information policy and committee on statistical policy, as discussed earlier. The bill also reorients the Federal Information Locator System [FILS] so that it can better serve as a tool for agencies and the public in the information collection process and requires OIRA to develop a plan to create a system to help the public find Federal information dissemination products and services.

VI. STRENGTHENS FEDERAL LEADERSHIP AND OVERSIGHT

Mr. President, no matter how we design this piece of legislation, there is no effective substitute for strong leadership, management, guidance, and oversight to ensure that the goals of this Act are met. Both the Congress and the executive branch must provide greater leadership and guidance, and conduct vigorous oversight.

To strengthen that leadership, this legislation gives responsibility and authority for functions of OIRA directly to the OIRA Administrator, which was made a confirmable position in 1986. The OMB Director still specifically retains overall responsibility for OIRA activity, but this forces the Administrator to assume responsibility for expenditures and fulfillment of OIRA functions under law.

The bill requires professional credentials of the Administrator to be related to the enumerated functions of

OIRA in the law. Especially in light of forthcoming vacancy at OIRA, this changes stresses the need for an Administrator who can fulfill the information policy functions and management needs of OIRA. It also seeks the selection of an OIRA Administrator who is driven by the functions of OIRA as stated in law, and not other activities chosen by the White House.

The bill creates a separate budget line item for OIRA which will establish stronger congressional oversight and accountability of OIRA. This will allow Congress to better monitor the resources spent on the function required under this law. Importantly, during off-reauthorization years, this will result in an annual appearance by OIRA before Congress.

The bill also requires a review by the GAO to measure OIRA effectiveness in carrying out its responsibilities under the Act.

Finally, the bill reauthorizes the legislation for a two year period in order to strengthen congressional oversight. Frankly, Mr. President, I view this period as a time of change in the operation of this Act. We are asking OIRA to try to do things differently than they have in the past. A 2-year reauthorization will give us a chance to come back in a reasonable period of time to see how things are going.

VIII. CONCLUSION

In closing, let me just state that I believe that the Federal Information Resources Management Act of 1989 is the necessary instrument for achieving the important goals laid out in the original Paperwork Reduction Act. I urge my colleagues to look carefully at this legislation.●

By Mr. DECONCINI (for himself and Mr. SIMPSON):

S. 1743. A bill to clarify the application of the antitrust laws to certain agreements imposing territorial limitations on the distribution of trademarked products for resale; to the Committee on the Judiciary.

INTERBRAND COMPETITION ACT

● Mr. DECONCINI. Mr. President, I ask unanimous consent the following bill be printed in the CONGRESSIONAL RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1743

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interbrand Competition Act of 1989".

SEC. 2. APPLICATION OF ANTITRUST LAWS TO LIMITATION ON DISTRIBUTION OF PRODUCTS FOR RESALE.

(a) LAWFULNESS OF CERTAIN DISTRIBUTION LIMITATIONS.—Except as provided in subsection (b), it shall not be unlawful under the antitrust laws for any manufacturer, importer, trademark owner, or trademark licensee of a trademarked product and for any wholesale distributor of a trademarked product to agree, or to carry out a provision in a contract which provides, that such wholesale distributor shall—

(1) have the sole and exclusive right to distribute and to sell such trademarked product in any defined geographical area within any State, and

(2) be limited to the distribution and sale, directly or indirectly, of such trademarked product only for ultimate resale to consumers within that defined geographical area,

When such trademarked product is in substantial and effective competition with other products within the relevant market or markets.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to affect any liability under any of the antitrust laws arising from any price-fixing agreement, horizontal restraint of trade, or group boycott if such agreement, restraint, or boycott would otherwise be unlawful.

SEC. 3. DEFINITIONS.

For purposes of the Act—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 relates to unfair methods of competition,

(2) the term "State" has the meaning given it in section 4G of the Clayton Act (15 U.S.C. 15g).

SEC. 4. APPLICATION OF ACT.

This Act shall not invalidate or affect any provision of the laws of any State.●

By Mr. BAUCUS:

S. 1746. A bill to initiate actions under section 310 of the Trade Act of 1974 with respect to agricultural trade barriers, and to extend and initiate the triggered marketing loan program or an expanded export enhancement program, of an international trade agreement under the General Agreement on Tariff and Trade is not submitted to Congress by February 15, 1991, and for other purposes; to the Committee on Finance.

AGRICULTURAL TRADE ACT

● Mr. BAUCUS. Mr. President, I rise today to introduce the Agricultural Trade Act of 1990 on behalf of myself and Senator BOREN.

Agriculture has been the United States' most consistent export performer. The United States has consistently run a substantial annual trade surplus in agricultural products. In 1988, the United States exported 35.3 billion dollars' worth of agricultural products. One in every three acres of America's cropland raises crops for export. America exports about 75 percent of its wheat and 40 percent of its soybean crop as well as substantial amounts of beef, corn, rice, cotton, and many other agricultural products. Continued strong agricultural exports are essential if America is to eliminate its mammoth trade deficit.

But the United States could be exporting far more if U.S. agricultural exports were not blocked by foreign trade barriers and forced to face subsidized competition. The National Trade Estimate—the annual U.S. Government listing of foreign trade barriers—spent many pages listing foreign trade barriers that block U.S. agricultural exports. The European Community maintains an extensive series of barriers, including variable levies, production subsidies, and export subsidies. If all the barriers were removed, the U.S. Trade Representative's Office has estimated that the U.S. trade balance would improve by $7 billion. On top of these barriers, the EC recently imposed a ban on U.S. meat exports under the guise of a health and safety restriction. Japan has begun to liberalize its agriculture markets, but still maintains extensive restrictions on agricultural products ranging from rice to feed grains. Korea still maintains a virtual ban on beef imports. Taiwan restricts import of many agricultural products with import licensees. Unfortunately, this list could literally go on and on.

This is not to say that the United States is without sin, but compared to other major developed nations the United States is a free trader. A recent OECD study concluded that taxpayers and consumers in the EC spend $75 billion annually subsidizing agriculture, Japan spends $50 billion, while the United States spends only about $20 billion. An earlier OECD study concluded that United States protection in the agricultural sector was lower across the board than protection in the EC and Japan. Furthermore, many of the U.S. trade practices that our trading partners complain about—such as the Export Enhancement Program [EEP]—were implemented only to counter our trading partners unfair trade practices.

Given this state of affairs, the United States decision to make liberalization of agricultural markets the top priority in the Uruguay Round of GATT talks is a sensible one. Unfortunately, some of our trading partners have not supported our efforts. The EC has drug its feet in the negotiations and Japan has resisted import liberalization.

To support the efforts of our negotiators in Geneva, the Congress should make it clear that the United States will press for agricultural liberalization unilaterally if the GATT Round breaks down. Therefore, I am today introducing legislation—the Agricultural Trade Act of 1990—that will take effect if the GATT negotiations do not yield an agreement that meets United States objectives by the scheduled conclusion of the Uruguay Round.

SUMMARY

If legislation to implement a GATT Agreement that meets U.S. objectives on agricultural trade as specified in

the 1988 Trade Act is not submitted to Congress by February 15, 1991, then:

(1) The U.S. Trade Representative is directed to identify the major foreign barriers to U.S. agricultural exports and initiate section 301 investigations under the Omnibus Trade Act of 1988 to eliminate them;

(2) The Secretary of Agriculture is directed to implement a marketing loan or across the board export enhancement program on all major agricultural commodities. (This provision is essentially a straight extension of the Triggered Marketing Loan provision of the 1988 Trade Act which expires on January 1, 1990 if the President certifies that adequate progress is being made in the negotiations. The provision is not intended to waive the requirement that the administration make a certification that the negotiations are proceeding or implement a marketing loan or EEP by January, 1990. Rather, it creates an additional decision point on February 15, 1991.)

This legislation sends a message to all nations that the United States is serious about opening world agricultural markets. It also charts a course that the United States will pursue to protect its interests if the Uruguay Round breaks down. I plan to work to make this legislation a part of the 1990 farm bill.

Mr. President, I ask unanimous consent that a letter from various agricultural groups on this topic, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTION TO BE TAKEN IF AGRICULTURAL AGREEMENT NOT IMPLEMENTED.

If a draft of a bill implementing a multilateral agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) as part of the Uruguay round of negotiations under the General Agreement on Tariffs and Trade that meets the objectives of the United States regarding agricultural trade which are described in section 1101(b)(7) of such Act (including health and safety issues, export subsidies, and import barriers) is not submitted by the President to the Congress before Febraury 15, 1991—

(1) the United States Trade Representative shall submit an additional report under section 310(a)(1)(D) of the Trade Act of 1974 (19 U.S.C. 2420(a)(1)(D)) by no later than May 31, 1991, that—

(A) limits the identification of priority practices under section 310(a)(1)(A) of the Trade Act of 1974 to major trade barriers and trade distorting practices, the elimination of which are likely to have the most significant potential to increase United States exports of agricultural products.

(B) limits the identification of priority foreign countries to those foreign countries that satisfy the criteria described in section 310(a)(2) of the Trade Act of 1974 with repect to exports of United States agricultural products and

(C) limits the estimate described in section 310(a)(1)(C) of the Trade Act of 1974 to consideration only of increases in exports of United States agricultural products, and

(C) the President shall instruct the Secretary of Agriculture to implement a marketing loan program in accordance with section 4301(b) of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note), or if the President waives or discontinues such program, an export enhancement program in accordance with section 4301(c) of such Act.

SEC. 2. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.

Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note) is amended—

(1) in subsection (a)—

(A) by striking "(a) CERTIFICATION.—" and all that follows through "such date—" and inserting the following:

"(a) IN GENERAL.—Notwithstanding any other provision of law—

"(1) if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as 'GATT negotiations') concerning agricultural trade, the President; and

"(2) if before February 15, 1991, a draft of a bill implementing a multilateral agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) as part of the Uruguay round of negotiations under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as 'GATT negotiations') that meets the objectives of the United States regarding agricultural trade that are described in section 1101(b)(7) of such Act (including health and safety issues, export subsidies, and import barriers) is not submitted by the President to Congress, the President;

not later than 45 days after such date—";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(C) by striking subparagraph (C) (as redesignated by subparagraph (B)) and inserting the following new subparagraph:

"(B) shall instruct the Secretary of Agriculture to implement a marketing loan program in accordance with subsection (b), or if the President waives or discontinues such program, an export enhancement program in accordance with subsection (c).";

(2) in subsection (b), by striking paragraph (1) and inserting the following new paragraph:

"(1) IMPLEMENTATION.—Except as provided in paragraph (2), if a draft of a bill is not submitted by the President to Congress in accordance with subsection (a), the President shall, not later than 60 days before the beginning of the marketing year for the 1991 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for each of the 1991 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

"(A) the loan level determined for each such crop; or

"(B) the prevailing world market price for each such crop, as determined by the Secretary."; and

(3) in subsection (c)(1), by striking "1990 through 1992 fiscal years" and inserting "1991 through 1993 fiscal years".

NATIONAL ASSOCIATION OF WHEAT GROWERS,
Washington, DC, September 29, 1989.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: If the Uruguay Round of the General Agreement on Tariffs and Trade is to be successful, the European Community, the Japanese and others must bargain in good faith on the liberalization of agricultural trade. Negotiators must promote broad and general trade reform. There must be an absolute, "level playing field" for agricultural trade.

All nations involved in the GATT process, and those standing on the sidelines as observers, need to understand the U.S. Congress remains strongly committed to providing U.S. agriculture access to all markets. The Agricultural Trade Act of 1990 demonstrates this commitment.

We, the undersigned U.S. commodity groups, support the efforts of the U.S. GATT negotiators. Our trading partners were put on notice early that the United States viewed agricultural trade liberalization as a top priority. As the Uruguay Round reaches its final critical months, there should be no doubt about the determination of the Congress, the Administration and American agriculture to see that liberalization in international agricultural trade is achieved.

Sincerely,
American Soybean Association.
Rice Millers' Association.
National Association of Wheat Growers.
National Corn Growers Association.
North American Export Grain Association.●

● Mr. BOREN. Mr. President, I join the distinguished Senator from Montana [Mr. BAUCUS] in introducing this important legislation—the Agricultural Trade Act of 1990. Senator BAUCUS is recognized as a Senate leader on trade issues and I truly appreciate his leadership.

Agriculture is a vital part of the United States' position in the international economy. In an era of record overall trade deficits, U.S. agricultural trade has continuously resulted in a trade surplus. Last year, American agriculture exported over 35 billion dollars' worth of food and fiber products, an increase of more than $8 billion over 1987 levels.

Foreign markets are especially important to the agriculture industry in my home State of Oklahoma. Over 70 percent of Oklahoma's hard red winter wheat crop is exported. These sales generate well over $200 million for the economy of my State.

However, American agriculture could potentially sell much more in overseas markets. Foreign trade barriers and heavy export subsidies have impeded the growth of U.S. overseas sales. I have always maintained that the American farmer can compete with any foreign farmer in the world. However, U.S. farmers are continuously asked to compete with foreign governments—especially European and Asian governments whose taxpayers pay many times more in relative sup-

port for domestic farm programs than does the U.S. taxpayer.

Mr. President, this bill seeks to encourage agricultural trade reform, a top priority for the United States during the current round of GATT talks. If our competitors do not commit to real reforms during the GATT process, this bill will trigger two actions that will strengthen our agricultural trade position. First, this bill will require the U.S. Trade Representative to identify the major foreign barriers to U.S. agricultural products and initiate section 301 investigations to eliminate them. Second, the Secretary of Agriculture would be required to expand the use of the Export Enhancement Program or to implement marketing loans for all major commodities.

In short, this bill sends a two-part message to our competitors. First, we will not continue to tolerate foreign trade barriers, even if they are disguised as health and safety concerns. Second, we will beat them at their own game of heavy export subsidies if they are not willing to refrain from such practices.

I hope our colleagues will join us in sending this message by supporting this legislation.●

By Mr. THURMOND (for himself, Mr. DECONCINI, and Mr. DURENBERGER):

S.J. Res. 214. Joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting; to the Committee on the Commerce, Science, and Transportation.

REMOVAL OF OFFENSIVE SEXUAL MATERIAL FROM TELEVISION BROADCASTING

Mr. THURMOND. Mr. President, I rise today to introduce along with my distinguished colleague from Arizona, Senator DECONCINI, a joint resolution to express the sense of the Congress regarding the removal of offensive sexual material from television broadcasting.

It is readily apparent that through thinly veiled innuendo or with unbridled candor, sexually explicit material is growing by leaps and bounds on network television. I have received calls and letters from many citizens who feel the networks have pushed much of its programming beyond that which a reasonable viewing audience would find respectable as family entertainment.

Why have the standards changed so rapidly? Why have the boundaries shifted drastically with regard to what the networks find as suitable broadcast material? I believe there are several reasons for increased broadcasting of sexually explicit material.

DISMANTLING OF NETWORK CENSORS

It is widely acknowledged that the three major networks have reduced or eliminated their standards and practices departments. These departments within the networks have traditionally reviewed programming for objectionable material prior to broadcasting. Last November, Newsweek reported that the standards and practices at CBS and NBC no longer exists as a separate department within these networks. Also, ABC has made deep cuts in the standards and practices department.

Heretofore, the standards and practices departments served to defend audience sensibilities. The composition of the broadcast audience was given due consideration with regard to programming content. Over the years, objectionable material has increased dramatically and has crept into our homes through television. Unfortunately, much of this type of programming is viewed as commonplace.

Too many TV programs portray a casual image of sexual activity which would earlier not have been considered suitable for broadcast.

However, recently there have been individuals and vigilant citizens' groups who are demanding more responsible broadcasting. They are writing producers and sponsors as well as organizing product boycotts to make their views known.

ADVERTISING

One minute to advertising on a prime time television program costs about $375,000 for the sponsor. Companies that can afford to advertise on television want to reach the largest possible number of potential customers. Also, the networks are eager to produce programs that attract a large viewing audience to entice a potential sponsor. For whatever reason, risque programming tends to produce higher ratings and, of course, this is a prime concern for sponsors with a limited number of advertising dollars.

Yet, what we may be seeing now is that television producers are offending and alienating more viewers than they attract. Again, this revulsion to offensive programming could be attributed to parents, individuals, and citizens' groups who have reached their tolerance level for objectionable TV shows.

COMPETITION

It has not been too long ago that the major networks were in competition solely among themselves. But with the advent of cable television, pay television, and VCR's, the landscape of broadcast television has been forever changed. Competition for audience share is ferocious among the players in broadcast medium. The three major networks are now in the unfortunate position of competing with cable television, music videos', independent stations, and movie rentals which offer a wide variety of programming.

This type of environment is much of the reason networks choose to air more explicit programs on network television. Lorne Michaels, the well-known executive producer of "Saturday Night Live"—one of the racier late night programs—was quoted earlier this year as saying, "My competition isn't the 'Late Show' anymore, its cable and VCR's."

Mr. President, I believe that quote gives a good indication that the networks are under a great deal of pressure to appeal by aggressive means to a large viewing audience. All too often, their response is to air programs with sexually explicit material.

The above reasons are what I believe to be the primary causes for much of the objectionable material which is being broadcast today. However, I believe there is a quiet majority across our country who have witnessed and been offended at the casual and cavalier manner in which sexual activity is portrayed on network television. What message is this image sending to our young children? Are American teenagers to believe that network television sets the standard for determining proper behavior and if they do not conform then they are an oddity? I sincerely hope that is not the case. Yet, we continue to see an unfortunate downward spiral in television programming.

I encourage all of my colleagues to join us in swiftly passing this joint resolution which would express the sense of the Congress that sexually offensive material should be removed from television. We have an opportunity to send a clear message to the networks that public officials representing families all across America want to see more responsible programming. Television is a prevalent fixture in almost every home in America and this body should be on record that boundaries must be drawn as to what is acceptable for network television.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 214

Whereas the physical attributes of the broadcast medium are such that it is reasonable to assume that minors are likely to be in the broadcast audience during most of the broadcast day; and

Whereas, based on contemporary community standards, there is concern over a growing number of television broadcast programs which at times constitute indecency; and

Whereas there are instances in network broadcast television programming which involve the depiction of sexual activity directly or by inuendo which is patently offensive under contemporary community standards; and

Whereas broadcast television programs that depict sexual matters in ways which are obscene, indecent, or profane erode our sense of traditional American values; and

Whereas the three major networks have reduced or eliminated their "Standards and

Practices" departments which have traditionally reviewed programming for objectionable material: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the television networks and producers should increase their activity to monitor and remove offensive sexual material from their television broadcast programming.

Mr. DECONCINI. Mr. President, I rise today to join my colleague and friend from South Carolina in a resolution to encourage television networks and producers to remove offensive sexual material from television programming.

More and more, networks are forced to compete with new entertainment mediums such as subscription cable channels and video cassette recorders for viewer attention. Faced with dwindling audiences, television networks are responding with bolder language and explicit sexual materials. These materials are not reserved for adults, who may have developed a sense of self-regulation, but are viewed at prime time when impressionable children are most likely to be in front of the set.

When the public complains of this situation, the networks answer that they do not possess the financial resources to retain an in-house monitor—known in the industry as a Standards and Practices department. Networks have significantly cut back in this area. Without a standards department, the networks must rely on a show's producers to screen out questionable material. Clearly, self-policing does not work. In the past television season, a viewer could witness sexual bondage, rape, and sadomasochistic acts.

Television sets are in virtually every American home. The television industry has a unique role in shaping the shared values of our society and culture. Our children log thousands of hours of television viewing time each year. For many children, TV is the greatest singular influence, replacing traditional role models of extended family, school, and church. We must be more cautious of the message we are sending to children of how men and women relate to each other in their personal and sexual lives. Television producers and executives have an ethical responsibility to present decent television fare. We here today share this responsibility.

American viewers are not passive observers. I have received many calls and letters from citizens who are justifiably outraged by these trends in television programming. I urge my colleagues to join us in passing this resolution.

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. WIRTH, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 565

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 565, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

S. 566

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 566, a bill to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes.

S. 752

At the request of Mr. HARKIN, the name of the Senator from Kentucky [Mr. ADAMS] was added as a cosponsor of S. 752, a bill to preserve the cooperative, peaceful uses of outer space for the benefit of all mankind by prohibiting the basing or testing of weapons in outer space and the testing of antisatellite weapons, and for other purposes.

S. 1006

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 1006, a bill to encourage innovation and productivity, stimulate trade and promote the competitiveness and technological leadership of the United States.

S. 1140

At the request of Mr. MITCHELL, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Arkansas [Mr. BUMPERS], the Senator from Maryland [Mr. SARBANES], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 1277

At the request of Mr. FORD, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1358

At the request of Mr. RIEGLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1358, a bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable to a recipient of disabled adult child's benefits and certain other beneficiaries and to provide for continued entitlement to disability and Medicare benefits for such individuals, and for other purposes.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1628

At the request of Mr. BENTSEN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1628, a bill to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child and to amend title 5, United States Code, to establish a program providing assistance to Federal employees adopting a special needs child.

S. 1630

At the request of Mr. BAUCUS, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

S. 1701

At the request of Mr. PACKWOOD, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from California [Mr. WILSON], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1701, a bill to implement the steel trade liberalization program.

S. 1725

At the request of Mr. DOMENICI, the name of the Senator from New Mexico [Mr. BINGAMAN] was withdrawn as a cosponsor of S. 1725, a bill to establish a commission in the Department of the Interior to provide compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range.

SENATE JOINT RESOLUTION 176

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 176, a joint resolution to designate September 29, 1989, as "National Siblings of Disabled Persons Day."

SENATE JOINT RESOLUTION 177

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 177, a joint resolution designating October 29, 1989, as "Fire Safety At Home-Change Your Clock, Change Your Battery Day."

SENATE JOINT RESOLUTION 186

At the request of Mr. MCCLURE, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Senate Joint Resolution 186, a joint resolution designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week."

SENATE JOINT RESOLUTION 190

At the request of Mr. HEINZ, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 190, a joint resolution designating April 9, 1990, as "National Former Prisoners of War Recognition Day."

SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative parties for the full protection of Antarctica as a global ecological commons.

SENATE RESOLUTION 192—RELATIVE TO TESTIMONY BY SENATE EMPLOYEES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 192

Whereas, in the case of *United States v. Jorge Artalego*, Crim. No. M-7121-89, pending in the Superior Court of the District of Columbia, the United States Attorney has obtained a subpoena for the testimony of Frances Murrah, and counsel for the defendant has obtained subpoenas for the testimony of Melissa Ferring and Erin Mewhirter, employees of the Senate on the personal office staff of Senator Lloyd Bentsen;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2)(1982), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena or order directed to them in their official capacity: Now, therefore, be it

Resolved, That Frances Murrah, Melissa Ferring, and Erin Mewhirter are authorized to testify in the case of *United States v. Jorge Artalego*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Frances Murrah, Melissa Ferring, and Erin Mewhirter, and any other staff assistant of Senator Bentsen who may be subpoenaed to testify in the case of *United States v. Jorge Artalego*.

AMENDMENTS SUBMITTED

REPEAL OF MEDICARE CATASTROPHIC COVERAGE PROVISIONS

KENNEDY (AND OTHERS) AMENDMENT NO. 985

Mr. KENNEDY (for himself, Mr. HEINZ, and Mr. KERRY) proposed an amendment to the bill (S. 1726) to repeal Medicare catastrophic coverage provisions effective in years after 1989 and the supplemental Medicare premium, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Revision Act of 1989".

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of the Medicare Catastrophic Coverage Act (hereafter in this Act referred to as "MCCA") are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(d) CONFORMING AMENDMENT.—Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "Federal Hospital Insurance Catastrophic Coverage Reserve Fund,".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

SEC. 102. REVISION OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraphs (2), (3), and (4), sections 101, 102, and 104(d) (other than paragraphs (2)(C) and (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this Act referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR INPATIENT HOSPITAL SERVICES.—

(A) The repeal of section 101(1) shall not apply insofar as such section amended paragraph (1) of section 1812(a) of the Social Security Act (relating to inpatient hospital services).

(B) The repeal of section 102(1) of MCCA shall not apply insofar as such section amended paragraph (1) of section 1813(a) of the Social Security Act (relating to the inpatient hospital deductible).

(3) EXCEPTION OF BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA shall not apply insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(4) EXCEPTION FOR HOSPICE BENEFIT CHANGES.—The repeal of section 101 of MCCA shall not apply insofar as such section—

(A) amended paragraph (4) of subsection (a) of section 1812 of the Social Security Act (relating to hospice care benefits), and

(B) amended subsection (d) of such section (relating to a subsequent extension period of an election).

(b) TRANSITIONS FOR EXTENDED CARE SERVICES.—

(1) In the case of an individual who on December 31, 1989, is receiving extended care services for which payment may be made under part A of title XVIII of the Social Security Act, this Act shall not apply to the provision of extended care services under such part during a continuous period of stay in 1990, but—

(A) the number of days of coverage under this subsection shall not exceed 150 less the number of days for which benefits for extended care services were payable under such for the individual in 1989, and

(B) coinsurance shall be applicable under section 1813(a)(3) of such Act only for those days (if any) in 1990 before the 9th day in which the individual was furnished extended care services in 1989 and 1990.

(2) In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to extended care services provided on or after January 1, 1990, except as may be provided under paragraph (1)—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness; and

(B) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30 consecutive days in which the individual is not provided inpatient hospital services or extended care services.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by

subsection (c) shall be effective as if included in the enactment of MCCA.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM

SEC. 201. REPEAL OF LIMITATION ON MEDICARE PART B COST-SHARING; 1-YEAR DELAY IN IMPLEMENTATION OF OUTPATIENT DRUG BENEFIT.

(a) IN GENERAL.—

(1) REPEAL OF LIMITATION ON COST-SHARING.—Section 201 of MCCA is repealed, and the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted.

(2) 1-YEAR DELAY IN OUTPATIENT DRUG BENEFIT.—Section 1861(t)(3)(B) of the Social Security Act (42 U.S.C. 1395x(t)(3)(B)) is amended by striking "in 1990" and inserting "in 1990 or 1991".

(b) INCREASE IN THE CATASTROPHIC DRUG DEDUCTIBLE AMOUNT FOR 1992.—

(1) IN GENERAL.—Section 1834(c)(1)(C)(i)(III) of the Social Security Act (42 U.S.C. 1395m(c)(1)(C)(i)(III)) is amended by striking "1992 is $652" and inserting "1992 is $950".

(2) GAO REPORT.—Section 1834(c)(1)(C)(iii) of such Act (42 U.S.C. 1395m(c)(1)(C)(iii)) is amended by inserting after the first sentence the following: "The Comptroller General shall report to Congress, not later than 60 days after the date of publication of such proposed regulation, on the accuracy of the Secretary's proposed amount of the catastrophic drug deductible for that following year.".

(c) MODIFICATION OF COINSURANCE PERCENTAGE FOR COVERED OUTPATIENT DRUGS FOR 1993.—Section 1834(c)(2)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(c)(2)(C)(ii)) is amended—

(1) by striking "and" at the end of subclause (II), and

(2) by striking subclause (III) and inserting the following:

"(III) in 1993 is 30 percent, and

"(IV) in 1994 or a succeeding year is 20 percent.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1834(e)(1) of such Act (42 U.S.C. 1395m(e)(1)) is amended by striking "(except as provided in section 1833(c))".

(2) Section 1861(11)(4) of such Act (42 U.S.C. 1395×(11)(4)) is amended—

(A) in the first sentence, by striking "either" and all that follows through the end of such sentence and inserting "has become entitled to have payments made for covered outpatient drugs under section 1834(c).",

(B) in the second sentence, by striking "subparagraph (A) or (B)" and inserting "the previous sentence",

(C) in the third sentence, by striking "a buyout plan (as defined in section 1833(c)(5)(D)) or", and

(D) in the third sentence, by striking "subparagraphs (A) and (B), respectively," and inserting "the first sentence of this paragraph".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 202. REVISION OF MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) CONSOLIDATION OF CATASTROPHIC MONTHLY PREMIUM.—

"(1) IN GENERAL.—Section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraphs (4) and (5)" and inserting "paragraph (3)",

(ii) by striking "the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the catastrophic coverage monthly premium",

(iii) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)",

(iv) in the column in the table relating to the catastrophic coverage monthly premium, by striking "$5.46", "$6.75", and "$7.18" and inserting "$7.40", "$9.20", and "$10.20", respectively, and

(v) by striking the column in the table relating to the prescription drug monthly premium; and

(B) by striking subparagraphs (B) and (D) and redesignating subparagraph (C) as subparagraph (B);

(2) UPDATE IN MONTHLY PREMIUM.—Section 1839(g)(2) of such Act is amended—

(A) subparagraph (A), by striking "or (1)(C)",

(B) in subparagraph (B)(i), by inserting "for years beginning with 1998," after "(i)",

(C) in subparagraph (C)(i)(I), by striking "catastrophic outlays" and inserting "prescription drug outlays",

(D) in subparagraph (D)(i), by striking "or (1)(C)",

(E) in subparagraph (D)(ii), by striking "37 percent" and inserting "100 percent",

(F) in subparagraph (D)(iii)(I), by striking" "20 percent" and inserting "the percent specified in clause (iv)",

(G) in subparagraph (D)(iii)(II), by striking "or section 59B(e) of the Internal Revenue Code of 1986", and

(H) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of clause (iii)(I), the percent specified in this clause for 1994 is 75 percent, for 1995 is 50 percent, for 1996 and for 1997 is 25 percent, and for 1998 and each succeeding year is 20 percent.".

(3) ELIMINATION OF SEPARATE PRESCRIPTION DRUG MONTHLY PREMIUM.—Section 1839(g) of such Act is further amended by striking paragraph (3).

(4) TREATMENT OF RESIDENTS OF PUERTO RICO AND TERRITORIES.—Section 1839(g)(4) of such Act is amended—

(A) in subparagraph (A), by striking "(4)" and inserting "(3)",

(B) in subparagraph (A), by striking "the sum of" and all that follows through the end and inserting "the catastrophic coverage monthly premium determined under subparagraph (B).",

(C) in subparagraph (B)(ii), by striking "$3.56" and "$5.78" and inserting "$1.37" and "$2.22",

(D) in subparagraph (B)(ii), by striking "and" at the end,

(E) in subparagraph (B)(iii), by striking "catastrophic outlays" each place it appears and inserting "prescription drug outlays",

(F) by redesignating clause (iii) of subparagraph (B) as clause (iv), and

(G) by inserting after clause (ii) of subparagraph (B) the following new clause:

"(iii) in 1991 is $1.92 for a resident of Puerto Rico and $3.10 for a resident of another U.S. commonwealth or territory; and", and

(H) by striking subparagraph (C).

(5) CONFORMING AMENDMENTS.—Section 1839 of such Act is further amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by striking "the amendments made by the Medicare Catastrophic Coverage Act of 1988" and inserting "covered outpatient drugs",

(B) in the last sentence of subsections (a)(1) and (a)(4), by striking ", but shall not" and all that follows up to the period,

(C) in subsection (b), by striking "(g)(6)" and inserting "(g)(4)",

(D) by striking paragraph (5) of subsection (g),

(E) in subsection (g)(6), by striking "(6)(A)" and inserting "(4)" and by striking subparagraph (B),

(F) in subsection (g)(7), by striking "(7)(A)" and inserting "(5)(A)" and, in subparagraph (B), by striking "paragraph (4)" and inserting "paragraph (3)", and

(G) in subsection (g)(8)—

(i) by striking subparagraphs (A), (D), and (F),

(ii) in subparagraph (B)(ii), by striking "part A" and inserting "part B", and

(iii) by redesignating subparagraphs (B), (C), and (E) as subparagraphs (A), (B), and (C), respectively.

(b) FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1841A of such Act (42 U.S.C. 1395t-1) is amended—

(1) in subsection (a), by striking "(a)(1)" and inserting "(a)", by striking "or under paragraph (2)", and by striking paragraph (2),

(2) in subsection (d)(1)(B), by striking "prescription drug" and inserting "catastrophic coverage", and

(3) in subsection (d)(2), by striking "and under section 59B of the Internal Revenue Code of 1986".

(c) MODIFICATION OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.—Section 1841B of such Act (42 U.S.C. 1395t-2) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "and section 59B of the Internal Revenue Code of 1986,", and

(B) in the second sentence, by striking "and for purposes of section 59B of the Internal Revenue Code of 1986";

(2) in subsection (b)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to (i) premiums under section 1839(g), or (ii) the additional premium amounts under section 1839 that are attributable to section 1839(e) applying during 1991, 1992, and 1993, and subsequent years", and

(B) by striking subparagraph (3) and redesignating subparagraph (C) as subparagraph (B);

(3) in subsection (b)(4), by striking ", those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund,"; and

(4) in subsection (c)(2), by striking "and under section 59B of the Internal Revenue Code of 1986".

(d) SETTING BASIC PREMIUM AT 25 PERCENT FOR 1991, 1992, 1993, AND 1994 AND SUBSEQUENT YEARS.—Section 1939(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended by striking "1990" each place it appears and inserting "and subsequent years".

(e) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) The seventh sentence of section 1817(b) of such Act, inserted by section 212(c)(3) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "and those outlays" and all that follows and inserting a period.

(2) Section 1840(i) of such Act (42 U.S.C. 1395s(i)) is amended by striking "a prescription drug monthly premium established under".

(3) Section 1841(a) of such Act (42 U.S.C. 1395t(a)) is amended by striking the sen-

tences added by section 212(b)(2) of the Medicare Catastrophic Coverage Act of 1988.

(4) Section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986" and inserting "or additional premium amounts under section 1839 for months after December 1990 attributable to section 1839(e) applying during 1991, 1992, 1993, and 1994 and subsequent years".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 302. REVISION OF MEDIGAP REGULATIONS; OTHER AMENDMENTS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Association') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to reflect the changes in law made by the Medicare Catastrophic Revision Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the amended NAIC Model Regulations, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes in law made by the Medicare Catastrophic Revision Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgated such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition to reflect the changes in benefits under this title made by the Medicare Catastrophic Revision Act of 1989, or

"(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B), whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policy holder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by the Medicare Catastrophic Revision Act of 1989, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in subparagraph (B), and

"(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

(d) TECHNICAL CORRECTIONS RELATING TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.—

(1) CORRECTIONS RELATING TO CATASTROPHIC DRUG BENEFIT.—

(A) DEFINITION OF COVERED OUTPATIENT DRUGS.—Section 1861(t)(3)(A) of the Social Security Act, as added by section 202(a)(2)(C) of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA"), is amended—

(i) by redesignating clauses (iv) through (xiii) as clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), (xiv), (xvi), and (xviii), respectively;

(ii) by inserting after clause (iii) the following:

"(iv) Diagnostic services under subsections (s)(2)(C) and (s)(3).

"(v) X-ray, radium, and radioactive isotope therapy under subsection (s)(4).";

(iii) by inserting after clause (x), as so redesignated, the following:

"(xi) Parenteral nutrition nutrients under subsection (s)(8).";

(iv) by inserting after clause (xvi), as so redesignated, the following:

"(xv) Partial hospitalization services (as defined in subsection (ff)).''; and

(v) by inserting after clause (xvi), as so redesignated, the following:

"(xvii) Qualified psychologist services (as defined in subsection (ii)).".

(B) COVERED HOME IV DRUGS.—Section 1861(t)(4)(A) of such Act (42 U.S.C. 1395x(t)(4)(A)) is amended by striking "dispensed" and inserting "furnished by a qualified home intravenous drug therapy provider".

(C) REFERENCES TO CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—Section 1834(c) of the Social Security Act, as added by section 202(b)(4) of MCCA, is amended—

(i) in paragraph (1)(C), by striking "Subject to subparagraph (D), the" and inserting "The"

(ii) in paragraph (2)(A), by striking "under paragraph (1)(A) and except as provided in subparagraph (C)" and inserting "under paragraph (1)"; and

(iii) in paragraph (8)(E), by striking "paragraph (1)(A)" each place it appears and inserting "paragraph (1)";

(D) PAYMENT FOR ELECTRONIC EQUIPMENT FOR PHARMACIES.—Section 1842(o)(2) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (B)—

(I) by inserting ", software," after "electronic equipment", and

(II) by inserting ", or reimbursement for such equipment or software modifications," after "telephone service)";

(ii) by adding at the end the following:

"Any reimbursement under subparagraph (B) shall be contingent upon a pharmacy's system meeting the requirements specified in the contracts between the Secretary and carriers and shall not exceed the reasonable cost of the modifications or, if less, the cost of a point-of-sale terminal (as defined in such contracts).".

(E) INTERIM FUNDING OF CATASTROPHIC DRUG EXPENSES.—(i) Section 202(m)(5) of MCCA is amended by striking "January 1, 1990" and inserting "April 1, 1990".

(ii) Section 1841A(c) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "and administrative costs" and inserting "(and on or after April 1, 1990, for administrative costs)".

(F) EXPANSION OF IDENTIFIERS TO NONPHYSICIAN PRACTITIONERS.—The Secretary of Health and Human Services shall expand the identifier system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide unique identifiers to each nonphysician practitioner (physician assistants, nurse practitioners, and certified registered nurse anesthetists) who is authorized to prescribe or dispense covered outpatient drugs for which payment may be made under title XVIII of the Social Security Act.

(2) SCREENING MAMMOGRAPHY.—

(A) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1834(e)(4) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended by adding at the end the following new subparagraph:

"(D) APPLICATION OF PARTICIPATING PHYSICIAN DIFFERENTIAL.—In applying the limit under subparagraph (A) with respect to a nonparticipating physician, the limit applied shall be the applicable percent (as defined in the second sentence of section 1842(b)(4)(A)(iv)) of the limit otherwise established in that subparagraph.".

"(B) FREQUENCY OF SCREENING.—Section 1834(e)(2)(A) of the Social Security Act, as added by section 204(b)(2) of MCCA, is amended—

(1) in clause (iii)(I), by striking "the 11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed",

(ii) in clause (iii)(II), by striking "the 23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed",

(iii) in clause (iv), by striking "11 months of a previous screening mammography" and inserting "11 months following the month in which a previous screening mammography was performed", and

(iv) in clause (v), by striking "23 months of a previous screening mammography" and inserting "23 months following the month in which a previous screening mammography was performed".

"(3) ROUNDING OF PART B PREMIUM.—Section 1839 of the Social Security Act, as amended by section 211(c)(1)(E) of MCCA, is amended—

(A) in the first sentence of subsection (b) (as amended by section 202(a)(5)(C) of this Act), by striking "subsections (f) and (g)(4)" and inserting "subsection (f)",

(B) in subsection (b), by inserting after the first sentence the following new sentence: "If the resulting monthly premium is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.", and

(C) in subsection (c), by striking "the foregoing provisions of this section" and inserting "subsection (a)(3) or (e)".

"(4) MISCELLANEOUS.—

(A) Clause (iii) of section 1814(a)(7)(A) of the Social Security Act, as added by section 104(d)(2)(C)(iii) of MCCA, is amended by moving its alignment 2 ems to the left so its alignment is the same as that of clause (ii) of such section.

(B) Section 1842(p)(3)(B) of the Social Security Act, as added by section 202(g) of MCCA, is amended by striking "section 1842(j)(2)(A)" and inserting "subsection (j)(2)(A)".

(C) Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(D) Section 1842(h)(5)(B)(iv) of the Social Security Act, as added by section 223(b)(4) of MCCA, is amended by striking "paragraph (2)(A)" and inserting "paragraph (2)".

"(e) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

"(f) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

GRAHAM AMENDMENT NO. 986

Mr. GRAHAM proposed an amendment to the bill S. 1726, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. MODIFIED BENEFIT PACKAGE FOR INDIVIDUALS HAVING PRIVATE INSURANCE.

(a) IN GENERAL.—Subtitle C of title XVIII is amended by adding at the end thereof the following new section:

"MODIFIED BENEFIT PACKAGE FOR INDIVIDUALS HAVING PRIVATE INSURANCE

"SEC. 1893. (a) Upon request made by an individual, in such manner and including such information as the Secretary may require, the Secretary shall determine whether such individual is entitled to hospital insurance benefits and supplementary medical insurance benefits under any benefit plan other than this title, which are equal to or greater than the benefits added by the Medicare Catastrophic Coverage Act of 1988, as amended. If the Secretary makes an affirmative determination with respect to such individual, such individual shall not be entitled under this title to such benefits, and shall not be required to pay the premium under section 59B of the Internal Revenue Code of 1986 and the premium under section 1839(g) of this title, for so long as such individual continues to be entitled to such benefits under such other plan.

"(b) An individual may request the Secretary to determine whether such individual has ceased to be entitled to such benefits under such plan, or the Secretary may make such a determination on the Secretary's own motion. If such a determination is made, such individual shall thereafter be entitled to such benefits, and shall be required to pay the premium determined under section 59B of the Internal Revenue Code of 1986 and the premium under section 1839(g) of this title.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to items and services furnished in, and premiums payable for, months beginning on or after November 1, 1989.

DURENBERGER (AND OTHERS) AMENDMENT NO. 987

Mr. DURENBERGER (for himself, Mr. MITCHELL, Mr. DOLE, Mr. BENTSEN, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. DASCHLE, and Mr. MATSUNAGA) proposed an amendment to the bill S. 1726, supra; as follows:

Strike all after the enacting clause, and insert in lieu thereof the following:

SEC. . MODIFICATIONS TO MEDICARE CATASTROPHIC COVERAGE.

(a) MODIFICATIONS TO FUNDING FOR MEDICARE CATASTROPHIC COVERAGE.—

(1) MEDICARE PART B PREMIUM.—Section 1839(g)(1)(A) of the Social Security Act is amended by striking the table therein and inserting the following new table:

"In the case of:	The catastrophic coverage monthly premium is:
1989	$4.00
1990	4.90
1991	5.46
1992	6.75
1993	7.18."

(2) SUPPLEMENTAL MEDICARE PREMIUM.—

(A) REDUCTION IN ANNUAL LIMITATION.—Subparagraph (A) of section 59B(c)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(A) YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the annual premium determined under this subsection with respect to any individual shall not exceed—

"(i) $200, in 1990 and 1991, and

"(ii) $250, in 1992 and 1993."

(B) REDUCTION IN PREMIUM RATE.—Subsection (d) of section 59B of such Code is amended to read as follows:

(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE FOR YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the supplemental premium rate determined under this subsection shall equal $15."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(b) MODIFICATION OF MEDICARE PART B COST-SHARING LIMITATION.—Subparagraph (A) of section 1833(c)(3) is amended—

(1) by striking "1990" and inserting "1991",

(2) by striking "$1,370" and inserting "$1,600", and

(3) by striking "7 percent" and inserting "5.5 percent".

(c) MODIFICATION OF EXTENDED CARE SERVICES.—

(1) DURATION OF EXTENDED CARE SERVICES REDUCED TO 100 DAYS PER YEAR.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended by striking "150 days" in subsections (a)(2) and (b)(1) and inserting "100 days".

(2) POST-HOSPITALIZATION REQUIREMENT REINSTATED.—

(A) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(i) in subsection (a)(2), as amended by paragraph (1), by striking "extended care services for up to 100 days during any calendar year" and inserting in lieu thereof "(A) post-hospital extended care services for up to 100 days, and (B), to the extent provided in subsection (f), extended care services that are not post-hospital extended care services";

(ii) in subsection (b)(1), by inserting "post-hospital" before "extended care";

(iii) in subsection (e), by inserting "post-hospital" before "extended care"; and

(iv) by adding at the end thereof the following new subsections:

"(f)(1) The Secretary shall provide for coverage under clause (B) of subsection (a)(2) of this section, of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this subchapter and will not alter the acute care nature of the benefit described in subsection (a)(2) of this subsection.

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of such services described in subsection (a)(2)(B) of this section, and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886 of this title for such restrictions and alternatives on the amount and methods of payment described in such subsection.

as may be necessary to carry out paragraph (1).

"(g) For a definition of 'post-hospital extended care services' and definitions of other terms used in this pact, see section 1861 of this title.".

(B) MISCELLANEOUS AND CONFORMING AMENDMENTS.—

(i) Section 1811 (42 U.S.C. 1395c) is amended by inserting "post-hospital" before "extended care".

(ii) Paragraphs (2)(B) and (6) of section 1814(a) (42 U.S.C. 1395f(a)) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(iii) Section 1861(e) (42 U.S.C. 1395x(e)) is amended—

(I) in the matter before paragraph (1), by inserting "and, subsection (i) of this subsection," after "and paragraph (7) of this subsection";

(II) in the second sentence, by inserting ", and subsection (i) of this section" after "and section 1814(f)(2)";

(III) in the fourth sentence, by inserting "except for purposes of subsection (a)(2)" after ", such term shall not"; and

(IV) by inserting after the first sentence the following new sentence: "For purposes of subsection (a)(2) of this section, such term includes any institution which meets the requirements of paragraph (1) of this section.".

(iv) Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which such individual was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer. For purposes of the preceding sentences, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and such individual shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if such individual is admitted to the skilled nursing facility—

"(A) within 30 days after discharge from such hospital, or

"(B) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing care would not be medically appropriate within 30 days after discharge from a hospital; and an individual shall be deemed not to have been discharged from a skilled nursing facility if, within 30 days after discharge therefrom, such individual is admitted to such facility or any other skilled nursing facility.".

(v) Subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3) of section 1861 (42 U.S.C. 1395x) are each amended by inserting "post-hospital" before "extended care" each place it appears.

(vi) Section 1861(y) (42 U.S.C. 1395x(y)) is amended—

(I) by inserting "Post-Hospital" before "Extended Care" in the heading and by inserting "post-hospital" before "extended care" each place it appears, and

(II) in paragraph (1), by inserting "(except for purposes of subsection (a)(2))" after "Boston, Massachusetts, but only".

(vii) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended by inserting "post-hospital" before "extended care".

(viii) Subsections (d) (1) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by inserting "post-hospital" before "extended care" each place it appears.

(2) DURATION OF COINSURANCE INCREASE.—Section 1813(a)(3) (42 U.S.C. 1395e(a)(3)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished to an individual in any calendar year shall be reduced by a coinsurance amount equal to one-eighth of the inpatient hospital deductible for each day (before the 101st day) on which he is furnished such services after such services have been furnished to him for 20 days during such year."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to admissions occurring after December 31, 1989.

(d) LIMITATION OF DRUG BENEFITS TO IMMUNOSUPPRESSANTS AND HOME IV DRUGS.—

(1) IN GENERAL.—Subparagraph (B) of section 1861(t)(3) of the Social Security Act (42 U.S.C. 1395x(t)(3)) is amended by striking "in 1990" and inserting "in years after 1989".

(2) APPLICATION OF LAW.—The Secretary of Health and Human Services shall apply the amendments made by section 202 of the Medicare Catastrophic Coverage Act of 1988 in order to properly implement the amendments made by this subsection.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(e) GENERAL REPEALS.—

(1) IN GENERAL.—The following provisions of the Medicare Catastrophic Coverage Act of 1988, as amended by the Technical and Miscellaneous Revenue Act of 1988, are hereby repealed, and the Social Security Act shall be applied and administered as if such provisions (and the amendments made by such provisions) had not been enacted:

(A) Section 212 (other than subsection (b)(2)).

(B) Section 213.

(2) CONFORMING AMENDMENTS RELATING TO TRUST FUNDS.—

(A) FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is amended by adding at the end thereof the following new subsection:

"(d) On January 1, 1990, the Secretary shall transfer any amount remaining in the Trust Fund (including interest) to the Federal Hospital Insurance Trust Fund.".

(B) SMI TRUST FUND.—Section 1841(a) of the Social Security Act (42 U.S.C. 1395t(a)) is amended by striking "which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund".

(3) EFFECTIVE DATES.—

(A) REPEALS.—The repeals made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(B) TRUST FUNDS AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(f) QUALIFIED PERIOD IN COMMUNITY FOR SNFF.—

(1) IN GENERAL.—Section 1813 of the Social Security Act, as amended by this section, is further amended by striking "in any calendar year" and "during the year" in subsection (a)(3)(A) and inserting "after a qualified period in the community".

(2) CONFORMING AMENDMENTS.—

(A) Section 1832(b) of such Act is amended by inserting "'qualified period in the community'," after "For definitions of".

(B) Section 1861 of such Act is amended by inserting before subsection (b) the following new section:

"(a) The term 'qualified period in the community' with respect to any individual means, with respect to any calendar year, one period of consecutive days—

"(1) ending with the first day on which such individual is furnished inpatient hospital services, and which occurs in a month for which he is entitled to benefits under part A, and

"(2) beginning with a day sixty days before the day described in paragraph (1).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(g) SPECIAL RULES FOR SNFF AMENDMENTS.—Notwithstanding any other provision of this section, any person who, on the date of enactment of the amendments made with respect to extended care services, is receiving benefits under the provisions of the Medicare Catastrophic Coverage Act of 1988 as in effect on the day before such date of enactment, shall continue to receive such services as if such amendments had not been enacted for the 150-day period.

(h) VOLUNTARY ELECTION OF PART B BENEFITS INCLUDING CATASTROPHIC COVERAGE.—

(1) IN GENERAL.—Paragraph (1) of section 59B(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) such individual is enrolled under part B of title XVIII of the Social Security Act for more than 6 full months beginning in the taxable year, and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

(i) PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.—Notwithstanding any other provision of this Act, Section 1847 of the Social Security Act remains in effect, and subsections (b), (c), (d), and (e) are amended to read as follows:

"(b)(1) The Commission shall submit to Congress a preliminary report no later than March 1, 1991, an a final report no later than March 1, 1992, concerning methods by which the Secretary should determine coverage and payment for outpatient prescription drugs under this Title and Title XIX.

"(2) The preliminary report shall contain background information, policy analysis of options, and recommendations regarding coverage of outpatient prescription drugs. The final report shall substantially extend the Commission's preliminary analysis and take into account comments on the preliminary report. Both preliminary and final reports shall include information and recommendations regarding such issues as—

"(A) scope of benefits under this Title and Title XIX, including the potential for and the advisability of establishing minimum standards for prescription drug benefits under Title XIX;

"(B) source or sources of financing, including the potential for and advisability of linking prescription drug benefits under this Title and Title XIX;

"(C) methods of payment for drug products;

"(D) method of administration, including information requirements necessary for proper administration, such as uniform drug nomenclature;

"(E) forms of utilization review and quality assurance, including an assessment of the potential for significant cost savings in total expenditures under this Title and Title XIX resulting from a program of prospective and retrospective drug utilization review;

"(F) Changes in manufacturers' prices, and in charges of pharmacists, for outpatient prescription drugs [current law];

"(G) changes in both the level and nature of utilization of outpatient drugs by beneficiaries of this Title and Title XIX, taking into account the impact of these changes on aggregate expenditures for outpatient prescription drugs.

"(3) The Commission shall make recommendations as to what contingency margin, if any, would be appropriate to absorb unexpected increases in outpatient prescription drug program outlays under this Title."

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplemental Medical Insurance Trust Fund.

"(e) The Commission shall cease to exist, effective December 31, 1992, after providing Congress with advice and testimony, as needed, pertaining to its final report."

RIEGLE (AND OTHERS) AMENDMENT NO. 988

Mr. RIEGLE (for himself, Mr. CHAFEE, Mr. EXON, and Mr. BENTSEN) proposed an amendment to the bill S. 1726, supra, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Alternative Coverage Act of 1989".

TITLE I—REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) REPEAL.—

(1) IN GENERAL.—Section 111 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") is repealed and the provisions of law amended by such section are restored or revived as if such section had not been enacted.

(2) EFFECTIVE DATE.—The repeal of section 111 of MCCA made by paragraph (1) shall apply to taxable years beginning after December 31, 1988.

(b) ELIMINATION OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—

(1) Section 1817A of the Social Security Act (42 U.S.C. 1395i-1a) is repealed.

(2) Section 112(b) of MCCA is repealed.

(3) Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(4) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "Federal Hospital Insurance Catastrophic Coverage Reserve Fund,".

TITLE II—RETENTION OF MINIMUM CATASTROPHIC BENEFITS FUNDED THROUGH FLAT RATE PREMIUM

SEC. 201. DELAY AND ADJUSTMENT IN PART B COPAYMENT CAP.

Section 1833(c) of the Social Security Act (42 U.S.C. 13951(c)) is amended—

(1) in paragraph (1), by striking "1990" and inserting "1991",

(2) in paragraph (3)(A), by striking "The part B" each place it appears and inserting "Subject to paragraph (6), the part B",

(3) in paragraph (3)(A), by striking "1990 is $1,370" and inserting "1991 is $1,780",

(4) in paragraph (3)(A), by striking "7 percent" and inserting "5.5 percent", and

(5) by adding at the end the following new paragraph:

"(6) The Secretary shall provide for an increase in the part B catastrophic limit otherwise applicable in each year in such an amount as will reduce expenditures under this part by the same amount as the additional premiums that would have been collected under this part in the year if provisions of section 1839(e) were applicable to months in 1991, 1992, and 1993.".

SEC. 202. ADJUSTMENTS IN PART B PREMIUM.

(a) ADJUSTMENT TO MEDICARE CATASTROPHIC MONTHLY FLAT PREMIUM.—

(1) IN GENERAL.—Section 1839(g)(1) of the Social Security Act (42 U.S.C. 1395r(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "paragraphs (4) and (5)" and inserting "paragraphs (3) and (4)",

(ii) by striking "the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium" and inserting "the catastrophic coverage monthly premium",

(iii) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)",

(iv) in the column in the table relating to the catastrophic coverage monthly premium, by striking "$4.90", "$5.46", "$6.75", and "$7.18" and inserting "$4.00", "$7.30", "$9.10" and "$8.00", respectively, and

(v) by striking the column in the table relating to the prescription drug monthly premium; and

(B) by striking subparagraphs (B) and (D) and redesignating subparagraph (C) as subparagraph (B).

(2) UPDATE IN MONTHLY PREMIUM.—Section 1839(g)(2) of such Act is amended—

(A) subparagraph (A), by striking "or (1)(C)",

(B) in subparagraph (D)(i), by striking "or (1)(C)",

(C) in subparagraph (D)(ii), by striking "37 percent" and inserting "100 percent", and

(D) in subparagraph (D)(iii)(II), by striking "or section 59B(e) of the Internal Revenue Code of 1986".

(3) ELIMINATION OF SEPARATE PRESCRIPTION DRUG MONTHLY PREMIUM.—Section 1839(g) of such Act is further amended by striking paragraph (3).

(4) TREATMENT OF RESIDENTS OF PUERTO RICO AND TERRITORIES.—Section 1839(g)(4) of such Act is amended to read as follows:

"(3)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part (otherwise determined without regard to this subsection) shall be increased by a fraction (determined under subpara-

graph (B)) of the premium increase determined under paragraph (1) for residents of Puerto Rico and for residents of the other U.S. commonwealths and territories, respectively.

"(B) The Secretary shall from time to time establish, for Puerto Rico and for the other U.S. commonwealths and territories, a fraction that reflects the relative costs for the benefits under this title (which are accounted for under the Medicare Catastrophic Coverage Account) of residents in such respective areas compared to such costs in the 50 States and the District of Columbia.".

(5) PART B ONLY INDIVIDUALS.—Section 1839(g)(5) of such Act is amended to read as follows:

"(4)(A) In the case of a part B only individual during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part (otherwise determined without regard to this subsection) shall be increased by a fraction (determined under subparagraph (B)) of the premium increase determined under paragraph (1).

"(B) The Secretary shall from time to time establish a fraction that reflects the relative costs for the benefits under this title (which are accounted for under the Medicare Catastrophic Coverage Account) of part B only individuals compared to such costs for individuals entitled to benefits under both part A and this part.".

(5) CONFORMING AMENDMENT.—Section 1839 of such Act is further amended—

(A) in subsection (b), by striking "(g)(6)" and inserting "(g)(5)",

(B) in subsection (g)(6), by striking "(6)(A)" and inserting "(5)" and by striking subparagraph (B),

(C) in subsection (g)(7), by striking "(7)(A)" and inserting "(6)(A)" and, in subparagraph (B), by striking "paragraph (4)" and inserting "paragraph (3)", and

(D) in subsection (g)(8)—

(i) in subparagraph (A)(ii), by striking "part A" and inserting "this part", and

(ii) by striking subparagraph (B).

(b) CONFORMING AMENDMENT.—The last sentence of section 1844(a) of such Act (42 U.S.C. 1395w(a)) is amended by inserting "or additional premium amounts under section 1839 for months after December 1990 attributable to section 1839(e) applying during 1991, 1992, and 1993" after "Internal Revenue Code of 1986".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums for months beginning with January 1990.

SEC. 203. TRANSFER OF AMOUNTS TO FEDERAL HOSPITAL INSURANCE TRUST FUND.

Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in subsection (a), by striking all that follows the first sentence, and

(2) by adding at the end the following:

"(j) There shall be transferred periodically (but not less often than monthly) from the Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to the Secretary's estimate of the additional amounts of expenditures made from the Federal Hospital Insurance Trust Fund that are attributable to the amendments to sections 1812(a)(1), 1813(a)(1), and 1813(a)(3) made by the Medicare Catastrophic Coverage Age of 1988.".

SEC. 204. REVISIONS TO MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

Section 1841B of the Social Security Act (42 U.S.C. 1395t-2) is amended—

(1) in subsection (a), by striking ", and section 59B of the Internal Revenue Code of 1986," and by striking "and for purposes of section 59B of the Internal Revenue Code of 1986";

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to premiums under section 1839(g), and

"(B) debited for—

"(i) outlays made under part A that are attributable to the amendments to sections 1812(a)(1), 1813(a)(1), and 1813(a)(3) made by the Medicare Catastrophic Coverage Act of 1988, and

"(ii) outlays made under this part that are attributable to section 1833(c).."; and

(3) in subsection (b)(4), by striking ", receipts that are also" and all that follows through "Reserve Fund".

TITLE III—MAKING PROVISION OF ADDITIONAL CATASTROPHIC BENEFITS OPTIONAL

SEC. 301. NEW OPTIONAL, PART C PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by redesignating part C as part D and by adding after part B the following new part:

"PART C—INSURANCE PROGRAM FOR CERTAIN ADDITIONAL BENEFITS

ESTABLISHMENT OF PROGRAM

"SEC. 1851. There is hereby established a voluntary insurance program to provide certain benefits provided under amendments made by the Medicare Catastrophic Coverage Act of 1988 in accordance with the provisions of this part for individual entitled to benefits under part A or part B who elect to enroll under such program, to be financed from premium payments by enrollees.

"SCOPE OF BENEFITS

"SEC. 18552. (a) DESCRIPTION OF BENEFITS.—Notwithstanding any other provision of this title, except as provided in this section, the amendments made by the following provisions of the Medicare Catastrophic Coverage Act of 1988 shall only apply to individuals enrolled and covered under this part:

"(1) Sections 101, 102, and 104(d), insofar as they relate to changes in benefits with respect to extended care services or hospice care.

"(2) Section 202 (relating to coverage of expenses for prescription drugs and insulin), other than subsections (g) and (m)(4) thereof.

"(3) Section 203 (relating to coverage of home intravenous drug therapy services).

"(4) Section 204 (relating to coverage of screening mammography).

"(5) Section 205 (relating to in-home care for certain chronically dependent individuals).

"(6) Section 206 (relating to extended home health services).

"(b) TREATMENT OF PART A ONLY INDIVIDUALS.—In the case of an individual enrolled under this part who is entitled to benefits under part A but not enrolled under part B, for purposes of this title the individual shall be deemed enrolled under part B but only with respect to covered outpatient drugs, home intravenous therapy services, screening mammography, and in-home care.

"(c) TREATMENT OF PART B ONLY INDIVIDUALS.—In the case of an individual enrolled under this part who is entitled to benefits under part B but not enrolled under part A, no benefits shall be available under part A by virtue of this part.

"(d) TRANSITION FOR EXTENDED CARE BENEFITS.—In the case of an individual who, as of December 31, 1989, is entitled to benefits under part A and is receiving extended care services for which payment may be made under part A, the individual shall remain entitled to extended care services under such part during a continuous period of stay in 1990 subject to the following:

"(1) LIMIT ON NUMBER OF DAYS.—The number of days of coverage under this subsection shall not exceed 150 less the number of days for which benefits for extended care services were payable under part A for the individual in 1989.

"(2) TREATMENT OF COINSURANCE.—Coinsurance shall be applicable under section 1813(a)(3) only for those days (if any) in 1990 before the 9th day in which the individual was furnished extended care services in 1989 and 1990.

"(e) 6-MONTH WAITING PERIOD FOR PREEXISTING CONDITIONS.—Except as provided in subsection (d), during the 6-month period beginning with the first month in which an individual is covered under this part, benefits are not available under this part for treatment of any condition which existed before the first day of such coverage period.

"ELIGIBILITY, ENROLLMENT, PREMIUMS

"SEC. 1853. (a) ELIGIBILITY TO ENROLL.—Every individual who is entitled to benefits under part A or enrolled under part B is eligible to enroll in the insurance program established by this part.

"(b) ENROLLMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the provisions of section 1837 (other than subsections (c), (f), and (g)) shall apply to this part in the same manner as they apply to enrollment part B, and, for this purpose—

"(A) any reference to paragraph (1) or (2) of section 1836 shall be deemed a reference to subsection (a) of this section; and

"(B) any reference to a coverage period under section 1838 is deemed a reference to subsection (c).

"(2) INITIAL GENERAL ENROLLMENT.—

"(A) IN GENERAL.—In the case of individuals who are entitled to benefits under part A, or enrolled under part B, as of December 1989, the initial general enrollment period shall begin on January 1, 1990, and end on February 28, 1990.

"(B) INFORMATION.—The Secretary shall provide for the dissemination of such information to each individual described in subparagraph (A) as may be necessary to assure the individuals are fully apprised of the benefits of this part and the requirement to enroll under this section to obtain such benefits.

"(3) SUBSEQUENT INITIAL ENROLLMENT PERIOD.—In the case of individuals who are not entitled to benefits under part A, or enrolled under part B, as of December 1989, the initial general enrollment period shall be the initial enrollment period described in section 1837(d).

"(c) COVERAGE PERIOD.—

"(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows:

"(A) In the case of an individual who enrolls under subsection (b)(2), January 1, 1990.

"(B) If the individual enrolls under subsection (b)(3), the first month of the coverage period (described in section 1838(a)) for which the individual satisfies subsection (a).

"(C) If the individual enrolls during a general enrollment period (described in section 1837(e)), July 1 following the month in which he so enrolls.

"(2) APPLICATION OF OTHER COVERAGE PERIOD RULES.—Except as otherwise provided in this subsection, the provisions of section 1838 (other than subsection (a)) shall apply to this part in the same manner as they apply to part B.

"AMOUNT AND COLLECTION OF PREMIUMS

"SEC. 1854. (a) DETERMINATION OF AMOUNT OF PREMIUM.—

"(1) IN GENERAL.—Except as otherwise provided in this part, the monthly premium for each individual enrolled under this part shall be—

"(A) $15.40, for months in 1990,

"(B) $30.30, for months in 1991,

"(C) $33.60, for months in 1992,

"(D) $35.80, for months in 1993, and

"(E) the amount determined under paragraph (2) for months in years after 1993.

"(2) PREMIUM FOR YEARS AFTER 1993.—The Secretary shall, during September of 1993 and of each year thereafter, determine the monthly premium for enrollees under this part for the succeeding year. Such premium shall be the amount the Secretary estimates to be necessary so that the aggregate amount of the premiums for such calendar year with respect to such enrollees will equal the total of the benefits and administrative costs which the Secretary estimates will be payable under this title due to the application of this part. In calculating the premium, the Secretary shall include an appropriate amount for a contingency margin.

"(3) PENALTY FOR LATE ENROLLMENT AND ROUNDING.—Under regulations of the Secretary, the provisions of subsections (b) and (c) of section 1839 shall apply to premiums under this subsection in the same manner as they apply to premiums under such section, except that the percent increase in premiums effected under section 1839(b) with respect to any individual may not exceed 80 percent.

"(d) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of section 1840 shall apply to payment of premiums under this part in the same manner as they apply to payment of premiums under part B.

"(2) TRANSITION.—In the case of individuals who enroll under this part under subsection (b)(2) (or during such succeeding period in which the Secretary is unable to apply the provisions of section 1840 under this part), the Secretary shall provide for the collection of premiums for previous months through a 1-time addition to the premium otherwise imposed or in such other manner as the Secretary determines to be appropriate.

"(3) DEPOSITS.—Amounts paid to the Secretary under this part shall be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 226(c)(1) of the Social Security Act and section 7(d)(1) of the Railroad Retirement Act of 1974 are each amended by striking "part D" and inserting "part C".

(2) Section 1862(a) of the Social Security Act is amended by striking "under part A or part B" and inserting "under this title".

(3) Section 104(b) of the Social Security Amendments of 1965 is amended by inserting "or part C" after "part B" each place it appears.

(c) TRANSITION PROVISIONS FOR POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act with respect to extended care services provided on or after January 1, 1990, other than for an individual entitled to benefits under part A of title XVIII of such Act in December 1989 who enrolls under part C of such title during the period described in section 1852(b)(2) of such title—

(1) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness; and

(2) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services.

SEC. 302. FUNDING AND ACCOUNTING.

(a) TRANSFER OF FUNDS TO FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1841(j) of the Social Security Act (42 U.S.C. 1395t), as added by section 203 of this Act, is amended—

(1) by inserting "(1)" after "(j), and

(2) by adding at the end the following:

"(2) There shall be transferred periodically (but not less often than monthly) from the Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to the Secretary's estimate of the additional amounts of expenditures made from the Federal Hospital Insurance Trust Fund that are attributable to individuals enrolled under part C.".

(b) REPEAL OF FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—

(1) Section 212 of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) is repealed, and the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted.

(2) Any balance in the Federal Catastrophic Drug Insurance Trust Fund as of the date of the enactment of this Act shall be transferred into the Federal Supplemental Medical Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

(c) CONFORMING AMENDMENT.—Section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) is amended by striking "or section 59B of the Internal Revenue Code of 1986" and inserting "or part C".

TITLE IV—INFORMATION TO BENEFICIARIES

SEC. 401. NOTICE TO BENEFICIARIES OF CHANGES.

The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

ROTH (AND OTHERS) AMENDMENT NO. 989

Mr. ROTH (for himself, Mr. DANFORTH, Mr. NICKLES, Mr. REID, Mr. SHELBY, Mr. BRYAN, Mr. HELMS, Mr. COATS, and Mr. GRAHAM) proposed an amendment to the bill S. 1726, as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this part referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

(2) EXCEPTION FOR BLOOD DEDUCTION.—The repeal of section 102(1) of MCCA (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to deduction for blood).

(b) TRANSITION PROVISIONS FOR MEDICARE BENEFICIARIES.—

(1) INPATIENT HOSPITAL SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

(B) with respect to the limitation on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30-consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

(D) the inpatient hospital deductibles under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during Janaury 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1989, and has not ended as of January 1, 1990.

(2) HOSPICE CARE.—The restoration of section 1812(a)(4) of the Social Security Act, effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.

(3) TERMINATION OF HOLD HARMLESS PROVISIONS.—Section 104(b) of MCCA is amended by striking "or 1990" each place it appears.

(c) TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—Section 104(c)(1) of MCCA is amended by inserting "and before Janauary 1, 1990," after "October 1, 1988,".

(2) PPS-EXEMPT HOSPITALS.—Section 104(c)(2) of MCCA is amended—

(A) by inserting "and before January 1, 1990," after "January 1, 1989,"; and

(B) by striking the period at the end and inserting the following: ", without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.".

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 2 REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revivied as if such sections had not been enacted.

(b) DELAY IN STUDY DEADLINE.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

(c) DISPOSAL OF FUNDS IN FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Hospital Insurance Trust Fund and amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Hospital Insurance Trust Fund.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

SEC. 3. REPEAL OF EXPANSION OF MEDICARE PART B BENEFITS.

(a) IN GENERAL.—

(1) GENERAL RULE.—Except as provided in paragraph (2), sections 201 through 208 of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) EXCEPTION.—Paragraph (1) shall not apply to subsections (g) and (m)(4) of section 202 of MCCA.

(b) CONFORMING AMENDMENTS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p) is amended—

(1) in paragraph (3)(C)—

(A) by striking "Subject to paragraph (4), deductibles" and inserting "Deductibles", and

(B) by striking "1813, section 1833(b)" and all that follows and inserting "1813 and section 1833(b)).''; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990.

SEC. 4. REPEAL OF CHANGES IN MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

(a) IN GENERAL.—Sections 211 through 213 (other than section 211(b)) of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(b) 1-TIME TRANSFER OF NET ADDITIONAL PREMIUMS.—There shall be transferred, as of January 1, 1990, from the Federal Supplementary Medical Insurance Trust Fund to the Federal Hospital Insurance Trust Fund an amount equal to—

(1) the amount of the premiums collected pursuant to section 1839(g) of the Social Security Act, minus

(2) the amount of administrative expenses incurred under part B of title XVIII of such Act relating to implementation of MCCA, plus

(3) the amount of interest accrued to the Federal Supplementary Medical Insurance Trust Fund attributable to balance described in paragraphs (1) and (2).

(c) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect January 1, 1990, and the repeal of section 211 of MCCA shall apply to premiums for months beginning after December 31, 1988.

SEC. 5. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) REVISION OF MEDIGAP REGULATIONS.—

(1) Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (1)" and inserting "subsections (1), (m), and (n)"; and

(C) by adding at the end the following new subsections:

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Associaiton') amends the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) and adopted on September 20, 1988) to reflect the changes made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) as amended by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation of 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not amend the NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medical supplemental policies to reflect the changes made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before July 1, 1990, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after July 1, 1990, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1990, so as to provide for an appropriate transition to reflect the changes in benefits under this title made in law to the Medicare Catastrophic Act of 1988 and any additional provisions enacted relating to such changes, or

"(B) if the Association does not provide for a transition provision by the date described in Subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B), whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1990, for purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policy holder under such policy on such date is sent a notice in any appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by the changes made in law to the Medicare Catastrophic Act of 1988 and by any additional provisions enacted relating to such changes, and

"(B) how these changes affect the benefits contained in such policy and the premium for the policy.

"(6) In the case of an insurer which had in effect, as of December 31, 1988, a medicare supplemental policy with respect to an individual, for which the individual terminated coverage as of January 1, 1989 (or the earliest renewal date thereafter), no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(A) provides written notice, by January 15, 1990, to the individual (at the most recent available address) of the offer described in subparagraph (B), and

"(B) offers to the individual, during the period beginning on January 1, 1990, and ending on March 1, 1990, continuation of coverage under such a medicare supplemental policy (with coverage effective as of January 1, 1990), under the terms respecting treatment of pre-existing conditions and group rating of premium which are at least as favorable to the individual as such terms as existed with respect to the policy as of December 31, 1988.".

(2) It is the sense of Congress that States should respond, at the earliest practicable date after the date of the enactment of this Act, to requests by insurers for review and approval of riders and premium adjustments for medicare supplemental policies in order to comply with the amendments made by paragraph (1).

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Section 222 of MCCA is amended by inserting "and before January 1, 1990," after "December 31, 1988," each place it appears.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this part.

(d) MISCELLANEOUS TECHNICAL CORRECTION.—Section 221(g) (3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

(e) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

SEC. 6. OTHER MISCELLANEOUS AMENDMENTS.

(a) IN GENERAL.—Sections 421 through 425 and 427 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

(b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under section 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)"

(4) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

(5) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(6) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by strking "paragraphs" and inserting "subsections".

(c) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that—

(1) the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990, and

(2) the amendments made by subsection (b) shall take effect of the date of the a enactment of this Act.

BRADLEY (AND OTHERS) AMENDMENT NO. 990

Mr. BRADLEY (for himself, Mr. BENTSEN, and Mr. PRYOR) proposed an amendment to the bill S. 1726, supra, as follows:

At the end of the bill, add the following new section:

SEC. . RESPITE CARE.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the amendments made by subsections (a), (b), (c), (d), and (e) of section 205 of the Medicare Catastrophic Coverage Act of 1988 shall take effect and apply to items and services furnished on or after January 1, 1991.

(b) AMENDMENT TO PAYMENT THRESHOLD.—

(1) IN GENERAL.—Paragraph (4) of section 1861(ll) of the Social Security Act (42 U.S.C. 1395x(ll)), as added by section 205 of the Medicare Catastrophic Coverage Act of 1988 is amended to read as follows:

"(4) The 12-month period described in this paragraph is the 1-year period beginning on the date that the Secretary determines that a chronically dependent individual has incurred out-of-pocket part B cost sharing in an amount equal to $1780 in 1991 and equal to an amount in each succeeding year which is equal to an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeeding year, in 5.5 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year incurring such amount. In the case of an individual who qualifies under this paragraph within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to items and services furnished on or after January 1, 1991.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a field hearing on the preparation of the 1990 farm bill in Camilla, GA. The hearing will be held on October 16, 1989.

For further information, please contact Bob Redding of Senator FOWLER's staff at 224-3643.

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the reauthorization of the CFTC. The hearing will be held on October 17, 1989, at 9:30 a.m. in 332 Senate Russell Office Building.

For further information, please contact Ken Ackerman, of the committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the 1990 farm bill: wheat. The hearing will be held on November 2, 1989, at 10 a.m. in room 332, Russell Senate Office Building.

Senator DAVID BOREN will preside over the hearing. For further information please contact Bob Young of the committee staff at 244-5207, or Dan Weber of Senator BOREN's staff at 224-4721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 6, at 10

a.m., to markup S. 195—the Chemical and Biological Weapons Control Act and to consider and vote on other pending legislation and nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, October 6, 1989, at 1 p.m., in open session to consider the nominations of James R. Locher III to be Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and Terrence O'Donnell to be general counsel of the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, October 6, 1989, at 10 a.m., to hold a hearing on S. 1631, a bill to make a technical amendment to title 11, United States Code, the Bankruptcy Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES AND THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet jointly with the Senate Intelligence Committee on Friday, October 6, 1989, at 10 a.m., in executive session to receive testimony on the situation in Panama.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MICHIGAN MINORITY BUSINESS MONTH

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to the minority entrepreneurs of my home State of Michigan.

Since 1984 the Michigan Department of Commerce has designated the month of October as Minority Business Month in recognition of its commitment to foster the development of minority-owned businesses in the State.

Mr. President, the Michigan Department of Commerce's Minority Business Enterprise Office [MBEO] is charged with the responsibility of providing specific help to the minority business community in Michigan. Business owners can receive services including direct financing, marketing, networking, and other assistance. Additionally, the MBEO provides seminars and workshops around the State to help minority-owned businesses run more effectively and to grow stronger in an ever-increasing competitive marketplace.

Recently, the MBEO launched its first Young Minority Entrepreneur Awards Program. This program goes far in addressing the many problems inherent in trying to run a minority business. By recognizing the achievements of the innovative, successful young people that comprise the future of minority-owned corporations, the program encourages many to push themselves further than ever. The self-confidence this generates resounds throughout the business community by spurring young people on to greater achievements which, in turn, provides leadership by example for the many minority youths of this Nation.

Mr. President, the following individuals have been nominated to receive the Young Minority Entrepreneur Awards, and I salute them for their achievements.

Kathy Carter Boles, founder of Salad Express.

Danny D. Brown, president, D&B Equipment & Service.

Yvette Holloway, founder of HHS Employees Unlimited.

Randy Rainey, owner of Albion Ford.

Reness M. Griffin, president, R&R Temporaries, Inc.

M. Cole and B. Copeland, founders of Red Carpet Maintenance, Inc.

Andrew G. McLemore, president, Ameritech Capital Corp.

Andra M. Rush, CEO, Rush Trucking Corp.

Jerome Harvey, president, A&H Machine and Tool.

S. Baxter Jone, president, Busy Bee Production Co., Inc.

Robert and Marcia Cavin, owners of Exquisite Centerpieces.

George A. Bayard III, founder of Bayard Gallery.

Hilmer J. Kenty, president, Kenty Financial Services, Inc.

Roger C. Johnston III, president, RCJ Oil Co.

While it is important to recognize young entrepreneurs, we must also recognize the achievements of the more established entrepreneurs who are trailblazers in their own right and who provide counseling and guidance to younger entrepreneurs. This year a number of these individuals will also be recognized for their success in business. They are:

Jack P. Moore, president, Moore & Assoc., Inc.

Mike Navarro, founder, El Matador Tortilla Chip.

Lewis Driskell, Sr., president and CEO, Union Printing Co.

Frank Madison, coowner, Madison Food Center.

Brady Keys, Jr., owner, Keys Group Co.

Betty J. Walker, owner, BJW Associates, Inc.

The State of Michigan and our country as a whole can benefit from the creation and strengthening of minority business. I believe that the services provided by the Minority Business Enterprise Office of Michigan are invaluable in attempting to redress the grim reality of the many difficulties that must be overcome by minority entrepreneurs. I urge my fellow Senators to join me in recognizing this outstanding program that serves as a guiding light for the rest of the Nation in the area of minority business development.●

EDWARD DOYLE

● Mr. D'AMATO. Mr. President, I rise today to speak in honor of a constituent of mine, Mr. Edward Doyle.

Edward Doyle, a citizen from Yonkers, NY, will be receiving a humanitarian award from the Yonkers Columbus Day celebration committee, for the services and contributions he devoted to the City of Yonkers. He became part of the Teamsters in 1958 and was elected as vice-president of Local 456 in 1961. After his appointment, Mr. Doyle was called into active duty in the Reserves when President Kennedy activated the Reserves during the Berlin crisis. He served our country well in the United States Army and was in the Reserves for 5 years.

Mr. Doyle has served the community of Yonkers with much dedication. In 1976 he was, once again, elected as vice-president of Local 456 and also the business agent. He progressively proved his abilities and is now the secretary-treasurer and business manager. In addition to his professional achievements he has also contributed to his community by serving on political committees for both Democrats and Republicans. He is also a member of the board of directors of the Angel Guardian for the Elderly, the Brighter Tomorrow Group, and the Dr. I Foundation and Yonkers P.A.L.

Mr. Doyle has received multiple awards, including the Westchester-Putnam Affirmative Action Program for the Union Award. His commitment to the less fortunate is remarkable. His devotion to children; Cerebral Palsy; March of Dimes; Children's Village and Special Education for the underprivileged children is something that should commended.

Mr. President, I am proud of the achievements and dedication of Mr. Doyle.●

LAW LIBRARIANS' SOCIETY OF WASHINGTON, DC

● Mr. ROBB. Mr. President, this month the Law Librarians' Society of Washington, DC, celebrates its 50th anniversary. Founded in 1939 with 40 members, the Society now represents over 650 government, academic, bar association and law firm librarians in the Washington, Virginia, and Maryland region.

Librarians by profession are dedicated to offering open, unrestricted service to their users and facilitating the exchange of information and ideas among all levels of society. In the field of law, they assist in every stage of the legal process from the background research needed in writing a new piece of legislation to the final judicial review in court.

Law librarians at the Library of Congress maintain the largest collection of legal literature in the world and provide essential research services to Congress, scholars, attorneys, and the general public. Law librarians employed at each of the Federal departments and major agencies serve the legal needs of the Government both in Washington and around the country. Their expertise in quickly assembling the vast amounts of technical and legal data needed to administer Government functions allows regulations to be written more quickly and implemented more fairly.

Judges from the U.S. Supreme Court to local county courts are called upon to render opinions on complex questions requiring knowledge of social and scientific conditions often going beyond narrow legal bounds. They rely on their librarians to provide access to a comprehensive and current collection of both legal and general literature so that their decisions reflect the most recent research and scholarship in all fields.

The Washington area, befitting its site as the Nation's capital and the source of legislation, contains more librarians at more law schools than any other region in the country. Members of the Society at the University of Virginia at Charlottesville, the University of Richmond, and George Mason University serve faculty, students, and the citizens of their State, as well as offer legal reference to local government officials. Librarians provide similar services at the five law school libraries of Washington, DC—American, Catholic, Georgetown, George Washington, and Howard—and at the two law school libraries of Maryland, the University of Maryland, and the University of Baltimore.

At the numerous law firms in the area, librarians utilize print, database, media, Government, and institutional sources of information to assist attorneys in furnishing cost-effective service to clients seeking advice on international business matters, counsel on pending legislation, or representation before the Federal courts and agencies.

The Society maintains a scholarship fund for disadvantaged students and annually distributes thousands of dollars to those pursuing a professional library education. Volunteers from the Society maintain law book collections at local prisons and provide reference services to prisoners who may not otherwise have access to legal counsel. The Society's annual book drive supports the nonprofit bar association libraries in the region.

I congratulate the members of the Law Librarians' Society of Washington, DC, on half a century of service to their constituents and the community at large and wish them continued success in their profession.●

CLOSING A GAPING HOLE IN FLOW OF COCAINE

● Mr. McCONNELL. Mr. President, last night I offered an amendment to the national drug control strategy bill that would have closed a gaping hole in the flow of cocaine to this country. By a close vote, my amendment was tabled.

Mr. President, the only people celebrating last night's outcome were the drug cartels and the Aircraft Owners and Pilots Association. Last night's vote told drug dealers, "Buy a plane and come on in. Our skies are open, you have nothing to fear." We told the cartel we are not prepared to close our skies as their avenue of choice to Main Street, U.S.A.

The cartel kingpins must be asking themselves: Why risk being stopped at the border, when there is no deterrent to smuggling by air? I think the Senate's decision is nothing short of an invitation to increase drug smugglers' flights.

Forty-eight Senators are ready to close this avenue, Mr. President. Not one of them is "posturing" as some have argued. This amendment could make a profound difference in our war on drugs, and I say, Mr. President, that you have not heard the last of it.

While we were debating this issue yesterday, 5,000 Americans tried cocaine for the first time. Five thousand new users in 1 day. Another cartel pilot collected $200,000 for a few hours' work dropping a half ton of cocaine off our coasts. Countless crimes were committed and lives were ruined because of crack and cocaine abuse. The time to end this madness is today—not tomorrow, or a week from now.

It is a fact that 50 percent of America's cocaine supply enters this country by air; it is a fact that cocaine and crack are rocking the foundation of this country. There is nothing short of a cocaine airlift to the United States underway which is feeding crack clearance sales on our streets.

I would like to leave my colleagues with the questions very much on my mind: Why didn't you end this airlift, once and for all? Why did you choose to protect the drug smuggler who operates by air? Why did you preserve the gaping hole in our wall of defense against the cartel's assault on America?●

YESHIVA UNIVERSITY HONORS HERBERT TENZER

● Mr. MOYNIHAN. Mr. President, on Wednesday evening, September 20, Herbert Tenzer was honored by Yeshiva University in New York City upon his retirement after 12 years of distinguished service as chairman of the University's Board of Trustees.

From 1964 to 1968, Mr. Tenzer served with distinction as U.S. Representative from New York's Fifth Congressional District, which encompasses the South Shore of Long Island. Elected by an overwhelming majority, he was the first Democrat ever to be elected from that district.

During his two terms in the House, Herb Tenzer played a major role in the struggle against cancer, heart disease, and stroke. He was one of five original sponsors of landmark legislation which allocated and appropriated funds to establish new care centers and rehabilitate existing ones for the treatment of these major diseases. He also provided spirited leadership in support of programs benefiting the elderly, handicapped, and disadvantaged. In yet another realm, he was a sponsor of the Wetlands Preservation Act, protecting valuable wetlands areas in his district and throughout the United States.

Yeshiva University's tribute to Herbert Tenzer was in recognition of his selfless and heroic leadership—from 1977 through June of this year—as chairman of the board of trustees of the university. In that capacity, Mr. Tenzer was the highest ranking lay leader of an educational institution which is America's oldest and largest university under Jewish auspices.

The dinner marked the establishment of the Herbert and Florence Tenzer Fellows Program, the first universitywide program to award substantial grants to outstanding students attending any of Yeshiva University's graduate schools or affiliates.

Mr. Tenzer has enjoyed an illustrious career in public and communal service, spanning more than six decades on the local, national, and international scene.

He is the founder of Rescue Children Inc., an organization which from 1945 to 1948 cared for more than 2,200 European war orphans in 15 orphan homes in Belgium and France. One-third of these children were reunited with their parents, another third were adopted by relatives in America and elsewhere, and the remaining "full orphans" emigrated to Israel.

Mr. Tenzer served in a leadership capacity in the establishment of Yeshiva University's Albert Einstein College of Medicine, one of the world's leading centers for biomedical research. He is on the board of overseers of the school of medicine, and the board of governors of the university's Wurzweiler

School of Social Work—America's only graduate social work education program under Jewish auspices in a university setting—and on the board of directors of Stern College for Women, the university's undergraduate division of liberal arts and sciences for women.

In 1972, Mr. Tenzer received an honorary doctor of humane letters degree from the late Dr. Samuel Belkin, the university's second president. Twelve years later, the university's current president, Dr. Norman Lamm, conferred upon him an honorary doctor of laws degree. In awarding this degree, Dr. Lamm said: "For more than four decades, you have labored zealously to ensure that this great institution continues to serve as a beacon of academic excellence to the Jewish community and the world."

Mr. Tenzer has held leadership positions in some two dozen philanthropic and communal organizations. He is the founder and chairman of America-Israel Friendship League, an organization devised to promote and strengthen the friendship between Israelis and Americans of all races, creeds, and religions. Many of my colleagues have joined me in support of the league's important work.

For the past 41 years, Mr. Tenzer has served as president of Fight for Sight Inc., a leader in the effort to find cures for blindness and blinding eye diseases.

He is also a founder of the United Jewish Appeal of Greater New York, now the UJA-Federation of Jewish Philanthropies of Greater New York, and has served as its chairman, president, and campaign chairman.

Mr. President, Mr. Tenzer's accomplishments are varied and profound. He is a leader and a "mensch" and was quite deservedly honored by Yeshiva University. I send my own congratulations to this fine American and, if I may, that of this body as well.●

AN OUTSTANDING GREEK AMERICAN

● Mr. CRANSTON. Mr. President, as Americans are taught from an early age, the Greek people have made important contributions to our culture, to our society, and to our system of government. Greeks established many of the foundations of Western civilization. Greek historical, cultural, and political tradition helped shape our Nation and lives today in the activities of our businessmen, philosophers, entrepreneurs, government, and community leaders.

California is fortunate to have an organization of Greek-Americans, the AXIOS Foundation for Worthiness, who have joined together to encourage quality leadership and community service, to further educational opportunity by providing scholarship assistance, and to promote and preserve Greek tradition and culture.

On October 13, 1989, AXIOS will honor Angelo Tsakopoulos, as 1989 Man of the Year. To be honored in this way by the leaders of the Greek-American community is itself an achievement. Mr. Tsakopoulos was chosen as Man of the Year because of his steadfast commitment to the community, his leadership role in the Greek Orthodox Church, and his efforts to preserve the Greek heritage.

I'm delighted to join the AXIOS Foundation in congratulating Angelo Tsakopoulos for his efforts in preserving the Greek culture, past and present.●

A TRIBUTE TO ROY TERRY

● Mr. SHELBY. Mr. President, I would like to ask my colleagues to join with me honoring not only an exceptional Alabamian, but an outstanding American as well.

Roy Terry, who owns and operates Terry Manufacturing Co., Inc., in Roanoke, AL, has been selected as the National Minority Manufacturer of the Year by the United States Small Business Administration and the Minority Business Development Agency for the second consecutive year. Mr. Terry was honored here in Washington this week.

Terry Manufacturing Co., Inc. was established in 1963 by the late Jesse A. and Velma Terry, along with their three sons, Ron, Rudolph, and William. The company has grown from five employees and six sewing machines in 1963 to nearly 300 employees today, with plants in Roanoke and Tuskegee. It is now the leading black-owned apparel manufacturing operation in the Nation, with gross sales exceeding $12 million annually.

The company's first years of operation were spent performing subcontracts for other large apparel manufacturers. However, their primary goal was to become true manufacturers in every sense of the word. Terry Manufacturing Co., Inc. had its first real break when they secured a contract from the Veterans' Administration to produce hospital uniforms in 1970.

Terry Manufacturing provides one-third of Burger King's uniforms nationally and has supplied uniforms to Church's Fried Chicken for the past 7 years. The firm has never had a uniform returned for poor workmanship. In addition, Terry Manufacturing still performs Government contracts, providing uniforms to various defense agencies.

At present, this company is the exclusive supplier of special fire-retardant uniforms used by the U.S. Forest Service. In addition, this company recently became one of only three uniform manufacturers in the U.S. licensed to supply crew uniforms to the McDonald's Corporation. This is one of the largest and most sought after uniform contracts in the world.

Mr. President, I know I join Roy's wife, Willo, his two children and their families in sharing their pride in Roy's accomplishments. Roy Terry embodies the very characteristics that identify the American spirit—faith, courage, and determination. He is a most fitting and worthy recipient of the National Minority Manufacturer of the Year award and a source of great pride for the State of Alabama. It is my pleasure to serve as one of his representatives in Washington.●

HOUSING NOW! MARCH

● Mr. GORE. Mr. President, I rise to commend the thousands of concerned citizens from around the country who are converging on Washington this weekend to demand an end to the scourge of homelessness.

The people are coming by the thousands to join in "Housing Now!"—a peaceful march on Washington. They are coming from my home State, and from the States of most of our colleagues. Some of them have even walked to Washington. Today, I met with students, activists, Vietnam veterans, and other Tennesseans who had come all the way from Memphis to express the urgent need for more housing.

Housing Now! is a unique effort supported by more than 175 national organizations. Together, these people are bringing a clear message: The time to solve America's housing crisis is now. They are coming here to say what many of us already know, that there is one lasting answer to homelessness more important than all the others, and that is to build more affordable housing.

Three million Americans are homeless. One-third of this group are families. This new reality has outdated the old stereotype of the skid-row bum. Today's homeless come from every walk of life, from every community, and are as diverse a group as America itself. Most tragically, one out of every four homeless persons is a child.

Mr. President, when children in our country must live without shelter, something in the system has failed; when children in our country must go to sleep at night without supper, something has failed; when children are afraid to go to school because they are dirty and have no clean clothes, Mr. President, something in our system has failed miserably.

This spring I had the opportunity to meet some of these young people during a performance of "Beauty and the Beast" on Capitol Hill. This was a play performed by children who live in the Capitol City Inn shelter and sponsored by Voices in the Streets. These

children are beautiful, bright, and imaginative, but they are being robbed of their youth. We must force a change.

According to a recent study, another 4 to 14 million families are on the edge of becoming homeless. Even more disturbing is a recent Housing Studies report at Harvard University indicating that the number of renters and homeowners who meet Federal poverty standards and who spend more than half their income on housing rose from 3.2 million in 1974 to 6.6 million in 1985.

These numbers grew steadily throughout the 1980's, as the administration cut Federal support for housing by more than 75 percent. Now we learn that hundreds of millions of funds in the Department of Housing and Urban Development [HUD] may have been lost through mismanagement and fraud. Funds allocated by Congress to help America's most needy may have been misused to help wealthy business people become more wealthy.

Three years ago, I stood here and told this Chamber that we can no longer afford to ignore the housing crisis. I introduced legislation to build more housing and guarantee every American the right to shelter.

Since that time, Congress has passed the Stewart B. McKinney Homeless Assistance Act, which has helped launch and support a wide range of programs and benefits for the homeless including health care, emergency food and shelter, child care services, and job training. I am proud to have helped write that legislation and steer it to passage. But we need to do much, much more. This year, working with Senator METZENBAUM of Ohio and Congressman VENTO of Minnesota, I have introduced legislation to provide permanent housing for the homeless.

The people who will be marching here tomorrow are right: We don't have a homelessness crisis because 3 million people chose to be homeless. We have a homelessness crisis because we stopped building affordable housing. And the best way to help the homeless is to start building affordable places to live again.

I urge my colleagues to join me in pushing for a lasting solution to this tragedy.●

THE NATIONAL RESEARCH AND EDUCATION COMPUTER NETWORK

● Mr. GORTON. Mr. President, recently the White House Office of Science and Technology Policy [OSTP] released a plan for a Federal high performance computing program. I want to congratulate President Bush and his team at OSTP for their leadership in making this program a priority.

My colleague on the Commerce Committee, Senator GORE, introduced a bill last spring which would create a high-capacity national research and education network to link up supercomputers and databases around the country. I support Senator GORE's bill and I am hopeful that the Congress and the administration will work in concert on this vitally important proposal.

Mr. President, the United States no longer enjoys the comfortably dominant position it once held in the international marketplace. Government-supported research and development in other nations, namely Europe and Japan, is producing technology innovation and commercialization that is threatening to erode our leadership base in many sectors of the economy. Confronted with diminishing areas of dominance, we can ill afford to fall behind in the one sector of the economy where we have thus far remained ahead of our competitors: high performance computing.

Dr. William R. Graham, former Director of OSTP, put it succinctly in the 1987 report: A Research Strategy for High Performance Computing, "One thing is clear: the competition in an increasingly global market cannot be ignored. The portion of our balance of trade supported by our high performance computing capability is becoming more important to the Nation. In short, the United States must continue to have a strong, competitive supercomputing capability if it is to remain at the forefront of advanced technology."

Advanced technologies, such as supercomputing, will yield products, services, and manufacturing capabilities that will protect America's role as an economic leader. In addition to its traditional military role, supercomputers have become important to every sector of America's industry. Supercomputers are being utilized in energy research, weather prediction, and problems of molecular structure, just to name a few. The challenges for tomorrow are in the areas such as climate and global changes, enhanced oil and gas recovery, design of hypersonic aircraft, and design of new materials such as immunological agents and diseases.

The National Research and Education Computer Network will especially benefit small and remote universities and research institutions that do not have access to supercomputer capabilities and specialized databases. Currently, sophisticated research tools like these are available only to a privileged few at major research institutions and large corporations. The proposed network will change this by making supercomputers and on-line databases available to virtually every university in the Nation.

Mr. President, I understand the fragile foundation of America's superiority in advanced computing and the importance of Federal support of an integrated approach for restoring and maintaining our technological lead. Senator GORE's bill, S. 1067, will implement a program whereby the Federal Government will encourage, support, and sponsor enhanced development architecture, hardware, and software for supercomputing campatibility. The research and education network will create an effective synergism between government, industry, and academic participants in high performance technology development.

Dr. Allan Bromly, in his forward to the program plan, stated our mission quite accurately when he said, "We cannot afford to cede our historical leadership in high performance computing and its applications. We need to encourage the dynamism of the United States computer industry, and hence, our economy."

Mr. President, I again applaud the administration and Senator GORE for their combined leadership in this program and I urge my colleagues to lend their support.●

NOBEL PEACE PRIZE TO DALAI LAMA

● Mr. MOYNIHAN. Mr. President, I rise today to note with pleasure that the Nobel Peace Prize has been awarded to a living symbol of peace, the Dalai Lama. In his struggle to preserve the culture and identity of this people—the ancient people of Tibet—the Dalai Lama has chosen the path of peace.

Born Tenzin Gyatso, he was taken to Lhasa at the age of 5 and installed as the 14th Dalai Lama. At the age of 15 he assumed the mantle of government. That was in 1950. Just 1 year later Chinese troops invaded and occupied Tibet. Years of discussion with the Chinese were fruitless. In 1959 he fled to India with nearly 100,000 followers amidst an unsuccessful revolt against Chinese rule.

Since that time he has worked unceasingly to focus world attention on the tragic plight of his people. In Tibet, the Chinese truly embarked upon a "cultural revolution." Probably "cultural decimation" would be a better description of the events in Tibet. The Dalai Lama's people suffered one of the great tragedies of this century when Tibetan Buddhist culture was attacked by Mao's legions. Countless temples of inestimable religious significance and artistic value were razed. A mere handful survived.

The tragedy of Tibet has been too much an unheard story, but it has been told. Patiently, insistently, peacefully, and eloquently, the Dalai Lama has told the tragic story of Tibet. Per-

haps this well-deserved prize will help open the world's unlistening ears.

Mr. President, I congratulate the Nobel Committee on their selection, and I send my warm congratulations to the Dalai Lama.●

EXTENDING EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950

● Mr. GARN. Mr. President, I rise in support of H.R. 3281 a bill to extend the authorities of the Defense Production Act, the National Flood Insurance Program, and several other programs. The Senate has previously enacted extensions of DPA and flood insurance, but both programs lapsed because the House tied their passage to extension of the Federal Crime Insurance Program.

I strongly favored Senate passage of both DPA and flood insurance, because both are critical pieces of legislation that address important national priorities. Our defense preparedness requires that the Government be able to give priority to defense contracts and allocate critical materials, authorities provided by the DPA. Flood insurance is a requirement for certain types of disaster assistance for homes and businesses seeking relief. Failure to reauthorize this program could jeopardize the provision of disaster assistance to victims of Hurricane Hugo.

The Senate did not pass a crime insurance extension and I believe this was appropriate because the program does not address an issue of national consequence. It is a small but very costly program that deals with crime problems of a limited number of major metropolitan areas. This matter is more appropriately addressed by State government without any Federal role.

Despite my reservations about crime insurance, however, I am now willing to support this bill because of changes that the House made to its crime insurance proposal. The 5 percent statutory limit on annual premium increases in current law has been increased to 15 percent. I would have favored no cap on premium increases, but this change makes a good start at reducing the Federal subsidy in the program.

The bill also calls for a detailed annual report on the program and a justification for increases in premium rates. I favor closer scrutiny of this costly program because I believe it will stand the light of day. However, nothing in this reporting requirement represents an impediment, legislative or otherwise, to FEMA imposing the full 15 percent annual premium increase allowed by this amendment. There should be little difficulty in justifying a 15-percent premium increase for a program whose operating expenses and debt service costs are double its program level.

With these changes, a reasonable compromise has been struck on crime insurance. I urge adoption of the bill by the Senate so that the DPA and flood insurance programs can be put back into operation.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. I ask unanimous censent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 394, 395, 396, 397, 398, 399, 400 401, 402, 403, nominations placed on the Secretary's desk in the Coast Guard, two nominations reported today by the Foreign Relations Committee: Thomas F. Stroock, to be Ambassador to the Republic of Guatemala, and David J. Smith, with the rank of Ambassador during his tenure of service as Chief Negotiator for defense and space.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Thomas F. Stroock, to be Ambassador to the Republic of Guatemala.

David J. Smith, for the rank of Ambassador during his tenure of service as Chief Negotiator for defense and space.

FARM CREDIT ADMINISTRATION

Harold B. Steele, of Illinois, to be a member of the Farm Credit Administration Board, Farm Credit Administration, for the remainder of the term expiring May 21, 1992.

DEPARTMENT OF AGRICULTURE

Catherine Ann Bertini, of Illinois, to be an Assistant Secretary of Agriculture.

Bruce L. Gardner, of Maryland, to be an Assistant Secretary of Agriculture.

DEPARTMENT OF TRANSPORTATION

Warren G. Leback, of New Jersey, to be Administator of the Maritime Administration.

DEPARTMENT OF VETERANS AFFAIRS

Edward T. Timperlake, of Virginia, to be an Assistant Secretary of Veterans Affairs (Congressional and Public Affairs).

Raoul Lord Carroll, of the District of Columbia, to be General Counsel, Department of Veterans Affairs.

S. Anthony McCann, of Maryland, to be an Assistant Secretary of Veterans Affairs (Finance and Planning).

Allen B. Clark, Jr., of Texas, to be an Assistant Secretary of Veterans Affairs (Veterans Liaison and Program Coordination).

JoAnn Krukar Webb, of Virginia, to be Director of the National Cemetery System, Department of Veterans Affairs.

DEPARTMENT OF LABOR

Thomas E. Collins III, of Mississippi, to be Assistant Secretary of Labor for Veteran's Employment and Training.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Zoran Sajovic, and ending Robert W. Foster, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1989.

STATEMENT ON THE NOMINATION OF DAVID J. SMITH TO BE AMBASSADOR AND CHIEF NEGOTIATOR TO THE DEFENSE AND SPACE TALKS

Mr. DOLE. Mr. President, I would like to make a few remarks about Dave Smith—the President's nominee to be Chief Negotiator at the defense and space talks in Geneva.

Many of you know him already—from his 3 years on my staff; his work on the arms control observer group—which gave him a firsthand look at the talks in Geneva; and his earlier duty with the Foreign Relations Committee, where he did arms control issues.

I'm sorry to see Dave leave—he's been an outstanding staffer, on some issues that are extremely complex and, sometimes, politically sensitive.

But because I know firsthand the quality of his work, I know, too, that the President has made a good choice; and that Dave Smith will make a superb negotiator to the defense and space talks.

He has all of the qualities that make a good negotiator. A quick look at his record makes it clear he has the knowledge and experience to tackle the defense and space talks.

Those of you who worked with Dave during the INF Treaty ratification process—when he served as the INF Republican task force staff director—know firsthand how much he contributed.

But his new job demands not only a firm command of issues and policies. To be a good negotiator, you have to know how to negotiate. Dave Smith knows how, because he learned in one place where negotiations are the only way to get things done—the U.S. Senate.

He knows when to be tough, without being abrasive. And he knows how to be flexible, without compromising principle. That's what produces not only treaties and agreements—but good treaties and agreements.

There's one final point I want to make about Dave. He cares not only about the important issues of arms control; he cares about people. One example—when our defense attaché in Athens, Bill Nordeen, was assassinated, Dave took it upon himself to find ways to ensure that his family was not forgotten, including in the important matter of compensation. The case is not yet fully resolved, but Dave Smith's caring, perseverance, and his legislative skill have made a good solution possible.

I want to thank the Foreign Relations Committee for acting quickly, unanimously, and favorably, to recommend the confirmation of Dave Smith.

Mr. President, this is a fine nominee, an excellent nomination. I urge my colleagues to support Dave Smith.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

VITIATION OF SENATE ACTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate engrossment of S. 1711, the drug strategy bill, reflect the vitiation of action on Senate amendment No. 983.

Mr. McCLURE. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT ADOPTION—S. 1711

Mr. MITCHELL. Mr. President, I ask unanimous consent that the amendment I send to the desk be deemed to have been adopted before the third reading of S. 1711, and that the Secretary of the Senate be directed to include the amendment in the engrossed version of S. 1711.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR NATION'S WAR AGAINST DRUGS

Mr. DOLE. Mr. President, in our Nation's war against drugs—a war that we all know will be long and protracted—we will need more foot soldiers—we will need more FBI agents, more DEA agents, more Customs officials and more Secret Service agents.

To his credit, the President has recognized the need to bolster our army of law enforcement personnel. In the anticrime package sent to Congress last June, for example, the President authorized funding for an additional 300 FBI agents as well as for other law enforcement officers. And—as I have said countless times before on this floor—I believe that the President has properly recognized the importance of this issue and the importance of stepping up our law enforcement efforts in the war against drugs.

EXPERIENCE HAS NO PRICETAG

But we also must be careful here. Hiring more FBI agents and other law enforcement officers is crucially important—there's little to debate about on this issue.

But—it seems to me—that it is more crucial to ensure that our experienced, trained troops—those troops that are already in the trenches and on the streets—receive adequate pay. And we must make sure that these troops continue to find it worthwhile—financially and otherwise—to remain on the job. This country simply cannot afford to lose their valuable experience—experience that I believe has no pricetag.

THE PROBLEM OF ATTRITION

Unfortunately, it is a sad fact that we are losing trained, experienced FBI agents. Last year, for example, more FBI agents resigned from the Bureau than retired. It is my understanding that this is the very first time in the Bureau's history that such a situation has occurred.

But—to tell you the truth—I can understand why an FBI agent would consider the resignation route. Just like everybody else, the FBI agent has to put food on the family table too.

Several years ago, the starting salary for an FBI agent was equivalent to that of a lieutenant in the New York City Police Department. Today, the starting salary for an FBI agent is lower than that of a New York rookie cop.

And it is important to recognize that the educational and work experience requirements for FBI agents are far more stringent than the requirements of most local and State law enforcement agencies.

In fact, almost 47 percent of the FBI agents today have advanced degrees in law, in public accounting, in business administration, in the sciences, and in other fields. I cannot think of a single State or local law enforcement agency that can boast of a more highly educated and technically qualified work force. Yet, FBI agents receive a base pay and overtime pay that are inferior to what most other law enforcement agencies can offer their employees.

DESCRIPTION OF THE AMENDMENT

Mr. President, my amendment attempts to remedy this problem. It would simply provide for a modest increase in the premium for administratively uncontrollable overtime—unsupervised overtime, in other words—for FBI agents and other Federal law enforcement officers.

Under current law, administratively uncontrollable overtime is compensated at a maximum rate of 25 percent of an employee's base salary. Nevertheless, overtime pay for those employees—mostly law enforcement officers—who earn more than a GS-10 is limited to a maximum of 25 percent of a GS-10 salary. My amendment would simply increase the overtime premium so that it will equal 25 percent of an agent's actual rate of pay.

THE HOUSE BILL

The language of my amendment is virtually identical to the language of a bill introduced earlier this year by Congresswoman MARY ROSE OAKAR. It is my understanding that the Oakar bill has more than 170 cosponsors—both Democrats and Republicans. And I hope the House acts quickly to take up and adopt this bill.

CONCLUSION

Mr. President, this is not a pay issue—it is an issue of simple equity. It is also an issue of very practical importance in our war against the drug lords.

The solution proposed by my amendment is a modest one. And it is a solution that most Senators, I believe, can accept.

"COUNTRY MUSIC MONTH," "WORLD POPULATION AWARENESS WEEK," "NATIONAL WOMEN VETERANS OF WORLD WAR II DAY," "NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA"

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of the following: Senate Joint Resolution 158, World Population Awareness Week; Senate Joint Resolution 204, National Women Veterans of World War II Day; Senate Joint Resolution 213, National Red Ribbon Week for a Drug-Free America; House Joint Resolution 401, Country Music Month; and that the Senate proceed to their immediate consideration en bloc, that they be read a third time and passed and that the motion to reconsider the votes by which they were agreed to be laid upon the table en bloc and that their preambles where appropriate be agreed to en bloc.

Mr. McCLURE. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

So House Joint Resolution 401 was passed.

Senate Joint Resolution 158, Senate Joint Resolution 204, and Senate Joint Resolution 213 were passed.

The preambles were agreed to.

The Senate joint resolutions and their preambles are as follows:

S.J. RES. 158

Whereas the population of the world today exceeds five billion and is growing at an unprecedented rate of approximately ninety million per year;

Whereas vitually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the ten million infant deaths and one-quarter of the five hundred thousand maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their

families but lack the means or abilty to gain access to family planning;

Whereas the global community has for more than twenty years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in such circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of fifty thousand acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within forty years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1988, forty State Governors proclaimed "World Population Awareness Week" in their States to call attention to the consequences of rapid population growth and the House of Representatives also passed a resolution to that effect: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 22 through 28, 1989, is designated as "World Population Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

S.J. RES. 204

Whereas the contributions of the 350,000 women who volunteered for service in the Armed Forces of the United States during World War II were a valiant and vital element in the success of the Allied armed forces;

Whereas such service women left a distinct and indelible mark on the military history of the United States;

Whereas during World War II, a total 17,000 members of the Women's Army Corps served in all of the overseas combat theatres;

Whereas during World War II, more than 2,500 women in the Armed Forces won decorations for combat and non-combat activities;

Whereas women veterans of World War II have a rich and courageous history of service to this Nation;

Whereas such history is a continuing inspiration for women currently serving in the United States Armed Forces;

Whereas the selfless sacrifices of the modest women who served in the Armed Forces during World War II have not gained appropriate historical notice; and

Whereas such service women deserve the respect and recognition of the people of this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to recognize the valuable military service rendered by the women who served in the Armed Forces of the United States during World War II and to increase the awareness of the indispensable role of such service women in that war, October 28, 1989, is designated as "National Women Veterans of World War II Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate activities and ceremonies.

S.J. RES. 213

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs American society nearly $100,000,000,000 a year;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status, as evidenced by the facts that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that of the 68,000 fourth graders polled 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) the 15- to 24-year-old group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, many of which are related to drug and alcohol abuse;

Whereas the drug problem appears to be insurmountable, but Americans have begun to lay the foundation to combat it;

Whereas we must continue the important strides we have made in our efforts to prevent alcohol and other drug abuse;

Whereas the most recent national polls reveal that progress has been made in that—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use among this group was at its lowest level in 11 years;

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1986 to 48 percent in 1987; and

(3) illicit drug use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas according to public opinion polls the American people consider that drug abuse is one of the most serious domestic problems facing this Nation and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America," and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas other outstanding groups, including the National Parents Resource Institute for Drug Education, the Council for Drug Education, Just Say No International, the National Crime Prevention Council, the Chiefs of Police National Drug Task Force, the National Hispanic Family Against Drug Abuse, national youth organizations, national service organizations, and others, have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas any use of an illegal drug is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22 through October 29, 1989, is designated as "National Red Ribbon Week for a Drug-Free America.". The United States recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and Government leaders, and urges that meetings, conferences, and fundraising activities that support community and alcohol education take place during National Red Ribbon Week for a Drug-Free America with other appropriate activities, events, and educational campaigns. Every American is encouraged to wear and display red ribbons during National Red Ribbon Week for a Drug-Free America to present and symbolize their commitment to a healthy, drug-free lifestyle, and to develop an attitude of intolerance concerning the use of drugs.

COUNTRY MUSIC MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged from further consideration of Senate Joint Resolution 196 designating "Country Music Month," and that the measure be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF BOWLING GREEN, KY, AS AN URBANIZED AREA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 188, S. 1443, a bill to designate Bowling Green, KY, as an urbanized area.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1443) to designate Bowling Green, Kentucky, as an urbanized area.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill (S. 1443) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 1443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the City of Bowling Green in the State of Kentucky shall be considered for designation as an urbanized area by the Director of the Bureau of the Census.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TESTIMONY AND REPRESENTATION OF SENATE EMPLOYEES

Mr. MITCHELL. Mr. President, on behalf of myself, and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on testimony by Senate employees and representation by the Senate legal counsel, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 192) authorizing the testimony and representation of Senate employees in the case of United States v. Jorge Artalego (D.C. Superior Court).

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

TESTIMONY OF SENATE EMPLOYEES IN OFFICE UNLAWFUL ENTRY CASE

Mr. MITCHELL. Mr. President, on July 10 of this year, U.S. Capitol Police officers arrested Jorge Artalego on the charge of unlawful entry into Senator BENTSEN's private office in the Hart Senate Office Building. The defendant has also been charged with disorderly conduct. Frances Murrah, Senator BENTSEN's office manager, and Melissa Ferring and Erin Mewhirter, front office receptionists, witnessed events leading up to the defendant's arrest.

The U.S. Attorney's Office has obtained a subpoena for the testimony of Ms. Murrah at the trial of the case next Tuesday, October 10, 1989, in D.C. Superior Court. Counsel for Mr. Artalego has obtained subpoenas for the appearances of both Ms. Ferring and Ms. Mewhirter. This resolution would authorize the testimony of all three witnesses, as well as direct the Senate legal counsel to represent them in this matter.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 192

Whereas, in the case of the United States v. Jorge Artalego, Crim. No. M-7121-89, pending in the Superior Court of the District of Columbia, the United States Attorney has obtained a subpoena for the testimony of Frances Murrah, and counsel for the defendant has obtained subpoenas for the testimony of Melissa Ferring and Erin Mewhirter, employees of the Senate on the personal office staff of Senator Lloyd Bentsen;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate may be needed in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2)(1982), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena or order directed to them in their official capacity: Now, therefore be it

Resolved, That Frances Murrah, Melissa Ferring, and Erin Mewhirter are authorized to testify in the case of United States v. Jorge Artalego, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent Frances Murrah, Melissa Ferring, and Erin Mewhirter, and any other staff assistant of Senator Bentsen who may be subpoenaed to testify in the case of United States v. Jorge Artalego.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-204, appoints the following individual from the private sector to the U.S. Commission on Improving the Effectiveness of the United Nations: the Honorable Thomas F. Eagleton, of Missouri.

ORDER FOR TOMORROW

RECESS UNTIL 10 A.M.; RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow, Saturday, October 7, 1989; and, that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERIOR APPROPRIATIONS BILL

Mr. MITCHELL. Mr. President, I further ask unanimous consent that following the prayer, and approval of the Journal, the Senate begin consideration of the conference report on H.R. 2788, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m., tomorrow, Saturday, October 7, 1989.

There being no objection, the Senate, at 9:39 p.m., recessed until tomorrow, Saturday, October 7, 1989, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 1989:

DEPARTMENT OF STATE

CRESENCIO S. ARCOS, JR., OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

FRANCIS TERRY MCNAMARA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAPE VERDE.

UNITED NATIONS

THE FOLLOWING-NAMED PERSONS TO BE ALTERNATE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE 44TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS:

BARBARA HACKMAN FRANKLIN, OF PENNSYLVANIA.

GARY EDWARD MADDOUGAL, OF ILLINOIS.

DEPARTMENT OF DEFENSE

MICHAEL BRUCE DONLEY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE (NEW POSITION).

DEPARTMENT OF JUSTICE

JEAN PAUL BRADSHAW, OF MISSOURI, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF 4 YEARS VICE ROBERT G. ULRICH, RESIGNED.

JOYCE J. GEORGE, OF OHIO, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF 4 YEARS VICE PATRICK M. MCLAUGHLIN, RESIGNED.

PANAMA CANAL COMMISSION

ROBERT R. MCMILLAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF THE PANAMA CANAL COMMISSION, VICE RICHARD N. HOLWILL, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

PHILIP LAWRENCE CHRISTENSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE JULIA CHANG BLOCH, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE RECESS OF THE SENATE FROM OCTOBER 22, 1988, TO JANUARY 3, 1989.

DEPARTMENT OF COMMERCE

BARBARA EVERITT BRYANT, OF MICHIGAN, TO BE DIRECTOR OF THE CENSUS, VICE JOHN G. KEANE, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6, 1989:

FARM CREDIT ADMINISTRATION

HAROLD B. STEELE, OF ILLINOIS, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 21, 1992.

DEPARTMENT OF AGRICULTURE

CATHERINE ANN BERTINI, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

BRUCE L. GARDNER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

DEPARTMENT OF TRANSPORTATION

WARREN G. LEBACK, OF NEW JERSEY, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION.

DEPARTMENT OF VETERANS AFFAIRS

EDWARD T. TIMPERLAKE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AND PUBLIC AFFAIRS).

RAOUL LORD CARROLL, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS.

S. ANTHONY MCCANN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (FINANCE AND PLANNING).

ALLEN B. CLARK, JR., OF TEXAS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (VETERANS LIAISON AND PROGRAM COORDINATION).

JOANN KURKAR WEBB, OF VIRGINIA, TO BE DIRECTOR OF THE NATIONAL CEMETERY SYSTEM, DEPARTMENT OF VETERANS AFFAIRS.

DEPARTMENT OF LABOR

THOMAS E. COLLINS III, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

DEPARTMENT OF STATE

THOMAS E. STROOCK, OF WYOMING, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

DAVID JAMEISON SMITH, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF NEGOTIATOR FOR DEFENSE AND SPACE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING ZORAN SAJOVIC, AND ENDING ROBERT W. FOSTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 12, 1989.

WITHDRAWAL

Executive message received October 6, 1989, withdrawing from further Senate consideration the following nomination:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

PHILIP LAWRENCE CHRISTENSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE JULIA CHANG BLOCH, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

EXTENSIONS OF REMARKS

PRESIDENT BARCO AT THE UNITED NATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. BROOMFIELD. Mr. Speaker, I wish to call attention to the invaluable efforts of President Barco of Colombia in the war against international narcotics trafficking.

I met President Barco during his recent visit to Washington and was impressed both by his bravery and by his vision. In the face of threats from the merciless drug lords, he has shown great strength and resolve.

Narcotics abuse is a worldwide problem. The nations of the world must work together to stop this horrible menace that claims the lives of our children. President Barco's call for international cooperation in the war against drug trafficking is sound and workable.

I again salute President Barco's determination and his plan for dismantling the drug cartels in Colombia and working together to confront the drug menace. I commend the following speech by President Barco to the United Nations General Assembly to my colleagues in the Congress:

SPEECH BY PRESIDENT BARCO TO UNITED NATIONS

Mr. President, on behalf of the people of the Government of Columbia, please accept my congratulations and good wishes on your election as President of this General Assembly. I am sure that you will preside with distinction over the complex affairs of this body that gathers the nations of the world. Let me also add my thanks to those who have already noted the splendid role played by your predecessor, his Excellency Doctor Dante Caputo. In addition, let me also pay tribute to the efforts toward achieving world peace of the Secretary General, Javier de Perez Cuellar.

This will be the last occasion I speak to you as President of Colombia. However, I am here today not just as President of my country, but as a citizen of the world.

A GLOBAL CHALLENGE

The terrible carnage of the world's second great war gave birth to this body, in the hope that nations standing together, united can prevent such global madness from ever happening again. Since then, mankind has continued to follow the destructive path of war in conflicts across our planet. It has only been the unimaginable consequences of nuclear war that has restrained us from falling once again into a worldwide conflagration.

Yet in spite of the uneasy nuclear peace thus engendered, the world has remained at war. Conflicts generated by ideology, poverty, injustice, excessive ambitions, and now increasingly by narcotics, have scarred the peace.

The motion of national sovereignty underlies all our strategic thinking; indeed it is the basis for the United Nations. Yet now we find this newest threat, narcotics, and accompanying terrorism that pays no respect to borders. We, a community of nations, find ourselves under assault from an international criminal enterprise that respects none of our norms of sovereignty, frontiers, or laws.

To meet this new challenge we have to reach back to those core founding values of the United Nations. If we cannot act together in the face of this menace, then we will be abetting the unrestrained growth in the use of drugs and in the violence they generate.

I am certain that Colombia will finally defeat the drug traffickers. But if this effort is not accompanied by a global commitment, then no victory can be achieved.

The recent global outpouring of solidarity and support for Colombia has been a great encouragement to us in these difficult times.

A new era is upon us. A new world war is being waged by an aggressor unrestrained by the traditional rules of engagement or by the responsibilities of national sovereignty. This aggressor is an insidious, global criminal network with enormous power and resources—a criminal enterprise which feeds on the illegal profits from the trafficking of drugs. As the Secretary General said in his report to you this year:

"Illicit use and traffic of drugs is now recognized as a social plague afflicting both developed and developing countries. Although efforts to combat this scourge have intensified in recent years, estimates suggest that the monetary value of drug trafficking has recently surpassed that of international trade in oil and is second only to the arms trade. It is a chastening observation that humanity is so deeply mired in the commerce of degradation and death."

The members of these criminal cartels were born in many nations and many of its leaders are called Colombian. But while some may have been born in my country, let me be clear—they are not Colombian in any more than name. They are international fugitives on the run. They have no home.

THE STRUGGLE IN COLOMBIA

I am here today to lay out the stark realities of this war against drug trafficking. We are on the front line of this battle. For us this is no war of words. In Colombia the casualties of our struggle have been mounting for some time. A month ago, we suffered the tragic assassination of one of our finest national leaders, Luis Carlos Galan. In many ways, his death has galvanized our nation and focused the attention of the world on this problem. But our war on drugs has been taking its toll for years. We have lost 12 Supreme Court Justices, our Attorney General and Minister of Justice. We have lost Members of Congress and Mayors, scores of journalists, thousands of soldiers and policemen and tens of thousands of Colombian citizens who were committed to the cause of democracy.

Following my announcement last month to enforce drastic measures using executive powers available under a state of siege, the narco-traffickers have continued to engage in a cowardly reign of terror. They have threatened and retaliated against innocent families, they randomly strike at our cities and have bombed institutions like our newspaper El Espectador which dare to speak out against them. In short, in their aim to protect their illegal and criminal activities, they seek to destroy the will of our people and undermine our most precious institutions. Hear me well—they will fail. Colombia—one of the oldest democracies in Latin America—will prevail.

In these past few weeks, we have had some important victories. We are methodically breaking the back of the cartels, but not just by confiscating and destroying many tons of cocaine. Indeed, Colombian authorities capture almost eighty percent of the cocaine seized globally. But our offensive goes beyond that. The assassins of Luis Carlos Galan have already been captured. Many thousands of suspects have been apprehended and millions of dollars in property—processing plants, bank accounts, communication equipment, aircraft, boats, houses and ranches that provide the backbone and the lifestyle for this criminal operation—have been seized.

All these victories, though, will not be nearly sufficient to win this war. That is why I am here today. Only through concerted international action can we hope to defeat the scourge of narcotics. The criminal drug cartels have declared total war. This declaration of war is against the entire community of nations. Against those whose youth are being poisoned by drugs and against those who, like Colombia, see their democracy and their institutions threatened by the violence and terrorism. There are no boundaries to the narcotics conflict, there are no safe havens from narco-terror. Now, there must be no safe havens for the narco-terrorists. In this war, the time has come for the community of nations to choose sides.

Many of you, by the way, may not accept that this is a global war; you may believe that it is one of this hemisphere alone—that cocaine is a scourge only of the Americas, produced in the nations of South America and consumed by North America. This is not so, because cocaine's tentacles, even as we meet today, are reaching into Europe and the Far East. The aggressive search for new markets is no more respectful of oceans than it was of borders. Where there are customers there will be suppliers. And indeed cocaine is only one ugly manifestation of a much wider narcotics crisis. Make no mistake, this scourge touches us all.

A PLAN OF ACTION

In solidarity, as a community of nations, this should be our plan of action:

First, we simply must stop demand for these illicit narcotics. It is the insatiable demand for drugs that fuels this terrorism and which is one of the greatest threats to democracy in Latin America. Those who consume cocaine are contributing to the assassination of my people by the criminal drug cartels. No doubt somebody a few blocks from this General Assembly Hall, in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

one of this city's fashionable neighborhoods, taking cocaine in the civilized calm of his living room, would balk at this description. Yet as surely as if he pulled the trigger he is the slayer of those Colombian judges and policemen who have paid with their lives for trying to uphold the law.

Every tactic and every weapon in the war against narcotics pales into insignificance compared to the need to reduce demand. The illegal profits produced by drug consumption are simply too great. I am sure that in Colombia we will defeat drug traffickers. But someone, in some country, somewhere, will supply the drugs as long as the business remains so profitable. This happened in the case with marijuana. When it became too expensive for drug traffickers to operate in Colombia, because of effective law enforcement, they moved to California, Hawaii and other places. The only law the narco-terrorists do not break is the law of supply and demand.

No society, no matter how rich, can afford to have its sons and daughters poisoned by cocaine, heroin or any other deadly drug. In this regard, President Bush's National Drug Control Strategy is a first step in the right direction.

We must insist on the message that illegal drugs are neither fashionable nor harmless, whether consumed at the glittering parties of the wealthy or in the ghetto. Drug users need to understand that in this war, they are in the camp of the enemy, along with those who produce and push drugs. Let me say how much I appreciate the initiative and leadership of the Prime Minister of Great Britain in her call for an international conference for the Reduction of Demand. Mrs. Thatcher has honored me with her invitation, which I have accepted, to address the conference next April.

Second, our efforts to reduce the supply of refined cocaine also depend on international cooperation in stopping the illegal trade in chemicals which are essential to the processing of this drug. Generally, much attention is given to the production and processing of drugs. For example, to countries like Peru and Bolivia where coca leaf is grown. Unfortunately, in contrast, little attention is given to controlling the supply of chemicals which are used to process cocaine and which come mainly from North America and Europe. None of these are manufactured in Colombia—all of them are smuggled into our country. Tightening controls on the manufacture and sale of these chemicals, as well as strengthening sanctions against their illegal shipment, must be one of our highest priorities. It takes more than coca leaf to produce cocaine. Without the chemicals there would be no narcotic. Let us press on the suppliers of these chemicals as firmly as we do on the poor peasant growers of coca leaf.

Third, the weapons used by the cartels to intimidate, maim and kill my people do not come from Colombia. They are found in international arms markets where even the most sophisticated weapons are easily and legally bought. Make no mistake, those who sell arms to the narco-terrorists are even more guilty than the addicts whose demand for drugs fuels violence. Last year Colombia presented a draft resolution calling for restrictions in arms sales, but unfortunately, consensus could not be found at the United Nations. We can no longer wait while this deadly trade continues. It is essential to adopt special measures to reduce and control arms sales to drug traffickers and terrorists. I call on all of the nations of the world to stop this madness and stop it now.

My government also views with extreme seriousness the activities of foreign mercenaries in training and assisting narco-terrorists in Colombia. The international community must strengthen its condemnation of the murderous association of mercenaries with terrorists and drug traffickers. My Administration has not only condemned the presence of foreign mercenaries in our terrority, it has also criminalized their activities and ordered their capture. These developments in Colombia make an urgent and indisputable case for the Assembly to approve the Convention outlawing these activities.

Fourth, international cooperation is an essential element in efforts to halt money-laundering. The drug cartels depend on the international banking sysem for the transfer of funds. A significant part of the criminal profits are invested in the industrialized nations—in bank accounts and bonds, in properties and in legal businesses. Somehow our sense of justice is warped when a poor farmer who feeds his family by growing coca is seen as the greater villain then the wealthy international banker who illegally transfers millions of dollars of drug money that finances terrorist actions against innocent people. If the international banking system cooperates in cracking down, we can put the cartel out of business.

Fifth, each of us must press for the prompt ratification of the Vienna Convention on narcotics trafficking. Painstakingly negotiated, this Convention includes specific actions on a wide variety of fronts, from penalties for consumption to seizure of ships on the high seas and confiscation of properties. Upon my return to Colombia, I will introduce it to the Colombian Congress for consideration. To be effective, it must be ratified by the community of nations.

In addition, I recommend to this Assembly two other multilateral initiatives: The first is to call a special session of this General Assembly addressed to all aspects of the global drug problem—consumption and production—which would consider urgent actions including those I am suggesting today. The other step, and perhaps the most important way to make concrete progress, is to establish an international working group at ministerial level, which would meet periodically to coordinate and refine specific anti-narcotics actions and to evaluate progress.

Sixth, central to the support for political stability and the maintenance of Colombia's democratic institutions is the strength of its economy. This is why international cooperation to maintain a strong and stable economy is so vital. In spite of the enormous destabilizing power of this international criminal organization, Colombia has been able to remain firm in its will to fight against drug trafficking.

It is critical to note that our economy is not dependent on the income of this illegal drug trade. In Colombia their dirty money is concentrated in speculative real estate activity and in money laundering. Its contribution to the growth of our economy is marginal. Colombia is not a narco-economy.

Three years ago, I addressed this assembly on the urgent need to fight absolute poverty. Since then, my government has embarked on an ambitious program of social change aimed at transforming the living conditions in regions traditionally excluded from development. The result can already be seen.

In spite of the massive resources that the drug war requires, we will not relent in our pursuit of social change and economic progress. To do this, Colombia requires international and financial cooperation. But even more important is the adoption of commercial and trade measures which allow our economy greater access to markets in the industrialized countries and fair prices for our exports.

THE INTERNATIONAL COFFEE AGREEMENT

The prime example is coffee, the traditional and principal source of income for Colombian farmers. The International Coffee Agreement has recently collapsed with the result that Colombia will lose more than $400 million this year in income. Sixty-one developing countries stand to lose a total of $5 billion in income next year.

We need the help of the United States and other countries to get the Coffee Agreement signed again without delay. We cannot afford to talk idealistically of crop substitution while sabotaging Colombian farmers' main cash crop and the country's largest export. It is encouraging to note that President Bush recently expressed his willingness to cooperate in finding solutions to the problems that led to the rupture of the Coffee Agreement. We expect that all other countries involved understand the seriousness of the situation and the need to revive one of the most successful examples of international economic cooperation.

The weakening of the commodities' market only aggravates the debt crisis. Foreign debt is a heavy burden for Latin America and is hindering economic growth. What is even more important, is that it is worsening the conditions of poverty for millions of Latin Americans. We have to work together to find realistic and effective solutions to this problem.

THE "ECODEBT" OF THE INDUSTRIALIZED NATIONS

There is yet another—and related—struggle which has drawn the attention of the world and which must be one of our highest priorities in the decade of the 1990's. It is, of course, the destruction of our natural resources.

As I said recently in Manaos, in the meeting of the member countries of the Amazon Cooperation Treaty, the industrialized countries have an ecological debt to humanity. In less than two centuries, not only have most of the native forests of Europe and North America been razed, but industrial production has brought pollution, acid rain and destruction to the ozone layer. This is an ecological debt to future generations of all the countries of the world who will have to live with the consequences of the mindless way in which the developed countries have handled their natural resources.

The way in which richer nations can pay this debt is by directly contributing to third world alternatives which preserve the environment, especially the rain forests. These issues should be dealt with at the highest level of all governments and of the United Nations. My Administration has already set aside more than 20 million hectares of rain forest and Indian reserves in the Amazon region, an area larger than that of many European countries. Let us pledge to seek sane development policies which recognize the value of our most precious resources. Let us pledge to retire this debt now for future generations.

A NEW LINK BETWEEN THE PACIFIC AND THE ATLANTIC

If the narcotics problem were not a priority at this moment I would have spoken to you today about another war: the struggle

of the developing countries to eliminate poverty and social injustice. We should not lose sight of these fundamental goals. I would also have spoken about the many important development projects we are promoting, the most important of which for Colombia and for the international community is the proposal to build a land bridge to link the Pacific and Atlantic oceans through Colombian territory. The railroads, highways and pipelines to be built will provide vital new links to global shipping.

A HISTORIC CHALLENGE

Mr. President, this is indeed an historic moment. Again, we are at war and future generations will judge our actions today. In this war on drugs, there have been many heroes, of many nationalities, willing to give their lives. Many are well-spoken, even more are unknown. Luis Carlos Galan died because he dared to speak out. Guillermo Cano, the editor of El Espectador, was gunned down because he would not be silenced. The thousands of soldiers and Colombian citizens who fell, died because of their commitment to this struggle.

These brave men and women have not died in vain. The entire community of nations must build on their sacrifice to defeat the curse of drugs.

The record of human history is strewn with the wreck of failed civilizations. We now face a new and global threat. We must act now before it is too late. If we confront the narcotics menace with boldness and determination we can win. With international commitment and cooperation, we can make this plague of the 20th century obsolete. It is my cherished hope that the school children of the 21st century will know about drugs and about terrorism only from their history books—the great plagues that passed.

We should be under no illusions about the burdens that lie ahead. Victory will take time. Winston Churchill might have been describing the road before us today when he told the House of Commons in 1940: "Death and sorrow will be the companions of our journey; hardships our garment; constancy and valor our only shield. We must be united, we must be undaunted. . ."

Let us declare today that, together, the last decade of this century will be used to bury the international scourge of drugs. Together we can and must succeed.

FOOD CONTAMINATION PREVENTION ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. SMITH of New Jersey. Mr. Speaker, yesterday at a hearing, it was documented that tanker trucks which were hauling deadly chemicals have then turned around and hauled fruit juices. Like all Americans, I am outraged by this practice. Back in June I stood in the well of the House and introduced legislation to end the disgusting and dangerous practice of backhauling garbage in trucks which also transport food. That legislation, H.R. 2681, received broad bipartisan support in the House. Today, after additional investigations and two congressional hearings, I am pleased to join with my good friend MATT RINALDO, and over 30 other Members of Congress, to introduce a new and refined version of the Food Contamination Prevention Act.

Mr. Speaker, despite almost universal condemnation of this practice by food producers, processors, wholesalers, retailers and transporters, there is clear evidence that this practice continues. It is time for Congress to put forward a comprehensive plan to regulate the transportation of garbage in vehicles used for other purposes.

Two months, ago, on August 2, I testified before the Investigations and Oversight Subcommittee of the Public Works Committee during a hearing held to examine the whole issue of food distribution trucks which backhaul garbage. One witness at the hearing, Prof. Manfred Kroger of Penn State University, an expert on the issue of food safety, explained the poténtial of physical, chemical and microbial contamination to food from residues of garbage inside trucks. Other witnesses readily admitted and an ICC investigation confirmed that some trucks hauling garbage to landfills are then hauling food in the same vehicle. The only question remaining is how quickly can we end this potentially deadly practice.

Mr. Speaker, the legislation I am introducing draws on added insights gained as a result of the subcommittee's investigation and hearing, plus input from private associations and public agencies. As redrafted, the new Food Contamination Prevention Act amends the Solid Waste Disposal Act so that any vehicle which transports solid waste is prohibited from carrying food or related products. All refrigerated vehicles, which are specially designed to carry fresh meat and other foods, would be banned from ever transporting garbage regardless of the content of their previous or future loads.

Mr. Speaker, the new Food Contamination Prevention Act mandates that any vehicle which transports solid waste be labeled as such in order to let shippers know that the vehicle has previously carried garbage. In addition, new subclasses of solid waste are created to accommodate the differences between empty bottles being returned for reuse, bundled newspapers destined for recycling, and garbage going to landfills. As many of my colleagues know, several States have adopted bottle bills which mandate that beverage distributers pick up the returned bottles on the same trucks which deliver the beverages. Also, it is clear that there is a significant difference between bundled newspaper destined for recycling and baled garbage destined for a landfill. The new Food Contamination Prevention Act sets different standards for these three different classes of solid waste.

Mr. Speaker, already the Owner-Operator Independent Drivers Association and the National Food Processors Association, as well as several newspapers, have endorsed legislation to end the backhauling of gargage in trucks which also haul food. The new Food Contamination Prevention Act provides a more comprehensive solution to the problem while taking into account the multifaceted nature of what we call garbage. I am pleased that 30 Members have already joined Mr. RINALDO and me as original cosponsors of this important legislation and I urge swift congressional action to end this potential health threatening practice.

MULTIPURPOSE VEHICLE STANDARDS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce legislation to require the Secretary of Transportation to revise the Federal motor vehicle safety standards applicable to light trucks and multipurpose vehicles and for other purposes. The family vehicle of the 1980's is no longer the station wagon. Instead, families are buying record numbers of minivans and four wheel drive vehicles, which are referred to collectively as multipurpose vehicles [MPV's]. Thee vehicles now account for about one-third of all passenger vehicles sold in the United States. MPV sales have mushroomed because these relatively inexpensive vehicles are now being used as passenger cars. Unfortunately, the family that takes a pickup or minivan to get groceries or to pick up the kids at school is using a vehicle that lacks many structural safety features.

In the 1960's, when most of the safety standards for MPV's were written, the rationale for these exemptions was that these vehicles weighed more than passenger cars and were seldom used as passenger vehicles. Today, however, light trucks and MPV's have shrunk in size and are often marketed exclusively as passenger vehicles. The old standards are obsolete and insufficient, and the consequences of inadequate safety protections are deadly. MPV fatalities are rising steadily. In 1987, there were 7,200 deaths, and in 1988, the toll jumped to over 8,300.

MPV's lack entirely many important safety features which have long been required for passengers cars. The absence of such standards has been recognized as problematic for many years. In 1972, the National Transportation Safety Board [NTSB] reported that the severity of injuries sustained in accidents appeared considerably greater for occupants of some MPV's than for occupants of passenger cars. The NTSB suggested that this might have been due, in part, to the MPV exemption from certain safety standards. Similarly, a 1978 GAO study recommended that the National Highway Traffic Safety Administration [NHTSA] reassess its vehicle classification system for these very reasons, and concluded that delays by NHTSA in producing the reassessment were unwarranted. The GAO study further recommended that NHTSA apply a number of passenger car safety standards to MPV's.

More recently, additional concerns have been raised abut jeep-type sport-utility vehicles and allegations that, because of their design, they may have a propensity to roll over more easily than other vehicles. In June 1988, Consumers Union rated one model of this vehicle type unacceptable because of this risk, and petitioned NHTSA to recall that model. NHTSA denied that petition, but, in September 1988, granted a petition to establish a minimun performance standard to protect against unreasonable risk of rollover. However, rulemaking on this performance

standard has not begun. Additionally, NHTSA recently granted a petition to begin a defect investigation of another model of this vehicle type, based on accident data indicating a high rate of rollover.

The legislation which I introduce today will rectify a glaring weakness in the Federal motor vehicle safety codes by directing the Secretary of Transportation to issue certain safety standards for passenger cars to extend their applicability to light trucks and MPV's.

In the 100th Congress, the Senate passed S. 853, a bill that required the NHTSA to consider establishing four additional safety standards for MPV's: Roof crush resistance, a high-mounted rear stop lamp, head restraints, and front seat passive restraints. To date, NHTSA has addressed only the head restraint requirement, issuing a final rule on September 25, 1989. On August 3 of this year, the Senate passed S. 673, the NHTSA Authorization Act of 1989, which includes, under titles II and III, all of the provisions set forth in the legislation which I introduce here today.

This day marks the third time in two congressional sessions that legislation to extend the applicability of passenger motor vehicle standards to light trucks and MPV's has been brought before the Congress. Last session, I introduced legislation extending specific passenger motor vehicle standards to light trucks, vans, and other MPV's such as the Jeep CJ and the Suzuki Samurai. Now I introduce a modified bill which adopts the same important safety measures as well as providing for additional safeguards such as more effective bumpers on all vehicles and airbags on Federal vehicles. A provision requiring head restraints is no longer necessary since, on September 25, NHTSA finally completed rulemaking to extend the applicability of the appropriate standard to light trucks and MPV's.

This bill finds, first, that light trucks and multipurpose passenger vehicles have become increasingly popular during this decade and that they are being used increasingly for the transportation of passengers, not property. It further states that the safety of passengers in light trucks and MPV's has been jeopardized by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

Today's bill acts, therefore, to require NHTSA to take six basic steps to improve light truck and MPV safety.

The first step is to revise Federal Motor Vehicle Safety Standard 216, to provide minimum roof crush resistance standards for light trucks and multipurpose passenger vehicles. Passenger vehicles have had this standard since 1971. Various MPV models, such as the Suzuki Samurai and the Ford Bronco II are notorious for rolling over under extreme conditions, and we need to ensure that the roof of an MPV will not collapse when this occurs.

The second step is to revise Federal Motor Vehicle Safety Standard 108, to require high center-mounted rear brake lights on light trucks and MPV's. Such lights have proven effective in preventing rear end collisions in passenger cars, and they can also help prevent such collisions in MPV's. NHTSA has been working on a prototype center-mount MPV brake light for some time now.

The third step is to revise Federal Motor Vehicle Safety Standard 208, to apply the passive restraint rule to light trucks and MPV's. According to an Insurance Institute for Highway Safety [IIHS] study, a major cause of death in MPV crashes is passenger ejection when the vehicle rolls over. IIHS found that passenger ejection was the cause of death in 46 percent of single vehicle crashes involving small utility vehicles. In contrast, 16 percent of small car single vehicle accidents involve ejection. Applying the passive restraint rule's requirement of either automatic seat belts or airbags would help prevent these ejections.

The fourth step is to revise Federal Motor Vehicle Safety Standard 214, to extend the applicability of side impact protection to light trucks and multipurpose vehicles. The requirement of a door beam on passenger cars under the current standard is of great value in protecting occupants in single vehicle crashes. Occupants of MPV's should be afforded the same protection.

The bill directs the Secretary of Transportation to initiate not later than 60 days after enactment of this Act, and to complete not later than 12 months after enactment, rulemaking to revise these four standards.

The fifth step is to require the Secretary to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified. The changing use pattern of MPV's and the recent controversy surrounding tariff treatment of sport utility vehicles both demonstrate the need for a clearer definition of what is an MPV and what is a passenger car. NHTSA has issued a Notice of Proposed Rulemaking with respect to its classification system, but no final rule has been issued.

The sixth step is to direct the Secretary to initiate and complete a rulemaking to establish a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of light trucks and MPVs. Many MPVs, particularly sport utility vehicles, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single vehicle Suzuki Samurai accidents involve roll-over. The roll-over rate for full-sized sedans is only 8 percent. The problems with the Samurai were highlighted in tests conducted by the Consumers Union, the publishers of Consumer Reports. Consumers Union said that it had "never before come across a vehicle so vulnerable to rolling over" in its 25 years of vehicle testing. In addition, this spring, NHTSA opened an investigation into roll-over accidents involving Ford Bronco II's. One report determined that this vehicle rolls over three times more frequently than the Samurai. This legislation would require NHTSA to establish a standard for MPV stability in order to minimize roll-over problems.

The second section of my bill requires the Secretary to promulgate a regulation establishing bumper system labeling requirements for all passenger motor vehicles. This regulation will require manufacturers to label all vehicles sold in a manner which discloses the impact speed at which the bumper system can protect the rest of the vehicle from damage. NHTSA promised to establish this information system 7 years ago, but has yet to take any action in this area.

The third section of the bill reestablishes the bumper standard which was in effect in 1982, before the Reagan administration weakened it. For the 7 years, the minimum speed at which motor vehicle bumper systems were required to protect the rest of the vehicle from damage has been 2.5 miles per hour. This has allowed automobile manufacturers to install decorative bumpers which offer little protection to the vehicle. Reestablishment of the 1982 standard will raise this minimum acceptable speed to 5.0 miles per hour. IIHS has conducted a study demonstrating that the tougher standard will save the American consumer from unnecessary repair expenses.

The fourth section of this bill requires that all passenger cars acquired after September 30, 1990, for use in the Federal fleet be equipped with driver-side airbags. If economically practicable, full front-seat airbags would be required for vehicles acquired after September 30, 1993. Airbags are the most effective technology for preventing injuries and fatalities in frontal crashes. Many automakers have chosen to make use of airbags in order to comply with the passive restraint rule. Chrysler has made driver-side airbags standard on all its models, and Ford and General Motors are not far behind. All of these manufacturers have plans to install passenger-side airbags as well. The Federal Government has already had success with the 6,500 Ford Tempos equipped with driver-side airbags which it purchased between 1985 and 1987. In 126 crashes of these vehicles which were severe enough to deploy the airbags, they have not only prevented death and serious injury, they have saved the Government payments for medical treatment, hospitalization, and survivors' and disability benefits.

According to an NHTSA report prepared at the request of the Appropriations Committee, the distinction between passenger cars and light truck has blurred as the market share of light trucks has doubled and as light trucks are marketed more and more for passenger use. The new passenger minivan accounts for more than 50 percent of light truck sales. From 1981 to 1985, as MPV's shunk in size, the proportion of MPV fatalities rose while passenger care fatalities declined. The obvious conclusion? Federal motor vehicle safety standards written for light trucks and MPV's in the 1960's are obsolete and insufficient when applied to today's smaller passenger vehicles.

This bill is practical; it grants the Secretary of Transportation a full year after enactment of this act to complete rulemaking to revise or establish the specified motor vehicle standards and to amend the bumper standard; the Secretary will afford motor vehicle manufacturers ample time after the issuance of the final rules to comply with the revised standards.

Some will argue that the cost of these safety measures to manufacturers and consumers is too high. Such a view is shortsighted. The benefits which consumers will accrue from driving safer vehicles, while not immediately quantifiable, far outweigh the monetary cost. The benefits include fewer medical bills, more secure employability, and peace of mind. For example, the NHTSA has just completed rulemaking on a revision of Standard

202, to extend the applicability of the head restraint requirement to light trucks and MPV's. A 1982 NHTSA report shows that head restraints reduce the overall risk of injury in rear impact crashes by up to 17 percent. NHTSA estimates that the average cost of this new requirement to MPV buyers will be $22 per vehicle. According to the All-Industry Research Advisory Council, 49.2 percent of all injury claims paid by automobile insurance companies involve a neck sprain or strain. This is the most common injury out of 17,800 whiplash injuries sustained in MPV's annually. The average insurance claim paid by automobile insurance companies for a neck sprain or strain is $2,943. From this perspective, the $22 cost of a safety device like a head restraint is hardly prohibitory.

Like most Americans, when I bought my minivan, I assumed that it met the same safety standards as a station wagon. It is marketed as a passenger vehicle and is built on a K-Car chassis, not a truck chassis. I had every reason to believe that it met the same safety standards as a car, but learned long after I bought the van that it did not. As a father of two small children, I am concerned about the safety of my family every time I drive them in this vehicle.

This gaping hole in the vehicle safety standards must be closed, and that is why I have introduced this legislation. Common sense dictates that families who ride in these vehicles should be afforded the same safety protection as families who ride in passenger cars. With the passage of the companion bill in the Senate, the standards for safer design and construction of passenger vehicles can be on the books in less that 12 months time. Many injuries can be avoided and many lives will be saved if this small improvement in vehicle safety regulation is made. American families should be able to purchase a motor vehicle under the assumption that the Federal Government has ensured the safety of that vehicle. This time, for the sake of Americans all across the country who rely on motor vehicle transport for themselves and their families, we must have the courage to pass this crucial legislation.

INTRODUCTION OF COAL INDUSTRY HEALTH BENEFIT STABILIZATION ACT OF 1989

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. BOUCHER. Mr. Speaker, today, along with 15 colleagues, I introduced the Coal Industry Health Benefit Stabilization Act of 1989.

This legislation is needed to help address an emergency. It will ensure the financial condition of the health benefits program for retired coal miners. Simply put, the bill will authorize transfers of surplus funds from the 1950 United Mine Workers of America [UMWA] pension trust to the UMWA benefit trusts. The benefit trusts provide health benefits to 125,000 beneficiaries.

In recent years, due to such causes as rapidly escalating health care costs, the two UMWA health benefit funds have experienced serious financial difficulties. The 1950 fund has $54 million deficit, and the other is expected to be in deficit within weeks. As a consequence, payments to doctors, hospitals, and pharmacies are overdue by as much as 60 days.

We face the possibility of a breakdown of the health care system for retired miners. The funds contribute many millions of dollars to the Virginia economy, alone, and sustain the efforts of many health care practitioners and organizations. If allowed to continue unchecked, the financial difficulties in the UMWA health funds could cripple health care delivery in the coal counties of States like Alabama, Arkansas, Colorado, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Virginia and West Virginia.

In contrast with the health funds, the 1950 pension fund has a substantial surplus, according to independent actuaries who have reviewed the financial condition of the fund. The bill would authorize use of the surplus in this pension fund to help repair the financial condition of the health funds. The decision to transfer funds could only be made and the precise amount of surplus to be transferred determined through a joint decision of the UMWA and the Bituminous Coal Operators' Association [BCOA].

The pension and health funds are supported financially by companies that have participated in the national bituminous coal wage agreements, which have been renegotiated periodically by the BCOA and the UMWA. The BCOA and the UMWA have viewed the imminent health fund crisis with growing concern. To strengthen the financial basis of the funds, the legislation not only authorizes the transfers, but also provides statutory reinforcement for the contractual and other obligations of the companies regarding contributions to the retiree health funds. In this way, the security of each contributor is enhanced by the knowledge that the responsibilities of all contributors will be met.

Mr. Speaker, this bill is timely and it is beneficial. It is fiscally prudent and responsible public policy. I am convinced that it is also necessary to restore confidence in the health and retirement systems that Congress itself has created.

STATEMENT OF THE DALAI LAMA ON RECEIVING THE NOBEL PEACE PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. LANTOS. Mr. Speaker, yesterday, the Nobel Committee in Oslo, Norway, announced that His Holiness the Dalai Lama of Tibet would receive the 1989 Peace Prize for his contribution to world peace, in particular his advocacy of nonviolent, peaceful struggle for recognition of the human rights and political autonomy of the Tibetan people from China.

At a press conference in California yesterday afternoon, the Dalai Lama met with the press and expressed his feelings about the great honor of receiving this award. Mr. Speaker, I insert the remarks of His Holiness the Dalai Lama in the RECORD, and I urge my colleagues to read them:

REMARKS BY HIS HOLINESS THE FOURTEENTH DALAI LAMA OF TIBET ON BEING AWARDED THE NOBEL PEACE PRIZE

I am deeply touched to be chosen as this year's recipient of the Nobel Peace Prize. I believe my selection reaffirms the universal values of non-violence, peace and understanding between all members of our great human family. We all desire a happier, more humane and harmonious world, and I have always felt that the practice of love and compassion, tolerance and respect for others is the most effective manner in which to bring this about.

I hope this prize will provide courage to the six million people of Tibet. For some forty years now, Tibetans have been undergoing the most painful period in our long history. During this time, over a million of our people perished and more than six thousand monasteries—the seat of our peaceful culture—were destroyed. There is not a single family, either in Tibet or among the refugees abroad, which has gone unscathed. Yet, our people's determination and commitment to spiritual values and the practice of non-violence remain unshaken. This prize is a profound recognition of their faith and perseverance.

The demonstrations which have rocked Tibet for the past two years continue to be non-violent despite brutal suppression. Since the imposition of martial law in Lhasa last March, Tibet has been sealed off, and while global attention has focused on the tragic events in China, a systematic effort to crush the spirit and national identity of the Tibetan people is being pursued by the government of the People's Republic.

Tibetans today are facing the real possibility of elimination as a people and a nation. The government of the People's Republic of China is practicing a form of genocide by relocating millions of Chinese settlers into Tibet. I ask that this massive population transfer be stopped. Unless the cruel and inhuman treatment of my people is brought to an end, and until they are given their due right to self-determination, there will always be obstacles in finding a solution to the Tibetan issue.

I accept the Nobel Peace Prize in a spirit of optimism despite the many grave problems whch humanity faces today. We all know the immensity of the challenges facing our generation: the problem of overpopulation, the threat to our environment and the dangers of military confrontation. As this dramatic century draws to a close, it is clear that the renewed yearning for freedom and democracy sweeping the globe provides an unprecedented opportunity for building a better world. Freedom is the real source of human happiness and creativity. Only when it is allowed to flourish, can a genuinely stable international climate exist.

The suppression of the rights and freedoms of any people by totalitarian governments is against human nature and the recent movements for democracy in various parts of the world is a clear indication of this.

The Chinese students have given me great hope for the future of China and Tibet. I feel that their movement follows in the tradition of Mahatma Gandhi's ahimsa or nonviolence which has deeply inspired me ever since I was a small boy. The eventual success of all people seekng a more tolerant at-

mosphere, must derive from a commitment to counter hatred and violence with patience. We must seek change through dialogue and trust. It is my heartfelt prayer that Tibet's plight may be resolved in such a manner and that once again my country, the Roof of the World, may serve as a sanctuary of peace and a resource of spiritual inspiration at the heart of Asia.

I hope and pray that the decision to give me the Nobel Peace Prize will encourage all those who pursue the path of peace to do so in a renewed spirit of optimism and strength.

CONGRESSIONAL SALUTE TO ALVIN AND JIM GREENBAUM, OF GREENBAUM INTERIORS, PATERSON, NJ, IN RECOGNITION OF THEIR CONTRIBUTION TO THE CITY OF PATERSON

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. ROE. Mr. Speaker, on Thursday, October 12, residents of my congressional district, and the State of New Jersey, as well as former residents of Paterson, NJ, who now live throughout this country, will join together at the third annual reunion of the Paterson Alumni Association to pay tribute to Alvin and Jim Greenbaum, in recognition of their unique contributions to the city of Paterson.

Mr. Speaker, I know that you and our colleagues will want to join with me in extending our warmest greetings and felicitations to Alvin Greenbaum, his good wife Arlene; their children Lori, Richard, and Jane; and to Jim Greenbaum, his good wife Ellen; and their children Susan and David; and on this most joyous occasion join with their families as they honor Alvin and Jim's achievements and contributions to the city of Paterson.

Mr. Speaker, during a period when many of our Nation's urban centers are declining, it is very heartening to point to a family owned retail establishment in Paterson which continues to expand and in so doing demonstrates a commitment to the future of this city.

Mr. Speaker, Alvin and Jim started 37 years ago with 10,000 square feet, and have just completed their fourth major expansion to bring their establishment to 120,000 square feet. They have done this through the acquisition and preservation of several venerable old downtown buildings, including a police station built in 1904, as well as a fire station. Today, Greenbaum Interiors provides jobs for 80 employees, including 40 crafts people who design and make many of the beautiful pieces found in this remarkable building, with its four floors of mazes.

Mr. Speaker, it is well known that downtown shopping centers have developed a poor image among suburban shoppers. Nevertheless, the Greenbaum family has built a design center which attracts to downtown Paterson sophisticated designers and shoppers from all around the world, and they have done this by maintaining high quality standards and by a determination to succeed. And that success has been recognized by awards from such organizations as the American Society of Designers and House Beautiful.

Mr. Speaker, the Greenbaum family has truly been a role model for the business community. For not only have they stayed and grown in Paterson, but they have been active participants in the business and philanthropic life of the city. Their contribution and commitment to the city has been recognized by an award from the Paterson Chamber of Commerce.

Mr. Speaker, I want to point out that the foundation which is honoring the Greenbaums, the Paterson Alumni Association, is very likely a unique organization in the United States. It was founded by a group of childhood friends who shared the feeling that they wanted to give something back to the city which had contributed to their own development and success. And over the past 3 years they have awarded 42 grants totaling $155,000 to 27 Paterson community organizations for programs which seek to improve the quality of life in the city.

Mr. Speaker, it is a privilege and an honor to seek this national recognition of Alvin and Jim Greenbaum, and for their contributions to the city of Paterson. I ask my colleagues here in the Congress to join with me in expressing our most sincere appreciation to these men for their lifetime of commitment to the rich past and bright future of Paterson, NJ.

FREEDOM, FIREARMS, AND THE CHINESE EXPERIENCE

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. MARLENEE. Mr. Speaker, our Founding Fathers understood the connection between the right to bear arms and freedom. That's why the second amendment to the U.S. Constitution is vital to a free and open society in America. If the brave prodemocracy students on Tiananmen Square in Beijing, China, has firearms, perhaps the totalitarian Communist Chinese leadership would have had second thoughts about putting down this protest. I would like my colleagues to read this insightful article written by Dr. James H. McGee, published in the Police Marksman. In the debate over restricting the rights of law-abiding citizens access to semiautomatic firearms, I hope that we take Dr. McGee's warnings into consideration.

FREEDOM, FIREARMS AND THE CHINESE EXPERIENCE

(By Dr. James H. McGee)

The upheaval in China has faded from the headlines. The blood has been scrubbed from the pavements of Tiananmen Square and the cry of freedom which captured the imagination of the world has been stifled. The democratic revolution has proven to be as fragile as the paper-mache' and styrofoam copy of the Statue of Liberty which was its visible symbol. The leaders of the revolution are in exile, in hiding—or dead. We Americans may take comfort in the oft-repeated assertion that the events in June represented nothing more than a setback, and that the democratic movement in China must ultimately prevail. But "ultimately" must seem like a distant dream to the Chinese themselves, and distant dreams can scarcely offer anything more than cold comfort.

Since the massacre on June 4, thousands of words have been written and spoken about the "lessons" for Americans of the events in China. Most of these "lessons" have had to do with foreign policy, or business investment, or the perceived strength or weakness of the present Administration. The popular media, however, have all but bypassed the most important lesson taught to us by the Chinese experience. This is, perhaps, hardly surprising, for this lesson has nothing directly to do with China, or foreign policy, or business. It is instead a lesson about the nature of freedom and about how we defend it.

In the weeks prior to the massacre in Beijing, the focus of the Chinese student "revolution" was the assertion of political rights to go with the economic reforms which had characterized the last several years. Our nightly news reports from China became an ongoing illustration of democracy in action. Hundreds of thousands of students and workers, in effect, took our First Amendment to the streets of the Chinese capital and of other major cities throughout the country, defying their dictatorial government to stop them. A generation brought up under Communism rejected the authority of Marx, Mao, and the government which embodied their principles.

But after marveling at the capacity of the demonstrators to deflect the repeated displays of force by the army, we were reminded in a single night of bloodshed of the difference between the display of force and the exercise of force. We were also reminded of a fundamental truth: freedom can only be defended against force with force.

We Americans are conditioned to this basic truth by two centuries of history. We understand—or, at least, we should understand—that there are times when the violence of oppressors has to be met with counter-violence in the cause of freedom. As children we were taught to detest a bully. We find justice and satisfaction in watching the picked-on small child rise up and lay a solid punch in the face of the schoolyard tyrant. We embody the right of self-defense and the obligation to defend others from deadly violence in the deadly force rules which govern those of us who "protect and serve." Thousands of Americans have given their lives protecting not just our own freedom, but, in the words of the Special Forces motto, "to free the oppressed." As products of this American tradition, I am sure that many of us watched the news reports of the massacre in Tiananmen Square with an aching heart, because the Chinese people lacked the means to defend themselves and their newly-asserted democratic rights. As one observer noted, "Banners stand against bullets only so long as the bullets remain unfired."

Our Founding Fathers understood the truth. It is surely no accident that, in the sequence of freedoms addressed in the Bill of Rights, the First Amendment and its guarantee of freedom of speech, freedom of thought, and freedom of assembly—the freedoms which animated the "revolution" in China—was followed by the Second Amendment's protection of the people's right to keep and bear arms. The framers of our Constitution and Bill of Rights understood, from their own direct experience of revolution, that the ultimate protection of our First Amendment democratic rights lay

in the fact that an armed citizenry can defend these rights.

It is thus ironic that many of the government and media figures who were so emotionally distraught at the slaughter of defenseless Chinese are, in many instances, the same individuals who are using their considerable degree of influence to ensure that the American people will someday be equally defenseless. The inconsistency of this position is illustrated perfectly by *Time* magazine, which indulged itself in considerable breast-beating over the vision of armed troops spraying unarmed students with automatic weapons fire and then, more recently, devoted a cover story to a powerfully biased attack upon gun ownership and gun owners in the United States. For my part, I found that, as I watched the news reports of the Beijing massacre, I could not help but wish that the democratic Chinese, by some miracle, could have laid their hands on some of the semi-automatic "assault rifles" that our own government seems bent on taking away from us.

It is doubly ironic that the firearms most under attack by the gun control lobby today are these so-called "assault rifles." Of all the firearms currently available to the American public, these military-style rifles and carbines are precisely the ones which most closely fit the spirit of militia weapons. The Second Amendment was not written, as some seem to think, to protect sporting weapons only; the authors of the Bill of Rights were not overly concerned about our right to shoot deer and ducks. The Second Amendment was written to ensure that the American people would never confront a situation such as that which occurred in China; it was written to prevent government—our own or that of an invading foreign power—from possessing monopoly control of the instruments of force.

At this point in our history it is hard to imagine the U.S. Army wantonly slaughtering American citizens in the streets, and it is equally difficult to envision a hostile invader establishing a beachhead on our shores. But two hundred years ago the Founding Fathers did not know—they could not know—how our political values and our place in the world of nations would evolve. They did not want to take any chances, and nor should we. We cannot know what the future will hold. After all, there are Chinese today who, prior to June 4, could not believe that the "People's Army" would fire upon the people.

January of 1941, as the world sank ever more deeply into the darkness of World War II, President Franklin Roosevelt gave a deeply-moving expression of the cause for which we would find ourselves fighting in his famous "Four Freedoms" speech. This speech has taken its place alongside the Gettysburg Address as one of the clearest statements of what our freedom means. Perhaps the most fundamental of Roosevelt's Four Freedoms was "freedom from fear." In 1941 this meant, first and foremost, freedom from the fear of aggressive dictatorships. In 1989 we can find an even more basic meaning for this most fundamental of freedoms.

Consider an example. Some months ago in Atlanta an elderly couple engaged the services of a strong young man to do yard work. When the time came to pay for his services, a dispute arose. The young man exploded in a rage and began beating the wife. When the husband attempted to intervene, he, too, was viciously beaten. The wife died from her beating and the husband was left insensible. The disparity in force between one healthy and muscular young man and two retirees in their seventies resembles nothing so much as the difference between armed troops and unarmed students—and the result was the same. During this same timeframe, the so-called "wilding" episodes, where joggers were brutally beaten and raped by gangs of youths, reminded all of us of our vulnerability. These are not isolated incidents. They exemplify what has become a daily occurence in this country, and they illustrate why the phrase "freedom from fear" has become a mockery in the everyday lives of the elderly, the weak, and the defenseless. Overworked and undersupported police departments throughout the country perform valiantly in their efforts to protect the public, but the police cannot be everywhere at once; among themselves, police officers candidly acknowledge that they frequently arrive on the scene only after the worst has happened. If we, as individuals, lack the means to defend ourselves, then truly we cannot enjoy "freedom from fear."

Despite the propaganda of the gun control lobby, more and more Americans are recognizing this simple fact. The positive response received by Smith & Wesson to its introduction of the "Ladysmith" series of handguns is but one indication that women no longer accept the idea that their only defense from attack is a loud scream. In my part of the country police are trying to build a case against a man suspected of being the "Green River Killer," believed to have murdered dozens of women. And his prototype, Ted Bundy, may have killed over a hundred women before he was brought to justice. What a difference it would have made in the lives of the victims of these men and their families if the first victim in each case had been armed and ready to defend herself.

The assault rifle issue is just the latest version of an ongoing attack upon our right to keep and bear arms, a right which exists as the final protection of our other basic rights as a free people. As members of the law enforcement community we should not be deflected from our support for this right by ill-considered rationalizations about disarming street gangs or drug-traffickers. Once we as Americans lose our right to possess the means to defend ourselves, our other freedoms—like those of the people of China and of countless other countries around the world—will exist only at the whim of the criminal on the one hand and the political elite on the other.

GERMAN-AMERICAN DAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. MAZZOLI. Mr. Speaker, the people of my hometown of Louisville, KY, can take a special pride in marking October 6, 1989, as the celebration of "German-American Day."

That sense of pride springs from the traditions and diversity of ethnic and cultural heritages which have come together in Louisville. As in other American cities and towns it's a patchwork quilt that has given, and continues to give, strength and vitality to our community.

Americans of German descent have played major roles in Louisville's history. Though use of the German language may have disappeared altogether, architectural landmarks, industries, and customs remain as tangible evidence of the strong German influence in Louisville.

Much of the German migration to our area occurred in the mid-to-late 1800's. Germantown and "Butchertown" became well-defined working class neighborhoods, growing up around the meat-processing industry primarily. This commercial activity encouraged and brought along with it a range of skilled craftsmen and related businesses. "Shotgun" houses, Gothic church steeples, festivals, choruses, and social clubs evoke the spirit, then and now, of the rich German heritage in our midst.

For more than a decade, Louisville has maintained a sister city relationship with Mainz, West Germany. Student and cultural exchanges from both cities further cement the common ties which join our two communities.

This weekend the 20th annual Oktoberfest will be held in Butchertown. It is not only an event to celebrate German traditions, but it offers an opportunity to raise money for civic and charitable activities. And, it will be my honor and pleasure to host two members of the West German Bundestag who are visiting in Louisville for some of the festival's activities.

The German heritage in my hometown has been important and enduring. So, as one who is proud to represent the city of Louisville in the House, I am pleased also to be a sponsor of House Joint Resolution 104, which designates October 6, 1989, as "German-American Day" and pays tribute to the many contributions made to our own history, our way of life, and culture by Americans of German descent.

PASSAGE TO FREEDOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise today to pay tribute to a special campaign entitled "Passage to Freedom." This program helps in paying for the many services and programs that are needed by the Soviet Jews throughout the migration period. The passage is open, but the journey has just begun.

For many years, American Jews have been a part of the movement to free Soviet Jews. They have demonstrated and marched, written letters, signed petitions, stood silent vigil and shouted, "Let our people go!" Their cries reverberate from all over the world.

This year thousands of Soviet Jews are expected to flood through the gates that have held them back for so long. Most Jews leave the Soviet Union with virtually no financial assets due to Government regulations as well as years of refusal in loss of employment. "Passage to Freedom" assists in the transition by providing basic needs: housing, medical care, language instruction, and job placement.

There could be as many as 2 million Jews still left in the Soviet Union. Unfortunately, there is no way of knowing if the Soviets will close the gates of freedom. If it happens, it could be tomorrow. Therefore, the time is now

to provide whatever assistance is needed, whenever it is needed.

I am proud to acknowledge individuals from my district who are responsible for this tremendous campaign: David Schaecter, Mikki Futernick, Norman H. Lipoff, Dorothy Podhurst, and Michael Scheck. With the continued devotion of their movement, Soviet Jews can move toward an everlasting passage to freedom.

IN HONOR OF MARION DEVLIN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. FAZIO. Mr. Speaker, I rise today to honor Marion Devlin, a distinguished journalist from Vallejo, CA, who will celebrate her 80th birthday on October 27.

Ms. Devlin, the daughter of the late Mr. and Mrs. Frank R. Devlin, was born in 1909 at her family's home in Vallejo, CA. A graduate of the Berkeley Anna Head School in 1927, Ms. Devlin worked on the college newspaper the Daily Californian.

Following her graduation, Ms. Devlin accepted an offer from the late Luther E. Gibson to work as society editor of the Vallejo Evening Chronicle in 1931. Later, the society page became the Panorama section of women's news in the Vallejo Times Herald, and under Ms. Devlin's guidance, the Panorama section received the "Best in the State" award on 10 occasions from the California Newspaper Publishers Association.

Throughout her career, Ms. Devlin has had the remarkable opportunity to meet and interview numerous celebrities, including three reining queens: Elizabeth of Great Britain, Juliana of The Netherlands, and Fredericka of Greece. She attended the coronation of Queen Elizabeth in 1953 representing the Times Herald and the wedding of Prince Charles and Diana in 1981 for the Vallejo Independent Press. Two years later, Ms. Devlin had the distinction of serving as an official press representative when Queen Elizabeth and Prince Philip visited San Francisco in 1983.

Not only has Ms. Devlin had the chance to visit with and interview foreign dignitaries, she has also interviewed four of the most prominent first ladies of this century. She received an exclusive interview with Eleanor Roosevelt during the First Lady's World War II visit to the Mare Island Hospital. The other First Ladies included Mamie Eisenhower, Lady Bird Johnson, and Nancy Reagan. Finally, Ms. Devlin has interviewed a number of Hollywood stars, including Mary Pickford, Clark Gable, Gregory Peck, and Shirley Temple.

Notwithstanding her success at working the celebrity beat, Ms. Devlin has written many stories on the military. She represented the Times Herald on flights as a guest of the Army, Navy, and Air Force. Ms. Devlin also flew on the Navy's maiden flight of the *Constitution* JATO, jet-assisted takeoff, and during the Korean war, she was the only reporter invited by the Air Force on an air evacuation flight ferrying wounded soldiers from the Korean front to military hospitals.

In addition to being a journalist, Ms. Devlin has also left her mark in the Vallejo area through volunteer activities. Some of the organizations that she has worked with include the Soroptimist International of Vallejo, the Children's Hospital Medical Center of Northern California, the Vallejo Naval and Historical Museum, and the Vallejo Merchants Association. Because of her tremendous contributions to the Vallejo community, Ms. Devlin has received numerous awards including the "Women Helping Women" award presented by Soroptimist International of Vallejo in 1975 and the "Woman of the Year" award from the Vallejo-Benicia Area Council of Beta Sigma Phi in 1978.

Marion Devlin is truly an outstanding member of the Vallejo community and I know my colleagues join me today in saluting all her many accomplishments and wishing her a happy 80th birthday.

TRIBUTE TO DAVE DRAVECKY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to an outstanding individual and close family friend, Dave Dravecky.

Faced with incredible obstacles, Dave Dravecky has fought back with amazing courage and determination. While pitching for the San Francisco Giants, a lump on his pitching arm was diagnosed as cancerous. David had to go through a painful operation to have the tumor removed. The surgery took much of the deltoid muscle from his left arm. Although he was told there was little hope he would ever pitch again, he refused to give up and turned to his faith in God to face the agony of rehabilitation. Ten months later, his prayers were answered, and it seemed as if all the pain and effort had been worth it. Dave reentered the game of baseball by way of a 20-day rehabilitation in the minor leagues. He started out with class A San Jose and shutout the local team in Stockton, CA, on July 23. From there, Dave worked his way back into the limelight.

On August 10, Dave Dravecky returned to the major league greeted by cheering fans. The Giants won the game 4 to 3. Five days later he returned to the mound, but this time something went wrong. While delivering a fastball, Dave's humerus bone snapped. He had been warned that his arm was weakened by the surgery, yet he loved the game too much to give up. Despite the break, doctors are optimistic that the bone will heal and become stronger than it had been following the cancer surgery. It is generally believed that Dave Dravecky will be able to return to the game by spring training of next year.

The outstanding faith and courage this man has shown throughout the past year are deserving of great praise. His tremendous accomplishments and determination make him an American hero. I am proud to call him my friend and pay him tribute today.

TRIBUTE TO JOSEPH P. AND EILEEN MIELE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. RINALDO. Mr. Speaker, I rise today to pay tribute to Commissioners Joseph P. and Eileen Miele, of Mendham, NJ, who have been selected by the Italian Tribune News, Newark, NJ, as its "1989 Man and Woman of the Year." The Mieles are only the second couple to receive this distinguished award, sharing this honor with Mr. and Mrs. Bob Hope. A full day of festivities, including a Columbus Day parade, which attracts over 200,000 spectators, as well as a gala banquet, will highlight the 1989 Columbus Day celebration to be held on October 8 at which Mr. and Mrs. Miele will be honored.

J.P. Miele, a partner in the law firm of Miele, Cooper, Spinrad & Kronberg, of Millburn, and a commissioner on the New Jersey Highway Authority, is an executive officer of over 30 private corporations worldwide. Eileen Miele serve as a commissioner on the New Jersey Board of Cosmetology and Hairstying, personally overseeing the examinations of thousands of future cosmetologists throughout New Jersey. They actively participate in numerous charitable and civic endeavors including serving as trustees of the New Jersey Pops; cochairpeople of the Garden State Arts Center's Annual Spring Ball; members of the board of trustees of Little Hill Foundation; a nationally recognized drug and alcoholic rehabilitation center in Blairstown; and are the founders of the Joseph P. Lordi Memorial Scholarship Fund at Seton Hall University School of Law.

Mr. and Mrs. Miele are truly outstanding Italian-Americans who continously demonstrate their deep concern and commitment to helping those in need. The Italian Tribune News has made an excellent choice is selecting these individuals as the "1989 Man and Woman of the Year."

BISONS PROVE BUFFALO IS MAJOR LEAGUE CITY

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. PAXON. Mr. Speaker, I rise today to salute the Buffalo Bisons—Buffalo, NY's contribution to the great American pastime.

This minor league baseball team enjoys the major league support of the people of Buffalo and western New York.

This year the Bisons drew more than 1 million fans for the second consecutive year, shattering American Association attendance records. The Bisons are the first minor league team to have more than 1 million fans pass through the turnstyles in back to back seasons.

In 1989, 1,132,183 Bison fans watched their team post their best record ever. The Bisons finished 80 and 62 for the season—finishing a

close second in the competitive American Association.

For the past 2 years, enthusiastic Bison fans have gone to watch their team play at Pilot Field—Buffalo's brandnew baseball stadium located in the very heart of downtown. Pilot Field, an architectural gem reminiscent of the old-fashioned baseball stadiums of yesterday, is one of America's finest ballparks.

The Bisons have demonstrated unequivocally that Buffalo is ready for a major league baseball team. Buffalo and western New York have the fans, we have the stadium, and since Buffalo has more sunshine during the summer months than any city with a baseball team in the American League East, we have the weather for a big league team.

I would be remiss, Mr. Speaker, if I did not congratulate Bisons' owner, Mr. Bob Rich, Jr., and the entire Bisons organization for their success. Thanks to Bob, the people of Buffalo and western New York have one more thing to be proud of—their Buffalo Bisons.

Mr. Speaker, the Buffalo Bisons have proven, once again, that Buffalo is indeed a major league city.

THE INTERSTATE GREYHOUND RACING ACT OF 1989

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 6, 1989

Mr. SLATTERY. Mr. Speaker, I rise to announce that I am today introducing a bill, the Interstate Greyhound Racing Act of 1989, which will regulate interstate commerce with respect to the interstate simulcasting of greyhound racing.

Eleven years ago a similar bill, the Interstate Horseracing Act of 1978, was considered by the U.S. House of Representatives and passed by a voice vote. The U.S. Senate also passed the Interstate Horseracing Act of 1978 by voice vote. The only major difference between my bill and that passed in 1978 is that today we are extending to greyhound owners the same protections given the horsemen in 1978.

Mr. Speaker, my bill does not require any Federal money. It does not create any new agency of government and it does not legalize off-track betting. The States legalize off-track betting.

My bill does provide that an interstate wager on a greyhound race taking place in one Statse may not be placed with an off-track betting office in another State without the consent of the following: the racetrack where the race is to be run, the racing commission of the State where the race is to be run, and the racing commission of the State where the off-track betting office is located.

Consent cannot be given by the racetrack where the race is run in disregard of the interests of the greyhound owners. My bill requires the racetrack where the race is to be run to have a written agreement with the greyhound owners' group, setting forth the terms and conditions allowing the track to give its consent to an interstate wager with an off-track betting system in another State.

This issue was succinctly covered during Senate floor consideration of the Interstate Horseracing Act of 1978 by the then senior Senator from Kentucky, the Honorable Walter D. Huddleston, wherein he stated:

In essence, this bill regulates the acceptance of an interstate off-track wager that is placed or accepted in one State on the outcome of a horserace taking place in another State.

The bill prohibits such wagering unless all the parties involved in racing—the track, the horsemen, the off-track betting interests, and the racing commissions of the States involved—agree, either directly or indirectly, regarding the terms and conditions of such wagering. This bill will prevent an off-track betting system in one State from using a race in another State without the permission of the parties that have a "proprietary" interest in that race.

Mr. Speaker, I am concerned about reports that greyhound races have been simulcast to interstate off-track betting locations without the consent or agreement of the greyhound owners. These owners have the same proprietary interest as the horsemen, and my bill seeks to protect those interests to the same extent that horsemen are now protected.

I urge my colleagues to join me in support of this legislation.

Few of us are aware that over 26 million people visited the 48 greyhound racetracks in the United States in 1988. Even more important to the 14 States involved was the fact that greyhound racing contributed over $225 million to State and county governments. This figure does not include the millions of dollars produced through payroll taxes and sales taxes generated at the track as well as at local motels, restaurants, gasoline stations, and other greyhound-related businesses.

Greyhound racing is the sixth largest spectator sport in America and it is growing every day. My own State of Kansas has been the home of the National Greyhound Association for many years, but it was not until this year that Kansas, along with Texas and Wisconsin, actually began the planning and construction of 10 new greyhound tracks. Interestingly enough, a greyhound racetrack that generates a handle of more than $500,000 will employ a minimum of 600 people. Greyhound racing is a parimutuel spectator sport that creates employment, produces taxes, and provides entertainment.

The sole registry for the racing greyhound on the North American Continent is the National Greyhound Association [NGA]. The NGA s a voluntary, nonprofit association operated in accordance with the laws of Kansas. It was organized in 1906 and its membership today is in excess of 6,000 owners and breeders whose greyhounds compete at tracks throughout the continent. The NGA maintains records of all breedings, litters whelped, individual registrations, transfers, and leases. Their rigid identification system has played an integral role in maintaining the sport's impressive reputation as a creditable, major spectator sport. The NGA is an associate member of the World Greyhound Racing Federation and a charter and founding member of the World Alliance of Greyhound Registries and the American Greyhound Council.

The greyhound has its origins deep rooted in the lands that cradled earliest civilization. Murals and paintings suggest that the greyhound of today was around some 4,000 years ago. He was the subject of art, lore, sport, and entertainment in the ancient civilizations of Egypt, Persia, Greece, Rome, and later in England and Ireland. Cleopatra championed greyhound hunting and coursing—racing, however, it was not until the 1700's that the first formal rules of greyhound coursing were initiated by Queen Elizabeth I. The support of Cleopatra and Elizabeth I has been the basis for referring to greyhound racing as the Sport of Queens.

SENATE—*Saturday, October 7, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10 a.m. on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

On this sabbath day, let us praise the Lord.

Thine, O Lord, is the greatness, and the power, and the glory, and the victory, and the majesty: for all that is in the heaven and in the earth is thine; thine is the kingdom, O Lord, and thou art exalted as head above all. Both riches and honour come of thee, and thou reignest over all; and in thine hand is power and might; and in thine hand it is to make great, and to give strength unto all. Now therefore, our God, we thank thee, and praise thy glorious name.—I Chronicles 29:11-13.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators we will shortly be considering the Interior appropriations conference report. Rollcall votes are expected today on that measure. We hope to complete it under the existing time agreement by some time early this afternoon.

As I indicated to Senators last evening, while that is occurring, Members on both sides of the aisle, along with House leaders, will be meeting to attempt to reach agreement on the best way to proceed with respect to the reconciliation bill.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PENDING AMENDMENTS TO THE CLEAN AIR ACT ACID RAIN PROVISIONS

Mr. DIXON. Mr. President, I am here today to discuss before the full Senate an absolutely vital component for any successful plan to eliminate acid rain—that is, regional equity.

I would like to start by saying that I admire the work of the distinguished chairman of the Environment and Public Works Subcommittee on Environmental Protection, Senator MAX BAUCUS, as well as our esteemed majority leader and the other members of that committee, for their diligent work in grappling with the momentous task of cleaning up our Nation's air. They have done a great deal of work already, and certainly we are closer than we have ever been to making the necessary amendments to the Clean Air Act of 1970. I support them in their efforts to strengthen the Clean Air Act. Balancing the needs of our environment with what is technologically and economically possible is a most difficult task. So it is in the spirit of cooperation that I would like to share my view of what must be included in the acid rain bill the Environment and Public Works Committee will report.

The substantial shift in the administration's views on the environment has put the Congress and the President in agreement for the first time in this decade that we must strengthen our clean air regulations. The real trick now is to do so without unfairly pitting the economic livelihood of one region of the country against another.

The President's acid rain bill is a case in point for an unfair means of seeking a very good end. The good part of the President's plan is that it achieves fairly significant sulfur dioxide reductions—but it does so at the unnecessary expense of tens of thousands of Midwestern and Southeastern jobs, and by raising some midwestern utility rates by up to 20 percent. The Bush bill hands 77 percent of the bill for cleaning up acid rain to nine Midwestern and Southeastern States that are responsible for 51 percent of the problem. Despite the President's stated intentions, there is nothing financially fair about his bill.

There is another bill pending in the Senate that actually concentrates the costs of an acid rain bill even more than the President's bill would because it gets all of the first phase reductions out of 20 utility plants, rather than from the 107 plants that the President proposed. I support seeking reductions in the most economical method possible. If that means targeting the Midwest, then it only makes sense that we utilize our resources there first. But it also only makes sense that if the Midwest is asked to make a disproportionate share of this country's investment in acid rain control, that the other beneficiaries of the investment share in the down payment.

I believe that the most economically efficient means of achieving maximum sulfur dioxide and nitrogen oxide reductions is to provide some incentives for utilities to achieve good up-front reductions in the early years. This could be achieved through the creation of a fund to finance the capital costs of technology that removes pollutants from coal.

Whenever discussion turns to the subject of sharing the costs of solving

our national acid rain problem, inevitably foul cries of "polluter pay" echo from States that would be expected to anteup under any reasonably constructed cost-sharing plan. I accept the premise that the polluter should pay, but I take issue with anyone who would suggest that a State should be expected to pay out of proportion to the pollution it emits. The two acid rain bills pending in the Senate require my State of Illinois to pay far in excess of its contribution to the problem. Annually over 20 million tons of sulfur dioxide is released into the air nationally. My State of Illinois is responsible for about 4.7 percent of that amount, but legislative initiatives in the Senate seek to have Illinois reduce its contribution nearly 9 percent, while other polluters make little or no reductions. Congressman PHIL SHARP's recent Washington Post commentary brought to light that under the President's plan, the State of Texas, which has the largest overall emissions of nitrogen oxides, and greater emissions of sulfur dioxide than my own State, is exempted from any reduction requirements and costs associated with the national effort to eliminate acid rain. It is not fair that certain polluting States should get a free ride on my State's investment to control a national problem.

My State, as well as other Midwestern States, have already paid a dear price for controlling acid precipitation. Just yesterday I received notice from an Illinois coal company announcing that it regrettably is laying off 18 percent of its work force because proposed legislation has reduced its production outlook. This follows on top of a steady decline in market share for the high sulfur high Btu coal my State produces. Just 5 years ago Illinois coal mines directly employed 18,000 people, but today only 13,000 remain. The President's proposed legislation is expected to cut Illinois' coal production in half, resulting in 19,000 to 23,000 direct and indirect job losses. We must not needlessly legislate folks in the Midwest out of a job. If the same bills pending in the Senate were to provide for regional equity, over half of the job loss could be avoided in the Midwest.

In addition to job losses, the ratepayers in Illinois have already paid a price for clean air. It is simply not true that the Midwest has burned cheap high sulfur coal with wanton abandon while enjoying the low rates it affords. The northern part of my State has the highest residential rates in the country. A very costly commitment to nuclear power and low sulfur coal in my State is responsible for these high rates. Furthermore, four Illiniois utilities have made the substantial investment to install scrubbers. The State of Illinois has invested over $100 million to date on clean coal technologies. Since Illinois already has some of the highest utility rates in the country, it can ill afford to shoulder the costs, along with just a few other States, of remedying the Nation's acid rain problem.

Another issue associated with regional equity is the control of nitrogen oxides on cyclone boilers. This type of boiler was designed specifically for the kind of coal mined in my State. Currently there is no economically viable means of controlling NO_x these boilers. The Senate should keep this in mind in crafting its NO_x control provisions. By all means I support NO_x controls on any and all types of boilers if such controls are in the realm of the possible.

Every taxpayer in this country is being asked to pay for the bailout of bankrupt savings and loan institutions. It is recognized that Texas and California require a great deal more assistance than other States. The citizens of my State are not happy about sharing the huge costs of the bailout because they did not do anything to contribute to the delinquencies of banks in the West and Southwest; yet everybody is paying because it is a national problem. Similarly, it was at national expense that the hydro power of the Tennessee Valley Authority and the Pacific Northwest was built. Acid rain is a national problem that requires a national solution.

I can only support legislation that recognizes that it is both possible and necessary to fairly allocate the costs of eliminating acid rain. All polluters must pay their fair share. Those who have already made costly investments in nuclear, low sulfur coal, or scrubbers should have that effort accounted for. I am convinced that in this manner we can have both jobs and a clean environment.

SUPPORT FOR S. 1726, THE CATASTROPHIC HEALTH CARE BILL

Mr. DIXON. Mr. President, yesterday the Senate overwhelmingly approved S. 1726, the McCain catastrophic health care bill. I am proud to be a cosponsor of that measure.

The Senate responded to a major challenge. Before us were two major questions: How do we best address the health care needs of our senior and disabled citizens? And more specifically, how do we provide for those needs when using the limited available resources that are financed by those citizens?

Opposition to the surtax in the Catastrophic Act has been addressed in this body on several occasions. Earlier this year, I voted with the majority for the sense-of-the-Senate amendment which directed the Finance Committee to make some changes in the Medicare Coverage Act, including modification of the surtax provision.

Opposition to the surtax has come up over and over in each of my townhall meetings back in Illinois. I have heard more opposition to the surtax requirement than any other issue during these meetings. Therefore, relieving our senior and disabled citizens from this burden was high on my legislative agenda.

Yesterday, I supported S. 1726. I did so, Mr. President, because it repeals the surtax while it maintains many of the core benefits of the catastrophic program. The bill retains those benefits which I believe our elderly and disabled citizens want as the best benefits for their bucks.

S. 1726 repeals the surtax and retains such benefits as unlimited hospitalization, spousal impoverishment protection, mammography screening, and protection for the poor. I believe, Mr. President, that this legislation is a viable alternative to the existing act.

I want to compliment Senator MCCAIN for his persistence in keeping this issue before the Senate. I believe that together we have reached a compromise which a majority of our senior and disabled Medicare beneficiaries support.

RETIREMENT OF DR. JOE CONNELLY, PROFESSOR OF POLITICAL SCIENCE, EASTERN ILLINOIS UNIVERSITY

Mr. DIXON. Mr. President, I would like to call the Senate's attention to an individual who is retiring from an outstanding and notable teaching career at Eastern Illinois University in Charleston, IL.

I refer, Mr. President, to Dr. Joe Connelly, professor of political science, whose contributions cannot be justly measured in mere words.

For 30 years, he has been training some of the brightest minds in Illinois for an active life in politics and helping cultivate what is now a legacy of Illinois political figures.

Joe Connelly has not only taught with distinction, he has also lived and served with distinction. In the early 1950's, he was elected as a Democrat to the urbana city council in a Republican dominated ward. He then went on to serve as a precinct committeeman and town board member in Charleston. In 1964, he was elected to the Illinois House on the famous "bedsheet ballot," where 236 Democratic and Republican candidates were slated for 177 positions. I would like to add that Joe finished fifth that year—right behind two honorable former Members of the U.S. Congress, Senator Adlai Stevenson and Congressman Abner Mikva.

Joe did not stop with the Illinois State Legislature. He was elected

Democratic chairman of Coles County in 1970 and held the seat until 1984, while chairing the political science department at Eastern. In 1982, he also won a seat to the Illinois State Central Committee.

Unlike some academicians, Joe gave his students a real-world political savvy, which is both true-to-life and true-to-his-vision. Helping others and dealing directly with people has always been his game. As he says, "There's nothing mysterious about it. It's door-to-door. Face-to-face. To me with politics, the secret is always face-to-face contact."

Mr. President, Eastern Illinois University is, indeed, losing a tremendous teacher and political master.

On a personal level, let me mention that Joe Connelly has served as my statewide campaign committee director since 1981. I could not ask for a more dedicated and loyal friend.

Joe once said, "Politics is worthwhile, is fascinating and wherever I could provide access for my students, I did, for Democrats and Republicans." His faith in our political system is refreshing and encouraging, Mr. President, and I am grateful for the opportunity to honor this man, whom Illinois values so much. I wish him the very best in all he pursues.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1990—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate the conference report on H.R. 2788, making appropriations for the Department of the Interior and related agencies for the fiscal year 1990, and for other purposes.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the Department of the Interior and related agencies for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 2, 1989, see page 22674.)

The ACTING PRESIDENT pro tempore. Under the previous ordered, as we proceed to H.R. 2788, all time is controlled on the conference report. Mr. BYRD has control of 30 minutes and Mr. MCCLURE, 30 minutes; it is further agreed by unanimous consent that the vote on the conference report will be delayed until after discussion of the Helms amendment. Mr. HELMS will have 45 minutes and Mr. BYRD 45 minutes.

On the Gorton amendment which will follow, Mr. GORTON has 30 minutes; Mr. ADAMS 15 minutes; and Mr. FOWLER 15 minutes.

The Senator from West Virginia is recognized

Mr. BYRD. Mr. President, does Mr. GORTON have an amendment. It is is my understanding he just wanted to speak.

The ACTING PRESIDENT pro tempore. It is on amendment No. 167.

Mr. BYRD. So he does not have an amendment. He wants to speak on amendment No. 167.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BYRD. Mr. President, I bring before the Senate the conference report on H.R. 2788, the Department of the Interior and related agencies appropriation bill for fiscal year 1990.

This conference report is only the second of 13 regular appropriation bills that the committee must bring to the Senate. Eleven others remain to be completed within the next few weeks. The task to complete these conference reports before the continuing resolution expires on October 25, 1989, will be difficult. We will need the cooperation of every Senator if the Congress is to fulfill its responsibilities under article I of the Constitution before that date.

Turning to the measures before us today, the conference report totals $10,889,955,000 in domestic discretionary budgetary authority and $10,347,632,000 in associated outlays. These figures are slightly under the Interior Subcommittee's revised allocations under section 302(b) of the Budget Impoundment and Control Act of 1974.

The Interior conference report is the resolution of the President's budget request, approximately 2,200 amendment requests in the House of Representatives and more than 2,000 requests submitted to the Senate Committee on Appropriations. Obviously the committees, and subsequently the appropriations conferees, were not able to accommodate all of these requests. Nonetheless, I believe that the conference report on H.R. 2788 represents a fair and balanced compromise of the interests of the two bodies.

Mr. President, in resolving these difference, it has been a pleasure to work with Senator JIM MCCLURE, the ranking Republican on the Senate Interior Subcommittee. His thorough knowledge of the bill would be an asset to any chairman. I am the fortunate beneficiary. Senator MCCLURE was confronted with many difficult personal choices during the conference proceedings. Throughout, he conducted himself with diplomacy, fairness, and bipartisanship which reflect credit on the Senate.

Throughout the 3-day conference, we considered and resolved many issues which were contentious. Some disputes involved different regions of the country; some disputes, such as the spotted owl and Outer Continental Shelf oil and gas leasing, involved conflicts between development and environmental interests; some dealt with matters of obscenity and religion; and some dealt with matters upon which the House and Senate hold fundamentally different views. Throughout the conference, the House subcommittee chairman, SIDNEY YATES, and the ranking Republican member, RALPH REGULA, were fair, courteous, and cooperative.

Mr. President, I would like to highlight, for the attention of the Senate, a few items in the conference agreement.

First, Mr. President, I am happy to advise the Senate that the conference agreement includes the truth in lobbying amendment which I offered in the subcommittee markup of this measure earlier this year.

This amendment, which will now become permanent law upon enactment of this appropriation measure, will prohibit recipients of Federal grants, contracts, and so forth, from using Federal funds to pay persons to influence, or attempt to influence, executive or legislative decisionmaking in connection with the awarding of any contract, grant, and so forth.

The provision will also require that any person requesting or receiving a Federal grant or contract, and so forth, must report with the relevant agency the name and address of any such lobbyist paid with non-Federal funds, the amount of such payment, the source of funds from which such payment was made, and the purpose for which the lobbyist was paid.

All Federal agencies will report this information semiannually beginning May 31, 1990, to the Secretary of the Senate and the Clerk of the House. It will then be made available to the public within 30 days.

A civil penalty of up to $100,000 will apply to each violation of the prohibition on the use of Federal funds to

pay lobbyists and for each failure to report the information required when lobbyists are paid with non-Federal funds.

Mr. President, I believe that this is a critical step in bringing executive branch lobbying out into the open. It will, for the first time, provide the agencies themselves, the Congress, and the American people, with the names, addresses, amounts paid, and the purposes for which lobbyists were paid in connection with applicants for Federal grants.

The HUD scandals, as well as other revelations in recent months, make it abundantly clear that back channels have been used by lobbyists to funnel millions of dollars toward their clients, regardless of merit. The inspector general at HUD advised me that had this amendment been in place during the HUD scandals, it would have been a substantial deterrent.

Mr. President, I recently received a report entitled "Executive Branch Lobbying" from the independent counsel in the Michael Deaver case. This report was submitted to Congress on September 6 by Mr. Whitney North Seymour, Jr., the independent counsel in the Deaver case. Mr. Seymour submitted the report pursuant to the statute which created the Office of the Independent Counsel. I recommend it highly to all Senators.

In a cover letter accompanying the report, the following statements are made:

First, the most serious need is to do something about the lobbying itself. Federal agencies are gold mines for highly placed political operators who sell private access to Government decisionmakers. Defense contractors, real estate developers, large corporations, and other well-heeled special interests pay huge fees for such access, with no one being the wiser.

Second, our report to Congress contains one key recommendation: bring lobbying of the executive branch out into the open where it can be watched and monitored by the public, the press, and the Congress. Stop influence peddlers from operating in secret behind closed doors where nobody is looking.

Third, we urge Congress to bring executive branch lobbying out into the open where it will be subject to public scrutiny. Eliminate secret, back channel government where rich and powerful interests can get the private ears of Government officials with nobody else listening.

Fourth, if that one change can be accomplished, our entire effort in the Deaver case will have been worthwhile. If that one change can be accomplished, much of the need for independent counsel in the future may perhaps be eliminated. The key is to deter misconduct by the public disclosure of lobbying activities.

Mr. President, the provisions in this conference agreement will bring executive branch lobbying out in the open as it relates to appropriated funds.

More needs to be done, however. This provision does not address lobbying as it relates to authorizing issues or to Federal rulemaking, regulations, and so forth, that flow from authorization bills.

If we are to close the loop and have comprehensive coverage of all lobbying, we need to enact legislation that covers these other areas. I am confident that the Governmental Affairs Committee, under the able leadership of Senator GLENN, will take up this matter in the near future.

Second, Mr. President, the conferees dealt with the very difficult issue of obscenity standards related to federally supported works of art. After long discussions in the conference, and after further discussion here on the Senate floor last week, the conferees have recommended compromise language which modifies the original Helms amendment to the Senate bill, and which establishes a commission to review the appropriate standards and grant-making procedures of both the National Endowment for the Arts and the National Endowment for the Humanities. I want to emphasize that, while it may not be clear in the statement of the managers, the conferees expect this Commission to review the procedures of both agencies.

The Commission is to be composed of four members recommended by the President pro tempore of the Senate, four members recommended by the Speaker of the House of Representatives, and four members recommended by the President. Before making my recommendations as the President pro tempore, I will, of course, consult with both the majority and minority leaders. In this way the Commission should have a balanced bipartisan character.

The language does ban the expenditure of funds by the endowments for art and literature which is considered to be obscene, including, but not limited to images or verse that depict "sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political, or scientific value."

The language adopted by the managers is less inclusive and less strongly worded than that in the original Helms amendment. The language in the conference report is the product of compromise. It represents a very difficult task to bring differing views together in support of one legislative position. On that basis, I support the compromise as the strongest language which the conferees would accept.

Third, Mr President, the conferees have proposed compromise language which modifies the original spotted owl proposal in the Senate bill by Senators HATFIELD and ADAMS. The new language reduces the timber sale offer volume by 300 million board feet, expands the size of habitat protection areas for the spotted owl, and directs expedited judicial proceedings for timber sales challenged on the merits during 1990. Further details are explained in the statement of the managers.

Fourth, Mr. President, the conference agreement contains the full $1,775,000,000 necessary for the conduct of the third, fourth, and fifth clean coal technology soliciations by the Department of Energy. This funding, together with prior appropriations for the first and second solicitations, makes an aggregate funding level of $2,747,600,000 for the 5-year Clean Coal Technology Program. Approval of these funds is consistent with the President's budget request and is a very appropriate investment in America's energy future as well as a cleaner environment.

Fifth, the conferees have included, as proposed by both the House and Senate, funding for Indian settlements enacted during the 100th Congress. These total $191.9 million, and are detailed in a table which I ask unanimous consent be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

White Earth land settlement	$513,000
Old age assistance	742,000
Payment to Tohono O'odham	12,700,000
Colorado Ute	19,500,000
San Luis Rey	32,124,000
Salt River Pima-Maricopa.	23,735,000
Hoopa-Yurok	10,000,000
Aleutian-Pribilof	15,300,000
Puyallup	77,250,000
Total	191,864,000

Mr. BYRD. Mr. President, in addition, by way of further clarification, the conferees on the fiscal year 1990 Interior and related agencies appropriations bill included $6 million to initiate a stewardship project in the State and Private Forestry Program of the Forest Service. The objective of this effort is to increase productivity on the Nation's private nonindustrial forestlands while encouraging sound environmental management practices. Only 1 out of 4 acres on such lands is reforested following harvest.

In recommending its level of funding for this program, the House had earmarked $750,000 to be divided equally between Washington and Oregon. During conference consideration of this program, the managers discussed not providing specific earmarks for any State. The managers intended that the Forest Service allocate the

funds provided in such a manner as to not rely solely on a distribution formula that uses current acreages. In addition, the Forest Service should also consider as a distribution factor the increasing demands that will be placed on private, nonindustrial forest lands, particularly in the Pacific Northwest. As traditional sources of public timber become less available, these lands will be looked to as a further source of timber supply in the years to come.

In closing, Mr. President, I ask unanimous consent to print in the RECORD a table summarizing comparisons of budget authority by agency in the final conference agreement and recommend that Members refer to House Report 101-264, the conference report and accompanying statement of the managers for H.R. 2788, which was printed in the House RECORD of October 2, 1989.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Management of lands and resources	435,586,000	431,632,000	446,296,000	441,738,000	442,084,000	+6,498,000
Firefighting	739,664,000	363,142,000	740,393,000	311,500,000	311,500,000	-428,164,000
Construction and access	5,431,000	2,300,000	2,400,000	6,865,000	5,961,000	+530,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000	105,000,000	105,000,000	---
Land acquisition	12,290,000	20,885,000	13,490,000	11,340,000	12,610,000	+320,000
Oregon and California grant lands	57,707,000	62,702,000	64,787,000	64,787,000	64,787,000	+7,080,000
Range improvements (indefinite)	8,506,000	8,406,000	8,406,000	8,406,000	8,406,000	-100,000
Service charges, deposits, & forfeitures (indefinite)	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	---
Miscellaneous trust funds (indefinite)	100,000	100,000	100,000	100,000	100,000	---
Total, Bureau of Land Management	1,370,284,000	1,000,167,000	1,386,872,000	955,736,000	956,448,000	-413,836,000
United States Fish and Wildlife Service						
Resource management	357,888,000	339,754,000	375,370,000	399,225,000	397,956,000	+40,068,000
Construction and anadromous fish	31,834,000	10,105,000	30,457,000	53,579,000	58,560,000	+26,726,000
Land acquisition	57,529,000	51,415,000	65,790,000	52,810,000	67,990,000	+10,461,000
National Wildlife Refuge Fund	6,645,000	6,645,000	7,645,000	10,500,000	9,000,000	+2,355,000
Total, United States Fish and Wildlife Service	453,896,000	407,919,000	479,262,000	516,114,000	533,506,000	+79,610,000
National Park Service						
Operation of the national park system	733,516,000	754,614,000	774,179,000	771,617,000	778,419,000	+44,903,000
National recreation and preservation	14,608,000	10,204,000	16,029,000	15,735,000	16,136,000	+1,528,000
Historic preservation fund	30,500,000	---	30,500,000	38,000,000	32,750,000	+2,250,000
Construction	159,108,000	44,112,000	174,210,000	140,851,000	199,716,000	+40,608,000
(Liquidation of contract authority)	(47,000,000)	---	(12,000,000)	(12,000,000)	(12,000,000)	(-35,000,000)
Land and water conservation fund (rescission of contract authority)	-30,000,000	---	-30,000,000	-30,000,000	-30,000,000	---
Land acquisition and state assistance	72,609,000	69,459,000	81,016,000	89,018,000	88,556,000	+15,947,000
John F. Kennedy Center for the Performing Arts	5,181,000	15,193,000	15,193,000	9,193,000	9,193,000	+4,012,000
Illinois and Michigan Canal National Heritage Corridor Commission	250,000	---	250,000	250,000	250,000	---
American Revolution Bicentennial Administration	4,765,000	---	---	---	---	-4,765,000
National Film Preservation Board	(250,000)	---	---	---	---	(-250,000)
Total, National Park Service	990,537,000	893,582,000	1,061,377,000	1,034,664,000	1,095,020,000	+104,483,000
Geological Survey						
Surveys, investigations, and research	451,506,000	452,465,000	486,931,000	476,909,000	484,709,000	+33,203,000
Minerals Management Service						
Leasing and royalty management	170,744,000	180,461,000	175,066,000	179,761,000	178,525,000	+7,781,000
Payments to States from receipts under Mineral Leasing	---	655,000	---	---	---	---
Total, Minerals Management Service	170,744,000	181,116,000	175,066,000	179,761,000	178,525,000	+7,781,000
Bureau of Mines						
Mines and minerals	159,292,000	141,197,000	161,876,000	175,000,000	174,759,000	+15,467,000
Office of Surface Mining Reclamation and Enforcement						
Regulation and technology	101,095,000	103,738,000	102,728,000	102,728,000	102,728,000	+1,633,000
Abandoned mine reclamation fund (definite, trust fund)	193,160,000	150,387,000	192,772,000	192,112,000	192,772,000	-388,000
Total, Office of Surface Mining Reclamation and Enforcement	294,255,000	254,125,000	295,500,000	294,840,000	295,500,000	+1,245,000
Bureau of Indian Affairs						
Operation of Indian Programs	967,767,000	917,491,000	1,065,574,000	965,126,000	1,035,534,000	+67,767,000
Construction	79,283,000	100,975,000	134,379,000	119,671,000	134,226,000	+54,943,000
Miscellaneous payments to Indians	13,952,000	29,255,000	191,864,000	191,864,000	191,864,000	+177,912,000
Navajo Rehabilitation Trust Fund	---	---	---	800,000	800,000	+800,000
Revolving fund for loans (limitation on direct loans)	---	(13,000,000)	---	---	---	---
Indian loan guaranty and insurance fund	3,370,000	3,265,000	4,767,000	4,767,000	4,767,000	+1,397,000
Indian loan guaranty and insurance fund (limitation on guaranteed loans)	---	(45,000,000)	---	---	---	---
Total, Bureau of Indian Affairs	1,064,372,000	1,050,986,000	1,396,584,000	1,282,228,000	1,367,191,000	+302,819,000
Territorial and International Affairs						
Administration of territories	51,112,000	35,396,000	41,481,000	40,896,000	41,181,000	-9,931,000
Interest rate differential	41,655,000	35,308,000	35,308,000	35,308,000	35,308,000	-6,347,000
Subtotal	92,767,000	70,704,000	76,789,000	76,204,000	76,489,000	-16,278,000
Trust Territory of the Pacific Islands	28,434,000	3,300,000	34,102,000	32,164,000	33,339,000	+4,905,000
Compact of Free Association	12,480,000	14,580,000	11,760,000	9,260,000	10,260,000	-2,220,000
Mandatory payments	19,880,000	13,000,000	13,000,000	13,000,000	13,000,000	-6,880,000
Advance appropriations, FY 1990	(22,000,000)	---	---	---	---	(-22,000,000)
Subtotal	32,360,000	27,580,000	24,760,000	22,260,000	23,260,000	-9,100,000
Total, Territorial Affairs	153,561,000	101,584,000	135,651,000	130,628,000	133,088,000	-20,473,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
Departmental Offices						
Office of the Secretary	49,067,000	52,741,000	51,295,000	51,716,000	51,045,000	+1,978,000
Oil spill emergency fund	7,300,000	---	---	---	---	-7,300,000
Office of the Solicitor	24,686,000	25,325,000	25,325,000	25,325,000	25,325,000	+639,000
Office of Inspector General	18,749,000	20,595,000	20,737,000	20,737,000	20,737,000	+1,988,000
Construction Management	1,800,000	2,300,000	1,800,000	1,800,000	1,800,000	---
National Indian Gaming Commission	---	2,000,000	---	1,000,000	750,000	+750,000
Total, Departmental Offices	101,602,000	102,961,000	99,157,000	100,578,000	99,657,000	-1,945,000
Total, title I, Department of the Interior:						
New budget (obligational) authority (net)	5,210,049,000	4,586,102,000	5,678,276,000	5,146,458,000	5,318,403,000	+108,354,000
Appropriations	(5,240,049,000)	(4,586,102,000)	(5,708,276,000)	(5,176,458,000)	(5,348,403,000)	(+108,354,000)
Definite	(5,225,443,000)	(4,571,596,000)	(5,693,770,000)	(5,161,952,000)	(5,333,897,000)	(+108,454,000)
Indefinite	(14,606,000)	(14,506,000)	(14,506,000)	(14,506,000)	(14,506,000)	(-100,000)
Rescission	(-30,000,000)	---	(-30,000,000)	(-30,000,000)	(-30,000,000)	---
(Liquidation of contract authority)	(47,000,000)	---	(12,000,000)	(12,000,000)	(12,000,000)	(-35,000,000)
(Limitation on direct loans)	---	(13,000,000)	---	---	---	---
(Limitation on guaranteed loans)	---	(45,000,000)	---	---	---	---
TITLE II - RELATED AGENCIES						
DEPARTMENT OF AGRICULTURE						
Forest Service						
Forest research	137,867,000	133,799,000	149,435,000	142,392,000	147,182,000	+9,315,000
State and private forestry	86,668,000	48,606,000	89,906,000	111,356,000	105,506,000	+18,838,000
National forest system	1,045,781,000	1,016,410,000	1,132,426,000	1,141,013,000	1,149,232,000	+103,451,000
Forest Service Firefighting	---	---	---	556,139,000	561,139,000	+561,139,000
Construction	225,518,000	221,000,000	222,199,000	180,094,000	221,960,000	-3,558,000
Timber receipts transfer to general fund (indefinite)	(-79,100,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-12,900,000)
Timber purchaser credits	(75,000,000)	(139,579,000)	(112,000,000)	(139,579,000)	(112,000,000)	(+37,000,000)
Mount St. Helens (liquidation of contract authority)	(5,333,000)	---	---	---	---	(-5,333,000)
Land acquisition	64,205,000	64,831,000	61,988,000	45,013,000	63,433,000	-772,000
Timber Roads, Purchaser Election, Forest Service (rescission)	-40,000,000	---	---	---	---	+40,000,000
Tongass Timber Supply Fund	35,999,000	---	---	---	---	-35,999,000
Permanent, definite	---	(40,985,000)	(48,535,000)	(40,985,000)	(52,441,000)	(+52,441,000)
Operation and maintenance of recreation facilities	---	9,000,000	---	---	---	---
Acquisition of lands for national forests, special acts	966,000	1,068,000	1,068,000	1,068,000	1,068,000	+102,000
Acquisition of lands to complete land exchanges (indefinite)	335,000	1,070,000	1,070,000	1,070,000	1,070,000	+735,000
Range betterment fund (indefinite)	3,946,000	4,700,000	4,700,000	4,700,000	4,700,000	+754,000
Gifts, donations and bequests for forest and rangeland research	90,000	30,000	30,000	30,000	30,000	-60,000
Catastrophic Fire Compensation Fund	---	---	---	3,000,000	---	---
Total, Department of Agriculture	1,561,375,000	1,500,514,000	1,662,822,000	2,185,875,000	2,255,320,000	+693,945,000
DEPARTMENT OF ENERGY						
Clean coal technology:						
Advance appropriations, FY 1989	190,000,000	---	---	---	---	-190,000,000
Advance appropriations, FY 1990	(710,000,000)	---	---	(-250,000,000)	---	(-710,000,000)
Advance appropriations, FY 1991	(200,000,000)	(600,000,000)	(600,000,000)	(700,000,000)	(600,000,000)	(+400,000,000)
Advance appropriations, FY 1992	---	(600,000,000)	(600,000,000)	(750,000,000)	(600,000,000)	(+600,000,000)
Subtotal, clean coal technology	190,000,000	---	---	---	---	-190,000,000
Fossil energy research and development	380,595,000	163,574,000	422,660,000	407,090,000	422,062,000	+41,467,000
Alternative fuels production	-12,000,000	---	---	---	---	+12,000,000
Naval petroleum and oil shale reserves	185,071,000	192,124,000	192,124,000	192,124,000	192,124,000	+7,053,000
Energy conservation	372,502,000	95,528,000	411,367,000	413,441,000	413,262,000	+40,760,000
Economic regulation	21,372,000	20,346,000	18,300,000	18,300,000	18,300,000	-3,072,000
Emergency preparedness	6,154,000	6,641,000	6,641,000	6,641,000	6,641,000	+487,000
Strategic Petroleum Reserve	173,421,000	194,999,000	194,999,000	194,999,000	194,999,000	+21,578,000
SPR petroleum account	242,000,000	422,548,000	319,407,000	227,820,000	227,820,000	-14,180,000
Advance appropriations, FY 1990	(91,555,000)	---	---	---	---	(-91,555,000)
Advance appropriations, FY 1991	---	(37,458,000)	(108,458,000)	(79,625,000)	(108,458,000)	(+108,458,000)
Energy Information Administration	62,856,000	65,232,000	65,232,000	65,232,000	65,232,000	+2,376,000
Total, Department of Energy	1,621,971,000	1,160,992,000	1,630,730,000	1,525,647,000	1,540,440,000	-81,531,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Indian Health Service						
Indian health services	1,020,106,000	---	1,189,330,000	1,160,093,000	1,185,910,000	+165,804,000
Tribal health administration	---	266,085,000	---	---	---	---
Federal Indian health administration	---	817,314,000	---	---	---	---
Indian health facilities	61,668,000	---	75,420,000	65,535,000	70,996,000	+9,328,000
Total, Department of Health and Human Services	1,081,774,000	1,083,399,000	1,264,750,000	1,225,628,000	1,256,906,000	+175,132,000
DEPARTMENT OF EDUCATION						
Office of Elementary and Secondary Education						
Indian education	71,553,000	74,168,000	74,149,000	74,149,000	74,149,000	+2,596,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
OTHER RELATED AGENCIES						
Office of Navajo and Hopi Indian Relocation						
Salaries and expenses	27,373,000	31,218,000	36,818,000	36,818,000	36,818,000	+9,445,000
Institute of American Indian and Alaska Native Culture and Arts Development						
Payment to the Institute	3,094,000	3,000,000	4,650,000	3,500,000	4,350,000	+1,256,000
Smithsonian Institution						
Salaries and expenses	211,240,000	227,737,000	231,981,000	223,029,000	228,553,000	+17,313,000
Construction and improvements, National Zoological Park	5,305,000	6,500,000	6,500,000	6,500,000	6,500,000	+1,195,000
Repair and restoration of buildings	20,735,000	26,653,000	26,869,000	26,653,000	26,769,000	+6,034,000
Construction	8,655,000	10,000,000	12,900,000	7,550,000	8,320,000	-335,000
Total, Smithsonian Institution	245,935,000	270,890,000	278,250,000	263,732,000	270,142,000	+24,207,000
National Gallery of Art						
Salaries and expenses	37,981,000	40,376,000	40,789,000	40,744,000	40,712,000	+2,731,000
Repair, restoration and renovation of buildings	750,000	2,305,000	1,905,000	2,305,000	1,805,000	+1,055,000
Total, National Gallery of Art	38,731,000	42,681,000	42,694,000	43,049,000	42,517,000	+3,786,000
Woodrow Wilson International Center for Scholars						
Salaries and expenses	4,240,000	4,700,000	4,611,000	4,700,000	4,700,000	+460,000
Endowment Challenge Fund	300,000	---	---	---	---	-300,000
Total, Woodrow Wilson International Center for Scholars	4,540,000	4,700,000	4,611,000	4,700,000	4,700,000	+160,000
National Foundation on the Arts and the Humanities						
National Endowment for the Arts						
Grants and administration	141,890,000	142,950,000	144,205,000	143,005,000	144,105,000	+2,215,000
Matching grants	27,200,000	27,150,000	27,150,000	27,150,000	27,150,000	-50,000
Total, National Endowment for the Arts	169,090,000	170,100,000	171,355,000	170,155,000	171,255,000	+2,165,000
National Endowment for the Humanities						
Grants and administration	124,300,000	126,550,000	134,630,000	126,550,000	132,430,000	+8,130,000
Matching grants	28,700,000	26,700,000	26,700,000	26,700,000	26,700,000	-2,000,000
Total, National Endowment for the Humanities	153,000,000	153,250,000	161,330,000	153,250,000	159,130,000	+6,130,000
Institute of Museum Services						
Grants and administration	22,270,000	22,350,000	23,000,000	22,350,000	22,675,000	+405,000
Total, National Foundation of the Arts and the Humanities	344,360,000	345,700,000	355,685,000	345,755,000	353,060,000	+8,700,000
Commission of Fine Arts						
Salaries and expenses	475,000	494,000	516,000	494,000	516,000	+41,000
National Capital Arts and Cultural Affairs						
Grants	5,000,000	---	5,000,000	5,500,000	5,500,000	+500,000
Advisory Council on Historic Preservation						
Salaries and expenses	1,778,000	1,795,000	1,945,000	1,795,000	1,920,000	+142,000
National Capital Planning Commission						
Salaries and expenses	2,962,000	3,133,000	3,123,000	3,133,000	3,133,000	+171,000
Franklin Delano Roosevelt Memorial Commission						
Salaries and expenses	28,000	28,000	28,000	28,000	28,000	---
Pennsylvania Avenue Development Corporation						
Salaries and expenses	2,334,000	2,425,000	2,375,000	2,375,000	2,375,000	+41,000
Public development	3,175,000	3,150,000	3,150,000	3,150,000	3,150,000	-25,000
Land acquisition and development fund	---	12,000,000	12,000,000	10,000,000	5,000,000	+5,000,000
Total, Pennsylvania Avenue Development Corporation	5,509,000	17,575,000	17,525,000	15,525,000	10,525,000	+5,016,000
United States Holocaust Memorial Council						
Holocaust Memorial Council	2,244,000	2,315,000	2,315,000	2,315,000	2,315,000	+71,000

	FY 1989 Enacted	FY 1990 Estimates	House	Senate	Conference	Conference compared with Enacted
Total, title II, Related Agencies:						
New budget (obligational) authority (net)...	5,018,702,000	4,542,602,000	5,385,611,000	5,737,643,000	5,862,339,000	+843,637,000
Appropriations, fiscal year 1989 (net)..	(5,018,702,000)	(4,542,602,000)	(5,385,611,000)	(5,737,643,000)	(5,862,339,000)	(+843,637,000)
Appropriations.....	(5,058,702,000)	(4,542,602,000)	(5,385,611,000)	(5,737,643,000)	(5,862,339,000)	(+803,637,000)
Definite.....	(5,054,421,000)	(4,536,832,000)	(5,379,841,000)	(5,731,873,000)	(5,856,569,000)	(+802,148,000)
Indefinite.....	(4,281,000)	(5,770,000)	(5,770,000)	(5,770,000)	(5,770,000)	(+1,489,000)
Rescission.....	(-40,000,000)	---	---	---	---	(+40,000,000)
(Liquidation of contract authority).....	(5,333,000)	---	---	---	---	(-5,333,000)
(Timber receipt transfer to general fund, indefinite).....	(-79,100,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-12,900,000)
(Timber purchaser credits).....	(75,000,000)	(139,579,000)	(112,000,000)	(139,579,000)	(112,000,000)	(+37,000,000)
Grand total:						
New budget (obligational) authority (net)...	10,228,751,000	9,128,704,000	11,063,887,000	10,884,101,000	11,180,742,000	+951,991,000
Appropriations, fiscal year 1989 (net)..	(10,228,751,000)	(9,128,704,000)	(11,063,887,000)	(10,884,101,000)	(11,180,742,000)	(+951,991,000)
Appropriations.....	(10,298,751,000)	(9,128,704,000)	(11,093,887,000)	(10,914,101,000)	(11,210,742,000)	(+911,991,000)
Definite.....	(10,279,864,000)	(9,108,428,000)	(11,073,611,000)	(10,893,825,000)	(11,190,466,000)	(+910,602,000)
Indefinite.....	(18,887,000)	(20,276,000)	(20,276,000)	(20,276,000)	(20,276,000)	(+1,389,000)
Rescissions.....	(-70,000,000)	---	(-30,000,000)	(-30,000,000)	(-30,000,000)	(+40,000,000)
(Liquidation of contract authority).....	(52,333,000)	---	(12,000,000)	(12,000,000)	(12,000,000)	(-40,333,000)
(Timber receipt transfer to general fund, indefinite).....	(-79,100,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-92,000,000)	(-12,900,000)
(Timber purchaser credits).....	(75,000,000)	(139,579,000)	(112,000,000)	(139,579,000)	(112,000,000)	(+37,000,000)
TITLE I -DEPARTMENT OF THE INTERIOR						
Bureau of Land Management.....	1,370,284,000	1,000,167,000	1,386,872,000	955,736,000	956,448,000	-413,836,000
United States Fish and Wildlife Service.....	453,896,000	407,919,000	479,262,000	516,114,000	533,506,000	+79,610,000
National Park Service.....	990,537,000	893,582,000	1,061,377,000	1,034,664,000	1,095,020,000	+104,483,000
Geological Survey.....	451,506,000	452,465,000	486,931,000	476,909,000	484,709,000	+33,203,000
Minerals Management Service.....	170,744,000	181,116,000	175,066,000	179,761,000	178,525,000	+7,781,000
Bureau of Mines.....	159,292,000	141,197,000	161,876,000	175,000,000	174,759,000	+15,467,000
Office of Surface Mining Reclamation and Enforcement..	294,255,000	254,125,000	295,500,000	294,840,000	295,500,000	+1,245,000
Bureau of Indian Affairs.....	1,064,372,000	1,050,986,000	1,396,584,000	1,282,228,000	1,367,191,000	+302,819,000
Territorial and International Affairs.....	153,561,000	101,584,000	135,651,000	130,628,000	133,088,000	-20,473,000
Secretarial Offices.....	101,602,000	102,961,000	99,157,000	100,578,000	99,657,000	-1,945,000
Total, Title I - Department of the Interior.....	5,210,049,000	4,586,102,000	5,678,276,000	5,146,458,000	5,318,403,000	+108,354,000
TITLE II - RELATED AGENCIES						
Forest Service.....	1,561,375,000	1,500,514,000	1,662,822,000	2,185,875,000	2,255,320,000	+693,945,000
Department of Energy.....	1,621,971,000	1,160,992,000	1,630,730,000	1,525,647,000	1,540,440,000	-81,531,000
Indian Health.....	1,081,774,000	1,083,399,000	1,264,750,000	1,225,628,000	1,256,906,000	+175,132,000
Indian Education.....	71,553,000	74,168,000	74,149,000	74,149,000	74,149,000	+2,596,000
Office of Navajo and Hopi Indian Relocation.....	27,373,000	31,218,000	36,818,000	36,818,000	36,818,000	+9,445,000
Institute of American Indian and Alaska Native Culture and Arts Development.....	3,094,000	3,000,000	4,650,000	3,500,000	4,350,000	+1,256,000
Smithsonian.....	245,935,000	270,890,000	278,250,000	263,732,000	270,142,000	+24,207,000
National Gallery of Art.....	38,731,000	42,681,000	42,694,000	43,049,000	42,517,000	+3,786,000
Woodrow Wilson International Center for Scholars.....	4,540,000	4,700,000	4,611,000	4,700,000	4,700,000	+160,000
National Endowment for the Arts.....	169,090,000	170,100,000	171,355,000	170,155,000	171,255,000	+2,165,000
National Endowment for the Humanities.....	153,000,000	153,250,000	161,330,000	153,250,000	159,130,000	+6,130,000
Institute of Museum Services.....	22,270,000	22,350,000	23,000,000	22,350,000	22,675,000	+405,000
Commission of Fine Arts.....	475,000	494,000	516,000	494,000	516,000	+41,000
National Capital Arts and Cultural Affairs.....	5,000,000	---	5,000,000	5,500,000	5,500,000	+500,000
Advisory Council on Historic Preservation.....	1,778,000	1,795,000	1,945,000	1,795,000	1,920,000	+142,000
National Capital Planning Commission.....	2,962,000	3,133,000	3,123,000	3,133,000	3,133,000	+171,000
Franklin Delano Roosevelt Memorial Commission.....	28,000	28,000	28,000	28,000	28,000	---
Pennsylvania Avenue Development Corporation.....	5,509,000	17,575,000	17,525,000	15,525,000	10,525,000	+5,016,000
Holocaust Memorial Council.....	2,244,000	2,315,000	2,315,000	2,315,000	2,315,000	+71,000
Total, Title II - Related Agencies.....	5,018,702,000	4,542,602,000	5,385,611,000	5,737,643,000	5,862,339,000	+843,637,000
Grand total.....	10,228,751,000	9,128,704,000	11,063,887,000	10,884,101,000	11,180,742,000	+951,991,000
CONGRESSIONAL BUDGET RECAP						
Scorekeeping adjustments:						
Indefinite appropriations (discretionary).....	-171,000	369,000	369,000	369,000	369,000	+540,000
Indefinite appropriations (mandatory).....	---	7,000	7,000	7,000	7,000	+7,000
Outer Continental Shelf receipts.....	---	---	2,000,000	2,000,000	2,000,000	+2,000,000
Minerals management service.....	---	---	-55,109,000	---	---	---
Forest Service (permanent).....	25,706,000	---	---	---	11,456,000	-14,250,000
Mount St. Helens contract authority.....	5,333,000	---	---	---	---	-5,333,000
Energy Conservation.....	-45,424,000	-42,914,000	-42,914,000	-42,914,000	-42,914,000	+2,510,000
Compact of free association (adv. appropriation)..	---	22,000,000	22,000,000	22,000,000	22,000,000	+22,000,000
Clean coal (advance appropriation).....	---	710,000,000	710,000,000	801,555,000	710,000,000	+710,000,000
Clean coal (spreading advances).....	---	---	-75,000,000	-250,000,000	-125,000,000	-125,000,000
SPR Petroleum (advance appropriation).....	---	91,555,000	91,555,000	---	91,555,000	+91,555,000
Endowment challenge fund (permanent).....	60,000	---	---	---	---	-60,000
Alternative fuels production.....	---	---	---	---	-8,800,000	-8,800,000
Total, adjustments.....	-14,496,000	781,017,000	652,908,000	533,017,000	660,673,000	+675,169,000
Total (including adjustments).....	10,214,255,000	9,909,721,000	11,716,795,000	11,417,118,000	11,841,415,000	+1,627,160,000
Amounts in this bill.....	(10,228,751,000)	(9,128,704,000)	(11,063,887,000)	(10,884,101,000)	(11,180,742,000)	(+951,991,000)
Scorekeeping adjustments.....	(-14,496,000)	(781,017,000)	(652,908,000)	(533,017,000)	(660,673,000)	(+675,169,000)
Total mandatory and discretionary.....	10,214,255,000	9,909,721,000	11,716,795,000	11,417,118,000	11,841,415,000	+1,627,160,000
Mandatory.....	(809,865,000)	(441,963,000)	(819,214,000)	(946,460,000)	(951,460,000)	(+141,595,000)
Discretionary.....	(9,404,390,000)	(9,467,758,000)	(10,897,581,000)	(10,470,658,000)	(10,889,955,000)	(+1,485,565,000)

Mr. BYRD. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself 5 minutes.

Mr. President, I would like to take a moment to thank the chairman for his excellent work on this bill. While he was so busy handing out accolades to others, no one should overlook the fact that the chairman bears a unique and heavy responsibility in the time that he and his staff devote to this work. No one has ever devoted themselves more single-mindedly to that task than has Senator BYRD, the chairman of the subcommittee.

During the past several years, his responsibilities on the floor as majority and minority leader kept him from devoting a great deal of time on this bill, but this time he devoted his full energies to it, and I am extremely pleased that he did. Both the taxpayers and the Senate are better served because of his efforts.

I also would like to take a moment to mention the excellent staff of the chairman. He is well served with the professionalism and loyalty of Jim English, Charlie Estes, Sue Masica, Rusty Mathews, Dan Salisbury, and Shannon Skripka. They are an excellent team. Without their expertise, we would not have completed the work on this bill. I hope they now have some time to enjoy their families and their weekends.

Mr. President, as the Senator from West Virginia indicated, with the reallocation of funds this bill is within $10.5 million of the budget authority ceiling of $10.9 billion and $2.4 million within the outlay ceiling of $10.350 billion.

As I stated when this bill was on the floor in July, since the President's budget was released in January of this year, this subcommittee received over 2,200 requests from Members of the Senate for items which are not in the budget. This is an increase over the fiscal year 1989 number of 1,700 requests and the fiscal year 1986 level of 700. Simply put, Mr. President, our allocation did not allow us to fund all of these requests. We did the very best we could and I hope that Senators would analyze their meritorious projects and propose them in the fiscal year 1991 cycle.

One of the most controversial items that the conferees debated was the question of Federal funding of obscene art. The conferees debated a variety of language proposals on this subject for several days. While I am not completely satisfied with the language included in this conference report, it does set a standard for fiscal year 1990 and it initiates a discussion for a standard in the future.

Mr. President, there is no question that the distinguished Senator from West Virginia is correct. That is the strongest language we could get through the conference. While it is not as strong as that which the Senate had adopted, the other body simply would not accept the position that the Senate had stated.

So while I may be less than completely satisfied with that language, it was the strongest language the conferees could agree upon.

For fiscal year 1990, the conferees agreed on bill language restricting grants to the National Endowment for the Arts and the National Endowment for the Humanities to fund obscenity. The best way to describe this language is to simply read it.

None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Environment for the Arts or the National Endowment for the Humanities may be considered obscene including but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, taken as a whole, do not have serious literary, artistic, political or scientific value.

In addition to this language for fiscal year 1990, the conference report establishes a commission designated to study the grantmaking procedures to determine what standards should become permanent standards. The commission will also consider whether the standard for publicly funded art should be different from the standard for privately funded art.

This bipartisan commission will have four members appointed by the President, four members appointed by the Speaker of the House in consultation with the minority leader of the House and four members appointed by the President pro tempore of the Senate in consultation with the minority leader of the Senate.

Finally, bill language is also included which requires the National Endowment for the Arts to submit and justify to the Committee on Appropriations direct grants to the Southeastern Center for Contemporary Art, [SECCA] in Winston-Salem, NC, and the Institute of Contemporary Art at the University of Pennsylvania. There were the two institutions which funded the Mapplethorpe exhibit and Serrano project. This language was a compromise from language included in the Senate at my request which proposed not to fund grants for those two institutions for 5 years.

I do not consider the language to be a total solution. The several actions that were taken in the aggregate move us in the right direction but they do not, in my judgment, complete the action that we will be asked to take in the Congress over the next year or two.

This issue is not behind us. I do not think it will stay behind us unless there is a change in attitude on the part of some who wish to admit to no limits to their right to use taxpayers' money in the expression no matter how obscene that expression may be, that they choose to use.

Mr. President, in the area of timber management, I thank the chairman for his comments about the role that the Senators from Oregon and the Senators from Washington played in trying to find a solution to the spotted owl and forest management practices issues.

There were two bill language items which were included in the Senate version of the interior bill. One provision directed that timber receipts be used to prepare 125 percent of the allowable sales quantity in each forest's management plan.

This provision was dropped in conference because funding for this pipeline volume was provided through appropriated dollars. The goal of 125 percent of ASQ is still a solid one and should be instituted as a matter of policy by the Forest Service.

A second provision directed that each forest attaining that ASQ level be provided an additional 10 percent increase from timber receipts above appropriated levels for a variety of programs. These programs included trail construction, trail maintenance, wildlife, and fish habitat management, soil, water, and air management, cultural resource management, wilderness management, reforestation and timber stand improvement, timber sales and administration.

For the past few months, I have attempted to find a way to fund the current forest plans without breaking the budget. Many have argued that the appropriated dollars fund a higher percentage of the timber program as it relates to the plans than the noncommodity programs. I do not completely disagree with this analysis, and I have sought to find a creative solution.

Unfortunately, the House conferees objected to the provision because the noncommodity programs could not participate in these receipts unless the timber program met its goal first.

I still have a very difficult time understanding that argument, Mr. President, and I am very disappointed that House conferees argued against the first legitimate proposal to fund these plans.

Finally, bill language is included which modifies House and Senate bill language relating to timber receipts above the President's estimate for fiscal year 1989. To the extent receipts materialize above the President's estimate, $65 million is provided to a variety of noncommodity programs in an effort to recognize the multiple-use nature of National Forest System

lands. The formula provided is the same formula provided in fiscal year 1989.

An additional $32 million is provided for necessary timber sales administration and management, including all timber support costs and design and construction of forest roads.

The Forest Service is to review all funds available on a nationwide basis to determine if it might be possible to reallocate available appropriated and nonappropriated funds among regions.

The $32 million should be the last fund used for the timber program provided in this conference report. Other sources of nonappropriated funds to be used first include the timber salvage fund and and other similar funds.

Mr. President, I urge adoption of the conference report. I reserve the remainder of my time.

Mr. President, I yield 10 minutes to the Senator from Oregon [Mr. HATFIELD].

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wish to express my deep appreciation to the leadership of the Subcommittee on Interior Appropriations for their patience and understanding of the importance of the timber supply/spotted owl amendment that took so much time to resolve. Senator BYRD, as our chairman of the subcommittee, in his very typical fashion, displayed his sensitivity to this regional matter, and, of course, Senator MCCLURE, as part of our region from Idaho, who has not yet found a spotted owl in his State—but nevertheless it is always possible—did as well.

We have also been blessed in finding a temporary solution to this problem by having extraordinary staff input from many sources. I should like to take just a moment to acknowledge the extraordinary work of the staff who over many months have put in countless hours: Anne Badgley from Senator ADAMS' office, Kevin Lynch with Congressman AUCOIN, Nick Ashmore with Speaker FOLEY, Mike Bagley from Congressman DICKS' office, Doug Marker with Congressman DEFAZIO, Nancy Green with Congressman ATKINS, Kathy Johnson from the House Interior Appropriations Subcommittee, Sue Masica and Jeff Cilek from the Senate Interior Appropriations Subcommittee, Mark Walker with the Senate Appropriations Committee, Mike Salsgiver and Pat Reiten from my personal staff, Jeff Handy and Susan Yonts-Shepard from the Department of Agriculture and the Forest Service, and Roger Nesbitt and Chuck Hoyt from the Department of the Interior and the BLM.

I am sure that all who read this RECORD recognize what is a very outstanding and certainly a lengthy staff list, and it is not complete. We had the support and input from staff from all of our colleagues from the Northwest, who reviewed and had input from time to time. These include my colleague Senator PACKWOOD; my good friend from Washington State, Senator GORTON; Senator SYMMS, from Idaho, as well as Senator MCCLURE, and I might say that it was the distillation of views of all of these members of the Washington and Oregon delegations which resulted in the original amendment that was entitled the Hatfield-Adams amendment.

Senator ADAMS, of Washington State, and I met frequently with our individual colleagues, and certainly the total delegations from Washington State and Oregon met on a number of occasions to work out the Senate position. It included the support of Governor Neil Goldschmidt, of Oregon, and Governor Boothe Gardner, Washington State, as well. So when Senator ADAMS and I offered this in Appropriations Committee, it was really representative of a broad range of people, including all eight House Members and both Senators from Washington State, all five House Members and both Senators from the Oregon delegation and that, of course, included the Democrats as well as the Republicans, a bipartisan effort.

We had also input from the environmental community and its experts, who from time to time took the opportunity to testify or to discuss these matters individually with each member. We had representation from the wood products industry, from organized labor, and from the educational community—which understands the direct relationship between preserving 11,000 jobs in the Pacific Northwest and the receipts from those timber sales that go to support the local schools. Unfortunately, in the eyes of some this was a battle between the timber companies on the one hand and the environmentalists on the other hand, and there is nothing that was further from the truth in terms of the impact on the lives of the people in the Pacific Northwest and on the Nation.

We will have a demonstration in Washington today on affordable housing, and I can spend the rest of my allotted time talking about the impact of affordable housing on the poor and on the middle income groups. Do not forget that when the median cost of a house in the Bay area of San Francisco is $190,000, it is obviously a problem reaching far beyond the poor. Ask our sons and daughters and our acquaintances, our friends—and we call ourselves middle income and middle class—how they are trying to establish a home for themselves today. Or how about the professionals—the young doctor, the young lawyer? They will find it is increasingly difficult to achieve that down payment and have that hope for home ownership.

Mr. President, there is no more energy-efficient product to build these needed homes in America than that product which is grown on our national forests by free solar energy and is a renewable resource that we can maintain in perpetuity.

So for those who like to isolate themselves in a little cocoon and talk about theoretical and esoteric subjects, let us not forget we are talking about human problems. That leads back to a common denominator which is the adequacy or inadequacy to house human beings. There may come a time when we will have to opt for a choice between an owl and a human being, but let me tell you in this proposal today we do not have to make that choice. We have opted to continue studying the owl as a threatened species, and there is nothing in this report that in any way impinges upon the Endangered Species Act, but at the same time we are sensitive to human need. In my 30 years as a governor and Senator, I have often found myself in the eye of the storm when I have been accused by some of trying to preserve too much of our natural resources for posterity, including seashores, including the Columbia River Gorge, including wild and scenic rivers and including wilderness. On the other hand, I often find myself in the eye of the storm from those representing the environmental community who think somehow we have sacrificed the spotted owl for timber production.

Mr. President, the facts will not bear that out. I think sometimes that striking the balance is the most impossible political stance to take. It is far easier to line up with one side or the other. To try to strike a balance in anyone of these controversial areas, particularly as it represents economic and human need on one side and they need to preserve unique areas of our God-created Earth on the other, is very difficult. I fear that too often we are adopting the single-issue mentality that bubbles up to the top in many of these groups today. When you subscribe to that single-issue mentality, it is not what you have done in the past or what you are trying to do for the future; it is how you cross the t's and dot the i's today, and it is a dogmatic mind that is very difficult to try to find any kind of accommodation. Thank goodness, I think that the minds of balance and the minds of many of these people in both groups prevailed and made this compromise possible.

Mr. President, just briefly, we have in this amendment reduced the timber sale level by 1.5 billion board feet from what we call the existing forest plans. We have reduced it by 1 billion board feet from the historic level established by the Appropriations Committee, and

we have reduced it 300 million board feet below the original Hatfield-Adams amendment. Now, that is a reduction that brings us to the 7.7-billion board feet that we have in this compromise. We have acquiesced to those who have said we should reduce the timber sale levels in region 6. We have also acquiesced to those who said we should put into statute the first protection of old growth forests, and we have done so in this particular draft. We have defined for the the first time what are old growth stands by using the "Franklin" definition that has been advocated by most of the environmental groups.

We have increased the SOHA's, or the spotted owl habitat areas, by 25 percent in this amendment. We have again, as I say, protected old growth forests not by definition alone, but by a minimal fragmentation requirement associated with the sale of the 7.7 billion board feet.

So I want to say, Mr. President, we have made great movement in trying to accommodate those from the environmental community who have raised legitimate issues and concerns.

Unfortunately, according to many of the statements coming out of that community it is not enough. On the other hand, when I face in my State 70 communities that are totally dependent on a 1- or 2-mill economy, I can say this: I look forward not with anything but anxiety and concern that we are going to see some of those communities so deeply impacted that I may have to repeat an experience I had in Valsetz, OR. On that occasion I gave the last high school commencement. Instead of the usual smiles and laughter at such an event, there were tears and sadness in the faces of the members of that small timber-dependent community whose mill had recently closed. In 2 weeks the bulldozers came in, and today there is not a sign left of community life because we are now finding the underbrush taking over.

We face that reality in our State. It is awfully easy for people from other States to say, oh, well we have to do this and that. But I have to concern myself with representing the people who have to put bread on the table of their children, and to cut it off abruptly, without any consideration for the human needs, to me, is cruelty.

If we want to reduce our timber sales level by half, all right. But let us have a prospective goal, and give time to retrain those employees, give time to readjust those communities, give time to those human needs, but to do it as proposed by various members of the environmental community is to do it without human concern.

I want to thank my good colleague from Washington State. He has taken a heck of a beating on this but, nevertheless, he has to concern himself with the needs of people as I do, as well as the needs of the environment.

I thank the Senate for the opportunity to express my thoughts on this important matter.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, I would like to associate myself with the remarks of the Senator from Oregon [Mr. HATFIELD] which were I believe eloquent and accurate.

Mr. President, I rise to register my extreme displeasure and disappointment as a result of the conference on the Forest Service roadbuilding budget.

It was less than 3 months ago that here on the floor I offered an amendment which was adopted by the Senate to cut the Senate appropriation for Forest Service roads by $65 million. This was not something that was slipped in by a voice vote in the dead of the night. We had full debate. There was a full-scale effort to table my amendment. That effort failed.

Subsequently 55 Senators, a majority from both sides of the aisle and from all regions of the country, cast an affirmative vote in favor of reallocating $40 million to programs in conservation, historic preservation, state forestry programs, and still came in $25 million under the Senate's mark—that is $25 million worth of deficit reduction in addition to the reallocation of these funds.

What happened in conference, I am sorry to say, was a total abandonment of our legislative process. One would expect in such a case that some compromise would be reached by the conferees between the Senate and the House versions. A forest roads budget somewhere between the numbers adopted by the House and Senate would be a reasonable and expected outcome. This is not what happened.

Rather than produce a compromise between the House and the Senate recommendations, the conference adopted the full House number which exceeded the Senate level by $24 million.

But, they did not stop there. Through a clever device called excess receipts, the conference report makes available an additional $32 million for Forest Service road construction and other activities in support of a timber program. So that when one adds the House number to this $32 million, you get a total of over $196 for roadbuilding, a funding level that exceeds even President Bush's request by over $10 million.

What kind of representation of the Senate's will is that? It is the kind of legislative chicanery that we should all be tired of, and embarrassed by.

Mr. President, I read the message loud and clear. But I also have a little message; that is, this goes too far in subverting the will of the U.S. Congress. It makes the legislative process look like something from Alice in Wonderland. As chairman of the authorizing subcommittee on forestry I can assure my friends that they have won one game out of what will be a seven-game or even 7-year series.

The simple truth is this, Mr. President: the luxury account for building surplus roads in our national forests is a losing cause. There was a time when private interests which support and benefit from this taxpayers subsidy could hold the line on the floor. This yeasr they lost on the Senate floor. They sneaked back in in conference, aided by the difficulties which I realize are forging a compromise on the old growth forest. But the forest roadbuilders cannot count on that happening every year. They have gone from the position of strength to a position of weakness.

The time is running out on this waste of the taxpayers' money on a program that shortchanges our national heritage and is extremely damaging to the ecology of our public lands. These are public lands, and their public uses will ultimately take precedence over private interests.

I see my friend from North Carolina is on the floor. We have been trying to reach each other, and I will come to see him as I yield the floor.

I understand later today we will again be asked to try to define what is obscene. As all my colleagues know from having had to suffer through some of my remarks, I am not that wise in my judgment on the fruits of human creation. But I do know a couple of things that are obscene, and I will offer those to the Senate.

It is obscene to promote the philosophy that every public problem is an opportunity for private gain, a philosophy that we have seen, the latest example exercised by the administration's appointments, by political appointments in our housing programs at HUD. It is obscene to permit the exploitation of public lands for exclusively private property. Our national forests belong to the many. They are not private tree farms for the few. This is a principle, Mr. President, worth defending. In the future, I will do my best to try to make a modest contribution. I yield the floor.

Mr. ADAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. ADAMS. Mr. President, I rise today in support of the conference report on the 1990 Interior appropriation bill. I would like to begin by expressing my gratitude to Chairman BYRD for his support and assistance to our region in a very difficult year.

In addition, I wish to extend my appreciation and express my admiration to my colleague in the Senate, MARK

HATFIELD, for not only his steadfast support, but his extraordinary work on a provision within this bill which addresses the timber supply crisis in Oregon and Washington. Senator HATFIELD and his staff have devoted months of their time working with myself, with Senator GORTON, members of our delegations of both the States of Oregon and Washington, and with others in the environmental community and the timber community to develop an agreement on a very contentious issue.

I also want to express my appreciation here today to the many Members of the House of Representatives who participated in developing this provision. In particular, I wish to acknowledge the work of Chairman SID YATES, Speaker TOM FOLEY, Congressman NORM DICKS, Congressman LES AUCOIN, Congressman CHET ATKINS, and other members of the Washington and Oregon delegations. They and their staffs spent literally hundreds of hours working with us to reach a balanced agreement which is acceptable to all the diverse parties with interests in the issue.

I want to especially thank a member of my staff, Anne Badgley, who is new to the Hill. She came from a program developed by a former colleague of ours, Warren Magnuson, which recruits the very best graduates from the University of Washington Law School each year, to come to Washington and work on a Senate staff. Now she is a member of my permanent staff. I just cannot express my appreciation fully enough for her dedication and hard work over months and months of this process.

The controversy over efforts to protect the spotted owl and its habitat has produced one of the most painful dilemmas the Northwest has ever faced.

The timber provision of this bill was developed in response to the desperate timber supply crisis in Washington and Oregon resulting from this situation. This supply crisis arose as a result of preliminary injunctions and environmental lawsuits, which tied up a large portion of our region's timber supply in court during the past year.

This controversy pitted one group of well-intentioned people against another. Unfortunately, many have tried to reduce this problem to a battle of the timber industry versus the environmental community. To many who have spent their lives in Washington State and love our State for its unique beauty, and its quality of life, it appears that the State's treasured forests are disappearing everywhere. To others who live and work in our timber communities, as Senator HATFIELD has so well described, with regard to the State of Oregon, it appears a way of life is vanishing before their very eyes.

Small towns have disappeared. Others are in desperate straits. As elected representatives of the Washington and Oregon congressional delegation, we just could not stand by responsibly and see these communities collapse. I fully believe that there is a solution which will allow the timber industry to continue operating, though it may be at a reduced rate, while preserving the important environmental attributes that everyone in the United States loves about the Pacific Northwest.

Unfortunately, the severity of the crisis this year did not give us the luxury of time to slowly mull over this issue. Mills were shutting down. Jobs were threatened and gone. Our State was being torn apart, and tensions were rising with the very real potential of violence.

We in the Northwest delegations waited and waited, as negotiations stopped and started. We waited as lawsuits were filed and injunctions were established. We waited as the agencies attempted to address the problems, without success. Deadlines were set and passed. By this summer, the summer of 1989, we realized that immediate action was required, and the last stop left was the appropriation process. Nothing had been done in the authorizing committees; nothing had been done on the House side, and this was the last chance.

In July, Senator HATFIELD and I reluctantly decided to grasp the thorn and include a provision in the Interior appropriations bill. I am grateful to the members of that committee, to the chairman and my colleagues in the Senate for their patience and assistance in helping design this provision.

The amendment was introduced with the members of the Oregon and the Washington delegations, all of them supporting the process. This conference report contains a modified version of the amendment, which I support.

(Mr. FOWLER assumed the chair.)

Mr. ADAMS. This timber provision is necessary as a first step, and I would emphasize "first step" in resolving the timber supply crisis in the Northwest. This interim measure sets up a process which allows responsible harvesting of timber while protecting the very sensitive ecosystems and threatened species.

These goals are accomplished through three basic steps.

First, the provision grants certainty to the timber industry for the next year by setting a timber level of 7.7 billion board feet of timber on Forest Service lands and 1.9 billion feet of timber on Bureau of Land Management lands. This is a reduction of 1.5 billion board feet overall.

Second, the legislation takes a landmark step in officially recognizing the importance of old growth ecosystems and directing the Forest Service to protect those stands. The definition adopted is the one suggested and supported by the environmental groups, the so-called Franklin definition.

The third step in this process insulates the timber sale level from overly broad preliminary injunctions. This was a very sensitive issue, but one we had to address. The merits of these cases were not being reached and were being delayed for a substantial period of time. Our solution was expedited judicial review process of 45 days to handle challenges to the timber program.

I think it is an excellent provision which will assist us through the upcoming year.

Mr. President, I say to the chairman of the committee, the process of developing this amendment has been a difficult one. We in the Washington delegation were not eager and are not eager to intervene in the operation of the forests. Unfortunately such a step was necessary.

The passage of this legislation is only a beginning. It lasts for just 1 year. It releases some of the pressures which have been building up, and allows us to begin grappling with the larger, long-term problem regarding the future of the timber industry in the Northwest.

Over the course of the next year—and I address this to the member in the chair because he is the chairman of the subcommittee which will be dealing with this issue in the authorizing committee—it is critical that those of us in Congress make it our top priority to require that the Forest Service, other agencies and parties comply with the spirit and integrity of this agreement. I will be doing everything I can to make certain this happens.

We also need the assistance of these groups in developing the long-term solution which set up a sustained yield in our forests, protects the species that need protection, and maintains the environmental, recreational, and other uses of the forest. In addition, the Northwest delegation will be working with the authorizing committees of Congress to develop the long-term approach to this problem. In that process I believe that all aspects of this complicated issue must go to the table and all potential solutions be analyzed.

Mr. President, I strongly support the version of the timber amendment which emerged from the conference committee.

As a representative of the Washington delegation, I appreciate the assistance of the committee, the assistance of the chairman, and I particularly appreciate the assistance of my colleagues both in the Senate and the House from the States of Oregon and Washington. In addition I would like

to thank our colleagues in the State of Idaho for their support. In conclusion, I would like to recognize the outstanding work of a number of staff members who have devoted countless hours to this issue. These staff members include Mike Salsgiver and Pat Reitan from Senator HATFIELD's office, Mark Walker—from the Senate Interior Appropriations Committee, Sue Masica, Charlie Estes and Jeff Cilek of the Senate Interior Appropriations Subcommittee, Heidi Biggs from Senator GORTON's office, Nick Ashmore with Speaker FOLEY, Mike Bagley from Congressman DICKS' office, Dick Van Wagenen from Congressman MCDERMOTT's office, Kevin Lynch with Congressman AUCOIN, Doug Marker with Congressman DEFAZIO, Nancy Green with Congressman ATKINS, Kathy Johnson from the House Interior Appropriations Subcommittee, and Jeff Handy and Susan Yonts-Shepard from the Department of Agriculture and Forest Service.

I thank you, Mr. President and I thank the others for their assistance in helping us with this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, 7 months ago I used a similar opportunity to launch a discussion for the timber supply crisis of the Pacific Northwest. The immediate cause of that crisis was a series of lawsuits based on Federal statutes on timber production and wildlife, but more directly it was driven by the desire of some to set aside large tracts of old growth forests on Federal forest land for preservation, above and beyond the 5 million acres in Washington alone already set aside in parks, wilderness areas and other reservations. In my statement of March 15, I highlighted the effects a Forest Service management plan for the northern spotted owl were having on one constituent of mine, Larry Mason. Larry owns Mason Lumber Products in Beaver, WA, and is but one example of the crippling economic, social and human effects that public land-use decisions are causing in Washington State and elsewhere.

More recently, I understand that Larry Mason has been fortunate enough to run his mill for 5 whole days—with 3 days' worth of timber remaining. That week of work came after 5 long weeks of closure. This has been the trend for millowners like Larry Mason, and for the men and women who work in the mills of the Northwest—1 week on, 2 weeks off—wages long since slashed, and health insurance plans forgone—ever since the first of the year.

Larry Mason and his 15 employees—who once used to be 30 to 40 in number—typify the people whom the congressional delegations of Oregon and Washington seek to help through a thoughtful and complex amendment contained in this Interior Appropriations conference report. It is a proposal I support, but I emphasize that while it represents a compromise, that compromise is with the lives and careers of countless numbers of people who will still be adversely affected by reductions in timber sale volume.

More than 1 billion board feet of timber sales will be lost with this proposal. A mill like Mason Lumber, on average, needs 3 million board feet a year to sustain 30 or more families dependent on work in that mill. The loss of 1 billion board feet means the potential loss of dozens of similar mills—each taking the jobs and careers of real people and real families—thousands of people in all. No one should doubt that this agreement forces upon these people continued sacrifices. There will be more careers lost, and some mills and towns will remain in real jeopardy, particularly on the Olympic Peninsula. I am deeply distressed by that fact, so my satisfaction with a fine political compromise is mixed with sorrow for the personal tradgedies which even our best efforts could not avoid. No one is made whole by this agreement, and in the opinion of this Senator, we must continue urgently to seek long-term stability.

The proposal contained in this conference report relates to our national forests and the timber sale volume from them for Oregon and Washington. It also deals with the preservation of the spotted owl and some of our region's finest old growth forests. In essence, the delegations of Oregon and Washington established a precedent—by working jointly to craft this agreement, which we all hope will return some stability to our timber-dependent communities.

As a result of that work, it has become obvious that the laws governing the use of our national forests as they regulate the timber sale program of the Forest Service are now inadequate. These laws require the careful scrutiny of Congress. A long-term solution will require the thoughtful and swift attention of the very members who developed the agreement reflected in this conference report.

The purpose of this short-term agreement is twofold: It strives to ensure timber to mills on the brink of complete shutdown; and it strives to prevent fragmentation of significant stands of old growth forest. In the midst of the Northwest timber crisis, this amendment seeks to provide short-term stability. At the same time, it merely postpones the answer to the larger question—to what extent should our national forests be managed for multiple uses? What role should Federal lands play in commercial timber supply? I hope that with some relief for the immediate crisis, we will all be able to address these long-term questions with thoughtfulness and wisdom.

Specifically, this amendment directs the U.S. Forest Service to offer 7.7 billion board feet of timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990; it requires the Forest Service to offer timber sales in a manner minimizing fragmentation of the most ecologically significant old growth; it increases the standards for spotted owl habitat areas on national forest lands; it directs the Secretaries of Agriculture and Interior to name advisory boards representing a broad range of views and to provide recommendations to the Forest Service and Bureau of Land Management in reviewing prospective timber sales; it directs release of 1.1 billion board feet of timber sales out of the 1.8 billion presently unavailable due to court injunctions; and it allows only one level of administrative appeal and a 45-day expedited judicial review process.

It is not, however, just those who live in timber-dependent communities who will lose with this and future compromise proposals—it is our global environmental quality. Worldwide demand for forest products is continually increasing. With this drop in supply from lands on which wise forest management and high environmental standards are required, I fear that we will only find the demand filled by timber harvested in other countries which show far less sensitivity to the environment.

I find it outrageous—to put it mildly—that our situation in the Northwest is compared with the devastation of tropical deforestation. Our national forest laws require reforestation—and they require compliance with strict environmental laws and regulations. Our national forests are managed for fish and wildlife, outdoor recreation, wood, water and wilderness—in a combination that can meet the needs of society now and in the future. That is simply, and unfortunately, not the case in other countries—countries which I suspect are more than willing to increase their rate of harvest to satisfy our Nation's desire for forest products and for housing. As our laws and courts impose dramatic reductions in timber supply we will inevitably subsidize environmental disasters overseas. To depress our economy and increase world deforestation in one single motion is unconscionable.

Mr. President, the long-term questions that Congress must now address are unfortunately even more difficult than those answered by this conference report.

I see three important questions that Congress must answer—those questions relate to allocation, to implemen-

tation, and to forestry on our non-Federal lands. First, we must decide for the future what portion of our national forests should be set-aside specifically for timber management? After worthy set-asides for national parks, wilderness, trails, wild and scenic rivers, when and how much are we finally willing to provide for the people and communities in and around the forests?—People for whom we presumably are also preserving the environment through these other set-asides—People who live, as generations before them did, in public timber-dependent communities.

I should like to quote from a letter I received from Pam Walker of Underwood, Washington.

* * * My family consists of my husband, myself and our 1½ year old son. My husband is the fourth generation of a logger. * * * If the spotted owl were to win the debate our family would be torn apart. We'd have to file bankruptcy and lose everything, we wouldn't have enough money saved to even relocate * * * the atmosphere in our community is that of panic. * * *

Mr. President, one of the most eloquent lines that I found in this letter is Mrs. Walker's plea to Congress—

Our state desperately needs your help, we are American citizens and we deserve our freedom of choice, I would be proud if my son was a 5th generation logger.

I, too, would be proud if Mrs. Walker's son grew up to be a fifth generation logger. And, I do believe that just as all of our children and grandchildren are entitled to a heritage filled with impressive national parks and wilderness areas, Mrs. Walker's son is entitled to make a decision as to whether he wishes to follow the worthy profession of his father. I would point out, however, the contrary views represented in many letters I have received with statements such as—

Senator Gorton, you surely would have been better advised to warn members of the timber industry to accept the fact that theirs is an industry which, on its present scale, is obsolete—like candle-making or blacksmithing. The people who are job-dependent upon that industry would be better served by helping them learn new skills.

That is easy for someone far away and unaffected by the trauma of the Pam Walkers of this world to say. I disagree. The demand for forest products is ever increasing. They are products made from renewable resources; they are largely derived from lands governed by laudable environmental laws and regulations. I stress that Congress, and particularly the delegations of Oregon and Washington, have become far more knowledgeable and sensitive to the fact that we need to manage the areas open to timber harvest on our national forests on a sustained yield basis and in an environmentally sensitive manner. Regrettably, this year's crisis seems to be largely the result of cumulative problems incurred over many years. Yet, environmentally sound, sustained forest management is now not merely a goal, but a requirement in our efforts to resolve the conflicts before us.

We all understand that as mills are modernized, they produce more with fewer people. And, as our forests are managed on a totally sustained forest management program, the number of jobs may decline. It is important to point out, however, that mills desiring to modernize to meet competitive pressure, due to the uncertainty of supply, are unable to obtain financing for modernization—or investment for repair—investment which, in the long run, may even increase output without the loss of jobs. The effects of uncertainty on important decisions like these are described in the following letter received from the president of Coast Pacific Trading, Inc.

Our mill, located at Preston, Washington was damaged extensively by fire at the end of February, 1989. In early March, Judge Dwyer rendered his decision to allow the logging of federal timber affected by the owl to continue until the trial which would then determine the legality of the owl's claim to the timber reserve. Because I felt confident that the ultimate decision was going to favor the timber industry, I decided to rebuild the mill and gave orders to do so. Two days after Judge Dwyer's original decision, he reversed himself. * * * I then had to reverse my decision to rebuild the sawmill until the picture becomes clearer with regards to timber supply. At this time, 27 men with their families have lost their jobs to the owl.

While Mr. Mulder's letter describes not only the costs incurred and investment decisions indefinitely on hold—it also illustrates the second vital question affecting our long-term timber supply. Once we decide what is open for timber harvest and in what manner—how do we guarantee certainty and continuity? How does Congress, once it has answered the larger issue of land use allocation, move on to assure stable and responsible implementation of its decisions?

Contained within this Interior Appropriations conference report, is an expression of explicit congressional intent regarding its implementation for the short term. While I want this proposal to work—and it is critical that it does work—I confess that I am something of a skeptic. I am deeply concerned with the judicial review portions of this proposal. In the earlier version of the Hatfield-Adams amendment, judicial review was allowed but injunctive relief was prohibited. That proposed remedy—albeit an unusual one—was included for a purpose—to allow 1 year for Congress to work expeditiously at a long-term solution without being overtaken by an unequivocal economic disaster resulting from sweeping and disastrous preliminary injunctions imposed without even a decision on the merits of a myriad of legal actions.

No one, I repeat, no one, wants to take away or restrict access to the courts. However, recent and severe abuses of the judicial process which have halted timber sales have displaced hundreds of families and workers in the timber towns of the Pacific Northwest. I hope that I am proven wrong, but I am deeply skeptical of even this expedited judicial review process during this year of relief. It still presents an opportunity for frustration and delay. For some, delay is winning. For the forest product families, however, delay is disaster. As a consequence, this proposal calls for a tremendous exercise of good faith on the part of all parties. Expedited review should not be abused. By its nature, it will displace many other critical matters before the courts. If we see this expedited process triggering frivolous lawsuits, it will not only harm those dependent on timber sales, it will frustrate those who have unrelated cases pending consideration by the courts. And, in the long run, it may motivate Congress permanently to limit the ability of the few to frustrate the will of Congress as exercised on behalf of the needs of the many. If this provision just expedites judicial decisions clearly interfering with the will of the Congress for a timber sale level of 7.7 billion board feet from our region, it will simply have expedited disaster.

As we resolve allocation and implementation questions, we finally, Mr. President, must address the question of the relationship between the use of Federal and non-Federal timberlands—the explosive issue of log exports.

I have long expressed the belief that relatively unrestrained export policies, left properly to the marketplace the allocation of resources and value, and second, produced the highest benefits to the trust beneficiaries of Washington State-owned forests. Those are still compelling considerations, but they do not justify avoiding a thorough review of the issue.

By prior agreement, the short-term timber compromise in this Interior Appropriations bill does not address log exports. But I must say now, in all fairness to those in this debate who favor changes in our approach to log exports, that this issue deserves a place in the discussion of long-term timber supply solutions.

Mr. President, I would like to share more thoughts from the people deeply affected by the decisions Congress makes for our region.

These words are rich with meaning and message, and articulate the concerns of timber dependent communities far better than I can.

From Travis Davis, a junior high school student in Stevenson, WA:

With no logs the mills will shut down and people will lose their jobs and move away. I'll probably be able to graduate here. But what about the kids behind me? Is it right to make them move? If they do move the community will eventually die. * * * There must be a way to open the woods and protect the owl.

From Cindy Moore of Carson, WA:

I am a single parent, working a saw mill, working hard every day to be self supportive and raise my 13 year old daughter. We love it very much here in Carson, Washington. In the heart of the "Columbia River Gorge." * * * I had a choice five years ago, my choice was to work for a living, not accept welfare to support me. Now what?

From Commissioner Russ Richardson, commissioner of the Port of Grays Harbor:

In the long term, sustained yield is the rational approach from my point of view, and we cannot let surrogates, such as the northern spotted owl, and frivolous legal injunctions and other legal maneuvers interrupt balance, controlled management of our public forest lands.

Mr. President, I ask unanimous consent these letters be printed in full in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. Mr. President, these statements are passionate, wise and thoughtful. They represent a few of the hundreds of comments I have received from those who depend upon wise forest management, arguing for the preservation of our environment for their livelihoods. I have spent a great deal of time this year in these communities. I want to stress that the people who live in these communities are some of the finest people I have ever met. They represent our State's heritage and wisdom. They represent a history which any State should be proud to have—a history built on timber and by timber. Our State is not about to be clearcut from corner to corner. Keeping our land permanently forested in a living progression is highly desirable for not just these people, but the people of our entire region, and it is their goal.

I would like to take a moment to commend the leaders of these communities and the fine people who are the heart of these communities. They have pulled together in a crisis and are striving for a solution. As we all have, they have learned a great deal in the past several months and have worked with a magnificent effectiveness.

The work of these people and our State delegations, however, has just begun.

I would also like to take a moment to commend the members of the Washington and Oregon delegations in reaching a resolution to our immediate crisis in the Northwest. I would like to specifically thank Speaker FOLEY and his staff Nick Ashmore, Senator HATFIELD and his staff Mike Salsgiver, Mark Walker, and Pat Reiten; Senator ADAMS and his staff Anne Badgely; Congressman NORM DICKS and his staff Mike Bagley; and Congressman AUCOIN and his staff Kevin Lynch. These members, as participants in the appropriations process, demonstrated outstanding leadership as did their staff. The hours of thought, negotiation, and skill put into this agreement offers for this Senator a great promise of success. I am pleased to join my colleagues from the Northwest in supporting this agreement.

With appreciation, I mention also the staffs of those members who were not on the Appropriations Committee, most particulary my own. Heidi Biggs has worked countless hours on this subject with devotion and skill.

Finally, I would like to again highlight my deep appreciation and respect for Senator MARK HATFIELD of Oregon. His leadership was an absolute vital element in assuring this proposal could reach the floor of the Senate as it has today. As many have written to me, and I would imagine to Senator HATFIELD, pointing out what they view as utter destruction of our environment and national forests—for this generation and the generations to come—I remind everyone that it was MARK HATFIELD—and others in our delegation—who worked endlessly for an Oregon wilderness proposal, the Columbia River Gorge National Scenic Area, and the Oregon wild and scenic rivers proposal. That list is only a partial one which does not include many additional environmental achievements—great legacies which shall earn the appreciation of generations to come.

Mr. President, this amendment represents a thoughtful and balanced process. For several months the Oregon and Washington delegations have met with constituents dependent upon timber for their livelihoods and constituents who are concerned for the status of the spotted owl species as well as the many interest groups concerned with these issues. Similar processes have worked for the States of Washington and Oregon as the respective delegations have led the Nation in preserving our environment. I expect this thoughtful and balanced process to continue as we work together on a more permanent resolution—a resolution which fairly answers the questions of allocation, implementation, and use. In doing so, I plead with my colleagues to remember that we are not dealing with just trees and owls, but with people, with their lives and careers and communities; people who are themselves endangered by our policies. We can and we must reach a solution which will accommodate forests and wildlife and people.

EXHIBIT 1

STEVENSON, WA, *May 19, 1989.*

Senator SLADE GORTON,
Seattle, WA.

DEAR SENATOR GORTON: I'm a junior here at Stevenson. I've heard a lot lately about the spotted owl issue. Living in a primarily timber related community, none of it has been good. If this passes, what good will it do? With no logs, the mills will shut down and people will lose their jobs and move away. I'll probably be able to graduate here. But what about the kids behind me? Is it right to make them move? If they do move, the community will eventually die.

On the news they show the owl in the wild. But every picture I've seen is in alder or second growth. This proves the owl doesn't need the old growth. There must be a way to open the woods and protect the owl.

TRAVIS DAVIS.

DEAR SENATOR SLADE GORTON: I am writing in concern of the spotted owl debate.

I would like to tell you about my family and how the decision will affect our lives. My family needs your help.

My family consists of my husband, myself, and our 1½-year-old son. My husband is the fourth generation of a logger. He started work in the woods when he was sixteen. He worked in the woods for ten years. At twenty-six he started work at our local lumber mill SDS. This month he became permanent. We now have our insurance and paid holidays. My husband is the only one in our family to bring home a paycheck. After bills the three of us live on one hundred dollars for two weeks. I stay home to raise our son. If the spotted owl were to win the debate, our family would be torn apart. We'd have to file bankruptcy and lose everything. We wouldn't have enough money saved to ever relocate. Honestly, I don't know what we'd do. Even if we did relocate, I don't know where my husband would find work because all the mills would be closed. I would like to raise my son as a good American citizen with respect for his country. But right now I don't feel we're getting the respect we deserve as American citizens. I feel that the politicians are hearing us but they're not listening. The atmosphere in our community is that of panic.

It's not just our family that will be affected, but thousands just like ours. What do they expect to do with the thousands of families out of work? Where and how do they expect us to live? I hope there is enough welfare for the States of Washington and Oregon. Most importantly if they close our forests and mills, where do they suppose they're going to get wood products?

I really don't feel there has been enough research as to how endangered the spotted owl really is. The environmentalist on the news said if it wasn't the spotted owl, it'd be some other species. It isn't the species they might lose that they're concerned about, but the power they may gain. There is Oregon State Congressman Bob Smith's bill S. 1645 (keep timber harvest at current levels for 5 years until all facts are known). For long-term, review the cumulative effect of existing federal laws on the timber resource to assure dependable and adequate timber supply. Our community desperately needs your help. Our State desperately needs your help. We are American citizens and we deserve our freedom of choice. I

would be proud if my son was a 5th generation logger.

Sincerely,

PAM WALKER.

UNDERWOOD, WA.

COAST PACIFIC TRADING, INC.,
Bellingham, WA, April 11, 1989.

Senator SLADE GORTON,
Hart Senate Bldg., Washington, DC.

DEAR SENATOR GORTON: Recently you met with an organization to which I belong, "Evergreen Partnership", and discussed with them the "Spotted Owl" problem. The report to me was that the discussion centered on general matters and concluded that laws needed to be changed to solve the problem. The following is a specific way in which the owl is hurting our industry.

Our mill, located at Preston, Washington was damaged extensively by fire at the end of February, 1989. In early March, Judge Dwyer rendered his decision to allow the logging of federal timber affected by the owl to continue until the trial which would then determine the legality of the owl's claim to the timber reserve. Because I felt confident that the ultimate decision was going to be in favor of the timber industry, I decided to rebuild the mill and gave the orders to do so. Two days after Judge Dwyer's original decision, he reversed himself because of outside pressure and ordered all logging to be halted. I then had to reverse my decision to rebuild the sawmill until the picture becomes clearer with regards to timber supply.

At this time, 27 men with their families have lost their jobs to the owl. Unfortunately, Judge Dwyer's decisions are not based on facts which are not yet known but due to political pressure. This seems to be a stupid way to run a country.

Senator, I need your assurances that when I talk to these men and their families about their future I can relate with confidence that your position will be based on logic, good sense and fact and will be supportive to these timber jobs. Presently, I am at a loss as how to best explain what their future holds in our timber industry.

Sincerely,

S.E. MULDER,
President, Coast Pacific Trading, Inc.

CARSON, WA, *May 10, 1989.*

DEAR SENATOR SLADE GORTON: "HELP." I am writing to let you know my views on the timber supply issue. We cannot sit back and let this happen to an entire industry.

I am a single parent (Female) working in a Saw Mill, working hard every day to be self supportive and raise my 13 year old daughter. We love it very much here in Carson, WA. In the heart of the "Columbia River Gorge". Have you ever been through here? Anyway I work for a "Great" Company, W.K.O. Inc. Sawmill. I had a choice five years ago, my choice was to work for a living, not expect welfare to support me. Now what?

Without the revenue from the federal timber sales our whole community would be lost. W.K.O. is 100 percent reliant on Gifford Pinchot timber. 90 percent of Skamanig County's budget comes from timber harvest revenues—half of that going to schools, half for county government. We couldn't afford to pay our teachers or road crews or Police or elected officials. Without our jobs in the woods and mills we would be forced to depend on a welfare program that is over used now as it is. I don't think the government could afford another 60,000 on their door step especially with losing the taxes we pay and the timber sales receipts.

With almost 3,000,000 acres of old growth set aside that can't be touched and also 50 million acres designated for roadless and wilderness areas, I feel that we have sacrificed enough for these preservational lists. Speaking for myself and my fellow workers we need and expect your 100 percent support on this issue. With your help and the help of our other elected officials we can turn this problem around and keep our economy and life styles as we have in the past.

Praying everyone can be happy,

Sincerely,

CINDY M. MOORE.

ABERDEEN, WA,
September 25, 1989.

SENATOR SLADE GORTON,
U.S. Senate, Washington, DC.

Re: Northwest Timber Supply.

DEAR SENATOR GORTON: The television special "Ancient Forests: Rage over Trees," produced by the National Audubon Society, has prompted me to let that society and you know my feelings about the current problems in Northwest timber supply.

I do support the Hatfield-Adams Amendment as a short-term treatment of the problem. In the long term, substained yield is the rational approach from my point of view, and we cannot let surrogates, such as the northern spotted owl, and frivilous legal injunctions and other legal maneuvers interrupt balanced, controlled management of our public forest lands.

Further, I do not believe states should be granted the power to interfere in international commerce, such as Representative DeFazio has proposed. Whether logs or whatever are to be exported should remain a decision made at the national level.

Thank you for your continued support of issues of importance to the Grays Harbor area.

Sincerely yours,

RUSS RICHARDSON,
Commissioner.

PORT OF GRAYS HARBOR.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I move, under the agreement which was entered with respect to the conference report, that the vote on the conference report be stacked to occur immediately prior to the vote on or in relation to the Helms amendment.

I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate with the exception of amendment No. 153.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, whereas normally the Senate acts on the adoption of the conference report before it acts on amendments in disagreement between the two Houses, in carrying out the words and the spirit of the conference report, I shall not urge the adoption of the conference report at this moment so as to give the distinguished Senator from North Carolina [Mr. HELMS] the opportunity to call up his amendment and have it discussed.

And at the close of that discussion, then, in accordance with the agreement, the vote would occur on the conference report immediately prior to a vote on or in relation to the amendment of the distinguished Senator from North Carolina [Mr. HELMS] to amendment No. 153.

I see the distinguished Senator from Idaho on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. McCLURE. I will take just this much time to respond to some of the questions relating to the funding of the forest road system and the attempts we made in the conference to fund the noncommodity programs.

Mr. President, I hope all Members understand that the spotted owl compromise, which was adopted both on the floor and confirmed in the conference, has imposed additional costs on the forest management system of which forest roads are but one component.

If Senators do not know they should know, of the $32 million to be provided from excess timber receipts, $12 million is necessary to implement the compromise on the spotted owl.

The compromise included in this conference report increased the number of new sales in fiscal year 1990 proposed in the Hatfield-Adams compromise by about 700 million board feet. If the Hatfield-Adams compromise would have been agreed to, only an additional $20 million would have been necessary.

This shift toward new sales was requested by those on the other side of the issue. It was always assumed that funding necessary to implement the spotted owl agreement, whatever it was, would be provided.

FUNDING THE FOREST PLANS

Mr. President, during the past several years, the Forest Service spent countless man-hours putting together a forest plan for every national forest. We can all criticize how those plans were done or whether we agree with what they contain. The fact of the matter, however, is that they are plans, many have survived court challenges and they are based on an analysis of the needs of those forests.

Many have argued that the appropriated dollars fund a higher percentage of the timber program as it relates to the plans than the noncommodity programs. I do not completely disagree with this analysis and have sought to find a creative solution to bring the noncommodity programs up.

Unfortunately, implementing those plans will cost the taxpayer a consider-

able sum of money and it is extremely unlikely that this subcommittee will obtain the necessary $700 million to fund those plans. Over the past couple of years, I have been struggling with a variety of proposals designed to fund those plans.

One proposal which was adopted by the Senate but, unfortunately, rejected by the House during conference on this bill directed that each forest attaining the annual average ASQ level for the timber program be provided a 10-percent bonus above appropriated dollars from timber receipts for a variety of programs. These programs included trail construction; trail maintenance; wildlife and fish habitat management; soil, water and air management; cultural resource management; wilderness management; reforestation and timber stand improvement; timber sales administration.

It would be much more productive if all interested parties worked together in an effort to fund those plans rather than working against one program included in the plans. If the 10-percent bonus is a faulty proposal, I hope that we can work together on a different proposal.

Mr. President, I have analyzed the arguments that those on the other side of the argument used during debate on this program when the Interior bill was before the Senate in July. Many were right on target but others were simply off base and were made after analyzing only half the necessary data.

I ask unanimous consent that a letter, with pertinent enclosures, from F. Dale Robertson, dated September 13, 1989, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, DC, September 13, 1989.

Hon. JAMES A. MCCLURE,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCLURE: This responds to your letter of August 3 which requested our review of the recent debate on funding for forest roads. Our comments on several significant misconceptions are enclosed.

It is important that adequate appropriated dollars for engineering be provided to accompany the construction dollars in purchaser credits. Roads are constructed and reconstructed only as necessary to support timber sales, recreation access, and all other uses of the National Forests. These roads are built to the minimum standard necessary to provide safety and to avoid environmental damage. Funding provided by the Senate bill will not support the output targets called for by the bill.

We appreciate the opportunity to comment on these misconceptions.

Sincerely,

JEFF M. SIRMON,
For F. Dale Robertson, Chief.

Enclosure.

Statement: The estimate is, if the Forest Service proceeds according to its plans, another interstate highway system worth of roads will be cut through our public lands, our national forest, in the next 12 years.

Response: Our Forest Plans show an increase in road mileage from the present 355,700 miles over 389,000 miles in the year 2000. A net increase of less than 10%. About 90% of these new roads will be local, low-standard roads initially supporting timber harvest, but afterward provide access for the other forest uses, such as fire protection, recreation, and forest management activities.

Statement: I believe this amendment is necessary to restore some fiscal restraint to a construction program that continues to increase 10, 12, 15 percent a year while the last 3 out of 4 years, the Forest Service has had excess funds in this account, funds that they could not use.

Response: The Forest Road Program (FRP) has not increased 10, 12, 15 percent a year. It has, in fact, undergone significant reduction. From FY 1983 to FY 1988, the Forest Road Program shows a reduction of 22% and if you account for the effects of inflation the reduction is 43%. Intense cost reduction including lower road standards has been necessary in order to absorb this significant reduction in road construction funds.

It is not possible to further reduce road investments and maintain existing timber sale level.

The Forest Service has not had excess road construction funds. Except for minor amounts of funds carried over due to delays caused by litigations, appeals, contract disputes, and forest fires, all funds have been effectively used and directly tied to output targets scheduled over the next 1-3 years.

Statement: The existing Forest Service road network that extends for more than 340,000 miles through out national forest already far exceeds legitimate access needs.

Response: There are about 355,700 miles of road in the National Forest road system providing access to 191 million acres. All uses of the National Forest rely on roads to some extent, even wilderness and back country trail use depend on access provided by the forest development road system. National Forest are managed for many uses and the forest road system provides access annually.

For over 242 million visistor days of recreation use, 42 percent of all recreation use on federal lands.

To over 106,834 miles of trail.

To 14 National Recreation Areas and 3,331 miles of National Wild and Scenic rivers.

To 4,400 campgrounds and 1,400 picnic grounds

To 50 major visitor centers, 40 percent of all downhill ski areas and sites of many lodges, resorts, and more than 15,000 summer homes.

To over 13,737 permittees for nearly 10 million animal unit months of grazing.

To over 11 Billion Board Feet of Timber.

To nearly a quarter of the Nation's potential energy reserves and nearly half of the Nation's entire inventory of softwood sawtimber.

To more than 32 million acres of designated wilderness area.

For the suppression of over an average annual 1.2 million acres of wildfire and the reforestation of the burned over lands.

To the 560 miles of National Forest Scenic Byways.

For control of insects and disease attacks.

For wildlife and fisheries management.

All of these are legitimate uses of the national forest and the existing road system necessary to meet these needs. When roads are not needed, for a period of time, they are closed.

Statement: More than 340,000 miles of road amounts to one mile of road for every square mile of National Forest.

Response: This statement is close to being right. Our actual total of 355,700 miles amounts to almost 1.2 miles for every square mile of National Forest. The majority of this mileage, 75 percent, consists of very low standard local roads intended to serve specific management or user needs.

Statement: During this decade, as the Forest Service has lost biologists to attrition and accumulated more and more engineers, it just seems to have developed a passion for roadbuilding.

Response: This statement is wrong. From 1980 to 1989 Engineering reduced its workforce of Professionals and Technicians by 23% and 18% respectively. During this same period the workforce of Fishery Biologists and of Wildlife Biologists increased 99% and 44% respectively. Ecologists and Botanist also increased by 265% and 50% respectively.

Statement: Forest Service loses an average of $350 million for timber sales every year.

Response: This statement is wrong. In FY 1987, the final report of the National Forest System's timber sale program produced a net return of approximately $540,070,000 to the Federal Government before the payment of $272,590,900 to States. In FY 1988, the net returns increased to $690,685,000 before the payment of $302,034,000 to the States. These figures are based on the GAO approved Timber Sale Accounting System that follows generally accepted accounting principles.

Statement: In the last 6 fiscal years alone, the Forest Service constructed 3,725 more miles of road than needed, by its own projections, for the single purpose of timber harvest.

Response: This statement is not valid for 2 reasons:

The 3,725 miles alleged to have been excess construction apparently were derived from comparing planned road construction in the President's Budget Request to final accomplishment. This is not a valid comparison. Congress typically sets the timber sale and other output goals in annual appropriations which differ from the Budget Request. As timber sale and other output levels are changed by Congress, so are miles of road because the two are so interdependent. For a true picture of this relationship it is necessary to compare miles planned based on actual appropriation versus miles actually accomplished. Charts 1 and 2 show the trends of the FRP program from 1983-1988. The figures shown for the FRP program do not include the Tongass Timber Supply Fund (TTSF) miles of construction or reconstruction.

Over this 6-year period, the FRP program constructed 13 miles less than planned and reconstructed 1,603 miles more than planned. Reconstruction occurs on existing roads therefore not adding to the system miles. The increased reconstruction of roads is partly due to the inability to access roadless areas where timber sales are planned because of appeals or litigations and having to re-work the roaded portion of the forest. This skews the road program by dropping new-high cost access roads into roadless areas, and adding low-cost reconstruction projects on existing roads to make them suitable for additional timber haul. For example, many miles of reconstruction is

nothing more than replacing culverts or adding gravel to existing roads. It is not logical use of the data to combine new construction and reconstruction and conclude that the Forest Service is building more roads than needed to achieve program.

[The charts referred to are not reproducible for the RECORD.]

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. McCLURE. Would the Senator yield for just a moment?

Mr. HELMS. Yes, sir.

Mr. McCLURE. Did the Senator from Montana want 2 minutes? I will yield to the Senator from Montana 2 minutes.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS] is recognized for 2 minutes.

Mr. BURNS. I thank the Chair and I thank my colleague from Idaho, the manager of this superior bill. I have just a few comments here as we get on to wrap up the work on the reconciliation of the Interior Department.

The operations of the Government's holdings, and that includes the lands, gets very interesting as we go along, to say the least.

I appreciate the work that the leadership and the conference committee has put in on this particular piece of legislation.

I was a little bit disappointed, however, on some reparations that we wanted to make to some people who were impacted by the policy of the U.S. Government in its handling of those lands because of the fires in Montana a year ago.

However, I understand we are working on that. I am very satisified with that.

We have until March 1990 to process those claims. I appreciate the attitude the committee has taken toward this and I again want to express my appreciation to the managers of this particular agenda and congratulate them for it.

I yield the reminder of my time, Mr. President, back to the Senator from Idaho. I thank him very much.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me. I have an amendment at the desk, and I will call it up presently.

We have been attentive to all of the hairs that have been split and all of the declarations that this is too vague.

Mr. BYRD. Will the distinguished Senator yield? Could we have the amendment called up so that the time will begin running on the amendment?

Mr. HELMS. In just a minute, yes.

Mr. BYRD. In the minute that precedes——

Mr. HELMS. If you are interested in the time, you can charge the time to me. That is all right, Mr. President.

The PRESIDING OFFICER. The time will be charged to the Senator from North Carolina.

Mr. HELMS. I do not want to waste a minute around this place.

Mr. BYRD. Mr. President, I simply wanted to proceed in accordance with the terms of the agreement. I will be glad to yield to the Senator.

Mr. HELMS. That is all right.

Mr. BYRD. And still do.

Mr. HELMS. Mr. President, the Washington Post proclaimed this morning that the Interior conference report's language concerning the National Endowment for the Arts [NEA] is so vague that it will not even prohibit the NEA from funding the Mapplethorpe exhibit again next year if it wants to.

One of their distinguished columnists called me contemptible for my efforts in trying to put a bridle on the giveaway of public funds for trash—which some highbrow "art" critic has the nerve to call art. My gloating friend from North Carolina, Tom Wicker, of the New York times, called me Senator Know Nothing. He better not take a poll of the American people on this question. If Senators are interested, I will take them up to my office and show them many thousands of letters and telegrams from the people of America on this issue. The people have spoken. They may have to speak again if this amendment is defeated, and they will have a chance.

AMENDMENT NO. 153 IN DISAGREEMENT

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided,* That—

A. None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political or scientific value.

B. It is the Sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed. Therefore, be it resolved:

(a) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both non-excellent and excellent portions.

(b) That the Chairman of the National Endowment for the Arts has the responsibility to determine whether such an application should be funded.

(c) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without any redeeming literary, scholarly, cultural or artistic value.

(d) That a commission be established to review the National Endowment for the Arts' grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commission shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

C. (1) There is hereby established a temporary Independent Commission for the purpose of:

(a) reviewing the National Endowment for the Arts' grant making procedures, including those of its panel system; and

(b) considering whether the standard for publicly funded art should be different than the standard for privately funded art;

(2) The Commission shall be composed of twelve members as follows:

(a) four members appointed by the President;

(b) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(c) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(d) the chairman shall be designated by vote of the Commission members; and

(e) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commission may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after th date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission not to exceed $250,000, including administrative support, shall be furnished by the National Endowment for the Arts".

AMENDMENT NO. 991 TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 153

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask the clerk to read it slowly on my time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 991 to the House amendment to Senate amendment No. 153 in disagreement.

In the House amendment to the Senate amendment numbered 153 in section (A), strike the phrase "None of the funds" and all that follows to the period and insert the following: "None of the funds authorized to be appropriated pursuant to this Act may be used to promote, discriminate, or produce materials that are obscene or that depict or describe, in a patently offensive way, sexual or excretory activities or organs, including but not limited to obscene depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sexual intercourse".

Mr. HELMS. Mr. President, I thank the distinguished clerk for reading it slowly. Around this place, generally he goes as fast as he can in the interest of time.

The amendment I sent to the desk contains the exact language the Senate passed last week—with one exception: I have inserted the Federal Communication Commission's [FCC] definition of indecent material as upheld by the Supreme Court in FCC versus Pacifica. If the lawyers in the Senate want to know the cite for that case, it is 438 U.S. 726.

During the debate last week on this floor, Senator after Senator got up to express disgust with the Mapplethorpe photographs and declared over and over again that such art should never have been funded. Unfortunately, the language of the conference report, as the Washington Post in an editorial this morning acknowledges, just wipes out everything the Senate has tried to do on this issue. The report puts us right back to ground zero because the conference report creates a loophole that will clearly allow the National Endowment for the Arts to fund the Mapplethorpe photographs again.

I did not bring the pictures here this morning. I think Senators saw what I was talking about the last time, which is why they expressed the disgust that I have just mentioned.

But if Senators do not believe me that the conference language is worthless as a check on the NEA, perhaps they will believe Congressman YATES. Perhaps they will believe sources in the National Endowment for the Arts and a prominent arts lawyer with a Los Angeles law firm. I call Senators' attention to an article from the Los Angeles Times written by the Times art correspondent, Alan Parachini, which I have asked the pages to place on the desk of each Senator.

That article states absolutely correctly that in an exchange with Congressman ROHRABACHER over in the House of Representatives, Congressman YATES said that: "Funding of obscene art was not effectively prohibited by the conference report."

Mr. Parachini also reported that James Fitzpatrick, a prominent arts lawyer with the prestigious firm of Arnold & Porter, who submitted a legal brief to the conferees on the bill on behalf of the American Arts Alliance, concluded from his reading of the conference report that the wording of the conference report "fails completely to achieve any degree of subject matter control."

Is this where the U.S. Senate wants to leave this question, which is very much on the minds of the American people? Do we want to say, "Well, we went through some motions here and reported out some gobbledygook but it is behind us now?"

Under the law, if the conference report is adopted as it stands without my pending amendment, the National Endowment for the Arts, and all others receiving the taxpayers' money, will be free to do whatever they please.

This Senator says, no. This Congress ought to act. If you want to turn down my amendment, that is fine, but let us go on record. I understand there is going to be a tabling motion and that will avoid Senators having to stand up and vote yea or nay on the question. But the people back home are smart enough to know that a vote to table is a vote against the amendment.

In any case, the Los Angeles Times quoted unidentified sources within the National Endowment for the Arts itself that "the wording appears to be so vague that virtually no artistic subject matter would be taboo."

So here we go. Any yoyo out there across America's land can get himself a glass jar and fill it with his own urine, stick a crucifix in it, take a picture of it and get a $15,000 award subsidized with the taxpayers' money. That is exactly what Mr. Andres Serrano did.

I do not know about other Senators, but I find this state of affairs somewhat ironic in that my original amendment was unfairly and incorrectly criticized as prohibiting everything from the Bible to Shakespeare. And now Congressman YATES comes along and compromises the amendment passed by the Senate of the United States. And what does his compromise prohibit? Absolutely nothing. Nothing. It creates a loophole so wide you can drive 12 Mack trucks through it abreast.

If the legal effect of the conference report is to prohibit nothing, then the only possible interpretation of the language is that it was no more than a sop to fool the American people into thinking that the liberal majority in Congress is actually willing to get tough on the NEA for funding trash like Mr. Mapplethorpe's and Mr. Serrano's.

So this is put up or shut up time, Mr. President. I may get beat again, and the Washington Post and the New York Times may gloat again, but the American people are going to take note of this vote.

Mr. President, note what section (A) of the conference report says in setting forth, a test for obscenity in NEA funding decisions. It would be laughable, if it were not so serious. It says:

None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and—

Here is where the cookie crumbles, Mr. President—

which, when taken as a whole, do not have serious literary, artistic, political, or scientific value.

Who makes that judgment? You got it, the NEA, the very crowd that caused the controversy in the first place.

If we do not close this barn door, Mr. President, all the horses are going to be galloping over the horizon.

Now, note how Congressman YATES interpreted this obscenity funding test, if you can call it that. This is what he said:

If the chairman—

Meaning the chairman of the NEA—

If the chairman decides that the merit to the application is overcome by the weight of the obscenity, then he would not approve the grant.

Dear me, the chairman of the NEA will decide what obscenity is worthy of Federal funding under the conference report.

Here is the point, Mr. President: Congressman YATES—who, by the way, received a standing ovation down at a black-tie dinner with the arts crowd the other night—is a hero because he defeated HELMS, do you not see. Big deal. He did not defeat HELMS. He defeated the vast majority of the American people who are disgusted with the idea of giving the taxpayers' money to artists who promote homosexuality in-

sidiously and deliberately, who desecrate crucifixes by immersing them in urine, and others who will engage in whatever perversion it takes to win acclaim as an artist on the "offending edge" and therefore entitled to taxpayer funding.

Mr. President, I have a message for the Congressman. Old HELMS has been beat before. But old HELMS does not quit. If the Senate does not approve the amendment today, the Senate will vote on it again and again, on bill after bill, month after month, year after year, until Government subsidies for "artistic" perversion are prohibited once and for all.

Congressman YATES, in the House, was not talking about banning Federal funding of obscenity. He was not talking about that at all. He was saying that we need to weigh the obscenity and ban it only if the obscenity outweighs the "social merit" of the work. And remember, that "social merit" will be determined by the so-called art experts who have been involved in this mess from the very beginning. That is the point.

Now, it was my understanding that what Senators wanted the other night was to ban without peradventure Federal funding to all obscenity, period.

The Supreme Court's first amendment test for banning obscene materials in the Miller case, which we have discussed over and over again on this floor, states that material is not obscene unless:

> The average person applying community standards would find that the work:
> (1) taken as a whole, appeals to a prurient interest in sex;
> (2) depicts or describes, in a patently offensive way, sexual conduct; and
> (3) when taken as a whole, lacks serious literary, artistic, political, or scientific value.

What does that mean, Mr. President? That means that if a work appeals to prurient interests and also depicts or describes sexual or excretory conduct in a patently offensive way, it still will not be considered obscene under this conference report, if, when taken as a whole—and, oh, what a gaping "hole" that is—when taken as a whole—w-h-o-l-e—it is considered to have some vestige of serious literary, artistic, political, or scientific value as determined by the NEA, the crowd that exercised such terrible judgment in the first place. The crowd that has repeatedly said over the years, "Butt out, Congress; do not interfere. Send us the money; we will make all the value judgments about art because Congress and the public are simply too ignorant to understand the artists' higher calling." Hog wash.

I think the Congress ought to say, "No, you will not do it alone with no accountability, not if you are spending Federal money, not if you are spending the taxpayers' money." No, sir.

If the test for obscenity in the Miller case were left to the average person to determine whether the Mapplethorpe exhibit or similar works contained some serious literary, artistic, political, or scientific value, I would not worry, not one bit. But the conference report says to the contrary. Look at what it says.

The report takes the third prong of the Miller test and restates it as an independent test that is left entirely up to the judgment of the art experts, self-proclaimed and often self-appointed, at the NEA to determine.

Congress may think something is obscene, and the American public may think something is obscene, but under this conference report language before us, the NEA, the arty crowd, will be authorized to fund it, by giving away the taxpayers' money, despite the objections of Congress, despite the objections of the public if, in the opinion of the self-proclaimed art experts, it has all of that gobbledygook that I have read over and over again, serious literary, artistic, political, or scientific value.

I imagine—well, I am sure that they found some artistic merit in the Mapplethorpe photo with the bullwhip sticking out of his rear end. That kind of garbage won, what was it, $15,000—no, it was $30,000, I am advised. The people who put that exhibit together got $30,000 from the pockets of the people of Beaulaville, NC, and Hartford, CT; New York City, Seattle, WA; Miami, FL; from taxpayers all over this country.

Mr. President, that is the reason I am on this floor, at this hour, on this morning. In fact, under the conference report, even if the experts agree among themselves that the material is obscene, they are still supposed to weigh the merit of the work against the weight of the obscenity before denying funds.

Congressman YATES explained to the House that if applications are otherwise obscene, that is, if they appeal to the prurient interests and depict sexual conduct in a patently offensive manner:

> It was the conference's intention to leave within the discretion of the NEA and HEH chairmen the decision as to whether or not there was enough social merit or the literary, political, artistic or scientific kind to justify overcoming the possibility—of obscenity and approving the grant.

I reiterate the point, Mr. President, this conference report would allow NEA to fund works such as Mapplethorpe's as long as the panels of art "experts" appointed by the NEA find some artistic, political, literary, or scientific merit to such works when they are considered in their entirety. Put another way—both figuratively and literally—the experts can bring the garbage in as long as they bring it in with enough flowers to cover the stench.

Mr. President, do we really believe, after all the rhetoric from the arts establishment, that they believe that the Mapplethorpe exhibit as a whole has no "serious literary, artistic, political or scientific value."

Look at a few of the so-called art establishment's comments about the social merits of Mapplethorpe's work.

The catalog for Mapplethorpe's Government-funded exhibit contains the following statement:

> Sex was supposed to be a private matter between individuals, but Mapplethorpe saw it as the last frontier of self-liberation and freedom. * * * The rediscovery of Eros in recent years, therefore, has a political and social dimension.

This past June, the Washington Post referred to Mapplethorpe's efforts as work "which has been highly praised by critics." The Post also reported that yet another Mapplethorpe exhibit at the Whitney Museum of Modern Art in New York last year "received very favorable reviews."

Need I remind Senators that the Corcoran Gallery of Art was—and still is—being excoriated by the arts establishment, as reported by the Post, for canceling the Mapplethorpe exhibit and for not upholding "the artistic freedom to show what the professional curators felt was the appropriate thing to show." There have been absurd declarations such as, for example, that the Corcoran "ceased to exist as a vibrant part of the art community" because it denied "the public's right to fully experience the arts," meaning the Mapplethorpe exhibit of course.

Mr. President, the art critics acknowledge that Mapplethorpe's obscene photographs were an effort to gain wider exposure of, and acceptance for, homosexuality—which happens to be the stated political goal of all homosexual pressure groups. For instance, the catalog for the Mapplethorpe exhibit at the Whitney Museum of Modern Art concedes that Mapplethorpe felt sadomasochism (say-doh-mass-uh-kiz-em) was an almost obligatory subject for him to treat and that "he reported it not as a voyeur, but as an advocate. * * * This is an artist that has made a deep incision into our culture."

Mapplethorpe was a talented photographer. He took some good photographs. But the ones we are talking about, and the ones we have been talking about, are pictures that deliberately promoted homosexuality and child molestation, and other activities that I cannot even discuss of the floor of the Senate.

But can there be any doubt, then, Mr. President, that a significant portion of the artistic community contends that the Mapplethorpe exhibit,

not just as a whole, but even in its most obscene part, has "serious artistic, political, literary, or scientific value" and therefore should be eligible for Federal funding—under the terms of the conference amendment? Will the NEA in the future go against the judgment of the art world's avant garde in such matters? I would not bet on it.

The Washington Post, the New York Times, and all the rest, the knee-jerk papers around the Nation, said my efforts to prevent the NEA funding this trash "art" were at best silly and at worst amounted to censorship. Those are the most absurd suggestions possible.

How can you say to anybody applying for a grant that he is being censored if we do not give him the money, if we do not think his art is worth it? No artist, no citizen, has a right to demand that the taxpayers subsidize his "artistic" endeavors, even if those endeavors do not promote obscenity as Mapplethorpe's did.

Mr. President, it boils down to the fact that the conference language—absent the FCC's definition of "indecent" material in it—has brought us full circle. We got into this controversy in the first place because it was the NEA's judgment that the Mapplethorpe exhibit had sufficient artistic merit to warrant giving it a $30,000 Federal subsidy. And now the conference report, by not prohibiting it, implicitly authorizes it to happen again.

The Senate-passed language is somewhat less permissive than the conference report, but it would still allow the Mapplethorpe exhibit to be funded because it incorporates the same enormous loophole as the conference report which says something is not obscene—no matter how revolting—as long as there is some "serious literary, artistic, political, or scientific value" to it.

My amendment closes this loophole by stipulating that the NEA may not, and must not, fund material which violates the Miller test's second prong concerning "work that depicts or describes, in a patently offensive way, sexual conduct." The amendment does that by adding to the Senate passed language the Federal Communication Commission's [FCC] narrow definition of "indecent" as upheld by the Supreme Court in *FCC* v. *Pacifica* [438 U.S. 726]. Elaborating on the second prong of the Miller test, the FCC defined "indecent" material to include "material that depicts or describes, in a patently offensive way, sexual or excretory activities or organs."

Now if that definition does not describe the Mapplethorpe exhibit to a tee, I do not know what does. By including this definition, Congress can absolutely ensure that the NEA will never again fund a Mapplethorpe exhibit or anything like it. If the FCC—with the approval of the Supreme Court—can apply this "indecency" standard to broadcasts over the public airwaves, I see no reason why the NEA cannot apply it with equal ease to expenditures from the public coffers.

If Senators were sincere in their statements the other night—that the Federal Government should not fund pornography such as Mapplethorpe's in the future—it is imperative that they now vote in support of my amendment to remove the enormous loophole in the conference language that will allow it to happen again. Make no mistake about it, the conference language without the FCC's definition of "indecent" is just legal hocus pocus. It leaves the status quo exactly as it was before this controversy began and we will have done absolutely nothing to prevent the NEA from funding trash and garbage by calling it "art."

Again, the question is simple, Mr. President. If Senators believe there ought to be a law on the books allowing the National Endowment for the Arts to use the taxpayers' money to fund disgusting material, material that "depict or describe, in a patently offensive way, sexual or excretory activities or organs,"—I am quoting from the Supreme Court's decision—they should vote to table my amendment. If that is what they believe, fine. Vote to table the Helms amendment, but be prepared for some questions to be asked by the people back home.

On the other hand, if Senators agree that funding such disgusting materials with the taxpayers' money is outrageous, they should, and I, of course, will, vote for the amendment.

One other thought, and I shall yield the floor. I met at some length with John Frohnmayer, the new Chairman of the National Endowment for the Arts. I say to my friend from the west coast, he is a delightful man, and not only did he tell me then, but he called later to reiterate that on his watch things like Mapplethorpe and Serrano will not happen again. And I believe that.

But suppose Mr. Frohnmayer goes down in a plane or leaves office for some other reason and somebody else replaces him? Congress ought to spell it out now, that we, the Congress of the United States, will not further permit the waste, the awesome waste, of taxpayers' money in such fashion. I support Mr. Frohnmayer. I know he is a man of integrity, and I know he is a man of his word. I am not worried about him. But I think we ought to do our duty and be glad that we have a man who agrees with us.

I yield the floor. I reserve the remainder of my time, Mr. President.

Mr. GORTON. Will the Senator from West Virginia yield some time for this Senator?

Mr. BYRD. Mr. President, how much time does the Senator wish?

Mr. GORTON. I believe 5 minutes will be sufficient.

Mr. BYRD. Mr. President, I yield to the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, it is with some regret but real firmness that I stand to oppose the amendment of the distinguished Senator from North Carolina; firmness because I believe it to be a fundamentally flawed approach, regret because I think the implicit point upon which the Senator's amendment is based is a correct one.

The problem, the overwhelming flaw with this amendment, is the fact that it adds to the amendment which is included in the bill the phrase "in a patently offensive way." That phrase, Mr. President, is simply not susceptible to any kind of precise meaning whatsoever. What is patently offensive to the Senator from North Carolina may not be so to me, or to the distinguished Senator from Georgia, much less John Frohnmayer or to members of the board of the National Endowment for the Arts.

In other words, this language simply provides no rational guidance to people who will make decisions if it is a part of the law. It therefore should appropriately be defeated.

But the Senator from North Carolina, it seems to me, makes two points. One is that there should be legislation of this sort affecting and guiding the National Endowment for the Arts.

The second and the more important point which he makes, and the point with which I agree, is that the people of the United States of America, the taxpayers, should not be required to pay for "art"—I put that word in quotation marks—which attacks the faith, morals, or firmly held beliefs of large numbers, even though those large numbers may in some cases may not be a majority of the people of the United States themselves, whether or not those attacks would be fully and completely protected by the first amendment in the absence of a Federal subsidy for them.

That is the difference, Mr. President. Each of the works of art which led to this controversy is I believe protected by the first amendment. None of those works of art have any kind of right or entitlement to be supported by the taxpayers of the United States. Therefore, it was with great pleasure that I greeted the original form of the Interior appropriations bill which was passed by this body. It simply stated that for the next 5 years neither of the museums or the entities which had sponsored those exhibits could receive money from the National Endowment for the Arts.

I deeply regret that the conference committee has abandoned that position for whatever grounds. I hope, and earnestly, that the National Endowment for the Arts will not in fact subsidize directly or indirectly either of those institutions, at least for the period of time of this appropriation. If it does, it will meet with great disfavor on the part of this Senator.

Mr. McCLURE. Mr. President, will the Senator yield to me for a question?

Mr. GORTON. Yes. I yield to the Senator from Idaho for a question.

Mr. McCLURE. I hope the Senator has noted the provision that is in the conference report, that before the endowment can offer a grant to either of these institutions, they must submit a report to the committees of the Congress affected with an explanation of the reasons why they propose such a grant. The grant cannot be made until it lies before the Congress in those committees for 30 days.

Mr. GORTON. This Senator has noted that provision, and feels it is better than nothing, but not nearly as good as the original provision passed by the Senate.

Mr. McCLURE. Will the Senator yield for one moment further? I agree with the Senator. That provision was one that I had offered for the committee in the Senate deliberations. The House was absolutely adamant on that issue. That was one of the compromises struck.

Mr. GORTON. I thank the distinguished Senator from Idaho.

I simply make the point that had we disciplined the National Endowment for the Arts in that fashion, I think we would have solved the problems which have raised this amendment and the preceding amendments which have been brought up by the Senator from North Carolina in a far better fashion. In fact, I note that due to the generosity of the Senator from North Carolina, we have before us copies of an editorial from the Washington Post this morning. One sentence reads, "As it is, the endowments of the institutions that they fund are more likely to respond to their narrow escape with increased caution."

I hope firmly, Mr. President, that that is in fact the case. If they do so, both the Senator from Idaho and the Senator from North Carolina will have reached the goals which the Senator from North Carolina attempts to reach with an amendment which I feel, regrettably, is wrong.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I yield myself 5 minutes.

Mr. President, the Senator from North Carolina seeks to amend the conference agreement on amendment No. 153. The conference language is applicable to the agencies under concern: the National Endowment for the Arts and the National Endowment for the Humanities.

The Senator from North Carolina would apply funding restrictions to all agencies funded in the bill. Yet, our only problem has been with the Endowments. There is no need to send the conference report back to the House to modify points that have not been a problem.

Second, the conference language provides guidance to the Endowments and directs them to use their judgment to not support works of art or verse which is obscene.

The Senator from North Carolina would simply ban Federal funding for obscene works and would not assign responsibility to any individual or agency for determining what is obscene.

Obscenity is an issue which even the Supreme Court has said is difficult to define. In art, we are dealing with judgment. We are not considering matters such as traffic laws where it is clear whether someone has run a red light.

We are dealing with issues of judgment, and the responsibility for making that judgment must be assigned to an individual or agency. The language in the conference report does assign responsibility for making these judgments to the Endowments; and, in that respect, I believe it is superior to the language offered by the Senator from North Carolina.

To those who might argue that we cannot trust the Endowments to exercise the correct judgment, I would point out that this debate on the mistakes made by the National Endowment for the Arts—and clearly there were mistakes made in funding some of the work—this debate has raged in the Senate since this spring. I know of no Member who supports the offensive works. More importantly, the National Endowment for the Arts has a new chairman. He was confirmed by the Senate in the last month. He has indicated that he has heard our message, and I believe that he will be responsive and will use careful judgment.

Mr. President, I believe that the conference language places the responsibility exactly where it belongs.

Third, the Senator from North Carolina introduces language which identifies new standards for obscenity.

The conferees establish a Commission to review whether publicly funded art should be held to a higher standard. I think we should let the Commission have time to complete its review.

Mr. President, the matter before the Senate with respect to the National Endowments is the result of extensive debate and compromise. That debate went on for hours during the 3 days of conference, and for hours prior to the conference, and in preconference meetings.

As I have already indicated, I did not enter into the debate. Senator McCLURE and others tried very hard to find language that would uphold the premise behind the amendment of the Senator from North Carolina, and at the same time try to come up with effective language that would be enforceable and would prevent a repetition of this offense, offense in the eyes of the American people, who believe in decency and morality. To craft language that would meet the concerns of all on both sides of the conference table in both Houses is an extremely different matter.

I think Mr. McCLURE and others certainly did the very best they could to come up with the language that we have here. We could have been arguing yet in the conference, obviously.

Mr. President, I yield myself 1 additional minute.

I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

I appreciate the comment that has been made, and I agree. I think we cannot make it too strong that the Senate conferees tried very hard to pull the Senate's position as expressed in the Helms amendment, modified by the Fowler amendment. The observation needs to be underscored that despite our efforts, the House refused to accede to the Senate's position.

Is that a fair representation?

Mr. BYRD. That is a fair representation. No member of the conference took the matter lightly. It was probably the most contentious issue before the conference. I will regret it if we should have to revisit this issue on the this bill. So many hours and weeks and months have gone into the development of this legislation through the hearings process and markup and the conference.

Now we are at the point of adopting the conference report, and, hopefully, we can send it on to the President without amendments. I hope that the compromise before the Senate will be passed overwhelmingly, passed by the Senate this afternoon, so we can send it to the President for his signature.

I do not want to see the Senate amend the amendment in disagreement and have that go back to the House.

Mr. President, I compliment the Senator from North Carolina for his tenacity in the effort, and I must say that I share, to a very considerable extent, his feelings on the matter. I think that the real issue here is, what the American people should be expected to subsidize, and I have no doubt but that the overwhelming majority of the American people, if they saw what they were subsidizing, would find it most disgusting, and they would certainly be extremely indignant about it.

Mr. President, there are many battlefields on which this battle can be fought on another day, and I hope that the Senate, in this instance, will adopt the conference report. I expect to move to table the amendment of the Senator from North Carolina.

As the Senator who has the responsibility on this side of the aisle for moving this conference report, I would be constrained to oppose the amendment and I would have to move to table it. I hope the Senate would support that tabling motion. That does not mean that my feelings are assuaged on this matter at all. But for the sake of getting on with the legislation, I hope that we will do just that.

So, Mr. President, I ask for the yeas and nays on the amendment by Mr. HELMS.

The PRESIDING OFFICER. Is there a sufficient second?

There was a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I see the distinguished Senator from Vermont. Does he wish me to yield time to him?

Mr. JEFFORDS. I would like very much for the Senator to yield 5 minutes.

Mr. BYRD. Mr. President, I yield 5 minutes to the junior Senator from Vermont.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Helms amendment. I also am not really exactly pleased with what is in the bill itself as passed out of conference. On the other hand, I certainly will accept it under the circumstances.

Mr. President, I have twice before expressed my strong concerns and objections over the Helms amendment regarding the National Endowment for the Arts.

I would have preferred that the amendment was removed in conference. There is no question in my mind that the original version would fail a first amendment test. It would represent an impermissable attempt by the Government to restrict speech through a Federal funding program.

Instead, the conferees agreed upon a more moderate version of the Helms amendment. They looked to the 1973 U.S. Supreme Court Miller standard for a definition of obscenity, and agreed that Federal funding should be denied to artistic work that "when taken as a whole does not have serious literacy, artistic, political, or scientific value." Thus, the first amendment test is probably passed.

However, I want to express once again my strong concern that we in the Congress might be moving dangerously close to setting standards for artistic merit. I hope that we have not created an atmosphere in which artists will fear Government or public reprisal for work that is supported by the Endowments.

I would like to focus on a little bit different aspect on the problem in our mind. I think in our country through the risks we take and the ventures we support we adhere to the first amendment. Any action which denigrates this amendment creates a risk to our society and hurts success.

A cornerstone of democracy is the first amendment. Any action which denigrates this amendment creates a risk to the success of the democracy. At the same time, adherence to the free speech preamble creates the risk of serious controversy and public fury. And I agree that some of the art we have seen here does excite me to some sense of concern and fury. The flagburning incident is the most obvious and recent example.

But comparing that incident with the execution of Chinese students for demonstrating for freedom emphasizes the strengths of our society.

Throughout history, the arts have not been immune from controversy and furor. Before reviewing some illustrative examples, let us first place a few facts in perspective. Of the 85,000 grants that have been awarded by the National Endowment for the Arts, only 20 have resulted in significant controversy. This is one-fortieth of 1 percent. This is hardly an unacceptable risk if you compare it with the alternative.

To raise awareness of the danger which might be created by such censorship as proposed by the Helms amendment, it is helpful to look at the controversy that some of the more notable artists faced. Famous books, paintings, sculptures, and even ballets have all felt the heat of censorship and probably would have raised the ire of many Members of this body at the time they occurred.

In 1876, in Brooklyn, NY, "The Adventures of Tom Sawyer" was banned from the children's room in the public library.

In 1885, in Concord, MA, "Huck Finn" was banned from the public library as "trash and suitable only for the slums."

In 1905, again in Brooklyn, both books were banned from the public library's children's room as "bad examples for ingenuous youth."

In Paris, in 1863, Manet's two most famous paintings, "Dejeuner sur L'Herbe" and "Olympia" created general outrage and were attacked as indecent when they were first exhibited, and subsequently had to be removed from exhibition.

William Faulkner won a Nobel Prize for literature in 1950, 2 years after complaints from fundamentalist ministers precipitated a raid and approximately 2,000 allegedly obscene books were seized including "Mosquitos," "Sanctuary," and "The Wild Palms." In 1954, "Sanctuary," "Pylon," and "Soldier's Pay" were placed on a disapproved list of the National Organization of Decent Literature.

"Sacre du Printemps/Rights of Springs," a ballet by Igor Stravinsky, is now considered one of the seminal cultural events of the 20th century. However, in 1913 in Paris it was greeted with boos from the audience and subsequent performances had to be canceled.

Another of our great authors, Ernest Hemingway was denied the Pulitzer Prize in 1940 after Columbia University President Nicholas Murray Butler said to the Pulitzer Advisory Board,

I hope that you will reconsider before you ask the university to be associated with an award for a work of this nature.

The novel in question was "For Whom The Bell Tolls." Even as recently as 1962, Texans for America opposed textbooks which referred to books by Hemingway.

Finally, D.W. Griffith's pioneering full-length film, "The Birth of a Nation," considered among the greatest movies ever made, has stirred controversy because of its glorification of the Ku Klux Klan.

One, of course, could list numerous historical greats whose art would fail the Helms standard: Shakespeare, Michelangelo, and Flaubert to name a few.

To me it is question of risk in our society.

Is it not worth the risk of one-fortieth of 1 percent to ensure that we do not stifle the potential of just one such future artist?

In my mind the answer is clear and, therefore, I must oppose the Helms amendment and with some reluctance agree to the bill with the present standard included.

I yield back whatever time I have remaining.

Mr. BYRD. Mr. President, how much time remains to each side on the conference report and to each side on the amendment?

The PRESIDING OFFICER. The Senator from West Virginia has 12 minutes on the conference report. The Senator from Idaho has 7 minutes on the conference report. The Senator from North Carolina has 21 minutes on his amendment. The Senator from West Virginia controls 23 minutes in opposition.

Mr. McCLURE. Will the Senator yield for a parliamentary inquiry?

Mr. BYRD. Yes; I yield time on the conference report.

Mr. McCLURE. My understanding is I had yielded myself 5 minutes; I yielded the Senator from Oregon 10 minutes; I yielded to the Senator from Montana for 2 minutes. I do not understand how the sum of those subtracted from 30 comes to 7.

The PRESIDING OFFICER. Subsequent to that the Senator used 2 minutes and the Senator yielded 2 minutes to the Senator from Montana.

Mr. McCLURE. I did not use 2 minutes. I asked a Senator to yield so I might ask a question of Senator GORTON and that was on Senator GORTON's time.

Mr. BYRD. Mr. President, I ask unanimous consent that the time charged to Mr. McCLURE be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, would it be agreeable with all Senators if we could get consent to have a vote on the conference report at 1 o'clock today and that the Senator from North Carolina and the Senator from West Virginia retain the time under their control that presently exists on the amendment by Mr. HELMS until after that vote on the conference report?

Mr. HELMS. Will the Senator yield?

Mr. BYRD. Yes.

Mr. HELMS. I thank the Senator. I could see no problem with that. As I understand it, we have each about 21 or 22 minutes apiece. Wait a minute. That adds up to 44. I still do not think we have a problem about it, because I intend to go ahead and finish the debate. Why do we not wait a minute to see how it turns out? I would say approximately 1 o'clock or shortly thereafter.

Mr. BYRD. All right; so Senators may be notified that a vote will occur, then at approximately 1 o'clock on the adoption of the conference report.

I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I yield myself 2 minutes. I do want the RECORD to reflect the Parliamentarian was correct. The Chair did appropriately point out that I had used some additional time.

I did not want it to stand that I was critical of the calculation.

There will also be two votes that will occur either back to back or very closely together: One on the conference report and one with regard to the Helms amendment. Is that not correct?

Mr. BYRD. On or in relation to the amendment by Mr. HELMS, but they would not be necessarily back to back, because each of the two Senators who control time on that amendment would retain that time until after the action on the conference report.

Mr. HELMS. In any case, I will say to the Senator, it will not be far long after.

Mr. McCLURE. Mr. President, allow me to take a moment to express my feeling with respect to the conference action on the obscenity question and the amendment of the Senator from North Carolina that is now pending.

It is very troublesome to the Senator from Idaho, because I am concerned that those who make grants in the field of the arts and humanities are still clinging to the idea that indeed they should not be circumscribed in any way, shape, or form in the manner by which they use the taxpayers' money.

I said in debate on the bill earlier that I am angry—and I am—I am angry about what they are doing to the public willingness to support the national endowments. I support the National Endowment for the Arts and the National Endowment for the Humanities. I am offended when they make a mistake. And if they make a mistake, and if they would just admit they made a mistake, a lot of this furor would go away. It is their stubborn clinging to the idea that Congress has no right to limit the expenditures of public funds that is causing the current nationwide discussion of their activity.

Unless anybody thinks that is just my own reaction, I hear it around the halls, I hear it in the cloakrooms, I hear people saying, "Well, maybe if that is what they are going to do, we ought to cut off all funding," and I would regret that.

The PRESIDING OFFICER. The Senator has spoken for 2 minutes.

Mr. McCLURE. I yield myself 1 additional minute.

So I am caught in a situation in which I do not like what I see happening out there. I do not like the attitudes which are being expressed. I see that as a threat to our ability to continue to provide public funding for these activities. And yet I know that we did the best we could in the conference, as inadequate as it was, and I think indeed that if it is sent back to the conference, it will have the same result.

So I am torn between my personal conviction that they should not be resisting an attempt to establish some standards and confess, indeed as editorialists have written, that this will have a de facto effect on their conduct, and I say it better have. But I do not believe that we will do better in the conference.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, just a brief comment or two, then I want to yield to the distinguished Senator from Idaho [Mr. SYMMS] for 5 minutes or longer, if he desires.

I wish the distinguished Senator from Vermont [Mr. JEFFORDS] was still on the floor, because I would like to ask him two or three questions. He raised again the totally ridiculous question of censorship. It is not censorship when the U.S. Government refuses to fund anything it does not want to fund. To suggest that censorship is involved is just not sensible.

Over and over again on this floor, the declaration has been made—and this came from the National Endowment for the Arts spokespeople—well, they said one time 80,000, one time 85,000, another time only 20 or 18; they change the numbers constantly.

I want to know if Senator JEFFORDS or any other Senator has looked at the other 80,000 or 79,890. Who knows what is in there? All the Congress will be saying is look out and do not give away the taxpayers' money for this sort of garbage again.

The distinguished Senator from Washington, my good friend, SLADE GORTON, lost me in some of his comments. The phrase in the amendment, I will say to him and I quote, "or that depicts or describes, in a patently offensive way, sexual or excretory activities," and so forth—is exactly the language upheld by the U.S. Supreme Court, in FCC versus Pacifica.

So what are we talking about? The Court approved this language 11 years ago. And yet, as Senator McCLURE has indicated, some of the people in the art crowd say, "Butt out and leave us alone.; just send the money." This Senator says, no way. We are not going to send any more money for the garbage as produced by Mr. Mapplethorpe or Mr. Serrano and the other guys.

Now let us get our facts straight and understand what we are voting on. We are not voting on censorship. There is no censorship involved. This is acknowledged by every fairminded person, including many Senators who a week or two ago voted against my amendment. They say there is no censorship, and of course there is not.

Senator MOYNIHAN correctly pointed out on July 26, 1989—when the Senate passed my original amendment—that "* * * we are not dealing with censorship per se. Nothing in the bill before us inhibits the first amendment right of these artists to exhibit their work. * * *"

A unanimous Supreme Court in 1983 in *Regan* v. *Taxation With Representation*, 461 U.S. 540, reiterated a long line of cases holding that Congress' decision not to subsidize the exercise of a fundamental right, such as free expression, does not infringe upon that right. In other words, it does not amount to censorship.

So, Mr. President, a unanimous Supreme Court says that Congress is free to choose not to fund the NEA at all, or to fund it with absolutely no strings attached. Or, Congress may choose to regulate the NEA anywhere between those two extremes and not violate

anybody's rights under the Constitution.

Thus restricting the conditions under which the NEA will spend Americans' tax dollars does not amount to censorship, so says the Supreme Court.

However, if Congress is going to use the first amendment obscenity standards—which must be met in order to prosecute someone for the sale or exposure of obscenity—to also restrict what the NEA may fund with tax dollars, as we are being urged to do, Congress should at least use the words in Miller which prohibit patently offensive depictions of sexual or excretory conduct. That language at least has some real teeth in it which would prevent the NEA from funding trash "art."

Congressman YATES used the Miller language which—as we can see from the NEA's own interpretation of it—would allow the NEA to do exactly as it pleases without regard to the public's sensitivities. Artists' will continue to compete with adult bookstores for customers, one of which has been the Federal Government because the evidence is overwhelming that the self-proclaimed "art" experts—whose judgment the NEA defers to—consider works such as Mapplethorpe's obscenity to have "some redeeming artistic and political value."

Mr. President, I yield to the able Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina for yielding.

I think the Senator from North Carolina deserves a great deal of credit from the taxpayers of the United States for his courageousness and willingness to stand up against what has been termed by the media as an unpopular issue.

I think that there is a point we often fail to recognize, however: That the amendment of the Senator from North Carolina is actually too narrow, not too broad, as I have heard argued here on the floor.

The question that we probably should be debating is whether or not we should fund the arts at all. And I recall the late H.R. Gross from Iowa, whom I had the privilege to work with in the other body. He used to have a heyday on the National Endowment for the Arts.

I recall one of his amendments was that if we are going to fund the Kennedy Center—the way he used to put it—so all the wealthy people can go down and enjoy the arts at the expense of the working men and women of America, we should at least open the Kennedy Center up every so often for wrestling matches and other kinds of enjoyment that other people might consider art.

That was the late Congressman Gross' way to make the point that we should stop trying to prescribe Federal remedies to all problems.

I happen to be one Senator that does not think the U.S. Senate ought to be involved in the arts. But I do think that it is entirely proper, if the Government is going to put the taxpayers' dollars up, as my senior distinguished colleague, Senator MCCLURE, has said, they certainly have the right to have something to say about how the taxpayers' money is spent.

I think we should apply the basic principle that James Kilpatrick applied in an interesting article and I might just quote the headline on the recent Kilpatrick article, which was, "Helms Amendment Misses the Target."

James Kilpatrick is a friend of JESSE HELMS, he is a friend of mine and many other Senators here. The headline says "Helms Amendment Misses the Target." This is the theme of the article: "My thought is the Federal Government has no business in the arts business. The Government ought to not be sponsoring any artist to produce any work at public expense."

Now there is a reason that he says that. Not that they have not done some good. You cannot throw this much money at the National Endowment for the Arts and not have done some good in preserving some culture and appreciation for the arts in the United States of America.

But look at some of the places where the money has been spent. The State Council of the Arts in New York, which gets Federal money through the National Endowment for the Arts, has backed all kinds of things. I would invite my colleagues to note some of the exhibits funded with Federal dollars that would be offensive to many, many of the taxpayers of the United States.

So I would come back to my original premise. If we want to do something in the U.S. Senate for the appreciation of the arts in this country, what we should do is to try to create an economic and political environment of stability, of sound money, of a relatively competitive marketplace with fairness so all people can get into the market, where people can have an opportunity to earn some money and keep the money, and then they can donate the money to the arts.

The best thing U.S. Senators can do for appreciation of the arts would be to balance the Federal budget, keep a low tax rate on the working people and producers and capital of the United States of America, provide for a country with political and military and economic strength, so we will not be threatened.

Then people can donate all the money they want to the arts and there will be plenty of wealth created where the private sector can donate it, and the U.S. Senate will not have to tie its time up debating what is offensive to the taxpayers and what is not.

It is very clear in the Supreme Court's first case test for obscene materials. The majority in the Miller case said: Material is not obscene unless, "When taken as a whole, it appeals to a prurient interest in sex; depicts or describes, in a patently offensive way, sexual conduct; and, when taken as a whole, lacks serious literary, artistic, political, or scientific value."

This has already been decided. The Senate is not participating in any censorship. The Senate is doing something responsible. We got into this mess by getting involved in the National Endowment for the Arts in the first place. I realize we are in it. It is probably not going to change. I do not believe this Senator will live long enough to see the Federal Government back out of some of these areas, even though I wish it would. The FCC definition of obscenity says: Material is indecent if it "depicts or describes, in terms patently offensive * * * for the broadcast medium, sexual or excretory activities or organs."

That is what the statute says.

Senator HELMS' language is not anything new. It is not anything Senators could be concerned about, and we could be saved several million dollars. By eliminating NEA funding, the taxpayer would save $171 million.

I say again to my colleagues, why do we not try to stop congressional intervention into every way and walk of people's lives? That is really what the issue is all about. This is money that comes from hard-working people. They are trying to raise their families, pay their bills, educate their children. They are paying taxes to support the National Endowment for the Arts. Who goes to events funded by the National Endowment for the Arts? Go down and check the income of the people who go to the Kennedy Center. You will find it is not generally the Nation's working-class people. I thank the Chair.

Mr. HELMS. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes, 24 seconds.

Mr. HELMS. I yield 4 minutes to the distinguished Senator from Oklahoma and 4 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise today to support Senator HELMS. But also I wish to compliment Senator BYRD and Senator MCCLURE because I participated in the conference. I tell the Senator from North Carolina, I wanted to help him in the conference. The conference was long. It was difficult. Senator MCCLURE and Senator BYRD, I think, did a very good job.

They did the best they could. They spent a couple of days on this issue, couple of days in conference and probably the majority of time on this issue. It was not easy. It was a difficult conference.

Those on the other side were very insistent, they did not want the Helms language. But I rise today in support of Senator HELMS because I was looking at the language that we ended up with. My patience kind of gave out. I was there for several hours on the issue and proposals were bouncing back and forth.

I tell my colleagues, at one time I heard some pretty good proposals, primarily from the Senator from Idaho. They sounded pretty good. They were not exactly as proposed by Senator HELMS. Senator JOHNSTON had some input on it. But I though we were making some progress and we would be effective in prohibiting Federal funding of obscene, indecent art.

But I read the Washington Post, I read the language in the committee report, and this language we have in the committee report is not really sufficient. It does not prohibit the funding of the type of art that Mr. Mapplethorpe used Federal funds for: Obscene art, art that would go so far as to having one man urinating into another man's mouth. That is sickening to this Senator. We do not prohibit it by this language. I thought maybe we did. I just read the language. But it does not do that. It does not go far enough.

I am not sure the amendment of the Senator from North Carolina is perfect but at least it would prohibit that type of nonsense.

The report language, as stated by Mr. YATES—and I will just read something from the L.A. Times, just an article that says:

> Yates said funding of obscene artwork which played a crucial roll in precipitating the Endowment's crisis this year was not effectively prohibited.

In other words, this report language skirts around the issue. It talks about prohibiting it, but it does not prohibit it. It does not stop it. I will tell my colleagues, the taxpayers of my State and the taxpayers all across the country do not want to have anything to do with subsidizing this type of nonsense. Therefore, I even looked at the Washington Post. It says, and I will read it: "NEA could, in theory, still approve some of the artworks that touched off the current controversy." That says it all. If the NEA can still fund it, we did not go far enough.

I do not want to infringe on anybody's first amendment rights, but we do have the rights to curtail Federal funding, stop Federal funding, or make sure we do not fund obscene art—I cannot call it art—obscene objects that some people call art and receive taxpayers' subsidies.

I think the Senator is exactly right. I compliment him for his courage. It has not been easy. He has taken the brunt of more criticism for this one amendment than probably any Senator in a long, long time. He has courage.

I also compliment him because he has had the courage to bring this issue to the forefront. I hope and I think he will at least be successful in making those people who are giving these grants be a lot more careful in the future. I compliment him for that.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I want to thank the Senator from North Carolina for yielding me this time. I want to pick up on what the Senator from Oklahoma was just saying. I have stood mute here on the floor of the Senate earlier when there has been debate on this issue and allowed the Senator from North Carolina to carry the burden of the debate and make his points.

I did that because I did not feel I had been involved enough in the language. I had not seen the gross pictures at that particular time. I knew there were legal arguments, first amendment arguments. So I waited and I hesitated. But I cannot do it today. There are two or three points I would like to make.

First, I would say, in my opinion, the National Endowment for the Arts has been out of control for years. I have repeatedly tried to work with the people there and have always found it extremely difficult. I found them to be arrogant. I found them even to be prejudiced, particularly with regard to my own State. When we would contact them and try to participate in what NEA had to offer, there was a down-the-nose attitude: Mississippi participate in the arts?

I have always resented it. Even this year we had a lady come from my State of Mississippi go over there and ask to participate in NEA, and she was totally rebuffed. As it turns out, that particular person apparently had a reputation in that vein and she is gone now. But it symbolizes the attitude that they have had over there for years.

I just cannot understand the resistance to the language of the Senator from North Carolina. I have been looking at his language. After looking at the pictures involved here, I do not see the problem others see. As a matter of fact, this is basically, as I understand it, the language that the Senate voted for earlier, the Helms-Fowler language.

Yet, in this conference report we have this much weaker language which even the Washington Post says does nothing, and which the L.A. Times said that, "According to Endowment sources, speaking on condition they would not be named, they said the wording appeared to be so vague that virtually no artistic subject matter would be taboo."

There are three conditions here. First of all, NEA decides whether or not it will be funded.

Then of course, it must be obscene or meet some of these other criteria pointed out.

Then a third step, it must have no serious literary, artistic, political, or scientific value.

Three hurdles we are going to jump over? Would NEA really turn down anything? The question here to me is not the constitutional or legal arguments. It is a basic question: Are we going to use the people's money to fund this kind of trash?

As the Senator from North Carolina says, they can paint or take vulgar snapshots of anything they want to. But I refuse to allow a system where the money of the people that I represent will be used to pay for this sort of garbage.

The Senator is trying to make sure we get control over an organization that has been out of control, that just funds any kind of trash that is dragged in before them and says this is art, while at the same time treating other parts of the country and other artists as if they were totally unqualified or inept to do real artistic work.

I am not going to try to judge what is artistic and what is not, I am not the one who should do that. I just say that the language in this report does nothing. Nothing.

The Senator from North Carolina has language that will really deal with this serious problem. When this vote starts, I am going to have these Mapplethorpe pictures here on the floor, and I am going to show Senators as they come in the door what the NEA has been funding. You look at these photos and you walk in here and vote against what the Senator from North Carolina is trying to do. This is totally ridiculous. I cannot believe that we are arguing in legal terms over using Federal funds for this sort of thing at the National Endowment for the Arts. It is time we clip their wings. We should do it with this amendment.

Mr. RUDMAN. Mr. President, I ask the chairman of the committee if he will yield me such time as he might have available, up to 5 minutes.

Mr. BYRD. Mr. President, I yield the Senator 5 minutes off the time under my control on the conference report.

The PRESIDING OFFICER. The Chair recognizes Senator RUDMAN.

Mr. RUDMAN. Mr. President, I find it interesting that this is the subject of debate on a Saturday morning. I suppose it is as good as any having to be here on a Saturday morning. Quite

frankly, some of the rhetoric might exceed some of the reality.

I want to say to my friend, the senior Senator from North Carolina, we have had discussions about this on the floor before. He is precisely right in his legal analysis. There is no argument on that, and I do not think anybody has tried to argue it.

The question is whether or not we are going to apply a first amendment standard to grants that the endowment will give. There is no question, and the managers have not disagreed, and I was part of the conference, that when the House insisted on language that started to put the value judgment from the Miller case, then that obviously made it a first amendment matter.

The Senator from Mississippi is correct, you cannot argue about that. If you want to have an absolute bar, lock the door, then you have to take that language out.

The language that the Senator from North Carolina offers this morning is not unlike the language of the Fowler-Rudman-Pryor amendment offered here, it seems like years ago. I guess it was just a few days. That is where we are.

So the question is, Why did the conferees do what they did? The conferees did what they did, very simply, because we had a conference as important as this one, with the Interior bill loaded with important subjects, as it was, and this was a strongly held position by the House, and it was agreed to.

Having said that, where are we really? Let us straighten something out for the American people. Even the Senator from North Carolina or the Senator from Mississippi would not disagree with this. The National Endowment for the Arts has not been in the business of running high-speed presses, turning out pornography. They fund thousands of art projects that are projects of distinction. As a matter of fact, there may be others, but these are the only two that I have heard of out of thousands that they grant. These undoubtedly are offensive.

The Senator from North Carolina may not want to admit it, but I think he knows it, that he has won his case, and it was a good case. He has had his victory. It is inconceivable to anyone who knows those two organizations that they would fund anything like Mapplethorpe or the other artist involved, Serrano, with the language that is in here which specifically says to them, you better watch what you fund if it gets across the bounds of the ordinary, decent judgment of the average American.

As a matter of fact, that is exactly what the Post said this morning. The Senator from North Carolina did not quote that particular part of it, but he conveniently made it available to us. They say, and they are right:

> The endowments and the institutions they fund are more likely to respond to their narrow escape with increased caution, making their choices with a view toward avoiding another firestorm.

Of course, that is right. Of course, after what has gone on here, there is a victory for the Senator from North Carolina. That is precisely why the distinguished chairman and ranking member agreed to the first-amendment language, because although they knew it would not be as tight as they would like it and as the Senate spoke, that for all intents and purposes we accomplished what we set out to do.

Let me say, let us not give the impression on the floor that these endowments have been funding obscenity by the yard. They have not been. Let us recognize that we have fired a warning shot across their bow. Let me say to the Senator from North Carolina that if it was to happen again in the coming year, with this language there is little doubt in my mind what we will do.

I will vote to table because I think the managers did an extraordinary job in trying to get this to the floor in a form we can go back to the House and get it approved. The Senator from North Carolina has achieved his purpose. We have a good restriction. It is not perfect; we will not disagree. The Senator's legal analysis is correct. Let us table this and let us see what happens in the coming 12 months. If they do not stop funding obscenities, we will do what we have to do.

Mr. JOHNSTON. Will the Senator yield? The Senator from New Hampshire was a member of the conference as was I. Does the Senator recall that I offered up the so-called Fowler language in the conference and that that was capped with a second-degree amendment prepared by the distinguished Senator from Idaho?

The purpose of the amendment of the distinguished Senator from Idaho, which I recall was drawn in conjunction also with the Senator from Oklahoma and I believe the Senator from New Hampshire was to tighten up——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RUDMAN. I ask for 1 additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. JOHNSTON. The purpose of that second degree amendment was to tighten up the language of the Fowler amendment and make it more restrictive; is that correct?

Mr. RUDMAN. The Senator is correct. We tried to do that; the managers tried to do that; the Senator from Louisiana tried to do that; the Senator from New Hampshire tried to do that. We finally ended up with this. Our view is that we think this sends a strong message, the message the Senator from North Carolina wanted to send, a shot across their bow. And that is what was agreed to.

It seems to me, and I think the Senator from Louisiana will agree, that if this were to happen again, that the value language will come flying out of that report next year and we will have language similar or tougher than the language today.

Mr. JOHNSTON. I ask the Senator finally, does he think if we were sent back to conference, that we could get stronger language than this approved in that conference?

Mr. RUDMAN. I do not, and that is exactly why I will vote to table, not because the Senator from North Carolina is wrong, but because of the legislative realities that we face with the other body.

Mr. JOHNSTON. One final question. Did the Senator see in the Washington Post on the day after our conference where the Senator from North Carolina properly, I think, claimed victory because of this language?

Mr. RUDMAN. I did, but I think the Senator from North Carolina wanted a victory last week and wants a victory this Saturday morning. You cannot blame a man for wanting two victories in 1 week.

Mr. BYRD. Mr. President, how much time do I have remaining on the conference report?

The PRESIDING OFFICER. The Senator has 1 minute left.

Mr. PELL. I desire 3 minutes.

Mr. BYRD. I yield to the Senator 1 minute off the conference report and 2 minutes off the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank my friend from West Virginia. I rise again to defend the National Endowment for the Arts and its well tested and proven system of peer review without the interference of the Federal Government. I guess I am the only remaining principal sponsor of the NEA in this body and I well recall how Congress endorsed the freedom of artistic and humanistic expression back in 1965 at the very time we established the National Endowment for the Arts. In doing so, we established the principle that politics should not be allowed to interfere with the NEA in its handling of grants and applications.

While I am as offended as anyone else at the few works that have given rise to the current controversy, I also understand the context in which these grants were made. Eighty thousand grants have been made and not more than a dozen have caused any kind of uproar over the last 25 years. I view it as a lapse of good judgment on behalf of the Endowment; not as a crime that merits the setting forth of standards to regulate what can and cannot be

supported in the future. I have discussed this situation with Mr. Frohnmayer, the new NEA Chairman, and I am confident that he will work with us to clarify review procedures but without adding strict standards that would chill the creativity of our artists and the climate of artistic freedom that is ours to protect.

The language in the committee's conference report, while not necessary in my view, does send an important signal that the Endowment must not spend the taxpayer's money on obscene art. But the Endowment must be the final arbiter of what it does and does not support—not those of us in the Congress. We have said that the standard must be "artistic excellence" and I believe that is what the conferees have done on this issue. I congratulate them on the results of their labor.

I intend to vote against the pending amendment and urge my colleagues to do the same.

Mr. BYRD. Mr. President, I yield to the Senator from Arkansas [Mr. BUMPERS] 4 minutes off the amendment, and then I would hope the Senate could go to a vote on the conference report.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, you heard that old saying, fools rush in where angels fear to tread. I have not spoken on this issue and did not intend to. It is a complex one. It is the one that has had the Senate frozen with a great deal of terror and fear, fear of the 30-second spot when they run for reelection.

It has finally occurred to me it does not make much difference how you vote because you are probably going to get 30-second spots run against you because the language in both the conference report and the language of the Senator from North Carolina are very similar. I do not think anybody would argue that they are not both trying to accomplish the same goal.

I want to say one thing. Every country on Earth that has ever had a dictator, the first thing they want to do, of course, is control art, literature, and the judicial system. And yet, while I feel very strongly about those freedoms, I am also deeply offended by the art that precipitated this debate. I have looked at it. I suppose somebody might say it is artistic. I would not. I found it to be trash. It has no redeeming value that I could find.

I am arguing with my daughter at the breakfast table; she disagrees with me. She said, "You are getting into something you do not have any business getting into—85,000 grants by the National Endowment for the Arts and 25 of them questioned." She said, "What if a youngster in school on a Pell grant"—and that is pure taxpayers' money—"perpetrates a rape. Are you going to abolish the Pell grants?" And she gave three or four other fairly salient examples. I said, "Brooke, you do not understand. People of this country, I do not care—I agree with the Senator from North Carolina. If somebody wants to use their own money to do this kind of thing, I think under the Constitution that is their privilege. But I do not want my taxpayers paying for that kind of obscenity." She said, "Well, I find it kind of obscene that you all spend billions of dollars down there to build bombers that will not fly." She and I finally wound up having a serious disagreement.

If the Senator from North Carolina would have permitted this body to insert the word "obscene" at the right place in the conference report, he would not have had a leg to stand on. But the tree is full and that is not doable now, is it? And so we have to go with what we have.

The language is different from the Fowler language. I voted for the Fowler language the other night; I thought it was fine, and I regret we could not get this in conference. The Fowler language said obscene depiction, and the Supreme Court has defined obscenity in three very specific ways.

Let me say there cannot be that much difference because the conference report says art that may be considered obscene including but not limited to depictions of sadomasochism, et cetera. I think the Senator from Georgia, if he had his way, would insert obscene depictions, but if you take the language immediately before that, it says that it may be considered obscene including but not limited to depictions. It seems to me there really is not enough room to argue there, to go through this whole thing again.

It seems to me the conference committee has done an outstanding job of resolving what is an irresolvable proposition. You are not ever going to resolve this to everybody's satisfaction here or across the country. I plead with my colleagues to support the committee because you are not going to wind up with anything better, and I promise you we are going to revisit this proposition next year and the following year.

Let me just close by saying, I do not care what kind of language you include, these grants are given to the National Endowment. They in turn give them to the Arts and Humanities Commission in Arkansas, and they in turn give grants to somebody to accomplish a particular purpose. But the point is the art work is done and the money is spent before anybody really has an opportunity to determine whether it is obscene or not. How you censor on the front end before the art work is done, I do not know.

I am going to support the conference report and move to table the Helms amendment.

Mr. BYRD. I thank the Senator from Arkansas. I yield 3 minutes to Mr. KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I oppose the amendment offered by the Senator from North Carolina. This is the third time in recent weeks that the Senate has considered this kind of punitive proposal to censor the National Endowment for the Arts.

Next year the Arts Endowment will be 25 years old. In that time, it has compiled an outstanding record of achievement. It has made an unprecedented contribution to the artistic and cultural life of our country. The continuing assault on the Endowment by Senator HELMS is unjustified, unacceptable, and an insult to all those who have worked skillfully and with great dedication to enhance the artistic heritage of our Nation.

Because of the Endowment, the quality of artistic presentations has increased many fold throughout the United States, and so has the number of artistic performances, bringing the wonders of music, dance, painting, sculpture, and literature to countless communities across the Nation.

The Senate has an obligation to defend the Endowment against irresponsible attacks that would undermine its important work and jeopardize the progress it has achieved.

The arts are a measure of our civilization—they chronicle our history, record our successes, warn of our weaknesses, and challenge us to seek out what is best in ourselves and in our national character.

Sometimes, art shocks our sensibilities. It is supposed to. But in a free society, we must not yield to the appeals of the know-nothings. We must not embrace the calls for censorship. We must not tolerate the extreme and unwarranted intrusions of those who—if the truth be known—are against Federal support for the arts.

The peer panel review system is the heart of the success of the Endowment. Perhaps it can be improved in the wake of the present controversy, but it could easily be destroyed by unwarranted and excessive restraints of the kind that Senator HELMS would impose in order to punish the Endowment for the grants that have so offended Senator HELMS. In my view, the Senate should be commending the Endowment for its thousands of grants that have enhanced the arts in communities across America, instead of condemning the Endowment for two minor grants that have provoked the present controversy.

The Interior conference committee has done a commendable job in working out a wise resolution of this controversy. The conferees have imposed guidelines on the accountability of the Endowment which I support. The new Commission recommended to evaluate grant procedures will provide an ample opportunity to review this issue in an independent manner in the next 6 months.

The Senate has now confirmed a new chairman at the Arts Endowment, and I am confident of his ability and commitment to lead the Endowment in the years ahead in a manner that will heal the present wounds, enhance the Endowment, and contribute to the arts. I urge the Senate to reject the Helms amendment.

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

Mr. PELL. Mr. President, I ask the distinguished managers of the conference report on Interior Appropriations if they would respond to a question on provisions of the conference report relating to the Blackstone River Valley National Heritage Corridor.

Mr. BYRD. I would be pleased to do so.

Mr. PELL. I understand that the conference committee stated the division of funding for the Blackstone River Valley National Heritage Corridor as follows: $230,000 to go to the Blackstone River Valley National Heritage Corridor Commission and the balance to the National Park Service. It would be my preference that the Commission receive the full authorized amount, $250,000, and the National Park Service receive $75,000 for technical assistance to the Commission.

Can the distinguished floor managers tell me if the division of funding I have proposed would be acceptable to them?

Mr. BYRD. Yes; that division of funds is agreeable.

Mr. McCLURE. I, too, find that division agreeable.

Mr. PELL. I thank the distinguished managers of the conference report.

LOBBYING ACTIVITIES

Mr. DOMENICI. Mr. President, I would like to address a question to the distinguished manager of the bill for the purpose of clarifying his amendment 319 related to lobbying activities.

Would the Senator indicate whether elected officials such as mayors, for example, are exempt from section 319?

Mr. BYRD. Yes, Mr. President. Mayors, as regularly employed officers of their cities, are exempt from the reporting requirements of the new section 1352 of title 31, United States Code, added by the bill. The exemption appears in subsection (e)(2)(A) of that section.

Mr. DOMENICI. I thank the Senator.

PROTON EXCHANGE MEMBRANE FUEL CELL PROGRAM

Mr. DOMENICI. Mr. President, I rise to address the manager of the conference report, the distinguished chairman of the Appropriations Committee, regarding the conference recommendation for the Department of Energy's Proton Exchange Membrane Program.

It is my understanding that the proton exchange membrane [PEM] fuel cell joint program between International Fuel Cells and Los Alamos National Laboratory was transferred from the energy storage program to the transportation program by the conferees.

Mr. BYRD. That is correct.

Mr. DOMENICI. Under the report language to accompany the Interior appropriation, therefore, the International Fuel Cells/Los Alamos joint program is to be funded in the competitive program administered by the Office of Transportation Systems.

Mr. BYRD. The joint program is eligible to compete under the competitive industry-government PEM fuel cell development program for transportation applications.

Mr. DOMENICI. The reference in the report to major automotive manufacturers is not limited to the big three automobile companies, but includes component suppliers as well as specialized manufacturers of mass transit vehicles such as the Transportation Manufacturing Corp. in Roswell, NM.

Mr. BYRD. The report indicates that any manufacturer of automotive components or systems can compete in the cost-shared program administered by the Office of Transportation Systems.

YUROK TRANSITION TEAM

Mr. INOUYE. Mr. President, I rise to seek clarification of an amendment to House Resolution 2788 that was adopted in conference.

Mr. President, in the 100th Congress we enacted legislation to address a longstanding problem between two tribes in the State of California—the Hoopa Valley Indian Tribe and the Yurok Tribe of Indians. Among other things, this legislation, Public Law 100-580, provided for the establishment of a Yurok transition team to assist the Yurok Tribe in its formal organization, including the establishment of an organized tribal government. Among other duties statutorily imposed upon the Yurok transition team is the duty to provide counseling and promote communications among potential tribal members, to study and investigate programs, resources, and facilities that may be of assistance to the tribe, and to undertake certain economic development studies.

Mr. President, despite this clear statement of statutory responsibilities, the Yurok transition team has had difficulty in obtaining financial assistance through grants or contracts with Federal agencies. With enactment of Public Law 100-580 it can no longer be questioned whether or not the Yurok Tribe is federally recognized—it is; nor can there be any questions with respect to the existence of a defined Yurok Reservation. Despite clarification of these issues, and the clear statement of statutory responsibilities of the Yurok transition team, the eligibility of the team for Federal grants and contracts has been questioned. In particular the Yurok transition team has applied for a grant from the administration for native Americans at the Department of Health and Human Services. This grant has been held up pending clarification of the status of the Yurok transition team.

Mr. President, it is my understanding that the amendment of Public Law 100-580 that is provided in section 315 of this bill will provide the necessary clarification and make clear that the Yurok transition team is eligible to receive such grants or contracts.

Mr. BYRD. Mr. President, the Senator from Hawaii is correct in his analysis. The language provides the necessary clarification to accomplish this purpose.

GRAY RANCH COLLOQUY

Mr. BINGAMAN. Mr. President, as we consider the Department of the Interior and related agencies appropriations bill for fiscal year 1990 I would like to clarify conference report language pertaining to the U.S. Fish and Wildlife Service.

As you know I have been a strong advocate for the acquisition of the Gray Ranch in southwestern New Mexico for the creation of the Animas Mountains National Wildlife Refuge. The Gray Ranch is an internationally significant natural area that contains a rich diversity of plant and animal life found nowhere else in the United States. Some 76 mammal species and subspecies find habitat on the Gray Ranch, more than are found in any existing national park or national wildlife refuge. In addition to its rich biological diversity, the ranch contains significant archeological resources.

I understand that the conference report includes the following language:

> Although the managers have not provided any funds for the Animas Mountains NRWR, NM [Gray Ranch], there is strong interest in this area being in Federal ownership. When mineral rights, grazing and hunting questions have been resolved, the managers will give every consideration to providing appropriations.

Is this correct?

Mr. BYRD. My colleague from New Mexico, your quotation of the report language is correct.

Mr. BINGAMAN. While the conferees did not provide funding to begin

acquisition of the Gray Ranch in fiscal year 1990, I believe they view such a purchase as a worthy project in the near future. It appears that there are concerns about mineral rights, grazing and hunting issues which I believe that the U.S. Fish and Wildlife Service can resolve shortly.

The timing of action by the Federal Government is critical. The ranch is currently for sale and the nature conservancy, an international, private, nonprofit organization, is committed to assisting the Federal Government in the acquisition of Gray Ranch.

Therefore once the remaining issues mentioned in the report are addressed, presumably in the very near future, I would presume that the committee will regard an appropriation for acquisition favorably.

Mr. BYRD. Yes, Senator, I believe that that would be the case.

Mr. BINGAMAN. I note that the Gray Ranch is discussed as the Animas Mountains National Wildlife Refuge under the section of the appropriation pertaining to the U.S. Fish and Wildlife Service. I look forward to the protection of the important resources of the Gray Ranch as a national wildlife refuge. We need to secure the beautiful, biologically diverse and unique cultural and natural resources of the Gray Ranch for future generations.

I would ask the distinguished chairman of the Appropriations Committee if this is his understanding of the intent of the committee?

Mr. BYRD. The Senator is correct.

Mr. BINGAMAN. Thank you, Mr. Chairman.

Mr. HATFIELD. I would like to inquire of the distinguished chairman whether my understanding is correct that the conference report provides $1,000,000 for industrialized housing research at the University of Oregon and the Florida Solar Energy Center?

Mr. BYRD. The Senator from Oregon is correct. Under energy conservation within the Department of Energy, the managers have agreed that the Senate would recede from its recommended funding level of $1,200,000 to the House level of $1,000,000 for the two industrialized housing research centers.

Mr. HATFIELD. I thank the Senator, and also would inquire as to whether the conference report includes any specific language detailing how these funds will be distributed to these two centers? I ask this question because it is my understanding that the Senate and House reports are somewhat conflicting. The House report (Report 101-120) simply provides that the funds will go to the two centers. The Senate report (Report 101-85), however, refers to a competition between the two centers that has not been established. It is my hope that we could clarify these potentially conflicting directives.

Mr. BYRD. The Senator is correct in his interest in clarifying this matter. It was not the intent of the report language to establish competition for Federal funds between the two industrialized housing research centers. The reference to competition was included in the Senate report to encourage each institution to compete to develop their long-term potential in the industrialized housing research field. I am aware that the two centers work in tandem with one another, and it is not our intent for the Department of Energy to distribute the funds on a competitive basis between the two centers. It is our hope, however, to encourage both centers to increase industry participation in these research efforts.

Mr. HATFIELD. I thank the Senator for this clarification.

NATIONAL PARK SERVICE

Mr. BINGAMAN. Mr. President, as we consider the Department of the Interior and related agencies appropriation bill for fiscal year 1990 I would like to highlight two units of the National Park System in my State of New Mexico. During the August recess, I had the opportunity to visit northeastern New Mexico and discuss the future of the Fort Union and Capulin Volcano National Monuments with representatives of the National Park Service and with residents of the area.

Fort Union is located on the Santa Fe National Historic Trail and the National Park Service has prepared a draft comprehensive plan for this very important historic trail. The junction of the Cimarron Cutoff route and Mountain Branch of the Santa Fe Trail is near Fort Union in the small community of Watrous, NM. The Watrous area, with its many historic structures and sites related to the Santa Fe Trail, can play a role in public interpretation and provide needed tourist services.

I would hope that the National Park Service would utilize its excellent expertise in planning and historic rehabilitation to assist the residents of Watrous and the State of New Mexico Historic Preservation Office in completing nomination forms for the national historic landmark district. Also, it would be useful for the Service to assist private landowners and preservation organizations in preparing a historic preservation plan for Watrous that would include proposals for making this area a vital part of the public experience along the Santa Fe National Trail. Beyond the historic preservation benefits, the economy of this area would benefit from the plan.

The Capulin Volcano National Monument near Raton tells the story of vulcanism. I am concerned that this volcanic cinder cone and lava flow area are not adequately protected by current Federal ownership. Fortunately, some adjacent landowners are willing to cooperate to protect this nationally significant resource. I would hope that the National Park Service would evaluate the resources adjacent to the current monument boundary to determine the significance of these resources, threats to the integrity of the existing monument, and opportunities to pursue acquisition to protect the monument.

I would ask the distinguished chairman of the Appropriations Committee if these two projects are the types of projects that you view as a priority and important use of the National Park Service's park recreation planning funds?

Mr. BYRD. I commend my colleague from New Mexico for his attention to matters that will improve public service in our national parks. I agree that the Fort Union/Watrous and Capulin Mountain National Monuments projects are the types of projects that are worthy of National Park Service planning funding.

Mr. HATFIELD. Mr. President, I would like to take a few moments of the Senate's time to congratulate the distinguished chairman of the Appropriations Committee, Senator BYRD, for his excellent work in bringing this conference report before the Senate. Once again, the Senator from West Virginia has shown his skill in negotiating difficult and controversial issues. This conference report virtually resolves all of the acrimonious issues that were contained in this bill—including the so-called Hatfield-Adams amendment—and this is certain proof of the chairman's dedication to, and willingness to work with, Members from both sides of the aisle.

There is no question in mind that this year's Interior appropriations conference was the most difficult in recent memory, and I was pleased to have the opportunity to observe and work with Chairman BYRD and the ranking member of the subcommittee, Senator MCCLURE, during last week's difficult sessions.

Notwithstanding the Helms amendment concerning funding for the arts, the most controversial issue that was resolved in the conference was the timber supply/northern spotted owl amendment that Senator ADAMS and I offered to the Senate bill. As most of my colleagues know, this amendment was offered reluctantly as a 1-year, short-term solution to the timber supply crisis that currently exists in Oregon and Washington. When this amendment was accepted by the Senate on July 26, Senator ADAMS and I made it clear that we were amenable to changes to our amendment. There was no doubt in my mind that the other body would make its own mark

on the amendment, and that it would be revised in various ways. Accordingly, Mr. President, the compromise contained in the Interior appropriations conference report before us today is significantly different from the original Senate amendment.

However, Mr. President, let there be no doubt in anyone's mind that I support the timber supply/northern spotted owl compromise as it appears in the conference report. I cannot say that it is perfect legislation, or that it is my preferred approach, but it does provide short-term relief for the thousands of wood products workers in the Pacific Northwest whose livelihoods hang in the balance—caught between efforts to protect old growth forest stands and habitat for the northern spotted owl and the need to provide raw materials for the wood products industry. In my opinion, this compromise does provide an adequate balance between these two competing desires—neither of which are unreasonable objectives.

Mr. President, I have been intimately involved in the debate over the conservation and utilization of Oregon's natural resource base for many years—both as Governor and, for the last 23 years, as a Member of the Senate. During this time, my one overriding concern has always been the balance between natural resource preservation and basic human needs. In different debates—spanning different decades—I have insisted that we strike that balance. Sometimes I come under fire from those who believe I have done too much to preserve Oregon's natural resources—this time I am under fire from those who would prefer we ignore the human needs of thousands of workers throughout the Pacific Northwest.

But the balance is the bottom line for me, and I would like to point out to my colleagues some of the provisions of this agreement that combine to protect the sensitive balance I have sought and which I believe we have reached. First, the compromise allows for a total offer of 7.7 billion board feet of net merchantable timber from the national forests in Oregon and Washington for fiscal year 1989 and fiscal year 1990. This figure, which is 300 million board feet below the original Senate amendment, is approximately 1.5 billion board feet below the amount that the existing forest plans allow, 1 billion board feet below the historic offer level set by the Appropriations Committees, and approximately 300 million board feet below the aggregate allowable sale quantity recommended in the draft forest plans in Region 6. At the same time, Mr. President, the 7.7 billion board feet offer level will preserve the jobs of approximately 11,000 forest products workers in Oregon and Washington over the 1-year life of the amendment.

I also want to point out that this amendment provides the first statutory protection for old growth forests on Federal lands. This provision will preserve the habitat of the northern spotted owl and will allow the U.S. Fish and Wildlife Service to continue its investigation of the long-term viability of the owl. The amendment does not alter either the Endangered Species Act or the listing process for a species established under that Act. The agreement also directs the Forest Service to minimally fragment the existing ecologically significant old growth forest stands in the Pacific Northwest. This will further increase the future viability of the northern spotted owl and will protect the options available to the U.S. Fish and Wildlife Service and the Forest Service—should it be determined that the owl is a threatened species.

Finally, Mr. President, I want to emphasize that the compromise allows citizens to challenge management decisions made by the Forest Service and the Bureau of Land Management—both administratively and judicially. Although we have streamlined the judicial process for individual timber sales under the amendment, the language specifies that no timber sale may be operated for a 45-day period after the sale is awarded. It is our belief that such a period will allow the courts sufficient time to rule on any challenge brought before them.

There is no question in my mind that this compromise protects the Federal old growth forests in the Pacific Northwest and the northern spotted owl. Just as important, this amendment provides a predictable supply of Federal timber for the region's sawmills. While the issue of certainty is important to the environmentalists who want a lock-tight guarantee that old growth forests will be preserved in perpetuity, it is just as important to provide certainty for the workers in the timber-dependent communities—certainty that they will have a job over the next 12 months. Only through a predictable timber supply can we successfully stabilize the economies of those communities and provide economic security for the people who live in them.

Mr. President, this Senator is proud of his environmental record over the last four decades in public office. I take a back seat to no one with regard to my efforts to ensure that this country remains inhabitable for future generations, and am especially pleased to have been involved in several landmark Oregon-specific legislative initiatives in the past several years. These bills include the addition of over 1.5 million acres to the National Wilderness Preservation System, 40 Oregon rivers to the National Wild and Scenic Rivers System, the Columbia River Gorge National Scenic Area, the Oregon Dunes National Recreation Area, the Hells Canyon National Recreation Area, the John Day Fossil Beds National Monument, numerous acres of critical land acquisitions within the State of Oregon, and others. In each case, I am pleased to report that equal weight was given to both the environmental and human elements—that a proper balance was achieved each and every time.

I also want to take this opportunity to thank my good friend from Washington State, Senator ADAMS. The compromise agreement we have today could not have been possible without his diligent work and in-depth knowledge of this complex issue. Over the years that I have had the pleasure of working with Senator ADAMS, I have grown increasingly impressed by his tenacity and his willingness to take positions on different issues. The Senator from Washington could have chosen to take a much less visible role in this effort, but his understanding of the importance of preserving both our fragile national forests and the forest products industry in the Pacific Northwest led him to assume a leadership role in negotiating the package we have before us. It is my hope that his important role in this effort will be fully recognized and appreciated by all parties.

Finally, Mr. President, I want to thank the many staff people from both the House and the Senate, and the Forest Service and BLM, who have worked many long hours on this issue over the last several months. These staffers include Anne Badgley from Senator ADAMS' office, Kevin Lynch with Congressman AUCOIN, Nick Ashmore with Speaker FOLEY, Mike Bagley from Congressman DICKS' office, Doug Marker with Congressman DEFAZIO, Nancy Green with Congressman ATKINS, Kathy Johnson from the House Interior Appropriations Subcommittee, Sue Masica and Jeff Cilek from the Senate Interior Appropriations Subcommittee, Mark Walker with the Senate Appropriations Committee, Mike Salsgiver and Pat Reiter from my personal staff, Jeff Handy and Susan Yonts-Shepard from the Department of Agriculture and the Forest Service, and Roger Nesbitt and Chuck Hoyt from the Department of the Interior and the BLM. Each of these individuals performed above and beyond the call of duty, and were valuable sources of information for each of the Members and officials they serve.

Mr. DOMENICI. Mr. President, the Senate now has before it the conference agreement accompanying H.R. 2788, the fiscal year 1990 Interior and related agencies appropriations bill.

I commend the distinguished chairman of the Appropriations Committee for bringing this bill to the floor in a

timely fashion. This important bill had numerous conference issues, some of which were not without controversy.

The conference agreement is coming back at essentially the House Subcommittee 302(b) allocation, which is $0.4 billion in budget authority and $0.1 billion in outlays above the corresponding Senate allocation.

On October 2, the distinguished chairman revised the Interior Appropriations Subcommittee 302(b) allocation to accommodate the final conference agreement.

With that reallocation, I am pleased to support the conference agreement, and I thank the chairman and my good friend, the distinguished ranking member, and their staffs for the attention and consideration they gave to many programs important to this Senator and to my home State of New Mexico.

It was indeed my pleasure to serve on the Interior Subcommittee this year, and I took forward to a long association with the distinguished chairman and ranking member.

I would like to thank the chairman for his efforts to clarify for this Senator the implications for State and local government officials of the language relating to lobbying for Federal assistance.

Section 319 of the conference agreement adds a new section 1352 to title 31 of the United States Code that prohibits the use of appropriated funds by recipients of Federal contracts, grants, and loans to pay any person to influence or attempt to influence a Federal employee or Member of Congress in seeking such assistance.

There are two subsections that clarify the implications of this amendment for State and local government officials and employees.

Subsection (e)(2)(A) provides that the reporting requirements in the amendment shall not apply to any person with respect to, and I quote:

> Payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing the United States to insure or guarantee a loan.

The amendment later goes on to define a "regularly employed" person in subsection (h)(10) as, and I quote:

> An officer or employee who is employed for at least 130 working days within one year immediately preceding the date of the submission that initiates consideration of such person for receipt of such grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

In general, State and local government officials and employees currently serving their States and localities are not required to file under the disclosure provisions of this amendment if they have served in that capacity, or a similar capacity, for more than 130 days in the preceding year.

For example, if a city clerk were to become the mayor, and in his new capacity approached the Federal Government for a loan or grant, he would not be subject to the disclosure requirements if he had served as city clerk for at least 130 days in the previous year.

Likewise, if the city clerk had served in that position for 70 days before becoming the mayor, he would be subject to the reporting requirements only for another 60 days in his new term. In other words, until he has served in his or her governmental unit for a total of 130 days.

It is my understanding that newly elected or appointed State or local officials or employees who approach a Federal agency, official, or employee about a grant or loan, but who have not served as an officer or employee of their governmental unit in any position for 130 days before taking office, would be subject to the disclosure requirements in this section.

However, after such officials or employees had served for more than 130 days in their governmental unit, they would not be subject to the disclosure requirements included in section 319 of the conference agreement.

I appreciate the assurances of the chairman and the Senate legislative counsel that State and local employees, acting in their official capacities, are generally not intended to file under the disclosure provisions in this amendment.

I hope that this serves to clarify the implications of the lobbying amendment in the conference agreement for State and local government officials and employees.

Finally, I am pleased that the final language clarifies in that the terms "person" and "recipient" of Federal assistance does not include an Indian tribe, tribal organization, or any other Indian organization for specific purposes permitted by other Federal law.

I urge my colleagues to support this conference agreement, and I thank the chairman and ranking member for the many courtesies they have extended to me.

ARBOR DAY CENTER

Mr. EXON. Mr. President, I rise to express my support for the Interior appropriations bill. I congratulate the managers for their hard work and ability to reconcile so many contentious and difficult issues.

I especially thank the managers for preserving the Senate language supporting the National Arbor Day Center in Nebraska City, NE. I was proud to assist the National Arbor Day Foundation in their effort to secure Federal support for this needed facility. The $6 million Federal investment in the Arbor Day Center will be leveraged against private and State funds to build a $12 million international education complex dedicated to the study, promotion, and implementation of tree planting, forestry, and conservation programs across the Nation and the globe.

The center will be built on the estate of John Sterling Morton, Nebraska's great statesman and founder of Arbor Day. The center will allow the Nation to implement an effective response to the national and international deforestation crisis. The center will provide conservation professionals with a much needed forum and study center.

According to John Rosenow, the director of the National Arbor Day Foundation, global forests are lost at a rate equal to one football field of trees per second. With the enactment of this legislation and the building of the National Arbor Day Center the Congress will make a meaningful step toward reversing the disastrous trend toward deforestation.

I thank the managers and my junior colleague from Nebraska for their help and support for this excellent project and urge the Senate to adopt the Interior appropriations bill.

PROVISIONS IMPORTANT TO MONTANA

Mr. BAUCUS. Mr. President, I rise today in support of the Interior Conference Report.

This legislation contains several provisions of great importance to the land and people of Montana.

While I doubt there is an American who does not feel an attachment to Yellowstone National Park, we Montanans know the park's continued vitality depends upon the sound management of adjacent public, private, and State lands.

Yellowstone National Park is not an island. Rather, it is part of a larger, fragile ecosystem. And last winter, as millions of Americans tuned in the evening news, they saw a most visible symptom of the Yellowstone's problems: massive wildlife winter kill. Under current ownership patterns, the land will not support existing populations of elk, bison, and other wildlife.

Fortunately, this legislation contains an appropriation to help restore the health of the Yellowstone ecosystem. The $3.5 million for the acquisition of additional elk winter range will greatly improve the management of the Yellowstone's rich wildlife resources. These dollars will be used to fund an innovative package of conservation easements, life tenancies, and acquisitions north of the park.

While the Yellowstone's problems will not be solved with a single appropriation, we have made a significant step forward.

This conference report contains another provision important to the Yellowstone ecosystem. With an appropriation of $1 million, the Forest Service will begin negotiating the purchase of Plum Creek Timber Co.'s lands in South Cottonwood Canyon. This pris-

tine area located 10 miles outside of Bozeman—one of Montana's fastest growing communities—is a great recreation, wildlife, and fisheries resource. As part of the public domain, Cottonwood Canyon will become an important part of life in Montana's Gallatin Valley.

Furthermore, Mr. President, this legislation contains a provision allowing the harvest of bugs-killed timber in Montana's Upper Yaak River Valley. For two logging seasons, this area has been under a sweeping court-ordered injunction.

While this legislation permits timber harvest in the Yaak, it also contains significant environmental safeguards: First, cutting is only permitted in stands classified as lodgepole pine. The Forest Service has identified many of the Yaak's lodgepole stands as dead or dying due to mountain pine bark beetle infestation; second, no new system roads shall be constructed; and third, the Forest Service must comply with all standards and guidelines contained in the Kootenai National Forest plan. This means we are not exempting timber sales in the Yaak from environmental regulations.

This legislation is a product of compromise. It balances the need for jobs in an economically depressed region of Montana with the need for wise stewardship of our natural resources.

In addition to these three main projects, the magnificent facilities found in Glacier National Park will begin to be rehabilitated, returning them to the state of their former grandeur. The legacy of Lewis and Clark will be preserved and commemorated by an interpretative center that will make their exploits available to all Americans. Clean coal technology—magnetohydrodynamics—will continue to proceed toward its unlimited promise.

In closing, I thank the distinguished chairman and ranking minority member for their consideration and leadership on these issues.

Mr. DECONCINI. Mr. President, I rise to thank the managers of H.R. 2788, the Interior appropriations bill, for the commendable job they have done on this bill. They, along with staff, put many hours of hard work into this bill. Their willingness to assist this Senator means that through this bill we will be able to address the multiple needs of the people of Arizona. I want to assure the chairman, his ranking member, and staff that their accommodation of Arizona needs is greatly appreciated by this Senator. I also would like to take a few minutes to discuss a couple of Arizona items which were discussed at some length during our conference meeting last week.

ARIZONA URBAN INDIAN CARE PROJECTS

Mr. Chairman, I would like to advise the managers of the bill of a slight problem with the conference report which affects two Arizona projects under Indian Health Services. The problem concerns the allocation of additional urban Indian health funds provided by the bill for Arizona between two projects. The agreement reached in conference was to provide a total of $550,000 in new funds to serve the urban Indian populations of Flagstaff and Phoenix. The conference report reflects this agreement accurately. The difficulty arises when the report indicates that $300,000 rather than $350,000 is earmarked for the Phoenix project and $250,000 rather than $200,000 for the Flagstaff project. According to my recollection of the discussion in conference, we agreed to $350,000 for Phoenix and $200,000 for Flagstaff.

It is important to me to have the funds allocated in this manner because the Phoenix service population is larger than Flagstaff's. Second, the additional funds for Phoenix are needed to initiate a prenatal clinic. This expansion of services in Phoenix is consistent with the existing project's emphasis on maternal-child health needs. And, we learned that one cannot establish a prenatal clinic for less than $350,000. With respect to Flagstaff, the $200,000 is to be used to start a primary care clinic. While this amount is hardly sufficient, the Flagstaff funding could be supplemented with other available funds much more easily. That is not the case with Phoenix where the additional funds are to be utilized to serve a special target population—pregnant women and infants.

I recognize that when we are in conference, staff have the difficult task of keeping track of many different items for various members and occasionally confusion on the specifics of agreements made by members will occur. In this case, we discussed these particular items at the end of 2 long days of conference. I understand how the misunderstanding could have occurred. While it is too late to correct the conference report at this point, I intend to work with the committees to clear up this confusion so the Indian Health Services' allocation of these funds can be made in accordance with my original intent.

FOREST SERVICE RECREATION

Mr. President, frankly our ability to meet the recreational demand on Forest Service lands in Arizona is inadequate. Recreation use on these national forests has become the first use replacing other types of activities. The pressure on existing recreation resources is enormous and will result in much greater costs in the long run by the degradation of the natural resources if we do not take immediate and significant measures to improve the opportunities to the recreating public.

I would like to share with my colleagues some facts and figures that highlight the current situation on Arizona's national forests.

Arizona ranks second in the United States in population growth—Nevada is first.

Arizona's population is estimated to more than double by the year 2015, from 3.5 million to 7.3 million.

Arizona's growth of personal income is the highest in the United States.

Ninety-eight percent of Arizonans participate in outdoor recreation activities.

The Arizona population is very young with only 12 percent being over 65.

It is estimated that one-half of the recreationists using Arizona lands and facilities are from out of State.

Arizona ranks fourth nationally with respect to recreation visitor days spent on the national forests with over 18 million annually.

In recent years, the Southwest region—Arizona and New Mexico—has ranked last in dollars spent per visitor day.

Compared to other States, Arizona ranked second to last in that same timeframe.

According to the Forest Service's Annual Report, Fiscal Year 1988, each of the other regions' budgets increased about $4.5 million, but the Southwest region's budget has for the most part remained the same.

Excluding timber, funding for the national forests in this country averages about $3.33 per acre. The Northwest region is getting $3.78 per acre, but the Southwest region is receiving only $2.61 per acre. The Southwest region is $0.72 per acre below the national average. If the Forest Service would only fund the Southwest region at the national average, this region would receive almost $15 million—20.5 million acres times $0.72.

As you can see, Mr. President, the recreational use of national forest lands in Arizona is extensive, intensive, and increasing. According to the Forest Service, Arizona has two problems: First, the funding of recreation on Arizona's national forests needs to catch up with current demand; and second, funding needs to keep pace with the growth in recreation demand. In my opinion, it is about time that we start addressing both of these problems.

In my opinion, the fiscal year 1990 Interior appropriations bill takes very significant steps to address this deficiency in the funding of recreation use on Arizona's national forests. First, the conference report contains language directing the Forest Service to evaluate the processes by which nationwide recreation funding priorities are determined. I'm sure that based upon the foregoing statistics, the

Forest Service will no doubt come to the same conclusion I have; the recreation needs in the Southwest region are not being met.

Second, out of the $27.9 million appropriated in the fiscal year 1990 bill for recreation construction, there is $12.5 million for the Forest Service to meet high priority recreation needs nationally. In my conversations with the Chief of the Forest Service, he has indicated to me that he recognizes the needs in Arizona and I feel confident that a portion of these funds will find their way to Arizona.

These are both substantial steps in our efforts to meet the recreation demand on the national forests in Arizona. I am most appreciative of the efforts of the managers and their staffs in this regard. I want to particularly thank the distinguished chairman of the Appropriations Committee. He has worked with me to address this problem and in my opinion, we are much closer to a solution because of his leadership on the committee.

Mr. BREAUX. Mr. President, I rise in support of this conference report, and commend the leadership of the Appropriations Committee, in particular the distinguished chairman, Senator BYRD, for completing the report and bringing it to the floor today.

Mr. President, the conference report includes $3.75 million of funding to repair the Maxent Lagoon Levee at Bayou Sauvage Urban National Wildlife Refuge in New Orleans. My good friends, Senator BYRD and Senator JOHNSTON, were most helpful in working with me to obtain significant funding for this important project, in addition to generous funding for a number of other programs of vital interest to Louisiana.

As the conference report notes, the estimated cost of repairing the levee could be as much as twice the $3.75 million provided in this measure. The Congress has appropriated nearly $12 million to provide for the acquisition of the refuge and repair of the levee. These funds are available, and are waiting to be spent. It is the view of the conferees that others must demonstrate their commitment to this project by contributing to the repair.

The time has come to finally complete these efforts and make the refuge a reality. That will require cooperation, imagination, and assistance from all those concerned about completing the acquisition of the refuge. The conferees have directed the U.S. Fish and Wildlife Service to seek the additional funding needed for the levee repair from other sources. I expect the Service to lead an aggressive effort to engage the public and other Government interests to resolve this issue and complete repair of the levee.

I do wish to make it clear that levee repairs are only required to bring the levee to a condition sufficient to meet existing FEMA standards. It is possible that these repairs may not be as costly as some preliminary estimates have suggested. It is certainly the desire of this Senator that costs of the repair be minimized to the extent possible consistent with the public safety. The Bayou Sauvage Refuge can and should become a reality. This matter has been drawn out far too long, and I am optimistic that we are finally close to a resolution. I urge all of those associated with this issue to roll up their sleeves and pull together to bring this refuge into existence for the benefit of the people of Louisiana and the Nation.

While I will support the conference report today, I do have serious concerns about provisions of this bill that place moratoria on OCS leasing. These moratoria are ill-conceived policy. The moratoria in this bill effectively place 84 million acres of the OCS off limits to oil and gas production. This amounts to an estimated 5 billion barrels of oil critical to meeting our domestic energy needs. Prudhoe Bay, our single largest oil reserve, reached the 5-billion-barrel production mark this year after 10 years of operation. So you see, Mr. President, we are cutting off development of critical domestic reserves, placing our Nation at risk.

We seem intent on continuing a policy that compels us to meet our energy needs through increased imports from the Middle East and elsewhere. We are once again, Mr. President, placing our energy policy and energy security in the hands of the OPEC ministers. In July, we imported 50 percent of our oil needs and demand for oil continues to increase. Yet, the continuation and expansion of OCS moratoria only adds to the current trend of declining domestic production. Combining increased demand with decreased production can only mean more oil imports. This addiction is both dangerous and avoidable.

Many of those who support these moratoria maintain that their areas of the coast are environmentally sensitive. Concerns are routinely expressed about the potential for oilspills associated with OCS development. I applaud my colleagues for their concern, a concern that I share, and encourage them to look at the facts. OCS facilities are among the safest facilities in terms of the likelihood of an oilspill. The horrifying rash of spills we have witnessed this year have been the result of tankers, not OCS facilities. According to the National Academy of Sciences, of the total oilspills in the world's waters, only 2 percent come from the OCS. Nearly 40 percent, however, come from tankers. This policy of OCS moratoria will increase, not decrease, the risk of oilspills. As we cut off domestic production we become increasingly reliant upon imported oil. Day after day we will continue to see tanker after tanker arrive. These vessels will continue to ply our coastal waters, and offload in our harbors and estuaries, placing truly sensitive environments in daily jeopardy. The policy of OCS moratoria is not only foolish energy policy, but foolish environmental policy as well. Mr. President, this policy badly needs to be reevaluated, and I hope that when we turn to this measure next year that we will instead take a more responsible approach to our energy future.

Mr. JEFFORDS. As you know, I have been meeting with various interested parties to attempt to reach an agreement on the Killington-Appalachian Trail-Parkers Gore issue.

I have developed a draft proposal that I hope will become the basis for a mutually agreeable solution to the problem.

As you know, I support your effort to require the Park Service to conduct an environmental impact statement on the trail segment through Pico and Killington lands in Sherburne and Mendon. However, I am concerned that the language included in the Interior appropriations bill could complicate reaching a final agreement.

It would be helpful to include an escape clause in the provision that would allow for the possibility of a negotiated resolution. If all parties agree to a solution, the EIS process would not need to go forward. If a resolution is not possible, the EIS would go forward as required under your amendment.

What are your thoughts about this matter?

Mr. LEAHY. I appreciate the Senator bringing these matters to my attention. I do not think that we should change the language in the Interior appropriations bill. I can assure him that if a resolution of this issue is developed and is accepted by the parties, I will be glad to seek expedited consideration of any legislation that is necessary. If the parties in Vermont are in agreement and the delegation is united in its views, it should be possible to move a bill through the Senate by unanimous consent and through the House on the Consent Calendar.

Mr. BIDEN. I voted in favor of the fiscal year 1990 Interior appropriations bill, as did the vast majority of my colleagues. For the programs that are of the most interest to me and to the State of Delaware, the bill provided funding levels that are better than thought probable in the beginning of the year.

On drug use reduction programs, funding for the Forest Service to combat drug production on Federal lands increased, as did funding for similar programs in the Bureau of Land Management and the Park Serv-

ice. The Bureau of Indian Affairs will receive more money for alcohol and drug abuse treatment programs.

Support for State and local energy conservation and weatherization programs were all increased above fiscal year 1989 levels. Matching grants for States to acquire park land were maintained. The National Park Service will have more funds available for its efforts to protect our Nation's most valuable areas.

However, there is one aspect of the conference report that continues a disturbing trend of the past few years. That is the limitations on judicial review of environmental issues that have been included in recent Interior appropriations bills. The compromise reached by the conference may be viewed as an improvement over restrictions imposed in previous years, but it is still ad hoc meddling in established court procedures for dealing with environmental concerns.

This is a habit Congress must break. Some may consider the conference agreement a victory because it moves in the right direction. I disagree. It continues a wrong-headed and potentially devastating practice of using legislation approved with no public review to undermine environmental laws that were developed through a lengthy public process.

When economic concerns and environmental law conflict, the law should be reviewed, not circumvented. If it is unreasonable, it should be changed. If the law is simply the scapegoat for changing economic conditions, continuing to undermine it year after year does no one any good.

Mr. BYRD. Mr. President, I reserve the remainder of my time and I urge that the Senate adopt the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. All time has been yielded back, has it not, on the conference report?

The PRESIDING OFFICER. Senator McCLURE still has 9 minutes on the conference report.

Mr. BYRD. I was not aware of that.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. I am prepared to yield back the remainder of my time on the conference report.

The PRESIDING OFFICER. All time is yielded back on the conference report. Who yields time on the amendment?

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the time on the amendment.

The PRESIDING OFFICER. The Senator did request that. Is there objection? Without objection, the Senator reserves his time on the conference report.

Mr. HELMS. I make the same request, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. Without objection and notwithstanding the previous agreements, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Mississippi [Mr. COCHRAN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 6, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—91

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Murkowski
Bingaman	Gramm	Nickles
Boren	Grassley	Packwood
Boschwitz	Harkin	Pell
Bradley	Hatch	Pressler
Breaux	Hatfield	Pryor
Bryan	Heinz	Reid
Bumpers	Hollings	Riegle
Burdick	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Johnston	Rudman
Chafee	Kassebaum	Sanford
Coats	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	Wilson
Durenberger	Matsunaga	Wirth
Exon	McCain	
Ford	McClure	

NAYS—6

Fowler	Helms	Moynihan
Heflin	Humphrey	Roth

NOT VOTING—3

Bond	Cochran	Nunn

So the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 991 TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 153

Mr. BYRD. Mr. President, the distinguished Senator from North Carolina has an amendment pending to the amendment in disagreement. I shall move to table the Senator's amendment, not because I am not in sympathy with the underlying problem that he attempts to address. I am fully in sympathy with his position, as far as I can understand it.

This is not a question of censorship. This is a question as to whether the American people should continue to subsidize with their hard-earned money, paid in taxes, such so-called art as is at the crux of this matter.

Let me read just a portion of a paragraph from a Washington Post editorial of today. It refers to the language in the conference report barring funding for material that "may be considerd obscene, including but not limited to depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts, and which, when taken as a whole, does not have serious literary, artistic, political, or scientific value."

The Senator is not satisfied with that language in the report. I am not satisfied with it. I suppose that most Senators would not be satisfied with the language in the conference report.

But that language results from many hours taken out of many days in preconferences and in the conference in a sincere effort on the part of the conferees to develop language that could be taken back to both Houses in the conference report and hopefully be enacted by both Houses. It is an extremely difficult matter to resolve.

But, Mr. President, we have been at the conference table, and I hope that the Senate will not adopt the amendment.

The Post editorial goes on:

> This last language is from the Supreme Court's definition of obscenity in Miller versus California, and under it, the NEA could, in theory, still approve even some of the artworks that touched off the current controversy.

But read this:

> In reality, of course, it is unlikely to do any such thing. The endowments and the institutions they fund are more likely to respond to their narrow escape with increased caution, making their choices with a view to avoiding another firestorm.

Mr. President, I believe that that is an accurate description of how this language will be interpreted, and I just as strongly believe that if the endowments and the institutions they fund do not take heed, after this shot across the bow, there will be another and greater firestorm, and it may be that, in the final analysis, the Congress will just have to stop its funding to the endowments.

That would be a most unfortunate result, but if there is a repetition of what has happened in this instance, I think that the next firestorm would be much, much greater, and as I say, it could lead to the unfortunate result of

the withholding of Federal funds entirely from the endowments.

I hope we do not have to come to that, but if this Senate is driven to that, it would certainly find it an amenable course if all other options fail.

So I hope that Senators feeling as I do, that they are not satisfied with this language, will at least recognize the problems that will occur if this conference report is sent back to the House with the amendment by Mr. HELMS attached.

The hours and the days that have gone into the development of this bill in the course of hearings and in the course of markup sessions, in the course of the conferences that were held, the preconference work, could finally go for naught, if an unbreakable impasse were to occur, and so I hope that, recognizing the extremities of the situation we now find ourselves in, we will take the best of the options that are available, even though the option may not be entirely to our liking.

I am going to move to table shortly, and I hope that Senators will support that tabling motion.

We need to get this bill passed. It has appropriations in it that affect every State in this country, and programs and projects are involved that affect all the Senators in this body.

So I hope we will not prolong this debate and this battle, when obviously there are many more battlefields on which this subject can be fought over and over again. I hope that we will wait until another day to continue this battle.

Mr. President, if I have any time, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 3 minutes and 15 seconds left.

Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, it is all well and good to assume that the National Endowment for the Arts has gotten the message. I agree with the distinguished Senator from West Virginia on that. If they have not gotten the message, then they have wax in their ears.

Nevertheless, the American people expect the Congress to take a stand on this. Thus far such a stand has been circumvented. The House leadership, led by Mr. YATES, circumvented a vote by the House of Representatives on this question. They would not let it come to a vote.

I watched on the television set in the cloakroom when that occurred. They did not want to let the people's representatives vote on the question.

So they took the issue to the conference and completely whitewashed it by writing in a loophole the "art" critics could drive truckloads of their garbage through.

As I said earlier, Congress has a duty to speak out on this.

As for the argument that my amendment jeopardizes the conference report, that is simply not the case. All the conferees in the House have to do if my amendment passes in the Senate is to let the House vote on it as well.

I will tell you this, Mr. President, if the House of Representatives votes against the Helms amendment, I will be shocked. I know it will not happen and Congressman YATES knows it will not happen. That is why the earlier vote in the House of Representatives on the amendment was blocked.

But I say to you, Mr. President, Senators have to take a stand one way or another. They will not take it by voting to table or not voting to table.

The question is simple. If Senators believe the National Endowment for the Arts should be allowed to use the taxpayers' money to fund materials that depict or describe patently offensive sexual or excretory conduct, they should vote to table the amendment. However, if Senators agree that funding such disgusting material with taxpayers' money is outrageous, they should vote against tabling the amendment and let the process work by letting the House of Representatives vote on the real issue since the House has not yet had that chance.

I believe the liberal leadership in the House is afraid to do that, and I think that the conferees on the Senate side ought to stick the issue before the House and say put up or shut up. I do not believe that is going to happen, but I hope the Senate will have the courage to make it happen.

The PRESIDING OFFICER. The Senator's time just expired.

Mr. HELMS. Mr. President, I ask unanimous consent that the following items be printed in the RECORD: An editorial in the Washington Post by Frederick Hart, an article by Bruce Fein, another article by Fredrick Decker published in the New York Post, this morning's Washington Post editorial on the conference report language, and yesterday's Los Angeles Times article on the report language.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 22, 1989]

CONTEMPORARY ART IS PERVERTED ART

(By Frederick E. Hart)

The air is becoming suffocatingly pungent with the incense of pious indignation from the art world concerning Congress' reaction to the way the National Endowment for the Arts is spending taxpayers' money.

What is taking place is yet another perverse manipulation of the public by the contemporary art establishment. The public, through its instrument, Congress, has reacted to the baiting and taunting of this sense of decency by the art world through its instrument, the NEA. Underneath its outrage, the art world can rarely contain its secret delight at this publicity bonanza featuring a heroic scenario of free spirits versus troglodytes.

What eludes the public is the current philosophy and practice of art, which not only delights in but thrives on a belief system of deliberate contempt for the public. In order to understand this, you have to understand the values of art today and how contemporary art is intellectually packaged for the marketplace. To grasp this is also to grasp the sorry moral condition of art today and how this is driveling art, making it less and less a meaningful endeavor.

Since the beginnings of bohemianism in the late 19th century, rejection by the public has become the traditional hallmark of what comes to be regarded as great art. An offended public is a critical necessity for the attainment of credentials by any artist. The idea that art and artist must be initially misunderstood and rejected has become doctrine in the mythology of great art, and consequently it has become one of the primary criteria in evaluating the historical importance of a given artist. The art world embraced this rule in the late 19th century and has been running hard with it ever since.

There is, however, a critical difference between then and now. Life in the late 19th century was heavily regimented by strict societal mores; the public expression of emotion and sexuality was severely repressed. When art and literature broke through those layers of repression, people were offended, outraged and ill at ease about the truths they discovered about themselves. But we live in a different world. Today, "repression" is a bad word. Nothing is ever, ever repressed. Everything is discussed, analyzed and ventilated by people ranging from Phil Donahue in the morning to Larry King at night, day in and day out. It's gotten damned hard if not almost impossible to offend anyone anymore.

But art persists. Every artist worth his salt yearns to create works of art that are (mistakely perceived, of course) so offensive, so insulting to the public as to earn him a clear judgment of genius for his success at being misunderstood.

It has become the intense pastime of contemporary art to pursue controversy, the bigger the better, as a form of art. But the artist has had to reach farther and deeper to find some new twist with which to offend. A simple-minded little sophomoric gimmick of making people walk on the flag to make a cute point arouses vast passion and national controversy—for which artist and art world pat each other on the back.

What is really going on is the cynical aggrandizement of art and artist at the expense of sacred public sentiments—profound sentiments embodied by symbols, such as the flag or the crucifix, which the public has a right and a duty to treasure and protect.

When one looks back at the majestic sweep of art in history and its awesome and magnificent accomplishments, how nasty and midget like are so many of the products and so much of the philosphy of contemporary art by comparison. Once, art served society rather than biting at its heels while demanding unequivocal financial support. Once, under the banner of beauty and order, art was a rich and meaningful embellishment of life, embracing—not desecrating—its ideals, its aspirations and its values.

Not so today.

Look about you. The artlessness of contemporary life has come about because of a breakdown in the fundamental philosophy of art and who it is created for. The flaw is

not with a public that refuses to nourish the arts. Rather it is with a practice of art that refuses to nourish the public. The public has been so bullied intellectually by the proponents of contemporary art that it has wearily resigned itself to just about any idiocy that is put before it and calls itself art. But the common man has his limits, and they are reached when some of these things emerge from the sanctuary of the padded cells of galleries and museums and are put in public places, where the public is forced to live with them and pay for them.

If one visited a town or a city in Renaissance Italy, the motive of art and its resulting products would come off entirely differently. Art was not then thought of as an end in itself but as another form of service. When the Italian peasant looked about, he saw an array of dedicated embellishments from his church to his public buildings, fountains and plazas. The artwork, which was exquisitely created, embraced his values, his religious beliefs, his history, his aspirations and his ideals. It was meant to give enrichment through its artistry but, more important, to give purpose through its meaning. It was, as Dante called sculpture, "visible speech." It was not created for art's sake but for his sake.

The measure of achievements in art was determined by the degree to which that art was considered ennobling. Art and society had achieved a wonderful responsibility for each other. Art summarized, with masterful visual eloquence born of a sense of beauty, the striving of civilization to find order and purpose in the universe. This service to truth was more important that the endeavor of art itself. And it was this dedication to service that gave art its moral authority.

This moral authority is the critical element by which a society regards art either as an essential and meaningful part of life, as in Renaissance Italy or, as today, a superfluous bit of fluff, mainly indulged in by a small snobbish minority. Art is regarded by contemporary society much the same way architects now regard art—not as an essence, but as a high-rent amenity.

The most touching and noble impulse toward "visible speech" in recent times was the short-lived creation of the Statue of Democracy in Tiananmen Square. Naively executed, it was nonetheless a wonderful display of the unique ability of art to embody and enhance concisely and movingly a deeply felt public yearning for an ideal of a just society. The profound meaning the statue had for tens of millions of people gives the art a value and moral authority of profound significance.

In ancient Greece, which generated 2,500 years of Western art, there existed no distinction between aesthetics and ethics in the judgment of a work of art. Works of art achieved greatness by embodying great ideas, as well as by sheer mastery of the medium. The inspiration and the motivation for that mastery were in the nobility of the ideas pursued.

It is the contemporary renunciation of the moral responsibility of art that is the source of the recent hostilities between art and public. The cutback of funds by Congress is a graphic display of the public's declining conviction of the importance of art, caused by a self-absorbed art that has lost all sense of obligation to the public good and the betterment of man. It is possible to live without art, and if the nourishment provided by art continues to be so nauseating, life without art will become, for some, desirable.

If art is to flourish in the 21st century, it must renew its moral authority by philosophically and fundamentally rededicating itself to life rather than art. Art must again touch our lives, our fears and cares. It must evoke our dreams and give hope to the darkness.

THE GOVERNMENT SHOULD SHUN BIGOTRY AND OBSCENITY

(By Bruce Fein)

A nation lives by symbols. When the government funds works of art, it necessarily gives tacit approval to the grantee and the goals he promotes with taxpayer dollars. As Justice Louis D. Brandeis lectured in *Olmstead* v. *U.S.* (1928), "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example."

The government, accordingly, must be scrupulously concerned with the message it sends to the public by underwriting specific types of art. Bigotry, for instance, that appeals to racial, religious, or other prejudice should receive no government backing. Suppose David Duke, a former member of the Ku Klux Klan and current member of the Louisiana legislature, requested a grant from the National Endowment of the Arts to paint a picture celebrating post-Reconstruction lynching of "niggers." To make the grant would signify government approval or indifference to racial bigotry, and would inflame race relations throughout the country.

Suppose a neo-Nazi sought NEA funding for a mural applauding the Holocaust. To underwrite the applicant would foster anti-Semitism, and suggest the government would be phlegmatic about private persecution of Jews.

The government is vitally interested in suppressing, not promoting, bigotry because it threatens democracy. Freedom and liberty cannot thrive in communities frenzied by prejudice.

As President Harry Truman explained in 1952: "Mutual respect and tolerance for the beliefs of others is the secret of the strength of this blessed land." Truman was echoing the sentiments conveyed by President George Washington in writing to a Hebrew Congregation in 1790. He asserted that our Government "gives to bigotry no sanction, and to persecution no assistance."

That is why the United States Supreme Court in *Beaubarnais* v. *Illinois* (1952), upheld a state law making it a crime to defame any "class of citizens, of any race, color, creed or religion (that exposed the object) to contempt, derision, or obloquy, or which (was) productive of breach of the peace or riots." The statute was invoked to punish the public distribution of an emotionally incendiary leaflet intended to arouse racial hatred. It demanded that Chicago officials "halt the further encroachment, harassment, and invasion of white people, their property, neighborhoods and persons by the Negro," called for the unity of one million self-respecting white Chicagoans, and vituperated that "(i)f persuasion and the need to prevent the white race from being mongrelized by the negro will not unite us, then the aggressions . . . rapes, robberies, knives, guns and marijuana of the negro, surely will."

Speaking for the Court, Justice Felix Frankfurter noted that "(r)esort to epithets or personal abuse is not in any proper sense communication of information or opinion safeguarded by the Constitution." Frankfurter understood that the utterances at issue sought exploitation of emotional irrationality and racial prejudice, not development of informed opinion.

Playing on human prejudice was the evil genius of Adolf Hitler. Writing in Mein Kampf, he observed that the art of successful propaganda requires directing speech "more and more toward feeling, and only to a certain extent to so-called reason." That understanding is why many colleges and universities have embraced rules of student conduct that discipline stigmatization or vilification for reasons unrelated to individual merit. The University of Michigan, for example, adopted in part a policy against "any behavior, verbal or physical, that stigmatizes or victimizes an individual on the basis of race, ethnicity, religion, age, marital status, handicap or Vietnam veteran status," and creates a demeaning educational environment. (On September 7, 1989, a federal district judge enjoined enforcement of the policy because of vagueness).

Universities should thus be applauding the much maligned and misunderstood "Helms Amendment" that would bar NEA funding of art that is intended to "denigrate, debase, or revile a person or group or class of citizens on the base of race, creed, sex, handicap, age, or national origin." If an intent to vilify by the artist is lacking, as with Salmon Rushdie's "The Satanic Verses," then the amendment is not violated.

The amendment's prohibition on taxpayer underwriting of obscene or indecent art is also praiseworthy. Obscenity, the Supreme Court held in *Miller* v. *California* (1973), reaches only works of art that appeal to the purient interest of the average person, depict or describe, in a patently offensive way, sexual organs or acts, and lack "serious literary, artistic, political, or scientific value." Indecent material under *F.C.C.* v. *Pacifica Foundation* (1978) includes artistic endeavors that would be obscene except for some redeeming literary, artistic, political, or scientific value.

The government is legitimately concerned with steering citizens away from an unelevating obsession with the obscene or indecent that arouse or satisfy sexual appetite, but seldom if ever stir great thoughts. Thomas Jefferson taught that "If a nation expects to be free and ignorant—it expects what never was and never will be." With but limited taxpayer dollars, the government should favor Shakespeare or Thucydides over Hustler Magazine to upgrade the deliberative faculties and wisdom of its citizens.

Democracy descends to tyranny with citizens who are uneducated or preoccupied with sensual pleasures. The obscene or indecent makes no contribution to insuring that the forces of reason triumph over the arbitrary in public life.

The Supreme Court in *Board of Education* v. *Pico* (1982) acknowledged the broad powers of public school authorities to determine book selections in school libraries in furtherance of "educational suitability." Justice Harry Blackmun agreed that the promotion of virtues is a legitimate government endeavor. The Helms amendment thus properly recognizes that government subventions of the obscene or indecent dissipate scarce funds that should boost more ennobling art that raises rather than lowers the quality of community life.

Government funded art would be deadened, however, if NEA decisions were dominated by typically philistine lawyers, scrutinizing applications for compliance with the Helms Amendment. Thus, NEA compliance should require only that would-be grantees

submit affidavits pledging to avoid violations of the amendment. A grantee who submitted an affidavit in bad faith and produced a work of art that flouted the amendment could be prosecuted for a felony under the federal false statements statute, 18 U.S. Code 1001.

In summary, the Helms Amendment is no benighted effort to censor freedom of artistic expression; it is a judicious attempt to allocate taxpayer dollars to advance important community aspirations. Its critics need reminding that fanaticism in the defense of the First Amendment is no virtue.

[From the New York Post, Mar. 17, 1988]

CELEB CALLED ON CARPET OVER GAY AID

(By Fredric Dicker)

ALBANY.—State Council on the Arts bosses Kitty Carlisle Hart and Mary Hays yesterday were summoned to the Capitol to explain why the panel is bankrolling groups promoting transvestism and homosexuality.

The order—to appear next Wednesday—came from the powerful chairmen of the state Legislature's arts committees following yesterday's exclusive report in The Post.

The committees have the power to recommend cuts in the council's budget.

"I was shocked by the Post report and we want some answers," said Assembly Tourism and Arts Committee chairman Matthew Murphy, a Niagara County Democrat.

Senate Arts Committee chairman Tarkey Lombardi (R-Syracuse) said he and Murphy would hold a joint committee session with Hart, the council's chairman, and Hays, its executive director.

Also yesterday, Gov. Cuomo's director of state operations, Henrik Dullea, told the council and Hart to prepare a justification of the spending programs for the governor.

Meanwhile, The Post also has learned that the Arts Council has been using tax money to subsidize a pro-Sandinista film, an anti-landlord tenants group and an anti-apartheid "newspaper" committed to being "an active social force."

Those programs are among dozens of activist, left-of-center or homosexual-oriented projects given cash awards annually by the council, official records show.

No council money is going to help the cause of Nicaragua's anti-Sandinista contras.

Council officials have repeatedly denied The Post access to documents explaining why the controversial projects got council money.

This year the council gave Video Repetorie Ltd. of Manhattan a $20,000 grant to help complete a motion picture on the life of Omar Cabezas, a leader of the Marxist Sandinistas.

The grant application says Cabezas represents "a generation struggling for freedom and dignity."

It also says the film will show how the Sandinistas "are confronting the ever-present threat of the continuing U.S.-backed war against their fledgling revolution."

Meanwhile, the Arts Council has awarded $10,000 to the Manhattan-based Assn. for Neighborhood and Housing Development, a well-known tenants' advocate group.

The money was given to "improve New York City's planning, politics and programs for meeting the housing and neighborhood needs of poor, working and minority New Yorkers," according to the grant proposal.

However, ANHD does not have any legal power to improve the city's planning efforts.

"We're an unusual grantee because we do housing advocacy and housing work," conceded ANHD executive director Bonnie Brower.

"This group has nothing to do with the arts. I can't believe it and I'm shocked," said John Gilbert, head of the pro-landlord Rent Stabilization Assn., when told of the council grant.

[From the Washington Post, Oct. 7, 1989]

THE REVISED HELMS AMENDMENT

Congress this week succeeded in beating back the sweeping restrictions on government arts funding proposed by Sen. Jesse Helms (R-N.C.). That's fine. But the House-Senate conference then approved a couple of paragraphs of language whose effect is to leave a lingering cloud. The compromise legislation bars government funding for "obscene" material: it stipulates that the arts and humanities endowments continue to make that judgment themselves, rather than transferring it directly to Congress as Sen. Helms would have done.

The compromise is less destructive than the original proposal, and it offers no explicit bar to the arts endowment's continued ability to function freely. But in practical terms this is no victory. The arts endowment and the institutions it works with lose ground when any such restriction is written into law, even if, as in this case, the law merely formalizes selection criteria that those evaluating the grant applications are presumed to bear in mind anyway.

The new language bars funding to material that "may be considered obscene, including but not limited to depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts, and which, when taken as a whole, does not have serious literary, artistic, political or scientific value." This last language is from the Supreme Court's definition of obscenity in *Miller* v. *California*, and under it the NEA could, in theory, still approve even some of the artworks that touched off the current controversy, In reality, of course, it is unlikely to do any such thing. The endowments and the institutions they fund are more likely to respond to their narrow escape with increased caution, making their choices with a view to avoiding another firestorm.

The creation of a commission to reevaluate present funding procedures, and perhaps recommend new standards after a year, constitutes a further imponderable. The commission's members have yet to be chosen. But a sensible and prudent commission will flatten the restrictions still further and leave the government's funding procedures as they are.

[From the Los Angeles Times, Oct. 6, 1989]

LANGUAGE IN NEA FUNDS BILL STIRS DEBATE

(By Allan Parachini)

WASHINGTON.—The National Endowment for the Arts moved Thursday to head off some unexpected political fallout. Some legal experts have concluded that a House measure intended to resolve the arts agency's censorship crisis will not outlaw "obscene art, after all.

Thursday's concentrated effort at political crisis prevention came as Senate conservatives stalled for time by holding up approval of a House-passed compromise endowment funding bill that purports to bar federal support for "obscene" artwork. Senate approval of the appropriation bill, which includes the Interior Department and several other agencies besides the endowment, had been expected as early as Tuesday night, but got bogged down,

Sen. Jesse Helms (R-N.C.) and other conservatives were reportedly upset by an interpretation of wording in a conference committee compromise that was offered earlier this week by Rep. Sidney Yates (D-Ill). In an exchange with Rep. Dana Rohrabacher (R-Lomita), Yates said funding of "obscene" artwork—which played a crucial role in precipitating the endowment's crisis earlier this year—was not effectively prohibited.

Helms did not respond to requests for his reaction. Sen. Robert Byrd (D-W. Va.), who is charged with maneuvering the endowment compromise funding bill through the Senate, said only "good-bye" and slipped through a doorway when questioned about the arts-content compromise.

The permissive interpretation by Yates, which surprised Rohrabacher, did not prevent overwhelming House approval of the compromise. But on Thursday, endowment Chairman John E. Frohnmayer acknowledged that the agency was increasingly concerned that the apparently permissive take on the wording might endanger Senate approval of the compromise and return the endowment to the crisis mentality that has virtually immobilized its operations since early June.

"A large number of congressional people on both sides of the Capitol are concerned that we do not have to fight this kind of battle again." Frohnmayer said Thursday in a telephone interview from Oregon, where he is vacationing.

"As I have said repeatedly, I am not at all interested in funding obscene art. I don't believe that's the national endowment's function. We don't consider this just business as usual."

Repeatedly and emphatically, Yates told Rohrabacher that "obscene" arts projects in a variety of media could receive federal financial support if they had exemplary artistic or literary merit. Endowment sources, speaking on the condition they would not be named, said the wording appeared to be so vague that virtually no artistic subject matter would be taboo.

The increasing prominence of such interpretations prompted senior national endowment staff members to contact reporters in an ironic attempt to emphasize that the compromise wording isn't powerless, after all, but would achieve a degree of arts-content regulation, after all, Frohnmayer noted that "there's a spirit of the law that we need to pay attention to. I don't want this squabble to continue."

The issue appeared to turn on a single insertion of the word *and* in the phrasing of the conference committee report. The report held that "none of the funds" appropriated for the endowment could be used to "promote, disseminate or produce materials . . . considered obscene, including . . . sadomasochism, homoeroticism, the sexual exploitation of children or individuals engaged in sex acts."

But the wording added another crucial phrase: "*and* which, when taken as a whole, do not have serious literary, artistic, political or scientific value." The wording is taken almost verbatim from a 1972 U.S. Supreme Court pornography decision, Miller vs. California, but the structure of the sentence seemed to legal experts to make clear that, to be refused on content grounds, an art project would have to be both obscene *and* devoid of significant artistic merit.

Frohnmayer, a lawyer and First Amendment expert himself, declined repeatedly to offer his own interpretation of the wording. But James Fitzpatrick, a prominent arts lawyer with the prestigious firm of Arnold & Porter here, said that his own reading of the wording led him to conclude that it fails completely to achieve any degree of subject matter control.

It was that control that Helms and other conservatives in Congress demanded when they declared war on the endowment earlier this year and attempted to withdraw all funding for the agency or impose such severe restrictions on what it could support that the endowment would have been rendered unable to operate.

Mr. BYRD. Mr. President, the Senator's depiction of how this vote will be perceived I do not think need be entirely accurate. This is not the last act in this play.

I think that reasonable men should understand that there comes a time when we have to get on with the bill that is before us. I do not think that we should continue to delay action on this bill.

There will be other times when we can take a stand on the matter that Mr. HELMS has addressed. I do not take any back seat to my friend from North Carolina or to any other Senator as far as the indignation that is felt with respect to the so-called art creations that are concerned. We are all indignant about it.

I am not going to agree with Mr. HELMS that what he says about a certain Member of the other body is entirely accurate. I hope that we can discuss these matters without ridiculing in person a Member of the other body. I do not think we would take it well if the other body were to resort to mentioning names of Senators in debates, and it seems to me we ought to do what we can to preserve the comity between the two Houses. We have to continue to work with Members of the other body. We have to get along with them. They, too, are elected Representatives of the people.

I hope that we will avoid taking excursions into the area of criticizing Members of the other body by name. I just say that in the interest of comity. I cannot control the language of any Senator on this floor.

Mr. HELMS. Will the Senator yield?

Mr. BYRD. Yes.

Mr. HELMS. Congressman YATES has referred to me time and time again. I think it is fairplay if I mention him one time.

Mr. BYRD. Well, if he does that on the House floor, I can understand the Senator's feelings. If he does it outside the other body, that is quite another thing. I am talking about how we refer to one another on the floors of the two Houses. For decades, it has been the practice to avoid referring to Members of the other body, whether one is speaking from the House floor or the Senate floor, and naming them by name and subjecting them or their States to criticism that is unbecoming of a Member.

I say that, just in the interest of comity, not by way of criticism of the distinguished Senator from North Carolina. I know he has strong feelings and I know he has had his feelings hurt and I do not blame him. But I simply would say we do have to get along with the Members of the other body. I am not absolutely sure that what has been said about a certain Member of the other body is entirely accurate. I cannot question it, nor can I confirm it.

Mr. President, I now move to table the amendment.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I move to table the amendment of the distinguished Senator from North Carolina, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The nays and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. BYRD] to table the amendment of the Senator from North Carolina [Mr. HELMS]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Mississippi [Mr. COCHRAN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—62

Adams	Durenberger	Metzenbaum
Baucus	Exon	Mikulski
Biden	Glenn	Mitchell
Bingaman	Gore	Moynihan
Boren	Gorton	Packwood
Boschwitz	Harkin	Pell
Bradley	Hatfield	Pryor
Bryan	Heinz	Reid
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Byrd	Kassebaum	Rudman
Chafee	Kennedy	Sanford
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Simon
D'Amato	Lautenberg	Simpson
Danforth	Leahy	Specter
Daschle	Levin	Stevens
Dixon	Lieberman	Warner
Dodd	Lugar	Wirth
Domenici	Matsunaga	

NAYS—35

Armstrong	Grassley	McConnell
Bentsen	Hatch	Murkowski
Breaux	Heflin	Nickles
Burns	Helms	Pressler
Coats	Hollings	Rockefeller
DeConcini	Humphrey	Roth
Dole	Johnston	Shelby
Ford	Kasten	Symms
Fowler	Lott	Thurmond
Garn	Mack	Wallop
Graham	McCain	Wilson
Gramm	McClure	

Not Voting—3

Bond	Cochran	Nunn

So the motion to lay on the table amendment No. 991 was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Ohio, moves to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I move the Senate concur in the House amendment to the Senate amendment numbered 153.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank all Senators.

Mr. President, I also want to compliment Charlie Estes, Rusty Mathews, Sue Masica, Dan Salisbury, Shannon Skripka, Jeff Cilek, and Debbie Rieman for the excellent work they have done as staff members on both sides of the aisle in connection with this very important legislation. They have demonstrated a great degree of skill and a very high degree of dedication without which it would be most difficult for the Senate to accomplish this task which has just been accomplished. I again thank all Senators for their support.

(Mr. BREAUX assumed the chair.)

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 2:01 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:53, when called to order by the Presiding Officer [Mr. WIRTH].

The PRESIDING OFFICER. The Chair recognizes the distinguished majority leader.

Mr. MITCHELL. Mr. President, I begin by thanking all our colleagues for their patience. This has been a difficult period for all concerned and each Senator has displayed remarkable patience and restraint in being present and participating in the deliberations which have been underway, in

an attempt to determine the best method of dealing with the reconciliation bill and with other pending matters.

Early this afternoon the Democratic Members of the Senate met in conference. I understand from the distinguished Republican leader that a number of Republican leaders, committee ranking members and others, met to discuss the matter.

I think I can best summarize it by saying, while we do not have an agreement on how best to proceed, we both believe that the prospects for such agreement are sufficiently encouraging to permit that we continue our meetings. The distinguished Republican leader and I, and other chairmen and ranking members, plan to meet tomorrow morning to discuss further how we might best resolve this matter.

Earlier this week I had announced that the Senate schedule next week would be for no session Tuesday, a pro forma session on Wednesday without rollcall votes, and a full session on Thursday and Friday with rollcall votes and full consideration of pending business.

In order to minimize the already substantial disruption of Senators' schedules that has occurred, it is now my intention to announce that we will adhere to that previously announced schedule and what we will do is attempt to reach and begin the implementation of an agreement for the disposition of the reconciliation bill, beginning promptly on Thursday morning.

If we do reach an agreement, that disposition should be relatively prompt and controversy free. If we are unable to reach an agreement, then we will take up the reconciliation bill promptly Thursday morning and consider it in a circumstance which will involve a considerable amount of controversy and numerous amendments and votes.

Either way, we will take up the reconciliation bill beginning next Thursday morning and we will continue until such time as we complete action on it.

The possibility of reaching agreement in a manner that would resolve this matter, and permit fair consideration of other related matters, is sufficient to justify, in my judgment, the continuing discussions which I have just described. However, both the distinguished Republican leader and I, and all of the other participants in the meetings, have concluded that we simply must go to and complete action on reconciliation next week, commencing on next Thursday. So we are going to try very hard to reach an agreement to dispose of it. But if we are unable to do so, then we are going to go to it in any event and simply proceed until we complete action.

I am now pleased to yield to the distinguished Republican leader for any such comments as he may wish to make.

Mr. DOLE. First, I think the majority leader has fairly stated the situation. There will be a meeting tomorrow morning and there will be additional efforts to try to come together on an agreement that affects some items; special items, I guess would be the category. Hopefully there is still a great deal of interest, I think on both sides, of getting together on some stripped down reconciliation bill. That also involves what might happen in the House. It is going to be a lot of work for the distinguished chairman of the Budget Committee and the ranking member, Senator DOMENICI. If that could be done, as the majority leader stated, we could complete action on reconciliation probably in 1½ or 2 days. Without it, it could be considerably longer.

In any event, we have had good meetings. While my colleagues were having their caucus we were meeting with ranking Republicans on the committees. They were being instructed on general guidelines in the event there were some agreement for stripping out the extraneous provisions. So we are prepared to continue to see if there is some common ground.

The leader indicated there is no agreement. We do not have any agreement. There are matters like IRA's, and capital gains, and child care, and other very special matters that have been discussed today.

I would just hope maybe we will do the best we can to come to agreement. If we cannot, we will start off, as the leader said, on Thursday morning with the reconciliation bill we will then have, and do the best we can.

Mr. MITCHELL. If the distinguished Republican leader will yield, if we cannot reach agreement then the Budget Committee will simply report out the measure that would appropriately then be before them and we would begin promptly, I anticipate, at 9 o'clock Thursday morning, going right to the bill and proceeding until we complete action.

I hope we will be able to reach agreement. If not, we will proceed in any event.

Mr. EXON. Will the leader yield for a question?

Mr. MITCHELL. Yes.

Mr. EXON. I want to congratulate the two leaders for the efforts they put forth. There has been a lot of stress and strain, and I know you both carried a heavy burden on this. I think you both worked out a plan that disrupts schedules the least possible.

I know this is an iffy question. All the Members of the Senate would like to know what you anticipate for next weekend. It is pretty obvious if we come back Thursday and if we reach an agreement, then I suspect it would be possible for us to finish the reconciliation bill by Friday night.

If not, I would anticipate if there is not an agreement that there is the high likelihood we would at least be back here in session next Saturday. Is that a fair assessment of the situation?

Mr. MITCHELL. It is an iffy question because we do not know how we will be able to proceed or what will occur when reconciliation is before us. As the Senator knows, there is a 20-hour time limit under reconciliation.

I suspect if we start early Thursday morning, we are going to have very lengthy consideration during Thursday and Friday. If at all possible, it would be my hope we can complete it by Friday evening, whatever the circumstance. But I do not think it is possible to assure that with any certainty at this time.

Mr. EXON. So next Saturday is pretty iffy at this point.

Mr. MITCHELL. Yes.

Mr. KASTEN. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. KASTEN. As the majority leader is aware, there was a leadership package worked out with regard to democratic free elections in Nicaragua and a $9 million appropriation that was to work its way through, hopefully before Sunday, tomorrow, as the majority leader is aware. A significant amount of that money goes for a registration process. There are 4 registration days in the month of October, each Sunday.

If we fail to do anything today, we will have missed two of the four registration possibilities. I see the distinguished chairman of the Appropriations Committee is here. Is it possible that we can expedite this agreed-to package today so that we can—I know the Secretary of State has spoken with the majority leader and spoken with a number of us—is it possible we can expedite this package today?

It seems now it would be delayed maybe even until next Thursday, Friday, or Saturday. We might find ourselves a week from now in exactly the same position we are in now, which means 3 out of the 4 registration days would have passed and our ability to help free and fair elections in Nicaragua would be significantly setback.

I might also say to the majority leader that the House did pass this in an expedited procedure. They took it through the Rules Committee and on the floor last Wednesday. The vote last Wednesday was 263 to 156. I am hopeful that we can somehow work out a way to do this today.

Mr. MITCHELL. I thank the Senator from Wisconsin. I have spoken with the Secretary of State as recently

as last evening. As the Members of the Senate know, the bill that was received in the Senate yesterday, the Appropriations Committee considered it today. It is not yet even on the calendar. We could take it up by unanimous consent, but as you are aware, in the past there have been numerous objections made by numerous Senators to bringing up legislation prior to the expiration of the time required under Senate rules for review of the legislation and any report that might accompany the legislation.

I know that there has been insistence on that point by a number of Senators on a variety of bills and, in this case, objection has been made on that basis that the bill is just here. There has not been the requisite time for Senators to become sufficiently aware of it. I personally would like to move to it and will do what I can to expedite its handling next week, but it requires unanimous consent now to proceed to that under the Senate rules and objection has been made and, therefore, we will not be able to do so.

I will undertake every effort between now and our return to session on Thursday, and if we can get that, then it would be my intention to move to that very quickly, perhaps on Thursday, to get it done for the reasons the Senator from Wisconsin stated.

Mr. KASTEN. If the leader will yield further, it is my understanding we still have yet to have an Appropriations Committee meeting on this issue. We are two steps behind.

Mr. MITCHELL. I was unaware of that. I say to the distinguished chairman of the Appropriations Committee, I was under the impression there was going to be a meeting today with respect to the Nicaragua legislation, but, of course, the chairman was on the floor managing the Interior appropriations conference report.

Mr. BYRD. Will the majority leader yield? There will not be a meeting of the Appropriations Committee today. My being busy on the floor earlier today in connection with the Interior appropriations conference report and then the subsequent conference which tied up a lot of Members makes it impossible at this time to get a quorum to act on the bill. So we will not be meeting today.

Mr. MITCHELL. I inquire of the distinguished chairman whether it will be possible during next week prior to Thursday to have a meeting of the committee and to have the legislation ready in the event we can move to it promptly when we return next week?

Mr. BYRD. I will certainly make every effort to get a quorum of Senators for that purpose. If we can get a quorum for that purpose, I will be around in ample time to get that done in advance of Thursday. If we get a quorum to report out the measure, I will be happy to call a meeting.

Mr. KASTEN. If the majority leader will yield one point further, I know there have been a number of concerns expressed by Senators on both sides of the aisle.

I would simply like to tell him that on our side of the aisle, we are ready to move forward in an expedited way. Some of the Senators who expressed concern with amendments will either introduce or withdraw their amendments or in other ways expedite the process and procedures.

From our point of view, we are clear on this legislation. This is for voter registration, and there are only 4 voter registration days. We have, in effect, used up half the voter registration days for this election. I am anxious to work with the chairman of the Appropriations Committee next week.

Mr. MITCHELL. I thank the Senator very much for his comments. I must say it is very encouraging as one who supports the efforts to do something, because as the distinguished Republican knows, most of the objection that has arisen during this year to taking up legislation by unanimous consent prior to the expiration of the requisite time under the rules has been from Members on that side of the aisle. I am thankful in this case that objection is not being made.

As the Senator may know, the Senate just received the bill yesterday. We do want to move promptly. I hope we will do so, and I am committed to moving this matter forward. I hope we will be able to do so next week.

Mr. BYRD. Will the majority leader yield? I also want to express my thanks to the distinguished Senator for his prognostication as to what would happen from his side of the aisle in the committee.

I would hope that we would not have any amendments called up in the committee because those same amendments would be fought over again on the floor, and I do consider it to be a waste of time, to be a payload unworthy of taking the time.

I probably will not support the resolution. That will not keep me from doing whatever I can to bring it to the floor and letting the Senate work its will.

Mr. DOLE. Will the Senator yield to me? To make the RECORD complete, as the Senator points out, there were objections on our side, from Senator HATFIELD, the ranking member on appropriations, because the bill had not been referred to appropriations. That was done, I think, yesterday afternoon.

As the majority leader pointed out, the chairman was tied up all morning on another matter and then there was an objection by the distinguished Senator from North Carolina [Mr. HELMS]. I think that after a discussion with Secretary Baker, at least there is a willingness expressed by the Senator from North Carolina to offer an amendment and maybe talk about it.

I think the Secretary of State also talked to the junior Senator from Iowa [Mr. HARKIN] and he is not willing to remove his objection. He has every right not to remove his objection, particularly since there is no bill on the floor.

Hopefully, with only two Sundays left after tomorrow, we can resolve this matter by next weekend sometime.

I thank the distinguished Senator from Wisconsin.

Mr. ARMSTRONG. If the leader will yield to me, as both leaders know, whenever you get 100 Senators together, you are going to get 200 opinions on any subject, particularly on this subject. Since we are all here, I wanted to state my own. It is this: That the effort the leaders have undertaken to try to strip this reconciliation bill down is not only good for Senators from a scheduling standpoint, but is a very, very significant effort for the long-term good of the country, let alone the Senate.

This reconciliation process started out to be a way to sort of balance the budget in year's end, and it has turned out to be about the most abusive possible legislative process. We all remember it got started with the notion that at the end we would have to sort of put through some little spending cuts and maybe some tax measures.

What we have done is we have added everything that comes along to this reconciliation bill, because it comes to the floor under privileged procedures. What we are going to end up with if we do not somehow break ourselves of this addictive habit of rolling everything into one piece of legislation is sort of an omnibus legislative vehicle, and more and more, a higher and higher fraction of the year's legislative work will end up being done on this one reconciliation bill, a bill that comes to the floor under expedited pressure, without the right of full amendment, without the right of unlimited debate, without the ordinary regular rules of procedure that have served the Senate so well.

I think in the middle of the night the other night, the Senator from New Jersey [Mr. BRADLEY] at the end or near the end of the Finance Committee consideration of his reconciliation measure, said something that was so resonant that even though it was in the middle of the night and everybody was tired, that statement has echoed all over the country. I read it in a number of papers.

Senator BRADLEY said here we are trying to save $5 billion, and to do it we have raised $35 billion.

That is just one aspect of the reconciliation bill that I find troubling, as did Senator BRADLEY. Mr. President, I think Senators on both sides of the aisle believe that what Senator MITCHELL and Senator DOLE are trying to do is good legislative practice. I know there are some cynics around here who say, well it is impossible, but once we start getting into this kind of a rut we cannot get out. But I think we can. I for one wish them well. I believe it is very, very important that somehow we restore some integrity to this process.

The Senator from West Virginia [Mr. BYRD] amended the rules here, or proposed a rule which has to some extent been helpful in this reconciliation process, but inventive minds have found a way to get around the so-called "Byrd rule." I think now every Senator ought to get behind the two leaders as they try to find a way to slim this thing down to manageable proportions.

Finally, Mr. President, I want to say that the overriding consideration, even more than the process reform in the Senate, which is urgently needed, is that we get the issue resolved, not only the issue of budget reconciliation, but also a fair vote up or down on IRA's and on capital gains reform.

I hope, after they have a chance to get rested up over the weekend, the two leaders will come back next week and give us a package deal that we can all get behind.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I assure the majority leader I am probably as tired as he, although I do not have as many burdens as he. I will not take very much time.

I want to say to my friend from Colorado, he has said it right. I want to say to the two leaders that we have made some progress. When we consider how difficult this situation is, it should not surprise anyone that we have not resolved this issue.

On the other hand, I think the distinguished majority leader will agree at least that we have the Byrd rule on extraneous material to use on our bill if we are not able to reach agreement on the proposals that have been submitted between the two leaders on trying to arrive at some understanding on IRA's and capital gains, and then proceed to an informal process of removing the extraneous material. At least we can try to get some of that out here on the floor.

I would like to make the point that clearly the U.S. House has no such rule. They do not even have any rule that would give a Member or the leader or anyone else permission on the floor to attack the extraneous nature of materials in this bill. We have not had a chance.

Capital gains: I think the majority leader would agree, the House is probably acting in good faith at this point on an idea about our ideas, but there is no one here to work with. That is not their fault. We only had a few minutes with the distinguished Speaker. He cannot speak for everyone. He, too, had to leave for a scheduled event. All of his Members, and probably the Republican leaders, are out of town.

So I understand some effort will be made next week to talk with the leadership there about this very exciting idea of arriving at a conclusion that is acceptable to everyone on IRA's, capital gains, and maybe some other specific items; capital gains proceeding in a all-out effort to make this a minimal bill on reconciliation; one that would comply with the extraneous material rule that we have here.

It is interesting this body voted for the rule almost 100 percent when we adopted it.

Mr. BYRD. Mr. President, it was 100 percent. It was 96 to nothing.

Mr. DOMENICI. It was 96 to nothing. We all worked on it. It was the idea of the distinguished Senator, Mr. BYRD, but by the time we finished, it is a pretty effective tool.

I must say, however, you cannot provide this kind of a measure with the absolute certainty that the minds of committee staff and Senators will not find a way to get around it one way or another. So it is not as easy as one might think.

I am somewhat pleased. I do not want to leave the Senators with the opinion, at least from this Senator, that we are there. We could have the big reconciliation bill on the floor Thursday. I think there is a possibility of that, maybe even a high possibility. On the other hand, we are going to try to see if we could avoid that.

So I understand the distinguished majority leader and minority leader will try again in the morning. As the week ensues, we will try to narrow the issues down. I might say to the Members I think there is a real chance that by Thursday we will see some daylight. If not, 2 or 3 days on reconciliation may indeed force the light in another way when we see what is before us and how difficult it is.

So we will continue to work on it. We thank the leadership for letting us work with him on it, and hopefully we will succeed.

Mr. MITCHELL. I thank my colleague, and say it was precisely the considerations that he raised and the Senator from Colorado raised, among others, that led me to suggest this course of action on late Thursday evening. I am pleased that we are at least making some progress, however slow.

The Senator form New Mexico is quite correct that we are going to try to get an agreement. We do not have it. We may not be able to get one because what we find as we proceed down this road is each time we resolve one issue it raises two new ones that were not previously considered. But we will do the best we can in good faith.

In any event, we will complete action on the reconciliation bill next week one way or the other.

Mr. President, I suggest the absence of of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may proceed as if in morning business for no longer than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PANAMA

Mr. D'AMATO. Mr. President, I think many were shocked as to the rapid turn of events which took place this week in Panama. First we were filled with hope, hope that the Panamanians, who had undertaken an opportunity to bring about freedom and the removal of General Noriega, would be successful.

Mr. President, Manuel Noriega has turned Panama into a money-laundering center, protecting billions of dollars of the drug dealers' profits. He has used Panama's border with Colombia to make Panama a superhighway for smuggling drugs into the United States.

Noriega is a drug dealer and a dictator. When the Panamanian people rejected his candidate for president on May 7, he simply suspended the election and continued to rule by the gun. Last week the Panamanian people tried to win their freedom. They believed that the United States would help them in their fight. But the help they had hoped for never came.

Noriega is still in power. But, Mr. President, I believe the Panamanian people, like our own forefathers, have a thirst for freedom. Some have died in their attempt to oust Noriega and there is no doubt they will try again. When they do, I think we—the United States—have a moral obligation to support them in their quest for freedom.

Mr. President, I learned today from newspaper accounts, as it relates to Manuel Noriega's own military newspaper, a newspaper in which he has published the names of those Panamanians which he declared to be now outlaws, that he has placed a price on

their heads of $250,000. It is a publication of Noriega's hit list which is tantamount to a declaration of war against the peaceful restoration of democracy in Panama, not to mention a gross violation of international law.

Imagine, he published the names of people and has through his cronies offered a reward for their execution; many of them leading Panamanians who are critics, who have sought safe haven here in this country: Ambassador Gabriel Lewis Galindo, $250,000 placed on his head; Jose Isabel Blandon, $250,000 dead or alive; Col. Roberto Diaz Herrera, $250,000; Ambassador Juan Sosa, who so many of the Members of the Congress have come to know and admire for his advocation of peaceful transition and democracy. I hope we begin to wake up when we find these publications of a hit list which Noriega's cronies publish in his Army newspaper in Panama to the fact that it is about time that the United States begin to adhere to a policy of a great President of the United States, Teddy Roosevelt, when he said "Speak softly, and carry a big stick."

We have encouraged the people of Panama to rise up against this despot, and yet we have never been there. We gave them every reason to believe that we would be there in their time of need, and we failed them.

We have seen officers who have been executed, families who have been held and threatened—now a hit list of those who have sought sanctuary here in the United States. Great arsenal of democracy. It certainly does not look like it is meeting its obligations. I would hope that we would show a little more backbone.

I suggest that the people over at Joint Chiefs begin to get their act in line, because certainly this was a terrible, miserable display of coordination, and there is no excuse for it. For anyone to say this was one of our finer days, that we did what we should have done, I suggest that does not square up with the real facts and all of the facts.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today marks the 1,666th day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that an article from Maclean's magazine, which describes what was in 1987 an absolute rash of hostage-taking, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Maclean's, Feb. 9, 1987]

LEBANON: PAWNS OF TERROR POLITICS

Even by the chaotic standards of Lebanon, where kidnaping has become almost a local industry, the past two weeks have produced a fearful haul of hostages. On Jan. 24 four men disguised as police officers walked into Beirut University College and seized four male professors—three Americans and an Indian. Two days later gunmen kidnaped two unidentified men, believed to be foreigners, and a Saudi national. And last week there was growing concern that Terry Waite, the special envoy of the Archbishop of Canterbury who had previously helped to free hostages from Iran, Libya and Lebanon, may have been taken hostage himself on his latest mission. Waite had not been heard from since he left a West Beirut hotel on Jan. 20. The archbishop, Most Rev. Robert Runcie, announced that, according to the Druze militia leaders responsible for Waite's security, the envoy was safe and negotiating with hostage takers. But at week's end the Lebanese weekly magazine Al-Shiraa reported that Waite was being held under house arrest.

Waite's return to Lebanon was an attempt to complete the business left unfinished when the U.S. arms-to-Iran scandal broke last November. His intention, apparently, was to persuade the faction called Islamic Jihad (Holy War) to release Americans Terry Anderson, 39, Mideast correspondent for the Associated Press, and Thomas Sutherland, 56, dean of agriculture at the American University. Militia sources in Beirut said last week that the tall, bearded Waite had been seen in the Bekaa Valley of eastern Lebanon. And the Voice of Lebanon radio station in Christian East Beirut reported that Waite had been taken, blindfolded, to four villages in the valley, where he met with American hostages. But according to Al-Shiraa, the magazine that exposed the arms-to-Iran sale last November, Waite was seized as security when the kidnapers detected U.S. military preparations in the area.

That was an apparent reference to Washington's decision, announced last week, to send a group of Mediterranean-based warships closer to the Lebanese coast. The move was ostensively designed to aid in a possible evacuation of foreigners. With the latest spate of kidnappings raising the number of foreign hostages in Lebanon to at least 26, the state department ordered 1,500 Americans in Lebanon to leave within 30 days and barred all travel there on U.S. passports. In Ottawa, External Affairs Minister Joe Clark said that Canadians in Lebanon should leave and others should not travel there unless they had a "very strong reason."

But the show of U.S. naval force was also an unmistakable threat. In response, the Islamic Jihad for the Liberation of Palestine, a previously unknown terrorist group that claimed to have kidnaped the four professors, threatened to kill them if the United States attacked Lebanon. The group's message to a news agency included a photo of 56-year-old American hostage Robert Polhill—with two submachine guns pointed at his head.

The key to the current rash of kidnapings is 22-year-old Mohammed Ali Hamadei. A Lebanese who has lived in West Germany since 1984, Hamadei was arrested on Jan. 13 at Frankfurt airport carrying several bottles of methyl nitrate, a liquid explosive. Since then, the United States has been trying to extradite him to stand trial for air piracy and the murder of a U.S. navy diver during the 1985 hijackng of a TWA jet. But two weeks ago Beirut gunmen countered by seizing two West German businessmen—Rudolf Cordes, 53, and Alfred Schmidt, 47—and threatening to murder them if Hamadei were extradited.

That left the government of Chancellor Helmut Kohl with a thorny dilemma: whether to comply with the U.S. request and put the hostages at risk, or refuse extradition and alienate Bonn's U.S. allies. In an attempt to buy time, West German officials asked the Frankfurt high court to validate the U.S. request. They also sent an envoy to Tehran One option reportedly under consideration by Kohl's crisis team was to try Hamadei in West Germany on the lesser charge of possession of explosives, then deport him to Lebanon in exchange for the German hostages. A high-placed foreign ministry source noted that Bonn had ample precedent to negotiate with the kidnappers, including the U.S. arms-for-hostages swap with Iran. The liberal newspaper *Die Zeit* said that the United States had "discredited itself as a pioneer" against terrorism and "can hardly be offended if we preferred to save our countrymen at the expense of America's legal claim."

As Bonn officials debated the issue last week, West German authorities arrested Abbas Ali Hamadei, 28, the suspect's brother. A naturalized West German, the older Hamadei was apparently picked up in connection with the kidnapings of the two West German businessmen. A spokesman for the Hamadei clan denied any family connection with the abductions. But based on information provided by Abbas, police found 4.5 gallons of volatile methyl nitrate in a field outside the town of Beckingen near the German border with Luxembourg.

The U.S. arms scandal may also have had an impact on Waite's safety. The Anglican envoy has repeatedly denied that he was operating as an agent of a foreign government. But the three releases of Americans that he arranged had coincided with U.S. arms deliveries to Iran, suggesting that he had at least been an unwitting cover for Washington's efforts. And late last week a spokesman for the Palestine Liberation Organization said that Waite had paid $2.6 million for the release of David Jacobsen last November—money that he said had been raised privately in the United States. Waite had indicated recently that his latest mission might be among his last, and he had never minimized the dangers of his efforts. "When you get into a car," he said last month, "you never know whether you will be coming back again." With the flow of American arms now dry, U.S. analysts said, the kidnappers might have concluded that Waite was less valuable as a hostage negotiator than as a hostage.

While Western officials worried about Waite, they also tried to ensure that no

more hostages would be taken. The state department edict gives Americans 30 days to leave Lebanon or face penalties of up to five years in jail and a $2,600 fine. Most of the Americans are of Lebanese extraction or married to Lebanese, but some without such connections have stayed as well—even in Beirut, the war zone once known as the "Paris of the Middle East." Some were clearly unhappy about the U.S. order. "I hate to be blackmailed by my own government," said Barbara Sayers, an English professor at the American University, who said that she would leave.

Washington has also tried to intimidate the hostage takers. Two weeks ago U.S. officials told reporters that they were considering military action against terrorists in Lebanon if any American hostage was killed. And last week the United States moved a carrier group, led by the nuclear-powered Nimitz, closer to Lebanon. The likely targets of an American attack would be the Hezbollah, a pro-Iranian party that is the largest Shiite Moslem terrorist group in Lebanon. "We know where to find the Hezbollah," said Neil Livingstone, president of the Washington-based Institute on Terrorism and Subnational Conflict. "We have people entirely capable of going into Beirut and making a number of strikes."

Although the Hezbollah is at the top of the U.S. hit list, terrorism in Lebanon is not an exclusive domain. The country harbors some 32 terrorist organizations, and, according to U.S. and French intelligence sources, many free-lance kidnappers have emerged as well. Those gangs kidnap foreigners on speculation, then sell them to the highest bidder among the extremist groups. They have helped to create a virtual open season on foreigners, a state of affairs that has been heightened by the Hamadei extradition case. The next move in the legal proceedings will be up to the West Germans, and both the Americans and the Lebanese kidnappers will be watching closely. They will also be watching the fate of Terry Waite, the envoy who tried to invoke reason and compassion in a land where the only conspicuous law is that of the gun.

THE MILWAUKEE SYMPHONY IN WASHINGTON

Mr. KASTEN. Mr. President, I was privileged 2 days ago to attend the performance of the Milwaukee Symphony Orchestra at the Kennedy Center.

My wife Eva and I agreed that these talented men and women turned in a performance that ought to be a source of pride to all music-loving Wisconsinites. Under the baton of conductor Zdenek Macal, the orchestra rendered a particularly memorable interpretation of Berlioz's "Symphonie fantastique."

I was especially pleased to welcome the members of the orchestra to the U.S. Capitol yesterday—and I join my colleagues in hoping that they will return soon.

Mr. President, I ask unanimous consent that the glowing review of the orchestra's performance by Washington Post music critic Joseph McLellan be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 6, 1989]

MUSIC: MILWAUKEE'S FINE BREW

(By Joseph McLellan)

Milwaukee?

Milwaukee!

Beyond the baseball, bratwurst and beer that have made it famous, the city clearly has other resources. One of them, the Milwaukee Symphony Orchestra, came to the Kennedy Center Wednesday night with conductor Zdenek Macal and electrified an audience whose long standing ovation at the finish signaled reluctance to let the music end.

Macal is known here through his too-infrequent appearances as a guest conductor. His orchestra (his since 1986) has not been here in quite a while. But Wednesday night's performance, beginning with Ellen Taaffe Zwilich's joyfully haunting "Celebration" and ending with the formidable "Symphonie fantastique" of Berlioz, left the audience eager for its next visit.

Between these orchestral showpieces, cellist Matt Haimovitz gave a poised, polished performance of the Saint-Saens Cello Concerto No. 1. The pace seemed rushed in the opening measures, though the contrast was all the more effective when the same material returned, somewhat less driven, near the end. And there were moments of unbalance when the soloist was drowned out by the orchestra—a problem for which the cellist can hardly be blamed, though his youthful impetuosity (he is 18) might have had something to do with the fast tempo.

In any case, even at his most headlong pace his phrasing was always cleanly articulated, and in the dancelike Allegretto con Moto section his rhythmic lilt was totally disarming. The full-blooded tone and superb control in the cadenza-bridge leading into the finale were also impressive. He is an artist of enormous potential and, already, impressive achievement.

The Milwaukee Symphony has a relatively young membership, including a substantial number of women who have even infiltrated those male bastions, the percussion and double bass sections. With about 90 players, it is relatively small for an American symphony orchestra, through no smaller than some world-famous European orchestras such as the concertgebouw of Amsterdam. It can produce refreshingly light textures (the shimmering, transparent string tone during the soft woodwind dialogue in Berlioz's third movement, for example), but when power was called for, as in the "March to the Scaffold" and the "Witches' Sabbath," power was overwhelmingly there.

Macal is a superb conductor, whose gestures have grace and clarity when the music requires it. But he puts expression and communication first; there were times, in the spookier moments of the Berlioz, when his movements might have come right out of "Night of the Living Dead." But they were the right gestures, and the music reflected their rightness.

C.S.S. "ALABAMA"

Mr. HEFLIN. Mr. President, it is my pleasure to inform my colleagues that on October 3, 1989, after almost 2 years of negotiations, France has conceded the United States title to the C.S.S. *Alabama*, and the associated artifacts. This famous ship sank 7 miles off the coast of Cherbourg, France, in 1864 in one of the most famous battles of the Civil War and has been embroiled in controversy since its discovery in the mid-1980's.

In 1987, I introduced legislation stating that title to the C.S.S. *Alabama* and her related artifacts were vested in and had never been abandoned by the United States. Since that time, the State Department has been working to obtain an agreement that would recognize the United States' title to the wreck, while acknowledging the rights of France in its own territorial sea. However, this concession by France has come as a surprise to all of us who have been working to obtain this agreement. I believe that this goal has been accomplished and expect that a scientific committee will be set up in the next few months to implement the elements of this agreement.

While the procedure for the disposition of these valuable artifacts has not yet been completely decided, I believe that the French recognition of American title to these artifacts should enable us to see that many of these artifacts are returned to the United States.

Mr. President, I want to take this opportunity to congratulate our entire State Department negotiating team, particularly Peter Bernhardt, the Deputy Director for Ocean Law and Policy, for their outstanding and tireless work on this matter. I also would like to thank Jim Delgado, the Director of the National Park Service's Maritime Initiative, who greatly assisted me in my legislative efforts on this subject and who has worked with the State Department on this issue.

I would also like to thank those Alabamians who initially contacted me about the discovery of this ship and who brought to my attention the importance which this ship held historically and personally to so many Alabamians. I particularly want to thank David Toifel, a Mobile teacher and a member of the Sons of Confederate Veterans, who formed the "Save the *Alabama* Committee" and has given of himself and his time to see this agreement reached.

Mr. President, many people have worked hard to see this agreement become a reality. I congratulate everyone who has worked on this project and look forward to the recovery of these artifacts which are expected to shed new light on Civil War naval history for the betterment of our Nation and the world.

FRENCH TECHNOLOGY TRANSFER TO BRAZIL IN VIOLATION OF THE MTCR

Mr. BINGAMAN. Mr. President, I rise today to discuss a matter of grave concern. French President Francois Mitterrand has reportedly approved the transfer to Brazil of rocket technology which is clearly prohibited by the Missile Technology Control Regime [MTCR]. Both France and the United States are signatories to this agreement, and the administration has gone on record that it opposes this transfer. Mr. President, at this time, I ask unanimous consent that an article in the November issue of Signal and a story from Thursday's AP wire be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRENCH ROCKET TECHNOLOGY TRANSFER

(By Robert K. Ackerman)

The French government, overriding Bush Administration objections, plans to transfer to Brazil sensitive rocket engine technology that could be converted to ballistic missile use and eventually end up in the hands of Libyan strongman Moammar Gadahafi.

France initially appeared to pull back from transfer of the Viking liquid fuel rocket motor for the Ariane space launch vehicle in the face of strong U.S. State Department diplomatic protests in July, at the time of the Paris Economic Summit. But the decision to go ahead with the technology transfer is linked to an estimated $60 million contract to launch two Brazilian communications satellites on the Ariane launch vehicle. The decision was made personally by French President Francois Mitterrand, according to senior State Department officials.

Arianspace, a French company, has been competing with McDonnell Douglas for the contract to launch the two communications spacecraft for Brazil. When France appeared to back away from the Viking motor sale in July, China made overtures to Brazil. That may have caused France to reevaluate its position on transferring the rocket motor technology.

Serious concern has been expressed by State Department and senior Arms Control and Disarmament Agency officials, who believe that the rocket motor technology will end up powering intercontinental ballistic missiles, possibly for Libya. Brazil and Libya already have established a strong link in seeking to develop ballistic missile boosters. A 1988 report from Vice President (then Senator) Dan Quayle stated that Libya offered Brazil $2 billion to buy that nation's theater ballistic missiles. Brazil is on the international watch list of nations that could acquire and transfer ballistic missile technology to other countries.

In protesting the French rocket motor transfer, the State Department cited in a demarche the possible violation by France of the Missile Technology Control Regime. This is an agreement signed in 1987 by the U.S., France, Canada, West Germany, Italy, Japan and the United Kingdom (see SIGNAL, "Missile Technology Control," June 1987, page 13). The regime is not a treaty, but does call for restraint in sales of dual-use launch vehicle technology.

A clause in the regime, according to State Department officials, permits technology transfer for peaceful purposes, and President Mitterand is claiming that safeguards will be placed on the Viking rocket motor sale to ensure peaceful space launch applications.

It is anticipated that France's action with Brazil will force a reevaluation of the regime, which already is under fire in Europe because the U.S. Congress is viewed as trying to curtail foreign military sales by allies based on the regime. Some Europeans believe that the Congress is meddling in their internal affairs.

U.S. PROTESTS FRENCH PLAN TO GIVE BRAZIL ROCKET MOTOR

(By Ruth Sinai)

WASHINGTON.—Despite strong U.S. protests, the French government plans to trade Brazil sensitive rocket technology that could be used by U.S. enemies to make ballistic missiles, government and industry officials said Thursday.

France has promised to give Brazil the technology of a liquid fuel motor called Viking, which powers the Ariane space launch vehicle, the officials said. In return, the French company Arianespace would be awarded a $60 million contract for the launch of two Brazilian communications satellites, they added.

The U.S. officials, who spoke only on condition of anonymity, said French President Francois Mitterand personally made the decision to give the technology to Brazil, promising that safeguards would be placed to prevent use of the motor for lethal purposes.

But a statement issued by the government in Paris denied a final decision had been made. "The definitive contract will be submitted to the government for approval and this contract has not yet been given" to the government, the statement said.

"This contract will have to follow certain purposes and restrictions regarding technology transfers," it said.

The United States, however, is doubtful such safeguards can be implemented effectively.

"If someone like Libya wants to use this motor to harmful purposes, who will stop them?" asked one official.

Libya has been seeking to buy from Brazil equipment and know-how in an effort to develop a ballistic missile arsenal capable of delivering chemical weapon warheads, according to U.S. experts.

Brazil, one of an estimated 20 Third World countries which have some form of ballistic missile capability, has been exporting some missile technology while attempting to develop a more accurate and sophisticated arsenal of its own.

Word of the planned French sale was first reported by Signal magazine, published by the Armed Forces Communications and Electronic Association.

Representatives of McDonnell Douglas Corp., the St. Louis-based firm competing for the Brazilian launch contract against Arianespace, were informed of the French proposal by Brazilian officials and conveyed the information to the Defense Department, officials said.

A spokesman for McDonnell Douglas, Bob O'Brien, said that if the French "transfer is made, obviously it wouldn't enhance our chances" to win the contract. He said Brazil had been expected to announce its decision already but has not done so yet.

The United States first protested the planned French sale last July during the seven-national economic summit in Paris, one official said.

For while it appeared the protest had stopped the French plan, the official said. But the French government reconsidered when it appeared France stood to lose the lucrative satellite launch contract, he said.

The United States has warned France the technology transfer would violate the Missile Technology Control Regime, a 1987 agreement to stem the proliferation of such weapons, of which France is a signatory, the official said.

But France contends the Viking motor will be used for peaceful purposes and would not violate the agreement.

The United States is still reviewing whether it can stop the deal, the official said.

Mr. BINGAMAN. Mr. President, for those of my colleagues that are not familiar with this case, Brazil has issued two requests for proposals [RFP]. Under the first RFP Brazil would purchase satellites. Under the second RFP, Brazil would purchase launch services for two separate launches of the satellites. The competition for these contracts has essentially come down to two companies, McDonnell Douglas of the United States, and Ariane of France. The Brazilian RFP is in the public domain, and from reading the RFP, it is very clear what Brazil was really after in the first place. The Brazilian Government's request for proposals clearly states in section 5.4. Transfer of Technology, and I quote, "The Bidder shall present a detailed proposal of Transfer of Technology related to satellite launch vehicles in particular with liquid propellant and its launch and test facilities. . . ."

In addition, the RFP goes on to state that Brazil prefers the bidder's government to include a formal statement authorizing the transfer. At this time, I ask unanimous consent that an excerpt from the Brazilian RFP be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

TELECOMUNICAÇÕES BRASILEIRAS S.A.—TELEBRAS

5.3.3.3. The Selected Bidder is solidarily responsible with the Financial Institution(s) indicated in the Bidder's Proposal for the financing of the Contract. In case the Financial Institution(s) does not maintain its offer at any time from Proposal presentation until the final conclusion of the loan agreement, the Selected Bidder shall be responsible and burden all costs concerning the introduction of a new Financial Institution(s) and, furthermore, the original terms and conditions approved by "Banco Central do Brasil" shall be followed.

5.3.3.4. EMBRATEL shall retain control over the launch insurance strategy, whether it will be through the insurance market, self insurance or a pooling arrangement.

5.4. TRANSFER OF TECHNOLOGY

The Bidder shall present a detailed proposal of Transfer of Technology related to satellite launch vehicles in particularly with liquid propellant and its launch and test facilities preferably, attaching a formal state-

ment of the Government that holds the technology authorizing that transfer. Other items of related technology transfer may also be included.

5.5. OTHER PROVISIONS

5.5.1. The Bidder shall include in his Proposal the Annual Reports for the three (3) previous fiscal years, including the correspondent financial statements.

5.5.2. DECLARATION

The Bidder shall include in his Proposal a formal statement expressing his agreement to all the terms and conditions contained in this RFP, its Annexes, Attachments and Exhibits.

Compliance with the Terms and Conditions (Attachment 1) is expected.

Any exceptions to the Terms and Conditions or their principles, must be clearly delineated in the Commercial Proposal and not in the Technical Proposal. Unspecified exceptions to the Terms and Conditions (Attachment 1) are not acceptable and any exceptions will clearly be taken into consideration in evaluating one proposal against another.

Mr. BINGAMAN. The fact that the French proposal is moving forward is an indication that the Government of France may indeed have provided such a statement. Mr. President, at this time, I ask unanimous consent to have printed in the RECORD details of the French technology transfer proposal to Brazil, information available in the public domain in Brazil.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CNES French National Space Center is offering the Technology Transfer for the French Brazilsat Proposal.

As an overview, the French are offering "System Concept, system studies program management, quality engineering launch operational training, and participation of Brazilian engineers at/with ARIANE launches. They are also offering training of Brazilian engineers at European companies for know-how transfer. They will also offer Operational training of engineers and technicians at CSG Kourou. The French will also offer engineering support for the final integration and validation of the Alcantara base.

Liquid Propellant Propulsion Technology:

The French propose to license the Viking Engine having 65 to 75 tons thrust. This engine uses liquid propellants Nitrogen tetroxide and dimethyl hydrozine.

Option 1:

1. Phase 2.5 to 3 years—transmission of the industrial files (technical drawings?) and definition of the test fixtures and installation of a quality assurance system.

2. Phase 3rd to 6th year—Modify if required, tooling (by French). Purchase of tooling by Brazil. Purchase of test equipment by Brazil. Supply (purchase?) of SEP of Master pieces (Master Parts for gaging?). Training of engine test team.

3. Phase 6th to 8th year—Production, assembly and material acceptance. Firing tests and start of series production.

Test Facilities—suggested a list of test equipment that will be required.

Option 11 Transfer of and Familiarization:

1. Combustion: the "Viking" gas generator 3 yrs.

2. Rotating clements: the "Viking" turbo pump 4 yrs.

3. Combustion chamber/nozzle/diffusor technology 3 yrs.

4. Regulation: Propellant Feed Systems 2-3 yrs.

5. The Complete Engine—Build an engine 2.5 yrs.

6. Tests and test benches.

Whatever option, or any intermediate program selected, it can be negotiated after examination of this proposal by the Brazilian authorities.

Training of engineers in Europe:

a. Launch concept

1. Configuration and mass control.

2. Dynamic state separation studies.

3. Flight safety and operations.

4. Concept and reliability of inflight software.

5. Quality assurance service.

6. ECM and electrostatic protection.

b. Definition of tracking and safety requirements.

c. Launch operations at CSG, Kourou during ARIANE Launch.

Supply of Technical elements for flight hardware.

Brazilian engineers are invited for training in the supplier companies.

1. Launch Pyrotechnics (AMD Co).

2. Miniature strap-down inertial guidance system MS D80-UT80 (SAGBM).

3. On-board Computer (SAAB)

4. Flight control actuator amplifier ECP (Alcatel-Kirk/SFENA).

5. Command dispatching unit (ETCA).

6. Controlled destruction box (ETCA).

7. Fairing Separation Mechanism (CONTRAVES/AMD).

8. Satellite separation system (SAAB).

9. Payload supporting structures & Fairings (CONTRAVES).

Launch of small orbiting satellites by Arianespace.

Free launches of up to 50kg each. (Qty undefined).

Items offered under options 2, 3 & 5 will receive export clearance by the end of June 1989 and upon the implementation of the new CNES-CTA agreement.

Mr. BINGAMAN. Mr. President, these plans include the French licensing to Brazil of Viking engine technology with liquid propellant propulsion and 65 to 75 tons thrust. This technology is clearly useful for ballistic missiles. While Brazil's intentions may be peaceful, it is not intentions, but rather capabilities, that count with Brazil's neighbors.

The proposed French transfer is exactly the kind of transaction that the MTCR was intended to halt. The signatories to the MTCR knew very well that without agreed upon mutual restraint, concerns over missile proliferation would inevitably lose out to short-term economic considerations, to the detriment of the security of all in the long run. The MTCR was thus created out of the realization that, if proliferation continues, the strategic balance would be permanently changed. In the long term, this would have devastating security consequences. In the final analysis, if the proposed French technology transfer goes through, the MTCR will be effectively a dead letter.

Therefore, the question is, what does the President of the United States plan to do to prevent a French violation of the missile technology control regime, and, if necessary, what steps will he take if the French go forward with this transfer and violate the MTCR? This is the greatest challenge to the administration's declared missile nonproliferation policy to arise thus far. Yet it may be an opportunity as well as a challenge, if the administration can use this case to develop a game plan to strengthen the MTCR, and if Congress uses it to provide additional legislative tools to the administration. Back in 1976 and 1977, the proposed West European transfer of sensitive reprocessing and enrichment technologies to the Third World provided a similar challenge and forced the reexamination of nuclear nonproliferation policy both in this country and abroad. Out of that effort came the Nuclear Non-Proliferation Act of 1978 in the Congress and international agreement to restrain further transfer of sensitive nuclear technologies.

I know that President Bush and Vice President Quayle are very concerned about missile proliferation. Vice President Quayle, in an article that appeared in yesterday's Financial Times, called for broadening the number of MTCR adherent nations, to include all members of the European Community. I ask unanimous consent that the article in yesterday's Financial Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES SEEKS FULL EC MEMBERSHIP OF MISSILE TREATY

(By Alan Friedman and Victor Mallet)

Mr. Dan Quayle, the US vice president called yesterday for all members of the European Community to join the Missile Technology Control Regime (MTCR), an accord reached in 1987 by the seven leading industrialised nations to restrict missile proliferation in the developing world.

Mr. Quayle's remarks follow high-level diplomatic protests by the US to Paris over a French proposal to transfer rocket launching technology to Brazil as part of a satellite-launching deal for Ariane-space, the French-dominated group of European aerospace companies.

The sale of this launching technology is prohibited under the MTCR of which France is a signatory.

Although the US lodged its first protest three months ago the dispute has intensified during bilateral talks in recent days. British and US officials claim that France has adopted a deliberately loose interpretation of the MTCR.

Western officials are particularly concerned about a three-nation project between Iraq, Egypt and Argentina, code-named Condor, whose planned range and payload, they believe, would threaten Middle East stability. Among other countries involved in ballistic missile projects which worry MTCR adherents are Pakistan, India, Israel and South Africa.

"The key loophole in the MTCR is the need for new MTCR adherents," Mr. Dan Quayle, US Vice President, told the Finan-

cial Times. "We need to get as many nations as want to join the MTCR on board as soon as possible. Certainly the EC members."

The US Administration is under pressure from Congress to impose sanctions on European companies which violate the MTCR.

The accord's adherents hope to meet later this year in an attempt to bring other countries into the regime, to clarify how the MTCR guidelines should be interpreted and to tighten restrictions on certain missile technology exports.

Mr. Quayle warned: "If any firm having major contracts with the US Government engages in such co-operation in the future, they will face strong US Government actions." He said the best way of policing the missile regime was to make specific complaints. "This approach has begun to produce results in the case of Germany and Italy as a result of our actions over Condor. . . . I can assure you we intend to keep up the pressure."

The US Vice President, asked what action should be taken against Messerschmidt of West Germany and Fiat's Snia-BPD of Italy—both companies that have been accused of involvement in the Iraqi-Egyptian-Argentine Condor 2 missile project—replied that the US had taken strong measures to ensure that the countries from which the companies operate would prevent them from co-operating in the Condor project. The companies have, in any case, repeatedly denied the sale of technologies for the project.

US anger over the possible Arianespace deal coincides with the scandal over $3bn of unauthorized Iraqi export credits issued by the Atlanta, Georgia branch of Banca Nazionale del Lavoro of Italy.

Some of the credits were used to finance the shipment of apparently civilian technology which has helped Iraqi military industry.

The US is actively seeking co-operation from Moscow to prevent further missile proliferation in the developing nations.

Interpretation of the MTCR, originally agreed by the US, Japan, West Germany, France, Britain, Italy and Canada, is a particularly thorny issue.

Mr. BINGAMAN. Mr. President, bringing the entire European Community into the MTCR would be a concrete step in the right direction, and it is essential in light of the changes that will occur in 1992. I commend the Vice President for placing high priority on this problem.

Nevertheless, the MTCR itself has serious weaknesses. The French-Brazil case clearly shows that there are fundamental differences between the U.S. interpretation of the MTCR provisions and the interpretation of at least one of our allies. Clearly, the proposed French transfer is a violation of the agreement as it has been presented to the Congress. It is equally clear that we must iron out these differences and reach a common interpretation of the MTCR principles, including agreement on strict enforcement of its provisions. The administration would be off to a good start by using the French-Brazil case to rally all adherents to a strict and common interpretation of the agreement.

We must also set an example for our allies. We need to ensure that we ourselves are not in violation of the MTCR, and that we understand the consequences that would ensue if there were a U.S. violation. The administration should ensure that there is adequate coordination and cooperation between the agencies charged with responsibility for carrying out U.S. policy on missile control: The Departments of Commerce, State, and Defense. There is evidence from previous cases of missile technology proliferation, in which valid U.S. export licenses were issued without appropriate interagency consultations, that this has not always been the case. We also need to ensure that each of these agencies has enough qualified and dedicated staff to use the export control process as an effective screen against missile technology proliferation.

Finally, there are additional steps the administration can take to stop the proliferation of missiles, missile equipment and technology. The French-Brazil case will be a test as to whether or not the administration's tools are adequate to the task. I and others in Congress are more than willing to provide him with additional tools with which to combat this problem.

Mr. President, I hope that the French will be responsible and stand by their commitments under the MTCR. I urge my colleagues to support the administration's efforts to resolve this crisis. However, should the President's powers prove inadequate, I expect that my colleagues and I will move expeditiously to provide additional tools for the President.

WRAP-UP ON CATASTROPHIC

Mr. McCAIN. Mr. President, after hours of deliberation and consideration of numerous amendments, this body adopted a proposal to reform the Medicare Catastrophic Coverage Act of 1988 by a vote of 99 to 0.

This proposal preserves the essential parts of the catastrophic illness program, while killing those portions least valued by the elderly. And, it eliminates the surtax.

Earlier this week, our colleagues in the House voted to repeal the entire program, good benefits and all. I share the opinion of my colleagues, as reflected in the vote last night, that full repeal it not the answer.

Last night was a historic occasion, and one that I am sure will bring a sigh of relief to millions of our Nation's elderly. We, through our action, proved that we understood the elderly's criticism of the act and that we had the guts to fix it.

Last night was a victory, not for me, or for the organizations representing this Nation's seniors—it was a victory for our Nation's seniors.

A couple of individuals, however, do deserve special recognition for the role they played in this effort. First, is Judy Park of the National Association of Retired Federal Employees. And, second, is George Henrikus of the Retired Officers Association. While there were many others, these two individuals joined forces to form the Coalition for Affordable Health Care. Through the hard work of Judy and Paul, the Coalition's ranks swelled to nearly 50 seniors' organizations representing the entire spectrum.

I ask unanimous consent that a list of those groups endorsing the proposal adopted by the Senate last night be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. Last night's victory is also testament to one thing, representative democracy works! The people we represent do have a very real say in the laws adopted here in Washington.

I might add that I am hopeful that last night's action, to reform the act, will not result in this body—or Congress as a whole—being reluctant to address important health issues facing the elderly in the future. For example, I think we all agree that some assistance needs to be provided in the near future with that which is most catastrophic to our Nation's elderly, and that is the cost of long-term nursing home or home care.

There is no question that the experience we have just gone through with regard to the Medicare Catastrophic Coverage Act might make some of my colleagues a little reluctant to do anything in the area in the near future, I might suggest to my colleagues that the problem created could have been avoided.

Maybe we should have been doing a little better job of listening to what the people we represent were willing to pay, and what benefits were highest priority for the revenue available.

But, I will admit, that's not always a very easy job. Particularly when it comes to issues that are as complex and difficult to explain as the ins and outs of health care coverage. It takes a lot more time, but its time that must be spent.

Mr. President, I for one, do not see our action last night as the last word with regard to the Government's assistance to our Nation's seniors in the area of health care. I look forward to working with my colleagues both on and off the Finance Committee as we seek to move forward to issues such as long-term care protection.

EXHIBIT 1

SUMMARY: McCAIN CATASTROPHIC PROPOSAL

BENEFITS

Retain core catastrophic benefits:
Long-term hospitalization protection.

"Spousal impoverishment" protection.
Medicaid buy-in and pregnant moms and infants program.
Retain other benefits in Act:
Blood Deductible.
Home Health.
Respite.
Mammography Screening, one year delay in implementation.
"Mitchell" Drugs, one year delay in implementation.
Hospice.
Repeal the skilled-nursing facility benefit would be returned to its form prior to the passage of the Medicare Catastrophic Coverage Act of 1988 for those stays after November 1. For those stays prior to November 1, they would receive the benefit under the terms of the Medicare Catastrophic Coverage Act of 1988. The terms of prior law were:
3-day prior hospitalization.
Beneficiary co-payment from day 21 to the end of coverage.
100 day limit on coverage.
Instruct the Secretary of Health and Human Services to study what led to the problem with the skilled nursing benefit costs, and report to Congress by March 1, 1990, his findings as well as any recommendations for future changes of this benefit.
Repeal remaining benefits in Act:
Outpatient prescription drug program, beyond "Mitchell" drugs.
Part B "out-of-pocket".

PREMIUMS

Retain existing flat Part B premium.
Repeal the entire surtax.
Flat premium pays 100 percent of the cost of the retained benefits and provides for a significant cushion in the outyears. If costs do not rise, this proposal allows the Secretary to reduce the premium.

COALITION FOR AFFORDABLE HEALTH CARE
(MEMBERS AS OF OCTOBER 5, 1989)

National Association of Retired Federal Employees.
The Retired Officers Association.
American Foreign Service Association.
Mail Handlers.
National Association of Postal Supervisors.
National Association of Government Employees.
National Association of Letter Carriers.
National Association of Postmasters of The U.S.
International Federation of Professional and Technical Engineers.
American Foundation for the Blind.
Florida Seniors for Medicare Equity, Inc.
Marine Corps Reserve Officers Association.
EXPOSE.
Rural Letter Carriers Association.
U.S. Army Warrant Officers Association.
National Association for Uniformed Services.
Air Force Association.
Non-Commissioned Officers Association.
National League of Postmasters.
National Treasury Employees Union.
Marine Corps League.
Naval Reserve Association.
Council of Sacramento Senior Organizations.
Association of Military Surgeons of the U.S.
International Association of Fire Fighters.
California State Employees Association.
The National Association for Public Health Policy.
United Seniors of America.
Catholic Golden Age.
Fleet Reserve Association.
Federal Postal Workers Union.
National Post Office Mail Handlers Union.
San Diego Chapter of Gray Panthers.
American Postal Workers Union.
Air Force Sergeants Association.
Reserve Officers Association.
U.S. Coast Guard Chief Petty Officers Association.
Seniors Opposing the Surtax.
Heritage Harbor Homeowners Association.
National Alliance of Senior Citizens.
Pennsylvania Association of School Retirees.
Sun City Retireees Association.
Michigan State Employees Retirees Association.
Seniors Opposed to the Surtax.
Citizens Coalitions Against the Catastrophic Act.
Association of Pennsylvania State College and University Retired Facilities.
Retired Public Employees Association, Inc.
63 Infantry Division Association.
National Committee to Preserve Social Security and Medicare.

AIRLINE ACQUISITIONS

Mr. FORD. Mr. President, on June 23, out of a concern over the future of the U.S. airline industry, I introduced legislation directing the Secretary of Transportation to provide prior review and approval for all airline takeovers and leveraged buyouts. At that time, there was little more than a faint wind blowing from Wall Street in the direction of the airline industry. Suddenly, we are seeing an onslaught of airline LBO's not unlike the winds of Hurricane Hugo.

As such, a response by the Federal Government is clearly in order. I am pleased that my colleagues on the Commerce Committee have agreed, as earlier this week, a modified version of S. 1277 was approved by an overwhelming margin. The time for Senate action is thus at hand.

In recent years, we have watched Wall Street devour the food and retail industries, television networks, and telecommunications companies. Now, the airline industry has become the target of choice for investment bankers. Nothing makes the fact more evident than the announced $7 billion bid this week for the Nation's largest carrier, American Airlines.

Mr. President, our airline industry is a national asset, providing a critical service to millions of Americans. These highly leveraged buyouts threaten the future of the industry and, as such, must be carefully scrutinized. We must ensure that the only beneficiaries of airline takeovers are not just the Wall Street wizards who finance them, but the public as well.

I have learned a great deal about the aviation industry during the time that I have served as chairman of the Aviation Subcommittee. And, as such, my hesitancy in allowing this industry to suffer the fates of leveraged buyouts hinges on two concerns: the cost—both to the carrier and its passengers—of reducing massive amounts of debt, and the possible shift of control of the U.S. airline to foreign interests.

Typically, highly leveraged firms have had to take drastic steps in order to recover from a takeover. For an airline, this could mean selling aircraft or international routes, delaying the acquisition of new aircraft, cutting corners on safety programs, or forcing employee wage reductions. Each of these actions could have significant adverse effects on the airline industry and the traveling public.

This was confirmed by witnesses who testified at our July 14 Aviation Subcommittee hearings on this measure. At that hearing, we had an opportunity to hear from experts in Government, the airline industry, and the financial community. Each agreed that, should we face a serious economic downturn, a highly leveraged airline will face difficult choices in meeting interest payments on its debt load. And I challenge anyone to convince me that the proposals now on the table to acquire United Airlines and American Airlines—which, in both instances, will lead to some $7 billion new debt—will not present a threat to the future of those airlines.

If I may remind my colleagues, it was only last year that there was an enormous outcry from within Congress and the traveling public regarding delays and poor service. At huge costs, the airlines worked to correct these problems. If new management came into an airline wedded only to the bottom line, it is highly doubtful that they would have made a similar effort to correct service problems.

Mr. President, my second concern lies with the degree of foreign participation in these transactions, a matter which I addressed in Aviation Subcommittee hearings earlier this week. I am not unilaterally opposed to the idea of foreign investment in U.S. airlines. We have a statutory requirement that foreign ownership in any U.S. air carrier be limited to a total of 25 percent of its voting stock and that at least two-thirds of the board of directors of that carrier must be U.S. citizens. However, I am concerned that through the high level of equity participation by foreign air carriers in a number of these takeover proposals, we may be allowing the effective control of our airline industry slip away.

For his part, the Secretary of Transportation is to be commended for playing an active role in reviewing airline acquisition proposals. However, DOT has no authority to approve such transactions. The Secretary can only take the most extreme action—to declare that new management is not fit to operate the airline, and withdraw the carrier's operating certificate. This

drastic step—shutting down that airline and leaving thousands of travelers stranded throughout the country—is arguably an unlikely course of action. As such, the Secretary recently testified that this legislation would make DOT's review process "cleaner and more efficient."

For that reason, we introduced S. 1277—legislation to establish a framework under which the Secretary of Transportation would be required to approve airline acquisitions. It is our responsibility to ensure that that airline industry is financially fit to operate at the highest level of safety. As such, a formal process must be established within the Federal Government to scrutinize proposed acquisitions, ensuring they will not weaken or impair an airline's ability to meet existing fitness and safety standards.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read and referred (or acted upon), as indicated:

By Mr. MOYNIHAN:

S. Res. 193. A resolution in recognition of the March for Housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 194. A resolution authorizing the appointment of a special Senate delegation to host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics, and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1115

At the request of Mr. EXON, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1115, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal Financing Bank loans made to rural electrification and telephone systems, and for other purposes.

SENATE RESOLUTION 193—RECOGNITION OF THE MARCH FOR HOUSING

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs.

S. RES. 193

Whereas hundreds of people walked hundreds of miles to the nation's capital in September and October, 1989 to underscore the lack of affordable housing and the extent of homelessness;

Whereas they endured great hardship to bring their message to Congress;

Whereas we must not ignore the numbers who marched to the Capitol, nor the problems they bear witness to;

Whereas a greater supply of low income housing would help solve problems in other areas such as drug abuse and education;

Whereas the Housing Act of 1949 called for, "a decent home and suitable living environment for every American family," and it has not been repealed; Now, therefore, be it

Resolved by the Senate of the United States of America, That the needs of the homeless and the ill-housed must receive attention and that the march to the Capitol on October 7, 1989 will not be forgotten.

● Mr. MOYNIHAN. Mr. President, I rise to submit a resolution to recognize the efforts and the message of the people who are marching to Capitol Hill today to draw our attention to the issue of housing. It is a crucial issue that must be addressed. Homelessness, the lack of affordable housing, the threat of subsidized housing being withdrawn from the low-income housing stock, the shortage of public housing and the condition it is in, all these require attention. When we consider these issues we must remember the message being brought here so clearly today.

I ask my colleagues for their support.●

SENATE RESOLUTION 194—APPOINTING A SENATE DELEGATION TO HOST A DELEGATION OF MEMBERS OF THE SUPREME SOVIET OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 194

Resolved, That (a) the President pro tempore of the Senate, upon consultation with the majority leader and the minority leader, is authorized to appoint a special delegation of Members of the Senate (hereafter in this resolution referred to as the "delegation") that shall host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics. The majority leader and minority leader of the Senate shall serve as co-chairmen of such special delegation.

(b) The Senate delegation shall be composed of 14 Members of the Senate, including the majority leader and the minority leader, with the remaining 12 members appointed as follows:

(1) 6 Members of the Senate from the majority party to be appointed by the President pro tempore of the Senate, upon the recommendation of the majority leader.

(2) 6 Members of the Senate from the minority party, to be appointed by the President pro tempore of the Senate, upon the recommendation of the minority leader.

(c) Any vacancy in the membership of the delegation shall be filled in the same manner as the original appointment.

SEC. 2. (a) The co-chairmen of the delegation may designate Senate employees who shall provide professional staff support and expertise for the delegation. All administrative support services for the delegation shall be provided by the Secretary of the Senate.

(b) The Secretary of the Senate is authorized, from funds made available under subsection (c), to incur such expenses as may be necessary or appropriate to carry out his duties and functions for the delegation. Such expenses shall include such special expenses as the co-chairmen may deem appropriate, including—

(1) expenses incurred on behalf of such delegation;

(2) official representation expenses; and

(3) reimbursements to any officer or agency of the Government.

(c) The expenses of the delegation as authorized in subsection (b), including the expenses of staff members assisting such delegation, shall be paid from the contingent fund of the Senate, out of the account of miscellaneous items, upon vouchers approved by the Secretary of the Senate, after consultation with the co-chairmen of the delegation.

(d) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out the provisions of this resolution.

SEC. 3. This resolution shall terminate upon the adjournment sine die of the first session of the One Hundred First Congress.

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1990

HELMS AMENDMENT NO. 991

Mr. HELMS proposed an amendment to the amendment of the House to the amendment of the Senate numbered 153 to the bill (H.R. 2788) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes; as follows:

In the House amendment to the Senate amendment numbered 153 in section (A), strike the phrase "None of the funds" and all that follows to the period and insert the following: "None of the funds authorized to be appropriated pursuant to this Act may be used to promote, disseminate, or produce materials that are obscene or that depict or describe, in a patently offensive way, sexual or excretory activities or organs, including but not limited to obscene depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sexual intercourse".

ADDITIONAL STATEMENTS

FRANK KELLY CALLS FOR "SUMMIT MEETING FOR HUMANITY"

● Mr. PELL. Mr. President, for some years I have watched the progress of a proposal by Frank K. Kelly, senior vice president of the Nuclear Age Peace Foundation, for a "Summit Meeting for Humanity." The purpose of such a meeting would be to deal with planetary problems that require global cooperation in such fields as health, food and agriculture, disarmament, human rights, and the environment.

Frank Kelly is a former speech writer for President Harry S. Truman who served in the past as an assistant to the Senate majority leader and as staff director of the Senate Democratic Policy Committee. He helped with the creation of the U.S. Institute for Peace and is the editor of a volume entitled "Waging Peace in the Nuclear Age."

This background has led him to conceive of the "Summit Meeting for Humanity." I ask that a statement by him on this proposal be printed in the CONGRESSIONAL RECORD at this point along with an article from the July 10, 1989 Santa Barbara, CA, News-Press.

The material follows:

WAGING PEACE PROPOSAL—A SUMMIT MEETING FOR HUMANITY

(By Frank K. Kelly, Senior Vice President, Nuclear Age Peace Foundation)*

Campaigning for election in 1948, President Harry Truman said: "The fate of mankind depends upon the foreign policy of the United States." His first act as President—when he succeeded Franklin D. Roosevelt—was to give strong support to the formation of the United Nations. In 1948, he ran and won on a global platform, declaring: "The heart and soul of American foreign policy is peace. We are supporting a world organization to keep the peace, and a world economic policy to create prosperity for all nations."

In 1988, who speaks for humanity's future—who reminds us that the fate of humanity depends upon us? Do we hear our presidential candidates speaking of "the fate of humankind" or talking of our planet as humanity's home? Do our leaders clearly tell us that we are really living in a world without national boundaries, that we are linked with people everywhere on Earth, that we can't solve our deepest problems in America without considering all those people and working with those people?

Forty years ago, when I wrote speeches for President Truman, I admired his global vision and his willingness to take responsibility for his part in plunging humanity into the nuclear age. He made a terrible decision, knowing that it would have an enormous impact on the future. He told me in the Oval Office that he knew he had done a hellish thing by dropping atomic bombs upon Japan, but he believed that those monstrous weapons would compel humanity to accept the necessity for peace. He resisted the pressures brought upon him to risk a war with the Soviet Union. He insisted that the Soviet people and the American people could find a way to live together in peace. He said that what was at stake was "life or death, not only for ourselves and our children, but for our civilization."

In a summit meeting in 1988, Ronald Reagan and Mikhail Gorbachev have taken some steps in the right direction. Yevgeny Yevtushenko, a Soviet poet, has pointed out: "It's time to understand a new nuclear truth. The best policy is above politics. The first agreement signed by the two biggest nuclear powers to reduce nuclear weapons rises above mere ideology. . . ."

It is time for a Summit Meeting for Humanity—with voices raised from every part of the Earth.

Twenty-one years ago, in an editorial in the Saturday Review, I proposed that it should be an obligation of the United Nations to give a full report each year on the State of Humanity. My proposal was endorsed by U Thant, then the Secretary General; by former President Dwight Eisenhower; by twenty-two members of the United States Senate, and by other leaders. But U Thant was not able to carry it out.

I think that the moment has come for a reconsideration of the idea. If our air is being polluted, our climate is being changed, our resources are being wasted on guns and bombs, if our earth is being ravaged, as scientists say it is—should not the voices of humanity be heard?

Through the use of communications satellites, the Secretary General could convene a Summit Meeting for Humanity in Geneva or in the General Assembly Hall in New York. He could open the meeting by reviewing the planetary problems that require global cooperation—and give his personal statement on what might be done. He would speak with all the knowledge available to him from many nations, but he would also speak forthrightly as a person, a human being with a family and friends, standing before the people of the world as a Citizen of Humanity, calling upon all human beings to join in saving the Earth.

Representatives of international organizations could then speak from the fields of health, food and agriculture, disarmament and development, human rights, the global environment, and other areas of concern. The needs of the Earth could be presented comprehensively by men and women with deep resources of information and wisdom from many nations. The sessions of the Summit for Humanity could be broadcast around the world in many languages, and people everywhere could be invited to send their comments and questions to the Secretary General for future meetings. The proceedings could be printed in paperback books and distributed to schools and civic organizations in every country.

The moderator for the Summit Meeting could be a distinguished journalist such as Bill Moyers, a writer and broadcaster who has been probing the problems of humanity for many years. At the end of each meeting, the moderator could hold a series of dialogues with leading participants.

If the leaders of the United Nations are unable to sponsor such a meeting, I urge international organizations such as Parliamentarians Global Action, the Better World Society, the Nuclear Age Peace Foundation, the Center for a Post-Modern World, the Institute of Noetic Sciences, and others to join together in sponsoring it. It might be financed by several foundations.

In my editorial in the Saturday Review, I said: "The faces and voices of Africa, Asia, Europe and America are known now. . . . We Can build one world or set the Earth on fire." Twenty years later, it is clear that people in many places are saying to one another, "This Earth is ours. We live in a web of life that extends from continent to continent. We breathe air that moves across oceans and leaps mountains. We live in one world—and we must act upon that fact."

A Summit Meeting for Humanity offers us an opportunity to confront the dangers and celebrate the wonders of our world, and to see that the needs of humanity can be met by the cooperative efforts of all those who are aware of the fundamental fact: We will thrive together—or go down into a planetary death together.

Let us speak for life. Let us lift our voices for humanity.

[From the Santa Barbara News-Press, July 10, 1989]

HUMANITY SUMMIT MEETING IS URGED

(By Heron Marquez Estrada)

Seventy-five-year-old Frank Kelly has lived through two world wars.

As a correspondent for the Associated Press in World War II he saw his share of people killed or injured.

After the war, as a speech writer for President Harry Truman, Kelly heard Truman discuss the reasons for bombing Hiroshima and Nagasaki.

While Kelly says he admired Truman's willingness to accept responsibility for plunging humanity into the nuclear age, he thinks that the use of nuclear weapons poses the greatest hazard to human life on this planet.

Kelly has spent decades battling the presence and use of such weapons, and has spent his time in recent years "waging peace." He was one of the four founders of the Santa Barbara-based Nuclear Age Peace Foundation in 1982.

He recently returned from a conference in Cosa Rica entitled "Seeking the True Meaning of Peace." Among the participants were the Dalai Lama, the spiritual leader of Tibet, and Costa Rican President Oscar Arias, a past winner of the Nobel Peace Prize.

At the end of the conference Kelly addressed the 600 participants from 30 nations who attended. He unveiled an idea he has been formulating for a long time: "A Summit Meeting for Humanity."

"If our air is being polluted, our climate is being changed, our resources being wasted on guns and bombs, if our earth is being ravaged . . . should not the voices of humanity be heard," Kelly told the delegates.

Kelly has been thinking of this kind of summit for decades, but it is only with the advent of advanced telecommunications that he believes it is possible to unite the world in a common cause.

"We never had the technology to link up the whole world before," he said. He believes that such a summit will help develop a "global consciousness."

When he returned to Santa Barbara, he found a letter awaiting him from a British member of the European Parliament. The letter said the lawmaker would present a resolution to parliament suggesting that it co-sponsor the proposed summit.

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* In addition to his work as a speech writer for President Truman, Frank Kelly served as an assistant to the Senate Majority Leader and Staff Director of the U.S. Senate Majority Policy Committee, 1949-52; as United States Director of the International Press Institute's Study of World News, 1952-53; as Vice President of the Fund for the Republic and Vice President of the Center for the Study of Democratic Institutions, 1956-1975. A graduate of the University of Missouri at Kansas City, he worked as a reporter and editor for the Kansas City Star and the Associated Press in New York, as an army correspondent in World War II, and as a book critic for Newsday. He has been a Nieman Fellow at Harvard and a Wilton Park Fellow in England. He was a director of the National Peace Academy Campaign which led to the creation of the U.S. Institute of Peace. He has written eight books and contributed articles and stories to many publications, including The New Yorker, Saturday Review, Esquire, Center Magazine, and others. His stories have appeared in anthologies and have been translated into several languages. He is the co-editor of Waging Peace In the Nuclear Age, Ideas for Action (Santa Barbara: Capra Press, 1988).

The Nuclear Age Peace Foundation will also be a sponsor and help to plan the summit, said Kelly.

"I have seen good ideas blocked or distorted many times," said Kelly in looking back upon his life. "I think the time has finally come," for a summit on humanity, he said.

The summit would involve linking, via satellite and telecommunication equipment, representatives from international organizations. They would be in difference countries, speak in different languages, but address common issues such as health, food and agriculture, disarmament and development, human rights, and the global environment.

The proceedings would be broadcast all over the world and would be moderated by a distinguished journalist, Kelly said.

"We live in a web of life that extends from continent to continent," Kelly writes in an outline proposing the summit. "We breathe air that moves across oceans and leaps mountains. We live in one world—we must act upon that fact."

Kelly hopes the summit, if it comes off, would be an annual rallying point for people to hear about the status of humanity and how it is doing in relation to the problems confronting it.

By having performing artists and athletic events interspersed with the socio-political messages, he believes it is possible to interest "the guys in the bars."

"People are hungry for hope," he said. "I think this (summit) would give them more hope. (The summit) offers us an opportunity to confront the dangers and celebrate the wonders of our world, and to see that the needs of humanity can be met by the cooperative efforts of all . . . We will thrive together—or go down together into planetary death together.

"The very terrible nature of our situation should motivate us to act," Kelly said.●

RECOGNITION OF TAIWAN'S ANNIVERSARY

● Mr. SYMMS. Mr. President, on Tuesday, October 10, the Republic of China on Taiwan will be observing its 78th anniversary.

In honor of this special holiday, Idaho's Governor recently proclaimed that this date will be celebrated in Idaho as Republic of China Day, and urged all citizens to extend their congratulations to this island nation. I am very proud of the friendly relations that exist between my State and Taiwan, and I ask that this proclamation be inserted in the RECORD after my remarks.

Mr. President, last November I had the opportunity to accompany Ruby Chow & Associates, a trade group and delegation from Seattle, WA, with people from the States of Oklahoma, Washington, and my own State of Idaho, to the Republic of China on Taiwan.

My trip revealed a dynamic society with people of strongly pro-American sentiments who have built a strong and growing economy. Much as I had expected, that island country is exceedingly prosperous, as evidenced by her $6,000 per capita income, her $74 billion foreign reserve, and her numerous downtown skyscrapers.

Much to the nation's credit, Taiwan has undergone the industrial revolution in a single generation without major social upheaval. Despite military pressure from the People's Republic of China and attempted diplomatic isolation in recent years, this island nation of about 19 million people has been transformed from an agrarian society to an industrialized nation that now enjoys trade with the rest of the world.

Many government and business leaders have expressed reasonable satisfaction with the current working relationship between Taipei and Washington. I know citizens in my State have noticed a great difference in the openness of Taiwan's markets for our produce and other goods. It is becomming a bigger and better market all the time for Idaho commodity producers.

Mr. President, in the 1990's, the Pacific Rim Countries, including Taiwan, will play an ever-increasing role in this global economy and will affect the well-being of every American. Let us continue to nourish our traditional friendship with the Republic of China. Because of their courage and dedication to peace, the citizens of Taiwan today are enjoying a prosperous life in a free-market society. I urge all Americans to join with them in celebrating this special anniversary.

The proclamation follows:

PROCLAMATION

Whereas the Republic of China's on Taiwan will be observing its seventy-eighth anniversary on October 10, 1989—the Double Ten Holiday; and

Whereas the Republic of China's has distinguished itself in the free world with its dynamic progress in the fields of economy, industry, and society; and

Whereas the Republic of China's 20 million citizens are enjoying a prosperous, free life in a free society; and

Whereas the United States of America and the Republic of China have been friends and allies for many decades; and

Whereas Idaho and the Republic of China exchange many items of trade—especially in agriculture—and maintain friendly relations in all areas;

Whereas it is fitting that we acknowledge this special anniversary being celebrated by our friends in the Republic of China;

Now, therefore, I Cecil D. Andrus, Governor of the State of Idaho, do hereby proclaim Monday, October 10, 1989 to be "Republic of China Day" in Idaho, and I urge all our citizens to join us in extending congratulations and best wishes to the Republic of China during this celebration of its peoples' courage and strength of conviction to achieve peace.●

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

● Mr. RIEGLE. Mr. President, in recognition of October as "National Domestic Violence Awareness Month," I would like to take this opportunity to commend the Michigan organizations that are working together to help women and children escape the tragedy of domestic violence.

Domestic violence affects 4 to 5 million women each year in the United States. In addition, 50 percent of these instances of abuse involve the physical abuse of children. Battering is the single major cause of injury to women, exceeding rapes, muggings, and even automobile accidents. Nearly a third of female homicide victims are killed by their husbands or boyfriends. These deliberate acts of physical and sexual violence are inexcusable. Domestic violence is not a private matter between family members in their homes. It is serious criminal behavior that we as a society must not tolerate.

I am very proud of the ongoing efforts in Michigan to provide direct services to people in situations of domestic violence. We have over 40 domestic violence shelters for women and children who are being abused. For these victims, shelters are necessary to help them rebuild their lives by providing temporary housing, information, crisis intervention, and proper referrals.

In addition to the shelters, the Michigan Coalition Against Domestic Violence [MCADV] is a statewide organization that advocates on behalf of battered women and children. It works to promote awareness of domestic violence by sharing information, skills, and resources. Furthermore, the coalition encourages the development of shelter programs and advocates for better laws and criminal justice procedures.

Furthermore, the national toll-free domestic violence hotline has been installed in Michigan. This hotline is a valuable resource to all U.S. citizens, particularly to those millions of family members who live in abusive homes. The hotline is staffed 24 hours a day, 7 days a week by volunteers trained to respond to confidential requests, discuss options and provide shelter referrals.

These important services would not exist in Michigan without the participation of many concerned advocates. These advocates have spent a great deal of time generously providing care to victims of domestic violence. They have successfully coordinated efforts to inform and educate people about the difficulties faced by women and children in abusive situations and should be applauded for their attempts to break the chain of violence that is passed on from generation to generation.

The issue of domestic violence is more significant than ever before and is receiving greater attention by all levels of government. I have joined my colleagues in the House and Senate as an original cosponsor of the Economic Equity Act [EEA] of 1989. Since it was first introduced in 1981, this biparti-

san legislation has become a cornerstone in the fight for women's rights in the U.S Congress.

Many of the bills in this package aid women affected by domestic violence. One of these bills includes housing assistance for homeless and displaced families in abusive situations. Another bill authorizes the State Justice Institute to award grants to investigate State judicial decisions relating to child custody cases involving instances of domestic violence.

We all realize that the work we do to end domestic violence is very important. Domestic violence occurs in one out of three homes in America, impacting people of every race, religion, age, educational level and economic group. We must strive to provide the necessary services to people in abusive families as well as continue to educate people about domestic violence. By working together we can help make a difference in the lives of families unjustly hit by domestic violence.●

REGARDING THE "HOUSING NOW" RALLY AND THE PLIGHT OF THE HOMELESS

● Mr. WALLOP. Mr. President, as the Housing Now marchers approach us today, I would like to call my colleagues' attention to an article by Warren Brookes in Thursday's Washington Times entitled "Homeless Facts vs. Fantasy." This article raises a number of good points about our efforts to address the needs of homeless persons and provides a different and noteworthy perspective on this issue.

Since 1988, there have been four major studies of the homeless situation. These studies indicate that estimates of the homeless are highly exaggerated and Federal spending on housing programs has greatly increased. In fact, total Housing and Urban Development outlays have risen from $12.7 billion in 1980 to $20.4 billion in 1989, a rise of 60 percent. Excluding private expenditures, we devote $8,000 a year to each homeless person. So, as Mr. Brookes points out "homelessness has little to do with federal budget cuts." Instead, this problem is more related to other factors such as drug and alcohol addiction, mental illness, personal problems or serious criminal behavior.

As is suggested by this article, I would urge my colleagues to heed the advice of the Urban Institute's Dr. Martha Burt to focus our future efforts on caring for people who have problems other than homelessness. While I am concerned about their plight, these facts separate the truth from the rhetoric and should not be ignored.

The article follows:

HOMELESS FACTS VS. FANTASY

(By Warren Brookes)

This Saturday, something called Housing Now will march on Capitol Hill to protest the plight of the homeless and demand massive new spending on public housing.

The two principal organizers of this march are Mitch Snyder, a former adman once convicted of fraud, who deserted his family for life as a professional homeless advocate in Washington, D.C. and Donna Brazile, the 1988 Dukakis campign worker who was fired for publicly voicing an ugly rumor about George Bush.

Unfortunately, ugly rumors and downright lies will outnumber the facts in both the rhetoric from Housing Now marchers and the reports in the media.

This column will help you sort them out.

First, of course, you will hear Mitch Snyder and the TV news repeat their favorite charge that "the number of homeless right now is 3 million. Three million is a conservative estimate."

Baloney. There have been four major studies of this issue: In 1988, the National Academy of Sciences discovered 650,000 homeless in the nation; the Urban Institute found 570,000. In 1987, Harvard's Richard Freeman counted 350,000; in 1988, the General Accounting Office reviewed 22 city studies and found 300,000 to 600,000 as the national parameters. All are about one-fifth the hyped estimates.

Last December, ABC concluded a "Good Morning America" report on homelessness among children with the statement, "At a conservative estimate, there may be as many as half a million [500,000] homeless children in this country."

But the Urban Institute's 1988 study found that only 15 percent of the homeless, or about 86,000, were children. A June 1989 analysis by the GAO for Democratic Sen. Edward M. Kennedy of Massachusetts concluded, "On a given night, about 68,000 children and youths of age 16 or younger may be members of families that are literally homeless." That's 68,000 more than should be, but it's a whole lot less than 500,000.

Finally, you will hear a lot about President Ronald Reagan's budget cuts in federal housing. Mitch Snyder told journalist Tom Bethell last year, "Affordable housing is disappearing, because $25 billion a year has been cut out of the housing budget in the last seven years. Housing and Urban Development was spending $32 billion a year on housing programs, and they are down to less than $8 billion . . . in spite of all the voodoo nonsense the administration spouts."

But that, itself, is "voodoo nonsense."

If you will look at the official Historical Tables of the U.S. Budget on pages 70 and 72, you will find direct "Housing Assistance" (Item 604) has risen from $5.6 billion in 1980 to $15.3 billion in 1989, up 172 percent.

And if you look at pages 86 and 87, you will find that total HUD outlays have risen from $12.7 billion in 1980 to $20.4 billion in 1989, a rise of 60 percent, nearly double the inflation rate.

What Mr. Snyder is referring to is that "Budget Authority" to build future housing units was in fact cut by more than 70 percent, but that was because the nation had run up a massive $250 billion in such commitments during the late 1970s.

And most of that new housing actually came on line in the 1980s. From 1982 to 1988, more than 132,000 new units of federally subsidized housing were completed, an average of nearly 19,000 a year. By comparison, from 1977 to 1981 it averaged 15,000 a year.

So, homelessness has little to do with federal budget cuts. It has most to do with the deadly combination of soaring drug and alcohol addiction and the deinstitutionalization of nearly 300,000 mental patients. (See table.)

WHO ARE THE HOMELESS?

[Urban Institute—March 1987]

Using shelters in large cities	195,000
All homeless in large cities	330,000
Smaller city homeless (est.)	240,000
Total U.S. homeless	570,000
Children (15 percent)	86,000
Families	10 percent

	Number	Percent
Personal problems (one or more)	405,000	71
Mental hospitalization	104,000	20
Chemical dependency	200,000	35
Jail (5 or more days)	319,000	56
State/Federal prison	148,000	26
Two or more of these problems	239,000	42

Source: Urban Institute.

The Urban Institute study found that 71 percent of all homeless persons have one or more personal problems, including mental illness, chemical dependency, jail time and serious criminal behavior, and 42 percent have two or more of these problems.

Or as UI's Dr. Martha Burt told a homelessness conference held by The Heritage Foundation in December 1988, "perhaps as high as 50 percent or 60 percent [of the homeless] may have so many disabilities that they will never be able to take care of themselves." For them, the problem is not housing but care.

As she concluded, "There is not such a large number of homeless," and she advocated "letting the private sector take care of housing the homeless," concentrating government funds on caring for those for whom housing is not the main problem.

Unfortunately, Congress has not listened to sensible people like Martha Burt, but only to the noisy radicals like Mitch Snyder. In the process they have created in the McKinney Act a monstrous nightmare involving 17 separate federal programs managed by seven different federal agencies, with enough paperwork and bureaucracy alone to feed every homeless person by hand.

Today, we are spending $8,000 a year in tax money per homeless person, not counting private monies. Before spending more, we need to do a better job of separating facts from lies and finding out what really works.●

NATIONAL DISABILITY AWARENESS WEEK

● Mr. RIEGLE. Mr. President, I rise today to honor the millions of Americans with disabling impairments and the contributions they have made to our Nation. Disabled Americans have exhibited tremendous determination to break down the physical and social barriers that have impaired their ability to be full citizens of this country. Indeed, their determination is revealed in the fact that 82 percent of disabled

people would give up Government benefits in favor of a full-time job.

As reflected in the overwhelming passage of the Americans With Disabilities Act by the Senate last month, our Nation is finally recognizing the contributions that Americans with physical and mental impairments can and must make to keep our country strong. Disabled people, Mr. President, are capable individuals, who if allowed the opportunities that the nondisabled have, can and will be productive citizens of this great Nation. The enactment of the Americans With Disabilities Act [ADA] into law would be the beginning of a clear, comprehensive national mandate to end discrimination against individuals in employment and the provision of public services and transportation.

Of the 43 million disabled Americans, about 4 million receive Social Security disability benefits. Disabled people stand to benefit not only from the ADA but also from the Social Security Work Incentives Act, a bill I introduced this year. This act extends Medicare coverage to disabled people seeking to rejoin the work force. It seeks to help those 4 million disabled workers who say they cannot afford to take a job for fear of losing health insurance coverage.

We can no longer afford to let the talent of the disabled slip through the cracks of ignorance. It is time that the disabled have the opportunity to do what they can and want to do. We can undoubtedly learn much from their determination.

The integration of disabled individuals into the work force provides both economic and societal advantages. Integrating disabled workers into the work force is the most effective way to bring the disabled where they belong, into mainstream America. Increased interaction with the nondisabled helps to break down preconceived notions of dependency and incompetency of the disabled.●

DRUG AND ALCOHOL TESTING: TIME FOR HOUSE ACTION

● Mr. DANFORTH. Mr. President, last week on the Transportation appropriations bill, the Senate approved—for the third time in 2 years—random drug and alcohol testing for airline and railroad crews, and commercial truck and bus drivers.

Last year, the House of Representatives refused to negotiate with us on those same drug- and alcohol-testing provisions. This week, it has happened again. The House has refused to negotiate with us on testing provisions contained in the Transportation appropriations bill.

Explaining why the House wouldn't deal with testing on the appropriations bill, Senator BYRD said the House authorizing committees "should have a right to consider these provisions in their committees, rather than allowing them to be conferenced in an appropriations bill."

Thursday night, the Senate passed random drug- and alcohol-testing legislation for the fourth time. Let's hope the fourth time is the charm.

Senator BYRD gave no indication that the House will, in fact, work with us to enact a law requiring drug and alcohol testing of safety-sensitive aviation, motor carrier, and railroad workers. It is not good enough that the House is ready to discuss testing for railworkers only.

In the wake of the USAir fiasco, it is critical that the House work with us now on drug and alcohol testing for airline pilots.

In view of the destruction and grief caused annually by drunk and drugged drivers of 80,000-pound trucks and buses carrying dozens of passengers, it is critical that the House work with us now on drug and alcohol testing for commercial truck and bus drivers.

The House needs to improve its track record in this area, Mr. President. The House needs to prove that it does care about the safety of transportation workers and the traveling public. The Senate—and the American public—will be watching.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I am about to propound a unanimous consent request. I would make the request, but before the Chair rules on it, I will yield to the distinguished Senator from Maryland for a brief statement.

SEMBLER AND NEWMAN NOMINATIONS

Mr. SARBANES. Mr. President, I rise to indicate my opposition to the nominations of Melvin Sembler to be Ambassador to Australia and Della Newman to be Ambassador to New Zealand. A careful review of the record—the nominees' detailed written submissions to the Foreign Relations Committee, the certifications of demonstrated competence submitted on their behalf pursuant to section 304(a)(4) of the Foreign Service Act of 1980, and the hearing records—fails to disclose any involvements, experience, or training which would qualify them for the important diplomatic posts to which they have been nominated.

Mr. President, I ask unanimous consent that the standard biographical form and the certificate of demonstrated competence for each nominee submitted with their nomination papers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MELVIN F. SEMBLER

Postion for which considered: Ambassador to Australia.

Present Position: Chairman, Mel Sembler Associates.

Office Address: 5858 Central Avenue, St. Petersburg, FL.

Born: May 10, 1930, St. Joseph, MO.

Legal Residence: Florida.

Marital Status: Married.

Family: Wife: former Betty Maxine Schlesinger.

Children: M. Steve, Brent, Gregory.

Home Address: 10324 Paradise Boulevard, Treasure Island, FL.

Education: B.S. 1952, Northwestern University.

Experience:

Military 1953-55, U.S. Army.

Non-Government 1955-56, Sales Representative, Shaw Barton Advertising Specialities, Kansas City, MO.

1956-63, Manager, Schlesinger's Dyersburg, TN.

1963-present, Chairman, Mel Sembler, Associates, Dyersburg, Tennessee and St. Petersburg, FL.

1968-69, Vice President, Franchise Finance & Management.

Also:

1988-present, White House Conference for a Drug-Free America.

1988-present, Consultant, Bush Drug Coalition.

1988-present, Florida Drug Policy Task Force.

1988-89, Co-Chairman, The American Bicentennial Inaugural.

Awards: J.C. Penney Golden Rule Award, 1987, National Mall Monitor Centers for Excellence Award, 1984.

Memberships: Chairman, Straight, Inc., International Council of Shopping Centers, National Mall Monitor, Advisory Committee, Flordia Business Magazine, Arthritis Research Foundation, and Numerous others.

Publications: Numerous articles.

MARCH 1989.

REPORT FOR THE COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

Subject: Ambassadorial Nomination: Certification of Demonstrated Competence (Foreign Service Act, Section 304(a)(4)).

Post: U.S. Ambassador to Australia.

Candidate: Melvin F. Sembler.

Mr. Sembler, 59, since 1963 has been Chairman of Mel Sembler Associates, a real estate development firm in Dyersburg, Tennessee and St. Petersburg, Florida. Prior to that Mr. Sembler was Manager of Schlesinger's, a real estate development firm from 1956 to 1963.

In addition to the Real Estate business, Mr. Sembler has been very involved in civic activities on a local and national level. Mr. Sembler has been a member of the White House Conference for a Drug-Free America since 1988. He also is a Consultant to the Bush Drug Coalition as well as the Florida Drug Policy Task Force and was Co-Chairman, The American Bicentennial Inaugural. Mr. Sembler is Chairman of Straight, Inc. and a member of International Council of Shopping Centers, National Mall Monitor, and the Advisory Committee, Florida Business Magazine. Mr. Sembler is also a member of the Arthritis Research Foundation.

Mr. Sembler received a B.A. in 1952 from the Northwestern University. He is the author of many articles. Mr. Sembler's ex-

tensive business background combined with his involvement in a drug free America will serve him well as an excellent candidate for U.S. Ambassador to Australia.

DELLA M. NEWMAN

Position for which considered: Ambassador to New Zealand/Western Samoa.

Present Position: President and Owner, Village Real Estate.

Office Address: 1025 Financial Center, Seattle, WA.

Born: June 6, 1932, Seattle, WA.

Legal Residence: Seattle, WA.

Marital Status: Married.

Spouse: Husband: Wells B. McCurdy.

Home Address: 100 Ward Street, Apartment No. 602, Seattle, WA.

Experience: 1972-present, Treasurer, Pacific Factors Ltd., Inc.

1973-present, Sole Proprietor, Braemar Associates.

1974-present, President/Owner, Village Real Estate, Inc.

Also: Puget Sound Multiple Listing Association of Washington.

Executive Women International.

Washington State Council on Economic Education, Board of Directors.

Association of Washington Business, Chairman/Board of Directors.

Executive Committee, Foundation for Private Enterprise, Director.

Washington Advisory Committee for U.S. Civil Rights Commission.

Delegate to the 1988 Republican National Convention.

Member, National Council for Women's Educational Programs, 1986.

Memberships: Washington Athletic Club, Columbia Tower Club, Seattle Yacht Club, Rainier Club, and Spokane Club.

MARCH, 1989.

REPORT FOR THE COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE

Subject: Ambassadorial Nomination Certification of Demonstrated Competence (Foreign Service Act, Section 304 (a)(4)).

Post: New Zealand/Western Samoa.

Candidate: Della M. Newman.

Mrs. Newman, 57, is presently President and owner of Village Real Estate, Inc., as well as sole proprietor of Braemer Associates and Treasurer of Pacific Factors Ltd., Inc. Mrs. Newman is also a member of the Puget Sound Multiple Listing Association of Washington and a member of Washington Women International. She also is on the Washington State Council on Economic Education and is Chairman of the Board of the Association of Washington Business. In addition she is Director of the Executive Committee for the Foundation for Private Enterprise and a member of the Washington Advisory Committee for the U.S. Civil Rights Commission. Mrs. Newman was a delegate to the 1988 Republican National Committee and was a member of the National Council for Women's Educational Programs in 1986.

Mrs. Newman's extensive background in the real estate business combined with her many civic commitments gives her the managerial qualities to make her an excellent candidate for U.S. Ambassador to New Zealand.

Mr. SARBANES. Mr. President, as is clear from a review of the above material, there is missing from the nominees' records those dimensions to their careers which could constitute the basis for bringing someone in from outside the career service to be an ambassador. Members of the career service spend a lifetime preparing themselves for such diplomatic postings, and it is not too much to expect that noncareer nominees would bring special talents and experience to the assignment. Unfortunately, what is clear in these instances is that heavy political involvement is the basis for the nominations. In Mr. Sembler's case, a member of Team 100, those giving over $100,000 to the Republican Party, very large campaign contributions have brought their reward. In fact in a New York Times article in which the financial chairman of President's Bush's campaign complained that more campaign fundraisers had not been rewarded with political appointments, Mr. Sembler was cited as one of a number of large campaign contributors who had been named as ambassadors.

Mr. President, I ask unanimous consent that the New York Times article of February 20, 1989, referred to above be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 20, 1989]

EX-FINANCE CHAIRMAN COMPLAINS FEW JOBS GO TO BUSH FUNDRAISERS

(By Richard L. Berke)

WASHINGTON.—Robert A. Mosbacher, Sr., the Commerce Secretary who was finance chairman of President Bush's campaign, says he is distressed that more campaign fund-raisers have not been rewarded with political appointments.

He blamed officials in the Administration, but not Mr. Bush himself, for favoring political operatives over fund-raisers for posts at all levels of Government.

"There's this perception in Washington and politics, and some degree in Government," he said in an interview this weekend, "that fund-raisers and fund-givers are nice, interesting people to be sort of patted on the head when you need them and ignored the rest of the time because they don't really understand the process."

CRITICISM OF ADMINISTRATION

"We're not trying to foist off any second-grade dummies," he said. "In truth, they are the most successful people in their communities."

Some critics counter that the fund-raisers are doing well in getting appointments. In fact, some of them derided the Administration for being partial to fund-raisers.

Mr. Mosbacher said in the interview that he planned to bring the issue to the attention of White House personnel officials and that he hoped to speak directly to Mr. Bush about it.

The Commerce Secretary, who ran the Bush fund-raising effort in the primaries and the Republican Party's drive to raise millions of dollars from wealthy donors, said there were "several hundred" fund-raisers who deserved appointments to ambassadorships, sub-Cabinet posts or lower-level jobs on commissions who were being neglected. The campaign had a national finance board of some 350 people in the primaries, and for the general election, 249 individuals and corporations gave at least $100,000 apiece to the Republican Party.

"Quite a high percentage of those who have been helpful haven't gotten anything—at least 50 percent," Mr. Mosbacher said.

TOP JOBS FOR MANY

More than a dozen people who gave at least $100,000 to the Republican Party last year, or helped solicit millions of dollars more for Mr. Bush, are being tapped for jobs as ambassadors or as policy makers at sub-Cabinet levels.

In addition, what officials describe as a " 'must be placed' list" is circulating in the Administration, with the names of 50 major donors who want jobs for themselves or their relatives. Many are expected to be named as part-time posts on Presidential boards and commissions.

Presidents of both parties have long rewarded their political loyalists with plum appointments. Because of changes in the Federal campaign finance law, which were made after the Watergate scandal, people no longer can give directly to a Presidential candidate in the general election. But they can give to a political party.

"There is definitely a perception problem when ambassadors and other high people are large contributors," said David M. Dorsen, a lawyer here who was assistant chief counsel in charge of campaign finance for the Senate Watergate committee.

"TERRIBLE WAY TO DO BUSINESS"

Fred Wertheimer, president of Common Cause, a public affairs lobby group, said the appointment of fund-raisers was "a terrible way to do business," and he called on the Senate committees considering those appointments to "conduct rigorous inquiries about whether money played any role in the appointments."

But determining how much a donation played into an appointment would be a complicated, if not impossible undertaking.

"What really matters to George Bush is not the number of zeroes after a figure in a ledger book, but the loyalty and commitment shown by a person, be it as a fundraiser or a doorbell ringer," said Charles G. Untermeyer, the White House personnel director.

Bruce S. Gelb conceded, though, that had he not helped raise $3 million for Mr. Bush's campaign last year, he might not have been nominated to head the United States Information Agency. "I may have been selected to be dog catcher," he said.

Beyond his fund-raising prowess, Mr. Gelb, who is leaving his job as vice chairman of Bristol-Myers Company in New York, contended that other factors helped him win the prestigious post: his loyalty to Mr. Bush for decades and his business acumen.

LOYALTY TO BUSH

"If you look at 10 really outstanding people and they all have great track records and you find one that has been a longtime fund-raiser, that person clearly has a real advantage," he said. "But if the person cannot represent George Bush in the way he wants to be represented, the person could give all the money in the world and it would not happen."

In the campaign, only a small minority of donors were blatant enough to say they expected an Administration post, Bush aides said. "Some people at the very beginning said, "I'm involved in this because I want this,' " said a Republican official who asked

not to be named. "The response back was, 'It's great to have you on board but there is no quid pro quo.' "

Many of the most diligent fund-raisers were friends who have known Mr. Bush for decades. Mr. Mosbacher, for instance, has known the President for 30 years. He, in turn, is doing his part to place his fund-raisers.

Mr. Mosbacher is expected to select Michael P. Galvin, a Chicago lawyer and a top Bush fund-raiser, to the highly sought post of Assistant Secretary for Exports. And officials said Mr. Mosbacher plans to pick Rockwell A. Schnabel, a major donor who is now Ambassador to Finland, to another sought after job: Under Secretary of Commerce for Trade and Tourism, a post that involves much travel and few difficult policy demands.

Another major fund-raiser, Frederick M. Bush, who is no relation to the President, worked for Mr. Bush for 10 years in many fund-raising capacities, most recently as deputy finance chairman. He has been named Ambassador to Luxembourg.

SOME OF THE APPOINTMENTS

Other $100,000 contributors and Bush fund-raisers who have been named to important posts include Walter J.P. Curley Jr., a former Ambassador to Ireland, as Ambassador to France; Joseph Zappala, a land developer from Tampa, Fla., as Ambassador to Spain; Melvin F. Sembler, another Florida developer who held that state's first fund-raising event for Mr. Bush, as Ambassador to Australia, and Henry E. Catto Jr., a longtime Republican contributor who has previously served in Government, as Ambassador to Britain.

Several other appointments of top contributors are in the works, including Joseph B. Gildenhorn, a Washington real estate executive who may be tapped for Ambassador to Switzerland, and Eric Javits, a New York lawyer and nephew of the late Senator Jacob Javits, who is a leading contender for Ambassador to Venezuela.

Some big donors were not interested in appointments, particularly those in business who could not disentangle themselves from their companies or were not willing to have their finances scrutinized.

Even so, as Mr. Mosbacher emphasized, there are more donors interested in jobs than there are jobs available.

In one case, Republican officials are working behind the scenes to try to find a post for Joy A. Silverman of Manhattan, a diligent fund-raiser who was said to be disappointed not to be named Ambassador to Luxembourg. "By all standards she deserves something," Mr. Mosbacher said. "She raised a lot of money, worked hard."

Mr. SARBANES. Mr. President, furthermore, it is also apparent that Mr. Sembler has approached the nomination with a disturbing lack of seriousness. Question 15 in part A of the standard Senate Foreign Relations Committee questionnaire submitted to all ambassadorial nominees asks:

Are there any factors, other than the information provided above, which particularly qualify you for the position to which you have been nominated?

Mr. Sembler's official response reads:

I have been known as a coalition builder, able to organize my colleagues and peers to action in support of worthy civic, charitable, and political causes.

Remarkably enough, the response given to the same question by his close friend and fellow Florida real estate developer, Mr. Joseph Zappala, nominated by the President to be United States Ambassador to Spain, was as follows:

I am known as a coalition builder. I am able to organize my colleagues and peers to action in support of worthwhile civic, charitable, and political causes.

The strikingly similar answers occurred, according to an article in the Washington Post, as the result of Mr. Zappala's public relations consultant's filling out the questionnaire for him by copying the words of Mr. Sembler's public relations consultant's who filled out Mr. Sembler's form. As a Washington Post editorial later commented:

Modular testimony. Pre-fab (by someone else) self-description. It doesn't inspire a whole lot of confidence. Can the would-be ambassadors be trusted to enter into dialog with their host governments if they, apparently, cannot be trusted to write a few lines on their own qualifications?

Mr. President, I ask unanimous consent that the Washington Post article of June 24, 1989, describing the preparation of Mr. Sembler and Mr. Zappala's forms, and the Washington Post editorial cited above be printed in the RECORD.

There being no objection, the material was orderd to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 1989]

TWO WOULD-BE ENVOYS ARE FREQUENT PARTNERS

NOMINMEES EVEN SHARED PHRASES

(By Bill McAllister and Paula Yost)

Joseph Zappala and Melvin F. Sembler of St. Petersburg, Fla., have a lot in common.

They are developers, frequently partners on the same projects, have offices two blocks apart, work in the same charities and political campaigns, gave about $126,000 each to many of the same Republican political candidates in recent years—and were nominated for ambassadorships by President Bush.

So when their names came up for Senate confirmation this week, aides said it was not surprising that both men used the same words to describe themselves in disclosure forms.

"I have been known as a coalition builder, able to organize by colleagues and peers to action in support of worthy civil, charitable and political causes," said Sembler, 59 nominated to be ambassador to Australia.

"I am known as a coalition builder. I am able to organize by colleagues and peers to action in support of worthwhile civic, charitable and political causes," said Zappala, 56, nominated to be ambassador to Spain.

Those coincidences, and a fear that they would be "ambassadors without qualifications," were enough to prompt Sen. Paul S. Sarbanes (D-Md.) into action and delay Senate Foreign Relations Committee consideration of the nominations until next month.

The number of ambassadorships that go to political appointees, especially to campaign contributors, long has been a source of major controversy in Washington. Sen. Claiborne Pell (D-R.I.), the committee chairman, said this week that the process has made the United States "a joke . . . in many nations around the world."

Aides to the two developers said in separate interviews that they, not their bosses, were responsible for the strikingly similar prose in the five-page questionnaire that every ambassadorial nominee must file with the committee.

"Those are my words," said Tampa public relations consultant Pat Lewis. She said she completed Sembler's form using the same description of Sembler she often employed during the past five years while serving as his speech writer and publicist. Lewis said, however, she was not certain how her words got onto Zappala's form.

Bruce Bannard, a Zappala associate, said he knew. Bannard said he filled out Zappala's form and had a copy of Sembler's resume, borrowed from Lewis, with him at the time. "Whether consciously or unconsciously," Bannard said, he lifted the wording.

"Coalition builders, which they both are. The langauge depicts them to a 'T'," he said.

Both aides said that they gave the forms to their bosses, who last served together as financial cochairmen of the Bush inauguration committee. They reviewed the forms separately, swore they were accurate and returned them to the State Department, the aides said.

An official in the State Department's congressional affairs office, which assembles the forms for submission to the committee, said they were reviewed there. But no one noticed the similarity in responses to question No. 15: "Are there other factors, other than the information provided above, which particularly qualify you for the position to which you have been nominated?"

(Many of the Bush ambassadorial nominees didn't bother to answer that question. Former Nevada senator Chic Hecht (R) did, saying he is qualified to be envoy to the Bahamas because the "lifestyle of the Commonwealth of the Bahamas is similar to the lifestyle of Las Vegas, Nev.")

The responses of the two Florida developers to the 15 other questions on the committee form appear dissimilar. Both men acknowledged that they and members of their immediate families gave a lot of money to politicians, mostly to Republicans.

Between 1985 and 1988, each gave $141,000 to the same political candidates or campaign committees, according to data filed with the committee. Most of the recipients were Republicans and many of the amounts were identical.

Asked to list all his languages, Sembler replied: "English (fluent)," Zappala, whom committee sources say wanted to be ambassador to Italy, replied: "English—1st language" and "Italian—spoken and understood well."

In a one-page summary of their qualifications, "a certification of demonstrated competence," the State Department listed many of their business and political activities.

"Mr. Sembler's extensive business background, combined with his involvement in a drug-free America, will serve him well to be an excellent candidate for U.S. ambassador to Australia," his certificate read.

The one for Zappala had similar wording. "Mr. Zappala's impressive business background in real estate, combined with his civic activities, qualify him as an excellent candidate for U.S. ambassador to Spain," it said.

Pell complained that the certificates of competence have "become complete fiction."

A spokesman for Sarbanes, who made a point of the language in the Sembler and Zappala forms during a hearing Tuesday, said he is not certain whether the senator or one of his aides had spotted the similarities.

Sarbanes, who has a reputation as a studious, almost bookish legislator, had directed a staffer to make a line-by-line review of the forms and then personally reviewed them before the congressional hearing.

His complaints delayed committee action on the nominations along with the nomination of Della Newman, a Seattle real estate broker nominated to be ambassador to New Zealand, until July 10, when the Senate returns from its Fourth of July recess.

A State Department official, who asked not to be identified, said she is not as concerned about the similar language in the Zappala and Sembler forms. "Just a fluke," said the official, a political appointee.

[From the Washington Post, June 23, 1989]

THE AMBASSADORS

We have been thinking of establishing yet another great public service honor: the Mrs. Farkas Award for the most exotic, not to say improbable, campaign-contributor appointee to the American diplomatic corps. Ruth Farkas, for those of you who may not remember, was the very rich woman who became famous when Richard Nixon's lawyer reported that she had complained about price-gouging in the dispensation of Nixon administration ambassadorships (". . . isn't $250,000 an awful lot of money for Costa Rica?"). Now, before you get us wrong, it is not our view that *all* ambassadorships need to go to Foreign Service officers or that campaign contributions should actually be disqualifying. There have been plenty of first-rate non-foreign service ambassadors over the years.

But in truth there have also been a lot more turkeys—incompentents, bad jokes, envoys who would more aptly be called the American embarrassador than the American ambassador. Nor is it as if these were always harmless appointments; real damage can be done and has been by some of the unsuited types and downright nitwits that this country has proudly sent overseas at the behest of Democratic as well as Republican administrations.

All this is background to the jousting now going on in the Senate, where Democrat Paul Sarbanes of Maryland has stalled Senate Foreign Relations Committee action on three administration appointees, putting off a final determination until after the July 4 recess. The embassies at issue are Spain, Australia and New Zealand. The nominees are a land developer, a businessman and a real estate broker. For all we know they may be well qualified, though Mr. Sarbanes thinks they are not and has pointed, among other things, to a rather discouraging aspect of their self-presentations before the committee. At the place on the resume form where would-be ambassadors are asked what special qualifications they have that were not previously mentioned by them, one wrote: "I have been known as a coalition builder, able to organize my colleagues and peers to action in support of worthy civic, charitable and political causes." Another wrote—guess what?—"I am known as a coalition builder. I am able to organize my colleagues and peers to acton in support of worthwhile civic, charitable and political causes."

Modular testimony. Pre-fab (by someone else) self-description. It doesn't inspire a whole lot of confidence. Can the would-be ambassadors be trusted to enter into dialogue with their host governments if they, apparently, cannot be trusted to write a few lines on their own qualifications? Guidance only gets you so far. We await with interest the next phase of the committee's hearing.

Mr. SARBANES. Mr. President, I think it is interesting that the St. Petersburg Times, Mr. Sembler's hometown newspaper, has been critical of the nominations of Mr. Sembler and Mr. Zappala, and I ask unanimous consent that the July 13, 1989, editorial from that paper be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the St. Petersburg Times, July 13, 1989]

THE INTERNATIONAL LANGUAGE

According to U.S. Rep. C.W. Bill Young, St. Petersburg developers Mel Sembler and Joseph Zappala have all sorts of qualifications for their new jobs as U.S. ambassadors to Australia and Spain, respectively.

"Australia is so much like the United States, and Mel Sembler certainly knows his way around the United States," Young said. "He is certainly able to communicate, which is one of the essential requirements of diplomacy." Young had similar praise for the diplomatic skills of Zappala, who he said "has handled a lot of touchy situations in his business life."

Sembler and Zappala may turn out to be excellent ambassadors, and their appointments by President Bush undoubtedly bring prominence to St. Petersburg. However, their selection had nothing whatsoever to do with their ability to find their way around, or to communicate, or to handle touchy situations.

Actually, that's not entirely true. Sembler and Zappala know their way around the power centers of the national Republican Party, and they know how to communicate in the international language: money. They were members of "Team 100," a group of donors who contributed at least $100,000 each to the Republican Party during last fall's campaign. They also served as co-chairmen of the national committee that raised $20-million to help pay for the Bush inaugural. The services rendered by Sembler and Zappala add up to serious qualifications for political appointment.

The practice of making ambassadorial appointments based on politics is neither new nor necessarily bad. Some political appointees with no previous diplomatic experience turn out to be excellent ambassadors. For example, former U.S. Sen. Mike Mansfield turned out to be an inspired choice as ambassador to Japan.

On the other hand, some career Foreign Service officers turn out to be inappropriate choices for particular assignments. John Negroponte, most recently U.S. ambassador to Honduras, has become a controversial choice as our new ambassador to Mexico because of his previous involvement with the Contra guerrillas fighting the government of Nicaragua. His predecessor in Mexico City, John Gavin, an old Hollywood friend of President Reagan's, won generally high marks for his diplomatic performance.

However, an overabundance of politically based ambassadorial appointments can cause problems. First, an influx of political appointees can harm the morale of career Foreign Service officers better qualified for diplomatic duty. The percentage of political appointments rose from about 25 percent to 40 percent during the Reagan years, with a concomitant decline in ambassadorships awarded on merit. That percentage may go even higher with President Bush's new appointments.

Of course the real risk is that some political appointees can harm American interests because they lack the backgrounds and abilities needed to articulate and implement U.S. policy. Our new ambassador to Italy, another political ally of the new president, does not speak fluent Italian. Zappala, whose Spanish is similarly rudimentary, does not claim to be particularly familiar with the recent history of Spain's ambivalent political and military relationship with the United States and the rest of Western Europe.

In the past, some new ambassadors' lack of preparation for the jobs has been offensive to host countries and has prevented our government from taking advantage of important diplomatic opportunities. Whether political appointees or career diplomats, our ambassadors should possess the same qualifications that we have come to expect of foreign diplomats serving in this country. Otherwise, we run the risk of creating touchy situations that even successful St. Petersburg developers aren't capable of getting us out of.

Mr. SARBANES. Mr. President, I hope we have not yet reached the point in this country where we are prepared simply to accept very large political contributions as a basis upon which to make nominations for ambassadors.

It is quite true we have had people who have given large contributions in the past who have been approved; indeed some this year and some that I support. But there is a vast difference between someone whose record shows significant dimensions over and above their political involvement and someone whose résumé, or more accurately put lack thereof, raises the question why is this person being nominated as an ambassador only to find the answer in an appendix listing the political contributions.

Not only has the quality of noncareer appointments declined under the current administration, but the number of noncareer appointments has increased dramatically.

I have gone back and checked the percentages of other Presidents in terms of nominees submitted to the Senate at this point in their respective administrations—in other words, in the first session subsequent to an election. In no instance did the career percentage drop below 61 percent. With Kennedy, Johnson, Nixon, Carter, and Reagan the percentage of career nominees never dropped below 61 percent. In the case of President Bush of the 58 nominations submitted as country ambassadors, 22 are career and 36 are political. That makes 38 percent career and 62 percent political at this

point in time—a reversal of the record of all administrations immediately preceeding this one.

Mr. President, I ask unanimous consent to print in the RECORD a table which contains the percentage of political appointees made by President Bush as compared to previous Presidents beginning with President Kennedy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Kennedy (first nine months of 1961)—64 Nominations total: 39 Career (61%); 25 Political (39%).

Johnson (first nine months of 1965)—39 Nominations total: 28 Career (72%); 11 Political (28%).

Nixon (first nine months of 1969)—70 Nominations total: 44 Career (63%); 26 Political (37%).

Nixon II (first nine months of 1973)—36 Nominations total: 23 Career (64%); 13 Political (36%).

Carter (first nine months of 1977)—59 Nominations total: 36 Career (61%); 23 Political (39%).

Reagan (first nine months of 1981)—57 Nominations total: 35 Career (61%); 22 Political (39%).

Reagan II (first nine months of 1985)—37 Nominations total: 26 Career (70%); 11 Political (30%).

Bush (first nine months of 1989)—58 Nominations total: 22 Career (38%); 36 Political (62%).

Covers bilateral appointments (country ambassadors) referred to Senate Foreign Relations Committee, January 20—September 30. Source: Senate Foreign Relations Committee Legislative Calendars; Principal Officers of U.S. Foreign Missions; Presidential Documents.

Mr. SARBANES. Mr. President, I would also ask unanimous consent to print in the RECORD an editorial from the New York Times of July 3, 1989, entitled "Trivializing Ambassadors" which expresses clearly the perils of politicizing the ambassadorial nominations process.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 3, 1989]

TRIVIALIZING AMBASSADORS

Presidents and Congress have a habit of rewarding fat cats and cronies with foreign embassies, of treating many ambassadorial appointments as if they don't much matter in representing American interests and values. But they do matter, sometimes critically.

President Bush has not improved on the tradition, to judge by his nominations to Spain, Australia and New Zealand. The only distinction visible in his proposed Ambassador to Madrid, Joseph Zappala, a Florida developer, is a distinctively large contribution to the Republican Party, reportedly $126,000. Ditto for another Florida businessman, Melvin Sembler ($127,000), nominated to Canberra. And the choice for Wellington is Della Newman, a Seattle broker who managed Mr. Bush's state campaign.

Dispatching a lightweight or inexperienced envoy sends a message of unconcern verging on contempt. That's why a move by Senator Paul Sarbanes deserves support. The Maryland Democrat has forced the Senate Foreign Relations Committee to put off considering this trio until mid-July, giving the Senate more time to weigh the nominee's qualifications—and for all concerned to think harder about the importance of ambassadors.

No one argues that the country would be better served if all ambassadors were professional diplomats. That would have meant losing such star noncareer performers as Mike Mansfield, Averell Harriman, David Bruce and Edwin Reischauer, to name a few. Nor should campaign contributors be automatically excluded. They can do a good job, depending on their political instincts, stature, and experience. Moreover, foreign service officers can make feeble ambassadors, given to inertia, caution and fixation with form.

Presidents need considerable latitude in selecting what are in part personal representatives. The Constitution spells out their right to do so, subject to senatorial consent. It clearly stretches the legislative role to withhold or delay confirmation if a senator objects to a nominee on ideological grounds—an abuse repeatedly and indefensibly indulged by Senator Jesse Helms.

Yet advice and consent does mean something: the Senate has an obligation to hold Presidential nominees to rudimentary standards of competence. Senator Sarbanes has reason to be troubled when Mr. Sembler, the nominee for Australia, supplies this written answer to a question about his qualifications: "I have been known as a coalition-builder, able to organize my peers to action in support of worthy civic, charitable and political causes."

Nearly identical language was used by whoever answered the same written question for Mr. Zappala, the nominee for Spain, treating both the Senate and an important capital with the same manipulative cynicism.

Those old European capitals, with large embassy staffs and calm relations, have long offered safe places to reward fat cats. That's much less true today. Changes now buffets Western and Eastern Europe. Consider Italy, where only a year ago and at some political cost, a centrist coalition government agreed to accept U.S. airbases soon to be closed by a Socialist government in Spain. Yet Mr. Bush's choice for Rome is Peter Secchia, manager of his Michigan campaign, whose innocence in diplomacy seems complete.

Does it repay Italy's fidelity, or soothe Spain's nationalism, for the United States to send them envoys conspicuously unequipped by experience or knowledge? It would be wise for the President to reconsider such nominees, and if not, permissible, indeed salutary, for the Senate to reject them.

Mr. SARBANES. Mr. President, what message does such politicizing of ambassadorial nominations give the career Foreign Service? We have young men and women across the country who take tests to enter the career service. They are sent to language school in order to learn languages. They go through an intense training period to be able to handle the complexities of the job. They have a variety of experiences out in the field and at home.

Under modern circumstances they subject themselves to great risk. More ambassadors since the Korean war have lost their lives than admirals and generals. Fortunately, the number is not large. Nevertheless, I think it is important to keep that in mind. Foreign Service personnel take extraordinary risks to serve their country.

The fact of the matter is that the only reason we can even contemplate sending inexperienced political ambassadors abroad without expecting catstrophe is that we can count on career people in the Embassy to shepherd them through their ambassadorship. If we start sending a message to the career people that they are never going to become ambassadors, that it does not really matter how well they do their jobs and serve their country, it is going to be harder to attract and hold good career service people. The quality of the career service will diminish, and the whole country will have to pay a very high price for it.

Sending an ambassador who possesses no obvious qualifications for a post conveys a very unfortunate message to the country involved. It says, in effect, that our relationship is not important enough to require an able representative of our country. In many respects it says we value the country's climate more that its respect and friendship. And to the world at large it says the United States is not serious about diplomacy, that America places a higher premium on political rewards than on furthering its interests abroad.

No other major industrial country appoints its ambassadors in this way. Countries which send ambassadors to the United States select them very carefully to make sure that they are people of quality, ability, and experience. The United States should do no less.

It is not difficult to understand the attractions which these two posts, Australia and New Zealand, hold out to the novice ambassador. They are anything but the "hardship posts" to which career Foreign Service officers can expect to devote much of their professional lives. Australia and New Zealand are stable and vigorous political democracies where civil strife is virtually unknown. They are English-speaking, and therefore impose no burden on the English-speaking nominee to master any language other than his or her own. Because the standard of living is high, they raise no specter of austerity and deprivation. They are nations of wonderful people and of breath-taking beauty.

At the same time, however, Australia and New Zealand play critical roles in the Pacific region, where economic challenges arise on an almost daily basis and security interests must constantly be reassessed. We cannot afford to treat them as some kind of playground with exotic scenery. The United States has important regional

and global interests which require close and cordial bilateral relations with each nation, and harmonious working relations within a range of multilateral agencies and endeavors.

Australia, for example, has long been a loyal ally of the United States on defense issues and a cornerstone of the tripartite ANZUS alliance. Close United States-Australian relations are more important than ever today as Australia embarks on an extensive revitalization of its military forces, providing an important supplement to United States forces and assuming greater responsibility for shared security interests in the Pacific. Australia has assumed a new and vigorous leadership role in foreign policy issues, and next month will be the host in Canberra to a meeting of Secretaries of State, including of course, Secretary Baker, to discuss pan-Pacific cooperation and the formation of a new Pacific community organization.

Australia plays a central role in the "Australia Group" of industrialized nations working together to address the urgent problem of chemical weapons development and production; and Australia has been a leading force within the influential Commonwealth Foreign Ministers Committee on Southern Africa in the effort to bring apartheid to an end in South Africa and fundamental change to Southern Africa.

Like Australia, New Zealand has long had close ties to the United States through bilateral relations and membership in ANZUS. New Zealand and the United States have pursued very similar policies in the South Pacific: given its unique relationship with the other islands of the region, New Zealand makes a unique contribution to promoting democratic institutions and economic development. New Zealand Armed Forces have participated bravely in U.N. peacekeeping efforts, and that nation is today deeply engaged in the effort to address urgent international environmental issues.

There is, however, a new and complex dimension to United States relations with New Zealand. Divergent perspectives on nuclear policy issues have created very significant strains in the bilateral relationship; and while those tensions have been defused somewhat, the longer-term policy questions are far from resolved. A new Prime Minister took office only 2 months ago, and this remains a sensitive period in United States-New Zealand relations.

We are living in a time when disputes are increasingly being resolved by diplomats rather than generals, and we rely increasingly on our Ambassadors not only to resolve problems but to prevent them from arising in the first place. Our national interest is not well served by filling ambassadorial posts with persons of little or no relevant background who are not prepared for the magnitude of the responsibilities being placed upon them.

Mr. President, in considering these nominations one must keep foremost in his thinking that the national interest is at stake here, not a political interest, not a party interest, not a reward for political performance, not a personal interest, not a reward for friendship. I emphasize again that at the heart of the matter is the national interest. Campaign contributions and fund-raising activities in the absence of relevant background and experience do not constitute qualifications to serve this Nation as Ambassador. These appointments must be taken seriously. They are not simply political throwaways. We need to send envoys who can effectively represent the United States and enhance and advance our interests. I therefore oppose the nomination of Melvin Sembler to be Ambassador to Australia and of Della Newman to be Ambassador to New Zealand.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations, en bloc:

Calendar 240. Melvin F. Sembler, to be Ambassador Extraordinary and Plenipotentiary of the United States to Australia and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Nauri;

Calendar 241. Della M. Newman, to be Ambassador Extraordinary and Plenipotentiary of the United States to New Zealand and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to Western Samoa;

Calendar 331. Richard W. Boehm, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Sultanate of Oman;

Calendar 332. Warren A. Lavorel, for the rank of Ambassador during his tenure of service as the U.S. Coordinator for Multilateral Trade Negotiations;

Calendar 334. Johnny Young, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Sierra Leone;

Calendar 335. Lannon Walker, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Federal Republic of Nigeria;

Calendar 336. Mark G. Hambley, to be Ambassador Extraordinary and Plenipotentiary of the United States to the State of Qatar;

Calendar 337. James R. Cheek, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Sudan;

Calendar 404. Michael Ussery, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Morocco;

Calendar 406. Evelyn I.H. Teegen, to be Ambassador Extraordinary and Plenipotentiary of the United States to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Kiribati;

Calendar 407. Glen A. Holden, to be Ambassador Extraordinary and Plenipotentiary of the United States to Jamaica;

Calendar 408. Sally J. Novetzke, to be Ambassador of the United States to the Republic of Malta;

Calendar 409. Nicolas M. Salgo, for the rank of Ambassador in his capacity as the Special Negotiator of Property Issues;

Calendar 410. Charles W. Hostler, to be Ambassador Extraordinary and Plenipotentiary of the United States to the State of Bahrain;

Calendar 411. Gordon K. Durnil, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada;

Calendar 412. Paul M. Cleveland, to be Ambassador Extraordinary and Plenipotentiary of the United States to Malaysia;

Calendar 413. Christopher H. Phillips, to be Ambassador Extraordinary and Plenipotentiary of the United States to Brunei Darussalam;

Calendar 414. William L. Jacobsen, Jr., to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Guinea-Bissau;

Calendar 415. Penne P. Korth, to be Ambassador Extraordinary and Plenipotentiary of the United States to Mauritius;

Calendar 416. Elizabeth M. Tamposi, to be Assistant Secretary of State for Consular Affairs;

Calendar 417. Kenneth L. Brown, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Cote d'Ivoire;

Calendar 418. Charles E. Cobb, Jr., to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Iceland;

Calendar 419. John G. Weinmann, to be Ambassador Extradordinary and Plenipotentiary of the United States to the Republic of Finland;

Calendar 420. Marion V. Creekmore, Jr., to be Ambassador Extraordinary and Plenipotentiary of the United States to the Democratic Socialist Republic of Sri Lanka, and to serve Concurrently and without additional compensation as Ambassador Extraordi-

nary and Plenipotentiary of the United States to the Republic of Maldives;

Calendar 421. Henry A. Holmes, to be Ambassador at Large for Burdensharing;

Calendar 422. Alan Green, Jr., to be Ambassador Extraordinary and Plenipotentiary of the United States to the Socialist Republic of Romania;

Calendar 423. Alvin P. Adams, Jr., to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Haiti;

Calendar 425. Robert R. Randlett, to be an Assistant Administrator of the Agency for International Development;

Calendar 426. James D. Berg, to be Executive Vice President of the Overseas Private Investment Corporation;

Calendar 427. Stephen R. Hanmer, Jr., to be Deputy Director of the United States Arms Control and Disarmament Agency;

Calendar 428. Barbara Zartman, to be Deputy Director of the Peace Corps; and

Calendar 429. William P. Glade, to be an Associate Director of the United States Information Agency.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the request of the majority leader is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Melvin F. Sembler, of Florida, to be Ambassador Extraordinary and Plenipoteniary of the United States of America to Australia and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipoteniary of the United States of America to the Republic of Nauru.

Della M. Newman, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipoteniary of the United States of America to Western Samoa.

Richard Wood Boehm, of the District of Columbia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipoteniary of the United States of America to the Sultanate of Oman, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

Warren A. Lavorel, of California, a career member of the Senior Foreign Service, class of minister-counselor, for the rank of Ambassador during his tenure of service as the United States Coordinator for Multilateral Trade Negotiations.

Johnny Young, of Pennsylvania, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

Lannon Walker, of Maryland, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Mark Gregory Hambley, of Idaho, a Foreign Service Officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

James Richard Cheek, of Arkansas, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Michael Ussery, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco, to which position he was appointed during the recess of the Senate from October 22, 1988, to January 3, 1989.

Evelyn Irene Hoopes Teegen, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

Glen A. Holden, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Sally J. Novetzke, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Nicolas Miklos Salgo, of Florida, for the rank of Ambassador in his capacity as Special Negotiator for Property Issues.

Charles Warren Hostler, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Gordon K. Durnil, of Indiana, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

DEPARTMENT OF STATE

Paul Matthews Cleveland, of Virginia, a career member of the Senior Foreign Service, Class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

Christopher H. Phillips, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

William Ludwig Jacobsen, Jr., of Washington, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Penne Percy Korth, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

Elizabeth M. Tamposi, of New Hampshire, to be Assistant Secretary of State for Consular Affairs.

Kenneth L. Brown, of California, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Charles E. Cobb, Jr., of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States or America to the Republic of Iceland.

John Giffen Weinmann, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Marion V. Creekmore, Jr., of Virginia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Henry Allen Homes, of the District of Columbia, a career member of the Senior Foreign Service, class of career minister, to be Ambassador at Large for Burdensharing.

Alan Green, Jr., of Oregon, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Romania.

Alvin P. Adams, Jr., of Virginia, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Robert R. Randlett, of New Jersey, to be an Assistant Administrator of the Agency for International Development.

James David Berg, of Kentucky, to be Executive Vice President of the Overseas Private Investment Corporation.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Stephen Read Hanmer, Jr., of Virginia, to be Deputy Director of the U.S. Arms Control and Disarmament Agency.

PEACE CORPS

Barbara Zartman, of New York, to be Deputy Director of the Peace Corps.

U.S. INFORMATION AGENCY

William P. Glade, of Texas, to be an Associate Director of the United States Information Agency.

STATEMENT OF THE NOMINATION OF DELLA NEWMAN TO BE UNITED STATES AMBASSADOR TO NEW ZEALAND AND WESTERN SAMOA

Mr. GORTON. Mr. President, I strongly endorse the confirmation of Della Newman to be United States Ambassador to New Zealand and Western Samoa.

I am delighted for Ms. Newman and this country. She has been a friend and close associate of mine for over 20 years, so I speak from personal experience when I say that Della has the qualities, talent, and dedication needed to be a fine representative of the United States. I know her to be an intelligent, thoughtful, and innovative leader. She is honest, considerate of

other people and their views, and accurate in her judgments. Della Newman will speak with great clarity and force for the United States.

She is a successful businesswoman, a longtime leader in civic affairs, and an outstanding person. She has a distinguished record of accomplishment and service; she has been active in numerous charity, community, civic, political, and business organizations. A longtime State resident, Ms. Newman is regarded as one of Washington's finest citizens.

Della Newman is a person of strong character, experience, and knowledge. President Bush recognized her enormous talent when he chose her to lead his Washington State campaign. She has been a longtime associate of President Bush and knows his priorities well. As a result, she will be able clearly to articulate his policies to the Governments of New Zealand and Western Samoa. Indeed, these governments, knowing her relationship to the President, will have more confidence in her ability to communicate the concerns of New Zealand and Western Samoa to the United States, and trust that her response is authentic.

Mr. President, clearly, this is a proud moment for Della, her family, and all the residents of the State of Washington. The United States will be extremely fortunate to have Della Newman as Ambassador to New Zealand and Western Samoa.

Mr. DURENBERGER. Mr. President, it is a great honor for me to be here this afternoon to speak on behalf of the nomination of Evie Teegen. I have known Evie since the late 1960's and can think of no other person who could better represent the United States to be Ambassador to Fiji than this highly motivated, intelligent, and extremely compassionate woman.

Evie Teegen has consistently distinguished herself over the years as a hard worker and a professional in every political and volunteer position she has ever held. She is a quick and eager learner and easily adapts to situations which many of us would find uncomfortable or difficult. She is a natural leader, exhibited by an outstanding and lengthy list of past and present positions of leadership: executive director of the Minnesota Seat Belt Coalition, vice president of Teegen & Associates, Republic National Committeewoman from Minnesota, Minnesota State vice chairwoman, deacon and elder of Christ Presbyterian Church where she has served as chairwoman of committees on World Hunger and Youth planning. The list of committees and organizations that she has chaired or in which she has been actively involved is endless. The most admirable aspect of her work is that much of it has been voluntary, and she has been involved only as a result of her selflessness and her desire to help others.

Evie Teegen is also a strong supporter of the President and a patriotic citizen of the United States. Her deep commitment to the Republican Party and to George Bush are symbolized by her active participation on numerous campaign committees, particularly the George Bush for President, Minnesota Steering Committee, and her long-term involvement as a Republican national commiteewoman. She has also spent many long hours working to elect her two Minnesota Senators, both RUDY and myself, of which we are both so appreciative.

Not only is Evie's performance in the professional world superior in every way, but most importantly, Evie brings a certain charm and personal warmth to every thing she does. At home she is surrounded by a loving and supportive family who have been fortunate enough to directly benefit from her wonderful qualities. She has been married to Richard Teegen, a successful businessman and entrepreneur, for over 30 years. This is a man with whom she has shared every hardship and every joy, and who is as warm and gracious and outgoing as she. How lucky we are, as citizens of the United States, to be represented by such a marvelous couple who together will bring so much to this ambassadorship.

Overall, Evie Teegen is exceptionally qualified for this position. She instills confidence and trust in those around her, and has the natural ability to make others feel comfortable in her presence. These are very admirable qualities that will be so valuable as Ambassador. Not only must she, as the most important representative of our country overseas, be quick-witted and intelligent, but she must have an exceptional ability to deal well with others in every strange situation that might arise. This job carries with it many new and difficult responsibilities that will demand immediate attention and prompt answers. Knowing Evie as well as I do, I have no doubt that she will be an enormous success as Ambassador to Fiji. I respectfully urge my colleagues to support her nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE APPOINTMENT OF A SPECIAL SENATE DELEGATION TO HOST A DELEGATION OF MEMBERS OF THE SUPREME SOVIET OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 194) authorizing the appointment of a special Senate delegation to host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, this resolution is to authorize the appointment of a special Senate delegation to host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics.

This special Senate delegation will have the privilege of hosting this Soviet delegation for the first parliamentary exchange since the Supreme Soviet has been reconstituted and democratized under Chairman Mikhail Gorbachev. The official Supreme Soviet delegation which will be visiting the United States, at our invitation, will be led by Mr. Yevgeniy M. Primakov, Chairman, Council of the Union of the Supreme Soviet of the U.S.S.R., and since September 20 a candidate member of the Politburo.

We look forward to this opportunity to meet with the Soviet delegation and conduct discussions of mutual interest and vital global concern. This resolution will authorize the activities of the special Senate delegation as it conducts the necessary events for the Soviet delegation's forthcoming visit to the United States.

I urge the Senate's immediate agreement to this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 194) was agreed to.

The resolution reads as follows:

S. RES. 194

Resolved, That (a) the President pro tempore of the Senate, upon consultation with the majority leader and the minority leader, is authorized to appoint a special delegation of Members of the Senate (hereinafter in this resolution referred to as the "delegation") that shall host a delegation of members of the Supreme Soviet of the Union of Soviet Socialist Republics. The majority leader and minority leader of the Senate shall serve as co-chairmen of such special delegation.

(b) The Senate delegation shall be composed of 14 Members of the Senate, including the majority leader and the minority leader with the remaining 12 members appointed as follows:

(1) 6 Members of the Senate from the majority party to be appointed by the President pro tempore of the Senate, upon the recommendation of the majority leader.

(2) 6 Members of the Senate from the minority party, to be appointed by the President pro tempore of the Senate, upon the recommendation of the minority leader.

(c) Any vacancy in the membership of the delegation shall be filed in the same manner as the original appointment.

SEC. 2. (a) The co-chairmen of the delegation may designate Senate employees who shall provide professional staff support and expertise for the delegation. All administrative support and services for the delegation shall be provided by the Secretary of the Senate.

(b) The Secretary of the Senate is authorized, from funds made available under subsection (c), to incur such expenses as may be necessary or appropriate to carry out his duties and functions for the delegation. Such expenses shall include such special expenses as the co-chairmen may deem appropriate, including—

(1) expenses incurred on behalf of such delegation;

(2) official representation expenses; and

(3) reimbursements to any officer or agency of the Government.

(c) The expenses of the delegation as authorized in subsection (b), including the expenses of staff members assisting such delegation, shall be paid from the contingent fund of the Senate, out of the account of miscellaneous items, upon vouchers, approved by the Secretary of the Senate, after consultation with the co-chairmen of the delegation.

(d) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out the provisions of this resolution.

SEC. 3. This resolution shall terminate upon the adjournment sine die of the first session of the One Hundred First Congress.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR WEDNESDAY, OCTOBER 11, 1989

RECESS UNTIL 12 NOON; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Wednesday, October 11, 1989, and that following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY, OCTOBER 11, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order until 12 noon, Wednesday, October 11.

There being no objection, the Senate, at 6 p.m., recessed until Wednesday, October 11, 1989, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 7, 1989:

DEPARTMENT OF STATE

MELVIN F. SEMBLER, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU.

DELLA M. NEWMAN, OF WASHINGTON, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO WESTERN SAMOA.

RICHARD WOOD BOEHM, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

WARREN A. LAVOREL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE UNITED STATES COORDINATOR FOR MULTILATERAL TRADE NEGOTIATIONS.

JOHNNY YOUNG, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

LANNON WALKER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF NIGERIA.

MARK GREGORY HAMBLEY, OF IDAHO, A FOREIGN SERVICE OFFICER OF CLASS ONE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

JAMES RICHARD CHEEK, OF ARKANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SUDAN.

MICHAEL USSERY, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

EVELYN IRENE HOOPES TEEGEN, OF MINNESOTA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KIRIBATI.

GLEN A. HOLDEN, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

SALLY J. NOVETZKE, OF IOWA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

NICOLAS MIKLOS SALGO, OF FLORIDA, FOR THE RANK OF AMBASSADOR IN HIS CAPACITY AS THE SPECIAL NEGOTIATOR FOR PROPERTY ISSUES.

CHARLES WARREN HOSTLER, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF BAHRAIN.

PAUL MATTHEWS CLEVELAND, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

CHRISTOPHER H. PHILLIPS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

WILLIAM LUDWIG JACOBSEN, JR., OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

PENNE PERCY KORTH, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MAURITIUS.

ELIZABETH M. TAMPOSI, OF NEW HEMPSHIRE, TO BE ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS.

KENNETH L. BROWN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVORIE.

CHARLES E. COBB, JR., OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

JOHN GIFFEN WEINMANN, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

MARION V. CREEKMORE, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALDIVES.

HENRY ALLEN HOLMES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR AT LARGE FOR BURDENSHARING.

ALAN GREEN, JR., OF OREGON, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF ROMANIA.

ALVIN P. ADAMS, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

GORDON K. DURNIL, OF INDIANA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

ROBERT R. RANDLETT, OF NEW JERSEY, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

JAMES DAVID BERG, OF KENTUCKY, TO BE EXECUTIVE VICE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

STEPHEN READ HANMER, JR., OF VIRGINIA, TO BE DEPUTY DIRECTOR OF THE UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

PEACE CORPS

BARBARA ZARTMAN, OF NEW YORK, TO BE DEPUTY DIRECTOR OF THE PEACE CORPS.

UNITED STATES INFORMATION AGENCY

WILLIAM P. GLADE, OF TEXAS, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, October 10, 1989*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GRAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 10, 1989.

I hereby designate the Honorable William H. Gray III to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We admit, O God, that we find excuses for not listening to Your good word and we are so involved with the many tasks of life that we do not heed Your still, small voice. Open our hearts, O gracious God, and speak to our very souls, that Your word and Your voice will show us the paths of peace. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. MAZZOLI] will lead us in the Pledge of Allegiance.

Mr. MAZZOLI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendments, bills and joint resolutions of the House of the following titles:

H.R. 1300. An act to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990;

H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month";

H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day"; and

H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 901. An act to amend title 38, United States Code, to improve programs for the recruitment and retention of health-care personnel of the Department of Veterans Affairs, to extend certain expiring programs of that Department, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2788) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes."

The message also announced, that the Senate agrees to the amendments of the House to the amendment of the Senate numbered 13, 15, 18, 23, 26, 28, 34, 39, 43, 50, 55, 61, 62, 63, 70, 71, 72, 76, 81, 86, 87, 88, 93, 94, 96, 102, 104, 105, 107, 110, 111, 114, 121, 124, 133, 135, 139, 140, 143, 150, 152, 153, 164, 165, 166, 167, and 168, to the above-entitled bill.

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1443. An act to designate Bowling Green, KY, as an urbanized area.

S. 1735. An act to provide authorization, for Anti-Drug Abuse Appropriations, and for other purposes;

S.J. Res. 158. Joint resolution designating October 22 through 28, 1989, as "World Population Awareness Week";

S.J. Res. 204. Joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day";

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America"; and

S. Con. Res. 75. Concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize.

The message also announced that pursuant to sections 1928a-1928d, as amended, the Chair of behalf of the Vice President, appoints Mr. HATFIELD, Mr. LOTT, and Mr. MACK, as members of the Senate delegation to the North Atlantic Assembly meeting, during the 1st session of the 101st Congress, to be held in Rome, Italy, October 6-10, 1989.

The message also announced that pursuant to Public Law 100-204, the Chair on behalf of the President pro tempore, appoints Thomas F. Eagleton of Missouri, from private life, to the U.S. Commission on Improving the Effectiveness of the United Nations.

NATIONAL SPINA BIFIDA MONTH

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today I rise again to request the support of my colleagues, as they have given me over the years, for House Joint Resolution 286, which designates October as "National Spina Bifida Month." Spina bifida, as many of us know, is a condition resulting from the failure of the spine to close during pregnancy. It is a fairly common birth defect, affecting about 1 baby out of every 1,000 births.

Many of the March of Dimes and Easter Seal children have spina bifida. Unfortunately, there are few treatment facilities around the country. In years past I have introduced this legislation and all of you have been very supportive of it. I would ask for your support again this year.

Perhaps in sponsoring resolutions like this, we can call attention to the existence of this birth defect and also provide attention and hopefully legislation with money to provide for cures. It is important, because this is, of course, October, that we move quickly to pass House Joint Resolution 286. I ask for the support of my colleagues in this measure.

RETAIN SCREENING MAMMOGRAPHY BENEFITS IN MEDICARE

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I would like to commend the action of the other body to retain screening mammography benefits in Medicare.

Although these benefits are not related to catastrophic health, they were attached to the Catastrophic Care Act, which the House repealed last week.

Screening mammograms are an essential procedure to detect breast

cancer at an early stage. Ninety percent of women whose breast cancer is detected early survive more than 5 years after their cancer is treated. Eighty-five percent of the women whose cancer is not caught until later stages die within 2 years.

Mr. Speaker, the death toll from breast cancer is now over 43,000 American women each year, and breast cancer incidence is at epidemic levels, threatening 1 woman in 10.

I urge my colleagues to reinstate screening mammography coverage and to adopt the other body's approach to this lifesaving benefit in conference between the Senate and the House.

Every day, the lives of hundreds of wives and mothers, sisters and daughters are needlessly lost to this tragic disease. This is something we can put an end to by early detection and treatment, and let us not lose this opportunity to reinstate mammography screening coverage in Medicare.

INCREASE IN MINIMUM WAGE GETS WIDE SUPPORT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, Franklin Roosevelt's Democratic administration introduced the first minimum wage legislation and established the principle that everyone working for a living should be able to earn a living.

Americans still believe in that principle and 84 percent of the American people support an increase in the minimum wage.

The minimum wage has become a minimal wage over the last 10 years. Inflation has taken away a third of its buying power since President Carter signed the last increase in 1977. During that time, more and more heads of families, many of them single women with children, have had to accept jobs at $3.35 an hour.

It is an American ideal that anyone can rise from poverty by honest, diligent effort. If the National Government continues to sit idly by as the value of the minimum wage falls, honesty and diligence will offer only the prospect of a lifetime of grease spattered T-shirts. The profiles of the drug dealer and thug will loom ever larger in the minds of our most ambitious children.

It is time to increase the minimum wage.

TIME TO TAKE A LOOK AT FOREIGN OWNERSHIP IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, foreign countries are buying America at a record pace. They now own Columbia Pictures, CBS Records, Firestone Tire, and American Express. They even own the Pillsbury Doughboy. That is right.

Just this year foreigners have bought up 177 American companies for $41 billion, but Japan is not only interested in buying our companies. They are also now coveting our jobs. Japan has structural engineers, iron workers, laser welders, pipefitters, plumbers, computer mechanics, but we need not worry. We are expanding our job market also.

The U.S. Labor Department has listed one such new job. It is called panty hose crotch closer.

Let me say that again. Officially listed with the Labor Department now is a "panty hose crotch closer." Evidently the Japanese do not have all our jobs, but I am not so sure they want all our jobs.

Mr. Speaker, I think we had better take a look at this foreign ownership in America.

TEACHER SALARIES FOR FEDERAL EMPLOYEES NEED IMPROVEMENT

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, the recent education summit in Charlottesville has focused renewed public attention on serious problems within our educational system. Most everyone agrees that we must find ways to attract and retain qualified professionals in the teaching force.

The President himself has proposed improved certification and higher pay for teachers, and I agree with him. However, I have discovered a glaring discrepancy in the Federal Government's own salary schedule which indicates a failure to embrace these ideals. In many instances, U.S. Government teachers receive far less compensation than do their counterparts in surrounding areas.

A foreign language specialist in the State Department, for example, is compensated at grade 9 of the civil service salary schedule. This represents an average annual salary of $26,772. In the surrounding counties, public school teachers with similar qualifications receive significantly more—as much as $46,459 in Montgomery County, MD and $45,305 in the Arlington, VA school district.

Civil servants are an easy target for those who claim the Federal work force is too large and costly. However, I believe that those who have chosen to become educators should not be penalized because their salaries are drawn from the U.S. Treasury rather than from local funds. U.S. Government teachers are as qualified and as dedicated as those in local districts. I hope the President will follow his own advice and make the U.S. Government an example for the rest of the Nation by improving teacher salaries for Federal employees.

□ 1210

THE REVLON PRESIDENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, 6 years ago I coined the phrase, "the Teflon president," to describe President Reagan's seemingly impervious nature.

In this week's Legal Times, Peter Edelman dubbed President George Herbert Walker Bush "the Revlon president" because although he acknowledges problems, he proposes only cosmetic solutions.

Edelman scored a bullseye. Not a week goes by that President Bush does not make some high-sounding or grandiose pronouncement—the education summit, the war on drugs, and the Mars launch, to name just three.

There is never any plan nor any funding, just the announcement. The Bush presidency is all dressed up and nowhere to go.

THE PUBLIC SUPPORTS INCREASE OF THE MINIMUM WAGE

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, if I were to go home tonight and tell my wife, "Dear, I found a grocery store where the prices have not been raised for 9 years," she would ask me to be mentally committed, or if I came home and said, "Dear, I have not gotten a salary increase in my job for 9 years," she would say, "Dear, you better look for another job," or if I came home and said, "My stockbroker put me in stocks 9 years ago that have not increased 1 penny," she would say, "You had better fire your broker."

That is why, ladies and gentlemen, the only fair thing to do is to raise the minimum wage. The public of our Nation agrees with that.

In a Washington Post-ABC poll, 84 percent of Americans support an increase in the minimum wage. My own newspaper in Omaha, the Omaha World Herald, found that 56 percent of my constituents support an increase in the minimum wage, and an additional 10 percent say it should be even higher than the Democrats' proposal last spring.

Mr. Speaker, the fair thing to do, the right thing to do is to increase the minimum wage. I ask all of my colleagues to vote that way this week.

ADMINISTRATION MUST PROVIDE MONDAY-MORNING QUARTERBACKING

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, last Tuesday as the Panama coup crumbled before CNN's eyes, I was initially sympathetic to the President's response that the United States was not involved, he maintained, because it would be bad policy to intervene in Latin American affairs. There was logic to that.

It now turns that the United States was involved up to our adenoids using U.S. troops to block two major highways. This is the worst of all worlds, to intervene and not be successful. Being branded the heavy-handed Yankee from the North is bad enough, but being the gringo who cannot even intervene competently is worse.

During the last week, some defending the administration's actions in the failed coup attempt in Panama charged critics with Monday-morning quarterbacking. They missed the point.

Tuesday's coup desperately needed some Monday-morning quarterbacking. No quarterback emerged.

The only contact was 3 weeks earlier apparently between coup leaders and the CIA. News reports indicate that when administration officials met Monday, the CIA was not included in the meeting, not in the huddle. What we had was no game plan and no contingency plan, and what we do have is Noriega.

Mr. Speaker, before the next Tuesday coup, the administration must provide some Monday-morning quarterbacking.

CRITICISM OF THE PRESIDENT INCONSISTENT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, it is amazing to me to hear individuals take the podium here in the House of Representatives and criticize the President of the United States in this day and age for not doing enough to seize a dictator who was self-installed and self-appointed like in Panama. These are the same critics who criticized President Reagan for attempting to do all he could through the Contra people who are citizens of Nicaragua themselves to try to seize and take out of power a self-appointed dictator, self-installed like Ortega.

Mr. Speaker, the inconsistency of the criticism of the President of the United States can only mean one thing: It does not matter what the President of the United States tries to do in foreign policy, there will always be opponents who will criticize that he did not do enough or did too much on purely political basis. It is a very difficult situation for any President to deal with situations like this.

It does not help when the criticism comes no matter what he tries to do.

OKLAHOMA DOES EXIST

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, Toto can no longer get to Kansas from Texas through Oklahoma. If he tries to do so using Rand McNally maps, he will have to find his own way or take the Rand McNally way west through New Mexico and Colorado or east through Louisiana, Arkansas, and Missouri. It is no wonder that this week it was announced that college seniors cannot answer simple geography or history questions. If any effort is made to learn States of the United States through Rand McNally, one can expect to learn that the United States has only 47 States. Oklahoma became a State over 80 years ago, but the editors at Rand McNally have still not learned simple geography. How can we expect our college seniors to know any better?

Columbus may have discovered the Americas in 1492, we in Oklahoma are still waiting for Rand McNally to acknowledge our existence.

A famous Oklahoman, Woody Guthrie, wrote a beautiful ballad that states: "This land is your land, this land is my land, from California to the New York islands." He is probably turning over in his grave to find out that his song did not include the State of Oklahoma.

The only good thing I can say about the deliberate omission is that at least the powers to be at Rand McNally did not make us part of Texas.

RAISE THE MINIMUM WAGE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, this weekend thousands of people from across the country came to Washington to deliver an urgent and simple message: That every American deserves a decent place to live.

There was another message, too: that we could go a long way toward helping people afford decent housing simply by raising the minimum wage. Right now, a full-time worker earning the minimum wage cannot keep a family of three above the poverty line.

Congress passed a minimum wage increase last June, but this administration vetoed it. This is the same administration that 2 weeks ago insisted on a capital gains tax cut. If we are going to give people with the highest incomes a break, surely we owe those with the lowest incomes one as well.

Working Americans deserve this promise: if you work full time for a living, then you can count on a living wage. That is not too much to ask. For all those who traveled so far to come here this weekend, let us assure them their voices have been heard.

INCREASING THE MINIMUM WAGE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, last week this House lowered capital gains taxes for one-half of 1 percent for the wealthiest Americans, a $25,000 net increase in annual income.

This week more than a million Americans who do the work of this country day in and day out at the lowest legal wages in the country are waiting to hear whether the President has the same concern and compassion for them. For a year the answer to that question has been no. It is neither a kinder nor gentler nation. It says to a million Americans who work in our restaurants, our hotels, and our factories that they must raise their families at poverty wages, and indeed that is of whom I speak, because those who would raise children at a legal wage today do so in poverty.

Mr. President, you answered the needs of your constituents, you answered the needs of the wealthiest Americans. Now see your way for those who work at the minimum wage. For nearly 10 years they have waited for some increase. Give them that increase today for the sake of their children, their spouses, their families. We want them to do the work of America, not to be wards of the state. Give them some decent increase in their wage.

PORTER SUPPORTERS MATCH CUBS, WIN CHAMPIONSHIP

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, each season over 300 teams gather in our Nation's Capital to vie for the Congressional Softball League Championship. Following a 20-game season, the

teams are narrowed to 64 for the year-end tournament. And after several weeks of playoffs one team emerges as the victor.

My team, the Porter Supporters hung tough all year. Six months, 10 stitches, 23 games, 1 hurricane, and 3 come-from-behind victories later, the Porter Supporters are the 1989 Robert V. Rota Congressional Softball Tournament Champions, winning the championship game 21 to 10 over Georgia Peach Pits.

Who are the Supporters? They are Coach Mike Myers, Amy Barnes, Robert "Gus" Gustafson, Bill Cadigan, Mary Boehm, Chris Sullivan, David Porter—who happens to be my son—Peter Friedman, Doug Boyd, Rob Bradner, Karen Burch, Kristie Burch, Karen Davis, Lisa Kaeser, Chris Whitney, and Jerri Lohman, and I'm proud of every one of them.

I invite all my colleagues to come to view the beautiful winner's trophy permanently on display in 1501 Longworth. Admission is free.

THE MOST POWERFUL FORCE IN THE WORLD: FREEDOM

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, freedom is busting out all over. Hundreds of thousands of East Germans are fighting to get into West Germany. They want to come in from Poland, and from Czechoslovakia, from the Soviet Union, millions from China, many who already tried expressing their right to freedom, many were killed.

Millions all over the world want what we have. Freedom is contagious. It is addictive once you get the taste of it.

John F. Kennedy said in 1961 that the most powerful force in the world in not the hydrogen bomb, it is not the guided missile, not communism or capitalism, but man's eternal desire to be free.

What we take for granted is their dream, it is their future, and we should thank God every day for what we have. We are truly blessed to live in America.

FIRE PREVENTION WEEK

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, this week we celebrate across this Nation Fire Prevention Week, a week we set aside each year to remember those who are there trying to reduce the threat of loss of property and life.

It is certainly tragic that this past weekend we saw 11 senior citizens lose their lives in a nursing home fire in Virginia because of a lack of adequate protection measures as well as inadequate training in that facility.

There will be a series of events this week to allow Members of Congress to address the issue of fire and life safety. Today we conducted the second training effort for the staff members on Capitol Hill on how to respond to emergencies. Never before in the history of this country have we done that. Tomorrow we will take out a special order for 1 hour to highlight the Nation's fire and emergency services, and on Thursday we will be introducing the Fire Service Bill of Rights, an $80 million program that will benefit those 3 million fire and emergency service people across this country using no tax money.

I invite my colleagues to join with me in this special order, and also the press conference at 10:30 on Thursday morning, and staff members and Members of this body to join us on Wednesday evening for a special reception in the Longworth cateteria.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such roll call votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not earlier than 4:30 p.m.

OFFICE OF ENVIRONMENTAL QUALITY REAUTHORIZATION

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1113) to authorize appropriations for the Office of Environmental Quality for fiscal years 1989, 1990, 1991, 1992, and 1993; to ensure consideration of the impact of major Federal actions on the global environment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF NATIONAL ENVIRONMENTAL POLICY.

(a) STATEMENT OF GENERAL ENVIRONMENTAL POLICY.—Section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) is amended—

(1) in paragraph (5) by striking "and" following the semicolon;

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) provide world leadership in ensuring a healthy and stable global environment.".

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is amended—

(1) by striking clause (iii) and inserting in lieu thereof the following:

"(iii) reasonable alternatives to the proposed action that achieve the same or similar public purposes, including alternatives that avoid the adverse impacts described in clause (ii) and alternatives that otherwise mitigate those adverse impacts,"; and

(2) by inserting "and the public" immediately before the second period.

(c) FEDERAL AGENCY ACTION REGARDING GLOBAL ENVIRONMENT.—Section 102(2)(F) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(F)) is amended to read as follows:

"(F) work vigorously to develop and implement policies, plans, and actions designed to support national and international efforts to enhance the quality of the global environment;".

(d) IMPLEMENTATION OF MITIGATION MEASURES.—Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 106. Environmental mitigation and monitoring measures and other conditions discussed in a detailed statement or other document prepared under section 102(2)(C) and selected by an agency as part of its final decision to undertake an action shall be implemented by the appropriate agency.".

SEC. 2. PRESIDENT'S STRATEGY FOR ENVIRONMENTAL PROGRESS.

Section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) is amended to read as follows:

"SEC. 201. Not later than January 31 of each year, the President shall transmit to Congress a report which—

"(1) describes the President's strategy for implementing the policy and objectives set forth in section 101 during that year;

"(2) describes areas of new or heightened environmental concern;

"(3) proposes initiatives to strengthen and improve Federal environmental programs;

"(4) sets priorities for national action to protect the environment; and

"(5) analyzes issues associated with the implementation of this Act and the effectiveness of measures specified in detailed statements of Federal agencies under section 102(2)(C) to mitigate the adverse environmental impacts of Federal actions.".

SEC. 3. REGULATORY AUTHORITY.

Section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) to promulgate regulations governing the implementation of this Act by all Federal agencies (including independent regulatory commissions) which include provisions for public review and comment on the detailed statements required by section 102(2)(C) and, as appropriate, on other documents prepared pursuant to this Act.".

SEC. 4. REVIEW FUNCTIONS OF COUNCIL.

(a) ISSUANCE OF GUIDELINES FOR AGENCY REVIEW OF CERTAIN ENVIRONMENTAL IMPACT STATEMENTS.—Not later than 6 months after the date of the enactment of this Act, the

Council on Environmental Quality (hereinafter in this Act referred to as the "Council") shall issue guidelines under which each Federal agency shall review a statistically significant sample of detailed statements prepared by the agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(a)(C)) in which measures were specified for the mitigation of any adverse impact on the environment that was predicted to occur as a result of agency action.

(b) CONTENT OF GUIDELINES.—Guidelines issued by the Council under subsection (a)—

(1) shall establish the timing and frequency of reviews to be conducted by agencies under the guidelines; and

(2) shall require that Federal agencies examine—

(A) the accuracy of predictions of adverse impact which were included in such statements, including predictions of impacts on fish and wildlife populations and habitats;

(B) the extent to which mitigation measures specified in statements under section 102(2)(C) of the National Environmental Policy Act of 1969 were implemented; and

(C) the effectiveness of those implemented mitigation measures.

(c) AGENCY REVIEWS.—Each Federal agency shall carry out reviews in accordance with guidelines issued by the Council under this section, and shall promptly submit to the Council the results of those reviews.

(d) SUMMARY OF RESULTS IN ANNUAL REPORT.—The President shall include a summary of the results of the reviews carried out by Federal agencies under this section with the annual report transmitted to the Congress under section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341).

SEC. 5. IMPACT OF AGENCY ACTION ON THE ENVIRONMENT OUTSIDE THE UNITED STATES JURISDICTION.

(a) ISSUANCE OF REGULATIONS BY COUNCIL.—Not later than 1 year after the date of the enactment of this Act, the Council shall issue regulations under which each Federal agency shall—

(1) ensure the consideration, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the significant effects of its major actions on the environment of the global commons outside the jurisdiction of any nation; and

(2) ensure the formal assessment, in a manner that furthers the objectives of the National Environmental Policy Act of 1969, of the significant effects of its major actions, including extraterritorial actions, on the environment outside the jurisdiction of the United States and its territories and possessions.

(b) CONTENTS OF REGULATIONS.—The regulations issued by the Council under paragraph (1) shall—

(1) be consistent with the national security and foreign policy of the United States; and

(2) include guidance for Federal agencies for assessing the effects (including cumulative effects) of proposed major actions, on—

(A) global climate change;

(B) depletion of the ozone layer;

(C) the loss of biological diversity;

(D) transboundary pollution; and

(E) other matters of international environmental concern.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended by adding at the end the following:

"(e) $1,000,000 for each of the fiscal years 1989 and 1990.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1113 authorizes funds for the Office of Environmental Quality for fiscal year 1990 and makes a number of clarifying amendments to the National Environmental Policy Act.

The amount of funding authorized is $1 million, only a little above the current level, and barely enough to rate an asterisk in the Federal budget.

The amendments to NEPA were developed on a bipartisan basis; they reflect the testimony and correspondence received from the administration; and they will ensure the effectiveness of NEPA during the third decade of that landmark law.

Since its creation in 1969, CEQ has been a touchstone for determining administration attitudes toward the environment. Throughout the 1970's, under Republican and Democratic administrations alike, it played an important role—coordinating government policy, streamlining NEPA procedures, upholding the integrity of the law.

But for the last 8 years, the council has been virtually moribund, deprived of resources, access, influence, and authority.

The new Chairman of CEQ, Michael Deland, is determined to change that. And his success—or lack thereof—may well determine the environmental legacy of this administration.

CEQ's job is to advise the President on the entire range of environmental issues, but its primary responsibility remains the enforcement of NEPA. That law, now in its 20th year, is without question the most important environmental statute in the world. It has been tried and tested and proven at home and it serves increasingly as a model for nations and international organizations abroad.

Like the Constitution, NEPA may need some improvement from time to time, but it's hard to quarrel with the general idea. All NEPA requires is that Federal agencies think in advance about the environmental effects of the actions they propose to take and that they consider alternatives that avoid or minimize environmental harm.

We are concerned now—as we were when NEPA was enacted—about polluted rivers, dirty air, and unplanned development. But we did not worry then that Earth might someday suffer an even greater loss—the loss of the very features that distinguish it from its interplanetary neighbors: A healthy ozone layer; a proper balance between oxygen and carbon dioxide in the atmosphere; the ability to sustain human life.

That is why the time has come to apply the principles of NEPA not just to our national environment, but to the global environment, as well. H.R. 1113 takes the first steps in that direction.

The bill makes it absolutely, 100 percent crystal clear, that NEPA applies—as I believe it always has applied—to major Federal actions having a significant environmental impact on the atmosphere, the oceans, Antarctica, and other areas that make up what is commonly referred to as the global commons.

Second, it requires CEQ, consistent with the national security and foreign policy of our country, to issue regulations requiring Federal agencies to consider the impact of their actions, including extraterritorial actions, on global climate change, depletion of the ozone layer, the loss of biological diversity, transboundary pollution and other matters of international environmental concern.

That sounds like common sense. But the fact is that Federal agencies currently make long-range decisions about agriculture, forestry, water resources, coastal zone resources, and energy policy with little or no regard for the cumulative impacts of those actions on the global climate.

We seek, as President Bush said recently at the United Nations, to take the lead on international environmental issues. But today, it is we who are the world's largest generator of the emissions that cause global warming. We are the largest user of the CFC's that deplete the ozone layer. We are by far the world's largest consumer of fossil fuels. And yet, a recent survey by CEQ indicated that not one Federal action has been systematically reviewed for its impact on the international environment—as required by NEPA—in this decade.

Leadership must begin at home. H.R. 1113 offers Members the first opportunity this year to go on record in support of action to protect our planet from the poisons that endanger it, and to back up American rhetoric with American action on global environmental issues.

In closing, I want especially to thank the ranking minority member of the Subcommittee on Fisheries and the

Environment, Mr. YOUNG of Alaska, and the gentleman from Pennsylvania, Mr. WELDON, for their help and support in bringing this legislation to the floor.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1113 which basically provides continuing authority under the Environmental Quality Improvement Act of 1970 for the Office of Environmental Quality, the support staff for the Council on Environmental Quality.

The Council on Environmental Quality was established by the National Environmental Policy Act. Its basic responsibilities involve providing advice to the President and Congress on environmental issues; it assists in coordinating Federal environmental programs which involve more than one agency; and assists in the preparation of the President's annual report to Congress on the environmental quality of the Nation.

The Merchant Marine and Fisheries Committee strengthened the legislation as introduced, and I would like to commend Chairman JONES, Congressman STUDDS, and Congressman WELDON for their efforts. I feel the bill as adopted by the committee should be supported and I have no objection to its adoption by this body.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I am speaking today in strong support of H.R. 1113, legislation authorizing appropriations for the Office of Environmental Quality for fiscal years 1989-93. The Council on Environmental Quality [CEQ] provides a vital function: It enables the Federal Government to assess the environmental impact of its programs and to develop measures to mitigate those impacts.

CEQ's main weapon in the defense of environmental quality is the environmental impact statement [EIS]. Through the EIS, all Federal actions are carefully scrutinized, and environmentally damaging policies altered or their damages mitigated. Unfortunately, as occurs with many Federal programs, paper has seemed to replace action. As EIS's have grown in size, their effectiveness has been called into question. Now many feel that EIS's are more cumbersome than valuable, and questions have arisen about the extent of follow through on the mitigation measures they call for.

Through language that I first introduced in 1987, H.R. 1113 would take an important step to strengthen the EIS process. It would require an annual report to be submitted by the President to Congress stipulating the accuracy and effectiveness of Federal EIS's and their recommended mitigation measures. Through such evaluations, the value of EIS's and their proposed mitigation steps would be measured. Necessary changes could then be made in the EIS process to ensure its continued validity.

Environmental impact statements need to be more than simply long-winded justifications of already existing policies. The passage of this legislation is a big step in the right direction, and I urge my colleagues to support H.R. 1113.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 1113, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1989 and 1990; to ensure consideration of the impact of major Federal actions on the global environment, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1113, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NORTH AMERICAN WETLANDS CONSERVATION ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2587) to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, as amended.

The Clerk read as follows:

H.R. 2587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American Wetlands Conservation Act".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and other habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 percent of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive human-made control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging ground water, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 percent of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988 by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as Wa-

terfowl Habitat requires promotion of conservation and wise use of wetlands.

(b) PURPOSE.—The purposes of this Act are to encourage partnership among public agencies and other interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America;

(2) to maintain current or improved distributions of migratory bird populations; and

(3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties, conventions, and other agreements with Canada, Mexico, and other countries.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Council" means the North American Wetlands Conservation Council established by section 4(a).

(2) The term "Agreement" means the tripartite agreement signed in March 1988 between the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service.

(3) The term "appropriate Committees" means the Committee on Appropriations and the Committee on Environment and Public Works of the United States Senate and the Committee on Appropriations and the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(4) The term "Migratory Bird Conservation Commission" means the commission established by section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a).

(5) The term "migratory birds" means all wild birds native to North America that are in an unconfined state and that are species protected under the Migratory Bird Treaty Act, including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.) , or species defined as non-game under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901–2912).

(6) The term "Plan" means the North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986.

(7) The term "Plan Committee" means the North American Waterfowl Management Plan Committee established by the Appendix to the Plan defined in paragraph 6 of this section.

(8) The term "Secretary" means the Secretary of the Interior.

(9) The term "State" means the State fish and wildlife agency which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(10) The term "wetlands conservation project" means—

(A) the obtaining of a real property interest in lands or waters including water rights, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; or

(B) the restoration, management, or enhancement of wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

SEC. 4. ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council which shall consist of ten members who may not receive compensation as members of the Council. Of the Council members—

(A) six shall be the members of the United States section of the North American Waterfowl Management Plan Committee as established in the Plan;

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3(2)(B) of the National Fish and Wildlife Establishment Act (16 U.S.C. 3702); and

(C) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different nonprofit charitable organization which is actively participating in the carrying out of the wetlands conservation projects under this Act, the Plan, or the Agreement.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife, and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) of this section—

(A) until a vacancy referred to in subsection (b)(3) of this section is filled; or

(B) in the absence of such a member from any meeting of the Council.

(b) APPOINTMENT AND TERMS.—(1) Except as provided in paragraph (2), the term of office of a member of the Council appointed under subsection (a)(1)(C) of this section is three years.

(2) Of the members first appointed under subsection (a)(1)(C) of this section after the date of enactment of this Act, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(3) Whenever a vacancy occurs among members of the Council appointed under subsection (a)(1)(C) of this section, the Secretary shall appoint an individual in accordance with that subsection for the remainder of the applicable term.

(c) EX OFFICIO COUNCIL MEMBERS.—The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Council representatives of—

(1) the Federal, Provincial, territorial, or State government agencies of Canada and Mexico which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement; and

(3) nonprofit charitable organizations and native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this Act, the Plan, or the Agreement.

(d) CHAIRMAN.—The Chairman shall be elected by the Council members for a three-year term, except that the first elected chairman may serve a term of less than three years.

(e) QUORUM.—A majority of the membership of the Council shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public. If a Council member appointed under subsection (a)(1)(C) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(3).

(g) COORDINATOR.—The Director of the United States Fish and Wildlife Service shall designate an employee of the Service—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for the administration of this Act; and

(3) who shall be compensated with the funds available under section 8(a)(1) for administering this Act.

SEC. 5. APPROVAL OF WETLANDS CONSERVATION PROJECTS.

(a) CONSIDERATION BY THE COUNCIL.—The Council shall recommend wetlands conservation projects to the Migratory Bird Conservation Commission based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this Act and the goals of the Plan or the Agreement;

(2) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 8(b) of this Act;

(3) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(4) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921);

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife, and species that are listed, or candidates to be listed, as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement.

(b) RECOMMENDATIONS TO THE MIGRATORY BIRD CONSERVATION COMMISSION.—The Council shall submit to the Migratory Bird Conservation Commission and appropriate Committees by January 1 of each year, a de-

scription, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Commission approve for Federal funding under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)) as amended by this Act.

(c) COUNCIL REPRESENTATION ON COMMISSION.—The Chairman of the Council shall elect one Council member of United States citizenship to serve along with him as ex officio members of the Migratory Bird Conservation Commission for the purposes of considering and voting down wetlands conservation projects recommended by the Council.

(d) CONSIDERATION OF RECOMMENDATIONS.—The Commission, along with the two members of the Council referred to in subsection (c), is authorized to consider and approve or reject any wetland conservation project recommended by the Council. If the Commission approves any wetland conservation project, Federal funding shall be made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act. If the Commission rejects any wetland conservation project recommended by the Council, the Commission shall provide the Council and the appropriate Committees with a written statement explaining its rationale for the rejection.

(e) COUNCIL PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) a recommendation referred to in subsection (b) of this section may be adopted only by the affirmative vote of at least two-thirds of all members present and voting.

SEC. 6. CONDITIONS RELATING TO WETLANDS CONSERVATION PROJECTS.

(A) PROJECTS IN THE UNITED STATES.—(1) Subject to the allocation requirements of section 8(a)(2) and the limitations on Federal contributions under section 8(b) of this Act, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved by the Migratory Bird Conservation Commission with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

(3) In lieu of including in the National Refuge System any lands or waters or interests therein acquired under this Act, the Secretary may, in concurrence with the Migratory Bird Conservation Commission, convey without cost to a State, or to another public agency or other entity, any real property interest acquired in whole or in part with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, upon a finding by the Secretary that the real property interests can be better managed if they are not retained in the National Wildlife Refuge System. Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon.

(b) PROJECTS IN CANADA OR MEXICO.—Subject to ihe allocation requirements of section 8(a)(1) and the limitations on Federal contributions under section 8(b) of this Act, the Secretary shall grant or otherwise provide the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, to public agencies and other entities for the purpose of assisting them in carrying out wetlands conservation projects in Canada or Mexico that have been approved by the Migratory Bird Conservation Commission; Provided, That the grant recipient shall have been identified in the project description accompanying the recommendation from the Council and approved by the Commission. The Secretary may only grant or otherwise provide Federal funds if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

SEC. 7. AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) AID IN WILDLIFE RESTORATION.—(1) Section 3 of the Act of September 2, 1937 (16 U.S.C. 669b), is amended—

(A) by inserting "(a)" before "An amount" in the first sentence thereof; and

(B) by adding at the end thereof the following:

"(b)(1) The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the fund as is not, in the Secretary's judgment, required for meeting a current year's withdrawals. For purposes of such investment, the Secretary of the Treasury may—

"(A) acquire obligations at the issue price and purchase outstanding obligations at the market price; and

"(B) sell obligations held in the fund at the market price.

"(2) The interest on obligations held in the fund—

"(A) shall be credited to the fund;

"(B) constitute the sums available for allocation by the Secretary under section 8 of the North American Wetlands Conservation Act; and

"(C) shall become available for apportionment under this Act at the beginning of Fiscal Year 2006.".

(2) Section 4(a) of the Act of September 2, 1937 (16 U.S.C. 669c), is amended by inserting "(excluding interest accruing under section 3(b))" after "revenues" in the first sentence thereof.

(3) The amendments made by this subsection of this Act take effect October 1, 1989.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsection (a) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act not to exceed $15,000,000 for each of fiscal years 1990, 1991, 1992, and 1993.

(c) AVAILABILITY OF FUNDS.—Sums made available under this section shall be available until expended.

SEC. 8. ALLOCATION OF AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) ALLOCATIONS.—Of the sums available to the Secretary for any fiscal year under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b), such amount considered necessary by the Secretary (but not more than 4 percent) is available to defray the costs of administering this Act during such fiscal year. Of the remaining funds—

(1) such percentage of that sum (but at least 40 percent and not more than 70 percent thereof) as is considered appropriate by the Migratory Bird Conservation Commission, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 6(b) of this Act; and

(2) the remainder of such sum after paragraph (1) is applied shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 6 of this Act.

(3) Over a period of five years the average amount allocated to projects in Canada and Mexico pursuant to paragraph (1) shall be at least 50 percent of the total amount allocated pursuant to this subsection.

(b) FEDERAL CONTRIBUTION FOR PROJECTS.—The Federal moneys allocated under section (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total United States contribution costs of such projects, or may be used for payment of 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters. The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs.

(c) PARTIAL PAYMENTS.—(1) The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this Act.

SEC. 9. DEPOSIT OF LAW ENFORCEMENT PROCEEDS INTO FUND.

(a) IN GENERAL.—Except as provided in subsection (b), all amounts received by the United States in the form of fines, penalties, and proceeds of seizures and forfeitures resulting from law enforcement activities of the United States Fish and Wildlife Service

shall be deposited into the separate fund provided for by section 401(a) of the Act of June 15, 1935 (commonly referred to as the "Refuge Revenue Sharing Act"; 16 U.S.C. 715s(a)), for use in accordance with that Act.

(b) EXCEPTION.—Subsection (a) shall not apply to—

(1) amounts used for paying rewards and costs of temporary care under section 11(d) of the Endangered Species Act of 1973 (16 U.S.C. 1540(d)); and

(2) amounts required by section 11(d) of the Endangered Species Act of 1973 (16 U.S.C. 1540(d)) to be deposited into the cooperative endangered species conservation fund established by section 6(i) of that Act (16 U.S.C. 1535(i)).

SEC. 10. RESTORATION, MANAGEMENT, AND PROTECTION OF WETLANDS AND HABITAT FOR MIGRATORY BIRDS ON FEDERAL LANDS.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of the agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within those lands and waters. When considering land disposal alternatives, the head of the agency shall give priority to the transfer of real property interests for conservation purposes that would further the purposes of this Act and the goals of the Plan and the Agreement.

SEC. 11. REPORTS TO CONGRESS.

The Secretary shall report to the appropriate Committees of Congress on the implementation of this Act. The report shall include:

(a) A biennial assessment of—

(1) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(2) trends in the population size and distribution of North American migratory birds; and

(3) the status of the efforts to establish agreements with nations in the Western Hemisphere pursuant to section 17.

(b) An annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entitles, and expenditures by Canadian and Mexican sources to carry out these projects.

SEC. 12. REVISIONS TO THE PLAN.

The Secretary shall, in 1991 and at five-year intervals thereafter, undertake with the appropriate officials of Canada to revise the goals and other elements of the Plan in accordance with the information required under section 11 and with the other provisions of this Act. The Secretary shall invite appropriate officials of Mexico to participate in any revisions of the Plan made pursuant to this section.

SEC. 13. RELATIONSHIP TO OTHER AUTHORITIES.

(a) ACQUISITION OF LANDS AND WATERS.—Nothing in this Act affects, alters, or modifies the Secretary's authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

(b) MITIGATION.—The Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4235).

SEC. 14. ADDITION OF EPA ADMINISTRATOR TO MIGRATORY BIRD CONSERVATION COMMISSION.

Section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a) is amended by striking "the Secretary of Transportation," and inserting in lieu thereof "the Administrator of the Environmental Protection Agency,".

SEC. 15. LIMITATION ON ASSESSMENTS AGAINST MIGRATORY BIRD CONSERVATION FUND.

Notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisitions of real property shall be levied against the Migratory Bird Conservation Account.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS TO THE MIGRATORY BIRD TREATY ACT.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) by striking "and" after "1936,"; and

(2) by inserting after "1972" the following: "and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

SEC. 17. OTHER AGREEMENTS.

(a) The Secretary shall undertake with the appropriate officials of nations in the Western Hemisphere to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 13(a)(5) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2912(a)). When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(b) Section 13(a) of the Fish and Wildlife Conservation Act (16 U.S.C. 2912(a)) is amended by striking "and" after "U.S.C. 1531 to 1543);" and striking "necessary." and inserting "necessary; and" and adding at the end the following:

"(5) identify lands and waters in the United States and other nations in the Western Hemisphere whose protection, management, or acquisition will foster the conservation of species, subspecies, and populations of migratory nongame birds, including those identified in paragraph (3)."

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2587 is to authorize funds for conservation projects in accordance with U.S. obligations under the North American Waterfowl Management Plan. Both the bill, and the agreement upon which it is based, rely on cooperation not only between the Federal Governments involved, but among State and provincial governments, conservation groups, sportspeople and private landholders, as well.

The North American Waterfowl Management Plan is the largest and most ambitious international wetlands protection program ever undertaken. Its goal is to virtually double the population of waterfowl on our continent by the year 2000, thereby restoring them to the level of 15 years ago.

To achieve this, the plan calls for the protection, restoration, and enhancement of more than 5.5 million acres of wetlands, at a cost of $1.5 billion over the next decade and a half. We will meet that private tag through a combination of Government appropriations, private contributions, and interest on excise tax receipts from the sale of sporting arms and ammunition.

H.R. 2587 is supported by the administration. It was drafted, in large measure by Mr. DAVIS of Michigan and Mr. CONTE of my own State. And it reflects, as well the hard work of conservation groups around the country such as Ducks Unlimited, the Nature Conservancy, and the International Association of Fish and Wildlife Agencies, who will act as partners with the Federal Government in fulfilling the purposes of the act.

In summary, the bill is important environmentally, recreationally, and diplomatically. It is fiscally sound. And it well deserves the support of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2587, a bill that is aimed at rebuilding waterfowl numbers by restoring, protecting, and improving millions of acres of habitat in the United States and Canada.

Earlier this year, I introduced H.R. 2322, along with Chairman JONES, of the Merchant Marine and Fisheries Committee, DON YOUNG, PORTER GROSS, ARLAN STANGELAND, and LINDSAY THOMAS, to provide a commitment to make available a portion of the funding that is called for under the North American Waterfowl Management Plan. This agreement between the United States and Canada encourages partnerships among public agencies and private interest groups to protect, enhance, restore, and manage habitats for migratory birds and other fish and wildlife in North America.

Our friends SILVIO CONTE and JOHN DINGELL have also introduced legislation addressing this issue and I appreciate that we have been able to work

cooperatively together with them, along with Chairman JONES and Congressman STUDDS to bring to this body a bill that will implement the North American Waterfowl Management Plan.

Mr. Speaker, President Bush earlier this year at the Ducks Unlimited Sixth Annual International Waterfowl Symposium stated his position concerning this issue. Referring to the bills that had been introduced in Congress, the President said:

The basic thrust of the legislation is sound. I look forward to signing a bill to conserve North American wetlands this year.

Mr. Speaker, today, our actions will move us one step closer to putting a bill on the President's desk for him to sign. H.R. 2587 is a good compromise and I ask my colleagues to support the adoption of the bill.

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Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. CONTE], ranking member of the Committee on Appropriations, and a strong supporter of this bill.

Mr. CONTE. Mr. Speaker, I rise in strong support of the North American Wetlands Conservation Act, as amended by the committee and presented to the House here today.

I want to commend Chairman STUDDS, my colleague from Massachusetts, for his leadership and interest in this important environmental legislation. His expeditious consideration of this bill in subcommittee and his work to see it through the full committee bring us several steps closer to seeing this program a reality.

Both he and WALTER JONES, chairman of the full committee, deserve the gratitude and appreciation of sportsmen across the country for their assistance in this effort.

I am also grateful to my good friend BOB DAVIS, the ranking member of the full committee, for his leadership and guidance on this issue. Throughout the process of formulating this legislation, BOB DAVIS has contributed a great deal, and as usual he has played a vital role in moving forward an important environmental program.

Mr. Speaker, the Conte-Davis-Dingell-Jones bill was conceived and driven by two disturbing and related environmental threats: Disappearing wetlands and a dramatic decline in the Nation's waterfowl populations. For me personally, I view it as a tragedy, as a disaster with far-reaching and possibly irreversible consequences.

Working with my good friend JOHN DINGELL, I've seen the devastation first hand as a member of the Migratory Bird Commission for the past 25 years. During that time, the Commission spent $486 million to protect over 2.4 million acres in fee and easement.

Yet, wetland loss during that same period totaled 8.7 million acres. That's an alarming loss of 350,000 acres per year for the lower 48 States.

A similar decline is reflected in North American waterfowl populations.

From a high in 1955, Mr. Speaker, I ask to put the statistics in the RECORD at this point:

TABLE 1.—*Duck Breeding Populations in North America, 1955–89, based on areas with comparable annual surveys*

[In thousands]

Year	Population
1955	44,691
1956	46,679
1957	39,418
1958	42,699
1959	46,006
1960	34,386
1961	36,579
1962	31,196
1963	32,269
1964	32,663
1965	30,731
1966	36,903
1967	36,284
1968	33,502
1969	37,803
1970	43,802
1971	40,826
1972	46,430
1973	38,616
1974	39,298
1975	41,395
1976	38,436
1977	36,606
1978	39,306
1979	43,451
1980	40,520
1981	36,739
1982	35,050
1983	37,059
1984	36,209
1985	29,332
1986	33,533
1987	33,395
1988	31,840
1989	28,781

The estimated duck breeding populations on the continent decreased by 36 percent. This downward trend in North America's waterfowl population has a direct and significant economic impact, and more importantly, this decline is a readily visable indicator of an environmental crisis extending beyond hunting interests.

To address this serious threat and to arrest the mounting wetland losses, this legislation was introduced to implement the North American Waterfowl Plan, an international cooperative agreement designed to mount a continental effort using all resources available, including the financial support and expertise of the private sector.

Basically, three broad principles form the foundation and justification for this bill.

First, the bill provides the resources necessary to implement the plan, using investment proceeds from the Pittsman-Robinson Fund and authorizing direct Federal appropriations.

Second, the bill provides a coherent and efficient framework for implementing projects under the plan. And I should note here that the approval process in the Conte bill differs somewhat from the Mitchell approach. All projects funded under the plan must be approved by the Migratory Bird Commission, a panel with over 50 years of experience in the business of preserving and restoring wetlands. And the substitute provides that all projects rejected by the Commission be accompanied by a written explanation for that rejection.

Third, this bill provides for State, private, and international input into the process of implementing the plan. Again, the Conte bill was modified slightly to address concerns raised by private and State organizations.

The bill as amended creates an "advisory council", structured similar to the "advisory committee" in the Conte bill. However, two members of that "advisory council" instead of one will sit as voting members of the Migratory Bird Commission for the purpose of considering these projects.

This change recognizes the importance of having direct and active participation by these nonprofit groups and the States in the decisionmaking process, especially since non-Federal resources will account for at least half of each project funded.

Mr. Speaker, the North American Wetlands Conservation Act implements an important environmental program, one designed to arrest the decline in wetlands and the decrease in waterfowl populations. It's also a unique program because the private sector plays such a crucial role in it success.

I urge the House to unanimously approve this measure to give a vote of confidence to these private groups and to send a clear and an encouraging message to our international partners, Canada and Mexico.

Again, I cannot express the gratitude I have in my heart today to the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Michigan [Mr. DAVIS] and all, for this bill. I just hope I am around here in the year 2000 to see the effects and the harvest of this bill.

Mr. STUDDS. Mr. Speaker, I am tempted to ask unanimous consent that the gentleman from Massachusetts [Mr. CONTE] be here around the year 2000, and I want to salute the gentleman's preeminence in this field.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 2587, the North American Wetlands Conservation Act, which was introduced by my good friend and colleague, Congressman SILVIO CONTE, of Massachusetts, and I

and cosponsored along with many others who are concerned about the future of our wetland resources.

The primary focus of H.R. 2587 is to deal with the alarming loss of our Nation's wetland resources and the resulting decline in waterfowl populations. Protecting our wetland resources and ensuring our waterfowl populations remain stable and healthy is a goal I have been concerned with for most of the years I have served in Congress. Congress has attempted to protect these invaluable resources by enacting a number of conservation laws, including the National Wildlife Refuge System Administration Act, the Fish and Wildlife Coordination Act, laws improving and enhancing wetland acquisition programs, extending and funding the wetland loan account, and increasing the price of "duck stamps" to create more revenue for land acquisition.

My good friend and colleague, Congressman CONTE, and I have been members of the Migatory Bird Conservation Commission for quite a number of years. The Commission is responsible for approving the acquisition of hundreds of thousands of acres of wetland resources throughout the Nation and is fully aware of the need for the implementation of constructive programs such as the North American Waterfowl Plan and increased funding for the acquisition of these critical natural resources.

Wetlands are vitally important to wildlife, fisheries, and other aquatic resources. They sustain nearly one-third of the Nation's endangered and threatened species. Millions of waterfowl and shorebirds rely on wetlands for wintering and breeding. Commercial fisheries provide key habitat for 60 to 90 percent of U.S. commercial fish harvests. Wetlands also are essential to reducing flood damage, preventing erosion, filtering sediment, and mitigating pollution.

The current statistics relating to wetland loss are alarming. Wetlands, which constitute only 5 percent of the land area of the United States, are estimated to have been reduced by more than 50 percent in the continental United States since the founding of this Nation. These wetlands continue to disappear at a rate of between 300,000 and 450,000 acres each year. In only a 20-year period between 1950 and 1970 about 11 million acres of swamps and marshes were destroyed, for an annual loss averaging 458,000 acres.

People keep asking why duck populations are disappearing. The linkage between the decline in duck breeding populations and the destruction of our Nation's wetlands is clear. In 1956, duck breeding population was greater than 46,600,000. This year, that level is projected to drop to under 29,000,000.

The most recent and extensive wetland losses have taken place in California, Louisiana, Mississippi, Texas, Iowa, North Dakota, South Dakota, and Florida and can be linked to the severe decline of migratory waterfowl, particularly several species of ducks which have declined almost 50 percent from the 1970's.

This massive loss of wetland resources is not just a problem related to the United States. Because migratory waterfowl know no geographic boundaries, our neighbor to the North—Canada—also suffers from the demise of wetland resources and waterfowl populations. This is why the United States and Canada in 1986 signed the North American Waterfowl Management Plan, establishing a comprehensive framework to deal with the problem of wetland destruction. It is this legislation that Congressman CONTE and I believe is the most effective means to implement the goals and principles set forth in that plan.

The bill has several important objectives:

The legislation would utilize investment proceeds from the Pittman-Robinson fund and general revenue to implement the plan.

The bill establishes an advisory committee to screen and evaluate projects and to recommend worthwhile projects to the Migratory Bird Conservation Commission for funding approval. In fact, in addition to its other work in protecting the Nation's wetland resources, the Commission has already acquired millions of acres of wetland resources that are contained in projects envisioned by the North American Waterfowl Plan.

For example, the Commission has already acquired over 19,000 acres in the Edwin B. Forsyth National Wildlife Refuge in New Jersey, 13,000 acres in the Chincoteague and Back Bay National Wildlife Refuges in Virginia, almost 6,000 acres in the Iroquois National Wildlife Refuge in New York, over 62,000 acres in six different refuges in North Carolina, almost 21,000 acres in the Upper Ouachite Refuge in Louisiana, over 38,000 acres in three refuges in California, and over 2 million acres in the North Central Prairie Pothold region.

The Advisory Committee established by H.R. 2587 will assist in the coordination and not the duplication of the Commission's work. Finally, the legislation will help expand the scope of input into wetland preservation from the local, State, and international levels.

H.R. 2587 is a good bill. It is a comprehensive bill. It is legislation worth adoption by the House and Senate.

The Migratory Bird Conservation Commission has had 50 years of experience in evaluating and approving the acquisition of thousands of wetland resources. It is a fine Commission which utilizes expertise from all over the Nation to assist in its work. Congressman CONTE and I have spent many years on the Commission dealing with the problems of wetland acquisition and we believe that the creation of an advisory committee, as contained in H.R. 2587, would serve as a critical adjunct to the Commission. This legislation will put in place a mechanism that will be of great benefit to saving our wetland resources. It is a bill worthy of careful consideration by the House—and I urge its adoption.

Mr. DAVIS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I rise in strong support of the North American Wetlands Conservation Act (H.R. 2587) and to commend my friend and colleague SILVIO CONTE, BOB DAVIS, and JOHN DINGELL for their leadership on this important conservation measure. Pennsylvania's 21st Congressional District contains an estimated 4 percent of all of the wetlands in the Mid-Atlantic States. Therefore, I have first hand knowledge of the need to preserve wetlands and to protect the North American waterfowl who can not survive without wetland habitats.

The mission of the bill, to ensure that the North American Waterfowl Plan has the funding and support necessary to accomplish its original goal, is critically important. We must live up to our treaty obligations with Canada and Mexico in accordance with the waterfowl plan and under the Convention on Wetlands of International Importance. Our adherence to the treaty will help ensure that we protect precious waterfowl habitat which are so dependent on wetland ecosystems in order to survive. The timing and speed with which this bill has been brought before this House is most appropriate. When we pass this legislation today, we will be sending President Bush the valuable support which he needs in his effort to promote his goal of a "no net loss" of wetlands for all of North America.

Mr. Speaker, for the RECORD I would also note that in addition to being a proud supporter of this measure today, it was my intent to become a cosponsor of both bills from which today's measure was crafted. Following the hearings which were held on H.R. 2587 and H.R. 2322 on July 25, 1989, I had requested to be added as a cosponsor to both bills. Unfortunately, due to a clerical oversight, my name was added only to H.R. 2322. Given the importance of this measure in the promotion of wetlands conservation, I feel it is important to record my intentions.

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Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the

gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I rise in strong support of this legislation and congratulate the committee and the sponsors of it.

Mr. Speaker, today we are losing wetland habitat by as much as 400,000 to 500,000 acres per year. Despite sincere efforts at every level of government, we will lose another half million acres of wetlands this year unless Congress and the President take action. H.R. 2587, introduced by Representatives SILVIO CONTE and JOHN DINGELL, would save key North American wetlands habitat which provide breeding and wintering grounds for migratory waterfowl. I support this worthwhile legislation, however, this may not be enough.

We used to think of wetlands as eyesores to be paved over. Now we know they are national treasures. But our governmental structures and policies have not caught up with our knowledge. we need a new and coherent policy that reflects current beliefs. This is why I introduced H.R. 1746, the Wetlands No Net Loss Act of 1989, which would implement President Bush's campaign pledge of "no net loss of wetlands" as a national goal.

President Bush also during his campaign rightly stated that environmental protection is a Federal, State, and local effort. H.R. 1746 approaches the issue of wetlands protection in just such a manner in that it establishes a network of Federal and State agencies and private corporations for the acquisition and preservation of wetlands within our Nation's borders.

Comprehenisve wetlands legislation is desperately needed if we are to preserve these areas for future generations. H.R. 1746 represents just such comprehensive wetlands protection legislation. I commend my colleagues for bringing the North American Wetlands Conservation Act to the floor, but I hope we can also get action on comprehensive wetlands legislation soon.

Mr. DAVIS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, everybody thinks that this is a good bill and that its purposes are essential at this time. However, I rise to express some budget concerns regarding H.R. 2587, the North American Wetlands Conservation Act.

This bill creates new budget authority of $1 million in fiscal year 1990 which was not anticipated in the fiscal year 1990 budget resolution. The spending in this bill increases to $9 million by fiscal year 1993. These amounts, although not large, will make it even more difficult to reach increasingly stringent Gramm-Rudman deficit targets in future years.

I also believe that the funding mechanism created by this bill, where unused trust fund balances are invested in government securities and the interest earned can be obligated without appropriation action, sets an undesirable precedent for possible future legislation. The interest earned on the trust fund balances, which can be directly spent and become an outlay of the Federal Government, is paid by Federal interest payments on the public debt.

Unfortunately, our deficit position, and our budget process has set committees scrambling to get around, under and over appropriations restrictions. Our committees, faced with needs they consider compelling, have tried to establish new entitlements, to levy new taxes disguised as fees, to expand uses of current trust funds, and a variety of other devices. The device in this bill, the automatic use of interest on the unused balances of the Pittman-Robertson trust funds, is clever, but a bad precedent.

Our Appropriations Committee has the jurisdictional responsibility to confirm the judgment of authorizing committees. It should retain that responsibility.

Mr. JONES of North Carolina. Mr. Speaker, H.R 2587 would implement the North American waterfowl management plan. The United States and Canada signed this agreement to protect and enhance habitat for migratory waterfowl. Waterfowl populations have declined drastically in recent years due primarily to the loss of wetland habitat. Therefore, it is crucial that we move quickly to do all that we can to preserve and enhance North America's wetlands to save our waterfowl and many other wetlands dependent species. This bill, introduced by the Honorable SILVIO CONTE and cosponsored by Mr. DAVIS and myself, is a very important step in the right direction.

This bill would encourage joint venture initiatives between private conservation groups and State and Federal Governments in order to reverse the decline in waterfowl populations. Private groups including Ducks Unlimited, the Nature Conservancy, the Fish and Wildlife Foundation, and the International Association of Fish and Wildlife Agencies have already contributed a great deal to this effort, and will continue to be active participants under this bill.

The plan implemented by this bill calls for the protection, restoration and enhancement of more than 5.5 million acres of wetlands in the United States and Canada combined, making this plan the most far-reaching international wetlands protection program undertaken thus far. Only with this kind of a coordinated and comprehensive effort can we hope to save our waterfowl and other species dependent upon wetlands before it is too late.

I am also pleased that the bill would provide additional resources to fulfill our commitment to local jurisdictions where national wildlife refuge lands are located under the Refuge Revenue Sharing Act. These funds alone will not be adequate to solve the growing shortfall problem, but will provide additional resources for the refuge revenue-sharing fund.

I would also like to take this opportunity to commend Mr. CONTE, Mr. DAVIS, and Mr. STUDDS for their leadership in working together to develop this excellent bill which had broad bipartisan support in our committee. I urge all of my colleagues of join with me in voting for this measure to save North America's waterfowl and wetlands.

Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 2587, the North American Wetlands Conservation Act. Like its Senate counterpart, this important bill will help implement the North American waterfowl management plan, and as a result, save millions of acres of wetlands and other critical habitat for waterfowl and wildlife.

H.R. 2587 helps translate the words of the plan into action. It provides the resources and framework for acquiring lands and coordinating conservation efforts to meet the plan's goal. Broadly stated, the binational agreement between Canada and the United States has the goal of protecting and restoring about 5.5 million acres of wetlands and upland habitat to help restore the continent's declining waterfowl population to historic levels. It is an ambitious, but vitally important goal.

As a Minnesotan and avid outdoorsman, I am keenly aware of the need to protect wetlands and migratory waterfowl. The prairie pothole region, so integral to our efforts, provides critical habitat for waterfowl. We must take prudent measures to protect these areas while recognizing private property interests and other national goals.

Mr. Speaker, I understand the President has strongly endorsed the concepts in the House and Senate bills and pledged to help enact a public law in the near future. This is good news. Today's bill is critical to recovering the health of the continent's waterfowl and restoring their populations to earlier levels. It also bodes well for other legislative efforts in the area of wetlands protection generally.

The House Public Works and Transportation Committee is taking a comprehensive look at ways to protect and restore wetlands. H.R. 2587 is one key component in this effort, but we have so much more to do. Along with other committees, we look forward to implementing the President's and the national wetlands policy forum's goal of no net loss of wetlands.

Mr. Speaker, H.R. 2587 takes a small, but important step in that direction. I congratulate the other sponsors of the bill—particularly Congressmen CONTE and DAVIS—who were so instrumental in its development and encourage all my House colleagues to support it unanimously.

Mr. DAVIS. Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2587, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DRUG AND ALCOHOL DEPENDENT OFFENDERS TREATMENT ACT OF 1989

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3007) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

The Clerk read as follows:

H.R. 3007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1989".

SEC. 2. REAUTHORIZATION.

Section 4(a) of the Contract Services for Drug and Alcohol Dependent Offenders Treatment Act of 1978 is amended—

(1) by inserting "and the 7th paragraph of section 3672 of title 18, United States Code" after "purposes of this Act";

(2) by striking "; and" and inserting a semicolon; and

(3) by striking the period at the end and inserting "; $30,000,000 for the fiscal year ending September 30, 1990; $40,000,000 for the fiscal year ending September 30, 1991; and $45,000,000 for the fiscal year ending September 30, 1992.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 3007, which would reauthorize, for fiscal years 1990–92, appropriations for the contract services for Drug Dependent Offenders Act of 1978.

The purpose of the program is to identify and provide treatment and supervisory services to drug dependent Federal probationers, parolees, and persons on supervised release.

We know from studies conducted in the last several years that previously convicted criminals who are still abusing drugs are likely to repeat their criminal activities. We also know that when such persons are identified and receive treatment, they are much less likely to commit crimes.

The Anti-Drug Abuse Act of 1986 contained an amendment developed in our committee which added authority for alcohol treatment to the legislation.

Urinalysis is the primary technique used to allow U.S. probation officers, who administer the program, to determine if a person under supervision has refrained from, continued, or returned to use of illegal drugs.

Depending upon the degree of drug testing and supervision deemed necessary, persons under supervision by reason of criminal conviction and prior drug usage are placed in one of three phases of drug testing and supervision. Clients move from one phase to another based on their record of remaining drug free.

The Administrative Office of U.S. Courts contracts with a laboratory for the urinalysis services needed for the program. Since 1984, more than 1.2 million specimens have been tested.

These tests routinely include testing for seven major categories of drugs—opiates, cocaine, amphetamines, barbituates, phencyclidine, methadone, and benzodiazepines. Twenty-one other drugs can be included as needed. Confirming tests are performed on all specimen which produce a presumptive positive text result.

Treatment services provided through the program include medical, educational, psychological and vocational services, and guidance, training, and vocational services.

These services are provided through a combination of probation staff, contract services, and no-cost community programs.

A recent 2-year study of some 4,000 persons who went through the program indicates that 50 percent completed the program with 12 months of clean tests and without revocation or reported new criminal activity, 40 percent terminated for continued drug use or failure to take part in the program, and only 8 percent terminated for new criminal activity.

The program is currently authorized at $26,000,000 for fiscal year 1989, and is funded at $16,000,000. H.R. 3007 would provide authorizations of $30 million for fiscal year 1990, $40 million for fiscal year 1991, and $45 million for fiscal year 1992.

These increases are needed for a number of reasons.

Drug testing, which constitutes about one-fourth of all program expenditures, is increasing substantially, with more than twice as many tests being conducted this year than there were 4 years ago.

Treatment services are becoming more expensive, especially with the explosion of crack cocaine usage, which is difficult if not impossible to treat on an out-patient basis.

Third, program levels have in the recent past been dictated by budget constraints, rather than by the actual needs in the various Federal court districts for testing and treatment.

Fourth, the addition of alcohol treatment to the program in 1986 has increased its cost.

The Drug Aftercare Program has proven successful, and I urge my colleagues to continue our support for it by approving the funding authorization contained in H.R. 3007.

Mr. Speaker, I want to commend the efforts of my colleague, the gentleman from Florida [Mr. MCCOLLUM], who is the ranking Republican on the subcommittee, for his work in reauthorizing this program.

Mr. Speaker, this is a good program. The full committee chairman is very, very supportive of the program, as is the ranking Republican, the gentleman from New York [Mr. FISH]. I know of no opposition to the program. It has been very successful.

Mr. Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to support H.R. 3007, the Drug and Alcohol Dependent Offenders Treatment Act of 1989. This legislation will reauthorize and increase funding for a program that serves as a necessary component of the struggle against drug abuse. Specifically, it authorizes the Administrative Office of the U.S. Courts to provide drug and alcohol testing and treatment of Federal offenders on probation, parole or supervised release.

It is clear that expansion of this program is necessary. The caseloads of the Federal courts have been increasing significantly for the last several years. The Administrative Office reports that during the 1980's drug related criminal cases have increased by 229 percent. Drug related offenses now account for about 24 percent of the criminal case filings of the district courts and 44 percent of all criminal trials. When you consider that probation officers are being trained in the identification of drug abusers, it is easy to understand why the number of drug dependent offenders in treatment rose from 4,784 on June 30, 1980, to 12,806 on March 31, 1989, an increase of 168 percent. The number of alcohol abusing offenders in treatment totaled 3,441. The number of persons under supervision is conservatively forecast to increase from 77,000 to 83,000 in fiscal year 1990 and 87,000 by fiscal year 1991. The number of persons in substance abuse treatment is expected to increase to 21,000 in fiscal year 1990 and 24,400 in fiscal year 1991.

Mr. Speaker, research studies have shown that the extent of criminality is

directly affected by the criminals' drug use. It is therefore necessary in the interests of fighting crime that we have a strong treatment program. The link between crime and drugs makes continuance of the aftercare program essential.

Finally, Mr. Speaker, this drug aftercare program is working. A recent 2-year study of nearly 4,000 terminations from the Substance Abuse Treatment Program showed that approximately 50 percent were terminated from treatment without any revocation or reported criminal activity, 39 percent were terminated for continued drug use of failure to attend treatment sessions or for other technical reasons, and only 8 percent were terminated for new criminal activity.

I thank the gentleman from New Jersey for his leadership on this matter.

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I think this is a very important aspect for all of us to understand and appreciate.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, I, too, support the legislation for the variety of reasons outlined by the chairman of the committee and by the ranking member.

It has two significant elements, in my judgment. First, an overall element that demonstrates that this legislation and other products of our subcommittee, the Subcommittee on Crime of the Committee on the Judiciary, chaired by the gentleman from New Jersey, is on a continuing pathway of improving and innovating and consolidating thoughts, ideas, and processes to fight the war on drugs. This is another peg in that system that we must continue to improve and to generate for the next generation, as it were.

So this can be looked at as one of those continuing efforts and will spur us on to even a more closer look at the drug treatment portion of the war on drugs.

The second part that I just wish to comment again on, pursuant to what has already been said, is that if ever there was a kind of a program that shows statistically that we can do something about recidivism, the repeat offender, the one who did his first dirty deed because of drugs, then this program with its ultimate statistical results can show a slowdown of at least that most feared element of our criminal justice system, the recidivist, who as soon as he gets back out in society will redo the infamous deeds that brought him into trouble in the first place.

We know now through the body of testimony and statistics that we have in drug treatment that the one who became a criminal because of drugs may have a better chance if we treat him correctly and give him treatment will be less likely to be a repeat offender than the ordinary rank and file violent criminal.

So from that standpoint, Mr. Speaker, I am happy to support the legislation and to urge its quick passage.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for taking the time to join us in urging the passage of this legislation.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3007, the Drug and Alcohol Dependent Offenders Treatment Act of 1989. I commend the gentleman from New Jersey [Mr. HUGHES], the chairman of the House Judiciary Subcommittee on Crime, for his leadership on this issue.

The legislation would reauthorize a Federal program to treat drug and alcohol dependent offenders of $30 million in fiscal year 1990, $40 million in fiscal year 1991 and $45 million in fiscal year 1992. The program provides for periodic drug testing of Federal offenders on parole, and offers various forms of treatment to help substance abusing offenders overcome their dependency.

We cannot allow drug abusing criminals to come in and out of the criminal justice system without an effort to help them break free of drugs. Any parolee who has not overcome his or her substance abuse problem is more than likely to return to a life of crime and drug abuse. Tough measures, including regular drug testing for parolees and treatment and rehabilitative programs for those who have become addicted, are critical elements of an effective and humane criminal justice system. Accordingly, I offer my full support for this important measure.

Mr. RANGEL. Mr. Speaker, this afternoon we consider H.R. 3007, Drug and Alcohol Dependent Offenders Treatment Act of 1989. I am pleased to support this bill which has an important positive effect on the smooth functioning of our criminal justice system. I commend Chairman WILLIAM J. HUGHES, the chairman of the House Judiciary Committee, Crime Subcommittee, for his work on this bill. Chairman HUGHES is also a valuable member of the House Select Committee on Narcotics, and thus is uniquely situated to combat the link between drugs and crime.

Specifically, H.R. 3007, reauthorizes the Contract Services for Drug Dependent Federal Offenders Act of 1978, for 3 more fiscal years, 1990–92. The Drug Dependent Federal Offenders Act of 1978, authorizes the Administrative Office of the United States Courts to provide drug and alcohol testing and treatment for Federal offenders on probation, parole, or supervises release.

The goals of the Substance Abuse Treatment Program are the identification of substance abusing Federal offenders and the provision of a treatment alternative for these offenders. An essential component of the program is that every person being tested for drug dependency under the program is closely monitored by urine surveillance. Urinalysis is an aid to treatment that enables the officer to determine whether a person under supervision has refrained from, continued, or returned to the use of controlled substances.

Mr. Speaker, the need to provide drug abuse treatment services for Federal offenders is apparent when it is remembered that during the 1980's drug related criminal cases has increased by 229 percent. Drug related offenses now account for about 24 percent of criminal case filings of the district courts and 44 percent of all criminal trials.

Statistics show that of the 77,000 persons currently under supervision of the Federal probation system, over 16,000—21 percent—have been identified as substance abusing offenders who are currently undergoing urine surveillance or treatment. The number of drug dependent offenders in treatment rose from 4,784 on June 30, 1980, to 12,806 on March 31, 1989, an increase of 168 percent.

Treatment services are provided by probation staff through available community programs that provide services at no additional cost to the Government and by over 600 treatment programs under contract to the Administrative Office of the United States Courts. The contracts are awarded through a competitive process that involves hundreds of treatment facilities throughout the United States.

Mr. Speaker, research studies have shown that the extent of criminality is directly affected by the person's addiction status. A 1983 study of 354 heroin addicts in Baltimore, MD, showed that during a 9-year period these addicts averaged 2,000 crime-days per addict. When using drugs, the crime rate for this group was 4 to 6 times higher than when the group was not using drugs. When not addicted, this group committed 84 percent fewer crimes.

Mr. Speaker, as we provide more money for prison construction to house increasing numbers of inmates guilty of drug crimes, we must provide training for these inmates so that while they are in prison they learn a skill so that when they are released from confinement they can become productive members of society. Providing drug rehabilitation services to prison inmates is an essential part of that process.

I urge all my colleagues to vote for passage of H.R. 3007 so that Federal offenders on probation, parole, or supervised release can receive drug abuse treatment.

Mr. McCOLLUM. I have no more requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 3007.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3007, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MAJOR FRAUD ACT AMENDMENTS OF 1989

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 248) to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

The Clerk read as follows:

S. 248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act Amendments of 1989".

SEC. 2. REWARD FOR WHISTLEBLOWERS.

(a) AMENDMENT TO TITLE 18.—Section 1031 of title 18, United States Code, is amended by inserting after subsection (f) the following new subsection:

"(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed $250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

"(2) An individual is not eligible for such a payment if—

"(A) that individual is an officer or employee of a government agency who furnishes information or renders service in the performance of official duties;

"(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

"(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

"(D) that individual participated in the violation of this section with respect to which such payment would be made.

"(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review.".

(b) APPLICABILITY.—The amendment made by this section shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 3. TECHNICAL AMENDMENT.

(a) REPEAL.—Section 3 of the Major Fraud Act of 1988 (Public Law 100-700) and the amendment made by such section are repealed.

(b) EFFECTIVE DATE.—The repeal made by this section shall be deemed to be effective on the date of enactment of Public Law 100-700.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I strongly support S. 248, the major fraud act amendments of 1989. This bill rectifies two flaws, one substantive and the other technical, in the Major Fraud Act of 1988 (P.L. 100-700), which was passed during the last few days of the 100th Congress. As you may recall, the House version of the Major Fraud Act passed unanimously at both the subcommittee and full committee levels in the Judiciary Committee and passed the House by a vote of 419 to 0.

This bill grew out of hearings by the Subcommittee on Crime and a review of numerous other congressional, Department of Justice and Department of Defense investigations of procurement fraud over the last two decades. These investigations documented successive scandals in spare parts, overhead overcharges, malfunctioning equipment, product substitution and similar fraudulent acts that have been the grist of the never-ending stories of procurement fraud over the last decade.

Unfortunately, the problems persist—while all the details of the recent investigation involving defense consultants called operation ill wind are not yet available, so far 23 individuals and three major corporations have pled guilty to a number of different fraud counts associated with this far-reaching fraud. This is a reminder that we must continue to send strong messages that we will not put up with this kind of activity which costs the U.S. Treasury billions of dollars each year.

We did in fact send such a message last October. The Major Fraud Act of 1988 established a new specific Federal procurement fraud offense involving contracts of $1 million or more. Unfortunately, the bill as finally enacted did not contain a House provision which would have established a new system of rewards of up to $250,000. These rewards would have been paid from the criminal fine to individuals who provide information leading to conviction under this statute. This provision is crucial to prosecutions in procurement fraud cases since one of the major deficiencies we found in past cases was the lack of sufficient information available to the prosecutors on these complex and often secretive transactions.

This year the Senate has already moved to correct this by passing S. 248 on April 5, 1989 by a vote of 82 to 16. S. 248 as it is before the committee today allows the Attorney General at his discretion and in special circumstances to make payments of up to $250,000 for information. The Attorney General may then request the court to reimburse the Department of Justice from criminal fines imposed under the major fraud statute. I believe that this version substantially meets the need we identified last year, and I support this compromise language which was worked out with the Department of Justice.

Mr. Speaker, it is a good bill. It is specifically targeted at major procurement fraud. As I indicated, it does cure one defect in the bill. In fact, it does carry forward what the House did last year in major part, and I want to commend my colleague once again, the ranking Reublican member on the subcommittee, the gentleman from Florida [Mr. MCCOLLUM] for his work with us in the subcommittee, and in the full committee, the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. FISH] and others, in developing the bill.

Mr. Speaker, it is noncontroversial. It came out of the subcommittee and the full committee unanimously, and I would urge my colleagues to support the measure.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I wish to join with the gentleman from New Jersey and express my support for S. 248, a bill that amends the Major Fraud Act of 1988. As many will recall, last year, under the leadership of the gentleman from New Jersey, BILL HUGHES, Congress established a new offense prohibiting fraud in procurement contracts valuing more than $1 million in goods or services. This offense carries severe penalties both in the way of fines and prison sentences. This fraud act sent a strong message to those who do business with the Federal Government that fraudulent schemes will not be tolerated.

A provision included in the House bill that passed 419 to 0 last year established a reward for those who provided information leading to a successful prosecution of this offense. This

provision was dropped by the Senate during its consideration of the Major Fraud Act. Earlier this year, the Senators who were concerned about this reward provision last year, resolved their problems in consultation with the Attorney General, and S. 248 was passed by that body.

I support S. 248 because the language of the reward provision contains sufficient safeguards to discourage misuse by enterprising whistleblowers. Last year several representatives of industry approached me and expressed concerns that a reward provision could undermine the efforts many corporations were undertaking to establish self-governing mechanisms. Through employee education and information hotlines, senior management has attempted to identify fraud before it matures into a criminal offense. I felt strongly that these efforts should be supported by Congress. Therefore, I worked with Mr. HUGHES in subcommittee to establish a requirement that employees notify their employers of the evidence relating to fraud before they approach the Federal Government. I am pleased to report that this condition is also included S. 248.

Mr. Speaker, it must be clear that this legislation is not intended to reward any employee who could have prevented a fraud from occurring if he or she had acted immediately by bringing certain facts to the attention of company officials. Those who allow fraudulent acts to take place in the hope that they will collect rewards will be disappointed because it is the intent of this legislation that such persons not receive a reward. Furthermore, this bill contains other conditions which are designed to discourage irresponsible reward-seekers. It is our intention that the Attorney General carefully decide when a reward is appropriate in the light of the conditions expressed in this bill.

Nevertheless, Mr. Speaker, there are cases where rewards are necessary. Procurement fraud is a major problem as we all know, particularly fraud that involves product substitution. This is the practice of substituting cheaper, inferior quality goods for those which were ordered by the Government. Obviously, this creates a serious risk of injury to military personnel. If rewards will help reduce this criminal conduct, then I fully support them.

I thank the gentleman from New Jersey for his expeditious treatment of this bill.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the Senate bill, S. 248.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 248, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 1989

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 260) to agree to the Senate amendment to H.R. 24, with an amendment.

The Clerk read as follows:

H. RES. 260

Resolved, That, upon the adoption of this resolution, the bill (H.R. 24), to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such Acts, and for other purposes, and the same hereby is taken from the Speaker's table to the end that the Senate amendment to the bill be, and the same hereby is, agreed to, with an amendment as follows:

Strike the matter proposed to be inserted by the amendment and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.
TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966
PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT
Sec. 101. Types of milk to be included in school lunches.
Sec. 102. Extension of summer food service program for children.
Sec. 103. Extension of commodity distribution program.
Sec. 104. Repeal of National Advisory Council.
Sec. 105. Child care food program.
Sec. 106. Meal supplements for children in afterschool care.
Sec. 107. Pilot projects.
Sec. 108. Reduction of paperwork.
Sec. 109. Training, technical assistance, and food service management institute.
Sec. 110. Compliance and accountability.
Sec. 111. Information on income eligibility.
Sec. 112. Nutrition guidance for child nutrition programs.
PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966
Sec. 121. Expansion of school breakfast program.
Sec. 122. State administrative expenses.
Sec. 123. Additional activities and requirements with respect to special supplemental food program for women, infants, and children.
Sec. 124. Nutrition education and training.
PART C—CROSS-PROGRAM PROVISION
Sec. 131. Determination of total commodity assistance for the school lunch and child care food programs.
TITLE II—PAPERWORK REDUCTION AMENDMENTS
PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT
Sec. 201. Permanency of State-local agreements for carrying out the school lunch program.
Sec. 202. Income documentation requirements.
Sec. 203. Reports to State educational agencies.
Sec. 204. 2-year applications under child care food program.
Sec. 205. Pilot projects for alternative counting methods.
PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966
Sec. 211. State-local agreements for carrying out the special milk program.
Sec. 212. Permanency of State-local agreements for carrying out the school breakfast program.
Sec. 213. Paperwork reduction requirements under the special supplemental food program for women, infants, and children.
Sec. 214. Updating of plans for nutrition education and training.
TITLE III—TECHNICAL AMENDMENTS
PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT
Sec. 301. Apportionments to States.
Sec. 302. Direct Federal expenditures.
Sec. 303. Payments to States.
Sec. 304. State disbursement to schools.
Sec. 305. Nutritional and other program requirements.
Sec. 306. Miscellaneous provisions and definitions.
Sec. 307. Summer food service program for children.
Sec. 308. Repeal of obsolete provision relating to temporary emergency assistance.
Sec. 309. Election to receive cash payments.
Sec. 310. Child care food program.
Sec. 311. Pilot projects.
Sec. 312. General amendments.
PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966
Sec. 321. Special milk program authorization.
Sec. 322. School breakfast program authorization.
Sec. 323. Regulations.
Sec. 324. Appropriations for administrative expense.
Sec. 325. Miscellaneous provisions and definitions.
Sec. 326. Special supplemental food program.
Sec. 327. Nutrition education and training.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall

take effect on the date of the enactment of this Act.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT

SEC. 101. TYPES OF MILK TO BE INCLUDED IN SCHOOL LUNCHES.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)), as similarly amended first by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4202 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) GENERAL AUTHORITY.—Paragraph (2) of section 9(a) of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758(a)) is amended to read as follows:

"(2) Lunches served by schools participating in the school lunch program under this Act shall offer students fluid whole milk and fluid unflavored lowfat milk.".

SEC. 102. EXTENSION OF SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)—

(A) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist;

"(ii) conduct a regularly scheduled food service primarily for homeless children; or

"(iii) qualify as camps; and";

(B) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by inserting after subparagraph (E) the following new subparagraph:

"(F) private nonprofit organizations eligible under paragraph (7).";

(C) in paragraph (7)—

(i) by amending subparagraph (A) to read as follows:

"(A) Except as provided in subparagraph (C), private nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.";

(ii) in subparagraph (B)—

(I) by amending clause (i) to read as follows:

"(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or

"(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);";

(II) in clause (ii), by inserting "or a school participating in the school lunch program under this Act" after "university)"; and

(III) in clause (v), by inserting "or families" after "children"; and

(iii) by adding at the end the following new subparagraph:

"(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.

"(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding any other provision of this Act, any higher education institution that receives reimbursements under the program for meals and meal supplements served to low-income children under the National Youth Sports Program is eligible to receive reimbursements for not more than 2 meals or 1 meal and 1 meal supplement per day for not more than 30 days for each child participating in a National Youth Sports Program operated by such institution during the months other than May through September. The program under this paragraph shall be administered within the State by the same State agency that administers the program during the months of May through September.

"(B) Children participating in National Youth Sports Programs operated by higher education institutions, and such higher education institutions, shall be eligible to participate in the program under this paragraph without application.

"(C) Higher education institutions shall be reimbursed for meals and meal supplements served under this paragraph—

"(i) in the case of lunches and suppers, at the same rates as the payment rates established for free lunches under section 11; and

"(ii) in the case of breakfasts or meal supplements, at the same rates as the severe need payment rates established for free breakfasts under section 4 of the Child Nutrition Act of 1966.

"(D)(i) Meals for which a higher education institution is reimbursed under this paragraph shall fulfill the minimum nutritional requirements and meal patterns prescribed by the Secretary—

"(I) for meals served under the school lunch program under this Act, in the case of reimbursement for lunches or suppers; and

"(II) for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966, in the case of reimbursement for breakfasts.

"(ii) The Secretary may modify the minimum nutritional requirements and meal patterns prescribed by the Secretary for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966 for application to meal supplements for which a higher education institution is reimbursed under this paragraph.

"(E) The Secretary shall issue regulations governing the implementation, operation, and monitoring of programs receiving assistance under this paragraph that, to the maximum extent practicable, are comparable to those established for higher education institutions participating in the National Youth Sports Program and receiving reimbursements under the program for the months of May through September.";

(3) in the first sentence of subsection (l)(1), by inserting "(other than private nonprofit organizations eligible under subsection (a)(7))" after "Service institutions";

(4) by redesignating subsection (p) as subsection (r);

(5) by inserting after subsection (o) the following new subsections:

"(p) During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of private nonprofit organizations for the program established under this section.

"(q)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

"(2) Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum—

"(A) the criminal provisions and penalties established by subsection (o); and

"(B) the procedures for termination of participation in the program as established by regulations.

"(3) The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.

"(4) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraphs (1) and (3) of this subsection not more than 1/2 of 1 percent of amounts appropriated for purposes of carrying out this section.

"(5) For the purposes of this subsection, the term 'private nonprofit organization' has the meaning given such term in subsection (a)(7)(B).''; and

(6) in subsection (r) (as redesignated by paragraph (4) of this subsection), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than February 1, 1990, the Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (3), (4), and (5) of subsection (a). Notwithstanding the provisions of section 553 of title 5, United States Code, the Secretary of Agriculture may issue such regulations without providing notice or an opportunity for public comment.

(2) NATIONAL YOUTH SPORTS PROGRAM.—(A) Subparagraphs (A), (B), (C), and (D)(i) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section) shall be effective as of October 1, 1989.

(B) Not later than February 1, 1990, the Secretary of Agriculture shall—

(i) issue final regulations to implement subparagraph (D)(ii) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section); and

(ii) issue final regulations under subparagraph (E) of such section.

(3) EXTENSION OF AUTHORIZATION.—The amendments made by subsection (a)(6) shall be effective as of October 1, 1989.

SEC. 103. EXTENSION OF COMMODITY DISTRIBUTION PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (a) of section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by striking "1989" and inserting "1994".

(b) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)), as similarly added first by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-368), later by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-371), and later by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 2 of Public Law 100-356, is amended to read as if only the amendment made by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER PUBLIC LAW 100-356.—(A) Paragraph (3) of section 14(g) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1762a(g)) is amended—

(i) by adding at the end of subparagraph (A) the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988."; and

(ii) in subparagraph (B), by striking "$50,000" and inserting "such sums as may be necessary".

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(c) COMPUTATION OF CASH COMPENSATION TO DISTRICTS.—Section 14(g)(3)(A) of the National School Lunch Act (as amended by subsection (b) of this section) (42 U.S.C. 1762a(g)(3)(A)) is amended by striking the second sentence and all that follows and inserting the following: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the difference between the value of bonus commodity assistance received by such school district under this Act for the school year ending June 30, 1983, and the value of bonus commodities received by such school district under this Act for the school year ending June 30, 1982. For the purposes of this subparagraph—

"(i) the term 'bonus commodities' means commodities provided in addition to commodities provided pursuant to section 6(e); and

"(ii) the term 'bonus commodity assistance' means assistance, in the form of bonus commodities, cash, or commodity letters of credit, provided in addition to assistance provided pursuant to section 6(e).

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall, during the 45-day period beginning on October 1, 1990, complete action on any claim submitted under this subparagraph.".

SEC. 104. REPEAL OF NATIONAL ADVISORY COUNCIL.

Section 15 of the National School Lunch Act (42 U.S.C. 1763) is repealed.

SEC. 105. CHILD CARE FOOD PROGRAM.

(a) AMENDMENT TO HEADING.—The heading for section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended to read as follows:

"CHILD AND ADULT CARE FOOD PROGRAM".

(b) OTHER AMENDMENTS TO SECTION 17.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subparagraph (C) of subsection (f)(3)—

(A) in the first sentence, by inserting before the period the following: "and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas";

(B) in the second sentence, by inserting "and expansion funds" after "start-up funds";

(C) in the third sentence, by inserting "and expansion funds" after "Start-up funds";

(D) in the fourth sentence, by inserting "and expansion funds" after "start-up funds";

(E) in the fifth sentence, by inserting "and expansion funds" after "start-up funds"; and

(F) by inserting after the first sentence the following new sentence: "Institutions that have received start-up funds may also apply at a later date for expansion funds.";

(2) in subsection (l)—

(A) by inserting "(1)" after "(l)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.

"(3) The Secretary and the States shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children.";

(3) in subsection (p)—

(A) by adding at the end of paragraph (1) the following: "Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants."; and

(B) by adding at the end the following new paragraph:

"(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section."; and

(4) by adding at the end the following new subsection:

"(q)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

"(A) at least 25 percent of the children served by such organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

"(B) as a result of the participation of the organization in the project—

"(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

"(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

"(2) Under each such project, the Secretary shall examine—

"(A) the budgetary impact of the change in eligibility being tested;

"(B) the extent to which, as a result of such change, additional low-income children can be reached; and

"(C) which outreach methods are most effective.

"(3) The Secretary shall choose to conduct demonstration projects under this subsection—

"(A) 1 State that—

"(i) has a history of participation of for-profit organizations in the child care food program;

"(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a

manner that allows low-income parents to choose the type of child care their children will receive;

"(iii) has other funding mechanisms that support parental choice for child care;

"(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

"(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program; and

"(B) 1 State in which—

"(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

"(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

"(iii) at least 1/3 of the licensed child care centers and preschools operate as for-profit facilities;

"(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

"(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act.

"(4) Such project shall—

"(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

"(B) terminate on September 30, 1992.".

(c) FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 503(e) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) is amended by striking "not later than 12 months after the date on which the project was fully initiated" and inserting "September 30, 1990".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as of October 1, 1989. The Secretary of Agriculture shall reimburse day care institutions and family or group day care sponsoring organizations participating in the demonstration project authorized under section 503(a) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) as if this Act was enacted before such date.

(d) IMPLEMENTATION.—

(1) EXPANSION; DEMONSTRATION PROJECT.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) not later than July 1, 1990.

(2) DIETARY REQUIREMENTS FOR ADULT DAY CARE FOOD PROGRAM.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3).

SEC. 106. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) GENERAL AUTHORITY.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting after section 17 the following new section:

"SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS TO STATES.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

"(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term 'eligible elementary and secondary schools' means schools that—

"(A) operate school lunch programs under this Act;

"(B) sponsor afterschool care programs; and

"(C) are participating in the child care food program under section 17 on May 15, 1989.

"(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to children—

"(1) who are not more than 12 years of age; or

"(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

"(c) REIMBURSEMENT.—For the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).

"(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 107. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended—

(1) in paragraph (1) of subsection (e)—

(A) by striking "for the duration beginning July 1, 1987, and ending December 31, 1990" and inserting "beginning July 1, 1987, and ending September 30, 1992"; and

(B) by adding at the end the following new sentence: "The Secretary, directly or through contract, shall administer the project under this subsection."; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct demonstration projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(2)(A) The Secretary shall enter into agreements with private nonprofit organizations to participate in the projects under this subsection.

"(B) The Secretary shall establish eligibility requirements for private nonprofit organizations that desire to participate in the projects under this subsection. Such requirements shall include the following:

"(i) Each such organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

"(ii) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(3)(A) Projects under this subsection shall use the same meal patterns and shall receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements.

"(B) Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

"(4) For purposes of this subsection, the term 'emergency shelter' has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection from amounts appropriated for purposes of carrying out this Act not less than $50,000 in the fiscal year 1990 and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994, in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966. Any amounts expended under the preceding sentence shall be used solely to provide grants on an annual basis to private nonprofit organizations for the conduct of projects under this subsection.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) At least 1 project under this subsection shall commence operations not later than September 30, 1990, and all such projects shall cease to operate not later than September 30, 1994.".

SEC. 108. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is amended to read as follows:

"SEC. 19. REDUCTION OF PAPERWORK.

"(a) IN GENERAL.—In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall, to the maximum extent possible, reduce the paperwork required of State and local educational agencies, schools, and other agencies participating in nutrition programs assisted under such Acts in connection with such participation.

"(b) CONSULTATION; PUBLIC COMMENT.—In carrying out the requirements of subsection (a), the Secretary shall—

"(1) consult with State and local administrators of programs assisted under this Act or the Child Nutrition Act of 1966;

"(2) convene at least 1 meeting of the administrators described in paragraph (1) not later than the expiration of the 10-month period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989; and

"(3) obtain suggestions from members of the public with respect to reduction of paperwork.

"(c) REPORT.—Before the expiration of the 1-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall report to the Congress concerning the extent to which a reduction has occurred in the amount of paperwork described in subsection (a). Such report shall be developed in consultation with the administrators described in subsection (b)(1).".

SEC. 109. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 21. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

"(a) GENERAL AUTHORITY.—The Secretary—

"(1) from amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

"(A) food service programs carried out with assistance under this Act;

"(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs; and

"(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to establish and maintain a food service management institute.

"(b) MINIMUM REQUIREMENTS.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

"(1) menu planning;

"(2) implementation of regulations and appropriate guidelines; and

"(3) compliance with program requirements and accountability for program operations.

"(c) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—

"(1) IN GENERAL.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

"(A) food service programs assisted under this Act;

"(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs.

"(2) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

"(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

"(B) providing training and technical assistance with respect to—

"(i) efficient use of physical resources;

"(ii) financial management;

"(iii) efficient use of computers;

"(iv) procurement;

"(v) sanitation;

"(vi) safety;

"(vii) food handling;

"(viii) meal planning and related nutrition activities; and

"(ix) other appropriate activities;

"(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

"(D) developing training materials for use in the programs and workshops described in subparagraph (C); and

"(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966.

"(d) COORDINATION.—The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1); and

"(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2).".

SEC. 110. COMPLIANCE AND ACCOUNTABILITY.

(a) GENERAL AUTHORITY.—The National School Lunch Act (as amended by section 109 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

"(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code.

"(b) FUNCTIONS OF SYSTEM.—

"(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

"(A) require that local food service authorities comply with the provisions of this Act; and

"(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

"(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

"(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

"(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

"(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $3,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 111. INFORMATION ON INCOME ELIGIBILITY.

The National School Lunch Act (as amended by sections 109 and 110 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 23. INFORMATION ON INCOME ELIGIBILITY.

"(a) INFORMATION TO BE PROVIDED.—In the case of each program established under this Act and the Child Nutrition Act of 1966, the Secretary shall provide to each appropriate State agency—

"(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State, State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

"(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

"(b) TIME FOR PROVISION OF INFORMATION.—The Secretary shall provide the information required by subsection (a) before the expiration of the 60-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989 and shall as necessary provide revisions of such information.

"(c) FORM SIMPLIFICATION.—Not later than July 1, 1990, the Secretary shall—

"(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966; and

"(2) simplify the format and instructions for such forms so that the forms are easily understandable by the individuals who must complete them.".

SEC. 112. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

The National School Lunch Act (as amended by sections 109, 110, and 111 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 24. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

"(a) NUTRITION GUIDANCE PUBLICATION.—

"(1) DEVELOPMENT.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled 'Nutrition Guidance for Child Nutrition Programs' (hereafter in this section referred to as the 'publication'). The Secretary shall develop the publication as required by the preceding sentence before the expiration of the 2-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989.

"(2) TIME FOR DISTRIBUTION.—Before the expiration of the 6-month period beginning on the date that the development of the publication is completed, the Secretary shall distribute the publication to school food service authorities and institutions and organizations participating in covered programs.

"(b) REVISION OF MENU PLANNING GUIDES.—The Secretary shall, as necessary, revise the menu planning guides for each covered program to include recommendations for the implementation of nutrition guidance described in the publication.

"(c) APPLICATION OF NUTRITION GUIDANCE TO MEAL PROGRAMS.—In carrying out any covered program, school food authorities and other organizations and institutions participating in such program shall apply the nutrition guidance described in the publication when preparing meals and meal supplements served under such program.

"(d) IMPLEMENTATION.—In carrying out covered programs, the Secretary shall ensure that meals and meal supplements served under such programs are consistent with the nutrition guidance described in the publication.

"(e) REVISION OF PUBLICATION.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication as warranted by scientific evidence.

"(f) COVERED PROGRAMS.—For the purposes of this section, the term 'covered program' includes—

"(1) the school lunch program under this Act;

"(2) the summer food service program for children under section 13;

"(3) the child care food program under section 17; and

"(4) the school breakfast program under section 4 of the Child Nutrition Act of 1966.".

PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 121. EXPANSION OF SCHOOL BREAKFAST PROGRAM.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1733) is amended—

(1) in the first sentence of subsection (a), by inserting before the period the following: "and to carry out the provisions of subsection (g)";

(2) in subsection (f)—

(A) by inserting before the subsection the following new heading:

"EXPANSION OF PROGRAM";

(B) by inserting "(1)" after "(f)";

(C) by striking the last sentence; and

(D) by adding at the end the following new paragraph:

"(2)(A) Each State educational agency shall—

"(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

"(ii) select each year, for additional informational efforts concerning the program, schools in the State—

"(I) in which a substantial portion of school enrollment consists of children from low-income families; and

"(II) that do not participate in the school breakfast program.

"(B) Not later than October 1, 1993, the Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program."; and

(3) by adding at the end the following new subsection:

"STARTUP COSTS

"(g)(1) The Secretary shall make payments, totalling not less than $3,000,000 in the fiscal year 1990 and $5,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, on a competitive basis to State educational agencies in a substantial number of States for distribution to eligible schools to assist such schools with nonrecurring expenses incurred in initiating a school breakfast program under this section. Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b).

"(2)(A) In making payments under this subsection in any fiscal year, the Secretary shall provide a preference to State educational agencies that—

"(i) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of—

"(I) the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs;

"(II) a State law that requires the expansion of such programs during such year; or

"(III) significant public or private resources that have been assembled to carry out the expansion of such programs during such year; or

"(ii) either—

"(I) do not have a breakfast program available to a large number of low-income children in the State; or

"(II) serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfasts is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act.

"(B) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by such agency within a reasonable period.

"(C) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(3) Each State agency, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools that demonstrate the greatest need for a breakfast program.

"(4) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of payments received under this subsection.

"(5) As used in this subsection, the term 'eligible school' means a school—

"(A) attended by children a significant percentage of whom are members of low-income families; and

"(B) that agrees to operate the breakfast program established with such assistance for a period of not less than 3 years.

"(6) Not later than December 31, 1993, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.".

SEC. 122. STATE ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting after the first sentence the following new sentence: "If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5).";

(B) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(C) by inserting after paragraph (4) the following new paragraph:

"(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

"(B)(i) In the fiscal year 1991 and each succeeding fiscal year, any amounts appropriated that are not obligated or expended during such fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary. From any amounts returned to the Secretary under the preceding sentence, the Secretary shall—

"(I) first allocate, for the purpose of providing grants on an annual basis to private nonprofit organizations participating in projects under section 18(f) of the National School Lunch Act, not less than $3,000,000 in the fiscal year 1992 and not less than $4,000,000 in each of the fiscal years 1993 and 1994; and

"(II) then allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for such amounts."

"(ii) In any fiscal year in which amounts returned to the Secretary under the first sentence of clause (i) are insufficient to provide the complete allocation described in clause (i)(I), all of such amounts shall be allocated for the purpose described in clause (i)(I)."; and

(D) by adding at the end the following new paragraph:

"(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the National School Lunch Act.";

(2) in subsection (g), by inserting before the period at the end the following: ", and that agree to participate fully in any studies authorized by the Secretary"; and

(3) in subsection (h), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

(b) IMPLEMENTATION.—The amendment made by subsection (a)(1)(A) shall be effective as of October 1, 1989.

SEC. 123. ADDITIONAL ACTIVITIES AND REQUIREMENTS WITH RESPECT TO SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(17) 'Competitive bidding' means a procurement process under which the State agency selects the single source offering the lowest price, as determined by the submission of sealed bids, for the product for which bids are sought.";

(2) in subsection (d), by amending paragraph (2) to read as follows:

"(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

"(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the National School Lunch Act for free and reduced price meals;

"(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

"(II) is a member of a family that receives assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act; or

"(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

"(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

"(B) For the purpose of determining income eligibility under this section, any

State agency may choose to exclude from income any basic allowance for quarters received by military service personnel residing off military installations.";

(3) in subsection (e)—

(A) by striking the last 3 sentences of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they have received."; and

(D) by adding at the end the following new paragraphs:

"(3) The State agency shall—

"(A) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program;

"(B) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the 'medicaid program'); and

"(C) provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program.

"(4) The State agency shall ensure that each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.";

(4) in subsection (f)—

(A) in subparagraph (C) of paragraph (1)—

(i) in clause (iii)—

(I) by inserting "local programs for breastfeeding promotion," after "immunization programs,"; and

(II) by inserting "and treatment" after "alcohol and drug abuse counseling";

(ii) by amending clause (vii) to read as follows:

"(vii) a plan to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;";

(iii) by redesignating clauses (viii) and (ix) as clauses (xii) and (xiii), respectively; and

(iv) by inserting after clause (vii) the following new clauses:

"(viii) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

"(ix) if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to, and to meet the special nutrition education needs of, such individuals, which may include—

"(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;

"(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and

"(III) the development of nutrition education materials appropriate for the special needs of such individuals;

"(x) a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;

"(xi) a plan to provide nutrition education and promote breastfeeding;";

(B) by adding at the end of paragraph (8) the following new subparagraph:

"(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

"(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

"(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.";

(C) in paragraph (9)—

(i) by inserting "(A)" after "(9)"; and

(ii) by adding at the end the following new subparagraph:

"(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.";

(D) in subparagraph (A) of paragraph (14), by inserting ", breastfeeding promotion," after "nutrition education";

(E) in paragraph (17), by inserting before the period the following: "and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities"; and

(F) by adding at the end the following new paragraphs:

"(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program.

"(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year.

"(19) Each local agency participating in the program under this section shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

"(20) The State agency shall adopt policies that—

"(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

"(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.";

(5) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994. As authorized by section 3 of the National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.";

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

"(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

"(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

"(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

"(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

"(B) In any fiscal year—

"(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

"(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

"(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

"(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

"(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

"(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).";

(D) in paragraph (5) (as redesignated by subparagraph (B) of this paragraph), by striking "$3,000,000" and inserting "$5,000,000"; and

(E) by adding at the end the following new paragraphs:

"(6) Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section.";

(6) by amending subsection (h) to read as follows:

"(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs incurred by State and local agencies for nutrition services and administration for such year.

"(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued for the fiscal year 1987, as adjusted.

"(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the fiscal year 1987 to reflect the percentage change between—

"(I) the value of the index for State and local government purchases, using the implicit price deflator, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1986; and

"(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

"(C) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

"(2)(A) For each of the fiscal years 1990, 1991, 1992, 1993 and 1994, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula shall—

"(i) be designed to take into account—

"(I) the varying needs of each State;

"(II) the number of individuals participating in each State; and

"(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

"(ii) provide for each State agency—

"(I) an estimate of the number of participants for the fiscal year involved; and

"(II) a per participant grant for nutrition services and administration for such year; and

"(iii) provide for a minimum grant amount for State agencies.

"(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

"(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

"(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

"(3)(A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

"(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

"(I) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

"(II) an amount equal to a proportionate share of $8,000,000, with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

"(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

"(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

"(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

"(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

"(4) The Secretary shall—

"(A) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

"(B) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

"(C) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration; and

"(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding.

"(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

"(i) to cover allowable expenditures in such fiscal year; and

"(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

"(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

"(C) For the purposes of this paragraph, the term 'acceptable measures' includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

"(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency

under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

"(A) local agency staffing needs;

"(B) density of population;

"(C) number of individuals served; and

"(D) availability of administrative support from other sources.

"(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

"(A) a new local agency;

"(B) a new cost containment measure; or

"(C) a significant change in an existing cost containment measure.

"(8)(A) No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

"(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

"(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.

"(B)(i) Except as provided in subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

"(I) a competitive bidding system; or

"(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

"(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

"(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

"(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

"(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

"(C) In the case of any State that has a contract in effect on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on such date, expires. In the case of any State that has more than 1 such contract in effect on the date of the enactment of such Act, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on the date of the enactment of such Act, expires.

"(D)(i) The Secretary shall waive the requirement of subparagraph (B) in the case of any State that demonstrates to the Secretary that—

"(I) compliance with subparagraph (B) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

"(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

"(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

"(iii) The Secretary shall provide information at 6-month intervals to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

"(E)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

"(ii) The Secretary shall also provide technical assistance, on request, to State agencies that do not have large caseloads and that desire to consider a cost containment system that covers more than 1 State agency.

"(iii) The Secretary may waive the requirement of subparagraph (B) in the case of any Indian State agency that has not more than 1,000 participants.

"(F) No State may enter into a cost containment contract (in this subparagraph referred to as the "original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

"(G) Not later than the expiration of the 120-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall prescribe regulations to carry out this paragraph. Such regulations shall address issues involved in comparing savings from different cost containment measures, as provided under subparagraph (B).

"(9) For purposes of this subsection, the term 'cost containment measure' means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.";

(7) in subsection (i)—

(A) in paragraph (1), by striking "funds provided in accordance with this section" and inserting "amounts made available for food benefits under subsection (h)(1)(C)";

(B) in subparagraph (D) of paragraph (3)—

(i) by striking "approved cost-savings strategies as identified in subsection (h)(5)(A)" and inserting "cost containment measures as defined in subsection (h)(9)"; and

(ii) by striking "at the discretion of the Secretary, up to 5 percent" and inserting "not more than 3 percent"; and

(C) by adding at the end the following new paragraph:

"(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.";

(8) in subsection (j), by striking "each year" and inserting "every other year";

(9) in subsection (k)(1)—

(A) in the first sentence, by striking "twenty-three" and inserting "24"; and

(B) in the second sentence, by inserting after "the Secretary;" the following: "1 member shall be an expert in the promotion of breast feeding;"; and

(10) by adding at the end the following new subsections:

"(o)(1) Subject to the availability of funds appropriated for the purpose of carrying out this subsection, the Secretary is authorized to establish a demonstration program for the establishment of clinics for participants in the program under this section at community colleges that offer nursing education programs. In determining the location of clinics under this subsection, the Secretary shall consider—

"(A) the location of the community college under consideration;

"(B) its accessibility to individuals eligible to participate in the special supplemental food program under this section; and

"(C) its willingness to operate the clinic during nontraditional hours.

"(2) The Secretary shall, from funds appropriated for the purpose of carrying out this subsection—

"(A) evaluate any demonstration program carried out under paragraph (1); and

"(B) submit to the Congress a report containing the results of such evaluation.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $1,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(p)(1) The Secretary is authorized to make grants to State agencies for the purpose of improving and updating information and data systems used for purposes of carrying out programs under this section.

"(2) Any State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, and containing or accompanied by such information, as the Secretary may reasonably require. Grants shall be awarded based on the need demonstrated by States in their applications.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $2,000,000 for the fiscal year 1990 and such sums as may be necessary for each

of the fiscal years 1991, 1992, 1993, and 1994.".

(b) REVIEW OF PRIORITY SYSTEM.—

(1) IN GENERAL.—During the fiscal years 1990 and 1991, the Secretary of Agriculture shall conduct a review of the relationship between the nutritional risk criteria established under section 17 of the Child Nutrition Act of 1966 and the priority system used under the special supplemental food program for women, infants, and children carried out under such section (hereafter in this section referred to as the "program"), especially as it affects pregnant women. In conducting such review, the Secretary of Agriculture shall—

(A) consult with the directors of State and local agencies that operate the program and with other individuals with expertise in the field of nutrition;

(B) take into consideration the preventive nature of the program; and

(C) examine the risks to individuals eligible for participation in the program, particularly pregnant women, from conditions such as homelessness, mental illness, and conditions that pose barriers to receipt of prenatal care, that may be associated with an increased probability of adverse pregnancy outcome or other adverse effects on health.

(2) REPORTS TO CONGRESS.—The Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the review conducted as required by paragraph (1). Under the preceding sentence, the Secretary of Agriculture shall submit to such committees—

(A) a preliminary report not later than October 1, 1990; and

(B) a final report not later than July 1, 1991.

(c) REPORT ON WIC FOOD PACKAGE.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the appropriateness of foods eligible for purchase under the special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966.

(2) FACTORS.—In conducting such review, the Secretary of Agriculture shall take into consideration such factors as—

(A) how effectively protein, calcium, and iron are provided to participants;

(B) nutrient density of foods; and

(C) the extent to which nutrients, for which program participants are most vulnerable to deficiencies, such as iron, thiamine, riboflavin, vitamin A, and zinc, are effectively provided to participants.

(3) REPORTS.—The Secretary of Agriculture shall provide to the Congress—

(A) a preliminary report on such review no later than June 30, 1991; and

(B) a final report on such review no later than June 30, 1992.

(d) REPORT ON COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the effect on costs for nutrition services and administration incurred by State and local agencies of this section, section 213, and the amendments made by such sections (including the effect of both increases and decreases in requirements imposed on such agencies).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of the Congress a report on the results of the review conducted under this subsection.

(e) PAPERWORK REDUCTION.—In implementing and monitoring compliance with the provisions of the amendments made by this section (other than the amendment made by subsection (a)(2) to section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)), the Secretary of Agriculture shall not impose any new requirement on a State or local agency that would require the State or local agency to place additional paperwork or documentation in a case file maintained by a local agency.

(f) IMPLEMENTATION.—

(1) BREASTFEEDING PROMOTION; NUTRITION EDUCATION; OUTREACH.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsections (a)(2), (a)(3), and (a)(4).

(2) EXTENSION OF AUTHORIZATION; ALLOCATIONS.—The amendments made by subsections (a)(5), (a)(6), and (a)(7) shall be effective as of October 1, 1989.

SEC. 124. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows: "(B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the National School Lunch Act, and"; and

(ii) in subparagraph (C), by striking "schools and child care institutions" and inserting "schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act";

(B) in paragraph (2), by striking "the National Advisory Council on Child Nutrition;"; and

(C) in the first sentence of paragraph (4), by inserting before the period the following: ", in coordination with the activities authorized under section 21 of the National School Lunch Act";

(2) in subparagraph (C) of subsection (h)(3), by striking "the National Advisory Council on Child Nutrition,";

(3) by amending paragraph (2) of subsection (i) to read as follows:

"(2)(A) There is authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs—

"(i) $10,000,000 for the fiscal year 1990;

"(ii) $15,000,000 for the fiscal year 1991;

"(iii) $20,000,000 for the fiscal year 1992; and

"(iv) $25,000,000 for each of the fiscal years 1993 and 1994.

"(B)(i)(I) Subject to clause (ii), grants to each State from the amounts appropriated under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within such State.

"(II) If the amount appropriated for any fiscal year is insufficient to pay the amount to which each State is entitled under subclause (I), the amount of each grant shall be ratably reduced. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

"(ii) No State shall receive an amount that is less than—

"(I) $50,000, in any fiscal year in which the amount appropriated for purposes of this section is less than $10,000,000;

"(II) $62,500, in any fiscal year in which the amount appropriated for purposes of this section is $10,000,000 or more but is less than $15,000,000;

"(III) $68,750, in any fiscal year in which the amount appropriated for purposes of this section is $15,000,000 or more but is less than $20,000,000; and

"(IV) $75,000 in any fiscal year in which the amount appropriated for purposes of this section is $20,000,000 or more."; and

(4) by adding at the end the following new subsection:

"(j)(1) The Secretary shall assess the nutrition information and education program carried out under this section to determine what nutrition education needs are for children participating under the National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

"(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990.".

PART C—CROSS-PROGRAM PROVISIONS

SEC. 131. DETERMINATION OF TOTAL COMMODITY ASSISTANCE FOR THE SCHOOL LUNCH AND CHILD CARE FOOD PROGRAMS.

(a) SCHOOL LUNCH PROGRAM.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

"(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest 1/4 cent.

"(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

"(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program."; and

(2) in paragraph (2), by striking "Each State agency" and inserting "To the maximum extent feasible, each State agency".

(b) CHILD CARE FOOD PROGRAM.—Paragraph (1) of section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended to read as follows:

"(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

"(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 6(e) for the school year concerned.

"(C) After the end of each school year, the Secretary shall—

"(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

"(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

"(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on July 1, 1989.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT

SEC. 201. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL LUNCH PROGRAM.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by inserting after the first sentence the following new sentences: "The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 202. INCOME DOCUMENTATION REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)), as similarly amended first by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4203 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 1 of Public Law 100-356, is amended to read as if only the amendment made by section 4203 of the Child Nutrition Amendments of 1986 was enacted.

(2) FREE LUNCH PROGRAM ELIGIBILITY UNDER PUBLIC LAW 100-356.—(A) Section 9(b)(1)(A) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1758(b)(1)(A)) is amended—

(i) in the second sentence, by striking "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting "The"; and

(ii) by striking the third sentence.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(b) INCOME DOCUMENTATION REQUIREMENTS.—Section 9 of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by amending subparagraph (C) of subsection (b)(2) to read as follows:

"(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

"(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

"(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

"(II) a family that is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

"(iii) School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this Act and the Child Nutrition Act of 1966.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "numbers of all adult" and all that follows and inserting the following: "number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).";

(B) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;";

(ii) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.".

(c) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b).

SEC. 203. REPORTS TO STATE EDUCATIONAL AGENCIES.

Paragraph (1) of section 11(e) of the National School Lunch Act (42 U.S.C. 1759a(e)) is amended by striking "Each school" and all that follows through "State educational agency" and inserting the following: "The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency".

SEC. 204. 2-YEAR APPLICATIONS UNDER CHILD CARE FOOD PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (d) of section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 2-year intervals.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a).

SEC. 205. PILOT PROJECTS FOR ALTERNATIVE COUNTING METHODS.

(a) GENERAL AUTHORITY.—Section 18 of the National School Lunch Act (as amended by section 107(2) of this Act) (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(g)(1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

"(i) daily counting by category of meals provided by school lunch programs under this Act; and

"(ii) annual applications for eligibility to receive free meals or reduced price meals.

"(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

"(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

"(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

"(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

"(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(3)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have universal free school lunch programs shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (B) to the daily total student meal count.

"(B) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(C) For the purposes of this paragraph, a universal free school lunch program is a program under which the school operating the program elects to serve all children in that school free lunches under the school lunch program during any period of 3 successive years and pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance receiving under this Act with respect to the number of lunches served during that period.

"(4) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

"(5) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 18(g) of the National School Lunch Act (as added by subsection (a) of this section).

PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 211. STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SPECIAL MILK PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)), as similarly amended first by section 329 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365) and later by section 4209 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the later amendment was enacted.

(b) STATE-LOCAL AGREEMENTS.—Subsection (a) of section 3 of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1772) is amended by adding at the end the following new paragraph:

"(10) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 212. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL BREAKFAST PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—

(1) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)), as similarly amended first by section 330(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-366) and later by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 210 of the Hunger Prevention Act of 1988 (Public Law 100-435) is amended to read as if only the amendment made by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM UNDER HUNGER PREVENTION ACT.—(A) The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking "3 cents" and inserting "6 cents".

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on July 1, 1989.

(b) STATE-LOCAL AGREEMENTS.—Subparagraph (A) of section 4(b)(1) of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1773(b)(1)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(2) by inserting "(i)" after "(A)"; and

(3) by adding at the end the following new clause:

"(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 213. PAPERWORK REDUCTION REQUIREMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) GENERAL AUTHORITY.—Section 17 of the Child Nutrition Act of 1966 (as amended by section 123 of this Act) (42 U.S.C. 1786) is amended—

(1) by adding at the end of subsection (e) the following new paragraph:

"(5) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes."; and

(2) in subsection (f)—

(A) in paragraph (7)—

(i) by inserting "(A)" after "(7)"; and

(ii) by adding at the end the following new subparagraph:

"(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction."; and

(B) by adding after paragraph (20) (as added by section 123(a)(3)(F) of this Act) the following new paragraph:

"(21) Each State agency shall conduct monitoring reviews of each local agency at least biennially.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (a).

SEC. 214. UPDATING OF PLANS FOR NUTRITION EDUCATION AND TRAINING.

Paragraph (3) of section 19(h) of the Child Nutrition Act of 1966 (as amended by section 124 of this Act) (42 U.S.C. 1788(h)) is amended by adding at the end the following new sentence: "Each plan developed as required by this section shall be updated on an annual basis.".

TITLE III—TECHNICAL AMENDMENTS

PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 301. APPORTIONMENTS TO STATES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 4 the following new heading:

"APPORTIONMENTS TO STATES".

SEC. 302. DIRECT FEDERAL EXPENDITURES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in paragraph (1), by striking "his" and inserting "the Secretary's";

(2) in paragraph (2), by striking "him" and inserting "the Secretary"; and

(3) in the matter following paragraph (3)—

(A) by striking "him" and inserting "the Secretary";

(B) by striking "(50 Stat. 323)"; and

(C) by striking "(49 Stat. 774), as amended".

SEC. 303. PAYMENTS TO STATES.

(a) INSERTION OF SECTION HEADING.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 7 the following new heading:

"PAYMENTS TO STATES".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.——Paragraph (2) of section 7(a) of the National School Lunch Act (42 U.S.C. 1756(a)) is amended by striking "the the" and inserting "the".

SEC. 304. STATE DISBURSEMENT TO SCHOOLS.

Subsection (d) of section 8 of the National School Lunch Act (as designated by section 201 of this Act) (42 U.S.C. 1757) is amended—

(1) by striking "persons" and inserting "individuals";

(2) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

(3) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 305. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 9(e) of the National School Lunch Act (42 U.S.C. 1758(e)), as similarly added first by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4204 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 9 of the National School Lunch Act (as amended by sections 101 and 202 of this Act and subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by striking "family-size" each place it appears and inserting "family size"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "School-lunch" and inserting "School lunch";

(B) in the third sentence, by striking "(49 Stat. 774), as amended"; and

(C) in the fourth sentence, by striking ", as amended," each place it appears.

SEC. 306. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) DEFINITION OF SECRETARY.—Section 12(d)(8) of the National School Lunch Act (42 U.S.C. 1760(d)(8)), as similarly added first by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-369), later by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-372), and later by section 4503(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(2) USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.—Section 12(i) of the National School Lunch Act (42 U.S.C. 1760(i)), as similarly added first by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365), and later by section 4206 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 12 of the National School Lunch Act (as amended by subsection (a)) (42 U.S.C. 1760) is amended—

(1) in subsection (b), by striking "his" each place it appears and inserting "the Secretary's";

(2) in paragraph (5) of subsection (d), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (g), by striking "his" and inserting "personal"; and

(4) in subsection (i) (as amended by subsection (a)(2))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 3001 et seq.)".

SEC. 307. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the National School Lunch Act (as amended by section 102 of this Act) (42 U.S.C. 1761) is amended—

(1) in subsection (d), by striking "July 1," and inserting "July 1";

(2) in the third sentence of subsection (f), by striking "prescribed" and inserting "prescribe";

(3) in the first sentence of subsection (g), by striking ": Provided" and all that follows through "respectively"; and

(4) in subsection (h)—

(A) by striking "(7 U.S.C. 1431)";

(B) by striking "(7 U.S.C. 612c)"; and

(C) by striking "(7 U.S.C. 1446a-1)".

SEC. 308. REPEAL OF OBSOLETE PROVISION RELATING TO TEMPORARY EMERGENCY ASSISTANCE.

Section 13A of the National School Lunch Act (42 U.S.C. 1762) is repealed.

SEC. 309. ELECTION TO RECEIVE CASH PAYMENTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 16 the following new heading:

"ELECTION TO RECEIVE CASH PAYMENTS".

SEC. 310. CHILD CARE FOOD PROGRAM.

(a) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the National School Lunch Act (as amended by sections 105, 131, and 204 of this Act) (42 U.S.C. 1766) is amended—

(1) in subsection (a), by striking "handicapped children" each place it appears and inserting "children with handicaps";

(2) in the second sentence of subsection (d)(1) (as redesignated by section 204(1) of this Act), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (f)—

(A) in paragraph (1), by striking "day-care" and inserting "day care"; and

(B) in subparagraph (B) of paragraph (2), by striking the second period; and

(4) by striking subsection (k) (and redesignating the succeeding subsections accordingly).

(b) ELIMINATION OF DUPLICATE PROVISION.—Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)), as similarly amended first by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-367), later by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-370), and later by section 4401 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

SEC. 311. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) (as amended by sections 107 and 205 of this Act) is amended—

(1) by striking subsections (a), (b), and (c), and redesignating the succeeding subsections accordingly; and

(2) in subsection (a) (as redesignated by paragraph (1))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 1774)".

SEC. 312. GENERAL AMENDMENTS.

The National School Lunch Act (as otherwise amended by this Act) (42 U.S.C. 1751 et seq.) is amended—

(1) by striking "school-lunch" each place it appears and inserting "school lunch";

(2) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(3) by striking "special-assistance" each place it appears and inserting "special assistance".

PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 321. SPECIAL MILK PROGRAM AUTHORIZATION.

Section 3(a) of the Child Nutrition Act of 1966 (as amended by section 211 of this Act) (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "he" and inserting "the Secretary";

(2) in paragraph (2), by striking "(42 U.S.C. 1751 et seq.)";

(3) in paragraph (4), by striking "he" and inserting "the Secretary"; and

(4) in paragraph (5), by striking "their" and inserting "its".

SEC. 322. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (as amended by sections 121 and 212 of this Act) (42 U.S.C. 1773) is amended—

(1) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(2) in paragraph (3) of subsection (b), by striking "(42 U.S.C. 1766)".

SEC. 323. REGULATIONS.

The first sentence of section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking "he" and inserting "the Secretary".

SEC. 324. APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE.

(a) INSERTION OF SECTION HEADING.—The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by inserting before section 14 the following heading:

"APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE".

(b) ELIMINATION OF GENDER-SPECIFIC POSSESSIVE PRONOUN.—Section 14 of the Child Nutrition Act of 1966 (42 U.S.C. 1783) is amended—

(1) by striking "is" and inserting "are"; and

(2) by striking "his" and inserting "the Secretary's".

SEC. 325. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (f) as paragraphs (1) through (6), respectively;

(3) in paragraph (3) (as redesignated by paragraph (2) of this section), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986"; and

(4) in paragraph (6) (as redesignated by paragraph (2) of this section)—

(A) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

(B) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 326. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) STATE ELIGIBILITY FOR WIC FUNDS.—Section 17(c)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(4)), as similarly amended first by section 342(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4302(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(2) BIENNIAL REPORT.—Section 17(d)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(4)), as similarly amended first by section 343(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4303(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the Child Nutrition Act of 1966 (as amended by sections 123 and 213 of this Act and subsection (a) of this section) (42 U.S.C. 1786) is amended—

(1) in paragraph (3) of subsection (c), by striking "section 1304 of the Food and Agriculture Act of 1977" and inserting "section 4 of the Agriculture and Consumer Protection Act of 1973";

(2) in subsection (d)—

(A) by moving the margin of paragraph (4) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (3); and

(B) in paragraph (4), by moving the margins of subparagraphs (A) through (C) 2 ems to the left, so that the left margin of each such subparagraph is indented 4 ems;

(3) in subsection (f)—

(A) in paragraph (8), by striking "persons" each place it appears and inserting "individuals";

(B) in paragraph (10)—

(i) by striking "a person" and inserting "an individual";

(ii) by striking "person's" and inserting "individual's"; and

(iii) by striking "the person" and inserting "the individual"; and

(C) by moving the margin of paragraph (17) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (16);

(4) in subsection (m)—

(A) in subparagraph (B) of paragraph (7), by striking "(7 U.S.C. 2011 et seq.)"; and

(B) in subparagraph (A) of paragraph (11), by striking "person" and inserting "individual"; and

(5) in paragraph (1) of subsection (n), by striking "this Act" and inserting "the Anti-Drug Abuse Act of 1988".

SEC. 327. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (as amended by sections 124 and 214 of this Act) (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking the semicolon each place it appears and inserting a comma;

(B) in the first sentence of paragraph (4)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(C) in paragraph (5)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(2) in paragraph (3) of subsection (h)—

(A) by striking "(12 Stat." and all that follows through "308)"; and

(B) by striking "(26 Stat." and all that follows through "328)".

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask my colleagues to join me today in support of H.R. 24, the child nutrition and WIC reauthorization of 1989. H.R. 24 is a bipartisan, bicameral bill that generally improves the day-to-day operations of programs authorized under the National School Lunch and Child Nutrition Acts.

The House of Representatives approved the committee-reported version of this legislation on July 31. Soon thereafter, the Senate passed its version of H.R. 24, which was nearly identical to the House legislation. Because the differences between the two bills were so minimal, the House and Senate were able to quickly reach agreement on the version of the bill that is before us today.

If we approve the amendment before us today, the other body will likewise approve it and send it to the President. Therefore, we will avoid a conference committee on the minor differences between the House and Senate bills.

This legislation:

Expands the Summer Food Service Program to permit private nonprofit organizations to sponsor the program;

Expands the School Breakfast Program to include startup funds;

Requires State WIC agencies to utilize a cost containment system that yields the most savings, thereby making additional funds available to serve more of the eligible population;

Permits automatic WIC eligibility for individuals at nutritional risk who receive benefits from AFDC, food stamps, or Medicaid;

Requires the Secretary of Agriculture to develop a unified system of audits and reviews for the National School Lunch Programs;

Allows schools to certify children as eligible for free meals, without further application, by obtaining pertinent information directly from local food stamp or AFDC offices; and

Reduces the amount of paperwork that schools and other participating organizations and institutions must complete in order to comply with program requirements.

H.R. 24 also extends through 1994 five expiring programs, the largest of which are the WIC and Summer Food Service Programs.

In addition, I would like to thank Chairman DE LA GARZA and Mr. EMERSON, and their staffs for their cooperation in resolving the Cash-CLOC issue. Under H.R. 24, the cash in lieu of commodities and commodity letter of credit pilot projects will continue through September 30, 1992, and participating Cash/CLOC school districts that sustained losses due to a change in USDA methodology will receive reimbursements.

Since we propose to avoid a conference committee on this legislation, I would like to ask permission to insert in the RECORD a detailed statement of explanation which we and our colleagues in the other body have agreed upon. I urge my colleagues to join me in voting for final passage of H.R. 24.

NATIONAL SCHOOL LUNCH ACT

TYPES OF MILK INCLUDED IN SCHOOL LUNCH

The Committee action requires that fluid whole milk and unflavored lowfat milk be offered as a component of lunches served through the National School Lunch Program. School food authorities are not limited to offering these forms of milk but may continue to offer flavored and other forms of milk that provide maximum choice to meet student preferences.

SUMMER FOOD SERVICE PROGRAMS FOR CHILDREN

H.R. 24 permits private nonprofit organizations to sponsor the Summer Food Service Program in areas where public sponsors are not operating the program. Under the legislation, such sponsors may serve no more than a total of 2,500 children with no more than 300 children at one site (or 500 children with a waiver from the Secretary). In urban areas, a private nonprofit sponsor may operate a total of five sites; in rural areas, such sponsors may operate no more than 20 sites. The Committee intends that the Department continue to use the definition of "rural area" that is currently utilized in the Summer Food Service Program.

The Hunger Prevention Act of 1988 (P.L. 100-435) authorized the Secretary to institute Statewide demonstration projects in five States in which private nonprofit organizations would participate in the Summer Food Service Program. These demonstration projects have now been completed. USDA has apprised the Committee of its

preliminary findings regarding the 1989 summer feeding demonstration activities.

The Committee is concerned that USDA's preliminary findings indicate that all of the requirements of the Summer Food Service Program were not fully met by a number of the private nonprofit organizations that participated in this summer's demonstration projects. Accordingly, the Committee will review the Department's final evaluation and any recommendations contained therein and may wish to make further modifications in the terms under which private nonprofit organizations may participate in the program.

The Committee believes that USDA and the State agencies should devote additional resources to monitoring all phases of future summer feeding program activities to ensure that local participants are fully apprised of and in compliance with all program requirements. Accordingly, H.R. 24 reserves one-half of one percent of Summer Food funds for the Secretary to develop and implement a State and federal monitoring system of private-nonprofit organizations.

The legislation also requires that there be a one-year period between when a public agency stops sponsoring a program in an area and when a private nonprofit agency can start meal service to children in that area. This provision does not apply if it can be determined, after consultation with the public agency involved that such agency discontinued participation for reasons other than that a private nonprofit organization was available to sponsor the program in that area.

The Committee also anticipates requesting the General Accounting Office to monitor future summer feeding activities conducted by private nonprofit organizations.

H.R. 24 includes a provision that requires the Secretary and State agencies to disseminate information in fiscal years 1990 and 1991 to private nonprofit organizations that are potentially eligible to participate as Summer Food sponsors. The Committee intends that a reasonable effort be made to provide information to private nonprofit organizations on the new provision in the Summer Food Program. The Committee does not intend for USDA to issue regulations that would unduly increase the administrative requirements of State agencies.

EXTENSION OF COMMODITY DISTRIBUTION PROGRAM

H.R. 24 extends the Commodity Distribution Program through fiscal year 1994. It also extends, for an additional year, the time period when school districts participating in a Cash/CLOC pilot project can make claims for losses they sustained in the 1982-1983 school year because of changes in the methodology of the pilot project. The bill also makes technical corrections to the language governing how losses are to be computed. These technical corrections are not in any way intended to change the method by which losses are to be computed or to affect the amounts school districts are eligible to claim and receive.

CHILD CARE FOOD PROGRAM

H.R. 24 has renamed the section in the National School Lunch Act that authorizes the Child Care Food Program and the Adult Care Food Program as the "Child and Adult Care Food Programs". The Committee believes that this title is a more appropriate designation of the section since the two programs serve very different populations. The Committee intends that the Child Care Food Program and the Adult Care Food Program, respectively, shall continue to be referred to as such.

H.R. 24 requires that the lunches served under the Adult Care Food Program meet one-third of the recommended daily allowance for adults as established by the National Academy of Sciences and allows the Governor of a State to designate a State agency, other than the one administering the Child Care Food Program, to operate the Adult Care Food Program.

The Committee is concerned about the frequency of monitoring of school-sponsored after-school care programs participating in the Child Care Food Program. Under current regulations, these after-school care programs are monitored six times a year. Because most of these programs operate only nine months of the year, the monitoring visits take place at nearly monthly intervals. The Committee believes that participating school-sponsored care programs should only be subject to monitoring three times a year and directs the Secretary to remedy this situation through the regulatory process.

HOMELESS CHILDREN

Homeless children living in temporary shelters often have limited access to an adequate and healthy diet. The Federal child nutrition programs, while designed to help meet the nutritional needs of poor children, do not in fact reach many children in homeless shelters. This is especially true for children under the age of 6. Shelters do not meet the eligibility requirements of the year-round child nutrition programs. While the Summer Food Service Program for children can partially meet the need during the summer months, these children are deprived of assistance the rest of the year.

The estimates of the number of homeless children vary but it appears that they number in the thousands. The lack of an adequate diet can make these children vulnerable to disease and illness. Young children are most at risk, since school-children can at least secure meals through school food programs.

Accordingly, this legislation mandates that the Secretary institute demonstration projects to provide year-round food service to homeless children under age 6 in emergency shelters. Under the demonstration projects, the Secretary shall enter into agreements with private non-profit organizations to conduct the project at shelters. The Secretary would be authorized to set the criteria for eligible non-profit organizations, except that no such organization could apply to operate the demonstration project at more than five sites, to serve more than 300 children at one site, or to operate a site that did not meet applicable State and local health, safety, and sanitation standards. We should note that we do not expect the criteria for eligible organizations to be set so rigidly that few such organizations would qualify. We expect the project to be carried out and the funds provided by this legislation to be fully expended for this purpose.

The demonstration projects would begin during the latter part of fiscal year 1990 and continue through September 30, 1994, at which time they would expire. The Secretary shall use $50,000 for the project in fiscal year 1990 and the sum of $350,000 in each fiscal year from 1991 through 1994. Also, for fiscal years 1992-94, additional funds may be made available for the demonstration projects by the recapture of unspent State Administrative Expenses dollars. Funds provided for the demonstration projects are to be used to carry out the projects at the nonprofit organization sites selected, and are not to be diverted for evaluation costs the Secretary may incur. The Secretary already receives an appropriation of several million dollars a year for studies and evaluations of child nutrition programs, and any evaluation costs should come from that source.

Under the demonstration, children shall be eligible to receive the same meals as may be provided under the Child Care Food Program, and at the same reimbursement rates. All children served in the projects would be deemed eligible to receive free meals without the collection of free and reduced-price meal applications, as is the practice in the Summer Food Service Program.

The purpose of the proposed demonstration projects is to determine the best means of providing food assistance to homeless preschool children in shelters. It is specifically designed to extend meal services year round to homeless children under the age of 6, to develop appropriate meal patterns for these children, and to determine the best method of food service delivery. What is needed is the flexibility in the demonstration project to utilize appropriate parts of various existing Federal child nutrition assistance programs to test the most effective way to deliver meals to homeless children in shelters.

These demonstration projects should in no way affect the participation of private nonprofit organizations serving homeless children in the Summer Food Service Program.

NATIONAL YOUTH SPORTS PROGRAM

H.R. 24 authorizes Federal reimbursements for meals and/or meal supplements served to low income children participating in the National Youth Sports Programs (NYSP) operated by colleges and universities during the academic year. Under this provision, colleges and universities that operate NYSP during the summer months and receive reimbursement under the Summer Food Service Program are automatically eligible to receive additional reimbursements if they operate NYSP that offer meal service during the academic year.

As is generally the case for the Summer Program, reimbursements under the academic year program are limited to two meals or one meal and a meal supplement per day for each child served, and there is no individual income test required for participating children. However, the total number of days for which reimbursements may be provided during the academic year is limited to 30, and reimbursement rates differ from those provided under the Summer Program. Lunches or suppers served under the academic year program will be reimbursed at the same rates as free lunches offered under the National School Lunch Program, and must meet the nutritional and meal pattern requirements of the School Lunch Program. Breakfasts and meal supplements served under the new program will be reimbursed at the severe need rate provided for free breakfasts under the School Breakfast Program. Breakfasts served during the normal breakfast period must meet the nutritional and meal pattern requirements of the School Breakfast Program. If served outside the normal breakfast time as meal supplements, the Secretary may require that such supplements meet the same nutritional and meal pattern requirements as those required for the School Breakfast Program, or may establish

separate nutritional requirements and patterns for meal supplements.

To limit the amount of disruption in meal service and operations that might be caused by switching from the Summer Food Service Program to this new academic year program, the same State agency administering the NYSP Summer Food Program will administer the academic year NYSP. Additionally, no separate application to the State agency for participation in the academic year NYSP is required in cases where a college or university participates in the Summer Food Service Program. Moreover, the new provision specifies that requirements for implementing, operating and monitoring the academic year program be comparable to those required for colleges and universities participating in the Summer Food Service Program.

FAMILY OR GROUP DAY CARE HOME DEMONSTRATION

H.R. 24 extends through September 30, 1990, the one-State demonstration project that permits family and group day care homes to receive Federal reimbursement for one additional meal or snack per day for each child in care for more than eight hours.

FOR-PROFIT CHILD CENTERS

H.R. 24 requires the Secretary to conduct statewide demonstration programs that permit private, for-profit day care organizations to participate in the Child Care Food Programs if no less than 25 percent of the children in their care have incomes at or below 185 percent of the poverty level. Under current law, for-profit child care centers are eligible to participate in the Child Care Food Program if the proprietary center receives compensation for at least 25 percent of enrolled children through Title XX of the Social Security Act. The purpose of the pilot is to examine the budgetary impact of the change in eligibility that is being tested; to examine the extent to which additional low-income children can be reached; and to determine which outreach methods are most effective.

MEAL SUPPLEMENTS FOR AFTER SCHOOL CARE

H.R. 24 permits schools that have after-school care programs and are offering a snack through the Child Care Food Program as of May 15, 1989, to instead offer the snack through the National School Lunch Program. This provision was included in order to alleviate the paperwork burden that is generated by participation in the two programs.

CASH/CLOC

H.R. 24 extends the Cash/CLOC pilot programs through September 30, 1992. During the consideration of the extension of the authority to continue existing Cash and CLOC site operations, concerns were raised that the procedures governing the Cash and CLOC sites' operations may not respond adequately to USDA's mandate to support American agriculture markets and prices.

Therefore, the Committee encourages the Secretary to review current procedures and make modifications that may be appropriate to assist the Department in meeting its mandate to support domestic agricultural markets. The Secretary may wish to review the kinds of foods that can be purchased and the timing of purchases.

The Committee does not envision the pilot sites being overburdened with new complex procedures or rules or modifications that negate the major benefits that the school food service directors operating Cash and CLOC programs believe are offered by these alternative programs. These sites recognize the commodity program fulfills a dual purpose and are willing to cooperate with USDA in utilizing commodity letter of credit purchasing power in a manner that parallels USDA's commodity purchase activities. The Committee expects USDA to include representatives from school districts now operating Cash and CLOC programs in the development of any modifications USDA deems appropriate.

PAPERWORK REDUCTION

The legislation requires the Secretary to reduce the level of paperwork involved in administering programs under the National School Lunch and Child Nutrition Acts. Under this provision, the Secretary must convene at least one meeting of State and local administrators of the programs to solicit ideas for reducing paperwork; publish a notice in the Federal Register inviting others to suggest ideas for reducing paperwork; and report back to Congress within one year after the date of enactment of this Act on the extent to which the level of paperwork has been reduced. The report shall reflect the paperwork reduction that has been achieved beyond the provisions contained in H.R. 24.

TRAINING AND TECHNICAL ASSISTANCE AND FOOD SERVICE MANAGEMENT INSTITUTE

The Committee believes that an essential part of the Secretary's administration of the child nutrition programs is to provide adequate training and technical assistance to State and local administrators of the child nutrition programs. It is through such activities that State agencies and local schools can meet the compliance and accountability demands of the programs. Under H.R. 24, the Secretary is authorized, at a minimum, to conduct training and technical assistance regarding menu planning, implementation of regulations and guidelines, and compliance with program requirements.

The Committee fully expects, that, for each year in which funds are appropriated for this purpose, the Secretary will conduct such training and technical assistance. It is important that such training, which may be contracted out by the Secretary or handled by the USDA regional office staff, be conducted at regional locations so as to provide convenient access by State and local school food service personnel.

H.R. 24 authorizes a Food Service Management Institute, to be established by the Secretary. The Institute is authorized to conduct research and training activities designed to improve the operation and quality of child nutrition programs. The Institute will provide assistance to schools and school food service personnel in developing cost effective methods to deliver nutritious meals to students. The Institute will be a national center for the research and development of effective and efficient management principles. The Institute will also provide education and training assistance to food service managers and personnel and engage in research to improve the efficiency of food service deliverers. Additionally, the Institute will serve as a clearinghouse for information retrieval and dissemination.

Emphasis should be placed on the collection of primary data of specific practitioners and related personnel, and the development of training materials and resources. The Committee anticipates that a national network of trained professionals throughout the United States will be established to present training programs and workshops utilizing training materials developed by the Institute.

Initially the target population will be individuals responsible for training school food service practitioners at the State, district and local levels. This population will be utilized to enhance the quality of currently available training programs while new programs are being developed by the Institute. Much of the research on and activities regarding the Lunch Program are easily transferable to other child nutrition programs, especially the School Breakfast Program. As the Institute's expertise in the Lunch and Breakfast Programs grows, the Committee believes that the Institute's activities will contribute to improving the quality of other feeding programs such as the Child Care Food Program, the Summer Food Service Program and the Elderly Feeding Program.

COMPLIANCE AND ACCOUNTABILITY

The Committee has included language in H.R. 24 outlining a "unified system prescribed and administered by the Secretary for ensuring that local food service authorities . . . comply with the provisions of this Act." The Committee requires States to coordinate all compliance and accountability activities so that the burden on schools is minimized. H.R. 24 requires the Secretary, when establishing this system, to do so through the publication of regulations, thereby allowing for public comment.

The role of the Secretary shall be to assist the States in monitoring schools and to monitor the compliance of States and local food service authorities through USDA's management evaluations. The Secretary and the State shall work cooperatively in monitoring the compliance of local food service authorities. The Committee intends for the Secretary to target management evaluations primarily on local food service authorities where there has been demonstrated significant noncompliance with program requirements. The Committee expects the Secretary to conduct management evaluations based on standards established through federal regulatory procedures which allow for public comment and to ensure that all current standards in use have been made available for public comment.

INFORMATION ON INCOME ELIGIBILITY

H.R. 24 requires the Secretary to provide information to States concerning the types of income counted in determining eligibility for free or reduced price meals, particularly with respect to how reimbursements provided under the Child Care Food Program to family day care providers are counted. Also, information must be provided concerning the consideration of applications for free or reduced price meals from households in which the head of household is less than 21 years of age. It is the intent of the Committee that information on any changes to the prototype application or letters to the parents be provided to the State agency prior to two months before the end of the preceding school year.

NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS

H.R. 24 requires the Secretaries of Agriculture and Health and Human Services to develop a publication entitled "Nutrition Guidance for Child Nutrition Programs". The Committee believes that this publication should give schools, institutions and organizations participating in the National School Lunch, Breakfast, Child Care Food

and Summer Food Programs basic guidance on preparing meals that are nutritionally appropriate for children. The Committee strongly emphasizes that the Secretaries develop the publication within the two year deadline that is provided in H.R. 24.

H.R. 24 requires the Secretary to revise the menu planning guides as necessary to reflect the Nutrition Guidance. The Committee, however, strongly encourages USDA to reprint the menu planning guides. We have heard from State and local programs administrators who have informed us that there is a shortage of the current menu planning guides.

The Committee intends that the Nutrition Guidance publication be distributed to child care centers and family and group day care homes through the Child Care Food Program sponsors or State agencies.

CHILD NUTRITION ACT OF 1966

EXPANSION OF SCHOOL BREAKFAST

H.R. 24 provides funds for the initiation of School Breakfast Programs. The expansion funds will be provided to States on a competitive basis. The Secretary shall give preference in the grant awards process to states that (1) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs or a description of State laws that require the expansion of such program during such year; (2) do not have a breakfast program available to large number of low-income children in the State or serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfasts is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act; or (3) have assembled significant public or private resources to expand the school breakfast program within the State in such year.

H.R. 24 requires State education agencies to provide information to school boards and public officials concerning the benefits and availability of the school breakfast program. The Committee believes that this information effort should be primary directed at school boards and to appropriate public officials. In addition, each State educational agency shall select each year, for additional information efforts, schools in the State that do not participate in the breakfast program and in which a substantial portion of school enrollment consists of children from low-income families.

In addition to the regular entitlement for meal reimbursements in the Breakfast Program, the Committee has created a new mandatory spending program for the expansion of breakfast programs in fiscal year 1990.

STATE ADMINISTRATIVE EXPENSES

H.R. 24 limits the amount of State Administrative Expenses (SAE) funds that a State may carry over to 25% of the FY 1991 funds and 20% of the funds in each subsequent year. Any SAE funds that are returned to the Secretary shall be dedicated to the Homeless Children Demonstration Program authorized in H.R. 24. Any funds remaining after allocating to the Homeless Children Demonstration shall be reallocated among States that demonstrate need for additional administrative funds.

The legislative also requires that State agencies other than the State education agency that administer any of the programs eligible for SAE funds receive the amount made available to the State for administrative of such programs.

H.R. 24 also requires States to ensure that an appropriate amount of SAE funds received by the State are provided to State agencies administering the distribution of commodities to child nutrition programs. With any allocation of funds under this provision, the Committee would expect State commodity distribution agencies that currently levy fees on local school food authorities for the provision of commodities to reduce the amount of or eliminate such fees whenever possible.

In ensuring, through the regulatory process, the adequacy of funds for the administrative costs of distributing commodities, the Secretary shall consider the effect on the State educational agencies of the shifting of funds from the current discretionary or nondiscretionary SAE allocations to States under the National School Lunch or Child Nutrition Acts. Additional funds required for the distribution of commodities may however be allocated from SAE funds voluntarily released by State agencies.

20 PERCENT COMMODITY REFUSAL

The Committee has retained the provision in current law that allows schools participating in the school lunch program to refuse up to 20 percent of the value or commodities that they are entitled to receive each year, and if other commodities are available to the State, to receive commodities in lieu of the commodities that were refused. Although most school food service authorities do not opt to exercise this option, it has been retained to provide flexibility to those schools that may not be able to utilize certain commodities that may be offered. The Committee is aware of the fact that USDA is in the process of implementing the extensive reforms mandated by the Commodity Distribution Reform Act and WIC Amendments of 1987. At such time as all of the changes authorized under this Act are fully implemented, the Committee intends to reconsider the need for the 20% refusal option.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Program eligibility

H.R. 24 includes an amendment requiring that an individual at nutritional risk who receives benefits from Food Stamps, AFDC or Medicaid or who is a member of a family in which a pregnant women or infant receives Medicaid benefits be deemed automatically to meet the WIC income test.

COUNTABLE INCOME

H.R. 24 permits State agencies to not count basic allowance for quarters received by military service personnel residing off military installations as income for the purpose of determining income eligibility for WIC.

STATE AGENCY REQUIREMENTS

State agenices are required to ensure that written information is provided to adult participants and applicants regarding AFDC, Food Stamps, and the child support enforcement program under the Social Security Act. A WIC agency could satisfy this requirement by providing a fact sheet that contains basic information about these programs and the addresses and phone numbers of local offices where low income families can apply. The agency would not be required to provide this information more than once to any individual participant or applicant. The agency must make certain that all current and future applicants and participants receive this information. It is not intended that WIC agencies will have to document in each WIC participant's or applicant's file that the fact sheet was handed out, as this would unnecessarily increase paperwork burdens.

Local agencies must refer to the Medicaid Program WIC participants and applicants who appear to meet the appropriate income criteria. State agencies must provide local agencies with the information necessary to conduct such referrals, including the Medicaid income guidelines and the appropriate agency where the participant or applicant could apply for Medicaid. It is not intended that USDA require WIC agencies to document in each WIC participant's or applicant's file whether a Medicaid referral was made.

STATE PLAN AND OTHER REQUIREMENTS

The legislation contains a series of new provisions designed to inform potentially eligible pregnant women about WIC, to make every effort to keep pregnant women enrolled through follow up calls and clinic hours that are convenient to working participants, and to provide applicants who cannot be certified for WIC with information about other food assistance programs. WIC agencies must maintain and make available to clients information on local resources for sustance abuse counseling and treatment.

Research on the medical impact of the WIC Program demonstrates that WIC has its greatest effects on pregnancy outcomes when a pregnant woman begins receiving WIC benefits at least six months before she gives birth. It is therefore important that pregnant women enroll in WIC as early in pregnancy as possible.

Accordingly, the legislation provides that if a pregnant woman not enrolled in WIC schedules an initial appointment to apply for the program, but then misses the appointment, the local WIC agency shall contact her to reschedule the appointment. The legislation does not envision local agencies having to undertake elaborate efforts—a brief phone conversation or the mailing of a post card would suffice. Also, the provision does not contemplate that an effort be made to locate a pregnant women if the local agency does not have her phone number or address. However, such agency should get her phone number (and/or the address) when a pregnant woman makes an appointment. This should become a routine part of making appointments for pregnant women, it if is not already.

Breastfeeding promotion materials and instruction must be in a language that the participant can understand. It is the intent of the Committee that State agencies need not expend public funds on the production of these materials in cases where private agencies have donated a sufficient supply of materials which include correct, complete and up-to-date information. It is also the intent of the Committee that any printed information provided to participants reflect, where possible, the reading level of the participants.

WIC FOR INCARCERATED WOMEN

Recent studies have found that women in prison and their babies comprise a population at risk for poor prenatal outcome. Because some penal healthcare systems do not meet what are nationally accepted as mini-

mal standards in maternal and child health care, children born to mothers in prison, especially to those with alcohol and drug abuse problems, often have severe and chronic health problems which often require very specialized and expensive treatment.

The provisions adopted by the Committee would permit states, at their option, to expand WIC coverage to pregnant women and their infants in State and local prisons and juvenile detention facilities. States are permitted to adopt methods for the delivery of services and to change the form and/or distribution of WIC food packages to meet the needs of incarcerated women and the needs of the state agency administering the program related to these institutions.

While the Committee expects that States may target selected facilities to serve, and will tailor the administration of the program accordingly, it is the intent of the Committee that the educational and nutrition components of WIC program be maintained.

Should future legislation comprehensively address the health and nutrition needs of incarcerated women, it is expected that correctional facilities participating in such a program would be ineligible to utilize this WIC provision.

WIC AUTHORIZATION

H.R. 24 reauthorizes the WIC Program through fiscal year 1994 with an FY 1990 authorization level of $2,158,000,000. The legislation also authorizes the Appropriations Committees to appropriate funds for WIC one year in advance of the fiscal year for which the funds are to be distributed. Forward funding would greatly assist State and local WIC agencies in administering the program because they would know exactly how much money they are going to receive and could plan accordingly.

PROGRAM EVALUATION/TECHNICAL ASSISTANCE

H.R. 24 increases from $3 million to $5 million the maximum amount of funds available to the Secretary for evaluating program performance, making biennial reports on program characteristics to Congress, providing training and technical assistance to improve state agency administrative systems, and administering pilot projects.

TECHNICAL/ADMINISTRATIVE AMENDMENTS

H.R. 24 contains many provisions that are designed to improve both the Federal and State administration of the program. For example, the Secretary is required under H.R. 24 to issue first quarter letters-of-credit within 15 days of the enactment of appropriations legislation. Also, the bill requires the Secretary to issue an initial allocation of funds to States that covers no less than one-third of the State's fiscal year allocation. This provision is needed because many States are facing cash-flow problems due to the implementation of cost-containment measures.

The bill provides an annual inflation adjustment for the amount of Federal funds that will be available each year for the costs of nutrition services and administration. It does this by establishing a national average per participant grant amount for nutrition services and administration, and annually revising this amount to respond to changes in the implicit price index for State and local government services, published by the Bureau of Economic Analysis of the Department of Commerce. The bill requires the USDA to use the best data that is available on this index when computing the inflation adjustment.

The Commerce Department provides an advance estimate of price changes in a quarter within one month of the end of a quarter; a preliminary estimate within 2 months of the quarter's end and a final estimate within 3 months of the quarter's end. Additionally, the Commerce Department revises its final estimates each July for the previous three year period. In calling for use of the best estimate available, the Committee assumes that USDA will use the most recently available (final) estimates for the last quarter, and the most accurate (final or revised final estimates) for the preceding measurement period.

The 20 percent/80 percent split between nutrition services/administration and food is no longer viable. The use of infant formula cost containment measures makes it imperative to redesign the nutrition services/administration cost provisions in WIC.

State agencies are permitted under H.R. 24 to advance any amount of funding for nutrition services and administration to local agencies for significant expansion of program operations, as well as for commencement of program operations.

COST CONTAINMENT

The legislation requires State WIC agencies to institute the infant formula cost containment system that yields the most savings. The goal of the provision is to increase cost containment savings and to serve substantial numbers of additional low income pregnant women, infants, and children who are eligible for WIC but are currently left out of the program due to funding limitations.

The provision has two components. The first component essentially codifies, in the authorizing statute, and makes permanent, the language included in the fiscal year 1989 Agriculture Appropriations bill. The language requires States to implement a cost containment system for purchasing WIC infant formula unless a State demonstrates that such measures would not lower costs or would interfere with the delivery of WIC foods to participants.

The second component requires States to use the form of cost containment that saves the most money. The provision requires a State distributing WIC foods through retail stores either to use a competitive bidding system (under which a State uses a sealed bid process to select the single company offering the lowest price as the primary distributor of WIC infant formula in the State) or to use another cost containment system that is found, after the State secures bids under both systems, through a single bid invitation, and compares these bids, to yield equal or greater savings. Over the past year and a half, first Florida and then a number of other States have issued in RFP or invitation to bid seeking bids under two different cost containment systems, compared the bids they received, and selected the cost containment system producing the most savings.

In comparing savings under different cost containment systems, States would have to compare rebate levels for the full term of the contract (including procedures for adjusting rebate levels when wholesale prices rise during the contract term). In addition, a State could, in accordance with regulations issued by the Secretary, take other factors into account. These other factors include: the proportion of infants who, based on the experience of other States, would not reasonably be expected to use contract brand formula under a competitive bidding system; the amount of formula for which no rebate would be provided under an open market system (because one or more companies declined to provide rebates on their products); and differences in administrative costs relating to initiating a cost containment system (such as the cost of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

The Secretary should issue regulations that cover issues involved in comparing savings from different cost containment systems. In developing the regulations, the Secretary would be expected to examine the most up-to-date information available on the actual experiences, with regard to these cost factors, of States that have implemented various forms of cost containment. This should provide information on the levels of costs that can reasonably be expected to be incurred.

The provision would not interfere with cost containment contracts in effect on the date of enactment. In a State that has a contract in effect on the date of enactment of this legislation, the provision would take effect when the current contract term expires and the contract comes up for renewal, extension, or negotiation. It should be noted that in such a circumstance, the date of expiration of the contract term would be the expiration date specified in the contract at the time of enactment of this legislation.

The provision also stipulates that if a State has more than one contract in effect on the date of enactment, and the contracts expire on different dates, the provision would take effect on the latest date that a contract expires. A State would be allowed to extend a contract with an earlier expiration date for the period up until the date of expiration of the contract with the latest expiration date.

The provision affects States in which WIC foods are purchased at retail stores. If a State uses retail stores to deliver WIC foods in one part of the State and another delivery system is used in another part of the State, the provision applies only in the part of the State with a retail system.

The provision also includes a waiver procedure. The Secretary is required to waive the requirement that a State use the cost containment system generating the largest savings if a State demonstrates to the satisfaction of the Secretary that compliance with this requirement would interfere with efficient or effective operation of the program or would have such a minimal effect that the difference in savings would not be significant. The Secretary shall prescribe the terms and criteria under which a waiver could be granted.

The Committee notes that the provision for granting waivers when compliance with the cost containment requirements "would be inconsistent with efficient or effective operation of the program" is to be used only in circumstances in which the Secretary finds that there is strong evidence that the program, and the needy population it serves, would be harmed by compliance with this provision. It is not intended that the waiver authority be used to weaken or dilute the cost containment provisions to this bill, which Members of Congress have worked hard to design.

Some 20 States currently use competitive bidding in their WIC programs, and these States have not experienced problems that interfere with efficient and effective pro-

gram operation. Instead, efficiency and effectiveness have been enhanced through reduced prices for infant formula and resulting expansion of the program to more eligible women, infants and children. The legislation includes a waiver authority so that if a new circumstance should arise in the future under which compliance with these requirements would actually have an adverse effect on the program in a State, the Secretary would be able to grant an exception.

One other issue regarding waivers merits some mention. One or two States that have not yet instituted a cost containment system may be ready to sign contracts before the regulations for the new cost containment provisions are issued. If such circumstance should occur, it would seem reasonable for the Secretary to grant a waiver, but only for a limited period of time (such as up to one year) so that a State can institute some cost containment measures in the interim.

The legislation also provides that the Secretary shall provide information to Congress at six month intervals on waivers that have been granted. For these purposes, a letter would suffice; a formal report is not necessary.

This provision contains several other features as well. First, it requires that the Secretary provide technical assistance to certain Indian State agencies to assist these agencies in achieving the maximum cost containment savings feasible. In addition, it authorizes the Secretary to exempt certain Indian agencies from the requirement to institute the cost containment system that would yield the greatest savings if the Secretary finds that compliance with the requirement would not be feasible for these agencies. If the Secretary issues such an exemption, certain Indian agencies would be exempt from further cost containment activities other than the implementation of the feasibility plans they have already submitted under the fiscal year 1989 Agriculture Appropriations Act.

The provision also requires the Secretary to provide technical assistance, on request, to States that desire to consider a cost containment system covering more than one State WIC agency. Recently, Maryland, Delaware, and the District of Columbia instituted a joint cost containment system and achieved savings greater than those they would have been likely to achieve if each of these States acted independently.

Finally, the provision requires that a State agency may not enter into a contract under which an infant formula company could cancel the contract, reduce rebate levels, or otherwise reduce savings before the scheduled expiration of contract in retaliation for the State soliciting or securing bids or signing a contract for another cost containment system for the period after the current contract expires. This provision will enable (and will require) States to reject any pressures to include provisions in contracts allowing companies to cancel or reduce rebates prematurely.

Regulations implementing these provisions shall be promulgated no later than 120 days after the date of enactment of this legislation. Prompt promulgation and implementation of the regulations is essential, since several States have contracts that expire next spring.

The Committee does not intend to preclude States from converting nutrition services/administrative funds to food benefit funds.

CENSUS INFORMATION

H.R. 24 requires the Secretary, in coordination with the Secretary of Commerce, to make available an estimate of the number of women, infants, and children by State and county (or equivalent political subdivision) who are income eligible for WIC. This estimate should be made upon the completion of the 1990 decennial census.

BREASTFEEDING PROMOTION

The legislation requires that States spend at least their proportionate share of $8 million on breasfeeding promotion activities. H.R. 24 requires the State agency to provide training on breastfeeding promotion to staff of local agencies. The Committee wants to make clear that does not mean that the State must provide such training to every staff person of each local agency.

Health experts world-wide acknowledge breastfeeding is the optimal way to feed and nurture infants and should be practiced whenever possible. The immunological benefits of breastfeeding are not available through breast-milk substitutes. However, due to numerous nutritional, psychological, cultural and other barriers to breastfeeding, WIC women breastfeed at rates much lower than more affluent American women. Studies funded through the U.S. Departments of Agriculture and Health and Human Services have found when thoughtful, coordinated breastfeeding promotion and support programs are implemented to address these barriers, more women choose to breastfeed and to breastfeed longer. Successful programs include prenatal counseling and group discussions addressing individual concerns and lack of knowledge, early postpartum hospital, clinic, and phone support, positive peer influence, coordination with other Federal maternal and child health programs and community health care providers, and designation of breastfeeding promotion coordinator.

In carrying out the breastfeeding promotion activities, States are to provide clients with information based on the most up-to-date medical findings on the effect of alcohol, illicit drugs, prescription drugs, nicotine, over-the-counter drugs and other items they may consume on the health of their child. Information on how infants react when a breastfeeding mother consumes such substances is changing on a frequent basis. Materials and information provided to mothers should contain the most recent information available from the medical community and reflect a consensus among experts in the field. We believe the updating of pertinent information will assure infants receive the maximum benefit possible from breastfeeding.

In documenting funding spent on breastfeeding promotion, it is the intention of the Committee that States may include any funding used to purchase materials or breastfeeding equipment. The State can also include State expended funds used to train staff in breastfeeding promotion and counseling. Part of the State's funding may include documentation on the time that nutrition counselors or medical professionals spend counseling WIC participants on breastfeeding. It is not the intention of the Committee to require States to hire specialists to promote breastfeeding if trained staff and medical professionals are available and currently promoting and counseling on breastfeeding.

DEMONSTRATION PROGRAM IN COMMUNITY COLLEGES

H.R. 24 authorizes $1 million for the Secretary to carry out demonstration programs in community colleges that offer nursing education programs and operate clinics that are accessible to WIC eligible persons in nontraditional hours.

UPDATING CENSUS DATA

The Committee believes that the Secretary, in consultation with the Secretary of Commerce, should investigate the use of systems to update census data more frequently than every 10 years for use in allocating WIC funds. Updated census data would ensure that States are receiving the correct amount of funds to adequately serve their populations.

INFORMATION AND DATA SYSTEMS

H.R. 24 authorizes $2 million for the Secretary to make grants to State agencies to improve and update the information and data systems that they use in carrying out WIC programs.

REPORT ON MIGRANT PARTICIPATION

H.R. 24 requires that the Secretary submit a report on interstate migrant participation in the WIC program every other October 1. Current law requires that the report be submitted annually.

NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL DEVELOPMENT

H.R. 24 increases the membership on this advisory council in order to include a person who is an expert in the promotion of breastfeeding.

REVIEW OF PRIORITY SYSTEM

H.R. 24 requires the Secretary to conduct a review of the relationship between nutritional risk criteria and the priority system used to enroll WIC program participants.

REPORT ON WIC FOOD PACKAGES

H.R. 24 directs USDA to report on the appropriateness of foods eligible for purchase in the WIC Program. In particular, the Department will address how well the statutory objectives of providing foods that are rich in protein, calcium and iron are achieved, since those are foods of particular importance to the target population. The Department will also address nutrient density in its review of the appropriateness of WIC foods in providing nutrients for which the target population is most vulnerable to deficiencies. We note that iron, Vitamin A and zinc are nutrients that the target population tends to consume at levels well below the Recommended Dietary Allowance.

There is concern that the Department look beyond the nutrient composition of foods. Bioavailability of such nutrients should be considered. For example, testimony delivered to the Senate Committee on Agriculture indicates that bioavailability may greatly influence the effectiveness of various options for addressing the iron needs of the WIC population. The need for foods rich in heme iron needs to be considered and addressed. The Department should examine whether iron consumed in the present WIC food packages has poor bioavailability unless ingested at the same time as certain other foods which will enhance iron absorption. The assumption that these foods are consumed simultaneously so that bioavailability is enhanced requires empirical support and investigation.

REPORT ON COST OF ADMINISTRATION AND NUTRITION SERVICES

H.R. 24 requires the Secretary to review the effects of the WIC requirements in this Act upon State and local agency costs for administration and nutrition services.

RESTRICTIONS ON ADDED PAPERWORK FOR CASEWORK FILES

H.R. 24 specifies that except in the case of the provisions providing automatic income eligibility for persons who receive food stamps, AFDC or Medicaid, the Secretary is not to impose any new requirement on State and local agencies to place additional paperwork in, or otherwise additionally document, a case file maintained by an agency.

HEMATOLOGICAL TESTING

The Committee expects the Secretary, in coordination with the Secretary of Health and Human Services and interested national medical organizations, to determine when hematological testing of infants is appropriate and at what intervals such testing should be required for purposes of the WIC program.

CERTIFICATION PERIODS

The Committee expects the Secretary, within one year after the date of enactment, to report to the House Education and Labor Committee and the Senate Agriculture Committee on the actions that have been taken to ensure that regulations governing certification periods for participants provide a consistent method for determining when the certification period will expire. The Committee also expects the Secretary to issue any regulations necessary to achieve this goal within one year after enactment.

NUTRITION EDUCATION AND TRAINING

H.R. 24 reauthorizes the Nutrition Education and Training Program through 1994 and authorizes the following amounts for program funding: $10 million in FY 1990; $15 million in FY 1991; $20 million in FY 1992; and $25 million in FY 1993 and 1994. The legislation also increases the amount of the minimum grant to a State when the actual appropriation increases.

PAPERWORK REDUCTION

H.R. 24 contains a series of provisions that are aimed at reducing the level of paperwork involved in administering programs under the National School Lunch and Child Nutrition Acts. The Committee believes that program accountability is very important and should not be compromised; however, it appears that the level of paperwork involved can be considerably reduced. The Committee expects the Secretary to consider carefully the paperwork burdens that new requirements may create and to consider whether some existing paperwork requirements may be eased.

SOCIAL SECURITY NUMBERS

This legislation requires schools and child care centers to collect the Social Security number of only that parent or guardian responsible for the child who is the principal wage earner or of another appropriate person as designated by the Secretary, instead of all adult household members, on the initial application for free or reduced price meals. The Committee is concerned that accountability be maintained in the National School Lunch Program while avoiding excessive administrative burdens for schools that are encouraging legitimate participation in the program. In order to avoid the unnecessary administrative burdens, the requirement for collection of the Social Security number of a parent or guardian shall not be construed as requiring schools to determine whether the individual providing the number is the child's parent or guardian.

Concerns have been expressed that the use of Social Security numbers for student participation in the program may have deterred the participation of otherwise eligible children. The record has shown that while useful, Social Security numbers may be of limited utility in detecting abuse in the National School Lunch Program. While regulations provide some flexibility in providing meals to students whose applications are not complete, school officials are often reluctant to provide such flexibility for fear of an audit exception.

The importance of nutrition for learning is firmly established. It is not the intent of the Committee to allow the required use of Social Security numbers to prevent otherwise qualifying students from participating in child nutrition programs. The Committee urges the Secretary to routinely notify participating schools of the policy regarding Social Security numbers on applications. In particular, schools should be made aware that if an applicant states that he or she does not have a Social Security number, that the statement shall suffice in lieu of providing such number. The Committee also requests that the Secretary ensure through the regulatory process that these problems of deterring participation by otherwise eligible students are resolved.

DIRECT CERTIFICATION OF ELIGIBILITY

Schools that can obtain information directly from local Food Stamp of AFDC offices regarding which children are from families that participate in these programs will have the authority to certify these children as eligible for a free meal without further application. Schools shall use the information obtained from the Food Stamp or AFDC office only for the purpose of determining a child's eligibility for a free meal under the National School Lunch or Breakfast Program. The information could be used for no other purpose.

It is the Committee's intent that the Secretary develop regulations on this provision requiring school officials to notify parents of their child's eligibility for a free meal, and give the parents the opportunity to determine whether or not their child should partake of the free meal(s) for which he or she is eligible. This requirement should pose the least burden on the school by requiring that a letter be sent to parents asking them to inform the school if they do not want their child to receive a free lunch. If the school does not hear from the parents within a certain number of days, specified by the Secretary, it is assumed that the parent has given consent for the child to receive a free meal.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the amendment to the Senate amendment to H.R. 24, the Child Nutrition and WIC Amendments of 1989.

This is an important piece of legislation, one which will assist in feeding our Nation's school children, as well as mothers and children covered by WIC and other child nutrition programs.

In addition to extending through fiscal year 1994 the Summer Feeding, Nutrition Education and Training, and WIC Programs together with the commodity distribution and State administrative expense authorities, we have made many important program improvements which will assist in providing meals to needy children who would otherwise not be served. I would like to highlight just a few of the major provisions contained in H.R. 24.

We have often heard from school food personnel how hard it is to deal with a situation where they know a child is eligible for a free or reduced-price lunch, yet they cannot provide him or her with a meal because the parents did not fill out an application or the application was filled out improperly. We address this situation in several ways.

First, we permit schools to certify such children as eligible for free or reduced-price meals by obtaining pertinent eligibility information from personnel who administer the AFDC or Food Stamps Programs.

Second, we address the situation where a student is ineligible because the application does not contain the Social Security numbers of all adult members of the family. We amend current law to only require the number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made. All Social Security numbers will still be required if the application is chosen for verification.

Moreover, we direct the USDA to simplify the application form so individuals with limited literacy skills can fill out the forms, thereby enabling their child to receive free or reduced-price meals. Often a parent does not fill out their child's application for a free or reduced price lunch or returns the form to the school containing errors because he or she doesn't understand the purpose of the application or cannot read the instructions.

All of these changes should go a long way in assisting school food personnel help feed needy children.

Another important provision in H.R. 24 requires a unified system of audits. During hearings before the Education and Labor Committee, we heard testimony about the burdensome number of audits imposed on school food service personnel. While we want to insure local school food service authorities are complying with the law, we don't want to burden them with audits to the extent that they have little time left to take care of their most important job—meeting the nutritional needs of children. It is the intent of this legislation to reduce the number of audits, while, at the same time, provide the Department with the ability to monitor programs through management evaluations of the State educational agencies and local school food authorities.

We have also included startup funds for schools that wish to initiate a School Breakfast Program. This is a particularly important provision since we know that children who eat breakfast do better in school. Funds under this section of the bill will be provided to States on a competitive basis. However, in order to target the money to reach the neediest students, we have set a list of priorities which includes States with a large number of low-income children who do not currently have access to a Breakfast Program and States which can show that they are currently using public and private resources to expand the Breakfast Program.

Another important provision in H.R. 24 once again permits nonprofit organizations to participate in the Summer Feeding Program in areas in which public sponsors are not operating a program. As you may recall, we eliminated nonprofit entities as Summer Food Program sponsors in 1981 because of blatant program abuses. While we are apprehensive about permitting nonprofits to again sponsor the Summer Feeding Program, we are concerned when we hear that some areas cannot find acceptable sponsors and children are not eating during the summer months when the School Lunch and Breakfast Programs do not operate.

We have, therefore, decided to again permit nonprofit sponsors to participate and included a variety of restrictions which we feel will prevent the earlier problems from reoccurring. For instance, we have provided that nonprofit sponsors can serve no more than a total of 2,500 children and no more than 300 children at one site. We have also limited such sponsors to operating 5 sites in an urban area and no more than 20 sites in rural areas.

We have required the USDA to develop a system under which the Secretary and State agencies can monitor the compliance of private nonprofit sponsors with the requirements for operating a Summer Food Program. We have reserved one-half of 1 percent of Summer Food Program funds to be used by the Secretary for this purpose.

Mr. Speaker, we have also made some important changes in one of the most successful Federal nutrition programs, WIC, and have raised the authorization level to $2,158,000,000 for fiscal year 1990. Such sums are authorized for fiscal years 1991–94.

During reauthorization hearings witnesses described situations which limited the access of individuals to the WIC Program. We share the concerns expressed by witnesses and have instructed the State agencies to adopt policies which enhance the ability of potential and current WIC clients to receive services through the WIC Program—including the implementation of flexible clinic hours for working clients and followup calls to women who miss their initial appointment to apply for program participation.

Excessive paperwork can also limit access to WIC by tying up personnel and potential clients with unlimited forms to fill out in order to determine whether or not a client is eligible to receive WIC benefits. To reduce paperwork for WIC personnel and redtape for potential beneficiaries, H.R. 24 requires that an individual who: First, already receives benefits through the Food Stamp, AFDC, or Medicaid Programs; or second, is a member of a family in which the pregnant woman or infant receives Medicaid benefits, automatically meets the WIC income test. This step alone should provide WIC personnel with additional time to address the needs of their clients.

H.R. 24 also includes a cost containment provision which should enable us to serve additional women, infants, and children. Infant formula has been a major cost to the WIC Program. Many States have entered into exclusive agreements with formula companies which provide them with rebates which they use to serve additional beneficiaries. This bill not only makes permanent a provision in the 1989 Agriculture appropriations bill which requires States to implement a cost containment system for purchasing WIC infant formula, it requires them to institute the system which provides the greatest savings. With increased savings, additional individuals who are eligible for, but are not now receiving WIC benefits, can be served.

Mr. Speaker, H.R. 24 also addresses the unfair situation in the WIC Program where you have two military families with similar incomes and one qualifies for WIC benefits and one does not. This problem exists because a housing allowance is considered as income for purposes of determining eligibility and the value of free, on-base housing is not.

To begin with, it is a shame that our military families even qualify for WIC. But they do and we believe we have to treat them equally when they have similar incomes. Therefore, this legislation provides States with the option of disregarding the housing allowance for those families who are not fortunate enough to have on-base housing and who otherwise would qualify for WIC benefits.

Finally, Mr. Speaker, I would like to discuss the extension of the Cash-CLOC pilot program through September 30, 1992. The Cash-CLOC demonstration project began with the 1981–82 school year, the result of a provision in the 1981 Agriculture appropriation bill requiring USDA to implement a demonstration project to test the feasibility of replacing donated commodities with commodity letters of credit [CLOC] or cash payments. This concept is not entirely new. Kansas has been receiving cash in lieu of donated commodities for many years. In addition to cash payments in lieu of commodities, Kansas also receives bonus commodities. This allays concerns that, if we do not have all of these commodity distribution programs, somehow or other the current system for disposing of surplus agricultural commodities will be jeopardized, and then we will not be able to distribute these commodities. Kansas does very, very well. Kansas receives cash in lieu of commodities plus bonus commodities.

So we are going to extend the present cash and commodity letter of credit alternatives to commodities and I am very pleased that we are doing so.

In the case of CLOC, it is the best of all words. It not only helps us distribute our surplus commodities, but lets us remove them at the local level. Moreover, it also permits the Department of Agriculture to determine exactly what commodities can be purchased locally, and in what time frame they must be purchased. So it is the best of all worlds.

I am also pleased that we are doing this because we get another benefit. We get competition. I was a school administrator at a time when there was no competition with commodity distribution. Many involved with commodity distribution became arrogant and insensitive to local program needs; we had the most unsatisfactory and inefficient distribution program you would ever want to witness. They have cleaned up their act considerably, and I think it is partially due, maybe to a great extent, to the fact that they got a little competition from the Cash-CLOC alternative programs. Competition always encourages you to do a little bit better, and they are doing better.

So I am pleased that we are going to continue those alternative programs. I am sure it will mean that our children will be receiving better food. It will also mean that we will be able to sell more foods in the commercial market and will not end up having them as surplus commodities.

It blows my mind when I hear some of the lobbyists here trying to preserve the status quo of the commodity distribution business when, if they would only use a little common sense, they would realize they probably would not have the surplus if we did things differently.

For instance, who in the world is going to go home and tell their parent that they had this magnificent, wonderful beef, beef that had been frozen for a long time, had been shipped all over the country, finally came back, got thawed, got sent out to be reprocessed, and then the cooks tried to make something decent out of it. That is pretty difficult to do. So those kids

do not run home and say, "Hey, buy some beef, Mom, because it was so good at school." Children do when schools buy foods locally, and when they do not they have all the problems associated with commodity distribution.

Those schools participating in the pilot programs have testified to the many benefits of the Cash/CLOC alternatives including: First, fewer storage problems and reduced transportation costs; second, increased ability to prepare a larger variety of meals which are more acceptable to students and result in less plate waste; third, timely access to commodities; fourth, availability of commodities in a usable form; fifth, reduced labor costs; sixth, lower school lunch prices for participating students; and seventh, to local farmers.

So I think Cash and CLOC is a good program. It is a program that merits continued monitoring, but also extension so that we can provide the best, most nutritious meals possible for our schoolchildren.

Mr. Speaker, these are but a few of the major provisions incorporated in H.R. 24. This is a good, bipartisan bill and deserves the full support of Members on both sides of the aisle.

□ 1320

Mr. SPEAKER, I reserve the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. BARTLETT], who had a lot to do with some of the parts of the program dealing particularly with WIC.

Mr. BARTLETT. Mr. Speaker, I rise in support of H.R. 24 and the agreements that have been reached with the Senate. I want to call to the attention of the House four major changes that the House committee and subsequently the agreement with the Senate amendments have made in the underlying WIC authorization law.

These four amendments and other similar less major amendments are designed to empower mothers to increasingly control decisions over their own lives.

For too long, too many programs which provide Federal benefits provide as a condition of receiving that Federal benefit disempowerment provisions. Dispowerment in the Government agrees to provide benefits to beneficiaries so long as beneficiaries agree to give up choices that they make for their own lives.

WIC, the Womens, Infants and Children Program, is generally regarded as one of the best, one of the most productive, and one of the most useful Federal programs for low-income mothers. Yet even with WIC benefits, items have nevertheless crept into WIC law, both at the State and Federal level, which have disempowered mothers, particularly working mothers, from making choices on their own.

I want to call to the attention of the House specific changes that were made in underlying WIC statute which will be implemented over the course of authorization. First, we provided an automatic eligibility that will require that an individual at nutritional risk who receives benefits from food stamps, AFDC, or Medicaid, or who is a member in which a pregnant woman or an infant receiving Medicaid benefits be deemed automatically to meet the WIC income test.

Thus, Mr. Speaker, we with this new empowerment amendment on the income test will determine that if a recipient is otherwise eligible for WIC and can prove their eligibility under the income standards for AFDC, food stamps, or Medicaid, that beneficiary will not be required to go into an additional income verification and income test under WIC. This will simplify the process rather substantially.

Second, we would require that a State provide in their State plan a plan to improve the access to WIC for participants and prospective applicants who are employed or who reside in rural areas by addressing specific and special ways of delivering services while minimizing time away from the job.

Those specific changes in State plans would include changes in appointment scheduling, changes in adjustment of clinic hours, adjustment of clinic locations, and mailing of multiple vouchers.

It would be our expectation that during the course of this authorization, that every clinic in the country would be at the very least hold itself open during nontraditional working hours for employed WIC recipients, who thus will not be required to take time off from their job in order to show up at the WIC office and become eligible for WIC benefits.

Third, we required that WIC set up in each local agency a plan, to the extent that is feasibile, a cooperative arrangement with their area hospitals so that hospitals would be able to advise potentially eligible individuals that receive inpatient or outpatient services related to the birth or care of their child, the availability of WIC services.

So that those individuals may in fact be certified within the hospital for the participation in WIC while they are in the hospital.

Fourth, we provided that State agencies will provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling, the delivery of mailing those vouchers as opposed to the present system which oftentimes requires a WIC recipient to travel to the WIC office to simply pick up the vouchers.

Mr. Speaker, I do appreciate the open mind with which the sponsors of this legislation, the chairman of the committee, the gentleman from California [Mr. HAWKINS] and the ranking Republican, the gentleman from Pennsylvania [Mr. GOODLING] have approached these empowerment amendments in the WIC program, and I very much appreciate their persistence in negotiations with the Senate to keep these major amendments in the WIC bill.

Mr. GOODLING. Mr. Speaker, I want to again congratulate my chairman who again carried the big stick and spoke softly and brought us to this point on this very excellent program.

Mr. KILDEE. Mr. Speaker, I rise in support of H.R. 24, the Senate amendments to the Child Nutrition Act. I believe it is a measure of Chairman HAWKINS' effective leadership that so many of the recommendations made in the hearings process were incorporated into H.R. 24. I would like to congratulate Chairman HAWKINS and Congressman GOODLING for coming to bipartisan agreement on so many issues during the reauthorization process. I would like to express my satisfaction over the way in which the House was able to work effectively with the Senate to craft a measure we could all support.

I am especially pleased that H.R. 24 contains several provisions that I was actively involved in with Chairman HAWKINS and Mr. GOODLING. H.R. 24 expands the summer food section by allowing some private nonprofit groups back into this important program.

As we well know, the Summer Food Program is designed to provide the same nutritious meals to children as the School Lunch Program does during the school year. As a result of fraud and abuse in the program by private nonprofit sponsors during the late 1970's, these sponsors were cut from the Summer Food Program in 1981. As a result, many poor children no longer received the benefits of summer feeding programs. Our provisions allow certain private nonprofit sponsors, with specific protections, back into the program to serve these poor children.

H.R. 24 allows private nonprofit sponsors to serve no more than a total of 2,500 children with no more than 300 children at 1 site, or 500 children with a waiver from the Secretary. In urban areas, a private nonprofit sponsor may operate a total of 5 sites; in rural areas, such sponsors may operate no more than 20 sites. In order to ensure that private nonprofit sponsors are apprised of an compliance with program requirements, H.R. 24 reserves one-half of 1 percent of summer food funds for the Secretary to develop and implement a State and Federal monitoring system of private nonprofit organizations.

Mr. Speaker, I urge my colleagues to support H.R. 24.

Mr. GUNDERSON. Mr. Speaker, I rise to speak in support of the Child Nutrition and WIC Reauthorization Act of 1989. In sum, it is a significant example of good fiscal and public

policy; or how we can prepare our Nation's children for America's future.

At the outset, I want to thank the ranking Member and the ranking minority member for their efforts. In my opinion, what the House has before it is a fine conference bill, and a bill quite similar to the one we passed in July. When fully implemented this reauthorization will ensure that this Nation's most fragile Americans have the benefit of a well balanced meal.

Specifically, Mr. Speaker, I want to address a provision included under section 101 which pertains to the types of milk offered to children under our school lunch programs. While I think it is important to provide children with a choice, I am expecially pleased that one of these choices will be whole milk. Children have diverse dietary needs depending on activity levels, and the inclusion of whole milk is one way to ensure that these needs are met.

Clearly, the child nutrition and WIC reauthorization is good policy. Not only will food service deliverers be better able to fulfill their vocation, but childrens needs everywhere will be better met; and America will be better able to continue to expect greatness from future generations. Thank you.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of the amendment to the Senate amendment to H.R. 24, the Child Nutrition and WIC Amendments of 1989.

In a country as wealthy as ours, it is a disgrace that we permit over 3 million children to live in poverty. It is a disgrace that we permit children to be homeless. And it is a disgrace that every day, thousands of children go hungry because we have not seen fit to provide them with proper nourishment to ensure their health and well-being.

Although this bill will not correct all the problems facing poor children, new provisions will ensure that there will be fewer hungry children in this country. One such provision permits schools to certify children as eligible for free meals, without further application, by obtaining pertinent information directly from local food stamp and AFDC offices.

More children, including low-income and homeless children and children living in rural areas, will be able to participate in the School Breakfast, Lunch, and Summer Food Programs.

The link between good nutrition and the ability to learn has been well documented. The Meyers study of low-income schoolchildren in Lawrence, MA, found that consumption of a school breakfast by low-income children was associated with significant improvements in academic performance, tardiness rates, and a trend toward improvement in absenteeism. Yet today, less than a third of the 94,000 schools that have a lunch program offer breakfast at school.

I am pleased that this legislation expands the School Breakfast Program to include startup funds. This program provides the opportunity to educate students about nutrition and healthy eating habits. School food authorities from around the country have indicated that the lack of Federal startup funds is one of the principal barriers to the initiation of a local School Breakfast Program.

Our purpose in providing startup funds is to encourage local school food authorities to initiate federally subsidized school breakfast programs in public and nonpublic schools currently not participating in the program and where breakfast is not offered to students. The School Breakfast Program has a proven track record, and I am pleased that more children will benefit from it.

The Special Supplemental Food Program for Women, Infants, and Children [WIC] is one of the Federal Government's most cost-effective programs. The program's success in reducing low birth weight and premature births saves lives and saves money that, without WIC, would have to be spent on costly remedial care. In addition, WIC's ability to prevent nutrition-related health and developmental problems in infants and children is widely recognized.

I am especially pleased that the new WIC amendments target previously unserved populations, such as drug-exposed infants and children in the child welfare system, and permit States, at their option, to serve women in State and local juvenile and adult correctional facilities.

The lack of adequate nutrition and health care of incarcerated women, especially those who are pregnant, is well-documented. It is estimated that approximately 10 percent of the 31,000 women presently incarcerated are pregnant. Many of the women and infants who will be served by this provision are the same people that President Bush is attempting to reach through his national drug control strategy.

Women who are incarcerated, particularly for drug-related violations, have a multiplicity of serious problems which must be addressed while in prison. For those women who are pregnant, adequate nutrition is a serious problem for themselves and their babies, many of whom otherwise risk being born with severe medical complications resulting from severe medical complications resulting from malnutrition. Proper nutrition through the WIC Program would be an essential component of the drug rehabilitation program of these women. For their children, WIC would be a critical ingredient in their safe development.

It should be noted that the provision which permits States to serve incarcerated women is voluntary, not mandatory, upon the States. States have flexibility in determining which facilities they wish to serve, and in tailoring the delivery of services and the form and distribution of the food packages to meet both the requirements of the WIC Program and the administrative needs of the States.

This legislation improves the coordination of WIC with AFDC, food stamps, and Medicaid, which will result in the increased participation of eligible women and children.

This provision will ease the administrative burden on staff at local WIC agencies; save time for applicants; remove a potential barrier to program participation; and will result in an increase of referrals from WIC to other health and social services programs as WIC staff ask applicants about participation in other programs as part of the application process.

The problems of substance abuse are increasingly affecting populations of pregnant women, infants, and young children. It is estimated that there may be nearly 400,000 drug-exposed babies born this year who will be much more likely than nonexposed infants to be born prematurely, have low birthweight and exhibit a range of psychological and developmental problems. A recent survey by the Select Committee on Children, Youth, and Families of hospitals in more than a dozen metropolitan areas further revealed that the number of drug-exposed births had more than tripled since 1985, with several areas reporting drug-exposure of one in six newborns. Many of the women and infants most affected by the growing substance abuse crisis are among the low-income and nutritionally at-risk populations.

Recognizing the impact of the drug epidemic on women and children, the bill contains provisions which strengthen the information sharing and coordination between WIC and alcohol and drug abuse counseling and treatment programs. This bill also requires States to improve outreach and coordination between WIC and children's services agencies so that the needs of income eligible, nutritionally at-risk infants and children in foster care, protective services and child welfare can be met.

I am especially pleased that the final bill includes provisions to strengthen infant formula cost containment systems in the WIC Program. Having initiated the work on these provisions several months ago, I am gratified to see their inclusion in the final legislative package.

These provisions are among the important parts of this bill. They are designed to produce millions of dollars in new savings, so that thousands of more eligible women, infants, and children may be served.

The provisions require that all States use either competitive bidding to select a single infant formula company to provide formula for the WIC Program or use the system initially developed by the State of Florida under which a single invitation to bid is issued requesting bids under both a competitive bidding system and an alternative cost-containment system—and the system yielding the greatest savings is selected.

The provisions stipulate that if the Florida model is used, the comparison of the savings yielded by the various cost containment approaches should include more than a simple comparison of initial rebate offers. First, the provision stipulates that anticipated rebate levels over the full term of the contract be compared, including anticipated changes in rebate levels as wholesale prices rise over the course of the contract. This is important, because some current contracts provide for rebate levels to rise 1 full cent for each cent that wholesale prices increase, while other contracts do not. In the past, infant formula prices have risen about every 9 months.

In addition, the comparison of the savings that differing cost containment systems would generate may also include several other factors: The proportion of WIC infant formula that is reasonably expected to be noncontract brand under a competitive bidding system; the proportion of WIC infant formula for which no rebate is anticipated—because one or more companies decline to provide rebates under an open market or other multiprovider system; the costs of converting a computer system in

order to initiate or switch to a new cost containment system; and the costs of preparing participants for initiation of our conversion to a new cost containment system. I would note that the administrative costs that can be included in these savings comparisons are costs in implementing a cost containment system, not ongoing costs in operating such a system. While there may be differences in administrative costs in initiating a cost containment system or converting to a different system, there should not be significant differences in ongoing operating costs once a system has been implemented.

The Secretary is to issue regulations to govern these savings comparisons. Let me be very clear that we do not intend for a State simply to be able to claim that an unrealistically high percentage of WIC infants would receive noncontract brand formula under a competitive bidding system. The Secretary is expected to examine the latest data on the proportion of infants receiving noncontract brand formula in States operating competitive bidding systems and to issue regulations, based on these data, that reflect the proportion of WIC infant formula that can reasonably be expected to be noncontract brand.

I am pleased that over time, the proportion of infant formula that is noncontract brand in competitive bidding systems has dropped. When Florida established the first savings comparison of the type envisioned in this legislation, it assumed that seven percent of infant formula would be noncontract brand, and not too long after that, Arkansas assumed 10 percent. Fortunately, experience has shown that the actual percentages of infant formula that are noncontract brand are much lower. I understand that in most competitive bidding States, less than 4 percent of the WIC infant is now noncontract brand.

The provisions of the legislation also include a waiver clause. The final legislation states that the Secretary shall grant a waiver under certain conditions. We should be clear about the Secretary's role. A waiver is to be granted when a State demonstrates to the satisfaction of the Secretary that compliance would interfere with efficient or effective program operations or would provide a savings differential so minimal as to be inconsequential.

Furthermore, the waiver clause is not to be interpreted loosely or to be used to weaken the cost containment provisions of this legislation. To date, about 20 States have instituted competitive bidding and it has enhanced efficient and effective program operation in these States. Virtually all claims made in the past against competitive bidding have proven unfounded in these States by their actual experience in operating competitive bidding systems. We do not intend to see the old arguments recycled and used as the basis for a waiver.

To the contrary, the test for a waiver is that the Secretary would need to have convincing evidence that a State's WIC Program and its recipients would actually be adversely affected.

We intend to monitor very closely the Secretary's handling of the waiver provision. This is a classic example of a case where careful congressional oversight is in order.

The Secretary should also consider the health benefits of WIC when developing rules to implement the de minimis aspect of the waiver clause. The multiyear evaluation of WIC's health impacts conducted for USDA and released in 1986 found that WIC led to a reduction in late fetal deaths. A new study by the National Bureau of Economic Research finds WIC to be one the most cost-effective of all known ways to reduce infant mortality.

A difference in cost containment savings that resulted in several hundred fewer women, infants, and children being served in a State would not seem to be minimal or insignificant. Additional cases of low birthweight, anemia, or even infant death could be the consequence.

I would like to commend all those Members and staff who have worked hard on this provision. This is an example of government at its best, working to achieve maximum efficiency and to make the soundest use of the taxpayers' dollars in a noble cause.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of this legislation. I have worked closely with Chairman HAWKINS and other members of the committee on many aspects of this measure. This includes significant changes being made in the routine use of Social Security numbers to determine eligibility for the School Lunch and Child Care Food Programs.

Current law requires the collection of Social Security numbers for every adult household member before a child can be determined as eligible for a school lunch.

In practice, this requirement does little to stop fraud, but it does create a bureaucratic maze of paperwork; 44.1 percent—almost half—of all hours that schools spend making mandated reports to the Federal Government are a result of the School Lunch Program. And worse, the Department of Agriculture reports that this Mount Everest of numbers is little used. This is administrative overkill.

Unneeded paperwork is bad enough. But worse, this maze of reporting is keeping hungry kids from poor families from getting a school lunch.

Worst of all, recent reports remind us yet again that hungry kids don't learn. Even while the President's education summit calls for increasing academic achievement, this mountain of paperwork is undercutting the academic achievement of economically disadvanaged children in our schools. Provisions in this legislation eliminate the bureaucratic maze in order to improve education.

This measure requires the collection of the Social Security number for the primary wage earner responsible for the care of the child. It retains the ability of the Department to collect the Social Security numbers of all adults in the household when possible fraud is being investigated.

The Congressional Hispanic Caucus, the Congressional Black Caucus, the American Association of School Administrators and many other organizations have written to House and Senate Members urging adoption of the House language on this point. I am including these letters for the RECORD.

This bill makes major improvements in the School Lunch Program. I urge my colleagues to support this important legislation.

CONGRESSIONAL HISPANIC CAUCUS
Washington, DC, September 12, 1989.

Hon. AUGUSTUS F. HAWKINS,
Chairman, House Committee on Education and Labor, Rayburn House Office Building, Inside Mail.

DEAR CHAIRMAN HAWKINS: During the conference negotiations on the National School Lunch Act, H.R. 24 and S. 1484, you will be considering a technical but very important amendment for Hispanic children nationwide.

The House version includes an amendment which would require that only the adult head of household provide their social security number in order for the children to participate in the school lunch program. The Senate version, however, requires this information from all the household adults. As Chairman of the Congressional Hispanic Caucus, I support the House version.

Mr. Chairman, by only requesting one of the adults to provide their social security number the intent to prevent and detect possible abuses would still be provided. To request that all adults provide this information would not only overburden the program with paperwork but would potentially deter some families from participating. For poor Hispanic children, this requirement can have additional adverse reaction as we consider the link between poor nutrition and scholastic achievement.

I hope to count on your leadership to assure that the School Lunch Program is administered in an efficient and in the most equitable manner possible.

Sincerely,

JAIME B. FUSTER,
Chairman, Congressional Hispanic Caucus.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 13, 1989.

Hon. AUGUSTUS HAWKINS,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR GUS: I am writing on behalf of the Congressional Black Caucus to express our support of the House amendment to H.R. 24, the National School Lunch Act, which would relax certain reporting requirements.

Currently, the law requires that the social security numbers of all adult household members be provided before a child is eligible for the school lunch program. While this information was thought to be necessary to prevent or detect abuse, the Department of Agriculture says that much of this information goes unused. In light of this, it seems unfair that qualified children, not able to provide this information, are denied access to such a vital program. Also, the Department of Education estimates that almost 50% of all hours committed to Federal reporting requirements are spent on the school lunch program and other related child nutrition programs.

For these reasons we support the amendment to H.R. 24, which would require only the adult applying for the school lunch program on behalf of the child to provide a social security number. The amendment

also allows schools to waive this requirement for otherwise eligible children who cannot provide this information on a case by case basis. These amendments would greatly simplify the application process, thus encouraging more eligible families to apply.

Sincerely,

RONALD V. DELLUMS,
Member of Congress.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, September 6, 1989.

Hon. PATRICK LEAHY,
Chairman, Senate Agriculture, Nutrition and Forestry Committee, Senate Russell Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing on behalf of the National Council of La Raza, one of the largest Hispanic organizations to solicit your support for the House of Representatives' position in the National School Lunch Act, H.R. 24.

Current law requires collection of social security numbers as a method for preventing and detecting abuse. We concur with the House language which provides alternatives to the exclusive use of social security numbers, for the following reasons:

Approximately 44.1% of all hours that schools spend making reports to the federal government are due to school lunch and related child nutrition programs;

Current law mandates documentation of social security numbers for all adult household members. According to the House language, schools often do not accept incompleted applications. Hence, this stipulation denies meals to otherwise qualified students; and

Hispanic children in particular are affected by changes in the school lunch program. Approximately 40% of all Hispanic children are poor, and many adult household members may not have social security numbers, for a variety of reasons.

Chairman Leahy, I urge you to support a more equitable and efficient school lunch program by endorsing the House language as found in H.R. 24.

Sincerely,

RAUL YZAGUIRRE,
President.

NATIONAL PUERTO RICAN COALITION, INC.,
Washington, DC, September 5, 1989.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: Soon Senate and House Conferees will meet to discuss H.R. 24, a bill to amend the Child Nutrition Act and National School Lunch Act.

The National Puerto Rican Coalition strongly urges you to recede to the House's modification concerning eligibility for the School Lunch program. This measure requires a child applying for the school Lunch program to provide the Social Security number of the head of his or her household. The present practice and the recently passed S. 1484 require the Social Security numbers of all members of a child's household.

The Senate-backed provision discourages the participation of some of America's most needy students in the school lunch program. The impact on the Hispanic community in particular is clear. For numerous reasons, ranging from simple illiteracy to fear of losing housing because there are family members who are not included on a rental lease, members of a child's household may be reluctant to provide their Social Security numbers. This denies children access to nutritional programs they are otherwise eligible for.

This requirement is also an unnecessary burden on the schools. It is estimated that 44 percent of all hours that schools spend making reports to the federal government are due to school lunch and child nutrition programs.

The relationship between good nutrition and academic performance is well established. Hungry students are often tired and inattentive. It is wrong to deny meals to otherwise qualified students and to undercut achievement in America's schools.

Once again, we urge you to support the House's position on this School Lunch issue when it comes up for consideration in conference.

Sincerely,

LOUIS NUÑEZ.

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS,
Arlington, VA, September 7, 1989.

Hon. MATTHEW G. MARTINEZ,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE MARTINEZ: The American Association of School Administrators, representing over 18,000 local school superintendents and other school officials, urges you to support the House language regarding the use of Social Security numbers in school lunch applications when the Child Nutrition bill, H.R. 24 and S. 1484, is taken up by the conference committee.

Requiring only the adult member who applies for a free or reduced-price lunch on behalf of a child to provide a Social Security number would simplify the application procedures and assure that fewer elibigle families would be dissuaded from appling because of complicated requirements.

Thank you for considering this measure and for all work on this important piece of legislation.

Sincerely,

VIRGINIA C. VERTIZ, Ph.D.,
Government Relations Specialist.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support for H.R. 24, the Child Nutrition and WIC Reauthorization Act of 1989, as we consider this legislation for the second time. I am confident that this version contains good compromises between the House and Senate versions of this legislation.

H.R. 24 makes important reforms in the National School Lunch and School Breakfast Programs, which provide nutritious meals to schoolchildren. Schools are able to serve these meals because the Federal Government provides meal subsidies to all children, regardless of income. For children from low income families, the Federal Government reimburses schools for most or all of the meal cost.

I was pleased that during this reauthorization no attempts were made at reducing or eliminating this subsidy. In 1981, when the section 4 subsidy was reduced by 30 percent, 4 million students were cut from the program. We are still not serving as many school lunches as were served in 1980. I am hopeful that those who in the past had supported funding cuts have learned from the mistakes of 1981.

I would like to commend my colleague and friend from Pennsylvania, Mr. GOODLING, for his efforts to extend the Cash-CLOC pilot projects. While we could not obtain the permanent authorization of these programs, we are extending them through September 1992. These pilots exist because of complaints we heard about the commodity distribution program. I would like to note that the only letter I received this year from a school district opposed to the extension of these pilots, in fact supported the expansion of the pilot—it was an "if I can't get it, no one should get it" letter. This only reaffirms my commitment to Cash and CLOC as options in the commodity distribution program.

H.R. 24 directs USDA to conduct pilot projects in schools serving a large percentage of students from low-income families. These pilot projects may help reduce the administrative burden on large, urban schools, where the majority of children receive a free or reduced price lunch. This act also authorizes a demonstration project for providing meals to homeless children, who often are left unserved by other Federal child nutrition programs.

H.R. 24 will reduce the paperwork burden that schools must now face. This act also establishes a uniform, single audit system based on USDA regulations. Schools in Michigan have informed me they are being audited up to seven times per year on just this one program. I am confident that H.R. 24 will provide administrative relief, while protecting the integrity of the program.

H.R. 24 reauthorizes the Special Supplemental Food Program for women, infants, and children [WIC], which provides food packets and nutrition and health services to about 850,000 pregnant or nursing women, 1.132 million infants, and 1.7 million children per month nationwide. I fully support the $150 million increase in funding for WIC, authorized by this act. This increase will provide nutrition and health benefits for an additional 300,000 women and children.

Currently WIC can only serve half of those eligible for benefits. Provisions in this legislation to mandate that States use the least costly infant formula will ensure that limited resources help as many families as possible.

Provisions which increase coordination between WIC and other human service programs including food stamps and Medicaid will reduce confusion and increase the nutrition and health benefits for low income families.

WIC is one of our most effective Federal progams. The Harvard School of Public Health has found that every $1 spent on WIC saves $3 on health costs for low birth weight babies. Proper nutrition and prenatal care has far-reaching benefits on infants and children and their achievement ability later in life.

In each Congress we authorize legislation to assist our Nation's farms, forests, mining and other industries in an effort to fully develop our natural resources. H.R. 24 assists us in developing our greatest natural resource—our children. By providing children with proper nutrition, we are truly ensuring the strength of America.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from

California [Mr. HAWKINS] that the House suspend the rules and agree to the resolution, House Resolution 260.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on House Resolution 260, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FORGING A NATIONAL HOUSING POLICY

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, last week when the House Republican Research Committee Task Force on Housing was holding a hearing on the crisis of affordable housing and the plight of the homeless, the Chicago Tribune was running a series of articles about how we deal with that crisis. Yesterday's Tribune has an editorial which I will incorporate into the RECORD. This editorial, in fact, outlines a very good recommendation as we address the issue of putting together a national housing policy. It does a number of things. It calls for putting the FHA program back to its original legislative intent. It calls for implementation of a proposal on which I worked during the savings and loan crisis, that of having local governments reduce the kinds of constraints, high impact fees, rent control, and other things, which jeopardize the prospect of affordable housing. It calls on us to implement legislation which allows individuals to withdraw from their individual retirement accounts for the downpayment on a new home purchase, and number of other things.

I hope very much that as we look at this very clear outline of recommendations, Mr. Speaker, that we will finally be able to take and implement these recommendations as public law.

Mr. Speaker, I include the Chicago Tribune article, as follows:

FORGING A NATIONAL HOUSING POLICY

When the Reagan administration came into power nearly nine years ago and pronounced most federal housing programs a miserable failure, it was hard to disagree. And when the president and his staff set about dismantling some of the failures and turning their backs on others, that seemed justified, too. But only as an interim step.

What should have followed was a new national housing policy geared to the America of the late 20th century and beyond, and a set of initiatives and incentives designed to achieve it efficiently and equitably.

Instead, what followed was . . . nothing.

Remnants of a housing policy still survive in Washington, but they are either geared to the nation as it was in the 1950s or twisted and diluted to benefit the well-off and the politically connected rather than the poeple who need help in getting a decent place to live. And while a movement is growing in Congress to restore some subsidies slashed during the Reagan years, few members have the courage to say out loud that existing federal, state and municipal laws would immediately swallow up a big chunk of the money. Taxpayers would be hoodwinked, and so would the families priced out of today's housing markets.

A series of reports published in The Tribune last week described how escalating housing costs, disappearing federal subsidies and government incompetence and inattention are converging to destroy the American dream of owning—or even renting—a good home. Especially in urban areas, including Chicago, you no longer have to be poor to be ill-housed. If you are poor, your housing is likely to be dangerous as well as ill. Or it may not exist at all.

So far President Bush has said little to indicate he wants to establish a housing policy, or even that he sees the need for one. Fighting drugs and improving schools seem to be the only domestic items on his plate, and of course they deserve all the resources he can give them. But decent, affordable housing is inextricably linked to both. Kids growing up in a crowded, crumbling slum next to an abandoned hulk serving as a crack house aren't likely to do well in school.

The President may be scared off by the multibillion-dollar-a-year price tags attached to some of the housing programs floating around Congress. If that's his problem, he should counter with proposals that make better use of existing funds and slice the cost of housing without raising the federal deficit. Some examples:

Return the Federal Housing Administration to its original mission of helping people of modest means and first-time homebuyers. It has drifted into competition with private insurers, servicing higher/income borrowers and speculative developers who sought low-cost insurance for risky, upper-income projects.

Back the bipartisan move to let first-time homebuyers tap individual retirement accounts for a down payment, or create special tax-free savings accounts exclusively for home purchases. These ideas have a triple benefit: They help lower housing costs, they boost the construction industry and they expand the pool of savings available for industrial expansion.

Support tax credits for investors in low-cost housing, the most efficient form of federal subsidy.

Help Jack Kemp, secretary of Housing and Urban Development, create an objective set of standards to freeze out the clout-heavy consultants and developers who squandered millions of dollars from HUD's few remaining assistance programs for the poor.

Create a system of matching grants to cities and states on the basis of their own efforts to subsidize and stimulate the production of low-cost housing. New money for this program will have to come from budget trims; defense is still the most likely source.

Finally, fight to repeal the federal Davis-Bacon law, which bans less-than-union-scale wages on any construction project receiving any form of federal help, and deny federal housing money to states and localities that force up the cost of housing with their own prevailing wage laws, overly restrictive zoning codes and unnecessarily rigid building codes.

MINIMUM WAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Louisiana. Mr. Speaker, I rise today to participate in this special order to express my support for the increase in the minimum wage and to express my dismay in the delay by the House on the final consideration of this legislation.

For me, there is absolutely no question as to whether or not there is a need to increase the minimum wage. Keeping workers in poverty was clearly not the intent of the minimum wage ceiling and we can no longer condone nor tolerate such occurrences. As a former trade unionist, I have strongly supported the need for an increase since my election to this body.

The purposes of the Fair Labor Standards Act of 1938 was to provide a decent wage at which working people can care for themselves and provide for their families. We have neglected to honor this Nation's 50-year contract with workers to pay a better decent minimum wage. This obvious oversight must be rectified.

Since the beginning of the 101st Congress, strong efforts have been put forth through the leadership of Chairmen HAWKINS and KENNEDY, to bring about a viable minimum wage increase bill. An attempt to give America's working poor their first pay raise in more than 8 years has fallen by the wayside. My committee, the House Education and Labor Committee, just approved legislation, H.R. 2710, which provides a wage increase to $4.25 an hour over a 2-year period. Of course, we now hear that the President does not agree with this compromise proposal.

We have a President who continues to tout his rhetoric about a kinder, gentler nation, while standing as the only obstacle to a minimum wage increase. If our President could show the same amount of interest and enthusiasm for the minimum wage increase as he does for the capital gains tax cut or corporate exploitation of pension plans, we would all be amazed at how quickly a consensus could be gained on a fair wage increase for those in poverty.

Aren't we tired of deliberately making survival more and more difficult for those that are economically disadvantaged? Working for a living and living in poverty are not longer mutually exclusive conditions. More than 1.1 million families cannot escape poverty even though one or more persons within the family work full time and year round. We just gave the very wealthiest Americans a large windfall. Are we now going to deny working men and women what they deserve? The shameful neglect of the dreams and desires of the work-

ing poor is not a kinder nor gentler action. It only adds insult to injury against low-income working families who are not afraid of hard work.

I now hear that we may not consider the Fair Labor Standards Act until after the first of the new year—not until the second session of this Congress. We have delayed and compromised too much. We must consider this legislation before we close out this first session. This Congress has waited too long to address the needs of working men and women in this Nation.

In closing, Mr. Speaker, I would just like to reiterate the fact that H.R. 2710 is more than a compromise. Our American workers are deserving of far better. It is time to stop holding these workers hostage to petty squabbling and pass a minimum wage increase. I would ask for my colleagues' support for these efforts.

UPDATE ON MINIMUM WAGE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, I rise today on this special order to bring back the memory of an issue which had been hotly debated on the floor of the House of Representatives several months ago but an issue we have not heard of for several months. It is kind of curious, as we have entered into the debate on capital gains and the future of the economy of America that we seem to have forgotten especially those people who go to work every day in the United States of America, those people who have faced and endured a particular hardship because the Congress of the United States of America and the President have been unable to resolve political differences relating to the salary that these people are paid.

Mr. Speaker, I address myself to an issue which affects literally millions of Americans, an issue which affects the lifestyle and quality of life of countless families, and an issue which really strikes at the heart of justice in this country. The issue to which I address myself is the minimum wage.

I think it is instructive for us as we consider the present political status of the minimum wage to consider several factors: The minimum wage is not welfare. The minimum wage is not a social welfare program. It is not a vehicle to compensate persons in financial need. It is not a subsidy to families. It is not a stipend.

But the minimum wage is in fact the basic compensation for the lowest paid workers in America who get up every morning, put on their work clothes and go to work. It is a wage paid for work done, not to aid the poor nor to relieve the pressures of family life.

It is an important mechanism to raise the standard of living for people in America, to avoid the sort of economic exploitation which these folks and their families would inevitably face if the Congress of the United States of America is unresponsive.

Another thing to consider is that more than 45 percent of the minimum wage workers in America are heads of households who are working women. For these 45 percent the minimum wage is not a supplement to income, it is in fact the very bedrock and basis of their income.

Now we on Capitol Hill and the President and the White House have had differences of opinion on how the minimum wage should be change. But take a look at the history.

The minimum wage in America was last increased in 1981, when it was raised to the present level of $3.35 an hour. If we had merely taken that $3.35 wage in 1981 and kept pace with inflation, our minimum wage in America today would be $4.68 per hour.

But we have not met our responsibility to the millions of families who rely on us.

I think as a matter of economic and social justice the people of the United States realize this. In fact, a recent Washington Post/ABC News poll found that 84 percent of Americans support an increase in minimum wage. They understand it is long overdue.

One of the major sticking points on the issue of minimum wage is the question of a training wage. In other words, how long can an employer keep a person on a payroll below the minimum wage while that person learns the job? The President of the United States, the administration, has taken the position that employers should be given this option for 6 months. It has been the position of the Democrats in the House of Representatives that that period should be 60 days.

Mr. Speaker, I come to this issue with some personal experience. I have been an employer. I can tell you that it takes a very short period of time for an employer to realize whether that employee is trustworthy, hardworking, whether that employee can be counted on to come to work every day and whether that employee deals with the public in the type of fashion that could help a business.

I did not need, as an employer, 6 months to come to that conclusion. I do not think employers across America need 6 months. In 60 days, a 2-month period, you are going to know whether you have an employee that you want to stay with your business, that you can invest in for the future.

The President insisted on 6 months. We have held to the standard of 60 days, and I think that is entirely reasonable.

Now, it is interesting in the last several weeks we have spent a lot of time on Capitol Hill talking about capital gains. Curiously, the people in America who make the most money are tuned into this debate because we are talking about the amount of disposable income they will have.

□ 1340

The President has said it is necessary for the future of America for Members to cut the tax rate for the very wealthy in our country, to give them an incentive to invest, he says. I would like to suggest to the President and all listening, that it is also an economic incentive for America to give to working families across this Nation the necessary resources for people to survive. These families, scraping by, week to week and month to month, take those checks they receive on their jobs and spend them. They are, in fact, buying the food and clothing and shelter and the necessities of life. Unfortunately, they ususally are not in a position to be able to save much money. The money they spend and the products they buy, fuel the economy and keep it moving. It raises their standard of life and in turn raises the standard of living for all of those people working in industries supported by their purchases.

Therefore, Mr. President, if you are listening, I would hope that the President will consider not only the capital gains of the wealthiest Americans, but also the minimum wage for these working mothers and fathers, those breadwinners across America, who also have a standard of living at stake in this great debate.

The package that we have proposed for the President was a subject of a great compromise, but I think a reasonable one. What Congress has asked for is that we raise the minimum wage to $4.55 an hour. I think that is entirely reasonable. I think it is important now we realize that this issue of economic justice is a compelling one on America's economic agenda. I hope the President and the Congress come to the table soon and remember these forgotten American families.

FOREIGN BANK DOMINANCE IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, foreign banks have been growing much faster than their U.S. counterparts. While many U.S. banks once occupied places among the listing of the 10 largest world banks, now none is in the world's top 20, and only 2 U.S. banks are in the top 50. Many foreign banks, especially Japanese banks, are well-capitalized and in a position to remain very competitive in the future.

Foreign banks are growing not only in their home countries, but they are invading our own Nation and aggressively wrestling market share from U.S. banks.

Foreign banking operations in the United States are growing by leaps and bounds. Just as U.S. banks went abroad in search of new and profitable markets, many foreign banks have entered the United States. These foreign banks have been able to take business from our banks by offering similar products at lower prices.

Foreign banks are starting to catch up to U.S. banks in our own backyard in most measures of performance, including deposits, assets, and loan totals. These facts may be attributable to many different forces. Nevertheless, foreign bank operations in the United States are enormous and growing, and the United States is being placed in a particularly vulnerable position.

In December 1973, foreign banks accounted for $32 billion or 4 percent of total bank assets in the United States. At that same time, foreign banks made $18 billion in loans, 4 percent of the total U.S. bank loan market. They held $11 billion in deposits, for 2 percent of the market. These numbers grew steadily to $201 billion or 12 percent in assets, $121 billion or 13 percent in loans, and $80 billion of 7 percent in total deposits by December 1980.

Foreign banking activities in the United States have continued to grow, and as of December 1988, foreign banks have some $651 billion in assets in the Untied States. That is a staggering 20 percent of total banking assets in the United States. In the past 9 months, their share of assets has since grown to almost 22 percent. Foreign bank loans in the United States are growing almost three times as fast as those of U.S. banks. These facts are summarized in a table at the end of my statement.

Thirty-three Japanese banks control almost half of the total foreign bank assets in the United States, or $329 billion. The Japanese share of the overall United States banking asset market share is now 10 percent, triple that of a decade ago.

Foreign banks, as of December 1988, accounted for $339 billion in loans or 17 percent of the total U.S. banking market, and $335 billion in total deposits, or 14 percent of the total U.S. market. Foreign banks make an astounding 28 percent of commercial and industrial loans in the United States. In other words, $2 out of every $7 borrowed in this country for productive purposes is borrowed from foreign-control institutions.

The erosion of the position of U.S. banks in our own banking markets could have a significant and detrimental effect on our economy, employment, and trade deficit. As long as dollars continue to flow abroad with our trade deficit, many of these dollars will seek their way back home through foreign-controlled U.S. banking institutions. Development of foreign banks at the expense of U.S. banks could promote development of their economies and exports at the expense of ours. Even more importantly, a massive pullout of foreign investment or foreign banking operations in the United States would wreak havoc on the U.S. economy.

Banks are the driving force in the U.S. economy. A healthy banking system is a prerequisite to a healthy economy. We must understand that the U.S. economy is driven in large part by foreign banks, money, services, and products. The participation of foreign banks in the U.S. economy is becoming critical to American prosperity. Control of such a vital segment of the economy gives foreign institutions extraordinary power to influence our economic health.

Congress must ensure that U.S. banks can remain competitive, not only around the world, but also here at home. We must make sure that U.S. banks have the opportunities to do so, not for their sake, but for the sake of our economy.

I want my colleagues to understand not only the importance of foreign banks in the United States, but also the diminishing role of U.S. banks here at home. We have all seen the inroads that have been made by foreign competition in the United States in the auto, steel, and electronics industries. The inroads are not as visible, but are just as real, in the banking industry. I do not intend to stand idly by while the competitive position of our banks deteriorates. We must ensure stable and competitive domestic banks to ensure a prosperous U.S. economy.

SELECTED ASSETS AND LIABILITIES OF U.S. OFFICES OF FOREIGN BANKS [1]

	Amount (In billions of dollars)				Share [2] (percent)			
	Total assets	Total loans	Business loans	Total deposits	Total assets	Total loans	Business loans	Total deposits
December 1973	32.3	17.6	12.8	11.4	3.8	3.7	7.6	1.7
December 1974	46.1	27.0	18.8	17.0	4.9	5.1	9.5	2.3
December 1975	52.4	29.9	19.9	22.6	5.3	5.7	10.4	2.9
December 1976	61.3	35.4	19.7	26.1	5.8	6.4	10.2	3.1
December 1977	76.8	41.5	22.0	33.8	6.4	6.6	10.3	3.6
December 1978	109.1	65.3	32.7	46.3	8.0	8.8	13.1	4.5
December 1979	149.6	91.9	48.2	65.8	9.9	10.9	16.3	5.6
December 1980	200.6	121.4	59.6	80.4	11.9	13.4	18.2	6.6
December 1981	250.6	157.7	73.6	101.8	13.5	15.4	19.2	7.7
December 1982	299.8	185.2	82.4	154.3	14.4	16.3	18.8	10.4
December 1983	328.8	192.4	84.5	181.3	14.6	15.6	18.3	11.1
December 1984	394.4	220.1	97.8	233.7	15.9	15.1	21.6	12.9
December 1985	440.8	247.4	108.8	236.7	16.1	15.4	22.5	12.1
December 1986	524.3	276.9	126.8	278.2	17.3	15.6	23.3	12.8
December 1987	592.6	310.9	147.9	316.1	19.0	16.6	26.4	14.1
December 1988	650.6	338.8	167.3	335.1	19.6	16.9	28.2	14.1

[1] Data includes agencies, branches, subsidiary commercial banks and New York investment companies, but not Edge or Agreement Corporations. U.S. offices of Puerto Rican banks are not included.
[2] Amount shown in this table as percent of total commercial banks, both domestic and foreign, operating in the United States.
Source: Federal Reserve.

CONCERN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, we are all aware of and are talking about the sale of the motion picture studio, Columbia Entertainment Pictures, Inc. to a Japanese company, the Sony Corp. Although many of us know that Sony has operated in this country for a long time, it still is a Japanese-owned firm.

There are so many things with this sale that are not in our best interest.

I want to talk to you about the importance of this sale, what it means to America and the opportunity it presents for us to be propagandized. I also want to examine the importance of this sale to our trade balance, to our industrial base, and why I believe there should be a Government action to stop the sale.

Most of us want to know who we are dealing with and what we can expect of them. I want to call your attention to a quotation from a book I recently mentioned to you, The Japan That Can Say No. It was written by Akio Morita, chairman of Sony Corp. and Shintaro Ishihara, a possible candidate for Prime Minister.

The book points out that we have not come to grips with the reality of our political and economic decline. But a quotation from that is very revealing. Mr. Morita stated, "One of the reasons United States-Japan relations are in such a mess is that Japan has not told the United States the things that need to be said."

Both he and Mr. Ishihara proceeded to criticize the United Stated in a most unflattering manner and point out what they regarded as a better way of looking at the work from the Japanese standpoint. What is also revealing of their intentions toward the United States is, according to the September issue of Fortune, neither Messrs. Morita nor Ishihara "are eager to have an American audience read their book."

Sony's potential purchase of Columbia Pictures studio reminded me of that quote that "Japan has not told the United States the things that need to be said." That along with Morita's quote from yesterday's Washington Post that the "best investment is one that will get Americans on Japan's side." I thought to myself, boy—they have the chance to tell us now with a studio.

With a studio they have the chance now to tell us what they think is wrong with us and to block those people who will be critical of Japan.

They now have a first-class way through movies in theaters or beamed right into our homes over television to tell their story to the American public—and we must not forget VCR's in that scenario. They will be the American image makers.

It is ironic that Coca Cola—a company which is so image conscious and so American in selling its American image all over the world—is the company to deliver the American image-making ability to the hands of the Japanese.

What makes it even more difficult for me is that Coca Cola plans to reinvest the money from this sale of our cultural heritage in its foreign operations in foreign countries.

Just a little over a week ago we read of the death of Robert Penn Warren. Columns were written about this Pulitzer Prize winning novel, All The Kings Men, and his profound impact on the literture of this country. Now his Academy Award-winning film, All The Kings Men, along with Lawrence of Arabia, Oliver, The Bridge on the River Kwai, to name a few, will belong to the Japanese.

Just the title of these films are a potent reminder of the potential to influence public opinion through films. I am not the only one concerned about this.

Last week, in the Washington Post, a number of individuals were interviewed about the sale and some raised the specter of bringing influence to bear on the movies or rewriting something unfavorable to Japan.

Most did not think it would happen, but no one was sure citing the example of a Tokyo film distributor trying to censor newsreel footage from Bernardo Bertolucci's Academy Award-winning film, The Last Emperor.

I do know personally what happened with my friend Marvin Wolf, the author of The Japanese Conspiracy, who wrote the book showing how the Japanese targeted our industries. When his book was published in Japan some of it was changed—his book was edited. The chapter on Japanese ethics was removed. In America we call this censorship.

Knowing that, I wonder if they would remove any criticism of Japan from a film? An absentee landlord of a studio can be a subtle influence in who stars, what is produced, and who moves ahead in his or her career.

My friend Pat Choate, an economist and vice president for policy analysis with TRW Inc., was also quoted in the article that the sale of the studio "Offers a potential for propaganda."

The article quotes him as "comparing the deal to a foreign purchase of an American television station, which is prohibited by Federal regulations because of fears that a foreign owner could use his station to broadcast propaganda."

Being politicians, most of us can understand this consideration.

We certainly hear about fairness in time on television during campaigns.

The big losers in this sale are the American people. David Geffen, chief executive officer of an independent record and film company, was interviewed by the Washington Post, and succinctly stated the whole proposition for us.

He said, "If the Japanese came in and bought all the textbook manufacturers in this country, you can be sure someone in Congress would complain about the potential for abuse. Well, a giant part of the education of young people in this country comes from film and TV and someone should be paying attention to what's going on."

I am paying attention, Are you?

Who really loses in this sale are the American people. I mentioned to you on May 10, in a speech titled "Bedtime for America," how important the magic of Hollywood and its films are to our lives.

In that speech I quoted Jonathan Yardley, who was reviewing a book for the Washington Post, that "Hollywood not merely manufacturers dreams but fixes them in the national psyche."

Other countries are aware of this.

We must ask ourselves if other countries would sell off their communication and cultural businesses. The answer is "No." In Canada you must have the approval of the government to even buy a distribution system in the cultural industries.

In Japan we could not even buy into their entertainment industry. Boone Pickens learned you can't even buy into a business and be seated on the board—much less the entertainment industry.

So why are we selling off the studios and the record industry? Just what does Sony get from this sale?

They will have one of the best film libraries in the world with 27,000 hours of television programs, 40 years of movie history including our classic films, and over 300 television series. According to newspaper reports they are also acquiring the Loewes 820-screen movie theaters.

With the American films they can also penetrate the Asian market where American movies are beginning to do well. More importantly, with the 2,500-plus film properties they can be in the network business in Europe.

According to the news they want to get the software because of their hardware—their cameras, VCR's, and now HDTV.

This has important implications for American business. In the May speech I previously referred to, I pointed out that the magic of Hollywood drove the VCR market. Buying a VCR so we can see the movies affects our trade deficit and our electronics industry.

The American films have created the VCR market. Approximately one-third of American homes have at least one VCR. Last year 13.6 million sets were sold to replace older VCR's and the world market is three or four times larger than the U.S. market.

In another 2 years the American market should reach the saturation point of 73 percent. The VCR's make a lot of movie viewing possible. With the sale of the studio and its film library to the Japanese we have ensured the need for their hardware and the entrance of their products into future markets.

We have given them a continued way to channel American dollars to Japan just when we are for the first time near producing microprocessors again in this country—and coming out with our own double deck VCR, which is being produced by Go Video of Scottsdale, AZ.

The Japanese trading companies have fought Go Video. They fought for their Japanese businesses. But what have the Americans done?

With this sale it appears we are allowing a vertically integrated foreign company to operate in the United States, which is not legal for American business.

By vertical integration I mean they have the communication field covered. Sony owns a dominant position in VCR's. According to the September 28 Washington Post, "Sony will have a role in almost every step of an entertainment property's life—from producing a movie and its soundtrack album, playing them in its theaters, and then selling them to the home video and audio markets."

It also has a Sony video service feature in New York. They have opened up a lab for HDTV research in California and it also has minicams and other equipment to fully support the field.

Now they have added Columbia Pictures. According to the Washington Post it "is the leading producer of network television programs." It is a money maker for television and is regarded as the gatekeeper for the networks with its enormous film library.

To me that is a picture of vertical integration and a violation of antitrust.

There are other concerns involved. The future of HDTV has not been squarely placed in Japanese hands.

The film studies provide development equipment for films and for television. The worldwide market is estimated to be $140 billion. We have just effectively wiped ourselves out of the market.

I had asked CBS about HDTV. Martin Franks, vice president of CBS, Washington, replied that, "we had not focused on one area in which we currently enjoy a trade advantage—namely, the export of films and television programs to foreign markets. Thousands of jobs are involved, which is no doubt why some in Europe want a production standard different from ours which will act as a trade barrier to this successful United States export."

Martin Franks was also kind enough to send me CBS's submissions to my esteemed colleague, Congressman MARKEY on HDTV. In that paper CBS stated, "Not much attention has been paid to the potential effects on international trade in video entertainment products (that is, software) in the recent debates about advanced television technologies.

"In fact, this country has a natural world-wide competitive advantage in the export of video entertainment products because of the size of the English-speaking market and a free and open international program exchange."

So what is the scorecard? What does this sale mean to us? Who wins? Well, certainly Sony and the Japanese are the big winners, along with a few people at the top of Columbia who have made $25 million for their personal involvement.

Who loses big are the American people—and our children. We have sold a cultural legacy. And, something that personally concerns me very much being a reporter and an editor—and a former TV producer—is the fact our writers and producers will now have to deal with foreign owners. I know how fiercely we feel, and frequently debate our first amendment rights. I do not believe that foreign companies should have a major control over the production of films for television viewing.

The American businessman is also a big loser. We are locked out of the semiconductor market. In fact, the coauthor with Akio Morita, pointed out in his book that no matter how much we expand our military we can do nothing if Japan one day were to say "We will no longer sell you chips." He meant computer chips chips.

Well, this locks up the VCR's at a time when we were beginning back in the business, so we lose there, too.

The business community and the people also lose in the current accounts balance. Remember the stories 2 weeks ago that pointed out that one reason for the decline in our current accounts was the large amount of foreign investors and their withdrawal of their profits out of the country.

This raises another concern, and that is just what is the viewpoint of the Japanese on doing business. The answer was given by the ranking Japanese member of the World Bank. In an article on Shadow Warriors in Manhattan, Inc. he made some startling statements. Mr. Yoshio Terasawa said, "I have heard the argument the Japanese won't succeed here in America because of the peculiarity of our culture and its homogeneity."

He went on, "But, I don't agree with this argument at all. We are not a religious people, so we have no transcendent precepts or principles that bar us from taking whatever action is necessary. We can be terribly immoral if necessary."

He said, "Now in order to make more money and be more competitive, Japanese businessmen will do anything they have to. There are no limits. They may talk about Americanizing their companies to please their American employees, but that is not what they will really do. Big Japanese corporations are going to acquire big American corporations and let them run things so that the Japanese owners will not be visible."

I repeat again, the American people and the American businessmen lose out on this sale.

In summary, this deal allows foreigners to have access to our communication network—it puts a cultural legacy in the hands of foreigners—it locks up the semiconductors, affects our exports of a profitable business—gives away an American lead in an uniquely American business: the film industry. You can no longer call it American because it belongs to the Japanese. We have the largest pool of creative talent in the world and we are putting them in the hands of a foreign entity. As I stated earlier, this personally bothers me very much because I came from the news business and television.

We just simply lose—and lose big on this.

I believe the American people will react to this sale—we have an indominitable spirit, one that cannot be interpreted by foreign owners. I believe the Government should step in on this sale, and I believe the American people also feel that way.

We all lose in a big way in this—only Sony and Coca Cola are smiling.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DURBIN) to revise and extend their remarks and include extraneous remarks:)

Mr. WISE, for 5 minutes, today.

Mr. TORRICELLI, for 5 minutes, today.

Mr. HAYES of Louisiana, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

Mr. NAGLE, for 5 minutes, today.

Mr. PAYNE of New Jersey, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONTZ, for 60 minutes, on October 16.

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each, on October 10, 11, 12, 17, 18, and 19.

Mrs. BENTLEY, for 60 minutes, on October 13.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. DANNEMEYER.

Mrs. BENTLEY.

Mr. GILMAN.

(The following Members (at the request of Mr. DURBIN) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. BATES.

Mr. ACKERMAN.

Mr. SKELTON in two instances.

Mr. THOMAS A. LUKEN.

Mr. OWENS of New York.

Mr. FEIGHAN.

Mr. ROE in two instances.

SENATE BILLS, JOINT RESOLUTIONS, AND A CONCURRENT RESOLUTION

Bills, joint resolutions, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1443. An act to designate Bowling Green, KY, as an urbanized area; to the Committee on Post Office and Civil Service.

S. 1735. An act to provide authorizations for antidrug abuse appropriations, and for other purposes; to the Committees on Energy and Commerce, Education and Labor, Public Works and Transportation, the Judiciary, and Foreign Affairs.

S.J. Res. 158. Joint resolution designating October 22 through 28, 1989, as "World Population Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 204. Joint resolution designating October 28, 1989, as "National Women Veterans of World War II Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on Post Office and Civil Service.

S. Con. Res. 75. Concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize; to the Committee on Post Office and Civil Service.

A BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

H.R. 2358. An act to authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, and for other purposes.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes p.m.) the House adjourned until tomorrow, Wednesday, October 11, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1807. A letter from the Secretary, Department of Education, transmitting a copy of final regulations—Institutional Eligibility Under the Higher Education Act of 1965; as amended, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1808. A letter from the Commissioner for Rehabilitiation Services, Department of Education, transmitting the annual report of the Rehabilitation Services Administration on Federal activities related to the Administration of the Rehabilitation Act of 1979, fiscal year 1988, pursuant to 29 U.S.C. 712; to the Committee on Education and Labor.

1809. A communication from the President of the United States, transmitting certification that Pakistan does not possess a nuclear explosive device and that proposed assistance will reduce the risk that they will possess such device (Presidential Determination No. 90-1), pursuant to 22 U.S.C. 2375(e).; to the Committee on Foreign Affairs.

1810. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the annual audit of the Association as of June 30, 1989, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

1811. A letter from the Administrator, Federal Aviation Administration, transmitting a status report on plans for enforcement actions related to drug activity and the provision of assistance to law enforcement agencies, pursuant to Public Law 100-690, section 7210 (102 Stat. 4432); to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McEWEN:

H. R. 3431. A bill to amend the Federal Water Pollution Control Act to provide additional flexibility to States in using funds allotted to them for fiscal year 1990; to the Committee on Public Works and Transportation.

By Mr. RANGEL:

H.R. 3432. A bill to amend title 38, United States Code, to establish a program to provide scholarships to students in mental health professions in return for agreement for subsequent employment with the Department of Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. HAWKINS:

H. Res. 260. Resolution to agree to the Senate amendment to H.R. 24, with an amendment; considered and agreed to.

By Mr. FOGLIETTA (for himself, Mr. STARK, Mr. GUNDERSON, Mr. TOWNS, Mr. BROWN of California, Mr. DELLUMS, Mr. SIKORSKI, Mr. ATKINS, and Mr. MRAZEK):

H. Res. 261. Resolution expressing the grave concern of the House of Representatives regarding the violations of human rights in the Republic of Korea; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. SISISKY and Mr. MARKEY.

H.R. 17: Mr. VISCLOSKY.

H.R. 71: Mr. FISH and Mr. BATES.

H.R. 132: Mr. RINALDO.

H.R. 303: Mr. MARTINEZ, Ms. PELOSI, Mrs. ROS-LEHTINEN, Mr. SHUSTER, and Mr. BRUCE.

H.R. 780: Mr. JOHNSTON of Florida and Mr. POSHARD.

H.R. 1232: Mrs. MEYERS of Kansas.

H.R. 1237: Mr. MFUME and Mr. KOSTMAYER.

H.R. 1249: Mrs. UNSOELD.

H.R. 1457: Mr. SKAGGS.

H.R. 1582: Mr. FORD of Tennessee and Mr. GARCIA.

H.R. 2407: Mr. HAWKINS and Mr. SMITH of Iowa.

H.R. 2699: Mr. McMILLEN of Maryland.

H.R. 2948: Mr. FISH.

H.R. 3155: Mrs. COLLINS, Mr. SCHEUER, and Mr. NOWAK.

H.R. 3259: Mr. SOLARZ.

H.R. 3294: Mr. JONES of Georgia, Mr. EVANS, Mr. LEHMAN of Florida, and Mr. BRYANT.

H.R. 3430: Mr. GALLO.

H.J. Res. 35: Mr. ENGLISH, Mr. NIELSON of Utah, Mr. FALEOMAVAEGA, Mr. MARTINEZ, Mr. MILLER of Washington, Mr. REGULA, Mr. ROSE, Mr. SABO, Mr. SAVAGE, Mr. RAY, Mr. ROWLAND of Connecticut, Mr. SOLARZ, Mr. STOKES, Mr. TALLON, Mr. WYDEN, Mr. YATRON, Mr. STEARNS, Mr. BERMAN, Mr. TRAXLER, and Mr. CARPER.

H.J. Res. 278: Ms. LONG, Mr. GEREN, Mr. GEJDENSON, Mr. MARTINEZ, Mr. BILIRAKIS, and Mr. MORRISON of Connecticut.

H.J. Res. 372: Mr. DYSON and Mr. BRENNAN.

H. Con. Res. 66: Mr. WHEAT.

EXTENSIONS OF REMARKS

CONGRESSMAN SKELTON ADDRESSES 33D DIVISION OF WORLD WAR II VETERANS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. SKELTON. Mr. Speaker, on the evening of September 30, 1989, in Indianapolis, IN, I had the opportunity to address the biannual reunion of the 33d Division of the United States Army which fought from New Guinea to the Philippines. A good part of the success of this reunion was due to the hard work of the former mayor of Osceola, MO, Glen Toalson, and Bill Endicott of Seattle, WA. The 33d Division began its active role in 1943, and ended the war upon the capture of Baguio, in the Philippines in 1945. Theirs was a proud war record, and I was pleased to have had the opportunity to address them. My speech to the veterans of the 33d Division is as follows:

THE 33D DIVISION 1989 REUNION,
INDIANAPOLIS, IN

(Speech by Congressman Ike Skelton)

Last week, my colleague and friend from Florida, Charles Bennett, said to me, "I see you're going to speak to my old unit, the 33d. Be sure and tell them hello for me."

Charlie Bennett, a much revered veteran Congressman, represents all that is good about a soldier, and he, as others of your division, has continued to follow the path of self-sacrifice, honor and patriotism. As a platoon leader, he fought with you in New Guinea, and later, he was the leader of 1,500 Philippine guerrillas on the island of Luzon, being awarded the Silver Star and the Philippine Legion of Honor. So, I bring you greetings from your comrade in arms, Congressman Charles Bennett.

Many changes have occurred throughout the world since you were on the battlefield. Since your war, the intensity and speed of change have been tremendous. Changes in the Soviet threat, declining military budgets, Poland being headed by non-Communist leadership for the first time in 40 years, and Hungary preparing for free elections in 1990. We also see increasing low-intensity conflicts in the Middle East and Latin America, international drug wars, terrorism, worldwide population explosion, high-tech weaponry proliferation, as well as Islamic fundamentalism.

A poem written over two centuries ago reflects this change in the turbulent state of international affairs.

If ponies rode men and grass ate cows,
And cats were chased into holes by a mouse . . .
If summer were spring and the other way round,
Then all the world would be upside-down.

These are the words of the tune the British band played while Cornwallis surrendered to Washington at Yorktown in the fall of 1781. That melody, "The World Turned Up-Side-Down," was appropriate at that time, and it is perhaps even more fitting today, as we look at the threats to world peace, regional instability, and endangered freedoms on our globe, we see that this is truly a topsy-turvy world, one that continues to be dangerous, where much is not as it seems. Confronted with these new challenges, it would be wonderful if diplomacy, goodwill and common sense would provide us with answers to these questions and solutions to these problems. However, this is not the case. If the past is a reliable guide to the future, it is the soldier who will be called upon again and again to protect and preserve our freedoms and liberties. Often, the mere presence of the soldier brings stability and preserves the peace, as proven by our soldiers in NATO and South Korea. In this world of topsy-turvy rapid change, it is ultimately the soldier who makes the greatest sacrifices to pave the way to solving many of the world's problems.

Your division, the 33rd Division, certainly made a tremendous contribution to protect freedom during World War II.

The 33rd sailed from San Francisco in July of 1943 and guarded vital military installations in Hawaii until April of 1944, when it moved to New Guinea. After participating in the Wakde-Sarmi campaign, the 33rd jumped off on Christmas Eve of 1944, for the Second Battle of Morotai in the Netherlands East Indies.

You entered the Battle of Luzon in the Philippines in February of 1945, relieving the 6th Division and opening the drive to Baguio, the summer capital of Luzon, and the headquarters of General Yamashita. You began the campaign by capturing the key towns of Rosario and Aringay. You waged two vicious battles proving that the Japanese were not the only soldiers capable of successful night attacks. Victories at Galiano and Asin provided our forces with an all weather road for the final drive on Baguio. Here the Japanese elected to make their last-ditch stand, and here, working with the 32nd and 37th divisions, you achieved your final objective.

For three months you engaged in savage fighting, over the most rugged terrain of all Luzon—through thick tropical forests, over rocky volcanic mountains. Battles were sharp and brutal against the enemy who fought and died on his mountain positions. There were no easy routes, it was an uphill battle over rugged mountains all the way. At the beginning of that campaign the 33rd had a division front of 20 miles. Three months later, just before the capitulation of the city, the division was fighting on a 65-mile front. With the liberation of Baguio, several thousand were freed from Japanese captivity, including Manuel Roxas, former aide to General McArthur.

Yours is a record of which you can be very proud. It is your service and sacrifice that helped catapult America into the role of being the bastion of freedom and super power that it is today.

When World War II ended, you came home to your fellow Americans who recognized your sacrifice and your dedication and you resumed the lives that you had left to serve America. Those who made the ultimate sacrifice, your comrades—who gave their lives to defend our country—would live on in the memories of the loved ones they left behind. Sacrifice and dedication are common bonds shared by all soldiers—universal virtues which remain constant, from generation to generation, from war to war.

The sacrifices your grandchildren have made while ensuring free passage in the Persian Gulf, attempting to thwart terrorism around world and preserve world order through their service in Grenada, Libya, Lebanon, and Panama, are in many ways similar to the sacrifices you made in World War II.

While these sacrifices have changed little over the passage of time, domestic appreciation by our citizens at home has fluctuated.

It is unfortunate that many who have served their country with dedication and courage have not been properly appreciated for their efforts.

For example, while you returned to loud praise and acclaim, those soldiers who returned from Vietnam returned to silence, jeering and empty streets. Most Americans don't fully understand the sacrifices made by the generation that went off to fight in Vietnam.

In Shakespeare's "Anthony and Cleopatra," there is a scene with which many Vietnam veterans can easily identify. A messenger has come to tell Cleopatra in the unwelcome news, that her beloved Mark Anthony has married another. Upon hearing the bad news, she strikes the unfortunate messenger. She strikes the poor fellow again and again, venting her anger, hurt and frustration.

In much the same way, Vietnam veterans suffered unjustly from a war that through no fault of their own had become unpopular. Nations make war; soldiers merely fight them. Yet a vocal minority, made the mistake of blaming an unpopular war on those who courageously answered their country's call, rather than on those who made the decision to fight that war. Those who fought in Vietnam, or served in the military at that time, were held responsible for events over which they had little control.

I would like to share with you a passage from a letter written by Capt. Rodney R. Chastant to his parents in Mobile, Alabama, on the 19th of October, 1969. It reflects his emotions and gives you personal insight on sacrifices made by the soldier. Chastant was just then extending his 13-month tour of duty in Vietnam.

"It is great to know your family's safe, living in a secure country; a country made secure by thousands upon thousands of men who have died for that country. In the Philippines I took a bus ride along the infamous route of the death march on Bataan. I passed graveyards that were marked with row after row of plain white crosses. Thousands upon thousands. These were American graves—American graves in the Philippines. And I thought about the American graves in Okinawa, Korea, France, England, North Africa—around the world. And I was proud to be an American, proud to be a Marine, proud to be fighting in Asia. I have

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a commitment to the men who have gone before me, American men who have made the sacrifices that were required to make the world safe.

"Your son,

ROD."

Capt. Rod Chastant was killed three days later. He was 25 years old.

In the years since the end of the war, many Americans who once treated Vietname veterans with indifference and even contempt have come to realize that such treatment was wrong and misdirected. Those who served and fought in the most divisive conflict since the War Between the States deserve the honor and respect traditionally accorded to the veterans of other wars.

Parades for Vietnam veterans that have taken place in Washington, Chicago, New York and other cities and towns throughout the country are important symbols of this long-deserved recognition. A beautiful memorial in Washington, DC was erected in memory of the nearly 58,000 soliders who gave their lives or who remain missing. The contrast between the soliders returning from these two wars, World War II and Vietnam, tells us that there's nothing constant in a country's appreciation toward those who fight our battles. History tells us that the soldier, following the dictates of his profession, often finds himself misunderstood at home and seldom appreciated. This is especially true in peacetime, or during a war that doesn't have unanimous public support. It is the soldier's difficult, and sometimes lonely, task to preserve our freedom and way of life, and let neither praise nor disdain take him from his course of duty as a military professional.

For centuries, the British demonstrated a repeated lack of respect for their soliders returning home from various wars. Often, the public back in Great Britain knew little of the battles, and in many instances, did not care about them or the men who fought them. British poet laureate Rudyard Kipling spent much of his time as a young man in India writing about soldiers and soldiering. One of his most memorable works, penned about that familiar British soldier, known more commonly as "the Redcoat" or "Tommy", gives us a vivid, and sobering picture of public attitude toward the soldier of his day:

Tommy

I went into a public-'ouse to get a pint o' beer,
The publican 'e up an' sez, "We serve no red-coats here."
The girls be'ind the bar they laughed an' giggled fit to die,
I outs into the street again an' to myself sez I:
O it's Tommy this an' Tommy that, an' "Tommy, go away";
But it's "Thank you, Mister Atkins," when the band begins to play—
The band begins to play, my boys, the band begins to play,
O it's "Thank you, Mister Atkins," when the band begins to play.

I went into a theatre as sober as could be,
They gave a drunk civilian room, but 'adn't none for me;
They sent me to the gallery or round the music-'alls,
But when it comes to fightin', Lord! they'll shove me in the stalls!
For it's Tommy this, an' Tommy that, an' "Tommy, wait outside";
But it's "Special train for Atkins" when the trooper's on the tide—
The troopeships's on the tide, my boys, the troopeship's on the tide,
O it's "Special train for Atkins" when the trooper's on the tide.
You talk o' better food for us, an' schools, an' fires, an' all:
We'll wait for extry rations if you treat us rational.
Don't mess about the cook-room slops, but prove it to our face
The Widow's Uniform is not the soldier-man's disgrace.
For it's Tommy this, an' Tommy that, an' "Chuck him out, the brute!"
But it's "Saviour of 'is country" when the guns begin to shoot;
An' it's Tommy this, an' Tommy that, an' anything you please;
An' Tommy ain't a bloomin' fool—you bet that Tommy sees!

Whether the soldier be a "Tommy" in a red coat of yesteryear or a modern GI in Khaki or camouflage, a soldier is still a soldier, appreciated or not. A soldier's duty is still a soldier's duty. A soldier's honor is still a soldier's honor. A soldier's country is still a soldier's country.

Tonight, I am proud to be with the men of the 33rd Division—men who years ago from New Guinea to the Phillipines brought distinctions and honor to the word "soldier."

Thank You. God Bless You.

THE 100TH ANNIVERSARY OF THE ANNUNCIATION CATHEDRAL

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mrs. BENTLEY. Mr. Speaker, I rise today to ask my colleagues in the Congress to join me in marking a milestone in the history of the Greek Orthodox Cathedral of the Annunciation in Baltimore, MD. On Sunday, October 8, 1989, the Annunciation held a service of thanksgiving to mark the 100th anniversary of the building of the present ediface that is the congregation's house of worship.

Located on the corner of Preston Street and Maryland Avenue in downtown Baltimore, the church was built in 1889 as an Associate Congregational Church. It was in 1937, when the Continental Oil Co. sought to raze the church to build a gas station, that the Annunciation Church leaders put in a bid to purchase the church.

With the help of Mayor Howard Jackson, the Baltimore City Council rescinded authorization for the razing of the church, and it was bought by the Annunciation congregation.

Since that time, Mr. Speaker, the Annunciation Church, now the Greek Orthodox Cathedral of the city of Baltimore, has continued to grow and expand. The church interior itself has been beautified in the ancient Byzantine style. Frescoes and icons of our Lord, the Blessed Virgin, and countless centuries of saints and martyrs for the faith adorn the walls and ikonostasion, or icon screen that separates the sanctuary from the worshippers in an Orthodox church.

An educational building was added to house the Sunday School and Greek language school, where countless young people have been instructed in their faith and heritage.

And most recently a cultural and social center, the Annunciation Orthodox Center, was built in the shell of four old row homes across from the church that were deemed worthy of preservation.

Over 30 years ago, Mr. Speaker, the Annunciation Cathedral made a commitment not to abandon the city of Baltimore and its downtown neighborhoods, and it has lived up to that commitment. In addition to serving as the heart of Orthodoxy in Baltimore and Maryland, the Annunciation Cathedral is a vital part of the cultural life of Baltimore as well.

The Annunciation Cathedral has a very special place in my heart, because it was in this church that I was married to my husband Bill 30 years ago. It gives me great pleasure to join in commemorating this very special occasion and to ask my colleagues in the Congress to join with me in congratulating Father Constantine Monios, the dean of the Cathedral, Father Loius Noplos, the assistant pastor of the Cathedral, and the entire Cathedral family on this momentous anniversary.

ST. JOHN'S HIGH SCHOOL SELECTED AS "SCHOOL OF EXCELLENCE"

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Ms. KAPTUR. Mr. Speaker, it is with great enthusiasm that I rise to congratulate and pay tribute to the students, faculty, and parents of St. John's High School in my hometown of Toledo, OH, for being selected by Secretary of Education Lauro F. Cavazos as a "School of Excellence" under the 1989 School Recognition Program.

At a time when our commitment to quality education has never meant more for ensuring a secure and promising future for our community and Nation, St. John's has set a new standard in defining the skills our young men and women will require to carry out this vital task.

Since 1965 St. John's High School has demonstrated a consistent dedication to excellence in academics, and in its wide range of extracurricular activities. St. John's is dedicated to the principle that the young men it fosters will be successful only inasmuch as they strive to be men for others.

H.G. Wells once said that, "Human history becomes more and more a race between education and catastrophe." The young men of St. John's and their generation are clearly writing a new chapter in our history. Their conscious decision to be the best they can be extends the hope that this chapter will, in fact, be our Nation's finest yet.

Mr. Speaker, I know my colleagues in the House of Representatives join me in extending our congratulations, encouragement, and above all, sincere appreciation for the inspiration St. John's provides young men and women throughout our Nation. May its ongoing efforts to pursue excellence in their education ensure that the fondest dreams for its students truly become a reality.

HOPE IN BENSONHURST

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. RANGEL. Mr. Speaker, the racial incident which occurred a few weeks back in Bensonhurst, Brooklyn concerned not only New Yorkers, but all of the people in this country. An article recently appeared in New York Newsday by the Reverend Jesse Jackson which sheds a new light on this incident. It offers hope that there is better in us than what happened in Bensonhurst and I would like to share it with you.

TEACH CHILDREN TO VALUE ALL CREEDS AND COLORS

(By Jesse Jackson)

Recently I went to Franklin D. Roosevelt High School in Bensonhurst and found a miniature United Nations, a true rainbow of humanity.

The Bensonhurst I visited was not the bastion of racism described in the media.

The student body at FDR is made up of young people from 58 different national heritages who study and play together in peace and with mutual respect. These young people are America's dream team, and they show why we need a multicultural education to keep the milk of human understanding flowing.

The brutal murder of Yusuf Hawkins has caused much racial misunderstanding and pain. The media have not helped matters by portraying the white people of Bensonhurst in a one-dimensional way. Many innocent young people expressed a feeling that they were not only ashamed of what happened to Yusuf Hawkins but embarrassed by the distorted press coverage of their neighborhood.

Almost all of the students I spoke to responded positively to historical examples I gave them of interracial cooperation in struggles for freedom and justice. I told them about Viola Liuzzo, an Italian-American woman who was shot down by racists while driving civil rights activists between Selma and Montgomery, two key points in the freedom struggle. I told them about the large African-American vote for Mario Cuomo when he became New York's first Italian-American governor.

I told them about all of the people of every conceivable color and heritage who had chosen to place hope over fear. And they responded with swelling pride.

But what about the young Americans cut off from this history and caught up in the pathology of racial animosity and fear?

The striking thing about the rising tide of racial violence is that it is, for the most part, perpetrated by young people. According to the New York City police, 70 percent of all crimes in the city involving intergroup bias are committed by people under 19 years of age.

The social pressures producing race hatred are enormous, beginning with reduced career and educational opportunities for young people. When there is racial polarization and growing impoverishment of the white working class, many disaffected whites scapegoat African-Americans, Asians, Latinos, other ethnic groups and women.

The gang that set upon Yusuf Hawkins with baseball bats was acting out of, among other things, a profound frustration with their own lives. Joseph Fama, who was arrested in the shooting of Yusuf Hawkins, dropped out of high school at age 15. His lack of economic success was the material basis of his racist rage.

People who believe in themselves and in the future do not kill innocents in cold blood. But when the material basis for racial anger and rage is combined with crude stereotyping in the media and a lack of moral leadership in local communities, the results are explosive. That is how we come to associate (unfairly) whole communities, such as Bensonhurst and Howard Beach, with racial attacks, or Harlem with crime and violence.

But we have a way to reduce the chances of more deaths owing to racial hatred and impulse.

We can give our children a multicultural education that teaches them mutual respect and support. We can teach them about heroes and heroines who believed in, and fought for, the oneness of humanity regardless of race, creed or color.

Without such an education, sending our children to school with children from other heritages becomes a risky proposition. But there are great rewards to be reaped if we transmit the richness of multicultural experience.

The great American challenge is for people of different backgrounds to learn to live together in peace. Whether we rise to this challenge depends on the efforts of "we the people," our sacrifice, our devotion, our courage.

BRIAN McLAUGHLIN: A PROFILE IN PUBLIC SERVICE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. MANTON. Mr. Speaker, one of the nice features in New York Newsday is a column entitled "Queens Profiles." Last week's profile featured one of Queens' brightest residents, Brian McLaughlin.

Brian serves as assistant to the president of the New York City Central Labor Council. He also works as business agent for Local 3 of the International Brotherhood of Electrical Workers. When Brian is not working for the working men and women of New York, he is active in civic and political affairs. He serves as a member of Community Board 8 in Queens, and he has been elected Democratic Party leader in part A of the 27th Assembly District in Queens.

Mr. Speaker, I know my colleagues join me in commending Brian for his excellent record of public service. I ask that the Newsday article be reprinted in the RECORD at this point, and I commend this article to my colleagues.

[From New York Newsday, Oct. 5, 1989]

QUEENS PROFILE—BRIAN M. MCLAUGHLIN

(By Sheila McKenna)

Job: Assistant to the president of the New York City Central Labor Council, comprised of 500 unions with a city membership of 1.2 million; business representative of Local 3, International Brotherhood of Electrical Workers; member of Community Board 8, serves on the youth planning committee; volunteer for the Boy Scouts of America; treasurer of the Electchester Little League.

Biography: 37; born in Manhattan; bachelor's from Empire State College; master's in labor and industrial relations from New York Institute of Technology; an electrician, served as pension director of the Electrical Industry Pension Fund; married; two children.

Residence: Co-op in Flushing.

Community accomplishment: "In 1979, our baseball team was down to 12 children, we now have 214 boys and girls playing Little League. We also expanded the Electchester Athletic Association and got a Little League charter for the greater Flushing area . . ."

Current focus: "For the past six months, I've chaired a subcommittee of Community Board 8 that deals with teenagers. We set out to plan a series of organized, supervised activities. At our first dance, we had 417 teenagers, age 13 to 17. It sent a signal that it's something they want. We have another scheduled later this month and this is the kind of thing that I would like to do more often."

ASSISTANCE TO POLAND—STATEMENT OF LANE KIRKLAND, PRESIDENT, AFL-CIO

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. HAMILTON. Mr. Speaker, on September 20, 1989, the Subcommittee on Europe and the Middle East received testimony concerning United States economic programs for Poland and Hungary.

One of the distinguished witnesses was Mr. Lane Kirkland, President, AFL-CIO. He spoke of the AFL-CIO's long ties and close support for the Solidarity trade union, and made a compelling case for timely Western assistance to the new Solidarity-led government in Poland.

I would like to draw the attention of my colleagues to Mr. Kirkland's concluding remarks on Poland:

STATEMENT OF LANE KIRKLAND, PRESIDENT, AFL-CIO

If I may say one word in conclusion. Our generation is privileged to be present and to be players in a moment of extraordinary historical change. We can see history moving before our eyes, things we have all prayed for and worked for many, many years.

It is one of the great challenges and opportunities that human history affords mankind. This is not a time when this country can respond by a plea of poverty and a lack of resources. What is lacking is will.

What is lacking is leadership—strong and forceful leadership. I raised the point of the role of the OECD because, despite revisionist history and all of that, the fact is in my view that the Cold War began when the Iron Curtain descended and the nations of Central Europe were denied by the Soviet masters the opportunity to participate in the Marshall Plan.

That was the onset of the Cold War. It would seem to me to be fitting that with the end of it in sight, they be brought into this historical association that still exists—and that the instrument be put to work on the task of rebuilding those economies and

bringing them into the society of free men and women.

It is symbolically correct. It was there for that purpose. It hasn't had that use for many, many years. It ought to. The opportunity is there. History will not judge this generation very well if we are found wanting at the time when we can literally see history moving before our eyes.

What happens in Poland, its success or failure, will have a profound influence on what happens in Czechoslovakia, Hungary, East Germany, Romania, and Bulgaria in the future. Freedom and democracy in Poland are worth many times the billions of dollars that we have spent on our military establishment. The collapse and the failure of this adventure, this movement of history, will cost us in its military, defense, and security consequences, many, many billions of dollars, besides shattering the emerging hopes of free people everywhere.

There is no possible grounds or excuse for saying: "Where we are going to get the money? We don't have it. We are too poor." We have got to do whatever is required. The proposals I put forward are very modest, exceedingly modest. It is almost a good faith beginning, in effect.

I deeply believe that we must lead the rest of the democratic world into their appropriate share of this responsibility. That burden is primarily ours. Others should share it. It is in all of our interests. It is in the interests of free men and women everywhere.

WHEN WILL WE EVER LEARN?

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. DANNEMEYER. Mr. Speaker's last week's historic vote to repeal the Medicare Catastrophic Coverage Act of 1988 represents a turning point in the seemingly inexorable growth of the liberal welfare state. For the first time, the Congress appears ready to jettison a program that follows the traditional prescription of how we should provide health care to our senior citizens—that is, rely exclusively on the Government to provide the financing and to establish the standards for this care, even where the private sector stands ready to offer an attractive alternative.

As we know, this government-only approach has not worked well; among other things, it has contributed to the rapid growth in health care inflation over the past few decades. In fact, senior citizens allot the same proportion of their incomes to health care expenses today as they did before the enactment of Medicare.

I want to draw my colleagues' attention to the latest report from the Congressional Budget Office [CBO] on the escalating costs of the beseiged program. It seems that what appeared to be a $30 billion program only 1 year ago has been mysteriously transformed into a $48 billion behemoth.

Well, friends, there is no mystery about it. Every time we have expanded the Government's role in the area of health care, we have relied on naively low estimates of the fiscal impact of our actions. This happened when the Congress approved the original Medicare and Medicaid Programs. The 1970 cost of the Medicaid Program was supposed to be $2.7 billion. What happened? Actual costs were 85 percent higher, or $5 billion. For Medicare the story was no different. While we were told by our exports that the total cost in 1970 would be $4 billion, the real cost turned out to be $6.3 billion, 58 percent higher.

Again, we are looking at projections that indicate the total cost will exceed last year's estimate by about 60 percent. When will we ever learn?

I urge my colleagues to examine the CBO report and to support whatever steps may be necessary to defend the House position in conference.

CBO REESTIMATE OF MEDICARE OUTLAYS FOR SKILLED NURSING FACILITY [SNF] BENEFITS

In early August, the Congressional Budget Office (CBO) provided a memorandum on the unexpected increases in Medicare reimbursements for care in skilled nursing facilities (SNF). Since that time, we have updated our estimates of both SNF spending and the effects of the Medicare Catastrophic Coverage Act of 1988 (MCCA).

Table 1 displays updated CBO estimates of Medicare SNF spending and the portion of that spending attributable to MCCA. Medicare benefits for care in skilled nursing facilities are projected to rise rapidly. In fiscal year 1988, Medicare SNF reimbursements totaled $883 million. In the first 10 months of fiscal year 1989, these benefit payments have totaled $1.731 billion. Using information on the number of SNF bills submitted in August and taking the trend of recent monthly spending, we now project that Medicare SNF spending for fiscal year 1989 will total $2.3 billion.

TABLE 1.—PROJECTED MEDICARE OUTLAYS FOR SKILLED NURSING FACILITY BENEFITS [1]

[In billions of dollars, by fiscal year]

	1989	1990	1991	1992	1993	1994
MCCA	0.9	2.5	3.1	3.4	3.6	4.0
Other [2]	1.4	1.9	2.3	2.5	2.8	3.0
Total	2.3	4.4	5.4	5.9	6.4	7.0

[1] The estimates pertain only to the Medicare program and, therefore, do not include any offsetting effects on the Medicaid program. In addition, it appears that the MCCA SNF provisions have altered nursing home behavior in ways that may not be fully reversible. This would imply that the estimated effects of the MCCA in Table 1 overstate the savings that could be achieved by repeal of the provisions.

[2] Includes effects of new administrative practices and Fox v. Bowen on the older base program.

Source: Congressional Budget Office.

However, because critical information is not available, the estimates for total spending during the 1990–1994 period and the estimated impacts of MCCA are much more uncertain. For example, we have no data on the characteristics of Medicare SNF recipients in 1989. In particular, we do not know what portion of these recipients has entered SNFs from previous hospital stays or the distribution for lengths of stay of current recipients. Without such data, we have had to base our estimates on discussions with industry representatives, nursing-home operators, Health Care Financing Administration (HCFA) personnel, academic experts, state Medicaid staffs, and others. While we have learned a great deal from these discussions, they do not replace having specific data.

BASIS OF ESTIMATE

We developed our current estimates by projecting what the growth in the Medicare SNF benefit would have been without MCCA. We then projected total Medicare SNF spending after MCCA and calculated the effects of MCCA by subtracting the first projection forom the new total.

SNF SPENDING WITHOUT MCCA

Without MCCA, we estimate the Medicare SNF benefits would have more than doubled between 1988 and 1990. The rapid growth was a result of two administrative changes made in the spring of 1988:

In April 1988, HCFA adopted a new manual of administrative guidelines to clarify eligibility for benefits. The new manual was, in part, a response to criticisms from interest groups that previous administration of benefits had been inconsistent among regions and more restrictive than required by the relevant law and regulations. The new manual changed the focus from what care was not covered to what care was covered.

Also in April 1988, new administrative arrangements mandated by the U.S. District Court took effect in Connecticut (and possibly certain other states). In 1986, the court had found in Fox v. Bowen that the Department of Health and Human Services had administered the Medicare benefit in ways that arbitrarily and unlawfully restricted eligibility while denying due process. The court mandated new administrative practices for Connecticut that were designed to achieve what it regarded as appropriate administration of the law.

Advice from several experts suggests that the changes in the manual and the implications of Fox v. Bowen could result in a doubling of what program outlays would otherwise have been when the changes are fully carried out. We assumed that the full effects of these administrative actions would be in place in the spring of 1991, some three years after their implementation. Subsequent growth was based on projected rates of inflation plus a small factor representing the expected growth in the Medicare population. The estimates assume that without the MCCA changes in the Medicare SNF program, spending would have risen from $1.4 billion in 1989 to $3.0 billion in 1994 (see Table 1).

TOTAL SNF SPENDING WITH MCCA

In January 1989, SNF provisions of the Medicare Catastrophic Coverage Act took effect. These provisions:

Eliminated the eligibility requirement of a prior three-day hospital stay;

Increased the maximum covered stay from 100 days during a spell of illness to 150 days during a calendar year; and

Changed the structure of copayments from a relatively high copayment ($70 per day in 1989) for the twenty-first through the one hundredth day of a SNF stay to a relatively low copayment (currently $25.50 per day) for the first through the eighth day.

Since January, monthly SNF reimbursements have risen rapidly, reflecting both administrative and legislative changes. Some providers responded by promptly claiming the Medicare SNF benefit for several categories of existing nursing home residents who were previously ineligible—for example, residents who had not had a three-day hospital stay before entering the nursing home, and residents who had exhausted their 100 days of benefits. Some state Medicaid programs have encouraged or reportedly even required nursing homes to submit claims to Medicare for such residents before seeking Medicaid reimbursement.

Preliminary administrative data suggest that, nationally, the share of nursing-home

beds paid for under the Medicare SNF benefit in 1989 is three times larger than it was before the administrative and legislative changes. Many experts maintain that the full effects of the administrative and legislative changes are still to come. In some areas of the country, changes in the manual may not have been fully reflected in decisions about coverage. Also, the indirect national implications of Fox v. Bowen have not been fully felt. Some nursing homes and state Medicaid agencies have not been aggressive in seeking Medicare reimbursement under the new rules. A number of nursing homes and states have a shortage of Medicare certified SNF beds. Requests for Medicare certification of SNF beds are up sharply in 1989. As in the case of the administrative actions, we anticipate that the full effects of the legislative changes will not be realized until 1991.

When the administrative and legislative changes are fully in place, we anticipate that the modified Medicare SNF program will provide reimbursement for approximately 14 percent of all nursing home expenditures. Again based on our discussions with experts, this estimate is not an unreasonable interpretation of current laws and future expected practices. These assumptions imply Medicare spending on SNF benefits of $5.4 billion in fiscal year 1991, a sixfold increase from the 1988 level of $883 million. From the end of fiscal year 1991 through 1994, the estimates assume that Medicare SNF spending will rise by the projected rates of inflation plus a small factor representing the expected growth in the Medicare population.

The effects of the changes in the Medicare Catastrophic Coverage Act can be calculated as the difference between total projected spending and projected spending under old law. As shown in Table 1, Medicare SNF spending resulting from MCCA legislation is estimated to increase by $900 million in 1989, rising in $4 billion in 1994.

THE EFFECTS OF SNF SPENDING ON TOTAL MCCA ESTIMATES

In July, CBO estimated that Medicare spending would increase $36.8 billion over the 1989-1993 period as a result of the catastrophic provisions. Financing provisions were estimated to raise $42.0 billion over the same period. This revised estimate of Medicare SNF spending attributable to MCCA adds $11.5 billion to the spending estimate. Under these revised estimates, estimated spending for the 1989-1993 period would be $48.2 billion or $6.3 billion more than the estimated receipts. The distribution of spending and receipts is shown in Table 2.

TABLE 2.—CBO ESTIMATES OF SPENDING AND RECEIPTS FOR MEDICARE PROVISIONS OF MCCA

[In billions of dollars, by fiscal year]

	1989	1990	1991	1992	1993	5-year total
SPENDING						
Prescription drugs	0	0.2	2.2	4.4	5.1	11.8
HI (Non-SNF)	0.9	1.5	1.6	1.8	1.9	7.8
SNF	0.9	2.5	3.1	3.4	3.6	13.5
SMI	0.1	2.1	3.6	4.3	5.0	15.2
Total	1.9	6.3	10.5	13.9	15.6	48.2
RECEIPTS						
Flat premiums	−1.2	−1.8	−2.7	−3.6	−4.1	−13.5
Income-related premiums	−0.5	−6.5	−7.2	−6.8	−7.6	−28.5
Total	−1.7	−8.3	−9.9	−10.4	−11.7	−42.0

Source: Congressional Budget Office.

HONORING WILLIAM T. BRINGHAM, SR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. SKELTON. Mr. Speaker, it is an honor to take a moment today to speak about a man of distinguished community activities, civic service, and professional integrity. That man is William T. Bringham, Sr., who is retiring at the end of this year after 35 notable years of dedicated service to the organization of Sigma Chi. Beginning in 1954, Bill has worn many hats at the international headquarters of the Sigma Chi Fraternity. He has helped the organization grow, more than double in members and almost double in the number of active chapters. He has been thoroughly involved in the planning and operation of numerous Sigma Chi activities and instrumental to their success.

In recognition of Bill's exceptional service, he has received Sigma Chi's highest honors: the Significant Sig Award for professional achievement and the Order of Constantine for great service to the fraternity.

Bill has worked hard to establish strong relations with members of Sigma Chi in the U.S. House and Senate. His rewards are the friendships he has helped to create between brothers throughout the world. Bill Bringham will be truly missed at the headquarters of Sigma Chi, but his friendship and his inspiration to the brothers of Sigma Chi will endure.

TRIBUTE TO DOROTHY L. DORMAN

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mrs. BENTLEY. Mr. Speaker, it gives me great pleasure to offer my heartiest congratulations to Miss Dorothy L. Dorman, principal of Padonia Elementary School in my district, upon being selected as the 1989-1990 National Distinguished Principal by the Maryland Association of Elementary School Administrators [MAESA].

Dorothy, whose parents I have known for years, was chosen for this distinguished prize by a committee of peers from across the State who recognized her outstanding dedication and her 25 years of service to the education profession. Indeed—with qualifications such as hers—it's difficult to imagine anyone who deserved this award more than she did.

A graduate of Goucher College and the Teachers College of Columbia University, Dorothy has remained a staunch advocate of public education throughout her years of service. During her 8 years as a principal—first at Middleborough Elementary School and now at Padonia, where she has been for 2 years—her creativity and innovative leadership drew praise from children, parents, fellow administrators and teachers alike.

The quality that has truly made her a great educator, however, has been her intense love of children. She truly cares about our young people and wants them to have the best learning experience possible. Indeed, this is not something one can learn from a book but a feeling which rests in one's heart. Dorothy Dorman has this feeling—and for that the children of her elementary school have been truly blessed.

Mr. Speaker, on October 17 and 18, 1989, Dorothy will join other distinguished principals from 49 States to receive the recognition she so richly deserves. I urge you—as well as all my colleagues—to join me in extending to Dorothy Dorman as well as the other distinguished principals from across the country my best wishes and kudos for a job well done.

IN HONOR OF ABLE'S 20TH ANNIVERSARY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Ms. KAPTUR. Mr. Speaker, in classrooms throughout our Nation's cities and towns, at countless veterans' gatherings, during any number of other civic and patriotic events, and at the beginning of each day's legislative business in this Chamber of the House of Representatives, we proclaim in our Pledge of Allegiance that we are truly "* * * one Nation, under God, with liberty and justice for all." In my hometown of Toledo, OH, the Advocates of Basic Legal Equality [ABLE] has worked to ensure that justice is never the sole possession of a privileged few.

Since 1969, ABLE has worked to develop a system by which high quality legal services in civil matters are available to low-income individuals and groups, thus ensuring equal opportunity, equality, and self-reliance to every citizen and group. Throughout these past 20 years, ABLE has been the voice to those who had none. Not only it strived to extend fundamental legal services to those who otherwise could not afford representation, it has dedicated its efforts to providing those less fortunate with a better way of life. Particularly, ABLE has worked tirelessly to secure the rights of low-income and minority persons to decent, safe, sanitary, and affordable housing.

Whether through negotiations, litigation, legislative and administrative advocacy, technical assistance, or community education, ABLE has worked to identify strategies to help the poor and disadvantaged become self-reliant.

Indeed, the vision of ABLE for a "just society" will long serve to remind us that if even one member of our community is denied the rights and liberties guaranteed as a citizen of these United States, then these same rights and liberties are incapable of protecting the rest of us.

Mr. Speaker, I commend the men and women of ABLE for their tireless efforts to promote equality and justice to all the members of our community. I know my colleagues in the House of Representatives join me in congratulating them on this their 20th anniversary year. May their work continually remind us that "Justice in the life and conduct of the State is only possible only as first it resides in

the hearts and souls of the citizens." Inscribed on the U.S. Department of Justice Building.

SERGEANT KRUPKE LEARNS ABOUT THE FLAG

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. KOSTMAYER. Mr. Speaker, the following appeared in the Christian Science Monitor on September 25, 1989.

I recommend it highly to my colleagues.

[From the Christian Science Monitor, Sept. 25, 1989]

SERGEANT KRUPKE LEARNS ABOUT THE FLAG

(By Jeff Danziger)

Officer Krupke was walking his beat the day after the law was passed making it a crime to burn the American flag. He stopped at Green's deli for a roast beef sub and a cream soda. As of that morning, burning of the American flag or desecrating it in any form would get you five to 10 driving a sledge in the big house.

Officer Krupke was alert to crime wherever it happened. His district was full of wise guys, gang members, thugs, and hooligans. These kids today! Chasing them all day made a man hungry. A nice fresh roast beef sub. . . .

Suddenly his ever-alert nose sniffed smoke. Was It? Yes! Flag smoke! When you had been on the force as long as he had, you could tell. He ran to the corner, his trusty .38 drawn and ready. There they were!

"Freeze!" he shouted to the group of thugs standing around the conflagration.

"For what, flatfoot?"

"Burning the American flag. You have the right to remain silent, you . . . ."

"What flag?" said one of the hoodlums. "This ain't the American flag."

"Of course that's the American flag!"

"No, it ain't. Look close, kindly Sergeant Krupke, this piece of fabric only has 49 stars. Ergo, it ain't an American flag."

Peering through the flames, he couldn't see clearly. But what if they were right? Was there any law against burning an almost American flag? He didn't know.

"Oh, wise guys, eh?" said Officer Krupke.

It's just our bringin'-upke," they said. "But we're legal."

More smoke drifted around the corner. Krupke leaped forward. More creepy types were burning a flag! They dumped kerosene on the beloved symbol.

"Reach!" Krupke barked. "You are under arrest! You have the right . . . ."

"For what, copper? This is a fireproof flag. The kerosene is burning, but the flag ain't. So?"

Sure enough, although the flames licked and crackled, the flag itself remained untouched. Was this constitutional or not? Had our forefathers foreseen asbestos flags? Krupke was starting to feel a mild Scalia-like doubt about due process.

"Look!" one of the creeps pointed across the street. A woman was stuffing a real flag into an incinerator. Krupke raced up, his Smith & Wesson cocked.

"Ah, hah!" he chortled. "You are under arr . . . ."

"For what?" she asked.

"For burning an American flag! For desecrating the . . . ."

"For your information, Elliot Ness this is an old flag which I fly every day. It is threadbare and dirty. According to the regulations it is not supposed to be laundered, but rather disposed of in a respectful manner, preferably by burning. Don't you read government publications?"

"Really?"

"Absolutely. Now put that thing away, Batman, before you hurt somebody."

Poor Officer Krupke. He holstered his gun and walked dejectedly back to Green's deli. Constitutional law certainly was a puzzlement. No wonder they paid judges and presidents so much. All this thinking made him hungry. At least his roast beef submarine and cream soda was waiting. He neared the deli.

"Krupke! Where were you?" Mr. Green shouted at him from behind the meat case.

"What happened?"

"What happened? What happened, he says! I was robbed! Cleaned out! Cash! Checks! Pastrami! Cappacola! Turkey breast!"

"Roast beef?" Officer Krupke's heart skipped a beat.

"Roast beef, too! Where are the cops when you need one?" Mr. Green sunk into a funk.

Officer Krupke was about to tell him, but then thought better of it. He headed for the nearest Dunkin' Donuts.

THE NEED FOR LONG-TERM HEALTH CARE

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. BATES. Mr. Speaker, I share with my colleagues the reservations that have been expressed over the Medicare Catastrophic Coverage Act. I appreciate very well the tremendous political pressure that we in Congress have been under to repeal this law. I also understand the concerns of some of our senior citizens who have been asked to pay additional taxes to support the program.

However, I must express my deep regret that, in so doing, we will be voting to repeal the skilled nursing facility benefit included in the 1988 Act. Loss of this provision will exact a great toll in human terms. Thousands of our frail elderly who desperately need skilled nursing care will go wanting, now and in the future.

Let me cite a few facts. The Catastrophic health law expanded an already existing skilled nursing facility benefit. Prior to enactment, it was mainly a paper benefit. Today it is a bona fide benefit used by many frail elderly. According to figures obtained from the Health Care Financing Administration, more than 500,000 beneficiaries will have obtained a day of covered nursing home care in 1989. My office, and the offices of other Members of Congress, may not have heard from these people, since their condition makes it difficult for them to communicate. But they have been receiving an unmistakable benefit as a result of our passing the Catastrophic health law last year.

Mr. Speaker, I hope that even now we can state our commitment to providing accessible, quality long term care to the millions of Americans who need it.

A RAY OF HOPE FOR PEACE IN LEBANON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tueday, October 10, 1989

Mr. FEIGHAN. Mr. Speaker, on September 19, 1989, the House passed House Resolution 128, by a vote of 413 to 0. This resolution, which I introduced in April, asks the President to call upon the parties in Lebanon to honor the international call for an immediate cease-fire, the removal of all foreign forces from Lebanon, and the disbandment of all militias. It also supported the efforts of the Arab League and the United Nations to secure a cease-fire and steps toward internal reconciliation, including the fulfillment of the constitutional mandate to elect a new President.

Congressional approval of House Resolution 128 sent a clear message to the warring parties in Beirut and Lebanon that the United States wanted the carnage and bloodshed to end in that beleagured country. Since March 8, in Beirut alone, 835 people have been killed, 4,000 people wounded, and two-thirds of Beirut's 1.5 million people have fled the city. Life in Beirut came to a standstill with most people living in underground shelters without adequate food and water, most business paralyzed, hospitals destroyed, and all schools and universities closed.

On September 22, 1989, in response to congressional and international appeals, the warring factions in Lebanon—including Syria—accepted the seven-point Arab League plan for a cease-fire, setting the stage for discussions on national reconciliation. The plan calls for a durable and verifiable cease-fire and an end to all blockades imposed by the warring factions. The proposal also invites members of the Lebanon Parliament to meet to discuss and approve a charter for political reforms and national accord.

Mr. Speaker, there is reason for optimism that the fighting in Lebanon will end. The cease-fire is still holding. Lebanon members of parliament are meeting in Taif, Saudi Arabia, in an attempt to resolve their political differences and reach an agreement on national reconciliation. There is progress at these talks. The roads leading to Beirut are clogged with traffic as thousands of Lebanese return to the city from the country and mountain areas where they had sought refuge from the savage fighting of the last 6 months.

However, this truce will not last if political accord is not achieved. All foreign forces—especially the 40,000 Syrian troops that occupy 70 percent of Lebanon—must leave the country so that the Lebanese can resolve their differences without outside interference. By giving unanimous approval to House Resolution 128, Congress expressed the sentiments of the American people that a political solution is the only solution to restoring peace in Lebanon. I commend the Arab League for its effort to end the fighting in Lebanon and I hope that

the discussions in Taif lead to national reconciliation.

OAK HILLS UNITED METHODIST CHURCH CELEBRATES 150TH ANNIVERSARY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. THOMAS A. LUKEN. Mr. Speaker, as Representative of the First Congressional District of Ohio, I ask my colleagues to join me in extending sincere congratulations to the members of the Oak Hills United Methodist Church as they celebrate that church's 150th anniversary on Sunday, October 15.

On April 10, 1816, Frederick Alter and his wife, Mary Ann, conveyed 1 acre of land to be used to "erect and build or cause to be built thereon a house or place of worship for use of the members of the Methodist Episcopal Church in the United States of America."

In 1839, the first known building was erected thereon. It was a log style building. In 1849, a brick structure was built on the same location replacing the log building. In 1866, a tornado destroyed this brick structure, but the congregation wouldn't let go. Working side by side, they salvaged the bricks and rebuilt it.

In 1940, Mrs. Amelia Wilke donated additional land, built a new church building of brick and stone, and furnished the interior with pews and altar furniture, in memory of her departed husband, August "Doc" Wilke. The church was then renamed the Wilke Memorial Community Church. This new building and land was adjacent to the 1849 structure and land. The 1849 structure was demolished in 1964 due to its unsafe condition.

In 1967, the church name was again changed by a vote of the congregation in order to identify it with the community location. The 1940 structure was then renamed the Wilke chapel. In 1968, when the United Brethren and Methodist churches merged, this church's name was again changed to the Oak Hills United Methodist Church.

In 1971 a new sanctuary and fellowship hall was built in order to hold the overflowing congregation. The cornerstone of the 1849 brick structure was incorporated into the northeast wall of the new sanctuary.

Despite the name changes, there has been a place of worship on the southeast corner of Ebenezer Road and Bridgetown Road in Green Township, Hamilton County, OH, for over 150 years.

As a further outreach to the community, this church has had a day care center for 17 years. Presently, it offers a before and after school program and a summer day camp program. The total enrollment of these combined programs is 186 children.

Mr. Speaker, the contributions the church has made to the people of the community deserve our sincere thanks. The Oak Hills United Methodist Church has a proud history and an important role in the future of the community. Please join me in extending sincere congratulations to the Oak Hills United Methodist Church.

TRIBUTE TO WILLIAM F. EISELY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mrs. BENTLEY. Mr. Speaker, it is with great pleasure and respect that I salute Mr. William F. Eisely, State Director of the Maryland, Delaware, and District of Columbia of the Loyal Order of the Moose [LOOM], in recognition to his years of service to his lodge and to the State of Maryland.

Mr. Speaker, the LOOM is an organization whose charitable acts have in the past included providing food and clothing for disaster victims, participation in various community activities, and delivering baskets of food to the poor during Thanksgiving and Christmas. Indeed any individual who has attained great success in such an organization—as has Mr. Eisely—must certainly epitomize its lofty values and is worthy of our praise and appreciation.

Mr. Eisely joined the Essex, MD, Lodge No. 768, LOOM, on March 22, 1965, and has served in all lodge-appointed and elected offices. On the statewide level he has served the lodge's third district as sergeant at arms, treasurer, secretary, and as past president.

He served the Maryland State Association, LOOM, as convention coordinator for 3 years, as secretary of the association, and—finally—as State director. Among the many awards he has received from the order are the Fellowship Degree and the Pilgrim Degree for Merit for outstanding service to the Moose.

The members of Essex Moose Lodge No. 768, Essex Chapter No. 783, and the Women of the Moose—in honor of Mr. Eisely's achievements—are renaming their meeting room in his honor. Indeed few members of any organization are so honored. And it is my great honor to offer Mr. Eisely my very best wishes during this happy occasion as well as kudos for a job well done.

TRIBUTE TO REV. MSGR. MARK J. GIORDANI AND ANTHONY OCCHIUZZI, ITALIAN CIRCLE "MEN OF THE YEAR"

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. ROE. Mr. Speaker, it is with the greatest admiration and pride that I rise today to pay tribute to two outstanding men in my 8th Congressional District, one a spiritual leader of great renown and the other a dedicated and tireless civic leader, who are being honored for the great contributions they have made to their community.

I am speaking of the Rev. Msgr. Mark J. Giordani, pastor of St. John's Cathedral and chaplain of the Italian Circle of Paterson, NJ, and Mr. Anthony Occhiuzzi, a highly respected member of the circle for many years. For all they have done both for their organization and for the people of the greater northern New Jersey area, Monsignor Giordani and Mr. Occhiuzzi will be honored as the Italian Circle's 1989 Men of the Year at the organization's annual Columbus Day Dinner and Dance on Friday, October 13, 1989, at the Regency House in Pompton Plains.

Mr. Speaker, I know of no two people more fitting of this high honor. Monsignor Giordani was born in Pessola, Parma, Italy and emigrated to the United States in 1958 with his family. He studied at St. Mary's College in Kentucky and St. Bonaventure University in Olean, NY, receiving his B.A. in Philosophy. He entered Christ the King Seminary in New York where he received his Masters of Divinity in Theology.

Monsignor Giordani was ordained a priest by Bishop Lawrence B. Casey in St. John's Cathedral in Paterson in 1969. In 1974 he was appointed copastor at St. Gerard's parish. Under Monsignor Giordani's tireless leadership and guidance, the St. Joseph Community Center was built, and he established such organizations as the St. Vincent DePaul's Society, and the St. Gerard's Day Care Center. He also served as chaplain of the Paterson Police Department, as chaplain of the Haledon, NJ, Fire and Police Departments, as chaplain to the Constables Association in West Paterson, as chaplain to the Italian Circle and as a member of the Paterson CETA Program Advisory Board in 1978.

Mr. Speaker, in 1987, Monsignor Giordani was appointed as Rector of St. John's Cathedral in Paterson, the mother church of the Paterson Diocese, by Bishop Frank J. Rodimer. And on May 21, 1989, he was installed as Honorary Prelate to His Holiness, John Paul II, giving him the title of Monsignor.

Mr. Speaker, Anthony Occhiuzzi was born in Italy and came to the United States at age 9 where he attended public schools and graduated from Central High School in Patterson, NJ, in 1945.

Mr. Occhiuzzi has been a long-time member of the Italian Circle and has been integrally involved in some of the Circle's most important activities. When the Italian Circle was relocated to Berkshire Avenue in 1972, Mr. Occhiuzzi was cochairman of the dedication book for the new building. He was also chairman of the committee to raise funds for the new building.

In 1985 Gaetano Federici's famous statue of Christopher Columbus was moved from Eastside Park in Paterson to the Gaetano Federici Park on Ellison Street. Mr. Occhiuzzi was chairman of the committee which raised funds from brother members and the private sector to finance this venture. Throughout the years Anthony Occhiuzzi has been loyal and highly valued member of the Italiance Circle.

Mr. Speaker, I appreciate the opportunity to present a brief portrait of the two men who are being honored on October 13. I know the dinner in their honor will be a great success, thanks in great measure to the dinner chairman, Charles Scialla; cochairman, Sam Calafiore; and the dinner committee, Mike Adamo, Joe Carrao, Ralph Gambatese, Jim LaCava, Joe Lobosco, George Scala, Anthony Ventimiglia, and John Giovatto.

Mr. Speaker, I invite you and our colleagues, then, to join me in saluting two outstanding citizens of my 8th Congressional Dis-

trict of New Jersey, Rev. Msgr. Mark J. Giordani, Pastor of St. John's Cathedral, and Mr. Anthony Occhiuzzi, the Italian Circle's Men of the Year.

AFRICA WATCH: DEDICATED TO FURTHERING HUMAN RIGHTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. ACKERMAN. Mr. Speaker, There are precious few organizations in the world dedicated to furthering human rights in Africa. One of the most well respected is Africa Watch, founded last year to "monitor human rights practices in Africa and promote respect for internationally recognized standards." I am continually impressed with this group's work, but I was particularly moved by the following reports on Sudan and Malawi. Africa Watch documents how Sudan's new military government has clamped down on several basic freedoms, including an independent judiciary. It also describes how Malawi has imprisoned citizens for their political activism—among those jailed is the country's best known poet, Jack Mapanje. I urge my colleagues to read these eye-opening reports.

[From Africa Watch, Sept. 25, 1989]

SUDAN—DESTRUCTION OF THE INDEPENDENT SECULAR JUDICIARY, MILITARY GOVERNMENT CLAMPS DOWN ON PRESS FREEDOM

Sudan's new military government has dismissed dozens of judges who objected to the violations of the rights of civilians facing trial in special military tribunals. It has also closed down all independent newspapers, has detained lawyers and trade unions and threatens to move against its critics in the university.

The elected government of Sadiq el Mahdi, overthrown in a military coup on June 30, 1989, and the rebel Sudan People's Liberation Army (SPLA) of Dr. John Garang had planned to meet on September 18 in a Constitutional Conference, to settle the nation's civil war and other critical issues. The new military government of the Revolutionary Command Council (RCC) under Lieutenant General Omar at Bashir has promised to move towards peace, but, as September 18 passes, peace seems further away then ever. The recent convening of a "Peace Committee" in Khartoum is widely believed to lack credibility.

A central demand of the SPLA is that Sudan should be a secular state without Islamic Law (sharia). Recent actions by the RCC suggest that it is moving in precisely the opposite direction, systematically dismantling the indpendent secular judiciary with the implicit aim of replacing it with a militant Islamic judiciary. Africa Watch is concerned that this will lead to the denial of basic human rights to all citizens of Sudan, whether from the north or south, and will also serve to extinguish the hope of peace.

Information about recent developments in Sudan is scarce and often slow in arriving, because of the government's strict censorship (see below). However, the following sequence of events has apparently occurred.

On July 31, a delegation from the trade unions and professional associations, which were dissolved by government order immediately after the June coup, presented a mildly worded, legalistic memorandum to the RCC calling for the ban on their organizations to be lifted. They also requested that the Sudanese Bar Association be invovled in drafting any future legislation concerning the right of free association. The Bar Association and the Association of Legal Advisors in the Attorney General's Chambers have both signed this memorandum. The response of the RCC was to imprison the signatories, including Abdalla al-Hassan, president of the Bar Assocation (see News from Africa Watch, August 22, 1989).

The RCC had meanwhile set up special three-man tribunals, whose members were to be military officers, to try members of the previous government and other people suspected of corruption. On August 12, the first major tribunal met, to try former Deputy Chairman of the Council of State Idris el Banna. The judiciary were unhappy about this. Around this time, judges began to be dismissed. On August 21, a strike of judges was organized, which resulted in more dismissals (reportedly bringing the total to 57), and the detention of over 20 judges. On August 25, the judges submitted a memorandum to the RCC protesting these dismissals, and arguing that the tribunals could not be said to be independent, as they were chaired by military officers. Subsequently, more judges have been dismissed, either publicly in small numbers every few days, or individually and privately. Others have resigned, presumably expecting dismissal. The total number dismissed is not known, but it is believed that the RCC has a list of 120 whom they intend to purge. Some legal advisors to the government have also been dismissed, or resigned.

The judges' worries about the military tribunals were well founded. After two adjournments, Idris el Banna was brought to trial on September 2. He was charged with corruption and misappropriation of road-building equipment donated by Libya, which had been found at his home when he was arrested. Idris el Banna was given only four days to prepare evidence in his defense, he was not allowed a defense counsel but only a "friend" in court, he was not permitted access to the evidence of the prosecution, nor allowed to present the evidence in his defense properly. The trial was broadcast on television that evening. It lasted less than two hours, during which time the defendant was interrupted and abused by members of the court. However, he made a good impression on the public by his dignity under abuse and by denying the right of a military court to try a civilian. Idris el Banna, who is 73, was sentenced to 40 years in jail. The next trial to be held is that of Dr. Pacifico Lado Lolik, former member of the Council of State, for alleged corruption.

There are reports that Awad el Gid, a prominent Islamic juror and one of the architects of the introduction of Islamic Law in 1983, has been called upon to appoint suitable judges to replace those who have been dismissed.

It appears that the government of Sudan is in the process of dismantling the independent secular judiciary that the country has enjoyed since independent and replacing it with a militant Islamic judiciary, sponsored by the military government. Under such a judicial system, no defendant will have the guarantee of a fair trial.

The special courts are also empowered to impose punishments laid down in the 1983 code of law—the "September laws" introduced by former President Nimeiri—which include amputation, stoning, flogging and crucifixion. Africa Watch considers that these are cruel, inhuman and degrading punishments which violate Sudan's international legal obligations.

FREEDOM OF SPEECH

Until June 30, Sudan had one of the freest presses in sub-Saharian Africa, with over 40 journals and newspapers. Since the coup, only government-sponsored newspapers have been allowed to publish, their editors approved by the RCC and their "news" consisting largely of official pronouncements. Journalists have not been allowed to travel. The Sudanese people, accustomed to vigorous debate in the papers, buy these publications merely out of habit.

However, the tradition of free speech is not so easily suppressed. Underground editions of the newspaper al Medan have been circulated, and student unions have also circulated news-sheets. On the campus of the University of Khartoum, a "Democracy Wall" also exists. Known as nashart ("activity"), it dates from pre-independence days, and consists of an open-sided shelter with internal walls, each covered with notices pinned up. Each section of the wall belongs to a different political grouping, and even under today's strict censorship, the views of each political party can still be read there. Nearby, students from all political affiliations speak their views with impunity. A similar Wall exists in the medical faculty. While information posted on the Wall is not subject to liberal laws or press regulations, and cannot be verified, it remains the only significant source of free information other than gossip.

Can the Wall last? At present the University of Khartoum, along with the medical doctors, are the only major institutions of secular Sudanese society that have not been purged. The military, police, civil service, press, trade unions and the judiciary have all been purged. Two university lecturers are in detention, Dr. Ushari Mahmoud, a leading human rights activist, and Dr. Ali Abdallah Abbas, of the University Staff Association, but this is mild treatment compared with the other institutions mentioned above. It is likely, however, that the Students Union, which is dominated by Moslem fundamentalists, has pressed for such a purge to be put off until the end of September, when the students' examinations will be over. It is likely that Khartoum's "Democracy Wall" will also fall victim to such a purge.

[From Africa Watch, Sept. 20, 1989]

MALAWI—A POET OUT OF BOUNDS, JACK MAPANJE DETAINED WITHOUT TRIAL FOR 2 YEARS

On September 25, 1987, Malawian police arrested Jack Mapanje, the country's best-known poet. Two year later, despite widespread international protest on his behalf, Mapanje remains in detention at Mikuyu Prison near Zomba in southern Malawi. He has not been charged with any offense, nor has the government made any public statement as to the reasons for his imprisonment.

Malawian law allows for detention without trial. Under the 1965 Public Security Regulations the President can order the indefinite detention without charge of anyone "for the preservation of public order." It is not known whether Jack Mapanje has been served with such a detention order. What is known is that he is held at Mikuyu with a group of detainees, comprised of suspected critics or political opponents of the govern-

ment. They include Machipisa Munthali, who has been held without charge for more than 20 years. For the first 20 months of his incarceration, Mapanje was not allowed visits from his family or friends (he is married to a midwife, Mercy Mapanje, and they have three children). Nor has he been allowed to see a priest—Mapanje is a practicing Roman Catholic.

In the absence of any statement by the government, we can only speculate as to the reasons for his detention, although clearly it was Mapanje's writing which upset the authorities. At the time of his arrest his 1981 collection of poems, Of Chameleons and Gods, was banned. After his arrest in Zomba, Mapanje was first taken in handcuffs to the University of Malawi, where he is head of the Department of English Language and Literature. The police searched his office and seized various manuscripts, including poems and a paper delivered at a conference in Stockholm in 1986, entitled "Censoring the African Poem: Personal Reflections." This includes an account of his problems with the Malawi Censorship Board. It is likely that the authorities were also concerned about Mapanje's plans to bring out a second volume of poems, provisionally entitled Out of Bounds, and about an invitation for him to take up the post of writer-in-residence at the University of Zimbabwe. It was presumably felt that, from the safety of Harare, Mapanje would feel less constrained about openly criticizing the Malawian government.

Jack Mapanje was born in Mangochi District in southern Malawi in 1943. He was educated at the University of Malawi and the University of London, where he obtained an M.Phil in the early 1970s and returned to study for a Ph.D in the 1980s. In addition to being a published poet of international reputation, Mapanje is a respected theoretical linguist. He is chairman of the Linguistics Association of SADCC Universities (SADCC is the Southern African Development Coordination Conference, an organization which aims to reduce the dependence of the independent countries of the region on South Africa.) Mapanje has edited two anthologies of Africa poetry, broadcast for the British Broadcasting Corporation (BBC), and acted as judge in BBC and Commonwealth poetry competitions.

In his 1974 M.Phil thesis, Mapanje remarked on the usefulness of an international reputation to an Africa writer: "Writers are a threat to African leadership because having been published abroad they are usually given international recognition and hence international protection." Sadly, Mapanje's reputation has not saved him from two years of arbitrary and unjustifiable imprisonment, but it has ensured that his case has not been forgotten. In June 1988 he was the winner of the Poetry International award in Rotterdam. This was accepted on his behalf by the Nigerian writer, Wole Soyinka, winer of the Nobel Prize for Literature.

What may be more surprising, even to Jack Mapanje's sympathizers in the Western world, is the extent of his popularity in Malawi. His poems do not circulate freely and his book has never been on sale in the country's book shops. Yet why, when he delivered a university lecture in 1983 on "Aspect and Tense in ChiYao, ChiChewa and English," was the audience so large that it had to be transferred to a different hall? Why, in short, did the Malawian Government have to detain him?

Malawi is a rigidly authoritarian country where freedom of speech is virtually non-existent. It has been ruled since independence in 1964 by President Hastings Kamuzu Banda, who leads the sole permitted political organization, the Malawi Congress Party (MCP). Shortly after independence Banda sacked from his Cabinet a number of Ministers who were critical of his policies and was later declared President-for-Life. The sacked Ministers fled into exile and no opposition or political debate has been permitted since. Hundreds of opponents, real or alleged, have been detained, tortured or assassinated. For example, in November 1988 Osborne Mkandawire, a journalist working for the government's Department of Information, was tortured to death in Mikuyu Prison. His alleged crime was to have passed information to a foreign journalist. Fred Sikwese, senior economist in the Ministry of External Affairs, was reported to have been starved to death in Lilongwe Central Prison in March 1989. A few days later, Frackson Zgambo, a businessperson, was reportedly killed at Mikuyu Prison. Sikwese and Zgambo are alleged to have smuggled documents out of the country dealing with the sensitive issue of Malawi's relationship with South Africa. Strict laws govern the free exchange of information. There is a penalty of life imprisonment for anyone who sends "false information" out of the country which may be "harmful to the interests or to the good name of Malawi." However, as these cases show, more often suspected dissent is dealth with outside the law.

The authorities are extremely sensitive about the import or publication of books and magazines. There is an extensive list of proscribed publications; possession of any of them is a criminal offense punishable by a term of imprisonment. These range from the overtly political (Marx, Engels, Trotsky and, oddly, a counter-insurgency manual by a former US Marine Corps officer), through the sexual (Playboy, Kama Sutra, Harold Robbins) to works of literature. Among the hundreds of authors who have failed to win the approval of the Malawi Censorship Board are George Orwell, James Baldwin, Bernard Malamud, Wole Soyinka, Okot p'Bitek, Ernest Hemingway, Tennessee Williams, Simone de Beauvoir and Graham Greene. In his 1986 paper delivered in Stockholm, Jack Mapanje recalls an occasion when President Banda recommended to his Cabinet a book he had been presented with on his return to Meharry Medical College, Tennessee, where he had trained as a doctor, only to find that it was on the list of banned books. As Mapanje commented, "the objective of most censorship boards is first and foremost to protect the censors from dismissal."

The Malawi Censorship Board was set up in 1968 under a law that made it an offense to publish anything or handle any publication:

likely to give offense to the religious convictions or feelings of any section of the public, bring anyone into contempt, harm relations between sections of the public or be contrary to the interests of public safety or public order.

It also provides that any member of the public can complain, anonymously if they wish, about material which has "caused offense."

When Of Chameleons and Gods was published in 1981 it was neither officially proscribed nor cleared for sale. Thus book shops were not allowed to display it, but no one could be prosecuted for possessing a copy. In 1985 the Ministry of Education and Culture issued a circular banning its use in schools and colleges. In his 1986 paper Mapanje quotes the Polish novelist Tadeusz Konwicki to the effect that censorship "forces the writer to employ metaphors which raise the piece of writing to a higher level." He is amused at the idea that the Malawi Censorship Board may have actually improved his poems.

For many years Mapanje had exercised skill in evading the blue pencil. In the 1970s he was a member of the Malawi Writers' Group. Although the group numbered journalists and others among its members, it met at the university and was regarded as part of the academic teaching program—a loophole through which it evaded the attention of censors. Its significance was more than just literary; with the stringent controls on political activity, it rapidly became the only forum for critical discussion. However, this discussion could not be overt and many metaphors were developed to refer to the principal characters and issues in Malawian politics. For example, references to "dawn" or "cockerel" were metaphors for the Malawi Congress Party, whose flag contains a symbol of sunrise. President Banda proclaims "Kwacha" (dawn) at the beginning of all speeches and the kwacha and tambala (cockerel) are the units of currency. "Chingwe's Hole," a cleft in the rock of the Zomba plateau is used to refer to detention. This is where a Yao chief is said to have executed his enemies by throwing them down the hole. The "leopards of Dedza" are the Official Hostess, Cecilia Kadzamira, and her uncle, John Tembo, both deeply unpopular and the principal contenders for the succession to Banda. Such phrases, which recur in Mapanje's poems, are widely understood and have found their way into popular usage.

Mapanje has also made his poems more accessible by his use and adaption of traditional oral verse forms. His 1974 thesis was entitled, "The Use of Traditional Literary Forms in Modern Malawian Writing in English." In it he discusses the predicament of African writers who are so often critical of the leadership of their societies—an especially acute problem in the ferociously anti-intellectual atmosphere of Malawi after the 1964 Cabinet crisis.

While some writers have had to make a painful reassessment of their "hope-for" roles in Independent Africa by an unhappy accommodation of their moral and aesthetic principles within their new political situation, others have inflicted upon themselves some sort of exile, while still others have been forced into exile by the embrassed politicans who look at the writer's critical approach to life as an impediment to their remaining in power for as long as they would like.

It is no wonder then that African writers should feel alienated in their societies today * * *. To keep their sanity * * * they have to write what politicans regard as subversive literature or obscure works either directed towards a literary coterie or meant as therapy for their psychological crises.

As an alternative Mapanje advocates a return to "traditional literature and modes of thought as the source of metaphor and inspiration." Such an approach is particularly potent in Malawi, where Banda makes extensive use of pseudo-traditional ritual at all his public appearances: women dancers, praise singers and so on. In his thesis, Mapanje argues that traditionally the praise poet had a license to criticize the chief, whereas the new songs have become "'wa-

tered down propaganda to praise the new leaders with very little poetic insight."

What the new praise-song lacks is an element of constructive criticism of either the leadership or the society. The criticism was necessary in the original song because it was one way of helping the chief or the traditional leader to improve. It was also a way of knowing what the people think about the leadership * * *. What we would like to see is a critical-praise poem to bring about sanity where it is rare to find.

With his use of metaphor and traditional forms Mapanje was able to outwit the censors. But finally he could do so no longer; his book was banned and he imprisoned. Partly, of course, this simply reflects the effectiveness of Mapanje's criticism and the frustration of the authorities at his wits and skill. But it is also the result of changes in the political situation. For Mapanje, a turning point was the murder in 1983 of Dick Matenje, secretary-general of the MCP, Aaron Gadama, Minister for the Central Region and two Members of Parliament. Matenje and Gadama were both opponents of the powerful Kadzamira-Tembo faction; Matenje as secretary-general of the party would have become acting-President at Banda's death. Their removal, ostensibly in a road accident, cleared the way for Kadzamira and Tembo to succeed Banda. After their deaths Mapanje wrote in a private letter:

Do you remember watching Idi Amin off Tottenham Court Road in 1973? Well, those shootings were so remote. They looked like jokes. I did not realize that ten years later the story'd get home. And it was so painful that I could not work or think for months.

His poetry began to deal more overtly with political themes. In Mapanje's 1986 paper on censorship there is no reference to the critical license of the praise poets. He now regards himself as Out of Bounds.

ATROCITIES AGAINST CHILDREN: NEW YORK'S FOSTER CARE GROUP HOMES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1989

Mr. OWENS of New York. Mr. Speaker, as a member of the Education and Labor Committee I am concerned about education problems and other issues affecting our children throughout the Nation; however, I am particularly and deeply concerned about education and other services to children in my own 12th Congressional District in New York City. In reality, my national and local concerns are not mutually exclusive. My district is a mirror of some of the best and the worst educational activities and social services for children in the country. Lessons learned in my district would be useful anywhere in the Nation. From time to time, in my district, I discover situations which can only be described as atrocities against children. I think it would be useful if these outrages were exposed to the whole Nation.

In New York City it took years of agitation and litigation by child advocates before their campaign to reform and rehumanize our city's child welfare system began to succeed. But about a decade ago it seemed that the system had finally started to turn the corner; the foundations for a new, more progressive and humane system—a model for the Nation—were being laid down.

But then it all just stopped; the system appeared to collapse under the pressure of raging poverty, homelessness, crack, and AIDS. Suddenly New York's child welfare system was now drawing national attention not for its quality or innovations but for the egregiousness of its mistakes and failures. Strangely, however, there were few regrets expressed by our Mayor Koch and his appointees. Each successive incident of cruelty or ineptitude, each death or injury of a child, were waved away with a sigh as if they were some kind of natural phenomena, as inevitable and unpreventable as falling leaves in autumn and snow in winter. It was all very sad, but there was nothing we could do.

That, of course, is a lie.

A report recently issued by the Brooklyn Health Action Committee, Inexcusable Harm, makes clear the terrible extent to which the city's child welfare system has disintegrated and, most importantly, the mendacity of politicians who would excuse themselves from blame.

Written by Dr. Karen Benker and James Rempel, the report examines New York City's revival of foster care group homes—an institution abolished during the wave of reforms in the 1970's—and the scandalous conditions to which young children are subjected in these facilities. One out of every five children under age 6 who enter the foster care system—or 135 children each day—are relegated to the group homes for periods of between 2 weeks to 16 months. All of these children are Afro-American or Hispanic and many have a serious medical problem or a disability, such as AIDS, developmental delay, cerebral palsy, and cardiovascular impairments.

Psychologists have emphasized the critical importance of providing intimate and individualized attention to very young children who have been separated from their parents and families to east their emotional trauma and distress; without such care, these children are likely to develop grave psychological problems later in life and may as well experience developmental delays. Yet the city's Child Welfare Administration does not even attempt to provide some semblance of this kind of care and attention to the infants and toddlers it confines in the group homes. Most of the workers in these shelters are untrained, temporary hires who are rotated among the 17 facilities; the 6 children at one home were cared for by no less than 20 different workers over one 11-day period. The children are watched and monitored but are rarely held, spoken to, or played with; in some cases, workers do not even know the children's names.

The physical needs of the children receive little more attention than their emotional needs. Half of the homes have been repeatedly cited for serious fire safety violations, including padlocked fire exits, overcrowding, and nonfunctioning fire extinguishers. Accident hazards abound; safety inspections have noted broken or unsafe cribs, playpens and highchairs, play areas strewn with broken glass, and toxic chemicals stored within easy reach of the children.

Unsanitary diapering practices and improper food handling have made the homes a hotbed of infection and disease. Infectious diarrhea is common. At one facility alone 15 children were striken with diarrhea and had to be hospitalized; 2 of them later died. Inspectors identified unsanitary diapering practices as the cause of the outbreak and called for immediate action to rectify the problem. When they returned months later, however, they found that the practices continued unchanged.

Even the most basic, common sense health practices are ignored. The children were not immunized against some of the most deadly childhood diseases and, in some cases, are not immunized at all or only after they have been in the shelters for several weeks. Though many of the children have serious medical problems, they are not regularly monitored by professional health care providers, leaving all of the responsibility for safeguarding the children's health with the homes' untrained, transient workers. The results have been dangerous and deadly. When one infant was hospitalized with meningitis, no action was taken to examine and protect the other children in the shelter from this highly contagious disease. In another incident, workers failed to recognize that a child had contracted meningitis until it was too late; the child died without having received any appropriate medical care. Had the child been properly immunized when he first entered the foster care system, he would not have become ill at all.

The list of indignities and cruelties goes on and on. Children with disabilities who are not provided with the simple and inexpensive assistive devices they need. Spoiled food and infant formula. Siblings who are separated and sent to different shelters for no apparent reason. Sexually abused children who never receive any specialized medical and psychological care.

These and other horrors detailed by Benker and Rempel are a revelation only to the general public, not to the city officials who are responsible for the group homes. Inexcusable Harm is based largely upon inspection reports and internal memoranda from the Child Welfare Administration and the Department of Health; in these documents the same abuses and deficiencies are reported over and over, month after month, year after year, without prompting any meaningful corrective action. What becomes clear is that the vile conditions in the group homes are not some tragic error, nor the result of gross bureaucratic ineptitude; they are instead the product of political decisions consciously made at the highest levels of city government.

Far more disturbing than the abominable conditions in the group shelters is the fact they exist at all. There is general recognition among child development experts that, even when they are properly maintained, group homes are simply not suitable environments for raising and caring for young children. This is why they were abolished in New York City more than 10 years ago. A new emphasis was made on prevention services to keep families together and more intensive efforts to identify family placements for foster care children were initiated. The group homes were shut down and remained closed for a time. But

then the commitment to the reforms of the 1970's began to unravel. Slowly, quietly, the Koch administration began to revive the group homes, becoming increasingly more and more dependent upon them to manage the foster care caseload.

As with the conditions inside the homes, there was nothing inevitable or accidental about the revival of group foster care homes; this, too, was a conscious political choice.

The Koch administration did not choose to reopen the group homes because they were less expensive than placements with individual families. On the contrary, group shelters cost considerably more—as much as $60,000 to $100,000 per child each year versus the $10,000 annual cost per child for a family placement.

Nor did the Koch administration decide to reopen the group homes because there was an insufficient number of family placements available. In fact, many New Yorkers were eager and willing to provide loving homes for these children, but the Koch administration did not want them. Inexcusable Harm reveals that the recuitment of foster care families was made the lowest possible priority. The names of hundreds of families who had called the city's hotline to express interest in becoming a foster family were lost; hundreds more were so illegibly recorded that they were worthless. The average response time to inquiries from families whose names were neither lost nor illegible was an incredible 6 months. Those families who somehow made it over these hurdles were confronted with still more obstacles and roadblocks. Orientation meetings held in inconvenient locations. Combative and uncooperative caseworkers. No help in locating child care and other support services needed by the children. And on and on. There could have been real, loving homes for these children. But the city seemed determined to do everything it could to prevent that from happening.

If not for financial reasons, if not because there were no family placements available, then why did the Koch administration reopen the group homes?

Because it was the most convenient alternative, the simplest, fastest, and most expedient way for the city to dispose of these children. Dispose is the only word for it. These frightened, vulnerable children were treated as if they were some peculiar kind of solid waste to be gotten rid of or at least to be gotten out of sight. In a deposition cited by Benker and Rempel, one of the chief political appointees responsible for the foster care program freely admits that the children could have been placed with individual families—there was a backlog of names of interested families—but that he just did not care to make that effort. It would have been inconvenient, more complicated than simply packing the children into group homes. He goes on to indicate that he wants to open additional group homes but that the State department of social services has stood in the way. The State, he complains, stubbornly insists on viewing the group homes as a temporary, stop-gap measure and not as the permanent solution he believes it should be. Or maybe, given the disgusting conditions of the homes, the final solution is what he really meant to say.

The brutality to which these vulnerable and all too powerless children are subjected is inexcusable; it is an atrocity. As Dr. Benker and Mr. Rempel note in their conclusion:

> Clearly, we are permitting two entirely different standards of justice. When parents act in a manner to harm or risk harm to their children, they are charged with abuse and neglect. But when government officials persistently, willfully, and unnecessarily harm children by forcing them to endure emotionally painful and physically dangerous confinement in shelters, these officials are not held accountable. Until we refuse to allow such behavior, these public officials will continue to act as if they believe that minority foster children are so unimportant as to be beyond the interest of the law and that they themselves are so important as to be above the law.

SENATE—*Wednesday, October 11, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

This morning I am especially burdened for Mrs. Domenici and Mrs. Ford, both who lost parents last week, and for the son of Ron Kavulick, who is a Reporter of Debates, whose son is experiencing a difficult illness. We commend them to Thee Father.

O Lord, thou hast searched me, and known me, Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, thou knowest it altogether.—Psalm 139:1-4.

Omnicient Lord, Thou knowest all things. Mighty God, who "fixes the times and the seasons by Your own authority," the future is as plain to Thee as the past, the end as the beginning. Our lives are an open book to Thee. From Thee we have no secrets. When we try to hide from Thee, we deceive only ourselves, despite which Thou dost love us with unconditional, everlasting love. Forgive us, Father in Heaven, for ignoring this love, for assuming we can get along without Thee. Teach us the wisdom which gives maximum meaning to life—knowing Thee, seeking Thee, loving Thee, serving Thee.

In Jesus' name whose life was dedicated to this realism. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 11, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time for the two leaders, there will be a period for morning business with Senators permitted to speak therein. There will be no rollcall votes today.

It is my hope that early tomorrow the Senate will be able to proceed to the legislation providing for assistance to the Nicaraguan election process, legislation which the administration is anxiously seeking approval on, which has been enacted by the House, which I favor, and to which I intend to proceed in the Senate, if possible. Unless prevented from doing so by objection of Senators, we will proceed to that early tomorrow morning.

Upon disposition of that legislation, which I hope will be in a relatively brief period of time, although I understand there may be some amendments offered, it is then my intention to proceed to the reconciliation legislation. As I announced last weekend and have stated publicly on several occasions since then—indeed, on more than one occasion every day this week—we will proceed to the reconciliation legislation tomorrow as soon as we can do so, and we will continue on that matter until completion this week. So Senators should be prepared for lengthy sessions on tomorrow and Friday and, if necessary, although I hope it will not be necessary, on Saturday, to complete action on the reconciliation legislation. The Senate simply must complete action on that legislation prior to the October 15 deadline with respect to sequester, that of course being on Sunday.

So we are going to try to do the Nicaraguan legislation tomorrow, if we can do that, and then either upon completion of that or failure to be able to bring it up because of objection, which I hope will not occur, then proceed to reconciliation and just stay with it until completion.

RESERVATION OF LEADERSHIP TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent to reserve the remainder of my leader time and the time of the distinguished Republican leader. I now yield the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The time for both leaders is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for morning business. The Chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. GORE. I thank the Chair.

GLOBAL CLIMATE CHANGE

Mr. GORE. I rise today to speak on the subject of global climate change. My colleagues may remember that last May there was a controversy in the Senate Commerce Committee over the attempt by the administration to censor the testimony of a scientist who had come to appear before our committee on the subject of global climate change. In his prepared statement that witness told us, or was going to tell us, about the reliability of computer models indicating that global warming will bring with it a relatively more frequent incidence of drought in areas like the middle of the United States of America.

The Office of Management and Budget had used a heavy hand in awkwardly attempting to censor his statement before the committee. This became known publicly and the administration quickly began to backtrack.

As part of their damage control, when that controversy erupted, the administration announced that they were going to call a meeting of countries around the world to discuss global climate change and what to do about it.

We saw, on May 9, the White House announcement of this meeting intended to consider a response to global warming and other environmental

problems. Two days later, on the evening of May 11, President Bush sent a cable to the U.S. delegation in Geneva, to a conference then discussing these subjects, instructing them to "make every effort to obtain agreement on a global warming workshop this fall hosted by the United States."

The cable continued that the workshop:

* * * should be designed to identify the scientific, legal, technical, and economic issues critical to further progress on beginning negotiations on an international convention on global climate change. * * * The scope and importance of this issue are so great that it is essential for the U.S. to exercise a leadership role. We should seek to develop full international consensus on necessary steps to prepare for a formal negotiating process.

This again was from the President's cable publicly released in the aftermath of this controversy in the Senate about whether or not the administration was serious in providing leadership on this issue of global climate change.

At that time, I publicly welcomed the announced meeting and the apparent decision by the President to finally begin recognizing the importance of global climate change as the international issue demanding attention.

I welcomed the meeting in spite of the fact that I and others realized at the time the White House was merely taking advantage of the fact that a regular meeting of the Intergovernmental Panel on Climate Change would take place in the fall of 1989 anyway. But I welcomed the elevated attention that the White House was giving to that conference, and the apparent attempt by the President with his own imprimatur on that meeting to have it in Washington, and increase the prominence of the discussions that were held there.

The meeting took place last week and some changes have occurred since last May when the White House press releases were put out. It is now clear that the announcements by the White House in May were principally attempts to relieve the tremendous public, congressional, and media pressure that the White House faced in light of the controversy over the OMB effort to censor the scientist, Jim Hansen.

Over the last 10 months they have begun to downplay the entire issue. Some administration officials have strived to convince the President to allow the United States to play an active role in calling for and in designing a framework convention of the kind referred to in the President's initial cable. But those voices in the administration have not prevailed. What happened after the flurry of press attention in May is that, first, the meeting was moved from Washington to Geneva. Then, after it had been made more prominent they began the effort to make it less prominent. The reports coming out of Geneva indicate that the United States delegation reverted to the original Bush administration line of foot dragging, downplaying the problem, allowing others to provide world leadership, and calling not for action but merely for more research.

Mr. President, more research on the causes of global climate change are needed, but action is also needed, because if we wait until all of the remaining questions have been answered to everyone's satisfaction, it will be too late for meaningful action to do any good.

So I rise today really to note the contrast between the impression which the White House gave last May and the performance that we got in Geneva last week. At that time, in May, they were feeling some heat. They were attempting to demonstrate to the country and to the world that this administration was serious about global climate change, and was intent on providing world leadership to come up with a sensible way to deal with this problem.

Now that so much time has passed, it is obvious that they are not following through on the impression they were so eager to create last May.

I read an article from the Scripps Howard News Service, and I have, I might say, attempted to confirm its contents through staff contacts with individuals who participated in the sessions in Geneva last week. The article, by Robert Engelman says:

The Bush administration will oppose efforts next week by several nations to develop a treaty limiting emissions of the gases that contribute to global warming.

The United States will contend that any such treaty should aim instead at increasing scientific understanding of the greenhouse effect and its likely impacts.

The reporter quotes portions of policy statements contained in a position paper that outlined what the United States intended to do at the meeting in Geneva, and in those discussions, the delegation, in fact, appears to have taken the go-slow approach.

The article goes on—

Privately, administration officials argue that there is still far too much uncertainty about the likelihood of serious warming to justify taking steps that might dampen the U.S. economy.

Mr. President, this is the kind of head-in-the-sand approach that we should avoid. It is the kind of approach the administration was accused of taking last May. Again, they were very eager to dispel the impression that they were guilty as charged back in May, but now we see the discussions taking place. We see the positions adopted. We see the arguments being made. We see the reports of what the administration officials are saying in private, and it is all too obvious that the administration is not providing the kind of leadership we need on this issue.

I really believe, Mr. President, that the Secretary of State understands this issue much better than other officials in the administration.

I really believe that the President of the United States as an individual, if confronted with the evidence, would not take the kind of approach that his administration is insisting upon in these international discussions. But there is a certain momentum in institutions like the State Department and other parts of the executive branch of this Government that is prevailing over the better instincts of individuals in the administration who ought to know better.

It is not the first time that this has happened. Let me give you another example.

Secretary of State Baker, in his first public appearance after taking office as Secretary of State, addressed the same group, the intergovernmental panel on climate change, at the meeting which took place in Washington very early this year. He said:

We can probably not afford to wait until all of the uncertainties have been resolved before we do act. Time will not make the problem go away.

Secretary Baker then went on to specify those issues in need of immediate attention. He said:

We should focus immediately on prudent steps that are already justified on grounds other than climate change. These include reducing CFC emissions, greater energy efficiency, and reforestation.

Well, those were welcome words, but in a meeting which immediately followed the Secretary's remarks, American officials, after the Secretary had left, unveiled a plan to the delegates present at that meeting. Incredibly, the plan, which was presented by officials in the department, did not at all resemble the approach which had just been outlined by the Secretary of State in his formal remarks. Certainly they did not resemble the approach promised by President Bush when he was a candidate before the election, saying 2 months prior to the election: "I am an environmentalist, always have been, and I always will be."

Candidate Bush went on to proclaim, "Those who think we are powerless to do anything about the greenhouse effect are forgetting about the White House effect. As President, I intend to do something about it."

"In my first year in office," Candidate Bush went on to say, "I will convene a global conference on the environment at the White House. The agenda will be clear, and we will act."

These were promises made to the American people about what President Bush would do in response to global climate change. Those promises are being broken right now, even as we

meet here today. The first year is not entirely over with, but it is getting close, Mr. President. President Bush has yet to act.

In fact, he has clearly allowed those in his administration who would prefer to ignore the crisis facing the global environment to prevail over those who know better and who understand why it is imperative that this world begin to respond immediately, those who understand that if this world is going to respond to this unprecedented challenge, the leadership must come from the United States of America.

President Bush has not called for a special international conference. He has not even called for a conference among his own policymakers on this subject, as Prime Minister Thatcher did many months ago, and as other world leaders around the world have done.

Earlier this year, just prior to the meeting of the Senate Commerce Committee, which I referred to a few moments ago, the Washington Post reported that major administration officials, including the White House Chief of Staff and officials from the Office of Management and Budget, were actually blocking others in the administration from proposing that our Nation actively support plans for developing a framework convention on global warming, an initiative favored by high ranking officials in the President's own Environmental Protection Agency, and in the State Department. And let me say that Secretary Baker is not the only person in the State Department who I believe personally understands the importance of this issue. Others have supported the call for a global convention on this subject. Some in the White House itself have supported this move. But in spite of that, U.S. delegates to international meetings have been told to only discuss the possibility of a framework convention and to push primarily for further study, without in any way endorsing the need for action.

Mr. President, I really do not think this is adequate. I think that we need to do more, because the latest reports from Geneva, again, indicate that the administration is taking its usual go-slow approach to this issue in not providing the world leadership that we need. How long are we going to tolerate this shell game from the administration on global climate change? We have had a series of bold pronouncements and promises of action, to be followed by a rather timid approach, characterized by some backtracking on issues like this.

I believe we should have a framework convention, and while I intend to elaborate on what I think such a convention should be aimed toward at a later time, I want to briefly say, before I conclude here today, that I think we should proceed immediately to structure a framework convention on global climate change, and do so with great care. Unless it is defined carefully, we could, of course, see the history of other North-South negotiations repeat itself, resulting in a paralysis of who is responsible for what. Unless this convention receives the level of attention appropriate for a threat to our national security—which we all must agree, in my opinion, it most certainly is—then a disastrous outcome could result in which we find that a lack of U.S. leadership could lead to a chaotic standoff in which the nations are too divided to unite in order to deal with the environmental crisis that our planet faces.

Fortunately, if we have the courage to act, there is a fundamental level at which elements of consensus on the threat of global warming are based on the well-accepted scientific information. Therefore, consensus on these elements is easier to secure. At this level we have the following elements: First, global warming is a common threat of the highest magnitude to all nations, capable of threatening the underlying environmental balance upon which international stability depends.

Second, the sources of this problem include increases in greenhouse gas emissions that have resulted from industrial growth and urbanization and decreases in the absorptive capacity of the environment through deforestation in some regions and desertification in others.

Third, corrective actions taken now will reduce the scope of the oncoming threat, while a delay will markedly increase the threat and severity of its consequences. Marginal responses will not be sufficient; an urgent and profound response is needed, and it must be international in scope. It will require nations to take both individual and collective action on two fronts in order to reduce emissions of greenhouse gases radically; and in order to improve the Earth's ability to absorb these effluents through, for example, massive efforts to reforest those portions of the Earth which can be reforested.

Fourth—and this is a key point—we must forge a commitment to the effect that the international planning effort ongoing through the auspices of the Intergovernmental Panel on Climate Change must be designed to look to agreements that are binding commitments upon the governments involved, which freely enter into these agreements, to take both individual and multinational corrective action precisely stipulated as to extent, timing, and costing of the required response.

A key principle of this effort will be the recognition that economic development must be sustained, and in some parts of the world accelerated, but that ways must be found to reconcile this growth with needs for global environmental stability. Thus, we will need additional international work aimed at identifying existing and new technologies for continuing economic growth, without further compromising the environment, with a special emphasis on finding the means for financing the development and transfer of these technologies to the developing world—a global strategic environment initiative, if you will.

Mr. President, the effort to agree to this intention, in the form of a framework convention, should begin at once.

In closing, Mr. President, let me say that I fully realize that a problem like this one, unprecedented as it is, defies the imagination. It is extremely difficult to fully realize and comprehend a problem that is so different from anything that has ever come before us. It is, however, real. We must confront it. We cannot continue to delay.

We were promised, last spring, that this fall would be the time when, at last, the United States would supply the leadership greatly needed by the world to confront this problem. Here we are in the fall. The meeting which had been advertised as the high-profile Washington conference aimed at action has occurred not in Washington but in Geneva, not with a high profile but with a low profile, not aimed at action but aimed at further study.

Mr. President, I personally have confidence in President Bush as an individual, and Secretary Baker as an individual, and they are extremely personable. They are capable of not only understanding the problems fully but of coming up with imaginative responses.

I think there is a tendency to deny the seriousness of this problem I am discussing today, and within the administration thus far there has been a tendency to put its head in the sand and accept the counsel of those within the administration who wish only to delay.

So today I am calling upon the administration to follow through on the promises made last spring, give this issue the attention it deserves, and provide the world the leadership it needs in order to address the problem of global climate change.

I intend in the days ahead to speak further on this subject and to outline exactly what our response should be, in my opinion, and to present further evidence on what our reponse has actually been, and I would characterize that actual response as a disappointment. But there is time for change. There is time for the administration to change its approach and provide the leadership needed.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Knoxville News-Sentinel of September 30, 1989, entitled

"U.S. To Oppose Global Warming Treaty."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Knoxville News-Sentinel, Sept. 30, 1989]

U.S. TO OPPOSE GLOBAL WARMING TREATY

(By Robert Engelman)

WASHINGTON.—The Bush administration will oppose efforts next week by several nations to develop a treaty limiting emissions of the gases that contribute to global warming.

The United States will contend that any such treaty should aim instead at increasing scientific understanding of the "greenhouse effect" and its likely impacts. A second aim would be "protecting social, environmental and economic well-being from adverse impacts likely to result from climate change."

The policy statements are contained in a position paper prepared by the State Department for an international meeting on global warming that begins Monday in Geneva. A copy of portions of the paper was obtained Friday by Scripps Howard News Service.

The statement did not categorically rule out later treaty amendments aimed at curbing global warming, however.

Environmentalists charged this week that the Bush administration was reneging on the president's own promises to act decisively on global warming. In the economic summit in Paris in July, Bush and the leaders of six other industrial nations said they "strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases, which threaten to induce climate change."

Speaking before the United Nations General Assembly on Monday, Bush promised "the United States will do its part" to preserve the global environment. The nation emits about 23 percent of the carbon dioxide that is the single most important greenhouse gas.

Privately, administration officials argue that there is still far too much uncertainty about the likelihood of serious warming to justify taking steps that might dampen the U.S. economy.

Scientists predict a warming of several degrees will become evident within decades—and possibly in the 1990s—from such heat-trapping gases added to the atmosphere by human beings. Computer models suggest such a warming would intensify droughts and storms and could cause sea levels to rise.

Mr. GORE. Mr. President, I see the Republican leader on the floor. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Republican leader, Senator DOLE.

JUSTICE, NAMIBIAN STYLE

Mr. DOLE. Mr. President, I want to bring to the attention of the Senate, the American media, and the American people a legal outrage being perpetrated against an American journalist in Namibia, in southern Africa.

Scott Stanley, editor of the Conservative Digest—who happens to be a friend of mine—went to Namibia earlier this week, to testify on behalf of Namibian defendants in a trial there.

The defendants were arrested because they reprinted an article Scott wrote here in this country, based on an interview Scott had conducted with a Mr. Brian O'Linn—chairman of a governmental body called the Namibian Commission for the Prevention and Combating of Intimidation and Election Malpractices.

Mr. O'Linn—apparently a very powerful man in Namibia—took offense at Scott's article; had the newspaperman who reprinted it in Namibia arrested; and, when Scott showed up to testify in their behalf, had him arrested, too.

Scott now finds himself one of the defendants in the trial in which he originally was to be a witness.

He now finds himself in jeopardy of up to 2 years in jail and/or a big fine in Namibia, because of a perfectly legitimate article he wrote weeks ago, in the United States.

And, most outrageous of all, he finds himself not even being charged for false reporting—but for holding Mr. O'Linn up to ridicule.

Mr. President, no one has to hold this whole process up to ridicule: It is ridiculous on its face—or at least would be, if the safety and freedom of an American citizen was not at stake.

Mr. President, Scott went to Namibia because of his concern about the principle of a free press. In defending that principle, he now finds himself no longer a free man.

I hope all Senators—and equally important—all the members of media—will take a very careful look at Scott's dilemma; and will speak out very strongly on behalf of the principle of a free press, and Scott Stanley's basic human rights.

FELDSTEIN OP-ED ON THE SOVIET ECONOMY

Mr. DOLE. Mr. President, I have recently received a letter from Martin Feldstein, former Chairman of the President's Council of Economic Advisers, enclosing a copy of an op-ed he wrote for the Wall Street Journal.

The op-ed—entitled "Back in the U.S.S.R. as the Storm Clouds Gather"—ran in the Journal on September 14. I will ask unanimous consent to include in the RECORD the full text of the op-ed.

Mr. President, this op-ed has a sobering message, which can be summed up in the brief opening paragraph:

My second visit to the Soviet Union within 6 months left two very clear and disturbing impressions. First, the Soviet economy is on the verge of collapse; and second, in the current political environment, the economic deterioration cannot continue for long without provoking some sharp political change.

Mr. President, those are very tough words, and Feldstein backs them up in the op-ed with some provocative observations—and some prescriptions for how Gorbachev can get himself out of a very tight box.

The op-ed reinforces my view that, as important as the political developments inside the Soviet Union are, we may be focusing too much on them—while giving too little attention to the economic crisis that Feldstein describes, which could ultimately turn out to be the decisive factor in shaping the Soviet future.

Mr. President, I commend this op-ed to the attention of all Senators and all Americans. It is must reading. I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 14, 1989]

BACK IN THE U.S.S.R. AS THE STORM CLOUDS GATHER

(By Martin Feldstein)

My second visit to the Soviet Union within six months left two very clear and disturbing impressions. First, the Soviet economy is on the verge of collapse. And, second, in the current political environment, the economic deterioration cannot continue for long without provoking a sharp political change.

Ironically, the recent political reforms are making it particularly hard for the Soviets to achieve the economic reforms that they need. And yet it is the new political freedoms that will permit the public to hold the political leadership accountable for the economy's abysmal performance. The Soviet Union's inability to reconcile economic reform and political freedom could cause a repressive political swing to the right in which both will be lost.

The increasing shortages of consumer goods—both a symptom and a cause of the worsening economic situation—are destroying the already poor system of distribution. Leningrad has had to issue ration coupons for soap, sugar and salt. Many basic goods are no longer available to all. And although consumer durables have extremely high official prices, especially relative to Soviet wages, they too have generally disappeared from the shelves.

BLACK MARKETS

The rise of nationalism is also contributing to the economic breakdown. The Baltic states and other Soviet republics are preventing the shipment of locally made products to other parts of the Soviet Union and denying Soviet citizens who are not local residents the right to buy things in their stores. The Moscow government has retaliated by announcing that Soviet citizens from other republics who visit Moscow may not buy consumer durables, imported products and other desirable goods that may happen to be available.

This disintegration of the regular market in consumer goods encourages black markets and widespread corruption. The Soviets readily acknowledge that retailers and others involved in the distribution system help themselves to consumer goods that can be sold on the black market for much more than official prices or, better yet, for dollars or other hard currency.

The combination of shortages and of rapidly rising prices for the limited range of goods for which price increases are permitted is destroying the value of the ruble. Al-

though it is illegal for Soviets to trade rubles for foreign currency, this trading has become blatant. The official exchange rate is $1.60, while the rate on the street is only 10 to 20 cents a ruble.

A primary cause of the shortages and price rises is the government budget deficit, now estimated at more than 10% of gross national product. Although a deficit need not be inflationary if it is financed by issuing bonds that crowd out private spending, the Soviets do not issue bonds but finance their deficits by adding to the cash in the hands of Soviet workers. In a Western economy, such an excess infusion of cash would cause prices to rise. Soviet experts privately estimate their inflation rate at nearly 10% even though most prices are not allowed to rise. And with only a limited number of prices free to increase, the excess cash chasing a limited supply of goods causes shortages.

The fear of future inflation encourages people to spend their savings before the ruble's purchasing power decreases even further. With the interest rate limited to only 3%, any kind of good that can be stored for future use is a better investment than money in the bank.

But the shortages reflect declines in production as well as increases in demand. One cause of the reduced output is the new system of factory management in which managers are elected by the workers and have some discretion over pay and work requirements. Without the discipline from owners or creditors, managers have raised wages and met production quotas by accounting gimmicks. In addition, workers and farmers whose income is related to their own effort frequently have cut back because the rubles that they would earn by extra effort are of such limited value.

What is needed to rescue the Soviet economy is a radical reform of the price-setting process and a move toward a much more market-oriented economy. Mr. Gorbachev's economic advisers recognized that two years ago but have now abandoned those proposed reforms because they fear that price decontrol would lead to skyrocketing inflation. Such inflation is politically unacceptable in a nation where Lenin's promise of price stability has been repeated for more than 70 years. Moreover, since Soviets do not own shares or homes or other assets that would preserve their value during inflation, a rapid inflation would wipe out the life savings of every Soviet citizen—hardly a propitious start for a government that wants to develop confidence in capitalist ways!

The prerequisite to price decontrol and the establishment of a market economy is therefore appropriate anti-inflationary macroeconomic policies. First, the excess infusion of cash by the budget deficit must be stopped. Soviet officials acknowledge this and say that they will cut the budgetary money growth in half during the next year by a combination of reduced defense outlays, increased revenue from the sale of imported consumer goods, and the use of bond finance. But eliminating a budget deficit of 10% of GNP will not be possible without raising taxes, cutting subsidies or reducing the already low standard of public services. Any such painful changes will inevitably be criticized in the press and reflected in votes against Communist Party candidates in contestable elections.

Even more important than deficit reduction is raising the interest rate that households receive on their bank deposits. That rate must be high enough so that households will want to leave their past savings in the bank when prices are decontrolled, rather than spending them and thereby bidding up the prices of available goods. At a minimum, that is likely to require an interest rate that exceeds the inflation rate, a substantial rise from the current token rate of interest. Such a rise in interest payments would be unpopular with a Soviet public raised on the communist ideology that all capital income is unfair. Moreover, since the ownership of savings is highly concentrated, paying higher interest rates would conflict with the egalitarian standard of fairness that the Soviet public has come to accept.

Popular opposition to economic reform extends not only to the policies required to prevent inflation but to the basic market reforms themselves. While most Soviet economists continue to recognize the necessity of price decontrol and movement toward a market economy, they report that these notions are not supported by the mass of Soviet people.

Soviet citizens want a higher standard of living but do not see how that will follow from market forces. Instead they see price reform as eliminating the subsidies on bread and rent and adding to a general price inflation that would lower their already low standard of living. And they understand that with fewer regulations some individuals will become much richer than others, in sharp conflict with their values. With democratization, such popular opposition inevitably increases the political reluctance to act decisively.

SOME POSSIBILITIES

The deteriorating economic conditions make the continuation of current policies very unlikely. One possibility is that the leadership will accept the political risks of adopting radical reforms that simultaneously contain inflationary pressures and move toward a market economy. Or, Mr. Gorbachev might lose power to a politician prepared to adopt the needed reforms.

But there is a darker possibility. The Soviet public and many of those in government or military circles may conclude that inflation, shortages, strikes and corruption are all evidence that the Gorbachev government is too weak. They may yearn for a government that can bring back price stability, crack down on black marketeers and stop the nationalist political movements. Such a political change could spell the end of economic perestroika and of political liberalization. The very fear of such a political ouster might make Mr. Gorbachev and his colleagues adopt a tougher, less reform-oriented stance themselves.

Those of us who want to see an increase in pluralism, democracy and market forces in the Soviet Union can only hope that the current government will have the courage to adopt the needed reforms before it is too late.

NOMINATION OF DAVID GEORGE BALL TO BE AN ASSISTANT SECRETARY OF LABOR

Mr. DOLE. Mr. President, I wish to comment on the nomination of David George Ball, of Connecticut, to be an Assistant Secretary of Labor. It was my understanding that that nomination has been cleared on all sides and is ready to go the last time we were in session.

I hope we could resolve any last-minute snags on the nomination. It has been pending for some time. I hope we could confirm that nominee today. He is a very vital member of the Department of Labor and I know the Secretary of Labor very much would like to have him on board.

RECONCILIATION

Mr. DOLE. Mr. President, the majority leader has indicated he would like to start reconciliation tomorrow and I certainly have no quarrel with that. We have been in discussions the past several days, Republicans and Democrats. Yesterday the House leadership, Congressman FOLEY and Congressman MICHEL, and myself and the majority leader, Senator MITCHELL, discussed a number of topics including reconciliation. That was the primary purpose of the meeting.

I am not certain what the attitude may be on the House side as far as stripping extraneous provisions from reconciliation. It is more difficult for the House since they have already passed their bill.

It is rather difficult now to say, "Well, we ought to go back an undo some of it and strip all the extraneous provisions."

As the majority leader has indicated, there is I think fairly strong bipartisan support in the Senate to support and enforce the Byrd rule where we can. And much of that hopefully can be done prior to considering the reconciliation package on the Senate floor, to expedite certain consideration of reconciliation and also expedite, I would hope, the conference.

It would seem to me that the House would be under some pressure to reciprocate if in fact we did do what we should do on the Senate side and strike out, remove, whatever, delete a lot of the extraneous provisions that have no place on the reconciliation bill.

But there is still one area on which we have not agreed and that is whether we are going to do anything with capital gains. I must say the Republicans have made three proposals. We have as yet to receive a counterproposal from the Democrats on this particular matter. We offered three different ways to reach some solution to make certain that the President's capital gains program would have a vote, and so far we are still waiting for some response. Hopefully that will come today. If so, we may be able to work it out and that would expedite the process considerably.

There has been some indication that the statement by the White House press spokesman may have complicated matters. As far as I know, I know

Mr. Fitzwater has not been part of the negotiations. He has not been up here at all and certainly has not complicated matters at all.

I know there are big stories today in the Washington Post. I do not believe it was of that much importance but the problem is we have not gotten any counteroffers. It is not Mr. Fitzwater. It is the fact that the Democrats have not come forth and not indicated what they are willing to do. Unless there is some willingness to negotiate, to compromise, then I would guess we are not going to have agreement.

I would say, as I said last evening, we are prepared to negotiate. The White House is not complicating matters. If Mr. Fitzwater made an error then so be it. But he is not part of the negotiations and has not been.

I have been consulting on a daily basis with OMB Director, Mr. Darman, and Treasury Secretary, Mr. Brady. They are involved in the process.

I would be very happy to meet with Democrats at their request, at their convenience, either with Republicans or without Republicans. And it is my view that we should be able to come to some agreement on handling this matter.

It complicates it a little when the Democratic staff of the Budget Committee puts out press releases at 2 o'clock yesterday afternoon, in fact characterizing what is happening in these private negotiations. It was also my view that these were private negotiations; we were not supposed to carry it to the press. It is still my view. I would hope they might desist from editorial comments and so-called factsheets that have been distributed to the press.

The point is we are certainly willing to negotiate. Capital gains has broad bipartisan support in this body; no doubt about it. I think probably 15 or 20 Democrats would like to vote for some capital gains provision. And I would guess that probably 43, 44, or 45 Republicans also share that view. We do not believe we should be foreclosed from that opportunity.

It is good policy. We believe now that the distinguished Senator from Oklahoma [Mr. BOREN], has announced a plan I understand many Democrats support. There has been a plan announced by the distinguished Senator from Oregon [Mr. PACKWOOD], that many Republicans support, that we have again a possibility of working out a compromise that would have widespread support on both sides of the aisle.

It would seem to me that there is an interest. There should be some way to package capital gains, IRA's, whatever, in an effort to satisfy those on both sides, so that everyone is treated fairly. So I just hope we can conclude some agreement. But it is pretty hard to have an agreement unless you have offers and counteroffers, and we are still waiting for the first counteroffer.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, the remainder of the Republican leader's time is reserved.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to request that my colleagues take note of the fact that today is the 1,670th day that Terry Anderson has been held captive in Beirut.

RECESS UNTIL 2 P.M.

Mr. DOLE. Mr. President, I understand the majority leader wishes that we recess until 2 o'clock and I so move that we stand in recess until 2 o'clock this afternoon.

The motion was agreed to and the Senate, at 12:38 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to by the Presiding Officer [Mr. MITCHELL].

RECESS UNTIL 4 P.M.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Maine, asks unanimous consent that the Senate stand in recess until the hour of 4 p.m.

There being no objection, the Senate, at 2:01 p.m., recessed until 4:01 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. DECONCINI].

MORNING BUSINESS

The PRESIDING OFFICER. The Senate is still in morning business.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION

Mr. SASSER. Mr. President, on May 15, Congress adopted a budget resolution that directed the eight Senate committees to recommend changes in laws within their jurisdictions that would reduce the deficit.

I am pleased to report that these eight committees have now acted.

Under the Congressional Budget Act, the job of the Budget Committee is clear. Section 310(b) of the Budget Act provides:

The Committee on the Budget * * * upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out such recommendations without any substantive revision.

The Budget Committee will meet tomorrow morning to report that legislation.

The Budget Committee received the last committee's submission late last week.

The Budget Act states that the Budget Committee must report "Without any substantive revision." That being the case, barring modification by the reporting committees, the submissions that we have received to date will in all probability be the same as the reconciliation bill that the Senate will consider on tomorrow.

As we try our best to complete reconciliation expeditiously in the face of the Gramm-Rudman-Hollings deadline date of October 15, we need to facilitate consideration of the reconciliation bill on the Senate floor without any unnecessary delay.

Consequently, for the convenience of Senators, staff, and observers of Congress, I will submit to the desk a summary of the reconciliation submissions that the Budget Committee has received.

So that all may have a fair opportunity to review this material during the consideration of the reconciliation bill tomorrow and Friday, I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE SENATE-REPORTED BUDGET RECONCILIATION BILL FOR FISCAL YEAR 1990

(Senate Budget Committee, October 12, 1989)

The 1990 Budget Resolution provides for deficit reduction of $27.7 billion in 1990; $13.8 billion of this total is assumed from reconciled changes in entitlement or mandatory programs. The Senate Budget Committee is charged under the Congressional Budget Act with packaging all reconciliation legislation into one bill for consideration by the full Senate.

The budget resolution included reconciliation instructions to eight Senate Committees. All eight Committees have either met or exceeded their savings directives for 1990. The Congressional Budget Office (CBO) estimate of deficit savings for these committees totals $14.1 billion.

This summary provides a brief description of the major provisions in the Senate-reported reconciliation bill. The attached table shows the savings achieved by each authorizing committee and for major provisions within each title.

TITLE I—AGRICULTURE

Increase the Cotton Acreage Reduction Program (ARP) for 1990 Crop

Provides the Secretary with the authority to increase the ARP percentage from 25 percent to 30 percent if the 1990 ending stocks for the upland cotton crop are estimated to be above 7 million bales. Savings of $45 million in 1990 will result due to a reduction in acreage eligible for deficiency payments and a resulting increase in cotton prices.

Reduce Advance Deficiency Payments

Reduces 1990 crop deficiency payments for corn and other feed grains, wheat, upland cotton and rice by approximately 3 percent. The reduction will be applied against any advance deficiency payment made available to producers of 1990 crops, thus ensuring that the savings occur in 1990. Savings from this provision total $235 million in 1990.

Reduce Export Enhancement Program Expenditures by $150 million

Limits the EEP spending in 1990 to $650 million in budget authority saving $108 million in outlays in 1990.

Reduce Targeted Export Assistance Funding by $100 million

Lowers TEA expenditures by $100 million resulting in outlay savings of $40 million in 1990.

Mandate the Oilseed Planting Program

Extends provisions in the Disaster Assistance Act which will result in fewer deficiency payments and loans made on program crop acreage. Under this provision, producers would switch approximately 1 million acres from corn to beans, thus raising corn prices and reducing deficiency payments. This provision saves $116 million in 1990.

REA Loan Refinance Penalty

Allows Rural Electrification Administration (REA) cooperatives two options to reduce rates on long-term loans with the Federal Financing Bank (FFB). First, the provision would waive existing prepayment penalties and allow cooperatives to prepay high interest rate loans with Federally-guaranteed private financing. Second, it requires the FFB to reduce interest rates on REA loans at the borrower's request and assesses a penalty in exchange for this interest rate write-down. While this penalty would result in approximately $30 million in savings in 1990, the loss to the Federal government over the five year period, 1990 through 1994, totals $278 million.

Delay Effective Date of Bumpers-Pryor Amendment

Delays the effective date of the Bumpers-Pryor Amendment until January 1, 1993, saving $420 million in 1990. Until that date, the Financial Assistance Board will make annual interest payments to member institutions on the amount those institutions would have been refunded under the original amendment.

Creation of New Commodity Promotion Programs

Creates new commodity promotion programs and revises existing programs and marketing orders. Commodities covered include: potatoes, mushrooms, soybeans, limes, cotton, honey, kiwis, nectarines, plums, pecans, papayas, eggs, peanuts and Vidalia onions. The Secretary of Agriculture has some responsibility for start-up of the programs. This provision is estimated to cost $500,000 in 1990.

Adjustment of Purchase Price for Butter and Non-Fat Dry Milk

Allows the Secretary of Agriculture to adjust the prices that the Commodity Credit Corporation pays for the purchase of butter and non-fat dry milk under the price support program. Currently, the supply of butter in the U.S. outstrips demand, while demand for non-fat dry milk is greater than supply. This provision saves $20 million in 1990.

Miscellaneous Provisions

Other language provides for the modification of the current risk level used in calculating insurance premiums for FCS bonds, oat acreage limitation, Farm Bill technical changes, amendments to the Disaster Assistance Act, promotion of beef in U.S. commissaries, prohibitions on duty drawbacks and research in new products derived from plants.

TITLE II—BANKING, HOUSING, AND URBAN AFFAIRS

National Flood Insurance Programs

Reauthorizes the existing National Flood Insurance Program through the end of fiscal year 1991. Under current law, the program is scheduled to expire at the end of 1989. The reauthorization and extension of this program will result in additional premium income that will outweigh claims paid under the program through fiscal year 1991. This provision increases receipts relative to the baseline by $189 million in 1990.

TITLE III—COMMERCE, SCIENCE AND TRANSPORTATION

FCC User Fees

Raises existing fees and penalties charged by the Federal Communications Commission (FCC) to offset the costs of FCC regulatory activities. Under the legislation, the FCC would also establish new fees for certain categories of users including amateur radio operators, ship stations, and mobile radio facilities. In total, these fees and fines are expected to generate $43 million in additional receipts for the government annually.

Airport Slot Fees

Authorizes the Federal Aviation Administration to charge a fee for airport slots held by commercial carriers at high density traffic airports (National, O'Hare, Kennedy and LaGuardia). These fees will be set at a rate which reasonably reflects the value of each slot to the holder and the total of the fees collected shall equal at least $239 million in 1990.

Coast Guard User Fees

Directs the Coast Guard to establish a system for collecting $50 million in 1990 in receipts from users of Coast Guard services. Included in this fee system will be collections from the sale of stamps which entitle bearers to services without charge and fees charged to users of services who have not purchased stamps.

International Departure Fees

Commercial Aviation Fee: Authorizes the Secretary of Transportation to collect a fee of $3.00 per passenger on commercial aircraft departing the United States. These receipts will be deposited into the general fund and designated as offsetting receipts to those DoT activities which involve the monitoring and regulation of international air operations, such as aviation security and safety inspections. Receipts are expected to total $111 million in 1990.

Passenger Vessel Fee: Imposes a fee of $3.00 per passenger on cruise ships (with certain exceptions) during 1990. Two-thirds of the receipts will be deposited in the Harbor Maintenance Trust Fund and one-third will be designated as offsetting receipts to Coast Guard activities. Generates $19 million in 1990 receipts.

TITLE IV—ENVIRONMENT AND PUBLIC WORKS

Atmospheric Pollution Fees

Imposes fees on the production, importation, or distribution of ozone-depleting chemicals for which EPA has established production quotas to comply with the Montreal Protocol. Generates receipts of $455 million in 1990.

Directs that fees be placed in a trust fund from which up to $100 million may be appropriated for research grants to develop substitutes for ozone-depleting chemicals and the balance for support of EPA regulatory activities under the Montreal Protocol and this title. Authorizes interest from the trust fund to be appropriated for support of other EPA research and pollution abatement activities.

Establishes an expanded regulatory program for all chemicals with ozone-depleting potential. Mandates emission controls and an end to production of the most harmful chemicals by the year 2000. Requires EPA to conduct a comprehensive assessment of methane pollution problems.

Nuclear Regulatory Commission User Fees

Directs the Nuclear Regulatory Commission to increase charges to licensees for 1990 to recover 45 percent rather than 33 percent of its costs. Provides $54 million of receipts in 1990.

Authorizes NRC to reduce civil penalties by amounts donated to educational institutions for radiological health and safety programs.

Offshore Oil Pollution Compensation Fund

Reinstates collection of the 3 cents per barrel fee on oil produced on the Outer Continental Shelf until the balance of fees deposited in the Offshore Oil Pollution Compensation Fund reaches $200 million. Generates $9 million in revenues in 1990.

Other Provisions

Authorizes EPA to hold a management conference and to provide grants for the restoration of Onondaga Lake (New York). Authorizes the Corps of Engineers to construct a pilot high-speed magnetic levitation ground transportation system.

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Medicare and Medicaid

Produces net outlay savings in the Medicare and Medicaid programs of $3.0 billion in 1990 and $13.1 billion over the five year period, 1990 through 1994.

Medicare savings are $3.1 billion in 1990, $15.9 billion over five years. Included is an expenditure of $0.2 billion for a rural health initiative ($0.9 billion over five years). Medicare savings are also offset by $0.1 billion net in Medicaid expenditures in 1990 ($2.7 billion over five years), including a child health initiative.

Medicare Savings Provisions

Reduces Medicare payments to hospitals for indirect medical education by 1.1 percent and for capital expenses by 5 percent. The hospital inflation update for services would be slightly below inflation for urban hospitals and 2 percent above inflation for rural hospitals. Hospital outpatient payments would be reduced by 2 percent. These provisions save $1.4 billion in 1990.

Increases in physician fees would be frozen for one year for most physicians with a three month freeze for physicians providing primary care services. Reductions would be made in certain surgical and other specialties. These provisions save $1.0 billion in 1990.

Physician payment reform provisions would phase in, beginning in 1991, a new system for determining physician fees based on a relative value system, and implement Congressionally-determined annual volume

performance standards. This reform is projected to result in net savings of $0.9 billion per year by 1994.

Increases in payments for medical equipment and laboratory services would be limited to 2 percent, the current-law requirement that Part B premiums be set to cover 25 percent of program costs would be extended for one year, Medicare payment cycles would be reduced by two days, and collections from other insurers would be enhanced. Savings in 1990 from these provisions total $1.4 billion.

Protections For Rural Hospitals

Provides several Medicare protections for rural hospitals, including expansion of sole community hospital and regional referral center designations and additional reimbursement for nurse practitioners, at a 1990 cost of $0.2 billion. Authorizes additional rural assistance programs.

Child Health

Expands Medicaid coverage for low-income women and children costing $0.2 billion in 1990. Included are mandated State coverage for pregnant women and infants up to 130 percent of the poverty level and for children up to age six. States would be given the option to cover children up to age 19 to 100 percent of the poverty level. Also reauthorizes the Maternal and Child Health block grant.

Other Provisions

Miscellaneous Medicaid provisions produce net savings of $0.1 billion in 1990. Several other provisions affecting Medicare providers are included at a 1990 cost of $0.4 billion.

Supplemental Security Income (SSI)

Establishes Commission on Child Disability, expands required review of childhood disability denials and establishes outreach program for disabled children. Allows certain disabled children living at home to receive $30 monthly payment regardless of parent's income. Extends SSI eligibility to disabled children of service personnel abroad. Considers royalties received by SSI beneficiaries to be earned income rather than unearned income. Permits SSI benefits for individuals who lose disability insurance benefits due to work activity. Excludes impairment-related work expenses from determining SSI eligibility.

Also authorizes reimbursement for vocational rehabilitation services during certain months of nonpayment and SSI benefits. Disregards the value of transportation tickets given to SSI recipients as gifts. Excludes the counting of interest on burial spaces in determining SSI eligibility. Reduces the time during which income and resources of separated couples must be treated as jointly available. Allows SSA to take concurrent applications for the SSI and food stamp programs. Changes the valuation of certain in-kind support and maintenance. Excludes Agent Orange settlement payments in determining eligibility for means-tested programs.

Child Welfare and Foster Care

Requires study of foster care State administrative costs; increases authorization for child welfare services program; extends current law State authorization for transfer of unused foster care funds to child welfare services; increases federal matching rate for training of foster care and adoptive parents; extends authorization for independent living program, provides for enhanced data collection.

Unemployment Compensation

Eliminates requirement that states repay the costs of self-employment demonstration projects. Allows unemployment benefits to be reduced by the amount an individual may owe unpaid unemployment taxes.

Child Support Enforcement

Extends IRS authority to collect child support arrearages from tax refunds on behalf of non-welfare families. Allows states to use IRS offset for non-AFDC families when arrearage is under $500. Allows IRS tax offset to collect past due spousal support for non-AFDC families. Permits a parent to refuse cooperation with a child support agency vis-a-vis transitional child care benefits if "good cause" is established.

Finance Committee Amendment (Not Included in Reported Bill)

Social Security

Makes Social Security an independent agency run by a single Commissioner and a nine-member part-time Advisory Board. Also increases the earnings exemption limit for Social Security retirees aged 65–69. Increases the Social Security "contribution and benefit base" by $900 in 1990 to take into account certain deferred compensation payments and extends for one year the option to have disability benefits paid while an appeal is pending before an administrative law judge. Provides benefits to adopted children of beneficiaries regardless of whether the adoption occurred prior to the worker's entitlement to benefits. Enhances the opportunity for disabled beneficiaries to test their ability to work without affecting their entitlement to disability benefits and makes other miscellaneous changes.

Provisions Affecting Both Social Security and Supplemental Security Income

Expands requirements relating to representative payees who receive Social Security and/or SSI benefits on behalf of entitled individuals. Allows continuation of benefits to beneficiaries who medically recover while participating in a vocational rehabilitation program. Authorizes demonstration projections at 3 telephone service centers to monitor SSA accountability procedures. Sets standards for determining good cause or good faith by individuals who fail to report information to SSA. Sets up program to identify homeless individuals who may qualify for benefits. Requires SSA to expand notice requirements and inform claimants of available legal representation. Reforms appeal procedures, allows benefits in spite of SSA misinformation, requires same-day interviews in cases of personal urgency, and changes SSA review procedures of attorneys' fees

TITLE VI—REVENUE PROVISIONS

Repeal Financial Institution (FSLIC & FDIC) Tax Benefits

Accomplished in PL 101-73 raising $568 million in 1990, and $1.5 billion over five years

Corporate Provisions

Limits corporate preferences raising $713 million in 1990, and $5.2 billion over five years.

Employee Benefit Provisions

Limits the partial exclusion of interest paid on Employee Stock Ownership Loans and permits limited use of excess pension funds to pay current retiree health benefits, raising $1.7 billion in 1990 and $11 billion over five years.

Foreign Tax Provisions

Amends certain tax provisions affecting foreign corporations and U.S. subsidiaries, raising $123 million in 1990 and $874 million over five years.

Excise Tax Provisions

Imposes or raises excise taxes, raising $1.6 billion in 1990 and $13.3 billion over five years. Includes repeal of Airport and Airway Trust Fund tax trigger, increase in international airline departure tax, excise tax on certain ozone-depleting chemicals, and excise tax on international departures by commercial ships.

Accounting Tax Provisions

Repeals the remaining portion of completed contract method of accounting and modifies treatment of cost of acquiring franchises, trademarks, and trade names, raising $222 million in 1990 and $1.6 billion over five years.

Employment Tax Provisions

Imposes income tax withholding on the wages of certain agricultural workers and speeds up payroll deposits raising $2.6 billion in 1990 and $3.4 billion over five years.

Other Revenue-Raising Provisions

Imposes tax on pre-contribution gain for certain in-kind partnership distributions and restricts like-kind basis shifting techniques raising $106 million in 1990 and $714 million over five years.

Other Provisions Adopted by the Committee

Adds miscellaneous amendments to the committee bill losing $98 million in 1990 and $1.2 billion over five years.

Expiring Provisions

Extends the expiration date of certain tax provisions which have expired or are scheduled to expire losing $1.8 billion in 1990 and $12.8 billion over five years.

Child Care Initiative and Telephone Excise Tax

Adopts the child care provisions accepted by the Senate in S. 5 with an effective date modification. Includes EITC supplemental, child health insurance credit and refundability of the dependent care credit, losing $160 million in 1991 and $8.4 billion over four years.

Offsets expense of child care by extending permanently the telephone excise tax credit, modifies the telephone excise tax collection period, and requires estimated tax payments on corporate Subchapter S income, raising a total of $127 million in 1990 and $10.6 billion over five years.

Individual Retirement Accounts

Allows 50 percent deductibility of contributions to IRAs effective January 31, 1991, and allows penalty-free withdrawal for purchase of first time homes and education expenses effective January 1, 1990. Maintains full deductibility for those eligible under current law. Loses $192 million in 1990 and $12.7 billion over five years.

Other Provisions

Contains several miscellaneous tax provisions including repeal of Section 89 and makes technical corrections, losing $430 million in 1990 and $4.7 billion over five years.

TITLE VII—GOVERNMENT AFFAIRS COMMITTEE

Postal Service Reforms

Places the United States Postal Service "off-budget" by excluding its receipts and disbursements from the totals in the President's Budget, the Congressional Budget Resolution, and the Balanced Budget and

Emergency Deficit Control Act of 1985. Exempts the Postal Service from sequestration.

Requires the Postal Service to: (1) make a one-time deposit of $400 million into the Civil Service Retirement Fund (CSRS) in 1990; (2) pay additional sums to the CSRS to cover post-October 1990 annuitants' cost-of-living adjustments; and (3) contribute funds to the Federal employees health benefits fund to pay health benefits to survivors of former Postal Service employees who died on or after October 1, 1986.

Lump-Sum Changes

Changes the formula under which Federal employees can receive their own retirement contributions as a lump-sum payment upon retirement. In 1990, retirees would receive two lump-sum installments, 50 percent upon retirement and the remaining 50 percent one-year after retirement. The current 60 percent/40 percent formula has been temporarily extended until December 3, 1989. Saves $700 million in 1990.

TITLE VIII—LABOR AND HUMAN RESOURCES

Pension Asset Reversions

Discourages the practice of pension asset reversions by limiting the amount of surplus assets an employer can recoup upon terminating a defined benefit pension plan. The amount of assets reverting to the employer is conditioned upon what, if any, replacement pension plan is established for employees. Allows employers with qualified, well-funded pension plans to transfer surplus amounts in excess of 150 percent of accrued liability to a trust account to pay for health benefits of previously retired employees.

MSHA Penalties

Triples the maximum penalty that can be imposed by the Mine Safety and Health Administration (MSHA) for violation of mandatory health and safety standards. Increases revenues by $30 million in 1990.

OSHA Penalties

Increases by five times the maximum penalties that can be imposed by the Occupational Safety and Health Administration (OSHA) for willful and repeated violations of safety and health standards. Establishes mandatory minimum penalties to be assessed by OSHA to reflect the seriousness of violations. Increases revenues by $65 million in 1990.

ERISA Penalties

Imposes a mandatory $200 civil penalty on pension plans that fail to file an annual report on time and accurately as required under the Employee Retirement Income Security Act (ERISA). Increases revenues by $20 million per year. Imposes a mandatory civil penalty of 20 percent of a pension plan's lost assets for violating fiduciary standards under Title I of ERISA. Increases revenues by $25 million in 1990.

PBGC Premium Increase

Increases the per participant premium paid to the Pension Benefit Guaranty Corporation (PBGC) from $16 to $18, saving $65 million in 1990.

Pension Portability

Discourages cashing out of retirement benefits upon job termination by requiring employers to offer the option of transferring retirement assets into IRAs when employee leaves employment. Allows employees' nondeductible contributions to be rolled over into an IRA upon job termination.

Stafford Student Loan Program

Prohibits classification of medical residents as students for purposes of a student loan deferment. Requires that medical and dental residents receive loan payment forbearance upon demand. Saves $10 million in 1990.

Codifies the Secretary of Education's authority to prevent fraud and abuse in the Stafford Loan Program by taking short-term emergency actions against participating institutions and lenders.

Bilingual Education Awards Forgiveness of Certain Repayments

Forgives repayment of certain bilingual education awards made in previous fiscal years.

Low Income AIDS/HIV Treatment Assistance Program

Authorizes appropriation of $30 million for grants to States for provision of life-prolonging treatment to low-income AIDS victims.

Homeless Assistance Technical Amendment

Allows funds appropriated for job training for the homeless demonstration projects to be available for three years.

Health Services Outcome Research

Authorizes a new Title IX of the Public Health Service Act to establish the Agency for Health Services Research to replace the National Center for Health Services Research and the Council on Health Care Technology. Authorizes appropriations of $75 million for 1990, $100 million for 1991, and $150 million for 1992.

TITLE IX—VETERANS AFFAIRS

Extension of Housing Loan Origination Fee

Extends through September 30, 1990, the authority of the VA to charge a one percent fee on guaranteed housing loan originations for one year. Generates $169 million in receipts in 1990.

Extension of Current Law Asset Sale Provision

Extends through September 30, 1990, the authority of the Department of Veterans Affairs (VA) to sell housing loans with or without recourse in the event of default. Saves $496 million in 1990.

ESTIMATES OF SENATE-REPORTED RECONCILIATION BILL, [1]
OCT. 12, 1989

[In billions of dollars]

Senate Committee/Provision	Senate directive	Savings achieved	Difference
Agriculture:			
Budget authority	−1.100	−1.100	0
Outlays	−1.020	−1.029	−.009
Banking:			
Budget authority			0
Outlays	−.187	−.189	−.002
Commerce:			
Budget authority	−.450	−.462	−.012
Outlays	−.450	−.462	−.012
Environment and Public Works:			
Budget authority	−.450	−.509	−.059
Outlays	−.450	−.509	−.059
Revenues		−.009	−.009
Finance:			
Spending:			
Budget authority			
Outlays	−2.768	−2.940	−.172
Revenues	−5.300	−5.314	−.014
Total finance (deficit reduction)	−8.068	−8.254	−.186
Governmental Affairs:			
Budget authority	−3.400	−3.406	−.006
Outlays	−2.870	−2.876	−.006
Labor and Human Resources:			
Budget authority	−.070	−.075	−.005
Outlays	−.070	−.074	−.004
Revenues		−.021	−.021

ESTIMATES OF SENATE-REPORTED RECONCILIATION BILL, [1]
OCT. 12, 1989—Continued

[In billions of dollars]

Senate Committee/Provision	Senate directive	Savings achieved	Difference
Veterans:			
Budget authority	−.496	−.666	−.170
Outlays	−.666	−.666	0
Total spending:			
Budget authority	−5.966	−6.218	−.252
Outlays	−8.481	−8.745	−.264
Total revenues	−5.300	−5.344	−.044
Total deficit reduction	−13.781	−14.089	−.308
Agriculture:			
REA refinancing:			
Budget authority		−.021	
Outlays		−.030	
Farm credit system changes:			
Budget authority		−.500	
Outlays		−.420	
Cotton acreage reductions:			
Budget authority		−.045	
Outlays		−.045	
Realign dairy purchase prices:			
Budget authority		−.020	
Outlays		−.020	
Reduce deficiency payments:			
Budget authority		−.235	
Outlays		−.235	
Oilseed planting programs:			
Budget authority		−.116	
Outlays		−.116	
Reduce disaster payments:			
Budget authority		−.008	
Outlays		−.008	
Targeted Export Assistance program reductions:			
Budget authority		−.148	
Outlays		−.148	
Farm credit system premium reductions:			
Budget authority		−.002	
Outlays		−.002	
Dairy bill (P.L. 101–7):			
Budget authority		−.025	
Outlays		−.025	
Subtotal, agriculture:			
Budget authority	−1.100	−1.100	−.0
Outlays	−1.020	−1.029	−.009
Banking:			
Flood insurance:			
Budget authority		−.002	
Outlays		−.189	
Subtotal, Banking:			
Budget authority		−.002	−.002
Outlays	−.187	−.189	−.002
Commerce:			
FCC application fees:			
Budget authority		−.043	
Outlays		−.043	
Airport slot fees:			
Budget authority		−.239	
Outlays		−.239	
Coast Guard user fees:			
Budget authority		−.050	
Outlays		−.050	
International departure fees (aviation and vessel):			
Budget authority		−.130	
Outlays		−.130	
Subtotal, Commerce			
Budget authority	−.450	−.462	−.012
Outlays	−.450	−.462	−.012
Environment and Public Works:			
CFC producer fees:			
Budget authority		−.455	
Outlays		−.455	
NRC fees (45 percent):			
Budget authority		−.054	
Outlays		−.054	
OCS fee:			
Revenues		−.009	
Subtotal, Environment and Public Works.			
Budget authority	−.450	−.509	−.059
Outlays	−.450	−.509	−.059
Revenues		−.009	−.009
Finance—Spending:			
Medicare:			
Budget authority			
Outlays	−2.300	−3.140	
Medicaid:			
Budget authority			
Outlays		−.146	

ESTIMATES OF SENATE-REPORTED RECONCILIATION BILL, [1]
OCT. 12, 1989—Continued

[In billions of dollars]

	Senate directive	Savings achieved	Difference
Supplemental Security Income:			
Budget authority			
Outlays		−.004	
Child Welfare and Foster Care:			
Budget authority			
Outlays		−.052	
Unemployment Compensation:			
Budget authority			
Outlays		−.002	
Child-dependent care credit:			
Budget authority			
Outlays		+(*)	
Child health insurance credit:			
Budget authority			
Outlays		+(*)	
Earned income tax credit supplemental for children:			
Budget authority			
Outlays		+(*)	
Total, spending:			
Budget authority			
Outlays	−2.768	−2.940	−172
Finance—Revenues:			
Child care initiative and telephone excise tax		−.127	
Individual retirement accounts		−.192	
Corporate provisions		−.713	
Employee benefit provisions		−1.686	
Foreign provisions		−.123	
Excise tax provisions		−1.602	
Accounting provisions		−.222	
Employment tax provisions		−2.636	
Other revenue raisers		−.106	
Expiring provisions		−1.753	
Other provisions		−.524	
Thirft bill revenue credit		−.568	
Total, revenues	−5.300	−5.314	−.014
Governmental Affairs:			
Postal Service payment to civil service retirement:			
Budget authority			
Outlays	−.400	−.400	
Postal Service funding of health premiums:			
Budget authority		−.006	
Outlays		−.006	
Partial deferred payment of lump-sum credit:			
Budget authority			
Outlays	−.700	−.700	
Postal Service budgetary treatment:			
Budget authority	−3.400	−3.400	
Outlays	−1.770	−1.770	
Subtotal, Governmental Affairs:			
Budget authority	−3.400	−3.406	−.006
Outlays	−2.870	−2.876	−.006
Labor and Human Resources:			
PBGC premium increase:			
Budget authority		−.065	
Outlays		−.065	
Stafford Student Loan program:			
Budget authority		−.010	
Outlays		−.010	
Forgiveness of repayments:			
Budget authority			
Outlays		−.001	
Employee Pension Protection Act (revenues)		−.119	
ERISA penalties (revenues)		−.045	
OSHA and MSHA penalties (revenues)		−.095	
Subtotal, Labor			
Budget authority	−.070	−.075	−.005
Outlays	−.070	−.074	−.004
Revenues		−.021	−.021
Veterans:			
Housing loan fee:			
Budget authority	−	−.169	
Outlays		−.169	
Vendee loan sales:			
Budget authority		−.496	
Outlays		−.496	
Subtotal, Veterans: [2]			
Budget authority	−.496	−.666	−.170
Outlays	−.666	−.666	−.000

[1] CBO estimates assuming an Oct. 1, 1989, effective date.
[2] Actual outlay savings estimated adjusted for difference from resolution directive due to rounding.

Note.—A minus indicates deficit reduction, a decrease in outlays or an increase in revenues.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOURISM IN SOUTH CAROLINA

Mr. THURMOND. Mr. President, for decades the State of South Carolina's natural beauty, rich history, and friendly folks have combined to create one of the most desirable and affordable vacation spots in the world. As a result, tourism has quickly become the second largest industry in the Palmetto State and tens of thousands of South Carolinians are dependent upon it for their economic survival.

Unfortunately, the national attention which has followed Hurricane Hugo's descent upon South Carolina has left people throughout the world with several misconceptions. First, although the devastation caused by Hurricane Hugo was unprecedented in many parts of our State, several coastal areas were left virtually untouched by the storm. These areas, which were south of the storm's eye, include the historic city of Beaufort, beautiful Edisto and Fripp islands, and world-renowned Kiawah and Hilton Head islands. These towns escaped the wrath of Hugo, and each is anxiously welcoming the tourists who annually enjoy the autumn sights in South Carolina's low-country. If you had planned to visit our State this fall, check before you change your plans.

Second, many of the towns and cities hit by the storm almost 3 weeks ago have made remarkable recoveries and are once again welcoming visitors. For instance, 59 of the 60 championship golf courses located along Myrtle Beach's Grand Strand are once again challenging golfers at all levels of competition, and approximately 10,000 hotel rooms are available. Shopping outlets, including the well-known Waccamaw Pottery, are open and ready to meet Christmas shoppers from around the world.

Even historic Charleston, which was hardest hit by the storm, has made a remarkable rebound. The South Carolina division of parks, recreation, and tourism reports that 13 of the 19 Charleston area tour companies are open at this time. Five more are scheduled to open in less than a week. Notable attractions such as Patriot's Point, Middleton Place, the Old Exchange Building, the Gibbes Art Museum, and Drayton Hall are also in operation, with others returning on line daily. In Georgetown County, popular attractions such as Brookgreen Gardens, the Rice Museum, and Bellefield Nature Center are operating on schedule. If you had planned to visit our State, check before you change your plans.

Mr. President, as you can see, South Carolina is not only a beautiful State but a resilient one as well. Many people have worked day and night so that these attractions which have been enjoyed by so many millions of people would promptly be available once again. I encourage everyone who has planned to visit South Carolina to do so. South Carolina's smiling faces and beautiful places are ready to greet you again. If you have made reservations to visit, please remember this motto, check before you change your plans. You could be missing out on the time of your life.

Mr. President, I ask unanimous consent that the following information from the South Carolina division of parks, recreation, and tourism indicating the status of hotels and attractions in the Grand Strand, Charleston, and Georgetown County be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MYRTLE BEACH AND GRAND STRAND AREA OPEN ACCOMMODATIONS

[Updated Oct. 9, 1989]

Accommodation	Open	Area	Rooms	Phone number
Able Property Mgmt	Yes	SS	60	238-5197
Aladdin Realty	Yes	NMB	10	249-6449
Aloha Motel	Yes	MB	38	449-5444
Apache Campground	Yes	NMB	100	449-7323
Aquarius	Yes	MB	23	448-7596
Arcadian Dunes	Yes	MB	40	449-6611
Arcadian Management.	Yes	MB		449-1596
Atlantic Realty	Yes	SS		237-9283
Bahama Motel	Yes	MB	25	448-3267
Beach Colony	Yes	MB	154	449-4010
Beach Cove Clarion Res.	Yes	NMB	250	272-4044
Beachcomber Realty	Yes	NMB	74	272-3906
Bel-Aire Motel	Yes	NMB	73	249-1434
Beverly Motel	Yes	MB		449-9496
Blue Parrot Inn	Yes	MB	14	272-7727
Booe Relty	Yes	MB	10	449-4477
Breakers	Yes	MB	240	448-2474
Breakers North Tower.	Yes	MB	140	626-5000
Buccaneer Motel	Yes	NMB	14	249-1466
By The Sea Motel	Yes	NMB	26	272-5512
Calhoun Realty	Yes	SS	4	238-0849
Capitol Motel	Yes	MB	24	448-4418
Caravelle Resort Hotel.	Yes	MB	50	449-3331
Caribbean Motel & Villas.	Yes	MB	40	448-7181
Carolina Dunes	Yes	MB	32	449-3331
Carolina Resort Realty.	Yes	NMB		249-2731
Carolina Shores Condos.	Yes	OA	40	919-579-7001
Casa Del Oro	Yes	MB	32	448-6711
Century 21 Coastal	Yes	NMB		272-6754
Chelsea House Villas	Yes	MB	29	448-7181
Cherry Tree Inn	Yes	MB	57	449-6425
Chesterfield Inn	Yes	MB	15	449-3177
Chicora Beach Holiday.	Yes	MB	50	272-7070
Christos Village	Yes	NMB	12	272-6649
Coastal Rentals	Yes	MB	23	449-7447
Collier Realty	Yes		160	249-8820
Comfort Inn	Yes	MB	152	626-4444
Condominium Rental Ser.	Yes	NMB	75	272-3662
Condos Unlimited	Yes	NMB	38	272-7176
Condotels	Yes	NMB	300	272-8400
Conner Realty	Yes	SS	100	238-2424
Continental Motor Inn.	Yes	MB	41	448-7106
Crepe Myrtle	Yes	MB		448-3938
Days Inn Waccamaw	Yes	MB	159	236-1950

MYRTLE BEACH AND GRAND STRAND AREA OPEN ACCOMMODATIONS—Continued

[Updated Oct. 9, 1989]

Accommodation	Open	Area	Rooms	Phone number
Dayton House Best Western.	Yes	MB	250	448–2441
Dayton House-Annex	Yes	MB	35	448–2441
Defender Resort Mng	Yes	NMB	25	249–3476
Diplomat Motel	Yes	MB	40	448–7121
Dixie Motel	Yes	NMB	24	272–6465
Econolodge	Yes	SS	92	293–6100
El Dorado	Yes	MB	41	626–3559
Fountainbleau-Neils Apt.	Yes	MB	35	448–8461
Fred Rick	Yes	MB	36	448–6435
Glen Marion	Yes	MB	20	448–3770
Gold Coast	Yes	NMB	27	249–2412
Golden Sands	Yes	MB		448–6338
Golf Colony Resort-Deer.	Yes	SS	40	650–6363
Hampton Inn	Yes	MB	124	449–5231
Harbour Inn-Ltl Rvr	Yes	NMB	50	249–3535
Helms Motel	Yes	NMB	70	249–2521
Hendrix House	Yes	MB	12	448–2766
Hillcrest	Yes	MB	45	449–5815
Holiday Inn West	Yes	MB	151	236–1000
Holiday Sands	Yes	MB	100	448–8477
Holiday Sands Motel	Yes	MB	100	448–1091
Indian Summer	Yes	MB	42	448–6952
Island Green Golf Villa.	Yes	SS	200	650–1115
King George	Yes	NMB	15	249–2721
Kings Road Motor Lodge.	Yes	MB	65	448–1625
Kit Kat	Yes	MB	8	448–3151
Knights Inn	Yes	MB	108	236–7400
Lakeside	Yes	MB	25	449–5848
Lamplighter Inn	Yes	MB	23	448–6714
Lancer Motel	Yes	MB	60	448–7134
Lazy G	Yes	MB	26	448–6333
Little River Golf & Hlth.	Yes	NMB	37	249–5488
MB Travel Park	Yes	MB	125	449–3714
Mid Town	Yes	MB	48	448–6942
Midtown Motor Inn	Yes	MB		448–6982
Monte Carlo	Yes	MB	42	448–3381
Myrtle Beach Golf & Yacht.	Yes	SS	15	650–3324
Myrtle Beach KOA	Yes	MB	450	448–3421
Myrtle Beach Resort Vac.	Yes	SS	305	828–8000
Myrtle Shores	Yes	MB	35	448–1434
N.M.B. Gold & Tennis.	Yes	NMB	20	272–6215
Noble Company, The	Yes	MB	50	449–6625
Ocean Court	Yes	NMB	28	272–6293
Ocean Creek Resort	Yes	NMB	382	272–7724
Ocean Forest Villa Forest.	Yes	MB	90	449–9661
Ocean Greens-Defencer Re.	Yes	NMB	15	272–6215
Ocean Lakes Campground.	Yes	SS	100	238–5636
Oceanic Interlude	Yes	MB	12	626–7395
Outrigger Inc	Yes	MB	23	448–5761
Palms, The	Yes	MB	89	626–8334
Pan American Resort	Yes	MB	84	449–7411
Pelican Motel	Yes	NMB	37	249–3481
Pelican's Landing	Yes	MB	45	449–0467
Pier View Motel	Yes	MB	15	448–6941
Plantation Motel	Yes	MB	23	448–5617
Plantation Resort	Yes	SS	163	238–3556
Pueblo Motel	Yes	MB	19	448–3261
Radisson Resort	Yes	NMB	568	449–0006
Ramada Ocean Forest.	Yes	MB	206	497–0044
Resort Vacations	Yes	NMB	65	249–8897
Rio Grande Motel	Yes	MB	15	626–3160
Royal Inn	Yes	MB	40	448–7743
San Marcus Villa	Yes	MB	15	448–5661
Sand Castle	Yes	MB		448–7101
Sea Bair Motel	Yes	MB	23	448–6079
Sea Castle	Yes	NMB	56	272–1493
Sea Echo Motel	Yes	MB	22	448–6441
Sea Island/Sandpiper	Yes	MB	116	449–6406
Sea Mark Towers	Yes	MB	160	449–3331
Sea Mist Resort	Yes	MB	200	448–1551
Sea Oats	Yes	MB	16	448–8494
Sea Palms Motel	Yes	MB	36	448–2824
Shady Rest Motel	Yes	MB	34	448–7834
Sherwood Forest K.O.A.	Yes	NMB	300	272–6420
Sir Walter's Motel	Yes	NMB	18	249–2122
South Winds Villas	Yes	MB	18	449–5211
Southerner	Yes	NMB	15	448–7411
Springmaid Beach	Yes	MB	90	238–5264
St. John's Inn	Yes	MB	87	449–5251
Tee and Sea	Yes	NMB	70	249–5449
Teft, Steward & Mangum.	Yes	NMB	124	249–8223
The Carillon	Yes	MB	26	448–2463
The Oceans	Yes	NMB	50	249–3576
The Spa at Little River.	Yes	NMB	109	249–9437
Thomas Realty	Yes	NMB	50	249–3511

MYRTLE BEACH AND GRAND STRAND AREA OPEN ACCOMMODATIONS—Continued

[Updated Oct. 9, 1989]

Accommodation	Open	Area	Rooms	Phone number
Tilghman Beach & Racquet.	Yes	NMB	41	249–3457
Tradewinds	Yes	MB	38	448–5441
Tropical Seas	Yes	MB	76	448–1171
Tryon Seville Motel	Yes	NMB	60	272–5131
Vista	Yes	NMB	70	249–2421
Waccamaw House	Yes	SS	96	237–3000
West Virginia Shops B&B.	Yes			
Windjammer	Yes	MB		
Windjammer Motel	Yes	NMB	16	249–6174
Windy Marsh Inn	Yes	NMB	21	272–5297
Yachtsman	Yes	MB	130	448–1441
Total	[1] 142		[2] 9,612	

[1] Total accommodations open.
[2] Total rooms available.

CHARLESTON AREA ATTRACTIONS

Attraction	Status
Aiken Rhett Mansion	Opening: Oct. 16.
Boone Hall	Opening: Nov. 23.
Charles Town Landing	Opening: First of year.
Charleston Museum	Opening: Oct. 16.
Drayton Hall	Opening: Oct. 10.
Folly Beach Park	Opening: Next year.
Gibbes Art Museum	Open.
Joseph Manigualt House	Opening: Oct. 16.
Heyward-Washington House	Opening: Oct. 16.
Magnolia Gardens	Opening: Oct. 28.
Middleton Place	Opening: Oct. 9.
Old Exchange	Opening: Oct. 5.
Patriots Point	Open.
Spirit of Charleston	Opening: Oct. 15.

CHARLESTON AREA TOUR COMPANIES

Company	Status
Adventure Sightseeing	Open.
American Sightseeing Intl	Open.
The Bicyle Shop	Open.
Carolina Lowcountry Tours	Open.
Charleston Carriage Co	Opening: Mar. 1, 1990 (577–0042).
Charleston Strolls	Open.
Charleston Tea Party Walking Tours	Open.
Colonial Couch Co	Open.
Colonial City Tours	Open.
Ft. Sumter & Harbor Tour (Pat. Point)	Opening: Oct 15, 1989 (272–8422).
Grayline Sightseeing	Openning: October 15, 1989 (722–4444).
Historically Speaking	Opening: Oct. 15, 1989 (571–1787).
Livin' in the Past	Opening: Oct. 15, 1989 (871–0791).
Old South Carriage Co	Open.
Old Towne Carriage Co	Opening: Oct 15. 1989 (722–1315).
Palmetto Carriage Works	Open.
Pedal Carriage	Open.
Stalk of the Town Tours	Open.
Tours of Historic Charleston	Open.

Note: Update: Oct. 9, 1989.

CHARLESTON BED AND BREAKFAST, INNS

Accommodations	Rooms	Open for reservations
Ann Harper's B&B	2	Nov. 1, 1989.
Ansonborough Inn	38	Nov. 25, 1989.
Barksdale House Inn	10	Yes.
Battery Carriage House	10	Oct. 23, 1989.
Bed no Breakfast	2	Yes.
Brasington House B&B	3	Yes.
Cannonboro	4	Oct. 20, 1989.
Capers Motte House	6	Nov. 6, 1989.
Charleston Society B&B		Oct. 13, 1989.
Church Street Inn	15	Oct. 31, 1989.
Country Victorian B&B	2	Yes.
De La Fontaine	4	Yes.
Elliott House		Yes.
Historic Charleston B&B	65	Yes.
Indigo Inn	40	Yes.
John Rutledge House Inn	19	Yes.
Kings Courtyard Inn	34	Yes.
Kitchen House B&B	15	Yes.
Lodge Alley Inn	74	Yes.
Maison DuPre	15	Yes.
Meeting Street Inn	52	Yes.
Planters Inn	41	Yes.
Rutledge Museum Guest House	4	Yes.
Swordgate Inn	6	Mar. 1, 1990.

CHARLESTON BED AND BREAKFAST, INNS—Continued

Accommodations	Rooms	Open for reservations
The Hayne House	4	Yes.
36 Meeting Street B&B	2	Yes.
Two Meeting Street B&B	8	Nov. 17, 1989.
Vendue Inn	7	Yes.
Downtown Charleston:		
Jasmine	10	Yes.
Best Western	90	Yes.
Omni Hotel	500	Yes.
Days Hotel Riverfront	128	Yes.
Days Inn	124	Yes.
Heart of Charleston	54	Yes.
Howard Johnsons Riverfront	120	Yes.
Mills House	214	Yes.
Quality Inn	126	Yes.
Sheraton, Lockwood	350	Yes.
West of the Ashley:		
Best Western	87	Yes.
Econo Travel	45	Yes.
Evergreen	20	Oct. 30, 1989.
Hampton Inn		Dec. 6, 1989.
Holiday Inn Riverview		Dec. 6, 1989.
Lord Ashley Motel	48	Yes.
Motel 6	109	Yes.
Pine Castle Motel	13	Yes.
Town & Country Inn	108	Yes.
Isle of Palms: Wild Dunes		May, 1990.
Mt. Pleasant:		
Comfort Inn	122	Yes.
Days Inn	131	Yes.
Econo Lodge	124	Jan. 1, 1990.
Fort Moultrie	23	Yes.
Guilds Inn	6	Yes.
Holiday Inn	158	Oct. 11, 1989.
Masters Inn	120	Yes.
Shem Creek Inn		Dec. 1, 1989.
Tara Oaks	4	Yes.
North Charleston:		
Best Western Dorchester	170	Yes.
Best Western Northwoods	200	Yes.
Best Western Rivers Ave	100	Yes.
Catalina Motel	23	Oct. 16, 1989.
Charleston Heights	23	Yes.
Charleston Marriott	297	Yes.
Comfort Inn	122	Yes.
Cricket Inn	122	Yes.
Days Inn	147	Yes.
Econo Travel	89	Yes.
Economy Inn	48	Yes.
Hampton Inn	125	Oct. 25, 1989.
Holiday Inn Airport	265	Yes.
Howard Johnsons	131	Oct. 23, 1989.
Knights Inn	75	Yes.
LaQuinta Inns	122	Yes.
Masters Inn	150	Yes.
Motel 6	126	Yes.
North 52 Motel	32	Yes.
Northport Inn	60	Yes.
Quality Suites	168	Yes.
Ramada Inn	154	Yes.
Red Roof Inn	109	Yes.
The Residence Inn	96	Yes.
Siesta Motor Lodge	76	Yes.
Travel Lodge	72	Yes.
Folly Beach:		
Holiday Inn	132	Oct. 13, 1989.
Holliday Inn	10	March, 1990.

Note: Updated: Oct. 9, 1989.

GEORGETOWN COUNTY

All properties in Georgetown are operational except Litchfield Inn—it is not open, no estimated date as of today.

Ms. Neils walking tour—will open October 15.

Tram Tour—In operation.

Cpt. Sandy Tours—In operation.

Island Queen—Opening October 30.

Kaminski House—Open.

Man-Doyle House—Open.

Rice Museum—Open.

Hopsewee Plantation—Open (call first).

Bellefield Nature—Open.

Brookgreen—Open.

Boone Hall—Will be open around Thanksgiving.

For Further Information, Contact:

Myrtle Beach Area Chamber of Commerce (803) 626-7477.

Georgetown County Chamber of Commerce (803) 546-8436.

Charleston Trident Convention & Visitors' Bureau (803) 577-2510.

Hilton Head Island Convention & Visitors' Bureau (803) 785-3673.

Update: Oct. 9, 1989.

EXPLANATION OF ABBREVATIONS

Under the column headed Area: MB—Myrtle Beach; NMB—North Myrtle Beach; and SS—Surfside Beach.

Under the column headed Rooms: If the entry for the number of rooms is left blank, then the property has not called in the number of units available for occupancy.

Under the column headed Phone number: All of South Carolina is within area code 803. Unless otherwise designated, all phone numbers listed are in area code 803.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POSTURING, FINGER-POINTING, AND PREACHING

Mr. DOLE. Mr. President, I am pleased to see from wire reporting that the President had a good meeting today with the chairman and vice chairman of the Intelligence Committee, Senators BOREN and COHEN, to help clear the air in the aftermath of the Panama situation.

It seems to me that kind of communication can help get us back on the right track—where we are working together, in the interest of the country; instead of at each other's throats, for partisan or other political interest.

Candidly, I think some in Congress have been a little slow in getting to this point.

In fact, there is getting to be a remarkably predictable rhythm to congressional reaction to an international crisis like Panama.

Phase 1 is posturing. It is the time when we all stand up, beat our chests, and demand strong action.

Phase 2 is finger-pointing. That is when the President's critics give the rest of us the lowdown on how badly he botched the job.

Phase 3 is preaching—when the Monday morning quarterbacks let us in on what they would have done, and what the President should have done.

On Panama, we have done it all—posturing, finger-pointing and preaching. We have gotten it off our chests.

So I hope we will all now take a lesson from the President, and from Senators BOREN and COHEN, and start lowering the volume of our rhetoric, and raising the level of our reason.

I also want to make an additional point. A good part of what went wrong in Panama did not happen last weekend. It started happening many years ago, when Congress first decided to start telling the President how he ought to manage crisis: What he could do and, more important, what he could not do without first getting our OK.

In earlier years, we sort of restrained ourselves; we tended to back the President while the action was hot, and at least waited until the post-mortem to start the finger-pointing and Monday morning quarterbacking.

These days, some are less and less inclined to such restraint. They take off in the middle of the crisis and do not land until they have squeezed every drop of political advantage out of their positions, regardless of the impact on our foreign policy.

Problems of the kind we encountered in Panama started happening, too, when we first began to tie the hands of the President and his administration on gathering intelligence, conducting covert action and taking decisive, low-intensity-type military action. And again, I am not necessarily referring to activity of this session but to a trend that has been going on for years.

Let me be clear. Our intelligence committees have a legitimate role to play. We happen to have an outstanding chairman and vice-chairman. I think the very responsible way they have gone about sorting out any misunderstandings with the White House demonstrates that again. We also have a strong and responsible committee. So I have no complaint about—on the contrary, I have great admiration for—the leadership and membership of our Senate committee.

But the fact is that we cannot over the years intrude more and more into sensitive matters like covert action and impose, or propose, more and more restrictions without it having an effect.

Mr. President, let us put posturing, finger-pointing and preaching behind us. That is what the President and Senators BOREN and COHEN clearly have done.

Let us look soberly and seriously at what happened in Panama; Let us find out the facts before we start writing the prescriptions. Above all, before we start telling the President how to solve the problem, let us make sure we are not a big part of it.

Mr. President, I ask that the statement by Senator BOREN and the White House issued today be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWS RELEASE FROM SENATOR BOREN, OCTOBER 11, 1989

SENATOR BOREN was in Chicago and was due to fly to Oklahoma this morning. He returned to Washington at the President's request relayed to him by Chief of Staff Sununu, arriving back in Washington at 1:30 am in order to attend the early morning meeting with the President. In the meeting this morning, in addition to the President and Seantor BOREN, also present were Senator WILLIAM COHEN, R-Maine, Vice Chairman of the Intelligence Committee, Vice President Quayle, Chief of Staff Sununu, National Security Advisor Scowcroft and his Deputy, Bob Gates. BOREN said, "The meeting had a very good spirit and I feel that our discussion which focused on intelligence matters will be of great help to our country if we ever confront crisises like the Panama situation in the future."

"I especially appreciated the President's words in the meeting thanking me for always supporting necessary Presidential authority in foreign policy and expressing his dismay at some news stories which have implied otherwise. We all resolved that differences of opinion about the recent Panama coup will in no way disrupt our close bipartisan partnership in national security matters." Before leaving for Oklahoma, BOREN had a separate meeting with Governor Sununu and OMB Director Dick Darman to discuss the pending proposal to reduce capital gains taxes. Senator BOREN is a leader of a group of Democratic Senators who are supporting President Bush's capital gains proposal.

STATEMENT FROM THE WHITE HOUSE, OCTOBER 11, 1989

The President invited Senators BOREN and COHEN to the White House this morning for a conversation about the events of the last week and lessons learned. The President has the highest respect for the judgement and integrity of the Chairman and Vice Chairman and wanted to take this occasion to reaffirm the close working relations with Senators BOREN AND COHEN and the Senate Select Committee on Intelligence. All participants in the meeting expressed disappointment over recent press stories, and the President expressed his particular appreciation for Senator BOREN's leadership on behalf of bipartisanship in foreign policy and his support for necessary presidential authorities in foreign policy matters.

UNITED STATES RESPONSE TO RECENT EVENTS IN PANAMA

Mr. MITCHELL. Mr. President, on October 3, some members of the Panama Defense Force attempted a coup against Gen. Manuel Antonio Noriega. As the events surrounding that rebellion and the response by officials of the U.S. Government, both on the scene in Panama City and here in Washington, have emerged, serious questions have been raised.

Several Senate committees, including the Select Committee on Intelligence, the Armed Services Committee, and the Committee on Foreign Relations are looking into this matter. It is not my intention to prejudge their efforts to establish the facts and to perform their oversight responsibilities. However, the facts which have already emerged raise several concerns which have and should be publicly raised and discussed.

The chairmen of the Armed Services Committee and of the Intelligence Committee and others of our colleagues have already raised some of these important issues.

I reject the view of some administration officials that any criticism consti-

tutes "micromanagement" of foreign affairs by the Congress. It is the responsibility of the legislative branch of our Government to constructively criticize action, or the lack of action, taken by the executive branch in the pursuit of the Nation's foreign policy and to offer constructive alternatives.

Further, efforts by some within the administration to shift responsibility for decisions made by the administration to the Senate Intelligence Committee are ill-founded, unfair, and counterproductive. The chairman of that committee, Senator BOREN, has stated that no authorities requested have been denied to President Bush and the reservations expressed were based upon the very concerns which these events have shown to be well warranted. Members of the committee feared that the administration, without a clearly defined policy and without adequate contingency plans, might face a violent situation in Panama and be unprepared.

Let me review a few of the facts as we know them. U.S. officials first became aware of a possible planned coup attempt on the evening of October 1. U.S. officials were told that a coup would occur on Monday, October 2, at 9 a.m. and a request was made for U.S. forces to block the Bridge of the Americas and to block the causeway. The indications given were that the coup would go ahead with or without U.S. assistance.

At roughly noon the next day, October 2, a message was passed to U.S. officials that the coup had been postponed until the next day. At midnight, the coup leader's wife contacted U.S. officials indirectly to indicate that the coup would begin at 8 a.m. Panamanian time on October 3. The request for U.S. forces to block the bridge and causeway were repeated and she requested safe haven for herself and family.

The first shots were reported fired at 9:05 a.m. e.d.t., 8:05 Panamanian time. Less than one-half hour later, Mrs. Giroldi arrived at Fort Clayton where she was granted safe haven.

At some point around noon time, Major General Cisneros met with two rebel officers. The officers stated that General Noriega was under the control of the rebels at the Commandancia, the PDF Headquarters, which was the site of the coup attempt. According to the testimony of Secretary Cheney and General Powell, the rebels indicated they had no intention of turning Noriega over to the United States. They wanted to emphasize the need to avoid any incident between U.S. forces and the rebels.

While I have no reason to disbelieve this account, other reports indicated that the rebels had offered to turn Noriega over to the United States. This is an important point which must be clarified with finality.

By 1:15 p.m. the counter coup was underway and shortly after 2, Noriega's loyal forces had regained control of the Commandancia and Noriega had ordered a cease-fire.

In the days leading up to the coup and during the early stages of the attempt itself, American officials were uncertain as to whether they were being set up. Major Giroldi, the coup leader, was a known Noriega loyalist who had previously been involved in putting down a coup directed at Noriega. During much of the morning there was uncertainty as to Noriega's location and whether or not he was actually in the control of the rebels, and there was also uncertainty as to the likely success of the attempted coup. Although Panama Defense Force troop movements were observed, there was further uncertainty as to whether those troops were joining the rebellion or were loyal to Noriega and attempting to regain control.

As is so often the case in crisis situations, by the time these uncertainties were clarified, it was too late.

Part of the difficulty in understanding U.S. actions in these events has been that the accounts of the administration's several spokespersons have varied and changed over the last several days. While it was initially denied that U.S. troops were involved, in recent days the administration has acknowledged that U.S. troops, indeed, did block some roads. Reports in the press and elsewhere have suggested as well that other actions may have been promised and/or taken.

But, the chronology of events aside, what is most difficult to understand, in light of the President and the administration's repeated public invitations to elements within the Panama Defense Force to rebel against Noriega, is how the administration could have been so unprepared when what it had long been urging finally took place.

The President was reluctant to commit U.S. troops in light of the uncertainties that he faced. But what concerns me is that the absence of a clear plan to deal with any such eventuality had not been established. Therefore, the President lacked information and options which should have been at his disposal.

At the very least, when U.S. officials were contacted by the coup leader, an effort should have been made to learn information critical to the U.S. response. For example, was it the intention of the rebels when they gained control to recognize the recent Panamanian elections? Were they intending to call for new elections? Did they intend to turn Panama over to civilian control and when, if at all? Were they preparing a formal request for U.S. recognition or military assistance or some other form of assistance?

U.S. policy and contingency planning should be clear enough to provide guidelines to American officials at the scene in such a crisis, not only to ask the right questions but to be prepared to convey the conditions for any U.S. assistance.

In this instance, not only were critical questions apparently not asked, but coordination among agencies of the Government and the military was so poor, both in Panama and Washington, as to add to the confusion. Intelligence was not adequately conveyed. There was confusion even as to as central and critical a question as to the willingness of the rebels to turn General Noriega over to U.S. authorities.

The point we must focus on today is not to ascribe blame. A contest in the media, pointing fingers and evaluating "who lost Noriega" is not in the national interest.

Both the executive branch and the legislative branch have a responsibility and must and should coolly assess our policy with respect to Panama and the procedures which were followed, and the decisions and actions which were taken during the course of the events last week in Panama. This assessment must be made continuously in all crisis areas. The reason for this assessment is not to embarrass this or any other President or administration. The reason in this instance, is to assure that should a future opportunity to bring Manuel Noriega to justice occur, the President will have at his disposal all of his options.

This is all the more critical, I believe, because in my view Noriega has been weakened, not strengthened by this coup attempt—even though it was not successful.

While I cannot foresee what the next opportunity might be, it is clearly in the best interests of our Nation to be fully prepared to respond to any future effort by the people of Panama to rid themselves of Noriega.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 10, 1989, during the recess of the Senate, received a message from the President of the United States transmitting a nomination, which was referred to the Committee on Foreign Relations.

(The nomination received on October 10, 1989, is printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 248. An act to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

The message also announced that the House has agreed to the amendment of the Senate to each of the following bills:

H.R. 2087. An act to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes; and

H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2990) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 12, 34, 62, 63, 79, 82, 92, and 109, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 8, 13, 14, 15, 16, 26, 27, 28, 29, 33, 36, 37, 44, 51, 57, 59, 64, 71, 75, 76, 77, 78, 84, 87, 90, 91, 93, 94, 101, 104, 108, 111, 114, 119, 123, 128, 129, 132, 139, 144, 156, 172, and 176 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1113. An act to authorize appropriations for the Office of Environmental Quality for fiscal years 1989 and 1990; to ensure consideration of the impact of major Federal actions on the global environment, and for other purposes;

H.R. 2587. An act to conserve North American wetland ecosystems and water fowl and the other migratory birds and fish and wildlife that depend upon such habitats; and

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

At 7:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 2, 3, 4, 8, 14, 21, and 22 to the bill, and agrees thereto; and it recedes from its disagreements to the amendments of the Senate numbered 5, 7, 11, 15, 16, 18, and 19 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1113. An act to authorize appropriations for the Office of Environmental Quality for fiscal years 1989 and 1990; to ensure consideration of the impact of major Federal actions on the global environment, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2587. An act to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1764. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 1990; pursuant to the order of January 30, 1975, as modified referred jointly to the Committee on Appropriations; the Committee on the Budget; the Committee on Agriculture, Nutrition, and Forestry; the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; the Committee on Commerce, Science, and Transportation; the Committee on Energy and Natural Resources; the Committee on Environment and Public Works; the Committee on Finance; the Committee on Foreign Relations; the Committee on Governmental Affairs; the Committee on the Judiciary; the Committee on Labor and Human Resources; the Committee on Rules and Administration; the Committee on Small Business; the Committee on Veterans' Affairs; the Select Committee on Indian Affairs; and the Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself and Mr. KERREY):

S. 1747. A bill to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1748. A bill to provide tax assistance for forest landowners who suffered timber damage and loss as a result of Hurricane Hugo; to the Committee on Finance.

By Mr. BRADLEY:

S. 1749. A bill to restore previous exemption for edible molasses containing more than 6 percent nonsugar solids; to the Committee on Finance.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself and Mr. KERREY):

S. 1747. A bill to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes; to the Select Committee on Indian Affairs.

PONCA RESTORATION ACT

● Mr. EXON. Mr. President, today Senator KERREY and I are introducing a bill to extend Federal recognition to the Ponca Tribe of Nebraska.

A few weeks ago, I had the pleasure of visiting with Mr. Fred Leroy, the Chairman of the Northern Ponca Restoration Committee. I was indeed surprised to hear that the Poncas of Nebraska have been ineligible to receive Federal benefits for over 26 years. Although members of other Indian tribes receive benefits in the areas of housing, health care, employment, child welfare, and education, Mr. Leroy, who is a member of the Ponca Tribe, as were his ancestors, would be denied those benefits if he applied.

Mr. President, why is one Indian eligible for benefits while another is not? I posed just that question to Mr. Leroy. I learned that prior to 1962, the Ponca Tribe was a federally recognized tribe and its members received the benefit of our Federal programs. But in that year, the tribal status of the Ponca Tribe of Nebraska was terminated pursuant to the Termination Act of 1954.

The policy behind that act was to assimilate our Indians into the mainstream of American life by terminating their status as Indian tribes. While the intentions behind the bill may have been good, the results can only be described as a failure. Its effects on the Ponca Tribe are a good illustration of why.

Although Federal recognition of the Ponca Tribe was terminated, the Poncas continued to face the same problems that all native Americans confront. As could be expected, the loss of recognition had a profound effect upon the members of the Ponca Tribe. Lacking a central organization, the tribe has struggled to maintain its customs, traditions, and culture. Our Federal Government has responded to the needs of our Indians by providing programs and services in the areas of health, housing, education, and training; yet, those programs and services have been unavailable to the members of the Ponca Tribe.

Although many tribes lost their tribal status as a result of the Termination Act, only two have yet to be restored. But a few weeks ago, the Senate unanimously passed legislation to recognize the Coquille Tribe of Oregon. In that instance, and in many others, Congress has recognized the failure of the policy of termination and has acted on the basis of fairness and equity to restore eligibility to those whose rights had been terminated.

The Ponca Tribe of Nebraska has now begun to reestablish and practice its tribal customs and traditions. It has reorganized and has established a list of approximately 1,100 Poncas that are likely members of the tribe. It has chosen to seek recognition and has successfully petitioned the Nebraska Legislature to support their effort.

Congress must now take action to restore the Poncas to tribal status. The bill I and Senator KERREY now introduce will restore the basic services and programs that are offered to recognized Indians to the members of the Ponca Tribe. It will help the Ponca Tribe reestablish itself as an Indian nation and restore its cultural identity. An economic development plan is included to assist the Poncas in overcoming the disadvantage of being terminated Indians for nearly 30 years.

Mr. President, passage of this bill is an important step for the Ponca Tribe and for the State of Nebraska where the majority of the Poncas now reside. I urge my colleagues to join me in this effort and urge that the Senate Select Committee on Indian Affairs promptly consider this bill and report it back to the full Senate for passage.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept any real property that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer.

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

SERVICES

SEC. 5. The Tribe, and the members, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as Federally recognized Indians and, notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Tribe, and to the members, without regard to the existence of a reservation for the Tribe or the location of the residence of any member on or near any Indian reservation.

INTERIM GOVERNMENT

SEC. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

SEC. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(1) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe, and the bylaws adopted under the constitution, shall govern membership in the Tribe.

TRIBAL CONSTITUTION

SEC. 8. (a) Before the earlier of—

(1) the date that is 60 days after the date on which the Interim Council submits to the Secretary—

(A) a written request of the Interim Council that an election to adopt a tribal constitution be held, and

(B) a copy of the membership roll of the tribe that the Interim Council certifies to be an accurate and up-to-date roll, or

(2) the date that is 1 year after the date of enactment of this Act.

the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Absentee balloting shall be permitted in the election without regard to the residence of the voter. Notice of the election shall be provided to the members of

the Tribe at least 60 days prior to the date of the election. In every other regard, the election shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(b) By no later than the date that is 120 days after the date on which the Tribe adopts a constitution under subsection (a), the Secretary shall conduct an election by secret ballot to elect officials of the Tribe, as provided in the constitution of the Tribe. The election shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the constitution of the Tribe.

(c) Notwithstanding the previous negative vote by the Tribe in an election conducted under section 18 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 478), the Tribe shall be treated as having made an affirmative vote in an election conducted under section 18 of such Act.

(d) Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

SEC. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

ECONOMIC DEVELOPMENT PLAN

SEC. 10. (a) The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(8) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).●

● Mr. KERREY. Mr. President, I am pleased to join Senator EXON in introducing the Ponca Restoration Act. This bill would grant the northern Ponca people tribal status following 27 years in legal limbo. During these years the northern Ponca people have lived in a society that considers them Indians without the legal status.

The Ponca Tribe's termination in 1962 marked the end of an era whereby the Federal Government terminated 109 tribes and bands in the United States. Termination ended the special Federal-tribal relationship almost completely and transferred almost all responsibilities for, and power over, affected Indians from the Federal Government to the States.

What was the result of termination? The Poncas have experienced a decline in customs and traditions, the loss of Federal services, employment-job training, health services for the young and elderly, Indian child welfare protection, higher education and youth programs.

The introduction of this restoration bill is the result of an effort that started in 1971 when former Ponca tribal members expressed their concerns about the termination of their tribe by incorporating. In the intervening years the Poncas have created an organization committed to reinstating themselves as a recognized tribe. After careful preparation members of the Northern Ponca Restoration Committee approached Nebraska's congressional delegation with a restoration proposal. The Poncas have won support for their effort from the local community of Niobrara, in the heart of their former home, and the support of the Nebraska State Legislature. Mr. President, I would like to submit resolutions of support from both of these bodies as an indication of support for the tribe's restoration, and ask unanimous consent that they be printed in the RECORD following the statement.

The Ponca Tribe is among the last of the terminated tribes that is seeking to become a federally restored tribe. In recent years Congress has supported the restoration of tribes in an admission that the policy of termination had failed in its efforts to integrate Indians by taking away their legal status as tribes. Mr. President, I urge Congress to give careful consideration of this matter and hope that we can recognize the northern Ponca people's just claim.

Conditions have changed in the Ponca's former home. It is not feasible, nor is it the intent of this legislation to create a large residential reservation in the Ponca's former territory. It is the intention of this legislation to see that the tribe recovers its identity and create a center devoted to preserving and cultivating their customs and tradition. The legislation also provides for an economic development package intended to assist the many Ponca's who existence has been reduced below the poverty level and allow them to gain economic self-sufficiency.

Mr. President, with this legislation we have the ability to correct the errors of a failed policy and create the conditions whereby an Indian people will have the opportunity to recover their proud history. It is ironic that we must grant legal recognition to the tribe of Chief Standing Bear. Because it was Chief Standing Bear whose trial in Nebraska following his escape from forced relocation in Oklahoma lead to Judge Elmer Dundy's pronouncement that "an indian is a person within the meaning of the law", a ruling that lead to the legal redefinition of Indians within our legal system. It strikes me that we should honor Standing Bear's commitment to our society and its laws by granting legal recognition to the northern Ponca Tribe.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 1989-2

Be it hereby resolved, that the Village Board of Trustees of the Village of Niobrara supports the efforts of the Northern Ponca Tribe in their efforts to gain "Federal Restoration" as an Indian Tribe.

Passed and approved this 6th day of June, 1989.

STANLEY O. DRYAK,
Chairman, Village Board of Trustees.
Attest: Robert L. Olson, Village Clerk.

LEGISLATIVE RESOLUTION 428

Whereas, the Ponca Tribe of Nebraska was terminated by an Act of Congress, P.L. 87-629, on September 5, 1962; and

Whereas, former members of the Ponca Tribe of Nebraska are not eligible for and do not receive any federal services in housing, health care, employment, child welfare, and education, otherwise provided to federally recognized Indians; and

Whereas, former members of the Ponca Tribe of Nebraska are not defined as Indians by the federal government; and

Whereas, the Northern Ponca Restoration Committee, Inc., was incorporated in the State of Nebraska on August 19, 1987, to promote the federal restoration of the Ponca Tribe of Nebraska and its members; and

Whereas, the Northern Ponca Restoration Committee, Inc., will seek to acquire and provide federal services to former members of the Ponca Tribe of Nebraska in housing, health care, employment, child welfare, and education; and

Whereas, Ponca tribal members have played a historical role throughout Nebraska's history; and

Whereas, the trial of Chief Standing Bear established by law that Indians were persons: Now, therefore, be it

Resolved by the members of the Ninetieth Legislature of Nebraska, Second Session:

1. That the Legislature recognizes all former members of the Ponca Tribe of Nebraska as duly state recognized Indians.

2. That the Legislature extends its recognition to the Ponca Tribe of Nebraska.

3. That the Legislature fully supports the Ponca Tribe's endeavors to achieve federal restoration.

4. That a copy of this resolution be sent to the Northern Ponca Tribe of Nebraska Restoration Committee, Inc., in care of Mr. Fred LeRoy, Chairman of the Northern Ponca Restoration Committee, Inc. and Ms. Rose Hines, Vice-Chairperson of the Northern Ponca Restoration Committee, Inc., 2226 Leavenworth Street, Omaha, NE 68102.●

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 1748. A bill to provide tax assistance for forest landowners who suffered timber damage and loss as a result of Hurricane Hugo; to the Committee on Finance.

HURRICANE HUGO TIMBER TAX ASSISTANCE ACT

● Mr. HOLLINGS. Mr. President, I rise to introduce urgent legislation designed to assist the private timber owners who have suffered a financial calamity in the wake of Hurricane Hugo.

Mr. President, the press has done a superb job of describing the damage wrought by Hurricane Hugo on residential areas, buildings, bridges, highways, and so on. The largely unreported story, however, is the total annihilation of vast stretches of forest and timberland throughout South and North Carolina—countless acres of shattered, splintered trees as far as the eye can see. In the affected areas, literally nothing is left standing save for sheared-off tree trunks. Indeed, these broken forests are the most persuasive testimony to Hugo's brute force, and to the fact that it will be a full generation before the land fully recovers.

Mr. President, to quantify the scope of the destruction, it is estimated that there is enough fresh timber on the ground to build approximately 660,000 houses; that is the equivalent of rebuilding Charleston nearly 10 times over. In the Francis Marion National Forest alone we've lost an amount of board feet that could stretch around the world five times.

Total dollar losses in South Carolina timber are estimated to be $1.04 billion. North Carolina suffered about $62.1 million.

Needless to say, the timber market will be saturated in South Carolina for the indefinite future. In any case, the wood felled by Hugo lost much of its value because it was bent, broken and splintered by the 140-mile-per-hour winds. What we're left with is a glutted market that's paying about half of what it paid last year for sawtimber.

Making matters worse, this wood won't last long lying on the ground. It will soon be attacked by pine beetles and blue stain fungi, and we simply don't have the manpower, the rail access, or the mill capacity to salvage the vast amount of timber that is subject to rapid deterioration.

Prior to Hurricane Hugo, the timber industry had established itself as a mainstay of the South Carolina economy. Forestry is the third largest manufacturing industry in South Carolina, employing over 30,000 people. Moreover, the damage wreaked by Hugo disproportionately impacted individual landowners. Only 10 percent of total timber land is owned by the Government in South Carolina. Twenty-two percent is owned by corporate enterprises, while the great majority—68 percent—is owned by private landowners.

These individual landowners will have a great deal of difficulty recovering from Hugo. These timber owners have lost not only this year's harvest, but harvests for the next 2 years. Sawtimber volume damaged by Hugo totals 6.7 billion board feet. The total annual sawtimber volume harvested in South Carolina is approximately 2.2 billion board feet. So within a mere 8 hours, Hugo swept through and harvested 3 years' worth of timber in South Carolina.

Many of these individual landowners were planning on using their timber proceeds to pay for their childrens' education or to cover retirement costs. Many of them were using the proceeds to pay off mortgages on their land. These people were doing what we need more of in America—they were planning for the future—and they deserve help from our Federal Government in the wake of this unprecedented disaster.

My colleague from South Carolina and I have already introduced a bill to provide assistance in reforesting these lands. However, the benefits of reforestation will not be seen for between 15 and 30 years, the amount of time it takes to grow a crop of trees. These timber owners need immediate assistance to survive financially over the next few years. Therefore, I am introducing a bill that would provide immediate assistance in the form of limited tax adjustments.

The Hurricane Hugo Timber Tax Assistance Act will address the taxation of timber in several ways. First, it will allow for a break in taxes up front in exchange for offsets in the future. For citizens paying taxes on timber in a designated disaster area, the bill would permit a casualty-loss deduction for damages to timber connected with a trade or business or the production of income to the extent of the greater of: First, the taxpayer's basis in the timber; and second, the difference between the fair market value of the timber immediately before the disaster and its fair market value immediately after the disaster.

To the extent the decrease in the fair market value exceeds the basis in the timber, such excess would reduce the taxpayer's basis in other tax attributes in the following order: First, the basis in timber undamaged by the disaster; second, general business credit carryovers under IRC section #38; third, net operating lose carryovers to years after the year of the damage; fourth, net capital losses arising in the year of the disaster; and fifth, the basis of any real estate used for timber production prior to the impact of Hurricane Hugo.

The bill also provides an incentive to reforest lands damaged by Hugo by increasing the maximum amount of reforestation expenditures qualifying for amortization under IRC section 194 from $10,000 to $30,000. For environmental reasons, we should do everything we can to make sure that this land is reforested. The timber shortage that our country is expected to face in the next century is also an important reason for starting regrowth as soon as possible.

Due to the overwhelming need for damage assessment, timber owners may incur higher-than-normal expenses in getting such an assessment. The Hurricane Hugo Timber Tax Assistance Act eases this burden by exempting the timber damage assessment expenses from application of the 2-percent floor on miscellaneous itemized deductions.

Many individuals have been displaced because Hugo destroyed their homes, and many others have suffered extensive damage to their homes or offices. Electric lines as well as water and sewer lines are still in repair. The economy of the disaster area was brought to an abrupt halt by Hugo, and as people were forced to focus on the more immediate problems of caring for their families and their homes, financial matters were put aside. The Hurricane Hugo Timber Tax Assistance Act ensures that timber owners will not be penalized for failing to file business tax returns within the next 60 days. This grace period would be granted regardless of whether the taxpayer has been able to file for an extension.

As I said previously, many landowners use the proceeds from timber sales to pay off the mortgage on their land. The Hurricane Hugo Timber Tax As-

sistance Act counts the sale of timber damaged by Hurricane Hugo as an involuntary conversion. If the proceeds from the sale of such timber is used to pay a previously existing mortgage on the land, such a mortgage payment will be counted as reinvestment and will not be taxed as capital gains.

Finally, the Hurricane Hugo Timber Tax Assistance Act will provide help to timber owners by specifying that "passive activity" shall not include any interest in qualified timber property with respect to an individual owning timber in a Hugo disaster area, effective to taxable years beginning after December 31, 1988.●

ADDITIONAL COSPONSORS

S. 511

At the request of Mr. INOUYE, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 804

At the request of Mr. MITCHELL, the names of the Senator from California [Mr. WILSON] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 804, a bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

S. 1081

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1081, a bill to authorize the Secretary of Housing and Urban Development to carry out a cost-effective community based program for housing rehabilitation and development to serve low- and moderate-income families.

S. 1226

At the request of Mr. MCCONNELL, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1226, a bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material.

S. 1245

At the request of Mr. MITCHELL, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1245, a bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

S. 1249

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1249, a bill to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes.

S. 1277

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1330

At the request of Mr. HELMS, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 1330, a bill to provide protections to farm animal facilities engaging in food production or agricultural research from illegal acts, and for other purposes.

S. 1427

At the request of Mr. BOSCHWITZ, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1427, a bill to amend the Federal Meat and Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that have been seized and condemned under such acts to charity and public agencies, and for other purposes.

S. 1643

At the request of Mr. DIXON, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1643, a bill to provide protection to consumers in connection with certain telephone services.

S. 1720

At the request of Mr. MCCONNELL, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1720, a bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes.

SENATE JOINT RESOLUTION 159

At the request of Mr. GORE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Joint Resolution 159, a joint resolution to designate April 22, 1990, as "Earth Day," and to set aside the day for public activities promoting preservation of the global environment.

SENATE JOINT RESOLUTION 177

At the request of Mr. BOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 177, a joint resolution designating October 29, 1989, as "Fire Safety at Home, Change Your Clock, Change Your Battery Day."

SENATE JOINT RESOLUTION 194

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 194, a joint resolution designating November 12-18, 1989, as "National Glaucoma Awareness Week."

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the 75th Anniversary of the Armenian Genocide of 1915-23."

At the request of Mr. LEAHY, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. DOLE, the name of the Senator from Louisiana [Mr. BREAUX] was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

SENATE JOINT RESOLUTION 213

At the request of Mr. BOSCHWITZ, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 213, a joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

SENATE RESOLUTION 180

At the request of Mr. SANFORD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Resolution 180, a resolution to encourage schools and civic enterprises to observe the 200th anniversary of the Bill of Rights on September 25, 1989.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on October 24, 1989, beginning at 2:30 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on six measures currently pending before the subcommittee. The measures are:

S. 1046, a bill to study the Merrimack River in New Hampshire for inclusion in the National Wild and Scenic Rivers System;

S. 1302, the Big Thicket National Preserve Addition Act of 1989;

S. 1524, a bill to study segments of the Pemigewasset River in New Hampshire for inclusion in the National Wild and Scenic Rivers System;

S. 1559, a bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park;

S. 1594, a bill to revise the boundary of Gettysburg National Military Park; and

H.R. 1472, an act to establish the Grand Island National Recreation Area in Michigan.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks, and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

ADDITIONAL STATEMENTS

CONGRESS MUST REVIEW AIRLINE INDUSTRY TRENDS

● Mr. GRAHAM. Mr. President, the growth in airline mergers, acquisitions and bankruptcies has raised serious questions about the structural security of the airline industry. If we have learned anything from the catastrophic collapse of the savings and loan industry, we have learned that we must continuously review the appropriate role of the Government in maintaining competitive, deregulated industries.

The Senate will soon consider legislation creating a commission to investigate recent occurrences in the airline market and the consequences of these trends. While the proposal before the Senate specifically calls for a study of the Eastern Airlines case, it also calls for a comprehensive look at the deregulated airline industry.

I would like to bring to the attention of my colleagues an article in the October 6 Washington Post which underscores the need to review the overall health of the airline industry. I ask that this article, "Trump Makes $7 billion Bid for American Airlines," be printed in the RECORD.

The article follows:

TRUMP MAKES $7 BILLION BID FOR AMERICAN AIRLINES

(By Martha M. Hamilton)

Billionaire developer Donald J. Trump launched the largest airline takeover bid ever yesterday by offering $7 billion for American Airlines.

In doing so, Trump is challenging one of the toughest, most aggressive managements in the aviation industry, that of American Airlines top executive, Robert L. Crandall. AMR Corp., which owns American, said it will consider Trump's proposal but remains committed to operating an independent airline.

The offer for American, the nation's largest carrier, comes at a time when virtually every U.S. airline appears to be up for grabs, heightening legislative and regulatory concerns about such buyouts.

Chief among the worries is whether the debt incurred in airline takeovers might jeopardize the new owners' commitment to safety or make the carriers vulnerable in an economic downturn. Another concern is whether the increased role of foreign airlines as investors in these deals threatens national interests or reduces competition.

Yesterday, just as the Trump bid was being announced, the Senate Commerce Committee approved a bill, sponsored by Sen. Wendell H. Ford (D-KY), that would require the Transportation secretary to determine the impact of airline buyouts on safety, the ability of an airline to grow, competition with foreign carriers and other factors.

As word of Trump's bid reached the committee, Sen. Lloyd Bentsen (D-TX) urged the committee to make the bill retroactive so that it would apply to the Trump deal. The committee is expected to offer an amendment on the Senate floor that would include the Trump deal and any others that may develop.

News of Trump's $120 a share bid pushed the company's stock up $16.87½ a share to close at $99.87½ in heavy trading on the New York Exchange.

The bid followed weeks of rumors that Trump was acquiring stock in AMR and a request by the company to the Securities and Exchange Commission to investigate the rumors. Industry analysts said that the bid appears to be a serious offer at a reasonable price for the airline, rather than merely an attempt to create a quick profit on the surge in the stock.

"The price is not high, though I think it's the kind of bid that can shut out other offers," said Louis A. Marckensano, an analyst with Janney Montgomery Scott.

Marckensano said that bidding more than $120 a share for the airline would probably force a buyer to liquidate some assets to finance the deal—which would be likely to face opposition.

"It's a major-sized deal," said Paul Karos of First Boston.

Trump, who last year acquired the Eastern Air Shuttle for $365 million and renamed it the Trump Shuttle, said yesterday in his letter to AMR's board that he is prepared to commit "at least $1 billion of equity to the transaction." He also said that he believes the rest of the financing can be obtained "within a reasonable period of time." Trump could not be reached to elaborate on his offer or how he plans to finance it, but analysts speculated that he might also seek a foreign airline as a partner. European airlines have been anxious to acquire stakes in U.S. carriers.

Trump said his takeover bid "reflects the enormous respect that I have for the company, its management team and the company's employees" and went on to laud "the outstanding job done by company management." American has been profitable and expansion-minded under Crandall. It has a vast fleet of planes with 482 aircraft plus an additional 201 used for its American Eagle commuter subsidiary. With 2,335 daily departures (plus 1,413 for American Eagle), American overtook United Airlines earlier this year to become the nation's largest carrier.

Although Trump said he was interested in a "negotiated transaction," he also included a jab at the airline's management. Noting that acquistion bids are often met with "immediate rejection and vilification of the author," he added, "I ask you, can such a response genuinely be in the interests of the company's shareholders who, as you are aware, have received no dividends on their shares for many years?" The company paid its last dividend in 1980, according to a spokesman.

American released a statement saying it would consider Trump's offer "in due time" but has not changed "its policy and belief that AMR and its shareholders will be best served by AMR remaining an independent company."

Earlier this year American strengthened a "shareholders rights" plan that makes it more expensive for a bidder for the company to acquire its stock.

Trump said his offer will expire on Oct. 20, unless he extends it.●

TO ANGELO K. TSAKOPOULOS AXIOS' 1989 MAN OF THE YEAR

● Mr. WILSON. Mr. President, it is with distinct pleasure that Gayle and I extend our congratulations to Angelo K. Tsakopoulos who is being honored this evening by the members of Axios, the venerable organization of Greek Americans, as their 1989 Man of the Year.

It is a particular privilege for me to join in saluting a man who so clearly exemplifies the ideals of the Axios organization, and who has brought honor to his Greek heritage with the multitude of achievements which have marked his life.

There will be many tributes to him this evening, and each will be reflective of the esteem in which he is held in our California community. He is admired not only for the success of his career, but also because he has chosen to generously give a large portion of that success back to countless charities and worthy causes throughout the world, truly illuminating the best of the Hellenic tradition.

I join with the many friends and admirers of Angelo Tsakopoulos in California and throughout the world in offering him warmest best wishes on this occasion of tribute. It is my great privilege to illuminate and honor a most distinguished Greek American in this Chamber of the United States Senate.●

TRIBUTE TO MAYOR RICHARD HACKETT

● Mr. SASSER. Mr. President, I rise today to pay tribute to a man who has dedicated his life to serving Memphis, TN. Memphis Mayor Richard C. "Dick" Hackett has been chosen by the Variety Club of Memphis to receive their Humanitarian Award as an

acknowledgement of his untiring work on behalf of the citizens of Memphis.

Since Catherine Variety Sheridan was adopted by the first Variety Club in 1928, Variety has been known internationally for its dedication to the cause of humanity and its devotion to the betterment of mankind. The Variety Club has obtained its reputation by contributing to the welfare of children throughout the world. Mayor Hackett's continuing efforts to raise public awareness in order to improve the condition of Memphis' underprivileged children make him a shining example of the ideals of the club.

Born and educated in Memphis, Mayor Hackett has spent his entire adult life in government service. He has served the city as mayor since 1982, devoting much of his time and energy to children's programs such as the Children's Museum of Memphis. He is a member of the board of directors for St. Peter's Home for Children, St. Joseph Hospital, and the Whitehaven Junior Baseball Association, among other civic institutions. Over the years he has received a number of distinguished awards for his service to the community. This year, he was named Outstanding Young Mayor of America by the U.S. Jaycees.

Mr. President, it is indeed a pleasure to honor this dedicated young public servant, devoted husband, and loving father of three small children of his own. I assure you we have not heard the last of Dick Hackett. I am confident he will continue his outstanding work for the city of Memphis. I join both the Variety Club and the children he has been so instrumental in helping in thanking Mayor Hackett for a job well done.●

ANWAR SADAT

● Mr. MOYNIHAN. Mr. President, I rise today to honor the memory of a peacemaker and visionary. Mr. President, 8 years ago, on October 6, 1981, Anwar Sadat's life was brought to an abrupt and shocking end. His passing tragically dimmed the ray of hope that emerged during his tenure as leader of Egypt. However, in spite of the myriad problems facing the Middle East today, his legacy, his vision for peace, endures.

In his day, Anwar Sadat toiled to throw off the chains of the past and to make a new beginning. He was handed a society with profound economic problems and disturbing social tensions. Yet through his infitah initiatives, programs of economic and political liberalization, he began a process aimed at curing Egypt's age-old ills.

This vision and this energy carried Sadat beyond the borders of his own country. This man of humble roots escaped the ideological dogmatism of preceding generations and pursued an historic peace with Israel. At Camp David, he told us that four wars in 30 years were too much. It was time to face reality and to walk in peace with Israel. He risked Egypt's traditional role as leader of the Arab world, and he risked losing popular support in his native land. Above all, he risked his own life.

At Camp David, Anwar Sadat helped to create a blueprint for peace in a war-torn land. Today his legacy is in danger. Other Arab leaders have not demonstrated the same resolve. Let those leaders embrace his legacy, forsake war, and begin to work for peace. That, I believe, would be a most fitting way to pay tribute to Anwar Sadat. It is the memorial he would want.●

RECOGNIZING THE 5TH ANNIVERSARY OF THE CITY OF ROCHESTER HILLS, MI

● Mr. LEVIN. Mr. President, I rise to join with my colleague Senator DON RIEGLE in recognizing the 5th anniversary of the city of Rochester Hills, MI, which is today the fastest growing residential community in Oakland County.

Since its transition from Avon Township to a city was accomplished on November 20, 1984, as the result of a vote by residents, Rochester Hills has proven itself a responsive and ambitious community.

The accomplishments and activities include a major expansion of water and sewer services throughout the city; the largest single residential street paving project in the history of the city-township, the $5 million Brooklands area project; and adoption of a $9 million recreation bond issue by the voters, leading to a major expansion of the city's park system.

Clearly, Rochester Hills is preparing for a future of growth, prosperity and promise and we congratulate its citizens and officials on the solid foundation they have laid in these past 5 years. For this work and the promise of hard work and success yet to come, Senator RIEGLE and I congratulate you.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The select committee has received a request for a determination under rule 35 for Mr. Todd G. Andrews, a member of the staff of Senator PELL, to participate in a program in Taiwan, sponsored by the Soochow University, from October 5 to 15, 1989.

The committee has determined that participation by Mr. Andrews in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate of the United States.

The select committee has received a request for a determination under rule 35 for Mr. Christopher McLean, a member of the staff of Senator EXON, to participate in a program in Tokyo, Japan, sponsored by the Association for International Investment, the Council for Better Investment and the KEIDANREN from October 9 to 14, 1989.

The committee has determined that participation by Mr. McLean in the program in Japan, at the expense of the KEIDANREN, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Bill Livingston, a member of the staff of Senator WILSON, to participate in a program in Taiwan, sponsored by the Soochow University, from October 6 to 16, 1989.

The committee has determined that participation by Mr. Livingston in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.●

ANGELO TSAKOPOULOS HONORED

● Mr. SARBANES. Mr. President, on Friday, October 13, AXIOS Foundation for Worthiness will honor Angelo Tsakopoulos as "Man of the Year" for his leadership and deep commitment to his fellow citizens. To be recognized by an organization such as AXIOS, which in all its endeavors exemplifies the very best in the Greek-American tradition of devotion to democracy and services to community, is truly an honor.

Mr. Tsakopoulos who immigrated from Greece at age 15, began his career in Chicago shining shoes. Later he labored as a farmworker and, as a young entrepeneur, raised and sold melons.

From these modest beginnings, Angelo Tsakopoulos became a leader in California's business community where he played an instrumental role in transforming Sacramento into one of the Nation's emerging urban centers.

While his success in the business community has become legendary, Angelo is perhaps best known for his dedication to his fellow citizens and

Greek heritage. Angelo has established the Kazantzakis Chair at San Francisco State University; has endowed chairs and major programs at the McGeorge School of Law, Dartmouth College, Sacramento State University, and the University of California at Irvine's Thesaurus Linguae Graecae Center; and has funded the teaching of Demotic Greek in local high schools.

Angelo Tsakopoulos has also been a generous supporter of Sacramento's Crocker Art Museum, the Roseville Art Center, and the Folsom Historical Society, and has been a major benefactor of organizations such as the Asian Community Convalescent Home, the Greek Orthodox Church, the Catholic Diocese of Sacramento, and the Sisters of Mercy.

As Angelo has become a leader in busines and his community, he has remained deeply proud of his Hellenic heritage. He cofounded DYNAMIS, an organization which encourages young people to enter the field of public service; is the west coast representative for the Society for the Preservation of Greek Heritage; and is a major supporter of the American Hellenic Institute and the United Hellenic American Conference. He also serves as an archon in the Greek Orthodox Church, the highest honor available to laymen. Perhaps, most importantly, Angelo is known throughout the country for his willingness to help talented Hellenic Americans achieve the dream which brought him to America.

Previous AXIOS "Man of the Year" recipients include George C. Christopher, former mayor of San Francisco; His Eminence Archbishop Iakovos, primate of the Greek Orthodox Church of North and South America; Alex G. Spanos, builder and sportsman; and, in 1988, Dr. John Brademas, former Congressman and president of New York University.

AXIOS, founded in 1978, is comprised of Greek-American business and professional leaders from the Los Angeles area and is involved in charity and scholarship programs and public affairs.

Angelo Tsakopoulos' contributions as a philanthropist, businessman, and as a Greek-American are eloquent testimony to the dedication and ability he has brought to the business community and to all Americans, regardless of ethnic background. The AXIOS "Man of the Year" Award justifiably pays tribute to his hard work and genuine commitment to his fellow man.●

MEASURE DISCHARGED—H.R. 2749

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 2749, authorizing the Secretary of Army to convey certain lands to Whitney Lake, TX, be discharged from the Senate Armed Services Committee and then referred to the Senate Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING MALTA ON THE 25TH ANNIVERSARY OF ITS INDEPENDENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 290, Senate Congressional Resolution 71, congratulating Malta on the 25th anniversary of its independence.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) congratulating Malta on the twenty-fifth anniversary of its independence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 71

Whereas September 21, 1989, marks the twenty-fifth anniversary of the independence of Malta;

Whereas the people of Malta have historically cherished the values of democracy;

Whereas the Maltese, by successfully resisting challenges to democratic rule on Malta, have protected and preserved their heritage for generations to come;

Whereas the Maltese endured tremendous suffering during their heroic struggle against Nazi and other fascist aggression during World War II, and were cited by President Franklin Roosevelt for their bravery and courage;

Whereas a free and democratic Malta is important to peace and stability in the central Mediterranean, a region of particular importance for the interests of the United States;

Whereas the Government of Malta has actively participated in, and made positive contributions to, environmental issues of global concern; and

Whereas relations between the Republic of Malta and the United States, which have been traditionally friendly, have become even closer and stronger in recent years: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress congratulates the people of Malta on the occasion of the twenty-fifth anniversary of independence of Malta.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, in my capacity as a Senator from the State of Arizona, the order for the quorum call is rescinded.

RECESS UNTIL 6 P.M.

The PRESIDING OFFICER. Without objection, at the request of the majority leader, concurred in by the minority leader, the Senate stands in recess until 6 p.m. this evening.

Thereupon, the Senate, at 5:15 p.m., recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

RECESS UNTIL 7 P.M.

The PRESIDING OFFICER. Is there objection to a recess of the Senate until the hour of 7 p.m. today?

There being no objection, the Senate, at 6 p.m., recessed until 7 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

RECESS UNTIL 7:30 P.M.

The PRESIDENT pro tempore. Is there objection to a 30-minute recess?

There being no objection, at 7:01 p.m., the Senate recessed until 7:30 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Will the Senator suspend and allow the Chair to make an announcement?

ANSWER BY JUDGE WALTER L. NIXON, JR., TO THE AMENDED ARTICLES OF IMPEACHMENT AGAINST JUDGE NIXON

The PRESIDENT pro tempore. The Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the answer by Judge Walter L. Nixon, Jr., to the amended articles of impeachment

against Judge Nixon, pursuant to Senate Resolution 127, 101st Congress, 1st session, and the unanimous-consent agreement obtained October 5, 1989, which answer was received by the Secretary of the Senate on October 11, 1989.

The material follows:

ROPES & GRAY,
1001 PENNSYLVANIA AVENUE, N.W.,
Washington, DC, October 10, 1989.

Hon. WYCHE FOWLER, Jr.,
Chairman, Impeachment Trial Committee, Hart Senate Office Building, Washington, DC.

Attention: Anthony Harvey.

DEAR CHAIRMAN FOWLER: I enclose Judge Nixon's Answer to Amended Articles of Impeachment.

Very truly yours,

DAVID OVERLOCK STEWART.

CERTIFICATE OF SERVICE

I, David Overlock Stewart, do hereby certify that I have caused a copy of Judge Nixon's Answer to Amended Articles of Impeachment to be served by first-class mail, postage prepaid to:

Rep. Jack Brooks, House Manager.
Rep. Benjamin L. Cardin, House Manager.
Rep. William E. Dannemeyer, House Manager.
Rep. Jim Sensenbrenner, House Manager.
Rep. Don Edwards, House Manager.
Michael Davidson, Counsel, U.S. Senate (By Hand).
Alan I. Baron, Counsel, U.S. House of Representatives.

DAVID OVERLOCK STEWART.

Date: October 10, 1989.

[In the Senate of the United States, Sitting as a Court of Impeachment]

IN RE IMPEACHMENT OF JUDGE WALTER L. NIXON, Jr.

ANSWER TO AMENDED ARTICLES OF IMPEACHMENT

Judge Walter L. Nixon, Jr. of the Southern District of Mississippi, through his undersigned counsel, answers the amended Articles of Impeachment received by the Senate on Thursday, October 5, 1989:

ARTICLE I

Article I of the amended Articles of Impeachment alleges that Judge Nixon knowingly made a material false or misleading statement to a federal grand jury in Hattiesburg, Mississippi, on July 18, 1984, to wit, that Forrest County District Attorney Paul Holmes never discussed the Drew Fairchild case with Judge Nixon.

Judge Nixon states that his statement to the grand jury was, in fact, true and correct, and was not made with any intent to mislead, deceive, or give false testimony. Judge Nixon's only relevant conversation with Mr. Holmes concerned allegations by Wiley Fairchild that Mr. Holmes was blackmailing him, and there never was a discussion of the Drew Fairchild case between him and Mr. Holmes.

Judge Nixon states further that his responses to the prosecutor's question on that and other occasions were framed by his understanding, based on the prosecutors' statements, that their investigation concerned how Drew Fairchild's case was transferred from federal to state authorities; Judge Nixon had no knowledge of that transfer or how it occurred, never had any discussion or exchange with any individual on that subject until the investigation began, and understood questioning about the Drew Fairchild case to refer to that matter. Because this understanding also framed Judge Nixon's statements that are the subject of Impeachment Articles II and III, this paragraph of his Answer to Article I is hereby incorporated as part of the Answers to Articles II and III.

Judge Nixon states further that his conviction in court on this allegation was secured through the use of false and perjured testimony and by the suppression of exculpatory evidence, all in violation of basic fairness and the constitutional guarantee of Due Process of Law.

ARTICLE II

Article II of the amended Articles of Impeachment has been materially changed by the amendment. As amended, Article II alleges that Judge Nixon made material false or misleading statements to the grand jury on July 18, 1984, to wit, that he had nothing whatsoever officially or unofficially to do with the Drew Fairchild case in Federal court or state court, that he "never handled any part of it, never had a thing to do with it all, and never talked to anyone, State or Federal, prosecutor or judge, that in any way influenced anybody" with respect to the Drew Fairchild case.

Judge Nixon states that the allegation in Article II unfairly excerpts and takes his testimony out of context, and that the statements he actually made to the grand jury were true and correct and were not made with any intent to mislead, deceive or give false testimony. Judge Nixon was never involved in the Drew Fairchild case in any court and never handled any part of it as a judge, which is the meaning of his unexcerpted grand jury testimony.

The current allegation that Judge Nixon falsely denied that he had influenced any official concerning the Drew Fairchild case is materially different from the previous allegation, which was that Judge Nixon falsely denied that he attempted to influence any official concerning the Drew Fairchild case. The corrected allegation evidently refers to Judge Nixon's exchange with Forrest County District Attorney Paul Holmes about Wiley Fairchild's blackmail allegation. Judge Nixon had absolutely no reason to believe that he had influenced any official—in that exchange with Mr. Holmes or at any other time—concerning the Drew Fairchild case. Accordingly, Judge Nixon's testimony was truthful.

Judge Nixon states further that his conviction in court on an allegation similar to Article II was secured through the use of false and perjured testimony and by the suppression of exculpatory evidence, all in violation of basic fairness and the constitutional guarantee of Due Process of Law.

ARTICLE III

Article III of the amended Articles of Impeachment alleges that Judge Nixon has, through fourteen enumerated statements, raised substantial doubt as to his judicial integrity, undermined confidence in the integrity and impartiality of the judiciary, betrayed the trust of the people of the United States, disobeyed the laws of the United States and brought disrepute on the Federal courts and the administration of justice by the Federal courts.

As a threshold matter, Judge Nixon denies that this allegation—except for the allegation that he disobeyed the laws of the United States—states an impeachable offense under the Constitution, and he will present a Motion to Dismiss those other aspects of Article III.

A. Article III(1)

This section alleges that Judge Nixon made seven material false or misleading statements when he voluntarily submitted to an interview by the United States Department of Justice on April 19, 1984. These statements include:

(A) That Judge Nixon never discussed with Wiley Fairchild anything about Wiley's son's case. This statement was true and correct and was not made with any intent to mislead, deceive or provide false information. Moreover, the substance of this statement is virtually identical to grand jury testimony by Judge Nixon that was alleged to be false in Count II of his indictment, on which charge Judge Nixon was acquitted by the jury.

(B) That Wiley Fairchild never brought up his son's case. This statement was true and correct and was not made with any intention to mislead, deceive, or provide false information. Moreover, the substance of this statement is virtually identical to grand jury testimony by Judge Nixon that was alleged to be perjury in Count II of this indictment, on which charge Judge Nixon was acquitted by the jury. In addition, the identified statement is virtually identical to the statement charged in Impeachment Article III(1)(A), and therefore this allegation is duplicitous and redundant and should be stricken.

(C) That at the time of the interview Judge Nixon had no knowledge of the Drew Fairchild case and did not even know Drew Fairchild existed, except for what the judge previously read in the newspaper and what he learned from the questions in the interview. This specification does not accurately describe or refer to the actual statements by Judge Nixon, which statements were true and correct and were not made with any intent to mislead, deceive or provide false information.

(D) That nothing was done or nothing was ever mentioned about Wiley Fairchild's son. This allegation refers to a statement that is so vague that it is not possible to determine when, where, or by whom Judge Nixon stated that nothing was done or mentioned about Wiley Fairchild's son. Such a vague and imprecise statement cannot be deemed a material false or misleading statement. To the extent that the substance of the statement can be determined at all, it was true and correct, and was not made with any intent to mislead, deceive or provide false information. The points raised in answer to Impeachment Article I, which concerns a very similar statement by Judge Nixon to the grand jury, are hereby incorporated in this Answer as well.

(E) That Judge Nixon had never heard about the Drew Fairchild case, except what he told the questioners in the interview, and certainly had nothing to do with the case. This allegation distorts Judge Nixon's acutal statement and omits material portions of it in a misleading manner. Judge Nixon's actual statement was true and correct and was not made with any intent to mislead, deceive or provide false information.

(F) That Judge Nixon had done nothing to influence the Drew Fairchild case. This statement was true and correct and was not made with any intent to mislead, deceive or provide false information. Moreover, the allegation of falsity is virtually identical to that alleged in Article III(1)(E), making this allegation duplicitous and redundant.

(G) State prosecutor Paul Holmes never talked to Judge Nixon about the Drew Fairchild case. This allegation does not accurately describe Drew Fairchild's statement, which was that Mr. Holmes did not discuss Drew Fairchild's case with Judge Nixon. Judge Nixon's actual statement was true and correct and was not made with intent to mislead, deceive or provide false information. The points raised in answer to Impeachment Article I, which concerns a very similar statement by Judge Nixon to the grand jury, are hereby incorporated in this Answer as well.

B. Article III(2)

This section alleges that Judge Nixon made seven material false and misleading statements during his grand jury testimony on July 18, 1984. Five of those statements provide the basis for Impeachment Articles I and II: the statement identified in Impeachment Article III(2)(A) is also the basis for Article I; and the statements identified in Impeachment Articles III(2)(D), (E), (F), and (G) are also the basis for Article II. Consequently, it is multipicitous, redundant and fundamentally unfair to include identical allegations in separate Impeachment Articles and Judge Nixon will submit a Motion to Dismiss these elements of Impeachment Article III on those grounds. With respect to those allegations in Impeachment Articles III(2) (A), (D), (E), (F) and (G), Judge Nixon hereby incorporates herein the same answers that are made in the Answers to Impeachment Articles I and II above. (Judge Nixon notes further that the allegation in amended Article III(2)(G) has been changed in a material manner to reflect accurately Judge Nixon's actual grand jury testimony, as is explained above in Judge Nixon's Answer to Article II.)

Article III(2)(B) alleges that Judge Nixon falsely told the grand jury that to the best of his recollection he did not know of any reason he would have met with Wiley Fairchild after the Nixon-Fairchild oil and gas investment was finalized in February 1981. This allegation distorts and misstates Judge Nixon's actual grand jury testimony. Judge Nixon's actual testimony was true and correct and was not made with any intent to mislead, deceive, or provide false information.

Article III(2)(C) alleges that Judge Nixon falsely told the grand jury that he had given it all the information he had and that he could, and that he had withheld nothing during his grand jury testimony. This testimony also was true and correct and was not made with any intention to mislead, deceive or provide false testimony.

FIRST AFFIRMATIVE DEFENSE

As an affirmative defense, Judge Nixon alleges that he was targeted for investigation and prosecution by executive officials who vindictively resented his ruling against the government in the Petit Bois Island condemnation case, *United States v. 717.42 Acres of Land* (S.D. Miss., 1981). Such targeting and vindictive prosecution of judicial officers who rule against the government is repugnant to the constitutional separation of powers between the executive and judicial branches, subjects all judicial officers to improper pressure to rule in favor of the government and against private citizens, and works a fundamental distortion of our system of justice.

SECOND AFFIRMATIVE DEFENSE

As an affirmative defense, Judge Nixon alleges that the allegations against him were developed by executive officials who improperly coerced and induced witnesses to give false testimony, which false testimony has been knowingly introduced against him, in violation of Due Process of Law.

Wherefore Judge Nixon denies that any of the Articles of Impeachment states a valid basis for removing him from office under the Constitution and demands a trial before the full United States Senate as provided in the Constitution, Article I, Section 3.

Respectfully submitted,

BOYCE HOLLEMAN,
MICHAEL B. HOLLEMAN,
BOYCE HOLLEMAN, P.A.,
Gulfport, MS.
DAVID OVERLOCK STEWART,
PETER M. BRODY,
ROPES & GRAY,
Washington, DC.

Date: October 10, 1989.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL 10:30 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow, Thursday, October 12; and, that following the time for the two leaders, there be a period for morning business until 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, it remains my hope that at 11, or as soon thereafter as the Appropriations Committee is able to report out the bill, the Senate proceed to consideration of H.R. 3385, an act to provide assistance to free and fair elections in Nicaragua.

Following discussions with the distinguished Republican leader, the distinguished Senator from Iowa, and others, what I hope to be able to propound to the Senate is a unanimous-consent request that we then debate that bill for 2 hours, following which a cloture petition would be filed by me; then we would proceed to the reconciliation bill until completion of the reconciliation bill; and then we would vote on the cloture petition on the Nicaragua appropriations measure.

We have not been able tonight to obtain consent to do that, but I hope we will be able to do so in the morning and be prepared to propound that request at or shortly after 10:30 in the morning. So if we are able to do so, it remains my intention to proceed in that manner tomorrow.

As I have indicated on several previous occasions Senators should be prepared for lengthy sessions tomorrow and Friday on the reconciliation bill, and, if need be, even beyond that as we attempt to complete action on that prior to October 15.

Mr. President, I yield to the distinguished Republican leader at this time.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Mr. President, I share the views expressed by the majority leader, and I think it is fair to say the Senator from Alaska [Mr. STEVENS] objected, not because he has any opposition to reconciliation but he has concern about one specific provision which he hopes to discuss in the morning.

I am going to encourage him to do that before the 10 o'clock Appropriations Committee meeting because he will need to be there. So we might proceed at 11 o'clock with the bill first mentioned by the majority leader.

I indicate that the Senator from Alaska wanted me to voice for him further that he was not trying to frustrate what the majority leader wishes to do, and he certainly wants to cooperate.

So hopefully we can proceed as outlined by the majority leader.

Mr. MITCHELL. Mr. President, I understand and appreciate that. The distinguished Senator from Alaska has been fully cooperative with me in every respect since I assumed this position. I hope he is able to get his questions answered so we can proceed as outlined tomorrow.

I want to thank all concerned, including the Presiding Officer and chairman of the Appropriations Committee who has agreed to call his committee together tomorrow to act in what we hope will be a prompt manner on the Nicaraguan legislation as it is my hope, as I have said many times, to bring that measure up and ultimately to gain its enactment.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 10:30 a.m. tomorrow, Thursday, October 12, 1989.

There being no objection, the Senate, at 8:24 p.m., recessed until Thursday, October 12, 1989, at 10:30 a.m.

NOMINATIONS

Executive nomination received by the Secretary of the Senate October 10, 1989, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

R. JAMES WOOLSEY, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE NEGOTIATION ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE).

Executive nominations received by the Senate October 11, 1989:

DEPARTMENT OF STATE

RUTH V. WASHINGTON, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

DEPARTMENT OF DEFENSE

ROBERT C. MCCORMACK, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE ROBERT H. CONN, RESIGNED.

DEPARTMENT OF EDUCATION

BETSY BRAND, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE BONNIE GUITON, RESIGNED.

GENERAL SERVICES ADMINISTRATION

RICHARD G. AUSTIN, OF ILLINOIS, TO BE ADMINISTRATION OF GENERAL SERVICES, VICE TERENCE C. GOLDEN, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WALTER G. BOLLINGER OF PENNSYLVANIA.
PRISCILLA M. BOUGHTON OF THE DISTRICT OF COLUMBIA.
MALCOM BUTLER OF TEXAS.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DAVID D. BATHRICK OF WASHINGTON.
RICHARD A. COBB OF FLORIDA.
RHYLLIS LESLIE DICHTER OF NEW JERSEY.
GEORGE A. HILL OF NEW JERSEY.
RICHARD A. JOHNSON OF MASSACHUSETTS.
MOSINA H. JORDAN OF NEW JERSEY.
LINDA E. MORSE OF MASSACHUSETTS.
SAMUEL S. REA OF PENNSYLVANIA.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

BARRY S. BURNETT OF NEW YORK.
LETICIA DIAZ OF TEXAS.
VALERIE L. DICKSON-HORTON OF TEXAS.
WILLIAM G. KASCHAK OF PENNSYLVANIA.
DAVID A. OOT OF NEW YORK.
MALCOLM J. PURVIS OF FLORIDA.
GORDON L. RANSOM OF FLORIDA.
MICHAEL A. RUGH OF CALIFORNIA.
KENNETH G. SCHOFIELD OF VIRGINIA.
MONICA KATHERINE SINDING OF NEW JERSEY.
DWIGHT R. STEEN OF VIRGINIA.
RICHARD C. THABET OF VIRGINIA.
FRED E. WINCH OF NEW HAMPSHIRE.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

BARBARA P. SANDOVAL OF VIRGINIA.
CAROL H. STEELE OF VIRGINIA.
DENNIS C. ZVINAKIS OF CALIFORNIA.

HOUSE OF REPRESENTATIVES—*Wednesday, October 11, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O loving God, to encourage others as they seek to be the people You would have them be and as they seek fulfillment in their lives. May not jealousy or pride or any selfish motive cause us to hinder another person and so deny them the respect and dignity that the entire human family deserves. May we so pray for our families, our friends, and our colleagues that they will receive those spiritual blessings that are Your gift to each of us. This is our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RAVENEL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RAVENEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 109, not voting 39, as follows:

[Roll No. 275]

YEAS—284

Ackerman	Bellenson	Browder
Akaka	Bennett	Bruce
Alexander	Bereuter	Bustamante
Anderson	Berman	Campbell (CA)
Andrews	Bevill	Cardin
Annunzio	Bilbray	Carper
Applegate	Boggs	Carr
Archer	Bonior	Chapman
Aspin	Borski	Clement
Atkins	Bosco	Clinger
AuCoin	Boucher	Coleman (TX)
Barnard	Boxer	Combest
Bartlett	Brennan	Condit
Bateman	Brooks	Conte
Bates	Broomfield	Conyers
Cooper	Kaptur	Pickle
Costello	Kasich	Porter
Coyne	Kastenmeier	Poshard
Crockett	Kennedy	Price
Darden	Kennelly	Pursell
Davis	Kildee	Rahall
de la Garza	Kolter	Ravenel
DeFazio	Kostmayer	Ray
Dellums	LaFalce	Regula
Derrick	Lancaster	Richardson
Dicks	Lantos	Rinaldo
Dixon	Laughlin	Robinson
Donnelly	Leath (TX)	Roe
Dorgan (ND)	Lehman (CA)	Rose
Downey	Lehman (FL)	Rostenkowski
Duncan	Lent	Rowland (CT)
Durbin	Levin (MI)	Rowland (GA)
Dwyer	Levine (CA)	Roybal
Dymally	Lewis (GA)	Russo
Dyson	Lipinski	Sabo
Early	Livingston	Saiki
Eckart	Lloyd	Sarpalius
Edwards (CA)	Long	Savage
Edwards (OK)	Lowey (NY)	Sawyer
Emerson	Luken, Thomas	Saxton
Engel	Manton	Scheuer
English	Martin (NY)	Schiff
Erdreich	Martinez	Schneider
Evans	Matsui	Schulze
Fascell	Mavroules	Sharp
Fazio	Mazzoli	Shaw
Feighan	McCloskey	Shumway
Fish	McCrery	Shuster
Flake	McCurdy	Sisisky
Flippo	McDade	Skaggs
Ford (MI)	McDermott	Skeen
Ford (TN)	McEwen	Skelton
Frank	McHugh	Slattery
Frost	McMillen (MD)	Slaughter (NY)
Gallo	McNulty	Smith (FL)
Gaydos	Meyers	Smith (IA)
Gejdenson	Miller (CA)	Smith (NE)
Gephardt	Miller (WA)	Smith (NJ)
Geren	Mineta	Solarz
Gibbons	Moakley	Spence
Gillmor	Mollohan	Spratt
Gilman	Montgomery	Staggers
Glickman	Moody	Stallings
Gonzalez	Moorhead	Stearns
Gordon	Morella	Stenholm
Gradison	Morrison (CT)	Stokes
Gray	Morrison (WA)	Studds
Green	Mrazek	Swift
Guarini	Myers	Synar
Gunderson	Nagle	Tallon
Hall (OH)	Natcher	Tanner
Hall (TX)	Neal (MA)	Tauzin
Hamilton	Nelson	Thomas (GA)
Harris	Nielson	Torres
Hatcher	Nowak	Torricelli
Hayes (IL)	Oakar	Towns
Hayes (LA)	Oberstar	Traficant
Hefner	Obey	Traxler
Hertel	Olin	Udall
Hoagland	Ortiz	Unsoeld
Hochbrueckner	Owens (NY)	Vento
Horton	Owens (UT)	Visclosky
Houghton	Packard	Volkmer
Hoyer	Pallone	Walsh
Hubbard	Panetta	Watkins
Huckaby	Parker	Waxman
Hughes	Patterson	Weiss
Hutto	Payne (NJ)	Wheat
Jenkins	Payne (VA)	Whitten
Johnson (CT)	Pease	Williams
Johnson (SD)	Pelosi	Wolpe
Johnston	Penny	Wyden
Jones (GA)	Perkins	Wylie
Jontz	Petri	Yates
Kanjorski	Pickett	

NAYS—109

Armey	Hastert	Roberts
Baker	Hawkins	Rogers
Ballenger	Hefley	Rohrabacher
Barton	Henry	Ros-Lehtinen
Bentley	Herger	Roth
Bilirakis	Hiler	Roukema
Bliley	Holloway	Schaefer
Boehlert	Hopkins	Schroeder
Brown (CO)	Hunter	Schuette
Buechner	Hyde	Sensenbrenner
Bunning	Inhofe	Shays
Burton	Ireland	Sikorski
Callahan	Jacobs	Slaughter (VA)
Chandler	James	Smith (TX)
Clay	Kolbe	Smith, Denny (OR)
Coble	Kyl	Smith, Robert (NH)
Coleman (MO)	Lagomarsino	Smith, Robert (OR)
Coughlin	Leach (IA)	Snowe
Cox	Lewis (CA)	Solomon
Craig	Lewis (FL)	Stangeland
Crane	Lightfoot	Stump
Dannemeyer	Lukens, Donald	Sundquist
DeLay	Machtley	Tauke
DeWine	Madigan	Thomas (CA)
Dickinson	Marlenee	Thomas (WY)
Dornan (CA)	Martin (IL)	Upton
Douglas	McCandless	Vucanovich
Dreier	McGrath	Walker
Fawell	McMillan (NC)	Weber
Fields	Michel	Whittaker
Gallegly	Miller (OH)	Wolf
Gekas	Murphy	Young (AK)
Goodling	Oxley	Young (FL)
Goss	Parris	
Grandy	Pashayan	
Hammerschmidt	Quillen	
Hancock	Rhodes	
Hansen	Ridge	

NOT VOTING—39

Anthony	Garcia	Rangel
Brown (CA)	Gingrich	Ritter
Bryant	Grant	Sangmeister
Byron	Jones (NC)	Schumer
Campbell (CO)	Kleczka	Smith (VT)
Clarke	Lowery (CA)	Stark
Collins	Markey	Valentine
Courter	McCollum	Vander Jagt
Dingell	Mfume	Walgren
Espy	Molinari	Weldon
Florio	Murtha	Wilson
Foglietta	Neal (NC)	Wise
Frenzel	Paxon	Yatron

□ 1021

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Louisiana [Mr. McCRERY] come forward and lead the House in the Pledge of Allegiance.

Mr. McCRERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPORT ON RESOLUTION PROVIDING FOR MOTION TO DISPOSE OF SENATE AMENDMENTS TO H.R. 2978, FLAG PROTECTION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-275) on the resolution (H. Res. 262) providing for a motion to dispose of the Senate amendments to the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag, which was referred to the House Calendar and ordered to be printed.

PLACING BLAME FOR THE FAILURE OF THE COUP IN PANAMA

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, this morning's news accounts are full of stories of the Bush administration's scurrying to place the blame for the Panama fiasco on anyone they can find. So far these scapegoats include the U.S. Senate and the failed rebels themselves. To their credit, they have not yet included Jimmy Carter or Mother Teresa.

I have urged the gentleman from Wisconsin, Mr. LES ASPIN, chairman of the House Armed Services Committee, to conduct an immediate investigation of this whole flawed failed enterprise. It is obvious our policy formulation and intelligence capabilities were lacking, to say the least. It is good that no American lives were lost. However, this appears to have been an accident of serendipity, rather than conscious prudence.

We knew this was coming. We were involved. We covered some roads, but not others. We did not cover the ones with the Noriega troops. Panamanian lives were lost and their country suffers evermore. Let us do everything possible to get the answers on this one.

TRIBUTE TO DR. MARGARET WALKER ALEXANDER

(Mr. PARKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress of the United States of America, to speak in honor of a great citizen of our country, Dr. Margaret Walker Alexander. Dr. Alexander exemplifies the characteristics that each of us as Members of this Congress would welcome the opportunity to share.

Mrs. Alexander has served her family, her country, and her people well. She has answered the unanswered question asked through out time, "Why does the caged bird sing." Dr. Alexander is the author of many books, including "For My People," "Prophets for a New Day," "Jubilee," and a biography, "The Daemonic Genius of Richard Wright." Her career as a published writer spans more than 50 years since she first appeared in Crisis magazine in May 1934. In 1935 Dr. Alexander received her bachelor of arts degree from Northwestern University. In 1940 she received the masters of arts degree and in 1965 a Ph.D. in English, both from the University of Iowa. Her novels, "For My People" and "Jubilee" became bestsellers. In 1954, she was a Ford Fellow at Yale University. She has appeared on the lecture platform reading her poetry and participating in symposia, seminars, and literary festivals throughout the Nation. As professor of English emeritus at Jackson State University, she founded and directed the black studies program—the Institute for the Study of History, Life and Culture of Black People—from its inception in 1968 until her retirement in 1979.

In the past 20 years, she has been the recipient of six honorary degrees and has received innumerable other awards, citations, certificates, and honors including a Living Legacy Award from President Jimmy Carter.

Her literary works appear in countless anthologies and textbooks throughout the international literary world. She appears in "Who's Who in America, "Who's Who in Southern Women," and "The Dictionary of Modern Literary Biography." She is a soldier who is on the battlefield, fighting for equality and freedom for all mankind, through her poetry and literary works.

□ 1030

UNITED STATES COMMITMENT TO HUMAN RIGHTS AND FREEDOM IN ETHIOPIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the people of Ethiopia are some of the most gifted and innately intelligent people in the world. Ethiopia is one of the oldest cultures in the world. So we ask: Why should they be oppressed and held down?

Now there is hope for change. The regime of Mengistu, Ethiopia's Communist military dictator, is coming apart at the seams. Mengistu's army, the mainstay of his power, has just sustained his third major defeat in less than 2 years.

Opposition guerrilla forces are now within 120 miles of Addis Ababa, the capital of Ethiopia.

But who is riding to the rescue? An article in Sunday's Washington Post reports that some of the administration's officials may favor upgrading diplomatic relations with Mengistu. I can hardly think of a more unwise move under the circumstances.

Mengistu allegedly has the worst human rights violation record in the world. Now is the time for the United States to not only talk but to act upon our commitment to human rights and freedom.

Let us back the democratic forces in Ethiopia. Let us back the people in Ethiopia.

Ethiopia will be one of the great nations of the world some day, and let us be on history's side.

WE MISSED THE CHANCE OF A LIFETIME TO BUST NORIEGA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America's drug war is nothing more than busting kids who go to jail and usually get raped, let us face it. When do we go after Mr. Big?

America imports now and drug smugglers bring in 60 metric tons of cocaine and 15 tons of heroin, and we are still busting kids.

Let us tell it like it is. Last week we had a shot, a chance of a lifetime, to bust Mr. Big, General Noriega, and to tell the truth, we got cold feet. We got wobbly knees, that is the bottom line.

Mr. President, if you are going to declare war on drugs, you cannot start by throwing in the towel. If Ronald Reagan were still President today, General Noriega would be in jail.

Mr. President, it is time that you take this matter to heart because Americans are wondering why a 12-year-old in New York can find heroin and our Government cannot seem to find it.

CONGRESS IS WAY BEHIND IN ITS CONSIDERATION OF BUDGET ISSUES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to comment on the legislative procedure that we have followed for the past several months. I do not mean to be presumptuous in making this observation after only a few months as a Member of the body; however, there may be merit in commenting while still holding the objectivity of newness. I do believe that the people of this country are not well served by the process we've used.

Specifically, it seems to me that the idea of bundling hundreds of issues—which clearly deserve consideration on their own merit—into one-package issues is not a good legislative process.

To compound the problem, the Congress is way behind in its consideration of budget issues. This tardiness clearly brings on a time imperative that reduces the quality of debate and consideration.

Finally, it seems to me that if there were a real commitment to reach a balanced budget, we could do so. Of course no one wants to give up those programs which are closest to their individual hearts and districts. If forced, however, priorities can be set. Other legislative bodies do it and so could we if we had the will.

Mr. Speaker, our procedures are not in the best interests of the people of this country. We should change them.

A DISASTROUS WEEK FOR FOREIGN POLICY IN CENTRAL AMERICA

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, this has been a terribly disastrous week for foreign policy in Central America, and it has been a disastrous week for American credibility in Central America.

We started out last Tuesday by the administration denying any involvement whatsoever in this coup attempt. They said:

> We did not instigate it; we did not participate in it, we did not do anything, and we did not have any capability or any signal that there was any capability to get Noriega from the coup plotters or those that eventually carried out the attempted coup.

But yet every day since then, more facts have come out from the same administration that gave us that first day's denial that showed that, ladies and gentlemen of this country, we have been lied to by this administration consistently since last Tuesday. It now turns out that they were offered Noriega and it now turns out that they had a helicopter waiting; it now turns out that they had blocked one of the access roads; it now turns out that they were going to give sanctuary to at least one or more of the families and/or the officers involved in this coup attempt.

What more lies can we expect before we get the truth?

Mr. President, the United States of America, its people, and the world demand the truth. We want to know once and for all why our foreign policy cannot be carried out and Noriega, one of the worst drug traffickers in the world, is still a free man.

It is on your shoulders, Mr. President, you are responsible.

H.R. 2887 PROVIDES FOR PREFERENCE OF U.S. OCEAN TRANSPORTATION OF U.S. GENERATED MAIL

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I have introduced H.R. 2887 to require the U.S. Postal Service to use U.S.-flag shipping exclusively for the ocean transportation of U.S. generated mail on trade routes where such service is available at fair and reasonable rates.

Mr. Speaker, my bill is consistent with the recommendations offered by the President's Commission on Merchant Marine and Defense, which suggested that one of the better ways for the Government to assist our ailing merchant marine is for the employment of U.S. vessels in the carriage of Government compelled or generated cargo.

Passage of H.R. 2887 is one small step in that direction and I urge my colleagues to support my bill with their cosponsorship.

GREATEST CASUALTY IN COUP ATTEMPT IN PANAMA WAS CREDIBILITY OF THE PRESIDENT

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, Panama, the official word, October 3, the White House:

> We do not know who is involved here.

October 4, the White House:

> Our sources were not directly involved in the insurgency; we never have had direct discussions.

The State Department, October 3:

> Let me note very clearly the United States was not involved.

The State Department, October 4:

> We were not involved in the planning of this. We have no sense of their plans or their intentions.

October 6, the White House:

> There apparently was some direct contact.

October 8, Defense Department:

> The United States blocked some access roads because the coup leaders requested this action.

October 8, the Secretary of State:

> The President committed troops to block these roads because we were requested to do so.

Mr. Speaker, it has been said that in war the first casualty is truth. The greatest casualty in the coup in Panama was the credibility of the President of the United States, and the credibility of the United States is worth more than 100 Panamanian dictators.

In time of crisis, Mr. Speaker, the Members of this institution are prepared to follow the President of the United States, but first, he must be believed.

Perhaps there are Members of this institution who are prepared to follow whether the truth is spoken or it is not. But the American people are entitled to know the truth, to make their judgment and then to follow.

That is a standard for this institution and worthy of the presidency of the United States.

□ 1040

IMPRESSIVE CODEL LEADERSHIP

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I just returned from Brussels and Geneva, as a member of the Congressional Arms Observer Group lead by the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the cochairman, the gentleman from Michigan [Mr. BROOMFIELD].

I want to praise the way those two gentleman handled this codel. We found very strong support for the President's position on the START talks and on the reduction of conventional arms in Europe.

It was absolutely amazing to me, and I think to all of my colleagues in talking not only to our negotiator but to the Soviet and East bloc negotiators, to find that they are really interested and sincerely concerned about reaching agreement. I came back from that trip and not only was very impressed with the leadership of our codel, but very confident that due to the leadership of President Bush, we will reach agreement in these very important areas.

BROADCAST INITIATIVE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last week the European Community took a step which threatens our ability to work together in the future. The European Community voted to limit one of our fastest growing and most successful exports. The 12 nations of the EC voted to limit to 50 percent the amount of American produced television programming which could be shown in the European Community. Programming exports have grown from $100 million in 1980 to $630 million last year. Banning American made programming on European broadcast stations, cable systems and satellite systems is not only unjustifiable, but blatantly discriminatory.

The European broadcast initiative is a clear indicator that the European Community does not believe in competition, and is willing to limit the choice available to television consumers in order to protect its own industry. Many of us had previously kept an open mind on the EC-92 initiative. If the broadcast initiative is a sign of things to come I fear we will be facing "Fortress Europe" with respect to trade. Our current trade problems with Japan will pale in comparison if the EC continues unchecked in this direction. It is time for all branches of our Government to work together in con-

vincing the EC to reverse its unwise position.

As a result of this blatantly anti-U.S. action I am considering legislation which would bar the corporation for public broadcasting from purchasing television programming from any foreign country which limits U.S. made programming. Any support from taxpayer supported institutions in furthering the European entertainment industry is unacceptable as long as the EC broadcast initiative is in effect.

MARYLANDERS TAKE PRIDE IN THE MAGICAL SEASON OF THE BALTIMORE ORIOLES

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, with the start of the World Series this week, the attention of the Nation is being captured by bay area baseball teams. Today, I rise to commemorate one such bay area team—not from the San Francisco Bay, however, but from Maryland's Chesapeake Bay—the Baltimore Orioles.

Two weeks ago, the Orioles completed their magical 1989 season with the greatest 1-year improvement of any pennant contender in major league history. Last year, the Orioles opened the season with a record 21 straight losses, finishing in last place. This year, a restructured Orioles team, under the sage tutelage of manager Frank Robinson, and led in the front office by president Larry Lucchino and general manager Roland Hemond, catapulted a collage of enthusiastic rookies, journeymen players, and a few seasoned veterans to an astounding 87 victories. In doing so, the team captured our hearts and imagination, demonstrated to us the wondrous effect of hard work and dedication to exceed all possible expectations, and allowed all Oriole fans to ask collectively "Why Not?" This was the Orioles slogan during this season.

I join my fellow Marylanders in saluting the 1989 Orioles. Just wait until next year. Perhaps, in Baltimore, at this time next year, there will be baseball played in October.

SPENDING OUR GRANDCHILDREN'S SOCIAL SECURITY BENEFITS

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, the deficit for the next fiscal year, fiscal year 1991, is required by law to be $64 billion or less. Nevertheless, in just a couple of weeks we are planning to increase the Federal debt limit $250 billion which is intended to see us through fiscal year 1991.

Wait a minute. If the deficit is going to be $64 billion, why do we need authority to borrow $250 billion? Because the deficit we count is a big lie but, Mr. Speaker, the biggest part of the lie is the Social Security Trust Fund.

In 1990, the Government will mask $68 billion in spending using Social Security reserves. This number gets even larger in coming years. We are allowing the trust fund to guarantee our deficit spending.

In 1993, the year Social Security is supposed to come off-budget for Gramm-Rudman purposes, it will mask $103 billion in spending. Does anyone believe that Congress will actually allow it to go off-budget?

Mr. Speaker, Congress is fast becoming addicted to spending our grandchildren's Social Security benefits for current consumption because we lack the courage to face the deficit problem head-on and make the tough decisions on spending and revenue. And that, Mr. Speaker, is simply intolerable.

COMPREHENSIVE REVIEW OF LAWS AND PROGRAMS GOVERNING OFFSHORE OIL AND GAS DRILLING

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today I am announcing that the Subcommittee on Water, Power, and Offshore Energy Resources is initiating a comprehensive review of the Federal Offshore Oil and Gas Drilling Program. This review will include an extensive evaluation of the effectiveness of the current offshore oil drilling law.

Our investigation will begin with a series of field hearings, including one this Saturday, October 14, in Key West, FL, on H.R. 2945, bipartisan legislation to permanently ban offshore drilling in Federal waters off of south Florida and the Florida Keys.

Mr. Speaker, the Federal Offshore Drilling Program has become paralyzed by political gridlock. During the 1980's, the main product of the program has been endless litigation and political conflict, not a sound energy policy as was intended by the 1978 amendments that I helped write to the OCS law.

The program has completely lost the confidence of the residents of coastal communities, State and local officials, and the Congress.

The result has been the passage of a series of 1-year congressional moratoria on offshore lease sales to ensure that environmentally harmful oil and gas development does not take place.

The administration is completing its own review of offshore drilling. Unfortunately, the independence of the task force established to conduct that review has been undermined by comments made by its chairman, Interior Secretary Lujan, that clearly indicate his vigorous support for offshore oil drilling. The bias of the President's task force increases the need for an independent review by Congress of the OCS Program.

CONGRATULATIONS TO SAN FRANCISCO

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise with great pride today to salute the National League champions, the San Francisco Giants, and on behalf of my colleague representing San Francisco, the gentlewoman from California [Mrs. BOXER]. I want to not only congratulate the Giants but recall to our colleagues' minds the fact that we rose earlier this year to salute the world champion Superbowl winners, the San Francisco '49ers. This, combined with the A's victory on the American League makes the San Francisco Bay area the undisputed sports capital of the world.

Not only that, but on Monday, the day of our victory, we received the good news that Dr. J. Michael Bishop and Dr. Harold E. Varmus of the University of California, San Francisco, had been awarded the Nobel Prize for medicine for their research for cancer. Appropriately, they celebrated by seeing the Giants' victory that day in Candlestick Park.

I thank the gentleman from Illinois [Mr. RUSSO], for the Tootsie Rolls, and look forward with great curiosity to the Michigan wine from the Cubs' fan, the gentleman from Michigan [Mr. UPTON]. Wine in California will be a big amusement.

In addition to that, gentlemen from California [Mr. DELLUMS and Mr. STARK], now it is a question of where the victory party will be—at Jack London Square in Oakland or Fisherman's Wharf in San Francisco.

Mr. Speaker, San Francisco loves baseball, looks forward to the bay series, and congratulates Mr. Bob Lurie of the San Francisco Giants and Mr. Walter Haas of the Oakland A's for their success. We congratulate them for making the San Francisco Bay area the sports' capital of the world. May the better team win.

ADMINISTRATION'S TEAM FALLS SHORT ON PANAMA

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, I came to the floor to address the House for 1 minute because I was watching as some Members took the floor to rail against the administration's Panama activities. Similar people railed against this administration when they were involved militarily in Central America. The same people who denied any American involvement militarily in

Central America, I think have a tough time getting up and railing against the lack of military involvement at this stage. It sounds to me like a twist on an old proverb where you have the sheep this time in wolf's clothing.

That, however, is not to deny that some serious failure has occurred in Panama, that there has been a tragedy, and, frankly, this administration's team, which is composed of superstars, had better start acting like a team.

AMERICA'S AIRLINE INDUSTRY THREATENED BY CAPITAL VAMPIRISM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, our once proud and competitive airline industry is being dismantled wholesale by leveraged buyouts.

These transactions were not triggered by poor management. The targeted airlines are well managed and profitable. These transactions are not triggered by a need to recapitalize, to expand, or to modernize our airlines. Not a penny of the profits is reinvested in new planes or facilities.

Plainly and simply, these leveraged buyouts are motivated by greed. They are symptoms of a new disease on Wall Street, capital vampirism, sucking the lifeblood, the planes, the equipment, the employees, out of the U.S. airline industry for some short-term gain for some Wall Street raiders.

The flying public is not protected in these raids. They should be. We must give the Secretary of Transportation explicit authority to approve, disapprove, or require modification of these takeovers. We should make certain there is no deterioration in safety or maintenance, we should make certain that the airlines will not be forced to sell off their vital assets to meet debt load, and we should make certain our airlines are able to compete and expand to meet the growing need for safe air travel.

Mr. Speaker, I ask the Members to join me in sponsoring legislation to slow down the wholesale dismantling of our airline industry.

UNITED STATES INTELLIGENCE IN PANAMA

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, I distinguish myself from my colleagues on both sides of the aisle who have criticized the Bush decision or nondecision last week in Panama, inasmuch as I agree with the final decision not to intervene. Unfortunately, the Bush administration arrived at this decision by default. Robert Kennedy said it best during the Cuban missile crisis that in Washington no decision is a decision.

Several months ago, we were faced with the same lethargy when Colonel Higgins was brutally murdered in Lebanon, the administration had no plan and there was no intelligence coordination.

Today, we have a former CIA director in the White House who did not consult the CIA. The Joint Chiefs of Staff did not even sit down together to discuss U.S. strategy.

How many death threats and coup attempts must we endure before the administration coordinates its efforts to act decisively? It's time we faced decisions squarely instead of backing into them. It's time we act on the strength of American intelligence rather than react out of ignorance.

ACID RAIN LEGISLATION SHOULD AWAIT RESULTS OF NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, Congress would be penny wise and pound foolish if it were to enact prematurely on acid rain legislation before the National Acid Precipitation Program is complete.

In 1981, Congress initiated and authorized a 10-year study at the cost of $500 million involving three nations, Great Britain, Canada, and the United States, to study the effects of acid rain and to conclude that study by 1990. Now, I ask, should we waste half a billion dollars of taxpayers' money by enacting premature legislation?

Without the true facts, we could be destroying the coal industry in the United States. Coal, if used right, will be the energy of the future unless we want to continue to rely on more foreign oil and more foreign gas.

Mr. Speaker, let us not destroy the potential of America's natural energy resource with imprudence, misguidance, and political motive.

WHITE HOUSE SHOULD FOCUS ON PROBLEMS IN CITY OF WASHINGTON

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, since last Friday, 29 people have been wounded in the District of Columbia.

Since last January 1, 353 people have been murdered in Washington.

Washington, DC, is the most important city in the world, yet it is the murder capital of this Nation.

The Bush administration wants to run elections in Nicaragua, it wants to make the rich in this country even richer by an urgent, top priority fight for them to pay less taxes, and it is excited about its Star Wars programs.

What does this say about their priorities?

I ask, why doesn't President Bush care about the wholesale murders of mostly black American citizens a few blocks from the White House?

What will it take to get the President involved in the city in which he lives?

If the same thing were happening in Potomac, Chevy Chase, Bethesda, or other plushy neighborhoods in this country, would the lack of response be the same,

I think that we all know that the response would be different, far different.

Yes, then there would be a sense of urgency, and deep concern about stopping the murders.

Mr. President, I ask, why don't you care about what is happening in the city in which you live? Why don't you try to do something about the unlivable conditions for American citizens just a few blocks from the White House?

UNITED STATES-MEXICO DEBT EXCHANGE AND BORDER DEVELOPMENT ACT OF 1989

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, I recently introduced H.R. 3146, the United States-Mexico Debt Exchange and Border Development Act of 1989.

Mexico's economic difficulties are primary causes of recent, explosive population increases in border communities and growth in immigration of Mexican citizens into our country, both legal and illegal. The resulting problems include pollution, increased drug trafficking, and intense pressure on the Border Patrol along the world's most heavily traveled border.

This legislation seeks to alleviate some of these problems, acting as a vehicle for establishing programs to exchange the public debt of the Government of Mexico for development in the border region.

The recent visit of President Salinas, and increased awareness of the importance of our neighbor to the south, we, as Members of Congress, must demonstrate leadership and commitment in dealing with these problems in a nation so closely tied to our own. I urge the Members to cosponsor H.R. 3146.

CHILD ABUSE PREVENTION CHALLENGE GRANTS REAUTHORIZATION ACT OF 1989

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2087) to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes, with

a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention Challenge Grants Reauthorization Act of 1989".

SEC. 2. TRANSFER OF CERTAIN PROGRAM TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—Sections 402 through 409 of title IV of Public Law 98-473 (98 Stat. 2197 et seq.) are—

(1) transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.);

(2) redesignated as sections 201 through 208, respectively; and

(3) in the appropriate sequence, inserted after section 15 of the Child Abuse Prevention and Treatment Act.

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for carrying out the program transferred by subsection (a) to the Child Abuse Prevention and Treatment Act, the transfer of such program may not be construed to affect the availability of such amounts for carrying out such program.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by section 2 of this Act, is further amended—

(1) by redesignating sections 2 through 15 as sections 101 through 114, respectively;

(2) by inserting before section 101 (as so redesignated) the following new heading:

"TITLE I—GENERAL PROGRAM";

and

(3) by inserting before section 201 the following new heading:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS".

(b) CROSS-REFERENCES IN TITLE I.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) in section 102—

(A) in subsection (c)(1)(A), by striking "section 4" and inserting "section 103";

(B) in subsection (e), by striking "section 4(f)" and inserting "section 103(f)"; and

(C) in subsection (f)(2)(E), by striking "sections 6 and 7" and inserting "sections 105 and 106";

(2) in section 104(b)—

(A) in paragraph (1), by striking "section 6(b)" and inserting "section 105(b)"; and

(B) in paragraph (2)(B), by striking "section 105(a)(1)" and inserting "section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988";

(3) in section 105—

(A) in subsection (a)(2)(A), by striking "section 7" and inserting "section 106"; and

(B) in subsection (b)(3), by striking "section 5" and "section 10" and inserting "section 104" and "section 109", respectively;

(4) in section 108—

(A) in subsection (a)(1), by striking "section 8(b)(10)" and inserting "section 107(b)(10)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title";

(5) in section 109(b)(1), by striking "sections 8(b)" and all that follows and inserting the following: "sections 107(b) and 107(e) or receive a waiver under section 107(c);";

(6) in section 112(b)—

(A) in paragraph (1), by striking "section 10" and inserting "section 109"; and

(B) In paragraph (2), by striking "section 9" and inserting "section 108";

(7) in section 113—

(A) in the matter preceding paragraph (1), by striking "this Act" and inserting "this title";

(B) in paragraph (1), by striking "section 3" and inserting "section 102";

(C) in paragraph (2), by striking "section 2" and inserting "section 101"; and

(D) in paragraph (9), by striking "section 4" and inserting "section 103"; and

(8) in section 114—

(A) in subsection (a)—

(i) in the first sentence, by striking "this Act" and inserting "this title"; and

(ii) in the second sentence—

(I) by striking "sections 5, 6, and 7" and inserting "sections 104, 105, and 106";

(II) by striking "sections 8(a) and 9 of this Act" and inserting "sections 107(a) and 108";

(III) by striking "section 7(a) of this Act" and inserting "section 106(a)"; and

(IV) by striking "section 8(f) of this Act" and inserting "section 107(f)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title".

(c) CROSS-REFERENCES IN TITLE II.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) in title II, by striking "sections 402 to 409" each place such term appears and inserting "this title";

(2) in section 205(b)(1)(A)—

(A) by striking "section 2" and all that follows through "Treatment Act" and inserting "section 101"; and

(B) by striking "section 5" and inserting "section 204"; and

(3) in section 208, by striking "section 6(b)(1)(C)" and inserting "section 205(b)(1)(C)".

(d) TABLE OF CONTENTS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as otherwise amended by this Act, is amended in section 1(b), in the table of contents—

(1) by redesignating the items relating to sections 2 through 15 as items relating to sections 101 through 114, respectively;

(2) by inserting after the item relating to section 1 the following new item relating to title I:

"TITLE I—GENERAL PROGRAM";

and

(3) by adding at the end the following new items:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS

"Sec. 201. Findings and purpose.
"Sec. 202. Definitions.
"Sec. 203. Grants authorized.
"Sec. 204. State eligibility.
"Sec. 205. Limitations.
"Sec. 206. Withholding.
"Sec. 207. Audit.
"Sec. 208. Report.".

SEC. 4. STYLISTIC MODIFICATION OF TRANSFERRED PROGRAM.

(a) SECTION 201.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 201—

(1) by striking all that follows through "The Congress finds that—" in subsection (a) and inserting the following:

"SEC. 201. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—"; and

(2) in subsection (b), by inserting "PURPOSE.—" after the subsection designation.

(b) SECTION 202.—

(1) DEFINITIONS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking the section heading and all that follows through "As used" and inserting the following:

"SEC. 202. DEFINITIONS.

"As used".

(2) STATE.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

(c) SECTION 203.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203—

(1) by striking the section heading and all that follows through "The Secretary" in subsection (a) and inserting the following:

"SEC. 203. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary";

(2) in subsection (b), by inserting "PAYMENTS.—" after the subsection designation; and

(3) in subsection (c), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after the subsection designation.

(d) SECTION 204.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 204 by striking the section heading and all that follows through "Any State" in the matter preceding paragraph (1) and inserting the following:

"SEC. 204. STATE ELIGIBILITY.

"Any State".

(e) SECTION 205.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 205—

(1) by striking the section heading and all that follows through "Any grant" in subsection (a)(1) and inserting the following:

"SEC. 205. LIMITATIONS.

"(a) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Any grant";

(2) in subsection (a)—

(A) in paragraph (1), by moving subparagraphs (A) and (B) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "paragraph (1)" and inserting the following:

"(2) DEFINITION.—For purposes of paragraph (1)(B)"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking all that follows through "No grant" in the matter preceding subparagraph (A) and inserting the following:

"(b) APPLICATION.—

"(1) REQUIREMENTS.—No grant"; and

(ii) by moving subparagraphs (A) through (C) two ems to the right so that the left mar-

gins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "The Secretary" and inserting the following:

"(2) APPROVAL.—The Secretary".

(f) SECTION 206.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 206 by striking the section heading and all that follows through "Whenever the Secretary" and inserting the following:

"SEC. 206. WITHHOLDING.

"Whenever the Secretary".

(g) SECTION 207.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 207 by striking the section heading and all that follows through "The Comptroller General" and inserting the following:

"SEC. 207. AUDIT.

"The Comptroller General".

(h) SECTION 208.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 208 by striking the section heading and all that follows through "The Secretary" and inserting the following:

"SEC. 208. REPORT.

"The Secretary".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR TRANSFERRED PROGRAM.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203(c) by striking "There is authorized" and all that follows and inserting the following: "For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991, but in no event shall amounts so appropriated exceed $7,000,000 in any fiscal year.".

SEC. 6. AUTHORITY, WITH RESPECT TO TRANSFERRED PROGRAM, OF NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 104(b)—

(1) by striking "and" after the semicolon at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2)(D) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.".

SEC. 7. STUDY OF TRANSFERRED PROGRAM BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—With respect to the program transferred by section 2(a) to the Child Abuse Prevention and Treatment Act, the Comptroller General of the United States shall conduct a study of the trust funds or other funding mechanisms established by the States pursuant to the program for the purpose of determining, for each State with such a funding mechanism—

(1) whether the amounts provided by the Federal Government under the program are the only Federal funds received by the State for child abuse prevention activities;

(2) if Federal funds received under the program are not the only Federal funds received by the State for such activities, whether receiving the Federal funds under multiple programs constituted an unnecessary administrative burden for the State, and if so, a description of the nature of the burden;

(3) the extent to which, in the fund, amounts received by the State from the Federal Government under the program, together with State funds contributed pursuant to the program, are commingled with other Federal and State funds, including a specification of the total amount contributed by the State to the fund and the percentage constituted by such amount; and

(4) the amount expended by the State from the fund for each of the activities authorized in the eligibility provisions of the program, the percentage of the fund constituted by each such amount, and the policies underlying the allocation among such activities of amounts in the fund.

(b) REPORT.—The Comptroller General of the United States shall, not later than September 30, 1990, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.

□ 1100

Mr. OWENS of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the initial request of the gentleman from New York?

Mr. BARTLETT. Reserving the right to object, Mr. Speaker, I will not object, but will the gentleman please explain this measure.

Mr. Speaker, I yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Speaker, H.R. 2087 is the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989.

Mr. BARTLETT. Further reserving the right to object, Mr. Speaker, it is with continued reluctance that I support H.R. 2087. This program has been a considerable success in the past several years, such a success, in fact, that it has accomplished its mission fully in 48 of the 50 States.

H.R. 2087 provides two additional years of funding to determine the continued mission of the House Child Abuse Grant, so that Congress shall adopt appropriate legislation.

I do rise to support the Senate language in H.R. 2087, the Child Abuse Challenge Grants Act. I note the Senate made two modest improvements to the House bill which I believe are needed. First, the Senate included a $7 million cap on the amount of Federal funds that can be appropriated for this program. This is an improvement over the House bill which set the authorization for Child Abuse Challenge Grants at "such sums." The current fiscal year 1989 appropriation for this program is $4.7 million and 48 States have developed trust funds or other funding mechanisms to prevent child abuse as a result of the Child Abuse Challenge Grants Act.

I think it makes sense to enact a funding cap so that a message is sent to the States that the Congress believes this program has been successful in assisting the States to establish these trust funds but that States must continue to provide the strong level of support necessary to maintain child abuse prevention activities. It is my hope that the Appropriations Committee scrutinizes the need for these funds prior to determining appropriate amounts.

Second, the Senate added the U.S. territories and the District of Columbia as entities eligible to receive Federal funding under this program if they establish a trust fund or other funding mechanism for the purpose of preventing child abuse and neglect.

Finally, I am particularly glad that the Senate retained the House language to require the GAO to conduct a study to determine whether this legislation has a continued purpose or whether we ought to shift these funds into a different and related mission since the Federal Challenge Grant Program may well seem to have accomplished its original goal. This study should provide the Congress with the necessary data on how States spend the Federal dollar so that we can revisit this issue when the Child Abuse and Neglect Prevention and Treatment Act is considered in fiscal year 1991.

I think these improvements were necessary and with these comments I urge my colleagues to support this legislation.

Mr. BARTLETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2087, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CHILDREN WITH DISABILITIES TEMPORARY CARE REAUTHORIZATION ACT OF 1989

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2088) to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986,

with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children With Disabilities Temporary Care Reauthorization Act of 1989".

SEC. 2. REFERENCES TO CHILDREN WITH DISABILITIES.

The Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in section 203, in the first sentence, by striking "handicapped children" and inserting "children with disabilities"; and

(2) in section 205—

(A) by striking "working with handicapped" and all that follows through "families" in subsection (a)(2)(C), and inserting the following: "working with children with disabilities, with chronically ill children, and with the families of such children,"; and

(B) by striking "the term" and all that follows through "such term in" in subsection (d)(2), and inserting the following: "the term 'children with disabilities' has the meaning given the term 'handicapped children' in".

SEC. 3. STATE INTERAGENCY COORDINATION.

(a) IN GENERAL.—Section 205(a)(1) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1)(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by inserting after such clause (iv) the following new clause:

"(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203."; and

(2)(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

"(i) receive Federal financial assistance; and

"(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.".

(b) DEFINITION.—Section 205(d) of such Act (42 U.S.C. 5117c(d)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

SEC. 4. REPORTS.

Section 205(c) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended in the second sentence to read as follows: "Such report shall include—

"(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

"(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

"(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

"(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1) in the first sentence, by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1990 and 1991"; and

(2) in the second sentence, by striking "Such sums" and inserting "Amounts appropriated under the preceding sentence".

SEC. 6. REVISION OF SHORT TITLE.

Section 201 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended by striking "This title" and all that follows and inserting the following: "This title may be cited as the 'Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986'.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1989, or on the date of the enactment of this Act, whichever occurs later.

Mr. OWENS of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. BARTLETT. Reserving the right to object, Mr. Speaker, and I will not object because I strongly support this legislation, but I yield to the gentleman from New York to explain his unanimous-consent request.

Mr. OWENS of New York. Mr. Speaker, the legislation under consideration today signals the continued significance Congress attaches to the protection of children's lives and welfare. These two programs add up to less than $12 million in appropriated dollars compared to the billions that we have committed to the savings and loan fiasco and the arsenal of unnecessary missile systems. The legislation is important to States whose budgets for children's programs continue to be squeezed, in part because of mistaken priorities at the Federal level.

Approximately 10 million children—10 to 15 percent of the population—have a chronic illness. Of these, about 1 million have a severe chronic illness. Of the total, about 96 percent live at home rather than in institutions. Families of children with disabilities are under increased stress. These families are twice as likely to experience separation or divorce. There is a significant relationship between child abuse and children who are developmentally disabled and we know that respite care programs work to reduce the number of children who are abused.

H.R. 2088, the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1989, continues a demonstration grant program to the States to assist public and private agencies and organizations in alleviating the social, emotional, and financial stress among families of children with disabilities. The legislation provides crisis nurseries for children who are abused and neglected, or at risk of abuse and neglect, including families who are receiving child protective services.

I should note for the record that the Senate amendments to the House bill expand the term "State"—for funding eligibility—certain territories and possessions of the United States, including American Samoa.

I want to praise Mr. STEVE BARTLETT, the ranking Republican on the Subcommittee on Select Education, for supporting an increased authorization for this program.

The Child Abuse Grant Program was originally enacted in 1984 to encourage States to adopt child abuse prevention funding programs, such as children's trust funds which some States had previously established. These prevention funds are State governmental entities which help communities assume responsibility for the prevention of child abuse by providing needed expertise and funding. Since Kansas established the first children's trust fund in 1980, 49 States have set up some form of specially designated child abuse prevention fund eligible for Federal challenge grants. Despite the relatively low level of funding for this program—one Federal dollar for every $4 raised by the States—Federal funds have leveraged important resources and activities, allowing States to provide more services in a greater number of communities than would have been possible with State reve-

nues alone. Resources, however are still inadequate to meet the needs. Each year, State prevention funds are unable to support thousands of qualified programs. The director of the Wisconsin Children's Trust Fund reports that only 20 percent of total requests are funded. The first request for proposals under the New York State Children and Family Trust Fund attracted 418 applications from service providers, totaling $27 million, but the $2.25 million available allowed for was allocated for that State's trust fund against $1.6 million in requests from proven community based primary prevention services. In some States, the funded grantees run as low as 8 percent of the eligible applicants.

President Bush has continued the practice of the past administration in not requesting funds for this program. Once again, the Congress sends a clear bipartisan message that it is unconscionable to withhold the small but critical Federal dollars from this program at this time when child abuse continues its dramatic rise. Between 1981 and 1986, reports of child abuse and neglect increased by more than 90 percent. In both 1986 and 1987, more than 1,100 children died from abuse or neglect, resulting in an average of three child abuse deaths every day.

H.R. 2087 reauthorizes a State formula Child Abuse Prevention Grant Program for 2 more years and transfers the Child Abuse Challenge Grant Program as a new title IV of the Child Abuse Prevention and Treatment Act. The Senate amendments to the House-passed bill places a cap of $7 million that can be appropriated for this program.

I urge the quick passage of these critical children's programs, and I include the following material:

[To appear in October 18, 1989, issue of Education Week]

NEEDED NEW NATIONAL INSTITUTES OF EDUCATION TO HELP CURE THE NATION'S EDUCATION ILLS

(By Authur E. Wise)

At last month's education summit, President Bush and the nation's governors agreed to set national goals in seven areas: the readiness of all children to start school; the performance of students on international achievement tests; the reduction of dropout rates; the functional literacy of adults; the level of training necessary to guarantee a competitive work force; the supply of qualified teachers and up-to-date technology and the establishment of safe, drug-free schools.

Addressing these concerns—which include some of the most intractable problems in American education—will require strengthened effort on the part of educators and students. Solutions may also mean reallocating existing resources or tapping new resources.

But effort and money alone will not be enough; if they were, the problems would not be so longstanding or so pervasive. New alternatives—new knowledge and new products—will also be necessary. A major source of fresh ideas and techniques can be federally sponsored research and development—provided that the federal educational-research apparatus is overhauled.

With the House Subcommittee on Select Education set to begin hearings soon on the reauthorization of the Education Department's office of educational research and improvement, the time is ripe to mobilize research in seeking cures for the nation's education ills. Taking the summit's proposals as its starting point for these hearings, the Congress should move to replace the current research structure with mission-oriented institutes, each directed at a major educational goal or problem.

Research and development is one of the clearest education responsibilities of the federal government. The reauthorization hearings for O.E.R.I. typically involve abstract discussion of the relative emphasis to be given to basic research, applied research, development, improvement, and dissemination. Or they concern the extent to which the federal government should conduct its research through field-initiated proposals, programmatic research, centers, labs, contracts, nationally planned reforms, and locally initiated reforms.

The hearings sometimes focus on topics to be covered, such as teaching or learning. Ocassionally, they consider the relative merits of psychological, sociological, or economic inquiry. But rarely do they directly engage the nation's educational problems or goals.

The existing structure, that is, is not mission-oriented. O.E.R.I. is currently organized by function: Its agencies include the fund for the improvement and reform of schools and teaching, office of research, programs for the improvement of practice. The office of research itself is organized by area; education and society, higher education and adult learning, learning and instruction, and schools and school professionals. This structure does not create a clear set of targets for research. As a result, the enterprise lacks accountability.

And over the last two decades, the federal government has been systematically disinvesting in educational research. According to the General Accounting Office, the federal investment declined by 70 percent in real terms between the early 1970's and the late 1980's.

As the nation embarks on a restructuring of the education system, it will discover that sound new knowledge and well-tested products are in short supply. It will also find that many of the proposed "solutions" to current problems have no theoretical or empirical grounding. Is school-based management, for example, compatible with externally imposed goals? What are the consequences for students of introducing market incentives to schools and their staffs? Will more measurement of skills create the intellectual capital needed to drive the postindustrial economy?

If the nation's schools must change, our leaders should direct those changes on the basis of established knowledge and well-tested alternatives. Otherwise, schools will change but will not improve. And they will waste resources in poorly grounded efforts simply to do things differently.

Incremental change in the educational-research structure will not do if America's leaders are seeking non-incremental change in schools.

Let us envision a new set of research institutes to be created by the Congress and to be called, perhaps, the "national institutes of education."

As the allusion in this title suggests, one model for such a reorganization of educational research might be the National Institutes of Health. In recent years, the Congress has established new institutes, such as the National Cancer Institute, only to address specific diseases—that is, specific problems. The N.I.H. has grown in importance as the Congress, researchers, and other interested parties have interacted about health issues and research breakthroughs. Congressional hearings concerning the N.I.H. deal less with functions, ways of doing business, or disciplines than with diseases to be cured or problems to be solved.

Each new institute increases the overall activity and impact of the N.I.H., and creates new sponsors, advocates, and constituents, including but extending well beyond members of the medical and the medical-research communities.

Organized in an analogous fashion, the federal structure for educational research could help crystallize thinking about the needs of our schools.

The seven concerns identified by the summit's participants represent one potential set of "missions" on which to found national institutes of education. Several other groups have suggested perspectives that, while differing in some particulars, reflect a large area of consensus about the nation's education problems. Examples of such analyses include outlooks offered recently by the National Academy of Education; the newly formed Business Coalition for Education Reform; Ernest L. Boyer, president of the Carnegie Foundation for the Advancement of Teaching; the nation's governors in their agenda for the summit; and Congressional Democrats in their proposed list of national goals.

The imminent reauthorization discussion should focus on these configurations of problems and goals, with a view toward establishing five to seven mission-oriented institutes.

Right now, the nation spends over $300 billion a year on education; the federal government currently spends about $22 billion. Some have suggested that a federal research budget on the order of 1 percent of that figure—$220 million—might be a reasonable target. With a budget of this size, five institutes could be funded at $40 million each. In fact, there is already an institute within the Education Department—but outside O.E.R.I.— functioning at approximately this level; the National Institute of Disability and Rehabilitation Research.

A few other features would round the system out. The institutes should conduct programmatic research and development. But so that the creativity of the field is fully tapped, each institute should also set aside 15 percent of its budget to be separately managed in a field-initiated-studies program of about $30 million. Research centers, operating at $1 million or $2 million a year, could be dedicated to one institute or could serve several. Regional laboratories could help their regions focus on the institute missions.

A "headquarters" could coordinate activities across the institutes. It might, for example, manage center and lab competitions. Headquarters would also balance the ways of doing business, ensuring that there would not be unnecessary duplication.

Not only the organization of the N.I.H. but also those of the National Science Foundation and the newly restructured National Center for Education Statistics might suggest ways of holding the institutes to their emphases, once selected. Once the first institutes are launched, they ought to be around for a long time. As new problems or opportunities emerge, the Congress could consider creating additional institutes.

The renaming—and appropriate reorganizing—of O.E.R.I. as the national institutes of education" would connote serious and sustained federal attention to the nation's most serious education ills.

Mr. BARTLETT. Further reserving the right to object, I rise in strong support of the Senate language of H.R. 2088, the Temporary Handicapped Children's Child Care and Crisis Nurseries Act. The Senate only made one minor change from the House bill which allows the District of Columbia and the U.S. territories to be eligible for funds under this program.

H.R. 2088 continues demonstration grants to the States to assist private and public organizations in providing respite care to families who have a disabled child. The House passed this legislation on July 11, 1989. Respite is a needed service for parents and families of children with disabilities and it is a program that will ultimately save the taxpayer millions of dollars.

While the reauthorization of $20 million for fiscal year 1990 and fiscal year 1991 is a dramatic increase over the current appropriation, I believe this cost is a small Federal investment in order to keep disabled children in the home and community. Without the availability of respite care, the other alternative for parents is out-of-home residential placement. This alternative currently costs the Federal Government approximately $8.5 billion annually and has negative consequences for the parents, for the disabled child and for the taxpayer.

Respite care is a service that provides parents with severely disabled children an occasional break from the needs of those children. Providing this service is good for the parents; good for the family; good for the disabled child; and, good for the taxpayer.

I strongly support this legislation and urge the House to pass H.R. 2088.

Mr. BARTLETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2088, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 2990, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 2990) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes, and ask unanimous consent for its immediate consideration, and that the report and Senate amendments be considered as read.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

(For conference report and statement, see proceedings of the House of Friday, October 6, 1989, at page 23664.)

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report and amendments in disagreement on the bill, H.R. 2990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the conference report on H.R. 2990, the fiscal year 1990 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and related agencies. The conference agreement provides a total of $156,746,000,000, of which $113,326,000,000 is for mandatory programs and $43,420,000,000 is for discretionary programs whose spending levels are set through the annual appropriations process. The total discretionary funding provided is $2.3 billion above the 1989 level and $1.3 billion above the President's 1990 request. By Department, the conference agreement provides $6,728,000,000 for Labor; $124,803,000,000 for Health and Human Services; and $24,153,000,000 for Education.

I am pleased to inform the Members that this conference agreement stays within our 302(b) allocation for discretionary programs and, further, that we were able to achieve this without an across-the-board reduction of any kind. We have reserved $1,667,000,000 in budget authority and $73,000,000 in outlays, which will be required to fund the antidrug abuse initiative and child care legislation, if it becomes authorized.

Of the 177 amendments considered by the conferees, only 1 remains in disagreement and that relates to Federal funding of abortion. The House bill includes language identical to current law which allows Federal funding for abortions only when the life of the mother would be endangered if the fetus were carried to term. The Senate bill contains additional language extending the circumstances for Federal funding to include rape and incest. The President has indicated that he will veto the bill if the Senate language is retained. At the proper time I will offer a motion to insist on the House language in this matter.

I will not take time to describe the specific agreements on the many programs contained in the bill. But I would like to highlight just a few areas. The agreement provides $8,580 million for biomedical research, which is an 8.1 percent increase over 1989. Over the years, our subcommittee has been convinced of the great benefits of investing in biomedical research, a belief reconfirmed over the weekend with the news that two cancer researchers, who have received $18 million in NIH funding, were awarded the Nobel Prize in medicine.

Another area of special interest is the increase we were able to provide for chapter 1, compensatory education for the disadvantaged. The chapter 1 total of $5,425 million for 1990 is $855 million above the 1989 level—a record increase of 18.7 percent.

The conference agreement includes $6,175 million for student financial assistance, which is an increase of $361 million over the 1989 funding level. This amount includes $131 million specifically to deal with the shortfall in 1989 Pell Grant funds. With this addition and with a series of legislative changes made to reduce costs in 1990, no linear reduction should be required. The maximum grant is retained at $2,300.

I should also mention that although we felt constrained to defer to the Senate's position reducing 1990 funds for State legalization impact assistance grants, the conferees did restore this funding for 1992, a year in which State outlays are expected to be higher.

I would like to take this opportunity to clarify the intent of the conferees with regard to the Refugee and Entrant Assistance Program. The statement of the managers referring to the setaside of 10 percent of targeted assistance funds for highly impacted areas contains a printing effort. The statement should read "including secondary migrants who entered the United States after October 1, 1979" rather than October 1, 1989.

Mr. Speaker, the full conference agreement is described in the statement of the managers accompanying the conference report, which includes a detailed table with appropriate comparisons. The agreement was printed in the RECORD of October 6, 1989. We believe that this is a good bill—a good compromise between the House and the Senate. We urge the adoption of the conference report.

Mr. Speaker. I include the following statement:

H.R. 2990—LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL

The paragraph on Conference on H.R. 2990 has reported the FY 1990 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill. The President's senior advisors would recommend that the President sign this bill provided it does not contain the Senate language in section 204 concerning abortion.

The Administration finds unacceptable the Senate's attempt to expand Federal funding for abortion beyond cases where the life of the mother would be endangered if the fetus were carried to term. In a letter dated August 2, 1989, regarding the District of Columbia Appropriations Bill, the President stated that he would veto a bill language permitting use of appropriated funds for abortions other than those where the life of the mother would be endangered if the fetus were carried to term.

The House is urged to insist on its position so that the President can be presented a bill that he can sign.

□ 1110

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2990, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1990.

This is the fourth conference report the Appropriations Committee brings to the floor of the House this year, and in my opinion, it is the most important one. If they gave a Nobel Prize for good intentions, this bill would be a shoo-in. It may not do everything for everyone, but we do our best.

If this bill has a target, it is the things we hold dear: Jobs, families, health, and education. It worries about our children, and about our grandparents. This is the bill meant for the neighbor next door, which says there is a level of dignity and opportunity that everyone in this country deserves.

It is never an easy job to work out the differences between the House and Senate in this bill, all 177 of them, when there are so many compelling interests.

That job becomes harder and harder because of the spending restraints that are the current reality. The conference report provides $156.7 billion, $14 billion over last year. That sounds like a lot of money, but listen to this. Of that total, just $43.5 billion is discretionary, that is, only one quarter of the money in this bill is controllable. The rest, we either appropriate or they take us to court.

In the controllable area, the increase is $2.3 billion over last year, $362 million over the House-passed bill and $1.1 billion below the Senate.

There is an increase in line with inflation, no more, no less. No real growth. So if some programs get real increases, others get real decreases.

And it is really even more difficult. The outlay ceilings we must meet do not support the full inflationary increases, so a lot of the increases here are for programs that will not spend the money until next year. Those are the cards we are dealt.

But within that overall picture, using what we had available, this bill makes some significant contributions to meeting legitimate needs.

Let me tick off some of the high points:

For low-income energy, $1.393 billion, an increase of $10 million over last year, the first increase in 4 years, and $293 million over the President's request;

For chapter 1, compensatory education for the disadvantaged, the cornerstone of equal educational opportunity for our school children, $5.425 billion, an increase of $354 million over the President, and $856 million over last year;

For Student Aid, $6.175 billion, $361 million over last year; although we have had to make some changes in the program to save money;

For Head Start, $1.405 billion, $170 million over last year;

For mental health research, $419 million, $65 million over last year, a great help for the schizophrenia and brain research initiatives in this great time of the decade of the brain;

For AIDS, an estimated $1.541 billion, $319 million more for AIDS than last year;

For the homeless, $178 million, an increase of $99 million over last year; and

For retraining workers hit by plant closings, $470 million, an increase of $186 million over last year.

Let me also tick off some of the points of concern:

For the State Alien Legalization Assistance Program, we had to rescind $555 million in 1990 funding, and restore it in funding for 1992;

For drug abuse funding, we have postponed most of the major funding increases until we take up the drug bill in the Transportation bill;

□ 1120

For NIH, while we have provided a significant increase, $539 million over last year, for a total of nearly $7.7 billion, I do not believe we have provided as much as is required to fully maintain the momentum of research. That is of particular concern, coming after the news that two California researchers received the Nobel Prize in Medicine for their work on cancer.

Before anyone takes this money to the bank, though, I warn them of two things. First, absent extraordinary developments in Congress, a sequester is coming on October 16. Because other committees have fallen months behind in passing a reconciliation act, all the appropriations accounts are now in danger of taking an across-the-board cut.

Second, we still have the drug bill, where the Senate has proposed across-the-board cuts to pay for additional drug funding. So the road ahead is not completely clear. But, as for this bill, it is ready to cross the finish line a winner. We are within the 302(b) allocation. The administration is just about on board. It will sign the bill, if, and only if, the House position on abortion prevails. We'll have that vote later.

I want to congratulate the chairman, BILL NATCHER, with whom I have worked on this bill since 1981. If this bill deserves a Nobel Prize, then BILL NATCHER deserves an Oscar.

I also want to thank the new Senate chairman and ranking Republican, Senators HARKIN and SPECTER.

And I also want to thank majority staff and minority staff for all of their hard work.

Mr. Speaker, let's put the pedal to the metal and get this bill where it belongs, on the President's desk.

I am sorry that we are going to have a big issue from the people on the abortion issue, because those are the same people that made out like bandits in this bill.

Mr. Speaker, Chairman NATCHER has already provided the details of the conference report, but let me provide a few highlights.

DEPARTMENT OF LABOR

For the Labor Department, the conference agreement provides $6.728 billion, $170 million over the fiscal year 1989 level, and $153 million over the administration's request. For the discretionary programs, that's an increase of $297 million over the fiscal year 1989 level, and $152 million over the request.

The major part of that increase is for programs under the Job Training and Partnership Act where we provide a $243 million increase to $3.971 billion. That total includes $709 million for the summer yough program, $813 million for the Job Corps, and $470 million for dislocated workers under the new legislation enacted last year. We continue the trade adjustment assistance program at $284 million and the Targeted Jobs Tax Credit at $25 million. Within the Women's Bureau, we increase the amount for model demonstrations, including the Displaced Homemakers Network by $700,000.

For one of the most important programs operated by the Department, title V, Community Service Employment for Older Americans, the conference agreement provides $362 million, an increase of $18 million over the fiscal year 1989 level, and $26 million more than the administration requested. This program works very well in my home District and across the Nation in helping seniors remain productive in their communities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Regarding discretionary programs within the Department of Health and Human Services, the leading concerns continue to be funding for energy assistance, AIDS, and biomedical research.

I am proud to announce that for the Low Income Home Energy Assistance Program, the conferees approved $1.393 billion, an increase of $10 million from last year and $293 million over the budget request. After a long and difficult battle, we were able to increase LIHEAP for the first time in 4 years. This amount will continue to help low-income people with their energy bills this winter.

LIHEAP prevents people from being evicted from their homes and is good, strong preventive medicine against homelessness and illness.

For AIDS control, the conferees provide for $1.54 billion, an increase of $319 million from last year. Within this amount, $30 million was included to expand the AZT/AIDS-related drug program. With the proven effectiveness of AZT in prolonging the lives of HIV-infected people, it is imperative that we extend Federal assistance for low-income people. At the same time, the manufacturer of the drug must share responsibility in making AZT more affordable and accessible for low-income people. Even with the recent price cut, the drug remains prohibitively expensive for almost all patients.

The conferees included $20 million for AIDS home health services and $1.5 million for subacute care. These new programs will assist HIV infected patients who are not acutely ill and help to integrate their medical and social needs on an outpatient basis. By providing for outpatient services, these programs will prevent expensive, unnecessary hospitalization of asymptomatic patients.

For biomedical research at the National Institutes of Health, the conference allocated $7.68 billion, which is $538 million more than last year's level. This includes additional funding for NIDDK research on diabetic kidney disease and NINDS research on dystonia and neurogenetic diseases. Sufficient funds are also provided to complete the next major phase of the Child Health/Neuroscience building and $2 million is available for a new intramural program in diagnostic radiology at NIH.

Mental health research received a healthy increase of nearly $30 million from the budget request to $419 million. In the coming Decade of the Brain with exciting new discoveries being made in the biological basis of behavior, mental health research stands poised to make the critical breakthroughs in treatment and cure of many of the most debilitating mental illnesses, such as schizophrenia, Alzheimer's disease and Huntington's disease.

The conferees agreed upon $3.5 million for new outreach activities for potential Supplemental Security Income recipients particularly for the elderly. The Social Security Administration will take the lead on this new program and is encouraged to include a combination of direct services and contract service with organizations such as the existing network of area agencies on aging and the Administration on Aging.

For the homeless programs at HHS, we have provided expanded funds for this urgent problem. Under HRSA we included $34,115,000 for homeless health care with $11,885,000 forward funded into fiscal year 1991. Mental health State grants for homeless will get $28,096,000 and mental health demonstration projects will receive $6,100,000; these programs will provide much needed help for the homeless mentally ill. Substance abuse demonstration projects will be funded at $9,545,000, more than double last year's amount. Community service grants for the homeless will receive $21,959,000 with $8,041,000 forwarded into fiscal year 1991. All together these programs will begin the difficult task of caring for the homeless and to find ways to bring these people back into the economic and social mainstream of our society.

At the Centers for Disease Control, we have appropriated $1.1 billion including $4.5 million for disability prevention, a program I started 2 years ago and which now deserve additional funds for expanded activities among the States. In addition, we are providing more funds to combat Lyme disease, a difficult and sometimes deadly disease to recognize, but is readily treatable.

Family planning programs are funded under Health Resources and Services Administration at $141 million, $2,680,000 more than last year's level. This will continue family planning clinics and assistance to low-income families.

The new Medical Effectiveness Program has received $32 million to begin to conduct research on the treatment regimens that are both efficacious and appropriate for a particular disease. Insight into the best treatments will help to improve our reimbursement policy and help to guide practitioners into providing optimal care across the country.

The Community Services Block Grant program, a vital program for many small communities across the country, will receive $323,630,000, which is $5,000,000 more than last year. CSBG deserves more but at least this amount will keep many services flowing to towns, especially in economically depressed regions.

We have funded Head Start, a program that helps our children to get a strong start in their education, at $1.405 billion a significant increase from last year's level of $1.235 billion. We expect that $50 million of these funds be available to increase Head Start teachers' salaries, which have lagged far behind comparable wages for other instructors.

With the coming of the Decade of the Brain, an initiative I sponsored and recently signed into law by President Bush, funds are provided within OASH to establish with the National Academy of Science/Institute of Medicine a symposium event to bring together scientists and physicians and to discuss potential initiatives in the neurosciences.

No funds are provided or to be used for the reorganization of the Public Health Service regional offices, prior to approval of a reprogramming request. This means HHS can no longer even think about a reorganization on Government time.

DEPARTMENT OF EDUCATION

For the Education Department, the conference report contains $24.153 billion, the highest funding level ever, $1.4 billion over the fiscal year 1988 level, and $328 million more than the administration requested.

I am particularly proud of increases for two programs within the $5.425 billion provided for chapter 1—the $6 million increase we were able to give the Capital Expenses Program, and the nearly $10 million increase that we were able to provide for the Even Start Program. The Capital Expenses Program helps to bring chapter 1 services to nonpublic school children, and Even Start reaches out to the very young and their parents so that the learning experience can begin at home for children of parents whose own education may not have left them literate. I started the funding for both of these programs last year, and look forward to continuing them in the future.

I am also pleased that we were able to restore most of the reduction in Impact Aid payments for "b" children that the administration had requested.

For the school improvement programs, the bill is $15.7 million over the fiscal year 1989 level. Included in that total are increases of $286,000 for the inexpensive book distribution program, $442,000 for arts in education, and $1.9 million for the national diffusion network.

The conference agreement increases funding to $4 million for the Comprehensive School Health Education Program authorized and funded for the first time last year, and directs the Secretary to establish the new Office of Comprehensive School Health Education. This is a very important program both in terms of our fight against drugs, and in terms of providing a well-rounded education to our young people.

I am particularly proud of another item in the Secretary's Fund for Innovation—a new demonstration program to begin to deal with underachievers or slow learners. The agreement provides $3 million for this new initiative designed to help young people who are simply being left behind by our current educational system. The new demonstrtion program would fund a number of projects around the country to find innovative ways of reaching and motivating these young people on an individualized basis.

The conference agreement also increases funding for vocational and adult education programs by $62 million over the fiscal year 1989 level, for a total of $1.136 billion. We were also able to increase handicapped education and rehabilitation services by $122 million and $131 million, respectively. In a move that will have major consequences in the disabled community, we were able to nearly triple the funding for the technology related assistance program, and provide $1 million for descriptive video services for the blind.

For student aid, we propose increases for Pell grants, supplemental grants, and income contingent loans. Because of a major misestimate by the administration in the cost of the Pell grant program, we were forced to provide $131 million in supplemental funding for the current school year in order to avoid having already received grants being cut. Additional funds are also expected to be necessary for the 1990-91 academic year, and we have added $286 million in a contingency fund. Unfortunately, we have been forced to achieve some savings in the fiscal year 1990 Pell grant program, and legislative changes are also contained in the conference agreement.

For the other major student grant program, supplemental educational opportunity grants, the agreement provides $465 million, including an increase of $27 million over last year's level. It is my hope that this increase will go a long way toward helping those needy students who depend so heavily on grant assistance to be able to attend. Clearly, the conferees recognize that the SEOG Program—which has been free of abuse throughout its history—has the potential for playing an even greater role in helping needy students attend college.

For the categorical higher education programs, the conference agreement provides $632 million, for an increase of $67 million over the fiscal year 1989 level. Among the programs funded in this account is the TRIO program—special programs for disadvantaged students. We provide a $25 million increase, for a total of $245 million. In addition, the conferees have directed the Secretary to use $7 million of the increase to fund an additional 25

unfunded, but approved, from those submitted in the recently completed upward bound competition.

Also included in this account is the international education and foreign language program, for which we have provided a $9 million increase. I am pleased that included in this increase is $1 million specifically targeted on critical languages, where we are so lacking in our schools and colleges. The Secretary is directed to use this $1 million and work with the Secretary of Defense, using whatever funds he may have available for this purpose, to develop a program of critical language study that can help us meet the need and the demand.

For the remainder of the graduate and professional programs, the conference agreement provides $71 million, a $4 million increase over fiscal year 1989, including a $3 million increase for a new cohort in the graduate assistance in areas of national need program.

For college housing and academic facilities, we provide $30 million, an increase of $360,000 over the fiscal year 1989 level.

The conference agreement also contains an $18 million increase in support for education research and statistics, and nearly level funding for the library programs.

For Gallaudet University, the National Technical Institute for the Deaf, and Howard University, the conference agreement also provides increases. And, to ensure equality of treatment among the 3 institutions, while at the same time ensuring that the Federal subsidy reflects reality of need, the conference agreement directs the Secretary to institute a 50-percent tuition surcharge for foreign students desiring to attend these landmark institutions.

RELATED AGENCIES

I am pleased that the conference agreement provides increased funding for the valuable programs operated by the ACTION agency and the Corporation for Public Broadcasting, as well as increases, as necessary, for the 18 remaining related agencies.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like the Members of the House to know that it is a distinct honor and privilege for me and all of the members, not only on the subcommittee, but on the full committee, to serve with the distinguished gentleman from Massachusetts [Mr. CONTE], who is not only the ranking minority member on the subcommittee, but the ranking minority member on the full Committee on Appropriations.

There has never been anyone in the House of Representatives, Mr. Speaker, any Member down through the years, from the first day, March 4, 1789, who was more concerned about the health of our people and the education of our children than my friend, SILVIO CONTE.

Mr. CONTE. Mr. Speaker, I thank the gentleman from Kentucky. I really appreciate his kind remark.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Speaker, first I would like to thank the gentleman from Kentucky, the chairman of the committee, for yielding time to me.

I wish to engage the distinguished chairman in a brief colloquy concerning funds in the conference agreement for nurse training programs. Mr. Chairman, the conference agreement includes $1 million for loan repayment for nurses for shortage area service. It is my understanding that these funds are for new loan repayment programs for nurses for service in underserved areas as authorized by Public Law 100-607, including section 716 of said act. Is that correct?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. EARLY. It is also my understanding that the Health Resources and Services Administration is to use a portion of these funds to initiate a loan repayment program pursuant to section 716 of Public Law 100-607. Is this also the chairman's understanding?

Mr. NATCHER. Mr. Speaker, the gentleman is correct. I would like to say to the distinguished gentleman from Massachusetts, that Mr. CONTE and I and all of the other members of this subcommittee enjoy serving with the gentleman from Massachusetts [Mr. EARLY]. On Saturday when they announced the two scientists who had won the Nobel Prize for medicine, I thought first of the gentleman from Massachusetts.

Since the gentleman has been a member of the Appropriations Committee and all down through the years, no member of this committee has been more concerned about and worked harder in behalf of biomedical research and for the National Institutes of Health, and we appreciate it.

Mr. EARLY. I thank the gentleman from Kentucky and also my good friend and colleague from Massachusetts [Mr. CONTE], for putting together a bill that is really the best that was available. It is the best for all the people, the poor, the middle class, everyone. I just want to thank both of them and say it is a pleasure to serve with them.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, at the outset let me congratulate both the distinguished chairman of the Labor-HHS Appropriations Subcommittee and the distinguished ranking minority member for a very fine bill under very difficult circumstances.

I rise for the purpose of colloquy with the chairman on the issue of the role of part-time students in the Pell Grant Program.

Mr. Chairman, am I correct in my understanding that according to a recent report by Education Secretary Cavazos, the majority of less than half-time students work full time, are enrolled in 2-year public colleges, not proprietary schools, and are working for an associate's or bachelor's degree: In other words, most less than half-time students are serious students who deserve our encouragement and support?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like to advise the distinguished gentleman from New York [Mr. GREEN], that the changes adopted by the conference related to the Pell Grant Program were in response to an immediate need for funds to avoid linear reduction in these awards, both in academic year 1989-90 and academic year 1990-91.

If these changes are not agreed to, Pell grants would be eliminated or reduced for more than 1.4 million students.

These changes, including the restriction on part-time students, are effective only for fiscal year 1990 and do not imply a decision by the committee to permanently exclude less than half-time students.

This situation, Mr. Speaker, is described in detail on pages 39 and 40 of the conference report.

Mr. GREEN. Mr. Speaker, I thank the distinguished chairman for that statement. I would like to make one other point.

Am I correct that the Comptroller General has been asked to review the administration's estimating procedures so that radically revised cost estimates, which occurred this year and resulted in cost-cutting measures such as the action on Pell grant eligibility, might not have to occur in the future?

Mr. NATCHER. Mr. Speaker, I would like to advise the gentleman from New York that he is correct.

Before the gentleman from New York concludes, on behalf of the gentleman from Massachusetts [Mr. CONTE] and the members of our subcommittee, we want to thank the gentleman from New York [Mr. GREEN]. Ever since the gentleman has been a Member of Congress he has diligently worked with the committee on this bill, and we appreciate it.

Mr. GREEN. Mr. Speaker, I want to thank the gentleman from Kentucky for those kind words, and just want to say to the gentleman that I understand the very difficult circumstances under which he has been laboring. Again I want to express my appreciation for all the gentleman has done for the Congress and the country.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Pennsylvania [Mr. GOODLING], the ranking minority member of the Committee on Education and Labor, which is the authorization committee.

Mr. GOODLING. Mr. Speaker, I rise in strong support of the conference report on H.R. 2990, the fiscal year 1990 appropriations bill for the Departments of Labor, Health and Human Services, and Education. As ranking Republican of the Committee on Education and Labor, I want to commend Chairman NATCHER, the ranking member, Mr. CONTE, and the members of the Labor-HHS-Education Subcommittee, for having so successfully defended the priorities of this House in the vital policy and programmatic areas encompassed by this bill. Moreover, I believe they should be further congratulated for having achieved this success within the constraints set forth by the fiscal year 1990 budget resolution's tight 302(b) allocations.

The Appropriations Committee and this body once again expressed their steadfast commitment to the funding of elementary and secondary education programs. And, as one who has always viewed ESEA's chapter 1 as the backbone of the Federal effort to help all disadvantaged students in school, I was especially pleased to learn how well the conference report supports chapter 1's various programmatic components. Not only was the House's mark for chapter 1's basic grants well defended, but it is clear that our conferees fought to preserve a substantial increase in the funding level of one particularly important chapter 1 component, Even Start, which should permit the program to expand throughout the Nation during our new fiscal year and deal with the illiteracy problem as an intergenerational one which it is.

When this bill was initially considered by the House, I thanked the Appropriations Committee for making what I thought was truly an exceptional gesture. The bill, as you may recall, contained a provision permitting the initial funding, through modest transfers of ESEA chapter 1, part A resources, of two of President Bush's key educational initiatives: the Presidential Merit Schools and the Magnet Schools of Excellence. The only condition imposed for the transfer of the resources needed to launch these two initiatives was that they had to be authorized by the Congress prior to the end of next February.

I was also pleased to see that even though the Senate had deleted this provision from its version of the bill, our conferees had preserved it in the conference report. This action preserves the incentive the respective authorizing committees need to act on the President's educational initiatives and I hope our committee can write these two programs to benefit those most in need, and authorize both.

The conference report also makes it clear, Mr. Speaker, that thanks to the agreements reached by our conferees, two key postsecondary education programs—the Pell Grant and Stafford Student Loan programs—have been provided with levels of resources conforming to recent reestimates of need. In this context, I would also like to express my appreciation to our conferees for preserving almost 95 percent of the House's mark for another vital postsecondary program, Graduate Assistance in Areas of National Need.

Pending enactment of H.R. 1300, which raises Head Start's fiscal year 1990 authorization level to $1.552 billion and would have permitted funding the program at the $1.485 billion level requested by the President, our conferees provided the next best thing by funding Head Start at the current fiscal year 1990 authorization ceiling of $1.405 billion. Given the broad and strong support this program has always enjoyed in the House, I believe our conferees should also be commended for this effort.

□ 1130

Again I thank the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], and I thank the ranking member, the gentleman from Massachusetts [Mr. CONTE].

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Speaker, I want to thank him and say to the distinguished gentleman from Pennsylvania that since he has been a Member of Congress, not only on the Committee on Education and Labor but on all legislative matters pertaining to our bill, he has worked with us, and we appreciate it.

You know, I had the honor of serving in this House with the gentleman's father.

Mr. Speaker, on behalf of the gentleman from Massachusetts and myself and other members of the subcommittee we just want to thank the gentleman from Pennsylvania [Mr. GOODLING].

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on H.R. 2990. I wanted to take a couple of moments to express my deepest appreciation and, I think, the appreciation of all of us who represent States which have had a significant impact as a result of the Immigration Reform and Control Act, and that impact has been a large number of undocumented people who have come out of the shadows into the legalization program under the legislation, the glue for which was a section of that law appropriating for 4 straight fiscal years, starting with fiscal year 1988, $1 billion to reimburse the States and the local governments for the costs in the area of education, in the area of health care and in the area of public assistance that would come as a result of this particular act.

That section was the glue that held this act together. The other body, unfortunately, chose to take some of the fiscal year 1990's appropriation money that was supposed to be appropriated for use any time between the passage of that law back in 1986 and 1994 and appropriate it for specific purposes.

The House did not do such a thing.

In conference committee, with the tremendous constraints and pressures on the budget, that money was used. But thanks, particularly, to the chairman of the subcommittee and the ranking minority member of the subcommittee as well as the Senate conferees, the legislation makes clear that this $555 million will be reappropriated in fiscal year 1992, still in time to be utilized for the very important purposes which that money was originally appropriated for.

We did make a commitment to the States and local governments that were going to be impacted by the legalization program. We are talking about English language education, talking about emergency health care costs, talking about public assistance kinds of programs, the critical programs to deal with the 1.8 million people who came forward on the regular legalization, well over 1 million who came forward on the seasonal agricultural worker program.

I cannot tell you how much I appreciate, and I think my colleagues in California and a number of the other impacted States, appreciate the fact that this conference report remains true to that commitment, reappropriates those funds for fiscal year 1992 for the purposes originally intended by the Immigration Reform and Control Act, and to ask my colleagues who are from those States to recall what the Senate did this past time, what the other House did in this particular appropriation, and will undoubtedly come back in fiscal 1991, and we should be wary and eternally vigilant because there will be other pressures to try to take these funds as well.

Mr. Speaker, I thank the chairman and the ranking minority member for their support.

Mr. NATCHER. Mr. Speaker, the dean of the Congress is the gentleman from Mississippi, our chairman of the full Committee on Appropriations [Mr. WHITTEN].

Mr. Speaker, our chairman not only serves as chairman of the full Committee on Appropriations, but as we know, Mr. Speaker, he is chairman of the Subcommittee on Agriculture of the Committee on Appropriations.

In addition thereto, he serves as a member of all 13 of the appropriations subcommittees.

At all times, not only during the hearings on our bill but at the markup of the bill, and at all times when we need all kinds of help, Mr. Speaker, we receive it from our chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN].

At this time it is a distinct privilege to yield such time as he may consume to the chairman of the full committee, the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Speaker, may I say to my friend that I shall make a report in the RECORD of the present situation insofar as our appropriations bills are concerned.

Mr. Speaker, I take this time to congratulate the other subcommittee members and in particular, the chairman of the subcommittee. We have served together many, many years. I do not know anyone who has better standing with the Congress and with the public than the gentleman from Kentucky [Mr. NATCHER].

On the other side of the aisle we have Mr. CONTE, the ranking Republican of the committee and this subcommittee who has also done a great job.

SERIOUS FINANCIAL SITUATION

Mr. Speaker, we face at this time perhaps the most serious situation in finances that any nation ever faced. We have a debt that has increased from about $900 billion to over $3 trillion in 9 years. All these things that we think we have saved which show a surplus on trust fund balance sheets have been loaned to the General Fund for use in the operation of the Government. Even with all of these problems that we face and will continue to face as long as we do not realize we live in a competitive world, the gentleman from Kentucky [Mr. NATCHER], and the members of his subcommittee—and I am proud to be on it—have seen to it that from the funds available we have looked at, and provided for those programs which should come first.

I want to mention just a few of the many important programs and projects covered in the bill before us, the details of which have been covered by Chairman NATCHER.

Funds are provided for the National Institutes of Health which include those seen searching for cures for cancer, AIDS, heart and blood diseases, respiratory disease, and the many other institutions; for education—higher, secondary, vocational, and adult; for community and senior colleges, for Head Start, the handicapped and disadvantaged, for nursing education and other special groups; funds for fighting drugs and drug abuse for low-income energy assistance; funds for the Job Corps and job training assistance; for black lung and many, many other programs, all of which were described in detail by the chairman, BILL NATCHER.

Most of those programs appear in this bill.

APPROPRIATIONS COMMITTEE RECORD

Mr. Speaker, the Committee on Appropriations did a great job, not only in my opinion, but as proven by the record.

Since 1945 the Appropriations bills have been $187,628,827,000 below the President's requests.

During the Reagan administration, the committee has been $16,147,670,000 below the President's requests in total.

Since the Budget Act was signed in 1974, entitlements and mandatory spending have grown from $124,000,000,000 to $583,000,000,000—4.7 times.

When the Budget Act was signed, 46 percent of the budget bypassed the committee—now 56 percent bypasses the committee—an increase of 21.7 percent, leaving a balance of only $157.5 billion of budget authority for domestic discretionary programs out of a budget of $1,329,400,000,000.

Under Gramm-Rudman-Hollings, without any additional revenue, every entitlement dollar increase has required a discretionary dollar decrease.

This year, through June 27, we have over 4,500 requests from our colleagues in support of matters of importance to their regions.

WHAT HAS CAUSED THE PROBLEM

What has happened is that through commitments, by entitlements, and by entering into contracts that have to be paid we have tied the hands of your Committee on Appropriations. Unless it is stopped or held back, sooner or later you are going to fix it to where we cannot recommend to you the programs that must be funded in order to continue having a nation worth protecting. However, if that happens, it will be my recommendation that we recommend funds for those programs and let you propose cutting them out instead of us because of the budget ceiling which is unrealistic and a Budget Act which is doing opposite to what it was created to do.

□ 1140

May I repeat again, that these entitlements have increased over fourfold, which comes at the expense of what we can do for 4,500 requests by our colleagues, not for them, but for the section that they represent.

I would also like to point out that since we started meeting local problems with national programs, our national wealth—our material wealth—has increased 41 times since 1934 and since 1941 has increased, may I say, 36 times.

Mr. Speaker, I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for his commiserations over the existence of these entitlements that are driving spending in this country, but I have a question for the distingushed chairman of the Committee on Appropriations.

Has the gentleman brought to the floor of the House, within the last year, the last 5 years, the last 10 years, at any time, a recommendation that we stop the entitlement programs?

Mr. WHITTEN. Mr. Speaker, may I say I have not, but neither has the Committee on the Budget contested these increases, as I understand.

However, I will tell the gentleman within the limits that are possible, not only has the committee done a great job, but particularly this subcommittee because it handles most of the real programs for the American people.

May I say also that we are going to have to wake up to the fact that we live in a competitive world. We cannot let the foreign countries send all they have to our country without ruining our domestic market. Not only that, we have to go back and compete in world markets and restore a favorable balance of trade. I realize the gentleman from California has some different ideas than me, but I work where the work goes on.

May I say again, we had 4,500 requests from our colleagues, not for themselves, but for sections of the country they represent.

Mr. Speaker, I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, let me say to the gentleman, as the chairman of the Committee on Appropriations, with all the seniority and dignity the gentleman brings to this House, if the gentleman would come to the floor of the House and recommend that we eliminate entitlement programs, or reduce them or modify them, that recommendation would have an impact that would startle this institution and might surprise Members and be adopted. I wait for the time when the gentleman does that.

Mr. WHITTEN. Mr. Speaker, as I pointed out we are not the problem as a CBO analysis, which has been provided to every Member, shows. We can recommend, but only you can pay.

CAUSES OF THE DEFICIT

The Congressional Budget Office has prepared a table showing the causes of the deficit compared with the congressional budget plan for the fiscal years 1981 through 1988.

It is important to note that it is not the Appropriations Committee that has been a significant cause of the increase in the deficit. On average, the appropriations bills have been above the budget resolution by $2.3 billion compared to a total average deficit increase of $43.6 billion. In nearly every instance this increase has been caused by supplemental needs which were not anticipated by the Budget Committee or the Appropriations Committee.

There are three primary causes for the increase in the actual deficit over the assumed deficit, none of which is caused by the Appropriations Committee. These three categories together comprise 90 percent of the problem.

First. Economic reestimates: This is by far the largest contributor to the increase in the deficit. In any discussion of deficit and budget reform, a majority of the attention should be focused here, as unexciting as this cate-

gory is. On an average percentage basis, this category has amounted to over half of the problem, 53.9 percent.

Second. Technical estimates: This is the second largest category of difference between the assumed and actual deficit. On average, this category has contributed $9.4 billion a year to the increase in the deficit, or 21.6 percent. Again, real budget and deficit reform will have to deal with this category.

Third. Entitlement/direct spending: This is the third largest category and the only major category contributing to the increase in the deficit which can be directly attributed to legislative action or inaction. This category, on average, contributed $6.3 billion to the increase in the deficit over what was assumed in the budget deficit, or 14.4 percent.

DIFFERENCES BETWEEN BUDGET RESOLUTION DIFICTS AND ACTUAL DEFICITS

[in billions of dollars]

Types of differences	Fiscal year—								Average 1981–88
	1981	1982	1983	1984	1985	1986	1987	1988	
Deficit in first budget resolution	−0.2	37.7	103.9	171.6	181.2	142.6	108.0		
Differences:									
Revenues:									
Economic reestimates	−5.0	51.9	58.0	−4.5	20.0	23.0	27.0	−3.6	20.9
Technical reestimates	12.6	1.1	2.7	3.9	−3.3	2.1	−6.7	16.5	3.6
Legislative actions [1]	3.7	−13.0	4.6	13.7	.2	1.5	−22.1	10.9	−.1
Subtotal, revenues	11.2	40.0	65.3	13.1	16.8	26.6	−1.7	23.8	24.4
Outlays:									
Economic reestimates	6.4	24.1	.5	7.1	−5.2	−12.1	−11.9	11.7	2.6
Technical reestimates	16.0	7.7	8.1	−18.0	−12.9	20.1	13.0	12.0	5.8
Administrative actions [1]	6.6	.1	2.0	−.1	3.8	2.4	NA	NA	1.9
Legislative actions [1]									
Discretionary appropriations	11.7	−2.6	7.2	−2.6	1.8	1.0	2.9	−1.0	2.3
Entitlements/direct spending	4.4	5.5	7.5	3.5	16.2	10.2	4.5	−1.6	6.3
Debt service	1.8	−1.8	.9	.6	1.1	.6	−.6	.5	.4
Subtotal, outlays	46.9	32.9	26.2	−9.4	4.8	22.2	7.9	21.7	19.2
Total differences	58.2	73.0	91.5	3.7	21.6	48.8	6.2	45.6	43.6
Actual deficit [2]	57.9	110.7	195.4	175.3	202.8	220.7	148.8	153.6	

[1] Or inactions.
[2] Actuals reflect on-budget/off-budget status consistent with the Budget Resolution, for comparability.
NA—Not available, CBO has not yet estimated the differences attributable to administrative actions or inactions. Such differences are contained within the figure for technical reestimates.
Fiscal year 1984: The Budget Resolution included a "reserve fund": the Resolution deficit reflects only those reserve fund amounts actually enacted.

Note: Totals may not add due to rounding.

Source: Congressional Budget Office.

STATUS OF FISCAL YEAR 1990 APPROPRIATIONS BILLS

Subcommittee	Passed House	Passed Senate	Sent to conference	Conf. rept. filed	Conference passed House	Conference passed Senate
Commerce-Justice-State	August 1	Sept. 29	Oct. 11			
Defense	August 4	Sept. 28				
District of Columbia	August 3	Sept. 14	Oct. 3	Oct. 5	Oct. 11	
Energy and Water Development	June 28	July 27	Sept. 6	Sept. 7	Sept. 12	Sept. 14
Foreign Operations	July 21	Sept. 26				
Interior	July 12	July 26	Sept. 13	Oct. 2	Oct. 3	Oct. 7
Labor-HHS-Education	August 2	Sept. 26	Sept. 28	Oct. 6	Oct. 11	
Legislative	July 31	Sept. 7	Sept. 25	Sept. 25	Sept. 28	
Military Construction	July 31	Sept. 15	Sept. 28			
Rural Development/Agriculture	July 18	July 27	Sept. 6			
Transportation	August 3	Sept. 27	Oct. 11			
Treasury-Postal Service	July 28	August 4	Sept. 6	Oct. 11		
VA-HUD-Independent Agencies	July 20	Sept. 28				

Mr. NATCHER. Mr. Speaker, I want to thank my distinguished friend for his service, not only on this subcommittee but on the subcommittee that he is chairman of, the subcommittee that provides the money for the Departments of State, Justice, and Commerce, one of the great Members of the House, Mr. Speaker, and it is a distinct honor for me to yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding time to me, and also for those kind words.

I commend the gentleman from Kentucky for this bill. It was a very difficult bill to put together, a very large bill, but primarily in addition to other things that have already been said here, I want to say something about drugs.

I was with the former Secretary of Education, who is now the drug czar, Secretary Bennett, all day yesterday and part of the day before at meetings in Iowa. Drug education and rehabilitation, of course, is a part of the war on drugs. A good share of the drug education and rehabilitation is handled in this bill.

Rehabilitation is one of those things that is very difficult to define and takes many approaches because it involves so many local groups which have differing ideas and differing problems to respond to. It involves so many possible programs. However, the gentleman conducts these hearings every year, extensively, and secures volumes of testimony, as to the extent that aid is needed and can be given to help accomplish the objectives of this war on drugs. So this bill also contains money that is very important for a different aspect than law enforcement, and I commend the gentleman for what he has done, and also on research, on chemical substances, alcohol, and those aspects of the drug problems. I commend the gentleman on the bill that he brings before us today. I think it is the best that we can do under the circumstances this year. I certainly will vote for the bill.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Here in the Chamber with Members today is the distinguished gentleman from California, the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS]. I would just like the Speaker and all the Members to know how much we appreciate the gentleman's help with our bill each year. He is not only one of the best Members of the House, he, as a successor in the chairmanship of his committee to our friend, the gentleman from Kentucky [Mr. PERKINS], has performed in an excellent manner, and I would like the gentleman to know how much I appreciate the help he gives me each year and our subcommittee.

The gentleman has performed well always and helped Members with our bill. I just want the Members to know that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I want to ask a question about which I am puzzled. I got a telephone call a couple of hours ago from the people who run the county prison in my district, Bucks County Prison in Pennsylvania. They told me that the prisoners are applying for Pell grants, which is perfectly OK. They are eligible for Pell grants. But apparently, when they are awarded a Pell grant, they also get a living expense allowance, a uniform figure now of about $300 per year. The inmates in the Bucks County Prison are now receiving $300 year as part of a Pell grant living expense allowance.

Unless I am wrong, and I may be wrong, and I hope I am wrong, this is happening not only in Bucks County, PA. It is happening to lucky Federal, county, and State prisoners all across the country and has been, just for the last fiscal year, fiscal year 1989, according to the people of the committee with whom I have spoken on the telephone or with whom members of my staff have spoken. This apparently then is an accurate reflection of what is happening.

Now, it is my understanding that, and again I may be wrong, it is too late to make a correction in the law because it is the conference report we will be voting on in a few minutes.

I am wondering, Mr. Speaker, if there is some way we can avoid this happening for another fiscal year?

Mr. NATCHER. Mr. Speaker, I have no information at all in regard to the statement just made by my friend, the gentleman from Pennsylvania. However, I would like the gentleman to know that in the extension of my remarks I will place the answer in the RECORD today. I want the gentleman to know that I have no information at all and none from the staff on our side.

I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I appreciate the gentleman's response, and again I hope I am wrong, but my staff has spoken to the committee staff, and the committee staff has told me that this may in fact, be the case.

Therefore, while I appreciate the gentleman from Kentucky being willing to place the answer in his extension of remarks, it does not seem to me that that necessarily solves the problem.

Now, it may be that we have to introduce a separate statute, and I am prepared to do that.

I am wondering, and I would ask the gentleman from Kentucky or the gentleman from Massachusetts, is there not a way to avoid this from continuing any longer, if, in fact, it has been going on for the last fiscal year? I am told by authorities at the Bucks County Prison that their inmates are currently receiving this $300 as part of their Pell grant, and of course, the prisoners, scholars all, are now lining up to make themselves eligible for the Pell grants.

Mr. NATCHER. Mr. Speaker, I would like the gentleman to know that as far as we on this side are concerned, that is not the intention of the subcommittee members. It is not our intention.

I have just inquired to the staff I have with me here today. They know nothing about this.

I say to the gentleman that is not the intention of our subcommittee, and the gentleman will receive a full answer in the RECORD today, and not only that, this will be one of the first matters we take up with the Department downtown when they appear back before our subcommittee.

I yield to the gentleman from New York [Mr. SOLOMON].

□ 1150

Mr. SOLOMON. Mr. Speaker, I thank the chairman of the subcommittee for yielding.

Let me just say that this comes as just an outrage to me. But one way we can start to expedite this right now is this: there is a law in this land called the Solomon amendment. That is the effective law, and it says that anyone who is not registered for the draft is ineligible for any kind of college grants or loans, including the Pell grants and including the $300 per month.

I would suggest that the ranking member and the chairman of the subcommittee contact the Education Department and have them immediately set in motion a plan to check those prisoners because we will find that 90 percent of them are not registered for the draft, and, therefore, they would be ineligible for this.

Mr. Speaker, let us start by implementing it in that way, and then we can go after the gentleman's legislation, which I would like to cosponsor.

Mr. NATCHER. Mr. Speaker, I would like to add further to the statement of the gentleman from Pennsylvania [Mr. KOSTMAYER].

Here in this country we have about 3.1 million students who are eligible for Pell grants. The maximum at this time to be received under this bill is $2,300. If we had our way, Mr. Speaker, it would be $4,000.

Certainly, with the amount being $2,300, we on this subcommittee and on the full committee, I would say to the gentleman, are not in favor of the situation that has just been described to the House.

I want to add further that after talking to the Department, it is our understanding that this problem has come about because of an amendment to the basis law under the 1986 Higher Education Amendment. Prior to that law, such payments were prohibited by regulation. The 1986 amendment, section 478(a) in particular, restricted the Secretary's authority to ban such payments. We understood the authorizing committee in looking into this matter or they should.

Mr. KOSTMAYER. Mr. Speaker, if the gentleman will yield further to me, I just want to say that obviously I know the gentleman from Kentucky does not favor this, and I understand the gentleman from Kentucky was unaware of it. I was unaware of this until just a few hours ago, so I share any blame. I want to thank the gentleman for pledging his cooperation. I commend him on the outstanding job he has done on this legislation, just as he has done in so many years past.

Mr. Speaker, I appreciate the gentleman's consideration.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, this comes as a surprise to me, too, but I just want to point out that $300 a month times 12 months is $3,600 a year, and they only get $2,300 total for tuition and everything, so there is something wrong here.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I ask the gentleman from Pennsylvania, is he upset because somebody called him from the Bucks County prison because they say they are not going to get a Pell grant as a result of this?

Mr. KOSTMAYER. No. Mr. Speaker, if the gentleman will yield, my call did not come from a prisoner; it came from the warden, who is upset because the prison is not able to collect these funds. The prisoners are not required to turn over the money to the prison. I do not think the prisoners should get it at all. It would be better if they turned it over to the prison authorities, but I do not think they should be getting these living expenses.

Mr. CONTE. Mr. Speaker, I think this whole Higher Education Act is going to be reauthorized next year, and that would be the place to direct your attention.

Here is what's in the bill. Our committee fell short on the $2,300 Pell grant, and in order to try to make up for that shortfall, we put some restrictions in here, and one of the restrictions is that the bill removes from eligibility students who are attending on a less-than-half-time basis. I thought maybe that is the reason they are getting a little upset, because they are going to get wiped out since they are not on a full-time basis.

Mr. KOSTMAYER. Mr. Speaker, if the gentleman will yield further to me, I had called the committee staff and I had asked the committee staff before I came over here whether this was possible. They said, not only is it possible, it is happening. So the gentleman is right.

Mr. CONTE. Yes.

Mr. KOSTMAYER. That is what I am concerned about. I appreciate the cooperation on both sides. Obviously

nobody knew about this. I did not know this was happening. I am not here to criticize. I just think that we ought to take care of it immediately.

We cannot amend the conference report. The conference report is what we are about to vote on. I do not know if we can wait very long. We have to do something about it as soon as possible, and I know the gentleman agrees with me on that.

Mr. CONTE. Mr. Speaker, we may have a continuing resolution coming up on some other bills here. I am sure we are going to have one. At that time my suggestion is that the gentleman could put in an amendment stating that no funds shall be used for this purpose.

Mr. KOSTMAYER. Mr. Speaker, I appreciate the gentleman's response.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it has been stated several times that we are about to be voting on this conference report in just a couple of minutes, and this is, I think the gentleman believes, contained in that conference committee report.

Mr. CONTE. No, no. It is not contained in the report. The conference committee provides the money for Pell grants. We are not the authorizing committee. It was the authorizing committee that passed the law that made them eligible.

Mr. BURTON of Indiana. So this is not the proper vehicle in which to remove this $300?

Mr. CONTE. Right. We could do it, though, not in this bill or this conference report, but in a bill when reauthorization comes up, or if we want to put in a limitation on expenditures on a continuing resolution, as we sometimes do. We could provide that no funds shall be used for this purpose. That could be put in a continuing resolution, and there will be other appropriation matters.

Mr. BURTON of Indiana. And the gentleman will look into that?

Mr. CONTE. Certainly, by all means. This is the first time I have heard of it.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, I think the gentleman indicated that we do provide in this bill that there would be no funds available for those who are attending only part time or half time?

Mr. CONTE. This bill removes the eligibility for students who are attending on a less-than-half-time basis.

Mr. CLINGER. And it is very likely, I would think, that prisoners would not be able to attend full time?

Mr. CONTE. Right. I thought that was what generated the call.

Mr. CLINGER. In that case the problem may be addressed in the bill, if in fact it would exclude prisoners who obviously were not going to school full time?

Mr. CONTE. That is exactly right. That is why I asked the question.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair wishes to inform the Members that the gentleman from Kentucky [Mr. NATCHER] has 2 minutes remaining and the gentleman from Massachusetts [Mr. CONTE] has 14 minutes remaining.

Mr. NATCHER. Mr. Speaker, I yield 1 minute for a short statement from the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I do not wish to prolong the debate, but I think that it is very appropriate for the authorizing committee, which I happen to head, to commend both the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Massachusetts [Mr. CONTE].

A year and a half ago we passed the School Improvement Act, which was a landmark bill and which, I believe, will go a long way toward removing the disparity between the literate and the illiterate in our country and bring us into the 21st century.

I think the conference report before us amply implements that School Improvement Act. Everybody talks about education, but very few do anything about it. I think the Committee on Appropriations, under the able leadership of these two gentleman I have mentioned, has gone a long way toward improving American education.

The President has indicated that he would like to be known as the Education President. I believe this conference report will give him an ample opportunity, in signing it, to become certainly worthy of that designation. I would hope that this report is overwhelmingly adopted, and that we go on to implement it. We cannot do it overnight, but we need to be starting in the right direction.

Mr. Speaker, this conference report redirects us and points us in the right direction, and I certainly commend the two gentleman responsible for it.

Mr. NATCHER. Mr. Speaker, I yield my remaining time to the gentleman from New York [Mr. FLAKE].

The SPEAKER pro tempore. The gentleman from New York [Mr. FLAKE] is recognized for 1 minute.

Mr. FLAKE. Mr. Speaker, I want to extend my commendations to the committee for the conference report, which I will support today.

However, I do raise one point, and that is in relationship to the 1990 appropriations for those students who are part time and who are receiving Pell grants. I would ask that the committee make sure that in its future appropriations beyond the 1990 year it returns these moneys.

I think it is important for those persons who have an opportunity to share academic and work experience to get a head start in terms of developing their understanding of the workplace and for those persons who have raised their children in many instances and are working to have an opportunity to go back to school.

Mr. Speaker, I offer my support for the bill and ask the chairman of the subcommittee that we might have an opportunity to work together in this next fiscal year to assure that these moneys are returned.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I rise in strong support of the conference report.

I want to commend the gentleman from Kentucky [Mr. NATCHER] for his excellent work on this legislation, and I want to also commend the gentleman from Massachusetts for his efforts, as well as the staff of the subcommittee—they do excellent work as well.

Most significantly, I want to point out the importance of considering these conference reports separately. It is essential that we at least get these spending bills to the President as separate measures if we cannot send them on time.

Mr. Speaker, there is not enough money to go around to take care of everything in this bill, but I believe the conferees have done a pretty good job.

The National Institutes of Health will be able to move forward in the next year with a continued strong research program—not every penny they could use, but all things considered not a bad allocation.

Impact aid is far from receiving the amount necessary to compensate schools for the cost of educating federally connected students, but a decent increase is included in this bill.

There remains, however, a problem with refugee funding—the States will again be forced to shoulder more of the burden of what should be and is a Federal obligation.

Mr. Speaker, the conferees had to make hard choices, but they made good choices. A whole range of vital programs—including library construction, the targeted jobs tax credit, and others have been addressed responsibly in this bill.

I urge all Members to support this conference report, and to see this bill to the White House as quickly as possible.

And I hope, Mr. Speaker, that the remaining nine conference reports will be on this floor post-haste. Another continuing resolution would be unconscionable. And I hope the President will make it clear that he will not tolerate one.

Mr. WEISS. Mr. Speaker, I rise in support of the conference report for fiscal year 1990 Labor, Health and Human Services, Education Appropriations, while stating strong reservations about a number of provisions within the measure.

At this late stage in the fight against AIDS, it is no secret that those who are sexually active outside of a monogamous relationship are at higher risk of AIDS. This being fact, and in the absence of curative drugs to treat AIDS, prevention remains our primary public health strategy.

Thus, it is essential that the Federal Government continue to support effective and tar-

geted information campaigns among the people who are at greater risk. Yet the conference report contains a provision which could undermine this public health effort.

The provision provides that Federal funds not be used for materials that are designed and intended solely for the purpose of promoting or encouraging sexual activity of any nature. It is not the role of the Federal Government to encourage sexual activity, but it should be made clear that Federal funds under this act are to be used to support the development and distribution of materials that prevent transmission of HIV through targeted messages.

The provision includes an additional subsection that states that AIDS educational materials and programs should be designed to provide accurate and effective information to foster changes in behavior necessary to prevent the transmission of HIV infection. Implementation of this provision will require that the CDC issue new guidelines that more appropriately reflect the intent of Congress, and to discard the old, inappropriate guidelines now in use.

In addition, the failure of the conference report to specifically earmark funds for AIDS research by the National Institutes of Health and the Alcohol, Drug Addiction and Mental Health Administration is unwise. In the past 7 years, I have frequently seen the Public Health Service forced to take money from one important effort to pay for another with more political cachet. The President's budget request regarding AIDS research was determined on the basis of the professional judgment of the scientists in the relevant agenices. They operate under a 1-year funding cycle which makes long-range planning difficult. The lack of earmarking for AIDS research could make planning even less certain.

I would also like to express my concern about the provision which delays the eligibility of part-time students for partial Pells grants. This language eliminates financial aid to the fastest growing segment of the college population, hurting thousands of low-income working students.

In 1986, Congress removed a longstanding discriminatory provision from the higher education law which made less-than-half-time students ineligible for Pell grants. Since the deletion of this unfair provision, over 160,000 Americans have gained access to financial aid for bettering their job skills and employment opportunities. I urge my colleagues to encourage and support these hard-working students by insuring that the provision within this year's appropriations bill applies only to the designated fiscal year of 1990 and is not included in future measures.

Ms. PELOSI. Mr. Speaker, I commend the conferees and the chairman for this conference report. Their hard work and attention to the complex issues associated with advancing the health of our citizens and educating our next generation is gently appreciated.

Mr. Speaker, I wish to call attention to the level of AIDS-related spending at the Public Health Service [PHS]. This appropriations bill includes $753 million for AIDS-related research at the National Institutes for Health [NIH] and $218 million for research on AIDS-related mental health and substance abuse problems at the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA]. This level of funding for AIDS-related research is vital to our Nation's continuing efforts to respond to the challenge of this devastating epidemic.

AIDS is not like other diseases. It is caused by a new virus and it is spreading. The HIV epidemic is a public health emergency. At the same time that we continue our ongoing commitment to fund quality basic biomedical research on such critical illnesses as diabetes and Alzheimer's disease, we must respond with highest priority to the HIV epidemic as our most pressing public health threat.

Mr. Speaker, I am also pleased with the inclusion of the Cranston language which clarifies how prevention money can be spent by the Centers for Disease Control [CDC]. The days of the highly restrictive and harmful Helms language are finally over and CDC should move quickly to issue new guidelines in keeping with the spirit of the Cranston language.

Unfortunately, the budget agreement does not allow this bill to do all that needs to be done. In the next year much more attention needs to be directed to the issues of care and treatment—particularly early medical treatments which have now been shown to prolong health and delay or prevent the onset of illness in people with HIV infection. We have the ability to save the lives of people with HIV infection. We must do everthing in our power to see that the money is there to make it happen.

It seems likely that given the explosion of new information on early interventions that the administration will need to look at reprogramming some funds appropriated under this bill. The administration and Congress will also need to look seriously at supplemental appropriations that respond to these new scientific findings.

Mr. Speaker, I again want to thank the chairman and the ranking minority member of the HHS Appropriations Subcommittee. Their continued commitment to working on ways of addressing the new issues in the HIV epidemic is greatly appreciated.

Mr. AuCOIN. Mr. Speaker, I would like to make a few points about the Labor-HHS-Education conference report we are considering today. First, I think it is unfortunate to adopt an amendment regarding use of funds for needles and bleach without having had the benefit of hearings and analysis on this complex issue. It seems to me this is an area in which we would look for guidance and input from the Public Health Service before moving forward with policy decisions.

In any event, I think it is important to stress the narrow scope of this provision. This provision provides that Federal money may not be used to buy and distribute needles and bleach. It is not intended to affect the range of AIDS prevention programs that the National Institute of Drug Abuse runs for drug users. Such programs, their staffs and their overhead, will continue to be funded and they should continue to engage in aggressive outreach toward the drug using community. The sole restriction of this amendment relates to purchase of clean needles and bleach. Although, as I noted, I have concerns about such a provision, I do think it is important to stress its limited scope.

I would also like to make a comment about another provision of the bill—one which I discussed last year as well. The important point of the Cranston provision adopted by the Senate is to set forth clearly Congress' intent in this area. It is important that this be clear both to the Centers for Disease Control, which administers the funds for AIDS prevention and education, and to the organizations that receive these funds. Under the provision, it is Congress' intent that Federal funds should not be used for materials that are designed and intended solely to increase sexual activity, of whatever kind. That is not the business of Government.

On the other hand, however, Congress does intend that materials that are designed to prevent the further transmission of HIV through targeted messages should be funded. These include materials that use all forms and approaches to encourage behavior change, and that are persuasive in encouraging such behavior change. Thus, the provision in the conference report includes an additional subsection explicitly stating that AIDS educational materials and programs should be designed to provide accurate and effective information that will encourage the behavior change necessary to stop transmission of HIV. Unlike previous provisions that have governed these funds before, our alternative provision is designed specifically not to have a chilling effect on the development of materials by community-based organizations.

I would also like to strongly encourage the Centers for Disease Control to review this provision and to issue new guidelines that appropriately reflect the intent of Congress. From information I have received, the CDC is still using old guidelines promulgated on the basis of previous provisions. That cannot be allowed to continue.

Mr. FAZIO. Mr. Speaker, I rise today in support of the conference report to H.R. 2990, the fiscal year 1990 Labor-Health and Human Services-Education appropriations bill.

I commend the chairman of the House and Senate subcommittees and the conferees for their efforts on this bill, which contains funding for many vital domestic discretionary programs. For example, the conference report includes funding increases for the Nation's important health research programs. This includes a total of $7.7 billion for the National Institutes of Health. Funding for important AIDS programs is also included within this bill. For example, $1.5 billion is appropriated for all AIDS activities, a sizable increase over the current level of funding. The agreement also appropriates $30 million for the AIDS treatment drug AZT and $20 million for home health services for AIDS patients.

The conference agreement also provides $1.7 billion for the National Cancer Institute, an important research body which is spearheading the fight against cancer. The Alcohol, Drug Abuse and Mental Health Administration, another vital institute which is assisting in the war on drugs, would receive $1.9 billion for alcohol, drug abuse and mental health activities for fiscal year 1990.

H.R. 2990 also includes funding increases for important development and education programs. For example, the bill includes $1.4 billion for Head Start. This much-needed program provides comprehensive support and early childhood development services for children from low-income families. This bill also includes $5.4 billion for chapter 1 compensatory education, to assist in the education of disadvantaged students. The measure also in-

cludes $1.2 billion for school improvement programs, and $732 million for the impact aid program. The funding levels contained in this legislation will help ensure that these vital programs continue to meet the needs of our Nation's students.

Mr. Speaker, I could go on with the positive impact that the various programs contained in this bill will have on all Americans. Rather, I will close by urging my colleagues to join me in supporting this legislation.

Mr. PURSELL. Mr. Speaker, I am pleased to support the pending conference agreement for the Departments of Labor, Health and Human Services, and Education.

I am pleased to serve on the Appropriations Subcommittee on Labor, HHS, and Education, and I commend our chairman, Mr. NATCHER, for his leadership on this legislation. It is a distinct pleasure to serve with my good friend from Kentucky.

The conference agreement provides $124.8 billion for the Department of Health and Human Services for fiscal year 1990, an increase of $12.5 billion. Two items within this title, the National Institutes of Health [NIH] and nurse training, are of particular interest to me.

Funding for NIH would increase by more than $500 million in fiscal year 1990. The medical community has made outstanding advances in the treatment of numerous illnesses and diseases during the past decade, and many of these advances would not have been possible without NIH-sponsored research. For example, survival rates for certain cancers are now as high as 80 or 90 percent, cancers that were certain killers only 5 or 10 years ago. The appropriation increase for NIH will help us learn more not only about killer diseases, but also about many aliments suffered by persons of all ages.

I am also pleased that the conferees have provided an increase of over $3 million for nurse training. Our Nation is suffering from a severe nursing shortage in all areas, a shortage that affects hospitals large or small, urban or rural. By providing increased funding for nurse training, we can attract additional students to nursing careers and reduce this shortage.

The conference agreement also provides an increase of $1.4 billion for the Department of Education, including an increase of almost $1 billion for chapter 1 grants. The President has listed improving education as one of his top priorities, from the elementary grades to postsecondary to higher education. Improving our students' skills is absolutely necessary if we hope to compete in a world economy, and I believe the measures taken in this bill is a good start.

I urge my colleagues to support the conference agreement.

Mr. OWENS of New York. Mr. Speaker, I rise for the purpose of speaking against the provision in the conference report which will deny eligibility for Pell grants to less than part-time students.

There are approximately 154,000 less than part-time students who will be affected by this delay this academic year. In a report by the Secretary of Education the majority of these students are described as older than the traditional student and married. They work full time, and are taking courses at their local community college toward an associate degree or toward a bachelors degree.

They are trying to improve their employability by earning a higher education degree or by taking courses to train for a specific career. They do not attend proprietary schools because they are much more expensive and because they would have to quit their jobs and attend full time.

This is the kind of dedication we are trying to encourage. This is the type of character we applaud. These students are putting their all into trying to improve themselves so that they can have a better life for themselves and for their families.

Why are we knocking them off balance, and even holding them back, by denying them just $268 each toward improving themselves and getting that chance at a better job, a better life?

These students are not asking for much. They are not asking us to pay for expensive classes. They are not asking us to support them and their families while they go through school. They are only asking for a little help in paying their tuition bills while they continue to work and support their own families.

Secretary of Education Laugo Cavazos, has written that less than part-time students "deserve our encouragement and support and should not be denied access to training that may better their job skills or employment opportunties solely because they are unable to enroll for more than one or two classes at a time."

I fully support the Secretary in this assessment and cannot understand why the conference committee would deliberately sabotage, even reluctantly, the progress of these most dedicated students.

Mr. Speaker, the conference committee's "reluctance" in instituting this provision will do nothing to help these students stay in school. They have effectively halted the dreams of at least 154,000 of this Nation's hardworking students by denying them access to Pell grants for this year.

Mr. GAYDOS. Mr. Speaker, I rise in strong support of the conference report on H.R. 2990, which makes appropriations for the Departments of Labor, Health and Human Services, and Education.

As chairman of the Subcommittee on Health and Safety, which has oversight responsibility for worker health and safety issues, I believe that the conferees on H.R. 2990 have reached an agreement that will benefit all working Americans.

The agreement provides sufficient funding for the Occupational Safety and Health Administration [OSHA] and the Mine Health and Safety Administration [MSHA] in the Department of Labor and the National Institute for Occupational Safety and Health [NIOSH] in the centers of disease to carry out their duties for fiscal year 1990.

While the previous administration submitted funding proposals that provided less for the agencies than necessary in order to keep up with the rate of inflation, the House and Senate Appropriations Committees have ensured that the agencies directed to protecting America's workers will be able to carry out their assigned tasks.

The conference report provides $3 million more for OSHA than was requested, and includes a modest $2.5 million more for State OSHA Programs.

For MSHA, the conference committee determined that the agency needed $1.5 million more than was recommended by the administration. This will allow the agency to go forth with some very important rulemaking activities.

I am especially pleased that NIOSH was well taken care of in this conference report. It is no secret that the occupational health and safety community was extremely concerned by the budget proposal from the former administration that cut NIOSH funding by nearly 35 percent.

Yes, it is true that the Bush administration revised the numbers, but even then, the proposed budget was exactly the same as the appropriated amount for fiscal year 1989, with no consideration for inflation.

The final figure for NIOSH of $85.9 million, an increase of more than $15 million from 1989, clearly means that the important research and training efforts in the area of occupational safety and health will go forward.

It also means that NIOSH will not suffer the devastating brain drain that the original funding proposal, the one offered by the previous administration, would have meant.

And that brings me to the education portion of the conference report.

While I have some reservations about certain language which will preclude less than half-time students from being eligible for Pell grants, I commend the conferees for their thoughtfulness in handling a delicate situation and for not taking other actions that could have had a severe and drastic impact on some segments of the higher education community.

Overall, Mr. Speaker, this conference report on H.R. 2990, is more than just satisfactory. It continues to show the understanding of the conferees of the critical issues of the day.

I commend the conferees for their efforts and I urge my colleagues to join me in voting for this report.

Mr. FRENZEL. Mr. Speaker, this needed appropriation, will certainly pass. However, it is just about 10 percent over last year in budget authority.

If we raised all accounts by 10 percent, we would increase our deficit by $50 billion. Even with a Gramm-Rudman target of $110 billion deficit and a $70 billion add-on of Social Security revenues, an extra $50 billion would be significant.

The whole budget is up on about 4½ percent. This may be a preferred spending center, at least I consider that it is, but I don't think it should command twice the increase that the budget as a whole received.

Most of this bill is worthwhile and needed spending, especially the education portion. Even so, I can't vote for such a great spending increase when the deficit is so overpowering. I regret I must vote "no."

Mr. PENNY. Mr. Speaker, I rise in support of the fiscal 1990 Labor-HHS-Education Appropriations Act. However, I do so with some reluctance because of the language in the bill that denies Pell grant awards to less than half-time students, the so-called nontraditional college students. To be clear, the prohibition on funding for these students will mean that over 160,000 students will not receive Pell grant awards next school year. And who are these students, Mr. Speaker?

By most accounts, over 45 percent of students attending college or vocational school are doing so on a less than full-time basis. For many of these students, attending school full

time is a choice they cannot afford. They are raising families or working full time and can only attend school on a part-time basis. We are not talking about a minority of students. We are talking about the wave of the future.

In the last 15 years, the number of nontraditional students has increased over 80 percent. On some college campuses—particularly our 2-year schools—part-time students are a majority. By some accounts, on some college campuses, over 65 percent of students are attending school part time.

The language in this bill denying these hard-working students Pell grants next year is not only discriminatory, it is myopic. A policy of denying the fastest growing segment of our college students needed aid is a step backward.

Mr. Speaker, in 1985 in the reauthorization of the Higher Education Act the Congress went on record in support of nontraditional students. With bipartisan support, we agreed to look at a students financial resources to determine need, and not primarily his or her level of attendance, and this school year, many fo these students are receiving Pell grants. Today, in one provision, tucked away in this huge bill, we pull the rug out from under these needy students.

Colleagues, much has been said on this floor about the need to retrain our workforce for the future, yet today with the passage of this conference report we signal to those who are seeking a better life for themselves and their families that the Congress will not stand with them. Mr. Speaker, the language in this bill prohibiting Pell awards to nontraditional students will cost this Nation greatly in the future. I am deeply troubled by this change in policy.

□ 1200

Mr. NATCHER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore [Mr. MCDERMOTT]. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. NATCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 364, nays 56, not voting 12, as follows:

[Roll No. 276]

YEAS—364

Ackerman	Bateman	Boucher
Akaka	Beilenson	Boxer
Alexander	Bennett	Brennan
Anderson	Bentley	Brooks
Andrews	Bereuter	Broomfield
Annunzio	Berman	Browder
Anthony	Bevill	Bruce
Applegate	Bilbray	Buechner
Aspin	Bilirakis	Bustamante
Atkins	Bliley	Byron
AuCoin	Boehlert	Campbell (CA)
Baker	Boggs	Cardin
Ballenger	Bonior	Carper
Barnard	Bosco	Carr
Chandler	Hughes	Parker
Chapman	Hutto	Parris
Clarke	Hyde	Pashayan
Clay	Jacobs	Patterson
Clement	James	Payne (NJ)
Clinger	Jenkins	Payne (VA)
Coble	Johnson (CT)	Pease
Coleman (MO)	Johnson (SD)	Pelosi
Coleman (TX)	Johnston	Penny
Condit	Jones (GA)	Perkins
Conte	Jontz	Petri
Conyers	Kanjorski	Pickett
Cooper	Kaptur	Pickle
Costello	Kasich	Porter
Coughlin	Kastenmeier	Poshard
Coyne	Kennedy	Price
Crockett	Kennelly	Pursell
Darden	Kildee	Quillen
Davis	Kleczka	Rahall
de la Garza	Kolbe	Rangel
DeFazio	Kolter	Ravenel
Dellums	Kostmayer	Regula
Derrick	LaFalce	Rhodes
DeWine	Lagomarsino	Richardson
Dickinson	Lancaster	Ridge
Dicks	Lantos	Rinaldo
Dingell	Laughlin	Ritter
Dixon	Leath (TX)	Roberts
Donnelly	Lehman (CA)	Roe
Downey	Lehman (FL)	Rogers
Duncan	Lent	Ros-Lehtinen
Durbin	Levin (MI)	Rose
Dwyer	Levine (CA)	Rostenkowski
Dymally	Lewis (CA)	Roth
Dyson	Lewis (GA)	Roukema
Early	Lipinski	Rowland (CT)
Eckart	Livingston	Rowland (GA)
Edwards (CA)	Lloyd	Roybal
Emerson	Long	Russo
Engel	Lowery (CA)	Sabo
English	Lowey (NY)	Saiki
Erdreich	Luken, Thomas	Sangmeister
Espy	Machtley	Sarpalius
Evans	Madigan	Savage
Fascell	Manton	Sawyer
Fazio	Markey	Saxton
Feighan	Martin (IL)	Scheuer
Fish	Martin (NY)	Schiff
Flake	Martinez	Schneider
Flippo	Matsui	Schroeder
Ford (MI)	Mavroules	Schuette
Ford (TN)	Mazzoli	Schulze
Frank	McCloskey	Schumer
Frost	McCollum	Sharp
Gallo	McCrery	Shaw
Gaydos	McCurdy	Shays
Gejdenson	McDade	Sikorski
Gekas	McDermott	Sisisky
Gephardt	McEwen	Skaggs
Geren	McGrath	Skeen
Gibbons	McHugh	Skelton
Gillmor	McMillan (NC)	Slattery
Gilman	McMillen (MD)	Slaughter (NY)
Gingrich	McNulty	Slaughter (VA)
Glickman	Meyers	Smith (FL)
Gonzalez	Mfume	Smith (IA)
Goodling	Michel	Smith (NE)
Gordon	Miller (CA)	Smith (NJ)
Goss	Miller (OH)	Smith (TX)
Gradison	Miller (WA)	Smith (VT)
Grandy	Mineta	Smith, Robert (OR)
Grant	Moakley	Snowe
Gray	Molinari	Solarz
Green	Mollohan	Spratt
Guarini	Montgomery	Staggers
Gunderson	Moody	Stallings
Hall (OH)	Morella	Stangeland
Hall (TX)	Morrison (CT)	Stark
Hamilton	Morrison (WA)	Stearns
Hammerschmidt	Mrazek	Stenholm
Harris	Murphy	Stokes
Hastert	Murtha	Studds
Hatcher	Myers	Sundquist
Hawkins	Nagle	Swift
Hayes (IL)	Natcher	Synar
Hayes (LA)	Neal (MA)	Tallon
Hefner	Neal (NC)	Tanner
Henry	Nelson	Tauzin
Hertel	Nowak	Thomas (CA)
Hiler	Oakar	Thomas (GA)
Hoagland	Oberstar	Thomas (WY)
Hochbrueckner	Obey	Torricelli
Holloway	Olin	Towns
Hopkins	Ortiz	Traficant
Horton	Owens (NY)	Traxler
Houghton	Owens (UT)	Udall
Hoyer	Oxley	Unsoeld
Hubbard	Pallone	Upton
Huckaby	Panetta	Valentine
Vander Jagt	Waxman	Wise
Vento	Weber	Wolf
Visclosky	Weiss	Wolpe
Volkmer	Weldon	Wyden
Vucanovich	Wheat	Wylie
Walgren	Whittaker	Yates
Walsh	Whitten	Young (AK)
Watkins	Williams	Young (FL)
	Wilson	

NAYS—56

Archer	Fields	Paxon
Armey	Frenzel	Ray
Bartlett	Gallegly	Robinson
Barton	Hancock	Rohrabacher
Bates	Hansen	Schaefer
Brown (CO)	Hefley	Sensenbrenner
Bunning	Herger	Shumway
Burton	Hunter	Shuster
Callahan	Inhofe	Smith, Denny (OR)
Campbell (CO)	Ireland	Smith, Robert (NH)
Combest	Kyl	Solomon
Cox	Leach (IA)	Spence
Craig	Lewis (FL)	Stump
Crane	Lightfoot	Tauke
Dannemeyer	Lukens, Donald	Torres
DeLay	Marlenee	Walker
Dornan (CA)	McCandless	
Dreier	Moorhead	
Edwards (OK)	Nielson	
Fawell	Packard	

NOT VOTING—12

Borski	Courter	Foglietta
Brown (CA)	Dorgan (ND)	Garcia
Bryant	Douglas	Jones (NC)
Collins	Florio	Yatron

□ 1211

Messrs. BUECHNER, OXLEY, MCCURDY, and DEWINE changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DOUGLAS. Mr. Speaker, I was unable to make the vote on H.R. 2990, because my beeper did not go off. Had I been here, I would have voted nay.

Mr. CAMPBELL of Colorado. Mr. Speaker, on rollcall 276, on approving the conference report for H.R. 2990, fiscal year 1990 appropriations for Labor/HHS/Education, I thought I voted "yes" in favor of adoption of the report. However, my vote was registered as a "nay" vote.

I request that the record reflect my intention to vote "yes" on rollcall 276.

PERSONAL EXPLANATIONS

Mr. DORGAN of North Dakota. Mr. Speaker, as a result of the House warning bells not ringing in my office, I missed the vote on final passage of the conference report to H.R. 2990, Labor, Health, Human Services, and Education appropriations for 1990.

Had I received timely notice of the vote, I would have voted "yes."

□ 1220

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. MCDERMOTT). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 3, line 6, strike out "$10,000,000" and insert "$13,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the house recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$13,000,000, of which $1,500,000 shall be available for obligation for the period October 1, 1990 through September 30, 1991,".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 5, line 1, after "seq.)" insert "; and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the house recede from its disagreement to the amendment of the Senate numbered 12, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 5, line 2, strike out "$2,537,700,000" and insert "$2,587,700,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the house recede from its disagreement to the amendment of the senate numbered 13 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$2,575,200,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 5, line 13, after "1990" insert "and of which $19,148,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1990, through September 30, 1990, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523)".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", and of which $19,148,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1990, through December 31, 1990, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523)".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 5, line 19, after "purpose" insert ", and of which $25,000,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1990, through June 30, 1991, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1990, through June 30, 1991, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 6, line 4, after "1990" insert ": *Provided*, That for purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in this account are a necessary (but secondary) result of significant policy changes".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: On page 64 of the House engrossed bill, insert after line 5 the following:

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services Program Operations; Alcohol, Drug Abuse, and Mental Health; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Community Services Block Grant.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The test of the amendment if as follows:

Senate amendment No. 26: Page 15, after line 19, insert:

SEC. 105. (a) Within sixty days after the enactment of this Act, the United States, acting through the Secretary of Labor (or an official of the Department of Labor duly authorized by the Secretary of Labor) shall convey to the Northwest Oregon Housing Authority without consideration, all rights, title, and interest of the United States, in real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property commonly known as the "Emerald Heights Housing Complex" located in the city of Astoria, Clatsop County, Oregon.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 26, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 105. (a) Within sixty days after the enactment of this Act, the United States, acting through the Secretary of Labor (or an official of the Department of Labor duly authorized by the Secretary of Labor) shall convey to the State of Oregon without consideration, all rights, title, and interest of the United States, in real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property commonly known as the "Emerald Heights Housing Complex" located in the city of Astoria, Clatsop County, Oregon.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 15, after line 19, insert:

SEC. 106. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: On page 41 of the House engrossed bill, insert after line 19 the following:

SEC. 220. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 28: Page 16, line 6, after "VIII" insert "X,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows;

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert "X, XXIV,".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 16, line 10, strike out "$1,553,465,000" and insert "$1,820,254,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,782,271,000, of which $11,885,000 for health care for the homeless shall be available for obligation for the period October 1, 1990 through September 30, 1991".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 17, line 7, after "appropriation" insert ": *Provided further,* That none of the funds appropriated shall be used to carry out section 638, 704, and 705 of Public Law 100-607: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further,* That of this amount $30,000,000 is available until expended for grants to States for Human Immunodeficiency Virus drug reimbursement, pursuant to section 319 of the Public Health Service Act: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 34: Page 18, line 11, after "year" insert ": *Provided,* That necessary expenses of the Department of Health and Human Services under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,500,000, shall be reimbursed from the Trust Fund".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 34, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent

that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 19, line 21, after "surveys" insert ": *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only;".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the admendment is as follows:

Senate amendment No. 37: Page 19, line 21, after "surveys" insert ": *Provided further,* That the General Services Administration is directed to construct under their lease-purchase authority, a 175,000 net square foot laboratory/office building at the Centers for Disease Control campus in Morgantown, West Virginia, from existing plans which should be reviewed and if necessary revised for compliance with current codes, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to the General Services Administration from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed thirty years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriation to the Centers for Disease Control—Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of research facilities) and such appropriations shall herafter be available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1502 and 134(a)(1)(B)".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "and, in addition, for high prioity construction projects of the Centers for Disease Control, $5,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 21, line 4, strike out "$692,639,000" and insert "$752,939,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$691,866,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 51: Page 22, line 14, strike out "$356,128,000" and insert "$362,253,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: "In lieu of the sum proposed by said amendment, insert "$354,191,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 57: Page 23, line 18, after "supercomputer" insert "*Provided further,* That the following construction awards shall be made: $5,000,000 for the Jackson Laboratory, Bar Harbor, Maine; $5,000,000 for the Primate Research Institute, Halloman, New Mexico; $5,000,000 for the McLaughlin Institute, Great Falls, Montana; $500,000 for the Perinatal Research and Training Center, University of Mississippi; $500,000 for the Biomedical Research Center, Medical College of Georgia, Augusta, Georgia; and $2,000,000 for the University of Colorado Cancer Center".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further,* That in addition, the Secretary shall transfer $15,000,000 from appropriations available to each of the Institutes which shall be available for extramural facilities construc-

tion grants if authorized in law and if awarded competitively including such amount as he may deem appropriate for research animal production facilities".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 59: Page 24, line 8, strike out "$1,917,162,000" and insert "$2,005,448,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,934,177,000, of which $7,359,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991, and".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 62: Page 24, line 20, after "Treasury" insert ": *Provided further,* That funds appropriated for Federal activities authorized by sections 6 and 9 of the Act, shall remain available through September 30, 1991, and may be used for administrative and maintenance functions in implementing the Act".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 62, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 63: Page 24, line 24, after "XVII," insert "XX,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 63, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 64: Page 25, line 1, strike out "$95,345,000" and insert "$77,174,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$77,352,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER]

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 27, line 14, strike out "$1,992,159,000" and insert "$1,921,172,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate Numbered 71 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,917,172,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 32, line 25, strike out "$1,400,000,000" and insert "$1,278,654,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,393,000,000, of which $60,000,000 shall become available for making payments on September 30, 1990".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 76: Page 32, after line 25, insert:

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $417,356,000.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of

the matter inserted by said amendment insert the following:

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $368,822,000, of which $210,000,000 shall be available for State cash and medical assistance.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 77: Page 32, after line 25, insert:

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Funds appropriated for fiscal year 1990 under section 204(a)(1) of the Immigration Reform and Control Act of 1986 shall be reduced by $555,244,000. Funds appropriated for fiscal year 1991 under section 204(a)(1) of the Immigration Reform and Control Act of 1986 shall be increased by $555,244,000.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Funds appropriated for fiscal year 1990 under section 204(a)(1) of the Immigration Reform and Control Act of 1986 shall be reduced by $555,244,000: *Provided*, That for fiscal year 1992 $555,244,000 shall be available to States for obligation for the period October 1, 1991 through September 30, 1994 for purposes of section 204 of the Immigration Reform and Control Act of 1986 for unreimbursed costs incurred after September 30, 1989 if these costs would have been eligible for reimbursement under the original appropriation prior to the enactment of this Act.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 78: Page 33, line 4, strike out "$371,538,000" and insert "$391,223,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$396,680,000, of which $8,041,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991,".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 79: Page 33, line 9, after "681(a)(3)," insert "$3,512,000 shall be for carrying out section 408 of Public Law 99-425,".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 79, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 82: Page 34, line 11, after "Act," insert "section 404 of Public Law 98-473".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 82, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 34, line 23, strike out "$2,757,959,000" and insert "$2,876,879,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 84, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$2,784,090,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 87: Page 35, line 4, strike out "$1,556,364,000" and insert "$1,336,447,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 87, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,380,048,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

□ 1230

The SPEAKER pro tempore (Mr. McDERMOTT). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 90: Page 38, line 18, after "term" insert "; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House insist on its disagreement to the amendment of the Senate numbered 90.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

PREFERENTIAL MOTION OFFERED BY MRS. BOXER

Mrs. BOXER. Mr. Speaker, I offer a preferential motion.

Mr. Speaker, I wish to thank in advance the gentleman from Kentucky [Mr. NATCHER] for agreeing to allow me 20 minutes for the purpose of debate on this motion.

The SPEAKER pro tempore. The clerk will report the preferential motion.

The Clerk read as follows:

Mrs. BOXER moves that the House recede from its disagreement to the amendment of the Senate numbered 90, and concur therein with an amendment as follows:

At the end of the language proposed to be inserted by the Senate, insert:

"If the President does so certify, the General Accounting Office shall conduct a study of programs relating to distribution of sterile needles and report their findings to the Congress and the President within 90 days."

Mr. NATCHER. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

PARLIAMENTARY INQUIRY

Mrs. BOXER. Mr. Speaker, may I make a parliamentary inquiry before the gentleman from Illinois begins?

The SPEAKER pro tempore. The gentlewoman will state her parliamentary inquiry.

Mrs. BOXER. Mr. Speaker, I just want to ascertain that the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Massachusetts [Mr. CONTE] will give me 20 mintutes total so that I can line up my speakers.

Mr. NATCHER. Mr. Speaker, we agree on this side that the gentlewoman have 20 minutes.

The SPEAKER pro tempore. The gentlewoman from California [Mrs. BOXER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, we are going to have a very important debate this afternoon. This important debate asks several questions beyond the mere formulation of the language in the amendment. It asks the question whether we as human beings really live on an anthill or not, whether we are going to be guided by the precepts of animal husbandry, getting rid of the unfit, those that do not quite measure up.

Does being a member of the human family entitle one to protection of the law? Is the law to protect the weak from the strong? That is what we are going to ask.

I suggest the abortion issue is a human rights issue, it is a civil rights issue. Whom do we include within the circle of those society will be responsible for? The aged, the terminally ill, the incorrigibly poor, the profoundly handicapped? What about the unwanted, innocently inconvenient unborn, the little children that are not yet born, that cannot rise up in the streets, that cannot vote, that cannot escape, but are tiny members of the human family?

Have we such little moral imagination that we do not understand that in the womb of the pregnant woman is a tiny member of the human family, and that right to life comes from almighty God? I am not embarrassed to say that, even though the ACLU might smirk at that, because our Nation's birth certificate, the Declaration of Independence, says we hold these truths to be self-evident, beyond dispute, that all men, all mankind, all members of the human family, are created, not born, created equal, and are endowed by their Creator.

Our right to life is an endowment, it is not an achievement. We do not achieve it. We are endowed with that right to life at the moment of our creation.

Among these inalienable rights, they cannot be voted away by this Congress or by a court, is the right to life, the first right, the first human right, the right to life.

The policy of this Congress since 1976 has been not to violate the consciences of those millions of taxpayers who do not want their tax money going to pay to kill unborn children. They use the euphemism, "terminate a pregnancy." Every pregnancy terminates at the end of 9 months. They are talking about exterminating. And exterminating what? A tiny member of the human family, maybe innocently inconvenient, maybe unwanted by somebody, but a member entitled by endowment from the Creator with the right to life. That is what we are talking about.

Make no mistake, abortion is killing. It does not happen to pregnant women, it happens to the baby. Every abortion occurs over somebody's dead body, and that is the child's.

I know that we have to focus on the woman and she has serious human problems, but we can not find humane solutions other than killing? Must we resort to random violence to solve these human problems? Is society so empty, have we not moved from barbarism very far?

The humanity of the unborn. Have my colleagues ever been in a high rise building where the elevator goes 10, 11, 12, 14, 15? You say where is the 13th floor? They say there is not one.

What is holding up the 14th floor? We all know there is a 13th floor, but we do not want to recognize it. It is not convenient. The unborn is the great 13th floor of society—everyone knows it's there, but they pretend it isn't.

Everybody knows that is a baby in a mother's womb, an unborn, preborn member of the human family, needing only time and nourishment to be a child that you would hold in your arms, that one would say nobody can kill.

One cannot strangle that baby once it is born.

What is the difference qualitatively, 10 minutes before one is born, 10 days before one is born, 7 months before one is born? Time and nourishment. The humanity of the unborn.

Now, rape and incest are tragedies. Nobody says they are not. But why visit on the second victim, the unborn child that is the product of that criminal act, capital punishment?

The Supreme Court says we cannot execute the rapist. That is cruel and unusual punishment. By what leap of logic do we visit on the unborn child the penalty, the extreme capital punishment penalty, of execution?

No. The tragedy of rape is a tragedy, but it is a worse tragedy to kill the innocent preborn life. A child, a human life created by rape or incest has the same right to life as one created by a loving couple. No one chooses the condition of his or her conception.

Ethel Waters, the great black star of stage and screen, said that her father raped her mother when she was 12. She then remarked that they named a park after her in Lancaster, PA.

Mr. Speaker, I want to thank my friend, the gentleman from Kentucky [Mr. NATCHER], who has been a tower of strength on this issue along with the gentleman from Massachusetts [Mr. CONTE]. If Members stick with

BILL NATCHER and SILVIO CONTE they will not go wrong on this issue.

Prompt treatment after rape, within at least 36 hours, and no pregnancy occurs. It takes that long for a pregnancy to occur.

Get prompt treatment, which the law should encourage and avoid venereal disease, get evidence of the rape and prevent conception. Prompt treatment is the solution to this, but to empower anybody to decide with life or death finality that some lives have begun in the wrong way is to trample on the sacredness of all human right to life.

Abortion is killing. Abortion is violence. My friends, this building exists, the courthouses exist, the law exists to protect the weak from the strong. That is why we have law, and there is nobody more weak and defenseless than the preborn.

When the mother, who should be the natural protector of her child, becomes its moral adversary, then the law must step in.

Listen to me. The killing of an innocent human life is never a private matter. God forbid in this country, in this world that people can kill innocent human life and keep it in the closet, keep it in the hospital.

□ 1240

It is a public matter. We are all involved in mankind. "Every man's death diminishes me because I am involved in mankind," said John Donne.

No murder, no killing, no extermination of an innocent life is a private matter; it is a public matter. We ought to cry out to Heaven when it happens.

I bleed for women who are raped and who are victims of incest. They need our help, they need our support, they need our love, and we have to give it to them. But do not kill the innocent victim, the second innocent victim, of that rape.

Now I suggest to you the number of pregnancies is very small, very small as a result of rape or incest. Certainly private money, if abortion is the only answer, can be expended. But do not visit on taxpayers the use of their money to exterminate innocent unborn children. I ask you to focus on the baby as well as the woman. Well intentioned as these people are, focus on the innocent life and remember you, today, have a chance to save a human life. These little children that come into the world with some little message in their fists to explain the mystery of why we are here, to solve the riddle of cancer, to solve the riddle of multiple sclerosis, to write the literature, to discover the secrets and chart the maps. These are little human beings.

We would embrace and love them and help the woman who has had this crime visited on her, but not to kill her unborn child. We are not animals. We do not live on an anthill. We are members of the human family.

This body has always defended human life. Think of your Declaration of Independence, think of the right to life as an endowment from the Creator and that nobody has the right to take that away.

Mr. NATCHER. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Speaker, I want to talk about humanity also. My motion simply asks that the House recede to the Senate language as it relates to the issue of Medicaid funding in cases of rape, incest, and ectopic pregnancy.

Rape, rape has been described as one of the most brutal and one of the most violent crimes. The victim is made to feel helpless, defenseless, dirtied, violated, invaded.

Men are sometimes raped, but they do not have to bear a lifelong memory of that terrifying and horrifying experience. A woman might have to.

Out of the 85,000 reported rapes, many women might have to.

Yet there are those in this House who believe she must have to, especially if she is poor. The Government will not help her. I say that is wrong.

I say that is inhumane, and today is the day that we can reverse that wrong by agreeing to the Senate language.

Suppose a woman is raped in her bed by a violent criminal who scarred her and killed her husband who was lying next to her. It happened in California many times. That is the Night Stalker case, and thank God that criminal is apprenhended and will be put to death.

Suppose that woman was impregnated by this vicious and violent and demented man who then killed her husband in front of her. Should she have to bear that vicious killer's child?

There are those in this Chamber who in the name of humanity say that she must, especially if she is poor. The Government will not help her. I say that is wrong. I say that is inhumane.

Today is the day we can reverse that wrong.

You know, in Oregon there was a sixth-grade child sexually abused by her father, sixth grade, 11 years old. She became pregnant and she cried out for help, and her mother cried out for help, and help was hard to find because this child, this 11-year-old baby did not even know what pregnant meant.

So getting an abortion was complicated and the Government did not help. So she sat like a sitting duck waiting for help. One day her father walked into the room she was sitting in and blew her brains out.

Mr. Speaker, I believe the Senate took a needed step forward in making an exception of Medicaid dollars for rape and incest.

I personally believe the entire matter of abortion is a private and a personal one which in this country of individual freedom should only be made by the woman and her doctor and her God and her family.

But what is before us today is not that broad issue. It is just the very narrow issue. The Senate language which would now allow Medicaid funding in these horrendous cases of rape and incest. So for the sake of human compassion, at least allow the females of this Nation to decide for themselves along with their God as to what they want to do.

If they are victims of rape and incest, God knows they do not need any more problems from their government while they are coping with this deep and lifelong decision.

Please support this amendment. Let us support the Senate language in the name of compassion, in the name of life and in the name of human justice.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. ROS-LEHTINEN].

Mrs. ROS-LEHTINEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the motion to recede to the Senate position.

Mr. Speaker, since 1981, Congress has passed the Hyde amendment which has permitted Federal Medicaid funding of abortions only where the life of the mother would be endangered if the fetus were carried to term. Members will soon vote on whether to agree to language adopted by the Senate in the fiscal year 1990 Labor/HHS appropriations bill, that would fund abortions based on claims of rape and incest. I urge Members to vote against receding to the Senate for the reason that Mr. Hyde has so eloquently articulated.

I rise in order to assure Members what they are not voting on today. Some have claimed that the vote today will determine whether Medicaid will pay for surgical intervention for women who are experiencing an ectopic pregnancy—which is to say, when the embryo is developing in the falopian tube. Unless surgery is performed and the tiny embryo removed, the wall of the fallopian tube will rupture.

For example, in a news release dated October 6, the vice president of Planned Parenthood stated:

> It is outrageous that the House conferees on the Labor-HHS appropriations bill refused to join the Senate in restoring access to Medicaid-funded abortion for women who are victims of rape, incest and ectopic pregnancies.

Mr. Speaker, this statement is false. The language in the House-passed bill, the Hyde amendment, is the law today as we speak. Exactly the same language has been in effect continuously since June 1981. It is a matter of public record that Medicaid has always paid for treatments for ectopic pregnancies, and continues to do so under the Hyde amendment.

Secretary Sullivan underscores this point in his letter to us, dated October 10, in which he wrote:

Other [Senate-passed] language in H.R. 2990 states that funding is not prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. This language is not part of current law, and is unnecessary because current law permits provision of drugs, devices, and procedures to prevent implantation. Surgical intervention in cases of ectopic pregnancy clearly falls under the "life of the mother" exception.

The claim that the House-passed Hyde amendment would prevent removal of an ectopic pregnancy is a desperate attempt to divert attention from the real issue at hand. It reminds me of the way certain Members, during the debate in August on whether to allow the District of Columbia to pay for abortion on demand, were told that they were voting on whether to allow the District to pay for contraceptives and treatment for ectopic pregnancy. That was demonstrably false on that bill, and it is demonstrably false here. We are talking about defending current law.

The real issue today is whether we should allow many more abortions, due to claimed cases of rape and incest, to be funded. I urge Members to say "no." Let's vote on the real issue, not demagoguery.

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend from Massachusetts for yielding.

Mr. Speaker, I would like to associate myself very strongly with the remarks of the gentleman from Illinois [Mr. HYDE], who made an eloquent case for retaining current law. I agree with Mr. HYDE, this issue is a human rights issue.

Mr. Speaker, it would indeed be a tragic mistake if we were to turn back the clock today by altering and weakening the Hyde amendment. The Hyde amendment constitutes a proven, longstanding, humane public policy which has for more than a decade successfully withstood the avalanche of challenges in the courts, in the press and in the Congress.

The Hyde amendment has been instrumental in the saving of thousands of lives from the abuse of the abortionists. If it had not been for the Hyde amendment, more children would have been victimized and killed. If it had not been for the Hyde amendment, more babies would have had to suffer injections of poison and other chemicals designed to destroy them. If it had not been for the Hyde amendment, the Federal Government would have supplied tens of millions of dollars to literally rip apart and dismember the bodies of children through suction abortion and other methods.

□ 1250

The reality of abortion, Mr. Speaker, is death to children, abuse of children by chemical and surgical methods, and the Hyde amendment divests the Federal Government from that carnage.

Prior to enactment in 1976, the Federal Government subsidized approximately 300,000 Medicaid abortions per year. By way of contrast, in fiscal year 1988, 84 abortions were funded under the life endangerment provision.

Mr. Speaker, the House should not today, or ever, retreat from its solid support for the Hyde amendment. Not only have lives been saved, but this amendment is the model statute for Federal and State efforts to end Government subsidies for abortion and replication of it elsewhere in State and Federal law is a tremendous tribute to its distinguished author, the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I join all my colleagues on both sides of the aisle, on both sides of the abortion issue today in absolutely condemning rape and incest, and all types of sexual assault. Few crimes evoke such a strong reaction, and disgust, as a criminal rape.

Sexual assault against women cries out for justice and swift and sure punishment for the offender. Tough, nonsense penalties for the perpetrators of those horrendous crimes is an issue on which we should find no disagreement.

Rapists belong in jail, Mr. Speaker, off the streets, and our criminal justice system must keep them there. Clearly, then, society's outrage ought to be focused on and directed against the criminal, the rapist.

Yet it seems to me that some of the deep and heartfelt emotion expressed on this issue is focused incorrectly on the innocent child. It is as if some, perhaps upwittingly, wish to visit not only the stigma of rape but the death penalty as well on the innocent unborn child. It seems to me that compassion and fairness compels Members to deeply care for both lives, mother and child. Clearly, both are victims. Clearly, both deserve our love, our empathy, and our compassion.

Mr. Speaker, I believe, for the woman who has been raped, every medical, legal, emotional and compassionate support that can be provided at the time of rape, must be made available. Members should be cognizant of the fact that emergency medical care for rape victims is permitted under the Hyde amendment. I believe counseling and tangible assistance must continue for as long as needed.

If, in the very rare occurrence, pregnancy does occur, positive alternatives should be made available to the woman. I respectfully submit that assaulting the child is not the answer. A child's inherent worth is not diminished by the circumstances of his or her beginning.

Mr. Speaker, again I urge support for the distinguished chairman of the committee, the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Massachusetts [Mr. CONTE] and urge Members to vote against the motion made by the gentlewoman from California [Mrs. BOXER].

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I think it is absolutely unconscionable for us to turn our backs on poor women and girls who have been raped or who have suffered the trauma of incest. I am a psychiatrist and a physician who has treated victims of rape and incest. I must tell you, the last thing victims of assault need is to have control over their bodies taken away from them yet again.

Denying Medicaid funding says to the victim, "you have not suffered enough in this painful ordeal, so we are going to force you to bear a child which was conceived out of hatred and violence." Isn't our society more compassionate than that?

We hear a lot of talk on this floor about the horrors of child abuse. Yet, if you are truly outraged about child abuse, how can you possibly say that a child who has been raped should not be able to turn to the Government for assistance in obtaining an abortion?

My friends, this is not just another litmus test which seeks to align you one way or the other on the political issue of abortion. We are not talking about poll results and percentage points here. We are talking about the lives and emotional well-being of women and girls who have suffered a crime second only to murder. In the name of simple human decency, I ask for your support of Medicaid funding for abortions in cases of rape and incest.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, we are being asked today to reverse a longstanding policy, and I think that particularly is important for new Members to understand. The policy of this body has been established for a long period of time, but what the Boxer amendment is asking Members to do is to reverse a longstanding policy that in the view of most, has worked well.

In my judgment, the gentleman from Illinois [Mr. HYDE] and my colleague from New Jersey have outlined the major reasons why the Boxer amendment ought to be rejected, and it is philosophical. The House can be proud they stood up for the unborn. This House can be proud they have stood up for the protection of those taxpayers whose consciences would be violated it they were forced to pay for abortions, against their will. I applaud them for their eloquent statements.

I also, in the limited time I have available, want to make the point that there are practical reasons why this House should not reverse itself and insert an unworkable exception into

the rules governing the HHS appropriation. It is worth emphasizing that when the Hyde amendment was originally passed, this was a fairly broad agreement, extending beyond the pro-life community, that exceptions for rape and incest were not workable and should not be part of that agreement. Those objections are reinforced to Members in a letter to Members of this body from Secretary of Health and Human Services, Louis W. Sullivan, and I would like to quote on practical considerations of the Department of Health and Human Services.

I want to address specifically some serious administrative concerns that arise from this language. As Secretary Otis Bowen indicated to Congress in 1988 when a similar question was raised, the judgment that a pregnancy resulted from rape or incest is properly a legal and not a medical one. An onerous responsibility for legal judgment would be placed upon State Medicaid programs, the Department, and health care providers if this language is accepted.

Department regulations would be needed, particularly with respect to the Medicaid program, to define how to determine if rape or incest has occurred. Enforcement of such a provision would require a number of judgments about the nature and extent of notice, certification, and recordkeeping. Revised State procedures also would be necessary to implement changes in Medicaid.

Additional bureaucracy, additional regulations, additional cost to the Department of Health and Human Services, additional cost to the State, probably lawsuits at every level owing to the ill-defined nature of the amendment itself.

Finally, Secretary Sullivan makes the point about ectopic pregnancies:

Surgical intervention in cases of ectopic pregnancy clearly falls under the "life of the mother" exception. This is superfluous language, and its removal from H.R. 2990 will have no substantive effect."

Defeat the Boxer motion.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, this is not a human rights issue. This is a minority view here in the United States and elsewhere in the world. Let Members make that very clear.

What we are talking about here is a poor woman or girl who has been raped or made pregnant by incest. Certainly this poor woman or girl should be able to decide whether or not to have an abortion, but she does not have any money. All of the well-to-do women or girls in the country can have that, but not the poor woman or the poor girl.

Mr. Speaker, virtually every public opinion poll taken over the last 15 years in the United States has found that 8 out of 10 Americans believe that abortion should be available for women and girls who have been subjected to criminal assault. That is what we are talking. Statewide referenda aimed at restricting equal access to abortions for poor women have been defeated 11 of the 12 times that they have been before the public since 1978. The time has come for this House to accede to that same opinion.

The American public is starting to get fed up with the way courts and politicians are dealing with issues of abortion and reproductive rights. They are tired of listening to judges and legislatures telling them how to make the most personal decisions of their lives. They do not want the Government in their bedrooms. They do want compassionate treatment of those who are the victims of criminal assault. They are taking their views to the voting booths in several important elections this fall. They are sending us a message. We should listen.

□ 1300

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in support of the Hyde proposition and in opposition to the Boxer motion.

Mr. Speaker, in the wake of the Supreme Court's Webster decision, the issue of abortion has been clouded by misinformation. Now more than ever, it is important to maintain and preserve the integrity of the traditional Hyde amendment banning the use of Federal funds for abortion.

Ever since its inception, the Hyde amendment has made exception where the life of the mother is endangered by her pregnancy. Yet misinformation abounds. Claims are made that the Hyde amendment would disallow abortion for ectopic pregnancies; this is not the case. As Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, has stated surgical intervention in cases of ectopic pregnancy clearly falls under the "life of the mother" exception.

A life is no less human because it was conceived through rape or incest. A child is no less innocent because of conditions of its birth. The sole issue to be considered is the destruction of innocent human life. Rape and incest are terrible enough; federally funded abortion will only compound the crime.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, there are many ways that we as public policymakers conspire to keep women and children poor in America.

We do not require States to have tough laws on rape and incest. We do not fund a level of enforcement that protects women and a girl child or girl children against rape and incest.

The child abuse figures, and specifically the dramatic percentage of that abuse that is sexual, not physical, demonstrate that we as a society do not effectively protect women and girls from rape and incest. Can you hold your head up as a Member of this U.S. Congress and say that we provide women and children protection against rape and incest? We do not in America.

So will we deny funding to those most common victims, those most vulnerable, those women and girl children who must suffer the consequences of crimes committed against them? Will we deny them funding for what is legal, medical care, and care they need as a result of an inability to protect them from crime?

I hope you will remember that we are talking about 13-year-olds. We are talking about little kids who are raped, who are the victims of incest. Will you deny them funding for legal medical care in America? Would you declare them powerless to protect themselves from the lifelong responsibility to economically, psychologically, and emotionally care for another human being until death do us part, for that is what parenting is all about?

What was the purpose of welfare reform? Do we remember that bill we worked so hard on? The purpose of welfare reform and the requirement for individual case planning was to require young mothers to connect to education and to job training and to take the economic and emotional responsibility for building a strong family. And yet today will you be part of denying that 14- or 15-year-old welfare mother, with one young baby, who is trying desperately to succeed in school, that opportunity? If she is raped by the drug addict next door, if she is invaded by her abusive alcoholic father, will you deny her the medical care your wife or your daughter has access to, and the power over her future she needs to build economic and emotional security for her child?

Mr. Speaker, we must not discriminate solely on the basis of poverty. That is what keeps women there. This is a matter of humanity. This is a matter of equity. Support the amendment.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, for 15 years my major goal in the Congress of the United States has been to try to make this country a little bit kinder and a little bit gentler toward its children and toward its families, and that ranges from tax policy to health care and back again.

I have spent during that period an awful lot of time with women, with girls who have been the subject of abuse. I have sat all night in shelters. I have sat all night in police houses and police stations. I have tried to tell their story, and I have talked to them for months afterwards. I have been to their homes to listen to them.

It must not be that this Congress of the United States is going to treat poor women and girls in this country differently than we do women and girls of means. We may argue about whether or not the right to abortion exists or it does not, but we are now suggesting that it shall exist for some people in most of the communities in which we travel and spend our daily lives, and that decision would be there,

but if you were poor, we would deny you that decision as a matter of law by the Congress of the United States.

We made a bad decision in 1981 when we started down this road. The Senate has now changed its mind, and we are asking that the House recede to the Senate language for all of the reasons that the gentlewoman from Connecticut [Mrs. JOHNSON] just articulated, and they are the most personal and horrendous reasons we can imagine.

Most of us have not spent that time, most of us have not spent that time with these women and these children. Many of us cannot appreciate what it means to get a woman who has been victimized by incest or by rape to even open her mouth and think about telling another human being. Let us not turn the disgusting, violent, solitary act of rape into a gang rape by the Congress of the United States.

Mr. Speaker, that must not be the official policy of this country.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise today in opposition to the motion to recede.

The language adopted by the other body would require the Federal Government to pay for abortions in claimed cases of rape and incest.

I urge my colleagues to oppose this motion, to recede, and to insist on the traditional House position in support of the Hyde amendment. The Senate language should be rejected as bad public policy, both on the grounds of principle and practicality.

Let us not forget that the Hyde amendment already permits emergency treatment for rape victims which, if administered within 3 days, is 100 percent effective.

Mr. Speaker, there is no way I could express myself as eloquently as the gentleman from Illinois [Mr. HYDE] on this issue. I simply urge my colleagues to oppose this motion to recede, and I thank not only the gentleman from Illinois [Mr. HYDE] but also the distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER], and the distinguished vice chairman of the subcommittee, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I cannot say anything to underscore with more beautiful eloquence the fact that this is a human rights issue than what the gentleman from Illinois [Mr. HYDE] has said, and I hope he will speak one more time and anchor this debate today on the House floor.

Let me do something that is quite mundane but, I think, very important, and that is just talk to our colleagues in an inside way. Twenty-one of our colleagues who are pro-life, so designated and proud of it, were euchred by the whole parliamentary process on the D.C. appropriations debate a few weeks back, and the mass electronic media—electronic, particularly—said, "This is a sea change in the House. The House has shifted from pro-life to pro-abortion." They tried to characterize these 21 switch votes as changing from their lifelong pro-life position to a pro-abortion position. When we interview each one of them singly, we find that is just not the case.

I maintain that with this upcoming Boxer amendment, which I hope these 21 Members will vote against, is a way for them to come halfway home.

□ 1310

Mr. Speaker, the President will veto this appropriations bill if this Senate language is in it. He has also said, and within the last few days reemphasized, that he will veto the D.C. appropriations bill, which may come up later today if it also contains pro-abortion language. Now, if they come halfway home on this, the rest of the trip home to a pro-life position is after the President vetoes the D.C. appropriations bill.

Mr. Speaker, I would not put $5 on that table whether this will be a pro-abortion House a decade from now. I just do not know. Nobody knows. But I know, if any Member stays as long as the gentleman from Mississippi [Mr. WHITTEN] has; he came here in 1942; that is almost pressing half a century, they will still be debating this issue well into the next century because child abuse has risen in our country in direct proportion to this insanity of killing 22 million American citizens in their mother's wombs.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for yielding.

Mr. Speaker, every time we debate this issue on the floor of the House, it is so easy for us to throw out words like "rape" or "incest," as if they were abstractions, like "grand larcency" or "petty theft."

We can do that because most of us in this House are male, and, when the debate is over, we can walk off this floor, and go about our business, and forget all that has happened here.

But there are some who can never forget. They are the victims. Of rape. Of incest.

Some of my colleagues have daughters. Most Members have wives. I want them to think about rape today. About the act of rape. I want them to imagine how they would feel if it happened to their daughter or their wife.

A rape victim will tell you that beyond the cruelty, and the pain and the injury, rape is the ultimate debasement and degradation of a human being. In the hands of a predator, a rape vicitm is dirt—robbed of personal safety, robbed of privacy, robbed of human dignity.

Now some of my colleagues would add insult to that victim by forcing her to produce the rapist's child? And they call that a "human rights" stand? I do not understand that. More importantly, the American people do not understand.

Mr. Speaker, I ask my colleagues, "Would you force your daughter or your wife, if she were raped, to be the incubator of the seed of the rapist?"

I would not. I doubt that my colleagues would. The American people would not either, and they will watch our votes today—and they will remember.

Mr. Speaker, the American people are asking us to support the rights of the victims of rape and incest.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my dear and beloved friend, the gentlewomen from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. CONTE] for yielding.

Mr. Speaker, there has been a lot of discussion in this debate about human rights. One Member said, "All men are created equal." Well, if we do not yield to the Senate version, all women will not be created equal.

Mr. Speaker, how can we say that this Congress is treating women equally if we are forcing women to bear the product of a crime perpetrated against them? We are not only talking about women, we are talking about girls.

Incest: I know of no religion, no religion where incest is considered OK. It goes right to the core of the very sacred family unit.

Rape is the same. It goes right to the core of the family unit.

Mr. Speaker, I would think that everyone in this body would be all for preserving family units. It is very hard to preserve family units if the Federal Government insists that a wife must bear a child that was a product of rape. Think how the husband would feel. It would be awful to think that we are preserving family units if we are forcing young children to bear babies that were born because of incest. My goodness, we are going right against the grain of every single major religion. We keep forgetting about the women and young girls that are the victims of these crimes.

Mr. Speaker, these are very difficult situations that must be balanced out, and I think it is very important that we stand up and say that it is all right to have Medicaid funding in the case of rape and incest. We have had people here say, "Oh, get prompt treatment." What do you think prompt treatment is? It is a DNC, a procedure which is considered to be an abortion by every single State, as well as the anti-abortion people. I think to throw that out is a real red herring.

My colleagues, please do not vote to sustain the Senate language.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for yielding.

Mr. Speaker, I also rise today in support of the conference report language providing Medicare-funded abortions for women whose pregnancy results from rape and incest. In a better world perhaps we would not have to have this debate, but unfortunately our society is still haunted by crimes like rape and incest.

My colleagues have seen the reports from the FBI and other organizations that state that there are 85,000 cases of rape in the United States each year and 100,000 cases of child sexual abuse. Until we eliminate these crimes and some of their underlying causes, it is imperative that the Government provide financial assistance to women and, often, young children involved in these cases.

Today, Mr. Speaker, I want my colleagues to think about fairness. If any one of our daughters were faced with this situation, would we make every medical option available to them? Of course we would. Is it fair then to deny some women medical options based upon their financial situation? I think not.

Mr. Speaker, today we can help all women involved in these horrible crimes to have access to the same legal rights that our children have. They should expect nothing less from the Congress of the United States.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of the Boxer motion. I do so as a Republican, as a woman and as a mother of three, and I do so in the name of simple decency. I want especially to address my remarks to those of my colleagues who want to keep Government out of our lives.

Mr. Speaker, this issue is the most intimate and most profound moral issue that a woman has to face. Do my colleagues want to put Government into the position of making that decision?

I say to my colleagues that under the language in the conference report we are saying that we support a two-class system. A two-class system in this society that is: those who have the money to make the choice can make their own moral choice for themselves; but those who do not have the money to make the medical choice for themselves, will have to continue to be victimized. In other words, those who cannot afford the legal right to an abortion are victimized twice, and victimized for the rest of their lives.

Mr. Speaker, in the name of simple decency I say to my Republican colleagues that we must keep Government out of this moral decision. Those who are the victims of rape or incest should have a identical legal right to have the same medical choice available to other members of our society.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I rise in opposition to the motion to recede to the Senate position.

I would urge members to go beyond our debate and to look directly at the language we are discussing. The Senate would amend the traditional Hyde language in two ways——

First, the Senate language would allow abortions, quote:

For the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service.

Second, the Senate language would specify that payments are not prohibited for quote:

Drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

What is intended by this language? On its face, it seems gratuitous, unnecessary. Why does it seem unnecessary? In the case of rape victims, the emergency treatment the victim would routinely receive at the hospital—high doses of estrogen, for example—is 100 percent effective in preventing any pregnancy. The victim of any rape that is "promptly reported," as the provision requires, would receive this treatment.

The second amendment is equally gratuitous. The traditional Hyde language does not and never has prohibited the use of drugs or devices to prevent implantation The language on ectopic pregnancies is especially redundant since the very text of the traditional Hyde amendment allows abortion in those cases in which the life of the mother is endangered. This obviously would apply to ectopic pregnancies.

Secretary Sullivan, commenting on this language, observes that, quote:

Current law permits provision of drugs, devices, and procedures to prevent implantation. Surgical intervention in cases of ectopic pregnancy clearly falls under the "life of the mother" exception. This is superfluous language, and its removal from H.R. 2990 will have no substantive effect.

That is the Secretary of Health and Human Services.

Well then, if this language is unnecessary and gratuitous, why is it in the Senate bill? Why are we debating it and why am I objecting to it? Because its proponents hope to exploit the ambiguity of the rape and incest language to create a loophole that would allow funding of many more abortions.

This ambiguity is manifested in the provisions requirement that the rape be—quote—"promptly reported." What does that mean, promptly reported? As I noted earlier, routine treatment delivered to a rape victim at the hospital prevents any pregnancy.

The ambiguity also is manifested in the provisions requirement that the rape be reported to a—quote—"public health service." These are the same public health services that would in fact be performing the abortions.

Let me emphasize in closing that current Hyde language does not prohibit treatment to victims of rape that terminates any consequent pregnancy and current Hyde language certainly does not prohibit the use of drugs or devices to prevent implantation or to terminate an ectopic pregnancy. Vote down the Senate amendment.

□ 1320

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of the motion to recede to the Senate.

Mr. Speaker, I want to express my strong support for the Boxer motion to concur with the Senate provision on abortion funding to the Labor, Health and Human Services, Education appropriations conference report for fiscal year 1990. However, I would like also to express my objection to the linkage of the provision concerning funds for certain abortions with a provision restricting funds for AIDS-related needle exchange and bleach programs. AIDS and abortion are two discrete and very serious matters that should be treated separately.

By restoring Federal funding for abortion in the cases of rape and incest, Congress would begin to redress our shameful and unjust abortion limitations. Abortion is legal in the United States. Yet, in the 16 years since the Supreme Court affirmed this constitutional right, poor women have been denied this right. We cannot continue a policy that condemns women to the trauma of bringing an unwanted child into the world, or to back alley abortionists, simply because she does not have enough money for a safe abortion.

Every woman—not just the more affluent women—should be allowed to make her own decision about a pregnancy, especially when it is the result of violence and assault. Tragically, since 1981, through the Labor/HHS appropriation bills, Congress has limited access to safe and legal abortion services for poor women who are victims of rape and incest, increasing the risks of the occurrence of dangerous self-induced or nonmedical abortions among these women. Today, we can remedy this travesty of justice with a yes vote on the Boxer motion.

I am deeply disappointed that this vote to remedy current discriminatory abortion laws must be tied to the barring of Federal funds for needle exchange and bleach distribution programs. Bleach distribution programs have been used for several years in cities across the United States with demonstrated success in slowing HIV transmission. Needle exchange programs in certain European cities have also been effective and there are now several such programs in this country.

I believe it is essential to make available to the American people every reasonable method of controlling the spread of this deadly virus, including bleach and needle exchange programs. These are decisions that

should properly be made by our public health specialists. In my view, we should not place restrictions on programs such as needle exchange before the public health community has had a chance to evaluate their success. It is true that needle exchange is not a complete solution to the problem of HIV transmission through sharing "works," nor does it solve the problem of drug abuse. However, if the program will save even one adult life, or prevent the birth of even one baby with AIDS, it is worth funding.

The conference report prohibits the use of Federal funds for the distribution of needles or bleach for the prevention of HIV infection. That is, Federal funds cannot be used to buy needles or bleach or to distribute those particular items. However, it does not in any way restrict the authority of the National Institute for Drug Abuse from continuing to carry out the various AIDS education and prevention programs they have undertaken among the IV drug user community. Such programs, including their staffs and overhead expenses continue to be funded under this bill. The sole modification made by this provision is that, if such programs engage in distributing needles or bleach, they must obtain the funds for such materials elsewhere.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of the motion to recede, to accept the Senate abortion language. I believe that Congress must move to allow Medicaid funding for abortion services in the cases of rape and incest, as well as to save the life of the mother. Low-income women who are the victims of violent sexual crimes should have the same constitutional right as more affluent women to terminate a resulting pregnancy.

The Senate language would allow Federal funding of abortions only in promptly reported cases of rape and incest. Polls taken over the last 15 years indicate that 8 in 10 Americans believe that abortion should be an available option for women who have been the victims of sexual assault. The vast majority of Americans support this coverage—even many who do not support the Roe versus Wade decision.

Poor women who are pregnant as a result of rape or incest—the victims of brutal acts—should have access to the same health care options available to more affluent women. I urge my colleagues to agree to the Senate language to H.R. 2990.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I certainly thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, I rise today to speak for the rights and lives of American citizens who are women and female children and who are too poor to obtain the procedures that are available to their more prosperous sisters.

I speak today of the victims of rape and incest who some Members of Congress insist be doubly victimized by the cruel requirement to carry the resulting fetus conceived in hate and fear.

In the case of incest, is that not assault upon a child? Is that not the cruelest of child abuse? To think of a child, one with hopes and dreams for her future, yet banished by Government decree.

What interest to society is served by forcing children to have babies? To those who speak most eloquently against women and children, and I do not doubt their sincerity and their deeply held beliefs, I ask this question. If Government cannot protect women and children from the crimes of rape and incest, how dare it compound the felony by denying them any recourse to what has happened to them?

Please, please have the compassion not to let that happen. I beg you to support the Senate language.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, I thank the gentleman from Kentucky for yielding me this time.

Mr. Speaker, it is unfortunate that we live in a violent society, but we do, and women, young girls, are too often the victims. Today, we are here to protect the rights of the poorest victims of violent sexual crimes. Women with financial resources will continue to have the freedom to be in control of their lives, to make the most personal decision, but Congress cannot and must not turn its back on the poorest victims of rape and incest who become pregnant by telling them that they cannot have an abortion, that they cannot choose to take control of their lives.

You have heard the shocking reports by the FBI and the National Center for Child Abuse and Neglect, 85,000 cases of rape and 100,000 cases of child sexual abuse each year. Those startling numbers are not just numbers. They are people. They are young women, young girls who have suffered pain, violence, abuse, shame, somebody's daughter, maybe yours, God forbid.

If we fail to provide support to low-income women today, society is rendering them double victims, victims of a very cruel society by this Congress; so I urge you to vote aye for the Boxer amendment, to accept the Senate language on rape and incest.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I stand here today in strong opposition to the motion of the gentlewoman from California and in strong support of the gentleman from Kentucky, the gentleman from Illinois, and the gentleman from Massachusetts and others here who through the years that I have been here have stood steadfast against Federal funding for abortions.

I can well remember when I first came here in 1977 and this battle raged throughout the summer and into the fall of that year, and we had many votes on it, and the gentleman from Illinois [Mr. HYDE] and those of us who believe in the sanctity of life were able to prevail that year and every year since. As a result of that, as I reflect back over those 12 years, and this is the 13th year, I realize that in each year that we did not fund abortions with Federal funds that we saved the lives of 250,000 to 300,000 children.

□ 1330

Those children today are walking the streets of our rural areas and our communities. Their ages from zero to 13 is how old they are. They are out there enjoying the fruits of this country, the freedoms of this country, the opportunity for a good education, for an opportunity to enjoy life as we have enjoyed life.

Mr. Speaker, that is why I feel so strongly that we need to defeat the motion of the gentlewoman from California. Yes, those children are out there. They are out there today, 3 to 4 million of those children who would not be there otherwise.

I feel very much that we should continue to support the language of the gentleman from Illinois.

Mr. CONTE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

(Mrs. KENNELLY asked and was given permission to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I stand to support this amendment to recede, really an amendment of human dignity.

Mr. Speaker, I rise in support of the Boxer motion to recede to the Senate in allowing Federal funds to be used for abortions in the case of rape and incest. Incidents of rape and incest are terribly sad situations. Horrendous for the victim, heartbreaking for the families.

It is during debates like this one that I wish we were still a new country, striving to grow and not having government involved in so many aspects of life. Without government involvement the individual, hopefully with the support of family and doctor, would make choices about the best way to handle the situation and then try to get her life back together.

But here it is said we are talking about Federal funds. Nevertheless the situations remain horrendous, and for the reasons of dignity and right to choose the decision should be left to the victim. What difference that she needs Federal funding. Her needs are so great that she needs our help. We as a government body should not make things more difficult. They are bad enough without our restrictions. The Senate is right.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, let me thank the gentleman from Massachusetts for his generous ceding of time.

Mr. Speaker, I rise in support of the Boxer amendment. Ladies and gentlemen, we are dealing here with the

most oppressed, the most victimized people in our society.

If a person is poor, she is victimized. If a person is raped or a victim of incest, she is doubly and horribly victimized, and here today we have the choice to say whether we will triply victimize that person by saying it is us, not this poor, downtrodden woman, who must decide whether she is to continue her pregnancy.

Have we no compassion or understanding for that poor person's predicament? Have we no light in our hearts to say, "If there is rape and incest, you must carry a pregnancy to term simply because you are poor?"

Mr. Speaker, I would ask my colleagues to look at the specific situation we are talking about before they vote.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I strongly support the Boxer amendment.

Mr. Speaker, a civilized country punishes criminals. It does not punish victims of crime. To deny a remedy to the victims of crime under the rubric of human rights is morally offensive. It is a horrifying moral dereliction for us to enunciate that argument.

The United Nations time after time after time has declared the right of women to control their fertility, to choose the number and spacing of their children as a human right, and here we are asking today whether denying poor women who have been discriminated against to make them poor and further discriminated against as victims of rape and incest, for us to say under the rubric of human rights that we are going to deny those women the right to control their bodies to me is a moral outrage, and the American public thinks so, too.

If we are to call ourselves civilized, we should follow all of our industrialized neighbors and allow victims of rape and incest to terminate pregnancies.

I urge my colleagues to support the Senate language.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I understand the depth of feeling and sincerity of many Members who believe that public funding for abortion should be available only in cases where the life of the woman is in danger if she were to carry the fetus to term. That position reflects the moral convictions of those Members who are opposed to abortion except for the most extreme cases: life endangerment of the mother.

I simply ask that they understand the depth of feeling and sincerity of those of us who believe that the crimes of rape and incest are so heineous and so abominable that to continue to deny assistance to women who are victims of those crimes seriously calls into question our sense of compassion and justice.

Obviously, we, the male Members of this body, will never personally experience pregnancy, whether after rape or incest or otherwise. But how many Members can truly say that if their wives, daughters, or sisters were the victims of such an unspeakable crime as rape, they would not want—indeed expect—to be able to make a decision about a pregnancy arising from that violent, viscious act, without government interference?

Poor women are also wives, sisters, and daughters and we must extend to them the same compassion and, most importantly, the same options available to women with the financial means to exercise their constitutional rights.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, it has been said that denying funding for abortions to poor victims of rape and incest is a longstanding policy of this House, and it is. However, I think that is a weak argument in favor, because I believe that policy is wrong and has always been wrong.

It has been said that this is a matter of human rights. It is certainly a matter of human rights for 52 percent of the people who are female, because this is not a discussion of abortion in its entirety. It is a discussion of whether women who have no money will be forced to carry a child to term who has been conceived by force and in violence and in criminal action. This is an unbelievably cruel action to take.

I urge a vote against the motion of the gentleman form Kentucky and in favor of the Senate language.

Mr. CONTE. Mr. Speaker, I yield 30 seconds to my good friend, the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am not going to change anyone's mind here today.

There is a group that has not been heard from, and that I think are the children who possibly were the result of an inconvenience, a rape, an incest, or maybe a good time in the back seat of a Chevrolet. I happen to be one of those.

I have no idea why I was conceived or what happened, but to my two loving parents who have raised me, my adoptive parents, who changed my diapers, who took me through a broken arm, who took me through pneumonia and asthma and girlfriends, good and bad, car wrecks and all those good things, I want to join them in saying to the mothers of this world who possibly suffered a lot of indignity because they were pregnant, because they were not married or they were pregnant because of a rape or they were pregnant because of an incest, those of us, your children who live, say, "God bless you. Thank you. We love you."

Mr. Speaker, I do not believe that the Government has any point. We have heard all of this talk about human dignity. What the hell is dignified about killing an innocent unborn child?

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really want to take this opportunity to point out that we have a statement of administration policy here that the administration finds unacceptable the Senate attempt to expand Federal funding for abortion beyond cases where the life of the mother would be endangered if the fetus were carried to term, and that the President will veto this bill if we fail to adhere to the House position.

It would be a tragedy really to have this bill vetoed. The gentleman from Kentucky [Mr. NATCHER] and I and the committee, have worked real hard. I think we have put together one of the best bills that we have ever brought to the House. We have provided more money for AZT, more money for AIDS research, more money for the National Institutes of Health, the institutes on heart, lung, diabetes, cancer, digestive diseases and the others.

We have included more money in this bill for title I, which goes to the disadvantaged children. We have top dollar, as I said on the floor earlier today, top dollar for low-income fuel assistance, the first time we have had an increase in 4 years.

We have more money in this bill for student aid, more money for the handicapped, for Head Start, Job Corps, dislocated workers, and community service jobs for seniors.

I wish this amendment were not in this bill. I will be very honest with the Members, but it is in this bill, and the gentleman from Kentucky [Mr. NATCHER] and I have lived with this amendment for a long period of time.

□ 1340

I think it was the gentleman from California [Mr. MILLER], who mentioned 1981. It was 1976.

Looking at the old RECORD today brought it all back. The gentleman from Illinois [Mr. HYDE] amended the health and human services bill here in the House to provide no money for abortion, period. It went over to the Senate and the Senate did not accept it.

We were in conference with the Senate all summer long on that issue.

I was reading the RECORD from 1976 in the Congressional Quarterly, and it says:

> What finally broke the logjam was a proposal made by Representative SILVIO CONTE to bar the use of Federal funds to pay for abortion, except where the life of the mother would be in danger if the fetus were carried to term, and after adopting the Conte amendment the conference agreed on the language for an accompanying report.

Then it went on to say:

The final agreement came after a 3-hour session during which the chairman the House conferees, Daniel Flood, accused the Senate side of engaging in a fillbuster, and he said, "My people here sit here while Brooke is pounding away for God, motherhood, and Yale." At that point Brooke offered the first in a series of seven last-ditch attempts to weaken the Conte proposal.

And rape and incest was one of those.

Every one of those seven proposals went down to defeat by a vote of 6 to 8. Finally in the end the Senate side voted 10 to 5 to accept the Conte amendment on a rollcall vote.

We do not want to go through that again, and we will go through it again if the Boxer motion prevails. I hope that the Members here today on the floor of the House, and those listening to the boob tube, will vote against the Boxer amendment, vote for the Natcher motion, and let us get this bill, one of the greatest health and human services and education bills that ever passed this House of Representatives, down to the President for his signature.

Mr. Speaker, I yield the balance of my time to my good friend, the gentleman from Illinois, Mr. HENRY HYDE.

The SPEAKER pro tempore (Mr. SLATTERY). The gentleman from Illinois [Mr. HYDE] is recognized for 3 minutes.

Mr. HYDE. Mr. Speaker, regarding rape and incest, we have to make a distinction between the horror of the crime and the results of the crime. It is a crucial distinction. We compound the horror by killing a second victim, the innocent unborn child.

Members have heard the number of rapes, but we have not heard the number of pregnancies that result from rape, and there are very few.

I should think that the charitable Planned Parenthood or the Playboy Foundation or Stewart Mott or someone could pay for those few abortions that someone thinks are necessary.

A word about the medical profession. There was a time when the medical profession helped people, alleviated suffering, nurtured pain, but they have become social engineers for the most part since the abortion culture.

They somehow justify killing as a part of the healing process.

The doctor in the well said rape is second only to murder. How right he is. If we define murder as the killing of an innocent human life without legal justification, it seems to me we have defined abortion.

Poor women: It is the unborn of the rich that are at risk. We can save some of the unborn of the poor, and they are worth saving, if by denying Federal tax dollars to exterminate the young of the poor. We can save some poor children. It is the unborn of the rich that are at risk.

If Members could have heard as I have heard time and again people saying:

Why are you against abortion? There are too many of those people. You can solve poverty, you can solve handicapped people, you can solve old people by getting rid of the people.

That is the solution that we offer, get rid of the people. That is the way to solve the solution.

I have heard about polls. Arkansas, Colorado and Michigan took a poll and the States voted against using tax dollars to pay for abortions.

Incidentally, if Jesus Christ had taken a poll in Jerusalem, he would have never preached the gospel.

As far as ectopic pregnancies are concerned, that is a red herring. Ectopic pregnancies are always covered under the Hyde amendment.

Let me ask you a question: Have you ever held a newborn baby in your arms? Ever done that? I want to ask Membrs if the fact of the existence of that little baby is not more important than the circumstances which created the conception of that child? Is it important that we have JIM LIGHTFOOT here in this House?

Child abuse: The ultimate child abuse is abortion. Do Members know what happens to a tiny baby in the womb of a woman during an abortion? It is an outrage. It is the ultimate in child abuse.

Killing is never a solution. Even the babies of poor women deserve a chance at life. Choose life. Vote against the Boxer amendment.

Mr. CONYERS. Mr. Speaker, today the House of Representatives will vote on the amendment offered by my colleague BARBARA BOXER which would initiate an official Government Accounting Office study on the effect of distributing sterile needles to help fight the spread of AIDS.

Distributing sterile needles is, in my view, a good first step forward in trying to find a solution to this tragic disease.

I want to commend organizations such as The Community Health Awareness Group in Detroit which travel from event to event in Michigan to educate the public about AIDS prevention by distributing informational packages containing sterile needle equipment. During the Michigan State Fair this summer, this organization volunteered and provided these packages.

This policy is good for our public health because it reinforces our efforts to fight against AIDS and other infectious diseases. This policy does not promote drug use in our cities, it is a preventative measure to stop the spread of the AIDS virus.

This policy has been highly effective in other countries. In Amsterdam there were 13 different needle and syringe exchanges, and that needle sharing was drastically reduced with no attendant increase in the patient load on drug free treatment programs. Positive programs have also been reported in Sidney, Australia, and Liverpool, England.

We now know that IV drug users are the primary source of HIV transmission into the heterosexual community. Distributing sterile needles is a chance for us to save lives and help control this disease which now afflicts over 90,000 Americans, nearly 30 percent of whom contracted the disease by sharing nonsterile needles.

Mr. WYDEN. Mr. Speaker, I rise in support of this amendment to recede to the Senate to change current law and allow for the use of Federal funds for abortion in cases of rape or incest.

I urge my colleagues to support this amendment because the law as it is now is far too narrow. The current law allows the use of federal funds for abortion only if the woman's life would be endangered if she carried the pregnancy to term. The fact that the law does not allow for the use of Federal funds for abortion for women who have suffered rape or incest is cruel.

If a woman who has experienced the trauma of the criminal acts of rape or incest decides to carry the resultant pregnancy to term, she should receive all of the medical and economic support possible. But it must be her decision to make.

Her decision must not be based on whether she has the money to pay for an abortion. And we should not restrict her decision on that basis any more than we should restrict her medically or financially should she decide to continue her pregnancy.

In this country, we do not provide medical treatment to the victims of mugging or assault based on their ability to pay. To have a separate policy regarding the victims of the crimes of rape or incest is clearly discriminatory—and that's just what has happened with the Hyde amendment's restrictions on abortions for the victims of crime.

What this law does is restrict the rights of victims of these terrible and violent crimes. This is as much a contribution to these individuals' traumatic victimization as the perpetrator of the crime itself.

Today we have the opportunity to set this right by allowing for the use of Federal moneys to assist rape and incest victims toward a speedier recovery—regardless of what decisions they themselves make about pregnancies resulting from violent criminal acts. Again, I urge my colleagues to support this amendment to help the victims of violent crime.

Mr. HOLLOWAY. Mr. Speaker, the Federal Government is once again trying to stick its nose into matters that are not within its power. While some disagree on whether abortion is wrong in the cases of rape and incest, I do not see how anyone can say that the funding of abortion is the right of the Federal Government.

This is taxpayers money that we are talking about, and we have an obligation to consider our constituents rights when spending their money. It is wrong to pay for abortions with the money of taxpayers who consider abortion murder.

In matters of preference, such as whether the money should be spent on cleaning up the environment, improving the space program or funding drug prevention programs, the vote is the final word. Although we may sometimes wish the vote went the way we wanted it to go, Members agree that the democratic way to decide in matters of preference is with a vote.

But the issue before us today is not a matter of preference. It is a case of the Federal Government deciding whether it will spend taxpayers money on something these taxpay-

ers consider to be morally wrong. No taxpayer will say drug rehabilitation programs are morally wrong, whether they want to spend money on them or not. No taxpayer will say that cleaning up the environment is morally wrong, although they may want to spend money on drug rehabilitation programs instead. But there are many taxpayers who consider abortion to be killing and the Federal Government has no right to force them to spend their money to fund it.

Mr. FLORIO. Mr. Speaker, I am opposed to limiting funding for abortions for women who do not have the means to pay for them. I believe the right to choose is a hollow right if it applies only to wealthy women. But, given the choices that we have today, we must at a minimum choose the Senate's language. I urge my fellow members to recede to the Senate's language.

The House version would not even provide funding for women who are the vicitms of rape or incest. Providing funding for poor women who choose an abortion when their pregnancy is the result of rape or incest is the absolute minimum of human decency. If a woman in these circumstances does not have access to an abortion, she is victimized twice, first as the victim of a violent act, and then by being denied the choice to deal with the pregnancy that results from that act.

I urge my colleagues to strongly support the Boxer motion.

Mr. NATCHER. Mr. Speaker, I have no further request for time, and I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is, will the House recede from its disagreement to the amendment of the Senate numbered 90?

The question was taken; and the Speaker pro tempore announced that he was in doubt.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were yeas 216, nays 206, not voting 10, as follows:

[Roll No. 277]

YEAS—216

Ackerman	Carper	Fascell
Akaka	Carr	Fawell
Alexander	Chandler	Fazio
Anderson	Chapman	Feighan
Andrews	Clay	Flake
Anthony	Coleman (TX)	Flippo
Applegate	Condit	Ford (MI)
Atkins	Conyers	Ford (TN)
AuCoin	Cooper	Frank
Baker	Coughlin	Frenzel
Ballenger	Coyne	Frost
Bates	Crockett	Gallo
Beilenson	DeFazio	Gejdenson
Bennett	Dellums	Gephardt
Bentley	Derrick	Geren
Berman	Dickinson	Gilman
Bilbray	Dicks	Glickman
Boehlert	Dingell	Gonzalez
Bosco	Dixon	Gordon
Boucher	Dorgan (ND)	Goss
Boxer	Downey	Gray
Brennan	Durbin	Green
Brooks	Dwyer	Guarini
Browder	Dymally	Harris
Brown (CA)	Eckart	Hatcher
Brown (CO)	Edwards (CA)	Hawkins
Bustamante	Engel	Hayes (IL)
Campbell (CA)	Erdreich	Hefner
Campbell (CO)	Espy	Hoagland
Cardin	Evans	Hochbrueckner
Horton	Mineta	Sharp
Houghton	Moody	Shays
Hoyer	Morella	Sikorski
Hubbard	Morrison (CT)	Sisisky
Hughes	Morrison (WA)	Skaggs
Jacobs	Mrazek	Slaughter (NY)
Johnson (CT)	Nagle	Smith (FL)
Johnson (SD)	Neal (NC)	Smith (IA)
Johnston	Nelson	Smith (VT)
Jones (GA)	Obey	Snowe
Jontz	Olin	Solarz
Kastenmeier	Ortiz	Spratt
Kennedy	Owens (NY)	Stark
Kennelly	Owens (UT)	Stokes
Kleczka	Panetta	Studds
Kolbe	Patterson	Swift
Kostmayer	Payne (NJ)	Synar
Lancaster	Payne (VA)	Tanner
Lantos	Pease	Thomas (CA)
Leach (IA)	Pelosi	Thomas (GA)
Lehman (CA)	Pickett	Thomas (WY)
Lehman (FL)	Pickle	Torres
Levin (MI)	Price	Torricelli
Levine (CA)	Pursell	Towns
Lewis (GA)	Rangel	Traficant
Long	Ravenel	Udall
Lowey (NY)	Richardson	Unsoeld
Machtley	Ridge	Upton
Markey	Rose	Valentine
Martin (IL)	Roukema	Visclosky
Martinez	Rowland (CT)	Walgren
Matsui	Rowland (GA)	Watkins
McCandless	Roybal	Waxman
McCloskey	Sabo	Weiss
McCurdy	Saiki	Wheat
McDermott	Sangmeister	Whittaker
McMillen (MD)	Savage	Williams
McNulty	Sawyer	Wilson
Meyers	Scheuer	Wise
Mfume	Schneider	Wolpe
Miller (CA)	Schroeder	Wyden
Miller (WA)	Schumer	Yates

NAYS—206

Annunzio	Gingrich	McCollum
Archer	Goodling	McCrery
Armey	Gradison	McDade
Barnard	Grandy	McEwen
Bartlett	Grant	McGrath
Barton	Gunderson	McHugh
Bateman	Hall (OH)	McMillan (NC)
Bereuter	Hall (TX)	Michel
Bevill	Hamilton	Miller (OH)
Bilirakis	Hammerschmidt	Moakley
Bliley	Hancock	Molinari
Boggs	Hansen	Mollohan
Bonior	Hastert	Montgomery
Borski	Hayes (LA)	Moorhead
Broomfield	Hefley	Murphy
Bruce	Henry	Murtha
Buechner	Herger	Myers
Bunning	Hertel	Natcher
Burton	Hiler	Neal (MA)
Byron	Holloway	Nielson
Callahan	Hopkins	Nowak
Clarke	Huckaby	Oakar
Clement	Hunter	Oberstar
Clinger	Hutto	Oxley
Coble	Hyde	Packard
Coleman (MO)	Inhofe	Pallone
Combest	Ireland	Parker
Conte	James	Parris
Costello	Jenkins	Pashayan
Cox	Kanjorski	Paxon
Craig	Kaptur	Penny
Crane	Kasich	Perkins
Dannemeyer	Kildee	Petri
Darden	Kolter	Porter
Davis	Kyl	Poshard
de la Garza	LaFalce	Quillen
DeLay	Lagomarsino	Rahall
DeWine	Laughlin	Ray
Donnelly	Leath (TX)	Regula
Dornan (CA)	Lent	Rhodes
Douglas	Lewis (CA)	Rinaldo
Dreier	Lewis (FL)	Ritter
Duncan	Lightfoot	Roberts
Dyson	Lipinski	Robinson
Early	Livingston	Rogers
Edwards (OK)	Lloyd	Rohrabacher
Emerson	Lowery (CA)	Ros-Lehtinen
English	Luken, Thomas	Rostenkowski
Fields	Lukens, Donald	Roth
Fish	Madigan	Russo
Gallegly	Manton	Sarpalius
Gaydos	Marlenee	Saxton
Gekas	Martin (NY)	Schaefer
Gibbons	Mavroules	Schiff
Gillmor	Mazzoli	Schuette
Schulze	Smith, Robert (OR)	Vander Jagt
Sensenbrenner	Solomon	Vento
Shaw	Spence	Volkmer
Shumway	Staggers	Vucanovich
Shuster	Stallings	Walker
Skeen	Stangeland	Walsh
Skelton	Stearns	Weber
Slattery	Stenholm	Weldon
Slaughter (VA)	Stump	Whitten
Smith (NE)	Sundquist	Wolf
Smith (NJ)	Tallon	Wylie
Smith (TX)	Tauke	Young (AK)
Smith, Denny (OR)	Tauzin	Young (FL)
Smith, Robert (NH)	Traxler	

NOT VOTING—10

Aspin	Florio	Roe
Bryant	Foglietta	Yatron
Collins	Garcia	
Courter	Jones (NC)	

□ 1405

Mr. LOWERY of California, and Mr. GILLMOR changed their vote from "yea" to "nay."

Mr. CROCKETT and Mrs. UDALL changed his vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 90.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SLATTERY). The question now arises on the motion to concur in Senate amendment 90 with an amendment.

The Clerk will again report the amendment.

The Clerk read as follows:

At the end of the language proposed to be inserted by the Senate, insert: "If the President does so certify, the General Accounting Office shall conduct a study of programs relating to distribution of sterile needles and report their findings to the Congress and the President within 90 days.".

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California [Mrs. BOXER].

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. SMITH of New Jersey. Mr. Speaker, precisely what language was just agreed to? I was on my feet because I wanted to hear exactly what that was prior to, perhaps, asking for a vote.

The SPEAKER pro tempore. The Clerk did report the language, without objection, and would the Clerk please restate the language of the amendment?

The Clerk read as follows:

At the end of the language proposed to be inserted by the Senate, insert: "If the President does so certify, the General Accounting Office shall conduct a study of programs relating to distribution of sterile needles and report their findings to the Congress and the President within 90 days.".

The SPEAKER pro tempore. The Chair announced the ayes had it.

Mr. SMITH of New Jersey. Mr. Speaker, continuing the parliamentary inquiry, if I wanted to offer a motion to that, do we first have to defeat that

in a motion to concur in the Senate amendment?

The SPEAKER pro tempore. To amend the Senate amendment in a different way, the pending motion must be rejected.

Mr. SMITH of New Jersey. Mr. Speaker, I would ask further, I have a motion I would like to make that would provide for appropriate action be taken in the case of rape and incest, and make explicit that medical procedures that would be antipregnancy in the case of a rape would be funded under the Hyde amendment, and ask Members if they would, to vote down the amendment or the Boxer amendment so that this particular motion that I would like to be offered would be made in order.

□ 1410

Mr. Speaker, I demand the yeas and nays.

PARLIAMENTARY INQUIRIES

The SPEAKER pro tempore (Mr. SLATTERY). The gentleman from New Jersey [Mr. SMITH] has demanded the yeas and nays.

Mrs. BOXER. I have a parliamentary inquiry, Mr. Speaker.

Mr. SMITH of New Jersey. I have asked for a recorded vote, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from California will state her parliamentary inquiry.

Mrs. BOXER. Mr. Speaker, would the Chair please explain the status? There is some confusion over here on what the status is and what the gentleman is asking for at this time.

The SPEAKER pro tempore. The Chair had announced that the ayes appeared to have it on the previous motion. The Chair is advised that the gentleman from New Jersey [Mr. SMITH] was standing and seeking recognition from the Chair. The Chair did not see the gentleman from New Jersey, and the Chair is attempting to be fair to all the Members in the Chamber.

Mrs. BOXER. Mr. Speaker, may I ask what the House is about to vote on? We already voted on the Boxer amendment to recede.

The SPEAKER pro tempore. The gentleman from New Jersey has risen and asked for a vote on the Boxer amendment to Senate amendment 90.

Mrs. BOXER. On the amendment to concur. So it is, in fact, a revote on the same issue?

The SPEAKER pro tempore. On the second part of the motion offered by the gentlewoman from California.

Mrs. BOXER. I thank the Chair.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

If this motion is defeated, it would give the gentleman from New Jersey the ability to amend the Boxer motion; is that correct?

The SPEAKER pro tempore. The gentleman is incorrect. There could be another amendment offered to the Senate amendment 90. The motion would not be an amendment to the Boxer motion. The pending vote is on the Boxer amendment.

All those in favor of taking this vote by the yeas and nays will please stand. We need one-fifth of those present.

The Chair counts 60 Members standing for a vote on this matter, one-fifth of those present, so the Chair will announce that there will be a vote taken by electronic device.

The vote was taken by electronic device, and there were—yeas 212, nays 207, not voting 13, as follows:

[Roll No. 278]

YEAS—212

Ackerman	Gallo	Ortiz
Akaka	Gejdenson	Owens (NY)
Alexander	Gekas	Owens (UT)
Anderson	Gephardt	Panetta
Andrews	Geren	Patterson
Anthony	Gilman	Payne (NJ)
Applegate	Glickman	Payne (VA)
Atkins	Gonzalez	Pease
AuCoin	Gordon	Pelosi
Baker	Gray	Pickett
Ballenger	Green	Pickle
Bates	Guarini	Price
Beilenson	Harris	Pursell
Bennett	Hatcher	Rangel
Berman	Hawkins	Ravenel
Bilbray	Hayes (IL)	Richardson
Boehlert	Hefner	Ridge
Bosco	Hoagland	Rose
Boucher	Hochbrueckner	Roukema
Boxer	Horton	Rowland (CT)
Brennan	Houghton	Rowland (GA)
Brooks	Hoyer	Sabo
Browder	Hubbard	Saiki
Brown (CA)	Hughes	Sangmeister
Brown (CO)	Johnson (CT)	Savage
Bustamante	Johnson (SD)	Sawyer
Campbell (CA)	Johnston	Scheuer
Campbell (CO)	Jones (GA)	Schneider
Cardin	Jontz	Schroeder
Carper	Kastenmeier	Schumer
Carr	Kennedy	Shays
Chandler	Kennelly	Sikorski
Chapman	Kleczka	Sisisky
Clarke	Kolbe	Skaggs
Clay	Kostmayer	Slaughter (NY)
Coleman (TX)	Lancaster	Smith (FL)
Condit	Lantos	Smith (IA)
Conyers	Leach (IA)	Smith (VT)
Cooper	Lehman (CA)	Snowe
Coughlin	Lehman (FL)	Solarz
Coyne	Levin (MI)	Spratt
Crockett	Levine (CA)	Stark
DeFazio	Lewis (GA)	Stokes
Dellums	Long	Studds
Derrick	Lowey (NY)	Swift
Dickinson	Machtley	Synar
Dicks	Markey	Tanner
Dingell	Martin (IL)	Thomas (CA)
Dixon	Martinez	Thomas (GA)
Dorgan (ND)	Matsui	Thomas (WY)
Downey	McCandless	Torres
Durbin	McCloskey	Torricelli
Dwyer	McCurdy	Towns
Dymally	McDermott	Traficant
Eckart	McMillen (MD)	Udall
Edwards (CA)	McNulty	Unsoeld
Engel	Meyers	Upton
Erdreich	Mfume	Valentine
Espy	Miller (CA)	Visclosky
Evans	Miller (WA)	Walgren
Fascell	Mineta	Watkins
Fawell	Moody	Waxman
Fazio	Morella	Weiss
Feighan	Morrison (CT)	Wheat
Flake	Morrison (WA)	Williams
Flippo	Mrazek	Wilson
Ford (MI)	Nagle	Wise
Ford (TN)	Neal (NC)	Wolpe
Frank	Nelson	Wyden
Frenzel	Obey	Yates
Frost	Olin	

NAYS—207

Annunzio	Barton	Bilirakis
Archer	Bateman	Bliley
Armey	Bentley	Boggs
Barnard	Bereuter	Bonior
Bartlett	Bevill	Borski
Broomfield	Inhofe	Quillen
Bruce	Ireland	Rahall
Buechner	James	Ray
Bunning	Jenkins	Regula
Burton	Kanjorski	Rhodes
Byron	Kaptur	Rinaldo
Callahan	Kasich	Ritter
Clement	Kildee	Roberts
Clinger	Kolter	Robinson
Coble	Kyl	Roe
Coleman (MO)	LaFalce	Rogers
Combest	Lagomarsino	Rohrabacher
Conte	Laughlin	Ros-Lehtinen
Costello	Leath (TX)	Rostenkowski
Cox	Lent	Roth
Craig	Lewis (CA)	Russo
Crane	Lewis (FL)	Sarpalius
Dannemeyer	Lightfoot	Saxton
Darden	Lipinski	Schaefer
Davis	Livingston	Schiff
de la Garza	Lloyd	Schuette
DeLay	Lowery (CA)	Schulze
DeWine	Luken, Thomas	Sensenbrenner
Donnelly	Lukens, Donald	Shaw
Dornan (CA)	Madigan	Shumway
Douglas	Manton	Shuster
Dreier	Marlenee	Skeen
Duncan	Martin (NY)	Skelton
Dyson	Mavroules	Slattery
Early	Mazzoli	Slaughter (VA)
Edwards (OK)	McCollum	Smith (NE)
Emerson	McCrery	Smith (NJ)
English	McDade	Smith (TX)
Fields	McEwen	Smith, Denny (OR)
Fish	McGrath	Smith, Robert (NH)
Gallegly	McHugh	Smith, Robert (OR)
Gaydos	McMillan (NC)	Solomon
Gibbons	Michel	Spence
Gillmor	Miller (OH)	Staggers
Gingrich	Moakley	Stallings
Goodling	Molinari	Stangeland
Goss	Mollohan	Stearns
Gradison	Montgomery	Stenholm
Grandy	Moorhead	Stump
Grant	Murphy	Sundquist
Gunderson	Murtha	Tauke
Hall (OH)	Myers	Tauzin
Hall (TX)	Natcher	Traxler
Hamilton	Neal (MA)	Vander Jagt
Hammerschmidt	Nielson	Vento
Hancock	Nowak	Volkmer
Hansen	Oakar	Vucanovich
Hastert	Oberstar	Walker
Hayes (LA)	Oxley	Walsh
Hefley	Packard	Weber
Henry	Pallone	Weldon
Herger	Parker	Whittaker
Hertel	Parris	Whitten
Hiler	Pashayan	Wolf
Holloway	Paxon	Wylie
Hopkins	Penny	Young (AK)
Huckaby	Perkins	Young (FL)
Hunter	Petri	
Hutto	Porter	
Hyde	Poshard	

NOT VOTING—13

Aspin	Foglietta	Sharp
Bryant	Garcia	Tallon
Collins	Jacobs	Yatron
Courter	Jones (NC)	
Florio	Roybal	

□ 1429

So the House concurred with the amendment of the Senate numbered 90 with an amendment.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 91: Page 40, line 15, after "accounts" insert "upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "except that this section shall not apply to funds made available for fiscal year 1990".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 41, after line 19, insert:

SEC. 217. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol Drug Abuse and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 92, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 41, after line 19, insert:

SEC. 218. The Consolidated Office Building is hereby named the William H. Natcher Building; the Child/Health Neurosciences Building (building 49) is hereby named the Silvio O. Conte Building; the Stone House (building 16) is hereby named the Lawton Chiles Conference Center; the Building numbered 36 is hereby named the Lowell P. Weicker Building.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the words "Conference Center" inserted by said amendment, insert "International House".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 94: Page 41, after line 19, insert:

SEC. 219, Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $4,000,000 is to be applied to all appropriations as a result of improved procurement practices.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 94 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 219. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $4,000,000 is to be applied to all appropriations as a result of improved procurement practices and a reduction of $10,000,000 is to be applied to all appropriations as a result of savings achieved under section 217 of this title.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 101: Page 41, after line 19, insert:

SEC. 226. During the 12-month period beginning October 1, 1989, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1989, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: in lieu of the matter inserted by said amendment, insert the following:

SEC. 221. During the 12-month period beginning October 1, 1989, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1990, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 104: Page 42, line 4, after "1991" insert ": *Provided*, That of these remaining funds, $4,200,000,000 shall be available for section 1005, $300,000,000 shall be for section 1006, $280,938,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 104 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following ": *Provided*, That $4,427,250,000 shall be available for basic grants under section 1005, $400,000,000 shall be available for concentration grants under section 1006, $285,938,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 108: Page 42, line 9, after "D" insert ": *Provided further,* That no State shall receive less than $340,000 from the amounts made available under this appropriation for section 1006".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 108 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following "*Provided further,* That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further,* That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 109: Page 42, line 9, after "D" insert ": *Provided further,* That funds made available under sections 1437 and 1463 may be expended by the Secretary at any time, provided that notices of proposed rules for all currently operating programs authorized under chapter 1 have been published".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 109, and concur therein.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 111: Page 42, line 18, strike out "$713,670,000" and insert "$705,854,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$717,354,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 114: Page 42, line 24, strike out "$25,590,000" and insert "$26,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$14,998,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 119: Page 43, line 15, after "programs" insert "; $9,000,000 shall be for activities under section 2012 and $145,000,000 shall be for other activities under title II of the Elementary and Secondary Education Act; and $6,000,000 shall be for subpart 1 and $5,000,000 shall be for subpart 2 of part B of title III of Public Law 100-297".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "; $8,892,000 shall be for national program activities under section 2012 and $128,440,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act; $3,964,000 shall be for grants for schools and teachers under subpart 1 and $4,500,000 shall be for family school partnerships under subpart 2 of part B of title III of Public Law 100-297; and $31,084,000 shall be for national programs under part B and $461,477,000 shall be for State and local programs under part A of chapter 2 of title I of the Elementary and Secondary Education Act".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 43, line 20, after "VII" insert ":*Provided,* That not more than $1,500,000,000 shall be available for section 7043 of said Act".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 123 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "including not more than $2,000,000 for the support of not to exceed 200 fellowships under section 7043".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 44, line 7, strike out "$1,743,973,000" and insert "$1,789,870,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of

the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$1,804,870,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 129: Page 44, line 7, strike out "$31,994,000" and insert "$17,674,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$32,674,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 132: Page 44, strike out lines 19 to 23 and insert:

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $37,553,000, of which $300,000 shall be for the endowment program as authorized under section 408 and shall be available until expended, and $532,000 for construction and renovation, to remain available until expended, and $1,800,000 shall be provided to the Secretary for the purpose of supporting a consortium of institutions to provide education and vocational rehabilitation services for low functioning adults who are deaf: *Provided*, That the Secretary will make one or more awards for demonstration projects to the following institutions: California State University at Northridge, Gallaudet University, National Technical Institute for the Deaf, Postsecondary Education Consortium at the University of Tennessee, Seattle Central Community College, Southwest Center for the Hearing Impaired, and St. Paul Technical Institute.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) and for activities under sec. 311 of the Rehabilitation Act of 1973, $36,553,000, of which $325,000 shall be for the endowment program as authorized under section 408 and shall be available until expended, $482,000 shall be for construction and renovation, to remain available until expended, and $900,000 shall be retained by the Secretary for the purpose of supporting a consortium of institutions to provide education and vocational rehabilitation services for low functioning adults who are deaf.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 139: Page 45, line 23, strike out "$6,021,960,000" and insert "$6,096,000,000".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 139 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert the following: "$6,044,097,000 together with an additional $131,000,000 which shall be available only for unfinanced costs in the 1989-90 award year Pell Grant program: *Provided*, That $286,000,000 shall be available if such funds are necessary to pay a maximum grant of $2,300 during the 1990-1991 program year: *Provided further*, That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of the Act shall be awarded to any student who is attending on a less than half-time basis for a period of enrollment beginning on or after January 1, 1990, except that any such student who received a basic grant for a period of enrollment beginning before January 1, 1990, shall be eligible to receive a basic grant for a period of enrollment beginning on or after such date from funds appropriated for fiscal year 1989: *Provided further*, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded from funds appropriated for fiscal year 1990 to any student who is attending on a less than half-time basis: *Provided further*, That any institution participating in any loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the loan was received, or the date on which the student completes one-half of that course and these provisos, except as specifically indicated, shall apply to all fiscal year 1990 funds".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 141: Page 46, line 10, strike out "for, titles I, III, IV, V," and insert "for titles I, III, IV, section 523 and subpart 1 or part D of title V, titles".

MOTION OFFERED BY MR NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 141 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "for titles I, III, IV, section 501, 523, and subpart 1 of part D of title V, and titles XII,".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 156: Page 52, after line 8, insert:

ACTION

OPERATING EXPENSES

For expenses necessary for ACTION to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $182,667,000: *Provided*, That $31,017,000 shall be available for title I of the Act of which $25,415,000 shall be available for purposes authorized under section 501(d)(1) of the Act.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 156 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $176,642,000: *Provided*, That $30,750,000 shall be available for title I of the Act, of which $25,415,000 shall be available for purposes authorized under section 501(d)(1) of the Act.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 172: Page 64, after line 5, insert:

SEC. 514. (a) Not more than $28,643,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Labor; not more than $91,037,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Health and Human Services; and not more than $45,415,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory and assistance services by the Department of Education.

(b)(1) Not later than forty-five days after the end of each fiscal quarter, the head of each department named in subsection (a) shall (A) submit to Congress a report on the amounts obligated and expended by the department during that quarter for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(C) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of the "$28,643,000" named in said amendment, insert the following: "$26,643,000".

In lieu of the "$91,037,000" named in said amendment, insert the following: "$85,637,000".

In lieu of the "$45,415,000" named in said amendment, insert the following: "$41,565,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 176: Page 64, after line 5, insert:

SEC. 518. It is the sense of the Senate that the Senate conferees should yield to the House in conference on all Steward B. McKinney Act programs.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 176 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 516. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated for Labor-Management Services, Salaries and Expenses are hereby reduced by $1,000,000 and funds appropriated for Employment Standards Administration, Salaries and Expenses are hereby reduced by $2,000,000.

SEC. 518. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Health and Human Services are hereby reduced by $15,000,000: *Provided*, That no trust fund limitation shall be reduced.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CONFERENCE REPORT ON H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

Mr. DIXON. Mr. Speaker, I call up the conference report on the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 5, 1989, at Page H 6739).

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 3026, and on the amendments in disagreement, and that I be permitted to include a tabulation summarizing the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring before you today the conference agreement on the District of Columbia Appropriations Act for fiscal year 1990. After 2 days of conferencing, agreement was reached by House and Senate conferees on each of the 22 amendments of the Senate to the House bill.

The conference agreement will provide the District of Columbia government with Federal funds totaling $538 million for fiscal year 1990 which is a net increase of $5.7 million above the

budget request and House allowance and the same as the Senate proposal.

We also recommend an advance appropriation of $20.3 million for fiscal year 1991 for the construction of an 800-bed correctional treatment facility in the District which is expected to be completed by November 1991. The facility will cost $85 million of which $70.3 million will be paid by the Federal Government and $14.7 million will be the responsibility of the District government.

In District funds, the conference agreement includes a total of $3.5 billion in new budget authority. This is $58 million above the budget estimates, $32 million above the House allowance, and the same as the Senate bill.

In reaching our agreement, Mr. Speaker, we stayed well within our budget ceiling goals of $560 million in budget authority—we are at $538 million or $22 million below—and $580 million in outlays—we are at $560 million or $20 million below.

FEDERAL FUNDS

Mr. Speaker, the conference agreement now before the House includes $430.5 million for the Federal payment, $8.7 million for the first quarter payment for Federal water and sewer services which is $26 million below the budget request and House allowance; $52 million for the Federal contributions to the police, fire, and teachers retirement funds; $15 million for the transitional payment to St. Elizabeths Hospital, $32 million for the drug emergency; and an advance appropriation for fiscal eyar 1991 of $20.3 million for the construction of an 800-bed correctional treatment facility to be completed by November 1991.

DRUG EMERGENCY

Mr. Speaker, as I noted a moment ago, this conference agreement includes an additional $32 million to bolster the District's efforts on several fronts in the war on drugs. Over $17 million has been added for the Metropolitan Police Department for 700 new police officers to close down open-air drug markets and increase police visibility.

These 700 new officers along with the 300 additional already included in the District's budget will bring the Department's authorized strength to 5,133, the highest ever, exceeding the previous department high of 5,100 reached in fiscal year 1970 and maintained through fiscal year 1974.

For the court system, we recommend funding for eight additional judges for the superior court to assist in attempting to address the critical emergency resulting from the increasing number of violent crimes related to drugs.

Mr. Speaker, we are attempting to tackle this problem not just by enforcement but also through our public schools where we have added almost $2 million for education and prevention programs.

And for those who are addicted, this conference agreement includes over $2 million so that pregnant drug abusers will be able to receive treatment on demand.

The explosion in the number of crack cocaine babies born to addicted mothers is alarming. In addition, to increased funding for drug treatment, we recommend language in section 140 of the bill to establish a "task force on substance abusing pregnant women and infants exposed to maternal substance abuse during pregnancy."

Mr. Speaker, the message has to be loud and clear to those who are involved in any way with drugs—it is not business as usual anymore, and drug dealing or using drugs is completely unacceptable.

If you are caught dealing drugs, you will be tried and punished as swiftly as possible after arrest.

If you are addicted to drugs, there are drug rehabilitation programs.

And to head off young people from the drug scene, there are drug education and drug prevention programs.

Mr. Speaker, this is a step in the right direction and shows a commitment at the Federal and local levels to derail the burgeoning drug increase.

GENERAL PROVISIONS

Let me move now to the general provisions part of the bill, and there are four or five that I want to call to your attention.

First, language is included under section 133 changing the payment procedures for a 1-year trial basis to require user agencies and organizations to pay the balance of $26 million for fiscal year 1990 in quarterly amounts through the Federal Treasury based on the annual estimate prepared by the District. The District will not bill individual agencies and organizations since this would necessitate the creation of a bureaucracy.

Instead, the conferees have agreed that based on the estimate prepared by the District for inclusion in the President's annual budget, the Office of Management and Budget will ensure that each agency has included in its budget the amount as indicated in the District's estimate and that a procedure is in place so that the quarterly payments will be made by the Secretary of the Treasury to the District government in advance on the second workday of each fiscal quarter instead of the first day as is presently the case.

It is expected that the District's annual estimate will include the projection for the budget year adjusted to reflect actual usage for the most recent completed fiscal year.

According to information provided by the Office of Management and Budget, a total of $38.1 million has been budgeted in fiscal year 1990 within the budgets of various agencies for Federal water and sewer services even though the actual amount requested by the District in the President's budget for fiscal year 1990 is $34,740,000 or $3,360,000 less. We would assume that a responsible official at OMB can explain why the budgeted amount is 9.67 percent higher than the amount that is to be paid to the District, and hopefully this is not the case with the much larger budgets for rental and maintenance costs.

I would like to point out that the District government has not requested this change in procedure and there is some question as to whether they are prepared administratively or financially to implement the revisions as originally envisioned. However, since OMB has reported that agency budgets include more than the required amounts and concurrent with the sound management and resource conservation reasons for Federal managers to be more alert to their agencies' water usage in the same way they are with their rental and maintenance costs, the conferees are recommending this change.

We believe that this system will enhance Federal managers' accountability for those resources while not burdening the District with the bureaucracy and problems inherent with directly billing and collecting from the Federal and independent agencies' accounts. We do not expect the District government to devote additional resources to this effort and we expect to be advised in writing prior to any increase by the District in personnel or funds for Federal water and sewer services. And it is our understanding that these payments will no longer be subject to sequestration, so the District will not have to subsidize the Federal Government's water and sewer services as was the case in fiscal year 1986.

Second, we have recommended language in amendment No. 15 which the District of Columbia Council designed for the purpose of reallocating existing personnel resources to eliminate nonessential positions. As vacancies occur in areas where services are required and are essential, existng personnel from nonessential possitions are to be moved to the essential positions. The Metropolitan Police Department is specifically exempted from this provision and other exemptions require the certification of the city administrator.

Third, a hiring preference system is included in section 110B for career and educational employees of the District government.

For career employees, the language provides:

First, a maximum of five points to new employees who claim the residency preference;

Second, residency will be a tie breaker, for employees who claim a residency preference on promotions;

Third, in cases of reductions in force, a maximum of 1 year will be added to the service of a resident who claimed the residency preference; and

Fourth, the 5-year District residency requirement will apply only to appli-

cants who claim the preference and are appointed on or after March 16, 1989, and those individuals promoted on or after March 16, 1989 who claim the preference.

For educational service employees District residency of 5 years will be required of only those employees who have received or who will receive a residency preference when hired or promoted on or after March 16, 1989.

There is no change in the present requirement that all excepted and executive service employees hired by the District after December 31, 1979, live in the city for the duration of their employment in those services.

The fourth general provision is the so-called Armstrong amendment which is section 141 and amendment No. 22.

Mr. Speaker, we believe we have reached a fair compromise that does not please everyone but by the same token addresses the problems which caused the Armstrong amendment to be adopted. The language crafted by the conferees states, and I quote:

SEC. 141. Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization to deny:

(a) the use of any facility, service or benefit set aside for the practice or promotion of religion; or

(b) the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, the promotion of any homosexual or heterosexual lifestyle or belief that is contrary to its religious doctrine.

Mr. Speaker, what this language says is that an educational institution affiliated with a religious organization may allow discriminatory practices in the free exercise of its religious liberties where specific homosexual and heterosexual lifestyles or beliefs are contrary to that institution's particular religious doctrine.

Let me mention one other provision, and that is one dealing with the funding of abortions. As Members may recall, the language adopted on the House floor on August 2 was not changed by the Senate in their consideration of the bill and provides that no Federal funds shall be used for abortions except to save the mother's life, rape, and incest.

It also says that payments are not prohibited for contraceptives and medical procedures to terminate ectopic pregnancies.

Mr. Speaker, this is old Hyde language carried in this bill every year since fiscal year 1980, with the exception of fiscal year 1989 when the language was changed to prohibit the District from using its local funds to perform abortions except to save the mother's life.

At this point in the RECORD, Mr. Speaker, I will insert a tabulation summarizing the conference action:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1990 (H.R. 3026)—CONFERENCE SUMMARY
NEW BUDGET (OBLIGATIONAL) AUTHORITY

Agency and item	FY 1989 Enacted	FY 1990 Estimate	House bill	Senate bill	Conference	Conference compared with--- Enacted	Estimate	House	Senate
FEDERAL FUNDS									
Federal payment to the District of Columbia	430,500,000	430,500,000	430,500,000	430,500,000	430,500,000				
Federal payment for water and sewer services	32,040,000	34,740,000	34,740,000	8,685,000	8,685,000	-23,355,000	-26,055,000	-26,055,000	
Federal contribution to retirement funds	52,070,000	52,070,000	52,070,000	52,070,000	52,070,000				
Transitional payment for Saint Elizabeths Hospital	20,000,000	15,000,000	15,000,000	15,000,000	15,000,000	-5,000,000			
Federal payment for inaugural expenses	2,300,000					-2,300,000			
(By transfer)	(1,000,000)					(-1,000,000)			
Drug emergency				31,772,000	31,772,000	+31,772,000	+31,772,000	+31,772,000	
Criminal justice initiative	20,000,000					-20,000,000			
Advance appropriation, fiscal year 1991				(20,300,000)	(20,300,000)	(+20,300,000)	(+20,300,000)	(+20,300,000)	
Total, Federal funds to District of Columbia	556,910,000	532,310,000	532,310,000	558,327,000	558,327,000	+1,417,000	+26,017,000	+26,017,000	
Appropriations, fiscal year 1990	(556,910,000)	(532,310,000)	(532,310,000)	(538,027,000)	(538,027,000)	(-18,883,000)	(+5,717,000)	(+5,717,000)	
Advance appropriations, FY 1991				(20,300,000)	(20,300,000)	(+20,300,000)	(+20,300,000)	(+20,300,000)	
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
Governmental direction and support	(118,439,000)	(112,971,000)	(112,971,000)	(112,971,000)	(112,971,000)	(-5,468,000)			
Rescission	(-7,190,000)					(+7,190,000)			
Economic development and regulation	(144,616,000)	(137,913,000)	(137,913,000)	(137,913,000)	(137,913,000)	(-6,703,000)			
Rescission	(-17,026,000)					(+17,026,000)			
Public safety and justice	(762,357,000)	(833,180,000)	(833,206,000)	(861,191,000)	(861,191,000)	(+98,834,000)	(+28,011,000)	(+27,985,000)	
(By transfer)					(150,000)	(+150,000)	(+150,000)	(+150,000)	(+150,000)
Public education system	(628,453,000)	(689,353,000)	(689,353,000)	(691,120,000)	(691,120,000)	(+62,667,000)	(+1,767,000)	(+1,767,000)	
Rescission	(-2,580,000)					(+2,580,000)			
Human support services	(780,814,000)	(820,424,000)	(825,898,000)	(827,918,000)	(827,918,000)	(+47,104,000)	(+7,494,000)	(+2,020,000)	
Public works	(218,925,000)	(223,898,000)	(223,898,000)	(223,898,000)	(223,898,000)	(+4,973,000)			
Rescission	(-5,219,000)					(+5,219,000)			
Washington Convention Center Fund	(7,817,000)	(7,874,000)	(7,874,000)	(7,874,000)	(7,874,000)	(+57,000)			
Repayment of loans and interest	(235,796,000)	(251,474,000)	(251,474,000)	(251,474,000)	(251,474,000)	(+15,678,000)			
Rescission	(-5,834,000)					(+5,834,000)			
Repayment of general fund deficit	(14,950,000)	(19,558,000)	(19,558,000)	(19,558,000)	(19,558,000)	(+4,608,000)			
Short-term borrowings	(9,162,000)	(10,997,000)	(10,997,000)	(10,997,000)	(10,997,000)	(+1,835,000)			
Optical and dental benefits	(2,569,000)	(2,569,000)	(2,569,000)	(2,569,000)	(2,569,000)				
Inaugural expenses	(3,300,000)					(-3,300,000)			
Energy adjustment	(-2,070,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(-2,000,000)	(+70,000)			
Rescission	(-349,000)					(+349,000)			
Personal services adjustment	(-2,747,000)	(-31,550,000)	(-31,550,000)	(-31,550,000)	(-31,550,000)	(-28,803,000)			
Rescission	(-18,553,000)					(+18,553,000)			
Equipment adjustment		(-6,100,000)	(-6,100,000)	(-6,100,000)	(-6,100,000)	(-6,100,000)			
Rescission	(-3,500,000)					(+3,500,000)			
Total, operating expenses, general fund	(2,862,130,000)	(3,070,561,000)	(3,076,061,000)	(3,107,833,000)	(3,107,833,000)	(+245,703,000)	(+37,272,000)	(+31,772,000)	
(By transfer)					(150,000)	(+150,000)	(+150,000)	(+150,000)	(+150,000)

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1990 (H.R. 3026)—CONFERENCE SUMMARY
NEW BUDGET (OBLIGATIONAL) AUTHORITY

Agency and item	FY 1989 Enacted	FY 1990 Estimate	House bill	Senate bill	Conference	Conference compared with--- Enacted	Estimate	House	Senate
Capital Outlay									
General fund	(284,978,000)	(114,350,000)	(134,650,000)	(134,650,000)	(134,650,000)	(-150,328,000)	(+20,300,000)	.....	.....
Rescission	(-15,970,000)	.....	.....	.....	.....	(+15,970,000)	.....	.....	.....
Enterprise Funds									
Water and sewer enterprise fund:									
Operating expenses	(200,805,000)	(199,382,000)	(199,382,000)	(199,382,000)	(199,382,000)	(-1,423,000)	.....	.....	.....
Capital outlay	(24,200,000)	(29,700,000)	(29,700,000)	(29,700,000)	(29,700,000)	(+5,500,000)	.....	.....	.....
Total, water and sewer enterprise fund	(225,005,000)	(229,082,000)	(229,082,000)	(229,082,000)	(229,082,000)	(+4,077,000)	.....	.....	.....
Lottery and Charitable Games enterprise fund	(8,050,000)	(8,600,000)	(8,600,000)	(8,600,000)	(8,600,000)	(+550,000)	.....	.....	.....
Cable Television enterprise fund	(1,000,000)	(1,600,000)	(1,600,000)	(1,600,000)	(1,600,000)	(+600,000)	.....	.....	.....
Total, enterprise funds	(234,055,000)	(239,282,000)	(239,282,000)	(239,282,000)	(239,282,000)	(+5,227,000)	.....	.....	.....
Total, District of Columbia funds	(3,365,193,000)	(3,424,193,000)	(3,449,993,000)	(3,481,765,000)	(3,481,765,000)	(+116,572,000)	(+57,572,000)	(+31,772,000)	.....
(By transfer)	.....	.....	.....	.....	(150,000)	(+150,000)	(+150,000)	(+150,000)	(+150,000)
Grand total:									
Federal funds to the District of Columbia	556,910,000	532,310,000	532,310,000	558,327,000	558,327,000	+1,417,000	+26,017,000	+26,017,000	.....
(By transfer)	(1,000,000)	.....	.....	.....	.....	(-1,000,000)	.....	.....	.....
Appropriations, fiscal year 1990	(556,910,000)	(532,310,000)	(532,310,000)	(538,027,000)	(538,027,000)	(-18,883,000)	(+5,717,000)	(+5,717,000)	.....
Advance appropriation, fiscal year 1991	.....	.....	.....	(20,300,000)	(20,300,000)	(+20,300,000)	(+20,300,000)	(+20,300,000)	.....
District of Columbia funds (net)	(3,365,193,000)	(3,424,193,000)	(3,449,993,000)	(3,481,765,000)	(3,481,765,000)	(+116,572,000)	(+57,572,000)	(+31,772,000)	.....
(By transfer)	.....	.....	.....	.....	(150,000)	(+150,000)	(+150,000)	(+150,000)	(+150,000)

Mr. Speaker, let me take a moment to thank the conferees on both sides of the aisle in this body and in the other body. Some of the issues we faced were difficult public policy issues, and I thank each Member for the good-faith efforts to resolve these matters.

I want to especially thank our new ranking Member, the gentleman from New Jersey [Mr. GALLO]. He is diligent and thorough and a pleasure to work with, and I look forward to working with him for many years to come.

Mr. Speaker, this is a good conference report and one I believe all Members can support.

I urge Members to vote "aye" on the adoption of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as approved by the conferees, the District of Columbia appropriations bill is a good bill.

It provides Federal budget authority that is 4 percent under our 302(b) allocation. We need to keep in mind the fact that over 80 percent of the appropriations in this bill are funded by local District taxes and fees.

Although I supported the bill that passed the House early in August, I believe that it has been significantly improved in conference by the reallocation of almost $32 million that will be used to combat the terrible effect that addictive substances like crack and cocaine have on the citizens of this city—users and nonusers alike.

The funds appropriated through this conference report will allow the District to hire more than 1,000 new police officers.

This will bring the Metropolitan Police department back to the level of strength it had in the 1970's.

These funds will expand the court system and provide for security of the judges and staff.

The conferees also considered the drug user, as well as the potential user and the innocent victims of drug abuse.

Funds are provided to establish a number of after-school programs that will give children safe places to spend their out-of-school hours and give them constructive alternatives to street life. In addition we provided a drug intervention program for a small number of high risk students, and funds to locate and treat the appalling number of pregnant women who abuse drugs. We must combat the striking increase in the number of babies who are born addicted to crack and cocaine who are abandoned by their mothers and fathers.

Mr. Speaker, I know that many of my colleagues look upon the District of Columbia appropriations process as an avenue for the debate of important issues dealing with public morality.

And I agree with my colleagues—all too often these human issues are placed on the back burner while we focus on dollars and statistics.

Yet, this bill, dealing mainly with locally raised funds, is not the proper forum and I urge my colleagues, and I urge my President, not to hold hostage the people of the District of Columbia in support of legislation that has no effect in any city or State except the District.

I also want to point out that Members who vote in favor of the conference report will still receive an opportunity to debate and vote for, or against, any 1 of the 14 amendments that are in technical disagreement.

Last night, the 353d person suffered a violent death in our Nation's Capital. Most of these deaths are due to the drug epidemic.

Mr. Speaker, I urge my colleagues to accept the work of the conferees so that the people of this city can get on with their lives.

We must not delay their efforts to hire and train those very needed police, and to set up the after-school programs and to help those infants born abandoned and addicted to crack and cocaine.

Mr. Speaker, I believe this is a responsible bill, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in support of the Adams amendment approved by the conference committee. This amendment is a compromise which is supported by both Georgetown University and the student organizations. The significant point here is that Georgetown, on whose behalf we have been fighting this battle, is satisfied with the arrangement.

The conference amendment stops short of requiring that a religious institution recognize an organization which expresses views inconsistent with that institution's beliefs and so it maintains religious freedom. At the same time, however, the compromise protects the first-amendment rights of students at universities.

Georgetown is happy with the compromise amendment, and I have a copy of the letter the administrators have written to Senator ARMSTRONG telling him so. They expressly do not want to violate District of Columbia home rule, and they do not intend to change their policy regardless of what we here in Congress do. In short, the institution we are trying to help wants us to leave well-enough alone, and I suggest we heed their plea. I urge you to support the conference language in the District of Columbia appropriations bill.

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Mr. DIXON. Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding time to me. I would indicate later the gentleman from California will rise for a motion to disagree with the conference report, an item in disagreement relative to the so-called Armstrong language in the conference report.

I want to raise this issue in muted tone. The last two times we have discussed it we have tried to focus on it in such a way we have not made the issue needlessly emotional and unduly complex and encumbered with debates over questions of morality as the gentleman from New Jersey indicated with his use of language.

I do feel I have to respond to the gentlewoman from Connecticut [Mrs. KENNELLY]. The fact of the matter is that religious organizations are not in fact totally convinced of the adequacy of the conference report language relative to the Georgetown instance.

Organizations such as the National Association of Evangelicals, the Christian College Coalition, the Public Affairs Committee of the Southern Baptist Convention, the Association of Christian Schools International, the Christian Legal Society, Lutheran Church-Missouri Synod, Catholic League for Religious and Civil Rights, Good News Movement of the United Methodist Church, Center for Catholic Policy, American Association of Christian Schools, and the National Committee of Catholic Laymen, have expressed opposition to the compromise language brought forth in this conference report.

I will, if I may, since I know there will be a motion offered by the gentleman from California, try to address the issue on its merits at that time, unless the chairman of the committee feels it is appropriate to address it at this point in time.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding time to me. Let me note here my prolife colleagues and I do not intend to make a serious effort to defeat this conference report, owing to the simple fact the President intends to veto the District of Columbia appropriations bill.

Members should make no mistake about it, this bill is coming back to the floor. It is going to come back for a couple of very simple reasons. No. 1, the conference report that we will consider today completely reverses current prolife policy for the District of Columbia which allows abortion only in the case of threat to the mother's life.

The language that is in the bill provides that abortion would be funded on demand, for any reason whatsoever. So it should be very clear we are

not even talking about rape and incest, which was a very contentious issue a few minutes ago, we are talking about providing funding for abortion on demand at government expense for the District of Columbia.

I would hope my colleagues would consider voting no on this. I intend to vote no on this conference report. This conference report will be back and we will have a chance to sustain the President's veto.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

The gentleman prior to the last speaker indicated that a lot of groups had reservations about the compromise language.

One of the groups was the Baptist Joint Committee on Public Affairs. Although they adopted a resolution on October 3, 1989, supporting the right of religious institutions to enforce their religious doctrines and practices, they also point out that if in fact an organization has some problems in accepting the compromise in amendment No. 22 as reported, that organization is free to not accept direct funding from the government, which in this case is the District of Columbia government.

Obviously the university in question here does not feel that way.

Second, it is true that I received a letter on August 2 from the President of the United States indicating that if the existing language concerning abortion remained in the bill, he would veto it. The abortion language approved by the House was not changed by the Senate and remains in the bill in the same form as when it passed the House.

Quite honestly, the issue is whether the people of the District of Columbia have the right to decide their own local policy. As we know, the bill provides no Federal funds for abortion except for the life of the mother, rape, and incest. For those who feel that District residents should make their own decision on abortions, I think they side with what the courts have very clearly said when they said that it is up to local jurisdictions, meaning State jurisdictions, or in this case the District of Columbia, to make their own decisions.

What I am saying is it defies logic that the President feels that way when the Supreme Court has said that States, including the District of Columbia, should promulgate their own rules if they desire on the issue of abortion. Yet the President says that is good for the 50 States, but not good for the District—it defies logic that he should singlehandedly make the decision that District residents cannot use their own funds.

I would hope that based on what has transpired, the President would take a second look at his decision to veto the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, at last report the President has said he will veto this bill with the District of Columbia language about abortion on demand through all 9 months, both Senate and House. We are down to a real intense crunch on this issue.

I am going to vote no against this. I am sure it will pass. The President will veto it and then the battle will be back again to the 21 Members. I do not know how they voted on these last two prolife votes, but I have the information right here. I will do the exegeses on it and find out who went what way.

I am informed on the issue of sodomy, lesbian, and male homosexual conduct on a college campus, Georgetown Jesuit university of higher education, that the Senate and House conferees said that Georgetown does not have to let lesbians and male homosexual sodomites meet in the chapel, but they can still use other school facilities.

For the life of me, I do not understand how anybody who understands that Western civilization is built on a Judeo-Christian ethic, Mosaic law, there is Moses looking down at me, "in God we trust" up here, how they could vote for the depravity in this bill on these two issues. I do not know. We will see as the vote comes up, one final vote on sending this back to the conferees again.

Georegetown University's conduct has been disgraceful. They would never charter a heterosexual sex club on campus to use their facilities. I was a 17-year-old in my freshman year at a Jesuit school. If you are 17 observing this insanity, heterosexual couples cannot fool around at Georgetown but you can have a meeting for lesbians or homosexual men. They can fool around, but they are going to be denied the chapel if this goes through without Presidential veto, but they can have the rest of the facilities.

Whoever dreamed the United States in 1989 would come down to this insanity? For God's sake and your own soul, vote no on District of Columbia appropriations.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report for H.R. 3026, the District of Columbia Appropriations Act for fiscal year 1990.

The conferees made substantial changes to the House-passed bill, accepting many of the major amendments proposed by the Senate. But in the end, the total amount appropriated remained below the 302-B allocation for this subcommittee. Compared to last year's level, the conference report is $18.8 million below the amount appropriated in fiscal year 1989.

In Federal funds, the conference report provides $430.5 million for the Federal payment to the District, including $5 million for a reimbursement to the Federal prison system for housing District prisoners; $52 million for the Federal contribution to the retirement funds; and $15 million for the transitional payment to St. Elizabeths Hospital.

Conferees accepted a Senate amendment to reduce the Federal payment for water and sewer services from $34.7 million to $8.6 million. This reduction will not result in a smaller payment to the District since each individual Federal agency budgeted for these services, and the District is expected to bill each agency for services rendered to recover costs incurred in viding services to the Federal Government. This approach was requested by the administration.

The conferees used this reduction to partially fund a $31.7 million drug initiative for the city. The funds are designed "to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases." Specifically, the additional appropriations are earmarked for the Metropolitan Police Department, including 700 new police officers; the Department of Human Services for women addicts who are pregnant; the D.C. public schools to enhance after-school activities; D.C. courts, where the increase in the number of judges is subject to subsequent authorization by law. The conference report also includes a Senate amendment providing $20 million in advance funding for fiscal year 1991 to complete the construction of a new 800-bed correctional facility in the city.

These additions bring the total Federal funds in the conference report to $538 million, about $6 million more than the amount passed by the House, but still below the subcommittee's 301-B allocation.

The conference report also addresses the Armstrong amendment which sought to amend the District's human rights law with respect to religious organizations. The conferees agreed to compromise language which does not directly amend the D.C. Code, but it does restrict the application of the D.C. human rights statute.

The conference report includes language, contained neither in the House nor Senate bill, which changes the District's residency requirement. In response to congressional direction, the District changed its strict residency rule to a preference system. This language makes further modifications in that system to reflect others concerns not addressed by the District's plan.

The conference report also includes a modified version of section 137, which requires the District to make interest payments on late reimbursements to the Federal prison system for housing District prisoners. Under this provision, the District will be treated as any other State would for purposes of housing non-Federal prisoners. In fact, the District is treated better than other States, since the States must make monthly payments and the District is only required to make the payments on a quarterly basis.

The language was first included in the fiscal year 1989 supplemental, but it was inadvertently limited only to that fiscal year only. The House language in H.R. 3026 made the requirement for late payments permanent law. The Senate struck this provision. The conference report limits the applicability of the provision to fiscal year 1990, with the understanding that the respective committees will revisit the issue in the fiscal year 1991 appropriations process. The conferees had insufficient

information about the Federal Government's reciprocal responsibility to reimburse the District for housing Federal prisoners in city jails. When complete information is available, I will push to make this provision permanent law, so that the District is treated just as any other State would be under this program. For the RECORD, I will include a factsheet on this issue for the House to consider.

Mr. Speaker, I urge adoption of this conference report. It provides the resources necessary to meet our commitment to the District while staying within the fiscal limitations set in the budget resolution.

DISTRICT OF COLUMBIA PAYMENTS TO BUREAU OF PRISONS

Removal of section 137 from the House FY 1990 District of Columbia Appropriations bill provides an unintended subsidy to the District government. This section would require the District government to pay interest on its quarterly payments that are made more than 60 days late—the same late payment charge applied to State governments.

For housing 2,000 District inmates during the October 1988 to June 1989 period, the District has only paid the Bureau of Prisons (BOP) $3.2 million (13%) of the $24 million billed. More than two-thirds of the outstanding balance is 60 days overdue.

BOP bills State governments monthly and assesses interest (using the prevailing Treasury value of funds rate (currently at 7%) on balances that are more than 60 days late. Conversely, the District is billed quarterly and pays no interest on balances more than 60 days late.

Based on the District's current 60 day overdue balance, the City has received almost a $100 thousand taxpayer subsidy for the six month billing period ended March 1989.

Mr. CONYERS. Mr. Speaker, today we are deciding on one of the most personal issues that an individual faces, a woman's fundamental right to choose what happens to her own body. To deny a woman the right to terminate a pregnancy is manipulation of her life.

What we are considering is dangerous, and could set the clock back to the days when women died from illegal abortions, because they were desperate to end a crisis pregnancy.

Efforts to deny funding for rape and incest cases in the District of Columbia or elsewhere will disproportionally impact on the poor and racial minorities. Over 90 percent of the Medicaid eligible population in the District belongs to a racial minority and I am sure the statistics are similar in other major U.S. cities. Those who can ultimately afford to go elsewhere will be unaffected by any proposed limitation while the poor will have to resort to life endangering, back alley abortions.

Mrs. VUCANOVICH. Mr. Speaker, I rise today to urge my colleagues to vote no on the final passage of the District of Columbia conference report. As you know, President Bush has vowed to veto this bill if it "permits the use of appropriations to pay for abortions other than those where the life of the mother would be endangered."

It might be helpful to point out that a vote against the D.C. conference report and/or a vote to sustain a veto will not cut off daily operating funds for the District. The continuing resolution currently in force provides funding for the District of Columbia under the existing policy which contains the life of the mother exception.

Mr. McDERMOTT. Mr. Speaker, I deeply object to the Armstrong amendment and I commend my colleagues for offering a compromise in order to defeat this extreme measure. This compromise strikes a balance between religious liberty and the freedom of association.

The compromise guarantees gay student groups their right to equal treatment under the D.C. Human Rights Act while respecting the rights of religious institutions to promulgate their views on religious issues. Therefore, this language should satisfy Members on each side of the debate.

This compromise is similar to the consent decree which Georgetown and the gay rights coalition signed a year and a half ago. Therefore, those Members who want to make a statement on the Georgetown matter ought to vote for the compromise.

To oppose the compromise and support the original Armstrong language would be to blatantly condone discrimination and to trample on tolerance, justice, home rule, and religious liberty. I urge my colleagues to support the compromise.

Mr. GALLO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BARNARD). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 186, not voting 14, as follows:

[Roll No. 279]

YEAS—232

Ackerman	Chandler	Eckart
Akaka	Chapman	Edwards (CA)
Alexander	Clarke	Engel
Anderson	Clay	Erdreich
Andrews	Coleman (TX)	Espy
Annunzio	Condit	Evans
Anthony	Conte	Fascell
Atkins	Conyers	Fazio
AuCoin	Cooper	Feighan
Barnard	Coyne	Fish
Bates	Crockett	Flake
Beilenson	Darden	Flippo
Berman	Davis	Ford (MI)
Bilbray	de la Garza	Ford (TN)
Boehlert	DeFazio	Frank
Bonior	Dellums	Frenzel
Borski	Derrick	Frost
Bosco	Dicks	Gallo
Boucher	Dingell	Gejdenson
Boxer	Dixon	Gephardt
Brennan	Donnelly	Geren
Brooks	Dorgan (ND)	Gibbons
Browder	Downey	Gilman
Brown (CA)	Durbin	Gonzalez
Bustamante	Dwyer	Gordon
Campbell (CO)	Dymally	Gradison
Cardin	Dyson	Gray
Carper	Early	Green
Guarini	Michel	Sawyer
Hall (OH)	Miller (CA)	Scheuer
Hamilton	Miller (WA)	Schiff
Harris	Mineta	Schneider
Hatcher	Moakley	Schroeder
Hawkins	Moody	Schumer
Hayes (IL)	Morella	Sharp
Hefner	Morrison (CT)	Shays
Hertel	Morrison (WA)	Sikorski
Hochbrueckner	Mrazek	Sisisky
Horton	Murtha	Skaggs
Houghton	Myers	Slaughter (NY)
Hoyer	Nagle	Smith (FL)
Hubbard	Natcher	Smith (IA)
Hughes	Neal (MA)	Smith (VT)
Jacobs	Neal (NC)	Snowe
Jenkins	Nelson	Solarz
Johnson (CT)	Oakar	Spratt
Johnston	Oberstar	Staggers
Jones (GA)	Obey	Stark
Jontz	Olin	Stokes
Kastenmeier	Ortiz	Studds
Kennedy	Owens (NY)	Swift
Kennelly	Owens (UT)	Synar
Kildee	Pallone	Tanner
Kleczka	Panetta	Thomas (CA)
Kostmayer	Pashayan	Thomas (GA)
Lancaster	Patterson	Torres
Lantos	Payne (NJ)	Towns
Lehman (CA)	Payne (VA)	Traficant
Lehman (FL)	Pease	Traxler
Levin (MI)	Pelosi	Udall
Levine (CA)	Perkins	Unsoeld
Lewis (GA)	Pickett	Upton
Long	Pickle	Valentine
Lowey (NY)	Porter	Vento
Machtley	Price	Visclosky
Markey	Pursell	Walgren
Martin (IL)	Rangel	Watkins
Martinez	Regula	Waxman
Matsui	Richardson	Weiss
Mavroules	Roe	Wheat
Mazzoli	Rose	Whitten
McCloskey	Roukema	Wilson
McDermott	Rowland (CT)	Wise
McHugh	Rowland (GA)	Wolpe
McMillen (MD)	Roybal	Wyden
McNulty	Sabo	Yates
Meyers	Saiki	
Mfume	Savage	

NAYS—186

Applegate	Gekas	Lloyd
Archer	Gillmor	Lowery (CA)
Armey	Gingrich	Luken, Thomas
Baker	Glickman	Lukens, Donald
Ballenger	Goodling	Madigan
Bartlett	Goss	Marlenee
Barton	Grandy	Martin (NY)
Bateman	Grant	McCandless
Bennett	Gunderson	McCollum
Bentley	Hall (TX)	McCrery
Bereuter	Hammerschmidt	McCurdy
Bevill	Hancock	McDade
Bilirakis	Hansen	McEwen
Bliley	Hastert	McGrath
Boggs	Hayes (LA)	McMillan (NC)
Broomfield	Hefley	Miller (OH)
Brown (CO)	Henry	Molinari
Bruce	Herger	Mollohan
Buechner	Hiler	Montgomery
Bunning	Hoagland	Moorhead
Burton	Holloway	Murphy
Byron	Hopkins	Nielson
Callahan	Huckaby	Nowak
Campbell (CA)	Hunter	Oxley
Clement	Hutto	Packard
Clinger	Hyde	Parker
Coble	Inhofe	Parris
Coleman (MO)	Ireland	Paxon
Combest	James	Penny
Costello	Johnson (SD)	Petri
Cox	Kanjorski	Poshard
Craig	Kaptur	Quillen
Crane	Kasich	Rahall
Dannemeyer	Kolbe	Ravenel
DeLay	Kolter	Ray
DeWine	Kyl	Rhodes
Dickinson	LaFalce	Ridge
Dornan (CA)	Lagomarsino	Rinaldo
Douglas	Laughlin	Ritter
Dreier	Leach (IA)	Roberts
Duncan	Leath (TX)	Robinson
Emerson	Lent	Rogers
English	Lewis (CA)	Rohrabacher
Fawell	Lewis (FL)	Ros-Lehtinen
Fields	Lightfoot	Rostenkowski
Gallegly	Lipinski	Roth
Gaydos	Livingston	Russo

Sangmeister	Smith (TX)	Tauke
Sarpalius	Smith, Denny (OR)	Tauzin
Saxton	Smith, Robert (NH)	Thomas (WY)
Schaefer	Smith, Robert (OR)	Vander Jagt
Schuette	Solomon	Volkmer
Schulze	Spence	Vucanovich
Sensenbrenner	Stallings	Walker
Shaw	Stangeland	Walsh
Shumway	Stearns	Weber
Shuster	Stenholm	Weldon
Skeen	Stump	Whittaker
Skelton	Sundquist	Williams
Slattery	Tallon	Wolf
Slaughter (VA)		Wylie
Smith (NE)		Young (AK)
Smith (NJ)		Young (FL)

NOT VOTING—14

Aspin	Courter	Jones (NC)
Bryant	Edwards (OK)	Manton
Carr	Florio	Torricelli
Collins	Foglietta	Yatron
Coughlin	Garcia	

□ 1519

Messrs. GUNDERSON, McMILLAN of North Carolina, LOWERY of California, and HOAGLAND changed their vote from "yea" to "nay."

Mr. SCHEUER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2989, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1990

Mr. ROYBAL submitted the following conference report and statement on the bill (H.R. 2989) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1990, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-276)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2989) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 12, 22, 30, 36, 41, 43, 47, 63, 69, 70, 72, 75, 79, 84, 88, 90, 101, 104, 105, 106, 113, 114, 115, 116, 118, 119, 120, 121, 122, 125, 126, 139, 140, 144, 145, 146, 147, 149, 171, 173, 174, 176, 180, 181, 182, 183, 186, 187, 188, 189, 190, 192, 193, 195, 196, 198, 199, and 200.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 6, 8, 11, 14, 18, 19, 23, 28, 32, 33, 39, 44, 45, 46, 48, 49, 50, 52, 56, 57, 58, 61, 62, 76, 80, 81, 82, 83, 85, 89, 91, 92, 94, 96, 99, 102, 103, 111, 123, 136, 141, 150, 157, 178, 179, 184, and 197, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$36,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$19,000,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following: *: Provided further, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the number proposed by said amendment, insert *16,976*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$196,728,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$370,785,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$400,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named, insert: *$500,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$15,330,000*; and the Senate agree to the same.

Amendment numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *Emanuel Celler Federal Building, Cadman Plaza*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following: *: Provided further, That for the fiscal year ending September 30, 1990, in addition to funds previously appropriated to General Management and Administration, there is hereby appropriated $13,152,000 to remain available until expended, to be allocated as grants for the following projects:*

a. Rochester Institute of Technology, Rochester, New York, to establish a strategic materials research center, $1,500,000;

b. Michigan Technological University, Houghton, Michigan, for construction of a center for applied metallurgical, minerals, and materials research, $5,000,000;

c. University of Maryland, College Park, Maryland, to establish a center for strategic man-made materials, $1,500,000;

d. University of Hawaii, Manoa, Hawaii, for a strategic materials research facility, $1,000,000; and

e. University of Texas, El Paso, Texas, for a grant to study and facilitate the development and transfer and installation of strategic materials technologies among American industries, $4,152,000.

And the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$17,590,000*; and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the section number named, insert: *508*; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *509*; and the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *510*; and the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *511*; and the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *512*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *513*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *514*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *515*; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *514*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *516*; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *517*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *518*; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *519*; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *520*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *521*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

In lieu of the section number stricken and inserted by said amendment, insert: *525*; and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the first section number named in said amendment, insert: *526*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 4, 10, 13, 17, 21, 24, 25, 26, 27, 29, 31, 34, 35, 38, 40, 42, 51, 53, 55, 60, 65, 66, 67, 68, 71, 73, 74, 77, 78, 86, 93, 95, 97, 98, 100, 107, 108, 109, 110, 117, 124, 127, 128, 129, 130, 131, 132, 133, 134, 135, 138, 143, 148, 167, 168, 172, 175, 177, 185, 191, 194, 201, 202, and 203.

EDWARD R. ROYBAL,
DANIEL K. AKAKA,
STENY H. HOYER,
BILL ALEXANDER,
JOSEPH D. EARLY,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
JOE SKEEN,
BILL LOWERY,
FRANK R. WOLF,
SILVIO O. CONTE,
Managers of the Part of the House.

DENNIS DECONCINI,
BARBARA A. MIKULSKI,
J. ROBERT KERREY,
PETE V. DOMENICI,
ALFONSE M. D'AMATO,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2989) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1990, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—TREASURY DEPARTMENT

Amendment No. 1: Inserts a center heading as proposed by the Senate.

OFFICE OF THE SECRETARY

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and 40 full-time permanent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $58,081,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $25,010,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides for separate appropriations for the Office of the Secretary and for International Affairs as proposed by the House. It also includes a provision mandating a certain funding and personnel level for the Office of Foreign Assets Control as proposed by the Senate.

In order for the Office of Foreign Assets Control to properly implement its statutory responsibilities, the Conferees instruct the Department to make available $2,000,000 and provide a staffing level of 40 full-time permanent employees in fiscal year 1990 out of the "Salaries and expenses" account. Additionally, the conferees believe this Office should be provided a travel allowance of at least $50,000 on an annual basis for staff travel for enforcement and compliance purposes and to promote a better understanding of U.S. economic and trade sanctions in those communities directly affected by these policies. The Conferees expect to receive quarterly reports from the Department on the successful enforcement of U.S. economic and trade policies from this enhancement. Furthermore, the Conferees expect the Department to include a detailed budget explanation for the Office of Foreign Assets Control in its fiscal year 1991 budget submission.

ANTI-DRUG ABUSE ACT OF 1988

The Department of the Treasury is directed to report to the Committees on Appropriations of the Senate and the House of Representatives by April 1, 1990, on the Department's actions and progress in implementing section 4702 of the Anti-Drug Abuse Act of 1988 (P.L. 100-690). The purpose of the negotiations called for in section 4702 was to ensure that financial institutions conducting transactions in U.S. currency outside the United States maintain adequate records of such transactions, and to establish mechanisms through which such records may be made available to U.S. law enforcement officials. In its April 1 report, therefore, the Department of the Treasury is directed to include a report on voluntary currency transaction reporting by foreign banks. The Department may submit a classified annex to protect sensitive information.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Amendment No. 3: Appropriates $36,000,000 for salaries and expenses instead of $34,664,000 as proposed by the House and $36,277,000 as proposed by the Senate.

The Conferees have recommended an increase of $1,842,000 above the federal level requested by the Administration for fiscal year 1990. This additional funding is to be made available as follows: $473,000 for maintenance of current levels, training, plant operations, and the purchase of equipment; $219,000 to cover increased operational costs at the Marana facility; and $1,150,000 for operational costs of the new Artesia facility.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for on-going maintenance, facility improvements and related expenses, $15,000,000, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees have approved the $6,400,000 requested for a new dormitory at the Glynco facility, and $3,480,000 for maintenance, real property acquisition, and facilities improvements. In addition, the Conferees have provided $5,120,000 above the level requested by the Administration to enable the center to implement priority Master Plan projects in fiscal year 1990. The projects to be funded are as follows:

Glynco, GA:	
Firearms Training Expansion	$3,714,000
Explosives Range Relocation	481,000
Marana, AZ:	
Driver Training Ranges and P.E. Area	300,000
Artesia, NM:	
Physical Training Facility	250,000
Driver/Firearms Facility	200,000
Firearms Ranges	175,000

The Conferees expect the Center to notify the Appropriations Committees of changes in the funding requirements for those projects listed above, and to request additional funding in fiscal year 1991 to continue the implementation of its Master Plan.

FINANCIAL MANAGEMENT SERVICE

Amendment No. 5: Deletes a comma as proposed by the Senate.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Amendment No. 6: Authorizes the purchase of 650 vehicles for police-type use as proposed by the Senate instead of 500 as proposed by the House.

Amendment No. 7: Makes available $5,000 for official reception and representation expenses as proposed by the House instead of $7,500 as proposed by the Senate.

Amendment No. 8: Appropriates $257,565,000 for salaries and expense as proposed by the Senate instead of $245,933,000 as proposed by the House.

The following table reflects the revised funding level:

[In thousands of dollars]

	Fiscal year 1989 appropriation	Increase rollover current level	Fiscal year 1990 request	Add 149 FTE	Conference agreement
Personnel comp	125,793	3,456	129,249	5,121	134,370
Personnel ben	31,184	2,989	34,173	1,743	35,916
Ben form pers	66	0	66	0	66
Travel	10,700	(1,192)	9,508	1,935	11,443
Transportation	1,391	0	1,391	0	1,391
Rent/comm/util	30,315	1,378	31,693	745	32,438
Printing	1,319	53	1,372	0	1,372
Other services	17,690	(647)	17,043	100	17,143
Supplies	6,545	(150)	6,395	739	7,134
Equipment	15,540	(2,706)	12,834	3,417	16,251
Insurance	41	0	41	0	41
Total	240,584	3,181	243,765	13,800	257,565
FTE			3,701		3,850
Cost per FTE (actual dollars)			44,156		44,230

Amendment No. 9: Makes available $19,000,000 solely for enforcement of the Federal Alcohol Administration Act instead of $15,000,000 as proposed by the House and $24,000,000 as proposed by the Senate.

Amendment No. 10: Mandates that the Bureau achieve a minimum level of 3,850 full-time equivalent positions as proposed by the Senate instead of 3,701 as proposed by the House.

Amendment No. 11: Mandates that no fewer than 692 full-time equivalent positions be allocated for the Armed Career Criminal Apprehension Program as proposed by the Senate instead of 543 positions as proposed by the House.

U.S. CUSTOMS SERVICE

Amendment No. 12: Makes available $10,000 for official reception and representation expenses as proposed by the House instead of $15,000 as proposed by the Senate.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$1,059,634,000, of which up to $7,000,000 shall be available for the Interagency Border Inspection System, and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides an additional $28,144,000 over the budget estimate for salaries and expenses of the U.S. Customs Service in fiscal year 1990. Of the additional amount, the conferees expect the funds to be allocated as follows: $14,300,000 for the commercial operations activities of the U.S. Customs Servce; $10,833,945 for additional air program personnel; and up to $7,000,000 for the interagency border inspection system, of which $3,000,000 has been included in the total funding level for salaries and expenses and the remaining $4,000,000 shall be taken from the proposed TECS II initiative planned in fiscal year 1990.

It is requested that the Customs Service review the requirements at the Washington Dulles International Airport, the Baltimore-Washington International Airport, the San Jose, California International Airport, and the Orlando, Florida International Airport, and make every effort to provide adequate Customs support.

The Conference agreement provides (1) $500,000 for part-time and temporary positions in the Honolulu Customs District, and (2) an increase of 24 inspectors for Honolulu International Airport over the authorized level (table of organization) for the district for fiscal year 1990. Both actions are intended to enhance and not supplant current staffing levels. The Customs Service is to report to the House and Senate Committees on Appropriations by February 15, 1990 on its compliance with this provision.

Amendment No. 14: Inserts the word "Budget" as proposed by the Senate.

Amendment No. 15: Amends a provision proposed by the House and deleted by the Senate by restoring a prohibition against the redirection of the Equal Employment Opportunity Program as proposed by the House and deleting a prohibition against reducing the number of Customs Service regions as proposed by the Senate.

Amendment No. 16: Establishes a level of employment of 16,976 positions for salaries and expenses instead of 16,600 as proposed by the House and 17,006 as proposed by the Senate.

The following table reflects the summary of employment:

SUMMARY OF EMPLOYMENT

[Number of full-time equivalent positions]

Principal categories	Estimated fiscal year 1989	Fiscal year 1990— President's budget	Fiscal year 1990— Conference agreement
Customs programs:			
Inspectors	5,230	5,613	5,586
I&C program support (includes aides and canine)	961	838	1,040
Import specialists	1,135	1,135	1,135
Laboratory	118	118	118
T&T program support (includes entry clerks)	1,830	1,570	1,830
Investigations agents	1,592	1,428	1,428
Investigations program support	261	232	232
Aviation interdiction support	751	751	870
Investigators/patrol officers	1,147	1,147	1,147
TI program support	121	121	121
Intelligence employees	320	287	287
Internal affairs employees	302	211	211
Enforcement support	342	342	342
Operational support	938	938	938
Executive direction and control	863	863	863
Chief and regional counsel	108	108	108
Subtotal	16,019	15,702	16,256
Part-time and temporary full-time equivalent positions	720	720	720
Total, full-time equivalent positions	16,739	16,422	16,976

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment mandates that 10,385 full-time equivalent positions shall be allocated to commercial operations activities and that 930 full-time equivalent positions shall be allocated to air interdiction efforts of the Customs Service.

Amendment No. 18: Deletes a provision proposed by the House which would have limited the number of personnel in the Headquarters staff. The Conferees direct the Customs Service to maintain the Headquarters staff at the minimum level necessary for efficient operations and to the maximum extent practicable to allocate personnel to operational programs.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

Amendment No. 19: Deletes the word "Interdiction" as proposed by the Senate.

Amendment No. 20: Appropriates $196,728,000 for operation and maintenance instead of $125,128,000 as proposed by the House and $231,728,000 as proposed by the Senate.

The Conferees have provided an additional $68,600,000 over the budget estimate for the "operation and maintenance, air interdiction program" of the U.S. Customs Service in fiscal year 1990. The Conferees expect the additional funds to be expended on the procurement of a third P-3 AEW and 5 interceptor aircraft; upgrades at the C31 Centers; refurbishment of surplus military helicopters to support on-the-ground interdiction missions; and relocation of the Phoenix Air Branch.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate which deletes language proposed by the House which would have made available $7,020,000 for the machine readable document border security program. Funds for this program are appropriated in the Salaries and expenses account. It also inserts language proposed by the Senate which prohibits the transfer of certain equipment outside of the Department of the Treasury.

CUSTOMS FORFEITURE FUND

Amendment No. 22: Establishes $10,000,000 as a limitation on the availability of deposits as proposed by the House instead of $20,000,000 as proposed by the Senate.

CUSTOMS SERVICE AT SMALL AIRPORTS

Amendment No. 23: Makes available $2,175,000 to be derived from fees collected for the provision of Customs Services at small airports as proposed by the Senate instead of $1,588,000 as proposed by the House.

The Conferees have provided an appropriation of $2,175,000 for Customs user fee services authorized by law to be derived from fees collected. The level recommended will fund a total staffing level of 30 FTE, an increase of 8 FTE positions over fiscal year 1989. This will allow Customs to continue to provide reimbursable services to the eight small airports currently designated under this program, and to designate additional airports and facilities authorized to receive such services in fiscal year 1990.

The Conferees note that the Customs Service responded to a request in the Conference Report on the Fiscal Year 1989 Dire Emergency Supplemental Appropriations Act for a study of the feasibility of providing reimbursable services to ports along the Kenai Peninsula, Alaska, with specific emphasis on in-place presence. The report advised that the authorizing statute (19 USC 58b) would have to be changed in order to apply reimbursable Customs services to vessel activity.

The Conferees are aware of efforts being made to amend the authorizing statute to apply reimbursable services to seaports and other facilities. Consequently, the Conferees recommend that when the Customs Service places additional inspectors on a user fee basis, consideration be given to locating an inspector on Kenai Peninsula, Alaska, to service the Kenai Municipal Airport, as well as seaports and trucking facilities on the Kenai Peninsula.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following: *or other facilities when authorized by law and*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following: *or other facilities when authorized by law and designated by the Secretary of the Treasury,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BUREAU OF THE PUBLIC DEBT

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$207,906,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have reduced the budget estimate of the Bureau of the Public Debt for fiscal year 1990 by $36,410,000. The Conferees expect this reduction to be taken in the Bureau's payments to the Federal Reserve Banks for services provided. While the Conferees continue to be sympathetic to the need to fully fund these Federal Reserve Bank services, because of funding shortfalls, the Conferees once again have been unable to provide the funds requested to cover the costs of these activities. The Conferees are advised, however, that this reduction should not have any impact on Federal Reserve Bank services to the Bureau of the Public Debt.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *expended for research, and of which $128,000 shall remain available until expended for tax systems modernization initiatives*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment makes available $128,000 until expended for tax systems modernization initiatives.

PROCESSING TAX RETURNS

Amendment No. 28: Appropriated $1,946,003,000 for processing tax returns as proposed by the Senate instead of $1,953,446,000 as proposed by the House.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$156,419,000 shall remain available until expended for tax systems redesign initiatives and of which not to exceed $60,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment makes $156,419,000 available until expended for tax systems redesign initiatives and makes $60,000,000 available until expended for tax system modernization activities.

Amendment No. 30: Deletes the word "only" proposed by the Senate. The Internal Revenue Service may use $156.4 million for tax systems redesign initiatives and $60 million for systems modernization initiatives.

EXAMINATIONS AND APPEALS

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$1,911,301,000, of which $1,674,000 shall remain available until expended for tax systems modernization initiatives*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees are agreed that $1,674,000 shall remain available until expended for tax systems modernization initiatives.

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

Amendment No. 32: Provides $3,000,000 for the Tax Counseling for the Elderly Program as proposed by the Senate instead of $2,800,000 as proposed by the House.

Amendment No. 33: Provides that the full $3,000,000 made available for Tax Counseling for the Elderly be absorbed within existing funds as proposed by the Senate instead of $2,800,000 as proposed by the House.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendent of the Senate amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$1,620,252,000, of which $1,431,000 shall remain available until expended for tax systems modernization initiatives; and of which an additional $7,400,000 shall be available for criminal investigations activities: Provided, That an additional $7,400,000 may be made available within existing funds for criminal investigations*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $1,620,252,000 as proposed by the House instead of $1,612,809,000 as proposed by the Senate. It also makes available until expended $1,431,000 for tax systems modernization initiatives as proposed by the Senate. It also provides additional funding for criminal investigations activities.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the transfer of funds within IRS accounts only upon advance approval of the House and Senate Committees on Appropriations.

U.S. SECRET SERVICE

Amendment No. 36: Deletes a provision proposed by the Senate which would have authorized the Secret Service to purchase vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year.

Amendment No. 37: Appropriates $370,785,000 for salaries and expenses instead of $371,401,000 as proposed by the House and $360,785,000 as proposed by the Senate.

The Conferees have provided funding for $370,785,000 for the Secret Service "salaries and expenses" account, $2,384,000 above the $368,401,000 requested by the Administration and $10,000,000 above the $360,785,000 recommended by the Senate. Of the additional amount above the level recommended by the Senate, $5,300,000 represents funds added by the Conferees to ensure that the planning, preparation and renovation work required as part of the Service's headquarters consolidation effort can go forward.

The Conferees request the Secret Service to submit to the Committees on Appropriations of the House and Senate a report on how the remaining $4,700,00 will be expended in fiscal year 1990. This report is to include a new object classification table in support of a total funding level of $370,785,000 and is to be submitted within 45 days to enactment of this Act.

Amendment No. 38: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *Residence, and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note)*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This matter is addressed in Amendment No. 172.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

Amendment No. 39: Deletes a provision proposed by the House and stricken by the Senate which would have limited the operational jurisdiction of the Inspector General of the Treasury Department.

The Comptroller General of the United States shall conduct a study of the extent to which the Inspector General Act of 1978, as amended, is being implemented at the Treasury Department.

Not later than August 1, 1990, the Comptroller General shall report the results of such study, together with such recommendations as the Comptroller General may deem appropriate, to the Senate Committees on Governmental Affairs, the House Committee on Government Operations, the Senate Committee on Appropriations and the House Committee on Appropriations.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes the Financial Management Service, effective beginning in fiscal year 1991, to receive full and direct reimbursement from the Social Security trust funds for services it provides to the Social Security Administration. Direct reimbursements from the trust funds will cover the direct costs for issuing payments including postage for the mailing of Government checks and all non-personnel payment preparation costs. Currently, these expenses are borne by the FMS without reimbursement; although the trust funds make payments for these purposes to the General Fund of the U.S. Treasury. Direct reimbursement is also authorized for other funds that pay the General Fund for costs incurred by FMS.

Amendment No. 41: Deletes a provision proposed by the Senate which would have mandated that the Secretary of the Treasury transfer an aircraft to the Arizona Health Services Center in Tucson, Arizona.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 105. Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment limits the amounts of funds which can be obligated for the procurement of advisory or assistance services by the Department of the Treasury.

TITLE II—U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

Amendment No. 43: Appropriates $459,755,000 for payment to the Postal Service Fund as proposed by the House instead of $429,755,000 as proposed by the Senate.

Amendment No. 44: Deletes "—Administrative" as proposed by the Senate.

Amendment No. 45: Inserts the word "General" as proposed by the Senate.

Amendment No. 46: Deletes a provision proposed by the House and deleted by the Senate. The managers agree the language regarding Holly Springs, Mississippi, is unnecessary since the language in the fiscal year 1989 Appropriations Act is permanent law.

Future proposed changes should be done in consultation with the appropriate committees of Congress so as to prevent adverse effects of the proposed changes on service to the public.

MAIL PROCESSING OPERATIONS AT PARKERSBURG, WV

The Conferees strongly recommend that the U.S. Postal Service maintain the outgoing mail processing operations in the Parkersburg Post Office of West Virginia, in the same manner and to the same extent as such operations were in effect on July 1, 1989, and direct the U.S. General Accounting Office to examine the proposed transfer of outgoing mail processing operations in Parkersburg.

POSTAL SERVICE FACILITY FOR TIERRASANTA AREA OF SAN DIEGO, CA

The Conferees continue to be concerned over the lack of a Postal Service facility for the Tierrasanta area of San Diego. The House Committee has been monitoring this issue for several years and has made its views known to the Postal Service.

This project is on the Postal Service's five-year construction plan and was originally scheduled to be completed by 1989. The Conferees believe that this facility should be a priority for the Postal Service in Fiscal Year 1990.

Previously, the Postal Service has stated that it has been unable to obtain a suitable site for a permanent facility for Tierrasanta. However, Postal officials in San Diego have now found a potential site in Tierrasanta that would be suitable for a full-service postal facility.

Postal officials in San Diego have been working with the community on this issue. The Conferees urge the Postal Service to assist the local effort at both the regional and national levels. A permanent full-service postal facility for Tierrasanta is seriously needed and should be accomplished in the most expeditious manner possible.

POSTAL FACILITY IN CHEROKEE VILLAGE, AR

The managers approve of the Postal Service's decision to extend the hours of service at the contract service facility in Cherokee Village, Arkansas. Nevertheless, the managers understand that residents of Cherokee Village still have serious concerns about the quality of service they receive and about Zip Code confusion between Cherokee Village and a neighboring community. The managers therefore reaffirm the directive in the House report concerning this matter.

Amendment No. 47: Deletes a provision proposed by the Senate. The Conferees are concerned about the abuse of the subsidized non-profit third-class mail rates by those who use these reduced rates to advertise articles, products, financial, insurance, travel and other services which have no direct relation to the mission of the non-profit organization and which clearly advertise for commercial purposes. Senate language addressing this problem was not accepted by the House Conferees as the issue is currently under study by the Postal Service's authorizing Committee. However, in view of the Conferees continuing concern about the reported abuses, the Postal Service is requested to prepare a report for the Appropriations Committees by February 1, 1990 which includes an accounting of the amount of appropriated funds used to support commercial advertising purposes and which provides the Committees with specific recommendations to eliminate this abusive practice.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

Amendment No. 48: Inserts a center heading proposed by the Senate.

Amendment No. 49: Deletes a center heading proposed by the House and stricken by the Senate.

OFFICE OF ADMINISTRATION

Amendment No. 50: Appropriates $18,825,000 for salaries and expenses as proposed by the Senate instead of $18,325,000 as proposed by the House.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $500,000 for the White House Conference on Indian Education.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Amendment No. 52: Appropriates $6,898,000 for operating expenses as proposed by the Senate instead of $6,773,000 as proposed by the House.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available until expended $125,000 for refurbishment of furniture.

NATIONAL CRITICAL MATERIALS COUNCIL

Amendment No. 54: Appropriates $400,000 for salaries and expenses instead of $225,000 as proposed by the House and $550,000 as proposed by the Senate.

The Conferees are advised that costs associated with the Council's activities relative to the Superconductivity Commission are estimated at $150,000. With a budget of $400,000 the Council will be unable to absorb these costs; and therefore, the Conferees suggest that the Council obtain reimbursement from the Department of Energy for any costs it may incur which are associated with work on the Superconductivity Commission.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which mandates certain employment levels and limits the use of reimbursable detailees.

OFFICE OF MANAGEMENT AND BUDGET

Amendment No. 56: Prohibits the Office of Management and Budget from altering transcripts as proposed by the Senate.

Amendment No. 57: Changes a legal citation as proposed by the Seante.

Amendment No. 58: Deletes a provision proposed by the House and stricken by the Senate which would have prohibited the funding of the Office of Information and Regulatory Affairs until authorizing legislation was enacted.

The Conferees understand that it is the intent of the authorizing committees to proceed as expeditiously as possible to complete the OIRA reauthorization process.

INVESTMENT IN MANAGEMENT IMPROVEMENT

Amendment No. 59: Appropriates $500,000 instead of $1,000,000 as proposed by the House and instead of deleting funding as proposed by the Senate. The Conferees are agreed that these funds are to be available to study the feasibility, cost effectiveness and management objectives of this program. The Conferees request that OMB complete this study as soon as practicable and report the results to the House and Senate Committees on Appropriations. The Conferees agree that this account be placed under the Office of Management and Budget.

OFFICE OF NATIONAL DRUG CONTROL POLICY

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes certain research projects, $7,500 for official reception and representation expenses, and for participation in certain projects. It also authorizes the Office to accept, hold, administer and utilize gifts for the purpose of aiding the work of the Office.

SPECIAL FORFEITURE FUND

Amendment No. 61: Deletes an appropriation which would have been derived from the Department of Justice Assets Forfeiture Fund as proposed by the Senate. The House proposed to make $136 million available in 1990.

Amendment No. 62: Inserts a center heading proposed by the Senate.

TITLE IV—INDEPENDENT AGENCIES

ADVISORY COMMITTEE ON FEDERAL PAY

Amendment No. 63: Restores a provision proposed by the House and deleted by the Senate which mandates that the annual report be submitted to Congress at the same time that it is submitted to the President.

FEDERAL ELECTION COMMISSION

Amendment No. 64: Appropriates $15,330,000 for salaries and expenses instead of $14,257,000 as proposed by the House and $15,570,000 as proposed by the Senate.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND LIMITATION ON THE AVAILABILITY OF REVENUE

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$25,220,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $25,220,000 to the Federal Buildings Fund.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$3,328,345,320*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment establishes a total limitation of $3,328,345,320 for the Federal Buildings Fund.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$138,843,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment establishes a limitation of $138,843,000 for construction projects in the Federal Buildings Fund.

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides a grant of $5,000,000 to Iowa State University to establish a Supercomputer Access Center.

Amendment No. 69: Restores a provision proposed by the House and deleted by the Senate which provides a grant of $3,000,000 to Long Beach, California, for a parking facility.

Amendment No. 70: Restores a provision proposed by the House and deleted by the Senate which provides $31,814,000 for the construction of a building for NOAA in Boulder, Colorado.

Amendment No. 71: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000

Northampton, a grant for a science center at Smith College, $1,500,000

Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $1,500,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides a grant of $2,000,000 to the Marine Biomedical Institute for Advanced Studies at Woods Hole, $1,500,000 to Smith College and $1,500,000 to the Christopher Columbus Center on Marine Research and Exploration.

Amendment No. 72: Restores a provision proposed by the House and deleted by the Senate which provides $1,200,000 for construction of a Federal Building in Paterson, New Jersey.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for a grant of $5,000,000 to the Eppley Institute for Research in Cancer and Allied Diseases in Lincoln, Nebraska.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following:

North Carolina:

Asheville, Federal Building, Site and Design, $4,000,000

Oregon:

Astoria, grant to the City of Astoria for reconstruction (including parking/roadwork) of the first U.S. Custom House west of the Rockies, $90,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment restores a provision proposed by the House and deleted by the Senate regarding a Federal building in Asheville, North Carolina.

The Conferees have also inserted a grant to reconstruct at Astoria, Oregon the first Custom House erected west of the Rocky Mountains. The Conferees are agreed that this reconstruction will not be subject to standards, specifications, and procedures normally required for Federal construction projects.

Amendment No. 75: Restores a provision proposed by the House and deleted by the Senate which provides $54,000,000 for a Veterans Administration building in Philadelphia, Pennsylvania.

Amendment No. 76: Deletes a colon as proposed by the Senate.

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $500,000 to GSA for selected purchases, including options to purchase.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$558,692,320*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment establishes a limitation of $558,692,320 for repairs and alterations in the Federal Buildings Fund.

Amendment No. 79: Makes available $55,851,000 for repair and alteration of a Federal Building in San Francisco, California, as proposed by the House instead of $13,450,000 as proposed by the Senate.

Amendment No. 80: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 81: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 82: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 83: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 84: Makes available $35,328,000 for repair and alteration of a Federal building in Chicago, Illinois as proposed by the House instead of $11,102,000 as proposed by the Senate.

Amendment No. 85: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the repair and alteration of a Federal building in Santa Fe, New Mexico.

Amendment No. 87: Inserts the full name of a Federal Building as proposed by the Senate and makes a technical change.

Amendment No. 88: Deletes a provision proposed by the Senate which would have made available $3,016,000 for repair and al-

teration of the Grove Arcade Federal Building in Asheville, North Carolina.

Amendment No. 89: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 90: Makes available $19,268,000 for the repair and alteration of the Nix Federal Building in Philadelphia as proposed by the House instead of $2,630,000 as proposed by the Senate.

Amendment No. 91: Inserts the full name of a Federal Building as proposed by the Senate.

Amendment No. 92: Establishes a limitation of $54,681,320 for Capital Improvements of United States-Mexico Border Facilities as proposed by the Senate instead of $39,624,000 as proposed by the House.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $4,000,000 for a New Border Station located in Douglas, Arizona.

Amendment No. 94: Makes available $4,000,320 for capital improvements for the Calexico, California Border Station as proposed by the Senate instead of $3,095,000 as proposed by the House.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $2,000,000 for a new facility at Otay Mesa, California.

Amendment No. 96: Deletes $2,000,000 for a Border Facility at San Ysidro, Otay Mesa, California as proposed by the Senate.

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $6,152,000 for a new Border Station in Santa Tereas, New Mexico.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $4,000,000 for a New Border Station in Columbia, Texas.

Amendment No. 99: Deletes a provision proposed by the House and stricken by the Senate which would have made funds available for certain reconstruction.

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that unobligated balances which may be available in the Federal Buildings Fund in 1990 may be provided for United States-Mexico Border Facility projects under certain conditions.

Amendment No. 101: Establishes a limitation of $126,752,000 for payment on purchase contracts as proposed by the House instead of $128,752,000 as proposed by the Senate.

Amendment No. 102: Establishes a limitation of $1,341,736,000 for rental of space as proposed by the Senate instead of $1,351,500,000 as proposed by the House.

Amendment No. 103: Establishes a limitation of $948,000,000 for real property operations as proposed by the Senate instead of $951,253,000 as proposed by the House.

Amendment No. 104: Establishes a limitation of $68,020,000 for program direction and centralized services as proposed by the House instead of $65,520,000 as proposed by the Senate.

Amendment No. 105: Establishes a limitation of $146,302,000 for design and construction services as proposed by the House instead of $152,081,000 as proposed by the Senate.

Amendment No. 106: Restores a provision proposed by the House and deleted by the Senate which directs the Administrator of General Services to enter into a lease to ownership agreement for a building in Chamblee, Georgia.

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided further, That, notwithstanding any other provision of law, the Administrator of General Services is hereby authorized to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes the Administrator of GSA to enter into a lease to ownership agreement for the lease purchase of buildings for the Environmental Protection Agency.

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes the limitation on the purchase price for a building in Oakland, California to be increased by 10% under certain conditions.

Amendment No. 109: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the Capital Improvements for United States—Mexico Border Facilities and the Santa Fe, New Mexico Federal Building do not require approved prospectuses.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the sum stricken and inserted by said amendment, insert the following: *$3,328,345,320*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment establishes a total limitation on expenditures from the Federal Building Fund of $3,328,345,320.

Amendment No. 111: Inserts the word "appropriations" as proposed by the Senate and deletes the word "appropriations" proposed by the House.

GENERAL MANAGEMENT AND ADMINISTRATION

Amendment No. 112: Restores a provision proposed by the House and stricken by the Senate, amended to provide $13,152,000 for grants to educational institutions instead of $16,152,000 for grants as proposed by the House.

The Conferees recognizes that management of the National Defense Stockpile was transferred to the Department of Defense in accordance with Executive Order 12626 issued on February 25, 1988. As a result, jurisdiction over the National Defense Stockpile Transaction Fund now rests entirely with the Defense Subcommittees of the Committees on Appropriations of the House and Senate.

The managers on the part of the Senate have agreed to provide the $13,152,000 in GSA's Management and Administration account, as proposed by the House, for grants for strategic materials research, facilities, equipment, and related activities at certain institutions of higher learning. The Senate Conferees take the position, however, that this is the last year funding for grants to universities for strategic materials research, equipment, centers or facilities related to the National Defense Stockpile Transaction Fund will be provided in the Treasury, Postal Service, and General Government Appropriations Act.

Amendment No. 113: Restores a provision proposed by the House and deleted by the Senate which authorizes funds made available to the General Services Administration for payment of rent under certain circumstances.

Amendment No. 114: Restores a provision proposed by the House and deleted by the Senate which authorizes the Administrator of General Services to charge the Department of the Interior for design and alteration to property located at Avondale, Maryland.

Amendment No. 115: Restores section number proposed by the House.

Amendment No. 116: Restores section number proposed by the House.

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following: *and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such correction from rental payments*

The managers on the part of the Senate will move to concur in the amendent of the House to the amendment of the Senate.

This amendment directs the General Services Administration to take action on a piece of rental property unless certain problems are resolved.

Amendment No. 118: Restores section number proposed by the House.

Amendment No. 119: Restores section number proposed by the House.

Amendment No. 120: Restores a provision proposed by the House and stricken by the Senate which authorizes and directs the Administrator of GSA to acquire a new facility to house certain offices of the U.S. Fish and Wildlife Service.

Amendment No. 121: Restores a provision proposed by the House and stricken by the Senate which directs the General Services Administration to lease space for an outpatient facility in Boston, Massachusetts.

Amendment No. 122: Restores a provision proposed by the House and stricken by the Senate which requires the Secretary of Commerce to transfer property in Boulder, Colorado for the construction of a new Federal building.

Amendment No. 123: Deletes a provision proposed by the House and stricken by the Senate which established certain criteria for

the acquisition of space in the Washington Metropolitan region.

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the section number named in said amendment, insert the following: *14*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment establishes procedures for the acquisition of certain space for certain agencies in the Washington Metropolitan area.

Amendment No. 125: Restores a provision proposed by the House and deleted by the Senate which authorizes the sale of certain property in Asheville, NC.

Amendment No. 126: Restores a provision proposed by the House and deleted by the Senate which provides for the acquisition of parking places in Long Beach, California, in exchange for a grant.

Amendment No. 127: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 17. (a) CONVEYANCE.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right, title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard transmitter site.

(b) LEGAL DESCRIPTION.—This land is a portion of Grant 4751 to H.M. Von Holt and a portion of Lot A-4-A of Land Court Application 130 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Waianae, Oahu, State of Hawaii; beginning at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33' 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44' 1940.00 feet along 50' road easement; (2) 360°00' 2551.34 feet; (3) 89°06' 1413.41 feet; (4) 167°33' 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, parcel A of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et als, and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of WAIANAENUI WATERSHED PROJECT, MAILI CHANNEL IMPROVEMENT, LINES M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H.M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approximately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property and other appropriate consideration (if necessary) for an equal total amount of consideration that includes one or more parcels of Hawaiian home lands on the islands of Hawaii, Oahu, and Molokai consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo, Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High School and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6324, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time period as specified herein, including recording the deed for the conveyance of the property from the State of Hawaii in accordance with all applicable laws, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for educational purposes in perpetuity, and in the event the properties cease to be so used, all or any portion of such properties shall, in its existing condition, revert to the United States.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment transfers certain lands to the State of Hawaii as proposed by the Senate.

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 18. (a) Notwithstanding Sec. 203(k) of the Federal Property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968 recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subsection (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal Property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, subject to the United States retaining until June 5, 1998, a reversionary interest, which runs with the land, if any part of the property described in subsection (b) is not used for educational or training purposes.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the PECOS VALLEY VILLAGE SUBDIVISION from which the Northwest corner of said Section 33 bears N 6°16'28" W a distance of 2382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37'30" E along the south boundary of the PECOS VALLEY VILLAGE SUBDIVISION, a distance of 753.38 feet; thence S 0°00'43" E a distance of 2382.10 feet; thence S 89°58'24" W a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 6°24'51" E along said centerline, a distance of 2387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment permits the leasing of certain Federal lands currently deeded to Eastern New Mexico University (ENMU) to the City of Roswell, New Mexico, for educational or training purposes. This change in law does not affect ENMU's compliance with the 30 year educational use requirement and the earning of the public benefit allowance.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 19. Notwithstanding any other provision of law, the Administrator of General Services—

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Culture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 United States Code 490(f)), the sum of $2,130,000 for carrying out, in consultation with the Administrator of General Services, repairs and alterations to the facility transferred by this section.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment transfers certain Federal property in Santa Fe, New Mexico to the Institute of American Indian and Alaska Native Culture and Arts Development.

Amendment No. 130: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 20. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed—

(1) releasing the reversionary interest to the property identified in subsection (b), held by the United States on the date of the enactment of this Act; and

(2) which is subject to the condition that—

(A) the property shall be used for educational purposes for a period of 25 years; and

(B) if during that period the property or any portion of the property ceases to be used for educational purposes, all right, title, and

interest in and to the property shall revert to the United States.

(b) All that lot, piece or parcel of land, situate, lying and being on the west side of Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depty on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E. C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A. B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A. B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A. B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills Property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H. D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in Book U-24, Page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment conveys certain Federal interests in property in Charleston, South Carolina to the School District in Charleston County, South Carolina subject to certain conditions.

Amendment No. 131: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *21*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes the General Services Administration to receive and expend funds provided by other agencies for rental of space activities.

Amendment No. 132: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *22*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment limits the obligations of funds for lease to the current fiscal year in which payments are due without regard to section 1341(a)(1)(b) of title 31, United States Code.

Amendment No. 133: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *23*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the disposal of certain property in the vicinity of Norfolk Lake, Arkansas, without the approval of Congress.

Amendment No. 134: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *24*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the disposal of certain property in the vicinity of Bull Shoals Lake, Arkansas without the approval of Congress.

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *25*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides that GSA submit capital and operating plans for the IT Fund to OMB for approval as described in section 110(a)(2) and replaces the apportionment requirements under 31 U.S.C. 1512 and 1513. Accordingly, the amendment to section 110(a)(2) provides that the plans required by this section fulfill the requirements of 31 U.S.C. 1512 and 1513.

MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

Amendment No. 136: Deletes funding proposed by the House and stricken by the Senate.

The Conferees have taken no action on funding for the Martin Luther King, Jr., Federal Holiday Commission solely for jurisdictional reasons. The Conferees believe this is a very important Federal activity deserving of funding. Funding for the Commission has been provided in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act passed by the Senate.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Amendment No. 137: Provides $5,000,000 for allocations and grants for historical records and publications instead of $4,000,000 as proposed by the House and $6,000,000 as proposed by the Senate.

OFFICE OF PERSONNEL MANAGEMENT

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following: *: Provided, That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences to be held in several locations throughout the United States in 1990. Goods and services provided in connection with the conferences may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $112,430,000 of which no less than $250,000 shall be made available to establish a program to facilitate the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not to exceed $1,000,000 shall be made available for establishment of Federal health promotion and disease prevention programs for Federal employees*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes the acceptance of certain gifts. It also appropriates $112,430,000 for salaries and expenses instead of $113,668,000 as proposed by the House and $111,192,000 as proposed by the Senate. It also makes available $250,000 to establish a job sharing program and makes available $1,000,000 for Federal health promotion programs.

Amendment No. 139: Deletes language proposed by the Senate which would have appropriated $111,192,000 for salaries and expenses and would have made $1,000,000 available for certain programs.

Amendment No. 140: Deletes a provision proposed by the Senate which would have amended a provision of the Federal Employees Health Benefits Act.

OFFICE OF SPECIAL COUNSEL

Amendment No. 141: Capitalizes a center heading as proposed by the Senate.

FEDERAL LABOR RELATIONS AUTHORITY

Amendment No. 142: Appropriates $17,590,000 for salaries and expenses instead of $17,500,000 as proposed by the House and $17,680,000 as proposed by the Senate.

TITLE IV—GENERAL PROVISIONS THIS ACT

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits agencies from exceeding the travel limitations contained in the budget estimate unless advance approval is obtained from the House and Senate Appropriations Committees.

Amendment No. 144: Restores section number proposed by the House.

Amendment No. 145: Restores section number proposed by the House.

Amendment No. 146: Restores section number proposed by the House.

Amendment No. 147: Restores section number proposed by the House.

Amendment No. 148: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *505A*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the procurement of hand tools produced outside of the United States except under certain circumstances.

Amendment No. 149: Deletes a provision proposed by the Senate regarding the employment of guards, elevator operators, messengers and custodians.

Amendment No. 150: Deletes a provision proposed by the House and stricken by the Senate related to competitive procurement of electric utility service. Because a more comprehensive provision was enacted into permanent law (Section 8093 of Public Law 100-202, 101 Stat. 1329-79) it is not necessary to include the provision in this bill.

Amendment No. 151: Restores a provision proposed by the House and deleted by the Senate which prohibits the closing of a Federal Information Center in Sacramento, California.

Amendment No. 152: Inserts a new section number.

Amendment No. 153: Inserts a new section number.

Amendment No. 154: Inserts a new section number.

Amendment No. 155: Inserts a new section number.

Amendment No. 156: Inserts a new section number.

Amendment No. 157: Deletes a provision proposed by the House and stricken by the Senate regarding gasoline mileage requirements.

Amendment No. 158: Inserts a new section number.

Amendment No. 159: Inserts a new section number.

Amendment No. 160: Inserts a new section number.

Amendment No. 161: Inserts a new section number.

Amendment No. 162: Inserts a new section number.

Amendment No. 163: Inserts a new section number.

Amendment No. 164: Inserts a new section number.

Amendment No. 165: Inserts a new section number.

Amendment No. 166: Inserts a new section number.

Amendment No. 167: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 522. The Commissioner of the Internal Revenue Service shall take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit Data Center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capabilities of the Center to achieve backup compatibility with the Internal Revenue Service Martinsburg Computer Center in West Virginia.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment directs the Commissioner of the Internal Revenue Service to take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit data center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capabilities of the center to achieve backup compatibility with the IRS Martinsburg computer center in West Virginia.

Amendment No. 168: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 523. The Director of National Drug Control Policy, as established by the Anti-Drug Abuse Act of 1988, Public Law No. 100-690, 102 Stat. 4181 (1989), is hereby authorized in cooperation with the Administrator of General Services to select a site not to exceed 30,000 occupiable square feet for housing the Office of National Drug Control Policy suitable to meet the mission and security requirements of such Office, and the Administrator of General Services is hereby authorized to enter into a lease for such site under such terms and conditions as the Administrator finds to be in the best interests of the United States, notwithstanding any other provisions of law.

SEC. 524. Notwithstanding any other provision of law, the United States Customs Service may acquire by purchase land in the Bahamas for the operation of an aerostat site. Appropriations for the Air Program shall be available for the acquisition of such land.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment deletes a provision proposed by the House and stricken by the Senate regarding certain employees located in certain wage areas. It inserts a provision authorizing the acquisition of space for the Director of National Drug Control Policy.

The Conferees have been advised that the existing space of the Office of National Drug Control Policy (ONDCP) is inadequate and does not meet the Office's unique security requirements. The Conferees are further advised that discussions between the Office of National Drug Control Policy and the General Services Administration have resulted in a mutual concurrence that in order for the ONDCP to secure space which is more suitable to its needs the normal rules governing the leasing of space need to be suspended. The Conferees have, therefore, included a provision in the bill which authorizes the Director of the Office of National Drug Control Policy, in cooperation with the Administrator of General Services, to select a site for housing which will provide up to 30,000 square feet of occupiable space and authorizes the Administrator of General Services to enter into a lease, which is in the best interests of the Federal government, for such site. The provision included in the bill will permit the ONDCP to occupy the new space, which shall include enhanced security, by no later than January 1, 1990. If the Director of ONDCP and the Administrator determine that the space requirements exceed 30,000 square feet, they are directed to notify the House and Senate Committees on Appropriations of the additional needs for approval.

This amendment also authorizes the U.S. Customs Service to purchase land for the operation of an aerostat site.

Amendment No. 169: Inserts a new section number.

Amendment No. 170: Restores a provision proposed by the House and stricken by the Senate which retroactively changes the effect of a law regarding a hospital in Sullivan, Missouri.

Amendment No. 171: Deletes a provision proposed by the Senate which would have provided for bonus pay to certain Federal employees.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 527. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end thereof:

"SEC. 12. In carrying out the protection of the President of the United States, pursuant to section 3056(a) of title 18, at the one non-governmental property designated by the President of the United States to be fully secured by the United States Secret Service on a permanent basis, as provided in section 3.(a) of Public Law 94-524, the Secretary of the Treasury may utilize, with their consent, the law enforcement services, personnel, equipment, and facilities of the affected State and local governments. Further, the Secretary of the Treasury is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. All claims for such reimbursement by the affected governments will be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year: Provided, that the designated site is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes the Secret Service to reimburse such state, municipalities, and political subdivisions, for the utilization of services, personnel, equipment, and facilities related to the non-governmental residence of the President.

The conferees understand that there is a serious financial burden imposed on the small town of Kennebunkport, Maine, when the President stays at his residence located there. The town recently informed the President that it could no longer provide for his protection as it had exhausted available funds.

The conferees are concerned that the expenses incurred by the town are incurred as a direct result of assistance requested by the Secret Service detailed to that area. In that regard, the conferees believe that the protection of the President should be of primary concern and that given the town's inability to raise the funds to adequately fulfill requests by the Secret Service, $160,000 shall be appropriated. All claims for reimbursement by the affected governments shall be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year.

Amendment No. 173: Restores a section number proposed by the House.

Amendment No. 174: Restores a provision proposed by the House and deleted by the Senate which prohibits funds in this Act from being used to implement or enforce certain sections of the Tax Reform Act of 1986.

Amendment No. 175: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *529*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the purchase of stainless steel flatware outside of the United States except under certain circumstances.

Amendment No. 176: Deletes a provision proposed by the Senate which would have authorized certain payments by the Federal government to state and local law enforcement agencies made by the U.S. Customs Service in law enforcement activities.

Amendment No. 177: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the section number named in said amendment, insert the following: *530*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides that the fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES AND CORPORATIONS

Amendment No. 178: Establishes a limitation of $7,100 for purchase of passenger motor vehicles as proposed by the Senate instead of $6,600 as proposed by the House.

Amendment No. 179: Establishes a limitation of $8,100 on the purchase of station wagons as proposed by the Senate instead of $7,600 as proposed by the House.

Amendment No. 180: Restores a provision proposed by the House and stricken by the Senate. This provision authorizes the payment of rent in the District of Columbia.

Amendment No. 181: Restores a section number proposed by the House.

Amendment No. 182: Restores a section number proposed by the House

Amendment No. 183: Restores a section number proposed by the House.

Amendment No. 184: Deletes a provision proposed by the House and stricken by the Senate regarding the status of guards employed by the General Services Administration.

Amendment No. 185: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the first section number named in said amendment, insert the following: *609*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment grants certain authority to guards employed by the Postal Service and changes a section number.

Amendment No. 186: Restores a section number proposed by the House.

Amendment No. 187: Restores a section number proposed by the House.

Amendment No. 188: Deletes a provision proposed by the Senate which mandates that the amount of space and service provided by GSA will be commensurate with the amounts appropriated or made available in Appropriations Acts.

Amendment No. 189: Restores a section number proposed by the House.

Amendment No. 190: Restores a section number proposed by the House.

The Conferees recognize the uniqueness of the function of collecting duties on repairs to U.S. vessels in foreign shipyards. Accordingly, the Conferees intend that Section 613 not apply to this function and that the Customs Service may consolidate this function in one location as appropriate.

Amendment No. 191: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no fund may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

The managers on the part of the Senate will move to concur in the amendment of the house to the amendment of the Senate.

This amendment continues a limitation of $5,000 on furnishing or redecorating certain offices unless advance notice is approved by the House and Senate Committees on Appropriations.

Amendment No. 192: Restores a section number proposed by the House.

Amendment No. 193: Restores a section number proposed by the House.

Amendment No. 194: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 619. Section 622(b) of this Act shall have no force or effect.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment deletes a provision of this Act which differs from permanent law.

Amendment No. 195: Restores a section number proposed by the House.

Amendment No. 196: Restores a section number proposed by the House.

Amendment No. 197: Deletes a provision proposed by the House and stricken by the Senate.

The Conferees are concerned that funding for the pay increase should not be provided in a way that would result in any involuntary separations or other adverse personnel actions and direct all agencies to notify the Committees on Appropriations no less than 60 days before implementing any proposed personnel reduction or other adverse personnel action.

Amendment No. 198: Restores a section number proposed by the House.

Amendment No. 199: Restores a section number proposed by the House.

Amendment No. 200: Restores a section number proposed by the House.

Amendment No. 201: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment requires that certain information be provided regarding grants.

Amendment No. 202: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the section number named in said amendment, insert the following: *624*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment authorizes certain funds to be used for national security and emergency preparedness telecommunications activities.

Amendment No. 203: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 625. (a) Section 5384(c) of title 5, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end thereof the following:

"(2) not less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement."

(b) Section 5381 of title 5, United States Code, is amended by inserting "' career appointee'," before "and".

(c) None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment amends certain sections of title 5 of the United States Code regarding Federal employees.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1990 recommended by the Committee of Conference, with comparisons to the fiscal year 1989 amount, the 1990 budget estimates, and the House and Senate bills for 1990 follows:

New budget (obligational) authority, fiscal year 1989	$16,047,410,000
Budget estimate of new (obligational) authority, fiscal year 1990	18,418,115,000
House bill, fiscal year 1990	18,422,812,000
Senate bill, fiscal year 1990	18,411,603,000
Conference agreement, fiscal year 1990	18,394,206,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1989	+2,346,796,000
Budget estimates of new (obligational) authority, fiscal year 1990	−23,909,000
House bill, fiscal year 1990	−28,606,000
Senate bill, fiscal year 1990	−17,397,000

EDWARD R. ROYBAL,
DANIEL K. AKAKA,
STENY H. HOYER,
BILL ALEXANDER,
JOSEPH D. EARLY,
MARTIN OLAV SABO,
JAMIE L. WHITTEN,
JOE SKEEN,
BILL LOWERY,
FRANK R. WOLF,
SILVIO O. CONTE,
Managers on the Part of the House.

DENNIS DECONCINI,
BARBARA A. MIKULSKI,
J. ROBERT KERREY,
PETER V. DOMENICI,
ALFONSE M. D'AMATO,
MARK O. HATFIELD,
Managers on the Part of the Senate.

□ 1520

CONFERENCE REPORT ON H.R. 3026, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1990

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. SLATTERY). The Clerk will designate the first amendment in disagreement.

Mr. DIXON. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 2, 3, 4, 8, 14, and 21 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The texts of the various Senate amendments referred to in the foregoing request are as follows:

Senate amendment No. 2: Page 3, after line 7, insert:

For an additional amount for the design and construction of a prison within the District of Columbia, $20,300,000 to become available October 1, 1990: *Provided*, That these funds shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

Senate amendment No. 3: Page 4, after line 8, insert:

DRUG EMERGENCY

For a Federal contribution to the District of Columbia, $31,772,000, to remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases.

Senate amendment No. 4: Page 5, line 13, strike out all after "report" down to and including "sion" in line 23 and insert ": *Provided further*, That an additional $150,000 out of local funds shall remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases".

Senate amendment No. 8: Page 10, line 11, after "involved" insert ": *Provided further*, That of funds provided to the Department of Corrections $36,311,000 shall be for the expense of housing D.C. Code violators in Federal Bureau of Prisons facilities, including $5,064,000 of payments previously forgiven".

Senate amendment No. 14: Page 16, line 20, after "cility" insert "to be constructed in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia for fiscal year 1991".

Senate amendment No. 21: Page 31, after line 2, insert:

SEC. 140. TASK FORCE ON SUBSTANCE ABUSING PREGNANT WOMEN AND INFANTS EXPOSED TO MATERNAL SUBSTANCE ABUSE DURING PREGNANCY.—(a) IN GENERAL.—The Director of the Department of Human Services of the District of Columbia (referred to as the "Director") shall establish a task force, to be known as the District of Columbia Task Force for Coordinated Service to Drug-Exposed Infants (referred to as the "Task Force"), to develop a plan for the most efficient and effective delivery of services to substance abusing pregnant women and infants who were exposed to maternal substance abuse during pregnancy, including recommendations to ensure maximum cooperation between service providers.

(b) MEMBERS.—(1) The Director shall appoint no more than 15 persons to serve on the Task Force, including persons with experience in treating substance-exposed infants, representing the following organizations and disciplines:

(A) Child protection and welfare.

(B) Local hospitals.

(C) Health care professionals, including drug treatment specialists, public health experts, primary care providers, and child development specialists.

(D) Public safety and justice.

(E) Public education.

(F) Community-based organizations serving substance abusing pregnant and post partum women and their infants.

(G) Public housing officials.

(H) Other human support services.

(2) In addition to the members of the Task Force appointed pursuant to paragraph (1), the United States Attorney or a designee of the United States Attorney shall be a member of the Task Force.

(3) The Director or the designee of the Director shall act as chairman of the Task Force and provide such clerical support as the Task Force requires.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act the Task Force shall submit a report to Congress making findings and recommendations for legislative or other action, and including a specific plan detailing how the District will provide for the care of abandoned or otherwise abused infants for whom foster homes have not been found within 6 months of birth; and a timetable for implementing its recommendations.

(d) TERMINATION.—The Task Force shall terminate on submission of its report in accordance with subsection (c).

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 8, 14, and 21 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 7, line 8, strike out "$833,206,000" and insert "$861,191,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert the following: "$861,341,000, of which $150,000 shall be derived by transfer from "Governmental Direction and Support"".

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 10, line 11, after "involved" insert ": *Provided further*, That of the funds provided to the District of Columbia Superior Court $2,600,000 shall remain available until expended".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 7, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That $17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended".

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 11, line 13, after "area" insert ": *Provided further*, That funds provided under this head in Public Law 100-202 (101 Stat. 1329-94) to match private contributions to the District of Columbia Public Schools Foundation shall be available until September 30, 1989".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 11, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That funds provided under this head in Public Law 100-202 (101 Stat. 1329-94) to match private contributions to the District of Columbia Public Schools Foundation shall be available until September 30, 1990".

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 21, line 24, strike out "38,475" and insert "39,569".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the number stricker and inserted by said amendment, insert the following "39,262."

SEC. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vancant position in any agency under the personnel control of the Mayor unless:

(1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or

(2) The position is to be filled as follows:

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(b) Subsection (a) of this section shall not apply to any position for which the City Administrator certifies that:

(1) The position is necessary to the fulfillment of an identified essential governmental function; and

(2) The position cannot be filled from within the District of Columbia government:

(A) At a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(c) The City Administrator shall submit the certification required by subsection (b) of this section to the Council on the 1st day of each month.

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5-point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over an employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e)(5) of the District of Columbia government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

(2) EDUCATIONAL SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services.

"(B) The Mayor shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

POINT OF ORDER

Mr. FAUNTROY. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FAUNTROY. Mr. Speaker, I make a point of order that the amendment contained in the motion is not germane to Senate amendment 15 and therefore violates clause 7 of House rule XVI, for the reason that Senate amendment 15 merely relates to the employment ceiling for the District of Columbia government, while this amendment inserts language in section 110B under section 132 of the District's budget.

That language relates to a hiring preference system for career and educational employees of the District government and among other things, makes the new D.C. preference system effective as of March 16, 1989, provides for a maximum five-point hiring preference for new employees, provides that residency will be a tie-breaker rather than a point advantage to a resident who claims preference on promotions, provides that the 5-year residency requirement will apply only to applicants who claim preference and are appointed on or after March 16, 1989, and for educational service, provides that residency will be required of only those employees who receive a preference on or after March 16, 1989.

In short, Mr. Speaker, the amendment introduces an entirely new subject and is therefore not germane.

The SPEAKER pro tempore. Does the gentleman from Maryland [Mr. HOYER] desire to be heard on this point of order?

Mr. HOYER. Mr. Speaker, on the point of order of the gentleman from the District of Columbia [Mr. FAUNT-

ROY], the amendment in question, amendment No. 15, is added to section 110 of the bill, line 6, which deals with personnel levels. The amendment itself deals with the preference system that has been discussed by the District of Columbia.

Mr. Speaker, in last year's District of Columbia bill there was a requirement that the District of Columbia promulgate a preference system. In point of fact, on March 16, 1989, they issued a preference system. That preference system, however, was to be modified subsequent to the adoption of the bill on the House floor, but then went to the Senate. The Senate dealt with personnel levels. It did not deal, however, with the preference system.

In point of fact, Mr. Speaker, the preference system was drawn, in this Member's opinion, to an extent that in fact the residency requirement is still in effect because of the substantial discrepancies between the preference between the District of Columbia residents and nonresidents, effectively making nonresidents second-class employees, which of course obviates the substitute of the residency requirement by preference system.

I, therefore, submit to the Chair that the amendment at this point in the bill is relevant to the personnel system and the personnel levels and who are eligible for those personnel positions in the District of Columbia, and I would, therefore, submit to the Chair that it is not nongermane and was, in fact, germane to the subject matter before the conference.

Furthermore, I would suggest to the gentleman from the District of Columbia [Mr. FAUNTROY], my distinguished friend, that absent this one passing, there will be other versions that will pass and he may like even less the ones that will pass at that time. As he knows, the gentleman from Virginia is very interested in this matter, as well as myself and others.

So, Mr. Speaker, I would suggest to the Chair that, in fact, this amendment is germane, and the point of the gentleman from the District of Columbia [Mr. FAUNTROY] is not well taken.

The SPEAKER pro tempore. Does the gentleman from California [Mr. DIXON] desire to be heard on the point of order?

Mr. DIXON. No, Mr. Speaker, I do not.

The SPEAKER pro tempore (Mr. BARNARD). The Chair is prepared to rule.

In the opinion of the Chair, the arguments of the gentleman from the District of Columbia [Mr. FAUNTROY] are accurate pertaining to the point of order, and so his point of order is sustained.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the number stricken and inserted by said amendment, insert the following: "39,262.".

SEC. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:

(1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or

(2) The position is to be filled as follows:

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(b) Subsection (a) of this section shall not apply to any position for which the City Administrator certifies that:

(1) The position is necessary to the fulfillment of an identified essential governmental function; and

(2) The position cannot be filled from within the District of Columbia government:

(A) At a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(c) The City Administrator shall submit the certification required by subsection (b) of this section to the Council on the 1st day of each month

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 30 minutes.

Mr. DIXON. Mr. Speaker, I will be brief on this.

Mr. Speaker, this is the language that was sent up from the city council with the bill. I know of no objection to it.

Mr. GALLO. We have no objections, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 29, strike out lines 12 to 21, and insert:

SEC. 133(a) It is the purpose of this section to improve the means by which the District of Columbia is paid for water and sanitary sewer services furnished to the Government of the United States or any department, agency, of independent establishment thereof.

(b) Section 106 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 102; D.C. Stat. 43-1552) is amended by—

(1) striking in subsection (a) all that follows the sentence beginning with "Payment shall be made as provided in subsection (b)"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990 and thereafter, the government of the District of Columbia shall bill directly on a quarterly basis and in advance for water services provided to all buildings, establishments, or other places owned by the Government of the United States. Bills for each such building, establishment, or place shall be directed to the Federal department, independent establishment, or agency responsible for paying other utility charges for the location. The District government shall adjust its individual billings to reflect actual usage of water services not later than 2 years after the conclusion of each quarter.

"(2) Each Federal department, independent establishment, or agency responsible for making payments described in paragraph (1) for utility services to buildings, establishments, or other places shall pay from funds available to it, quarterly on the first day of each fiscal quarter to the account in the United States Treasury designated or established for Federal Payment for Water and Sewer Services,' the amount billed by the District government for water services to be furnished. Amounts in the account shall be made available to the District government on the 5th day of each fiscal quarter but in no case later than 30 days after payments are received from Federal agencies.

"(3) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(c) Section 212 of the District of Columbia Public Works Act of 1954 (68 Stat. 108; D.C. Stat. 43-1612) is amended by—

(1) striking in subsection (a) all that follows ": *Provided*, That"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990 and thereafter, the government of the District of Columbia shall bill directly on a quarterly basis and in advance all buildings, establishments, or other places owned by the Government of the United States for the sanitary sewer services it receives. The District government shall adjust its individual billings to reflect actual usage of sanitary sewer services not later than 2 years after the conclusion of each quarter.

"(2) Each Federal department, independent establishment, or agency responsible for making payments described in paragraph (1) for utility services to buildings, establishments, or other places shall pay from funds available to it, quarterly on the first day of each fiscal quarter to the account in the United States Treasury designated or established for 'Federal Payment for Water and Sewer Services,' the amount billed by the District government for sanitary sewer services to be furnished. Amounts in the account shall be made availabe to the District government on the 5th day of each fiscal quarter but in no case later than 30 days after payments are received from Federal agencies.

"(3) The amount of time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not

be different from those imposed by the District of Columbia on its most favored customers.".

(d) The first sentence of subsection (d) of section 207 of the District of Columbia Public Works Act of 1954 (68 Stat. 106) is amended to read as follows: "Whenever a property upon which a sanitary sewer service charge is a public park, or uses water from the water supply system of the District for an industrial or commercial purposes in such a manner that the water so used is likewise not discharged into the sanitary sewage works of the District, the quantity of water so used and not discharged into the sanitary sewage works of the District may be excluded in determining the sanitary sewer service charge on such property, if such exclusion is previously requested in writing by the owner or occupant thereof.".

(e) The amendments made by this section shall take effect January 1, 1990.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 16, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

SEC. 133. (a) It is the purpose of this section to improve the means by which the District of Columbia is paid for water and sanitary sewer services furnished to the Government of the United States or any department, agency, or independent establishment thereof.

(b) Section 106 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 102; D.C. Code, sec. 43-1552) is amended by—

(1) striking in subsection (a) all that follows the sentence beginning with "Payment shall be made as provided in subsection (b)"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for water services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal quarter, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate covenants pursuant to water and sewer revenue bond sales.

(3) Each Federal department, independent establishment, or agency receiving water services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

(4) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(c) Section 212 of the District of Columbia Public Works Act of 1954 (68 Stat. 108; D.C. Code, sec. 43-1612) is amended by—

(1) striking in subsection (a) all that follows ": *Provided*, That"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for sanitary sewer services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal quarter, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate covenants pursuant to water and sewer revenue bond sales.

(3) Each Federal department, independent establishment, or agency receiving sanitary sewer services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

(4) The amount or time period for late payment of charges for sanitary sewer services involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(d) The first sentence of subsection (d) of section 207 of the District of Columbia Public Works Act of 1954 (68 Stat. 106) is amended to read as follows: "Whenever a property upon which a sanitary sewer service charge is a public park, or uses water from the water supply system of the District for an industrial or commercial purpose in such a manner that the water so used is likewise not discharged into the sanitary sewage works of the District, the quantity of water so used and not discharged into the sanitary sewage works of the District may be excluded in determining the sanitary sewer service charge on such property, if such exclusion is previously requested in writing by the owner or occupant thereof and approved in writing by the District government in advance of the billing period involved.".

(e) The amendments made by this section shall take effect January 1, 1990, and shall terminate December 31, 1990.

Mr. GALLO. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1530

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 31, after line 2, insert:

SEC. 137. Section 11-903, District of Columbia Code, is amended to read as follows:

"§ 11-903. Composition.

"The Superior Court of the District of Columbia shall consist of a chief judge and fifty-eight associate judges."

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of

the Senate numbered 18, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 138. Section 11-903, District of Columbia Code, is amended to read as follows:

"§ 11-903. Composition.

"Subject to the enactment of authorizing legislation, the Superior Court of the District of Columbia shall consist of a chief judge and fifty-eight associate judges."

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 31, after line 2, insert:

SEC. 138. Of the funds appropriated in Public Law 100-202 for carrying out part B of title VII of the Higher Education Act that remain available for obligation, $6,700,000 shall be awarded without regard to section 701(B), section 721(B), and section 721(C) of said Act to the consortium of institutions of higher education in the Washington D.C. metropolitan area for the purpose of constructing and equipping an academic research library to link the library and information resources of theuniversities participating in the consortium.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 19, and concur therein with an amendment, as follows: In lieu of the section number "138" named in said amendment, insert "139".

Mr. GALLO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 31, after line 2, insert:

SEC. 141. (a) This section may be cited as the "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 22, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 141. Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization to deny:

(a) the use of any facility, service or benefit set aside for the practice or promotion of religion; or

(b) the granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, the promotion of any homosexual or heterosexual lifestyle or belief that is contrary to its religious doctrine.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

PREFERENTIAL MOTION OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DANNEMEYER moves that the House recede from disagreement with the amendment of the Senate numbered 22 and concur therein.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, how will the time be allocated concerning the motion in disagreement offered by the gentleman from California [Mr. DIXON]?

The SPEAKER pro tempore. Is the gentleman from California requesting one-third of the time?

Mr. DANNEMEYER. That is correct, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from New Jersey [Mr. GALLO] opposed to the original motion?

Mr. GALLO. No, Mr. Speaker, I am not.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

Mr. DIXON. Mr. Speaker, I demand a division of the question on the preferential motion.

The SPEAKER pro tempore. The question will be divided.

PARLIAMENTARY INQUIRY

Mr. DIXON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DIXON. Mr. Speaker, do I understand the three Members, the two gentlemen from California and the gentleman from New Jersey, will be entitled to 20 minutes each?

The SPEAKER pro tempore. The gentleman is correct.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment that the gentleman from California [Mr. DANNEMEYER] is objecting to is the compromise language that has been worked out as it relates to what has been referred to as the Georgetown University amendment, or the Armstrong amendment.

I guess we cannot say it any plainer than to say that if one is interested in religious liberties in our country, certainly we are interested in protecting the rights of all individuals and institutions, and in this case the Armstrong amendment is one that the university does not want. An agreement has been reached. Several Members on the floor have, in fact, chastised the university for their exercise of their own right. They disagree with what the university did, but certainly it is the university in fact that has the right to exercise that freedom and enter into an agreement if they so desire.

The language in the bill that the conferees agreed to provides that educational institutions affiliated with a religious organization may allow discriminatory practices in the free exercise of its religious liberties, where specific homosexual and heterosexual lifestyles or beliefs are contrary to the institutions's particular religious doctrine. That means if Georgetown has some religious tenet or doctrine that does not agree with homosexual lifestyles or some form of heterosexual lifestyles, that they in fact do not have to grant any endorsement or recognition. They do not have to allow them to meet in building or places set aside for religious purposes.

It seems to me with all parties to the instance having already agreed that for Congress to assert itself on the individual liberty of the university to enter into an agreement is just entirely wrong.

Now, there are some organizations, as I have pointed out before, that have some problems with this, and I would like to point out again that one of them is the Baptist Joint Committee on Public Affairs, but they also say:

Be it further resolved that the Baptist Joint Committee calls upon religious institutions that wish to claim their right to discriminate on the basis of religion to refuse direct government funding because accepting it compromises the free exercise of rights of such institutions and leads inevitably to an unhealthy entanglement between church and state.

I absolutely agree with them. Georgetown University does not want to exercise that right. They would prefer to have some governmental support, and that is the reason they have entered into an agreement. They feel that it is an appropriate agreement. The District feels that it is an appropriate agreement. The gay community feels that it is an appropriate agreement. The only ones who do not think it is an appropriate agreement is Senator ARMSTRONG on that side and some people in the House.

It just does not make any sense that if you are really concerned about protecting liberties, religious liberties, that you would not allow people to exercise their own first amendment rights and exercise them in a way in which they can reach a compromise that everyone can live with.

Mr. Speaker, I reserve the balance of my time.

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly urge my colleagues to support the conference language, because it addresses the concerns expressed in the original motion to instruct, but does so in a way that is all-inclusive.

Since the founding of the Nation, we have recognized the constitutional right of religious freedom, including the right to separate religious belief from government restriction.

With the report language, the conferees have supported the rights of religious institutions to exercise their freedom, consistent with our constitutional guarantee of religious separation, in the broadest possible terms.

We not only have met the requirements of the motion to instruct, Mr. Speaker, we have exceeded them.

We have strengthened the basic concept of religious freedom with this amendment by broadening the protections to include any lifestyle or belief that is contrary to religious doctrine.

We must take great care to promote religious freedom without discrimination, because that was the original intent of the first amendment. We must remember that there is a difference between moral questions and legal ones.

I believe that this amendment addresses the concerns of the original Armstrong amendment, but further broadens the protection of religious liberties so that a great institution like Georgetown can be true to its religious heritage and still participate in activities within a diverse community.

Mr. Speaker, for those who are truly concerned about religious freedom, my response today is, "We have done more than you asked," I urge support for the conference language.

Mr. DANNEMEYER. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me first of all say that I fully believe that the conferees in this were acting in good faith and were trying to resolve the issue. I have to also say, however, that on the legal merits and the issues involved, they did not meet the issue. In fact, I am a little surprised, given the fact that the Senate adopted the Armstrong language overwhelmingly and we voted in this House overwhelmingly to concur with the Senate language, why they say they fulfilled their task, when in fact they come back to us with new and different language.

□ 1540

I must say that unfortunately the language does not address the issue, the legal issue, as the gentleman from New Jersey [Mr. GALLO] has suggested, the legal issue of religious liberty.

I want to say at the outset that the issue here is not that of homosexuality nor is the issue of morality or ethics or lifestyle. It is a religious-liberty issue. It is the question as to whether or not an educational institution associated with, controlled by a religious order or organization has the right to enforce its tenents in its institution. It is as if the Government could force Hebrew Union College to subsidize the Campus Crusade for Christ.

The issue is when one has a religiously organized institution, whether it has the liberty to uphold its tenents in its personnel policies, in its hiring policies in its student admission policies and in its student disciplinary and code policies. It goes well beyond the issue of the homosexual issue.

I want to give the Members some other examples as to where it touches. For example, in my district I have a small Baptist college which at one time was having a problem with an equal rights compliance issue because they refused to hire members on their staff or faculty who had ever been subject to divorce unless the grounds for divorce met their confessional standards for divorce, given their religious traditions. The issue was: was that an arbitrary discrimination based on marital status? They were protected on that ultimately saying that, no, it was discrimination based on their religious confessions of that institution.

Another issue which I read about in a magazine 2 weeks ago, and I am just throwing them off to show the range of this problem, the Philadelphia Bible Institute recently appointed several women to its board of trustees. In protest, a number of faculty members resigned because they thought women in such positions was contrary to the religious purposes of the institution relative to their tenets. I am not justifying or supporting or attacking. I am trying to help us focus on the range of problems which this question gives before us.

Many religious institutions establish criteria both for faculty and for students on such issues as social dancing, use of tobacco, use of alcohol.

The issue has now come to us in this form relative to this issue of sexual orientation or advocacy of sexual practices. Does a Christian institution have a right to insist that its faculty uphold the trinitarian standard, or would a Jewish institution have a right to insist that its faculty uphold a Jewish standard, a nontrinitarian concept of the Deity?

These are the kinds of issues we are struggling with, and I really do not want to debate homosexuality or, if we do, let us at least try to keep the tenor constructive as it has been the last two times we have addressed the issue.

In the language that the committee reports to us, they substitute for the Armstrong criteria two specific clauses. One, it exempts religious-oriented or affiliated institutions in regard to the use of any facility, service, or benefit set aside for the practice or promotion of religion. That would suggest, for example, that a chapel or a church on that campus would be in fact totally exempt from the law of the District of Columbia in this instance on religious grounds, and once again, remember that the issue is not that of discrimination but when a religious right is being exercised.

The question also, however, is more complex than we might suggest. Because where does religious activity begin and end? Is a Christian liberal arts education, for example, to give one type of example, does it cease and end when a student enters or leaves the chapel?

I would simply say that that is an arbitrary distinction. If the same language were applied to an entire college or university or educational entity, we would not have a problem.

The second phase, and the second clause, clause (b) on the grant of any endorsement, approval, or recognition to a person or persons that are organized for, et cetera, does not protect the institution from having to lend the use of its facilities or give comparable institutional support, albeit without endorsement, to such activities. In other words, it still falls short of the religious-freedom protections that Mr. ARMSTRONG and some of us have been advocating for.

I realize that there are some religious organizations which have in fact subscribed and agreed to this as a compromise, but I think the record should

show that is by no means universal. The National Association of Evangelicals is explicit in its rejection of this language. The Christian College Coalition rejects this language. The Public Affairs Committee of the Southern Baptist Convention is opposed to this language. The Association of Christian Schools International is opposed to this language. The Lutheran Church Missouri Synod, the largest of the Lutheran bodies in America, is opposed to the language, the Catholic League for Religious and Civil Rights, the Good News Movement of the United Methodist Church, the Center for Catholic Policy, the American Association of Christian Schools, and the National Committee of Catholic Laymen.

Members have to understand that in many instances many of the religious institutions that find the language acceptable are those who do not have in their bodies institutionally religious tenets that are opposed to the practices that are at issue. That is why they have no problem with the language, but for those religious traditions that do, and they are widespread from confessional to free church to fundamentalist to main-line churches do have problems.

I suggest that we could find a solution to the problems if we do not accept the Armstrong language by coming up with constructive language saying that nothing in the District law would infringe on any religious right exercised on behalf of the defense of a religious tenet.

The gentleman from California knows that I have suggested that, and I have suggested that to the gentleman from New York. Perhaps we could come back with that, although quite frankly I do not know why, for the life of me, we have rejected the Armstrong language when just last week we agreed to accept it.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I rise in opposition to the motion offered by Mr. DANNEMEYER because it seeks to treat people differently by affirming discrimination and it makes a mockery of the U.S. Constitution.

The Dannemeyer motion would have the Congress embrace the so-called Armstrong amendment which, by its terms, seeks to insert the view of some in the Congress while replacing the view of the local government on a matter that is of purely local concern.

Congress could not insert its view in Wisconsin, which has a similar law, nor in California, where the courts have interpreted that State's civil rights law as prohibiting discrimination on the grounds of sexual orientation. Indeed, one or both houses in eight States have passed laws including sexual orientation in recent years, and at least eight States ban such discrimination in public employment by either executive order or regulation, while 16 counties and over 60 cities have similar laws. The District of Columbia's human rights law is no different than many other State and local laws prohibiting discrimination on the grounds of sexual orientation.

The Armstrong amendment would allow "any educational institution that is affiliated with or closely associated with a religious organization" to affirmatively discriminate against "any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief."

Mr. Speaker, I would suggest that this language is so broad and sweeping that any one of us could be said to be in violation of it. If I hired a gay person, am I "condoning a homosexual act, lifestyle, orientation, or belief"? If a gay person attends my church, and I refuse to banish him or her, am I in violation of this amendment. If a doctor treats a patient with AIDS, is that doctor subject to dismissal from an institution affiliated with a religious organization? You may say that these questions stretch the language of the amendment, but I would say to you, read it.

If the amendment is not constitutionally defective because of its overbreadth, consider how it steps on the first amendment, the Armstrong amendment allows discrimination against an individual's point of view and imposes penalties on the beliefs and advocacy positions of an individual. That kind of frenzy has never been at the foundation of this Nation, and I would suggest that we consider this matter with great care.

Just because something may not be popular or politic, we should not allow a rigidly determined few to dictate our deeds. Reason should rule.

Keep in mind that the courts have considered and settled this matter. The parties to the lawsuit which gave rise to this amendment are satisfied with the agreement they have reached, and they are standing by it. They do not want us to act. No hearings have been held on the Armstrong amendment, nor has any deliberative consideration been given to it. And, the House and Senate conferees, after careful consideration, have offered language which meets the concerns of the Armstrong amendment.

I ask that each Member vote his or her conscience and not his or her politics. If my colleagues will do that, I believe Mr. DANNEMEYER's motion will and should be defeated.

□ 1550

Mr. GALLO. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. GREEN], also a member of the committee.

Mr. GREEN. Mr. Speaker, I thank the gentleman from New Jersey for yielding me this time.

Mr. Speaker, from the discussions thus far, one would think this is an extremely complicated subject. I should like to suggest it is very easy, because there are two distinctions between the language that the committee brings back from conference—which I should point out to my colleagues was proposed by the Senate conferees—and the language that the gentleman from California [Mr. DANNEMEYER] is offering us.

One is the issue of access to facilities, particularly meeting places; the other is the question of recognition by the institution.

As to the question of access to facilities, there is no question that the language that was brought back from conference and being brought to us today by the gentleman from California [Mr. DIXON] is somewhat weaker than the Armstrong amendment, because it protects only facilities that are used for religious purposes, like chapels.

However, my colleagues should be aware that the language we brought back from conference is much stronger in its protection of institutions than the Dannemeyer language when it comes to the issue of recognition, of forcing religiously affiliated institutions to recognize groups, because the Dannemeyer amendment protects the college, Georgetown, from having to recognize only groups involved with homosexual issues.

The language we bring back from conference gives much more protection to a Georgetown, because it says that a Georgetown does not have to recognize a group that wants to advocate open marriage, a group that wants to advocate premarital heterosexual promiscuity, a group that wants to advocate sex with children.

So the fact of the matter is if Members vote for the Dannemeyer motion, they are voting to force a Georgetown to recognize a group that advocates sex with children; they are forcing Georgetown to recognize a group that advocates open marriage; they are forcing Georgetown to recognize a Georgetown Free Love Society; none of which Georgetown would be forced to do under the language we brought back from conference.

I think that is a very crucial distinction. I think Members should understand that the language we brought back from conference is much stronger on the recognition point.

If Members want to force Georgetown to recognize the Georgetown Free Love Society, vote for Dannemeyer; but if Members do not, then I suggest voting for Dixon.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, I agree with everything the gentleman said, other than his presentation of the position of the gentleman from California, Mr. DANNEMEYER's position, because I think it is in error. It is true, however, that first of all there is an

absolute exclusion relative to the places of worship on a campus. Granted. It is also true that the committee's report clearly gives a religiously affiliated institution the right to refrain from endorsement, approval, or recognition.

Mr. GREEN. If the gentleman will allow me to reclaim my time, yes, the committee's report does that, but the Dannemeyer motion would not.

Mr. HENRY. But what the gentleman's language does not do is protect the same institution from having to support on a nondiscriminatory basis any student organization or association which is operating contrary to the tenets of that organization.

Mr. GREEN. I think what I said is plainly we do not offer the same protection to the institution in terms of facilities and those kinds of things, that the Dannemeyer motion does. I started off my remarks by acknowledging that. That is plainly the case. But we provide much more protection to the institution when it comes to the nature of the activities that it does not have to endorse.

We have made it clear that in the case of a Georgetown, they not only do not have to recognize a homosexual group, they do not have to recognize groups advocating other sexual practices, heterosexual practices, that are contrary to their religious doctrine. The result under the Dannemeyer motion is that a Georgetown would have to recognize a Georgetown Free Love Society. I think that is very plain. That is a matter of sexual orientation. Or a group that advocates sex with children, another matter of sexual orientation.

All those organizations Georgetown would have to recognize under the Dannemeyer amendment. We protect Georgetown from having to do that, and for that reason I think our amendment is much more supportive than the Dannemeyer motion.

Mr. HENRY. That means these organizations have to have an equal degree of support, in addition to equal recognition.

Mr. GREEN. If I could reclaim my time, the homosexual group, right, has to be permitted to have a meeting place, but not in a religious facility. So I agree with the gentleman from Michigan, in terms of facilities we are providing somewhat less protection than the Dannemeyer motion, but we are providing much more protection when it comes to the issue of the kinds of groups that have to be recognized by an institution.

I think that what we bring is much more helpful to the cause of religious liberty and protects groups from having to endorse things that their tenets do not permit them to endorse. We are much broader and much more helpful to the groups in that than the Dannemeyer motion.

Mr. DANNEMEYER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think it is appropriate initially to say that the House voted overwhelmingly on this issue last week by a vote of 264 to 152, in effect confirming the position advocated by this Member from California [Mr. DANNEMEYER].

Why we are here now discussing it again I can only ascribe to the tender mercies of the conferees who in the isolation of the activity labored forth and brought to us a total rejection of what the House of Representatives voted to last week and the U.S. Senate voted to do last week as well.

Now my good friend, the gentleman from California [Mr. DIXON] has the uneviable task of attempting to defend this absurdity.

But let us really list where we are. Last year the House and Senate voted very clearly that the District of Columbia was to amend its ordinance so that Georgetown University would have the legal authority not to charter an organization based on sexual preference, specifically homosexuals.

The circuit court of appeals just within the past month ruled that the direction of Congress last year was unconstitutional because it took away the freedom of speech and the right to vote of the members of the District of Columbia City Council.

□ 1600

This year Senator ARMSTRONG began this effort again on the Senate side and got language into the bill on the Senate side which reached into the generic role of the District of Columbia which under the Constitution Congress can clearly do.

Rather than directing the council to amend, as was done last year, this year Senator ARMSTRONG's amendment amended the generic law of the District of Columbia to effectively say to Georgetown University and any religious institution in America, "You have the religious freedom right not to charter an organization which is in violation of the tenents of your religion."

Then the House last week, we had three votes my colleagues will recall, the first one was on a procedural matter where this Member from California had to climb the mountain on the procedure just to offer the amendment. We won that by a margin of 25 votes, as I recall.

The second vote was the definitive vote up or down on the issue of whether we could conform to the Senate language. That, as I say, carried 264 to 152. I believe the House and the Senate have voted clearly and distinctly that we want to preserve the ability of Georgetown University, the right, if they choose to do so, in response to the religious tenets of their organization not to charter an organization that is in violation of the tenets of that religious group, namely homosexuals.

I want to point out another little interesting wrinkle to the conference report that I ask my colleague to reject, being offered by the gentleman from California [Mr. DIXON].

The Senate language reads: "The use of any funds, service, facility, or benefit." The compromise language brought back by the conferees reads: "The use of any facility, service, or benefit." They have omitted, the conferees, the word "fund".

Now there is no question in this Member's mind that by the omission of the word "fund" from the conference report, the argument will be made that with the adoption of this language Georgetown University could say to the homosexual student groups on its campus, "You can't use the chapel, but you will have to use Georgetown University money to provide funding to that student group on campus." I do not believe that that is anything that this House should be doing.

I believe we should be respecting the right of Georgetown University. Reference has been made to the fact that the leaders of Georgetown University are not supporting this. This came out last week.

The reason for it is that the District of Columbia is asserting its muscle in the sense that Georgetown wanted to obtain the benefit of some tax exempt bonds and the message was delivered to Georgetown University that if they were to be able to get those bonds they were going to have to stop this 7-year battle that had been going on with the District of Columbia to preserve the ability of Georgetown University to conform to their religious tenets.

So I think we should, as a matter of religious freedom, say for all of us that Georgetown University or any other religious institution in this country should have the privilege of reserving its facilities on its campus in a way that gives respect to the tenets of that religion.

Mr. DIXON. Mr. Speaker, I yield 4½ minutes to the gentleman from Maryland [Mr. HOYER], a member of the committee.

Mr. HOYER. I thank the chairman for yielding.

Mr. Speaker, I think that committee, contrary to what the gentleman from California observed, went into the conference and tried to make some more precise definitions of the language that was sent to the conference. And I frankly think it has done just that.

I frankly do not know what "or closely associated with the tenets of a religious organization" really means. "Closely identified with the tenets of." No conferee, not one knew what that language meant. We struck that language.

In point of fact I do not like the amendment the way the gentleman from California [Mr. DIXON] has offered it. I am not sure that any Member of the conference specifically likes the language, per se. What we be-

lieve it is an improvement on and a better clarification of the language that the House sent to the conference.

Now clearly the conferees would not have come out with this language if the House had not voted as it had; it sent the conference a message. The conference has essentially come back with, I think, a clarified, more specific, more accurate protection of religious institutions, those properties which they use for the purposes of promulgating their religious tenets, and will in fact, as the gentleman from New York has pointed out, have a broader protection because we have added "heterosexual lifestyle or belief that it is contrary to its religious doctrine" to the language.

So in fact I think the gentleman from California is incorrect. We did not go in a vacuum. This language came back specifically because of the House's vote.

I would suggest to those House Members who voted for the Dannemeyer motion previously that they can be comfortable with voting for the Dixon language now because it is in fact perfecting language.

Let me make it clear, this would not be the language that I would like to see; let me make it clear I would prefer this amendment were not on the floor. But having said that, I think it is perfecting language and I think the House ought to support it because if we are going to take this position what we clearly want to do is protect the religious institution in its religious tenets. I do not think any of us disagree on that.

I said that in the first debate on the floor. My friend Mr. HENRY and I agree on that proposition. From my own reading of the court decision they protect that.

Now there can be a distinction or a difference of opinion as to whether or not what the court decided ultimately defends it.

Notwithstanding that I think in all fairness this does in fact what the gentleman from California and the gentleman from Colorado say they want to do, and that is protect the religious institution in its position as it relates to the promulgation of its faith.

Let me say further that the reason I rose to ask the gentleman from California [Mr. DANNEMEYER] to yield to a question, he said on the floor that this language dealt with every religious institution in America. I think the gentleman misspoke. It clearly deals only with those institutions located in the District of Columbia.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, I used that statement in reference to the principle that is being established. Clearly the gentleman is correct; we are only dealing with the District of Columbia. But let us not kid ourselves: This principle of religious freedom is going to have applicability and effectiveness and influence across this country.

Mr. HOYER. Let me in concluding say I am a Southern Baptist, which is a group very strongly committed. It is committed, as most groups in this country, to the separation of church and state. They feel very strongly about that.

Baptists throughout history have been discriminated against by the state. So I feel very strongly on that issue.

I think this language affects that and it affects it with integrity and I think the conference report ought to be adopted.

Mr. Speaker, I support the amendment of the chairman.

The SPEAKER pro tempore (Mr. BARNARD). The Chair will announce that the gentleman from New Jersey [Mr. GALLO] has 12 minutes remaining, the gentleman from California [Mr. DIXON] has 7½ minutes remaining and the gentleman from California [Mr. DANNEMEYER] has 9 minutes remaining.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in opposition to the gentleman from California's motion. The conference committee has developed compromise language which addresses the concerns raised earlier by Senator ARMSTRONG and others. It reflects the intent of the House and Senate amendments to protect the rights of religious institutions, while also meeting constitutional objections and protecting home rule for the District of Columbia.

The conference agreement allows any religious educational institution to deny "endorsement, approval, or recognition" to groups which promote sexual lifestyles contrary to its religious doctrine. It also allows the denial of the use of religious facilities and services such as the campus chapel, to such groups.

This compromise reflects the intent of the Armstrong amendment, without the far-reaching implications of the original language. Georgetown University is well satisfied with its current agreement with campus organizations, and the D.C. Court of Appeals decision in the matter. Further, the university opposes congressional action to overturn the agreement, and believes that home rule should be upheld. Religious leaders also oppose the Armstrong language, and have asked Congress to reject it.

Mr. Speaker, the conference committee provision addresses the concerns which have been raised by Members with regard to the rights of religious institutions, without threatening the civil rights of individuals. I urge my colleagues to support the compromise agreement and oppose this effort to adopt the Armstrong language.

□ 1610

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, we have heard a lot today about compromise language, about classification of the language of amendments offered by Senator ARMSTRONG and the gentleman from California [Mr. DANNEMEYER].

However, it is clear that the intent of Senator ARMSTRONG and the gentleman from California [Mr. DANNEMEYER] has been changed by the conference committee. The conference agreement is nothing more than a gutting of the Armstrong amendment, and it defies common sense, and it defies democracy.

Now, I am a freshman, and I have to notice the way things are done, maybe this is the way things are done here. However, last week this House debated this question, and we reached a decision by an overwhelming margin. The House, by an overwhelming vote, instructed our conferees to agree to the Armstrong amendment which had already been adopted by the Senate.

Now, one would think that once both Houses have decided this, that the Armstrong amendment should be agreed to, that the issue would then be settled. Well, not according to our conferees. There is all kinds of compromise language and clarification that takes what we are voting on, and in a totally different direction. Our conferees decided to substitute basically their own judgment for the judgment of the House of Representatives.

This House decided that the status quo needed to be changed to protect religious freedom of colleges and universities in the District of Columbia. Our conferees, who are supposed to be our agents, decided that no, the status quo does not need to be changed in that direction, and came back with a conference agreement which does not change things as we voted to change them.

Mr. Speaker, one of the things that has most amazed me as a freshman is the extreme lengths to which committee leaders go to, on both sides of the aisle, simply to avoid up or down votes on this or that issue. In this case, complicated maneuvers of this ilk are employed after they failed on the floor, and the House had clearly expressed its will.

Meanwhile, the Senate conferees can now go back to the Senate and say, "Sorry, we tried to preserve the Armstrong amendment, but the House just would not agree." Well, the House did agree. It is only the House conferees that would not agree, and did so in total defiance of their instructions.

Mr. Speaker, I ask my colleagues to give these conferees a rebuke of their actions, and I ask my colleagues to overwhelmingly defeat this motion to gut the intent and the word of the Armstrong amendment, and tell our

conferees on any legislation, that when the House gives them instructions, that those instructions are to be followed, not to be thrown out the window. I ask for a no vote on the chairman's motion and support for the gentleman from California, Mr. DANNEMEYER's motion.

Mr. DIXON. Mr. Speaker, I yield myself 1 minute in response to the gentleman from California. The first issue involved is whether conferees are bound by an instruction of the House. I would inform the gentleman that they are not.

So as far as a rebuke of the House is concerned, the conferees exercised their judgment as conferees, and their action was under the authority of this House.

Second, I would inform the gentleman that the compromise amendment was offered by the Senate; however, the Senate conferees did not support that amendment on the floor, and of course did not support it in conference. We accepted an amendment by the Senate conferees and that is where the language that we are offering as an amendment came from. I just wanted to clarify that, because when the gentleman talked about rebuffing the conferees, I do not think they should be rebuffed for exercising the authority that is given to them by this House.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, this afternoon I rise in opposition to the motion offered by my distinguished colleague, the gentleman from California [Mr. DANNEMEYER]. In doing so, Mr. Speaker, I would make a few points, the first point being historical.

First, the human rights law adopted by the D.C. Council, the elected representatives of the people of the National Capital, is a well-reasoned law carrying into effect the principles of our National Constitution. It strengthens the civil rights laws of the city to attack many subterfuges and subtle forms of discrimination against the physically handicapped, against families with children, against women, against students, against people speaking other languages, against single people, and against individuals of different races, colors, religions, sexual orientation, personal appearance, or politics. Congress itself continues to strengthen antidiscrimination laws. This is as it should be.

Second, Georgetown University has made it clear that it does not want action by Congress. The students and the university have reached a compromise that the university is not asking to have scuttled. Congress should let well enough alone and not create a problem where none exists.

Third, the vague language of the amendment clearly illustrates the dangers of trying to design exceptions to human rights laws. The amendment uses incredibly fuzzy terms as "condoning a lifestyle." What does that mean? And "condition the use of a benefit." What does that mean? And "associated with the tenets of a religious organization." What does that mean? This amendment does not clearly state anyone's right to do anything or not to do anything.

I would suggest, Mr. Speaker, this is an extraordinary indication to endless conflict, pain, and litigation.

Further, Mr. Speaker, last year Senator ARMSTRONG was successful in getting an amendment attached to the D.C. appropriations bill that would have required the District of Columbia to pass a law that would have made it lawful to discriminate against individuals of a religious institution, if the religious institution did not find a particular lifestyle acceptable. Fortunately 2 weeks ago the D.C. Court of Appeals ruled that amendment to be unconstitutional.

This year an amendment that directly legislated the right to discriminate was added to the D.C. bill by the Senate, and this past Tuesday the House voted to instruct the D.C. appropriation conferees to include Senate amendment No. 22.

During the meeting of the House-Senate conferees, a compromise was reached and is reflected in the conference report on page 20 under section 141. While this gentleman might find even this version going beyond the bounds of reason, in fairness to my colleagues on the Appropriations Committee I will not object.

With all due respect to religious institutions in America and their great centers of learning that have flourished from coast to coast and border to border, have we come to the time once again when it is allowable to discriminate against individuals because they are different from what we perceive to be an acceptable lifestyle. This gentleman can recall the days that the color of his skin and therefore by inference his lifestyle as a black American was basis for the denial of membership in any white church in the country. And the reasons given were exactly those used by the proponents of Senate amendment No. 22, that is religious organizations in America have constitutional rights to decide who can and cannot be a member based on their own biased judgment.

It is mind boggling that we are now ready to put into law by congressional mandate exactly what many in America have fought too long to overcome and this is actions by any organization anywhere at anytime that would say that because of one's race, religion, creed, and now lifestyle, one may not be a part of us.

Mr. Speaker, no right thinking American is going to understand a logic that says that Congress has the right to provide the basis for discrimination and that we are doing so to protect religious freedoms.

Mr. Speaker, we are on the verge of setting a precedent which could do much greater damage than the Jim Crow decisions. Vote "no" on the Dannemeyer motion.

□ 1620

Mr. GALLO. Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, let me say to my distinguished colleague, the gentleman from California [Mr. DELLUMS] that I marched with Martin Luther King in this city August 28, 1963, and I am very proud of it. I sat right in the front row with the late Robert Ryan and Sammy Davis, Jr., and Paul Newman and all those people, and then I went down to Alabama and Mississippi and registered voters. I got a little Republican twist in there. I said that Abraham Lincoln freed the slaves, not Franklin Delano Roosevelt, although he did some good stuff.

I enjoyed it tremendously. As a Republican conservative, I was down there thinking that my country would never be totally free, especially in the 1950's, after I had flown with black fighter pilots; some of them could outfly me, and I could not believe that we could not send a whole team of black Thunderbirds for an Air Force demonstration down to the South to show the young white kids that these black pilots were as good or better than many white pilots, and that equality was for everybody.

But I say to my friend, the gentleman from California, that the road to Selma did not lead to the road to sodomy. And I am amazed that we would come to a day and use the term, "boggle the mind," that we would equate the Afro-American heritage, the Jewish-American heritage, the Irish-American heritage, or gender, women, with sodomy. This is a crazy day in this House. It is Alice in Wonderland.

To tell college kids—and I repeat that I was a freshman at 17, until April of my freshman year—to tell college kids that they can form a club around anal intercourse if they are males but not if they are a heterosexual club, to tell them that they can have every room on the campus at Georgetown except the chapel is absolute craziness.

It bears repeating again, although I know one of the other gentlemen has already done this, that here is the National Association of Evangelicals, and that is 15 million Christian Americans, probably 10 to 20 percent black, and it is 45,000 churches, with probably more than that number of blacks in our country represented here, and they say that this Adams-Hoyer substitute to Senator ARMSTRONG's amendment is a terrible blow to religious freedom.

Decent people can disagree on this, but I would like to know who agrees with them. Here is the Christian College Coalition, the Public Affairs Committee of the Southern Baptist Convention, the Association of Christian Schools Internationale, the Christian League Society, the Lutheran Church of Missouri Synod, and the Catholic League for Religious and Civil Rights. I have been a supporter of theirs since 1974. The founder is a Jesuit priest, Father Virgil Bloom, may he live to be 100. Then there is the Good News Movement of the United Methodist Church, the Center for Catholic Policy, whom I support, the American Association of Christian Schools, and the National Committee of Catholic Laymen, of which I am a member.

I tell the Members that it is insanity that on a Catholic Jesuit College campus they say they have no interest in this. That is not what the Jesuits I talked to say. It is crazy to say that you cannot form a heterosexual club of 17-year-old freshmen swingers of mixed sex, but for same sex orientation or for lesbian or male homosexuals, you can. And note that I am not using the adjective, "gay," because that adjective, which used to mean happy, merciful, or cheerful, is totally inappropriate when a plague is sweeping across our country that is killing hundreds of thousands of homosexuals before this plague has run its course, and we do not know what is going to stop its course. To use the word, "gay," instead of "sad" is an idiotic acquiescence to a public relations ploy that started 15 years ago when they said, without the great author who did books on Burr and Lincoln and everything, without his acquiescence, it is an idiotic word. They changed the word, "homosexual," to "gay." They changed a medical word to a public relations thing, just as they torture and twist the whole vocabulary of "gay bashing," "homophobe," "discrimination," and "intolerance," all around anal and oral sex. This is for college kids, freshmen and sophomores?

What idiocy is this? It has nothing to do with bigotry. I matriculated at Jesuit schools for 7 years at Loyola High and Loyola University in Los Angeles, and I was taught carefully the difference between a venial sin and a mortal sin. How great an offense is this?

The SPEAKER pro tempore (Mr. BARNARD). The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DANNEMEYER. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. DORNAN].

The SPEAKER pro tempore. The Chair wishes to take this opportunity to remind those Members controlling the time that the gentleman from California [Mr. DANNEMEYER] has 1 minute remaining now, that the gentleman from New Jersey [Mr. GALLO] has 10 minutes remaining, and the gentleman from California [Mr. DIXON], who has the right to close, has 1½ minutes remaining.

Mr. DELLUMS. Mr. Speaker, will the gentleman from California yield briefly to me?

Mr. DORNAN of California. I yield briefly to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I just want to say to my colleague that I stood in the well of this House to argue for the right of people to choose and for freedom. I was not talking about sodomy, and I would just suggest to my colleague that it is a grossly unfair effort to walk into this well and attempt to say what this gentleman is more than capable of saying himself. I resent the gentleman doing that.

Mr. DORNAN of California. Mr. Speaker, I will reclaim my time.

Mr. DELLUMS. Mr. Speaker, I think the gentleman should apologize.

Mr. DORNAN of California. Mr. Speaker, the gentleman described sodomy on college campuses as a lifestyle. This is my time, and I say that it is not a lifestyle. If I may come down and refer to my Christian teaching at a Jesuit institution, it is a mortal sin, a grievous offense, a felony. As compared to a venal offense or a misdemeanor, it is something that is a grievous matter requiring sufficient reflection and full consent of the will.

But if a Jesuit institution so confuses its principles and is lecturing to freshmen and sophomores, some of whom may be minors, that it says it is a grievous matter, "but your will can be so screwed up here because we are going to let our facilities be used by clubs based on sodomy," the road to Selma, I repeat, was not the road to the approval of sodomy.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. GALLO] has 10 minutes remaining.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DIXON], the distinguished chairman of the committee.

Mr. DIXON. Mr. Speaker, I thank the gentleman for yielding this time to me, but let me say that I would like to reserve the right to close, and I would ask that other Members yield time now to their colleagues.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] has 1 minute remaining.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, will the vote be on whether there will be a division?

The SPEAKER pro tempore. No, the question has been divided. There has been a division, and the first question will be: Will the House recede from its disagreement to Senate amendment numbered 22?

Mr. DANNEMEYER. That is the first vote?

The SPEAKER pro tempore. That is the first vote.

The second vote will be, if the House does recede: Will the House concur in the Senate amendment with the amendment offered by the gentleman from California [Mr. DIXON]?

Mr. DANNEMEYER. And, Mr. Speaker, in order to get to the position that this Member, the gentleman from California [Mr. DANNEMEYER], has offered, we must defeat the issue that is being presented by the gentleman from California [Mr. DIXON]; is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. DANNEMEYER. I thank the Chair.

Mr. GALLO. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Because the argument is getting a little hot and steamy, I thought maybe we ought to pose exactly what the legal question is once again.

Despite all our preferences and strong feelings—and obviously, I feel strongly, too—the issue before us is really very clear. It is a legal question, and let me try to clarify it. The issue is the rights of religiously affiliated and attached educational institutions vis-a-vis the District of Columbia nondiscrimination law. The conference committee report allows an educational institution to exert its rights absolutely on its places of worship, on its campus, and qualifiedly on its nonplaces of worship.

□ 1630

Mr. Speaker, it would say that while they would not have to give endorsement, approval or recognition to a person or a group promoting any homosexual or heterosexual lifestyle, they would, however, on the other hand, have to fund, service and facilitate those groups as they do any other organized group granted recognition.

Mr. GALLO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, my clarification of the pending business is a little different from that of the gentleman from Michigan [Mr. HENRY]. It seems to me there are two issues here, and I return to those two issues: one, the question of the meeting place, the facilities; the other the question of endorsement. There is no question that the proposal of the gentleman from California [Mr. DANNEMEYER] offers more protection to a religious institution than the conference report because the conference report protects only religious facilities. But the Dannemeyer proposal is much less help to the religious institution in terms of not having to endorse or recognize groups with whose views on sexual matters it disagrees, because the Dan-

nemeyer amendment is limited in that respect only to groups that are advocating or condoning homosexuality, whereas the conference report covers homosexual and heterosexual practices.

So, Mr. Speaker, under the amendment of the gentleman from California [Mr. DANNEMEYER] a Georgetown has to recognize a group that supports sex with children, if it is heterosexual sex, free love, open marriage. That is implicit in the Dannemeyer proposal. He may not like it, but that is the way his proposal is drawn.

Our proposal, what we brought back from conference, the Senate language that we got in conference, essentially protects a Georgetown against having to recognize or endorse groups which have views on heterosexual sex that it does not support religiously. So I think the conference report is much broader. I think from a religious point of view, we give much more protection than the amendment of the gentleman from California [Mr. DANNEMEYER], and I therefore urge my colleagues to support the Dixon proposal and to defeat the Dannemeyer proposal.

Mr. GALLO. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DIXON] for closing.

Mr. Speaker, there are no further requests on my side for time, so pending that, I yield back the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, who is entitled to close in this debate?

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is entitled to close debate.

Mr. DANNEMEYER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I just want to ask my colleagues to vote "no" on the motion to recede and concur with an amendment offered by the gentleman from California [Mr. DIXON], my colleague, so that I would have an opportunity then on the next vote, if that prevails, to have my motion to recede and concur in the Senate amendment approved, which would reinstate what the House voted last week to do by a vote of 264 to 152.

To the gentleman from New York [Mr. GREEN], my colleague, let me say that. I wonder sometimes if we are talking about the same issue. The basic argument that would be used by whatever sexual group came along would be the District of Columbia ordinance, and since the prohibition on discrimination is only related to relief relating to homosexuals, I do not believe that that ordinance can be used as a means whereby they could force the leaders of Georgetown University to do what he claims they would be able to do.

Mr. GREEN. Mr. Speaker, would the gentleman yield on that point?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, the language is sexual preference, not just homosexuality, in the D.C. ordinance. That is the point.

Mr. DANNEMEYER. My colleague will have to go back to the basic document of the District of Columbia.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I would remind my colleagues of one thing. The central point is missing here. No one has ever questioned the right of Georgetown, or any other university, to teach whatever it wants to teach. Its message could be one of hate, it could be one of love, it could be one of inclusion, one of exclusion. That is its business and its business alone, and no one has the right to interfere with that.

Mr. Speaker, the question here is whether any institution, whether it wants to preach racism, sexism, or whatever it might preach, is entitled to public funds in support of that message. This issue rose only because the university sought the backing of publicly guaranteed bonds with the full faith and credit of the District of Columbia Government.

Mr. Speaker, that is the issue. It is not one of religious freedom. It is whether or not religiously operated institutions are entitled to public support and public funding regardless of their views.

No one in this land that I know of would question the right of any university or any individual, even the gentleman from California [Mr. DORNAN], to believe or to say anything they wish. The only question comes in the support of public funds.

Mr. Speaker, that is the question, and through all the commotion Members ought to see that and see it very clearly.

Mr. DIXON. Mr. Speaker, I yield 3½ minutes to my colleague and friend, the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the gentleman from California [Mr. DIXON] for yielding and thank also the gentleman from New Jersey [Mr. GALLO] for agreeing to language with Senators FOWLER and ADAMS, and I think it really goes to the essence of what this debate has been about for the last several weeks.

First of all, Mr. Speaker, I think it is important to remind ourselves that 62 municipalities of all sizes have agreed to language exactly like that that was agreed to by the city council of the District of Columbia. Obviously, as is our wont, we throw out that fact and debate this issue on the merits simply because we have the approval authority here for all those ordinances.

However, Mr. Speaker, why are we dealing with this issue? I do not really think it is impossible to discern that the gentleman from California [Mr. DANNEMEYER], my colleague, has a broader issue that he wants to bring to the attention of the House, and that is, as he says, the society's acceptance of people who have a different sexual preference, people who are clearly understood as homosexuals, as people who want to exercise their rights and who have found many institutions, many levels of Government, who agree that they must be protected by our laws.

This is not here because of any request of any college or university. Georgetown University has made it clear that they neither asked for, nor participated, in the legislative process involving the amendment that was offered by Senator ARMSTRONG. Indeed they have indicated to us on countless occasions that they have accepted the resolution of their 8-year-old dispute with the gay rights student groups on campus and really do not want this issue to be brought before the body.

However, Mr. Speaker, I think it is fair to say that the thoughtful concerns of the gentleman from Michigan [Mr. HENRY] have to be discussed and have to be resolved. I cannot think of a better way to resolve this very difficult clash of rights, the right to freedom of religion and the public interest in the quality of a secular education, and the individual's right to a sexual preference and their right to be protected in that.

Mr. Speaker, this clash of rights is being well handled, I believe, by this amendment offered by the Senators, Mr. ADAMS and Mr. FOWLER. They have essentially made a dividing line between those activities that occur on campus that are related to religion and those that are not, and it is totally appropriate, it seems to me, to protect those religious institutions against having to use their chapel, chancery, or other aspects of the religious aspect of the particular institution to foster any kind of activity that they find religiously reprehensible. At the same time this amendment does not intrude into the constitutional protections of homosexual students, and in fact, as the gentleman from New York [Mr. GREEN] has said, it offers broader protection of religious freedom than the Armstrong amendment.

The gentleman from Michigan [Mr. HENRY] was quoted earlier as saying that there are many religious institutions concerned about heterosexual lifestyles. This would not discriminate against homosexuals. It would say to religious institutions that they could exercise their rights to take stands against heterosexual or homosexual activity, if it were not appropriate and in keeping with the respective denominations or the faith community.

I want to make clear that there are many religious organizations that do not believe we should be debating this. The United Church of Christ, the Evangelical Lutheran Church, the American Jewish Committee, the Episcopal Church, the Presbyterian Church all ask us to accept this compromise, and I do as well.

□ 1640

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to the amendment of the Senate numbered 22.

The House receded from its disagreement to the amendment of the Senate numbered 22.

The SPEAKER pro tempore. The question is, Will the House concur in the amendment of the Senate numbered 22 with an amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 170, nays 252, answered not voting 10, as follows:

[Roll No. 280]

YEAS—170

Ackerman	Gray	Oakar
Akaka	Green	Oberstar
Anderson	Gunderson	Obey
Aspin	Hamilton	Olin
Atkins	Hatcher	Owens (NY)
AuCoin	Hawkins	Owens (UT)
Bates	Hayes (IL)	Panetta
Beilenson	Hertel	Payne (NJ)
Berman	Hoagland	Payne (VA)
Boehlert	Horton	Pease
Bonior	Hoyer	Pelosi
Borski	Hughes	Price
Bosco	Johnson (CT)	Rangel
Boucher	Johnston	Richardson
Boxer	Jones (GA)	Roybal
Brown (CA)	Jontz	Sabo
Bustamante	Kastenmeier	Sangmeister
Campbell (CA)	Kennedy	Savage
Cardin	Kennelly	Sawyer
Carper	Kildee	Scheuer
Carr	Kleczka	Schiff
Chandler	Kostmayer	Schneider
Clay	Lancaster	Schroeder
Coleman (TX)	Lantos	Schumer
Condit	Lehman (CA)	Sharp
Conte	Lehman (FL)	Shays
Conyers	Levin (MI)	Sikorski
Coyne	Levine (CA)	Sisisky
Crockett	Lewis (GA)	Skaggs
DeFazio	Long	Slaughter (NY)
Dellums	Lowey (NY)	Smith (FL)
Dicks	Machtley	Smith (IA)
Dixon	Manton	Smith (VT)
Downey	Markey	Solarz
Durbin	Martinez	Staggers
Dwyer	Matsui	Stark
Dymally	Mavroules	Stokes
Early	Mazzoli	Studds
Edwards (CA)	McCloskey	Swift
Engel	McDermott	Synar
Evans	McHugh	Torres
Fascell	McMillen (MD)	Towns
Fazio	McNulty	Traxler
Feighan	Mfume	Udall
Fish	Miller (CA)	Unsoeld
Flake	Miller (WA)	Vento
Ford (MI)	Mineta	Visclosky
Ford (TN)	Moakley	Waxman
Frank	Moody	Weiss
Frenzel	Morella	Wheat
Frost	Morrison (CT)	Whitten
Gallo	Morrison (WA)	Williams
Gejdenson	Mrazek	Wilson
Gephardt	Nagle	Wolpe
Gilman	Natcher	Wyden
Gonzalez	Neal (MA)	Yates
Gradison	Neal (NC)	

NAYS—252

Alexander	Annunzio	Applegate
Andrews	Anthony	Archer
Armey	Hansen	Pickle
Baker	Harris	Porter
Ballenger	Hastert	Poshard
Barnard	Hayes (LA)	Pursell
Bartlett	Hefley	Quillen
Barton	Hefner	Rahall
Bateman	Henry	Ravenel
Bennett	Herger	Ray
Bentley	Hiler	Regula
Bereuter	Hochbrueckner	Rhodes
Bevill	Holloway	Ridge
Bilbray	Hopkins	Rinaldo
Bilirakis	Houghton	Ritter
Bliley	Hubbard	Roberts
Boggs	Huckaby	Robinson
Brennan	Hunter	Roe
Brooks	Hutto	Rogers
Broomfield	Hyde	Rohrabacher
Browder	Inhofe	Ros-Lehtinen
Brown (CO)	Ireland	Rose
Bruce	Jacobs	Rostenkowski
Buechner	James	Roth
Bunning	Jenkins	Roukema
Burton	Johnson (SD)	Rowland (CT)
Byron	Kanjorski	Rowland (GA)
Callahan	Kaptur	Russo
Campbell (CO)	Kasich	Saiki
Chapman	Kolbe	Sarpalius
Clarke	Kolter	Saxton
Clement	Kyl	Schaefer
Clinger	LaFalce	Schuette
Coble	Lagomarsino	Schulze
Coleman (MO)	Laughlin	Sensenbrenner
Combest	Leach (IA)	Shaw
Cooper	Leath (TX)	Shumway
Costello	Lent	Shuster
Coughlin	Lewis (CA)	Skeen
Cox	Lewis (FL)	Skelton
Craig	Lightfoot	Slattery
Crane	Lipinski	Slaughter (VA)
Dannemeyer	Livingston	Smith (NE)
Darden	Lloyd	Smith (NJ)
Davis	Lowery (CA)	Smith (TX)
de la Garza	Luken, Thomas	Smith, Denny (OR)
DeLay	Lukens, Donald	Smith, Robert (NH)
Derrick	Madigan	Smith, Robert (OR)
DeWine	Marlenee	Snowe
Dickinson	Martin (IL)	Solomon
Dingell	Martin (NY)	Spence
Donnelly	McCandless	Spratt
Dorgan (ND)	McCollum	Stallings
Dornan (CA)	McCrery	Stangeland
Douglas	McCurdy	Stearns
Dreier	McDade	Stenholm
Duncan	McEwen	Stump
Dyson	McGrath	Sundquist
Eckart	McMillan (NC)	Tallon
Edwards (OK)	Meyers	Tanner
Emerson	Michel	Tauke
English	Miller (OH)	Tauzin
Erdreich	Molinari	Thomas (CA)
Espy	Mollohan	Thomas (GA)
Fawell	Montgomery	Thomas (WY)
Fields	Moorhead	Traficant
Flippo	Murphy	Upton
Gallegly	Murtha	Valentine
Gaydos	Myers	Vander Jagt
Gekas	Nelson	Volkmer
Geren	Nielson	Vucanovich
Gibbons	Nowak	Walgren
Gillmor	Ortiz	Walker
Gingrich	Oxley	Walsh
Glickman	Packard	Watkins
Goodling	Pallone	Weber
Gordon	Parker	Weldon
Goss	Parris	Whittaker
Grandy	Pashayan	Wise
Grant	Patterson	Wolf
Guarini	Paxon	Wylie
Hall (OH)	Penny	Young (AK)
Hall (TX)	Perkins	Young (FL)
Hammerschmidt	Petri	
Hancock	Pickett	

NOT VOTING—10

Bryant	Foglietta	Vander Jagt
Collins	Garcia	Yatron
Courter	Jones (NC)	
Florio	Torricelli	

□ 1701

Messrs. DINGELL, ESPY, PARRIS, and SPRATT changed their vote from "yea" to "nay."

So the House refused to concur in the amendment of the Senate Numbered 22 with an amendment.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARNARD). The question is on the preferential motion offered by the gentleman from California [Mr. DANNEMEYER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION, 1990

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. COUGHLIN moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 3015, be instructed to agree to Senate amendments numbered 9, 17, 18, 142, 143, and Section 405 (a) and (b) of Senate amendment 140, and Section 407 of Senate amendment 141.

The SPEAKER pro tempore. The gentleman from Florida [Mr. LEHMAN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. COUGHLIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. COUGHLIN. Mr. Speaker, the transportation appropriations bill as passed by the Senate contains critical parts of the President's drug strategy programs. The motion to instruct the conferees instructs them to accept the Senate provisions.

If indeed we are serious, my colleagues, about the war on drugs, we should support this motion to instruct the conferees.

The motion instructs the conferees to support Senate appropriations that would increase funding for the Coast Guard, our No. 1 interdicter of drugs, by $37.4 million.

Mr. Speaker, the motion to instruct requires that colleges and universities adopt drug-free campus plans and policies, including user sanctions. It requires local educational agencies to

adopt drug and alcohol abuse programs in our elementary and secondary schools.

Mr. Speaker, these provisions are vital if we are to educate our young people to the deadly dangers of drugs. They provide user accountability in our colleges and in our elementary and secondary schools.

Further provisions in the Senate bill which the motion to instruct covers requires States to develop statewide drug treatment plans, including performance-based criteria.

A recent study by the General Accounting Office which the Select Committee on Narcotics Abuse, of which I am the ranking member, received, indicates that treatment slots vary all over the lot and around the country in terms of quality.

□ 1710

This would help to assure quality and availability for drug treatment. The provisions further provide that we can use forfeited drug assets for antidrug programs. This means that millions of dollars in forfeited assets by drug pushers could be used for antidrug programs.

The provisions also would allow us to give drug-related assistance to Colombia, Peru, and Bolivia for police and law enforcement in those countries. Mr. Speaker, those are the key countries in the cocaine trade that is so deadly and that is affecting our people, our young people in particular.

We have to be able to help them.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the distinguished ranking member of the full committee, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I want to take this opportunity to congratulate the gentleman in the well [Mr. COUGHLIN] for his motion to instruct conferees. I had every intention of doing it for the Coast Guard to go along with the Senate figure of $37,400,000 more than was appropriated in the House. The gentleman from Pennsylvania was interested in putting in the instructions for the drug issue which he is now explaining to the House of Representatives.

The demands placed upon the Coast Guard have never been greater. Over 30 percent of their operations are directed to drug interdiction, and their efforts are getting results. Just 1 week ago the Coast Guard Cutter *Cushing* made the biggest maritime drug seizure in history. Nearly 6 tons of cocaine were seized on a Panamanian freighter sailing off of Galveston, TX. That cocaine will never hit the streets because the Coast Guard was there.

Their drug interdiction is paying off, but it is also stretching their resources in other areas. I want to make sure that they can continue to focus resources on drug interdiction without cutting back on protecting the environment, enforcing our fisheries laws, keeping our waterways safe, and saving lives. That's where a higher level of funding helps.

The $31.4 million for acquisition, construction, and improvements will establish two more search and rescue satellite terminals. It will improve shore facilities and aids to navigation, and it will support vessel traffic monitoring systems to keep those tankers from collisions and groundings. The extra $2 million for the Coast Guard Reserve will help the Coast Guard with extra manpower for all the added responsibilities which are coming on the oilspill response legislation. And the $4 million more for research and development will be used for research into ways to protect the environment from the effects of oil and hazardous chemical spills.

I want to thank the gentleman for including my part of the motion to instruct on the Coast Guard and I certainly support the gentleman's efforts.

Mr. COUGHLIN. The distinguished gentleman from Massachusetts has always been a strong, loyal supporter of the Coast Guard throughout many, many years, and I certainly appreciate his willingness to let us also put the drug provisions in this motion to instruct.

Mr. CONTE. We will make a good team.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I rise in support of the gentleman's motion.

Mr. COUGHLIN. Mr. Speaker, the drug provisions that are in this bill are a critical part of the President's drug strategy. They were thoughtfully drafted by the administration. They were drafted by the drug czar whom we created in this Congress to develop that drug strategy and to develop that drug legislation.

They were examined extensively by the other body. They were adopted by an overwhelming bipartisan vote in the other body, in the Senate. They should be adopted by this House.

As I said, if we are serious about the drug war, we must put our votes where our mouths are and support the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. COUGHLIN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think it is time for the House to speak up in a loud and unified word. Mr. Speaker, I know there has got to be a great deal of reluctance to put this type of language on an appropriations bill. However, it is a vehicle that is out there now, and I would hope that we would take the same opportunity that the other body took and I believe we would pass this quickly and that would have the overwhelming support of both Democrats and Republicans in the House of Representatives.

Mr. COUGHLIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, title IV—the drug title, includes nine amendments, eight of those amendments are legislative in nature.

The Speaker, at the request of the chairman of the committees of legislative jurisdiction, persuaded the majority leader of the Senate to take those eight legislative amendments and put them into a freestanding bill which was done—S. 1735 passed the Senate last Thursday and has been referred by you to the appropriate committees in the House. This has been done to ensure that the committees or jurisdiction—those with the most knowledge about the legislation—can work their will.

Mr. Speaker, the motion would deny that right to the committees of jurisdiction and also, and equally important, limit the flexibility inherent in the appropriations process.

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of the motion to instruct conferees to accept higher levels of funding for the U.S. Coast Guard. I would like to commend the distinguished gentleman from Massachusetts for offering this important motion.

During the past several years the U.S. Coast Guard has had its budget reduced while simultaneously being asked to expand its mission. Part of the Coast Guard's expanded mission is to assist in the war on drugs. The Coast Guard is on the frontlines in this war—patrolling our waterways and interdicting drugs before they reach our children.

Just last week, on October 2, the brand new, 110-foot Coast Guard cutter, *Cushing*, succeeded in making the largest cocaine seizure in maritime history. The *Cushing* and her brave crew confiscated over 6 tons of cocaine from a Panamanian vessel and made several arrests.

This seizure illustrates how vitally important the Coast Guard's efforts are. If we are going to fight a real war against drugs, we are going to have to give our troops the ammunition they need to fight back against drug criminals.

Mr. Speaker, the President recently went before the American people to ask for their strong support in the battle against drugs. And the Members of this body were at pains either to endorse the President's proposals or to urge him to go further.

So what kind of a message will it send if we are unwilling to approve higher levels of funding for the Coast Guard, which is daily on the frontlines in this crucial battle? It will send a message that this body is not willing to stand by the President, and this body is not willing to stand by its own commitments to fight a real war against drugs.

Mr. Speaker, today, we should have the courage to stand by our commitments. Let us send the Coast Guard into the battlefield with the tools they need to win. I strongly urge my colleagues to support the motion.

Mr. LEHMAN of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COUGHLIN. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BARNARD). The question is on the motion to instruct offered by the gentleman from Pennsylvania [Mr. COUGHLIN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COUGHLIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas, 402, nays 15, answered "present" 1, not voting 14, as follows:

[Roll No. 281]

YEAS—402

Ackerman	Carper	Fawell
Akaka	Carr	Fazio
Alexander	Chandler	Feighan
Anderson	Clarke	Fields
Andrews	Clay	Fish
Annunzio	Clement	Flake
Anthony	Clinger	Flippo
Applegate	Coble	Ford (TN)
Archer	Coleman (MO)	Frank
Armey	Coleman (TX)	Frenzel
Aspin	Combest	Frost
Atkins	Condit	Gallegly
AuCoin	Conte	Gallo
Baker	Cooper	Gaydos
Ballenger	Costello	Gejdenson
Barnard	Coughlin	Gekas
Bartlett	Cox	Gephardt
Barton	Coyne	Geren
Bateman	Craig	Gibbons
Bates	Crane	Gillmor
Beilenson	Crockett	Gilman
Bennett	Dannemeyer	Gingrich
Bentley	Darden	Glickman
Bereuter	Davis	Gonzalez
Berman	de la Garza	Goodling
Bevill	DeFazio	Gordon
Bilbray	DeLay	Goss
Bilirakis	Dellums	Gradison
Bliley	Derrick	Grandy
Boehlert	DeWine	Grant
Boggs	Dickinson	Gray
Bonior	Dicks	Green
Borski	Dixon	Guarini
Bosco	Donnelly	Gunderson
Boucher	Dorgan (ND)	Hall (OH)
Boxer	Dornan (CA)	Hall (TX)
Brennan	Douglas	Hamilton
Brooks	Downey	Hammerschmidt
Broomfield	Dreier	Hancock
Browder	Duncan	Hansen
Brown (CA)	Durbin	Harris
Brown (CO)	Dwyer	Hastert
Bruce	Dyson	Hatcher
Buechner	Eckart	Hawkins
Bunning	Edwards (OK)	Hayes (LA)
Burton	Emerson	Hefley
Bustamante	Engel	Hefner
Byron	English	Henry
Callahan	Erdreich	Herger
Campbell (CA)	Espy	Hertel
Campbell (CO)	Evans	Hiler
Cardin	Fascell	Hoagland
Hochbrueckner	Miller (OH)	Schroeder
Holloway	Miller (WA)	Schuette
Hopkins	Moakley	Schulze
Horton	Molinari	Schumer
Houghton	Mollohan	Sensenbrenner
Hoyer	Montgomery	Sharp
Hubbard	Moody	Shaw
Huckaby	Moorhead	Shays
Hughes	Morella	Shumway
Hunter	Morrison (CT)	Shuster
Hutto	Morrison (WA)	Sikorski
Hyde	Mrazek	Sisisky
Inhofe	Murphy	Skeen
Ireland	Murtha	Skelton
Jacobs	Myers	Slattery
James	Nagle	Slaughter (NY)
Johnson (CT)	Neal (MA)	Slaughter (VA)
Johnson (SD)	Neal (NC)	Smith (FL)
Johnston	Nelson	Smith (IA)
Jones (GA)	Nielson	Smith (NE)
Jontz	Nowak	Smith (NJ)
Kanjorski	Oakar	Smith (TX)
Kaptur	Obey	Smith (VT)
Kasich	Olin	Smith, Denny (OR)
Kennedy	Ortiz	Smith, Robert (NH)
Kennelly	Owens (NY)	Smith, Robert (OR)
Kildee	Owens (UT)	Snowe
Kleczka	Oxley	Solarz
Kolbe	Packard	Solomon
Kolter	Pallone	Spence
Kostmayer	Panetta	Spratt
Kyl	Parker	Staggers
LaFalce	Parris	Stallings
Lagomarsino	Pashayan	Stangeland
Lancaster	Patterson	Stark
Lantos	Paxon	Stearns
Laughlin	Payne (NJ)	Stenholm
Leach (IA)	Payne (VA)	Stokes
Leath (TX)	Pease	Studds
Lehman (CA)	Pelosi	Stump
Lent	Penny	Sundquist
Levin (MI)	Perkins	Swift
Levine (CA)	Petri	Synar
Lewis (CA)	Pickett	Tallon
Lewis (FL)	Pickle	Tanner
Lewis (GA)	Porter	Tauke
Lightfoot	Poshard	Tauzin
Lipinski	Price	Thomas (CA)
Livingston	Pursell	Thomas (GA)
Lloyd	Quillen	Thomas (WY)
Long	Rahall	Torres
Lowery (CA)	Rangel	Towns
Lowey (NY)	Ravenel	Traficant
Luken, Thomas	Ray	Traxler
Lukens, Donald	Regula	Unsoeld
Machtley	Rhodes	Upton
Madigan	Richardson	Valentine
Manton	Ridge	Vento
Markey	Rinaldo	Visclosky
Marlenee	Ritter	Volkmer
Martin (IL)	Roberts	Vucanovich
Martin (NY)	Robinson	Walgren
Martinez	Roe	Walker
Matsui	Rogers	Walsh
Mavroules	Rohrabacher	Watkins
Mazzoli	Ros-Lehtinen	Waxman
McCandless	Rose	Weber
McCloskey	Rostenkowski	Weiss
McCollum	Roth	Weldon
McCrery	Roukema	Wheat
McCurdy	Rowland (CT)	Whittaker
McDade	Rowland (GA)	Whitten
McDermott	Russo	Wilson
McEwen	Saiki	Wise
McGrath	Sangmeister	Wolf
McHugh	Sarpalius	Wolpe
McMillan (NC)	Savage	Wyden
McMillen (MD)	Sawyer	Wylie
McNulty	Saxton	Yates
Meyers	Schaefer	Young (FL)
Mfume	Scheuer	
Michel	Schiff	
Miller (CA)	Schneider	

NAYS—15

Conyers	Ford (MI)	Natcher
Dingell	Hayes (IL)	Oberstar
Dymally	Kastenmeier	Roybal
Early	Lehman (FL)	Udall
Edwards (CA)	Mineta	Williams

ANSWERED "PRESENT"—1

Sabo

NOT VOTING—14

Bryant	Foglietta	Torricelli
Chapman	Garcia	Vander Jagt
Collins	Jenkins	Yatron
Courter	Jones (NC)	Young (AK)
Florio	Skaggs	

□ 1732

Mr. FORD of Michigan and Mr. HAYES of Illinois changed their vote from "yea" to "nay."

Mr. LIVINGSTON changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. BARNARD). The Speaker will appoint conferees upon his return to the chair.

APPOINTMENT OF CONFEREES ON H.R. 2991, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONTE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2991 be instructed to agree to Senate amendment numbered 189.

PARLIAMENTARY INQUIRY

Mr. RIDGE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RIDGE. Mr. Speaker, it is my understanding that on this occasion both managers of this motion to instruct would be in favor of the motion, and since I am opposed to it in its present form, I would be allotted 20 minutes of time in opposition. If my parliamentary understanding is correct, I would respectfully request to be assigned that 20 minutes.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. RIDGE] is correct.

Is the gentleman from Iowa [Mr. SMITH] opposed to the motion?

Mr. SMITH of Iowa. Mr. Speaker, I do not intend to vote against it.

The SPEAKER pro tempore. Is the gentleman from Massachusetts [Mr. CONTE] opposed to the motion?

Mr. CONTE. No, Mr. Speaker; it is my motion.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, the gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am offering this motion to instruct the conferees on the Commerce, Justice, State, and Judiciary appropriations bill in order to give the House an opportunity to endorse heartily the international drug summit, and to vote against Manuel Noriega.

My motion directs the conferees to agree to Senate amendment 189, which calls on the President to include in the agenda of the proposed international drug summit the removal of Noriega from any position of power in Panama. Such a summit was recommended in the Anti-drug Abuse Act of 1988. And just this morning, we have the news that President Bush has accepted the invitation of the leaders of the three drug-producing nations, Bolivia, Peru, and Colombia, to meet along with European leaders within the next 90 days.

This is good news. As called for in my motion, the United States will intensify our efforts at the unilateral, bilateral, and multilateral levels for a more effective war on drugs, and to kick that repugnant thug out of Panama. It is especially timely, today, that the House has the opportunity to cast an overwhelming vote supporting these developments.

Mr. Speaker, Members of Congress fully share the frustration of the American public at the inability of the Panamanian people, our Government, or any international body to restore to power the duly elected Government of Panama. I know that President Bush shares our disgust at the scenes of legitimate and elected opposition leaders being beaten and terrorized.

Noriega sends his goons out with rubber hoses, chains, and clubs to beat up on candidates whose only offense was to beat the socks off him in the election. He has transformed Panama into a haven for drug lords and money launderers. He is the cocky schoolyard bully who is bringing shame and despair on all Panamanians.

If we are ever to send the signal that we are going to regain control over our southern border, this tinhorn dictator and his parasitic cronies have to go.

It turns my stomach to watch this guy, who I call Dr. Pock, to watch him strutting around giving the Panamanian salute to the United States. I have this irrepressible urge to step on him, to squash him like the cockroach that he is. But being the gentleman that I am, I am offering this motion instead.

So if you want to register your revulsion, and your support for stronger international action to bring democracy to Panama, and to step up the war on drugs, vote for the previous question and for the Conte motion to instruct the conferees.

□ 1740

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I do not usually support instructions on appropriation bills, but I would not want to oppose language supporting the war on drugs. We all know that the President has agreed to an international drug summit, so this language is appropriate for matters that we believe should come at the summit; but also, I have another reason for not opposing this motion.

I am informed that the opposition wants to defeat this motion to instruct the conferees so that they can offer a motion requiring that the Census Bureau not count some of the persons who are in the United States on the date that the 1990 census is taken.

Now, if the Census Bureau were required to exclude any group, let me tell you what some of the problems would be.

First of all, the census is primarily taken by mail. The Bureau sends out the questionnaires by mail and then they have follow up interviews for those who did not answer the mail questionnaire.

Well, one option at this point if the Senate amendment an excluding illegal aliens were to be adopted, would be to have an independent second census. The Bureau would have to design a whole new questionnaire and have a new census later. That could cost $1 billion, but that money is not in this bill. There is not $1 billion to do that even if you wanted to, even if there were time to do it, and there is not another appropriations bill that is going to be passed in the Congress, in time. So that is not a viable option.

The second option would be to reprint the questionnaire. Reprinting the questionnarie could cost $40 million and other associated costs could bring the total of this option to $250 million. We do not have $250 million in the bill for that purpose, so the only thing that could be done within the money in the bill is not to have any follow-up interviews after the Census questionnaries are returned by mail. There are some people who do not answer the mail questionnaries, so by not having the followup interviews on those people, possibly they could find the money. But that is not a viable option, either, because we would end up without a full count of the citizens of the United States. We would not have counted those who did not respond by mail.

Under either option, you would need a series of questions to identify whether or not the respondents were legal aliens, illegal aliens or citizens of the United States. It would be an almost impossible task to identify which ones were legal and which ones were illegal. The truthfulness of the respondent in answering these questions would be almost impossible to detect. The Senate amendment would also delay the delivery of the Census counts for the purpose of reapportionment beyond December 31, 1990, and for the purpose of redistricting beyond April 1, 1991 as required by law. By April 1991 most of the States will already have enacted their reapportionment legislation. They would have to have special sessions in order to consider redistricting legislation.

So we have to come to the conclusion, I think, that this is really not a very viable possibility.

Now, in addition to that, the Senate amendment is unconstitutional. It is just plainly unconstitutional. The Constitution says that Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State.

I think it is very clear that if we were to try to require the Census Bureau to do something different than the Constitution requires, there would for sure be a constitutional challenge. It takes time for the courts to consider that. There would be even more months, if not a year, before the Census Bureau could know whether or not they could proceed with the census questionnaire that they now have, so I say that agreeing to the Senate amendment is not a good thing to do.

Now, the administration says they will veto the bill if the Senate amendment requiring the exclusion of the counting of illegal aliens for reapportionment purposes is in the final version of the bill. Usually threats of vetoes do not affect me very much. We get such threats all the time up here and we still do whatever we think is right. If the President wants to veto it, we draw the line; however, in this case I am convinced that the President does not have any alternative. There is no alternative if he gets this bill, with this kind of a provision in it, but to veto it. That means that all the other good things that are in this bill cannot be enacted except through a continuing resolution. Under a continuing resolution a number of things will be cut back because you use the lower of the current level, the House level or the Senate level, so this is not a good thing to do.

So I am here today to support the Conte motion to instruct and I am opposing the Ridge motion to instruct that I understand will be offered if the previous question on the Conte motion is not voted up. I ask you to vote today for the previous question and for the motion of the gentleman from Massachusetts to instruct the conferees.

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to make the procedural question very, very clear. I

am asking you to vote against the previous question, not against the motion to instruct that I support and I would wholeheartedly endorse and encourage all 434 of my colleagues to support. I am asking you to defeat the previous question so I can add additional language to the Conte motion, not to delete the Conte motion, not to change it, not to modify it, but so simply that I may add, with the support of probably a couple hundred of our colleagues, hopefully 218, language dealing with the question of illegal aliens.

Remember, I am asking you to defeat the previous question. I am not going to change the gentleman's language. The language of my amendment shall include his completely, but it will also include the Shelby amendment, which reads:

None of the funds appropriated or made available by this Act to the Bureau of the Census shall be used to count aliens in the United States in violation of the immigration laws for purposes of subsection (B) of section 141 of title 13 of the United States Code.

I want to defeat the previous question so I can add that to the gentleman's motion to instruct. I want to make everyone understand that very, very clearly.

There have been some questions raised about the constitutionality of our tampering or changing or modifying the census in any way. I would share with my colleagues that as the Constitution and its interpretation continues to evolve, we continue to likewise remind ourselves of the vision and the mastery of those men who wrote it, because within the Constitution itself they empowered us to change the laws relating to the census. Article I, section 2 itself says that the census is to be done "in such a manner as they"—the Congress—not somebody in the executive branch of the Government, not somebody working for the Census Bureau, not somebody at the White House, but as Congress may direct.

Section 5 of the 14th amendment gives Congress the power to enforce by "appropriate legislation" the entire article.

The power of article I by which Congress can regulate commerce with foreign nations and can establish uniform rules of naturalization, these powers give Congress great latitude with respect to dealing with aliens, undocumented aliens and documented aliens. We are empowered by this Constitution to make changes in the constitutionally mandated census.

So I am going to ask my colleagues to defeat the previous question. Give us the opportunity to add this language to our colleague's motion dealing with Noriega.

Remember, defeat the previous question. Give us a vote on this up or down. That is all we are asking for.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. Speaker, I rise in support of the motion offered by the gentleman from Massachusetts [Mr. CONTE], and in opposition to any attempts to force the conferees to accept the Senate-passed language, which prohibits the Census Bureau from counting illegal aliens in its 1990 census.

I am, of course, from Texas and everyone knows that Texas stands to gain if illegal aliens are counted in the 1990 census. But that is not the only reason that I come before you today. It is a fiscally unsound policy to force the Census Bureau to change its guidelines a mere 7 months before its census is to begin.

The Census Bureau has already printed 170 million questionnaires and over 1 million training kits. The cost of printing these materials is approximately $44 million. If the bureau is forced to change its guidelines, those questionnaires and training kits will have to be trashed and the bureau will have to replace them. That's $44 million down the drain right here. However, the cost of replacing these materials will well exceed $44 million because of time constraints—after all, the census is scheduled to begin in April. In addition to the costs of replacing the materials, the Census Bureau projects that its process will be delayed if its guidelines are changed at this point. That, in turn, means that office space leases will be extended, computer and equipment leases will be extended, et cetera. The ripple effect of these costs—estimated to exceed $100 million—will have a significantly negative impact on the Census Bureau and its very important task.

The Census Bureau, as members on the subcommittee can attest to, just does not have money to throw away this year. It is operating under a tight budget and does not need the added expense and confusion that will result if its guidelines are forcibly changed at this late date. I urge my colleagues to support Mr. CONTE's motion to instruct and oppose any attempts to fiscally cripple the Census Bureau by forcing it to exclude illegal aliens in its decennial census.

□ 1750

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, unfortunately a number of my colleagues and members of my own committee like the gentleman from Pennsylvania, both of my committees, and there are two gentlemen from Pennsylvania involved in this fight on the other side, are beguiled by the fantasy, and it is a fantasy, that somehow by not counting illegal aliens in the 1990 census their State will not lose one or more congressional seats than it might otherwise lose. I wish I could share this fantasy. As a matter of fact, nobody wishes they could share the fantasy more than me, because my State stands under the present estimates that the census gives us to lose two seats, and everyone is looking at one of the most likely seats to be lost in southeastern Michigan.

Mr. Speaker, I have not stayed here 25 years by not fighting to hold on to my seat. If I thought there was any chance at all that anyone could muddle around with the census and help save a seat for Michigan, I would have been out in front doing it, because my committee has jurisdiction to oversee the census and to tell them how to take it each time they come up.

The truth of the matter is that there is not a constitutional scholar anyplace to be found in any law school in this country who will not tell us that since the passage of the 14th amendment there has been no question at all that what was intended is to count all persons found on April 1 wherever they are found in the United States. They could be a Martian visiting from another planet, and the Constitution contemplates if they are someplace here on April 1 and the census taker can find them, they count them. That is why people in prisons who have lost all of their civil rights are counted. I get a free ride in my district because I have a Federal prison. The Federal prisoners cannot vote, but they get counted on census day.

Do not be fooled. I suggest that the Members stay with the committee on this one, because mischief might be done, particularly if they come from a State that has a large city that is already going to suffer from an undercount. Add this illegal alien business to the already existing problem of undercount and people will hide when the census taker comes.

Mr. Speaker, unfortunately many of my colleagues are beguiled by the fantasy that somehow by not counting illegal aliens in the 1990 census their State will not lose one or more congressional seats that it will otherwise lose. I wish I could share this fantasy. I particularly wish I could share it since my State, Michigan, appears likely to lose two seats as a result of the 1990 census, one of which may be mine. However, there is absolutely no evidence that continuing to count all persons including illegal aliens in the census, as we have done for 200 years, will significantly advantage or disadvantage any particular State.

Instead of saving any seats for particular States, the result of an effort not to count illegal aliens will be a severe disruption of the census effort. The census is a monumental undertaking. It is the largest civilian project undertaken by the Federal Government. Census day is next April 1 but the census is already very far down the track. Over 170 million questionnaires have already been printed. Instruction manuals and training guides for enumerators have been prepared. Computer software for tabulating the census is on line. If the census is required not to count illegal aliens, all of the forms and manuals will have to be scrapped and new ones printed. All the com-

puter programs will have to be revised. All this will cost tens of millions of dollars. Talk about waste in Government. To what end will all this be done? To the end of pursuing the political illusion that some States' representation in the House will be strengthened.

Instead of chasing this illusion all Members should be working with their States and local communities to insure the maximum participation in the census. That is the best way to insure that each State receives fair representation and a fair share of the Federal funds that are allocated on the basis of census data.

Finally, I ask my colleagues to consider the practical absurdity of trying not to count a group of people. The census in the United States is conducted on the basis of households. Each household regardless of the number of persons in it is mailed a census questionnaire. Nearly 80 percent of the data in the census is gathered by someone in the household filling out the questionnaire and mailing it in to the Census Bureau. I would ask those who do not want illegal aliens counted how they are going to insure that households do not report the illegal aliens who might be living there on the questionnaires they mail in? How are those in a household even going to know who the illegal aliens in the household are? The households which do not return the questionnaire are visited by enumerators who ask whoever answers the door the questions on the questionnaire. When standing face to face with whoever answers the door, how is the enumerator going to determine if that person is or is not an illegal alien? How is the enumerator going to know whether any of the other persons in that household are illegal aliens? It cannot be done.

When you think about the practicalities, the amendment forbidding the Census Bureau from counting illegal aliens is revealed for what it really is. It is irresponsible political posturing that will have no impact on whether illegal aliens are or are not in fact counted. But what it will do is cripple the census and undermine a fair and accurate count to the detriment of everyone.

Mr. RIDGE. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, as the ranking member of the Subcommittee on Commerce, Justice and State, I would ordinarily stand here and ask the Members to vote down the previous question, but although I support the motion of my full committee ranking member, the gentleman from Massachusetts [Mr. CONTE], the motion to instruct, I hope my colleagues in this case will vote down the previous question so that the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from Pennsylvania [Mr. GOODLING] can offer the amendment to the motion to instruct and correct a very, very important injustice, in my judgment, to every lawful resident of this Nation, to every constituent of ours, every person entitled to representation in this Chamber.

Let me address a moment the constitutional question that the gentleman earlier raised. Because of the 14th amendment, the Census Bureau is required to count all persons in this country on census day next spring. What do we count? Do we count foreign tourists? No. Do we count ambassadors? No. Do we count all the diplomats in this country? No. Why not? Because they do not have usual residence in this country, and since 1790, that is what the Census Bureau has been guided by.

Who has usual residence in this country? By their very definition, illegal aliens have crashed the barriers and do not have their usual residence in the United States and, therefore, should not be counted for representation in this Chamber, and I would hope we would bear that in mind.

Mr. Speaker, no court has ever ruled, to my knowledge, on this precise question, and I submit to the Members that if the Census Bureau excludes all of those who do not have usual residence in the United States that that would be the fair thing and that would be the correct thing, and it would be the constitutional thing to do.

I submit the Ridge amendment will do just that. I hope that, as we consider the motion that is before us and whether or not to shut off debate so that Ridge can offer his amendment, the Members would at least give him the chance he and his colleagues, give them the chance to have their grievances heard. Let us have an up-or-down vote. This does not do violence to the motion of the gentleman from Massachusetts [Mr. CONTE] to instruct. I support that motion. All of us do, I think. We will not change that.

However, we do want to add to it language agreeing to the Shelby amendment in the Senate that will disallow the count of illegal aliens for the makeup of this body.

Give our legal residents of this Nation our best shot. Defend them. They are the people who sent us here, and I submit should be the ones who sent us here, not the crashers of the gate.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I rise to support the motion of the gentleman from Massachusetts to express the sense of Congress urging President Bush to condemn the actions of Gen. Manuel Noreiga of Panama. The events of last week again point out the lawless nature of President Noreiga and his dictatorship.

Some Members may oppose the motion in an attempt to amend it to forbid the Census Bureau from counting certain individuals. I want to assure those Members that current census procedures to not legitimize those in the country illegally, do not give illegals the right to vote, and do not differ from the way we have counted residents or allocated government services in the past.

We do not need to change the way the Census Bureau has counted the people in this country for the past 200 years. Continuing established census policy will allow the census to be conducted on time and will avoid the costly delay of a last minute change in a two centuries' old procedure.

We should continue to follow the wisdom of the framers of the Constitution for a number of reasons.

First, we need to know where people in this country live. The census helps businesses target consumers and helps government allocate services. Excluding illegals from the census will not prohibit them from receiving Federal aid. It does mean legal residents will be denied some of the funds they deserve.

Second, maintaining current census procedure will avoid the expense of reprinting 170 million questionnaires and retraining thousands of census takers. Changing census procedure at this late date will cost millions of dollars.

Third, I urge my colleagues to support this measure so the census can be conducted on time. Imposing new census regulations will guarantee confusion and postponement of the 1990 census.

Consider the consequences of this proposed policy: reprinting 170 million new census forms; retraining thousands of census takers; and delaying the constitutionally mandated decennial apportionment.

The choice is ours: Mass counting confusion or census stability.

Again, I strongly urge my colleagues to support the gentleman from Massachusetts, express your outrage for the actions of Gen. Manuel Noreiga, and vote for the previous question.

Mr. SMITH of Iowa. Mr. Speaker, I yield 3 minutes to the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of the Conte motion to instruct the conferees and would urge my colleagues to oppose any effort to defeat the previous question which would allow an amendment instructing the conferees to accept Senate language limiting the counting of persons in the 1990 census.

Our country has a longstanding 200-year history of counting all "persons" in the decennial census as required by the Constitution. We have always included undocumented residents in the State population totals used for congressional apportionment. The continuation of this practice will ensure the proper allocation of congressional seats throughout the next decade. Failure to count all "persons" will result in unequal representation in the U.S. House of Representatives. Equal representation in the U.S. House of Representatives is at the very core of our constitutional system.

Last year, in commenting on a bill similar to this amendment, which would eliminate illegal aliens from U.S. Census tabulations in apportioning Representatives in Congress, the U.S. Justice Department took the posi-

tion that the bill was unconstitutional, and that, if it were passed, the Department would recommend that the President veto the bill. The Justice Department has reiterated this position as recently as 2 weeks ago.

In a letter to Senator JEFF BINGAMAN on September 22, the Assistant Attorney General for Legislation stated:

> In the past, the Department of Justice has taken the position that section two of the fourteenth amendment which provides for "counting the whole number of persons in each State" and the original apportionment and census clauses of article I section two of the Constitution require that inhabitants of States who are illegal aliens be included in the census count. In our review of this issue to date, we have found no basis for reversing this position.

In interpreting the 14th amendment, the Supreme Court has read the word "person" to include illegal aliens. In *Plymer* v. *Dole*, 457 U.S. 202, 210 (1982), the Court said,

> Whatever his status under the immigration laws, an alien is surely a "person" in any ordinary sense of that term. Aliens, even aliens whose presence in this country is unlawful, have long been recognized as "persons" guaranteed due process of law by the 5th and 14th amendments.

Adoption of a provision such as the Senate's census amendment, one that is so clearly unconstitutional, will do nothing but disrupt, delay, and confuse preparations for the 1990 decennial census and the 1992 reapportionment of the U.S. House of Representatives. I would urge my colleagues to acknowledge our responsibility to uphold the Constitution and to vote for the previous question.

□ 1800

Mr. RIDGE. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, as I stated with others on numerous occasions before this body, the current policy of the U.S. Census Bureau that permits a counting of undocumented residents for the purpose of apportioning congressional seats is wrong and should be changed. From all indications, however, the Census Bureau has no intention of changing it and will proceed with the same policy that some Members have said here has been in existence for 200 years unless we in this House force them to change.

Mr. Speaker, let me say to my colleagues who have talked here about the constitutional aspect of this question, I introduced into this body a resolution calling for an amendment to the Constitution about 6 months ago. I welcome those Members who feel that the problem should be addressed but are concerned about constitutional matters to join us in this effort. We have about 39 cosponsors.

If we cannot correct this problem now, we can at least correct it sometime in the future. If it has been going on for 200 years, then we have been wrong for 200 years.

It is not right that people who are in this country illegally be counted for the purpose of apportionment in this body. If they are counted, then some State that does not have these people within its borders will lose representation.

That is wrong. If it has been happening for 200 years, it has been wrong for 200 years. No amount of conversation, speeches, or rhetoric from others who might benefit from it can make it right.

I urge my colleagues to vote against the previous question so that we can have a vote on this. It is difficult to get these matters before the Members of this body if certain leaders do not want us to vote. We are entitled to express ourselves. Vote against the previous question and let us express ourselves on this question.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the motion offered by my distinguished colleague from Massachusetts, Mr. CONTE, and I oppose the motion to defeat this previous question. I commend the gentleman for offering this motion to assist the House efforts in adopting H.R. 2991.

Mr. Speaker, the intent of the Conte motion is straightforward, laudable, and necessary, instructing our House conferees to accept Senate language condemning the actions of Panamanian strongman Manuel Noriega. Despite the controversy surrounding the administration response to last Tuesday's coup attempt, we in the Congress should join together in condemning the illicit trafficking and actions of General Noriega both prior to and in the wake of the attempted overthrow.

The Panamanian experience of last week amply demonstrated the frustration felt among citizens and members of the Panamanian Defense Forces, confirming the old adage that violence begets violence. Having exhausted peaceful solutions to change, the last unfortunate resort may well prove to be violent revolt, such as we witnessed last Tuesday. Regrettably, General Noriega responded to the unsuccessful coup attempt with typical resort to brutality. Let us join in condemning this vicious cycle by renewing our cry for General Noriega to step aside and peacefully resolve his inevitable fall from power.

Mr. RIDGE and Mr. GOODLING seek to defeat the previous question, so that they can amend the Conte motion to instruct the House conferees to accept the Shelby language in an amendment to H.R. 2991. The Shelby amendment excludes illegal aliens from the 1990 census for apportionment purposes. I submit that this amendment is unsound, administratively unworkable, and legally questionable. If the Ridge-Goodling proposal is adopted, it could have disastrous consequences for this body for the next decade.

This amendment would subvert the Census Bureau's efforts to ensure an effective and complete count. It would be totally infeasible to ask the Census Bureau to carry out such an exclusion from the census count. It is not practical or by any means easy to ask census enumerators to determine if a person is legal or not. Public confidence, perception, participation, and confidentiality would be greatly undermined, especially in minority communities where the Bureau has made substantial efforts to expand its outreach and promotional programs.

The inclusion of the Shelby citizenship question only serves to confirm the suspicions and fears of many legal residents regarding the Government intervention into their lives. This could further reduce the number of persons responding from the communities that historically have been undercounted.

Moreover, the Census Bureau has already printed 170 million questionaires and mailing labels, and assembled packets in preparation for the 1990 census. The estimated cost to reprint and reassemble new questionnaires should the Ridge/Goodling amendment prevail would be more than $100 million; finally, the census would be delayed, resulting in litigation which could require a second census at a cost of over $1 billion.

We must also consider that the administration opposes this amendment. Secretaries Mosbacher and Thornburgh have stated that they would recommend that the President veto the Commerce, State, and Justice appropriations bill should it contain this Shelby antialien provision.

Accordingly, Mr. Speaker, I strongly urge my colleagues to vote "yes" on the Conte motion, and vote for the previous question, rejecting any attempts to defeat the previous question.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Census Bureau will accomplish a momentous feat on April 1, 1990. This date will mark the 21st census in our Nation's history.

The Constitution requires that the House of Representatives be apportioned based on the "whole number of persons." Citizenship has never been a prerequisite to being counted. This constitutional charge and statuatory require the Census Bureau to count every person, regardless of alienage or citizenship status.

The Shelby amendment, which was adopted by the Senate to the Commerce, Justice, State appropriations bill seeks to prohibit the Census Bureau from including undocumented residents in the 1990 census count. I

oppose this proposal because it is unconstitutional and it would further augment the undercount of Hispanic Americans.

The points I want to make are simple:

This amendment would put all census data in jeopardy and add to the historic undercount already acknowledged in the Hispanic and other minority communities. This undercount is estimated at six times that of the general population; it would elevate the fear factor already present in the Hispanic community and negate the incredible amount of resources being spent to promote a complete and confidential count; it would, in essence, grant the Census Bureau reponsibilities charged to the Immigration and Naturalization Service—turning the agency into an investigative force while allowing enumerators to make decisions regarding legal status—a responsibility that the Census Bureau itself has determined it is not now equipped, capable, or legally qualified to do.

This last point is especially relevant in mixed households where some residents are in legal status and others are not. Take for example that family where the parents qualify for amnesty under IRCA and the children did not meet the residency requirement. This family, clearly, would not have any incentive to volunteer information.

The Census Bureau is investing millions of dollars to promote the count as "safe, easy, and confidential." This amendment would irreparably undercut this effort and result in another undercount in minority communities across the country. Let's not be accused of sending mixed messages to our constituencies. We all want a fair and complete count.

I urge your "aye" vote on both the previous question and the Conte motion to instruct conferees.

Mr. RIDGE. Mr. Speaker, I yield myself 1 minute.

My colleagues, the term "person" is constitutionally imprecise. So for all of those members who have taken the floor of the House of Representatives and said that there is a clearcut definition constitutionally of the term "person" as it applies to the census, that is inaccurate.

There is a considerable body of legal opinion emanating from the Supreme Court that says that illegal aliens are not members of our political community. As legislators we derive our authority to govern from a political community. The inclusion of those individuals whom if they were discovered would be deported or could be deported as members of a political community from whom we derive our authority I think is unwise and a bad policy.

□ 1810

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Speaker, I rise to support the Conte motion to instruct and to oppose the effort of the gentleman from Pennsylvania [Mr. RIDGE].

It is a difficult thing because I have great respect for the gentleman from Pennsylvania. But I think the importance of this whole matter rests on two things: One, obviously the Conte effort is noble and important because of Noriega and our desire to express our concerns. The issue of the illegals and whether we count them or not is not one of whether you think the illegals ought to be here. There is nobody in this body who does not have a stronger feeling and stronger position on opposing illegal immigrants being in this country than I do. I have always taken that position.

I have opposed legalization. But once they are here, they are here, they are present. We have to have a way of dealing with them in some form or fashion, whether that be reapportionment of our own body or the way we abide by the grant system that apportions and allocates resources to States for their burdens.

My State of Florida does not stand to gain anything in terms of reapportionment from this battle. We are going to have the statisticians say what we are going to have.

I urge my colleagues to support the effort on the previous question and to defeat the Ridge effort.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, last year, when the House Post Office and Civil Service Committee held hearings on the counting of illegal aliens for apportionment it became apparent that there was an abysmal lack of any credible authority that the word "person" in the constitutional clause establishing a census means "citizen."

The Department of Justice and legal scholars of all philosophies have stated that it would be clearly unconstitutional to exclude illegal aliens from the census count. Section 2 of the 14th amendment provides for "counting the whole number of persons in each State." Whether we like it or not many illegal aliens do have usual residence in the United States. Obviously, persons means inhabitants, not just taxpayers, voters, or citizens.

In addition, the Census Bureau would have to contend with a logistical nightmare to exclude illegal aliens.

The Commerce Secretary has said:

> Many aliens do not know precisely what their legal status is. Neither the census nor its enumerators in the field have the legal qualifications to assist respondents in answering such a question.

It would be a gross injustice to require census enumerators to become de facto INS agents.

Last year at a field hearing, I requested a constitutional analysis from a witness who opposed counting illegal aliens. He stated he did not have one, but would provide the committee with the analysis when he received it. Well, we are still waiting. We have yet to receive any constitutional arguments supporting his position.

Those who would arbitrarily impede the census-taking process, the smooth functioning of which has always proven efficient, should reconsider their actions. Until such time as those opposed to counting illegal aliens go through the process necessary to amend the Constitution, we should continue to count all persons in the census.

All of us understand the heat and hostility that surround this issue. However, in taking the oath of office we have pledged to uphold the Constitution as it is, not as we would like it to be. Vote "yea" on the previous question.

Mr. RIDGE. Mr. Speaker, may I inquire how much time remains?

The SPEAKER pro tempore (Mr. BARNARD). The gentleman from Pennsylvania [Mr. RIDGE] has 10½ minutes remaining; the gentleman from Massachusetts [Mr. CONTE] has 11½ minutes remaining; and the gentleman from Iowa [Mr. SMITH] has 5 minutes remaining.

Mr. RIDGE. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I rise to urge all my colleagues to vote against the previous question on this motion to instruct so that we may further instruct our House conferees to agree with the other body's provision excluding illegal aliens from the census count used for reapportionment.

I urge this because it is simply wrong to apportion congressional seats by counting people who would be deported if our immigration laws were enforced. To do so violates the basic right of equal representation.

In fact, one almost never hears anyone argue that it right to include illegals in the census count for apportioning representation among the States. Instead, those on the other side of this issue argue that it's not feasible, or not constitutional, to exclude them.

Now it seems to me we ought to start out by asking what's right and then figure out how or whether we can do it. And I don't think the vast majority of Americans has any difficulty whatever figuring out what's right here. It's to provide equal representation for lawful residents. And you can't do that if you include illegal aliens because they are unevenly distributed among the States.

Providing equal representation for illegal aliens produces unequal representation for lawful residents, inevitably. So we have to choose. We can provide equal representation for illegal aliens or for lawful residents but not for both. Clearly we should choose to provide it for lawful residents.

Now what about the various excuses as to why we supposedly can't do what's right? We have had expert testimony that the Constitution is no hindrance, since the very concept of an illegal alien did not exist when the 14th amendment was written, and since we have never counted the "whole number of persons" anyway.

And as for feasibility, let's just tell the Census Bureau to do the best job it can. Even if that is imperfect, it will be better than what they are preparing to do now.

All I'm asking is that we do our best to do what is clearly right. Again, I urge all my colleagues to vote against the previous question.

Mr. CONTE. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. ACKERMAN] for an explanation.

Mr. ACKERMAN. I thank the gentleman for yielding.

Mr. Speaker, I support the position of the gentleman from Massachusetts.

I was quite surprised to hear the gentleman from Pennsylvania [Mr. RIDGE] try to inform us that the Constitution was imprecise when it used the words "persons". We are not talking about the Constitution, we are not talking about the law, we are talking about English. A person is a human being.

The Founding Fathers, we heard somebody expound about before in a great enlightened state, were so enlightened that they did not give the founding mothers the right to vote. But yet they recognized that they were persons and counted them in the census for purposes of representation.

Further, they did not even recognize slaves as human beings. Yet they counted them for purposes of representation, at least three-fifths of them.

What would the gentleman from Pennsylvania do about the Amish who do not participate in the political process?

What would he do about the Jehovah Witnesses? Which minority group would we go after next?

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of the Conte motion to instruct the conferees to agree to Senate language condemning Gen. Manuel Noriega and his brutal regime.

Last Tuesday's attempted coup demonstrated to the world the unrest and dissatisfaction of the Panamanians for their oppressive government. It is distressing, but very predictable, that General Noriega responded to the civil unrest with more violence, brutality, and oppression. I commend my colleagues in the Senate for including this language to the bill and wholeheartedly agree with the gentleman from Massachusetts that this body concur with the Senate and call for the resignation of Manuel Noriega.

However, Mr. Speaker, some of our colleagues have urged members to defeat the previous question in order to amend the Conte motion to accept the Senate language to exclude illegal aliens from the census count used for apportionment.

Mr. Speaker, the Ridge Goodling amendment has not been considered by any committee of the House. That such a significant issue that would affect every member of this body, be considered without committee action is beyond my comprehension.

As a former member of the Subcommittee on Census and Population, I am acutely aware of the problems this amendment would create. Dr. John Keane, former Director of the Census Bureau, testified before the subcommittee that the Census Bureau has not found an acceptable method of excluding illegal aliens from the apportionment count. Significant errors would most likely result and the allocation of at least one or more congressional seats would be affected.

Preparation for the 1990 census is well underway. The Bureau has been planning the 1990 census since 1982. Census questionnaires are printed and have been assembled for mailing to the public in March 1990. With census day less than 6 months away, we are attempting now to undermine thousands of hours of work which the Bureau has undertaken to make the 1990 census the most complete and accurate census ever taken.

Mr. Speaker, we are concerned about undercount, and extensive outreach to minorities is planned.

What a chilling effect to ask whether one is illegal or legal, what a chilling effect to have our numerators to become INS agents.

Mr. Speaker, the Ridge-Goodling amendment should be rejected because it is unconstitutional, impractical, and poor administrative policy. It would cost the taxpayers an additional $100 million to reprint census questionnaires, and in all likelihood require a new census, which would cost over $1 billion.

Mr. Speaker, this body should made every effort to assure that the 1990 census provide us with the most complete count possible. The Ridge-Goodling amendment is infeasible and unworkable and I strongly urge my colleagues to vote "yes" on the previous question.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in support of the Conte motion and in opposition to the activities embraced in the amendment proposed by the gentleman from Pennsylvania.

Thousands of documented aliens live in my district in the San Diego County area, in Orange County. Thousands of them in the hooches, in the spider webs, in the brushes, they live there and they are documented and will not be counted under the normal census process.

To not count those who can be reached would literally be devastating to those that have been documented and are here.

INS says about 70 percent of the aliens in my district are now documented. Yet many of them will not be counted.

Can you imagine the nightmare that will be placed on the census takers as they go out and try to determine which ones of those are not documented, which ones are documented, which ones should be counted? It would be an absolute travesty, it would bring about much, much mischief.

Mr. Speaker, I recommend a strong vote against the effort of the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], who has been working with me on this issue for the last year and a half.

Mr. GOODLING. Mr. Speaker, I strongly urge my colleagues to vote down the previous question so we may amend the motion to instruct the conferees.

□ 1820

For the first time, I would like to say, let Members go and have the court decide, once and for all, what is legal and what is illegal. Let them make a decision. This is the only way Members can give them that opportunity. Let them make a decision based on the merits. They have never considered the case other than that it is procedurally incorrect, and that is why they have not heard the case. Therefore, let Members give them that chance once and for all.

Second, I hear people say that they know exactly what our forefathers meant when they said "persons." Members are doing a darn sight better than they have ever done down in the Census Bureau because, let me tell Members who they called "persons" one time and did not call "persons" the next time.

In 1940 when we had a tremendous influx into this country of people working for embassies, they decided they were not persons. No matter where they resided in the United States, they were not persons. They made that decision on their own. They did not ask the country. In 1950 they decided "OK, you are a person." If you work in the embassy and you live there, we will not count that person, but if that is a person who does not live on the embassy grounds, but that person lives some other place.

Do not tell this Member that anyone knows precisely what they mean when they talk about persons 200 years ago. The Census Bureau has no idea.

Then, like the gentleman from Texas [Mr. BROOKS], I want equal representation. That is exactly what I want. I want equal representation for

American citizens, because if he is representing 518,000 people and 100,000 of those happen to be illegal aliens, I am representing 518,000 people who are American citizens. That is not equal representation for my people at all, and that is all I ask.

Then we hear the question, "at this late date, at this late date." Ten years ago I was told, "at this late date." Twenty years ago, my father in this institution was told, "at this late date." Whenever is the right date and the right time to do something about it?

Let the court finally make a decision. Give Members an opportunity to put this before the court. Then we will know, once and for all, where we stand.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, although a great deal of hand-wringing and finger pointing is continuing this week in the wake of the failed coup attempt against General Noriega, we should not overlook one key factor: Getting rid of Noriega remains a major priority for the United States.

In fact that the ouster of Noriega from power in Panama appeared to be so close only heightens our desire to see him gone. If anything is to be learned as we review the events of last week and the actions of those involved it is the importance of keeping our attention on the primary objective: Getting Noriega out of power.

Based on comments of many in the Congress, I get the impression that a more active role by the United States should be considered in opposition to Noriega. I have believed from the beginning that that was desirable to protect our interests in the Panama Canal and our American military forces stationed on our strategic military bases in Panama.

The wording of the language adopted by the Senate—even before last week's events—make it clear that the removal of Noriega from power must be one of our top priorities in this hemisphere. That is true not only for our own security interests in Panama but also for our concern about democracy in Panama and for our efforts to remove Noriega from his drug-trafficking operations.

I urge my colleagues to support this motion to instruct conferees and the previous question on this vital issue.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the amendment is unworkable. It would require the Census Bureau to make determinations as to whether a respondent is in the country in violation of immigration law—a determination the Census Bureau is neither equipped nor authorized to make. The determination of legal residency is a complex process that requires special expertise and careful adjudication.

The Secretary of Commerce and Attorney General will recommend a veto of the entire appropriations bill if it contains language to exclude undocumented aliens from the census.

I challenge the supporters of the amendment to explain how a census enumerator would list the status of a person without resorting to the most presumptuous, inaccurate, and ultimately bigoted assumptions about our national identity. Is an accent, or skin color, or dress indicative of one's legal status? Under such prejudice because they lack the expertise to judge legal status.

The process of identifying and then excluding respondents on the basis of legal status would severely damage the execution and accuracy of the census. The inaccuracies would be most pronounced in urban and minority communities.

An inaccurate and flawed census would have an adverse affect on Federal funding allocation for all communities for years to come.

Implementation of this measure would be extremely expensive. Census questionnaires would have to be reprinted at a cost estimated to be over $30 million. Ironically, a census taken under these provisions would be inaccurate, unfeasible, yield less information, and ultimately, more expensive.

According to the Census Bureau there is no acceptable method of excluding the undocumented from the census count and any effort to do so would seriously flaw the census figures. Excluding the undocumented from the census would compel the Bureau to adopt untested techniques to determine every persons citizenship and immigration status.

Any attempt to count, and then exclude, undocumented residents from certain census counts will jeopardize the accuracy of the entire census in every community in the United States.

The Secretary of Commerce says:

. . . excluding illegal aliens would be entirely infeasible and would considerably undermine critical efforts being undertaken by the [Census] Bureau to assure an effective and complete count in 1990.

The Secretary of Commerce and the Attorney General will recommend a veto of the entire appropriations bill if it contains language to exclude illegal aliens from the census.

Federal fund allocation to every community will be adversely affected because large numbers of people, even those whose presence here is lawful, will be afraid of participating in the census.

Only a small portion of the undocumented population in the United States is actually counted in the census because the Census Bureau makes no special effort to include them and because many undocumented persons simply do not want to be counted.

Mr. RIDGE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of the effort to defeat the previous question and allow a vote on the Ridge-Goodling motion to instruct conferees. Whether your state is affected or unaffected, Illegal aliens should not be counted to determine representation in the House of Representatives.

The opponents of this motion point to section 2 of the 14th amendment saying that illegal aliens are persons, and thus must be counted. But the Census Bureau does not count everyone who happens to be in the country on April 1. Foreign diplomats and foreign tourists are not counted, even though they are persons, and they are in the country legally. But people who cross the border in violation of our laws are counted. This is not the Constitution according to James Madison, but rather Lewis Carroll. Only the Mad Hatter could have dreamed up such a policy.

The passage of the Immigration Reform and Control Act of 1986 removes any justification for counting illegal aliens for congressional apportionment. Congress made a determination as to who would be eligible for legalization under the act. The deadline for applying for this legalization has passed. The issue should be considered settled. A person who has not applied for legalization should not be counted for apportionment.

The opponents of this motion prefer to use the euphemism, "undocumented alien." By doing so, they show that they miss the entire point of the controversy. These people have not lost their identification papers, they are in the country illegally. If the census includes illegal aliens, representation in Congress and the electoral vote for President will be determined by people who are not legal residents, who can never become legal residents, who are violating the law just by being here, and who would be deported if the government could catch up with them. Regardless of questions of cost and difficulties, the fabric of social contract that binds the government to the people is torn when the makeup of the government is determined by people who came to the country in direct violation of the law.

Mr. Speaker, the Constitution guarantees these people due process, it does not give them congressional representation. I urge the House to defeat the previous question and support the motion to instruct offered by the gentleman from Pennsylvania.

The SPEAKER pro tempore (Mr. BARNARD). The time remaining for the gentleman from Pennsylvania [Mr. RIDGE] is 3½ minutes, the gentleman from Massachusetts [Mr. CONTE] has 8 minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 4½ minutes remaining. The gentleman from Massachusetts [Mr. CONTE] has the right to close debate.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. ROS-LEHTINEN].

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise in support of the previous question, and in opposition to legislation that would exclude undocumented residents from the 1990 census count. I oppose this proposal because it is unconstitutional and would increase the undercount of Hispanic Americans. In my State, this legislation will guarantee an undercount of Haitian, Nicaraguan, and Cuban Americans.

The administration has been very clear on this issue. The Justice Department has told us that is unconstitutional, and the Secretary of Commerce has indicated he would recommend a veto of this legislation because it is unworkable. It is unworkable because:

First, the Census Bureau cannot act as a surrogate Immigration Service. Census enumerators are neither qualified nor capable of interpreting immigration law and passing judgment on every person's citizenship and immigration status. Only a month ago, the INS settled a lawsuit for $110,000 with a young Hispanic man that it had wrongly deported. Now if INS doesn't even know who's deportable, how can we expect the Census Bureau to make that judgment?

Second, attempts to identify undocumented residents would frighten away citizens and immigrants alike from being counted, and the Census Bureau would lose any credibility about maintaining confidentiality. This will significantly decrease the accuracy of the census.

Third, after the census, when State and local elected officials begin threatening lawsuits because their numbers don't add up, the Census Bureau won't be able to tell us if minority populations were again undercounted, or if undocumented and legal residents were simply scared off.

Excluding anyone from the census count is bad public policy. It will take away the hope that the census will one day correct the historical undercount of Hispanic Americans and other population groups.

We should not put our President in the position of vetoing an appropriation for three Cabinet departments simply because we insist on ignoring the Constitution and the practical matters involved in this case.

I strongly urge my colleagues to vote "yes" on the previous question and to support the Conte motion. I also urge the conferees on H.R. 2991 to report back to this body a conference report free of this unconstitutional and unworkable amendment.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of the Conte mission to instruct. The language on Panama and its dictator, Noriega, is clear and should be supported. But let's be honest in this debate. We are not here to debate United States policy toward Panama, but whether or not the census should count undocumented aliens.

The arguments heard have made the issues very clear: The Shelby amendment which Mr. RIDGE proposes to adopt, is flatly unconstitutional. If that is not a convincing argument alone, add to it that the proposal is totally unworkable and is inappropriate for inclusion in an appropriation bill.

Still, many Members are swayed by the patrictic appeals that have been forwarded. The idea that we should exclude undocumented persons from the census for purposes of apportionment is a deceptively appealing argument. After all, why should noncitizens be counted when we are determining the number of representatives for each State?

Appealing, this is, until you start to think about the ramifications of the proposal—the real constitutional question and discrimination questions it raises—how you would actually make such a provision work.

The constitutional arguments have already been discussed and addressed. Fair versus Klutznick, a 1980 Federal district court decision, left little doubt about how that court felt. But, I concede this issue has not been before the Supreme Court.

Rather than dwell on constitutional issues, let us consider how this would actually work.

First, you already have more than 160 million census forms printed. Are you going to throw them out? Will you add a supplemental form to it?

What about the millions of instruction packets for the census takers? Will those have to be redone? The Census Bureau has already said this provision, if added to the bill, would be fatal to the 1990 census. It just plain couldn't be done next year, and redistricting couldn't take place in 1992.

Speaking of census takers, consider that all of them are temporary employees, with training to do one very specific task: count people, not act as INS agents.

Mr. Speaker, let me refresh my colleagues memories on a not-unrelated debate in this body. Simpson-Rodino. Remember it? Remember the anguish we went through when that legislation was debated. Now, in the blink of an eye it is proposed to turn the census taker into a walking court of law to determine the legal status of every man, woman, and child in America.

This is a daunting task—even the INS would stumble. But the census faces even a greater obstacle; 90 percent of the census is taken by mail. The forms go out and return by mail. What kind of response are we going to get from families where there might be a relative of doubtful status, or even a new refugee or a new citizen that somehow misperceives the legality of his or her status?

So you say: fine. You don't want to count those undocumented aliens, anyhow. So, they just won't get counted. But, no Shelby-Ridge proposes that indeed we do count them. After all, we need to know who they are for purposes of allocating Federal dollars. We're just not counting them for apportionment purposes. So, how do we assure they get counted, then exclude them for one purpose and only for one purpose?

That leads us to another curious anomaly of Shelby-Ridge. It says we won't count undocumented persons for purposes of apportionment only. So we take them out when the numbers are delivered to the President in December 1990. That way, we don't include them in determining which States gain or lose representatives. But when the numbers are delivered to the State on April 1, 1991, they are included. So, State legislatures have to consider the undocumented alien when they draw new congressional district lines.

Is that fair? Or, more to the point, does that make any sense?

Mr. Speaker, let me conclude: it is not those who oppose Shelby-Ridge who want to do anything different in the 1990 census. We say: do the census just as you have always done. Count people. Get the most accurate count you can. That is the way it has been since 1970.

It is the proponents of Shelby-Ridge that want to change the census. They want to make the census bureau into a a law enforcement bureau—investigator, judge and jury.

Don't let this happen. Don't destroy the census. Vote yes on the previous question.

□ 1830

Mr. RIDGE. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, today, by adopting the previous question, we are doing what we all too often do in this House. We are shutting off debate and preventing a very legitimate amendment from being offered by the gentleman from Pennsylvania. When our Constitution was framed, there were no legal aliens, and I think it is now up to us here in the Congress to decide by a majority vote whether or not we should count illegal aliens in the census or whether we should not, and by attempting to shut off the presenting of that amendment by the gentleman, I think it is another disgrace in this body.

Mr. Speaker, we should face the issue. We should decide which way it should go. I favor the gentleman's amendment because I believe that, had the framers of the Constitution intended to count illegal aliens, they would have had to be present at the time. Their intent was that they would count every person who was legally a resident of the United States.

Mr. Speaker, that was their intent, and that should be our intent.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I am amazed at this argument about persons. As my colleagues know, 202 years ago, before the adoption of the Constitution, there were no persons in this country under the definition that I hear today because we were all illegal aliens under Indian law.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I rise in support of the previous question. I think the constitutional argument is clear in terms of persons. If that is not enough, why are we going to deal with adjustment formulas? First it is for this, and then it is for that. We are supposed to be counting people. Third, in terms of reapportionment there is no conclusive evidence that one seat would be shifted. People do not understand the relatively complex formula for allocating seats.

Mr. Speaker, just because we subtract a seat from one State does not mean another State gains it. There are adjustments in overall population.

Finally, Mr. Speaker, who do we represent? Just the registered voters who vote for us? Or just registered voters? Or just those people who could be registered? Or just citizens? The Bill of Rights goes to all people, and I do not know about my colleagues, but I represent everyone in my district, and I want everyone in my district to be counted.

Mr. RIDGE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to respond to some of the issues that have been raised during this thoughtful and provocative debate. We are pretty unsure as to who loses seats, but demographers tell us it is pretty clear who gains seats, and that is the States of California and Texas. It is a zero-sum gain. There will be Members who lose their seats because illegal aliens are counted, so if my colleagues are not interested in principle, they might think about it in terms of just self-interest.

Let me share some things with my colleagues. I understand the opinions of the Secretary of Commerce, the Justice Department, the Census Bureau, legal scholars, whatever. They are all entitled to their opinions. But none of them are constitutionally empowered to do anything about the census.

Again article I, section 2, says that we, as Members of Congress, are entitled to set the rules and regulations dealing with the census, and we are the only ones empowered to do anything about the census, and I am encouraging all of my colleagues to defeat the previous question so that we can offer the amendment to let the House speak.

I told one of my friends and colleagues walking over that maybe if I just said, "If you give RIDGE a vote, he'll go away on this issue for 8 or 9 years," and if that would motivate my colleagues, just give me the vote, and I promise I will not bring it up again until I have another opportunity depending on what happens.

Mr. Speaker, we are empowered. We, as legislators, conduct and control that census. Article I, section 2, gives it to us. I do not think there is any constitutional dispute about this.

Let me tell my colleagues that the Supreme Court has spoken on this issue indirectly. The exclusion of aliens from governmental process is not a deficiency in the democratic system, but a necessary consequence of the community's process of self-definition. By definition aliens are outside our political community. They are here without the consent of the Government. Their presence in and of itself is in violation of laws that we, as Members of Congress, have established and that the Department of Justice, and the Census Bureau and the Department of Commerce should be enforcing.

We have the opportunity to change this. We are empowered to do so. I encourage my colleagues to vote against the previous question so we can offer the amendment.

Mr. SMITH of Iowa. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the distinguished subcommittee chairman, Mr. SMITH, for yielding to me, and rise in strong support of the Conte motion. The instruction is straightforward, clearly meritorious, and deserves unqualified support in the House.

Unfortunately, however, some of our colleagues are urging us to vote against the Conte motion so they might instruct conferees to call upon the Census Bureau for the first time to take aggressive action to exclude U.S. residents from the census counts used for the purpose of apportionment.

Mr. Speaker, we have visited the issue before but we have not come to grips with exactly what is at stake here. As chairman of the Subcommittee on Census and Population, I am compelled to speak in strong opposition to the Ridge-Goodling amendment.

This debate has been centered, around the possibility that a few States might somehow be deprived of seats in Congress. That focus, however, is unequivocally wrong.

The real question is whether, if we take this ill-advised step, we will harm directly the accuracy of the entire census and undermine the Bureau's efforts to collect accurate data in every single community in this country.

That risk is great. We're not counting pebbles on the shore. This is a dynamic human process.

There are millions of people in the United States who do not want to participate in the census. They believe the census process is too intrusive; or that it won't be confidential and somehow will be used against them. They just don't see the benefits of participating in the census.

□ 1840

As abstract as that process may be, however, its goal is simple. We are just trying to count everybody, just as we have for 200 years.

Any effort to inject another factor into the census process, a factor that demands strict confidentiality, a factor that involves the most intricate legal determinations that part-time census takers clearly are not qualified to make, most certainly will drive away a great many people.

The simple fact is this is not NASA. These are not rocket scientists. They are not even the INS. They are a half-million part-time folks willing to do hard work for low pay in counting our Nation.

Mr. Speaker, it will drive away a great many people whose presence in this country is perfectly legal.

I represent a district in Ohio. Ohio is one of the States my colleagues have argued might somehow be harmed by the inclusion of illegal aliens in this apportionment. They mention 10 other States that might be hurt. But the fact of the matter is that the real damage is that it will make it impossible for the first time in living memory to execute a timely and accurate census. It may cost tens or hundreds of millions of additional dollars, perhaps a billion dollars more, to execute; that at the same time there is simply no evidence to support the claim that all or any of the States that have been listed risk losing any representation in Congress because the Census Bureau does what we would have them do today.

Last month the expert demographer for the gentleman from Pennsylvania [Mr. RIDGE] in his lawsuit testified that at the most 1 to 2 million illegals might actually wind up in the count. He stated that this estimate probably was "on the high side." And the CRS has concluded that even if 1 million were counted and then excluded from the census apportionment counts, that no congressional seats would be affected. If there were 2 million, twice as many as most think are likely, no more than one congressional seat in the entire country would be affected.

Mr. Speaker and my colleagues, no one can say where that seat might be, but what I can tell you with a great deal of confidence and certainty is what the Census Bureau is trying to tell you, what the Secretary of Commerce is trying to tell you, and now what OMB and the administration in the last few minutes have been trying to tell you. That is that if we divert from our 200-year course of counting

all persons who actually reside in the United States, then the ability to carry out the census in a timely and efficient manner will be severely impaired, and the accuracy of all data will be irreversibly jeopardized. The resulting distortion will affect redistricting everywhere in the country and the allocation of Federal funds to every community in this Nation for the next 10 years.

In closing, Mr. Speaker, let me return to the concern of many Members. I realize it is possible, though unlikely, that one congressional seat might be affected today. Some do not want to risk the possibility that their own district might be harmed. To them I say simply and honestly that by supporting the Ridge-Goodling amendment your district and every other district in the country most certainly will be harmed because the ability to take an accurate census will be destroyed everywhere. By opposing it, you will likely harm no one at all.

I urge you to consider whether you can accept the very real possibility that all census data will be inaccurate and distorted if we try to determine every respondent's legal status during the census.

Mr. Speaker, I urge a strong and confident "yes" vote on the previous question.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FISH].I90[H11OC9-1046]{H6962}FISH

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, while at first blush, the idea of not counting illegal aliens in the census may seem logical, there are some fundamental legal and policy reasons why such a restriction is not a good idea.

First and foremost, it is highly likely that such a limitation is unconstitutional. Section 2 of the 14th amendment to the Constitution reads in part: "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State * * *." This language had led the Department of Justice to take the position that the census cannot make a distinction between inhabitants who are legally present in the United States and those who are not. Their legal opinion was most recently reiterated in a September 22, 1989, letter to Senator JEFF BINGAMAN in his capacity as chairman of the Subcommittee on Government Information and Regulation.

Second, this idea is also strongly opposed by the U.S. Department of Commerce which, of course, contains the Census Bureau. Specifically, the Census Bureau is extremely concerned that attempts to exclude undocumented aliens could seriously jeopardize and undermine the accuracy of the census itself. Persons who are illegally present in the United States may either seek to avoid the census altogether, or could deliberately misreport themselves as legal residents in the census. If large numbers of undocumented aliens avoid the census, then the 1990 census count will be inaccurate—harming both States and cities in terms of their eligibility for many Federal programs. The Commerce Department is also concerned about the public perception of the confidentiality of census data, and they feel that this provision may undermine that confidentiality principle. From its very beginnings, the census has not made a distinction based upon a person's citizenship, but rather has sought to count all persons present in the United States.

While I understand the concerns raised by my friends and colleagues from Pennsylvania, it is my view that, both for sound constitutional and good public policy reasons, the Shelby amendment should not remain in the Commerce-Justice-State appropriations bill—H.R. 2991—for fiscal year 1990.

Mr. CONTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to rise to reclaim 1 minute of my time to remind the House what my motion says.

My motion instructs the conferees to agree to a Senate amendment calling for the ouster of Manuel Noriega. It also endorses the planned international drug summit and U.S. participation in it.

This is a timely motion. It is clean and clear. It puts the House on record in regard to recent events in Panama. It calls for stronger U.S. leadership on the issue of Noriega.

I assure the Members that there is nothing in my motion that is unconstitutional. There is nothing in it that pits State against State, or Member against Member. As far as I know there is no pro-Noriega lobby.

Noriega publicly insults our Nation on a regular basis. He is a barbarian with his own people. He deserves to be removed from power, at the very least.

Cast your clear and unequivocal vote against this despot.

Vote for the previous question, and for the Conte motion to instruct the conferees.

Mr. MILLER of Ohio. Mr. Speaker, I rise today to voice my support and urge my colleagues to support the Ridge-Goodling motion to instruct the conferees to accept the Shelby amendment to the Commerce, Justice, State, and the Judiciary appropriations bill for fiscal year 1990.

The main purpose of this amendment is to instruct the Census Bureau to remove from its count any resident in the United States who does not legally and permanently reside here, for purposes of reapportionment.

Our Nation now faces a situation where some States in our country have more voting power than others because of the number of illegal aliens estimated to live in those States. If we allow the Census Bureau to continue estimating the illegal alien count in the upcoming census, we will continue to undercut the concept of "one man, one vote," and in effect water down the voting power of those legally enfranchised to participate in our democratic process. Granted it is not the fault of the State benefiting from the inclusion of illegal aliens in the count that this problem exists. However, the sad fact remains that many of the folks that have heretofore been included in the decennial census count are in this country illegally. To base the operation of our country's Government and legal system on a count that is tainted by the inclusion of such "illegals," seems to me to be a glaring contradiction.

I again urge my colleagues to support the Ridge-Goodling motion so that we may amend Mr. CONTE's motion to instruct the conferees on H.R. 2991 to call on the conferees to agree to this amendment adopted by the Senate on September 29.

Mr. CLINGER. Mr. Speaker, the counting of illegal aliens is not what the Founding Fathers had in mind when they drafted the Constitution. Nonetheless, today we have a situation where citizens of the United States who deserve more representation are denied it because we count illegal aliens. Because of this practice, States like California which have large numbers of illegal aliens get more seats in the House—at the expense of States without those populations. I don't think that's fair.

We, as a body, should not allow certain States to gain seats in the Congress because of people who are in this Nation against our laws. Every citizen of the United States is entitled to equal and fair representation in Washington. The principle of "one man, one vote" is part of the foundation on which our Nation is built, but it should not be extended to people who are here in violation of our law. To use population figures that include these people hurts legal citizens and the practice should be stopped.

In 1980, both Georgia and Indiana lost a congressional seat because other States had enough illegal aliens to raise their population figures. This same situation will exist in 1990, but on a larger scale. I strongly urge my colleagues to do the right thing and vote in favor of the Ridge amendment.

Ms. PELOSI. Mr. Speaker, the Ridge-Goodling amendment would, in effect, instruct the Census Bureau to violate the U.S. Constitution. The 14th amendment to the Constitution states that "representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each state * * *" The Supreme Court has ruled that undocumented aliens are "persons" under the due process and equal protection clauses, and the history of the 14th amendment clearly indicates that all individuals who reside in the United States are "persons" within the meaning of the Constitution.

In a letter to Senator BINGAMAN, dated September 22, 1989, Assistant Attorney General Crawford stated:

> In the past, the Department of Justice has taken the position that section two of the Fourteenth Amendment which provides for "counting the whole number of persons in each State" and the original Apportionment and Census Clauses of Article I, Section 2 of the Constitution require that inhabitants of States who are illegal aliens be included in the census count. In our review of this issue to date, we have found no basis for reversing this position.

Undocumented aliens are people; every person counts and should be counted.

The census should not be confused with the right to vote. While this right belongs only to citizens of the United States, all individuals have voices that must be heard. To deny these people representation—people who often embody the most powerless elements of our society—is to deny them justice.

I believe that the practical effect of this amendment would be to drive many illegal aliens underground. It would exacerbate undercounting in minority and ethnic communities—a situation which the 1990 census was designed to avoid. It would raise the specter of census enumerators acting as immigration agents and cause unnecessary turmoil in our communities.

Mr. Speaker, the Ridge-Goodling amendment is both unconstitutional and unworkable. It should be opposed.

Mr. SLATTERY. Mr. Speaker, I rise in opposition to the motion to take up the previous question of Representative CONTE's motion to instruct the conferees on the Commerce-Justice-State appropriations measure before us today. I urge my colleagues to oppose the previous question so that Representative RIDGE may offer a motion to instruct the conferees to accept an amendment authored by Senator SHELBY which would prohibit the Census Bureau from spending any funds to count undocumented aliens in the upcoming census for reapportionment purposes.

The inclusion of illegal aliens in the Federal census count that is used to apportion the seats in the House of Representatives among the States is of concern to Kansans, because of the likelihood that we will lose one of our five House seats following the 1990 census. This is a zero sum game. In 1992, 435 men and women will be elected to serve in the House of Representatives. Will they be elected to represent U.S. citizens in Kansas, or will they be elected to represent undocumented aliens living in other parts of this country?

I have been outspoken regarding the blatant unfairness of counting illegal aliens in the census for reappointment purposes. As a result of the inclusion of illegal aliens in the 1980 census, New York and California gained House seats which otherwise would have gone to Georgia and Indiana. I have reviewed data based upon the projected results of the 1990 census which indicate that if illegal aliens are not included in the census count, Kansas will not lose a House seat.

Supporters of the inclusion of illegal aliens in the census count claim that the Constitution requires that all "persons" in the United States be counted for reapportionment purposes. I disagree with this interpretation of our Constitution because, at the time the Constitution was ratified, there was no such thing as an "illegal alien": Our borders were open and all immigrants were welcome. Immigration into the United States was first restricted in 1875. Surely we have the right to bar inclusion of individuals who are in this country illegally when we calculate how the elected representatives of American citizens are to be apportioned among the States. I argued for the exclusion of illegal aliens from the reapportionment count in an article I recently authored for the winter 1988 issue of the Washburn Law Journal: "The Right to Govern Is Reserved to Citizens: Counting Undocumented Aliens in the Federal Census for Reapportionment Purposes."

I also joined with 40 other Members of Congress and the States of Kansas, Alabama, and Pennsylvania in a lawsuit against the Secretary of Commerce—who supervises the Census Bureau—which sought to prevent the counting of illegal aliens for reapportionment purposes. Unfortunately, the court dismissed the lawsuit on procedural grounds, without reponding to the merits of our case.

This House has the opportunity today to take a firm position in support of the proposition that the right to govern in our democracy is reserved to American citizens. House seats should not be apportioned on the basis of how many people are residing illegally in certain parts of the country. I urge my colleagues to join me in opposing the motion to take up the previous question.

Mr. MINETA. Mr. Speaker, I rise in strong support of the Conte motion to instruct and urge my colleagues to vote "aye" on the previous question.

Mr. Speaker, for 200 years the Census Bureau has been charged with the massive task of counting all of the persons residing in this country. To serve the Nation well, Congress, the executive branch, and thousands of State and municipal jurisdictions are dependent on reliable and accurate census data. Compiling this information is not an easy job, however.

Undercount problems, particularly in our country's minority communities, have been extensive. To its credit, the Census Bureau has undertaken an unprecedented outreach program to educate the public about the census. They are attempting to reduce the level of suspicion and fear which census enumerators encounter in conducting the decennial census, and I applaud their efforts.

Unfortunately, Mr. Speaker, all of these efforts will be for naught if the Shelby amendment is enacted into law. For the first time in 200 years, the Census Bureau would be required to exclude undocumented aliens from the count. This misguided measure would have the effect of turning census enumerators into agents of the Immigration and Naturalization Service.

If we think we have seen fear and suspicion in minority communities in the past, the past will seem like a picnic compared to what we will see if the Shelby amendment is adopted.

In preparation for census day on April 1, the Census Bureau has begun printing questionnaires. They have already printed 170 million of them. The Shelby amendment would turn those questionnaires into a $30 million pile of garbage. The Census Bureau would have to start over with a new form, and the Bureau considers it highly unlikely that the census could be performed on time.

Finally, Mr. Speaker, the Constitution clearly states that the census shall be of the whole number of persons in the United States. Debates during the Constitutional Convention of 1789 as well those within Congress regarding the 14th amendment to the Constitution made it crystal clear that the distinction between citizens and noncitizens and between legal and illegal aliens was understood and considered.

There is no question that this same distinction was deliberately left out of the Constitution.

Mr. Speaker, the integrity of the census in every single congressional district in this country is at stake. The Constitution wisely demands that the Census Bureau make a full count of the inhabitants of the United States. The Shelby amendment would render that task impossible. I urge my colleagues to support the Conte motion to instruct and vote "ayes" on the previous question.

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in strong opposition to the Ridge motion to instruct, which this body is considering today in conjunction with the Commerce-State-Justice appropriations bill.

Our colleagues from Pennsylvania would have us exclude undocumented residents from the apportionment base beginning in the 1990 census. The most unjust effect of this amendment would be its effect excluding many recent immigrants who were beneficiaries of the 1986 immigration reform and control from the apportionment base. Many individuals who qualified for temporary resident alien status are now in the process of securing permanent status, and denying them representation in Congress would not only be unconstitutional, but would exclude them from full participation in our democracy. These individuals fully believe in our system of government and now are now in the process of seeking permanent status as a prelude to applying for naturalization. Temporary residents, refugees, and political asylees would also be excluded from the apportionment base.

A strict interpretation of the applicable provision of the U.S. Constitution indicates the adoption of the proposed amendment violates the spirit of that document and would be unconstitutional. The current policy of counting undocumented residents is strongly rooted in the provisions of the 14th amendment, which states that representatives are elected to represent the people, not the citizens, of the States. The specific language states the House of Representatives is to be reapportioned among the States based on the "whole number of persons." Unlike other parts of the Constitution which make clear distinction between rights granted to citizens and noncitizens, this provision does not.

It is clear that this proposal is put forth by our colleagues from Pennsylvania exclusively in their self-interest. Estimates of where the majority of undocumented individuals presently reside indicate they mostly live in the States of California, Texas, Florida, and New York. Speculation of how redistricting plans may be drafted after the 1990 census abounds, and surely our colleagues from Pennsylvania are aware of their State's congressional representation is expected to diminish. Aside from the fact that my State of Texas clearly has an interest in the inclusion of undocumented residents in the apportionment base, I strongly believe that these individuals deserve representation in Congress out of a sense of fairness.

Proponents of this amendment have also introduced free-standing legislation in this body similar to this amendment. The committees with jurisdiction re expected to consider such legislation, and a hearing on one such bill took place this morning. I believe such proposals should be considered on their own merit, not as part of an approprations vehicle, as is being attempted today.

One of the arguments used in favor of excluding such individuals from the apportionment base is that they do not have the right

and thus should not be entitled to representation. Yet there are other individuals who do not enjoy such a right who are still included in the apportionment base. The most obvious example of this is the status of children. Furthermore, there are other individuals who are eligible to vote but do not exercise this right. Would our colleagues further propose that only voting citizens be included in the apportionment numbers?

Another significant effect of this amendment is that it would result in even a larger undercount of minority residents in our country, which at present is estimated at about 6 percent, as opposed to the 1-percent undercount believed to exist for the general U.S. population. In addition, the amendment's provisions could be unworkable for the Census Bureau in carrying out. The methodology for its implementation simply does not exist at present. Excluding undocumented residents from the census would require the use of untested techniques to determine each person's citizenship and immigration status. The Census Bureau is not an enforcement agency and should be put in a position of evaluating immigration documents in the census court.

I intend to oppose the motion should a vote arise on it and urge my colleagues who swore to uphold the Constitution to abide by the spirit of the law and strictly adhere to its provisions.

Mr. CONTE. Mr. Speaker, I move the previous question on the motion to instruct.

The SPEAKER pro tempore (Mr. BARNARD). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 184, not voting 16, as follows:

[Roll No. 282]

YEAS—232

Ackerman	Byron	Eckart
Akaka	Campbell (CA)	Edwards (CA)
Alexander	Cardin	Engel
Anderson	Carr	English
Andrews	Chandler	Espy
Anthony	Coleman (TX)	Evans
Atkins	Combest	Fascell
AuCoin	Condit	Fazio
Baker	Conte	Feighan
Bartlett	Conyers	Fields
Barton	Cooper	Fish
Bates	Costello	Flake
Beilenson	Coyne	Ford (MI)
Bennett	Darden	Ford (TN)
Berman	de la Garza	Frank
Bevill	DeFazio	Frost
Bilbray	DeLay	Gallegly
Boehlert	Dellums	Gephardt
Boggs	Dicks	Geren
Bonior	Dingell	Gibbons
Bosco	Dixon	Gilman
Boucher	Dorgan (ND)	Gonzalez
Boxer	Downey	Gordon
Brooks	Dreier	Goss
Broomfield	Durbin	Gradison
Brown (CA)	Dwyer	Grant
Bruce	Dymally	Gray
Bustamante	Dyson	Green
Guarini	McCollum	Roybal
Hall (TX)	McCrery	Sabo
Hayes (IL)	McCurdy	Saiki
Hayes (LA)	McDermott	Sangmeister
Hertel	McGrath	Sarpalius
Hoagland	McHugh	Savage
Hochbrueckner	McMillen (MD)	Sawyer
Houghton	McNulty	Scheuer
Hoyer	Mfume	Schiff
Huckaby	Miller (CA)	Schroeder
Hughes	Miller (WA)	Schumer
Hutto	Mineta	Shaw
Ireland	Moakley	Sikorski
James	Molinari	Skaggs
Johnson (SD)	Mollohan	Skeen
Johnston	Moody	Slaughter (NY)
Jontz	Moorhead	Smith (FL)
Kaptur	Morella	Smith (IA)
Kennedy	Morrison (CT)	Smith (TX)
Kildee	Mrazek	Smith (VT)
Kolbe	Nagle	Solarz
Kostmayer	Neal (MA)	Solomon
LaFalce	Nelson	Stark
Lagomarsino	Nowak	Stearns
Lantos	Oakar	Stenholm
Laughlin	Oberstar	Stokes
Leath (TX)	Olin	Studds
Lehman (CA)	Ortiz	Swift
Lehman (FL)	Owens (NY)	Synar
Lent	Owens (UT)	Tauzin
Levin (MI)	Packard	Thomas (CA)
Levine (CA)	Pallone	Torres
Lewis (CA)	Panetta	Towns
Lewis (GA)	Pashayan	Traxler
Lipinski	Patterson	Udall
Livingston	Paxon	Unsoeld
Long	Payne (NJ)	Vander Jagt
Lowery (CA)	Pease	Vento
Lowey (NY)	Pelosi	Visclosky
Luken, Thomas	Penny	Walsh
Machtley	Pickle	Waxman
Manton	Poshard	Weber
Markey	Rahall	Weiss
Martin (NY)	Rangel	Wilson
Martinez	Ravenel	Wolpe
Matsui	Rhodes	Wyden
Mavroules	Richardson	Yates
Mazzoli	Roe	Young (FL)
McCandless	Ros-Lehtinen	
McCloskey	Rostenkowski	

NAYS—184

Applegate	Gallo	Martin (IL)
Archer	Gaydos	McDade
Armey	Gejdenson	McEwen
Aspin	Gekas	McMillan (NC)
Ballenger	Gillmor	Meyers
Barnard	Gingrich	Michel
Bateman	Glickman	Miller (OH)
Bentley	Goodling	Montgomery
Bereuter	Grandy	Morrison (WA)
Bilirakis	Gunderson	Murphy
Bliley	Hall (OH)	Murtha
Borski	Hamilton	Myers
Brennan	Hammerschmidt	Natcher
Browder	Hancock	Neal (NC)
Brown (CO)	Hansen	Obey
Buechner	Harris	Oxley
Bunning	Hastert	Parker
Burton	Hatcher	Parris
Callahan	Hefley	Payne (VA)
Campbell (CO)	Hefner	Perkins
Carper	Henry	Petri
Clarke	Herger	Pickett
Clay	Hiler	Porter
Clement	Hopkins	Price
Clinger	Hubbard	Pursell
Coble	Hunter	Quillen
Coleman (MO)	Hyde	Ray
Coughlin	Inhofe	Regula
Cox	Jacobs	Ridge
Craig	Jenkins	Rinaldo
Crane	Johnson (CT)	Ritter
Dannemeyer	Jones (GA)	Roberts
Davis	Kanjorski	Robinson
Derrick	Kasich	Rogers
DeWine	Kastenmeier	Rohrabacher
Dickinson	Kennelly	Rose
Donnelly	Kleczka	Roth
Dornan (CA)	Kolter	Roukema
Douglas	Kyl	Rowland (CT)
Duncan	Lancaster	Rowland (GA)
Early	Leach (IA)	Russo
Edwards (OK)	Lewis (FL)	Saxton
Emerson	Lightfoot	Schaefer
Erdreich	Lloyd	Schneider
Fawell	Lukens, Donald	Schuette
Flippo	Madigan	Schulze
Frenzel	Marlenee	Sensenbrenner
Sharp	Snowe	Volkmer
Shays	Spence	Vucanovich
Shumway	Spratt	Walgren
Shuster	Staggers	Walker
Sisisky	Stallings	Watkins
Skelton	Stangeland	Weldon
Slattery	Stump	Wheat
Slaughter (VA)	Sundquist	Whittaker
Smith (NE)	Tallon	Whitten
Smith (NJ)	Tanner	Williams
Smith, Denny (OR)	Tauke	Wise
	Thomas (GA)	Wolf
Smith, Robert (NH)	Thomas (WY)	Wylie
	Traficant	Young (AK)
Smith, Robert (OR)	Upton	
	Valentine	

NOT VOTING—16

Annunzio	Florio	Jones (NC)
Bryant	Foglietta	Nielson
Chapman	Garcia	Torricelli
Collins	Hawkins	Yatron
Courter	Holloway	
Crockett	Horton	

□ 1904

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mr. Nielson of Utah against.

Messrs. WELDON, SPENCE, CAMPBELL of Colorado, VOLKMER, and ROSE changed their vote from "yea" to "nay."

So, the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARNARD). The question is on the motion to instruct offered by the gentleman from Massachusetts [Mr. CONTE].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUNNING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 0, answered "present" 1, not voting 32, as follows:

[Roll No. 283]

YEAS—399

Ackerman	Boucher	Coughlin
Akaka	Boxer	Cox
Alexander	Brennan	Coyne
Anderson	Brooks	Craig
Andrews	Browder	Crane
Anthony	Brown (CA)	Dannemeyer
Applegate	Brown (CO)	Darden
Archer	Bruce	Davis
Armey	Buechner	de la Garza
Aspin	Bunning	DeFazio
Atkins	Burton	DeLay
AuCoin	Bustamante	Dellums
Baker	Byron	Derrick
Ballenger	Callahan	DeWine
Barnard	Campbell (CA)	Dickinson
Bartlett	Campbell (CO)	Dicks
Barton	Cardin	Dingell
Bateman	Carper	Dixon
Bates	Carr	Donnelly
Beilenson	Chandler	Dorgan (ND)
Bennett	Clarke	Douglas
Bentley	Clay	Downey
Bereuter	Clement	Dreier
Berman	Clinger	Duncan
Bevill	Coble	Durbin
Bilbray	Coleman (MO)	Dwyer
Bilirakis	Coleman (TX)	Dymally
Bliley	Combest	Dyson
Boehlert	Condit	Early
Boggs	Conte	Eckart
Bonior	Conyers	Edwards (CA)
Borski	Cooper	Edwards (OK)
Bosco	Costello	Emerson

Engel	Lewis (CA)	Rose
English	Lewis (FL)	Rostenkowski
Erdreich	Lewis (GA)	Roth
Espy	Lightfoot	Roukema
Evans	Lipinski	Rowland (CT)
Fascell	Livingston	Rowland (GA)
Fawell	Lloyd	Roybal
Fazio	Long	Russo
Feighan	Lowery (CA)	Sabo
Fields	Lowey (NY)	Saiki
Fish	Luken, Thomas	Sangmeister
Flake	Lukens, Donald	Sarpalius
Flippo	Machtley	Sawyer
Ford (MI)	Madigan	Saxton
Frank	Manton	Schaefer
Frenzel	Markey	Scheuer
Frost	Marlenee	Schiff
Gallegly	Martin (IL)	Schneider
Gallo	Martin (NY)	Schuette
Gaydos	Matsui	Schulze
Gekas	McCandless	Schumer
Gephardt	McCloskey	Sensenbrenner
Geren	McCollum	Sharp
Gibbons	McCrery	Shaw
Gillmor	McDade	Shays
Gilman	McDermott	Shumway
Gingrich	McEwen	Shuster
Glickman	McGrath	Sikorski
Gonzalez	McHugh	Sisisky
Goodling	McMillan (NC)	Skeen
Gordon	McMillen (MD)	Skelton
Goss	McNulty	Slattery
Gradison	Meyers	Slaughter (NY)
Grandy	Mfume	Slaughter (VA)
Grant	Michel	Smith (FL)
Gray	Miller (CA)	Smith (IA)
Guarini	Miller (OH)	Smith (NE)
Gunderson	Miller (WA)	Smith (NJ)
Hall (OH)	Mineta	Smith (VT)
Hall (TX)	Moakley	Smith, Denny (OR)
Hamilton	Molinari	Smith, Robert (NH)
Hammerschmidt	Mollohan	Smith, Robert (OR)
Hancock	Montgomery	Snowe
Hansen	Moody	Solarz
Harris	Moorhead	Solomon
Hastert	Morella	Spence
Hatcher	Morrison (CT)	Spratt
Hayes (IL)	Morrison (WA)	Staggers
Hayes (LA)	Mrazek	Stallings
Hefley	Murphy	Stangeland
Hefner	Murtha	Stearns
Henry	Myers	Stenholm
Herger	Nagle	Stokes
Hertel	Natcher	Studds
Hiler	Neal (MA)	Stump
Hoagland	Nelson	Sundquist
Hochbrueckner	Nowak	Swift
Holloway	Oakar	Synar
Hopkins	Oberstar	Tallon
Houghton	Obey	Tanner
Hoyer	Ortiz	Tauke
Hubbard	Owens (NY)	Tauzin
Huckaby	Owens (UT)	Thomas (CA)
Hughes	Oxley	Thomas (GA)
Hunter	Packard	Thomas (WY)
Hutto	Pallone	Torres
Hyde	Panetta	Towns
Inhofe	Parker	Traficant
Ireland	Parris	Traxler
Jacobs	Pashayan	Udall
James	Patterson	Unsoeld
Jenkins	Paxon	Upton
Johnson (CT)	Payne (NJ)	Valentine
Johnson (SD)	Payne (VA)	Vander Jagt
Johnston	Pease	Vento
Jones (GA)	Pelosi	Visclosky
Jontz	Penny	Volkmer
Kanjorski	Perkins	Vucanovich
Kaptur	Petri	Walgren
Kasich	Pickett	Walker
Kastenmeier	Pickle	Walsh
Kennedy	Porter	Watkins
Kennelly	Poshard	Waxman
Kildee	Price	Weber
Kleczka	Quillen	Weiss
Kolbe	Rahall	Weldon
Kolter	Rangel	Wheat
Kostmayer	Ravenel	Whittaker
Kyl	Ray	Whitten
LaFalce	Regula	Williams
Lagomarsino	Rhodes	Wilson
Lancaster	Richardson	Wise
Lantos	Ridge	Wolf
Laughlin	Rinaldo	Wolpe
Leach (IA)	Ritter	Wyden
Leath (TX)	Roberts	Wylie
Lehman (CA)	Robinson	Young (AK)
Lehman (FL)	Roe	Young (FL)
Lent	Rogers	
Levin (MI)	Rohrabacher	
Levine (CA)	Ros-Lehtinen	

NAYS—0

ANSWERED "PRESENT"—1

Savage

NOT VOTING—32

Annunzio	Garcia	Nielson
Broomfield	Gejdenson	Olin
Bryant	Green	Pursell
Chapman	Hawkins	Schroeder
Collins	Horton	Skaggs
Courter	Jones (NC)	Smith (TX)
Crockett	Martinez	Stark
Dornan (CA)	Mavroules	Torricelli
Florio	Mazzoli	Yates
Foglietta	McCurdy	Yatron
Ford (TN)	Neal (NC)	

□ 1923

Mr. SAVAGE changed his vote from "yea" to "present."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees: Messrs. SMITH of Iowa, ALEXANDER, EARLY, DWYER of New Jersey, CARR, MOLLOHAN, WHITTEN, ROGERS, REGULA, KOLBE, and CONTE.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3015, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION, 1990

The SPEAKER. The Chair appoints the following conferees:

Solely for consideration of Senate amendments numbered 1 through 135 and modifications committed to conference: Messrs. LEHMAN of Florida, GRAY, CARR, DURBIN, MRAZEK, SABO, WHITTEN, COUGHLIN, CONTE, WOLF, and DELAY.

As additional conferees solely for consideration of Senate amendments numbered 136 through 144 and modifications committed to conference: Messrs. WHITTEN, NATCHER, SMITH of Iowa, YATES, OBEY, ROYBAL, BEVILL MURTHA, TRAXLER, LEHMAN of Florida DIXON, FAZIO, HEFNER, CONTE MCDADE, COUGHLIN, REGULA, EDWARDS of Oklahoma, GREEN, ROGERS, and SKEEN.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PERSONAL EXPLANATION

Mr. GARCIA. Mr. Speaker, due to engagements in the South Bronx, I was unable to be present to record my votes on Wednesday, October 11. If I had been present, I would have voted in favor of the conference report on H.R. 2990, the labor-HHS-education appropriations for fiscal year 1990. I also would have voted "yes" on the amendment to H.R. 3026, D.C. appropriations for fiscal year 1990, regarding Federal funding of abortions in cases of rape and incest, and for final passage of the bill. I also would have voted "yes" on Senate amendment 22 to the D.C. appropriations bill, regarding the use of Federal funds with respect to religious liberties.

Further, I would have voted in favor of the motion to instruct the conferees on H.R. 3015, Department of Transportation and related agencies appropriations, to approve higher levels of funding for the Coast Guard to fight the war on drugs. I supported Mr. CONTE's motion to instruct the conferees on the Justice, State and Judiciary Committee encouraging a "drug summit" to combat Manuel Noriega, and would have voted against the Ridge amendment excluding illegal aliens from the 1990 census, had he had the opportunity to present such a motion.

APPOINTMENT AS MEMBER OF THE FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

The SPEAKER. Pursuant to the provisions of section 1, Public Law 94-371, as amended, the Chair appoints on the part of the House the gentleman from Georgia [Mr. RAY] to the Franklin Delano Roosevelt Memorial Commission to fill the existing vacancy thereon.

COMMUNICATION FROM THE HONORABLE ROBERT H. MICHEL, REPUBLICAN LEADER

The Speaker laid before the House the following communication from the Honorable ROBERT H. MICHEL:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 10, 1989.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 6160, Public Law 100-690, I hereby appoint the gentleman from Ohio [Mr. OXLEY] to fill an existing vacancy on the National Advisory Commission on Law Enforcement.

Sincerely,

BOB MICHEL,
Republican Leader.

CONGRATULATING HIS HOLINESS THE XIV DALAI LAMA OF TIBET FOR BEING AWARDED THE 1989 NOBEL PEACE PRIZE.

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 75), to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. STAGGERS). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so only to recognize the two chief sponsors of this resolution, and I yield to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding, it is a great pleasure for me to be a part of this resolution. I want to thank the members of the committee for allowing this

commemorative to be brought to the House today.

Recent events in Tibet and China have drawn the eyes of the world to the tragic circumstances under which the Tibetan and Chinese people suffer. Many firsthand accounts from tourists, human rights advocates and journalists confirm that China continues to apply oppressive measures against the Tibetans that are reminiscent of the infamous "Cultural Revolution." Certainly, the world takes no pleasure in witnessing, and being remined of, the inhumane and terrifying treatment that some people, or groups of people, mete out to follow human beings. Unfortunately, mankind has not yet determined how to free itself of the recurrence of such tragedies as the Holocaust, the Killing Fields of Cambodia and the Cultural Revolution.

Perhaps one bright spot, in this otherwise abysmal situation, is that the world has become intimately acquainted with the character and leadership of His Holiness the Dalai Lama and the courage of the Tibetan people. Even under the most dire circumstances, the Tibetan people, as a whole, continue to heed the Dalai Lama's call to express their desire for independence from Chinese rule and to confront their oppressors in a peaceful manner. The Dalai Lama recently summed up his philosophy in a recent interview with a Time correspondent by saying, "As people who practice Mahayana Buddhist teaching, [Tibetans] pray every day to develop some kind of unlimited altruism. So there is not point in developing hatred for the Chinese. Rather, we should develop respect for them and love and compassion." In this spirit, the Dalai Lama has formally made proposals to the Chinese Government for a peaceful, negotiated settlement of the ongong crisis in Tibet. Although the Chinese have rebuffed the Dalai Lama's offers to begin earnest negotiations of the future status of Tibet and have condemned international expressions of concern for the tragic situation in Tibet, the Dalai Lama and his representatives continue to pursue a peaceful resolution to the growing conflict in Tibet. Indeed, such leadership is rare today and can easily be placed in the same mold that made such leaders as Martin L. King, Jr. and Mohandas K. Ghandi.

I have had the great pleasure of knowing the Dalai Lama for a number of years, and I can personally attest to the fact that, in all my associations with him, whether in public or in private, he never fails to express his sincere concerns for the need of all human beings to act with "universal responsibility" and compassion toward one another. Although the Dalai Lama serves in many capacities, from the leader of the Tibetan people to a "simple Buddhist monk," he is known first and foremost as a man of peace, tolerance, and great understanding.

In these days when many world leaders have turned to terrorism as an expression or act against a policy or a government, I sincerely believe that the peaceful efforts of the Dalai Lama and the Tibetan people to end oppressive rule in Tibet should be strongly supported by all governments—not only in an effort to end human rights abuses in Tibet, but also as a strong statement that efforts to peacefully resolve conflicts take precedence over and transcend acts of violence and terrorism. It is my sincere hope that each of us will give careful consideration to the significance of Nobel Committee's decision to award His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize; take heart to the plight of the Tibetan people; and renew our commitment to aid the Dalai Lama and the people of Tibet in their efforts to bring democracy to Tibet and to China through peaceful means.

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I want to thank the chairman of the Post Office and Civil Service Committee, the distinguished gentleman from Michigan [Mr. FORD]; the chairman of the Subcommittee on Census and Population, the gentleman from Ohio [Mr. SAWYER]; the ranking minority member, the gentleman from Pennsylvania [Mr. RIDGE]; and the gentleman from North Carolina [Mr. ROSE] for expeditiously bringing this resolution to the floor.

It was with great pleasure that we learned that His Holiness, the Dalai Lama of Tibet, has been awarded the 1989 Nobel Peace Prize by the Norwegian Nobel Committee. There are few people who are as deserving as His Holiness to win this prestigious award. I have met His Holiness on several occasions, and just as recent within the last month and I feel confident in saying that he is truly a remarkable man. Not only does he bring kindness, clarity, and insight to world affairs and the tragic plight of his nation, he also is a physical embodiment of those very virtues.

The Dalai Lama's five-point peace plan on resolving the problems facing Tibet and in his Strasbourg statement on the same issue, he has come more than half way in meeting the demands laid down by authorities of the PRC. Many Tibetans are upset with him in that he spoke of allowing the PRC to handle Tibetan foreign affairs and military matters. They say, and rightfully so, that tibet has always been an independent nation so why should they compromise their nation away?

But His Holiness has stood up to the pressure even though his nation, people and their sacred religion has been ravaged by the Communist Chinese. He still holds no grudge and speaks of compassion for those who have and continue to repress Tibet.

Through a process of colonization, Chinese settlers now outnumber Tibetans in their own land. The very real danger now is that Tibet will be forgotten as her monasteries and sacred temples are made into tourist attractions.

His Holiness, in the face of this greatest threat still talks of forgiveness. He is a walking lesson in humility for all of us and I invite my colleagues to join in congratulating the Dalai Lama on this auspicious occasion.

□ 1930

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. (Mr. STAGGERS). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 75

Whereas His Holiness the XIV Dalai Lama of Tibet, spiritual mentor to millions of Buddhists throughout the world, and the leader of the Tibetan people;

Whereas His Holiness the XIV Dalai Lama of Tibet has persistently promoted justice, offered hope to the oppressed and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the XIV Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrines of nonviolence and universal responsibility;

Whereas His Holiness the XIV Dalai Lama has, through his example, his teachings, and his travels, furtherd mutual understanding, respect, and unity among nations and individuals; and

Whereas the Norwegian Nobel Committee has awarded His Holiness the XIV Dalai Lama of Tibet the 1989 Nobel Peace Prize: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends His Holiness the Dalai Lama for furthering the just and honorable causes that he has championed, and congratulates him for being awarded the 1989 Nobel Peace Prize.

The Senate concurrent resolution was concurred in

A motion to reconsider was laid on the table.

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 213) to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to identify the good work of our colleague, the gentleman from Alaska [Mr. YOUNG], who is the chief sponsor of House Joint Resolution 373, and likewise to recognize for a few remarks in support of the resolution, our colleague, the gentleman from New York [Mr. GILMAN].

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of Senate Joint Resolution 213, designating October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America," and I want to commend the gentleman from Alaska [Mr. YOUNG] for his leadership in bringing this measure to the floor of the House for consideration.

Senate Joint Resolution 213 commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and government leaders for their efforts to help achieve a drug-free America, and it encourages anti-drug activities to take place during National Red Ribbon Week.

The resolution also encourages all Americans to wear or display red ribbons to symbolize their commitment to a healthy, drug-free lifestyle and to develop an attitude of intolerance to the use of drugs.

As a senior member of the House Select Committee on Narcotics Abuse and Control, I can assure my colleagues that this resolution, which I am pleased to cosponsor, represents an additional effort to raise the public's consciousness as to the dangers of drug abuse and to develop an attitude of intolerance as to the use of illicit drugs.

If our Nation is to win the war against drug abuse, then attitudes regarding the use of illicit drugs must be changed and the public must reject these deadly drugs. Senate Joint Resolution 213 is an important step in that direction. Accordingly, Mr. Speaker, I urge my colleagues to support this resolution.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to our colleague, the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, the gentleman from Pennsylvania [Mr. RIDGE] is particularly generous with the time, especially in light of the fact that I did vote against him on the amendment which was of particular interest to him today.

Mr. Speaker, I rise to congratulate the author, the gentleman from Alaska [Mr. YOUNG] but I also think it is very important that we congratulate the real workhorse on dealing with this issue, someone who has been one who has labored over the years on trying to turn the corner on the plight of drugs and what it has done to our society, and of course I am referring to the gentleman from New York [Mr. GILMAN], our friend, who just spoke. This issue bringing the Red Ribbon Day to the forefront is something that is going to be put right out there for all to see, and not many people are aware of the fact that this kind of expression would not be able to be exercised were it not for this gentleman.

I, Mr. Speaker, would simply like to express my hearty congratulations to the distinguished ranking member of the Select Committee on Narcotics.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 213

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs American society nearly $100,000,000,000 a year;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status, as evidenced by the facts that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that of the 68,000 fourth graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) the 15- to 24-year-old group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, many of which are related to drug and alcohol abuse;

Whereas the drug problem appears to be insurmountable, but Americans have begun to lay the foundation to combat it;

Whereas we must continue the important strides we have made in our efforts to prevent alcohol and other drug abuse;

Whereas the most recent national polls reveal that progress has been made in that—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use amoung this group was at its lowest level in 11 years;

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1986 to 48 percent in 1987; and

(3) illicit drug use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas according to public opinion polls the American people consider that drug abuse is one of the most serious domestic problems facing this Nation and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 22 through October 29, 1989, and "National Red Ribbon Week for a Drug-Free America", and has called for a comprehensive public awareness, prevention, and education program involving thousands of the parent and community groups across the country;

Whereas other outstanding groups, including the National Parents Resource Institute for Drug Education, the Council for Drug Education, Just Say No International, the National Crime Prevention Council, the Chief of Police National Drug Task Force, the National Hispanic Family Aganist Drug Abuse, national youth organizations, national service organizations, and others have demonstrated leadership, creativity, and determination in achieving a drug free America;

Whereas any use of an illegal drug, is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security; Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22 through October 29, 1989, is designated and "National Red Ribbon Week for a Drug-Free America". The United States recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and Government leaders, and urges that meeting, conference, and fundraising activities that support community and alcohol education take place during National Red Ribbon Week for Drug-Free America with other appropriate activities, events, and educational campaigns. Every American is encouraged to wear and display red ribbons during National Red Ribbon Week for a Drug-Free America to present and symbolize their commitment to a healthy, drug-free lifestyle, and to develop an attitude of intolerance concerning the use of drugs.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the several resolutions just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

TRIBUTE TO RUSS TOWNSLEY, EDITOR AND COPUBLISHER OF RUSSELL DAILY NEWS

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROBERTS. Mr. Speaker, Kansas is known for many things: Dorothy and Toto, the Nation's breadbasket, mamas who encouraged their babies to grow up to be cowboys, "Home on the Range," aviation, and people who achieve greatness by following our State motto, "To the Stars Through Difficulty"—people like Dwight Eisenhower and Amelia Ear-

hart. And, Kansas is also known for its pioneer, rambunctious country newspaper editors in the image of William Allen White.

One of the best of those editors retired several months ago—Russ Townsley, editor and copublisher of the Russell Daily News. Russ came from a most respected journalism family, carried on the tradition and for 40 years added his name to Kansas journalism greats. The Salina Journal recently ran a full-page feature highlighting Russ' career. He has been an old-fashioned stickler for accuracy and fairness as he led Russell as a progressive editor. His scope was national but his touch was pure hometown. And, just for the record, he has been a valued and trusted friend. Well done, Russ Townsley.

I commend the following article to my colleagues.

[From the Salina (KS) Journal, Aug. 13, 1989]

RUSS TOWNSLEY ENDS 42-YEAR PUBLISHING CAREER AT RUSSELL

(By Sharon Montague)

(RUSSELL.—Stacks of news releases clutter the dark, wooden desk, covering old newspapers, handwritten notes, manila envelopes stuffed with information, meeting agendas, photographs and note pads.

(Russ Townsley, in one of his last few days as co-owner and publisher of the Russell Daily News, sits behind the desk, ignoring the mess and instead facing a computer terminal.

(He reads the copy on the screen, occasionally changing a word here or a word there. Several minutes pass, then, without looking up, Townsley quips, "I keep telling everyone I can't leave until I've cleared my desk—and that could take years."

(The man who has been publisher of the Russell Daily News for 42 years pushes a button on the computer terminal to typeset the stories he has just edited, spins around on his chair, picks up a gold pica pole from the desk and begins to tell his story.)

In selling his controlling interest in the Russell Daily News last month to co-owner Allan D. Evans, Townsley, 69 ended a Townsley newspaper tradition that began with his grandfather, Channel P. Townsley.

Channel P. Townsley had been a captain in the Civil War before being named municipal judge in Sedalia, MO.

"Being a rock-ribbed Republican in the Missouri judicial system was not exactly what Capt. Townsley wanted in life," Townsley said, so his grandfather moved to Great Bend, where he bought the Tribune in 1876.

Ownership of the weekly newspaper passed on to Townsley's father, Will L. Townsley, who began operating the newspaper daily instead of weekly. When he died in 1935, the newspaper was run by Russ Townsley, his mother, Alice, his sister, Helen, and his brother, Will Jr. Alice Townsley died in 1942.

The partnership expanded into radio, and purchased the Great Bend radio station KVGB.

"When we bought it, it was a 100-watt, and we built it into a 5,000-watt station that was an NBC affiliate," Townsley said.

Townsley was the radio man in the family in those early days, working at the station as newsman, engineer, announcer, advertising salesman, copy writer and janitor.

"I feel we had an unusual family operation," Townsley said. "Helen was the brains, Will was the politician and public relations counselor, and I generally did about what they told me to do."

The partnership sold the Great Bend Tribune in 1966 and the radio station in 1969, but by that time, Russ Townsley already was an established newspaperman in Russell.

Russ and his wife, Janie, moved to Russell in 1947, when his family joined with Evans to buy the weekly Russell County News. The name was changed to the Russell Daily News, and daily publication commenced the day after Labor Day that year.

In 1970, Townsley bought out his brother and sister, so he and Evans were the only stockholders.

"June 16, 1947, was my first day as publisher," Townsley said. "I had always been in radio before, then I came here and found myself publisher. I had no idea what to do."

But Townsley quickly found his niche in Russell—as the newspaper's primary reporter, covering "everything from people burning up in trucks to visiting politicians," taking photographs and writing editorial columns.

One thing his staff wouldn't let him write, Townsley said, were weddings and obituaries.

"They were afraid they'd all end up sounding like car wrecks," Townsley said.

When his family bought the Russell Daily News, it was the small newspaper competing against an established weekly—The Russell Record, which had been owned since 1872 by a long-time Russell family. The Daily News had been started as a weekly in 1930.

"It was pretty tough competition," Townsley said. "When we came, the Record had all the major advertisers. They had history and family behind them."

Garnering its share of advertising dollars wasn't the only problem the Daily News faced in the beginning, Townsley said.

Local officials weren't used to having reporters at every meeting of the city council, Townsley said, and were somewhat weary of discussing their business in front of an outsider.

"There was a three-member council back then," Townsley said, "and they'd have some long meetings, and I'd start nodding.

"Every week, they'd try to sneak out and leave me asleep at the table. They almost made it a couple of times."

But Townsley later learned a trick to keep himself awake at school board, city council, planning commission and other meetings that could sometimes last until the wee hours of the morning.

Along with the small notebook he carries in his shirt pocket, Townsley carries a supply of cryptographs, or word games, on small slips of paper. He pulls them out when his attention begins to wan.

"Crossword puzzles are too obvious," he said.

The Daily News gradually found its spot in the daily lives of Russell residents, and in 1962 the Daily News took over the Record and continues to publish it semi-weekly.

The publishing company also purchased and operates The Hoisington Dispatch and the Natoma-Luray Independent. The Independent has been consolidated with the Record.

Townsley never went to journalism school to learn to write the news, but he learned from experience.

"My writing is basically radio style," he said. "I go with the standard textbook style—inverted pyramid."

In his newswriting, he underplayed rather than overplayed, he said, as was befitting a country editor.

"In every story, I try to be as straightforward and objective as possible," he said. "You get the same coverage, and you don't create the problems. In country press, you can underplay something and make it just as well."

And he learned that sometimes, it's better to editorialize about national issues, or criticize your wife's casseroles, than to criticize city officials.

"You learn that instead of tackling city hall, it's rather easy to complain about casseroles," Townsley said.

That philosophy led to Townsley's Saturday column, "Coffee Time Notes," and his reputation as one of the last "paragraphers" in Kansas journalism.

Townsley was of the tradition of Kansas journalists that began in William Allen White's time—when country editors poked fun at each other and bandied about personal insults to rile each other.

Townsley's partners in crime were Rolla Clymer at El Dorado and Leonard Sekavec of Holyrood, both of whom are dead.

"I'd make derogatory comments about Sek—that pot-bellied Bohemian—and other Bohemians, and Sek would write something about me in his column," Townsley said. "We'd go back and forth.

"That's the kind of tradition that gives Bob Dole his sense of humor."

Coffee Time Notes also consisted of short quips that had a "backward twist" or sorts, Townsley said, such as an item commenting on the national deficit.

"One of the TV fellows hit upon the way to solve the national debt and end deficit spending," Townsley wrote in one column. "All we have to do, he claims—is make Japan the 51st state."

Martha Brack, who put together an exhibit of Townsley's wit and wisdom that will be displayed at the Russell Public Library through August, said Townsley's writing "had so much practical wisdom and common sense I became somewhat of a student of it."

Brack lived on the West Coast for many years before moving to Kansas, she said. She found that in the Midwest, "people are quieter and speak fewer words, but they seem to say more. His (Townsley's) understatement is that way."

Townsley's role at the Russell Daily News also included training new writers; the turnover was large, because the newspaper was so small.

"We had quite a few, some good and some not so good," Townsley said. "We've trained as many writers here as some of the journalism schools in the states."

Even those who had received training needed to be retrained to become good "country reporters," Townsley said.

"The best thing I could teach them is that names are important, people are important, and very few local items are not worth using," he said.

And he couldn't emphasize enough the importance of being objective.

"We're just here to tell what happened on any day," he said.

Leroy Jaggers, superintendent of the Russell School District, said Townsley always was objective in covering school issues.

"He's a very professional person—most professional and factual," Jaggers said. "I enjoyed him, even at the times he was putting me on the spot. I found him to be more than fair."

Townsley did have his own opinions about issues, though, Jaggers said, and didn't back down on those opinions.

"I consider him a good friend, but he never let that interfere with his reporting," Jaggers said. "If he thought I was making a mistake, he wrote it that way.

"And I told him I don't fight with anyone that buys ink by the barrel."

Though Townsley said there are no "big stories," that stand out in his mind, and that, "trying to be an advocate of the public has kept me busier than trying to get the big stories," he said covering the Russell appearances of Senate Minority Leader Bob Dole, the senior Kansas senator from Russell, has been exciting.

Dole, a Republican, was one of the more interesting subjects, and a very good friend, Townsley said.

"I never asked him for anything, and he didn't ask me for anything," Townsley said. "We did exchange friendly criticism, though."

Dole said Townsley was a "tough newspaperman, and very independent.

"He gave me a hard time sometimes when I deserved it, and sometimes when I thought I didn't. But he was a part of Russell, and his retirement will be the end of an era."

A framed newspaper from Aug. 19, 1976—the day after President Gerald Ford picked Dole as his running mate during his race for a second term—is tacked on the wall of Townsley's office.

The banner headline on the front page proclaims, "Ford Picks Bob Dole," and the front and back pages are covered with stories about the selection, with reactions from local residents and officials.

Townsley said that August day was one of the most hectic of his career.

"We had no idea it was coming," he said. "We had to gather every little bit of information we could from wire services and from his family in Russell, and we had just a few hours to put it all together."

The newspaper had no photographs of Dole, and no background information on his career to pull out and use that day.

But the next day, Townsley said he began gathering that information, borrowing early day photographs from Dole's family members and clipping articles about the senator from other newspapers and periodicals.

Now, a shelf in Townsley's office is reserved for the many manila envelopes that hold that information.

Those envelopes are one thing that Townsley left behind when last Saturday he vacated his office and his position as publisher of the Russell Daily News.

Townsley said he also left many stories undone, as a country editor never has the time nor the strength to do everything. But now was the right time for him to hang up his hat, he said.

He said it isn't the best time to sell a newspaper—what with the oil and farm economies that supported Russell through the years in a state of decline.

"If I was a good economist—which newspapermen seldom are—I would either have sold ages ago or I would wait," he said.

"I'm having more problems getting stories done, and spending more time than I used to have to with stories. Pressure just keeps building all the time."

Townsley and his wife plan to stay in Russell, he said, and he hopes to spend time restoring antique cars that he has collected through the years.

"I keep several in a shop at the airport," Townsley said. "I could work eight hours a day for two years just getting them fixed up."

He's not a mechanic and is a lousy painter, he said, "but by the time I get through, I will have found out how to paint."

And if he gets done with that, his wife has plenty of things to keep him busy.

COUNTRY MUSIC AWARD WINNERS

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLEMENT. Mr. Speaker, Monday night in my hometown of Nashville, TN, the winners of the 23d Annual Country Music Awards were announced.

It was quite a night to behold as the stars came out to honor our country recording artists. From the newset country star on the horizon, Clint Black, to the male and female country vocalists of the year, Ricky Van Shelton and Kathy Mattea, to the country entertainer of the year, George Strait, Monday night's program showcased the best and the brightest of today's country music scene.

I would like to congratulate all of the winners. And I would like to congratulate the country music association, its executive director, Jo-Walker Meador, Irving Waugh, who produced the show, and its members for an exciting television production. I was proud to be among those in the audience commemorating country's contribution to the American music tradition.

On a personal note, I would like to commend the choir from Christ Church who performed with Dolly Parton. I am a member of the Christ Church congregation in Nashville and I have the pleasure of hearing the choir and it's minister Reverend L.H. Hardwick when I attend Sunday services. I was proud to see their singing shared with a national television audience.

Mr. Speaker, October is country music month, as now decreed by both the House and the Senate. Monday night's country music awards show demonstrates the vitality, excitement, and history associated with country music. I am proud to be their representative here in the Congress.

Mr. Speaker, I include a list of the Country Music Award winners.

NASHVILLE, TN.—Winners in the 23d annual Country Music Awards show Monday night:

Entertainer of the year: George Strait.

Female vocalist of the year: Kathy Mattea.

Male vocalist of the year: Ricky Van Shelton.

Single of the year: "I'm No Stranger to the Rain" Keith Whitley, RCA.

Album of the year: "Will the Circle Be Unbroken Vol. II" Nitty Gritty Dirt Band, Universal.

Song of the year (awarded to songwriter): "Chiseled in Stone," Max D. Barnes and Vern Gosdin.

Vocal group of the year: Highway 101.

Vocal duo of the year: The Judds.

Vocal event of the year: Hank Williams, Jr. and Hank Williams, Sr.

Musician of the year: Johnny Gimble, fiddler.

Horizon Award: Clint Black.

Music video of the year (awarded to performer and director): "There's A Tear in My Beer," Hank Williams Jr., Ethan Russell.

Hall of Fame: Jack Stapp, music publisher; Cliffie Stone, music publisher; Hank Thompson, singer.

THE DRUG WAR DILEMMA

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, before coming to Congress I served as a criminal court judge. I tried many drug cases.

I remember one time we had a 53-year-old man who was seeking probation in a drug case. He testified that 4 years earlier he had a business where he made well over $100,000 a year; he had a beautiful home, a wife, and two daughters. Then he became addicted to drugs and ended up losing his business, his home and even his family.

I asked him if he thought anyone could really handle drugs. He said, "No, Judge, not me, not you, not anyone else. They always get you in the end."

I heard many young people testify they started up the drug ladder by first using marijuana, thinking they could handle it, and moving on to harder drugs. I tell the young people in my district I am scared to death of drugs. I am afraid if I tried cocaine even one time, I would run the risk of being hooked.

As our late colleague, Larkin Smith, pointed out in his series of talks on the floor, we need do away with the congressional drug maze. We need one committee to coordinate the drug war. Both in tribute to Larkin Smith and because of his good legislation, I urge my colleagues to support the Drug Committee Reorganization Act.

Congress created the job of drug czar to oversee and coordinate all aspects of the war against drugs. However, here in the House, there are as many as 53 committees, subcommittees and select committees where anti-drug legislation is referred. We cannot effectively address the Nation's drug pestilence with this costly, untimely, and inefficient process.

One of the reoccurring themes in the President's National Drug Control Strategy is coordination. We should take heed here in the Congress and seriously evaluate how we can develop effective and timely anti-drug legislation. It is time to practice what we hear so often on this floor, get waste and inefficiency out of Government. Well, we have a solution to get the process moving.

I urge my colleagues to join me in cosponsoring House Resolution 216, the Congressional Drug Committee Reorganization Act of 1989. This legislation will establish a single standing committee with exclusive authority on all Federal anti-drug efforts.

This legislation will go a long way to improve our effectiveness in developing a drug-free America.

As we all know, recent polls indicate that most Americans remain convinced that drugs represent the most serious threat to our national well-being.

The U.S. Chamber of Commerce estimates the annual gross sales of illegal drugs at $110 billion. Larkin emphasized that in order to address successfully this enormous problem, we must have a coordinated, structured, and responsive effort from the Congress—not a tenuous, tentative, hesitant or irresolute commitment.

I urge my colleagues, especially in memory of Larkin Smith, to support the Congressional Drug Committee Reorganization Act and help put an end to this drug maze here in the Congress.

□ 1050

APPELLATE PROCEDURE FOR THE HIGH COURT OF SAMOA

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation which will improve the procedure for appeals from decisions of the territorial courts of American Samoa.

American Samoa is the only territory of the United States which does not have a mechanism whereby decisions of the High Court of American Samoa can be reviewed by courts created under article III of the United States Constitution. This bill provides judicial review by writ of certiorari in the Court of Appeals for the Ninth Circuit and in the Supreme Court.

In the past, litigants wishing to appeal decisions of the territorial courts have filed applications for writs of mandamus against the Secretary of the Interior in the U.S. District Court for the District of Columbia. This bill permits such suits to be brought, but only in the U.S. District Court for the District of Hawaii.

Mr. Speaker, I introduce this bill at the request of the Administrative Office of the U.S. Courts. We in American Samoa wish to take no action which would weaken the twin pillars of our cultural identity: our communal land tenure system, and our system of chiefly titles.

I have some reservations about this bill; however, I believe any questions can be resolved through the hearing process, which, I hope, will include hearings in American Samoa.

H.R. 3438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIORARI TO THE NINTH CIRCUIT IN CASES FROM AMERICAN SAMOA.

The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to review by writ of certiorari all final decisions of the highest court of American Samoa in which a decision could be had. This review shall be in addition to that of any other judicial or executive authority. The final decisions of the United States Court of Appeals for the Ninth Circuit rendered pursuant to this section, including denials of writ of certioriari, are subject to review by the United States Supreme Court by writ of certiorari, as provided in sections 1254(1) and 2101 of title 28, United States Code. Rulings of the courts of American Samoa shall be conclusive on questions of local law. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out this section.

SEC. 2. MANDAMUS IN THE DISTRICT OF HAWAII.

An action in the nature of mandamus against the Secretary of the Interior which arises from the Secretary's duties in relation to the governance of American Samoa and which is properly brought in a district court of the United States, may be brought only in the United States District Court for the District of Hawaii.

SEC. 3. EFFECTIVE DATE.

(a) SECTION 1.—Section 1 applies to appeals brought on or after the 90th day after the date of the enactment of this Act.

(b) SECTION 2.—Section 2 applies to actions brought on or after the 90th day after the date of the enactment of this Act.

ST. CROIX INSULT ON INJURY

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, I hope that many of the Members saw Ted Kopple's ABC "Nightline" last night. It was the first balanced report on what Hugo has done in the Caribbean that we have seen on U.S. television, and it is the first compassionate one.

I would like to share with the Members an article that appeared on the op-ed pages of the New York Times of October 6, 1989, written by Michael D. DeLorenzo, who has lived in the Virgin Islands off and on for 17 years and is a mainland financier. This is what he wrote:

Hugo, the fiercest hurricane in the history of the Caribbean, struck St. Croix on Sept. 17. I flew into St. Croix six days later to check on the safety of my many friends and the condition of my home.

The devastation was unbelievable. More than 95 percent of the homes sustained serious damage. Sixty percent are totally destroyed, leaving 40,000 people homeless.

To attempt to put the looting and other stories about St. Croix into proper perspective, try to imagine the total devastation of Long Island. Sixty percent of the population is homeless. All businesses are destroyed or closed.

No jobs. No money. Checks and credit cards are of no value. The banks are closed. No electricity and no estimate of how many months until it is restored. No telephone service. The only communication with the rest of the country is by short-wave radios.

No running water. No toilet facilities. No schools. No garbage disposal. No hospitals. Scarcely a leaf or flower on the island.

This is what has happened and is going on now in St. Croix. Do the media report this devastation, mass tragedy and suffering of the 65,000 good people? No. They report on the looting and violence caused by a relative few. They depict St. Croix as a fearful and dangerous place full of roving bands of criminals.

This could not be further from the truth. Yes, there was looting, just as there was looting in New York City during the blackout of 1965 and looting in Charleston, S.C., after Hugo hit. I am fairly sure that there would be looting on Long Island if the St. Croix scenario came true.

I hope that the 65,000 good people on St. Croix will receive the disaster aid and compassion for their suffering that they deserve.

THE LONG-TERM HEALTH CARE MARKETS DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, now that Medicare Catastrophic Protection Act has been stripped of its pretense, I believe it is time that we move forward to develop a realistic and comprehensive long-term health care strategy for our Nation's elderly. In my view, such a strategy entails recognizing that any future solution must include a viable private sector delivery system.

For this reason, Mr. Speaker, I am today introducing H.R. 3440, the Long-Term Health Care Markets Development Act. It is a comprehensive bill to facilitate private sector development of long-term health care insurance. The development of such a market is the key to ensuring the availability and affordability of insurance products to protect all Americans against catastrophic costs asssociated with extended hospital stays and custodial care.

Specifically, H.R. 3440 allows for tax-exempt withdrawals from IRA's for the purpose of purchasing long-term care insurance. It would allow a company to offer a higher deductible health insurance package and contribute the premium savings to an employee IRA, whereby the funds could be withdrawn tax-free to purchase catastrophic or long-term health care insurance.

In addition, it would eliminate the Certificate of Public Need [COPN] program, which many States use to limit competition in the nursing home industry and keep nursing home costs artificially high. It would also allow for the conversion of life insurance policies to long-term care insurance, and provide preferential tax treatment of long-term care insurance reserves similar to the tax treatment as life insurance reserves.

With the elderly population increasing in numbers, efforts must be made to address the long-term care problem before it becomes a national crisis. The Medicare Catastrophic Protection Act, as well as other proposals to fill the long-term care void by expanding

the Medicare program, are expensive and unnecessary.

Let's not make the same mistake when considering legislation to address the more pressing problem of long-term custodial care. A massive federally sponsored long-term care program is doomed to failure and, as was the case with the catastrophic care law, Congress should not mislead the elderly by exaggerating the limits of a Federal response. Instead, Congress should encourage a market solution to this serious and growing problem.

The Long-Term Health Care Markets Development Act offers a number of incentives for the health insurance industry to create efficient, competitive, and cost-effective long-term care insurance products. We need to move forward on this issue, and I urge my colleagues to join me in this effort by cosponsoring the Long-Term Health Care Markets Development Act H.R. 3440.

□ 1940

TRIBUTE TO GEN. CASIMIR PULASKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 11, 1779, 210 years ago today, the courageous military leader, Gen. Casimir Pulaski, sacrificed his life for the cause of American independence during the Battle of Savannah.

Count Pulaski was born to an aristocratic and distinguished family of Poland, but he rejected a life of leisure and instead devoted over 30 years of his life to fighting to free his beloved homeland from tyranny. Although he struggled tirelessly to prevent the partitioning of Poland, he was not successful, and eventually was forced into exile. However, he never lost his deep commitment to the ideals of freedom and self-determination.

In 1777, Pulaski met Benjamin Franklin in Paris, and was given a letter of introduction to Gen. George Washington. Arriving in Boston during the summer of that year, he volunteered his services and expertise to General Washington's Army. Washington entrusted Pulaski with the grave responsibility of reorganizing the American cavalry forces. These independent corps of cavalry and light infantry, known as the Pulaski Legion, contributed greatly to the American cause of independence.

Pulaski distinguished himself during the Battle of Brandywine, and because of his efforts, the Continental Congress granted him a commission as a brigadier general. Pulaski's courage and dedication helped to save the city of Charleston, SC, and during the siege of Savannah, he displayed one final act of ultimate courage. As the British fired from this fortified city, Pulaski volunteered to charge through their line of defense, and enter the city. His untimely death at the head of this famous cavalry charge reflects his selfless dedication to the ideas for which the colonists fought, and his patriotic actions are a reminder of the great sacrifices that must be made to obtain the blessing of freedom.

President George Bush has issued a proclamation designating October 11 as General Pulaski Memorial Day, in recognition of his achievements and heroism. A copy of the proclamation follows:

GENERAL PULASKI MEMORIAL DAY, 1989
(A Proclamation by the President of the United States of America)

Forced to flee his native Poland after fighting in its unsuccessful struggle for independence, General Casimir Pulaski later became a hero of the American Revolutionary War. Benjamin Franklin once praised him as a man "famous throughout Europe for his bravery and conduct in defense of the liberties of his country." In the ultimate expression of that bravery, and in solidarity with the American colonists, Pulaski volunteered for the Continental Army and eventually became the leader of his own cavalry unit. While leading a charge during the siege of Savannah on October 9, 1779, this dauntless freedom fighter was mortally wounded. He died 2 days later.

Each year, on the October 11th anniversary of his death, we Americans pause to remember General Pulaski and the heartfelt convictions for which he gave his life. General Pulaski clearly understood that liberty is the God-given right of all men. He believed that the cause of freedom is universal, and, like many of his contemporaries, viewed the American struggle for independence as a decisive battle for the future of all freedom-loving peoples. The American Revolution, if successful, would be a resounding victory for the principles of individual liberty and representative government.

With the generous assistance of brave and selfless allies like General Pulaski, the American colonists did succeed in their quest for independence. And today, more than 2 centuries later, the triumphant call for freedom and self-government continues to reverberate throughout the world.

That call can be heard clearly in General Pulaski's homeland, where—despite years of repression by ruling Communist officials and Soviet military intervention in 1981—the Polish people have continued to demonstrate their fervent belief in the principles of freedom and self-determination. With faith, courage, and persistence, they have begun to reap the rewards of their efforts to obtain free elections, as well as political and economic reforms.

Today, we Americans offer our support and our prayers for the people of Poland as they continue seeking the blessings of freedom and representative government—blessings that General Casimir Pulaski helped win for us 210 years ago.

Now, therefore, I, George Bush, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Wednesday, October 11, 1989, as General Pulaski Memorial Day, and I direct the appropriate government officials to display the flag of the United States on all government buildings on the day. In addition I encourage the people of the United States to commemorate the occasion as appropriate throughout the land.

In witness whereof, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

GEORGE BUSH.

Mr. Speaker, General Pulaski's sacrifice serves today as a source of strength and inspiration for the people of Poland, who are continuing to strive to obtain the blessings of liberty for themselves and for their children, and for all freedom-loving people throughout the world who are engaged in the timeless struggle to achieve freedom and self-government. On the 210th anniversary of General Pulaski's death, I am proud to join with Polish-Americans in the 11th Congressional District of Illinois which I am honored to represent, and Americans of Polish descent throughout the Nation, who are commemorating the great courage and unwavering commitment to the ideals of freedom of this outstanding Revolutionary War hero.

ABORTION FUNDING

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the motion to agree to the Senate language on abortion funding in the fiscal year 1990 Labor, Health and Human Services, and Education appropriations bill. The Senate language permits an exception to a ban on Medicaid funding for abortion in the cases of rape or incest. The House bill already allows for Medicaid funding of abortion when the life of the mother is endangered.

Since being elected to the House of Representatives, I have always felt that abortion should be allowed in the tragic and unconscionable circumstances of rape and incest. The Senate language affirms this position, while otherwise barring the use of Federal funds to perform abortions.

I am personally opposed to abortion, but I do believe that expectant mothers and the victims of the crimes of rape and incest should be protected against life-threatening and criminally-induced pregnancies, respectively.

Last year, President Reagan waged an impassioned campaign to veto the fiscal year 1989 Labor-HHS-Education bill if it contained the same Senate language which allowed for abortion in the cases of rape or incest. It appeared that all Federal funding for health, social services, and education would be imperiled indefinitely unless Congress passed the bill without the exceptions for abortion. I was, therefore, constrained to vote for the bill, without the rape and incest exceptions, even though I believed those exceptions were needed. The president had boxed us into a corner on passage of this important bill.

Last fall President Bush campaigned on the position that there should be exceptions on abortion funding in cases of rape or incest. I agree. It seems unlikely to me that he can veto this bill because of the presence of these exceptions.

THE BENJAMIN FRANKLIN MEMORIAL FIRE SERVICE BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, I rise this evening to take out this special order with several of my colleagues for three purposes. First of all to acknowledge this week nationally as Fire Prevention Week, that week that we set aside each year to pay tribute to those millions of volunteers and paid professionals across America who each day risk their lives so that all of us can live in a safer environment.

Second, to honor the fire service this evening with a tribute from Members of Congress, and third, to outline a piece of legislation that we will be having a national press conference on tomorrow to support the fire and emergency services network in Amer-

ica. It is entitled, "The Fire Service Bill of Rights." It has taken us 3 months to work up the items contained in this piece of legislation, the initiatives herein, and it has had input and comments from the paid and voluntary fire services from throughout America.

Mr. Speaker, 1 year ago over 1 million acres of our wildlands out in Wyoming and Montana caught on fire and burned in one of the largest wildfires in the history of the country. Just 6 months ago six of our paid firefighters were killed in Kansas City because the incident they were responding to did not have the proper information to be able to know what was in store for them when the arrived.

This past summer was saw a DC-10 crash in Sioux City and we saw a number of paid and volunteer professionals respond to that situation and handle it in a very proficient and a very effective manner.

Just 1 month ago we saw a devastating hurricane hit the Carolinas of this country, and once again we saw untold numbers of volunteers and paid emergency service personnel from those States and around the country respond to the real emergency that was there at that time from Hurricane Hugo.

This past weekend we saw the unfortunate tragedy in a nursing home in Virginia where 11 senior citizens lost their lives to fire.

Mr. Speaker, all these incidents are common occurrences in the everyday lives of the 3 million men and women who make up the fire services of this Nation, people who respond to all sorts of calls and emergency situations, ranging from fires to floods to earthquakes to airline crashes to HAZMAT incidents.

Mr. Speaker, for the last 200 years we have been somewhat remiss in responding to their needs and their concerns. Tonight we are going to talk about these people. We are going to talk about their issues and their problems and how we hope to begin to address concerns on a national basis with the Benjamin Franklin Memorial fire service bill of rights.

Joining me in this special order this evening, I would like to get the gentleman on first because he has been a real hero with the fire services in Washington, is the chairman of the committee of jurisdiction over the U.S. Fire Administration and the National Fire Academy, someone who has done tireless work on behalf of the Nation's fire services at a time when the administration was not as sensitive as it should have and could have been in promoting assistance for the fire services across this country.

So Mr. Speaker, I yield to my good friend, the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I thank the gentleman for yielding to me.

At the outset, I congratulate the gentleman from Pennsylvania [Mr. WELDON] for the initiatives that he has taken in support of the fire service personnel since he has joined the House of Representatives from our State, and especially for taking this special order tonight to call attention to this legislative initiative that he and several others have put together that really marks, I think, the first major step forward in the 12 years that I have had the privilege of serving in the House of Representatives in support of the Nation's fire services. We have as the chairman of our Congressional Fire Caucus the gentleman from Pennsylvania [Mr. WELDON]. We have put together, largely through his initiative, the support of some 358 Members of the House of Representatives that have now joined in this caucus to promote the interests of the fire services, and particularly to pay attention to the needs of fire service personnel. They will be in the forefront of the legislative efforts that will be made on behalf of the Benjamin Franklin Memorial, this fire service bill of rights that we mark here tonight, and it is for good reason that these people have joined together. The losses to fire, as the gentleman from Pennsylvania [Mr. WELDON] has pointed out, are so dramatic across this country. In the day-to-day services and instances the gentleman has cited, when you take it on a yearly basis, we lose 6,000 lives to fire in this country, $30 billion of property losses that are real losses to the economic fabric of our Nation year after year.

In this past year we have also lost 134 firefighters who have lost their lives in the course of fighting fires. Seventeen of those heroes were lost in the State of Pennsylvania, the highest number for any individual State across the country. These are very real, very tragic losses that all of us should note. We owe them and those who risk their lives on a daily basis, on the Federal level we owe them our respect and certainly our support.

As the gentleman from Pennsylvania [Mr. WELDON] has said, we have not been as supportive as we could have been over the years in the Congress. In 1974 there was a Presidential Commission that wrote the charter for Federal fire support in their report called America Burning. That report laid out a road map of Federal support, a bipartisan commission laid out a road map of Federal support that called for something on the order of $134 million that could judiciously be put to the fire problem on the Federal level in 1974.

□ 1950

We have approached that $134 million with a maximum Federal effort in these years not exceeding $17 million a year. I think it is important for us to compare the charter that was set out for us in that report, "America Burning," a level of effort of $134 million and realize that we have hardly made a start of $17 million a year on the Federal level. We certainly have a long way to go.

Given the numbers of lives that are lost, we have much to do. There have been improvements in the national fire losses on a yearly basis, year after year, but it is also true that they have plateaued out in these last several years at about 6,000 lives a year. I think common sense tells us that smoke detectors have made their mark, but that our society is structured in such a way that with the protection that smoke detectors have to provide we have now hit a plateau, and it is going to take more innovative efforts in order to break through that 6,000 lives mark.

We have in our committee promoted sprinklers for hotels and motels that would prevent fires from happening in the first place. In many ways, I am afraid what we have had to offer has been tombstone legislation. It should not have to be tombstone legislation. This effort that we embark on now, the fire service bill of rights, I think is the first step in breaking through and on to levels that do not represent tombstone legislation but represent an ability to look forward to trying to redress and try to respond to the needs that the fire service personnel have to do a better job.

This bill would create, among other things, the ability to provide a hazardous-materials response in every local fire company across the country regardless of whether it is paid professional or whether it is volunteer. It would provide an ability to put the scholarships in place for the families of those who lose their lives while fighting fires, and it would provide a National Fire Center where we can start to realize that there is a Federal fire focus that must be brought to the fire problem, and it would do all of that without a dime of taxpayers' money, because it would be funded out of, as the gentleman will explain in detail, a mechanism that would be a commemorative coin in honor of the person who founded the first fire department in America, Benjamin Franklin, and in a very real sense those coins and that revenue would be generated by people in the fire service across the country. We essentially would be able to give them a mechanism to raise funds which would be to create an effective Federal fire focus not just on the fire problem but in support of the Fire Service personnel at the same time.

I look forward to working with the gentleman and those others involved in the Congressional Fire Caucus. This is a program that is very much within our reach. I know we can put it together, and the reason we will be able to put it together is because of the energy and the focus that the gentleman from Pennsylvania [Mr. WELDON], the gentleman in the well, has brought to this problem. We together will see it through.

Mr. Speaker, I thank the gentleman for extending this time to me and want to congratulate him on where we have brought the Fire Caucus at this

point, and look forward to working with him to seeing these legislative initiatives into law.

Mr. WELDON. I thank the gentleman for his fine comments. Before he leaves, and I know he has other engagements this evening, but I would be remiss if I did not mention that during the last 8 to 10 years when efforts were made to cut out the stipend program that benefits thousands of firefighters across this country, when efforts were made to eliminate the arson program, it was the gentleman from Pennsylvania [Mr. WALGREN], along with the gentleman for New York [Mr. BOEHLERT], who put the leadership forth to reverse those decisions and to keep the support there at a time when it was not as popular of an issue, and I applaud the gentleman for that leadership as does the Nation's fire service.

I would also be remiss if I did not mention that my colleague from Pennsylvania was one of the individuals who helped draft this legislation and will be one of the original cosponsors along with our colleagues, the gentleman from Pennsylvania [Mr. GRAY] and the gentleman from New York [Mr. BOEHLERT] and a number of other Members, some 60 in total, who have already come forth to help us with this act. Because of the gentleman's past leadership, I appreciate his support and his ongoing effort as chairman of the appropriate committee on jurisdiction as we outline the complete provisions of the legislation. I thank the gentleman.

At this point in time, I would like to acknowledge the presence of another Member of Congress who has asked to say a few words who had some very real experiences with an incident in her own community and who responded very quickly and very aggressively in putting forth an enclave fire bill that has become a model piece of legislation, and we are trying now to pass it. She was active before the incident occurred, but she is even more active now as a member of the Fire Caucus. I yield to my good friend, the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WELDON] for yielding me this time to honor the firefighters of this Nation. I want to also express to him how grateful I am that he established the Congressional Fire Services Caucus. This, I believe, has grown to be the largest congressional caucus, and I am very proud to be one of the earliest members of that caucus.

Since Benjamin Franklin organized America's first fire department in 1736, the fire service has been saving lives and protecting property from the scourge of fire. National Fire Prevention Week is an appropriate time to extol their achievements.

The men and women who make up the fire service are involved in one of the most dangerous professions conceivable. One hundred fourteen firefighters died last year. They must put their lives on the line daily, and all too often tragedy strikes. In the Kansas City area, this fact was brought home on November 29, 1988, when 45,000 pounds of ammonium nitrate in a burning trailer exploded at a highway construction site, killing six firefighters. The firefighters had not been informed that ammonium nitrate was on that site.

The Federal Government must increase the information available to the firefighters on the scene of an emergency. We must learn from the Kansas City tragedy and work to change the circumstances that helped cause it. I am an original cosponsor of the Fire Service bill of rights.

I have introduced two pieces of legislation that would improve the information available to firefighters and help them deal better with emergency situations. One bill would grant firefighters the right to conduct preincident inspections of enclaves located within or adjacent to the city limits. In most cities, there are buildings and areas that are owned by the Federal, State, or county government that are not within the jurisdiction of the local fire code. Yet, the local fire department has the responsibility to fight fires there, without the opportunity to learn what unique hazards may exist on that property. The explosion in Kansas City was in such an enclave, a State highway project. The firefighters did not have the opportunity to learn that ammonium nitrate was commonly stored on site in trailers.

The second bill is H.R. 2813, to create a working group to review and revise the materials provided for emergency responders. There are over half a dozen Federal agencies that are responsible for some aspect of hazardous material emergencies, and often their advice can be contradictory, vague, or not suited to the needs of firefighters. We need an interagency working group, chaired by the U.S. Fire Administration, and including representatives from all the affected Federal agencies and firefighters, to ensure that the information the Government provides to emergency responders is the best possible.

As we celebrate National Fire Prevention Week, let us remember the sacrifices of the fire service. And let us work to make their job as safe as possible.

Mr. WELDON. Mr. Speaker, I thank the gentlewoman for her comments here this evening and for her commitment in helping to solve these problems in a proactive way and for her leadership on issues of the utmost importance to those men and women who risk their lives on a daily basis, especially for her work following the Kansas City disaster in putting forth the pieces of legislation she outlined this evening, and we look forward to working with her to have those pieces of legislation become reality. I thank the gentlewoman for stopping by.

□ 2000

Also with us this evening I would like to ask to make a few comments is an early supporter of the Fire Service Caucus and someone who has been a part of our process for the short time he has been here, but has already established his mark in responding to the needs of those men and women who are truly America's first line domestic heroes, the men and women of the fire service, my good friend and colleague, the gentleman from Florida, CLIFF STEARNS.

Mr. STEARNS. Mr. Speaker, I want to thank the distinguished gentleman from Pennsylvania for his efforts in this fire service bill of rights.

I am also here to honor the firemen throughout this country of ours in National Fire Prevention Week. When I first came to Congress I supported this entire Congressional Fire Service Caucus because in my family my wife's father was a member of the firefighters of Yonkers, NY, and was involved with many fires and had to go through lots of smoke inhalation and problems. He eventually became the assistant chief at Yonkers. My wife's grandfather was chief of the firefighters in Yonkers. So we have a history of it in our family. So I am very sensitive to what these firefighters do and the sacrifices they have to make.

As a small business man I have come to realize that—one of the properties I have, a small motel, caught fire. If it had not been for the quick actions of these firefighters and the sacrifice they made, that motel would not be here today.

I would like to also point out to Americans everywhere that these gentlemen come into properties and look them over and identify areas where there is paint on cupboards, and they take time and will do this on a volunteer basis.

I think the distinguished Congresswoman from Kansas [Mrs. MYERS] has pointed out in her piece of legislation that they should have the right to go into public buildings and identify areas where there is a possibility of fires and make recommendations. They cannot do that. With the Congresswoman's piece of legislation they will be able to do that. That is very important today.

I want to commend the gentleman from Pennsylvania for what he is doing here. I just want to do my small part today to honor this fire service bill of rights.

Mr. WELDON. I thank the gentleman for his time and comments, and also for his leadership and commitment at an early part in his career in Washington in helping to assist those men and women across the country who are once again risking their lives on a daily basis.

I would like to acknowledge at this time another friend of the fire service nationally, someone who has been here longer certainly than I have and

has been here to assist the fire service long before I came on the scene, someone who has the respect of all the firefighters in the great State of Indiana, and someone I have come to respect and admire as a leader in this body, the gentleman from Indiana, Mr. DAN BURTON.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Pennyslvania for those kind remarks.

I was very active with the fire safety movement in Indiana years ago when I was a State senator, and I sponsored and authored a lot of the fire safety legislation which became law.

During that time period I had the opportunity to work very closely with a number of fire safety officials, fire chiefs, and rank-and-file firemen. I spent a few very interesting nights with firemen.

In addition to being the first line of defense against catastrophes in the home and in the business place, they are also very nice guys. When you get to spend a couple of nights with them and go out on some runs with them you realize they really are human beings who care not only about their families and their fellow firemen, but they care about their fellow human beings in the community.

They really risk their lives on a daily basis. So I consider every moment that I have spent with the firefighters in Indiana a real valuable lesson for me. I have appreciated the closeness that I have with them.

As a matter of fact, one of my childhood friends, a fellow named Jerry Whitaker in Indianapolis, was the assistant fire chief for the Indianapolis Fire Department. Now he is the fire chief of the Castleton Fire Department there, and he has kept me informed through the years of the needs of the firemen and kept me apprised of the problems that they face on a day-to-day basis.

That is one of the reasons why I am so happy to be here tonight to participate in this special order, because we know there are needs for the firemen and the firewomen who face these horrible tragedies on a day-to-day basis and risk their lives, but we really do not do much about it.

One of the things that I admire about the gentleman from Pennsylvania [Mr. WELDON] is that he came to Congress a short time ago. Every fireman who may be paying attention to what is going on tonight and your colleagues need to know that before you came there was really no organized effort to pass a firemen's bill of rights.

You have in a short period of time organized 358 Congressmen into the biggest caucus here. You have motivated your fellow Members to action. This is going to become a reality. There is no question in my mind about it.

There is a song, "Give Me Some Men Who Are Stout-Hearted Men." One line in that song goes, "The strong will obey and a strong man shows them the way."

I do not mean to give you too many accolades tonight, but I want you to know that I really think and truly believe that none of this would have come to pass had it not been for your efforts.

The firemen across this country can pat me on the back and my colleagues on the back, but if they really want to put the honor and support where it justifiably should be put, it should be put on CURT WELDON's shoulders, because you have done a tremendous job for the firefighters of this country. Every one of them should thank you for that.

I would like to say a word or two about your firefighters' bill of rights. It is a long time in coming. I think it is something that every fireman and person in this country who is aware of it will really appreciate.

The people who lay their lives on the line on a day-to-day basis deserve every one of these rights that you are going to speak out to here tonight.

The thing that is so interesting about it in my view is that with the huge deficits we face in this country, the gentleman has come up with an innovative idea, an innovtive way to pay for these benefits, that nobody had thought of before.

Not only has the gentleman come up with something that the firemen really need in this country and this country really needs, and he has done it pretty much by himself by urging us to join him in this effort, but he has also come up with a way to pay for it.

I wish we had 10 or 20 more Members here like you in Congress. Maybe we could figure out a way to balance this Federal budget and end the terrible deficit we face.

I would like to end up by saying once again I consider it an honor to work with the gentleman from Pennsylvania in this effort, and I hope everybody in this country really knows what a great job he is doing for the firefighters. He is to be commended.

Mr. WELDON. I thank the gentleman for his kind comments and once again for his leadership. During the first discussions with him on issues of fire and life safety, he immediately responded because of his commitment that he made in the State of Indiana, and he followed through on that commitment. He was one of the first individuals to come forth to help us by cosponsoring as an original this piece of legislation, and I appreciate that role.

The gentleman hit upon something that I think is very important and not often understood in America, and that is the nature of these men and women who make up the fire service of this country.

I have had the pleasure during my 42 years of life in this country of working as a volunteer firefighter, a volunteer fire chief, president of a fire company, and State fire instructor. I have interacted with these people on a day-to-day basis.

George Bush, our President, talks about 1,000 points of light. We do not have 1,000 points of light in America, we have 32,000 points of light that have been there long before America was founded as a nation, dating back to the 1730's, because there are 32,000 paid and volunteer fire departments in this country. As a matter of fact, 85 percent of them are totally volunteer, people protecting lives and property just because they want to improve their community.

But we as elected officials have sold them short to some extent, because they are not just the men and women who prevent fires and who put out fires. If you think for a moment about your home community, they are the same group of people who respond to any emergency, whether it is Hurricane Hugo in the Carolinas, whether it is the wild land fires in Yellowstone Park, or whether it is the downing of the DC-10 in Sioux City or the nursing home fire in Virginia.

These men and women who respond, respond to any incident involving an emergency. But they do much more than that. If you think for a moment, they are the first people who respond to pump out the cellars when someone's home has been flooded. They are the first people you call when you have to organize a search party because someone's child has been lost. They are the first group of people you go to when you have any community event that needs to be organized.

If you think about mainstream America and you think of this fire and emergency service network, they are the people who organize the July 4 parades, the Memorial Day celebrations; they are the people who raise the money for the family that is burned out. The paid firefighters have consistently year in and year out as a national effort raised money for Jerry Lewis' program and are contributing millions of dollars to help other people.

The men and women who make up the fire and emergency services of this country are not just people who put out fires. They are the people who are involved in our services clubs, who teach in our Sunday schools. They are the people who mold the fabric of our communities. If you think about it, they are really the heart and soul of America. They are the people who provide the foundation of our small towns.

If you think about the young couple that wants to get married, they oftentimes will hold their wedding reception in the fire station. The fire station in many communities is the hub of that community because of what it means to that particular town, whether it is in California or Georgia or whether it is in Texas or up in Maine.

The men and women of the fire service really have in effect for 250 years been the backbone of this country. For

the most part they have risked their lives for us and they have asked so little in return.

What have they asked for? The volunteers are out there raising money to buy their apparatus; they are painting their fire stations; they are going out and giving up their time to be trained and go to drill nights and all the things involved with being a firefighter.

The paid firefighters are doing those extra things that do not come as part of their job, like helping those less fortunate, like raising money for national concerns.

These men and women really typify what this country is all about. They typify what is right with America, because they have asked for so little in return. Oftentimes we in the Federal Government have really slapped their faces. Maybe not deliberately, but just because we have not listened. We have not extended that hand out to them to let them tell us what they need and what their concerns are.

I think of some of the things that occurred in my first term in office here.

□ 2010

The passage of the SARA title III legislation with the Superfund reauthorization, we in the Congress told the American Fire Service that you have to upgrade your training, you have to have state-of-the-art resources to meet hazardous-material responses in your communities, but we are not going to give you any funds to implement that training. We are not going to tell you how to get those resources. In effect, we are going to leave you hanging.

My prediction right now, as I stated on the record in congressional hearings, is that 90 percent of municipalities in America today are out of compliance with SARA title III because we did not listen to the Fire Service before we passed that legislation.

I think of the Department of Transportation last year, an attempt to impose a new licensing regulation for people who drive fire apparatus, for the most part qualified and for the most part licensed by their States. We were going to impose a new regulation which would have cost the average volunteer and paid driver $300 to be nationally certified and would have caused them to miss 3 days of work just to be certified to drive fire apparatus when most States already have that provision; another ridiculous effort on the part of the administration that does not understand what the impact would be at the local level across America.

I think about the efforts over the last 8 to 10 years to zero out the Fire Administration and the Fire Academy, the one National Training Center in Emmettsburg where fire service personnel from all over America come in periodically to be trained in state-of-the-art techniques.

We have attempted through our administration to zero out funding for this effort, not understanding that such a small amount of our Federal dollars, less than $15 million per year, has been used to fund that very important national focus.

When I think of all the money we spend on all the other initiatives, we do not get anywhere near the return that we do for the $15 million per year that has been used to fund the National Fire Administration and the National Fire Academy in Emmettsburg.

An example that came to mind in my first term as a member of the Committee on Armed Services, following the attack on the U.S.S. *Stark* in the Persian Gulf; as a member of the Subcommittee on Sea Power I traveled to the Persian Gulf following that attack. I met with the officers and crew members of the *Stark*. I was in Bahrain when the ship was towed in and saw the physical damage done there.

Following the attack on the *Stark* in which I lost one of my constituents, one of the Navy sailors killed in that incident, I asked for congressional hearings to be held on whether or not we were adequately protecting our sailors onboard our combat ships to deal with fires once they occur from incidents like the attack with the Exocet missile on the *Stark*.

That October, following the attack on the *Stark*, under the leadership of the gentleman from Florida [Mr. BENNETT], chairman of the Subcommittee on Sea Power, we held a 2-hour hearing. We brought in the top Navy brass. Our worst fears were confirmed.

We had allowed Navy fire protection to slip. We had spent more time on exotic weapons systems than basic protection for the young sailors who serve on our combat vessels.

But because of that hearing we were able to immediately reprogram $64 million to buy state-of-the-art equipment, infrared heat-sensing scanning, turnout gear, new pumps and other equipment to put on our combat vessels that were serving in the Persian Gulf and around the world.

Now that was $64 million from one hearing to solve the problem in the Navy. But think for a moment, that is 4 years of funding for the entire fire service in this country. There was something wrong when 3 million men and women, 1½ million of them active, volunteers, paid firefighters could not get the attention of this body and our national leadership just to assist them in doing what they do best, which is serving their fellow mankind all across this Nation.

I told the fire service they had some problems, five of them as a matter of fact.

The most important of those was that the elected officials in America were just not aware of how important these men and women are, not just for life safety but from the standpoint of keeping our municipalities and our communities strong.

Secondarily, I told the fire service they were not unified, they were splinter groups fighting with each other: the firefighters union, the volunteers, the chiefs, the NFTA, all the hundreds of other organizations who represent the 3 million members across this Nation.

I told them if they could unify, they had unlimited potential. The third problem they had was they were not proactive, they were reactive. They were waiting until we in Congress did something to hurt them or the administration did something to hurt them, and then they would have thrown up their hands saying, "What could we do to change that?" Nine times out of ten they were being too late to effect a major policy change.

The fourth thing that I said was that they had to learn to work from within the process. They had to learn to work with the Members of Congress and their staffs who were developing legislation, who were holding hearings and who were going to then hopefully address their concerns nationally.

Finally, I told the fire service that they had to understand one very important political element of our democracy, and that is that they have to become political.

I stressed the point across this country as I traveled through the 29 States in the last 11 months speaking to firefighters all over America that being political does not mean being partisan. It does not mean that you have to paint a donkey or an elephant on the back of your fire truck.

What it means is that you have to let the elected officials of America, whether they be in Washington, the statehouses or the county courthouses or the city halls, know the jobs that they are doing and the respect that they deserve in trying to protect lives and property in this country.

Those were the lessons that we gave to the fire service over the past year. The results speak for themselves.

The 98th caucus on Capitol Hill since the formation of this country has now become the largest, with 358 Members of this body and the other body joining together to listen and to respond to their concerns.

That caucus was not enough. Even though it contains some of the most conservative Republicans from our remote rural districts as well as our most liberal Democrats from inner-city America because the fire service touches every State and every district in this country. But the size of our caucus was not enough.

We had to convince the cynics in Washington this was not going to be a passing fancy, this was going to be a serious effort to change the way we think about these people around this Nation and the problems with which they are confronted.

So we put together a dinner on April 12, the first National Fire and Emergency Services dinner. We picked the largest ballroom in Washington, the ballroom at the Sheraton. It holds 2,000 people. One week before the dinner, we sold the room out. With 2,000 people from all over America joining together to talk about issues involving fire, life safety, emergency response, hazardous materials in one room at one time.

The high honor was that the President, President Bush, came out to give the keynote speech. And because of the influential power of this group we even had Vice President QUAYLE come out and attend our reception and also speak to the group, something that never happens on Capitol Hill, where both the President and the Vice President come out on the same evening to address the same group of people, along with over 80 Members of Congress.

From that one dinner we raised over $400,000, which has funded the Congressional Fire and Emergency Services Institute, a nonprofit professional staff of people who are now working within Congress to address the concerns of the firefighters and the fire service of this country.

The institute's job now is to educate Members and their staffs and the general public on what we should be doing legislatively to assist the fire service of America.

That brings us to our real purpose tonight, our first major legislative initiative, besides those which have been mentioned this evening.

That is the Benjamin Franklin Memorial Fire Service bill of rights. It is entitled the Benjamin Franklin Memorial because Ben Franklin, who died 200 years ago, and in 1990 we will celebrate the 200th anniversary of his death, is the father of the fire service of this country. As the gentlewoman from Kansas [Mrs. MEYERS] said, in 1736 he formed the first fire company in Philadelphia as a volunteer organization.

So what we have done in paying tribute to Ben Franklin is we have put together a piece of legislation to strike a special coin series and this special coin series will honor Ben Franklin, but the $1 piece, the $1 coin, will be a tribute to the fire and emergency service professionals of America. It will depict Ben Franklin in his role as a firefighter and a fire service leader and will for the first time recognize these 3 million people who make up the backbone of this country.

The estimated proceeds from the sale of these coins will benefit and provide support for the fire service bill of rights.

□ 2020

The bill of rights which we are introducing is a generic bill of rights. Not only does it apply nationally, but every State in this Union can take this model and use the same basic rights, but fill in the appropriate programs applicable in their own State. So we offer it in hopes that all the 50 States in this Union will take this series of initiatives and apply to their own State and fill in those programs that would best suit the needs of the fire and emergency services in each individual State.

I want to highlight each of the 10 rights, individually, and then go through the programs and the initiatives that will be contained in the bill of rights. The first right is the right of the fire service in this country to be recognized as America's first responders to all domestic emergencies. When Members think for a moment, as we have mentioned earlier, whenever an emergency occurs in this country, whether it be flood, disaster, earthquake, incidents involving trucks, incidents involving fires, whatever it might be, the first responders are the men and women who are emergency service providers in our fire departments, our rescue and our ambulance companies across this Nation. They deserve to be recognized for that, and to have appropriate recognition annually, as we are doing this week during Fire Prevention Week, as we have done each year with the National Firefighters Day, and as we hope to do with the national emergency services bill, starting next year, to honor one day a year, to pay tribute to those men and women who are our emergency service experts, manning our ambulances and rescue units across America.

The second right is the right to be adequately protected from the dangers associated with emergency response, whether it be the potential from injury, or the potential loss of life because we are dealing with America's most hazardous occupation, be it paid or volunteer, the men and women face the same dangers day in and day out, and deserve to have the best possible resources.

The third right is the right to have their family members, their spouses and their children, adequately protected in the event of a tragic death. Now, last year we increased the death benefit fund paid to a firefighter killed in the line of duty from $25,000 to $50,000. In the bill of rights we will provide an additional benefit to deal with this basic right.

The fourth of the rights of the fire and emergency people nationally is the right to be educated in the latest advances in the fire and life safety sciences, new technologies, computerization, new advances using lasers and other new techniques that can assist people in fire prevention and fire suppression. The men and women of the fire service deserve to have the latest technology available to them and to be educated in the use of that technology.

The fifth is the right to be provided with state-of-the-art equipment and apparatus to better handle all emergency situations. It is a national tragedy that some of our more rural fire departments are using equipment that is second and third generation hand-me-downs, because they cannot get access to surplus Federal equipment that we give away each year, in some cases to foreign nations, that rightfully could go to fire departments in this country to use to protect communities that helped pay for that equipment when it was first purchased.

The sixth right is the right to be able to share innovative fire and life safety programs that have been successful across the country. If we have a problem in recruiting volunteers in Maryland, we can share the experience of a successful program with the volunteers in Oregon or the volunteers in Illinois or any other State across America. The fire service has a right to be able to share this information back and forth, so that it can continue to grow and prosper as a professional discipline in this country.

The seventh right is the right to fully understand and be able to effectively respond to incidents involving the storage, transportation, and use of hazardous materials. There is no more life-threatening situation today than when a group of paid or volunteer firefighters leave the station, knowing that they are going to confront a hazardous material incident. They do not really fully comprehend what is in store for them. As the six Kansas City firefighters who died last November learned, we were not properly prepared for that incident, because we did not provide them the proper support to understand what they should be doing in preparation for a Hazmat incident.

The eighth right is the right to be fully informed of the threat of contracting infectious diseases during the course of life safety activities. Men and women in the fire and emergency services are the first on the scene of car accidents, they are the first to respond to shootings, they are the first to be there, along with our police and law enforcement professionals, to pick up the pieces and to try to right the wrongs, and they expose themselves day in and day out to the potential of contracting AIDS and other diseases. We need to make sure they are properly protected. It is not enough to ask them to do these things as professionals who are being paid, or professionals who were volunteer. They also must be properly protected and know how they can protect themselves from contracting these contagious disease like AIDS.

The ninth right is the right to expect that the American people will become full partners in the struggle to preserve life and property from the ravages of fire and other disasters. The fire service of this country has the right to expect Members to work with them, not just when there is a disaster, and we who are elected offi-

cials can stand in front of a camera and say, "It is a terrible tragedy," and then forget about it for the next 11 months. We need to let them know we will become full partners, we will work with them, whether it is through the legislation, whether it is through the budget process, or giving them the proper recognition they deserve to get the American people on board in this fight that we have, to reduce the absolute embarrassment of America being the most industrialized nation on the Earth today that has the highest incidence of fire loss and fire deaths, because of our lack of understanding of the basic concerns involved with life safety.

The 10th right that the fire service has is the right to celebrate their proud history, the right to celebrate the role they have played for 250 years as the backbone of America. During the 1980's, we, under Ronald Reagan's leadership, celebrate the leadership of our military, and a renewed emphasis on how important our international defenders of freedom are to the rest of the world. I agree with that, and still support that strong defense initiative that was started under Ronald Reagan. However, the 1990's should be the decade of our domestic defenders of our freedoms, and those domestic defenders are the millions of men and women who serve day in and day out as volunteers and as paid individuals, helping to improve their communities. They have a right to celebrate that heritage. This bill of rights will begin to allow them to have that recognition that they certainly deserve.

Now, I would like to go through some of the specific initiatives that we have in the bill of rights. These are not inclusive. There are others that are parts of this, but I will go over the major components of the fire service bill of rights, and I would hope that all of my colleagues, perhaps that are watching this evening, will take it upon themselves to call up and to offer to cosponsor this very significant piece of legislation because of the assistance that it will provide to the millions of firefighters and emergency service responders across America, who will benefit from these initiatives.

The first initiative is a National Hero Scholarship Awards Program. We mentioned that one of the rights of the fire service is the right to have their spouses and their children cared for, if they lose their lives. We have a death benefit fund. This program sets up an endowment that will guarantee a college scholarship to the spouse or child of any firefighter killed in the line of duty. This is something that is a long time coming, that provides a basic reassurance of protection for a firefighter who is injured seriously or eventually dies, from active duty, and wants to have the assurance that their family is going to be properly cared for. This endowment will provide an annual income that will allow Members to provide those scholarships for these family members who remain.

A second initiative is the Hazardous Materials Local Resource Enhancement Program. There is no topic more on the forefront of the minds of the fire service of this Nation than hazardous material. Rather than come up with some cumbersome new program, our goal here is to put resources immediately into the hands of the 32,000 fire departments of this country. This one initiative will put a portable laptop computer in every fire station in America, so that those fire stations locally can put the sitings of hazardous materials in their communities, the types of response that they should apply to the situation involving one of those sites, and will allow them to access national networks like chem track and some of the new initiatives that are going to be coming out in legislation being proposed by my colleague, the gentleman from Ohio [Mr. APPLEGATE] and the gentleman from New York [Mr. BOEHLERT] as well as the gentleman from Missouri [Mr. BUECHNER] and the gentlewoman from Illinois [Mrs. COLLINS], to come up with a more comprehensive data management system nationally in responding to Hazmat incidents.

□ 2030

However, Mr. Speaker, this will put the computers out there in the fire stations across America, and in effect what it will do is computerize the fire service with one shot.

A third initiative is in the In Search of Excellence research and education program which establishes a one-shot research program, once again an endowment that allows us to provide limited funding support for excellence programs that demonstrate excellence in the area of research on fire technologies, as well as educational initiatives.

The fourth initiative establishes a National Fire Center and Museum. The 10th right in the bill of rights was the right that says the fire service should have the right to celebrate their history, their tradition, and the role they play in our society today. They have no such national focus. The bill will establish a National Fire Center here in Washington, DC. Working in conjunction with the D.C. Fire Department and Chief Ray Alfred we are going to put a model fire station in the Fire Center, and we are going to have a National Fire Museum with memorabilia and with equipment from all over the country that celebrates the important contributions that these men and women have made for America over the last 200 years. In addition, it will have provisions for interns to come in from the major science degree programs to assist in the operation of both the center itself and the museum.

A fourth initiative in the bill of rights is a fire service educational advancement program, and here what we are proposing is to take a limited amount of one-shot funds to establish endowments working in cooperation with the International Association of Firefighters, the International Association of Fire Chiefs, the National Volunteer Fire Council, along with the Black Professional Firefighters to establish endowments so that the interest on that money can be used on a matching basis to provide college scholarships for men and women who want to go on and get their fire science degrees or take advanced studies at a college level in the fire and safety sciences.

The next initiative is the Government Procurement Manual so that the 32,000 fire and emergency service departments across this country can have access to one document that clearly and concisely tells them how they can access surplus Federal property to use locally so that, if we have surplus equipment coming off of our military bases or coming from other Federal installations, that our fire service network gets first crack and knows how to access that equipment in a very quick and efficient manner.

The next initiative provides support for an infectious diseases manual that can be used by fire departments all across the country to acquaint their members on precautions they can take to prevent the members from the possibility of contracting AIDS or other diseases in the course of their work. This will be modeled after a program that has already been established for career law enforcement officers across America. We will simply customize and tailor that program to the fire service.

The next initiative is a very important initiative that hits at the heart of, I think, the second-class nature that the administration in recent years has placed on the fire service of this country, and that is the realignment of the National Fire Administration, the U.S. Fire Administration, to move the National Fire Academy back under the direct jurisdiction of the U.S. Fire Administration. Many in this country, especially those leaders in the fire and emergency services, feel that the National Fire Academy at Emmitsburg has been placed subservient to other interests, and our goal here is to very loudly and clearly send a signal that the National Fire Academy deserves to be put back in its rightful place and to be placed back under the control of the U.S. Fire Administration, giving it the prominence that it had when the President's Commission was established under former President Nixon.

The next initiative deals with access to Federal fire resources, fire training resources. Here we are talking about a commitment on the part of our military where we have bases all over the country providing emergency response training to force them to allow the fire service to have access to those training facilities. As a member of the Committee on Armed Services and the Sea Power Subcommittee, I have worked

long and hard to provide 10 computerized fire training simulators to be located across America. I want to make sure that the fire service has access to use those simulators to train their members. I want to make sure that we are using every possible Federal resource available for training to assist those who are paid and volunteers and across America who need training desperately. Also included with this provision is a required study by DOD and the U.S. Fire Administration that would look at Chanute Air Force Base in Rantoul, IL, one of those bases slated for closing in the base closing commission, a base that has been used in recent years by the military, especially the Army and the Air Force, for all of their hands-on fire and emergency services training. What this study will look at is the possibility of taking Chanute at Rantoul and making that an adjunct to the U.S. National Fire Academy where hands-on training could take place, not just for our military and just for our Federal fire forces, but also for the millions of firefighters, both paid and volunteers, across this country.

The next initiative provides model legislation for fire department loan funds. The 32,000 fire departments in America have problems today in buying state-of-the-art apparatus. A new pumper can cost as much as $300,000 or $400,000, an aerial truck as much as $700,000 or $800,000. Smalltown fire departments cannot afford to buy that on their own, but most of them are not asking for handouts. They want the ability to borrow money at competitive rates and to pay it back.

My home State of Pennsylvania has an outstanding example program of providing low-interest money at a reduced cost to the 2,800 fire companies in our State, which they then pay back, to allow them to purchase state-of-the-art fire apparatus. In the history of that program in Pennsylvania there has not been one default on a loan in the fire service, and what I am proposing is that we establish a piece of model legislation that every State can use to establish a loan program and that we include a study for the potential down the road of a national low-interest loan program. Once again, not a grant program, but a set-aside of money that the fire service can borrow at reduced interest rates and then pay back to buy state-of-the-art apparatus and fire equipment.

Finally, the provision in the bill of rights that I am going to outline today is money for burn research. There is no more traumatic experience then to see a young man or a young woman who has been burned in the course of trying to save someone else. We owe it to these proud professionals to make sure that we are putting funds in to do all within our power to rehabilitate burn victims, and this program provides a one-shot, major influx of capital into the nonprofit National Burn Foundation for burn research for new technologies on how we can better treat burn victims, be they firefighters or be they ordinary citizens.

So, my colleagues, what we have here is a comprehensive series of initiatives that will support these heroes of America, these domestic heroes, who have been out there for 250 years defending our towns, our cities, and our localities, whether it be rural, suburban, or urban. It is the least that we can do to assist them.

Mr. Speaker, the bottom line is that it is not going to cost the taxpayers one dime. It provides for the coin series. The estimates are that we can raise $100 million. We are going to take $80 million of that and turn it right back into the fire service, and one of the little marketing gimmicks that we are exploring is the possibility of having local fire departments across the country who want to assist us in the marketing efforts for the coin series, and, as we have done with other coins, allows them to share the benefits of reaping part of the profit of selling the coins, as we have done in other cases. So, in effect, the local fire departments, especially the volunteers, could actually make money off of selling this coin series that is going to directly benefit them to the tune of $80 million of initiatives.

My colleagues, this is a reality. It is going to be announced nationally tomorrow at a press conference on the steps of the Capitol Building where a number of my colleagues will join me along with the leader of the fire service. It is a jumping-off point. Perhaps we will have some revision and changes, but the key bottom line is that we want to fast-track this piece of legislation to let these people know that no longer are they forgotten, no longer are they out there serving their communities as unsung heroes.

Mr. Speaker, the sleeping giant has awakened in America, and that sleeping giant consists of 3 million men and women who now say they want our assistance, they want our help, and they expect us to respond.

□ 2040

I ask my colleagues to join with me and the other 60 Members who have already indicated that they are going to cosponsor the Benjamin Franklin Memorial Fire Service bill of rights.

THE SPREADING AIDS EPIDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I am not going to take over 10 minutes, and I want to tell the people at the front desk that I appreciate their working so late tonight so we can have these special orders.

What I want to talk about briefly tonight is the latest information we have on the AIDS epidemic. Each week I try to bring my colleagues up to date and those who are interested up to date on what is going on with the AIDS epidemic.

I was talking to some people in the Cloakroom a few minutes ago and we were talking about some of the AIDS problems, and they said, "Well, it's like a lot of things. If you try to ignore it, it may go away."

The fact of the matter is this is one issue that certainly is not going to go away. As a matter of fact, it is going to get worse and worse and worse as each day, week, and month goes by.

I started talking about this issue about 2 of 3 or 4 years ago trying to keep my colleagues and anyone who is interested aware of how rapidly this disease has been developing. It is becoming the major health issue of the 20th century, and by the 21st century it may be the biggest catastrophe that mankind has ever faced.

In 1983, we had 4,200 cases of AIDS, people dead or dying from AIDS.

By 1984, that had more than doubled to 9,900 cases.

By 1985, it had doubled again to over 20,000 cases.

By 1986, it had gone up to 35,000 cases.

By 1987, it had gone up to 48,139 cases of people dead or dying.

By 1988, it had gone up to 80,538 people dead or dying, and by the end of this year it is projected that we are going to have 130,000 people dead or dying of the AIDS virus.

Now, if you extrapolate these figures out, you will find that the disease is doubling at least every 2 years and in some 2 year periods it is going up by as much as 130 percent.

Now, if you extrapolate these figures out, in 1991 we will have at least 250,000 to 260,000 dead or dying in this country of AIDS, and we could have as many as 280,000.

In 1992, we will have 375,000 minimum, up to 465,000 dead or dying.

By 1993, we will have between half a million and 650,000 dead or dying.

By 1995, just 6 years from now, we will have a million people dead or dying, up to a million and a half.

By 1997, we will have between 2 and 3½ million dead or dying, and by 1999, 10 years from now, before the turn of the century, we will have at least 4 million dead or dying and as many as 8.1 million dead or dying.

Now, those figures are catastrophic. The only thing that even comes close to approaching this kind of a catastrophe is what happened during the bubonic plague in the 14th and 15th centures in Europe when about half the people were wiped out because of that disease.

Now, if this disease becomes an aerosol spread disease, it could be worse than these figures we have so far.

The reason I bring this up tonight is because we need to be aware of what is going on. Everybody thinks it is going to happen to the guy down the block

or the guy in the next State, but it is not going to happen to them. Today in the paper, the Baltimore Sun, the front page, the second section, B-1 it says that 2 to 3 percent of the babies born in those hospitals are exposed to HIV. That is the AIDS virus. Two to three percent of the women delivering babies in Baltimore hospitals are HIV infected, which means that between 260 and 400 infants a year are being exposed to the AIDS virus, according to a University Hospital obstretician-gynecologist. That is a terrible statistic.

Not too long ago, it was reported after a national survey that one out of every 500 college students has the AIDS virus. That means that 1 out of every 500 college students has the ability to transmit this disease to everyone with whom they come in contact sexually. That disease is spreading rapidly in the college community, and each one of those people who become infected within a 10- to 20-year period is almost 100 percent sure of dying from AIDS, AIDS-related complex, or basic diseases that take advantage of the immune system being broken down by the AIDS virus.

Now, the most sexually active group in America, or one of the most sexually active groups that we have not talked about, is our teenagers. In a recent study that was reported in the New York Times, it indicates that as many as 1 percent of the young teenagers in this country may have the AIDS virus. In fact, in New York City this article says that from 70 to 1,000 to 3 in 1,000 young people, depending on the population, are infected with the AIDS virus. Well, let us just take that larger figure. If 70 out of 1,000 people, teenagers in that city are infected with the AIDS virus, that is almost 10 percent. That is a tragic figure.

But let us take the lower figure of 1 percent or 1 or 2 percent of the teenagers. As active as these young people are, this AIDS virus will spread at a very rapid rate. If it doubles as we have talked about, as the statistics show that it is going to be doing over the next 2 years and every 2 years after that, then we know that an awfully large percentage of the young people in this country, which is the lifeblood of America, the future of this country, is in jeopardy of dying of the AIDS virus.

Now, the reason I bring this up about the babies tonight, about the college students, about the teenagers, is to point out this is just not a homosexual disease, as has been told to us by many people in this country. This is a heterosexually transmitted disease. It is transmitted through needles in the drug culture. It is transmitted through the homosexual community, and it is transmitted through the heterosexual community. We need to make sure that everyone is aware of that.

No one is safe from the AIDS virus if they are sexually promiscuous or if they are dealing with needles in the drug culture.

Now, many of the so-called experts in the medical profession will say that we should use condoms, that is the only way to be safe from getting AIDS if you are sexually active. The fact of the matter is that condoms may slow down the spread of the disease, but it is no panacea. It is not 100 percent effective. I use the analogy that it is analogous to a person playing Russian roulette with two bullets in a gun instead of six. Your chances are still very great that you are going to get the AIDS virus even if you use the device, and the people of this country ought to know that. Instead of telling on television and through the media of this country that there is such a thing as safe sex, we should be telling them there is such a thing as maybe safer sex, but there is no such thing as safe sex if you involve yourself in an illicit sexual encounter and if you do it continually, you run a very great risk of getting the AIDS virus. There is no such thing as safe sex, outside of a monogamous relationship with one person.

Now, let me just say that I think it is extremely important that we in this body and in the other body get our heads out of the sack and start looking at what is going on around us. The teenagers are being infected with this disease. The babies are being infected with this disease. The college students are being infected with this disease. The adults in this country are being infected with this disease, and it is spreading at a relatively rapid rate, a very rapid rate.

If these extrapolations are accurate, we are going to have 4 million people dead or dying of this terrible disease by 1999. We only have 1.3 million hospital beds in this country. Where are we going to put all these people? How are we going to take care of their health care needs? How are we going to pay for it? These are very important questions that need to be answered.

Now, myself and many of my colleagues are now starting to come up with a comprehensive program that we suggested legislatively in this body and the other body to deal with this horrible pandemic, but so far we have not had any hearings or have been able to get the legislation to the floor for a vote.

So I would like to say to my colleagues tonight, we need a program, a comprehensive program to deal with the AIDS virus which includes education, and I mean accurate education, not just telling young people in this country on television that if you use a condom you are safe from getting the AIDS virus, which is an out and out lie. It might reduce your risk, but it certainly is no panacea and it is not going to protect you 100 percent.

□ 2050

The risk is still there, and it is a very great risk. There is no such thing as safe sex outside of monogamous relationship. We need to educate young people to that. We need to also tell people of this country, in addition to education, that we need to have a contact-tracing program to find out who is spreading this disease and try to convince them to not continue spreading it by going out after they know they have the AIDS virus and having relations with people outside the AIDS community.

That brings me to my third point. In order to tell those people that they have the AIDS virus, in order to help ensure there is contact tracing so we can stop this chain of spread of this terrible disease, we need to have testing. We need to have a routine testing or mandatory testing program for the population of this country. It is economically feasible. The military has done it each and every year with 2 million people in the military, and it can be done for as low as $5 per person, and that includes the ELISA test and the western block test which is almost 100 percent foolproof as far as telling whether a person is really HIV positive or not, positive for the AIDS virus. So we need contact tracing, we need education, we need scientific research, and we need testing.

Until my colleagues come to grips with this, this pandemic is going to continue to spread at a very, very rapid rate. I ask my colleagues each week, and I ask everyone else who is paying attention, are we going to continue this see no evil, hear no evil, speak no evil approach toward AIDS, or are we going to do something about it. And each and every day we wait, more people are condemned to death, and more people are at risk for getting this virus.

Listen to these figures, my colleagues. Four million people in this country dead or dying of AIDS by 1999, and as many as 8.1 million. When are we going to act?

I submit to the Members that the evidence is overwhelming that we should act now, and we should act in an expeditious manner. We should think this program out very thoroughly and get the job done. The American people will applaud us for it.

Mr. Speaker, every single poll that has been taken on the AIDS virus as far as testing is concerned and a comprehensive program has the overwhelming support of the people of this country. They realize what we are up against. It is time Congress got in step with the majority of the people of this country to protect the health and the future of the Nation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special

orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WELDON) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Washington, for 20 minutes, on October 31.

Mr. UPTON, for 60 minutes, on October 18, November 1, and November 15.

Mr. WALSH, for 60 minutes, on October 25 and November 8.

Mr. DREIER of California, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LUGO, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, on October 13 and 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DYMALLY and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and estimated by the Public Printer to cost $3,168.75.

(The following Members (at the request of Mr. WELDON) to revise and extend their remarks and include extraneous matter:)

Mr. MCCOLLUM.

Mr. CLINGER in two instances.

Mr. ROTH.

Mr. PURSELL.

Mr. BAKER.

Mr. VANDER JAGT.

Mr. ROBERT F. (BOB) SMITH.

Mr. OXLEY.

Mr. DUNCAN.

Mr. COURTER.

Mr. CONTE.

Mr. LAGOMARSINO.

Mr. PORTER.

Mrs. ROUKEMA.

Mr. MACHTLEY.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous matter:)

Mr. KANJORSKI in two instances.

Mr. SMITH of Florida.

Mr. DOWNEY.

Mr. GARCIA.

Mr. ATKINS.

Mr. CROCKETT.

Mr. PENNY.

Mr. ROE.

Mr. HAMILTON.

Mr. TOWNS.

Mr. FLORIO.

Mr. RANGEL.

Mr. GUARINI in two instances.

Mr. STARK in three instances.

Mr. ECKART.

Mr. HAWKINS.

Mr. RAHALL.

Mr. BERMAN.

Mr. TRAFICANT in two instances.

Mr. ENGEL.

Mr. MAZZOLI.

Mr. CAMPBELL of Colorado.

Mr. DYSON.

Mr. OWENS of New York.

Mr. HERTEL.

Mr. TALLON.

Mr. ROSTENKOWSKI.

Mr. GRAY.

Mr. STUDDS.

Ms. PELOSI.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1300. An act to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990;

H.R. 2788. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes;

H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month;"

H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day;" and

H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month."

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 53 minutes p.m.) the House adjourned until tomorrow, Thursday, October 12, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1812. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 333(b) of the Consolidation Farm and Rural Development Act to permit county committee certification of eligibility for farm operating loans for periods of up to 2 years; to the Committee on Agriculture.

1813. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to remove the prohibition against charging interest on interest which is less than 90 days overdue in order to facilitate the rescheduling and reamortization of loans made by the Secretary of Agriculture under the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

1814. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to provide for a time limit of 10 years on servicing water and water disposal grants or industrial development grants made under the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

1815. A letter from the Director, Congressional Budget Office, transmitting his final sequestration report for fiscal year 1990, pursuant to 2 U.S.C. 902; to the Committee on Appropriations.

1816. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles (Transmittal No. 90-05), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1817. A letter from the Secretary of Education, transmitting a draft of proposed legislation to terminate the Intergovernmental Advisory Council on Education, and for other purposes; to the Committee on Education and Labor.

1818. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles and services (Transmittal No. 90-05), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1819. A letter from the Director of the Defense Security Assistance Agency, transmitting a proposed memorandum of understanding [MOU] with the Government of the Federal Republic of Germany concerning a joint project for harmonization, development, production, and support of a maritime patrol aircraft (Transmittal No. 04-89), pursuant to 10 U.S.C. 4542(e); to the Committee on Foreign Affairs.

1820. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting language to authorize $200 million for assistance to Poland drafted as title IV of "Poland and Hungary Democracy Act of 1989"; to the Committee on Foreign Affairs.

1821. A letter from the Deputy Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1822. A letter from the Deputy Associate Director, Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1823. A letter from the Deputy Administrator, National Oceanic and Atmospheric Administration, transmitting notificaiton of the intention to award a contract for the performance of certain commercial-type functions at the Integrated Systems Laboratory of the National Weather Service, located in Silver Spring, MD, pursuant to 15 U.S.C. 1530; to the Committee on Science, Space, and Technology.

1824. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to make uniform the provisions for determining the interest rate on notes issued by the Secretary of Agriculture for the purposes of obtaining funds for the Agriculture Credit Insurance Fund, the Rural Development Insurance Fund, and the Rural Housing Insurance Fund; jointly to the Committee on Agriculture and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were deliverd to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 262. A resolution providing for a motion to dispose of the Senate

amendments to the bill H.R. 2978 (Rept. 101-275). Referred to the House Calendar.

Mr. ROYBAL: Committee of conference. Conference report on H.R. 2989 (Rept. 101-276). Ordered to be printed.

MR. UDALL. Committee on Interior and Insular Affairs. H.R. 2854. A bill to authorize the exercise of State jurisdiction over a portion of Indian country located in Commanche County, Oklahoma, for certain purposes; with amendments (Rept. 101-277). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3402. A bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform (Rept. 101-278, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Tennessee:

H.R. 3433. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986; to the Committee on Ways and Means.

H.R. 3434. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 3435. A bill to improve the delivery of water and waste water services in rural areas; to the Committee on Agriculture.

By Mr. BROOKS:

H.R. 3436. A bill to clarify the application of the antitrust laws to certain agreements imposing territorial limitations on the distribution of trademarked malt beverages for resale; to the Committee on the Judiciary.

By Mr. CLINGER:

H.R. 3437. A bill to amend the Internal Revenue Code of 1986 to encourage the continued exploration for and production of domestic oil and natural gas resources; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 3438. A bill to make certain improvements with respect to judicial proceedings relating to American Samoa, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and the Judiciary.

By Mr. GUARINI (for himself, Mr. RANGEL, Mr. COUGHLIN, Mr. FLORIO, MR. HUGHES, Mr. GILMAN, Mr. GONZALEZ, Mr. FASCELL, Mr. FAUNTROY, Mr. GRANT, Mr. SHAYS, Mr. OXLEY, Mr. SMITH of Florida, Mr. MFUME, Mr. TRAFICANT, Mr. AKAKA, Mr. TOWNS, Mr. RITTER, Mr. PALLONE, Mr. DYMALLY, and Mr. ACKERMAN):

H.R. 3439. A bill to direct the Secretary of the Treasury to instruct the United States representatives to the multilateral development banks to consider, in voting on any debt reduction loan to a country, the country's progress in reducing drug trafficking; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DREIER of California:

H.R. 3440. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the use of long-term health care insurance and group health insurance with a high deductible; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HATCHER:

H.R. 3441. A bill to suspend temporarily the duty on fluometuron and diuron; to the Committee on Ways and Means.

By Mr. HAYES of Louisiana (for himself, Mr. TAUZIN, Mr. ROE, Mr. GOSS, Mr. LAUGHLIN, Mr. LIVINGSTON, Mr. FLIPPO, Mr. HUTTO, Mr. PERKINS, Mr. DYMALLY, Mr. SMITH of Vermont, Mr. RAVENEL, Mr. FORD of Michigan, Mr. PAXON, and Mr. LIPINSKI):

H.R. 3442. A bill to amend the Endangered Species Act of 1973 to ban the importation of shrimp into the United States from nations whose fishing practices or other activities adversely affect sea turtles; to the Committee on Merchant Marine and Fisheries.

By Mr. OBERSTAR (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. CLINGER, Mr. DEFAZIO, Mr. DE LUGO, Mr. SAVAGE, Mr. BORSKI, Mr. KOLTER, Mr. VALENTINE, Mr. TOWNS, Mr. LIPINSKI, Mr. TRAFICANT, Mr. LIGHTFOOT, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. CLEMENT, Mr. COSTELLO, Mr. GEREN, Mr. FROST, and Mr. BRYANT):

H.R. 3443. A bill to amend the Federal Aviation Act of 1958 to provide for review of certain acquisitions of voting securities of air carriers, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. PATTERSON:

H.R. 3444. A bill to amend title 38, United States Code, with respect to veterans vocational education; to the Committee on Veterans' Affairs.

By Mr. PENNY (for himself, Mr. OLIN, and Mr. PAYNE of New Jersey):

H.R. 3445. A bill to entitle employees to maternity leave in certain cases involving the birth or adoption of a child, with protection of the employees' employment and benefit rights, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHUMER (for himself, Mr. GEKAS, Mr. SMITH of Florida, Mr. BRYANT, Mr. SANGMEISTER, and Mr. COBLE):

H.R. 3446. A bill to amend title 18, United States Code, to provide for a Shock Incarceration Program; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mrs. SAIKI):

H.R. 3447. A bill to facilitate the effective management of fisheries resources in U.S. waters by including tuna in the regulatory structure under the Magnuson Fishery Conservation and Management Act; to the Committee on Merchant Marine and Fisheries.

By Mr. ROBERT F. SMITH (for himself, Mr. DENNY SMITH, and Mr. DEFAZIO):

H.R. 3448. A bill to convey certain Oregon and California Railroad grant lands in Josephine County, OR, to the Rogue Community College District; to the Committee on Interior and Insular Affairs.

By Mr. SPRATT (for himself, Mr. RAVENEL, Mr. TALLON, and Mr. SPENCE):

H.R. 3449. A bill to provide tax assistance for forest landowners who suffered timber damage and loss as a result of Hurricane Hugo; to the Committee on Ways and Means.

By Mr. MICHEL (for himself and Mr. GEPHARDT):

H.J. Res. 419. Joint resolution designating 1990 as the "Year of the Eagle Scout"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL (for himself and Mr. GEPHARDT):

H. Con. Res. 212. Concurrent resolution to recognize the 75th anniversary of the International Ladies Garment Workers' Union [ILGWU] Health Center; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

289. By the SPEAKER: A memorial of the Legislature of the State of California, relative to offshore drilling; to the Committee on Interior and Insular Affairs.

290. Also, memorial of the Legislature of the State of California, relative to Filipino veterans; to the Committee on the Judiciary.

291. Also, memorial of the Legislature of the State of California, relative to timber resources; jointly, to the Committee on Agriculture and Interior and Insular Affairs.

292. Also, memorial of the House of Delegates, Republic of Palau, relative to funding to complete the water systems of the Palau Rural Systems Project; jointly, to the Committee on Foreign Affairs and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

By Mr. DANNEMEYER introduced a bill (H.R. 3450) for the relief of James and Sheryl Labowe, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. JONTZ.

H.R. 45: Mr. FLORIO.

H.R. 104: Mr. YOUNG of Alaska and Mr. BRUCE.

H.R. 201: Mr. FISH.

H.R. 215: Mr. YATRON and Mr. BERMAN.

H.R. 239: Mr. ROHRABACHER.

H.R. 488: Mr. YOUNG of Florida.

H.R. 531: Mr. SMITH of Florida and Ms. SLAUGHTER of New York.

H.R. 638: Mr. MILLER of Washington and Mr. DICKS.

H.R. 718: Mr. FROST.

H.R. 720: Mr. COLEMAN of Texas.

H.R. 746: Mrs. SCHROEDER, Mr. RUSSO, and Mr. ROYBAL.

H.R. 933: Mr. WISE, Mrs. SCHROEDER, and Mr. GARCIA.

H.R. 937: Mr. ANDREWS, Mr. SCHUETTE,AND Mr. SLATTERY.

H.R. 1036: Mr. RAVENEL, Mr. GAYDOS, Mr. HOLLOWAY, Mr. TALLON, and Ms. LONG.

H.R. 1043: Mr. RAY, Mr. PENNY, and Mr. SCHIFF.

H.R. 1083: Mr. CROCKETT, Mr. BOEHLERT, Mr. HATCHER, Mr. ROSE, Mr. PASHAYAN, Mrs. VUCANOVICH, Mr. SCHUMER, Mr. GORDON, Mr. HUBBARD, Mr. LANTOS, Mr. CRAIG, and Mr. BRYANT.

H.R. 1092: Mr. MILLER of Ohio, Mr. PALLONE, and Mr. ATKINS.

H.R. 1136: Mr. BOSCO, Mr. HOLLOWAY, and Mr. GALLO.

H.R. 1227: Mr. IRELAND, Mr. CRAIG, Mr. GALLO, and Mr. DANNEMEYER.

H.R. 1236: Mr. MURTHA, Mr. PALLONE, Ms. KAPTUR, and Mr. DONNELLY.

H.R. 1243: Mr. DAVIS.

H.R. 1437: Mr. COBLE, Mr. MADIGAN, Mr. WALKER, Mr. LIGHTFOOT, Mr. DANNEMEYER,

Mr. KYL, Mr. DICKINSON, Mr. COMBEST, Mr. LAGOMARSINO, Mr. GALLEGLY, Mr. PACKARD, Mr. YOUNG of Alaska, Mr. COURTER, Mrs. MARTIN of Illinois, Mr. MARTIN of New York, and Mr. HUGHES.

H.R. 1593: Mr. DAVIS, Mr. KASICH, Mr. DICKINSON, Mr. MACHTLEY, and Mr. JONES of North Carolina.

H.R. 1649: Mr. NEAL of North Carolina and Mr. BROOKS.

H.R. 1654: Mr. MACHTLEY, Mr. BUSTAMANTE, Mr. MFUME, Mr. WISE, Mr. FLORIO, Mr. COURTER, Mr. COX, Mr. HANCOCK, and Mr. DAVIS.

H.R. 1677: Mr. SPRATT.

H.R. 1730: Mr. GLICKMAN, Mr. KOLTER, Mr. NATCHER, Mr. LEACH of Iowa, and Mr. KILDEE.

H.R. 2041: Mr. VALENTINE.

H.R. 2044: Mr. MARKEY and Mr. BOSCO.

H.R. 2237: Mr. WILLIAMS and Mr. FOGLIETTA.

H.R. 2290: Mr. FISH.

H.R. 2335: Mr. VALENTINE.

H.R. 2378: Mr. BROOKS.

H.R. 2460: Mr. SCHUETTE and Mr. PALLONE.

H.R. 2580: Mr. EVANS and Mr. SCHEUER.

H.R. 2700: Mr. LEACH of Iowa and Mr. MOORHEAD.

H.R. 2708: Mr. HAMILTON.

H.R. 2734: Mr. MRAZEK, Mr. WALKER, Mr. OWENS of Utah, Mr. DELLUMS, and Mr. MACHTLEY.

H.R. 2891: Mr. LEWIS of Georgia, Mr. LAGOMARSINO, Mr. VALENTINE, and Mr. ATKINS.

H.R. 2972: Mr. HUBBARD, Mr. BRYANT, Mr. ATKINS, and Ms. ROS-LEHTINEN.

H.R. 3004: Mr. DICKS, Mr. HASTERT, Mr. SWIFT, and Mr. WALSH.

H.R. 3028: Mr. STUDDS, Mr. JONTZ, and Mrs. BOXER.

H.R. 3050: Mr. TOWNS, Mr. BATES, Mr. BERMAN, Mr. FAZIO, Mr. FUSTER, Mr. GEJDENSON, Ms. PELOSI, Mr. JOHNSON of South Dakota, Mr. OWENS of New York, Mr. KOSTMAYER, and Mr. SCHEUER.

H.R. 3136: Ms. SLAUGHTER of New York.

H.R. 3191: Mr. HOCHBRUECKNER, Mr. TORRICELLI, Mr. PEASE, Mr. JONTZ, and Mr. ATKINS.

H.R. 3211: Mr. HUBBARD.

H.R. 3234: Mr. BARNARD.

H.R. 3257: Mr. GEKAS and Mr. ATKINS.

H.R. 3267: Mr. FLIPPO.

H.R. 3274: Mr. RAY, Mr. CAMPBELL of Colorado, Mr. MARTIN of New York, and Mr. EVANS.

H.R. 3288: Mr. CHAPMAN and Mr. SMITH of Texas.

H.R. 3290: Mr. HERTEL.

H.R. 3294: Mr. FASCELL, Mr. ORTIZ, Mr. KOLTER, Mr. GILMAN, Mr. ATKINS, Mr. ROE, Mr. SIKORSKI, and Mr. TRAXLER.

H.R. 3297: Mr. HAYES of Illinois and Mr. NIELSON of Utah.

H.R. 3317: Mr. RAY, Mr. PENNY, and Mr. SCHIFF.

H.R. 3321: Mr. MCEWEN, Mr. BRUCE, Mr. HOUGHTON, Mr. BATEMAN, Mr. CHAPMAN, Mr. HAMMERSCHMIDT, Mr. RAY, Mr. CLARKE, Mr. VALENTINE, Mr. WILSON, and Mr. HAMILTON.

H.R. 3322: Mr. BUNNING, Mr. VALENTINE, Mr. BEREUTER, Mr. LAGOMARSINO, Mr. NIELSON of Utah, and Mr. LIPINSKI.

H.R. 3347: Mr. GOODLING, Mrs. JOHNSON of Connecticut, Mr. RHODES, Mr. BOEHLERT, Mrs. SAIKI, Mr. IRELAND, Mr. COX, Mr. GILLMOR, Mr. WALSH, Mr. GINGRICH, Mr. HOLLOWAY, Mr. ROTH, Mr. WEBER, Mr. HUNTER, Mr. BALLENGER, Mr. TRAFICANT, Mr. PAXON, and Mr. WALKER.

H.R. 3362: Mr. WOLPE, Mr. BATES, Mr. BEILENSON, Mr. OWENS of New York, Mr. FUSTER, Mr. BRYANT, and Mr. ATKINS.

H.R. 3380: Mr. GRANT, Mr. GEJDENSON, Mr. OWENS of Utah, Mr. ECKART, Ms. SCHNEIDER, Mr. JACOBS, Mr. SHARP, Ms. KAPTUR, Mr. NEAL of Massachusetts, Mr. TRAFICANT, Mr. STOKES, Mr. JONTZ, Mr. FRANK, Mr. MILLER of Ohio, Mr. SYNAR, Mr. HANSEN, Mr. SOLOMON, Mr. WOLPE, Mr. MACHTLEY, Mr. PEASE, Mr. KASICH, Ms. OAKAR, Mr. DONALD E. LUKENS, Mrs. COLLINS, Mr. COURTER, Mr. DAVIS, Mr. STUDDS, Mr. HAYES of Illinois, Mr. HAMILTON, Mr. DOWNEY, Mr. BURTON of Indiana, Mr. SANGMEISTER, Mr. GILLMOR, Mr. LIPINSKI, Mr. MCNULTY, Mr. WALGREN, Mr. PORTER, Mr. DONNELLY, Mr. ATKINS, and Mr. RAVENEL.

H.R. 3386: Mr. COURTER, Mr. GALLO, Mr. PURSELL, Mr. MCEWEN, Mr. HORTON, Mr. BURTON of Indiana, Mr. WHITTAKER, Mr. LIVINGSTON, Mr. LIPINSKI, and Mr. ATKINS.

H.R. 3391: Mr. STARK, Mr. KANJORSKI, Mr. MILLER of California, Mr. MOAKLEY, Mrs. BOXER, Mr. HUGHES, Mr. FRANK, Mr. TOWNS, and Mr. OWENS of New York.

H.R. 3395: Mr. OLIN.

H.R. 3401: Mr. MORRISON of Connecticut and Mr. KILDEE.

H.R. 3418: Mr. NEAL of North Carolina.

H.R. 3419: Mr. NEAL of North Carolina.

H.R. 3430: Ms. PELOSI, Mrs. COLLINS, and Mr. ROGERS.

H.J. Res. 98: Mr. SHUMWAY.

H.J. Res. 142: Mr. APPLEGATE, Mr. ATKINS, Mr. BATES, Mr. BORSKI, Mr. BOUCHER, Mr. BRENNAN, Mr. COSTELLO, Mr. DIXON, Mr. DONNELLY, Mr. ENGLISH, Mr. DERRICK, Mr. FLORIO, Mr. FOGLIETTA, Mr. GRAY, Mr. HAMILTON, Mr. HAYES of Illinois, Mr. HOCHBRUECKNER, Mr. JONES of North Carolina, Mr. MCCLOSKEY, Mr. MFUME, Mr. MILLER of California, Ms. OAKAR, Mr. OBERSTAR, Mr. PEASE, Mr. PENNY, Mr. PICKETT, Mr. POSHARD, Mr. ROBINSON, Mr. SABO, Mr. SAVAGE, Mr. SCHUMER, Mr. SKELTON, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SOLARZ, Mr. STENHOLM, Mr. STUDDS, Mr. SISISKY, Mr. SYNAR, Mr. TAUZIN, Mr. TORRES, Mr. TRAFICANT, Mr. VOLKMER, Mr. WILSON, Mr. BILIRAKIS, Mr. BUNNING, Mr. COURTER, Mr. DELAY, Mr. EDWARDS of Oklahoma, Mr. GALLO, Mr. GOODLING, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. HENRY, Mr. HILER, Mr. INHOFE, Mr. LENT, Mr. MADIGAN, Mrs. MARTIN of Illinois, Mr. PASHAYAN, and Mr. STEARNS.

H.J. Res. 206: Mr. DORNAN of California and Mr. HAMILTON.

H.J. Res. 223: Mr. YOUNG of Alaska and Mr. TAUZIN.

H.J. Res. 241: Mr. MCDERMOTT, Mr. HAWKINS, Mr. DICKINSON, Mrs. SAIKI, Mr. GARCIA, Mr. BORSKI, Mr. STOKES, Mr. BEILENSON, Mr. MCGRATH, Mr. GREEN, AND Mr. PICKETT.

H.J. Res. 248: Mr. BEVILL, Mr. BRENNAN, Mr. GORDON, Mr. HANCOCK, Mr. HAMMERSCHMIDT, Mr. KANJORSKI, Mr. MAVROULES, Mr. MCDERMOTT, Mr. MURPHY, Mr. ROYBAL, Mr. SCHUMER, and Mr. SMITH of Florida.

H.J. Res. 255: Mr. LAFALCE, Mr. KANJORSKI, and Mr. MAZZOLI.

H.J. Res. 275: Mr. GRANT, Mr. BLAZ, Mr. ROTH, Mr. YOUNG of Florida, Mr. HEFLEY, Mr. ROWLAND of Georgia, Mr. COX, Mr. CALLAHAN, Mr. BARNARD, Mr. ROBERTS, Mr. GALLEGLY, Mr. MICHEL, Mr. DREIER of California, Mr. COLEMAN of Texas, Mr. DURBIN, Mr. PURSELL, Mr. MANTON, Mr. HYDE, Mr. EDWARDS of Oklahoma, Mr. STOKES, Mr. STEARNS, Mr. FLORIO, Mr. WISE, Mr. BARTLETT, Mr. DAVIS, Mr. WATKINS, Mr. PAXON, Mr. RUSSO, Mrs. SMITH of Nebraska, Mr. BOEHLERT, Mr. FISH, Ms. SLAUGHTER of New York, and Mr. MOLLOHAN.

H.J. Res. 286: Mr. COX, Mr. FAUNTROY, Mr. APPLEGATE, Ms. OAKAR, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. ORTIZ, Mr. OBERSTAR, Mr. HYDE, Mr. IRELAND, Mr. BEVILL, Mr. FUSTER, Mr. RINALDO, Mr. KASICH, Mr. HEFNER, Mr. SOLOMON, Mr. ROBERTS, Mr. ROBINSON, Mrs. BYRON, Mr. CARR, Mr. JONES of North Carolina, Mr. GINGRICH, Mr. DORNAN of California, Mr. GREEN, Mr. ROWLAND of Georgia, Mr. HATCHER, Mr. HUBBARD, Mr. SPRATT, Mr. TAUKE, Mr. TALLON, Mr. TORRICELLI, Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Mr. MARKEY, Mr. MCDADE, Mr. LIVINGSTON, Mr. MURPHY, Mr. SMITH of New Jersey, Mr. VALENTINE, Mr. TOWNS, Mr. YATRON, Mr. CALLAHAN, Mr. DIXON, Mr. VANDER JAGT, Mr. MILLER of California, Mrs. BENTLEY, Mr. SKELTON, Mr. TRAFICANT, and Mr. SABO.

H.J. Res. 346: Mr. TALLON, Mr. GRANT, Mr. MCDADE, Mr. HUBBARD, Mr. SAVAGE, Mr. HYDE, Mr. LEVIN of Michigan, Mr. DYMALLY, Mr. WYLIE, Mrs. UNSOELD, Mr. HOYER, Mr. DARDEN, Mr. CARR, Mrs. SAIKI, Mr. MILLER of California, Mr. HATCHER, Mrs. VUCANOVICH, Mr. SMITH of New Jersey, Mr. COLEMAN of Missouri, Mr. SOLOMON, Mr. BALLENGER, Mr. MAZZOLI, Mrs. LOWEY of New York, and Mr. PACKARD.

H.J. Res. 373: Mr. SAWYER, Mrs. VUCANOVICH, and Mr. BATEMAN.

H.J. Res. 374: Ms. SLAUGHTER of New York, Mr. APPLEGATE, Mr. JAMES, Mr. HORTON, Mr. TRAXLER, Mr. TOWNS, Mr. BENNETT, Mr. MCGRATH, and Mr. PANETTA.

H.J. Res. 388: Mr. ROGERS, Mr. ANTHONY, Mr. ALEXANDER, and Mr. LEACH of Iowa.

H.J. Res. 389: Mr. ATKINS, Mr. CHAPMAN, Mr. FISH, Mr. GRANT, Mr. HOCHBRUECKNER, Mr. MOODY, and Mr. PAYNE of Virginia.

H.J. Res. 396: Mr. ATKINS, Mr. DELLUMS, and Mr. FORD of Tennessee.

H.J. Res. 397: Mr. ROWLAND of Connecticut, Mr. EVANS, Mr. GINGRICH, Mrs. MARTIN of Illinois, Mr. POSHARD, Mr. FLORIO, Mr. HALL of Texas, Mr. NIELSON of Utah, Mr. MOAKLEY, Mr. BUNNING, Mr. NEAL of Massachusetts, Mr. KENNEDY, Mr. ATKINS, Mr. ROSE, Mr. FAWELL, Mr. EARLY, Mr. WYLIE, Mr. LIPINSKI, Mr. ROE, Mr. SMITH of New Jersey, Mr. GRANT, Mr. ROBINSON, Mr. ANTHONY, Mr. FUSTER, Mr. PAYNE of New Jersey, Mr. PRICE, Mr. MANTON, Mr. SPRATT, Mr. BILIRAKIS, Mr. GALLO, Mr. HAMMERSCHMIDT, Mr. VOLKMER, Mr. WOLF, Mr. MCNULTY, and Ms. OAKAR.

H. Con. Res. 88: Mr. SAXTON.

H. Con. Res. 138: Mr. SPRATT.

H. Con. Res. 149: Mr. BROWN of California, Mr. COYNE, Mr. GIBBONS, Mrs. KENNELLY, Mrs. MARTIN of Illinois, Mr. MRAZEK, Mrs. ROS-LEHTINEN, Mr. SISISKY, Mr. TRAFICANT, Mr. WEISS, Mr. WELDON, Mr. ANTHONY, Mr. PRICE, Mr. MCCOLLUM, Mr. SPRATT, Mr. HALL of Ohio, Mr. STARK, and Mr. GILMAN.

H. Con. Res. 194: Mr. LEWIS of Georgia, Mr. NIELSON of Utah, Mr. LIPINSKI, and Mr. DONALD E. LUKENS.

H. Con. Res. 196: Mr. WEBER, Mr. WOLF, Mr. BEILENSON, Mr. SCHIFF, Mr. TAUKE, Mr. WALSH, Mrs. ROS-LEHTINEN, Mr. DWYER of New Jersey, Mr. HENRY, Mr. LIGHTFOOT, Mr. ACKERMAN, Mr. BUSTAMANTE, Mr. RAVENEL, Mr. DELAY, Mr. PAXON, Mr. COLEMAN of Missouri, Mr. FROST, Mr. ROWLAND of Connecticut, Mr. BROWN of Colorado, Mr. MACHTLEY, Mr. COURTER, Mr. GALLEGLY, Mr. MOORHEAD, Mr. ERDREICH, Mr. BATEMAN, Mr. MANTON, Mrs. SMITH of Nebraska, Mr. PORTER, Mr. SOLOMON, Mr. OWENS of New York, Mr. DENNY SMITH, Mrs. MARTIN of Illinois, Mr. ARMEY, Mr. LAGOMARSINO, Mr. HOUGHTON, Mr. CAMPBELL of Colorado, Mr. UPTON, Mr. BERMAN, Mr. BALLENGER, and Mr. HUGHES.

H. Con. Res. 200: Mr. GEJDENSON and Mr. LAGOMARSINO.

H. Con. Res. 209: Ms. PELOSI and Mr. SAWYER.

H. Con. Res. 210: Mr. GILMAN, Mr. BURTON of Indiana, Mr. PALLONE, and Mr. GREEN.

H. Res. 206: Mr. AUCOIN, Mr. ANDREWS, Mr. CLEMENT, Mr. VALENTINE, Mr. RICHARDSON, Mr. WEISS, Mr. WHEAT, Mr. SARPALIUS, Mr. LAUGHLIN, Mr. SISISKY, Mr. PASHAYAN, Mr. DERRICK, and Mr. HAYES of Louisiana.

H. Res. 244: Mr. CRAIG, Mr. COX, and Mr. ARMEY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

101. The SPEAKER presented a petition of clerk, Inverness, FL, relative to the Cross Florida Barge Canal Project; which was referred to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

KING-DREW MEDICAL CENTER AND THE LOS ANGELES TIMES

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. DYMALLY. Mr. Speaker, recently the Los Angeles Times ran a series of articles about the King-Drew Medical Center—Los Angeles County Martin Luther King, Jr. General Hospital and the Charles R. Drew University of Medicine and Science—located in the 31st Congressional District, California.

I am hereby submitting a rebuttal, from Dr. Arthur Flemming, F.A.C.S., professor and chairman, Department of Surgery for Members' review:

CHARLES R. DREW UNIVERSITY OF MEDICINE AND SCIENCE, KING-DREW MEDICAL CENTER, MARTIN LUTHER KING, JR. GENERAL HOSPITAL, COUNTY OF LOS ANGELES,
October 4, 1989.

Mr. TOM JOHNSON,
Publisher and Chairman, Los Angeles Times, Times Mirror Square, Los Angeles, CA

DEAR MR. JOHNSON: On behalf of the faculty and staff at the King-Drew Medical Center, I am expressing concern over the series of articles by Ms. Claire Spiegel, Times staff writer, published in the Los Angeles Times over a period of 26 days in September 1989.

Many inner city public or county hospitals are frequently located in high crime, drug, and gang activity areas. Common findings in most of these hospitals are underfunding, an overwhelming number of patients, and a concentration of the "sickest of the sick and dying." The Health Care Financing Administration (HCFA) report is replete with such examples.

In many institutions, the above factors are accepted as logical explanations for the existence of the problems. Despite the fact that we are in a combat hospital during peace time, somehow the level of competence, commitment, and management become the central issues.

We will validate the commitment of many of the faculty. However, it is not my aim to suggest that patient care is optimal, but to present the problems and solutions with compassion and sensitivity for the community we serve. These aspects were not addressed in the articles by the Times.

The editoral statement that ". . . this problem is compounded by egregious administrative failures" is expressed without benefit of knowing the magnitude of the resource deficits, how these deficits impact on the entire medical center complex, or that some of the charges, especially on patient care issues, are not factual.

We wholeheartedly endorse the concept of a very extensive and thorough in-state, out-of-state and national review. We will request the American College of Surgeons Committee on Trauma (ACS-COT) review the King-Drew Medical Center trauma care. The ACS-COT surveyed this program in 1983, preceding our designation as a Level I trauma center, and again some years later.

I am confident that the reviewers will find that the trauma quality assurance program in this institution, which has been carried out on a daily basis for the past six years, demonstrates a commitment that is unparalleled, not only in the State of California, but in the United States. Perhaps then, and only then, can this great injustice, which has been perpetrated on the entire medical center and the people of Watts/Willowbrook, be rectified.

Although there were four Departments that were responsible for the eight cases discussed in the Times' article, these departments were responsible for 185,993 patient visits and/or admissions during the time frame of the review. The absence of newspaper reporting of the full and accurate sequences and conditions of these cases will be amplified.

We are enclosing the signatures of more than 1,300 employees and supporters to emphasize the need for "fair and just" treatment by the Times, the Board of Supervisors, and the Department of Health Services.

We are requesting that you publish the entire enclosure. As of September 28, 1989, Ms. Spiegel had published nine articles on the King-Drew Medical Center. We would like to have an alternate view printed.

Sincerely,
ARTHUR W. FLEMING, M.D., F.A.C.S.,
Professor and Chairman, Department of Surgery.

Enclosure.

RESPONSE TO THE LOS ANGELES TIMES SERIES OF ARTICLES ON THE LOS ANGELES COUNTY MARTIN LUTHER KING, JR. GENERAL HOSPITAL AND THE CHARLES R. DREW UNIVERSITY OF MEDICINE AND SCIENCE (KING-DREW MEDICAL CENTER)

(Submitted by Arthur W. Fleming, M.D., F.A.C.S., Professor and Chairman, Department of Surgery)

OVERVIEW

"The obscure we eventually see. The completely obvious it seems, takes longer."—Edward R. Murrow.

Between September 3 and 28, 1989 the Times published nine articles by Claire Spiegel, Times staff writer, pointing out multiple deficiences within the health care system at the Martin Luther King, Jr.-Drew Medical School (King-Drew Medical Center or KDMC). There were also two editorials and one article in the Metro section of the Times wedged in between the articles by Ms. Spiegel.

The articles have had a profound effect on most of the employees at the KDMC as well as on members from the surrounding community and, most regrettably, on the patients themselves. The articles were denigrating, humiliating and demoralizing. The greatest impact, however, is on the individuals who must entrust their lives to us.

There are many physicians, nurses, physician assistants, medical students, technicians, paraprofessionals, and other support staff at the King-Drew Medical Center who have "not only struggled valiantly", but who have sacrificed greatly, worked courageously and performed above and beyond the call of duty. Their efforts have been thwarted by a severe shortage of critical beds, staff and funding; over 100 nurse vacancies; equipment that has not been replaced since the hospital opened; low salaries and difficulty recruiting; difficulty obtaining even basic supplies when it depends upon action outside the institution; and unrelenting stress and burn-out. This occurs all while treating not only an overwhelming number of patients, but a concentration of the "sickest of the sick and dying."

This concern was echoed in the first editorial which stated "There is a risk, in the effort to accelerate reform, that the distinguished commitment of many of the staff will be forgotten." The editor(s) acknowledged that "the hospital's doctors, nurses and technicians are forced to work in the most trying circumstances, many at substandard wages to maintain this vital link in the county public health network."

Given these many obvious reasons for patient care not being optimal, the Times articles used eight carefully selected cases, presented in a theatrical manner, "during a recent two and one-half year period" to attempt to demonstrate that not only was there inadequate supervision, but also a lack of commitment and competence. There was an attempt to extrapolate to the entire institution the lack of commitment on the part of a few staff who reportedly ". . . slept through their shift. . . ."

Of the eight cases discussed by the Times, there were two cases each from the Departments of Emergency Medicine, Neurosciences, OB/GYN and Surgery. During the two and one-half years of the Times' study, there were 185,993 patients treated by these four services. Thus, these 8 cases represent $<0.004\%$ of the total.

While we acknowledge difficulties in recruitment and shortages of staff, the translation by the Times that "there is a lack of highly skilled medical staff" adds insult to injury. If two recent graduates are excluded, 90% (55 of 61) of the surgical department faculty, are board certified. The Department of Surgery includes cardiothoracic surgery, general surgery, ophthalmology, oral and maxillofacial surgery, orthopedic surgery, plastic and reconstructive surgery, and urology.

The editorial in the Times went well beyond our expectations in stating that, "The revelations have a meaning beyond the confines of King" (KDMC). Most importantly, it stated that "They (the revelations) measure the conscious, deliberate, structural underfunding of public medicine in the United States. The nation remains alone among industrialized democracies with a system of health care that excludes from the basic protection substantial numbers of people, an estimated 37 million Americans, including more than 5 million Californians."

We agree that "The state and country are not providing enough money for the hospital. . . ." However, whether "this problem has been compounded by egregious adminis-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

trative failures" should be determined after thorough evaluation of the impact of the lact of adequate resources on all aspects of patient care and administration are completed.

The editor(s) have very appropriately outlined what is essential for permanent resolutions: replacement for some of the outdated equipment, construction of a new trauma center, closer supervision from the county Department of Health Services and the Board of Supervisors, additional outpatient facilities, and increase in medical staff compensation.

However, unless we pay attention to the human factors—The problems of unrelenting stress, burnout and the inevitable conflicts that arise under these circumstances, we are doomed to recurrent problems. One of our greatest problems is that in the absence of the ability to disseminate factual information expediently, rumors run rampant. Consequently, we are enclosing a fact sheet that will hopefully answer many questions. Perhaps, of equal importance, we wish to offer a new and fresh perspective of what are the real problems.

RELATED FACTS IMPACTING ON HEALTH CARE ISSUES

Nationally

Fact: California has the largest state revenue in the United States—64 Billion in 1986.

Fact: Less is spent on medical care per patient in California than in some of the poorer states.

Fact: Los Angeles County, with a known population of 8.8 million, has a larger population than 42 of the states in the United States.

Fact: The King-Drew Medical Center serves a catchment area of 800,000 to one million.

Fact: If the catchment area for the KDMC was a single city rather than multiple incorporated and unincorporated districts, it would be the 11th largest city in the United States.

Fact: There are several large cities with public hospitals affiliated with respectable medical schools that were ranked by HCFA (Health Care Financing Administration) as having the highest Medicare mortality rates. These include, but are not limited to:

Grady Memorial Hospital—Emory University, Atlanta, GA Population 421,910*

Kings County Hospital Center—Downstate University, Brooklyn, N.Y. Population 2,000,000+

D.C. General Hospital—three medical Schools, Washington, D.C. Population 626,000

Harborview Medical Center—University of Washington, Seattle, WA Population 486,200

Fact: Some hospitals, like Charity Hospital in New Orleans, serve a population of 554,500, yet have a hospital at least three time the size of the KDMC and is affiliated with two medical school faculties.

Fact: *Data from U.S. Bureau of Census, July 1, 1986 estimates.

Fact: HCFA data is from the Los Angeles Times, Sunday, January 15, 1989.

Fact: HCFA officials did not adjust the data to account for race or socioeconomic status because it would have obscured the fact that minority health status, in general, is significantly worse than that of whites.

Fact: Some of the lowest mortality institutions for medicare may admit large numbers of patients who are not very sick to begin with.

Fact: Small numbers may create large statistics—There were only two trauma deaths in the HCFA survey to medicare deaths at the KDMC. However, there were only four trauma patients—thus, there was a 50% mortality rate. The fact that both patients who died had lethal injuries does not enter into the equation. Although the death rate is calculated on the percentage of the total hospital admissions, a low percentage of medicare patients and a small number surveyed could bias the statistics.

Fact: There are approximately 70,000 gang members in Los Angeles. There are only 10,000-15,000 gang members in Chicago and New York.

Fact: There are more housing proejcts in the KDMC catchment area than any other area in the County. The problems with drugs and gang related activities are compounded in these low income areas.

Locally

Fact: A study to be presented next month by the Center for Disease Control (CDC) revealed that the four police districts which comprise the South Central Area have 17% of the cities population but accounted for 51% of the 1988 homicides where the victim was less that 20 years of age.

Fact: Either ethanol, cocaine, or both were found on autopsy in 51% of the homicide victims between the ages of 15 and 34, and in 66% of patients between the ages of 35 and 44 in 1987 in the same study by CDC.

Fact: Approximately 50% of the trauma victims in Los Angeles County are treated at the three County facilities. The remaining 50% are treated at 10 private hospitals.

Fact: The closure of 10 Trauma Centers since 1985 has had a profound impact on the saturation of the county facilities.

Fact: The downgrading of the emergency rooms further saturates the County (public) hospitals.

Institutionally

Fact: Prior to Level I Trauma Center Designation and implementation, a trauma victim in Southcentral Los Angeles would be treated at one of the 10-15 hospitals or 24 hour emergency rooms in the surrounding community.

Fact: Since implementation as a Level I Trauma Center, these same trauma victims are now shunted to the KDMC. Consequently, the number of trauma victims seen has increased over tenfold.

Fact: Also prior to implementation of the trauma system at the KDMC, surgeons were called at the discretion of the emergency room physician to see trauma victims.

Fact: Since implementation as a Level I Trauma Center, surgeons are required to arrive in the emergency room prior to the patients arrival when they are brought in by paramedics. This apparent intrusion by the surgeons has created conflicts in this institution and in others where there are emergency medicine residents.

Fact: The KDMC remains 95-105% occupied at all times.

Fact: By January 1987, the KDMC was already faced with an inability to adequately handle the trauma load for many reasons. This was documented in the Drew Medical Society Journal in November-December 1987. Patients on many occasions had to be recovered on the operating room table since the recovery room, intensive care units, and ward beds were filled.

Case Discussions

Fact: The Times reported that they "gleaned from court records, hospital malpractice claims, and from frustrated medical personnel at King the records of patients treated at King over a recent 2½-year period."

Fact: Of the eight cases discussed by the Times, two were from the Department of Surgery, with both having gunshot wounds (GSW); two were from the Department of Neurosciences and consisted of one trauma (GSW) and one non-trauma case; two were from the Department of OB/Gyn and also consisted of one trauma and one non-trauma case; and two patients with surgical problems were screened through the ER, and likewise consisted of one trauma and one non-trauma case. Thus, the 8 cases had 4 separate departments for their primary care.

Fact: During the 2½ years of the Times' study, there were 185,993 patients treated by these 4 services.

Fact: Thus, these eight cases represent 0.004% of the patients treated on the four services. To be sure, not an everyday, or every week, or every month occurrence.

Fact: The number of patient visits to the ER at the KDMC was 103,113.

Fact: There were 28,006 patient visits and admissions to the trauma services during the 2½ years of the Time's study. Since only 5 of the 8 case presentations by the Time's had trauma, this represents only 0.02%.

Fact: There were 9,441 (9% of the ER visits) patients who had major trauma, and 8,309 (88%) of these could not be discharged or transferred. Of these, there were 2,556 gunshot wounds (GSW's). Three of the cases represented had GSW's. This represents 0.1% of the GSW's. All three of the GSW's presented by the Times survived. There are many patients in the United States and Los Angeles who received similar injuries who end up in the cemetery because they did not receive the prompt attention of a trauma surgeon/trauma team.

Fact: There were 1,132 (12% of the major trauma) cases discharged or transferred from the ER after a period of observation, usually up to six hours. Many of these patients would have been admitted for observation if there had been intensive care beds and nursing staff for monitoring these patients.

Fact: An additional 18,565 patients had minor injuries and were justifiably discharged to be followed in the surgical clinics (number above is actually patient visits to the surgical clinics. Also, figure does not include orthopedic or neurosurgery clinic visits).

Fact: During the period of the Times' study, there were 36,282 mothers/babies and 4,065 hospitalized gynecological admissions. These figures do not include pregnant females who were admitted but discharged prior to delivery, or admitted on multiple occasions. Also it does not include gyn clinic visits.

Fact: The reviewers did not have complete charts to review. Even if they could have reviewed complete charts, events that occur may do so over seconds or fractions of a second and may be interpreted differently based on one's own experience and assessment of the situation. Thus, statements made about the quality of care without having talked to the individuals involved or having never been in the institution, may be flawed from the onset.

A summary of the case reviews is attached at the end.

Introduction

"Oh, how we revere official statistics, those precise, seemingly authoritative numbers that purportedly reflect realities

beyond personal knowledge: . . . Not often examined is whether the numbers do indeed approximate reality. When that's done, they are often found to be so plainly inaccurate or statistically bizarre that their acceptance suggest a gullibility epidemic or a national hunger for assurance that we really know what's going on out there."—Daniel Greenberg, Los Angeles Times, Tuesday, September 12, 1989.

On September 3-6, 1989 the Times published four consecutive articles by Claire Spiegel, Times staff writer, raising concerns about "poor administration, a lack of commitment and competence on the part of some doctors, and a severe shortage of space, staff and funding to adequately deal with the hospital's increasing patient load at the Martin Luther King, Jr.-Drew Medical School." These four articles were followed by an editorial on September 7, 1989, another article by Ms. Spiegel on September 13, 1989, another editorial on September 15, 1989.

Ms. Spiegel quotes six emergency room physicians, three of whom finished their residency at the KDMC over fourteen months ago and left and State, one who finished the residency program recently, and two who are still residents; one surgeon who left in June 1989, and two full-time faculty—one an infectious disease specialist, and the other a pathologist—to substantiate her points.

There are now many individuals who are self-appointed societal judges on the care rendered at the KDMC. However, many are not qualified to do so because: 1) they are not in the clinical arena of acute emergency room or trauma care, but rather see the outcomes and try to extrapolate the facts; 2) they were at the KDMC one or more years ago and interpreted that they still know what goes on in the whole hospital; 3) they had a friend or relative who was treated at KDMC; or 4) they were given a set of circumstances and were asked to comment, never having been physically within the confines of the institution.

Thus, to appropriately address the published issues, we feel that it is extremely important to discuss where we started, where we are and where we would like to be. Even those who think they know the KDMC might benefit from a review of the "BACKGROUND."

Background

Prior to the hospital's inception, the "California Task Force to Investigate the 1965 Watts Riots (McCone Commission)" noted that this community experienced the highest adult mortality and morbidity, the highest fetal death rate, and the largest degree of adolescent pregnancy in the county. Which hospital(s) do we blame this on?

To address these concerns, the Department of Public Health concluded that a 394-bed acute general hospital was needed. The proposed Southeast General Hospital was to be located at 120th Street and Wilmington Avenue in the unincorporated community of Willowbrook.

The Los Angeles County Southeast General Hospital was renamed the Los Angeles County-Martin Luther King, Jr. General Hospital before opening its doors in March 1972.

In recognition of the inter-institutional collaboration, with the Charles R. Drew Postgraduate Medical School, Los Angeles County Board of Supervisors named the complex the "King/Drew Medical Center" (KDMC) on May 1, 1982.

To give credit to the graduation of the first medical students in 1985 and the multiple other academic programs, especially in allied health, the Charles R. Drew Postgraduate Medical School's name was changed to the Charles R. Drew University of Medicine and Science in 1987. The name of the complex remains the King/Drew Medical Center, and in this article will be referred to as the KDMC.

The Los Angeles County-Martin Luther King, Jr./Drew Medical Center serves a residential population of over 800,000 persons according to the 1985 U.S. census. Many believe that with the many undocumented persons in southern California that the hospital serves a population which is closer to a million. Sixty percent of those persons seeking care at KDMC are Medi-Cal recipients who present themselves at the hospital because of episodic injuries, rather than in search of preventive medicine. Only 7% of the population are Medi-care recipients.

Since its inception, the Medical Center has experienced an exponential growth serving some 3.9 million persons in both inpatient and outpatient services. Occupancy rates on all services range from 91-105%! The general hospital daily census has risen from an average of 255 in 1982, to 362 in 1989 with no appreciable change in net county cost (supportive tax dollars).

In recent years, the workload facing the already overburden Medical Center (i.e., 24,000 admissions annually) was exacerbated by the frequent and continuous stream of private hospital closures and emergency room downgrading. KDMC now represents 100% of all the acute care beds in its former health services planning area as a result of these closures.

Fifty percent of the Level I trauma care in Los Angeles County has fallen on the public sector. National attention has been focused on the "deterioration" of the emergency services network in Los Angeles County.

The Board of Supervisors in May, 1988 concurred that fortifying the public health sector in general and KDMC in particular was of utmost urgency. Thus, they authorized the Department of Health Services to diligently pursue the construction of the "freestanding" KDMC Trauma Center, complete with diagnostic radiology and intensive care provisions. It was further recognized by the Department of Defense, that KDMC is experiencing "war-like" conditions during peace time!

Trauma Management From 1972 to 1983

Prior to the designation and implementation of Level I trauma centers in Los Angeles in December 1983, a patient suffering major trauma would be taken to one of the 98 hospitals with 24-hour emergency rooms (ERs) in the County. Since the case load was spread over the 98 different emergency rooms, it was rare for any ER, other than the country hospitals and a few select centers, to have more than 100 cases per year.

When an individual suffered trauma in the area surrounding the KDMC, he or she would also be taken to one of the 10 to 15 hospitals having 24-hour ERs (Centinela, Daniel Freeman, Dominguez Valley, St. Francis, California, Century [Broadway], West Adams [Los Angeles Doctors' Hospital], etc.). Patients suffering from blunt trauma could usually be stabilized in the emergency room, appropriate test(s) ordered, and consultants obtained over the next few hours. Both the hospital and the physicians were reimbursed, and since any ER would only receive patients directly from the area surrounding it, no ER was overwhelmed. Likewise, in most hospitals a surgeon on-call frequently took call from home and was under no obligation to return to the hospital. However, they would probably do so if he or she were called back on rare occasions.

In the event the patient had penetrating trauma (gunshot wound, stab wound, or shotgun wound) attempts at resuscitation usually took two distinct pathways. If resuscitative fluids could be administered faster than the patient was bleeding internally, then the patient could be stabilized and transferred to the KDMC provided the on-call surgeon from that particular hospital would not return. However, if internal bleeding was more rapid than blood and resuscitative fluids could be administered and there was no surgeon present, then the patient would die in the emergency room. The records would simply show that the patient had a mortal wound and could not be resuscitated. Regardless of the outcome, both the hospital and the ER physician were paid for whatever services they provided.

The scenario was quite similar at the KDMC, especially in the 1979 to 1983 time frame, when the emergency room physicians residency program was growing and becoming increasingly popular.

An individual with penetrating or blunt trauma was resuscitated and evaluated exclusively by the ER physician at the KDMC. If successful, the surgical resident was called. The surgical resident, on seeing a well resuscitated patient, would then contact the anesthesiologist who would arrange for an operating room. The time that it would take to get the patient into the OR was variable and dependent somewhat upon the perceived stability of the patient. The whole process could take one to four hours.

If, on the other hand, the rate of bleeding was more rapid than blood or fluids could be administered, the patient could go into shock and then the surgeon on-call would be paged. The timing of when to call the surgeon was entirely at the discretion of the ER physician. Even under optimal conditions and good working relationships between ER physicians, surgeons and anesthesiologists, there were inordinate delays as a rule in getting trauma patients to the operating room. This should not be construed as a criticism against the KDMC, but rather the modus operandi for most institutions in America and probably still is for most that are not designated as trauma centers.

IMPACT OF TRAUMA CENTER DESIGNATION

The request for proposals as Level I trauma centers were sent out on February 3, 1983. As a part of the application, we had to assess the number of major trauma cases seen in the previous year. Although we extrapolated that we saw approximately 500 to 700 major cases per year, on the basis of monthly reviews between March and December 1983, we saw an average of 22 major cases per month. This did not include transfers or specialty cases.

When the KDMC began functioning as a Level I Trauma Center on December 15, 1983, there were three distinct steps taken: first and foremost, surgeons were to be in the emergency room when the patient arrived; secondly, staff surgeons, who previously could take call from home and come in when called, had to now stay in-house when on-call; and thirdly, surgical residents were placed on-call every other night.

During our first month as a trauma center, the number of trauma cases increased threefold over the month prior to

Level I Trauma Center designation. Prior to the closure of the first Level I trauma center in Los Angeles, the trauma caseload had gradually increased over tenfold by 1986.

I reported in the Drew Medical Society Journal in November-December 1987:

"Thus by January, 1987, King/Drew was already faced with an inability to adequately handle the trauma load for many reasons. This is manifested by (1) overwhelming of our physical plant to such a degree that on many occasions, patients have to be recovered on the operating room table since the Post-Anesthesia Recovery Room (PAR) and the Surgical Intensive Care Unit (SICU) are filled; (2) patients who routinely require a SICU bed are triaged prematurely to ward beds; (3) cancellation of elective cases because of trauma cases or a lack of adequate nursing staff to run the operating rooms, thus increasing the acuity of the patients in-house; and (4) by chronic, unrelenting nursing shortages as a result of inadequate compensation and extremely stressful working conditions. All of these factors contribute to the requirement for a 40-hour work day for surgical residents.

During the period from July 13 to July 17, 1987 all elective surgical procedures were cancelled at King because the surgical intensive care units and a 4-bed step-down unit were filled with patients that could not be moved to the wards. Consequently, patients in the PAR could not be removed to the intensive care units and patients had to undergo emergency surgery they had to stay on the operating room table until fully recovered from anesthesia, following which they were sent directly to the wards.

The problems were compounded in the SICU because of nursing shortages. The 12-bed SICU requires a minimum of six nurses per 8/hours shift to staff at a 1:2 ratio (nurse:patient). On some shifts, 6 nurses would not be staffed, thus requiring either (a) nurses spending 16 hour shifts, (b) reducing the number of beds occupied, or (c) shifting nurses from other areas in the hospital. This in turn creates further stress on the individuals involved and tends to exacerbate the overall frustrations and problems that exist."

By August 1989, 10 of the original 23 trauma centers had pulled out of the trauma network.

Since becoming a Level I Trauma Center (December 1983-July 1989), there have been 18,346 patients who were seen in the ER for trauma and could not be discharged. There have been over 2,000 patients with criteria for major trauma who were seen in the ER, observed for a period of time, and discharged. There have been an additional 27,500 patients with minor injuries who have been treated in the ER initially and followed in the surgical clinics.

During the two-and-a-half year study referenced by the Times article, there were 9,441 trauma cases. Of these, there were 2,556 gunshot wounds.

An article, recently published in the Journal of Thoracic and Cardiovascular Surgery (97:119-125, 1989), reported on a twelve-years' experience of penetrating wounds of the chest. This study covered a period between April 1972 and March 1984. Of the 1,109 patients with penetrating injuries to the chest, hospitalized at the KDMC, there were 105 cardiac injuries.

In comparison, we have seen more cardiac injuries in the last 18 months than were seen the previous 12 years. In fact between 1985 and 1988, 1,106 patients with thoracic injuries were seen.

The epidemiology of homicides in the city of Los Angeles will be presented in Europe next month (October 1989) in a paper by epidemiologists from the Center for Disease Control. The study shows that the four police districts that comprise the south-central area have 17% of the city's population, but account for 51% of the 1988 homicides where the victim was less than 20 years of age. Also of importance is the fact that over 50% of the homicide victims used alcohol or cocaine, or both, prior to their demise.

The Times' articles used the Health Care Financing Administration (HCFA) data to help point out the KDMC mortality rate. The HCFA report also indicated that public hospitals in many major cities also have the highest mortality rates: Grady Memorial Hospital/Emory University in Atlanta; Detroit Receiving Hospital-University Health Center/Wayne State University in Detroit; District of Columbia General Hospital/three medical schools in Washington, D.C.; Kings County Hospital Center/Downstate University in Brooklyn, N.Y.; and Harborview Medical Center/University of Washington in Seattle.

It is not common knowledge that the entire HCFA report was based on a sample of only 48 deaths from the KDMC. However, since there were 28,554 admissions, 7% of which were Medi-Care patients, it was extrapolated that our death rate was 2.4%. Likewise, there were only two trauma deaths in the entire sample by HCFA; but because there were only four total trauma patients, the mortality was 50% (for trauma), thus, contributing to distortion of the overall results.

Positive Attributes

Many of the positive things that have occurred at the KDMC have been ignored by Ms. Spiegel in her goal to present revelations.

For instance, there was no acknowledgement of the fact that the Chairman of the Department of OB/GYN, Dr. Ezra Davidson, has been elected as the President-Elect of the American College of Obstetrics and Gynecology. This is a one-year position, following which he will ascend to the Presidency of that organization. This will be the first time a Black has been chosen for that office. Instead, one obstetrical case with trauma and one gynecological case were presented.

During the 2½ year timeframe of the review by Ms. Spiegel, Dr. Davidson supervised a staff that admitted over 18,000 obstetrical patients to the hospital who delivered. When one counts those patients who were admitted for complications or who were admitted on more than one occasion, then the figure comes closer to 20,000 patients admitted.

In addition, Dr. Davidson also supervises the faculty and residents who cared for over 4,000 gynecological cases. Thus, the two cases reported by Ms. Spiegel represented only 0.005% and 0.02% complication rate for obstetrics and gynecology, respectively. Although the two cases presented were the absolute most dramatic cases seen during the timeframe of the report, there were many details that were left out of the presentation by Ms. Spiegel (see Administrator's report—page 15-24).

Dr. George Locke, a nationally recognized expert in epilepsy, is the recipient of a $2.5 million dollar grant, which is one of the largest awards ever conferred by the National Institutes of Health for conducting a research program designed to prevent, or reduce epilepsy that is caused by serious head injury. Due to a major disparity in salaries for surgeons in general and neurosurgeons in particular, it has been difficult to replace a faculty member who left in January 1989.

Dr. Fleming was recently re-elected as President of the Society of Black Academic Surgeons. In addition, Dr. Fleming is one of only four surgeons to be appointed by the Secretary of Health and Human Services to the Advisory Committee for Injury Prevention and Control in the Centers for Disease Control.

Furthermore, when Ms. Spiegel visited Dr. Fleming's house unannounced on Sunday night, March 5, 1989, she was well aware that the residency program in General Surgery would undergo a site survey on March 8, 1989. On June 15, 1989, the program received full accreditation. The program was also approved for ten (10) additional residents in recognition of our need to balance service and education.

A Trauma/Critical Care Program was implemented in July 1988 to augment the quality and continuity of patient care of the trauma team. The first three fellows graduated in July 1989.

The need to increase manpower in order to maintain quality patient care led to the alternative of establishing a Surgical Residency Program for Physician's Assistants. A Physician Assistant Postgraduate Surgical Residency Program was started in September 1988 and graduated its first three Surgical Physican's Assistants in July 1989. The program is the first of its kind on the West Coast. Regulations and standards are set by the State of California.

Since the current trauma load at the King-Drew Medical Center has dominated the surgical experience for surgical residents for the past 5 years, we sought approval from the Surgeon General of the U.S. Army to allow individuals from approved residency programs in the United States Army to do trauma rotations at the King-Drew Medical Center. An affiliation between two military surgical programs and the KDMC was begun in July 1989.

The large volume of trauma seen in the King-Drew Medical Center by the General Surgery Residents required that residents be recalled from various rotations to provide patient care. This strategy jeopardized our obtaining full accreditation of our program and created concerns that we would not be able to turn out well-rounded surgical residents. Although patient care is and will remain our priority, we were searching for a balance between service and education.

After establishing the Trauma/Critical Care Fellowship Program, the Physician's Assistants Postgraduate Surgical Residency Program, and rotations with two military hospitals, we were able to re-establish rotations which were stopped in 1984. Rotations have been reinstated on neurosurgery, anesthesiology, medicine, and orthopedics in July 1989. The isolation and stress from lack of rotations have been destructive and mortifying.

Solutions

There is uniform agreement that gaining adequate resources in many areas will be a major factor in our ability to render optimal care. However, a caution must be issued. The frequently quoted "Health Care Finance Administration (HCFA) Medical Mortality Report", which was based on a "sample" of the reported Medi-Care Deaths, would be quoted very differently if other essential factors were known, i.e., the case

mix; incidence of drug or alcohol abuse, or both; the biomedical, environmental and sociocultural factors; along with the level of poverty and volume of gang violence (innocent bystanders as victims). None of these factors, which are all known to influence outcome, can be controlled by physicians, administrators, or the Board of Supervisors.

However, if we do not realize all the forces and interactions that led to a public display of our problems in order to gain economic support, then we're doomed to failure. The one area that neither the Times Staff Writer nor the editor(s) could understand is the human factor: the stress of being in a war that is not called a war; the tremendous emotions that are exhibited by all the individuals in the different Departments and Divisions that are stressed to the limits during everyday activities in an emergency hospital; the conflicts that inevitably develop under such circumstances where the casualties keep coming regardless of the saturation of the system; and the struggle for a piece of the pie when space, personnel and resources are so scarce. When one adds to this that the salaries or the surgical specialties are in the less than the 20th percentile for faculty in the United States, one must understand the tremendous dedication and devotion that exist. Furthermore, it is amazing that 25% of the 149 full-time attending physicians have been faculty for 15 years or more. An additional 17% have been faculty for 10 years or more.

Summary

Ms. Spiegel has done a great injustice to the employees of the KDMC and to the patients it serves by presenting a distorted, misleading, misrepresented, exaggerated, view when, in actuality, we have struggled valiantly to treat an unusual case-mix, and an overwhelming number of patients, with inadequate resources.

LAC-MARTIN LUTHER KING, JR./DREW MEDICAL CENTER TIMES' ARTICLE, SEPTEMBER 3-5, 1989

ADMINISTRATOR'S REPORT

Times Article Number 1—"Hospital: A Crisis in Critical Care"

The September 3, 1989 Times article purported the clinical misadventures of several patients incurring treatment at the LAC-Martin Luther King, Jr./Drew Medical Center. The allegations presented have been restated for ease of review and have been assessed and analyzed by the Hosptial's Medical Director, Dr. James G. Haughton and the Chiefs of Surgery and Neurosurgery, as well as the Vice Chairman of Ob/Gyn. The Hospital's findings are indicated along with each allegation.

The findings of fact are as follows:

Times Allegation Number 1: Quality of Health Care Provided at King/Drew Medical Center

Case #1: The Times reported that 18-year-old, ———, "* * * was rushed to KDMC on December 2, 1988 after a bullet fired from a passing car tore through her neck, pierced her jawbone, lacerated her tongue and blinded her in the eye." Medical staff performed a cricothyroidotomy and in so doing cut both her jugular veins triggering a massive hemorrhage.

Hospital's Response to Case #1:

The patient arrived at KDMC with the above noted injuries. Her condition deteriorated soon after arrival and she appeared to be in a semi-stuporous but agitated condition with the development of respiratory distress and hypoxia. The surgeon attempted a cricothyroidotomy in the E.R. that was abandoned in favor of oral intubation because of the patients enhanced and violent response to the pain from the incision. The patient, who had been lethargic and in respiratory distress, responded by jerking her head causing the extended incision. The anterior jugular veins which were laying adjacent to the midline were severed, however, the size of the incisions were so small that bleeding could be controlled by simply applying finger pressure.

The patient was taken to the operating room where a tracheostomy was successfully completed and ophthalmological and oral surgeries were successfully performed.

During the entire series of procedures, the patient required only 3 units of packed red cells. The patient's subsequent course was uneventful and the patient was discharged 9 days later to a Maxicare facility in stable and satisfactory condition.

Case #2: The Times stated that Ms. ——— underwent routine surgery for the removal of an ovarian cyst; however, during surgery her colon was accidentally cut and improperly repaired causing a second operation which was also unsuccessful. She subsequently died on 2/1/89.

Hospital's Response to Case Number #2: This case was reviewed by the medico-legal staff and is presently under investigation by Professional Risk Management. The circumstances and events warranted the submission of the case for review as part of the Hospital's ongoing clinical assessment of care. It should be noted that based upon the medical review, it was determined that this case was not a routine surgery.

Case #3: The Times indicated that this patient was rushed to the KDMC ER as a gunshot (GSW) to the chest. The ER physician, in an attempt to perform a thoracotomy, cut through the chest cavity severing the muscle from the rib cage without anesthesia. The patient recalls the incident in vivid detail. Outside medical professional opinions suggested that the thoracotomy was not necessary since the patient's blood pressure and consciousness were acceptable.

Hospital's Response to Case #3: This 20-year-old patient was admitted to the ER with a through-and-through thoraco-abdominal gunshot wound (The bullet entered the left chest, travelled through the left and right diaphragms, and exited the right chest). Due to an irregular ventricular rhythm, neck vein distention, an elevated CVP, and a decreasing level of consciousness, the attending staff interpreted that the patient had cardiac tamponade and instructed the anesthesiologist and the surgical resident to intubate the patient and do an emergency room thoracotomy simultaneously.

The simultaneous resuscitative efforts of rapid fluid infusions, the stimulus from an attempted oral endotracheal intubation, and the thoracotomy incision gave the patient the necessary boost to markedly increase his blood pressure, to improve the perfusion to the brain, and to respond to pain. Within twenty-five minutes, the patient was in the operating room where an abdominal exploration was performed. During surgery, it was also noted that the bullet went straight through the liver as well.

Following post-operative care, the patient was found to have had a history of irregular ventricular rates coupled with routine drug and alcohol consumption. Retrospectively, these factors played a role on the interpretation of the status of the patient at the time of surgery.

Case #4: The Times reported the arrival of a 27-year-old woman on the night of March 29, 1988 suffering from meningitis or hydrocephalus (swelling of the brain). KDMC physicians were to perform a ventriculostomy to relieve the cranial pressure; however, she languished in the ER from 2 a.m. to 7 a.m. before a neurosurgeon arrived. By the time the neurosurgeon arrived and examined the patient, she was brain dead.

Hospital response to case #4: This patient had a history of headaches over several weeks and, upon admission to the ER on the evening of March 29, 1988, showed signs of meningitis. A neurological consultation was performed after a CT scan revealed asymmetrical ventricular dilation. The neurosurgical house-office discussed the findings with the senior neurosurgeon on-call, and given the chonicity of the process, the patient was scheduled for elective ventriculostomy to relieve the pressure the next morning.

Because there were no neurosurgical or general surgical intensive care beds available, the patient was retained in the ER. During the entire stay, the patient, though lethargic, was verbally responsive. Suddenly, the patient lapsed into a coma with fixed pupils no brain stem responsiveness and was declared clinically brain dead.

Elective scheduling of the ventriculostomy or shunt procedure in this case was a reasonable medical judgment given the fact that this patient was conscious and verbalizing. The precipitous onset of profound coma and brain death was an exceptional clinical course, inasmuch as this patient apparently did not undergo the step-wise loss of neurological function which would have allowed for timely surgical intervention.

Case #5: A 20-year-old woman was abducted and shot in the head after being gangraped and dumped at 99th Street and Figueroa. The Times reports that she was subsequently taken to KDMC where she did not receive prompt attention by the neurosurgeon. She lingered through the night until a general surgeon arranged to have her airlifted to UCLA where she underwent a five-hour surgery.

Hospital's response to case #5: This patient was admitted by ambulance with a history of having been abducted at gun point, gang-raped and shot while attempting to escape. The patient's examination revealed a GSW to the neck and the base of the mid-occipital skull. Patient was alert, oriented, and had no focal or lateralizing neurological signs or deficits as well as a Glasgow Coma Scale of 15 (neurologically intact).

Skull x-rays revealed a gunshot wound to the head. CT head scan showed the bullet to have traversed the back of the head and was now lodged in the right lateral ventricle. The patient, however, was in no immediate danger. Because of the gunshot wound to the neck, an esophagram was performed and was normal. Before surgery could be performed at KDMC, the patient and her family requested that she be transferred to UCLA Medical Center. The KDMC Chairman of Neurosurgery personally examined the patient in the emergency room and concurrred with her intact neurological status. He contacted the Neurosurgery Department at UCLA, reviewed the patient's condition and x-ray findings. Transportation was arranged and the patient was subsequently transferred by helicopter.

The patient, we understand, was successfully operated on eight hours after arrival at UCLA Medical Center. It is important to

note that secondary transfer will only be authorized if it poses no harm to the patient while en route.

Case #6: Mr. ——— was scheduled for routine out-patient surgery to repair a hernia. He entered the Medical Center on April 12, 1989 and died on April 26, 1989 from a post-surgical infection of his wound even though he repeatedly returned to the emergency room for assistance.

Hospital response to case #6: This case was reviewed by the hospital's medico-legal section and is presently under advisement by Professional Risk Management as an unexplained clinical misadventure.

Case #7: The Times reported that Ms. ——— who was eight months pregnant, was seen in the ER on March 10, 1987 and evaluated by KDMC physicians. Orders for admission to the obstetrical ward were written and fetal monitoring was requested to safeguard the unborn child. After twelve hours she had not been admitted and the infant was later determined to have died.

Hospital response to case #7: This patient, who was eight months pregnant, arrived at the ER at approximately 4 p.m. on 3/10/87 as a victim of an auto vs. auto accident. Because she was the driver of one of the vehicles, an extensive evalution of the patient was carried out to rule-out internal injuries as well as skeletal damage. Skull, chest, and spinal x-rays and extensive laboratory procedures were performed. Surgical, obstetrical, and radiological consultations were obtained.

Throughout all these procedures the focus of attention was on the mother since renal damage was suspected and the fetal heart rate was normal.

Radiological consultation recommended that an IVP be done to rule-out renal damage. The patient was transferred to Labor & Delivery where fetal monitoring was to be done while the patient was being prepared and scheduled for the IVP. On arrival at L&D, examination revealed that the fetal heart tones and fetal motion had ceased. The patient was sent to radiology for the IVP and when that was found to be normal, labor was induced and delivery was effectuated. On delivery, 40% abruption of the placenta was found and the fetal demise was confirmed. At all times the emphasis was on saving the life of the mother.

Case #8: Ms. ——— was seen at KDMC following a traffic accident on November 20, 1989. She was examined by ER physicians and released with instructions to take aspirin for pain. She later lost control of her bowels, became unconscious and was rushed back to KDMC. She died shortly thereafter due to massive internal bleeding.

Hospital's Response to Case #8: This was a 74-year-old woman who had been involved in an automobile accident as the driver. She gave an account of the accident indicating that she was wearing her seatbelt at the time. Upon arrival to KDMC she complained of pain to the right hip. She had a past history of arthritis and hypertension for the last 5 years. Tenderness was noted in the evaluation of the patient's hip and x-rays were taken of the lumbosacral spine which were later determined to be negative. The patient was discharged with instruction to take Advil with Ibuprofen for pain.

Mrs. ——— did return within 12 hours to the ER in shock and experienced cardiac arrest shortly after arrival. All attempts to resuscitate her were unsuccessful. The autopsy report by the coroner indicated that she died from intra-abdominal hemmorrhage relating to a small laceration of the liver experienced during the accident. Continued bleeding from the laceration of the liver brought about Mrs. ——— demise.

Times' allegation #2: The Times provided a series of reasons for the clinical misadventures among which were: (1) severe shortages of staff, (2) lack of modern equipment, (3) lack of critical care beds, (4) lack of commitment by the Medical Staff, and (5) lack of competence of the Medical Staff.

Hospital's response to allegation #2: KDMC has, since its inception, become known for its Obstetrical and Trauma Care, in that it ranks among the top three providers of such care, in the State of California. KDMC has the largest volume of true trauma cases in the County of Los Angeles and is noted as being second only to LAC-Woman's Hospital in the area of OB services. Trauma care constitutes 60% of all surgical admissions to the facility routinely, while OB care exceeds the hospital's budgeted limits by 18% (i.e., 7,200 deliveries/year budgeted vs. 8,480/year actual).

1. For reasons of recruitment, KDMC has incurred a vacancy factor of 15% in the registered nurse classifications (i.e., 650 R.N. positions—100 vacancies). Through its affiliation agreement with local colleges, it has maintained the ability to hire nurse interim permittees (nurses awaiting State certification and licensure) to fill those "hard to recruit positions", i.e., registered nurses.

2. In 1988, the Board of Supervisors appropriated $10.1 million for new equipment based upon the hospital's annual assessment of its equipment replacement needs. Virtually all of the equipment has arrived and has been placed on operation.

3. KDMC is licensed for 29 critical care beds, 6 coronary care beds and 10 neonatal beds. In 1987, 4 neurosurgical beds were opened, and in 1988, 16 monitored telemetry beds were activated. Of the 35 medical/surgical intensive care beds, 31 are available for patient admission based upon nurse staffing. Board authorization to pursue the creation of a Trauma Center in support of this "indispensable part of the county's health care network" will allow for 24 shock and intermediate care beds as an augmentation to the present designation of critical care beds.

4. The commitment of the faculty is best illustrated by their respective tenure at the Medical Center. Twenty-five percent of the 149 attending physicians have been faculty members at KDMC for 15 years or more. An additional 17% have been faculty for 10 years or more. In most cases their entire county experience has been devoted to clinical care at King/Drew.

5. Medical competence of the KDMC physicians is reported through the Medical Staff review by the JCAHO and CMA as well as the review of the various residency training programs. Full accreditation and/or certification has been received from those regulatory agencies. (1987—JCAHO, various dates for the ACGME.)

Times allegation #3: The Department of Emergency Medicine at KDMC lacks supervision and accountability by qualified senior attending physicians. Specific reference is made to: (1) No ER Quality Assurance Program, (2) Review of HCFA Medi-Care Mortality Data—KDMC ranked 50 out of 5,577 hospitals with the highest death rate, (3) $27 million dollars in equipment unmet needs, (4) the ER is a "Combat Duty", (5) full-time physicians devote more time in private practice which detracts from county responsibilities.

Reasons given for ER observation were based on a review of 12 non-randomly selected cases over a 2½ year period.

Hospital's response to Times' Allegation #3:

1. The Department of Emergency Medicine has been reviewed over a ten (10) year period by the Residency Review Committee, American College of Surgeons, and has been re-certified without program interruption based upon the level of training and supervision offered. Additional areas of review include quality assurance monitoring and problem-solving, workload indicators, didactic instruction, faculty involvement, etc.

2. Refer to Times Allegation #4 for details.

3. Refer to previous account of equipment purchases for hospital's equipment unmet needs—Times' Allegation #2, Section 2.

4. "Combat Duty"! Unlike any other institution in peace time, injuries received by KDMC have been found by the Department of Defense to simulate actual "war-like conditions". As such, KDMC has signed an agreement to train military surgeons through its Trauma Center and Emergency Room in the treatment of these life-threatening injuries.

5. A recent assessment of private practice involvement by KDMC faculty indicated that 19.4% of the full-time faculty have such an arrangement for which they are engaged 20 hours or more. Outside employment for any county employee can not exceed 24 hours/week. Further, these persons have disclosed their involvement as directed by County ordinance.

Times' allegation #4: Death rates at KDMC exceed average and are higher than other county acute facilities

The HCFA Medi-Care Mortality Report, which was based upon a sample of the reported Medi-Care deaths indicated that KDMC had a gross death rate of 2.4% while LAC-USC incurred a rate of 1.5% and Harbor-UCLA observed a rate of 1.7%. To further compound the issue, KDMC was purported as having a higher Emergency Room death rate which exceeds the other acutes' combined.

Hospital's response to allegation #4: A comparison between the county acute facilities was derived by converting the percentge of deaths to the actual deaths incurred. The data is as follows:

MEDICARE DEATHS AT 3 COUNTY ACUTES

Facility	Total admissions	Percent of Medicare	Death rate (percent)	Actual deaths
KDMC	28,554	7.0	2.4	48
Harbor-UCLA	26,556	14.0	1.7	63
LAC-USC	76,403	11.0	1.5	126

Percentage calculations that do not take into account the aggregate population base are misleading. Actual Medi-Care deaths at KDMC, based upon the applied Medi-care population are less at KDMC than the other acutes (KDMC: 48, Harbor: 63, LAC-USC: 126). HCFA failed to expand its sample size to adjust to the limited percent of Medi-Care patients served at KDMC.

References to the Emergency Room deaths at KDMC for 1988 revealed a total of 457 fatalities. It is important to note that 70% of those deaths became Coroner's Cases.

Moreover, all pre-hospital care deaths, i.e., patients whose vital signs are absent and/or resuscitation measures fail to promote any patient reaction, must be declared dead by a physician. As such, all pre-hospital care

deaths are to be taken to the Emergency Room where death is declared by the physician on duty. These cases are often classified as Coroner's Cases and are more often than not DOAs.

By definition: Section 10250 of the Health and Safety Code provides that—"a physician . . . shall immediately notify the coroner when he or she has knowledge of a death which occurred by injury or accident, where death was caused by a criminal act, or when the physician is unable to state the cause of death."

Some 329 KDMC Emergency Room deaths were caused by criminal act or violent trauma for 1988! Ninety percent (90%) of those were full arrest or DOAs.

Times' allegation #5: Neurosurgeons are unavailable at KDMC and most of the workload is performed by the only full-time attending physician, the Chief of Neurosurgery.

Hospital's response to allegation #5: The Department of Neurosurgery opened a four-bed neurosurgery intensive care unit in 1987. Neurosurgeons staff the unit 24 hours a day/7 days a week. They also respond to the Emergency Room for consultation and treatment. By Emergency Medicine Services (EMS) guidelines, a Trauma Center can only be classified as Level I by ensuring the availability of neurosurgery. On-call schedules are maintained for the senior faculty affording the in-house staff with consultation and support.

PART II—TIMES ARTICLE—SEPTEMBER 4, 1989

Private Practice Strains Public Medicine

Times' Allegation #6: Emergency Room Faculty Availability

The accountability of Emergency Room Faculty was called into question as being a contributing factor to the outcomes and potential misadventures experienced by patients awaiting definitive care. Those persons in question were:

ER Faculty, Date, Incident

Williams, John, 11/18/88, Attending in ER, left after 12:08 pm.

Ordog, Gary, 12/08/88, Attending in ER, located at Henry Mayo Newhall Hosp.

Glenn, Casper, 01/27/89, Attending in ER, located at home.

Schlater, Theodore,——Works at Daniel Freeman w/o county authorization.

Medicine Faculty, Date, Incident

Prakash, Ravi, 01/25/89, Located at private practice during county work week.

Reference was made to the 1987 Touche-Ross report which stipulated that procedures were required to authenticate the physicians time reporting and ensuring ongoing individual monitoring of work weeks.

Hospital's response to Times' allegation #6: The Emergency Room faculty have devised a two-tier call back system which allows each physician to take second call and serve as a back-up to the primary attending physician. The person indicated above, excluding Dr. Prakash, were recorded as being on second call. This designation affords them the liberty of being called in to the hospital during peak periods. It is generally activated during extreme emergencies and internal disasters. The Times failed to differentiate between the on-call schedules they were provided.

PART III—TIMES ARTICLE—SEPTEMBER 5, 1989

Drew University Struggles to Find a Steady Course

Times' allegation #7: The financial viability of the Charles R. Drew University of Medicine and Science was called into question in that University researchers were reported as stating that they have severe difficulty in obtaining their research funds and/or their programs are adversely affected due to the University's retarded rate of payment to vendors.

Specific references provided by the Times addressed the following issues: (1) Sheriff's investigation of employee theft of $130,000; (2) Electrical bill totaling $12,521 unpaid; (3) Insurance premium payments are 2 to 3 months behind; (4) Epilepsy Research halted due to University non-payment; (5) Poor financial conditions stifle faculty recruitment, i.e., 48% of KDMC physicians are certified in their fields of medicine compared to 80% at LAC-USC and Harbor-UCLA; (6) No permanent Chairman in Orthopedics and Emergency Medicine; (7) Researchers must use their own monies to maintain the integrity of their respective programs.

Hospital's response to Times' allegation #7: The Charles R. Drew University of Medicine and Science is responsible for the maintenance of its contractual agreements, to the Los Angeles County-King/Drew Medical Center. Moreover, KDMC provides the University with an annual budget based upon the Medical Schools' Agreement. This compensates the University for the hours encountered by the faculty in the areas of research, training and supervision.

Faculty at KDMC are either Board certified or Board eligible. Their respective credentials are reviewed and formally acknowledged during each Residency Review Committee as part of the American College of Graduate Medical Educations' function. In addition, annual appraisals and promotions are performed based upon clinical competence and housestaff management. The variance in Board certification between hospitals is based entirely on the degree of volunteer physicians assigned to each facility.

Medical tradition at Harbor-UCLA and LAC-USC exceed KDMC by 20 and 40 years, respectively.

With regard to the status of the Search Committee's efforts to locate and recruit a Chairman for the Departments of Emergency Medicine, Internal Medicine, and the Division of Orthopedic Surgery, the following represents their respective status.

Department of Internal Medicine

Dr. Ravi Prakash, former Chief of the Division of Cardiology at KDMC, was appointed Chairman of the Department of Internal Medicine 4 months ago and has begun the reorganization of the Department.

Department of Emergency Medicine

The KDMC Personnel Office has recently been assigned to assist the Drew University Search Committee in the recruiting process. Letters have been sent to all U.S. Hospitals and Emergency Medicine Departments or Emergency Medicine residency training programs. The Committee has also interviewed two internal candidates and one exernal candidate.

Division of Orthopedic Surgery

A senior orthopedic surgeon, former Chief of Orthopedic Surgery at Cook County Hospital in Chicago, and currently Chief of Orthopedic Trauma at Booth Memorial Hospital in New York City, is interested in the position. The Chairman of the Department of Surgery, together with the Dean of the Drew University and the Medical Director of KDMC, are negotiating salary with the candidate. The recruitment process is expected to culminate by late September 1989, subject to his acceptance.

UNIVERSITY OF CALIFORNIA,
SAN FRANCISCO GENERAL HOSPITAL,
San Francisco, CA, September 30, 1989.

ARTHUR FLEMING, M.D.,
Chief of Surgery, King-Drew Medical Center, Los Angeles, CA.

DEAR DR. FLEMING: I am writing to you to explain the circumstances under which my name appeared in a recent article about your hospital in the Los Angeles Times. Several months ago, I received the unsolicited records of a 37-year-old woman who had died as a result of complications of ovarian surgery which had been performed at King-Drew Medical Center. Subsequently, I received a phone call from Ms. Claire Spiegel who identified herself as a reporter for the Los Angeles Times and asked me to give an opinion on the case. I could not have given an expert opinion on the case because the records supplied were incomplete and major items such as operation reports were not available. However, I indicated that I did not want to be involved in her story and that I did not want to be quoted. This was my only communication with Ms. Spiegel. Needless to say, I was quite surprised to find myself listed under a heading, Who The Experts Are, in conjunction with the article. Other than the limited records of the patient above, I have not seen or examined the records of any other patient admitted to King-Drew Medical Center. I have never visited your hospital and my limited knowledged regarding your hospital certainly does not qualify me as an expert.

I deplore the use of my name in this article since it seems to be a deliberate attempt to mislead those reading the article into thinking that I have reviewed all of the cases discussed and agree with the conclusions reached in the article. Nothing could be farther from the truth. The fact that I was so grossly misrepresented can only cast doubt on the veracity of the rest of the article.

I hope that this letter will serve to clarify my limited involvement with the article. If any other information is required, please do not hesitate to call me.

Sincerely yours,

JAMES R. MACHO, M.D.,
Assistant Professor of Surgery,
University of California, San Francisco.

RULE ON H.R. 3402, THE POLISH AND HUNGARIAN DEMOCRACY INITIATIVE OF 1989

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic Caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 3402, the Polish and Hungarian Democracy Initiative of 1989.

TRIBUTE TO CITIZENS OF WALTERBORO, SC

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. RAVENEL. Mr. Speaker, with so much attention being given to outside relief efforts to assist the victims of Hurricane Hugo, I wish to share with my colleagues the story of the generosity of the citizens of the city of Walterboro and Colleton County back home. The following letter was sent to me by Harry Cone, mayor of Walterboro, in which he tells of the untiring efforts of Colleton, which is a rural and economically disadvantaged county, to assist those who were suddenly made less fortunate than they.

With the assistance of radio station WALD, which operated around the clock as an information center, the people of Colleton County were able to collect and distribute more than one-half million dollars in supplies and monetary contributions. I am most proud to pay a special tribute to those folks who responded to the needs of their fellow South Carolinians.

CITY OF WALTERBORO,
Walterboro, SC, October 4, 1989.

Hon. ARTHUR RAVENEL, JR.,
Federal Building, Charleston, SC.

DEAR CONGRESSMAN RAVENEL: Disasters often bring out the best in people. Mass media has made our country aware of the destruction and devastation suffered by the people of our State due to Hurricane Hugo. The Nation, I am sure, is aware to some degree of the supplies and other forms of aid which have so generously poured into Charleston and the surrounding areas in response to Hugo's devastation.

A perfect example of this generosity is the response of the citizens of the City of Walterboro and Colleton County. For the most part, Walterboro and nearby areas were spared Hugo's full force but some areas of Colleton County, including Cottageville, were severely devastated. The people of Walterboro and Colleton County responded to the needs of their fellow South Carolinians with food, clothing, supplies and other forms of aid. It is estimated that food with a value in excess of $½ million was shipped out of Colleton County to other areas in need within the first critical hours and days after the hurricane. This in spite of the fact that our people live in an area of South Carolina that is economically disadvantaged. Also, approximately 20,000 pounds of ice and 100,000 gallons of water were sent by our people to those in need in Hugo's aftermath. Vehicles of ever description, from pick-up trucks to tractor trailers, were used to make deliveries. More than 70 truckloads were sent in the relief effort. Convoys were led from Colleton County to devastated areas in Berkeley, Charleston, Dorchester, Sumter, Clarendon, and Williamsburg Counties as well as to devastated areas in our own Colleton County. Aid from our county was the first to reach the people of Bonneau, Moncks Corner, Ravenel, Eutawville, Awendaw, Sumter County, and Clarendon County.

I would like Congress to join me in paying official tribute to the people of Walterboro and Colleton County, South Carolina, who showed their love and caring for those less fortunate South Carolinians who suffered most from the ravages of Hugo—to our people who have continued to share what they have and to provide their labor and services to distribute food and other items so critically needed and so generously given.

Sheriff Eddie Chasteen and the Colleton County Sheriff's Department and Chief Tom McJunkin and the Walterboro City Police Department must be commended. Their fine law enforcement organizations aided the distribution of supplies by accompanying the many convoys and providing security and assistance to the community volunteers working to deliver the much needed aid. Some individuals need to be singled out—Sgt. Charles Roberts, Deputy Shaunette Pringle and Deputy Steve Dunn of the Colleton County Sheriff's Department whose efforts went beyond even what could be expected of the most dedicated public servant. They not only provided escort service for relief convoys at all hours of the day and night but also provided the physical labor necessary to clear the roads so that the convoys could get through. Also deserving of special recognition is Walterboro Chief of Police Tom McJunkin who personnally escorted convoys into Sumter County.

Too much praise cannot be given to radio station WALD and its owner, Rudi Gresham, who, along with the other members of the WALD staff, worked around the clock for four straight days to bring much needed up to date information to the people of our area. Radio station WALD, in addition to acting as an information center also served as a collection point for the distribution of food, clothing, and other much needed supplies. WALD provided the communication necessary to coordinate and make possible this relief effort and to the the first so much needed relief, to so many devastated areas. WALD broadcast service information and relief appeals, without commercials while suspending regular programing, for a substantial length of time while coordinating the continuing relief efforts. The FCC and the American people should be made aware of Mr. Gresham, his staff at WALD, News Director Cheryl Tillman, Danny DeWitt, Larry Wright, and Bubba Stokes and the shining example they set for the broadcast industry.

The people of Walterboro and Colleton County responded in a real way to a very real human tragedy. The response by people from all walks of life and from every economic strata—from Willie the painter, who lives in his car and who contributed his last $10.00 to buy baby food to the individual who provided an entire 18-wheeler loaded with ice—was overwhelming. Volunteers were needed and they came—merchants closed their stores so they could help, truck drivers gave up profitable driving runs so they could provide the trucks necessary to deliver the relief supplies, and on and on. People who could not afford to give gave anyway because they cared and they saw others whose needs were greater than theirs. They were like the young man sharing his fishes and loaves with the multitude in another time and their generosity and caring proved to be the catalyst necessary to mobilize others throughout our great nation to care and to share.

The devastation our State has suffered from Hurricane Hugo is terrible. The outpouring of caring and sharing in the wake of this horrible tragedy by the people of our good State, including especially my friends and neighbors here in Walterboro and Colleton County, is heartwarming beyond description. All this done with no expectation of thanks or recognition. Our people provided a wonderful example of what people who love God and recognize his tenets of loving, caring and sharing do in a time of tragedy. I, as Mayor of the City of Walterboro, would like to extend my thanks to these people who gave so willingly of their time, their effort, their money, and, above all, of themselves.

Sincerely yours,

W. HARRY CONE, Jr.,
Mayor, Walterboro, SC.

DOD INVOLVEMENT IN DRUG WAR MAJOR BREAKTHROUGH, BUT U.S. SHOULD NOT BE SOLE CARRIER OF THE BIG STICK

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. RANGEL. Mr. Speaker, as chairman of the House Select Committee on Narcotics Abuse and Control, I would like to commend strongly Defense Secretary Richard Cheney's initiative of September 18, expanding the Department of Defense's role in the war on drugs.

Secretary Cheney effectively said that the military will be a full partner in the war on drugs. It's about time. In the previous administration, Defense Secretaries Weinberger and Carlucci resisted every opportunity for the military to help.

This is a major breakthrough. I am enthusiastic that Secretary Cheney declared drug control to be a high priority national security mission. I and my colleagues on the House Narcotics Committee have been urging recognition of this need for many years.

I am pleased at the greater commitment of military resources and personnel by the Secretary as well as his call for the development of specific strategies by the various military commands in their geographic and technical jurisdictions.

I would hope, however, that these military actions in the war on drugs are not by the United States alone, but part of multilateral actions involving the United Nations, the Organization of American States, Interpol and other groups of nations.

Drugs are a worldwide problem, and I do not want to see the United States become the sole carrier of the big stick.

I would urge the State Department to work with Secretary Cheney so that other nations will share the military's responsibility to help fight the war on drugs.

It is a major step forward that Secretary Cheney will expand our military involvement in antidrug efforts in South America, Central America, the Caribbean, the Mexican border, and Asia. I totally agree with him that U.S. force and technical backup can make a substantial contribution.

I am happy that Secretary Cheney clarified that the military will not be involved in operational antidrug efforts. I am also pleased that he understands that our military cannot act as a police force but will instead support existing law enforcement.

With the military's involvement, we can go forward in reducing the flow of drugs into our country.

The text of the Secretary's statement follows:

DEPARTMENT OF DEFENSE GUIDANCE FOR IMPLEMENTATION OF THE PRESIDENT'S NATIONAL DRUG CONTROL STRATEGY

On September 5, 1989, the President issued the National Drug Control Strategy pursuant to the Anti-Drug Abuse Act of 1988. The President's strategy provides for an integrated program of counternarcotics actions designed to move the country substantially closer to the goal of a drug-free America. This guidance is designed to assist in the swift and effective implementation of the President's strategy within the Department of Defense.

The supply of illicit drugs to the United States from abroad, the associated violence and international instability, and the use of illegal drugs within the country pose a direct threat to the sovereignty and security of the country. The threat of illicit drugs strikes at the heart of the Nation's values. It inflicts increased crime and violence on our society and attacks the well-being and productivity of our citizenry. One of the principal foreign policy objectives of this Administration is to reduce, and if possible to eliminate, the flow of illegal narcotic substances to the United States. Also, the Congress has by statute assigned to the Department the duty to serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs to the United States. For these reasons, the detection and countering of the production, trafficking and use of illegal drugs is a high priority national security mission of the Department of Defense.

The Nation ultimately will be rid of the scourge of illegal drugs only through the sustained application of the energy, courage and determination of the American people. As the President's Strategy reflects, the Nation must seek to eliminate both the demand and supply for illegal drugs, for the Nation will conquer neither if the other is left unchecked.

The Department of Defense, with the Department of State and U.S. law enforcement agencies, will help lead the attack on the supply of illegal drugs from abroad under the President's Strategy. The efforts of the Department of Defense will complement those of other U.S. agencies and cooperating foreign countries. The Department of Defense will work to advance substantially the national objective of reducing the flow of illegal drugs into the United States through the effective application of available resources consistent with our national values and legal framework.

An effective attack on the flow of illegal drugs depends upon action at every phase of the flow: (1) in the countries that are the sources of the drugs, (2) in transit from the source countries to the United States, and (3) in distribution in the United States. The United States Armed Forces can assist in the attack on the supply of drugs in each of these phases.

I. THE ATTACK ON DRUGS AT THE SOURCE

The Department of Defense will assist in the attack on production of illegal drugs at the source. The production of illegal drugs is a complex criminal enterprise. The criminal enterprise requires illicit labor, capital, entrepreneurship and a substantial infrastructure to grow the plants that are the raw materials for illegal drugs and to refine and manufacture the illegal drugs. Reducing the availability of these elements of illegal drug production in the countries from which illegal drugs originate would reduce the flow of illegal drugs to the United States.

The Department of Defense can assist in the three elements of an effective attack on the supply of drugs in source countries: (1) assistance for nation-building, (2) operational support to host-country forces, and (3) cooperation with host-country forces to prevent drug exports. Pursuant to the National Drug Control Strategy, near-term efforts will focus on the Andean nations from which most cocaine entering the United States originates. A key requirement for the success of U.S. efforts directed at the supply of illegal drugs, and in particular U.S. counternarcotic operations, will be the cooperation of the foreign countries involved.

As the National Drug Control Strategy indicates with respect to the Andean countries, a sustained, multi-year effort to provide economic, security, and law enforcement assistance is an essential element for a successful fight against illegal drugs abroad. Drug-producing criminal organizations control what amounts to private armies that challenge the law enforcement and military forces of their countries. Often such organizations are intertwined with insurgent forces that challenge directly the governments of their countries. The National Drug Control Strategy calls for the United States to reinforce the abilities of the governments of the countries cooperating in the fight against illegal drugs to combat drug-producing organizations. Security assistance will help enable such a government to protect itself from criminal drug enterprises and drug-related insurgencies, and to enforce its laws against drug producers and traffickers. Future economic assistance will help to strengthen the national economy and keep the labor, capital and enterpreneurship available in the country channeled toward useful production and away from drug production. Success in other efforts to attack the supply of illegal drugs depends in the long-run upon the establishment of healthy economies in drug-producing countries and the restoration of governmental authority in those countries. To assist in the implementation of this element of the National Drug Control Strategy, the Department of Defense will execute security assistance programs in accordance with Presidential instructions and applicable law, and in coordination with the Department of State.

Effective implementation of the National Drug Control Strategy requires that the Department of Defense be prepared to provide counternarcotics operational support to the forces of cooperating countries. The U.S. Armed Forces can provide foreign forces substantial assistance in training, reconnaissance, command and control, planning, logistics, medical support and civic action in connection with foreign forces' operations against the infrastructure of drug-producing criminal enterprises. Such U.S. military support would be designed to increase the effectiveness of foreign forces' efforts to destroy drug processing laboratories, disrupt drug-producing enterprises, and control the land, river and air routes by which the enterprises exfiltrate illegal drugs from the country.

In addition to assistance for nation-building and support for foreign forces' strikes on drug-producing enterprises, the U.S. can assist law enforcement agencies of cooperating foreign countries in combatting the export of drugs from those countries. The Department of Defense can assist with an improved intelligence collection effort, which will be essential not only to assist the governments of the source countries, but also for U.S. actions in the second line of defense—the attack on drugs in transit to the United States.

II. THE ATTACK ON DRUGS IN TRANSIT

The substantially increased effort to attack drugs at their source in the drug-producing countries as a first line of defense should help reduce over time the export of illegal drugs to the U.S. Nevertheless, drug-producing criminal enterprises in those countries currently are so vast in scope that, even if U.S. efforts to attack drugs at the source are highly successful, the flow of drugs by sea, air, and land will continue. As the second line of defense against the flow of illegal drugs, the U.S. armed forces will implement the National Drug Control Strategy through substantial efforts to counter the flow of illegal drugs in transit to the United States, both outside the United States and at the Nation's borders and ports of entry. The Department's service pursuant to statutory direction as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs to the United States will prove particularly important to the success of this effort.

Deployment of appropriate elements of the U.S. armed forces with the primary mission to interdict and deter the flow of drugs should over time help reduce the flow of illegal drugs into the U.S. At a minimum, deploying the armed forces with this mission should have the immediate effect of substantially complicating the logistical difficulties of criminal drug traffickers and increasing the costs and risks of their drug smuggling activities.

As a high priority, United States military counternarcotics deployments will emphasize combatting the flow of drugs across the Caribbean Sea and across the southern border of the United States. The Department of Defense will proceed with planning to deploy a substantial Caribbean Counternarcotics Task Force, with appropriate air and maritime drug interdiction assets and aerial and maritime detection and monitoring assets, to combat the flow of illegal drugs from Latin America through the Caribbean Sea. The Department also will proceed with planning for other deployments of U.S. forces to complement the counternarcotics actions of U.S. law enforcement agencies and cooperating foreign governments.

Success of the attack on drugs in transit will require sustained deployment of appropriately trained and equipped members of the U.S. armed forces and substantially improved cooperation between the armed forces and U.S. law enforcement agencies. The substantial increase in military participation in the attack on drugs in transit is intended to be in addition to, rather than in place of, Federal law enforcement agencies' efforts.

The success of interdiction and deterrence efforts will depend greatly upon the ability of the Department of Defense and law enforcement agencies to marshal effectively the myriad command, control, comunications and intelligence resources they possess into an integrated counternarcotics network. The Department of Defense will serve as the single lead Federal agency for the de-

tection and monitoring of aerial and maritime transit of illegal drugs and will be prepared, with the cooperation of U.S. law enforcement agencies, to integrate expeditiously into an effective network the Federal command, control, communications, and technical intelligence assets that are dedicated to the mission of interdicting illegal drugs from abroad. The Department of Defense will seek to develop and employ when appropriate the capability to exercise tactical control of Federal detection and monitoring assets actively dedicated to counternarcotics operations outside the United States and in border areas.

To ensure that action to implement the President's National Drug Control Strategy begins immediately, the Commanders-in-Chief of all unified and specified combatant commands will be directed to elevate substantially the mission priority within their commands of actions to fight illegal drugs.

III. THE ATTACK ON DRUGS IN THE UNITED STATES

After the first and second lines of defense—actions directed at illegal drugs in source countries and in transit—the third line of defense against drugs will be in the United States itself. The role of the armed forces in the third line of defense includes both actions to reduce the supply of illegal drugs and actions to reduce the demand for those drugs.

Within the United States, to assist in reducing the supply of illegal drugs, the counternarcotics actions of the Department of Defense will emphasize support to Federal, State and local law enforcement agencies, and the National Guard in State status. The Department of Defense will assist requesting law enforcement agencies and the National Guard with training, reconnaissance, command and control, planning, and logistics for counternarcotics operations. In appropriate cases, armed forces personnel and equipment will be detailed directly to law enforcement agencies to assist in the fight. The Department of Defense will ensure that its administrative and command structures permit rapid and effective response to appropriate requests for counternarcotics assistance from law enforcement agencies and the National Guard. The Department will continue to assist the Governors of the several States in employing the National Guard in the fight against illegal drugs.

With respect to reduction of demand for drugs within the United States, the Department of Defense bears an important responsibility to reduce the use of illegal drugs within the armed forces and among its civilian personnel. The Department of Defense has met with substantial success in its demand reduction efforts with armed forces personnel through aggressive drug abuse education and drug-testing programs—an 82 percent reduction in drug abuse since 1980. The Department will step up its efforts to combat drug use by departmental personnel and will make available to other large organizations its experience in reducing the demand for illegal drugs. The Department also will emphasize drug abuse awareness and prevention programs in the Department's school system, which educates over 190,000 of America's children.

The Department of Defense will be prepared to assist the Department of Justice with its responsibilities for incarceration and rehabilitation of drug criminals, through means such as training Federal, State and local personnel in the conduct of rehabilitation-oriented training camps for first-offense drug abusers and providing overflow facilities for incarceration of those convicted of drug crimes.

The President's National Drug Control Strategy emphasizes an approach to reducton of the drug supply. The Department of Defense has a crucial role in defending the United States from the scourge of illegal drugs. The Department will employ the resources at its command to accomplish that mission effectively. Should it prove necessary in implementing the President's Strategy effectively, any needed additional statutory authority will be sought. The men and women of America's armed forces will fight the production, trafficking and use of illegal drugs, as an important part of the national effort to secure for all Americans a drug-free America.

RICHARD B. CHENEY,
Secretary of Defense.

CEREMONIES TO MARK OUTSTANDING CONTRIBUTIONS OF JERSEY CITY STATE COLLEGE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. GUARINI. Mr. Speaker, this year marks several very special anniversaries for Jersey City State College, a distinguished institution of higher learning located in my district.

On October 13, 1989, the college's 60th anniversary will be celebrated at a dinner-dance at the Glen Point Hotel in Teaneck, NJ. Sponsored by the college's board of trustees and the board of directors of the college's development fund, the dinner will also honor the 15th year of Dr. William J. Maxwell's tenure as president of the college.

Prior to Jersey City State's official beginnings in 1929, its precursor first opened in 1927 as the New Jersey State Normal School with an enrollment of 331 students. Since that time, the college has grown in leaps and bounds. Today, it has a total enrollment of 8,850 students, including students from 18 foreign countries.

The college's distinguished president, Dr. Maxwell, is a man of outstanding leadership and academic accomplishment. He graduated from Jersey City State College in 1958 with a bachelor of science degree in elementary education and social studies. In 1960, he earned his master of arts degree at Columbia University in American history. In 1967, he earned a doctorate of education degree from Columbia University, specializing in American political history, American social thought, and urban and Afro-American history.

From 1958 to 1961, Dr. Maxwell taught social studies as a public school teacher. In 1961, he began his career on the Jersey City State College faculty as an associate professor in the department of social sciences. His dedication to academic excellence, to his students, and to the entire community were rewarded with his ascension to the presidency in 1974. His 15-year term has been marked by achievement and growth for the college.

Dr. Maxwell has been associated with a number of national, State, and local organizations, including:

Member, board of directors, American Council on Education;

Member, board of directors, American Association of State Colleges and Universities;

Chairman, advisory panel to the Washington office of the College Board;

Member, executive board, New Jersey Association of Colleges and Universities;

Commissioner, Commission on the Future of the State Colleges of New Jersey, 1983–84;

Member, board of directors, Hudson County Chamber of Commerce, Jersey City, NJ;

Board of trustees, Medical Center Foundation, Jersey City, NJ;

Member, New Jersey State Board of Examiners, 1989–83;

Member, board of directors, New Jersey Educational Computer Network, Inc., 1977–80;

His professional and honor associations include:

American Studies Association (president, Metropolitan New York Chapter, 1971–72, secretary/treasurer, 1970–71, executive council, 1970–73);

American Historical Association;

Organization of American Historians;

Phi Alpha Theta (a national honor society for historians); and

Kappa Delta Pi (a national honor society for educators).

His honors and awards include:

Listings in "Who's Who in America," 1976; "Outstanding Educators in America,' 1971; and "Dictionary of American Scholars," 1969;

Humanitarian Award, National Conference of Christians and Jews, 1985;

Minority Advocate of the Year, U.S. Small Business Administration, 1983;

Outstanding Educator of the Year, New Jersey Association of Veterans Program Administrators, 1979;

Outstanding Young Men in America, 1968;

Outstanding Alumnus of the Year, Jersey City State College, 1967.

Dr. Maxwell has published a number of books and articles, including:

"A History and Philosophy of Education," (With Robert Bernstein), New York: Simon and Schuster, 1965.

"Frances Kellor in the Progressive Era: A Case Study in the Professionalization of Reform." Ann Arbor: University of Michigan Press, 1968 (doctoral dissertation).

He has published a number of articles and reviews in the fields of American history, Afro-American history, urban history, the history of American education, and race relations in "American Quarterly," "Pan-African Journal," and the "Dictionary of American Internationalists."

Dr. Maxwell is married and has two children. He served from 1952 to 1954 in the United States Army Corps of Engineers in Korea, Japan, and the United States.

Over the past 60 years, the college has expanded tremendously to include the Irwin Library, which houses over 200,000 volumes, the Gilligan Student Union Building, the Science Center, the Media Arts Center, Rossey Hall, the A. Harry Moore Center for Special Education, and Hepburn Hall.

The college offers degree programs in 33 academic areas. Two Hundred and forty-five full-time and 200 adjunct faculty teach classes at the school of arts and sciences, the school

of professional studies and education, and the school of graduate studies.

Career-oriented undergraduate programs include computer science, nursing, business administration, medical technology, media arts, criminal justice, fire safety administration, and many teaching specializations. A bachelor of fine arts degree programs provides valuable study opportunities in the arts. Cooperative education programs are also offered in all areas of study.

Graduate-level master of arts programs will be offered in criminal justice and in 14 areas of education. The college also offers a professional diploma in school psychology.

Jersey City State College also offers nontraditional study options for credit in a wide variety of academic areas through the college's Saturday Semester Program.

In a statement about the future of the college, Dr. Maxwell said:

Major renovation will be undertaken across the campus between 1992 and 1994. The construction of a new theater is slated for 1994 and 1995. The following year construction will begin on a new media arts building. In the last phase, 1996-97, an off-campus parking lot will be reconfigured and Vodra Hall Dormitory will undergo partial renovation.

Half of the funding for master projects will be provided through the "Jobs, Education, and Competitiveness Bond Act of 1988," which enables New Jersey Colleges to upgrade facilities. Jersey City State will cover the balance through general operating funds, student fees, and fundraising projects.

Two decades have passed since the last college master plan was undertaken. This is the first opportunity in 15 years to match our facilities with our new academic initiatives and our expanded services and staff.

We have developed a variety of new professional studies in the past seven or eight years and have been forced to superimpose the classrooms and office space for these departments on facilities that were created in the late 1960's for liberal arts studies. The coupling-up created severe overcrowding and in some cases serious deficiencies for programs with special needs such as computer labs, library space and theatre facilities.

The college will set preliminary guidelines and devote resources to a far-reaching study of the liberal arts that will involve a revamping of the General Studies Program. The study, scheduled to begin formally in the fall of 1990, will be undertaken by a Council of the Arts and Sciences and Professional Studies and Education.

Dr. Maxwell views the new plan for Jersey City State's future as a "major step that will influence the direction of the college for 10 years or more."

Through its Student Government Association the college offers comprehensive extracurricular activities and through its division of athletics a complete intramural and intercollegiate range of sports activities.

As a major community resource, the college is the focus of many community outreach and counseling services as well as the site of numerous concerts, lectures and art exhibits for the general public.

I have witnessed Jersey City State College's involvement in numerous community programs. The college's students have volunteered thousands of hours to various community agencies, hospitals, housing developments, and schools.

The college's careers day programs have helped thousands of area high school students meet educational and business leaders.

The college's cooperative education program has given thousands of students the opportunity to work while pursuing advanced study in their chosen field.

I salute Jersey City State College for the outstanding academic training it provides and for its continuing vision and leadership in our community.

In saluting the college and Dr. William Maxwell, we must pay tribute to the following Jersey City State College leaders: Dr. William Allen Messler, principal, 1929-33; Dr. Edgar F. Bunoe, acting principal, 1933-34; Dr. Roy Lee Shaffer, principal president, 1934-40; Dr. Chris C. Rossey, president, 1940-46; Dr. Forest A. Irwin, president, 1946-54; Dr. Michael B. Gilligan, president, 1954-67; Dr. William A. Liggitt, acting president, 1967-68; Dr. James H. Mullen, president, 1968-73; Dr. William J. Maxwell, president, 1974-present.

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I feel certain that my colleagues here in the House of Representatives wish to join me in this grand salute.

NATIONAL ITALIAN AMERICAN FOUNDATION PAYS TRIBUTE TO THREE OUTSTANDING CITIZENS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PURSELL. Mr. Speaker, I would like to bring the attention to our Nation some special awards that will be presented on November 2, 1989 in Michigan by Italian Americans.

It will be the privilege of Paul F. Oreffice, David Handleman, and our own distinguished member WILLIAM S. BROOMFIELD, to be honored by the National Italian American Foundation for their contributions to our society.

Paul Oreffice, chairman of Dow Chemical Co., has moved to successive international assignments in Switzerland, Italy, Brazil, and Spain since beginning his career with Dow in 1953. A native of Venice, Italy, Mr. Oreffice first came to the United States with his family at the age of 12, later became a United States citizen, and served in the United States Army during the Korean conflict. He is a graduate of Purdue University and has honorary doctoral degrees from Lawrence Institute of Technology, General Motors Institute, Saginaw Valley State College, Tri-State University, South Dakota School of Mines and Technology, and Clemson University. In 1966, Mr. Oreffice received the Sagamore of the Wabash Award—Indiana's highest honor—for his service to education.

David Handleman is chairman of the board of the Handleman Co. He is a member of the board of directors for several Detroit community organizations, including the United Foundation, Detroit Institute of Arts, Interlochen Music Camp, Oakland University, the Detroit Symphony, Cranbrook Academy of Arts and Sciences, the Citizens Research Council of Michigan, and the Economic Alliance for Michigan. In addition, he serves on the boards and committees of numerous local and national Jewish community organizations.

The third honoree, is our distinguished colleague BILL BROOMFIELD, who has served in the House of Representatives since 1956, after serving 8 years in the Michigan House and Senate. In 1961 he was appointed to the prestigious House Foreign Affairs Committee and currently serves as vice chairman of the committee. In this capacity, he brings his extensive foreign affairs experience to regular meetings with the President, Secretary of State, and top national security advisors on major foreign policy issues. He is also a member of the Small Business Committee and believes the small business sector is the backbone of the American economy. BILL is a member of several fraternal and civic organizations.

As the National Italian American Foundation gathers in Livonia, MI. on November 2, to honor and give recognition the many contributions of these three outstanding individuals, I send very best wishes from the U.S. Congress.

POVERTY FIGHT CALLED MISGUIDED

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. DUNCAN. Mr. Speaker, as everyone knows, spending by the Federal Government has more than doubled in just the past 8 years.

One main reason for this is that many Federal bureaucrats make it a main goal to raise

more and more for their agency or department each year.

Prof. Dwight Lee of the University of Georgia has just completed a very interesting study showing that even government bureaucrats are driven by market-like competition for funds.

I hope all my colleagues will consider this fascinating article by John Cunniff of the Associated Press.

POVERTY FIGHT CALLED MISGUIDED

(By John Cunniff)

NEW YORK.—In politics, one of the safest, popular, commendable and perhaps rewarding stances it to be for the poor, especially through government transfer programs.

Politically speaking, it is an assumption not to be questioned that transfers of money from the rich to the poor will, over time, improve chances of the poor obtaining a larger percentage of the nation's income.

It might not be so. The safe, popular and commendable political stance might also be one of the least effective, says Professor Dwight Lee in a paper for the Center for the Study of American Buisness, St. Louis.

Lee's position will create controversy, but that's what every unpopular notion does in the world of economics. It may be true also that he will never be able to prove the case, but it certianly will get an airing.

Indeed, one reason why Lee challenged the assumption was its casual acceptance not just by politicians and economists, but by other segments of economic society and the general public. The cost, of course, was another reason.

Lee, who teaches at the University of Georgia, contends that if government transfer programs were helping the poor, income distribution would have become more equal as spending on poverty programs rose over the years.

It hasn't happened, he says. He refers to studies showing that income distribution has remained almost stable over the past four decades. He cites one study of income between 1950 and 1970 that showed:

Households in the lowest 20 percent of income distribution received 6.4 percent of the national net income in 1950 and 6.7 percent in 1970.

Households in the top 20 percent of income distribution received 39.9 percent of national net income in 1950 and 39.1 percent in 1970.

That, says Lee, is very little impact for the billions of dollars spent. It is so little, he maintains, that you might also assume that to reduce such spending drastically might do little to worsen poverty.

How could this possibly be? He believes the answer lies in the nature of politics and the marketplace.

Poverty, he says, is thought to result from a marketplace driven by competition among self-seeking individuals who have little concern for broad social outcomes. If so, he says, the same is true in politics.

"Is it not at least a plausible assumption," he asks, "that people are as self-regarding in one setting as another?"

The political process, like the market process, "is driven by competition between individuals who are interested in promoting their private objectives," he says. Some of those objectives, it seems, don't always help the poor.

Even altruistic people, Lee claims, too often simply lobby for or against existing government programs that provide specific benefits—rather than the objective of reducing overall poverty. They might see no alternative.

Sometimes the poverty advocates are made up of those whose employment is tied to programs, leading him to point out that:

"Poverty professionals have an overriding interest in their incomes and job security and favor the continuation and expansion of funding for poverty programs for reasons completely divorced from any benefits the poor receive."

In short, as Lee sees it, the motivation in politics is the same as in the marketplace. If elimination of poverty is the goal, few seem interested in determining whether programs do indeed work to reduce poverty.

FOR SALE: 780 ACRES OF BEACHFRONT PROPERTY LOCATED WITHIN A NATIONAL RECREATION AREA, $2.50 AN ACRE—CONTACT THE BLM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. RAHALL. Mr. Speaker, the "For Sale" signs are up again. And, there are no shortage of takers. Yesterday, 780 acres of land within the Oregon Dunes National Recreation Area left public ownership when the Bureau of Land Management granted fee title to the acreage to a private mining claimant.

Incredible as it may seem to some, the Federal Government only received a mere $2.50 per acre for this land.

Despite the fact that local zoning ordinances prohibit mining within the Oregon Dunes National Recreation Area of the Siuslaw National Forest, the mining claimant succeeded in convincing both the BLM and Forest Service that sand located on the land was a valuable mineral and subject to the land transfer provisions of a 117-year old mining law.

This law, known as the Mining Law of 1872, permits the location of claims for mineral deposits on public domain lands. In order to be valid, a claim must be properly located, maintained, and a valuable mineral deposit must be discovered. There is no requirement for any type of rental or royalty to be paid to the Federal Government in return for the extraction of these publicly owned minerals. The law also gives a claim holder the option of applying for a patent, which represents fee simple title to the land under claim, for a mere $2.50 an acre application fee. It is important to note that this is an option. A person does not need to patent a claim in order to mine it.

While the Surface Resources Act of 1955 prohibits the location of mining claims for what are known as common varieties of mineral materials such as sand, stone, and gravel, the law exempts those materials which have a distinct and special value. These mineral materials are commonly referred to as uncommon varieties and can still be located under the Mining Law of 1872.

The sand subject to the mining claims in the Oregon Dunes National Recreation Area is, according to the BLM, an uncommon variety of sand because, the agency contends, it could be used to make glass. The agency also believes that the local zoning ordinance prohibiting mining in the area, and provisions of the Coastal Zone Management Act, have no bearing on whether the sand is a valuable mineral under the Mining Law of 1872.

Mr. Speaker, for some time now I have grown increasingly concerned over a number of issues relating to both the mining law and the exemption for uncommon varieties in the Surface Resources Act. This loophole in the law represents nothing less than the legal looting of public resources. I think we must question, whether in this day and age, it is appropriate for the Federal Government to transfer title to public lands for $2.50 an acre. And, whether the public interest is being served by the lack of any financial return for the extraction of minerals from Federal lands.

Moreover, due to the absence of diligent development requirements for unpatented mining claims, and the fact that once patented under the Mining Law of 1872 there is no requirement whatsoever that the land be used for mining, I think we must ask whether we are still dealing with a law whose function is supposed to be to facilitate mining. Case in point: There will be no mining on those 780 acres of sand land within the Oregon Dunes National Recreation Area transferred out of Federal ownership yesterday.

Mr. Speaker, as the chairman of the Subcommittee on Mining and Natural Resources, I believe that the country's mining laws should provide for, although some may disagree, mining. I think that is a fairly simple enough thing to expect from our mining laws. I also believe that we have a stewardship responsibility for Federal lands which are owned by all of the people of the United States. These considerations will continue to drive my review of the Mining Law of 1872.

THE REVENGE OF "MR. MAYOR"

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. STARK. Mr. Speaker, we've all laughed at the story from the early days of the Reagan administration, when the President greeted HUD Secretary Samuel Pierce by saying, "Good evening, Mr. Mayor. How are things in your city?" Who would have dreamed, though, that one small faux-pas by the President would lead us to one of the greatest government scandals in our Nation's history?

Imagine the embarrassment and consternation that Mr. Pierce must have felt as he skulked home that night. "Mr. Mayor," indeed. Imagine the feelings of betrayal festering within him, cloaked beneath the mild-mannered demeanor of "Silent Sam." It must have been during those dark days that Pierce began to plot his revenge against the President and the administration that had mocked him so cruelly.

No grant would be too large, no favor to the friends of the privileged would be ignored. An entire executive agency would be turned over to the benefit of people with no need, but plenty of access. Pierce was no fool; he not only knew that a day of reckoning would

come—he counted on it. Within a year of leaving office, the Reagan administration would be held up as the biggest collection of welfare cheats in history.

Picture in your mind the meeting between Pierce and James Watt, as the Secretary of the Interior came dialing for dollars. While Watt buddled up to Pierce ("You know, Sam, you're not the token that we all thought you were."), Silent Sam must have been hard-pressed to keep from laughing out loud: "Go ahead, Jim, keep talking. You'll earn your fat commission and I'll have the satisfaction of seeing you and your cronies ridiculed in public one more time."

We should offer our apologies to this neglected member of the Reagan administration and assure him that—even if the President didn't recognize his own Cabinet—at least we knew who he was. Of course, it's too late now to address the damage done by that one small gaffe by the President, but we can at least hope that our current President has a keener grasp of his Cabinet than his predecessor did; I shudder to think of the consequences if, at the next State dinner, President Bush walks up to Defense Secretary Cheney and greets him with a sunny, "Hello, Ed. What's Johnny Carson really like?"

TRIBUTE TO MR. AND MRS. THOMAS JOSEPH HAWK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to congratulate Mr. and Mrs. Thomas Joseph Hawk on the birth of their 8-lb.-2½-oz. baby boy. The child was born on September 25 at 1:37 p.m.

Mr. Hawk is the director of legislative computer systems and his wife, Stacye Hefner Hawk, is the daughter of the well-respected chairman, BILL HEFNER. These two beautiful new parents met in District of Columbia and are truly examples of the American spirit of public service.

They suffered some tough moments when they found out that their child had a low-hemoglobin count and would need numerous blood transfusions, but the child has pulled through. I am sure that young Thomas Hawk, Jr., will carry on in their footsteps and may someday emulate his maternal grandfather by serving in Congress.

All of Congress is proud of young Tom Jr., who has been nicknamed "Little Mo." I'd like to change that and call him "Big Mo" for hanging in there despite the hardships he has suffered. I wish all three of them the best.

FATHER JOHN STEPHEN TERRY HONORED AFTER 10 YEARS WITH THE CATHOLIC YOUTH CENTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to congratulate Father John S. Terry as he celebrates his 10th year as director of the Wilkes-Barre Catholic Youth Center.

Father John Stephen Terry was born on October 19, 1949, in Jessup, PA. He attended elementary school at St. Michael's in Jessup and attended Scranton Preparatory School, completing his studies in 1967. Upon graduation from Scranton Prep, Father Terry was accepted at the University of Scranton. He entered into St. Pius X Seminary in his junior year to begin his studies for the priesthood. He graduated from St. Pius X and the University of Scranton in 1971.

He was assigned to Our Lady of the Angels Seminary in Albany, NY, and, upon its closing, continued his theological studies at Christ the King Seminary in Olean, NY. Father Terry completed this program in 1975, graduating with a master's degree in theology.

Father Terry was ordained to the priesthood on May 3, 1975, by Bishop J. Carroll McCormick at St. Peter's Cathedral, in Scranton, PA. Upon graduation, he was assigned to St. Mary's Immaculate Conception Church, Wilkes-Barre. He served for 4 years as assistant pastor before he was appointed as the youngest priest director of the Wyoming Valley Catholic Youth Center [CYC] in 1979. At this time he was sent to St. Patrick's Parish in Wilkes-Barre where he remained for 3 years. In 1982, he began serving as assistant pastor Holy Saviour Parish while continuing as director of the CYC.

In addition, Father Terry was cochairperson for the Youth Commission during the Second Diocesan Synod. He also taught at Bishop Hoban High School for several years and served as director of Campus Ministry at Wilkes College. Father Terry has been actively involved in a number of community activities, contributing his time and energy for the benefit of various groups including the United Way Campaign and the Allied Services. He has served on the Social Justice Committee for the city of Wilkes-Barre and was involved in the planning of the bicentennial celebration for Luzerne Country and last year's anniversary celebration of the Girl Scouts of America.

During his career with the CYC, Father Terry launched a number of successful programs including indoor soccer, a senior citizens program, a diocesan basketball tournament, CYC night at the races. The CYC Athletic Council has established a Father John S. Terry Award. In addition, Father Terry has made an outstanding effort to reach out to the community to help other groups such as the Child Development Council, Commission on Economic Opportunity, Bureau of Aging, Coordinated Child Care, John Heinz Institute, and the Catholic Schools of Luzerne County.

Father John S. Terry has devoted his life and his career to helping others. He has selflessly offered his talents and his energies to those in the Wyoming Valley who are less fortunate and who are in need. Father Terry stands as a role model to our young and as in inspiration to our elderly.

On October 19, 1989, Father Terry is being joined by his friends, family, and colleagues to celebrate 10 years as director of the Wilkes-Barre CYC and his 40th birthday. It is with great pleasure that I offer my most sincere congratulations to Father Terry on this very special occasion.

FINANCIAL DISCLOSURE FOR 1988

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I continue to file this more detailed family financial report. In this way, my constituents are kept fully and completely informed concerning my financial status.

ROMANO L. AND HELEN D. MAZZOLI
INCOME, CALENDAR YEAR 1988

Interest, dividends, rents and distributions:	
American Life Insurance Co., policy No. 16-11163212-0	$33.03
American Life Insurance Co., policy No. 16-1011729-0	14.51
Congressional Federal Credit Union No. 62976	239.46
Congressional Federal Credit Union No. 84720	82.12
Republic Bank and Trust Co., No. 20-556-7	71.47
Meritor Savings Bank No. 05-99-76	156.03
Meritor Savings Bank No. 05-18-241	25.20
Meritor Savings Bank No. 1433-01-674	197.06
Meritor Savings Bank No. 05-96-1906	55.87
Meritor Savings Bank No. 2786.	49.74
Liberty National Bank & Trust No. 01-527329 (IRA)	1,496.79
Liberty National Bank & Trust No. 29-5081232 (IRA)	687.20
First National Bank No. 040156814 (IRA)	327.05
Liberty National Bank & Trust No. 010090063046	259.72
First National Bank No. 427-5518-4	95.98
U.S. Treasury Bills (No. 912794N23; No. 912794DMO; No. 912794DY4; No. 912794QB3; No. 912794QT4; No. 912794DD3)	1,884.20
939 Parkway Drive, Louisville, KY (rental property)	1,164.00
Distribution from retirement plan (Helen D. Mazzoli)	1,114.35
Total: interest, dividends, rents and distributions	$7,953.78
Honorariums:	
The Brookings Institution	$1,300.00

Distilled Spirits Council of the United States	1,000.00
American Immigration Lawyers Association	2,000.00
Total honorariums:	$4,300.00
Salaries:	
U.S. House of Representatives (R.L. Mazzoli)	$85,024.92
Alexandria Drafting Co. (Helen Mazzoli)	13,577.28
Total salaries:	$98,602.20
Gross income:	$110,855.98
Cash on Deposit:	
Congressional Federal Credit Union No. 62976	$5,520.02
Congressional Federal Credit Union No. 84720	5,860.83
First Nationwide Bank No. 531-0015549	235.10
Republic Bank & Trust Co., No. 20-556-7	3,027.47
Meritor Savings Bank No. 1433-01-674	1,119.81
Meritor Savings Bank No. 05-99-76	6.94
Liberty National Bank & Trust No. 010090063046	4,762.50
First National Bank No. 427-5518-4	1,691.00
Sergeant at arms No. 5348	3,657.20
Total: Cash on deposit	$25,880.87
Individual retirement accounts:	
Liberty National Bank & Trust No. 01-527329	$16,280.86
Liberty National Bank & Trust No. 29-5081232	7,832.67
First Nationwide Bank No. 0401564814	6,580.28
Total: Individual retirement accounts	$30,693.81
Bonds and treasury bills:	
U.S. Government Bonds, Series E	$2,255.10
U.S. Treasury Bill No. 912794N23	10,000.00
U.S. Treasury Bill No. 912794DMO	10,000.00
U.S. Treasury Bill No. 912794DD3	10,000.00
Total: bonds and treasury bills	$32,255.10
Real property:	
939 Ardmore Dr., Louisville, KY (assessed value)	$55,000.00
Less: Mortgage, The Cumberland S & L, No. 15970	4,759.97
Subtotal	$50,240.03
1030 Anderson St., Alexandria, VA (assessed value)	$109,200.00
Less: Mortgage, Cowger & Miller Co., No. 15184	39,326.64
Subtotal	$69,873.36
939 Parkway Dr., Louisville, KY (assessed value)	$37,500.00
Less: Mortgage, Ms. Brad Valla	35,525.59
Subtotal	$1,974.41
Total real property	$122,087.80
Cash surrender value of life insurance policies:	
American United Life Insurance Co. No. 16-011729-0	$5,482.08
American United Life Insurance Co. No. 16-111632120	1,305.95
Total: Cash surrender values	$6,788.02
Federal Employees Retirement System—(total contributions since 1971)	$62,248.28
Federal Employee Thrift Savings Plan (401K)	$8,785.81
Automobiles:	
1965 Rambler (assessed value)	$200.00
1973 Chevrolet (assessed value)	1,489.00
1985 Chevrolet (assessed value)	5,194.00
Total: Automobiles	$6,883.00
Household goods and miscellaneous personal property	$6,000.00
Total assets	$301,622.69
Liabilities	$1,323.58
Net assets	$300,299.11
Federal:	
Gross income	$109,024.00
Adjustments to income	0
Deductions and exemptions	28,103.00
Taxable income	80,921.00
Taxes due	19,241.00
Taxes withheld	22,566.00
Refund	$3,325.00
Kentucky:	
Tax withheld (and tax paid to other States)	$4,266.00
Tax due	3,538.00
Refund	$728.00
Virginia:	
Tax withheld	$582.00
Tax due	361.00
Refund	$221.00
Louisville and Jefferson County, Kentucky:	
Tax due	531.00

CONGRESSIONAL SALUTE TO BUNNY KUIKEN AND EDWARD CARLOUGH FOR THEIR OUTSTANDING CONTRIBUTION TO THE AMERICAN LABOR MOVEMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise as dean of the New Jersey congressional delegation to salute two outstanding people who, through their tireless efforts, have made invaluable contributions to the labor movement in the United States and to working people everywhere.

I am speaking of Bunny Kuiken of Haledon, NJ, who helped make the Botto House of Haledon—which was vital to the American labor movement—a national landmark; and Edward Corlough, the outstanding president of the Sheet Metal Workers International Association. In honor of all that these two great people have done for working men and women everywhere, Ms. Kuiken and Mr. Carlough will be honored by the American Labor Museum Botto House National Landmark with the prestigious Sol Stetin Award at its seventh annual Sol Stetin Dinner Dance to be held Sunday, October 15, here in Washington.

Mr. Speaker, in order to provide you and our colleagues with a glimpse of the rich history of the Botto House, I would like to insert for the RECORD an article by Ms. Kuiken which appeared in Historic Preservation magazine, and which deals with her efforts to make the Botto House a National Landmark:

I VOWED NOT TO LET PEOPLE FORGET

(By Bunny Kuiken)

When I was a child, a favorite pastime at our house was looking at old family photographs. I was always intrigued by one picture in particular, showing thousands of people looking up at someone addressing them from the balcony of our house in Haledon, N.J. But no one seemed to know much about it.

All those people coming to the house, and no one remembered. Over the years, however, I learned of the important role that our house and my grandfather, Pietro Botto, had played in American labor history. I vowed not let people forget.

Grandpa had been a weaver in the Cedar Cliff Mills in Haledon and was very sympathetic with the workers when the Paterson Silk Strike began. Actually it started in nearby Clifton, where the Doherty Mill was trying to introduce the four-loom weaving system. The workers soon realized that half of them would be out of work. Spontaneously they walked off their jobs and onto the picket line. One by one the weaving mills were closed by the strikers. Paterson was closed down with 25,000 people out of work.

The International Workers of the World (IWW) had just successfully settled the cotton strike at Lawrenceville, Mass., and now rushed its most capable leaders to help out in Paterson. With "Big" Bill Haywood at the helm, the union was not only fighting against the four-loom system but also for better working conditions—$12 per week for weavers, an eight-hour day instead of 10 hours and the end to child labor.

Union members began meeting in halls in Paterson, but to discourage any organizing the police were told by mill officials to disband and arrest as many strikers as possible. The police arrested so many people that soon the jails were overflowing, and conditions were terrible.

After all meeting halls were closed, the strikers decided to rally in a local baseball park. The police arrived, not unexpectedly, and the crowd shouted, "Let's go to Haledon!"

So with Haywood in the lead, they marched to Haledon, known as "the little Socialist oasis of free speech in a desert of suppression." The strikers had Mayor William Brueckmann's permission, but now they needed a suitable place to meet.

Grandpa offered his house with its balcony facing a green meadow. Sunday after Sunday the crowds came to the Botto House to listen to the speakers. On May 19, 1913, 20,000 people gathered to hear writer Upton Sinclair. He apologized for giving such a short address, explaining that he had never spoken to such a large crowd. Those who were there never forgot it. John Reed, made famous by the movie "Reds," came as a reporter for Metropolitan Magazine, but got so caught up in the movement he never returned to the magazine.

To keep up the strikers' morale, a pageant was conceived by Reed, his good friend Mabel Dodge, Sinclair and their theatrical friends. On June 7, 1913, with a cast of almost a thousand strikers, the pageant was presented at Madison Square Garden. Artistically it was a success, but financially a disaster. Mable Dodge picked up the tab and paid all outstanding bills.

The workers, however, were becoming discouraged. The little reserves they had were long gone, and bills were piling up. They were getting hungry. With no subsidies, as strikers have today, they were forced to return to the mills after almost six months on the picket line. Conditions didn't improve right away, but little by little the issues they fought for did come to pass.

Grandpa died at the age of 80, in 1945. He and I had 16 years together. I married in 1957, but not until my husband, Hermie, said he would live in my house. My parents moved upstairs, and we lived on the first floor where I had been born. Not until September 1973, however, did I have any idea how I was going to accomplish my mission—recognition for the Botto House.

Then the Bergen Record published a story on the 60th anniversary of the Paterson Silk Strike. Someone besides me was interested at last! The story has since been used by students doing research on the strike. Follow-up stories were written about my ambition to have the Botto House become a historic site. They created a lot of interest and nostalgia—but that's not what I was looking for.

My efforts continued, and with success. Finally, in 1974, The Botto House was listed in both the State Register of Historic Places and in the National Register.

Very nice, but who knew it? I had a letter. I wanted a plaque placed on the property so all could read about the Botto House. But I needed a benefactor. Sol Stetin of the Textile Workers Union of America lived in Paterson and was very interested in its history, having worked and lived there most of his life—a perfect candidate.

I told Sol of my plight, and on June 7, 1975, the 62nd anniversary of the pageant, he and his union presented a plaque for the Botto House.

After my parents died, Hermie and I bought the property, but, not having any children, we worried about what would happen to the house when we were gone. I began writing letters to everyone involved in the dedication to tell them of my concern. It took a couple of years, but I didn't give up. In May 1980 the American Labor Museum Inc., was formed to establish a cultural facility in the Botto House, Sol became our first president.

The museum will be a living museum. Four rooms will be restored to show how my grandparents lived in 1913. There will be cultural exhibits and programs, and students will be able to research the past and make a better future because of it.

Aside from accomplishing my mission, I've had many side benefits in the past eight years. I've met people I never dreamed of meeting. People used to say to Hermie, "Marry Bunny and you have to marry her house and dogs because she'll never leave them." Well, Hermie married me, and we've lived in the Botto House for 26 years. A friend said, "You've worked hard to evict yourself," and I guess that's true. But we leave with our six dogs, five cats, two birds and raccoon knowing grandpa's house is in good hands.

Mr. Speaker, I appreciate the opportunity to present this portrait of a landmark that has lasting significance for all working people of this country. And as a means of further honoring Ms. Kuiken and Mr. Carlough for all they have done, I would like to insert the following resolution:

Whereas, the Botto House of Haledon, New Jersey, owned by Pietro and Maria Botto, served as a vital part of the history of the labor movement in New Jersey and the nation in the early 1900s, providing an important gathering place for those seeking better working conditions for all Americans;

Whereas, Bunny Kuiken, granddaughter of Pietro and Maria Botto, recognizing the profound significance that the Botto House played in the movement for better conditions and fairer wages for all working men and women, dedicated her efforts to making the Botto House a National Landmark so that the struggle of the workers who gathered there would never be forgotten;

Whereas, Bunny Kuiken's efforts resulted in the Botto House being accorded Statewide and Nationwide Historic Landmark status in 1974, and Ms. Kuiken, to preserve this important landmark, transformed the Botto House into the American labor Museum in 1980 as a monument to the American worker;

Whereas, Edward Carlough has done an outstanding job as national president of the Sheet Metal Workers International Association;

Whereas, under his leadership the union has been in the forefront of providing training to keep its members abreast of changing technology in their industry;

Whereas, the year of 1988 marked the Centennial of the Sheet Metal Workers International Association and in honor of this historic occasion the union presented an outstanding exhibit at the National Building Museum entitled, "Sheet Metal Craftsmanship;" and

Whereas, for their efforts on behalf of the hard working men and women of the nation and our world, Bunny Kuiken and Edward Carlough will be honored with the prestigious Sol Stetin Award at the American Labor Museum Botto House National Landmark's Seventh Annual Sol Stetin Dinner Dance on October 15 in Washington, now therefore, be it

Resolved, That Bunny Kuiken and Edward Carlough be commended in the highest terms for their leadership and dedication in helping to preserve and remind us of the rich history of the American labor movement, and by providing the guidance and vision that will lead all working men and women to a brighter, more productive tomorrow that will benefit our nation and our world.

ADDRESS TO THE OILED MAYORS: THE WATER IS DEAD

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. McDERMOTT. Mr. Speaker, we have heard much about the devastation caused by the oilspill in Prince William Sound, AK. We have seen the body counts of birds, sea otters, and other wildlife. We have read the estimates of economic damage to fisheries and recreation. But we have heard less about the damage this catastrophe has done to human souls. No one has suffered more than the native people whose lives have been entwined since the Ice Age with the life of Alaska's waters.

Last June 27, the mayor of Valdez, AK, convened an International Conference of Mayors. The mayors and chiefs of the towns and villages affected by the spill met with the mayors of French towns that had been affected by the *Amoco Cadiz* spill in 1978. These leaders called themselves "the oiled mayors." The French told the Alaskans something of what to expect in the years to come. In turn, the Alaskans shared their experiences with the oilspill and the still unfinished cleanup.

Among the most eloquent statements was that of Walter Meganack, Sr., chief of the native village of Port Graham, a community of the Chugach people located on the southern tip of the Kenai Peninsula. I have never met Chief Meganack, but I have seldom been so moved by a speech. I cannot do justice to the power of his words, so I will simply share them here with my colleagues. They remind me of what the great Chief Joseph of the Nez Perce told us: "The Earth and myself are of one mind. The measure of the lands and the measure of our bodies are the same." I hope these words remind us of our solemn responsibility to the native people for whom Alaska's waters are the source of life, and our solemn commitment that the waters not die again.

The material referred to follows:

ADDRESS TO THE OILED MAYORS OF FRANCE AND ALASKA

(Presented by Elenore McMullen, Village Council Secretary)

Good day, ladies and gentlemen. I want to thank Mayor Devons for arranging this historic international event, and for inviting me to speak on behalf of the villages of the Chugach native region of Alaska.

The native story is different from the white man's story of oil devastation. It is different because our lives are different, what we value is different; how we see the water and the land, the plants and the animals, is different. What white men do for sport and recreation and money, we do for life: for the life of our bodies, for the life of our spirits, and for the life of our ancient culture. Fishing and hunting and gathering are the rhythms of our tradition, regular daily life times, not vacation times, not employment times.

Our lives are rooted in the seasons of God's creation. Since time immemorial, the lives of the native peoples harmonize with the rhythm and the cycles of nature. We are a part of nature. We don't need a calendar or a clock to tell us what time it is. The misty green of new buds on trees tells us, the birds returning from their winter vacation tell us, the daylight tells us.

When the days get longer, we get ready. Boots and boats and nets and gear are prepared for the fishing time. The winter beaches are not lonely anymore, because our children and our grownups visit the beaches in the springtime and they gather the abundance of the sea: The shellfish, the snails, the chitons. When the first salmon is caught, our whole villages are excited. It is an annual ritual of mouth watering and delight. The children are excited. The parents are pleased and proud, the elders smile in their memories of 73 other spring times in the village.

When our bellies are filled with the fresh new life, then we put up the food for the winter. We dry and smoke and can. Hundreds of fish to feed a family. The homes have hanging fish alongside hanging laundry. The sights and smells of a village in the spring. This is the native way. This is the way the elders taught us, and their elders taught them, for thousands of years. Thousands of years. Since the big ice left Alaska, there was no Europe then. No Roman empire. There were no Jews, no Christians. No Egyptian civilization. But my people were here, the Alaska natives were here, celebrating spring and laughing and loving and working and teaching. The rhythm of nature. The rhythm of our lives.

Much has happened to our people in recent centuries. We have toilets now, and schools. We have clocks and calendars in our homes. Some of us go to an office in the morning. The children go to school in the morning. But sometimes the office is empty and locked. Sometimes the child is absent from school. Because there are more important things to do. Like walking the beaches. Collecting the chitons. Watching for the fish.

The roots of our lives grow deep into the water and the land. That is who we are. We are like our brothers, the bear and the deer—we live on the land, and our food is mostly from the water. Bear eat fish, deer eat seaweed, natives eat all of the life in the water.

The land and the water are our sources of life. The water is sacred. The water is like a baptismal font, and its abundance is the holy communion of our lives.

Of all the things that we have lost since non-natives came to our land, we have never lost our connection with the water. The water is our source of life. So long as the water is alive, the chugach natives are alive.

It was early in the springtime. No fish yet. No snails yet. But the signs were with us. The green was starting. Some birds were flying and singing. The excitement of the season had just begun.

And then we heard the news. Oil in the water. Lots of oil. Killing lots of water. It is too shocking to understand. Never in the millenium of our tradition have we thought it possible for the water do die. But it is true.

We walk our beaches. But the snails and the barnacles and the chitons are falling off the rocks. Dead. Dead water. We caught our first fish, the annual first fish, the traditional delight of all—but it got sent to the State to be tested for oil. No first fish this year. We walk our beaches. But instead of gathering life, we gather death. Dead birds. Dead otters. Dead seaweed.

Before we have a chance to hold each other and share our tears, our sorrow, our loss, we suffer yet another devastation . . . we are invaded by the oil company. Offering jobs. High pay. Lots of money. We are in shock. We need to clean the oil, get it out of our water, bring death back to life. We are intoxicated with desperation. We don't have a choice but to take what is offered. So we take the jobs, we take the orders, we take the disruption. We participate in the senseless busy-work.

We start fighting. We lose trust for each other. We lose control of our daily life. Everybody pushing everyone. We native people aren't used to being bossed around. We don't like it. But now our own people are pointing fingers at us. Everyone wants to be boss, we are not working like a team. We lose control of our village. The preschool meets in the community center. We shut down preschool so the oil company can have the center. We work for the oil company now. We work for money now. The springtime season of our village ways is gone. Destroyed.

Our people get sick. Elders and children in the village, workers on the beaches. Lots of sickness this year. Stomach sickness. Head pains. Bad colds.

We hardly talk to each other any more. Everybody is touchy. Everybody is ready to jump you and blame you. People are angry. And afraid. Afraid, and confused. Our elders feel helpless. They cannot work on cleanup, they cannot do all the activities of gathering food and preparing for the winter. And most of all, they cannot teach the young ones the native way. How will the children learn the values and the ways if the water is dead? Very afraid. If the water is dead, maybe we are dead—our heritage, our tradition, our ways of life and living and relating to nature and to each other.

The oil companies lied about preventing the spill. Now they lie about the cleanup. Our people know what happens on the beaches. Spend all day cleaning one huge rock, and the tide comes in and covers it with oil again. Spend a week wiping and spraying the surface, but pick up a rock and there's four inches of oil underneath. Our people know the water and the beaches. But they get told what to do by ignorant people who should be asking, not telling.

We fight a rich and powerful giant, the oil industry, while at the same time we take orders and a paycheck from it. We are torn in half.

Will it end? After five years, maybe we will see some spring time water life again. But will the water and the beaches see us? What will happen to our lives in the next five years? What will happen this fall, when the clean up stops and the money stops? We have lived through much devastation. Our villages were almost destroyed by chicken pox and tuberculosis. We fight the battles of alcohol and drugs and abuse, and we survive. A wise white man once said, "where there is life, there is hope." And that is true.

But what we see now is death. Death—not of each other, but of the source of life, the water.

We will need much help, much listening in order to live through the long barren season of dead water, a longer winter than ever before.

I am an elder. I am chief. I will not lose hope. And I will help my people. We have never lived through this kind of death. But we have lived through lots of other kinds of death. We will learn from the past, we will learn from each other, and we will live. The water is dead. But we are alive. And where there is life, there is hope.

Thank you for listening to the native story. God bless you.

THIRD MAJOR DEFEAT FOR ETHIOPIA'S COMMUNIST DICTATOR

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ROTH. Mr. Speaker, the regime of Mengistu Haile Mariam, Ethiopia's Communist military dictator, is coming apart at the seams. Mengistu's army, the mainstay of his power, has just sustained its third major defeat in less than 2 years. In the last 6 weeks, rebel forces of the Tigre People's Liberation Front [TPLF] wounded, killed, or captured some 20,000 of Mengistu's troops, bringing total casualties up to more than 50,000 since February 1988.

Two recent articles in the Washington Post reveal just how precarious Mengistu's position has become. They leave no doubt that Mengistu may soon fall.

Sadly, these articles also suggest that the United States Government lacks a coherent policy toward Ethiopia.

One article reports that the administration is reviewing its Ethiopia policy in light of what a senior official termed "some very positive steps" by the Mengistu government. Apparently the administration may decide to upgrade U.S. relations with Addis Ababa. But why? What are those alleged positive steps?

One administration official reportedly cited Mengistu's release of a "significant number" of political prisoners. Yet Amnesty International recently reported that torture remains a widespread practice of the Mengistu regime.

The official also cited Addis Ababa's "magnificent cooperation" with U.S. authorities in the search for a downed airplane and the remains of the passengers aboard, including Representative Mickey Leland, in early August. While such cooperation deserves our thanks, it does not warrant a basic change in U.S. policy.

Finally, the official cited the Mengistu government's participation in preliminary "peace" talks with the Eritrean guerrillas. Yet some of the bloodiest fighting in the Ethiopian civil war took place while these talks were going on. Furthermore, it should be obvious that Mengistu agreed to hold the talks simply because his back is against the wall: He did not want to have to fight a war on two fronts. As it happened, the Tigreans were able to defeat Mengistu's army anyway.

Now is not the time to take the pressure off Mengistu, diplomatically or otherwise. Nor should the United States squander its influence brokering truces between rival Ethiopian Communist factions. Our goal should be a united, free democratic Ethiopia, not a Lebanonized Ethiopia divided up among competing Communist warlords.

While the situation is still fluid, the United States should throw its support behind those prodemocratic Ethiopians who best embody the aspirations of the great majority of the Ethiopian people. Consistent and firm support for the democratic center in Ethiopia is the policy most consistent with our strategic interests and with moral principle.

[From the Washington Post, Oct. 10, 1989]

ETHIOPIA SEEN THREATENED BY REBEL ADVANCE—TIGRAYAN ARMY IN POSITION TO CUT OFF VITAL SUPPLY LINK TO CAPITAL

(By Neil Henry)

ADDIS ABABA, ETHIOPIA, Oct. 9.—Rebel forces that captured the northern province of Tigray from the beleaguered Ethiopian army earlier this year have now charged more than 120 miles farther south toward the capital in a lightning offensive, overrunning numerous towns, forcing army troops into a ragged retreat and threatening the stability of the government of Mengistu

Haile Mariam, according to diplomats and analysts here.

In a six-week campaign that began in late August, the rebels have killed, wounded or captured an estimated 20,000 government soldiers, seized millions of dollars worth of military hardware and pushed the battle line between the two sides to a point well into Welo Province, about 180 miles north of this Ethiopian capital, the sources said.

While there appears to be little likelihood that the relatively small and overstretched rebel army will make a stab for Addis Ababa, analysts interviewed here in recent days agreed that the rebels pose a serious threat to a vital road linking the capital to the Red Sea port of Assab.

Most of the country's gasoline and other imported supplies reach the capital along that road. The Ethiopian army's 40,000-man detachment in Welo has retreated to the towns of Dese and Kembolcha, which are about 240 miles southeast of the port city.

Between Assab and the Ethiopian army is the town of Mile, whose capture by the guerrillas would effectively sever all land routes between the port and the capital. Analysts have reported fighting there in recent weeks.

The swiftness and success of the rebel offensive have astonished many observers here who expressed surpise over both the boldness of the insurgents and the apparent collapse of the government army.

Long confined to distant reaches of Tigray Province, the rebels of the Tigray People's Liberation Front broke out last year and announced their intentions not only to expel the Ethiopian army from Tigray but to overthrow Mengistu as well.

Their advances have come against the backdrop of peace negotiations held last month in Atlanta between the Ethiopian government and rebels from another northern region, Eritrea, who have been fighting a 28-year civil war.

Those talks, which are due to resume next month in Nairobi, were preceded by a cease-fire between the government and the Eritrean People's Liberation Front. According to Western analysts, the cease-fire enabled the government to risk the transfer of thousands of its best troops from Eritrea to Welo to halt the Tigrayan advance, but the troops were annihilated.

One Westerner described scenes of mass confusion and panic by the army of the Marxist government, which has had to resort to the forced conscription of teenagers to fight its twin wars. Down the road from Maychew on the Tigray-Welo border the rebels advanced, taking towns such as Korem, Waja and Kobo, where the government tried and failed to make a stand and lost scores of Soviet-made tanks and armored personnel carriers.

The rebels announced in a Voice of Tigray radio broadcast Sept. 15 that in just 10 days of "shining and victorious fighting" they had captured 28 T-55 tanks, 18 armored personnel carriers, 62 anti-aircraft guns, 59 artillery pieces and 165 different types of military vehicles. They also claimed to have destroyed 15 tanks and 10 armored personnel carriers, as well as dozens of weapons and other vehicles.

"That is what is so serious about the situation in Welo," said one informed Westerner. "This is an army that would not fight, an army that ran, disintegrated.

According to the analysts, several factors appear to account for the army's collapse. The forced conscription measures have infused the estimated 200,000-man force—widely considered sub-Saharan Africa's biggest and best—with sizeable numbers of reluctant warriors.

In addition, after so many years of bloodshed the army may be becoming just as wary of war as many in this nation of 42 million, particularly after suffering critical defeats in battles with the Eritreans last year.

But perhaps most importantly, the army was stripped of more than 200 top-ranking and highly trained officers during a bloody purge that followed an unsuccessful military coup here last May. Many of the officers were replaced by men possessing great loyalty to Mengistu but little military training or experience.

"The regime appears to be coming apart at the seams," said one Western diplomatic source, pointing out that Mengistu's power base has long rested with the military. "This is a very fluid period here."

Indeed, with the army's retreat in Welo this autumn, things have gone from bad to worse for Mengistu this year, which began with the fall of Tigray and has included the failed coup and at least one attempt on his life.

In addition, the collapse of world coffee prices has cut foreign exchange earnings here by 40 percent this year, this a country considered one of the poorest in the world.

Meanwhile, the United Nations is launching an appeal for hundreds of thousands of tons of emergency food donations for Eritera, where a severe drought this year is killing crops and raising the specter of famine for more than 1 million people.

To top it all, even the Soviets, who have pumped more than $10 billion in aid to this country in the last 15 years, appear to be ready to retreat.

Late last month, a top Soviet defense official visited Addis Ababa. While assuring Ethiopian officials that a current military aid agreement will be honored, he also informed them that Moscow would soon begin a process of pulling out more than 1,500 Soviet military advisers stationed here.

For his part, Mengistu has introduced a few measures that appear intended to boost morale. Gasoline rations and a ban on Sunday driving have been lifted, and a dress code for public officials who have had to wear Mao-style "Mengistu suits" in public has been dropped.

But the changes, while welcomed by many, appear to be cosmetic. As one observer put it, "This may be a matter of too little, too late."

Life here in the capital appears to be normal. Revolution Square bustle with vigor at lunchtime, people are still going to work as usual and popular after-dark restaurants and bars are still crowded until the midnight curfew.

But one diplomat stationed here noted that formerly staunch government supporters have begun to joke about the army's capabilities, while others have begun preparations to send their children overseas in the event of the regime's collapse.

For those among the masses of Ethiopians who may desire greater political freedoms or economic liberalization, there is the disconcerting prospect that this nation's future politics may not change, no matter what happens.

The Tigrayan rebels—whose army has doubled to nearly 40,000 men in the last year—may surpass even the government in revolutionary passion. Their leaders are said to be Stalinist.

[From the Washington Post, Oct. 8, 1989]

ESCAPED OFFICER URGES U.S. TO SHUN MENGISTU—LEADER OF FAILED ETHIOPIAN COUP WARNS AGAINST "ACCOMMODATION," CITES WEAKENED MILITARY

(By David B. Ottaway)

A key officer involved in the coup attempt last May against Ethiopian leader Lt. Gen. Mengistu Haile Mariam has warned the Bush administration against continuing its efforts to improve relations with that embattled government.

"This is not the time for an accommodation with Mengistu," said Maj. Gen. Kumlachew Dejene in an interview here. "It's time for the United States to think of Ethiopia without Mengistu. That should be the basis of U.S. action and policy now."

Kumlachew, the chief operations officer for the coup, went into hiding for eight weeks in Addis Ababa after the coup's failure and then became the only participant known to have escaped. Almost all of the other officers involved were killed or captured or committed suicide.

Kumlachew said that it took him three weeks by food, mule and other transport to escape from Ethiopia and that he reached the United States Aug. 21. His interview with The Washington Post recently was his first since arriving here, aside from one in his Amharic language with the Voice of America.

At the end of the interview, Kumlachew read an appeal to the Bush administration against any accommodation with the Mengistu government.

The administration is reviewing its policy toward Ethiopia in light of what a senior official termed "some very positive steps" recently by the Mengistu government.

He cited its release of a "significant number" of political prisoners, willingness to begin peace talks with opposition groups, and its "magnificent cooperation" with U.S. authorities in the search for a downed plane and remains of the 16 people aboard, including Rep. Mickey Leland (D.Tex.), in southwestern Ethiopia in early August.

Since Mengistu turned to the Soviet Union to replace the United States as Ethiopia's main military and political ally in 1977, Washington has been unwilling to send an ambassador to Addis Ababa. But the Reagan administration did ship hundreds of millions of dollars in emergency relief to help prevent famine in the mid-1980s.

Mengistu since late last year has been making overtures to Washington for an improvement in relations and exchange of ambassadors, proposing one candidate, Tibelu Bekele, to become Ethiopia's envoy here. But the State Department never agreed.

Kumlachew, who attended a 13-month, artillery training course at Fort Sill, Okla., in 1969, was deputy commander of the 2nd Army based in northern Asmera. He was named the chief operations officer for the coup attempt, which he said had been under discussion since 1985.

He flew from Asmera to Addis Ababa on the afternoon of May 16 with 408 of his troops. They had the prearranged assignment of seizing the defense ministry and other strategic points around the capital. His men were the only ones who fought for the coup.

The conspirators included the army chief of staff, the air force commander and commanding officers of the 2nd Army in Asmera. The coup was planned for the day Mengistu left on a visit to East Germany. Memgistu's plane was supposed to be forced

to land in Asmera, where he was to be arrested, or shot down if the pilot refused to obey orders, according to Kumlachew.

Two MiGs piloted by co-conspirators left to intercept Mengistu's aircraft but at the last moment received orders not to go forward. Kumlachew said he does not know who gave those orders or why.

As a result, Mengistu arrived safely in East Berlin, while loyalist officers organized a hasty defense of the capital.

After a showdown at the defense ministry between Mengistu loyalists and the rebel army chief of staff, Gen. Merid Negussie, the coup fizzled, apparently mainly because of the double role played by Gen. Tesfaye Wolde Selassie, head of internal security.

Tesfaye initially posed as a conspirator but remained loyal to Mengistu, using the information he gathered to foil the coup.

Kumlachew said he had set up his command post at the city's old airport and split his forces to secure three or four strategic points. Other units expected to join the conspiracy never arrived, and Kumlachew, after failing to reach the defense ministry, lost a night battle trying to return to his command post, he said.

While Mengistu survived, the extraordinary security measures he has taken since to protect himself apparently have seriously weakened the Ethiopian armed forces. Last month, it suffered several major military defeats at the hands of the Tigray People's Liberation Front (TPLF), whose forces are now closer to the capital than at any time.

Kumlachew said 680 officers have been removed, arrested or executed since the coup attempt, including 40 generals. He said this has seriously depleted the top ranks of the officer corps. Mengistu has replaced them with politically reliable elements who are not professionals and are proving to be bad commanders, Kumlachew said.

In addition, the "psychological momentum" now is on the side of groups opposed to the Mengistu government that were gaining strength before the coup attempt. The army last March evacuated the provincial capital of Tigray, Mekele, after losing massive amounts of equipment and as many as 20,000 troops in a battle at Inde Selassie in mid-February.

The army has just suffered another defeat of similar proportions, according to U.S. government sources.

U.S. officials have not disputed TPLF claims that 27,000 Ethiopian troops were killed, wounded or captured in clashes in Welo Province in central Ethiopia between late August and mid-September. The TPLF said it also captured massive amounts of Soviet arms, including 28 T-55 tanks, provided by Moscow to the Ethiopian army.

Mengistu's army now has lost most of northern Eritrea Province, all of Tigray Province and is struggling to hold on to the provincial capital of Welo at Dessie, about 150 miles north of the capital.

A senior U.S. official said the Mengistu government still seems "pretty solidly entrenched" in Addis Ababa. But Kumlachew disputed this assessment, predicting its downfall shortly and expressing concern that this might be preceded by a "general collapse of law and order" in the country.

THE HUMANITARIAN RELIEF EFFORTS OF CHAMBERS DEVELOPMENT CO.

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. RAVENEL. Mr. Speaker, today marks the 20th day since a large portion of South Carolina was battered by the devastating hurricane called Hugo. And I am happy to report that because of the generosity and voluntarism of hundreds of civic groups and companies and thousands of individual citizens from around the country, we are well on our way to restoring the natural and historic beauty that characterizes our area.

In particular, I would like to take this opportunity to recognize the humanitarian relief efforts of Chambers Development Co. Three of its employees—Lowell "Butch" Spires, Jr., southern regional corporate development director, J. Carl Spires, corporate development area manager, and John "Jake" Knotts, corporate investigator—calling their group Project Chambers Rebuild, were out in full force the day after Hugo struck, clearing roads and debris from the storm. During a 5-day period, Butch, Carl, and Jake distributed water and more than 20 tons of ice to residents from Chambers' landfill in Dorchester County. But this wasn't enough.

The Chambers trio then took their show on the road, establishing hot meal stations in eight of the most flood-ravaged towns. They estimated that over 800 residents a day were served. In some of the towns, this was the first hot meal the townspeople had had since Hugo hit.

In the town of McClellanville, which was particularly hard-hit, the challenges were many: Snakes presented a great danger, mosquitos were a threat, and debris and electrical wires were blocking many accesses. On Friday, September 29, the group fed everyone—the townspeople, the National Guard, highway department, and a Navy disaster relief crew. Over 800 were fed breakfast, and over 1,000 were served lunch and dinner.

In addition to Project Chambers Rebuild, Chambers established a fund to help its employees in South Carolina who required financial assistance during their rebuilding process. The corporation is matching every dollar its employees contribute to the program. This is just one example of what many companies are doing to pitch in and help our various storm-damaged communities.

INTERNATIONAL NARCOTICS CONTROL AND THIRD WORLD DEBT REDUCTION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. GUARINI. Mr. Speaker, today I am introducing legislation to motivate Third World countries mired in debt and in drugs to dig themselves out. My bill would link the vital issues of international narcotics control and Third World debt reduction. The central point of my legislation is a mechanism by which multilateral banks such as the Inter-American Development Bank, the World Bank, and other institutions give preference in loans to those nations which have made progress in reducing drug production, processing, and trafficking in their countries.

Every day the papers are full of bad news about drugs. Sometimes Americans are so wrapped up in our own drug problems we forget what's happening on the other side of the equator. There's human misery there, too. Addiction is growing exponentially in Colombia—the primitive drug, basuco, claiming as many lives as crack is here—and other Andean countries. The entire agricultural sector threatens to become enslaved to the lucrative proceeds of coca. The fragile foundation of democracy is teetering on the edge of collapse, pushed by the narcotraffickers, who function as a virtual shadow government in the Andean region.

I don't intend to stay passive in this war. The fact is that America is already fighting in the trenches to restore economic integrity to the nations of South America. The ongoing efforts by the Secretary of the Treasury to reduce the debt burdens of many Third World countries are the frontlines of this battle. Mr. Brady and the administration are trying to throw these countries a lifeline, to help them out of the economic quicksand of their debt burden.

I want to hand them another weapon for their arsenal. Let's call it the Stealth bomber of the Third World debt reduction plan. The weapon is a special incentive for Third World countries to crack down on drug trafficking in their own nations. It works through the multilateral banks. As you know, the multilateral banks give loans to indebted countries for the purpose of debt reduction. My bill instructs the Secretary of the Treasury to direct the American voting representatives of the banks to give preference, when voting on debt reduction loans, to countries which show significant progress in reducing drug production, processing, and trafficking. In other words, those who help themselves, get some help.

Significant improvement can be shown through punishment of narcotraffickers, money launderers, bribery or public corruption. It can take the form of satisfactory adherence to a bilateral narcotics control agreement with the United States. It can be seen in increased public support for drug treatment facilities, drug prevention and education programs, and increased cooperation with United States antidrug personnel.

The bill is very simple. It's a carrot. It provides an incentive for these nations to crack down harder on drug trafficking within their own borders. It will encourage economic reform, and legitimate income generating activity, where it is desperately needed. It will discourage illicit coca production, processing, trafficking, and money laundering—and in turn, reduce the bloated supply of cocaine flowing over the U.S. borders.

Mr. Speaker, and fellow Members, I urge your strong support of this bill. It's a positive and creative step whose time has come. Let's

work together with our neighbors all over the world who are fighting the plague of drugs, and who want and deserve our help.

DUNCAN OPPOSES ABC BILL

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. DUNCAN. Mr. Speaker, the House voted to keep the ABC child care bill intact in the Budget Reconciliation Act of 1989. I regret that the House did not prefer a tax credit approach, which would have put more money in the hands of parents.

I have said many times that parents know better how to spend their money and more about what the needs of their families are than any bureaucrats in Washington.

A recent article in National Review highlights the problems with the ABC bill. I ask that it be printed in the RECORD.

The bill creates a costly new bureaucracy to oversee the so-called child care crisis. Its approach is to subsidize day care centers, which discriminates against traditional families.

Also, the article points out that religious-based child care providers would be placed under Government control. These programs would be forced to compromise their beliefs to the State. I object to this kind of setup.

The real question is, does a child care crisis really exist. The statistics show that this is a concoction of political manipulators. The vast majority of Americans follow a traditional family pattern. There is no real child care crisis.

The National Review article makes the case that the best approach to this crisis is to relieve the tax burden on families. I believe that a tax credit for families with children is the most simple, the most fair, and the most reasonable step to take to help America's families.

I urge my colleagues to read this article from National Review and take a rational look at this bad bill. We can still keep from making a mistake with the ABC bill.

SUFFER THE LITTLE CHILDREN

(By Susan Mandel)

WASHINGTON, DC.—With Washington boasting the highest percentage of working mothers of any city in the nation, it's not surprising that many lawmakers have become convinced that nobody stays home with the kids any more. Evidently they have also become convinced that the only approach to child care is for the government to fund institutional day care, because only it can be properly monitored by a bureaucracy of specialists. This is the approach taken in the ABC child-care bill passed by the Senate in June. It is also the rationale for two bills now making their way through the House, which is expected to have a floor vote on one of them after Labor Day.

The Act for Better Child Care is sponsored by the unlikely duo of Senator Christopher Dodd (D., Conn.) and Orrin Hatch (R., Utah). It would subsidize day-care centers through federal grants, with nearly a third of the estimated $12-billion price tag going to pay for administrative and regulatory compliance. In some states, families earning up to $47,000 could qualify for this assistance so long as their children were in one of the government-approved day-care centers. Traditional homes—i.e., the 54 per cent of American families with young children in which the parents choose to forgo a second income so the mother can stay home with the children—don't fare nearly as well. The same goes for the next largest group of parents with preschoolers—those who leave their children with a relative—and the third largest, who use small, family day-care providers.

In short, this child-care package would set up a bureaucratic decision-making process that favors large, secular day-care centers over other, less institutional care. Although this is being done in the name of "choice," the irony is that the large day-care centers favored by these bills serve only 11 per cent of the population. Their advantage is purely political: not only are they more likely to meet some child-care specialist's idea of what constitutes quality care (such as written statements of their policy goals), they can pull the right bureaucratic strings. "If you have a political struggle, grandma is going to lose," says the Heritage Foundation's Robert Rector.

The Senate proposal ostensibly permits states to offer parents certificates to pay for child care in church-run day-care centers, which provide one-third of all institutional day care. But the church centers would have to submit to state regulation to receive the funds, something few would be willing to do. Even should this be allowed initially, moreover, this provision would probably be challenged by left-wing groups opposed to any public funding for religious-based organizations. Mr. Rector says a black staffer on the Hill whose own two children are in her church's day-care center came up to him after he had testified on the subject before a House committee. "She said, 'I recognize that under ABC I wouldn't get any assistance. But that doesn't matter to me because the most important thing for me is to have my children raised in an environment that honors God. And if I have to be poor the rest of my life I will do so.' This is a verbatim quote because it was just imprinted on my neurons," says Mr. Rector.

What the ABC bill would do is help make that young mother poorer, by taxing her to pay for institutional care for others, including the children of two-income families (which on average earn over 50 per cent more than families with one breadwinner, according to the latest Census Bureau figures). In fact, traditional families in which the father works and the mother stays home to care for the children make up the largest category of low-income families.

"The most reasonable thing and the most effective thing that the Federal Government can do to improve accessibility of child care, to improve affordability of child care is to concentrate as large an amount of its resources as possible on strengthening the financial position of families who have small children to care for," says Michael Schwartz of the Free Congress Foundation. As Mr. Rector says, "The average mother contributes about 30 per cent of the total family income in a two-parent family, and the average federal tax burden on that family is about 24 per cent. Mom is not working to raise the family income. She's working to pay off Uncle Sam. The way to help those families is not to build more day-care centers to put more women in the workforce to pay their tax bill, it's to cut their tax bill."

President Bush's child-care proposal aimed to do exactly that by providing an earned-income tax credit for families earning under $15,000 that have young children. The Bush bill was defeated in the Senate, but the idea makes so much more sense that the Democrats have tacked similar tax-relief provisions onto their own heavily centralized, bureaucratic versions.

What's surprising about the Senate child-care package, meanwhile, is not how bad it is; Senator Dodd's endorsement fairly guarantees that. The surprising thing is to find Senator Hatch listed as co-sponsor. One rumor has it that he would like to be on the Supreme Court some day and doesn't want Democrats to turn him into another Judge Bork. Whatever the fate of this bill, it's hard to argue for convincing conservative alternatives when leading conservative lawmakers embrace the liberal status quo.

GOAL PROGRAM AT HILLSDALE COLLEGE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PURSELL. Mr. Speaker, I would like to take this opportunity to highlight a program being undertaken at one of the colleges in my district which hopefully could serve as an example to other institutions. The program recently was featured in a Detroit Free Press article.

Hillsdale College in southcentral Michigan has a program in its second year called Great Opportunities for Assistance and Leadership—[GOAL]. Funded with the help of a $900,000 Kellogg Foundation grant, GOAL links student scholarships and a commitment to public service. In particular, the 20 students currently in GOAL have agreed to devote specified weekly blocks of time to public service projects in exchange for a full scholarship to Hillsdale College.

As Hillsdale College President George Roche explained to the Detroit Free Press:

The idea is * * * to give (students) the freedom, in addition to their academic work, to take on substantial public service projects here during the year and at home in their home communities during the summer.

GOAL students design their own projects and make reports on their efforts, as well as receiving classroom instruction in voluntarism, the history of philanthropy and management of nonprofit organizations.

During the first year of the program, GOAL students worked on projects—and with organizations—which included: Special Olympics, an Optimist Club essay competition, the local Boy Scouts, the county child abuse prevention council, a mentor program for gifted elementary students, a recycling project, Right to Life, Students Against Drunk Driving, and a leadership forum for high school students.

At a time when volunteerism seems to be dwindling, I believe the GOAL program at Hillsdale College is an innovative way to encourage volunteer work by offering the reward of a college education in exchange for public service. It makes a lot of sense to offer scholarships for such civic-minded activities as well as the more traditional scholarship for athletics.

Mr. Speaker, I commend both the faculty and students at Hillsdale College as they continue this exciting program which combines academic excellence and community work.

ETHICS, BALANCE, AND THE "G-WORD"

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to call to your attention a commencement address by J. Ira Harris, a senior partner with Lazard Freres & Co., to graduates of the University of Michigan Graduate School of Business. He argues forcefully that there is a big difference between self-interest and short-sighted selfish behavior, which is what greed really is. He remarks that Wall Street has been acting as if it only know the "G-word," and stresses that we need to focus on our responsibilities.

ETHICS, BALANCE, AND THE "G-WORD"

(By J. Ira Harris)

(A distinguished alumnus tells our graduates, in his Commencement Address to them last spring, that greed is not good and isn't essential to our private enterprise system. "In fact," he adds, "It's a threat.")

Thirty years ago, I was on the receiving end of a commencement speech here at The University of Michigan. Less than thirty minutes after it was over, I couldn't remember how many hours it seemed to go on, and certainly couldn't recall what it was all about.

Hopefully, tonight things will be different. My remarks will be just a few minutes long. But . . . will I say anything that you'll remember half-an-hour after I finish? I hope so.

There are some commencement speeches that have been remembered. Winston Churchill gave one.

At Harrow School in England, Churchill delivered a commencement address that consisted of the following: "Never give in. Never, never, never, never . . . never give in . . . except to convictions of honor and good sense."

The columnist Art Buchwald is another graduation speaker whose words have been remembered. Here's what he said to a Vassar College graduating class: "We, the older generation, have given you kids a perfect world. Don't louse it up!"

Obviously, if you're a commencement speaker . . . and you want your words to be immortal . . . you've got to be brief. But, I've already talked longer than Churchill or Buchwald. Actually, I've talked longer than the two of them combined.

So, I have to be realistic. I have to accept the fact that, half-an-hour after I'm done, what I said will be "out of ear . . . out of mind." That's why my goal is to get you to think about what I'm saying . . . while I'm saying it.

In addition to being a proud alumnus. I'm also here as a proud parent.

As parents, we love and respect our children. We respect their energy, their new insights, and their eagerness to make the world a better place.

And we respect the fact that they've already indicated that they're not afraid of a challenge—that they don't always choose the "easy way out."

You can see that in the fact that they took on the heavy demands of tough degree programs here at the University of Michigan.

And that's terrific, because as we all know. Art Buchwald was wrong. It's not a "perfect world" . . . by any stretch.

And these new Michigan graduates are just the kind of people we need . . . in the kind of world we have today.

I'd also like to note that the "U of M" business grads of earlier years have a pretty good track record. For instance, Michigan grads have managed to steer clear of the scandals that have hit Wall Street.

In my mind, there would be four possible explanations. Let me put them in the form of a multiple-choice answer.

A. University of Michigan graduates don't advance to the levels where folks get exposed to temptation.

B. University of Michigan graduates do get exposed to temptation . . . but they're not bright enough to recognize it.

C. University of Michigan graduates are so smart that, even though they give in to temptation . . . they don't get caught. Or . . .

D. University of Michigan graduates have higher standards, ideals, and ethics.

I'd like to think that "D" is the right answer. The curriculum, the moral atmosphere, and the admissions standards of the "U of M" deserve credit for that.

But so do your homes, your churches and synagogues, and the other institutions that helped build your ethical foundation.

I bring up the issue of ethics because I see its importance day-in and day-out—as a member of this society and as an investment banker.

At what was to me the ethical low-point of the movie Wall Street, the leading character—Gordon Gekko—bluntly said that "greed is good."

There are some who think that if you take exception to that statement, you run the risk of looking naive—out of touch with the "real world." Well I'm willing to run that risk tonight.

I'm willing to say that greed is not good. Not only is it not good, it isn't essential to our private enterprise system. In fact, it's a threat.

But, one might ask, isn't the private enterprise system based on self-interest? Of course it is. And isn't "self-interest" just another term for "greed?"

The answer is "No." There's all the difference in the world between "self-interest" and "short-sighted selfish behavior"—(which is what greed really is).

Unfortunately, Wall Street—the market—not just the movie—has been acting as if it only knows the "G-word."

Insider trading . . . program trading . . . market manipulation—these activities have turned individual investors away from the financial markets in disgust. No wonder retail brokerage firms have seen their client lists shrink "like a cheap suit."

This is very disturbing. It undermines the legitimacy of our capital markets—which is essential to our economy. And if you look at history, you see why we should be concerned about widespread public dissatisfaction with our capital markets.

That dissatisfaction could lead to damaging regulatory restrictions which could make it impossible for those markets to serve our economy with maximum effectiveness.

To complicate matters, our financial markets—and other key elements of the financial services industry—are undergoing profound change. This makes them vulnerable.

The last thing that Wall Street needs these days is to lose the confidence of the American people.

What can you and I do about the ethical problems of our society? As I see it, we're not helpless.

On that subject, let me mention an interview with Jerald Jellison, professor of psychology at the University of California. It appeared in U.S. News & World Report in 1984. The article was entitled "Why Cheating is on the Rise in the U.S."

Professor Jellison acknowledged that—for better or for worse—the ethical lessons that we learn early in our lives have a big impact on how we behave as adults.

But he also said, and I quote, "instances of dishonesty have a snowball effect. Many people tend to think that since everyone else is cheating, they have to do the same in order to protect themselves."

I think that's sad but true. However, if you look at it another way, it means that each of us has the potential for what I call "ethical leverage."

What I mean is that by example we can inspire others. We can encourage others to do what's right every time we have the courage and the wisdom to stand tall and "just say no!"

Equally important as ethics is the need for "balance"—balance in our business lives, and balance in our personal lives.

To illustrate, I want to tell a brief story about a young MBA grad from a school I won't name.

This freshly minuted MBA was employed by a company in Chicago. One day, a last minute problem prevented our MBA's boss from making use of a ticket to hear Sir George Solti conduct the Chicago Symphony Orchestra performing Schubert's "Unfinished Symphony."

The boss offered the ticket to our MBA—who gladly accepted. The next morning, the boss received a nice thank-you note along with a memorandum that read:

"Thought you'd like to have my analysis of the performance.

One: For considerable periods of time, the four oboe players had nothing to do. Their number should be reduced, and their work spread over the rest of the orchestra.

Two: All 12 violins were playing identical notes. This seems to be unnecessary duplication. The staff of this section of the orchestra should be drastically diminished.

Three: Much effort was absorbed in the playing of "eighth" notes. They seem to be an excessive complication. All notes could be rounded off to the nearest quarter. If this were done, it would be possible to make use of trainees and lower-grade operators.

Four: No useful purpose is served by having the horns repeat the same passage that has already been played by the strings. If all such redundant passages were eliminated, the concert could be reduced from two hours to approximately 20 minutes.

Finally: If Schubert had been better organized, he probably would have been able to finish this symphony."

Hard work and attention to detail are absolutely necessary if you want to succeed in business. But you don't want to be like our young MBA and miss the forest for the trees.

There are many aspects to our lives. We are members of communities . . . we're

employees . . . we may be husbands, or wives, or parents . . . and more.

We all have to balance the various parts of our lives. Yet, when we do try to balance our lives, we are faced with tough trade-offs. Spending more time with our families . . . or in volunteer work . . . or in any other worthwhile way . . . will mean time away from our offices. There's no denying that. And it may seem to be at the expense of our careers.

But the fact of the matter is that it's absolutely essential for each of us to widen our focus. For one thing, it renews us. It re-energizes us.

Among other things, this makes us more creative in relating to the needs of our clients and our colleagues. And that gives us an important competitive edge.

I'd also like to make the case for "balance" in a broader context. Specifically, I want to comment on a significant imbalance that's developed in the financial structures of many of our corporations.

I'm referring to the fact that through management buyouts . . . leveraged buyouts . . . takeovers . . . and leveraged recapitalizations . . . company after company has come to rely heavily on debt rather than equity.

This is a serious matter because many of these firms are pillars of our economy.

However, they are flagrantly abandoning time-honored standards of financial prudence. Now, I would be the last to argue that financial guidelines should be rigidly obeyed when they're clearly obsolete.

But I think we ought to be cautious when it comes to the kind of financial wizardry we've seen in recent years.

For sure, it's demonstrated its power to convert many of our nation's major corporations into "debt junkies." But that financial wizardry hasn't had its magic tested in a recession.

A recession is a matter of "when" . . . not "if!" And when it does arrive, firms saddled with heavy debt-service obligations could find themselves galloping over a financial cliff.

Put aside the possibility of a recession . . . the leveraging of corporate America still poses a serious, long-term threat.

It has to do with funds that should be dedicated to research and development . . . and capital investment. Instead, these dollars will disappear into interest charges and repayment of principal.

After all, companies are going to have to service the bank loans . . . the junk bonds . . . and the other forms of debt that have crowded their way onto their balance sheets.

In the meantime, in 1992, Europe will become a huge and dynamic unified market. And Japan doesn't look like its growth is going to stop anytime soon.

So, what will we tell your children—my generation's grandchildren—if they have to ask us why we passed on to them an economy that limps along behind its competitors?

We need to return to more balanced capital structures in our companies. And you and I and all others who manage this nation's economic resources have to make that a high priority.

I've said a few words about ethics, and a few words about balance. Now, I'd like to focus on my third and final topic.

Just last month, an issue of Time Magazine printed a letter-to-the-editor from a Mr. John Karakash, of Bethlehem, Pennsylvania. I want to read two lines from that letter to you tonight.

Quote . . . "When I landed here as an immigrant, I learned about the Bill of Rights. Naive and ignorant, I inquired whether there was also a Bill of Responsibilities."

I think Mr. Karakash was on to something. And so, I want to talk for a moment about "responsibilities."

In my view, each of us should live our personal and professional lives as if, in fact, a Bill of Responsibilities existed.

We simply cannot say "let the government do it." Government frequently has neither the necessary resources nor the necessary will.

Therefore, one of our responsibilities should be to encourage and help the companies that employ us to meet their social responsibilities.

If we, and the companies we work for, provide the needed leadership and make the essential commitments, this nation of ours will, in fact, be a better society. Business and business-people can and should point the way.

Responsibilities exist in our personal lives . . . as well as our business lives. Each of us must put something back into the system. That is, to me, the least that we can do in appreciation of the opportunities that our country makes available to us.

As a practical matter, that means putting something back into our institutions—in particular, our nation's colleges and universities.

Not surprisingly, there's one university that in my mind stands out way above the rest. It's my alma mater—and soon to be your alma mater—this University of Michigan. In many respects, this is a special place.

I'd like to end my remarks this evening with some words spoken by a great man from my adopted state of Illinois—Adlai Stevenson. 25 years ago, at a graduation ceremony at Princeton University, he said:

"Your days are short here . . . this is the last of your springs. And now in the serenity and quiet of this lovely place, touch the depths of truth, feel the hem. You will go away with old, good friends.

"Don't forget when you leave why you came."

Thank you . . . and good luck to all of you!

H.R. 24, CONFERENCE AGREEMENT ON REAUTHORIZATION OF SCHOOL LUNCH, CHILD NUTRITION, AND WOMENS, INFANTS, AND CHILDRENS [WIC] PROGRAMS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. RAHALL. Mr. Speaker, I rise in strong support of the conference agreement reached between the House and Senate with regard to reauthorization of the school lunch, child nutrition, and Women, Infants, and Childrens Supplemental Food Programs [WIC] not permanently authorized in law.

As it happened, the bills passed by the House and Senate were not in great disagreement with respect to congressional intent in reauthorizing the programs that go to feed hungry children and, in the case of WIC, pregnant women and their unborn children.

NATIONAL SCHOOL LUNCH PROGRAM

The National School Lunch Program is a permanently authorized program. Certain changes are made in that program. Under H.R. 24, is the requirement that schools participating in the school lunch program offer whole milk and fluid unflavored lowfat milk—which includes 2 percent and skim milk—as a beverage.

SOCIAL SECURITY NUMBERS

This legislation requires schools and child care centers to collect Social Security numbers of only that parent or guardian responsible for the child who is the principal wage earner or of another appropriate person as designated by the Secretary, instead of all adult household members, on the initial application for free or reduced price meals.

Concerns have been expressed that the use of Social Security numbers for student participation in the program may have actually deterred the participation of otherwise eligible children. While regulations provide some flexibility in providing meals to students whose applications are not complete, school officials are reluctant to provide such flexibility for fear of an audit exception.

The bottom line is that the importance of nutrition for learning is firmly established, and it is not our intent to let the required use of Social Security numbers to prevent otherwise qualifying students from participating in child nutrition programs.

DIRECT CERTIFICATION OF ELIGIBILITY

Schools that can obtain information directly from local food stamp or AFDC offices regarding which children are from families that participate in these programs will have the authority to certify these children as eligible for a free meal without further application.

It is the committee's intent that the Secretary develop regulations on this provision requiring school officials to notify parents of their child's eligibility for a free meal, and give the parents the opportunity to determine whether or not their child should partake of the free meals for which he or she is eligible. This requirement would impose the least burden on the school by requiring that a letter be sent to parents asking them to inform the school if they do not want their child to receive a free lunch. If the school does not receive a response from the parents within a certain number of days, specified by the Secretary, it is then assumed that the parent has given consent for the child to receive the free meals.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

The Summer Food Service Program for Children is expanded slightly to permit private nonprofit organizations to sponsor these programs in areas where public sponsors are not operating such a program. In urban areas, a private nonprofit sponsor may operate a total of 5 sites; in rural areas, such sponsors may operate no more than 20 sites. The committee intends that the USDA continue to use the definition of "rural area" that is currently utilized in the Summer Food Service Program. Of importance is the provision that the USDA and the State agencies devote additional resources to monitoring all phases of future summer feeding program activities to ensure that local participants are fully apprised of and

in compliance with all program requirements. Accordingly, the bill reserves one-half of one percent of Summer Food Program funds for the Secretary to develop and implement a State and Federal monitoring system of private nonprofit organizations, and dependent on final evaluations and recommendations made by the Department as a result of such monitoring, the committee may wish to make further modifications to the terms under which private nonprofit organizations participate in the program.

CHILD AND ADULT CARE FOOD PROGRAMS

The bill renames the section in the National School Lunch Act that authorizes the Child Care Food Program and the Adult Care Food Program as the "Child and Adult Care Food Programs," since the two programs serve very different populations. H.R. 24 further requires that the Adult Care Food Program meet one-third of the recommended daily allowance for adults as established by the National Academy of Sciences and allows the Governor of a State to designate a State agency other than the one administering the Child Care Food Program to operate the Adult Care Food Program.

SCHOOL-SPONSORED AFTERSCHOOL CARE PROGRAMS

Because most of the school-sponsored afterschool care programs operate only 9 months of the year, the committees were concerned about the frequency of monitoring such programs—resulting in monitoring visits that took place at nearly monthly intervals. H.R. 24 stipulates that school-sponsored care programs should only be subject to monitoring three times a year, and directs the Secretary to remedy this situation through the regulatory process.

HOMELESS CHILDREN DEMONSTRATION PROGRAM

This legislation mandates that the Secretary institute demonstration projects to provide year-round food service to homeless children under age 6 in emergency shelters. Under the demonstration the children served would be eligible to receive the same meals as may be provided under the Child Care Food Program, and at the same reimbursement rates. All children served at such sites shall be deemed eligible to receive free meals without the collection of free and reduced price meal applications, as is the practice in the Summer Food Program.

The purpose of the proposed demonstration is to determine the best means of providing food assistance, and an effective delivery system for such assistance, to homeless preschool children in shelters.

SINGLE AUDIT AND ACCOUNTABILITY REQUIREMENTS

Mr. Speaker, one of the most important changes the committee amendment made in the compliance and accountability provisions is one that outlines a "unified system prescribed and administered by the Secretary for ensuring the local food service authorities * * * comply with the provisions of this Act." The requirement intends that States coordinate all compliance and accountability activities so that the burden on schools is minimized. H.R. 24 requires that in establishing this new single audit system, the Secretary do so through the publication of regulations, thereby allowing for public comment.

To prevent the past practices by the Department of imposing several different layers of audits on local school food service authorities throughout each school year, whether or not reports of significant noncompliance have been received by the Department, the committee expresses the intent of Congress that the Secretary be required to target management evaluations primarily on local food service authorities where there has been demonstrated significant noncompliance with program requirements, rather than the random, many layered audit and accountability systems now in use by the Department of Agriculture which are not necessarily tied to reported or suspected significant noncompliance by such school food authorities.

ESTABLISHMENT OF A NEW SCHOOL BREAKFAST ENTITLEMENT PROGRAM

Under H.R. 24, the School Breakfast Program has been expanded in order to initiate School Breakfast Programs in States where there are few, if any, school breakfast programs in operation.

I am pleased to note that West Virginia has a State law which mandates the School Breakfast Program, and that a majority of school districts have a fully implemented school breakfast program in place. It is my expectation that West Virginia School Food Service Authorities will examine these new school breakfast start up assistance provisions carefully to determine whether or not the State can and should benefit from such additional assistance.

Having stated above that West Virginia has had a official mandate on its books for many years requiring school breakfast programs, it is important to note the State also benefitted, as did a majority of all States, from a previous provision in the National School Lunch Program, which has since been allowed to expire, that appropriated funds annually for equipment and other startup assistance necessary for schools to implement school lunch programs. Previously authorized startup assistance, allowing the acquisition of appliances for cooking, refrigeration and storage capabilities for the implementation of lunch programs, should naturally have led to the ability and action by the States to implement school breakfast programs when they were authorized. The fact remains, and the committee recognizes, that many States including those with so-called school breakfast mandates in place, still have not responded to this need by actually implementing breakfast programs for the same hungry children who qualify for free and reduced price lunches. That recognition led to the provision of this new entitlement for school breakfast program startup assistance contained in H.R. 24.

TWENTY-PERCENT COMMODITY REFUSAL

The bill also retains the provision in current law allowing schools to refuse up to 20 percent of the value of commodities that they are entitled to receive each year. Although most school food service authorities do not elect to exercise this option, it has been retained to provide flexibility to those schools that may not be able to utilize certain commodities that may be offered.

SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN [WIC]

Program eligibility: H.R. 24 includes an amendment requiring that an individual at nutritional risk who receives benefits from Food Stamps, AFDC, or Medicaid, or who is a member of a family in which a pregnant woman or infant receives Medicaid benefits be deemed automatically to meet the WIC income test.

Countable income: The bill permits State agencies to not count basic allowance for quarters received by military service personnel residing off military installations as income for the purpose of determining income eligibility for WIC.

BREAST FEEDING

The bill provides for breast-feeding materials and instruction, but it is important to note that the committee does not intend for State agencies to expend public funds on the production of such materials in cases where private agencies have donated a sufficient supply of materials which include correct, complete, and up-to-date information.

It is the hope and expectation of this member of the Education and Labor Committee that the funds for WIC will, to the absolute extent possible, be used to provide for new intake and direct services to women, infants, and children eligible for such services. In other words, I would hope that a State's portion of breast-feeding funds will not be used for hiring so-called lactation specialists as a means of promoting breast feeding. Funds under the WIC Program are being slightly expanded this year, and I believe will continue to be expanded to the extent that the budgetary restraints we labor under will permit. My belief that continued expansion of funding for WIC in the coming years will be approved by Congress is based on irrefutable evidence that the WIC Program works in every way it is intended to work to assist poor, pregnant women and their children up to a certain age to obtain sufficient nutritional foods in their daily diets so as to improve their overall health and well-being. By providing proper nourishment and other pre- and post-natal care to assure healthier women, infants, and children, we improve the infant mortality rates in the United States, and avoid the much more costly care for women, infants, and children that comes from neglect and failure to serve them early enough to make a difference.

WIC, which is not fully funded and does not serve the number of women and infants who are eligible for nutritional services, needs every dime it can get for direct nutritional assistance. This is not to say that breast feeding is not the very best available source of nourishment for newborn infants, and superior to most formulas on the market. Nothing could be further from the truth. But in fact USDA has advised that it now spends far more than $8 million a year on breast-feeding instruction and promotion, and views the $8 million provided for that purpose in H.R. 24 as a cap rather than an expansion of such services.

The bill, H.R. 24, further requires that State WIC agencies utilize a cost containment system that yields the most savings, with respect to baby formula rebate programs in force at the time of enactment, thereby allow-

ing such States to use the savings to increase the number of program participants. There are waiver conditions for the Secretary's consideration in the case where States can document that the bill's cost containment measures would impose undue hardship or otherwise be detrimental to their formula rebate programs for WIC purposes.

WIC FOR INCARCERATED WOMEN

Recent studies have found that women in prison and their babies comprise a population at risk for poor prenatal outcome. Because some penal health care systems do not meet what are nationally accepted as minimal standards in maternal and child health care, children born to mothers in prison, especially to those with alcohol and drug abuse problems, often have severe and chronic health problems which require very specialized and costly treatment.

For that reason, the committee has authorized an optional program, permitting States, at their discretion, to expand WIC coverage to pregnant women and their infants in State and local prisons and juvenile detention facilities.

WIC funding is authorized at $2.16 billion in fiscal year 1990, and such sums as may be necessary for fiscal years 1991 through 1993.

NUTRITION EDUCATION AND TRAINING

H.R. 24 further provides for an expansion of the Nutrition and Education Training Program through 1994, with funding authorizations set at $10 million in fiscal year 1990, rising in increments of $5 million per year through fiscal year 1994 to $25 million. The legislation also increases a State's minimum grant when the actual appropriation increases.

PAPERWORK REDUCTION

The bill contains a series of provisions aimed at paperwork reduction, including the expectation that the Secretary will consider carefully the paperwork burdens that new requirements may impose and to consider whether some existing paperwork requirements may be eased.

Mr. Speaker, I commend the chairman of the Education and Labor Committee for his strong leadership with regard to the reauthorization of child nutrition and WIC programs, and the expansion and improvement of those programs contained in H.R. 24.

As a Member of the Education and Labor Committee, I am pleased to have been directly involved in the process that has led to the reauthorization of the School Lunch Program, expansion of the School Breakfast Program, improvement of the WIC Program, and other programmatic changes which are designed to lead to fuller participation of all children, adults, and pregnant women qualifying for food assistance services as authorized.

Mr. Speaker, I urge my colleagues to join me in strong support for passage of H.R. 24.

CAPTAIN KEITH BOYER: AN OUTSTANDING CITIZEN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. STARK. Mr. Speaker, Captain Keith Boyer of the Alameda County Sheriff's Department in the Ninth Congressional District of California has been nominated by the Castro Valley Rotary Club for Outstanding Citizen of the Year. Mr. Speaker, Keith Boyer certainly deserves this honor.

Captain Boyer was born in Missouri and moved to San Leandro, CA, at the age of 12. He attended San Leandro High School and Chabot Community College before joining the Alameda County Sheriff's Department in 1962. He was promoted to Sergeant in March of 1972 and Lieutenant in March of 1975. He was promoted to Captain of the Alameda County Sheriff's Department in June of 1981. He has been the acting chief of the criminal division for 3 continuous years and captain of the criminal division for the past 8 years where he has had responsibility for all law enforcement functions in an unincorporated area encompassing 117,000 people.

Captain Boyer has served on the force for 27 years in many different capabilities. He researched, planned, and implemented contracts for law enforcement services to the new city of Dublin. He developed and participated in planning and implementation of the AC Transit contract. He has had many years of experience in media relations on behalf of the Department. He has also served as a liaison to city governments, councils, homeowner associations, and other political action groups. He is an experienced teacher and lecturer in the criminal justice field.

Even though there is no official police chief in Castro Valley, for the past 8 years, that has been Capt. Boyer's unofficial title. As commander of the Eden substation he has been completely responsible for police services in Castro Valley. Capt. Boyer was responsible for founding a robbery suppression program for the Sheriff's department that greatly reduced the crime rate in Castro Valley. He also worked to develop a crime prevention program which emphasized neighborhood alert and self-help programs. Although his program had no operating budget for years, the crime prevention program won both State recognition and community praise.

Capt. Boyer has also been the author of several ordinances which have greatly helped the city of Castro Valley. He was the author of a cruising ordinance which contained the cruising problem on Castro Valley Blvd. He also worked closely with the Castro Valley drug task force to draft an ordinance that makes parents responsible for teenage keg parties.

Making the community aware of what is happening in the Sheriff's Department has always been a top priority with Capt. Boyer. He has spent hundreds of hours of volunteer time visiting community groups speaking, presenting new ideas in crime prevention and answering citizen's questions. He has worked with businesses, schools, and citizens to improve police service to the community of Castro Valley.

Captain Boyer is also active in many community service groups including the Castro Valley Rotary, the Shrine Peace Officers Association, the Bay Counties Peace Officers, the Footprinters Association, the FBI National Academy Association, the Inter-Agency Drug Council, and, the Boy Scouts of America. He is married to Marty Boyer and they have three children, Mike Boyer, Sherri Zentner, and Angie Schneider.

Capt. Boyer's duty station has been moved from Castro Valley to the Santa Rita jail site. Because of this move, the Castro Valley Rotary Club felt that it was appropriate to honor and recognize Captain Boyer for the long years of faithful service that he has provided to Castro Valley as their only "police chief." I join thousands of Alameda County residents in believing that Capt. Boyer deserves this distinction.

TRIBUTE TO TOM WHITE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Tom White, proprietor of the Western Auto store of Canfield, OH, who is retiring this week after 37 years of service to his community.

A native of Youngstown, OH, Mr. White descends from a line of restaurant and tavern owners. In 1952 at the age of 27, Tom moved to nearby Canfield to open a small business and become his own boss.

Tom's Western Auto store is a throwback to a bygone era. Over the years, its shelves have stocked hardware, toys, and sporting goods as well as automotive parts. He has served four generations of area families and takes pride in serving his customers instead of just peddling merchandise. His customers have become his friends and the store has become a meeting place for residents to gather and discuss politics, sports, and current events.

Tom preferred his business to remain small and shunned the allure of relocating to a large shopping mall. He never worried about competition and concentrated on minding his store. Tom has spent a total of 11,700 days working in his Western Auto store. This number is more impressive when compared against the 6 days missed due to illness over 37 years. Relying primarily on repeat customers, Tom has been able to remain in the town's business district and provide a pleasant and convenient shopping place for local residents.

Over the years, Tom and his wife, Florence, have become an integral part of the Canfield community. They have served as grand marshals in the Independence Day parade and, I am happy to report, intend to remain in Canfield after his retirement.

Mr. Speaker, I would like to take this opportunity to congratulate Tom White for his impeccable service to his community. The reason for Tom's success as a businessman and a neighbor stems from his knowledge, understanding, and compassion for other people. We are deeply indebted to him for his dedication and the contributions he has made to our area. I am honored to represent this outstanding individual.

THE CENTENNIAL CELEBRATION OF NORTHEASTERN PENNSYLVANIA'S DALLAS POST NEWSPAPER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. KANJORSKI. Mr. Speaker, I am privileged and honored to rise today to inform my colleagues that the Dallas Post, a community newspaper in my congressional district in northeastern Pennsylvania is celebrating its centennial anniversary this year.

On this special occasion, I wish to pay tribute and to offer my personal congratulations to the Dallas Post family for their meritorious and tireless efforts on behalf of this weekly newspaper. They should feel very proud that the newspaper has clearly established itself as one of the cornerstones of our region's Back Mountain area.

Each week for nearly 100 years, Back Mountain residents have turned to their local newspaper for news and information, for favorite recipes, for meeting announcements, to learn about the achievements of their neighbors, and to consult each edition's extensive classified section.

It was once said that "freedom of the press is one of the great bulwarks of liberty," and indeed I am sure all of us agree with this truism.

As we pause to recognize the rich history of the Dallas Post and its role in the Back Mountain region, I think we may extend this statement to say that "a local newspaper dedicated to serving its neighbors is one of the great bulwarks of a thriving and vibrant community."

Mr. Speaker, the Dallas Post clearly fits this description and I trust and hope that this year's milestone will inspire the publisher, editors, and journalists to continue to provide the Back Mountain community with this weekly news resource.

IF WE MEAN PROTECTION, LET'S REQUIRE PROTECTION

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. HAYES of Louisiana. Mr. Speaker, today I am introducing a bill to amend the Endangered Species Act to ban the importation of shrimp into the United States from nations whose fishing practices, or other activities, adversely affect sea turtles and their ability to reproduce.

The intent of this measure is two-fold. First, it addresses the issue of protecting sea turtles while in their natural habitat. We in Congress have stated that the turtle's prosperity is of concern to us and we have taken action to reflect those concerns. For example, we have attacked the problem of plastic debris in the Gulf of Mexico which sea turtles all too often mistake for jellyfish. This misidentification causes the sea turtles to ingest the product or to become entangled in it, often leading to death.

Furthermore, Congress has also stated its position in favor of the use of Turtle Excluder Devices [TED's] in regard to our domestic shrimping fleet's impact upon the population. If anyone in this body has supported either of these proposals then this bill is the logical extension to your argument. If you believe in protecting the sea turtle, then don't stop your efforts at our shores, bring access to the American market into play in order to affect our foreign counterparts who export to this country.

This bill I am introducing today would simply require that countries that harvest shrimp in waters where sea turtles are present must protect these animals to the same degree as we do in the United States.

For example, the bill requires that nations should not allow the legal harvesting of sea turtle eggs on beaches where they nest. There is at present only one beach in the Gulf of Mexico where Kemp's Ridley sea turtles, maybe the most endangered species, go to nest and yet the nation that has jurisdiction over that beach allows for the taking of these extremely rare eggs. The bill would also mandate that TED's should also be used as they are in U.S. waters.

If you believe that the protection of sea turtles extends beyond national boundaries, then you should support this bill. If you believe in leveling the economic playing fields in which we operate, then this bill should also be appealing to you.

Under the present system of sea turtle protection and enforcement, our domestic shrimping fleet is placed at a severe economic disadvantage. By using a TED, which loses up to half a catch per trawl, a gulf coast shrimper must compete against his neighbors in the gulf from Mexico and Panama who can operate in the same waters without a TED and without the associated loss. Consequently, while U.S. production declines due to the TED, our foreign competition rushes in to fill the void in the marketshare that our decreased domestic catch creates. That is an unfair and, worst yet, hypocritical way to treat both the turtles and shrimpers of the gulf coast.

Mr. Speaker, this bill is the right thing to do for both the sea turtles, who so many Members have voiced their concern for, and the shrimpers who must share their waters with the turtles and the grocery counter shelf space with foreign competition.

PANAMA CANAL

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. DYSON. Mr. Speaker, I rise today to call our colleague's attention to the efforts of the Subcommittee on the Panama Canal and the Outer Continental Shelf to ensure the safety and well being of the employees of the Panama Canal Commission.

These are dark days for Panama, Mr. Speaker, and for employees of the Panama Canal. For 2 years General Noriega has harassed, intimidated and abused the Canal's work force, both United States and Panamanian nationals. In the wake of the ill-fated coup, there is every reason to expect that an already tense situation will become more ominously threatening with each passing day.

The Panama Canal/OCS Subcommittee, of which I serve as chairman, has approved two initiatives designed to protect these employees and enable them to carry out their duties with minimal exposure to avoidable dangers. Unfortunately, the administration has opposed our efforts on the grounds that they could appear as possible violations of the 1977 Panama Canal Treaties.

Congressman JACK FIELDS, ranking member on the subcommittee, and I have written to Defense Secretary Cheney to request that he reconsider this opposition to one of our efforts. I am submitting a copy of that letter for the record. I am also submitting a copy of correspondence I have sent to Senate Armed Services Chairman SAM NUNN, requesting that this committee support these measures when they are brought before the Senate as part of the fiscal year 1990 budget reconciliation package.

The Panama Canal/OCS Subcommittee will continue to keep a watchful eye on events in Panama that might affect the lives and well-being of the Canal's employees and their families, Mr. Speaker. But we will need the support of the House and the other body if we are to deliver them the relief and assistance they so earnestly deserve.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, October 5, 1989.

Hon. RICHARD B. CHENEY,
Secretary of Defense,
Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: On June 13, 1989, we cosponsored H.R. 2612, a bill to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store lcoated in Panama which is operated by any military department of the United States. The bill was introduced by the Honorable Walter B. Jones, Chairman of the Committee on Merchant Marine and Fisheries, and had the additional support of Representative Robert Davis, the Ranking Member of the Full Committee, Representative Billy Tauzin, former Chairman of the Panama Canal/Outer Continental Shelf Subcommittee, and Representative Helen Bentley, a member of the Subcommittee.

On May 16, 1989, the Honorable Robert W. Page, Assistant Secretary of the Army (CW), and your representative on the Board of the Panama Canal Commission, wrote to you urging that you seek the necessary authority to extend temporary eligibility or use of such commissaries and exchanges. On May 18, 1989, the Subcommittee on Panama Canal/Outer Continental Shelf heard testimony, including statements from Panama Canal Commission employees stationed in Panama, which strongly supported the need for the temporary privileges sought under this legislation.

In June, 1989, the Department of Defense staff, while recognizing the serious situation faced by Panama Canal Commission employees in Panama, nevertheless recommended that instead of extending commissary and post exchange privileges, which

was incorrectly assumed to be a violation of the Panama Canal Treaty, that the stocks of military shoppettes, a variety of military 7-11 convenience store, be expanded and that they continue to be available to U.S. citizen employees of the Panama Canal Commisison for the duration of the crisis. It is our understanding that you approved that position in June of 1989. As of this date, no action has been taken to expand stocks in the shoppettes.

We are writing now to ask you to reconsider your earlier decision and to support the enactment of H.R. 2612 in view of the continuing crisis in Panama and the threat it poses to the continued safe and efficient operation of the waterway. Two points persuade us of the need for support of this bill:

First, prior objections, primarily from the Department of State, have incorrectly urged that restoration of such privileges, withdrawn pursuant to the Treaty in 1984, would constitute a Treaty violation which would lend itself to further anti-American propaganda from the Noriega regime.

Given the present situation it is difficult to believe that this legalistic approach would add much to the torrent of propaganda already directed toward the United States. More importantly, however, is the fact that the last duly recognized government of the Republic of Panama, that of President Eric Delvalle, acting through a representative of Juan B. Sosa, Ambassador to the United States, agreed to the temporary extension of the privileges of the kind covered by H.R. 2612. This authorization was made at a meeting in mid 1988 attended by, among others, the Secretary of the Panama Canal Commission, and staff members of this Subcommittee.

Second, the intervening events have demonstrated that the crisis in Panama is not going to be short-lived and the need for relief for the beleaguered employees of the Commission is now greater than ever.

Whatever the reasons for U.S. inaction during the last few days, and we do not second-guess them at this time, it is clear that conditions have changed since your decision in June and we urge that you now support H.R. 2612 and its enactment at an early date.

Sincerely,

ROY DYSON
Chairman, Subcommittee on Panama Canal/Outer Continental Shelf.
JACK FIELDS,
Ranking Minority Member, Subcommittee on Panama Canal/Outer Continental Shelf.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, October 10, 1989.

Hon. Senator SAM NUNN,
Chairman, Senate Committee on Armed Services, Washington, DC.

DEAR SENATOR NUNN: The crisis in Panama is nearing the end of its second year, and General Noriega continues his strong-arm dictatorship. Having survived last week's coup attempt, Noriega has now announced a crack down designed to toughen his martial law rule. In his words, the future in Panama holds "clubs for the indecisive, lead for the enemies, and silver for the friends" of his regime.

As chairman of the House Subcommittee on the Panama Canal and the Outer Continental Shelf, I am gravely concerned that conditions in Panama pose a clear threat to the welfare and security of employees of the Panama Canal Commission, especially of the Commission's American workforce. I am therefore committed to taking every step possible to minimize the potential danger confronting the Canal and its workforce.

The Subcommittee has already acted on two measures that can provide important protection for the Canal's workers and their dependents. These are contained in the omnibus budget reconciliation package adopted by the House last week and now waiting further action in the Senate.

I am contacting you to bring these to your attention and to urge your support for them.

The first of these initiatives would allow U.S. citizens employed by the Commission to shop for their daily necessities at U.S. military installations. Currently these employees and dependents must secure their food and household goods in Panama's public markets. These markets suffer chronic and acute shortages. Moreover, travel to and from these markets exposes U.S. citizens and their dependents to considerable danger.

This issue arose last year in the wake of the Executive Order signed by President Reagan declaring a state of emergency with respect to Panama. Last year the House adopted legislation authorizing temporary commissary privileges for the Canal's U.S. employees. The Administration vigorously opposed the legislation, which received no action in the Senate.

The Administration opposes extending commissary privileges to U.S. citizens of the Canal Commission workforce on the grounds that these are specifically prohibited by the 1977 Treaties. As a half-measure, the Administration offered to grant access to "shoppettes", a military version of the common convenience store. Unfortunately, the Administration has failed to carry through a Defense Department directive to stock these shoppettes with the normal range of food and household items needed by Commission families.

Given the dark months that can be expected to lie ahead for everyone in Panama, I believe it is vital that we provide these employees and their families alternatives to the public markets in Panama. Treaty considerations notwithstanding, this government is justified in extending temporary authority for U.S. citizens employed by the Commission to have access to U.S. military commissaries.

For your review, I am including a copy of a recent letter from Congressman Jack Fields, ranking member on the subcommittee, and myself to Defense Secretary Dick Cheney discussing this issue and requesting the Secretary to reconsider his opposition to our legislation.

The second provision relates to the escrow accounts established on behalf of the Republic of Panama by President Reagan's Executive Order No. 12635 dated April 8, 1988. That order directs all U.S. citizens, corporations or agencies conducting business in Panama to deposit all payments owed to the Government of Panama in special escrow accounts maintained at the New York Federal Reserve Bank. This order includes the Panama Canal Commission, for which the New York Reserve has created the Panama Account No. 3.

The Commission has undertaken a variety of costly measures designed to ensure the safety of its U.S. and Panamanian employees. These measures range from providing 24-hour transportation to and from the Canal for its workforce to relocating U.S. dependents stateside during the crisis. Coming at a time when the Canal is suffering an extraordinary deficit in its operating accounts, these measures compound an already serious budget problem.

The Subcommittee believes that these and additional security measures are essential to ensuring the safety of the Canal and its workforce. We also believe that the U.S. taxpayer ought not pick up the tab for expenses incurred as a result of Noriega's harassment. We have therefore adopted legislation to provide the Canal emergency financing from non-appropriated funds.

Our legislation would recapture the interest accruing to the Commission's deposits into the Panama Escrow Account No. 3. Up to $4 million of that interest accrual would be made available to the Canal Commission. With those funds, the Commission would be able to finance actions taken on behalf of its employees to see that the Canal operates in a safe and efficient manner.

This provision, also contained in reconciliation, is likewise opposed by the Administration on the grounds that it would violate the Panama Canal Treaty of 1977. We disagree. The Treaty specifies that precise payments be made to the Republic of Panama, and none of these payments would be in any way affected by our legislation. We address only the interest that now accrues to the Canal's escrow account. Moreover, we would require that these funds be used only for the purpose of responding to the dangers of the existing emergency, not for routine operational purposes.

As your Committee reviews these provisions, I would hope that you and your colleagues would keep in mind that there is no evidence that the crisis in Panama will come to a swift conclusion. The crisis brings with it dangers to all U.S. citizens residing in the country, and especially those employed by the Panama Canal Commission.

The steps I have outlined are prudent and I believe can bring strong, practical relief for the Canal's workforce. I would urge that you give them your support, and encourage your members to retain these provisions as they stand.

Sincerely,

ROY DYSON,
Chairman, Subcommittee on the Panama Canal and the Outer Continental Shelf.

IN RECOGNITION OF ROBERT N. NOYCE—A SEMICONDUCTOR PIONEER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PICKLE. Mr. Speaker, two Texans who are credited with revolutionizing electronics with their co-invention of the semiconductor microchip were selected last week as the first winners of the Charles Stark Draper Prize, the world's largest award given exclusively for engineering achievement.

Robert N. Noyce, the president of Sematech, in Austin, TX, and Jack S. Kilby, chief technical officer of the Houston Area Research Center, will share a $350,000 cash award and each will receive a gold medal.

The Draper prize, which is being awarded for the first time this year, will be presented every 2 years under the direction of the National Academy of Engineering, a private organization affiliated with the National Academy of Sciences.

In announcing this year's recipients, the Academy cited Noyce and Kilby's invention of the single crystal microchip as leading to "a revolution in electronics" which has "become a vital component in machines used in communications, manufacturing, transportation, and computing". The Academy concluded that "very few things have changed the world as dramatically as the integrated circuit" and compared it's invention with the telephone, the light bulb, and the automobile.

It seems difficult to recall today, Mr. Speaker, but before the microchip was invented, all electronic circuits depended on transistors, resistors, and capacitors that had to be soldered and wired together. Microchips, made from a single silicon crystal, can perform the functions of literally thousands of electronic components inside a chip about the size of a match head.

I have been privileged to work closely over the past few years with Robert Noyce in his role as president of Sematech, a consortium located in Austin, TX, which is conducting fundamental research in electronics and computers. I know that he will contribute the same insight, the same creativity, and the same vision for the future which earned him this outstanding recognition for his past achievements.

Mr. Speaker, I ask my colleagues to join me in offering our gratitude and congratulations to Robert Noyce and Jack Kilby on receiving the Charles Stark Draper Prize.

TEXAS PAIR NAMED WINNERS OF TOP ENGINEERING PRIZE

(By Paul Recer)

WASHINGTON.—Two Texans credited with revolutionizing electronics with their co-invention of the semiconductor microchip were named the first winners Tuesday of the Charles Stark Draper Prize, the world's largest award given exclusively for engineering achievement.

Jack S. Kilby, chief technical officer of the Houston Area Research Center, and Robert N. Noyce, president of Sematech in Austin, will share a $350,000 cash award and each will receive a gold medal.

The Draper prize, which is awarded for the first time this year, is directed by the National Academy of Engineering, a private organization that is affiliated with the National Academy of Sciences. The prize will be awarded every two years.

"We believe that the Draper prize will focus world attention on the important contributions of engineers in the same way that the Nobel Prize now focuses attention on the accomplishments of scientists," said Robert M. White, president of the National Academy of Engineering.

White said that Kilby and Noyce are credited with the independent, co-invention of the single crystal microchip. The microchip has led to a revolution in electronics and has become a vital component in machines used in communications, manufacturing, transportation and computing.

"Very few things have changed the world as dramatically as the integrated circuit," said White. "Like the invention of the telephone, the light bulb, or the automobile, the creation and widespread practical application of the integrated circuit has fundamentally changed our lives."

The microchip is used in electronic circuits that are at the heart of such equipment as calculators, digital watches, telephones, automatic cameras, personal computers, compact discs and in the electronics of satellites, airplanes and military weapons.

Before the microchip was invented in 1950, electronic circuits depended on transistors, resistors and capacitors that had to be soldered and wired together to create a desired function. Microchips, however, are made from a single silicon crystal and the functions of thousands of electronic components can be built into a chip about the size of a match head.

Noyce, 62, was co-founder of Fairchild Semiconductor Corp. in 1957, and 11 years later was co-founder of Intel Corp., now the nation's third largest semiconductor manufacturer. He currently is president and chief executive officer of Sematech, a consortium conducting fundamental research in electronics and computers.

Kilby, 66, joined Texas Instruments in 1958 where he conducted the research that led to his co-invention of the microchip. He retired from Texas Instruments in 1970 and now works as an independent consultant in Dallas and as chief technical officer for the Houston Area Research Center, a technology development concern.

Charles Stark Draper, for whom the engineering prize is named, was the inventor of inertial navigation, a guidance system that helped Apollo astronauts navigate to the moon. The Draper inertial navigation system is now used on airplanes, submarines, missiles and ships.

Draper Laboratories, which was founded by the inventor in Cambridge, Mass., is funding the engineering award.

TRIBUTE TO WILLIAM DOMINIC CAREY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ATKINS. Mr. Speaker, I rise today in honor of William Dominic Carey, the director of the Park and Recreation Department in Framingham, MA, who is retiring after 36 years of distinguished service.

This is a man, Mr. Speaker, who as well as being a loving husband and father, and a dedicated public servant, has been a pioneer in establishing athletic organizations for America's youth. In 1955, he helped to establish Little League Baseball and served as a member of its board of directors for 11 years. In 1968, he organized the Pop Warner Football League. Through his effort in organization and coaching, he has influenced and helped shape many young men's and women's lives.

William Carey was born in Framingham in 1918, graduated from Framingham High School in 1936, and is still a member of the community. He recently celebrated his 50th wedding anniversary with his loving wife, Anita, and is the father of 6 children, grandfather of 16, and the great-grandfather of 2. He is also an honored veteran of World War II, serving meritoriously with the U.S. Army. An accomplished athlete, William played semipro baseball from 1934 to 1950.

Throughout his career he has been dedicated to both athletics and education, unselfishly donating his time as a member of the Framingham School Committee, the Framingham High School Athletic Council, an organizer of North High School's Booster Club, and a coach of youth baseball.

In 1967, he was appointed director of Framingham's Park and Recreation Department, and has faithfully served the townspeople for 36 years. Through his tireless efforts he has given the town of Framingham not only well-supported and organized athletic organizations, but also the excellent factilities with which to enjoy them. Under his direction the park and recreation department has provided parks and recreational facilities of which he and the town can be proud.

Mr. Speaker, it is impossible to know the number of lives William Carey has touched through his efforts. It is important today, more than ever, to recognize the contributions of William Carey as an educator, as a coach, and as a role model. This is an man who recognizes that the strength of the future of America lies in the quality and character of its youth. Although it is gratifying to look back on William's accomplishments and to consider his legacy as he retires as the director of the park and recreation department, it is satisfying to look forward to his continued involvement and commitment in the ideals he believes in so strongly.

THE MATERNITY LEAVE ACT OF 1989

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PENNY. Mr. Speaker, along with our colleagues, JIM OLIN and DONALD PAYNE, I have today introduced the Maternity Leave Act of 1989.

This legislation provides up to 10 weeks of job-protected leave for women while they are away from their jobs for the birth or adoption of a child. The legislation also allows either men or women to take leave for the adoption of a child; ensures that the employee, upon completion of the leave, will be restored to his or her prior position or an equivalent position; continues health benefits during the leave period; and establishes a straightforward and workable enforcement regimen patterned after the enforcement provisions of the Polygraph Protection Act enacted into law last year.

Unlike the Family and Medical Leave Act, H.R. 770, the Maternity Act is a workable and fair job-security plan that can be embraced by all sides to the debate over a national leave policy standard.

Mr. Speaker, I ask that an outline of the Maternity Leave Act be included in the RECORD at this point:

MATERNITY LEAVE ACT OF 1989 INTRODUCED BY CONGRESSMAN TIM PENNY

1. A. LEAVE REQUIREMENTS

10 weeks (over twenty-four months) of maternity leave.

10 weeks (over twenty-four months) of leave for all employees for the adoption of a child.

An eligible employee must exhaust all accrued sick leave, vacation leave, or other paid leave before using the leave provided by the Act.

The 10-week period of leave is reduced by the period of paid leave.

Requires 30-day notice of intent to begin leave and 21-day notice of intent to return to the job.

B. DEFINITIONS

Employers covered: Any employer who employs 50 or more eligible employees.

Employees covered: Any employee who has worked for a covered employer for 12 months and works at least 25 hours per week.

Certain highly compensated employees are not covered.

C. EMPLOYMENT AND BENEFIT PROTECTION

Requires that an eligible employee be restored to his/her prior position or an equivalent position, with no loss of seniority or other employment benefits.

During the leave period, the employer is required to continue the employee's health benefits.

If the employee fails to return to work as agreed, the employees COBRA health benefits will be reduced by the total period of the leave.

Has no effect on pre-existing collective bargaining agreements or any State laws currently in effect.

D. ENFORCEMENT PROVISIONS

Assesses civil penalties of up to $10,000 on any employer who violates the Act.

In assessing a penalty, the Secretary of Labor shall take into account the previous record of the employer and the gravity of the charge.

Gives the Secretary power to take injunctive action to restrain violations of the Act.

The Act becomes effective 6 months after enactment.

Ninety days following enactment, the Secretary is directed to issue such regulations as necessary to carry out the Act.

A TRIBUTE TO ALAMEDA'S PUBLICLY OWNED POWER COMPANY AND ALAMEDA'S PUBLIC POWER WEEK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. STARK. Mr. Speaker, the city of Alameda, CA, in my home district has chosen to honor their publicly owned power company by designating this week, October 8 through October 14, as Public Power Week. I would also like to join in the honor by informing my colleagues about the city of Alameda Bureau of Electricity.

The city of Alameda and the citizens of Alameda own and operate their own electric utility, the oldest in California and one of the oldest in the United States. "Public Power Works for You" is more than a fitting theme, because for 102 years the Alameda Bureau of Electricity has been providing the citizens of Alameda with efficient, reliable and cost effective service. The community-owned power system operates without profit to provide Alamedans with the best possible service and efficiency. The citizens of Alameda are both consumers and owners of the public power company and have a direct say in the utility's operations and policies.

Since 1914, the citizens of Alameda have seen their city's general fund enhanced by over $42 million and annual dividends are presently at the $1.9 million mark, due to the utility's sound management and business practices.

It is my honor to pay tribute to Alameda's publicly owned power company. It is my hope that for the next 102 years the citizen-owned company maintains and improves the outstanding service that has made it such a success thus far. I congratulate the citizens of Alameda for producing and maintaining such a well run and efficient system.

FORMER PRESIDENT CARTER PRAISES NICARAGUA'S ELECTION PLANS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. CROCKETT. Mr. Speaker, from time to time I am inserting into the RECORD objective information about Nicaragua's upcoming elections.

Today, I would like to share with my colleagues a recent Washington Post report on former President Jimmy Carter's first visit to Nicaragua to monitor the elections as chairman of the Freely Elected Heads of Government.

The Post reports that President Carter said the following: "From what I know to date, the means used to have a fraudulent election in Panama have very carefully been avoided for Nicaragua."

I think we should take heart from that, Mr. Speaker. I include the article at this point for the information of my colleagues:

IN MANAGUA, CARTER SAYS HE IS SATISFIED WITH NICARAGUA'S ELECTION PLANS

(By Lee Hockstader)

MANAGUA, NICARAGUA, Sept. 16.—Former president Jimmy Carter, arriving here today to assess preparations for national elections next February, said Nicaragua has taken steps to ensure that a Panama-style electoral fraud does not occur.

"I have examined the [political] agreements . . . and the laws passed and the plans that have been made for the conduct of the election," Carter said in an airport press conference. "From what I know to date, the means used to have a fraudulent election in Panama have very carefully been avoided for Nicaragua."

As the leader of a team of observers to Panama's elections last spring, Carter denounced the official results as a fraud within hours after the polls closed. At the invitation of Nicaragua's government, political opposition and electoral council, he will head a delegation of current and former heads of state monitoring the Nicaraguan elections scheduled for Feb. 25, 1990.

Although the statement was not a blanket endorsement of Nicaragua's electoral preparations or the fairness of the rules that will govern the voting, officials of the Sandinista government appeared pleased that Carter had described the efforts under way here in counterpoint to Panama's electoral fiasco.

Sandinista officials have acknowledged that the government badly needs the elections to receive a clean bill of health from international observers if Nicaragua is to receive the financial aid that is essential to rescue the nation from its economic morass.

Carter predicted that if international observers certified the Nicaraguan elections as free and fair, it would open the way to "immediate improvement in the relationship between the United States and Nicaragua." The Bush administration has cast doubt on the Sandinistas' intention to hold fair elections but at the same time has encouraged opposition politicians to return from exile and unite to participate in the process.

The main opposition federation of 14 parties has nominated conservative newspaper publisher Violeta Chamorro as its presidential candidate. The ruling Sandinista Party is expected on Sept. 25 to name Daniel Ortega, who has led the country since the Nicaraguan revolution in 1979.

After failing to overthrow the Sandinista government by funding the contra rebels, U.S. officials now see Chamorro's candidacy as their best chance to oust the ruling party. Chamorro is the widow of Pedro Joaquin Chamorro, the former editor of the opposition newspaper La Prensa whose murder in 1978 set off a wave of protest that led to the overthrow of former dictator Anastasio Somoza.

Asked about reports that the Bush administration is considering a plan to offer the opposition coalition financial assistance, Carter said: "Any money that comes from the United States should be open and overt . . . and comply completely with the laws of Nicaragua."

His comments echoed government and opposition statements that any U.S. government aid should be aboveboard and not funneled through the Central Intelligence Agency.

In addition to Carter's group, the Sandinista government has invited observers from the United Nations and the Organization of American States. A number of other international groups also will send representatives to watch the process. With scarcely 1.5 million Nicaraguans likely to cast votes, the elections promise to be among the most closely watched in history, at least on a per capita basis.

Carter arrived today for a three-day visit—the first of three trips he will make to the country to monitor the elections as chairman of the Freely Elected Heads of Government, a group of 15 current and former Western presidents and prime ministers, including former Argentine president Raul Alfonsin and prime ministers Michael Manley of Jamaica and George Price of Belize. He appeared at the press conference with his wife, Rosalynn, and Alfonsin, who arrived here Friday. Carter met today with Ortega, Chamorro, political leaders and election officials.

CARL DILLON CLEMENT RECOGNIZED FOR DISTINGUISHED SERVICE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. FLORIO. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues a gentleman who is being honored by his community for his distinguished 30-year career in municipal law enforcement. I am speaking of Carl Dillon Clement of Paulsboro, NJ.

Mr. Clement began his public career with his service in the U.S. Navy in World War II. He began his employment, as a civilian clerk dispatcher with the Paulsboro Police Department more than 20 years ago. In addition to his tenure with the department, he has also participated with borough youth, civic, and veterans groups. In further illustration of his commitment to the community, he served as a supervisor and counselor at the Gloucester County Children's Shelter. Through his dedicated efforts, many troubled young people have been both assisted and befriended. Mr. Clement has continually brought an extraordinary professionalism to all of the positions he has held and has contributed to the tradition of excellence which has always been a part of this south Jersey police force.

It is indeed apparent that the modern, efficient, and responsive force that is the Paulsboro Police Department has greatly benefited from the outstanding efforts of Carl Clement. In recognition and appreciation, he will be honored at a retirement dinner held on Friday, October 27, 1989. He is truly a professional and a role model for members of both the public and law enforcement communities. Therefore, Mr. Speaker, it is a privilege for me to join with the family, friends, and colleagues, at the Paulsboro Police Department, of Carl Dillon Clement in extending to him my most sincere best wishes for much success and happiness in all of the years to come.

TECHNICAL DIFFICULTIES IN VETERANS' LAWS

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mrs. PATTERSON. Mr. Speaker, a situation exists today which, because of technical difficulties in veterans' laws, treats certain veterans as second-class citizens in the educational system. Those veterans who pursue vocational education are not treated as equals to those who pursue other forms of educational training. Because of these inequities, certain veterans receive less compensation for the same classes as other veterans.

Today I am introducing legislation which will alleviate these problems faced by our veterans who choose to pursue vocational education. My bill will remove arbitrary distinctions between degree and nondegree programs. In the most egregious example a veteran who had perfect class attendance was penalized with 2 days of excessive absence because of the school's schedule of holidays and class breaks. By eliminating the arbitrary distinctions between the different programs that veterans may follow, situations such as the above will no longer occur.

In addition, this legislation will make the time measurement of technical school classes consistent with the measurement of credit hour classes. Currently, a standard class session is defined as 1 hour—or a 50-minute period—of academic instruction, 2 hours—or two 50-minute periods—of laboratory instruction, or 3 hours—180 minutes—of workshop training. This legislation inserts "or three 50-minute periods" after the 3-hour designation, thereby making each definition of the standard class session of equal length under the law. This presumes 2 hours of outside study for every hour of academic class and 1 hour of outside study for every 2 hours of laboratory class.

Finally, this legislation will make the Department of Veterans Affairs treat all veterans who attend the same classes in an equal manner. Currently, certain veterans who are required to take, for example, a business class for their vocational education degree, are treated differently than a veteran who is taking the same class for a degree in business. This practice is simply not fair and must be corrected.

Mr. Speaker, I urge support for this legislation, and for those veterans who choose to pursue a vocational education. Let's make them equal to their counterparts who pursue other forms of training.

IN HONOR OF B.J. MYLER

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. VANDER JAGT. Mr. Speaker, I rise today to pay tribute to Ben J. Myler who is retiring as chairman of the board of directors and chief executive officer of the Old Kent Bank of Ludington, MI, on October 12. Ben Myler has had a distinguished banking career for 39 years. He and his wife, Anne, upon his retirement, plan to return to their home on Lake Superior.

Ben Myler, who has served the Old Kent Bank as chief executive officer since 1976, is a man of honor and integrity, a compassionate man who has worked as hard for his community as he has in his banking positions. During his career in Ludington, he has served on the board of directors of the Ludington Chamber of Commerce, LEDCOR, Ludington Area Foundation, Memorial Medical Center of West Michigan, Pere Marquette River Watershed Council and Pere Marquette River Advisory Council. He has received numerous awards from national, State, and local organizations, including the American Banker's Association, Michigan Banker's Association, Northern Michigan University, Michigan State Chamber of Commerce, Trout Unlimited, and Ducks Unlimited.

Ben began his banking career in 1950 when he joined the Michigan Bank in Grand Rapids. He was one of the organizers of the Security National Bank of Manistee in 1958 and in 1961 he joined the Empire National Bank of Traverse City, becoming its president and chief executive officer. He went to Marquette in 1966 to assume the position of president and chief executive officer of the Union National Bank.

I had the great privilege of working with Ben on a number of key water projects, involving, in particular, the well-being of one of Michigan's finest and precious assets, its sports fishing. His efforts were truly outstanding and I shall always be, as will the community he served, grateful for his untiring efforts.

Ben is truly a man of the outdoors—a fisherman of unequaled skill and accomplishment. There is absolutely no one more committed to protect our Nation's great natural resources. He has and continues to work to leave our environment, our sports fishing areas, in better condition than when he first discovered them years ago as a youngster.

I know my colleagues will join me in extending our sincere appreciation and congratulations to my good friend, Ben Myler, a man of superlative character and deed. I am very glad for the opportunity to give him this well-deserved recognition in the House of Representatives.

In retirement, I wish him joy in his change of pace with his family and friends and the blessings he richly deserves. Ben and Anne deserve the very best.

REFORM OF THE BUDGET PROCESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 11, 1989 into the CONGRESSIONAL RECORD.

REFORM OF THE BUDGET PROCESS

The Congress is giving increasing attention to the idea of reforming the Gramm-Rudman-Hollings (GRH) deficit reduction law. Under GRH, if the Congress and the President are unable to reduce the deficit to meet the deficit reduction target for the next fiscal year, automatic spending cuts (sequestration) take place to bring the deficit down. The GRH deficit targets get smaller each year, to produce a balanced budget by 1993. In many respects, this process has broken down.

GRH was enacted with the laudable goal of instilling fiscal responsibility on Washington, but the practical effect has been that the Administration and the Congress have become very ingenious in getting around the targets. Games and gimmicks abound. This year, for example, we see "savings" in the FY 1990 budget by putting the Postal Service and much of the S&L bailout off-budget, and by moving up a military payday and farm program payments a few days so they occur in FY 1989. We also see skillful use of budget baselines to convert spending increases into budget cutbacks, exaggerated estimates of revenue from user fees and asset sales, and possibly a capital

gains tax break that will bring in revenue in the near term but lose an estimated $21 billion over the next decade. In addition, optimistic Administration economic assumptions, adopted by the Congress, reduce the magnitude of the needed cuts and make it look like the deficit will simply go away in the long term. It used to be that a few budgetary gimmicks were added after the difficult cuts were made in order to squeeze under the GRH deficit limit; now we have a package that is mostly gimmicks and little real savings.

Such game playing has resulted in the deficits getting worse, not better. While GRH was supposed to be taking us on a path of gradually declining deficits, the deficits have in fact been increasing—from $150 billion in FY 1987, to $155 billion in FY 1988, to more than $161 billion in FY 1989. In addition, the process has distorted the perspective of policymakers. We have a fixation on meeting an exact target for one year only, with little attention to what policies make long-term sense for our country.

We are all the time looking for procedural gimmicks to improve the budget process, when past changes have only brought on more creative ways to skirt the process. What is needed is the willingness of the President and the Congress to make the tough political choices to reduce the deficit. Procedures do not guarantee sound judgement or political courage. As has been noted, the problem is not the process; the problem is the problem.

Nonetheless I believe that we can improve the process to at least cut down on the worst abuses. I think it is premature to scrap the entire process, as some have suggested. GRH has focused attention on the spending problem, and has slowed the rate of growth of federal spending. It helped bring down the deficit its early years, when the deficit was hovering well over $200 million. Moreover, although not steadily decreasing, the deficit at least is holding in the $150-$160 billion range and is not increasing sharply. That has meant that, as the U.S. economy has continued to grow, the deficit has gradually become a smaller share of GNP, our national income. The federal budget deficit is now 3.3% of GNP, compared to 5.3% in 1986.

I favor several steps to improve the GRH deficit reduction process. First, we could cut down on the use of overly optimistic economic forecasts by setting up an independent panel of economic experts to choose between Congressional Budget Office and Administration estimates for the economy. This would encourage the Administration to be more realistic in its forecasts, to avoid being thrown out of the game entirely. Second, we should require the President and the Congress to outline in their budget documents what future actions they would take to balance the budget, should they choose not to do so that year. Third, we should enact "pay-as-you-go" budgeting, which would require that someone proposing a new program should specify how to pay for it—either by cutting some other program or increasing taxes. Fourth, we should shift to a two-year budget cycle to ease the last-second pressure under which we too often operate. Fifth, we should close specific loopholes in the current process, for example, no longer allowing timing shifts (such as moving pay days), putting additional curbs on the use of asset sales to reduce the deficit (which involve revenue gains now but losses later), and making it more difficult to move government entities off-budget.

Other proposals could be considered: requiring that when actual spending exceeds the GRH target, offsetting cuts be made in the next year; giving the President enhanced rescission authority if deficit targets are not met; broadening the pain of the sequestration cuts, which now affect only about half of the spending programs and exempt taxes; shifting from the "current services" budget, under which actual spending for a program could increase sharply but still be considered a "cut" from projected levels that factor in inflation and increased usage; and no longer counting the build-up of the social security reserves as reducing the deficit.

I also support efforts to make clearer the overall goals of the budget process. One such proposal would be for a "GNP budget". The idea would be to determine what percent of America's GNP goes for various major uses, such as investment, defense, private consumption, and health care. Getting a broad overview of how the U.S. is allocating its national output—for example with 55% of it going for consumption by the nonpoor and only 14% going for investment—could elevate the debate on our nation's priorities and guide tax and spending policy. It could help get us away from our preoccupation with the somewhat artificial budget numbers that dominate the GRH debate.

We should not be overly optimistic about how much can be accomplished through reform of the budget process. Every attempted reform could have unintended consequences, and, as in the past, might only elevate the budgetary games to a higher level of sophistication. We have seen the proliferation of games and gimmicks in recent years because profound political differences exist over how to reduce the deficit. Procedures cannot impose a consensus where none exists. Yet they can be of some help in curbing some of the worst abuses and in helping us refocus the debate on national priorities.

LOVE FOR OLD GLORY

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. HUTTO. Mr. Speaker, the recent ruling by the U.S. Supreme Court upholding the burning of the American flag brought an outcry from our citizens. Though there are differences of opinion on whether or not we should pass a constitutional amendment protecting the flag, there is no question that Americans are almost unanimous in their love for Old Glory.

I am submitting for the RECORD two poems written by my constituents on this issue.

OUR FLAG'S DEVOTION

(By Luther Hamilton, Lieutenant, USNR (Ret.)

In the quietness of the dawning
Of an Independence Day,
By his flagpole stood an old vet,
Slow of pace and hair of grey.
From his hands he took an ensign,
Tattered, old and worn as he,
Which he hoisted to the summit
With all pride and dignity.
Then as he turned to walk away,
"Hi-Ho there," he seemed to hear
It cannot be, at first he thought,
Just this aide within my ear.
But again it came, quite clearly,
"Hello, Patriotic Friend,
I'm glad to find you thus alone
My warmest greeting to extend."
Stay, I pray thee; listen closely
To this story I must tell.
Of a money-hungry Nation,
Of our Homeland, loved so well.
I am proud our Founding Fathers
At the time I was conceived,
Had not thoughts of an abortion,
As do "lovers," up their sleeves.
Tho I'm young at one and twenty
If you count me by decades,
My old Grandpa flags before me
Told of plans which had been made,
Long ago within the Bible
For God's blessings in our day,
Made before the Pilgrims landed
On our shore of Plymouth Bay.
Since I have no S/S Number
I cannot redress the wrong,
Of our Highest Court's decision
Which could lead to my Swan Song.
But as trends become apparent,
Stay alert and wide awake,
Lest fools clad in "free-speech" armor
Burn our Eagle at the stake.
Was it wise to spend tax billions
On our space-made travel tabs,
To secure a few Moon pebbles
For a close-up in our labs;
Then not see Earth's problem pebbles
Grow before our "boob-tube" eyes,
Into "Labs-of-Congress boulders
To remain unanalyzed?"
We have dropped the Golden Standard
From our once-sound banking rules,
And with Bank Notes backed by paper
Up our promises like fools.
Prayer is absent from our schoolrooms
Since O'Hair's court-umpired play,
But prayer from Hell can't win appeals
For Strike Outs on Judgement Day.
I have flown and talked 'til Sunrise
But there's more that comes to mind,
Of spy-files in secret ointments
And our frauds of every kind.
And the lack of 3-R's knowledge
In our classrooms of today,
Where they integrate the students
But leave facts in disarray.
When I fly in forty places
With the chosen of our land,
And near pro and con distortions
Of the "boulder" then at hand,
With stress on roll call and "effects,"
Not convictions from within,
Brought about through "love of money"
And its "root-of-evil" sin.
With unyoked parents' child-care doles
Broken homes raise no concern,
Lest we push God's finite patience
To the point of no return.
Tho Navy-proud, I am humble
At our services at sea,
And fly beneath our Chaplains' flags
Of the God who "ordained" me.
My colors drip with gratitude
For your often, fond salutes,
And your pledges of allegiance
Which assure we're in cahoots,
To keep wise Captains at the helm
Of our great, Proud Ship of State,
Lest God break our "Pride of Power"
Into rowboats on a lake!
Since you've listened with attention
To my verses of our past,
May our years ahead be sweetened

With God's honey 'til the last.
Let us all renew our pledges,
Whether poor or blessed with wealth,
To the future of our Homeland
Both in sickness and in health.
And should they ring my "golden Bell"
From "Lands Beyond the River,"
I'll fly with thee and make come true
Our "Stars and Stripes Forever."

DON'T BURN THE FLAG

(By Dr. Bradley Price)

They said today that it's okay
To burn the flag of the USA.
It's just a rag—that grand ole' flag
Freedom won't be hurt—it will not lag.
But spirits rise—with gleaming eyes
From fields where they bled and gave their lives.
I wonder what those brave men thought
Who gave their blood and for freedom fought.
Are we such fools to make these rules
Shall we teach this mess to kids in school.
Oh no I say—it's not okay
To burn the flag of the USA.
We lose it all if that flag falls
Then none will hear sweet freedoms call.
Let everyone rise and lift our cries
We love that flag and our freedom prize.
We will not turn while others spurn
And torch our flag to make it burn.
For we must save what our forefathers gave
And keep that flag—and let it wave.

NOVEMBER: NATIONAL HOSPICE MONTH

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I would like to recognize that November has been designated "National Hospice Month." I would like to commend my colleague BILL GRADISON for introducing this resolution which was signed by the President on August 11, 1989.

The observance of "National Hospice Month" calls upon "all government agencies, the health care community, appropriate private organizations, and all the people of this Nation to participate in programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country." It is important that we pause during November and acknowledge the important place that hospices and hospice workers have in our communities.

The hospice is an innovative concept in health care; it is a special way of caring for dying patients. The terminally ill differ physically and emotionally from other patients in many ways, primarily in their inability to escape the immediacy of pain and death. The hospice treats the total patient, providing emotional support as well as medical services. Hospices also help and work closely with family members, who suffer along with the patients. Hospice care continues after the patient's death, giving emotional support to the family. This approach is both effective and important because it demonstrates an alternative to standard health care services.

Hospice care can be delivered in a variety of settings. Some hospices offer only inpatient care, while other specialize in home care. Some even offer both inpatient and home care. Throughout hospice programs in the United States, care is administered by teams composed of physicians, nurses, social workers, psychiatrists, psychologists, clergy, trained volunteers, and family members. These teams working together try to ease the pain of the terminally ill patient, allowing them to live in dignity for as long as possible. What people need the most when they are dying is relief from the distressing symptoms of their disease, the security of a caring environment, expert care, and the assurance that they and their family members will not be abandoned. The hospice staff provide these services and much more. They deserve our recognition and our thanks.

The hospice program has grown rapidly since the establishment of the first formally organized hospice in 1971 in New Haven, CT. Hundreds of hospices across the Nation are providing compassionate and professional care to dying patients of all ages, and many more are in the planning stages. It is appropriate that these unique facilities, their staffs, and volunteers be commended for their invaluable services to the terminally ill and their family members.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. GARCIA. Mr. Speaker, due to conflicts in scheduling, I have recently been unable to record my votes. If present, I would have voted in the following manner:

On September 6, in favor of: H.R. 2427, NAA satellite programs authorization; H.R. 1668, NAA ocean programs authorization; H.R. 1594, favored-nation status for Hungary.

On September 12, in favor of: H.R. 4637, the energy and water appropriations; H.R. 2978, the Flag Protection Act, H.R. 982, Postal Service funding.

On September 13, in favor of: H.R. 2869, the Commodity Futures Improvement Act.

On September 19, in favor of: H.R. 128 regarding the Lebanese Civil War; H.R. 1495, the Arms Control Agency authorization.

On September 20, in favor of: H.R. 1659, the Aviation Security Act.

On September 21, in favor of: H.R. 1759, NASA authorization.

On September 25, in favor of: H.R. 2364, Rail Passenger Service Act; H.R. 2365, the Airport Security Improvement Act.

On September 26, in favor of: H.J. Res. 407, the continuing appropriations bill.

On September 27, against the Roukema amendment deleting provisions requireing trustee boards that administer single employer pension plans to consist of equal representation of employers and employees; against the Dorgan amendment repealing the section 89 antidiscrimination in health plan measures.

On September 28, in favor of the Rostenkowski amendment to eliminate the capital gains tax cut.

On October 2, in favor of: H.R. 1662, the Torture Victim Protection Act; H. Res. 251, to impeach Judge Walter Nixon; H.R. 3275, steel trade liberalization.

On October 3, against the Oxley amendment to delete the Fairness Doctrine, and in favor of H.R. 2788, Interior appropriations.

On October 4, in favor of: the Archer-Donnelly amendment to repeal the Medicare Catastrophic Coverage Act; the Stark-Waxman amendment to modify the Medicare Catastrophic Coverage Act: yes on roll No. 269, providing free and fair elections in Nicaragua.

On October 5, against the Edwards substitute for the child care proposal; against the Stenholm amendment to the child care bill; in favor of passage of the reconciliation bill including the improved child care provisions.

THE REPUBLIC OF CHINA'S NATIONAL DAY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PRICE. Mr. Speaker, I rise today to pay tribute to the people of the Republic of China on Taiwan as they celebrate National Day.

My understanding of Taiwan's early struggles, its present successes, and its hopes for the future has been greatly aided by a recent trip to this country. During the August recess, Congressmen MARLENEE, HASTERT, and I were fortunate enough to observe Taiwan's impressive progress firsthand. In the short span of 40 years, Taiwan has turned from an impoverished country with few resources into a major player in the world economy.

In turn, Taiwan is boosting other countries' growth. Last year, Taiwan announced the establishment of a $1 billion foreign economic development fund, from which cash will be distributed to countries needing Taiwan's assistance. Meanwhile, Taiwan's private sector is investing billions of dollars abroad by setting up hundreds of factories and investing in joint ventures.

During our trip, my colleagues and I were able to discuss economic and political issues of importance to Taiwan and the United States. In talks with President Lee Teng-hui, Vice Premier Shih Chi-Yang, Foreign Minister Lien Chan, other governmental and business leaders, the need to open up markets and promote reciprocal trade was underscored, as well as mutual security issues in the Pacific and the challenges posed by current political developments in both countries.

More recently, Congressman LANCASTER and I were honored to welcome Representative Mou-Shih Ding, his deputy Hsien Lin, and C.Y. Chu, director general of the Coordination Council for North American Affairs in Atlanta, to our districts in North Carolina. Our guests were honored at a dinner in Raleigh attended by some 400 members of the Chinese-American community. Our subsequent discussions focused on trade; Taiwan has become a major market for agricultural, electronic, and

other products from our State. We look forward to the strengthening of our mutually beneficial economic ties in the future.

Mr. Speaker, on the Republic of China's 78th National Day, I join my colleagues in extending to President Lee Teng-hui and the citizens of Taiwan our hearty congratulations and in expressing our high hopes for continuing friendship and cooperation in the years to come.

TRIBUTE TO WILLIAM ASHBY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PAYNE of New Jersey. Mr. Speaker, it is an honor for me to draw to the attention of my colleagues the accomplishments of an outstanding New Jersey citizen and activist who will celebrate his 100th birthday this weekend, Mr. William M. Ashby.

Born in Carters Grove, VA, on October 15, 1889, Mr. Ashby is the oldest living graduate of Lincoln University in Pennsylvania. He is also a 1916 graduate of Yale, where he wrote his first book, entitled "Redder Blood." Although a work of fiction, the book was Mr. Ashby's first attempt to come to terms with the issue of segregation.

Over the course of many productive years, Mr. Ashby has worked tirelessly to promote justice, equality, and a higher standard of living for all Americans.

In 1916, he founded the Urban League of Newark to enhance employment opportunities and make other improvements in our community. The league became the lifeline for black citizens in Newark during the Depression, when many were unable to get help through traditional agencies despite being disproportionately hit by the disastrous economy.

Under the leadership of Mr. Ashby, the New Jersey Welfare League was formed to help black citizens cope with the realities of urban life.

Mr. Ashby also served for a time as director of the urban league in both Springfield, IL, and Elizabeth, NJ.

Mr. Ashby has a wide range of interests; he was one of the founders of the Preservation and Landmark Committee of Newark. In honor of his years of community service, a State office building has been named the William M. Ashby Community Affairs Building.

The author of several books and plays, Mr. Ashby, at age 99, completed 20 chapters of a sequel to his most recent work, "Tales Without Hate."

In 1988, Mr. Ashby was awarded the prestigious Whitney Young Medallion by the National Urban League.

Mr. Speaker, we in New Jersey are very fortunate to have in our midst a man of Mr. Ashby's vision, creativity, commitment, and energy. I know my colleagues join me in extending best wishes for continued success and happiness to this outstanding citizen on his 100th birthday.

TOWN OF COVENTRY SUPPORTS THE FLAG

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. MACHTLEY. Mr. Speaker, I would like to share with the House of Representatives an initiative recently pursued by the town of Coventry, RI. On August 28, 1989, Coventry's town council adopted a resolution urging me to support an amendment to the Constitution making the burning of the American flag an illegal act. I fully agree with the position of Coventry's town council, and would ask that its resolution be printed at this point in the CONGRESSIONAL RECORD.

RESOLUTION OF THE TOWN COUNCIL

Whereas, the Town Council of the Town of Coventry recognizes, supports and proudly represents the Constitution of the United States of America and the freedoms it provides us with; and

Whereas, the Town Council recognizes, supports and proudly represents the American Flag and the freedoms and honor it has symbolized. Whether it was our original fight for independence, our victorys during the war, our landing on the moon or our draping of the caskets of fallen Presidents, the flag has always symbolized honor and victory of freedom; and

Whereas, the Town Council feels that our Constitution provides us with numerous opportunities to lawfully express ourselves without having to destroy the very symbol which represents these freedoms; and

Whereas, the Town Council recognizes those men and women and the families of those men and women who have given the ultimate sacrifice in the preservation of our Nation and its symbol;

Now, therefore, be it resolved by the Town Council of the Town of Coventry that:

1. This Town Council supports and requests that an Amendment to the Constitution of the United States of America making the burning of the American Flag an illegal act be introduced; and

2. That such an Amendment is not intended to restrict any freedoms of speech or expression that we may have, but rather re-enforce these freedoms by preserving its symbol.

Now, be it further resolved by the Town Council of the Town of Coventry that:

1. A copy of this resolution be forwarded to our Honorable United States Senators and United States Representatives; and

2. A copy of this resolution also be forwarded to our Honorable Senators and Representatives of the State of Rhode Island; and

3. A copy of this resolution also be forwarded to the Honorable Town Councils of the Towns and Cities of the State of Rhode Island.

Now, be it further resolved by the Town Council of the Town of Coventry that:

1. This resolution shall be in full force and effect upon adoption.

Passed and adopted this 28th day of August 1989.

ARMENIAN EARTHQUAKE

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PASHAYAN. Mr. Speaker, the world has focused on the immediate problems of the earthquake that struck in Armenia on December 7, 1988, and slowly and surely leaders are looking to the future.

Late this summer the First World Congress of Armenian Engineers, Scientists, and Industrialists met in Los Angeles, and President George Bush wrote to the gathering that "I am well aware of and have heartfelt sympathy for the personal as well as economic devastation suffered by the Armenian people. By pooling your professional skills and abilities to help your fellow Armenians in time of great tragedy, you displayed the best of the human spirit—a compassion that transcends international borders and recognizes the brotherhood of all men."

At this point, Mr. Speaker, I should like to share the response of those participants.

RESOLUTIONS OF THE FIRST WORLD CONGRESS OF ARMENIAN ENGINEERS, SCIENTISTS, AND INDUSTRIALISTS

Resolve to:

1. Support the physical and economic revitalization of the earthquake damaged regions of Armenia and request all responsible individuals, institutions and government agencies to examine their criteria and procedures, and to take immediate steps to improve the earthquake safety of new and existing constructions,

2. Develop the expertise to research and provide technical guidance to fully integrate the handicapped survivors of the earthquake,

3. Assist Armenian engineers and scientists and their institutions in their effort to improve the quality of life in Armenia, as well as their continuing effort to accomplish the technical and economic integration of Artsakh with Armenia,

4. Establish a program of technical exchange of academics, professionals, and graduate students to develop in Armenia and Artsakh state of the art information and communication capability, manufacturing automation, environmental protection, and earthquake damage protection,

5. Endorse the proposal to form and assist in the creation of a technical university in Armenia that is modeled after the American system of technical universities or institutes of technology,

6. Join in the effort to establish leading expertise in Armenia on environmental protection technology and non-fossil fuel research and devleopment,

7. Assist and request that the Armenian Chamber of Commerce and industry take additional steps, including prompt establishment of free trade zones, to substantially increase the number of joint ventures with Armenian industrialists in the diaspora,

8. Request that the Armenian Chamber of Commerce and Industry consider securing western consultants and staff to attract significantly more western investment to meet economic development goals,

9. Create an international professional organization of engineers, scientists and industrialists with the prime objective of combining their knowledge and expertise to

achieve world class technological capability for all Armenians. This organization will combine the Armenian Engineers and Scientists of America, Inc. (A.E.S.A.), and institutions and organizations in Armenia, Europe and throughout the world. Initially, this new organization will have its headquarters in the U.S.A.,

10. Convene biannual congresses with the Second World Congress to be held in Yerevan, Armenia.

HONORING THE HANDICAPPED ADULTS ASSOCIATION IN CO-OP CITY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to the Handicapped Adults Association, Inc. in Co-op City. This organization, located in my congressional district, plays an important role in the lives of the disabled and the frail elderly.

Started over 17 years ago, this association gives almost a thousand handicapped people from across the North Bronx who would otherwise be homebound an opportunity to get out into society.

The association provides transportation to doctors' offices, hospitals, shopping and recreational activities for several hundred people. The Handicapped Adults Association also plays an important role as an advocate for the needs of this segment of society. They have fought for curb cuts and more paratransit, which allows the handicapped to travel on their own. They are also strong supporters of legislation that allows increased accessibility by the handicapped and frail elderly in housing, restaurants, and social events.

I am proud to have worked with this important organization while I have served in public office. The members of the association are to be commended for a job well done.

TRIBUTE TO DR. JEFFERY P. LA FAGE

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to express my deepest regret on the senseless and brutal murder of one of my constituents, Dr. Jeffery P. La Fage.

On July 25, 1989, Dr. La Fage, an internationally recognized urban entomologist from Louisiana State University, was killed during an attempted robbery in New Orleans, LA. His untimely death is a great loss to the State of Louisiana, as well as the rest of the world.

Dr. La Fage was a unique individual whose research efforts centered around understanding termite biology and control. In this regard, his research efforts were always on the cutting edge of science and always looking to the future. Many of these efforts were centered around trying to find answers to questions which were 5 to 10 years in the future.

While his long-term goals focused on the future, he did not neglect current problems. He also conducted research geared to finding solutions to today's urban pest problems, as well as making sure that his results were communicated to the pest control industry, and to the hundreds of undergraduate and graduate students he taught at Louisiana State University. In doing so, Dr. La Fage not only influenced many of today's pest control leaders, but also helped shape the thinking of many future researchers.

In addition to his research and teaching efforts at Louisiana State University, he began work on a national basis to increase Federal and State research funding for urban entomology research. Dr. La Fage felt that this increase in funding was needed to help develop future control methods in urban pest management.

Dr. Jeff La Fage will be missed by everybody associated with the pest control industry, and by the millions of homeowners throughout the United States who would have benefited from his future contributions to continued improvements in urban pest management practices.

I want to extend my sympathy and best wishes to Dr. La Fage's wife and two daughters who live in Baton Rouge, and to his parents who live in Connecticut.

HONORING TERRI LYNCH

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. BERMAN. Mr. Speaker, I rise today to salute a distinguished leader and a friend, Terri Lynch. She is being honored by the San Fernando Valley Bar Association for her outstanding contributions to the legal community. It is my pleasure to honor her today.

Terri has a distinguished record of achievement and service in the San Fernando Valley. She has served from the bench as a judge pro tem and made valuable contributions as a court mediator. As a past president of the San Fernando Valley Bar Association as well as a trustee of that organization and the Los Angeles County Bar, she has earned the respect and trust of her peers. Her professional contributions also include a term as an officer of the San Fernando Valley Bar Association.

Terri is a specialist in family law and began her practice doing plaintiff personal injury, business and Federal casework. She attended school at Wells College in Aurora, NY, UCLA, USC, and the San Fernando College of Law and was admitted to the bar in 1974.

Terri and Robert Lynch have been married since 1957. They have three children—Katherine Lynch Pugh, William Norman Lynch, and Thomas Robert Lynch and two grandchildren—Kelly Annette Lynch and Leanne Katherine Pugh.

Mr. Speaker, I ask my colleagues to join with me in acclamation of Terri Lynch, a respected professional, a leader in her profession and a role model for all.

THE WORLD'S UNWANTED

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. SMITH of Florida. Mr. Speaker, I direct the attention of my colleagues to an article written by Mr. R. Bruce McColm, executive director of Freedom House, on the growing number of refugees—recognized and de facto—around the world. The article, which appeared on September 28, in the Wall Street Journal, follows:

[From The Wall Street Journal, Sept. 28, 1989]

THE WORLD'S UNWANTED

(By R. Bruce McColm)

In this century, few international developments have been as persistently contentious and destabilizing as the "refugee problem." Around the globe, population flows exacerbate interstate and regional tensions, drain the economies of host nations, overextend humanitarian support mechanisms, and put a strain on the world's compassion threshold. Even as the West Germans welcome the 16,000 East Germans who just escaped via Hungary, the doors are closing on thousands of Vietnamese boat people in Hong Kong, 400,000 Indochinese have languished for years in camps in Thailand, and hundreds of thousands of ethnic Turks have been expelled from Bulgaria. And then there are the millions of refugees long dispersed in Africa and Latin America.

Governments and international groups cannot agree on a definition of "refugee." For this survey, Freedom House defined refugees as people who are forced to flee or are expelled from their homelands due to war, civil conflict, pestilence, natural disaster or persecution based on ethnicity, race, tribal affiliation, religion or political beliefs. Unless otherwise noted, the numbers are cumulative totals for 1988.

A significant group not included here and not recognized by international agencies is internal refugees. These are the millions world-wide displaced from their homes for much the same reasons as external refugees but who cannot or choose not to leave their countries. Often brutalized by their own governments and subjected to egregious human rights abuses, they usually fall out of the purview of international relief efforts. They include an estimated 700,000 to 1.5 million Ethiopians forcibly resettled inside the country by the Mengitsu regime or forced to move because of famine and the up to 2 million Mozambiquans driven from their homes by civil war. The 3.6 million South African blacks resettled in tribal homelands fall into this category as do the 150,000 to 500,000 Salvadorans uprooted by civil war.

The total international refugee population is difficult to measure for several reasons. First, the dynamics that create refugees are volatile and often chaotic. For example after the Burmese government launched a reign of terror in the summer of 1988, 8,000 to 10,000 Burmese fled to border areas and into Thailand. Burma claims 3,115 have returned; unofficial estimates are half that. Some 2,500 are reported in Thai camps, while unknown thousands have joined insurgency groups along the border. A second difficulty is the differences in the

way countries classify and process refugees. When East Germans get West German citzenship, they are no longer considered refugees. Many Hungarians who fled to the west after the 1956 Soviet invasion now carry other citizenship and so do not count as refugees. A third difficulty is that, for political reasons, nations often do not disclose the number of refugees who have fled or how many from other countries reside within their borders.

While Freedom House has found advances in political rights and civil liberties around the world in recent years, the millions of refugees remind us that significant parts of the globe continue to be marred by strife, privation and bigotry. These displaced men, women and children are carriers of history, indicating the state of human relations. They are living reminders that the quest for freedom from repression and intolerance is typically told by the ebb and flow of population movements. The world cannot pretend to be isolated from their suffering.

REFUGEES 1988: WHERE THEY'RE FROM, WHERE THEY'VE GONE

LATIN AMERICA AND THE CARIBBEAN

Chile—4,800

Argentina, 4,300; Boliva, 200; Ecuador, 200; Colombia, 100.

Most left Chile in the early '70s, during Pinochet's first years. Many have returned since last September's amnesty.

Cuba—5,973

[* Numbers are in dispute. ** 1988 only, not cumulative.]

Costa Rica, 2,500; U.S.**, 2,273; Spain, 700; Peru, 400; Ecuador, 100.

Most who came to the U.S. in '88 were long-term political prisoners.

El Salvador—26,215

Honduras, 15,100; Costa Rica, 6,200; Belize, 2,900; Panama, 1,500; Guatemala, 500; U.S., 15.

Most fled civil war and the government's tactic of relocating people to "safe" villages. There are hundreds of thousands more without refugee status.

Guatemala—40,580

Mexico, 38,500; Belize, 1,200; Nicaragua, 400; Honduras, 380; Bolivia, 100.

Most fled in the mid '80's in the wake of civil conflict and the government's campaign against leftist insurgents. In addition, there are hundreds of thousands without refugee status.

Haiti—828,000

[* Numbers are in dispute.]

U.S.*, 450,000; Dominican Rep.* 256,000; Canada,* 845,000; Bahamas, 30,000; Caribbean nations; 30,000; France, 15,000-30,000; Cuba, 2,000.

Only 2,000 in Cuba and 6,000 in Dominican Republic have been accorded official refugee status.

Nicaragua—54,969

Costa Rica, 29,700; Honduras, 23,060; Guatemala, 1,600; El Salvador, 400; U.S., 209.

Few of the 300,000 who have left since 1979 have applied for refugee status for fear of deportation if turned down.

AFRICA

Angola,—395,711

Zaire, 298,700; Zambia, 97,000; U.S., 11.

Most are long-term refugees from Angola's political strife who are fairly well-integrated into their host countries.

Burundi—186,000

[* Numbers are in dispute.]

Tanzania, 156,000; Rwanda,* 20,000; Zaire, 10,000.

All fled tribal clashes between the Hutus, Burundi's largest ethnic group, and the Tutsis, who control the armed forces.

Chad—41,700

Sudan, 25,000; Cameroon, 4,400; Nigeria, 4,200; Benin, 3,000; Central African Republic, 2,900; Congo, 1,500; Togo, 400; Burkina Faso, 266; Ivory Coast, 100.

Most fled civil conflict and drought in 1984-85.

Ethiopia—1,042,656

[** 1988 only; not cumulative.]

Sudan, 660,000; Somalia, 365,000; Djibouti, 7,000; North Yemen, 7,000; Kenya, 2,155; U.S.,** 1,456.

Fled civil conflict and famine, including government interruption of food aid and civilian massacre in Tigre and Eritrea.

Guinea-Bissau—Senegal, 5,000.

Tribal conflicts, government repression.

Mozambique—1,147,013

[* Numbers are in dispute.]

Malawi, 630,000; South Africa, 225,000; Zimbabwe, 171,000; Tanzania, 72,000; Swaziland, * 64,000; Zambia, 30,000; U.S., 13.

Civil war, which escalated in '88.

Namibia—81,403

Angola, 74,000; Zambia, 7,300; Cameroon, 100; U.S., 3.

Civil war. Many were repatriated this year.

Rwanda—210,100

[*Numbers are in dispute.]

Uganda*, 110,200; Burundi*, 65,800; Tanzania, 21,000; Zaire, 11,000; Kenya, 2,013.

Tutsi-Hutu tribal conflict. Most fled 20-30 years ago.

Somalia—350,004

[*Numbers are in dispute.]

Ethiopia*, 350,000; U.S., 4.

Civil conflict in '88 between nationalists and government.

South Africa—24,942

Swaziland, 6,700; Lesotho, 4,000; Zambia, 3,200; Angola, 900; Zimbabwe, 500; Mozambique, 200; U.S., 42.

Most in Angola are members of the banned ANC. Those in Swaziland fled tribal violence.

Sudan—355,000

Ethiopia, 350,000; Uganda, 5,000.

Civil war in the south since 1955.

Uganda—9,631

Kenya, 5,618; Sudan, 3,600; Burundi, 400; U.S., 31.

Ugandans in Sudan fled government violence in 1982. Those in Kenya fled government-dissident violence in north and east.

Western Sahara—Algeria*, 165,000.

[*Numbers are in dispute.]

Fled war with Morocco that began when Spain gave Morocco the territory in 1975.

Zaire—53,210

Tanzania, 16,000; Angola, 12,260; Burundi, 9,600; Zambia, 9,000; Sudan, 5,000; Uganda, 1,000; Congo, 300; U.S., 10.

Most fled in the early '70s and are more or less permanently settled outside the country.

Zimbabwe—1,307

Botswanna, 1,300; U.S., 7.

Mostly Ndebele, remaining from the 12,000 who fled ethnic violence in the early '80s.

EASTERN EUROPE

Czechoslovakia—2,948

[**1988 only; not cumulative.]

Austria**, 1,317; Germany**, 959; U.S.**, 672.

The numbers, which have remained fairly constant in recent years because of government restrictions on tavel, may increase if the exit visa system is liberalized, as announced.

Hungary—6,467

[**1988 only; not cumulative.]

Austria, 5,000; Germany**, 763; U.S.**, 704.

Most are political or religious activists. Hungary liberalized its passport laws last year, making leaving much easier for all but a few dissidents.

Poland—191,153

[**1988 only; not cumulative.]

Germany**, 169,249; Italy, 12,350; U.S.**, 3,345; Austria**, 6,209.

The flow increased dramatically in recent years as travel restrictions were relaxed. Of those going to Germany, 140,226 are ethnic Germans.

Romania—26,495

[**1988 only; not cumulative.]

Germany**, 12,902; Hungary**, 10,000; U.S.**, 2,801; Austria**, 792.

Refugees in Hungary are mostly ethnic Hungarians who fled to escape Romania's plan to resettle ethnic Hungarians in "agroindustrial centers." All in Germany are ethnic Germans.

Soviet Union—73,163

[**1988 only; not cumulative.]

Germany**, 47,572; U.S.**, 20,241, Italy, 4,000; Israel**, 1,350.

Most are Jews, Armenians or ethnic Germans. Those in Italy are awaiting U.S. hearings or appeals.

Yugoslavia—21,566

[**1988 only; not cumulative.]

Germany**, 21,035; Austria**, 527; U.S.**, 4.

The vast majority, 20,812, are ethnic Germans.

MIDDLE EAST AND SOUTH ASIA

Afghanistan—6,032,391

[*Numbers are in dispute.]

Pakistan*, 3,675,000; Iran, 2,350,000; Indian, 5,180; U.S., 2,211.

Fled civil war between Soviet-backed government and nationalist insurgents.

Bangladesh—India, 48,500.

Chakma tribe members fled in 1986 to escape clashes between the government and local insurgents.

Iran—362,834

[*Numbers are in dispute. **1988 only; not cumulative.]

Turkey*, 250,000; Iraq*, 75,000; Pakistan, 22,360; Germany**, 7,867; U.S.**, 6,167; India, 1,440.

Fled Iran-Iraq War. There may also be up to 550,000 unofficial refugees in Turkey.

Iraq—508,237

[*Numbers are in dispute. **1988 only; not cumulative.]

Iran* 457,000; Turkey, 51,200; U.S.**, 37.

Most fled Iran-Iraq war, tens of thousands of Kurds went to Turkey and Iran after Iraqi chemical attacks.

Palestinians—1,398,100

Gaza Strip, 459,070; West Bank, 385,630; Jordan, 288,180; Syria, 265,220.

The Palestinians fled following the formation of Israel and subsequent Arab-Israeli and inter-Arab conflicts.

Sri Lanka—94,883

[**1988 only; not cumulative.]

India, 91,500; Germany**, 3,383.

Civil strife between the minority Hindu Tamils and majority Buddhist Sinhalese.

South Yeman—North Yeman, 55,000.

Fled in January 1986 to escape fighting between rival factions of the Yemeni Socialist Party.

EAST ASIA AND THE PACIFIC

Burma—24,300

Thailand, 24,100; India, 200.

Burmese have been leaving since the 1962 military takeover. The latest wave fled in 1988 after a bloody government crackdown.

Cambodia—357,295

[**1988 only; not cumulative.]

Thailand, 328,500; Vietnam, 25,000; U.S.*, 2,805; Philippines, 690; Ivory Coast, 300.

Fled Khmer Rouge and Vietnam-backed government.

China—112,000

India, 100,000; Nepal, 12,000.

Most fled Tibet in 1959.

Indonesia—Papua New Guinea, 8,000.

Left Irian Jaya in 1984-85 to escape fighting between separatists and the government.

Laos—93,446

Thailand, 77,060; U.S.**, 14,556; Philippines, 1,830.

Most left in 1975-80, the first five years of communist rule.

Philippines—Malaysia, 90,000.

Fled Mindanao in 1970s to escape guerrilla fighting.

Vietnam—85,172

[**1988 only; not cumulative.]

Hong Kong, 25,260; Philippines, 18,400; Thailand, 13,700; Malaysia, 12,880; U.S.**, 10,952; Indonesia, 2,310; Japan, 520; Macao, 440; Ivory Coast, 300; Singapore, 290; South Korea, 120.

Fled Communists. Most in Malaysia, Thailand, Hong Kong and the Philippines are awaiting permanent asylum elsewhere.

Sources: United Nations High Commissioner for Refugees, the U.S. Commission on Refugees' World Refugee Survey, the U.S. State Department World Refugee Report (1987) and Summary of Refugee Admissions for 1988, the Interior Ministry of Austria, the West German Information Center, and the Canadian immigration and Refugee Documentation Center. Compiled by Freedom House, with the assistance of John Worth.

ATROCITIES AGAINST CHILDREN: HEALTH CARE FOR NYC BABIES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. OWENS of New York. Mr. Speaker, as a member of the Education and Labor Committee I am concerned about education problems and other issues affecting our children throughout the Nation; however, I am particularly and deeply concerned about education and other services to children in my own 12th Congressional District in New York City. In reality, my national and local concerns are not mutually exclusive. My district is a mirror of some of the best and the worst educational activities and social services for children in the country. Lessons learned in my district would be useful anywhere in the Nation. From time to time, in my district, I discover situations which can only be described as atrocities against children. I think it would be useful if these outrages were exposed to the whole Nation.

Today a terrible crisis grips the prenatal and neonatal health care system in New York City. Alarming increases have been reported in both the number of low-birthweight babies and the incidence of disease and other major medical problems among newborn infants. The number of infants born in our public hospitals last year who weighed less than 2,500 grams rose 19 percent; the number of the tiniest and most frail babies—those weighing under 1,500 grams—grew by more than one-third. The number of infants showing signs of drug withdrawal has risen a staggering 400 percent over the last 3 years; in some areas of the city, including the 12th Congressional District, an estimated 1 out of every 10 babies are born to a woman who used cocaine or other narcotics during her pregnancy. AIDS and other infectious diseases have proliferated among newborns as well. At one city hospital, the number of infants with congenital syphilis has grown 600 percent since 1985.

Incredibly, at a time of such critical need, Federal, State, and city policies have starved New York's public health care system of the resources it urgently needs to address this crisis. Fully 20 percent of the women giving birth in the city have had no or inadequate prenatal health care. Prenatal care services for poor women are now effectively rationed. Last year, due to insufficient funds, more than 2,300 low-income pregnant women who sought care at the city's 10 outpatient maternity clinics were actually turned away. Women who sought outpatient prenatal care from public hospitals fared better, but they had to wait 24 percent longer to schedule their first appointment than in the previous year, squandering precious weeks in the development of the fetus. Neonatal care units in the public hospitals have been seriously overcrowded for 3 years now, each year worse than the last, with one hospital's neonatal unit reporting an average 200 percent occupancy rate last year. Obstetric residents and doctors in the public hospitals are supposed to meet an optimal productivity target of 4,000 patient visits per year; last year the average provider logged 50 percent more than this target—5,875 patient visits per provider.

This triage health care policy has taken a deadly toll on the youngest and most vulnerable of our children. The mortality rate for low-birthweight babies in most areas of the country has been steadily declining as a result of the use of new medical technologies and improved access to quality prenatal and neonatal health care. But not in the 12th Congressional District, not in New York City. Last year the mortality rate for these babies shot up 19 percent.

These fragile infants literally struggle to be born, fighting for life under the most traumatic circumstances—against poisonous narcotics, malnutrition, poverty, and disease—battling the odds to enter this world and survive. And in New York City today, their miraculous arrival is greeted with a life-smothering shrug of indifference. It is an atrocity against children.

THE 50TH ANNIVERSARY OF THE CLINTON COUNTY CHAMBER OF COMMERCE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. CLINGER. Mr. Speaker, I rise today to pay tribute to the members of the Clinton County Chamber of Commerce in celebration of the organization's 50th anniversary.

Since its inception in 1770, the American Chamber of Commerce has focused on improving and expanding opportunities for our communities and workplace. These important objectives have become the cornerstone of what is now today's U.S. Chamber of Commerce.

In keeping with the traditions of the original ethos, the Clinton County Chamber has actively participated in a number of programs that promote free enterprise and economic development. The Clinton Chamber, like other local chamber offices across the country, wear many hats and for these difficult roles they deserve our utmost appreciation and our applause.

Through annual programs like the summer exposition, which draws thousands, and the PennDOT tour, which allows the public to tour new infrastructure projects, Clinton County has exemplified the spirit and tradition of the chamber.

On behalf of the 23d Congressional District of Pennsylvania, I would like to salute the 50th anniversary of the Clinton County Chamber of Commerce and its continuing efforts to build a healthy economy and improve the quality of life in the community.

THE BIG LIE PERSONIFIED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. PORTER. Mr. Speaker, last Wednesday marked the anniversary of one of the darkest days in our world's history.

Four months ago, thousands of innocent young Chinese students lost their lives in the Beijing massacre.

Yet, no vigil was held in Tiananmen Square in memory of this solem occasion.

Instead, tens of thousands of young Chinese were literally dancing on the graves of their countrymen by celebrating the 40th anniversary of the People's Republic.

Even worse, at the same place where the Goddess of Democracy stood last spring as a symbol of hope and freedom, a new statue now stands—a plastic monument celebrating socialism who features a steely-eyed soldier, a worker, a peasant and an intellectual.

Mr. Speaker, it does not take an intellectual to know that statues cannot turn back a movement for basic human rights.

This latest version of "the Big Lie" is just a facade for a fundamentally failed and flawed system.

TRIBUTE TO SISTER SYLVIANNE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to one of Santa Barbara's outstanding citizens, Sister M. Sylvianne Mattern, president of St. Francis Hospital, on the occasion of her departure from St. Francis Hospital and Santa Barbara.

Sister Sylvianne, "The Guiding Light" as she is affectionately known, was sent to Santa Barbara 24 years ago from a 6-year assignment at St. Joseph's Hospital in San Francisco. When she came to St. Francis, "the fire department was about to shut the place down," as she says. But she convinced them otherwise, and the hospital has been thriving ever since. From the start, she has worked tirelessly and with great vision to make St. Francis the premier health care facility it is today.

Among the many projects she has completed at the hospital were the establishment of the eye ward and later the hospital's first laser used for eye treatment, the purchase of the city's first C. T. scanner for the x-ray department, the addition of a new surgical wing onto the hospital, the development of three medical office buildings around the hospital, the construction of a brand new critical care/intensive care unit, the opening of the family birth center, and even the organization of an annual Pro-Celebrity Golf Tournament as a fundraising event for St. Francis. In addition, Sister Sylvianne has been instrumental in soliciting the millions of dollars in donations to St. Francis which have funded these projects.

Her influence and insight are far-reaching. She is well-known and respected by government and community leaders as well as the medical and hospital staffs. Her guidance, leadership, and vision have made St. Francis into a strong, viable entity with a solid plan for the future.

Sister Sylvianne has recently chosen to relocate to Mokena, IL where the Franciscan Sisters Healthcare Corporation is headquartered. She will however, retain her position on the St. Francis Hospital board of directors and continue to work on fundraising and building projects for St. Francis.

She has a motto "sempre avante" (always ahead) and she surely has great designs for the future. Sister Sylvianne will be missed at St. Francis, but her presence will always be felt.

CARL EDWARD BARTCH

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. OXLEY. Mr. Speaker, I would like to pay tribute to a man who served his Government well and was truly a goodwill ambassador for the United States in many parts of the world. After a lifetime of service in education and foreign diplomacy, Carl Edward Bartch passed away September 26.

A native of my hometown, Findlay, OH, Carl Bartch had a long career with the U.S. Department of State, from 1948 until his retirement in 1979. He served as deputy news director for 3 years during the 1960's. In this post, Bartch often acted as the State Department's spokesman to the news media. He was Director of the Press Relations Office from 1969 to 1970.

Other appointments he held included Chargé d'Affaires and Deputy Chief of Mission at the American Embassy in Tegucigalpa, Honduras, 1976–78; Director of the Argentine, Paraguayan, and Uruguayan Affairs Office at the State Department, 1975–76; Inspector of the Foreign Service Inspection Corps, 1975; and United States Consul General and Principal Officer of the American Consulate General in Edinburgh, Scotland, 1971–74.

From 1965 to 1966, Bartch was Deputy Director of the Office of Mexican Affairs. He held the posts of Officer in Charge of Argentine Affairs, 1963–65; First Secretary and Chief of the American Embassy's political section in Lima, Peru, 1959–63; and Officer in Charge of Venezuelan Affairs, 1956–59.

Mr. Bartch was also a member of U.S. delegations to the U.N. General Assembly, the North Atlantic Council, and the Southeast Asian Treaty Organization.

During World War II, he served in the Army Air Corps, attaining the rank of technical sergeant.

A graduate of Findlay High School, class of 1940, Mr. Bartch attended Findlay College and Bowling Green State University. He earned a bachelor's degree in foreign affairs, class of 1947, and a master's degree in economics, 1950, from George Washignton Unviersity in Washington, DC.

At the time of his death, Mr. Bartch was earning a doctorate in history at the University of Kentucky. Most recently, he had been a political science instructor at that school, 1985–87, and was also a senior lecturer at Findlay College.

Findlay honored him in 1969 with the Fort Findlay Award, which recognizes former Findlay natives who have distinguished themselves nationally.

Carl Bartch is truly an example of a life well lived.

THIRTY YEARS OF DISTINGUISHED SERVICE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. STUDDS. Mr. Speaker, on Saturday evening, October 14, 1989, the men and women of the Massachusetts Air National Guard will honor Lt. Col. Grant O. Epler who is retiring after more than 30 years of distinguished service.

Colonel Epler, of Lynnfield, MA entered the Air National Guard as a firefighter in 1958. Progressing through the ranks, he was commissioned as an officer and in 1979 took command of the 102d Civil Engineering Squadron, based at Otis Air National Guard Base on Cape Cod. Colonel Epler supervised his squadron through numerous assignments, both stateside and abroad, including tours in England in 1982 and West Germany in 1986. For his dedication and commitment, Colonel Epler has been recommended for the Air Force Meritorious Service Award.

Mr. Speaker, the men and women who serve their country in military reserve units across the Nation represent the backbone of America's military preparedness. The sacrifices these individuals make—both personally and professionally—in order to serve their country are truly commendable.

Mr. Speaker, on behalf of his friends and neighbors in southeastern Massachusetts, I wish to offer my warmest congratulations to Lt. Col. Grant Epler on the occasion of his retirement, as well as our sincere thanks for a job very well done.

TRIBUTE TO A REAL VOLUNTEER

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. HAWKINS. Mr. Speaker, I would like to bring to the attention of my colleagues a woman whose life exemplified the spirit of sacrifice, dedication and human charity. Her passing brings sadness not only to her family and friends but, to all those she touched in a lifetime filled with community awareness and caring. The contributions made by Jessie Mae Beavers truly made her a pillar of the community.

Her 40-year commitment as the society editor of the Los Angeles Sentinel is testament of her ability to apply herself wholeheartedly to achieve goals that she had set. Aside from a 16-year alignment with the Los Angeles City Human Relations Committee, she acted as an organizer of the National Association of Media Women, was president of the Links—Los Angeles chapter, Jack and Jill and the Lullaby Guild of the Children's Home Society. She also found time for other community-related activities.

Jessie Mae is described by friends as faithful, courageous, and cooperative. It is rare

that someone can bring such numerous talents together to create this kind of impact. It is with these memories, those which show a unique strength in character and spirit, that I would like to pay tribute to Jessie May Beavers. She remains a shining light among us all, to whom we owe our most sincere thanks.

A TRIBUTE TO LT. COL. LUTHER C. COX

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. McCOLLUM. Mr. Speaker, today I rise to pay tribute to Lt. Col. Luther C. Cox (ret.). Lieutenant Colonel Cox was a servant of our country in the armed services for 45 years.

Colonel Cox was a prisoner of war in World War II and was a pillar of strength to many prisoners. He used his unique talent of dealing with people to help organize a camp escape organization. In addition, he served as a medical technician providing first aid and therapy to over 2,000 fellow prisoners.

Just prior to his retirement in 1969, Lieutenant Colonel Cox was the chief of program management and requirements at the Air Force Eastern Test Range, Patrick Air Force Base, FL. Despite his retirement from the active Air Force in 1969, Lieutenant Colonel Cox served with Air University from September 1969 to June 1985 as an Air Force Junior ROTC instructor.

In 1974, Lieutenant Colonel Cox started the first AFJROTC Program in all of Orange County, FL. At Oak Ridge High School the lieutenant colonel won the prestigious Meritorious and Honor Unit Awards. Oak Ridge High School has won the Honor Unit Award for 7 consecutive years and the lieutenant colonel has been recognized as outstanding instructor seven times. For the first time in history Lieutenant Colonel Cox was recognized as instructor emeritus by Air University.

I could go on listing all the outstanding contributions and achievements for which this man is responsible. Lieutenant Colonel Cox was a courageous hero and superior officer. I know my colleagues join me in saluting this great man for what he has done to contribute to our country.

IN RECOGNITION OF DELAWARE VALLEY HOUSING ASSOCIATION

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. GRAY. Mr. Speaker, I rise today in recognition of the 80th anniversary of the Housing Association of Delaware Valley. A nonprofit housing advocacy agency established to help end housing racism and exploitation, the association is the Nation's oldest citizen's housing agency.

Since 1909 when its precursor, the Philadelphia Housing Commission, was founded, the housing association has endeavored to ensure decent housing for all residents of the Delaware Valley, without regard to race or economic status. In the early years of the century they began to address important, basic issues in housing: drafting the city's first comprehensive housing code; forcing its implementation by mandamus suit; and working toward the adoption of zoning laws. In the 1940's the association drafted the first redevelopment law in our country, and supported the development of programs to meet the postwar housing demands.

Since then, in addition to their continued efforts to improve and enforce city housing codes, the Housing Association of Delaware Valley has developed and put into place a great range of innovative housing initiatives. From a regional desegregation proposal in 1959 to the formation in 1972 of a housing coalition to help Philadelphia's Spanish-speaking community, the association has been concerned with protecting the housing rights of minorities. Their efforts to have a civil rights audit made in the late 1970's of the city's housing expenditure helped shape the future of community development block grant funds in the region. They have been active in attempts to come to the aid of the poor and disabled, establishing an association to counsel the poor on housing questions and a consortium to increase affordable housing for the disabled.

Today, the Housing Association of Delaware Valley has added to its activities, the publication of several guides to inform tenants and landlords of their rights, as well as a weekly report of action by public agencies and the only regional housing magazine. Carrying out studies on a wide range of subjects, the association has played a central role in gathering information about the housing industry. Their research has included such issues as the abandonment of housing in the region, the problems of public housing and tenant management program failures. The association has found concrete solutions to help solve the problems of building concrete walls—solutions like urban homesteading plans and anti-redlining regulations.

Mr. Speaker, the contributions of the Housing Association of Delaware Valley over the past 80 years to the Philadelphia region are immeasurable. I have highlighted only a few of them today. Our community's achievements in adequate, equitable housing should be credited in no small part to their efforts. I am sure that you will join me, Mr. Speaker, in lauding the four score years of accomplishments the housing authority celebrates this fall, and in wishing them continued success in the years to come.

ROUKEMA RECOGNIZES "HANDS ACROSS HILLSDALE"

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mrs. ROUKEMA. Mr. Speaker, on Saturday, October 14, 1989, the residents of one community in northern New Jersey will fire another important salvo in our intensifying war on drugs. "Hands Across Hillsdale" is just the type of community-based activity that we need in every corner of America.

The National Institute of Drug Abuse [NIDA] recently published the results of its ninth annual national household survey on drug abuse—the first such comprehensive study in years. Predictably, the survey contained some bad news. Use of one particularly insidious type of drug—crack cocaine—is exploding from the depths of the inner city into towns and neighborhoods across America. It is clear that drugs, and the crime they breed, remain a real and terribly dangerous threat to our communities, our neighborhoods and our families. In order to win we need aggressive interdiction, vigorous enforcement, effective treatment, and tireless education.

However, most of the news contained in the survey is positive. According to the NIDA, current use of narcotics is down significantly—37 percent. This progress clearly shows that grassroots America can meet the challenge of drugs, and meet it well.

That is exactly what the residents of Hillsdale, NJ, will be doing this Saturday as they conduct "Hands Across Hillsdale." This laudable community-wide program will focus on the drug problem and its solutions. As we all know, the drug crisis is the product of individual choices and those choices can be best influenced by those institutions closest to the individual—the family, the neighborhood, the church or synagogue, the community.

President Bush said it best in his recent speech when he said:

This war on drugs will be hard won, neighborhood by neighborhood, block by block, child by child.

Programs such as "Hands Across Hillsdale" fit hand-in-glove with the President's national strategy. They are a positive step toward our ultimate victory.

I invite my colleagues to join me in commending the residents of Hillsdale, NJ, and their community leaders for their commitment to the war on drugs. And to urge communities across America to march hand in hand with Hillsdale toward a drug-free America.

THE RETIREMENT OF NORMAN P. ROBERTS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Mr. Norman P. Roberts, a distinguished officer of the law who will soon be ending his service to the State of Massachusetts to begin a new career in special investigating.

Twenty-two years ago Norman Roberts began his career in law enforcement by entering the State Policy Academy where he was an outstanding young cadet. It was there that Norman learned the finer points of law enforcement that have served him in good stead through the years. In only 3 months time, Norman graduated from the academy and began to move on in his law enforcement career.

Later that year, Norman was assigned to the Police Department in Pittsfield, MA, where he was known as a reliable and dependable officer. In 1969, he was transferred from Pittsfield to Northampton where he continued to enforce the law until 1971. Norman made one last move to the Shelburne Falls Police Department where he remained through May, 1 1975.

It was on May 1, 1975 when Norman began his career with the Franklin/Hampshire District Attorney's office and started working as a detective. His duties included homicide investigation for Hampshire and Franklin Counties. During his tenure in the DA's office, Norman was instrumental in solving 30 homicide cases, leaving, in fact, only 1 unsolved case over that period, an accomplishment the police department still points to with pride. After 14 years of hard work in the district attorney's office, Norman is taking on a new venture. Soon he will be starting as a special investigator for U.S.F.&G. a company that will no doubt benefit from his law enforcement expertise.

Several members of Norman's family have also been dedicated to the world of law enforcement. Veronica, Norman's wife of 20 years works for the Montague Police Department and his son Gregory, 18, is currently a criminal justice major at Bunker Hill Community College. His daughter Danielle, 20, is a student at the University of Massachusetts at Boston.

Mr. Speaker, I am grateful to have had this opportunity to speak on behalf of Mr. Norman P. Roberts. He has dedicated his life toward the protection of others and I am pleased to honor him for his many years of selfless service to the people of western Massachusetts. Good luck, Norman, in all of your future endeavors.

TRIBUTE TO THE POLISH DAILY NEWS—DZIENNIK POLSKI

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. HERTEL. Mr. Speaker, I rise today to recognize the Polish Daily News-Dziennik Polski which will be celebrating their 85th anniversary of publication in the Detroit metropolitan area.

The anniversary will be a grand celebration which will feature dinner, dancing, and special performance by Slowianie, a local Polish dance troupe. It will be held on October 28 at the recently opened American Polish Cultural Center in Troy. Guests from the Polish-American community along with local officials will be in attendance.

The Polish Daily News was founded in 1904 as a way to keep immigrants informed about their homeland and other events in their native language. The paper was strictly in Polish and went under the title of Dziennik Polski which means Polish Daily News. It was a daily newspaper until 1964 when it was published only on a weekly basis. In 1967 a weekly English edition was added to attract Polish Americans who did not know Polish yet were interested in staying informed with happenings in the Polish community. The two editions merged last month due to financial difficulties; yet the staff and the readers remain very optimistic about the paper's future.

The Polish Daily News provides its readers with a sense of togetherness. It tries to focus on articles and features which are of interest to Polish Americans. The paper features several columns including one written by a Detroiter living in Warsaw, Poland and one written by members of the Polish Youth Association. There are also numerous history and political articles and often a profile of a fellow Pole in the community or in Polish history. World and national news are also covered along with a listing of meetings and events in the area.

The newspaper's staff has always been comprised of enthusiastic and dedicated people. As of July 1988, Stanley Krajewski, who had been the editor for 40 years retired. Donald Horkey became the editor and will maintain his position along with Ewa Junczyk-Ziomecki who will become the editor of the Polish Edition. These changes are a response to the financial problems that plagued the paper last month. Mr. Roman Ulman is the newly elected president of the board of directors. He is an active member of the Polish community and also serves as the president of the Central Citizens Committee.

The Polish Daily News has always had tremendous support from the community throughout its history. The people view the paper as an important link between themselves and fellow Poles in the area. My dear colleagues, please join me in honoring the Polish Daily News-Dziennik Polski on the occasion of its 85th year of publication and wish them great success in the future with their newly formatted newspaper.

TWO JEWISH STUDENTS ATTACKED BY MOB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. TOWNS. Mr. Speaker, today I rise to express my extreme outrage at the senseless attack against three Jewish college students by a vicious predatory mob. On Sunday, October 8, 1989, hours prior to the onset of Yom Kippur, 15 to 30 white youths attacked and severely beat two of the three Jewish college students after repeatedly yelling racial and ethnic slurs which went unanswered. Both young men underwent emergency surgery to correct massive internal injuries and multiple fractures.

I believe this attack is the most recent episode in the escalating atmosphere of racial tension which has plagued New York City. I find it difficult to believe that this city, once the paradigm example of the American melting pot has degenerated into continuing outbursts of racial and ethnic violence. As residents of one of the largest cities in the world, we can do better than this; we must do better than this. Every person in this city deserves to walk down the street unafraid and unmolested. No one should fear attack because of his race, creed or color.

All responsible and concerned citizens of this city and of this country must speak out against these horrendous hate crimes. Let us not forget that the Founding Fathers sought to establish a country where every minority would find freedom and protection from the whims and caprice of the majority. The tyranny of the mob cannot and must not rule. We must make it clear that people of all races, creeds, and colors are welcome in New York. Those who espouse bigotry, prejudice, and violence are not.

NATIONAL ADVISORY COMMITTEE ON SEMICONDUCTORS URGES NATIONAL HDTV INITIATIVE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. BROWN of California. Mr. Speaker, I would like to bring to the attention of the Members an article that appeared in Electronic News on September 11, 1989, concerning the need for a national initiative on high definition television. The recommendation was made by the National Advisory Committee on Semiconductors to President Bush in the form of a panel letter to stress the urgency of this issue. In the letter, the committee states, "We advise and urge that a national initiative be defined to reestablish a significant U.S. position in consumer electronics, that this include an effort on HDTV technology, and that this project be industry led and Government facilitated." The committee was established in 1988 in response to concern about America's loss of leadership in the electronics industry. A final report by the committee is expected to be released shortly with specific recommendations on the HDTV issue.

[From Electronic News, Sept. 11, 1989]

PANEL URGES HDTV INITIATIVE

(By Jack Robertson)

WASHINGTON.—The National Advisory Committee on Semiconductors has made an interim recommendation to President Bush to launch a national High Definition Television initiative to sustain the competitive position of the industry.

In a panel letter released last week, Ian Ross, president of AT&T Bell Laboratories and chairman of the Presidential semiconductor advisory group, said "The Committee supports a joint industry-government initiative to develop a robust position for U.S. companies in the emerging HDTV market as a strategic step to ensure our continuing technological competitiveness.

"The Committee believes that the loss of a U.S.-controlled consumer electronics industry has contributed to the erosion of the ability of American semiconductor manufacturers to compete effectively with their global counterparts. The Committee believes strongly that it is vital for the U.S. to reenter the consumer electronics industry now.

"It is the judgment of the Committee that commitment to a robust U.S. HDTV indus-

try could provide an important element in a successful reentry strategy," Dr. Ross said.

The interim HDTV recommendation is the first definitive action taken by the semiconductor advisory panel and was made only shortly before the committee's final report will be released at the end of September. A spokesman said the panel felt the HDTV issue was so urgent that the recommendation couldn't wait until the final report was completed.

Industry sources said that White House leaders for the last month have been bitterly divided over what course of action to take on HDTV. They believed the prestigious National Advisory Committee made an early recommendation strongly supporting HDTV as an attempt to swing the Administration behind the program.

The committee spokesman last week said the panel hadn't received any word back from the Administration on its interim HDTV statement.

Dr. Ross was out of town late last week and was unable to be contacted for further comment on the HDTV actions of his committee.

The full committee will meet today in Arlington, Va., to complete work on its final report, due to be released by the end of September.

In his letter to the President, Mr. Ross said the committee would elaborate fully on the need for launching a strong national HDTV program to support the semiconductor industry and other segments of the electronic industrial base.

Sources said earlier drafts of the committee report included proposals to seek "commercialization" of technology developed by government labs, as well as recommendations to reduce the high cost of capital for U.S. semiconductor investments.

The HDTV action of the committee was never forecast at any of its earlier public sessions. Sources said the Defense Advanced Research Projects Agency, which is trying to launch a $300 million three-year HDTV technology program, strongly influenced the Presidential advisory panel to make the interim recommendation.

The White House has taken no major position on HDTV. The Commerce Department, tasked by the President to come up with an overall HDTV policy, is months overdue in making its report, and officials refused to give any date when an HDTV report might be expected.

The President requested no HDTV funding for the DARPA program for Fiscal 1990, although the various Pentagon budget bills now in Congress would add $20 million to $50 million in the upcoming fiscal year for DARPA's HDTV research. Sources believed the interim semiconductor panel statement on HDTV was also intended to press Congress to add as much funding as possible to the DOD budget.

Dr. Ross' letter said the committee "strongly endorses government and private initiatives that fund the research, development and manufacturing technologies underlying HDTV. We advise and urge that a national initiative be defined to reestablish a significant U.S. position in consumer electronics, that this include an effort on HDTV technology, and this project be industry-led and government-facilitated.

"Specific recommendations by the Committee on this matter will be contained in its upcoming report."

The letter reiterated industry's argument that HDTV "can serve as a critical semiconductor technology driver, since related equipment will utilize significant numbers of DRAMs, microprocessors, signal, video and image processing chips. HDTV will also create important technology spill-overs into computers (advanced high-resolution flat-panel displays), telecommunications (fiber-optic networks), auto electronics (compact flat-panel displays), defense (military display applications).

"All of these industries are critical to our economic and national security and are facing competitive threat from abroad."

In addition to Mr. Ross, industry members on the semiconductor advisory panel include John Armstrong, IBM vice president of research; Charles Sporck, chairman of National Semicondutor; Jerry Junkins, chairman of Texas Instruments; James Treybig, president of Tandem Computers; and James Morgan, chairman of Applied Materials. The committee also includes officials from the Departments of Defense, Commerce, Energy, the National Science Foundation and the Presidential Science Advisor.

NATIONAL ADVISORY COMMITTEE
ON SEMICONDUCTORS,
Arlington, VA, July 21, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The National Advisory Committee on Semiconductors (NACS, hereafter the "Committee") affirms that re-establishment of a strong domestic consumer electronics industry is essential to the future health of the U.S. semiconductor industry as well as the economic well-being and national security of the U.S. A strong domestic industry would create high income jobs, increase tax revenues and substantially improve the U.S. industrial base. Accordingly, the Committee supports the establishment of a joint industry-government initiative to develop a robust position for U.S. companies in the emerging High Definition Television (HDTV) market as a strategic step in what must become a broad-based, long-term and cooperative national effort to ensure our continuing technological competitiveness.

The importance of semiconductors to America's economic and national security led to the establishment of the Committee through the "National Advisory Committee on Semiconductor Research and Development Act of 1988." The Committee is chartered with "devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology * * *" and "recommend appropriate actions that support the national semiconductor strategy."

In fulfilling its charter to date, the Committee has met four times and has created three working groups to examine critical semiconductor issues concerning the global marketplace, technological development and the environment in which U.S. semiconductor manufacturers operate. The following is an interim recommendation.

The loss of a U.S.-controlled consumer electronics industry has contributed to the erosion of the ability of American semiconductor manufacturers to compete effectively with their global counterparts. This point has been made repeatedly over the last several years by a number of government, industry and academic studies.[1]

Consumer electronics is important because it is a major high volume market for the low cost, high quality but technologically sophisticated components that are used throughout the electronics industry. The total consumer market is large, on the order of $100 billion globally and $40 billion in the U.S., and even larger if related "high technology/high volume" products such as fax, personal computers, cellular phones, pagers, copiers, and the like, are included.

The Committee believes strongly that it is vital for the U.S. to re-enter the consumer electronics industry now, in order to sustain our electronics industry's competitive position. It is the judgment of the Committee that commitment to a robust U.S. HDTV industry could provide an important element in a successful re-entry strategy.

We believe HDTV can serve as a critical semiconductor technology driver, since related equipment will utilize significant numbers of DRAMs, microprocessors, signal, video and image processing chips. HDTV will also create important technology spillovers into other industries. These include: computers (advanced high resolution flat panel displays), telecommunications (fiber optic networks), auto electronics (compact flat panel displays), defense (military display applications). All of these industries are critical to our economic and national security and are facing competitive threat from abroad.

Therefore, we strongly endorse government and private initiatives that fund the research, development and manufacturing technologies underlying HDTV. This is important and necessary, but it is not sufficient in and of itself to establish a competitive American consumer electronics industry. Accordingly, we advise and urge that a national initiative be defined to re-establish a significant U.S. position in consumer electronics, that this include an effort on HDTV technology, and that this project be industry-led and government facilitated. Specific recommendations by the Committee on this matter will be contained in its forthcoming report.

Sincerely,

IAN M. ROSS,
Chairman.

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[1] These include: Jeanne Alford, Meeting the Global Challenge: Advanced Electronics Technology and the American Semiconductor Industry, Semiconductor Industry Association, Cupertino, California, 1989; Norman R. Augustine, Chair, Report of the Defense Science Board Task Force on Defense Semiconductor Dependency, Department of Defense, Washington, D.C., February 1987; Michael G. Borrus, Competing for Control, America's Stake in Microelectronics, Ballinger Publishing Company, Cambridge, Massachusetts, 1988; Edward E. David, Chair, Report of the White House Science Council Panel on Semiconductors, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C., 1987; Charles H. Herz, Chair, The Semiconductor Industry, Report of a Federal Interagency Staff Working Group, National Science Foundation, Washington, D.C. 1987; Clyde V. Prestowitz, Trading Places, Basic Books, Inc., New York, New York, 1988; David Russell, Chair High Definition Television (HDTV): Economic Analysis of Impact, American Electronics Association, Washington, D.C. 1988; David H. Staelin, Chair, The Decline of U.S. Consumer Electronics Manufacturing: History, Hypotheses, and Remedies, Consumer Electronics Sector Working Group, MIT Commission on Industrial Productivity, Boston, Massachusetts, Massachusetts Institute of Technology, 1988; Sidney Topol, Consumer Electronic, HDTV, and the Competitiveness of the U.S. Economy, Electronics Industry Association, Washington, D.C., 1989.

AUSTRALIA WEEK

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Ms. PELOSI. Mr. Speaker, next week is "Australia Week" in Washington. Australia Week is a series of events aimed at improving tourism and trade between Australia and the United States.

I believe it is fitting and important to bring Australia Week to the attention of my colleagues since Australia and the United States have not only traditionally been allies and business partners in the Pacific rim, but also mates—to use the Australian word for "close friend."

My district of San Francisco has been the home of the Americas region headquarters for Qantas, the Australian airline, since 1954, when it pioneered air service between Australia and the United States. We are proud of our role as a first-stop for Australians coming to the United States.

Since 1968, San Francisco has been a "Sister City" to Sydney, Australia in recognition of the special affinity between the two communities. Like San Francisco, Sydney is a beautiful coastal city with a diverse population. It is also a center for commerce, recreation and the arts. We, in San Francisco, have long appreciated the Australian-American relationship and support actions which will strengthen it.

Australia Week in Washington, DC, will highlight this special relationship between Australia and the United States through a series of meetings, speeches, travel seminars, sports and social events.

I urge my colleagues to participate in as many of these events as possible in recognition of the close ties between our two countries.

ROGUE VALLEY COMMUNITY COLLEGE LEGISLATION

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, today I am introducing legislation that will convey a small parcel of Oregon and California Railroad grant land to the Rogue Community College in Josephine County, OR.

Located on the parcel of land identified in the bill are a number of buildings that belong to Rogue Community College, an educational institution that is important to both the southern Oregon region and the entire State. Since acquiring those facilities in 1971, the college has attempted to gain title to the lands on which they sit. Currently, they are leasing the property from the Bureau of Land Management [BLM].

It was originally thought that this transfer could occur through the provisions of the Federal Property and Administrative Services Act. Under those provisions, the property would be transferred to the General Services Administration [GSA], deemed surplus to the Federal Government, and sold to the college.

While this scenario was supported by the BLM, the GSA was unable to implement the transfer sale due to the property's special designation as O&C land. Because O&C lands are reacquired public domain lands, they cannot be disposed of under current law. Therefore, conveying title to the land occupied by the college requires the legislative solution which I am introducing today.

Mr. Speaker, in general, the primary use of O&C land is timber management. That practice benefits the local counties economically by providing timber to local mills and by a special revenue-sharing arrangement based on timber sale receipts. However, the land now occupied by the Rogue Community College and identified in this bill has been certified by the BLM as incapable of reforestation. Accordingly, its transfer to the college would in no way diminish the productivity of O&C lands.

In fact, I believe just the opposite would occur. By allowing the college the certainty to plan for expansion, this transfer would enhance what I believe is a very high-value use of that particular parcel—educating our young people.

As some of you may remember, I introduced this bill during the last Congress. Unfortunately, there was not time for the House to complete action on that legislation. It is my hope that during this new Congress both the Interior Committee, on which I serve, and the entire House will consider and approve this legislation in an expeditious manner. Rogue Community College and its fine president, Dr. Harvey Bennett, deserve to see their facilities secured for future growth and expansion.

Mr. Speaker, I ask unanimous consent that a memorandum prepared by the Department of the Interior's Pacific Northwest Regional Solicitor which explains the history of this issue in great detail, and a copy of the bill be printed at this point in the RECORD.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Portland, OR, April 16, 1984.

To Oregon State Director, Bureau of Land Management (431).

Over the past three years the BLM has been negotiating with the General Services Administration as to the possible disposal of the O&C land on which the Rogue Community College is operating its college under a twenty-five year lease. However, the GSA has continued to question its authority to accept this property under the Federal Property and Administrative Services Act of 1949, (40 U.S.C. § 471 *et sq*), hereinafter referred to as the FPASA, because of its special status as O&C land. You have requested that our office examine the issues involved and provide you our legal opinion on this question. Based upon a careful examination of the legislation history of the O&C lands and the provisions of the FPASA we have concluded that O&C lands are reacquired public domain land which have been reserved for special purposes and that they cannot be disposed of under the FPASA.

To assist in understanding this matter it is helpful to outline the circumstances leading to the present situation.

BACKGROUND INFORMATION

The land in question consists of the SW ¼ NE ¼ of Section 27, T. 36 S. R. 6 W. Willamette Meridian. It is located approximately 2½ miles southwest of the city of Grants Pass, Oregon, which is the county seat of Josephine County. The land was originally part of the public domain which was granted to the Oregon and California Railroad Company in aid of the construction of a railroad from Portland to the Oregon—California boundary by the act of July 25, 1866 (14 Stat. 239). Because of violations of the terms of the grant, the Congress revested all unsold lands by the Act of June 9, 1916 (39 Stat. 218).

In 1965 and 1966 the Fort Vannoy Job Corps Center was constructed on the area. It consisted of approximately 36 buildings and sheds, having a estimated value in 1971 of approximately $730,000. According to BLM records no merchantable timber remains on the area. The camp was terminated in 1968 and the Rogue Community College initiated proceedings to acquire the site and its buildings. The buildings were surplused to the General Services Administration by the BLM under the FPASA and subsequently transferred to the Department of Health, Education and Welfare.

By an Agreement of Sale with HEW dated August 19, 1971, the Roge Community College acquired the buildings on this land without cost. In accordance with the terms of the agreement the college earned a public benefit allowance for the value of the buildings by agreeing to use the property for educational purposes for 15 years. Concurrent with the sale of the buildings, the BLM leased the underlying land to the college for a period of 10 years under the terms of a Recreational or Public Purpose Lease dated July 1, 1971, for a lump sum payment of $100. The land was leased rather than sold under the R&PP Act because that act specifically provides that O&C land may only be leased. (43 U.S.C. § 869(c)) in 1973, in response to a Congressional inquiry, the Medford District Manager advised the Oregon State Director that because O&C land was involved it could not be disposed of through GSA under the FPASA and would therefore have to be exchanged or sold through special legislation. The possibilities of an exchange were explored at that time by the parties but were never fully pursued because of the complexities involved and time which this would take.

The files of the BLM also contain a copy of a memorandum of some interest from the Oregon State Director to the Director dated April 18, 1973, which, however, was apparently never sent. This draft memorandum indicates that the BLM knew of no precedent for the disposal of O&C lands by the GSA and that the Director's policy at the time the site was leased to the college was to limit disposal to a lease under the R&PP Act. While the statement sheds no light on whether the land could be legally disposed of under the FPASA, it does point out the important policy questions involved if a disposal of fee title under the act were to be pursued.

Between 1973 and 1979 no further activities were reported concerning the acquisition of the property by the college. However, approval was given by the BLM for the construction of several new school buildings.

In 1979 inquiries were again made by the college through Senator Hatfield as to the means by which the college could acquire title to the site. In response to this inquiry the Oregon State Director advised Senator Hatfield in a letter dated November 21, 1979, that sale for fair market value under

FLPMA or land exchanges were the only two methods by which the college could acquire the title to the property under existing law. There is some confusion as to whether this response was intended to refer only to statutes under which the BLM operates directly or was also intended to imply that disposal by the GSA under the FPASA was not possible.

After learning that the Josephine County Commissioners and the Association of O&C Counties were agreeable to a disposal of the land through the GSA, the Oregon State Director advised the Medford District Manager on March 13, 1980, to proceed with disposal if the college formally requested such disposal and could demonstrate that the present lease was inadequate. The college was so advided and on April 24, 1980, formally requested the transfer of title.

Following the preparation of the necessary environmental analysis and land report, the District Manager reported the property available for dispoal on August 4, 1980. The report was approved by the State Director and forwarded to the Denver Service Center on September 8, 1980, with the recommendation that the land be declared surplus, reported to GSA for disposal and conveyed to the college. On January 6, 1981, the Denver Service Center reported the land to GSA. Additional information was provided to GSA on February 26, 1981, including the fact that because of its isolated character and developments on the land it was uneconomical to manage and could not be restored to timber growth.

By a letter dated April 13, 1981, the GSA advised the BLM that it could not dispose of O&C land under the Federal Property and Administrative Services Act of 1949 for the following reasons:

Because of the O&C land designation, we sought advice from our Regional counsel. GSA can accept excess property for disposal under the Federal Property and Administrative Services Act of 1949, as amended. However, counsel advises that the term "property" does not include land in the public domain. It has been held that "O&C" lands are a part of the public domain and as such may not be disposed of by GSA under its authorities. Accordingly, we are returning your report of excess.

Discussion of the letter with the GSA has revealed that it was based upon the informal oral advice of the attorneys for the GSA and that no written opinions were prepared.

On May 20, 1981, the BLM resubmitted its excess land report to the GSA and advised that "property" which can be disposed of by GSA "includes lands withdrawn or reserved from the public domain when such lands have been determined by the Secretary of Interior, with concurrence of the Administration of GSA, [as] not suitable for return to the public domain because they have been substantially changed by improvements or otherwise." The resubmission then indicated that the BLM had determined that the lands in question were unsuitable for return to the public domain. This document notes that the matter had been discussed by the Solicitor's Office in Washington with the GSA and that it was felt that the initial application had been returned by the GSA because it failed to state that the lands in question were unsuitable for return to the public domain.

The GSA responded to this resubmission again questioning whether it had any authority to dispose of O&C land under the Federal Property and Administrative Act, and that in any event if the lands were transferred to GSA for disposal there could be no assurances that they would be retransferred to the Rogue Community College.

In an attempt to resolve this impasse, our office wrote to the GSA on October 16, 1981, indicating that while we were reluctant to advise GSA as to its authorities, it appears that GSA has authority to dispose of all property which is excess to the needs of a federal agency unless the property falls within one of the specific exceptions cited in the Federal Property and Administrative Services Act. We noted that:

The O&C lands are portions of public domain which were granted to the Oregon and California Railroad Company in aid of the construction of a railroad. Upon violation of certain covenants in the grant, the lands were revested to the United States by an act of Congress on June 9, 1916 (39 Stat. 218). If such O&C lands falls within any of the exceptions which deprive the GSA of disposal authority, this would appear to be the exception for "lands withdrawn or reserved from the public domain." However, there is specifically excluded from this exception "lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because such lands are substantially changed in character by improvements or otherwise."

It was under this exclusion to the public domain exception that BLM reported the Rogue Community College site to the GSA. We also outlined the means by which the site could be transferred to the Department of Education and thence to the college if the GSA were willing to accept the property as surplus.

In response to the comments from our office the GSA advised by a letter dated November 4, 1981, that it would only consider the acceptance of the land if it received:

1. An unqualified certification that the BLM may properly, within its authorities and existing statutes, withdraw the lands at Grants Pass from their O&C classification, determine them to be "property" as defined under the Federal Property and Administrative Services Act of 1949, and report them excess to GSA for disposal.

2. A formal land determination from the BLM that the O&C lands in question, or a portion of them, are unsuitable for retention in the public domain together with a request that GSA concur in that determination.

Certain additional information was also requested from the BLM.

Because of the delays in disposing of this property to the college it became necessary to extend the existing lease. On November 5, 1981, a new 25 year lease was offered to the college at a rental of $50 per five year period. This offer was accepted by the college and the new lease was approved by the BLM on November 19, 1981.

LEGAL ANALYSIS

The O&C Lands were originally portions of public domain which were granted in aid of the construction of a railroad. Their subsequent history up to the time of revestment has been succinctly set forth as follows by the Ninth Circuit Court of Appeals in *Skoko v. Andrus*, 638 F.2d 1154 (9th Cir. 1979), *cert. den.* 444 U.S. 927, 62 L.Ed.2d 183 (1979):

Between 1866 and 1870, Congress granted almost 4,000,000 acres of land to the Oregon & California Railroad to promote the construction of a railroad from Portland, Oregon, to the California Border. The granting statutes contained a proviso, "That the lands granted . . . shall be sold to actual settlers only in quantities not greater than one quarter section to one purchaser, and for a price not exceeding two dollars and fifty cents per acre." *Oregon & California Railroad Co. v. United States*, 1915, 238 U.S. 393, 403, 35 S. Ct. 908, 913, 59 L.Ed. 1360.

The railroad was built, but the proviso was violated. As a result, Congress, by joint resolution, directed the Attorney General to enforce the proviso. 35 Stat. 571 (1908). In the ensuing action, *supra*, the Court held that the proviso was a covenant, not a condition. It therefore refused to forfeit the lands still owned by the railroad, ordered the covenant enforced, and gave Congress "a reasonable time" to frame the remedy. *Id*, at 438-39, 35 S. Ct. 908.

Congress responded with the Chamberlain-Ferris Revestment Act of June 9, 1916, 39 stat. 218, which declared all undisposed of grant lands "hereby, revested in the United States." 39 Stat. 219.

In 1912 while federal court actions were in progress to forfeit these lands, the Congress passed what has been called the "Forgiveness Act" (Act of August 29, 1912, 37 Stat. 320). This act permitted the government to compromise with and issue patents to those persons who had purchased O&C lands from the railroad grantee. It also provided in Section 2 of the Act:

That none of the lands reverting to the United States by virtue of any right of forfeiture thereto as aforesaid shall be or become subject to entry under any of the public-land laws of the United States, or to the initiation of any right whatever under any of the public-land laws of the United States.

This reflects the intent of Congress that upon any successful forfeiture action the forfeited lands would not be directly disposed of under the homestead, lieu land or other statutes which were then the subject of such controversy.

The status of any reacquired O&C lands was again considered by Congress during the hearings leading up to the Revestment Act of June 9, 1916 (39 Stat. 218). As reported at page 116 of the Hearings Before the Committee on the Public Lands, House of Representatives on H.J. Res. 58, 64th Cong., 1st Sess., February 24, 1916, it was indicated by C. J. Smyth, Special Assistant to the Attorney General that the above quoted provision of the Forgiveness Act of 1912 would have no application where the Congress rather than the courts provided for the revestment of the O&C lands to the United States. He concluded that:

It might be (*sic*) well be said that if the title to these lands was resumed by the United States without any provision for their future disposition they would become subject to the public-land laws now in existence. In fact, I do not see at this moment how that conclusion could be escaped. If, therefore, Congress concludes to revest the title in the United States, it ought at the same time to provide for some disposition of the lands.

In order to avoid subjecting the revested O&C lands to the general public-land laws then in effect, Congress specifically provided under the terms of the Act of June 9, 1916 (39 Stat. 218) for the disposition of these lands. The act provides that the lands

be classified into (1) power-site lands, (2) timber lands, or (3) agricultural lands; that the timber on the lands should be sold for cash; and that the non-mineral agricultural lands should be subject to entry and sale under the homestead laws. It further provided that rights of way could be granted across such lands in the same manner as for public lands and that mineral lands (other than those suitable for power sites) were subject to entry and disposition under the mineral-land law of the United States.

This statute was later amended and supplemented by the O&C Act of August 28, 1937, (43 U.S.C. §1181a) which provided that lands classified as timber lands be managed for timber production in support of local communities and industries. It also provided for the reclassification of lands more suitable for agricultural use.

Based upon the special history of the O&C lands and the above statutes, the Department of the Interior has on several occasions issued opinions which concluded that Congress has set aside the O&C lands for the purposes specified in the 1916 and 1937 acts and that they may not be used or disposed of for purposes or by means not provided for by the Congress.

In an opinion dated Mach 9, 1940, the Solicitor advised the Secretary that:

[C]ongress has specifically provided a plan of utilization of the Oregon and California Railroad revested lands. This plan among other things involves the disposal of lands and timber and the distribution of the moneys received from such disposition. It must be concluded that Congress has set aside the lands for the specified purpose.

In view of this the Solicitor concluded that a presidential withdrawal of the O&C lands as an addition to the Oregon Caves National Monument was not authorized since it would conflict with the requirements of the O&C Act.

One year later on August 25, 1941, the Assistant Secretary issued an instruction advising that the mining laws were in conflict with the timber management requirements of the O&C Act and therefore did not apply to such lands. (57 ID 365) In reaching this conclusion the Assistant Secretary noted that the O&C Act required the permanent retention of lands classified for forest management and their management for timber production and other purposes specifically stated in the act. He also noted that it was a well established policy of the Congress to reserve lands from disposal except where there existed express statutory provisions for their disposition citing the case of *United States v. Sweet,* 245 U.S. 563, 62 L.Ed 473 (1918).

The same conclusions as to the special status of the O&C lands was reached by the Associate Solicitor for the Division of Public Lands in an opinion to the Director of the BLM dated October 7, 1966 (M-36697) Here the Associate Solicitor stated that:

Congress has in a special manner sought to preserve the interests of the United States, and of the beneficiary counties, in the O&C lands and in the valuable timber resources they contain. Clearly, these lands have special status which sets them separate and apart from the public lands of the United States. In other words, the O&C lands have been "appropriated" by the Congress.

Since such lands are appropriated for special designated purposes the Associate Solicitor concluded that they were not available as Indian Allotments under 25 U.S.C. § 334.

The care which the Congress has continued to assert concerning the preservation of the O&C lands as a special category of appropriate land has already been alluded to with respect to the Recreation and Public Purpose Act (43 U.S.C. § 869(c)) which provides for the lease but not the sale of O&C lands. More recently with the passage of the Fededal Land Policy and Management Act of 1976 (FLPMA) the Congress has provided at 43 U.S.C. § 701(b) that any provisions of FLPMA which are inconsistent with timber management or revenue disposal provisions of the O&C Act must give way.

Given the historical and legal background of the O&C land, the question remains as to how these lands are to be classified and managed with respect to the Federal Property and Administrative Service Act of 1949, as amended, 40 U.S.C. §471 et. seq. This statute provides for the disposal of certain surplus property of the United States by the General Services Administration. The property subject to such disposal is defined in the statute as follows:

The term "property" means any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government. (40 U.S.C. § 472(d))

In order to understand the place of the O&C lands within this definition it is helpful to examine the legislative history of the FPASA. In Senate Report 857 which accompanied the bill which amended the FPASA to its present general form in 1958, the term "public domain" was described as:

Original public domain lands which have never left Federal ownership; also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on such lands; also, original public domain lands which have reverted to Federal ownership through operation of the public-land laws. S. Rep. No. 857, 85th Cong. 2nd Sess. (1957), reprinted in 1958 U.S. Code Cong. & Ad. News 2227, 2233.

Lands withdrawn or reserved from the public domain are further described in Senate Report 857 as follows:

Two categories of federally owned real property may be said to fall within the term "reservations." Original public domain lands—lands to which title has been in the United States since acquisition—and withdrawn to a greater or lesser degree from the general operation of the public land laws relating to settlement, entry, location, and sale, are "Federal reservations." So, too, are lands acquired or reacquired by the United States by purchase, condemnation, or by exchange for such purchased, condemned, or donated lands or for interests in or on such lands, and held for a specific public purpose. The term "withdraw" is used interchangeably with the term "reserve" to describe the statutory or administrative action which restricts or segregates a designated area of Federal real property from the full operation of the public-land laws relating to settlement, entry, location, and sales, which action holds them for a specific—and usually limited—public purpose.

Examples of reservations include: national forest reserve lands; national parks, monuments, and other units of the national park system; fish and wildlife refuges; petroleum, oil shale, coal, and other mineral reserves; recreation and wilderness areas; reclamation and power withdrawals or reservations; military reservations, and similar areas, all of which are held by some Federal agency for specified public purposes, and all of which may be created wholly from reserved original public domain lands, wholly from acquired or reacquired lands, or from portions of both. Other examples of Federal reservations, frequently created wholly from acquired lands, are post-office sites, weather stations, immigration and customs facilities, lighthouses, Federal courthouse sites, and the like. U.S. Code Cong. & Ad. News, *supra,* at 2233.

The recognition which Congress gave to the fact that upon revestment the O&C lands could be disposed of as any other public domain lands unless certain reservations were enacted has already been described with reference to the Foregiveness Act of 1912 and the Revestment Act of June 9, 1916. This taken together with the above description of the terms contained in the FPASA, makes it clear that the O&C lands are reacquired public domain lands which have been reserved for those special purposes described in such statutes as the 1916 Revestment Act and the August 28, 1937 O&C Act (43 U.S.C. § 1181a *et seq.*) Because of their special reserved status they can only be disposed of in accordance with the mandate of Congress.

Such O&C lands can be sold for their fair market price in accordance with 43 U.S.C. § 203 so long as such sales would not be inconsistent with the timber management or revenue disposal provisions of the O&C Act as required by 43 U.S.C. § 701(b). Such lands can also be exchanged in accordance with 43 U.S.C. § 206. They can be leased but not sold in accordance with the Recreation or Public Purposes Act (43 U.S.C. § 869(c)). As reacquired public domain lands which have been reserved by Congress for a special purpose, the O&C lands do not fall within the definition of "property" as that term is used in the FPASA. While we indicated in our letter to the GSA on October 16, 1981, that lands reserved from the public domain which the Secretary of the Interior determined were not suitable for return to the public domain because of substantial changes in character by improvements could be disposed of under the FPASA, the present analysis of the legislature history of the O&C land makes it clear that since the Secretary has, in any event, no authority to return parcels of O&C land to the public domain, this provision of the FPASA is also inapplicable to the O&C lands. As noted earlier with respect to the attempted withdrawal of O&C lands as an addition to the Oregon Caves National Monument, only Congress can provide for the means by which the O&C lands may be disposed of. Therefore it is our opinion that without new legislation it will not be possible to dispose of the Rogue Community College site under the FPASA nor will it be possible to exchange or sell these lands for less than their fair market value.

The suggestion has also been made that it might be possible for the BLM to dispose of

the lands on which the Rogue Community College is located under 42 U.S.C. § 2704. That statute provides that:

Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall establish procedures and make arrangements which are designed to assure that facilities and equipment at Job Corps centers which are being discontinued will, where feasible, be made available for use by State or Federal agencies and other public or private agencies, institutions, and organizations with satisfactory arrangements for utilizing such facilities and equipment for conducting programs, especially those providing opportunities for low-income disadvantaged youth, including, without limitation—

(1) special remedial programs;

(2) summer youth programs;

(3) exemplary vocational preparation and training programs;

(4) cultural enrichment programs, including music, the arts, and the humanities;

(5) training programs designed to improve the qualifications of educational personnel, including instructors in vocational educational programs; and

(6) youth conservation work and other conservation programs.

We do not believe the statute has any application to the present situation for a number of reasons. First, the Act relates to "facilities and equipment" only. There is no indication that Congress intended that it would provide the basis for the disposal of the title to federal land. Further, the statute merely provides that such "facilities and equipment" be made available for *use* by others, not that title passed. It also directs that such use be for special programs for disadvantaged youth, a purpose which at best may only make up a part of the program of education presently being offered by the Rogue Community College. In any event, in view of the specific Congressional mandate which has been laid down for the management of O&C lands it would be extremely difficult to imply a different and inconsistent use for the land on the basis of such a vaguely worded statute. In addition, the fact that the statute speaks in terms of Job Corps centers which are *being discontinued* appears to have little bearing upon a conter which was discontinued in 1968, more than fifteen years ago and whose "facilities and equipment" were disposed of to the Community College under other statutory authority in 1971.

If we may be of further assistance in this matter please let us know. Your case file is returned herewith.

DONALD P. LAWTON,
Assistant Regional Solicitor,
Pacific Northwest Region.
(For the Regional Solicitor).

A TRIBUTE TO JOSEPH AND EILEEN MIELE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1989

Mr. COURTER. Mr. Speaker, it is with great pleasure that I recognize before the House of Representatives the accomplishments of two outstanding Italian-American New Jerseyites: Joseph P. (J.P.) and Eileen Miele.

The Mieles are known throughout New Jersey for their tireless commitment to the cause of public service. The Mieles serve on numerous public and private commissions and boards. J.P. serves as a commissioner of the New Jersey Highway Authority, as vice chairman of New Jersey's Constitutional Bicentennial Commission, and as a member of Governor Tom Kean's Council on Alcoholism and Drug Abuse. Eileen has also distinguished herself as a commissioner of the State Board of Cosmetology and Hairstyling.

In recognition of their many outstanding contributions to New Jersey's Italian-American community, J.P. and Eileen have been named 1989 "Man and Woman of the Year" by the Italian Tribune News, and will be honored on October 8 at the Columbus Day Parade in Newark, NJ. It is with great pride that I salute the Mieles, who are a credit to New Jersey and to the Italian-Americans everywhere. I also request that this statement honoring the Mieles be entered into the official CONGRESSIONAL RECORD for the date October 11, 1989.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 12, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 17

9:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 1007, to examine the reduction in apportionment of Federal-aid highway funds to certain states, relating to highway fatality and injury reduction.
SD-406

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 1729, authorizing funds for the Commodity Futures Trading Commission.
SR-332

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on advanced transportation systems, focusing on magnetic levitation and high-speed rail.
SD-253

Energy and Natural Resources
To hold oversight hearings on the appropriate role of methanol as a potential alternative fuel in our future energy policy.
SD-366

Small Business
To hold hearings on the Regulatory Flexibility Act (P.L. 96-354) and its impact on small business.
SR-428A

10:30 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the condition of the banking system.
SD-538

1:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the House Committee on Agriculture's Subcommittee on Department Operations, Research, and Foreign Agriculture on the national initiative for research on agriculture, food and environment.
1300 Longworth Building

OCTOBER 18

9:30 a.m.
Budget
To hold joint hearings with the Committee on Governmental Affairs on budget reform issues.
SH-216

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on commercial time limits for children's television programs on cable TV.
SR-253

Governmental Affairs
To hold joint hearings with the Committee on the Budget on budget reform issues.
SH-216

10:00 a.m.
Environment and Public Works
To hold hearings on the nomination of E. Donald Elliott, of Connecticut, to be Assistant Administrator, Environmental Protection Agency.
SD-406

Foreign Relations
To hold hearings on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Treat Doc. 100-20).
SD-419

2:15 p.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.
SD-406

OCTOBER 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 870, to label consumer products containing substances that contribute to the depletion of the ozone layer in the upper atmosphere,

to regulate the sale, distribution, and use of such substances in consumer products and services in and affecting interstate commerce, and to recapture and recycle such substances.
SR-253

Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on South Korean trade practices, focusing on the black market.
SD-342

Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-428A

10:00 a.m.
Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4).
SD-419

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian land.
SR-485

OCTOBER 20

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade [GATT] negotiations.
SD-215

OCTOBER 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to provide for the establishment of a Federal fish inspection program.
SR-332

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on cable carriage of local broadcast signals.
SR-253

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold joint hearings with the Committee on Energy and Natural Resources on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

Energy and Natural Resources
To hold joint hearings with the Committee on Agriculture, Nutrition, and Forestry on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

OCTOBER 26

9:30 a.m.
Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on cotton.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the United States, and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

OCTOBER 27

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SD-226

OCTOBER 31

9:30 a.m.
Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on the United States-Japan Structural Impediments Initiative [SII].
SD-215

NOVEMBER 7

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the United States-Japan Structural Impediment Initiative [SII].
SD-215

POSTPONEMENTS

OCTOBER 17

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat.
SR-332

OCTOBER 18

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 952, to stimulate the design, development, and manufacture of high definition television technology.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the international decade of natural disaster reduction.
SR-253

HOUSE OF REPRESENTATIVES—*Thursday, October 12, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Increase our appreciation, O gracious God, for Your promises that offer forgiveness and nurture self-respect, that provide a spiritual foundation for every day of our lives. We pray, O loving God, that whatever our need may be or whatever our concern, Your abiding presence will lift our spirits and show us the path of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RUSSO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 297, nays 105, not voting 30, as follows:

[Roll No. 284]

YEAS—297

Ackerman	Brooks	DeFazio
Akaka	Broomfield	Dellums
Alexander	Browder	Derrick
Anderson	Brown (CA)	Dicks
Andrews	Bruce	Dingell
Annunzio	Bustamante	Donnelly
Applegate	Byron	Dorgan (ND)
Archer	Campbell (CA)	Downey
Atkins	Campbell (CO)	Dreier
AuCoin	Cardin	Durbin
Barnard	Carper	Dwyer
Bartlett	Carr	Dymally
Bateman	Clarke	Dyson
Bates	Clement	Early
Beilenson	Clinger	Eckart
Bennett	Coleman (TX)	Edwards (CA)
Bereuter	Combest	Emerson
Berman	Condit	Engel
Bevill	Conte	English
Bilbray	Conyers	Erdreich
Boggs	Cooper	Espy
Bonior	Costello	Evans
Borski	Coyne	Fascell
Bosco	Crockett	Fawell
Boucher	Darden	Fazio
Boxer	Davis	Feighan
Brennan	de la Garza	Fish
Flake	Lloyd	Robinson
Flippo	Long	Roe
Ford (MI)	Lowey (NY)	Rose
Ford (TN)	Luken, Thomas	Rostenkowski
Frank	Manton	Rowland (CT)
Frost	Markey	Rowland (GA)
Gallo	Martin (NY)	Roybal
Gaydos	Martinez	Russo
Gejdenson	Matsui	Sabo
Gephardt	Mavroules	Saiki
Geren	Mazzoli	Sangmeister
Gibbons	McCloskey	Sarpalius
Gillmor	McCollum	Savage
Gilman	McCurdy	Sawyer
Gingrich	McDade	Scheuer
Gonzalez	McDermott	Schiff
Gordon	McEwen	Schneider
Gradison	McHugh	Schulze
Grant	McMillan (NC)	Sharp
Green	McMillen (MD)	Shaw
Guarini	McNulty	Shumway
Gunderson	Meyers	Shuster
Hall (OH)	Mfume	Sisisky
Hall (TX)	Michel	Skaggs
Hamilton	Miller (CA)	Skeen
Hammerschmidt	Miller (WA)	Skelton
Harris	Mineta	Slattery
Hatcher	Moakley	Slaughter (NY)
Hayes (IL)	Mollohan	Smith (IA)
Hayes (LA)	Montgomery	Smith (NE)
Hefner	Moody	Smith (NJ)
Henry	Morella	Smith (VT)
Hertel	Morrison (CT)	Snowe
Hoagland	Morrison (WA)	Spratt
Hochbrueckner	Mrazek	Staggers
Horton	Murtha	Stallings
Houghton	Myers	Stark
Hoyer	Natcher	Stenholm
Hubbard	Neal (MA)	Stokes
Huckaby	Nowak	Studds
Hughes	Oakar	Swift
Hutto	Oberstar	Synar
Ireland	Obey	Tallon
Jenkins	Olin	Tanner
Johnson (CT)	Ortiz	Tauzin
Johnson (SD)	Owens (NY)	Thomas (GA)
Johnston	Owens (UT)	Thomas (WY)
Jones (GA)	Packard	Torres
Jontz	Pallone	Torricelli
Kanjorski	Panetta	Traficant
Kaptur	Parker	Traxler
Kasich	Patterson	Udall
Kastenmeier	Payne (NJ)	Unsoeld
Kennedy	Payne (VA)	Valentine
Kennelly	Pease	Vander Jagt
Kildee	Pelosi	Vento
Kleczka	Penny	Visclosky
Kolter	Perkins	Volkmer
Kostmayer	Petri	Walgren
LaFalce	Pickett	Walsh
Lancaster	Pickle	Watkins
Lantos	Porter	Waxman
Laughlin	Poshard	Weiss
Leath (TX)	Price	Weldon
Lehman (CA)	Pursell	Wheat
Lehman (FL)	Quillen	Whitten
Lent	Rahall	Wilson
Levin (MI)	Ravenel	Wise
Levine (CA)	Ray	Wolpe
Lewis (GA)	Richardson	Wyden
Lipinski	Rinaldo	Wylie
Livingston	Ritter	Yates

NAYS—105

Armey	Burton	DeLay
Baker	Callahan	DeWine
Ballenger	Chandler	Dickinson
Barton	Clay	Dornan (CA)
Bentley	Coble	Douglas
Bilirakis	Coleman (MO)	Duncan
Bliley	Coughlin	Fields
Boehlert	Cox	Frenzel
Brown (CO)	Craig	Gallegly
Buechner	Crane	Gekas
Bunning	Dannemeyer	Goodling
Goss	Madigan	Sensenbrenner
Grandy	Marlenee	Shays
Hancock	Martin (IL)	Sikorski
Hansen	McCandless	Slaughter (VA)
Hastert	McGrath	Smith (TX)
Hawkins	Miller (OH)	Smith, Denny (OR)
Hefley	Molinari	Smith, Robert (NH)
Herger	Moorhead	Smith, Robert (OR)
Hiler	Nielson	Solomon
Holloway	Oxley	Spence
Hopkins	Parris	Stangeland
Hunter	Pashayan	Stearns
Hyde	Paxon	Stump
Inhofe	Regula	Sundquist
James	Rhodes	Tauke
Kolbe	Ridge	Thomas (CA)
Kyl	Roberts	Upton
Lagomarsino	Rogers	Vucanovich
Leach (IA)	Rohrabacher	Walker
Lewis (CA)	Ros-Lehtinen	Weber
Lewis (FL)	Roth	Whittaker
Lightfoot	Roukema	Wolf
Lowery (CA)	Schaefer	
Lukens, Donald	Schroeder	
Machtley	Schuette	

NOT VOTING—30

Anthony	Garcia	Rangel
Aspin	Glickman	Saxton
Bryant	Gray	Schumer
Chapman	Jacobs	Smith (FL)
Collins	Jones (NC)	Solarz
Courter	McCrery	Towns
Dixon	Murphy	Williams
Edwards (OK)	Nagle	Yatron
Florio	Neal (NC)	Young (AK)
Foglietta	Nelson	Young (FL)

□ 1025

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from Wisconsin [Mr. MOODY] will lead the House in the Pledge of Allegiance.

Mr. MOODY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ADMINISTRATION INDECISION REGARDING PANAMA COUP

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, "sort of" measures do not work well in Congress. The same can be said of coups. What we learned coming from Panama shows what being indecisive and unprepared can do.

The administration "sort of" wanted Noriega out, but had no plans drawn up in case we actually got what we wanted.

The administration "sort of" got involved by blocking two roads, but then declined to take the final steps.

Then the administration "sort of" denied U.S. involvement, only to retreat in retractions before the world's eyes during the past week.

While administration policy was full of indecision and doubt, there are no doubts about the results: a failed coup; Noriega opponents in disarray; coup leaders executed. A taunting Noriega still in power is a message to the world about U.S. commitment.

"Sort of" does not work, Mr. President. When diving into a swimming pool you cannot be "sort of" wet; no one can be "sort of" pregnant; and in power politics, the White House cannot be "sort of" committed.

FICA FIASCO—CONSUMING OUR GRANDCHILDREN'S SOCIAL SECURITY BENEFITS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, in 1980 the FICA tax was 6.65 percent and we were confident that Social Security's pay-as-you-go funding mechanism would keep the system solvent into the 21st century.

Three years later, in 1983, the system was almost broke, so we decided to jack up FICA again to build a huge reserve that would pay for the baby boomers' retirement. Starting in 1990 employees and their employers will be paying 7.65 each.

The dirty little secret of this is that the higher FICA taxes are not securing retirement incomes at all. Instead, they are being collected and then used currently to cover a large part of our deficits.

In the 4 years between fiscal year 1990 and fiscal year 1993, growing reserves will allow Congress to spend an additional $325 billion without counting it for Gramm-Rudman purposes. When we need the reserves for retirement purposes in the 21st century, they are not going to be there.

Mr. Speaker, Social Security needs protection from a Congress which is spending its reserves for current consumption in order to avoid the tough decisions on spending and revenue to solve our deficit crisis. Misusing Social Security in this way, Mr. Speaker, is simply intolerable.

CONGRESS MUST ESTABLISH CLEAR SPENDING PRIORITIES

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, the Gramm-Rudman meat cleaver approach to cutting Government spending is hanging above our heads. That cleaver will fall on Monday, the cuts will become effective. Now Congress must reassert its proper role in spending Federal dollars and establish clear spending priorities.

The blind across-the-board cuts will cause harm to many of our constituents. We are sent here to make choices and establish priorities, not to permit unelected bureaucrats to slash programs without regard to merit. A necessary step toward reasserting leadership in meeting our responsibilities would be for President Bush to immediately meet with Congress and agree to a true deficit reduction measure so that we might cut short the period of sequestration and mindless cuts.

On Monday, those individuals most likely to never benefit from the capital gains reduction will begin feeling cuts in programs most helpful to them: Programs such as fighting the drug war, Head Start, housing, education, health care, air safety, food inspection and environmental cleanup. The President must lead and now is the time for him to act. An immediate consultation by the President with Congress on spending priorities can lessen the harm across-the-board cuts will do to many Americans.

□ 1030

TODAY'S DEBATE ON THE FLAG IS ABOUT NATIONAL PRIDE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in some towns of America it is against the law to kiss your girlfriend in public or to spit on the street. In other cities it is against the law to ride a skateboard or to sing or to yodel in public.

In nearly all towns it is against the law to burn leaves or to burn trash, but in all of America, guess what, bingo, you can burn Old Glory; you can burn the American flag.

I say today that Congress' debate on the flag is not about Old Glory, it is about national pride, which may be one of the underlying factors of America's problems.

Thomas Jefferson is rolling over in his grave today.

COMPUTER VIRUSES PLAGUE LOOMS

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, this is a warning. The virus plague is about to descend upon us again. It is not a repeat of the bubonic or black plague, and no human will be directly infected. Unfortunately, it has the potential to wipe out bank statements, destroy hospital records, or even bring our air traffic control system to a grinding halt. It has been called the AIDS of the computer world.

The Columbus Day computer virus is set to wipe out files across the country tomorrow, Friday the 13th. The House Information System has already warned us that our own offices may be vulnerable to the threat.

While our knowledge of how to create a computer virus is certainly not lacking, our ability to prosecute those who create them is. FBI Director Bill Sessions has pointed out that no statute currently exists dealing with viruses. As a result I have introduced H.R. 55 which will fill this gap, and allow us to put these computer vandals behind bars. Let us deter future computer virus outbreaks by enacting this tough measure against those who would destroy our files.

LEGISLATION TO ENHANCE HISPANIC POSTSECONDARY EDUCATIONAL ACHIEVEMENT

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, today the Congressional Hispanic Caucus sent a letter to President Bush asking him to support legislation that the caucus has introduced to enhance Hispanic educational achievement at the postsecondary level.

Our letter to the President coincides with the Census Bureau's announcement that the Hispanic population has increased to 20 million, which means only five other countries have larger Hispanic populations than the United States.

Mr. President, on several occasions you have said that you want to reach out to the Hispanic community and that you support minority education because you want to be the Education President.

You can lend credence to both those lofty goals by supporting the Hispanic Caucus' education initiative.

CALIFORNIA DESERT CONSERVATION ACT OF 1989

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, today I join with a bipartisan coalition of my colleagues in introducing the California Desert Conservation Act of 1989. This is landmark legislation for the protection of the Golden State's crown jewel—the 25-million-acre California desert.

In large part, this legislation reflects both the process and the compromises that took place during the period be-

tween 1976 and 1980 when $8 million and over 50 public meetings were devoted to planning for the future of the California desert. That process was mandated by this Congress under the Federal Land Planning and Management Act of 1976.

All of this bill's wilderness recommendations reflect an appropriate review of the acreage involved by a Federal agency operating with considerable public comment and input. Each of the 51 wilderness recommendations gives objective consideration to the multiple uses which governed the lands before they became wilderness study areas.

Unlike other California wilderness bills which have now been before the Congress in each of the last three sessions, this bill has the endorsement and support of the Members of Congress whose legislative districts are actually affected by the sweeping changes in the current patterns of land utilization.

This bill gives real meaning to efforts to expand existing protection of prime wilderness values which occur throughout our wonderful desert. My colleagues, I urge you to give careful consideration to the Members who represent the desert and the folks who live in, work in and love the California desert. This is their legislation. They have always been the desert's primary conservationists.

H.R. 3413, COAL INDUSTRY HEALTH BENEFIT STABILIZATION PROPOSAL

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, there is no excuse for the way miners at the Pittston Coal Company have been forced into a corner.

But there is a solution here in Congress that hasn't been found at the bargaining table.

I ask your support for H.R. 3413, the coal industry health benefit stabilization proposal, submitted this week by Congressman BOUCHER, myself, and other members of the coal caucus.

It prevents companies—like Pittston—who were members of the BCOA Health Agreement as of January 1, 1988—from withdrawing from the agreement and jeopardizing the health care of 135,000 retired miners.

The attack by Pittston on workers' jobs and benefits could be halted by this bill.

Its provisions are included in budget reconciliation in the Senate.

I urge those of us in the House who care about the mine workers to support this effort to resolve the Pittston strike and bring peace again to the coal fields.

CALIFORNIA DESERT PLAN

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, today my colleagues and I have joined together in introducing legislation to complete a process this body began 13 years ago. It was through the Federal Land Policy and Management Act of 1976, known as FLPMA, that Congress first recognized the unique, vast beauty and resources of the California desert and set forth a plan to conserve them.

The FLPMA plan called for the creation of a multiple use management plan for the 12.1 million acres of public desert lands. It established a citizens advisory committee to solicit public input on desert planning, and to evaluate desert needs. After 4 years of gathering public comments and research information, the committee's recommendations were forwarded to the Bureau of Land Management for review and plan preparation. That work has now been completed, and the result is today's bill—legislation which balances the need for wilderness and conservation with access to vital desert resources.

Our bill will designate 51 separate areas containing 2.1 million acres of desert lands as permanent wilderness. It will establish an extensive network of historic desert trails to provide access for the very young, the aged and physically disadvantaged. And it will renew the California military land withdrawals at China Lake and the Chocolate Mountains. In short, it will complete the desert planning process.

Mr. Speaker, as a desert native, one who knows and loves our arid lands, I am proud to be a sponsor of today's legislation. I look forward to the long-awaited completion of the California desert plan, and I commend those who have worked long and hard to see it happen.

THE PRESIDENT BLINKED ON PANAMA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, President Bush, with all due respect, the administration position on Panama reminds me of the infamous 19th-century mugwump party in America's history.

You may recall the mugwumps, so called because they straddled the issues, they played both sides: There are mugs on one side of the fence and there are wumps on the other side.

Now we have identified President Noriega of Panama as the drug kingpin of Central America. We have condemned him. We are worried that his corruption could endanger the future of the Panama Canal.

But when the opponents of General Noriega staged a coup last week and asked President Bush for help, he blinked.

His mug was on the side of attacking drug gangsters, his wump was on the side of caution to the point of timidity.

Mr. President, it is time to get your act together on Panama. If President Noriega is truly a menace to the United States, the United States cannot straddle the fence in dealing with him.

CAUTION BORDERING ON TIMIDITY?

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the previous speaker in the well described administration policy as caution bordering on timidity. I think it is hypocritical in the extreme for those individuals who have consistently opposed any administration military involvement in Central America to take to this well and criticize a lack of military involvement in Panama.

□ 1040

It is OK to do it in Panama, I guess, for a number of Members of this House, but it was not OK to do it against Borge and the Ortega brothers, and a country which has received this year $600 million in Soviet bloc arms while we cut off Contra aid.

I think there are some Members on the other side of the aisle who should be very cautious to the point of being timid about this issue. As I said yesterday, it is a kind of new twist on the old proverb, "This is the wolf in sheep's clothing."

NATIONAL RECYCLING COMMITMENT

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I am today introducing the first in a package of recycling bills that will set precedent for a national commitment for recycling. The solid waste crisis is engulfing our country, our States, and our communities. It is a national atrocity. We can no longer just go with the flow of the garbage.

Americans throw away more than most of the world has an opportunity to consume. We generate 160 million tons of garbage every year, 11 billion disposable diapers. All this trash is glutting our landfills. We are using an obscene percentage of our national resources, and we are drowning in a sea of garbage. It is time not only to clean

house in America, but to start cleaning house in the Federal Government.

My bill will literally eliminate waste in Government. It mandates that the Federal Government be the national recycling model by requiring every branch to recycle paper, glass bottles, aluminum cans, and plastics. Furthermore, it orders the Government to purchase recycled goods, thereby promoting a new market for all recyclables.

REMEMBER THE HOSTAGES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, occasionally I come to this well, far too infrequently, to remind my colleagues, any visitors, and anybody within sight or sound of my voice to pray for our hostages in Lebanon, and to remind Members of the time expansion involved here.

The longest held hostage in Beirut, Lebanon, or the Bekaa Valley or some dungeon cellar in that area is the AP bureau chief and newsman, Terry Anderson. He was taken prisoner March 16, 1985. That means this Monday he will have been there 4 years and 7 months. Keep in mind, from Pearl Harbor until Adolf Hitler's suicide, it was 3 years 4 months and 3 weeks. In less than 3 years and 5 months we had wrapped up World War II in Europe, and in another 99 days it was over in the Pacific. Four and a half years is past the halfway point of our longest held Vietnamese prisoner, an Army major named Floyd Compton, held for a week less than 9 years.

Are we going to see Terry Anderson held for 9 years? It is now 4 years and 7 months he has been held captive.

NATURAL ENERGY SOURCE FROM HIGH-SULFUR COAL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the high-sulfur coal industry is hanging by its thumbs. Misguided environmentalists are trying to shut it down, imprudent Northeast politicians, yielding to the pressures of the press from the United States and Canada are trying to close it down, Western politicians, motivated by Western coal interests are trying to close it down.

A high-sulfur coal is America's greatest natural energy source. It is the greatest energy that we have. It is the highest Btu, and it is the cheapest electricity. When Members shut this down, then your rates are going to soar. Make no mistake about it, ignorance of the facts mean more foreign oil and more foreign gas, higher rates, and loss of jobs.

The question is, what do Members want? Let Members clean the air, but keep burning America's greatest natural energy source.

MARKET APPROACH TO HEALTH CARE CRISIS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, one of the issues that we have been grappling with this entire Congress is catastrophic health care. We all know that in this House we repealed the Catastrophic Care Act, which 72 Members voted against last year, and the Senate has acted not in the exact same way that we have.

We have repealed it now. We have to take what I believe to be a positive approach. Mr. Speaker, there is no way that we are going to be able to address this issue if we do not use a market-oriented approach. Yesterday, I introduced H.R. 3440, which allows for the withdrawal of IRA moneys for the purchase of health care insurance, and allows employers to contribute to employee IRA's, and a number of other market-oriented approaches to deal with the catastrophic health care crisis.

I hope very much, Mr. Speaker, our colleagues will look at this legislation and join me as a cosponsor of H.R. 3440.

PRESIDENTIAL REPUTATION NOT SERIOUS

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, Americans understood when their new President was outmaneuvered on the European stage of public opinion by an experienced and a cunning Soviet leader. Time, we thought, would solve the problem, and judgment was withheld.

However, last week the administration was outwitted by a witless Panamanian despot, humbled by an arrogant clown.

More than a setback for democracy or of the war on drugs, it presented a dangerous sign that something is amiss in the White House. Either talent is lacking, or coordination is needed. Something is seriously wrong.

The best result of the tragic events of a week ago could be simply this: Mr. President, receive the message before your administration is tested and fails again. Find what is wrong. Mr. President, you are receiving the reputation of not being a serious person, and America cannot afford for the President to have that reputation.

PRAISE FOR ADMINISTRATION

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, it is interesting to stand in this well or to sit in this audience and to hear these second-guessing Monday morning quarterbacks criticizing the President of the United States and the Secretary of Defense for his activities in Panama.

Let me tell Members that I am proud to stand here and defend the President of the United States and his actions in Panama. I am glad that he is not in Delaware this morning, receiving the bodies of people we would have lost as a result of some foolish activity in Panama. The President of the United States is in charge of the administrative branch of Government, and our responsibility in Government is to stand here and to run the legislative branch.

To those Members that are so critical of the administrative branch, let me tell those Members that my observation is that those Members are critical of the President because he is a Republican, and in a different party. Let Members stand behind the President of the United States and recognize his constitutional charge, and that is to run the defense of this country and to run the administrative branch. I support the activities of the President, and I include Members in pleading that Members, too, will do the same.

PRESIDENT ACTED WISELY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I did not intend to come to the well and speak this morning, but frankly I have become rather irritated, to put it mildly, at what I have been hearing here in the well, and in front of the TV cameras for the past 2 weeks, concerning Panama.

Speaker after speaker has come here to excoriate the President on television for "having an opportunity" and "doing nothing" in Panama. Yet not one, not one of these Members, has suggested any activity which that Member would like to have seen the President do. Not one Member has identified a viable leader of the so-called coup that the President and of the administration could have dealt with.

If the President had acted, and if one American soldier received so much as a scratch, or if one Panamanian citizen had been injured, Members would be lined up all the way to the Speak-

er's lobby screaming for the President's head.

The fact is, in the situation like the President was facing, the do-nothing option or zero option is often the correct option. The President acted wisely and with courage last week in Panama. I think all Members know it.

U.S. REVERSAL ON CHEMICAL WEAPONS? HOPEFULLY NOT

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, last month President Bush told the United Nations he favored immediate steps to halt and reverse the worldwide threat of chemical weapons. President Bush also called for this in a joint session of Congress on February 9, 1989.

Furthermore, the United States has been supporting treaty language in the Geneva negotiations for calling an immediate ban on production of chemical weapons upon completion of the treaty.

This Monday, news media around the world announced that President Bush now says the United States would continue production of poison gas and nerve gas well beyond the treaty's effect.

This is a serious reversal of U.S. official position. It also would be highly destabilizing since it opens the door for countries like Iraq and Iran to avoid the very discipline the United States is trying to impose.

How can we push treaty that bans production but want to continue producing ourselves. How can we reconcile these two positions. Either: First, we're not planning to sign the treaty we've taken the lead in negotiating; or second, we're planning to push for a change in the treaty text to allow continued production.

The first would torpedo the treaty negotiations. After all, what country would sign on if the United States planned to exempt itself? The second course could codify the right of countries to continue producing chemical weapons indefinitely. That could be worse than no treaty at all.

The timing of this decision is especially unfortunate because there have been so many encouraging developments in recent CW negotiations. Momentum has been growing to move toward a global regime to stop the proliferation of these cruel and deadly weapons to countries throughout the world.

The public and the 40 countries negotiating in Geneva need clarification from President Bush. What is his position on chemical weapons production? Are we planning to sign a multilateral treaty and apply it unilaterally? Are we more concerned with stopping proliferation or continuing production?

President Bush has to speak out clearly and decisively on this issue or he may quickly discover that he has undercut the very treaty he has claimed to want.

□ 1050

LEGISLATION TO REMOVE CERTAIN GOVERNMENT ACTIVITIES WOULD CUT EXPENSES

(Mr. BENNETT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, today I am reintroducing a bill which I introduced in the last Congress which provides, first, for a study and a report to Congress on the things that the Constitution requires the U.S. Government to do; second, on the things that are required of the U.S. Government to do but which it probably cannot remove itself from doing because of tradition and the well-established programs we already have; and, third, on the things that the U.S. Government now does which are basically local in nature, such as mass transit, sewers, the arts and humanities, and a great many other things which are a great expense to the Federal Government and are responsible for part of our great problem we have today fiscally.

I think we should do this, because if we are not going to increase taxes, we certainly should eliminate those Government activities which are not really the responsibility of Federal Government.

Moreover, we are passing now expensive bills like the very much needed child care bill, but with little thought as to the multibillion dollar costs in the face of a terrible national deficit. If we are not willing to pay our bills by taxes, we should not be adding to our borrowing; but we should instead place back in local governments the things that the Federal Government can no longer finance without further excessive and expensive borrowing.

Mr. Speaker, I have introduced this bill today, and I hope it can pass in this Congress. I believe it can help put our fiscal house in order.

A PROPOSAL TO ALTER TERMS OF THE PANAMA CANAL TREATY

(Mr. WALKER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I, too, have listened over the last several days to Members coming to this well criticizing the President of the United States for what took place in Panama. I have heard that criticism from a number of people who helped weaken our intelligence establishment so that we did not have adequate information available to us at the time this coup attempt took place. I have heard it from people who would not be with the President of the United States if he decided to take any action in Panama.

Let me suggest to some of my colleagues who are concerned about what is going on in Panama that there is something we can do. If we are really as good as our strong words on the House floor, why do we not go back and take a look at what we have committed in terms of Panama and decide to defend that canal in perpetuity? Why do we not go back and take back our ability under the Panama Canal treaty to defend the canal even after the year 1999?

For all those who are concerned about Noriega, they should remember that if Noriega is still in power 10 years from now, we are going to hand over the canal to him lock, stock, and barrel, including the defense of it. We have a chance now to change that. I have legislation in this House—and it is not moving anywhere—to provide defense in perpetuity of the canal. Why do we not do that? That would be an action we could take right now.

FLAG PROTECTION ACT OF 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 262 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 262

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a motion to take from the Speaker's table the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag, with the Senate amendments thereto, and to concur in the Senate amendments. Debate on the motion shall continue not to exceed one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. TORRICELLI). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 262 is a rule providing for the consideration of H.R. 2978 as amended by the Senate. This is a bill that would amend section 700 of title 18 of the United States Code to protect the physical integrity of the U.S. flag.

The rule provides that after the adoption of this rule, it will be in order

to consider H.R. 2978 as amended by the Senate and to concur in the Senate amendments thereto. The rule restricts debate time on the motion to 1 hour, with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Finally, the rule provides that, after debate has concluded, the previous question shall be considered as ordered on final adoption without intervening motion.

Mr. Speaker, my colleagues are well aware of the tempest stirred up when the Supreme Court overturned the conviction of a man for burning the U.S. flag. The public was outraged by the decision and the Congress was asked to take action.

This bill provides that "whoever knowingly mutilates, defaces, burns, or tramples upon any flag of the United States" shall be fined or imprisoned or both. Also, as amended by the Senate, H.R. 2978 provides for expedited review of the statute by the Supreme Court should the constitutionality of this statute be challenged.

Mr. Speaker, the passage of this bill is the least we can do to protect the sanctity of our flag; an object that symbolizes everything American from the founding of Jamestown to President Bush. In particular, this bill will serve as an apology to our country's veterans, who were slapped in the face by a ruling that would allow the malicious destruction of the flag without fear of punishment. Those who fought to create and protect our country truly embody everything that our flag represents, and it is to them that this bill should be dedicated.

Mr. Speaker, House Resolution 262 is a straightforward rule for a measure that deserves enactment. I urge my colleagues to adopt this rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the protection of the flag has long been a concern of mine, long before the Supreme Court decision, back in the late 1960's, when the looters and the rioters and those who were desecrating the flag were holding it up in contempt, holding it by its standard and setting it aflame, putting a match to it in open rebellion. Such a scene occurred in New York City in Central Park. Up Pennsylvania Avenue they marched, trampling upon the flag, spitting upon it, and desecrating it in every way. In all parts of the country, as a result of the Vietnam war, they were desecrating the American flag.

I introduced a bill to protect our flag and to make it a Federal law to do so. It passed the House and the Senate overwhelmingly, and the President signed it into law in 1968.

For use on the floor of the House, I got from the New York Daily News a picture of the flag burning in Central Park and a picture of the flag raising at Iwo Jima, and I had them blown up and put into a frame, some 6 feet long and 3 feet deep, and on that I had the words: "If our flag is worth dying for, it is worth protecting."

I believe that today. Under my bill, which is now law—and the Supreme Court has not ruled on the Federal law, only on the State law in Texas—that language is on the books. It provides for a fine and a jail sentence, and I am happy for that. I understand that the publisher of Hustler magazine was tried and convicted under that Federal law for wearing a flag as a diaper.

I think it is time that we make sure without any question that whatever we do is effective, because the flag is more than just a piece of cloth. I feel that the best route to go is a constitutional amendment, and I think in the end that is what will result. But I supported this bill when it was on the floor of the House the last time, and I will support it today because anything that we can do to protect the flag we must do.

Many times the last thing those in battle see is that flag fluttering in the breeze. Soldiers and military men have held it high and have died for it. Yes, I say to the Members of this House, the flag speaks to us.

□ 1100

The other day when this was before the House I was yielded 1 minute. I did not have time to read my full remarks.

And listen, the flag speaks to us today:

LISTEN TO OUR FLAG SPEAK TO US

Today I don't feel as proud as I used to. People are burning me and desecrating me, with the permission of the highest Court in the land. My blood flows from my stars and stripes every time a match flame touches me.

I am not just a piece of cloth, I am the soul of America. I am what you stand for, one nation under God, indivisible with liberty and justice for all.

I am proud to lead your parades, proud to be with you in battle and in peace. I am happy as I flutter in the breeze, but I am saddened when I am lowered at half-mast.

And when they wrap me around the casket of your dead son, father, brother or sister, my red, white and blue become my arms and my stars become my eyes. I hold them close in loving care and my tears are real for they died so that I may continue to wave over the land of the free and home of the brave.

I hope you stop letting me be burned or trampled upon because I am your flag, the flag of the United States of America.

Mr. Speaker, I support this measure to be sure that we will always protect this flag that we love and cherish so much.

Mr. QUILLEN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TORRICELLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 19, as follows:

[Roll No. 285]

YEAS—413

Ackerman	Cooper	Glickman
Akaka	Costello	Gonzalez
Alexander	Coughlin	Goodling
Anderson	Cox	Gordon
Andrews	Coyne	Goss
Annunzio	Craig	Gradison
Applegate	Crane	Grandy
Archer	Crockett	Grant
Armey	Dannemeyer	Gray
Aspin	Darden	Green
Atkins	Davis	Guarini
AuCoin	de la Garza	Gunderson
Baker	DeFazio	Hall (OH)
Ballenger	DeLay	Hall (TX)
Barnard	Dellums	Hamilton
Bartlett	Derrick	Hammerschmidt
Barton	DeWine	Hancock
Bateman	Dickinson	Hansen
Bates	Dicks	Harris
Beilenson	Dingell	Hastert
Bennett	Donnelly	Hatcher
Bentley	Dorgan (ND)	Hawkins
Bereuter	Dornan (CA)	Hayes (IL)
Berman	Douglas	Hayes (LA)
Bevill	Downey	Hefley
Bilbray	Dreier	Hefner
Bilirakis	Duncan	Henry
Bliley	Durbin	Herger
Boehlert	Dwyer	Hertel
Boggs	Dymally	Hiler
Bonior	Dyson	Hoagland
Borski	Early	Hochbrueckner
Bosco	Eckart	Holloway
Boucher	Edwards (CA)	Hopkins
Boxer	Edwards (OK)	Horton
Brennan	Emerson	Houghton
Brooks	Engel	Hoyer
Broomfield	English	Hubbard
Browder	Erdreich	Huckaby
Brown (CA)	Espy	Hughes
Brown (CO)	Evans	Hunter
Bruce	Fascell	Hutto
Buechner	Fawell	Hyde
Bunning	Fazio	Inhofe
Burton	Feighan	Ireland
Bustamante	Fields	Jacobs
Byron	Fish	James
Callahan	Flake	Jenkins
Campbell (CA)	Flippo	Johnson (CT)
Campbell (CO)	Ford (MI)	Johnson (SD)
Cardin	Ford (TN)	Johnston
Carper	Frank	Jones (GA)
Carr	Frenzel	Jontz
Chapman	Frost	Kanjorski
Clarke	Gallegly	Kaptur
Clay	Gallo	Kasich
Clement	Gaydos	Kastenmeier
Clinger	Gejdenson	Kennedy
Coble	Gekas	Kennelly
Coleman (MO)	Gephardt	Kildee
Coleman (TX)	Geren	Kleczka
Combest	Gibbons	Kolbe
Condit	Gillmor	Kolter
Conte	Gilman	Kostmayer
Conyers	Gingrich	Kyl

LaFalce	Ortiz	Slattery
Lagomarsino	Owens (NY)	Slaughter (NY)
Lancaster	Owens (UT)	Slaughter (VA)
Lantos	Oxley	Smith (FL)
Laughlin	Packard	Smith (IA)
Leach (IA)	Pallone	Smith (NE)
Leath (TX)	Panetta	Smith (NJ)
Lehman (CA)	Parker	Smith (TX)
Lehman (FL)	Parris	Smith (VT)
Lent	Pashayan	Smith, Denny (OR)
Levin (MI)	Patterson	
Levine (CA)	Payne (NJ)	Smith, Robert (NH)
Lewis (CA)	Payne (VA)	
Lewis (FL)	Pease	Smith, Robert (OR)
Lewis (GA)	Pelosi	
Lightfoot	Penny	Snowe
Lipinski	Perkins	Solarz
Livingston	Petri	Solomon
Lloyd	Pickett	Spence
Long	Pickle	Spratt
Lowery (CA)	Porter	Staggers
Lowey (NY)	Poshard	Stallings
Luken, Thomas	Price	Stangeland
Lukens, Donald	Pursell	Stark
Machtley	Quillen	Stearns
Madigan	Rahall	Stenholm
Manton	Rangel	Stokes
Markey	Ravenel	Studds
Marlenee	Ray	Stump
Martin (IL)	Regula	Sundquist
Martin (NY)	Rhodes	Swift
Martinez	Richardson	Synar
Matsui	Ridge	Tallon
Mazzoli	Rinaldo	Tanner
McCandless	Ritter	Tauke
McCloskey	Roberts	Tauzin
McCollum	Robinson	Thomas (CA)
McCurdy	Roe	Thomas (GA)
McDade	Rogers	Thomas (WY)
McDermott	Rohrabacher	Torres
McEwen	Ros-Lehtinen	Torricelli
McGrath	Rose	Traficant
McHugh	Rostenkowski	Traxler
McMillan (NC)	Roth	Udall
McMillen (MD)	Roukema	Unsoeld
McNulty	Rowland (CT)	Upton
Meyers	Rowland (GA)	Valentine
Mfume	Roybal	Vander Jagt
Michel	Russo	Vento
Miller (CA)	Sabo	Visclosky
Miller (OH)	Saiki	Volkmer
Miller (WA)	Sangmeister	Vucanovich
Mineta	Sarpalius	Walgren
Moakley	Savage	Walker
Molinari	Sawyer	Walsh
Mollohan	Saxton	Watkins
Montgomery	Schaefer	Waxman
Moody	Scheuer	Weber
Moorhead	Schiff	Weiss
Morella	Schneider	Weldon
Morrison (CT)	Schroeder	Wheat
Morrison (WA)	Schuette	Whittaker
Mrazek	Schulze	Whitten
Murtha	Sensenbrenner	Williams
Myers	Sharp	Wilson
Nagle	Shaw	Wise
Natcher	Shays	Wolf
Neal (MA)	Shumway	Wolpe
Nielson	Shuster	Wyden
Nowak	Sikorski	Wylie
Oakar	Sisisky	Yates
Oberstar	Skaggs	Young (AK)
Obey	Skeen	Young (FL)
Olin	Skelton	

NAYS—0

NOT VOTING—19

Anthony	Foglietta	Nelson
Bryant	Garcia	Paxon
Chandler	Jones (NC)	Schumer
Collins	Mavroules	Towns
Courter	McCrery	Yatron
Dixon	Murphy	
Florio	Neal (NC)	

□ 1123

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the provisions of House Resolution 262, I move to take from the Speaker's table the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TORRICELLI). The Clerk will report the motion.

The Clerk read as follows:

Mr. BROOKS moves to concur in the Senate amendments to the bill, H.R. 2978.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 1, after "defaces," insert: "physically defiles,"

Page 2, line 1, after "burns," insert "maintains on the floor or ground,"

Page 2, strike out all after line 16 over to and including line 11 on page 3, and insert:

"(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, last week the U.S. Senate agreed to H.R. 2978, the Flag Protection Act of 1989, which the House passed by a vote of 380 to 38 on September 12 of this year. In acting on this legislation, the Senate adopted four amendments:

First, the Senate amended the expedited procedure for Supreme Court review to correct a problem which they perceived in that provision. Some Members had expressed concern about the possibility that the language as originally drafted placed original jurisdiction over a case involving this statute in the Supreme Court. The change made by the Senate would clearly establish that the Supreme Court has appellate jurisdiction over challenges to the statute.

Second, the Senate deleted a provision in the bill that would give the House and Senate a right to intervene in any appeal to the Supreme Court. This does not mean that the House and Senate cannot intervene, but deletes the legislative provision explicitly granting that right.

Third, the Senate added a provision making it illegal to "maintain" a flag "on the floor or ground" in addition to our language which made it illegal to trample upon the flag.

Fourth, the Senate added to the list of prohibited conduct the phrase, "physically defiles."

Mr. Speaker, I believe that the Senate amendments to H.R. 2978 are consistent with this House's intent to move expeditiously to conform Federal law to the Supreme Court's holding in Texas versus Johnson. The amendments to the expedited review provision are relatively technical in nature and will enhance this valuable provision, which will ensure that the constitutionality of this measure is tested and verified as quickly as possible.

The two other amendments merely clarify the type of conduct that is to be prohibited by the statute. Let me emphasize once again that it is our intent to make this provision of Federal criminal law "content neutral." It is the act of harming the physical integrity of the flag, rather than any message the actor might be attempting to convey, that is to be punished by 18 U.S.C. 700 as we are amending it. The Senate added two phrases to the list of prohibited conduct: "Maintain on the floor or ground" and "physically defile." These two additions are totally consistent with our intent to protect the flag in all circumstances, in a content-neutral manner, and I support their inclusion in H.R. 2978.

Mr. Speaker, it has been our position throughout consideration of this legislation that the Congress should act quickly to amend the law in order to respond to the Supreme Court's decision in Texas versus Johnson and protect the physical integrity of the flag. By taking this action today, we will be able to send H.R. 2978 to the President for his signature immediately.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

□ 1130

Mr. MICHEL. Mr. Speaker, I voted against the House version of this legislation. I see no reason for changing my mind now.

To those who believe we can overturn a Supreme Court decision of this kind by statute, I can only say, in the immortal words of the farmer who was asked directions:

"You can't get there from here."

Let me therefore speak for a few moments on the need for a constitutional amendment to protect the flag.

There is no doubt that the overwhelming majority of the House want to protect the flag. The vote in the House on this statutory approach demonstrated that.

But you can't do it by statute. I won't go into the arguments that prove that point at this time. But the best expert testimony before the Con-

stitutional and Civil Rights Subcommittee of the Judiciary Committee showed that if you want to protect the flag, only a constitutional amendment will do the job.

Some call that tampering with the Constitution. But the drafters of the Constitution provided for the amendment process, a long and careful procedure. Surely this is not tampering.

But you may ask: it may not be tampering, but is it wise and prudent to do so?

My answer is that in a democracy, a process that involves the people of the 50 States is wise. And a process that demands a 50-State debate is prudent.

Will a constitutional amendment "amend the first amendment" and deprive us of first amendment rights?

The answer is "No." No idea is forbidden under our proposal. No expression of any idea is forbidden, so long as it doesn't involve desecration of the flag.

If you have an unpopular or offensive or even despicable idea, you can still print it, say it, put it in artistic form, make a movie about it or in any other way communicate it—so long as you don't desecrate the flag.

To those who felt they had to vote for this statutory approach, to cover political flanks, I understand your dilemma. But now that we've made this gesture—useless as it is to protect the flag—let's get down to business and begin the process that is needed.

If you really want to protect the flag—if you really want to do something more than make a gesture—then, given the Court's decision, you have to support our bipartisan amendment to save the flag.

I thank the distinguished gentleman for yielding the time.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I am sure it is not a surprise to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader, to understand that a majority of the Committee on the Judiciary strongly disagrees with his view that this statute that we are bringing to the House of Representatives, approved by the House overwhelmingly and approved by the Senate overwhelmingly, is constitutional. Certainly this is a far better track to take to save the flag, to protect the flag by a simple statute than to go through the mammoth and dangerous procedure of weakening for the first time in our history the free speech provisions of the Bill of Rights.

Mr. Speaker, this is virtually the same bill that the House adopted overwhelmingly on September 12, so there should be little need to debate its virtues now. The Senate made three changes. One of them cures a potential problem in the House bill. The others, I believe, are unnecessary, but they do not seriously harm the bill.

First, the Senate improved the expedited review provision. As drafted in the House, the bill could have been read to expand improperly the Supreme Court's original jurisdiction, although it certainly was not our intent to do so. The Senate has corrected any misimpression there and did a fine job.

The Senate, however, dropped the provision that gave this House and the Senate the right to intervene to defend the constitutionality of the bill if it is challenged. This is not a fatal change, since the Congress can still seek to intervene if necessary. It would be a shame if the Justice Department, for some political reason, cynically chose not to defend this law, and I hope they will defend it.

Second, the Senate added a prohibition against maintaining the flag on the floor or ground. I think this was not necessary, but it does not affect the focus or intent of the bill.

Third, the Senate added language against physically defiling the flag. In the Judiciary Committee in the House we defeated an amendment that would have added the word "defiles" to the bill, because "defiles" alone may have an expressive focus and this bill is intended to focus only on conduct. In the Senate, when the question was first raised there as to why "defiles" had been left out of the bill, it was explained that the word "defiles" alone includes meanings like "profane" or "dishonor." So the Senate wisely added the qualifier "physically." This qualifier makes it clear that the amendment covers only physical injury to a flag. The amendment's sponsor said, "What we are trying to regulate is conduct." He was concerned that the terms we had used in the House did not cover actions like throwing mud or grease on a flag. Senator WILSON, the sponsor of the amendment, explained that he wanted to cover damage to the physical integrity of a flag that was not permanent. He was concerned that the bill as passed by the House did not cover acts like intentionally soiling the flag with mud that could be washed off. I think our bill did cover those things under the term "deface." But the Senate amendment makes it clear that all forms of injury to the physical integrity of a flag are prohibited. It makes it clear that one does not have to permanently destroy or damage a flag to violate the statue. That is all this amendment achieves.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I rise in opposition to the motion of the gentleman from Texas [Mr. BROOKS] to concur in the Senate amendments.

Let it be clear that this is a procedural vote to send the Senate bill to the President of the United States for his action. If this vote is defeated, then the bill can be sent to conference where the Senate and House can work out the differences between the conflicting versions and hopefully send a bill that is more constitutional to the President of the United States for his consideration.

The conference is a desirable alternative because, in my opinion, the Senate bill is clearly unconstitutional and will be struck down as such by the Supreme Court of the United States.

The constitutional infirmity that was inserted by the Senate was the so-called Wilson amendment that the gentleman from California [Mr. EDWARDS] has described earlier. It inserted the words "physically defiles" in the text of the House-passed bill.

In my opinion, there is no difference between "physically defiles" and "defiles" because both attempt to prohibit the same kind of conduct and impose criminal penalties on those who do that. It is not just my opinion that inserting the word "defiles" makes this bill unconstitutional. On June 27, 1989, the full Committee on the Judiciary markup on the House version of the bill, the gentleman from New Hampshire [Mr. DOUGLAS] attempted to insert the word "defiles" in the list of those things which were prohibited.

□ 1140

The gentleman from New Jersey [Mr. HUGHES] stated from the transcript of that hearing:

> I have become persuaded that "defiles" suggests expression in speech. We are dealing with conduct, and that's why I became persuaded, after studying it for some period of time, that "defiles" would be better left out of the statute. It adds nothing to it, and it should be limited to just those acts that are purely acts of conduct, as opposed to expression.
>
> For that reason, I would oppose the addition of the word "defiles." If you're opposed to attempting to make the statute constitutional, I suggest you vote for the gentleman's amendment. If what you're trying to do is craft a statute that will pass constitutional muster, then I think you have to oppose the gentleman's amendment.

Now, that is the question that is posed here today. If Members want to make the statute unconstitutional, then vote yes on the pending motion. If Members want to try to make it constitutional, vote against it.

The gentleman from California [Mr. EDWARDS], my distinguished chairman of the Subcommittee on Civil and Constitutional Rights, also opposed the insertion of the word "defiles" at the same meeting of the Committee on the Judiciary, and he said, quoting from the transcript:

> I agree with the gentleman from New Jersey that this amendment should be de-

feated. "Defiles" is like desecrate. It involves communication of a message of disrespect. If we add this to the bill, we will run into the same First Amendment problems that were the issue in the Texas vs. Johnson case. I ask for a no vote.

Now, I think it is regrettable that the gentleman from California has changed his position, because I think that inserting the word "physically defiles" will mean that we will be revisiting this issue, following the Supreme Court striking down the statute.

The question presented to the House today is not whether free speech will be restricted. Both supporters of both the statute and the constitutional amendment want to restrict what the Supreme Court has said to be protected free speech, and that is flag burning. While I favor the amendment rather than the statute, that is not the question before the Members. The question is whether the Congress is going to do the job right. Approval of this motion will send a fatally flawed statute, which both the chairman and the ranking Republican member of the Subcommittee on Civil and Constitutional Rights, which had 4 days of hearings on this subject, say is unconstitutional to the President of the United States.

To use the argument that it is not our job to determine whether statutes are constitutional or not, that is the job of the judicial branch. That argument is simply a cop-out on the oath of office that we all took to serve, protect, and to defend our beloved Constitution of the United States.

Mr. Speaker, this motion should be defeated. We should then send the bill to conference so that Congress can do the job right and so that the Supreme Court will not kick this statute right back to Members for a future fix up.

Mr. BROOKS. Mr. Speaker, I yield 2½ minutes to the distinguished chairman of the subcommittee, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, first I want to thank the distinguished chairman of the full Committee on the Judiciary for yielding time to me.

I rise in strong support of the motion to concur on the Senate amendment to H.R. 2978, the Flag Protection Act.

The flag of the United States is entitled to protection from physical attack and destruction. The Constitution of the United States is also entitled to protection, and for this reason we should not rush to amend it each time there is an unfavorable court decision or other development which can be addressed in a less dramatic manner, such as through statutory law. Frankly, I think that the Supreme Court was wrong in their opinion in Texas versus Johnson. They could have and should have found that we are dealing with conduct, not expression. However, amending the Constitution, as some would advance, should be a last resort, not a first resort.

H.R. 2978, as sent to the Senate, embodied those principles. The Senate amendments retain those principles, and I urge my colleagues to accept them.

The Senate has added the words "physically defiles" to the conduct prohibited. The gentleman from Wisconsin, when he was in the well, indicated that during the committee debate, that I engaged in some colloquy in opposition to advancing the word "defiles." That is true. However, we are dealing with the word "physically defiles," not defiles, as the gentleman well knows, and there is a vast difference between the two. "Physically defiles" is in essence another way of stating conduct already prohibited under the House bill by language referring to mutilating and defacing. It is duplicitous, in my judgment.

The Senate has also added "maintains on the floor or ground," which is in the House language and is retained in the Senate bill. Finally, the Senate would require that a lower Federal court rule on a case before it challenges these amendments before the matter could come before the Supreme Court.

The House bill called upon the district to refer the matter to the Supreme Court without first ruling, and frankly, I think that the Senate is improving the language.

The Senate concluded that under the Constitution, some lower Federal court must rule on the matter such as this before it can come before the Supreme Court, and I believe that the Senate is right on that score. This Senate amendment, therefore, improves the bill without substantially delaying the ultimate review, and I fully expect approval of this legislation by the Supreme Court.

Mr. Speaker, it is a good bill. It will, in my judgment, pass constitutional muster. For those that suggest that it will not, I am not sure how they can say that. It was a 5 to 4 decision. We need to pick up one additional vote. We are dealing with conduct, not expression. It is a very carefully crafted and tailored statute, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

The gentleman from New Jersey says that there is a vast difference between the words "physically defile," which is what the Senate inserted in this bill, and the word "defile," which he voted against when it was proposed in the House Committee on the Judiciary. I believe the gentleman from New Jersey is splitting hairs. It is the same type of conduct, and the same type of expression, that either "physically defiles" or "defiles" attempts to prohibit. That is part of the problem in drafting a statute that can pass constitutional muster.

Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, the Senate amendments to H.R. 2978, the Flag Protection Act, serve to make a constitutionally suspect bill worse. They should be rejected, not embraced.

When the House first considered H.R. 2978 on September 12, I voted against the bill. Despite vain efforts to characterize the bill as being content-neutral, it was clear that the real purpose and effect of the bill was and would be to prohibit expression of the kind of offensive, minority views that the first amendment is there to guarantee.

The claim that this bill would merely protect the "physical integrity" of the flag has been rendered even more empty by the Senate amendments. The Senate has added "defiling" the flag to the list of actions prohibited. A similar amendment was originally rejected by the House Judiciary Committee.

With this amendment, the Senate has shed any pretense that this bill is not aimed at certain types of opinion. This amendment demonstrates that the bill is designed to punish actions that express judgments against the flag, not just actions that affect the physical condition of a flag. To say you can "defile" something in a "neutral" way, without implying a hostile sentiment, is like saying you can "love" something without caring for it. It perverts both language and logic.

Some supporters of this wording have stopped pretending. During debate on the bill in the Senate, the author of the amendment, Senator PETE WILSON, said:

> . . . What we are doing with the statute, . . . is to proscribe conduct that definitely is offensive . . . we are entitled—indeed most of us think we are obliged—to prohibit that kind of conduct.

The Senate has improved one part of this bill. As presented in the House, section 3 of the bill directed expedited Supreme Court review, without any factual record of the case having been established in a lower court. That approach was as ill-advised as it was unprecedented in any other expedited review statute. I am happy the Senate recognized this threat to sound judicial process and amended it to allow for a U.S. District Court to rule on a challenge to the statute before the Supreme Court takes up the issue.

The fundamental fact remains that this bill is intended to punish a particular type of expression. It is a form of expression that is highly offensive to me and to the vast majority of our people. But it is nonetheless a form of

expression covered by the First Amendment. This is, then, a bill to restrict freedom of expression. It is, and should be, unconstitutional.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, may I comment on the comments of the previous speaker and say that there are a lot of things that people love and do not take care of, such as good health.

I rise in support of the bill. I am pleased that both Houses of Congress have acted expeditiously on this legislation in order to protect the physical integrity of the American flag in the wake of the Supreme Court decision in Texas versus Johnson.

Of course we already have on the books a law against flag desecration. The Supreme Court has made it clear that that law is unconstitutional as it stands. The obvious, quickest, and easiest response is to try to fix that law to make it constitutional.

I hope and believe that this bill will do that by prohibiting certain concrete, well-defined actions without any reference to the motivations behind those actions. Distinguished constitutional scholars have testified that this approach should do the job. It only makes sense to try it and see. In any case, we ought to have an answer from the Supreme Court well before we could hope to have enacted and ratified a constitutional amendment.

Mr. Speaker, I think most of the American people want to protect the physical integrity of our flag. But I also think most of them do not want to tamper with the first amendment or any of the other freedoms for which that flag stands. This bill is the most sensible way to try to reconcile those two goals.

I thought it was the most sensible approach to the issue when I first introduced the Biden amendment as a separate bill in the House on June 28. I still thought it was the most sensible approach when I spoke in favor of the bill on September 12. And I still think so today.

I urge all my colleagues to accept the Senate amendments, and send this bill to the President.

□ 1150

Mr. SENSENBRENNER. Mr. Speaker, I yield 8 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, with most of the Members in this Chamber, I had hoped that after the Supreme Court opinion came down there would be a way to statutorily handle the Johnson case. Unfortunately, after 5 days of hearings that I participated in, it became very clear that it was impossible to draft a statute to overturn a first amendment decision of the U.S. Supreme Court.

I had tried to make that point by offering the word, "defile," during our deliberations in July, and on a party-line vote of 20 Democrats against 13 Republicans, the word, "defile," was not put in the statute. Today the very Members who voted that are now here defending the word, "defile," and I know the only change is the calendar because the word still means the same thing.

If we go back into the Cloakroom, we can pick up a student dictionary. I like to use the student edition because it is real simple. The student edition that we have in the Cloakroom defines "deface," and it also defines "defile."

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. DOUGLAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the gentleman knows that we did not debate in committee the term, "Physically defile." that was never interjected in the debate.

Mr. DOUGLAS. If I may continue, I think I can answer the gentleman's point.

Mr. HUGHES. Is that not so?

Mr. DOUGLAS. Mr. Speaker, let me answer it in this way: If we read the definition of the word "defile" from this dictionary, we find that the first three definitions are clearly physical acts: "1. To make filthy; to foul." That requires physical conduct.

Then it says: "2. To ravish. 3. To make ceremonial unclean; to pollute."

Those are physical acts. "Defile" entails physical conduct. Frankly, to put the word "physical" in front of "defile" is surplusage. We do not need the word "physical," because the very definition of "defile" denotes physical acts themselves.

Mr. HUGHES. Mr. Speaker, will the gentleman yield further?

Mr. DOUGLAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the gentleman has not answered the question. Did we debate the term, "physically defile" or the term "defile"?

Mr. DOUGLAS. We debated the term "defile," but it did not matter because "physical" is what "defile" involves.

Mr. HUGHES. Mr. Speaker, if the gentleman will yield further, I disagree. I think "physically" substantially modifies the word "defile." We are talking about physically defiling, which is akin to defacing.

Mr. DOUGLAS. Mr. Speaker, let me ask the former distinguished prosecutor from New Jersey, what is not physical about "making filthy" and "polluting"? What is a nonphysical defilement of making something filthy? How do we make something filthy without doing it physically?

Mr. HUGHES. Mr. Speaker, will the gentleman yield further?

Mr. DOUGLAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I think physical defilement is basically akin to defacing. The term "physical" modifies in a substantial fashion the term "defile." We never debated the term, "physical defilement," in the full committee. In fact, I find it duplicious.

Mr. DOUGLAS. Mr. Speaker, let me suggest this: Would the gentleman have voted differently on the date we took this up if we had offered "physically defile"?

Mr. HUGHES. I would have argued that it probably was duplicious, because we had covered it by the other terms in talking about the trampling upon, the desecration, and the defacement. I think all those terms are in fact equivalent to physical defilement. I think we are talking about the same thing, and in fact I would have argued, if it had come up, that basically what we would have been doing would be duplicating what we already have in there by way of terms that were trying to denote some type of destruction of the American flag.

Mr. DOUGLAS. Mr. Speaker, first of all, what this points up is basically that my point is that we cannot make a statute do what the committee, at least on the House side, wanted it to do.

When the gentleman from California [Mr. EDWARDS] spoke on the floor of the House on September 12, he tried to explain what the word "deface" meant in the bill, and let me quote him from the RECORD of September 12: "The bill expressly prohibits defacing the flag. Defacing includes soiling."

That is plainly wrong. The same dictionary says that "deface" means "to destroy or mar the face or the looks of; to disfigure."

Actually the disfiguring is what the flag was covered by under the bill, and the soiling was not covered in the bill at the time we took it up, the last time we voted. It is now covered because of the word, "defile." "Defile" says "to make filthy; to foul."

So the bottom line is this, and I think this points up the whole problem. To deface or defile, either one, requires action and conduct, and it is that expressive conduct that the Supreme Court said Gregory Lee Johnson could do under the first amendment. They did not say he was somehow only making a speech about the flag; he was physically desecrating the flag by burning it. And now the very same Members, the 20 Members who voted against that in the committee when I offered it, suddenly find it is a neat idea when it comes back from the Senate.

Mr. HUGHES. Mr. Speaker, will the gentleman yield further to me?

Mr. DOUGLAS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, reading from the definition of "defile"—and the gentleman, I am sure, knows this—it also talks in terms of "to tread underfoot," which points up, as I have suggested, that it would be duplicious, because we have "trampled upon."

But going on in the definition of "defile," it also talks in terms of "to profane" or "to sully," and standing alone, without the term, "physical," I think it would invite some challenge. The way the Senate has corrected that, and I think properly so, does term it a physical defilement, and while it is duplicious, it does not do any harm.

Mr. DOUGLAS. Mr. Speaker, if I may reclaim my time, I think the bottom line is clear. We cannot do this by statute. That is why I am going to vote against the statute. We will be getting a vote next month under the agreement with the cosponsors of the amendment on a constitutional amendment, and I would suggest that is the correct answer for at least three reasons.

Even if the gentleman from New Jersey [Mr. HUGHES] were correct and the statute were OK, it does absolutely nothing for the 48 States that have flag statutes on the books. The only way that can be done is if they all come into session and amend their State laws. The argument that I heard that we do not want to have a constitutional amendment because it will require action by the 50 States proves the point. The States will all have to act either on an amendment or to change their own statutes.

This statute is a sham. Unless a U.S. marshal or FBI agent is physically present, no local police officer can make an arrest under this United States Code provision. There is nothing in this law that permits a sheriff, a State police officer, or a local police officer to make an arrest when they see this Federal statute being violated.

Finally, the Justice Department says the statute is unconstitutional. I do not see how, with that very clear expression on their part, they could defend the constitutionality of this thing.

So let us get on with it. Let us vote either for it or against it. I am going to vote against it because it is a mess. But the next time, let us be ready next month to do the job right and stop fiddling around. Let us vote for the constitutional amendment.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. KASTENMEIER], chairman of the Subcommittee on Courts, Intellectual Property, and the Administration of Justice.

□ 1200

Mr. KASTENMEIER. Mr. Speaker, I will be brief.

First of all, I want to make it very clear that I oppose a constitutional amendment. I think that would be a disaster to the first amendment.

Second, we are not, of course, here today debating a constitutional amendment. We are debating the statute. I very much support it, the statute we presented last month in the House of Representatives that went over to the Senate. I think even the Senate version today will be overwhelmingly approved by the House, and I would predict it will be signed into law by the President.

Mr. Speaker, I think it is our responsibility, when a statute is invalidated, to attempt to remedy, to repair, that statute, and that is what we are attempting to do, even when on constitutional grounds that becomes very, very difficult. I concede that point. I do not think we can be sanguine that even the House version would necessarily be accepted by the Supreme Court, but I think that was a course of action we had to take.

Now, having said that, I may differ from some of my colleagues who have spoken in support of the amendment today by saying that I think what the Senate did was certainly a disservice to what we attempted to achieve—the debate, or course, centers around the term "defile" and whether or not the term "physically defile" is sufficient to render it no longer an expression, a point of view, as would be communicated solely by the word "defile" itself.

So, Mr. Speaker, we are left, I think, sending a bill to the President somewhat less sanguine which the Supreme Court will accept, I regret to say, and I think some of the arguments made against the use of the word "defile" or even "physically defile" are well taken. Nonetheless, it is our sole course of action.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I have high regard for the differing views that are held within the committee and in this House of Representatives on the matter of flag burning, and how we best correct it, and how we best outlaw it. However, a statute is a constitutional dead end. This statute will be held unconstitutional.

Mr. Speaker, this is the second time we have dealt with this statute, but the second time around it will not fly. Take two; it will not fly. Round two; it will not fly either.

Why? Today's Supreme Court, and they made a wrong decision in the end of June, today's Supreme Court will approach a Federal statute with the very same type of methodology and approach that they used with the Texas statute when they declared that law to be invalid and up in smoke with the laws in 48 States.

So, let us not kid ourselves or attempt to fool the American public. If we want to outlaw and prevent flag burning, we ought to do it with an amendment.

The President's amendment, the Michel-Montgomery amendment, is narrowly drawn, carefully drafted, and it does not imperil our Bill of Rights guaranteed under the Constitution.

I happen to think we ought to move on an amendment as soon as possible. Veterans across this country, parents across this country, people across this country want to outlaw flag burning, and the only way to do it is with an amendment on the Constitution.

Mr. Speaker, I am voting no on this proposal.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise today in support of the Flag Protection Act. This bill, with the Senate amendments, is an effort to correct the Supreme Court ruling that allows the physical desecration of our flag. I will vote for this new statute, but I still have big doubts about whether this or any other law can stand up to a constitutional test. I fear this law will be struck down by the courts, using the Texas versus Johnson case as a precedent.

I note that the Senate has added language to prohibit the display of the flag on the floor or ground. Last March, when a Chicago Art Museum allowed the flag to be displayed on the floor, I introduced a bill in the House to add this language to existing law. But that was before the Supreme Court rendered its decision this summer. I think this amendment is an improvement to the original House bill, but I'm afraid this law still may not get the job done.

The only way to guarantee protection of the flag is a constitutional amendment. That is why I joined with Congressman BOB MICHEL in a bipartisan effort to bring the constitutional amendment before the House. Speaker FOLEY has agreed to let us have that vote later this fall. I appreciate his willingness to schedule such a vote.

Approving a constitutional amendment is not easy. It takes a two-thirds vote in both Houses and then three-fourths of the States. But I think the issue is important enough to warrant an amendment to the Constitution and a great majority of my constituents agree.

Some veterans groups support this statute and others want an amendment, but they agree on one thing—we want to protect the American flag from a few nuts out there who are looking for attention.

I hope this new law will work, but I am not optimistic about its chances. I will vote for this bill and continue to push for a constitutional amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, as the former ranking Republican on the Committee on Veterans' Affairs, I have been very much involved in this issue for a long time. I am going to support this legislation today for the same reason that I supported it several weeks ago; that is because the Speaker, Mr. FOLEY, gave the commitment to this body, to every Member, that there would be a vote in this Chamber before we adjourned on a constitutional amendment protecting the flag.

I would ask at this time, Mr. Speaker, if that commitment could be restated.

I know that the gentleman from New Jersey [Mr. TORRICELLI] the Speaker pro tempore is the Acting Speaker. However I will ask him to restate that commitment to this body.

Certainly I would urge every Member of this body to support this legislation today.

The SPEAKER pro tempore (Mr. TORRICELLI). The gentleman from New York [Mr. SOLOMON] recognizes that the Chair is not in a position to make any commitments on behalf of the Speaker of the House.

Mr. SOLOMON. Mr. Speaker, if it is possible before the debate ends to have that information relayed to the body, I am certain that it would get a lot more votes for this legislation.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, first let me express my appreciation to the distinguished chairman of the Committee on the Judiciary for yielding time to me. Let me also acknowledge that what the Committee on the Judiciary has been doing is in essence trying to keep this House and the Congress from making a grave mistake by the adoption of a constitutional amendment. I think that its intentions are noble, and worthwhile and even admirable. At the same time I think that the effort to adopt a statute is as wrong ultimately as a constitutional amendment.

Mr. Speaker, I have listened to the debates, and I have noticed the verbal acrobatics that people have to go through to try to explain away that what clearly is expressive conduct as held by a long line of Supreme Court decisions, is not expressive conduct and that the prohibition of "physical defilement" of the flag in some way escapes being barred by the First Amendment.

Mr. Speaker, there is no rash of flag burning. There has been no epidemic of demonstrated disrespect for the flag since Texas versus Johnson. I think most Americans as all Members of this House, respect and admire the flag as a symbol for all the values for which this Nation stands. We ought to have the courage of our convictions and stand up for those values, for the Bill of Rights and for the Constitution, and by our votes say, "There's no need to improve on the Constitution or the Bill of Rights."

My colleagues, let us not adopt a statute. Let us not adopt a constitutional amendment. Let us adopt a firm resolve to live up to the ideals for which this country has stood for some 200 years. Let us have faith in ourselves and in the Constitution.

Mr. Speaker, I urge that this legislation be defeated.

□ 1210

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH], a member of the Committee on the Judiciary.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to commend the chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS], with whom I am very proud to serve and all the other people on the committee who have worked so hard on this bill.

We have heard a lot of discussion today about the value of a statute versus the value of a constitutional amendment, the difficulty of arriving at a suitable amendment either in a constitutional amendment or in a statute, but I do not think Americans really see the issue framed in those terms. I think Americans see the issue, and maybe I am being a little presumptuous, kind of the way I do. There is a gut instinct that hits you when somebody burns up a flag, when somebody urinates on a flag, when somebody defaces the flag. There is too much in your memory, too much in the Nation's collective memory over the course of the 100 and some odd years that we have used that flag in almost its present state as a significant symbol of what this country stands for.

The gentleman from New York [Mr. WEISS] before me said this country has great values and we ought to stand for them and be true to them, but they are not all contained in the Constitution. They are not all contained in the Bill of Rights. Some of them are contained in Arlington Cemetery. Some of them are contained on the walls of the Vietnam Veterans Memorial. Some of them are contained at Gettysburg.

People just do not believe that if you feel so strongly on an issue that you speak out, that your moral conviction is any greater for having defiled the flag. I do not believe that. There are people who can speak out in this country very well for their issues without defiling the memory of millions of Americans who have fought and died for that flag.

We cherish the memories of those people.

The SPEAKER pro tempore (Mr. TORRICELLI). The time of the gentleman from Florida has expired.

Mr. BROOKS. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this additional time.

Mr. Speaker, we cherish those memories. We cherish the Constitution. We cherish the rights in the Bill of Rights. We cherish the balance struck between individual liberties and society's collective ability to rein in certain conduct, but we also cherish the very symbol, the idea that the flag represents for the people who have served and been injured or died, all those who have come before.

Americans do not see this as an issue whether it is constitutionally exactly correct, whether it should be in a statute or whether it should be in the Constitution. We are trying to strike a balance with this statute. I agree with this balance, but all I can say is, no matter what happens that flag is a symbol of something greater than just the rights in this country. It is a symbol for an awful lot of people and we ought to believe in that and make sure that no one can desecrate this flag.

Mr. Speaker, this statute is the way to do that and I would hope we all vote for it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, let me salute the gentleman from Florida [Mr. SMITH] for a very moving speech on what the flag means to him and what the flag means to all Americans. I can subscribe to the gentleman's expression and to what the flag means to me. I am sure that every Member of the House of Representatives can also subscribe to the sentiments that he expressed, but that is not the question that is before the House of Representatives.

The question also is not whether you favor a statutory approach or the amendment approach. The question is the concurrence in the amendments of the Senate, and the major amendment of the Senate, this bill about which most of the debate on the subject of the motion has been about is the insertion of the words "physically defiles." I believe that there is almost a consensus that the insertion of those two words into the statute of what is prohibited conduct, violation of which

is a criminal offense, makes it more likely that this bill will be struck down as unconstitutional when the statute is litigated in the Supreme Court of the United States.

Now, when the Speaker puts the question in a few minutes, an aye vote will send the statute with those two words and all of its other flaws to the President of the United States for his signature or veto.

A "no" vote will not prohibit the chairman of the Judiciary Committee from making a motion to send this bill to conference, which I would strongly support, because I believe that it is our duty as Members of the House of Representatives who took an oath of office to preserve, protect and defend our beloved Constitution, to make as constitutional as possible any bill that we send to the President for the final step before it is enacted into law.

Voting "aye" today means that the chances are greater that the court is going to strike this down as an unconstitutional congressional attempt to restrict free spreech.

A "no" vote will mean that we can go to conference to try to fix this thing up. I urge a "no" vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRICELLI). Pursuant to the rule, the previous question is ordered.

The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 43, not voting 18, as follows:

[Roll No. 286]

YEAS—371

Akaka	Bentley	Brown (CO)
Alexander	Bereuter	Bruce
Anderson	Bevill	Buechner
Andrews	Bilbray	Bunning
Annunzio	Bilirakis	Burton
Applegate	Billey	Bustamante
Archer	Boehlert	Byron
Armey	Boggs	Callahan
Aspin	Bonior	Campbell (CO)
Atkins	Borski	Cardin
Baker	Bosco	Carper
Ballenger	Boucher	Carr
Barnard	Boxer	Chapman
Bartlett	Brennan	Clarke
Barton	Brooks	Clement
Bates	Broomfield	Clinger
Beilenson	Browder	Coble
Bennett	Brown (CA)	Coleman (MO)
Coleman (TX)	Hubbard	Pallone
Combest	Hughes	Panetta
Condit	Hutto	Parker
Conte	Hyde	Parris
Cooper	Inhofe	Pashayan
Costello	Ireland	Patterson
Coughlin	Jacobs	Paxon
Coyne	James	Payne (NJ)
Craig	Jenkins	Payne (VA)
Crane	Johnson (CT)	Pease
Darden	Johnson (SD)	Pelosi
Davis	Johnston	Penny
de la Garza	Jones (NC)	Perkins
DeFazio	Jontz	Petri
DeLay	Kanjorski	Pickett
Derrick	Kaptur	Pickle
DeWine	Kasich	Porter
Dickinson	Kastenmeier	Poshard
Dicks	Kennedy	Price
Dingell	Kennelly	Pursell
Donnelly	Kildee	Quillen
Dorgan (ND)	Kleczka	Rahall
Dornan (CA)	Kolbe	Ravenel
Downey	Kolter	Ray
Dreier	Kostmayer	Regula
Duncan	LaFalce	Rhodes
Durbin	Lagomarsino	Richardson
Dwyer	Lancaster	Ridge
Dymally	Lantos	Rinaldo
Dyson	Laughlin	Ritter
Early	Leach (IA)	Roberts
Eckart	Leath (TX)	Robinson
Edwards (CA)	Lehman (CA)	Roe
Edwards (OK)	Lent	Rogers
Emerson	Levin (MI)	Ros-Lehtinen
Engel	Lewis (CA)	Rose
English	Lewis (FL)	Rostenkowski
Erdreich	Lipinski	Roth
Espy	Livingston	Roukema
Evans	Lloyd	Rowland (CT)
Fascell	Long	Rowland (GA)
Fawell	Lowery (CA)	Russo
Fazio	Lowey (NY)	Saiki
Feighan	Luken, Thomas	Sangmeister
Fields	Lukens, Donald	Sarpalius
Fish	Machtley	Sawyer
Flake	Madigan	Saxton
Flippo	Manton	Schaefer
Ford (MI)	Markey	Schneider
Ford (TN)	Marlenee	Schulze
Frank	Martin (IL)	Schumer
Frenzel	Martin (NY)	Sharp
Frost	Martinez	Shaw
Gallegly	Matsui	Shays
Gallo	Mavroules	Shumway
Gaydos	Mazzoli	Shuster
Gejdenson	McCloskey	Sikorski
Gekas	McCollum	Sisisky
Gephardt	McCrery	Skeen
Geren	McCurdy	Skelton
Gibbons	McDade	Slattery
Gillmor	McDermott	Slaughter (NY)
Gilman	McEwen	Slaughter (VA)
Gingrich	McGrath	Smith (FL)
Glickman	McHugh	Smith (IA)
Gonzalez	McMillan (NC)	Smith (NE)
Goodling	McMillen (MD)	Smith (NJ)
Gordon	McNulty	Smith (TX)
Goss	Meyers	Smith (VT)
Gradison	Mfume	Smith, Denny (OR)
Grant	Miller (OH)	Smith, Robert (OR)
Guarini	Miller (WA)	Snowe
Gunderson	Mineta	Solarz
Hall (OH)	Moakley	Solomon
Hall (TX)	Mollohan	Spence
Hamilton	Montgomery	Spratt
Hammerschmidt	Moody	Staggers
Hansen	Moorhead	Stallings
Harris	Morella	Stangeland
Hastert	Morrison (CT)	Stark
Hatcher	Morrison (WA)	Stearns
Hawkins	Mrazek	Stenholm
Hayes (LA)	Murtha	Studds
Hefley	Nagle	Stump
Hefner	Natcher	Sundquist
Henry	Neal (MA)	Swift
Herger	Nielson	Synar
Hertel	Nowak	Tallon
Hiler	Oakar	Tanner
Hoagland	Oberstar	Tauke
Hochbrueckner	Obey	Tauzin
Holloway	Olin	Thomas (CA)
Hopkins	Ortiz	Thomas (GA)
Horton	Owens (UT)	Thomas (WY)
Houghton	Oxley	Torres
Hoyer	Packard	Torricelli
Traficant	Volkmer	Williams
Traxler	Vucanovich	Wilson
Udall	Walgren	Wise
Unsoeld	Walker	Wolf
Upton	Walsh	Wolpe
Valentine	Watkins	Wyden
Vander Jagt	Waxman	Wylie
Vento	Weber	Young (AK)
Visclosky	Weldon	Young (FL)
	Whittaker	
	Whitten	

NAYS—43

Ackerman	Hunter	Sabo
AuCoin	Jones (GA)	Savage
Bateman	Kyl	Scheuer
Berman	Lehman (FL)	Schiff
Campbell (CA)	Levine (CA)	Schroeder
Chandler	Lewis (GA)	Schuette
Clay	Lightfoot	Sensenbrenner
Conyers	McCandless	Skaggs
Crockett	Michel	Smith, Robert (NH)
Dannemeyer	Miller (CA)	Stokes
Dellums	Myers	Weiss
Douglas	Owens (NY)	Wheat
Grandy	Rangel	Yates
Green	Rohrabacher	
Hayes (IL)	Roybal	

NOT VOTING—18

Anthony	Florio	Molinari
Bryant	Foglietta	Murphy
Collins	Garcia	Neal (NC)
Courter	Gray	Nelson
Cox	Hancock	Towns
Dixon	Huckaby	Yatron

□ 1234

Mr. ROYBAL and Mr. CONYERS changed their vote from "yea" to "nay."

Mr. DELAY changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to the bill, H.R. 2978, just concurred in.

The SPEAKER pro tempore (Mr. TORRICELLI). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. COX. Mr. Speaker, I missed the last recorded vote, rollcall No. 286, having been detained in conversation with staff following a committee meeting. Had I been here, I would have voted "aye."

PERMISSION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M. FRIDAY, OCTOBER 13, 1989, TO FILE LEGISLATIVE REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 o'clock Friday, October 13, 1989, to file eight legislative reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1495, ARMS CONTROL AUTHORIZATION ACT OF 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 255 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 255

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1495) to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections and each title shall be considered as having been read. All points of order against the bill for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. It shall be in order to consider en bloc as amendments to title II the amendments recommended by the Committee on Armed Services now printed in the bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 255 provides for the consideration of H.R. 1495, the Arms Control Authorization Act of 1989. The rule is open and provides for 1 hour of general debate, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The rule further provides that the bill is to be considered for amendment under the 5-minute rule by titles instead of by sections, and that each title shall be considered as having been read.

The rule waives all points of order against H.R. 1495 for failure to comply with provisions of clause 5(a) of rule XXI (21). This clause would prohibit the consideration of bills that contain appropriations but were not reported from an Appropriations Committee.

House Resolution 255 also makes it in order to consider en bloc as amendments to title II of the bill the amendments recommended by the Committee on Armed Services now printed in the bill. This title includes provisions concerning funding and responsibility for the onsite inspection agency.

Finally, Mr. Speaker, this rule provides for one motion to recommit H.R. 1495.

Mr. Speaker, H.R. 1495 would amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency and the onsite inspection agency. As originally reported, the bill provides $36 million and $50 million in fiscal year 1990 for ACDA and OSIA respectively.

House Resolution 255 is an open rule allowing for the complete consideration of the Arms Control Authorization Act of 1989. In particular, the rule will allow the House to do what it will concerning the onsite inspection agency. I urge my colleagues to support this rule.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and the bill it provides for. This is an open rule which will permit the House to consider H.R. 1495, making fiscal year 1990 and 1991 authorizations for the Arms Control and Disarmament Agency.

Mr. Speaker, this is the same bill that came before the House under suspension of the rules on September 19. Although a majority of Members, 247 to 170, voted in favor of the bill at that time, it failed to receive the required two-thirds majority required for passage under suspension.

The primary reason why H.R. 1495 did not receive the necessary two-thirds vote last time was due to the administration's opposition. The administration's arguments proved convincing to a majority of Members on my side of the aisle. Accordingly, the Foreign Affairs Committee took the bill back for some further work.

I am pleased to report to the House that the administration's concerns have been satisfied in some law language that has been incorporated into a clean bill, H.R. 3361.

Under the terms of this open rule, the Foreign Affairs Committee will be offering the text of H.R. 3361 as an amendment in the form of a substitute to the original bill. If that amendment passes, as I expect it will, the administration will strongly support passage of this ACDA authorization.

Mr. Speaker, legislation involving the Arms Control and Disarmament Agency is always important. This autumn, we have been observing the 50th anniversary of the start of World War II—a war which began after every arms control treaty signed over the previous generation had been systematically violated.

Mr. Speaker, history teaches us that good intentions and treaties are not enough—there has to be appropriate follow-up and verification of compliance. This bill is an important step in the right direction. This bill provides the necessary funding for increased research and analysis concerning the verification of existing treaties; provides the necessary computer resources for the ongoing negotiations at present, as well as for the preparation of arms control scenarios in the future; and, finally, calls for the creation of a compliance bureau at ACDA.

So, we have before us a good bill—a bill which addresses the specific weakness that ACDA itself has identified in the present system. I supported this bill the last time, and I shall support it again today because it strengthens compliance and on-site inspection and so I strongly urge a "yes" vote on this open rule so that this bill can be considered.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to support the rule. It is an open rule. I will have a "buy American" amendment for this particular bill that would cover whatever procurement is necessary.

I appreciate the fact that my amendments have been now accepted in general by most chairmen.

Mr. Speaker, I have pretty much of a pretty bad announcement to make here today, something that maybe America should be looking at very carefully as far as trade and other dynamics. My area lost 55,000 jobs in the last 10 years. This morning it was announced that General Motors will consolidate its van plant manufacturing operations into Flint, MI. That means the Youngstown, OH, area will lose 3,000 decent manufacturing jobs with benefits.

I will tell you what, I am laying it on right here in Congress: We are giving

this country away, we are letting people rip us off. Our industries are trying to rob Peter to pay Paul.

It is right here. The day will come when you will see a rice paddy on the East Lawn of the White House and no one is doing a damned thing about it.

This laissez faire has gone too far. I will be damned if my district is going to keep getting the shaft.

I do not like to be pitted against Flint, MI, with its fine Member, DALE KILDEE. They need the jobs too. The bottom line is we have opened up the gates.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield to me?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Speaker, let me stand here and commend my good friend from the adjacent congressional district. What the gentleman says is just bathed in truth. I know the situation, I have a like situation.

I want to commend the gentleman for his persistence and his tenaciousness in following the "buy American" concept.

I, right now, make the statement on behalf of the Steel Caucus and a lot of congressional friends that both the gentleman and I have talked with that we are going to make sure that we are going to bring this to the attention of this group every day from here on out.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2748, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 254 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 254

Resolved, That any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections and each title shall be considered as having been read. All points of order against the bill for failure to comply with the provisions of sections 302(c) and 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), and with the provisions of clause 5(a) of rule XXI are hereby waived. The amendments printed in section 2 of this resolution shall be considered as having been adopted and shall become original text for the purpose of further amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. On page 3, line 8, strike "prepared by the Committee on Conference" and insert in lieu thereof ", as amended on September 27, 1989, by the Permanent Select Committee on Intelligence".

On page 11, after line 2, insert the following:

"CIA INSPECTOR GENERAL REPORTS

"SEC. 402. Section 17, of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended by striking the first period in subsection (c) and inserting in lieu thereof 'and listing the title or subject of each inspection, investigation or audit conducted during the reporting period.', and by adding at the end thereof the following new subsection:

" '(f) Any report of an inspection, investigation, or audit conducted by the Office of Inspector General which has been requested by either committee.' ".

On page 13, line 7, strike "School" and insert in lieu thereof "College"; and on page 13, line 14, strike everything through line 17 and redesignate subsections (c) and (d) accordingly.

On page 18, after line 16, add the following:

"PRESIDENTIAL REPORT ON COORDINATION OF DRUG INTELLIGENCE ACTIVITIES

"SEC. 704. Not later than April 1, 1990, the President shall submit to Congress a report describing how intelligence activities relating to narcotics trafficking can be integrated, including coordinating the collection and analysis of intelligence information, ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies to the United States Government responsible for interdiction, eradication, law enforcement, and other counternarcotics activities, and coordinating and controlling all counternarcotics intelligence activities.".

□ 1250

The SPEAKER pro tempore (Mr. TORRICELLI). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield 30 minutes to the gentleman from Tennessese [Mr. QUILLEN], pending which I yield myself such time as I may consume.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 254 is an open rule providing for the consideration of the bill H.R. 2748, the Intelligence Authorization Act for fiscal year 1990. The rule provides for 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on Intelligence.

In addition, the rule provides that the bill is to be read for amendment by title, instead of by section, and that each title will be considered as having been read.

Mr. Speaker, House Resolution 254 waives points of order against two specified sections of the Congressional Budget Act against consideration of the bill. Section 302(c) and section 302(f).

Section 302(f) of the Budget Act prohibits consideration of a committee's legislation providing new budget authority, new spending authority, or new credit authority until that committee has filed its section 302(b) report.

Section 302(f) of the Budget Act prohibits consideration of any measure which, if enacted, would cause a committee to exceed its appropriate allocation of new budget authority made pursuant to section 302(b) of the Budget Act.

Mr. Speaker, section 305 of the bill creates new entitlement authority by adjusting the pension benefits for certain CIA civilian service employee's.

Since the Select Committee on Intelligence has not yet filed its section 302(b) report for fiscal year 1990 and it did not receive allocation of new entitlement authority for fiscal year 1990 the consideration of this bill would violate section 302(c) and section 302(f) of the Budget Act.

The rules also waives points of order against the bill for failure to comply with the provisions of clause 5(a) of rule 21, which prohibits appropriations in a legislative bill. Mr. Speaker, section 401 of the bill authorizes the Central Intelligence Agency to obtain commercial remote sensing data by whatever means they deem appropriate.

Because this section would exempt the CIA from a provision in law that requires all Federal agencies to procure commercial remote sensing data from the defense mapping fund, and allows the CIA to spend previously appropriated funds, a waiver is necessary.

Mr. Speaker, the rule further provides that the amendments that are printed in section 2 of this rule shall be considered as having been adopted

and shall become original text for the purpose of amendment.

Finally, Mr. Speaker, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 2748 authorizes a classified level of funding in fiscal year 1990 for the purpose of intelligence and intelligence related activities. Programs that deal with personnel and funding levels are also classified, the actual amounts for the programs are contained in the classified schedule of authorizations, which has been made available for members since September, 21 in the Intelligence Committee offices.

Mr. Speaker, included in the bill are unclassified provisions dealing with administrative and personnel matters for the intelligence community. For instance section 601 permits all employees of the FBI's New York City field office to receive a cost of living increase of between 20 percent and 25 percent to compensate for the high cost of living in New York City.

Section 704 requires the President to submit a report by April 1, 1990, setting forth his plan to integrate and coordinate intelligence activities on international drug trafficking.

Finally, Mr. Speaker, section 104 of the bill provides that no funds may be obligated to support military or paramilitary operations of the Nicaraguan Contras, the bill also continues the ban on the use of funds from the CIA contingency reserve to aid or support the military or paramilitary activities of the Contras.

Mr. Speaker, this bill, which was subject to extensive hearings deals with complicated matters that are vital to our national security. The ability to address these matters in a fair and timely manner requires assistance and cooperation from both sides of the aisle. The chairman, Mr. BEILENSON and the ranking minority member, Mr. HYDE, are to be commended for their efforts in bringing this bill to the floor.

I urge my colleagues to adopt House Resolution 254 and allow the House to proceed to the consideration of this important piece of legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the Committee on Rules, the able gentleman from Massachusetts [Mr. MOAKLEY] for yielding time to me. I compliment him for the fine job he does as chairman.

Mr. Speaker, I would also like to commend the Chairman and the ranking Republican member of the Permanent Select Committee on Intelligence, the gentleman from California [Mr. BEILENSON] and the gentleman from Illinois [Mr. HYDE] for their leading role in putting this bill together.

The work of our intelligence agencies is important to this Nation in many ways that most Americans never know. When they do things right, which is most of the time, we hear very little about them. If something goes wrong, then we hear a lot about that. Capable intelligence agencies are important to the welfare of this Nation in a dangerous world.

At the time of the Rules Committee meeting on this bill the administration provided a policy statement stating that they would oppose the bill unless three specified sections are deleted. The open rule reported by the Rules Committee will allow amendments to be offered to remove the problem provisions.

Let me note that at the time of the Rules Committee meeting the ranking Republican on the House Budget Committee, the gentleman from Minnesota [Mr. FRENZEL], notified the Rules Committee that a majority of the Republican members of the Budget Committee did not support the waiver of two sections of the Budget Act. The majority of the Rules Committee, following the recommendation of the majority side of the Budget Committee, however, did include the budget waivers in this rule. The waivers protect new entitlement authority estimated to be less than $1 million in fiscal year 1990.

The details and specific dollar amounts authorized for many programs covered by this bill are included in a classified report on this bill. The classified annex is available to all Members of the House.

I urge adoption of the rule so that the House can get down to the debate on the measure.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I appreciate having this time yielded to me.

Mr. Speaker, I plan to offer a "Buy American" amendment to the intelligence authorization bill. I was trying to call around and get some more specific information. I was told that all this business is classified, but I can assure the Members that pencils, paper, cars, and other procurement items really should be given some American preference.

I will not take up any more time. I do appreciate this time, and I ask the Members to look carefully and favorably on the "Buy American" amendment. It gives a preference to American firms for those products that are made by Americans in America with some American content.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ARMS CONTROL AUTHORIZATION ACT OF 1989

The SPEAKER pro tempore (Mr. TORRICELLI). Pursuant to House Resolution 255 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1495.

□ 1301

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1495) to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes, with Mr. COLEMAN of Texas in the chair.

The Clerk read the title of the bill:

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL], will be recognized for 15 minutes; the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 15 minutes; the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 15 minutes; and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as part of the Foreign Affairs Committee's ongoing jurisdiction over U.S. arms control and national security policy, we are bringing before the full House today, H.R. 1495, the authorization of appropriation for the Arms Control and Disarmament Agency [ACDA] for fiscal years 1990 and 1991 and for other purposes. This legislation provides the necessary funding for our arms control negotiators and negotiations in Geneva and Vienna and for enhanced arms control verification requirements.

As the members may recall, H.R. 1495 was reported by the Committee on Foreign Affairs last May. Following sequential referral of H.R. 1495 to the Committee on Armed Services, the House considered the legislation under a suspension of the rules on September 19, 1989. Although receiving a vote of 24 to 170, the legislation did not receive the necessary two-thirds majority to pass under suspension due to administration objections.

On behalf of the Committee on Foreign Affairs, I am offering at this time

a committee substitute amendment to H.R. 1495. The text of this substitute is identical to H.R. 3361 and has the full support of the administration. In general, the administration sought to change the policy language concerning the On-Site Inspection Agency. The administration now recommends that this substitute be enacted into law. At this time, I would like to place in the RECORD the Office of Management and Budget statement in support of the committee substitute.

The statement follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration recommends enactment of H.R. 3361.

The Committee on Foreign Affairs Subcommittee on Arms Control, International Security and Science held several hearings before marking up the original bill, which was unanimously approved by the committee. The committee heard from then-ACDA Director General William Burns and Brigadier General Roland Lajoie, the Director of the On-Site Inspection Agency.

TITLE I—ACDA

The objective of the Foreign Affairs Committee historically has been to enhance ACDA's ability to carry out its responsibilities under its mandate for formulating and implementing U.S. arms control policy and for implementing and verifying existing and future arms control agreements.

Committee members have worked together in a truly bipartisan fashion to determine how best to meet these objectives. The committee concluded that in order to meet these objectives additional funds would be needed for external research, personnel and computer resources.

Title I of H.R. 1495 authorizes $35,881,000 for FY 1990 and $37,316,000 for FY 1991 for the Arms Control and Disarmament Agency.

Title I further states that the Director of ACDA should study and report to the Congress on the advisability of establishing in ACDA an Arms Control Implementation and Compliance Resolution Bureau.

Title I also urges the President to establish a working group to examine verification approaches to a strategic arms reduction agreement and other arms control agreements.

A technical provision is also included in Title I which eliminate the need for duplicitous travel orders by ACDA employees which begins in a fiscal year, but is not completed until the next fiscal year.

TITLE II—OSIA

Title II authorizes the administration's request for $49,830,000 for fiscal year 1990 and $48,831,000 for fiscal year 1991 for the On-Site Inspection Agency (OSIA). It also includes a charter for this verification agency established pursuant to the INF Treaty. This new language has the full support of the administration.

I strongly urge my colleagues to support the committee substitute, which enhances and preserves U.S. arms control and national security interests.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support this legislation. I appreciate the comments of my colleague from Florida, the chairman of the Foreign Affairs Committee, DANTE FASCELL. I appreciate the constructive and bipartisan spirit with which the gentleman from Florida approached this bill, particularly his support for my efforts to improve ACDA's arms control verification and compliance capabilities.

Given all the recent activity in arms control, this bill is now more important than ever. In many ways it is the heart and soul of our Nation's arms control efforts—it pays the salaries of our negotiators, it provides funds for supporting their efforts in Geneva, Vienna, and it authorizes funding for the invaluable work of the arms control backstoppers who labor in Washington preparing the U.S. position papers for each of these negotiations.

I just returned from an arms control observers trip to Geneva, Vienna, and Brussels led by Majority Leader DICK GEPHARDT. One message came home loud and clear during our discussions with our arms control negotiators—verification was one of the key issues confronting them. The complexity and detail of their negotiations on verification is staggering. Obviously, everyone agrees verification of these agreements will be the key to our arms control future. This bill provides funds for the critical area of arms control.

We now have negotiations on START, CFE, NTT, chemical weapons, and CSBM to name just a few. This legislation pays their bills. I would also like to add that during our trip to Geneva and Vienna we learned that many other countries were not providing adequate support for their arms control negotiating teams. This bill makes certain that U.S. negotiating teams will have everything they need to do their job effectively. President Bush is firmly committed to having our Nation's best people representing America's interests at the negotiating table. This bill supports the President on this critical issue.

The committee has spent a year and a half engaged in extensive committee oversight of ACDA's operations. We have commissioned several GAO reviews of ACDA's operation, as well as an extensive inspector general report on ACDA.

A major finding of the inspector general report was that ACDA's verification capabilities needed to be strengthened. This bill responds directly to that finding. H.R. 1495 increases ACDA's budget in the area of verification research and analysis. In addition Congressman HYDE has included language calling for the establishment of a compliance bureau at ACDA designed to enhance U.S. efforts to effectively resolve future compliance questions. This bill, with its emphasis on verification and compliance, is a responsible effort to prepare our country for the future task of making sure that the Russians live up to their arms control responsibilities.

Finally, in response to earlier administration reservations about the OSIA language in the bill, Chairman FASCELL and I will offer a bipartisan amendment which will resolve these questions. These changes were worked out with the administration, and with their adoption the administration will support the bill.

This is a very good bill which deserves our support. Support our negotiators in Geneva. Support verification of arms control agreements. Vote "yes" on H.R. 1495.

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank the gentleman from Michigan [Mr. BROOMFIELD] not only for his cooperation but for his determination in seeing to it that the verification aspects of this legislation were enhanced. We on the majority side all felt that this was a distinct improvement in the legislation and we were delighted to have that input.

I also want to thank the gentleman from Michigan for his help with the administration in getting the administration to work with us on the language concerning the On-Site Inspection Agency, which will be incorporated in the substitute. We thought, as we have so many times around here, that we had that problem solved in the original legislation when we clarified the responsibilities of the ACDA director and the Secretary of Defense in relation to the Onsite Inspection Agency. It turned out that the administration did not want us to legislate that specifically. They wanted more flexibility, and the flexibility, of course, is incorporated in the substitute by providing policy guidance through an interagency committee. So with that interagency coordination and with the flexibility it provides, the administration is entirely satisfied, and we are happy to cooperate in order to get this very important legislation passed by the House.

Mr. GOSS. Mr. Chairman, this past weekend I had the unique opportunity to participate in an arms control observer delegation trip to Europe.

My colleagues and I were briefed by some of the highest level negotiators for both NATO and the Warsaw Pact—and I was extremely impressed with their professionalism and commitment to the enormous challenges they face every day.

I commend our negotiating team for the work it is doing to bring about meaningful and verifiable arms control agreements—work that is one of the most important elements in the development of future American foreign policy.

Mr. Chairman, H.R. 1495—the Arms Control and Disarmament Agency authorization bill, as amended in the Foreign Affairs Committee—will help to ensure that we maintain the high

level of performance in arms control negotiation that we witnessed this past weekend.

The amended version of the bill is a bipartisan effort with administration support. In addition to providing needed funding, it focuses attention on the crucial points of verification and compliance.

As we all know, without the means to check for compliance, an arms control treaty is without much merit. The bill we consider today takes significant steps toward setting up the means to ensure compliance once treaties have been negotiated and ratified.

As amended, H.R. 1495 includes a study on the possibility for establishing an agency on arms control implementation and compliance resolution bureau, while calling on the President to set up an arms control verification working group.

These are significant steps toward the ultimate goal of readiness. As we underscore President Bush's commitment to arms control, we must not ignore the changing political and social climate in the Soviet Union. The only certainty in the arena of arms control is that things are ever-changing. It is only prudent to be prepared for change.

Mr. Chairman, H.R. 1495 as amended has several other outstanding features, including additional funding for verification and compliance needs—as well as funding for the on-site inspection agency, which would continue to receive guidance through the interagency mechanism established by the President.

Mr. Chairman, I strongly support this bill, as amended, and I urge my colleagues to do the same.

Mr. DICKINSON. Mr. Chairman, I also have some strong reservations about the bill and support the remarks by the chairman of the Armed Services Committee. Let me add a few comments regarding the administration's view of this matter. When the INF Treaty was about to go into force, the President gave full consideration to how best to organize for implementation of its on-site inspection provision. He directed that the On-Site Inspection Agency be established and located in the Department of Defense. He further decided that OSIA's Director would be appointed by the Secretary of Defense and that all its administrative and logistics support would be provided by DOD. Also by Presidential directive, all arms control policy guidance for OSIA, formulated in the interagency process, is communicated to OSIA by DOD. These Presidential decisions have not been taken lightly. They have been based primarily on the realization that an On-Site Inspection Agency located in the Department of Defense and relying heavily on ready access to the Department's assets and services would maximize the prospect of efficiency and cost effectiveness. Just to give one example, about 80 percent of OSIA's people are military personnel whose salaries are paid by their services without reimbursement by OSIA.

For the same sound reasons the President made these decisions and because the wisdom of these decisions has been fully borne out by the smooth, efficient, and cost-effective operations of OSIA, the administration has strongly opposed the various attempts by the Foreign Affairs Committee to reverse those decisions. That is why we received letters of opposition to H.R. 1495 from key members of the administration like the Secretary of Defense, the President's National Security Advisor, and the Director of the Arms Control and Disarmament Agency, and why the administration threatened to veto that bill. And that was even before the Foreign Affairs Committee resurrected its attempt to authorize the OSIA budget in the Arms Control and Disarmament Agency bill.

Now we hear from the Foreign Affairs Committee that this same administration fully supports this bill. I, and those of you who have been contacted by administration officials on this question, know that the administration has given its support to one section of the substitute bill—section 62 of title II, which, because of the opposition of this House as well as the administration, no longer subordinates OSIA to the Arms Control and Disarmament Agency. The administration continues to oppose, however, any attempt at such subordination, and therefore does not support the authorization of OSIA funds in this bill or the bill's findings that are intended to lay the foundation for such subordination. For these reasons and those explained by the chairman of the Armed Services Committee, I am not convinced that this bill should become law in this form.

Mr. ASPIN. Mr. Chairman, I have some concerns about both the substance and the process surrounding this bill. First, let me address the procedural considerations. H.R. 1495 was reported by the Foreign Affairs Committee in May and sequentially referred to the Armed Services Committee. Title I of the bill was and remains noncontroversial—it merely authorizes funds for the Arms Control and Disarmament Agency and deals with other matters internal to that Agency. Title II, however, causes major difficulties. It deals entirely with an agency of the Department of Defense—the On-Site Inspection Agency. For reasons I will expand on later, the Armed Services Committee reported the bill with an amendment to delete all of title II. The chairman of the Foreign Affairs Committee then asked if I could support the bill if the authorization of OSIA funds was deleted and I agreed to vote for the bill with that condition. The OSIA authorization was deleted; the bill was considered last month under suspension of the rules; I voted for it as agreed, but it did not pass. Now the Foreign Affairs Committee has resurrected the bill by offering a closely related substitute that reinserts the OSIA budget authorization. Furthermore, the OSIA budget has already been authorized by the Armed Services Committees of the House and Senate without controversy as part of DOD authorizations, just as was the case last year.

Now for the substance of the bill. OSIA was established last year, as an agency of the Department of Defense, to implement the on-site inspection provisions of the INF Treaty. The Director of OSIA is a brigadier general appointed by the Secretary of Defense and about 80 percent of its personnel are in the uniformed military services. All of the Agency's administrative and logistic support, transportation, and communications are provided by DOD, and its policy direction, formulated in the interagency process, is communicated to OSIA by DOD. As evidenced by the administration's recent report to the Congress on OSIA, and as agreed even by the Foreign Affairs Committee, OSIA has operated very successfully during its first year and a half of existence. The President's decision to locate OSIA within DOD, with ready access to DOD assets and services, has been clearly borne out in extremely efficient and cost-effective operations that have saved the taxpayer tens of millions of dollars over what would have to be expended were OSIA located elsewhere.

All this being true, the agenda of the Foreign Affairs Committee remains clear in this matter. It was clear last year when an amendment was offered during our floor consideration of Defense authorizations to move OSIA from DOD to the Arms Control and Disarmament Agency. It is clear in H.R. 1495, which contains the erroneous finding that the Arms Control and Disarmament Agency formulates and implements all U.S. arms control policy. This is once again part of the attempt to subordinate OSIA to that agency. Mr. Speaker, this bill is a step in the wrong direction with respect to OSIA, and while certain aspects of the bill have been improved, it continues to represent a policy I cannot support regarding OSIA.

□ 1310

Mr. BROOMFIELD. Mr. Chairman, I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered under the 5-minute rule by titles, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Arms Control Authorization Act of 1989".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FASCELL: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

That Act may be cited as the "Arms Control Authorization Act of 1989".

TITLE I—ARMS CONTROL AND DISARMAMENT AGENCY

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

Subparagraph (A) of section 49(a)(1) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)(1)(A) is amended to read as follows:

"(A) $35,881,000 for fiscal year 1990 and $37,316,000 for fiscal year 1991; and".

SEC. 102. ARMS CONTROL IMPLEMENTATION AND COMPLIANCE BUREAU.

The Director of the United States Arms Control and Disarmament Agency should study, and report to the Congress on, the advisability of establishing in the Agency an Arms Control Implementation and Compli-

ance Resolution Bureau which would be responsible for—

(1) managing the implementation of existing and future arms control agreements;

(2) coordinating the activities of the Special Verification Commission and the Standing Consultative Commission; and

(3) preparing comprehensive analyses and policy positions regarding the effective resolution of arms control compliance questions.

SEC. 103. ARMS CONTROL VERIFICATION WORKING GROUP.

The President should establish a working group—

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

SEC. 104. EXPENSES OF TRAVEL CONTINUING BEYOND THE END OF THE FISCAL YEAR.

Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by inserting after "personal effects" the following: "(including any such travel or transportation any part of which begins in one fiscal year pursuant to travel orders issued in that fiscal year, but which is completed after the end of that fiscal year)".

TITLE II—ON-SITE INSPECTION ACTIVITIES

SEC. 201. ON-SITE INSPECTION AGENCY.

The Arms Control and Disarmament Act is amended by adding at the end the following:

TITLE V—ON-SITE INSPECTION ACTIVITIES

SEC. 61. FINDINGS.

"The Congress finds that—

"(1) under this Act, the United States Arms Control and Disarmament Agency is charged with the 'formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security';

"(2) as defined in this Act, the terms 'arms control' and 'disarmament' mean 'the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control';

"(3) the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

"(4) on-site inspection activities under the INF Treaty include—

"(A) inspections in the Soviet Union, Czechoslovakia, and the German Democratic Republic,

"(B) escort duties for Soviet teams visiting the United States and the Basing Countries,

"(C) establishment and operation of the Portal Monitoring Facility in the Soviet Union, and

"(D) support for the Soviet inspectors at the Portal Monitoring Facility in Utah;

"(5) the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

"(6) the senior officials of the On-Site Inspection Agency include representatives from the United States Arms Control and Disarmament Agency and the Department of State.

"SEC. 62. POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS.

"(a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

"(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

"(c) ROLE OF THE DIRECTOR.—The Director should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 2(d), 22, and 34(c) of this Act.

"SEC. 63. AUTHORIZATIONS OF APPROPRIATIONS FOR ON-SITE INSPECTION AGENCY.

"There are authorized to be appropriated $49,830,000 for fiscal year 1990 and $48,831,000 for fiscal year 1991 for the expenses of the On-Site Inspection Agency in carrying out on-site inspection activities pursuant to the INF Treaty.

"SEC. 64. DEFINITIONS.

"As used in this title—

"(1) the term 'INF Treaty' means the Treaty between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987); and

"(2) The term 'OSIA' means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty.".

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, I am offering this substitute on behalf of the Committee on Foreign Affairs. The text of this substitute is identical to H.R. 3361, and it has the full support of the administration.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

Mr. FASCELL. I just finished, Mr. Chairman, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the substitute amendment is very simple. It is the text of H.R. 3361 which the chairman and I introduced on September 28. It is exactly the same language as that included in H.R. 1495 with only one exception. The OSIA charter language in section 62 has been rewritten to meet earlier administration concerns. The administration supports this new language and the President's senior advisers will recommend enactment of this language.

I would like to thank my friend and colleague, Chairman FASCELL, for working with the administration on this issue. As usual this has resulted in solid legislation which our committee can be proud of.

I would hope all my colleagues would support our substitute amendment.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FASCELL

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment in the nature of a substitute offered by Mr. FASCELL: At the end of the amendment, insert the following:

TITLE III—BUY-AMERICAN REQUIREMENTS

SEC. 301. BUY-AMERICAN REQUIREMENT FOR ACDA.

(a) DETERMINATION BY THE ADMINISTRATOR.—If the Director, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Director is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Director shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by title I of this Act to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Director shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Director shall also report to the Congress on the number of contracts covered under the amendments made by title I of this Act and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) DIRECTOR.—The term "Director" means the Director of the United States Arms Control and Disarmament Agency.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

SEC. 302. BUY-AMERICAN REQUIREMENT FOR OSIA.

(a) DETERMINATION BY THE ADMINISTRATOR.—If the Secretary, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary is authorized to award to a domestic firm a contract for procurement for the On-Site Inspection Agency that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by title II of this Act to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under the amendments made by title II of this Act and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is the buy-American amendment that has been added to much authorization language here. It provides a preference for American goods, if it is made in America with some of the contents being American.

Mr. Chairman, the language is solid. It gives an opportunity for national security concerns for this provision to be waived, and I would hope that the Committee would find favor.

Mr. BROOMFIELD. Mr. Chairman, we have no objection to this amendment. We think it is an improvement. We are happy to accept it on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. FASCELL].

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. FASCELL]?

Mr. MOODY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. MOODY] is recognized for 5 minutes.

Mr. MOODY. Mr. Chairman, I rise to make a point about arms control, specifically about the control of chemical weapons.

The President is to be commended for taking a strong stand on chemical weapons, both in the joint session of Congress when he addressed us and in numerous points along his way, and indeed in his full career. President Bush has spoken out forcefully in favor of preventing an arms race in chemical weapons and in favor of total elimination of chemical weapons.

All of us, I think, were deeply shocked by what happened in the Iran-Iraq war where chemical weapons were clearly used, something we thought we would not see again in this century, and yet it was there.

In 1984 as Vice President, George Bush proposed a draft treaty to the Geneva talks which would totally ban the production of chemical weapons, and he is to be commended on that, as I said.

Mr. Chairman, a key feature of that text the President called for was the immediate cessation of all activity at each chemical weapon production facility in the United States and in the world, recognizing that if we are going to get other countries to stop their production, we have to be bound by the same discipline. He called for immediate cessation of all parties signatured to such an agreement knowing that if we are going to prevent chemical weapon proliferation, it has to be mutual. And in the knowledge that to forego multilateral discipline would open the door for speedup of certain developing countries that want to get in under the wire and begin to produce chemical weapons.

When President Bush spoke to Congress and the Nation in the joint session he repeated the point about immediate cessation of chemical weapon production.

Finally, the President presumably has agreed with the official U.S. position of support for the rolling text of the draft treaty being negotiated in Geneva. I am an observer to the arms control talks in Geneva, and can assure his colleagues that the working treaty text, which the United States is supporting calls for immediate cessation of production. Let me quote that text:

Each state party shall cease immediately all activity of each chemical weapons production facility except required for closure.

Now, Mr. Chairman and Members, I want to say that I am somewhat puzzled and in fact dismayed to find out—to find out in fact, when our House arms talks observer group was in Geneva under the direction of the majority leader, the gentleman from Missouri [Mr. GEPHARDT] and the distinguished ranking member of the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD] that the administration is now saying that the new U.S. policy is to continue production even after the treaty takes effect.

Mr. Chairman, I think that is a very serious reversal in George Bush's historic position. It is a very serious reversal in our national position. Clearly, it opens the door to other countries that want to get in under the wire and commence production. It also means considerable problem in verifying whatever treaty is concluded because zero production is always much easier to verify than some limited number. It will also be destabilizing because of these two effects.

The United States has always stressed the need for tight verification of a chemical weapons ban. And we have always stressed the need for mutual multilateral discipline. Both of these positions have been sound, and have fostered stabilizing chemical weapons regimens.

Are we going to continue with the traditional American position and with George Bush's own Presidential and

historic position, or are we now going to adopt this position now being enunciated. To say that the United States is going to continue production even after the treaty has been signed and brought into effect would seriously erode our leadership role on chemical arms control and reverse the current moves to safety and stability.

I would hope the administration, which I understand is actively reviewing this, would not take this new course. All of us realize that if we are going to stop proliferation of chemical weapons, we have to have a mutually verifiable commitment which binds all parties, including ourselves.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

Mr. FASCELL. Mr. Chairman, the last speaker, the gentleman from Wisconsin [Mr. MOODY], has raised a very troubling issue related to chemical weapons and what seems to be a new administration position to continue binary production after signing a treaty. This is a policy change which we will have to pursue very carefully.

I personally have felt that the President has been extremely forthcoming on the issue of chemical weapons control and has been working on a bilateral and multilateral basis to ban the use and the production, of chemical weapons and to stop the proliferation of chemical weaponry.

Mr. Chairman, chemical weapons risk becoming the poor man's bomb. It takes the leadership of both the United States and the Soviet Union, the two superpowers, if we are going to try to bring about some kind of common sense on the issue of chemical weaponry.

The Congress has debated the issue of development and production of new chemical weapons for the last 8 years. While the issue of new production has been debated, Congress and the administration agree to proceed in good faith with discussions both with the Soviet Union and with all other countries who are part of the Committee on Disarmament in trying to eliminate chemical weapons and the production of them.

□ 1320

Now, the thing that is disturbing is the conflicting statements that are coming out from the administration concerning continued chemical weapons production and a treaty. We are happy to have entered into negotiations with the Soviets with regard to eliminating these weapons and working on the multilateral side. But, on the other hand, saying that we are going to continue the research, development, production, and deployment of binary weapons means that we create a whole new chemical system. If the change in policy is true, it means that the President has done a complete about-face. I hope that is not true, and I hope it is not too late for us in the Congress to have some discussion with the administration and the executive branch about what appears to be a major change in policy.

The policy of continuing binary production after signing a treaty would, in fact, violate the draft treaty then Vice President Bush presented in Geneva in 1984. The 1984 draft treaty reads: "Each party shall . . . cease immediately all activity at each of its chemical weapons facilities." That is article 6 of the 1984 draft treaty.

In addition, such a policy would also violate the current rolling text treaty in Geneva which reads: "Each state party with any chemical weapons production facility shall cease immediately all activity at each chemical weapons production facility except that required for closure." That is article 5 in the rolling text.

My deep fear is that in pursuing this contradictory policy the administration is unwittingly legitimizing the very thing President Bush and the Congress want to halt—chemical weapons proliferation.

It is most important for the President to review and change this policy before it has an adverse impact on the chemical weapons negotiations and on the proliferation of chemical weapons.

I think that is what the gentleman from Wisconsin was talking about. I agree with him. It is something that our Subcommittee on Arms Control and the Committee on Foreign Affairs and I am sure others will be vitally interested in. I thank the gentleman for raising that issue.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to strongly support H.R. 3361. It is important that this body support the arms control process in the strongest of all possible terms. The hostility and mistrust which has characterized United States-Soviet relations for the past 45 years is giving way to a climate of cautious cooperation. Continued improvement will require that we devote all possible efforts to achieving steady progress in mutual, and verifiable, arms control.

H.R. 3361 not only provides for the necessary funding for our negotiators in Geneva and Vienna, but it also authorizes an additional $2 million to further research in the all important area of verification. Public confidence in future United States-Soviet arms control accords will be enhanced by this legislation's earmarking of funds to support research into developing reliable methods of verification.

Of additional note is the authorization of appropriations for the On-Site Inspection Agency for fiscal years 1990 and 1991. With the entering into force of the INF Treaty on June 1, 1988, this country embarked upon a significant political development in our arms control efforts—on site verification. This process of mutual, intrusive, verification has proven to be one of the most successful examples of security cooperation between our country and the Soviet Union to date. It reaffirms that arms reduction agreements have become a legitimate component of this country's national security policy. H.R. 3361 properly reaffirms the mandate of the Arms Control and Disarmament Agency in formulating and implementing our arms control and verification efforts, while maintaining the current operational configuration of the On-Site Inspection Agency.

As this country enters into the more challenging arena of conventional arms control, political as well as technical issues will be of ever greater importance. H.R. 3361 seeks to address the need for more effective interagency coordination by calling upon ACDA to study the advisability of establishing an Arms Control Implementation and Compliance Resolution Bureau. It is important that this body reaffirm the role of ACDA as this country's central continuing body for arms control policy formulation and implementation.

I call upon all my fellow Members to join me in support of H.R. 3361, without amendment. This bill has the full bipartisan support of the Foreign Affairs Committee, and has received the endorsement of the executive branch. It represents our continued commitment to a process vital to the security and welfare of all Americans.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a senior member of the Foreign Affairs Committee and a congressional observer to the Geneva arms control talks, I rise in support of the amendment offered by the chairman and vice chairman of the Foreign Affairs Committee, Messrs. FASCELL and BROOMFIELD. This amendment in essence replaces H.R. 1495, the ACDA/OSIA authorization bill with the text of H.R. 3361, a more balanced and reasonable ACDA/OSIA authorization.

As you know, the President's advisers strongly recommend a veto of H.R. 1495 because of title II of the bill which statutorily changes the structure and policymaking mechanisms for OSIA. This Fascell-Broomfield amendment revises title II so that the present management structure of OSIA continues to be maintained according to administration guidelines. I believe that would enhance, not degrade, OSIA's management and effectiveness.

This authorization provides the necessary funding for arms control negotiations and negotiators in Geneva and

Vienna as well as for enhanced arms control verification requirements. Having just returned from Geneva, Vienna, and Brussels where I observed, first hand, our delicate arms control negotiations, I can verify that strong effective support for our negotiating teams is a must. They are doing a very good job. It is absolutely necessary for us to provide them with the resources and wherewithal to continue their very positive work.

With two exceptions, this substitute amendment is identical to H.R. 1495 which this House passed under suspension by a vote of 247 to 170 on September 19—just 3 weeks ago.

At that time and continuing into today, the administration has expressed concerns about the way the bill is written, especially the policy language pertaining to the role of the director of ACDA and the Secretary of Defense. This amendment modifies the language to reflect the administration's concerns. The administration supports this amendment.

H.R. 1495 itself and this substitute amendment both authorize $2 million more than the administration originally requested. Clearly the recent progress we have made on real, serious arms control warrants this additional funding for verification research, personnel and computer resources. It makes no sense to cut back at this key time when positive developments continue to unfold.

We should recognize the real progress made by the Bush administration toward equitable and fair arms control agreements. President Bush's recent chemical weapons ban proposal shows that we are bold, yet prudent. Our serious posture has, I strongly believe, led the Soviets to remove two obstacles to progress on strategic weapons reductions—their linking of the SDI with the "START" agreement and the existence of their illegal Krasnoyarsk radar in violation of the ABM Treaty. These concessions did not come through unilateral congressional give-aways, but through standing strong and negotiating seriously. The INF Treaty, of course, also proves that. My recent visit further solidifies my beliefs.

In addition, the amendment recommends the serious consideration of establishing an Arms Control Implementation and Compliance Resolution Bureau. Really, our only successful arms control accords are those that can be satisfactorily verified and are continuously complied with. I believe this bureau would enhance our capabilities in these fields making future arms control and reduction agreements more possible and feasible.

The Broomfield/Fascell also maintains the structure and inter-agency coordination system of the On-Site Inspection Agency [OSIA] as originally established by the President. While the Department of Defense is a key player in arms control, it has other critical partners, like the CIA, State Department, and ACDA. The OSIA is not performing a purely military function, but an arms control function directly related to the INF Treaty—an arms control agreement. This legislation reflects that special status. I do not support the total elimination of OSIA language, as the Aspin amendment seeks to do, because of this situation. Title II of H.R. 1495 is flawed. This Fascell-Broomfield amendment corrects those flaws and addresses the relationship between OSIA and ACDA. The Aspin amendment does not adequately focus on the latter issue.

I support the Fascell-Broomfield amendment and urge my colleagues to do the same.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, I wanted to second what the gentleman said. The gentleman from California was, of course, an important member of the team, along with the ranking member, the gentleman from Michigan [Mr. BROOMFIELD] and a number of other Members, all of whom I think would agree with every statement that the gentleman has just made that we have an extraordinarily capable team representing us in Geneva. We have an extraordinarily capable team representing us in Vienna, as well as, of course, our people at Brussels at the NATO headquarters.

I was enormously impressed, I think we all were, with Ambassador Byrd's presentations as well as the gentleman handling the Space bill, Bill Courtney, who also has done an excellent job.

In the testing area, I think we were all enormously impressed by Paul Robinson, who gave us a full explanation of testing issues and that will be coming before the Congress at some point as those two treaties may be ratified.

In the conventional area in Vienna, we met with Steve Ledegar, who is our Ambassador to the CFE reduction talks, and he was enormously impressive, and John Maresca, who was handling the confidence building talks in more of a Helsinki nature rather than bilateral, therefore they are multilateral, and those are under the Helsinki process, and therefore also important in a different way. He was very informative for all of us.

Finally at NATO headquarters we met with Ambassador Taft and his team, who did an excellent job in briefing us.

We also met, of course, with Maynard Glitman, our Ambassador in Brussels.

So I think all of us, regardless of party, regardless of philosophy, came away with a tremendous sense of confidence that we have an excellent team representing us over there.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman.

I would just like to add, Mr. Chairman, that I am confident, as I said, that we will reach an agreement, but more important than that, a good agreement, one that is verifiable and one that will preserve and enhance our security and that of our allies.

I think the one thing that is very important for us to do as a Congress, especially if we can speak with one voice, is to reassure and guarantee to our allies in NATO that we are in strong support of NATO, and even if we reach agreement on these very important treaties that are pending, that we are not going to turn our back and walk away from NATO.

The easy way to put it, I guess, is that you do not quit when you are ahead. Our policy has worked. We have won, if you will, and let us stay with it.

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are entering an important new era in arms control, one which builds on the experiences of the past, and expands the scope of arms control agreements to include on-site inspection of weapons production facilities and missile destruction.

Negotiations with the Soviets are proceeding in the areas of nuclear and conventional arms control. These agreements are expected to be broad in scope, and we can expect that they will include the full spectrum of verification methods. A combination of national technical means—satellites—and on-site inspection can provide the most comprehensive data on compliance with future arms control treaties. The more ways we have to observe compliance, the more certain we can be that a treaty's provisions are being observed.

Future arms control agreements are likely to grow in complexity, requiring complementary verification procedures to assess a broad range of data. We can gain a better understanding of compliance data generated by future treaties if we have a big picture of all aspects of arms control and verification. The importance of arms control verification is underscored by this bill's $2 million increase for verification research, additional personnel, and enhanced computer support.

The substitute bill, H.R. 3361, also makes an important contribution to the process of arms control oversight. The bill seeks to coordinate the roles of the Federal commissions and agencies involved in arms control: The Special Verification Commission, Standing Consultative Commission, Arms Control and Disarmament Agency, and the On-Site Inspection Agency.

It is also important for Congress to coordinate its oversight of the arms control process. The Foreign Affairs Subcommittee on Arms Control, International Security and Science has done a thorough and excellent job of monitoring the development and implementation of arms control policy and its accompanying verification provisions. This subcommittee possesses a valuable institutional memory from which Congress can benefit in its authorizing process. I think it is important to preserve a comprehensive approach to arms control verification, and to include review of on-site inspection provisions in the work of this subcommittee.

I urge my colleagues to support the substitute H.R. 3361 and to oppose any amendments.

□ 1330

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of the Fascell-Broomfield substitute, H.R. 1495. It is an excellent substitute, one that addresses major concerns regarding treaty ratification and compliance.

Mr. Chairman, this Member strongly supports the Fascell/Broomfield substitute to H.R. 1495. It is an excellent substitute, one that addresses major concerns regarding treaty verification and compliance.

The importance of the added verification provisions cannot be overstated. The arms control agreements that are now negotiated—on START, on conventional forces in Europe, and on chemical weapons—are extremely complicated and technical agreements. They can serve the U.S. national interest, but only if we can be sure that all parties comply follow the spirit and the letter of the agreements.

If the Soviet Union does, if fact, violates its arms control commitments, we need to know about it as soon as possible. The Fascell/Broomfield substitute includes added funds to help ensure that verification techniques are adequate. The $2 million in added funds will permit additional personnel, computer resources, and external research to be devoted to arms control verification.

In addition, the distinguished gentleman from Illinois [Mr. HYDE] has worked to include language advocating the creation of a compliance bureau at ACDA. This is an important provision, and he is to be commended. It provides for a much stronger and coherent approach to arms control. It ensures that treaty compliance is addressed at senior levels in the U.S. Government—something that has not been the case heretofore.

Mr. Chairman, because the Fascell/Broomfield substitute provides added attention to verification and compliance, it deserves this body's support.

This Member would also note that the Foreign Affairs Committee, on a bipartisan basis, has worked closely with the administration to craft this substitute. It has the support of the administration. Let me repeat that, because that has been some confusion on this matter—Fascell/Broomfield substitute has the support of the administration.

This Member would urge support of the Fascell/Broomfield substitute to the ACDA authorization resolution.

Mr. GILMAN. Mr. Chairman, I rise to express my strong support for H.R. 1495, a bill authorizing appropriations for the Arms Control and Disarmament Agency for fiscal years 1990, and 1991 and I commend our distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], and the gentleman from Michigan, our ranking minority member of the Foreign Affairs Committee, Mr. BROOMFIELD, for bringing this measure to the floor at this time.

This bill reflects over a year and a half of Foreign Affairs Committee oversight over the Arms Control and Disarmament Agency. The bill is our response to three surveys requested by the Committee on Foreign Affairs by the GAO, as well as one committee mandated inspector general report. And provides the necessary funding for arms control negotiations, for enhanced arms control verification, and for our negotiators in Geneva, Vienna, and Stockholm.

In this age of rapid change and developments in the field of arms control, as well as the necessity for the United States to respond to new Soviet initiatives, this bill sends the right message to the Soviets and demonstrates, unequivocally, that the Congress is profoundly committed to the critical function of the Arms Control and Disarmament Agency.

This is a measure that our colleagues on both sides of the aisle can fully support. As well as the administration. Moreover, this legislation is critically important because it clearly assets the right of the Committee on Foreign Affairs to share joint jurisdiction over arms control issues, especially on-site inspection programs, to verify compliance with the INF Treaty.

Accordingly, I urge all of our colleagues to support this important measure.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend my good friend, the chairman of the committee, the gentleman from Florida [Mr. FASCELL], for having once again persevered to bring this to the floor, even though it came previously and got a majority of the votes on suspension but did not receive enough. I hope the membership will today, in the regular order of business, vote to approve this bill.

It is extremely important for us to have an Arms Control and Disarmament Agency, a place where hopefully significant, legitimate, well-thought-out, rational, and reasoned policy will be employed as to how best to accomplish the goals that most of us in this Chamber and most of the American people really believe in. Arms control is an issue whose time has come, but it is not an issue which has not been important for the previous many years.

There are many of us in this Chamber and in this country who have been working very hard and diligently over the years to bring about some rational common sense in our policy of engaging the Soviets and others in arms control and hoping to bring a policy of reduction in weapons, both nuclear and nonnuclear. The Arms Control and Disarmament Agency, although from time to time taking positions or effecting policy in a way that this Congress has not approved, overall has been a very helpful part of the possible limitation on the profusion of weapons. When it is not used as a political tool, but when it is used as it was originally intended by the Congress, we believe it turns out to be a very effective tool in being able to make rational and capable judgments on how best to effectuate arms control and the overall disarming of many of the weapons of war around the world.

Mr. Chairman, we are going through a significant stage now where things which none of us ever dreamed could take place are taking place, not only taking place but going faster than we ever imagined, and in many instances we are having to run to catch up to events which are moving faster than we are.

Some of our Members just came back from being in Brussels and Geneva and report on the movement. The gentleman from Michigan [Mr. BROOMFIELD], the ranking member of the Committee on Foreign Affairs, himself is so impressed by the vigor and the dedication which both sides in Geneva and the other people involved are taking on arms control.

I can tell the Members that in just 3 short years the difference between the negotiators for the Soviet Union on arms control issues and on human rights issues and on other issues has changed so dramatically that one would think they were dealing with a totally different country, not even the same country. The Arms Control and Disarmament Agency has been a place where policy on these issues could be effected, and we need to have a place like this in our Government for the purpose of carrying out rapid decisions which have to be made in this rapidly changing world.

I would hope that the Members will vote for this. I believe that it is the appropriate thing to do. We have worked very hard on this issue on the Committee on Foreign Affairs, and I hope that the Members will do the right thing in this instance and vote a ma-

jority to pass this bill and hopefully get it to the President so he can sign it and have a place where he can have policy made into reality and hopefully get a safer world.

Mr. HOPKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in reference to some of our colleagues and their comments on chemical weapons, I thought I had better take this time to make at least a couple of clarifying points.

First of all, I appreciate, as I think all other Americans do, the efforts of our President in his remarks before the United Nations and seeking a treaty to rid the world of this menace. The fact of the matter is that the Soviets did not even admit to having much less producing chemical weapons until we started with our binary structuring of chemical weapons. That is a fact. We now have a problem here, and this treaty is sometime off, in my view, from being signed.

Here is one of the basic problems: I have just returned from the Soviet Union a few days ago along with a number of my colleagues, myself and the gentleman from Arizona [Mr. STUMP], who were permitted to see the chemical demil operation by the Soviets in Chapayevsk. We were, in fact, the first Americans, as a matter of fact the first two people from the Western world, to be permitted in there. The Soviets have made a commitment of $152 million in that facility, but the fact of the matter is, after we left there and pointed out some of the flaws that they have as far as technology is concerned, that we were shocked to learn, Mr. Chairman, that they have now announced that they are not going to open that facility to demil chemical weapons.

What does that mean? It simply means that the Soviets right now are at least 3 years away from even having a chemical weapons plant to demil their admitted 50,000 tons of chemical weapons.

It seems to me that one of the things that our administration should be doing, and I proposed this to them, is to recapture the initiative on this issue by offering to the Soviets and their scientists to share our technology with them that we have at Johnson Island. I think this would be a very, very good step forward.

I hope that members of the Committee on Foreign Affairs might consider helping me with that effort in the future.

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute?

If not, the question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. FASCELL], as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NEAL of Massachusetts) having assumed the chair, Mr. COLEMAN of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1495) to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes, pursuant to House Resolution 255, he reported the bill back to the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 11, not voting 21, as follows:

[Roll No. 287]

YEAS—400

Ackerman	Brooks	Cox	Espy	Levin (MI)	Ridge
Akaka	Broomfield	Coyne	Evans	Levine (CA)	Rinaldo
Alexander	Browder	Craig	Fascell	Lewis (CA)	Ritter
Anderson	Brown (CA)	Dannemeyer	Fawell	Lewis (FL)	Roberts
Andrews	Brown (CO)	Darden	Fazio	Lewis (GA)	Robinson
Annunzio	Bruce	Davis	Feighan	Lightfoot	Roe
Applegate	Buechner	de la Garza	Fields	Lipinski	Rogers
Archer	Bunning	DeFazio	Fish	Livingston	Rohrabacher
Atkins	Burton	DeLay	Flake	Lloyd	Ros-Lehtinen
AuCoin	Bustamante	Dellums	Flippo	Long	Rose
Baker	Byron	Derrick	Ford (MI)	Lowery (CA)	Rostenkowski
Ballenger	Callahan	DeWine	Ford (TN)	Lowey (NY)	Roth
Barnard	Campbell (CA)	Dicks	Frank	Luken, Thomas	Rowland (CT)
Bartlett	Campbell (CO)	Dingell	Frenzel	Lukens, Donald	Rowland (GA)
Barton	Cardin	Donnelly	Frost	Machtley	Roybal
Bates	Carper	Dorgan (ND)	Gallegly	Madigan	Russo
Beilenson	Carr	Dornan (CA)	Gallo	Manton	Sabo
Bennett	Chandler	Douglas	Gaydos	Markey	Saiki
Bentley	Chapman	Downey	Gejdenson	Marlenee	Sangmeister
Bereuter	Clarke	Dreier	Gekas	Martin (IL)	Sarpalius
Berman	Clay	Duncan	Geren	Martin (NY)	Savage
Bevill	Clement	Durbin	Gibbons	Martinez	Sawyer
Bilbray	Clinger	Dwyer	Gillmor	Matsui	Saxton
Bilirakis	Coble	Dymally	Gilman	Mavroules	Schaefer
Bliley	Coleman (MO)	Dyson	Gingrich	Mazzoli	Scheuer
Boehlert	Coleman (TX)	Early	Glickman	McCandless	Schiff
Boggs	Combest	Eckart	Gonzalez	McCloskey	Schneider
Bonior	Condit	Edwards (CA)	Goodling	McCollum	Schroeder
Borski	Conte	Edwards (OK)	Gordon	McCrery	Schuette
Bosco	Conyers	Emerson	Goss	McCurdy	Schulze
Boucher	Cooper	Engel	Gradison	McDade	Schumer
Boxer	Costello	English	Grandy	McDermott	Sharp
Brennan	Coughlin	Erdreich	Grant	McEwen	Shaw
			Gray	McGrath	Shays
			Green	McHugh	Shumway
			Guarini	McMillan (NC)	Shuster
			Gunderson	McMillen (MD)	Sikorski
			Hall (OH)	McNulty	Sisisky
			Hall (TX)	Meyers	Skaggs
			Hamilton	Mfume	Skeen
			Hammerschmidt	Michel	Skelton
			Hancock	Miller (CA)	Slattery
			Hansen	Miller (OH)	Slaughter (NY)
			Harris	Miller (WA)	Slaughter (VA)
			Hastert	Mineta	Smith (FL)
			Hawkins	Moakley	Smith (IA)
			Hayes (IL)	Mollohan	Smith (NE)
			Hayes (LA)	Montgomery	Smith (NJ)
			Hefley	Moody	Smith (TX)
			Hefner	Moorhead	Smith (VT)
			Henry	Morella	Smith, Denny (OR)
			Herger	Morrison (WA)	Smith, Robert (NH)
			Hertel	Mrazek	Smith, Robert (OR)
			Hiler	Murtha	Snowe
			Hoagland	Myers	Solarz
			Hochbrueckner	Nagle	Solomon
			Holloway	Natcher	Spratt
			Hopkins	Neal (MA)	Staggers
			Horton	Nielson	Stallings
			Houghton	Nowak	Stangeland
			Hoyer	Oakar	Stark
			Hubbard	Oberstar	Stearns
			Hughes	Obey	Stenholm
			Hutto	Olin	Stokes
			Hyde	Ortiz	Studds
			Inhofe	Owens (NY)	Sundquist
			Ireland	Owens (UT)	Swift
			Jacobs	Oxley	Synar
			James	Packard	Tallon
			Jenkins	Pallone	Tanner
			Johnson (CT)	Panetta	Tauke
			Johnson (SD)	Parker	Tauzin
			Johnston	Parris	Thomas (CA)
			Jones (GA)	Pashayan	Thomas (GA)
			Jones (NC)	Patterson	Thomas (WY)
			Jontz	Paxon	Torres
			Kanjorski	Payne (NJ)	Torricelli
			Kaptur	Payne (VA)	Traficant
			Kasich	Pease	Traxler
			Kastenmeier	Pelosi	Udall
			Kennedy	Penny	Unsoeld
			Kennelly	Perkins	Upton
			Kildee	Petri	Valentine
			Kleczka	Pickett	Vander Jagt
			Kolter	Pickle	Vento
			Kostmayer	Porter	Visclosky
			LaFalce	Poshard	Volkmer
			Lagomarsino	Price	Vucanovich
			Lancaster	Pursell	Walgren
			Lantos	Rahall	Walker
			Laughlin	Rangel	Walsh
			Leach (IA)	Ravenel	Watkins
			Leath (TX)	Ray	Waxman
			Lehman (CA)	Regula	
			Lehman (FL)	Rhodes	
			Lent	Richardson	

Weber	Williams	Wylie
Weiss	Wilson	Yates
Weldon	Wise	Young (AK)
Wheat	Wolf	Young (FL)
Whittaker	Wolpe	
Whitten	Wyden	

NAYS—11

Armey	Dickinson	Sensenbrenner
Aspin	Hunter	Spence
Bateman	Kolbe	Stump
Crane	Kyl	

NOT VOTING—21

Anthony	Foglietta	Murphy
Bryant	Garcia	Neal (NC)
Collins	Gephardt	Nelson
Courter	Hatcher	Quillen
Crockett	Huckaby	Roukema
Dixon	Molinari	Towns
Florio	Morrison (CT)	Yatron

□ 1405

The Clerk announced the following pair:

On this vote:

Mr. Murphy for, with Mr. Quillen against.

Messrs. KYL, BATEMAN, ASPIN, and KOLBE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, OCTOBER 13, 1989, TO FILE CONFERENCE REPORT ON H.R. 2883, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, October 13, 1989, to file a conference report on the bill (H.R. 2883) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes.

The SPEAKER pro tempore (Mr. NEAL of Massachusetts). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1990

The SPEAKER pro tempore. Pursuant to House Resolution 254 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2748.

□ 1407

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. MOODY in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in support of H.R. 2748, the Intelligence Authorization Act for fiscal year 1990. The principal purpose of this bill is to authorize appropriations for all of the intelligence and intelligence-related activities of the U.S. Government during fiscal year 1990. As in the past, the actual amounts authorized are contained in a classified schedule of authorization, which is incorporated by reference into H.R. 2748, and which is available to all members in the Committee offices, along with a classified annex to the Committee's report.

The administration requested a small percentage of real growth for fiscal year 1990 over the amount Congress appropriated for intelligence in fiscal year 1989. The Committee recommends a slightly lower level of funding than that requested by the President. Some proposals have been recommended for deferral or deletion, while a few have been increased. The Committee believes that the recommended authorization is a reasonable balance between needed capabilities and prudent cost.

Members should understand that the Intelligence budget is largely a subset of the Defense budget. Almost all of the Intelligence budget is contained within the Defense budget, both for reasons of security, and because the majority of intelligence activities are conducted by elements of the Department of Defense. Thus, increases and decreases for Intelligence are largely changes within the Defense budget, and are not direct changes to the Federal budget as a whole.

Mr. Chairman, as it does every year, the Committee has worked very closely with the Committee on Armed Services to produce recommendations for the authorization of appropriations for intelligence-related activities over which the two committees share jurisdiction. The amounts authorized for intelligence-related activities by H.R. 2748 are, therefore, fully consistent with those authorized by H.R. 2461, the fiscal year 1990 Defense authorization bill, which passed the House on July 27. Both committees agreed on these amounts, I want to say that I, and other members of Intelligence Committee, appreciate the advice and cooperation of the members and staff of the Committee on Armed Services in this effort.

Mr. Chairman, in addition to the authorization of appropriations, H.R. 2748, contains a number of legislative provisions.

Of greatest interest to the Members, perhaps, will be provisions relating to Nicaragua.

Section 104 is a provision similar to that enacted in the fiscal year 1987, 1988, and 1989 Intelligence Authorization Acts. It provides that any assistance to the military or paramilitary activities of the Contras by any department or agency of the United States must be explicitly authorized by law for that purpose. No such assistance has been authorized by H.R. 2748.

Of more topical importance is H.R. 2748's restriction on funding connected with the Nicaraguan election to be held in February.

As you know, the administration has said that it will not seek covert aid for the opposition in the Nicaraguan election. H.R. 2748 authorizes no funds whatsoever for covert support to opposition parties or candidates in that election. Furthermore, the classified schedule of authorizations prohibits use of the CIA's reserve for contingencies, for such purpose. The only mechanism left to the administration, should it change its mind, is a reprogramming—that is, an official administration request to take funds appropriated for another purpose and reprogram them for this purpose. However, such a reprogramming would require the approval of four separate congressional committees—the House and Senate Intelligence Committees and the House and Senate Appropriations Committees.

Mr. Chairman, there are several other legislative provisions in H.R. 2748.

Title III contains provisions which make conforming and corrective changes in legislation affording retirement, survivor and death-in-service benefits to former spouses of CIA employees and which establish special retirement annuity computation and portability rules regarding overseas service for certain CIA employees covered by the Civil Service Retirement System.

Title IV contains provisions relating to the CIA, including section 401, which exempts the CIA from a provision of law requiring that all Federal agencies procure commercial remote sensing data from the Defense Mapping Agency.

Section 402, which requires the CIA to provide the House and Senate Intelligence Committees with a list of each

audit, inspection, or investigation conducted by the CIA inspector general, and to provide the committees with a copy of any report of such audit, inspection, or investigation which the committees request.

Title V contains several provisions relating to intelligence components of the Department of Defense, among others.

Section 501, which authorizes the Secretary of Defense to provide foreign language proficiency pay to civilian employees of the Department of Defense who are proficient in a foreign language the Secretary determines is important for the effective collection, production, and dissemination of foreign intelligence and who are serving in an intelligence or intelligence-related position.

Section 502, which authorizes the Secretary of Defense to accept, use and maintain gifts made to further the educational activities of the Defense Intelligence College.

Section 601 makes change to the OPM/FBI demonstration project applicable to the New York FBI office, authorized in the fiscal year 1989 Intelligence Authorization Act, in order to permit the project's cost of living allowance to be provided to all support employees in the FBI's New York office.

Section 703 directs the President to issue financial reporting and disclosure regulations applicable to the members of the President's Foreign Intelligence Advisory Board.

Officially, section 704 requires the President to submit a report to Congress by April 1, 1990, setting forth a plan to integrate counternarcotics intelligence activities.

All of these legislative provisions were approved by the Committee without objection from either side of the aisle.

Mr. Chairman, H.R. 2748 enjoys strong bipartisan support within the Committee. It is the product of an excellent working relationship among Members and staff who have carefully assessed the needs of intelligence and bring before the House recommendations that, we believe, are consistent with both our national security needs and with the state of the Nation's finances.

Mr. Chairman, I want to commend the gentleman from Illinois [Mr. HYDE], the ranking Republican member of the Committee, for his wise counsel, his help, and his very collegial and cooperative approach to the Committee's business has been enormously helpful.

I also would like to pay tribute to the hard work, dedication, and professionalism of all of the Committee's staff members, and particularly note the contributions of three staff members who have served the committee exceptionally well since its inception in July 1977 and who now go on to other endeavors: Marty Faga, who is now Assistant Secretary of the Air Force for Space; Duane Andrews, who has been nominated for the post of Assistant Secretary of Defense for Command, Control, Communications, and Intelligence; and Michael O'Neil, who now serves as an assistant to the Speaker of the House. Each has made a major contribution to the successful conducting of this Nation's intelligence activities.

In closing, Mr. Chairman, I urge Members to support H.R. 2748. It provides what is needed of America's intelligence agencies, and it strengthens the ability of the House, through its Intelligence Committee, to exercise meaningful oversight of intelligence activities.

□ 1410

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to support this bill. My good friend, the distinguished chairman of the Intelligence Committee, has ably summarized the provisions of this legislation. I wish to assure the House that your intelligence committee has comprehensively reviewed the administration's authorization request for the various U.S. intelligence programs, and under the auspices of our program and Budget Authorization Subcommittee, members of the Intelligence Committee heard, during a series of 11 hearings, more than 30 hours of testimony on the programs covered by this authorization bill. After thorough consideration of these programs and further discussions between members of the committee and administration officials on some matters, I believe we have been able to bring a bill to the floor which is basically acceptable to all or nearly all of our committee. In no small part this achievement has been due to the exceptional leadership of Chairman BEILENSON. The gentleman from California's conscientious, scrupulously fair and thoughtful approach to our committee's serious responsibilities continues to be a model of professional legislative conduct for all of us who have had the privilege of serving with him. These qualities and his lively good humor have earned him the admiration and respect of every member of the committee, and mine in particular.

Perhaps at this point, it would be appropriate to note also that the work of the committee on the often complex and difficult issues addressed by this bill could not have been so effectively accomplished without the long hours of excellent supporting work by our exceptionally talented staff. Therefore, I would like to specifically recognize the efforts of Tom Latimer, Mike O'Neil, Tom Smeeton, Marty Faga, Duane Andrews, Bob Fitch, Ken Kodama, Virginia Callas, Bernie Raimo, Diane Dornan, Louis Dupart, Steve Nelson, Jeannie McNally, Sharon Curcio, Dee Jackson, Cathy Eberwein, Karen Schindler, Jack Keliher, Bernie Toon, Calvin Humphrey, Dick Giza, Merritt Clark, and Angel Torres. In particular, however, I want to extend my sincere gratitude and warmest wishes to Marty Faga and Duane Andrews, the two most senior members of our Program and Budget Authorization Subcommittee staff. After more than 12 years of exemplary service to our committee, this is the last intelligence authorization bill on which we will have the benefit of their unparalleled expertise and sage advice. Both of these dedicated gentlemen have provided us with scrupulously nonpartisan professional staff support. Regrettably for our committee, their talents and achievements have been widely recognized beyond the attic confines of our committee offices, and both will be assuming senior positions of responsibility in the executive branch. Marty will shortly be sworn in as Assistant Secretary of the Air Force for Space Programs. Duane has been nominated for the position of Assistant Secretary of Defense for Command, Control, Communications and Intelligence. We are profoundly sorry to be losing them, but we wish them the best good fortune in their new duties.

In addition, I congratulate Mike O'Neil, the committee's chief counsel from its creation and a guiding light in our legislative actions over all of those years. Mike has assumed a new position of responsibility on the Speaker's staff.

Let me now return to the substance of this bill and mention two important aspects of it. First of all, the administration's policy decision, after its lengthy consultations with the congressional leadership, has been not to seek covert aid to the internal political opposition in the forthcoming Nicaraguan elections, but to rely just on the package of overt aid to the election process through the National Endowment for Democracy [NED]. I have the highest respect for NED's capabilities and efforts, and I am a strong supporter of NED programs, which are designed to assist the democratic process rather than provide direct aid to any candidate.

Second, H.R. 2748 calls for the President to submit a report to the Congress by April 1 next year, describing how counternarcotics intelligence activities can be integrated, including coordinating the collection and analysis of intelligence information, ensuring the dissemination of relevant information to the various officials responsible for narcotics policies and activities,

and coordinating and controlling all counternarcotics intelligence activities. This report should help to focus our attention better on the degree of progress we are making on this important aspect of our war on drugs and on problem areas where more intensive or imaginative efforts are required. At this point, our committee has concluded that there is no focal point for counternarcotics intelligence. Nevertheless, we believe the Director of Central Intelligence has taken the first step in that direction through the creation of a Counternarcotics Center. Hopefully, such steps will help us develop a better integrated system for assessing the value of counternarcotics intelligence information available, pinpointing the necessary requirements for further collection and analysis, and coordinating the collection, analysis, and dissemination of intelligence information needed to support U.S. counternarcotics activities.

In conclusion, I urge the House to pass H.R. 2748.

□ 1420

Mr. BEILENSON. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES], our distinguished former chairman.

Mr. STOKES. Mr. Chairman, I rise to speak to section 504 of the bill which directs the Secretary of Defense to establish an undergraduate training program at the Defense Intelligence Agency aimed at facilitating the recruitment of women and minorities.

During my tenure on the Intelligence Committee, I became concerned about the minimal representation of women and minorities throughout the intelligence community. I found that they were vastly underrepresented throughout the professional grade structure. Several reasons were offered in explaining this problem. Generally, it was that the intelligence agencies could not compete with the private sector in attracting women and minorities with skills critical to the performances of their mission.

Consequently, in an effort to level the recruitment playing field between the private sector and the intelligence agencies, the fiscal year 1987 Intelligence Authorization Act directed the Director of Central Intelligence and the Secretary of Defense to establish an undergraduate training program at the Central Intelligence Agency and the National Security Agency. To date, this program is viewed with wide approval by both CIA and NSA, and presently has over 80 students participating. While overall success of the program will be judged in future years, both CIA and NSA acknowledge that they expect this program to have a positive effect in eliminating the problem of underrepresentation in the professional grades of women and minorities.

Section 504 establishes a similar program at the Defense Intelligence Agency which is also experiencing difficulty in attracting women and minorities with skills critical to its mission. Not only is DIA not able to compete with the private sector, but they are presently faced with a situation whereby they cannot compete with their colleagues in the intelligence community. This unfortunate circumstance is a result of the undergraduate training program, not being extended to the DIA. Section 504 rectifies this situation, not only as it relates to the private sector, but also within the intelligence community itself. It is expected that the same success experienced by NSA and CIA will occur with the initiation of the undergraduate training program at DIA.

I would like to commend the chairman, Mr. BEILENSON, for his leadership in fashioning section 504 of this bill. I think it is going to make a significant difference at DIA.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SHUSTER], one of the more valuable members of our committee.

Strike "Ohio," and make it "Pennsylvania."

Mr. SHUSTER. Mr. Chairman, Pennsylvania intends to annex Ohio, but, as a matter of intelligence, that is still classified.

Mr. Chairman, I wish we lived in a world where it was not necessary to have intelligence agencies. I wish we lived in a world where we could trust the other governments with which we deal, where we had no need for gathering intelligence and where we had no need, especially, for covert operations against terrorists and dictatorships around the world, but that unfortunately is a world of make-believe.

Mr. Chairman, if we, as Americans and as Members of this body, do not see the world as it is rather than as we wish it were, then we in our country stand to suffer at the hands of tyrants. From the code breakers of World War II, to the Berlin tunnel, to saving Italy from communism, to more recent intelligence successes of which we cannot speak, intelligence has helped secure our country. Intelligence has helped make not only America a better land, but the world a freer and safer place, and yet we see our intelligence agencies denigrated. We see their hands tied. We see them attacked.

What we need, Mr. Chairman, is not only this authorization for funds for intelligence. What we need is a new authorization which embraces our commitment to intelligence necessary to secure and defend our country and the free world. What we need, Mr. Chairman, is a reconfirmation, a recommitment, to the importance of sound, strong intelligence to help secure America.

A very, very immediate case in point is the Panamanian situation. We criticize what happend last week in Panama, and Mr. Chairman, I was prepared as I went into briefings on the Panama situation, I was prepared to be very critical of this administration. Yet I must say that after hearing the facts I came almost reluctantly to the conclusion that the administration made reasonable judgments, perhaps not gutsy judgments, but reasonable judgments based on the facts available to them at the time. Yet who could expect, who could expect this administration or any administration, who could expect the intelligence agencies of our Government to make gutsy decisions when we have lashed them, put them under the whip, tethered them, told them they best not do anything or we will have them in front of a grand jury; we will have them, as a distinguished career CIA agent now is, under indictment. Who could expect them to do anything but become cautious, if indeed not timid?

Yes, there are those on this Hill who recently have said that they have given this President everything he wanted with regard to Panama, and yet we know there are those who have gone to the White House and threatened them, threatened them with exposure for classified information, have said, "You dare not engage in covert operations."

We cannot have it both ways, Mr. Chairman. We cannot talk out of both sides of our mouth. We had either better decide that we are going to support intelligence necessary for the security of our country, or we should decide that we are simply going to let the bad guys of the world have their way.

So, let us hope that the Panama situation of the last week might be a turning point, that it might be a catharsis, an educational experience for some of us on this Hill. Let us hope that it might make us say that it is time that we recognize that a President, duly elected President, is indeed responsible for foreign policy and that the intelligence agencies of this Government have duly constituted responsibilities. And let us support the effort of our intelligence agencies and of our administration, be they Republican or Democrat. Let us support them as they do the patriotic, yet sometimes dirty, job of securing this country.

Mr. BEILENSON. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. MCCURDY], our distinguished ranking member.

Mr. MCCURDY. Mr. Chairman, I rise today in support of H.R. 2748, the Intelligence Authorization Act for fiscal year 1990. Section 402 of the bill requires the Director of Central Intelligence to provide the Congressional intelligence oversight committees, at

their request, any inspection, investigation, or audit report prepared by the Central Intelligence Agency Inspector General. I would like to briefly explain this provision to my colleagues.

This provision was arrived at in bipartisan fashion and is the result of an inquiry by the Oversight and Evaluation Subcommittee into the effectiveness of the Agency's Inspector General Office. As chairman of this subcommittee, I worked closely with Congressman BUD SHUSTER and the members of the subcommittee in drafting this requirement.

During the subcommittee's inquiry, we requested full access to the inspection, investigation, and audit reports prepared by the CIA Inspector General. We did so not to conduct a "fishing expedition," but to assess the overall quality of these reports and the responsiveness of the Agency in implementing any corrective actions identified in them. After some negotiation, we were granted access to audit and investigation reports. Committee access to investigation reports, however, became a matter of some sensitivity to Director Webster. After a long protracted period of some 4 months of negotiations, we were unable to obtain assurances that full access would be granted.

Director Webster initially ruled that we would have no direct access to these reports. Later, he indicated that committee staff could review selected reports but would not be allowed to take substantive handwritten notes on their content. Finding this situation unacceptable, I met with the Director personally to see if something could be worked out. While staff access to one report was eventually granted, we were unable to obtain assurances that any subsequent access to additional reports would be forthcoming.

Just before marking up the Intelligence authorization bill, I again attempted to reach agreement with CIA Director Webster on full access to these reports and was unable to do so. Mr. SHUSTER and myself therefore felt it necessary to draft section 402, so that committee access to these important reports would be assured in the future.

Mr. Speaker, I think I speak for all the members of the Oversight and Evaluation Subcommittee when I say that we on the Intelligence Committee have a clear responsibility to the Members of the House in assuring that CIA programs are effectively managed and that the resources we authorize are well spent. The CIA Inspector General is supposed to be on the front line in this area, and we have a legitimate and clear mission to see that he is performing his job. We simply cannot make such an assessment without full access to the product that he produces.

I would stress to my colleagues, as I have to Director Webster, that it is in the best interest of the CIA and his inspector general [IG] to keep the intelligence oversight committees fully informed on specific improvements made as a result of IG inspections. It is his responsibility to ensure that appropriate controls are in place to see that managers entrusted to operate programs and activities at the CIA are accountable—and that the intelligence oversight committees can attest to that accountability. Section 402 of H.R. 2748 takes a solid step in this direction, and I urge its passage.

□ 1430

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I would point out to my friend that I not only concur with what he says, but I would emphasize that the Intelligence Committee on a unanimous bipartisan vote adopted the gentleman's amendment.

Mr. McCURDY. Mr. Chairman, I certainly thank the gentleman for his sincerity and for his support throughout this process. As one who is a strong supporter of the intelligence community, I believe he agrees with all of us that this is an important addition to the Intelligence Authorization Act.

I thank the chairman again for his leadership and support and urge adoption of the bill.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. COMBEST], one of the most able and productive members of our committee.

Mr. COMBEST. Mr. Chairman, I rise in support of this authorization bill and urge its adoption.

This committee has a keen interest in counterintelligence, an interest first sparked by the wave of espionage cases in 1985. Most recently, the Hall, Conrad, and Bloch cases show that we continue to suffer losses that are devastating in every way, including financially.

Some progress is visible, but it has been all too difficult to achieve and sustain movement. In its report this year, for instance, the committee notes continued disarray in Embassy security policy and organization, a full 5 years after massive problems were discovered. We have also requested that DOD focus on apparent security lapses during weapons acquisition, which compromise our technology and allow the Soviets to develop countermeasures well before new U.S. systems are deployed.

Especially with today's budget problems, we cannot tolerate these compromises and the financial burdens they impose. The Moscow Embassy fiasco likely will cost us several hundred million dollars. Recovery from the Walker case probably would cost us billions in premature submarine, antisubmarine, and communications investments. Even if we do not or cannot recover our previous relative security in a case like the Walkers', large prior investments are wasted.

While consciousness and even action has been heightened in some areas, one sometimes despairs over the likelihood of fundamental attitudinal changes. The Director of Central Intelligence has publicly warned that Soviet intelligence activities actually have increased during this period of glasnost, however forthcoming the U.S.S.R. might be in other areas. Yet we are instituting new policies and relations with little or no thought to their long-term counterintelligence implications. This is true in areas such as visas, emigration, cultural and business exchanges, arms control verification policies, numbers of diplomatic officials, and diplomatic travel. Sometimes the bad effects could be tempered with only a little forethought, but these policies often are rushed through with virtually no thought at all, and usually with no organized or detailed input from the counterintelligence community.

There are not enough agents in the whole FBI, much less in the Intelligence Division, to even attempt to cope with the resulting threat. I'd be willing to bet a great deal that we'll soon be asked to pony up large additional funds for partial countermeasures. But as we all know, the well is drying up. It is time for the counterintelligence agencies to unite and become more aggressive in highlighting dangers to the national interest. And, for their part, top policymakers throw on the table new and seemingly innocuous "symbols" adding "momentum" to the United States-Soviet relationship.

Mr. BEILENSON. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER], who has been a long-time distinguished member of the committee.

Mr. KASTENMEIER. Mr. Chairman, as a member of the Permanent Select Committee on Intelligence, I want to congratulate the chairman, the gentleman from California [Mr. BEILENSON], for his leadership and, indeed, specifically for his management of the annual authorization bill for the Intelligence agencies. This is the committee's highest priority and this bill is the product of very thoughtful deliberations and an excellent working relationship certainly by Members on both sides of the aisle, including and I should commend as well the gentleman from Illinois [Mr. HYDE], and certainly the staff, in care-

fully judging the needs of the Intelligence agencies.

I am somewhat saddened by either the immediate loss or prospective loss of several key staff members who have been with the committee for many years and upon whom we have been very dependent, as they go on presumably to better and higher responsibilities.

I would also like to commend the gentleman from Oklahoma [Mr. MCCURDY] and his counterpart, the gentleman from Pennsylvania [Mr. SHUSTER], for their work in bringing some accountability as far as the Central Intelligence Agency is concerned, particularly with reference to audit and review activities of the inspector general's office.

□ 1440

I think that is extremely important work on their part. I would, however, comment that while this year, for various reasons I think this bill is less controversial in terms of its implications, perhaps because it is not concerned with Iran or Central America or something else which has been controversial over the years, that I think that is an excellent development.

At the same time I think it should be observed that the Intelligence budget is still too overclassified. Granted, we have come a long way from the days when we did not acknowledge the existence of the CIA or its location or even in what Department budget most of the accounts were authorized. However, a lot more information relating to the Intelligence budget should be made available to Members and the public without running the risk of national security.

For example, although the bill authorizes a classified level of expenditures for the Intelligence agencies, there are estimates in the press as to the size of the Intelligence budget. Certainly, Members and the public have a right to know the amount of money being spent by the Intelligence agencies, and I am hopeful we are reaching a time, a level of maturity, which will enable us to provide more information and a lot less classification with respect to this budget.

Mr. Chairman, in any event, I am pleased to support the bill and recommend its passage.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. BEREUTER], one of the more thoughtful and productive Members—Nebraska. My geography is very poor today.

Mr. BEREUTER. Mr. Chairman, we were authorized by the same act.

Mr. Chairman, this Member rises in support of H.R. 2748 as a member of the House Permanent Select Committee on Intelligence, also, this Member wishes to join with the gentleman from Texas [Mr. COMBEST] in addressing the importance of counterintelligence, and the need to consider counterintelligence improvements.

The Reagan administration focused on counterintelligence much more than did its predecessors. It now appears that the Bush administration may carry the work further. This certainly is desirable, because progress addressing counterintelligence deficiencies requires high-level attention, initiative, and followthrough.

It is this Member's understanding that the Bush administration will be considering counterintelligence program improvements as a part of a major National Security Review policy paper. This policy initiative is expected to reach the President in the next month or two.

Mr. Chairman, this Member served as a military counterintelligence officer, so I have a particular interest and appreciation for this important and often neglected area of national security. This Member has a special interest in methods to improve training for counterintelligence specialists and is committed to that end.

Presently, counterintelligence responsibilities currently are widely scattered throughout the Government. For instance, in addition to FBI intelligence specialists, there are various counterintelligence contingents within the CIA, the Army, the Navy, the Air Force, the Office of the Secretary of Defense, and the State Department. Not surprisingly, coordination among the various contingents in their training methods is not as good as it could or should be.

It seems unlikely that each of these agencies will individually have the best possible and effective training program covering security countermeasures and the many types of foreign intelligence threats. Those threats range from human agents to very sophisticated signals intelligence collection techniques.

Cooperative or joint training programs should lift the quality of U.S. counterintelligence and reduce overall training costs. Resulting personal contacts could also help wear down the barriers between agencies, which have hindered information exchanges as well as operations.

Therefore, this Member hopes and requests that training improvements will be among the actions covered by the forthcoming National Security Review. The House Intelligence Committee awaits these executive decisions and recommendations with considerable interest. Our involvement often will be necessary to implement these decisions successfully, particularly if significant budgetary implications are involved, as some anticipate.

In closing, I urge my colleagues to support the passage of H.R. 2748.

Mr. BEILENSON. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. GLICKMAN], a valued and hard-working member of our committee.

Mr. GLICKMAN. Mr. Chairman, I rise in support of H.R. 2748, the Intelligence Authorization Act for fiscal year 1990, and commend Chairman BEILENSON and the ranking Republican member, Mr. HYDE, for forging a nonpartisan consensus in support of the bill's budget and legislative provisions. There are, I believe, no significant differences among the Intelligence Committee's 19 members on the bill's money provisions. To a large extent, this is due to the integrity and intellectual capability of the chairman, Mr. BEILENSON.

The Intelligence Committee's Subcommittee on Program and Budget Authorization, on which I serve, spent many hours conducting thorough hearings on this Nation's many and diverse intelligence activities.

In these hearings and in other deliberations at both the subcommittee and full committee level, we examined the intelligence needs of the United States, analyzed the President's budget request, and kept in mind the fiscal constraints under which the Congress is laboring. The result, contained in the bill before us, is a carefully crafted and well-measured intelligence program that is both protective of the Nation's security interests and fiscally prudent.

The funds authorized in H.R. 2748 support a necessary array of intelligence programs in support of our many national security concerns. None in my opinion is more important to our national security than those programs aimed at the collection, production, and dissemination of economic intelligence.

In the ever-changing and challenging world we live in, the intelligence community must take the lead in collecting accurate information on international banking, financial, manufacturing, trading, and related activities by whatever legitimate means it can employ, and in providing expert and timely analyses of such information to the executive branch and to the Congress. The relevant intelligence agencies have taken some strides in this direction, and I commend them. But they must do more. The quantity of Soviet weapons in the Urals is important but so is the quality of wheat in the Ukraine.

Furthermore, it is imperative that our Government have competent, up to date accurate information on the role of foreign governments, foreign banks and their affiliates in asserting their influence and control in the world economy, and more specifically in the American economy. America's economic security is being challenged and threatened by new forces in the world. A revitalized and unified

Europe, a strengthened Japan and Pacific Rim specifically come to mind. These forces will dramatically affect U.S. jobs and economic power. They represent a direct competitive threat to the United States, in a similar sense that the Soviet Union has been a threat to United States as the world changes, our intelligence community must recognize that our national security will be influenced by these economic forces as much as they will be by the Soviet threat and perhaps it is time to reallocate some of our limited intelligence resources to accomplish these objectives.

Our intelligence activities must be based on our foreign policy objectives. My point is that in this changing world, economic issues will dominate our foreign policy agenda, beginning to crowd out the historic East-West agenda of the past 40 years. It's time that our intelligence operations have this modern agenda as well, in order to properly serve American foreign policy.

I look forward to discussing these issues with Director Webster and others during the fiscal year 1991 budget cycle and urge all Members to support this year's bill, H.R. 2748.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am happy to yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I want to congratulate the gentleman on his statement and tell him I agree with him. I think that our intelligence community really does need to pay attention to the economic circumstances abroad and to do everything in their power to advance the United States' interests. I would just also add to the gentleman's comments that the intelligence community has to be made free to do its job, and I guess that is a certain degree of self-criticism, because I think that sometimes Members of Congress tend to impede the intelligence community in their ability to do that job.

Mr. GLICKMAN. Mr. Chairman, I am not exactly sure what the gentleman is referring to. We usually are on the same wavelength on most issues.

Mr. LIVINGSTON. If the gentleman will yield further, the comment was enlarging on the gentleman's comments and not at all intended or directed at what he said but to imply that perhaps in the last couple of weeks there have been events in which the intelligence community has been restricted, and we have suffered because of it.

Mr. GLICKMAN. Mr. Chairman, I cannot speak to that. My point is in this statement that as the world changes, as we face the threat of Japan and Western Europe and the whole slew of forces in the world which challenge American economic superiority and affect the jobs of our people and their living standards, the intelligence community has to be keenly aware and be interested in economic intelligence in the world and not just be focused on the historic East-West relationships which have dominated us for the last 40 years. Those are clearly important and critical, but these other objectives are as important as well.

Mr. LIVINGSTON. The gentleman's statement is well taken.

Mr. HYDE. Mr. Chairman, I am informed that the identity of the States of the different Members is no longer classified, so I need not indulge in disinformation.

Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I thank the distinguished ranking member for his cartographical exactitude.

Mr. Chairman, this bill creates, among other things, a new entitlement authority by increasing the retirement accrual rate for employees who have served overseas in the line of duty. It applies to retirees covered by CIA retirement and disability systems as well as NSA and DIE retirees covered in their respective CSRS plans.

None of the agencies, nor the House Select Committee on Intelligence, nor the CBO seem to know the exact number of employees or retirees who will eventually be affected by this legislation.

□ 1450

I am glad to know in one instance the committee has not leaked this important security information. However, the entitlement will only apply to employees covered by the closed Civil Service Retirement System available to employees hired before January 1, 1984.

Initial outlays are expected to be small. However, they will rise as the number of retiring employees increases. A formal CBO cost estimate has not been made available to me and I believe none is available at all. Analysts are reluctant to render any estimate at this time, and I do not blame them, other than to say it will probably cost less than $1 million in fiscal year 1990.

That, however, puts the bill in violation of section 302 (f)(1) of the budget act which prohibits the creation of new entitlement authority in excess of the respective subcommittees' 302 allocation. Neither of the committees handling this bill had any 302 allocations.

It is, I am told, a wonderful bill. I am not anxious to impede its progress. However, to flaunt the budget act and ignore it in small amounts means that we will eventually do it in larger amounts.

Mr. Chairman, we are indulging in a dangerous precedent by ignoring the budget act on this very small and perhaps insignificant item, and for that reason I am compelled to oppose the bill.

Mr. BEILENSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

The CHAIRMAN. The gentleman from Michigan [Mr. WOLPE] is recognized for up to 8 minutes.

Mr. WOLPE. Mr. Chairman, today's floor debate on the intelligence authorization bill is an appropriate moment to focus on a foreign policy issue that has long been neglected by Congress but which is of increasing importance to United States national interests, namely, United States policy toward Angola.

Let me begin by saying: It is an open secret that the United States provides assistance to the UNITA insurgency in Angola.

President Bush, in a letter sent in early January to the UNITA leader Mr. Jonas Savimbi, before President Bush had even taken office, pledged continued U.S. assistance to UNITA. That followed several similarly open statements by President Reagan. On many subsequent occasions, high ranking officials of the administration have publicly referred to U.S. material support of UNITA. Moreover, Mr. Savimbi himself has spoken openly about the levels and nature of U.S. assistance that UNITA receives, most recently in the July 5 issue of Jeune Afrique and in a press conference he held July 5 in Abidjan, Ivory Coast.

These facts speak for themselves: In practice the U.S. support of UNITA remains covert in name only. It is a reality known to any and all persons concerned with this issue.

Yet astonishingly, Congress currently engages in no open public debate on this most central fact of United States policy toward Angola.

In the almost 4 years that this program has been in existence, Congress has voted only once, 3 years ago, on the Hamilton amendment to the intelligence authorization bill, on anything that concerned U.S. assistance to UNITA. The intelligence authorization bill before us today contains not a single overt statement on Angola. All congressional business in this area has been handled in a closed and secretive manner; the administration faces no significant reporting requirements to Congress on its Angola policy, and all major decisions are reached behind closed doors.

This is an approach that Congress refused to tolerate with respect to United States assistance to the Nicaraguan Contras; it can hardly be tolerated in Angola. So long as it is tolerated, U.S. policy will remain hostage to Jonas Savimbi's personal agenda.

It is especially important to open debate today, given important new developments in southern Africa that pose new challenges to American policy.

The United States-brokered Angola-Namibia accord of 1988 laid the basis for the withdrawal of Cuban forces from Angola and the transition to independence in Namibia. That has been followed by the Gbadolite summit of last June, when President Mobutu and 17 other African heads of state brought President Dos Santos and Mr. Savimbi into agreement on a cease-fire and negotiations aimed at a national reconciliation.

If current U.S. policy is in fact sound, it will certainly be capable of withstanding public scrutiny and debate in Congress: The proponents of aid to UNITA should join me today in appealing to Congress to reopen debate on United States policy toward Angola.

In the 3 years since Congress last took any stand on this issue, a multitude of things have happened which make it absolutely imperative that Congress systematically reappraise U.S. policy:

First, Cuban forces are on their way out of Angola. Under the term of the United States-brokered Angola-Namibia accord, 50 percent of the Cuban forces will be gone by November 1, two-thirds by April of next year. Further, Soviet military assistance to Angola is dropping significantly

The Cuban presence in Angola, it should be recalled, was the original rationale for United States support of UNITA; that is now a rapidly receding factor.

Second, current U.S. policy is failing.

Rising, unconditional assistance to UNITA has only encouraged Mr. Savimbi to become even more hardline, and to place new obstacles in the way of peace talks.

Following the Gbadolite summit in June, Savimbi rejected proposals for cease-fire protocols, denied that he had agreed to "integration" of UNITA into existing structures in Angola, in direct contradiction of the African heads of state, attacked President Mobutu's mediation efforts, abandoned the peace process, and failed to attend the round of talks scheduled for September 18 in Kinshasa, despite direct urgent appeals from President Bush and Assistant Secretary of State Cohen.

Against the backdrop of these events, the question has to be asked: Is U.S. patience with Savimbi inexhaustible? Does United States assistance to UNITA undercut other diplomatic efforts to encourage both UNITA and the Angolan Government to moderate their demands and reach fair compromises that lay the basis for an enduring, negotiated settlement?

In fact, the harsh truth is that America's Angola policy is now in disarray. Hardline, pro-UNITA forces have pushd the administration to embrace Savimbi's self-serving interpretation of the understandings reached at Gbadolite and to endorse many of Savimbi's maximum bargaining demands. In the meantime, administration officials must scramble to convince Mr. Savimbi and President Mobutu to get the negotiating process back on track. Not surprisingly, the African heads of state involved in the peace process show less and less confidence in U.S. intentions and evenhandedness.

Mr. RICHARDSON. Mr. Chairman, would the gentleman yield?

Mr. WOLPE. I am pleased to yield to my distinguished colleague, the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, let me say I support the thrust of the remarks of my colleague. I have been concerned about the breakdown of negotiations. I think the President acted a little unexpectedly and not in the best interests of the peace process when he spurned President Mobutu and negotiations broke down. He was here in Washington recently and met with a number of Members. I believe he has told President Bush he will resume negotiations with the Angolan Government shortly, I think that is critically important.

I do support the gentleman's thrust that we should have a much closer look at developments there, especially if there is a barrier toward the peaceful settlement in that part of the world. The Cubans are leaving. South Africa is reducing their presence. I think there has got to be pressure to bring both sides to the negotiating table.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. Mr. Chairman, how much time do I have remaining?

Mr. CHAIRMAN. The gentleman from California [Mr. BEILENSON] has 2 minutes remaining.

Mr. WOLPE. Mr. Chairman, I would like to reserve 1 minute of the time.

Mr. Chairman, I yield to the gentleman from Oklahoma.

Mr. McCURDY. I just want to say to my friend, the gentleman from Michigan, that it is my understanding that Dr. Sivimbi is going to not only meet with President Mobutu, but also has agreed to renewed negotiations. Unfortunately, and I was not there, there was not a clear written statement of agreement in that the Angolan Government did not want to even shake hands in front of the cameras.

It would certainly be easier if there were direct negotiations between UNITA and the Angolan Government and there were not mediators and we had front line states making one statement and other African leaders making others.

But the bottom line is, those Members who would like to see national reconciliation in Angola support negotiations, would like to see negotiations without preconditions, would like to see direct negotiations if possible. We would like to see those negotiations lead to multiparty states and elections. Certainly those Members who believe that bringing democracy to Angola would be a tremendous goal would like to meet with President Santos and others on a basis to further these discussions with Congress as well.

□ 1500

Mr. WOLPE. I thank the gentleman for his observations. Let me say I certainly hope that the cease-fire will be resumed and the negotiation process will again get under way. The point of what I am trying to raise today, however, is there are elements of American policy, not only in my judgment but in the judgment of most of the African heads of states who are involved in trying to facilitate national reconciliation in Angola, that are counterproductive to that end, to the end of national reconciliation.

The administration has not followed through on its expressed desire to demonstrate a degree of balance and impartiality through steps which would begin to normalize relationships with the Government of Angola. We do not have time to expand upon that. Hopefully we can as we move into discussion under the 5-minute rule.

The administration has not followed through on its expressed desire to demonstrate a degree of balance and impartiality through steps which would begin to normalize relations with the Government of Angola. Instead, there is continued, strained communication with the Government of Angola and no evidence whatsoever of a commitment by the Administration to reward the Government for the withdrawal of Cuban forces under the Angola-Namibia accord, for its extensive macroeconomic reforms, and for its decision to negotiate with UNITA. There is still no United States liaison office in Luanda. Nor has the administration supported Angola's full participation in the IMF and World Bank. This implicitly denies us any serious leverage in our dealings with the Angolan Government.

Fortunately, an important and varied segment of Congress has endorsed the call for a more moderate and balanced approach to Angola. House Concurrent Resolution 203 has 74 cosponsors—15 Republicans, 59 Democrats. This signals a growing dissatisfaction with a U.S. policy held hostage of UNITA.

I would make one final observation: There is a deepening awareness, I think, in this country among some of the strong supporters of Jonas Sa-

vimbi, of systematic human rights abuses which ought to give us serious pause about the degree of our commitment there.

Mr. HYDE. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Connecticut [Mr. ROWLAND], one of the more thoughtful members of our committee.

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise to join my colleagues on the Intelligence Committee in strong support of this year's intelligence authorization bill. Mr. Chairman, we have held extensive hearings on a number of aspects of funding for the numerous intelligence programs that are funded by this authorization bill. I am pleased to report that it represents an excellent utilization of scarce resources, both financial and personnel. Our Nation's security depends on good intelligence, and this bill assures that the intelligence community remains solid and able to meet the many challenges that it faces in the coming decade.

I would also like to bring to the attention of my colleagues the very successful meeting that we in the intelligence community had with Dr. Savimbi during his visit to Washington just last week.

One issue that we have looked at in depth is the allegation of human rights abuses by UNITA. Without revealing any classified information, we have found no information that substantiated the allegations that have surfaced both in Europe and the United States that Dr. Savimbi has tortured or killed close associates.

Allegations first surfaced that Savimbi had killed a number of colleagues, one of whom was Gen. Anthony Fernandez. Ironically, Fernandez appeared with Dr. Savimbi last week. Another, Tito Chinjungi, the former Washington UNITA representative, categorically denied allegations that he had been tortured by Savimbi. Indeed, Congressmen DRIER, MCEWEN, BURTON, and SHUMWAY met with Tito shortly after the allegations surfaced. They found him to be in good health and very indignant that anyone would insinuate that he had been tortured. Finally, there is an often repeated allegation that Dr. Savimbi had several individuals burned at the stake in 1983. This story also has not been substantiated. While many Africans still believe in witches, and burning at the stake has been a punishment accorded suspected witches, UNITA has discouraged such activity and, in fact, has established a village where individuals thought to be witches are protected from being burned or stoned to death.

Among all of these alleagations an important issue has been lost, MPLA human rights violations. The April 1989 African Watch Report on human rights entitled "Angola, Violations of the Laws of War by Both Sides" listed violations committed by the MPLA such as indiscriminate mining of civilian areas, forced conscription and unwarranted attacks on civilians. Perhaps the most damaging accusation is the mining issue. We have already seen in El Salvador and Afghanistan the damage and lost limbs that carelessly, or even worse, knowingly have been caused by mines. The MPLA, following classic Soviet military theory, has placed mines all over the countryside. Their legacy will be untold numbers of lives lost and innocent civilians maimed.

In closing, Mr. Chairman, I would like to state that I think the intelligence community and agencies that have been coming before our committee over the past year have done an excellent job in their testimony. I would also like to indicate that as a new member of the committtee, I am greatly impressed with the quality and professionalism and commitment of the staff.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROWLAND of Connecticut. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman a question. In view of the remarks of the gentleman from Michigan [Mr. WOLPE], does the gentleman not think that with the Cubans on a timetable leaving Angola, with the Soviets decreasing their aid to the Communist Government of Angola, if indeed that is true, that our policy is working and that a reexamination of our policy really is unwarranted? We are on a roll, would you not say, if the statements of the gentleman from Michigan are true.

Mr. ROWLAND of Connecticut. The gentleman is absolutely correct. We have had success, things are changing. There may be stipulations at times where people on different sides of a political issue disagree upon what is happening exactly. Indeed, the results have shown that.

Mr. HYDE. Does the gentleman not think that our policy should be determined in this country rather than by the heads of state of African nations, as the gentleman seemed to suggest, that our policy did not meet with their approval? Does the gentleman not think it should stay in the domestic realm?

Mr. ROWLAND of Connecticut. Mr. Chairman, the ranking member is exactly right.

Mr. HYDE. I thank the gentleman.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I thank the gentleman from Illinois for yielding me this time.

Today the House considers the intelligence authorization for fiscal 1990.

In this bill, there is a provision to expand a demonstration project so that all FBI employees in New York City will receive a cost-of-living increase between 20 and 25 percent.

Mr. Chairman, I fully support the committee's efforts to increase the pay of FBI personnel who serve our country so diligently. I applaud the committee for recognizing the important role that clerical and support personnel play in Government service.

I support a cost-of-living increase for FBI agents in New York City. At the same time, I believe that New Jersey's Federal workers must receive equal treatment.

There are roughly 400 FBI agents and support personnel in northern New Jersey who face the same high housing costs, high property taxes, skyrocketing car insurance premiums, and transportation expenses.

In fact, we are losing many of our agents to New York City for the very reason that they will receive a substantial pay increase.

This concern is not limited to northern New Jersey. Federal workers from the suburbs of Washington, DC, Los Angeles, Boston, and Chicago are all in need of a locality pay increase to make ends meet in high cost areas.

Clearly, the current situation demonstrates that the time has come for Congress and the White House to carefully consider revising the general Federal pay schedule so it takes into account differences in local costs of living.

That is why I introduced a bill to provide locality pay for all Federal workers in high cost urban and suburban areas.

The fact that my bill has cosponsors from coast to coast demonstrates that the problem has reached crisis proportions throughout the country.

Mr. Chairman, I support today's action, but I urge my colleagues to support a more comprehensive solution, such as my bill H.R. 3319.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I rise in strong support of this legislation. Over the last 9 months the Permanent Select Committee on Intelligence has worked very hard to scrub the proposed budget for the intelligence community.

We have made a number of changes, and I believe the legislation we have before us today will provide for a strong intelligence program that will address the areas of critical importance to our Nation.

With respect to my remarks earlier in response to Mr. GLICKMAN, I was simply referring to the Panamanian situation last week, and I have to tell this body that I believe very strongly that we in Congress have to free up

the intelligence community to do its job and to do so without congressional over-micromanagement. Or else we cannot be very comfortable when we get up and blame them for not doing their jobs.

I also point out that last week our committee had an opportunity to meet with Dr. Jonas Savimbi, president of UNITA. During that meeting we heard of his explanation of the failure of the peace talks progress in Angola and genuine talks on national reconciliation to begin.

Dr. Savimbi assured us of his desire to meet with President Mobutu of Zaire, and I understand that he will be meeting with President Mobutu very shortly in Europe.

Of course, Mr. Mobutu is the mediator of talks between UNITA and the Marxist-Leninist MPLA.

In addition to that meeting that is going to come about between Dr. Savimbi and President Mobutu, to get the peace talks back on track, hopefully they are going to agree on terms to establish a comprehensive lasting ceasefire.

□ 1510

Peace talks, however, cannot be successful if the MPLA clings to the past and continues to insist on integration of UNITA into the ranks of MPLA. That is unreasonable, but the MPLA refuses to rewrite the constitution which provides for a one-party state, governed by the MPLA. That is unreasonable. They, likewise, refuse to talk directly to UNITA in these peace negotiations. Of course, that is unreasonable.

Finally, and most importantly, the MPLA refused to hold free internationally supervised elections, in which every Angolan will have the right to cast his vote for the party of his choice. Certainly, that is unreasonable.

In one month, Namibians will vote for the first time in free elections that will lead to their country's independence. The agreements that led to resolution of this problem were achieved through long and patient, but also direct, face-to-face negotiations between arch rivals, South Africa on one side and Cuba and Angola on the other. If the MPLA is sincere about ending its civil war, which led to the deaths of countless innocent civilians, it should sit down and talk with Dr. Savimbi and UNITA in direct negotiations and talk seriously about ending the war.

Mr. HYDE. Mr. Chairman, I neglected, when I introduced the gentleman from Louisiana [Mr. LIVINGSTON] to mention that he is one of the most productive and creative members of our committee.

Mr. PAYNE of New Jersey. Mr. Chairman, I stand in strong opposition to the provisions included in the Intelligence Authorization Act proposing to fund the Angolan rebel movement, commonly referred to as "UNITA".

Although the provision specifying the exact amount of funding is classified, we are all aware that this reauthorization would either maintain covert aid funding at current levels or significantly increase their assistance. Notwithstanding, I believe that any additional funding to Mr. Savimbi and UNITA is inappropriate at this time.

In recent months, the world has witnessed Mr. Savimbi consistently undermine the Brazzaville accords bartered by the United States. By refusing to comply with promises he made in Gbadolite, not appearing in Harare for continued peace talks, and by his insistence to abrogate the negotiated cease fire, Mr. Savimbi's irresponsible actions has embarrassed the United States Government.

Today Angola has the infant mortality rate of 148 out of every 1,000 live births, the highest in Africa. The life expectancy of its citizens averages only 42 years, more than 200,000 persons, most of them children, have lost limbs, and untold thousands have lost their lives during this war. But despite the suffering, UNITA continues to escalate the conflict.

Most recently, Mr. Savimbi has expressed a desire to reenter into negotiations, but, in light of his unstable past, I remain a skeptic.

Therefore, I would urge my colleagues to summarily reject additional funding for UNITA. Thank you.

Mr. MOODY. Mr. Chairman, I wish to express my support of the Intelligence Authorization bill before us, and particularly to support of the provisions that relate to the February elections next year in Nicaragua. This bill H.R. 2748 clearly states that no covert funds in this act may be used to influence the upcoming Nicaraguan elections.

I want to applaud the consistent and determined efforts of Chairman BEILENSON, and the other members of the Intelligence Committee, to work out this agreement with the administration. This is a very important agreement.

I appreciate that they agreed with the urgings I and other Representatives have made to the committee.

In passing this bill today, the entire House is sending a very clear signal that we do not support any covert CIA involvement in the Nicaraguan elections.

Thus we are reinforcing a critical principle that we hold so dear in our country: democracy must be arrived at by democratic means. That means above-board procedures and above-board funding of the electoral process. As we seek to facilitate the growth of democracy, we must not ourselves be guilty of using any techniques of support or encouragement that could be deemed undemocratic.

Representative LEE HAMILTON distilled a key lesson from the Iran-Contra affair which is directly relevant to this issue. He said:

A democratic government, as I understand it, is not a solution, but a way of seeking solutions. It is not a government devoted to a particular policy objective, but a form of government which specifies the means and methods of achieving objectives . . . If we subvert that process to bring about a desired end—no matter how strongly we may believe in that end—we have weakened our country, not strengthened it.

This is a magnificent statement.

We cannot legitimately bring democracy to Nicaragua by any covert means. Whatever support we provide must be overt and above board.

H.R. 2748 ensures that principle, and for that reason, this measure has my strong support.

Mr. HYDE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title shall be considered as having been read.

The amendments printed in section 2 of House Resolution 254 are considered as having been adopted and shall be considered as original text for purposes of further amendment under the 5-minute rule.

The Clerk will designate title I.

The text of title I is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1990".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1990 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1990, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations as amended on September 27, 1989, by the Permanent Select Committee on Intelligence to accompany H.R. 2748 of the One Hundred First Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1990 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence

shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1990 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

The CHAIRMAN. Are there any amendments to title I?

Mr. BEILENSON. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the bill is as follows:

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1990 the sum of $28,400,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 250 full-time personnel as of September 30, 1990. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1990, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1990, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1990, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (40 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1990 the sum of $154,900,000.

ELIGIBILITY FOR ANNUITY

SEC. 302. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by redesignating section 236 as section 237; and

(2) by inserting after section 235 the following new section:

"ELIGIBILITY FOR ANNUITY

"SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation.".

PRECEDENCE OF SECTION 224 SURVIVOR BENEFITS OVER SECTION 232 DEATH IN SERVICE BENEFITS

SEC. 303. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence; "Payment of death in service benefits for former spouses is also subject to paragraph (4) of this subsection."; and

(2) by adding after paragraph (3) thereof the following:

"(4) If a former spouse eligible for death in service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224.".

COMPUTATION OF SURVIVOR BENEFIT FOR FORMER SPOUSES

SEC. 304. Section 224(a)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by striking out "and also by an amount" and all that follows through "by the United States".

(b) The amendment made by this section shall be effective as of October 1, 1986.

SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN CIA EMPLOYEES' SERVICE ABROAD

SEC. 305. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN EMPLOYEES' SERVICE ABROAD

"SEC. 18. (a) Notwithstanding any provision of chapter 83 of title 5, United States Code, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b).

"(b)(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer's or employees' first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5, United States Code, that is normally applicable only to so much of an employee's total service as exceeds ten years.

"(2) The portion of the annuity relating to service abroad as described in subsection (a) but that is actually performed at any time after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5, United States Code; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

"(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) shall be computed as provided in the provisions of section 8339(a) of title 5, United States Code, that would otherwise be applicable to such service.

"(4) For purposes of this subsection, the term 'total service' has the meaning given such term under chapter 83 of title 5, United States Code.

"(c) For purposes of subsections (f) through (m) of section 8339 of title 5, United States Code, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (o) of section 8339 of title 5, United States Code.

"(d) The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5, United States Code.".

PORTABILITY OF OVERSEAS SERVICE RETIREMENT BENEFIT

SEC. 306. The special accrual rates provided by section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and by section 18 of the Central Intelligence Agency Act of 1949 for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

REMOTE SENSING PROCUREMENT AUTHORITY

SEC. 401. In the performance of its functions, the Central Intelligence Agency may use its funds to procure commercial remote sensing data by whatever means the Agency deems to be appropriate notwithstanding any provision of law directing the procurement of such data through other Government agencies.

CIA INSPECTOR GENERAL REPORTS

SEC. 402. Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended by striking the first period in subsection (c) and inserting in lieu thereof "and listing the title or subject of each inspection, investigation, or audit conducted during the reporting period.", and by adding at the end thereof the following new subsection:

"(f) Any report of an inspection, investigation, or audit conducted by the Office of Inspector General which has been requested by either committee.".

TITLE V—IMPROVEMENTS TO PERSONNEL AUTHORITIES FOR INTELLIGENCE COMPONENTS OF THE DEPARTMENT OF DEFENSE

SPECIAL PAY FOR FOREIGN LANGUAGE PROFICIENCY

SEC. 501. (a)(1) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1592. Foreign language proficiency: special pay

"(a) The Secretary of Defense may pay special pay under this section to a civilian officer or employee of the Department of Defense who—

"(1) has certified as being proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is important for the effective collection, production, or dissemination of foreign intelligence information; and

"(2) is serving in a position, or is subject to assignment to a position, in which proficiency in that language facilitates performance of officially assigned intelligence or intelligence-related duties.

"(b) The annual rate of special pay under subsection (a) shall be determined by the Secretary of Defense.

"(c) Special pay under this section may be paid in addition to any compensation authorized under section 1604(b) of this title for which an officer or employee is eligible.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1592. Foreign language proficiency: special pay.".

(b) Section 1592 of title 10, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning on or after the later of—

(1) October 1, 1989, or

(2) the date of the enactment of this Act.

DEFENSE INTELLIGENCE COLLEGE GIFT ACCEPTANCE AUTHORITY

SEC. 502. (a) Chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2607. Acceptance of gifts for the Defense Intelligence College

"(a) The Secretary of Defense may accept, hold, administer, and use any gift (including any gift of an interest in real property) made for the purpose of aiding and facilitating the work of the Defense Intelligence College and may pay all necessary expenses in connection with the acceptance of such a gift.

"(b) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(c) In this section, the term 'gift' includes a bequest of personal property or a devise or real property.".

(b) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"2607. Acceptance of gifts for the Defense Intelligence School.".

PERMANENT AUTHORITY TO TERMINATE EMPLOYMENT OF CIVILIAN INTELLIGENCE OFFICERS AND EMPLOYEES OF MILITARY DEPARTMENTS AND OF THE DEFENSE INTELLIGENCE AGENCY

SEC. 503. (a) Section 1590(e)(1) of title 10, United States Code, is amended by striking out ", during fiscal years 1988 and 1989,".

(b) Section 1604(e)(1) of such title is amended by striking out ", during fiscal years 1988 and 1989,".

DEFENSE INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 504. (a)(1) Chapter 83 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1608. Financial assistance to certain employees in acquisition of critical skills

"(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.".

(2) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"1608. Financial assistance to certain employees in acquisition of critical skills.".

SPECIAL ANNUITY COMPUTATION RULES FOR PERIODS OF SERVICE ABROAD FOR CERTAIN DIA AND NSA EMPLOYEES

SEC. 505. (a) Section 1605(a) of title 10, United States Code, is amended—

(1) by striking out "who are subject to chapter 84 of title 5," in the last sentence; and

(2) by striking out the period at the end and inserting in lieu thereof "and in section 18 of the Central Intelligence Agency Act of 1949.".

(b) Section 9(b) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in paragraph (1)(B), by striking "(including special" and all that follows through "note)); and" and inserting in lieu thereof a semicolon;

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) and in section 18 of the Central Intelligence Agency Act of 1949.".

TITLE VI—FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

SEC. 601. (a) Section 601(a)(2) of the Intelligence Authorization Act, Fiscal Year 1989 is amended by striking out "who are subject by policy and practice to directed geographical transfer or reassignment".

(b) The amendment made by this section shall take effect on October 1, 1989.

TITLE VII—GENERAL PROVISIONS

INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 701. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 702. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

CONFLICT OF INTEREST DISCLOSURE REGULATIONS FOR MEMBERS OF THE PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

SEC. 703. (a) The President shall ensure that the provision of classified information to a member of the President's Foreign Intelligence Advisory Board, or to a member of any successor board performing the same or similar function, is consistent with the goal of avoiding any conflict of interest involving the use of such information in connection with a business or financial transaction of the member.

(b) In furtherance of the President's responsibilities under subsection (a), the President shall issue regulations regarding—

(1) periodic disclosure of information on the business and financial interests of each member of the President's Foreign Intelligence Advisory Board, including any business or financial relationship of a member with a foreign government, or any entity directed and controlled by a foreign government, or with any corporation or other commercial entity doing business outside the United States; and

(2) the circumstances in which, based on such business or financial interests, a member shall not be provided classified information.

(c) The regulations required by subsection (b) shall take effect not later than March 1, 1990, and shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives at least 30 days prior to such effective date.

PRESIDENTIAL REPORT ON COORDINATION OF DRUG INTELLIGENCE ACTIVITIES

SEC. 704. Not later than April 1, 1990, the President shall submit to Congress a report describing how intelligence activities relating to narcotics trafficking can be integrated, including coordinating the collection and

analysis of intelligence information, ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies of the United States Government responsible for interdiction, eradication, law enforcement, and other counternarcotics activities, and coordinating and controlling all counternarcotics intelligence activities.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: at the end of the bill, add the following:

"RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN CAMBODIA

"SEC. 705. None of the funds authorized to be appropriated by this Act may be obligated or expended to support military or paramilitary operations by the Noncommunist Cambodian Resistance if, after the date of enactment of this Act, quantities of arms, ammunition or other military equipment are provided by the Noncommunist Cambodian Resistance to the military forces of Democratic Kampuchea (known as the Khmer Rouge) or if the Noncommunist Cambodian Resistance engages in joint military operations with military forces of Democratic Kampuchea."

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, the reason that I have this concern is that in this legislation that we are debating today we are authorizing contingencies for the agency. Funds are not restricted. They are used at the discretion of the President, and basically, does not require congressional approval. Therefore, I am offering this amendment, or considering offering this amendment for the possibility that such funds may be used for this purpose. The amendment that I have is directed at the Khmer Rouge, and basically we have had, recently, a breakdown of the peace negotiations between the non-Communist forces, the Khmer Rouge, the various parties involved in the Cambodia dispute.

However, most importantly, the telling cruelty of the Khmer Rouge has been manifested once again. The failure of the peace conference, the Khmer Rouge proved to be once again, the bloc that, once again, disrupted negotiations. They refused to accept language that condemned their past genocide. They refused to be linked to a process of peace.

I am concerned about our policy in that region, and the reason I am raising this matter is to, once again, hope that American policy somehow directly or indirectly does not link up with the Khmer Rouge.

Now, it is my understanding that in the Foreign Affairs authorization bill of last year, there is a provision that the gentleman from New York [Mr. SOLOMON] offered which reads as follows:

Prohibition on certain assistance to the Khmer Rouge—notwithstanding any other provision of law, none of the funds made available to carry out this section may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina.

My amendment, basically, says that should there be this eventuality, there would be no military or paramilitary assistance that would go to the Khmer Rouge, through an error of joint military operation by the non-Communist forces or through other factors by which American assistance might in some way be used by the Khmer Rouge, and in that event, link up the United States and those that we are backing with this dreaded community of not just traitors, but killers, that right now are threatening any kind of peace in Cambodia.

I would like, if I could, to ask the chairman of the committee, the gentleman from New York [Mr. SOLARZ], if in his judgment, the foreign assistance legislation that passed in 1987 covers the intelligence concern that I have raised in this amendment.

Mr. BEILENSON. Mr. Chairman, I would say to the gentleman, my good friend and our valued colleague on the committee, this gentleman is not the gentleman from New York [Mr. SOLARZ], but he was originally from New York.

However, I appreciate and concur in the gentleman's concerns, as I am sure all Members, both on and off the committee do.

I would say to the gentleman, it is my understanding as well, that the gentleman's amendment is not necessary, that section 908 of the International Security and Development Act of 1985, I believe, already provides that no funds can be used to directly or indirectly promote, sustain, or augment the military or paramilitary capacity of the Khmer Rouge, a broader prohibition than the gentleman's amendment would impose, and accordingly, the amendment of the gentleman, it seems to this gentleman, is not necessary and need not be offered.

Mr. RICHARDSON. Mr. Chairman, what the gentleman is saying in this amendment that he just read does cover intelligence activities?

Mr. BEILENSON. If the gentleman will continue yielding, that is this gentleman's understanding.

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, we get the States confused and this gentleman gets the names confused, so now that all Members are thoroughly confused, I agree with the gentleman from California that the concern of the gentleman from New Mexico is covered by existing law.

No Member supports the Khmer Rouge directly or indirectly, and it is a matter of considerable concern for our committee and other relevant committees, to see that the Khmer Rouge does not receive any benefit from any programs whatsoever, in view of their record.

Mr. RICHARDSON. Mr. Chairman, let me add that the reason I spoke of the gentleman from New York [Mr. SOLARZ] is that the gentleman very much wanted to speak on this provision, and regrettably I do not see him.

Mr. Chairman, in the wake of the failure of the Paris Conference on Cambodia, all parties involved in the Cambodian conflict appear increasingly entrenched. The possibility of civil war is greater than ever. The United States must assure that, should United States military assistance be made available to the non-Communist Cambodian resistance, none of this assistance would fall into the hands of the Khmer Rouge.

During its bloody 7-year reign, the Khmer Rouge presided over the murder of over 1 million Cambodians. This was genocide on the greatest scale.

Throughout the Paris conference the Khmer Rouge refused to accept language in the accord condemning their murderous rule. To this day, the Khmer Rouge continues to defend its actions in Cambodia. Moreover, there is no evidence to suggest that the Khmer Rouge's genocidal agenda has been altered in the least.

In the Foreign Assistance Authorization Act, passed on June 29 of this year, there was a recognition of the need to preclude any U.S. assistance from reaching the Khmer Rouge or from assisting its activities.

U.S. policy in the region must be clear. In the wake of the Vietnamese withdrawal, the United States should do all it can to support the Democratic aspirations of the Cambodian people and to prevent the return of the Khmer Rouge—a return to the killing fields.

By precluding any assistance to the non-Communist resistance should the Khmer Rouge benefit the United States is stating firmly that the Khmer Rouge's return to power is unacceptable.

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(b) PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE.—Notwithstanding any other provision of law, none of the funds made available to carry out this section may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or

any of its members to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to withdraw my amendment, in light of the assurances of the Chairman and the ranking member.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 19. after line 2. insert the following new section:

SEC. 705. RANDOM DRUG TESTING.

The Director of the Central Intelligence Agency shall require random drug testing of officers and employees of the Central Intelligence Agency.

Mr. SOLOMON. Mr. Chairman, let me say I will not read those prepared remarks, but I would like to say this amendment is one in a series that I am offering to all department authorization bills which does require random drug testing of all Federal employees. I do so, without passing anything on the CIA, because the CIA most certainly has an excellent program whereby they can identify illegal drug users, and that program does work very effectively. However, to be fair to all the other Federal employees, if we are going to include some, we must include all. That is what my amendment would do.

Mr. HYDE. Mr. Chairman, would the gentleman yield?

Mr. SOLOMON. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think the gentleman has produced a very good amendment. It is consistent with the amendment he has offered to other agencies, and the Republican side is prepared to accept the amendment.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his support.

To finalize my remarks, Mr. Chairman, we all know interdiction is important, if we are to stop the terrible drug war.

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We know that education of the American people is terribly important. We know that rehabilitation of drug addicts is terribly important. But all these things that we can do will not help unless we stop the demand of the 20 million-plus Americans using illegal drugs. Therefore, I think the American Government has the obligation to set the example.

We already have in the military the fact that 8 years ago 27 percent of the All-Volunteer military admitted to using illegal drugs. Today, because of a random testing program extensively used throughout the military, that figure has dropped to 4.5 percent. That is an 82 percent drop. Think what we could do to the demand for drugs in this country if we could reduce the demand to 82 percent of all the American people. We could win the war on drugs, and the Members can be of help today by agreeing to this amendment.

Mr. Chairman, I am once again offering an amendment which is designed to change the emphasis in the war on drugs. I believe, and so does a majority of the American people, that to turn the tide in the drug war, we need to address the problem of the drug user as well as the drug supplier.

Let us face the facts, we could eliminate every drug lord in the world today and new ones would pop up tomorrow because of the enormous profits involved in this deathly trade. What we have to do is eliminate the market—eliminate the demand.

As the largest employer in the Nation, the Federal Government has a compelling interest in establishing reasonable conditions of employment. It also has the responsibility to set the standard for the private sector. How can we expect the public to be drug free, if we are not? That is why I will be offering this same amendment to all authorizing bills for our Federal agencies and departments.

I am asking that we require the Central Intelligence Agency to randomly test its officers and employees for illegal substance use. Because of the nature of their business, clearly, the CIA should have a random drug testing policy in effect.

The CIA does have an excellent program in place that effectively identifies illegal drug users, but they should be included in our effort to randomly test all Federal employees out of fairness and to set an example.

Mr. Chairman, if you want proof that random drug testing works, just look what happened in our military when it was put into effect. In 1982, by their own admission, 27 percent of our entire U.S. Armed Forces were on drugs. Yet, by 1988, after the implementation of random drug testing programs, the percentage of drug use in the military dropped to 4.5 percent. That is an 82-percent reduction.

The test results are in. And we know that random drug testing works. Now it should be implemented Government-wide and then we could begin to urge the private sector to join in the fight. As far as we know illegal drug use is seriously impairing America's work force. We know the majority of the American public supports penalties for drug users. We know that something must be done. If you support my amendment, something will be done. Support a drug-free Federal Government.

Mr. BEILENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me respond breifly to the gentleman's remarks and to the amendment which he has proffered to the Committee of the Whole. I feel it is incumbent upon those of us who oversee the CIA to respond at least briefly before we accede, as we shall, to the gentleman's amendment.

Let me say that I was a little disturbed by the gentleman's amendment—not a lot, but a little. On the one hand, it does deal with what I am sure we all consider to be the most immediate threat to national security these days, which is the drug problem. On the other hand, by mandating what may be an unnecessary and redundant program, it probably does not make as much sense as it might when applied to other agencies of the Government.

Mr. Chairman, this is basically why this gentleman has asked to be recognized: Members should know that the CIA already maintains an active drug awareness and prevention program, and is actively committed to preventing and detecting drug use among CIA employees.

The CIA's drug detection program includes background investigations of all applicants, specifically focussing on whether applicants may use or abuse drugs or alcohol. Applicants are also given medical examinations that screen urine and blood samples. Pyschological assessments are made of applicants to determine behavior that could indicate abuse of drugs or alcohol. Finally, every applicant is given a polygraph examination to determine whether the applicant has abused drugs or alcohol.

The CIA's program for a drug-free workplace does not end with the acceptance of an applicant for employment. The agency continues to be vigilant against drug abuse among its employees. Current agency policy requires that new employees be subject to reinvestigation after 3 years. This reinvestigation includes another medical examination and another polygraph examination that specifically covers substance abuse during the time of employment at the agency. Agency employees are also subject to periodic routine reinvestigations. A specific issue polygraph examination and/or a fitness-for-duty medical examination may be conducted at any time if there are any indications of drug abuse.

So the gentleman suggests that there may be a point of diminishing returns. The gentleman from New York [Mr. SOLOMON] has concluded presumably that that point has not been reached at the CIA, and I will not quarrel with his conclusion at this time. With some ambivalence, therefore, and with the understanding that the Director of Central Intelligence would be free to fashion a reasonable program to meet what he determines may be the scope of the problem, I will not oppose the gentleman's amendment.

Mr. Chairman, I thank the gentleman from New York [Mr. SOLOMON] for offering the amendment, but I did want to take this opportunity to make clear to the membership that the agency already takes this problem

very seriously, and it has had in effect for some time, I think, quite a substantial program directed toward those ends.

Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

Mrs. KENNELLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask the forbearance of the Members. I was in another meeting, and as a member of the Intelligence Committee, I was not able to get here for general debate on the Intelligence Authorization Act for fiscal year 1990. I am just here now to say that having been a part of the considerations and having been a part of the committee, I want to put on record my thanks and my regard for our chairman, the gentleman from California [Mr. BEILENSON], and our ranking member, the gentleman from Illinois [Mr. HYDE].

We have had a difficult year in this first session of the 101st Congress. However, I believe, and I think others believe, that within the Select Committee on Intelligence of the House we have had a very good year. We have had some rather difficult times previously, especially due to the Iran-Contra affair. I think every Member has made every effort on both sides of the aisle to put these things behind us. We have seen a coming together, and we have seen an attitude of responsibility and attempts definitely to work together.

So, Mr. Chairman, I would just like to say to our committee chairman that I support the Intelligence Authorization Act for fiscal year 1990, and I look forward to carrying out the pieces of this act, knowing in fact that this is the type of committee where we do have bipartisanship and where we leave our difficulties at the door whenever possible.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 19, after line 2, insert the following new section:

SEC. 705. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE DIRECTOR.—If the Director, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Director is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Director shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Director shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Director shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) DIRECTOR.—The term "Director" means the Director of Central Intelligence.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I will start this out by commending the chairman of the committee, the gentleman from California [Mr. BEILENSON] and the gentleman from Illinois [Mr. HYDE] of Xelienople, PA.

I want to take off before I explain my amendment and pick up on the words of the gentleman form Kansas [Mr. GLICKMAN] in the House earlier. I would hope that our intelligence network would begin to focus on what the American people consider to be our greatest threat. In a national poll, the American people rated Japan a greater threat to our national security than either the Soviet Union or communism. They fear the economic intrusion, the investments of a great foreign power. They are very concerned about what Congress's efforts would be to not only analyze but abate that tremendous invasion. So I would say, before I explain my amendment, that when we keep shouting about "the big bad bear" down here, I think we had better start looking at the big Rising Sun and the shadow that is beginning to be cast all over this country.

I lost another 3,000 jobs just today when the van plants in Ohio closed. I would like to ask some Member of the House what the exact cost of a General Motors van is inside Korea or what tariffs and duties and taxes, there are on a General Motors van in Japan.

So, Mr. Chairman, I will not belabor the debate further. I have offered a standard "buy America" amendment. It has been approved to most authorization bills, and I would hope that the Committee would find favor with it and approve it.

Mr. BEILENSON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the chairman of the committee.

Mr. BEILENSON. Mr. Chairman, the committee has had an opportunity, I would say to the gentleman and to other Members, to examine the gentleman's amendment. We note among other things that the amendment includes an exemption for compelling national security considerations, which I take it will resolve any serious problems the agency or others might have with it.

With that understanding, Mr. Chairman, we on this side of the aisle at least have no serious objections to the amendment and can accept it.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I associate myself with the remarks of the gentleman from California [Mr. BEILENSON]. We think the gentleman has produced a good amendment, and we are happy to accept it on this side.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's acceptance of the amendment, and let me say that my comments earlier about Pennsylvania were made just to try to get the gentleman's attention. I say to the gentleman this: "We wish you were in our region, Mr. HYDE. We know where you are from."

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

In reading the gentleman's amendment, in subparagraph (A), may I interpret that to mean that the Director must have the approval of the USTR

and the Secretary of Commerce to go forward under the amendment with his "buy America" award?

Mr. TRAFICANT. No; I do not particularly feel it is compelling unless it would be an issue that might require another section of the amendment, that national security section, to be on consideration.

Mr. FRENZEL. Mr. Chairman, I would ask, will the gentleman take a look at the language? It says, "If the Director, with the concurrence of the U.S. Trade Representative and the Secretary of Commerce determines * * *."

My interpretation of that language would be that if he does not have the concurrence, then he is not authorized to award that contract under the special conditions.

□ 1530

Mr. TRAFICANT. Mr. Chairman, as the amendment is drafted, it would appear that, but would not be the intent of the amendment to limit the hands of the Director, and I would like to make that clarification here, and I ask unanimous consent to have that placed into the amendment.

Mr. FRENZEL. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. Would the gentleman from Ohio [Mr. TRAFICANT] state the language that he wishes to have inserted in the amendment?

Mr. TRAFICANT. "If the director with the concurrence of the United States Trade Representative and Secretary of Commerce determines that the public interest to requires"; that the language I would like to have changed where the director can make that determination and without such concurrence.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] wish to strike "with the concurrence of the United States Trade Representative and the Secretary of Commerce"?

Mr. TRAFICANT. Only if, in fact, that section is being considered and opposed by the gentleman. If the language in its current form would be acceptable.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I tell the gentleman from Ohio [Mr. TRAFICANT] that the language, as it is written, is acceptable to me, because it requires the concurrence.

If the gentleman seeks unanimous consent, I will certainly object to a change.

Mr. TRAFICANT. Mr. Chairman, I certainly withdraw my unanimous-consent request to make such change.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to make a few concluding remarks about the subject of American policy toward Angola, and to respond to some of the commentary that occurred in the course of general debate with respect to the human rights dimension of American policy.

The issue of human rights, as it relates to our Angolan policy, is an important one, not because the Angolan Government has not itself been engaged in very serious violations of fundamental human rights, but because the entire case that has been painted in support of our policy of giving assistance to Mr. Savimbi has been based upon the characterization of him as an individual who shared and embraced American democratic values and basic human rights commitments. It is my concern that much of that characterization has been based upon myth and upon very substantial public relations efforts in this country that bears little relationship to the reality, and I do not think it makes sense for American policy to continue to be guided on the basis of myth.

I have spoken for a number of years to my colleagues about authoritarianism in Angola, as well as authoritarianism in other African states. The point that I have tried to make with respect to Angola is that the authoritarianism of the MPLA government is not a unique fact; authoritarianism is alive and well also in Jonas Savimbi's UNITA. In fact, until almost the moment he began to receive American assistance in 1986, Mr. Savimbi was publicly on record as favoring the Chinese socialist model and believing that, and I quote, "there was no fundamental ideological conflict between the two parties," MPLA and UNITA.

It is most significant that, in the past several months, independent human rights organizations and some prominent former supporters of UNITA, groups that have no brief whatsoever for the MPLA government in Angola, have made detailed revelations of the lack of democracy and respect for human rights in UNITA.

Among these revelations, the most recent is an article that appeared in the National Review of August 18, hardly an apologist for the Angolan Government. It was written by the journal's roving correspondent, Radek Sikorski. Sikorski, who perceives UNITA as representing a major political constituency in Angola and a movement with significant military and organizational achievements, nevertheless concluded after a lengthy personal visit to Jamba, and I quote:

Let us have no illusions. Savimbi cannot bear men of independent thought around him, and, instead of sharing our wariness of autocratic power, his officers accord him the reverence due to a traditional despotic African chief. "UNITA, c'est moi," Savimbi can say with more reason than Louis XIV could ever have dreamt of for France * * * The last UNITA Congress in 1986 was a farce.

Mr. Sikorski continues:

Allegations of human rights abuses within UNITA are too persistent and come from sources too well placed to ignore.

Finally, in passages which I would strongly commend to some of my colleagues who have been approached by UNITA's $2 million per year lobby, the author says:

To begin with, UNITA officers, including top leaders, are compulsive liars. Lying is so pervasive one comes to think that many UNITA officers have not assimilated the concept of integrity or understood the dangers of forefeiting trust.

In the end, Radeski portrays both MPLA and UNITA as "two ramshackle totalitarianisms" while expressing hope that a compromise between them "might create some space in which the Angolan people would have room to breathe."

There is other recent evidence of human rights violations by UNITA.

Mr. Chairman, I would refer, first of all, to the Human Rights Watch investigation of "Violations of the Laws of War by Both Sides" in Angola, and again I make the point in full acknowledgment that there have been human rights violations on both sides, and I would also note that we do not use American tax dollars to support that side. We do send American tax dollars to Mr. Savimbi, and that Human Rights Watch contains several highly disturbing conclusions:

(a) That UNITA indiscriminately deploys land mines against civilians;

(b) That UNITA has taken hundreds of foreigners hostage;

(c) That UNITA has captured thousands of civilians and conscripted them as combatants or unpaid agricultural labor;

(d) That UNITA has indiscriminately and deliberately attacked and killed civilians in government-controlled areas, and attacked and killed civilians in government-controlled areas, and attacked medical facilities and burned civilian homes; and

(e) That UNITA has deliberately attempted to starve civilians;

(2) British journalist Fred Bridgland wrote a very supportive biography of Jonas Savimbi whose cover featured statements by Ronald Reagan, Senator Robert Dole and Jeanne Kirkpatrick. He and his book were presented to Congress two years ago by the UNITA lobby. No Western journalist has followed UNITA as long or is thought to have had such good access to UNITA as Bridgland. Yet on March 12, 1989 Bridgland wrote in the London Daily Telegraph that his own argument "that UNITA Offered Angola some sort of democratic future * * * began to look pretty thin". The day before he told British TV, that he believed 80 to 90 percent of what UNITA dissidents Sousa Jamba and Chingunji have been saying about extensive UNITA political repression. Even the State Department characterizes UNITA "as it exists in the bush today as a basically authoritarian movement".

(3) The main allegations that have been made by Fred Bridgland, the UNITA dissidents in London and Lisbon, as well as other journalists and professors, follow:

(a) Bridgland writes that "Numerous UNITA officials have 'disappeared'," and that "According to sources, few Western governments doubt that the men are dead, probably executed". Among the most prominent mentioned by Bridgeland and others are (1) Jorge Sangumba, former Foreign Secretary of UNITA, (2) Antonio Vakulukuta, an ethnic leader who has been reported to have been beated to death, (3) Waldemar Pires Chindondo, former Chief of Staff, and (4) Jonatao Chingunji, former UNITA leader said by his grandson Dino Chingunji and by "reliable sources" who have spoken to Amnesty International to have been beaten to death along with his wife. In most cases these disappearances followed reports of Savimbi perceiving these individuals as a political threat. According to the State Department, "Jorge Sangumba dropped out of sight in 1982, Antonio Vakulukuta in 1986; evidence about their fate is inconclusive. We have no independent information on the fate of Janatao Chingunji".

(b) Other prominent UNITA officials are also reported to have been demoted, detained and even tortured under orders from Savimbi. The most recent case is that of Tito Chingunji, a close friend of Bridgland's who was dismissed as Foreign Secretary last November. According to Bridgland, who visited Jamba in late December, Chingunji looked "extremely nervous" and "From sources I do trust very much, I've heard that there was a kind of trial, and that four very senior members of the UNITA Politburo demanded of Tito that he confess to crimes of witchcraft and plotting to overthrow Savimbi. People who were there have told me privately that they heard screams. And I think one can only draw one's own conclusions from that kind of description". In addition, former members of the UNITA youth organization and office in Lisbon have said that Wilson dos Santos, a prominent leader who accompanied Savimbi to the U.S. in 1986 has been demoted and cannot interact freely with others in Jamba.

(c) According to Bridgland, "The theme of witchcraft runs through the whole UNITA tragedy, unspoken to outsiders but a reality in the lives of people. Allegations of witchcraft can easily be made against people who are politically "difficult"—just as they were in medieval Europe." Specifically, he writes that "Amnesty International has the names of at least 12 people burned to death on public bonfires at Jamba, the UNITA headquarters, in September 1983 * * *. One woman, Aurora Katalayo, was thrown into the flames carrying her child; she was the widow of former UNITA interior minister Mr. Mateus Katalayo, executed the previous year. According to Amnesty, one entire family was consumed on the bonfires—Mr. Joao Kalitanui, his wife Isabel, their three children aged seven to sixteen, and a twelve year old niece". This account is supported by Ermelindo Kanjungu, a UNITA dissident in Lisbon whose father is said to be Savimbi's office manager, who told Portugal's press last year that he personally witnessed the burning and that it was directed by Savimi. Amnesty International included the case in its Annnual Report last year.

(d) UNITA dissidents in Lisbon last year revealed a secret "Practical Guide to the Cadre", a set of lessons taught to a small number of leading UNITA cadres at the Command Kapessi Kafundanga Study Center in Jamba. A leading academic authority on Africa recently wrote that the guide's authenticity had been confirmed by a high UNITA representative. This guide emphasizes a Soviet-style "democratic centralism" for Angola, and stresses the preeminent role of the political police and the secret goal of overthrowing the MPLA Government rather than sharing power with it. The followng quotes give the flavor of this Marxist-Leninist style document.

"Democratic centralism means that the top decides and the base carries out the orders through the cadres", "The grand bourgeoisie is the class that oppresses the other classes in society. It is the class that is involved with international imperialism", "The idea of reconciliation is part of our tactical position. But it does not form part of our strategy, because it is not possible".

At this point, I would like to insert into the RECORD a House Subcommittee on Africa staff analysis of UNITA's response to some of these allegations:

REBUTTALS TO UNITA RESPONSES TO ALLEGATIONS OF SERIOUS HUMAN RIGHTS ABUSES

UNITA: Bridgland has written a letter to the N.Y. Times saying that its reporting on the alleged abuses by UNITA attributes opinions to him that he does not share.

Response: Bridgland's letter covers minor inaccuracies and do not touch the major areas of political executions, witchburning and lack of democracy that he raised in both his own March 12th London Telegraph article and his appearance on British TV the previous evening.

UNITA: Tito Chingunji is alive and well as Deputy Secretary-General of the Party. He has met privately with Western politicians, carried a pistol, and publicly denied allegations about his status.

Response: Concern about Chingungi voiced by Bridgland who recently saw him at Jamba as well as his nephew must be taken seriously. Under Savimbi's control in the isolated Jamba headquarters, he cannot be expected to speak freely. In Government circles it is generally recognized that he has been demoted and is believed to be a threat by Savimbi.

UNITA: With regard to charges of political executions, Dinho Chingunji's grandfather and his wife died of natural causes, and the dates of their deaths are being established. Vakulukuta died of an uncontrolled hemhorrage from his nose en route to a hospital. Jorge Sangumba is alive and working somewhere in the north. General Vinama, known as Chendo, died in a freak accident falling under the wheels of his truck after climbing back into it. Col. Waldemar (Chindondo) is alive and commanding the northern forces.

Response: UNITA has not produced any of the people alleged to have been killed. Assertions that four died of natural causes cannot simply be accepted given the range of testimony to the contrary. Certainly the causes of death mentioned by UNITA seem extremely unusual.

UNITA: The alleged witch burnings never took place. We have never heard of Joao Kalitangue and his family. Aurora Katalaio and her husband had died in an MPLA attack before their alleged "burning".

Response: Amnesty International states the case of Aurora Katalyo, one of at least 12 people who were burned to death at a public bonfire in Jamba in September 1983 was considered sure enough for inclusion in the organization's annual report last October. This is based on eyewitness testimony.

UNITA: Wilson dos Santos is currently director of the National Press and head of the Television and Video Department, and a member of the Central Committee and Political Bureau.

Response: This is a clear demotion from his previous leadership role as a key UNITA diplomat. Until he can leave Jamba and speak freely—and without fears for his family—UNITA's explanation cannot simply be accepted. In this respect the case is like Tito Chingunji's.

UNITA: All of these charges are part of an MPLA disinformation campaign.

Response: The charges are coming from UNITA supporters, members, and Amnesty International. UNITA supporters critical of the organization have made clear they are also opposed to similar practices by the MPLA Government.

UNITA: Bridgland received an unauthorized $4,000 from Tito Chingunji. This taints his case.

Response: Bridgland has, through his literary agent, denied that he received any unauthorized funds.

I am also inserting some very relevant articles by Fred Bridgland and Radek Sikorski, including the latter's exchanging letters with a UNITA representative.

[From the Sunday Telegraph, March 12, 1989]

SAVIMBI: FALLEN IDOL OF ANGOLA

(By Fred Bridgland)

Feted in the White House by President Reagan, honoured by black American churches, on dining terms with South Africa's President Botha and allowed access to Britain by Mrs. Thatcher's Government, Dr. Jonas Savimbi, leader of the Angolan rebel group, UNITA, has been the darling of the Right.

But now the West's game-plan for Southern Africa is threatened by new allegations of serious human rights abuses against Dr. Savimbi.

He has been seen as a heroic figure, fighting Angola's Soviet and Cuban imposed Marxist dictatorship which threatened the whole of the region. Savimbi may now have become a fallen idol.

The charges, including the burning to death of women as witches and the beating to death of a former UNITA foreign secretary, have alarmed Washington and Pretoria where Dr. Savimbi has been treated as a key ally.

Others, including this correspondent in a biography of the 54-year-old guerrilla leader, argued that UNITA offered Angolans some sort of democratic future that begins to look pretty thin unless he can prove the allegations are lies.

The main charges were made last night on Channel 4's The World This Week by UNITA defectors seeking political asylum in Britain. Their move followed the alleged detention and torture by UNITA last year of Mr. Pedro "Tito" Chingunji, the movement's Washington-based foreign secretary.

One defector, Mr. Sousa Jamba, a writer who last year won the Shiva Naipaul prize for literature, told The Sunday Telegraph "I am one of many UNITA members who have kept quiet until now about killings inside the movement in the interests of the wider struggle against Cuban and Soviet domination.

"There are others who would like us to say nothing until the MPLA [Angola's Marxist government] and UNITA are

around the table in Luanda with Cubans sailing in shiploads to Havana each day. But Tito's arrest has stretched our loyalty beyond the breaking point: if we wait others may die."

The story of another defector, Mr. Dinho Chingunji, Tito's nephew, is perhaps the most nightmarish. He argues that Tito's life is in grave danger because seven Chingunji family members have already been murdered over the years as Dr. Savimbi began to see them as a threat.

Dinho alleged that his grandparents (Tito's parents) were beaten to death on Dr. Savimbi's orders. Amnesty International said it has evidence from three reliable sources that Jonatao, 69 and Violeta, 60, were clubbed by rifle butts, kicked and then run over by a truck.

In the mid-sixties when UNITA began fighting the colonial Portuguese, Dr. Savimbi led the guerrillas in the bush while Jonatao organised the clandestine movement in the towns.

Four of Jonatao's sons died between 1970 and 1976 while fighting with Dr. Savimbi. Two, David "Samwimbila" Chingunji and Samuel "Kafundanga" Chingunji, are now outshone only by Dr. Savimbi in the homage paid in UNITA song and poem.

But Dinho Chingunji alleges that at least three of the four brothers and possibly all of them were killed on Dr. Savimbi's orders. He says his own father, Kafundanga, UNITA's first military chief-of-staff, was poisoned in 1974.

After moving to the bush in 1976, as the MPLA established itself as the civil power in Angola, Jonatao began to have suspicions about his sons' deaths. When he challenged the UNITA leader on this matter and on his cavalier attitude toward women, Dr. Savimbi accused Violeta of practising witchcraft and ordered the old couple's deaths.

The theme of witchcraft runs through the whole UNITA tragedy, unspoken to outsiders but a reality in the lives of the people. Allegations of witchcraft can easily be made against people who are politically "difficult"—just as they were in medieval Europe. And when another Chingunji sibling, this time a daughter, Shika, was executed in 1983 she was first accused of being a witch, according to Dinho.

Amnesty International has the names of at least 12 people burned to death on public bonfires at Jamba, the UNITA headquarters, in September 1983. Mr. Jamba said his young nieces and nephews were part of the crowd ordered to witness the spectacle.

One woman, Aurora Katalayo, was thrown into the flames carrying her child: she was the widow of former UNITA interior minister, Mr. Mateus Katalayo, executed the previous year. According to Amnesty, one entire family was consumed on the bonfires—Mr. Joao Kalitangui, his wife Isabel, their three children aged seven to 16, and a 12-year old niece.

Numerous UNITA officials have "disappeared". According to sources, few Western governments doubt that the men are dead, probably executed. Among the most prominent was former UNITA foreign secretary, Mr. Jorge Sangumba. He was recalled to Angola from overseas in 1978 and has not been seen since. UNITA has consistently stated that Mr. Sangumba is alive.

"In fact, Sangumba was beaten to death by Savimbi's secret police in 1979," said Mr. Jamba, formerly a UNITA political commissar. "Savimbi has been able to convince journalists and others that he is alive."

Mr. Jamba said that Mr. Sangumba was popular on his return to Jamba, and some people began suggesting that he should be acting president in Dr. Savimbi's absence. That was probably the reason for his downfall.

But he made a slip when he bedded an under-age beauty and a commission convicted him of corrupting a minor. After Mr. Sangumba's subsequent execution, Mr. Jamba says he was thrown into an unmarked grave and all copies of a small book he had written Know Your Party, were confiscated and burnt.

Among other UNITA leaders believed by Western governments—and confirmed by Dinho Chingunji and Mr. Jamba—to have been executed are Mr. Waldemar Pires Chindondo, a former chief-of-staff, and Mr. Antonio Vakulukuta, leader of the once powerful Kwanyama tribal faction in UNITA. According to International Red Cross reports, Mr. Vakulukuta died a lingering "Bikostyle" death after suffering severe beatings.

The UNITA defectors allege that Tito Chingunji too was accused of witchcraft when he flew into Jamba from Washington last November for a conference on the implications of the New York Accords, which provide for the phased withdrawal of Cuban troops from Angola and South African forces from neighbouring Namibia starting in three weeks.

The "evidence" was a white surplice and two candlesticks found in the luggage of Chingunji, a devout Christian.

"I warned Tito that Savimbi would 'get' him just like the rest of the family," said Dinho. "But Tito believed he had done such a good job in Washington that Savimbi could not move against him.

I met Dr. Savimbi on December 21, immediately after his return from Pretoria where he had been told by President Botha that all South Africian aid to UNITA was being cutoff.

I told Dr. Savimbi I had made the journey because many people were puzzled by Tito's apparent demotion. He exploded and shouted: "You have come here to insult me, and I have never accepted to be insulted by anyone. Do you think you can still come to Africa to patronise us? I am so insulted by what you have said that maybe you should just get out of here. . . ."

During a further two hours of loud admonitions, Dr. Savimbi at one point held his palm outwards and said there was no blood on his hands and said he was not responsible for the killings of Tito's relatives. This struck me as strange, since I had not raised the question.

US weapons supplies now enable UNITA to maintain leverage on the MPLA, but Congress is sensitive about covert arms supplies and human rights abuses. It could therefore turn awkward if the allegations are reinforced. But UNITA is tough and resourceful, and even without American help it could turn Angola without Cuba into a new Beirut.

The United States and the Soviet Union, with their new found understanding on Africa, might therefore decide to hit heads together and allow elements in both the MPLA and UNITA who are sick of war to come together at the negotiating table.

[From the National Review, Aug. 18, 1989]

THE MYSTIQUE OF SAVIMBI

(By Radek Sikorski)

"If it were bigger, I would only be attacking the rearguard, but this one we will destroy completely," Colonel Diogenes Implacável told me without taking his binoculars off a convoy coming down the road.

Implacável is UNITA's commander of the Bié front in central Angola. In front of us stretched a *channa*, a wide clearing overgrown by tall, yellow grass and bisected by the strategic Huambo-Bié highway, the highway that would have to be under firm MPLA control were the Soviet-backed regime ever to launch a new offense against UNITA. Twenty-one trucks loaded with food, ammunition, and soldiers, escorted by two Soviet BTR armored cars, drove along at the pace of two files of infantry walking beside the convoy. Five hundred and fifty UNITA guerrillas armed with American- and South African-supplied assault rifles, mortars, anti-tank rockets, and anti-craft missiles waited in a long line along the southern edge of the road. The assault squad was to open up only when the entire convoy came level with the ambush.

Winter days are short here, so by 3 p.m. the sun was already low, painting the *channa* in mellow orange. I was stealing toward the brow of a hillock overlooking the clearing when a single burst of automatic fire resounded along the road and a few bullets whined quietly over our heads—enemy bullets. Had we been spotted? Was our plan going awry already?

I made to crawl forward to the top of the hillock but at the same instant several powerful hands closed on my legs like steel clamps. Our UNITA minders were being obsessively overprotective of our safety. Over the cacophony of machine-gun fire, the tinny noise of field radios, and platoon commanders yelling hectic orders, came the shrill curses of my colleague, an American girl-photographer, who lay under a pile of our UNITA commandos protecting her from the hazards of battle with such zest that she emerged with a hand broken in two places, a sprained ankle, and serious bruises. Next she was waving her camera like an overhead slingshot, and they threw her on the ground again.

Our escort eventually mastered their initial panic and we went forward. The grass in the *channa* was on fire—the smoke so thick as to dim the sun—and we jumped through walls of burning undergrowth, running on the charred ground. The heat was so intense I feared my boots would melt.

The enemy infantry had run to the other edge of the bush and was firing at us with light machine guns. We soon learned what had happened. The soldiers in the convoy had spotted UNITA guerrillas hiding in the grass and opened fire. Both BTRs survived our attack—one escaped on the road to Bié and the other found cover in a stream depression and turned its heavy machine gun at us. Like a pneumatic drill, its thumping silenced the lesser noise.

Another hundred yards toward the highway and I made out in the thick smoke the contours of a truck which had been hit and which the guerrillas were looting with gusto. "The BTR is shooting, let's get out of here," one guerrilla shouted. "Never mind, let's get the sausages," the other yelled, motioning toward the Brazilian IFA truck, from which dozens of big white tins had spilled onto the asphalt. Having eaten only rice and canned bully beef for several weeks, we noted the contents of the truck with the joy of highway robbers. Bent double under fire, the guerrillas ran forward for their supper.

Suddenly, four men emerged through a wall of fire and smoke clutching the corners of a blanket weighted down by a heavy

object, which turned out to be our first casualty. Blood spurted forth from the man's chest, and a mask of dust and smoke smeared with sweat gave his face an ashy, deathly pallor. His companions, their dark faces streaming with sweat, their bodies twisted under the load, tried to run, but tripped in lumps of grass. Even so, the rocking of the blanket when his comrades dragged him along the rough ground seemed to give him no more pain.

We inched forward, screaming and jostling with our minders, dodging bursts of bullets, passing groups of guerrillas emerging from the smoke with loot on their heads. When the smoke cleared on the high ground where the asphalt ran, three more dead trucks emerged, bits of their cargo stewn along behind them like guts. One was blazing, and the ammunition inside it exploded with the sound of nails being hammered into a tin. These were small caliber bullets piercing the sideplates of the truck and flying off in all directions. The gas tank burst in an orange fireball. Would the heavy shells go off next?

"Come back, come back, don't die for a picture!" our minders shouted in desperation.

A few corpses lay along the other side of the road—one fat as a Sumo wrestler. They wore Korean-made olive and brown camouflage clothes—enemy uniforms. I don't know how, but they already stank of death. The putrid smell of excrement mingled with that of burning diesel fuel and rubber. UNITA men ran up to them under direct fire and grabbed their guns.

The BTR was invisible in the clouds of smoke on the other side of the road, but its heavy machine gun was sweeping the road with a hail of bullets. Out of the corner of my eye I saw a man flip over onto the asphalt not thirty yards away. Slowly it dawned on me that this was not the way one throws oneself down for cover. Soon his raving and moaning confirmed that he had been hit.

"The MiGs will bomb! The BTR is coming! They're counterattacking!" our minders were running away into the bush. The racket of machine-gun was indeed growing and the bullets flew lower and denser over our heads. The enemy got a couple of mortars going, and soon the bursts of shells around us and the screams of our wounded announced that they had found their range. We retreated, since if the enemy retook the high ground of the road we would have been trapped in the kilometer of open space between the road and the bush, in which they would have had a clear field of fire.

It was getting dark by the time a long train of UNITA guerrillas walked down the bush path carrying their booty on their heads. Merry cries proclaimed that eight Kalashnikovs and four new light machine guns were also captured. An old suitcase grabbed from the burning IFA revealed the personnel files of a local party organization. Implacável's radio reports spoke of nine trucks destroyed in all. (I saw four.) Belatedly, he was sparkling with ideas on what he should have done for a complete victory. Had a minefield been laid down the northern side of the road, the enemy, not we, would have been trapped. Our losses were five wounded and one dead. The man who had lost consciousness from the chest wound, and who I thought had no chance, was to recover, but the medic died.

Suddenly, everybody became merry and spoke of the fight as if it had been a schoolboy prank. As tension eased with each step away from the highway we all became unnaturally hilarious. My story of how I kicked one of my minders in the midst of burning grass was welcomed by a roar of laughter as if this was the best anecdote in the world. We were all glad to be alive and now compensated for any sign of fear we may have shown half an hour before. The festive mood continued into the night, as the smell of spices and the sizzling of sausages roasted over fires hovered above our bush camp.

The ambush was to have been an operation in a larger plan—a lure for the 55th brigade garrisoning the nearby town of Chinguar on the Benguela railway. If the enemy sent a relief force to secure the highway. UNITA was to attack weakened Chinguar itself. I wondered what use Impacável would make of the captured party personnel files. But two days later everything changed. On June 22 UNITA's President Jonas Savimbi shook hands with his MPLA counterpart, Eduardo dos Santos, and the following day the radio announced that UNITA and MPLA delegations were negotiating face to face for the first time in 14 years. A ceasefire was coming into effect at midnight on June 24. We had seen what everybody hoped would be the last battle of the war.

Though it did not go according to plan, the ambush was a success, confirming that UNITA can readily sabotage its enemy's supply routes. The very fact that even in the heart of the country MPLA personnel will travel only in armed convoys which take many days to cover a couple of hundred kilometers testifies to UNITA's stamina. Although the MPLA occupies most cities—including all the provincial capitals—if the fighting resumed UNITA could expect to make gains on the ground once the Cubans withdraw from southern Angola in November. At the very least, UNITA's sixty thousand fighters could, if need be, deny the MPLA a secure grip on the countryside for another 14 years. UNITA cannot be eliminated, and this is surely why the MPLA is negotiating. What an achievement this represents one can appreciate only by looking back to 1975 and 1976 when the Cubans, with Soviet rockets and gunships, pushed Savimbi back into the bush, where he completed his long march with only a few dozen followers.

Today he holds vast stretches of territory in which his troops and trucks can travel in safety. Known to the Portuguese as the "end of the world," Unitaland in southern Angola is perhaps the most impressive guerrilla zone anywhere. Where ten years ago elephants and gazelles roamed virgin bush, today vast logistics bases sprawl, with broad avenues, electricity, and some of the best repair shops in Africa. UNITA doctors and paramedics can successfully perform advanced surgery; UNITA's intelligence service can chart dozens of enemy moves every day; while dozens of UNITA bush schools, though usually with only a blackboard and an enthusiastic teacher for assets, turn out graduates with more determination for self-improvement and greater academic qualifications than most American high schools do.

Moreover, slick press releases from UNITA's PR agents, quoting its leaders' earnest statements, promise that this is only the beginning. UNITA says it aspires to nothing less than making Angola the first democratic, free-market country on the continent. With its vast mineral resources, fertile soil, mild climate, and a leadership apparently committed to civilized values, is Angola about to turn into the success story Africa so badly needs?

To justify its $15-plus million of aid per year, the White House has accepted UNITA's ideals at face value. Though still shunned in European capitals, Savimbi has been feted in Washington as Africa's premier freedom-fighter—the pictures of his meeting with Ronald Reagan, George Bush, and George Shultz in January 1986 adorn every hut in Unitaland. It is largely thanks to U.S. Stingers and TOWs that UNITA is such a formidable force.

However, not all my observations during three months in the bush square with UNITA's high ideals. To begin with, UNITA officers, including top leaders, are compulsive liars—and it's not the innocent bragging one hears in every war zone, but a means of control. Whether it is the whereabouts of Savimbi or of a company commander, instead of pleading honest ignorance or the secrecy of war, UNITA men will lie through their teeth. Traveling with UNITA is like touring a showpiece Soviet collective farm. Everything is perfect, if the guides are to be believed, but if one tries to find out for oneself, going beyond the established program, armed guards will physically stop one "for protection," even when the enemy is five hundred miles away.

Battles and troop movements staged for the camera (on one occasion Colonel Implacável set up an entire artillery position to deceive me: the mortars had only two or three rounds each; real ones would have had at least six); bogus facilities such as the medical center in Jamba where, for the benefit of visitors' cameras, cripples engage in physiotherapy (although according to my companion, a former nurse's aide, the exercises had nothing to do with the injuries for which the men were supposedly being treated); soldiers and officials briefed on how to lie most plausibly—the full list of UNITA Potemkin villages would be too long to quote. Whether concerning the pettiest of details or the weightiest of policy matters, there is a great difference between UNITA's claims of high ideals, openness, and efficiency, and the reality of deceit, manipulation, and sloth. Lying is so pervasive one comes to think that many UNITA officers have not assimilated the concept of integrity or understood the dangers of forefeiting trust.

More seriously still, UNITA's structure and ideology are not as unambiguously democratic and pro-Western as an interview with Savimbi might suggest. Reading Savimbi's articles in the Salisbury Review or the Wall Street Journal with titles such as "Don't Sacrifice Angola on the Altar of Socialism," in which he propounds exemplary promarket ideals, one would think that the vast expanses of Unitaland are an oasis of free enterprise and commercial bustle. Yet in fact Unitaland is—uniquely among war zones I have visited—a currencyless war economy whose extreme centralization would impress a Ligachev or a Honecker. What kind of commercial spirit can have survived in UNITA ranks after 14 years in which the currency of the country has literally been banned (which, among other things, obviously restricts freedom of movement)?

In the beginning, there was Savimbi's word, and the word became UNITA. Savimbi stares from photographs on almost every wall. Savimbi slogans adorn every hut. Judging by the content of dozens of UNITA rallies and entertainment programs, Angola

has only one noted poet and one lyricist—Jonas Savimbi. Savimbi salutes, Savimbi handshakes, even Savimbi-prescribed burial rites—through the force of his personality he has created an organization whose members think and act in unanimous imitation of the leader. Every quarter of an hour UNITA's "Voice of the Black Cockerel" radio station comes on with Mendelssohn's Wedding March followed by a triumphant citation: "Long live UNITA's great leader, the staunchest patriot, the inspired commander, the scourge of the Cubans and Russians, our beloved president, Comrade Doctor Jonas Malheiro Savimbi." Even his doctorate is an exaggeration—he completed two years of medical studies in Lisbon and then gained a first degree from the University of Lausanne.

Savimbi enjoys extraordinary powers for a democrat. The Mao caps of UNITA troops are not the only idea Savimbi brought from his training at the Nanking Military Academy. UNITA's structure is overtly Leninist, based on the same concept of democratic centralism—with a Congress, a Central Committee, and a Politburo nominally in charge of the party—but these institutions are mere appendages to Savimbi's personal rule. The last UNITA Congress, in 1986, was a farce in which 15,000 people agreed on everything unanimously and elected Savimbi by delirious acclamation—like the Supreme Soviet in the bad old days. Indeed, Savimbi can hire and fire Central Committee members at will like no Soviet leader since Stalin. Members of tribes other than Savimbi's Ovimbundu do hold high rank in UNITA, but real power rests with Savimbi's own clan within the Ovimbundu, his kinsmen from around Andulo in central Angola. In fact, UNITA is nepo-leninist, to coin a phrase. Savimbi has appointed to positions of real power members of his own family, either by blood or by marriage. General Ben Ben (the deputy chief of staff), General Bock (the chief of operations), and Colonel Pena (the secretary of economic planning)—UNITA's inner circle—are all Savimbi's nephews. "UNITA, c'est moi," Savimbi can say with more reason than Louis XIV could ever have dreamt of for France.

Allegations of human-rights abuses within UNITA are too persistent and come from sources too well placed to ignore. Savimbi's former interpreter, Sousa Jamba, and Dinhu Chingunji, the son of UNITA's first chief of staff, allege that Savimbi has over the years eliminated many of his rivals, most gruesomely in September 1983, when 13 people are said to have been burnt alive in Jamba. Witchcraft rather than accusations of revisionism allegedly provides the excuse, a ploy that is said to do down well with the illiterate and still-superstitious peasants. UNITA by evasion refused my proposal to investigate and refute the accusations. The burnings supposedly took place a hundred yards from the quarters where foreign visitors are lodged. It would have been impossible for them to have happened unnoticed by anyone staying there during the relevant period. I suggested that UNITA give me a list of any such visitors; I would then contact them after I left Angola, and ask them whether they had observed anything. The UNITA Politburo members I talked to didn't say the lists weren't available—they just never produced them.

The man who could provide conclusive evidence of what has happened, Brigadier Tito Chingunji, who was UNITA's representative in Washington and helped to get Savimbi into the White House, is said to have been tortured and held in Jamba against his will. (In a letter to a friend in Britain he inserted the phrase, "Doctor Savimbi protects me day and night.") Chingunji's nephew alleges that almost the entire family has been wiped out in Savimbi's vendetta (as a highly educated member of a traditional chief family in the Ovimbundu tribe, Chingunji was a potential rival to Savimbi), and Tito himself was lured back to Jamba only because UNITA held his wife. Members of the UNITA Politiburo repeatedly evaded my requests to see him. The CIA officer on the spot thought that the allegations were sufficiently grave to confront Savimbi, after which the officer was withdrawn from Jamba, with the United States apparently bowing to Savimbi's ultimatum. The two defectors and a journalist who revealed the allegations in the Western press have received repeated death threats.

Savimbi has ended up by believing his own propaganda and accepting the cult he has nurtured as a confirmation of his messianic mission. He cannot bear men of independent thought around him, and, instead of sharing our wariness of autocratic power, his officers accord him the reverence due to a traditional despotic African chief.

In short, ideology is something Savimbi can choose like the fashion of his soldiers' uniforms—patterned to please whoever provides the cloth. As one of his wittier slogans proclaims, "Weapons for the liberation of our country don't smell." I use Communist parallels in writing about him with reason: Savimbi was a Communist agitator in his early years in Lisbon, the Communist Party spirited him out of Portugal, he was trained in China, and, UNITA defectors assert, he remains an unrepentant Maoist.

Has he deceived us all these years? Perhaps, perhaps not. He may have undergone a genuine conversion. But what is real is not whatever ideology Savimbi may choose to embrace but his autocratic grip on the people within his domain, a power which he has for a long time used for good, but which he has an unlimited license to use for evil.

It is hard to criticize people who have resisted colonial and Communist oppression for so long, especially for one who set off for Angola as their sympathizer. It is just that after Lenin, Khomeini, and Ortega, we know that not every opponent of oppression is a freedom-fighter.

By right, Savimbi should have been independent Angola's first president, and had he not been cheated in 1975 he might have become one of Africa's most remarkable statesmen. He had the potential of rising above the common run of presidents-for-life, excellencies, and operatic emperors. If fair elections were held in Angola today Savimbi would almost certainly win. Somehow, though, one wonders whether Savimbi, with his despotic instincts, would have the patience for constitutional niceties. Would he ever relinquish power thereafter?

None of the above goes to say that we have no good geostrategic grounds to back UNITA, or even that UNITA is not by far the lesser evil for Angola. The MPLA is in a league of its own when it comes to doctrinaire policies, collectivist mismanagement, and mindless propaganda. Though under the Portuguese Angola exported coffee, fish, and other food, under the MPLA it spends scarce hard currency on imports—Moroccan sardines, for example, while Soviet trawlers ransack Angola's coastal waters. The Angolan economy, which grew at an impressive rate of 7 per cent per annum in the Sixties, has sunk into oblivion, partly because of the war, and partly because blanket nationalization chased away the technicians needed to run the country's industry. The recent interrogation of General Ochoa in Havana has revealed as much about the Angolan economy as about the probity of Castro's officers: blackmarketeering, smuggling, and extortion flourish in MPLA-run Angola. With 150 new cases of cholera every week, Luanda is hardly a paradise. Party hacks are the only thing in oversupply. Luanda National Radio sounds like Tirana on a bad day—during the ceasefire negotiations, the lying was so thick it was hard to believe Luanda was speaking of the same events as the BBC and VOA. MPLA officers tell their soldiers, in all seriousness, that if captured by UNITA they may fall into the cluches of its fearsome allies, a vicious white tribe called "Americans," who will cook and eat them.

Now a compromise between UNITA and the MPLA may be in the offing—and indeed a compromise between these two ramshackle totalitarianisms might create some space in which the Angolan people would have room to breathe. That may well be the nearest approach to freedom and democracy that current African social realities permit.

But more is at stake in this conflict than merely the future politics of Angola. Brezhnev began sending Soviet weapons and advisors to Angola with a view to consolidating this mineral-rich country as a bridgehead to the rest of southern Africa. Preventing this was the logic behind the U.S. support for the South African invasion of Angola in 1975 and the resumption of U.S. aid to UNITA under President Reagan. This logic still holds true.

We may keep Savimbi afloat to deny Angola to our enemies. We may work for UNITA to gain a permanent place in the regional balance of power. We can certainly admire Savimbi's energy, charisma, and craftiness. But let us have no illusions.

SAVIMBI: PATH TO DEMOCRACY

Radek Sikorski's article, "The Mystique of Savimbi" [Aug. 18], contradicts all firsthand reports on UNITA by prominent journalists, U.S. congressmen and senators, and European members of parliament. Does one man alone hold the truth? Or is he so motivated by personal biases and prejudice that he reports only what he wants to believe? The answer is obvious.

Sikorski spent several weeks with UNITA in a combat situation. The journey was dangerous and he was not always at liberty to pursue his own course. A professional journalist would have understood the limitations of a war environment and maintained his focus on the real issue: the struggle for democracty and human dignity.

It is true that pictures of President Savimbi are persistent throughout Free Angola, for he is our president; and symbolizes the hope for a free and democratic Angola. It is true that UNITA society operates without money or a market, but we are living in a transitory war situation. UNITA's liberated area is not a recognized state that can have money of its own, and we don't want it to be a second Angola. Of course we would welcome Mr. Sikorski's advice on how to run our economy under those circumstances.

Sikorski says Jamba is a stage; it is not real. Tell that to the hundreds of children who reside in Jamba's orphanage, or the thousands of children who have been edu-

cated in Jamba's schools, or the many Angolans who have been treated in the hospital, or have participated in political meetings. Mr. Sikorski makes a number of points that need to be reiterated. If they are understood, his baseless assertions evaporate without a trace. He wrote that since UNITA's near defeat in 1976:

The MPLA, despite sixty thousand Cuban troops, is in negotiation with UNITA because we cannot be eliminated militarily;

The UNITA liberated area, the Freeland of Angola, is the most impressive guerrilla zone in the world;

UNITA schools produce students . . . with more determination for self improvement and greater academic qualifications than most American high schools";

UNITA's minuscule number of doctors and scores of health paraprofessionals, many of whom are trained in the Freeland, "successfully perform advanced surgery";

UNITA technicians, many trained in the Freeland, operate some of the best repair facilities in Africa;

President Savimbi would have been Angola's first president if the Cuban intervention hadn't usurped the scheduled elections, and "if fair elections were held in Angola today, Savimbi would almost certainly win."

Mr. Sikorski has been taken for a ride by a few malcontents with tangential relationships to UNITA or to Dr. Savimbi. Dinko Chingunji is part of an illustrious UNITA family. The center for training political mobilizers is named after his father, Samuel Chingunji. His uncle David Chingunji is a celebrated UNITA martyr. Dinho, in contrast, has spent almost no time in Angola. He was raised in Zambia and spent two months in Free Angola en route to studies in Great Britain.

Tito Chingunji, Dinho's uncle, is the UNITA deputy secretary general and a ranking party member. When wild rumors began to circulate based on allegations linking President Savimbi to witchcraft. Tito held an international press conference to refute changes of his execution. He also met with Republican Representative Dan Burton, who confirmed his well-being. In fact, UNITA is trying hard to eradicate witchcraft through a balanced program of education and protection of those accused by fellow villagers.

Sikorski's linking of Dr. Savimbi to Communism would be laughable if it wasn't so pernicious. President Savimbi distributed Communist-authored anti-colonial leaflets in Portugal during his student days and escaped via the Communist underground for one reason and one reason only; the Communist led the anti-colonial struggle in Portugal and had the only escape route to the outside. Even a thorough democrat like Portuguese Prime Minister Mario Soares cooperated with them at that time.

If Sikorski's point is taken to its illogical conclusion, President Savimbi is a proponent of apartheid because geopolitical considerations led to a pragmatic relationship with South Africa.

Democracy means elections in Angola. Dr. Savimbi and UNITA have fought for elections. Dr. Savimbi is prepared to run on his record against any MPLA leader and let the Angolan people choose without foreign interference.

JARDO MUEKALIA,
UNITA Chief Representative to the U.S.

Mr. Muekalia may accuse me of bids till the cows come home, even while in the same breath he reiterates my praise of UNITA's genuine achievements.

A lie is a lie is a lie. During my ten weeks with UNITA hardly a day passed on which I was not lied to about something—large or small. UNITA has set up elaborate schemes to deceive journalists, both in Jamba and beyond. Fortunately, my companion throughout the journey—a veteran American war photographer—can confirm my account of UNITA's manipulation and deceit. Neither am I the first to air reservations about UNITA. The best authority on the organization, the author of a sympathetic and acclaimed biography of Savimbi, is now being subjected to crude UNITA threats of physical violence—all for voicing concern. For democrats, UNITA's leaders are somewhat graceless in dealing with criticism.

Savimbi learned Communist techniques of organization and control not only in his early days in Lisbon but primarily during his training in guerrilla war at the Nanking Military Academy in China, still under Mao; and anyone who cares to take a look at UNITA's structure and modus operandi will see that he learned his lessons well. It is classic Marxist-Leninist structure with not a vestige of democratic procedures. Unlimited power sooner or later results in abuses.

The point is not whether UNITA can run a repair shop or an orphanage—such things exist in Iran, China, and the Soviet Union, too—but whether its commitment to democracy is genuine or a hoax. The fact that UNITA demands elections proves little; the Ovimbundus—UNITA's main supporters—are Angola's largest tribe. Uncle Ho also demanded elections in the knowledge of assured success, but do we want any more of his kind of democrats?

I find it very interesting to note that Mr. Muekalia does not challenge my assertion that Jonas Savimbi's title of "Doctor" is also bogus.

Since Mr. Muekalia solicits my advice, I'll give it; come clean on the wrongs you have inflicted, punish the guilty, abandon UNITA's Leninist structure, establish checks against misuse of power, embrace Christianity for real if that is what you want, encourage your people to participate in the decisions that affect them, abandon the corrupting personality cult of Savimbi, teach your men to speak the truth; in short, practice what you preach, and I'll be the first to laud UNITA's undoubted achievements, and the first to argue that the West should step up its assistance to it. Meanwhile, don't think you're immune from scrutiny by conservatives just because we have enemies in common.—RS

The CHAIRMAN. The time of the gentleman from Michigan [Mr. WOLPE] has expired.

Mr. WOLPE. Mr. Chairman, I ask unanimous consent for additional time.

Mr. HYDE. Mr. Chairman, reserving the right to object, I would like to just say that we know the views of the gentleman from Michigan [Mr. WOLPE] on Angola, and I would just like to assert my reasons for objecting, if I may.

I know the gentleman from Michigan [Mr. WOLPE] has a great deal to say on this subject. His views are fairly well known, and I do not want to foreclose the gentleman from talking, but a discussion on Angola could be endless. There are people on our side who radically disagree with the gentleman, and we could go on and on.

Mr. Chairman, it is 20 minutes to 4. People do have planes to catch and have made plans to leave, and I just beg the gentleman from Michigan [Mr. WOLPE] to be brief. I will not object to another extension.

Mr. Chairman, I just hope the gentleman from Michigan [Mr. WOLPE] does not want to turn this into a special order.

Mr. BURTON of Indiana. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words simply to respond to the gentleman from Michigan [Mr. WOLPE], my good friend.

Mr. Chairman, the gentleman from Michigan [Mr. WOLPE] talks about the myths of human rights, yet we were told that Savimbi was involved in assassination, that he assassinated Tony Fernandez. We met with Tony Fernandez here 2 weeks ago. We were told that under the violation of human rights Savimbi tortured Tito Chingunji. We met with him here a few weeks ago, and he denied it all.

So, Mr. Chairman, if we want to talk about myths, where are the myths?

It seems to me that the bottom line is Dr. Savimbi has said time and time again that he will abide by fair and free elections in Angola, and, if he loses, he will step down.

So, Mr. Chairman, I would say to the gentleman from Michigan [Mr. WOLPE], Why don't they ask their Marxist friends to embrace the same principle of free and fair elections?

Mr. HYDE. Mr. Chairman, I ask unanimous consent that all debate on the Angolan matter be concluded at 10 minutes to 4. We could do 10 minutes on this and then hopefully finish our business.

□ 1540

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. WOLPE. Mr. Speaker, I reserve the right to object on the grounds that probably there is no issue that ought to be discussed more fully than the subject of Angola, since it is the one subject that is not the subject of public debate.

I have no problem, I say to the gentleman from Illinois [Mr. HYDE] in trying to establish some reasonable time limit.

Mr. HYDE. That is all I want.

Mr. WOLPE. But I would argue that 10 minutes more is too brief a time. This is a subject that does merit some discussion.

Mr. HYDE. Mr. Chairman, if the gentleman will yield, it does, but special orders are available and they can go on until midnight.

Mr. WOLPE. That is correct, but what is occurring is occurring within the context of this legislation. I think it is an appropriate point to raise these issues in the context of the Intelligence authorization.

The CHAIRMAN. The debate will now return to normal order.

There is before the Committee, without objection, an agreement to debate this matter until 3:50 p.m.

The time will be divided equally between the managers on each side. The gentleman from California [Mr. BEILENSON] will control 5 minutes and the gentleman from Illinois [Mr. HYDE] will control 5 minutes.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I would like to direct some questions about United States policy toward Angola to Mr. BEILENSON, the chairman of the Intelligence Committee.

It seems to me that Mr. Savimbi, the leader of UNITA, has frequently been at odds with United States support for the African-sponsored peace talks on Angola. On August 26 he announced he was suspending UNITA's participation in the talks for at least a month. He has repeatedly and publicly criticized the performance of the African-appointed mediator, President Mobutu of Zaire, and suggested that further talks would be futile unless Mobutu stepped out of the negotiating process. Most recently, he rejected personal requests by President Bush and Assistant Secretary of State Cohen that he attend the September 18 peace talks in Kinshasa, Zaire.

Is the gentleman as concerned as I am by Mr. Savimbi's actions?

Mr. BEILENSON. Mr. Chairman, if the gentleman will yield, I would say to the gentleman in general, yes, this gentleman is.

Mr. WOLPE. Should we continue to tolerate Mr. Savimbi's lack of cooperation with the African peace effort? Should we provide him with a blank check of American support even if he continues to withhold such cooperation, to attack Mobutu, and boycott negotiations?

Mr. BEILENSON. I suppose the gentleman is asking a rhetorical question. This gentleman's personal response is that he agrees with what he believes to be many of the gentleman's own feelings, what the gentleman's own feelings appear to be.

Mr. WOLPE. I think we can all agree with President Bush's statement last week that we would ultimately like to see free and fair elections in Angola—as we would like to see in the rest of Africa and the rest of the world. But administration officials have repeatedly told Congress that our near-term goal is a compromise political solution. At his confirmation hearing in the other body, Secretary of State Baker defined the U.S. objective of "national reconciliation" as "the emergence of a government that reconciles the competing views of the present government and the movement that Dr. Savimbi represents in a manner that is satisfactory to both." And at his confirmation hearing, Assistant Secretary Cohen reinforced this point, declaring, "We do not have the blueprint for ending the civil war between the Angolan people."

Does the gentleman agree with these administration statements of our policy objectives in Angola and their implication that we should not line up behind either the Angolan Government's or UNITA's maximum demands and recipes for how to ultimately achieve democracy, but rather seek to further a genuine national reconciliation of opposing viewpoints?

Mr. BEILENSON. Mr. Chairman, if the gentleman will yield further, the answer from this gentleman is yes. This gentleman thinks that is in fact a good summary of what our policy is, or should be.

Now that the Cuban troops are departing from Angola—half we now believe will be gone by November 1 and two-thirds we hope by next April, it seems clear to most of us that our major interest there is in encouraging a peaceful political solution to this tragic conflict. In light of recent developments in Angola and past statements by administration officials, I think it is critical that our policy be strongly supportive of a compromise political solution.

Mr. WOLPE. As the gentleman knows, we are the only Western country that does not recognize Angola and we were the only country in the world that voted against their admission to the International Monetary Fund. I am very pleased that the gentleman has joined with over 70 of our Democratic and Republican colleagues in cosponsoring House Concurrent Resolution 203 which calls upon the administration to reciprocate such constructive Angolan actions as Cuban troops withdrawal, macroeconomic reforms, and entering into negotiations with UNITA by taking steps to begin normalizing relations with Angola through the establishment of a United States liaison office in Luanda, support of Angola's full participation in the IMF and World Bank, and delivery of humanitarian assistance to all Angolans. It is not a logical aspect of an evenhanded United States policy toward Angola and UNITA for the United States to have normal relations with both groups?

Mr. BEILENSON. Mr. Chairman, if the gentleman will yield further, again I say this gentleman agrees. In fact, he feels that by embarking upon a more normal relationship with the Angolan Government it seems likely that we might increase, rather than decrease, our leverage in furtherance of a peaceful political solution that maximizes the chances for future democratization.

Mr. WOLPE. In light of our discussion, I say to the committee chairman, can the gentleman assure our colleagues that the gentleman and his committee will be closely monitoring the situation in Angola in the coming weeks and months, and that the gentleman will revisit the key policy issues in the near future?

Mr. BEILENSON. I can assure the gentleman that this gentleman shares the concerns that he has expressed and that I shall continue to follow and monitor the situation closely.

Mr. WOLPE. Well, let me express my appreciation to the committee chairman for those responses and for the gentleman's continuing concern with respect to our policy.

I do believe that American national interests are going to be compromised if we cannot respond to what is in fact new developments that clearly are being manifested in southern Africa. I think we all want to see reconciliation. We all want to see an end to the terrible conflict that has produced so much bloodshed within that region. I hope that we can collectively work our way through to a reassessment of American policy. In that regard I am inserting in the RECORD some useful background material on recent developments and U.S. policy.

BACKGROUND MATERIAL ON ANGOLA PEACE NEGOTIATIONS AND U.S. POLICY

(Prepared by the House Subcommittee on Africa Staff)

THE GBADOLITE AGREEMENT

African efforts to encourage a compromise political solution to the long and bloody conflict in Angola (100,000 dead, 50,000 amputees, 400,000 refugees, 600,000 internally displaced) culminated in the June 22nd Gbadolite Summit Meeting. There, eighteen African Heads of State and two representatives of Heads of State gathered, under the Chairmanship of President Kaunda of Zambia, and President Mobutu of Zaire mediated between President Dos Santos of Angola and UNITA Leader Jonas Savimbi. According to the September 18 Kinshasa Communique issued by the core group of eight African leaders.

"At the end of the Gbadolite Summit the Heads of State gathered there took note—after the President of the meeting His Excellency Dr. Kenneth David Kaunda, President of Zambia, read before the gathering the main points of the peace plan—of Mr. Savimbi's acceptance of the points contained in the plan, after which President Eduardo dos Santos shook his hand as a symbol of fraternity and reconciliation between sons of the same motherland."

Statements by President Mobutu, President Pereira of Cape Verde, President Bongo of Gabon, and President Chissano of Mozambique also confirmed that Savimbi

had accepted in front of the African leaders the Gbadolite peace plan.

The Gbadolite agreement had two parts. First there was a public declaration that, "on the basis of the peace plan presented by the Government of the People's Republic of Angola and the proposals made by the Head of State of the Republic of Zaire in his mediation efforts, the following principles were agreed upon by all the Angolan brothers":

"The desire of all sons and daughters of Angola to end the war and to proclaim national integration before the whole world."

"The cessation of all hostilities as well as the proclamation of a cease-fire to come into force at midnight on 24 June."

"The establishment of a committee charged with drawing up the modalities for implementing this plan, which is aimed at national reconciliation, under the mediation of the President of the Republic of Zaire"

Second, as declarations by the eight African leaders at the subsequent Harare and Kinshasa summits showed, there was also an unpublished accord (presumably to give Dos Santos and Savimbi time to inform their constituencies). This agreement included:

"Respect of the Constitution and the Principal Laws" of Angola;

"Cessation of all foreign interference in the internal affairs" of Angola;

"Integration of UNITA elements in the institutions of the People's Republic of Angola"; and

"Acceptance of Jonas Savimbi's temporary and voluntary retirement."

Within hours of the Gbadolite summit, the major elements of the unpublished accord were mentioned publicly by several of the African leaders. President Mobutu, Savimbi's foremost African supporter, told the press on June 23rd: "As mediator, I have reached the point of integrating UNITA into all the structures of the Angolan State—Government, Army, Administration, and all others". The same day President Bongo commented:

"The main terms of the agreements that we reached were: the cessation of hostilities on Saturday at midnight; and the total integration of all the former assets of the UNITA within the Angolan Government, the Army, and in the Administration. In short, everything that concerns the situation of the country is to be reabsorbed. It was also decided to put an end to foreign interference. Lastly, we worked out the conditions for this reconciliation process."

Similar statements were made by Presidents Kaunda, Chissano and Pereira. However, one point in the agreement remained unclear: the exact nature of the "temporary and voluntary retirement" of Savimbi. Kaunda and Dos Santos indicated that Savimbi would leave Angola and go into exile, but Mobutu denied this and it was not confirmed by anyone else.

The upshot of the African peace effort then was a political compromise in which neither side realized its maximum demands. However, many important details remained to be negotiated and one point—Savimbi's temporary retirement—needed to be ultimately clarified. UNITA gained legitimacy as an organization which had the right to negotiate its members "integration" into the Angolan political structure. This could be achieved in various ways (President Pereira related, "Savimbi proposed the word 'participation' instead of integration but it was understood that it should be the Angolans who would discuss the rest among themselves"). But, together with the principle of respect for the existing Constitution and principal laws, "integration" clearly fell short of UNITA's long-standing demand for the dissolution of the Angolan Government, its replacement by a new Government of National Unity, and subsequent elections for a legislature to write a new Constitution. On the other hand, the Angolan Government gained an immediate cease-fire with the UNITA guerillas, recognition of the integrity of its regime as a starting point for political negotiations, and Savimbi's temporary political withdrawal (already offered by UNITA in the context of it own peace plan). However, it gave up its previous refusal to negotiate a political solution with UNITA by accepting the Mobutu mediation scheme, and sacrificed its previous emphasis upon individual amnesty and as the path to national reconciliation.

RESPONSE OF THE ANGOLAN PARTIES

While neither the Angolan Government nor UNITA has complied fully with the African mediation effort—for example, neither is currently observing the cease-fire—the overwhelming preponderance of attacks upon the Gbadolite agreement and the African mediation effort have come from UNITA. These may be grouped under four categories:

(1) UNITA's Rejection of the Cessation of Hostilities by 24 June.—UNITA carried out a major sabotage of the Luanda electrical power system on June 29th. On July 25th, it reportedly shot down an Angolan military transport plane with a missile, resulting in 40 deaths. (All this during a period when UNITA was accusing Angola of nothing more than moving supplies). At the July 19-22 negotiations in Kinshasa, UNITA did not accept Mobutu's proposal for observation and implementation of the cease-fire though Angola did. On August 10th, Savimbi insisted, against the published Gbadolite agreement, on tying agreement on a cease-fire to political agreements: UNITA negotiators were to "discuss not only the cease-fire but the political schedule * * * what kinds of incentives to give to the guerillas to stop fighting. The insistence of the present mediator, President Mobutu, and the MPLA to discuss only the cease-fire is incomplete." On August 24th, UNITA rejected the eight African leaders' Harare communique spelling out the unpublished part of the Gbadolite agreement and started, "War has resumed." On August 26th, UNITA suspended all peace negotiations, including those on the cease-fire, for a month, but offered a month-long "truce" in which it would not "carry out any offensive" though its "armed forces are ready wherever they are attacked."

(2) UNITA's Rejection of the Key Concept of "Integration." Following an initial interview of Mozambique in which he did not quarrel with a reporter's description of the upcoming process of "reintegration into Angolan society," Savimbi subsequently changed course. On June 25th he told a press conference in Jamba that "The heads of state approved the agenda that we presented 14 years ago on restoring peace and national reconciliation by forming a Government of National Unity". On August 10th he told the Portuguese press, "There was no integration", and emphasized the importance of a "Government of National Unity".

(3) UNITA's Rejection of the African Mediation Effort Led By Mobutu.—On August 9th, Mobutu declared he was "surprised and astonished" by reported press statements by Savimbi disavowing the Gbadolite agreement and questioning Mobutu's role. Savimbi publicly criticized Mobutu's conduct of the negotiations on August 10th. On August 24th, UNITA rejected the Harare communique "violently", "question(ed) the role of Gbadolite and its chairman", and said "It does not accept that Africa should decide on the leadership of African countries, wherever they may be". On September 17th, the New York Times reported Savimbi saying that Mobutu was "not neutral" and suggesting that further talks would be futile unless he stepped out of the negotiating process.

(4) UNITA's Walkout From the Negotiations.—On August 26th, UNITA announced the suspension of its participation in the committee established by the Gbadolite summit to implement national reconciliation until its Congress in late September. (However, the next day he announced he would be attending a peace conference in Kinshasa in September.) On September 17th, he told the New York Times that he would not attend the September 18 Kinshasa meeting with the eight African leaders because the two sides were too far apart to have meaningful talks. At this time, he rejected an urgent request from President Bush and Secretary Baker and direct pleas by Assistant Secretary Herman Cohen, to attend the talks.

THE CHANGE IN U.S. POLICY FROM EVENHANDEDNESS TO INCREASING SUPPORT OF UNITA'S DIPLOMATIC POSITION

At first, the U.S. supported the Gbadolite summit as a "significant breakthrough" in which both sides made major concessions. It also stressed that this was an African, rather than U.S. success. A "senior official" commented publicly, "The most important thing is that you have African leaders talking to their own brethren about how to solve a problem without American aircraft, without a British mediator, without people from the outside".

Asked to project the eventual political outcome in Angola, Assistant Secretary Cohen responded in terms that were not inconsistent with the concepts of "integration" and "temporary and voluntary retirement" (CNN-7/18): themselves. We are not prescribing * * * I think it will be a typical African situation, probably a one party government, with a Parliament. But the two parties, UNITA and the MPLA, will probably merge into something new."

He also noted the prospective temporary retirement (but not exile) of Savimbi:

"What they are talking about is a transitional period of one year or 18 months where Jonas Savimbi will not be part of the Government. He has already volunteered to do that."

At the same time, Cohen made an effort to have the U.S. reverse its previous lone vote against Angola's admission to the IMF at the upcoming July 18 IMF Executive Board Meeting—in order to obtain more influence with Luanda in support of a political settlement.

Subsequently, U.S. policy changed. Following a letter on the IMF issue by Senator DeConcini and four other Senators, the U.S. maintained its negative vote at the IMF Executive Board meeting. On August 23rd, State Department press guidance criticized the Harare communique: "It appears that the summit's reiteration of what had been agreed to at Gbadolite includes some elements to which, in fact, UNITA may not have agreed". (As shown in the earlier discussion of the Gbadolite Agreement and as

implied by Cohen's earlier remarks, this statement is not a fair reflection of the facts.) There were indications of private support for Savimbi's effort to link effective implementation of the cease-fire to progress in political negotiations—also contrary to the Gbadolite agreement. Finally, and most importantly, the U.S. issued a press statement on the day of the Kinshasa summit, September 18, strongly supporting Savimbi's perspective on Gbadolite:

"The United States strongly supports UNITA and its goals of national reconciliation followed by free and fair elections. The U.S. does not accept the concepts of "exile", "amnesty", or "intergration". Political issues must be settled at the negotiating table."

Shortly afterward, Mobutu called upon "those who are closely or remotely concerned by the Angola problem * * * to stop any interference likely to hamper the restoration of peace in Angola.

The only remaining U.S. differences with Savimbi are that the U.S. continues to support Mobutu as mediator and attempted in vain to get Savimbi to go to the Kinshasa summit.

[From Newsweek, Oct. 16, 1989]

THE END OF THE AFFAIR—SAVIMBI IS NO LONGER WASHINGTON'S DARLING

In the eyes of the Reaganite right, Jonas Savimbi was a freedom fighter. His trips to Washington were media-charged whirlwinds of White House visits and cozy sessions with the congressional hard-liners who delivered money—$50 million this year—to aid his guerrillas fighting the Marxist regime in Angola. But as he toured the capital last week, there were signs of fading ardor. Reports of brutal reprisals against rivals and dissidents inside the National Union for the Total Indpendence of Angola (UNITA) have weakened his hand. Some officials blamed him for the breakdown of a cease-fire negotiated in June by Zaire's President Mobutu Sese Seko. His liberal critics wondered if underwriting old anticommunist warriors like Savimbi has become dangerously anachronistic in the age of Gorbachev.

Changes in the calculus of the region's politics may make Savimbi expendable. Washington's chief geopolitical concern in the onetime Portuguese colony—the 50,000 Cuban troops stationed there—will soon be history. They are leaving under the terms of the U.S.-brokered Namibian independence accord. There is also a hardening consensus that the country's 14-year civil war has become a bloody stalemate (an estimated more than 200,000 dead) serving no one's interests. The aim now is to get Savimbi and the Marxist government of President José Eduardo dos Santos to end the conflict "on any terms acceptable to both sides," one American official in Johannesburg says.

Savimbi's credibility has been damaged by the collapse of the cease-fire arranged by Mobutu in Gbadolite, Zaire, in June. While dos Santos and Savimbi shook hands on the accord, it was broken by both sides within days. Savimbi claims he never agreed to the terms the Zairian leader announced, which included an 18-month "retirement" for the rebel leader himself and integration of his UNITA guerrillas into the Angolan government. Questions about Savimbi's own conduct have eroded American conservative support. An Aug. 18 piece in William F. Buckley's National Review, for example, describes the alleged torture and killing of UNITA dissidents, some through public burnings. The article asserts that his Maoist training and repressive style make him no friend of the West. "I don't think Jonas Savimbi is a saint," says conservative Republican Congressman John Kasich, who has signed a letter inviting dos Santos to visit the United States.

Savimbi dismisses any notion that his support is slipping. "The people who sent the letter [to dos Santos] never supported UNITA in the past," he said last week. But his detractors may be gaining a foothold. Last month Democratic Congressman Howard Wolpe, chairman of the House Africa subcommittee, introduced a nonbinding resolution calling on President Bush to begin normalizing relations with Angola by opening a U.S. liaison office in Luanda and sending reconstruction aid. The measure's 64 sponsors include 15 Republicans, once a political impossibility. Publicly, the White House remains solidly behind Savimbi. But it wants him back at the bargaining table with Mobutu to reestablish the cease-fire. Both met with Bush separately last week, and Savimbi promised that the problems would be ironed out. If negotiations get back on track, Congress is likely to continue arming Savimbi. If not, he may find a much chillier reception on his next visit to Washington.

[From the New York Times, Sept. 17, 1989]

SAVIMBI SAYS HE IS HALTING ANGOLAN PEACE TALKS

(By Kenneth B. Noble)

ABIDJAN, Ivory Coast, Sept. 15.—The Angolan guerrilla leader, Jonas Savimbi, said tonight that he was suspending negotiations to end his country's long civil war because the two sides remain too far apart to have meaningful talks.

Face-to-face negotiations between Mr. Savimbi and President Eduardo dos Santos of Angola had been scheduled to resume on Sept. 18 in Kinshasa, Zaire.

But the rebel leader said he has decided not to attend the meeting, which would be the second time the two sides have formally help peace talks.

In an interview here, Mr. Savimbi was especially critical of President Mobutu Sese Seko of Zaire, the mediator of the talks, whom he accused of grossly distorting the terms of the cease-fire agreement reached by 18 African heads of Government on June 22 in Gbadolite, Zaire.

"He's not neutral," Mr. Savimbi said of the Zairian President, and suggested that further talks would be futile unless Mr. Mobutu stepped out of the negotiating process.

Mr. Savimbi spoke for 40 minutes at a residence of the Ivory Coast's President, Félix Houphouët-Boigny. African diplomats here said that Mr. Savimbi had hoped that he would replace Mr. Mobutu as mediator.

The rebel leader's comments are significant because for several years Zaire has provided the Angolan guerrillas with substantial assistance, its territory serving as a shipment corridor for some of the equipment sent by the United States to be used against Angola's Marxist Government.

Mr. Savimbi also said he met today with Herman J. Cohen, the Assistant Secretary of State for Africa, who urged him to attend the Kinshasa talks.

The Angolan delegate to the United Nations, Manuel Pacavira, accused Mr. Savimbi of bad faith and said he did not really want to bring the war to an end.

"We are tired of Mr. Savimbi's songs. The Kinshasa meeting will take place, with or without him." Mr. Pacavira said in a telephone interview. He added that Angola had full confidence in Mr. Mobutu as mediator.

DIFFERING VERSIONS EVENT

The impasse here appears to boil down to a complete difference in opinion on what was accomplished at the Gbadoilte meeting. The peace talks have taken on added urgency for both sides because of the coming independent of Namibia, also known as South-West Africa, a territory that has been administered by South Africa and which has been used a supply base for Mr. Savimbi's in southeastern Angola.

A peace accord signed in December by South Africa, Angola, Cuba and the United States includes a pledge by the South Africans to end their support for the rebels. The accord also provides independence for Namibia and a phased withdrawal of Cuban troops from Angola. Western and African diplomats say that if the peace talks between the rebel forces and the Luanda Government collapse, full-scale fighting could resume, jeopardizing the December accord.

Mr. Savimbi said in the interview that fighting had, in fact, intensified. He estimated that in the last two weeks about 1,000 Government troops had been killed and as well as about 300 of his own soldiers. Angolan officials have disputed these figures, and there is no way to verify them.

Angolan officials, skeptical about Mr. Savimbi's vow not to continue negotiating, said they thought that he was stalling in an attempt to replenish his supplies and perhaps prepare for a military push at a later date.

In other matters, the rebel leader reintegrated his contention that he never consented to go into exile or to let his forces be absorbed into the Angolan Army, as Mr. Mobutu and other African leaders contended at a meeting in Harare, Zimbabwe, late last month.

Asked about Mr. dos Santos' contention that he agreed at Gbadolite to accept some form of exile—external or internal, at least for a transitional period of national reconciliation—Mr. Savimbi said: "He's lying, and if anybody told him I said that, they're lying."

[From the New York Times, Aug. 27, 1989]

ANGOLA TRUCE IS AS DEADLY AS CIVIL WAR

(By Kenneth B. Noble)

HUAMBO, ANGOLA, Aug. 20.—It was shortly past midnight the other night when mortar shell ripped through the roof of Felismina Castiho's adobe hut. Shrapnel from the explosion tore a hole in her right thigh. Her parents sleeping in a room next door, were killed.

The 6-year-old girl is one of dozens of civilians treated for serious wounds since June, when a cease-fire was called in Angola's 14-year civil war, said Dr. Adriana Francisco Goncalves, acting medical director of the regional hospital here.

The cease-fire agreement was reached on June 24 in a meeting between President José Eduardo dos Santos of Angola and the rebel leader, Jonas Savimbi. But judging from the wounded and crippled crowding this hospital and daily Angolan press reports of attacks, the truce never became fully effective.

"Our professionals have not seen a cease-fire" Dr. Goncalves said. "The number of wounded coming in have been continuous before and after the agreement. On some days, it's one, two, or three. On others we see 10 or 15 multiple-trauma cases."

CAMPAIGN OF TERROR DENIED

In a recent interview in Abidjan, Ivory Coast, Tony D. Fernandes, foreign minister of the rebel group, the Union for the Total Independence of Angola, denied that the rebels were waging a campaign of terror. He called such accusations "lies" meant to turn American public opinion against their effort.

The United States has given the guerrilla group, which goes by the name Unita, $15 million a year in aid in the last several years, and Washington has vowed to continue to do so despite the cease-fire.

On the night that Felismina was wounded in what was evidently a rebel attack, the Rev. Benjamin F. Chavis Jr., the New York-based director of the United Church of Christ's Commission on Racial Justice, was asleep about a quarter of a mile away. He was with a group of American physicians and other medical workers here examining conditions in Angola's central plateau.

"It happened about 12:15 in the morning," Mr. Chavis said as he led a tour of the still smoldering hut where Felismina and her parents, José and Lucia, lived.

"A loud explosion shook the building in the room I was sleeping in," he said. "I got up and looked out the window and saw rockets exploding.

"The first rocket and rifle barrage lasted about 20 minutes. After a half hour lull, the shootout continued for another 15 minutes.

"It was a full moon. The night was bright, so whoever was shooting knew they were shooting over a civilian part of Huambo."

Besides Huambo, other towns that have been hit hard by guerrilla attacks include Kuito and Chinguar, towns east of here. "The main objective is Luanda," said Pedro de Castro Van-Dunem, Angola's Foreign Minister. "We've lost a battalion—about 200 military, about 300 civilians and about 600 wounded; about 100 trucks have also been destroyed."

Mr. Van-Dunem also blamed the rebels for shooting down a civilian airplane, reportedly killing 43 passengers. Unita has denied responsibility for the downing.

Mr. Savimbi's guerrillas exert de facto control over much of the countryside around Huambo, a once-thriving agriculture and rail center.

Today, Huambo is a bleak, tattered city, full of shuttered shops and abandoned farms and fields. Many residents, fearing guerrilla ambushes and land mines, rarely venture far outside the city limits.

One of the few who routinely did was Juliana Alcina, a Government information official. On June 26, two days after the cease-fire began, Miss Alcina was traveling with a group of nurses who were giving polio vaccinations in a nearby village.

They arrived without incident, but on the return trip their truck hit a land mine. The six nurses were killed. The explosion fractured Miss Alcina's back and mangled her right leg.

She said she believed that the land mine had recently been installed, buried by guerrilla forces in the brief period that the group spent in the village. "We had been over the same place, over the same road three times," in the weeks preceding the explosion, she said. "And we never had a problem with mines."

"Unita did this to me" she whispered.

Nearly every day the Angola Journal, the state-controlled newspaper, prints on its front page a tally of Unita attacks culled from official Government reports. At 5:00 A.M. on July 18, for example, the paper reported that guerrillas attacked Cingues, a village in Bié Province, killing 60 civilians and kidnapping 29.

On Aug. 12, the Journal reported that "bandits" attacked Cafunfo, a village in the northeastern province of Lunda-Norte, killing nine civilians and wounding four.

[From the Washington Post, Sept. 25, 1989]

U.S. STRATEGY ON ANGOLA PEACE TALKS FALTERS

(By David B. Ottaway)

Three months after a much-heralded start on peace talks for Angola, the Bush administration strategy is failing badly and the process is still not underway.

The administration has relied on Zairian President Mobuto Sese Seko to mediate an "African solution" to the Angolan civil war. But the two warring parties have not yet even sat down together in the same negotiating room.

Jonas Savimbi, the U.S.-backed Angolan rebel leader, has publicly rejected Mobutu as mediator, and U.S. efforts to get Savimbi to the latest proposed round of talks last Monday in Zaire proved fruitless.

Meanwhile, a cease-fire declared June 24 is floundering amid accusations of multiple violations by both sides.

"I don't know what the next step is myself," a senior U.S. official said Wednesday.

"That whole initiative is in trouble," said the director-general of South Africa's Foreign Ministry, Niel Van Heerden, at a press briefing Tuesday, "We are virtually back to square one."

It is unclear what this means for the U.S.-brokered accord of last December that provides for the withdrawal of 50,000 Cuban troops from Angola and independence elections for South African-ruled Namibia.

But both South African and U.S. officials said Cuba is so far adhering strictly to the timetable for phased withdrawal of its troops. In addition, Havana has given no indication that it might renege on its pullout commitment even if the civil war resumes, according to these officials.

Congressional and other American backers of Savimbi are blaming the administration for the failure to achieve any progress in the national reconciliation talks.

"The State Department has remained strangely silent" about the peace process, said 13 senators in a Sept. 12 letter to Secretary of State James A. Baker III. They urged Baker to become personally involved in the process.

The United States has considerable influence with both sides. It is Savimbi's main outside supporter now, with a covert aid program of $40 million to $50 million. It also can offer the Angolan government diplomatic recognition and U.S. technology, both of which it ardently seeks, in return for a compromise.

But the Bush administration, seemingly anxious to avoid high-profile and risky diplomacy, has not shown any interest in mediating the talks. Instead, it has deliberately promoted Mobutu as the Angolan peacemaker.

At first, this strategy seemed possible. The Zairian leader started with a major diplomatic coup on the eve of a visit to Washington, getting Savimbi and Angolan President Eduardo Jose dos Santos to shake hands and agree to a cease-fire at a meeting June 22 in Gbadolite, Zaire.

Mobutu even got 17 other African heads of state to witness and bless the historic meeting between the two adversaries, who have been locked in a devastating civil war since Angola's independence from Portugal in 1975.

But Mobutu never succeeded in getting an Angolan delegation in the same room with one from Savimbi's National Union for the Total Independence of Angola (UNITA).

The senior U.S. official said the Angolan delegation "refuses to sit at the same table with these 'bandits,' as they call them [UNITA members]," and Mobutu has never gone beyond "contact talks" carried out indirectly by Zairian officials shuttling between the two parties.

Meanwhile, Mobutu began associating himself in August with the Angolan government's view of what was allegedly agreed to at Gbadolite, which Savimbi has hotly contested.

At an Aug. 22 meeting of eight African leaders in Harare, Zimbabwe, Mobutu signed a declaration that upheld the Angolan government position: Savimbi's followers are simply to be "integrated" into existing Angolan institutions while Savimbi is to go into "temporary and voluntary retirement" in exile.

Savimbi, on the other hand, is demanding elections, a transitional government, the creation of a multiparty system and sweeping changes in Angola's Marxist-Leninist constitution. He also refuses to go into exile.

Mobutu's apparent acceptance of the Angolan government view so infuriated Savimbi that he announced he would not attend the next planned round of talks in Kinshasa Sept. 18.

Assistant Secretary of State Herman J. Cohen rushed to the region last week in a futile effort to convince Savimbi to show up. The State Department issued a statement saying it "strongly supports UNITA and its goal of national reconciliation followed by fair and free elections." It also rejected the Angolan government's "concepts of exile [for Savimbi], amnesty and integration [for his followers]."

The statement did not change Savimbi's mind but it did infuriate the Angolan government. Angola's ambassador to the United Nations, Manuel Pedro Pacavira, said Thursday that the U.S. demands amounted "almost to a declaration of war."

"Our government will not make concessions that would take its people to suicide. It will not accept the demand for the creation of a government of transition. It will not revise its constitution because of foreign pressure and to satisfy the ambitions of a small group [UNITA]," he said in an interview here.

The U.S. position now, as explained by the senior U.S. official, is that both sides should accept a new cease-fire followed by face-to-face "open-ended negotiations with no preconditions and no non-negotiable demands." Mobutu, he said, still has the full backing of the administration to serve as mediator.

But the Zairian leader's current approach seems certain to be rebuffed by Savimbi again. Mobutu is supposed to draw up a declaration—basically along the lines of the Angolan government's approach, which is embraced now by eight African leaders—and then get Savimbi to sign on, according to both Pacavira and the U.S. official.

It is not clear how Mobutu will do this. But Zaire is now the main conduit for U.S. and other arms flowing to Savimbi, giving Mobutu considerable leverage if he decides to use it.

[From the Washington Post, Sept. 3, 1989]

VOA PROBES INTERFERENCE IN ANGOLA—CIA-BACKED REBEL STATION REPORTED TO HAVE BLOCKED BROADCASTS

(By David B. Ottaway)

The Voice of America has begun monitoring its broadcasts to Angola following reports that a secret, CIA-financed radio station operated by U.S.-backed anti-Marxist rebels has been interfering with VOA programs.

According to one report, the rebel station, known as the Voice of the Black Cockerel, used its powerful transmitter to block 12 minutes of an Aug. 18 VOA broadcast that included four minutes of a speech by Angolan President Jose Eduardo dos Santos to the Angolan National Assembly.

Another report said the rebel station, which uses two of the same shortwave frequencies as VOA, also has cut in early on VOA broadcasts to make it appear that its programs are part of those from VOA.

Jardo Muekalia, a spokesman here for the National Union for the Total Independence of Angola (UNITA), which runs the station, denied the reports.

"That's not true. Nobody there is trying to override VOA broadcasts," Muekalia said. But there "might have been some kind of coincidence" occasionally between VOA and Black Cockerel broadcasts.

Muekalia said UNITA has complained to the State Department about recent reports carried by VOA from an Angolan, William Tonet, who has been working for the U.S. radio station in Luanda since April.

"The VOA shouldn't be a resounding box of the . . . government in Luanda," Muekalia said. He charged that Tonet had indulged in pro-government commentary that would be taken by Angolan listeners as evidence the United States was favoring the Marxist Luanda government rather than UNITA because the VOA is regarded there as a U.S. government operation.

A State Department spokesman said the UNITA complaint was being investigated but noted that the Angolan government and the rebel group have periodically complained about VOA's alleged bias in favor of the other side.

This is the first instance, however, of allegations that UNITA has been using its powerful radio station to block VOA broadcasts. The CIA reportedly helped set up Black Cockerel in 1986 when the Reagan administration began a covert program of military and other assitance to UNITA.

A spokesman for the United States Information Agency (USIA), which oversees VOA, said the agency is unsure whether there was sustained interference by the UNITA station on Aug. 18 but is investigating.

"We're going to monitor VOA programs closely for the next few weeks to see if anything is happening at all," said Joseph D. O'Connell, deputy director of USIA's office of public liaison.

VOA also has started monitoring Black Cockerel to see whether it is deliberately interfering with VOA broadcasts into Angola, according to VOA sources.

UNITA officials say the Black Cockerel radio station is based in southeastern Angola, but Angolan government officials believe it also has a transmitter in neighboring Zaire's southern Shaba Province.

Muekalia said it has powerful signal, covering all of central and western Africa as far north as Morocco and capable of being heard as far away as the East Coast of the United States.

VOA Deputy Director Robert T. Coonrod said allegations of UNITA interference with VOA broadcasting involved two frequencies: 9700 kilohertz, on which VOA sends Portuguese-language programs, and at 7130 kilohertz, for programs in French. The VOA transmitter is in Greenville N.C.

Black Cockerel also uses the 9700 frequency and one at 7135 kilohertz, which is so close to VOA's 7130 as to be indistinguishable, for its twice-daily programs.

O'Connell said there was no coordination between VOA and Black Cockerel on Black Cockerel's use of those two frequencies and said UNITA's secret station did not fall under the international board that registers stations and assigns times and frequencies.

Black Cockerel broadcast at 1 p.m. and 7 p.m. Angolan time. The VOA programs are heard in Angola at 5:30 a.m. and 6:30 p.m.

Luanda government officials and several U.S. sources said Black Cockerel's 7 p.m. program has on several occasions simply blended into the ending of the 6:30 p.m. VOA broadcast.

One VOA official said there were instance where "they come up before we go off" but that it was unclear whether this was deliberate.

[From the New York Times, June 10, 1989]

MORE U.S. AID FOR SAVIMBI?—IT WILL HEAT UP THE CIVIL WAR

(By Howard Wolpe)

WASHINGTON.—Despite great progress toward peace in southwestern Africa, the Bush Administration is reportedly seeking a substantial increase in covert military aid to Unita insurgents in Angola. Congress should resist.

The Administration has contended that militarily strengthening Unita, or the Union for the Total Independence of Angola, would advance a process of "national reconciliation."

In fact, additional military aid would only slow recent movement toward a compromise in Angola's civil war. Moreover, an escalation in military aid would cast doubt on the Administration's sincerity about defusing regional conflicts with Moscow.

The regional peace accord—under which Cuban troops are withdrawing from Angola, South African forces are departing from Angola and neighboring Namibia, and South Africa is ending its military support for Unita insurgents in Angola—has not threatened Unita's military position. South Africa has extended a golden handshake of up to three years of military supplies to Unita. As a result, the loss of Cuban support may well be more troubling to the Angolan Government than the loss of South African support will be to Unita.

Moreover, both sides are growing more conciliatory as external support declines, following the signing of the accord. The Angolan Government is prepared to talk to Unita (though not to its controversial president, Jonas Savimbi). It has also convened a regional conference to discuss ways to secure internal peace.

Unita has proposed a cease-fire and indicated that Mr. Savimbi would be prepared to step aside during peace negotiations and refrain from participating in the government for two years. New external aid could jeopardize these diplomatic achievements by reinforcing hardliners on both sides.

During the regional peace negotiations, Moscow openly urged the Angolan Government to find a formula for national reconciliation that would achieve an enduring political solution. For the U.S. now to ratchet up the violence in Angola would complicate the Kremlin's efforts to wind down an expensive military supply relationship.

Of course, some diehard adherents of the Reagan Doctrine of supporting anti-Communist forces throughout the world believe that the United States should have only one agenda in Angola. That's to put Mr. Savimbi, a.k.a. the "freedom fighter," into power.

The myth of Jonas Savimbi as an apostle of freedom is propagated by a nearly $2 million-a-year public relations operation led by the well-connected lobbying firm of Black, Manafort, Stone and Kelly.

Yet, reality keeps intruding upon the Savimbi myth. An impressive study by Human Rights Watch has documented Unita's indiscriminate use of land mines against civilians and its policies of forced labor and conscription. And even Mr. Savimbi's sympathetic biographer, British journalist Fred Bridgland, has become disillusioned. Recently, Mr. Bridgland presented new evidence that Mr. Savimbi executed his political opponents.

With the Cubans now leaving Angola, it is harder than ever to justify continued U.S. involvement. At the very least, Congress should resist the short-sighted military strategy proposed by the Administration and the Unita lobby. It should insist, as it did with contra aid in Central America, on a diplomatic framework to achieve American objectives.

Such a framework should be devised in concert with the Soviet Union and key regional states. It should aim toward the following: reducing military aid to both sides and encouraging a cease-fire; negotiations leading to a national reconciliation that gives Unita's constituency a meaningful share of power; incentives, including international economic assistance, for achieving a political solution; and signaling South Africa that it will be punished if it abandons its commitments in Angola under the regional peace accord.

We can escalate the war in Angola, thereby extending a conflict that has already cost 200,000 lives, jeopardizing our newly won credibility with the black-ruled states of Southern Africa and inviting reciprocal escalation from Moscow. Or we can take the diplomatic path, building upon one of the Reagan Administration's most notable foreign policy achievements.

The right choice is as obvious as it is crucial.

ASSISTANT SECRETARY OF STATE HERMAN COHEN ON CNN'S "INTERNATIONAL HOUR" (JULY 18, 1989)

Q: Let's move on to Angola. As you well know a cease fire . . . Jonas Savimbi of the rebel forces and President Dos Santos, shook hands on a cease fire agreement, on the 24th of June—I think it was. Now both sides have been saying the cease fire was violated. What is your information as far as the cease fire is concerned right now?

A: It's not perfect. Angola is an extremely large country and we have a guerilla war going on, and it's not easy to call off the fighting all over the place. But there's another element into that. That is the requirement that they get into political discussions. I believe the negotiations will resume in Kinshasa tomorrow and once the political discussions get serious I'm quite persuaded that the cease fire will hold.

Q: There was a lot of speculation before your trip (to Africa, including Luanda), that

you would be recognizing the marxist Angolan government of president Dos Santos. What is the position of the US right now?

A: Our position has been consistent from the Carter administration. We will not have normal diplomatic relations or recognize the government of Angola until there is national reconciliation. That is, the end of the negotiating process. We want to improve our dialogue with the MPLA Government and we will be doing that. But actual diplomatic relations must await an outcome of the negotiating process.

* * * * *

Q: For natioinal reconciliation, will Jonas Savimbi remain in Angola, or will he have to go into exile?

A: The agreement at the Gbadolite Summit, a couple of weeks ago said that in an eventual Government of national unity, Jonas Savimbi would be part of it in a very high position. What they are talking about is a transitional period of one year or 18 months where Jonas Savimbi will not be part of the Government. He has already volunteered to do that. But an eventual Government of national unity will include Jonas Savimbi. Everyone's agreed on that.

Q: Give us some sort of a scenario what that Government might look like * * *

A: That's gonna have to be negotiated among the Africans themselves. We are not prescribing * * * I think it will be a typical African situation, probably a one party government, with a Parliament. But the two parties, UNITA and the MPLA, will probably merge into something new.

Q: What role do you see Jonas Savimbi playing * * *?

A: I think he has to play a major role in any Angolan government, because he represents at least 40 per cent of the Angolan people, and maybe more. So he's going to have to have a high post. The only way the government and the country can stay together is if he brings his people along into it. He has already conceded that the President of Angola will be the current president, President Dos Santos. So he's not looking to take over that job. But he would have to have something very big, such as Prime Minister, I think.

[From the Washington Post, Aug. 24, 1989]

THE WAR IN ANGOLA CONTINUES

The world may think that the civil war in Angola is winding down. We read news reports that a cease-fire is in place and that negotiations are under way between the warring parties. We are told that compromise is in the air, that peace is just around the corner.

The people of Angola know better. While the world watches the historic effort to hold fair elections and achieve genuine independence for Angola's neighbor to the south, Namibia, it ignores the mayhem that continues just across the border to the north. Angolans are still being killed and maimed by some of the most brutal, indiscriminate violence in the world today. And the United States supplies the weaponry that allows that violence to continue.

I have just returned from a trip to Angola. Part of our purpose was to provide humanitarian assistance to victims of the war. We found evidence that the U.S.-supported insurgency (UNITA) continues to use our arms to terrorize the civilian population of Angola.

As I stood at the bedside of six-year-old Felismina Essenge hours after her legs had been mangled, her parents wiped out and her home distroyed by UNITA shelling, I heard her cry, "Mama, it hurts." If the American people could have been there to see that little girl's crippled body and hear her tormented whimpers, our policy of giving guns, rockets and land mines to UNITA would be instantly ended.

Americans should be clear about what we are doing in Angola. It is a conscious policy of UNITA to target civilians, to lay waste to the countryside, to destroy the economic infrastructure and to make Angola ungovernable. We supply the weapons that make UNITA's attacks on innocent civilians possible.

Why is it that our government consistently relies on that inane, destructive, unimaginative and evil solution? Just because the Soviet Union backs President Jose Eduardo dos Santos and his MPLA government, the United States is not required, robot-like, to support Jonas Savimbi of UNITA.

Jonas Savimbi is hardly the democrat his supporters portray. On the contrary, he has reportedly ordered the murder of hundreds of political dissenters and is said to have burned entire families as "witches" in bonfires at public rallies.

Ironically, American-owned oil companies have continued to do business in Angola throughout the war, their facilities protected by Cuban mercenaries from the attacks of U.S.-supported guerrillas.

Now that the Cuban troops are being withdrawn, our only interest in Angola should be humanitarian, to bring this brutal conflict to a speedy end. Continuing to supply weapons to UNITA does not advance that objective. We should call an immediate halt to our policy of providing support to UNITA.

Presently, aid to UNITA fails under the auspices of the Senate Intelligence Committee which protects its supporters from the scrutiny of public debate but does not excuse them from the terrible moral responsiblity of sending $40 million worth of military equipment to Angola; this, incredibly, at the same time as the two warring factions had finally reached across the table and agreed to a cease-fire.

We have now replaced the Soviet Union as the leading supplier of weapons to the Third World. This policy does not make friends for America. It only creates victims and adversaries and fosters anti-American feelings among people who would otherwise be our friends.

ETHEL KENNEDY.

McLEAN.

[From the Washington Post, Oct. 4, 1989]

THE BURDEN OF ANGOLA

A serious hitch has developed in the process that was meant to convert Angola's June cease-fire into a negotiation to end that brutalized country's 14-year war. Talks on a political settlement have yet to begin. Indeed, the MPLA government and the UNITA rebels cannot even agree on the factual matter of what commitments they undertook at the African summit where peace was supposedly nailed down. Though Cuba and South Africa are withdrawing from the conflict under terms of the broad American-brokered Namibia-Angola accord of last December, the Soviet Union continues its massive supply and the United States its modest supply of government and guerrillas, respectively. Some fighting has resumed, and talk of more is in the air.

The Angolan war has long had its own attentive and, of course, divided public here, and so it is no surprise to find both Angolan sides now appealing to the United States to change its policy. The MPLA government, desperate for the expected political and economic benefits, urges Americans to cut off rebel Jonas Savimbi and resume normal ties now that its Cuban protectors are going home. Mr. Savimbi, who has assiduously cultivated American conservatives, has been in Washington this week arguing essentially for an extra measure of American support that would spare him the considerable uncertainties of reliance on the mediation of African governments.

Both Angolan parties are heading down the wrong track. The MPLA government's effort to induce President Bush to jettison the rebels runs smack up against a politically solid administration commitment to see reconciliation through. The rebels' attempt to make Washington their permanent guarantor overlooks 1) the administration's proper reluctance to be engaged in a conflict now becoming more tribal than anything else and 2) the American national interest in relations with an Angolan government that, by removing the Cubans, is meeting the basic American condition for restoring ties.

The unacknowledged common purpose of the Angolans is to draw in the United States in a way that will spare them the rigors of compromise with each other. This is not a burden that Washington should be lifting from their shoulders. Quite the contrary. The original design of American diplomacy in Angola was to remove the foreign combatants—Cuba and South Africa—and then to involve other African countries in fashioning a framework of Angolan compromise. The design was sound then, and it remains so, notwithstanding the current hitch.

[From the New York Times, Oct. 8, 1989]

SENDING MR. SAVIMBI A MESSAGE

President Bush did well to push the Angolan rebel leader Jonas Savimbi back to the negotiating table. But it remains to be seen whether Mr. Savimbi is prepared to bargain on the basis of the African-sponsored framework for settling Angola's 14-year civil war. He needs to understand that continued U.S. help will be politically impossible if he misses this chance to negotiate.

The chance arises from a June agreement between Mr. Savimbi and Angola's President, José Eduardo dos Santos. Brought together by President Mobutu Sese Seko of Zaire and observed by 17 other African heads of state, the two Angolan rivals parted with a handshake.

The deal consisted of a cease-fire and agreement to negotiate a settlement. However, the cease-fire never took hold. Mr. Savimbi, despite a written plea from Mr. Bush and a visit from Assistant Secretary of State Herman Cohen, refused to attend a Sept. 18 meeting at which a cease-fire accord was to be signed. And having agreed to an ill-defined "temporary retirement," Mr. Savimbi now talks about running in presidential elections.

Meanwhile the U.S. has continued to send food, arms, medicine and clothing to Mr. Savimbi's Unita rebels. But that aid, delivered through Zaire, was jeopardized by Mr. Savimbi's balky behavior. An angry Mr. Mobutu reportedly ordered supply lines cut.

Mr. Savimbi, the darling of some on the American right, forget that a substantial minority in Congress has never been happy about aiding UNITA. That minority could easily become a majority if he spurns this chance for a settlement.

More important, America's purpose in Angola should not be to support one tribe or faction over another, but to rid Angola of 50,000 Cuban troops and to reduce Soviet influence. Thanks to last year's Namibia settlement, the Cubans are already leaving. Moscow, which would like to rid itself of the financial burden of Angola, might be willing to back an eventual agreement.

Seldom in the past 14 years has there been a better opportunity to silence the guns that cause Angola so much misery. Washington is right to insist that Mr. Savimbi not spoil that chance.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time.

As the ranking Republican member on the Africa Subcommittee, I find it difficult week in, week out, year in, year out, to understand why the chairman of that subcommittee who just spoke and was involved in a colloquy continues to focus attention on those who are fighting for freedom and to try to get us to cut off aid to those people who are fighting for freedom in Southern Africa, when he ignores the atrocities that are taking place in countries like Ethiopia. Very rarely on this floor do we hear the gentleman from Michigan complain about the hundreds of thousands, and yes, millions of people who are dying of starvation in Ethiopia because Mengistu, the Communist leader, will not let food that we are sending over and paying to send over there get to the people who are starving in those areas. The gentleman never talks about that, but let a guy fight for freedom against the Communist government, like the Angolan government, the MPLA, and he is down here ranting and raving, day in and day out, telling us that we should not help those people fighting for freedom.

Under Ronald Reagan it was called the Reagan doctrine, saying to go help people fighting for freedom around the world in places like Nicaragua, Angola, and Afghanistan, and we did that; but this gentleman has been opposed to every one of those freedom fighter groups from day one.

Now, the gentleman talks about Dr. Savimbi not living up to these agreements. Let us look at the facts.

There was a meeting held in Gbadolite in Zaire and Dr. Savimbi went to that meeting in Gbadolite along with the presidents of many of the other countries in Southern Africa and he sat down and tried to negotiate a peace settlement, national reconciliation and free elections.

Well, after that there was a meeting in a place called Harrare, Zimbabwe. Now, Dr. Savimbi or his people were not invited to that meeting, but the other presidents were, and at that meeting they came out with a communique that said that Dr. Savimbi had agreed to go into exile, that Dr. Savimbi would let his forces who had been fighting for 14 years in the jungles of Angola, he would let his forces be folded into the Communist MPLA forces. That does not make sense. Why would he agree to that? He had been fighting them for 14 years. He finally fought them to the conference table.

And yet this gentleman would like for us to believe that he agreed to that in Botalitay because of this communique which came out of Harrare, when he was not even there.

Further, they said that he was going to adopt the Communist constitution, or accept the Communist constitution of the MPLA in Angola.

I submit to my colleagues that that was information that at the very least was misunderstood. I certainly do not believe that Dr. Savimbi after fighting the Portuguese for 15 years and the Communists for 14 years would go along with caving in when he was on the verge of getting what he wanted, free and fair elections and national reconciliation.

Now, my colleague says that we should normalize relations with Angola under the Communist government.

□ 1550

I was in Luanda, Angola, earlier this year, and I can tell the Members that the people live under oppression. The infrastructure of that country is going straight to hell. The streets do not work. There are holes everywhere. There is not even running water at the parliament or at the airport. The people are suffering.

The reason they want to normalize relations with the United States is to get our money, to get our hard currency, to get our investment, so they can go on with their tyrannical regime.

The fact of the matter is, my friends, that we should not normalize relations with Angola until there are free and fair elections, until there is true freedom in that country, until the tyrant dos Santos and the Communist leadership agree to sit down and have true national reconciliation and democracy in that country. No matter what my colleague says, the facts do not bear out what he has been telling us. That is, that Dr. Savimbi is a man that we cannot deal with, that he is a man who is not really for freedom and democracy, when in fact we know that he is.

Last week I introduced Dr. Savimbi at a major rally in Washington, DC, and I can tell the Members that those who know him, those who have come to know him, those who have visited him at his headquarters in Jamba in southern Angola know this is a man who is a patriot, a man who wants freedom and democracy, a man who really cares about his fellow man in Angola, and one that we should support. President Reagan was right to support him, President Bush has been right to support him, and this Congress should continue aid to him and not listen to the machinations of the gentleman from Michigan.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MONTGOMERY] having assumed the chair, Mr. MOODY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, pursuant to House Resolution 254, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The amendments printed in section 2 of House Resolution 254 are considered to have been adopted.

Is a separate vote demanded on any of the remaining amendments? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 369, nays 31, not voting 32, as follows:

[Roll No. 288]

YEAS—369

Ackerman	Ballenger	Bliley
Akaka	Barnard	Boehlert
Alexander	Bartlett	Boggs
Anderson	Barton	Bonior
Andrews	Bateman	Borski
Annunzio	Beilenson	Bosco
Applegate	Bennett	Boucher
Archer	Bentley	Brennan
Armey	Bereuter	Brooks
Aspin	Berman	Broomfield
Atkins	Bevill	Browder
AuCoin	Bilbray	Brown (CA)
Baker	Bilirakis	Brown (CO)

Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Ford (MI)
Ford (TN)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hawkins
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Young (AK)
Young (FL)

NAYS—31

Bates
Boxer
Campbell (CA)
Clay
Coble
Cox
DeFazio
Dellums
Dorgan (ND)
Douglas
Fascell
Frenzel
Gonzalez
Hayes (IL)
Henry
Lewis (GA)
McDermott
Miller (CA)
Oberstar
Owens (NY)
Payne (NJ)
Pelosi
Penny
Rangel
Savage
Schroeder
Sensenbrenner
Smith, Denny (OR)
Stark
Weiss
Wolpe

NOT VOTING—32

Anthony
Bryant
Collins
Conyers
Courter
Crockett
Dixon
Dymally
Florio
Foglietta
Frank
Garcia
Hatcher
Huckaby
LaFalce
Leath (TX)
McCandless
Molinari
Murphy
Nelson
Nowak
Oakar
Pease
Rinaldo
Schneider
Schuette
Thomas (WY)
Towns
Traxler
Udall
Williams
Yatron

□ 1614

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Murphy of Pennsylvania against.

Mr. Anthony for, with Mr. Dymally against.

Mr. Dixon for, with Mrs. Collins of Illinois against.

Messrs. BATES, OWENS of New York, DORGAN of North Dakota, DOUGLAS, and COX changed their vote from "yea" to "nay."

Mr. LEHMAN of Florida and Mr. ROBERT F. (BOB) SMITH changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2748 the bill just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on the following rollcall numbers.

Rollcall No. 284.
Rollcall No. 285.
Rollcall No. 286.
Rollcall No. 287.
Rollcall No. 288.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time that I might inquire of the distinguished majority leader the program for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

First, Members should know that there will be no more votes this evening and there will be no votes tomorrow in the House.

On Monday, October 16, the House will meet at noon to consider suspensions. We will consider the following bills:

H. Con. Res. 194, support for people of Colombia;

S. Con. Res. 61, democracy and human rights in Burma;

H.R. 3294, authorize USIA film "A Tribute to Mickey Leland;"

H.R. 1473, designate certain lands in Los Padres National Forest as wilderness and Sespe Creek and the Sisquoc River as wild and scenic rivers;

H.R. 1310, redesignate certain portions of the George Washington Memorial Parkway as the "Clara Barton Parkway;"

H.R. 76, study the eligibility of St. Mary's River as an addition to the Wild and Scenic Rivers System;

H.R. 2949, authorize a study of nationally significant places in American labor history;

H.R. 1622, Copyright Fees and Technical Amendments Act;

H.R. 3045, Copyright Remedy Clarification Act;

H.R. 3046, Copyright Royalty Tribunal Reform Act; and

H.R. 2806, amendments to the Controlled Substances Act.

Votes on Monday will be held until 4:30 or 5 o'clock in the afternoon so that Members coming long distances will have time to be here.

On Tuesday, October 17, again we will meet at noon and consider suspensions, 4 bills:

H.R. 3341, Anti-Trust Criminal Penalties Amendments of 1989;

H.R. 3152, bankruptcy treatment of Oil and Gas Farmout Agreement;

H.R. 2138, Immigration and Nationality Act; and

H.R. 3259, Immigration Nursing Relief Act.

We will also have up H.R. 2989, consideration of the conference report for

Treasury, Postal Appropriations Act for fiscal year 1990.

On Wednesday we meet at 10 a.m. The House will recess immediately and reconvene at 11 a.m. to receive President Roh Tae Woo of the Republic of Korea in a joint meeting.

Following the joint meeting the House will reconvene for legislative business, for consideration of H.R. 2883, consideration of the conference report for the Agricultural Appropriations Act for fiscal year 1990.

On Thursday, October 19, and on Friday, October 20, the House will meet at 10 a.m. We will be considering H.R. 2494, International Development and Finance Act, subject to a rule, and H.R. 3402, aid to Poland and Hungary, subject to a rule.

Mr. MICHEL. Mr. Speaker, I notice we do not have a private calendar day on Tuesday, the 17th. I understand there are some measures building up on that calendar as suspensions. Can the gentleman enlighten me as to when we might have a private calendar day?

Mr. GEPHARDT. If the gentleman will yield further, I am not sure at this point. We will review what is there and try to schedule that when it seems like it is an appropriate time.

Mr. MICHEL. I have maybe a question of whether or not the gentleman has to make the appointees on his side. I have three that I have on mine, ready to make. So as soon as the gentleman has his appointees ready for the consent calendar and private calendar, we would be happy to join in that because some of those then tend to back up when we come near to the end of a session. And if they are taken in a little more orderly progression, we do not get ganged up at the end of the session.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

I just wanted to ask the distinguished majority leader, first of all, what are the plans for the Nuclear Regulatory Commission bill? I understand there have been some new developments, and I wonder if the gentleman could share those with the House.

Mr. GEPHARDT. The gentleman is correct.

□ 1620

It is my understanding that the Committee on Interior and Insular Affairs will be holding a hearing in the next few days with regard to that matter and that, as I understand it, will allow Members to then make an assessment on how to proceed.

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, as the gentleman knows, we have a concern about the gentleman from Pennsylvania, Mr. RITTER's amendment. We appreciate that step in holding the hearing.

Second, there is some concern on our side about getting adequate notice before a bill as important as the minimum wage might come to the floor. As I understand, there is no immediate scheduling indication. Do you have any notion at this stage when we might see the minimum wage bill?

Mr. GEPHARDT. If the gentleman will continue yielding, it is unclear at this point. We had wanted to consult with the Senate and see what their plans were before we made a final decision. We will try to give all Members adequate notice before it comes up.

Mr. GINGRICH. If the gentleman will continue yielding, I might request, and I do not know if the gentleman would necessarily be able to do so, but I would like to suggest from the standpoint of the Republican side, it would be very helpful if there is a way to get 2 weeks' notice.

That is such a major issue and one in which the President took such a firm position, and if there was something on the possibility of 2 weeks' notice, it would be helpful on our side.

Mr. GEPHARDT. If the gentleman will continue yielding, we will do the best we can.

Mr. MICHEL. Mr. Speaker, I ask one further question of the distinguished majority leader, on next Thursday and Friday, they are lumped together for the consideration of two measures. I know it is difficult for the majority leader to predict with absolute authenticity, considering what the other body is doing, whether or not we have a session on Friday. Is it possible, or would we be doing something like this week?

I yield to the gentleman.

Mr. GEPHARDT. Mr. Speaker, we will try to advise Members at the earliest possible moment as to whether or not Friday will be needed.

As the gentleman knows, we are in an important conference next week on reconciliation with sequestration in the background, and we want to make sure we do everything to get that concluded as quickly as possible. If we need that day in order to make sure the conference goes forward, we will schedule business. If we do not need it, we will make that call as early as we can and let Members know that.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for that comment, and to add by way of observation, as we get, again, near the end of the session, and Members would like to know with a degree of certainty, particularly on Mondays and Fridays. We do have a problem in our respective leadership roles of having enough people around here to serve on conference committees when push comes to shove. Sometimes when Members are inclined to think, why do we have to be here when there is very little scheduled, the real underlying reason for that is somebody has to be here to serve on the conference committees.

When we are not in session, Members on the conference committees say, shucks, I might as well go home, too, and we get out at Christmas time instead of Thanksgiving time. I am inclined to think Members would like to make it by Thanksgiving.

I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I am in that kind of a box, trying to take a bill to conference, and because of 60 nongermane amendments to the bill that was sent over there by the House, we have 12 other committees involved in the conference, taking 59 people to conference, and we do not have a session, we have no conference. We cannot get through. I would like to get out of here sometime this year.

Mr. MICHEL. The gentleman has buttressed my points very well, and I thank the gentleman for the contribution.

Mr. GINGRICH. If the gentleman will continue yielding, one more topic I might ask the majority leader, the President sent the crime and drug package up in June, and I understand it is now in the Committee on the Judiciary, and as I understand, the Senate sent a drug bill over this week.

Does the Democratic leadership have any plans as to when either of those bills might reach the floor?

Mr. GEPHARDT. If the gentleman will continue yielding, we will be acting as expeditiously as we can on what the Senate has sent over. We do plan to bring out legislation on the drug problem before we leave in November or December. Hopefully, November. So we will be bringing a bill to the floor.

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I thank the distinguished majority leader indicated that "sequestration was lurking in the background." I merely asked for this time so that I would remind Members that as of Monday, sequester will be lurking in the foreground. Sequester will take effect on that day, because Congress has not met the deadline in passing the reconciliation bill.

Mr. MICHEL. I thank the distinguished majority leader.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON WEDNESDAY, OCTOBER 18, 1989

Mr. GEPHARDT. I ask unanimous consent that it may be in order at any time on Wednesday, October 18, 1989, for the Speaker to declare recesses,

subject to the call of the Chair for the purpose of receiving in joint meeting his excellency Roh Tae Woo, President of the Republic of Korea.

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON MONDAY, OCTOBER 16, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on Monday, October 16, 1989, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT FROM FRIDAY, OCTOBER 13, 1989 TO MONDAY, OCTOBER 16, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, October 13, 1989, it adjourn to meet at noon on Monday, October 16, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR ON TUESDAY, OCTOBER 17, 1989

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with on Tuesday, October 17, 1989.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GOVERNMENT-WIDE ETHICS ACT OF 1989

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. SMITH of Texas. Mr. Speaker, the recently passed House version of the reconciliation bill is noteworthy in part for its action on a portion of the President's Government-Wide Ethics Act of 1989.

As a House sponsor of the President's ethics bill, I am pleased by the steps taken to not punish Presidential appointees by first requiring them to divest themselves of certain assets to avoid conflict-of-interests and then assessing tax penalties on the gains realized from such divestitures.

As Congress prepares to more fully address the particulars of ethics legislation, I urge my colleagues to consider providing such protection to judicial and legislative branch appointees as well.

A primary objective of the Government-Wide Ethics Act of 1989 is to apply standards across all three branches of the Government.

I commend the Ways and Means Committee—and in turn my House colleagues—for their action on this provision.

COMMITTEE REPORT

14. Deferral of recognition of gains for property required to be divested by Federal ethics requirements (sec. 11655 of the bill and new sec. 1043 of the Code)

PRESENT LAW

Generally, gain or loss is recognized on any sale, exchange or other disposition of property. The Internal Revenue Code contains provisions under which taxpayers may elect not to recognize gain realized on the involuntary conversion of certain property if property similar or related in service or use to the property converted is acquired by the taxpayer within the replacement period (sec. 1033). In such a situation, gain is recognized only to the extent that the amount realized exceeds the cost of the replacement property. The basis of the replacement property will generally be the same as that of the converted property; however, proper adjustments must be made for (1) any money received and not spent to acquire replacement property, and (2) any gain or loss not recognized.

REASONS FOR CHANGE

The committee is aware that the President has issued an executive order requiring that certain executive branch employees divest themselves of certain assets which might pose a conflict of interest. The committee believes it is important for individuals to find government service attractive. The committee wishes to minimize the burden of government service which is imposed by recognition of gain on divested assets which would are sold only because of the ethics requirements.

EXPLANATION OF PROVISION

The bill permits any individual required to divest himself of an asset pursuant to a certificate of divestiture issued pursuant to an executive order (relating to conflict-of-interest rules) in effect on the date of enactment to elect to roll over any gain realized upon sale to the extent that the individual purchases "permitted property" within 60 days of the date of sale of the asset. The individual's basis in the permitted property is reduced (but not below zero) by the amount of any gain not recognized. Any subsequent sale or redemption of the permitted property would result in gain or loss recognition. To the extent realized gain exceeds the cost of the permitted property purchased by the individual, gain will be recognized currently.

Eligible individuals are those subject to an executive order (relating to conflict-of-interest rules) in effect on the date of enactment and the spouse or minor or dependent child of any such individual. Eligible assets are those assets which an eligible individual is required to divest pursuant to the certificate of divestiture. Permitted property is limited to Treasury securities and any diversified, investment fund approved under regulations issued by the Office of Government Ethics.

Example 1.—If an individual is required to divest himself of corporate stock which had an accrued gain of $8,000, and within 60 days of the date of the stock he purchases a Treasury bond for $10,000, he may elect not to recognize any of the gain from the stock sale and, instead, to reduce his basis in the Treasury bond by $8,000, to $2,000. If he subsequently sells the Treasury bond for $11,000, he must recognize a $9,000 ($11,000 minus $2,000) gain at that time.

Example 2.—If an individual is required to divest himself of corporate stock which had an accrued gain of $12,000, and within 60 days of the date of the stock he purchases a Treasury bond for $10,000, he may elect not to recognize $10,000 of the gain from the stock sale and reduce his basis in the Treasury bond by $10,000, to zero (under no circumstances can the taxpayer create a negative basis in permitted property). He would then have an immediate recognition of the remaining $2,000 of capital gain. If he subsequently sells the Treasury bond for $11,000, he must recognize a $11,000 gain at that time. If the taxpayer wishes to defer all of the $12,000 in realized gain in the present year, he would have to purchase $12,000 or more of Treasury securities.

EFFECTIVE DATE

The provision applies to divestments first required after the date of enactment.

SEC. 11655. NONRECOGNITION FOR CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. SALE OF PROPERTY TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

"(a) NONRECOGNITION OF GAIN.—If an eligible person sells any property pursuant to a certificate of divestiture, at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost (reduced by any basis adjustment under subsection (c) attributable to a prior sale) of any permitted property purchased by the taxpayer during the 60-day period beginning on the date of such sale.

"(b) DEFINITIONS.—Definitions.—For purposes of this section—

"(1) ELIGIBLE PERSON.—The term 'eligible person' means—

"(A) an officer or employee of the executive branch of the Federal Government, and

"(B) any spouse or minor or dependent child whose ownership of any property is attributable under any executive order referred to in paragraph (2) to a person referred to in subparagraph (A).

"(2) CERTIFICATE OF DIVESTITURE.—The term 'certificate of divestiture' means any written determination—

"(A) which is made pursuant to the provisions of an executive order which is in effect on the date of the enactment of this section and which relates to conflict-of-interest rules, and

"(B) which specifies that the divestiture of specified property is reasonably necessary to comply with the provisions of such executive order.

"(3) PERMITTED PROPERTY.—The term 'permitted property' means any obligation of the United States or any diversified investment fund approved by regulations issued by the Office of Government Ethics.

"(4) PURCHASE.—The taxpayer shall be considered to have purchased any permitted property if, but for subsection (c), the unadjusted basis of such property would be its cost within the meaning of section 1012.

"(c) BASIS ADJUSTMENTS.—If gain from the sale of any prohibited property is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any permitted property which is purchased by the taxpayer during the 60-day period described in subsection (a)."

(b) TECHNICAL AMENDMENTS.—

(1) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property the acquisition of which resulted under secion 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) in the case of property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c)."

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1043. Sale of property to comply with conflict-of-interest requirements."

EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the divestiture is first required to be made after the date of the enactment of this Act.

SOUTH AFRICA FINANCIAL SANCTIONS

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, in my capacity as second ranking majority member of the House Banking Committee, and as a member of the Congressional Black Caucus and the recently formed legislative task force on South Africa, I am introducing the South Africa Financial Sanctions for Democracy Amendment Act of 1989. I am introducing this bill as an expression of the urgency many of us attach to America's moral obligation to enlist U.S. banks in the international effort to accelerate a negotiated settlement to South Africa's political crisis which is at the root of its debt crisis.

There are some who may think this an inopportune time to introduce such a bill when there is a newly elected President in South Africa who has offered some conciliatory comments and actions. De Klerk's announcement yesterday of the long-overdue release of Walter Sisulu and other African National Congress veterans on the eve of his meeting with church leaders Desmond Tutu, Allan Boesak, and Frank Chikane is indicative of the reformist image that de Klerk seeks to foster. Yet it is not the first time that Pretoria has released prominent political prisoners. Following the announcement, Reverend Chikane warned that if de Klerk's "aim is to release leaders to come and live in an apartheid society, then we will continue calling for sanctions in this country." The release of Mr. Sisulu and others was widely anticipated as a gift to British Prime Minister Margaret Thatcher to help her defuse renewed pressures for tougher financial sanctions at the upcoming Commonwealth heads-of-state summit in Malaysia.

Certainly, President de Klerk has proffered a more progessive image than his predecessor. He has spoken of negotiations with black leaders. He has visited frontline state presidents. He has even allowed several demonstrations to proceed without police interference. But, it is important to note that he has yet to alter the legal basis of apartheid or challenge its premise based on group identification. Even the demonstrations were allowed despite the fact that the state of emergency still exists expressly to prohibit them. De Klerk did not change the law, he merely allowed an exception. Mrs. Albertina Sisulu and their son, Zwelake Sisulu remain under heavy restrictions under the state of emergency. There have also been new rounds of detentions apparently aimed at the leadership of the new Mass Democratic Movement which has organized the protests. Leaders such as Titus Mafolo and Kurnick Ndlovu, both of whom met with President Bush in July as part of the delegation of Mrs. Albertina Sisulu, have recently been arrested. These actions belie the sincerity of Mr. de Klerk in accommodating black aspirations. How can he arrest a younger generation of leaders while releasing their elders and be seen as sincere?

We should, of course, welcome the new mood that Mr. de Klerk expresses. However, it must be borne in mind that Pretoria does not have a track record that inspires confidence that it will voluntarily make the necessary moves needed to promote a negotiated settlement to South Africa's political crisis. Further, de Klerk's notions of reforming apartheid in a process of evolutionary change falls far short of the urgent need to dismantle a thoroughly racist totalitarian system and install a democratic form of government. If Mr. de Klerk intends to move in new and positive directions, the criteria by which his intent can be judged are clearly available and universally agreed. He should abolish the state of emergency, free Nelson Mandela and other political prisoners, unban black political movements, and begin meaningful negotiations with truly representative black leaders.

Until these things begin to happen, those of us who are concerned with promoting a peaceful transition to nonracial democracy must look for ways to continue to encourage the South African Government in the direction of fundamental change. The country's debt crisis, one that is rooted in its unjust political system, offers the most appropriate pressure point for persuading de Klerk of the need to adopt such measures. It does this because it is timely: negotiations between Pretoria and its creditors are imminent. It does it because it may be the most effective pressure that we can bring to bear. And, it still responds to those who feel breathing room for de Klerk is necessary to demonstrate his sincerity. Let me explain what I mean.

There is a broad consensus that financial pressures on South Africa account for much of the change that has occurred thus far, and therefore need to be sustained and strengthened in order to hasten a transition to democracy. Despite the demonstrated efficacy of financial sanctions, those banks holding a portion of South Africa's $7.5 billion debt have been reluctant participants in exerting pressure on South Africa in spite of the fact that it was American banks that precipitated the current era of sanctions when they called in South Africa's short- to medium-term loans in 1985 that triggered the country's partial debt moratorium.

Whether the banks like it or not they are inescapable actors in the quest for change in South Africa and must shoulder part of the responsibility for helping us bring this tragic chapter in South Africa's history to as quick an end as possible. It is neither in the interest of the United States nor the people of South Africa for American banks to wash their hands of South Africa by agreeing to generous rescheduling terms offered by Pretoria—terms that buy more time for a white minority regime already in retreat while the banks secure their bottom line in disregard for the aspirations of the South African people.

Yet, without a law that sets some responsible parameters for debt repayment, and that closes up the many loopholes covering financial transactions in the current Antiapartheid Act, the banking community may very well let South Africa's apartheid regime off the hook. They did in 1987 when they agreed to terms that would allow them to convert South African short- to medium-term loans into 10-year exit bonds in violation of the spirit if not the letter of current sanctions law. To do so again would have tragic consequences for the people of South Africa who would have to endure a further prolonging of their repression at a time when the peoples of Eastern Europe and the Soviet Union are at long last beginning to taste the sweet fruits of freedom.

Many in the South African Government and even within this body argue that increased sanctions will destroy the South African economy. To the contrary, South Africa is destroying its own economy. With freedom for its majority deferred, there looms the prospect of an increasingly impoverished economy and infrastructure crumbling under the weight of the administration of apartheid and the societal disruptions inherent to the resistance of its implementation. Freedom would not occur before South Africa would slip into an economic backwater from which it might take generations to recover. We cannot afford to see such a scenario unfold when we have this opportunity presented by South Africa's debt crunch between now and 1992. By helping to speed up the process of change, we can more quickly move South Africa back into the international financial community as well as relieve it of the catastrophic burdens of its self-destructive system of government.

This bill is both fair and tough. We would like to see the banks repaid by Pretoria as soon as possible. Rescheduling is not ruled out altogether as long as South Africa is required to repay no less than 20 percent of principal on a yearly basis. Conversions of short- to medium-term South African debt into long-term exit loans will be prohibited since these, in effect, constitute new loans that threaten to undermine the impact of sanctions without requiring Pretoria to make fundamental political changes.

Those banks that have taken the exit vehicle will be required to divest themselves of such assets by the end of 1992. The limits placed on rescheduling and the prohibition on exit loans would take immediate effect along with several other provisions designed to close loopholes in the current Antiapartheid Act as well as strengthen our opposition to any request that South Africa might make for a loan from the International Monetary Fund (IMF).

We do not share the administration's view that those sanctions already in effect are adequate when they were never whole heartedly enforced. But this bill does attempt to accommodate the administration on the issue of time by structuring into it a framework whereby time is used constructively. Time will be made to work to speed up peaceful change rather than for delaying change to buy more time.

There are provisions that would not take effect until either 6 months, 1 year, or 2 to 3 years had passed, thereby giving the banks and the administration intervals of time in which to attempt to persuade Pretoria through dialog, consultations and diplomacy to take steps outlined in the bill that would immediately trigger an easing of pressures contained in the act. Thus, the time that the administration is seeking is built into this act either explicitly or implicitly in all of its provisions.

Therefore, I am appealing for a bipartisan show of support for this bill as a demonstration that we care as much for freedom in South Africa as we do elsewhere in the world where the winds of change are gathering force.

DEVASTATION OF HURRICANE HUGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. TALLON] is recognized for 5 minutes.

Mr. TALLON. Mr. Speaker, 3 weeks ago, my district was devastated by the worst storm of this century.

By now the rest of America knows that Hurricane Hugo ploughed through South Carolina leaving in its wake complete destruction and chaos.

We've got a half million people displaced, a quarter of million out of work and damage to physical property exceeding $4 billion.

That's not taking into account the effects on agriculture, tourism, and daily increase in clean up costs.

It will take us years to recover.

But, as the people of South Carolina begin the long, painful process of piecing their lives and belongings back together, it has become clear that one of the greatest casualties was our forests.

Hugo prematurely harvested over 3 years' worth of South Carolina's timber—the State's largest cash crop.

It left over 6.5 billion board feet of saw timber on the ground.

For a $4.3 billion industry this sort of damage is crippling for the entire State economy.

One observer said, "It looks like a giant walked through the forest and broke off trees. Trees 30 inches in diameter are snapped like twigs."

And unlike other crop producers, timber farmers have no substantial Federal assistance program to fall back on.

For agricultural producers of program and nonprogram crops there are a number of Federal farm assistance programs available.

The Disaster Assistance Act of 1989 provides disaster assistance payments to farmers who suffered losses in production due to damaging weather including hurricane.

As well, the Farmers Home Administration has low-interest emergency loans for loss of farms and equipment.

But the timber farmer is largely left to his own devices.

This is bad news for those concerned about the production and conservation of the 4-million plus acres affected by Hurricane Hugo.

That's why today I, along with members of the South Carolina delegation, am introducing legislation to set up a cost-sharing program for the clearing and reforestation of timber acreage damaged by Hurricane Hugo.

This program will encouage tree owners to reestablish their damaged stands by assisting in the reforestation of damaged stands, site preparation, and other necessary timber stand reestablishment.

The bill provides $100 million for this program and assumes 75 percent of the cost of implementation for private timber stands of 1,000 acres or less and 50 percent for private stands over 1,000 acres.

This program is modeled on the Forestry Incentive Program which has been extremely effective in encouraging reforestation but which if funded at current levels would take 111 years to reforest South Carolina.

Mr. Speaker, timber is a costly, long-term investment.

Most of South Carolina's small timber owners simply don't have the means to replant damaged and destroyed stands.

The result will be a severe blow to our national conservation efforts and to South Carolina's economy.

This country's spent millions promoting conservation in the West, the Amazon and other areas around the world.

I urge my colleagues to turn their eyes back to South Carolina, North Carolina, and Puerto Rico and help restore one of this Nation's most important natural resources—her forests.

□ 1630

ANNOUNCEMENT OF INTRODUCTION OF THE INCARCERATED VETERANS REHABILITATION AND READJUSTMENT ACT OF 1989

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gen-

tleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, I rise this afternoon to announce the introduction of the Incarcerated Veterans Rehabilitation and Readjustment Act of 1989, a bill which I am sponsoring together with over 30 of my colleagues.

This is a simple and straightforward bill; it does not create a new program or entitlement nor does it excuse incarcerated veterans for their crimes. The bill merely recognizes that thousands of incarcerated veterans—up to 20 percent of the Nation's prison population—have not been provided with the benefits and services to which they are entitled as veterans. The bill also recognizes that over one-quarter of Vietnam veterans currently suffer from total or partial post-traumatic stress disorder. While the vet centers program has successfully reached out to many Vietnam veterans, incarcerated veterans have been largely ignored; an oversight which this bill is designed to rectify.

In a nutshell, the bill directs the Nation's 194 vet centers to reach out to incarcerated veterans and provide them with readjustment counseling. Other provisions seek to ensure that this counseling continues, when necessary, following the veteran's release. Again, the bill does not create a new program, but merely attempts to better utilize resources which already exist under the vet center program. It makes little sense for the vet centers to fail to reach out to any group of veterans suffering from readjustment difficulties. It is especially important to address these problems if they may have been a factor contributing to a veteran's criminal behavior. When fully implemented, this legislation should reduce recidivism among incarcerated veterans.

The Vietnam Veterans of America has done impressive work in this area. Over 30 VVA chapters have been formed in prisons, providing a forum for thousands of incarcerated Vietnam veterans to come to grips with their wartime experiences. The Department of Veterans Affairs can and should play a role in this effort. The Incarcerated Veterans Rehabilitation and Readjustment Act will meet this need in a progressive and cost-effective manner, and I urge my colleagues to support the bill.

MR. EDWARD DOYLE: TEAMSTER AND COMMUNITY LEADER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today is Columbus Day—a fitting day to pay tribute to Mr. Edward Doyle, who was honored on October 6, 1989, at the Annual Yonkers Columbus Day Dinner. At the dinner, Mr. Doyle received the Savino Ferranto Humanitarian Award.

As a Teamster and as a community leader, Mr. Doyle has unselfishly dedicated his time, his energy, and his vast experience to the city of Yonkers and to Westchester County. He has been a committed member of local 456 of the Teamsters Union since 1958, when he worked for the Castle Block Company in Tarrytown, NY. Within 3 years, Mr. Doyle was elected vice president of local 456. His term was interrupted when he was called into active duty in the U.S. Army Reserves when President Kennedy activated the Reserves during the Berlin crisis.

However, Mr. Doyle's commitment to local 456 continued. He was reelected vice president and business agent in 1976 and was appointed secretary-treasurer and business manager by the executive board in 1985 and reelected by the membership later that year.

Mr. Doyle has been widely recognized for his work on behalf of the Teamsters. He was named by Joseph Trerotola, director of the Eastern Conference of Teamsters, to serve as a member of the policy committee of the National Construction Division of the International Brotherhood of Teamsters. Mr. Doyle himself comes from a Teamster family. His father served in local 456 for 25 years, and was president for 10 years.

But there is much more to Mr. Doyle, or "Eddie" as his friends—and I am proud to count myself among them—call him, than his vast commitment to the Teamsters. Eddie has spent many years devoting himself to the city of Yonkers. He is a member of the board of directors of the Angel Guardian of the Elderly. He is a member of the board of directors of the Brighter Tomorrow—a shelter for abused and battered women and children. He is also a member of the board of directors of the Dr. I Foundation and the Yonkers P.A.L.

In addition, Eddie has been involved in politics. In fact, he has been involved in bi-partisan politics, as he has served on both Democratic and Republican political committees.

This was certainly not the first time that Eddie Doyle has been recognized for his many gifts. He was honored by the Westchester-Putnam Affirmative Action Program for the Union Award. He was recognized by Willie Mays and honored for his devotion to children, specifically to children with cerebral palsy, to the March of Dimes, to the Children's Village, and to special education for underprivileged children.

I am proud of Mr. Doyle for receiving this prestigious award, and for his many years of unceasing commitment to his neighbors. He is an inspiration to all of us.

AN APPRECIATION OF NEW YORK YANKEE JOE DiMAGGIO, A TRUE AMERICAN HERO

Mr. ANNUNZIO. Mr. Speaker, there is no doubt that Italian-Americans have left their mark on the great national pastime, baseball. They range from Tony Lazzeri and Frank Crosetti to Phil Rizzuto and Yogi Berra to current Los Angeles Dodgers manager Tommy Lasorda and "Bart" Giamatti, the baseball commissioner who died last month. None, however, can match the credentials of that great New York Yankee, Joltin' Joe DiMaggio.

Mr. Speaker, many of today's young people know the Yankee clipper only from his television commercials as "Mr. Coffee." But even casual baseball fans know him as one of the greatest players ever to participate in the sport, perhaps the best all-round player in history. He excelled at every facet of the game—Joe was sensational at the plate, hitting for both average and power, a splendid, graceful, ballhawking centerfielder, and a great thrower. He was a daring and alert base runner, a heads-up player who never missed a sign in his entire career and a team leader. Not once in his major league career, which spanned from 1936 through 1951, was Joe ever ejected from a game for protesting an umpire's decision. Joe was truly everything a manager could hope for, even when he was hobbled with injuries that would have done in lesser men.

Joe gave 100 percent effort every time he stepped on the field. He was the Yanks' team leader on clubs which won 10 American League pennants and nine World Championships.

Some of Joe's career statistics do not measure up to those of other greats, but one must remember when examining Joe's lifetime statistics that he missed three seasons in the prime of this career because of military service—1943–1945.

Off the field, Joe was a gentleman. He was not a controversial person. He never badmouthed anyone. He would not allow himself to be dragged into any seamy situations and he got along with his teammates and the Yankee front office. During his Yankee career, Joe was quiet, shy, and conservative. He avoided strangers and publicity. All Joe's teammates were fond of him and held him in awe much as the average fan did.

This Saturday night Joe DiMaggio will be honored at the National Italian American Foundation's 14th anniversary dinner in Washington. The group, of which I am a founder, will give Joe its Lifetime Achievement Award. Vice President and Mrs. Dan Quayle will be present at the affair, which attracts nearly 3,000 people. Vice President QUAYLE will be carrying a letter from President Bush, who has attended four previous dinners but is otherwise occupied this year. Italian President Francesco Cossiga also will attend the dinner at which actor Danny Aiello, fashion designer Valentino, and K-Mart Chairman Joseph Antonini also will be honored.

It is appropriate that Joe DiMaggio will receive the Lifetime Achievement Award this year because the Hall of Famer will turn 75 on November 25.

Mr. Speaker, it seems like only yesterday Joe DiMaggio set a record that will be toughest to surpass—he hit safely in 56 consecutive games in 1941. During the year, a person could approach a stranger and ask: "Did he do it?" Even the ones who didn't speak English knew who he was: "DiMaggio" was one of the first 100 words immigrants heard on arrival.

In 1969, when the All-Star Game was played here in Washington during major league baseball's centennial anniversary, Joe was voted baseball's greatest living player. In 1976, during the Nation's Bicentennial, Joe's 56-game hitting streak was voted the most memorable moment in American League history.

If Yankee Stadium was the "House That Ruth Built," it was Joe who made the people feel at home.

The Yankee Encyclopedia says the following about DiMaggio: Joe was completely dedicated to his profession. He was constantly learning more about the game and improving himself as a player. Any teammate interested in becoming better could go to Joe and recieve expert advice or information. Joe remained in the clubhouse long after the game was over while less gifted players were in a hurry to run along. Joe always kept himself in top physical shape and adhered to training rules. He was the most responsible athlete and felt responsibility to the Yanks, taking each loss as a personal failure.

Paul Simon wrote a song by Simon & Garfunkel in the late 1960's entitled "Mrs. Robinson," in which the question was asked: "Where have you gone Joe DiMaggio? A nation turns its lonely eyes to you." The answer: He may no longer be playing baseball, but his presence as a true American hero is felt.

DEINDUSTRIALIZATION OF AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, you—as well as all of my colleagues—know very well my concern about the deindustrialization of America. It is a subject I have made my passion and my purpose. It is a topic on which I have spent countless hours addressing the Members of this body.

And—most of all—it is a story which needs to be told before it is too late. How nations like Japan are filling our markets with their imports, and preventing our goods from gaining access to theirs.

How, consequently, our own factories are beginning to close and our industrial base begins to crumble in the face of overseas competition. It is a war—a struggle to save America from impending economic disaster—as well as our own shortsightedness.

Only recently, however, I also have become well acquainted with the deforestation of America—by, you guessed it—Japan and other nations.

This, too, is a tale which needs telling, for it involves the crippling of yet another American industry from abroad.

All of this activity was brought to my attention by the President of the United Carpenters Union, Sigurd Lucassen, whose members have lost many jobs because of this deforestation.

Indeed, just as many steelworkers in my district have been thrown out of work because of the importation of foreign steel, the jobs of many American mill workers have been threatened by the exporting of raw timber to China, Korea, and—most of all—Japan.

Japan, it seems, is buying up our unprocessed logs and shipping them back home. And—because of the gap between the yen and the dollar—they're buying up our forests at dirt cheap prices!

"What would they want with our raw timber," you may ask. "Why don't they just buy our processed lumber if they need it?"

The answer is simple: Because they want to keep their own mills running.

Japan's lumber industry consists of about 25,000 saw mills—mainly small, mom and pop businesses. Japan, however, does not have enough forests to keep all the mills running. As a result, the Japanese Government must subsidize the industry by finding additional sources of raw timber.

Sources like our West Coast, where States like Oregon, Washington, California, and Alaska provide 90 percent of all softwood logs exported from the United States. Sources like Wisconsin and Michigan—States which also are involved in the lumber industry.

The number of softwood logs shipped overseas has skyrocketed over the past two decades. In 1971 Oregon, Washington, and northern California exported 417.7 million board feet [mmbf] of softwood logs overseas. Alaska sent them another 38.9 mmbf.

In 1987, however, the number of logs shipped to Japan increased to 1,684.5 million board feet—an increase of nearly 400 percent.

During the 1980's alone logs equivalent to a 600,000-acre forest—I repeat equivalent to a 600,000-acre forest—were exported overseas. Last year alone, exports—mostly to Japan—consumed one in four logs cut on the West Coast and in Alaska.

As a result America's small mill owners—who have been unable to match the bids of Japanese log buyers—are having trouble finding enough raw timber to keep their own mills running.

In the words of my colleague, Mr. DEFAZIO of Oregon, whose leadership on this issue is well known: Decks at Japanese mills are piled high as Mount Fuji with logs from the Northwest, while mills here at home are scraping for leftovers."

And this, in turn, costs American jobs. According to a Forest Service study, 3.5 million American mill jobs are lost with every million board feet of timber exported instead of being milled in the United States.

And, of course, where there is a shortage of raw timber there must be a shortage of finished timber as well. So carpenters all over the Nation—including those in my district— also are threatened with losing their jobs because they have no finished wood with which to work.

Unless, of course, we are willing to buy finished wood from other Nations—wood made from our own natural resources. It's almost like being made to buy apples grown from our own trees.

Simply stated, Mr. Speaker, States like Oregon, Washington, and Alaska are becoming giant tree farms for Japan. They are being asked to relinquish one of our Nation's most precious national resources to countries that have none of their own.

And this must stop.

It's time that America did what other nations—like British Columbia in Canada—have done when Japan made them the same offer—just say no.

If Japan wants to buy our timber, let them buy it in processed form, as they do from British Columbia, which has forbidden the export of raw timber to any foreign country. Let them bolster our industries not theirs.

Mr. Speaker, I am very upset over seeing our industries go under as a result of unfair foreign competition. I think we should stop this whole insane process of sending our resources—economic and natural—overseas to keep the workers of other nations employed.

For American workers are just that, American. And we in the Congress must stand together to protect all of their jobs. After all, that's what we're supposed to be here for, to look out for their interests, not those of foreign nations.

Mr. Speaker, God blessed this Nation with many wonderful natural resources. And our forests are certainly among our Nation's greatest treasures—as well as an important part of our heritage.

But no resource is limitless. That's why we must use this valuable resource, with great care, efficiency, and in the best way possible. That's why we must use them in a way which will benefit America the most.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. GEPHARDT) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. TALLON, for 5 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOUGLAS) and to include extraneous matter:)

Mr. PORTER.
Mr. MARTIN of Illinois.
Mr. MACHTLEY.
Mr. SHUSTER in two instances.
Mr. BUECHNER.
Mr. GEKAS.
Mr. DORNAN of California.
Mr. CONTE.
Mr. GILMAN in two instances.
Mr. SCHULZE.
Mr. HUNTER.
Mr. BALLENGER in two instances.
Mr. LOWERY of California.
Mr. DOUGLAS.

The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. FAZIO.
Mr. CLARKE.
Mr. MONTGOMERY.
Mr. MILLER of California.
Mr. JACOBS.
Mr. DOWNEY.
Mr. BORSKI.
Mr. MOODY in two instances.
Mr. DYSON in two instances.
Mr. PALLONE.
Mr. ACKERMAN.
Mr. MAZZOLI.
Mr. SKELTON.
Mr. WEISS.
Mr. GUARINI.
Mr. TORRES.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 248. An act to amend title 18 of the United States Code to provide increase penalties for certain major frauds against the United States.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Friday, October 13, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

1825. Under clause 2 of rule XXIV, a letter from the Secretary of Health and Human Services, transmitting the fifth annual report on carcinogens; to the Committee on Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARTLETT (for himself, Mr. WILLIAMS, Mr. YOUNG of Florida, and Mr. DARDEN):

H.R. 3451. A bill to amend the Employee Polygraph Protection Act of 1988 to prescribe conditions of disclosure of information acquired from polygraph tests; to the Committee on Education and Labor.

By Mr. BENNETT:

H.R. 3452. A bill to establish a Commission on National Fiscal Priorities, and for other purposes; to the Committee on Government Operations.

By Mr. BROWN of California (for himself, Mr. EVANS, Mr. JONTZ, Mr. BONIOR, Mr. LANCASTER, Mr. KENNEDY, Mr. PALLONE, Mr. FROST, Mr. OWENS of New York, Ms. PELOSI, Mr. FAUNTROY, Mrs. BOXER, Mr. BUSTAMANTE, Mr. DE LUGO, Mr. HAYES of Illinois, Mr. BRUCE, Mr. RICHARDSON, Ms. LONG, Mr. TOWNS, Mr. BOUCHER, Mr. KOLTER, Ms. KAPTUR, Mr. WOLPE, Mr. TORRES, Mr. TRAFICANT, Mr. ACKERMAN, Mr. HAWKINS, Mr. GEJDENSON, Mr. ATKINS, Mr. MARTINEZ, Mr. DELLUMS, and Mr. WEISS):

H.R. 3453. A bill to improve the availability of veterans' benefits and services to veterans incarcerated in Federal penal or correctional institutions, and for other purposes; jointly, to the Committees on Veterans' Affairs and the Judiciary.

By Mr. CALLAHAN (for himself, Mr. MORRISON of Washington, Mr. THOMAS of Georgia, and Mr. WYDEN):

H.R. 3454. A bill to authorize the Secretary of Agriculture to carry out a Forest Stewardship Assistance Program for owners of nonindustrial private forest land, and for other purposes; to the Committee on Agriculture.

By Mr. CAMPBELL of California (for himself, Mr. WALKER, and Mr. DOUGLAS):

H.R. 3455. A bill to amend title VII of the Civil Rights Act of 1964 with respect to establishing and rebutting a prima facie violation of such title; to the Committee on Education and Labor.

By Mr. CARPER (for himself, Mr. ERDREICH, Mr. SAXTON, and Mr. KANJORSKI):

H.R. 3456. A bill to revise the National Flood Insurance Program to further encourage communities to mitigate potential flood damages and limit unwise development in flood-prone areas; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ENGLISH:

H.R. 3457. A bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. FAUNTROY (for himself, Mr. GRAY, Mr. ACKERMAN, Mr. BRYANT, Mr. CLAY, Mrs. COLLINS, Mr. CONYERS, Mr. CROCKETT, Mr. DE LUGO, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. ESPY, Mr. FLAKE, Mr. FORD of Tennessee, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mr. MFUME, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. ROSE, Mr. SAVAGE, Mr. STOKES, Mr. TOWNS, and Mr. WHEAT):

H.R. 3458. A bill to amend the Comprehensive Anti-Apartheid Act of 1986 to prohibit United States depository institutions from providing certain financial services to South African depository institutions and the Government of South Africa, and for other purposes; jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; and Rules.

By Mr. FLIPPO (for himself, Mr. BEVILL, Mr. DICKINSON, Mr. ERDREICH, Mr. CALLAHAN, Mr. HARRIS, and Mr. BROWDER):

H.R. 3459. A bill regarding the duty-free entry of a nuclear magnetic resonance spectrometer for the use of the University of Alabama at Birmingham; to the Committee on Ways and Means.

By Mr. LEWIS of California (for himself, Mr. THOMAS of California, Mr. MCCANDLESS, Mr. HUNTER, Mr. ANDERSON, Mr. YOUNG of Alaska, Mr. NEAL of North Carolina, Mrs. VUCANOVICH, Mr. HERGER, Mr. COX, Mr. GALLEGLY, Mr. PASHAYAN, Mr. DANNEMEYER, and Mr. PACKARD):

H.R. 3460. A bill to provide for the conservation and protection of the public lands in the California desert, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mr. MACHTLEY:

H.R. 3461. A bill to require that certain tankers be equipped with satellite navigation systems; to the Committee on Merchant Marine and Fisheries.

By Mrs. MARTIN of Illinois:

H.R. 3462. A bill to provide rules and procedures for the expeditious printing, enrollment, signing, and presentation of legislation to the President, to define what types of adjournments prevent the return of legislation by the President, and to provide procedures for the reconsideration of vetoed measures; jointly, to the Committees on Rules, the Judiciary, and House Administration.

By Mr. OWENS of Utah:

H.R. 3463. A bill to require the Federal Government to recycle bottles, cans, paper, and plastics and to provide a price preference for the purchase by the Federal Government of goods made of recycled material; jointly, to the Committees on Government Operations, the Judiciary, and House Administration.

By Mrs. PATTERSON (for herself, Mr. STENHOLM, Mr. MONTGOMERY, Mr. PENNY, Mr. HUTTO, Mr. BROWDER, Mr. RAY, Mr. OLIN, Mr. JOHNSON of South Dakota, Mr. PARKER, Mr. BARNARD, Mr. NEAL of North Carolina, Mr. PRICE, Mrs. LLOYD, Mr. VALENTINE, Mr. PAYNE of Virginia, Mr. ROWLAND of Georgia, Mr. BALLENGER, Mr. SARPALIUS, and Ms. LONG):

H.R. 3464. A bill to amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes; jointly, to the Commission on Government Operations and Rules.

By Mr. PAYNE of New Jersey:

H.R. 3465. A bill to establish community education employment centers, and for other purposes; to the Committee on Education and Labor.

By Mrs. SAIKI:

H.R. 3466. A bill to amend the Education of the Handicapped Act to clarify that, in exceptional circumstances, certain damages may be awarded in actions brought under part B of such act as procedural safeguards with respect to a free and appropriate education of handicapped children; to the Committee on Education and Labor.

By Mr. SPENCE:

H.R. 3467. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for contributions to individual retirement accounts as it existed before the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. MFUME:

H.J. Res. 420. Joint resolution designating April 16 through 22, 1990, as "National African-American Historical and Cultural Museums Week"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS (for himself, Mr. CONTE, Mr. CROCKETT, Ms. PELOSI, Mr. SOLARZ, Mr. GEJDENSON, Mr. WEISS, Mr. KOSTMAYER, Mr. FUSTER, Mrs. MORELLA, Mr. GREEN, Ms. SCHNEIDER, Mr. SMITH of Vermont, Mr. YATES, Mr. CONYERS, Mr. CLAY, Mr. BOUCHER, Mr. SIKORSKI, Mr. MOAKLEY, Mr. AUCOIN, Mr. BATES, Mr. COLEMAN of Texas, Mr. FRANK, Mr. MCNULTY, Mr. HAYES of Illinois, Mr. TOWNS, Mr. MRAZEK, Mr. WOLPE, Mr. ACKERMAN, Mr. BROWN of California, Mr. DELLUMS, Mr. JONTZ, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. MCHUGH, Mr. ATKINS, Mr. LEHMAN of Florida, Mr. HOCHBRUECKNER, Mr. KASTENMEIER, Mr. FAZIO, Mr. DEFAZIO, Mr. CARPER, Mrs. UNSOELD, Mr. MARKEY, Mr. CARDIN, Mr. BOSCO, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. BONIOR, Mr. MOODY, Mr. MILLER of California, Mr. HORTON, and Mr. MINETA):

H. Con. Res. 213. Concurrent resolution to encourage a negotiated settlement to the civil war in El Salvador; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself, Mr. FASCELL, Mr. BROOMFIELD, Mr. RANGEL, Mr. COUGHLIN, Mr. DYMALLY, Mr. FISH, Mr. GOSS, Mr. GUARINI, Mr. JOHNSTON of Florida, Mr. LAGOMARSINO, Mr. ROTH, Mr. SMITH of Florida, Mr. SMITH of New Jersey, and Mr. SOLOMON):

H. Res. 263. Resolution expressing the support of the House of Representatives for the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and calling upon the Senate to expeditiously give its advice and consent to ratification of that convention; to the Committee on Foreign Affairs.

By Mr. CONTE:

H. Res. 264. Resolution to amend the Rules of the House of Representatives to improve the congressional budget process by prohibiting extraneous matters in reconciliation measures; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mr. MYERS of Indiana, Mr. CRAIG, Mr. DAVIS, and Mr. DONNELLY.

H.R. 270: Mr. HASTERT.

H.R. 725: Mr. HAWKINS.

H.R. 813: Mr. WISE.

H.R. 1007: Mr. SOLOMON.

H.R. 1205: Mr. KASTENMEIER, Mr. AUCOIN, Mr. ROE, Mr. COURTER, and Mr. SAWYER.

H.R. 1249: Mrs. JOHNSON of Connecticut.

H.R. 1574: Mr. HUGHES.

H.R. 1632: Mr. RIDGE.

H.R. 2174: Mr. WOLPE and Mr. LIVINGSTON.

H.R. 2222: Mr. NEAL of North Carolina, Mr. EVANS, Mr. WEISS, and Mr. HUGHES.

H.R. 2320: Ms. PELOSI, Mr. LANTOS, Mr. WOLPE, Mr. MORRISON of Connecticut, Mr. LEVINE of California, Mr. COLEMAN of Texas, Mr. BERMAN, and Mr. WAXMAN.

H.R. 2359: Mr. SHUSTER.

H.R. 2418: Mr. LANCASTER, Mr. OWENS of Utah, Mr. BARNARD, Mr. BROWN of Colorado, and Mr. CRAIG.

H.R. 2504: Mr. RIDGE.

H.R. 2580: Mr. BERMAN and Mr. KOSTMAYER.

H.R. 2589: Mr. EMERSON and Mr. MCCRERY.

H.R. 2641: Mr. WALSH.

H.R. 2840: Mr. MORRISON of Connecticut, Mr. ECKART, Mr. FAUNTROY, Mr. STARK, and Mr. ATKINS.

H.R. 2920: Mr. BROOKS.

H.R. 2972: Mr. BARTLETT, Mr. KASICH, Mr. ACKERMAN, Mr. TAUZIN, Mr. NATCHER, Mr. HOYER, Mr. FROST, Mrs. BOXER, and Mr. ANNUNZIO.

H.R. 3028: Mr. SOLARZ.

H.R. 3037: Mr. MCNULTY.

H.R. 3122: Ms. SLAUGHTER of New York, Mr. WEISS, and Mr. BROWDER.

H.R. 3171: Mr. CROCKETT, Mr. SPRATT, Mr. ROE, Mr. DE LA GARZA, Mr. ATKINS, and Mr. GARCIA.

H.R. 3199: Mr. AKAKA, Mr. SARPALIUS, Mr. FUSTER, Mr. DONALD E. LUKENS, Mr. TOWNS, Mr. MRAZEK, Mr. DWYER of New Jersey, Mr. DORNAN of California, Mr. DENNY SMITH, Mr. FAZIO, and Mr. HATCHER.

H.R. 3238: Mr. DOUGLAS.

H.R. 3251: Mr. EVANS.

H.R. 3271: Mrs. JOHNSON of Connecticut, Mr. WHITTAKER, Mr. GINGRICH, Mr. ARMEY, Mr. SHUMWAY, Mr. HANSEN, Mr. WILSON, Mr. UPTON, Mr. ROHRABACHER, Mr. STUMP, Mr. MADIGAN, Mr. SAXTON, Mr. HOUGHTON, Mr. LENT, Mr. NIELSON of Utah, Mr. LIGHTFOOT, Mr. DANNEMEYER, Mr. LAGOMARSINO, Mrs. ROS-LEHTINEN, Mr. SMITH of Vermont, Mr. BALLENGER, Mr. HANCOCK, Mr. HOLLOWAY, Mr. CRANE, Mr. BURTON of Indiana, Mr. PACKARD, Mr. DOUGLAS, and Mr. COX.

H.R. 3290: Mr. WALSH and Mr. ROE.

H.R. 3319: Mr. LAGOMARSINO, Mr. BUECHNER, and Mrs. SAIKI.

H.R. 3321: Mr. HORTON, Mr. DORGAN of North Dakota, Mr. STALLINGS, Mr. LAFALCE, Mr. DERRICK, Mrs. PATTERSON, Mr. HATCHER, and Mr. LEATH of Texas.

H.R. 3343: Mr. PAYNE of Virginia, Mr. JONTZ, Mr. COURTER, Mr. MINETA, Mr. KOLTER, Mr. WEISS, Mr. ACKERMAN, Mr. EVANS, Mr. DWYER of New Jersey, Mr. BOUCHER, Mr. MCDERMOTT, Mr. ROE, Mr. DONALD E. LUKENS, Mr. ATKINS, Mr. MARTIN of New York, Mr. DORNAN of California, Mr. LANTOS, Mr. CONDIT, Mr. HORTON, Mr. ROGERS, Mr. MCNULTY, Mr. WYDEN, and Mr. MCCLOSKEY.

H.R. 3344: Mr. COLEMAN of Missouri, Mr. HENRY, Mr. SMITH of Vermont, Mr. LAGOMARSINO, Mr. KOLTER, Mr. FAWELL, Mr. FUSTER, Mrs. ROS-LEHTINEN, Mr. WALSH, Mr. LIVINGSTON, Mr. COUGHLIN, Mr. SHAW, and Mr. GUNDERSON.

H.R. 3364: Mr. DOUGLAS, Mr. ROHRABACHER, Mr. NIELSON of Utah, and Mr. BURTON of Indiana.

H.R. 3380: Mr. STAGGERS, Mr. HALL of Ohio, Mr. EVANS, Mr. SKAGGS, Mr. MCEWEN, Mrs. MARTIN of Illinois, Mr. DELLUMS, Mr. HOCHBRUECKNER, Mr. SABO, Mr. MURPHY, Mr. FEIGHAN, Mr. TANNER, Mr. COSTELLO, Mr. SCHIFF, Mr. RIDGE, Mr. MCMILLEN of Maryland, Mr. BATES, Mr. GIBBONS, Mr. DEWINE, Mr. BILBRAY, Mr. HUGHES, Mr. ROBERT F. SMITH, Mr. SAWYER, Mr. RICHARDSON, Mr. SPRATT, Mr. JOHNSTON of Florida, and Mr. MANTON.

H.R. 3430: Mr. VALENTINE.

H.J. Res. 98: Mr. LIVINGSTON.

H.J. Res. 282: Mr. FALEOMAVAEGA, Mr. MCNULTY, Mr. PANETTA, Mr. HANSEN, Mr. DARDEN, Mr. GEJDENSON, Mr. KASICH, Mr. LANTOS, Mr. MCHUGH, Mrs. KENNELLY, Ms. PELOSI, Mr. RINALDO, Mr. SCHEUER, Mr. TRAFICANT, Mr. VALENTINE, Mr. YOUNG of Alaska, Mr. SOLARZ, Mr. COLEMAN of Texas, Mr. HUGHES, Mrs. UNSOELD, Mr. STALLINGS, Mr. COSTELLO, Mr. LAFALCE, Mr. MORRISON of Connecticut, Mr. BENNETT, and Mr. MOORHEAD.

H.J. Res. 285: Mr. COSTELLO, Mr. RANGEL, Mr. DE LA GARZA, Mr. FAUNTROY, Mr. DANNEMEYER, Mr. AKAKA, Mr. HORTON, Ms. KAPTUR, Mr. PARKER, Mr. DYMALLY, Mr. HUTTO, Mr. BUSTAMANTE, Mr. LANCASTER, Mr. KASICH, Mr. ESPY, Mr. FIELDS, Mr. CRANE, Mr. FUSTER, Mr. GARCIA, Mr. EVANS, Mr. TOWNS, Mr. BATES, Mr. HEFNER, Mr. LEATH of Texas, Mr. TALLON, Mr. FAZIO, Mr. FALEOMAVAEGA, Mr. PICKLE, Mr. MURTHA, Mr. MANTON, Mr. HAYES of Louisiana, Mr. SMITH of Texas, Mr. SOLOMON, and Mr. BARTLETT.

H.J. Res. 345: Mr. FLORIO, Mr. HALL of Texas, Mr. DEWINE, Mr. SKEEN, Mr. INHOFE, Mr. SYNAR, Mr. LEWIS of Georgia, Mr. MURPHY, Mr. CARPER, Mr. EMERSON, Mr. ROBINSON, Mr. WATKINS, Mr. COBLE, Mr. WHITTAKER, Mr. RHODES, Mr. STUDDS, Mr. HOPKINS, Mr. JOHNSON of South Dakota, Mr. NELSON of Florida, Mrs. MEYERS of Kansas, Mr. BUNNING, Mr. ROBERT F. SMITH, Mr. RITTER, Mr. BOUCHER, Mr. ROGERS, Mr. PRICE, and Mr. BROWN of California.

H.J. Res. 346: Mr. WILSON, Mr. FAUNTROY, Mr. WAXMAN, Mr. VANDER JAGT, Mr. OLIN, Mr. MCEWEN, Mr. HERGER, Mr. ROE, Mr. ORTIZ, Mr. MOAKLEY, Mr. SAWYER, Mr. FUSTER, and Mr. SHUMWAY.

H.J. Res. 372: Mr. MCNULTY.

H.J. Res. 385: Mr. NELSON of Florida and Mr. SPRATT.

H. Con. Res. 123: Mr. HAYES of Illinois, Mr. LAFALCE, Mr. ROWLAND of Connecticut, and Mr. RICHARDSON.

H. Con. Res. 147: Mr. PENNY, Mr. PAXON, Mr. FROST, Mr. LEWIS of Georgia, Mr. PALLONE, Mr. BROOMFIELD, and Mr. SOLARZ.

H. Con. Res. 165: Mr. PAYNE of New Jersey, Mr. SMITH of Florida, Mr. FOGLIETTA, Mr. DERRICK, Ms. SLAUGHTER of New York, Mr. BOUCHER, and Mr. KOSTMAYER.

H. Con. Res. 177: Ms. KAPTUR, Mr. HUGHES, Mr. THOMAS A. LUKEN, Mr. WILSON, Mr. ATKINS, and Mrs. BENTLEY.

H. Con. Res. 195: Mr. HANCOCK, Mrs. MEYERS of Kansas, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. GRANDY, Mr. BALLENGER, and Mr. STAGGERS.

H. Res. 220: Mr. ANDREWS.

H. Res. 240: Mr. GILMAN.

SENATE—*Thursday, October 12, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For promotion cometh neither from the east, nor from the west, nor from the south. But God is the judge: He putteth down one, and setteth up another.—Psalm 75:6, 7.

Almighty God, from whom comes all authority and to whom all in authority are accountable, help us to sense Your presence in our midst today. Consistent with our democratic system, this Chamber is crowded with the needs of all the people—all the cities, counties, and States of the Nation—plus the demands of business, industry, finance, education, agriculture, and thousands of organizations, as well as international affairs. One hundred fallible people, chosen by and representing 250 million, bear this impossible burden. In their commitment to this responsibility give the Senators and their staffs grace to seek Thy face, to call upon Thee for divine guidance, and to remember their accountability to Thee.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 12, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders this morning, there will be a period for morning business until 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

As I indicated yesterday, I hope that shortly we will be in a position to get a unanimous-consent agreement and turn to the Nicaraguan assistance bill, H.R. 3385, under an agreement with cloture being filed after 2 hours on the bill.

I am now advised we will be able to get that agreement. Shortly I will propound the agreement. I note the presence of the relevant Senators on the floor.

Mr. ADAMS. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes, I certainly will yield.

Mr. ADAMS. I just want to say to the majority leader that some of us on the Appropriations Committee oppose bitterly that bill, on the basis that it should not be done, and that we should spend the money elsewhere.

I want to state to the majority leader, I object to a unanimous-consent request and a cloture petition unless I am allowed to offer an amendment that germaneness would be waived, and the 1-hour rule would be waived: I would be forced to object because, otherwise, we did not amend in committee. Our amendments are saved for the floor. Therefore, I object unless I can get that kind of unanimous-consent request.

Mr. MITCHELL. Will the Senator permit me to discuss this with him briefly?

Mr. ADAMS. I would be most happy to discuss it with the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

RESERVATION OF LEADERS' TIME

The PRESIDING OFFICER. Without objection, the time for the two leaders will be reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

SOCIAL SECURITY MAILINGS TO SENIOR CITIZENS

Mr. MOYNIHAN. I thank the Chair. Mr. President, I rise as the chairman of the Subcommittee on Social Security to call the attention of the Senate to a new event in American life, which is the growing number of mailings sent to senior citizens telling them of legislative threats to Social Security benefits of one kind or another. Sometimes these are very specific, having to do, for example, with the catastrophic health care measures, which we dealt with last week—which we undid last week. Sometimes there are simply more generalized appeals to anxiety, or, if they are not appeals to anxiety, certainly they can arouse it.

I have, for example, a letter here—it is a mailer, I believe is the term we use—entitled "Legislative Alert," sent to senior citizens in rural areas, and it speaks of a threat to millions of senior citizens who live in rural areas. It says on the front, "Your immediate action may mean the difference between life and death for you or a fellow senior."

Inside, Mr. President, we are asked to send postcards to Members of this body, and, if we do, we will find ourselves very quickly asked for money.

Mr. President, may we have order? Is this morning business, or is this a legislative conference?

The PRESIDING OFFICER. The Senate will be in order. The Senator may proceed.

Mr. MOYNIHAN. Mr. President, there exists an uncomplicated right of anyone who wishes to write letters to

anyone whose address he can locate, I suppose, and it is not a right which is wholly unrestrained by certain responsibilities under the mail fraud statutes. But I do not rise to discuss that aspect. It is the aspect of causing alarm.

We have some 30 million senior citizens who receive Social Security checks every month. In half a century, those checks have never been a day late or a dollar short.

The Social Security reserves are rising at $1 billion a week, and in fairly short order they will be rising $3 billion a week. There has never been in history a revenue stream as powerful in public finance, and yet at most a bare majority of adult Americans not now retired are confident they will receive Social Security benefits. Just a few years ago, it was down to almost as low as a third showing any real confidence, but half the American adults not retired are not persuaded they are going to receive retirement benefits, which is a statement of concern I find surprising, and one to which we should attend.

We have reported from the Finance Committee a proposal that will, for example, give to persons paying into Social Security a statement of how much they have paid and what they may expect in benefits, if they should continue to do so over their working lives; what they would get in retirement benefits, in disability benefits, what their survivors' benefits for spouses and children would be. This would be a way of being in touch with the individual so that he or she knows that the Social Security Administration knows they are there.

But still there is this problem of fright mail. We have not seen it before and it is preying on this anxiety.

Mr. President, I ask unanimous consent to print in the RECORD, without any animosity, but simply as examples, some mail of the kind arriving in my office, and perhaps a little more does, as I said, because I am chairman of the subcommittee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL MAJORITY COMMITTEE,
Washington, DC.

DEAR FRIEND:

Fraud. Deception. Lying. Extortion.

These are all crimes. *Serious* crimes.

If you or I committed any of these crimes, we would be arrested, prosecuted, convicted, and sent to prison.

But a large group of powerful people are committing *all* of these crimes *right now*—and they're getting away with it!

In fact, there is absolutely no chance whatsoever that any of them will be arrested or even prosecuted.

I'm not thinking about organized crime, international drug dealers, or insider trading on Wall Street.

I'm taking about the United States Congress!

That's right. What the liberals in Congress are doing right now with the Medicare Catastrophic Coverage Program is nothing less than an outright fraud!

And the victims of their outrageous crimes are—as usual—the American taxpayers, people like you and me.

Let me explain.

As you know, for the last several months the Congressional Majority Committee has been leading the attack on the latest massive liberal tax-and-spend scheme.

CMC's National Campaign to Repeal the Catastrophic Coverage Act has mobilized tens of thousands of American taxpayers to send postcards to Congressman Dan Rostenkowski, to call the White House, and to sign petitions to President Bush.

Needless to say this tremendous public outcry against the Catastrophic Coverage Act's huge tax increase on America's senior citizens has caused more than a few waves on Capitol Hill.

As I'm sure you know, the *one* thing every Congressman and Senator *really* worries about is getting re-elected!

But at the same time, the liberals who control both houses of Congress are determined to do everything they can to hang onto their latest big government, tax-and-spend program.

So, in order to have their cake and eat it too, they've resorted to the outright deception and extortion of the American people!

Here's what's happened since I last wrote to you:

First, the Senate killed another attempt by Senator John McCain of Arizona to delay for one year the outrageous surtax seniors have been hit with—a tax that pays for coverage most already have!

Just like before however, they refused to take a clear cut up-or-down vote. McCain's proposal was blocked on a procedural vote.

That way that can still *claim* they actually support the idea of delaying the surtax—at the same time they voted against it!

But that's nothing compared to what the House Ways and Means Committee just did.

Chairman Dan Rostenkowski, whose first arrogant response was that senior citizens "are going to have to swallow and accept" the huge tax hike, apparently is beginning to feel the heat.

But as I said, he and his liberal cronies are ready to try anything rather than give up their favorite new tax-and-spend scheme.

So last month he orchestrated an amendment through his committee which was billed as a "major modification" of the Catastrophic Coverage Act designed to "solve the problem" of the surtax.

In reality, this amendment is nothing short of the deception and extortion of America's senior citizens!

First, it cuts the size of the tax increase in half.

And to hear the liberals talk about it, we're supposed to consider that a *gift*!

My response to Dan Rostenkowski and the liberals is the same as that of conservative Congressman Harris Fawell of Illinois:

"The problem with the surtax is its existence, not the amount."

Second, and even more outrageous, the amendment allows seniors to "opt-out" of the Catastrophic Coverage Program—but to do so they must give up all of Medicare Part B.

In other words, if this passes, the only way out of the catastrophic surtax is to *give up all coverage of doctor bills!*

As Congressman Fawell said, ". . . seniors recognize this as no real choice. It is an offer most seniors can't accept and the sponsors know it. It is a cruel hoax which seniors recognize. By attaching the catastrophic package to Part B, the Ways and Means Committee admits the program cannot stand on its own merits."

Or to be more blunt, this amounts to the *extortion* of America's elderly by the U.S. Congress!

If this amendment is passed, Dan Rostenkowski and the liberals will claim they have "solved the problem" of the catastrophic surtax.

When in fact they will have *made a bad situation worse.*

To say nothing of having preserved their outrageous new big government tax-and-spend scheme.

This amendment is attached to a bill that will probably be voted on by the full House in mid-September.

That means the next two weeks are the most critical time yet for our National Campaign to Repeal the Catastrophic Coverage Act.

We must go *all out* to mobilize the opposition to this huge tax hike on America's senior citizens.

That means more letters, more postcards, more phone calls . . . In short, *maximum pressure* on the liberals on Capitol Hill!

And it also means one more thing . . .

Targeting for defeat the key liberal Congressmen and Senators who are behind this "cruel hoax" on America's elderly—starting with Dan Rostenkowski himself!

But we can't do any of this without you.

Your support in the past has brought us this far. We are now at a "moment of truth".

I desperately need your help now to keep our campaign strong and meet this liberal threat head on.

If you could possibly contribute $100, $250, or even $500 to CMC's National Campaign to Repeal the Catastrophic Coverage Act, it would go a very long way.

If that's too much, $50, $25, $15, or anything at all would still be a big help.

But please, send whatever you can *today.* Developments are happening fast and there is no time to lose!

Sincerely,

RALPH GALLIANO,
National Chairman.

REPLY TO RALPH GALLIANO

DEAR RALPH:

We can't let Dan Rostenkowski and the liberals in Congress get away with the outright fraud, deception, and extortion of America's senior citizens. The Catastrophic Coverage Act must be *repealed now*!

I'm returning this *entire page* to you right away with my maximum contribution to CMC's National Campaign to Repeal the Catastrophic Coverage Act:

( ) $1,000, ( ) $500, ( ) $250, ( ) $100, ( ) $50, ( ) $25, ( ) $15, ( ) $—(other).

( ) Ralph, I am on a fixed income. I support your work and I am behind you 100 percent. I realize that every dollar helps. The most I can afford to contribute today is: $———.

I've made my check payable to "CMC". I understand federal law requires you to ask the following:

Occupation:

Employer:

Corporate contributions can be accepted for this special project and should be made payable to "CMC State Fund". Contributions or gifts to CMC are not deductible as

charitable contributions for federal income-tax purposes.

DUE APRIL 15, 1990: YOUR NEW TAX BILL FOR UP TO $1,600 MORE THAN YOU'RE PAYING TODAY

(Sample Enclosed)

DEAR FRIEND:

The Government of the United States has decided that you have not done enough for your country.

They have decided that older Americans *owe more taxes than their younger counterparts.*

You'll be seeing your "elderly surcharge" in April 1990.

This is no distant possibility—no vague threat. This is *Federal Law.*

I've enclosed a sample of what your new tax form—due April 15, 1990—might look like.

If you pay more than $150 per year in Federal taxes, and if you'll be 65 or older in 1989, its time to start saving.

Because you're going to be paying for the new Medicare Catastrophic Expansion Law.

That word "catastrophic" just about says it all for loyal Americans like you who have spent their *lifetimes* building this nation, paying their taxes, doing their duty . . .

. . . and now, after you've planned and saved for years for your retirement, the Congress has decided *you* should pick up the tab for increased medical costs!

Maybe you heard about this new Bill on T.V., or read about it in our newspaper. And maybe you weren't too concerned.

After all, the new law *does* improve some Medicare benefits. And nobody mentioned the words "tax increase"—though you might have heard them say something about financing all this with a "supplemental premium."

"Supplemental premium" is Washington double-talk for "tax increase."

And this one is aimed at you.

It is a tax on older Americans, pure and simple. And it will be due with your regular tax return in 1990.

Americans 65 and over who have more than a minimal income will pay anywhere from $160 to $1,696 in 1990 to pay for increased Medicare benefits.

Talk about discrimination!

Congress says older Americans should pay for the increased Medicare benefits, because we're the ones who use them.

But that's not quite the whole picture.

Disabled individuals of *any* age may qualify for Medicare. That means young folks who've been crippled by accidents . . . people with degenerative diseases like multiple sclerosis or Lou Gehrig's disease . . . people with AIDS.

That's several *million* people—well under the age of 65—who get Medicare benefits . . . *but will all Americans be required to pay these bills?*

No, that privilege has been reserved for you and me.

And I'm fighting mad about it.

I say older Americans have spent a lifetime shouldering their burdens. We've gone off to war for our country. We've worked in the factories and on the farms. We've built businesses and we've raised and taught our children.

We've created the most prosperous, affluent nation on earth.

And now, after we've carefully planned our retirement—and when many of us are just getting by on those dollars we so prudently saved—*we're being forced to foot the bill for younger people's health care!*

Make no mistake about it. We haven't been given any choice in the matter.

Even if you *wanted* to turn down Medicare benefits so you could skip paying this new tax, you couldn't. You are *required by law* to pay the enormous price tag, not only for your fellow senior citizens, but for *younger people as well.*

My friend, ours is a generation that doesn't complain much. We try to do what's best for America without a whole lot of noise or fanfare. We don't expect special treatment, and we certainly haven't received it.

But I believe it is time we stood up for ourselves.

Because—believe me—nobody else is going to do it!

Even the so-called "friends" of senior citizens in Congress let this outrageous measure be passed!

Maybe they let certain special interest groups pull the wool over their eyes.

Or maybe they just weren't paying attention.

Whatever their reasons, they let this catastrophe of a Bill get passed into Law.

And the *only* chance we have of revising it is to build a loud and forceful coalition of Americans who say "No Way!" to the idea that—just because we're 65 or over—senior citizens *alone* should be surcharged for America's rising medical costs!

That is why I am writing to you today.

I am hoping you will not sit idly by while this outrage is perpetrated upon our generation. I know you're not the protesting type. I'm not either. But enough is enough.

Please join our—National Association for Uniformed Services—in an *urgent* national campaign to change the Medicare Catastrophic Expansion Law.

Here are the steps you can take—*if* you want to avoid paying as much as *$1,600 extra taxes* on April 15, 1990:

1. I have enclosed three postcards for you to sign and send to your Congressman and your Senators. They make it *very* clear that you do not believe older Americans should be singled out to bear the burden of health care costs for *all* Americans.

2. Please review the enclosed Sample Tax Bill. See where *you* stand in relation to the new law. Will you have to pay $225, $680, $1,520—or $1,600? Decide if you believe you're being penalized for having an income above the poverty line—and for your age.

Then make one more decision—to support our Association's all-out effort to turn this law around with a national campaign contribution of $15.

If you can manage to send $20 or $25, so much the better. With your help, we can alert other Americans to this scandalous tax increase . . . work with government officials to turn it around . . . and let our legislators know in no uncertain terms that we won't stand for this miscarriage of justice!

Think of it this way: Your $15 contribution to our campaign may save hundreds, even thousands of dollars in the future!

With your support, our Association can speak for you in Washington, protecting your interests . . . you might even say protecting the savings you've so cautiously built up so that you might enjoy some peace of mind in your retirement years.

I don't think that's too much to ask.

And neither do the 55,000 members of the National Association for Uniformed Services . . . who stand together to preserve the hard-earned rights and privileges of retired Americans like you!

NAUS started out as the voice of current and former members of the uniformed services, veterans, their families and survivors to fight for their hard earned entitlements . . . just the basic necessities of life our veterans have coming to them!

But today—in the face of an emergency like the Medicare Catastrophic Expansion Law—we are acting on behalf of *all* retired Americans . . . and I hope that will include you.

If you want to *do* something about the tax increase Congress has in store for you, *act now.* Send the postcards to your legislators. And join NAUS's campaign to reverse this unjust tax burden by sending your contribution of at least $15 today.

The 1989 tax year is right around the corner. We don't have long to fight this battle. Please, let me hear from you *today.*

Sincerely,

J.C. PENNINGTON,
Major General, U.S. Army (Retired),
Executive Vice President.

P.S.—Unless we do something to revise the Medicare Catastrophic Expansion Bill, a retired couple 65 or older in 2005 may face an extra tax burden of *$8,000*! And that's not a wild guess on my part—that figure comes from estimates made by the U.S. Treasury! Take action *today* to prevent financial disaster tomorrow. Please return the enclosed Enrollment Form right away.

THE NATIONAL TAX LIMITATION COMMITTEE

To Congressman Tom Tauke, Lewis K. Uhler.

From:

I agree with you—it's time for Congress to reform the Medicare Catastrophic Coverage Act. It's an unfair tax on our seniors, and I support your efforts to delay it for one year while opening a full-scale debate in Congress on developing a fair way to fund Medicare benefits.

That's why I've agreed to Co-Sponsor H.R. 1564. I've signed my Resolution Form and give you my permission to circulate it to as many Members of Congress as possible.

And I've also enclosed a contribution, payable to the National Tax Limitation Committee, in the amount marked below. I want to make sure that NTLC has the resources it needs to carry out a major lobbying effort for H.R. 1564 and also stay on track with building support for our Tax Limitation/Balanced Budget Amendment.

My contribution is for:

☐ $25 ☐ $37 ☐ $—— other

0139914-29 ☐ 9K16

Contributions or gifts to NTLC are not deductible as charitable contributions for federal income tax purposes.

P.O. Box 96457

Washington, D.C. 20090-6457

THE NATIONAL
TAX LIMITATION COMMITTEE,
Washington DC, June 2, 1989.

DEAR ——: The catastrophic health surtax (the "Medicare Catastrophic Coverage Act," or MCCA) has created a firestorm of angry protest from concerned taxpayers across America.

One of our loyal NTLC members, Mrs. Julianna Meloche of Michigan, sent me a letter recently that moved me deeply. Mrs. Meloche authorized me to enclose a copy of her letter for you. Please take just a moment now and read it.

Frankly, I've deliberated long and hard as to whether NTLC ought to get involved in this particular fight. I'm persuaded now

that we must, because so many of you have written us letters expressing concern similar to those of Mrs. Meloche.

It's clear that literally millions of Americans taxpayers are being victimized by a cruel and unfair tax that you and I should work together, through NTLC, to change.

That's why—with your help—we are making a special effort to reform the Medicare catastrophic tax. While the principle of taxing those who receive benefits is fair, the way this surtax is calculated is unfair.

We should not stand by when one group of taxpayers is treated unfairly—especially many of our senior taxpayers who have already "paid their dues" and whose life savings are now being threatened.

This year every senior who pays taxes will bear the surtax. By 1993 nearly 25% of senior taxpayers will bear the maximum surtax.

The simple fact is that the catastrophic surtax is an income redistribution scam that threatens many of our senior citizens, hitting hardest those who were the most conscientious about preparing for retirement.

If you agree with me that this tax must be reformed, then I'd like to ask you to do two things today.

First, please sign the petition I've enclosed for you addressed to House Ways and Means Committee Chairman Dan Rostenkowski, urging him to hold hearings on the catastrophic surtax. The Senate is holding hearings, but we have to force the House to do so as well.

Second, please send back a special contribution along with your signed petition so that we can muster the forces necessary to force Congress to address this issue now.

We need to generate thousands of signed petitions over the next few weeks to make Congress realize the catastrophic surtax must be reformed. As Chairman of the House Ways and Means Committee, Congressman Rostenkowski is the member of Congress who needs to hear this message most forcefully. That's why our petitions are addressed, and will be delivered, to him.

This special project is costly and was not planned for in our budget this year. But I strongly believe we must raise the money we need to begin lobbying to reform the MCCA. It is an unfair tax and it must be changed!

When I receive your signed petition, I will make sure your petition is delivered to Rep. Rostenkowski, so he will get on with the hearings. And your generous contribution will enable us to contact more Americans and generate more pressure on Congress in the weeks ahead.

It's time we put our foot down against unfair taxes imposed on narrow groups, especially our senior citizens. Please help us in this fight by sending in your petition and your most generous contribution today.

Sincerely,

LEWIS K. UHLER,
President.

P.S. I feel terrible when I think about our friends like Mrs. Meloche, who are now being taxed so unfairly. Every day counts in this effort. Please send back your signed petition and your maximum contribution as soon as you possibly can.

CONGRESSMAN TOM TAUKE,
Washington, DC.

DEAR ——: I was really excited when Lew Uhler told me that the National Tax Limitation Committee wanted to enter the fight to reform the Medicare Catastrophic Coverage Act (MCCA):

The fact that you agree with me that this Act, which started as a good health bill but has ended up a bad tax bill, needs to be overhauled is vitally important. Our seniors deserve sound health and retirement policy. With the MCCA, they get neither.

I voted against the Catastrophic Coverage Act in 1988. I was in a small minority then.

But the firestorm of protest against the MCCA that you and the NTLC have helped ignite now gives us a chance to redo the wrong Congress committed last year.

That's why Congressman Peter DeFazio of Oregon and I have introduced a bill, H.R. 1564, to repeal for one year the income tax surcharge that has been levied since January 1st.

If we're successful, our seniors will not be forced to pay the surcharge (which in 1989 amounts to a whopping 15 percent of their total income tax bill) when they pay their 1989 income taxes.

Just as importantly, my bill will give Congress the time it needs to re-think and reform the MCCA!

Lew Uhler supports my bill and what it is trying to achieve. I hope you do, too.

If you want to help us pass H.R. 1564, there are two critically important things I would like to ask you to do today.

First, will you sign on with me as a NTLC Member Co-Sponsor of H.R. 1564? I've included with my letter a Co-Sponsor Resolution that I truly hope you will sign and send back to me, care of Lew at NTLC, no later than Labor Day, September 4th.

And second, will you back up your support of my bill with a generous financial contribution to NTLC?

I'll be frank with you. I'm counting on you and NTLC to help me move H.R. 1564 through Congress.

The first way is by having literally thousands of NTLC members, like you, sign on as Co-Sponsors of my bill, so that I can show my fellow members of Congress just how much public support there is for this urgently needed measure.

It is especially important for us to put maximum pressure on Lloyd Bentsen, Chairman of the Senate Finance Committee, and Dan Rostenkowski, Chairman of the House Ways and Means Committee, who are both strongly resisting any changes in this unfair tax bill.

And to make sure our seniors don't get stuck with a gigantic tax boost next year, we need to pass H.R. 1564 through Congress this fall. That's why I urge you to send back your Co-Sponsor Resolution by Labor Day.

Secondly, and just as importantly, I'm counting on NTLC to help do the intense personal and grass-roots lobbying down the road that will help us come up with a fairer way of funding Medicare benefits after we scrap the Catastrophic Care Tax.

Thanks in large part to the work of organizations like NTLC, I believe the time is now ripe to delay the Catastrophic Care Tax and begin reforming it radically.

But we still have much to do. I urgently need your help, through the NTLC, to make sure this unfair tax is not imposed on our seniors.

Thank you for your support of NTLC and this vitally important project.

Sincerely,

Congressman TOM TAUKE.

P.S. Please be sure to read Lew's note that I've enclosed with my letter. And please be sure to sign on as an NTLC Member Co-Sponsor of H.R. 1564 by Labor Day.

TO THE MEMBERS OF THE UNITED STATES CONGRESS

I, the undersigned taxpayer, citizen and member of the National Tax Limitation Committee, hereby signify my support of H.R. 1564 and urge you to pass this urgently needed measure immediately.

[Portions of Pages 1 through 3 of Bill]

H.R. 1564

A bill to amend title XVIII of the Social Security Act and other provisions of law to delay for one year the effective dates of the supplemental Medicare premium and additional benefits under part B of the Medicare Program, with the exception of the spousal impoverishment benefit

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare Catastrophic Coverage Revision Act of 1989".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to provide Medicare beneficiaries with protection from the financial ravages of an illness that results in a long-term hospitalization (provided for in the Medicare Castastrophic Coverage Act of 1988, already implemented);

(4) to delay, for a year, implementation of all other benefits provided for in the Medicare Catastrophic Coverage Act of 1988;

(5) to delay, for a year, implementation of the supplemental premium provided for in the Medicare Catastrophic Coverage Act of 1988;

(6) so Congress will be afforded the opportunity to review the portions of the Act which this legislation delays to determine whether it ought restructure the Act to deal with the concerns of our nation's seniors. Their concerns being that the Act includes some items which are seen by the seniors as not truly catastrophic-related, that the financing ought to be spread more generally across the senior population, and that the Act does not provide much in the way of protection from the financial ravages of an illness requiring long-term care services.

WASHINGTON, DC.

PRESIDENT,
The National Tax Limitation Committee.

DEAR : I believe that Congressman Tauke's bill, H.R. 1564, represents the best way to reform the Catastrophic Coverage tax that is so cruelly affecting millions of our Nation's seniors. That's why I told him that the NTLC would do everything we could to help him pass H.R. 1564 through Congress this year.

I want to urge you to join me as a taxpayer "Co-Sponsor" of H.R. 1564 by signing the facsimile of the cover of the bill I've enclosed for you. Despite the growing opposition to this tax, there are still powerful forces, including some groups claiming to speak for American seniors, who are fighting any attempts to reform the Medicare Catastrophic Coverage Act. We must show the leadership of the House that the American people demand a change in this unfair tax.

I also urge you to commit yourself further to this fight by making a special contribution to NTLC, hopefully for as much as $25. As important as our efforts to reform the Catastrophic Coverage tax are, the fact is that we didn't anticipate becoming involved in this fight when we put together our budget for the year. That means that our

resources right now are stretched to the limit.

In order for us to help Rep. Tauke and keep on track with our Tax Limitation/Balanced Budget Amendment. NTLC urgently needs to raise an additional $50,000 by September 1st. I deeply hope you can help us reach that goal.

Thank you again for your tremendous support of NTLC, Mr. .

LEW.

CITIZENS AGAINST THE CATASTROPHIC HEALTH ACT TAX,
Sterling, VA.

DEAR MR. : Please sign the enclosed "Petition for a FAIR Catastrophic Health Act."

Citizens Against The Catastrophic Health Act Tax (CATCHA) is conducting this national Petition Drive to repeal the up to $800 tax and the Catastrophic Health Act. We want Congress to replace it with a fair and honest coverage program for our nation's senior citizens.

Congress calls it a "supplemental Medicare premium," but it's really a tax of up to $800 per person on seniors since everyone eligible for Medicare must pay it. Many seniors are already calling it the "Medicare Tax". . .

The Catastrophic Health Act doesn't cover one cent of long term nursing home costs; one of the most crippling costs facing the elderly.

Yet America's senior citizens will pay up to $800 per year per person or $1,500 per couple. Next year this tax increases by 10%.

Many people who pay the tax will receive NO benefits: Only 16% will be eligible for prescription drug benefits and only 7% will be eligible for certain other benefits.

If you think this bill is unfair, help us show Congress they cannot get away with this new tax. Help CATCHA flood Congress with petitions and letters demanding immediate repeal.

Public support for a repeal is building as people discover the details of this new tax. NOW is the time to protest the bill and CATCHA has organized this national petition drive so you can register your demand for immediate repeal of the Act and the Tax of up to $800 per person per year.

Our goal is to force a repeal of the bill by the end of this year, and we can do that if you and enough concerned people take a couple of minutes to help. Over the next few weeks and months we plan to bombard Congress with hundreds of thousands of protest letters and petitions.

As a first step CATCHA wants to deliver your signed petition to the Senate leaders from both parties. If enough people sign the petitions our lobbyist can arrive at the offices of these two influential Senators with hundreds of sacks of mail with millions of signed petitions.

The bottom line is this: Congress has passed a tax—but they didn't give seniors the benefits so many need.

Which is why I need you to sign the enclosed petition to Senate Majority Leader, George Mitchell and Senate Minority Leader, Robert Dole.

The people at Citizens Against the Catastrophic Health Act have made it easy for you. All you need do is sign your petition and return it. CATCHA will do the rest; with enough help we can swamp Congress with our demands.

It is extremely important that you also help CATCHA with a contribution. We can enlist an army of 1,000,000 seniors and show Congress that we will not stand for this tax hike and that we demand fair Catastrophic coverage.

This will only happen if people give their financial help. Please try and make a contribution of $15, $25 or more when you return your petition. Your contribution will help CATCHA move forward and contact 8,000,000 seniors, taxpayers and retired people and ask them to join us in demanding that Congress pay attention to their needs.

Sincerely,

MARK D. SILJANDER,
Former Member, Select Committee on Aging; Subcommittee on Retirement, Income and Employment Member of 97th-99th Congress.

P.S.—You'll see CATCHA has a solid plan including this petition drive to 8,000,000 seniors and taxpayers by year-end. This petition drive targets the Senate leader from both parties. Help CATCHA swamp these key legislators with petitions. Petitions like this stopped the 50% Congressional pay raise, they can force a repeal of this tax. With your help we can build our army and keep the telephones on Capitol Hill ringing off the hook and bury the Congress with letters, telegrams and petitions. Please sign your petitions and make a contribution to help us keep the pressure on Congress for a repeal of the tax.

WASHINGTON, DC.

I DON'T BELIEVE YOU INTEND TO DESERT US NOW . . . NOT AFTER OUR SUCCESSES IN PROTECTING YOUR COST-OF-LIVING ADJUSTMENT AND OTHER BENEFITS

DEAR NATIONAL COMMITTEE MEMBER: I feel so sure that you have not intended to abandon the millions of your fellow Members of the National Committee to Preserve Social Security and Medicare that I am enclosing your personal, gold-embossed, 1989-1990 Membership Card even though we have not yet received your renewal dues.

I'm doing this because I think it is very likely that you intend to renew but just haven't gotten around to it yet.

If that is the case, please accept this reminder and write your check for only $10 and send it to the National Committee now to renew for 1989-1990.

But if you are unsure whether you've really received $10 worth of value for your Membership, I have to answer by putting a question to you. How much have just these few victories meant to you?

Threat	National committee action	Results
Catastrophic Seniors—Only Surtax Reconsidered		
Congress passes unfair catastrophic care bill placing full cost of up to $800 ($1,600 per couple) on seniors-only.	Members handwrote millions of post cards and letters to Congress demanding fairness.	S. 1125 and H.R. 2547 introduced in Senate and House to repeal the tax increase.
2 Percent COLA Reduction Stopped!		
A 2-percent permanent COLA reduction proposal in 1987 would have cost the average retired worker $2064.00 over five years!	The National Committee delivered almost 8 million Petition signatures from your fellow Members and others protesting this action.	The proposal was withdrawn the day after our delivery.
$640.00—5-Year Benefit Cut Stopped!		
Administration proposed cuts in Medicare benefits in 1986 that would have cost the average beneficiary $640 over 5 years.	Members sent 250,000 letters and 130,000 Petitions to Congress and the President.	Congress rejected cuts and reduced the rise in our hospital deductible from $572 to $520.

I'm sure you'll agree that any one of these victories would repay your $10 National Committee Membership Dues many times over.

But they are only part of the story.

Since I started the National Committee in 1982, we have been hard at work fighting all attempts to cut Social Security and Medicare benefits, and supporting proposals to protect and improve those benefits.

We have delivered over 20 million Petitions to Congress and the President urging an end to policies which might reduce the Social Security and Medicare benefits you have paid for and earned.

Your full-time lobbying staff now includes 19 of the most effective, professional lobbyists on Capitol Hill and we are constantly adding more good people.

Our new President, Martha McSteen, spent 39 years in the Social Security and Medicare Administration rising through all levels to head the agency as Acting Commissioner in the years 1983 through 1986.

But, the most important reason for our great success is, and will always be, you and our other loyal Members.

Your National Committee now represents over five million Members and Supporters. We are the second largest senior citizens organization in America and one of the largest organizations of any kind!

You and your fellow Members are our most effective lobbyists. In response to my letters, our "Legislative Alerts" and stories in "Saving Social Security," you have sent millions of letters, postcards, petitions and telephone calls to Congressmen and Senators.

And, as you have seen, your efforts paid off handsomely.

Leaders in Congress have praised the work of your National Committee. Alan Cranston, a senior member of the Senate leadership, was particularly impressed with our efforts to safeguard the Social Security Trust Funds. He said, "The National Committee deserves a lot of credit for its work on this issue and for recognizing that the most important goal in this effort was making sure that Social Security recipients wouldn't have to go through an emotional turmoil each year wondering whether or not their checks were going to arrive."

The late Congressman Claude Pepper, highly regarded as the nation's leading advocate for senior citizens, submitted the following statement to a Congressional hearing:

"Over the last several years there have been numerous assaults on Social Security and Medicare. Student benefits have been eliminated, the minimum benefit was killed, the Senate has voted to freeze the Social Security COLA, disability beneficiaries have been heartlessly cut off from their only source of income, Medicare premiums and deductibles continue to skyrocket in cost and there are numerous other proposals to weaken Social Security and Medicare.

"These events inspired the founding of the National Committee to Preserve Social Security and Medicare and the Committee has been very effective in mobilizing seniors to stand together to protect the integrity of the Social Security system," Congressman Pepper concluded.

As you can see, your $10 Annual Membership Dues go a long way in the fight to protect benefits which are worth thousands of dollars to you.

And, besides funding all of our important work in Washington, your dues enable us to

continue providing you with these other valuable benefits of Membership:

Regular issues of our Saving Social Security newspaper.

Frequent Legislative Alerts immediately advising you of fast-breaking issues in Washington involving Social Security and Medicare benefits.

Frequent correspondence to alert you to the current projects of the National Committee's fight to preserve and enhance our benefits.

Senior Flash hotline to Washington for legislative information.

A gold-embossed Membership Card.

You know that your National Committee receives no government funds or contributions from "special interest" groups of any kind.

Our only sources of support are the voluntary dues and contributions of our loyal Members.

That is why it is so important for you to renew your Membership.

We need you—because without your continuing support, your National Committee will become powerless in the continuing battle against those in government who would cut or oppose improvements in your Social Security and Medicare benefits.

And you need the National Committee—because you need a fighting organization in Washington which is not afraid to take on those in Congress and the administration who want to cut your benefits, or who want seniors to pay completely for any new benefit program.

My father, President Franklin Delano Roosevelt, was a great many things. But he was certainly not a quitter.

Neither am I. I believe that our great Social Security and Medicare programs are worth fighting for, and although I am 81 years old, I will continue this good fight no matter what the odds.

But I must know if you will stand behind me in this fight.

If your answer is YES, sign your Verification of Receipt located in the plastic pouch in front of your Jet Letter envelope. Please return it to me today with your Annual Membership Renewal Dues of $10. I've enclosed a postage-free envelop to speed your reply.

Most sincerely,

JAMES ROOSEVELT,
Chairman, National Committee To Preserve Social Security and Medicare.

P.S.—Please act today. Stay with your fellow NCPSSM Members in the battle to preserve and enhance Social Security and Medicare and be certain not to miss a single issue of "Saving Social Security" or any "Legislative Alerts."

Prepared and mailed by the National Committee to Preserve Social Security, a nonprofit, tax-exempt organization, 2000 K Street, N.W., Washington, D.C. 20006.

The National Committee is totally independent of Congress, every government agency, and all political parties.

Contributions or gifts to the National Committee are not tax-deductible. You need make no special contributions other than annual dues.

The National Committee spends its budget in approximately the following way: legislative advocacy 36%, educational activities 25%, fund raising 13%, administration 26%. Detailed financial reports are available from the National Committee and the charitable solicitations department of most states.

Mr. MOYNIHAN. Mr. President, this is a letter from a group called Citizens Against the Catastrophic Health Act tax with the acronym CATCHA.

I see here on the floor we have the majority leader, GEORGE MITCHELL, and the Senate minority leader, ROBERT DOLE. The group wants you to sign a petition to them.

But then right away, talking about what they are going to do for a million seniors, they say: This will only happen if people give their financial help.

Please try and make a contribution of $15, $25, or more when you return your petition. Your contribution will help CATCH move foreward and contact 8 million seniors, taxpayers, retired people, and ask them to join us in demanding that Congress pay attention to their needs.

The National Tax Limitation Committee writes about the firestorm of angry protest concerning the Medicare Catastrophic Coverage Act. But then it includes a reply memo and says contributions are sent back for $25, $37, whatever that denotes, or other.

There is also a message from Mr. Lewis K. Uhler, who is the president of the National Tax Limitation Committee, who says he needs urgently to raise $50,000 by September 1. "I deeply hope you can help us reach that goal." Signed, Lew.

Mr. President, another group, the Campaign to Revise the Medicare Catastrophic Expansion Law, a project of the National Association for Uniformed Services, writes to alarm the citizen about "Your new tax bill for up to $1,600 more than you're paying today." It says in red letters, Mr. President, "Due April 15, 1990, your next tax bill for up to $1,600 more than you are paying today. Sample enclosed."

Mr. President, you would have no difficulty with handling that kind of communication, most Senators would not, most persons would not. What about the 82-year-old woman living in the country or lost in the debri of an urban slum. What about persons who have no spouse, no children, and all they get are letters about your new $1,600 tax bill coming, and it also says, Mr. President, you can help turn around this law with a national campaign contribution of $15. There is a pattern of saying maybe you cannot quite swing $15, or maybe you can put in a little bit more.

Mr. Pennington, major general, U.S. Army (retired), executive vice president says, "If you can manage to send $20 or $25, so much the better," and then tells you that by the year 2005, your additional taxes will be $8,000, Mr. President, $8,000, just starting out with $1,600 immediately; $8,000 to come.

Mr. President, I could spend the morning on this, and I do not wish to, but I think the letter I have found to be most repulsive, truly questionable, comes from something called the Congressional Majority Committee, Washington, DC, signed by Mr. Ralph Galliano. It says:

Dear Friend: Fraud. Deception. Lying. Extortion. These are all crimes. Serious crimes. I'm not taling about organized crime, international drug dealers, or insider trading on Wall Street. I'm talking about the United States Congress!

Exclamation point. Always exclamation point, and then sure enough, Mr. President, what we need is money.

If you could possibly contribute $100, $250, or even $500 to CMC's National Campaign to Repeal the Catastrophic Coverage Act, it would go a very long way.

And the last page just turns on the subject of money from senior citizens.

Mr. President, I do not know that there is anything that this body can do about this kind of mailing. But I think we ought to be aware of it. I think we might well want to hold hearings about it. They are frightening persons in a way that is a form of assault.

I do not want to be more specific. I do not charge anything that would be felonious, but there is something that has a quality of assault about it when you get a letter in the mail that says "your immediate action may mean the difference between life and death for you," and you are 87 years old and your husband is not around and your children are not at hand, and then they will ask you to give money.

I do not think it is fair. I do not think it ought to be encouraged, and I do not think we ought to yield to it, although last year, Mr. President, by a vote of 99 to nothing, that is exactly what we did.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to my distinguished friend from Pennsylvania, who I know shares many of these concerns.

Mr. HEINZ. Mr. President, I thank my friend for yielding.

I associate myself entirely with his comments.

I point out to him something of which he may be well aware, which is some months ago a number of our colleagues introduced a bill that I sponsored and wrote called the Social Security Deceptive Mailing Practices Act of 1989. It is legislation that has been referred to the Governmental Affairs Committee on which this Senator is also privileged to serve.

My recollection is hearings have not only been held but the bill will shortly be scheduled for markup, and it may be that the Senator from New York and I might devise or he might have some improvements in that legislation that perhaps might be able to address the problem to which he refers,

namely the terrorization of our senior citizens and others who may be, by one reason or another, made vulnerable to being preyed upon by people who frankly I think are more interested in getting $10 pried loose from their Social Security checks than they are in the welfare and peace of mind of our Social Security beneficiaries and others who are so vulnerable to this kind of exploitation.

Mr. MOYNIHAN. Mr. President, may I thank the Senator from Pennsylvania for his remarks? I believe I am a cosponsor of his bill. It is an excellent bill, and it is not a moment too soon.

Is the Chair aware that a letter may be even this moment jetting its way to you telling you you are about to die unless you send in $15? I think the Senator from Pennsylvania, who is a very careful man, was absolutely right when he used the word terrorize.

We have built a marvelous system of social insurance in this country, and it is being abused, or so I think. Does the Senator from Pennsylvania agree?

Mr. HEINZ. The Senator agrees entirely with the Senator from New York.

Mr. MOYNIHAN. Mr. President I have concluded my remarks, but I am so pleased that Senator HEINZ has joined me—we have joined each other—in proposing, among other things, that the Social Security surplus be taken out of the calculations of our budget so the senior citizens can see it there. We have approved in the Committee on Finance provisions to make the Social Security Administration an independent agency. An independent agency may have to take on this issue, may from time to time have to write to recipients and say, "Social Security is all right. You do not have pay other people to look after you; the U.S. Government is a trustee of those moneys, and that trust will be maintained."

Mr. President, I thank the Senator from Pennsylvania. I thank the Chair for its courteous attention.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAFEE. Mr. President, what is the order of business?

The PRESIDING OFFICER. We are in morning business until 11 a.m.

Mr. CHAFEE. Are there any orders during that time?

The PRESIDING OFFICER. There is no additional order, although time has been reserved for the two leaders, without objection, previously.

Mr. CHAFEE. Mr. President, at the conclusion of the leaders' time, I ask unanimous consent that I might have 15 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island has requested that at the conclusion of the leaders' time that he might be permitted 15 minutes. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3385

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua, that the bill be debated for 2 hours equally divided, in the usual form, and that the majority leader then be recognized to offer a cloture motion against the bill.

I further ask unanimous consent that following the filing of the cloture motion against H.R. 3385, the Senate proceed to the Senate reconciliation bill, and that the vote on cloture on H.R. 3385 occur immediately following the vote on final passage of the reconciliation bill, with the mandatory live quorum being waived and that, regardless of the outcome of the cloture vote, that the following amendments be in order to H.R. 3385:

An amendment by Senators ADAMS and HARKIN, relating to the transfer of this funding to a drug program;

An amendment by Senator DODD, providing that funding be made available only to the National Endowment for Democracy and for the observer groups;

An amendment by Senator DODD, providing that no money go to the Nicaraguan Government or any of its agencies;

An amendment by Senator HARKIN to reduce the funding and to shift it to the observers;

An amendment by Senator HARKIN, that there be no money provided by the National Endowment for Democracy, but that its assistance be only in the form of in-kind services.

The PRESIDING OFFICER. Is there objection? The Republican leader is recognized.

Mr. DOLE. The majority leader refers to final passage. I assume that is final passage of the House bill H.R. 3299?

Mr. MITCHELL. Yes. In reading it I stated that we would proceed to the Senate reconciliation bill and that the vote on final passage of the reconciliation bill—so it is my intention we would complete action in accordance with prior practice up to a certain point on the Senate bill and then move to substitute that for the House bill. It is after final action on that that we would proceed to this, to the Nicaraguan cloture vote.

Mr. DODD. Mr. President, reserving the right to object, I have two questions to the majority leader.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Under this formulation, at what point would those of us who have amendments be required to file those amendments?

Mr. MITCHELL. You are protected until 1 tomorrow for first-degree amendments; second-degree amendments, up until 1 hour prior to the vote on cloture.

I ask the Chair to confirm the accuracy of the statement I just made.

The PRESIDING OFFICER. The majority leader is correct.

Mr. DODD. In other words we would have until 1 tomorrow to file these amendments which the leader outlined here?

Mr. MITCHELL. These amendments, yes. With respect to the cloture vote, Senators should understand we do not know precisely when that would occur, which is a variance from ordinary procedure. Ordinarily the cloture vote would occur 1 hour after the Senate convenes on the second day following the filing of the petition. Under this agreement we are going to proceed to it after we finish reconciliation.

Mr. DODD. I further ask whether or not the amendments that have been identified as the Adams, Harkin, Dodd amendments would be considered germane under this agreement?

Mr. MITCHELL. Yes. As I stated—well, I do not want to say they would be considered germane. They would be permitted to offer them, notwithstanding the cloture vote. Which means they would not need to be considered germane. They are specified in the order, irrespective of their germaneness. That is the intention of this here.

It is my belief or my expectation that most of them would, in fact, be germane but they will not now be required to meet the test of germaneness under this order.

Mr. DODD. I thank the leader.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, reserving the right to object, it is my understanding this being a freestanding bill, not a general appropriations bill in its form, that rule XVI would not apply, so this would not be considered as legislation on an appropriations bill. That is my understanding.

Mr. MITCHELL. I ask the Chair if he would advise in that respect?

The PRESIDING OFFICER. The bill in question is not a general appropriations bill and therefore is not subject to objection under rule XVI.

Mr. ADAMS. I thank the Chair.

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, since the questions have been answered to Senator DODD about the germaneness issue, the question this Senator has, has to do with the time limits after cloture, assuming that cloture is invoked.

It is this Senator's understanding that each Senator has 1 hour if cloture is invoked. Therefore, if the Senator has two amendments then obviously this Senator has only a half an hour on each amendment.

I am wondering if there might not be some provision to allow a little bit more time to develop the arguments and the cases on these amendments? That is all this Senator is just a little bit concerned about, the time limitation on that.

Mr. MITCHELL. It is my understanding that the majority leader, and the minority leader can each yield up to 2 hours to other Senators, which is obtained from Senators who choose not to speak. I believe the Senator would be amply protected in that regard. It is my intention to cooperate and make certain every Senator has an opportunity to present his arguments fully.

The alternative is to agree to a time limit of an hour equally divided on each amendment; and then—you could do that. I do not think you have any real concern in that regard and I will obviously do my best to make certain that no Senator fails to have ample time.

Mr. HARKIN. If the leader will yield, assuming on that agreement there would be time made available from the leader's time to amply get these amendments debated because obviously if, in fact, the Senator from Connecticut offers his amendment and I wish to speak on it for 15 minutes and I want to speak on Senator ADAMS' amendment for 15 minutes, there is a half hour of my time right there, and I have not even gotten to my amendment.

Mr. MITCHELL. I think the prudent thing is for Senators to concentrate the time on their amendment to make sure they can present them and assume the authors of the other amendments can present them in their behalf.

Mr. HARKIN. This is a very important subject and one we debated frequently on the floor of the Senate in the past for many, many hours.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Iowa has the floor. Is there an objection to the unanimous-consent request?

Mr. DODD. Reserving the right to object, I would like to inquire if the 2 hours is the total amount of time under cloture that you can dispense to all Members of this side, assuming there are others who are willing to relinquish time?

Mr. MITCHELL. It is my understanding the manager of the bill, the distinguished Senator from Vermont, can also yield up to 2 hours. I will ask the Chair to confirm that fact.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. So you then have a total of 4 hours in addition to the 1 hour each Senator has.

Mr. HARKIN. If there is a general agreement, that time would be available if needed.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. LEAHY. Reserving the right to object, and I shall not object, I just want to emphasize what I told the majority leader earlier that I will do everything possible as manager of the bill. I happen to oppose the underlying legislation, but I would think it possible to make sure time is available for Senators who are here and I will work with Senators in making that possible. I think, concerning the issues we have here and I say, again, I am opposed to the underlying legislation, we will have enough time. I think we will be able to go ahead, get this unanimous-consent agreement in place and all Senators will have a chance to speak and bring up their amendments.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—IMPEACHMENT PROCEEDINGS AGAINST JUDGE ALCEE L. HASTINGS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the impeachment proceedings against Judge Alcee L. Hastings of the Southern District of Florida at 2 p.m. on Wednesday, October 18, for the final arguments on the merits by the managers on the part of the House of Representatives and by Judge Hastings and his counsel.

I further ask unanimous consent that each side be permitted no more than 2 hours for its final argument and that final arguments made may be made by three persons on each side.

I further ask unanimous consent that on Thursday, October 19, at 2 p.m., the Senate shall meet in closed session to deliberate on the articles of impeachment and that these orders have effect notwithstanding any other rule of the Senate, including rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, I want to indicate that the joint leadership will object to any unanimous-consent request to permit committees to meet on Wednesday and Thursday afternoons after 2 p.m., and a live quorum will be commenced on each of those days at 1:45 p.m. The Senate has many solemn responsibilities. One of them is to deliberate on matters involving impeachment. These are very serious matters. Of course, they are of the utmost importance to those involved in the proceedings.

Therefore, and I will ask the distinguished Republican leader to address himself to this issue. I urge every Senator to meet his or her public responsibility by being present during these proceedings. It is a disservice to the Senate and a disservice to those involved in these proceedings for Senators to absent themselves during impeachment proceedings. We have set this in plenty of time so Senators can adjust their schedules, and I hope that every single Senator will observe his or her responsibility and be present during these deliberations. I thank the distinguished Republican leader for his cooperation in this regard.

Mr. DOLE. Will the majority leader yield? I certainly share the views he just expressed. These are important proceedings and we are going to have two of these this month to deal with. I know Senators are busy with other matters, but in fairness to those who are threatened with impeachment, charged with impeachable offenses, I think it is our obligation, though I think it is a little outdated but is still on the books, we need to be here to make certain we carry out our responsibilities.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I want to say to the majority leader, there is also a unanimous-consent agreement on Monday that we will take up the constitutional amendment on the flag. As I understand, if we did not complete action on that by, say, 2 o'clock on Wednesday, there would still be time Wednesday morning and time Wednesday evening when we might complete action on Wednesday, Thursday, or Friday if we do not do it prior to that time.

Mr. MITCHELL. That is precisely my intention; that if we reach 2 p.m. Wednesday without having completed action on the flag amendment, we will return to that following the presentation of arguments by the impeachment managers and Judge Hastings

and his counsel on Wednesday, back to it on Thursday and continue on a double track, so to speak, until such time as we do complete action on that.

The only additional action that is not included in the unanimous-consent agreement regarding the impeachment proceeding is, of course, the vote. We do not provide for that because we do not know in advance how long the deliberations will take in private by the Senate which commences at 2 p.m. on Thursday. Other than that, we are going to continue to work around that and complete action on the flag amendment as soon as possible upon the completion of debate by the Senators.

Mr. President, I thank my colleagues, and I yield now to the distinguished Republican leader.

Mr. DOLE. Mr. President, let me say in reference to Nicaragua, and we will be debating these issues either today or later, that with reference to the transfer of money to a drug program, we have already been through that once on this floor. We had an agreement on both sides and we did not offer what we call Wilson amendments in an effort to transfer funds from any program to drug programs. I hope when that amendment is offered there will be a bipartisan recognition of the previous agreement which we have adhered to on this side of the aisle. If we are going to violate it, then we need to have notice so we can start gearing up amendments for the remaining appropriations bills that have to be resolved and decided upon in the U.S. Senate.

In addition to that, it would certainly take care of this particular bill, as far as I know, because if any of these amendments are adopted, we have to go back to the House and we are going to lose another Sunday. We will get to the point where it is probably not worth the effort if we have one other Sunday lost as far as registration is concerned. I hope we can complete action on it quickly. I have a feeling cloture may be coming about midnight or later, either tomorrow night or sometime during the night, early Saturday morning, 4 or 5 a.m. And maybe at that point we will be able to complete action on it.

I will also indicate to my colleagues on this side that there will be a Republican conference at 1:30 in S-230 in my office, chaired by the distinguished Senator from Rhode Island [Mr. CHAFEE], where we will discuss what action we should take on the reconciliation bill, whether or not Republicans should support the Byrd rule since we seem to be getting nothing else in reference to capital gains; whether we should let the other party worry about the good government aspects of reconciliation. So we will be discussing that at 1:30 in our conference and hopefully we can do that without in any way interfering with the action on the floor on reconciliation, opening statements and other matters.

We are still hopeful there might be some opportunity for a capital gains amendment to be offered and to meet the 51-vote requirement. But I have had some of my colleagues on this side wonder why we are going to be so cooperative with the distinguished leader and the distinguished chairman of the Appropriations Committee if we get nothing in return.

So we will be discussing those matters at our 1:30 conference. I advise my colleagues on this side if you are there at 1:30, we hope to complete the conference not later than 2:15.

I reserve the remainder of my time.

THE SPECIAL INTEREST OF NORTH CAROLINA IN THE BILL OF RIGHTS

Mr. SANFORD. Mr. President, North Carolinians have always had a special interest in the Bill of Rights. They even take credit for the Bill of Rights—with some justification. The Constitution, when it was being considered by the States for ratification, was generally referred to as a plan of organization and that is what it was. It prescribed the three branches and their relationships, the terms and requirements of the Presidency and other officers, and the duties and powers.

The North Carolina convention delegates declared that this document did not deal with the great cause for which the war of freedom was fought by the Colonies. It did not deal with the right to speak and protest, the individual rights and protection from government oppression.

North Carolina voted down the new Constitution, and resolved that it would not accept the Constitution and join the United States until a bill of rights was added, and proposed a bill with 22 points. We still feel strongly about individual freedoms. Subsequently, the Congress shifted position and presented for approval the Bill of Rights. North Carolina promptly ratified the Constitution and the Bill of Rights.

We believe in the Bill of Rights in North Carolina. We believe it is the greatest document of freedom ever written. There is no question that the world sees our Bill of Rights as their symbol of freedom.

The Bill of Rights has never been amended. Perhaps there may be reason some day to amend it, but that day has not yet arrived.

Certainly we do not need to rush to amend it because of a 5 to 4 Supreme Court decision on a question that constitutional experts tell us can be handled by a statute.

We have passed the law. Now let us be certain that we preserve the Bill of Rights.

Mr. President, James W. Warner, a marine flyer who was a prisoner of war of the North Vietnamese for over 7 years, wrote of his feeling toward freedom in a column printed in the Washington Post on July 11, 1989. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEN THEY BURNED THE FLAG BACK HOME: THOUGHTS OF A FORMER POW

(By James H. Warner)

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft I looked up and saw the flag. I caught my breath, then, as tears filled my eyes, I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment the Communists told us that we did not have to stay there. If we would only admit we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted, most did not. In our minds, early release under those conditions would amount to a betrayal, of our comrades, of our country, and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured, and some of my comrades died. I was tortured for most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this? Yes, it was worth all this and more.

Rose Wilder Lane, in her magnificent book "The Discovery of Freedom," said there are two fundamental truths that men must know in order to be free. They must know that all men are brothers, and they must know that all men are born free. Once men accept these two ideas, they will never accept bondage. The power of these ideas explains why it was illegal to teach slaves to read.

One can teach these ideas, in a Communist prison camp, Marxists believe that ideas are merely the product of material conditions; change those material conditions, and one will change the ideas they produce. They tried to "re-educate" us. If we could show them that we would not abandon our belief in fundamental principles, then we could prove the falseness of their doctrine. We could subvert them by teaching them about freedom through our example. We could show them the power of ideas.

I did not appreciate this power before I was a prisoner of war. I remember one interrogation where I was shown a photograph of some Americans protesting the war by

burning a flag. "There," the officer said. "People in your country protest against your cause. That proves that you are wrong."

"No," I said. "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us." The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Aneurin Bevan, former official of the British Labor Party, was once asked by Nikita Khrushchev how the British definition of democracy differed from the Soviet view. Bevan responded, forcefully, that if Khrushchev really wanted to know the difference, he should read the funeral oration of Pericles.

In that speech, recorded in the Second Book of Thucydides' "History of the Peloponnesian War," Pericles contrasted democratic Athens with totalitarian Sparta. Unlike the Spartans, he said, the Athenians did not fear freedom. Rather, they viewed freedom as the very source of their strength. As it was for Athens, so it is for America—our freedom is not to be feared, for our freedom is our strength.

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. The flag in Dallas was burned to protest the nomination of Ronald Reagan, and he told us how to spread the idea of freedom when he said that we should turn American into "a city shining on a hill, a light to all nations." Don't be afraid of freedom, it is the best weapon we have.

HON. WILL HILL TANKERSLEY'S SERVICE AS CHAIRMAN OF THE RESERVE FORCES POLICY BOARD

Mr. NUNN. Mr. President, this month the Honorable Will Hill Tankersley will step down after serving 4 years as Chairman of the Reserve Forces Policy Board. Mr. Tankersley has had a long and distinguished career of service to the national security of our Nation, and I want to take a few moments to highlight some of his contributions as he steps down from his leadership of the Reserve Forces Policy Board.

Will Hill Tankersley served 8 years in the Regular Army, and is a decorated combat infantry veteran of six campaigns of the Korean war, a ranger and a master parachutist. After his active duty service, he went on to a distinguished career in the Army Reserve, finally retiring from the Army Reserve as a major general. During his Active and Reserve service, he served the Army at all levels from platoon to the Department of the Army staff. His final assignment was commander of the 87th U.S. Army Maneuver Area Command in his home State of Alabama.

In 1974, Mr. Tankersley was nominated by President Ford and confirmed by the Senate as the Deputy Assistant Secretary of Defense for Reserve Affairs and he served in this position until 1977. I was chairman of the Subcommittee on Manpower and Personnel on the Armed Services Committee during that time, and I worked very closely with Mr. Tankersley on issues affecting the National Guard and Reserve. All of the members of the Armed Services Committee came to appreciate Mr. Tankersley's intimate knowledge of, and profound commitment to, the needs of our Reserve components.

In October 1985 Secretary of Defense Weinberger appointed Mr. Tankersley to serve a 4-year term as Chairman of the Reserve Forces Policy Board. The Reserve Forces Policy Board was created by Congress to be the "principal policy adviser to the Secretary of Defense on matters relating to the Reserve components."

At the time of Mr. Tankersley's appointment, I thought that Secretary Weinberger could not have made a better appointment to head this critical board, and the last 4 years have reinforced my initial impression. Under Chairman Tankersley's direction, the Reserve Forces Policy Board has advised the Secretary of Defense on a broad range of issues and policies that have helped to modernize and integrate the Reserve components into a genuine and ready total force. No one knows better than Will Hill Tankersley that the men and women of the National Guard and Reserve units must be prepared to fight side by side with our Active Forces in real world missions on short notice. No one has worked harder than Will Hill Tankersley to insure that the Reserve components have the equipment and training to carry out their missions.

Mr. President, Will Hill Tankersley has made significant and long-lasting contributions to the national defense. I know this record of service will continue in the future. But as he steps down as Chairman of the Reserve Forces Policy Board this month, I want to congratulate Will Hill for his service to the Nation.

THE HOUSING NOW! RALLY

Mr. SANFORD. Mr. President, last Saturday, tens of thousands of housing activisits, homeless individuals, and concerned citizens gathered on the Mall to voice their concern for an increased Federal, State, and local role in housing. On Friday I met with some 50 marchers from North Carolina including 4 homeless individuals from Winston-Salem who walked to Washington from Roanoke, VA, as part of the Southern New Exodus March.

I share the concern of the Housing Now! participants that the terrible tragedy of homelessness and the substandard conditions of our Nation's housing stock must be addressed through a comprehensive Federal, State, and local government strategy on housing which builds upon the vast public, private, and nonprofit resources of the United States.

At this time, I ask unanimous consent that my remarks to the North Carolina Housing Now! marchers be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR TERRY SANFORD BEFORE "NORTH CAROLINA HOUSING NOW" MARCHERS

I welcome you to Washington for one of the most important events of the year. This weekend, hundreds of thousands of Americans will join together in support of one of the basic needs of all citizens: decent and affordable housing. Many of these people are homeless and low-income Americans who have been deprived of a decent place to live due to social and economic domestic problems and an inadequate response from the Federal Government. I am proud to participate in a North Carolina Housing Now! rally, and I want to reaffirm my strong support for an increased federal, state, and local government role in combatting the severe housing crisis facing this country.

The 1990's will be a critical era for the Federal Government. Difficult budgetary decisions must be made to Government. Difficult budgetary decisions must be made to eradicate the federal deficit and to target federal funds to the greatest needs facing the nation. It is my belief that the Federal Government must make housing assistance a top priority. In the next decade we must eliminate the tragedy of homelessness. In the next decade we must eradicate substandard housing in both urban and rural areas. In the next decide we must increase the supply of decent, affordable housing to ensure that all Americans have a roof above their heads and a home to call their own.

I for one have had enough of the Reagan years. The past Administration cut the budget for the Department of Housing and Urban development by almost 80%. They pushed responsible and qualified administrators out of HUD and replaced them with influence peddlers and slack managers. The history of the Reagan years in aptly characterized by the HUD scandals in which federal resources for low- and moderate-income housing became slush funds for developers and billions were squandered through fraud or managerial inattention. Enough is enough.

Thankfully, the Reagan years are over, and throughout the nation both public and private entities are forming partnerships to build new housing, and to modernize and preserve the units that now exist. I am proud of the work of numerous North Carolina organizations—the Triangle Housing Partnership, the Macon Program for Progress, Habitat for Humanity, and the Wilson Community Improvement Association—just to name a few, who are working at the grass roots level to increase the supply and the quality of housing throughout the State. No doubt many of you who are here today have been involved in local

housing assistance efforts which will provide the foundation for future action.

But what is needed to catalyze efforts at the state and local level is an active federal presence in housing assistance. As an important step in the right direction, the Senate last week passed an appropriations bill which increased funding for HUD by 19% to $15.2 billion. This is only an incremental step, but it marks the beginning of a new era in which housing funding will be a priority of the Congress. I am also pleased that Secretary Kemp has moved quickly to reform HUD and establish an agency truly dedicated toward providing housing for all Americans.

I am proud to be a member of the Democratic Housing Task Force which is currently working to create a comprehensive housing bill that will provide additional money to combat homelessness, to modernize and expand public housing, to eradicate substandard housing units, to preserve low-income housing, to provide additional units and services to individuals with special needs, and to create a nationwide infrastructure for affordable housing. Working in a bipartisan fashion, the Task Force and the Administration will enact during the upcoming year a comprehensive reform of HUD and a general expansion of the federal role in housing assistance.

Of course, the Federal Government must be joined by state and local governments, private businesses, and non-profit organizations to ensure that every American has a decent place to live. The heart of the Democratic housing package is an new program, the Housing Opportunity Partnership or HOP program which will provide Federal funds to State and local governments and require a match in order to leverage federal funds. The HOP program will provide flexibility to all levels of government to ensure that the particular needs of all localities can be met through the program.

I am optimistic about the future, but I also realize the serious need that exists throughout North Carolina and the nation. Your involvement, and the participation of thousands of people from across the country in this weekend's match is a desperately needed reminder of the crisis that exists in housing. We face many difficult decisions in the upcoming year, but we must realize that our national security depends as much upon providing for the domestic needs of our citizens as providing hundreds of billions of dollars for our defense establishment.

In closing, I want to express my commitment to improving housing. I will take your message back to the Congress and work to provide the necessary funds to improve our nation's housing stock. I wish you luck in your endeavors, and I hope that the Federal Government will respond to this outpouring of support.

This concludes my statement.

Thank you, Mr. President.

INTERIOR APPROPRIATIONS ACT FOR FISCAL YEAR 1990—CONFERENCE REPORT

Mr. BYRD. Mr. President, on Saturday, October 8, 1989, the Senate approved the conference agreement on H.R. 2788, the Interior Appropriations Act for fiscal year 1990. I had intended to discuss section 319 of the act with my colleague from Michigan at that time, but our colloquy was inadvertently omitted from the RECORD. I think that this discussion is important to the interpretation of section 319, and I ask that it be included in the RECORD at this time.

Mr. LEVIN. Mr. President, section 319 of the act prohibits the use of Federal funds to influence certain Federal contracting and financial transactions. Paragraph (e)(1)(A) states that this section does not prohibit the payment of reasonable compensation for "agency and legislative liaison activities" not directly related to the award of a particular contract, grant, or loan.

I would like to clarify the meaning of the term "agency and legislative activities" with my colleague from West Virginia.

It is my understanding that appropriate agency and legislative activities permitted by this section would include monitoring Federal legislation and regulations and informing agency and legislative staff of workable and unworkable approaches; collecting information for the preparation of testimony, comments, and reactions to proposals; identifying related Federal programs, activities, and legislation; inquiring into conditions, requirements, selection criteria, definitions of terms, and factors for award; communicating local conditions that affect, impact, or in any way relate to Federal proposals; and determining the process for and timing of Federal decisionmaking.

Would the Senator from West Virginia agree with this understanding of the statutory language?

Mr. BYRD. Mr. President, the Senator from Michigan is correct.

THE 1,671ST DAY OF TERRY ANDERSON'S CAPTIVITY

Mr. MOYNIHAN. Mr. President, I rise once again to inform my colleagues that today marks the 1,671st day that Terry Anderson has been held in captivity in Beirut.

I ask unanimous consent that a Chicago Tribune article on this subject be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Mar. 16, 1989]

HOPES SLIM IN 5TH YEAR OF ANDERSON'S CAPTIVITY

American journalist Terry Anderson, longest held of the 15 Western hostages in Lebanon, begins his fifth year of captivity Thursday with no sign that he will be freed soon.

In the last message his captors allowed him to send—a brief videotape Oct. 31—Anderson said, "I find it difficult to keep my hopes and my courage high."

Anderson, 41, chief Middle East correspondent for the Associated Press, was returning home from a tennis game on March 16, 1985, when gunmen seized him in Moslem West Beirut.

His captors belong to the pro-Iranian Shiite group Islamic Jihad, or "holy war." It is believed to be part of the fundamentalist Shiite militia Hezbollah, or Party of God.

Shiites also hold most of the other Western hostages: seven Americans, three Britons, an Italian, a Belgian and an Irishman.

Six organizations of Western journalists observed Anderson's anniversary by issuing a "solidarity with Anderson" statement. It urged President Bush and his administration "to use every possible means at their disposal to bring Terry Anderson and other hostages home."

Some hope had arisen that so-called pragmatists in Iran would help free the captives. It was crushed by the new revolutionary radicalism accompanying Ayatollah Ruhollah Khomeini's order that his followers kill Salman Rushdie as a blasphemer of Islam for writing "The Satanic Verses."

"The doors have been slammed shut again," said Rev. Lawrence Martin Jenco, an American priest kidnaped by Islamic Jihad on Jan. 8, 1985, and freed July 26, 1986.

Father Jenco of Joliet, who shared a cell with Anderson for several months, was one of three American hostages released in former President Ronald Reagan's arms-for-hostages deal with Iran.

DEPARTMENT OF COMMERCE GOLD MEDAL AWARDS

Mr. HOLLINGS. Mr. President, the 41st Annual Honor Awards Program was held yesterday at the Department of Commerce. The Department's highest honorary award is the Gold Medal which is given for rare and distinguished contributions of major significance to the Department, the Nation, or the world. It is a pleasure to report that Mark E. Brown, the Director, Office of Budget, was one of the 31 persons awarded the Gold Medal by Secretary of Commerce Robert A. Mosbacher at the ceremonies.

Mr. Brown, as the Department's budget officer, works closely with the Subcommittee on the Departments of Commerce, Justice, State, the Judiciary and related agencies appropriations that I chair. His outstanding presentations of the Department's budget to the subcommittee are models for the other Departments and agencies. He represents the Department well in his negotiations with us. Now, as we go to conference with the House managers, he is supplying the timely, reliable data we need to make the final decisions.

Mr. President, on behalf of the subcommittee, I want to publicly congratulate Mark and let me close by reading the citation accompanying Mr. Brown's Gold Medal:

Mr. Brown has demonstrated throughout his 16 years of Federal service the capacity to motivate and guide the best efforts of the staff, and to provide imaginative and effective budget and policy support to senior policy officials. He is recognized throughout Commerce for his expertise and for his professionalism. His work has won the praises of Departmental Secretaries, Deputy Secretaries, and Assistant Secretaries for Administration—as well as members of Congress and their aides. For his years of dedication, keen analysis, and hard work, Mr. Brown is deserving of the Department's highest honor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized for 15 minutes.

Mr. CHAFEE. Mr. President, I would like to take my time. However, if the majority leader and the Republican leader want to get started on their measure, which, after all, they had a time certain to start, I am willing to back off my time. I will leave it up to the decision of the leaders. I would like the time, but they had the prior time and I would be willing to back off if they want to get started.

Mr. MITCHELL. I appreciate the Senator's courtesy. I really would like to get started on this bill so we can then get started on reconciliation.

Mr. CHAFEE. Fair enough.

Mr. MITCHELL. Perhaps we can accommodate the Senator at some later time.

Mr. CHAFEE. There will be a time later, I am sure.

Mr. MITCHELL. I thank the Senator.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 3385 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3385) providing assistance for free and fair elections in Nicaragua.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, my understanding is we have right now 2 hours of debate on the bill?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. And no Senator is limited to the amount of time that they can take.

The PRESIDING OFFICER. The Chair would inquire first, who is controlling time?

Mr. HARKIN. This Senator can respond that this Senator is not certain who controls time.

Mr. MITCHELL. Mr. President, I designate the distinguished Senator from Vermont to control the time in opposition to the bill.

Mr. DOLE. I designate the Senator from Wisconsin, Senator KASTEN, to control the time in favor of the bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I wonder if the Senator from Iowa might withhold just for a moment while I lay out what we are trying to do.

Mr. President, the Senate is considering H.R. 3385, a bill to provide $9 million to assist, in the words of the bill, free and fair elections in Nicaragua.

On Wednesday of last week, the House voted 263 to 156 in favor of H.R. 3385. The administration had said it strongly supported the bill and the leadership wishes to move the bill promptly. The Appropriations Committee held an urgent meeting this morning to bring this bill to the floor. As the chairman of the Foreign Operations Subcommittee, I am required to be the manager.

Mr. President, in my capacity as chairman of the Foreign Operations Subcommittee, I will manage this bill. I will make sure that all Senators' rights are protected, that amendments can come up and be voted upon, and that we will fulfill the commitment to move this to a final vote in the Senate. But I want all Senators to know that I will vote against this bill in the final analysis. I oppose the request and I will vote against it.

Let me explain briefly what the bill contains. It has $9 million in assistance for the "promotion of democracy and national reconciliation," in Nicaragua: $5 million for internal groups, political organizations and alliances; the remaining $4 million for election support intended to ensure the conduct of free, fair, and open elections through the National Endowment for Democracy; $400,000 to go to the Council of Freely Elected Heads of Government; $250,000 for the Center for Democracy; $400,000 for the Center for Training and Election Promotion.

Mr. President, it seems that over and over again we try to find whatever we can do wrong in Nicaragua and then do it. The Contra program was a dismal failure. It came as a result of the past administration trying to substitute a covert action policy for a foreign policy, something that has never worked in the past, is not working today, and likely will not work in the future.

We also now are being asked to say that while we cannot have publicly financed elections in the United States, we will in Nicaragua. Given the history of our involvement down there, I would think most people running for election in Nicaragua would consider it the kiss of death to have the U.S. backing their election.

It also makes no sense, once again, of the administration has a fixation on Nicaragua, a fixation that if they just throw more money at a problem it will go away.

We heard years ago from the administration that somehow Nicaragua posed a threat to the United States—that they were going to march out of Nicaragua through the Central American countries, come across the border from Mexico and take on the National Guard of Texas, at which point of course they would lose.

With all of the money we are going to send down there, about $14 million in 18 months, just think what we are doing, or what they are asking to do in these elections: $14 million in 18 months in a country of 3 million people where the per capita income is only $300 a year. It makes no sense at all. In comparison, we sent $2.4 million to help assure a fair plebiscite in Chile, a country with 12½ million people; in the Philippines, with 60 million people, we spent $1.3 million; but in Nicaragua, with that great fixation the administration has on Nicaragua, with all the problems facing the United States, all the problems facing the world, we are still fixed on Nicaragua as though it is a major threat. We make it an important threat where it would not be otherwise.

A predecessor of mine once said—referring to another time in our history—to declare victory and pull out. We ought to declare we have done enough and pull out.

If some foreign government were to spend per capita the same amount in the United States as we are being asked to spend down there, it would have to spend one-half billion dollars. That gives some idea how much we are being asked to get involved in the elections in that impoverished little country.

Someday historians will look back at all the great opportunities this country has missed in Eastern Europe, in arms control, in issues of protecting the world's environment, and those areas of international competition and technology, and they will say, why? Because we had this fixation on Nicaragua. Historians will write papers and books and everything else wondering why in heaven's name this country got so far off the mark.

I reserve the remainder of my time.

Mr. ADAMS. Will the manager yield me 15 minutes?

Mr. LEAHY. I yield 15 minutes to the distinguished Senator from the State of Washington.

Mr. ADAMS. Mr. President, I am opposed to this bill. I do not think we should be in Nicaragua buying either bullets or ballots, and that is just how it is going to be viewed by the American public and by the people in Nicaragua, whether they are for or against the existing government.

We have already sent $3.5 million to Nicaragua to help in the elections. We did it last summer. I did not think it was a good idea then.

I am appalled by the fact that we have gone through all of our appropriation bills and cut them by a percentage to fund the drug program, which I support, but now, instead of taking this $9 million and using it in the United States for a need like that, we are going to send it down to try to influence an election in a Central American country.

It leaves a very bad taste in my mouth that we should be involved in

that election, and I think it will throughout the world.

It is a very different thing, Mr. President, for us to say that we are going down and spending taxpayers' money to support one side in an election.

There is something else I do not understand.

People who are saying send this public money for this election in Nicaragua are the same people who oppose giving public money to candidates in the United States so we can have an election without having to raise funds and be involved with all of the campaign financing problems we have seen in the last year.

I only learned of this bill and this proposition within the last week. I had no idea it was going to be moved to the head of the calendar so we could be sending some money down in October for a November election. It is foolish policy for us to do this quick notice. There is a very good possibility, if it is like all the other programs we have run in Central America, that this money will not even arrive there until after the election is over.

I have gone through the bill and looked at how it is going to be spent. it is very, very vague. It is just given to organizations. We do not know whether the trucks that are going to be driven down there are going to be trucks to take people to the elections or if the Government later is going to use them for something else.

This is a bill that comes up that says the Congress is going to go to another nation and finance one side in their election. I am sure it will probably turn people against the United States.

A comment was made by the minority leader that there had been an agreement not to put any more tied amendments on appropriations bills to shift money from whatever was being debated into the drug program or into some portion involved with the drug program. That is not involved in this bill. This is not a regular appropriation bill. This is a bill that is starting here. It has been referred to the Committee on Appropriations as a free-standing bill. This is not under any of the appropriations committees and their standard operation. Those bills are all closed. Those bills have already been presented. Those bills are working their way through conference. This is a special attempt by a group of people who want to influence a particular policy, had it been good or bad, to make an end run.

It is bad policy to spend American money on this purpose when we are running a large budget deficit. It is just appalling that we do it at this time because we are struggling to get a reconciliation bill up to reduce spending so we will not have a sequester on Monday that is going to again cut every bill: defense and discretionary spending alike.

Instead of passing this bill, we should take care of the American public with programs to help the poor ranging all the way from assistance to pregnant women, and to help fight drugs, and improve Medicare and Medicaid assistance programs. We do not have enough money. We should instead try to help the sequester problem by taking this money and using it for a purpose that has already been authorized, such as the war on drugs, to avoid an increase in the deficit. This bill would send money down to Nicaragua to influence an election. I would like to see some public funding of elections in the United States. We stood on this floor in the last 2 years and had eight separate cloture votes where we attempted to obtain some public financing of campaigns in order to be able to put a limit on campaigns. We wanted to limit the amount of money spent. But we could not use that tool because we were opposed by people who are coming forth now and saying, oh, we will spend $9 million down in another country.

What would I do with the money? I will give you some idea about what I feel are some areas that we are underfunding, and they will be cut even more if there is a sequester.

Mr. President, I ask unanimous consent to have printed at this point in my statement an article from the Washington Post of October 12. It says "When the Baby Must Become the Sitter." It deals with the latchkey child, the child that is at greatest risk, the one where we put an amendment in two different bills here to try to obtain enough money to see that these children were protected before and after school.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 12, 1989]

WHEN THE BABY MUST BECOME THE SITTER—VIRGINIA LATCHKEY CHILD FLAGS PROBLEM FOR LOW-INCOME FAMILIES

(By Sandra Evans)

Mary Crowe is as eager to demonstrate how she lets herself in the door each day when she comes home from school as she is to show off her baby doll's clothes box.

The latchkey that hangs from a ribbon around Mary's neck and the little girl's playthings may seem incongruous, but they are both a familiar part of her life. Mary stated caring for herself at home after school eight months ago, when she was 7.

When she celebrated her 8th birthday last month, Mary was already a veteran at caring for herself, a situation that shocks child-care advocates and officials who nonetheless have no suggestions on how else her family might deal with its child-care needs.

"The anxiety . . . never really goes away," said Fay Crowe, Mary's mother. "If she got hurt or injured and had to go to the hospital or, God forbid, died, I could be charged with neglect."

This is not a case of an uncaring or ignorant parent who does not understand the risk of so young a child caring for herself. Fay Crowe, 26, a divorced mother of three, must work full time to support her young family and simply sees no other option.

Trying to rear her young children—Mary is the oldest—in Northern Virginia on an income of less than $30,000 a year, Crowe has only a little more than $400 left each month after she pays the rent and child care costs for her sons, 4-year-old Jimmy and 5-year-old Joel.

Her salary is above the $24,744 gross annual income limit for families of four to qualify for state child-care subsidies.

Mary Crowe is among an increasing number of children who care for themselves each day after school and is a prime example of a warning child-care advocates have voiced for some time: As low- and moderate-income families and single parents face the ever-rising costs of child care, more will be forced to leave their children at home alone at younger and younger ages.

"This is really pretty horrifying," said Margaret C. Plantz, director of Project Home and research project for children in self-care.

Plantz said parents with children as young as 5 have called asking for tips on self-care.

"A mature [7-year-old] can probably hang in there when everything is fine. What concerns me is when there is an emergency," she said.

"To expect someone with seven years of life experience to deal with a fire or someone trying to break in, it's really risky."

There are social and emotional consequences as well, child-care experts added.

"There are stories of children who go home and lock themselves in the bathroom until mom comes home. They may not be physically damaged, but there is lasting emotional damage," said Plantz, whose project is sponsored by the American Home Economics Association and Whirlpool Foundation.

Latchkey tragedies already have occurred: in October 1987, two 6-year-olds in Reston died in an afternoon fire after they were left in the care of an 8-year-old who accidentally left the other children trapped in a locked house when she ran for help; in November 1986, 3- and 4-year old brothers in Miami burned to death in a clothes dryer when the mother, having exhausted her child-care options, left them to go to work; and just last May, an 8-year old boy shot and killed his 7-year-old sister while they were alone in their grandmother's Franconia town house.

Fairfax County schools let out early on Mondays, and the children took care of themselves for about two hours on those days until an uncle got home from work.

Fay Crowe's problem strikes at many child-care issues being debated locally and nationally.

Although state and local governments in recent years have adopted child-care subsidy programs, advocates say the need for services far exceeds what any state program now does.

Nationally, more than 2 million children from ages 5 to 13, or about 7 percent of that age group, are regularly in self-care, according to 1984 U.S. Census Bureau estimates, which child-care experts consider conservative.

A recent Washington Post poll found that 15 percent of the children ages 8 to 13 in the Washington area are primarily responsible for caring for themselves outside of

school hours while their parents work, and even more are regularly left alone for part of the day.

Barbara Willer, of the National Association for the Education of Young Children, said that the age at which children may safely care for themselves varies greatly with their maturity and personality, but in any event should not be earlier than 10.

Situations such as Crowe's "are more common than we would like to think," Willer said. ". . . . There are more [latchkey children] and at younger ages."

Landing a better-paying job in February prompted Crowe's child-care crisis. Until then, when she was making $21,000 a year as a secretary, she received child-care subsidies under a Virginia state program created in 1987.

With the subsidies, Crowe said, she paid an average of $30 a month for all three children to attend the private Kinder-Care Learning Center when they were not in school or preschool.

The pay raise that came with her new job as a data base analyst took her above the state eligibility ceiling of $24,744 a year for a family of four. As a result, her day-care bill jumped from $360 a year for all three children to $137 a week—or $7,124 a year—for just the two boys, more than wiping out her raise.

Keeping Mary at the center would have cost an additional $40 to $50 a week, money Crowe said she simply doesn't have.

Last month, she got more bad news: Kinder-Care was raising its fees, and, starting this month Crowe must pay $160 a week for her two sons.

"Some mothers, just sat down and cried" when they heard of the increases, Crowe said, noting she hasn't been able to find less expensive day-care arrangements that fit her needs.

Crowe's situation also touches on child-support enforcement issues. Her divorce decree did not include any provision for child support from her ex-husband, who now lives in Florida.

Although he would be liable for support under Virginia law, it has been extremely difficult to get support from out-of-state fathers, particularly when they move from job to job, as Crowe says her former husband does.

Crowe said one state social service employee advised her to take a voluntary pay cut to regain eligibility for day-care subsidies, something that goes against the grain of a young woman determined to get ahead in the working world.

She also has no intention of giving up her job to go on welfare, but she has toted up the figures to show that she would be ahead financially if she did and could get into subsidized housing.

Crowe's budget now looks like this: She takes home $1,668 a month. Out of that, she pays $600 in rent on a modest one-story house and, beginning now, $640 a month for her sons' day care. That leaves her with $248 for food, utilities, clothes, care maintenance and other expenses.

She owns a 1977 car that is paid for, and sews all the children's clothes to economize.

If she went on welfare, Crowe said, she would receive $300 a month in food stamps and $386 in Aid to Families with Dependent Children; in addition, she would have no day-care costs and Medicaid would automatically cover her children's health-care needs.

E. Janet Riddick, Virginia's child day-care program manager in the Department of Social Services, said the child-care subsidy program was not intended to end so abruptly when a parent gets a raise but that the upper income limit on the program is tied to 70 percent of the state's median income, geared to those most in need.

Local jurisdictions can set even lower income limits, and some have put the ceiling as low as 30 percent of median income, "not enough to survive on in any locality," Riddick said.

"We do feel that we don't have enough money at the current level to meet all the needs that are out there" despite a major expansion of the program last year, Riddick said.

"This is an unfortunate situation for this woman [Crowe] and not one we want to encourage . . . . I don't think you would find anyone in any agency that would say a 7-year-old should stay alone."

The state does not compile a waiting list nor keep track of how many peole are eligible for the subsidy, she said. The median-income figures are due to be revised soon, so some families currently ineligible may qualify later, she added.

Advocates of a massive child-care bill pending in Congress say the measure could help someone in Crowe's position because the bill calls for subsidies to families with incomes up to 100 percent of state medians.

But in the meantime, Mary Crowe stays by herself more than two hours each afternoon, doing homework or watching television or caring for the family lizards.

She was happy when her mother let her stay by herself rather than go to day care, she said.

"The best part is getting to read, and it's quiet to do my homework," she said. "Sometimes I miss my brothers, and I can't eat pudding. When I get lonely, I call Mommy."

Crowe comforts herself that her daughter is a responsible and trustworthy child who follows instructions.

The family has developed a system designed to protect Mary's safety: She is to walk home with other children and calls her mother as soon as she is in the door. She has been instructed in detail how to deal with telephone calls and not to answer the door under any circumstances.

Another mother in the neighborhood gets home shortly after Mary does and keeps a close watch on the house.

Still, the unexpected crops up. A simple thing like dealing with a headache requires precise directions by phone on just where the aspirin is and what it looks like.

Crowe didn't think to instruct Mary on how to use the thermostat until she came home one day to a sweltering house.

"I regret it," Crowe said of the situation. "My kids are growing up a lot faster because they have to do things other kids don't have to do. Kids used to be able to play after dark, and now they can't. They have a lot of things to worry about that we didn't, like coming home alone."

Crowe also predicts that today's children will grow up resenting the generation of adults who have not provided for them.

"When they are the leaders, they are going to say, 'Where were you when I fell down and hurt myself when I was a kid?' Is anybody thinking about an entire generation of kids?"

Mr. ADAMS. I would spend the $9 million on that first.

That is just an example. Studies have shown that the latchkey child has a higher risk of involvement in drugs.

I just do not understand why there is such a rush for us to come in the middle of our problems with reconciliation and potential sequester and pass this bill.

I am appalled by the fact that we are faced with these changes, rules now that will say that we have not cut enough. Therefore, we may cut everything. Well, this is one place where we can save some money very easily. Why rush forward to spend more money when we are trying to cut everyplace else, and when we are trying to fund the war on drugs, and we are trying to improve the education of our children, and we are trying to protect our children before and after school from the raids and the deprivation and the problems that come from their not having their parents at home and from the dangers of the streets.

We speak of a country that is loving and caring and, yet, we are involved here with trying to interfere in another country's election, with spending money we do not have, which we must borrow in order to send, and with not really helping our own elections, by trying to do some public financing. I just think the world is turned upside down.

I had the question put to me this morning in the Appropriations Committee as we were voting this, of whether or not it is better to spend money for ballots than bullets. I think that is a terrible slogan. I do not think the American people are for spending money for bullets or ballots in that war-torn country, and certainly anybody that runs on a ticket in the United States which spends money for ballots would find they were in enormous trouble with the electorate.

I know we will have a chance to debate this bill later, but as I am trying to say now, it offends many of us deeply and greatly that this bill would be brought up. That is what we are talking about now, that this bill is being brought up, rushed before us, when there are so many other needs in this country that should stand before it and have such a great desire and need.

We are in here this week—not out working in our districts—to try to reduce spending through a reconciliation bill so that we will not have sequester on Monday, and what are we greeted with in the middle of the week but a bill that says let us take $9 million, which we happen to have around, and send it into this election. If we happen to have it around, let us use it for purposes far better suited to reduce this deficit, avoid sequester, or fund the Drug Program on which we have gone across the board with cuts.

I thank the President and the Senators for this time. I just do not think we should vote cloture or proceed with this bill. It should die a death now.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I believe the Senator from Iowa is going to be seeking time, and I see him on the floor. I might ask the Senator from Iowa how much time he will require?

Mr. HARKIN. I thank the Senator. I need about 30 minutes, I think.

Mr. LEAHY. I yield 30 minutes.

Mr. HARKIN. I thank the distinguished Senator for yielding.

I want to thank my distinguished chairman of the Foreign Operations Subcommittee for his leadership, not only in this area, but also in all areas dealing with aid to foreign countries. He has been a very progressive and diligent leader in making sure that our hard-earned tax dollars are not wasted frivolously in giveaway programs, but are used to provide the best possible support for our friends and allies abroad.

Mr. President, I hate to say this, but here we go again, just when we thought the last tax dollar of America was going to Nicaragua, here we go again. Well, it has been on and on every year; if it is not one thing, it is another. If it is not giving money to Somoza, then it is giving money to the Contras. If it is not one group of Contras, then it is another group of Contras. If it is not one group of Contra leaders, it is another group of Contra leaders. If it is not for freedom fighters, it is for another political party.

Last spring, this body and Congress passed an aid package to the Contras and everybody—look at the record—said this is it, this is the last payment; the failed policy in the Reagan administration regarding Nicaragua was being put to rest. That was this spring. Then they came back this summer and said, oh, no, guess what, we need $3.5 million for the upcoming elections. We passed that.

All right, give them $3.5 million for the elections. Three months later they want $9 million more for the elections. What is it going to be in November? What about January, when we come back a month before the elections; how much more?

I heard a comment made the other day that there is a new saying in Spanish, that the word "Nicaragua" has a new meaning in Spanish. It means "waste U.S. money." That is about what we are seeing here, waste U.S. money.

We have already poured into Nicaragua in this decade alone over a quarter of a billion dollars. What have we got to show for it? Half of Nicaragua living in Miami, that is what we have to show for it. A lot of U.S. taxpayers' money is in Swiss bank accounts, funneled over there through the Contra leaders, who are living high on the hog in Miami or Caracas.

I cannot really believe that we are here again discussing sending another $9 million to Nicaragua. To paraphrase Yogi Berra, it is deja vu all over again, Mr. President. I do not know how many times we have to ask the American taxpayer to give more money to that failed policy of the Reagan administration.

Mr. President, let me make a few points clear about my reason for opposing this amount of money. It is not based on any opposition I have to a free and fair election in Nicaragua—far from it. Last year, this Senator supported a provision which appropriated $2 million to the activities in Nicaragua of the National Endowment for Democracy.

This summer, I also supported the amendment that provided $3 million in additional political activities in Nicaragua. That was $1.5 million for NED, and $1.5 million for the Organization of American States. Altogether, this Congress approved—and I supported it—$3.5 million to the National Endowment for Democracy, to be used for the same purposes as provided in this bill.

This bill says they are going to use the money—I will read this:

> Up to $5 million in assistance to internal groups, such as support for political organizations and alliances, independent elements of the media, independent labor unions, business, civic and professional groups through and consistent with the charter and operating procedures for the NED.

Five million dollars. Civic groups, professional groups, labor unions, media. Get in line. Line up for it, because here it comes with no controls whatsoever on what it is going to be used for.

Rather than ensuring free and fair elections, this package that would pour in another $9 million, could well undermine those elections, could well undermine the main opposition candidate, the major recipient of these funds.

Do we really want Mrs. Chamorro to be known as the best candidate that the United States can buy? That is what is going to happen. Do we really want free elections and fair elections in Nicaragua, or do we want an election bought and paid for by the United States Government?

As I said earlier during markup in the Appropriations Committee, I looked around and saw how many people were sitting there who opposed and still oppose public financing of campaigns in this country, but they are now willing to vote $9 million for public financing of a campaign in Nicaragua. I cannot understand what kind of sense that makes.

But do not just listen to me. Listen to some others. Here is a person, Mark Falcoff who is a Latin American specialist with the American Enterprise Institute, that bastion, of course, of leftwing liberal thinking here in the United States. Mr. Falcoff cannot be considered a liberal. For several years he served as one of Senator LUGAR's foreign policy advisers. He is also a protege of former Ambassador Jeane Kirkpatrick, that other great liberal we have in this country.

Mr. Falcoff condemned the request as being excessive, and he said it may look as if the United States were bent on buying the election.

Listen to the official in the Government of Costa Rica, President Oscar Arias, who believes under the proper conditions the opposition could win in Nicaragua.

But the official warns—and here he reflects the opinion of the Arias government—the United States pouring funds into the campaign of Mrs. Chamorro would give the Sandinistas a power propaganda weapon with which to portray Chamorro as a United States puppet.

So there is ample cause for concern here. Some people just believe that all we have to do is throw money out. That is what we did with the Contras, throw money at them, just give them whatever they want, and surely they will overthrow the Nicaraguan Government and establish democracy. How many times have we heard that sorry song sung in the Senate, time and time again. Now we are hearing this siren calling to spend more money to pour in the opposition party in Nicaragua.

If this package passes, we will be spending a total of $8.5 million to support the internal opposition in Nicaragua, a country of 3 million people, with only 1.7 million registered voters. That amounts to $5 per voter.

I did a quick compilation, Mr. President. I wanted to find out what would that mean in our Presidential election if another country were to put that kind of money into the United States. You know what it would amount to? It would be over one-half billion dollars, half a billion dollars. Last year the combined campaigns of Mr. Dukakis and Mr. Bush, plus the Federal matching fund, amounted to just over $100 million. Let us compare that to what we are doing in Nicaragua, mindful that I said 3 million people, 1.75 million registered voters. Let us compare what we have done in the past.

In the 1986 elections in the Philippines the NED spent less than $900,000. The Philippines has a population of 50 million people. That was $900,000 of U.S. taxpayers' money.

In the recent Polish elections, we put in $2.7 million for NED. Poland has 35 million people.

In the 1988 plebiscite in Chile, a country with 12 million people, NED spent $1.2 million.

So look at those elections. Here is Poland, 35 million people, we put in $2.7 million; in Chile—and I supported the money that went to NED that

went to Chile—12 million people, $1.2 million, no cash, all in kind. Yet here is Nicaragua, with 3.5 million people, and they want us to spend $8.5 million, seven times what we spent in Chile.

How is the Nicaraguan opposition going to use all of this extraordinary infusion of United States aid? To paraphrase President Bush, "Read their lists." Here is a preliminary financial proposal of UNO, the opposition party in Nicaragua, for infrastructure and expenses for supporting the democratic process in Nicaragua. This list was prepared by UNO as to how it could spend the $5 million in net funds in this bill.

Here is item 6, travel allowances and per diem for 20,000 poll watchers, $600,000.

Mr. President, we just heard earlier that the average annual income in Nicaragua is about $300 a year. If you take 20,000 poll watchers, divide that into $600,000, that is 30 bucks for 1 day, $30 for 1 day. That is 1½ months of income to the average Nicaraguan we are going to give them for 1 day for watching polls.

What we ought to be doing is teaching them how to organize and to get volunteers to watch the polls. That is what we do in America. I do not pay poll watchers. Other Members do not pay poll watchers. People go down and watch the polls on a voluntary basis for the political parties. That is what they did in Chile. NED went down there, and taught Chileans how to organize poll watchers, to get volunteers to watch the polls on election day. In Nicaragua, we want to pay poll watchers a month-and-half salaries for 1 day for watching polls. It is absolutely nutty.

Here is another item, $140,000 for courtesy invitations to international observers and/or visiting delegation from related organizations. What is this all about? That is $140,000 for courtesy invitations. We already have money in the bill and already have money from the $3.5 million we already sent for observers. What is this all about? That is $140,000 for courtesy invitations. What are they going to do, print them in 22-carat gold and send invitations abroad? There is no further explanation for how the $140,000 will be spent.

Another line item is $50,000 for travel and per diem for trips aboard by UNO leaders to promote free and fair elections.

Do they say how many UNO leaders? Is it four, or five, or six? Yet that is $50,000 for them to travel abroad. I thought this was supposed to be a pro-election package, not a travel promotion package.

But here is the one right here, Mr. President, item No. 1, salaries, benefits, and related expenses, $815,000.

What is this? Here we are cutting health care benefits in America and voted last week to cut the benefits on the catastrophic care bill; yet we have $815,000 for benefits and salaries for UNO leaders. That is for 4 months, just think of that, 4 months, $815,000, average income $300 a year. Who is getting paid all this money and where is it going?

Let me read here from an article that appeared in the New York Times on September 28.

> At a hearing of the Senate Foreign Relations Committee, Bernard Aroson, the Assistant Secretary of State for Inter-American Affairs, was, for example, unable to explain why the State Department wanted to spend $815,000 in salaries and $1.3 million on vehicles for opposition members working on next February's elections.

He could not explain it.

Mr. President, when your farmers or when your citizens of the State of Nebraska or the people in Iowa or other people come here and they want the Federal Government to spend some money on a project or a program or activity, they better darn well have chapter and verse how they are going to spend the money. Here is Bernard Aronson, Assistant Secretary for Latin American Affairs, who says he does not know how. He is unable to explain it. But he says, "Go ahead and write the check anyway." What kind of nonsense is that? What kind of absolute nonsense are we getting ourselves into? No accountability.

Finally, the item I just mentioned, there is $1,345,000 for vehicles. Think about that. Here is a country about the size of my State of Iowa. Let us face it, most of the country, is not even accessible by road. You have a small area where most of the people reside. They want $1,345,000 for vehicles for the election.

Well, we figured out—and I got this from Mr. CONTE on the House side. He said, if UNO decided to rent a car from Hertz rent a car for $20 a day, that is 2,241 cars a month that they can rent. What kind of nonsense are we talking about, $1,345,000 for vehicles?

Or is that just for a few Mercedes that the leaders want to have in Miami at their villas or perhaps they need a new BMW at their homes on the French Riviera? Is that the vehicles they are talking about? We do not know because we are not told. And even the Assistant Secretary of State cannot tell you what it is for. And yet, "Write the check. Give them the money."

Here is the other item. To support the $1.3 million for vehicles, there is another line item. They want $149,472 for "gasoline, lubricants, and maintenance."

Now, if that does not just take the cake—150,000 bucks for gasoline, lubricants, and maintenance. I am assuming they are going to spend it over 4 months—November, December, January, and February. That is 35,000 bucks a month just for gasoline and lubricants.

Would you not like to have that in your campaign when you go out and campaign? Mr. President, would you not like to have that kind of money and those kinds of cars and vehicles?

They cannot put that many cars on the road in Nicaragua. They do not have that much gasoline and lubricants. It is nonsense, absolute total nonsense what we are being asked to come up with here.

What is just as disturbing as the amount is the fact that NED can give over some $5 million cash to UNO. Cash. If you look closely at the items, you will find what can be politically called soft money.

Well, let us really be honest about it. Let us call it what it is—walking around money. We know what that is in this country. Walking around money, that is what it is; pouring money into a political party.

Here is Nicaragua, a country with a very sorry economy, where the average per capita income is, as I said, about 300 bucks a year. What you have here is a lot of walking around money.

They say that former dictator Somoza used to rig his elections for 30 cents a head. Today, we are being asked to rig them for 5 bucks a head. Even if you are for it, at least we could do it cheaper than this. If you want to buy an election, at least it could be done cheaper than this.

The exchange rate in Nicaragua right now is 25,000 cordobas per dollar. As I said, if we used that same money in this country for national elections last year, some foreign country could have poured a half a billion dollars into the campaign of Mr. Dukakis or Mr. Bush, whichever side they wanted to be on. Would we stand for that in this country? Would we say, "Oh, that's all right"?

But we are telling Nicaraguans that you ought to stand for it. We are going to pump that money into a political party. Absolute nonsense.

To quote from a recent Newsweek article:

> If Mrs. Chamorro is defeated, many Nicaraguans will blame the United States, and some Americans may criticize President Bush for sending good money after bad.

Have we not wasted enough money in Nicaragua, over a quarter of a billion dollars? When does it end? Never? Well, this is the time to end it.

Ironically, this package, which is designed to support a political opening in Nicaragua, could well be the door that closes that political opening.

Let me repeat: The issue is not whether or not we are going to support democracy in Nicaragua. The real

question is: Are we going to smother it? Are we going to nip it in the bud?

Instead of pouring so much money into Nicaragua, the administration could offer the Nicaraguan opposition more effective—and most cost effective—assistance by simply adding one proviso: "No more CIA involvement in Nicaragua."

Reading again from Newsweek, and again I quote, about secret help:

The United States is already funneling millions of American dollars, much of it secretly, to help the Nicaraguan opposition in next February's election. Overt money, about $8.5 million, goes to the National Endowments for Democracy. But U.S. intelligence sources say covert money, about $5 million is handled by the CIA. Officials say the money is for political infrastructure, not campaigning.

Well, there you go. I wish we had a proviso in this package. I wish the President would come out and say the CIA is not going to be involved. Can any Senator here on the floor say absolutely for certain that the CIA has not been involved in the election process and will not be involved in the election process? I cannot. I am not on the Intelligence Committee. I do not know.

All I know is what I have read and what I have heard. And what I heard is that the CIA is involved. So we are not even just talking about all the overt money, we are talking about covert money, also.

I think the administration should stop playing cat and mouse with this issue of covert aid and come right out and say: "No covert activities will be engaged in related to next February's election."

Well, even the opposition to Nicaragua, UNO, made its position overwhelmingly clear that they are opposed.

Alfredo Cesar, a member of the resistance directorate, returned to Nicaragua in June after 7 years in exile. Here is what he said:

The worst thing the U.S. Government can do is to try to help in a hidden way. That would be the worst of all, worse than not helping at all.

Nicaragua's opposition daily, La Prensa, has called suggestions of possible covert aid to the Nicaraguan opposition a potentially fatal blow to their election hopes.

On August 4, 20 Nicaraguan parties, representing most of the political opposition, joined with the Sandinistas in signing a "political accord of the national dialog." Quoting from that accord:

The political parties call on the governments with interests in Central America to abstain from carrying out covert activities in the electoral process of Nicaragua.

And yet our Government, the administration of President Bush, has been ominously silent about saying whether or not covert activities would be engaged in.

Mr. President, over the past year, I have consistently advocated a position that the United States should be involved with the upcoming elections in Nicaragua, but it should be constructive and open, in kind and not in cash.

In 1988, I played a role in assisting the forces of democracy during the Chilean plebiscite by offering an amendment, which was adopted, to add another million dollars for NED, for their activities in Chile.

With the modest amount of funds we provided NED, the endowment provided Chile's democratic opposition the skills necessary to mount a highly sophisticated campaign. And even though they were outspent 30 to 1 by Pinochet, the free election forces won in last October's plebiscite.

That is the way to do it—no cash. There was not any walking around money. We did not pump a lot of cash into Chile to buy the elections. What we did was we used the NED to go to Chile to teach them how to organize, how to watch polls, to do polling, how to get people registered, get them to the polls on election day, how to use media wisely and effectively. That is all proper. I have no problems with that.

But in this package we are asking to pump in obscenely large amounts of money into that small country and to give them cash again.

Again, I am not opposed at a modest amount of money for the election process. But not in cash. We need to support independent organizations like the Council of Freely Elected Heads of Governments, the United Nations, the Center for Democracy, to help the election process, to help registered voters and to send independent monitors to oversee the independent registration and election process. That is what we should be doing.

That is why I am going to propose an amendment which will offer a reasonable compromise and a more effective way of supporting the elections process than that which we are considering today. My amendment would do the following: Provide $1 million in-kind assistance through NED for election support and monitoring to ensure the conduct of a free and fair and open election in Nicaragua, and another $1.5 million for support for the elections process which would be divided this way: $400,000, the United Nation's election monitoring team; $400,000 for former President Carter's Council of Freely Elected Heads of Governments; San Jose-based Center for Training and Election Promotion, $400,000; and $300,000 for the Center for Democracy.

With that modest amount of money, Mr. President, we will ensure that we have the monitors that we need to ensure that the process is open, free and fair in Nicaragua. But what we have in front of us today goes way beyond that. It ensures a bought and paid for election and, I believe, ensures the defeat of the opposition.

It will backfire. It will undermine Mrs. Chamorro and the political opposition. Oh, but I will bet you get the opposition to say they would like to have the money.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. Can I get about another 10 minutes?

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes and fifty seconds.

Mr. LEAHY. Mr. President, I ask unanimous consent—this is a request for the distinguished ranking member of the Foreign Relations Committee—that we be able to call a quorum at this point, without the time being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Under that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina be allowed to proceed for up to 5 minutes on a different matter, without it applying to the matter before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. LEAHY. I would yield to him so he can say bienvenu to our colleagues from France.

VISIT TO THE SENATE BY A GROUP OF FRENCH PARLIAMENTARIANS

Mr. HELMS. Mr. President, we have a distinguished group of French parliamentarians as the Senator from North Carolina, who is the occupant of the Chair, knows.

Senators will certainly want to pay their respects and extend their welcomes to them. I certainly do that, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, I yield 3 minutes of my time to the distinguished Senator from Iowa.

Mr. HARKIN. I thank the Senator. I really want to caution Senators on the amount of money going to Nicaragua. I really believe this package is going to backfire. I am as committed and dedicated to free and fair and open elections in Nicaragua as any Senator in this body.

I disagree that this is the best way to do it, the same as I disagreed that the best way to help was through the failed policies of funding the Contras. We could have a more modest package. We have already pumped in $3.5 million. We could have a more modest package that gets the money to the international observer teams to ensure that the elections are free and fair and honest, but not pump all this cash into that poor, tiny country and buy those elections.

Let us save Nicaragua's democrats from America's big pockets. Let us vote for a more reasonable alternative that I think would offer a more realistic way to support a free and fair election. Mr. President, a free and fair election in Nicaragua cannot be bought with United States dollars.

I thank my distinguished chairman for yielding at this time. I yield back my time.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes fifty seconds.

Mr. LEAHY. Mr. President, I yield 2 minutes to the distinguished chairman of the Foreign Relations Committee, Senator PELL.

Mr. PELL. Mr. President, I thank my colleague from Vermont.

Mr. President, my support of this proposal to provide United States funds for the electoral process in Nicaragua is based on the information provided by the administration that the assistance is in fact, only for the "process." Further, it is based on my respect for and faith in the National Endowment for Democracy that sensitive and proper use will be made of the funds in this very delicate situation and that a careful accounting will be made. In no way are the funds to be used by the opposition for direct partisan campaign purposes.

It is my understanding that the funds will be used to support the process through projects such as voter registration, seminars for poll watchers, get out the vote efforts, and communication equipment, but that money will not go directly or indirectly for campaign activities of the opposition parties.

The work done by the NED in the most recent elections in Chile and Panama provides me with the belief that this assistance to the electoral process in Nicaragua will underline that a free and fair election will be held on February 25 and that the results will be accepted by the administration.

I look forward to watching the election process carefully with the hope that relations between the United States and Nicaragua will improve. I believe that finally peace is at hand in Central America and the election in Nicaragua certainly is a key factor.

I yield the floor.

Mr. LEAHY. I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I do not intend to engage in debate on this issue today. I appreciate the support of the chairman of the Foreign Relations Committee. I simply want to say that this package has been introduced by bipartisan leadership, Republicans and Democrats, in the House and Senate. It is the result of work the administration has done with both the House and Senate.

Although no one thinks it may be perfect, everyone feels this is the best we can do and everyone understands the urgency of this matter. A significant amount of the money in this package will be allocated to voter registration. The voter registration days are the Sundays in October, two of which we have already missed.

This is a perfect example of how this legislative body, by not acting—by voting neither yes nor no and by simply delaying action, can defeat the legislation. I am hopeful that we can move forward quickly on this legislation, and I look forward to, after the vote on cloture, engaging in the actual debate and dealing with amendments. At that point, we will discuss the merits and the objections to certain amendments and points that have been raised on the floor today.

I ask unanimous consent, Mr. President, to have printed in the RECORD on behalf of the minority leader a letter from Secretary of State Baker to the minority leader outlining the urgency of and the rationale for this package.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR BOB: The Bipartisan Accord united the Executive and the Congress in seeking democratization and peace in Nicaragua. It is our common hope that the February 1990 elections will help achieve those goals.

As you begin consideration of HR 3385, a bill to assist in Nicaragua's elections process, I want to express my strong support for its contents. Democracy and peace can come to Nicaragua only if the elections are both free and fair. While the Sandinistas alone will determine whether the elections are free, Congress and the Executive, working together to pass this legislation, can help ensure that they are fair.

I also want to emphasize, in the strongest terms, the urgent need for the bill's passage. Half of Nicaragua's Sunday registration days have already passed; only two remain. Funds to aid in registration are needed more urgently than ever. It is also essential to the process of democratization that other funds contained in this package reach Nicaragua well before the election—now only four and a half months away.

Because the administration supports the bill as transmitted to the Senate, and because of the urgency of enactment, I am opposed to all amendments to HR 3385, regardless of substance or intent. As you know, the bill is a compromise resulting from consultations with both the Senate and House. Differing versions of the bill would further hinder enactment. While I remain respectful of Congressional prerogatives, the urgency of the situation in Nicaragua demands that we make these funds available as soon as possible.

With best personal regards,

Sincerely yours,

JAMES A. BAKER III.

Mr. KASTEN. Mr. President, I yield back the remainder of my time.

Mr. President, excuse me, can I withhold for a moment? I yield the Senator from Arizona 10 minutes.

The PRESIDING OFFICER. The Chair understands that the Senator has yielded back all time but 10 minutes? The Senator may withdraw that.

Mr. KASTEN. Mr. President, I withdraw my request with regard to yielding back my time and instead yield to the Senator from Arizona 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Wisconsin, and I also express my deep appreciation to him for his continued leadership on this very difficult issue. I do not know of a more knowledgeable, more committed Member of this body on the issue of Central America, as well as many other areas. I again express my appreciation to him for his support for this very important effort to achieve democracy in Nicaragua.

Mr. President, what we do here today can be characterized just that simply. The Senate either will or will not stand with the forces of democracy in Nicaragua. I am confident that after years of division over the question of assistance to the armed resistance in Nicaragua, this body will be united in its support for those brave Nicaraguans who face their adversaries armed only with a ballot. For those who argue that the United States should not concern itself with the affairs of one foreign political party at the expense of another, let me say this: The contest in Nicaragua is not between two democratic organizations; it is between democrats and antidemocrats. For the United States to desire the success of democracy generally in Nicaragua, it must desire the success

of the democratic opposition specifically in Nicaragua.

No Senator can argue with the purpose of the proposals contained in this legislation. Stated simply, the purpose is to improve the prospects that the forthcoming election in Nicaragua will be free and fair. There is, of course, a very natural concern on the part of some Members that overt U.S. assistance to the National Opposition Union, known as UNO, may inadvertently do more harm than good to UNO's campaign. This argument is predicated on the assumption that association with the United States is a political disadvantage in Nicaragua.

Mr. President, I am not at all certain that after a decade of bad relations, the people of Nicaragua might not welcome better relations between their prospective government and the Government of the United States. But be that as it may, let us be clear that we are not giving money directly to UNO's campaign. The leadership of UNO feels that this legislation will finance a substantial portion of its noncampaign needs. Any other funds UNO requires they wil raise privately from other parties.

We in the United States are not in the best position to make determinations about what is or is not politically advisable in Nicaragua. It is much wiser to depend on the judgments of those people whom we seek to assist.

Mr. President, the opposition Presidential candidate, Violetta Chamorro, one of the greatest persons I have ever had the honor to know, whose husband was assassinated by the Somocistas, has made clear to administration officials that not only would UNO welcome the aid in this legislation but that such assistance is desperately required if UNO is to have any chance of competing in fair elections.

Mr. President, when we assess the political conditions that currently exist in Nicaragua, we are not surveying a level playing field. This assistance is simply meant to repair some of the disadvantages confronting UNO. In power for 10 years, the Sandinistas have merged their party with the State, and they have the resources of the State at their disposal as they seek to undermine the ability of the opposition to challenge them politically.

Mr. President, I am not talking merely about the advantages typically enjoyed by incumbents. As incumbents ourselves, we would be hard-pressed to begrudge those advantages to other incumbents. No, Mr. President, the Sandinistas are able to manipulate the electoral process far beyond the level that is tolerated in democratic societies.

The Sandinistas dominate the Supreme Electoral Council which is responsible for running the election. In practice, the Sandinistas enjoy a 4-to-1 advantage on the Council. Unsurprisingly, the Council routinely issues regulations favorable to the Sandinistas. For example, the Electoral Council refused to allow Nicaraguan exiles to vote abroad because they do not have passports, even though they may have been forced by the Sandinistas to leave the country without passports. Further, their applications for passports are processed by the Sandinistas at a pace designed to ensure their arrival sometime after the February elections.

A 50-percent tax has been levied on foreign contributions to political parties which will in all likelihood be enforced by the Council only on contributions made to UNO. As of this time, the Council claims that there have been no outside contributions to the Sandinistas.

Mr. President, every year the Soviets and Cubans provide billions in assistance to the Sandinistas. To say that there have been no outside contributions to the FSLN at this time, of course, is ludicrous at best.

International observers, in Nicaragua to determine the fairness of the elections, will be regulated by and must deliver their reports to the Supreme Electoral Council.

Desperate for foreign assistance, the Sandinistas ardently desire that their election be recognized as fair by the rest of the world. Consequently, they hope to subvert the election process at the beginning of the process rather than on election day. Toward this end, the Sandinistas intend to retain control of the election machinery all the way down to the grassroots level.

We can expect them to compaign with a mix of heavy-handed threats and promises. They will offer food and jobs to the poor and starving victims of their chronic mismanagement of the Nicaraguan economy. They will threaten Nicaraguans supporting the opposition with employment. They will continue to dominate the media and to permit the opposition extremely limited access to television.

Mr. President, it is my understanding that once every 3 days the opposition party is allowed 10 minutes of free television time on a channel that barely reaches all of Managua. That is the kind of fair and equal treatment that the Sandinistas are extending to the opposition.

Furthermore, the Sandinistas intend to limit election monitoring by imposing new visa requirements and travel restrictions on foreign diplomats. In this way, they hope to obscure their hidden campaign against the opposition. Already, mobs of pro-government thugs, possibly including off-duty policemen, consistently harass and disrupt opposition political rallies.

Indeed, with these methods and with all the other measures at their disposal, the Sandinistas appear entirely confident that the February elections will never become more than a necessary nuisance to the continued consolidation of their power.

Mr. President, it is incumbent upon the world's leading democracy to answer the call for assistance from true Nicaraguan democrats as they wage this uphill struggle against their Marxist adversaries.

Mr. President, let us be clear. This legislation represents a clear attempt by the United States to associate itself with one party to a political contest. We need not obscure that fact. I say that because the prospects for the institutionalization of democracy in Nicaragua after the February elections are remote unless the opposition wins these elections.

The Sandinistas have no interest in permitting regular, routine elections. They hold such practices in contempt. Once the Contras have been removed as a threat to their power, and once they have secured assistance from generous Western donors, it is all too likely that their interest in elections will subside. Therefore, it is not only acceptable, it is proper for the United States to clearly identify itself with the candidate who does not seek office as an end in itself but as a means to the further promotion of democratic values in Nicaragua.

Having said that, let me stress that although we earnestly desire our efforts today contribute to the success of democracy in Nicaragua, nothing contained in this legislation represents direct assistance to UNO's campaign.

Mr. President, we believe that in a free and fair election UNO can take care of itself. Our intention is to only assist in opening the elections; to help repair the current imbalance in election procedures; to cooperate in leveling the playing field to the extent that UNO and thus democracy has an opportunity to flourish in Nicaragua.

Mr. President, the kinds of democracy supporting measures proposed by this legislation are no different from those programs financed by the National Endowment for Democracy in Chile, Panama, the Philippines, and Poland.

This legislation provides assistance for basic election support activities like party building, voter registration, informational media presentations, training poll workers, election monitoring, get-out-the-vote campaigns and international observer programs.

Although we believe that the freer the election, the greater the chances for an opposition victory, our assistance is strictly limited to noncampaign purposes and remains well within the charter of the National Endowment For Democracy. This legislation simply proposes to help the Sandinistas keep their word. Our only purpose is to encourage fairness in the election process.

Mr. President, let me briefly address another concern that Members may have regarding our assistance. There is among Members, including my good friend from North Carolina, a justifiable concern that because of the 50-percent tax on foreign contributions, some U.S. money will end up in the control of the Sandinista-dominated election council. I join in those concerns. Nevertheless, as disagreeable as this possibility is, we should not abandon all support for Nicaraguan democrats in order to avoid its occurrence.

In the event the Council should obtain some U.S. money, UNO believes it can ensure that some of the assistance goes for legitimate election expenses and not partisan activities and not into the coffers of the Sandinistas. Further, the legislation authorizes UNO to determine whether or not it is necessary to contribute to the Council. This will enhance the opposition's bargaining power as it seeks to promote greater campaign reforms.

Finally, Mr. President, Mrs. Chamorro has indicated that this arrangement is acceptable to her. I am sure it is not a desirable arrangement to her. But I think we should take encouragement from her acceptance.

Mr. President, there has been some concern the United States has ignored the fact that the opposition coalition contained parties we would usually refuse to assist. That is so. The opposition coalition includes the Nicaraguan Communist party. I think most Members would accept that this Senator has no desire to assist the advance of any Communist Party. Yet, in some small way Nicaraguan Communists will benefit from the activities proposed in this legislation.

Again, Mr. President, I defer to the judgment of Nicaraguan democrats, specifically Mrs. Chamorro. If she feels that the benefits of a united opposition exceed the cost of cooperating with the small and fairly insignificant Nicaraguan Communist Party, then we must abide by her judgment.

After all, Mr. President, it is Violeta Chamorro who will be President of Nicaragua if the opposition wins this election, not Nicaraguan Communists.

Mr. President, let me close by saying that the United States cannot make these elections free and fair. Unfortunately, only the Sandinistas can do that. But we can make the theft of these elections a much more difficult proposition for the Sandinistas. And in the process, Mr. President, the United States will reveal yet again the principle that governs our engagement in the world. Our support for democracy in Nicaragua, Mr. President, is another measure of our support for a better world—a world of free, democratic nations at peace with one another. It is the world we have always sought. Let us not break faith with that dream now, by ignoring the earnest pleas of some Nicaraguans to join our ranks.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. CHAFEE. Mr. President, will the distinguished Senator from North Carolina yield to me 2 minutes so I might ask the Senator from Arizona a question?

Mr. HELMS. Absolutely, Mr. President,

Mr. CHAFEE. I thank the distinguished Senator from North Carolina.

First, I would like to direct a question, if I might, to the Senator from Arizona. I preface that by saying nobody in this Senate has had a more consistent record in the support of the opposition elements in Nicaragua than the Senator from Arizona. So when he speaks from the floor on this matter we all, it seems to me, should pay heed to his remarks because he has been involved with this. He has made I do not know how many trips to the area over the past several years.

Indeed, I believe he served on that commission that was formed. Was it called the Kissinger Commission? The Senator served on that Commission. So he knows what he is talking about. Thus, all of us, for the sake of making an intelligent vote on this issue, should heed the words from the Senator.

If I might address the question, as I understand the Senator's position, he recognizes that some of this money might go to the Sandinistas or what would be called the Nicaraguan incumbent government. Is that correct?

Mr. McCAIN. If I could preface my answer, I appreciate my friend's very kind remarks. I was not a member of the Kissinger Commission. I am the cochairman of the Senate Commission to observe Central American elections. I believe I will be one of the observers of the elections in Nicaragua. I appreciate his kind remarks.

In answer to his question, yes, that is my understanding. There is the possibility that some of this money, due to the Sandinista law, which I find repugnant, could possible go to the Sandinista government.

I would also add that if we support UNO, a very insignificant Communist Party in Nicaragua, would probably get some of those funds. Neither occurrence is a pleasant prospect to the Senator from Rhode Island, nor is it to me. But the option of providing no assistance is even less acceptable.

Mr. CHAFEE. The other point is that time is racing by. Each Sunday that we fail to act on this measure means more lost time before the registration which we are trying to encourage.

As I understand, I presume if we acted on this, it would be perhaps doubtful whether anything could happen on this Sunday. What would be the Senators estimate on that?

Mr. McCAIN. I say to the Senator, due to a very unacceptable procedure that has been imposed on the Nicaraguan people by the Sandinistas, the only time for registration is the first four Sundays in October. There is, obviously, very little time remaining. Voter registration is very difficult to conduct in the hinterlands outside of Managua, as my friend from Rhode Island knows so well. The problem is so acute because the opposition parties have no means of transportation to get out there.

It is also clear that the larger the turnout the better the chance for democracy to prevail in any election, particularly this one.

Mr. CHAFEE. A final question. The opposition candidate for President, Mrs. Chamorro, firmly supports this measure. It seems to me, if I judge this with what seems to be common sense, if we support the opposition, then we support Mrs. Chamorro, and we support what she is attempting to achieve. And she is seeking these funds knowing it will advance her chances for victory. Am I correct in that statement?

Mr. McCAIN. I say to my friend from Rhode Island not only is this situation acceptable to her, despite the problems which were just so eloquently outlined by Senator CHAFEE, but she also believes that without the kind of assistance we are considering here today, her chances of succeeding are minimal. If we provide assistance to Mrs. Chamorro, it will make a significant difference in enhancing her chances of a fair and equal playing field.

Mr. CHAFEE. May I ask one final question? I ask the distinguished Senator from Arizona. Am I correct in saying that if a portion of this money goes to the Sandinistas, it makes little difference to them because they have plenty of money, whereas the absence of this portion of money to Mrs. Chamorro and the opposition parties is, perhaps I could even go so far as to use the word "devastating" since they do not have funds to operate.

So the fact that some goes to the incumbents, the Sandinistas—in order to get some to Mrs. Chamorro and her party, it is far better to have some go to her and some to them than no money go to either. Is that a correct analysis of this situation?

Mr. McCAIN. I think the Senator from Rhode Island is totally accurate in his analysis. I would also like to point out that the estimates of Soviet-Cuban annual aid to Nicaragua ranges between $2 billion and $3 billion.

In Nicaragua, the Sandinista Party is the state, the Sandinista Party is the army, the Sandinista Party is everything. So those funds, those bil-

lions of dollars in aid coming to the Sandinistas will clearly be used by the Sandinistas to further their own electoral chances, and more importantly to harass, intimidate, and oppress the opposition.

So I say in response to my friend, yes, this money is absolutely critical to Mrs. Chamorro. Yet at the same time, I believe it would be relatively insignificant as far as the Sandinistas are concerned.

Mr. CHAFEE. Mr. President, I want to say as one who has observed the distinguished Senator from Arizona for many years deal with this problem, his attention to it, that I am greatly influenced by his position on this. I hope other Members of the Senate will be, likewise, when we come to vote.

I want to thank the distinguished Senator from North Carolina for giving me this time.

Mr. HELMS. The Senator is quite welcome.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The proposal before the Senate asks for a total of $9 million. Out of the $9 million, $5 million will be used to fund the National Endowment for Democracy for "political organizations and alliances, independent elements of the media, labor unions, and business, civic and professional groups" and for "support for the election process." The additional $4 million will be used for "election support intended to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy."

Mr. President, I have examined this proposal thoroughly. I have seen the interference the United States has attempted before in the elections of other countries with sad results. I have listened to all of the arguments, pro and con. I have consulted with the Nicaraguan freedom fighters about this proposal as well.

As one of the very first Senators to stand on this floor a decade ago to sound the alarm about the Sandinistas, I cannot in good conscience support this proposal.

Secretary of State Baker, who is a friend of all of us, came up to present the outline of this program several weeks ago. I told him candidly that I could not and would not support it.

The President of the United States called me on Friday, urging me not to delay this bill. As a courtesy to him, I agreed that I would do nothing to inhibit the process of its going through the Senate. But I also told the President that I could not support it, and I told him why.

Mr. President, I am opposed in principle to providing the taxpayers' money, the U.S. taxpayers' money, to support candidates or political parties in foreign elections anywhere in the world.

Some Senators may recall my vehement opposition to the reports of blatant interference by the United States Government in the Salvadoran elections of 1984. But specifically, in the case of the upcoming Nicaraguan elections, there are compelling reasons for the United States to stay out, to abstain from both overt and covert assistance.

Mr. President, it would be nice, it would be reassuring to think that the election scheduled for next February in Nicaragua will somehow turn out to be free and fair. We would all like to think that the elections will usher in a new era of representative democracy for the people of Nicaragua. We would all like to think that the new government will welcome the Nicaraguan freedom fighters home and adopt their commitment to freedom and that the new government will cease to export terrorism throughout Central America and halt its reliance on hundreds of millions of dollars in Soviet military hardware.

That is what we would like. Unfortunately, the evidence is overwhelmingly to the contrary. In the months since the United States ceased all military support for the Nicaraguan freedom fighters, the Soviets have escalated the volume of military supplies destined for Managua. The United States has kept its end of the Arias plan. I opposed that plan, but nonetheless, the U.S. Government is not now providing any military support for the freedom fighters—none. Yet, the Soviets are continuing to use the Arias plan to strengthen the Sandinista regime.

So the question persists, Mr. President, does anyone seriously truly believe that the Soviets are investing all this money in Daniel Ortega just to see him lose power in the upcoming elections. The answer to that is, of course, no.

Mr. President, I ask unanimous consent that an article from the Washington Post, of September 19, entitled "U.S. Says East Bloc Increases Arms Shipments to Nicaragua," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. What do we know about the coming elections? First of all, they will be governed by a new Sandinista election law. That law requires that any money received by the parties from abroad can be split 50–50 with the Sandinista-controlled Nicaraguan electoral tribunal. In other words, for every dollar the United States takes from our taxpayers and proposed to give directly to the opposition, 50 cents of every one of those dollars will go to the Communist Sandinistas.

The State Department argues that the National Endowment for Democracy will try to find ways to get around the 50-percent tax. They claim that they will try to fund the process, rather than specific parties. Good luck. It is not going to happen. The laws governing the 50-percent so-called tax are vague and, when pressed on the issue, the State Department admitted to me and to other Senators that our assistance will go to the Sandinistas. However, they argue that this is a price worth paying in order to assist the election process.

Mr. President, what do we know about this election process? Is this a democratic election as some would have us believe? Is it arrived upon through a mutual agreement between the Sandinistas and the opposition? No, indeed, it is not. It is a process contrived and controlled by the Sandinista regime operating under Sandinista law.

Mr President, I recently asked the State Department for an assessment of the Sandinistas' electoral process, and I will quote directly from a State Department memorandum dated August 10 of this year in response to my inquiry.

> The Sandinistas appear determined to maintain a tight grip on the electoral process. Regime supporters hold four out of five seats on the Supreme Electoral Council, which is responsible for running the election and administering the election fund, into which half of all foreign contributions to Nicaraguan parties must go.

That is the State Department talking; that is not Jesse Helms. The State Department further said:

> The electoral laws, particularly those that prohibit slandering candidates, are vague enough to give the Sandinistas wide latitude in defining which issues are acceptable.

The State Department continues:

> Pro-Government mobs, known as "turbas," continue to disrupt opposition rallies and other events. The toughs who make up these mobs are drawn largely from the ranks of the FSLN's "mass organization," but may include off-duty police and Interior Ministry operatives.

The point is this: This is the "process" that the State Department now wants us to support. I just read what the State Department stated back in August. Things have not changed. Mr. President, this is no democratic process. It makes a mockery of democracy.

Now what do we know about the United Nicaraguan Opposition that the State Department intends to assist with United States taxpayer dollars? One would assume that the administration is at least asking for U.S. taxpayer dollars to help support the campaign of anti-Communist parties. But that is not the case—because the Nicaraguan Communist Party is a member of the United Nicaraguan Opposition

coalition that is opposing the Sandinistas in the February election. They are a member of the coalition that the State Department wants to support—and wants the American taxpayers to support.

Mr. President, on September 7, I sent a letter to Assistant Secretary of State Bernard Aronson, asking for a brief analysis of each of the 14 parties in the United Nicaraguan Opposition. The reply that I received, states:

All 14 UNO parties have endorsed a common platform which calls for political democracy; respect for private property and family values; the rule of law.

And the letter goes on to identify the Communist Party of Nicaragua and its soul-mate the Socialist Party of Nicaragua, as parties in the coalition. The letter also identifies several other socialist parties in the coalition.

It should come as no surprise that the leadership of both the Communist Party and the Socialist Party was trained in the Soviet Union. And does anyone truly believe that the Communist Party of Nicaragua will respect "political democracy, private property, and the rule of law?" Is there a Communist regime in the world that respects political democracy, private property, and the rule of law?

Mr. President, I ask unanimous consent that a list of the 14 parties in the coalition, with their ideological orientation, be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NICARAGUAN "OPPOSITION" PARTIES

1. Liberal Constitutionalist Party. President, Jaime Cuadra. Centrist.
2. National Democratic Confidence Party. President, Agustin Jarquin. Christian Democrat.
3. National Conservative Party. President, Silviano Matamoros. Conservative.
4. Communist Party of Nicaragua. Secretary General, Eli Altamirano. Marxist-Leninist.
5. Conservative Popular Alliance Party. President, Francisco Anzoatequi. Center-Moderate.
6. Independent Liberal Party. President Virgilio Godoy. Left-of-Center.
7. National Action Party. President, Eduardo Rivas. Christian Democratic Party.
8. Neo-Liberal Party. President, Andres Zuniga. Centrist.
9. Nicaraguan Democratic Movement. President, Robert Urroz. Center-left.
10. Popular Social Christian Party. Secretary General, Mauricio Diaz. Socialist.
11. Party for Integration of Central America. President, Alejandro Perez Arevalo. Centrist.
12. Social Democratic Party. President, Guillermo Potoy. Socialist.
13. Socialist Party of Nicaragua. Secretary General Gustavo Tablada. Communist.
14. National Conservative Action Party. President, Hernaldo Zuniga Montenegro. Moderate.

Mr. HELMS. I have always opposed sending U.S. dollars to Communist countries. I opposed aiding the Sandinistas in 1979 because I knew then that they were nothing more than devout Communists dedicated to Marxist-Leninist principles. Therefore I am absolutely appalled that this administration expects the American people to help fund the Nicaraguan Communist Party. But the State Department isn't worried about the Nicaraguan Communist Party—just as it wasn't worried about the Sandinistas back in 1979. One senior administration official told my office recently that the inclusion of the Communist Party is essential to the success of the coalition. Another official told us that we can control the Communists in the coalition.

But in addition to the Nicaraguan Communist Party, several other parties in the coalition closely identify with the Sandinista ideology. In fact the Vice Presidential candidate, Vergilio Godoy, is a former Sandinista Labor Minister who remained in the cabinet until 1984—long after the brutal nature of the Sandinista regime had become apparent to everyone. Moreover, during his tenure as Minister of Labor he alienated countless union members in his effort to implement Sandinista labor policies. To my knowledge, Godoy has never renounced the ideology of his former Sandinista colleagues.

So Mr. President, against this background it is understandable that there is limited enthusiasm in Nicaragua for either ticket. Nicaraguan voters have less than 1 month to register to vote. And in order to vote, a Nicaraguan must reside legally in Nicaragua. This excludes an estimated 300,000 to 500,000 voting age exiles who will not be allowed to register or to vote.

The exiles include the many outspoken opponents to the Sandinista regime. But for these exiles—and freedom fighters—the choice is stark. Either they accept the Sandinista promises of amnesty at face value, and return home to an uncertain future—and open prison doors—or they remain in exile while the Sandinistas legitimize their illegitimate regime through their own electoral process. And once that regime is legitimized by these elections there will undoubtedly be pressure to deport many of these exiles to their homeland—regardless of who wins.

And what if Mrs. Chamorro wins—with the financial assistance of the United States? Her regime will forever be tainted as an American puppet that was unfairly imposed on the people of Nicaragua by the financial contributions of the United States. And if the Sandinistas win? They will forever be able to justify their existence as a mandate from the people won through a free and fair election financed by the American taxpayer. Is that what we want, Mr. President?

In summary Mr. President, the purpose of this bill is purportedly to assist the election process in Nicaragua.

Apparently no one has asked the fundamental question. Should the United States assist any election process, anywhere, at any time?

The second question is this: Does it serve American interests, or the interests of the people of Nicaragua, to assist this particular election process in Nicaragua?

The third question is this: If we do assist the election process in Nicaragua, will this particular legislation actually help establish a democratic process in Nicaragua? Or better yet, will it help establish freedom?

Mr. President, the answer to all of these questions is no.

U.S. policy should oppose U.S. intervention in any election in any country at any time. You cannot jump start democracy. It is true that the Soviet Union and the Socialist International spend millions of dollars to support Marxist and Marxist-Leninist candidates in other countries. But we cannot teach the lessons of democracy by using undemocratic methods.

We all know what happened in El Salvador—how the United States intervened with millions of dollars in aid to elect a Socialist candidate. We all know how the resulting regime was incompetent and corrupt, destroying the economy in El Salvador, and lacking the will to defeat the Communist insurrection. We all know how the people of El Salvador resoundingly repudiated the handpicked United States candidate the first chance they got.

The El Salvador incident demonstrates the incompetence of the State Department and the CIA. Their experts know little or nothing about the political process in the United States, much less in other countries. They have never run for election anywhere, and they don't know what motivates people to vote.

When they put U.S. taxpayers' money on the line, the State Department invariably supports candidates who are more attractive to leftwing intellectual circles in the United States than to the people in the victim country. They think that the best way to beat communism is to support a Trotskite candidate, or at least one certified by the Socialist International. I can't think of a single candidate supported by U.S. taxpayers' money who could possibly win an election in the United States.

So that brings us to the second question. Are these elections in Nicaragua good for American interests, or even for the interests of the people of Nicaragua? It is childish to think that an election alone means that a democratic system has been established. Even if these elections are declared free and

fair, with all the votes counted accurately, there is no way they could be considered free and fair.

A free election cannot take place in an atmosphere of intimidation. The Nicaraguan Government is controlled by the Sandinista Party, a party organized on Leninist principles of totalitarian domination. The Sandinista Party controls the lives of Nicaraguan citizens, both directly and indirectly. It determines where people work, where they to to school, what their chances for advancement are. The party system controls education, newspapers, television. The Sandinista neighborhood wardens control the comings and going of individual citizens and are always there to check up on their loyalty. The party even controls the rationing system for food.

Moreover, the Sandinista Party controls the military. The military is backed up with millions of dollars in Soviet military assistance, with deliveries escalating in recent months. The ordinary Nicaraguan citizen cannot ignore the overwhelming presence of the Communist military system, and cannot believe that even if the Sandinistas were to lose the election, a new government would ever take power. The Nicarguans know that it would not be healthy to vote against all that power, no matter what their real feelings.

So the third question is whether or not this election will help establsh democracy. Here we have to look at the incompetency of the State Department again. The so-called unified Nicaraguan opposition, is really a group of widely differing parties cobbled together by CIA threats and pressures.

The most prominent of the parties in UNO—originally 14, now 13—are the two Communist parties of Nicaragua. The Communist Party of Nicaragua, so-called, is a straight Marxist-Leninist party trained and supported in Moscow. The Socialist Party of Nicaragua, is also a Communist Party whose leader was trained in Moscow. The two parties work together as a coalition. They are the best trained, most experienced, best organized, and most able of the so-called opposition parties.

The next group of eight or nine parties might best be described as Sandinista front groups. It is hard to distinguish their left-of-center ideology from the ideology of the Sandinista Party. They represent Sandinista-ism without clout.

Then there are three or four moderate parties, with little experience or organization, which represent a political philosophy that might be acceptable to American voters. There are also parties outside the coalition.

The candidates of UNO have virtually no chance of obtaining broad support. Mrs. Chamorro, from all accounts, is a nice lady, but not politically active or particularly knowledgeable. The Vice President, Vergilo Godoy, was the labor minister in the Sandinista government until a few months ago. He was responsible for destroying the free labor movement in Nicaragua opposed to the Sandinista government. He has never repudiated Sandinista ideology. Would anyone seeking freedom vote for either of the candidates?

Nicaragua voters, therefore, have the choice of the Sandinista Party on the one hand, and the United States-backed Communist Party on the other. They have the choice of the Sandinistas with clout, or the pseudo-Sandinistas who are bound to lose.

Anyone who wants American taxpayers' money to go to support the Communist Party of Nicaragua, should support this bill. That's what it is all about.

Mr. President, the U.S. Congress should let the world see the Sandinistas for what they really are. The coming elections in Nicaragua are already a fraud, and I, for one, do not want to take part in legitimizing this sham. The elections amount to a figleaf of democracy for a totalitarian power. The elections present the people of Nicaragua with no real choices. The average citizen will see that the Sandinistas control the military, the secret police, the block wardens, the party organization, the labor unions, the economy, the ration books, and all hopes of career advancement. Their choice is between the Sandinistas on the one hand—and a coalition of Communists and former Sandinistas on the other. Mr. President, why should American taxpayers be forced to finance either side.

EXHIBIT 1

[From the Washington Post, Sept. 19, 1989]

UNITED STATES SAYS EAST BLOC INCREASES ARMS SHIPMENTS TO NICARAGUA

(By David B. Ottaway)

The State Department charged yesterday that the level of East-bloc arms being transshipped through Cuba to Nicaragua has "increased dramatically" this year, despite a Soviet pledge to end its own shipments and the end of U.S. military aid to the Nicaraguan contras.

"It is inexplicable to us why the East bloc feels that it must provide Nicaragua with even more weapons while a cease-fire is in effect than it provided the Nicaraguans when they were actively engaged with contra forces," said State Department spokesman Margaret Tutwiler.

President Bush, at a news conference in Montana yesterday, also criticized the Soviet Union for allowing East-bloc nations to continue shipping arms to Nicaragua.

"That's not very good, and it's not a very kind and gentle approach to this hemisphere," Bush said.

The charges came as U.S. and Soviet regional specialists began talks here in preparations for the meeting on Friday and Saturday of Secretary of State James A. Baker III and Soviet Foreign Minister Eduard Shevardnadze in Wyoming.

Tutwiler indicated that continuing Soviet-bloc arms shipments to Nicaragua will be high on the U.S. agenda of regional issues Baker will take up with Shevardnadze. The Soviet foreign minister, in turn, is expected to have the continued provision of U.S. arms to the Afghan resistance high on his agenda.

Tutwiler said the "basic pattern" in recent years has been the shipment of Soviet arms from various East-bloc nations to Cuba and from there onward to Nicaragua.

"This year the weapons [transshipment] out of Cuba has increased dramatically," she said, and was "well beyond the legitimate defensive needs of Nicaragua."

By later yesterday afternoon, however, the only figure on East-bloc arms shipments made available by department officials was a $350 million estimate for 12,000 tons during the first eight months of this year; this compares with 19,000 tons valued at $515 million for all of 1988.

Thus, it was not immediately clear whether the $350 million estimate for the first eight months of this year was higher, lower or about the same as the same period last year.

Tutwiler said at another point that the total tonnage of Soviet-bloc arms shipments to Nicaragua "appears somewhat higher than for a comparable period last year."

She also refused to comment on a Washington Times report yesterday that U.S. intelligence agencies had spotted three Soviet torpedo patrol boats and four M-124 Hind helicopters being loaded on a Nicaraguan ship in a Cuban port last week.

Asked whether the administration believes Moscow has abided by its commitment to end direct arms shipment to Nicaragua, Tutwiler said the Soviets "have told us they are not" sending weapons, adding "this is something that we have stated on the record that we accept."

Tutwiler also charged that both Cuba and Nicaragua were continuing to supply Soviet-bloc arms to the insurgency in El Salvador in violation of several recent Central America peace accords and despite an appeal from Central America leaders for a halt to outside weapons supply.

But she offered no estimate of the quantities or kinds of arms being provided from those two nations to the Salvadoran rebels.

Mr. HELMS. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. How much time remains under the control of the distinguished Senator from Wisconsin and under my control.

The PRESIDING OFFICER. The Senator from Wisconsin has 25 minutes and 30 seconds; the Senator from Vermont, 5 minutes and 9 seconds.

Mr. LEAHY. We are going to yield back the remainder of the time, but I see the distinguished Senator from Florida. Does he wish to speak on the subject.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, the Senator from Florida requests from the Senator from Wisconsin or the

Senator from North Carolina, managing the time, he be yielded 10 minutes.

Mr. HELMS. Yes, of course. The Senator desires 10 minutes did he say?

Mr. GRAHAM. Yes.

Mr. HELMS. I yield 10 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. GRAHAM. Mr. President, we are debating today a very modest package of support for the democratic process in Nicaragua. If this debate were to allocate time among all the competing positions and perspectives, a substantal amount of time should be allocated to those who would argue that the question today should be whether what we are doing is enough in order to have an impact on the final result and whether we may be suffering the consequences of being coopted into this process by providing too little too late, but with an imprint of our support for this process.

The comments that I am going to make today are in the context that I would be in that camp, with my greatest concern being on the timidity and modesty of our approach rather than its excess.

But our decision on this bill today can be a significant part in determining whether the February elections in Nicaragua have a chance to be free, fair, and open, a significant part of determining whether the democratic opposition will stand any chance against an entrenched government.

All of us in this body have had experience in politics or we would not be here. All of us know that the Nicaraguan democratic opposition is playing against a stacked deck. The Sandinistas come into this election with an overwhelming number of advantages. After 10 years in power they control all the levers in this election.

Think, in your own political circumstances, if you were running against a candidate who for 10 years had had total control of the state-owned machinery of government, under a Constitution in which the party in the government are all interwoven with control over most of the means of communication, and now with weeks left before the election you are given a slim opportunity to become a participant in the election.

That is why Members such as myself have long urged that we should have maintained the Nicaraguan resistance as a viable point of leverage to give some assurance of fairness and equity in the election process in Nicaragua.

But we have opted instead to refocus our total efforts on these elections. I have reservations about supporting the process at a time when it is entirely premature to say whether it is going to be fair.

We already are late in addressing the issue of fairness. Two of the four Sundays that have been set aside for registration have already passed. The chances of this money having any impact on the remaining 2 Sundays is slim to none, even if we approve this package immediately.

The least we can do, however, is to act as quickly as possible. I congratulate the chairman and members of the Appropriations Committee for moving this morning to give us an opportunity to debate this bill on the floor.

This proposal of support will help us to aid the democratic process through the National Endowment for Democracy [NED]. NED was established by the Congress for exactly the purposes that they will be called upon under this legislation. Indeed, Congress has supported similar NED efforts in South Africa, Chile, Poland, and Paraguay. And in a way that is entirely consistent not only with our law but with the laws of each of those countries, and it will be so in Nicaragua.

Indeed, as we were told by former President Jimmy Carter when he visited the capital recently, Daniel Ortega says he has no problem with the United States providing support in the form called for in this legislation as long as it is consistent with Nicaraguan law, which it is.

European and Latin American countries donated several million dollars in equipment and training toward the $25 million estimated to be the cost of operating the election. The democratic opposition wants and needs this money and has said so publicly.

We are not forcing this money upon the opposition candidates. They are requesting this support as a critical part of our ability to sustain some competitive position in the February election.

The opposition knows that they need help if they are to stand half a chance against a totalitarian government that controls everything. Just two examples, Mr. President.

The Sandinistas command television in Nicaragua. They have been running numerous ads on channel 6. The opposition gets 10 minutes twice a week on channel 2, the other state-owned station which has a signal so weak that it is rarely viewed even in Managua.

Another example: The August accords signed between the Sandinistas and the opposition forbids using government buildings for campaigning. But the Sandinistas' recent nominating convention took place in the state-owned arena and was given gavel-to-gavel coverage on state television.

Those are examples of the type of control that the opposition is up against.

It is inexplicable to me why we, the United States of America, cannot support a democratic process in Nicaragua. What will this money go for? Let me reemphasize. It will go to support NED activities that we have already supported in Poland, Chile, Paraguay, and elsewhere. The money will be spent on party building, poll watching, public outreach, civic outreach, on how, when, and where to vote. It will support a national monitoring network including an establishment of a parallel vote count. It will support the purchase of office equipment and vehicles.

Let me also point out that this bill is not $9 million for UNO, the opposition. It includes nearly $3 million that may have to be paid to the Supreme Electoral Council for purposes of operating the election process. It includes more than $1 million for observers and training efforts by Americans and Costa Ricans.

Only $5 million will be for direct grants to political alliances, labor, media, business, and civic and professional groups. Only a portion of that $5 million will go to the National Opposition Union.

As with all NED programs, there are abundant safeguards and accountability. AID must report to the Congress before funds are obligated. All grants must be approved by NED's board of directors which includes distinguished Americans, such as Charles Manatt, DANTE FASCELL, and Lane Kirkland.

Any funds through the National Institute for International Affairs must be approved by the board of directors, which includes Walter Mondale, Paul Kirk, JOHN LEWIS, and Geraldine Ferraro.

I believe we can trust these Americans to make the right decision on how the money will be spent. They have participated in elections. They know a fair election when they see one. And they will know an unfair election should they see one.

In making their decisions they will follow the NED charter which will prohibit funds for campaign staff or for the purchase of television and radio time for UNO or for campaign paraphernalia.

Mr. President, I urge the Senate to quickly approve this program. As modest as it is, it is the best that we have available to us to influence this election toward a positive democratic conclusion.

But in so doing, let us not lose sight of two other larger issues. Within the region of Central America, we need to understand that this election is part of what should be a comprehensive United States policy. That policy must include elements for economic incentives. It must include elements for debt relief. It must include helping develop the next generation of leadership through educational assistance, scholarships, and other forms of aid.

For too long, in the region of Central America, the United States, Mr. President, has seen our policy as being strictly reacting. We now must shift to a policy that underscores our long-

term, our sustained interest and commitment to this region and which recognizes the diversity of interest that we must be prepared to support and influence if our own interests are to be properly advanced.

Second, Mr. President, there is even a larger picture than Central America and our future relationship there. On the world stage, we are seeing a change in what constitutes global competition. For almost half a century, competition has been defined in largely military terms, East versus West, the United States versus the Soviet Union. That has been the context in which much of the last decade in Nicaragua has been fought out.

Today, the competition is beginning to shift. Whether it is in Managua, or whether it is in Warsaw or Berlin or Budapest, increasingly the competition is going to be focused on the specifics of an individual nation and the region in which that nation lies. It is going to be focused less on military confrontation and more on the political and diplomatic and economic context.

Mr. President, I believe that we as Americans should take great pride and comfort in that shift because on those grounds the United States is fighting from a stage in which it has the most advanced position, in which we have the greatest confidence in our values and our goals and objectives and the greatest assurance that those values, goals, and objectives are shared by men and women around the world who seek to have a better life in a democratic society.

It would be ironic if, after hundreds of millions of dollars had been poured into Nicaragua by the Soviet Union and its surrogates, and smaller amounts by the United States, that now, at the time we are about to see a shift from the military to a democratic resolution for the future of Nicaragua, that we should be timid.

Mr. President, I urge that we avoid that timidity, that we quickly move on this legislation, and that we use this as an important building block toward a sustained United States policy in Central America and a sustained United States judgment to support democracy around the world.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Wisconsin has remaining 13 minutes, and the Senator from Vermont, 4 minutes and 48 seconds.

Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum and I ask that it not be charged to either side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, we have heard a lot of debate on the subject and I would be willing to support a reasonable amount of money to help neutral, nonpartisan observers guarantee the fairness of the election process but I will not be party to an attempt to buy the outcome of a freely contested election. Thinly veiled attempts by the administration to disguise its true purpose should be rejected by the Congress.

Mr. President, I suggest the absence of a quorum.

Mr. President, I ask unanimous consent that time on the quorum be divided equally.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. May I ask how much time remains on this side?

The PRESIDING OFFICER. The Senator from North Carolina controls 11 minutes, and the Senator from Vermont controls 3 minutes.

Mr. HELMS. Mr. President, the distinguished Republican leader, Mr. DOLE, wants to make a statement. I do not want the time to run out before he can get here. In common courtesy to him, I ask that the quorum call I am about to request not be charged to either side.

Mr. LEAHY. Mr. President, reserving the right to object and I will not, of course; I understood 20 to 30 minutes ago the distinguished Republican leader would be here in a minute. Would he in any way have his rights jeopardized if, because the distinguished Senator from North Carolina is filling in for the distinguished Senator from Wisconsin, we on both sides were to yield back the remainder of our time, go into a quorum and the leader would still have his leadership time which he could use to talk about this matter? We are not going to vote on this matter today or for several days.

I wonder if that might be a way to free up several Senators and several staff who have been waiting for the last half hour for that 1-minute time.

Mr. HELMS. The distinguished Senator from Vermont would understand that I want to check with my leader.

Mr. LEAHY. I understand.

Mr. HELMS. Suppose we let the quorum call go and the time not being charged and I will check and see if I can encourage him to come to the floor. I suggest the absence of a quorum on the basis I just stated.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I yield back the remainder of my time.

Mr. KASTEN. Mr. President, parliamentary inquiry. If we yield back the remainder of our time, at that point what would be the pending business?

The PRESIDING OFFICER. If the Senator from Wisconsin were to yield back all of his time, the majority leader would then be in a position to file a cloture motion and, after that, we would then go to reconciliation.

Mr. LEAHY. Mr. President, further parliamentary inquiry, if the Senator will yield. If we were in a quorum call, of course, nothing would happen?

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture petition to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua. Signed by 18 Senators as follows:

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, Bill Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. MITCHELL. Mr. President, it is my understanding that under the previous order, the reconciliation bill is now the pending business.

The PRESIDING OFFICER. The Senator is correct. Under the previous order the clerk will now report the reconciliation bill.

The assistant legislative clerk read as follows:

A bill (S. 1750) entitled The "Omnibus Reconciliation Act of 1989."

The Senate proceeded to consider the bill.

RECESS UNTIL 2:30 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30, and that the time during the recess be counted against the 20 hours of debate under the reconciliation bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. It is so ordered. The Senate stands in recess until 2:30.

Whereupon, at 2:01 p.m., the Senate recessed until 2:31 p.m., and was called to order by the President pro tempore [Mr. BYRD].

Mr. SASSER. Mr. President, what is the pending business?

The PRESIDENT pro tempore. The pending business is the reconciliation measure, S. 1750.

Mr. SASSER. Mr. President, today we begin consideration of the 1990 reconciliation bill. The measure was favorably reported to the Senate floor by the Budget Committee this morning, and I think it is fair to say—it is a radical understatement to say that this is of the essence here today, because if we do not finish our work on the reconciliation bill by Monday evening at 11:59 we will trigger a sequester of the Federal budget under the terms of the Gramm-Rudman-Hollings Act.

The simple truth of the matter is that following a week of strenuous efforts to get a clean reconciliation vehicle that might in fact be acted upon quickly, we find ourselves facing a drop-dead date with no consensus, and no way of avoiding a contentious capital gains debate.

In short, we are here today under a very high probability that sequester cannot be avoided.

It really did not have to be this way. In fact, I doubt that any Senator on this floor today, given the budget resolution that we passed last spring, would have predicted then that we would face sequester here this October. I remind my colleagues that at that time Senator after Senator took the floor of this body to offer the view the bipartisan budget agreement simply did too little. It did not reduce the deficit enough; we were not being truly serious about this country's fiscal crisis.

Now, some 4 days from sequester, with much of the bipartisan agreement in rubble about us, we have to ask ourselves: How did this happen? Why do we find ourselves here, at the 11th hour, in danger of failing to implement the very modest, and I emphasize very modest budget resolution that we passed this year—earlier, in fact, than we passed any budget resolution in recent memory? I daresay it was earlier than we passed any budget resolution in the decade of the 1980's.

Mr. President, I submit the answer to that question speaks volumes about the difficulty we have had dealing with this Nation's fiscal responsibility during the decade of the 1980's. Certainly there are going to be charges and recriminations for some time if we end up with a sequester. I submit the American people could not care less about those charges or recriminations or finger-pointing.

As I said a week ago on the floor of this Chamber, a fundamental obligation of government is to establish order in human affairs. That really, essentially, is what government is all about. And if we have a sequester, then we have chaos. And the American people will know who is responsible.

The plain fact is this year's budgetary failure is a continuation of a conflict that has plagued us for the better part of a decade. Once again, the executive branch of this Government has insisted, in the view of this Senator, on subordinating the Nation's fiscal stability to an economic philosophy that holds that tax cuts will still work somehow to raise enough revenues sufficient to reduce the deficit. Once again, we have the threat of budgetary gridlock because that perverse economic philosophy keeps getting substituted for serious deficit reduction.

Since 1981, we have been dealing with the debris and ash of the supply side experiment. Many of us had hoped to put that sorry period behind us. That was one of the primary reasons for the bipartisan budget agreement that was solidly entered into between the administration and the leadership on both sides of the aisle in this Congress. But this year, the same issues have slowly, destructively, invaded the budget debate.

Mr. President, I spoke a moment ago about the problems dating back to 1981 and the dust and debris of the supply side experiment. I call to my colleagues' attention now a study put forward by the Office of Management and Budget dated January 19, 1988, which indicates that during the period from 1981 through fiscal 1989, the so-called Economic Recovery Act of 1981, the Kemp-Roth tax cut, has deprived this Government of $1.441 trillion in revenues; $1.441 trillion in revenues, from 1982 through fiscal 1989.

What have we been engaged in during that period? Trying to come in with nickel and dime efforts to stem this hemorrhage in revenues. If we add up all of the revenues this Government raised since that time, including the surplus building up in Social Security, we still have a net loss, including interest, from 1982 through 1989, as a result of the Economic Recovery Act of 1981, of $1.190 trillion. That, I say to my colleagues, is the germ of the gargantuan budget deficits this Government of the United States has run up during the decade of the 1980's.

Mr. President, I ask unanimous consent that this document from the Office of Management and Budget be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SASSER. Mr. President, a former Director of the Office of Management and Budget, Mr. Dave Stockman, participated in the drafting of the Economic Recovery Act of 1981, once called the supply side experiment, a Trojan horse. I submit that this year's edition, the capital gains gambit, is a Trojan pony, with the same forces hiding inside and the same consequences for the Treasury looming in the future. I know others will disagree.

I believe very strongly that we have acted with dispatch to pass our appropriations bills and to meet our reconciliation deadline, and we could have done so if the House of Representatives and the U.S. Senate had not been thrown at the 11th hour into a contentious capital gains debate during the reconciliation process.

The reconciliation process is difficult enough without having something as contentious and divisive as capital gains superimposed upon it at the 11th hour. Even as late as last week, we had a chance to move quickly on a lean bill, the kind of bill that has been endorsed by the leadership of both parties in both the U.S. Senate and in the House of Representatives.

But, alas, the administration has simply been unwilling to debate the capital gains issue in a reasonable context without the protections of the budget reconciliation bill or some other privileged vehicle.

I submit, Mr. President, that such a fundamental change in the 1986 Tax Reform Act, which many of my colleagues are so proud of, should not be changed on a highly privileged vehicle which limits debate.

Unfortunately, we now face extended debate in this body on capital gains, with the likelihood of continued controversy in conference over capital gains and many other provisions, I

might add, that are deemed extraneous. But, Mr. President, we can still act to minimize that contentiousness. Along with the distinguished ranking member of the Senate Budget Committee, Senator DOMENICI, I will be moving later on during this process to strip extraneous matter from this bill before us. I am hopeful that we can reach quick agreement on what is to go and what is to stay, but I am also hopeful that my colleagues on the other side of the aisle will see the virtue of holding our debate on this bill down to the bare necessities.

The components of the bill have been reported by the respective committees of jurisdiction. The Budget Committee has determined that these respective components are in compliance with the reconciliation instructions incorporated into the budget resolution earlier this year.

I submit there is simply no good reason for extended debate with sequester on October 16 staring us in the face. The issue before us this afternoon is meeting the Gramm-Rudman-Hollings targets. The issue before this body is reducing the deficit. That is the reason for a budget reconciliation bill.

The issue before us, I submit to my colleagues, is not the relative merits of a capital gains tax or the relative merits of countless other extraneous matters that have been attached to this reconciliation bill. We simply must act as expeditiously as we possibly can, either to avoid a sequester outright, which I know will be difficult, which some say is impossible at this stage of the game, or to mitigate the negative impact of a sequester as much as possible. The longer that we delay, the more threatening the situation becomes.

I do not agree with those who are saying that the October deadline is merely tactical, that we can easily undo the damage of an additional sequester order. The fact is that we have not been able, through an entire budget cycle, to resolve the issues that have created this paralysis that brings us here on the eve of sequester. I submit that the conflicts will not be easier to resolve after we pass the deadline date.

In fact, we all know that deadline dates are typically the only mechanisms that we seem to have for imposing discipline these days. I ask my colleagues, what external constraint can we rely on after October 16?

As most of us know, there have already been some negative consequences of the stall in the reconciliation process. Several mandatory programs have already begun withholding funds, among them the Guaranteed Student Loan Program and the Commodities Credit Corporation disaster funds.

Admittedly, damage is relatively slight in dollar terms and could, indeed, be quickly mitigated. But before we start minimizing the dangers posed by missing the October 16 deadline, I urge every Senator to consider what can happen if we find ourselves in continued deadlock in the conference.

I do not suppose that many Americans understand what a sequester really is, but on Tuesday morning some of them are going to find out. These are some of the consequences, as stated in the Office of Management and Budget report dated August 21, 1989, if sequester occurs:

For the Defense Department: The Defense sequester, if carried through to a conclusion, could result in the reduction of active-duty military personnel of 160,000 men and women, roughly equivalent to the combined manpower of one Army division, 25 naval vessels, and two Air Force wings. A sequester would cripple our war against drugs. We could have an immediate personnel freeze in the Drug Enforcement Agency; no new drug enforcement agents to carry out the war on drugs or to enlarge it because of sequester. State and local drug task force programs would be severely reduced, and the purchases of the sophisticated anticrime equipment, such as the sophisticated radio equipment and other secure communications that the police forces and others who are engaged in this war against the insidious drug threat, would be affected.

We have stated in this country that we want to improve the quality of education for our young people, and in the campaigns of last year, President Bush indicated that he wanted to be the education President. I applaud that desire, but a sequester could reduce budget authority for Pell grants by $4.4 billion, depriving countless thousands of young Americans the chance for a college education. It will eliminate Pell grants for 1 million students and reduce them for another 500,000.

Finally, a sequester could result in some 35 million Americans receiving a 2-percent cut in their Medicare benefits, a cut, I remind my colleagues, that would occur precisely at a time when we have been striving manfully to reduce what some consider to be the onerous burden of the catastrophic surtax.

Admittedly, Mr. President, this is a worst-case scenario. But, frankly, I believe we would be foolhardy not to keep that bleak picture in the forefront of our minds as we proceed today, because I want to say to my colleagues we cannot say for an absolute certainty today that the worst case will not become a reality. Indeed, there are some among us today who believe that it is in the best interest of the country that we take the bitter consequences of sequester, and, frankly, they can make an eloquent and sometimes persuasive case in that regard.

But I ask my colleagues, is a continued capital gains debate really worth risking these kinds of dire consequences? Do we really want these extraneous provisions on the budget reconciliation that badly? Do we really want to wager our national security, our war on drugs, our pursuit of a better education system, the health care system for the elderly, do we really want to wager the stability of those programs when the only tangible gain that this Senator can see is a tax cut for a very small percentage of Americans?

My answer would be a clear and unequivocal no. I would add that many other provisions which might well be worthy in some other contest pale to insignificance next to the potential results of unnecessary delay.

So I urge my colleagues again, we must keep our focus on the objectives of the reconciliation process. We must work toward a quick passage of a bill that meets the reconciliation targets and put off all extraneous debate to another day.

The 1990 reconciliation bill provides some $14.1 billion in deficit reduction. Many of my colleagues said this spring, "That's not enough. That's a drop in the bucket." But I say to them, it is a reduction in the Federal deficit of some $14.1 billion. All eight of our committees in the Senate have met their instructions, and I commend the chairmen of the eight committees and the ranking members for the diligent work they have done, and the staffs that have assisted them in making these very difficult decisions.

The bill provides for some $5.6 billion in revenues, the figure that was agreed upon at the bipartisan summit.

I might say categorically, Mr. President, there has been some conversation that capital gains was one of the revenue measures that was agreed upon in the bipartisan summit. If that is the case, it certainly escaped the attention of this participant in that summit. It certainly escaped the attention of the Speaker of the House, Mr. THOMAS FOLEY. It certainly escaped the attention of Mr. LEON PANETTA, the chairman of the House Budget Committee, because we were of the opinion the agreement was that the $5.6 billion in additional revenues would be raised in a way that was mutually agreeable with both the administration and the leadership of the Congress and the chairmen of the respective tax-writing committees.

The bill contains $3.1 billion in spending restraint in the Medicare Program. The remaining $5.8 billion in spending reductions is allocated among the other seven authorizing

committees that were given reconciliation targets. Five of those committees met their targets before the August recess. The Budget Committee has attempted to observe, as much as possible, the various jurisdictions of the Senate committees. All of those committees, with the exception of Finance and Governmental Affairs, were given unspecified reconciliation instructions. In turn, these committees have met their responsibilities. For example, the Banking Committee extended the current national flood insurance program. The Commerce Committee imposed some $460 million in user fees that came under their jurisdiction. The Veterans' Committee extended the provisions under the current law for veterans' housing loan fees and vendee loan sales.

Mr. President, I think it is worthy to note that the Senate Finance Committee deserves special mention. Under the able leadership of the distinguished Senator from Texas [Mr. BENTSEN], and in a long and arduous session, the committee developed their $5.3 billion revenue package and also met their Medicare spending reductions of some $3.1 billion.

With that capsule summary, Mr. President, I offer the work product of many of my colleagues in the Senate and their staffs who have diligently and conscientiously, I believe, weighed the difficult policy decisions involved in bringing together this year's reconciliation bill.

As we said at the time we were negotiating the budget resolution, perhaps this is a very modest deficit reduction package. Indeed, there is no doubt about that. Clearly, it does not boldly address the deficit problem. We all knew that going in. But we know that the deficit problem appears to have drifted out from under the spotlight of public scrutiny in recent days, even as the number for next year with regard to deficit reduction has become more and more imposing.

Some have said this has been a year of gimmickry and shell games, of off-budget entities, shifted pay dates, rosy assumptions, and perhaps they are right. But the simple fact remains that we have before us today a package that constrains spending, a package that reduces the deficit. It was the package that was agreed to in the spring by a bipartisan negotiating team, a package that was agreed to by the leadersip of the House of Representatives, by the leadership of the Senate, and by the President of the United States.

I well remember that day we all went down to the White House to announce this agreement. I remember going out into the Rose Garden, Mr. President—beautiful spring weather. We thought this initiated a new era of good feeling between the Congress and the Executive, an era of good feeling that was going to bring an end to nearly a decade of bitter partisan debate, and this Senator thought, nearly a decade of irresponsible budgetary priorities.

As I stand here today, all that early promise is largely cinder and ash, but we nonetheless have the opportunity to meet our responsibilities, to do our duty as is presented to us today to pass this bill, and to move toward rapid action in conference.

I say to my colleagues that the bottom line is very simple: We owe the American people something better than governmental deadlock over irrelevancies.

I say to my colleague that he simply must keep the footnote here from displacing the full text. We have to prevent the tail from wagging the dog.

We will work together to try to eliminate the elements that are clearly extraneous under our rules. The capital gains threatens to freeze us altogether. In my view, capital gains is not deficit reduction. It is deficit addition.

The Joint Tax Committee estimates that the Jenkins-Bush capital gains tax cut will begin losing substantial sums of revenue in fiscal 1994. By the end of the decade, it will add some $21.5 billion to the Federal deficit. Surely that has no business on a budget reconciliation bill that should be presented for the sole purpose of deficit reduction. That loss from capital gains will offset every dime of deficit reduction that is contained in this bill. If we add the Jenkins-Bush capital gains component, we will be undoing every positive thing we have been able to do during the whole budget process this year.

Let me restate that so there will be no misunderstanding: If the capital gains proposal that was presented in the House of Representatives prevails this year, we will not have made a single penny's worth of progress against the Federal deficit. All of our work will have been for naught. That I believe states the alternative very clearly. Deficit reduction, or do we burden it down with the tax break for those who need it least? We cannot afford to deal with both the deficit reduction and capital gains on the same reconciliation legislative vehicle.

So we must act quickly. We must act quickly on this bill if we are to fulfill our duty to the American people.

EXHIBIT 1

LOSS OF REVENUE SINCE JANUARY 1, 1981 DUE TO LEGISLATIVE CHANGES

[Revised Jan. 19, 1988]

	1982	1983	1984	1985	1986	1987	1988	1989	Total
Econ Recovery Act 1981	−36	−91	−137	−170	−210	−242	−264	−291	−1,441
Tax Equity Fiscal Resp Act of 1982		17	36	39	47	57	57	56	309
Highway Rev Act 1982	#	2	4	4	5	5	5	5	30
Soc Sec Amends 1983	#	#	6	9	9	12	11	12	59
Tax Compliance Act 1983	#	0	−3	−2	−2	−2	−2	−2	−13
RR Retire Rev Act 1983	#	0	0	1	1	1	1	1	5
Deficit Red Act 1984	#	#	1	9	16	22	25	28	101
Bud Reconciliation 1985	#	#	#	#	1	3	3	3	10
FERS Act 1986	#	#	#	#	#	0	0	0	0
Bud Reconciliation 1986	#	#	#	#	#	3	3	2	7
Superfund 1986	#	#	#	#	#	0	1	1	2
Continuing Res 1986	#	#	#	#	#	2	3	3	8
Tax Reform Act 1986	#	#	#	#	#	22	−9	−24	−12
Reconciliation 1987	#	#	#	#	#	#	9	14	23
Continuing Res 1988	#	#	#	#	#	#	2	3	5
Medicare Catastrophic	#	#	#	#	#	#	#	1	1
Family Support Act 1988	#	#	#	#	#	#	#	0	0
Tech. Corrections 1988	#	#	#	#	#	#	#	0	0
Total revenue loss	−36	−72	−93	−110	−133	−117	−156	−190	−908
Total interest loss	−3	−8	−20	−31	−35	−41	−54	−90	−282
Interest plus revenue loss	−39	−80	−113	−141	−168	−159	−211	−281	−1,190
Actual deficit	−128	−209	−185	−212	−221	−150	−155	−161	
Deficit without revenue loss	−92	−137	−92	−102	−88	−33	1	29	
Deficit without interest	−89	−129	−72	−71	−53	8	56	120	

Revenue data from OMB. # Not Applicable. 0 Under $500 million.

Mr. SASSER. Mr. President, I will defer now.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the Budget Committee sent reconciliation instructions to eight committees. All of these committees met their numerical targets. That is the good news.

I regret to report to the Chair that those same committees gave us back a lot more than we asked for. Quite frankly, there are numerous extraneous materials in this bill that in my view have no place in a deficit reduction bill. Inasmuch as I personally approve of many of these provisions as worthy, as many of these provisions are, they have no place on a reconciliation bill.

I will demonstrate to my colleagues how these extraneous provisions have weighed down this reconciliation bill. Indeed, one of my colleagues joked today that he was going to send his pickup truck over to the Budget Committee office to pick up the reconciliation bill because it was so laid down with extraneous matters.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SASSER. I yield to the distinguished Senator from Maryland.

Mr. SARBANES. How large would the bill be if it really dealt only with genuine reconciliation matters? We have this enormous bill here. Here it is. What is it; how many pages? Does the Senator know?

Mr. SASSER. I think it is about 1,000 pages.

Mr. SARBANES. If we just did what we are supposed to do, narrowly defined, how big would this bill be?

Mr. SASSER. This reconciliation bill, as presented, consists of 1,376 pages. If this reconciliation bill was concerned solely with reconciliation matters soley with deficit reduction, it would be approximately 100 pages in length. So you can see the extent of the extraneous material in here.

Mr. SARBANES. I thank the Senator.

Mr. SASSER. Mr. President, I along with the distinguished President pro tempore, Mr. BYRD, and I hope with my colleagues across the aisle—and I have reason to hope they will cooperate with us—will offer a point of order to strip the material which is extraneous under the Byrd rule. In my view, we have simply to return to the budget process and to the reconciliation bill its original purpose; that is, to reduce the deficit.

If I may be permitted to comment, Mr. President, at the rate we are moving here in this body, it will soon be that every piece of legislation moves on either the budget reconciliation bill or the debt limit. I submit that we are perverting the legislative process by doing that, and certainly we are perverting the Budget Act and the reconciliation process.

Mr. President, before yielding to the distinguished Senator from Colorado, I ask unanimous consent that the Senate permit the presence of small electronic calculators on the floor of the Senate during the consideration of the reconciliation bill.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that the time by which Senate committees be required to submit their reconciliation recommendations to the Committee on the Budget pursuant to section 5 of the concurrent resolution on the budget, House Concurrent Resolution 106, be changed to 5 o'clock in the afternoon on Wednesday, October 11.

Mr. ARMSTRONG addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, reserving the right to object——

Mr. SASSER. Mr. President, I withhold that unanimous-consent request.

The PRESIDENT pro tempore. The Senator from Tennessee withdraws his request.

Mr. SASSER. Mr. President, I ask unanimous consent that the staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of the reconciliation bill, and I send to the desk a list of these staff members.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, materials submitted by the reconciled committees were unveiled yesterday for insertion in the RECORD. We now have those materials. I ask unanimous consent that they be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, October 3, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter and the attachments constitute the submission of the Committee on Agriculture, Nutrition, and Forestry to meet its reconciliation instruction under H. Con. Res. 106. The Committee met on September 14, 1989 and unanimously approved its submission. Our recommended changes are highlighted in the attachments.

Our reconciliation submission meets the Agriculture Committee's instruction as set for H. Con. Res. 106. Outlays are reduced by $1.0255 billion in Fiscal Year 1990 as scored by the Congressional Budget Office. These reconciliation proposals help to reduce this year's deficit, prevent future farm program spending from accelerating and maintain the basic principles of the 1985 Food Security Act.

We look forward to working with you to insure the adoption of the Committee's legislative proposals as part of the reconciliation bill.

Sincerely,

PATRICK LEAHY,
Chairman.
RICHARD LUGAR,
Ranking Minority Member.

Title I—Agriculture

BRIEF EXPLANATION

H. Con. Res. 106 provided budget reconciliation instructions to the Committee on Agriculture, Nutrition and Forestry. These instructions required fiscal year 1990 savings totaling $1.100 billion in budget authority and $1.025 billion in outlays from the level of spending expected as of January 1989. The Committee has met those targets.

This title provides for legislative changes recommended by the Committee on Agriculture, Nutrition, and Forestry in order to achieve the required budgetary savings. These changes are in four main farm program areas: direct payments to support farm income, additional planting flexibility for oilseeds and oats, acreage reduction program for cotton, and other minor adjustments in the implementation of the production adjustment programs.

This title also contains mandated limits on expenditures under two export assistance programs and contains other modifications to current agricultural trade programs. The title provides for the prepayment of, and interest rate adjustments to, federal financing bank loans made to rural electrification and telephone systems. Research into new commercial products from natural plant materials is authorized. The Farm Credit System Financial Assistance Corporation's funding mechanism would be amended. The title also provides for risk-based reductions in insurance premiums paid to the Farm Credit System Insurance Corporation.

This title also provides for the implementation and modification of several commodity marketing and promotion programs.

In total, the legislative changes incorporated in this title are projected to reduce outlays in fiscal year 1990 by $1.025 billion, thereby meeting the Committee's reconciliation instructions. A short list of the items contained in the bill follows.

LIST OF RECONCILIATION ITEMS

	Millions
1. "Sequester" of advance deficiency payments	$232
2. S. 553—Adjustment of butter/powder prices (P.L. 101-7)	25
3. Further adjustment of butter/powder prices	20
4. Mandate flexible planting provisions for oilseeds as included in Disaster Assistance Act of 1988	116

	Millions
5. Provide Secretary discretion to increase the maximum Cotton ARP by 5% if stocks are projected above 7 million bales	45
6. Reduce EEP by $150 million	108
7. Reduce TEA funding by $100 million	40
8. REA interest rate adjustment penalty	30
9. Various commodity promotion and programs funded through checkoffs and amendments to market orders (cost)	0.5
10. Earmark of EEP funds to offset European meat subsidies at U.S. commissaries in Europe.	None
11. Amend the cost-savings provisions of the 1985 farm bill	None
12. Delay the effective date of Bumpers-Pryor amendment until October 1, 1992, and provide annual interest payments	420
13. Provide the Secretary with the ability to offer no set-aside program for oats without building base	None
14. Prohibit both duty drawback and export promotion assistance on commodity exports	None
15. Authorize the Secretary of Agriculture to conduct research in new products developed from natural plant materials	None
16. Modify procedures for calculating Farm Credit System insurance premiums (cost)	2
17. Modify Secretary's action on second crop disaster assistance valuation (cost)	8
Total	$1,025.5

BACKGROUND

A HISTORICAL PERSPECTIVE

The major changes in government outlays on agriculture over the past are due in large part to the commodity programs. Commodity program outlays change due to several factors. In the short run, fluctuations in market prices are the major source of change. Over the long run however, policy actions on income and price support levels, stock management and export competitiveness determine overall budget exposure. Outlays for commodity programs peaked in fiscal year 1986 at $25.8 billion. Since then, outlays for function 350 have fallen significantly as displayed in figure 1.

[Charts not reproducible in the RECORD.]

In fiscal year 1988, commodity program outlays totaled $12.0 billion, a decline of more than 50%. The Congressional Budget Office (CBO) estimates outlays to increase slightly in fiscal year 1989 to $12.6 billion. In its January budget estimates, CBO projected fiscal year 1990 outlays for agriculture of $9.8 billion.

Much of the reduction in outlays was caused by policies embodied in the Food Security Act of 1985 (the "1985 Act") and by actions taken by the Agriculture Committees in past reconciliation legislation. Some of the reduction in outlays since fiscal year 1986 for agriculture are due to the meteorological disasters of 1988 and 1989. These emergencies sharply reduced government and free stocks of most grains and fibers. The decline in stocks strengthened prices, thereby reducing the level of direct income support provided by the federal government.

Target prices will decline under the 1985 Act by 10 percent for the 1985 through 1990 crops. This 10% decline in target prices has reduced potential budget exposure by nearly $4.6 billion.

In September 1987, stocks carried over from earlier crops totaled more than 8 months of corn use. As recently as September 1988, corn stocks totaled 4,259 million bushels—over six months of use. Since that time, large acreage reduction programs, aggressive use of commodity certificates to market grain, and adverse weather have reduced corn and wheat stocks substantially.

Over the life of the 1985 Act, over 300 million acres will be idled under various production control and conservation programs. In many cases, idling this land translates into a direct reduction in producer income. Since producers' fixed production costs do not decline and consequently must be allocated among fewer units of production, per-bushel production costs rise whenever acreage reduction programs are in effect.

The budgetary effects of production controls are substantial. The August 1987 CBO baseline for corn estimated farm prices of $1.58 per bushel for the 1991 crop. The August 1989 CBO baseline estimates 1991 corn prices at $1.99 per bushel. As prices are strengthened, agricultural outlays are reduced. A ten cent rise in the price of corn reduces federal outlays by roughly $550 million.

A similar but even more dramatic comparison can be made in the case of wheat. The difference between the August 1987 and the August 1988 CBO baseline projections for wheat prices is over $1.00 per bushel. Every ten cent rise in wheat prices translates to outlay reduction of more than $175 million.

The export promotion programs and aggressive pricing policies contained in the 1985 Act have also contributed to deficit reduction. Since fiscal year 1986, the value of agricultural exports has increased 50 percent, partly because of those promotion programs and partly because of other factors, such as currency fluctuations and production shortfalls in other countries.

THE LONG TERM VIEW

Agriculture, as has been pointed out in several of the past views and estimates submitted by the Committee on Agriculture, Nutrition and Forestry to the Budget Committee, is a long term industry.

Investments made by producers extend over several years. Producers need a sound basis for expected revenues when making those decisions. The target prices in the 1985 Act helped provide that basis.

The stock management initiatives contained in the 1985 Act were also long-term measures. Reducing corn stocks to manageable levels in a single year, such as in 1987, would have required idling nearly half of all acreage previously planted to corn. The proper management of stock levels is obviously a long term proposition.

Export markets also take time to develop. Producers in other countries act and make investments that result in strong, lasting competition. Consumer demand overseas is also developed over a number of years through product promotion, consumer education, and availability of dependable supplies. Furthermore, it takes several years to complete trade negotiations and to implement any decisions made.

Whether the concern is the level of U.S. agricultural income, depressed commodity prices, or the trade balance, forcing short-run changes on agriculture can be counterproductive.

BUDGET CONCERNS FOR THE FUTURE

In the past, both CBO and the Office of Management and Budget have assumed that target prices, incorporated in the 1985 Act, would continue to decline beyond the life of that Act. In December of 1988 and early 1989, the Committee on Agriculture, Nutrition and Forestry and the Budget Committee, determined that an assumption of continued target price declines was not consistent with the 1985 Act. The August baseline, developed by CBO assumes target prices frozen at 1990 crop year levels for fiscal years 1991 through 1995. It is the opinion of the Committee on Agriculture, Nutrition and Forestry that this is the correct assumption for long-term budget planning.

PURPOSE AND NEED

SUBTITLE A.—AGRICULTURAL COMMODITY PROGRAMS

Subtitle A contains amendments to agricultural commodity programs, including a reduction in direct payments to support farm income, additional planting flexibility for oilseeds and oats, a change in the acreage reduction program for the 1990 crop of cotton, and other minor adjustments in the implementation of the production adjustment programs.

A brief discussion of those provisions follows.

Cotton acreage reduction program

This section would amend the Agricultural Act of 1949 to authorize the Secretary of Agriculture, if cotton stocks are projected to exceed 7 million bales as of July 31, 1991, to establish a maximum acreage limitation program of 30 percent for the 1990 crop of upland cotton. Current law provides for a maximum acreage limitation percentage for the 1990 crop of 25 percent.

By providing the Secretary of Agriculture this additional flexibility to respond to an oversupply of upland cotton, the bill would decrease expenditures $45 million dollars in fiscal year 1990 from the January 1989 baseline.

Feed grain acreage limitation program

Currently, the Secretary establishes an acreage reduction program for a crop of feed grains based on an estimate of the stocks of all feed grains. The Agricultural Act of 1949 does not provide the Secretary with great discretion in establishing different acreage limitation percentages for corn and barley, for example.

However, due to a shortage of oats, the Omnibus Budget Reconciliation Act of 1987 provided that the Secretary could not establish an acreage reduction percentage for oats of more than 5 percent for the 1988 through 1990 crops, although the Secretary may waive this ceiling for the 1990 crop if stocks of oats are excessive.

Projections of the supply of oats during 1990 indicate that the United States is still not producing enough oats to meet domestic demand. There are several reasons for this shortfall, although competition from corn and barley, commodities with relatively higher target prices, is a primary cause.

The Committee is concerned that the domestic supply of oats may continue to be short throughout 1990. Modifications to the 1989 wheat program announced by the Secretary of Agriculture on September 13, 1989, could cause some producers to shift potential oat production into wheat.

Therefore, the bill amends the Agricultural Act of 1949 to provide that the Secretary of Agriculture may determine not to establish an acreage reduction program for the

1990 crop of oats. However, the Secretary may require that, as a condition of eligibility for loans and deficiency payments for oats, producers may not plant oats in excess of their crop acreage base. This provision does not reduce expenditures relative to the January 1989 baseline, but should provide savings in future years by averting base-building and by marginally shifting acreage from crops such as corn and barley, where budget exposure is great.

Adjustment of purchase price for butter and non-fat dry milk

The amount of butter produced in the United States far exceeds current demand. Due to a relatively low market price for butter, a large percentage of all dairy product purchases by the Commodity Credit Corporation under the milk price support program are in the form of butter. Conversely, non-fat dry milk prices are at relatively high levels. There is not enough non-fat dry milk being produced to meet current demand adequately.

Early in 1989, Congress attempted to address this problem by passing S. 553, (P.L. 101-7) which provided for adjustments of the purchase price for non-fat dry milk and butter. By further adjusting the prices the Commodity Credit Corporation pays for purchases of butter and non-fat dry milk under the price support program, this bill provides more market-oriented signals to the dairy industry. The changes in purchase prices for butter and non-fat dry milk contained in P.L. 101-7 and in this bill will decrease federal expenditures from the dairy price support program by $45 million in fiscal year 1990 relative to the January 1989 baseline.

The provision in this bill establishes the Commodity Credit Corporation purchase price of butter during 1990 at $1.10/lb and establishes the purchase price of non-fat dry milk at $0.8475/lb. The Secretary is authorized to modify the relative purchase prices as necessary to ensure the savings level estimates. The provision also eliminates the Secretary's authority to reduce dairy support prices on January 1, 1990.

Reduction of deficiency payments for 1990 crops

In order for the Committee to meet its budget reconciliation requirements, 1990 crop deficiency payments will be reduced by an amount sufficient to reduce expenditures by $232 million during fiscal year 1990. It is the intention of the Committee to have this reduction in payments effectuated similar to reductions in expenditures carried out under the Emergency Balanced Budget and Deficit Reduction Act (popularly known as the Gramm-Rudman-Hollings Act).

Under the bill, deficiency payments would be reduced as follows:

2.3 cents per bushel for corn (and a comparable amount for other feed grains, as determined by the Secretary);

2.3 cents per bushel for wheat;

0.51 cents per pound for upland cotton; and

5.1 cents per hundredweight for rice.

The bill provides that, to the extent practicable, the Secretary shall apply the deficiency payment reduction against any advance deficiency payment made available to producers of the 1990 crops under section 107C of the Agricultural Act of 1949. This provision ensures that necessary budget savings will occur in fiscal year 1990.

It is the intent of the Committee that the 1990 reduction in deficiency payments should not affect long-term budget forecasting and that the statutory target price levels for the 1990 crops remain the same as those in the 1985 Act.

Planting of soybeans, sunflowers, and safflowers on permitted acreage

This section amends the Agricultural Act of 1949 to mandate the continuation of additional planting flexibility for oilseeds for the 1990 crop. The oilseed flexibility provision was mandated for the 1989 crop but is currently discretionary for the 1990 crop.

By requiring the Secretary of Agriculture to continue to operate this planting flexibility program, this provision will reduce federal expenditures by $116 million in fiscal year 1990 relative to the January 1989 budget estimate.

This section amends section 504(e) of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) to provide that the Secretary of Agriculture shall permit producers on a farm to plant soybeans, sunflowers, or safflowers on a portion specified by the producer (but in any event no more than 25 percent) of the producers' 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

Similarly to the program implemented during 1989, the Secretary must establish a sign-up period during which producers will state their intentions regarding use of the increased planting provision, thereby allowing the Secretary to estimate the price effect of any increased plantings. The Secretary shall then estimate whether, based on the anticipated additional soybean, sunflower, and safflower plantings for the crop, the average market price for the 1990 crop of soybeans will be below 115 percent of the loan rate established for the 1989 crop of soybeans, or $5.21 per bushel.

The Committee remains concerned about any potentially detrimental effects on soybean producers' incomes if additional plantings cause soybean prices to fall below the trigger level. The Committee believes that if, after implementing the program, soybean prices fall below 120 percent of the loan rate established for the 1989 crop of soybeans, or $5.43 per bushel, the Secretary of Agriculture should promote the export of vegetable oil through the Export Enhancement Program in order to boost the demand for oilseeds.

If it is determined that the average market price for the 1990 crop of soybeans will be below 115 percent of such loan rate, the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers, and safflowers shall be reduced to the extent necessary to ensure to the extent practicable that the average soybean market price does not fall below such level. If the Secretary restricts planting flexibility under this provision, the Secretary must provide an explanation for the restriction to the House and Senate Agriculture Committees.

Producers who take advantage of this flexibility provision will not suffer any loss in acreage base for the substituted crop, will not be eligible to receive wheat, feed grains, upland cotton, or rice program benefits on the acreage planted to the oilseed crop, and will not be able to increase the farm's crop acreage base as a result of this provision.

This section also modifies the 1990 crop feed grain program provisions by changing the minimum and maximum acreage reduction percentages that the Secretary may implement if 1990 corn stocks are estimated to be 2,000,000,000 bushels or less.

Under the bill, if 1990 corn stocks are estimated to be less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program requiring a percentage reduction of not less than 10 percent nor more than 12½ percent.

The section also provides that if 1990 corn stocks are estimated to be 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program requiring a percentage reduction of not more than 10 percent.

Current law provides that if 1990 stocks are estimated to be less than 2,000,000,000 bushels, the Secretary may provide for an acreage limitation program of no more than 12½ percent.

Cost reduction options

This section amends section 1009(d) of the Food Security Act of 1985 to provide that the Secretary of Agriculture may allow producers holding price support loans or producer reserve loans to redeem such loans at less than the principal amount of such loans if doing so would yield benefits to the Federal government due to—

(1) receipt of a portion rather than none of accumulated interest on the loan;

(2) avoidance of default; or

(3) elimination of storage, handling, and carrying charges on the forfeited commodity.

Replanted acreage

This section would amend the Disaster Assistance Act of 1989 to clarify the implementation of section 110 of that Act. Section 110 of the Disaster Assistance Act of 1989 was intended to prevent producers from receiving windfall profits on replanted acreage as a result of receiving both disaster payments and receipts from a crop planted to replace the crop for which disaster payments are received. The Committee is concerned that implementation of that section may go beyond the original intention of preventing windfall profits, hurting some producers due to low second-crop yields. The costs of planting and cultivating the second crop are in many cases more substantial than is implied by the Department of Agriculture's implementation of the original section 110.

The amendment would provide that the reduction in disaster payments required by section 110 would only be applied against payments due with respect to acreage that was replanted, and not against disaster payments due with respect to acreage that was not replanted.

The amendment alters the calculation of the value of the replacement crop. The amendment provides that in reducing disaster payments made to a farmer on replanted acreage, the Secretary shall only consider production from the second crop in excess of 40 percent of the county average yield. The Secretary shall then reduce the value of the second crop production above that level by 25 percent before decreasing the disaster payment.

The Committee was also concerned that implementation of this provision could delay disaster payments to producers, even though only a small portion of the producers' acreage may have been replanted. Therefore, the amendment provides that the Secretary shall consider separately disaster payments due with respect to acreage that was not replanted and disaster payments due with respect to acreage that was replanted.

In carrying out these amendments, the Secretary should determine disaster pay-

ments due to producers on a farm on a per acre basis. Payments due with respect to acreage not replanted can be immediately made to producers. Payments due with respect to replanted acreage can be made as soon as the value of the replacement crop is established.

SUBTITLE B—AGRICULTURAL TRADE PROGRAMS

Subtitle B contains amendments to agricultural trade programs. The bill would achieve budget savings by setting limits on expenditures under two export assistance programs. Other modifications to current agricultural trade programs are also included.

Export enhancement program

This section provides limits on, and earmarks a portion of, Export Enhancement Program funds for the 1990 fiscal year. The Committee believes that the projected level of expenditures under this program ($800,000,000) was in excess of the funds necessary to maintain export competitiveness during the 1990 fiscal year. A minor reduction funding for this program should not substantially alter its effectiveness.

The bill will limit expenditures under the Export Enhancement Program during the 1990 fiscal year to $650,000,000. This provision reduces outlays by $108 million relative to the January budget estimates.

In making this modification, the Committee notes that it has made no changes to the Secretarial discretion provided for in section 4301 of the Agricultural Competitiveness and Trade Act of 1988. This section provides the Secretary with the ability to expand use of the Export Enhancement program if satisfactory progress in the multilateral trade negotiations is not being made.

In addition to the limitations on Export Enhancement funds, the title earmarks $14 million in funds or commodities in fiscal year 1990, $9.3 million in fiscal year 1991, and $4.6 million in fiscal year 1992 to promote the export of United States meat, including poultry products, to United States commissaries on military installations in the European Community. These funds are to come out of expenditures under the Export Enhancement Program. Therefore, no additional cost is associated with this provision.

Funds or commodities are to be made available under this provision only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries.

Targeted export assistance

This provision limits federal expenditures under the Targeted Export Assistance Program to $225 million in fiscal year 1990, down from the currently authorized level of $325 million. This reduction is projected to reduce expenditures by $40 million relative to the January budget estimates which assumed expenditures under this program of $325 million. This limitation, however, does allow expenditures under this program to increase by $25 million from 1989 levels.

Prohibition on duty drawback claims by exporters who use certain export promotion programs

Under this provision, a person shall be ineligible for participation in—(1) export programs established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480); (2) in any export credit, credit guarantee, bonus, or other export program administered by the Commodity Credit Corporation; or (3) any export program carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, with respect to the export of any agricultural commodity or product by such person if that export is used as the basis for a claim of a duty drawback refund pursuant to section 313(j)(2) of the Tariff Act of 1930. Exports of processed commodities (other than vegetable oil) would not be covered by this provision if the imported commodity for which the duty was paid was in a raw, or significantly different form.

Further, a person shall be ineligible for the export programs listed above with respect to the export of any vegetable oil used as the basis for a claim of duty drawback under section 313 of the Tariff Act of 1930, whether or not the imported and exported commodity are significantly different.

Persons applying to use these export programs must certify that they have not violated this section. The Committee intends for the Department of Agriculture and the U.S. Customs Service to work together in implementing this provision.

This section will not be applied retroactively. The provision will not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract prior to the effective date of the Act.

SUBTITLE C—GENERAL PROVISIONS

This subtitle includes provisions concerning prepayment and interest rate adjustments of federal financing bank loans made to rural electrification and telephone systems; research on new products from natural plant materials; refunds of stock purchases of Financial Assistance Corporation stock by Farm Credit System institutions; and the calculation of insurance premiums paid to the Farm Credit System Insurance Corporation.

Prepayment and interest rate adjustment of Federal financing bank loans made to rural electrification and telephone systems

This provision would amend the Rural Electrification Act to permit rural electrification and telephone systems to prepay their Federal Financing Bank loans or to obtain interest rate adjustments on such loans. Any system choosing to obtain an interest rate adjustment would be required to pay a penalty, based on the total difference between the annual percentage interest rate in effect on the loan and the Federal Financing Bank rate in effect at the time the interest rates is to be adjusted.

Under the bill, a borrower will be allowed to prepay such loan or loan advances at any time or times without limitation by paying the outstanding principal balance due (plus accrued interest) on such loan or loan advances. A borrower would only be allowed to prepay if—

(1) private capital, with the existing loan guarantee, is used to replace the loan, or, at the option of the borrower, private capital (including internally generated funds), is used to prepay the loan; and

(2) the borrower certifies that any savings from such prepayment will be—

(A) passed on to its customers;

(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

(C) used to mitigate future rate increases.

This section would also allow borrowers to adjust the interest rates on their outstanding loans with the Federal Financing Bank. The Committee notes that several of these loans were initiated during periods of high interest rates. Subsequently, interest rates have fallen, placing several of the borrowers at a financial disadvantage. This can force the borrowers to charge higher rates to their customers. By allowing the borrowers to adjust the interest rates on their outstanding loans and loan advances, the Committee intends to help rural electrification systems to remain competitive.

It is important to note that the adjustment of the interest rate is not a refinancing or a new loan. All terms and conditions of the old loan shall remain in place, with the exception of the adjustment in interest rates.

Any guarantee of a loan used to make a prepayment may be transferred to any loan subsequently used to refinance the loan used to make the prepayment.

The penalty already described for interest rate adjustments shall be applied each time the borrower obtains an interest rate adjustment. The Secretary of Agriculture is directed to issue regulations that will carry out these provisions.

Research into new commercial products from natural plant materials

This provision authorizes the Department of Agriculture to conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical and agricultural applications, and to participate with universities, other Federal agencies and the private sector in conducting such research.

Financial assistance board

The bill would delay the effective date of amendments made to the Farm Credit Act of 1971 by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1989 until October 1, 1992. Until October 1, 1992, the Financial Assistance Corporation shall pay (in annual payments), out of the Trust Fund established under section 6.25 of the Farm Credit Act of 1971, to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation an amount determined by multiplying—

(1) the amount that would have been refunded to the institution under section 646 of the Rural Development Appropriations Act of 1989, less

(2) the amount of Financial Assistance Corporation stock the institution would have been required to purchase after September 1, 1989, through the end of each of the fiscal years 1990 through 1992 had the amendments contained section 646 of the Rural Development Appropriations Act of 1989 been effective as of October 1, 1989, by

(3) a percentage equal to the average rate of interest received by the Financial Assistance Corporation during each of the fiscal years 1990 through 1992 respectively.

Calculation of premiums by farm credit system insurance corporation

This provision modifies the procedure used in calculating the premiums Farm Credit System banks (including Agriculture Credit Associations) pay for insurance under the insurance program established by the Agriculture Credit Act of 1987. The provision would provide for risk-based reductions in premiums for insurance on loans that are guaranteed by the Federal Government, as appropriate on an actuarial basis, to more accurately reflect the low risks associated with federally guaranteed loans.

SUBTITLE D—PROMOTION PROGRAMS

The Committee has included several promotion related matters in this legislation. These matters were included because of their broad support in the Committee. They were also included in order to offset the impact of program payment reductions on farm income.

Marketing of U.S. agricultural products has become an ever more difficult challenge. Consumers are shifting away from traditional diets to non-traditional commodities. As this shift occurs, the competition for a space on the consumer's plate will become even more intense.

Generic promotion of agricultural commodities, financed in part by producer generated funds have been effective in increasing consumer demand. The Economic Research Service of the U.S. Department of Agriculture in Agriculture Information Bulletin Number 565 (July 1989) stated that "Studies have shown a positive relationship between advertising expenditures and sales for a wide range of commodities including milk, cheese, grapefruit juice, and orange juice."

One of the difficulties in operating a generic promotion program is the so called "free-rider" effect. Unless all producers are required to provide funds for the promotion effort, those producers who do not contribute to the fund receive the benefits of the promotion, without facing any of the costs. The same applies to foreign producers and processors who sell product in the U.S. market. Cotton products are an example of foreign goods taking advantage of a strong promotion program operated and funded by domestic producers and processors.

This title provides for the establishment of, or modification to, seven different promotion programs. Further, the title also modifies the current marketing order arrangements for several fruits as well as the egg promotion order. It also modifies marketing agreements for peanuts and provides an explicit definition of Vidalia onions.

The programs, as included in this legislation, are significantly different than the underlying legislation as originally introduced. For example, in light of the budgetary problems faced by the agricultural community and the Department of Agriculture, the Committee has insisted that the cost of implementing the programs be borne by the promotion programs themselves. In addition to this principle, the Committee has developed other standards for promotion programs that it expects to include in future promotion programs it considers.

For example, the Committee has required that a referendum be held when significant program changes are made. The Committee has also included a requirement of notice and comment before significant program changes are made. Further, escrow accounts are included where delayed referenda are permitted to provide assurance that there will be a source of refunds if the referenda are defeated. Consistent limitations on lobbying and similar activities and common enforcement procedures are also included. As mentioned above the principle that the promotion program, and not the taxpayer should pay the administrative costs of the programs, was also applied to each program.

The Committee intends to apply these basic principles to future promotion legislation. The Committee is aware that past promotion legislation did not consistently apply these principles and that there are precedents for many different elements in promotion programs. However, the Committee intends that these basic principles should serve as a model for future promotion legislation.

The Committee notes that it has received the assurances of the Department that it will implement the cost recovery provisions in a reasonable, gradual manner as it has in the past. The Committee has included the cost recovery provisions in each of the statutes based on that assurance and expects the Department to work out cost recovery plans with the programs in a manner that will not cripple existing programs or effectively preclude the start up of new plans.

Soybean Promotion, Research and Consumer Information Act

This chapter would establish a national promotion and research program for soybeans to be funded by an assessment of all producers.

This chapter would authorize the United Soybean Board to conduct promotion activities, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans and soybean products in domestic and foreign markets. In addition, the bill authorizes activities designed to communicate to consumers, importers, processors, wholesalers, retailers or government officials, information relating to the positive attributes of soybeans and soybean products or the benefits of importation, utilization, or distribution of U.S. produced soybeans and soybean products.

It is the intent of the Committee in authorizing the promotion activities as defined in this section, to permit the United Soybean Board to conduct activities which will improve the competitive position of soybeans and soybean products and maintain and stimulate increased sales of soybeans and soybean products both domestically and in foreign countries. Included in this definition are traditional promotion activities such as paid advertising and media relations activities.

It is the intent of the Committee that, to the extent practicable, the Secretary of Agriculture should avoid conducting any referendum required under this chapter during or near the harvest season, in order to maximize participation in, and awareness of, referenda by farmers.

The Committee recognizes the heavy reliance on exports of the domestic soybean industry. If the domestic industry is to maintain and expand its export opportunities, it must provide importing nations with technical assistance relating to the storage, use, or distribution of soybeans or soybean products and other trade servicing activities similar to those being conducted by industry organizations through the cooperator program implemented in conjunction with the Foreign Agricultural Service of the Department of Agriculture.

In addition, the Committee acknowledges that the United Soybean Board must, in certain situations, conduct activities designed to communicate information to those persons that have an influence on purchases, importation, utilization or distribution of soybeans or soybean products. In many instances, those persons include officials of foreign governments. Therefore, the United Soybean Board must be able to communicate with government officials of foreign countries relating to the positive attributes of soybeans or soybean products, or their importation, utilization or distribution or to develop information regarding the effects of existing or proposed impediments to trade or utilization.

The Committee recognizes the potential problems associated with the United Soybean Board engaging in foreign trade activities that may be viewed as establishing or conflicting with the conduct of the official policies of the U.S. Government. A balance must be struck which will allow the United Soybean Board to conduct those activities necessary to facilitate exports, while not authorizing the United Soybean Board to negotiate foreign trade policies on behalf of the U.S. Government. It is not the intent of the committee that the United Soybean Board independently conduct negotiations with, or represent U.S. Government or domestic soybean producer industry positions to, foreign government officials advocating the removal or modification of tariffs, quotas, or other import barriers.

This would not preclude the United Soybean Board from providing technical assistance to the U.S. Government during negotiations or discussion. Trade negotiations are a function of the United States Trade Representative's Office. However, the United Soybean Board must be able to promote its products to those who have an influence on consumption and provide information to consumers, importers, processors, wholesalers, retailers and, as deemed appropriate by the Secretary of Agriculture, foreign government officials relating to the effects of existing or proposed impediments to trade or utilization of soybeans or soybean products.

It is the intent of the Committee that all plans and projects conducted by the United Soybean Board are to be approved by the Agricultural Marketing Service of the Department of Agriculture. The Committee believes that this review process will preclude any activities by the United Soybean Board that could run counter to or obviate other official ongoing or planned trade-related activities of the United States Government. The Agricultural Marketing Service in approving any projects which involve interaction with foreign government officials, shall consult with and obtain the views and comments of the Foreign Agricultural Service and the United States Trade Representative's Office.

Section 1405(h)(2) of the bill would provide that the national soybean promotion board shall ensure that all plans or projects implemented within a program area are implemented by a single national, nonprofit producer-governed organization that represents soybean producers. The Committee intends that the "program areas" under the Order comprise at least the following: research; promotion; consumer information; industry information; and producer information. Thus, under the law, the national soybean promotion board could not simultaneously contract with more than one organization in each of these areas; and the number of separate program areas could not be less than those enumerated. Of course, nothing precludes the board from contracting with the same organization to implement more than one program area.

The bill would also provide, in section 1405(j)(4) that each soybean producer who can establish that he or she is contributing to a qualified state soybean board for a state soybean checkoff program will receive a credit for such contributions of up to one-quarter of one percent of the net market price of soybeans or the equivalent thereof. Also, section 1410(a) of the bill would provide that, with certain very limited exceptions, the bill should not be construed to

preempt or supersede the state soybean checkoff programs.

These provisions are designed to ensure that the national soybean checkoff program under the bill does not adversely affect or interfere with the operations of state soybean checkoff programs. Existing state programs, some of which have been in operation for decades, have done important work in their own right in assisting soybean producers in marketing their product and otherwise promoting the interests of producers and their product. The Committee strongly supports continuation of this traditional work of existing state checkoff programs.

It is the intent of the Committee that the Department of Agriculture, in developing regulations and administering the national program under the bill, take steps to facilitate the qualification of existing state soybean checkoff entities as qualified state soybean boards. In that regard, it also is the intent of the Committee that, to the extent practicable, the Department's regulations and administrative actions related to the qualifications of existing state boards not force states to revise current programs that use soybean checkoff funds or their administration of such programs as a condition for qualifying as a state soybean board, so long a state use of checkoff funds falls generally within the scope of the bill.

Cotton Research and Promotion Act Amendments of 1989

This chapter amends the current cotton research and promotion act to include importers. In addition to assessments that are now charged to domestic producers of cotton, assessments would be expanded to include importers of cotton and cotton products.

Pecan Promotion and Research Act

This chapter establishes a national promotion and research program for pecans to be funded by an assessment charged to all producers, shellers, handlers and importers of pecans.

Fresh Mushroom Promotion, Research and Consumer Information Act

This chapter establishes a national promotion and research program for fresh mushrooms. The program is funded by an assessment of all producers and importers of fresh mushrooms.

Fresh Lime Research, Promotion and Consumer Information Act

This chapter establishes a national promotion and research program for fresh limes. The program will be funded by an assessment charged to all producers, handlers, producer-handlers and importers of fresh limes.

Potato Research and Promotion Act Amendments of 1989

This chapter of the bill would amend the Potato Research and Promotion Act to provide for assessments on all producers and importers of potatoes for promotion purposes. The Committee expects that the Department will enter into an agreement with the U.S. Customs Service for collection of assessments on imports. The Customs Service currently collects assessments for beef, pork and other assessment programs.

Honey Research, Promotion and Consumer Information Act Amendments of 1989

This chapter amends the honey research, promotion and consumer information act to include assessments and refunds. Exporters and importers are eligible for receipt of refunds in so far as refunds to importers do not exceed the amount of refunds made to domestic producers as a percentage of the funds collected from domestic producers.

Kiwifruit and other fruit

This chapter amends section 8e(a) of the Agricultural Adjustment Act. This provision would add kiwifruit, nectarines and plums to the list of imported commodities that must meet the same minimum quality standards of domestically produced fruits, vegetables and specialty crops currently covered under market orders.

The Committee has agreed at this time not to add peaches and pears to the section 8e(a) authority. However, the Committee does so with the understanding that the Department of Agriculture will consider the effect of including these commodities within the section 8e(a) authority at a later time. The Committee may consider the inclusion of these commodities during reauthorization of the farm bill.

Papayas

This chapter amends section 8e(a) of the Agricultural Adjustment Act. This provision would add papayas to the list of imported commodities that must meet the same minimum quality standards as domestically produced fruits covered under market orders.

Eggs

This chapter amends the Egg Products Promotion Act by changing the definition of a commercial egg producer contained in the Egg research and consumer information act to 30,000 layers instead of the current definition of 3,000.

Peanuts

All handlers of peanuts would be required to meet inspection and quality requirements established under marketing agreements entered into between handlers of peanuts and the Secretary of Agriculture. Currently, shellers who do not sign a marketing agreement with USDA are not required to have their peanuts inspected for aflatoxin, for example. Acceptance of this provision will require that all peanuts undergo inspection for aflatoxin and other quality factors. Sellers of uninspected peanuts will be subject to a fine.

Vidalia onions

This chapter amends Federal Marketing Order No. 955 so that only onions produced within the "production area" defined by the order will be eligible to be labeled as "Vidalia onions".

COMMITTEE CONSIDERATION

The Committee met on September 14, 1989 in order to discuss and report out of Committee the Committee response to its reconciliation instructions. After reviewing a staff proposal which met the required savings level, the Committee approved the proposal by voice vote. No other votes concerning the package were taken.

SUBCOMMITTEE CONSIDERATION

On July 14, 1989, the Subcommittee on Domestic and Foreign Marketing and Production Promotion of the Committee on Agriculture, Nutrition and Forestry met to hear testimony on research and promotion legislation.

A statement was presented by Mr. Kenneth C. Clayton, Acting Administrator, Agricultural Marketing Service, United States Department of Agriculture (USDA). The first witness panel consisted of Mr. Howard Lyman, Legislative Analyst, National Farmers Union, Washington, DC; Mr. Andrew Whisenhunt, President, Arkansas Farm Bureau, Bradley, Arkansas; Mr. David Senter, National Director, American Agriculture Movement, Inc., Washington, DC; and the Honorable William S. Cohen, United States Senator from Maine, Washington, DC.

Sitting on the second witness panel were Mr. Fred Beshears, President, Federated Pecan Growers, Monticello, Florida; Mr. Dennis Zensen, Chairman, Mushroom Council, Qunicy, Florida; Mr. James Lee Adams, Jr., President, American Soybean Association, Camilla, Georgia; Mr. Arnold Roach, Member, National Potato Council, Smyrna Mills, Maine; and Mr. Bruce Heiden, President, National Cotton Council, Buckeye, Arizona.

Mr. Clayton reported that the USDA has no objection to the enactment of the bills under consideration if they are amended to address the concerns outlined in the Department's reports and in his testimony. He stated that the long run interests of the industry and the general public would be best served if the research, promotion and education programs contained certain features, including a nationwide scope; implementation through an up front referendum of a majority of qualified persons voting; equitable treatment of domestic and imported commodities; importer representation on the boards and in referenda; and compliance with international trade agreements.

Mr. Clayton continued by asking that the Secretary of Agriculture be given direct enforcement authority and the power to appoint board members, as well as the authority to suspend or terminate a program if the Secretary determines that the program no longer carries out the policy of the authorizing statute. Mr. Clayton emphasized that a provision should be made for the Department to cover costs incurred by the Secretary in implementing and administrating such programs, pointing out that the Department has previously not been provided full reimbursement for costs incurred until after issuance of the final order.

Mr. Clayton noted that the soybean proposal authorizes the Soybean Program Coordinating Committee to develop plans or projects relating to market access activities, stating that international trade activities are and should continue to be confined to those Executive Branch agencies responsible for formulating and conducting the trade policy of the United States. He added that the Justice Department has raised concerns of unconstitutionality regarding the soybean proposal. Mr. Clayton concluded his testimony by urging modifications of the assessment of imported potatoes and cotton and cotton products to ensure the same coverage for imports as for domestic products.

Mr. Lyman outlined six points that the Farmers Union will require of checkoff legislation in order to give its approval. First, the checkoff program must be needed to encourage consumer loyalty to the commodity in question. Second, there must be a potential for new markets so that programs can be expanded. Third, checkoffs must be voluntary and the consumer must be able to get his money back at the first point of sale. Mr. Lyman asked that board members be elected by the people who are paying the bills, and that a referendum require a two-thirds vote of the producers that are voting. Finally, Mr. Lyman stated that the current practice in some states of lobbying with checkoff money must be eliminated to ensure that the producer's money is directed to the program for which he wishes to pay.

Mr. Whisenhunt, speaking on behalf of the Arkansas Farm Bureau Federation (AFBF), stated that it is imperative that commodity specific checkoff programs be structured to provide producer control and safeguards against the program's misuse of funds or engagement in inappropriate activity. Mr. Whisenhunt detailed the requirements of the Farm Bureau's policy regarding checkoff programs; approval by producer referendum prior to implementation of the program; referendum procedures which protect voting rights, uniform voting procedures and encouragement of maximum participation by producers; producer control over the program through a periodic referendum to determine continuation of termination of the program; producer control of the board administering the program; and limitations of the use of funds for promotion, market development and research only.

In addition, Mr. Whisenhunt outlined the changes in the proposed soybean checkoff that are needed to conform the program to the Farm Bureau's policy. One, include a recall provision that would require a referendum if 10 percent of the soybean farmers signed a petition for a referendum on continuation. Two, provide a mandatory reconfirmation vote every five years. Three, make a refund option available to producers until the approval of the initial referendum. Four, prohibit the use of funds collected by the board for the purpose of influencing governmental action or policy. Five, audit United Soybean Board funds and projects at least annually. Six, agree upon specific definitions of promotion, research, consumer information and industry information to help eliminate concern over the use of funds. Seven, establish mechanisms of collection on soybeans under CCC loan, whereby a second checkoff of the assessment would not be allowed. Mr. Whisenhunt asserted that with these changes the AFBF would support the Senate Bill 919 and the House Resolution 2209. Mr. Whisenhunt concluded his testimony by requesting changes in proposed legislation for commodity research programs for cotton, pecans, potatoes, mushrooms and limes that would align them with the Farm Bureau's policy that he outlined earlier.

Mr. Senter, speaking on behalf of the American Agriculture Movement (AAM), stated that AAM generally supports checkoff programs and hopes that the Committee will begin to put in place basic criteria to ensure consistency among different commodity checkoff programs. AAM does not see commodity checkoff programs as a substitution for price, but believes checkoff programs work well to promote the program and build market access. Mr. Senter said that AAM supports producer referendums and that the program should be voluntary, so that the refund provision continues to be a check and balances in the program.

AAM believes that appropriate uses for promotion funds should be defined, and that these funds should be prohibited from use in political or lobbying activities domestically or abroad, by either national or state programs. Mr. Senter called for a commodity checkoff that would apply at all points of sale to fairly distribute the cost of promotion over all those who benefit. Finally, Mr. Senter requested that each of the five largest general farm organizations be allowed to nominate a soybean farmer to the board.

Senator Cohen briefly summarized the three provisions of the Potato Research and Promotion Act amendments of 1989. First, the potato research and promotion program would be voluntary. Second, the program would apply to foreign exporters, who also benefit from domestic promotion. Third, the requirement for an automatic referendum would be waived, with a provision that the Secretary could call for a referendum if so desired by ten percent of the participants.

Mr. Beshears, President of the Federated Pecan Growers of the United States, cited recent financial losses by the pecan industry and pointed to an anticipated increase in the pecan supply from Mexico. In light of the fact that as much as $15 million and $10 million per year is being spent for research and promotion of almonds and walnuts, respectively, the Federated Growers recognize a need for a national pecan marketing and research program. Mr. Beshears stated that a basic plan for such a program is included in Senate Bill 962, and emphasized that the passage of this legislation would be the first step toward restoring the financial health of the pecan industry.

Mr. Zensen explained that the mushroom industry, because it is comprised of a few large and many smaller producers, is fragmented and disorganized with respect to its ability to speak with one voice and to achieve a more orderly marketing environment. The research and promotion order would help greatly in both of these regards. Citing declining retail shelf space and a decrease in the number of family farms, Mr. Zensen encouraged the committee's support of Senate Bill 962.

Mr. Adams spoke on behalf of the American Soybean Association (ASA), pointing out that while the United States' share of the world soybean market has been falling rapidly over the past few years, there are good opportunities in the industry for the United States as the demand for soybeans rises. New uses of soybean products, including partial replacement of petroleum products, and soybean genetic engineering are examples of the research areas that need funding.

The ASA, based on hearings and polls conducted around the country, has developed a research and promotion program under which contributions from all who benefit would be mandatory, and farmers would be given control of the program. Mr. Adams suggested that such a program be voluntary for a trial period of two years, after which time a referendum would be held to decide the future of the program. Mr. Adams finished this testimony by reiterating that opportunities exist for the expansion of the domestic and foreign soybean market, and that the ASA looks forward working with the Committee to pass legislation to that end.

Mr. Roach praised the contributions of the Potato Research and Promotion Act of 1971, and asked that it be amended to meet two sorely needed goals. First, the Potato Board should have the authority to assess potatoes that are imported into the United States, which would make the program compatible with such programs as beef and pork. Second, the refund provisions in the current law should be revoked to ensure that all who benefit from the program contribute equally. Mr. Roach requested that these changes, which two previous referenda have shown to be desired by a large majority of farmers, be put into effect without a costly referendum. Mr. Roach concluded by reporting that Canadian farmers have asked to participate in the program, which they admire and which to emulate.

Mr. Heiden spoke on behalf of the National Cotton Council, pointing out that the future holds both problems and opportunities. He stated that a majority of the farmers who request refunds from the program do so not from dissatisfaction with the program but rather because of financial difficulties, because other farmers in the areas are collecting refunds or because importers are benefiting from the research and promotion program.

Proposed legislation would address the two last complaints by eliminating refunds and assessing imports at a rate equal to that of domestic products. Mr. Heiden stated that cotton producers need and would support a well-managed, adequately-financed and effective research and promotion program and that the cotton industry respectfully requests the support of the committee for the opportunity to expand its proven program.

SECTION-BY-SECTION ANALYSIS

SUBTITLE A—AGRICULTURAL COMMODITY PROGRAMS

Section 1101. Cotton Acreage Reduction Program

This section would amend section 103A(f)(2)(A) of the Agricultural Act of 1949 (the "1949 Act") by striking "(not to exceed 25 percent)" and inserting in lieu thereof "(not to exceed 25 percent or, if the Secretary projects a 1990 carryover of more than 7 million bales as of July 31, 1991, not to exceed 3 percent for the 1990 crop)."

Section 1102. Feed Grain Acreage Limitation Program

This section would amend section 105C(f)(2)(G) of the 1949 Act to provide that, effective for the 1990 crop of feed grains, the Secretary may establish an acreage reduction percentage for the 1990 crop of oats of less than 5 percent. If the Secretary does not establish a percentage reduction requirement for oats, the Secretary shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased as a result of this provision.

This section amends section 105C(d)(1) of the 1949 Act to provide that the national crop acreage provisions contained in subsection (d) would not apply to the 1990 crop of oats.

The section also amends section 105C(f)(1) to provide that as a condition of eligibility for loans, purchases, and payments for the 1990 crop of oats, the producers of oats on a farm may not plant oats in excess of the crop acreage base for the farm.

Section 1103. Adjustment of purchase price for butter and non-fat dry milk

This section would amend section 201(d) of the 1949 Act to provide that, in carrying out the price support program for milk during the 1990 calendar year, the Secretary is directed to establish the purchase price of butter at not less than $1.10 per pound and the purchase price for non-fat dry milk at not less than $0.8475 per pound. The Secretary is authorized to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in such manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation.

The 50 cent reduction in the support price of milk now provided for in section 201(d)(1)(D)(i) of the 1949 Act is removed for the 1990 calendar year.

Section 1104. Reduction of deficiency payments for 1990 crops

Subsection (a) would amend the 1949 Act by adding a new section 425 to provide that the amount of deficiency payments made available to producers of the 1990 crop of wheat, feed grains, upland cotton, and rice under sections 107D(c), 105C(c), 103A(c), and 101A(c) of the Agricultural Act of 1949 shall be reduced as follows:

(1) 2.3 cents per bushel for wheat;

(2) 2.3 cents per bushel for corn (and a comparable amount for other feed grains, as determined by the Secretary);

(3) .51 cents per pound for upland cotton; and

(4) 5.1 cents per hundredweight for rice.

The section provides that to the extent practicable, the Secretary shall apply this reduction in payments to any advance deficiency payment made available to producers of the 1990 crops under section 107C of the Agricultural Act of 1949.

Subsection (b) would amend section 107C(a)(2)(G) of the Agricultural Act of 1949 to provide that in calculating any refund that might be owed by a producer under that section, the Secretary shall take into consideration any reduction in the payment made under section 425.

Section 1105. Planting of soybeans, sunflowers, and safflowers on permitted acreage

Subsection (a) would amend subsection (e) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) to provide for the planting of soybeans, sunflowers and safflowers on permitted acreage for the 1990 crop. Producers are permitted to plant up to 25 percent of their permitted acreage of wheat, feed grains, upland cotton, extra long staple cotton and rice permitted acreage to the selected oilseeds.

In providing producers with the option to plant selected oilseeds on permitted acreage, the Secretary is directed to establish a signup period during which producers on a farm participating in the 1990 crop wheat, feed grain, upland cotton, extra long stable cotton or rice price support and production adjustment programs must state their intentions regarding the use of the selected oilseeds planting provision.

After the end of the signup period, the Secretary shall estimate whether, based on producer participation in the selected oilseeds planting provision, the average market price for the 1990 crop of soybeans will be below 115 percent of the loan rate established for the 1989 crop of soybeans. If the Secretary estimates that the average price will be below 115 percent of such loan rate, the Secretary is directed to reduce the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers and safflowers to a level, or prohibit such plantings as is necessary to ensure that the average soybean market price does not fall below 115 percent of such loan rate.

In making such determination, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for any reduction in the permitted planting percentage, or prohibition on such plantings, udner this paragraph.

In order to preclude any future adjustment in a participating producers farm acreage base or the crop acreage base for the farm, any acreage on the farm on which soybeans, sunflowers or safflowers are planted under this section shall be considered to be planted to the program crop for which soybeans, sunflowers, or safflowers are substituted.

The Secretary may not make program benefits, other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans, sunflowers or safflowers under this subsection and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.

Subsection (b) would amend section 105C(f)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)(C)) to provide that in the case of the 1990 crop of feed grains, if the Secretary estimates, not later than September 30, 1989, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

(1) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12½ percent nor more than 20 percent;

(2) less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 12½ percent; or

(3) 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 10 percent.

Section 1106. Cost reduction options

This section would amend section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)). It would authorize the Secretary to allow a producer to repay a non-recourse or a producer reserve storage loan at less than the full principle of the loan if the Secretary determines that there would be benefits to the federal government.

Section 1107. Replanted acreage

This section would revise section 110 of the Disaster Assistance Act of 1989 by changing the provisions concerning the valuation of a crop planted to replace a crop lost or damaged by damaging weather in 1988 or 1989.

The revised section 110 would provide that, in determining the value of the replacement crop, the Secretary shall—

(1) only consider any production of the second crop that is in excess of 40 percent of the country average yield for such crop;

(2) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

(3) further reduce the value of the replacement crop by 25 percent.

In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers. The reduction provided for in section 110 shall only be applied against payments due with respect to acreage that was replanted.

The section further revises section 110 to provide that in determining disaster payments under subtitle I of the Disaster Assistance Act of 1989, the Secretary shall consider separately payments due on acreage that was not replanted and payments due with respect to acreage that was replanted.

SUBTITLE B—AGRICULTURAL TRADE PROGRAMS

Section 1201. Export Enhancement Program

Subsection (a) would provide that, during fiscal year 1990, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988, the Commodity Credit Corporation shall not make available to exporters, processors, or foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than $650,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

Subsection (b) would provide that during each of the fiscal years 1990, 1991, and 1992, the Commodity Credit Corporation shall, in carrying out the export enhancement program established pursuant to section 5(f) of the Commodity Credit Corporation Charter Act, promote the export of United States meat, including poultry products, to commissaries on military installations in the European Community. The Commodity Credit Corporation shall make available for such purposes not less than $14,000,000 (of the $650,000,000 referred to in subsection (a)) in funds or Commodities for fiscal year 1990, not less than $9,000,000 in funds or commodities for fiscal year 1991, and not less than $4,600,000 in funds or commodities for fiscal year 1992. Funds or commodities would be made available under this subsection only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries. The subsection also provides that section 4 of the Act of July 16, 1943 (15 U.S.C. 713a-9) shall not apply to services performed, losses sustained, operating costs incurred, or commodities purchased or delivered by the Commodity Credit Corporation pursuant to the provisions of this section.

Section 1202. Targeted export assistance

This section would amend section 1124(a) of the Food Security Act of 1985 by limiting the amount of funds of, or commodities owned by, the Commodity Credit Corporation available for the Targeted Export Assistance program to no more than $225,000,000 for fiscal year 1990.

Section 1203. Prohibition on duty drawback claims by exporters who use certain export promotion programs

Subsection (a) would provide that a person shall be ineligible for participation in any export program established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930, of any duty, tax, or

fee imposed under Federal law on an imported commodity or product.

Subsection (b) would provide that a person shall be ineligible for participation in any export program listed in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as drawback to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

The Secretary of Agriculture is directed to issue regulations necessary to carry out this section.

Subsection (c) would require any person applying to export any agricultural commodity or product under the export programs described in subsection (a) to certify that none of the commodity or product has been or will be used as the basis of a claim for any refund of duty drawback specified in subsection (a) (or in the case of an export of vegetable oil, of duty drawback specified in subsection (b)).

This section shall not apply, however, to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

SUBTITLE C—GENERAL PROVISIONS

Section 1301. Prepayment and interest rate adjustment of Federal financing bank loans made to rural electrification and telephone systems

This section would amend section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936A) to provide for prepayment of outstanding loans made by the Federal Financing Bank and Guaranteed by the Administrator of the Rural Electrification Administration. A borrower would be allowed to prepay such loans or loan advances, or any portion thereof, at any time or times without limitation as to dollar amount by paying the outstanding principal balance due on such loans or loan advances, or any portion thereof, being prepaid, if—

(1) private capital, with the existing loan guarantee, is used to replace the loan, or, at the option of the borrower, private capital (including internally generated funds), is used to prepay the loan; and

(2) the borrower certifies that any savings from such prepayment will be—

(A) passed on to its customers;

(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

(C) used to mitigate future rate increases.

If on the date of enactment of this section a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator under section 306, the interest rate on any of its existing Federal Financing Bank loans or loan advances, or portion thereof, shall, at the option of the borrower, be adjusted from its present rate to the Federal Financing Bank rate then in effect for new Federal Financing Bank loans of a maturity equal to the remaining life of such Federal Financing Bank loans or loan advances, or portion thereof.

Such Federal Financing Bank rate shall include a fee of .00126, consistent with the calculation of Federal Financing Bank rates to borrowers under this Act during fiscal year 1989.

An adjustment in an interest rate shall not be considered a prepayment of an existing loan. Such existing loan shall remain in place and none of the terms of such loan may be amended other than such adjustment in the interest rate and the payment of a fee is provided for in this subsection.

Any guarantee of a loan used to make a prepayment may be transferred to any loan subsequently used to refinance such loan without condition and shall be available for the remaining term originally agreed to by the Administrator.

A penalty, as provided by this subsection, shall be paid to the Federal Financing Bank by the borrower at the time of prepayment or interest rate adjustment. If the interest rate is adjusted on a loan or loan advance or any portion thereof, the borrower shall pay a one time penalty determined by multiplying—

(1) the principal balance of each Federal Financing Bank loan or loan advance, or portion thereof, with respect to which the interest rate is adjusted; by

(2) the difference between the annual percent interest rate on loans or loan advances undergoing such interest rate adjustments and the annual percent interest rate at the time of the interest rate adjustment of new Treasury borrowings of the same maturity as the average maturity on the Federal Financing Bank loans or loan advances, or portion thereof, undergoing interest rate adjustment.

If prepayment or interest rate adjustment of a loan (or advance) is made under this section no sums in addition to the payment of the outstanding principal of the loan or loan advance, or portion thereof, being prepaid, plus accrued interest and the penalty assessed for interest rate adjustment already described shall be charged, as the result of such prepayment or interest rate adjustment, against—

(1) the borrower;

(2) the Rural Electrification and Telephone Revolving Fund; or

(3) the Rural Electrification Administration.

Not later than 30 days after the enactment of this act, the Secretary of Agriculture shall issue regulations to carry out the provisions of this section.

In issuing such regulations, the Secretary shall—

(1) facilitate prepayment and interest rate adjustments of loan advances;

(2) provide for full processing of each prepayment request within 30 days of its submission to the Rural Electrification Administration;

(3) provide for full processing of each interest rate adjustment request within 10 days of its submission to the Rural Electrification Administration; and

(4) except as provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment or inhibits the ability of the borrower to enter into prepayment and interest rate adjustment arrangements pursuant to this section.

The amendment made by this section would become effective 30 days after the date of enactment of this Act.

Section 1302. Research into new commercial products from natural plant materials

This section would amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 by inserting a new section 1473E allowing the Secretary to conduct research related to new commercial product development. Specifically, the section would provide that the Secretary may relate to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and in doing so participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.

Section 1303. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions

Subsection (a) would provide that notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2266) shall become effective on October 1, 1992.

Subsection (b) provides that the Financial Assistance Corporation shall pay, out of the Trust Fund established under section 6.25 of the Farm Credit Act of 1971, to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation under section 6.29 of the Farm Credit Act of 1971, four annual payments as provided in this subsection.

The annual payments provided for by this section shall be made available as soon as practicable after October 1 of each of the calendar years 1989 through 1992.

The first annual payment made available under this section would be in an amount equal to—

(1) a percentage equal to 1.5 times the average rate of interest received by the Financial Assistance Corporation from March 30, 1988 through September 30, 1989; times

(2) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by the Financial Assistance Corporation September 30, 1989.

The second, third, and fourth payments made available under this subsection shall be in an amount equal to—

(i) a percentage equal to the average rate of interest received by the Financial Assistance Corporation during each of the fiscal years 1990 through 1992; times

(ii) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by September 30 of each of such fiscal years.

Annual payments due under this subsection shall be made available to each institution described in paragraph (1) in an amount equal to the total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $176,000,000.

Section 1304. Calculation of premiums by Farm Credit System Insurance Corporation

This section would amend section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) by revising the procedure used in calculating the premiums Farm Credit System banks pay for insurance under the insurance program established under the Farm Credit Act of 1987.

The section provides that until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured system bank for any calendar year shall be equal to the sum of—

(1) the annual average principal outstanding (as adjusted below) for such year on loans made by the bank that are in accrual status multiplied by 0.0015; and

(2) the annual principal outstanding (as adjusted below) for such year on loans made by the bank that are in non-accrual status multiplied by 0.0025.

The Corporation under procedures and criteria established by regulation, shall adjust downward the annual average principal outstanding for a bank during a year to exclude all or a portion of any principal outstanding on Government-guaranteed loans made by the bank and loans made by associations serviced by such bank, as appropriate on an actuarial basis to more accurately reflect the reduced risks associated with such loans for the holders of insured obligations of insured System banks.

As used in this section, the term "Government-guaranteed loan" means a loan, or portion of a loan, made by an insured system bank that carries a full faith and credit performance or loss guarantee or surety or an unconditional guarantee of the United States Government or any state government or of any department, agency, bureau, board, commission, or establishment thereof or any corporation wholly owned directly or indirectly by the United States or any state.

The amendments made by this section are to become effective on January 1, 1989.

SUBTITLE D—PROMOTION PROGRAMS

Chapter 1—Soybeans

Section 1401. Short title

This section provides that the chapter may be cited as the "Soybean Promotion, Research, and Consumer Information Act."

Section 1402. Findings and declaration of policy

This section sets forth the findings of Congress with respect to the importance of soybeans in the human diet and as a feedstuff for livestock, and in the economy, and the need to maintain and expand existing soybean markets and to develop new soybean markets; and the finding that soybean and soybean products move in or directly burden or affect interstate commerce. This section also includes a declaration of Congress that it is in the public interest to authorize the establishment of an orderly procedure for developing, financing—through assessments—and implementing a program of soybean promotion, research, and consumer information.

Section 1403. Definitions

This section provides definitions for words and phrases used in the chapter, including "first purchaser," which is defined as any person buying or otherwise acquiring from a producer soybeans produced by such producer, or if soybeans are pledged as collateral for a loan issued under a Federal price support loan program, the Commodity Credit Corporation. Also defined in this section are such terms as "net market price", "producer", and "qualified state soybean board."

Section 1404. Issuance of orders

This section will require the Secretary of Agriculture to publish a proposed soybean promotion, research, and information order for public comment within 30 days after receipt of the proposal for the order from the industry. The final order is to be issued no later than 120 days following publication of the proposed order.

Section 1405. Required terms in orders

This section sets forth the required provisions of the soybean promotion, research, and information order, including the establishment of the United Soybean Board appointed by the Secretary from nominations submitted by qualified state soybean boards, or if no qualified state soybean board exists in a geographic unit, from nominations submitted in the manner prescribed by the Secretary. This section also describes the powers and duties of the United Soybean Board.

Section 1405(e) will require the establishment of the Soybean Program Coordinating Committee to assist in the administration of the order. The Committee will be composed of 10 members and officers of the United Soybean Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that promotes soybeans as a cooperator with the Foreign Agricultural Service. The powers and duties of the Soybean Program Coordinating Committee are set out in this section, including responsibility for the development of plans and projects for soybean promotion, research, consumer information, and industry information, and for the development of budgets for such plans and projects which will be submitted to the United Soybean Board and the Secretary of Agriculture for their approval.

Section 1405(j) describes the assessment collection process under this chapter. Each first purchaser of soybeans from a producer will collect assessments from the producer and remit them to the United Soybean Board. Qualified state soybean boards will be used to collect assessments in states where such boards exist. The rate of assessment will be one half of one percent of the net market price of such soybeans sold by the producer to the first purchaser.

The order also is to make provision for producers to demand and receive refunds of their assessments both during the period prior to the initial referendum on the continuation of the order and (if supported by producers) during the operation of the order after the initial referendum. Producer support for continued refunds after the initial referendum will be determined through a polling and referendum process conducted by the Secretary. The Secretary will be reimbursed for the costs of administration, polling and referenda, except for a referendum conducted under paragraph (2)(F)(iv).

Producers will receive credits against assessments for contributions made to a qualified state soybean board of up to one quarter of one percent of the net market price; and qualified state soybean boards will receive credits on collected assessments sufficient to maintain their assessment income at reasonable levels.

Section 1406. Referenda

This section provides that no earlier than 18 months or later than 36 months following the issuance of the soybean promotion, research, and information order, the Secretary of Agriculture shall conduct a referendum among soybean producers to determine whether the order is to be continued. The order will continue in effect if approved by a majority of the producers voting in this initial referendum. Five years after the conduct of each referendum, and every five years thereafter, the Secretary is to offer an opportunity for producers to request additional reconfirmation referenda.

Section 1407. Petition and review

This section will require that challenges to the soybean promotion, research, and information order be first brought before the Secretary of Agriculture for hearing and a ruling, and then for review of the Secretary's ruling in the United States district courts.

Section 1408. Enforcement

This section will authorize the Secretary of Agriculture to issue cease and desist orders and assess civil penalties for violations of the soybean promotion, research, and information order. The United States district courts will be authorized to enforce such orders and penalties, and the United States courts of appeals may review such orders and penalties.

Section 1409. Investigations; power to subpoena and take oaths and affirmations; aid to courts

This section will authorize the Secretary of Agriculture to make such investigations as are necessary to administer and enforce the chapter, and provide the Secretary with the power to subpoena witnesses, administer oaths and affirmations, and otherwise obtain records and evidence. The courts of the United States are authorized to enforce the subpoenas issued by the Secretary through use of their contempt power.

Section 1410. Administrative provisions

This section provides that the chapter is not to supersede or preempt any state soybean promotion program, except that (1) states may not conduct certain referenda on the continuation of their programs from the time of the issuance of the order until 18 months after the referendum under this Act and (2) state limits on assessment rates will not prohibit qualified state soybean boards from recovering the full amount authorized under the chapter.

Section 1411. Authorization of appropriations

This section will authorize the appropriation of such funds as are necessary to implement the chapter and the soybean promotion, research, and information order, although appropriated funds may not be used by the United Soybean Board or the Soybean Program Coordinating Committee to pay their administrative expenses.

Section 1412. Regulations

This section will authorize the Secretary of Agriculture to issue regulations to carry out the chapter.

Chapter 2—Cotton

Section 1501. Short title

Section 1501 provides that the bill may be cited as the "Cotton Research and Promotion Act Amendments of 1989".

Section 1502. Legislative findings and declaration of policy

Section 1502 would amend Section 2 of the Cotton Research and Promotion Act to provide that it is the policy of the Congress and the purpose of the Act to authorize assessments on all cotton marketed in the United States including imports of cotton.

Section 1503. Alternative order

Section 1503 would amend the Cotton Research and Promotion Act by requiring the Secretary to issue a new order, substantially the same as the existing order, except that it will require the assessment of imports and end the present practice of refunding assessments to domestic producers who request them.

Subsection (a)(1) requires the Secretary to issue an alternative order within 60 days of request by a producer or producer organization.

Subsection (a)(2) specifies that the alternative order shall include terms and conditions as prescribed in the section and shall terminate the Cotton Board's authority to process refunds.

Subsection (a)(3)(A) specifies that certain provisions of the existing order will be incorporated into the alternative order. Sub-

section (a)(3)(B) provides that incumbent members of the Cotton Board shall continue to serve their full term.

Subsection (b)(1) provides that the alternative order will authorize establishment and selection of a Cotton Board by the Secretary of Agriculture.

Subsections 2(b)(A)-(D) provide that the alternative order shall define the powers and duties of the Cotton Board.

Subsection (b)(3) provides for the composition of the Cotton Board. Subsection (b)(3)(A)(i) provides that the Secretary's selection should be from nominations made by eligible producer organizations or in certain cases nominations submitted to the Secretary in a prescribed manner and that representation on the board should reflect each state's proportion of total upland cotton marketings. Subsection (b)(3)(A)(ii) provides that the Secretary shall also appoint an appropriate number of importers to the Board. Subsection (b)(3)(B) provides that each cotton producing state shall have one representative on the Board. Subsection (b)(3)(C) provides that the Secretary shall consult with certified importer organizations when identifying importer candidates for the Board. Subsection (b)(3)(D) provides that the Secretary may appoint consumer advisors to the board and reimburse certain expenses.

Subsection (c) provides that the Cotton Board must prepare and submit a plan covering proposed activities to the Secretary for review and approval.

Subsection (d) provides that the Cotton Board must prepare and submit a detailed budget to the Secretary for review and approval.

Subsections (e)(1)(A)-(C) require that the alternative order provide that a producer shall pay to the handler of cotton an assessment in the manner prescribed by the regulations; that the handler shall collect and pay the assessment to the Cotton Board; and the importer shall pay the prescribed assessment to the Cotton Board on imports of cotton.

Subsections (e)(2) and (e)(2)(A)-(B) provide for establishment of a reasonable reserve and require that the board reimburse the Secretary up to $300,000 for each referendum and for administrative costs of up to 5 employee years after an order or amendment has been made effective.

Subsection (e)(3) provides that agencies of Government assisting in administering the import provisions will be reimbursed for a reasonable amount of expenses.

Subsection (e)(4) provides that different classes of handlers and importers may be established to facilitate collections and payment of assessments, provided not more than one assessment may be collected on each bale.

Subsection (e)(5) provides that the per bale assessment to be prescribed in the alternative order shall be $1.00 plus a supplemental amount not to exceed 1 percent of the value as determined by the Cotton Board.

Subsection (e)(6) prohibits advertisements or solicitation of votes under authority of this Act.

Subsection (e)(7) (A)-(C) provides that the Secretary may file suit against a person subject to the alternative order for collection of the assessment in any district court and that this authority is in addition to other remedies.

Subsections (e)(8)(A)-(C) provide that the rate of assessment on imports of cotton should be determined in the same manner as the rate of assessment on domestically produced cotton; the value placed on cotton imports for the purpose of collecting the assessment should be established by the Secretary in a fair and equitable manner so that the assessment on imports will be as near as possible to that paid on an equivalent volume of domestically produced cotton; and that the Secretary is authorized to reduce the assessment on imported cotton to reflect the re-importation of domestically produced cotton in the form of value-added products.

Subsection (f) provides that the alternative order require the Cotton Board to maintain certain books and reports for the Secretary and that an appropriate accounting system be utilized to track receipts and disbursements.

Subsections (g)(1)(A) and (B) provide authority for the Cotton Board to enter into contracts with the Secretary's approval, to carry out authorized activities and to pay such contracts with assessments collected under the order.

Subsection (g)(2) provides that an organization or association is eligible to enter into a contract with the Cotton Board if such organization or association consists of cotton producers selected by the cotton producer organizations certified by the Secretary in such manner as to ensure representation proportionate to cotton marketing in each cotton producing state.

Subsection (g)(3) provides that a contractor shall develop and submit an annual program and budget to the Cotton Board for review and making recommendations to the Secretary and that such program of projects shall become effective on approval by the Secretary.

Subsection (g)(4) provides that contractors shall keep accurate records and make an annual report to the Cotton Board of activities carried out and funds received and expended.

Subsection (h) prohibits use of assessment income to influence governmental policy or action except as specifically authorized by subsection (b)(2)(D).

Section 1504. Referenda requirements for alternative order

Subsection (b)(1) of section 1504 would amend Section 8 of the Cotton Research and Promotion Act by requiring that the Secretary, within one-hundred twenty days after publication of the proposed alternative order, will issue the alternative order after notice and opportunity for public comment.

Subsection (b)(2) of section 1504 provides that the Secretary, within eight months of enactment of the Cotton Research and Promotion Amendments Act of 1989, shall conduct a referendum and the alternative order would become effective on an interim basis if approved by a majority of producers voting.

Subsection (b)(3) of section 1504 requires, if the alternative order is approved, the publication of regulations implementing the alternative order for an interim period pending results of a subsequent referendum and final regulations.

Subsections (c)(1)-(5) of section 1504 provide that, if the first referendum is approved, the Secretary shall conduct another referendum, within fifteen to thirty months of enactment of the Cotton Research and Promotion Amendments Act of 1989, among producers and importers and, within ninety days of publication of the results of the referendum, the Secretary shall issue final regulations implementing the alternative order unless disapproved by a majority of producers and a majority of importers of cotton voting in the referendum, in which case the Secretary shall issue an order terminating the alternative order.

Subsection (c)(6) of section 1504 provides that 10 percent of assessments collected from importers and producers would be held in escrow pending results of the referendum in which importers participate and would be refunded, after deduction of a proportion of expenses incurred by Government agencies, if the alternative order is disapproved, upon demand by the importer or producer that paid the assessment in accordance with regulations and within a time prescribed by the Cotton Board. If the alternative order is approved, the escrow account would be released on publication of the final regulations by the Secretary.

Subsections (d)(1)-(5) of section 1504 provide that if the foregoing referendum occurs, once every five years thereafter, producers and importers may request another referendum to determine whether the alternative order should continue, of if it is not then in effect, whether the alternative order should become effective. The alternative order would be subject to referendum if ten percent of producers and importers request the referendum, provided, not more than twenty percent of the persons making the request represent producers from any one state or importers of cotton. The alternative order would be effective unless disapproved by a majority of producers and a majority of importers voting.

Subsection (e) of section 1504 provides that disapproval of any amendment to an order issued under this Act shall not be deemed to invalidate such order.

Section 1505. Producer refunds; termination

Section 1505 will amend section 11 of the Cotton Research and Promotion Act by providing for termination of the Cotton Board's authority to process applications for refunds if the alternative order is approved in a referendum.

Section 1506. Definitions

Subsection (1) of section 1506 will amend Section 17(c) of the Cotton Research and Promotion Act to provide that "cotton" means all upland cotton harvested in the United States and imports of upland cotton, including the upland cotton content of the products derived thereof (other than industrial products as defined by the Secretary). Under subsection (2) the Secretary is authorized to provide an exemption for (1) any entry of cotton, including the cotton content of cotton products, that has a value or weigh less than a de minimis figure established by the Secretary, and (2) all entries by an importer during a calendar year if they total less than a de minimis amount established by the Secretary. The de minimis amounts established by the Secretary shall be levels designed to minimize the administrative burden but provide for maximum participation of imports in the assessment provisions of the Act.

Subsection (3) of section 1506 will amend section 17(d) of the Act to provide that the definition of handler includes, for the purposes of sections 3, 6 (c), and 13, any person who imports cotton as defined in clauses (A) and (B) of subsection (c).

Subsection (3) of section 1506 will also amend section 17 of the Act by adding a definition of "importer" as any person who enters, or withdraws from warehouse, cotton for consumption in the customs terri-

tory of the United States and defines the term "import" as any such entry.

Chapter 3—Pecans

Section 1601. Short title

This section would provide that this chapter may be cited as the "Pecan Promotion and Research Act of 1989".

Section 1602. Findings, policy, and construction

This section lists findings relating to the nutritional and economic importance of pecans as well as the need to expand the market for pecans. No limit is placed on any producer's right to grow pecans.

Section 1603. Definitions

This section establishes definitions for the terms "board", "Conflict of interest", "Department", "district", "first handler", "grower", "grower-sheller", "handle", "importer", "inshell pecan", "marketing year", "member", "pecan", "person", "promotion", "research", "Secretary", "shell", "shelled pecan."

Section 1604. Authority to issue orders

This section would provide that the Secretary shall issue and from time to time amend orders applicable to growers, shellers, first handlers and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

Section 1605. Notice and hearings

This section would provide that the Secretary may propose the issuance of an order under this chapter or an association of pecan growers or grower-shellers or any other person that will be affected by this chapter may request the issuance of an order. Not later than 60 days after the receipt of a request and proposal by an interested person for an order or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

Section 1606. Findings and issuance of orders

This section would provide that after notice and opportunity for public comment are given, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter. Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

Section 1607. Regulations

This section would provide that the Secretary may issue such regulations as are necessary to carry out this chapter.

Section 1608. Required terms in orders

This section provides for the establishment of a Pecan Marketing Board which will serve the entire domestic pecan industry and will promote only generic pecans.

The membership of the board shall consist of 15 members including eight growers, four shellers, one first handler who receives over 50 percent of the members income from buying and selling pecans and one importer, nominated by the board and one member representing the general public. At the option of the board a consultant or advisor representing a pecan producing country other than the United States who may be chosen to attend board functions as a nonvoting member.

The section also specifies geographic distribution of membership on the board. Each member on the board shall have an alternate with the same qualifications as the member such alternate would replace. There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State representing the district that it is in.

The Secretary may approve regulations submitted by the board, at least once each 3 years and not more than once each 2 years, to reapportion a district in order to more accurately reflect changes in production and import patterns. Nominations to the board shall be provided to the Secretary only after reasonable publicity to interested parties.

Members of the board shall serve for 3-year terms, except that members appointed to the initial board shall serve for terms of 1, 2, and 3 years as determined by the Secretary. Board members shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for the Board.

The bill would establish the duties of the board including the preparation of a budget, the recommendation on the amount of the assessment rate, the development of programs, and the keeping of records. The bill would also establish those expenses which may be paid with board funds, including implementation, administrative, and referendum costs, and sets a limit on the Board's administrative costs.

No funds collected by the board shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to this chapter.

The section describes the record keeping requirements for first-handlers, grower-shellers, and importers. These requirements include submitting reports and making books and records available for inspection when it is considered necessary by the Secretary to ensure compliance with this chapter. Any information obtained shall be kept confidential unless certain exceptions apply.

Section 1609. Permissive terms in orders

This section would require that the order provide authority to exempt from the order pecans used for nonfood uses and provide authority for the board to require safeguards against improper uses of such exemptions. The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers and importers to recognize differences in marketing practices and procedures utilized in different production areas.

The order may provide for the establishment of appropriate programs or projects for the advertising and sales promotion of pecans and for the disbursement of necessary funds for such purposes except that any program shall be directed toward increasing the general demand for pecans and such activities shall comply with other restriction on the use of funds that are established in this chapter.

The order may provide for research and development projects and studies so that marketing and utilization of pecans may be encouraged.

The order may provide authority to accumulate reserve funds from assessments collected under this chapter to permit an effective and continuous program of research, development advertising and promotion in years when production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of this chapter for 2 years. The order may provide authority to use funds collected under this chapter with the approval of the Secretary for the development and expansion of pecan sales in foreign markets.

Section 1610. Assessments

This section would provide for the assessment of all pecans produced in, or imported into, the United States. Assessments will be deducted from the payment made to a grower when the pecans are sold to a first handler. No lot of pecans shall be assessed more than once. Assessments shall be collected and remitted to the board by first handlers and grower-shellers. Importers shall pay the assessment when the pecans enter the United States.

Assessment rates shall be recommended by board and approved by the Secretary. Prior to the referendum, the maximum assessment shall be one-half cent per pound inshell or the equivalent. After the referendum is conducted, the maximum assessment shall be two cents per pound.

In addition to the maximum assessment rate prescribed in this paragraph, an additional one-quarter cent special state assessment may be remitted to the board in a manner prescribed by the Secretary for the purpose of utilizing such funds by the state board for research projects to promote pecans conducted pursuant to state law.

During the period beginning on the effective date of this chapter and ending on the date the referendum is conducted, an escrow account shall be established into which ten percent of the assessments collected shall be placed. If the referendum fails, producers and importers which paid assessments but do not support the program can receive a one-time refund. If the amount in escrow is insufficient to refund the eligible requests, the Board shall prorate the refunds among all eligible producers and importers demanding a refund.

Section 1611. Petition and review

This section provides that a person subject to an order established under this chapter may file a petition with the Secretary stating that the order or any provision or obligation imposed in connection with the order is not in accordance with law and requesting a modification to or exemption from the order. The petitioner shall be given the opportunity for a hearing on the petitions. After such hearing the Secretary shall make a ruling on the petition. Such ruling shall be final if in accordance with law.

The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling if a complaint for that purpose is filed within 20 days after the date of entry of such ruling.

Section 1612. Enforcement

This section would authorize the Secretary, following notice and hearing, to issue cease and desist orders and assess civil penalties for violations of any provision of this chapter. The United States district courts are authorized to enforce such orders and penalties, and the United States courts of appeals may review orders and penalties. The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action. Certain exceptions to this provision apply.

Any person who violates any provision of this chapter may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each violation. In addi-

tion or in lieu of, such civil penalty, the Secretary may issue a cease and desist order to prevent an individual from continuing such action.

A review process is established whereby an individual may appeal the findings of the Secretary.

Section 1613. Investigations and power to subpoena

The Secretary is authorized to make such investigations as are necessary to administer and enforce the chapter. The chapter provides the Secretary with the power to subpoena witnesses, administer oaths and affirmations, and take evidence.

Section 1614. Requirement of referendum

This section would provide that, not later than 24 months after the effective date of this chapter, the Secretary shall conduct a referendum among growers, grower-shellers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans for purpose of ascertaining whether the industry favors continuation, termination or suspension of the order.

If, as a result of any referendum conducted under this chapter, the Secretary determines that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall suspend or terminate collection of assessments under the order and suspend or terminate activity under the order in an orderly manner as soon as practicable.

The Secretary shall be reimbursed from any assessments collected by the board for any expenses incurred by the Department in connection with the conduct of any referendum under this chapter, except for the salaries of government employees.

A pecan grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this chapter shall register in person prior to the voting period at the appropriate local ASCS office after receiving notice for the office concerning such referendum.

A pecan grower, grower-sheller, or importer who votes in any referendum shall vote in person at the appropriate local ASCS office. Each ASCS office shall notify all pecan growers and grower-shellers in the area at least 30 days prior to a referendum conducted under this chapter. Such notice shall explain the procedure established under this subsection.

Section 1615. Termination of the plan

This section provides that if the Secretary determines that the program established by this chapter or any provision of such program obstructs the purpose of this chapter, the Secretary shall terminate or suspend the operation of any such plan or provision.

The Secretary may conduct a referendum at any time, but must conduct a referendum upon the request of ten percent or more of the growers. The referendum shall be decided by a majority of the pecan producers and importers voting.

Section 1616. Amendments

This section would provide that the provisions of this chapter applicable to plans shall be applicable to amendments to plans.

Section 1617. Authorization of appropriations

This section provides that there are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the board in administering any provision of any order issued under this chapter.

Chapter 4—Mushrooms

Section 1701. Short title

This section provides that the chapter may be cited as the "Fresh Mushroom Promotion, Research, and Consumer Information Act."

Section 1702. Findings and declaration of policy

This section sets forth the findings of Congress with respect to the importance of fresh mushrooms and the need to maintain and expand existing markets and uses, and to develop new markets and uses, of fresh mushrooms; and that fresh mushrooms move in or directly burden interstate commerce. It also contains a declaration of Congress that it is in the public interest to authorize the establishment of an orderly procedure for developing, financing—through assessments—and carrying out a program of promotion, research, and consumer information for fresh mushrooms.

Section 1703. Definitions

This section provides definitions for words and phrases used in the chapter, including "mushrooms," which are defined as all varieties of cultivated mushrooms commercially grown or imported into the United States for the fresh market, except those that are to be processed. The term "first handler" will be defined to mean any person who acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, including mushrooms of the person's own production. The order itself will describe the various entities that will be considered handlers.

Section 1704. Issuance of orders

This section will require the Secretary of Agriculture to publish a proposed fresh mushroom promotion, research, and information order for public comment within 60 days after receipt of the proposal for the order from the industry. Subject to referendum, the final order shall be issued by the Secretary no later than 120 days following publication of the proposed order.

Section 1705. Required terms in orders

This section sets forth the required provisions of the fresh mushroom promotion, research, and information order, including the establishment of a Mushroom Council (appointed by the Secretary from nominations submitted by producers and importers and the powers and duties of the Mushroom Council.

Section 1705(g) describes the assessment collection process under the order. Each first handler of mushrooms for the domestic fresh market produced in the United States will collect assessments from producers and remit them to the Mushroom Council. Importers and persons directly marketing mushrooms of their own production will pay assessments directly to the Mushroom Council. The rate of assessment is not to exceed one quarter cent per pound in the first year of the order, one half cent per pound in the second year of the order, and one cent per pound in the third and following years of the order. Beginning with the fourth year of the order, the order may be amended to permit assessments of up to two cents per pound. However, any such amendment that increases the assessment rate above one cent per pound will become effective only if approved in a referendum of producer and importers.

Producers and importers of less than 500,000 pounds annually will be exempted from the assessment.

Section 1705(h) will prohibit the Mushroom Council from using assessment funds to influence legislation or government action or policy, with the exceptions of: (1) recommending amendments to the order; and (2) developing voluntary grade and quality standards for mushrooms (which would be submitted to the Secretary of Agriculture for promulgation under the separate authority of the Agricultural Marketing Act of 1946). These grades and standards would be administered by the Department of Agriculture on a user fee basis.

Section 1706. Referenda

This section provides that no later than 60 days prior to the effective date of the fresh mushroom promotion, research, and information order, the Secretary of Agriculture must conduct a referendum among producers and importers to determine whether the order shall go into effect. The order will become effective if approved by a majority of the producers and importers voting if that majority produces and imports more than 50 percent of the fresh mushrooms produced and imported by all those voting in the referendum. Effective three years after the order has been in effect, if at least 30 percent of the fresh mushroom producers and importers request it, a reconfirmation referendum may be held by the Secretary. Further, a reconfirmation referendum must be conducted five years after the order becomes effective. In a reconfirmation referendum, the order will be suspended or terminated if such is favored by a majority of producers and importers voting and if that majority produces and imports more than 50 percent of the fresh mushrooms produced and imported by all those voting in the referendum.

Section 1707. Petition and review

This section will require that challenges to the fresh mushroom promotion, research, and information order under this chapter be first brought before the Secretary of Agriculture for hearing and a ruling, and then if necessary in the United States district courts for review of the Secretary's ruling. Assessments will continue to be collected during the pendency of any such challenge.

Section 1708. Enforcement

This section will authorize the Secretary of Agriculture, following notice and hearing, to issue cease and desist orders and assess civil penalties for violations of the fresh mushroom promotion, research, and information order under this chapter. The United States district courts will be authorized to enforce such orders and penalties, and the United States courts of appeals may review such orders and penalties.

Section 1709. Investigations; power of subpoena and administer oaths and affirmations; aid of courts

This section will authorize the Secretary of Agriculture to make such investigations as are necessary to administer and enforce the chapter, and provide the Secretary with the power to subpoena witnesses, administer oaths and affirmations, and otherwise obtain records and evidence. The district courts will be authorized to enforce the subpoenas issued by the Secretary through use of their contempt power.

Section 1710. Savings provision

This section provides for the continued operation of current state mushroom promotion, research, or information programs.

Section 1711. Authorization of appropriations

This section will authorize the appropriation of such funds as are necessary to implement the chapter and the fresh mushroom promotion, research, and information order, although appropriated funds could not be used by the Mushroom Council to pay its administrative expenses.

Section 1712. Amendments

This section provides that the provisions of this chapter applicable to orders will be applicable to amendments to orders.

Section 1713. Authorization

This section authorizes such funds as are necessary to carry out this chapter.

Chapter 5—Limes

Section 1801. Short title

This section provides that the bill may be cited as the "Fresh Lime Research, Promotion, and Consumer Information Act" (the "Act").

Section 1802. Findings; purposes; and limitations

This section highlights the need for improved domestic and foreign markets for limes and the increase in lime imports in recent years. This section also provides that the purpose of the Act is to establish an effective program for research, promotion, and consumer information regarding limes which will treat domestic and foreign limes equitably, and authorizes procedures for the development and financing of such a program. Major limitations are that the Act does not require quality standards or production controls for limes and that nothing in this Act shall be construed as a trade barrier.

Section 1803. Definitions

This section provides definitions of "consumer information," "research," "promotion," "producer," "importer," and other terms used throughout the Act.

Section 1804. Lime research promotion and consumer information order

This section gives the Secretary of Agriculture authority to issue and amend lime orders and provides for submission, notice and public comment of orders. This section further requires that the Secretary act within 30-days after an initial proposal for an order if order is received and that the Secretary shall issue the order or amendment subject to such notice and public comment if the order or amendment will further the purposes of the Act. Additionally, Section 4 provides that an order shall be effective on the date issued.

Section 1805. Required terms of an order

This section specifies the composition of the Lime Board and provides that the Secretary shall appoint the board members. This section further provides that the seven members who are producers shall be appointed from individuals nominated by lime producers and that the three members who are importers shall be appointed from individuals nominated by lime importers. The one public representative is to be appointed from nominations of the Board. Should the producers and importers fail to nominate individuals, the Secretary is given discretion to appoint members as provided for in the order. A failure of the board to nominate a public representative allows such a member to be appointed by the Secretary without a nomination.

This section also provides that the Secretary shall appoint an alternate for each board member who is absent from a meeting or who becomes disqualified. Such alternate shall serve in the same manner as the member the alternate replaces. The terms of board members shall be for three years, with the terms of members first appointed to be staggered. This section also provides that if an alternate or a member ceases to be a member of the group for which he or she was appointed, the alternate or member shall be disqualified from serving. All board members serve without compensation but shall be reimbursed for travel expenses.

This section enumerates the powers and duties of the board which include administering orders issued by the Secretary and prescribing rules and regulations to enforce the orders. This section provides that an order include annual budgets and plans as well as provide for the imposition and collection of assessments at a rate not to exceed $.01 per pound of fresh limes. The order provides a procedure for the collection of assessments and provides an exemption for producers, producer-handlers, or importers who produce, handle, or import less than 35,000 pounds of limes in a particular year and who submit an application to the Board.

Asssessments may be used for research, promotion, consumer information, and for reimbursing the Secretary for expenses incurred in conducting referenda. The assessment shall not be used for promotions which make false claims nor for the purpose of influencing government policy. This section further provides that individuals responsible for collecting assessments shall maintain books and records for inspection by the Secretary, that the board maintain books and records regarding funds received by it, and that the board submit an annual report to the Secretary and other reports as the Secretary may require. The information contained in such reports and records shall be kept confidential by all officers and employees of the U.S. Department of Agriculture and the board unless the information is used in a suit or an administrative hearing. The issuance of general statements which do not identify the information furnished by any person and the publication of the identity of persons who violate the order is permitted under this section.

Section 1806. Permissive terms and provisions

This section provides authority to the board with approval of the Secretary to exempt limes exported from the United States and provides authority for payment to the board of that portion of an assessment under the Act which is greater than any assessment currently paid (under an existing marketing order). The board is also given the authority under this Act with approval of the Secretary to adjust schedules to recognize differences in marketing practices and procedures, to convene working groups, to accumulate reserve funds from assessments, and to use funds for the development and expansion of lime sales in foreign markets.

Section 1807. Petition and review

This section permits a person subject to the order to petition the Secretary stating that the order is not in accordance with the law and requesting a modification of the order. Provisions for a hearing and a ruling by the Secretary are also contained in this section. A person aggrieved by the ruling may obtain a review within 20-days in the district court within the jurisdiction in which he or she carries in lime-related business. Other procedures for service of process and remand to the Secretary are included in this section. Finally, this section provides that ongoing petition and review proceedings shall not impede the enforcement of regulations and orders promulgated under the Act.

Section 1808. Enforcement

This section vests the district courts with jurisdiction to enforce the orders or regulations issued under the Act. The Secretary is given discretion to refer civil actions involving enforcement of the Act to the Attorney General. Civil penalties for the violations of any provision of the order shall range between $500 and $5,000. Each violation is to be considered a separate offense. The Secretary may also issue cease and desist orders under this section to persons violating provisions of the Act. Notice of and an opportunity for a hearing must precede both a civil penalty assessment and a cease and desist order.

The penalty as well as the cease and desist order may be reviewed by the Court of Appeals in which the person resides or carries on business or in the U.S. Court of Appeals for the District of Columbia Circuit. The Secretary shall file the record with the court and findings of fact contained in the record shall be considered conclusive if supported by substantial evidence in the record taken as a whole. Any person who fails to obey a final and unappealable cease and desist order or who fails to obey an order after a final judgment is rendered in favor of the Secretary shall be subject to a civil penalty of not more than $500 for each offense. An opportunity for hearing and judicial review shall be afforded before the assessment of a civil penalty.

A similar failure to pay assessments shall result in referral to the Attorney General for recovery of the assessment. The final order imposing the civil penalty shall not be subject to review.

Sec. 1809. Investigations and subpoena power

This section gives the Secretary the power to undertake necessary investigations and issue subpoenas.

Section 1810. Initial referendum

This section requires the Secretary to conduct a referendum not later than two years after the date on which he first issues an order to determine whether the issuance of an order is approved or favored by a majority of producers, handlers, producer-handlers, and importers. Ballots shall be kept confidential in the referendum.

Section 1811. Suspension and termination

This section gives the Secretary the authority to suspend or terminate an order or a provision of an order if he determines that the order or provisions of the order do not effectuate the purposes of the Act. This Section also grants the Secretary authority to conduct referenda periodically to determine whether any order should remain in effect.

The Secretary is required to hold a referendum if the board requests one, if not less than 10 percent of the producers, producer-handlers, and importers submit a petition requesting a referendum, and whenever the Secretary conducts a referendum pursuant to an order issued under Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c)

reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

The Secretary shall suspend or terminate the order at the end of the marketing year if suspension or termination is favored by not less than a majority of those voting in a periodic referendum and if a majority of those voting in the periodic referendum produce and import more than 50 percent of the volume of limes produced and imported by those voting in the required referendum.

Section 1812. Amendments.

This section requires that provisions of this chapter applicable to orders will be applicable to amendments to orders.

Section 1813. Authorization

This section authorizes such funds as are necessary to carry out the chapter.

Section 1814. Regulation

This section provides the Secretary the power to issue necessary regulations.

Chapter 6—Potatoes

Section 1901. Short title

This section would provide a short title to the proposed legislation, entitled the "Potato Research and Promotion Act Amendments of 1989".

Section 1902. Findings and declaration of policy

This section would amend section 302 of the Potato Research and Promotion Act to include foreign countries in the declaration of policy regarding potatoes.

Section 1903. Definitions

This section will amend section 303 of the Potato Research and Promotion Act by adding importers to the list of definitions.

Section 1904. Authority to issue plans

This section would amend section 304 of the Potato Research and Promotion Act to make potatoes produced in foreign countries subject to any plan issued by the Secretary.

Section 1905. Alternative plan

This section would amend the Potato Research and Promotion Act by inserting a new section 308A. This new section will require the Secretary to issue a new plan which is substantially the same as the present plan except that it will assess importers and preclude refunds. Subsection (a) requires that the Secretary publish the proposed alternative plan required by this section within 60 days of the receipt of a request from a producer or producer organization to implement such a plan. Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member.

Subsection (b) provides for the establishment by the Secretary of a National Potato Promotion Board. The board shall have powers to administer such plan, to make rules and regulations to effectuate the terms and conditions of such plan, to receive, investigate and report to the Secretary complaints of violations of such plan and to recommend to the Secretary amendments to such plan. The board is to be composed of representatives of producers and up to five representatives of importers and the public appointed by the Secretary. Representatives of producers and importers shall be nominated by producers and importers. Public representatives shall be nominated by the Board.

If producers, or importers fail to select nominees for appointment, the Secretary may appoint persons. Inclusion of public representatives on the board shall not be subject to approval in a referendum. Board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board. The alternative plan provides that the board shall prepare and submit to the Secretary for approval of the Secretary a budget of the anticipated expenses and disbursements of the board in administering the plan.

Subsection (c) provides that the board under the alternative plan will recommend assessment levels to the Secretary. The Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar year United States average price received for potatoes by growers. Funds collected by the board shall be used for research, development, advertising or promotion of potatoes and potato products as well as administration, maintenance and function of the board, including any referendum and administrative costs incurred by the Department.

Payment to the Department of Agriculture for any referendum and administrative costs shall not be subject to producer or importer approval in a referendum. No advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their competing products. No funds collected by the board shall be used for the purpose of influencing any government policy or action, except to recommend amendments to the alternative plan. The alternative plan shall not provide for a refund of funds collected by the board.

Subsection (d) provides that the alternative plan shall provide that the board shall, subject to the rate and use specified in this section, develop and submit to the Secretary for approval any research, development, advertising or promotion program or projects for approval by the Secretary before becoming effective.

The Board, under the alternative plan, shall have the authority to enter into contracts or agreements with the approval of the Secretary for carrying out any research, development, advertising or promotion program or projects. These programs shall be paid for out of funds collected under this chapter.

The alternative plan shall provide that the board shall maintain books and records and shall submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting and shall cause a full audit report to be submitted to the Secretary at the end of each fiscal period.

Subsection (g) provides that during the period beginning on the effective date of the alternative plan and ending on the date of the referendum on the alternative plan, the board shall establish an escrow account and place 10 percent of all collected funds in such account.

During the period prior to the referendum and subject to proper submission of demand, and proof of payment, producers and importers may request a refund of their assessments from the escrow account provided that the producer was responsible for submitting the payments, that the producer did not support the program and that the alternative plan was not approved under a referendum. In providing such refund, if the amount of funds held in the escrow account are not sufficient to refund the total amount of assessments demanded by all eligible producers and importers and if the alternative plan is not approved, the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund. The alternative plan shall apply to all 50 states.

Section 1906. Assessments

This section amends section 310 of the Potato Research and Promotion Act by providing an assessment on imported tablestock, frozen, or processed potatoes for ultimate consumption by humans and seed potatoes. The assessment shall be established by the board so that the effective assessment rate shall equal that established on domestic production and shall be paid by the importer to the Potato Board at the time of entry into the United States. Each importer shall maintain a separate record indicating the total quantity of tablestock, frozen, or processed potatoes for ultimate human consumption or seed potatoes imported that are included under the terms of the plan and such other information as may be prescribed by the board.

Importers responsible for payment of assessments shall maintain and make available for inspection by the Secretary such books and records as are required by the plan, shall file reports at the times prescribed by the plan and shall make such information available to the board and Secretary as is appropriate. Assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary for implementing and administering the amendments made by this act.

Section 1907. Referendum requirement for alternative plan

This section would amend section 314 of the Potato Research and Promotion Act by requiring that not later than 120 days after the publication of the proposed alternative plan the Secretary will issue the proposed plan. Not later than 24 months after the effective date of these amendments, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes. The alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers voting in the referendum. If such a plan is not approved, the Secretary shall terminate such alternative plan and the original plan issued under section 308 of the Potato Research and Promotion Act.

Chapter 7—Honey

Section 1921. Short title

This section would provide a short title to the proposed legislation.

Section 1922. Definitions

This section would amend section 3 of the Honey, Research, Promotion and Consumer Information Act to provide that the term "exporter" shall be defined as a person who exports honey or honey products from the United States.

Section 1923. Required terms of order

This section would amend section 7(b) of the Honey Research, Promotion and Consumer Information Act (the "Honey Act") by providing that each state association would nominate one person from the state to serve on the national Honey Nominations Committee and that the Committee would

nominate one person for each member or alternate position on the Honey Board.

Subsection 7(c) of the Honey Act would be amended to permit one of the two seats on the Honey Board currently allotted to importers to be filled by an exporter. The field of qualified importers is limited and when the current members and alternates must step down at the end of their terms, replacing them will be difficult. Also, imports have been reduced since the marketing loan program was instituted and exporters have been increased so that it would be appropriate to substitute an exporter for an importer on the board if necessary. Imports have been reduced from a high of 138.2 million pounds in 1985 to 55.9 million pounds in 1987.

Subsection 7(c) of the Honey Act also would be amended to permit a member of the board or an alternate to serve out that person's term if, as a result of redistricting, the residence of the member or alternate is no longer in the region from which the person was appointed. Producer districts are reviewed every five years and may be redrawn as a result of the review. The amendment assures continuity on the Board. A person is selected for a three year term and under the amendment would serve an area in which he no longer resided for a relatively brief period.

Subsection 7(e) of the Honey Act would be amended to provide that those producers or producer-packers who produce, or produce and handle, less than 6,000 pounds of honey per year and those importers who import less than 6,000 pounds of honey per year would qualify for the assessment exemption only if the honey were consumed at home by such person, or donated or distributed directly through retail outlets by the producer, producer-packer or importer. The amendment simplifies administration of the exemption by eliminating the exemption where honey is sold to handlers or is placed under a price support loan. Once honey moves into the normal stream of the commerce, the assessment is automatically collected and the Honey Board must later make reimbursement upon request.

The amendment clarifies current law with regard to assessment collections from producers/importers of less than 6,000 pounds. Such producers would be eligible from exemption payments only if the honey was not placed in the stream of commerce.

A new subsection (k) would provide that patents, copyrights, inventions, product formulations, or publications developed with board funds will be the property of the board and any income derived therefrom to inure to the benefit of the board to be used for program purposes. This amendment would clarify existing law.

Section 1924. Collection of assessments; refunds

This section would amend section 9 of the Honey Research, Promotion, and Consumer Information Act to provide for the assessment to be deducted any time a disbursement of loan funds is made under the Honey Price Support Loan Program and for the producer promptly to receive a statement of the deduction of assessments made instead of receiving such proof after the loan is redeemed. It also provides for the producer to be responsible for payment of the assessment if the Department of Agriculture should fail to make the deduction.

This amendment and the changes made by Section 1923 are designed to enable a producer who received a price support loan promptly to receive a statement of the assessments deducted from the loan and to qualify for a refund, even though final settlement had not been made. Currently refunds cannot be made until final settlement of the loan. Refunds cannot even be made when portions of the money under loan are redeemed. The current law effectively delays refunds for a number of months, often until the maturity date of the loan.

Also the amendment makes clear that the producer is responsible for payment of the assessment if the Commodity Credit Corporation should fail to collect the assessment, as has occurred on occasion.

Paragraph 3 would amend section (h)(1) to provide that each importer will be eligible for refunds up to an amount that represents the same percentage of assessments collected from that importer as the percentage of refunds collected from producers.

At present the percentage limitation on refunds to importers is construed as applying collectively to refunds received by all importers, rather than to refunds that may be made to each importer. This results in importers who file early for a refund receiving a refund of all assessments paid by them; while those who delay filing may not qualify at all for a refund if the overall limitation on importer refunds had been reached. The amendment would clarify the intent of existing law and would result in all importers being treated the same.

Section 1925. Investigations and power to subpoena

This section would provide that the Secretary may make such investigations as necessary for the administration of the bill. In conducting those investigations he may subpoena witnesses and undertake related activities.

Section 1926. Effective date

This section would provide that the amendments made by this bill would become effective upon issuance of implementing regulations after notice and public comment, without the necessity for a referendum of producers.

Chapter 8—Kiwifruit and Other Fruit

This section amends section 8e(a) of the Agricultural Adjustment Act by adding kiwifruit, nectarines and plums to the list of the products covered by that section. Section 8e(a) requires that imported products meet the domestic product standards during appropriate periods in certain markets.

Chapter 9—Papaya

This section adds papayas to the products listed under section 8e(a) as discussed with regard to Chapter 8.

Chapter 10—Eggs

Section 1961. Eggs

This section will amend section 12 of the Egg Research and Consumer Information Act to provide that producers with fewer than 30,000 laying hens shall be exempt from payment of egg research and promotion order assessments under that Act, an increase from the current exemption level of 3,000 laying hens.

The amendment also provides that the number of laying hens owned by relatives or business partners of, or other entities closely related to, a producer will be attributed to the producer for purposes of determining whether the producer is exempt from the payment of assessments.

The Secretary will be required to propose an amendment to the egg research and promotion order issued under the Act within 30 days after enactment to reflect the changes made by this amendment. Public notice and comment will be required. The amendment will become effective without the conduct of a referendum of the producers.

Chapter 11—Peanuts

This section would amend section 8b of the Agricultural Adjustment Act, reenacted with amendments by the Agricultureal Marketing Agreement Act of 1937. It would require the inspection of all peanuts whether or not a person has entered into the marketing agreement. All peanuts, whether produced by a signer or a non-signer of the marketing agreement, must meet the quality requirements of the agreement. Violation of the subsection will result in a penalty equal to 140 percent of the support price of quota peanuts.

Chapter 12—Vidalia Onions

This section will prohibit the use of the label "vidalia onions" if the onions are produced outside the production area as defined in Federal Marketing Order No. 955. Such misbranding will be a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.

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Sec. 1102. Oat acreage limitation program.
Sec. 1103. Purchase price for nonfat dry milk and butter.
Sec. 1104. Reduction of deficiency payments for 1990 crops.
Sec. 1105. Planting of soybeans, sunflowers, and safflowers on permitted acreage.
Sec. 1106. Cost reduction options.
Sec. 1107. Replanted acreage.

Subtitle B—Agricultural Trade Programs

Sec. 1201. Export enhancement program.
Sec. 1202. Targeted export assistance.
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Subtitle C—General Provisions

Sec. 1301. Prepayment and interest rate adjustment of Federal Financing Bank loans made to rural electrification and telephone systems.
Sec. 1302. Research into new commercial products from natural plant materials.
Sec. 1303. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.
Sec. 1304. Calculation of premiums by Farm Credit System Insurance Corporation.

Subtitle D—Promotion Programs

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Sec. 1401. Short title.
Sec. 1402. Findings and declaration of policy.
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Subtitle A—Agricultural Commodity Programs

SEC. 1101. COTTON ACREAGE REDUCTION PROGRAM.

Effective only for the 1990 crop of upland cotton, section 103A(f)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(f)(2)(A)) is amended by striking "(not to exceed 25 percent)" and inserting "(not to exceed 25 percent or, in the case of the 1990 crop, if the Secretary projects a carryover of more than 7,000,000 bales (as of July 31, 1991) of upland cotton, not to exceed 30 percent)".

SEC. 1102. OAT ACREAGE LIMITATION PROGRAM.

(a) IN GENERAL.—Effective only for the 1990 crop of feed grains, section 105C(f)(2)(G) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)(G)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of oats, the Secretary may establish a percentage reduction for oats in accordance with paragraph (1) of less than 5 percent. If the Secretary does not establish a percentage reduction requirement for oats, the Secretary shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased as a result of this clause.".

(b) CONFORMING AMENDMENTS.—Effective only for the 1990 crop of feed grains, section 105C of such Act is amended—

(1) in subsection (d)(1), by adding at the end the following new subparagraph:

"(E) This subsection shall not apply to the 1990 crop of oats."; and

(2) in subsection (f)(1), by adding at the end the following new subparagraph:

"(E) As a condition of eligibility for loans, purchases, and payments for the 1990 crop of oats, the producers of oats on a farm may not plant oats in excess of the crop acreage base for the farm.".

SEC. 1103. PURCHASE PRICE FOR NONFAT DRY MILK AND BUTTER.

Section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (ii), by inserting after "Except as provided in" the following: "clause (iii) and"; and

(B) by adding at the end the following new clause:

"(iii) In carrying out this paragraph during calendar year 1990, the Secretary shall offer to purchase butter and nonfat dry milk for not less than $1.10 per pound for butter and $0.8475 per pound for nonfat dry milk, except that the Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in such manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination."; and

(2) in subparagraph (D)(i), by striking "each of the calendar years 1988 and 1990" and inserting "calendar year 1988".

SEC. 1104. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

(a) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 425. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the amount of deficiency payments made available to producers of the 1990 crops of wheat, feed grains, upland cotton, and rice under sections 107D(c), 105C(c), 103A(c), and 101A(c), respectively, shall be reduced by—

"(1) in the case of wheat, 2.30 cents per bushel;

"(2) in the case of corn, 2.30 cents per bushel (and a comparable amount for other feed grains, as determined by the Secretary);

"(3) in the case of upland cotton, .51 cents per pound; and

"(4) in the case of rice, 5.1 cents per hundredweight.

"(b) APPLICATION TO ADVANCE DEFICIENCY PAYMENTS.—To the extent practicable, the Secretary shall apply the reduction required under subsection (a) to any advance deficiency payment made available to producers of the 1990 crops under section 107C.".

(b) CONFORMING AMENDMENT.—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a)(2)(G) of such Act (7 U.S.C. 1445b-2(a)(2)(G)) is amended by inserting after "subsection" the following: "(taking into consideration any reduction in the payment made under section 425)".

SEC. 1105. PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.

(a) PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.—Effective only for the 1990 crops, subsection (e) of section 504 the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as follows:

"(e) Notwithstanding any other provision of this Act—

"(1) Effective for the 1990 crops, the Secretary shall, subject to paragraph (2), permit producers on a farm to plant soybeans, sunflowers, or safflowers on a portion specified by the producer (but in any event not more than 25 percent) of the producers' 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(2)(A) The Secretary shall establish a sign-up period during which the producers on a farm, participating in the 1990 crop of wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the in-

creased planting provision under paragraph (1).

"(B) After termination of the sign-up period under subparagraph (A), the Secretary shall estimate whether, based on the anticipated additional soybean, sunflower, and safflower plantings of the crop, the average market price for the 1990 crop of soybeans will be below 115 percent of the loan rate established for the 1989 crop of soybeans.

"(C) If the Secretary estimates that the average market price for the 1990 crop of soybeans will be below 115 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers, and safflowers to a level, or prohibit such plantings, as is necessary to ensure, to the extent practicable, that the average soybean market price does not fall below 115 percent of such loan rate.

"(D) The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for any reduction in the permitted planting percentage, or prohibition on such plantings, under this paragraph.

"(3)(A) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans, sunflowers, or safflowers are planted under this subsection shall be considered to be planted to the program crop for which soybeans, sunflowers, or safflowers are substituted.

"(B) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans, sunflowers, or safflowers under this subsection and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) FEED GRAIN ACREAGE LIMITATION PROGRAM.—Effective only for the 1990 crop of feed grains, section 105C(f)(1)(C) of such Act (7 U.S.C. 1444e(f)(1)(C)) is amended—

(1) by striking "(C)", "1990", "(i)", and "(ii)" and inserting "(C)(i)", "1989", "(I)", and "(II)", respectively; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of feed grains, if the Secretary estimates, not later than September 30, 1989, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(I) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12½ percent nor more than 20 percent;

"(II) less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 12½ percent; or

"(III) 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 10 percent.".

SEC. 1106. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

SEC. 1107. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the value (as determined under subsection (c)) of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 40 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(d) SEPARATE CONSIDERATION OF PLANTED AND REPLANTED ACREAGE.—In determining disaster payments under this subtitle, the Secretary shall consider separately payments due on acreage that was not replanted and payments due with respect to acreage that was replanted.".

Subtitle B—Agricultural Trade Programs

SEC. 1201. EXPORT ENHANCEMENT PROGRAM.

(a) REDUCTION OF EXPENDITURES.—During fiscal year 1990, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note), the Commodity Credit Corporation shall not make available to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than $650,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

(b) PROMOTION OF UNITED STATES MEAT EXPORTS.—

(1) COMMISSARIES.—During each of fiscal years 1990, 1991, and 1992, the Commodity Credit Corporation shall, in carrying out the export enhancement program established pursuant to section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), promote the export of United States meat, including poultry products, to commissaries on military installations in the European Community.

(2) FUNDING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commodity Credit Corporation shall make available to carry out paragraph (1) not less than $14,000,000 (of the amount referred to in subsection (a)) in funds or commodities for fiscal year 1990, not less than $9,300,000 in funds or commodities for fiscal year 1991, and not less than $4,600,000 in funds or commodities for fiscal year 1992.

(B) TRANSPORTATION COSTS.—Funds or commodities shall be made available under this subsection only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries.

(3) REIMBURSEMENT OF CORPORATION.—Section 4 of the Act of July 16, 1943 (57 Stat. 566, chapter 241; 15 U.S.C. 713a-9) shall not apply to services performed, losses sustained, operating costs incurred, or commodities purchased or delivered by the Commodity Credit Corporation pursuant to this subsection.

SEC. 1202. TARGETED EXPORT ASSISTANCE.

Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

"(3) for the fiscal year 1989, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation; and

"(4) for the fiscal year 1990, the Secretary shall use under this section not less than $225,000,000 of the funds of, or commodities owned by, the Corporation.".

SEC. 1203. PROHIBITION ON DUTY DRAWBACK CLAIMS BY EXPORTERS WHO USE CERTAIN EXPORT PROMOTION PROGRAMS.

(a) IN GENERAL.—A person shall be ineligible for participation in any export program established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) CERTIFICATION.—A person applying to export any agricultural commodity or product under the export programs referred to in subsection (a) shall certify that none of the commodity or product has been or will be used as the basis of a claim for any refund specified in subsection (a), except that a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations to carry out this section.

(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

Subtitle C—General Provisions

SEC. 1301. PREPAYMENT AND INTEREST RATE ADJUSTMENT OF FEDERAL FINANCING BANK LOANS MADE TO RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS.

(a) IN GENERAL.—Section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936A) is amended to read as follows:

"SEC. 306A. PREPAYMENT AND INTEREST RATE ADJUSTMENT OF FEDERAL FINANCING BANK LOANS.

"(a) PREPAYMENT.—If on the date of enactment of this section a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator under section 306, the borrower may prepay such loan or an advance of such loan, or any portion thereof, at any time or times without limitation as to dollar amount by paying the outstanding principal balance (plus accrued interest) due on such loan or loan advance, or any portion thereof, being prepaid, if—

"(1) private capital, with the existing loan guarantee, is used to replace the loan, or, at the option of the borrower, private capital (including internally generated funds), is used to prepay the loan; and

"(2) the borrower certifies that any savings from such prepayment will be—

"(A) passed on to its customers;

"(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

"(C) used to mitigate future rate increases.

"(b) INTEREST RATE ADJUSTMENT.—

"(1) IN GENERAL.—If on the date of enactment of this section a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator under section 306, the interest rate on such loan or an advance of such loan, or portion thereof, shall, at the option of the borrower, be adjusted to the Federal Financing Bank rate then in effect for new Federal Financing Bank loans of a maturity equal to the remaining life of the Federal Financing Bank loans or loan advances, or portion thereof, being adjusted.

"(2) FEE.—Such Federal Financing Bank rate shall include a fee of .00126, consistent with the calculation of Federal Financing Bank rates to borrowers under this Act during fiscal year 1989.

"(3) ADMINISTRATION.—An adjustment in an interest rate under paragraph (1) shall not be considered a prepayment of an existing loan. None of the terms of such loan may be amended under paragraph (1) other than such adjustment in the interest rate (including the fee) as provided for in this subsection and the payment of a penalty as provided for in subsection (d).

"(c) SUBSEQUENT REFINANCING.—Any guarantee of a loan used to make a prepayment under subsection (a) may be transferred to any loan subsequently used to refinance the loan used to make the prepayment without condition and shall be available for the remaining term originally agreed to by the Administrator.

"(d) PENALTY.—

"(1) IN GENERAL.—A penalty, as provided by this subsection, shall be paid to the Federal Financing Bank by the borrower at the time of the interest rate adjustment.

"(2) INTEREST RATE ADJUSTMENT.—

"(A) IN GENERAL.—If the interest on a loan or loan advance, or any portion thereof, is adjusted as provided by subsection (b), the borrower shall pay a penalty, as provided in this paragraph.

"(B) MULTIPLE ADJUSTMENTS.—Such penalty shall be paid by the borrower each time the borrower receives an interest rate adjustment on a Federal Financing Bank loan or loan advance, or portion thereof, as provided in subsection (b). If the interest rate is adjusted on the same Federal Financing Bank loan or loan advance, or portion thereof, more than once, such penalty shall be paid each time such adjustment occurs.

"(C) AMOUNT.—The amount of a penalty imposed under this paragraph shall be determined by multiplying—

"(i) the principal balance of each Federal Financing Bank loan or loan advance, or portion thereof, for which the interest rate is adjusted; by

"(ii) the difference between the annual percent interest rate on such loan or loan advance prior to adjustment and the annual percent interest rate at the time of adjustment of new Treasury borrowings of the same maturity as the average maturity on the Federal Financing Bank loans or loan advances, or portion thereof, for which the interest rate is adjusted.

"(e) NO ADDITIONAL CHARGES.—If prepayment or interest rate adjustment of a loan (or loan advance) is made under this section no sums in addition to the payment of the outstanding principal of the loan or loan advance, or portion thereof, being prepaid, plus accrued interest and the penalty assessed under subsection (d), shall be charged, as the result of such prepayment or adjustment, against—

"(1) the borrower;

"(2) the Rural Electrification and Telephone Revolving Fund; or

"(3) the Rural Electrification Administration.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date prescribed in subsection (c), the Secretary of Agriculture shall issue regulations to carry out the amendment made by subsection (a).

(2) PREPAYMENT AND INTEREST RATE ADJUSTMENT FACILITATION.—In issuing such regulations, the Secretary shall—

(A) facilitate prepayment and interest rate adjustment of loan advances;

(B) provide for full processing of each prepayment request within 30 days of its submission to the Rural Electrification Administration;

(C) provide for full processing of each interest rate adjustment request within 10 days of its submission to the Rural Electrification Administration; and

(D) except as provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment or inhibits the ability of the borrower to enter into prepayment and interest rate adjustment arrangements pursuant to such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 30 days after the date of enactment of this Act.

SEC. 1302. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473D (7 U.S.C. 3319d) the following new section:

"SEC. 1473E. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

"The Secretary may—

"(1) conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and

"(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.".

SEC. 1303. PURCHASES OF FINANCIAL ASSISTANCE CORPORATION STOCK BY FARM CREDIT SYSTEM INSTITUTIONS.

(a) DELAYED EFFECTIVE DATE FOR STOCK PURCHASE REQUIREMENT.—Notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2266) shall be effective on October 1, 1992.

(b) PAYMENTS.—

(1) FOUR ANNUAL PAYMENTS.—Notwithstanding any other provision of law, the Financial Assistance Corporation shall pay, out of the Trust Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5), to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation under section 6.29 of the Farm Credit Act of 1971, four annual payments as provided in this subsection.

(2) TIMING OF PAYMENTS.—The annual payments provided for by this subsection shall be made available as soon as practicable after October 1 of each of the calendar years 1989 through 1992.

(3) CALCULATION OF FIRST PAYMENT.—The first annual payment made available under this subsection shall be in an amount equal to—

(i) a percentage equal to 1.5 times the average rate of interest received by the Financial Assistance Corporation from March 30, 1988, through September 30, 1989; times

(ii) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by the Financial Assistance Corporation by September 30, 1989.

(4) CALCULATION OF REMAINING PAYMENTS.—The second, third, and fourth payments made available under this subsection shall be in an amount equal to—

(i) a percentage equal to the average rate of interest received by the Financial Assistance Corporation during each of the fiscal years 1990 through 1992; times

(ii) the difference between $177,000,000 and 4.4 percent of the amount of the cumulative amount of the bonds issued by September 30 of each of such fiscal years.

(5) DISTRIBUTION OF ANNUAL PAYMENTS.—Annual payments due under this subsection shall be made available to each institution described in paragraph (1) in an amount equal to the total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $177,000,000.

SEC. 1304. CALCULATION OF PREMIUMS BY FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-(a)) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—

"(1) IN GENERAL.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(A) the annual average principal outstanding (as adjusted under paragraph (2)) for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(B) the annual average principal outstanding (as adjusted under paragraph (2)) for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(2) ADJUSTMENT OF ANNUAL AVERAGE PRINCIPAL OUTSTANDING.—The Corporation, under procedures and criteria established by regulation, shall adjust downward the annual average principal outstanding for a bank during a year to exclude all or a portion of any principal outstanding on Government-guaranteed loans made by the bank and loans made by associations serviced by such bank (as described in subsection (d)(1)), as appropriate on an actuarial basis to more accurately reflect the reduced risks associated with such loans for the holders of insured obligations of insured System banks.

"(3) DEFINITION OF GOVERNMENT-GUARANTEED LOANS.—As used in this subsection and subsection (c), the term 'Government-guaranteed loan' means a loan, or portion of a loan, made by an insured System bank that carries a full faith and credit performance or loss guarantee or surety or an unconditional guarantee of the United States Government or any State government, or of any department, agency, bureau, board, commission, or establishment thereof, or any corporation wholly owned directly or indirectly by the United States or any State.";

(2) in subsection (b), by inserting after "for the following calendar year" the following: ", as determined under subsection (a),";

(3) in subsection (c), by inserting after "at such time" the following: "(adjusted downward to exclude, from that portion of such obligations attributable to Government-guaranteed loans made by insured System banks and loans made by associations serviced by such banks (as described in subsection (d)(1)), an amount that reflects all risk-based reductions of principal outstanding on such guaranteed loans for purposes of establishing premium rates under subsection (a), as determined by the Corporation)"; and

(4) in subsection (d), by striking paragraph (1) and inserting the following new paragraph:

"(1) by any production credit association or any other association making direct loans under authority transferred to it under section 7.6, that is able to make such loans because such association is receiving, or has received, funds provided through the Farm Credit Bank;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1989.

Subtitle D—Promotion Programs

CHAPTER 1—SOYBEANS

SEC. 1401. SHORT TITLE.

This chapter may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 1402. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and those concerned with marketing, using, and producing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on all soybeans produced domestically), and implementing a program of promotion, research, and consumer information designed—

(1) to strengthen the position of the soybean industry in the marketplace;

(2) to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products; and

(3) to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 1403. DEFINITIONS.

As used in this chapter:

(1) BOARD.—The term "Board" means the United Soybean Board established under section 1405(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) COMMITTEE.—The term "Committee" means the Soybean Program Coordinating Committee established under section 1405(e).

(4) CONSUMER EDUCATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products.

(5) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(6) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring after harvest from a producer soybeans produced by such producer; or

(B) in any case in which soybeans are pledged as collateral for a loan issued under any Federal price support loan program, the Commodity Credit Corporation.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) NET MARKET PRICE.—The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors; or

(B) for soybeans pledged as collateral for a loan issued under any Federal price support loan program, the principal amount of the loan.

(10) ORDER.—The term "order" means an order issued under section 1404.

(11) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(12) PRODUCER.—The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) PROMOTION.—The term "promotion" means—

(A) any action (including paid advertising, technical assistance, and trade servicing activities) to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets; and

(B) any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive

attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) QUALIFIED STATE SOYBEAN BOARD.—

(A) IN GENERAL.—The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law.

(B) NO STATE SOYBEAN PROMOTION ENTITY.—If no such entity exists in a State, such term means a soybean producer-governed entity that—

(i) is organized and operating within a State;

(ii) receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs;

(iii) meets the criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board; and

(iv) is recognized by the Board as the soybean promotion and research entity within the State.

(15) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybean and soybean products.

(16) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(17) SOYBEAN PRODUCTS.—The term "soybean products" means products produced in whole or in part from soybeans or soybean byproducts.

(18) SOYBEANS.—The term "soybeans" means all varieties of Glycine max or Glycine soya.

(19) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 1404. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 1402(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this chapter applicable to producers and first purchasers of soybeans. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

(b) PROCEDURE.—

(1) PROPOSALS.—The Secretary may propose the issuance of an order under this chapter, or an association of soybean producers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such an order.

(2) NOTICE AND PUBLIC COMMENT.—Not later than 30 days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter.

(4) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section, consistent with the requirements of section 1410(b).

SEC. 1405. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) UNITED SOYBEAN BOARD.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) SEATS.—The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) STATE UNITS.—Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) COMBINED UNITS.—A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall group geographically contiguous States together. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) NUMBER OF SEATS PER UNIT.—Subject to subparagraph (E), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 million bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to four seats on the Board.

(D) DETERMINATION OF AVERAGE ANNUAL SOYBEAN PRODUCTION.—For purposes of subparagraphs (A), (B), and (C), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) REAPPORTIONMENT OF SEATS.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the board to conform with subparagraph (C). If payment of refunds following the initial referendum conducted under section 1406(a) is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) ADJUSTMENT OF LEVELS OF PRODUCTION.—At the end of each 3-year period beginning with the 3-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent the Board determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit shall not lose, under this subparagraph, Board seats to which the unit is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraph (A), (B), or (C).

(3) NOMINATIONS.—

(A) IN GENERAL.—The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) METHOD FOR OBTAINING NOMINATIONS.—

(i) INITIALLY-ESTABLISHED BOARD.—

(I) STATE UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 1403(14). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria of section 1403(14).

(ii) SUBSEQUENT APPOINTMENT.—

(I) STATE UNITS.—Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) REJECTION.—The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three 3-year terms.

(5) COMPENSATION.—Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) TEMPORARY APPOINTMENTS.—

(A) APPOINTMENT.—Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) REPRESENTATION OF CERTAIN STATES.—The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) MEETINGS.—The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on the Committee;

(4) to approve, modify, or reject budgets submitted by the Committee;

(5) to contract with appropriate persons to implement plans or projects;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order;

(8) to provide the Secretary with prior notice of meetings of the Board at such time as to permit the Secretary to attend such meetings; and

(9) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(d) BOARD VOTING PROCEDURES.—

(1) IN GENERAL.—The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection.

(2) NUMBER OF VOTES PER MEMBER.—Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) IN GENERAL.—Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a request for a rollcall vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) ADDITIONAL VOTES.—The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) ASSESSMENT LEVEL.—Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (j)(2)), on the average, during each of the 3 previous fiscal years of the Board.

(ii) PRODUCTION LEVEL.—

(I) FIRST FISCAL YEAR.—During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) SUBSEQUENT ADJUSTMENTS.—The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) DIVISION OF VOTES WITHIN UNITS.—A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(C) PROCEDURAL CHANGES.—On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(3) MOTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) ROLLCALL VOTES.—Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) COMMITTEE VOTES.—In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) PROXIES.—A member may not cast votes by proxy.

(e) SOYBEAN PROGRAM COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of—

(i) the Chairperson and Treasurer of the Board;

(ii) eight additional members of the Board elected by the Board; and

(iii) nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department.

(B) CERTIFICATION.—To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) TERMS.—Terms of appointment of the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) COMPENSATION.—Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) QUORUM.—Fifteen members of the Committee shall constitute a quorum.

(f) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties of the Committee, which shall include the following:

(1) BUDGETS.—The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, industry information, and market development projects. The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget.

(2) PLANS AND PROJECTS.—The Committee shall review, or on its own initiative develop, plans or projects for advertising and promotion, research, consumer information, industry information, and market development activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval. The Board may develop plans and projects on its own initiative.

(3) VOTING.—A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least 13 members present at a meeting of the Committee.

(g) ADMINISTRATION.—

(1) EXPENSES; STAFF.—The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and that the Board and Committee shall use staff and facilities of established national, nonprofit producer-governed organizations that represent soybean producers to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) LIMIT ON ADMINISTRATIVE COSTS.—The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of revenues to the Board (net of any refunds made under subsection (j)(2)) for that fiscal year.

(h) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure coordination and efficient use of funds, the order shall provide that, except as provided in paragraph (4), the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this chapter with established national, nonprofit producer-governed organizations that represent soybean producers (including the organization electing representatives to the Committee under subsection (e)(2)), and for the payment thereof with funds received by the Board under the order.

(2) LIMITATION ON AGREEMENTS.—To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities under this chapter, shall ensure that all plans or projects implemented within a program area are implemented by a single national, nonprofit producer-governed organization that represents soybean producers, and there shall not be in force, at any one time, more than one contract or agreement for implementation of plans and projects for each general program area.

(3) REQUIREMENTS.—Any contract entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall disclose estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of the activities it has conducted, and make such other reports as the Board or the Secretary shall require.

(4) COMMUNICATIONS TO PRODUCERS.—The order shall provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) APPORTIONMENT OF FUNDS TO QUALIFIED STATE SOYBEAN BOARDS.—

(A) IN GENERAL.—In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) EXCEPTION.—The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(j) ASSESSMENTS.—

(1) IN GENERAL.—

(A) FIRST PURCHASERS.—

(i) COLLECTION.—The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) RATE.—The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) ONE ASSESSMENT.—No more than one assessment shall be made on any soybeans.

(B) DIRECT PROCESSING.—The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) REFUNDS.—

(A) IN GENERAL.—The order shall provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 1406(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) ADMINISTRATION.—Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) SUBMISSION OF REFUND DEMANDS.—

(i) IN GENERAL.—In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) NO QUALIFIED STATE SOYBEAN BOARD.—In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) TIME LIMIT FOR MAKING REFUND.—Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) ORDER NOT FAVORED.—If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 1406(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 1406(a).

(F) SPECIFIC PROVISIONS.—

(i) IN GENERAL.—The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 1406 as required in this subparagraph.

(ii) AVAILABILITY.—Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 1406 and ending on a date (not later than 18 months thereafter) established by the Secretary, the Board shall make refunds available to soybean producers at the end of such period from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraph (A) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) POLL.—Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 1406, to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) REFERENDUM.—If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 10 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 1406, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) CONTINUED REFUNDS.—If the Secretary conducts a referendum under clause (iv), the Board shall continue to make refunds available to producers as provided for in

clause (ii) during the period prior to the conduct of the referendum.

(vi) CESSATION OF REFUNDS.—If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the Board shall continue to make refunds available to producers as provided for in clause (ii) during each 1-year period until such time as soybean producers approve an amendment to the order to eliminate such refunds. If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) ESCROW ACCOUNTS.—

(I) ESTABLISHMENT.—The Board and each qualified State soybean board that collects assessments shall establish escrow accounts to be used to pay refunds under clauses (ii) and, if necessary, clauses (v) and (vi).

(II) SEPARATE ACCOUNTS.—Each qualified State soybean board that collects assessments shall establish separate escrow accounts for refunds under each such clause for State funds. The Board shall establish separate escrow accounts for refunds under clauses (ii), (v), and (vi), respectively.

(III) DEPOSITS.—The Board shall deposit into its escrow accounts under clauses (ii), (v), and (vi) 10 percent of the total assessment received by the Board during the time period involved. Each qualified State soybean board shall deposit into each of its escrow accounts 10 percent of collected assessment funds retained by the State board under this subsection during the applicable time period.

(IV) REFUNDS MADE FROM ACCOUNT.—With respect to refunds handled by the Board, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the time period involved shall be made from the Board's escrow account applicable to that clause. With respect to refunds handled by qualified State soybean boards, refunds requested by producers under clause (ii) or (if refunds are available) under clause (v) or (vi) during the refund period involved shall be made first from the escrow account under such clause from State funds, and only after such escrow account is exhausted, from the escrow accounts under such clause from Board funds. If the funds in a State board's account for the clause involved, are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the Board shall pay such refund requests to such producers. If the funds in the Board's escrow accounts are insufficient to honor all requests, the Board shall prorate the amount of such refunds among all producers requesting refunds. In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) USE.—The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than the referendum conducted under paragraph (2)(F)(iv).

(4) CREDIT FOR CONTRIBUTIONS TO QUALIFIED STATE SOYBEAN BOARDS.—A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this chapter, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(k) LOAN COLLATERAL.—

(1) IN GENERAL.—The order may establish a procedure that authorizes the reimbursement of assessments paid by producers if soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting the assessments in the manner prescribed in the order.

(2) SINGLE PROCESS.—The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(l) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to the date of enactment of this Act, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(m) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

(1) PRE-REFERENDUM PERIOD.—The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 1406(a), each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) POST-REFERENDUM PERIOD.—The order shall provide, effective after the conduct of the referendum provided for in section 1406(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) LIMITATION.—The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (j) (net of any refunds made under paragraph (2) of subsection (j)) in that year.

(n) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(o) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order; or

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order.

(p) BOOKS AND RECORDS.—

(1) RECORDKEEPING REQUIREMENT.—

(A) IN GENERAL.—The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order, except that the order shall exempt small producers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) DEFINITION OF SMALL PRODUCER.—The order shall define the term "small producer" as such term is used in subparagraph (A).

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this chapter, or any order or regulation issued under this chapter.

(B) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this chapter of information regarding first purchasers that is accumulated under a law or regulation other than this chapter or regulations under this chapter.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or

confidential shall be kept confidential by all officers and employees of the Department and agents of the Board.

(B) PERMITTED USES.—Information obtained under the authority of this chapter shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this chapter;

(ii) any investigatory or enforcement action necessary for the implementation of this chapter; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than 1 year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(q) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this chapter, as are necessary to effectuate the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 1406. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—Not earlier than 18 months or later than 36 months following issuance of an order under section 1404, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER.—Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(3) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate the order, as appropriate, in any orderly manner as soon as practicable after such determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this section and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out clause (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) TIME LIMIT.—Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under subsections (a) and (b), except for the salaries of Government employees.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request.

SEC. 1407. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to any order issued under this chapter may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States in any district in which such person is an inhabitant or carries on business is vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceeding may be conducted by the Secretary by delivering a copy of the complaint to the Secretary under such rules or regulations as the Secretary considers necessary to facilitate such services of process.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

SEC. 1408. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General a violation of this chapter if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, col-

lect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 1409. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this chapter or to determine whether any person subject to this chapter has engaged or is about to engage in any act that constitutes or will constitute a violation of this chapter, or of any order or regulation issued under this chapter.

(b) POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 1410. ADMINISTRATIVE PROVISIONS.

(a) PREEMPTION OF OTHER PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this chapter may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) EXCEPTIONS.—

(A) REFERENDA ON QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure the proper administration of this chapter, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 1404 and ending 18 months after the referendum on such order is conducted under section 1406(a), except that such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion program that do not involve termination of the qualified State soybean board.

(B) ASSESSMENTS COLLECTED BY QUALIFIED STATE SOYBEAN BOARDS.—In order to ensure adequate funding of the operations of qualified State soybean boards under this chapter, whenever an order is in effect under this chapter, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 1405(j)(4).

(b) AMENDMENTS TO ORDERS.—The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

SEC. 1411. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision.

SEC. 1412. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this chapter.

SEC. 1413. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this chapter, including regulations relating to the assessment of late payment charges.

CHAPTER 2—COTTON

SEC. 1501. SHORT TITLE.

This chapter may be cited as the "Cotton Research and Promotion Act Amendments of 1989".

SEC. 1502. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended—

(1) in the first paragraph, by striking the fourth and sixth sentences; and

(2) in the third paragraph—

(A) by striking "harvested" and inserting "marketed"; and

(B) by inserting "and on imports of cotton" after "United States" the first place it appears.

SEC. 1503. ALTERNATIVE ORDER.

(a) IN GENERAL.—The Cotton Research and Promotion Act is amended by inserting after section 7 (7 U.S.C. 2106) the following new section:

"SEC. 7A. ALTERNATIVE ORDER.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 4, 5, 7, and 8 that are inconsistent with this section, the Secretary shall publish the proposed alternative order required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such an order, if the Secretary determines that such alternative order effectuates the declared policy of this Act.

"(2) TERMS AND CONDITIONS.—Any alternative order issued pursuant to this section shall—

"(A) contain the terms and conditions prescribed in this section; and

"(B) terminate the authority of the Cotton Board to accept and process applications for refunds under section 11.

"(3) RELATIONSHIP TO OTHER ORDER.—

"(A) PROVISIONS.—In issuing the alternative order under this section, the Secretary shall incorporate by reference the provisions of the cotton research and promotion order in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative order.

"(B) BOARD MEMBERS.—Each member of the Cotton Board that is sitting on the effective date of the alternative order shall continue to serve the full term of appointment of the member pursuant to section 7.

"(b) COTTON BOARD.—

"(1) ESTABLISHMENT.—The alternative order shall provide for the establishment and selection by the Secretary of a Cotton Board.

"(2) POWERS AND DUTIES.—The alternative order shall define the powers and duties of

the Cotton Board, which shall include only the powers—

"(A) to administer such order in accordance with the terms and provisions of such order;

"(B) to make rules and regulations to effectuate the terms and provisions of such order, including the designation of the person responsible for collecting assessments;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such order; and

"(D) to recommend to the Secretary amendments to such order.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative order shall provide that the Cotton Board shall be composed of—

"(i) representatives of cotton producers selected by the Secretary from nominations submitted by—

"(I) eligible producer organizations within a cotton-producing State, as certified pursuant to section 14; or

"(II) if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible producer organizations, from nominations made by producers in the manner authorized by the Secretary, so that the representation of cotton producers on the Board for each cotton-producing State shall reflect, to the extent practicable, the proportion which that State's marketings of cotton bears to the total marketings of cotton in the United States; and

"(ii) an appropriate number of representatives, as established by the Secretary, of persons who import cotton into the United States on which assessments are paid under this Act.

"(B) COTTON PRODUCERS.—Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.

"(C) IMPORTERS.—Importer representatives under subparagraph (A)(ii) shall be appointed by the Secretary after consultation with importer organizations certified by the Secretary.

"(D) CONSUMER ADVISORS.—The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 percent of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members.

"(c) PLANS AND PROJECTS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), develop and submit to the Secretary for the approval of the Secretary any advertising or sales promotion or research and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

"(d) BUDGETS.—The alternative order shall provide that the Cotton Board shall, subject to subsection (g), submit to the Secretary for the approval of the Secretary, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising and promotion and research and development projects.

"(e) ASSESSMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler of cotton shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment prescribed by the order, on the basis of bales of cotton handled, for such expenses and expenditures. The provisions of subparagraphs (A) and (B) shall not apply to cottonseed and the products derived from cotton and its seed.

"(2) RESERVE.—The alternative order shall include provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary, and for reimbursing the Secretary—

"(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after the alternative order or amendment to the alternative order has been issued and made effective.

"(3) REIMBURSEMENT OF OTHER AGENCIES.—There shall also be included in the alternative order a provision for reimbursing any agency of Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection with providing such assistance.

"(4) DIFFERENT CLASSES.—To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers, or classes of handlers or importers, to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by this subsection.

"(5) RATE.—The rate of assessment prescribed by the alternative order shall be $1 per bale of cotton handled, plus a supplemental amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary.

"(6) REFERENDA.—No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(7) SUITS.—

"(A) IN GENERAL.—The Secretary may maintain a suit against any person subject to the alternative order for the collection of such assessment.

"(B) JURISDICTION.—The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

"(C) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(8) COTTON IMPORTS.—Notwithstanding the foregoing provisions of this subsection—

"(A) the rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment described in the preceding provisions of this subsection;

"(B) the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner; and

"(C) the assessment on such imports shall be reduced by a percentage equivalent to the proportion that exports of cotton that were reentered into the United States in the form of cotton and products derived from such cotton bears to the total exports of cotton of all exporters in the most recent year for which statistics are available.

"(f) BOOKS AND RECORDS.—The alternative order shall provide that the Cotton Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Cotton Board with respect to the receipt and disbursement of all funds entrusted to the Cotton Board.

"(g) CONTRACTS AND AGREEMENTS.—

"(1) IN GENERAL.—The alternative order shall provide that the Cotton Board, with the approval of the Secretary, shall enter into contracts or agreements for—

"(A) the development and carrying out of the activities authorized under the order issued pursuant to subsections (a) and (b) of section 6; and

"(B) the payment of the costs thereof with funds collected pursuant to the order, with an organization or association described in paragraph (2).

"(2) ELIGIBLE CONTRACTING ORGANIZATIONS.—For purposes of this subsection, an organization or association is eligible to enter into a contract if the governing body of the organization or association consists of cotton producers selected by the cotton producer organizations certified by the Secretary under section 14, in such manner that the producers of each cotton-producing State will, to the extent practicable, have representation on the governing body of such organization or association in the proportion that the cotton marketed by the producers of such State bears to the total cotton marketed by the producers of all cotton-producing States.

"(3) PROJECTS; BUDGETS.—Any such contract or agreement shall provide that such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, that shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective on approval by the Secretary.

"(4) RECORDS.—Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

"(h) INFLUENCING GOVERNMENTAL ACTION.—The alternative order shall provide that no funds collected by the Cotton Board under the alternative order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).".

(b) CONFORMING AMENDMENT.—The matter preceding subsection (a) of section 6 of the Cotton Research and Promotion Act (7 U.S.C. 2105(a)) is amended by inserting after "section 7" the following "or 7A".

SEC. 1504. REFERENDA REQUIREMENTS FOR ALTERNATIVE ORDER.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2107) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b)(1) Not later than 120 days after publication of the proposed alternative order pursuant to section 7A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative order in accordance with section 7A. Such alternative order shall become effective as provided in this subsection.

"(2) Notwithstanding the foregoing provisions of this section, the Secretary shall, within a period not to exceed 8 months after the date of enactment of this subsection, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, for the purpose of ascertaining if a majority of those voting approve the proposed alternative order under section 7A. The Secretary shall promptly publish the results of the referendum.

"(3) If the alternative order is approved in the referendum, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish regulations implementing the alternative order provided for in section 7A. Such alternative order shall be effective on an interim basis beginning with the date of publication and shall continue in effect pending the results of another referendum and issuance of a final regulation as provided in subsection (c).

"(c)(1) If the producers specified in subsection (b) approve the alternative order, the Secretary shall conduct another referendum no sooner than 15 but no later than 30 months after the date of the referendum conducted under subsection (b) to determine whether cotton producers and importers of cotton favor the alternative order issued under section 7A.

"(2) Such referendum shall be conducted among—

"(A) persons who have been cotton producers during a representative period, as determined by the Secretary; and

"(B) persons who are importers of cotton and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum under this section, paid an assessment on imports of cotton.

"(3) The Secretary shall promptly publish the results of the referendum.

"(4) If the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum, the Secretary shall issue an order terminating the alternative order.

"(5) If the alternative order is not disapproved, within a period not to exceed 90 days from publication of the results of the referendum, the Secretary shall publish final regulations implementing the alternative order provided for in this subsection.

"(6)(A) The Board shall place in an escrow account an amount equal to the product obtained by multiplying by 10 percent the assessments collected from producers and importers during the period prior to announcement of the results of the referendum provided for in this subsection. The funds shall be held in the escrow account until the results of the referendum are published by the Secretary.

"(B) If the alternative order to the order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this Act.

"(C)(i) If the alternative order is not approved in such referendum, the funds in the escrow account shall be refunded to the producers and importers who have requested a refund under clause (ii) on publication of the order terminating the alternative order, after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order as described in section 7A.

"(ii) A producer or importer shall have the right to receive a refund—

"(I) if demand is made personally by the producer or importer, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event later than 90 days after the date of publication of the results of the referendum; and

"(II) on submission of proof satisfactory to the Board that the person or importer paid the assessment for which refund is sought and did not collect the assessment from another person.

"(iii) Any funds not refunded to producers and importers shall be released to be used to carry out this Act.

"(d)(1) If a referendum is conducted under subsection (c), once every 5 years after the date of such referendum, the Secretary shall provide producers and importers an opportunity to request a referendum to determine—

"(A) whether the producers and importers favor continuation of the alternative order to the order required under subsection (b)(1), if such alternative order is then in effect; or

"(B) if such an alternative order is not in effect, whether they favor approval of such alternative order.

"(2) Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service or the office of the county extension agent or by mailing a request on such date to the Administrator, Agricultural Marketing Service, Washington, District of Columbia.

"(3) The signup date shall be publicized by the Secretary and the Cotton Board at least 60 days prior to such date.

"(4) The Secretary shall conduct such a referendum within 12 months after such signup date if a referendum is requested by 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that not more than 20 percent of the persons requesting the referendum may be producers from any one State or importers of cotton.

"(5) The alternative order shall not be effective if the alternative order is disapproved by a majority of cotton producers and a majority of importers of cotton voting in the referendum.

"(e) The disapproval of any alternative order or of an amendment to an alternative order issued under this Act shall not operate to invalidate the order in effect on the date of the referendum.".

SEC. 1505. PRODUCER REFUNDS; TERMINATION.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended—

(1) by striking "Notwithstanding" and inserting "(a) Except as provided in subsection (b) and notwithstanding"; and

(2) by adding at the end the following new subsection:

"(b) The authority of the Cotton Board to accept and process applications for refunds under this section shall terminate if the alternative order issued under section 7A is approved in the referendum provided for under section 8. Such authority shall terminate on the date the Secretary publishes the results of such referendum. Such authority shall be reinstated if the alternative order should be disapproved in any subsequent referendum.".

SEC. 1506. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) by striking subsection (c) and inserting the following new subsection:

"(c)(1) Except as provided in paragraph (2), the term 'cotton' means—

"(A) all upland cotton harvested in the United States, and, except as used in sections 7(e) and subparagraphs (A) and (B) of section 7A(e)(1), includes cottonseed of such cotton and the products derived from such cotton and its seed; and

"(B) imports of upland cotton, including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary).

"(2) The term 'cotton' shall not include—

"(A) any entry of imported cotton by an importer that has a value or weight less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(B) any entry by a person during a year if—

"(i) the total cotton imported by that person during the preceding year, including the upland cotton content of products derived from upland cotton (other than industrial products), was less than a de minimis quantity, established in accordance with regulations issued by the Secretary; and

"(ii) such person certifies that the person intends to import less than such de minimis quantity in the current year, except that the term 'cotton' shall include all imports of cotton by such person during the current year if that person actually imports more than the de minimis quantity in the current year.

"(3) The de minimis quantities established under subparagraphs (A) and (B) of paragraph (2) shall be such as to minimize the burden in administering the assessment provisions of this Act but still provide for the maximum participation of imports of cotton in such provisions.";

(2) in subsection (d), by inserting after "cottonseed" the following: "or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton (including cotton described in subparagraphs (A) and (B) of subsection (c)(2),"; and

(3) by adding at the end the following new subsection:

"(h)(1) The term 'importer' means any person who enters, or withdraws from a warehouse, cotton for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry.".

SEC. 1507. CONFORMING AMENDMENT.

Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended by adding at the end the following new sentence: "The provisions of this subsection shall not apply to cottonseed and the products derived from cotton and its seed.".

CHAPTER 3—PECANS

SEC. 1601. SHORT TITLE.

This chapter may be cited as the "Pecan Promotion and Research Act of 1989".

SEC. 1602. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce and directly burden or affect interstate commerce in pecans.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) CONSTRUCTION.—Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of individual producers to produce pecans.

SEC. 1603. DEFINITIONS.

As used in this chapter:

(1) BOARD.—The term "Board" means the Pecan Marketing Board established in section 1608(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or director has a direct or indirect interest or investment in an entity, corporation, business, or a company dealing directly or indirectly with the Board.

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) DISTRICT.—The term "district" means the four geographic subdivisions of the United States that are approximately equal in the production volume of pecans, as determined by the Board and approved by the Secretary.

(6) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of pecans from a grower. If a grower markets pecans directly, such grower shall be considered the first handler.

(7) GROWER.—The term "grower" means any person engaged in a proprietary capacity in the production and sale of pecans.

(8) GROWER-SHELLER.—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the continental United States; and

(B) grows 50 percent or more of the pecans such person shells or has shelled for such person.

(9) HANDLE.—The term "handle" means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(10) IMPORTER.—The term "importer" means any person who imports pecans from a country outside of the United States for sale in the United States.

(11) INSHELL PECAN.—The term "inshell pecan" means a pecan that has a shell that has not been removed.

(12) MARKETING.—The term "marketing" means the sale or other disposition of pecans in any channel of commerce.

(13) MARKETING YEAR.—The term "marketing year" means the 12-month period from October 1 through September 30 or such other period of the time as may be recommended by the Board and established by the Secretary.

(14) MEMBER.—The term "member" means a member of the Board.

(15) PECAN.—The term "pecan" means the nut of the pecan tree carya illinoensis, both inshell or shelled equivalent, grown within the United States, or imported into the United States, that are introduced into the channels of commerce.

(16) PERSON.—The term "person" means an individual, partnership, corporation, association, or any other business unit.

(17) PROMOTION.—The term "promotion" means any action taken by the Board, pursuant to this chapter, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(18) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(19) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(20) SHELL.—The term "shell" means to remove the shell from an inshell pecan.

(21) SHELLED PECAN.—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(22) SHELLER.—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) purchases more than 50 percent of the pecans such person shells or has shelled for such account.

(23) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 1604. AUTHORITY TO ISSUE ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 1602(b), the Secretary shall, subject to this chapter, issue and from time to time amend, orders applicable to growers, shellers, first handlers, and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

SEC. 1605. NOTICE AND HEARINGS.

(a) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this chapter, or an association of pecan growers or grower-shellers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such an order.

(b) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

SEC. 1606. FINDINGS AND ISSUANCE OF ORDERS.

(a) IN GENERAL.—After notice and opportunity for public comment are given, as provided in section 1605, the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter.

(b) EFFECTIVE DATE.—Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

SEC. 1607. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this chapter.

SEC. 1608. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) PECAN MARKETING BOARD.—

(1) ESTABLISHMENT.—The order shall establish a Pecan Marketing Board to carry out the program referred to in section 1602(b).

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) eight members who are growers;

(B) four members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, appointed by the Board; and

(F) at the option of the Board, a consultant or advisor representing a pecan producing country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) REPRESENTATION OF MEMBERS.—

(A) GROWER REPRESENTATIVES.—Of the growers referred to in paragraph (3)(A), two members shall be from each of the four districts in the United States.

(B) SHELLER REPRESENTATIVES.—Of the shellers referred to in paragraph (3)(B)—

(i) two members shall be from east of the Mississippi River; and

(ii) two members shall be from west of the Mississippi River.

(C) FIRST HANDLER REPRESENTATIVE.—The first handler representative on the Board referred to in paragraph (3)(C) shall be from one of the districts.

(D) IMPORTER REPRESENTATIVE.—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans to the United States.

(E) PUBLIC REPRESENTATIVE.—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, sheller, or first handler.

(5) ALTERNATE FOR EACH MEMBER.—Each member on the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) LIMITATION ON STATE RESIDENCE.—There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State representing the district that it is in.

(7) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States and the volume of imported pecans; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production and the quantity of imported pecans.

(8) NOMINATION PROCESS FOR MEMBERS.—

(A) PUBLICITY.—The Board shall give reasonable publicity to the industry for nomination of persons interested in being elected to Board membership.

(B) ELIGIBILITY.—Any person referred to in paragraph (3) shall be eligible to vote at the nomination meetings for members who represent that class of members.

(C) NOMINATION OF MEMBERS.—Each person referred to in subparagraph (B) shall have one vote. The candidates receiving the largest number of votes cast for Board positions for each class of members shall be the nominees for such positions.

(D) CERTIFICATION.—The nominations made under subparagraph (C) shall be certified by the Board to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) APPOINTMENT.—The Secretary shall appoint the Board members certified under subparagraph (D).

(F) INITIAL BOARD.—For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Board under this paragraph.

(9) TERMS OF OFFICE.—

(A) IN GENERAL.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) TERMINATION OF TERMS.—Each member shall continue to serve until a successor is appointed by the Secretary.

(C) LIMITATION ON TERMS.—No member shall serve more than 2 consecutive 3-year terms as a member.

(D) VACANCIES.—

(i) SUBMITTING NOMINATIONS.—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that nominations for a successor for such vacancy be submitted by the Board.

(ii) LACK OF NOMINATIONS.—If no eligible nomination is submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson and such other officers as may be necessary to select committees and subcommittees of Board members;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 1610, and a fiscal period budget of the anticipated expenses in the administration of this chapter, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and development;

(9) to carry out research and development, advertising or promotion, and pay the costs of such projects with funds collected pursuant to subsection (g), subject to subsections (d) and (e) of section 1609;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, and the public to assist in the development of research and promotion programs for pecans;

(12) to refrain from engaging in any action that would be a conflict of interest;

(13) to not engage in any advertising that may be false or misleading;

(14) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this chapter, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(15) to receive, investigate, and report to the Secretary complaints of violations of the order;

(16) to furnish the Secretary with such information as the Secretary may request;

(17) to recommend to the Secretary amendments to the order; and

(18) to develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out this chapter.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, development, advertising, consumer information, and industry information plans and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for research, development, advertising, or promotion of pecans, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid from assessments collected under section 1610 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) LIMITATION ON SPENDING.—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under subsection (g) for administration of the Board.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) GROWER AND GROWER-SHELLER ORGANIZATIONS.—The order shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those provided in paragraph (2).

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) PROHIBITION.—No fund collected by the Board under this chapter shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to this chapter.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler, grower-sheller, or importer subject to this chapter shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this chapter; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this chapter, including such records as are necessary to verify any required reports.

(2) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this chapter of information regarding first handlers, grower-shellers, and importers that may be accumulated under a law or regulation other than this chapter or regulations under this chapter.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (B) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this chapter.

(C) BOARD MEMBERS AND EMPLOYEES.—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B), shall be considered a violation of this chapter.

(D) GENERAL STATEMENTS.—Nothing in this paragraph shall prohibit the issuance of general statements based on reports of a number of first-handlers, grower-shellers, or importers, subject to the plan if such statements do not identify the information furnished by any person.

(5) AVAILABILITY OF INFORMATION.—

(A) EXCEPTION.—Except as provided in section 1612, information obtained under this chapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(i) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this chapter, as necessary to effectuate this chapter.

SEC. 1609. PERMISSIVE TERMS IN ORDERS.

(a) IN GENERAL.—An order issued pursuant to this chapter may contain one or more of the terms and conditions contained in this section.

(b) EXEMPTIONS.—The order may provide authority to exempt from the order pecans used for nonfood uses, and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers, and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and sales promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this chapter.

(e) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to this chapter, to permit an effective and continuous coordinated program of research, development, advertising, and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the order for 2 years.

(g) FOREIGN MARKETS.—The order may provide authority to use funds collected under this chapter, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(h) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter that are necessary to effectuate the other provisions of the order.

SEC. 1610. ASSESSMENTS.

(a) IN GENERAL.—During the effective period of this chapter, assessments shall be—

(1) levied on all pecans produced in, or imported into, the United States; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under subsection (a) on a first handler, importer, or grower-sheller for any lot of pecans handled.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) a grower-sheller who markets pecans, in the form of pecans, to consumers either directly, through retail or wholesale outlets, or for export purposes.

(2) TIMES TO REMIT ASSESSMENT.—

(A) FIRST HANDLERS.—Each first handler who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed.

(B) GROWER-SHELLERS.—Each grower-sheller who is responsible for the remittance of an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on March 31, June 30, and September 30 or such dates as may be recommended by the Board and approved by the Secretary during the fiscal year that the pecans being assessed were produced and harvested.

(3) IMPORTERS.—Importers of pecans into the United States shall pay the assessment at the time the pecans or pecan equivalents enter the United States and such assessment shall be remitted to the Board.

(d) ASSESSMENT RATE.—

(1) IN GENERAL.—Assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of the plan and ending on the date the referendum is conducted under section 1614, one-half cent per pound in-shell or the equivalent; and

(B) after such period, up to 2 cents per pound in-shell or the equivalent.

(2) ADJUSTING RATE FOR OUT-OF-SHELL PECANS.—The in-shell rate of assessment established under paragraph (1) shall be established for shelled pecans or pecan equivalents at twice such in-shell rate.

(3) SPECIAL STATE ASSESSMENT.—In addition to the maximum assessment rate prescribed in paragraph (1), an additional one-quarter cent special State assessment may be remitted to the Board in a manner prescribed by the Secretary for the purpose of utilizing such funds by the State Board for research projects to promote pecans conducted pursuant to State law.

(e) LATE CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit to the Board the total amount that such person is liable for on or before the due date established by the Board under subsection (c)(2).

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board and approved by the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—The Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the order and ending on the date the referendum is conducted under section 1614.

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments collected from such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is responsible for paying such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this chapter; and

(C) the program established by this chapter is not approved pursuant to the referendum conducted under section 1614.

(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) MAKING OF REFUND.—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible growers, grower-shellers, or importers under this subsection and the program established by this chapter is not approved pursuant to the referendum conducted under section 1614, the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) PROGRAM APPROVED.—If the program established by this chapter is approved pursuant to the referendum conducted under section 1614, all funds in the escrow account shall be returned to the Board for use by the Board and no refunds shall be paid.

SEC. 1611. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 1612(a).

SEC. 1612. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this chapter or a regulation issued under this chapter.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General a violation of this chapter or a regulation issued under this chapter if the Secretary believes that the administration and enforcement of this chapter would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of this chapter or a regulation issued under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under this chapter or a regulation issued under this chapter, may be assessed a civil penalty by the Secretary of not less than $1,000 nor more than $10,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 1613. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this chapter; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this chapter, or any plan, rule, or regulation issued under this chapter.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to

produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 1614. REQUIREMENT OF REFERENDUM.

(a) IN GENERAL.—Not later than 24 months after the effective date of this chapter, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the order.

(b) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under this chapter, the Secretary determines that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this chapter, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this chapter shall be conducted in such a manner as is determined by the Secretary.

(2) ADVANCE REGISTRATION.—A pecan grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this chapter (1) shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service for such pecan grower or grower-sheller, after receiving notice from such office concerning such referendum under paragraph (4).

(3) VOTING.—A pecan grower, grower-sheller, or importer who votes in any referendum conducted under this chapter shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service.

(4) NOTICE.—Each Agricultural Stabilization and Conservation Service office shall notify all pecan growers and grower-shellers in the area of such office at least 30 days prior to a referendum conducted under this chapter. Such notice shall explain the procedure established under this subsection.

SEC. 1615. SUSPENSION OR TERMINATION OF ORDERS.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or 10 percent or more of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—The Secretary shall terminate or suspend such order, in accordance with section 1614(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 1614 shall apply to a referendum conducted under this subsection.

SEC. 1616. AMENDMENTS.

The provisions of this chapter applicable to plans shall be applicable to amendments to plans.

SEC. 1617. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

CHAPTER 4—MUSHROOMS

SEC. 1701. SHORT TITLE.

This chapter may be cited as the "Mushroom Promotion, Research, and Consumer Information Act".

SEC. 1702. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) CONSTRUCTION.—Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 1703. DEFINITIONS

As used in this chapter:

(1) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) COUNCIL.—The term "Council" means the Mushroom Council established under section 1705(b).

(4) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means any person, as described in an order issued under this chapter, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, including mushrooms of the person's own production.

(6) IMPORTER.—The term "importer" means any person who—

(A) imports, on average, over 500,000 pounds of mushrooms annually from outside the United States; or

(B) with respect to an amount of mushrooms that, on average, exceeds 500,000 pounds annually, acts as agent, broker, or consignee of any person or nation that produces mushrooms outside the United States for sale in the United States.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) MUSHROOMS.—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are introduced into the channels of commerce, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(11) PRODUCER.—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) PROMOTION.—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 1704. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 1702(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this chapter applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this chapter at any one time.

(b) PROCEDURES.—

(1) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this chapter, or an association of mushroom producers or any other person that will be affected by this chapter may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this chapter. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 1706(a), shall become effective not later than 120 days following publication of the proposed order.

(c) AMENDMENTS.—

(1) IN GENERAL.—The Secretary, from time to time, may amend any order issued under this section.

(2) APPLICATION OF CHAPTER.—Except as otherwise provided in section 1705(g)(2)(B), the provisions of this chapter applicable to an order shall be applicable to amendments to the order.

SEC. 1705. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order issued under this chapter shall contain the terms and conditions prescribed in this section.

(b) MUSHROOM COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least four members and not more than nine members.

(B) MEMBERSHIP.—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) UNITS.—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into four regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) IMPORTERS.—Importers shall be represented as a separate region.

(D) MEMBERS PER REGION.—The Secretary shall appoint one member from each region that produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) ADDITIONAL MEMBERS.—Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(3) TERMS; COMPENSATION.—

(A) TERMS.—The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) COMPENSATION.—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) POWERS AND DUTIES OF THE COUNCIL.—The order shall define the powers and duties of the Council, which shall include the power and duty—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this chapter, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) APPROVAL BY SECRETARY.—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) BOOKS AND RECORDS OF COUNCIL.—

(1) IN GENERAL.—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) AUDITS.—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) ASSESSMENTS.—

(1) COLLECTION AND PAYMENT.—

(A) IN GENERAL.—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) IMPORTERS.—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) DIRECT MARKETING.—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) RATE OF ASSESSMENT.—

(A) INITIAL RATE.—The rate of assessment prescribed by the order—

(i) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(ii) for the second year of the order, may not exceed one-half cent per pound of mushrooms; and

(iii) for the third and following years of the order, may not exceed one cent per pound of mushrooms, except as provided in subparagraph (B).

(B) ADJUSTMENT OF ASSESSMENT.—Effective beginning with the fourth year of the order, the Secretary may amend the order, on the recommendation of the Council, to prescribe a rate of assessment not to exceed 2 cents per pound of mushrooms. Any such amendment shall become effective on its issuance by the Secretary, except that an amendment that increases the rate of assessment above 1 cent per pound shall not be effective unless approved in a referendum conducted under section 1706.

(3) USE OF ASSESSMENTS.—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this chapter, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this chapter, except for the salaries of Government employees incurred in conducting referenda.

(4) LIMITATION ON COLLECTION.—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) PROHIBITION.—The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this chapter and for the submission to the Secretary of voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each handler of mushrooms, importer of mushrooms, and each person marketing mushrooms of such person's own production maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) AVAILABILITY TO SECRETARY.—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this chapter, the order, or any regulation issued under this chapter.

(3) OTHER INFORMATION.—In addition, the Secretary shall authorize the use under this chapter of information regarding handlers and importers that may be accumulated under a law or regulation other than this chapter or regulations under this chapter.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—All information obtained by the Secretary under paragraph (1) shall be kept confidential by all officers and employees of the Department and agents of the Council and only such information so obtained as the Secretary considers relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) LIMITATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(5) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Except as provided in section 1708, information obtained under this chapter may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(6) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(j) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this chapter, as are necessary to effectuate this chapter, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 1706. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 1704(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 1704(b), if the Secretary determines that it has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) SUCCEEDING REFERENDA.—

(1) DETERMINATION CONCERNING ORDER.—

(A) IN GENERAL.—Effective 5 years after the date on which an order becomes effective under section 1704(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) REQUEST FOR REFERENDUM.—Effective beginning 3 years after the date on which an order becomes effective under section 1704(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum, to ascertain whether producers and importers favor termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) MANNER.—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 1707. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this chapter may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) PROCESS.—Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 1708.

SEC. 1708. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized

to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General a violation of this chapter if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 1709. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this chapter or to determine whether any person subject to this chapter has engaged or is about to engage in any action that constitutes or will constitute a violation of this chapter or of any order or regulation issued under this chapter.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from anyplace in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 1710. SAVINGS PROVISION.

Nothing in this chapter may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 1711. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or provision.

SEC. 1712. AMENDMENTS.

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

SEC. 1713. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of an order issued under this chapter.

SEC. 1714. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this chapter.

CHAPTER 5—LIMES

SEC. 1801. SHORT TITLE.

This chapter may be cited as the "Lime Research, Promotion, and Consumer Information Act".

SEC. 1802. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) FINDINGS.—Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in large part in channels of interstate and foreign commerce;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this chapter are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets; and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestic and foreign producers of limes equitably.

(c) LIMITATIONS.—

(1) QUALITY STANDARDS AND PRODUCTION.—Nothing in this chapter shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

(2) IMPORTED LIMES.—Nothing in this chapter shall be construed as a trade barrier to limes produced in foreign countries.

SEC. 1803. DEFINITIONS.

For purposes of this chapter:

(1) BOARD.—The term "Board" means the Lime Board provided for under section 1805(b).

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) HANDLE.—The term "handle" means to sell, purchase, or package limes.

(4) HANDLER.—The term "handler" means any person in the business of handling limes.

(5) IMPORTER.—The term "importer" means any person who—

(A) imports limes into the United States; or

(B) acts as an agent, broker, or consignee for any person or nation that produces limes outside of the United States for sale in the United States.

(6) LIME.—The term "lime" means the fruit of a citrus aurantifolia tree for the fresh market.

(7) MARKETING.—The term "marketing" means the sale or other disposition of limes in commerce.

(8) ORDER.—The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 1804(a).

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(10) PRODUCER.—The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) PRODUCER-HANDLER.—The term "producer-handler" means any person who is both a producer and handler of limes.

(12) PROMOTION.—The term "promotion" means any action taken under this chapter (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) RESEARCH.—The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 1804. ISSUANCE OF ORDERS.

(a) IN GENERAL.—Subject to this chapter, and to effectuate the declared purposes of this chapter, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes.

(b) NOTICE AND PUBLIC COMMENT.—The Secretary shall publish each order proposed to be issued under subsection (a) and give due notice and opportunity for public comment on such order.

(c) SUBMISSION OF A PROPOSED ORDER OR AMENDMENT.—A proposal for an order or amendment under subsection (a) may be submitted by, and an opportunity for public comment may be requested by, any person affected by this chapter.

(d) INITIAL PROPOSAL.—In the case of the first proposal for an order the Secretary receives under subsection (c), the Secretary shall comply with subsection (b) not later than the end of the 30-day period beginning on the date the Secretary receives such proposal.

(e) FINDINGS AND ISSUANCE OF AN ORDER.—After notice of and an opportunity for public comments has been provided under subsection (b), the order or amendment that is the subject of such notice and public comment shall be issued if the Secretary finds that, on the basis of the evidence introduced by such public comment, the issuance of the order or amendment and all the terms and conditions therein will further the purposes of this chapter.

(f) EFFECTIVE DATE.—An order issued under subsection (a) shall take effect on the date such order is published in the Federal Register.

SEC. 1805. REQUIRED TERMS OF ORDERS.

(a) IN GENERAL.—An order issued by the Secretary under section 1804(a) shall contain the terms and conditions described in this section and, except as provided in section 1806, no other terms or conditions.

(b) LIME BOARD.—Such order shall provide for the establishment of a Lime Board as follows:

(1) MEMBERSHIP.—The Board shall be composed of—

(A) seven members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) three members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) APPOINTMENT AND NOMINATION.—

(A) APPOINTMENT.—The Secretary shall appoint the members of the Board.

(B) PRODUCERS.—The seven members who are producers shall be appointed from individuals nominated by lime producers.

(C) IMPORTERS.—The three members who are importers shall be appointed from individuals nominated by lime importers.

(D) PUBLIC.—The public representative shall be appointed from nominations of the Board.

(E) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed without a nomination.

(3) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) TERMS.—Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—

(A) three members shall be appointed for a term of 1 year;

(B) four members shall be appointed for a term of 2 years; and

(C) four members shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(5) REPLACEMENT.—If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) COMPENSATION.—Members and alternates of the Board shall serve without pay.

(7) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) POWERS AND DUTIES.—The Board shall—

(A) administer orders issued by the Secretary under section 1804(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this chapter;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) BUDGETS AND PLANS.—Such order shall provide for periodic budgets and plans as follows:

(1) BUDGETS.—The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this chapter.

(d) ASSESSMENTS.—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) RATE.—The assessment rate shall not exceed $.01 per pound of limes.

(2) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer so handled, including the limes owned by the handler.

(3) PRODUCER-HANDLERS.—For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) IMPORTERS.—The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) EXCEPTIONS.—

(A) DE MINIMIS QUANTITIES.—The following persons are exempt from an assessment under this subsection—

(i) a producer who produces less than 35,000 pounds of limes per year;

(ii) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(iii) an importer who imports less than 35,000 pounds of limes per year

(B) INTRASTATE SHIPMENTS.—Intrastate shipments of limes shall—

(i) be exempt from the assessment required under this subsection; and

(ii) not be included in the calculation of limes produced or handled for purposes of subparagraph (A).

(6) CLAIMING AN EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) USE OF ASSESSMENTS.—

(1) IN GENERAL.—Such order shall provide that funds paid to the Board as assessments under subsection (d)—

(A) may be used by the Board to—

(i) pay for research, promotion, and consumer information described in the then current budget of the Board under subsec-

tion (c) and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 1806(5); and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of government employees in implementing and administering the order, except as provided in paragraph (2).

(2) REFERENDA.—Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this chapter, except for the salaries of Government employees.

(f) FALSE CLAIMS.—Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) PROHIBITION ON USE OF FUNDS.—Such order shall provide that funds collected by the Board under this chapter through assessments authorized by this chapter may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this chapter.

(h) BOOKS, RECORDS, AND REPORTS.—

(1) BY THE BOARD.—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this chapter (or any order or regulation issued under to this chapter), such order shall require handlers, producer-handlers, and importers who are responsible for the collection of assessments under subsection (d)—

(A) to maintain and make available for inspection by the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection of such assessments.

(i) CONFIDENTIALITY.—

(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed and only in a suit or administrative hearing brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 1804(a), together with a statement of the particular provisions of the order violated by such person.

SEC. 1806. PERMISSIVE TERMS OF ORDERS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 1804(a) may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide that, with respect to any Federal marketing order regarding limes, that—

(A) is in effect before the date of the enactment of this chapter; and

(B) the Secretary determines is comparable to the program established under this chapter;

there shall be paid to the Board as provided in section 1805(d) that portion of the assessment under such section that is greater than the assessment, if any, actually paid on the limes pursuant to such other marketing order;

(3) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(4) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(5) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 1805(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this chapter for 1 year;

(6) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 1805(d) for the development and expansion of lime sales in foreign markets; and

(7) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this chapter; and

(B) necessary to effectuate the other provisions of such order.

SEC. 1807. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may submit to the Secretary, within a period prescribed by the Secretary, a written petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition that shall be subject to review under subsection (b).

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—A person aggrieved by a ruling under subsection (a)(3) may obtain a review of such ruling by commencing, within the 20-day period beginning on the date such ruling is made, a civil action in the district court of the United States for the district in which—

(A) such person resides; or

(B) carries on business related to the subject matter of such action.

(2) PROCESS.—Service of process in such civil action may be made on the Secretary by delivering to the Secretary a copy of the complaint.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the proceedings to the Secretary with directions—

(A) to make a ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 1808.

SEC. 1808. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this chapter.

(b) REFERRAL TO ATTORNEY GENERAL.—The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General a violation of this chapter if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this chapter, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) REVIEW BY COURT OF APPEALS.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in—

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court the record on which such violation was found.

(3) STANDARD OF REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 1809. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this chapter; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this chapter, or any plan, rule, or regulation issued under this chapter.

(b) ADMINISTRATION.—For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) SUBPOENA.—Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) CONTEMPTS.—Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) PROCESS.—All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) JURISDICTION.—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 1810. INITIAL REFERENDUM.

(a) REQUIREMENT.—Not later than 2 years after the date on which the Secretary first issues an order under section 1804(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 1805(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) PURPOSE OF REFERENDUM.—The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 1811, shall be held strictly confidential and shall not be disclosed.

(d) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) IN GENERAL.—The assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) APPROVAL OF ORDER.—If the order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this chapter.

(3) DISAPPROVAL OF ORDER.—

(A) IN GENERAL.—If the amendment to the order is not approved in such referendum, the funds in the escrow account shall be refunded on a pro rata basis to eligible producers, producer-handlers, and importers on publication of the order terminating the program established by this chapter, after a deduction for a proportionate amount of the expenses incurred by the Secretary and the agency of Government that assists in administering the import provisions of the order.

(B) RIGHT TO REFUND.—Any producer, producer-handler, or importer shall have the right to receive a refund—

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) SURPLUS FUNDS.—Any funds not refunded under this paragraph shall be released to be used to carry out this chapter.

SEC. 1811. SUSPENSION AND TERMINATION.

(a) FINDING OF SECRETARY.—If the Secretary finds that an order issued under section 1804(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this chapter, the Secretary shall terminate or suspend the operation of such order or provision.

(b) PERIODIC REFERENDA.—The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 1804(a) and in effect at the time of such referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the request of the Board;

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this chapter submit a petition requesting such a referendum; or

(3) whenever the Secretary conducts a referendum regarding limes pursuant to a marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(d) VOTE.—The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

SEC. 1812. AMENDMENTS.

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

SEC. 1813. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this chapter.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this chapter.

SEC. 1814. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this chapter.

CHAPTER 6—POTATOES

SEC. 1901. SHORT TITLE.

This chapter may be cited as the "Potato Research and Promotion Act Amendments of 1989".

SEC. 1902. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) in the first sentence, by inserting "and foreign countries" after "United States"; and

(B) in the second sentence, by inserting "and imported into the United States from foreign countries" after "United States"; and

(2) in the last paragraph, by inserting "and imported into the United States from

foreign countries" after "United States" each place it appears.

SEC. 1903. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting after "United States" the following: "and foreign countries"; and

(2) by adding at the end the following:

"(g) The term 'importer' means any person who imports tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker or consignee for any person or nation that produces Irish Potatoes outside the United States for sale in the United States.".

SEC. 1904. AUTHORITY TO ISSUE PLANS.

The last sentence of section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) by striking "forty-eight contiguous" and inserting "50"; and

(2) by inserting after "United States" the following: "and foreign countries".

SEC. 1905. ALTERNATIVE PLAN.

The Potato Research and Promotion Act is amended by inserting after section 308 (7 U.S.C. 2617) the following new section:

"SEC. 308A. ALTERNATIVE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT TO ISSUE PLAN.—Notwithstanding the provisions of sections 305, 306, 308, and 314 that are inconsistent with this section, the Secretary shall publish the proposed alternative plan required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such a plan, if the Secretary determines that such alternative plan effectuates the declared policy of this Act.

"(2) TERMS AND CONDITIONS.—Any alternative plan issued pursuant to this section shall contain the terms and conditions prescribed in this section.

"(3) RELATIONSHIP TO OTHER PLAN.—

"(A) PROVISIONS.—In issuing the alternative plan under this section, the Secretary shall incorporate by reference the provisions of the potato research and promotion plan in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative plan.

"(B) BOARD MEMBERS.—Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member pursuant to section 308.

"(b) NATIONAL POTATO PROMOTION BOARD.—

"(1) ESTABLISHMENT.—The alternative plan shall provide for the establishment by the Secretary of a National Potato Promotion Board (hereinafter in this title referred to as 'the board').

"(2) POWERS AND DUTIES.—The alternative plan shall define the powers and duties of the board, which shall include powers—

"(A) to administer such plan in accordance with the terms and conditions of such plan;

"(B) to make rules and regulations to effectuate the terms and conditions of such plan;

"(C) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

"(D) to recommend to the Secretary amendments to such plan.

"(3) COMPOSITION.—

"(A) IN GENERAL.—The alternative plan shall provide that the board shall be composed of representatives of producers and up to five representatives of importers and the public appointed by the Secretary from nominations submitted in accordance with this subsection.

"(B) NOMINATION OF PRODUCER AND IMPORTER REPRESENTATIVES.—Representatives of producers and importers shall be nominated by producers and importers in such manner as may be prescribed by the Secretary.

"(C) NOMINATION OF PUBLIC REPRESENTATIVES.—Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary.

"(D) FAILURE TO NOMINATE.—If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of representation as provided for in such plan.

"(E) REFERENDUM.—The requirement for inclusion of public representatives on the board shall not be subject to approval in a referendum.

"(4) COMPENSATION.—The alternative plan shall provide that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

"(5) BUDGET.—The alternative plan shall provide that the board shall prepare and submit to the Secretary for the approval of the Secretary a budget, on a fiscal period basis, of the anticipated expenses and disbursements of the board in the administration of the plan, including probable costs of research, development, advertising, and promotion.

"(c) ASSESSMENTS.—

"(1) RATE.—The alternative plan shall provide that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers pursuant to section 314, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

"(2) USE.—The alternative plan shall provide that—

"(A) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this title, except that the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer or importer approval in a referendum;

"(B) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

"(C) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).

"(3) REFUNDS.—The alternative plan shall not provide for a refund of funds collected by the board.

"(d) PROGRAMS AND PROJECTS.—The alternative plan shall provide that the board shall, subject to paragraphs (1) and (2) of subsection (c), develop and submit to the Secretary for the approval of the Secretary any research, development, advertising, or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

"(e) CONTRACTS AND AGREEMENTS.—The alternative plan shall provide the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this title.

"(f) BOOKS AND RECORDS.—The alternative plan shall provide that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the board and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

"(g) ESCROW ACCOUNT FOR ASSESSMENT REFUNDS.—

"(1) IN GENERAL.—The board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the alternative plan issued under this section and ending on the date of the referendum on the alternative plan issued pursuant to section 314(e).

"(2) AMOUNT PLACED IN ACCOUNT.—The board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(3) RIGHT TO REFUND.—Subject to paragraphs (4), (5), and (6), any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in paragraph (1) if—

"(A) such producer or importer is responsible for paying such assessments;

"(B) such producer or importer does not support the program established under this title; and

"(C) the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e).

"(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

"(5) PROOF OF PAYMENT.—Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded.

"(6) PRORATION.—If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection and the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e), the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(h) APPLICATION TO ALL STATES.—Notwithstanding any other provision of this

Act, an alternative plan issued under this section shall apply to all 50 States.".

SEC. 1906. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (d)"; and

(2) by adding at the end the following new subsection:

"(d)(1) The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes under an alternative plan issued under section 308A shall be—

"(A) established by the board so that the effective assessment rate shall equal that established on domestic production; and

"(B) paid by the importer to the Potato Board at the time of entry into the United States.

"(2) Each importer under an alternative plan issued under section 308A shall maintain a separate record indicating—

"(A) the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan; and

"(B) such information as may be prescribed by the board.

"(3) Importers responsible for payment of assessments under this subsection shall—

"(A) maintain and make available for inspection by the Secretary such books and records as are required by the plan;

"(B) file reports at the times, and in the manner, and having the content prescribed by the plan; and

"(C) make such information and data available to the board and Secretary as is appropriate or necessary for the effectuation, administration, or enforcement of this title or of any plan or regulation issued pursuant to this title.

"(4) Notwithstanding any other provision of this title, assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary for implementing and administering the amendments made by Potato Research and Promotion Act Amendments of 1989.".

SEC. 1907. REFERENDUM REQUIREMENT FOR ALTERNATIVE PLAN.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended by adding at the end the following new subsection:

"(e)(1) Not later than 120 days after publication of the proposed alternative plan pursuant to section 308A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative plan under section 308A. Such alternative plan shall become effective as provided in this subsection.

"(2) Not later than 24 months after the date of issuance of the alternative plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes, for the purpose of ascertaining whether the alternative plan issued under section 308A is approved or disapproved by such producers and importers.

"(3) Such alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers voting in the referendum.

"(4) If such alternative plan is not approved, the Secretary shall terminate such alternative plan, and the original plan issued under section 308 shall become effective.".

CHAPTER 7—HONEY

SEC. 1921. SHORT TITLE.

This chapter may be cited as the "Honey Research Promotion, and Consumer Information Act Amendments of 1989".

SEC. 1922. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended by adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 1923. REQUIRED TERMS OF ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting after the first sentence the following new sentence: "A State association may nominate not more than one person from such State to serve on the Committee."; and

(B) in paragraph (5), by inserting after the first sentence the following new sentence: "The Committee may nominate not more than one person for each member or alternate position on the Honey Board.";

(2) in subsection (c)—

(A) in paragraph (2), by striking subparagraph (C) and inserting the following new subparagraph:

"(C) two members who are either importers or exporters of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following subparagraph (E), by striking "or alternates"; and

(C) in paragraph (4), by striking the period at the end and inserting ", except that if as a result of redistricting the residence of the member or alternate is no longer in the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed.";

(3) in subsection (e), by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A producer or producer-packer who produces or produces and handles less than 6,000 pounds of honey per year, or an importer who imports less than 6,000 pounds of honey per year, shall be eligible for an exemption from the assessment if such producer, producer-packer or importer consumes at home, donates or distributes directly through local retail outlets the entire amount so produced, produced and handled or imported.

"(B) In order to claim such exemption, a person shall submit an application to the Honey Board stating that the person's production, handling or importation of honey for the year for which the exemption is claimed shall meet the requirements of this paragraph.

"(C) If, after a person receives an exemption from the assessment for any year, such person no longer meets the foregoing requirements of this paragraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay the assessment on or before March 15 of the subsequent year on all honey produced or imported during the year."; and

(4) by adding at the end the following new subsection:

"(k) Any patents, copyrights, inventions, product formulations or publications developed through the use of funds collected by the Honey Board shall be the property of the Honey Board and any funds generated from such patents, copyrights, inventions, or publications shall inure to the benefit of the Honey Board.".

SEC. 1924. COLLECTION OF ASSESSMENTS; REFUNDS.

Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) In any case in which a loan is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds promptly after each time any loan funds are disbursed.";

(2) in subsection (f), by inserting after "assessments" the following: "and persons receiving an exemption from an assessment"; and

(3) by striking subsection (h) and inserting the following new subsections:

"(h)(1) Any producer or importer may obtain a refund of the assessment collected from the producer or importer if demand for such is made within the time and in the manner prescribed by the Honey Board and approved by the Secretary, except that during any year the amount of refunds made to each importer, as a percentage of total assessments collected from such importer, shall not exceed the amount of refunds made to domestic producers as a percentage of total assessments collected from such producers.

"(2) Such refund shall be made by the Honey Board in June and December of each year. A producer who has obtained a honey price support loan under the Agricultural Act of 1949 may obtain a refund at that time if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment.".

SEC. 1925. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

"SEC. 11A. INVESTIGATIONS AND POWER TO SUBPOENA.

"(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act or to determine wheth-

er any person subject to this Act has engaged or is about to engage in any action that constitutes or will constitute a violation of this Act or of any order or regulation issued under this Act.

"(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from anyplace in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.".

SEC. 1926. EFFECTIVE DATE.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture shall issue an amendment to the order provided for by the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.) that implements the amendments made by this chapter after notice and opportunity for public comment. The amendment shall become effective on the date of the publication of the amendment in the Federal Register.

CHAPTER 8—KIWIFRUIT AND OTHER FRUIT

SEC. 1941. KIWIFRUIT AND OTHER FRUIT.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or eggplants" and inserting "eggplants, kiwifruit, nectarines, or plums".

CHAPTER 9—PAPAYA

SEC. 1951. PAPAYA.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e-1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by inserting "papayas," after "table grapes,".

CHAPTER 10—EGGS

SEC. 1961. EGGS.

(a) EXEMPTED EGG PRODUCERS.—Section 12 of the Egg Research and Consumer Information Act (7 U.S.C. 2711) is amended to read as follows:

"SEC. 12. EXEMPTED EGG PRODUCERS AND BREEDING HEN FLOCKS, CONDITIONS AND PROCEDURES.

"(a) IN GENERAL.—The following shall be exempt from the specific provisions of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

"(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable, as determined under subsection (b), has not exceeded 30,000 laying hens.

"(2) Any flock of breeding hens whose production of eggs is primarily utilized for hatching of baby chicks.

"(b) NUMBER OF LAYING HENS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the aggregate number of laying hens owned by an egg producer shall include—

"(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

"(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

"(C) in cases in which a producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.

"(2) STOCK OR BENEFICIAL INTERESTS.—For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

"(A) members of a producer's family described in paragraph (1)(A);

"(B) a general partnership or similar entity in which the producer is a partner or equity participant;

"(C) the partners or equity participants in an entity of the type described in subparagraph (B), or by a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests,

shall be considered as held by the producer.".

(b) EGG PROMOTION AND RESEARCH ORDER.—

(1) AMENDMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall propose an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section. Such amendment shall be issued in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by subsection (a) shall become effective on the date of the publication in the Federal Register and shall not be subject to a referendum under the Egg Research and Consumer Information Act (42 U.S.C. 2701 et seq.).

CHAPTER 11—PEANUTS

SEC. 1971. PEANUTS.

Section 8b of the Agricultural Adjustment Act (7 U.S.C. 608b), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(1)" after the section designation; and

(2) by adding at the end the following:

"(2)(A) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

"(i) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement; and

"(ii) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement.

"(B) Violation of this subsection by a person who has not entered into such an agreement shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts, as determined under section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-2), for the marketing year for the crop with respect to which such violation occurs.".

CHAPTER 12—VIDALIA ONIONS

SEC. 1981. VIDALIA ONIONS.

(a) PROHIBITION.—No person shall label, package, classify, identify, or otherwise designate for sale any onions as "Vidalia onions", "Vidalias", or with any other usage of the term "Vidalia ", unless such onions—

(1) are produced in the "Production area", as that term is defined in section 955.4 of Federal Marketing Order No. 955, in effect on the date of enactment of this Act, as contained in part 955 of title 7, Code Of Federal Regulations; and

(2) satisfies the definition of the term "Vidalia onions" contained in section 955.5 of the Order.

(b) VIOLATIONS.—A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4) and (5)).

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
Washington, DC, August 4, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget.

Hon. PETE V. DOMENICI,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR JIM AND PETE: Under the Concurrent Resolution on the Budget for Fiscal Year 1990, the Senate Committee on Commerce, Science, and Transportation was instructed to achieve $450 million in "unspecified reconciliation" in budget authority and outlays for fiscal year 1990.

On July 27, 1989, the Committee approved a package of legislative changes, in programs within the jurisdiction of the Commerce Committee, which meets these instructions. The package includes the following:

1. Federal Communications Commission Fees;
2. International Departure Fees;
3. Coast Guard Fees; and
4. Airport Slot Fees.

Enclosed are legislative provisions and explanatory language for each of these proposals, as well as the Congressional Budget Office cost estimates.

If you need anything else, please let us know.

With warmest personal regards, we are

Sincerely,

ERNEST F. HOLLINGS,
Chairman.

JOHN C. DANFORTH,
Ranking Member.

FEDERAL COMMUNICATIONS COMMISSION FEES

This section includes increases in the Federal Communications Commission (FCC) cost of regulation fees under Section 8 of the Communications Act and increases in

the penalties in the Communications Act. This proposal is similar to that adopted in the House Energy and Commerce Committee and will raise $43 million.

Specifically, the reported provisions alter—generally increase—existing fees to reflect the current costs of processing. In addition, this proposal applies the fees to the following groups, who are not included under the current fee schedule:

Ship stations; aircraft stations; private carriers; amateur radio; general mobile radio; nationwide paging services; air-to-ground licenses; mobile satellite earth stations; radio determination satellite earth stations; radio operator examinations; ship inspections; and importation of radio frequency devices.

Unlike the House proposal, this proposal continues to exempt noncommercial broadcast services and services used by state and local governments. Also exempted are special emergency and public safety radio services, which are most often used by local government officials. Noncommercial broadcasters and special emergency and public safety radio services were exempted from the original fees legislation passed in 1986. The reason to continue these exemptions is that the federal government has direct funding programs for these agencies and groups. Imposing a cost of regulation fee would simply represent a transfer from one federal account to another. To offset these continued exemptions, the proposal increases the minimum fee under the House proposal from $30 to $35.

With respect to penalties, the Communications Act contains a wide variety of fines/penalties for violations of the Act. None of these fines/penalties has been revised since 1934. The provisions adopted by the Committee increase these fines/penalties to generally reflect increases in the consumer price index. The FCC estimates that these increases will raise approximately $600,000 in additional revenue annually.

PROPOSED BUDGET RECONCILIATION PROVISIONS OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION RELATING TO FCC USER FEES AND PENALTIES

SEC. . FEDERAL COMMUNICATIONS COMMISSION FEES, FINES, AND PENALTIES.

(a) FCC FEES.—

(1) UPDATE OF FEE SCHEDULE.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended by adding at the end the following:

"(g) Until modified pursuant to subsection (b) of this section, the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

"SCHEDULE OF CHARGES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations:	
a. New license (per station)	$70
b. Modification of license (per station)	70
c. Renewal of license (per station)	70
d. Special temporary authority (initial, modifications, extensions)	100
e. Assignments (per station)	70
f. Transfers of control (per station)	35
g. Request for waiver (per station):	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
2. Ship stations:	
a. New license (per application)	35
b. Modification of license (per application)	35
c. Renewal of license (per application)	35
d. Transfer of control (per call sign)	35

"SCHEDULE OF CHARGES—Continued

Service	Fee amount
e. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
3. Operational fixed microwave stations:	
a. New license (per station)	155
b. Modification of license (per station)	155
c. Renewal of license (per station)	155
d. Special temporary authority (initial, modifications, extensions)	35
e. Assignments (per station)	155
f. Transfers of control (per station)	35
g. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
4. Aviation (ground stations):	
a. New license (per station)	70
b. Modification of license (per station)	70
c. Renewal of license (per station)	70
d. Special temporary authority (initial, modifications, extensions)	100
e. Assignments (per station)	70
f. Transfer of control (per station)	35
g. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
5. Aircraft stations:	
a. New license (per application)	35
b. Modification of license (per application)	35
c. Renewal of license (per application)	35
d. Transfer of control (per call sign)	35
e. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
6. Land mobile radio stations:	
a. New License (per call sign)	35
b. Modification of License (per call sign)	35
c. Renewal of License (per call sign)	35
d. Special Temporary Authority (Initial, modifications, extensions)	35
e. Assignments (per station)	35
f. Transfers of Control (per call sign)	35
g. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
h. Reinstatement (per call sign)	35
i. Specialized mobile radio systems-base stations:	
(i) New license (per call sign)	35
(ii) Modification of license (per call sign)	35
(iii) Renewal of license (per call sign)	35
(iv) Waiting list (annual charge per application)	35
(v) Special temporary authority (initial, modifications, extensions)	35
(vi) Assignments (per call sign)	35
(vii) Transfers of control (per call sign)	35
(viii) Request for waiver:	
(1) Routine (per request)	105
(2) Non-Routine (per rule) section/per station)	105
(ix) Reinstatements (per call sign)	35
j. Private carrier licenses:	
(i) New license (per call sign)	35
(ii) Modification of license (per call sign)	35
(iii) Renewal of license (per call sign)	35
(iv) Special temporary authority (initial, modifications, extensions)	35
(v) Transfers of control (per call sign)	35
(vii) Request for waiver:	
(1) Routine (per request)	105
(2) Nonroutine (per rule section/per station)	105
(viii) Reinstatements (per call sign)	35
7. Amateur license:	
a. New license (per application)	35
b. Modification of license (per application)	35
c. Renewal of license (per application)	35
d. Reciprocal permit for alien amateur license	35
e. Renewal or modification of amateur club, RACES, or military recreation station license	35
f. Special temporary authority (initial, modifications, extensions)	35
g. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
8. General mobile radio service:	
a. New license (per call sign)	35
b. Modifications of license (per call sign)	35
c. Renewal of license (per call sign)	35
d. Request for waiver:	
(i) Routine (per request)	105
(ii) Nonroutine (per rule section/per station)	105
e. Special temporary authority (initial, modifications, extensions)	35
f. Transfer of control (per call sign)	35
9. Restricted radiotelephone operator permit	35
10. Request for duplicate station license (all services)	35
11. Hearing (comparative new and modifications)	6,760
EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO	
1. Certification:	
a. Receivers (except TV and FM receivers)	285
b. All other devices	735
c Modifications and class II permissive changes	35
d. Request for confidentiality	105
2. Type acceptance:	
a. All devices	370
b. Modifications and class II permissive changes	35
c. Request for confidentiality	105

"SCHEDULE OF CHARGES—Continued

Service	Fee amount
3. Type Approval (all devices):	
a. With testing (including major modifications)	1,465
b. Without Testing (including minor modifications)	170
c. Request for confidentiality	105
4. Notifications	115
5. Advance approval of subscription TV system	2,255
a. Request for confidentiality	105
6. Assignment of grantee code for equipment identification	35
7. Experimental Radio Service:	
a. New construction permit and station authorization (per application)	35
b. Modification to existing construction permit and station authorization (per application)	35
c. Renewal of station authorization (per application)	35
d. Assignment or transfer of control (per application)	35
e. Special temporary authority (per application)	35
f. Additional charge for applications containing requests to withhold information from public inspection (per application)	35
MASS MEDIA SERVICES	
1. Commercial TV stations:	
a. New or major change construction permits	2,535
b. Minor change	565
c. Hearing (major/minor change, comparative new or comparative renewal)	6,760
d. License	170
e. Assignment or transfer:	
(i) Long form (forms 314/315)	565
(ii) Short form (form 316)	80
f. Renewal	100
g. Call sign (new or modification	55
h. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
i. Extension of time to construct or replacement of CP	200
j. Permit to deliver programs to foreign broadcast stations	55
k. Petition for rulemaking for new community of license or higher class channel	1,565
l. Ownership report (per report)	35
2. Commercial radio stations:	
a. New or major change construction permit:	
(i) AM station	2,255
(ii) FM station	2,030
b. Minor change:	
(i) AM station	565
(ii) FM station	565
c. Hearing (major/minor change, comparative new or comparative renewal)	6,760
d. License:	
(i) AM	370
(ii) FM	115
(iii) AM directional antenna	425
(iv) FM directional antenna	355
(v) AM remote control	35
e. Assignment or transfer:	
(i) Long form (forms 314/315)	565
(ii) Short form (form 316)	80
f. Renewal	100
g. Call sign (new or modification)	55
h. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
i. Extension of time to construct or replacement of CP	200
j. Permit to deliver programs to foreign broadcast stations	55
k. Petition for rulemaking for new community of license or higher class channel	1,565
l. Ownership report (per report)	35
3. Commercial FM translators:	
b. New or major change construction permit	425
b. License	85
c. Assignment or transfer	80
d. Renewal	35
e. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
4. Commercial TV translators and LPTV stations:	
a. New or major change construction permit	425
b. License	85
c. Assignment or transfer	80
d. Renewal	35
e. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
5. Commercial auxiliary services (includes remote pickup stations, TV auxiliary broadcast stations, aural broadcast STL and intercity relay stations, and low power auxiliary stations):	
a. Major actions	85
b. Renewals	35
c. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
6. Commercial FM/TV boosters:	
a. New and major change construction permits	425
b. License	85
c. Assignment or transfer	80
d. Renewal	35
e. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
7. International broadcast station (commercial):	
a. New construction permit and facilities change CP	1,705
b. License	385
c. Assignment or transfer (per station)	60
d. Renewal	95
e. Frequency assignment and coordination (per frequency hour)	35
f. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
8. Cable television service:	
a. Cable television relay service:	
(i) Construction permit	155

"SCHEDULE OF CHARGES—Continued

Service	Fee amount
(ii) Assignment or transfer	155
(iii) Renewal	155
(iv) Modification	155
(v) Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
b. Cable special relief petition	790
c. 76.12 registration statement (per statement)	35
d. Aeronautical frequency usage notifications (per notice)	35
e. Aeronautical frequency usage waivers (per waiver)	35
10. Direct broadcast satellite:	
a. New or major change construction permit:	
(i) Application authorization to construct a direct broadcast satellite	2,030
(ii) Issuance of construction permit and launch authority	19,710
(iii) License to operate satellite	565
b. Hearing (comparative new, major/minor modifications, or comparative renewal	6,760
c. Special temporary authority (other than to remain silent or extend an existing STA to remain silent)	100
COMMON CARRIER SERVICES	
1. All common carrier services:	
a. Hearing (comparative new or major/minor modifications)	6,760
b. Development authority—same charge as regular authority in service unless otherwise indicated:	
c. Formal complaints and pole attachment complaints filing fee	120
2. Domestic public land mobile stations (includes base, dispatch, control and repeater stations):	
a. New or addtional facility (per transmitter)	230
b. Major modifications (per transmitter)	230
c. Fill in transmittters (per transmitter)	230
d. Major amendment to a pending application (per transmitter)	230
e. Assignment or transfer (per call sign)	230
f. Partial assignment (per call sign)	230
g. Renewal (per call sign)	35
h. Minor modification (per transmitter)	35
i. Special temporary authority (per frequency/per location)	200
j. Extension of time to construct (per application)	35
k. Notice of completion of construction (per application)	35
l. Auxiliary test station (per transmitter)	200
m. Subsidiary communications service (per request)	100
n. Reinstatement (per application)	35
o. Combining call signs (per call sign)	200
p. Standby transmitter (per transmitter/per location)	200
q. 900 MHz nationwide paging:	
(i) Renewal:	
(1) Network organizer	35
(2) Network operator (per operator/per city)	35
r. Air-ground individual license:	
(i) Initial license (per station)	35
(ii) Renewal of license (per station)	35
(iii) Modification of license (per station)	35
3. Cellular systems (per system):	
a. New or additional facilities	230
b. Major modification	230
c. Minor modification	60
d. Assignment or transfer (including partial)	230
e. License to cover construction:	
(i) Initial license for wireline carrier	595
(ii) Subsequent license for wireline carrier	60
(iii) License for nonwireline carrier	60
(iv) fill In license (all carriers)	60
f. Renewal	35
g. Extension of time to complete construction	35
h. Special temporary authority (per system)	200
i. Combining cellular geographic service areas (per system)	50
4. Rural Radio (includes central office, interoffice or relay facilities):	
a. New or additional facility (per transmitter)	105
b. Major modification (per transmitter)	105
c. Major amendment to pending application (per transmitter)	105
d. Minor modification (per transmitter)	35
e. Assignment or transfer (per call sign)	105
(i) Partial assignment (per call sign)	105
f. Renewal (per call sign)	35
g. Extension of time to complete construction (per application)	35
h. Notice of completion of construction (per application)	35
i. Special temporary authority (per frequency/per location)	200
j. Reinstatement (per application)	35
k. Combining call signs (per call sign)	200
l. Auxiliary test station (per transmitter)	200
m. Standby transmitter (per transmitter per location)	200
5. Offshore radio service (mobile, subscriber, and central stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico):	
a. New or additional facility (per transmitter)	105
b. Major modifications (per transmitter)	105
c. Fill in transmitters (per transmitter)	105
d. Major amendment to pending application (per transmitter)	105
e. Minor modification (per transmitter)	35
f. Assignment or transfer (per call sign)	105
(i) Partial assignment (per call sign)	105
g. Renewal (per call sign)	35
h. Extension of time to complete construction (per application)	35
i. Reinstatement (per application)	35
j. Notice of completion of construction (per application)	35

"SCHEDULE OF CHARGES—Continued

Service	Fee amount
k. Special temporary authority (per frequency/per location)	200
l. Combining call signs (per call sign)	200
m. Auxiliary test station (per transmitter)	200
n. Standby transmitter (per transmitter/per location)	200
6. Point-to-point microwave and local television radio service:	
a. Conditional license (per station)	155
b. Major modification of conditional license or license authorization (per station)	155
c. Certification of completion of construction (per station)	155
d. Renewal (per licensed station)	155
e. Assignment or transfer (per authorized station)	55
f. Extension of construction authorization (per station)	55
g. Special temporary authority or request for waiver of prior construction authorization (per request)	70
7. Multipoint distribution service (including multichannel MDS):	
a. Conditional license (per station)	155
b. Major Modification of conditional license or license authorization (per station)	155
c. Certification of completion of construction (per channel)	455
d. Renewal (per licensed station)	155
e. Assignment or transfer (per authorized station)	55
f. Extension of construction authorization (per station)	110
g. Special temporary authority or request for waiver of prior construction authorization (per request)	70
8. Digital electronic message service:	
a. Conditional license (per nodal station)	155
b. Modification of conditional license or prior construction authorization (per nodal station)	155
c. Certification of completion of construction (per nodal station)	155
d. Renewal (per licensed nodal station)	155
e. Assignment or transfer (per authorized station)	55
f. Extension of construction authorization (per station)	55
g. Special temporary authority or request for waiver of prior construction authorization (per request)	70
9. International fixed public radio (public and control stations):	
a. Initial construction permit (per station)	510
b. Assignment or transfer (per application)	510
c. Renewal (per license)	370
d. Modification (per station)	370
e. Extension of construction authorization (per station)	185
f. Special temporary authority or request for waiver (per request)	185
10. Fixed satellite transmit/receive Earth stations:	
a. Initial application (per station)	1,525
b. Modification of license (per station)	105
c. Assignment of transfer:	
(i) First station application	300
(ii) Each additional station	100
d. Development station (per station)	1,000
e. Renewal of license (per station)	105
f. Special temporary authority or waiver of prior construction authorization (per request)	105
g. Amendment of application (per station)	105
h. Extension of construction permit (per station)	105
11. Small transmit/receive Earth stations (2 meters or less and operating in the 4/6 GHz frequency band):	
a. Lead application	3,380
b. Routine application (per station)	35
c. Modification of license (per station)	105
d. Assignment or transfer:	
(i) First station on Application	300
(ii) Each additional station	35
e. Developmental station (per station)	1,000
f. Renewal of license (per station)	105
g. Special temporary authority or waiver of prior construction authorization (per request)	105
h. Amendment of application (per station)	105
i. Extension of construction permit (per station)	105
12. Receive only Earth stations:	
a. Initial application for registration	230
b. Modification of license or registration (per station)	105
c. Assignment or transfer:	
(i) First station on application	300
(ii) Each additional station	100
d. Renewal of license (per station)	105
e. Amendment of application (per station)	105
f. Extension of construction permit (per station)	105
g. Waivers (per request)	105
13. Very small aperture terminal (VSAT) systems:	
a. Initial application (per system)	5,630
b. Modification of license (per system)	105
c. Assignment or transfer of system	1,505
d. Developmental station	1,000
e. Renewal of license (per system)	105
f. Special temporary authority or waiver of prior construction authorization (per request)	105
g. Amendment of application (per system)	105
h. Extension of construction permit (per system)	105
14. Mobile satellite Earth stations:	
a. Initial application of blanket authorization	5,630
b. Initial application for individual Earth station	1,350
c. Modification of license (per station)	105
d. Assignment or transfer (per system)	1,505
e. Developmental station	1,000
f. Renewal of license (per system)	105
g. Special temporary authority or waiver of prior construction authorization (per request)	105
h. Amendment of application (per system)	105
i. Extension of construction permit (per system)	105
15. Radiodetermination satellite Earth stations:	
a. Initial application of blanket authorization	5,630
b. Initial application for individual Earth station	1,350
c. Modification of license (per station)	105
d. Assignment or transfer (per system)	1,505

"SCHEDULE OF CHARGES—Continued

Service	Fee amount
e. Developmental station	1,000
f. Renewal of license (per system)	105
g. Special temporary authority or waiver of prior construction authorization (per request)	105
h. Amendment of application (per system)	105
i. Extension of construction permit (per system)	105
16. Space stations:	
a. Application for authority to construct	2,030
b. Application for authority to launch and operate:	
(i) Initial application	70,000
(ii) Replacement satellite	70,000
c. Assignment or transfer (per satellite)	5,000
d. Modification	5,000
e. Special temporary authority or waiver of prior construction authorization (per request)	500
f. Amendment of application	1,000
g. Extension of construction permit/launch authorization (per request)	500
17. Section 214 applications:	
a. Overseas cable construction	9,125
b. Cable landing license:	
(i) Common carrier	1,025
(ii) Noncommon carrier	10,150
c. Domestic cable construction	610
d. All other 214 applications	610
e. Special temporary authority (all services)	610
f. Assignments or transfers (all services)	610
18. Recognized private operating status (per application)	610
19. Telephone equipment registration	155
20. Tariff filings:	
a. Filing fee	490
b. Special permission filing (per filing)	490
21. Accounting and audits:	
a. Field audit	62,290
b. Review of attest audit	34,000
c. Review of depreciation update study:	
(Single State)	20,685
(i) Each additional State	680
d. Interpretation of accounting rules (per request)	2,885
e. Petition for waiver (per petition)	4,660
MISCELLANEOUS CHARGES	
1. International telecommunications settlements: Administrative fee for collections (per line item)	2
2. Radio operator examinations:	
a. Commercial radio operator examination	35
b. Renewal of commercial radio operator license, permit, or certificate	35
c. Duplicate commercial radio operator license, permit, or certificate	35
3. Importation of radio frequency divices: FCC form 740 (per filing)	35
4. Ship inspections:	
a. Inspection of oceangoing vessels under title III, part II of the Communications Act (per inspection)	620
b. Inspection of passenger vessels under title III, part III of the Communications Act (per inspection)	320
c. Inspection of vessels under the Great Lakes Agreement (per inspection)	360
d. Inspection of foreign vessels under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540
e. Temporary waiver for compulsorily equipped vessel	60

(2) CONFORMING AMENDMENTS.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is further amended—

(A) by striking the last sentence of subsection (a); and

(B) in subsection (b)(1), by striking "April 1, 1987" and inserting in lieu thereof "October 1, 1991".

(b) REVISION OF FINES AND PENALTIES.—

(1) DISCRIMINATION AND PREFERENCE BY COMMON CARRIER.—Section 202 of the Communications Act of 1934 (47 U.S.C. 202) is amended—

(A) by striking "$500" and inserting in lieu thereof "$6,000"; and

(B) by striking "$25" and inserting in lieu thereof "$300".

(2) FAILURE IN FILING OF SCHEDULE OF CHARGES.—Section 203(e) of such Act (47 U.S.C. 203(e)) is amended—

(A) by striking "$500" and inserting in lieu thereof "$6,000"; and

(B) by striking "$25" and inserting in lieu thereof "$300".

(3) NONCOMPLIANCE WITH RATE ORDERS.—Section 205(b) of such Act (47 U.S.C. 205(b)) is amended by striking "$1,000" and inserting in lieu thereof "$12,000".

(4) NONCOMPLIANCE WITH LINE EXTENSION ORDERS.—Section 214(d) of such Act (47

U.S.C. 214(d)) is amended by striking "$100" and inserting in lieu thereof "$1,200".

(5) FAILURE TO FILE REPORTS OR INFORMATION.—Section 219(b) of such Act (47 U.S.C. 219(b)) is amended by striking "$100" and inserting in lieu thereof "$1,200".

(6) RECORDKEEPING FAILURES.—Section 220(d) of such Act (47 U.S.C. 220(d)) is amended by striking "$500" and inserting in lieu thereof "$6,000".

(7) NONCOMPLIANCE WITH SHIPBOARD RADIO REQUIREMENTS.—Section 364 of such Act (47 U.S.C. 364) is amended—

(A) by striking "$500" in subsection (a) and inserting in lieu thereof "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting in lieu thereof "$1,000".

(8) NONCOMPLIANCE WITH PASSENGER VESSEL RADIO REQUIREMENTS.—Section 386 of such Act (47 U.S.C. 386) is amended—

(A) by striking "$500" in subsection (a) and inserting in lieu thereof "$5,000"; and

(B) by striking "$100" in subsection (b) and inserting in lieu thereof "$1,000".

(9) GENERAL FORFEITURES.—Section 503(b) of such Act (47 U.S.C. 503(b)) is amended—

(A) by inserting "(1)" immediately after "(b)"; and

(B) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) (A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television operator, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $25,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $250,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed $100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed $10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $75,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(D) The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.".

(c) EFFECTIVE DATE; IMPLEMENTATION.—The amendments made by this section shall take effect on the date of enactment of this section, and the Schedule of Charges required by the amendment made by subsection (a) of this subsection shall be implemented not later than 150 days after such date of enactment.

INTERNATIONAL DEPARTURE FEES

Subsection (a) of this section requires the Secretary of Transportation (Secretary) to establish, assess and collect a fee for each passenger departing the United States on an international flight. The aviation fees would be in the amount of $3.00 per passenger, and the funds generated by these fees would be deposited in the General Fund of the Treasury as offsetting receipts of the Department of Transportation. These receipts would be applied specifically to offset costs of activities of that Department, and the Federal Aviation Administration (FAA), involving the monitoring and regulation of international air transportation operations.

Currently, more than $2 billion in general funds are expended for the operations of the Federal Aviation Administration (FAA) These activities include security monitoring and assessment in the United States and throughout the world; air traffic control operations affecting international flights; participation and conformance with ICAO activities and agreements; FAA inspection of domestic and foreign-flag carriers servicing on international routes; and FAA-provided international weather forecasts and route information.

This subsection is expected to generate approximately $100 million in FY 1990, based on approximately 32 million international airline passenger departures.

Subsection (b) directs the Secretary to establish, assess and collect a fee from vessel owners, operators, or persons in charge of vessels that carry passengers to or from U.S. ports.

The federal government engages in several activities that directly benefit the cruise industry. These activities include harbor maintenance, the operation of ports and maintenance of port security. In FY 1988, $178,000,000 was appropriated for harbor maintenance, $156,000,000 for the operation and maintenance of ports, and $140,000,000 for port safety, including aids to navigation.

The Cruise industry has grown tremendously in recent years, and upwards of 4.5 million passengers embarked on cruise voyages in 1988. Another 1.5 million or so embarked on gambling-oriented cruises, which are not engaged in overnight service but still demand Coast Guard services. This is an 81% increase in passenger berth capacity since 1981, and it is estimated that another 29% will come into service by 1991. The Coast Guard is responsible for monitoring and regulating the operations of these vessels and their workload will naturally increase as a result of the growth in this industry.

Based upon these figures, the $3.00 per passenger fee imposed by this section would result in revenues of approximately $21 million in FY 1990. These funds would be deposited into the Harbor Maintenance Trust Fund and into the general fund ascribed to Coast Guard activities.

The fee will not be assessed against vessels operated by State or political subdivisions of states. Other vessels which are exempt from the fee are those which operate on voyages of less than twelve hours in duration between points within the United States and vessels that operate on voyages that do not last over one or more nights. In this regard, the Committee notes that some cruise vessels make several stops in the course of a cruise that is between two points in the United States. Subsection (b)(1) provides that the fee will be assessed only once on each passenger on such multiple stop voyages.

The fee is to be assessed on vessels transporting passengers who engage in gambling on board the vessel when it is beyond the territorial sea of the United States, regardless of the duration or destination of such voyages or the sleeping capacity of such vessels. This section is to apply to all such vessels, even those which have gambling on board as only an incidental feature of the voyage.

The fee will be assessed on overnight voyages, but this should not be interpreted to include vessels which may operate during the evening hours, such as fishing vessels, whose primary function is not the provision of accommodations and services, such as gambling, to its passengers.

PROPOSED BUDGET RECONCILIATION PROVISIONS OF THE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION RELATING TO INTERNATIONAL DEPARTURE FEES

SEC. . INTERNATIONAL DEPARTURE FEES.

(a) ESTABLISHMENT OF COMMERCIAL AVIATION FEE.—

(1) IN GENERAL.—The Secretary of Transportation shall establish, assess, and collect a fee, which shall be imposed as of October 1, 1989, for each passenger on commercial aircraft departing the United States on international flights during fiscal year 1990.

(2) AMOUNT OF FEE.—The amount of a fee under this section is $3 per passenger on each flight with respect to which the fee is assessed.

(3) DEPOSIT OF FEES.—Amounts received by the United States Government under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the Department of Transportation and ascribed to the activities of the Department of Transportation (including the Federal Aviation Administration) involving the monitoring and regulations of international air transportation operations, including air traffic control operations, aviation security and safety inspections, and activities associated with participation in the International Civil Aviation Organization.

(4) REGULATIONS.—The Secretary of Transportation shall prescribe regulations implementing this subsection not later than 60 days after the date of enactment of this subsection.

(b) ESTABLISHMENT OF PASSENGER VESSEL FEE.—

(1) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end of the following new section:

"§ 3507. Passenger vessel fee

"(a) The Secretary shall establish, assess, and collect a fee, which shall be imposed as of October 1, 1989, for each covered voyage during fiscal year 1990 of—

"(1) a passenger vessel having berth or stateroom accommodations for more than 16 passengers that is on a voyage that extends over 1 or more nights, except a vessel that is—

"(A) on a voyage of less than 12 hours between 2 points in the United States; or

"(B) owned and operated by a State or a political subdivision of a State; or

"(2) a vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial sea of the United States.

"(b)(1) Subject to paragraph (2) of this subsection, the amount of a fee under this section is $3 for each passenger on a vessel for a covered voyage with respect to which

the fee is assessed. Such fee shall be assessed only once for each passenger on a covered voyage, either when such passenger first embarks in the United States or when the passenger first disembarks in the United States.

"(2) The Secretary shall reduce a fee under this section for a covered voyage of a vessel in an amount equal to—

"(A) the amount for which the person from whom the fee is collected is liable with respect to that voyage under section 4461 of the Internal Revenue Code of 1986 (26 U.S.C. 4461), relating to harbor maintenance tax; plus

"(B) an amount, to be determined by the Secretary, representing fees for which that person is liable for inspections of the vessel performed by the Coast Guard.

"(c) A fee under this section may be collected from an owner, operator, or person in charge of a vessel for a covered voyage with respect to which the fee is assessed.

"(d) Of amounts received by the United States Government under this section—

"(1) two-thirds shall be deposited as offsetting receipts into the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986 (26 U.S.C. 9505); and

"(2) one-third shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

"(e) In this section, 'covered voyage' means a voyage of a passenger vessel during which passengers of the vessel embark or disembark the vessel in the United States.".

(2) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing section 3507 of title 46, United States Code, as added by this subsection, not later than 60 days after the date of enactment of this subsection.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 46, United States Code, is amended by adding at the end the following:

"3507. Passenger vessel fee.".

(4) CONFORMING AMENDMENT.—Section 9505(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(a)), relating to the Harbor Maintenance Trust Fund, is amended—

(A) in paragraph (2) by striking ", or" and inserting in lieu thereof a comma;

(B) in paragraph (3) by striking the period at the end and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new paragraph:

"(4) deposited into the Harbor Maintenance Trust Fund under section 3507(d)(1) of title 46, United States Code (relating to passenger vessel fee).".

COAST GUARD USER FEES

This section directs the Secretary of the department in which the Coast Guard is operating to collect receipts from payments by users of the Coast Guard services during fiscal year 1990 in the amount of $50 million. The Secretary is directed to establish a fee schedule for specific Coast Guard services and create a Coast Guard Support of Services (SOS) stamp that will relieve purchasers of the SOS stamp of the need to pay fees for those specified Coast Guard services.

It is intended that SOS Stamps be sold at modest prices and be designed to serve as both a voluntary means of contributing to the Coast Guard and as a type of insurance, entitling the purchaser who receives specified services to avoid additional charges. Those uninsured persons who have not purchased a SOS Stamp would pay fees for the services whenever they utilize them and would, therefore, pay a greater price for the same services.

The Secretary is given discretion to develop several different SOS Stamps, each providing coverage for different classes of services. Stamps and fees for non-emergency as well as other Coast Guard services should be considered and designed to minimize adverse economic effects upon the users as well as upon dependent and related commercial activities. For example, in establishing the fee schedule the Secretary should consider the economic impact that any fees would have on the barge industry or other segment of users at a time of drought or during periods of severe economic depression within that segment of the maritime industry.

The Secretary is directed to develop, by October 1, 1989, a schedule of fees to be charged to persons who utilize services and have not purchased a SOS Stamp for those same services. The Secretary is not authorized to issue regulations or collect fees under this section for any services for which there is not a corresponding and less expensive SOS Stamp available for sale. The fees are to be established by regulation under the General User Fee Statute (31 U.S.C. 9701). Such fees must, therefore, be set at a level no higher than the actual cost of the service and value to the individual to be charged a fee, and they must satisfy the other requirements of that Statute.

The collection of payments for Stamps and of fees for services under this section has no effect on the duties or liability of the United States to perform such services. It affects only the fee charged for any such service that is performed.

The Secretary is directed to report to Congress by September 1, 1989, prior to implementing the system and again after one year of experience with the system. The Committee intends to monitor the Secretary's efforts closely and to scrutinize the implementation and effects of the system.

PROPOSED BUDGET RECONCILIATION PROVISIONS OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION RELATING TO COAST GUARD USER FEES

SEC. . COAST GUARD USER FEES.

(a) IN GENERAL.—Notwithstanding the provisions of section 2110 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") shall establish and implement a system for the collection, commencing October 1, 1989, of $50,000,000 in fiscal year 1990 in receipts from payments by users of services provided by the Coast Guard, other than services associated with emergency search and rescue. Amounts received by the United States Government under this section shall be deposited into the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(b) REGULATIONS.—The Secretary shall, by October 1, 1989, issue regulations to carry out the provisions of subsection (a) of this section. Such regulations shall include a schedule of fees which shall be established in accordance with the provisions of section 9701 of title 31, United States Code.

(c) APPLICABILITY.—

(1) PAYMENTS FROM STAMPS AND FEES.—The system established and implemented under subsection (a) of this section shall include collections of payments from—

(A) the sale of Support of Services Stamps, possession of which will entitle the holder of such Stamps to specified services without charge; and

(B) fees to be charged to users of such specified services who have not purchased such a Support of Services Stamp.

(2) CONSIDERATION OF PAYMENTS FOR CERTAIN COAST GUARD SERVICES.—In developing such system and issuing regulations under this section, the Secretary shall consider collection of receipts from payments for non-emergency search and rescue, as well as other services provided by the Coast Guard.

(d) MINIMIZATION OF ADVERSE EFFECTS ON MARITIME INDUSTRY.—The Secretary shall, to the maximum extent practicable, ensure that such system minimizes adverse economic effects upon commercial towing services and other segments of the maritime industry.

(e) REPORT.—The Secretary shall report to the Congress on or before September 1, 1989, regarding activities undertaken to establish and implement such system and on or before September 1, 1990, regarding the implementation and effects of such system.

(f) DISCLAIMER.—Nothing in this section shall alter or expand the duties and liability of the United States under existing law for the performance of functions for which fees or payments are collected. The collection of such fees or payments shall not constitute an express or implied undertaking by the United States to perform any service or activity in a certain manner or to provide any service at a particular time or place.

AIRPORT SLOT FEES

This section requires the Secretary of Transportation, within 180 days after the date of enactment of this section, to establish a schedule of fees to be collected (1) for each slot issued by the Federal Aviation Administration (FAA) on behalf of the Federal Government and held by an air carrier, other than a commuter operator, at high density traffic airports; and (2) to the extent consistent with international law and treaty obligations of the United States, for each slot held by a foreign air carrier at such airports. Such fees shall reasonably reflect the value of each slot to its holder. The total amount of fees collected under this schedule shall be at least $239 million for fiscal year 1990. The fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the FAA.

There are four airports designated by the FAA as "High Density Airports": Washington National, Chicago O'Hare, and New York's JFK and LaGuardia Airports. In 1969, due to capacity constraints, the FAA limited the number of flight operations at each of these airports, with each take-off and landing being defined as an individual "slot". There are a total of 4,631 slots at these four airports, of which 3,306 are used by airlines other than commuter operators.

The Committee believes that these operating rights are an asset of the Federal Government, specifically, a public property right that the airlines are using to their benefit. The slots were created by the FAA as the result of capacity limitations in the air traffic control system and at the four airports. Before 1985, these slots were allo-

cated through the airline scheduling committee process, overseen by the Federal Government. In 1985, the Department of Transportation (DOT) issued a rule concerning these slots. Under this rule, DOT allocated access to the incumbent airlines, and allowed these airlines to buy and sell access to these slots.

The benefits derived by the airlines from the use of these slots are substantial: access to the four congested airports and assets on airline financial statements. The value of these slots is not insignificant, as they have been individually valued in several cases at close to $1 million. The Committee believes that the fees proposed under this section for the use of these slots, as Federal assets, are justified and appropriate.

PROPOSED BUDGET RECONCILIATION PROVISIONS OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION RELATING TO AIRPORT SLOT FEES

SEC. . AIRPORT SLOT FEES.

(a) IN GENERAL.—The Secretary of Transportation shall, within 180 days after the date of enactment of this section, establish a schedule of fees to be collected—

(1) for each slot issued by the Federal Aviation Administration on behalf of the Federal Government and held by an air carrier, other than a commuter operator, at high density traffic airports; and

(2) to the extent consistent with international law and treaty obligations of the United States, for each such slot held by a foreign air carrier at such airports.

Such fees shall reasonably reflect the value of each such slot to its holder. The total amount of fees collected under this schedule shall be at least $239,000,000 for fiscal year 1990.

(b) DEPOSIT OF FEES.—The fees collected under these provisions shall be deposited in the general fund of the Treasury as offsetting receipts of the Federal Aviation Administration.

(c) REGULATIONS.—The Secretary shall prescribe appropriate regulations to carry out the provisions of this section.

(d) DEFINITION.—As used in this section—

(1) the terms "air carrier" and "foreign air carrier" have the meanings given such terms, respectively, in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301); and

(2) the term "high density traffic airports" means airports so designated in subpart K of part 93 of title 14, Code of Federal Regulations, as in effect on the date of enactment of this section.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the proposed budget reconciliation provisions of the Committee on Commerce, Science, and Transportation relating to Federal Communications Commission user fees and penalties.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, AUGUST 1, 1989

1. Bill number: Not yet available.

2. Bill title: Proposed Budget Reconciliation Provisions of the Committee on Commerce, Science, and Transportation Relating to Federal Communications Commission User Fees and Penalties.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 27, 1989.

4. Bill purpose: The bill would expand the schedule of charges of the Federal Communications Commission (FCC) to increase existing fees and to include new fees for processing certain applications. The bill also would substantially increase the maximum fines and penalties that could be levied for violations of the Communications Act of 1934.

5. Estimated cost to the Federal Government: The new fees and increases in existing fees mandated by this bill would result in an increase in receipts to the government, as shown in the following table.

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated budget authority	−43	−43	−43	−43	−43
Estimated outlays	−43	−43	−43	−43	−43

Increasing the maximum fines assessed by the FCC could result in additional revenues to the Federal Government. However, the information necessary to estimate any additional revenues is not available.

During the first few months of 1990, we expect that additional resources would be needed to effectively collect and process the increased and new fees, because many applications likely would be filed with an incorrect fee payment. After this initial adjustment period, we expect that the FCC would require more processing, clerical, and accounting staff than at present, in order to handle the nearly one million additional fee payments each year. Although a firm estimate of the personnel needed to administer the new schedule is not available, we estimate that total additional costs would be about $750,000 in 1990 and about $500,000 each year thereafter.

The budget impact of this bill falls within function 370.

Basis of Estimate: Assuming enactment of the bill on October 1, 1989, the new schedule of charges would take effect immediately at the beginning of fiscal year 1990. Collection of new or increased fees would be difficult in the first few months, while the FCC makes the necessary changes in its accounting and collection system, and notifies the fee-payers about the changes. An influx of applications with incorrect fee payments is likely to delay processing and may make it difficult to collect the amounts due in 1990. Nevertheless, CBO has assumed that the FCC would have sufficient resources to collect a full year's worth of fees in 1990. The estimate of additional fee collections is based on CBO's baseline projections for existing fees, and on information provided by the FCC regarding the number of applications for services in 1990.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On July 20, 1989, CBO prepared a cost estimate for the proposed budget reconciliation provisions relating to FCC fees as ordered reported by the House Committee on Energy and Commerce. The fee schedule in the Senate bill differs from the schedule in the House bill by setting a minimum fee of $35 (compared to $30 in the House bill), and by exempting public safety services and non-commercial broadcasters from the fee schedule. CBO estimates that enactment of the Senate bill would generate $3 million more in receipts each year than the House bill.

9. Estimate prepared by: Douglas Criscitello (226-2760).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 4, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the reconciliation recommendations of the Senate Committee on Commerce, Science, and Transportation relating to international departure fees, airport slot fees, and Coast Guard user fees.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, AUGUST 4, 1989

1. Bill number: Not yet available.

2. Bill title: Reconciliation Recommendations of the Senate Committee on Commerce, Science, and Transportation Relating to International Departure Fees, Airport Slot Fees, and Coast Guard User Fees.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 27, 1989.

4. Bill purpose: The bill would require the Secretary of Transportation to establish and collect a $3 commercial aviation fee for each passenger on commercial aircraft departing the United States on international flights during fiscal year 1990. The fees would be deposited in the general fund of the Treasury as offsetting receipts of the Department of Transportation.

The bill would also impose on cruise ship owners or operators a $3 fee for each passenger embarking or disembarking at U.S. ports. The new fee would apply during fiscal year 1990 to overnight voyages on vessels berthing 16 or more passengers and to voyages of any length on ships with gambling casinos. Two-thirds of the funds collected would be deposited as offsetting receipts in the Harbor Maintenance Trust Fund, and the rest in the general fund of the Treasury.

In addition, the bill would require the Secretary of Transportation to establish a schedule of fees to be collected for each slot issued by the Federal Aviation Administration and held by an air carrier, other than a commuter operator, at high density traffic airports (National Airport in Washington, D.C., O'Hare Airport in Chicago, and LaGuardia and Kennedy Airports in New York). The bill would require that at least $239 million in fees be collected for fiscal year 1990. The fees would be deposited in the general fund of the Treasury as offsetting receipts of the Federal Aviation Administration.

Finally, the bill would require the U.S. Coast Guard (USCG) to establish a fee system designed to collect $50 million in fiscal year 1990 from users of Coast Guard services, other than emergency search and

rescue. Amounts collected would be deposited as offsetting receipts in the U.S. Treasury.

5. Estimated cost to the Federal Government: The new fees mandated by the bill would result in an increase in receipts to the federal government, as shown in the following table.

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Commercial aviation fee:					
Estimated budget authority	−111				
Estimated outlays	−111				
Passenger vessel fee:					
Estimated budget authority	−19				
Estimated outlays	−19				
Airport slot leases:					
Estimated budget authority	−239				
Estimated outlays	−239				
Coast Guard user fee:					
Estimated budget authority	−50				
Estimated outlays	−50				
Total:					
Estimated budget authority	−419				
Estimated outlays	−419				

The budget impact of this bill would fall within function 400.

Basis of Estimates:

The estimate for the commercial aviation fee is based on CBO's latest baseline estimate of revenues from the current international departure tax, which is also $3 per passenger.

The estimate of receipts from passenger vessel fees is based on information from industry groups and U.S. ports. CBO estimates that the fee would apply to about 6.4 million passenger embarkations or debarkations in fiscal year 1990, assuming that the number of cruise and gambling voyage passengers continues to grow at the current rates of about 10 percent and 20 percent per year, respectively. This would result in federal offsetting receipts totaling an estimated $19 million in 1990. This estimate reflects credits of about $1 million for harbor taxes paid by cruise operators under section 4461 of the Internal Revenue Code.

In preparing this estimate, CBO has assumed that the necessary regulations for the commercial aviation and passenger vessel fees would be promulgated within 60 days of enactment, as required by the bill, and that fees would be collected for all covered flights and voyages occurring during fiscal year 1990. The estimates for receipts from airport slot fees and Coast Guard user fees assume that regulations would be promulgated and implemented to collect the amounts specified in the bill for fiscal year 1990.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On August 1, 1989, the Congressional Budget Office transmitted a cost estimate for the reconciliation recommendations of the House Committee on Merchant Marine and Fisheries. That committee's recommendations included a passenger vessel fee of $20 per passenger, and was estimated to produce receipts of $128 million in 1990, increasing to $210 million by 1994.

9. Estimate prepared by: Mitchell Rosenfeld and Deborah Reis (226-2860).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, July 27, 1989.

Hon. JAMES R. SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with H. Con. Res. 106, the Concurrent Resolution on the Budget for Fiscal Year 1990, we are submitting the reconciliation recommendations adopted by the Environment and Public Works Committee on July 21, 1989.

We have requested, but not yet received, a formal cost estimate from the Congressional Budget Office for the attached legislation. Preliminary estimates indicate that our title of the reconciliation measure will meet, and possibly exceed, the savings this Committee was instructed to achieve by the Senate Budget Committee. The formal cost estimate will be provided to the budget committee when it is received.

Sincerely,

QUENTIN N. BURDICK.
JOHN H. CHAFEE.

REPORT TO ACCOMPANY TITLE IV—ENVIRONMENT AND PUBLIC WORKS, SUBTITLE A—ATMOSPHERIC POLLUTION FEES

GENERAL BACKGROUND

Fees

The President's budget recommendation for FY 1990 proposed the development and implementation of a system to charge market value for the limited rights to produce or import chlorofluorocarbons (CFCs) and other ozone depleting chemicals. These limited rights are the result of the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol) [an international agreement negotiated and signed in 1987 and ratified by the United States in March 1988] and U.S. Environmental Protection Agency (EPA) regulations that have been promulgated under authority of the Clean Air Act to implement the Protocol.

CFCs and the other chemicals covered by the Protocol are persistent chemicals that rise into the stratosphere where they catalyze the destruction of stratospheric ozone. Stratospheric ozone is the Earth's main shield against ultraviolet (UV) radiation. A decrease in stratospheric ozone will allow more UV radiation to reach Earth, resulting in health and environmental damage, including increased incidence of skin cancer.

Signatories to the Protocol, including the United States, agreed to respond to this threat by imposing limits on what previously had been unlimited rights to produce, import and consume CFCs and other ozone depleting substances. Production of CFCs and related substance is being curtailed worldwide because of the risks that current production levels pose to human health and the environment. The Protocol requires industrialized countries such as the United States to limit CFC consumption, beginning in 1989, and to reduce CFC consumption 50 percent by 1998.

EPA has promulgated regulations under the authority of the Clean Air Act to implement the Montreal Protocol. Current EPA regulations assign production and importation privileges to firms based on each firm's 1986 levels of production and importation. The scarcity of CFCs brought about by the production and importation restrictions required to carry out the Protocol are predicted to result in a significant rise in CFC prices.

The Administration has been considering several mechanisms to charge market value for the limited rights to produce or import CFCs, including permit fees at a level designed to reflect the market value of CFC production and importation privileges or, as an alternative, periodic auctions of the limited rights. Such systems to charge market value are estimated by the Administration to produce $400 million in FY 1990, $1.35 billion in '91, $550 million in '92, $625 million in '93, and $950 million in '94.

The Senate Budget Resolution and the Committee on Environment and Public Work's reconciliation instructions accepted the President's assumption of capturing the market value for the limited rights to produce or import CFCs in FY 1990 and the estimate that such market value is $400 million. EPA's regulations implementing the Protocol will limit CFC production and importation in the United States to 670 million pounds in FY 1990. As such, unless the limited production and importation rights are allocated through periodic auctions, a production and importation fee of 60 cents per pound is necesary to capture the $400 million market value of the limited production and importation rights.

The legislation approved by the Environment Committee is modeled after S. 503, Senator Baucus' Chlorofluorocarbon and Halon Reduction Act of 1989, a bill that was introduced and referred to the Environment and Public Works Committee on March 2, 1989. That bill was the subject of a hearing before the Subcommittee on Environmental Protection on May 19, 1989 and, as approved by the Committee, establishes a base fee of 60 cents per pound to be paid in exchange for the limited right to produce or import certain CFCs.

In a memorandum dated April 14, 1989, the U.S. Department of Justice Office of Legal Counsel's Assistant Attorney General concluded that EPA has the authority under the Clean Air Act to allocate production privileges for CFCs through an auction or other market pricing mechanisms, such as a regulatory fee. That is correct reading of the law.

As noted in the Justice Department memorandum, EPA's authority to restrict or prohibit the production of CFCs derives from section 157(b) of the Clean Air Act (42 U.S.C. 7457(b)). Once the decision has been made to cap the production of CFCs with allowances, a method for allocating the allowances is necessary. The memorandum goes on to note that auctions and historically based allocations with fees merely constitute different methods of allocating the allowances. Under the existing EPA rule of allocated quotas, the allowances are distributed on historical grounds.

The memorandum continues to observe that, unless a fee is charged for the allowance, the effect of the existing rule is to make a "gift" of the allowances to firms which have produced CFCs in the past. The value of such a "gift" is expected to be so great that CFC producers who are the most likely developers of substitutes will, as long as the "gift" of the production or importation allowance is free, have an incentive to delay the introduction of safe substitutes that will be less profitable.

Notwithstanding EPA's existing statutory authority to allocate production privileges for CFCs through auctions or quotas with regulatory fees, the legislation reported by the Environment Committee establishes a statutory fee system to charge market value for the limited production rights to produce

or import CFCs and other ozone depleting chemicals.

Requiring the payment of fees to the Government in an amount approximately the market value of limited production and importation rights in exchange for such limited rights will: supplement the regulations and controls applicable to CFCs and other ozone depleting substances pursuant to the Protocol, the Clean Air Act, and the Stratospheric Ozone and Climate Protection Act included as part of this legislation; eliminate the disincentive for the introduction of safe but less profitable substitutes that a quota system alone creates; and produce revenues to offset Government expenses associated with implementation of regulatory registrictions on production and use of CFCs and other ozone depleting chemicals pursuant to the Stratospheric Ozone and Climate Protection Act.

Controls and assessments

Two distinct but closely related global environmental crises are destruction of the stratospheric ozone layer, Earth's main shield against the Sun's harmful ultraviolet radiation, and massive, uncontrolled global climate change associated with intensification of the greenhouse effect.

Destruction of the ozone layer is caused primarily by the release of chlorofluorocarbons (CFCs) and similar manufactured substances into the atmosphere. The threat of uncontrolled global climate change is caused by the accelerating accumulation of greenhouse gases in the atmosphere, primarily carbon dioxide, CFCs and methane.

Carbon dioxide emissions account for an estimated 50% of current increases in the commitment to global warming. CFCs are estimated to account for 15 to 20% of current increases in the commitment to global warming, however, each molecule of CFC has approximately twenty thousand times more impact on global climate than does a single molecule of carbon dioxide. Similarly, emissions of methane account for an estimated 20% of current increases in the commitment to global warming and each molecule of methane has approximately twenty five times more impact on global climate than a molecule of carbon dioxide.

The predicted environmental impacts of an intensified greenhouse effect include:

—an increase in the global average temperature of 1.5 to 5.5 degrees Centigrade (2.7 to 9.9 degrees Fahrenheit) over the next 40 to 60 years to be compared with an average increase of less than 3 degrees Fahrenheit over the last 10,000 years) and continuing increases at an equally alarming rate in succeeding years;

—the extinction of numerous species of plants and animals and significant interference with natural evolutionary responses;

—reduced soil moisture content and altered storm patterns that may seriously disrupt the U.S. agricultural industry; and

—a rise in sea level of 1 to 4 feet over the next 60 years and continuing sea level rise in succeeding years.

It is easy to overstate the uncertainty that surrounds this issue. It is true that scientists disagree about matters such as whether the greenhouse effect has already begun. Similarly, there is no scientific consensus about the precise timing of the predicted changes. Nevertheless, there is a remarkable degree of scientific consensus concerning the threat of massive, uncontrolled global climate change. Specifically, most experts agree that if we do not change our pattern of polluting the atmosphere, many of us, our children, and our grandchildren will experience devastating climate changes of a magnitude and at a rate that will preclude natural evolutionary responses.

There appears to be consensus on another critical point. That is: by the time there is scientific proof for every detail of the problem, it will be too late to avoid the most devastating impacts of an intensified greenhouse effect and global climate change. We can ill-afford to wait for ten years of research before we take action (1) to reduce atmospheric concentrations of greenhouse gases to limit the rate and extent of future climate change, and (2) to implement adaptation strategies for coping with the changes to which we are already committed.

Failure to act on the greenhouse effect on the basis of current scientific understanding would replicate the mistake made in the early 1980's with respect to destruction of the ozone layer.

In 1974, Drs. Sherwood Rowland and Mario Molina from the University of California published a paper demonstrating how CFCs destroy ozone in the stratosphere. In this country, the original scientific theory led to the ban of CFCs in aerosols in 1978. There were no measurements of actual ozone loss, just the scientific theory.

Recognizing the problem, industry began to look for safe substitutes. Progress was being made when, in the early 1980's, the search for substitutes came to a virtual standstill and worldwide use of CFCs continued to grow. Today, the U.S. produces approximately 700 million pounds of CFCs each year, accounting for roughly one-third of the world total. Non-aerosol uses of CFCs in the U.S. have grown to record high levels and per capita usage of CFCs in the U.S. is among the highest in the world.

In 1985, scientists discovered a significant loss of ozone over a portion of the southern hemisphere that is the size of North America. The collapse was not predicted and measurements have revealed losses greater than 50% in the total column and greater than 95% between an altitude of 15 to 20 kilometers (9 to 12 miles). The discovery of this "hole" in the stratospheric ozone layer over Antarctica gave renewed impetus to international efforts to understand and protect the ozone layer. In September 1987, the Montreal Protocol on Substances that Deplete the Ozone Layer was negotiated and signed by more than two dozen nations. The Protocol entered into force in January 1989 and 37 nations are now Parties to the Protocol.

Since the Montreal Protocol was negotiated and signed in 1987, scientists have observed and measured losses of ozone on a global scale. It has been discovered that destruction of the ozone layer is not limited to remote, uninhabited portions of Antarctica. Losses of ozone since 1970 have been measured during the winter months on a worldwide basis, including losses ranging from 2.3% to 6.2% over densely-populated portions of the Northern Hemisphere. These measurements of actual ozone loss are significantly greater than computer models had predicted and raise serious questions about the adequacy of the control measures set forth in the Montreal Protocol and existing EPA regulations.

Destruction of the ozone layer and the increased incidence of solar ultraviolet radiation that results will cause increased rates of disease in humans (including increased rates of skin cancer, cataracts, and, potentially, suppression of the immune system). It will also threaten food crops and marine resources.

Parts A and B of this legislation are necessary to supplement existing controls and the provisions of part C of this bill establishing production and importation fees. Part C of the bill will, in part, offset the Government costs of implementing existing controls and the controls provided for in this bill.

Failure to enact part A of this bill and the emission control measures for CFCs and other ozone depleting and greenhouse forcing chemicals would result in a significant contribution to aggravation of these environmental problems. Not only would the United States continue to pour almost 700 million pounds of new CFCs into the atmosphere on an annual basis, domestic sources would be releasing all of the CFCs produced in past years that are currently contained in products all across the country. Assuming the phase-out schedule in the bill is adopted and not accelerated by the Administrator, just new production of CFCs between now and the year 2000 will result in the release of more than 6 billion pounds of CFCs into the atmosphere unless the emission control measures set forth in this bill are enacted.

By waiting for measurements of actual ozone loss, by failing to take appropriate action on the basis of credible, undisputed scientific theory, governments around the world allowed a manageable environmental threat to become an environmental crisis. As a result of atmospheric lag time and the persistance of CFCs and similar ozone depleting and greenhouse forcing gases, it is too late to prevent additional damage to the ozone layer or anthropogenically induced global climate change. Our challenge is to take action as rapidly as possible that will, to the greatest extent possible, (1) reduce the threat of additional damage to the ozone layer and (2) reduce the rate and magnitude of anthropogenically-induced global climate change.

DISCUSSION

Subtitle A of Title IV of this reconciliation legislation shall be known as The Stratospheric Ozone and Climate Protection Act of 1989. The subtitle begins by emphasizing the facts that (1) the ozone depleting chemicals subject to controls under this Act are also powerful greenhouse gases and that (2) this Act will help address two related but distinct environmental problems—global climate change resulting from an intensified greenhouse effect and destruction of the stratospheric ozone layer.

The Act is divided into three parts:

A—Control of Chlorofluorocarbons and Other Manufactured Substances;

B—Methane Assessment; and

C—Offset of Government Expenses Associated with Implementation of Regulatory Controls and Imposition of Production, Importation and Distribution Fees on Ozone-Depleting Chemicals.

A discussion of Part C is in the preceding general background section. A discussion of Parts A and B and a section-by-section analysis of the entire bill follows:

PART A—CONTROL OF CHLOROFLUOROCARBONS AND OTHER MANUFACTURED SUBSTANCES

This portion of the Act is modeled after the Chafee/Baucus bill, S. 491, with the addition of provisions on: motor vehicle air-conditioning, modeled after the Jeffords/Leahy and Kerry bills, S. 1035 and S. 1052; fire extinguishers and nonessential consumer products, modeled after the Gore bill, S. 870; and safe alternatives, modeled after the McCain and Gore bills, S. 644 and S. 872. The Subcommittee on Environmental

Protection held a hearing on May 19, 1989 to receive testimony on S. 491 and related legislation.

Part A of the Act has six main elements:

First, it establishes as a national policy that the production and use of the five most destructive chlorofluorocarbons (CFCs) [#11, 12, 113, 114, and 115], the halons, and carbon tetrachloride should be reduced *and eliminated* "as expeditiously as possible." The Act directs the Administrator to implement a phase-out schedule to control, reduce and eliminate production more rapidly than the schedule set forth in the Act if (1) new information suggests such an accelerated schedule may be necessary, (2) the Administrator determines, based on the availability of substitutes, that an accelerated schedule is attainable, or (3) the Montreal Protocol on Substances that Deplete the Ozone Layer is modified to include a schedule that is more stringent than that included in the Act;

Second, subject to acceleration by the Administrator as outlined above, the Act places the five most destructive CFCs on a production phase-down schedule that tracks the Montreal Protocol (20% reduction in 1993 and 50% reduction in 1998), and adds an additional step: virtual elimination by not later than 2000;

Third, where the Protocol will only freeze production of the halons and does not regulate carbon tetrachloride at all, powerful ozone depleters, the Act puts these chemicals on the same phase-out schedule as the most harmful CFCs;

Fourth, where the Montreal Protocol will allow unlimited growth in the production and use of other, less potent ozone depleting chemicals and, in turn, continue the threat to the ozone layer, the Act places a limit on the growth of such chemicals by requiring that total ozone depletion potential be reduced by 95% between now and 2010;

Fifth, the Act includes a supplement to the production phase-out: recognizing that it would be extremely difficult to eliminate all production and use of ozone depleting and greenhouse chemicals on a 2 to 3 year time frame, the Act provides for significant reductions in the emissions that are destroying the ozone layer and contributing to the greenhouse effect; to achieve this—

The practice of venting or releasing these chemicals from refrigeration and air-conditioning units into the environment will be prohibited as of January 1, 1992;

Labeling, recapture, recycling and safe disposal will be required;

EPA is directed to promulgate standards for control of emissions to the lowest achievable rate and for the use of alternative substances; and

Specific limitations and controls are prescribed for motor vehicle air-conditioning systems (including prohibitions, effective January 1, 1991, on the sale of do-it-yourself CFC canisters and, effective with model year 1994, on the sale of motor vehicle air-conditioning systems that are dependent on CFR-12 as a refrigerant), halon fire extinguishers for consumer applications (a ban on sale and distribution, effective 2 years after enactment), and nonessential consumer products containing CFCs (a ban on sale and distribution of items such as CFC-propelled plastic party streamers and noise horns, effective 1 year after enactment); and

Sixth, twelve months after this Act becomes law, importation of the five most destructive CFCs, halone and carbon tetrachloride in bulk or in products will be prohibited unless EPA certifies that the country of origin is implementing a phase-out and regulatory control program that is as stringent as ours; and persons subject to U.S. jurisdiction will be prohibited from transferring technology or investing in facilities to produce or use such substances in countries that have not been certified.

The importance of (1) phasing out the most harmful ozone depleting chemicals and (2) controlling growth in other, less potent ozone depleting substances was graphically demonstrated by testimony presented to the Committee by EPA on May 19, 1989. Subsequent analysis has produced the following estimates of total atmospheric chlorine concentrations under various scenarios.

In 1985, the year the "Hole" over Antarctica was discovered, total atmospheric chlorine concentrations were 2.7 parts per billion (ppb). Under the provisions of the Montreal Protocol as currently written, chlorine concentrations are projected to reach more than 12 ppb by the year 2075, approximately 14 ppb by 2100, and will continue to increase. A year 2000 phase-out of just the five most destructive CFCs would yield chlorine concentrations of almost 10 ppb by 2075, more than 10 ppb by 2100 and would continue to increase. If carbon tetrachloride is added to the year 2000 phase-out, chlorine concentrations are projected to increase to almost 7 ppb by 2075 and then level off at that concentration before starting a very gradual downward trend.

If methyl chloroform is added to the year 2000 phase-out of CFCs and carbon tetrachloride, chlorine concentrations are projected to rise to approximately 4 ppb and, depending on the amount of growth in other, less potent ozone depleting chemicals and the average ozone depletion potential (ODP) of the chemicals, such concentrations may or may not return to 1985 levels by 2075. For example, if such substitutes have an average ODP of .05 and are allowed to capture 50% of what the CFC market would have been without the Protocol, chlorine concentrations will remain at approximately 4 ppb through 2100. If, however, the growth of such substitutes is controlled and market capture is limited to 20%, chlorine concentrations will decrease to around 3 ppb by the year 2075. If the average ODP of such substitutes is .02 and market capture is limited to 20%, chlorine concentrations are projected to return to the pre-1985 Antarctic "Hole" concentration of 2.6 ppb by the year 2075.

PART B—METHANE ASSESSMENT

Part B of the Act is designed to develop information that is lacking on methane, one of the three most significant greenhouse gases (CFCs and carbon dioxide are the other two most significant greenhouse gases.) The Administrator is directed to study and report to Congress on the factors causing atmospheric concentrations of methane to increase; the sources of methane emissions; and opportunities for reducing such emissions.

SECTION-BY-SECTION ANALYSIS

Section 4001. Short title.—

The Stratospheric Ozone and Climate Protection Act of 1989.

Section 4002. Findings.—

The Act begins by emphasizing the facts that (1) the ozone depleting chemicals subject to controls under this Act are also powerful greenhouse gases and that (2) this Act will help address two related but distinct environmental problems—global climate change resulting from an intensified greenhouse effect and destruction of the stratospheric ozone layer.

Various findings are included regarding the nature of the problem, the status of scientific understanding and government responses, the effect such government responses wil have on CFC prices, the need to impose additional controls and to charge market value in exchange for the limited rights to produce or import CFCs and other ozone depleting chemicals.

Section 4003. Objectives and National Goal.—

The objectives of this Act are to restore and maintain the chemical and physical integrity of the Earth's atmosphere, to protect human health and the global environment, and to provide a smooth transition from the use of ozone depleting chemicals to safe substitutes.

The national goal is declared to be the elimination of emissions of manufactured substances with ozone depleting potential as well as global warming potential, to reduce to the maximum extent possible emissions of other greenhouse gases, and to provide for an orderly and equitable shift to safe alternatives.

Section 4004. Definitions.—

The following terms are defined: Administrator; distributor; household appliances; import; manufactured substances; medical purposes; ozone depleting chemicals; person; producer; Secretary; and substances covered by this Act.

Part A—Control of Chlorofluorocarbons and Other Manufactured Substances

Section 4005. Listing of Regulated Substances.—

This section directs the Administrator to publish a "priority list" of chemicals to be phased-out, including CFCs 11, 12, 113, 114, 115, carbon tetrachloride, and halons 1211, 1301, and 2402.

The priority list is intended to include those manufactured substances that pose the greatest risk to the environment as a result of high ozone depleting potential, high global warming potential, or low ozone depleting or global warming potential but extremely high levels of emissions. The examples listed in the bill are those substances known to pose the greatest threat to the ozone layer and global climate but may not be a complete list due to the problem of "designer chemicals" (the creation of substances that are virtually identical to the listed chemicals but identified by another name). For that reason, the Administrator is authorized to add substances to the priority list. In addition to the problem of "designer chemicals", analysis of recently published or new data on the high levels of emissions of, for example, methyl chloroform, might justify the addition of one or more chemicals to the priority list. The Administrator is authorized to make such additions.

The Administrator is also directed to publish a list of other regulated substances that will be subject to a limit on total ozone depleting potential (ODP) in section 4013, including CFCs 22, 123, 124, 125, 141(b), 142(b), and, unless added to the priority list by the Administrator, methyl chloroform. Such an approach will allow production of these "other regulated substances" to increase while, at the same time, assuring that total chlorine loading of the atmosphere is reduced. As with the priority list, the Administrator is authorized to add substances to the list of other regulated substances.

Pending publications by the Administrator of ozone depleting factors (the relative destructive force of each chemical), such factors are included in the Act for purposes of computing and enforcing the section 4013 limit on ODP that is applicable to all substances covered by this Act.

Section 4006. Reporting Requirements.—

This section requires annual reporting by producers, importers and distributors of chemicals covered by this Act.

Section 4007. Production phase-out of substances on the priority list.

(a) National policy.—

Congress declares it to be the national policy that the production and use of chemicals on the priority list be reduced and eliminated "as expeditiously as possible."

(b) Accelerated schedule.—

The Act directs the Administrator to implement a phase-out schedule to control and reduce production more rapidly than the schedule set forth in the Act if (1) new information suggests such an accelerated schedule is necessary, (2) the Administrator determines, based on the availability of substitutes, that an accelerated schedule is attainable; or (3) the Montreal Protocol is modified to include an accelerated schedule that is more aggressive than the schedule set forth in the Act.

In keeping with the policy of eliminating these chemicals as rapidly as possible and before the year 2000, to the maximum extent practicable, the Administrator is directed to determine no less often than every eighteen months whether any of the three conditions requiring acceleration of the schedule have been satisfied.

The importance of accelerating the phase-out schedule is reflected in the estimate, presented by expert witnesses, that a phase-out in 1995 could accelerate the recovery of the stratosphere and allow atmospheric concentrations of chlorine to return to current levels approximately 20 years faster than phase-out in 2000. An additional 20 years of elevated chlorine levels presents an unacceptable risk that must be avoided if it is at all possible to do so.

(c) Schedule.—

In the absence of regulations under the preceding subsection, the Act codifies the CFC reduction schedule currently set forth in the Montreal Protocol (20% reduction in 1993 and 50% reduction in 1998), makes the schedule applicable to halons and carbon tetrachloride, and adds an additional step: virtual elimination by not later than 2000.

(d) Exception for medical purposes.—

The Administrator May, in consultation with the Commissioner of the Food and Drug Administration (FDA), authorize the production of limited quantities of substances on the priority list after the year 2000 if such authorization is necessary for medical purposes.

As set forth in the definition of "medical purposes," two conditions must be satisfied as predicates to a finding under this section. First, it must be shown that no safe substitutes have been developed. Second, the drug, medical device or diagnostic product must be essential, as determined by the Commissioner of the FDA in consultation with the Administrator.

"Medical purposes" may include drugs and drug delivery systems that satisfy the criteria set forth in the Act. For example, effective treatment of acute, chronic asthma currently is dependent on an inhaled dose delivered by a CFC propellant inhaler. Unless a safe substitute exists or until a substitute is developed, such a drug delivery system may be found by the Commissioner and the Administrator to be essential. To the extent priority list substances are necessary for the manufacture of essential drug products as, for example, reactants or building blocks in the chemical synthesis of a drug active ingredient, such use may fall within the purview of the Act's conditional exceptions for "medical purposes."

Section 4008. Production phase-out exception for national security.—

The President may authorize the production and use of CFC 114 and the three halons, notwithstanding the provisions of this Act, if he finds that substitutes are not available and such production and use is necessary to protect the national security interests of the United States.

Section 4009. National recycling and disposal program.—

By July 1, 1991, EPA is to promulgate standards and requirements to reduce the use and emissions of substances covered by this Act to the lowest achievable level. Such standards and requirements are expected to achieve, among other things, a reduction of at least 50 per cent in the use of nonrecycled priority list substances in the manufacture of products in which such substances from fire prevention or extinguishing equipment should be reduced by at least 90 per cent.

Prior to January 1, 1994, EPA is to promulgate standards and requirements for the recapture, recycling and safe disposal of substances covered by this Act, including provisions that:

Mandate removal of these substances from products, such as refrigerators and air-conditioners, prior to disposal of the products;

Prohibit the manufacture or distribution of products containing substances covered by this Act unless such products are equipped with a servicing aperture that allows recapture during service and repair; and

Prevent, to the maximum extent practicable, the release of these substances during disposal of products in which the substances are incorporated, such as rigid and soft foams.

As of January 1, 1992, it will be unlawful for any person maintaining servicing, repairing or disposing of a household appliance or a commercial refrigeration or air-conditioning unit to knowingly vent, release, or dispose of substances covered by this Act in a fashion which permits such substances to enter the environment. Exceptions to this prohibition are included for de minimis releases associated with good faith attempts to recapture, recycle and safely dispose of such substances.

As of July 1, 2000, it will be unlawful to use a priority list substance except for approved medical purposes and, until the year 2010, to maintain and service household appliances and commercial refrigeration and air-conditioning units.

The Administrator is directed to promulgate regulations concerning manufactured substances to assure that the greenhouse forcing potential of CFC substitutes are considered by manufacturers and users and that the problem of global climate change will not be exacerbated by the use of such substitutes. The greenhouse threat of such substances must be examined and considered both from the perspective of direct radiative effect when such substitutes are emitted into the atmosphere and from the perspective of indirect effects of substitutes that, for example, result in a significant increase in energy usage and resulting increases in carbon dioxide emissions.

Section 4010. Motor vehicle air-conditioning.—

As of January 1, 1992, any person who services motor vehicles air-conditioning systems for consideration must use extraction and reclamation equipment that meets standards set by the Society of Automotive Engineers.

The sale of do-it-yourself recharge canisters of motor vehicle refrigerants will be prohibited as of January 1, 1991.

The sale or export of motor vehicles that contain passenger compartment air-conditioning systems that are dependent on CFC 12 (or similarly powerful ozone depleting chemicals) will be prohibited with respect to model year 1994 and subsequent model years. As of January 1, 1994, it will be unlawful to install or sell for installation any passenger compartment air-conditioning system that is dependent on CFC-12 or similarly powerful ozone depleting chemicals. If technological development problems will prevent the sale or installation of alternative air-conditioning systems prior to the effective date of the prohibitions on equipping motor vehicles with air-conditioning systems that are dependent on CFC 12, the Administrator is to report such fact to the Congress and recommend alternative effective dates for the prohibitions.

Section 4011. Fire prevention or extinguishing equipment.—

EPA's regulations on use and disposal under section 4009 are to include requirements to reduce release of priority list substances associated with training, testing, leakage and accidental discharges from fire control systems. Such releases are expected to be reduced by at least 90 per cent.

Effective 2 years after enactment, the sale and distribution of portable fire extinguishes containing halons will be prohibited. The Administrator is authorized to create an exception to this prohibition for commercial applications where use of such equipment is necessary to protect human health. For example, it may be necessary to allow, for a limited period, the sale of portable halon extinguishers for use in airplanes and similar closed environments.

Section 4012. Nonessential consumer products containing chlorofluorocarbons.—

Effective one year after enactment, the sale and distribution of CFC propelled plastic party streamers and noise horns, CFC cleaning fluids for noncommercial electronic and photographic equipment and other products determined by the Administrator to be nonessential will be prohibited.

Section 4013. Limitatin on ozone depletion potential.—

To supplement the section 4007 production caps and reductions applicable to priority list substances, production caps on total ozone depletion potential (ODP) of all substances covered by this Act are imposed.

By July 1, 1992, EPA is to promulgate regulations that will assure an overall ODP reduction of 95% by the year 2010. Such regulations should allow for market entry by new producers. If EPA fails to promulgate such regulations by July 1, 2000, it will be unlawful for any person to produce substances covered by this Act in annual quantities that yield a total ODP greater than 5% of such person's 1986 levels.

The elimination of CFCs, as provided for in this bill, will reduce total ODP by more than 95 per cent. By capping total ODP at 5 per cent of 1986 levels, this provision is projected to accommodate significant growth

in, for example, hydrochlorofluorocarbons (HCFC). Unlimited growth in HCFCs, however, presents an unacceptable risk to the environment. Although HCFCs are less potent ozone depleters than CFCs, both classes of chemicals contribute to total chlorine loading of the atmosphere and destruction of the ozone layer. The 5 per cent cap will allow HCFS to capture a limited percentage of the CFC market which would have existed in the absence of the Montreal Protocol and this bill. It is estimated that such a cap will be reached around the year 2010.

Section 4014. Certification of equipment programs.—

Effective one year after enactment, the importation of priority list substances in bulk or in products will be prohibited unless EPA certifies that the country of origin is implementing a phase-out and regulatory control program that is as stringent as that set forth in this Act.

To prevent persons subject to U.S. jurisdiction from transferring technology or investing in facilities to produce priority list substances in countries that are not so certified, the President is directed to prohibit such technology transfers and investments within one year of enactment. Similarly, the President is directed to prohibit technology transfers and investments in facilities that produce products that will create or expand the demand for priority list substances in such countries.

Section 4015. Labeling.—

Twenty-one months after a substance is listed under this Act, canisters or products containing or made with such substances must be labeled as such prior to being introduced into commerce.

Section 4016. Safe alternatives policy.—

To the maximum extent practicable, substances covered by this Act are to be replaced with alternative substances and processes that reduce overall risk to human health and the environment.

The Administrator is directed to recommend Federal research programs and other activities to assist in the identification of safe alternatives; and to examine Federal procurement practices and recommend measures to promote a transition by the Government to the use of safe substitutes.

The Administrator is also directed to collect health and safety studies from producers of chemical substitutes. Not less than 60 days prior to introducing a chemical substitute, the producer of such chemical must notify EPA.

Section 4017. Federal enforcement.—

The Administrator is authorized to issue compliance orders, assess administrative civil penalties up to $25,000 per day of noncompliance for each violation, and commence civil actions in court.

Criminal penalties (up to 2 years imprisonment and fines as set forth in the uniform criminal code) and civil penalties (up to $25,000 per violation) are provided for violations of the Act. The list of "knowing" activities subject to criminal penalties are specified in the Act.

Section 4018. Judicial review.—

Review of any final action under this Act may be had in the Circuit Court of Appeals for the Federal judicial district in which the petitioner resides or transacts business.

Section 4019. Citizens suits.—

Citizen suits are authorized in the same manner as in most environmental statutes.

Section 4020. Separability.—

Invalidation of a portion of this Act will not affect the balance of the Act.

Section 4021. Relationship to other laws.—

This Act does not affect the authority of the Administrator under the Clean Act Act or TSCA, the authority of other agencies, or the authority of any State or political subdivision.

Section 4022. Authority of administrator.—

The Administrator is authorized to prescribe such regulations as may be necessary to carry out this Act.

Part B—Methane Assessment

Section 4023. Objective and national goal.—

The objective of this part is to identify and analyze options to reduce the risks of tropospheric ozone formation and global climate change by: reducing methane emissions enough to keep atmospheric concentrations from increasing; and promoting additional analyses of (1) the factors causing methane concentrations to increase, (2) the sources of methane emissions, (3) the opportunities for reducing such emissions, and (4) the relationships among methane and other atmospheric pollutants.

The national goal is to reduce methane emissions in the U.S. and other countries; stimulate international agencies to fund projects in developing countries that will reduce methane emissions; and provide data in support of international efforts to reduce methane emissions.

Section 4024. Information collection.—

For purposes of completing the studies required by this Act, the Administrator is authorized to collect information from persons responsible for the release of methane during manufacturing, processing, resource recovery or distribution, or waste management. The agency's need for this information should be considered carefully and, given the difficulties inherent in reporting on sources as diverse as agriculture and human activities, the authority to collect such information should be used advisedly. To the extent information concerning methane releases is already reported to other federal or state agencies and is available to the Administrator, duplicate reporting requirements are to be avoided. The Administrator is authorized to use survey techniques or to rely on reasonably accurate estimates of emissions and should not seek to establish an extensive new monitoring system.

Section 4025. Economically justified actions.—

By September 30, 1990, EPA is to report to Congress on measures that could reduce methane emissions and are economically justified with or without consideration of environmental benefits.

Section 4026. Domestic Methane Source Inventory and Control Options.—

By September 30, 1990, EPA is to submit to Congress reports, including inventories of emissions associated with the following activities in the U.S.:

Natural gas and coal extraction, transportation, distribution, storage, and use;

Management of solid waste;

Agriculture;

Biomass burning; and

Other activities deemed by the Administrator to be significant.

By September 30, 1990, EPA is to submit a plan to Congress that could be implemented to stop the growth in atmospheric concentrations of methane from sources in the U.S. and shall include an analysis of U.S. programs that could be used to induce developing countries to implement measures that will reduce methane emissions.

Section 4027. International Studies.—

By September 30, 1990, EPA is to submit to Congress reports on methane emissions from other countries and on the potential for preventing an increase in atmospheric concentrations of methane from sources in other countries.

Section 4028. Natural Sources.—

By September 30, 1992, EPA is to submit to Congress reports on methane emissions from natural sources such as forests, tundra, and wetlands, and on the changes in emissions that may occur as a result of increased atmospheric concentrations of carbon dioxide.

Part C—Offset of Government Expenses Associated With Implementation of Regulatory Controls and Imposition of Production, Importation and Distribution Fees on Ozone Depleting Chemcials

Section 4029. Imposition of Fees.—

Production, importation and distribution fees are established for the 5 CFCs and the 3 halons covered by the Montreal Protocol. The effective dates for such fees are July 1, 1989 for CFCs and January 1, 1992 for halons. The Administrator is authorized to add ozone depleting chemcials to the list when and if production or importation limits are imposed for such chemcial.

A base fee of 60 cents per pound is established for each person producing or importing substances subject to the fee. An alternative fee is established in an amount representing the greater of (1) the base fee or (2) an amount equal to each producer's, importer's and distributor's share of the total revenues collected by the industry and attributable to sales of each covered chemcial less (1) an amount equal to the revenues that such sales would have generated at the adjusted 1987 average sales price and (2) an amount equal to income taxes due and payable on the revenues collected. In instances where the 60 cents per pound base fee has been passed through to a distributor by a producer or importer, the distributor will receive an additional allowance of 60 cents per pound. This provision is designed to avoid imposition of a double fee and the pass through to the consumer of $1.20 per pound.

Under this Act, producers and importers who have been granted the limited right to produce or import substances subject to the fee will be required to pay, on a quarterly basis, a fee of 60 cents per pound for each pound of substance produced or imported during the previous quarter. At the end of the year, the alternative fee provided for in this Act shall be computed and, if the alternative fee is greater than the base 60 cents per pound fee, producers and importers who paid the 60 cents base fee will owe the Government the difference between the base fee and the alternative fee and distributors who did not pay the base fee will owe the Government the entire alternative fee.

Section 4030. Off-setting Government Expenses Associated with Implementation of Regulatory Controls and Support for Activities Related to Alternatives to Ozone-Depleting Chemicals.—

The fees established by this Act are estimated to produce approximately $400 million in FY 1990. The Administration's proposal is estimated to produce $400 million in FY 1990, $1.3 billion in '91, $500 million in '92, $600 million in '93, and $900 million in '94. This section directs that this money be deposited each year in a new Ozone Layer and Climate Protection Trust Fund and that up to $100 million shall be available

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each year, subject to appropriations, for grants related to alternatives to chemicals that contribute to ozone depletion or global climate change. The Trust Fund shall also be available, as provided in appropriation Acts, to implement the Montreal Protocol and this Act. The balance of these monies are to remain in the Trust Fund and the interest earned shall be available, subject to appropriations, for appropriation to the EPA. One half of such appropriation shall be allocated to EPA for abatement and control activities, and one half shall be allocated to EPA for research and development activities.

Section 4031. Advisory Committees.—

The Administrator is required to establish advisory committees composed of relevant government agency members and representatives of public interest and industry groups to provide recommendations to fund appropriate and innovative efforts for development of safe alternatives to substances that contribute to ozone depletion and climate change, through the grants authorized in Section 4032. Participants should have expertise in scientific and engineering disciplines compatible with the established purposes of the grant program including persons knowledgeable in the fields of alternative energy and conservation technologies.

Subsection (c) outlines the factors to be taken into account by the advisory committees in providing advise and formulating recommendations to the Administrator with respect to grant awards. It is intended that, consistent with the factors specified in this subsection, consideration be given to emerging technologies which do not rely on fossil fuels as an energy source as well as technologies which increase the efficiency of converting fossil fuels to other forms of energy and reduce emissions of carbon dioxide and other greenhouse gases.

Section 4032. Grants.—

This section authorizes the grant program referred to in section 4030. The grants are available for the purpose of stimulating development of technologies, processes and safe substances that can be substituted for technologies, processes and substances which contribute to ozone depletion and climate change. It is intended that in awarding grants, the Administrator shall consider overall climate impacts and, in addition to other factors, the contributions that alternative energy and conservation technologies can make to solving the problem of global climate change.

Section 4033. Trust Fund.—

This section establishes the Trust Fund referred to in section 4030.

Section 4034. Authorizations.—

This section authorizes appropriations to EPA to carry out the grant program referred to in section 4030, to offset government costs associated with implementation of the Montreal Protocol and this Act, and for other purposes.

Subtitle B—Nuclear Regulatory Commission User Fees

Section 4101 amends the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) to require the Nuclear Regulatory Commission (NRC) to recover 45% of its budget for fiscal year 1990 through the collection of user fees.

Section 4102 amends the Atomic Energy Act of 1954 to clarify the authority of the NRC to reduce any penalties assessed against a licensee in an amount equal to the contribution such person agrees to pay to a nonprofit educational institution for use in furthering the protection of the radiological health and safety of the public.

DISCUSSION

The Consolidated Omnibus Budget Reconciliation Act of 1985 established permanent fee collection authority for the NRC at a maximum level equal to 33 percent of the Commission's annual estimated costs. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) authorized a fee collection increase to 45 percent of the Commission's budget for fiscal years 1988 and 1989. Without additional legislation, the fee recovery level for fiscal year 1990 would revert to the 33 percent level.

The present standard for the collection of these fees is maintained. The fees shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

The second section of the subtitle clarifies that the NRC has the power to reduce any penalties assessed against any of its licensees (e.g., operators of nuclear power plants, persons licensed to possess nuclear materials, etc.) by an amount equal to the amount which such person agrees to pay to a nonprofit educational institution for use in furthering the protection of the radiological health and safety of the public. The NRC currently has this authority through its power to remit and mitigate fines; however, this legislation will remove any doubts that may have existed as to the NRC's ability to accomplish this purpose.

The United States is suffering from a declining interest in nuclear sciences among our students and it is in the national security interest to maintain a high level of expertise within the hands of American citizens. It is intended that the NRC use this process to establish programs to enhance the quality of education of nuclear workers, such that the recurrence of violations might ultimately be prevented, and to establish programs to promote the protection of the radiological health and safety of the public. Further, it is strongly recommended that payments be made to a local institution in order to benefit the public health and safety of residents of the area wherein the licensee's facility is located and the violation occurred.

Because these payments are to be made in lieu of fines, they shall have the same tax consequences as a fine. They are not tax deductible. It is believed that these type of payments to nonprofit educational institutions will further the protection of public health and safety to a greater degree than if the payments were simply absorbed into the general revenues of the U.S. Treasury. The Environmental Protection Agency has been engaging in this sort of fine mitigation program for some time. It has been well received by the public and the industries affected.

The modest amount of additional administrative effort required on the part of the NRC to remit or mitigate fines in this manner will be more than compensated for by the benefits to the public health and safety achieved through the programs established by this effort. NRC is strongly encouraged to make greater use of this authority.

Subtitle C—Payments to the Offshore Oil Protection Compensation Fund

Section 4201 amends the Outer Continental Shelf Lands Act to continue payments to the Offshore Oil Pollution Compensation Fund until a balance of $200,000,000 is reached.

DISCUSSION

Title III of the Outer Continental Shelf Lands Act (OCS) established the Offshore Oil Pollution Compensation Fund to assist in clean-up in the event of an oil spill associated with OCS operations. The Fund is supported by a charge of three cents per barrel of oil produced on OCS lands. Current law provides for a minimum balance within the Fund of $100,000,000 and a ceiling of $200,000,000. The Secretary of Transportation is authorized to suspend collection of payments if the balance is within these limits.

In April of this year, two weeks after the accident involving the Exxon Valdez, the Secretary exercised his authority and suspended payments to the Fund, though it was well short of the authorized ceiling. As a result, annual payments to the Fund of approximately $10-15 million are lost until such time as the fee is reinstated.

This legislation requires continued collection of the three cent per barrel charge until the $200 million level is reached. Reimposition of the charge would occur at any time the balance in the Fund drops below that level.

Subtitle D—Onondaga Lake Restoration Program

Onondaga Lake is located in central New York and borders on the city of Syracuse (population 170,000). Onondaga Lake has been called the most polluted large body of water in the nation. Other lakes, rivers or bays may have higher concentrations of individual contaminants, but in terms of overall use impairment due to pollution, Onondaga Lake has few rivals.

From 1884 to 1985 the Allied Chemical Corporation and its predecessors produced synthetic soda ash at a plant on the lakeshore, and discharged waste into the Lake. It is estimated that the lake contains 100 tons of mercury from the soda ash plant, and that as much as 30 percent of its original volume has been lost due to a thick layer deposited on the lake bottom.

Swimming in the lake is not allowed, and fish cannot be eaten due to mercury contamination. In addition, discharges of raw sewage have been common due to combined sewer overflows.

Despite this high degree of toxic pollution, Onondaga Lake has not qualified as a Superfund site because its pollution is largely underwater. The Superfund Hazard Ranking System used by EPA to assess hazardous waste sites does not take into account the specifics of underwater waste sites.

COMMITTEE HEARINGS AND LEGISLATION

The Subcommittee on Water Resources, Transportation and Infrastructure held a hearing concerning Onondaga Lake in Syracuse, New York on April 27, 1989 (S. Hrg. 101-80). Among witnesses testifying were Mr. William J. Muszynski, Acting Regional Administrator for the EPA's Region II Office, Col. Hugh F. Boyd III, Buffalo District Engineer for the Army Corps of Engineers, and Mr. Langdon Marsh, Executive Deputy Commissioner of the New York State Department of Environmental Conservation.

In the 100th Congress Senator Moynihan sponsored S. 2824, the Onondaga Lake Restoration Act of 1988. This bill was reintroduced on January 25, 1989, the first day of the 101st Congress, as S. 27, the Onondaga Lake Restoration Act of 1989. The amend-

ment adopted by the Committee is based on this bill.

SECTION-BY-SECTION SUMMARY

Section 4301 was added as part of an amendment offered by Senator Moynihan on July 21, 1989. This section would authorize the Environmental Protection Agency to establish and participate in a management conference for the conservation, restoration and management of Onondaga lake.

Subsection (a) directs the EPA administrator to convene the management conference, and states the two general purposes of the management conference.

First, the conference is to develop a comprehensive plan for the cleanup of the lake. This plan will include the specific actions to be taken by all members of the conference to assure the level of clean up that the plan commits to. Important tasks of the management conference will be to identify sources of funding for cleanup work, and set goals for the degree of cleanup to be accomplished. These cleanup goals should be consistent with what the management conference is willing and able to fund, including funds obtained from non-conference members such as parties responsible for lake pollution.

Second, the conference is to serve as a coordinating body for all lake cleanup. The conference should assure that work performed by conference members and others is consistent with the plan, and that these efforts are consistent with one another and are not duplicative.

Subsection (b) describes the membership of the conference. It is the intended that the membership outlined in the bill be representative of the various governmental and non-governmental interests in the lake. The seven-member management conference would be a forum to debate issues of disagreement, and to make decisions.

In general, it shall be the responsibility of the management conference to adopt its own bylaws. Such bylaws shall be adopted by majority vote, except that the representatives of the EPA and the Governor of the State of New York must concur in all votes. In addition, the representative of the Technical Advisory Committee shall serve ex officio, and shall not vote. The primary purpose of the Technical Advisory Committee is to advise the conference on technical and scientific issues relating to management of the lake.

The Citizens' Advisory Committee shall be convened by the management conference and shall consist of 15 members, as follows: 3 persons who are members of locally represented environmental organizations incorporated under sec. 501(c)(3) or 501(c)(4) of the Internal Revenue Code that have been so incorporated for at least one year from the date of the convening of the Citizens' Advisory Committee; 3 persons representing the local business community; 1 person who is a resident of the Town of Geddes; 1 person who is a resident of the Town of Salina; 1 person who is a resident of the City of Syracuse; 4 persons representing the Onondaga Lake Advisory Committee; and 2 members at large. The Citizens' Advisory Committee shall choose a Chairman to represent it on the management conference. The vote of the Chairman on matters before the management conference shall reflect the majority views of the Citizens' Advisory Committee.

Subsection (c) address the approval and implementation of the plan. The plan assembled by the management conference must be approved by the EPA before federal funds can be granted for activities under subparagraph (d)(2)(B) of this section. It is not the intended that this requirement block funds from being expended for the purposes of carrying out other parts of subsection (d) or of this section in general.

EPA is charged with a special responsibility for approval of the plan because of its prominent role in funding the clean up options identified in the plan. In addition, a similar role is given to the governor of the State of New York. It is expected that the New York State Department of Environmental Conservation will take a lead role in both directing activities of the management conference, and in identifying funding for the non-federal share of costs associated with developing and implementing the plan.

The special status of these two conference members effectively creates within the management conference an ad hoc executive committee that must approve all final decisions integrated into the plan. It is intended that the plan adopted by the management conference should as much as possible reflect the views of its members. However, it also recognizes that the management conference will function most efficiently only if leadership is exercised by the New York DEC and the EPA, each of which has substantial experience with the legal and technical details involved in environmental restoration projects.

Subsection (d) authorizes the conference to make grants to both develop and carry out the plan. Grants for collection of information and other activities related to preparation of the plan shall have a federal share of 75 percent, and grants to carry out provisions of the plan shall have a federal share of 55 percent. In order to assure accountability, grants under subparagraph (d)(2)(B) involving federal funds may not be available for work that is not prescribed by the plan. Reasonable operating expenses for the functioning of the management conference are to be considered as "necessary for the development of the plan", and shall be funded subject to subparagraph (d)(2)(A), with a federal share of 75 percent.

Paragraph (3) of subsection (d) allows for the non-federal share of any expenditures authorized by this section to be made up entirely or in part by in-kind contributions of services, materials, or other items of value. It shall be the responsibility of the EPA to determine the fair market value of any in-kind contributions.

Subsection (e) authorizes expenditures to carry out the provisions of section 4301, not to exceed $5 million in fiscal year 1990, and such sums as may be necessary for following years. It is intended that this authorization be available for reasonable operational expenses of the management conference as prescribed in subparagraph (d)(2)(A).

The additional authorization is provided for EPA to fund lake cleanup projects that may at some future time be subject the terms of legal settlement with responsible parties. It is intended that the EPA receive reimbursement for the federal share of any activities funded subject to this authorization in any such case.

Subtitle E

MAGLEV

Section 4401, included as part of an amendment offered by Senator Moynihan, would authorize the Army Corps of Engineers to complete a comprehensive work plan for the construction of a U.S. magnetic levitation (Maglev) system on the interstate highway rights-of-way.

A maglev system consists of magnetically levitated and propelled vehicles that run along a guideway at high speeds. The system designs, to be evaluated by the Corps of Engineers, will allow for guideway alignments along the interstate highway rights-of-way.

The Corps has the engineering and project management capability to perform this work, and has developed a plan to do so. Both the Chief of Engineers, Lt. General Henry J. Hatch, and the Assistant Secretary of the Army for Civil Works, Mr. Robert Page, have stated that the Corps has the necessary skills to build a U.S. maglev system.

It is intended that the Corps of Engineers consult with other interested federal agencies. The interest of the Department of Transportation in maglev is recognized, including their involvement in numerous studies on the feasibility of maglev systems in the U.S. It is intended that the Department of Transportation be closely involved with the development of maglev systems. For this reason, the Secretary of the Army is expected to coordinate and consult with the Secretary of Transportation during the development and execution of the pilot program.

COMMITTEE ACTIVITIES

On June 22, 1989, the Maglev Technical Advisory Committee, convened at the request of the Subcommittee on Water Resources, Transportation and Infrastructure, issued a report describing the general characteristics of a U.S. maglev system to be located on the interstate highway rights-of-way (*Benefits of Magnetically Levitated High-Speed Transportation for the United States*, Volume 1—Executive Report, Maglev Technical Advisory Committee, June 1989.)

During the 100th Congress, the Subcommittee held three hearings on maglev, on January 21, 1988 (S. Hrg. 100-244, Part 3), February 26, 1988 (S. Hrg. 100-556), and September 28, 1988 (S. Hrg. 100-556, Part 2). During these hearings, the Committee received testimony from 15 witnesses.

SECTION-BY-SECTION SUMMARY

Section 4401 was added as part of an amendment offered by Senator Moynihan on July 21, 1989.

Subsection (a) gives authority to the U.S. Army Corps of Engineers to formulate a detailed implementation plan for a U.S. maglev/interstate highway rights-of-way pilot program. The Corps should consider construction and engineering issues regarding maglev, and options for cooperation with U.S. industry.

Subsection (b) directs the Corps of Engineers to formulate the implementation plan authorized by subsection (a), and directs that the Corps finish this implementation plan and report to the Congress and the President by May 30, 1990.

SUMMARY OF COMMITTEE ACTIONS ON RECONCILIATION RECOMMENDATIONS

The Committee on Environment and Public Works met July 20 and 21, 1989 to consider legislation to comply with Senate Budget Committee reconciliation instructions pursuant to H. Con. Res. 106, the Concurrent Resolution on the Budget for Fiscal Year 1990. During the course of consideration, five amendments were adopted as follows:

An amendment offered by Senator Reid as modified by a second degree amendment offered by Senator Chafee, with respect to placing all CFC fees in the Ozone Layer and

Climate Protection Trust Fund and authorized use of the accrued interest for EPA abatement, control and research and development activities—adopted by a vote of 14-1;

An amendment offered by Senator Lautenberg as modified to extend the deadline to 1992 for prohibiting release of regulated substances into the environment in the course of repairing or maintaining air conditioning units or household appliances—adopted by voice vote;

An amendment offered by Senator Moynihan with respect to Onondaga Lake restoration and magnetic levitation technology—adopted by voice vote;

An amendment offered by Senator Breaux with respect to NRC penalties—adopted by voice vote.

The Committee voted 13-0 in favor of recommending the reconciliation recommendations to the Senate Budget Committee on July 21, 1989.

ADDITIONAL VIEWS OF SENATOR DAVE DURENBERGER

I want to begin by saying that I wholeheartedly support the general principles embodied in the legislation which has been reported by the Committee. This title of the reconciliation bill includes a virtual ban on the production of CFCs by the year 2000. It establishes an environmentally sound regulatory scheme for the introduction of alternatives. And it recaptures the windfall revenues created by the phaseout. I want to commend Senator Chafee and Senator Baucus for developing this important piece of legislation.

But there are three problems I have with the proposal which should be addressed before the bill is finally enacted. First, it contains no prohibition on the production of methyl chloroform. This chemical—also called 1,1,1-trichloroethane or TCA—is a solvent with impacts on the ozone layer which is currently produced in large quantities and which is the substitute of choice for many CFC applications.

Recently EPA issued the Toxics Release Inventory of 350 chemicals for which manufacturers are required to report emissions. Methyl chloroform is one of the chemicals on that list. The EPA data showed air releases for methyl chloroform of 150 million pounds a year and total releases of 180 million pounds.

This data is only for the largest manufacturers and, thus, includes only a fraction of all release. Methyl chloroform production is approximately 700 million pounds per year and there is every reason to believe that most of that eventually reaches the atmosphere. By way of comparison production of the five CFCs regulated under this bill totals 670 million pounds per year.

The reason that methyl chloroform is not listed for a complete phaseout in this bill is that it has a low ozone depletion potential compared to CFCs. One molecule of methyl chloroform does only 15 percent of the damage caused by one molecule of CFC-11 or -12.

Nevertheless, 700 million pounds of methyl chloroform is a lot of production. With a .15 depletion factor it does damage equivalent to 105 million pounds of CFCs. I don't think an amendment to leave 105 million pounds of CFC-12 out there would pass the Congress. The phaseout of other CFCs may also cause the use of methyl chloroform to increase dramatically. I don't think we should overlook methyl chloroform. It ought to be on the basic list for early phaseout along with the other highly destructive CFCs.

My second problem with the bill is with the provision banning the packaging of CFC-12 in small cans for use by do-it-yourselfers to refill auto air conditioners. A few companies package the freon, auto air conditioner fluid, in these small cans and sell them in auto parts stores and service stations, so that consumers can refill their own car cooling systems. This might seem a profligate use of an ozone depleting chemical. But the prohibition contained in this bill has only symbolic effect.

If we ban the can, folks with leaky air conditioners will be required to go to their dealers or repair shops to get refills. The replacement CFC will come out of a 40-pound cylinder rather than a 14-ounce can. But once out, it will get to the stratosphere just as fast and do just as much damage. We have a limit on overall CFC production in this bill. If one assumes that all of the CFCs produced will reach the ozone layer, it doesn't really matter whether they are released from new cars or old cars . . . from boards or computer equipment . . . from big cylinders or small cans.

Banning the packaging of CFCs in small containers is gratuitous regulation. If the ban comes in 1991, well before a substitute for CFC-12 is available, the only effect is to put a few companies out of business. There is very little environmental benefit.

It may be that banning CFCs in new automobiles after 1994 will create the kind of intensive research effort which will bring substitutes on earlier. It may allow us to accelerate the schedule for phasing out CFC-12 to a date earlier than 2000. But banning the can won't have that effect. These packagers don't have the resources to run substitute development programs.

My final problem with this proposal is the trust fund which spends the money. The bill contains a $100 million grant program to pay for research and development on CFC alternatives. This is completely unnecessary in my view.

Testimony before the Environment and Public Works Committee indicates that the private sector is already spending millions on substitute development. The entrepreneur who finds it will make millions selling it. We don't need to throw government money after a problem that is already being pursued aggressively by the largest chemical companies in the world.

The Committee has ordered that the remainder of the revenues from the fee be held in a trust fund and that interest earned on these funds be appropriated for programs at the environmental Protection Agency. This proposal, in my view, is directly contrary to the purpose of reconciliation and in violation of Senate rules. The Committee has used the reconciliation process as an opportunity to create a new spending program which is not relevant in any way to the fee program established to meet its reconciliation targets. If the American public wonders why the Congress has failed to balance the budget after so many years of trying, there is no better example of our lack of discipline than the trust fund created by this bill.

MEMORANDUM

To: John Hilley, Agnes Bundy, John Callahan, Julie Lenz, Joan McAndrew, Sue Nelson, Dave Williams.
From: Bill Dauster.
Date: September 12, 1989.
Subject: Addition to Environment and Public Works Reconciliation.

Attached is a cost estimate recently submitted by CBO to be included in the Senate Environment and Public Works Committee reconciliation package.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 1989.

Hon. QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the reconciliation recommendations of the Senate Committee on Environment and Public Works—to be included as Title 4 of the reconciliation bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 8, 1989

1. Bill number: Not yet available.

2. Bill title: Reconciliation Recommendations of the Senate Committee on Environment and Public Works—to be included as Title 4 of the reconciliation bill.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, July 21, 1989.

4. Bill purpose: Subtitle A would create a regulatory framework to abate and control the release of ozone-depleting chemicals into the environment. Subject to specific minimum requirements, the Environmental Protection Agency (EPA) would be directed to regulate U.S. production, importation, use and handling of such substances. Part B of this subtitle would require the EPA to prepare and submit a number of reports analyzing methane emissions in the United States and internationally. The agency would be required to develop specific emissions inventories and identify potential control measures. Part C would require the agency to impose fees on the production, importation and distribution of eight specified ozone-depleting substances. Fee collections would be deposited as offsetting receipts in a newly created Ozone Layer and Climate Protection Trust Fund, from which they would be available (subject to appropriation) for EPA expenses. For each fiscal year, up to $100 million could be appropriated for a grant program authorized under Section 4032 for research and testing related to the objectives of this subtitle.

Subtitle B would allow an increase in Nuclear Regulatory Commission (NRC) fees and annual charges in 1990 to cover 45 percent of the agency's budget; under current law the NRC is permitted to collect fees and annual charges totaling no more than 33 percent of its budget.

Subtitle C would amend the Outer Continental Shelf Lands Act Amendments of 1978 to require the Secretary of the Treasury to maintain a balance of no more or less than $200 million in the Offshore Oil Pollution Compensation Fund. Until that balance is reached, the Secretary would be required to levy a $0.03 per barrel fee on oil obtained from Outer Continental Shelf facilities. (Current law allows the Secretary authority to levy a fee between zero and $0.03 per barrel. A fee of $0.03 per barrel was in effect until April 1, 1989, when it was suspended because the fund balance was within the statutory requirement.)

Subtitle D would direct the EPA to convene a management conference in order to develop and implement a restoration plan for the Onondaga Lake in New York. The conference, subject to approval by EPA, would be authorized to make grants for research and for plan implementation. Funding of $5 million would be authorized for appropriation to the agency in fiscal year 1990. For subsequent years, the bill would authorize the appropriation of whatever sums are necessary.

Subtitle E would authorize the appropriation of $6 million to the Secretary of the Army for a pilot program to construct a high-speed magnetic levitation ground transportation system. The bill would require completion of the program by May 30, 1990.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
DIRECT SPENDING EFFECTS					
Subtitle A—Fee on ozone-depleting chemicals:					
Estimated budget authority	−455	−455	−461	−467	−374
Estimated outlays	−455	−455	−461	−467	−374
Subtitle B—NRC fees:					
Estimated budget authority	−54				
Estimated outlays	−54				
Total direct spending effects:					
Estimated budget authority	−509	−455	−461	−467	−374
Estimated outlays	−509	−455	−461	−467	−374
REVENUES					
Subtitle C—Extension of fee on offshore oil production (net of income and payroll tax offsets)	[1] 9	[1] 9			
AUTHORIZATIONS					
Subtitle A—Implementation of ozone depletion program:					
Estimated authorization level	120	118	117	117	118
Estimated outlays	58	100	111	117	117
Subtitle D—Onondaga Lake restoration:					
Estimated authorization level	5			400	
Estimated outlays	2	2	1	125	130
Subtitle E—Magnetic levitation project:					
Estimated authorization level	6				
Estimated outlays	6				
Total authorizations:					
Estimated authorization level	131	118	117	517	118
Estimated outlays	66	102	112	242	247

[1] Positive revenue figures represent an increase in Federal revenues and a decrease in the deficit.

The budget impact of this bill falls within functions 270, 300, and 400.

Basis of Estimate:

For purposes of this estimate, CBO has assumed that the reconciliation bill will be enacted on or about October 1, 1989.

Subtitle A: Offsetting receipts from fees on certain ozone-depleting substances have been estimated on the assumption that, by December 1, 1989, the EPA will promulgate final regulations to impose a $0.60 per pound fee on importation and consumption of the substances specified in Section 4029(a)(1). Fee collections have been estimated on the basis of the phase-in production limits set in Section 4007 and the assessment schedule contained in Section 4029. Under the provisions of Section 4029(c), the EPA would be authorized to accelerate the assessment schedule and expand the list of substances subject to fee. If such revisions are made, receipts would be higher. Conversely, fee collections would fall if the agency exercises the authority provided under Section 4007 to impose more restrictive production limits.

Receipt estimates have been adjusted slightly to reflect refunds for chemicals exported to developing countries that are parties to the Montreal Protocol. Currently, such exports account for less than five percent of all U.S. exports. However, refunds may become more significant in the future as more developing countries adopt the Protocol.

This estimate does not include any receipts that might be collected beginning in fiscal year 1991 from the alternative fee specified under Section 4029(b)(2). How EPA would interpret this provision and implement an alternative fee is very uncertain. How market participants would respond to the fee in their sales and pricing decisions is also unclear. (For example, firms may be discouraged from charging market-clearing prices if the resulting profits must be paid to the government.) Moreover, uncertainties regarding interpretation of this section's requirements are likely to hinder implementation and collection efforts, possibly delaying receipts from the alternative fee for several years. As a result, CBO cannot estimate the amount of receipts if any, that would result from the alternative fee.

The authorization level shown in the table includes $100 million a year authorized for grants under Section 4032. In addition, CBO estimates that the EPA would spend about $20 million annually to carry out the activities mandated by this subtitle, including the promulgation of necessary regulations, fee collection, and administration of the grant program. Of this amount, about one-half would be used to hire and equip additional personnel.

Subtitle B: This title would authorize the NRC to collect 45 percent of its 1990 budget through fees and annual charges. Relative to the budget resolution baseline, this proposal would save $54 million in 1990. NRC fees would remain unchanged, relative to current law, for the 1991 to 1994 period.

Subtitle B would also amend the Atomic Energy Act to authorize the NRC to reduce penalties proposed under subsection 234(b) by the amount a penalized party would agree to pay to a nonprofit educational institution for use in the furtherance of the protection of the radiological health and safety of the public. This amendment to the Atomic Energy Act could result in the loss of revenues to the Treasury; however, CBO cannot estimate the amount. In 1988, the NRC collected about 45 million in fines under subsection 234(b).

Subtitle C: By the end of fiscal year 1989, the Offshore Oil Compensation Fund balance is expected to be about $184 million. Under the amendments made by this bill, imposition of a $0.03 per barrel fee would begin upon enactment and would cease when the fund balance reaches $200 million. CBO estimates that collections would be about $11 million in fiscal year 1990 and about $12 million in 1991. At that time (assuming continuation of existing investment policies and in the absence of any major spills), the fund balance would reach the new statutory maximum and no further amounts would be collected. After offsets for resulting decreases in income and payroll taxes, the net additional revenues to the government would be about $9 million in each of these two fiscal years.

Subtitle D: This estimate is based on the assumption that the full amounts shown in the table would be appropriated for each fiscal year. The 1990 authorization level—$5 million—is that stated in the bill. This amount would be spent by the EPA over fiscal years 1990-1992 to conduct the management conference, support any necessary research, and carry out plan development and preliminary restoration work. The 1992 authorization level of $400 million has been estimated on the basis of information provided by the State of New York and the EPA. This amount represents 55 percent of the estimated cost to implement the restoration plan, the maximum federal share permitted by the bill. Total restoration costs cannot be estimated precisely at this time but are expected to be between $500 million and $1 billion; for purposes of this estimate, CBO has used the midpoint of about $750 million.

Subtitle E: For purposes of this estimate, it is assumed that the $6 million authorized for the magnetic levitation project would be appropriated for fiscal year 1990. It is further assumed that the U.S. Army would be able to complete the project within the time frame set in the bill, resulting in additional 1990 outlays of $6 million.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Reis and Kim Cawley (226-2860); Caroline Ratcliffe (226-2720).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, October 6, 1989.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reconciliation instructions contained in section 5(b)(5) of H. Con. Res. 106 of the 101st Congress, the Committee on Finance has approved legislative recommendations which increase revenues and reduce outlays by the amounts specified in that section. I am transmitting herewith legislative language to implement those recommendations to be included in the budget reconciliation bill for fiscal year 1990 to be reported by the Committee on the Budget. This submission by the Committee on Finance incorporates the revenue effects of Public Law 101-73, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the attached legislative language. I am also transmitting explanatory materials related to those recommendations. These should be incorporated in the committee report or such other compilation of legislative history as may be used by the Budget Committee in connection with this bill.

Sincerely,

LLOYD BENTSEN.

EXPLANATION OF TITLE VI

(REVENUE RECONCILIATION ACT OF 1989)

SUBTITLE A. EXTENSIONS OF CERTAIN EXPIRING TAX PROVISIONS

1. EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE (SEC. 6101 OF THE BILL AND SEC. 127 OF THE CODE)

Present law

Under present law, an employee is required to include in income, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualifies as a deductible job-related expense of the employee. Amounts expended for education qualify as deductible job-

related expenses if the education (1) maintains or improves skills required for the employee's current job, or (2) meets the express requirements of the individual's employer that are imposed as a condition of continuing employment in the same job.

Under prior law, an employee's gross income for income and employment tax purposes also did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements (sec. 127). The exclusion was limited to $5,250 of educational assistance with respect to an individual during a calendar year and did not apply to any payment for, or the provision of any benefits with respect to, any graduate-level courses.

The Deficit Reduction Act of 1984 required that employers file information returns with respect to educational assistance plans under section 127 (sec. 6039D). The purpose of this requirement was to collect data with respect to the use of such plans so as to provide Congress with a means to evaluate the effectiveness of the exclusion.

The educational assistance exclusion expired for taxable years beginning after December 31, 1988.

Reasons for change

The exclusion for educational assistance was originally enacted for a temporary period in order to provide Congress with an opportunity to evaluate the use and effectiveness of the exclusion. The committee is concerned that there is insufficient data to determine whether or not section 127 has achieved its objectives. The provision is therefore extended in order to allow additional time for this determination.

Explanation of provision

The exclusion for employer-provided educational assistance is retroactively reinstated and extended so that it expires for taxable years beginning after December 31, 1991. The provision clarifies that, to the extent employer-provided educational assistance is not excludable under section 127 because it exceeds the maximum dollar limitation or because of the limitation on graduate-level courses, it may be excludable from income as a working condition fringe benefit (sec. 132(d)), provided the requirements of that section are otherwise satisfied (e.g., the education is job-related as defined under section 162). Educational assistance may not be excluded under any other provision of section 1321.

Effective date

The provision is effective for taxable years beginning after December 31, 1988.

2. EXCLUSION FOR EMPLOYER-PROVIDED GROUP LEGAL SERVICES (SEC. 6102 OF THE BILL AND SECS. 120 AND 501(C)(20) OF THE CODE)

Present law

Under present law, amounts contributed by an employer to a group legal services plan on behalf of an employee generally are includible in the employee's gross income.

Under prior law, amounts contributed by an employer to a qualified group legal services plan for an employee (or the employee's spouse or dependents) were excluded from the employee's gross income for income and employment tax purposes (sec. 120). The exclusion also applied to any services received by an employee or any amounts paid to an employee under such a plan as reimbursement for the cost of legal services for the employee (or the employee's spouse or dependents). The maximum amount that could be excluded from gross income was $70 per year. The exclusion for group legal services benefits expired for taxable years ending after December 31, 1988.

In addition, under prior law, an organization, the exclusive function of which was to provide legal services or indemnification against costs of legal services as part of a qualified group legal services plan, was entitled to tax-exempt status (sec. 501(c)(20)). The tax exemption for such an organization expired for years ending after December 31, 1988.

The Deficit Reduction Act of 1984 required that employers file information returns with respect to qualified group legal services plans (sec. 6039D). The purpose of this requirement was to collect data with respect to the use of such plans so as to provide Congress with a means to evaluate the effectiveness of the exclusion.

Reasons for change

The committee believes it is appropriate to extend, on a temporary basis, the exclusion for employer-provided group legal services and the tax exemption for group legal services organizations.

Explanation of provision

The exclusion for employer-provided group legal services and the tax exemption for group legal services organizations is retroactively reinstated and extended so that it expires for taxable years beginning after December 31, 1991.

Effective date

The provision is effective for group legal services provided in taxable years ending after December 31, 1988, or taxable years of group legal services organizations ending after December 31, 1988.

3. TARGETED JOBS TAX CREDIT (SEC. 6103 OF THE BILL AND SEC. 51 OF THE CODE)

Present law

Tax Credit Provisions

The targeted jobs tax credit is available on an elective basis for hiring individuals from nine targeted groups. The targeted groups are: (1) vocational rehabilitation referrals; (2) economically disadvantaged youths aged 18 through 22; (3) economically disadvantaged Vietnam-era veterans; (4) Supplemental Security Income (SSI) recipients; (5) general assistance recipients; (6) economically disadvantaged cooperative education students aged 16 through 19; (7) economically disadvantaged former convicts; (8) Aid to Families with Dependent Children (AFDC) recipients and Work Incentive (WIN) registrants; and (9) economically disadvantaged summer youth employees aged 16 or 17. Certification of targeted group membership is required as a condition of claiming the credit.

The credit generally is equal to 40 percent of the first $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200. The employer's deduction for wages must be reduced by the amount of the credit claimed.

The credit is not available for wages paid to a targeted-group member unless the individual either (1) is employed by the employer for at least 90 days (14 days in the case of economically disadvantaged summer youth employees), or (2) has completed at least 120 hours of work performed for the employer (20 hours in the case of economically disadvantaged summer youth employees).

The credit is available with respect to targeted-group individuals who begin work for the employer before January 1, 1990.

Authorization of Appropriations

Present law also authorizes appropriations for administrative and publicity expenses relating to the targeted jobs tax credit through September 30, 1989. These monies are to be used by the Internal Revenue Service (IRS) and Department of Labor to inform employers of the credit program.

Reasons for change

The committee understands that the targeted jobs tax credit provides a useful incentive for hiring disadvantaged individuals, but an opportunity for further assessment by the Congress and the Treasury Department is appropriate given changes in the labor market and the use of the targeted jobs credit that may occur over time. In addition, the committee believes that certain minor changes will improve the administration and efficiency of the program.

Explanation of provisions

Extension of the Credit

The targeted jobs tax credit is extended for two additional years, with one modification.

The modification requires that employers specifically identify the categories (but not to exceed two) for which an individual is believed to be eligible when requesting certification of individual eligibility for individuals who have not received a preliminary determination of eligibility from the designated local agency. In addition, the employer must include a statement on the certification request that a good faith effort was made to determine that the individual may be eligible for the credit.

Authorization of Appropriations

The authorization of appropriations for administration and publicity expenses is extended for two years. To the extent feasible, the IRS and the Department of Labor should inform employers (e.g., through press releases or announcements) of the extension of the credit.

Effective date

The provision applies to targeted-group individuals who begin work for the employer after December 31, 1989, and before January 1, 1992. Under the provision, the credit does not apply with respect to individuals who begin work for the employer after December 31, 1991.

The authorization of appropriations is effective for fiscal years 1990 and 1991.

4. ALLOCATION AND APPORTIONMENT OF RESEARCH AND EXPERIMENTAL EXPENDITURES (SEC. 6104 OF THE BILL AND 864(f) OF THE CODE)

Present law

Foreign Tax Credit and Source Rules

Under the Code, each item of income is assigned either a U.S. source or a foreign source. The foreign tax credit for foreign taxes paid on foreign source income is limited to the amount of U.S. tax otherwise payable on foreign source income. The foreign tax credit is not available against U.S. tax on U.S. source income. (This is known as the foreign tax credit limitation.) A shift in the source of income from foreign to U.S. may increase net U.S. tax for some taxpayers by reducing the foreign tax credit limitation.

In determining foreign source taxable income for purposes of computing the for-

eign tax credit limitation, and for other tax purposes, taxpayers are required to apportion expenses between foreign source income and U.S. source income (Code secs. 861–864). A shift in the apportionment of expenses from U.S. source to foreign source gross income decreases foreign source taxable income. This decrease may increase U.S. tax by reducing the foreign tax credit limitation.

Research and Experimental Expense Allocation Regulation

Treasury Regulation section 1.861–8 (promulgated in 1977) sets forth detailed rules for allocating and apportioning several categories of expenses, including deductible research and experimental expenditures ("research expenses"). The regulation provides that research expenses are ordinarily considered definitely related to all gross income reasonably connected with one or more of 32 product categories based on two-digit classifications of the Standard Industrial Classification ("SIC") system. Research expenses are not traced solely to the income generated by the particular product which benefited from the research activity. Instead, these expenses are associated with all the income within the SIC product group in which the product is classified.

The Treasury regulation contemplates that taxpayers will sometimes undertake research solely to meet legal requirements imposed by a particular governmental entity with respect to improvement or marketing of specific products or processes. In some cases, such research cannot reasonably be expected to generate income (beyond de minimis amounts) outside that governmental entity's jurisdiction. If so, the deductions allowable for such associated research expense are allocated solely to gross income from the geographic source that includes that jurisdiction.

After research expenses incurred to meet legal requirements are allocated under the above rule, any remaining research expenses are generally apportioned to foreign source income based on the ratio of total foreign source sales receipts in the SIC product group with which the expenses are identified to the total such worldwide sales receipts in that product group (the "sales" or "gross receipts" method). In computing this fraction, sales by a party controlled or uncontrolled by the taxpayer may be taken into account if the party can reasonably be expected to benefit from the research expense. However, the regulation provides that a taxpayer using the sales method may first apportion at least 30 percent of research expense remaining after allocation to meet legal requirements exclusively to income from the geographic source where over half of the taxpayer's research and development is performed.

Thus, for example, a taxpayer that performs 50 percent or more of its research and development in the United States may automatically apportion at least 30 percent of its remaining research expense to U.S. source income. A taxpayer can choose to apportion to the geographic source where research and development is performed a percentage of research expense significantly greater than 30 percent if the taxpayer establishes that the higher percentage is warranted because the research and development is reasonably expected to have a very limited or long-delayed application outside that geographic source.

Alternatively, subject to certain limitations, a taxpayer may elect to apportion its research expense remaining after any allocation to meet legal requirements under one of two optional gross income methods. Under these optional methods, a taxpayer generally apportions its research expense on the basis of relative amounts of gross income from U.S. and foreign sources. If a taxpayer makes an automatic place-of-performance apportionment, the taxpayer may not use either optional gross income method.

The basic limitation on the use of optional gross income methods is that the respective portions of a taxpayer's research expense apportioned to U.S. and foreign source income using these methods can not be less than 50 percent of the respective portions that would be apportioned to each income grouping using a combination of the sales and place-of-performance apportionment methods.

If this 50-percent limitation is satisfied with respect to both income groupings, the taxpayer may apportion the amount of its research expense that remains after allocation under the legal requirements test ratably on the basis of foreign and U.S. gross income. If the 50-percent limitation is not satisfied with respect to one of the income groupings, then the taxpayer must apportion to that income grouping 50 percent of the amount of its research expense which would have been apportioned to that income grouping under the sales and place-of-performance methods. A taxpayer electing an optional gross income method may be able then to reduce the amount of its research expense apportioned to foreign source income to as little as one-half of the amount that would be apportioned to foreign source income under the sales method.

For example, consider a taxpayer with $110 of U.S.-performed research expense and equal U.S. and foreign sales. Assume that $10 of the research expense is to meet U.S. legal requirements and is allocated to U.S. source income. Of the remaining $100, 30 percent ($30) is exclusively apportioned to U.S. source income under the automatic place-of-performance rule and the remaining $70 is divided evenly betwen U.S. and foreign source income, using the sales method. Thus, under this method $35 would be allocated to foreign source income and $75 would be allocated to U.S. source income. Under the optional gross income methods, the $35 of research expense allocated to foreign sources can be reduced as much as 50 percent, to $17.50. This can occur, for example, if the foreign sales were made by a foreign subsidiary that did not repatriate earnings to the U.S. corporation, and thus a disproportionately high fraction of the U.S. corporation's income is from U.S. sources.

The optional gross income methods apply to all of a taxpayer's gross income, not gross income on a product category basis.

Temporary Moratorium and Treasury Study

The Economic Recovery Tax Act of 1981 (ERTA) provided that, for a taxpayer's first two taxable years beginning within two years after the date of its enactment (August 13, 1981), all research and experimental expenditures (within the meaning of sec. 174) paid or incurred in those years for research activities conducted in the United States were to be allocated or apportioned to income from sources within the United States (sec. 223 of ERTA).

This two-year moratorium was effectively extended for two additional years by the Tax Reform Act of 1984 (the "1984 Act"). Under section 126 of the 1984 Act, for taxable years beginning generally after August 13, 1983, and on or before August 1, 1985, all of a taxpayer's research and experimental expenditures (within the meaning of sec. 174) attributable to research activities conducted in the United States were to be allocated to sources within the United States for purposes of computing taxable income from U.S. source and taxable income from sources outside the United States.

One reason Congress cited for enacting the original two-year moratorium was that some foreign countries do not allow deductions under their tax laws for expenses of research activities conducted in the United States. Taxpayers argued that this disallowance caused U.S.-based research to be disadvantaged. First, U.S.-based research expense is deemed to be allocated to a foreign country which may not recognize that such amount is deductible as an expense. The allocation of this U.S.-based research expense to foreign sources had the effect of reducing the foreign tax credit of U.S. taxpayers. Because those taxpayers could take their deductions if the research occurred in the foreign country, taxpayers argued that there was an incentive to shift their research expenditures to those foreign countries whose laws disallow tax deductions for research activities conducted in the United States but allow tax deductions for research expenditures incurred locally.

Accordingly, Congress concluded that the Treasury Department should study the impact of the allocation of research expenses under the 1977 regulation on U.S.-based research activities and on the availability of the foreign tax credit. Pending the outcome of the study, Congress concluded that expenses should be charged to the cost of generating U.S. source income, regardless of whether such research was a direct or indirect cost of producing foreign source income.

On the ground that a reduction in research and development might adversely affect the competitive position of the United States, the 1983 Treasury report recommended the two-year extension of the moratorium that was ultimately enacted by Congress in 1984. The extension was intended to allow Congress to consider further the results of the Treasury study.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (the "1985 Act") extended the moratorium on the application of the research and experimental expense allocation rules of the 1977 regulation generally for one additional taxable year beginning after August 1, 1985, and on or before August 1, 1986.

The Tax Reform Act of 1986 (the "1986 Act") permitted the moratorium on application of the research expense allocation rules in regulation section 1.861–8 to expire. However, for taxable years beginning after August 1, 1986, and on or before August 1, 1987, application of the regulation was liberalized by the 1986 Act in three respects, which were intended by Congress to provide an additional tax incentive to conduct research in the United States while Congress analyzed whether any additional permanent incentive was necessary.

The first liberalization under the 1986 Act was that for the specified one-year period, 50 percent of all remaining amounts allowable as a deduction for qualified research and experimental expenditures (that is, research and experimental expenditures within the meaning of section 174 that are attributable to activities conducted in the United States) after allocation of legally re-

quired research expenses could be apportioned to U.S. source income and deducted from such income in determining the amount of taxable U.S. source income. The 1986 Act thus had the effect of increasing the automatic place-of-performance apportionment percentage for U.S.-based research expense from 30 percent to 50 percent.

The 1986 Act further provided that, for the specified one-year period, the portion of those amounts allowable as a deduction for qualified research and experimental expenditures that remained after any legal requirements allocation and the 50 percent automatic a place-of-performance apportionment were apportioned either on the basis of sales or gross income. Thus, the 1986 Act's second effective liberalization of the regulation was to allow the automatic place-of-performance apportionment temporarily to taxpayers who elected to apportion expenses using the optional gross income method, rather than only to taxayers that used the standard sales method of apportionment. Third, the 1986 Act had the effect of temporarily suspending the regulatory rule that prohibits taxpayers from using the optional gross income method to reduce allocation of research expense to foreign source income by more than 50 percent of the amount that would be allocated to foreign source income under the sales method.

The temporary modifications made by the 1986 Act to the research expense allocation rules in regulation section 1.861-8 applied for purposes of computing taxable income from U.S. sources and taxable income from sources outside the United States. The modifications applied only to the allocation of expenditures for research and experimental activities conducted in the United States, and only for the purposes of geographic sourcing of income; the modifications did not apply for other purposes, such as the computation of combined taxable income of a FSC (or DISC) and its related supplier. Also, the modifications did not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation.

The Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") further modifed, again on a temporary basis, the rules for sourcing research expenditures. These modifications were effective only for the first four months of a taxpayer's first taxable year beginning after August 1, 1987 (treating all applicable expenditures in that taxable year as if they were incurred rateably over the year). Under the 1988 Act, the treatment of research and development expenditures incurred to meet certain legal requirements was unchanged. After applying the legal requirements rule, however, the 1988 Act modifications provided that 64 percent of the U.S.-based research expenses remaining to be allocated and apportioned were allocated to U.S. source income and 64 percent of the remaining foreign-based research expenses were allocated to foreign source income. The remaining research expenditures treated as having been incurred during this four-month period were allocated and apportioned either on the basis of sales or gross income. However, if the gross income method of apportionment was utilized, the amount apportioned to foreign source income could be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

Generally, for the remainder of a taxpayer's first taxable year beginning after August 1, 1987 (and for subequent taxable years), the rules set forth in regulation section 1.861-8 were (and are) applicable with respect to sourcing research and experimental expenditures.

Reasons for change

In the 8 years since the first temporary moratorium on the 1977 regulation was enacted, Congress, the Treasury Department, and representatives of affected industries have intensely scrutinized the effects of the research and experimental allocation rules on research activities.[1] That scrutiny has not resulted in an unambiguous recommendation regarding the appropriateness of allocating U.S.-based research expenses to U.S. source income under either the 1977 regulation, the complete moratorium, or the partial moratoria of the 1986 and 1988 Acts. On the one hand, there are those who argue that the moratorium and the partial moratoria had a beneficial effect on U.S. research activity and on U.S. competitiveness in world-wide markets. On the other hand, there are those whose studies prompt them to conclude otherwise. Furthermore, the tax costs of both the total and the partial moratoria have been significant, and the tax benefits they have bestowed are distributed somewhat arbitrarily among taxpayers. At the same time, these taxpayers have faced a prolonged period of uncertainty as to the research and experimental allocation rules that will apply in the coming years, making it more difficult for them to predict the after-tax costs of the research in which they generally must engage, if at all, over extended future periods.

In April 1987 the Treasury Department, noting that "we all have a stake in ending [the controversy] as soon as possible," [2] expressed its view that an appropriate way to balance the concerns of promoting U.S. research and development, on the one hand, and appropriately dividing income tax receipts between the United States and foreign taxing jurisdictions, on the other, would be to make the 1986 Act liberalizations permanent, while further increasing the automatic place-of-performance apportionment percentage from 50 percent to 67 percent. In 1988, a somewhat modified temporary proposal was adopted by the committee, and was subsequently adopted by Congress.

The committee continues to believe that the substantive modifications adopted in the 1988 Act are consistent with tax and competitiveness policy, while reducing somewhat the cost of the permanent solution to these issues. The committee is concerned, for example, that the unlimited use of the gross income method of apportionment together with an automatic apportionment percentage of 67 percent would unfairly favor companies that delay or otherwise manipulate the repatriation of earnings of controlled foreign subsidiaries. The committee also wishes to avoid any possible inference, arguably arising under the language of the committee's 1987 bill, that while 64 percent of expenses for U.S. conducted research may be allocated to U.S. source income in order to encourage U.S. research, the regulation might also be used to automatically allocate in some cases 30 percent of the expenses of conducting research abroad to U.S. source income. Thus, the committee believes that if research is conducted abroad, most of those expenses should be allocated and apportioned against foreign source income.

In light of the 1986 Act provisions regarding the sourcing of income from space, the high seas, and Antarctica, the committee believes that it is appropriate to clarify on a permanent basis whether expenses for research conducted in such places is allocated and apportioned according to the rules for allocating expenses of U.S. conducted research or foreign conducted research.

Explanation of provision

General Allocation Rule

The bill establishes a new Code provision, section 864(f), which supersedes the Treasury's research and experimentation expense allocation regulation for purposes of determining the source of taxable income, and extends for these purposes the statutory rules for allocation of such expenses contained in the 1988 Act. These rules do not apply, for example, in the allocation and apportionment of deductions for research and experimental expenditures for purposes of computing the taxable income of a foreign taxpayer effectively connected with its conduct of a trade or business in the United States.

The bill allocates research and experimental expenditures as defined by section 174 of the Code ("qualified research and experimental expenditures" as that phrase is used in the bill) entirely to one geographic source if they were incurred to meet legal requirements imposed with respect to improvement or marketing of specific products or processes and cannot reasonably be expected to generate income (beyond de minimis amounts) outside that geographic source (see Treas. Reg. sec. 1.861-8(e)(3)(i)(B)).

With respect to qualified research and experimental expenditures not specifically allocated under the rules described in the preceding paragraph, the bill provides that a taxpayer shall allocate 64 percent of such expenses for research conducted in the United States to U.S. source income, and 64 percent of expenses for foreign-based research and experimentation to foreign source income. Under the bill, a taxpayer may allocate and apportion the remainder of research and experimental expenses on the basis of either sales or gross income. However, if the income based method of apportionment is chosen, the amount apportioned to foreign source income can be no less than 30 percent of the amount that would be apportioned to foreign source income had the sales method been used.

For example, assume that an unaffiliated U.S. taxpayer has $100 of US. research expenses and $100 of foreign research expenses, that 50 percent of relevant gross sales produce foreign source income, and that 10 percent of the taxpayer's gross income is from foreign sources. Under the bill, assuming there is no legal requirements allocation, $125.20 of the qualified research and experimental expenditures may be allocated and apportioned to U.S. source income. The bill allocates $64 to U.S. source income using the automatic place-of-performance allocation for U.S. research expenses, and $64 to foreign source income using the automatic place-of-performance allocation for foreign research expenses. Of the remaining $72 of qualified research and experimental expenditures, $61.20 may be apportioned to U.S. source income. A straight gross income apportionment of the

[1] *See, e.g., Interaction Between U.S. Tax Policy and Domestic Research and Development: Hearing on S. 58 and S. 716 Before the Subcomm. on Taxation and Debt and Management of the Senate Comm. on Finance*, 100th Cong., 1st Sess. (1987).

[2] *Id.* at 84.

$72 remainder would have resulted in apportioning $64.80 to U.S. source income, and $7.20 to foreign source income, while a gross sales apportionment would have resulted in apportioning $36 to U.S. source income and $36 to foreign source income. The gross sales limit provides that a minimum of 30 percent of $36, or $10.80, must be apportioned to foreign source income. Therefore, of the $72 of expenses remaining for apportionment after the automatic place-of-performance allocations, no more than $61.20 may be apportioned to U.S. source income.

The bill expressly does not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation. Additionally, any qualified research and experimental expenditures treated as deferred under section 174(b) shall be taken into account for purposes of applying these source allocation rules in the taxable year such expenditures are allowed as a deduction.

Affiliated Group and Possessions Corporations

As is already true for research expenses that would, but for the bill, be covered by the general expense allocation rules introduced in the 1986 Act (sec. 864(e)), the bill provides generally that allocation and apportionment of research expenses, like other expenses, is to be determined as if all members of the affiliated group (plus any section 936 companies (possession corporations) that would be eligible to consolidate absent statutory prohibition) were a single corporation. However, in the case of a section 936 company that has elected either the cost sharing or profit split method of computing its intangible property income (sec. 936(h)(5)(C)), its sales and gross income from products produced in whole or in part in a possession, and dividends paid by such company attributable to sales of such products, will not be taken into account under the bill to the extent that the company is allowed a credit under section 936 with respect to gross income on those products that is intangible property income.

Where an affiliated group with qualified research and experimental expenditures has a possession corporation that has elected either the cost sharing or profit split method for computing its intangible property income, its cost sharing amount will be an adjustment to the group's qualified research and experimental expenditures subject to allocation and apportionment under the bill. (This rule applies to the profit split method as well as the cost sharing method with respect to section 936 companies because the amount allocated and apportioned to combined income in the case of such a company electing the profit split method is computed taking into account the cost sharing amount.) Thus, for example, if a group has a possession corporation using cost sharing with respect to its only product and all of the group's research expenses are qualified research and experimental expenditures, then the cost sharing amount under section 936 that is attributable to those qualified research and experimental expenditures will reduce the research expenses allocated between the group's U.S. and foreign source income based on the gross income or gross sales of the group. Similarly, where an affiliated group with qualified research and experimental expenditures has a section 936 company that has elected the profit split method, the qualified research and experimental expenditures taken into account in computing combined taxable income will be an adjustment to the group's qualified research and experimental expenditures subject to allocation and apportionment under the bill.

The bill provides the Treasury with the authority to prescribe such regulations as may be necessary to carry out the purposes of the one taxpayer rule and its exceptions regarding section 936 companies. In addition to providing the safeguard addressed in the regulations under the general one taxpayer rule of section 864(e), these regulations are to provide for the source of gross income and the allocation and apportionment of deductions to take into account the adjustment to group-allocable qualified research and experimental expenditures for research expenses treated as cost sharing amounts under section 936. In addition, these regulations may provide for an adjustment to group-allocable research expenditures to take into account certain bona fide cost sharing payments by foreign affiliates, where necessary and appropriate in light of the purposes of the one taxpayer rule. The committee anticipates that in taking into account cost sharing amounts, the regulations will prevent any disproportionate reduction in the amount of research expenses allocated and apportioned to foreign source income.

Allocation for Space, Ocean, and Antarctica Research Expenses

The bill clarifies the rules for research conducted in space, on or beneath the ocean, or in Antarctica. Research expenses incurred by U.S. persons for activities conducted in space, in Antarctica, or on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, U.S. possession, or the United States, are allocated and apportioned in the same manner as if they were attributable to activities conducted in the United States. Similarly, research expenses for such activities incurred by non-U.S. persons are allocated and apportioned as if they were attributable to activities conducted outside the United States.

Effective date

The provision is effective for taxable years beginning after August 1, 1989, and on or before August 1, 1991.

5. QUALIFIED SMALL-ISSUE BONDS (SEC. 6105 OF THE BILL AND SEC. 144(A) OF THE CODE)

Present law

Interest on certain small issues of private activity bonds is exempt from tax if at least 95 percent of the net proceeds of the bonds is to be used to finance manufacturing facilities or certain land or property for first-time farmers ("qualified small-issue bonds").

Qualified small-issue bonds are issues having an aggregate authorized face amount (including certain outstanding prior issues) of $1 million or less. Alternatively, the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the 6-year period beginning three years before the date of the issue and ending three years after that date, may not exceed $10 million. In determining whether an issue meets the requirements of the small-issue exception, certain previous small issues (and, in the case of the $10-million limitation, capital expenditures during a 6-year period) are taken into account.

Interest on qualified small-issue bonds is taxable if the aggregate face amount of all outstanding tax-exempt private activity bonds (including exempt-facility bonds, qualified redevelopment bonds, and qualified small-issue bonds) that would be allocated to any beneficiary (other than a section 501(c)(3) organization) of the qualified small-issue bonds exceeds $40 million.

The aggregate amount of qualified small-issue bond financing for first-time farmers for all types of depreciable farm property (including both new and used property) is limited to $250,000 for any person or related persons. The $250,000 is a lifetime limit.

To issue a qualified small-issue bond, the issuer must receive an allocation from the State private activity volume cap. Authority to issue qualified small-issue bonds expires December 31, 1989.

Reasons for change

The committee believes it is appropriate to permit State and local governments to continue to issue qualified small-issue bonds.

Explanation of provision

The provision extends authority to issue qualified small-issue bonds for two years (through December 31, 1991).

Effective date

The provision is effective on the date of enactment.

6. HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS (SEC. 6106 OF THE BILL AND SEC. 162(1) OF THE CODE)

Present law

Under present law, self-employed individuals are entitled to deduct 25 percent of the amount paid for health insurance for the individual and the individual's spouse and dependents (sec. 162(1)). This deduction expires for taxable years beginning after December 31, 1989.

Under present law, more than 2-percent shareholders of S corporations are generally treated as partners in a partnership for purposes of the employee fringe benefit provisions of the Code (sec. 1372).

Reasons for change

The committee believes it is appropriate to extend the 25-percent deduction on a temporary basis and to clarify the application of the provision in the case of certain shareholders in S corporations.

Explanation of provision

The provision extends the 25-percent deduction so that it expires for taxable years beginning after December 31, 1991. The provision also provides that the 25-percent deduction applies to a more than 2-percent shareholder (as defined under sec. 1372). For purposes of the 25-percent deduction, such an individual's earned income is determined exclusively by reference to the individual's wages (as defined in sec. 3121) from the S corporation. The Secretary is authorized to prescribe additional adjustments relating to the application of the deduction in the case of S corporation shareholders.

Effective date

The provision is effective for taxable years beginning after December 31, 1989.

7. ESOP EXCEPTION TO ADDITIONAL TAX ON EARLY WITHDRAWALS (SEC. 6107 OF THE BILL AND SEC. 72(T) OF THE CODE)

Present law

Under present law, an additional 10-percent income tax applies to early withdrawals from a qualified retirement plan (sec. 72(t)). However, certain distributions from an employee stock ownership plan (ESOP) or a tax credit ESOP are exempt from the

additional income tax to the extent that the distribution is attributable to assets that have been invested, at all times, in employer securities (as defined in sec. 409(1)) that satisfy the applicable requirements of sections 409 and 401(a)(28) for the 5-year period immediately preceding the plan year in which the distribution occurs (sec. 72(t)(2)(C)). The ESOP exception does not apply to distributions made after December 31, 1989.

Reasons for change

The committee believes it is appropriate to extend the exception to the 10-percent additional income tax for certain distributions from an ESOP on a temporary basis.

Explanation of provision

Under the provision, the exception to the early withdrawal tax for certain distributions from an ESOP is extended for 2 years so that it applies to distributions made before January 1, 1992.

Effective date

The provision is effective for distributions after December 31, 1989.

8. SPECIAL RULES FOR UNDERCOVER OPERATIONS OF THE IRS (SEC. 6108 OF THE BILL AND SEC. 7608 OF THE CODE)

Present law

The Anti-Drug Abuse Act of 1988 provided an exemption for IRS undercover operations from certain Federal laws generally applicable to Federal agencies. Thus, the IRS is permitted to purchase property, acquire businesses, deposit money in banks, and reinvest the proceeds of an undercover operation in that operation, provided that the IRS Commissioner certifies that these activities are necessary for the conduct of an IRS undercover operation. These special rules are similar to the rules applicable to undercover operations of Customs, the FBI, and DEA.

IRS must also submit to the Congress an annual report providing information on undercover operations conducted under these special rules. Because the Anti-Drug Abuse Act was enacted on November 10, 1988, IRS has not yet issued the first required report to the Congress.

These special rules cease to apply after December 31, 1989.

Reasons for change

The committee believes that it is appropriate to extend this provision for two years to permit the IRS to continue to conduct its undercover operations in a manner similar to other Federal law enforcement agencies. The committee also believes that continued Congressional oversight of these provisions is important; the two-year period before expiration will provide opportunity for the Congress to consider the effectiveness of this provision.

Explanation of provision

The application of the special rules for undercover operations of the IRS is extended for two years. Thus, these provisions will expire on January 1, 1992.

Effective date

The provision is effective on the date of enactment, and extends these special rules for two years.

9. TWO-YEAR EXTENSION OF GENERAL FUND TRANSFERS TO RAILROAD RETIREMENT TIER II TRUST FUND OF AMOUNTS FROM TAXATION OF TIER II BENEFITS (SEC. 6109 OF THE BILL)

Present law

The railroad retirement program consists of a Tier I benefit structure which is generally equivalent in benefits and financing to the social security program, and a separately financed Tier II benefit structure, which is similar to private-sector pension plans. The Tier II benefits are financed primarily by payroll taxes. Tier II benefits are generally includible in income for tax purposes in the same manner as benefits received under any employer-maintained qualified pension plan. The Railroad Retirement Solvency Act of 1983 provides for the transfer from the general fund of the Treasury to the Railroad Retirement Trust Fund of an amount equal to revenues received from the taxation of Tier II benefits. This transfer to the Railroad Retirement Trust Fund applies only to benefits that are received prior to October 1, 1989.

Reasons for change

The committee believes that the purposes of the Railroad Retirement Solvency Act of 1983 are furthered through the extension of the provision allowing for a transfer of amounts from the general funds of the Treasury to the Railroad Retirement Tier II Trust Fund.

Explanation of provision

The transfer of proceeds from the taxation of railroad retirement Tier II benefits from the general fund of the Treasury to the Railroad Retirement Trust Fund is extended for two additional years, to October 1, 1991.

Effective date

The provision is effective for benefits received prior to October 1, 1991.

10. CREDIT FOR NONCONVENTIONAL FUELS (SEC. 6110 OF THE BILL AND SEC. 29 OF THE CODE)

Present law

Nonconventional fuels are eligible for a production credit which is equal to $3 per barrel of BTU oil barrel equivalent. Those fuels which are eligible must be produced from a well drilled, or a facility placed in service, before January 1, 1991. Qualified fuels are eligible for the production credit through December 31, 2000.

Gas from a tight sands formation was eligible for the production credit under a special rule (sec. 29(c)(2)(B) as long as natural gas was subject to price controls, under section 107 of the Natural Gas Policy Act of 1978.

Reasons for change

The most recent information from geologists is that a significant production capacity for production of gas from tight sands formations can be developed. The committee believes that reinstatement of the section 29 incentives for all tight sands gas is desirable in order to accelerate increases in such production since U.S. reliance on imported sources of energy appears to be increasing. The committee also believes that a general two-year extension of the period for placing in service facilities and wells is desirable because of the growing importance of imported energy sources.

Explanation of provision

(1) Production of gas from a tight sands formation is eligible for the production credit even though the price of natural gas no longer is subject to price control. The production credit for gas produced from a tight sands formation is available for gas from wells drilled after December 31, 1989.

(2) The production credit for nonconventional fuels is extended to apply to wells drilled or facilities placed in service before January 1, 1992, instead of before January 1, 1991.

Effective date

The reinstatement of gas from tight sands formations is effective on January 1, 1990. Tight sands gas from wells drilled after December 31, 1989, also will be eligible for the production credit. The extension of the placed in service date for all qualified fuels is effective as of January 1, 1990.

11. LOW-INCOME RENTAL HOUSING TAX CREDIT (SECS. 6111 AND 6112 OF THE BILL AND SEC. 42 OF THE CODE)

Present law

Overview of Credit

Section 42 of the Code provides a tax credit that may be claimed by owners of residential rental property used for low-income housing. The credit is claimed annually, generally for a period of 10 years beginning either with the year a building is placed in service or the succeeding taxable year (the credit period).[1]

Determination of Credit Amount

For buildings placed in service in 1987, the costs of new construction and substantial rehabilitation that are not federally subsidized are eligible for a maximum 9-percent credit, claimed annually for 10 years. For buildings placed in service in 1987, the acquisition cost of existing buildings and the costs of new construction and substantial rehabilitation which are federally subsidized are eligible for a maximum 4-percent credit, also claimed annually for 10 years. For buildings placed in service after 1987, these credit percentages are adjusted to maintain a present value of 70 percent and 30 percent for the two types of credits, and are determined monthly for property placed in service in each month. A taxpayer's credit amount in any taxable year is the product of the appropriate credit percentage and the qualified basis in such year.

Credit Percentage

For buildings placed in service after 1987, the credit percentage is determined monthly, to achieve a present value of either 70 percent (most newly constructed and substantially rehabilitated buildings) or 30 percent (existing buildings and all federally-subsidized buildings) of the qualified basis. The present value is calculated as of the last day of the first year of the 10-year credit period. The discount rate used to determine the present value is 72 percent of the average of the annual applicable Federal rates (AFR) for mid-term and long-term obligations applicable for the month the building is placed in service.

The Treasury Department's monthly adjustments of the credit percentages are to be determined on a discounted after-tax basis, based on the average of the annual applicable Federal rates (AFR) for mid-term and long-term obligations for the month the building is placed in service. The after-tax interest rate is to be computed as the product of (1) the average AFR and (2) .72 (one minus the maximum individual Federal income tax rate). The discounting formula

[1] Section 42 was enacted by the Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085 (Oct. 22, 1986) (the 1986 Act), and modified by the Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-847, 102 Stat. 3342 (Nov. 10, 1988) (the 1988 Act). Unless expressly stated to the contrary, no inference should be drawn from any differences in the description of present law with respect to section 42 from those set forth in the Conference Reports for the 1986 and 1988 Acts. Reference should be made to those Reports for a more detailed description of present law with respect to section 42.

assumes each credit is received on the last day of each year and that the present value is computed as of the last day of the first year.

For buildings placed in service after 1987, however, the taxpayer (with the consent of the housing credit agency) may irrevocably elect to determine the credit percentage applicable to the building in advance of the building's placed-in-service date. Such an election will be binding for Federal income tax purposes on the taxpayer, the housing credit agency, and all successors in interest. The election must be made by the fifth day of the month following the close of the month in which a binding agreement is made between the taxpayer and the housing credit agency as to the housing credit dollar amount to be allocated to the building. In the case of a building financed with the proceeds of tax-exempt bonds for which no allocation from a housing credit agency is required, the election must be made by the fifth day of the month following the close of the month the bonds are issued.

The credit percentage for substantial rehabilitation expenditures is determined when the rehabilitation is completed and placed in service, but no later than the end of the 24-month period for which such expenditures are aggregated. These rehabilitation expenditures are treated as a separate new building for purposes of the credit.

Qualified basis

In general.—The qualified basis with respect to which the credit is computed is determined as the percentage of eligible basis in a qualified low-income building attributable to the low-income rental housing units. This percentage is the lesser of (1) the percentage of low-income units to all residential rental units or (2) the percentage of the floor space of the low-income units to the floor space of all residential rental units. In these calculations, low-income units generally are those housing units actually occupied by low-income tenants, whereas residential rental units are all housing units, whether or not occupied.

With respect to the new construction credit, the eligible basis of a building is determined at its placed-in-service date. With respect to the acquisition and substantial rehabilitation credits, the eligible basis of a building is determined at the end of the first taxable year of the credit period. This determination is made before the basis of the building is adjusted to take into account depreciation deductions allowable for such first taxable year.

Additions to qualified basis.—The qualified basis of a building may be increased subsequent to the initial determination only by reason of an increase in the number of low-income units or in the floor space of the low-income units. Credits claimed on such additional qualified basis are determined using a credit percentage equal to two-thirds of the applicable credit percentage allowable for the initial qualified basis. As described below under the description of the State credit ceiling, an allocation of credit authority must be received for credits claimed on additions to qualified basis, in the same manner as for credits claimed on the initial qualified basis, if the building has no unused credit authority that may be applied toward such increase. Unlike credits claimed on the initial qualified basis, credits claimed on additions to qualified basis are allowable annually on a straight-line basis for the portion of the required 15-year compliance period remaining after eligibility for such credits arises, regardless of the year such additional qualified basis is determined.

Eligible basis

In general.—Eligible basis consists of (1) the cost of new construction, (2) the cost of substantial rehabilitation, and (3) the cost of acquisition of existing buildings acquired by purchase (including the additions to qualified basis attributable to rehabilitation expenditures, if any, to such buildings incurred before the close of the first taxable year of the credit period the cost of which does not exceed $2,000 per low-income unit). Qualified basis is determined in the same fractional manner as for new construction or acquisition costs even if all rehabilitation expenditures are made only to low-income units. Only the adjusted basis of depreciable property may be included in eligible basis.

Generally, the eligible basis of a building is determined at the time the building is placed in service. For this purpose, rehabilitation expenditures (resulting in qualified basis in excess of $2,000 of per low-income unit) are treated as placed in service at the close of the period when rehabilitation expenditures are incurred. Such period is not to exceed 24 months. In the case of rehabilitation expenditures incurred in connection with the acquisition of an existing building (and which do not average at least $2,000 of qualified basis per low-income unit), capital expenditures incurred through the end of the first year of the credit period may be included in the original eligible basis. Rehabilitation expenditures need not, however, be incurred by the taxpayer claiming the credit; under certain circumstances, they may have been incurred by the seller of the building. *Cf.* Treas. Reg. sec. 1.167(k)-1(b)(1).

Only the adjusted basis of the building and certain common facilities (*e.g.*, parking areas and recreational facilities) may be included in eligible basis. The adjusted basis is determined by taking into account the adjustments described in section 1016 (other than paragraphs (2) and (3) of sec. 1016(a), relating to depreciation deductions), including, for example, the basis adjustment provided in section 48(q) for any rehabilitation credits allowed under section 38. The cost of land is not included in adjusted basis. The basis of units whose cost per square foot is disproportionate to that of the low-income housing units by more than 15 percent of the average cost per square foot of the low-income units is excluded from eligible basis.

Acquisition of existing buildings.—The cost of acquisition of an existing building may be included in eligible basis and any rehabilitation expenditures to such a building incurred before the close of the first year of the credit period may at the election of the taxpayer also be included in eligible basis, without a minimum rehabilitation requirement. These costs may be included in eligible basis, however, only if the building or a substantial improvement to the building has not been previously placed in service within 10 years and if the building (or rehabilitated property within the building) is not subject to the 15-year housing credit compliance period.

A building that is transferred in a transaction where the basis of the property in the hands of the new owner is determined in whole or part by the adjusted basis of the previous owner (for example, by a gift of property or like-kind exchange) is considered not to have been newly placed in service for purposes of the 10-year placed-in-service requirement. Further, a building which has been acquired by a governmental unit or certain qualified 501(c)(3) or 501(c)(4) organizations is not treated as placed in service by that governmental unit or organization for purposes of the 10-year placed-in-service requirement, if the acquisition occurred more than 10 years from the date the building or a substantial improvement to the building was last placed in service. Further, a building acquired by foreclosure by a taxpayer other than a governmental unit or 501(c)(3) organization is not treated as newly placed in service by the taxpayer for purposes of the 10-year requirement if the foreclosure occurred more than 10 years from the date the building or a substantial improvement to the building was last placed in service and the property was resold within twelve months.

The Treasury Department may waive the 10-year requirement for any building substantially assisted, financed, or operated under the Department of Housing and Urban Development (HUD) section 8, section 221(d)(3), or section 236 programs, or under the Farmers' Home Administration (FmHA) section 515 program (a federally-assisted building) when an assignment of the mortgage secured by property in the project to HUD or FmHA otherwise would occur or when a claim against a Federal mortgage insurance fund would occur.

Federal grants and other subsidies.—Eligible basis does not include the amount of any federal grant, regardless of whether such grant is includible in gross income. If any portion of the eligible basis attributable to new construction or to substantial rehabilitation expenditures is financed with Federal subsidies (*e.g.*, tax-exempt bonds), the qualified basis is elgibile only for the 30-percent present value credit, unless such Federal subsidies are excluded from eligible basis.

A federal subsidy is defined as any obligation the interest on which is exempt from tax under section 103 or a direct or indirect Federal loan, if the interest rate on such loan is less than the applicable Federal rate. A Federal loan under the FmHA section 515 program is an example of such a Federal subsidy, as is a reduced interest rate loan attributable in part to a Federal grant. Tax-exempt financing or a below-market loan used to provide construction financing for a building will not be treated as a Federal subsidy if such loan is repaid and any underlying obligation (*e.g.*, tax-exempt bond) is redeemed before the building is placed in service.

Minimum Set-Aside Requirement for Low-Income Individuals

Set-aside percentage requirements

In general.—Under the general minimum set-aside a residential rental project qualifies for the low-income housing tax credit only if (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 50 percent or less of area median income (equivalent to the figure published by HUD under section 8 of the Housing Act of 1937 for very low-income families) or (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 60 percent or less of area median income.[2] These income

[2] A special set-aside requirement under which a project qualifies if 25 percent or more of the units are occupied by individuals with incomes of 60 percent or less of area median income is provided for New York City.

levels are adjusted for family size. All units comprising the minimum set-aside in a project must be suitable for occupancy and used on a nontransient basis, and are subject to the limitation on gross rent charged to residents of set-aside units.

Rent skewing set-aside.—A special set-aside may be elected for projects that satisfy a stricter requirement and that significantly restrict the rents on the low-income units relative to the other residential units in the building (the "rent skewing" set-aside). Projects qualify for this rule only if, as part of the general set-aside requirement, 15 percent or more of all low-income units are occupied by individuals having incomes of 40 percent (rather than 50 percent or 60 percent) or less of area median income, and the average rent charged to tenant in the residential rental units which are not low-income units is at least 300 percent of the average rent charged to low-income tenants for comparable units. Under this special rule, a low-income tenant who initially meets the 40-percent test will continue to qualify in the future as such, as long as the tenant's income does not exceed 170 percent (rather than the general 140-percent limit, described below) of the qualifying income limitation. Additionally, if a project to which this special set-aside requirement applies ceases to comply with the continuous compliance requirement because of increases in existing tenants' incomes, no penalties are imposed if each available low-income unit (rather than each available unit) is rented to tenants having incomes of 40 percent or less of area median income, until the project is again in compliance.

The owner of each project must irrevocably elect the minimum set-aside requirement (including the rent skewing set-aside described above) at the close of the first year of the credit period. In the case of a project consisting of a single building, the set-aside requirement must be met within 12 months of the date the building (or rehabilitated property) is placed in service, and complied with continuously thereafter for a period ending 15 years after the first day of the first taxable year in which the credit is allowable.

In the case of a multiple building project, buildings need not meet the minimum low-income set-aside requirement in the order that the buidings are placed in service. if within 12 months of the placed-in-service date of a prior building the project meets the set-aside requirement with respect to such first building and any subsequent buildings placed in service within the 12-month period, then such first building and included subsequent buildings are part of a qualified low-income project. Subsequent buildings not included in determining whether the project satisfies the set-aside requirement with respect to prior buildings have their own 12-month period within which they are required to be included in the set-aside determination for the project. Since application of this rule may result in buildings which are part of the same project having different credit periods, section 42(g)(5) permits the taxpayer to redefine the mix of buildings considered a part of the project for purposes of determining continued compliance with the set-aside requirement.

Continuous Compliance Required

The determination of whether a tenant qualifies as low-income for purposes of the minimum set-aside requirement is made on a continuing basis, both with regard to the tenant's income and the qualifying area income, rather than only on the date the tenant initially occupies the unit. An increase in a tenant's income relative to qualifying area income may result, therefore, in a unit ceasing to qualify as occupied by a low-income person. However, a qualified low-income tenant is treated as continuing to be such notwithstanding *de minimis* increases in his income. Under this rule, a tenant qualifying when initially occupying a rental unit will be treated as continuing to have such an income provided his income does not increase to a level more than 40 percent in excess of the maximum qualifying income, adjusted for family size. If the tenant's income increases to a level more than 40 percent above the otherwise applicable ceiling (or if the tenant's family size decreases so that a lower family income applies to the tenant), that tenant is no longer counted in determining whether the project satisfies the set-aside requirement. No penalty or reduction in basis is assessed in such an event, however, provided that each residential rental unit that becomes vacant (of comparable or smaller size to the units occupied by tenants who no longer satisfy the applicable income requirement) is rented to low-income tenants until the project is again in compliance.

Vacant units, formerly occupied by low-income individuals, may continue to be treated as occupied by qualified low-income individuals for purposes of the set-aside requirement (as well as for determining qualified basis) provided reasonable attempts are made to rent the units and no other units of comparable or smaller size in the project are rented to nonqualifying individuals. In no case is a unit considered to be occupied by low-income individuals if all of the occupants of such unit are students, no one of whom is entitled to file a joint income tax return.

Gross Rent Limitation

The gross rent paid by families in units on which a tax credit is claimed may not exceed 30 percent of the applicable area income qualifying as "low," adjusted for family size. Gross rent includes the cost of any utilities, other than telephone. If any utilities are paid directly by the tenant, the maximum rent that may be paid by the tenant is reduced by a utility allowance prescribed by the Treasury Department.

The gross rent limitation applies only to payments made directly by the tenant. For example, any rental assistance payments made on behalf of the tenant, such as through section 8 of the United States Housing Act of 1937 or any comparable Federal, State or local rental assistance, are not included in gross rent for purposes of the 30-percent limit.

Qualified Low-Income Housing Projects and Qualified Low-Income Buildings

A qualified low-income building is a building which is subject to the 15-year compliance period and which is part of a qualified low-income project. A qualified low-income project is a project that meets the minimum set-aside requirement and other requirements with respect to the set-aside units at all times that buildings comprising the project are subject to the 15-year compliance period. A project may include multiple buildings having similarly constructed housing units, provided the buildings are located on the same tract of land, are owned by the same person for Federal income tax purposes, and are financed pursuant to a common plan of financing. Owner-occupied buildings with four or fewer units are ineligible for the credit.

Compliance Period and Penalty for Noncompliance

Qualified residential rental projects must remain as rental property and must satisfy the minimum set-aside requirement, described above, throughout a 15-year compliance period. Units on which credits are claimed, in addition to those meeting the minimum set-aside requirement on which a credit is allowable, must continuously comply with this requirement. The taxpayer may defer the beginning of the credit period of the taxable year following the taxable year the building is placed in service. This enables the deferral of the beginning of the 15-year compliance period. Within 90 days of the end of the first taxable year of the credit period, the taxpayer must make certain certifications to the Secretary of the Treasury regarding set-aside compliance and other matters.

Owners and operators of low-income housing projects on which a credit has been claimed may correct any noncompliance with the set-aside requirement within a reasonable period after the noncompliance is discovered or reasonably should have been discovered. If the taxpayer can correct the noncompliance in the manner required, there is no recapture.

If the qualified basis of a building for which a low-income housing credit was claimed is reduced (other than in the event of certain casualty circumstances) or if the property is disposed of without the posting of a bond satisfactory to the Secretary of the Treasury, the accelerated portion of the credit for all prior years may be recaptured. There is no recapture of the credit for certain *de minimis* changes in qualified basis by reason of changes in the floor space of low-income housing units. For partnerships comprised of at least 35 partners, unless the partnership elects otherwise, no change in ownership will be deemed to occur provided that within any 12-month period, at least 50 percent (in value) of the original ownership is unchanged.

State Low-Income Housing Credit Authority Limitation

In general

Generally, all buildings eligible for the low-income housing credit must receive an allocation of credit authority from the State or local credit agency in whose jurisdiction the qualifying low-income housing project is located. In all cases, credit allocations are counted against a State's annual credit authority limitation for the calendar year in which the credits are allocated. Generally, credits subject to the State credit authority limitation include any credits attributable to expenditures not financed with tax-exempt bonds subject to the bond volume limitation.

The aggregate amount of such credits allocated within the State is limited by the State annual low-income credit authority limitation. The annual credit authority limitation for each State is equal to $1.25 for every individual who is a resident of the State. For purposes of the credit authority limitation, the District of Columbia and U.S. possessions (*e.g*, Puerto Rico, the Virgin Islands, Guam, and American Samoa) are treated as States. No credit authority is provided for years after 1989.

In general, credits may be allocated only during the calendar year in which the building or rehabilitated property is placed in service. Three exceptions are provided to this general rule. First, credits may be allocated for additions to qualified basis which

occur after the building is placed in service. Second, credits may be allocated in a later year pursuant to an earlier binding agreement made no later than the year in which the building is placed in service. Third, a building may be placed in service in the year in which the credit allocation is received or in either of the two succeeding years provided that the taxpayer's basis (land and depreciable property) in the project by the close of the calendar year in which the credit allocation is made by the housing credit agency is at least 10 percent of its reasonably expected basis in the project at the time the project is placed in service. This provision applies only to credit allocations for new construction, substantial rehabilitation expenditures eligible for the 70-percent present value credit, and existing buildings as to which a credit is allowable for substantial rehabilitation expenditures.

Transferability

A new owner of a building during its 15-year compliance period is eligible to continue to receive the credit as if the new owner were the original owner, using the same qualified basis and credit percentages and used by the original owner. In the case of transfers of an interest in credit property the credit is apportioned pro rata between the two parties. Rehabilitation expenditures on such property may qualify for a credit in the same manner as rehabilitation expenditures on other qualifying property. The accelerated portion of credits claimed in previous years will be recaptured upon a transfer, subject to the election of the original owner to post a bond. All dispositions of ownership interests in buildings are treated as transfers for purposes of recapture, except for a special rule for certain partnerships. There is no election for the new owner to assume the recapture liability for prior year credits.

Passive Loss Rules

In general

Deductions from passive trade or business activities or rental activities, to the extent they exceed income from all such passive activities (exclusive of portfolio income), generally may not be deducted against other income. Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses and credits are carried forward and treated as deductions and credits from passive activities in the next year. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity.

These limitations apply to individuals, estates, trusts, and personal service corporations. A special rule limits the use of passive losses and credits with respect to portfolio income in the case of closely-held corporations.

Special rules

$25,000 allowance in the case of rental real estate activities.—A special rule is provided for passive losses and credits attributable to rental real estate activities. In the case of rental real estate activities, a taxpayer who is an individual is allowed to deduct up to $25,000 of passive losses (to the extent that they exceed income from passive activities) if the taxpayer actively participates in the rental real estate activity (and has at least a 10-percent interest in it). The $25,000 amount is phased out ratably as the taxpayer's adjusted gross income, with certain modifications, increases from $100,000 to $150,000.

$25,000 allowance for low-income housing and rehabilitation credits.—Under a special rule, the $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction-equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the adjusted gross income phaseout range for the $25,000 amount for these credits is from $200,000 to $250,000 (rather than the generally applicable phaseout range of $100,000 to $150,000).

Restrictions on Use of Credit To Offset Tax

The low-income housing credit is subject to the rules of the general business credit (sec. 38), including the maximum amount of income tax liability that may be reduced by a general business credit in any one year. This limitation generally is equal to the excess (if any) of the taxpayer's net income tax over the greater of (1) the taxpayer's tentative minimum tax for the year, or (2) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

The rules for credit carryovers provide that unused credits for any taxable year may be carried back to each of the three preceding taxable years and then carried forward to each of the 15 following years. No portion of the low-income housing credit for any taxable year may be carried back to a taxable year ending before 1987 (sec. 39(d)(4)).

Effective Date

The credit generally is effective for buildings placed in service after December 31, 1986, other than property grandfathered from the depreciation rule changes made by the Tax Reform Act of 1986. Buildings placed in service after December 31, 1989, may qualify for the credit only if they meet the credit carryover allocation rules. The authority of housing credit agencies to allocate low-income housing credits expires December 31, 1989.

Reasons for change

In General

The committee is concerned about the lack of affordable housing for people of low-income and considers it appropriate that the Federal Government play a significant role in the development of additional housing. The committee believes the low-income housing credit is a useful incentive for the increase in the housing stock available to low-income tenants. The permanent extension of the credit will provide certainty as to the availability of the credit. Low-income housing like other real estate projects require long lead times in its planning and development.

Given the limited amount of aggregate credit available, however, the committee considers it necessary to take steps to improve its efficiency to ensure that as much housing as possible is created with the credit and that credit projects effectively serve State and local housing needs. Many of the provisions adopted by the committeee are designed to further that goal.

The committee believes that the credit is the proper vehicle to encourage extended low-income use beyond the initial 15 year compliance period. Owners wishing to dispose of their property may convey the property for any amount of consideration subject to continued low-income use restrictions. If the owners are unable to effect such a transfer, there should be a mechanism to allow the allocating agency a reasonable period of time to find another qualified purchaser.

The committee recognizes that it may be necessary to reexamine the use of federal tax subsidies for the provision of low-income housing such as the low-income housing credit as other laws affecting the provision of low-income housing, and as the nation's housing needs change.

Increase in Affordable Housing

The committee considers it desirable for the credit to be used to increase the housing stock available to low-income tenants. It is concerned that the credit not be used simply to churn the existing housing stock. Limiting the credit to new construction and to existing buildings which are substantially rehabilitated serves as an incentive to the creation of new housing. Further, the committee is concerned that the definition of "substantial rehabilitation" under present law is inadequate to further the purpose of taking otherwise uninhabitable units and returning them to the available housing stock. At the same time, the committee realizes that a very serious problem exists with respect to low-income housing the owners of which will soon be eligible to prepay certain low-cost Federal loans and convert their housing to market rent use.

The committee recognizes that many factors influence the cost of providing a unit of rent-restricted housing for low-income individuals and that the costs attributable to these factors may vary by area. For example, some areas have high costs for land, while other areas have high utility costs or high construction costs. When an area experiences high costs for such factors and at the same time has a relatively low area median income, rental income generated (subject to the rent restriction requirements) may be insufficient to make provision of low-income units economically feasible without further subsidy. The committee believes it is important to facilitate utilization of the credit in such difficult to develop areas.

Increased Efficiency of the Credit

The committee is desirous that the low-income housing credit be allocated in a manner that ensures that housing will be available to those most in need. The committee is also concerned that certain States have been allocating credits simply on a first-come first-served basis. it considers the establishment of allocation criteria and priorities essential to target the credit to those projects which will most effectively serve State and local housing needs.

Improvement of Marketability and Administration

The committee recognizes the importance of certainty in making investment decisions. The committee believes it is appropriate to make changes to the calculation of the gross rent limitation to provide more certainty to investors. The committee also concludes that adjustments to the deep-rent skewing provisions are necessary.

The committee believes that encouraging the provision of low-income housing is an important goal of national housing policy. The Federal Government can foster this goal through several means, and, at this time, the committee believes that providing tax incentives to private investors to invest in low-income housing projects is the most appropriate way to achieve this aim. In this connection, the committee is concerned that the present law excludes some individuals from the pool of likely investors in low-income housing property.

Improved Administrability of the Credit and Other Issues

The committee is concerned that various features of present law, intended to be primarily administrative in nature, unnecessarily interfere with the most effective utilization of the credit. For example, the requirement of present law that a credit allocation be received on a building-by-building basis, rather than for the project of which such buildings are a part, has also resulted in difficulty in projecting exact credit availability and project cash flows. The committee believes that it is inappropriate to have one rule governing the date on which eligible basis is determined for new construction and a different rule governing the date on which eligible basis is determined for acquisition property. Present law unnecessarily requires the filing of certain credit forms just two weeks before the federal income tax returns of individual taxpayer investors are also due.

Explanation of provisions

Extension of the Credit

The bill makes the low-income housing credit (generally scheduled to expire December 31, 1989) permanent.[3]

Extended Low-Income Use Commitment

The bill provides that a taxpayer will only be eligible for a credit allocation if he or she enters into an extended low-income housing commitment with the housing credit agency.[4] The commitment must be binding on the taxpayer and all successors of the taxpayer with respect to the property for which the credit is allocated. The commitment must require that portion of the building occupied by low-income tenants (the applicable fraction) for each taxable year in the extended use period is not less than an amount specified in the commitment. The commitment must be recorded under State law as a restrictive covenant and must permit eligible low-income individuals the right to enforce the commitment in the courts of the State in which the property is located. The commitment must provide for an extended period of low-income use. The extended use period must extend at least 15 years beyond the close of the compliance period.

The bill provides two exceptions to the extended use requirement. First, if a building for which the credit has been allocated is acquired by foreclosure, the extended use period terminates on the date of such acquisition. Second, if after the fourteenth year of the compliance period the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building, and if by the end of the fifteenth year of the compliance period the housing credit agency has been unable to present a buyer with a qualified contract who will continue to operate the low-income portion of the building as a qualified low-income building, the extended use period will terminate with the terminaton of the compliance period.[5]

For the purpose of the second exception, the bill defines a qualified contract as a bona fide contract to acquire not less than the applicable fraction, as specified in the commitment, multiplied by a minimum purchase price. The bill defines the first component of the minimum purchase price as adjusted investor equity. Adjusted investor equity is the aggregate amount of cash taxpayers invested with respect to the project increased by a cost of living adjustment for each calendar year since the project was placed in service.[6] The inflation adjustment is determined by changes in the consumer price index (CPI), but is never to exceed five percent. To adjusted investor equity is added the outstanding indebtedness (at the time of sale) secured by, or with respect to, the building and any other capital contributions not reflected in either adjusted investor equity or the outstanding indebtedness. An example of this latter amount would arise if it were necessary to replace a building's furnace and any loan taken to finance the furnace were not secured by the furnace or the building. Any cash distributions[7] from the project are subtracted from the above three components to arrive at the minimum purchase price.

The bill modifies the at risk rules applicable to certain nonrecourse financing provided by qualified nonprofit organizations to conform to the extended low-income use requirement by requiring that full repayment of such loans occur within 90 days after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the end of the compliance period.

Determination of Credit Amount

Under the bill, no credit is allowable for the acquisition of an existing building unless a substantial rehabilitation standard is met. Generally, under this standard, rehabilitation expenditures must result in qualified basis equal to or greater than $3,000 per low-income unit. If the new substantial rehabilitation standard is satisfied, the substantial rehabilitation expenditures are eligible for the 70-percent present value credit (if not federally-subsidized) and the existing portion of the building is eligible for the 30-percent present value credit.

The rehabilitation expenditures must be on the low-income units or common areas substantially benefiting the low-income tenants (e.g., replacement of a boiler, improvements to plumbing and electrical systems). Rehabilitation expenditures are those which improve the habitability of the low-income units. Expenditures of a cosmetic nature qualify as rehabilitation only when ancillary to, and an integral part of, expenditures which improve the habitability of the low-income unit.

The bill provides that the determination of eligible basis for new buildings and substantial rehabilitation expenditures conform to that for acquisition property by allowing the determination to be made at the end of the first taxable year of the credit period. The determination of eligible basis is made before any adjustments to basis are made for depreciation allowable during the first taxable year.[8]

The bill provides that, in areas which are designated by the Secretary of HUD as difficult to develop, the eligible basis of a new building or the eligible basis of rehabilitation expenditures in the case of an existing building undergoing substantial rehabilitation be deemed to be 130 percent of eligible basis claimed for depreciation. This calculation of eligible basis would not be available with respect to federally-subsidized buildings.

The bill provides that no more than 20 percent of metropolitan areas be designated as difficult to develop and that no more than 20 percent of nonmetropolitan areas be designated as difficult to develop. The percentage limitation is based on the population of the designated metropolitan area relative to the population of all metropolitan areas, and similarly for nonmetropolitan areas.

In determining which areas are difficult to develop, the bill provides that the Secretary of HUD consider several factors. It may be costly to produce low-income housing in one area relative to the rest of the country because that area has higher land costs than the rest of the country. Alternatively, the costs of producing low-income housing in that area may be higher than elsewhere because that area has higher construction costs or higher utility costs than the rest of the country. A combination of the above factors may make it more costly to provide low-income housing in some areas than in others. In determining whether an area's costs are high relative to the rest of the nation, the Secretary of HUD may find it appropriate to use indices of land costs, construction costs, and utility costs. Alternately, the Secretary may find it appropriate to use private market rents (not subject to rent control or other restrictions) as indicative of the cost of providing rental housing units in a given area.

However, the committee recognizes that it is not costs alone that make an area difficult to develop, but rather the costs of providing a low-income housing unit compared to the rental income that low-income housing unit will generate. The Secretary of HUD should, therefore, compare an area's costs to an area's median income in reaching the determination that an area is difficult to develop. Consequently, it is possible that one area's costs of providing housing are low relative to similar costs nationwide, but the area's income is sufficiently low that the Secretary would designate the area as difficult to develop.

Eligible Basis

The bill modifies the 10-year rule by adding three categories of property eligible for waiver of the rule by the Secretary of the Treasury. First, the 10-year rule may be waived for a federally-assisted building if the mortgage on the building is eligible within one year of the application for waiver for prepayment under the Emergency Low Income Housing Preservation Act of 1987 or under the Housing Act of 1949 and either HUD or FmHA certifies that the building will be converted to market use

[3] The committee directs the Internal Revenue Service to monitor and promote compliance with the section 42 requirements.

[4] Such commitment must also exist between a taxpayer and the housing credit agency for any building which is to be financed with tax-exempt bonds on which the taxpayer intends to claim the credit even though the taxpayer may not be required to receive an allocation under the State annual credit ceiling.

[5] The bill allows that this second exception does not apply to the extent that either the commitment or State law contains more stringent requirements.

[6] The amount invested with respect to a project is measured by those amounts which are reflected in the adjusted basis of the project. For example, required annual fees for legal and accounting work are not amounts invested in the project.

[7] The committee intends that this amount not be limited to amounts actually paid to the taxpayer, but also includes any amounts available for distribution to the taxpayer. For example, a working capital reserve account would constitute funds available to be distributed to the taxpayer.

[8] Section 7872(c)(1)(D) does not apply to a transaction involving a below market loan if none of the principal purposes of the interest arrangements of the below market loan is to increase the amount of the credit allowable under section 42.

absent the waiver. If this waiver is granted, the mortgagor must agree in writing not to prepay the mortgage. Such property is eligible for credit allocation subject to the rehabilitation expenditures requirement, described above.

Second, the 10-year rule may be waived for a building acquired from a failed financial institution or from a receiver or conservator of such an institution if the Secretary of the Treasury determines (after consultation with the appropriate Federal agency or regulatory authority) that such acquisition is necessary to avert an expenditure of Federal funds by such Federal agency or regulatory authority. This waiver is to apply to properties owned by commercial banks, savings and loan institutions, and credit unions that are regulated or whose deposits are insured by a Federal agency, regulatory authority, or insurance program. For this purpose, a financial institution is failed if a conservator, receiver, or other legal custodian has been appointed for the financial institution (or, in the case of a foreign bank, a U.S. branch), pursuant to an adjudication or other official determination by a court of competent jurisdiction, the appropriate Federal banking agency, or other public authority. The expenditure to be averted is the amount: (1) which the Federal agency or regulatory authority (including any Federal insurance program) would be required to pay in connection with the failure of such financial institution, and (2) which would be reduced by the sale of a property where the price received for the property will be increased as a result of the property being eligible for low-income housing credits even though the 10-year holding period was not satisfied except by receipt of the waiver.

Third, the 10-year rule may be waived to facilitate the sale of a building if the mortgage on the building is held by HUD, or the building itself is owned by HUD (following foreclosure of a mortgage) or the Farmers Home Administration.

The bill also expands the definition of "federally-assisted building" to include any building that has more than four residential rental units originated, insured, or guaranteed by the Federal Government. In addition, the bill provides that the credit is not available to properties receiving assistance under the HUD section 8 moderate rehabilitation program.

Gross Rent Limitation

The bill provides certain changes in the rules regarding the calculation of the gross rent limitation. The deep-rent skewing rule is modified to provide that the rents charged for non-rent-restricted units need be only at least 200 percent of those charged for comparable rent-restricted units.

The bill also provides that, for purposes of both section 42 and the deep-rent-skewing rules of section 142(d) (relating to tax-exempt bonds for residential rental property), in the determination of the gross rent limitation applicable to rent-restricted units the incomes used are no longer to be adjusted for actual family size. Instead, each unit is presumed to house a certain number of people based upon the number of bedrooms in the unit. A studio apartment is presumed to house one person and each bedroom of a unit is presumed to house 1.5 persons.[9] However, for the purposes of determining whether a family qualifies as a "low-income" family eligible for a rent-restricted unit, the bill retains present law. That is, families renting rent-restricted units must have actual family incomes adjusted for family size which, at the irrevocable election of the taxpayer, are either not in excess of 60 percent of area median income or not in excess of 50 percent of area median income.

The determination of the gross rent limitation applicable to a three-bedroom unit is made as follows. A three-bedroom unit is assumed to house 4.5 persons (three bedrooms multiplied by 1.5 persons per bedroom). The section 8 very low-income figure for a family of 4 is added to the section 8 very low-income figure for a family of 5 and the result is divided by two to determine the very low-income figure for the presumed family size of 4.5. The applicable gross rent limitation is 30 percent of the resulting very low-income figure for the presumed family of 4.5. For example, if the very low-income figure for a family of four is $19,000, and the very low-income figure for a family of five is $21,000, the gross rent limitation for a rent-restricted three-bedroom unit is $6,000 per year (30 percent of $20,000). To qualify to rent this three-bedroom unit, a family of five must have an income less than or equal to $21,000, while a family of four must have an income less than or equal to $19,000.

The provision of supportive services does not disqualify a rental property (so long as none of the residents are exempted from the provision governing below market loans by reason of continuing care contracts with the facility). Supportive services are those designed to enable residents to remain independent and avoid placement in a hospital, nursing home or intermediate care facility for the mentally or physically handicapped. Any fees provided for supportive services which are paid by a governmental agency directly to the owner of building is included in gross rent. However, in this circumstance the gross rent limitation applicable to a qualifying low-income limit is increased by 20 percent.[10] The committee reiterates, however, its intent that no hospital, nursing home, sanitarium, dormitory, or trailer park, be treated as a qualified low-income project.

Qualified Low-Income Housing Projects and Qualified Low-Income Buildings

The bill provides that 80 percent of the qualified basis of an owner-occupied building with four or fewer units will be eligible for the credit if the acquisition or rehabilitation of the building occurs as part of a development plan sponsored by a State or local government or qualified nonprofit organization.

The bill provides that buildings located on disparate or scattered geographic sites may be deemed to be a single project both for purposes of credit allocation and compliance if 100 percent of the units are rent-restricted units occupied by tenants with qualifying income. As under present law, all of the buildings must be financed pursuant to a common plan of financing and owned by the same person for Federal income tax purposes.

Purchase Options

The bill provides that any determination as to whether Federal income tax benefits are allowable to a taxpayer with respect to a qualified low-income building is made without regard to certain purchase options exercisable at the end of the compliance period. These options must be held by a qualified nonprofit organization, limited equity cooperative or resident management group recognized by HUD that do not provide financing with respect to the building. The option price cannot be less than the sum of (1) the principal amount of all indebtedness secured by the building, with the exception of indebtedness incurred within the five years immediately prior to sale, and (2) all Federal, State, and local taxes attributable to such sale. In determining the Federal income (but not other) taxes attributable to the sale, the tax liability resulting from the agreement to pay taxes attributable to the sale will be taken into account.

State Low-Income Housing Credit Authority Limitation

In recognition of the fact that a State may not allocate or use all available credits in a given year, and that sometimes credits allocated may be returned (e.g., a building to which credits were allocated is never placed in service), the committee bill provides that all such unused and returned credits may be carried over for one year. Unused credits are defined as the difference between $1.25 multiplied by the State's population, and the State's aggregate credit allocations for that year. Returned credits are credits previously allocated to projects which do not become qualified projects within the year or any credits for which an allocation is cancelled by the mutual consent of the housing credit agency and the allocation recipient.

The committee anticipates that occasionally one or more States may fail to allocate their housing credits carried over from the preceding year. When this eventuality occurs, the bill provides that the Secretary may allocate the aggregate unused housing credit carryover among those States which fully allocated their State housing credit ceiling for the preceding year. The Secretary's allocation is to be a pro rata distribution, based on population, among those States which did not have any unused credit carryover in the preceding year and which request an additional credit allocation by May 1. A State is determined to have unused housing credit carryover if the amount of unused credits (as defined above) exceeds the difference of aggregate housing credit allocations for a given year and $1.25 multiplied by the population of the State for that year.

As a consequence of these carryover provisions, a State's annual housing credit ceiling is determined as the sum of the following: (1) $1.25 multiplied by the population of the State, (2) any unused credits from the immediately preceding year, (3) any returned credits, and (4) any unused housing credit carryover received from the Secretary after proper application.

The bill provides that the credit be allocated on a project basis, rather than on a building-by-building basis as under present law. The credit allocation is to be divided among the buildings in the project as they are placed in service. For purposes of the credit allocation, a taxpayer wishing to treat a building as part of a project must designate all the buildings which are to be part of the project by the end of the first year of

[9] The committee intends that the Secretary of the Treasury, in consultation with the Secretary of HUD, issue regulations detailing the minimum living area which must constitute a bedroom and prohibiting general living or dining areas from being claimed as bedrooms for those units which are not studios.

[10] This provision does apply when the fees paid by a governmental agency explicitly include a capital cost or housing component.

the project period (i.e., by the end of the first calendar year in which an allocation could be made for the first building placed in service as part of such project). In the absence of such a designation by the taxpayer, the Secretary shall treat the project as consisting solely of one building. To receive a credit allocation for the entire project, rather than only those buildings placed in service during the year of the allocation, the taxpayer must still satisfy the present law rules for a carryover allocation, except that such carryover allocation need not be divided among the buildings at the time of the allocation.

The bill requires that the housing credit agency adopt an allocation plan containing selection criteria for ranking the various projects applying for credit allocations. The selection criteria must include project location (e.g., broad geographic distribution, designated targeted areas such as inner cities, Community Development Block Grant neighborhoods, distressed communities, pockets of poverty, and rural areas), housing needs characteristics (e.g., low vacancy rate, income mix of tenants within the project, and meeting State, regional, or local housing needs and priorities), project characteristics (e.g., whether the project increases the stock of low-income housing, whether substantial rehabilitation expenditures are needed by the project, energy conservation, quality of units, and type of financing), sponsor characteristics (e.g., nonprofit sponsorship and minority participation in development and management), participation of local tax-exempt organizations, encouragement of mixed-use housing, project financial feasibility and viability, and tenant populations with special housing needs (e.g., elderly, minority, handicapped, disabled, homeless, large families, and displaced). The committee intends that an allocation plan would not fail this requirement if it provides a set-aside of credit authority for particular types of projects or geographic areas.

Additionally, the agency may not allocate more credit to a project than it determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period. In making this determination, the agency shall consider the sources and uses of the funds, the available Federal, State, and local subsidies committed to the project, and the total financing planned for the project as well as the proceeds or receipts expected to be generated by reason of tax benefits.

The bill requires that housing credit agencies provide notice and opportunity to comment to the chief executive officer of the locality in which the project is located. In addition, the Committee anticipates that the housing credit agency will require developers to list financial information in their credit applications. Such information would include a breakdown of sources and uses of funds sufficiently detailed to enable the agency to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. Whether or not includible in eligible basis, the following cost information should be required before allocation of the credit: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, and syndication and legal fees and other costs. Actual data must be made available upon request of the allocating agency after the project has been placed in service. Costs, including developer fees, should be examined by the agency for reasonableness. The Committee also contemplates that agencies require the submission of pro forma financial statements setting forth the anticipated project cash flows.

The bill requires that the housing credit agency approval process take a form similar to that required by section 147(f)(2) with respect to the approval of the issuance of tax-exempt private activity bonds. Such approval may not occur until after a public hearing with reasonable public notice and an opportunity for those interested to present their views. The referendum provisions of section 147(f)(2) are not applicable.

Passive Loss Rules

The bill modifies the application of the passive loss restrictions on the low-income housing credit by removing the adjusted gross income limitations on the $25,000 deduction-equivalent allowance of credits with respect to rental real estate activities. Thus, up to a $25,000 deduction-equivalent amount of credits is available to an individual under the provision, regardless of his adjusted gross income.[11]

Effective dates

The bill is generally effective for determinations made under section 42 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989.[12] For projects not subject to the credit allocation limits, the provisions generally apply to buildings placed in service after December 31, 1989.

The provision which removes the adjusted gross income limitation for low-income housing credits under the passive loss rule is effective in taxable years ending after December 31, 1989, for property placed in service after December 31, 1989. In addition, if the property is held through a partnership or other passthrough entity, the taxpayer's interest in the partnership of other passthrough entity must have been acquired after December 31, 1989.

The new 10-year rule waiver provisions are effective on the date of enactment.

12. MODIFICATION OF REHABILITATION TAX CREDIT UNDER PASSIVE LOSS RULE (SEC. 6112 OF THE BILL AND SEC. 469(I) OF THE CODE)

Present law

Rehabilitation Tax Credit in General

An income tax credit is provided for certain expenditures incurred in rehabilitation of certified historic structures and certain nonresidential buildings placed in service before 1936. The amount of the credit is determined by multiplying the applicable rehabilitation percentage by the basis of the property that is attributable to qualified rehabilitation expenditures. The applicable rehabilitation percentage is 20 percent for certified historic structures and 10 percent for qualified rehabilitated buildings (other than certified historic structures) that are nonresidential and that were originally placed in service before 1936.

A building is eligible for the 20-percent credit only if it is substantially rehabilitated and is listed in the National Register or is certified by the Secretary of the Interior as being of historical significance to the registered historic district in which it is located. A building is eligible for the 10-percent credit only if it is substantially rehabilitated and meets a structural requirement relating to the percentage of its external and internal walls that are retained in place upon completion of the rehabilitation.

The basis of any property eligible for the rehabilitation credit is reduced by the full amount of the allowable credit. Thus, no cost recovery allowance or depreciation deduction is allowed for rehabilitation expenditures that are considered funded by the rehabilitation credit.

In addition, the rehabilitation credit is subject to recapture if the rehabilitated building is disposed of or otherwise ceases to be qualified investment property at any time during the five year period beginning after the year the property is placed in service.

Restrictions on Use of Credit to Offset Tax

The rehabilitation credit is subject to the rules of the general business credit, including the maximum amount of income tax liability that may be reduced by a general business credit in any one year. This limitation generally is equal to the excess (if any) of the taxpayer's net income tax over the greater of (1) the taxpayer's tentative minimum tax for the year, or (2) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. Thus, the credits may not offset the taxpayer's alternative minimum tax.

Unused credits generally may be carried back 3 taxable years and then forward 15 years (to the extent permitted by other applicable limitations, if any).

Passive Loss Restrictions on Credit Use

In general

Under the passive loss rule, deductions from passive trade or business activities or rental activities generally may not be deducted against other income, to the extent such deductions exceed income from all such passive activities (exclusive of portfolio income). Similarly, credits from passive activities generally are limited to the tax attributable to the passive activities. Suspended losses and credits are carried forward and

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[11] The bill also removes the adjusted gross income limits on the deduction-equivalent amount of rehabilitation credits with respect to rental real estate activities. Thus, under the two provisions of the bill, the $25,000 deduction-equivalent allowance of present law is retained, but no adjusted gross income limits apply under the $25,000 rule for either low-income housing credits or rehabilitation credits.

[12] The committee intends that should it subsequently decide to subject the credit to a "sunset" date, it believes it is appropriate to conform the treatment of newly constructed property which is substantially financed with tax-exempt bonds to other newly constructed or substantially rehabilitated property in regard to when the credit may be claimed. While generally the credit may be claimed only for property placed in service in the year the credit allocation is received, an exception exists for newly constructed or substantially rehabilitated property which is not substantially financed with tax-exempt bonds. This exception permits credits to be claimed for property placed in service within two years after a credit allocation was received, if 10 percent of estimated project costs were incurred in the year in which the allocation was made. To conform, newly constructed property which is substantially financed with tax-exempt bonds should be permitted to claim the credit for buildings placed in service within two years after the bonds were issued, if at least 10 percent of estimated project costs were incurred by the close of the calendar year in which the bonds were issued.

treated as deductions and credits from passive activites in the next year. Suspended losses from an activity are allowed in full when the taxpayer disposes of his entire interest in the activity. The rule applies to individuals, estates, trusts, and personal service corporations. A special rule limits the use of passive activity losses and credits with respect to portfolio income in the case of closely held corporations.

Special rules

$25,000 allowance in the case of rental real estate activities.—A special rule is provided for passive activity losses and credits attributable to rental real estate activities. In the case of rental real estate activities, an individual may deduct up to $25,000 of passive activity losses (to the extent they exceed income from passive activities) if the individual actively participates in the rental real estate activity (and has at least a 10 percent interest in it). The $25,000 amount is phased out ratably as the taxpayer's adjusted gross income, with certain modifications, increases from $100,000 to $150,000.

$25,000 allowance for low-income housing and rehabilitation credits.—Under a special rule, the $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the individual claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the adjusted gross income phaseout range for the $25,000 amount for these credits is $200,000 to $250,000 (rather than the generally applicable phaseout range of $100,000 to $150,000).

Reasons for change

The committee believes that preservation and rehabilitation of existing historic buildings and nonresidential buildings first placed in service before 1936 should be encouraged. The Federal Government can foster this goal through several means, and at this time, the committee believes that providing tax incentives to private investors to engage in rehabilitation activities is an appropriate way to achieve this aim.

In this regard, the committee is concerned that present law excludes some individuals from the pool of likely investors in rehabilitation property. The committee bill modifies the otherwise applicable restrictions on availability of the rehabilitation credit to upper-income individuals, with the aim of expanding the investment in these types of projects, while retaining all other applicable limitations.

Explanation of provision

The bill modifies the application of the passive loss restrictions to the rehabilitation tax credit by removing the adjusted gross income limitations on the $25,000 deduction equivalent allowance of the credits with respect to rental real estate activities. Thus, up to a $25,000 deduction equivalent amount of rehabilitation credit is available to an individual under the provision regardless of his adjusted gross income.*

The bill otherwise retains present law with respect to the rehabilitation credit.

Effective date

The provision is effective in taxable years ending after December 31, 1989, for property placed in service after December 31, 1989. In addition, if the property is held through a partnership or other passthrough entity, the taxpayer's interest in the partnership or other passthrough entity must have been acquired after December 31, 1989.

13. RESEARCH AND EXPERIMENTATION TAX CREDIT (SEC. 6113 OF THE BILL AND SEC. 41 OF THE CODE)

Present law

Incremental Credit

General rule.—A 20-percent tax credit is allowed for qualified research expenditures incurred by a taxpayer in carrying on a trade or business. Except for certain university basic research payments, the credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed the average amount of the taxpayer's yearly qualified research expenditures in the "base period," meaning the preceding three taxable years.

The credit is scheduled to expire after December 31, 1989.

Base limitation.—The amount of base-period research expenditures is treated as equal to at least 50 percent of the taxpayer's qualified research expenditures for the current year.

Trade or business limitation.—Research expenditures of a taxpayer are eligible for the credit only if paid or incurred in a particular trade or business already being carried on by the taxpayer.

Eligible expenditures.—Research expenditures eligible for the 20-percent incremental credit consist of (1) "in-house" expenditures by the taxpayer for research wages and supplies used in research; (2) certain time-sharing costs for computer use in research; and (3) 65 percent of amounts paid by the taxpayer for contract research conducted on the taxpayer's behalf.

Expenditures attributable to research which is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).[1]

Aggregation rules and changes in business ownership.—To prevent artificial increases in research expenditures by shifting expenditures among commonly controlled or otherwise related persons, research expenditures of the taxpayer are aggregated with research expenditures of certain related persons for purposes of computing any allowable credit.

Special rules apply for computing the credit when a business changes hands, under which qualified research expenditures for periods prior to the change of ownership generally are treated as transferred with the trade or business which gave rise to those expenditures.

University Basic Research Credit

In addition to the 20-percent incremental credit, there is a 20-percent tax credit for certain corporate expenditures for university basic research. This credit applies to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research over (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.[2]

This credit also is scheduled to expire after December 31, 1989.

Relation of Credit to Section 174 Deduction

For taxable years beginning after 1988, the amount of any deduction allowable to a taxpayer under section 174 or any other provision for qualified research expenditures is reduced by an amount equal to 50 percent of the taxpayer's research credit determined for that year.

Reasons for change

The committee concluded that it is appropriate to increase the research credit's incentive effect by providing taxpayers with a permanent credit for undertaking research, thereby eliminating the uncertainty resulting from temporary extensions of the credit.

In extending the research credit, the committee wished to respond to the criticism that the incentive effect of the present-law research credit was diminished as a result of the method of computing the taxpayer's base amount. Critics have noted that although an increase in research expenditures resulted in a taxpayer receiving a larger credit for that year, it also resulted in higher base period amounts (and therefore smaller credits) in the following three years. As a consequence, the present-law credit's marginal incentive effect provided in the first year was largely offset in the following three years. The committee, therefore, modified the method of calculating a taxpayer's base amount in order to enhance the credit's incentive effect. The committee did wish, however, to retain an incremental credit structure in order to maximize the credit's efficiency by not allowing (to the extent possible) credits for research that would have been undertaken in any event.

Although the committee believes it is important to readjust the base amount annually in a way which does not undercut the incentive effect of the credit (which occurs when a firm's base is adjusted solely by reference to its own prior levels of research spending), the committee also determined it was appropriate that the base adjustments reflect firm-specific factors. By adjusting each taxpayer's base to its own experience, the committee wanted to make the credit widely available at the lowest possible revenue cost.

Because businesses often determine their research budgets as a fixed percentage of gross receipts, it is appropriate to index each taxpayer's base amount to average growth in its gross receipts. By so adjusting each taxpayer's base amount, the committee believes the credit will be better able to

* The bill also includes certain low-income housing credit provisions, including a provision removing the adjusted gross income limits on the deduction equivalent amount of low-income housing credits with respect to rental real estate activities. Thus, under the bill, the $25,000 (deduction equivalent) allowance of present law is retained but no adjusted gross income limits apply under the $25,000 rule for either low-income housing credits or rehabilitation credits.

[1] The 1986 Act provided statutory rules defining qualified research for purposes of the incremental credit as research undertaken to discover information that is technological in nature and that pertains to functional aspects of products. Also, the 1986 Act expressly excluded certain types of expenditures from eligibility for the credit, including post-production research activities, duplication or adaptation costs, and surveys, studies, and certain other costs.

[2] The amount of credit-eligible basic research expenditures to which the university basic research credit applies does not enter into the computation of the incremental credit-eligible basic research expenditures—i.e., the amount to which the university basic research credit does not apply—enters into the incremental credit computation.

achieve its intended purpose of rewarding taxpayers for research expenses in excess of amounts which would have been expended in any case. Using gross receipts as an index, firms in fast-growing sectors will not be unduly rewarded if their research intensity, as measured by their ratio of qualified research to gross receipts, does not correspondingly increase. Likewise, firms in sectors with slower growth will still be able to earn credits as long as they maintain research expenditures commensurate with their own sales growth.

Adjusting a taxpayer's base by reference to its gross receipts also has the advantage of effectively indexing the credit for inflation and preventing taxpayers from being rewarded for increases in research spending that are attributable solely to inflation.

In redesigning the credit, the committee also determined that the credit's base limitation should be increased to reduce disparities among taxpayers in the amount of credit (as a percentage of total qualified research) they receive. By phasing in an increase in the base limitation, no taxpayer will earn credits for taxable years beginning after 1994 which exceed five percent of its total qualified research spending for that year.

The committee further decided that it is appropriate to extend the availability of the credit to start-up firms which, although not presently conducting a particular trade or business, plan to use the results of their research in the active conduct of a future trade or business.

In view of the significant modifications to the research credit, the committee concluded that it would be useful to periodically reevaluate the credit. To assist in evaluation, the committee directed the Treasury Department to conduct a study every five years in order to report whether revenue losses attributable to the research credit are consistent with those projected at the time of enactment (or, in the case of later studies, those projected at the time of the previous study), to evaluate whether the rules for computing the base for start-up firms are appropriate in view of actual trends in qualified research expenditures and gross receipts of those firms, and to review available evidence on the effectiveness of the credit in stimulating additional research expenditures.

The committee recognizes that the research credit is the equivalent of a Federal payment to the taxpayer. Thus, because the taxpayer does not pay for research to the extent of the credit, the taxpayer's deduction under section 174 for research expenses should be reduced by the amount of the research credit claimed, as in the case of other tax credits provided for by the Code.

Explanation of provisions

Incremental Credit: Sales Ratio R&E Tax Credit

General rule

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit is made permanent.

The base amount for the current year is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years.

Fixed-base percentage

Existing firms.—If a taxpayer both incurred qualified R&E expenses and had gross receipts[3] during each of at least three years from 1984 to 1988, then its "fixed-base percentage" is the ratio that its total qualified R&E expenses for the 1984-88 period bears to its total gross receipts for this period (subject to a maximum ratio of .16, as described below).

Start-up companies.—If a taxpayer did not both incur qualified R&E expenses and have gross receipts during each of at least three years between 1984-1988, then for each of its first five taxable years after 1989 in which it incurs qualified R&E expenses, the taxpayer is assigned a fixed-base percentage of .03.

After its first five taxable years after 1989 in which it incurs qualified R&E expenses, a start-up firm's fixed-base percentage is computed as follows: (1) for the firm's sixth year, its fixed-base percentage is equal to one-sixth of its research-to-gross receipts ratio for its fourth and fifth years; (2) for the firm's seventh year, its fixed-base percentage is one-third of its ratio for its fifth and sixth years; (3) for the firm's eighth year, its fixed-base percentage is one-half of its ratio for its fifth through seventh years; (4) for the firm's ninth year, its fixed-base percentage is two-thirds of its ratio for its fifth through eighth years; (5) for the firm's tenth year, its fixed-base percentage is five-sixths of its ratio for its fifth through ninth years; and (6) after a firm's tenth year, its fixed-base percentage is its actual research-to-gross receipts ratio for five years selected by the firm from its fifth through tenth years.

Maximum fixed-base percentage.—In no event will a taxpayer's fixed-base percentage exceed .16.

Base limitation

As under current law, a taxpayer's base may not be less than a certain percentage of current-year qualified R&E expenditures. The base limitation percentage for all firms is 50 percent for taxable years beginning in 1990; 55 percent for taxable years beginning in 1991; 60 percent for taxable years beginning in 1992; 65 percent for taxable years beginning in 1993; 70 percent for taxable years beginning in 1994; and 75 percent for taxable years beginning in 1995 or later.

Trade or business limitation

A taxpayer is treated as meeting the trade or business requirement with respect to in-house research expenses if, at the time such in-house research expenses are incurred, the principal purpose of the taxpayer in making such expenditures is to use the research in the active conduct of a future trade or business of the taxpayer or certain related taxpayers.

Consistent treatment of R&E expenses

Qualified research expenses taken into account in computing a taxpayer's fixed-base percentage are to be determined on a basis which is consistent with the determination of qualified research expenses for the current year.[4] Thus, if a taxpayer includes (or excludes) certain expenditures in determining its qualified research expenses for the current year, it must provide the same treatment for all such expenditures incurred during any year taken into account in computing the taxpayer's fixed-base percentage, regardless of whether the period for filing a claim for credit or refund has expired for any year taken into account in computing the fixed-base percentage.[5]

Treasury Department Study

The Treasury Department is required to conduct a study during each 5-year period beginning on January 1, 1990, to determine whether revenue losses from the credit are consistent with the projections, to evaluate whether the rules for computing the base for start-up firms are appropriate in view of actual trends in qualified research expenditures and gross receipts of those firms, and to analyze the effectiveness of the credit in promoting research.

Eligible Expenditures

The expenditures eligible for the credit are the same as under present law.

Aggregation Rules and Changes in Business Ownership

The rules relating to aggregation of related persons and changes in business ownership are the same as under present law, with the modification that when a business changes hands, qualified research expenses and gross receipts for periods prior to the change of ownership are treated as transferred with the trade or business which gave rise to those expenditures and receipts for purposes of recomputing a taxpayer's fixed-base percentage.

In addition, the bill provides that a foreign affiliate's gross receipts which are not effectively connected with the conduct of a trade or business in the United States do not enter into the computation of the credit.

University Basic Research Credit

The university basic research credit is permanently extended.

Relation of Credit to Section 174 Deduction

The amount of any deduction allowable to a taxpayer under section 174 or any other provision for qualified research expenditures is reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

The bill clarifies that research expenses are deductible under section 174 only to the extent that they are reasonable under the circumstances.[6]

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[3] The Treasury Department is authorized to prescribe regulations providing that de minimis amounts of qualified R&E expenses and gross receipts may be disregarded (including under the start-up company rules described infra).

[4] The Treasury Department is granted authority to prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or gross receipts due to a change in accounting methods used by the taxpayer between the current year and a year taken into account in computing the taxpayer's fixed-base percentage.

[5] No inference is intended whether current law requires a taxpayer, in calculating its credit amount for a particular year, to determine its base amount by adjusting qualified research expenses for an earlier base-period year for which an assessment of a deficiency or refund of an overpayment is barred by the statute of limitations.

[6] Thus, the bill provides for a rule contrary to the holding in *Driggs v. United States*, 706 F. Supp. 20 (N.D. Tex. 1989). The committee intends that the reasonableness requirement under section 174 be parallel to the reasonable allowance requirement for salaries and other compensation under section 162(a)(1), in that amounts purportedly paid for research may be recharacterized as disguised dividends, gifts, loans, or other similar payments. The committee does not intend that the reasonableness requirement under section 174 be used to question whether or not research activities themselves are of a reasonable type or nature.

Effective date

The provisions are effective after December 31, 1989.

14. BUSINESS ENERGY TAX CREDITS FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY MADE PERMANENT (SEC. 6114 OF THE BILL AND SEC. 46(B)(2) OF THE CODE)

Present law

Three nonrefundable business energy tax credits are allowed for certain types of energy property; these tax credits are scheduled to expire after December 31, 1989. The credits (the rates and the property to which they pertain) are:

(1) Business solar—10% credit;
(2) Geothermal—10%; and
(3) Ocean thermal—15%.

Under section 38, these (and other) tax credits may not be used to offset more than 25 percent of regular tax liability above $25,000 or the tentative minimum tax for the taxable year.

The expiration date for these credits was extended for one additional year, i.e., from December 31, 1988, to December 31, 1989, in the Technical and Miscellaneous Revenue Act of 1988. Earlier, these tax credit rates were extended through 1988 in the Tax Reform Act of 1986.

Reasons for change

The committee believes that it is essential to continue to provide incentives for the development of alternative energy sources which do not rely upon fossil fuel formations.

Explanation of provision

The energy tax credits for solar energy, geothermal, and ocean thermal property are extended permanently, at the current rate.

Effective date

The provision is effective on January 1, 1990.

15. MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES

a. Extension of qualified mortgage bonds and mortgage credit certificates (sec. 6115 of the bill and sec 143 of the code)

Present law

Qualified Mortgage Bonds

In general

Mortgage revenue bonds qualifying for tax-exemption under section 103 of the Code ("qualified mortgage bonds") are bonds the net proceeds of which are used to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied homes located within the jurisdiction of the issuer of the bonds.

Eligible purchasers

In general, eligible purchasers must have not owned a residence within the three prior years and must have incomes below 115 percent of the median income for the area or State where the residence is located. For families consisting of less than three persons, the income limitation is 100 percent of the area or State median income.

Purchase price limitations

The acquisition cost of a residence financed with qualified mortgage bonds may not exceed 90 percent (110 percent in targeted area) of the average purchase price applicable to the residence.

Recapture

All or part of the subsidy provided by qualified mortgage revenue bond financing or mortgage credit certificates (described below) is recaptured on dispositions of assisted housing which occur within 10 years of purchase by mortgagors whose incomes increased substantially since purchase of their homes. The maximum amount recaptured is 1.25 percent of the original balance of the loan for each year the loan is outstanding, or 50 percent of the gain realized on the disposition, whichever is less. For sales in years six through 10, the 1.25 percent per year is phased out. This recapture provision only applies to loans originated, and mortgage credit certificates issued, after December 31, 1990.

Limitations on volume, arbitrage and unspent proceeds

Mortgage revenue bonds are subject to the general per capita volume limitation on private purpose obligations. Issuers of mortgage subsidy bonds generally must issue mortgages at rates that cannot exceed the rate of interest on the bonds by more than 1.125 percentage points. In general, bond proceeds not used to make mortgages and mortgage principal payments must be used to redeem outstanding bonds.

Sunset

The authority of State and local governments to issue tax-exempt mortgage subsidy bonds is scheduled to terminate on December 31, 1989.

Mortgage Credit Certificates

In general

Qualified governmental units may elect to exchange qualified mortgage bond authority for authority to issue mortgage credit certificates (MCCs) (sec. 25). MCCs entitle homebuyers to nonrefundable income tax credits (not to exceed $2,000 per year) for a specified percentage of interests paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the residence being financed continues to be the certificate-recipient's principal residence. MCCs are generally subject to the same eligibility and targeted area requirements as qualified mortgage bonds.

Sunset

Mortgage credit certificates are scheduled to sunset with respect to nonissued mortgage subsidy bonds elected after December 31, 1989.

Reasons for change

The committee believes that the qualified mortgage bond and mortgage credit certificate program should be permanently extended without modification. Substantive revisions were made to the program in the Technical Corrections and Miscellaneous Revenue Act of 1988 (TAMRA). Permanent extension will ensure that the program can meet its goals without interruption.

Explanation of provision

Qualified mortgage bonds and the mortgage credit certificates program is permanently extended (bonds issued and MCCs issued pursuant to elections to trade-in State bond volume limitations, after December 31, 1989).

Effective date

The provision is effective on the date of enactment.

b. Mortgage credit certificates time limit suspension (sec. 6115 of the bill and sec. 25 of the Code)

Present law

Generally, a qualified issuer may either issue Mortgage Revenue Bonds (MRBs) or exchange MRB authority for authority to issue Mortgage Credit Certificates (MCCs). After it has exchanged the authority the issuer can proceed with the actual issuance of the MCCs. The Tax Reform Act of 1986 imposed new restrictions, including tighter targeting, on MRBs and MCCs. The statutory language made these restrictions effective for MCCs issued after August 15, 1986. The Conference Committee Report, on the other hand, provided that these restrictions were effective with respect to bond authority exchanged for authority to issue MCCs after August 15, 1986. The General Explanation of the Tax Reform Act of 1986 noted that a technical correction would be necessary to correct the statutory langauge to conform to the legislative intent. This technical correction to apply the 1986 Act restrictions to exchanges of bond authority and not issuances of MCCs after August 15, 1986 was enacted in the Technical and Miscellaneous Revenue Act of 1988.

Code section 25(e)(3)(B) renders a MCC invalid unless the mortgagor incurs debt by the close of the second calendar year after the exchange the authority. The time limit under this section was not suspended by the 1986 Act.

Reasons for change

Because of the drafting error, an issuer that had exchanged authority but had not issued MCCs prior to August 15, 1986 was technically subject to the 1986 Act restrictions. The issuer was forced to wait for enactment of the technical correction before it could issue MCCs that did not meet the 1986 Act restrictions. The delay in the enactment of the technical correction until 1988 allowed the operation of Code section 25(e)(3)(B) to preclude use of authority exchanged before 1986 and to severely limit availability of authority exchanged during 1986 on or before August 15, 1986.

Code sec. 25(e)(3)(B) renders a MCC invalid unless the mortgagor incurs debt by the close of the second calendar year after the exchange the authority. Under this provision, all exchanges of authority in 1985 were invalidated on December 31, 1987 and were unavailable to issuers when the technical was passed several months later. Similarly, 1986 exchanges of authority on or before August 15, 1986 were only valid if debt was incurred by December 31, 1988. Because the technical correction allowing issuance of MCCs was not enacted until October 1988, utilization of these MCCs was severely hampered: i.e., the two-year time period of Code section 25(e)(3)(B) began to run on the exchange but absence of the technical correction delayed or precluded the issuance of MCCs which in turn delayed or precluded the mortgagor from incurring debt.

Explanation of provision

The provision provides that the two-year time period allowed in Code section 25(e)(3)(B) commences running on the date of enactment of this technical correction for bond authority exchanged before August 15, 1986, but not issued as of that date.

Effective date

The provision is effective on the date of enactment.

Subtitle B. Corporate Provisions

1. LIMIT DIVIDENDS RECEIVED DEDUCTION WITH RESPECT TO CERTAIN NONTAXED INCOME OF CONSOLIDATED SUBSIDIARIES (SEC. 6201 OF THE BILL AND SEC. 246 OF THE CODE)

Present Law

A distribution to a shareholder is generally treated as a dividend to the extent of the distributing corporation's current or accumulated earnings and profits. Corporate re-

cipients of dividends generally are entitled to a dividends received deduction equal to at least 70 percent of the dividend. (An 80-percent or 100-percent deduction is permitted if the recipient has sufficent ownership of the stock of the distributing corporation.) The dividends received deduction serves to reduce substantially or eliminate multiple taxation with respect to income earned and corporate-level tax paid by distributing corporations on distributions to corporate shareholders.

If a group of corporations files a consolidated return, taxable income is determined by reference to the income and deductions of all members of the group and is, in substance, computed as if the group operated as a single corporation. No income is separately attributed to minority owners of a subsidiary that joins in filing a consolidated return. Thus, for example, income of a subsidiary bears no corporate-level tax if its parent corporation and other members of the group have losses sufficient to offset that income, even though the subsidiary may have taxable income economically attributable to minority ownership. If the minority owner and the parent or other group members had been joint venturers with respect to the subsidiary's business, then the income attributable to minority ownership could not be sheltered by losses of other members of the group but would be fully taxed to the minority owners.

In order to be eligible to file a consolidated return, a subsidiary generally must be related to the rest of the group through the group's ownership of at least 80 percent of the vote and value of all classes of subsidiary stock. However, stock described in section 1504(a)(4) (generally, nonvoting preferred stock that does not participate in corporate growth to any significant extent) is not counted for this purpose. Thus, minority shareholders holding nonvoting perferred stock may be entitled to virtually all the subsidiary's earnings without preventing consolidation. In this situation, the earnings to which the preferred shareholders are entitled can be sheltered by the losses of other members of the group without limitation. The subsidiary can pay these non-taxed earnings to the minority corporate shareholders as dividends eligible for the 70-percent dividends received deduction. Such earnings thus bear no corporate-level tax to the distributing corporation and bear a maximum tax to the recipient corporation of only 10.2 percent (34 percent of the 30 percent that is taxable after the dividends received deduction).

Reasons for change

The committee believes that the dividends received deduction serves to mitigate multiple level corporate taxation where it applies. Under present law, groups filing consolidated returns can use that privilege effectively to shelter earnings attributable to minority investors in a subsidiary with losses or credits attributable to other corporate entities in which those minority shareholders do not have an economic interest. The committee is concerned that the dividends received deduction is available with respect to distributions made to such minority shareholders where those distributions have not borne a corporate level tax.

When the minority ownership is in the form of stock that is not taken into account for purposes of determining eligibility for consolidation, so that there is no limitation on the percentage of value of the subsidiary that may be owned by such minority shareholders, the opportunity to take advantage of the consolidated return rules and the dividends received deduction in this manner is particularly great. The consolidated group may in effect sell the benefit of its consolidated net operating losses or credits through the availability of the dividends received deduction for distributions to minority shareholders. For example, such a sale occurs when minority shareholders accept a lower pre-tax return in the form of a dividend from the subsidiary than they otherwise would accept if they had directly invested in the assets of the subsidiary, due to the after-tax benefit of the dividends received deduction.

The Current satutory prohibitions against loss trafficking (e.g., section 382) have not generally been applied to cover the transfer of the benefits of net operating losses through the use of the dividends received deduction.

Accordingly, the committee believes that it is appropriate to limit the availability of the dividends received deduction in certain situations.

Explanation of provision

The bill disallows the dividends received deduction for a portion of dividends paid out of current earnings and profits with respect to stock described in section 1504(a)(4) (generally, nonvoting preferred stock that does not participate in corporate growth to any significant extent) in certain circumstances.

The provision applies only to dividends paid from a subsidiary of an affiliated group of corporations filing a consolidated return.

The amount of dividends with respect to which the dividends received deduction is disallowed is determined by applying a fraction, the numerator of which is the consolidated loss offset and the denominator of which is the distributing corporation's separately computed taxable income. The fraction is applied to the lesser of a) the amount of dividends on stock described in section 1504(a)(4) paid out of current earnings and profits or b) the consolidated loss offset.

The consolidated loss offset with respect to a distributing subsidiary corporation includes specific items of any other member of the same affiliated group as the distributing corporation, which items are treated as used to offset the separately computed taxable income of such corporation. The items included are: any net operating loss or net operating loss carryover under section 172; any loss that is treated as a loss from the sale or exchange of a capital asset, or capital loss carryover under section 1212; and the deduction equivalent of any excess credit or credit carryover other than the foreign tax credit.

Separately computed taxable income is the taxable income of the distributing corporation computed as if it were not a member of an affiliated group.

The Treasury Department is authorized to exempt taxpayers from the limitation to the extent taxpayers can establish that the distributions in question were made out of earnings that were taxed to the distributing corporation or the consolidated group of which it is a member.

The Treasury Department is also authorized to provide antiabuse rules. It is expected that regulations would prevent avoidance of the rules through the contribution of built-in loss assets or other direction of losses to the subsidiary by other members of the group. It is also expected that regulations would prevent avoidance of the rules through delaying distributions until later years or through the use of tiered subsidiaries or similar devices.

Except as the Treasury Department may otherwise provide, it is expected that regulations will provide that the separate taxable income of any distributing corporation for purposes of this provision shall include the separate taxable income of any other member of the group to the extent any current earnings and profits of the distributing corporation is directly or indirectly attributable to such income. Such regulations will be effective as of the effective date of this provision. Current earnings and profits of the distributing corporation would be directly or indirectly attributable to such income, for example, where such earnings and profits arise because of a dividend or other distribution out of taxable income of another corporation, or where such earnings and profits arise because undistributed earnings of another corporation are reflected in the current earnings and profits of the distributing corporation by reason of the applicable investment adjustment rules of the consolidated return regulations.

The bill provides the Treasury Department authority to require the issuer to report to holders and the Internal Revenue Service when the dividends received deduction is not allowable under this provision with respect to part or all of the dividends paid on stock.

Effective date

The provision is generally effective for distributions after October 2, 1989. However, it does not apply to distributions with respect to subsidiary stock issued on or before that date, or issued after that date pursuant to a binding written contract in effect on that date and at all times thereafter before such stock is issued, so long as certain transactions described below do not occur.

Otherwise grandfathered stock ceases to be grandfathered if the issuing corporation ceases to be a member of the affiliated group of which it was a member at the time the stock was issued (or at the time the contract to issue such stock became binding), or becomes a member of any group, unless such event occurs in a transaction that would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.* Grandfathered stock also ceases to be grandfathered if such stock is retired or purchased by the issuer or by any member of the affiliated group of which the issuer is a member, unless the retirement is pursuant to an obligation to reissue under a binding written contract (which may be evidenced by the terms of the stock that has been issued by the corporation) in effect on October 2, 1989 and at all times thereafter until such stock is reissued.

Auction rate preferred stock is treated for this purpose as issued when the contract requiring the auction became binding and is not considered issued at the time of each auction conducted pursuant to such commitment. The contract requiring the auction for this purpose is the contract (which may be evidenced by the terms of the stock that has been issued by the corporation) committing the corporation to provide for the conduct of auctions with respect to the stock. Thus, auction rate preferred stock that was issued on or before October 2, 1989, or after that date in accordance with

* See Treas. Reg. sec. 1.1502-14(f).

the terms of a binding written contract to issue such stock in effect on that date and at all times thereafter until such stock is issued, does not cease to be grandfathered merely because auctions pursuant to the terms of such original issuance or pursuant to the terms of such binding contract are conducted after October 2, 1989.

For purposes of these transition rules, stock that has been issued but has never been held by a person not a member of the group is not considered to have been issued.

2. DEFER INTEREST DEDUCTION ON CERTAIN HIGH-YIELD ORIGINAL ISSUE DISCOUNT (OID) OBLIGATIONS UNTIL INTEREST IS PAID (SEC. 6202 OF THE BILL AND SEC. 163 OF THE CODE)

Present law

Original issue discount (OID) is the excess of the stated redemption price at maturity over the issue price of a debt instrument. The issuer of a debt instrument with OID generally accrues and deducts the discount, as interest, over the life of the obligation even though the amount of such interest is not paid until the debt matures. The holder of such a debt instrument also generally includes the OID in income on an accrual basis.

Reasons for change

The committee is concerned about the frequent use of high-yield, long-term OID instruments and instruments that make payments in instruments of the issuer (*e.g.*, so-called payment-in-kind" (PIK) bonds) and the effect these instruments may have on the amount of debt in the corporate sector of economy. The committee believes that the interest deduction permitted for these instruments, even though no cash is paid, encourages their use in highly-leveraged financial structures. The committee believes that the tax benefit from the deduction prior to payment is particularly strong when the issuer is subject to the corporate income tax.

The committee believes that the amount of long-term high-yield OID and PIK instruments issued by corporations will be reduced if the interest deduction on such instruments is postponed until the interest is paid.

Explanation of provision

In General

Under the bill, a C corporation may not deduct (or otherwise take into account [1] any portion of OID on an applicable high yield discount obligation until such portion is actually paid. Payments in the form of stock or obligations of the issuer would not be considered paid for this purpose. The bill does not change the present law rule allowing interest to be deducted no earlier than the date on which it accrues. See sec. 461(g). Nor does it change the requirement that the holder include such interest in income as it accrues.

Definition of Applicable High Yield Discount Obligation

An applicable high yield discount obligation is a debt instrument that meets three requirements. First, the maturity date of the instrument must be more than five years from the date of issue.

Second, the yield to maturity on the instrument must equal or exceed the sum of the applicable Federal rate (AFR) for the calendar month in which the obligation is issued [2] plus five percentage points. The Secretary of the Treasury may be regulation apply a higher rate if the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such rate is based on the some principles as the AFR and is appropriate for the term of the instrument. This authority may be exercised so as to allow a rate that more exactly establishes the average market yield on outstanding marketable obligations of the United States at the same time the obligation was issued and for the same maturity as the obligation. Cf. Prop. Reg. sec. 1.1274-6(a)(3).

Third, the instrument must have significant OID. An instrument has significant OID if the aggregate amount that would be includible in gross income with respect to the instrument before the close of any accrual period ending more than five years after the date of issue exceeds the sum of (1) the aggregate amount of interest to be paid under the instrument before the close of such accrual period and (2) the product of the issue price of such instrument and its yield to maturity. For these purposes, amounts required to be paid on the last day of the accrual period are treated as required to be paid before the close of the accrual period.

Example 1.—An instrument with a twenty year maturity and an issue price of $100, pays $33.61 annually beginning in year six and $210.03 (plus $33.61 of interest) at maturity, producing a yield to maturity of 16 percent. The instrument has significant OID because the aggregate amount that would be includible in gross income with respect to the instrument before the close of at least one accrual period ending more than five years after the date of issue exceeds the sum of (1) the aggregate interest to be paid under the instrument before the close of the period and (2) the product of the issue price of the instrument and its yield to maturity. For example, the aggregate amount that would be includible in income with respect to the instrument as of the accrual period ending six years after issuance, $143.64 ($110.03 plus $33.61), exceeds the sum of the aggregate interest to be paid with respect to the instrument, $33.61, plus the product of the issue price and the yield to maturity, $16.

Example 2.—The facts are the same as Example 1, except that the instrument pays $110.03 in year five, $16 per year thereafter, and $100 (plus $16 of interest) at maturity. The instrument does not have significant OID because the aggregate amount that would be includible in gross income with respect to the instrument before the close of each accrual period ending more than five years after the issue date does not exceed the sum of (1) the aggregate interest to be paid under the instrument before the close of the period and (2) the product of the issue price and the yield to maturity. For instance, the aggregate amount that would be includible in income with respect to the instrument as of the accrual period ending six years after issuance, $126.03 ($110.03 plus $16), is less than the sum of the aggregate interest to be paid with respect to the instrument, $126.03, plus the product of the issue price and the yield to maturity, $16.

Special rules

For purposes of determining whether a debt instrument is an applicable high yield discount obligation, any payment made under the instrument shall be assumed to be made on the last day permitted under the instrument. In addition, any payment to be made in the form of another obligation or stock of the issuer or a related person (within the meaning of Code sec. 453(f)(1)) shall be assumed to be made when such obligation or stock is required to be paid or redeemed in cash or property other than such an obligation or stock.

Information requirements

The Secretary of the Treasury is granted regulatory authority to require that information be set forth on the applicable high yield obligation. For example, the Secretary of the Treasury may require that the instrument disclose the fact that the instrument is an applicable high yield obligation and other information, such as the tax treatment of the obligation. However, the Treasury Secretary shall not require that information be set forth on instruments not publicly offered prior to disposition by the first buyer. In addition, the issuer of publicly offered applicable high yield obligations is required to furnish such information as the Secretary of the Treasury shall prescribe.

Failure of an issuer to set forth information required to be set forth on a debt instrument or to furnish information required to be furnished is subject to the same penalties as such failures with regard to OID instruments. See Code sec. 6706.

Regulatory authority

Under the provision, the Secretary of the Treasury is required to prescribe such regulations as may be appropriate to carry out the purpose of the provision. These regulations may include modifications in the provision in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances. Such regulations may, for example, provide rules for the Federal income tax treatment of debt instruments payable in foreign currency or stock of the issuing corporation.

In the case of debt instruments providing for a variable rate of interest (within the meaning of Prop. Reg. sec. 1.1275-5) issued before the issuance of regulations, the committee expects that regulations to be issued by the Treasury Department will provide that the determination of whether an obligation is an applicable high yield discount obligation will be made by treating the debt instrument as if it provided for a fixed interest rate corresponding to the rate established by the variable rate on the issue date. The committee also expects that similar rules would apply where the instrument provides for different variable rates for different accrual periods.

In the case of debt instruments providing for contingent interests, the committee expects that the regulations to be issued by the Secretary of the Treasury may take into account the expected amount of any such contingent payments in determining whether an obligation is an applicable high yield obligation. *Cf.* Code sec. 1272(a)(6).

The committee expects that the regulations to be issued by the Secretary of the Treasury would prevent avoidance of the purpose of the provision through the use of issuers other than C corporations, agreements to borrow amounts due under the debt instrument, or other arrangements. Such regulations may, for example, address the taxation of obligations collateralized by corporate debt that would constitute applicable high yield discount obligations if

[1] For example, for purposes of section 263(f), interest would not be taken into account until paid.

[2] For these purposes, the AFR is determined without reference to the lowest 3-month rate provided by section 1274(d)(2).

issued directly by a C corporation.[3] The committee expects that such regulations also would address situations in which a C corporation, in effect, issues applicable high yield discount obligations by issuing an obligation bearing stated interest while entering into an agreement understands that such regulations would be retroactive in appropriate circumstances.

Effective date

In General

The provision would be effective for instruments issued after July 10, 1989. An assumption by a taypayer of an instrument issued by another person is treated as a new issuance by the taxpayer for purposes of this rule.

Instruments Issued as Interest

The provision would not apply to any instrument that is issued pursuant to the terms of a debt instrument issued before July 11, 1989, or which is otherwise excepted from the provision under the transition relief described below. Thus, if the terms of a debt instrument provide for the payment of interest in the form of additional instruments, the provision does not apply to the additional instruments (*e.g.*, the issuance of a payment-in-kind obligation after July 10, 1989, as interest on a payment-in-kind obligation issued before July 11, 1989).

Instruments Issued in Connection With Certain Acquisitions

In General

In addition, the provision does not apply to an instrument issued after July 10, 1989, that meets three requirements. The three requirements are: (1) the completion of, or commitment to consummate, an acquisition, (2) the determination to issue an obligation to which the provision would otherwise apply, and (3) the establishment of a sufficient connection between the acquisition and the use of such obligation as financing for the acquisition.

Acquisition requirement

In order to meet the first requirement, the issuer (or a related party) must have: (1) made an acquisition before July 11, 1989, (2) made an acquisition after July 10, 1989, pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter, or (3) made an acquisition after July 10, 1989, pursuant to a tender offer that was filed with the Securities and Exchange Commission on or before July 10, 1989. An acquisition includes an acquisition of stock (including the stock of the acquirer) or assets.

Determination requirement

In order to meet the second requirement, the issuer must have made a determination to issue an obligation to which the provision would otherwise apply. A determination to issue such an obligation will be considered made if certain terms of the obligation are evidenced in written documents that (1) were transmitted before July 11, 1989, between the issuer and any governmental bodies or prospective parties to the issuance or acquisition, and (2) are customarily used for the type of financing or acquisition involved.

Required terms.—For this purpose, the terms of the instrument that must be evidenced in the transmitted documents are: (1) the fact that the instrument will be issued with significant OID, (2) the maximum maturity terms of the instrument, and (3) issue price of the instrument or the maximum amount of proceeds to be raised by the issuance of such instrument. The required terms of the instrument will not be considered to be sufficiently evidenced if the issuer has an option to amend or extend the required terms of the instrument or has an option to covert an instrument to which this provision does not apply to an instrument to which this provision does apply.[4]

The requirement that the fact that the instrument will be issued with significant OID will not be considered to be met if, before July 11, 1989, the issuer evidences a determination to issue instruments that provide for the annual payment of at least a portion of the yield and the instruments, as ultimately issued, do not provide for such payments.

If the maturity term of the instrument is not determined before July 11, 1989, such term will be considered to be determined so long as the actual maturity term of the instrument, when issued, does not exceed ten years.

Appropriate evidentiary documents.—Documents which can be used to evidence the determination to issue the otherwise disqualified obligation include: (1) the closing documents, the binding written contract, or the tender offer relating to the acquisition requirement described above; (2) a registration statement filed with the Securities and Exchange Commission by the prospective issuer that describes a public offering of OID or PIK instruments; (3) a loan commitment provided by a lending institution to the prospective issuer of the OID or PIK instrument; or (4) a private placement memorandum circulated to prospective investors on behalf of the prospective issuer. Evidence of the required terms of the otherwise disqualified obligation may be determined from a document even if such obligation is not the principal subject of such document.

For this purpose, prospective parties to the acquisition include those parties with a significant financial interest in the transaction (other than as agents of the acquirer). Thus, potential sellers of the stock or assets being acquired and potential lenders that provide temporary or permanent financing with respect to the acquisition would be considered to be prospective parties to the acquisition. However, such written documents as internally generated computer outputs which contemplate the issuance of OID or PIK instruments in connection with an acquisition or memoranda or letters that are exchanged between a prospective acquirer or issuer and the acquirer's agent generally would not be considered to be transmitted with a prospective party to the acquisition.

Connection Requirement

In order to meet the third requirement, an obligation must be issued in connection with the required acquisition. This required connection is properly established if the documents that evidence the determination to issue the obligation contain a reference to the use of such obligation as financing for the acquisition.

The connection requirement is not met if the instrument actually issued does not have reasonably the same required terms (as described above) that were evidence on or before July 10, 1989. Thus, if the amount of proceeds actually raised by the issuance of the obligations exceeds the amount determined on or before July 10, 1989, in the identifying written document or documents by more than a de minimis amount, the entire issuance will be treated as obligations to which this provision applies (assuming all other requirements are met). In addition, the maturity term of the instrument as issued or the amount of the proceeds raised by the issuance of the instruments may be less than the length of the maturity term or the amount of proceeds that were identified before July 11, 1989, without disqualifying the instrument for transitional relief.

Instruments Issued in Refinancings

Furthermore, this provision would not apply to an instrument issued to refinance an obligation to which this provision does not apply if the following four conditions are met: first, the maturity date of the refinancing instrument may not be later than the maturity date of the refinanced instrument; second, the issue price of the refinancing instrument may not exceed the adjusted issue price of the refinanced instrument (as determined at the time of the refinancing); third, the stated redemption price at maturity of the refinancing instrument may not be greater than the stated redemption price at maturity of the refinanced instrument; and fourth, the interest payments required under the refinancing instrument before maturity may not be less than (and may not be paid later than) the interest payments required under the refinanced instrument.

Instruments Issued Pursuant to Certain Bankruptcy Proceedings

Finally, this provision would not apply to an instrument that is issued after July 10, 1989, pursuant to a reorganization plan in a Title 11 or similar case (as defined in sec. 368(a)(3) of the Code) so long as the required terms (as described above) of the instrument, as issued, do not exceed the required terms of the instrument as specified in the last reorganization plan filed before July 11, 1989, in such case.

3. REPEAL NONRECOGNITION TREATMENT WHEN SECURITIES ARE RECEIVED IN SECTION 351 TRANSACTIONS (SEC. 6203 OF THE BILL AND SEC. 351 OF THE CODE)

Present law

No gain or loss is recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation and immediately after the exchange such person or persons are in control of the corporation (sec. 351). Accordingly, a transferor may transfer appreciated property to a corporation in exchange for stock and debt obligation of the corporation that is a security, without recognition of gain.

Different rules apply for debt obligations that are not considered to be "securities" under section 351. Such other debt obligations are treated as "boot." A transferor who receives boot is taxed on the lesser of the amount of the boot or the gain realized

[3] The regulations might, for instance, treat the collateralized debt as an applicable high yield discount obligation, at least when the C corporation participates in the collateralization. Such participation might be deemed to have occurred if the first buyer engages in collateralization shortly after purchasing the debt instrument.

[4] For example, assume that before July 11, 1989, a taxpayer had issued preferred stock that could be converted by the taxpayer, at any time, into an obligation to which this provision would otherwise apply. Should the taxpayer exercise the conversion option, the newly issued obligations would not be protected from the application of this provision even though the preferred stock from which it was converted was issued before July 11, 1989.

on the exchange generally as if the transferred property had been sold (However, no loss is recognized.)

Under the corporate reorganization provision, if a taxpayer transfers property in a reorganization and receives securities with a principal amount in excess of any securities surrendered, such excess is treated as boot. Such a taxpayer must recognize gain, if any, to the extent of the boot received in the exchange.

The receipt of any debt obligation constituting boot generally qualifies for installment sale treatment. Under the installment sale rules, taxpayers generally take into account gain on the installment method but must pay interest on the deferred tax liabilty in certain circumstances.[1] However, the installment method is not available in certain circumstances (for example, if the property transferred is stock or securities traded on an established market, or in the case of certain transfers between related parties). In addition, in certain circumstances, a taxpayer will accelerate gain if the installment note is pledged as security for an indebtedness (sec. 453A).

Reasons for change

The committee believes that a transferor who receives securities in a section 351 transaction does not continue an investment in the transferred assets to the extent of the securities received. In such instances, it is more appropriate to characterize the transaction as a taxable sale (to the extent of the securities received) rather than a tax-free exchange. The committee therefore believes that securities received in a section 351 transaction should be treated as boot. Such treatment would generally conform the tax consequences of the receipt of securities in a section 351 transaction to the tax consequences accorded securities received in a transaction qualifying as a tax-free reorganization.

Explanation of provision

Securities received in a section 351 transaction are treated as boot. The provision does not apply, however, to: (1) any exhange that is pursuant to a plan of reorganziation in which the securities are subject to section 354 (or so much of section 356 as relates to section 354); or (2) any exchange where the stock or securities received in the exchange are distributed in a transaction to which section 355 (or so much of section 356 as relates to section 355) applies.

Effective date

The provision applies to transfers after October 2, 1989, unless the transfer was pursuant to a written binding contract in effect on that date and at all times thereafter before such transfer.

In addition, the provision applies to transfers made by C corporations after July 11, 1989, other than (1) transfers where (i) the transferor, immediately after the transfer, owns stock in the transferee that meets the 80-percent vote and value test of section 1504(a)(2) (excluding stock described in sec. 1504(a)(4)) and (ii) the transfer was not part of a plan to reduce the transferor's interest in the transferee (or a successor corporation) below the 80-percent vote or value level, and (2) transfers pursuant to a written binding contract in effect on July 11, 1989 and at all times thereafter before such transfer.

4. PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

a. Require mutual funds to distribute 98 percent of ordinary income (sec. 6204(a) of the bill and sec. 4982 of the Code)

Present law

In order to avoid a penalty excise tax, a regulated investment company (RIC), commonly called a "mutual fund," generally must distribute before January 1 of any year at least 97 percent of its ordinary income earned during the prior calendar year and 98 percent of its capital gain net income for the 12-month period ending on October 31 of that year (Code sec. 4982). The penalty excise tax is equal to 4 percent of the excess (if any) of the required distribution for the calendar year over the actual distributed amount for such year.

Reasons for change

The penalty excise tax is intended to limit the use of RICs to achieve deferral of taxable income to shareholders, with certain *de minimis* rules to allow for the difficulty in determining the exact amounts of capital gain and ordinary income. The committee determined that mutual funds could reasonably be expected to estimate 98 percent of their ordinary income. By reducing the *de minimis* amounts to levels warranted by actual experience, the provision eliminates unnecessary deferral.

Explanation of proposal

Under the bill, the distribution required to avoid the penalty excise tax is increased to 98 percent of ordinary income.

Effective date

The provision is effective for calendar years ending after July 10, 1989.

b. Denial of deduction for transferable mutual fund load charges if shareholder does not hold share for more than six months (sec. 6204(b) of the bill and sec. 852 of Code)

Present law

A shareholder's basis in shares purchased in a regulated investment company (RIC), commonly called a "mutual fund," is the cost of acquiring the shares. This cost includes an expense such as a sales fee or "load charge" incurred in connection with the purchase. Thus, upon sale or exchange of the shares, the shareholder's gain is reduced, or loss is increased, by the amount of such expense (Code secs. 1011 and 1001).

If a RIC shareholder receives an exempt-interest dividend and sells his shares without holding them for more than six months, his loss on the sale is denied to the extent of the dividend. Likewise, if a RIC shareholder receives a capital gain dividend and sells his shares without holding them for more than six months, his loss on the sale is denied to the extent of the dividend (sec. 851(b)(4)).

Reasons for change

For some RICs that belong to a family or series of funds, a load charge is imposed when shares of a fund are purchased, but an additional load charge is waived if the shares are received in exchange for those of another fund within the family or series. In that situation, a shareholder can purchase shares of a fund, exchange them for shares of a fund for which the load charge is waived, and claim that loss is increased, or gain reduced, by an amount equal to the load charge. Thus, present law encourages a shareholder who plans to purchase shares in one particular fund within a family of funds to first purchase shares in a different fund in the family and immediately exchange the purchased for the desired shares in order to claim a capital loss equal to the load charge.

The committee believes that a load charge should not enter into the calculation of gain or loss until the shareholder has borne significant economic risk with respect to the underlying shares. A six-month holding period ensures that the shareholder bears such risk and reduces the possibility that a shareholder will engage in unnecessary purchase of mutual fund shares in order to recognize a capital loss.

In addition, the committee believes that a six-month holding period shows recognition for the fact that a shareholder benefits from a load charge so long as he holds shares in the family of funds.

Explanation of provision

If a taxpayer (1) incurs a load charge in acquiring mutual fund shares and thereby obtains a reinvestmment right, (2) disposes of those shares within six months, and (3) acquires shares in a mutual fund for which the otherwise applicable load charge is reduced by reason of the reinvestment right, then the original load charge increases the taxpayer's basis in the original shares only to the extent that the otherwise applicable load charge for the second acquisition is not reduced. Such charge is treated as incurred with respect to the shares purchased pursuant to the reinvestment right and increases basis in the reinvested shares if the shares are held for more than six months.

A person receiving mutual fund shares in a nonrecognition transaction succeeds to the treatment under the provision of the person who previously owned the shares. For example, assume H incurs a load charge in acquiring mutual fund shares and thereby obtains a reinvestment right, and holds the shares for two months before giving them to W. If W exchanges the shares for those of another fund and the otherwise applicable load charge is reduced, W's basis in the original shares is increased by the load charge incurred by H only if W holds the exchanged shares for more than four months.

A load charge is any sale or similar charge incurred by a person in acquiring shares of a regulated investment company, but does not include a charge incurred by reason of the reinvestment of a dividend. A reinvestment right is any right to acquire shares of one or more mutual funds with the payment of a reduced load charge. The term reinvestment right includes a privilege that may be modified without the consent of the shareholder.

Effective date

The provision applies to load charges incurred after October 3, 1989, in taxable years ending after such date.

c. Require mutual funds to include dividend income on the ex-dividend date (sec. 6204(c) the bill and sec. 852 of the Code)

Present law

Dividends from stock owned by a regulated investment company (RIC), commonly called a "mutual fund," are includible in the company's income when received. (*See* Rev. Rul. 78-117, 1978-1 C.B. 214)

Reasons for change

As a general matter, inclusion of dividends in income on the ex-dividend date results in more accurate measurement of income than inclusion when received. In addition, such

[1] The basis consequences to the transferee in a section 351 transaction are determined under section 362 of the Code. That section provides that the basis of property received by the corporation is the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer.

inclusion works no additional recordkeeping burdens on a RIC, which includes dividends in income on the ex-dividend date for accounting purposes. Accordingly, the committee believes it appropriate that RICs include dividends in income on the ex-dividend date.

Explanation of provision

The bill requires that a mutual fund include a dividend received by it in income when the stock becomes ex-dividend with respect to the dividend. If a RIC acquires stock after such date and acquires the right to receive the dividend, the RIC must include the dividend in income on the date of acquisition.

Effective date

The provision is effective for dividends on stock becoming ex-dividend after date of enactment.

5. REDUCE BUILT-IN GAIN AND LOSS THRESHOLD FOR SECTIONS 382 AND 384 (SEC. 6205 OF THE BILL AND SECS. 382(H)(3)(B) AND 56(G)(4)(H) OF THE CODE)

Present law

Sections 382 and 384 of the Code restrict the use of built-in losses and built-in gains of a corporation when there are certain changes in the control of a corporation. These rules apply only if the net unrealized built-in loss or built-in gain exceeds 25 percent of the fair market value of the assets of the corporation.

Under the minimum tax adjusted current earnings regime, built-in losses are limited, without a threshold, if there is a change of ownership under section 382 (Code sec. 56(g)(4)(H)).

Reasons for change

The committee believes that the 25-percent threshold requirement of sections 382 and 384, which is a rule of administrative convenience, is too generous. The committee concluded that the threshold requirement should be reduced and that no threshold is justified if the amount of the built-in gain or built-in loss is substantial.

The committee believes that once an effective threshold is adopted for regular tax purposes that does not permit significant amounts of built-in losses to avoid the limitation, it is appropriate to extend the same threshold to the minimum tax as a rule of administrative convenience.

Explanation of provision

The restrictions in sections 382 and 384 on the use of built-in gains and built-in losses of a corporation will apply if the built-in loss or built-in gain exceeds the lesser of (1) 15 percent of the fair market value of the assets of the company or (2) $25 million.

A corresponding threshold is provided for built-in losses under the minimum tax adjusted current earnings regime.

Effective date

The provision generally is effective for ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date. The provision, however, does not apply to any ownership change or acquisition pursuant to a written binding contract in effect on or before October 2, 1989, and at all times thereafter before such ownership change or acquisition.[1] However, in the case of a reorganization described in subparagraph (G) of section 368(a)(1) of the Internal Revenue Code of 1986, as amended, or an exchange of debt for stock in a title 11 or similar case, as defined in section 368(a)(3) of such Code, the provision would not apply to any ownership change or acquisition if a petition in such case was filed with the court before October 3, 1989.

[1] The committee understands that, under present law, a written binding contract to acquire stock may be treated as exercised and thus result in an ownership change.

6. REQUIRE BASIS REDUCTION FOR NONTAXED PORTION OF DIVIDENDS ON SELF-LIQUIDATING STOCK (SEC. 6206 OF THE BILL AND SEC. 1059 OF THE CODE)

Present law

In general, corporations are entitled to a deduction equal to 70 percent of the dividends received from a domestic corporation. An 80-percent dividends received deduction is allowable if the corporate shareholder owns 20 percent or more of the stock of the domestic corporation and a 100-percent dividends received deduction is allowable if the corporate shareholder owns at least 80 percent of the stock of the domestic corporation.

A corporate shareholder's basis in stock is reduced by the portion of a dividend eligible of the dividends received deduction if the dividend is "extraordinary." In general, a dividend is extraordinary if the amount of the dividend equals or exceeds 10 percent (5 percent in the case of preferred stock) of the shareholder's adjusted basis in the stock and the shareholder has not held the stock, subject to a risk of loss, for at least 2 years prior to the date the amount of payment of the dividend is declared, announced, or agreed to, whichever is the earliest (sec. 1059).

Reasons for change

Corporate shareholders may received dividends eligible for the dividends received deduction in circumstances where the dividends more appropriately should be characterized as a return of capital. In many of these cases, the dividends are not subject to the "extraordinary dividend" rules of present law, so the holder's basis in the stock is not reduced as it should be economically. Thus, the holder can sell the stock and create an artificial capital loss in an amount approximately equal to the return-of-capital dividends. The committee believes that basis reduction in such cases is appropriate to accurately reflect the true economic effect of these types of transactions.

Explanation of provision

The provision treats dividends with respect to certain preferred stock as extraordinary dividends under section 1059 (regardless of holding period), thus requiring reduction in stock basis. The provision applies to dividends with respect to preferred stock if (1) when issued, such stock has a dividend rate which declines (or reasonably can be expected to decline) in the future, (2) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or (3) such stock is otherwise structured to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss of the disposition of the stock.

Stock and dividends subject to the provision include instruments treated as stock under any provision of law. Dividends subject to the provision include dividends deemed received under section 305 or any other provision.

In determining whether a dividend rate declines, or whether the stock would otherwise be subject to the provision, the effect of section 305 or other provisions of law on the timing and amount of the dividend shall be taken into account. The provision is not intended to apply to (i) dividends on preferred stock whose dividend rate declines due to an unforeseen economic downturn in the issuer's business, or (ii) dividends on floating rate or auction rate preferred stock whose dividend rate declines solely in response to changes in prevailing market conditions.

The Secretary of the Treasury is authorized to prescribe regulations that would apply this rule to dividends with respect to stock other than preferred stock in appropriate cases.

Effective date

The provision applies to stock issued after July 10, 1989, unless issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

7. MODIFY EXCESS LOSS ACCOUNT RECAPTURE RULES TO PREVENT SHIFTING OF BASIS TO DEBT (SEC. 6207 OF THE BILL AND SEC. 1503(E) OF THE CODE)

Present Law

Under the consolidated return regulations, in general, a parent corporation must reduce its basis in the stock of a subsidiary with which it files a consolidated return by the amount of distributions the parent receives from the subsidiary and the amount of any deficit in earnings and profits of the subsidiary. Similarly, a parent corporation increases its basis in the stock of a subsidiary by the amount of contributions to the subsidiary and earnings and profits of the subsidiary. In general, when distributions and losses from the subsidiary exceed the contributions to and earnings of the subsidiary, an "excess loss account" is created. This amount is generally included in the income of the parent on certain dispositions of the stock of the subsidiary.

Under the present consolidated return regulations, a parent corporation that has an excess loss account in the stock of a subsidiary can, on disposition of the subsidiary's stock, elect to apply the excess loss account to reduce the basis of other stock or debt held by the parent in the subsidiary after the disposition.

Reasons for Change

The committee believes that when deductions creating an excess loss account have been taken with respect to an equity investment that is disposed of, it is not appropriate to permit deferral of gain recognition by shifting the recapture liability to a debt investment. The committee is also aware that some taxpayers have attempted to manipulate the rules of present law to accomplish sales of a subsidiary for a debt obligation in transactions which defer the recognition of gain.

Explanation of Provision

The provision modifies the excess loss account recapture rules to prevent the reallocation of the excess loss account to reduce the basis of debt in the subsidiary held by the parent corporation after a disposition. Thus, on disposition of the stock of a subsidiary corporation, gain attributable to an excess loss account must be recognized rather than deferred through a reduction in the basis of debt held by the parent corporation in the subsidiary.

The provision is not intended to affect the ability of taxpayers to diminish the amount of an excess loss account by contributions to capital (including contributions of indebted-

ness) or to prevent taxpayers from taking a loss for indebtedness of a subsidiary (to the extent otherwise permitted) if such debt becomes worthless.

The Treasury Department is directed to reexamine in certain cases the consolidated return rules permitting reallocation of the excess loss account to reduce the basis of other stock held by the parent corporation in the subsidiary corporation.

Effective date

The provision generally is effective for dispositions after July 10, 1989, in taxable years ending after such date. The provision, however, does not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

8. CLARIFY TREASURY REGULATION AUTHORITY RELATING TO DEBT/EQUITY (SEC. 6208(a) OF THE BILL AND SEC. 385 OF THE CODE)

Present law

The characterization of an investment in a corporation as debt or equity for Federal income tax purposes generally is determined by reference to numerous factors that are deemed to reflect aspects of the economic substance of the investor's interest in the corporation. There presently is no definition in the Internal Revenue Code or the income tax regulations which can be used to determine whether an interest in a corporation constitutes debt or equity for Federal income tax purposes. Such a determination is made under principles developed in case law. Courts have approached the issue of distinguishing debt and equity by analyzing and weighing the relevant facts and circumstances of each case. Generally, there has been a tendency to characterize an instrument entirely as debt or entirely as equity. Some cases, however, have treated certain instruments as part debt and part equity. *See, e.g., Farley Realty Corporation* v. *Commissioner,* 279 F.2d 701 (2d Cir. 1960).

In 1969, Congress granted the Secretary of the Treasury the authority to prescribe such regulations as may be necessary or appropriate to determine whether an interest in a corporation is to be treated as stock or as indebtedness for Federal income tax purposes (sec. 385). The regulations were to prescribe factors to be taken into account in determining, with respect to particular factual situations, whether a debtor-creditor relationship or a corporation-shareholder relationship existed. Proposed regulations under section 385 were issued in 1980 and 1981, although they were withdrawn in 1983. To date, no additional regulations have been issued.

Reasons for change

Instruments often possess some debt-like and some equity-like characteristics and thus cannot readily be classified under present-law principles either wholly as debt or wholly as equity. The committee believes that the Treasury Department should be accorded the opportunity to separately characterize different portions of such instruments as debt or equity. In addition, the committee believes that it is important that the Treasury Department provide guidance to taxpayers on debt-equity issues in an expeditious manner.

Explanation of provision

Section 385 is amended to allow the Treasury Department to characterize an instrument having significant debt and equity characteristics as part debt and part equity. For example, such treatment may be appropriate in circumstances where a debt instrument provides for payments that are dependent to a significant extent (whether in whole or in part) on corporate performance, whether through equity kickers, contingent interest, significant deferral of payment, subordination, or an interest rate sufficiently high to suggest a significant risk of default.

The Treasury Department will continue to be authorized, although not required, to issue comprehensive debt-equity regulations under section 385. However, the Treasury Department is directed to increase the issuance of IRS published rulings on debt-equity issues.

No inference is intended that the Internal Revenue Service cannot characterize an instrument as part debt and part equity under present law.

Effective date

The Treasury Department's regulatory authority under this provision to characterize an instrument as part debt and part equity applies only on a prospective basis. Such authority can be exercised only with respect to instruments issued after public guidance is published whether by regulation, ruling, or otherwise, stating the position of the Treasury Department with respect to the characterization of such instruments.

9. REQUIRE REPORTING TO THE IRS OF CERTAIN ACQUISITION AND RECAPITALIZATION TRANSACTIONS (SEC 6208(B) OF THE BILL AND SECS. 6043 AND 6652 OF THE CODE)

Present law

There is no requirement under present law that the parties to an acquisition or recapitalization transaction report information to the Treasury Department or the Internal Revenue Service with respect to such transaction, except as incident to the filing of Federal income tax returns.

Reasons for change

The committee is concerned that it is difficult for the Internal Revenue Service to audit acquisition and recapitalization transactions effectively because the information relevant to such transactions is disaggregated among the returns of different taxpayers. In addition, taxpayers may not identify particular items on their returns as relating to an acquisition or recapitalization transaction or may not identify the specific transaction involved.

The committee believes that requiring the reporting of certain information with respect to acquisition and recapitalizations will improve compliance with the tax laws and will enable the IRS to audit taxpayers more effectively with respect to such transactions.

Explanation of provision

In General

The Treasury Department is directed to require information reporting, in general, when: (1) one or more persons acquire control of a corporation in a transaction (or series of related transactions) or (2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation. Control for this purpose means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote, or at least 50 percent of the total value of shares of all classes of stock. Control is determined in accordance with the provisions of section 304(c)(1), including the attribution provisions applicable to that section.

The committee intends that a substantial change in the capital structure of a corporation include transactions whereby a substantial portion of the equity of a corporation is replaced with debt. Such transactions could include, for example, leveraged distributions made by a corporation with respect to its stock, leveraged stock redemptions, or a corporation's issuance of debt to its shareholders. The Treasury Department is expected to issue guidance concerning what transactions will be considered as resulting in a substantial change in the capital structure of a corporation. The committee intends a recapitalization to include reorganizations under section 368(a)(1)(E). Other transactions that have the effect of a significant change in capital structure (for example, by replacing a significant amount of equity with debt) are also intended to be within the scope of the Treasury authority, without regard to whether they are in the form of a taxable or tax-free transaction.

If reporting is required with respect to a transaction (or series of related transactions), the corporation that is acquired or recapitalized or otherwise undergoes a change in its capital structure will be required to make a return at the time and in the manner prescribed by the Secretary of the Treasury. The information to be reported includes the identity of the parties to the transaction, the fees involved, any changes in the capital structure of the corporation, and such other additional information as the Treasury Department may require to be reported with respect to such transaction.

The committee expects the Treasury Department to issue guidance in this area promptly to enable taxpayers to file information returns with respect to transactions covered by this provision.

Penalties

Non-compliance with the reporting requirement is subject to penalties of $500 per day for each day that the information return is overdue, up to a maximum penalty of $100,000. In addition, the criminal penalty provisions of present law apply (see Code secs. 7203, 7206 and 7207).

De minimis rules and other rules of convenience

The committee intends that the Treasury Department will exempt small transactions from any reporting requirement hereunder. For these purposes, the committee considers an acquisition in which the total consideration involved is less than $10 million to be a small transaction. The committee considers a recapitalization or other substantial change in the capital structure of a corporation involving less than a $10 million distribution or involving less than $10 million in value of the stock or debt of the corporation to be a small transaction. The Treasury Department is specifically authorized, however, to exempt certain larger transactions from the reporting requirement if the Treasury Department determines such an exemption to be appropriate.

The Treasury Department is specifically authorized to develop other rules that would exempt particular categories of transactions from the reporting requirement if compliance would be unduly burdensome and exemption from the reporting requirements would not be inconsistent with the purposes of this provision.

Effective date

The provision is effective for transactions after March 31, 1990.

10. TREASURY STUDY OF "DEBT VS. EQUITY" AND INTEGRATION ISSUES (SEC. 6208(C) OF THE BILL)

Present law

Interest on debt is generally deductible by the issuer and is includible in the income of the holder. In the case of tax-exempt or foreign holders, however, the interest is not taxable with the result that neither the issuer nor the holders pay any tax on income with respect to amounts distributed as interest.

The U.S. income tax system is not integrated, i.e., corporations and their shareholders are generally treated as separate taxable entities. Thus, income earned by a corporation and distributed to shareholders may be taxed twice: once at the corporate level when earned and again at the shareholder level when such income is distributed to shareholders.

Reasons for change

The committee is concerned with the differing Federal income tax treatment of debt and equity and with economic distortions resulting from the failure to integrate the individual and corporate tax systems. The committee concluded that a Treasury Department study of "debt vs. equity" and integration issues would be helpful to the Congress in its continuing evaluation of the Federal income tax system.

Explanation of provision

The Treasury Department is required to study whether the present law distinctions between debt and equity are meaningful and whether there are cases in which it would be appropriate to recharacterize currently deductible interest expense, in whole or in part, as nondeductible dividends or vice versa.

The Treasury Department also is required to study the policy and revenue implications of proposals that would integrate the corporate and individual income tax systems, including a deduction for dividends paid by a corporation and a shareholder credit or exclusion for such dividends.

In addition, the Treasury Department is directed to consider the policy and revenue implication of the current tax treatment of corporate distributions with respect to debt and equity owned by tax-exempt entities and foreign persons.

The Treasury Department is required to report its findings and recommendations to the House Committee on Ways and Means and the Senate Committee on Finance no later than one year following the date of enactment. In the course of making the study, the committee encourages the Treasury Department to consult with the Federal Reserve Board and other Federal agencies, as appropriate.

Effective date

The provision is effective on the date of enactment.

11. REQUIRE CORPORATE ESTIMATED TAX PAYMENTS ON TAX LIABILITIES FOR CERTAIN S CORPORATION INCOME (SEC. 6209 OF THE BILL AND SEC. 6655 OF THE CODE)

Present law

In general, an S corporation is not subject to tax on its taxable income. Rather, taxable income of an S corporation flows through to its shareholders in a manner similar to a partnership. However, there are limited instances when an S corporation is subject to tax. These instances include: (1) the recognition of a built-in gain within 10 years of the date that a former C corporation elected S corporation status (sec. 1374(a)); (2) the receipt of passive investment income in excess of 25 percent of total annual gross receipts if the corporation has earnings and profits from a year in which it was not an S corporation (sec. 1375(a)); and (3) the recapture of investment tax credits claimed during a taxable year in which the corporation was not an S corporation (sec. 1371(d)).

Although situations exist for which an S corporation is liable for income tax, present law does not require the corporation to make estimated tax payments. Instead, the tax must be paid no later than the unextended due date of the S corporation tax return.

Reasons for change

The items for which S corporations are subject to income tax are generally items for which C corporations are subject to income tax. Thus, S corporations should be generally subject to the estimated tax payments for those items in the same manner as C corporations.

Explanation of provision

The bill provides that an S corporation is required to make estimated tax payments if it has tax attributable to: (1) the recognition of built-in gains under section 1374(a);[1] (2) the receipt of excess passive investment income under section 1375(a); or (3) the recapture of investment tax credits pursuant to section 1371(d).[2] The rules contained in section 6655 for estimated tax payments by corporations will generally apply.

For purposes of the portion of required estimated tax payments attributable to built-in gains and investment tax credit recapture, an S corporation will not be able to utilize the exceptions which allow estimated tax payments to be based on the corporation's prior year tax (secs. 6655(d)(1)(B)(ii) and 6655(d)(2)(B)). The prior year's tax exception will be available to all S corporations (including "large" S corporations) with respect to the portion of required estimated tax payments attributable to excess passive income (even if there was no tax attributable to excess passive income in the prior year). In all situations, exception (sec. 6655(e)).

Effective date

The provision is effective for estimated tax payments due for taxable years beginning after December 31, 1989.

12. LIMITATION ON CARRYBACKS OF CERTAIN NET OPERATING LOSSES OF C CORPORATIONS (SEC. 6210 OF THE BILL AND SEC. 172 OF THE CODE)

Present law

A corporation that incurs net operating losses (NOLs) generally can carry the NOLs back 3 taxable years and forward 15 taxable years (sec. 172). Carrying the NOLs back against prior taxable income allows a corporation to recognize currently the benefit of those losses by obtaining a refund of Federal income taxes paid in prior years.

Reasons for change

The committee believes that the ability of corporations to carry back NOLs that are created by certain debt-financed transactions is contrary to the purpose of the NOL carryback rule. Specifically, the purpose of the rule is to allow corporations to smooth out the swings in taxable income that result from business cycle fluctuations and unexpected financial reverses. The committee believes that when a corporation is involved in certain debt-financed transactions, the underlying nature of the corporation is substantially altered. In addition, the committee believes that the interest expense associated with such transactions does not have a sufficient nexus with prior period operations to justify a carryback of NOLs attributable to such expense. Therefore, the committee believes that it is inappropriate to permit a corporation to carry back an NOL generated by such a transaction to a year prior to the year in which such transaction occurred.

Explanation of provision

In General

The ability of C corporations to obtain refunds of taxes paid in prior years by carrying back NOLs is limited in cases where the losses are created by interest deductions allocable to certain corporate equity-reducing transactions.

Corporate Equity Reduction Transaction

A corporate equity reduction transaction ("CERT") means either a major stock acquisition or an excess distribution. A major stock acquisition is an acquisition by a corporation (or any group of persons acting in concert with such corporation) of at least 50 percent of the vote or value of the stock of another corporation. All acquisitions made during any 24-month period are aggregated for these purposes. A major stock acquisition does not include an acquisition where the acquiring corporation has made a section 338 election, or, except to the extent provided in regulations, an acquisition of stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)), other than the common parent of such group.

An excess distribution is the excess of the aggregate distributions and redemptions made by a corporation during the taxable year with respect to its stock (other than stock described in section 1504(a)(4)), over 150 percent of the average of such distributions and redemptions for the preceding 3 taxable years. The amount of distributions and redemptions made by a corporation during a taxable year are reduced by consideration (other than stock) received in exchange for stock (other than stock described in section 1504(a)(4)) issued by the corporation during such year. Notwithstanding the above, a distribution or redemption (or series thereof) is not treated as an excess distribution if it does not exceed 10 percent of the value of the corporation's outstanding stock (other than stock described in section 1504(a)(4)) measured at the beginning of the corporation's taxable year.

Limitation of Net Operating Loss Carryback

If a C corporation has an NOL in the taxable year in which it is involved in a CERT or in the following 2 taxable years, the corporation may be limited in its ability to carry back some portion of the loss. A C corporation is treated as being involved in a CERT if it is either the acquired or acquiring corporation, or successor thereto (in the case of a major stock acquisition) or the distributing or redeeming corporation, or successor thereto (in the case of an excess distribution). Any portion of an NOL that cannot be carried back due to the operation

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[1] The provision also applies to tax that is attributable to certain capital gains of S corporations pursuant to sec. 1374 as effective before the changes made by the Tax Reform Act of 1986.

[2] No inference is intended as to the proper estimated tax treatment for any item for any prior year or for any item for any taxpayer other than an S corporation.

of this provision may be carried forward to the corporation's future taxable years, as otherwise provided under present law.

The portion of the corporation's NOL carryback that is limited is the lesser of (1) the corporation's interest expense that is allocable to the CERT, or (2) the excess of the corporation's interest expense in the loss limitation year over the average of the corporation's interest expense for the 3 taxable years prior to the taxable year in which the CERT occurred. If the lesser of these two amounts is less than $1 million, the provision does not apply.

The Secretary of the Treasury is authorized to specify the method of allocating a corporation's interest expense to a CERT. Until regulations are promulgated, however, a corporation's indebtedness is allocable to a CERT to the extent that the corporation's indebtedness could have been reduced if the CERT had not occurred, in the manner prescribed under section 263A(f)(2)(A)(ii) (without regard to clause (i) thereof). The interest expense associated with such allocable indebtedness is equal to a pro rata portion of the corporation's total interest expense.

For purposes of determining whether a corporation's interest expense exceeds the prior 3-year average, it is expected that regulations would provide that increases attributable solely to fluctuations in interest rates would not be taken into account.

If a corporation has an NOL in any of the 2 taxable years succeeding the taxable year in which the CERT occurred, a portion of the corporation's NOL carryback may still be limited under the provision. Specifically, the limitation for each of the 2 years is the lesser of (1) the corporation's interest expense for the current year that is allocable to the CERT that occurred in the prior year, or (2) the excess of the corporation's interest expense for the current year over the average of the corporation's interest expense for the 3 taxable years prior to the taxable year in which the CERT occurred. The provision does not apply, however, if the amount determined above is less than $1 million.

A special rule provides that if an unforeseeable, extraordinary and adverse event occurs during a loss limitation year but after the CERT, the corporation's indebtedness first is allocated to unreimbursed costs paid or incurred in connection with the event, in the same manner as indebtedness is allocated to a CERT under the bill. Any remaining indebtedness is then allocable to the CERT. In addition, interest expense on indebtedness allocated to such an event is not taken into account for purposes of determining whether the corporation's interest expense in the loss limitation year exceeds the average for the 3-year period prior to the CERT.

The Secretary of the Treasury is authorized to prescribe regulations that would exempt transactions from application of the provision where corporate equity has not been replaced by debt. In addition, the Secretary is authorized to prescribe regulations for applying the provision where more than 1 corporation is involved in a CERT.

Examples

The operation of the provision may be illustrated by the following examples.

(1) Profitable corporation P, a calendar year C corporation, is capitalized with $150 million of debt and $50 million of equity. P's annual interest expense has been $15 million for the past 3 years. P has paid a 1% annual dividend to its shareholders, or an average of $.5 million, for each of the past 3 years. On January 1, 1990, P borrows $50 million and distributes the proceeds to its shareholders. Due to increased interest deductions of $5 million, P incurs an NOL in 1990 of $4 million.

P was involved in a CERT in 1990 because P made an excess distribution to its shareholders (i.e., the $50 million distribution exceeds 150% of the average $.5 million dividend). The portion of P's $5 million NOL that is limited under the provision is the lesser of (1) P's interest expense that is allocable to the CERT ($5 million), or (2) the excess of P's interest expense in 1990 ($20 million) over P's average interest expense for the past 3 years ($15 million), or $5 million. Thus, P would not be able to carry back the $4 million NOL to any taxable year prior to 1990. In addition, if P has NOLs in 1991 and 1992 due to interest deductions allocable to the 1990 CERT, a similar computation would be made in each of those years and P may be limited in its ability to carry back the losses to pre-1990 taxable years. If P has income in subsequent years, however, P would be able to use the NOLs to offset that income.

(2) Same facts as in Example (1), except that P does not incur any additional borrowing in 1990. Rather, P distributes $50 million from its own reserves to its shareholders. P's annual interest expense remains at $15 million following the distribution. Since the distributed funds no longer generate corporate earnings, however, P incurs an NOL in 1990 of $3 million.

P was still involved in a CERT in 1990 because P made an excess distribution to its shareholders. The portion of P's $3 million NOL that is limited under the provision is the lesser of (1) P's interest expense that is allocable to the CERT ($5 million), or (2) the excess of P's interest expense in 1990 ($15 million) over P's average interest expense for the past 3 years ($15 million), or zero. Thus, P's NOL carryback is not limited under the provision, and P would be able to carry back the $3 million loss to its pre-1990 taxable years, subject to any other restrictions of present law.

In addition, if P's interest expense in the loss limitation year had exceeded the prior 3-year average solely due to an increase in interest rates, it is expected that regulations would exempt P from the provision.

Effective date

The provision applies to CERTs occurring after August 2, 1989, in taxable years ending after that date.

In determining whether a CERT has occurred after August 2, 1989, the following is not taken into account: (1) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989; (2) acquisitions or redemptions of stock after August 2, 1989, pursuant to a written binding contract (or tender offer filed with the SEC) in effect on August 2, 1989 and at all times thereafter before such acquisition or redemption; or (3) any distribution with respect to stock after August 2, 1989 which was declared on or before August 2, 1989.

If any of the 3 taxable years that comprise the average against which interest expense in a loss limitation year is compared, ends on or before August 2, 1989, a corporation may use the interest paid or accrued (determined on an annualized basis) during the taxable year that includes August 3, 1989 on indebtedness outstanding on August 2, 1989, rather than the 3-year average.

13. SMALL BUSINESS EXEMPTION FROM RECOGNITION OF GAIN OR LOSS ON LIQUIDATING SALES OR DISTRIBUTIONS (EXEMPTION FROM REPEAL OF THE GENERAL UTILITIES doctrine) (sec. 6211 of the bill and sec. 336 of the Code)

Present law

Gain or loss is generally recognized by a corporation on a liquidating sale or distribution (including a deemed sale occurring when stock of a corporation is acquired and an election is made to treat the transaction as an asset sale). This rule was added to the Code by the Tax Reform Act of 1986. Prior to the 1986 Act, gain was generally recognized for nonliquidating sales or distributions but not for liquidating sales (including sales involving the acquisition of the corporation). In addition, certain nonliquidating distributions to long-term individual shareholders were not taxed prior to the 1986 Act. The 1986 Act generally conformed the tax treatment for liquidating sales and distributions to the treatment accorded in nonliquidating sales or distributions by requiring the corporation to recognize gain in all cases.

The 1986 Act provided transition relief for certain small corporations. Corporations eligible for this relief were granted two additional years, until December 31, 1988, in which they could distribute assets, liquidate, or convert to subchapter S status without recognizing a corporate level gain except for gain on ordinary income assets or capital assets held less than six months, or gain from certain conduit transactions with ineligible corporations.

Eligible corporations were those in existence on August 1, 1986, and whose value on the later of that date or the date of adoption of a plan of liquidation did not exceed $10 million, provided that on August 1, 1986 and at all times thereafter, more than 50 percent (by value) of the stock of such corporation was owned by a qualified group. A qualified group consisted of 10 or fewer individuals who at all times during the five year period ending on the date of adoption of the plan of liquidation (or during the life of the corporation, if shorter) owned more than 50 percent of the value of the corporate stock. Corporations whose value exceeded $5 million were eligible only for partial relief and the relief was phased out entirely for corporations whose value exceeded $10 million.

Reasons for change

The committee believes that the relief from corporate level taxation for small corporations that expired at the end of 1988 should be reinstated.

Explanation of provisions

The bill generally makes permanent the 1986 Act relief from recognition of corporate level gain by small corporations. Relief under the bill applies to any small corporation (whether or not in existence on August 1, 1986) and applies if at least 50 percent (by value) of the stock of the corporation is held by 10 or fewer qualified shareholders each of whom has held his or her stock for at least 5 years (or is treated as having held such stock for such period under attribution rules). As under the 1986 Act transition rule, ordinary income property and short term capital gain property are not eligible for relief. Conforming changes are made to the definition of short term capital gain property to reflect changes in the definition that have occurred since 1986.

As under the 1986 Act transition rules, relief is provided to small corporations for certain nonliquidating distributions and

conversions to subchapter S status. Similarly, relief is provided where a section 338 election is made by the acquiror of a small corporation.

As under the 1986 Act transition rules, the bill also provides relief from shareholder level tax pursuant to section 333 of the Code.

The bill provides relief only for corporations whose value does not exceed $10 million; however only partial relief is provided for corporations whose value exceeds $5 million. In determining the value of the corporation, the bill requires that the amount of redemptions, distributions, or corporate contractions occurring in the prior five years, other than reasonable regular dividends or other expenses paid in the ordinary course of business, be included in such value.

Effective date

The provision is effective for transactions occurring after December 31, 1988.

14. TREATMENT OF SAFE HARBOR LEASES OF MEMBERSHIP ORGANIZATIONS (SEC. 6212 OF THE BILL AND SEC. 277 OF THE CODE)

Present law

Deductions of Membership Organizations

In the case of a membership organization which is operated primarily to furnish services or goods to its members, deductions arising from providing such services or goods to its members are allowed only to the extent of income derived from providing such services or goods to its members (sec. 277). In essence, the rule prohibits losses incurred from transactions with members to offset income derived from transactions with nonmembers.

Safe Harbor Leases

The Economic Recovery Tax Act of 1981 (P.L. 97-34) provided a set of rules that were intended to be a means of transferring tax benefits that are structured in the form of a lease. Under these rules (known as the "safe harbor lease rules"), certain transactions involving tangible personal property were treated as lease for Federal income tax purposes regardless of their nontax economic substance. If the transaction met the safe harbor requirements, the lessor in the agreement was treated as the property owner for Federal income tax purposes and was entitled to cost recovery deductions and investment credits. Under these rules, by entering into a nominal sale and safe-harbor leaseback, a person who acquired and used the property could have, in effect, sold some of the tax benefits associated with the property to a corporation, while retaining all other economic benefits and burdens of ownership. The safe harbor lease rules were repealed by the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248).

Reasons for change

It has come to the attention of the committee that a number of electricity generating cooperatives which are subject to section 277 have entered into safe harbor lease transactions under which these cooperatives, in effect, sold tax benefits. In such transactions, the cooperative, in form, first sells the property to a corporation in exchange for an interest bearing note and cash equal to all or a portion of the value of the tax benefits from the property and then leases the property back from that corporation for a rental that equals to payments on the note.

Under the form of the transaction, the cooperative has interest income and rental expense from the transaction. The Internal Revenue Service has taken the position that the interest income is income not derived from transactions with members while the rental expense must be allocated between income derived from members and nonmembers. As a result, a cooperative that does most of its business with members is treated as receiving amounts of interest income which can be offset only by the relatively small amount of rental expense allocable to nonmember business, resulting in significant additional tax liability to the cooperative.

The committee believes that the substance of a safe harbor lease transaction, and not its form, should govern the tax treatment. Consequently, the committee believes that safe harbor lease transactions should not result in higher levels of taxation than would occur if the benefit of the safe harbor lease was made in the form of a grant from the Federal Government. The committee believes, however, that the safe harbor lease should not result in avoidance of taxation by the cooperative of its income from nonmembers. Accordingly, the committee believes that the interest income and the rental expense arising from safe-harbor leases should be allocated between members and nonmember income.

Explanation of provision

The bill provides that the interest income and rental expense from the sale and leaseback of the property under a safe harbor lease are to be first netted and the difference allocated between members and nonmembers in proportion to the business done with each group.

Effective date

The provision is effective for all open taxable years.

Subtitle C. Employee Benefit Provisions

1. REPEAL OF SECTION 89 NONDISCRIMINATION RULES (SECS. 6301 AND 6302 OF THE BILL AND SEC. 89 OF THE CODE)

Present law

Under present law, nondiscrimination rules apply to employer-provided health benefits and group-term life insurance plans (sec. 89). In addition, section 89 requires that certain types of employee benefit plans meet minimum qualification requirements (e.g., that the plan be in writing and that plan participants be notified of plan provisions). Prior to the enactment of section 89 in the Tax Reform Act of 1986, prior law applied other nondiscrimination rules to group-term life insurance plans, cafeteria plans, and self-insured health plans.

Under present law, if the employer has separate lines of business or maintains separate operating units, each separate line of business or operating unit may be tested separately under the nondiscrimination rules relating to qualified plans by taking into account only those employees in that line of business or operating unit.

Reasons for change

While most employee compensation is taxable income to the employee, employer-provided health coverage generally is excludable from the gross income of the employee receiving the coverage. The annual cost to the Federal Government of this tax-favored treatment is estimated to be $32.6 billion for fiscal year 1990. This cost is projected to increase to $50.8 billion for fiscal year 1994.[1]

In enacting the Tax Reform Act of 1986, the Congress determined that the substantial revenue cost related to employer-provided health insurance coverage is justified only if the tax benefits fulfill important public policy objectives. Increasing health coverage among rank-and-file employees who otherwise would not purchase or could not afford such coverage was identified as a primary policy objective underlying the exclusion for employer-provided health care coverage. Conversely, the Congress believed that the cost to the Federal Government of tax-favored employer-provided accident and health coverage is not justified if such coverage disproportionately benefits highly compensated employees. In order to achieve this objective, nondiscrimination rules were enacted to permit the full exclusion from income of employer-provided health benefits only if the benefits are provided to required numbers of nonhighly compensated employees and the level of benefits provided to highly compensated employees on average does not disproportionately exceed the average benefits provided to rank-and-file employees.

The committee believes that nondiscrimination in the provision of employer-provided health coverage remains an important policy objective, and that the significant tax expenditures for employer-provided health coverage is justified only if such coverage does not discriminate in favor of highly compensated employees. However, the committee believes that the present-law nondiscrimination rules, or similar rules, are not at this time an appropriate way of achieving this objective. The present-law rules are overly complex and unduly burdensome on employers and therefore the committee believes it is appropriate to repeal the present-law section 89 rules.

Explanation of provision

In general

The provision repeals present-law section 89, and generally reinstates the rules applicable before its enactment. Generally, prior law contained nondiscrimination rules relating to employer-provided self-insured medical reimbursement plans (sec. 105(h)), cafeteria plans (sec. 125), and group-term life insurance plans (sec. 79(d)). These prior law rules are reinstated under the provision. The committee recognizes that the nature of these benefits may differ from the nature of retirement benefits. Therefore, it is expected that the Secretary will, where appropriate, interpret the rules relating to these benefits in a different manner than those rules that apply in the area of qualified retirement plans, even where the statutory requirements with respect to such benefits are similar.

Separate lines of business or operating units

The Tax Reform Act of 1986 directed the Secretary to issue guidance on certain pension requirements, including the requirements relating to separate lines of business (sec. 414(r)). Under present law, until the Secretary issues guidance on which taxpayers may rely with respect to such rules, an employer's compliance with its reasonable interpretation of the requirement, based on the statute and its legislative history, if made in good faith, constitutes compliance with the requirement.

Under the provision, in the case of any plan year of a qualified retirement plan that begins on or before the date the Secretary or his delegate issues guidelines and begins issuing determinations under section

[1] See, Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 1990-1994*, JCS-4-89 (February 28, 1989).

414(r)(2)(C), an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof). The committee intends that the Secretary will, upon the issuance of guidance relating to separate lines of business, grant a reasonable period of time for employer to comply with the guidance.

As under present law, it is generally intended that a line of business or operating unit include all employees necessary for the preparation of property for sale to customers. Whether lines of business or operating units are separate is a facts and circumstances determination requiring examination of each particluar situation. Differences and similarities between the services provided and products produced by claimed lines of business or operating units are among the factors to be considered.

It is intended that separate lines of business may be established under the reasonable good faith standard under certain circumstances, for example, in the case of operations that are vertically integrated and that traditionally are operated by unrelated entities. For example, a vertically integrated oil company may be able to treat its retail marketing operations as a line of business separate from its production and refining operations because the marketing of petroleum products is traditionally conducted by independent individual operators rather than by integrated companies.

Similarly, horizontally integrated businesses may be treated as maintaining separate lines of business where the employer produces or markets different products (e.g., different types of agricultural crops) through separate business units. Of course, in all cases, all requirements of the separate line of business rules must be satisfied (e.g., sec. 414(r)(2)).

Effective date

The provision is effective as if included in the Tax Reform Act of 1986.

2. MODIFICATION OF RULES RELATING TO EMPLOYEE LEASING AND DEPENDENT CARE ASSISTANCE PROGRAMS (SEC. 6303 OF THE BILL AND SECS. 414 AND 219 OF THE CODE)

Present law

For purposes of specified pension requirements, a leased employee is treated as the employee of the person for whom the leased employee performs services (the "recipient"). A leased employee is generally defined as any person who is not an employee of the recipient if (1) such services are provided to the recipient under an agreement between the recipient and the organization providing the person's services (the "leasing organization"), (2) the person performs such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for at least 1 year, and (3) such services are of a type historically performed, in the business field of the recipient, by employees.

In addition, under present law, an employee may exclude certain benefits received under an employer-provided dependent care assistance program if certain requirements are satisfied (sec. 129).

Reasons for change

The committee is concerned that the statute and proposed Treasury regulations relating to leased employees are overly broad. The committee believes that under present law, these rules treat as leased employees certain individuals who were not intended to be so treated.

The committee is also concerned with the rules relating to dependent care assistance programs. The committee believes that the present-law rules with respect to such programs are overly harsh in that all employees are subject to taxation if an employer discriminates in favor of the highly paid. It is the intention of the committee that only those highly paid who receive discriminatory benefits should be required to include dependent care assistance in taxable income.

Explanation of provision [1]

Under the provision, the present-law historically performed test is repealed and replaced with a new rule defining who must be considered a leased employee. This change is made because the proposed regulations under the leased employee rules (sec. 414(n)) are overly broad in defining who may be a leased employee. Under the provision, the proposed regulations are no longer valid.

Under the provision, an individual is not considered a leased employee unless the individual is under the control of the recipient organization. The determination of whether an individual is controlled by the employer is based on all the facts and circumstances. Among the factors that are relevant in this determination are whether the recipient organization: (1) prescribes the individual's work methods; (2) supervises the individual; (3) sets the individual's working hours; and (4) sets the individual's level of compensation. Other factors that may be considered include those that are relevant for determining whether the employer is responsible for employment taxes on the compensation paid to the individual. The Secretary may designate other relevant factors. It is not necessary that all these factors indicate that the individual is under the control of the employer in order to find that such individual is a leased employee. Nor is it necessary that the recipient organization be responsible for employment taxes in order to find that the individual is a leased employee because, if the recipient organization is liable for employment taxes, the individual is an employee of the organization who generally must be taken into account. The provision does not alter the definition of a common-law employee, nor the rules that such employees are to be taken into account unless specifically excluded.

The provision clarifies present law in that support staff of professional service organizations continue to be treated as leased employees (to the extent they are not already considered employees because they are common-law employees). A professional service organization is an organization providing professional services in the field of health, law, engineering, architecture, accounting, actuarial services, financial services, consulting, or in such other fields as the Secretary may prescribe. This clarification with respect to the support staff of professional service organizations is not intended to create an inference with respect to the support staff of organizations other than professional service organizations.

Under the provision, persons who perform services incidental to the sale of goods or equipment or incidental to the construction of a facility are generally not leased employees. This rule does not extend to the operation (including supervision over such operation) of the goods, equipment, or completed facility.

In those specific situations where the Internal Revenue Service has ruled that service relationships do not involve "leased employees" under the test of present law requiring the services to be of a type historically performed, in the business field of the recipient, by employees, the recipients of those rulings may continue to rely on them as not involving support staff of professionals or the performance of services under the control of the recipient.

In addition, under the provision, the nondiscrimination rules under section 129(d) as that section was amended by the Tax Reform Act of 1986 continue to apply to dependent care assistance programs but are modified in the following respects. First, if a plan fails to meet the requirements of section 129(d), only highly compensated employees must include benefits under the program in gross income. Second, if a dependent care assistance program fails the 55-percent benefits test, then highly compensated employees must include in gross income only that amount of benefit in excess of that level of benefit that would meet the benefits test. Finally, under the provision, the 55-percent benefits test can be applied on a separate line of business basis (sec. 414(r)).

Effective date

Under the provision, the revised definition of leased employee is effective for years beginning after December 31, 1983.

With respect to dependent care assistance programs, the provision is effective for years beginning after December 31, 1988.

3. PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS (ESOPS) (SEC. 6311 OF THE BILL AND SEC. 133 AND NEW SEC. 4978B OF THE CODE)

Present law

ESOPs in General

An employee stock ownership plan (ESOP) is a qualified stock bonus plan or a combination of a stock bonus plan and money purchase pension plan that meets certain requirements and under which employer securities are held for the benefit of employees. Present law generally prohibits loans between a qualified plan and a disqualified person (sec. 4975). An exception to this rule is provided in the case of an ESOP.

If employer securities are acquired by an ESOP with loan proceeds, the ESOP is referred to as a leveraged ESOP. The ESOP may borrow directly from a financial institution (typically with a guarantee from the employer), or the employer may borrow from a financial institution and in turn lend the funds to the ESOP which then uses them to acquire employer securities. The employer securities are typically pledged as security for the loan. The employer makes contributions to the ESOP which are then used to repay the acquisition loan. Shares that are acquired with an acquisition loan are allocated to the accounts of ESOP participants as the loan is repaid.

In general, the type of employer securities that may be held by an ESOP are (1) common stock of the employer that is readily tradable on an established securities market, or (2) if there is no such common stock, common stock issued by the employer having a combination of voting power and dividend rights at least equal to that class of common having the greatest voting power and that class of common having the greatest dividend power. Noncallable preferred stock is treated as employer securities if such stock is convertible into stock that

[1] The provision is substantially similar to provisions contained in S. 5, as passed by the Senate on June 23, 1989.

meets the requirements of (1) or (2), whichever is applicable.

ESOPs are required to pass through to plan participants certain voting rights with respect to employer securities. If the employer has a registration-type class of securities, the ESOP is required to permit each participant to direct the plan as to the manner in which employer securites allocated to the account of the participant are entitled to vote. If the employer does not have a registration-type class of securities, the plan is required to permit each participant to direct the plan as to the manner in which voting rights are to be exercised only with respect to certain enumerated corporate issues, such as the approval or disapproval of any corporate merger or consolidation, recapitalization, reclassification, and similar transactions as prescribed by the Secretary.

Partial Interest Exclusion for ESOP Loans

A bank, an insurance company, a corporation actively engaged in the business of lending money, or a regulated investment company may exclude from gross income 50 percent of the interest received with respect to a "securities acquisition loan" used to acquire employer securities for an ESOP (sec. 133). A "Securities acquisition loan" is generally defined as (1) a loan to a corporation or to an ESOP to the extent that the proceeds are used to acquire employer securities for the ESOP, or (2) a loan to a corporation to the extent that the corporation transfers an equivalent amount of employer securites to the ESOP and such securities are allocable to accounts of ESOP participants within 1 year of the date of the loan (an "immediate allocation loan").

Reasons for change

The present-law tax incentive for ESOPs were designed to encouarge employers to establish ESOPs and to encourage individuals to sell employer securities to ESOPs. The committee is concerned that, in some cases, the significant tax benefits accorded ESOP transactions are not being passed through to plan participants. The committee is also concerned that the use of the tax benefits has extended beyond the intended purpose of the benefits, and that the revenue loss associated with the tax benefits has increased beyond the originally anticipated loss, without a corresponding benefit to employees. For example, the committee is aware that some companies would simply restructured existing employee benefit programs to take advantage of the ESOP tax benefits, with little or no change in benefits to employees despite the significant tax savings realized by the employer.

At this time, the committee has been particularly concerned about the use of the partial interest exclusion. The committee believes that this tax benefit should be limited to cases in which the ESOP owns a significant portion of the employer. A requirement that the ESOP own a significant portion of the employer will help to ensure that the revenue loss associated with the provision is accompanied by a significant benefit to employees.

The committee also believes that ESOP participants should be accorded treatment similar to that of other stock owners. In particular, the committee believes that where special tax benefits are involved, ESOP participants should have full voting rights.

Explanation of provision

The provision limits the circumstances in which the partial interest exclusion applies. In general under the provision the partial interest exclusion does not apply to a securities acquisition loan unless (1) immediately after the acquisition of the securities acquired with the loan the ESOP owns at least 30 percent of each class of outstanding stock of the corporation issuing the employer securities or 30 percent of the total value of all outstanding stock of the corporation, (2) the term of the loan does not exceed 15 years, and (3) each participant is entitled to direct the plan as to the manner in which shares allocated to the participant's account that were acquired with a section 133 loan are to be voted. These requirements apply to transfers of stock with respect to an immediate allocation loan as well as other types of securities acquisition loans. The requirement that the term of the loan does not override other requirements relating to ESOPs such as the rules under section 4975.

The 30-percent requirement is designed to ensure that the ESOP holds a substantial percentage of the company's stock. After the sale of the stock to the ESOP, the ESOP must generally hold the employer securities for at least 3 years. An excise tax is imposed on the employer sponsoring the ESOP if, within 3 years after the acquisition of the employer securities with a loan to which section 133 applies, the ESOP disposes of employer securities and the total number of employer securities held by the ESOP is less than the total number held after the acquisition or the value of the employer securities held by the plan after the disposition is less than 30 percent of the value of the outstanding securities. The excise tax does not apply to certain distributions, such as distributions to plan participants and distributions with respect to certain corporate reorganizations.

An excise tax is also imposed if the ESOP disposes of the employer securities before the securities are allocated to accounts of participants and the proceeds from such disposition are not so allocated.

The amount of each excise tax is 10 percent of the amount realized on the disposition. The excise tax rules are similar to those that apply in situations where there has been a sale of stock to an ESOP that entitles the seller to defer recognition of gain on the sale (sec. 1042) or an estate tax deduction (sec. 2057).

The voting requirements of the provision apply to all shares acquired with the loan to which the partial interest exclusion applies. This requirement applies to all issues and applies regardless of whether the employer has a registration-type class of securities. In addition, if the shares are convertible preferred stock, the participants must be entitled to direct the voting of such stock as if the preferred stock had the voting rights of the common stock of the employer having the greatest voting power.

Effective date

The provision would generally be effective with respect to loans made after June 6, 1989, including (except as provided below) loans made after June 6, 1989, to refinance loans made on or before June 6, 1989. The provision would not apply to any loan (1) pursuant to a binding written commitment to make a securities acquisition loan in effect on June 6, 1989, and at all times thereafter before the loan is made, (2) the proceeds of which are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on June 6, 1989, and at all times thereafter before such securities are acquired, (3) to the extent made to finance the acquisition of employer securities by an ESOP pursuant to one or more collective bargaining agreements between employee representatives and one or more employers which was agreed to on or before June 6, 1989, and ratified before such date or within a reasonable period thereafter and which agreement sets forth the material terms of the acquisition (which requirement may be met if the agreement sets forth the material terms of the ESOP), or (4) with respect to which a filing was made with an agency of the United States on or before June 6, 1989, which specified the aggregate principal amount of the loan or debt obligations, and (a) such filing specifies that the loan is intended to be a securities acquisition loan (as defined in sec. 133) and is for registration required to permit the offering of such loan, or (b) such filing is for approval required in order for the ESOP to acquire more than a certain percentage of the stock of the employer. The grandfather in item (4) relates only to governmental filings required in order for the ESOP debt to be issued or the employer securities to be acquired by the ESOP and, thus, for example, does not apply to requests for a determination letter from the Internal Revenue Service that the ESOP is a qualified plan.

In addition, the provision would not apply to loans made after June 6, 1989, to refinance loans made on or before such date (or to refinance loans described in the preceding paragraph), if (1) such refinanced loan meets the requirements of section 133 (as in effect before the amendments made by the provision (2) the outstanding principal amount of the loan is not increased, and (3) the term of such loan does not extend beyond the later of (a) the last day of the term of the original securities acquisition loan, or (b) the last day of the 7-year period beginning on the date the original securities acquisition loan was made.

The refinancing rules described above also apply in the case of a securities acquisition loan that consists of a loan to the employer with a corresponding loan to the ESOP (a "back-to-back" or "mirror" loan) (see sec. 133(b)(3)), if the loan is restructured so that the loan is directly from the financial institution to the ESOP with a guarantee from the employer rather than a loan from the employer.

The committee understands that ESOP loan transactions are not identical, and that the course of events leading up to the conclusion of a transaction differs from case to case. Thus, with respect to the grandfather rule for loans made pursuant to a written binding commitment, the committee recognizes that whether there is a written binding loan commitment depends on all the facts and circumstances and that the existence of such a commitment can be demonstrated in a variety of ways.

It is not necessary that the final loan documents be executed by the parties in order to demonstrate the existence of a written binding loan commitment. The existence of such a commitment can be demonstrated, for example, by any combination of documents which include some or all of documentation of the lender, written communications by the borrower or the borrower's agent (e.g., an investment banker or a broker), and documentation of the borrower showing that the loan was approved by the lender and that the offer to make the loan was received by the borrower. No one particular document is necessary to qualify for the grandfather.

The documentation would have to include the principal terms of the loan, such as the principal amount, interest rate or spread or formula pursuant to which the interest rate will be set, and maturity of the loan. It is intended that the grandfather will not fail to be met if the loan commitment is for a specified amount and the borrower borrows less than the full amount. In addition, the grandfather will not fail to be met merely because the interest rate is to be set in accordance with rates prevailing at the time the loan is made, or because the only modification in the loan terms is a reduction in the interest rate that occurs before the loan is made. The grandfather will also not fail to be met merely because a loan commitment that met the conditions of the grandfather had an expiration date and the commitment was extended before the expiration date without change in the material terms of the commitment.

The written binding commitment grandfather applies to all types of securities acquisition loans. Thus, for example, immediate allocation loans, as well as other types of securities acquisition loans, would be grandfathered under the provision if a binding written commitment to make a securities acquisition loan existed on June 6, 1989, and at all times thereafter before the loan is made.

4. TRANSFER OF EXCESS PENSION PLAN ASSETS TO PAY CURRENT RETIREE HEALTH BENEFITS (SECS. 6321-6330 OF THE BILL AND NEW SEC. 420 OF THE CODE)

Present law

Under present law, pension plan assets may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. Any assets that revert to the employer upon such termination are included in the gross income of the employer and are subject to a 15-percent excise tax (sec. 4980).[1]

Subject to certain limitations, an employer may under present law make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the acturial value of the plan's assets. Special deduction rules apply in the case of contributions to plans established before January 1, 1954, as a result of an agreement between employee representatives and the Government of the United States during a period of Government operation of a major part of the productive facilities of the industry in which such employer is engaged (sec. 404(c)).

Under present law, a pension plan may provide medical benefits to retirees through a section 401(h) account. These medical benefits, when added to any life insurance protection provided under the plan, are required to be incidental or subordinate to the retirement benefits provided under the plan. Under Treasury regulations, the medical benefits are considered incidental or subordinate to the retirement benefits if, at all times, the aggregate of employer contributions (made after the date on which the plan first includes such medical benefits) to provide such medical benefits and any life insurance protection does not exceed 25 percent of the aggregate contributions made after such date, other than contributions to fund past service credits.

The assets of a pension plan may not be transferred to a section 401(h) account without disqualifying the pension plan and subjecting the amounts transferred to income tax and the excise tax.

Reasons for change

The committee believes it is appropriate to provide a temporary rule allowing employers to transfer assets set aside for pension benefits to a section 401(h) account for retiree health benefits as long as the security of employees' pension benefits is not thereby threatened.

Explanation of provision

Permitted Transfer of Certain Excess Assets

Under the provision, a transfer of certain assets is permitted from the pension assets in a defined benefit pension plan to the section 401(h) account that is a part of such plan. The assets transferred are not includible in the gross income of the employer and are not subject to the excise tax on reversions. The defined benefit pension plan does not fail to satisfy the qualification requirements (sec. 401(a)) or violate the present-law requirement that medical benefits under a section 401(h) account be subordinate to the retirement benefits under the plan solely on account of the transfer or by reason of other actions permitted under the provision. Except as expressly provided by the provision, the provision does not override any present-law requirement under section 401(h).

The transfer of assets to a section 401(h) account may be made only once in any taxable year of the employer. Transfers may be made in taxable years beginning after December 31, 1989, and before December 31, 1994.

Under the provision, accrued retirement benefits under the plan are required to be nonforfeitable (i.e., vested) as if the plan had terminated immediately before the transfer. Participants whose benefits are to vest under this provision include all those who separate from service prior to the transfer but in the year in which the transfer occurs. The benefits of such participants are to vest as if the plan had terminated immediately prior to the separation.

The amount of excess pension assets that may be transferred and used for retiree health benefits is limited to the amount reasonably estimated to be the amount the employer will pay for qualified current retiree health liabilities. "Excess pension assets" are those assets in excess of those necessary to meet the full funding limitation. That is, excess pension assets are those in excess of the lesser of (1) 150 percent of the plan's current liability, or (2) the accrued liability (including normal cost) under the plan (as determined under sec. 412(c)(7)).

The amount transferred under this provision is treated as a contribution except that no deduction is available with respect to the transfer. Under the provision, for purposes of determining the maximum deductible contribution to the defined benefit pension plan, the amounts transferred under this provision are considered in determining whether the plan is at the full funding limitation.

Qualified current retiree health liabilities are defined as the amount of retiree health benefits (including administrative expenses) expended by the employer or reasonably estimated to be paid by the employer during the employer's taxable year in which such transfer occurs and with respect to those employees who have retired on or before the date of the transfer. In determining the maximum amount that may be transferred, the employer is to consider earnings that will be attributable to such assets subsequent to the transfer. The maximum amount of qualified current retiree health liabilities is also reduced to the extent that the employer has previously made a contribution to a section 401(h) account or a welfare benefit fund (e.g., voluntary employees' beneficiary association (VEBA)) relating to the same liabilities. No deduction is allowed with respect to amounts expended by the employer and subsequently reimbursed from the section 401(h) account.

The retired employees who may be taken into account in calculating qualified current retiree health liabilities are limited to those who are eligible for retirement benefits under the defined benefit pension plan containing the separate account. Retiree health benefits of key employees (sec. 416(i)(1)) may not be considered for purposes of determining qualified current retiree health liabilities and may not be paid out of transferred assets.

In estimating current retiree health liabilities, an employer is required to assume that the medical benefits provided during the taxable year of the transfer will have the same cost as the average cost of medical benefits provided to covered retirees for the preceding taxable year. Therefore, for example, medical cost inflation, changes in the level of utilization, or changes in coverage provided or funded through the account cannot be taken into account unless such changes occur prior to the date of the transfer.

Transferred amounts are required to benefit all participants in the pension plan who are entitled upon retirement to receive retiree medical benefits (other than key employees) through the section 401(h) account.

A special rule applies with respect to an employer's taxable year beginning in 1989. Under this rule, an employer may transfer to a section 401(h) account the amount expended by the employer for qualified retiree health benefits during the employer's 1989 taxable year. The transfer may be made after the end of the 1989 taxable year and before the time for filing the employer's tax return for such year (including extensions). The employer may make a single transfer for both 1989 and 1990 qualified current retiree health benefits. Alternatively, an employer may make 2 transfers in the employer's 1990 taxable year, if one of the transfers is made to reimburse 1989 qualified current retiree health liabilities. Solely for purposes of this special rule, the maximum amount of assets that may be transferred for 1989 liabilities shall not be reduced by a contribution to any VEBA in 1989 to fund retiree health benefits for participants in the section 401(h) account. Of course, no deduction is allowed with respect to such contributions to the extent the employer is reimbursed under this provision.

If an employer transfers assets under the special rule for 1989, the benefits of participants who separate from service in 1989 are to vest as if the plan had terminated immediately prior to the separation from service.

An employer that makes a transfer to a section 401(h) account under the provision is to maintain the level of employer-provided retiree health expenditures for covered employees of the section 401(h) account at a minimum dollar level for the taxable year in which the transfer occurs and the following 4 taxable years. The minimum level is equal

[1] Section 6343 of the bill increases the excise tax to 20 percent.

to the highest average employer cost per employee for retiree health benefits for the pension plan participants in the 2 years preceding the year of the transfer. The minimum dollar level is to be determined by looking at all employer-provided retiree health benefits of the retired participants (and their beneficiaries) of the plan funded through the section 401(h) account that receives the transfer. Thus, all retiree health benefits provided to such individuals are considered, not only those benefits provided through the section 401(h) account. The level of benefit required under this rule is not reduced solely because the employer transfers a lesser amount of assets than the maximum permitted under this provision.

The employer is to recalculate the minimum dollar level if there is a subsequent transfer of assets during the 5-year period for which the rule is in effect. In the event of such a subsequent transfer, the 5-year period is extended so that the rule applies for the taxable year of the subsequent transfer and for the following 4 taxable years. In addition, if at the time of the subsequent transfer, the minimum dollar level determined at that time would be higher than that level determined at the time of the preceding transfer, then the higher level of benefit shall apply for the duration of the new 5-year period.

The amounts transferred to the section 401(h) account are required to be paid out for, or to reimburse the previous payment of, qualified current retiree health liabilities. Amounts that are not expended from the account within the taxable year of the employer in which the transfer occurs are to be returned at the end of such year to the general assets of the plan.

The employer is not entitled to a deduction when amounts are transferred into the section 401(h) account or when such amounts (or income on such amounts) are used to pay retiree health benefits. No deduction or contribution is allowed the employer for the provision of retiree health benefits (whether directly, through a section 401(h) account, or a welfare benefit fund) except to the extent that the total of such payments for qualified current retiree health liabilities exceed the amount transferred to the section 401(h) account (including any income thereon).

Special Rule for Certain Negotiated Plans

The provision provides that certain surplus assets in specified retirement plans may be transferred to retiree health benefit plans. Assets so transferred are not includible in the income of the employer, nor are they subject to the excise tax on reversions. A plan qualifies as a transferor plan under the proposal if it is a plan described in section 404(c) or a continuation of such a plan and participation in the plan is substantially limited to individuals who retired before January 1, 1976. A plan qualifies as a transferee plan under the provision if it is a plan described in section 404(c) or a continuation of such a plan and it provides health benefits to retirees and beneficiaries of the industry that maintained the transferor plan.

In addition, the provision provides that any employer that had an obligation to contribute to a plan that qualifies as a transferee plan under the provision as of January 1, 1988, (including a contingent obligation to contribute) shall have a continuing obligation to contribute to the plan.

Requirement That Medical Benefits Be Incidental or Subordinate

Under the provision, the medical benefits described in section 401(h) are considered subordinate to the retirement benefits only if the aggregate of actual contributions (made after the date on which the plan first includes such medical benefits) to provide such medical benefits and any life insurance protection does not exceed 25 percent of the aggregate contributions actually made after such date (rather than the cost related to benefit accruals) other than contributions to fund past service credits. This rule does not apply to a transfer of excess assets permitted under the temporary rule described above.

Under this rule, for example, if a section 401(h) retiree medical benefits plan was established at a time when the plan was fully funded (as determined under section 412), the employer is precluded from making contributions to fund the section 401(h) account unless and until the plan falls below the full funding limit. This is because the permissible level of contributions is measured by actual contributions to the pension plan after the date the retiree medical benefits plan is established.

Internal Revenue Service General Counsel Memorandum, 39785, issued on April 3, 1989, is rejected to the extent it concludes that contributions to a section 401(h) account may be based on plan costs rather than actual contributions to the plan.

No inference is intended as to whether a contribution to a section 401(h) account prior to the effective date of this proposal met the requirement that the medical benefits be subordinate to the retirement benefits of the plan where the determination as to whether such requirement was met was based on plan costs rather than on actual contributions to the plan.

Effective Date

The proposal is generally applicable to years beginning after December 31, 1989. However, no transfer under the general rule is allowed with respect to any year beginning after December 31, 1994.

The special rule applicable to certain negotiated plans is effective on the date of enactment, except that the continuing obligation to contribute is effective as of January 1, 1988.

The proposal relating to the subordination requirement (i.e., the 25-percent rule) for purposes of determining the permissible contribution to a section 401(h) account is effective with respect to contributions paid to the plan after October 3, 1989.

5. MODIFICATION OF FULL FUNDING LIMITATION (SEC. 6331 OF THE BILL AND SEC. 412 OF THE CODE)

Present law

Under present law, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)). For plan years beginning before January 1, 1988, the 150 percent of current liability limitation did not apply.

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

Reasons for change

To date, the Secretary has not exercised the authority granted with respect to modifying the 150-percent full funding limitation. The committee believes such a modification is warranted in certain circumstances in order to permit employers with younger work forces to make increased contributions to their defined pension benefit plans to provide for anticipated future benefit accruals. However, in light of the committee's commitment to deficit reduction, such a modification is appropriate only if accomplished in a revenue neutral manner. Thus, the provision directs the Secretary to increase the full funding limitation in situations where employees are more likely to accrue significant benefits in the future, and to decrease the full funding limitation in situations where fewer future accruals are likely to occur (i.e., plans with a greater percentage of retirees), provided that it has no effect on Federal budget receipts.

Explanation of provision

In General

The provision allows certain employers to elect to apply the present-law full funding limitation without regard to the 150 percent of current liability limitation. The Secretary is required under the provision to adjust the full funding limitation for all plans (other than those subject to such an election) in response to employer elections under the provision so that the provision has an negligible effect on Federal budget receipts.

Employers Eligible To Elect Alternative Full Funding Limitation

An employer may elect to use the alternative full funding limitation if (1) as of the first day of the plan year in which the election is made the accrued liability of participants accruing benefits under all defined pension benefits plans of the employer (and controlled group members) is at least 90 percent of the aggregate total accrued liability under all such plans; (2) no defined benefit pension plan maintained by the employer (or by any controlled group member) is a top-heavy plan (within the meaning of section 416(g)) for the plan year in which such election is made and the immediately preceding 2 plan years; and (3) the plan has more than 100 participants at all times during the plan year in which the election is made and the immediately preceding 2 plan years.

If the accrued liability ratio described above falls below 90 percent for any plan year for which the election is in effect, the alternative full funding limitation is phased out for the remainder of the period for which the election is in effect under rules to be prescribed by the Secretary. If a plan becomes a top-heavy plan or fails to meet the 100-participant requirement during any plan year in the period for which the election is in effect, the alternative full funding limitation ceases to apply. In addition, if the 90-percent requirement, top-heavy restriction, or 100-participant restriction is violated during the election period, the employer is precluded from making a subsequent elec-

tion to use the alternative full funding limitation for 10 plan years following the election period.

Requirements With Respect to Election of Alternative Limitation

The election to use the modified full funding limitation is subject to the following requirements:

(1) the election is to apply for a 5-plan year period beginning with the first plan year for which the election is effective;

(2) the election is to be made by application to the Secretary filed 60 days prior to the first day of the plan year immediately preceding the first plan year for which the election is effective;

(3) the election application is to include actuarial information (for each plan to be covered by the election) indicating the full funding limitation that will apply under each year of the period for which the election is in effect, and the full funding limitation that would apply in each of the years covered by the period in the absence of an election (in each case, based on reasonable estimates) as well as such other information as may be required by the Secretary; and

(4) the election is to be made for all defined benefit pension plans maintained by the controlled group of which the employer is a part.

An election may be made for successive 5-plan year periods upon application to the Secretary in accordance with the above criteria. If the employer does not choose to make a subsequent election after the expiration of any 5-plan year period, the employer may not make an election under the provision until 10 plan years after the expiration of such 5-plan year period.

An employer that makes an election may not be granted a minimum funding waiver for the period beginning after the election is made and ending at the expiration of the 5-plan year period. The Secretary may prescribe additional rules and requirements with respect to whether an employer is eligible to make an election.

In determining whether the accrued liability with respect to a participant may be aggregated with the accrued liability of other participants in order to meet the 90-percent requirement (i.e., whether the participant is accruing benefits under the plan), only active employees who have accrued benefits in the current year may be considered. Specifically, the Secretary is to issue guidance with respect to determining when a participant has accrued a benefit in the current year. Under such guidance, for example, for purposes of this provision, a participant in a plan where the employer has frozen accruals will not be considered to accrue benefits in the current year. In addition, a participant is not considered to accrue benefits solely because the participant's accrued benefit is increased by reason of a cost-of-living increase or similar feature in the plan.

It is intended that the Secretary limit the availability of this provision where one or more plans of the employer have been terminated or amended in a manner that significantly increases the likelihood that the employer will be eligible to make an election under this provision (e.g., where a plan has undergone a termination/re-establishment or a spin-off/termination within the preceding 10 plan years).

Required Adjustment of Full Funding Limitation

The provision requires the Secretary to adjust the full funding limitation applicable to other defined benefit pension plans on an annual basis in response to the elections under this provision so that the provision has a negligible affect on net Federal budget receipts.

Any adjustment to the full funding limitation required to be made under the provision is to be made with respect to all plans (other than those subject to the alternative limitation) and by reducing the full funding limitation with respect to participants who are not accruing benefits under the plan. This modification is made by substituting, with respect to these participants, a percentage between 140 percent and 150 percent for "150 percent" in the 150-percent full funding limitation. Thus, the full funding limit will be applied to the plan by multiplying the current liability attributable to active participants accruing benefits by 150 percent and by multiplying the current liability attributable to other participants by a percentage between 140 and 150 percent as determined by the Secretary.

To the extent that net Federal budget receipts require additional adjustments to the full funding limitation, the full funding limitation is to be adjusted by multiplying the accrued liability of the plan (sec. 412(c)(7)(A)(i)(II)) for all participants in the plan by a percentage less than 100 percent, but in no event by reducing this liability below 140 percent of current liability (as current liability is defined for purposes of the full funding limitation).

Effective date

The provision is effective on the date of enactment.

6. REPEAL OF LIMITATION ON ABILITY OF TAX-EXEMPT EMPLOYERS TO MAINTAIN CASH OR DEFERRED ARRANGEMENTS (SEC. 6341 OF THE BILL AND SEC. 401(K) OF THE CODE)

Present law

Under present law, if a tax qualified profit-sharing or stock bonus plan meets certain requirements, then an employee is not required to include in income any employer contributions to the plan merely because the employee could have elected to receive the amount contributed in cash. (sec. 401(k)). Tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements, except for certain plans that were in existence on July 12, 1986.

Reasons for change

Under present law, many tax-exempt entities are not permitted to maintain elective deferral arrangements for their employees. The committee believes that tax-exempt entities should be permitted to maintain cash or deferred arrangements for their employees on the same basis as other employers.

Explanation of provision

The provision allows tax-exempt organizations to maintain cash or deferred arrangements for their employees. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash and deferred arrangement and a tax-sheltered annuity (or other elective deferral arrangement) applies.

Effective date

The provision is effective with respect to plans established after December 31, 1989.

7. MODIFY GEOGRAPHIC LOCALE LIMITATION ON VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS (VEBAS) (SEC. 6342 OF THE BILL AND SEC. 501(C)(9) OF THE CODE)

Present law

A voluntary employees' beneficiary association ("VEBA") that provides for the payment of life, sick, accident or other similar benefits to its members, their dependents or designated beneficiaries may qualify for exemption from income taxation if certain requirements are met (sec. 501(c)(9)). Under Treasury regulations, one of these requirements is that the members have an employment-related common bond determined by reference to objective standards.

Under the regulations, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to have an employment-related bond. The Internal Revenue Service has taken the position that the geographic locale requirement is not met if membership in a VEBA is available on a nationwide basis to employees whose sole common bond is their employment with unaffiliated employers that are members of a nationally-based trade association.

Reasons for change

The committee is concerned that the geographic locale restriction may have unintended results where, for example, employers in the same line of business maintain places of business in an area where employees may reasonably be expected to work in more than one state. Therefore, the committee believes that a limited expansion of the geographic locale rule is warranted as long as the VEBA does not have too wide an area.

Explanation of provision

The provision adopts the position taken in the Treasury regulations requiring that the membership of a VEBA consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related common bond among such individuals. In addition, employees of one or more employers engaged in the same lines of business in the same geographic locale will be considered to share an employment-related common bond. The committee does not intend the provision to alter the present-law rules relating to the membership of labor unions or employees of affiliated employers and their participation in VEBAs. Nor are other rules relating to VEBAs affected.

The provision clarifies that the geographic locale requirements may be met by a VEBA that provides benefits to employees in a clearly geographic region that may include more than one state. A VEBA will meet the geographic locale requirement if it provides benefits to the employees who are located in no more than 3 contiguous states. Thus, the provision adopts the position of the Internal Revenue Service that an exempt multiple employer VEBA may not provide benefits to employees over a wide geographic area.

The committee does intend to limit the authority of the Secretary to permit a VEBA to operate in a wider geographic locale even if the area of operation exceeds the 3-state limitation described above.

Effective date

The provision is effective for years beginning on or after October 3, 1989. No inference is intended with respect to the application of the geographic locale restriction under present law.

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8. EXCISE TAX ON REVERSIONS OF QUALIFIED PLAN ASSETS (SEC. 6343 OF THE BILL AND SEC. 4980 OF THE CODE)

Present law

A nondeductible 15 percent excise tax is imposed on employer reversions from qualified plans (sec. 4980).

Reasons for change

The excise tax on reversions was originally enacted because Congress believes that it was appropriate to limit the tax incentives available to an employer that maintains a pension plan. Congress recognized that contribution to such plans, as well as the earnings on such contributions, are intended to provide for the retirement benefits of plan participants. To the extent that amounts in such plans are not used for retirement purposes, Congress believes that the tax treatment of reversions should recognize that the tax on earnings on pension funds is deferred and, thus, the benefits of this treatment should be recaptured. In many cases, a 15-percent excise tax is not sufficient to recapture the tax benefits received. Therefore, the committee believes it is appropriate to increase the excise tax to better approximate the tax benefits of the income deferral.

Explanation of provision

The provision increases the 15-percent excise tax to 20 percent.

Effective date

The provision generally applies to reversions occurring after October 3, 1989. The provision does not apply to a reversion after such date if (1) with respect to plans subject to title IV of the Employee Retirement Income Security Act of 1974 (ERISA), a notice of intent to terminate required under such title was provided before October 4, 1989, or (2) with respect to plans subject to title I of ERISA, a notice of intent to reduce future accruals required under section 204(h) of ERISA was provided to participants in connection with the plan termination with respect to which the reversion is received before October 4, 1989.

9. QUALIFIED TRANSPORTATION BENEFITS (SEC. 6344 OF THE BILL AND SEC. 132 OF THE CODE)

Present law

Under present law, gross income does not include a fringe benefit that qualifies as a de minimis fringe (sec. 132). In general, a de minimis fringe is any property or service the value of which (after taking into account the frequency with which similar fringes are provided by the employer to the employer's employees) is so small as to make accounting for it unreasonable or administratively impracticable. Under Treasury regulations, employer-provided transit passes, tokens, farecards, etc., are considered a de minimis fringe if the employer-provided value of the benefit does not exceed $15 per month. This exclusion does not apply to the provision of any benefit to defray public transit expenses incurred for personal travel other than commuting. If the benefit exceeds $15 per month, then the total value of the benefit is includable in income.

Under prior law, certain employer-provided transportation between an employee's residence and place of work was excludable from gross income. This exclusion expired for taxable years beginning after December 31, 1985.

Reasons for change

The committee believes it is appropriate to provide a limited tax subsidy for employer-provided commuting transportation that fosters the use of mass transit and van-pooling. The committee also believes that the tax treatment of such benefits should be covered under a single tax provision.

Explanation of provision

Under the provision, gross income does not include a fringe benefit that qualifies as a qualified transportation fringe. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle between the employee's residence and place of employment and (2) any transit pass. The maximum exclusion for transit passes provided or subsidized by the employer is $15 per month. Up to $15 per month is excludable even if the total value of the benefit exceeds $15 per month.

The exclusion is available only if the benefit is provided under a separate written plan of the employer and the benefits satisfy the nondiscrimination rules applicable to no-additional-cost services and qualified employee discounts (sec. 132(h)). In addition, the plan must provide that the benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee. The exclusion is not available to self-employed individuals.

A transit pass includes any pass, token, farecard, voucher, or similar item entitling a person to transportation on mass transit facilities (whether or not publicly owned). A commuter highway vehicle is a highway vehicle the seating capacity of which is at least 7 adults (not including the driver) and at least 80 percent of the mileage use of which can reasonably be expected to be for purposes of transporting employees between their residences and their place of employment and on trips during which the number of employees transported for such purpose is at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation is considered provided by the employer if the transportation is furnished in a commuter highway vehicle operated by or for the employer. The committee intends that the Secretary may require such substantiation as is necessary to demonstrate compliance with the condition of the exclusion.

Employer-provided transit passes, vouchers, etc., are no longer excludable as a de minimis fringe benefit. The committee intends that the Secretary revise the regulations to the extent that they are inconsistent with the provisions.

Effective date

The provision is effective for taxable years beginning after December 31, 1989.

10. PERSONAL USE OF AIRPLANES (SEC. 6345 OF THE BILL AND SEC. 61 OF THE CODE)

Present law

In general under present law, the value of personal use of an employer-provided aircraft is includible in the gross income of the employee. Under Treasury regulations, where 50 percent or more of the regular seating capacity of an aircraft (as used by the employer) is occupied by individuals whose flights are primarily for the employer's business, the value of a flight on that aircraft by any employee who is not flying primarily for the employer's business is deemed to be zero.

Reasons for change

The committee believes it is appropriate to measure the value of flights for personal reasons by reference to occupied seats rather than seating capacity of the airplane.

Explanation of provision

Under the provision, the value of a flight by an individual who is not flying primarily for an employer's business is to be determined on the basis of the percentage of occupied seats (other than crew) which are occupied by individuals whose flights are primarily for the employer's business. This rule does not apply in the case of a flight that is subject to the rules relating to no-additional-cost services.

Effective date

The provision is effective for taxable years beginning after December 31, 1989.

Subtitle D. Foreign Provisions

1. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS (SEC. 6401 OF THE BILL, SEC. 563(C) AND NEW SEC. 898 OF THE CODE)

Present law

The taxable year of a controlled foreign corporation or a foreign personal holding company is generally its annual accounting period, which means the annual period utilized by the corporation for the purpose of computing its income in keeping its books and records (sec. 441 (b)(1) and (c)). Such taxable year may be either the calendar year or a fiscal year. Generally, neither a controlled foreign corporation nor a foreign personal holding company is required to use the same taxable year as its shareholders who are U.S. persons. An exception to this rule applies in the case of a foreign sales corporation (FSC), which generally must have the same taxable year as that shareholder (or group of shareholders with a common taxable year) who has the highest percentage of voting power (sec. 441(h)).

A controlled foreign corporation is deemed to distribute certain of its income, such as its "subpart F income," to its "U.S. shareholders" [1] on the last day of the controlled foreign corporation's taxable year (sec. 951(a)(1)). To the extent that the taxable years of the U.S. shareholder and the controlled foreign corporation differ, a deferral of income can result. For example, assume a controlled foreign corporation has a taxable year ending on January 31, while its U.S. shareholder uses the calendar year as its taxable year. Any subpart F income earned by the controlled foreign corporation is deemed distributed to the U.S. shareholder on January 31, thus allowing the U.S. shareholder to defer tax on eleven months' worth of current subpart F income.

A similar deferral is available to U.S. persons who are shareholders of a foreign personal holding company.[2] Generally, a for-

[1] Generally, a controlled foreign corporation is any foreign corporation, more than 50 percent of the stock of which is owned (by vote or value) by U.S. shareholders (sec. 957(a)). For this purpose, a U.S. shareholder is any U.S. person who owns directly or indirectly at least 10 percent of the voting power of the outstanding stock of the foreign corporation (sec. 951(b)). Special definitions apply, however, for purposes of taking into account certain foreign insurance income. For example, for purposes of taking into account related person insurance income, the term controlled foreign corporation means any foreign corporation, more than 25 percent of the stock of which is owned (by vote or value) by U.S. shareholders (sec. 953(c)(1)(B)). Additionally, any U.S. person who owns stock of such a foreign corporation is considered to be a U.S. shareholder (sec. 953(c)(1)(A)).

[2] A foreign personal holding company is generally any foreign corporation, more than 50 percent of the stock of which is owned (by vote or value) directly or indirectly by 5 or fewer individuals who are citizens or residents of the United States, and at least 60 percent (50 percent in certain years follow-

eign personal holding company is deemed to distribute all of its undistributed foreign personal holding company income allocable to its U.S. shareholders on the last day of the taxable year of the foreign personal holding company (sec. 551(b)). If a foreign personal holding company has a taxable year ending January 31, a calendar year U.S. shareholder each year would be able to defer tax on eleven months' worth of undistributed foreign personal holding company income since such income is deemded distributed to the shareholder after the close of the shareholder's taxable year during which the eleven months' worth of foreign personal holding company income was actually earned.

By contrast, the ability of taxpayers to defer income inclusions by manipulating the taxable years of other pass-through entities is severely limited by statutory rules, most significantly by rules adopted in the 1986 Act. For example, a partnership must generally adopt the same taxable year as its partners who own an aggregate majority interest in partnership profits and capital. If partners owning a majority of partnership profits and capital do not have the same taxable year, the partnership must adopt the taxable year of all partners who own an interest of at least 5 percent of the profits or capital of the partnership. Finally, if all 5 percent partners of the partnership do not have the same taxable year, then the partnership must adopt the calender year as its taxable year. Domestic International Sales Corporation (DISCs), S corporations, and person service corporations must also generally adopt the taxable year of their shareholders.

Generally under present law, a U.S. shareholder of a foreign personal holding company is required to include as dividend income for the taxable year in which or with which the taxable year of the foreign personal holding company ends, his pro-rata share of the company's undistributed foreign personal holding company income earned during the taxable year. The amount of undistributed foreign personal holding company income that is recognized as dividend income by the shareholder is deemed to be contributed by the shareholder to the capital of the company, and the accumulated earnings and profits of the company as of the end of the taxable year are correspondingly reduced. Any distributions made by the company subsequent to the end of such taxable year are considered to first be derived from its current earnings and profits for the year during which the distribution is made, and then from accumulated earnings and profits.[3] If the amount of the distribution exceeds both current and accumulated earnings and profits, such excess is generally treated as a return of capital.

Under present law, certain taxpayers can avoid the result described in the preceding paragraph by utilizing a foreign corporation with a different taxable year end than the foreign personal holding company as the shareholder of such company. To illustrate this point, consider the following example. Assume that a U.S. citizen owns 100 percent of the stock of a foreign corporation that uses June 30 as its taxable year end, and that this first corporation owns 100 percent of the stock of a foreign personal holding company that has a December 31 taxable year end. Assume that the second corporation does not have any accumulated earnings and profits. If the first corporation also qualifies as a foreign personal holding company, then the second corporation could distribute by December 31 an amount which is clearly sufficient to eliminate its undistributed foreign personal holding company income for the year. On or before the following June 30, when the second corporation's actual income has been accurately calculated, the first corporation can then make a distribution to the individual in an amount equal to 100 percent of its earnings for that year (namely the amount of the distribution from the second corporation that constituted a dividend) and thus ensure that it has no undistributed foreign personal holding company income for that year.

Reasons for change

The committee believes that present law allows an improper deferral of income to U.S. shareholders of certain controlled foreign corporations and foreign personal holding companies. Where present law allows subpart F income earned by a controlled foreign corporation, or undistributed foreign personal holding company income earned by a foreign personal holding company, to be subjected to Federal income tax in a taxable year later than that in which it was earned, the value of the income earned is understated. Such a deferral of income generally is only available to certain taxpayers, resulting in preferential treatment of those taxpayers at the overall expense of others. The committee believes that requiring certain controlled foreign corporaitons and foreign personal holding companies to generally conform their taxable years to the taxable years of their U.S. shareholders will impose less of a burden on such corporations and their shareholders than other methods of eliminating the deferral.

The committee understands that a foreign personal holding company may prefer to distribute to its shareholders all current earnings and profits annually so as to avoid having any undistributed foreign personal holding company income for the year. The committee is informed that prior to the close of a taxable year, however, it may be difficult for a foreign personal holding company to accurately compute the amount of the distribution necessary to eliminate all of its current undistributed foreign personal holding company income. In order to alleviate this difficulty, the committee believes that it is appropriate to allow certain distributions which are made by a foreign personal holding company within a short period after the close of its taxable year to be treated as having been made during its prior taxable year, thus allowing the company to eliminate its undistributed foreign personal holding company income for the year, without permittng deferral that would be possible absent the conforming taxable year provision.

Explanation of provision

The bill generally requires the taxable year of a controlled foreign corporation or a foreign personal holding company, more than 50 percent of the total voting power or value of the stock of which is treated as owned by a U.S. shareholder (referred to collectively as "specified foreign corporations" in the bill), to conform to the taxable year of such U.S. shareholder (as that term is defined with respect to the particular type of specified foreign corporation at issue). However, in the case of a specified foreign corporation which is a controlled foreign coroporation, such corporation may elect to use as its taxable year, a taxable year that begins one month earlier than the taxable year of the majority U.S. shareholder. The taxable year of a specified foreign corporation generally must be the same as the taxable year of each U.S. shareholder who on each testing day during the taxable year is considered to own more than fifty percent of the total voting power or value of the outstanding stock of the specified foreign corporation (as well as the taxable year of each U.S. shareholder who is not considered to own more than 50 percent of the stock of the specified foreign corporation, but whose stock is treated as owned under the applicable attribution rules by a more than 50 percent of U.S. shareholder).[4] If more than one U.S. shareholder is considered to own such a majority of the stock of the specified foreign corporation (or if a U.S. shareholder who is not a more than 50 percent shareholder owns stock which is treated as owned by a more than 50 percent U.S. shareholder), and all such U.S. shareholders do not have the same taxable year, then the specified foreign corporation is required to adopt the required taxable year as the Secretary may prescribe by regulations. The committee anticipates that the regulations will provide that such required taxable year shall be the taxable year that results in the least aggregate deferral of income to the such U.S. shareholders. Generally, the aggregate deferral of income for a particular year is equal to the sum of the products determined by multiplying the month(s) of deferral for each such U.S. shareholder that would be generated by that year end, times each such shareholder's percentage stock interest for purposes of determining its prorata share of any deemed distribution by the corporation. The corporate tax year that produces the lowest such sum is the taxable year that results in the least aggregate deferral of income to such U.S. shareholders. The committee intends that if the calculation results in more than one taxable year qualifying as the taxable year with the least aggregate deferral, then the corporation may select any one of those taxable years as its taxable year (unless its current taxable year is one of those years, in which case the corporation would be required to maintain its current taxable year).

To illustrate the operation of the preceding paragraph, consider the following situations. Any specified foreign corporation, over 50 percent of the value of whose stock is considered owned by a single U.S. shareholder as its taxable year.[5] Alternatively, if

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ing a year in which the corporation was a foreign personal holding company) of the gross income of which for a taxable year consists of certain items of passive income classified as foreign personal holding company income by section 553(a) (sec. 552(a)). In the case of a foreign personal holding company, any U.S. person who owns shares in such company is considered a U.S. shareholder (sec. 551(a)).

[3] As such, the distribution will generally constitute taxable income to the recipient shareholder. This is in contrast to the case of a controlled foreign corporation, whose distributions are considered to be made first from earnings and profits which were previously taxed to the U.S. shareholder under subpart F, and are thus not again included in the gross income of the shareholders.

[4] More than one majority U.S. shareholder can exist with respect to a specified foreign corporation as a result of the particular stock ownership attribution rules which are applicable to such corporation.

[5] If the specified foreign corporation is a controlled foreign corporation, it may alternatively use as its taxable year, a year which begins one month earlier than the taxable year of the majority U.S. shareholder.

a specified foreign corporation has two more than fifty percent U.S. shareholders, the specified foreign corporation must adopt the taxable year of those shareholders if the shareholders both use the same taxable year (subject to the one-month exception in the case of a controlled foreign corporation). However, if one more than fifty percent U.S. shareholders has an October 31 year end and the other has a November 30 year end, and each shareholder has an equal percentage stock interest in the controlled foreign corporation for purposes of determining its pro-rata share of any deemed distribution by the corporation, then the committee intends that the specified foreign corporation would be required to adopt October 31 as its taxable year end since that is the taxable year that will result in the least aggregate deferral of income to the more than 50 percent U.S. shareholders of the corporation.

The bill provides that specified foreign corporations generally must test to determine whether they are using the required taxable year on the first day of each new taxable year determined prior to the application of this provision for the current taxable year. For example, a specified foreign corporation that has historically used the calendar year as its taxable year must perform the test on January 1, 1990 to determine whether a taxable year change is required. If based on this test the corporation is required to change its taxable year end to June 30, it will determine its income for the short period beginning on January 1, 1990 and ending on June 30, 1990. On July 1, 1990, the corporation will again be required to perform the test, since that date is the first day of the corporation's new taxable year.

Additionally, the bill provides the Treasury authority to prescribe by regulations another day or days during a taxable year on which the test must be performed. The committee contemplates that such additional testing days may include days on which a substantial change in U.S. ownership of the stock of a controlled foreign corporation or a foreign personal holding company occurs. For example, in the case of a controlled foreign corporation, the committee anticipates that the regulations might provide that a testing day will include any day on which either a person obtains a sufficient amount of the stock of such corporation to cause such person to qualify as a U.S. shareholder for purposes of applying the applicable subpart F income rules, or when a current U.S. shareholder acquires or disposes of any stock of the controlled foreign corporation.

The present law rules which determine whether a person is a U.S. shareholder of a controlled foreign corporation or a foreign personal holding company are not changed by the bill. Under those rules, stock of a foreign corporation or a foreign personal holding company are not changed by the bill. Under those rules, stock of a foreign corporation that is owned by parties related to a U.S. person is attributed to that person under the rules of secton 318(a) (with certain modifications as set forth in section 958(b)) in the case of a controlled foreign corporation, and under the rules of section 554 in the case of a foreign personal holding company. The bill provides that in determining stock ownership for purposes of ascertaining the required taxable year of a specified foreign corporation, a U.S. shareholder shall be considered as owning any stock of a controlled foreign corporation which it owns directly or indirectly through the use of a foreign entity. For example, a shareholder shall be considered to own its proportionate share of stock of a controlled foreign corporation which it owned by a foreign corporation, foreign partnership, foreign trust, or foreign estate in which that shareholder owns an interest. A similar rule applies in the case of stock of a foreign personal holding company, except that stock owned indirectly through a foreign corporation which itself is a foreign personal holding company is not treated as being owned proportionately by a U.S. shareholder.

The bill grants the Treasury authority to prescribe regulations to address the application of this provision to foreign corporations that earn related person insurance income. In the case of such a corporation, the determination of whether certain shareholders will be considered U.S. shareholders, and as a result, the corporation will be considered a controlled foreign corporation for the taxable year, is dependent upon the proportion of related person insurance income to total insurance income earned by the corporation during the taxable year.[6] This determination cannot be made until the close of the corporation's taxable year. The committee anticipates that the regulations will provide that a foreign corporation that earns related person insurance income will generally not be required to take into account non-10-percent U.S. shareholders (i.e., persons who are only U.S. shareholders by virtue of the special captive insurance rules (sec. 953(c)) to test on the first day of its taxable year to determine its required taxable year unless the corporation was treated as a controlled foreign corporation under the captive insurance rules for the immediately preceding taxable year. If for a taxable year, a corporation qualified as a controlled foreign corporation under the special captive insurance rule, the committee anticipates that the regulations will generally require such corporation to perform the test on the first day of its next taxable year taking into account as U.S. shareholders those persons who would be treated as such with respect to related person insurance income earned by the corporation under the assumption that it will again qualify as a controlled foreign corporation under this special rule.

For example, assume that a foreign corporation has twenty equal shareholders, all of whom are unrelated U.S. persons. The corporation would not qualify as a controlled foreign corporation under the general rule applicable to foreign companies (or foreign insurance companies) because no U.S. persons are considered U.S. shareholders. However, if the corporation earned related person insurance income, then it would be considered a controlled foreign corporation unless the amount of related person insurance income it earned was de minimis (less than 20 percent of total insurance income). If in taxable year 1, the company earned a de minimis amount of related person insurance income (and thus the company was not considered a controlled foreign corporation with respect to such income), then on the first day of taxable year 2, the corporation would not be required to test to determine its required taxable year. Alternatively, if the related person insurance income earned in taxable year 1 was not de minimis (thus causing the company to be a controlled foreign corporation), then the company would be required to determine whether it is a specified foreign corporation on the first day of taxable year 2, and in making such determination, would be required to treat all U.S. persons owning its stock as U.S. shareholders.

The committee anticipates that the regulations will provide guidance for companies that are controlled foreign corporations under both the generally applicable rule (including the general rule for insurance companies) and the special captive insurance company rule. In such an instance, the committee generally intends that in determining whether a company is a specified foreign corporation, the company must take into account all persons who would be U.S. shareholders under either rule.

The committee understands that certain corporations that are required to change their taxable years for U.S. tax purposes may not be able to make a conforming change of their taxable years for purposes of reporting taxable income in foreign countries. The committee anticipates that the Treasury will exercise its authority to promulgate regulations necessary to address problems which may arise as a result of nonconforming tax years, including issues related to the determination of creditable foreign taxes for purposes of the deemed paid foreign tax credit, the high tax exception to the inclusion of subpart F income, the foreign tax credit separate limitation high-tax kick out rules, and the foreign tax redetermination rules.

Additionally, the bill allows a foreign personal holding company to treat a distribution that is made on or before the fifteenth day of the third month after the close of its taxable year as having been made during such taxable year, but only to the extent that such distribution would offset its undistributed foreign personal holding company income for such year. Furthermore, this rule applies only if the distribution is made to a person who was a shareholder of record as of the last day of the foreign personal holding company's taxable year with respect to the stock for which such distribution is made. The amount of such distribution which under this provision is deemed to have been made during the previous taxable year of the foreign personal holding company is to be included in the gross income of the person treated as recipient shareholder under the principles of section 551(f) of the Code, as well as in the gross or distributable net income of any foreign entity described in section 551(f) which actually receives such distribution from the foreign personal holding company, for such person's taxable year in which the taxable year of the foreign personal holding company ends.

For example, assume that a U.S. citizen owns 100 percent of the stock of a foreign personal holding company that has $100 of undistributed foreign personal holding company income as of the end of its taxable year. Under this provision, the company is allowed to make a distribution of up to $100 on or before the fifteenth day of the third month following the close of such taxable year, which distribution will be treated as made during its previous taxable year, thus eliminating its undistributed foreign personal holding company income for such year. The distribution will be included in the income of the U.S. citizen in his taxable year which includes the final day of the foreign personal holding company's taxable year during which such distribution is deemed to occur under this rule.

[6] If related person insurance income is less than 20 percent of total insurance income for the year, then the special rule related to captive insurance companies will not apply.

Effective date

The provision is effective for taxable years of controlled foreign corporations and foreign personal holding companies beginning after July 10, 1989. Information returns which are generally required to be filed by certain U.S. shareholders of a specified foreign corporation will be required to be filed with respect to such a corporation for the short taxable year of the corporation resulting from this provision that begin with the first day of the first taxable year beginning after July 10, 1989, and ending in accordance with the taxable year to which the corporation changes.

The bill provides that a controlled foreign corporation or a foreign personal holding company that changes to a taxable year required by this provision will be treated as having made the change with the consent of the Secretary of the Treasury. Certain U.S. shareholders of a specified foreign corporation shall take the income that is deemed distributed to such shareholder for such short taxable year into account ratably over the first four taxable years (including the shareholder's year which would otherwise include all the income from the entity's short taxable year) beginning after July 10, 1989. The ratable four year inclusion applies only in cases where the U.S. shareholder would otherwise be required to include deemed distributions of income from more than one taxable year of the specified foreign corporation in any one of its own taxable years, and only if the short taxable year of such corporation is its first taxable year beginning after July 10, 1989.

2. RESOURCING INCOME TO PREVENT AVOIDANCE OF FOREIGN TAX CREDIT LIMITATION RULES (SEC. 6402 OF THE BILL AND SEC. 904 OF THE CODE)

Present law

Consolidation in General

Members of an affiliated group of corporations may file (or be required to file) a consolidated return. To be a member of an affiliated group for this purpose, a corporation must be an "includible corporation," and a controlling percentage of the stock of the corporation (unless it is the common parent) must be owned directly by an "includible corporation." Under section 1504(b), certain types of corporations do not qualify as includible corporations. Subject to certain exceptions, corporations that do not so qualify include generally corporations exempt from tax under section 501 (for example, corporations organized and operated exclusively for charitable or educational purposes), insurance companies subject to taxation under the special rules applicable to life insurance companies, foreign corporations, corporations electing the possession tax credit, regulated investment companies, real estate investment trusts, and domestic international sales corporations.

Foreign Tax Credit Rules

The United States taxes U.S. corporations (including affiliated groups filing consolidated returns) and other U.S. persons on their worldwide income, including foreign income. U.S. persons may choose to reduce the U.S. tax on their foreign income by the amount of the foreign income taxes they pay on that foreign income. In order to prevent the use of foreign tax credits to offset U.S. tax on U.S. income, taxpayers are subject to foreign tax credit limitations in several separate categories, each of which generally varies directly with the ratio of foreign source taxable income subject to that limitation to entire taxable income. If the foreign source taxable income in a particular foreign tax credit limitation category is zero or negative for a particular taxable year, then the foreign taxes on income subject to that limitation cannot be credited against U.S. tax liability in that year.

Where a U.S. person sustains an overall foreign loss in a taxable year, net tax on U.S. income will generally be less than the U.S. tax rate times U.S. income. Under the overall foreign loss recapture rule, a portion of foreign taxable income earned after an overall foreign loss year is treated as U.S. taxable income for foreign tax credit purposes (sec. 904(f)(1)–(4)). This rule is designed to prevent taxpayers from obtaining the double benefit of forgiveness of U.S. tax on a portion of current U.S. income, plus an allowance of a foreign tax credit with respect to the full amount of subsequent years' foreign income. In addition, the 1986 Act clarified that a net loss in a separate foreign tax credit limitation category, or in the general limitation category, would reduce any positive foreign source taxable income in each of the other categories. In effect, this means that foreign losses in a particular limitation category cannot reduce current U.S. tax on U.S. source income in a taxable year unless the aggregate of foreign source taxable income and foreign source losses in all limitation categories is negative.

For any taxable year a U.S. person may forgo any benefits of the foreign tax credit and instead take deductions for foreign income taxes. A taxpayer typically may find this alternative preferable when it has paid income taxes to a particular foreign country but has relatively little or no foreign tax credit limitation. This might be the case where, for example, the taxpayer incurs losses from operations in a different foreign country, and these losses are both (a) equal to or greater than the income on which the taxpayer paid the tax to the first foreign country, and (b) subject to the same limitation as the income on which the tax was paid to the first foreign country. Under these circumstances the taxpayer could get no current year benefit from the foreign tax credit with respect to that income category. Depending upon the taxpayer's income, losses, and foreign taxes subject to other foreign tax credit limitations, the usability of any foreign tax credit carryovers generated by electing the benefits of the credit provisions, and the anticipated future effect of the overall loss recapture rules, the taxpayer may find it preferable in this instance to elect the deduction.

The taxpayer might also find it beneficial to forgo the benefits of the credit provisions if the foreign losses in the above example are less than the income on which the taxpayer paid the tax to the first foreign country, but the combined foreign losses and foreign income taxes are greater than the income that can be sheltered using foreign tax credits. For example, assume that a U.S. corporation pays U.S. federal income tax at a 34 percent rate and has manufacturing operations in the United States and two other countries. Assume one foreign operation earns $100 subject to $50 of foreign income tax, and the other foreign operation losses $75. Assume the U.S. operation earns $25. Using the credit, the taxpayer would eliminate any net U.S. tax liability on its foreign income and would obtain a $41.50 foreign tax credit carryover, but would owe $8.50 of U.S. tax on its current U.S. income. Using the deduction, the taxpayer would reduce its taxable income to zero and thus incur no U.S. tax liability in the current year. Again depending on numerous past, present, and anticipated future factors, it may be preferable for the taxpayer to forgo the benefits of the credit and take the deduction instead.

Interaction of Consolidation and Foreign Tax Credit Rules

An affiliated group filing a consolidated return (hereinafter referred to as a "consolidated group") must choose the benefits of the foreign tax credit (as opposed to taking deductions for foreign income taxes) on a group-wide basis (Treas. Reg. sec. 1.1502-4(a)). Each foreign tax credit limitation to which a consolidated group is subject varies directly with the ratio of the foreign source taxable income of the group subject to that limitation to the entire taxable income of the group (Treas. Reg. sec. 1.1502-4(c) and (d)).

For example, assume that one member of an affiliated group that files a consolidated return is a domestic corporation with a new foreign source loss of $100 from manufacturing, and U.S. source taxable income from manufacturing of $200. Assume that the income of the other members of the group consists of $100 of foreign source shipping income subject to $34 of foreign income tax. This group has no net foreign source taxable income, no current foreign tax credit, and, assuming that the relevant U.S. rate is 34 percent, a U.S. tax liability of $68 which is equal to, appropriately, the amount of its U.S. source taxable income ($200) times its U.S. tax rate.

Now assume that the members of the affiliated group own all of the stock of a foreign corporation or all of the interests in a partnership. Assume that 21 percent of the stock of a domestic corporation with a foreign loss is owned by this foreign corporation or partnership. Under this assumption, then, the domestic corporation is still wholly owned by the affiliated group, albeit indirectly through a controlled entity that is not an includible corporation, but the domestic corporation with the foreign loss is not a member of the affiliated group for purposes of filing a consolidated return. The consolidated return filed by the remaining group of corporations would show $100 of passive foreign source income and $34 of creditable foreign income tax subject to the separate foreign tax credit limitation on passive income, resulting in no net U.S. tax. The nonaffiliated domestic corporation with $200 of U.S. source income and $100 of foreign loss would pay only $34 of U.S. tax. That is, until there is a foreign loss recapture in a subsequent taxable year, the controlled group pays half the U.S. tax that would be owed in the case where 80 percent or more of stock of the domestic corporation with the foreign loss is owed directly by an includible corporation.

Expense Allocations

The 1986 Act provided, in general, that the taxable income of an affiliated group is to be determined by allocating and apportioning all interest expenses as if all members of the group were a single corporation (Code sec. 864(e)). As is true of the tax liabilities resulting from allocating separate limitation foreign losses among foreign tax credit limitation categories, the tax liabilities resulting from allocating expenses using a one-taxpayer approach can change depending upon whether 80 percent or more of the stock of an "includible" corporation controlled by an affiliated group is owned directly by includible corporations or indi-

rectly through entities other than includible corporations.

The 1986 Act gave the Treasury authority to resource the income of any member of an affiliated group or modify the consolidated return regulations to the extent such resourcing or modification is necessary to carry out the purposes of section 864. In addition, the 1984 Act gave the Treasury authority to prescribe such regulations as may be necessary or appropriate to prevent the avoidance of Code provisions dealing with the linking of borrowing to investment, or diminishing risks, through the use of related persons, pass-thru entities, or other intermediaries (Code sec. 7701(f). The temporary and proposed regulations under section 864(e) provide that certain corporations not within the general definition of an affiliated group, such as any includible corporation if 80 percent of its stock is owned directly or indirectly by an includible corporation or by members of an affiliated group, will be considered to constitute affiliated corporations for purposes of the interest expense allocation rules (Treas. Reg. sec. 1.861-11T(d)(6)(i)).

Reasons for change

The committee believes that techniques for avoiding or lessening the impact of the foreign tax credit limitation and related rules have been eliminated over the past years, in particular in the 1986 Act and the regulations issued thereunder, and believes that it would be inappropriate to allow taxpayers to negate the effects of the 1986 Act and prior acts merely by using the expedient of interposing entities other than includible corporations into the chain of ownership of includible corporations. To permit the use of such techniques might reward diligent tax planning, but promotes no arguably important policy objective, in the committee's view. While regulations issued under section 864(e)(7) have appropriately prohibited the use of deconsolidation techniques to manipulate the interest allocation rules, the committee is concerned that the Secretary's authority to issue comparable regulations under the foreign tax credit rules is somewhat less clear.

Explanation of provision

The bill gives the Treasury authority to issue regulations that would require a taxpayer to resource the income of any member of an affiliated group of corporations (as that term would be modified for these purposes by the bill), or to modify the consolidated return regulations, to the extent such resourcing or modification is necessary to prevent avoidance of the purposes of the foreign tax credit rules. Under the bill, generally only the income of includible corporations (as that term is defined under current law) is subject to resourcing. However, under the bill the determination whether an includible corporation is part of an affiliated group would be made by treating stock owned by attribution under the rules of section 1563 as owned directly, and by disregarding the exclusions from the definition of "includible corporation" listed in section 1504(b). For example, where an includible corporation indirectly controls another includible corporation through an entity that is not an includible corporation, the Treasury is authorized to recharacterize by regulation foreign source income of the includible corporations as U.S. source income, so that the aggregate U.S. tax liability of those corporations is not less than the tax that would be imposed if, for foreign tax credit purposes, the includible corporations had joined in filing a consolidated return. In addition, the bill authorizes the Secretary to prescribe regulations preventing the avoidance (through disaffiliation) of other provisions relating to the proper calculation of the foreign tax credit, such as the limitation imposed under section 907 with respect to certain oil and gas extraction taxes.

As an example of a case that the regulations contemplated by the committee would reach, assume that a domestic parent corporation owns indirectly (though entities that are not includible corporations) 80 percent or more of the stock of two domestic subsidiary corporations. One such domestic subsidiary corporation has $200 of U.S. source income and $100 of foreign source loss. The second has $100 of per-tax foreign source taxable income, and has paid $34 of foreign income taxes. Assume that all income of the above domestic corporations is subject to U.S. tax at the 34 percent rate. Under the bill Treasury is authorized to recharacterize the income of the second domestic subsidiary corporation as U.S. source income, resulting in an aggregate U.S. tax liability of the two corporations of $68, which would be their tax liability if the parent corporation had owned the stock of the two subsidiaries directly and the three corporations had been required to file a consolidated return. (Under this example, the bill also eliminates the need to resource as domestic, under section 904(f), any foreign source income earned by the first domestic subsidiary corporation in a later year to account for its overall foreign loss described above.)

As another example, assume that in the above case the first domestic subsidiary corporation has $200 of U.S. source income, $100 of foreign source loss from operations in one foreign country, and $100 of per-tax foreign source income from operations in another foreign country, on which the corporation has paid $34 in foreign income tax. As in the above example, assume that the second domestic subsidiary corporation has $100 of per-tax foreign income, and has paid $34 of foreign income taxes. Were the first subsidiary corporation permitted to separately elect to deduct its foreign income taxes while the second corporation took the credit, the combined U.S. tax liabilities of the two would be $56.44, or 34 percent of $166 (the U.S. tax liability of the first corporation) plus zero (the U.S. tax liability of the second corporation). By contrast, if both corporations were required to jointly elect either to deduct or credit foreign taxes, then their combined current year U.S. tax liabilities would be $78.88 (using the deduction),[1] or $68 (using the credit). Under the bill, the Treasury is authorized to preclude either domestic subsidiary corporation in such a situation from electing to deduct its foreign taxes at the same time that the other domestic subsidiary corporation takes the benefit of the foreign tax credit provisions.

Effective date

The provision is effective for taxable years begining after July 10, 1989.

[1] The combined tax liabilities would be $56.44 for the first corporation (computed as above) plus $22.44, or 34 percent of $66, for the second corporation.

3. IMPROVE INFORMATION REPORTING BY U.S. SUBSIDIARIES AND BRANCHES OF FOREIGN CORPORATIONS (SEC. 6403 OF THE BILL AND SEC. 6038A OF THE CODE)

Present law

The Treasury is authorized to distribute, apportion or allocate gross income, deductions, credits, or allowances between or among commonly controlled organizations, trades, or businesses as necessary to prevent the evasion of taxes or clearly to reflect income (Code sec. 482). Any corporation (U.S. or foreign) that conducts a trade or business in the United States and that is controlled by a foreign person must file an information return reporting all transactions with related foreign persons (sec. 6038A). "Control" for purposes of section 6038A requires 50-percent stock ownership by a single foreign person (including stock attributed to that person). Failure to comply with this reporting requirement carries an initial monetary penalty of $1,000, and additional penalties are imposed if the failure continues more than 90 days after the IRS notifies the taxpayer of the failure. The additional penalties are imposed at the rate of $1,000 for each 30-day period (or fraction thereof) during which the failure continues after the 90th day after IRS notification, up to a maximum additional penalty of $24,000. Thus, the total penalty for each failure to comply with the requirements of section 6038A cannot exceed $25,000.

Similarly, U.S. shareholders that control foreign corporations are required to report certain information with respect to such foreign corporations and all transactions with such foreign corporations. (sec. 6038). In addition to monetary penalties, noncompliance with the requirements of section 6038 can be sanctioned by the reduction or elimination of foreign tax credits allowed to U.S. shareholders that fail to report the required information (sec. 6038(c)).

For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, the IRS is authorized (1) to examine any books, papers, records, and other data that may be relevant or material to such inquiry, (2) to summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries related to the business of the person liable for tax or required to perform the act, or any other person the IRS may deem proper, to appear before the IRS at a time and place named in the summons and to produce such books, papers, records, or other data and to give such testimony, under oath, as may be relevant or material to such inquiry, and (3) to take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry (sec. 7602(a)). Thus, the statutory scope of IRS summons authority extends to certain persons that are not themselves subject to tax in the United States. Moreover, regarding constitutional due process limitations, a court in the United States may subject a foreign person to personal jurisdiction in connection with the commercial activities the person has purposefully caused within the court's juris-

diction. See, e.g., *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S.C. 286 (1980).

A foreign corporation that is engaged in trade or business within the United States is subject to U.S. corporate income tax on its taxable income that is effectively connected with the conduct of a trade or business within the United States (sec. 882(a)). However, the deductions and credits available to a foreign corporation in connection with its corporate income tax liability are generally allowed only if the corporation files a timely, true, accurate, and complete income tax return (sec. 882(c)(2)). Similar rules apply to the deductions and credits of nonresident alien individuals (sec. 874).

Reasons for change

IRS Access to Foreign Materials

In order to determine whether adjustments under section 482 (or otherwise) are appropriate in the course of a tax audit of a U.S. taxpayer controlled by a foreign person, it may be necessary for the IRS to examine books, records or other data in the custody of a foreign person. Summonses for such materials have been enforced in U.S. courts against a foreign parent that sells goods in the United States through a U.S. subsidiary (*United States v. Toyota Motor Corp.*, 561 F.Supp. 354 (C.D. Cal.) (memorandum opinion), 569 F.Supp. 1158 (C.D. Cal. 1983)). However, such summonses may not be practically or legally enforceable in all appropriate cases, especially where summoned materials are in the possession of a foreign person. For example, enforcement of the summonses in *Toyota* was based on several factors including the fact that the boards of directors of the foreign parent and the U.S. subsidiary had interlocking membership, and the fact that the foreign parent itself had significant business activities in the United States. In the absence of such factors, the courts have not clearly determined the standards for enforcement of summonses against foreign parents of U.S. subsidiaries.

In addition, establishing jurisdiction to enforce a summons against a foreign parent may not be sufficient to obtain the summoned materials. One significant practical obstacle is that standards of recordkeeping and preservation of documents vary from country to country, and enterprises of many countries do not observe recordkeeping and document-preservation standards as rigorous as those imposed on U.S. taxpayers. Accordingly, documents or materials summoned from foreign parties may not exist by the time a summons is enforced. The committee believes that the unavailability of such documents and materials has substantially interfered with the ability of the Internal Revenue Service to administer the U.S. tax laws.

Reporting of Transactions

The committee believes that the reporting requirements of section 6038A should apply to a U.S. corporation or a foreign corporation engaged in trade or business in the United States where such a corporation engages in transactions with substantial foreign stockholders, regardless of whether such stockholders own, directly or indirectly, 50 percent or more of the corporation's stock. For example, the committee is concerned that there may be U.S. corporations owned by groups of unrelated foreign persons that may find it beneficial, for tax reasons, to engage in transactions with those substantial foreign stockholders that are not at arm's length. The committee believes the IRS should have the same enforcement tools in examining transactions with such stockholders as are available in connection with transactions involving 50-percent or greater foreign stockholders, and as are generally available in connection with purely domestic transactions.

Sanctions

Congress has long recognized that international transactions and foreign taxpayers present difficult tax administration problems. The particular circumstances of foreign taxpayers may make it difficult to detect failures to comply with tax reporting and payment obligations. For this reason, the committee believes that strong and effective sanctions must apply to failures to comply with reporting obligations related to foreign taxpayers. The committee believes that a penalty of only $25,000 may not be sufficiently meaningful to encourage adequate compliance.

Moreover, on the same principle that sections 882(c)(2) and 874 have conditioned the allowance of ordinary deductions and credits on full compliance with applicable reporting requirements, the committee believes that similar sanctions should apply in cases where the taxpayer fails to comply with applicable requirements to support the correctness of the amounts shown on the return in the course of examination.

Finally, the committee believes that after these new provisions have been in operation for some reasonable period, it will be necessary to determine, based on the enforcement experience of the IRS, whether the bill's new rules are adequate to address the committee's present concerns or whether additional legislative steps will be necessary.

Explanation of provisions

Requirements Imposed on Taxpayers

The bill expands the application of section 6038A, such that the reporting requirements of that section apply to those corporations ("reporting corporations") that are owned by 25-percent foreign shareholders, and to those transactions ("reportable transactions") by such corporations that involve such shareholders or persons related to such shareholders. The bill defines a 25-percent foreign shareholder as any foreign person that owns 25 percent or more of the total combined voting power of all classes of stock of the reporting corporation that are entitled to vote, or 25 percent of the total value of all classes of stock. The bill also adds any 25-percent foreign shareholder to the definition of a related party under section 6038A.

In addition, the bill provides that each reporting corporation shall maintain, in the location, in the manner, and to the extent prescribed by regulations, such records as the Secretary shall by regulations prescribe as being appropriate to determine the correct treatment of transactions of the reporting corporation with related parties (or shall cause another person to maintain such records as prescribed). The committee anticipates that under this provision, the Secretary may prescribe rules under which the reporting corporation (or another person as directed by the reporting corporation) is required to obtain and compile, as well as maintain, such books, papers, and other records that are not already in its possession.

The committee anticipates that the regulations will generally require such maintenance in the United States. However, the committee also intends by this provision to give the Secretary flexibility in prescribing which records must be maintained in the United States and which may be maintained elsewhere. The Secretary will also have flexibility in identifying those classes of supporting documentation relating to related party transactions that are sufficiently important to warrant maintenance in the United States in the general case, and that therefore will be generally required by regulation to be maintained in the United States. In the case of records so identified, the committee anticipates that regulations will permit the U.S. maintenance requirements to be satisfied by duplicate as well as original documents. Moreover, the committee anticipates that translation into English of any documents required to be maintained in the United States might not be required simultaneously with the appearance of such documents in the United States, but only when specified in regulations.

On the other hand, the committee anticipates that there may be classes of supporting documentation that do not warrant a general regulatory U.S. maintenance requirement. Moreover, even where a class of records is generally required to be maintained in the United States, the committee anticipates that there may be particular circumstances that would warrant exceptions to the general rules. For example, the Treasury may permit certain records to be maintained outside the United States where it is satisfied that any such records would be submitted to the Internal Revenue Service promptly upon request. In addition, the committee anticipates that the Treasury might modify the level of required U.S. record maintenance on a country-by-country or case-by-case basis, by agreement or otherwise, for example by entering into agreements under which taxpayers would be obligated to preserve specified records but not maintain them in the United States, and make them available to the IRS promptly upon request. The committee also anticipates that the Treasury may determine that the information exchange procedures in place between the IRS and the tax authorities of a particular foreign country are operating in such a way as to assure ready access by the IRS to all relevant documents in the possession of related parties in that foreign country, and that as a result the Treasury may grant country-based exceptions to the general U.S. record maintenance rules. Finally, the committee anticipates that even where the general U.S. record-maintenance requirements do not require the maintenance in the United States of a particular class of documents, the Treasury may identify specific circumstances where, because of enforcement problems, that class must be maintained in the United States by a particular reporting corporation or a particular class of reporting corporations.

The committee recognizes that some related foreign corporations may consider such materials to be confidential with respect to the reporting corporation. Accordingly, the committee intends to make reporting corporations responsible to ensure that the specified materials are maintained in the United States, but not to require that such materials be placed under the control of the reporting corporation. Similarly, the committee intends that any such materials would be treated as present in the United States solely for the purpose of determining the tax consequences of transactions involving the reporting corporation, and would not be subject (solely by reason of its presence for U.S. tax purposes) to legal process in connection with nontax not otherwise present in the United States.

In addition, the bill provides that in order to avoid the consequences of the noncompliance rules (discussed below) with respect to certain transactions between any reporting corporation and any related party, each foreign person that is a related party of a reporting corporation must agree (in such manner and at such time as Treasury rules or regulations may specify) to authorize such corporation to accept service of process as its agent in connection with any request or summons by the IRS to examine books, records, or other materials, to produce such materials, or to take testimony related to any reportable transaction, solely for the purpose of determining the tax liability of the reporting corporation.[1] This requirement will ensure that IRS examination requests and summonses with respect to related-party transactions involving U.S. taxpayers can be served on related foreign persons that do not directly engage in trades or businesses in the United States.

It is expected that where records of a related party are obtainable on a timely and efficient basis under information-exchange procedures provided under a tax treaty, the Internal Revenue Service generally would make use of such procedures before issuing a summons to the designated agent on behalf of the related party. However, the committee is cognizant of undue audit delays that have been caused by the Service's inability to quickly obtain relevant information through treaty procedures, and recognizes that exigent circumstances (for example, the imminent expiration of the limitations period) may arise that would make the use of a treaty procedure undesirable. Thus, as is the case currently, the committee does not intend that the Service be required to attempt to use a treaty procedure before issuing a summons with respect to information that might be obtained under that treaty.

The committee understands that a reporting corporation may not always be aware that a transaction involves a related party. Such cases may occur, for example, where a reporting corporation engages in a small or brief transaction on arm's length terms with a person that is related to a related party, but with no involvement of any person that is directly related to the reporting corporation. The committee expects that Treasury regulations, in such circumstances, will allow a related party to retroactively authorize the reporting corporation to accept service of process on its behalf with respect to such a transaction. However, if the related party involved in such a transaction refuses to retroactively authorize the reporting corporation to accept service of process on its behalf, the reporting corporation would generally be subject to the noncompliance rule with respect to transactions prior to which the reporting corporation was not aware that the requirements of section 6038A would apply.

To relieve such a harsh result, the committee anticipates that Treasury regulations may allow a reporting corporation to be treated as retroactively authorized to accept service of process on behalf of a related party (and thus in compliance with this requirement), solely for the purpose of avoiding the application of the noncompliance rule with respect to certain transactions, in exceptional circumstances. Such circumstances may include a situation in which (1) neither the reporting corporation nor the other party to the transactions knew or had reason to know that the two parties were related at the time of the transactions, and (2) the taxpayer establishes to the satisfaction of the Secretary that all transactions between the reporting corporation and the related party were on uncontrolled, arm's-length terms that did not involve the participation of any known related party. The committee views common control (at a 50-percent level) as one reason to know that two parties are related under the bill, except where the common control is sufficiently attenuated. Such deemed compliance would apply only to reportable transactions entered into prior to the time when the reportable corporation knew or had reason to know that the related party was related. The noncompliance rule would apply to any transaction subsequent to that time with the same related party unless there was actual authorization to accept service of process.

[1] The committee intends that the agency relationship specified in the bill will not constitute an agency relationship for any other purpose under Federal or State law.

Applicable Sanctions

Enhancement of monetary penalty

The bill increases the existing $1,000 penalty for failure to meet the requirements of section 6038A (as expanded by the bill) to $10,000, increases the amount of each addition to such penalty from the existing $1,000 to $10,000 per applicable 30-day period, and removes the ceiling (currently $24,000) on additions to such penalty.

The bill provides an exception from liability for this monetary penalty, imposed for failure to comply with the reporting requirements of section 6038A, in cases where the taxpayer demonstrates to the satisfaction of the Secretary that reasonable cause exists for the failure to furnish required information or maintain required records. The committee expects that such reasonable cause exceptions will be allowed liberally in cases of small corporations that (1) had no knowledge of the requirements imposed by section 6038A, (2) have limited presence in and contact with the United States, and (3) promptly, fully and completely comply with all IRS requests (including requests to the corporation on behalf of any related foreign party) to furnish books, papers, records, and other data that may be revelant or material to any reportable transaction. The committee intends that the fact that a foreign jurisdiction would impose a civil or criminal penalty on the reporting corporation (or any other person) for disclosing the required of requested materials shall not constitute reasonable cause.

Noncompliance rule

In addition to the enhanced monetary penalty, the bill provides for a new noncompliance rule designed to match more closely the degree of noncompliance with the stakes involved. This rule authorizes the Secretary to allow only the amount of (1) any deductions otherwise allowable to the reporting corporation for amounts paid or incurred to the related party in connection with reportable transactions, and (2) the cost (including all components of the cost of goods sold) to the reporting corporation of any property acquired from the related party or transferred to the related party in connection with reportable transactions, as shall be determined by the Secretary in the Secretary's sole discretion, based on any information in the knowledge or possession of the Secretary or on any information that the Secretary may choose to obtain. Thus under the bill the Secretary may conclude, in a case where the noncompliance rule applies, that claimed deductions or costs have not been sufficiently supported and may consequently disallow any amount (including all) of those claimed amounts. The committee intends that in such a case, where the IRS has been denied the requested access to records or testimony that it chooses to consider in the course of an examination, the Secretary may disregard any information or materials that *have* been submitted by the reporting corporation of the related party where, in the Secretary's sole discretion, such information or materials are insufficiently probative of the relevant facts.

The noncompliance rule applies with respect to all transactions with a related party whenever a reporting corporation is not designated by a related foreign person as its agent in applying sections 7602, 7603, and 7604 with respect to any IRS request or summons within the authority provided by such Code sections, in connection with any reportable transaction.

The bill also provides the IRS with authority to apply the noncompliance rule in the event that a reporting corporation and a foreign person related thereto fail to substantially comply in a timely manner with an IRS summons to produce any books, papers, records, or other data, or to take testimony, or for any other purpose authorized by section 7602 of the Code, in connection with the examination of a reportable transaction. Because the amount of the noncompliance penalty that may apply in such a case is determined largely based on the Secretary's discretion, and because the amount of any disallowance may properly be limited to the deductions or costs related to the particular records or testimony which are the subject of the summons which has not been complied with (and may in some cases be affected by other factors that the Service chooses to take into consideration), the committee anticipates that the Service may, in its discretion, choose to forego application of the penalty in de minimis cases of noncompliance.

The bill also provides the IRS with authority to apply the noncompliance rule in the event that (1) a reporting corporation fails to maintain (or cause another to maintain), any records required to be maintained under the record-maintenance requirements described above, and (2) by reason of that failure, the reporting corporation does not comply with a summons for such record (or such a summons is quashed). In such an event, the noncompliance rule may be applied to any transaction to which such records relate.

The committee intends that the noncompliance rules of the bill be applied separately with respect to each related party of a reporting corporation that is not itself related to other related parties of the reporting corporation. For example, a reporting corporation is related to two foreign corporations, and these two foreign corporations are not related to each other. In the event that the reporting corporation and one of the related parties fail to comply with a summons for the production of certain records of that related party, the noncompliance rules may be applied to all reportable transactions between the reporting corporation and that related party. However, such failure to comply will not cause the noncompliance rules to apply to reportable transactions between the reporting corporation and the other related party.

Judicial review

To ensure that the noncompliance rules with respect to a summons are only applied when the summons is properly issued by the IRS, the bill permits prompt judicial review of a summons (waiving the sovereign immunity and anti-injunction act defenses that would generally bar such review). The bill thus permits persons that receive a summons related to the examination of a reportable transaction to petition a federal court to quash the summons, not later than the 90th day after such summons is mailed. In the event that the recipient does not file such a petition and also fails to comply with the summons, the IRS (as under present law) may bring an action to enforce the summons. If a summons in connection with an IRS examination of any reportable transaction is subject to a timely petition to quash, the statute of limitations on the taxable year(s) at issue will be suspended during the pendency of the judicial action to quash the summons, and will expire not earlier than 90 days after the conclusion of such action.

In order to establish with finality the validity of a summons, the obligations imposed on the recipient by the summons, and the applicability of sanctions for noncompliance with the summons, a taxpayer may file a timely petition to quash the summons or defend an IRS action to enforce the summons. Under the bill, these are a taxpayer's sole methods of preventing application of the noncompliance rule for noncompliance with a summons. Therefore, if a summons is not quashed (whether because a petition to quash was unsuccessful, an action to enforce was successful, or simply because no judicial action was initiated), the noncompliance rule may be applied by the IRS irrespective of any collateral or subsequent judicial opinion (e.g., in the U.S. Tax Court) concerning the validity of the summons.

The fact that compliance with the summons would lead to the imposition of civil or criminal penalties on the reporting corporation (or a related party) under any foreign law will not constitute grounds for either quashing or refusing to enforce the summons.[2]

[2] Courts have taken several factors into consideration in determining whether an IRS summons may be enforced in a case where compliance may violate foreign civil or criminal laws. *See, e.g., United States v. Vetco, Inc.*, 691 F.2d 1281 (9th Cir.) *cert. denied*, 454 U.S. 1098 (1981); *United States v. First National Bank of Chicago*, 699 F.2d 341 (7th Cir. 1983). Courts similarly have considered under what circumstances discovery sanctions may be appropriate where compliance with the discovery order may violate foreign civil or criminal laws. *See e.g., Societe Internationale pour Participations Industrielles et Commerciales v. Rogers*, 357 U.S. 197 (1958). Nothwithstanding any such cases or any factors or considerations relevant thereto, the committee intends that the fact that compliance with the summons may lead to the imposition of civil or criminal penalties on the reporting corporation (or a related party) under any foreign law will not constitute grounds for either quashing or refusing to enforce the summons.

In addition, the committee understands that courts have not yet determined whether, or to what extent, the holding of *First Security Bank of Utah v. Commissioner*, 405 U.S. 394 (1972), may apply to laws of other legal pronouncements made by foreign governments. For example, courts have not yet considered the validity of Rev. Rul. 82-45, 1982-1 C.B. 89 (foreign law prohibiting the payment of technical assistance fees above a stated amount does not foreclose the IRS from treating the taxpayer, under section 482, as if technical assistance fees above the stated amount were paid). No inference is intended as to the validity of that ruling. The committee intends, however, that the holding of *First Security Bank of Utah v. Commissioner*, even if it is determined to be applicable to the laws or legal pronouncements of foreign governments, will not support quashing or refusing to enforce the summons.

Interaction with treaties

The provisions of the bill will enable the IRS to gather the same type of information with respect to foreign-owned corporations as current law permits with respect to corporations controlled by U.S. persons. Accordingly, inasmuch as the purpose of the bill is to impose equivalent reporting obligations on U.S. corporations irrespective of capital ownership, while recognizing the unique tax administration problems presented where corporate stock is held by nonresidents, the committee believes that the provision does not discriminate against foreign-controlled U.S. corporations in violation of any treaties. If the committee should be incorrect in its technical interpretation of the interaction between these provisions and U.S. treaties, however, it does not intend that any contrary treaty provision defeat its purpose in enacting these provisions.

Report to Congress

The bill requires the IRS to report to Congress on its efforts to audit U.S. taxpayers that are subsidiaries of or otherwise related to foreign corporations. The committee expects that this report, which must be submitted to Congress within five years after these provisions take effect, will include discussions of (a) compliance with the requirements of section 6038A as expanded by the bill, (b) the availability of related-party materials requested or summoned by the IRS, (c) the quality of the examination process respecting issues involving related foreign parties, (d) the application and effectiveness of the sanctions provided by the bill, and (e) recommendations for further improvements.

Effective date

The provisions apply to taxable years of reporting corporations beginning after July 10, 1989.

4. TREATMENT OF CERTAIN SCHOLARSHIP OR FELLOWSHIP GRANTS TO NONRESIDENT ALIENS (SEC. 6404 OF THE BILL AND SECS. 873 AND 1441 OF THE CODE)

Present law

Generally under the Code, the United States imposes tax, at ordinary rates, on the taxable income of a nonresident alien individual that is effectively connected with the conduct of a trade or business in the United States. Generally, deductions are permitted in computing such U.S. taxable income only if and to the extent that they are connected with income which is so effectively connected.

A nonresident alien cannot use the standard deduction (sec. 63(c)(6)(B)). A nonresident alien is permitted a deduction for personal exemptions without regard to whether the deduction is connected with effectively connected income. However, a nonresident alien is generally allowed only one personal exemption unless he or she is a resident of a contiguous country or a national of the United States (sec. 873(b)). By contrast, a U.S. citizen or resident (hereinafter referred to as "U.S. person") is entitled to an exemption for him- or herself; and additional exemption for a spouse if a joint return is not made and the spouse, for the year in which the taxable year of taxpayer begins, has no gross income and is not dependent of another taxpayer; and further additional exemptions for certain dependents (sec. 151). The term "dependent" excludes a spouse and generally also excludes any individual who is not a citizen or national of the United States unless the individual is a U.S. resident or a resident of a contiguous country (sec. 152(a)(9) and (b)(3)). In addition, no joint return may be made by a husband and wife if either is at any time during the year a nonresident alien, unless one spouse is a U.S. person, and the other elects to be taxed as a U.S. resident on all of his or her worldwide income (sec. 6013(a) and (g)). Thus, while a married U.S. person whose spouse is also a U.S. person can either file a joint return claiming personal exemptions for both him- or herself and the spouse, or may file a separate return claiming personal exemptions for both where the spouse has no gross income (and may claim more exemptions if there are dependents), a married nonresident alien with U.S. effectively connected income generally must take no more than one personal exemption in all cases (unless the spouse is a U.S. person and the nonresident alien subjects his or her worldwide income to U.S. tax jurisdiction).

Under the Code, a nonresident alien is generally subject to a 30-percent tax on gross months of fixed or determinable, annual or periodical income from U.S. sources that is not effectively connected with the conduct of a trade or business in the United States. The payor of income subject to this gross-basis tax is generally required to collect the tax by withholding at the full 30-percent rate.

Generally gross income excludes certain amounts received as a qualified scholarship by an individual who is a candidate for a degree at an educational institution (sec. 117(a)). (Prior to the Tax Reform Act of 1986, the Code contained a broader exclusion concerning scholarship-related income.) In addition, U.S. source amounts that are received by a nonresident alien individual who is temporarily present in the United States under an F, J or M visa, and that are either (1) incident to a qualified scholarship to which section 117(a) applies (but includible in gross income), or (2) a scholarship or fellowship for study, training, or research in the United States and received from a government, a 501(c)(3) organization, or certain types of international, binational, or multinational organizations, are treated as effectively connected with the conduct of a trade or business within the United States and eligible for withholding at a 14-percent rate.[1] Finally, some U.S. income tax treaties provide for reductions in the U.S. tax that would otherwise be imposed under the Code on certain income of foreign persons, including the income of certain visiting foreign individuals such as scholars.

Reasons for change

The committee believes that the general rule differentiating between resident aliens and U.S. citizens, on the one hand, and nonresident aliens, on the other, in the allowance of the standard deduction and personal exemption is appropriate in light of the fact that the United States exerts jurisdiction over the worldwide income of persons in the former group, but only over the U.S. income

[1] In Revenue Ruling 89-67, 1989-20 I.R.B. 4, the Service ruled that in certain circumstances, it would determine the source of income received to support or subsidize a recipient's research or study activities by reference to the residence of the payor.

of persons in the latter group.[2] However, the committee believes that, following the changes to the scholarship exclusion rules in the 1986 Act, there may be cases where a visiting foreign recipient of a scholarship or fellowship is subject to U.S. tax on the scholarship or fellowship provided by a federal, state, or local government or public charity, yet in computing the tax on that income, the individual may be unable, as a nonresident alien, to take into account the deductions that a similarly situated U.S. person would be entitled to. The committee is concerned insofar as this may increase the cost of providing such scholarships or fellowships, or reduce the value of such scholarships or fellowships to the individual, in cases where important national policies are served by providing such scholarships and fellowships. The committee is concerned that in some cases, the visitors subject to these rules may not be residents of countries that have entered into treaties that would relieve the current U.S. tax burden under the Code, and that such treaty relief may not realistically be foreseeable in the near future.

Explanation of provision

The provision gives certain deductions, based on the standard deduction and multiple personal exemptions, to offset certain U.S. source gross income of visiting foreign individuals received in the form of certain scholarships and fellowships. Further, the bill provides that withholding on such income may be adjusted to take these deductions into account.

In the case of a nonresident alien individual who is temporarily present in the United States under an F, J or M visa who receives or accrues any qualified scholarship or fellowship grant during the taxable year (hereinafter referred to as a "qualified nonresident alien individual"), the provision permits that individual the benefit of certain deductions (regardless of whether those deductions are connected with income which is effectively connected with the conduct of a trade or business in the United States) up to the amount of the qualified scholarship or fellowship grants includible in gross income for the taxable year. Those deductions include the standard deduction and the personal exemptions allowed under the general personal exemption rules (i.e., the rules without regard to the one-exemption limitation in section 873(b)(3)), subject to two modifications. First, in determining who is a dependent of the nonresident alien, there will be no exclusion of a child or other individual, on the grounds of his or her failure to be a U.S. person or national, if that child or other individual is a member of the taxpayer's household in the United States. Second, no exemption will be allowed for a spouse unless the spouse is a member of the taxpayer's household in the United States.

As described above, the amount of the deductions allowed under the provision is limited by the amount of the nonresident alien's qualified scholarship or fellowship grants for the year. The term "qualified scholarship or fellowship grant" is defined as any amount which is includible in the gross income of the nonresident alien for the taxable year, and which is granted as a scholarship or fellowship for study, training, teaching, research, or career development in the United States by a federal, state, or local government agency, or a tax-exempt U.S. organization described in section 501(c)(3). Thus, for example, the term does not include amounts excluded from gross income under section 117(a) of the Code (e.g., certain scholarships, to the extent not exceeding tuition and fees, received by degree candidates) or under a treaty.

Finally, the bill provides that nonwithstanding the 30-percent or 14-percent statutory withholding rates that may be generally applicable to U.S. source income of a nonresident alien under the Code, the Secretary shall have authority to provide for a reduction in the amount of withholding from any qualified scholarship or fellowship grant to take into account the reduction in a grant recipient's tax liability as a result of the provision.

Effective date

The provision applies to taxable years beginning after December 31, 1989.

5. MODIFY DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY WITH REGARD TO CERTAIN INCOME OF EXPORT TRADE CORPORATIONS (SEC. 6405(a) OF THE BILL AND SEC. 1296 OF THE CODE)

Present law

Certain export-related income derived by a controlled foreign corporation that is an export trade corporation (ETC) is exempt from the current U.S. taxation that would otherwise be imposed under subpart F (sec. 970 of the Code). Under the special rules of subpart G, the subpart F income of an ETC is reduced by certain amounts that constitute export trade income (as defined in section 971).

No foreign corporation may qualify as an ETC unless it so qualified for a taxable year beginning prior to October 31, 1971, and has not failed to so qualify in any three consecutive years beginning after October 31, 1971 (sec. 971(a)(3)). Code provisions allowing special treatment of export-related income of Domestic International Sales Corporations (DISCs) were enacted in 1971. At that time, existing ETCs (and only existing ETCs) were permitted to continue using the rules of subpart G, and were also given the opportunity to transfer their assets (and the tax-deferred treatment of their accumulated earnings) to a DISC. In the Tax Reform Act of 1984, special provisions regarding the export-related income of Foreign Sales Corporations (FSCs) were enacted and the DISC rules were substantially modified. At that time, existing ETCs were again permitted to continue using the rules of subpart G, and were also given a time-limited opportunity to transfer their assets tax-free to a FSC or to elect FSC status. Upon such a transfer to a FSC, the tax-deferred accumulated earnings of an ETC were eligible to be treated as previously taxed income (in effect, forgiving all deferred U.S. tax on such income). No portion of the untaxed income of an ETC that continued to use the rules of subpart G could be treated as previously taxed income under the 1984 Act.

The Tax Reform Act of 1986 provided special rules to end deferral of U.S. tax on income earned through certain predominantly passive foreign corporations referred to as passive foreign investment companies (PFICs). A U.S. person's share of the income of any PFIC is generally subject either to current U.S. taxation or to deferred taxation plus an interest charge attributable to the value of deferral (sec. 1291–1297). Generally, a PFIC is any foreign corporation if (1) 75 percent or more of its gross income for the taxable year consists of passive income, or (2) 50 percent or more of the average fair market value (or adjusted basis) of its assets consists of assets that produce, or are held for the production of, passive income (sec. 1296).[1] For this purpose, passive income generally is defined as any income of a kind that would be foreign personal holding company income as defined in section 954(c), with certain exceptions relating to banking, insurance, and related-party income (sec. 1296(b)). Amounts that are passive income under the PFIC rules may also constitute export trade income under section 971.

Reasons for change

In light of the fact that export trade corporations were permitted to retain their preexisting tax treatment upon the introduction of DISCs and FSCs, the committee believes that the tax benefits available to export trade corporations should be reinstated in cases where such corporations would lose those benefits through the application of the PFIC rules of present law.

Explanation of provision

The bill modifies the definition of "passive income" as that term is applied in determining whether a foreign corporation is a PFIC. Under the bill, the passive income of a foreign corporation, solely for the purpose of determining whether that foreign corporation is a PFIC, generally does not include any export trade income. The amount so excluded, however, is limited to the excess (if any) of (i) the amount by which the subpart F income of the ETC is reduced by export trade income under section 970(a), over (ii) the amount by which the subpart F income of the ETC would be reduced under section 970(a) by taking into account only such amounts of export trade income that would not constitute passive income (without regard to the provisions of the bill) under section 1296(b).

For example, assume that a foreign corporation that qualifies as an ETC for the taxable year earns a total of $325 of income, all of which is subpart F income. The $325 total includes $200 of export trade income that is also classified under present law as passive income, $75 of export trade income that is not classified under present law as passive income, and $50 of passive income that does not qualify as export trade income. The total amount of export trade income ($275) does not exceed the limitation imposed by section 970(b) on the amount of export trade income that is permitted to reduce a subpart F income. The corporation would be considered under present law to earn $250 of passive income as defined for PFIC purposes. Under the bill, such amount of passive income for

[2] Compare section 2102(c)(2)(B), which provides a different unified credit against the U.S. tax on transfers of the taxable estate of a decedent nonresident alien than the unified credit against the U.S. tax on transfers of the taxable estate of a decedent U.S. person, and provides that the credit in the nonresident alien case may in some cases be the credit applicable to the estates of U.S. decedents reduced to reflect the proportion of the decedent's entire estate that is situated in the United States.

[1] In addition, stock held by a taxpayer is generally treated as stock in a PFIC if, at any time during the holding period of the taxpayer with respect to such stock, the corporation (or any predecessor) was a PFIC which was not a qualified electing fund. By contrast, if the stock was the subject of an election to be treated as a qualified electing fund with respect to the taxpayer, that stock is only treated as PFIC stock, and the taxpayer is only subject to qualified electing fund inclusions with respect to that stock, for years during which the asset or income test set forth in the text were met.

PFIC purposes would be reduced by $200, namely, the excess of (a) the $275 of export trade income that reduces subpart F income, over (b) the $75 of export trade income that is not also passive income under present law. Thus, the passive income of the ETC for PFIC purposes would be $250 less $200, or $50.

Effective date

The provision is effective for taxable years beginning after December 31, 1988, for which a foreign corporation is treated as an export trade corporation.

In addition, the bill provides an ETC that is a PFIC under present law additional time to elect to be treated as a qualified electing fund (under section 1295) and to elect to defer the payment of tax on the undistributed earnings of a qualified electing fund (under section 1294). Under the bill, the time for making either such election would not expire until at least 60 days after the enactment of the bill. Thus, such an ETC may make an election under section 1295 at any time up to 60 days after the date of enactment of the bill and, accordingly, avoid any treatment as a PFIC (with respect to years beginning after December 31, 1988) as a result of its PFIC status in prior years.

In conjunction with the extension of time to make elections under sections 1295 and 1294, the bill extends the limitations period for assessing or collecting any underpayment of tax resulting from such an election. In the case of either election, under the bill, the limitations period for such purposes will expire no earlier than the day which is three years after the date on which such election is made.

6. TREATMENT OF CERTAIN LEASED PROPERTY UNDER PASSIVE FOREIGN INVESTMENT COMPANY RULES (SEC. 6405(b) OF THE BILL AND SEC. 1296(e) OF THE CODE)

Present law

Generally a passive foreign investment company (PFIC) is any foreign corporation if (1) 75 percent or more of its gross income for the taxable year consists of passive income, or (2) 50 percent or more of the average fair market value (or at the election of the foreign corporation, the average adjusted bases) of its assets consists of assets that produce, or are held for the production of, passive income.[1] Passive income generally is defined as any income of a kind that would be foreign personal holding company income as defined in section 954(c), with certain exceptions relating to banking, insurance, and related-party income (sec. 1296(b)).

In 1988, the Internal Revenue Service in Notice 88-22, 1988-1 C.B. 489, provided certain guidance regarding the computation of the PFIC asset test. For purposes of this test, asset value (or basis) is determined on a gross basis, without taking into account liabilities. The average fair market values (or bases) of assets for the taxable year of the foreign corporation are the average of the values (or bases) of the assets determined as of the end of each quarterly period during the corporation's taxable year. Generally, an asset is characterized as passive if it has generated (or is reasonably expected to generate in the reasonably foreseeable future) passive income. Assets which generate both passive and nonpassive income in a taxable year are treated as partly passive and partly nonpassive assets in proportion to the relative amounts of income generated by those assets in that year.

For purposes of performing the PFIC asset test, assets in which the foreign corporation holds a leasehold interest are not taken into consideration.

Reasons for change

The committee understands that many service and certain other companies use few of their own assets in their active business operations. It is common for these companies to lease rather than buy the physical assets necessary for operations. The committee has been informed that computer and peripheral equipment are assets frequently leased in these industries.

The committee is concerned that the asset test for classification as a PFIC did not adequately reflect the business requirements of many service companies. Therefore, the committee believes it is appropriate to allow foreign corporations to account for leased equipment when performing the asset test.

Explanation of provision

Generally under the bill, any computer or related peripheral equipment with respect to which a foreign corporation is the lessee under a lease with a term of at least six months is considered to be an asset that is actually owned by such corporation for purposes of applying the PFIC asset test.[2] Thus, when applying the asset test, a foreign corporation will include the fair market value of any computer or related peripheral equipment in which it holds such a leasehold interest as of the end of each quarterly period of the corporation's taxable year. The leased asset's characterization as passive, nonpassive, or partly passive and partly nonpassive is based on whether the asset produces passive income, or is held for the production of passive income, in the same manner as assets actually owned by the corporation are so characterized.

For example, assume that at the end of each quarter of a foreign corporation's taxable year, the corporation has $100 of passive assets and is the lessee of computer or related peripheral equipment (subject to a lease term of at least six months) that has a fair market value of $200. Further, assume that the leased equipment produces active income. In this case, the average value for the taxable year of the corporation's passive assets constitutes only one-third of the average value of all of the assets of the corporation ($100 divided by $300). Therefore, the corporation would not be a PFIC under the asset test for the taxable year.[3]

As another example, consider the same facts as above, except that the corporation holds an interest in the leased assets at the end of the first quarter of its taxable year, and not at the end of the other three quarters. In this case, the average value for the taxable year of the corporation's passive assets constitutes 67 percent of the average value of all of the assets of the corporation ($100 divided by $150). Therefore, the corporation would qualify as a PFIC under the asset test for the taxable year.

Under the bill, the term computer or related peripheral equipment has the same meaning as provided in section 168(i)(2)(B). Under this section, a computer means a programmable electronically activated device which (1) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes without human intervention, and (2) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities. Related peripheral equipment includes any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of the computer. The term computer or related peripheral equipment specifically does not include (1) any equipment which is an integral part of other property which is not a computer, (2) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and (3) equipment of a kind used primarily for amusement or entertainment of the user.

Under the bill, certain exceptions apply to preclude foreign corporations from taking certain leased equipment into account in applying the PFIC asset test. First, in situations where the lessor of equipment is related to the lessee foreign corporation under the related person rules of section 1296(b)(2), such leased equipment will be disregarded. Second, if the lessee foreign corporation is also a sublessor of the leased equipment, such equipment will be disregarded. Finally, a foreign corporation will be precluded from taking leased equipment into consideration if a principal purpose of leasing the equipment was to avoid treatment as a PFIC.

Effective date

The provision is effective for taxable years beginning after December 31, 1988.

7. TREATMENT OF CERTAIN STOCK HELD BY CONTROLLED FOREIGN CORPORATIONS (SEC. 6405(c) OF THE BILL AND SEC. 958 OF THE CODE)

Present law

When a controlled foreign corporation earns subpart F income, including foreign personal holding company income or any other tax haven income, the corporation's U.S. shareholders generally are subject to current U.S. taxation on their pro rata shares of the subpart F income. The term foreign personal holding company income is defined generally to include, among other things, investment-type income. The term controlled foreign corporation includes a foreign corporation more than 50 percent of either the voting power or the value of the stock of which is owned, directly, indirectly, or by attribution (within the meaning of Code section 958), by U.S. persons that each own (directly, indirectly, or by attribution) at least 10 percent of the voting power on any day during the taxable year of the foreign corporation (sec. 957).

Reasons for change

The committee understands that there may be an issue whether, and if so the extent to which, present law permits regulations to be issued regarding the definition or tax treatment of contracts that may be variable contracts, issued by controlled foreign corporations to nonresident aliens or other foreign persons. The committee believes that if present law does provide such authority, it would also be appropriate for the

[1] In addition, stock held by a taxpayer is generally treated as stock in a PFIC if, at any time during the holding period of the taxpayer with respect to such stock, the corporation (or any predecessor) was a PFIC which was not a qualified electing fund. By contrast, if the stock was the subject of an election to be treated as a qualified electing fund with respect to the taxpayer, that stock is only treated as PFIC stock, and the taxpayer is only subject to qualified electing fund inclusions with respect to that stock, for years during which the asset or income test set forth in the text were met.

[2] Renewal options are disregarded in determining whether an asset has been leased for a period of at least six months.

[3] Of course, the corporation would still have to test for PFIC status under the PFIC income test.

Treasury to have the authority to issue certain regulations under subpart F. These regulations might clarify the tax treatment under subpart F of an investment company, the shares of which are held by a controlled foreign corporation solely for the benefit of owners of such contracts, in a way that would be consistent with regulations (if any) regarding the definition or tax treatment of such contracts.

The committee does not intend, however, to take a position on (a) whether regulations should be issued under this provision or other statutory provisions, or (b) whether regulations under other statutory provisions would be authorized under present law. Thus, to the extent that such regulations are not so authorized, the bill provides no additional authority to issue them, nor does the committee intend to imply that the Treasury has no such authority.

Explanation of provision

The bill provides that, solely for purposes of subpart F, the Secretary may, under regulations, provide that stock of an investment company shall not be treated as owned by a controlled foreign corporation to the extent that stock is held solely for the benefit of the foreign persons that are owners of variable contracts issued by the controlled foreign corporation.

Either issuance or nonissuance of regulations under this provision would be consistent with the committee's intent. The committee intends that if regulations are issued, they may be limited in scope as the Secretary deems appropriate. For example, regulations need not apply to investment company stocks held for the benefit of all types of foreign persons that own contracts issued by the controlled foreign corporation, but could be limited, for example, to stock held for the benefit of one or more particular types of foreign persons, such as nonresident alien individuals. No inference is intended concerning whether (1) any controlled foreign corporation affected by any regulations is a life insurance company, (2) the income of such a controlled foreign corporation is life insurance income, or (3) any variable contracts affected by any regulations meet the definition of life insurance contract. Moreover, it is not intended that the regulatory authority granted by the provision extend to the resolution of the issues in the previous sentence; rather, this authority is limited only to the issue of ownership for purposes of subpart F if the Treasury Department, through an exercise of existing regulatory authority, should reach this issue.

Effective date

The provision applies to taxable years of foreign corporations beginning after December 31, 1989.

8. EXCLUSION FOR CERTAIN OVERSEAS ALLOWANCES RECEIVED BY CERTAIN DEPARTMENT OF DEFENSE PERSONNEL (SEC. 6406 OF THE BILL AND SEC. 912 OF THE CODE)

Present law

Civilian officers and employees of the State Department and Central Intelligence Agency (CIA) are exempt from tax on certain amounts received as allowances or otherwise (but not amounts received as post differentials) related to their overseas assignments (sec. 912(1)(A) and (B)). The benefits entitled to tax exemption are those set forth in chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. secs. 4081-4086), in the case of State Department officers and employees, and in section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. sec. 403e), in the case of CIA officers and employees. Such benefits may include loans of household effects, health care, payment of certain work-related entertainment and representational expenses, and the payment of certain travel and related expenses of employees and their families, including expenses for travel and moving to and from assigned posts of duty, and travel for home leave, medical care, family visits, and the evacuation of families from dangerous foreign areas.

Beginning with Intelligence Authorization Acts for fiscal years 1982 and 1984 (Pub. Laws No. 97-89 and 98-215), the law has provided that comparable benefits could be given to civilian Defense Department employees assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States (10 U.S.C. sec. 1605) and to certain designated civilian and military Defense Department employees (generally National Security Agency personnel) assigned to special cryptologic activities outside the United States (section 9(b) of the National Security Agency Act of 1959, as amended (50 U.S.C. sec. 402 note)). The Code does not provide tax exemptions for these Defense Department employee benefits.

Reasons for change

Insofar as civilian Defense Department officers and employees assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States, and to special cryptologic activities outside the United States, may receive benefits intended to be comparable to the benefits such employees would receive were they engaged in similar activities in the employ of the State Department or the CIA, the committee believes that it is appropriate to provide tax treatment of such benefits similar to the tax treatment they would receive were such benefits received by employees of the State Department or the CIA.

Explanation of provision

The bill provides a tax exemption for those allowances and other items, comparable to the allowances and other items provided to civilian State Department and CIA employees, which are provided (under 10 U.S.C. sec. 1605 or sec. 9(b) of the National Security Agency Act of 1959, as amended) to civilian employees and officers of the Defense Department assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices outside the United States, or to special cryptologic activities outside the United States, in cases where such allowances or other items would be exempt under current law if received by civilian State Department or CIA employees.

Effective date

The provision is effective for allowances received after December 31, 1988, in taxable years ending after that date.

Subtitle E. Excise Tax Provisions

1. AVIATION EXCISE TAXES

a. Repeal of reduction in aviation-related excise taxes (sec. 6501 of the bill and sec. 4283 of the code)

Present law

The tax rates of certain of the excise taxes which fund the Airport and Airway Trust Fund (AATF) generally will be reduced by 50 percent as of January 1, 1990, because AATF appropriations for fiscal years 1989 and 1990 for airport improvement, facilities and equipment, and research, engineering and development programs were 79 percent, instead of at least 85 percent, of the amounts authorized for those fiscal years. The tax rate reductions are required under provisions of the Airport and Airway Revenue Act of 1987, because of the expressed concern by the Congress that the trust fund programs cited above were not being funded adequately.

The present AATF excise taxes are scheduled to expire after December 31, 1990.

The AATF excise tax rates which are scheduled to be reduced by 50 percent are: (1) 8 percent tax on air passenger transportation; (2) 5 percent tax on air freight; and (3) 14 cents-per-gallon tax on jet fuel used in noncommercial aviation. The 3 cents-per-gallon additional tax on gasoline used in noncommercial aviation (in addition to the basic 9 cents-per-gallon tax under sec. 4081) would be eliminated and 3 cents of the 9 cents-per-gallon gasoline tax would be refunded or credited to ultimate purchasers using the gasoline in noncommercial aviation. The $3 per person international departure tax is not scheduled to be reduced under present law.[1]

Reasons for change

The Administration proposed, in its budget recommendations, that the aviation tax reduction trigger be repealed. It also indicated, in a letter to the Chairman of the Committee on Ways and Means of the House of Representatives, its support for increased spending for the airport improvement program, with expressed concern for capacity and security projects. The Committee on Finance understands that the Administration continues to endorse that position.

Explanation of provision

Repeal of Tax Reduction

The 1990 reduction in AATF excise tax rates is repealed. Present-law excise tax rates relating to air passenger transportation, air freight transportation, and gasoline and other fuels used in noncommercial aviation will therefore remain unchanged through 1990.

Administration Position

The Administration proposed, in its budget recommendations, that the aviation tax reduction trigger be repealed. It also indicated, in a letter to the Chairman of the Committee on Ways and Means of the House of Representatives, its support for increased spending for the airport improvement program, with expressed concern for capacity and security projects. The Committee on Finance understands that the Administration continues to endorse that position.

Effective date

The provision is effective on January 1, 1990.

b. Modification of collection period for air passenger ticket tax (sec. 6504(a) of the bill and new sec. 6302(e) of the code)

Present law

An 8-percent excise tax is imposed on the value of air passenger transportation. Revenues collected under this and other aviation taxes are deposited in the Airport and Airway Trust Fund. This tax is effective through December 31, 1990.

The air passenger tax is billed to the customer with the charge for air transportation and is considered to be collected from the customer during the second following

[1] See, however, section 6502 of the bill (item 2, following), which increases the air passenger international departure tax to $6 per person, effective on January 1, 1990.

semi-monthly period. The tax is collected by the air carrier (or its agent) which provides the transportation. The tax must be deposited in a Federal Reserve Bank or other authorized depository within 3 banking days after the end of the semi-monthly period for which the tax is considered to be collected.

Reasons for change

The committee believes that it is important to have timely deposit of tax receipts, and acceleration of the payment of AATF excise tax receipts imposes no additional cost burden on the service providers charged with collecting the tax.

Explanation of provision

Under the bill, the air passenger tax collected during a semi-monthly period will be considered as collected during the first week of the second following semi-monthly period. The bill requires that the tax be deposited within 3 banking days after the end of the week for which such tax is considered to be collected.

Effective date

The provision is effective with respect to taxes considered collected for semi-monthly periods beginning after June 30, 1990.

c. Increase in international air passenger departure tax (sec. 6502 of the bill and sec. 4261(c) of the code)

Present law

The international air passenger departure tax is $3 per person. The tax is imposed when the air passenger ticket is purchased.

Revenues from this tax are deposited in the Airport and Airway Trust Fund. The tax is scheduled to expire after December 31, 1990.

Reasons for change

The cost of providing air navigation, safety, and other aviation-related services to international air passengers has more than doubled since the international air departures tax was imposed. The committee believes that this is a modest, and only partial, recovery of the costs incurred by the United States for these purposes.

Explanation of provision

The departure tax on international air passenger transportation is increased by $3 per person to $6 per person.

Effective date

The provision is effective on January 1, 1990, with respect to international departures on and after that date.

2. INTERNATIONAL DEPARTURE TAX ON SHIP PASSENGERS (SEC. 6503 OF THE BILL AND NEW SECS. 4471 AND 4472 OF THE CODE)

Present law

There are no Federal taxes or fees currently imposed on cruise or other ship passengers. Cruise ships using U.S. ports are subject to a .04 percent excise tax on the value of commercial cargo and passenger fares (sec. 4461). Revenues from this tax are deposited in the Harbor Maintenance Trust Fund.

Under special rules, no harbor maintenance tax applies to cruise ships loading or unloading with respect to cruises to or from Alaska, Hawaii, or a U.S. possession, unless the Alaska, Hawaii, or U.S. possession port is only a stopover to a foreign destination.

Reason for change

The tax will meet partially the expenses incurred by the United States in providing navigation, safety and other services to cruise ships and their passengers.

Explanation of provision

The bill imposes a tax of $3 per passenger on a covered voyage on a commercial passenger vessel having berth or stateroom accommodations for more than 16 passengers that embarks from a United States port on a voyage that extends over one or more nights. The tax also is imposed on a vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial sea of the United States. The tax is assessed only once for each passenger on a covered voyage, either when a passenger first embarks or disembarks in the U.S.

The tax is not imposed on a vessel on a voyage of less than 12 hours between two points in the United States, or a vessel owned and operated by a State or a political subdivision of a State.

Effective date

The provision is effective on January 1, 1990.

3. EXTENSION OF THE TELEPHONE EXCISE TAX (SEC. 6505 OF THE BILL AND SEC. 4251 OF THE CODE); MODIFY COLLECTION PERIOD FOR THE TELEPHONE EXCISE TAX (SEC. 6504 OF THE BILL AND SEC. 6302 OF THE CODE); TELEPHONE TAX EXEMPTION CERTIFICATES (SEC. 6504 OF THE BILL AND SEC. 4253 OF THE CODE)

Present law

Imposition of Tax

A 3-percent excise tax is imposed on amounts paid for local and toll (long-distance) telephone service and teletypewriter exchange service. The tax is collected by the provider of the service from the consumer (business and personal service). The tax is scheduled to expire after December 31, 1990.

Collection of Tax

Under present law, the telephone tax billed to the customer in a semi-monthly period is considered to be collected from the customer during the second following semi-monthly period. Such tax must be deposited in a Federal Reserve Bank or other authorized depository within 3 banking days after the end of the semi-monthly period for which the tax is considered collected. (Rev. Proc. 76-45, 1976-2 C.B. 668).

Telephone Tax Exemption Certificates

Exemptions from the telephone excise tax are provided for international organizations, the American Red Cross, servicemen in combat zones, nonprofit hospitals and educational organizations, State and local governments, and certain communications services furnished to news services (except local telephone service to news services). Other exemptions include amounts paid for installations charges, certain calls from coin-operated telephones, and private communications systems (*e.g.*, certain dedicated lines leased to a single business user (sec. 4253).

Under regulations, those claiming exemption are generally required to file annual exemption certificates (Treas. Reg. 49.4253-11).

Reasons for change

The committee believes it is inappropriate to permit an existing revenue source to expire when the Federal government's financing needs are great. In addition, the committee believes it is important to have timely deposit of tax receipts and that accelerating collection of the telephone excise tax imposes no additional cost burden on the service providers charged with collecting the tax.

Elimination of the requirement for certain exempt organizations to file annual exemption certificates will reduce the administrative burden of filing the exemption certificates.

Explanation of provisions

Extension of Tax

The 3-percent telephone excise tax is permanently extended.

Collection of Tax

Under the bill, the tax for a semi-monthly period is considered collected during the first week of the second following semi-monthly period. The tax is required to be deposited within 3 banking days after the end of the week for which such tax is considered to be collected.

Telephone Tax Exemption Certificates

Under the provision, those communications service recipients exempt from the tax on communications (telephone) services by reason of being a qualified international organization, nonprofit hospital, nonprofit educational organization, or a State or local government are relieved of having to file a certificate of exemption annually. Instead, such communications service recipients are granted a continuing exemption. However, should the service recipient no longer qualify for exemption or should the information on which the original exemption was based change, the service recipient must inform the service provider (who would collect the tax) within 30 days of such change in circumstances.

Effective dates

The extension of the tax is effective on January 1, 1991. The change in the collection of the tax is effective with respect to taxes considered collected for semi-monthly periods beginning after June 30, 1990. The change in filing of exemption certificates is effective to any claim for exemption made after the date of enactment. (Any annual exemption certificate effective on the date of enactment remains effective until the end of its annual period.)

4. PETROLEUM EXCISE TAX FOR OIL SPILL LIABILITY TRUST FUND (SEC. 6506 OF THE BILL AND SEC. 4611 OF THE CODE)

Present law

The Internal Revenue Code establishes an excise tax of 1.3 cents per barrel on domestic crude oil and imported petroleum products (including imported crude oil) for the purpose of funding the Oil Spill Liability Trust Fund. However, the tax has not been imposed because qualified legislation authorizing expenditures from the Trust Fund has not yet been enacted.[1]

The excise tax on domestic crude oil would be imposed on the operator of any United States refinery receiving such crude oil, while the tax on imported petroleum products would be imposed on the person entering the product into the United States for consumption, use, or warehousing. If domestic crude oil were used in, or exported from, the United States before imposition of the tax on the operator of a refinery, the tax would be imposed on the user or exporter of the oil.

Repayable advances could be made to the Trust Fund from the general fund of the Treasury in a maximum outstanding amount of $500 million. The maximum

[1] The Code (sec. 4611(f)) requires that the authorizing legislation must be substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

amount which could be paid from the Trust Fund for any single incident is $500 million, no more than $250 million of which could be used to pay for natural resource damage claims (sec. 9509(c)). Certain costs incurred by the Federal Government for oil spill removal are authorized by the Federal Water Pollution Control Act and the Intervention on the High Seas Act, and therefore are permissible Trust Fund expenditures. Although these expenditures are subject to appropriation, they do not require the enactment of the qualified authorizing legislation which is necessary to commence collection of the 1.3-cent-per-barrel excise tax.

The Oil Spill Liability Trust Fund excise tax is scheduled to expire on December 31, 1991. The tax will terminate earlier than that date if the Secretary of the Treasury estimates that $300 million will be credited to the Trust Fund before January 1, 1992.

Reasons for change

The committee believes it is important to begin to collect the petroleum excise tax to provide the necessary funds to clean up future oil spills. Because recent events have demonstrated the magnitude of such costs, the committee further believes it is appropriate to accelerate collection of the Trust Fund tax, so that funds are available to meet any significant future contingencies.

Explanation of provision

The provision modifies present law to impose the petroleum excise tax at a rate of 3 cents per barrel, and to commence collection of the tax. The balances accruing to the Trust Fund may be used for those expenditure purposes which do not require the enactment of qualified authorizing legislation under present law. Upon the enactment of qualified authorizing legislation, Trust Fund amounts will be available for additional expenditure purposes. The bill also provides that, for the purpose of making available additional expenditure purposes, qualified authorizing legislation includes S. 686, "The Oil Pollution Liability and Compensation Act of 1989," as passed by the Senate on August 4, 1989. As under present law, collection of the tax will cease December 31, 1991, or earlier if the Secretary of the Treasury estimates that $300 million will be credited to the Trust Fund before that date.

Effective date

The provision authorizes the collection of the excise tax to commence on January 1, 1990, with respect to domestic crude oil received at a refinery and with respect to imported crude oil and imported petroleum products entering into the United States.

5. EXCISE TAX ON OZONE-DEPLETING CHEMICALS (SEC. 6507 OF THE BILL AND NEW SECS. 4681 AND 4682 OF THE CODE)

Present law

The use or manufacture of chemicals which deplete the earth's ozone layer is not subject to Federal tax under present law.

Reasons for change

The committee finds compelling the growing evidence of depletion of the earth's ozone layer. The committee recognizes that the United States is a signatory to the Montreal protocol in which many industrialized nations have agreed to reduce their production and consumption of ozone-depleting chemicals. The committee believes that economic incentives can enhance the conservation effort and speed the search for safe substitutes. Therefore, the committee believes it is important to complement the objectives of the Montreal protocol by taxing ozone-depleting chemicals (in proportion to the harm they cause the ozone layer) and to, thereby, permit market forces to aid the work of finding substitutes and fostering reduced use of ozone-depleting chemicals. In addition, the committee believes the revenues raised are important in an era of large Federal budget deficits.

Explanation of provision

In General

The provision assesses an excise tax on the sale or use by a producer, manufacturer, or importer of certain ozone-depleting chemicals. The amount of tax is determined by multiplying a base tax amount by an "ozone-depleting factor."

Ozone-Depleting Chemicals

Ozone-depleting chemicals include: chlorofluorocarbons ("CFCs") (which generally are used as refrigerants, foam blowing agents, and solvents) and halons. The specific chemicals subject to tax are listed below.

Ozone-depleting chemicals subject to tax:—CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, halon-1211, halon-1301, and halon-2402.

The chemicals subject to tax are those identified as ozone-depleting under the Montreal protocol as in effect on the date of committee action. Subsequent changes to the list of ozone-depleting chemicals under the Montreal protocol will not change the list of chemicals subject to tax without further Congressional action.

Base Tax Amount

For calendar year 1990, the base tax amount is $1.07 per pound of ozone-depleting chemical; for 1991, the base tax amount is $1.12 per pound; for 1992, the base tax amount is $1.67 per pound; and for 1993 and beyond, the base tax amount is $3.15 per pound.

Ozone-Depleting Factor

The ozone-depleting factor reflects the potential ozone depletion which results from one kilogram of a given chemical compared to the ozone depletion which results from one kilogram of CFC-11 (trichlorofluoromethane).[1] The table below lists the ozone-depleting factors for the ozone-depleting chemicals identified in the bill.

Ozone-depleting chemical and factor:	
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0

The ozone-depleting factors are those identified in the Montreal protocol as in effect on the date of committee action. Subsequent changes to the list of ozone-depleting factors under the Montreal protocol will not change the list of ozone-depleting factors for purpose of computation of the tax without further Congressional action.

Exemptions and Reduced rate of tax for certain chemicals or certain uses

1990 exemption for production of rigid foam insulation and production of halons.—The bill provides that for calendar year 1990, the sale or use by a producer, manufacturer, or importer of halons or ozone-depleting chemicals used in the production of rigid foam insulation is exempt from the tax.

Reduced rate of tax for ozone-depleting chemicals used in the production of rigid foam insulation—The bill provides a reduced rate of tax for calendar years 1991 through 1993 for any ozone-depleting chemcial which is otherwise subject to tax and used in the production of rigid foam insulation. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The applicable percentage is 23 percent for calendar year 1991; 16 percent for calendar year 1992; and 8 percent for calendar year 1993.

Reduced rate of tax for Halon 1211, Halon 1301, and Halon 2402.—The bill provides a reduced rate of tax for calendar years 1991 through 1993 for Halon 1211, Halon 1301, and Halon 2402. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The table below represents the applicable percentages.

Chemical	Applicable percentage		
	1991	1992	1993
Halon-1211	7	5	3
Halon-1301	2	1	1
Halon-2402	4	2	1

Exemption from tax for feedstock chemicals. The bill provides that ozone-depleting chemicals which are used as feedstock for the manufacture or production of other ozone-depleting or non-ozone-depleting chemicals will not be subject to the tax. The committee intends that this exemption apply only to ozone-depleting chemicals used as feedstock in such a way that the ozone-depleting chemical is used and entirely consumed in the production of another chemical. If production of another chemical involves releasing an ozone-depleting chemical into the atmosphere, this exception does not apply.

Application for refund of overpayment of tax. If tax has been paid on ozone-depleting chemicals used in the production of rigid foam insulation or used in the production of another chemical at a rate higher than that required, the excess is credited or refined (without interest) to the producer of such rigid foam insulation or other chemical.

Imports

The tax applies to any taxable ozone-depleting chemical which is imported into the United States and to any product or substance imported into the United States in which a taxable ozone-depleting chemical was used in the manufacture or production. The amount of tax imposed on such imported products is the amount of tax which would have been imposed on the ozone-depleting chemicals used in the manufacture or production of the product had the product been manufactured in the United States.

For example, if each widget contains 15 ounces of CFC-11 and if in the production of each widget an additional ounce of CFC-11 escapes into the atmosphere, then the widget upon its import is taxed as though it represents one pound of CFC-11.[2] In cir-

[1] CFC-11 is assigned an ozone depleting factor of 1.0.

[2] If the importer can certify to the Secretary that the imported product was manufactured with recycled ozone-depleting chemicals, the committee intends that the Secretary provide relief consistent with that provided for ozone-depleting chemicals recycled in the United States. See below for exception granted for recycling.

cumstances where the importer provides insufficient information to determine the amount of ozone-depleting chemicals in a product, the Secretary shall impose a tax equal to 5 percent of the appraised value of the product.

The bill provides that the Secretary may prescribe regulations exempting *de minimis* amounts of ozone-depleting chemicals from tax upon import. However, this *de minimis* exception does not apply with respect to any product in which any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creation of an aerosol of foam, or in the manufacture of electronic components.

The committee understands that the following commonly imported products may contain ozone-depleting chemicals or may have ozone-depleting chemicals used in their manufacture: automobiles and light trucks; home refrigerators and home freezers; home air conditioners and air conditioner compressors; video cassette recorders; radios; televisions; electronic typewriters; stereo tapes; stereo amplifiers; electronic calculators; copiers; telephones; clothes washers and dryers; microwave ovens; electronic toys and games; cameras; computers; audio tape recorders; contact lenses; lenses for glasses; sterile packaging; dialysis components; artificial limbs and joints; circuit boards; semiconductors; silicon wafers; ball bearings; polyethylene sheets; and molded plastic parts.

Exceptions

Exception for recycling.—The tax imposed does not apply to any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process. This exception does not apply to any ozone-depleting chemical recovered by the manufacturer as part of the original manufacturing process.

Exception for exported chemicals.—The bill provides that each producer of ozone-depleting chemicals may export a percentage of annual production tax-free. The percentage permitted is equal to that percentage of the producer's 1986 production of ozone-depleting chemicals which was exported in 1986. The percentage for any year and that for 1986 is to be calculated as the ozone-depleting factor adjusted pounds of export divided by the ozone-depleting factor adjusted pounds of production. For example, if, in 1986, XYZ Company produced 100 pounds of CFC-12 (ozone-depleting factor of 1.0) and 200 pounds of CFC-113 (ozone-depleting factor of 0.8) and exported 20 pounds of each chemical, the percentage of annual production which was exported in 1986 is determined as 20 pounds multiplied by 1.0 plus 20 pounds multiplied by 0.8, divided by 100 pounds multiplied by 1.0 plus 200 pounds multiplied by 0.8, which equals 13.8 percent.[3] If, in 1990, XYZ Company produces 100 pounds of CFC-12 and 100 pounds of CFC-113 and the company may export 24.84 ozone-depleting factor adjusted pounds of ozone-depleting chemicals free of tax.[4] This means XYZ Company could export 24.84 pounds of CFC-12 free of tax, or it could export 31.05 (24.84 divided by 0.8) pounds of CFC-113 free of tax, or it could export 18 pounds of CFC-12 and 8.55 pounds of CFC-113 free of tax, or any other combination such that the ozone-depleting factor adjusted weight equals 24.84 pounds.

In addition, any additional production allowance granted by the EPA (under existing regulations) under the condition that it will be exported[5] will be exempt from the tax upon export.

Review of Tax Rates for 1993 AND BEYOND

The committee's goal is to induce conservation in the use of ozone-depleting chemicals and to speed the search for safe substitutes, as well as to raise revenue. The committee understands that with any new tax much uncertainty may surround the economic effects of the tax. Consequently, the committee invites the Treasury to monitor the economic effects of the tax and make recommendations for changes in the tax, either in chemicals subject to tax, the base rate of tax, or ozone-depleting factors. However, the committee also believes that it is important to give the marketplace some time to respond to the incentives the tax creates. Year-to-year alterations in the tax would confound the workings of the marketplace. Since the provision would raise the base tax rate from $1.67 per pound in 1992 to $3.15 per pound in 1993, any recommendations the Secretary might care to make would be most useful if transmitted to the Committee on Ways and Means and the Committee on Finance between April 1, 1992 and October 1, 1992. The committee also invites the Secretary to report on whether additional changes in the tax are needed to conform to the Montreal protocol if subsequent amendments are made to that agreement.

Effective date

The provision is effective for ozone-depleting chemicals sold or used after December 31, 1989. In addition, a floor stocks tax is imposed on ozone-depleting chemicals held by a person other than the manufacturer or importer for sale or use on January 1, 1990. However, the initial deposits of taxes due need not be made until April 1, 1990. A floor stocks tax is also imposed on each subsequent change in the tax rate for any taxable chemical.

6. EXCISE TAX FOR WETLANDS TRUST FUND (SEC. 6508 OF THE BILL AND NEW SECS. 4691, 4692, AND 9511 OF THE CODE)

Present law

Excise taxes are imposed under present law with respect to certain substances, such as crude oil, feedstock chemicals, and chemical derivatives. Receipts from these excise taxes are appropriated to trust funds to pay costs incurred in the cleanup of hazardous wastes, oil spills, and leaking underground storage facilities.

Internal Revenue Code section 4611 establishes an excise tax of 1.3 cents per barrel on domestic crude oil and imported petroleum products (including imported crude oil) for the purpose of funding the Oil Spill Liability Trust Fund (the "Oil Spill Fund"). However, under present law, the tax will not be imposed until qualified authorizing legislation is enacted.[1] Oil Spill Fund expenditure purposes would include payment of removal costs of an oil spill and certain otherwise uncompensated claims. In addition, funds would be available to carry out specific provisions of other legislation relating to oil discharges and pollution. The Oil Spill Fund excise tax currently is scheduled to expire on December 31, 1991, or on an earlier date if the Secretary of the Treasury estimates that $300,000,000 will be credited to the Fund before January 1, 1992.

The Offshore Oil Pollution Compensation Fund (the "Offshore Pollution Fund") is established by Title 43 U.S.C. section 1812. The Offshore Pollution Fund is financed by a fee not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which is imposed on the owner of the oil when it is produced, and by monies recovered by the Fund in actions against polluters. The Offshore Pollution Fund is available to pay for offshore (and adjoining shoreline) cleanups and for damages resulting from an oil spill where the owner or operator of a vessel or offshore facility is incapable of meeting its obligation. The fee authorized by 43 U.S.C. section 1812 may be modified to insure that the Offshore Pollution Fund is maintained at a level between $100,000,000 and $200,000,000.[2]

Reasons for change

The committee believes it is appropriate to provide for the imposition of excise taxes on oil and natural gas obtained from the Outer Continental Shelf in order to fund a Wetlands Trust Fund to be used to preserve, protect, enhance, and restore wetlands.

Explanation of provision

An excise tax of 3 cents per barrel is imposed on oil obtained from the Outer Continental Shelf (i.e., from offshore drilling)[3] for the purpose of financing a Wetlands Trust Fund. In addition, an excise tax of 2 cents per thousand cubic feet is imposed on natural gas obtained from the Outer Continental Shelf, also for the purpose of financing the Wetlands Trust Fund. The person who owns the oil or natural gas at the time it is produced is liable for the payment of the excise taxes imposed by the provision.

Receipts collected from excise taxes imposed under this provision will be appropriated to the Wetlands Trust Fund and made available for making expenditures to carry out the creation, restoration, protection, enhancement, and conservation of wetlands upon enactment of, and as provided in, qualified authorizing legislation substantially similar to S. 1731 of the 101st Congress, as introduced in the Senate and, if necessary, any appropriations Acts. The excise taxes provided for by this provision will expire after December 31, 1994.

Effective date

The excise taxes provided for by the provision are effective on January 1, 1990.

7. ACCELERATION OF DEPOSIT REQUIREMENT FOR GASOLINE EXCISE TAX (SEC. 6509 OF THE BILL AND SECS. 6302(F) AND 6504 OF THE CODE)

Present law

Deposits of gasoline excise tax liability are made monthly or semi-monthly, depending on the amount of tax to be deposited.

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[3] With this exception of percentage of exports, the committee intends to conform with the Environmental Protection Agency ("EPA") regulations implementing the Montreal protocol (see, 40 CFR part 82).

[4] XYZ Company's 1990 production adjusted for the ozone-depleting factors of its products is 100 pounds multiplied by 1.0 plus 100 pounds multiplied by 0.8, which equals 180 pounds. XYZ Company's 1986 export percentage was 13.8, as determined above. Consequently, they may export 0.138 multiplied by 180 pounds, or 24.84 ozone-depleting factor adjusted pounds, free of tax.

[5] See, sec. 82.9 of the EPA regulations.

[1] See separate provision in this bill, item 4 above.

[2] Pursuant to this discretion, the fee currently is not being imposed.

[3] For purposes of the provision, the term "Outer Continental Shelf" has the meaning given such term by section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1331(a)).

Taxpayers must make monthly deposits of tax for any month in which they are liable for more than $100 of taxes, and the monthly deposits are due by the last day of the following month. Taxpayers liable for more than $2,000 of excise taxes for any month of a calendar quarter must make semi-monthly deposits in the following quarter 9 days after the end of a semi-monthly period which ends on the 15th or last day of a month. Taxpayers who deposit by electronic wire transfers to a government depositary have until 14 days after the end of a semi-monthly period to make the transfer.

Reasons for change

The committee believes that large deposits of excise tax collections are able to make more frequent deposits of excise taxes without any harmful commercial effects.

Explanation of provision

Taxpayers which have more than $100 in any month of a calendar quarter of gasoline excise tax liability will make tax deposits four times in a month.

Nine day and 14 day depositors will make tax deposits at those same intervals after the end of the tax period, but there will be four tax periods in each month. The tax periods will end on the 7th, 14th, 21st, and last days of the month. Nine day taxpayers will deposit tax liabilities, with respect to the weekly tax periods on the 16th, 23rd, 30th days, respectively, of the same month and on the 9th day of the succeeding month. For the same tax periods, 14 day taxpayers will make their deposits on the 21st and 28th days, respectively, of the current month and on the 7th and 14th days of the succeeding month.

The following table also sets forth the payment schedules provided in the bill.

Days in tax period	9 day payers	14 day payers
1st to 7th	16th day current month	21st day current month
8th to 14th	23rd day current month	28th day current month
15th to 21st	30th day current month	7th day current month
22nd to last	9th day next month	14th day next month

Effective date

The provision is effective on January 1, 1990.

8. DEFINITION OF WHOLESALE DISTRIBUTORS OF DIESEL FUEL (SEC. 6510 OF THE BILL AND SECS. 4092 AND 4093 OF THE CODE)

Present law

The excise tax on diesel and special fuels was imposed at the producer or importer level under the Omnibus Budget Reconciliation Act of 1987 (OBRA), beginning on April 1, 1988. As a result, retail distributors would not be able to purchase the fuels tax-free, and off-highway users of the fuels (e.g., business, farmers, State and local governments, and airlines) would purchase the fuels tax-paid and apply for refunds.

Congress amended the locus of tax imposition in the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), and restored the ability of off-highway fuels users to purchase fuels tax-free.

Under OBRA, the definition of a wholesale distributor was revised to include distributors who sell taxable fuels in bulk quantities. In Notice 89-38, the Internal Revenue Service provided that a person who sells 70 percent or more of its fuel to tax-exempt users would qualify as a wholesale distributor who would be entitled to purchase and sell fuel tax free.

In the course of the legislative process in 1988, Congress intended to revise how exempt diesel fuels users could purchase tax-free fuel.

Reasons for change

There was some uncertainty about the timing of the changes that Congress was in the process of making in 1988 to the rules governing the imposition of the diesel fuel excise tax. The amendment is intended to make administrative allowances for dealers and distributors for the period from April 1, 1988, through December 31, 1988.

Explanation of provision

The bill provides that a sale of taxable fuel by a registered producer to a qualified person shall be exempt from the tax imposed by section 4091. A qualified person is liable for tax on its sales of taxable fuel for uses which are not described as exempt uses in section 4093(c), i.e., diesel powered trains, aircraft, and certain bus uses, as that provision was in effect on April 1, 1988, and aviation fuel sold for use, or used as, supplies for vessels or aircraft.

The term qualified person means any person who (1) elects to be treated as a qualified person, and (2) who meets the definition of wholesale distributor as in effect on January 1, 1989, for the purposes of section 4092(b). Section 4101 shall not apply to any qualified person.

Effective date

The provision is effective as if included in the Omnibus Budget Reconciliation Act of 1987.

9. REDUCTION IN OCCUPATIONAL TAX ON SMALL RETAIL ALCOHOLIC BEVERAGE DISTRIBUTORS (SEC. 6511 OF THE BILL AND SEC. 5121 OF THE CODE)

Present law

The occupational tax on retail dealers which sell alcoholic beverages is $250 per year. The occupational tax was increased from $54 per year in the Omnibus Budget Reconciliation Act of 1987, and became effective on January 1, 1988.

Reasons for change

The committee has learned that the $250 retail occupational tax is too high for certain small retail dealers, and the change is made to provide a slightly more articulated structure of occupational taxes which recognizes the proportionate burden of the tax on different size business.

Explanation of provision

The provision reduces the occupational tax on certain retail dealers which sell alcoholic beverages from $250 to $150 per year. The reduction applies to a dealer with annual gross receipts from the sale of alcoholic beverages less than $250,000 and in which at least one-third of the alcoholic beverages sold are consumed on the premises of the dealer.

Effective date

The amendment providing for a reduced occupational tax for certain small alcoholic dealers is effective for taxable years beginning after December 31, 1989.

10. PROHIBITION ON ASSESSMENTS OR COLLECTIONS OF OCCUPATIONAL TAX FOR TAXABLE PERIODS BEGINNING BEFORE JULY 1, 1985 (SEC. 6512 OF THE BILL AND SEC. 5121 OF THE CODE)

Present law

The occupational tax on retail establishments which sell alcoholic beverages is $250 per year. The occupational tax was increased from $54 per year in the Omnibus Budget Reconciliation Act of 1987, and became effective on January 1, 1980.

Since the increase in the occupational tax and transfer of responsibility for administration of alcohol taxes to the Bureau of Alcohol, Tobacco and Firearms (BATF), enforcement activities have been intensified in a systematic manner. As a result, some taxpayers were located who had not paid occupational taxes for a number of years, some for a large number of years. Many taxpayers accused of tax delinquency claim to have not been aware of the existence of the occupational tax. Nevertheless, they have been assessed for back taxes plus interest and penalties on the back taxes.

Reasons for change

The committee believes that a three-year statute of limitations should apply.

Explanation of provision

The bill establishes that payments due on unpaid occupational taxes arising from taxable periods beginning before July 1, 1985, will not be pursued. If such tax—due from taxable periods before July 1, 1985—was collected after December 31, 1987, the amount shall be credited or refunded.

Effective date

The proposal is effective on the date of enactment.

11. ALLOW EXPENDITURES FROM THE AIRPORT AND AIRWAY TRUST FUND FOR ESSENTIAL AIR SERVICES (SEC. 6513 OF THE BILL AND SEC. 9502 OF THE CODE)

Present law

Excise tax receipts appropriated to the Airport and Airway Trust Fund (AATF) may be spent only for statutory purposes specified in section 9502 of the Internal Revenue Code. Generally, these purposes are (1) airport improvement, which includes airport development and planning, noise abatement at airports, and enhancing airport capacity; (2) airway systems improvement, which includes air navigation and communications facilities and equipment, and instrument landing systems; (3) portions of administrative expenses which are attributable to activities under points (1) and (2); and (4) research, engineering and development, and demonstrations, which include projects relating to such activities as air traffic control, air navigation, aviation weather, aviation medicine, aircraft safety, environmental problems, and human factors.

Section 419 of the Federal Aviation Act of 1958, as amended, provides for subsidization of essential air services to an eligible point which is more than 45 highway miles from an airport hub and which has lost what is determined by the Secretary of Transportation to be essential air service. The Secretary is authorized to provide a reasonable amount of compensation to an air carrier which is selected to provide air services to an eligible point. Guidelines for determining compensation are to "include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service."

Reasons for change

The Committee believes that Airport and Airway Trust Fund expenditure purposes should reflect current provisions in the Federal Aviation Act of 1958, as amended to date.

Explanation of provision

The bill amends the expenditure purposes of the Airport and Airway Trust Fund to include the essential air services program which is authorized in section 419 of the Federal Aviation Act of 1958, as amended.

Effective date

The provision applies to obligations incurred in fiscal years beginning after September 30, 1989.

12. PROVIDING TOLERANCE LIMITS FOR BLENDING OF GASOHOL (SEC. 6514 OF THE BILL AND SEC. 4081 OF THE CODE)

Present law

Gasohol blenders which produce a blend containing 10 percent alcohol and 90 percent gasoline may receive a credit of refund of 6 cents per gallon of the 9 cents per gallon gasoline excise tax which is dedicated to the Highway Trust Fund.

Blenders have found in practice that it is difficult to achieve precisely the 10 percent alcohol content in a gasohol blend because of (1) mechanical imprecision in metering alcohol into a tankload of gasoline which can occur because the calibration of dispensing equipment may have become inexact during usage and (2) cut-off valves which do not respond instantaneously to mechanical or electronic signals to cease dispensing.

Reasons for change

The committee believes that providing an allowance for error in mechanical and electronic delivery and blending devices recognizes the imprecision that characterizes those aspects of the gasohol industry.

Explanation of provision

A range of tolerance of plus or minus one-tenth of one percent (+/− 0.1%) is considered as meeting the requirements of a gasohol blend of 10 percent alcohol, so long as over a reasonable period of time the average ratio of alcohol to gasoline is 10.0 percent. The Secretary is instructed to provide regulations governing the administration of this provision.

Effective date

The provision is effective on January 1, 1990.

13. REFUND PROCEDURE FOR GASOLINE USED ON FARMS BY CROP DUSTERS (SEC. 6515 OF THE BILL AND SEC. 6420 OF THE CODE)

Present law

Crop dusters, who make aerial applications to farmers' crops, do not have to pay the excise tax on gasoline because the gasoline is not used on highways. In order to avoid payment of the gasoline tax, however, crop dusters must obtain a waiver from the farmer which provides that the farmer does not want the excise tax exemption and that the crop duster may claim it, even though the off-highway use took place on the farmers' land.

Crop dusters have found this procedure to be both burdensome and cumbersome, and have sought relief in favor of a process which allows them to claim an exemption for off-highway gasoline use directly without having to involve farmers in the process.

Reasons for change

The committee believes that allowing crop dusters to apply for gasoline refunds directly will simplify administration of the gasoline tax for crop dusters, farmers, and the Internal Revenue Service.

Explanation of provision

The provision will allow crop dusters to apply for gasoline tax refunds or purchase tax-free gasoline for off-highway farm use in aerial applications without having first to receive a waiver from a farmer.

Effective date

The provision applies to gasoline purchased after December 31, 1989.

14. ALCOHOL FUELS CREDIT EXTENDED TO PRODUCTION OF ETBE (SEC. 6516 OF THE BILL AND SEC. 40 OF THE CODE)

Present law and background

Ethanol and methanol used in a mixture with gasoline or diesel or special fuels are eligible for a tax credit of 60 cents per gallon. The credit may be taken by a manufacturer who sells the alcohol for use as a fuel or uses the alcohol himself as a fuel. Alcohol qualifying for the credit must be at least 190 proof and produced from substances other than petroleum, natural gas, or coal (including peat). A reduced credit of 45 cents per gallon is allowed for alcohol at least 150 proof but less than 190 proof. Adding any denaturant to alcohol is not treated as production of a gasohol mixture. The alcohol fuel credit and the reduced excise tax rates on gasohol mixtures may not be taken with respect to the same gallon of alcohol.

ETBE (ethyl tertiary butyl ether) has been developed for use as an alternative blending agent with gasoline and special fuels to produce an efficient and environmentally benign fuel mixture.

Reasons for change

The committee believes that serious concerns about the dangers of environmental deterioration and the increasing U.S. dependence on imported oil require it to make available existing incentives to new technologies.

Explanation of Provision

Manufacturers of ETBE for use in making mixtures with gasoline, diesel, and special fuel are eligible for the 60 cents per gallon alcohol credit. The credit is not available to blenders, and ETBE fuel mixtures are not eligible for the 6 cents per gallon excise tax credit or refund available for qualified gasohol mixtures.

Effective date

The amendment applies to taxable years beginning after December 31, 1989.

15. ELIMINATE EXCISE TAX ON INACTIVATED POLIO VACCINE (SEC. 6517(a) OF THE BILL AND SEC. 4132 OF THE CODE)

Present law

An excise tax is imposed on the sale of a taxable vaccine by a manufacturer, producer, or importer of such vaccine (sec. 4131). Four vaccines are subject to excise tax at different rates including polio vaccine which is subject to a tax of 29 cents per dose.

The net revenues received from the excise tax on vaccines are deposited into the Vaccine Injury Compensation Trust Fund. Amounts in the trust fund are available, as provided through appropriations, for payment of compensation for vaccine-related injury or death through the National Vaccine Injury Compensation program. In particular, injuries or death resulting from anaphylaxis or anaphylatic shock of which the first mainfestation occurs within 24 hours of the administration of inactivated polio vaccine (IPV) may be eligible for compensation under the program.

Reasons for change

The committee understands that the risk of injury resulting from the administration of IPV is significantly less than from other types of polio vaccine. Therefore, the committee believes that the exise tax on IPV should be eliminated. However, the committee recognizes the importance of maintaining the funding level in the Vaccine Injury Compensation Trust Fund and assuring that the burden of the excise tax is allocated fairly among different types of vaccines. Thus, the elimination of tax on IPV is effective only upon the elimination of IPV from the list of vaccines for which compensation may be payable under the National Vaccine Injury Compensation program.

Explanation of provision

Inactivated polio virus vaccine is excluded from the definition of polio vaccine for purposes of the excise tax on vaccines.

Effective date

The provision is effective for vaccine sold on or after the date upon which any injuries or death resulting from the administration of IPV on and after such date are no longer eligible for compensation under terms of the National Vaccine Injury Compensation program.

16. PERMIT APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES FROM THE VACCINE INJURY COMPENSATION TRUST FUND (SEC. 6517(b) OF THE BILL AND SEC. 9510 OF THE CODE)

Present law

Amounts equivalent to the net revenues received in the Treasury from the excise tax imposed on certain vaccines (sec. 4131) are appropriated to the Vaccine Injury Compensation Trust Fund. Amounts from the Trust Fund are available, as provided in appropriations Acts, for the payment of compensation for vaccine-related injury or death.

Explanation of provision

The provision permits amounts (but not to exceed $6 million annually) from the Trust Fund to be available, as provided in appropriations Acts, for the payment of administrative expenses of the National Vaccine Injury Compensation Program. The provision is effective for fiscal years beginning after September 30, 1989; actual payments are subject to the enactment of authorizing appropriations legislation.

Subtitle F. Certain Other Provisions

A. Like-kind exchanges: Restrict certain like-kind exchanges involving related parties (sec. 6601 of the bill and sec. 1031 of the Code)

Present law

An exchange of property, like a sale, generally is a taxable transaction. However, no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged solely for property of a "like-kind" which is to be held either for productive use in a trade or business or for investment (sec. 1031).

If related parties engage in a like-kind exchange that qualifies for nonrecognition treatment under section 1031, a subsequent disposition of the property by the transferee generally will not affect the nonrecognition treatment of the original exchange. In contrast, present law prevents the use of related party sales to avoid current recognition of gain in the case of installment sales. Under section 453 (relating to the installment method of reporting gain), if an installment sale between related parties is followed by certain dispositions of the property by the transferee, the gain reportable by the original seller will be accelerated.

Reasons for change

Because a like-kind exchange results in the substitution of the basis of the ex-

changed property for the property received, related parties have engaged in like-kind exchanges of high basis property for low basis property in anticipation of the sale of the low basis property in order to reduce or avoid the recognition of gain on the subsequent sale. Basis shifting also can be used to accelerate a loss on retained property. The committee believes that if a related party exchange is followed shortly thereafter by a disposition of the property, the related parties have, in effect, "cashed out" of the investment, and the original exchange should not be accorded nonrecognition treatment.

Explanation of provision

If a taxpayer exchanges property with a related party (as defined for purposes of sec. 267) and the taxpayer would otherwise be eligible for nonrecognition treatment with respect to the exchange of such property under section 1031, and within two years of the date of the last transfer which was part of the exchange, either the related party disposes of such property or the taxpayer disposes of the like-kind property received in the exchange from the related party, then the original exchange will not qualify for nonrecognition under section 1031. Any gain or loss not recognized by the taxpayer as of the date of the original exchange will, subject to the loss limitation rules of section 267, be recognized as of the date of the subsequent disposition. Adjustments to the basis of the properties involved in the exchange also will be made as of the date of the subsequent disposition.

A disposition of the property will not invalidate the nonrecognition treatment of the original exchange if such disposition is due to the death of either party or the involuntary conversion of the property (within the meaning of section 1033), provided that the original exchange occurred before the threat or imminence of the conversion. A disposition also will not invalidate the nonrecognition treatment of the original exchange if it is established to the satisfaction of the Secretary of the Treasury that neither the exchange nor the disposition had as one of its principal purposes the avoidance of Federal income tax. It is intended that the non-tax avoidance exception generally will apply to: (i) a transaction involving an exchange of undivided interests in different properties that results in each taxpayer holding either the entire interest in a single property or a larger undivided interest in any of such properties; (ii) dispositions of property in nonrecognition transactions; and (iii) transactions that do not involve the shifting of basis between properties.

A disposition includes indirect dispositions of the property, such as by means of the disposition of the stock of a corporation or interests in a partnership that owns the property.

Nonrecognition will not be accorded to any exchange which is part of a transaction or series of transactions structured to avoid the purposes of the related party rules. For example, if a taxpayer, pursuant to a prearranged plan, transfers property to an unrelated party who then exchanges the property with a party related to the taxpayer within two years of the previous transfer in a transaction otherwise qualifying under section 1031, the related party will not be entitled to nonrecognition treatment under section 1031.

The running of the two-year holding period will be suspended during any period with respect to which a party's risk of loss with respect to the property is substantially diminished.

Effective date

The provision applies to transfers after July 10, 1989, other than transfers pursuant to a written binding contract in effect on July 10, 1989 and at all times thereafter before the transfer. For this purpose, a written contract which, on July 10, 1989, and at all times thereafter before the transfer, obligates the taxpayer to transfer the property to another party will not fail to qualify as a binding contract solely because it provides in the alternative for an exchange or a sale, or solely because the property to be received in the exchange was not identified on or before July 10, 1989.

B. Modifications to the alternative minimum tax (sec. 6611 of the bill and secs, 53, 55–59 of the code)

Present law

Under present law, taxpayers are subject to an alternative minimum tax which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. The tax is imposed at a flat rate of 21 percent (20 percent in the case of corporations) on alternative minimum taxable income in excess of a phased-out exemption amount. Alternative minimum taxable income is the taxpayer's taxable income increased by the taxpayer's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the exclusion or deferral of income resulting from the regular tax treatment of these items.

Adjustments and preferences are provided for accelerated depreciation, mining exploration and development costs, certain long-term contracts, pollution control facilities, certain installment sales, certain itemized deductions, research expenses and circulation expenses of individuals, Merchant Marine Capital Construction Funds, special insurance deductions, percentage depletion, excess intangible drilling costs over 65 percent of oil and gas income, certain debt reserves of financial institutions, tax-exempt interest on certain newly issued private activity bonds, and charitable deductions of appreciated property.

In addition, in computing corporate alternative minimum taxable income, for taxable years beginning before 1990, alternative minimum taxable income is increased by one-half of the amount by which the corporation's pre-tax book income exceeds the corporation's alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses. Book income generally is the amount that the corporation discloses on its financial statements prepared for creditors, shareholders, regulatory purposes, and so forth.

For taxable years beginning after 1989, the adjustment for book income no longer applies, and, instead, alternative minimum taxable income is increased by 75 percent of the amount by which adjusted current earnings (ACE) exceed alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses). In general, adjusted current earnings means alternative minimum taxable income as computed above with additional adjustments. These adjustments generally follow the rules presently applicable to corporations in computing their earnings and profits.

Also, net operating losses, foreign tax credits, and investment tax credits cannot be used to offset, in the aggregate, more than 90 percent of the pre-foreign tax credit tentative minimum tax which would otherwise be imposed.

Where a taxpayer pays the alternative minimum tax, the amount of tax paid (to the extent attributable to timing differences with the regular tax) is allowed as a credit against the regular tax in future years. This credit (known as the minimum tax credit) cannot be used to reduce tax below the tentative minimum tax in subsequent years.

Reasons for change

The Committee bill makes several modifications to improve and simplify the alternative minimum tax.

Explanation of provisions

The committee bill makes the following changes to the alternative minimum tax:

(1) The dividends-received deduction under ACE is extended to dividends (others than 100-percent dividends) received from 20-percent owned corporations (as defined in sec. 243(c)(2)).

(2) Gain on installment sales with respect to which interest is paid at the tax underpayment rate is reported on the installment method for adjusted current earnings purposes because appropriate interest is being paid for the right to defer payment of the tax.[1]

(3) The bill provides that for corporate alternative minimum tax arising in taxable years beginning after December 31, 1989, the entire amount of alternative minimum tax (rather than only the amount of tax attributable to deferral preferences) may be taken into account in computing the amount of the alternative minimum tax credit available in future years.

(4) The bill provides that the preference for gifts of appreciated property will not apply to gifts made during the taxpayer's taxable year beginning in 1990. (The preference will continue to apply to gifts made in taxable years beginning after 1990).

Effective date

Except as otherwise described above, the provisions apply to taxable years beginning after December 31, 1989.

C. Accounting provisions

1. LONG-TERM CONTRACTS

a. Repeal of the completed contract method of accounting for long-term contracts (sec. 6621(a) of the bill and sec. 460 of the Code)

Present law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under either the percentage of completion method or the percentage of completion/capitalized cost method. However, exceptions to these required accounting methods are provided for certain construction contracts of small businesses and certain home construction contracts.

Under the percentage of completion-capitalized cost method, a taxpayer generally must take into account 90 percent of the items under the contract under the percentage of completion method. The remaining 10 percent of the items under the contract must be taken into account under the tax-

[1] In another provision of this bill, the regular tax treatment of installment sales of timeshares and residential lots by C corporations has been changed to provide for an interest charge at the tax underpayment rate for the right to defer the payment of tax on income from such sales.

payer's normal method of accounting (e.g., the completed contract method of accounting). Exceptions to the 90/10 requirement are provided for certain ship construction contracts (40 percent under the percentage of completion method and 60 percent under the taxpayer's normal method of accounting) and certain residential construction contracts other than home construction contracts (70 percent under the percentage of completion method and 30 percent under the taxpayer's normal method of accounting).

Explanation of proposal

The percentage of completion-capitalized costs method of accounting for long-term contracts would be repealed. The present-law special rules and exceptions for certain construction contracts of small businesses, qualified ship contracts, home construction contracts and residential construction contracts would be retained.

Effective date

The proposal would apply to contracts entered into on or after July 11, 1989. However, the proposal would not apply to any contract entered into pursuant to a written bid or proposal submitted by a taxpayer to the other party to the contract before July 11, 1989, if the bid or proposal could not have been revoked or amended by the taxpayer at any time during the period after July 10, 1989, and ending on the date that the contract was entered into.

b. Modification of the percentage of completion method of accounting for long-term contracts and study of the treatment of long-term contracts (sec. 6621(b) of the bill and sec. 460 of the Code)

Present law

Taxpayers engaged in the production of property under a long-term contract must compute income from the contract under either the percentage of completion method or the percentage of completion-capitalized cost method. Exceptions to these required accounting methods are provided for certain construction contracts of small businesses and certain home construction contracts.

Under the percentage of completion method a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the taxable year. The percentage of the contract completed as of the end of a taxable year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs. In addition, under the percentage of completion method, costs allocable to the contract generally are taken into account for the taxable year in which incurred.

Reasons for change

The committee is concerned that the percentage of completion method of accounting may require taxpayers to recognize income under a long-term contract even though little, if any, progress has occurred in manufacturing or constructing the items required to be provided under the contract. For example, the committee is concerned that under the percentage of completion method of accounting, the mere delivery of materials or supplies that are to be used in manufacturing or constructing items under a long-term contract generally results in the recognition of income under the contract. To address this concern, the committee believes that taxpayers should be allowed to elect to postpone the recognition of income under a long-term contract and the reduction of costs allocable to the contract until the first taxable year as of the end of which at least 15 percent of the estimated total contract costs have been incurred.

In addition, the committee believes that the Treasury Department should be required to study the proper treatment of long-term contracts for Federal income tax purposes and to report the results of the study to the House Ways and Means Committee and the Senate Finance Committee by February 28, 1990.

Explanation of provisions

Modification of the Percentage of Completion Method of Accounting for Long-Term Contracts

For purposes of the percentage of completion method of accounting for long-term contracts, a taxpayer may elect not to recognize income under a long-term contract and not to take into account any costs allocable to such long-term contract for any taxable year if as of the end of the taxable year less than 15 percent of the estimated total contract costs have been incurred. For the first taxable year in which the 15-percent threshold is satisfied, all costs that have been incurred as of the end of the taxable year are to be taken into account in determining the percentage of the contract that has been completed and in determining the amount of allowable deductions under the contract.

The election not to recognize income under a long-term contract and not to take into account any costs allocable to such contract until the first taxable year as of the end of which at least 15 percent of the estimated total contract costs have been incurred is to apply for purposes of the look-back method,[1] in determining alternative minimum taxable income, and in determining adjusted current earnings under the alternative minimum tax. The election is not to apply, however, in determining whether an item normally requires more than 12 calendar months to complete for purposes of the definition of a long-term contract or in determining the production period for the allocation of interest.

The election is to apply to all long-term contracts of a taxpayer that are entered into during the taxable year that the election is made any subsequent taxable year that the election is in effect.[1a] The election, however, is not to apply to any long-term contract with respect to which the percentage of completion method of accounting is used only with respect to a portion of the items under the contract or with respect to which a simplified method of cost allocation is used. Once made, the election may be revoked only with the consent of the Secretary of the Treasury.

Study of the Treatment of Long-term Contracts

The Treasury Department is required to study the revenue realization method of accounting for long-term contracts and possible improvements to the percentage of completion method of accounting for long-term contracts. A report on the results of the study are to be submitted to the House Ways and Means Committee and the Senate Finance Committee by February 28, 1990.

Effective date

The provision applies to contracts that are entered into after December 31, 1989.

2. TREATMENT OF FRANCHISES, TRADEMARKS, AND TRADE NAMES (SEC. 6622 OF THE BILL AND SEC. 1253(d) OF THE CODE)

Present law

A taxpayer that purchases an intangible asset (such as a patent, know-how, or a contract right) is generally allowed a deduction for the purchase price over a period no shorter than the useful life of the asset. If the life is not determinable or is perpetual, no deduction is generally permitted. The useful life of an asset is a question of fact. If payments are made on a recurring basis over the life of an asset in a manner that does not distort income (*e.g.*, contingent payments made under a fixed formula for the life of a asset), a deduction may be allowed as the payments are made.[b]

A taxpayer that leases an asset and pays continuing rents or royalties (*e.g.*, a recurring annual percentage of sales) is generally allowed a deduction as the rents or royalties are paid. If the lessee makes a payment of an initial fixed sum at the start of the lease, a deduction is generally allowed for the payment over the life of the lease. The life of the lease is also a question of fact.

Section 1253(d)(2) of the Code provides special rules for fixed-sum amounts to acquire a franchise, trademark, or trade name, in cases where the transferor is required to treat the payment as ordinary income (*i.e.*, as similar to a lease payment) rather than as capital gain (i.e., as a sale payment). In the case of a single payment made in discharge of a fixed-sum amount, section 1253(d)(2)(A) permits such payment to be deducted ratably over no more than 10 taxable years, regardless of the life of the asset. As interpreted by the Internal Revenue Service,[2] this provision also applies to a franchise that is transferred by a franchise to another person, even though the transfer is considered the sale made in discharge of a fixed-sum amount, section 1253(d)(2)(B) allows a deduction as the payments are made provided the payments are approximately equal and are made over the period of the transfer agreement or over a period of more than 10 taxable years.

Generally, amounts allowed as a deduction that reduce the basis of assets are recaptured as ordinary income if the asset is disposed of for an amount in excess of the reduced basis. Amounts allowed as a deduction under section 1253(d)(2) reduce basis under present law. However, it is unclear whether such deductions are required by the Code to be recaptured as ordinary income on disposition of the asset. It is also unclear to what extent judicially developed

[1] Consequently, in allocating income under the contract on the basis of actual contract price and actual contract costs for purposes of the look-back method, costs are not to be taken into account for any taxable year if as of the end of the taxable year less than 15 percent of the actual total contract costs have been incurred. In addition, unlike present law, deductions under a contract are to be allocated to a different taxable year for purposes of the look-back method if the first taxable year of the close of which 15 percent of the total actual contract costs have been incurred differs from the first taxable year as of the close of which 15 percent of the total estimated contract costs have been incurred.

[1a] It is anticipated that the Treasury Department will provide guidance on the time and manner of making the election. In addition, it is anticipated that a taxpayer will be required to obtain the consent of the Internal Revenue Service in order to discontinue the use of the election for any taxable year for contracts entered into during such year and any subsequent year.

[b] *See, e.g., Associated Patentees, Inc.*, 4 T.C. 979 (1945).

[2] Rev. Rul. 88-24, 1988-1 C.B. 306.

tax-benefit principles may require recapture.

Section 1253(d)(1) provides special rules for the deduction of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, any amount paid or incurred for the transfer, sale, or other disposition of a franchise, trademark, or trade name that is contingent on the productivity, use, or disposition of the asset transferred is allowed as an ordinary and necessary business expense deduction. The transferor of the franchise, trademark, or trade name must treat such amount as an amount that is received from the sale of property that is not a capital asset (sec. 1253(c)).

Section 167(r), as added to the Code by the Technical and Miscellaneous Revenue Act of 1988, provides that no depreciation or amortization deduction is permitted for costs of acquiring trademarks or trade names. In addition, several courts have held that costs of creating or acquiring trademarks or trade names are not amortizable on the grounds that such assets are indistinguishable from goodwill and generally do not have a determinable useful life.[3]

Reasons for change

The committee believes that permitting a deduction for the cost of acquiring a franchise, trademark, or trade name over a period that is no longer than 10 years may be too favorable for franchises, trademarks, and trade names that in many instances may have a perpetual of indefinite useful life.

Consequently, in the case of fixed-sum payments, the committee believes that the present-law 10-year rule is appropriate only in the case of a transfer where the fixed-sum amount is *de minimis* (for this purpose, under $100,000). In case of contingent payments, the committee believes it is appropriate to permit a deduction for such payments only if the payments are made over the period that the use of the franchise, trademark, or trade name occurs and only if the payments are made in a manner that does not distort income. The committee is concerned that some taxpayers may be deducting relatively short-term or front-loaded contingent payments in the year of payment rather than over the period that the use of the franchise, trademark, or trade name occurs.

Finally, the committee believes that all payments made on account of the transfer of a franchise, trademark, or trade name other than serial contingent payments that are allowed as a deduction for the taxable year in which paid or incurred should be subject to the recapture rules that generally apply upon the disposition of an asset.

Explanation of provision

The bill modifies the special rules that apply to the deduction of fixed-sum payments and contingent payments that are made on account of the transfer of a franchise, trademark, or trade name. First, the bill repeals the special treatment accorded payments in discharge of a fixed-sum amount where the fixed-sum amount for any transaction exceeds $100,000. This repeal applies regardless of whether the payments are made to a franchisor that is required to treat the payments as ordinary income by reason of section 1253(a) or to any other person. For purposes of determining whether the $100,000 threshold has been exceeded, all payments that are part of the same transaction (or a series of related transactions) are aggregated.

In addition, the bill modifies the rules that allow a deduction for contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under the bill, a deduction is allowed for contingent amounts only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement,[4] and (2) the payments are substantially equal in amount (*i.e.*, the agreement requires a continuing payment of a substantially equal amount annually throughout an unspecified period over which the use of the property will occur) or are payable under a fixed formula (*i.e.*, a formula that provides for payment of an unvarying percentage of receipts over the entire term of the transfer agreement).

Any fixed-sum or contingent amount that is not deductible under the foregoing rules is chargeable to capital account and is to be amortized over the useful life of the franchise, trademark, or trade name, to the extent otherwise allowed under present law.[5] Alternatively, a taxpayer may elect to amortize certain fixed-sum payments and contigent payments that are chargeable to capital account and that are part of the same transaction (or a series of related transactions) over a 20-year period that begins with the taxable year in which the transfer occurs. The fixed-sum payments that are eligible for 20-year amortization are to include only those payments that would be deductible under section 1253(d)(2) but for the $100,000 limitation.

The bill also provides that fixed-sum amounts that are allowed as a deduction under the special rules of section 1253(d)(2) and amounts with respect to which an amortization deduction is allowed are subject to recapture as ordinary income on disposition of the franchise, trademark, or trade name. No inference is intended as to the recapture requirements of prior law.

The term of the transfer agreement and the period of amortization is to be determined by taking into account all renewal options and any other period for which the parties reasonably expect the agreement to be renewed. No inference is intended as to the term of the transfer agreement or the period of amortization under prior law.

Finally, the bill repeals section 167(r). However, no inference is intended as to whether amortization or depreciation may be taken with respect to trademarks and trade names in the absence of that provision. It is expected that no deduction will be allowed for any amount chargeable to capital account for an asset that is indistinguishable from a payment for goodwill or, except as otherwise permitted under the provision, for amount that is payment for an asset with an indeterminate useful life.

Effective date

The provision applies to transfers that occur after October 2, 1989, unless pursuant to a binding written contract in effect on that date and at all times thereafter until the transfer occurs.

3. TREATMENT OF CERTAIN PAYMENTS RECEIVED AS A RESULT OF CROP LOSSES DUE TO DROUGHT CONDITIONS (SEC. 6623 OF THE BILL AND SEC. 451(d) OF THE CODE)

Present law

A cash method taxpayer who receives insurance proceeds as a result of the destruction of, or damage to, crops may elect to include the proceeds in income for the taxable year following the year in which the destruction or damage occurs if, under the taxpayer's practice, income from such crops would have been included for a year following the year in which the destruction or damage occurred. For this purpose, payments received under the Agricultural Act of 1949, as amended, or Title II of the Disaster Assistance Act of 1988, as a result of the destruction of, or damage to, crops caused by drought, flood, or other natural disaster or the inability to plant crops because of such natural disaster are treated as insurance proceeds received as a result of the destruction of, or damage to, crops.

Reasons for change

The committee understands that there is no significant economic difference between payments received under the Disaster Assistance Act of 1989 and payments received under the Agricultural Act of 1949 or Title II of the Disaster Assistance Act of 1988. The committee therefore believes that they should be treated in the same manner.

Explanation of provision

Payments received under the Disaster Assistance Act of 1989 (P.L. 101-82) are treated in the same manner as payments received under the Agricultural Act of 1949 or Title II of the Disaster Assistance Act of 1988.

Effective date

The provision applies to payments received before, on, or after the date of enactment.

4. MODIFY TREATMENT OF DISCHARGE OF FARM INDEBTEDNESS FOR CERTAIN SOLVENT FARMERS (SEC. 6624 OF THE BILL AND SEC. 198(g) OF THE CODE)

Present law

Gross income generally includes income from the discharge of indebtedness (sec. 61(a)(12)). If an insolvent taxpayer realizes income from discharge of indebtedness, however, the income is excluded and certain tax attributes of the taxpayer (including items such as net operating loss carryovers and basis in property) generally are reduced by the excluded amount. The exclusion is limited to the amount by which the taxpayer is insolvent. If an insolvent taxpayer's discharge of indebtedness income (not in excess of the amount by which the taxpayer is insolvent) exceeds these tax attributes, the excess is forgiven, i.e., is not includible in gross income (sec. 108).

In the case of a solvent taxpayer who realizes income from the discharge by a "qualified person" of "qualified farm indebtedness," [1] the taxpayer may exclude from

[3] *See, e.g., Renziehausen* v. *Lucas*, 280 U.S. 287 (1930); *Norwich Pharmacal Co.*, 30 B.T.A. 326 (1934); *H.M. Stiles*, 26 T.C.M. 501 (1967); *see also, Illinois Cereal Mills, Inc., 46 T.C.M. 1001 (1983).*

[4] The term of the transfer agreement for this purpose is the entire period over which the franchise, trademark, or trade name, or rights to use or benefit from the franchise, trademark, or trade name, are transferred. For example, if a trademark is transferred for an unlimited period pursuant to an agreement that requires contingent payments for a limited period, the term of the transfer agreement is the entire period for which the trademark is transferred and not the period over which contingent payments are to be made. In such a case, the contingent payments would not be deductible under section 1253(d)(1).

[5] Contingent payments that are not deductible under the foregoing rules are chargeable to capital account for the taxable year in which paid or incurred.

[1] Qualified farm indebtedness is indebtedness incurred directly in connection with the operation of

gross income an amount of such discharge income not in excess of the sum of the taxpayer's loss and credit carryovers and the taxpayer's basis in property held for use in a trade or business or for the production of income. If there is any remaining discharge of indebtedness income after the taxpayer has reduced these tax attributes, income will be recognized.

The exclusion of discharge of indebtedness income generally is not limited in cases of bankruptcy. Any capital gain realized by a taxpayer, however, is not excluded by reason of bankruptcy.

Reasons for change

The committee believes that, by permitting certain solvent farmers to exclude discharge of qualified farm indebtedness income up to a specified dollar amount (rather than to the extent of a farmer's tax attributes), such farmers will not be forced to declare bankruptcy solely to achieve more favorable tax treatment with respect to such discharge income.

Explanation of provision

Farmers meeting certain requirements can exclude income from discharge of qualified farm indebtedness, but not in excess of $350,000. The provision applies to a taxpayer that meets all of the following requirements: (1) the taxpayer's adjusted gross income (with certain modifications) in 6 of the 10 taxable years preceding the year of discharge is less than the national median adjusted gross income for each of such years; (2) more than 50 percent of the taxpayer's gross receipts for 6 of the 10 taxable years preceding the year of discharge is attributable to the farming business, the sale or lease of assets used in farming, or both; (3) the taxpayer materially participated in the farming business at the time the farm indebtedness was incurred; (4) the amount of equity in all property held by the taxpayer after the discharge is less than the greater of (a) $25,000 or (b) 150 percent of the excess of the tax that would be due if section 108 of the Code did not apply, over the tax that would be due if section 108 did apply; (5) the taxpayer's indebtedness both before and after the discharge is equal to 70 percent or more of the equity in all property held by the taxpayer; and (6) if the taxpayer transfers property to discharge the qualified farm indebtedness, only farm property is transferred.

Thus, for example, a solvent farmer satisfying the requirements described above who realizes $400,000 of discharge of qualified farm indebtedness income and who has $200,000 of tax attributes, can exclude $350,000 of the discharge income under the provision. The farmer's tax attributes would be reduced to zero, and the farmer would recognize $50,000 of discharge of indebtedness income.

The $350,000 limit is reduced by prior year exclusions of discharge of qualified farm indebtedness income under this provision.

The provision does not modify the present-law rule that generally limits the exclusion of discharge of qualified farm indebtedness income to the sum of the taxpayer's loss and credit carryovers and the taxpayer's basis in certain property, in the case of a solvent farmer who does not satisfy the requirements described above. In addition, the provision does not provide for an exclusion of capital gain that may be realized by a farmer who transfers property to a creditor in exchange for the satisfaction of an indebtedness.

Effective date

The provision applies to discharges of indebtedness occurring after December 31, 1986, in taxable years ending after such date.

5. CONTRIBUTIONS IN AID OF CONSTRUCTION OF ALTERNATIVE WATER SUPPLIES (SEC. 6625 OF THE BILL AND SEC. 118 OF THE CODE)

Present law

Contributions in aid of construction received by a public utility are treated as gross income of the utility and not as contributions to the capital of the utility. Consequently, a utility is required to include in gross income the value of any property (including money) that it receives to provide, or to encourage it to provide, services to, or for the benefit of, any person transferring property to the utility. A utility is considered as having received property to encourage the provision of services if the receipt of the property is a prerequisite to the provision of services, if the receipt of the property results in the provision of services earlier than would have been the case had the property not been received, or if the receipt of the property otherwise causes the transferor to be favored in any manner.

Reasons for change

In order to encourage the provision of alternative water supplies as a means of remedying environmental contamination, the committee believes that it is appropriate to provide favorable income tax treatment with respect to certain amounts received by certain public utilities from a Federal, State or local government.

Explanation of provision

A contribution of money or other property by a Federal, State or local government (or a political subdivision thereof) to a regulated public utility that provides water or sewage disposal services is treated as a contribution to capital and not as an item of gross income if the contribution is a contribution in aid of construction with respect to property that will be used predominantly in furnishing alternative water supplies for purposes of remedying environmental contamination or protecting the health of individuals threatened by environmental contamination. This treatment is to apply only if the contribution (or any property acquired or constructed with the contribution) is not included in the utility's rate base for ratemaking purposes and the contribution is used for the purposes specified above before the end of the second taxable year after the year in which the contribution is received.

No deduction or credit is allowed with respect to any expenditure that constitutes a contribution to capital under the provisions and the adjusted basis of any property acquired by such an expenditure is zero. Finally, the Treasury Department is to issue regulations that define the term contribution in aid of construction, but in no event is such term to include amounts paid as customer connection fees.

Effective date

The provision is effective as if included in the Tax Reform Act of 1986.

6. MODIFY MATERIAL PARTICIPATION FOR CERTAIN TIMBER ACTIVITIES OF INDIVIDUALS UNDER THE PASSIVE LOSS RULES (SECTION 6626 OF THE BILL)

Present Law

Present law, as amended by the 1986 Act, provides that deductions from passive trade or business activities, to the extent they exceed income from all such passive activities (exclusive of portfolio income), generally may not be deducted against other income. Suspended losses are carried forward and treated as deductions from passive activities in the next year. Suspended losses are allowed in full when the taxpayer disposes of his entire interest in the activity to an unrelated party in a transaction in which all realized gain or loss is recognized. The provision applies to individuals, estates, trusts, and personal service corporations. A special rule limits the use of passive activity losses and credits against portfolio income and tax attributable to portfolio income in the case of closely held corporations.

An activity generally is treated as passive if it is a rental activity, or if the taxpayer does not materially participate in it, i.e., the taxpayer is not involved in the operations of the activity on a basis which is regular, continuous, and substantial.

Under temporary and proposed Treasury regulations, a taxpayer may meet any of several tests for material participation, including a test based on all of the facts and circumstances (Temp. Treas. Reg. Section 1.469-5T(a)(7)). If an individual participates in an activity for 100 hours or less during the taxable year, the regulations provide that such individual shall not be treated as materially participating under the facts and circumstances test (Temp. Treas. Reg. section 1.469-5T(b)(2)(iii)).

The regulations further provide that an individual's services performed in the management of an activity shall not be taken into account in determining whether such individual is treated as materially participating under the facts and circumstances test, unless, for such taxable year, (i) no person (other than such individual) who performs services in connection with the management of the activity receives compensation that is earned income in consideration for such services; and (ii) no individual performs services in connection with the management of the activity that exceed (by hours) the amount of such services performed by such individual (Temp. Treas. Reg. section 1.469-5T(b)(2)(ii)). The fact that an individual satisfies the requirements of any participation standard under any provision other than section 469 and the regulations thereunder also is not taken into account (Temp. Treas. Reg. section 1.469-5T(b)(2)(i)).

Reasons for change

The committee believes that the passive activity rules as described in Temp. Treas. Reg. Section 1.469-5T(b)(2)(iii) are not appropriate in the case of certain timber activities. The growing of timber is a long process, often spanning many decades. It is a common practice among small woodlot owners to hire independent contractors for their technical expertise, manpower or specialized equipment to perform certain tasks necessary for efficient woodlot operation. The owner's tasks may not consume as much as 100 hours in a particular year. Due to these special circumstances the committee believes that individual woodlot owners should be permitted to determine material participation in a timber activity on the

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a farming business by a taxpayer who satisfies a specified gross receipts test. A qualified person is one regularly engaged in the business of lending money and meeting certain other requirements.

facts and circumstances basis regardless of whether they participate less than 100 hours during the year.

Explanation of provision

Under the bill, an individual's material participation in certain timber activities may be determined under the facts and circumstances test in the regulations even though the individual participates in the activity for 100 hours or less during the taxable year.

For this purpose, a timber activity means any activity that consists predominantly of holding qualified timber property as defined in section 194(c)(1), i.e., a woodlot or other site located in the United States that will contain trees in significant commercial quantities and that is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products.

This provision may be illustrated as follows.

For example, an individual owns an 80-acre tract of timber near her home. She hires the services of a professional forester to whom she delegates all responsibility for managing the timber. These responsibilities include, from time to time, making and implementing decisions with respect to the harvest or sale of timber (including pricing and frequency of any sales), regeneration activities and protective fire and pest control procedures. The forester carries out these responsibilities. After doing so, the forester regularly informs the individual of his decisions. She pays the expenses relating to the actions undertaken by the forester. Based upon these facts, the individual is not considered to materially participate in the timber growing activity.

As an additional example, an individual owns 80 acres of timber. He is solely responsible for managing the timber property. His responsibilities include making decisions with respect to the harvest or sale of timber (including pricing and frequency of any sales), regeneration activities and protective fire and pest control procedures. He performs periodic inspections of his property; during some periods, these inspections occur annually, while at other times during the timber's growing cycle, they may occur more or less frequently, depending upon the requirements of the property. He maintains records with respect to his property, and pays various expenditures in connection with his timber over a period of years, such as those for construction of fire breaks and maintenance of boundary lines, as appropriate. This work is carried out by independent contractors selected by the individual. He is considered to materially participate with respect to the timber growing activity.

In another example, B owns 1,000 acres of timber. B enters into a long-term lease contract with X, a corporation dealing in timber products. Pursuant to this agreement, X has the exclusive right to manage the property. Under the arrangement, X has the right to cut timber as it sees fit. X promises to return the property to B at the end of the term and warrants that it shall then contain as much or more timber as it did at the beginning of the term. X agrees to pay annual rental to B. B agrees to remain liable for, and pays, property taxes with respect to the leased property. B is not considered to materially participate with respect to this timber growing activity.

Effective date

The provision is effective for taxable years beginning after December 31, 1989.

7. TREATMENT OF CERTAIN CROPS UNDER THE ANNUAL ACCRUAL METHOD OF ACCOUNTING (SEC. 6627 OF THE BILL AND SEC. 447(g) OF THE CODE)

Present law

Present law provides an exception to the uniform cost capitalization rules for certain corporations and qualified partnerships that are permitted to use the annual accrual methods of accounting with respect to the trade or business of farming sugar cane. Under the annual accrual method of accounting, revenues, costs, and expenses are determined under an accrual method of accounting and the preproductive period expenses incurred during any taxable year are charged to harvested crops or are deducted in determining taxable income for such year.

Reasons for change

The committee believes that any taxpayer that has traditionally been allowed to use the annual accrual method of accounting with respect to any crop should be allowed to continue to use such method of accounting with respect to such crop.

Explanation of provision

Any corporation or qualified partnership that, for its last taxable year ending before January 1, 1987, was allowed to use, and actually used, the annual accrual method of accounting with respect to any crop is allowed to continue to use such method of accounting with respect to such crop. It is anticipated that any corporation or qualified partnership that changed its method of accounting for its first taxable year ending after December 31, 1986, and is permitted to use the annual accrual method of accounting only by virtue of this provision will be allowed to use the annual accrual method of accounting for such year by filing an amended return before the date that is one year after the date of enactment of the bill.

Effective date

The provision is effective as if included in the Tax Reform Act of 1986.

8. INSTALLMENT SALES TREATMENT OF TIMESHARES AND RESIDENTIAL LOTS SOLD BY C CORPORATIONS (SEC. 6628 OF THE BILL AND SECS. 56, 453, AND 453A OF THE CODE)

Present law

A taxpayer who disposes of a timeshare or a residential lot on the installment plan generally may report income derived from such a disposition on the installment method if the taxpayer elects to pay interest on the amount of deferred tax that is attributable to the use of the installment method. Under this election, interest is required to be paid for any taxable year that payments are received under the installment obligation (other than the taxable year in which the sale occurs). The interest is imposed for the period that begins on the date of the sale of the timeshare or the residential lot and ends on the date that each payment is received. The interest rate used for this purpose is the applicable Federal rate (compounded semiannually) in effect at the time of the sale for debt instruments with the same maturity as the installment obligation.

A taxpayer who elects to pay interest with respect to an installment sale of a timeshare or a residential lot may use the installment method in determining alternative minimum taxable income. However, for purposes of the adjusted current earnings provision of the alternative minimum tax, the installment method may not be used in determining income derived from an installment sale (including a nondealer installment sale of property) even though interest is required to be paid with respect to all or a portion of the deferred tax that is attributable to the use of the installment method. The adjusted current earnings provision of the alternative minimum tax applies to C corporations for taxable years beginning after December 31, 1989.

Reasons for change

The committee believes that present law does not provide for an appropriate interest charge on the deferred tax that is attributable to the use of the installment method for dispositions of timeshares and residential lots. For this reason, the bill modifies the amount of interest that is payable by a C corporation that elects to use the installment method with respect to a disposition of a timeshare or a residential lot.

In addition, the committee believes that if a taxpayer pays an appropriate amount of interest on the amount of deferred tax that is attributable to the use of the installment method, then the installment method should be available for all purposes of the alternative minimum tax including the adjusted current earnings provision of the alternative minimum tax.

Explanation of provision

The bill modifies the amount of interest that is payable by a C corporation that elects to use the installment method with respect to an installment sale of a timeshare or a residential lot. Under the bill, the amount of interest for any taxable year is determined for all outstanding installment obligations with respect to which an election was made by multiplying the deferred tax with respect to all such obligations by the underpayment rate in effect for the month with or within which the taxable year ends.

For any taxable year, the deferred tax for such obligations equals (1) the amount of gain under the obligations that has not been recognized as of the close of the taxable year, multiplied by (2) the maximum rate of tax in effect for such taxable year for C corporations.

A C corporation, however, may elect with respect to all such installments obligation to determine the deferred tax under an alternative procedure that is to be considered a method of accounting which must be consistently used from one taxable year to the next. Under this alternative procedure, the deferred tax is determined for a taxable year by first multiplying (1) the amount of gain under the obligations that has not been recognized as of the close of the taxable year reduced by the excess (if any) of the total allowable deductions for such year over the total income for such year, by (2) the maximum rate of tax in effect for such taxable year for C corporations. The result is then reduced by the excess (if any) of the amount of allowable nonrefundable income tax credits for such year over the amount of the regular tax liability for such year.

Net operating loss carrybacks and credit carrybacks are not taken into account in determining the amount of the deferred tax for any year. Net operating loss carryovers and credit carryforwards, however, are taken into account in determining the amount of the deferred tax for any year.

Any interest determined under the proposal is treated as a tax imposed for the taxable year following the year in which the interest is determined. The portion of the interest, however, that is allocable to installment obligations that have not been out-

standing for a two-year period as of the close of the taxable year or that are in default as of the close of the taxable year is not to result in an increase in tax for such taxable year. Instead, if such installment obligations are not in default at the close of any taxable year after the end of the two-year period, the amount of interest that was determined under the proposal but was not added to tax is to be added to tax for the first taxable year following such year (together with additional interest at the underpayment rate for each year that the interest has not been added to tax). For this purpose, an installment obligation is to be considered in default if the installment obligations is considered to be wholly worthless under the bad debt provisions of section 166(a)(1) of the Code.

The interest determined under the proposal is treated as tax for purposes of the estimated tax provisions applicable to corporations. In addition, the interest is to be considered accrued for the taxable year in which the interest is added to tax and is to be treated as an allowable deduction for such year in determining the deferred tax under the elective procedure.

A C corporation that elects to pay interest under the proposal with respect to an installment sale of a timeshare or a residential lot is allowed to use the installment method for purposes of the adjusted current earnings provision of the alternative minimum tax. In addition, for purposes of the adjusted current earnings provision of the alternative minimum tax, a taxpayer that is required to pay interest with respect to a nondealer disposition of property is allowed to use the installment method for the portion of the gain with respect to which interest is required to be paid.

Effective date

The provision applies to dispositions occurring in taxable years beginning after December 31, 1989.

9. TREATMENT OF CERTAIN LARGE FAMILY FARM CORPORATIONS (SEC. 6629 OF THE BILL AND SEC. 447(i) OF THE CODE)

Present law

The Revenue Act of 1987 required a family corporation (or a partnership with a family corporation as a partner) to use an accrual method of accounting with respect to its farming buiness unless, for each prior taxable year beginning after December 31, 1985, such corporation (and any predecessor corporation) did not have gross receipts exceeding $25 million.

A corporation or partnership that is required to change to an accrual method of accounting as a result of the Revenue Act of 1987 may establish a suspense account in lieu of taking the entire amount of the section 481 adjustment into income. The amount of the suspense account is limited to the lesser of (1) the section 481 adjustment otherwise required to be taken into income or (2) the section 481 adjustment computed as if the change in method of accounting had occurred as of the beginning of the taxable year preceding the year of change.

The balance of the suspense account is required to be included in income for the year that the corporations ceases to be a family corporation or the year that the required level of control of the corporation is transferred outside the family group that owned the corporation on December 15, 1987. Also, if the gross receipts of the corporation attributable to farming for any taxable year decline to an amount below the lesser of (1) the gross receipts attributable to farming for the last taxable year for which an accrual method of accounting was not required or (2) the gross receipts attributable to farming for the most recent taxable year for which a portion of the suspense account was required to be included in income, a portion of the suspense account proportionate to such decline is taken into income.

Reasons for change

In order to address the possibility that a significant portion of the suspense account of a family farm corporation may be included in gross income due solely to farm price reductions, the committee believes that it is appropriate to provide an elective method of taking into account the amount of the section 481 adjustment that results from changing to an accrual method of accounting due to the family farm provisions of the 1987 Act.

Explanation of provision

A corporation or partnership that is required to change to an accrual method of accounting by reason of the family farm provisions of the Revenue Act of 1987 may elect for its first taxable year that it is required to use an accrual method of accounting to include the amount of the section 481 adjustment in gross income ratably over a 10-year period beginning with such taxable year. In the case of a corporation or partnership that ceases to exist prior to the end of the 10-year period, the balance of the section 481 adjustment is to be included in gross income for the last taxable year of the corporation or partnership.

It is anticipated that a corporation or partnership that has already filed a return for the first taxable year that it is required to change to an accrual method of accounting by reason of the family farm provisions of the 1987 Act will be allowed to elect to include the amount of the section 481 adjustment in gross income over a 10-year period by filing an amended return for such year on or before the date that is one year after the date of enactment of the bill.

Effective date

The provision is effective as if included in the Revenue Act of 1987.

10. TREATMENT OF GAIN OR LOSS ON SALE OF ASSETS BY COOPERATIVE ASSOCIATIONS (SEC. 6630 OF THE BILL AND SEC. 1388 OF THE CODE)

Present law

In General

A cooperative association is a corporation operating on a cooperative basis and allocating amounts to patrons on the basis of the business done with or for such partrons (Code sec. 1381). Unlike other corporations, a cooperative association is allowed to exclude from its taxable income any amounts of patronage dividends paid to its members or patrons or in redemption of a nonqualified written notice of allocation (sec. 1382). Additionally, cooperative associations may exclude income attributable to qualified per-unit retain certificates and amounts paid for redemptions of nonqualified per-unit retain certificates. A per-unit retain allocation is, in general, an amount retained by the cooperative association with respect to goods marketed by the cooperative association for the patron.

Treatment of Patronage Dividends by Members and Patrons

Members of a cooperative association who receive patronage dividends must treat the dividends as income, reduction of basis, or some other treatment that is approximately related to the type of transaction that gave rise to the dividend. For example, where the cooperative association markets a product for one of its members, patronage dividends attributable to the marketing are treated like additional proceeds from the sale of the product and are includible in the recipient's income. Where the cooperative association purchases equipment for its members are treated as a reduction in the recipient's basis in the purchased equipment (provided the recipient still owns the equipment).

Definition of Patronage Dividend

In general, a patronage dividend means an amount paid to a patron (1) on the basis of the quantity or value of business done with or for such patron, (2) under an obligation of the cooperative association to pay such amount, which obligation existed before the association received the amount so paid, and (3) which is determined by reference to the net earnings of the organization from business done with or for its patrons. ". . . Such term does not include any amount paid to a patron to the extent that such amount is out of earnings other than from business done with or for patrons, or such amount is out of earnings from business done with or for other patrons to whom no amounts are paid, or to whom smaller amounts are paid, with respect to substantially identical transactions. . . ." Sec. 1388(a)

Definition of Income Derived From Sources Other Than Patronage

The Treasury regulations provide that ". . . 'income derived from sources other than patronage' means incidental income derived from sources not directly related to the marketing, purchasing, or service activities of the cooperative association. For example, income derived from the lease of premises, from investment in securities, or from the sale or exchange of capital assets, constitutes income derived from sources other than patronage." Treas. Reg. sec. 1.1382-3(c)(2).

Notwithstanding the language of the Treasury regulations, both the Internal Revenue Service and the courts have held that other types of income may constitute income derived from patronage sources. See, for example, Rev. Rul. 69-576, 1969-2 C.B. 166 (patronage dividend from cooperative bank on loans used for patronage business considered patronage source income because it ". . . facilitates the accomplishment of the cooperative's marketing, purchasing, and service activities. . . ."); *Linnton Plywood* v. *United States*, 410 F. Supp. 1100 (D. Ore. 1976) (dividends received from a subsidiary corporation that made glue for the parent cooperative's plywood operation held to be patronage source income); *Astoria Plywood Corporation v. United States*, 79-1 U.S.T.C. par. 9197 (D. Ore. 1979) (income received from cancellation of a lease on a building used by cooperative for patronage-sourced activities was patronage source income); *Land O'Lakes, Inc.* v. *United States*, 675 F. 2d 988 (8th Cir. 1982) (dividends from stock in bank whose purchase was necessary to receive financing for patronage activities held to be patronage source income); *St. Louis Bank for Coopertives v. United States*, 624 F. 2d 1041 (Ct. Cl. 1980) (interest earned on short-term investment of temporary excess cash of a cooperative bank held to be patronage source income).

The Internal Revenue Service has rules that any gain treated as ordinary income under the depreciation recapture rules of

section 1245 is treated as patronage source income in the same portion that the depreciation deductions were taken. Rev. Rul. 74-84, 1974-1 C.B. 244. The ruling further held that any additional gain which is treated as capital gain is not patronage-sourced income. Notwithstanding the position of the Internal Revenue Service, the law remains unclear where the cooperative association has a gain from the sale of property.

Reasons for change

The committee is concerned that the uncertainty of present law causes problems to both taxpayers and the Internal Revenue Service. Taxpayers need to know the amount of patronage-sourced income so that they can pay patronage dividends to patrons on a timely basis. Similarly, the Internal Revenue Service needs to know the amount of patronage-sourced income to insure that the income is properly taken into account in determining the taxable income of the cooperative and its patrons.

In general, the committee believes that patronage-sourced income includes a portion of the gains and losses from assets used to facilitate the cooperative's conduct of business done with, or for, its patrons. However, the committee recognizes that the cooperative and its patrons may agree to a different arrangement. Accordingly, the committee bill provides that cooperatives may elect to treat such gains and losses as patronage-sourced income. Nonetheless, the committee bill provides that the election is effective for the taxable year elected and the two succeeding years in order to prevent cooperatives from electing to treat gains as patronage-sourced, while treating losses as not patronage-sourced.

Explanation of provision

In General

Under the bill, a cooperative may elect to treat gain or loss on the sale or other disposition of certain assets as ordinary income or loss and to include such gain or loss in the determination of net earnings done with or for patrons.

Assets to Which Provision Applies

The provision applies to any asset (including stock or any other ownership or financial interest in another entity) if such asset was used by the cooperative to facilitate the conduct of business done with, or for, its patrons. Where an asset was not used exclusively to facilitate the conduct of business done with, or for, its patrons, the provision applies only to the extent that the asset was used to facilitate the conduct of business with, or for, its patrons, the provision applies only to the extent that the asset was used to facilitate the conduct of business with, or for, its patrons. The method of allocating the usage of the asset between patronage and nonpatronage operations may be determined by any reasonable method.

Rules Applicable to Election

An election made under this provision applies to the year for which the election is made and the two succeeding taxable years.

Effective date

In general, this provision of the bill is effective for taxable years ending after the date of enactment. In addition, the provision applies to all taxable years beginning on or before the date of enactment, if the taxpayer so elects in its return for its first taxable year beginning on or before the date of enactment and ending after such date.

11. HEDGING TRANSACTIONS BY REAL ESTATE INVESTMENT TRUSTS (SEC. 6630A OF THE BILL AND SEC. 856(C)(6)(G) OF THE CODE)

Present law

In order for an entity to qualify as a real estate investment trust ("REIT"), at least 95 percent of its gross income generally must be derived from certain passive sources and real estate assets (the "95-percent test"). Also, with certain exceptions, less than 30 percent of the gross income of a REIT must be derived from the sale or exchange of certain assets, including real property held for less than four years (the "30-percent test").

For purposes of determining whether an entity qualifies as a REIT, the Code provides specific rules for the treatment of interest rate swap or cap agreements that protect the REIT for interest rate fluctuations cn variable interest rate debt incurred to acquire or carry real estate assets. Such agreements are treated as securities under the 30-percent test and payments under them are treated as qualifying under the 95-percent test.

Reasons for change

The committee believes that income from instruments that are similar to swap and cap agreements should be qualifying passive income for REIT qualification purposes. In addition, the committee believes that, for these purposes, the character of real estate mortgage investment conduit (REMIC) assets and indebtedness should pass through to the REIT.

Explanation of provision

The present-law treatment of interest rate swap or cap agreements is extended to similar arrangements, such as forward rate agreements and futures contracts. In addition, in determining whether an arrangement hedges variable rate indebtedness, a REIT holding a residual interest in a real REMIC is treated as holding the REIT's proportionate share of the REMIC's assets and the REIT's proportionate share of the regular interests of the REMIC is treated as direct indebtedness of the REIT.

Effective date

The provision is effective with respect to taxable years beginning after the date of enactment.

12. ALTERNATIVE RECAPTURE METHOD FOR MUTUAL SAVINGS BANKS AND OTHER THRIFT INSTITUTIONS CHANGING FROM THE RESERVE METHOD TO THE SPECIFIC CHARGE-OFF METHOD FOR BAD DEBTS (SEC. 6630B OF THE BILL AND SEC. 593 OF THE CODE)

Present law

Thrift Institutions

Under present law, a thrift institution (i.e., a building and loan association, mutual savings bank, or cooperative bank) is permitted a deduction for a reasonable addition to a reserve for bad debts if at least 60 percent of its assets are invested in qualified assets (including home mortgages) (Code secs. 953(a)(2) and 7701(a)(19)). The reasonable addition to the reserve for bad debts for a thrift institution is an amount computed under the experience method or an amount equal to 8 percent of its otherwise taxable income. The amount of bad debt reserves are recaptured if the thrift institution is liquidated in a taxable transaction or makes dividend distributions in excess of post-1951 earnings (Code sec. 593(e)).

Commercial Banks

A commercial bank whose average adjusted bases of all assets does not exceed $500 million (i.e., a "small bank") also is allowed a deduction for a reasonable addition to a reserve for bad debts. The reasonable addition to the reserve is an amount computed under the experience method (Code sec. 585)).

A bank whose average adjusted bases of all assets exceeds $500 million (i.e, a "big bank") is not permitted any deduction for an addition to a reserve for bad debts (code sec. 585(c)). Instead, such banks may deduct specific bad debts only in the year in which they become worthless or partially worthless (the "specific charge-off method"). In addition, big banks are required to recapture their existing bad debt reserves under one of two methods. Under the first method (called the "4-year recapture method"), the balance of the reserve generally is recaptured at the following rates: 10 percent in the first year, 20 percent in the second year, 30 percent in the third year, and 40 percent in the fourth year (Code sec. 585(c)(3)(A)). Under the second method (called the "cut-off method"), specific bad debts on loans made before the change in method are charged to the reserve. Then, the balance of the reserve is recaptured as the reserve balance exceeds the amount of pre-change loans that remain outstanding (Code sec. 585(c)(4)).

Reasons for change

The committee believes that the specific charge-off method is preferable to the use of the reserve method of accounting for bad debts. First, the use of the reserve method for determining losses on bad debts results in deductions being taken currently for tax purposes for losses that statistically are expected to occur in the future. In this regard, a reserve for bad debts is inconsistent with the treatment of other deductions under the all events test. Second, the use of the reserve method allows deductions to be taken prior to the time that the losses actually occur and, therefore, allows deductions larger than the actual present value of the losses.

To encourage the use of the specific charge-off method by thrift institutions, the committee believes it appropriate to afford such institutions a method of recapturing their reserves which is different from the recapture methods applicable to commercial banks.

Explanation of provision

General Recapture Rule

A mutual savings bank or other thrift institution that changes from the reserve method of accounting for bad debts to the specific charge-off method (a "nonqualifying thrift institution") may elect to recapture the so-called "experience portion" of its bad debt reserves under the "4-year recapture method" applicable to commercial banks. If a nonqualifying thrift institution does not make an election under this provision, such institution will be subject to the rules of present law.

The experience portion of a nonqualifying thrift institution's bad debt reserves is based on the institution's actual bad debts as a percentage of its loans outstanding over a 6-year period, as calculated under sec. 585(b)(3) of the Code with respect to commercial banks. If a nonqualifying thrift institution makes an election pursuant to this provision, this amount is taken into account by the nonqualifying thrift institution over a 4-year period as follows: 10 percent in the "disqualification year", 20 percent in the first year following the disqualification

years, 30 percent in the second year following the disqualification year, and 40 percent in the third year following the disqualification year.[1] A disqualification year means the first taxable year ending after the date of enactment of this provision in which an institution changes from the reserve method of accounting for bad debts to the specific charge-off method.

Subsequent Losses

If a nonqualifying thrift institution makes an election pursuant to this provision, losses with respect to specific loans held by the nonqualifying thrift institution before the accounting method change ("pre-change loans") are generally deductible (and any recoveries includible in income) under normal tax principles, subject to the restrictions set forth below.

In lieu of a deduction for bad debts, a charge is made to the unrecaptured portion of the bad debt reserves to the extent that (1) the excess, if any, of current losses (less recoveries) on pre-change loans over current recapture, exceeds (2) the excess, if any, of cumulative recapture (not including the current year) over cumulative losses (less reserves) (not including the current year) on pre-change loans.

Example. The experience portion of the bad debt reserves of an electing nonqualifying thrift institution is $100. This amount is recaptured $10 in the disqualification year, $20 in the year following the disqualification year, $30 in the second year following the disqualification year, and $40 in the third year following the disqualification year. The institution has actual bad debts on pre-change loans as follows: $0 in the disqualification year, $25 in the year following the disqualification year, $10 in the second year following the disqualification year, and $110 in the third year following the disqualification year. In the disqualification year, the institution is entitled to no deduction for bad debts and makes no charge-off against its bad debt reserves. In the year following the disqualification year, the institution is entitled to a bad debt deduction of $25 and makes no charge-off against its bad debt reserves. In the second year following the disqualification year, the institution is entitled to a bad debt deduction of $10 and makes no charge-off against its bad debt reserves. In the third year following the disqualification year, the institution is entitled to a bad debt deduction of $65 and makes a $45 charge-off against its bad debt reserves.

Any charge made to the bad debt reserves outlined above shall first reduce the nonexperience portion of the bad debt reserves. Any remaining amounts shall then be charged against any experience portion of the reserve that has not yet been recaptured, in the reverse order that such reserves would otherwise be subject to recapture. Finally, any such amounts in excess of total bad debt reserves of the taxpayer are deductible.

Other Rules

Any remaining bad debt reserves of an electing nonqualifying thrift institution are recaptured when excessive dividends are paid by the nonqualifying thrift institution or upon partial or complete liquidation of the nonqualifying thrift institution (under the rules of Code sec. 593(e)).

An election made pursuant to this provison is irrevocable. Nonqualifying thrift institutions that make an election under this provision would not be permitted to use the reserve method of accounting for bad debts in any subsequent year.

Effective date

The proposal would be effective for taxable years ending after the date of enactment.

13. RESTORATION OF INCOME AVERAGING FOR CERTAIN FARMERS (SEC. 6630C OF THE BILL AND SEC. 1303 OF THE CODE)

Present law

Prior to the enactment of the Tax Reform Act of 1986, certain individuals could elect to compute their income tax liability for the current year based on a formula that took into account their income for the current year and their average income of the prior three years. This election was repealed by the Tax Reform Act of 1986, effective for tax years beginning after December 31, 1986.

Reasons for change

The committee believes that income averaging is appropriate for certain qualified farmers who may have little or no taxable income in one or more taxable years in the averaging period.

Explanation of provision

The bill restores the income averaging rules that were repealed by the Tax Reform Act of 1986 for certain qualified farmers. Qualified farmers means those individuals (1) who materially participate (within the meaning of sec. 469(h)) in the trade or business of farming (within the meaning of sec. 3032A(e)(4) and (5) of the Code) for each of the preceding three taxable years; and (2) whose total annual gross receipts (including nonfarm gross receipts) for each year of the averaging period does not exceed $5 million ($2.5 million for married individuals filing separately).

Effective date

The provision is effective for taxable years of individuals beginning December 31, 1989.

D. Employment Tax Provisions

1. INCOME TAX WITHHOLDING ON THE WAGES OF CERTAIN AGRICULTURAL WORKERS (SEC. 6631 OF THE BILL AND SEC. 3401(a)(2) OF THE CODE)

Present law

In general, wages paid by an employer to an employee are subject to income tax withholding. Wages paid for agricultural labor are, however, exempt from income tax withholding (sec. 3401(a)(2)).

Certain cash wages paid for agricultural labor are subject to withholding for Federal Insurance Contributions Act (FICA) taxes (sec. 3121(a)(8)). In general, agricultural workers are subject to FICA withholding if they earn at least $150 in annual cash remuneration or are covered because of the employer FICA withholding test. The employer FICA withholding test generally subjects employee wages to FICA withholding if the employer pays more than $2,500 during the year to all employees. Certain employees who are hand harvest laborers, are paid on a piece rate basis, commute daily to the farm from their permanent residence, and were employed in agriculture less than 13 weeks during the prior year, are exempt from FICA withholding.

Reasons for change

The committee believes that agricultural workers generally should be subject to the same system of income tax withholding that applies to other workers.

Explanation of provision

If an agricultural worker's cash wages are subject to FICA withholding, the agricultural worker's cash wages are also subject to income tax withholding. In addition, crew leader rules parallel to those utilized for FICA withholding purposes are to apply for income tax purposes (these rules specify who is the employer of certain agricultural workers).

Effective date

The provision is effective for wages paid after December 31, 1989.

2. PAYROLL TAX DEPOSIT SPEEDUP (SEC. 6632 OF THE BILL AND SEC. 6302 OF THE CODE)

Present law

Tresuary regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with wih these taxes must be deposited increases as the amount required to be deposited increases. Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking dates after the end of the eighth-monthly period.

Reasons for change

The committee believes that it is appropriate for employers who are required to deposit large amounts of withheld income taxes and FICA taxes deposit those taxes more rapidly.

Explanation of provision

Employers who are on the eighth-monthly system are required to deposit income taxes withheld from employees' wages and FICA taxes by the close of the next banking day (instead of by the close of the third banking day) after any day on which the business has an amount to be deposited equal to or greater than $250,000 (regardless of whether that day is the last day of an eighth-monthly period).

Effective date

The provision is effective for amounts required to be deposited after 31, 1990. A special rule is effective for 1991 and 1992. For 1991 and 1992, amounts required to be deposited under this provision must be deposited by the close of the third banking day (instead of the next banking day). The Treasury Department is given authority to issue regulations for 1995 and succeeding years to provide for similar modifications to the date by which deposits must be made in order to minimize unevenness in the receipts effects of the provision.

E. Tax-Exempt Bond Provisions

1. MODIFY RULES CONCERNING TAX-EXEMPT BONDS ISSUED BY 501(C)(3) ORGANIZATIONS (SEC. 6641 OF THE BILL AND SEC. 145 OF THE CODE)

Present law

The interest of State and local government bonds generally is exempt from tax if the bonds are issued to finance direct activities of these governments (Code sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless a specific exception is included in the Code.

[1] An electing nonqualifying thrift institution may take into account more than 10 percent of the experience portion of its bad debt reserves in the disqualification year and make appropriate adjustments to the percentages taken into account in the following three years in accordance with rules similar to those set forth in section 585(c)(3)(A)(iii).

One such exception is for private activity bonds issued to finance activities of charitable organizations decribed in Code section 501(c)(3) ("section 501(c)(3) organizations") when the activities do not constitute an unrelated trade or business (Code sec. 141(e)(1)(G)).[1]

Classification of Section 501(c)(3) Organization Bonds As Private Activity Bonds

Under present law, a bond is a private activity bond if its proceeds are used in a manner violating either (i) a private business test or (ii) a private loan test. The private business test is a conjunctive two-pronged test. First, the test limits private business use of government bonds to no more than 10 percent of the proceeds.[2] Second, no more than 10 percent of the debt service on the bonds may be derived from private business users of the proceeds. The private loan test limits to the lesser of five percent of $5 million the amount of governmental bond proceeds that may be used to finance loans to persons other than governmental units.

Special Restrictions on Tax-exemption for Section 501(c) for Organization Bonds

Present law treats section 501(c)(3) organizations as private persons. Thus, bonds for their use may only be issued as private activity "qualified 501(1)(3) bonds," subject to the restrictions of Code section 145. The most significant of these restrictions limits the amount of outstanding bonds from which a section 501(c)(3) organization may benefit to $150 million. In applying this "$150 million limit," all section 501(c)(3) organizations under common management or control are treated as a single organization. The limit does not apply to bonds for hospital facilities, defined to include only acute care, primarily inpatient, organizations. A second restriction limits to no more than five percent the amount of the net proceeds of a bond issue that may be used to finance any activities (including all costs of issuing the bonds) other than the exempt purposes of the section (501)(c)(3) organization.

In addition, existing residential rental property that is acquired by section 501(c)(3) organizations with the proceeds of tax-exempt bonds must satisfy the same low-income tenant occupancy requirements which apply to for-profit developers receiving tax-exempt private activity bond financing (sec. 142(d)(1)).

Other Restrictions

The Code imposes several restrictions on private activity bonds that do not apply to bonds used to finance direct State and local activities. Many of these restrictions also apply to qualified 501(c)(3) bonds.

No more than 2 percent of the net proceeds of a bond issue may be used to finance the costs of issuing the bonds, and these monies are not counted in determining whether the bonds satisfy the requirement that at least 95 percent of the net proceeds of each bond issue be used for the exempt activities qualifying the bonds for tax-exemption.

The weighted average maturity of a bond issue may not exceed 120 percent of the average economic life of the property financed with the proceeds.

A public hearing must be held and an elected public official must approve the bonds before they are issued (or the bonds must be approved by voter referendum).

If property financed with private activity bonds is converted to a use not qualifying for tax-exempt financing, certain loan interest penalties are imposed.

Both governmental and private activity bonds are subject to arbitrage and other restrictions.

Reasons for change

The committee believes a distinguishing feature of American society is the singular degree to which we maintain an independent sector of private institutions in the public service. The committee believes it is important to assist these private institutions in their advancement of the public good. The committee finds particularly inappropriate the restrictions of present law which place 501(c)(3) organizations at a financial disadvantage to public institutions in providing essentially the same services. For example, a public university generally has unlimited access to tax-exempt finance, while a private university is subject to a $150 million limitation. The committee is concerned that this and other restrictions inhibit the ability of our great private institutions to modernize their research laboratories and libraries and other facilities. The committee believes it is appropriate to attempt to treat equally State and local governments and those private organizations which are engaged in the advancement of the public good.

Explanation of provision

The bill amends the tax-exempt bond provisions of the Code of conform generally the treatment of section 501(c)(3) organization bonds to finance the exempt purpose of the organization to that provided for bonds issued to finance direct State or local government activities.[3] Certain restrictions, described below, that have been imposed on section 501(c)(3) organization bonds (but not on governmental bonds) since 1985, and that address specialized policy concerns, are retained.

Repeal of Private Activity Bond Classification for Section 501(c)(3) Organization Bonds

The concept of an "exempt person" that existed under the Code bond provisions before 1986, is reenacted. An exempt person is defined as (i) a State or local governmental unit or (ii) a section 501(c)(3) organization when carrying out its exempt activities under Code section 501(a). Thus, bonds issued by a section 501(c)(3) organization to carry out its exempt activities are no longer classified as private activity bonds. Financing for unrelated business activities of such organizations continue to be treated as a private activity for which tax-exempt financing is not authorized.

As exempt persons, section 501(c)(30 organizations are subject to the same limits as States and local governments on using their bond proceeds to finance private business activities or to make private loans. Thus, no more than 10 percent of the bond proceeds[4] can be used in a business use of a person other than an exempt person if the Code security interest test is satisfied, and no more than five percent ($5 million if less) can be used to make loans to such "nonexempt" persons.

Repeal of Most Additional Restrictions on Section 501(c)(3) Organization Bonds

The bill repeals present Code section 145, which establishes additional restrictions on qualified 501(c)(3) bonds. The bill also repeals the restriction on bond-financed costs of issuance for section 501(c)(3) organization bonds (Code sec. 147(h)). This repeal of Code section 145 eliminates the $150 million per institution limit on nonhospital bonds for section 501(c)(3) organizations.

Retention of Certain Specialized Requirements for Section 501(c)(3) Organization Bonds

As stated above, the bill retains certain specialized restrictions on bonds for section 501(c)(3) organizations. First, the bill retains the requirement that existing residential rental property acquired by a section 501(c)(3) organization in a tax-exempt-bond-financed transaction satisfy the same low-income tenant requirements as similar housing financed for for-profit developers. Second, the bill retains the present-law maturity limitations applicable to bonds for 501(c)(3) organizations, and the public approval requirements applicable generally to private activity bonds. Third, the bill continues to apply the penalties on changes in use of tax-exempt bond-financed section 501(c)(3) organization property to a use not qualified for such financing.

Effective date

The bill applies generally to bonds issued after December 31, 1989.

An exception permits bonds for which a transitional exception was provided in the Tax Reform Act of 1986 to be issued under the rules currently applicable to those bonds, unless the issuers elected to be subject to the bill's provisions. Such an election is to be made on an issue-by-issue basis before the bonds are issued, and its irrevocable once made.

2. REFINANCINGS OF CERTAIN BOND ISSUES (SEC. 6642 OF THE BILL)

Present law

A bond (including refunding bonds) is a private activity bond if an amount exceeding the lesser of five percent or $5 million of bond proceeds is to be used (directly or indirectly) to make or finance loans to any person other than a governmental unit.

Reasons for change

The private loan rules restrict the ability of issuers to utilize tax-exempt bonds to make or finance loans to persons other than a governmental unit. The committee believes that a limited exception from these rules is justified in the refunding case allowed under this provision.

Explanation of proposal

The provision allows a current refunding on a tax-exempt basis to qualified issuers if the following restrictions are satisfied: (1) the amount of the refunding issue may not exceed the outstanding amount of the refunded bonds; and (2) the final maturity

[1] Prior to the enactment of the Tax Reform Act of 1986, State and local governments and 501(c)(3) organizations both were defined as "exempt persons," and their bonds generally were subject to the same requirements.

[2] No more than 5 percent of bond proceeds may be used in a private business use that is unrelated to the governmental purpose of the bond issue. The 10-percent debt service test, described below, likewise is reduced to 5 percent in the case of such "disproportionate" private business use.

[3] For example, if as part of its regular curriculum a private university offered instruction in aviation, it would be permissible to use the proceeds of tax-exempt bonds to purchase trainer aircraft which present law would not permit under sec. 147(e).

[4] This limit would be reduced to five percent in the case of disproportionate private use as under the present law governmental bond disproportionate private use limit.

date of the refunding issue may not be later than six months following the scheduled final maturity date of the issue of which the refunded bond is a part. A qualified issuer must have issued the bonds to be refunded to provide financial assistance to a financially troubled issuer that is a separate political subdivision and that issued the bonds in order to alleviate the risk of default on the financial obligations of the financially troubled issuer.

Effective date

The provision is effective on the date of enactment.

3. SPORTS FACILITY BONDS (SEC. 6643 OF THE BILL AND SEC. 142 OF THE CODE)

Present law

Interest on State and local government bonds generally is tax-exempt (Code sec. 103). Interest on private activity bonds issued by such governments is taxable unless a specific exemption is provided in the Code. In addition, the availability of certain private activity tax-exempt bond financing is limited by the State annual private activity volume limitation. Specifically, the volume limitation applies to (1) exempt-facility bonds (other than bonds for airports, docks and wharves, and certain governmentally owned solid waste disposal facilities), (2) qualified mortgage bonds, (3) small-issue bonds, (4) qualified student loan bonds, and (5) qualified redevelopment bonds. Certain other private activity bonds for which tax-exemption specifically is provided in non-Code provisions also are subject to the new private activity bond volume limitations. While sports stadiums and convention facilities could be financed as qualified Industrial Development Bonds (IDBs) under prior law, they no longer fall within any category of exempt-facility bonds eligible for tax-exemption under present law.

Reasons for change

The committee believes that sports facilities provide public benefits. Consequently, the committee believes it is appropriate to make tax-exempt financing available to such facilities. Because of the benefits which can inure to private persons, the committee believes it is important to subject bonds for such facilities to the State private activity bond limitation and to insure that such facilities are publicly owned.

Explanation of provision

The bill provides that sports facilities are an exempt facility and can be financed using tax-exempt bonds subject to the State private activity bond limitation.[1] The bill provides that such facilities financed with tax-exempt bonds must be governmentally owned.

Effective date

The provision is effective for bonds issued after December 31, 1989.

F. Insurance Provisions

1. STUDY RELATING TO SECTION 833 DEDUCTION (SEC. 6651 OF THE BILL)

Present law

The Tax Reform Act of 1986 added a rule that an organization described in sections 501(c)(3) or (4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance 501(m)). The 1986 Act provided special rules for certain health insurance providers subject to this provision. In particular, the 1986 Act provided a special deduction for then-existing Blue Cross or Blue Shield organizations and other organizations that meet certain requirements and substantially all of whose activities are providing health insurance.

The special deduction is provided under Code section 833 to such organizations with respect to their health business, and is equal to (1) 25 percent of the claims and expenses incurred during the taxable year, less (2) the adjusted surplus at the beginning of the year. This deduction is calculated by computing surplus, taxable income, claims incurred, expenses incurred, tax-exempt income, net operating loss carryovers, and other items attributable to health business. The deduction may not exceed taxable income attributable to health business for the year (calculated without regard to this deduction).

In addition, the 1986 Act provided special rules for determining the accounting method, unearned premium reserves, and asset basis of such organizations, relating to their former tax exempt status.

Reasons for change

The committee believes it is appropriate to review the operation of the section 833 deduction and the provisions determining eligibility for the deduction, as well as whether organizations meeting requirements similar to the eligibility standards for the section 833 deduction should be treated as a category of tax-exempt organizations.

Explanation of provision

The Secretary of the Treasury or his delegate is required to conduct a study of the standards for eligibility for, and the operation of, the special deduction provided under section 833 to certain existing Blue Cross or Blue Shield organizations and other organizations with respect to their health business. The study is to include an examination of whether organizations in existence on August 16, 1986, which are similar to Blue Cross and Blue Shield organizations should also be eligible for the section 833 deduction. The study should also examine whether similar organizations that meet certain requirements such as continuous open enrollment and others indicating public purpose (including requirements similar to those described in section 833(c)(3)) should be eligible for tax-exempt status.

Effective date

Not later than March 15, 1990, the Secretary of the Treasury is required to submit to the Finance Committee the Senate and the Committee on Ways and Means of the House of Representatives a report on the study, together with such recommendations as the Secretary may deem advisable.

2. TREATMENT OF CERTAIN RESERVES UNDER MINIMUM PREMIUM PLANS (SEC. 6652 OF THE BILL)

Present law

Under present law, a property and casualty insurance company is subject to tax on its underwriting income and its investment income. Underwriting income is defined for this purpose as the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred.

In calculating the amount of premiums earned on insurance contracts, 80 percent of the increase in unearned premiums during the year is deducted from gross premiums (less return premiums and premiums paid for reinsurance). The deduction for losses incurred includes losses paid during the year (adjusted for salvage and reinsurance recoverable), and the increase in discounted unpaid losses during the year.

Under present law, it is unclear whether amounts set aside by an insurance company as a reserve pursuant to State law or regulation for future claim payments to be made upon the termination of a minimum premium plan are properly treated for Federal income tax purposes as unearned premiums, as unpaid losses, or as nondeductible amounts.

Reasons for change

The committee believes that amounts set aside as a reserve pursuant to State law or regulation for future claims payments upon the termination of a minimum premium plan should be treated for Federal income tax purposes as unearned premiums.

Explanation of provision

The bill provides that, for purposes of section 832(b)(4) of the Code (or any corresponding provision of prior law), the term "unearned premiums" includes amounts set aside as a reserve pursuant to State law (or any rules or regulations thereunder) by an insurance company for future claims payments upon the termination of a minimum premium plan, to the extent a premium or other consideration corresponding to such reserve has been included in the gross income of the company.

Effective date

The provision applies to taxable years beginning before, on, or after the date of enactment of the bill.

G. Compliance Provisions

1. IRS NOTICE TO TAXPAYERS OF UNDERREPORTING OF AMOUNTS WITHHELD AND STATUTE OF LIMITATIONS FOR CERTAIN REFUND CLAIMS (SECS. 6661–6662 OF THE BILL AND NEW SEC. 7523 OF THE CODE)

Present law

Under procedures in effect for taxable years beginning before 1987, the Internal Revenue Service did not notify taxpayers or make adjustments on income tax returns when it was determined that the amount reported as withheld on an income tax return was less than the amount reported on an information return. On March 22, 1989, the Internal Revenue Service announced revisions in its procedures for the 1987 taxable year and thereafter. Under these revised procedures, discrepancies involving amounts reported as withheld on information returns will be adjusted in the same manner as discrepancies in amounts reported as withheld on Forms W-2 or W-2P. Such an adjustment may involve a correction of the return where information has been reported on the wrong part of the return. In other cases, the Internal Revenue Service's procedures require that the IRS contact the taxpayer to inform the taxpayer of the discrepancy.

Reasons for change

The committee believes that the interests of taxpayers would be best protected if the Internal Revenue Service was required to notify taxpayers where it was determined that the amount of tax reported as withheld on an information return was $5 or more in excess of the amount of tax reported as withheld on an income tax return.

In addition, the committee believes that taxpayers should have an additional year within which to file an amended return claiming a refund due to underreporting of withholding.

[1]The provision does not alter the prohibition against the financing of skyboxes with the proceeds of tax-exempt bonds (sec. 147(e)).

Explanation of provisions

Underreporting of Amounts Withheld

If, in connection with one or more information return matching programs, the Internal Revenue Service determines that the amount of tax shown on information returns as withheld for any taxable year exceeds by $5 or more the amount of tax shown on the income tax return as withheld for that taxable year, then the Internal Revenue Service is required to notify the taxpayer of such excess. In addition, the IRS notice must inform taxpayers of how to file a claim for a refund of these unreported withheld amounts. (This is identical to S. 811, introduced by Senator Bentsen.)

Amended Returns for Certain Refund Claims

In addition, the bill provides that a taxpayer may file an amended return until April 15, 1990, for the taxable year ending December 31, 1985, if the amended return relates to an overpayment of tax attributable to the taxpayer's failure to take proper credit for amounts of tax withheld by a payor from any income included in the taxpayer's gross income for that taxable year. (This is identical to S. 753, introduced by Senator Gore, Senator Pryor, and Senator Harkin.)

Effective date

The provision applies to all information return matching that occurs after the date of enactment.

2. INCREASE IN REFUND REVIEW THRESHOLD FOR REPORTS SUBMITTED TO THE JOINT COMMITTEE ON TAXATION (SEC. 6663 OF THE BILL AND SEC. 6405 OF THE CODE)

Present law

No refund or credit in excess of $200,000 of any income tax, estate or gift tax, or certain other specified taxes, may be made until 30 days after the date a report on the refund is provided to the Joint Committee on Taxation (sec. 6405). A report is also required in the case of certain tentative refunds. Additionally, the staff of the Joint Committee on Taxation conducts post-audit reviews of large deficiency cases and other select issues.

Reasons for change

The committee believes that it is appropriate to increase the refund review threshold, which has been set at $200,000 since 1976. This increase will accelerate the issuance of refunds between $200,000 and $1,000,000 to the taxpayers involved. In addition, this increase will free up significant resources of both the Internal Revenue Service and the staff of the Joint Committee on Taxation, without materially impairing the ability to monitor problems in the administration of the tax laws.

Explanation of provision

The threshold above which refunds must be submitted to the Joint Committee for review is increased from $200,000 to $1,000,000.

The committee expects that the staff of the Joint Committee on Taxation will continue to exercise its existing statutory authority to conduct a program of expanded post-audit reviews of large deficiency cases and other select issues. The committee expects that the IRS will fully cooperate in this expanded program.

Effective date

The provision is effective on the date of enactment, except that the higher threshold will not apply to a refund or credit with respect to which a report was made before the date of enactment.

H. Exempt Organizations

1. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS (SEC. 6671 OF THE BILL AND NEW SEC. 501(n) OF THE CODE)

Present law

Present-law section 501(c)(3) requires that an organization be organized and operated exclusively for an exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(f) provides that an organization shall be treated as organized and operated exclusively for charitable purposes if it is comprised solely of members that are educational institutions and is organized and operated to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the moneys contributed thereto by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.

Reasons for change

The committee believes it is appropriate to extend to private foundations and community foundations present-law rules which permit educational institutions to form tax-exempt cooperative service organizations to provide for collective investment of their assets.

Explanation of provision

Under the provision, a cooperative service organization comprised exclusively of members which are tax-exempt private foundations or community foundations [1] is treated for purposes of section 501(c)(3) as organized and operated exclusively for charitable purposes if: (1) it has at least 20 members; (2) no one member holds more than 10 percent (by value) of the interests in the organization; (3) no one member, by itself, controls the organization or controls any other member; (4) the members are permitted to dismiss the organization's investment adviser upon a vote of members holding a majority of interest in the organization; and (5) the organization is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the moneys contributed by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.[1a]

A cooperative service organization meeting the criteria of the provision is subject to the present-law excise tax provisions applicable to private foundations (e.g., sec. 4941 rules governing self-dealing arrangements), other than sections 4940 and 4942. In addition, the proportionate share (whether or not distributed) of the net income of the cooperative service organization (including capital gains) of each member (other than certain exempt operating foundations) for any taxable year of the cooperative service organization is, for purposes of the excise tax imposed under present-law section 4940, treated as net investment income of the member for the taxable year of such member in which the taxable year of the cooperative service organization ends.

Effective date

The provision applies to taxable years beginning after December 31, 1989.

2. CERTAIN EXISTING ARRANGEMENTS EXEMPT FROM EXCISE TAX ON SELF-DEALING INVOLVING PRIVATE FOUNDATIONS (SEC. 6672 OF THE BILL AND SEC. 4941 OF THE CODE)

Present law

Section 509(a) defines a private foundation as any tax-exempt organization described in section 501(c)(3) other than certain organizations described in section 170(b)(1)(A) (e.g., churches, educational institutions, and hospitals), organizations which meet the "public support" test of section 509(a)(2) (i.e., organizations normally receiving one-third of their support from gifts, grants, contributions, membership fees, and certain other permissible sources and also not receiving more than one-third of their support from gross investment income and certain other business activities), and certain other organizations.

Section 4941 provides for the imposition of excise taxes when private foundations engage in "self-dealing" transactions with certain disqualified persons. The transactions prohibited as "self-dealing" generally include (1) the sale, exchange, or leasing of property between a private foundation and a disqualified person, (2) the lending of money or other extension of credit between a private foundation and a disqualified person, and (3) payment of compensation by a private foundation to a disqualified person. For purposes of the section 4941 excise taxes, disqualified persons generally include substantial contributors[1b] to private foundations, managers of private foundations, certain relatives of substantial contributors and foundation managers, and certain government officials (sec. 4946).

Reasons for change

The committee believes it is appropriate to permit certain tax-exempt organizations that become private foundations after having qualified as public charities to avoid disruptions of their operations by continuing for a limited period certain business arrangements reflecting arm's-length transactions.

Explanation of provision

The provision permits an organization that becomes a private foundation with respect to a taxable year after having met the public support tests of section 509(a)(2) for a minumum of three prior years to continue (or to renew) certain qualified existing arrangements which are the result of arm's-length transactions. Such arrangements are exempted from the excise taxes imposed upon self-dealing transactions by section 4941 for a period not to exceed the longer of (1) the period provided by an existing binding contract entered into more than two years before the start of the taxable year with respect to which the organization be-

[1] For purposes of the provision, "community foundations" are a form of charitable trust or fund (which generally are established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area) as to which section 170(b)(1)(A)(vi) applies (*see* Treas. Reg. sec. 1.170A-9(e)(10).

[1a] A cooperative service organization described in the provision qualifies for tax-exempt status under section 501(c)(3) only if the other relevant requirements of that section (e.g., limitations on political and lobbying activities) are satisfied.

[1b] A "substantial contributor" is any person who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than two percent of the total contributions and and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person (secs. 507(d)(2) and 4946(a)(2)).

comes a private foundation, or (2) a five-year period beginning with the taxable year with respect to which the organization becomes a private foundation.

For purposes of the provision, "qualified existing arrangement" include the continuance or renewal of the following arrangements if such arrangements were in effect during the period the organization satisfied the public support test of section 509(a)(2): (1) the leasing by a disqualified person to a private foundation of office space in a building with other tenants who are not disqualified persons if the leasing is pursuant to a binding lease; (2) the furnishing of goods, services (including banking services), or facilities by a disqualified person to a private foundation [2]; (3) the sale of property from a private foundation to a disqualified person pursuant to a binding contract; and (4) to the extent provided by regulation, any other arrangement.

Under the provision, existing arrangements may be continued or renewed only if they are the result of an arm's-length transaction (i,.e., the terms of the transaction are not less favorable to the private foundation than if it had contracted with a member of the general public who was not a disqualified person). Any renewal or modification of an existing arrangement may not substantially modify such arrangement.

The provision does not apply to any arrangement between a private foundation and a disqualified person who is a substantial contributor to the foundation within the meaning of section 4946(a)(2). such transactions between a private foundation and a substantial contributor continue to be governed by the present-law rules prohibiting self-dealing arrangements provided for by section 4941.

Effective date

The provision applies to taxable years beginning after the date of enactment.

I. Other Provisions

1. ADOPTION EXPENSE DEDUCTION (SEC. 6681 OF THE BILL AND NEW SEC. 221 OF THE CODE)

Present law

The Tax Reform Act of 1986 (the "1986 Act") repealed the deduction for adoption expenses associated with special needs children, effective for taxable years beginning on or after January 1, 1987. Under prior law, a deduction of up to $1,500 of expenses associated with the adoption of special needs children was allowed. The 1986 Act provided for a new outlay program under the existing Adoption Assistance Program to reimburse expenses associated with the adoption process of these children. The group of children covered under the outlay program is somewhat broader than the group covered by the prior deduction. Aid to Families with Dependent Children (AFDC) and Title IV-E Foster Care assistance outlay program provides assistance for adoption expenses for these special needs children as well as special needs children in private and State-only programs.

One component of the Adoption Assistance Program requires States to reimburse certain costs incurred for special needs children. The Federal government shares 50 percent of these costs up to a maximum Federal share of $1,000 per child. Reimbursable expenses include those associated directly with the adoption process such as legal costs, social service review, and transportation costs.

Reasons for change

The committee believes an individual who is willing to adopt a child with special needs will incur greater expenses in the process of the adoption than would an individual who will adopt a child without such special needs. It is appropriate public policy then to offset some of the expenses through available tax provision in order to encourage such individuals.

Explanation of provision

The proposal will allow a taxpayer to exclude from adjusted gross income (AGI) up to $3,000 of expenses incurred in the course of the adoption of a child with special needs. This exclusion will be allowed as an "above-the-line" deduction. A child with special needs means any child who, as determined by a State, cannot or should not be returned to the home of the birth parents and cannot be placed with adoptive parents without providing adoption assistance.

Eligible adoption expenses will be limited to those: (1) directly associated with the adoption process and (2) that are of a type eligible for reimbursement under the Adoption Assistance Program. These include reasonable and necessary court costs, legal expenses, and other expenses directly related to the legal adoption of a child.

Effective date

The provision applies to taxable years beginning after December 31, 1989.

2. TAX PRE-CONTRIBUTION GAIN ON CERTAIN IN-KIND PARTNERSHIP DISTRIBUTIONS (SEC. 6682 OF THE BILL AND SEC. 704(C) OF THE CODE)

Present law

A partnership is not subject to tax at the partnership level, but rather, income and loss of the partnership is subject to tax at the partner level (Code sec. 701). A partner's distibutive share of items of partnership income, gain, loss, deduction or credit generally may be determined by the partnership agreement if the allocations under the agreement have substantial economic effect. If partnership allocations do not have substantial economic effect, partners' distributive shares are required to be determined in accordance with the partners' interests in the partnership (determined by taking into account all facts and circumstances) (sec. 704(b)).

Income, gain, loss, and deduction with respect to property contributed to the partnership by a partner is required to be shared among partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution (sec. 704(c)). Thus, for example, if appreciated property that was contributed to the partnership is sold by the partnership, gain recognized on the sale is required to be allocated to the contributing partner to the extent he has not previously taken the pre-contribution gain into account.

A partner generally does not recognize gain on a distribution of partnership property (except on a distribution of money in excess of a partner's basis in his partnership interest) (sec. 731). In addition, a partnership does not recognize gain on a distribution of property to a partner. Thus, if appreciated property that was contributed by a partner is distributed to other partners (rather than sold by the partnership), the contributing partner may avoid recognizing the pre-contribution gain.

Present law provides that a partnership is considered as terminated under certain circumstances, including the sale or exchange of 50 percent or more of the total interest in partnership capital and profits within a 12-month period (sec. 708(b)). Applicable Treasury regulations provide that in such a termination, the partnership property is deemed distributed to the partners and then is deemed recontributed to the partnership. The regulations do not provide specific rules for coordinating the effect of such a partnership termination with the required sharing of partnership items under section 704(c).

Another provison of present law provides, generally, that no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged solely for property of a like kind which is to be held either for productive use in a trade or business or for investment (section 1031). Certain listed property does not qualify for nonrecognition treatment (sections 1031(1)(2) and (e)). In order for the nonrecognition rule to apply, the property received in the exchange must be (1) identified within 45 days after the taxpayer transfers the relinquished property, and (2) received before the earlier of 180 days after the taxpayer transfers the relinquished property, or the due date (with regard to extensions) of the taxpayer's income tax return for the year the property was relinquished.

Reasons for change

The committee believes that the present-law inconsistency in treatment of partnership sales and partnership distributions of property contributed by partners makes it possible for partners to circumvent the rule requiring pre-contribution gain on contributed property to be allocated to the contributing partner. Therefore, in order to limit the inconsistency and to reduce opportunities for circumventing this rule, the committee believes that the contributing partner should recognize pre-contribution gain when property is distributed by the partnership to a partner other than the contributing partner, if the distribution of the contributed property occurs less than 3 years after the contribution.

The committee also believes that, in limited circumstances, where multiple properties of a like kind are distributed to partners, and the transaction would have been treated as a like-kind exchange had it occurred outside the partnership, the partners should receive treatment similar to like-kind exchange treatment.

Explanation of provision

The bill provides that, in the case of a distribution of contributed property within three years of its contribution, the contributing partner is treated as recognizing gain or loss. Gain or loss recognition is not required under the bill, however, to the extent partnership property is distributed to the partner who originally contributed the property to the partnership. When gain or loss recognition is required by the provision, the amount the contributing partner is treated as recognizing is equal to the amount he would have had to take into ac-

[2] The furnishing of goods, services, or facilities by a disqualified person to a private foundation on an intermittent basis is permitted by the provision for a five-year period even though there is no binding contract requiring the continuation of the arrangement, provided that the disqualified person previously had furnished substantially similar goods, services, or facilities to the organization when it met the public support test of section 509(2)(2) and after the organization becomes a private foundation the arrangement reflects an arm's-length transaction.

count by reason of the variation between basis and value upon contribution of the property, had the property been sold by the partnership at its fair market value at the time of the contribution.

For example, if a partner contributes property (e.g., a tract of raw land) with a basis of 20 and a value of 100, and the partnership contributes it to other within 3 years, at a time when the property's value is 150, the contributing partner is treated as recognizing a gain of 80 under the provision (i.e., the amount of the variation between basis (20) and value (100) of the property at the time of contribution). If the partnership had sold the property at the time of contribution, the partnership's gain would have been at least this amount. Similarly, if the property had a value of 60 at the time of contribution to other partners, the contributing partner would be treated as recognizing a gain of 40 under the provision (i.e., the part of the amount of the variation between basis and value that would have been recognized had the partnership sold the property at its fair market value at the time of distribution). These examples assume no intervening allocations were made or required to be made to the contributing partner under section 704(c).

The character of gain or loss to the contributing partner is the same as the character to the partnership had the partnership sold the property to the distributee at the time of the distribution. As under present-law section 704(c), appropriate adjustments are required to be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the distributed property to reflect any gain or loss recognized under the provision. Thus, the contributing partner's adjusted basis for his partnership interest will be increased or decreased, respectively, to reflect any gain or loss he recognized under the provision upon the distribution of the property to another partner (or partners). Similarly, the partnership's adjusted basis for the distributed property will be increased or decreased, respectively, to reflect any gain or loss the contributor recognized under the provision upon the distribution, and this increase or decrease will be taken into account in determining the distributee's adjusted basis for the distributed property under the rules of section 732.

The bill provides that the term contributing partner includes successor partners. Thus, for example, if the partner who originally contributed property to the partnership sells his interest to a successor partner, the successor is treated as recognizing gain or loss under the provision when the contributed property is distributed to other partners within 3 years of the date the selling partner contributed it. The provision does not affect the ability to adjust basis under present law pursuant to a section 754 election.

Gain or loss is not recognized under the provision to the extent contributed is distributed by the partnership to the contributing partner. A special rule provides that, under regulations, if property contributed by one partner (the "contributing partner") is distributed to another partner (the "distributee partner"), and other property of a like kind is distributed to the contributing partner within a limited time period, then, to the extent of the value of the property actually distributed to the contributing partner, the contributing property is treated as receiving a distribution of property that he contributed. The limited time period is the period that is the lesser of (i) 180 days following the date of the distribution to the distributee partner, or (ii) the due date of the partner's tax return (with regard to extensions) for the taxable year of the distribution to the contributing partner. It is intended that the value of property distributed be determined in accordance with all the facts and circumstances (including, e.g., the purchase price of such property, or the value of cash, or other items contributed to the partnership in exchange for interests in the partnership). The special rule does not apply to property described in sections 1031(a)(2) or (e).

It is intended that the rule of section 704(c), as amended by the bill, be coordinated with the rules governing partnership terminations (sec. 708). Coordination of this provision of the bill with present law on partnership terminations is intended to be limited in scope, and to provide the following results. First, pre-contribution gain or loss otherwise required to be recognized under the provision is not triggered by a constructive termination under section 708(b)(1)(B). Second, a constructive termination does not change the application of the sharing requirements of 704(c) (as amended by the bill) to pre-contribution gain or loss with respect to property contributed to the partnership before the termination. The rationale for this latter result is that a termination could otherwise cause a shift of pre-contribution built-in gain or loss away from the contributed property to other property, which is contrary to the purpose of this provision of the bill.

It is intended, however, that the deemed contribution of property that occurs (under regulations) upon a constructive termination of the partnership will require the application of section 704(c) (as amended by the bill) to the partners' shares of any increase or decrease in the value of the partnership's assets occurring after those assets were acquired (whether by purchase or contribution) by the partnership and before the termination. As a result, partners will recognize gain or loss in connection with any subsequent distribution of partnership property within 3 years of the date of the termination, to the extent of their respective shares of the pre-termination appreciation or depreciation in the value of the partnership property that is not already required to be allocated under 704(c) to the original contributor (if any) of the property.

Gain or loss will not be triggered under the provision solely by reason of the election under section 761(a) of all the members of an unincorporated organization to exclude the organization from subchapter K. No inference is intended as to any of the tax consequences under present law of an election out of subchapter K under section 761(a).

The provision applies only to a transfer of contributed property to a partner in a transaction that is properly characterized as a distribution to that partner acting in his capacity as a partner for purposes of section 731. To the extent that a transfer of partnership property to a partner by the partnership in a purported distribution is part of a disguised sale, the tax consequences of that transfer are governed by the rules generally applicable to sales or exchanges of property (see section 707 (a) and (b), and Reg. section 1.731-1(c)(3)).

Effective date

The provision is effective with respect to property contributed to a partnership after October 3, 1989, in partnership taxable years ending after that date.

3. REPEAL NET INCOME LIMITATION FOR PERCENTAGE DEPLETION ON MARGINAL OIL AND GAS PRODUCTION (SEC. 6683 OF THE BILL AND SEC. 613A(C)(14) OF THE CODE)

Present law

Under present law, independent producers and royalty owners are permitted to claim percentage depletion on the production of domestic crude oil and domestic natural gas. Such allowance for depletion, however, is subject to several limitations. First, an independent producer or royalty owner can only claim percentage depletion on its combined average daily production of domestic crude oil and domestic natural gas that does not exceed 1,000 barrels (or an equivalent amount of natural gas). Second, percentage depletion is further limited (on a property by property basis) to an amount not in excess of 50 percent of the taxpayer's net taxable income from the property, computed without a deduction for depletion (the "net income limitation"). Finally, a taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year (the "taxable income limitation").

Reasons for change

The committee understands that in many cases, the gross income generated from certain marginally producing oil and gas property is offset to a significant degree by associated operating costs. By operation of the net income limitation, owners of such property often receive little or no benefit from the percentage depletion deduction under present law. The committee understands that as a result of the minimal net income and lack of percentage depletion deduction which occur with respect to some marginal properties, in certain cases taxpayers have contended that it is not economically feasible to continue the operation of such properties. The committee further understands that once the operation of a marginal property is shut down, it is unlikely that production will be restored in the future.

The committee believes that certain incentives should be provided for marginal oil and gas properties so that the extraction of oil and gas reserves from such properties will continue. In particular, the committee believes that it is appropriate to repeal the net income limitation to permit greater percentage depletion deductions for such taxpayers with respect to the operation of certain marginally producing oil and gas properties.

Explanation of provision

Under the bill, independent producers and royalty owners are permitted to claim percentage depletion under rules identical to present law, except that with respect to certain marginal production of domestic crude oil and domestic natural gas, the net income limitation will not apply. The present-law net income limitation remains unchanged, under the bill, as it applies to the allowance for percentage depletion on production of oil and gas other than that designated under the bill as marginal.

To illustrate this rule, consider the following example. Assume that a domestic property of an independent producer produces crude oil that generates $200 of gross income during a taxable year and has operating costs (before depletion) of $150. Further assume that the production from the property qualifies as marginal production

under the bill. Under the present-law percentage depletion rate of 15 percent, the maximum amount of depletion which could be claimed on such property is $30 ($200 gross income multiplied by 15 percent). However, under present law, the allowable percentage depletion deduction is limited to $25 because of the 50-percent net income limitation ($50 net income multiplied by 50 percent). Under the bill, the net income limitation is repealed for marginal production. Thus under the bill, the taxpayer would be allowed to claim a percentage depletion deduction of $30 (prior to considering other applicable limitations.)

Under the bill, the term marginal production includes (1) domestic crude oil and natural gas produced from a stripper well, and (2) domestic crude oil which is heavy oil (oil that has a weighted average gravity of 20 degrees API or less corrected to 60 degrees Fahrenheit). For purposes of this provision of the bill, a stripper well is an oil or gas well which produced an average of 15 or less equivalent barrels of oil and gas per production day during any 6-month period beginning after December 31, 1985.[1] During the 6-month production period, production must occur at the well's maximum feasible rate of production as determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of crude oil or natural gas in order for the property to qualify as a stripper as well. In the case of a unitization or pooling of multiple wells, the bill requires that production shall be allocated to all unitized wells on the basis of sound engineering principles.

Under the bill, for purposes only of computing percentage depletion, an oil or gas well which qualifies as a stripper well for any period will continue to be treated as a stripper well even if future production from that well exceeds the 15 equivalent barrels per day limit provided in the stripper well definition. However, the 50-percent net income limitation will apply to production from such property in excess of such limitation.

The bill does not affect the 1,000 barrel average daily production limitation on the allowance or percentage depletion. Thus, if an independent producer or royalty owner has marginal producing properties (or a combination of marginal and non-marginal producing properties) that in total generate average daily production in excess of 1,000 barrels, the taxpayer will continue to be limited, as under present law, to the 1,000 barrel per day average for purposes of claiming percentage depletion.

Effective date

The provision is effective for taxable years beginning after December 31, 1990.

4. TREATMENT OF TUXEDOS HELD FOR RENTAL (SEC. 6684 OF THE BILL AND SEC. 168 OF THE CODE)

Present law

Tuxedos held for rental are assigned a class life of 9 years under the accelerated cost recovery system as modified by the Tax Reform Act of 1986. Consequently, the depreciation deduction for rental tuxedos generally is determined by using a 5-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

Reasons for change

In response to a statutory mandate to monitor and analyze actual experience with respect to all depreciable assets, the depreciation Analysis Division of the Office of Tax Analysis of the Department of Treasury issued a report during July of 1989 that recommended a class life of 2 years for tuxedos held for rental.

Explanation of provision

Tuxedos held for rental are assigned a class life of 2 years. Consequently, the depreciation deduction for rental tuxedos is to be determined by using a 3-year recovery period, the applicable convention, and the 200-percent declining balance method switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized. Alternatively, a taxpayer may elect under the alternative depreciation system to determine the depreciation deduction for rental tuxedos by using a 2-year recovery period, the applicable convention, and the straight-line method.

Effective date

The provision applies to rental tuxedos placed in service after December 31, 1989.

5. TREATMENT OF CERTAIN CAPITAL EXPENDITURES INCURRED IN ORDER TO ASSIST THE DISABLED (SEC. 6685 OF THE BILL AND SEC. 190 OF THE CODE)

Present law

A taxpayer may elect to deduct qualified architectural and transportation barrier removal expenses that are paid or incurred during any taxable year in lieu of capitalizing such expenses and recovering the expenses over the recovery period of the property to which the expenses relate. The deduction allowed under this provision for any taxable year is limited to $35,000. For this purpose, an architectural and transportation barrier removal expense is any expenditure for the purpose of making any facility, or public transportation vehicle, owned or leased by the taxpayer for use in connection with a trade or business of the taxpayer more accessible to, and usable by, handicapped and elderly individuals. A qualified architectural and transportation barrier removal expense generally is any architectural and transportation barrier removal expense that satisfies standards contained in Treasury regulations.

Reason for change

The committee believes that businesses should be encouraged to invest in structures, facilities, and equipment that assist disabled customers and employees. For this reason, the bill expands the types of expenditures that will qualify for expensing. In order to make the provision revenue neutral, however, the bill reduces the annual amount that is eligible for expensing.

Explanation of provision

The definition of qualified architectural and transportation barrier removal expense is expanded to include amounts chargeable to capital account that are paid or incurred in connection with a trade or business in order to provide auxiliary aids and services or reasonable accommodations to individuals with disabilities. In addition, the annual limitation on the deduction allowed for qualified architectural and transportation barrier removal expenses is reduced to $25,000.

Effective date

The provision applies to taxable years beginning after December 31, 1989.

6. TAX EXEMPTION FOR OVERSEAS PRIVATE INVESTMENT CORPORATION (SEC. 6686 OF THE BILL AND SEC. 501(1) OF THE CODE)

Present law

The Foreign Assistance Act of 1961 established the Overseas Private Investment Corporation (OPIC) as an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of OPIC is to facilitate the participation of United States private capital and skills in the economic development of less developed countries by conducting insurance, reinsurance, guarantee, and financing operations on a self-sustaining basis for OPIC-approved overseas investment projects of U.S. citizens.

The Foreign Assistance Act of 1961, as amended, specifically provides that OPIC is exempt from all Federal, State, and local taxes (22 U.S.C. sec. 2199(J)).

The International Cooperation Act of 1989, H.R. 2655 (reported by the House Committee on Foreign Affairs on June 16, 1989, H. Rep. 101-90, and passed by the House on June 29, 1989), would amend and recodify the Foreign Assistance Act of 1961, including the provisions governing OPIC, but would not specifically provide that OPIC is exempt from Federal income taxes.

The Internal Revenue Code of 1986 provides that a corporation organized under an Act of Congress which is an instrumentality of the United States is exempt from Federal income tax only if the exemption is provided under such Act as amended and supplemented before July 18, 1984, or if the exemption is provided in the Internal Revenue Code or a revenue Act (Internal Revenue Code sec. 501(c)(1)).

Reasons for change

The committee believes that it is appropriate to codify in the Internal Revenue Code the existing exemption from Federal income taxes provided for OPIC.

Explanation of provision

The Internal Revenue Code is amended to specifically provide that OPIC is exempt from Federal income taxes.

Effective date

The provision is effective on the date of enactment.

7. DENIAL OF RETROACTIVE CERTIFICATIONS FOR WORK INCENTIVE (WIN) TAX CREDIT (SEC. 6687 OF THE BILL)

Present law

Under prior law, the work incentive (WIN) credit provided a tax credit to employers for the employment of certain qualified individuals. Prior to the Economic Recovery Tax Act of 1981 (ERTA), the WIN credit did not specifically require certification of an employee as a qualified individual prior to the date of employment. In 1981, ERTA modified the WIN credit by merging it with the targeted jobs credit. ERTA also required that certification of an individual as a member of a targeted group must be obtained or requested before the date an individual begins work. This change was made generally effective on July 23, 1981, to avoid the potential for substantial revenue losses.

The law is unclear as to whether the requirement that the request for certification be made contemporaneously with employ-

[1] Equivalent barrels is computed as the sum of (1) the number of barrels of crude oil produced, and (2) the number of cubic feet of natural gas produced divided by 6,000. If a well produced 10 barrels of crude oil and 12,000 cubic feet of nautral gas, its equivalent barrels produced would equal 12 (i.e., (10 + (12,000 / 6,000))).

ment applies only to the new targeted jobs credit or to the prior separate WIN credit. The Internal Revenue Service took the position that retroactive certifications under the prior-law WIN credit are not valid.[1] The Tax Court recently held that retroactive certifications are valid for purposes of claiming the prior-law WIN credit.[2]

Reasons for change

The committee believes that the allowance of the WIN credit for retroactive certifications clearly undermines the incentive effect intended under the credit. Past congressional action has been in conformance with this belief but recent judicial action has injected some uncertainty as to the operation of present law. In some instances employers attempt to claim the WIN credit either on audit or through amended tax returns several years after the eligible employee was hired. The committee believes that this provision will eliminate any uncertainty and, by preventing further retroactive certifications, reduce a drain on the Federal Treasury that would result from future reliance on the Tax Court case. This provision was passed by the House in 1987 with an effective date of March 11, 1987.[3] This effective date was retained in order to serve the goals of the provision without creating undue administrative complexity.

Explanation of provision

The provision clarifies that certifications for the WIN credit (sec. 50B(h)(1) of the Code as in effect for taxable years beginning before January 1, 1982) must be made on or before the day the individual begins work.

Effective date

The provision is effective for WIN credits first claimed after March 11, 1987.

8. TREATMENT OF INCOME FROM PERSONAL INJURY AWARDS FOR MINOR CHILDREN (SEC. 6688 OF THE BILL AND SEC. 1(I) OF THE CODE).

Present law

As a result of the Tax Reform Act of 1986, the unearned income of a child under age 14 generally is taxed at the top marginal rate of his or her parents.

Reasons for change

Unearned income of minor children is taxed at the marginal rate of the parents in order to reduce shifting of income producing assets among family members and in recognition of the fact that a family is, in a sense, a single economic unit. The committee concluded that personal injury awards were not susceptible to income shifting and when such awards could not satisfy an obligation of support, they did not enrich the family.

Explanation of provision

Income attributable to lump sum damages received by a child on account of personal injuries or sickness would be taxed at the child's rate if such income accrues in a custodial account and is prohibited from being used to satisfy an obligation of support.

Effective date

The provision is effective for taxable years beginning after December 31, 1986.

[1] General Council Memorandum 39604, 2/26/87.

[2] *Lucky Stores Inc.* v. *Commissioner*, No. 35351-86, 92 T.C. No. 75, 5/30/89.

[3] H.R. 3545 (100th Congress).

J. Estate and Gift Tax Provisions

1. ESTATE TAX INCLUSION RELATED TO VALUATION FREEZES (SEC. 6691 OF THE BILL, AND SECS. 2036(C) AND 2207B OF THE CODE)

Present law

If a person holds a substantial interest in an enterprise and in effect transfers property having a disproportionately large share of the potential appreciation in such person's interest in the income of, or rights in, the enterprise, and retains an interest in the income of, or rights in, the enterprise, then the transferred property is includible in such person's gross estate (sec. 2036(c)). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B).

Reasons for change

The committee was concerned that the statute's complexity, breadth, and vagueness posed an unreasonable impediment to the transfer of family businesses. The committee was also concerned about the difficulties taxpayers and the Treasury Department encountered in interpreting the statute.[4] Many taxpayers uncertain about the scope of these rules have refrained from legitimate intrafamily transactions.

The current rules are overinclusive because they apply if the transferor retains virtually any retained interest in the income from, or rights in, the enterprise. The Technical and Miscellaneous Revenue Act of 1988 responded to these concerns by enacting a number of safe-harbors and by allowing a correction period for compliance with the statute. The committee believes, however, that this response was not sufficient to deal fully with the statute's over inclusiveness.

The committee is convinced that additional technical and substantive modifications to the current rules would exacerbate rather than solve the current problems with the statute. The committee is concerned, however, about the potential for abuse in this area. As a result, the committee is studying various alternative ways of addressing this problem and believes that an appropriate solution must be targeted narrowly to prevent egregious valuation abuses.

Explanation of provision

Code sections 2036(c) and 2207B are repealed.

Effective date

The repeal of sections 2036(c) and 2207B is retroactive from their date of enactment.

2. $2 MILLION EXCLUSION FROM GENERATION-SKIPPING TRANSFER TAX TO GRANDCHILDREN (SEC. 6692 OF THE BILL AND SEC. 1433(B)(3) OF THE TAX REFORM ACT OF 1986)

Present law

The Tax Reform Act of 1986 imposed a generation-skipping transfer tax (GSTT) on direct transfers to grandchildren. However, a person may make direct skip transfers of up to $2 million to a grandchild prior to January 1, 1990, without incurring this tax (the "$2 million exclusion"). A transfer to a trust qualifies for the $2 million exclusion only if (1) the grandchild is the only beneficiary; (2) the property will be includible in the grandchild's gross estate; and (3) trust income must be distributed annually after the grandchild attains age 21 (the "distribution requirement").

Reasons for change

The GSTT is designed to tax transfers to grandchildren as if the property passes through the child's estate. As a result, it is imposed at the maximum estate tax rate. The imposition of this tax is warranted where the intervening generation has a significant interest in the property (i.e., a life estate or term of years). The Committee believes that it is appropriate to continue to impose the GSTT on taxable terminations and taxable distributions, while providing different tax treatment for outright transfers to skip persons (or transfers in trust for the skip person's exclusive benefit).

The Committee believes that the primary problem with respect to generation-skipping transfers relates to transfers in trust rather than direct transfers. Prior to 1976, taxpayers could avoid the estate tax by setting up complicated trusts that gave successive life estates to their children, grandchildren, and great-grandchildren. This technique allowed the individuals in the lower generations to enjoy the property but did not require the property to be included in their estates. However, in the case of an outright transfer to a grandchild, the child receives no economic benefit from the transfer. In light of these considerations, the committee believes that the current law treatment of direct transfers must be modified.

Explanation of provision

The $2 million exclusion for direct transfers is made permanent. In addition, the distribution requirement is eliminated.

Effective date

The provision is effective for transfers made after October 3, 1989.

3. JOINT PURCHASE OF TERM AND REMAINDER INTEREST IN PROPERTY (SEC. 6693) OF THE BILL AND SEC. 167 OF THE CODE)

Present law

The purchaser of a term interest in property is, for income tax purposes, entitled to amortize the cost of the interest over its expected life. The purchaser of a remainder interest in property generally does not include currently in income increases in the value of the interest.

On the other hand, a person who divides an interest in property into two parts cannot create an amortizable asset where none previously existed. Thus, a person who retains a term interest in property while transferring the remainder in that property cannot amortize the cost of the term interest.[1]

Reasons for change

A common method of deferring income tax is for two related persons to purchase jointly a term and remainder interest in property. Typically, a parent will purchase an income interest in property while, at the same time, a child purchases the remainder interest in that same property. Joint purchases can be made of many types of property.

Under present law, the parent reduces taxable income from the term interest by the amortization deduction of the cost of the term interest. The child has gain on the

[4] The committee agrees with the Treasury Department and others who contend that many of the statute's operative terms are neither adequately defined in the statute nor susceptible to generally accepted interpretation. Notice 89-99, (August 31, 1989).

[1] *See, e.g.*, Lomas Santa Fe, Inc. v. Commissioner, 74 T.C. 662, 682-83 (1980); United States v. Georgia R.R. & Banking Co., 348 F.2d 278, 288-89 (5th Cir. 1965), *cert. denied*, 382 U.S. 973 (1966).

remainder interest when the property is sold or exchanged.

For example, assume that interest rates are 10 percent and that a parent purchases for $435.53 a 6-year term interest in land that has a fair market value of $1,000 and rental income of $100 per year. At the same time, the parent's child purchases the remainder interest in the land for $564.47. The parent receives the income of $100 per year, but is allowed a deduction of $72.59 ($435.53 divided by 6) per year. If the value of the land does not change, the child will recognize gain of $435.53 ($1,000 minus $564.47) on its sale.

If the parent had purchased the land outright for $1,000 and then given the remainder interest in the land to the child, the parent would have been currently taxed on the $100 of rental income, without any amortization deduction. The child would recognize gain only if the amount realized from the sale of the land exceeded $1,000.

The committee understands that the deferral implicit in a joint purchase results from the fact that the remainderman is not taxed currently on the increase in value of the remainder interest. Present law limits the tax reduction possibilities inherent in such deferral by denying the creator of a term interest an amortization deduction. Denial of the deduction to the creator substitutes for taxing the remainderman. The committee believes that such substitute taxation is appropriate whenever related persons own both the term and remainder interests.

Explanation of provision

No depreciation or amortization deduction is allowed for a term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person. The provision does not otherwise change the depreciation of the underlying property. For example, the provision would not affect the depreciation allowed to an income beneficiary of a gift made in trust. *See* sec. 167(h).

When the term interest terminates, the taxpayer is treated as having a loss from the sale or exchange of such interest no greater than the deductions disallowed by the provision.[2]

A term interest in property is a life interest in property, an interest in property for a term of years, or an income interest in a trust. A related person is any person bearing a relationship to the taxpayer described in section 267(b) or 267(e). In determining whether persons are related, the constructive ownership rules of section 267(c) apply.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of the provision, including regulations preventing avoidance of the provision through cross-ownership arrangements or otherwise. Such regulations shall prevent avoidance of the provision by one family owning a term interest in one property and a remainder interest in a second property, while another family owns a remainder interest in the first property, and a term interest in the second property. Such regulations would also prevent avoidance through the joint purchases of interests in substantially similar property. For example, a parent could not avoid the provision by purchasing a life interest in stock of a corporation while a child purchases a remainder interest in other stock of the same corporation.

The committee intends that the Treasury regulations prevent the avoidance of the provision through the use of property or properties in which the term interest terminates over time, such as interest in a shrinking portion of property. In appropriate circumstances, such regulations might defer any loss until the taxpayer's interest in the entire property (or all properties) terminates.

The committee does not intend to affect the taxation of a stripped bond under section 1286 or transactions in which the lessor is imputed income under section 467(f).

Effective date

The provision applies to life or terminable interests acquired after July 27, 1989, in taxable years ending after such date.

4. WAIVER OF RIGHT OF RECOVERY FOR CERTAIN MARITAL DEDUCTION PROPERTY (SEC. 6694 OF THE BILL AND SEC. 2207A OF THE CODE)

Present law

For estate and gift tax purposes a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is includible in the estate of the surviving spouse. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to the inclusion of such property in the surviving spouse's gross estate from the person receiving the property, unless the spouse directs otherwise by will. Thus, a will requiring that all taxes be paid from probate property may have the effect of waiving the right to recovery.

Reasons for change

The committee understood that persons utilizing standard testamentary language were often inadvertently waiving the right of recovery. Accordingly, the committee decided that the right of recovery should not be waived absent specific reference to that right.

Explanation of provision

The right of recovery with respect to qualified terminable interest property applies unless the spouse otherwise directs in a provision of the will specifically referring to this provision, i.e., a specific reference to section 2207A.

Effective date

The provision is effective for decedents dying after date of enactment.

5. INCLUSION IN GROSS ESTATE OF GIFTS MADE WITHIN THREE YEARS OF DEATH (SEC. 6695 OF THE BILL AND SECTION 2035 OF THE CODE)

Present law

If property is transferred within three years of the decedent's death from a revocable trust which would be includible in the decedent's estate under section 2038, the value of the gross estate includes the value of the property so transferred (sec. 2035). This rule could be interpreted to include in the transferor's gross estate transfers of less than $10,000 that qualified for the annual exclusion.

Reasons for change

Many persons use revocable trusts as a substitute for wills. By including transfers from such a trust made three years prior to death in the gross estate, present law penalizes such persons. The committee determined that the transfer tax consequences of making a gift from such a trust should be no different than if such gift was made directly.

Explanation of provision

Section 2035 would not apply to any transfer from a trust with respect to which the decedent retained the right to revoke unless section 2035 would apply to such transfer if made directly by the decedent. In addition, the provision makes clarifying changes to section 2035.

Effective date

The provision is effective for decedents dying after the date of enactment.

6. DEFINITION OF QUALIFIED TERMINABLE INTEREST PROPERTY (SEC. 6696 OF THE BILL AND SECS. 2056(b)(7) AND 2523(f) OF THE CODE)

Present law

Since December 31, 1981, a martial deduction has been allowed for qualified terminable interest property (QTIP). In order to qualify as qualified terminable interest property, the surviving spouse must have a qualifying income interest for life, which in turn requires that the spouse be entitled to all of the income from the property, payable annually or at more frequent intervals. Property qualifying under the QTIP rule generally is includible in the gross estate of the surviving spouse for Federal estate tax purposes.

Under proposed regulations, an income interest will not fail to constitute a qualifying income interest for life solely because income between the last distribution date and the date of the surviving spouse's dealth is not required to be distributed to the surviving spouse or the surviving spouse's estate. *See* Prop. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b). Contrary to the regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, income accumulated between the date of the last distribution and the date of the spouse's death (the "accumulated income") must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. *See Estate of Howard v. Commissioner,* 91 T.C. 329, 338 (1988).

Explanation of provision

Under the bill, an income interest does not fail to qualify as qualified income interest for life solely because income for the period after the date of the last distribution and before the date of the surviving spouse's death is not required to be distributed to the surviving spouse. Where the marital deduction is allowed, however, the income for such period is includible in the gross estate of the surviving spouse for Federal estate tax purposes.

No inference with respect to present law is to be drawn from the provision.

Effective date

The provision applies to decedents dying, and gifts made, after October 3, 1989. The proposal would not require the inclusion in the surviving spouse's gross estate of property for which no martial deduction was claimed.

The estate of a surviving spouse dying after October 3, 1989, is required to include property transferred prior to that date for which a marital deduction was in fact allowed even though the accumulated income from the property was not required to be paid to the surviving spouse.

[2] The exact amount of the loss is to be determined by Treasury Regulations. The committee expects that in the joint purchase of land described in the above example, the parent would receive a loss equal to $435.53 in year six.

Subtitle G. Revsion of Civil Penalties

1. INFORMATION REPORTING PENALTIES (SECS. 6711–6715 OF THE BILL AND NEW SECS. 6721–6724 OF THE CODE AND SECS. 6011 AND 6038 OF THE CODE)

Present law

In General

Any person that fails to file an information return with the Internal Revenue Service on or before the prescribed filing date is subject to a $50 penalty for each failure, with a maximum penalty of $100,000 per calendar year. Information returns relating to interest and dividends are subject to this $50 penalty for each failure, but without any cap on the total amount of penalty that may be imposed. In addition, any person that fails to provide a copy of an information return (a "payee statement") to a taxpayer on or before the prescribed due date is subject to a penalty of $50 for each failure, with a maximum penalty of $100,000 per calendar year. If a person fails to include all of the information required to be shown on an information return or a payee statement or includes incorrect information, then a penalty of $5 may be imposed with respect to each such failure, with a maximum penalty of $20,000 per calendar year. Stricter penalty provisions apply in the case of interest and dividend returns and in the case of intentional failures to comply with the information return requirements.

A penalty may also be imposed for each failure to include a correct taxpayer identification number on a return or statement and for each failure to furnish a correct taxpayer identification number to another person. The amount of the penalty that may be imposed is either $5 or $50 for each failure, depending on the nature of the failure.

Foreign Provisions

Income of foreign persons subject to withholding

Persons having control, receipt, custody, disposal, or payment of certain types of U.S. income of foreign persons are required to deduct and withhold U.S. tax from such income under chapter 3 of the Code's income tax provisions (secs. 1441–1464). Generally, any person required to serve as a withholding agent under chapter 3 must provide each income recipient an annual withholding statement Form 1042S and must file all required Forms 1042S with the IRS accompanied by a return (Form 1042) summarizing the information on the Forms 1042S (Reg. sec. 1.1461–2). As described above, the Code generally provides penalties for each failure to file a required information return with the IRS and each failure to provide a required payee statement. These penalties do not apply, however, to each failure with respect to Forms 1042S.

Information reporting

Generally, every U.S. person is required to report certain information concerning any foreign corporation that such person controls and information relating to transactions between the corporation and certain specified persons. Failure to provide such information subjects the U.S. person to a monetary penalty plus a denial of foreign tax credits (sec. 6038). These information reporting requirements and this penalty do not specifically refer to all types of information needed to determine tax liabilities with respect to controlled foreign corporations.

Reasons for change

The committee believes that the present-law penalties should be modified to encourage persons to file correct information returns even though such returns are filed after the prescribed filing date. The committee believes that it is important to give taxpayers an incentive to correct their errors as rapidly as possible.

Explanation of provisions

Overview

The bill modified the information return penalties provided under present law in order to encourage persons to file correct information returns even though such returns are filed after the prescribed filing date. The committee has established a three-tier penalty structure in which the amount of the penalty varies with the length of time within which the taxpayer corrects the failure. The committee believes that this structure will give taxpayers an incentive to correct their errors as rapidly as possible. The committee also provides that taxpayers may correct a *de minimis* number of errors and avoid penalties entirely. The bill makes uniform the reporting requirements applicable to magnetic media and requires a study of service bureaus, which file information documents on behalf of other persons.

Failure To File Correct Information Returns

Under the bill, any person that fails to file a correct information return with the Internal Revenue Service on or before the prescribed filing date is subject to a penalty that varies based on when, if at all, the correct information return is filed. If a person files a correct information return after the prescribed filing date but on or before the date that is 30 days after the prescribed filing date, the amount of the penalty is $15 per return, with a maximum penalty of $75,000 per calendar year. If a person files a correct information return after the date that is after 30 days after the prescribed filing date but on or before August 1, the amount of the penalty is $30 per return, with a maximum penalty of $150,000 per calendar year. If a correct information return is not filed on or before August 1 of any year, the amount of the penalty is $50 per return, with a maximum penalty of $250,000 per calendar year.

The committee chose this initial 30-day period for filing correct information returns with a smaller penalty because it believes that it is vital to the integrity of the self-assessment system that taxpayers receive their payee statements on a timely basis (generally, these must be provided by January 31). The preparation of these payee statements given to taxpayers is integrally connected with the preparation of the parallel information returns given to the IRS. The committee believes that this initial 30-day period gives filers of these information returns an appropriate amount of time within which to correct failures with respect to documents prepared for the IRS without jeopardizing the provision of the payee statements directly to taxpayers on a timely basis. Similarly, the committee chose the August 1 date because this is approximately the date on which the IRS begins intensive processing and use of this data. Consequently, submission of the data after this date is effectively equivalent to not providing the data at all. The committee expects that in future years advancements in available technology may permit the IRS to utilize this data earlier in the year. If this proves to be the case, the committee expects the IRS to request that the Congress consider modifying this deadline legislatively.

The bill also provides a special rule for *de minimis* failures to include the required, correct information. This exception applies to incorrect information returns that are corrected on or before August 1. Under the exception, if an information return is originally filed without all of the required information or with incorrect information and the return is corrected on or before August 1, then the original return is treated as having been filed with all of the correct required information. The number of information returns that may qualify for this exception for any calendar year is limited to the greater of (1) 10 returns or (2) one-half of one percent of the total number of information returns that are required to be filed by the person during the calendar year.

The use of 10 returns for this purpose effectively provides a special small-business rule in this penalty. According to IRS statistics, approximately 84 percent of payors who file information returns with the IRS file 10 or fewer forms. Thus, these payors will have until August 1 to correct without penalty errors of omission or commission on information returns that were originally timely-filed with the IRS. If the total number of returns corrected by the taxpayer exceeds the *de minimis* threshold, only the number exceeding the threshold is subject to penalty. This specific *de minimis* rule in no way restricts the ability of the IRS or the courts to grant a waiver based on reasonable cause (discussed below). The reasonable cause waiver is applied before the *de minimis* rule is applied.

In addition, the bill provides special, lower maximum levels for this penalty for small businesses. Small businesses are defined as firms having average annual gross receipts for the most recent 3 taxable years that do not exceed $5 million. The maximum penalties for small businesses are: $25,000 (instead of $75,000) if the failures are corrected on or before 30 days after the prescribed filing date; $50,000 (instead of $150,000) if the failures are corrected on or before August 1; and $100,000 (instead of $250,000) if the failures are not corrected on or before August 1.

The bill also incorporates into this general structure the penalty for failure to provide information reports to the IRS or statements to payees relating to pension payments.

The committee intends that taxpayers who correct errors in payor statements filed with IRS also make any necessary parallel corrections to payee statements provided to taxpayers. In addition, the committee intends that the substance of the current IRS temporary regulations (Treas. Reg. sec. 301.6723–1T(b)), providing an exception from penalty for inconsequential omissions and inaccuracies, be continued and expanded to apply to information returns, payee statements, and failures to comply with other information reporting requirements (new secs. 6721, 6722, and 6723).

In addition, the committee notes that the IRS permits taxpayers to request extensions of time to file information returns (such as by Form 8809). The committee approves of the existence of administrative procedures to consider requests for extension and expects that these types of procedures will continue to be available to payors.

The bill maintains the present-law rules for failures that are due to intentional disregard of the filing requirement. Failure to correct information returns within a reasonable time after being requested to do so by the IRS could be considered to be intentional disregard. In addition, some have expressed to the committee the belief that the

overall caps on these penalties are inappropriate, in that payors who are required to file large number of information returns or payee statements may ignore the requirements to do so and pay the maximum penalty as a "cost of doing business" where it is less than the cost of compliance would be. The committee believes that the general caps serve an important function and should be retained. The committee believes that behavior such as ignoring filing requirements in the manner just described is intentional disregard of those requirements, and that payors who engage in such behavior should be subject to the higher penalties (without caps) that apply in cases of intentional disregard.

Failure To Furnish Correct Payee Statements

Under the bill, any person that fails to furnish a correct payee statement to a taxpayer on or before the prescribed due date is subject to a penalty (as under present law) of $50 per statement, with a maximum penalty of $100,000 per calendar year. If the failure to furnish a correct payee statement to a taxpayer is due to intentional disregard of the requirement, the bill generally provides a penalty of $100 per statement or, if greater, 10 percent[1] of the amount required to be shown on the statement, with no limitation on the maximum penalty per calendar year. The committee has not altered the present-law deadline by which these payee satements must be furnished, because it believes that it is vital to the integrity of the self-assessment system that taxpayers receive their payee statements on a timely basis. Many taxpayers rely on the timely receipt of these payee statements so that these taxpayers can complete their own tax returns on a timely basis.

Failure To Comply With Other Information Reporting Requirements.

Under the bill, any person that fails to comply with other specified information reporting requirements on or before the prescribed date is subject to a penalty of $50 for each failure, with a maximum penalty of $100,000 per calendar year. The information reporting requirements specified for this purpose include any requirement to include a correct taxpayer identification number on a return or statement and any requirement to furnish a correct taxpayer identification number to another person. The bill coordinates this penalty with the penalty for failure to file correct information returns and the penalty for failure to file correct payee statements by making this penalty inapplicable to failures penalized under those provisions.

Waiver, Definitions, and Special Rules

The bill consolidates the waiver standards relating to information reporting into one provision. This bill provides that any of the information reporting penalties may be waived if it is shown that the failure to comply is due to reasonable cause and not to willful neglect. If a payor correctly reports information that the payor received from a payee, the payor is not subject to penalty for errors that the payee made in reporting the information to the payor (provided that the payor had no reason to believe that the information was incorrect). The committee intends that for this purpose, reasonable cause exists if significant mitigating factors are present, such as the fact that a person has an established history of complying with the information reporting requirements.[2] The separate, higher waiver standard under present law for interest and dividends is repealed. Interest and dividend returns and statements are consequently subject to this general waiver standard. The Committee intends that payors of interest and dividends that comply with the present-law due diligence standards be considered (for purposes of this bill) to have established reasonable cause.

Foreign Provisions

Penalties for failure to file withholding statements

The bill integrates the penalty for failure to file Form 1042S and failure to provide Form 1042S to the payee into the general penalty structure. Thus, the bill treats each Form 1042S required to be filed with the IRS and provided to a payee as an information return and as a payee statement, respectively, as those terms are defined in section 6724. Accordingly, each failure to file any required Form 1042S will be subject to a separate penalty under section 6721, and each failure to provide a payee any required Form 1042S will be subject to a separate penalty under section 6722.

Penalties for failure to report information with respect to certain foreign corporations

The bill clarifies the reporting requirements and penalties imposed by section 6038 by expressly applying those provisions to failures to provide certain information with respect to related parties, such as controlled foreign corporations of which the person subject to the requirements is a U.S. shareholder.

Uniform Requirements for Returns on Magnetic Media

The bill provides that uniform magnetic media requirements apply to all information returns filed during any calandar year. The bill accomplishes this by making statutory the requirement currently contained in IRS regulations that persons filing more than 250 information returns file those returns on magnetic media. The bill makes this requirement applicable to all types of information returns. Thus, the bill repeals the provision of present law that requires persons filing more than 50 information returns relating to payments of interest, dividends, and patronage dividends to file all such returns on magnetic media. The committee also intends that the IRS permit payors to file in as many formats as is feasible, and that IRS requirements keep pace with technological advances. The bill provides that the penalty for failing to file information returns on magnetic media when required to do so applies only to the number required to be so filed that exceeds 250. The penalties for failure to file on a timely basis correct information returns would apply to the first 250 returns.

The bill provides that the IRS is to take into account (among other factors) the ability of the taxpayer to comply at a reasonable cost with the magnetic-media filing requirements. The committee intends that the IRS take into consideration other instances of undue hardship, such as temporary equipment breakdowns or destruction of magnetic media equipment, in granting one-year or multi-year exemptions from this requirement.

Study of Procedures to Prevent Mismatching

The bill requires the General Accounting Office, in consultation with the Treasury Department, to conduct a study on whether, if the name and taxpayer identification number of any person that is set forth on an information return do not correspond to the name and taxpayer identification number of such person contained on the records of the IRS, the IRS should be permitted to disclose to the person that has filed such information return such information as may be necessary to determine the correct name and taxpayer identification number. The study should also consider (1) alternative means of correcting the mismatch between names and taxpayer identification numbers that involve the least amount of disclosure of confidential taxpayer identity information, (2) what exact information it is that IRS has in its records that would help resolve mismatches, (3) how the IRS can better process in a timely manner name change information (for example due to marriage or divorce) received initially by the SSA, which IRS uses to revise its records, and (4) how taxpayers can best inform the IRS of a name or address change, prior to waiting until the next tax return filing date. A report on the study, together with any recommendations, is to be submitted to the tax-writing committees of the Congress by June 1, 1990. In the interim, the IRS should establish a procedure and contact point within the IRS where taxpayers themselves (or information return filers who obtain a exception from the taxpayer) can obtain a listing of the names that the IRS recognizes as valid when matching information returns with a particular taxpayer identification number.

Study of Service Bureaus

The bill requires the General Accounting Office, in consultation with the Treasury Department, to conduct a study of whether service bureaus engaged in the business of transmitting information returns or other documents to the IRS on behalf of other persons should be subject to registration or other regulation. A report on the study together with any recommendations, is to be submitted to the tax-writing committees of the Congress not later than July 1, 1990.

The committee is concerned that some service bureaus may not be effectively communicating with their customers as to difficulties the IRS has encountered with the data the service bureau has transmitted on behalf of payors. This failure of communication may increase the difficulty that both the actual payor and the IRS have in resolving problems with the transmitted data. In addition, it may be difficult for payors to assess the relative competence of individual service bureaus, in that the IRS cannot legally state whether or not it has encountered problems with a particular service bureau. The GAO study should consider problems such as these.

Effective dates

The information reporting provisions of the bill generally apply to information returns and payee statements the due date for which (determined without regard to extensions) is after December 31, 1989.

[1] Five percent for several types of statements.

[2] In addition, the committee intends that reasonable cause generally be considered to exist for failures due to (a) catastrophes such as equipment and software failures or fires, storms, or other casualties, or (b) statutory or regulatory changes (i) that have a major, direct impact upon data processing and (ii) that are made so close to the time that the information reporting is required that, for all practical purposes, the changes cannot be complied with.

2. ACCURACY PENALTIES (SEC. 6721 OF THE BILL AND NEW SECS. 6662-6665 OF THE CODE AND SECS. 6621(C), 6653, 6659, 6659A, 6660, AND 6661 OF THE CODE)

Present law

Negligence Penalty

If any part of an underpayment of tax required to be shown on a return is due to negligence or disregard of rules or regulations, a penalty may be imposed equal to 5 percent of the total amount of the underpayment. An underpayment of tax that is attributable to a failure to include on an income tax return an amount shown on an information return is treated as subject to the negligence penalty absent clear and convincing evidence to the contrary.

Fraud Penalty

If any part of an underpayment of tax required to be shown on a return is due to fraud, a penalty may be imposed equal to 75 percent of the portion of the underpayment that is attributable to fraud.

Substantial Understatement Penalty

If the correct income tax liability of a taxpayer for a taxable year exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of most corporations), then a substantial understatement exists and a penalty may be imposed equal to 25 percent of the underpayment of tax attributable to the understatement. In determining whether a substantial understatement exists, the amount of the understatement is reduced by any portion attributable to an item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the return or on a statement attached to the return. Special rules apply to tax shelters.

Valuation Penalties

If an individual, personal service corporation, or closely held corporation underpays income tax for any taxable year by $1,000 or more as a result of a valuation overstatement, then a penalty may be imposed with respect to the amount of the underpayment that is attributable to the valuation overstatement. A valuation overstatement exists if the valuation or adjusted basis of any property claimed on a return is 150 percent or more of the correct value or adjusted basis. The amount of the penalty that may be imposed increases from 10 to 20 to 30 percent of the underpayment attributable to the valuation overstatement as the percentage by which the valuation claimed exceeds the correct valuation increases. Similar penalties may be imposed with respect to (1) an underpayment of income tax that is attributable to an overstatement of pension liabilities and (2) an underpayment of estate or gift tax that is attributable to a valuation understatement.

Reasons for change

The committee believes that the number of different penalties that relate to accuracy of a tax return, as well as the potential for overlapping among many of these penalties, causes confusion among taxpayers and leads to difficulties in administering these penalties by the IRS. Consequently, the committee has revised these penalties and consolidated them. The committee believes that its changes will significantly improve the fairness, comprehensibility, and administrability of these penalties.

Explanation of provisions

Overview

The bill consolidates into one part of the Internal Revenue Code all of the generally applicable penalties relating to the accuracy of tax returns. The penalties that are consolidated are the negligence penalty, the substantial understatement penalty, and the valuation penalties. These consolidated penalties are also coordinated with the fraud penalty. The bill repeals the present-law versions of these penalties. The bill reorganizes the accuracy penalties into a new structure that operates to eliminate any stacking of the penalties. The bill is effective for returns the due date for which is after December 31, 1989.

Accuracy-Related Penalty

The accuracy-related penalty, which is imposed at a rate of 20 percent, applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation overstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement.

(1) Negligence

If an underpayment of tax is attributable to negligence, the negligence penalty is to apply only to the portion of the underpayment that is attributable to negligence rather than, as under present law, to the entire underpayment of tax. This is a significant change from present law. Under present law, if any portion of an underpayment is attributable to negligence, the negligence penalty applies to the entire underpayment (both the portion attributable to negligence and the portion not attributable to negligence). Thus, under present law, a taxpayer who has an underpayment, only a small portion of which was attributable to negligence, is subject to the same penalty as a taxpayer with the same underpayment, all of which is attributable to negligence, even though the behavior of the first taxpayer is arguably less culpable than the behavior of the second taxpayer. The bill rectifies this inequity by applying the negligence penalty only to the portion of the underpayment attributable to negligence.

Negligence includes any careless, reckless, or intentional disregard of rules or regulations, as well as any failure to make a reasonable attempt to comply with the provisions of the Code. In addition, the bill repeals the present-law presumption under which an underpayment is treated as attributable to negligence if the underpayment is due to a failure to include on an income tax return an amount shown on an information return. As a practical matter, even in the absence of a statutory presumption, evidence of such a failure is still strong evidence of negligence.

(2) Substantial understatement of income tax

The accuracy-related penalty that applies to the portion of an underpayment that is attributable to a substantial understatement of income tax is the same as the substantial understatement penalty provided under present law with three principal modifications. First, the rate is lowered to 20 percent. Second, the committee expands the list of authorities upon which taxpayers may rely (currently containd in Treasury regulations) to include proposed regulations, private letter rulings, technical advice memoranda, actions on decisions, general counsel memoranda, information or press releases, notices, and any other similar documents published by the IRS in the *Internal Revenue Bulletin.* [3] In addition, the list of authorities is to include General Explanations of tax legislation prepared by the Joint Committee on Taxation (the "Blue Book"). Third, the bill requires the IRS to publish not less frequently than annually a list of positions for which the IRS believes there is no substantial authority and which affect a significant number of taxpayers. The purpose of this list is to assist taxpayers in determining whether a position should be disclosed in order to avoid the substantial understatement penalty. Thus, if a taxpayer takes a position that is enumerated on this list, the taxpayer could choose to disclose that position to avoid imposition of the substantial understatement component of the accuracy-related penalty. However, inclusion of a position on this list is not conclusive as to whether or not substantial authority exists with respect to that position and no inference is to be drawn that there is (or could be) substantial authority for a position that is not on the list. If, however, there is litigation as to whether there is substantial authority, and the court concludes that the IRS is correct in the belief that there is not substantial authority for the position, then this penalty would apply. The committee believes that this list will be useful to taxpayers, in that it will assist taxpayers in determining whether substantial authority exists with respect to a particular issue on the list. Although the list is not exclusive, the committee intends that the IRS make the list as comprehensive as practical, which will make it more useful to taxpayers and their advisors. The committee intends that there should be no inference that substantial authority exists with respect to positions that are not included on this list. Disclosure of a position for purposes of this penalty does not necessarily prevent imposition of the negligence penalty. Thus, for example, if a taxpayer discloses a frivolous position, the imposition of the negligence penalty could be appropriate.

(3) Substantial valuation overstatement

The penalty that is to apply to the portion of an underpayment that is attributable to a substantial valuation overstatement is generally the same as the valuation overstatement penalty provided under present law with five principal modifications. First, the bill extends the penalty to all taxpayers. The committee believes that this modification increases the fairness of this component of the accuracy-related penalty, in that the penalty is imposed upon proscribed behavior, regardless of who engages in it. Second, a substantial valuation overstatement exists if the value or adjusted basis of any property claimed on a return is 200 percent or more of the correct value or adjusted basis. Third, the penalty is to apply only

[3] The committee's intent is to broaden the list of authorities upon which taxpayers may rely. The committee would, however, permit the Treasury to issue regulations providing that specific items on the committee's list of additional authorities (except for proposed regulations not yet superceded or "Blue Books") that were issued prior to the date of enactment of this bill may not be considered to be substantial authority. For example, Treasury regulations could provide that private letter rulings issued prior to the date they began to be publicly disseminated are not substantial authority. Any such limitation should, however, be as narrow as practicable, in order to further the committee's general intent that the list of authorities on which taxpayers may rely should be broadened.

if the amount of the underpayment attributable to a valuation overstatement exceeds $5,000 ($10,000 in the case of most corporations). This increases five-fold the threshold below which the penalty does not apply to individuals. Fourth, the amount of the penalty for a substantial valuation overstatement is 20 percent of the amount of the underpayment if the value or adjusted basis claimed is 200 percent or more but less than 400 percent of the correct value or adjusted basis. Fifth, as explained below, the bill provides that the rate of this penalty is doubled if the value or adjusted basis claimed is 400 percent or more of the correct value or adjusted basis. The bill retains the special rules in present law that apply to charitable deduction property. The committee believes that raising both the threshold and the minimum percentage will eliminate from the penalty's scope a number of instances of good-faith valuation disputes that may be subject to penalty under present law. As under present law, valuation misstatements that do not fall within the scope of this or the following elements of the accuracy-related penalty may still be subject to penalty if they are attributable to negligence or fraud or give rise to a substantial understatement of income tax.

(4) Substantial overstatement of pension liabilities

The accuracy-related penalty also applies to substantial overstatements of pension liabilities. This penalty is derived from the present-law penalty in section 6659A. The committee has, however, modified the present-law penalty by providing that the taxpayer is subject to this component of the accuracy-related penalty only if the actuarial determination of pension liabilities (taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a)) is 200 percent or more of the amount determined to be correct (under present law, the penalty applies to claims 150 percent or more in excess of the amount determined to be correct). As under present law, this penalty applies only if the underpayment attributable to the valuation overstatement exceeds $1,000.

(5) Substantial estate or gift tax valuation understatement

The accuracy-related penalty also applies to substantial estate or gift tax valuation understatements. This penalty is derived from the present-law penalty in section 6660. The committee has, however, modified the present-law penalty by providing that the taxpayer is subject to this penalty only if the value of any property claimed on an estate or gift tax return is 50 percent or less of the amount determined to be correct. (Under present law, the penalty applies to claims that are 66⅔ percent or less of the amount determined to be correct.) In addition, the committee has modified the present-law penalty by increasing five-fold the threshold below which the penalty does not apply, from $1,000 to $5,000. The committee believes that raising both the threshold and the minimum percentage will eliminate from the penalty's scope a number of instances of good-faith valuation disputes that may be subject to penalty under present law.

(6) Gross valuation misstatements

The bill provides that the rate of the general accuracy penalty is to be doubled (to 40 percent) in the case of gross valuation misstatements. there are three types of gross valuation misstatements. The first is the same as the substantial valuation overstatement component of the accuracy-related penalty, except that the doubling is to apply only to valuation overstatements claimed on a return that are 400 percent or more of the amount determined to be the correct amount. The second is the same as the substantial overstatement of pension liabilities component of the accuracy-related penalty, except that the doubling is to apply only to overstatements of pension liabilities that are 400 percent or more of the amount determined to be the correct amount. The third is the same as the substantial estate or gift tax valuation understatement component of the accuracy-related penalty, except that the doubling is to apply only to valuations claimed on the estate or gift tax return that are 25 percent or less of the amount determined to be the correct amount.

Fraud Penalty

The fraud penalty, which is imposed at a rate of 75 percent, applies to the portion of any underpayment that is attributable to fraud.

The committee has retained the special rule in present law that determines the portion of the understatement that is attributable to fraud. The bill provides, that if the IRS establishes that any portion of an underpayment is attributable to fraud, the entire underpayment is treated as attributable to fraud, except with respect to any item that the taxpayer establishes is not attributable to fraud. The committee has clarified the taxpayer's burden to proof in establishing the items not attributable to fraud (present law is unclear on this issue). The committee has provided that the taxpayer must establish the items not attributable to fraud by a preponderance of the evidence. The committee has not altered the present-law burden of proof imposed on the IRS In establishing fraud initially; the IRS must continue to meet its burden of proof by clear and convincing evidence. The committee believes that it is appropriate that the burden imposed on the IRS be higher than the burden imposed on a taxpayer in these circumstances.

Under the bill, the accuracy-related penalty is not to apply to any portion of an underpayment on which the fraud penalty is imposed. (Under present law, the fraud penalty is coordinated in this manner with the negligence penalty, but not with the other components of the accuracy-related penalty.) However, the accuracy-related penalty may be applied to any portion of the underpayment that is not attributable to fraud.

Definitions and Special Rules

The bill provides special rules that apply to each of the penalties imposed under the new structure. First, the bill provides standardized exception criteria for all of these accuracy-related penalties. The bill provides that no penalty is to be imposed if it is shown that there was reasonable cause for an underpayment and the taxpayer acted in good faith. The enactment of this standardized exception criterion is designed to permit the courts to review the assertion of penalties under the same standards that apply in reviewing additional tax that the Internal Revenue Service asserts is due. By applying this unified exception criterion to all the accuracy-related penalties, the committee believes that taxpayers will more easily understand the standard of behavior that is required. The committee also believes that this unified exception criterion will simplify the administration of these penalties by the IRS.

The committee is concerned that the present-law accuracy-related penalties (particularly the penalty for substantial understatements of tax liability) have been determined too routinely and automatically by the IRS. The committee expects that enactment of standardized exception criterion will lead the IRS to consider fully whether imposition of these penalties is appropriate before determining these penalties.

In addition, the committee has designed this standardized exception criterion to provide greater scope for judicial review of IRS determinations of these penalties. Under the waiver provision contained in present law, the Tax Court has held that it can overturn an IRS determination of the substantial understatement penalty on reasonable cause and good faith grounds only if the Tax Court finds that the IRS abused its discretion in asserting the penalty. The committee believes that it is appropriate for the courts to review the determination of the accuracy-related penalties by the same general standard applicable to their review of the additional taxes that the IRS determines are owed. The committee believes that providing greater scope for judicial review of IRS determinations of these penalties will lead to greater fairness of the penalty structure and minimize inappropriate determinations of these penalties.

The committee believes that the application of standardized exception criteria to the negligence component of the accuracy-related penalty will result in several consequences that are beneficial to taxpayers. First, the complete, item-specific disclosure of a non-frivolous position on a tax return may generally be considered to permit an exception from the negligence penalty insofar as such disclosure would tend to demonstrate that there was no intentional disregard of rules or regulations. Disclosure must be full and substantive, parallel to the disclosure required under the substantial understatement component of the accuracy-related penalty; completing and filling in a tax form is by itself insufficient disclosure for this purpose. In addition, the disclosure must be clearly identified as being made to avoid the imposition of the accuracy-related penalty. Imposition of the negligence component of the accuracy-related penalty would not be eligible for exception due to disclosure where the taxpayer fails to keep proper books and records or to substantiate items properly. Second, the application of standardized exception criteria to the negligence component of the accuracy-related penalty may also permit a taxpayer to avoid imposition of that penalty where the taxpayer makes a good-faith challenge to the validity of an IRS regulation, if the taxpayer discloses (in the manner just described) that the taxpayer is taking the position and makes specific reference to the regulation being challenged. As under present law, frivolous challenges to IRS regulations would be subject to penalty. The committee intends that the terms "reasonable cause" and "good faith" be interpreted under the bill as those terms are interpreted under present law.

Second, the bill provides that an accuracy-related or fraud penalty is to be imposed only if a return has been filed. This is intended to improve the coordination between the accuracy-related penalties and the failure to file penalties. Under present law, the courts have dealt with a number of difficult interpretative issues on the relationship between the penalty for failure to file a tax return and the accuracy-related penalties.

The committee determined that it would clarify the law if the penalty for failure to file were entirely separate and distinct from the accuracy-related penalties. (The bill also provides for an increase in the failure to file penalty where that failure is due to fraudulent failure to file.)

Third, the bill provides a standard definition of underpayment for all of the accuracy-related penalties. This standard definition is intended to simplify and coordinate the definitions in present law; it is not intended to be substantively different from present law.

The bill retains the general rule of present law that interest on these penalties commences with the date the return was required to be filed. The committee believes this rule is appropriate because the behavior being penalized is reflected on the tax return, so that imposition of interest from this date will reduce the incentives of taxpayers and their advisors to "play the audit lottery."

Repeal of Present-Law Penalties

The bill repeals the present-law penalties for negligence and fraud,[4] substantial underestimates of liability,[5] valuation overestimates,[6] and valuation underestimates for purposes of estate or gift taxes.[7] The bill also repeals the special negligence rules applicable to straddles [8] and to amounts shown on information returns.[9] The committee believes that, by repealing the special rule applicable to information returns, the burdens on taxpayers will be reduced. Finally, the bill repeals the higher interest rate that applies to substantial underpayments that are attributable to tax-motivated transactions.[10]

Effective date

The accuracy provisions of the bill generally apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

3. PREPARER, PROMOTER, AND PROTESTER PENALTIES (SECS. 6731–6738 OF THE BILL AND NEW SEC. 6673 OF THE CODE AND SECS. 6672, 6694, 6695, 6700, 6701, 6702, 7216, AND 7407 OF THE CODE)

Present law

Return Preparer Penalties

An income tax return preparer is also subject to a penalty of $25 for each failure to (1) furnish a copy of a return or claim for refund to the taxpayer; (2) sign the return or claim for refund; or (3) furnish his or her identifying number.

Penalty for Promoting Abusive Tax Shelters

Any person who organizes, assists in the organization of, or participates in the sale of any interest in, a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement, is subject to a penalty if in connection with such activity the person makes or furnishes a false or fraudulent statement or a gross valuation overstatement. The amount of the penalty equals the greater of $1,000 or 20 percent of the gross income derived or to be derived by the person from the activity. It is unclear under present law whether the term "activity" refers to each sale of an interest in a tax shelter or whether it refers to the overall activity of promoting an abusive tax shelter.

Penalty for Aiding and Abetting the Understatement of Tax Liability

Any person who aids, assists in, procures, or advises with respect to the preparation or presentation of any portion of a return or other document under the tax laws which (1) the person knows will be used in connection with any material matter arising under the tax laws, and (2) the person knows will (if so used) result in an understatement of the tax liability of another person subject to a penalty equal to $1,000 for each return or other document ($10,000 in the case of returns and documents relating to the tax of a corporation.

Frivolous Income Tax Return Penalty

Any individual who files a frivolous income tax return is subject to a penalty of $500.

Sanctions and Costs Awarded by Courts

If it appears to the Tax Court that (1) proceedings before it have been instituted or maintained primarily for delay, (2) the taxpayer's position is frivolous, or (3) the taxpayer has unreasonably failed to pursue administrative remedies, the Court may award damages not to exceed $5,000 to the United States.

Authority To Counterclaim for Balance of Penalty in Partial Refund Suits

Taxpayers may pay a portion of the penalties for failure to collect and pay over tax, for understatement of a taxpayer's liability by an income tax return preparer, for promoting abusive tax shelters, and for aiding and abetting the understatement of tax liability. By doing so, they may obtain judicial review of the imposition of these penalties. Present law may prohibit the Federal Government from counterclaiming for the balance of the penalty in the same lawsuit.

Bonding Requirement

Return preparers may post a bond, thereby preventing any proceeding by the Federal Government under section 7407 seeking to enjoin a return preparer from engaging in prohibited conduct.

Disclosure of Certain Information by Return Preparers

In general, return preparers are subject to penalty for disclosing tax return information that is furnished to the return preparer in connection with the preparation of tax returns. The IRS may by regulation provide exceptions to this general prohibition.

Reasons for change

The committee believes that it is appropriate to reconsider, in the context of the entire penalty structure, these specific penalties. These penalties have been enacted and modified on a piecemeal basis, and have not been subject to comprehensive review.

Explanation of provisions

Return Preparer Penalties

The return preparer penalties that apply to each failure to (1) furnish a copy of a return or claim for refund to the taxpayer, (2) sign the return or claim for refund, (3) furnish his or her identifying number, and (4) file a correct information return, are made uniform. The penalty is $50 for each failure and the total penalties imposed for any single type of failure for any calendar year are limited to $25,000.

The committee intends that imposition of the present-law preparer penalty (contained in section 6694) not lead automatically to any disciplinary action, or any initiation of contact with a practitioner, by the Internal Revenue Service Director of Practice. In addition, when the Director of Practice initiates contact with a practitioner but does not yet have sufficient information to determine whether a basis for discipline exists, the committee believes it is important that the Director of Practice inform the practitioner that the contact does not imply any finding of wrongdoing.

Penalty for Promoting Abusive Tax Shelters

Under the bill, the amount of the penalty imposed for promoting abusive tax shelters equals $1,000 (or, if the person establishes that it is less, 100 percent of the gross income derived or to be derived by the person from such activity). In calculating the amount of the penalty, the organizing of an entity, plan or arrangement and the sale of each interest in an entity, plan, or arrangement constitute separate activities. The committee had made these modifications because the courts have differed in their interpretations of the provisions of present law. The committee believes that its modifications will eliminate confusion for cases arising in the future. The bill also clarifies that the penalty applies to direct or indirect actions. The bill provides a six-year statute of limitations for this penalty.

The committee is concerned about the large number of old tax shelter cases that await resolution. The committee recognizes that the Tax Court has, in the last several years, made significant progress in reducing its inventory of old tax shelter cases. The committee expects the Tax Court as well as the IRS to redouble their efforts to resolve or encourage settlement of old tax shelter cases. The committee realizes that delay is often caused by the litigants themselves. The committee encourages the Tax Court to use every means within its disposal, including the sanctions on litigants and attorneys imposed under this bill, to encourage litigants to resolve their disputes as expeditiously as possible. Similarly, the committee encourages the IRS to make every effort to resolve old tax shelter cases, through means such as additional settlement initiatives, better caseload management, and better utilization of the appeals process.

The committee wishes to clarify that, under present law, "investment plan or arrangement" and "other plan or arrangement," as those terms are used in section 6700 of the Code, include obligations issued by or on behalf of State or local governments which are represented to be described in section 103(a) of the Code ("bonds").[11] Therefore, the penalty imposed by section 6700 may apply to bond counsel, investment bankers and their counsel, issuers (and beneficiaries of "conduit" bonds) and their counsel, financial advisors, feasibility consultants and engineers, and other persons, who (1) are involved in the organization or sale of such State or local government bonds and (2) know or have reason to know that their opinions, offering documents, reports, or other statements (or material on which they relied in making such state-

[4] Present-law section 6653. The portion of 6653 applicable to stamp taxes is retained.
[5] Present-law sec. 6661.
[6] Present-law secs. 6659 and 6659A.
[7] Present-law sec. 6660.
[8] Present-law sec. 6653(f).
[9] Present-law sec. 6653(g).
[10] Present-law sec. 6621(c).

[11] For purposes of determining whether an obligation is represented as so described, qualifications or conditions with respect to the opinion of the bond counsel for the issue which are commonly accepted in the marketplace are not to be considered. For exemple, an obligation could still be represented to be described in section 103(a), even though bond counsel's opinion assumed continuing compliance with certain requirements of the Code (*e.g.*, arbitrage rebate).

ments) are false or fraudulent as to any matter material to the tax exemption of the interest on the bonds. A person who makes a statement facilitating the issuance or sale of State or local government bonds (including a sale occurring subsequent to the issuance of the bonds) is involved in the organization or sale of such bonds.

Whether a person who makes or furnishes or causes another person to make or furnish a statement in connection with the organization or sale of bonds (including a statement that interest on the bonds is exempt from taxation), knows or has reason to know that such person's statement is false or fraudulent as to any material matter depends upon that person's role in the organization or sale. For example, bond counsel, issuer's counsel, and underwriters' counsel would be entitled to reply upon a feasibility study conducted by an engineering firm reputed to be expert in the subject matter and area of the study, unless such counsel independently knew or had reason to know information bringing into question the results of that study. Absent that, counsel would not be required to question the assumptions underlying, or results reached by, the study. Similarly, bond counsel would be able to rely, as to matters of fact or expectation relevant to his or her opinion, on information provided by other parties (including the issuer) absent actual knowledge or a reason to know of its inaccuracy or the use of statements not credible or reasonable on their face. On the other hand, bond counsel must draw their own legal conclusions from that information. For example, bond counsel may rely on an engineer's description of a facility as to its physical characteristics, operations, functions, and performance, but would not be able to rely on such certification for counsel's legal conclusion that the facility qualified under section 142 of the Code. Similarly, an investment banking firm organizing or assisting in the organization of the bonds holding itself out as expert in the particular subject area of the financing would have reason to question the conclusion of a feasibility consultant if that consultant's report omitted consideration of a principal factor typically discussed in feasibility reports used in such financings (*e.g.*, competition for a project's source of supply of materials).

In addition, section 6700 applies even if the Service has insulated bondholders from the effect of a declaration of taxability of a bond sold as tax-exempt by entering into a closing agreement with the issuer of the bonds.[12] Furthermore, so long as there has been a determination that a false of fraudulent statement (which may include a conclusion of law based on a false or fraudulent statement) has been utilized, action under section 6700 is not precluded by failure of the Service to enter into a closing agreement, to declare taxability, or otherwise to penalize the issuer or owners of the bonds in question. In addition, action may be taken under section 6700 prior to delivery of bonds if a false or fraudulent statement is being used in their offering.

Penalty for Aiding and Abetting the Understatement of Tax Liability

The bill amends the penalty for aiding and abetting the understatement of tax liability by imposing the penalty in cases where the person aids, assists in, procures, or advises with respect to the preparation or presentation of any portion of a return or other document if (1) the person knows or has reason to believe that the return or other document will be used in connection with any material matter arising under the tax laws, and (2) the person knows that if the portion of the return or other document were so used, an understatement of the tax liability of another person would result.

In addition, the bill provides that a penalty for promoting abusive tax shelters is not to be imposed on any person with respect to any document if an aiding and abetting penalty is imposed on such person with respect to the same document. Both penalties may however be imposed with respect to separate documents, such as, for example, when a promoter furnishes promotional material at the time of sale and subsequently provides partnership schedules (Forms K-1) to the investors. The committee believes that this penalty should not be used as a means of avoiding the procedural requirements of a John Doe summons under section 7609(f).

The bill also provides a six-year statute of limitations for this penalty.

Frivolous Income Tax Return Penalty

The bill deletes the special provision in present law permitting taxpayers who contest the imposition of this penalty to pay 15 percent of the penalty, which halts further collection proceedings until final judicial resolution of the dispute. Thus, taxpayers who wish to contest imposition of this penalty must pay the full penalty before seeking judicial review of imposition of the penalty. The committee believes that repealing this special 15-percent rule places taxpayers who contest this penalty by way of a refund action in the same position as taxpayers who contest the assertion that they owe additional tax to the IRS. By repealing this special rule, the bill makes suits for refund of this penalty permissible only under the generally applicable rules on suits for refunds. Suits contesting the imposition of this penalty may be brought only in the district courts and the Claims Court.

Sanctions and Costs Awarded by Courts

The bill authorizes the Tax Court to impose a penalty not to exceeed $25,000 if a taxpayer (1) institutes or maintains a proceeding primarily for delay, (2) takes a position that is frivolous, or (3) unreasonably fails to pursue available administrative remedies. The committee intends that the increased penalty (above $5,000) apply primarily (but not exclusively) to tax shelter cases, where the $5,000 maximum provided under present law appears to be ineffective in deterring taxpayers from taking frivolous positions.

The committee has explicitly chosen to call these awards "penalties", rather than "damages" (as under present law), so that it is clear that specific damages incurred by the United States need not be proved before the court may impose this penalty. The committee believes that dealing with these frivolous lawsuits wastes scarce judicial resources and delays the resolution of legitimate disputes. The committee expects that its modifications to this provision will further decrease frivolous lawsuits. The committee also intends to monitor the use of this penalty to ensure that it continues to be used, as it has in the past, only in situations in which its use is appropriate. The committee has also called these awards "penalties" rather than "damages" in the parallel provisions applicable to other courts. The committee has provided that any monetary sanctions, penalties, or costs awarded in a tax case by one of these other courts may be assessed and collected in the same manner as a tax. This permits these sanctions, penalties, and costs, when awarded by one of these other courts, to be collected in the same manner as if they were awarded by the Tax Court.

The committee has eliminated the last sentence from present law section 6673(a) (relating to assessment and payment) because, in light of the use of the term "penalty", the purpose of that last sentence is accomplished by section 6671(a). The committee intends that no substantive modification be made to the assessment and payment procedures because of the deletion of this last sentence of section 6673(a).

The bill also authorizes the Tax Court to require any attorney or other person permitted to practice before the Court to pay excess costs, expenses, and attorney's fees that are incurred because the attorney or other person unreasonably and vexatiously multiplied any proceeding before the Court. If the attorney is appearing on behalf of the Commissioner of Internal Revenue, the United States is to pay these costs in the same manner as an award of these costs by a district court. This provision is comparable to the authority already provided to district courts under 28 U.S.C. section 1927.

Authority To Counterclaim for Balance of Penalty in Partial Refund Suits

The bill clarifies that, where taxpayers utilize the provisions of present law (other than with respect to frivolous income tax returns) that permit partial (rather than full) payment of certain penalties to obtain judicial review of the imposition of these penalties, the United States may counterclaim as part of the same lawsuit for the remainder of the penalty. Present law may prohibit a counterclaim of this nature; thus, an additional lawsuit must be brought even if the taxpayer loses the case brought after partial payment of the tax. The committee believes that multiple court cases with respect to the same issue wastes scarce judicial resources. Consequently, the committee permits all issues relating to these penalties to be considered in one lawsuit.

Repeal of Bonding Requirement

The bill repeals the provision permitting return preparers to post a bond and thereby prevent any proceeding by the Federal Government under section 7407 seeking to enjoin a return preparer from engaging in prohibited conduct. The committee believes that return preparers should not be able to prevent judicial resolution of the issue of whether the return preparer has engaged in prohibited conduct.

Disclosure of Certain Information by Return Preparers

The bill provides that the IRS regulations relating to the use of tax information by return preparers are to provide that a return preparer may disclose tax information to another return preparer solely for purposes of quality or peer reviews. The purpose of this provision is to enable a return preparer to obtain the benefits of having another return preparer review the first preparer's work. The bill does not permit disclosure of this information by the IRS for these purposes.

Effective dates

The modifications to the return preparer penalties apply to documents prepared after

[12] Such closing agreements generally provide that the Service will not tax the interest earned by the bondholders in exchange for certain actions by the issuer, including in some cases payment designed to compensate the Federal Government for all or an appropriate percentage of lost tax revenues.

December 31, 1989. The modifications to the penalty for promoting abusive tax shelters and the aiding and abetting penalty apply to activities after December 31, 1989. The modification to the frivolous income tax return penalty applies to returns filed after December 31, 1989. The modifications to the court-awarded sanctions apply to proceedings pending on, or commenced after, December 31, 1989. The provision relating to counterclaims is effective on the date of enactment. The provision repealing the bonding requirement for return preparers is effective for actions or proceedings commenced after December 31, 1989. The provision relating to disclosures by return preparers is effective on the date of enactment.

4. DELINQUENCY PENALTIES (SECS. 6741-6743 OF THE BILL AND NEW SEC. 6656 OF THE CODE AND SECS. 1463 AND 6651 OF THE CODE)

Present law

Failure To File

A taxpayer who fails to file a tax return on a timely basis is subject to a penalty equal to 5 percent of the net amount of tax due for each month that the return is not filed, up to a maximum of 5 months or 25 percent. The net amount of tax due is the excess of the amount of the tax required to be shown on the return over the amount of any tax paid on or before the due date prescribed for the payment of tax.

Failure To Make Timely Deposits of Tax

If any person who is required to deposit taxes imposed by the Internal Revenue Code with a government depositary fails to deposit such taxes on or before the prescribed date, a penalty may be imposed equal to 10 percent of the amount of the underpayment, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the underpayment for this purpose is the excess of the amount of the tax required to be deposited over the amount of the tax, if any, deposited on or before the prescribed date.

Failure To Withhold on Income of Foreign Persons

As described above, persons having control, receipt, custody, disposal, or payment of certain types of U.S. income of foreign persons are required to deduct and withhold U.S. tax from such income under chapter 3 of the Code's income tax provisions (secs. 1441-1464). The amount withheld is credited against the U.S. tax liability of the foreign income recipient.

Where a tax on the U.S. income of a foreign recipient was required to be withheld but the withholding agent failed to do so, and instead the tax is paid by the income recipient, a penalty may be imposed on the recipient or the withholding agent for failure to pay the tax only if the failure was fraudulent and for the purpose of evading payment (sec. 1463). By contrast, where a U.S. employer fails to withhold income tax from an employee's wages but the employee pays the tax due, the employer remains liable for any penalties and additions to tax otherwise applicable (sec. 3402(d)).

Reasons for change

The committee believes that the flat 10-percent penalty for failure to deposit taxes is very unfair, in that the same penalty applies whether the taxpayer is one day or one year late in making a deposit. The committee believes that it is important to give taxpayers an incentive to correct as rapidly as possible any failures to deposit.

Explanation of provisions

Failure To File

The bill modifies present law by providing that the fraud and negligence penalties are not to apply in the case of a negligent or fraudulent failure to file a return. Instead, the bill provides that in the case of a fraudulent failure to file a return, the failure to file penalty is to be increased to 15 percent of the net amount of tax due for each month that the return is not filed, up to a maximum of 5 percent months or 75 percent. The burden of proof on the fraud element of this increased portion of the penalty is on the IRS (sec. 7454(a)). If the IRS does not sustain its burden, and if the IRS determined in the alternative in the notice of deficiency that the taxpayer is liable for the basic failure to file penalty under section 6651(a)(1), then the Court could consider the basic penalty and the burden of proof in respect thereof would be on the taxpayer. On the other hand, if the IRS does not sustain its burden on the fraud element and failed to make an alternative determination on the notice but did in its answer or other pleading assert that the taxpayer is liable for the basic penalty, then the Court could also consider that penalty but the burden of proof in respect thereof would be on the IRS. Finally, if the IRS does not sustain its burden on the fraud element and failed to either make an alternative determination in the notice or assert the basic penalty in its answer, the Court could not consider that penalty and the taxpayer would not be liable for any failure to file penalty.

The committee has made this modification to improve the coordination of the failure to file penalty with the accuracy-related penalties. The committee intends that the courts and the IRS should consider the same elements when considering the imposition of this new aspect of the penalty as is done under present law when considering imposition of the 6653 penalty where there has been a failure to file a return. Thus, the actions or behavior that trigger the penalty under the bill are to be the same as those under present law.

Failure To Make Timely Deposits of Tax

The bill also modifies the penalty for the failure to make timely deposits of tax in order to encourage depositors to correct their failures. The committee has established a four-tiered penalty structure in which the amount of the penalty varies with the length of time within which the taxpayer corrects the failure. Under the bill, a depositor is subject to a penalty equal to 2 percent of the amount of the underpayment if the failure is corrected on or before the date that is 5 days after the prescribed due date. A depositor is subject to a penalty equal to 5 percent of the amount of the underpayment if the failure is corrected after the date that is 5 days after the prescribed due date but on or before the date that is 15 days after the prescribed due date. A depositor is subject to a penalty equal to 10 percent of the amount of the underpayment if the failure is corrected after the date that is 15 days after the due date but on or before the date that is 10 days after the date of the first delinquency notice to the taxpayer (under sec. 6303). Finally, a depositor is subject to a penalty equal to 15 percent of the amount of the underpayment if the failure is not corrected on or before the date that is 10 days after the date of the first delinquency notice to a taxpayer (under sec. 6303). This will mean that, on average, a taxpayer will generally have approximately 40 days from the due date of the quarterly return that reconciles liability with amounts deposited to make up any shortfall in deposits before the rate of the penalty increases from 10 to 15 percent. This time period could be significantly shorter in cases of jeopardy. In cases of jeopardy, the 15-percent rate applies if the taxes are not deposited on or before the date on which notice and demand for immediate payment is given under section 6861, section 6862, or the last sentence of section 6331(a). For purposes of this penalty, "deposit" means that payment must be made in accordance with the instructions of the IRS.

This penalty structure gives the taxpayer an incentive to correct any underpayments before the IRS discovers the underpayment and demands payment. The committee recognizes the importance of a penalty for failure to deposit taxes, since many of the taxes subject to this penalty are trust fund taxes (i.e., amount withheld from employee wages), held in trust by the depositor on behalf of the employee and the Federal Government. The committee believes that the present-law 10-percent penalty applicable to all failures to deposit tax is too harsh in some circumstances and that depositors complying with the law on or before 15 days after the prescribed due date should pay a penalty significantly less than 10 percent (i.e., 2 percent or 5 percent). In contrast, the committee believes that those depositors who have not made required deposits on or before the date that is 10 days after the date of the first delinquency notice to the taxpayer should pay a more substantial penalty (i.e., 15 percent). As under present law, no penalty is to be imposed if the failure to make a timely deposit is due to reasonable cause and not willful neglect. The committee intends that this penalty not apply in circumstances in which the estimated tax penalties (secs. 6654 and 6655) apply. The bill also repeals the present-law 25-percent penalty on overstated deposit claims.

Failure To Withhold on Income of Foreign Persons

The bill provides that in cases where a tax on the U.S. income of a foreign person was required to be withheld under chapter 3 but was not in fact withheld, and the person who would have been entitled to a credit for any withholding tax paid instead satisfies its own proper tax liability, the withholding agent remains liable for any penalties and additions to tax otherwise applicable for failure to withhold. Thus, under the bill these withholding agents are subject to the same general approach applicable to U.S. employers who withhold income taxes from employees' wages.

Effective dates

The modification to the failure to file penalty applies to returns the due date for which (determined without regard to extensions) is after December 31, 1989. The modification to the penalty for the failure to make timely deposits of tax applies to deposits that are required to be made after December 31, 1989. The modification to the rules on liabilities of withholding agents applies to failures to deduct and withhold taxes after December 31, 1989.

Subtitle H. Technical Corrections Provisions

Amendments to the Technical and Miscellaneous Revenue Act of 1988

1. CORPORATE PROVISIONS

a. Method of Computing Net Unrealized Built-in Gain or Loss (sec. 6811(b)(4) of the bill, secs. 1006(d)(22) and 1006(f)(5)(A) of

the 1988 Act and secs. 382(h)(6) and 1374(d)(5) of the Code)

Present law

Under present law, for purposes of sections 382, 384, and 1374, the computation of net unrealized built-in gain and net unrealized built-in loss does not include certain items of income or loss unless such items are recognized within the recognition period.

Explanation of provision

Items of income or loss that would be treated as built-in gain or built-in loss if recognized within the recognition period are included in the computation of net unrealized built-in gain or net unrealized built-in loss, without regard to when or whether such items are actually recognized within the recognition period. The provision also clarifies that a net operating loss or capital loss carryforward is not treated as a separate item of built-in deduction but simply offsets recognized built-in gain to the extent otherwise permitted under the applicable section.

b. Modification of Conforming Amendment Relating to S Corporations Engaged in Banking Operations (sec. 6811(b)(6), 1361(b)(2)(B) of the Code)

Present law

Under present law, a corporation cannot be an S corporation if the corporation is a bank or a thrift institution, regardless of whether or not that corporation can claim any deduction for bad debts under the reserve method.

Explanation of provision

Prior to the Tax Reform Act of 1986 (the "1986 Act"), a corporation could not be an S corporation if the corporation's deductions for bad debts could be taken under the reserve method as a bank (under Code sec. 585) or as a thrift institution (under sec. 593). The 1986 Act disallowed the use of the reserve method for bad debts for large banks (sec. 901(a)(1) of the 1986 Act). As a conforming amendment, the 1986 Act provided that a corporation could not be an S corporation if the corporation was a bank or a thrift institution, regardless of whether or not that corporation could claim any deduction for bad debts under the reserve method (sec. 901(d)(4)(G) of the 1986 Act).

The provision modifies the conforming amendment in the 1986 Act such that a corporation is not eligible to be an S corporation if the corporation could claim a deduction for bad debts under the reserve method as a bank if it were a small bank.

c. Reduction In S Corporation Income Taxed to Shareholders by the amount of built-in gains tax paid (sec. 6811(b)(7) of the bill, sec. 1006(f) of the 1988 Act and sec. 1366(f) of the Code)

Present law

The amount of net recognized built-in gain of an S corporation subject to tax for any taxable year is limited by the taxable income of such corporation. Net recognized built-in gain in excess of such corporation's taxable income is treated as net recognized built-in gain in succeeding years and is subject to tax in such succeeding years. Under present law, the amount of S corporation income taxed to shareholders for any taxable year is reduced by the amount of built-in gains tax imposed on the S corporation.

Explanation of provision

The provision clarifies that the amount of any built-in gains tax paid by an S corporation reduces the amount of S corporation income that is taxed to the S corporation shareholders.

d. Reduction in Built-In Gains Tax By Minimum Tax Credit Carryovers (sec. 6811(b)(8) of the Bill, sec. 1006(f) of the 1988 Act and sec. 1374(b) of the Code)

Present law

Under present law, it is unclear whether minimum tax credit carryovers of an S corporation, arising in a taxable year for which the corporation was a C corporation, may offset the built-in gains tax of such S corporation.

Explanation of provision

The provision provides that any minimum tax credit carryover of an S corporation arising from a year the corporation was a C corporation may reduce the built-in gains tax of the S corporation.

e. Determination Of Tax Basis Of Property Transferred to Alaska Native Corporations (sec. 6815(b) of the Bill and sec. 5021(e) of the 1988 Act)

Present law

No provision in any law may affect the date on which a transfer to an Alaska Native Corporation is made for purposes of determining basis for Federal tax purposes.

Explanation of provision

The 1988 Act states that no provision in any law (whether enacted before, on, or after the date of enactment of the 1988 Act) shall affect the date on which a transfer to an Alaska Native Corporation is made for purposes of determining basis for Federal tax purposes. The amendment removes any retroactive effect of this provision in the 1988 Act and permits Alaska Native Corporations to rely on provisions of law that were in effect prior to the 1988 Act with respect to determining the tax basis of their property. No inference is intended regarding the interpretation of such prior law.

2. MINIMUM TAX PROVISIONS (SEC. 6811(C) OF THE BILL AND SECS. 53-59 OF THE CODE)

a. Tax benefit rule

Present law

The Tax Reform Act of 1986 provided that the Treasury Department may prescribe regulations providing proper adjustments where the taxpayer will not receive a tax benefit from an item for any taxable year.

Explanation of provision

The provision clarifies that this rule applies whether the tax benefit will result in the current year or in another year.

The bill also clarifies that the repeal of section 58(h) of prior law by the Tax Reform Act of 1986 did not affect the authority of the Secretary of the Treasury or his delegate to take into account preferences arising in taxable years beginning before January 1, 1987, in determining tax liabilities for taxable years beginning after December 31, 1986.

b. Minimum tax credit

Present law

Present law allows a minimum tax credit for the minimum tax paid in prior years by reason of deferral preferences.

Explanation of provision

The provision clarifies that the minimum tax credit includes any minimum tax imposed in prior years by reason of the 90-percent limitation on the use of the alternative minimum tax foreign tax credit. This position is consistent with the position taken by the Internal Revenue Service in its forms and accompanying instructions. (Under present law, the minimum tax credit includes any minimum tax previously paid because of the 90-percent limitation on the use of net operating loss deductions.)

c. Incentive stock options

Present law

Under present law, for purposes of the individual minimum tax, stock acquired pursuant to the exercise of an incentive stock option is treated without regard to the rules of section 421. Instead, the rules of section 83 apply.

Explanation of provision

The bill clarifies that the minimum tax rules applicable to a disqualifying disposition of stock acquired pursuant to the exercise of an incentive stock option where the amount realized is less that the value at the time of exercise follows the regular tax rules of section 422A(c)(2) where the stock is disposed of in the same taxable year the income is taken into account for minimum tax purposes. Thus the amount included in alternative minimum taxable income will not exceed the amount realized on the sale or exchange of the stock over the adjusted basis of the stock.

d. Treatment of acquisition expenses of life insurance companies

Present law

In determining adjusted current earnings, acquisition expenses of life insurance companies are required to be capitalized and amortized in accordance with the treatment required under generally accepted accounting principles, as if such treatment were required for all prior taxable years.

Explanation of provision

The committee wishes to clarify that to the extent that life insurance reserves are relevant in determining the amortization schedule under generally accepted accounting principles, tax reserves (instead of reserves determined under generally accepted accounting principles) are to be used. This clarification is considered necessary in order to treat acquisition expenses consistently under the book income preference and the ACE provision, and should not be considered as establishing a connection between the tax reserve method for a life insurance contract and the income tax treatment of acquisition costs relating to such contract.

3. ACCOUNTING PROVISIONS

a. Treatment of long-term contracts (secs. 6811(d) and 6815(e) of the bill, secs. 1008 and 5041 of the 1988 Act, and sec. 460 of the Code)

Present law

Taxpayers engaged in the production of property under a long-term contract must compute income from the contract under either the percentage of completion method or the percentage of completion-capitalized cost method. Exceptions to these required accounting methods are provided for certain construction contracts of small businesses (generally, those taxpayers with no more than $10 million in average annual gross receipts for the three taxable years preceding the taxable year in which the contract is entered into) and certain home construction contracts.[1]

[1] A contract is treated as a home construction contract only if 80 percent or more of the estimated total contract costs (as of the close of the taxable year in which the contract is entered into) are reasonably expected to be attributable to the building,

Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the taxable year. The percentage of the contract completed as of the end of a taxable year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

At the time that a contract reported under the percentage of completion method is completed (or, in the case of amounts that are received or accrued after the completion of the contract, at the time that the amounts are received or accrued), a determination is made whether the taxes paid with respect to the contract for each year of the contract were greater than or less than the amount that would have been paid if gross income had been computed by using the actual gross contract price and actual total contract costs, rather than the anticipated contract price and costs. Interest must be paid by the taxpayer if, after applying this "look-back" method, there is an underpayment of tax by the taxpayer with respect to the taxable year. Similarly, interest must be paid to the taxpayer by the Internal Revenue Service if there is an overpayment of tax with respect to the taxable year.

In applying the look-back method, amounts that are received or accrued after the completion of the contract are to be taken into account by discounting such amounts to their present value as of the completion of the contract. A taxpayer may elect with respect to any contract not to discount amounts received or accrued after the completion of the contract.

Under the percentage of completion-capitalized cost method, a taxpayer must take into account 90 percent of the items under the contract under the percentage of completion method. The remaining 10 percent of the items under the contract must be taken into account under the taxpayer's normal method of accounting (*e.g.*, the completed contract method of accounting). Exceptions to the 90/10 requirement are provided for certain ship construction contracts (40 percent under the percentage of completion method and 60 percent under the taxpayer's normal method of accounting) and certain residential construction contracts (70 percent under the percentage of completion method and 30 percent under the taxpayer's normal method of accounting).

Explanation of provisions

The bill contains several modifications and clarifications with respect to the present-law treatment of long-term contracts.

First, the bill provides that, except for purposes of applying the look-back method, all of the income under a long-term contract must be taken into account no later than the taxable year that follows the taxable year in which the contract is completed. This rule is to apply even though all of the estimated total contract costs have not been incurred as of the end of that taxable year. Because this provision does not apply for purposes of the look-back method, a taxpayer may be entitled to received interest under the look-back method if costs properly allocable to the contract are actually incurred after the end of that taxable year.

In addition, the bill clarifies the exception to the long-term contract rules for certain construction contracts of taxpayers whose average annual gross receipts for the prior three taxable years do not exceed $10 million. Under the bill, the gross receipts of any predecessor of the taxpayer (and certain related persons) are to be taken into account in determining whether this exception applies.

The bill also clarifies that the cost of installing any integral component to real property (*e.g.*, a hearing or air conditioning system) is to be considered a qualifying cost for purposes of the definition of home construction contract and residential construction contract.

The bill contains two clarifications with respect to the look-back method. First, the bill provides that interest payable by a taxpayer under the look-back method is to be treated as an increase in tax for purposes of subtitle F of the Code (other than the estimated tax provisions). Consequently, in the case of a failure to timely pay the interest due under the look-back method, interest and any applicable penalties would apply. Second, the bill provides for a reapplication of the look-back method if costs are properly taken into account after the completion of the contract or if an adjustment is made to the estimated total contract costs after the completion of the contract. In applying the look-back method, costs under a contract that are taken into account after the completion of a contract are to be treated for purposes of discounting in the same manner as items of income.

Finally, the bill clarifies that the regulatory authority granted to the Secretary of the Treasury to prevent the avoidance of the long-term contract rules applies to qualified ship contracts.

b. Treatment of certain installment sales by nondealers (sec. 6815(g) of the bill, sec. 5076 of the 1988 Act, and sec. 453A of the Code)

Present law

Under present law, special installment sale rules apply to nondealer sales of property with a sales price in excess of $150,000, other than property used or produced in the trade or business of farming, and timeshares and residential lots with respect to which interest is paid. First, an interest charge is imposed on the tax that is deferred under the installment method to the extent attributable to the amount by which the deferred payments arising from all dispositions of such property during any year exceed $5 million. Second, if any indebtedness is secured directly by an installment obligation that arises out of the disposition of such property, the net proceeds of the secured indebtedness are treated as a payment on such installment obligation.

Explanation of provision

The bill provides that the sale of personal use property by an individual is not subject to the special installment sale rules that generally apply to a nondealer sale of property with a sales price in excess of $150,000. For this purpose, personal use property is defined as any property substantially all the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an investment activity.

c. Exceptions to the uniform cost capitalization rules (sec. 6816(b) of the bill, sec. 6026 of the 1988 Act, and sec. 263A of the Code)

Present law

The Technical and Miscellaneous Revenue Act of 1988 contains two exceptions to the uniform cost capitalization rules. First, the Act provides an exception to the uniform cost capitalization rules for any otherwise deductible expense that is paid or incurred by an individual that is engaged in the business of being a writer, photographer, or artist.

Second, the Act provides an exception to the uniform cost capitalization rules for any otherwise deductible expense that is incurred by a taxpayer in connection with the production of animals in any farming business other than a farming business of a corporation, partnership or tax shelter that is required to use an accrual method of accounting. Prior to the Act, the uniform cost capitalization rules applied to the cost of producing an animal with a preproductive period of more than two years, unless an election was made to use the alternative depreciation system with respect to property used in the farming business. A taxpayer that made such an election for a taxable year beginning before January 1, 1989, is allowed to revoke the election for the first taxable year beginning after December 31, 1988, without the consent of the Treasury Secretary.

Explanation of provisions

Exception for free-lance authors, photographers, and artists.—The bill clarifies that the exception to the uniform cost capitalization rules for certain free-lance authors, photographers, and artists also applies to certain expenses incurred by certain corporations owned by such persons.

Exception for certain producers of animals.—In addition, the bill clarifies that only taxpayers engaged in a farming business that involves the production of animals having a preproductive period of more than two years may revoke prior elections to use the alternative depreciation system with respect to property used in the farming business.

d. Treatment of interest expense under the uniform cost capitalization rules (sec. 6831(c) of the bill, sec. 803 of the 1986 Act, and sec. 263A of the Code)

Present law

Under the uniform cost capitalization rules, certain interest costs and taxes incurred in connection with the production of property are required to be capitalized and, generally, are recovered over the applicable recovery period of the property to which the costs relate. In general, interest costs are required to be capitalized if the indebtedness to which the interest relates is directly attributable to production expenditures incurred in producing certain long-lived property or property with an extended production period. Additional interest costs are required to be capitalized if the interest costs could have been avoided if the production expenditures had not been incurred. For this purpose, production expenditures are defined as all costs required to be capitalized or included in inventory under the uniform cost capitalization rules, including interest that was capitalized in a prior taxable year.

The law in effect before the enactment of the uniform capitalization rules (sec. 189) required the capitalization of certain con-

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construction, reconstruction, or rehabilitation of certain dwelling units or certain improvements to real property directly related to such dwelling units.

struction period interest and taxes. These capitalized costs were generally amortized over a 10-year period.

The uniform cost capitalization rules and the repeal of prior law are effective for costs incurred after December 31, 1986, in taxable years ending after such date. Property produced by a taxpayer for use by the taxpayer, however, is not subject to the uniform cost capitalization rules if substantial construction occurred before March 1, 1986. Instead, such property remains subject to the rules of prior law. In addition, certain transition property is excluded from the property capitalization provisions of present law.

Explanation of provision

The bill clarifies that interest incurred after December 31, 1986, is subject to capitalization under present law even though attributable to costs incurred prior to January 1, 1987. The costs incurred before January 1, 1987, that are taken into account in determining the amount of interest to be capitalized, however, are limited to those costs that (1) were required to be capitalized under prior law and (2) would have been taken into account in determining the amount of interest to be capitalized under prior law. This clarification does not alter the treatment of certain property that was provided transition relief under the 1986 Act or the treatment of property produced by a taxpayer for use by the taxpayer if substantial construction occurred before March 1, 1986. In addition, this clarification does not alter the amortization of interest and taxes that were capitalized under the law in effect before the 1986 Act.

In addition, the bill clarifies that certain property that was provided transition relief under the 1986 Act is subject to the capitalization rules of prior law with respect to interest and subject to the uniform cost capitalization rules of present law with respect to other costs, including taxes.

4. FOREIGN TAX PROVISIONS

a. Special rules for transportation income (sec. 6811(h) (8)-(10) of the bill, sec. 1012(e) of the 1988 Act, and secs. 872, 883, and 887 of the Code)

Present law

Gross Basis Tax

The 1986 Act generally imposed a four percent tax on the U.S. source gross transportation income of foreign persons. As amended by the 1988 Act, U.S. source gross transportation income means gross income, not effectively connected with the conduct of a trade or business in the United States, but attributable to transportation which either begins or ends (but that does not both begin and end) in the United States. The gross basis tax was not intended to override U.S. income tax treaties with foreign countries. Therefore, a foreign person entitled to a treaty exemption is not subject to the tax.

For a foreign person's transportation income (other than leasing income) to be effectively connected with the conduct of a trade or business in the United States, the 1986 Act provided that (1) the foreign person must provide regularly scheduled transportation into, out of, or within the United States; (2) substantially all of the person's U.S. source gross transportation income must be attributable to the regularly scheduled transportation; and (3) the foreign person must maintain a fixed place of business in the United States through which the foreign person conducts its U.S. transportation business. Thus, for example, an occasional flight or voyage to the United States will not allow foreign persons to treat themselves as being engaged in a U.S. trade or business and thereby avoid the gross basis tax. For a foreign person engaged in the leasing of ships or aircraft to derive effectively connected transportation income, the foreign person must maintain a fixed place of business in the United States and substantially all of the person's U.S. source gross transportation income must be attributable to the fixed place of business.

Reciprocal Exemption

As amended by the Tax Reform Act of 1986, the Code provides an exemption from U.S. tax on certain types of transportation income earned by a corporation that is organized in, or a nonresidential alien that is resident in, a foreign country that grants an equivalent exemption to corporations that are organized in the United States or individual residents of the United States. The classifications of income that qualify for the reciprocal exemption are (1) income from the international operation of a ship or ships, (2) income from the international operation of aircraft, and (3) certain earnings from payments for temporary use of railroad rolling stock.

Countries treating foreign-organized corporations as domestic

Certain countries, for purposes of their internal tax laws, generally treat as domestic a corporation organized in a foreign country (such as the United States) if the corporation's primary location for tax jurisdiction purposes (e.g., its place of management and control) is in fact in that country, rather than its place of organization. Treasury has exchanged notes on exemption from tax on transportation income with numerous countries. Generally, in establishing the criteria for the reciprocal tax exemption on transportation income in the 1986 Act, Congress did not intend to condition the exemption of corporations organized in any particular country on that country's grant of an equivalent exemption covering corporations which are properly treated as residents of that foreign country under its tax laws. Thus, a foreign country could be viewed as generally providing U.S. corporations a tax exemption even if it does not exempt from tax corporations organized in the United States, but treated as residents of that country under its laws, assuming those laws would treat a U.S. corporation as a local resident only on the basis that such corporation's center of management or control, or comparable attribute, was in that foreign country.

Possessions of the United States

When Congress enacted the four percent tax on U.S. source gross transportation income, Congress anticipated that this tax, by increasing U.S. taxation of persons from foreign countries that have not provided reciprocal exemptions to U.S. persons, would encourage those foreign countries to amend their tax laws to provide such reciprocal exemptions.

The income tax laws of the United States are currently in effect, completely or partially, in Guam, the Commonwealth of the Northern Mariana Islands ("CNMI"), the U.S. Virgin Islands, and American Samoa as their own income tax systems. These jurisdictions are termed "possessions" of the United States for tax purposes. To transform the Code into a local tax code, each possession, in effect, substitutes its name for the name "United States" where appropriate in the Code. The possessions generally are treated as foreign countries for U.S. tax purposes. Similarly, the United States generally is treated as a foreign country for purposes of possessions taxation. This word-substitution system is known as the "mirror system." As a result of changes brought about by the 1986 Act, individual possessions are able to take steps that would permit them to amend their tax laws internally. As of this time, certain possessions have taken the necessary steps to permit such internal amendment, but others have not.[1]

Thus, for example, a U.S. corporation operating a transportation business traversing a route between a possession on the mirror system and the United States would generally be subject in the possession to the four percent tax on the possession source gross transportation income, unless United States law provides an exemption from the equivalent tax for corporations organized in the possession. Similary, a corporation organized in that possession operating on the same route would generally be subject in the United States to the four percent tax on the U.S. source gross transportation income, unless the possession's internal law provides an exemption from the equivalent tax to U.S. corporations.

Assuming that the internal laws of both the United States and any possession on the mirror system did impose the four percent tax on mirror possession persons and on U.S. persons, respectively, then a mirror possession currently without authority to amend its internal tax laws would be deprived of the power to eliminate that tax on a reciprocal basis. On the other hand, if the internal laws of the United States do not impose the four percent tax on corporations organized in a mirror possession, or individual citizens and residents of a mirror possession, the exemption is necessarily reciprocal by virtue of the mirror system, thus accomplishing the intended result of the 1986 Act.

Explanation of provision

Gross Basis Tax

The bill clarifies the 1986 Act's special rules for determining whether transportation income is treated as effectively connected with the conduct of a trade or business in the United States, by providing that those rules only apply to U.S. source gross transportation income, and not transportation income generally. Thus, under the bill, failure to have substantially all of a taxpayer's U.S. source transportation income attributable to regularly scheduled transportation (or, in the case of income from the leasing of a vessel or aircraft, attributable to a fixed place of business in the United States) would not automatically prevent transportation income *other than* U.S. source gross transportation income from being treated as effectively connected with the conduct of a trade or business in the United States if the general rules would treat such other transportation income as so effectively connected.

[1] Under the 1986 Act, Guam, CNMI, and American Samoa are eligible to amend their financial income tax laws independently of the Code as mirrored, upon the effective date of an "implementing agreement" between the possession and the United States. To date, American Samoa has an implementing agreement in effect, and Guam has entered into such an agreement effective 1991.

Reciprocal Exemption
Countries treating foreign-organized corporations as domestic

The bill clarifies that in general a foreign country may be treated as providing a reciprocal exemption for transportation income to corporations organized in the United States even if the laws of such foreign country would not provide an exemption to a corporation which, although organized in the United States, would be subject to tax on a residence basis by the foreign country. The committee intends that a foreign country not be treated as providing an exemption triggering the Code's reciprocal exemption provisions, however, if the laws of the foreign country would tax U.S. corporations on a residence basis even though the corporation is not primarily based in that foreign country. Nor does the committee intend that an exemption apply to corporations organized in a foreign country that imposes residence-based taxation in a manner that would, in practice, deprive a U.S. corporation of a type of tax benefit that a comparably situated corporation organized in the foreign country would enjoy under U.S. law, assuming that the reciprocal exemption provisions of the Code applied to such corporation. The Treasury is authorized to prescribe those characteristics of residence-based taxation systems which will qualify the exemptions provided by such systems to U.S. corporations as "equivalent exemptions" adequate to trigger the Code's reciprocal exemption provisions.

Possessions of the United States

The bill clarifies that the term "U.S. source gross transportation income" does not include any income taxable in a possession of the United States under the provisions of the Code as made applicable in that possession. By operation of the mirror system, the bill clarifies the existence of an equivalent exemption of U.S. persons from taxation by a possession on the mirror system of their possession source gross transportation income. Thus the bill clarifies that a corporation organized in a possession on the mirror system, operating a transportation business traversing a route between the possession and the United States, is not subject in the United States to the four percent tax on the gross U.S., source transportation income. Under the internal law of that possession, by the same token, a U.S. corporation operating a transportation business traversing the same route is not subject in the possession to the four percent tax on the possession source gross transportation income of foreign persons.

For purposes of providing reciprocal exemptions from U.S. tax on the transportation income of foreign persons, the bill authorizes the Treasury to treat U.S. possessions as foreign countries. Thus the bill clarifies that Treasury may initiate agreements pursuant to which, in cases where a possession is not strictly on the mirror system, corporations organized in that possession, and individual residents of that possession, may be entitled on the same basis as residents of foreign countries to U.S. tax exemption on their transportation income.

b. Exception for same-country interest, dividends, rents and royalties (sec. 6811(h)(3) of the bill, sec. 1221(a)(1) of the 1986 Act, and sec. 954(c)(3) of the Code)

Present law

When a controlled foreign corporation earns subpart F income, including foreign personal holding company income or any other tax haven income, the corporation's U.S. shareholders are generally subject to current U.S. taxation on their pro rata shares of the subpart F income. The term foreign personal holding company income is defined generally to include dividends and interest income as well as rents and royalties (sec. 954(c)(1)(A)). The term excludes, however, certain dividends and interest received from a related person that (1) is created or organized under the laws of the same foreign country as the recipient controlled foreign corporation, and (2) has a substantial part of its assets used in its trade or business located in such same foreign country (sec. 954(c)(3)(A)(i)). The term also excludes certain rents and royalties received from a related person for the use of, or for the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized (sec. 954(c)(3)(A)(ii)).

The 1986 Act provided a rule to prevent deductible intercompany payments that benefit from the same-country exception from reducing the total tax haven income of a group of related companies. Under the rule enacted in 1986, interest payments do not qualify for the exception to the extent that such payments reduce the subpart F income of the payor (sec. 954(c)(3)(B)).

Under the literal terms of subpart F, the term "related person" includes pass-through entities such as partnerships and trusts (sec. 954(d)(3)). In the 1986 Act, Congress expanded the definition of the term "related person" in order to end an abuse by which income that would be subpart F income if received from a subsidiary was routed through an entity, e.g. a partnership, that was not included in the definition of a related person. H.R. Rep. 99-426, 99th Cong., 1st Sess. 403 (1985). Congress did not intend by that amendment to permit intercompany payments to reduce the tax haven income of a related group, for example, by the payment of interest by a related pass-through entity which was created or organized in the same country as the interest recipient, or by the payment of rents or royalties by a pass-through entity for the use of property in such country, where the pass-through entity is not the type of person that is subject to subpart F taxation. Nor did Congress intend that pass-through entities be used as devices for transferring the benefit of the same-country exception to payments effectively made by persons from which direct payments would not satisfy the requirements of the same-country exception.

Explanation of provision

The bill provides that the exception from treatment as foreign personal holding company income for dividends or interest received from a related person that is created or organized under the laws of the same country as the recipient only applies to payments received from a related person that is a corporation. Thus, the bill clarifies that if, for example, two related corporations organize a partnership in a country in which neither partner was created or organized, and if the partnership borrows from a related same-country controlled foreign corporation, the same-country exception will not apply to the interest income received by the controlled foreign corporation from the partnership.

The bill also provides that the exception from treatment as foreign personal holding company income for rents or royalties received from a related person for the use of, or for the privilege of using, property within the country under the laws of which the recipient is created or organized only applies to payments received from a related person that is a corporation. Thus, the bill clarifies that if, for example, two related corporations organize a partnership, and the partnership leases or licenses property from a related controlled foreign corporation, the same-country exception will not apply to the rent or royalty income received by the controlled foreign corporation from the partnership.

c. Dual consolidated losses of insurance companies that are controlled foreign corporations (sec. 6816(k) of the bill, sec. 6135(a) of the 1988 Act, and sec. 953(d) of the Code)

Present law

A foreign corporation that would qualify to be taxed as an insurance company if it were a domestic corporation may, under certain circumstances, elect to be treated as a domestic corporation (sec. 953(d)).

Under the 1986 Act, a dual consolidated loss is not allowed to reduce the taxable income of any other member of an affiliated group. Generally, the term "dual consolidated loss" is defined as any net operating loss of a domestic corporation which is subject to an income tax of a foreign country without regard to whether such corporation's income is from sources inside or outside of such foreign country, or is subject to tax on a residence basis (sec. 1503(d)). The Treasury has authority to provide by regulations that the term "dual consolidated loss" does not include any loss which, under the foreign income tax law, does not offset the income of any foreign corporation (sec. 1503(d)(2)(B)).

Typically, a foreign corporation that makes the section 953(d) election is a resident of a foreign country, and if it is subject to income tax in that country on a worldwide or residence basis, its losses are dual consolidated losses unless excepted from that definition by regulations. However, the 1988 Act specifically provided that if such an electing corporation is treated as a member of an affiliated group for purposes of filing a consolidated return, any loss of such an electing corporation is treated as a dual consolidated loss as defined in the dual consolidated loss provisions of the 1986 Act (sec. 953(d)(3)). The Treasury generally does not have authority to promulgate regulations making the loss of an electing corporation not a dual consoldiated loss.

Explanation of provision

The bill clarifies that any loss of a foreign corporation electing to be treated as a domestic insurance company will be treated as a dual consolidated loss and will therefore not be allowed to reduce the taxable income of any other member of the affiliated group for the taxable year or any other taxable year. Thus, the bill clarifies that the treatment of electing corporation losses as dual consolidated losses under section 953(d) precludes any contrary treatment under regulations that may provide exceptions from the definition of dual consolidated losses.

d. Withholding tax paid by partnerships with respect to foreign partners (sec. 6811(h)(6) of the bill, sec. 1012(s)(1)(A) of the 1988 Act, and secs. 1446 and 1463 of the Code)

Present law

Partnerships that conduct a trade or business in the United States are required to pay a withholding tax with respect to a foreign partner's distributive share of the partnership's effectively connected taxable

income. The 1988 Act requires partnerships to pay this tax in the manner and at the time prescribed by regulations. The amount of the tax is the applicable percentage (which is dependent on corporate or noncorporate status of the foreign partners) of the effectively connected taxable income of the partnership that is allocable under section 704 to foreign partners. The applicable percentage is the highest rate of tax to which each foreign partner is subject.

A foreign partner is allowed a credit against its tax liability for its share of the withholding tax paid by the partnership. An amount of cash equal to this credit is treated as having been distributed to the foreign partner by the partnership on the last day of the partnership's taxable year for which the tax was paid, thus reducing the partner's basis in the partnership. The Treasury has provided by Revenue Procedure that if the foreign partner disposes of its interest in the partnership prior to the last day of the partnership's taxable year, the partner will be treated as having received this cash distribution on the date of disposition of its partnership interest (Rev. Proc. 89-31, sec. 9.01, 1989-20 I.R.B. 136, 143).

The Treasury has provided that the withholding tax generally must be paid in four installments during the taxable year of the partnership in which the effectively connected taxable income is derived (Rev. Proc. 89-31, sec. 7.014). A partnership that is required to pay this tax, but fails to do so, may be liable for the payment of the tax and any applicable penalties or additions including interest. Generally, taxpayers liable for tax under chapters 1 and 2 (secs. 1-1403) must make estimated tax payments for the current year at least quarterly, and penalties are imposed for underpayment of estimated tax (secs. 6654 and 6655). The withholding tax paid by a partnership with respect to a foreign partner's share of effectively connected income is a chapter 3 (secs. 1441-1464) tax, and thus failure to pay this tax does not trigger underpayment of estimated tax penalties.

Explanation of provision

Rate of Tax

The bill clarifies that with respect to foreign corporate partners, the applicable percentage for computing the amount of withholding tax is the highest rate of tax to which corporations generally are subject, currently 34 percent.

Deemed Distributions

The bill provides that, except as provided in regulations, a foreign partner's share of withholding tax paid by a partnership is treated as distributed to the partner on the date which is the earlier of (1) the date that the tax is actually paid by the partnership to the Internal Revenue Service, or (2) the last day of the partnership's taxable year for which the tax is paid. Assume, for example, that a U.S. partnership has as its taxable year a calendar year and has one foreign partner. The foreign partner also is a calendar year taxpayer. On June 15, 1990, the partnership pays withholding tax of $100 on behalf of the foreign partner related to effectively connected taxable income of the partnership earned during 1990. Under the bill, the foreign partner is treated as having received a distribution of $100 from the partnership on June 15, 1990, thereby causing a $100 reduction in the basis of its interest in the partnership. Further assume that on April 15, 1991, the partnership pays an additional withholding tax of $200 on behalf of the foreign partner related to the partnership's 1990 effectively connected taxable income. As a result of this additional payment of withholding tax, the foreign partner is treated under the bill as having received a $200 distribution from the partnership on December 31, 1990 (the last day of the partnership's taxable year for which the tax is paid).

The committee contemplates that this rule may be appropriately altered by regulations to provide for earlier deemed distributions and reductions of basis in circumstances such as those involving mid-year dispositions of partnership interests. Assume that in the foregoing example the foreign partner disposed of its interest in the partnership on December 15, 1990. The committee anticipates that the Treasury may treat such a partner as having received a distribution of $200 (corresponding to the April 15, 1991 tax payment) on December 15, 1990, thus reducing the partner's basis in its partnership interest for purposes of determining its gain or loss resulting from the disposition.

Penalties, Interest, and Other Additions

Under the bill, the Treasury is authorized to impose penalties for failure to satisfy withholding tax liabilities, which penalties would be similar to those imposed on corporations for failure to pay estimated tax under section 6655. For purposes of imposing such penalties, the bill provides the Treasury authority to treat the withholding tax as a tax imposed by section 11 and to treat any partnership required to pay such tax as a corporation. In addition, the Treasury may provide appropriate adjustments in applying the rule of section 6655 to any underpayments of the withholding tax by a partnership. For example, section 6655 contains an exception which limits a corporation's required annual payment of estimated tax to the lesser of 90 percent of its current year's tax or 100 percent of its preceding year's tax. The committee does not intend that a partnership which fails to satisfy its obligation under section 1446, but that owed no prior year withholding tax, would be excused from the penalty. However, the committee contemplates that a rule similar to the section 6655 rule allowing a corporation to determine its required installment of estimated tax on the basis of annualized income could also be made available to partnerships by the Treasury.

Generally, penalties, interest, and other additions to tax paid by a partnership as a result of failure to pay withholding tax on behalf of a foreign partner will not be creditable by such partner against its substantive tax liability. However, in order to avoid the assessment of underpayment of estimated tax penalties against both the partnership and the foreign partner with respect to the same item of income (i.e., the foreign partner's distributive share of the partnership's effectively connected taxable income), the committee anticipates that the Internal Revenue Service may allow the foreign partner a reduction of its estimated tax underpayment penalty attributable to partnership income, in the amount of any estimated tax underpayment penalty paid by the partnership with respect to failure to pay withholding tax on income that is allocable to that partner.

e. Excise tax on insurance premiums paid to foreign insurers and reinsurers (sec. 6811(h)(11) of the bill, sec. 1012(q)(13) of the 1988 Act, and sec. 4371 of the Code)

Present law

In certain cases, an excise tax is imposed (sec. 4371) on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer to or for or in the name of a domestic corporation or partnership, or a U.S. resident individual, with respect to risks wholly or partly within the United States, or to or for or in the name of any foreign person engaged in business within the United States with respect to risks within the United States. The excise tax is imposed at the rate of (1) 4 cents on each dollar (or fraction thereof) of the premium paid on a policy of casualty insurance or indemnity bond; (2) 1 cent on each dollar (or fraction thereof) of the premium paid on a policy of life, sickness, or accident insurance, or annuity contract on the life or hazards to the person of a U.S. citizen or resident, *unless the insurer is subject to tax under section 842(b) (relating to the taxation of foreign insurance companies)*; and (3) 1 cent on each dollar (or fraction thereof) of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2). Present law exempts any amount which is effectively connected with the conduct of a trade or business within the United States from the excise tax on insurance and reinsurance premiums, unless that amount is exempt from net-basis taxation pursuant to a treaty obligation of the United States.

If a foreign company would, were it domestic, be subject to the Code's insurance company tax provisions, and that company carries on an insurance business within the United States, then its income effectively connected with the conduct of a trade or business in the United States is subject to U.S. income tax rules applicable to the income of domestic insurance companies (sec. 842(a)). Thus, the excise tax by its terms applies only to premiums the income from which is not subject to the income tax. No less than a certain required amount of the foreign insurance company's net investment income must be treated as income effectively connected with the conduct of a trade or business in the United States (sec. 842(b)). Life, sickness, accident, and annuity premiums paid to a foreign insurance company are not subject to the excise tax if the company is subject to taxation under this rule for measuring U.S. effectively connected net investment income. However, if a foreign insurance company carries on an insurance business within the United States and collects *casualty* insurance premiums both effectively connected and not effectively connected with the conduct of that business, then the effectively connected premiums are exempt from the excise tax, but the non-effectively connected premiums on policies covering U.S. risks are subject to the excise tax.

Prior to the 1988 Act, the excise tax did not have a general exemption for U.S. effectively connected amounts. Instead, the Code provided a general exemption from the excise tax in the case of policies signed or countersigned by an officer or agent of the insurer in a state or the District of Columbia, within which such insurer is authorized to do business.[2] During the pre-1988 Act

[2] Prior to the Foreign Investors Tax Act of 1966, the Code did not generally impose income tax on

period, the special excise tax exemption for life, sickness, accident, and annuity premiums could in some cases exempt from the excise tax premiums effectively connected with a U.S. insurance business, which premiums otherwise would arguably *not* have been exempted by the general exemption for policies signed or countersigned in places where the company was authorized to do business. *See Neptune Mutual Association, Ltd., of Bermuda v. United States,* 862 F.2d 1546 (Fed. Cir. 1988). Moreover, during that period any foreign life insurance company (as contrasted with a non-life company) carrying on a life insurance business within the United States was subject to special U.S. taxing rules.[3] Since the 1988 Act, however, the special excise tax exemption for life, sickness, accident, and annuity premiums paid to foreign insurance companies subject to the rules for imposing income tax on net investment income can only exempt from excise tax premiums paid to a company all or part of the premium income of which is also exempt from the excise tax pursuant to the general exemption for nontreaty-protected amounts effectively connected with the conduct of a trade or business within the United States.

Explanation of provision

The bill repeals the special exemption from excise tax for life, sickness, accident, and annuity premiums paid to foreign companies subject to tax under the special income tax rules setting the required minimum amount of net investment income treated as effectively connected with the conduct of a trade or business in the United States. Under the bill, any premium received by such a company which is effectively connected with its conduct of a trade or business in the United States would continue to be exempt from excise tax under the general exemption as amended by the 1988 Act. On the other hand, if a company carries on an insurance business in the United States and also collects premiums *not* effectively connected with its U.S. business on policies of life, sickness, or accident insurance, or annuity contracts, with respect to the lives or hazards to the person of citizens or residents of the United States, then under the bill these premiums *are* subject to the excise tax. In this respect, therefore, the bill conforms the treatment of life, sickness, accident, and annuity premiums with the treatment of casualty premiums.

f. Foreign currency gains and losses (sec. 6811(h)(7) of the bill, secs. 1012(v) and 6130 of the 1988 Act, and sec. 988 of the Code)

Present law

In order to resolve uncertainties and to reduce discontinuities arising under the prior law that applied to exchange gains and losses, Congress in the Tax Reform Act of 1986 provided uniform source and character rules for certain gains and losses from foreign currency-related "section 988 transactions." Certain gains and losses from such transactions are referred to under the Act as "foreign currency gains and losses." The general rule under the Act is that the character of foreign currency gain or loss is ordinary.

The Act allows flexibility to alter the character of exchange gain or loss in appropriate circumstances. For example, as amended by the 1988 Act, the term "section 988 transaction" generally includes certain foreign currency-related transactions such as, among other things, entering into or acquiring any forward contract, futures contract, option, or similar financial instrument. However, the term generally *excludes* regulated futures contracts and nonequity options which would be marked to market under section 1256 if held on the last day of the taxable year, unless the taxpayer elects not to have this exclusion apply (sec. 988(c)(1)(B)(iii) and 988(c)(1)(D) (i) and (ii)). In a case where the election is made, gain or loss from a foreign currency-related section 1256 contract[4] may therefore be foreign currency gain or loss, and treated as ordinary income or loss (sec. 988(a)(1)(A)). Previously, in the Tax Reform Act of 1984 Congress enacted a provision stating that, for purposes of the Code, gain or loss from trading of section 1256 contracts shall generally be treated as gain or loss from the sale or exchange of a capital asset (sec. 1256(f)(3)(A)). In extending section 988 ordinary income and loss characterization to gains and losses from section 1256 contracts in certain cases in the 1986 and 1988 Acts, Congress did not intend that such characterization be defeated by reference to the language of the 1984 Act regarding gains and losses from trading section 1256 contracts.

Explanation of provision

The bill clarifies that the income and loss characterization rules in section 988 apply without regard to other income tax provisions in the Code. Thus, where ordinary income and loss characterization applies, pursuant to the terms of section 988, to gains and losses from trading section 1256 contracts, the bill clarifies that such gains and losses are not to be considered gain or loss from the sale or exchange of a capital asset pursuant to section 1256(f)(3).

g. Tax-exempt shareholders of DISCs (sec. 6811(h)(12) of the bill, sec. 1012(bb)(6) of the 1988 Act, and sec. 995 of the Code)

Present law

In the 1988 Act, Congress provided that when a tax-exempt entity that is a shareholder of a Domestic International Sales Corporation (DISC) is deemed to receive a distribution from a DISC, actually receives a distribution from a DISC of previously untaxed income, or realizes gain from disposition of DISC shares which is treated as a dividend, then that income is treated as derived from the conduct of an unrelated trade or business (sec. 995(g)). This treatment was intended to prevent taxable entities from seeking to exempt active business income from tax by assigning DISC stock to controlled tax-exempt entities such as their pension or profit-sharing plans.

The provision applies to organizations described in the principal Code provisions that impose tax on unrelated business income (secs. 511(a)(2) and (b)(2)). Generally, sections 511(a)(2) and (b)(2) describe certain organizations exempt from tax (other than tax on income from an unrelated trade or business) by reason of section 501(a) (e.g., qualified pension plans described in section 401(a) and public charities described in section 501(c)(3)), state colleges and universities and related organizations, and certain exempt trusts. Congress did not intend that taxable entities be enabled to exempt active business income from tax by assigning DISC stock to other generally tax-exempt entities which are subject to taxation on their unrelated business income but may not be described in sections 511(a)(2) and (b)(2).

Explanation of provision

The bill clarifies that if a tax-exempt entity is either described in sections 511(a)(2) or (b)(2), or is otherwise subject to tax under section 511, then income of that entity in the form of deemed DISC distributions, actual DISC distributions of previously untaxed income, and gain from the disposition of DISC shares which is treated as a dividend, is treated as derived from the conduct of an unrelated trade or business. Thus, the bill clarified that if for example an individual retirement account were to own stock in a DISC, such an account being subject to the unrelated business income tax pursuant to section 408(e)(1), then that account would be subject to tax on income from the DISC in the same manner as if the account were instead a pension plan trust described in section 401(a). Similarly, under the bill any other person of any description that owns DISC stock and is subject to the tax on unrelated business income must treat any DISC-related income as income from the conduct of an unrelated trade or business in the same manner as would a pension plan, charity, or other organization exempt from taxation by reason of section 501(a).

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foreign insurers and reinsurers carrying on an insurance business in the United States by reference to whether or not the income of such companies was effectively connected with the conduct of a trade of business in the United States. Rather, such companies (other than life insurance companies) were generally subject to U.S. tax only on their income from sources within the United States.

[3] Prior to the 1966 Act any foreign *life* insurance company carrying on a *life* insurance business within the United States was generally subject to a special rule taxing its U.S. insurance income in the same manner as a domestic life insurance policy. Beginning with the Life Insurance Company Income Tax Act of 1959, certain adjustments not applicable to U.S. life insurance companies were made applicable to the income of foreign life insurance companies subject to such U.S. income taxation. Corresponding to the special rules for the imposition of U.S. income tax on foreign life insurance companies carrying on a life insurance business in the United States, the Code prior to the 1966 Act had a special exemption from the excise tax for life, sickness, accident, and annuity policy premiums paid to any foreign life insurance company subject to the special income tax rule.

Since the 1966 Act the Code has contained rules (amended from time to time, most notably recently by the enactment of section 842(b) in the Omnibus Budget Reconciliation Act of 1987) designed to ensure that no less than a certain required amount of a foreign life insurance company's worldwide investment income is deemed effectively connected with the company's U.S. insurance business and thus is taxed by the United States. In the 1987 Act these rules were strengthened and made applicable to all foreign insurance companies carrying on an insurance business within the United States. Since the 1966 Act the excise tax has been inapplicable to life, sickness, and accident insurance policy premiums, and annuity contract premiums, with respect to the lives or hazards to the person of citizens or residents of the United States, paid to foreign companies subject to these special rules of computing U.S. effectively connected income. (By contrast, when in 1987 the special rules for computing U.S. effectively connected income were extended to foreign non-life insurance companies, Congress did not enact a corresponding exemption from the excise tax for premiums on casualty insurance policies covering U.S. risks paid to foreign companies engaged in a U.S. insurance business.)

[4] The term "section 1256 contract" is defined in section 1256(b) and includes "regulated futures contracts" and "nonequity contracts" as those terms are defined in section 1256(g) (1) and (3).

5. ESTATE AND GIFT TAX PROVISIONS

a. Treatment of Survivor Annuities Under QTIP Rules (sec. 6816(l) of the Bill, sec. 6152 of the 1988 Act, and sec. 2056(b)(7)(C) of the Code)

Present law

A marital deduction is allowed for Federal estate tax purposes for an interest in property passing to a spouse if that interest is not terminable (i.e., the property does not pass to a person other than the spouse on termination of the interest). A special rule, applicable to qualified terminable interest property (QTIP), allows a marital deduction where the surviving spouse has only an income interest in the property if an election is made which results in the inclusion of the property in his or her estate. Under the 1988 Act, unless otherwise elected, the transfer to a surviving spouse of an interest in a survivor annuity in which only the spouse has the right to receive any payment during that spouse's life qualifies for the marital deduction for Federal estate tax purposes under the QTIP rule.

Explanation of provision

A joint and survivor annuity would be treated as qualifying under the QTIP rule under the 1988 Act only if the annuity is includible in the decedent's estate as an annuity. Thus, an annuity created by the decedent's will does not qualify under the amendment made in the 1988 Act.

b. Rates and Unified Credit (sec. 6815(c) of the Bill, sec. 5032 of the 1988 Act, and sec. 2101(b) of the Code)

Present law

The Federal estate and gift taxes are unified, so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. For decedents dying prior to 1993, the gift and estate tax rates begin at 18 percent on the first $10,000 of taxable transfers and reach 55 percent on taxable transfers over $3 million.

U.S. citizens and resident noncitizens are allowed a unified credit of $192,800 in determining the net tax payable. Nonresident noncitizens are allowed by statute a unified credit of $13,000. However, some treaties allow the estate of a nonresident noncitizen the same unified credit allowed a U.S. citizen multiplied by the proportion of the gross estate situated in the United States.

The estate and gift tax rate for transfers in excess of $10 million is increased by five percent until the benefit of the unified credit and graduated brackets is recaptured. The additional five percent rate for decedents dying and gifts made before 1993 is imposed upon cumulative taxable transfers between $10,000,000 and $21,040,000. This additional five percent rate has the effect of phasing out the graduated brackets and unified credit of $192,800. An estate of a nonresident noncitizen is subject to this five percent addition even if it did not receive a unified credit of $192,800.

Explanation of Provision

Appropriate adjustments are made in the additional five percent rate imposed to reflect the actual credit allowed the nonresident noncitizen. Under the provision, the additional five percent rate applies to the taxable transfers of a nonresident noncitizen in excess of $10 million only to the extent necessary to phase out the benefit of the graduated rates and unified credit actually allowed, either by statute or by treaty.

c. Joint tenancies (sec. 6815(d)(16) of the bill, sec. 5033 of the 1988 Act, and sec. 2040 of the Code)

Present law

The creation of a joint tenancy in property is generally treated as a completed gift. Prior to the 1988 Act, such gift between spouses qualified for the marital deduction from the estate and gift tax. Only one-half of the jointly held property was included in the estate.

Effective July 14, 1988, the 1988 Act repealed the marital deduction for gifts made to a noncitizen spouse. That Act also provided that jointly held property was includible in the estate, reduced by the portion of the property for which consideration was received.

In determining estate tax, the value of gifts includible in the gross estate effectively is reduced by the value of the taxable gift when made. Thus, for a joint tenancy created after the 1988 Act, the amount included in the estate effectively is reduced by the amount transferred when the tenancy was created. For a joint tenancy created prior to the 1988 Act, there is no such reduction because the gift was not taxable, (i.e., it qualified for the marital deduction).

Explanation of provision

A gift made by creating a joint tenancy in property prior to July 14, 1988, is treated as consideration belonging to the surviving spouse for purposes of determining the value of the tenancy includible in the decedent spouse's estate. Accordingly, the amount of joint tenancy property included in the spouses's estate is reduced proportionately by the amount of the gift.

d. Marital deduction for property passing to noncitizen spouses (sec. 6815(d) of the bill, sec. 5033 of the 1988 Act, and secs. 2056(d), 2056A and 2523(i) of the Code)

Present law

In General

A deduction generally is allowed for Federal estate and gift tax purposes for the value of property passing to a spouse. Except in specified situations, no deduction is allowed if the interest passing to the spouse is terminable (i.e., will terminate upon a lapse of time, the occurrence of a contingency, or on the failure of an event or contingency to occur) (secs. 2056(b), 2523(b)).

Annual Exclusion and Marital Deduction for Property Passing to Noncitizen Spouses

The marital deduction is generally disallowed for the value of property passing to noncitizen spouses. The first $100,000 per year of gifts from a U.S. citizen or resident to a noncitizen spouse, however, is not subject to gift tax. In addition, property passing at death to a noncitizen spouse may qualify for the marital deduction so long as it satisfies the requirements of section 2056(b) and passes in a qualified domestic trust (QDT). Property passing to the spouse outside the probate estate is treated as passing in a QDT if it is transferred to such trust before the estate tax return is filed.

Definition of Qualified Domestic Trust (QDT)

To be a QDT, a trust must meet four conditions. First, the trust instrument must require that all trustees be U.S. citizens or domestic corporations. Second, the surviving spouse must be entitled to all the income from the property in the trust, payable annually or at more frequent intervals. Third, the trust must meet the requirements of Treasury regulations prescribed to ensure collection of the estate tax imposed upon the trust. Finally, the executor must elect to treat the trust as a QDT.

Estate Tax on QDT

An estate tax is imposed upon distributions from a QDT made prior to the surviving spouse's death and upon the value of property remaining in a QDT upon that spouse's death. The tax, however, is not imposed on distributions of income, as defined under local law. The tax is also imposed upon the trust property if a person other than a U.S. citizen or domestic corporation becomes a trustee of the trust or if the trust ceases to meet the requirements of Treasury regulations prescribed to ensure collection of the estate tax.

The amount of the estate tax is the additional estate tax which would have been imposed had the property subject to the tax been included in the decedent spouse's estate. If the estate tax for the decedent spouse's estate has not been finally determined, a tentative tax is imposed using the highest estate tax rate in effect as of the date of the decedent's death. When the decedent spouse's estate tax liability is finally determined, the excess of the tentative tax over the additional estate tax that would have been imposed had the property been included in the decedent's taxable estate is allowed as a credit or refund.

Credit for Tax Previously Paid

If the marital deduction is denied solely because the spouse is a noncitizen at the time of the decedent's death, the estate of the surviving spouse who is a U.S. citizen or resident at death generally is entitled to a credit with respect to estate tax paid on property passing from the decedent. This credit is applied against property treated as passing from the decedent's estate determined without regard to when the decedent spouse died. The credit is also allowed for the estate tax imposed against the QDT. For purposes of determining the amount of the credit, the net value of property treated as passing from the decedent's estate to the surviving spouse is reduced by the amount for which a marital deduction was allowed.

Explanation of provisions

Gift Tax on Amounts Passing to Noncitizen Spouse

The bill clarifies that the $100,000 annual exclusion for transfers by gift to a noncitizen spouse is allowed only for transfers that would qualify for the marital deduction if the donee were a U.S. citizen.[1] For example, a gift in trust does not qualify for the $100,000 annual exclusion unless it is within one of the exceptions to the terminable interest rule.

The bill also provides that a nonresident noncitizen is entitled to a marital deduction or annual exclusion for gift tax purposes in the same circumstances as a U.S. citizen or resident. Thus, gifts from a nonresident noncitizen to a U.S. citizen spouse qualify for the marital deduction. In addition, each year the first $100,000 in gifts from a nonresident noncitizen to a noncitizen spouse is not taxed, so long as the gifts would quality for the marital deduction if the donee were a U.S. citizen. The deduction and annual exclusion apply only if the property passing to the spouse is subject to U.S. gift tax.

[1] This change is made effective for gifts after June 29, 1989.

Marital Deduction for Bequests to Noncitizen Spouse

Under the bill, the estate tax marital deduction is allowed for property passing to a noncitizen spouse if the spouse between a U.S. citizen before the estate tax return is filed, so long as the spouse was a U.S. resident at the date of the decedent's death and at all times before becoming a U.S. citizen. In addition, all property, probate and nonprobate, passing to a noncitizen spouse qualifies for the marital deduction if the property is transferred or irrevocably assigned[2] to a QDT before the estate tax return is filed.[3] Property passing for decedents dying before enactment of the bill is treated as qualifying for the marital deduction if transferred or assigned to a QDT within one year of enactment. The bill also confirms that property passing from a nonresident noncitizen to a noncitizen spouse qualifies for the estate tax marital deduction if it passes in a qualified domestic trust.

Definition of QDT

The bill retains the present-law requirement that property passing to a noncitizen spouse satisfy requirements generally applicable to the marital deduction such as section 2056(b) in order to quality for the marital deduction. The bill modifies the independent requirements a trust must meet in order to qualify as a QDT. Under the bill, only one trustee is required to be a U.S. citizen or domestic corporation, so long as no distribution may be made from the trust without the approval of that trustee. In addition, the bill eliminates the independent requirement that the surviving spouse have an income interest in a QDT.[4] This change allows a trust that meets the terminable interest rule but in which the spouse is not entitled to all the income to qualify as a QDT.

The bill also contains provisons allowing reformation of a trust to meet the independent QDT requirements. The determination of whether a trust is a QDT is made either (1) when the estate tax return is filed, or (2) is a reformation suit to conform to the QDT requirements is commenced before the return is filed, when changes pursuant to the suit are made. If a reformation suit is initiated before the return is filed, the statute of limitations with respect to the decedent's estate does not lapse until one year after the Secretary of the Treasury is notified of the resolution of the suit.

Estate Tax on QDT

When imposed

Under the bill, lifetime distributions from a QDT and the property remaining in the trust on the surviving spouse's death remain subject to an estate tax based on the decedent's rates and unified credit. The tax is imposed if the trust fails to meet the requirements regarding citizenship of trustees or the regulatory requirements designed to ensure collection. The tax ceases to be imposed if the surviving spouse subsequently becomes a U.S. citizen so long as either (1) the spouse was a U.S. resident at the date of the decedent's death and at all times thereafter, or (2) the spouse elects to treat any distribution upon which tax was imposed as a taxable gift made by (and unified credit allowed against such a distribution as unified credit allowed to) such spouse for purposes of determining future estate and gift tax liability with respect to the spouse.

Amount subject to tax

Under the bill, income distributions to the surviving spouse continue to be exempt from the estate tax on distributions. The Secretary of the Treasury is granted regulatory authority to modify the definition of income for purposes of determining the amount subject to the tax. The committee intends that such regulations define income so as to prevent avoidance of the estate tax.

The committee understands that authority distinguishing income and corpus under section 643(b) would not necessarily be determinative for purposes of the estate tax. The committee also understands that these regulations may clarify the characterization of items that are presently unclear. The committee expects, for example, that the Secretary of the Treasury will provide rules for determining when payments under an annuity would be treated as income for purposes of the estate tax on distributions. The committee expects that payments under an annuity would be treated as corpus to the extent of the value of the annuity when acquired by the QDT.

The bill exempts from the distribution tax amounts paid to the surviving spouse on account of hardship. The bill also provides that payment of the estate tax on distributions is itself a distribution subject to the tax.

Availability of estate tax benefits

The bill allows charitable and martial deductions against the deathtime tax on QDTs so long as that property is includible in the surviving spouse's gross estate (or would have been includible had the surviving spouse been a U.S. citizen) and the requirements of those deductions are otherwise met. The bill also allows the benefits of alternate valuation, special use valuation, capital gains treatment of redemptions of stock to pay estate tax, and extension of time to pay estate tax with respect to the deathtime tax on QDTs if such benefits would be allowed to the surviving spouse's estate.

Treatment of multiple QDTs; tentative tax

The bill provides that the refund of tentative tax imposed pending final resolution of estate tax liability bears interest. The bill also provides rules for the taxation of multiple QDTs. If there is more than one QDT, the tax rate on each QDT is the highest estate tax rate in effect when the decedent died, unless, pursuant to a designation made by the decedent's executor, a U.S. citizen or domestic corporation is responsible for filing all estate tax returns with respect to the QDTs and meets such requirements as the Secretary may prescribe. The Committee intends that these requirements ensure the collection of the estate tax.

Recipient's basis in distributed property

Property distributed during the surviving spouse's life from a QDT receives a carryover basis. The basis of property is increased (but not above fair market value) by the amount of the estate tax allocable to the appreciation in the value of the property occurring after the decedent's death.

Due Date of Returns

The return for the estate tax imposed on QDT property on the death of the surviving spouse is due nine months after date of death. The return for the estate tax imposed on distributions from a QDT during the calendar year in which the spouse dies is due no later than that date.

Credit for Previous Estate Tax

The credit for estate tax previously paid by the decedent spouse is allowed to a surviving spouse who is a nonresident noncitizen at the time of death. In determining the amount of the credit for estate tax imposed against a QDT, the value of property treated as having passed to the surviving spouse is not reduced by the amount that qualified for the marital deduction.

Regulatory Authority

The Secretary of the Treasury is directed to prescribe regulations necessary or appropriate to carry out the purposes of the provisions, including regulations treating an annuity includible in decedent's gross estate as a QDT. Such regulations might treat distributions from a qualified plan as qualifying for the marital deduction even if not assigned to a QDT if the payor of the annuity withholds an amount equal to the distribution tax and meets other conditions designed to ensure collection of the tax.

e. Effect of repeal of marital deduction for noncitizen spouses on treaties (sec. 6815(d)(14) of the bill, sec. 5033 of the 1988 Act, and sec. 2056(d) of the Code)

Present law

The 1988 Act

Prior to the 1988 Act, the Code allowed a marital deduction for property passing from a U.S. citizen or resident ("U.S. person") to a surviving spouse but not for property passing from a nonresident noncitizen to a surviving spouse. In 1988, Congress amended the Code to deny the marital deduction for property passing from a U.S. person to a noncitizen spouse (unless the property passes in a qualified domestic trust) and to allow a marital deduction for property passing from a noncitizen to a U.S. citizen spouse.

Existing Treaties

The United States has bilateral treaties in effect with over 15 countries for the avoidance of double taxation and fiscal evasion with respect to one or more of the taxes on estates, inheritances, gifts, and generation-skipping transfers. Generally these treaties provide that property passing from residents of one contracting state will not be subject to transfer taxes in the other state except in specified circumstances, such as the transfer of real property located in the contracting state other than the residence country of the donor or decedent.

Imposition of U.S. estate, gift, and other taxes on nationals of countries with which the U.S. has entered into a tax treaty (either an income tax treaty or an estate and gift tax treaty) is generally limited by so-called nondiscrimination clauses which typically provide that the United States will not impose on treaty-country citizens any taxes (or any requirements connected therewith) different from, or more burdensome than, those to which similarly situated U.S. citizens are subject. For example, article 8 of the estate and gift tax treaty between the United States and the United Kingdom provides that property passing from a U.K.

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[2] The Committee understands, that pursuant to the regulatory authority described below, the Secretary of the Treasury will provide rules regarding the treatment of property that is assigned to a QDT but not transferred to the QDT within a fixed period of time. Such regulations might treat the failure to transfer the property as a distribution from the trust subject to the estate tax or as giving rise to disallowance of the marital deduction.

[3] In addition, as under present law, there is no requirement that the QDT be created by the decedent. Thus, the QDT may be created by the executor or the surviving spouse.

[4] To qualify under the terminable interest rule, however, the spouse might be required to have an income interest. *See* I.R.C. sec. 2056(b)(5), (7).

domiciliary or national which may be taxed in the United States qualifies for a U.S. marital deduction to the extent that a marital deduction would have been allowable if the decedent or transferor had been domiciled in the United States.

Prior to the 1988 Act, the United States entered into at least two bilateral treaties providing a marital deduction to domiciliaries of the treaty countries. Article 11 of the treaty currently in force between the United States and France with respect to taxes on estates, inheritances, and gifts provides that, under certain circumstances, French domiciliaries may, in computing their U.S. estate and gift tax, take the marital deduction that would be allowed to a U.S. domiciliary on November 24, 1978, the date the treaty was signed. When this treaty was negotiated, ratified, and signed, a U.S. citizen or resident was generally entitled to a marital deduction computed by reference to 50 percent of the adjusted gross estate or 50 percent of the amount of gifts made to the spouse.[5]

Article 10 of the treaty between the United States and the Federal Republic of Germany with respect to taxes on estates, inheritances, and gifts, similarly to the French treaty, generally provides that property which passes to the spouse of a domiciliary of one of the countries and which is subject to situs country taxation is subject to tax in the situs country only to the extent that the value of the property passing to the spouse exceeds 50 percent of the total value of the property subject to tax in that country.

Relationship of 1968 Act to Treaties

If an actual conflict exists between an earlier treaty and a later statute, as properly construed, the statute prevails (Sen. Rep. No. 100-445, 100th Cong., 2d Sess. 316-28 (1988)). This is true even without an explicit statement of congressional intent to override the treaty (*id.* at 325). The legislative history of the 1988 Act indicates that Congress did not believe that the 1988 Act marital deduction provisions violated nondiscrimination provisions of existing tax treaties (H.R. Rep. No. 100-795, 100th Cong., 2d Sess. 593 (1988)). In addition, the marital deduction provision contained in the 1988 Act also prevails over conflicting marital deduction provisions contained in prior treaties.

Explanation of provision

The French and German treaty provisions granting a marital deduction for property passing from nonresident noncitizens were negotiated and ratified on the assumption that such property did not qualify for the marital deduction. The 1988 Act did not alter this assumption with respect to property passing to a noncitizen spouse. In consideration of this fact and the policies underlying those provisions, the committee believes that the limitations of the 1988 Act should not apply to such property.[6]

Accordingly, the bill provides that for property passing from a nonresident noncitizen domiciled in a country with which the U.S has an estate or gift tax treaty, the amendments made by the 1988 Act do not apply to the extent inconsistent with a marital deduction provided by the treaty. Thus, property passing from a nonresident noncitizen domiciled in France or the Federal Republic of Germany is allowed the marital deduction provided under those treaties.[7]

The bill allows no additional benefits under the U.K. treaty, however, since that treaty merely puts U.S. and U.S. persons on an equal footing.

6. GENERATION-SKIPPING TRANSFER TAX

a. Disallowance of Double Deductions of Expenses (Sec. 6811(i)(3) of the bill, Sec. 1014 of the 1988 Act, and Sec. 642(g) of the Code)

Present law

In determining the Federal estate tax, a deduction generally is allowed for administration expenses, indebtedness and taxes. Similar deductions are allowed in determining the generation-skipping transfer tax on taxable distributions and taxable terminations.

Generally, administration expenses, indebtedness and taxes that are deducted in determining the estate tax are not also deductible in determining the income tax of the estate. The estate may, however, elect to deduct such amounts in determining its income tax if such amounts are not also deducted in determining the estate tax.

Explanation of provision

Rules similar to those governing the deduction of administration expenses, indebtedness and taxes for income and estate tax purposes are adopted with respect to items deductible in determining the taxable amount for taxable distributions and taxable terminations. Thus, those amounts generally are not deductible in determining taxable income, unless an election is made not to deduct those amounts in determining the taxable amount subject to generation-skipping tax.

b. Basis Adjustments (Sec. 6811(i)(2) of the Bill, Sec. 1014 of the 1988 Act, and Sec. 2654(a) of the Code)

Present law

The basis of property acquired by gift is its basis in the hands of the donor. This is increased, but not above the fair market value of the property, by the amount of gift tax paid allocable to appreciation in the value of the gift while held by the donor. The basis of property transferred in a generation-skipping transfer in generally increased (but not above the fair market value of the property) by an amount equal to the portion of generation-skipping transfer tax attributable to the excess of the fair market value of the property over its adjusted basis before the transfer.

Explanation of provision

The basis adjustment for generation-skipping transfer tax is applied after the basis adjustment for gift tax paid. Thus, the bill confirms that the two adjustments combined cannot increase the basis in the property above its fair market value.

c. Valuation date for transfer for which gift tax return not required (sec. 6811(i)(4) of the bill, sec. 1014 of the 1988 Act, and sec. 2642(b) of the Code)

Present law

If an allocation of GST exemption is made on a timely filed gift tax return required under the Federal gift tax, the value of property for generation-skipping transfer tax purposes is the same as its value for gift tax purposes, and the allocation is effective on and after the date of transfer. No gift tax return is required to be filed for gift tax purposes for a transfer of less than $10,000.

Explanation of provision

The requirement that GST exemption be allocated on a gift tax return required for gift tax purposes is eliminated. The gift tax return must nonetheless be timely. Thus, under the bill, if an allocation to a transfer in trust of less than $10,000 is made on a gift tax return that would be timely filed were a return required, the value of property for generation-skipping transfer tax purposes is the same as its value for gift tax purposes and the allocation is effective on and after the date of transfer.

7. ESTIMATED TAXES OF TRUSTS AND ESTATES (SEC. 6811(I) (5), (6) OF THE BILL, SEC. 1014 OF THE 1988 ACT, AND SEC. 6654(L) OF THE CODE)

Present law

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. Estates, however, do not pay estimated taxes for taxable years ending within two years of the decedent's death. Likewise, a grantor trust that receives the residue of the probate estate under the grantor's will is exempted from payment of estimated taxes with respect to such taxable years. No exemption is available if no will is admitted to probate.

Explanation of provision

If no will is admitted to probate, a grantor trust that is primarily resposible for paying taxes, debts, and expenses of administration is not required to pay estimated taxes for taxable years ending within two years of the decedent's death.

8. INSURANCE PROVISIONS

a. Treatment of Modified Endowment Contracts (sec. 6815(a) of the bill, sec. 5012 of the 1988 Act, and secs. 72 and 7702A of the Code)

Present law

Under present law, amounts received under modified endowment contracts are treated first as income and then as recovered basis. In addition, loans under modified endowment contracts and loans secured by modified endowment contracts are treated as amounts received under the contract. Finally, an additional 10-percent income tax is imposed on certain amounts received under modified endowment contracts to the extent that the amounts received are includible in gross income.

A modified endowment contract is defined as any contract that satisfies the definition of a life insurance contract but fails to satisfy a 7-day test. A contract fails to satisfy the 7-pay test if the cumulative amount paid under the contract at any time during the first 7 contract years exceeds the sum of the net level premiums that would have been paid on or before such time had the contract provided for paid-up benefits after the payment of 7 level annual premiums.

[5] Article 11 also provides that if the benefit of the marital deduction under U.S. law is substantially reduced, the tax authorities of the two countries will consult on whether this provision should be modified or terminated.

[6] In contrast, by denying the marital deduction to property passing from a U.S. person to a noncitizen, the 1988 Act altered the assumption underlying treaties entered into prior to 1988 with respect to U.S. persons domiciled abroad. The committee does not believe that this change in U.S. internal law should be frustrated by treaty provisions that when adopted provided a marital deduction no better than that available under U.S. internal law.

[7] Moreover, when treaty benefits are not claimed, property passing from such persons to U.S. citizens will be eligible for the statutory marital deduction to the extent provided in the 1988 Act.

Explanation of provision

Distribution Rules

In determining whether an amount not received as an annuity under a modified endowment contract is includible in gross income, all modified endowment contracts issued by the same insurer (or affiliates) to the same policyholder during any 12-month period are aggregated. A similar aggregation rule applies to an amount not received as an annuity under an annuity contract. The bill provides that contracts under qualified pension plans are not subject to the aggregation rules that generally apply to modified endowment contracts and annuity contracts. In addition, the bill provides that the aggregation rules are to apply only to those modified endowment contracts (or annuity contracts) that are issued by the same insurer (or affiliates) to the same policyholder during any calendar year.

The aggregation rules are not to apply to an immediate annuity contract. In addition, the committee did not intend to address the treatment of "combination" or "split" annuities in providing the Treasury Department with the authority to provide regulations that are necessary or appropriate to prevent avoidance of the distribution rules contained in section 72(e). No inference is intended with respect to whether the Treasury Department may treat combination or split annuities as a single contract under its general authority to prescribe such rules and regulations as may be necessary to enforce the income tax law.

Material Change Rules

If there is a material change in the benefits or other terms of a contract that was not reflected in any previous determination under the 7-pay test, the contract is considered a new contract that is subject to the 7-pay test as of the date that the material change takes effect and adjustments are made in the application of the 7-pay test to take into account the cash surrender value of the contract as of the date of the material change.

The bill clarifies that an increase in the charge for a qualified additional benefit is not a material change in the benefits under a contract, and, consequently, the 7-pay test is not to be reapplied at such time. An addition of, or an increase in, a qualified additional benefit, however, is a material change in the benefits under the contract and requries a reapplication of the 7-pay test, unless the addition of, or increase in, the qualified additional benefit is not considered a material change under the one of the exceptions to the material change rules.

Under one exception, a material change does not include an increase in the death benefit or a qualified additional benefit provided under a contract if the increase is attributable to (1) the payment of premiums necessary to fund the lowest level of the death benefit and qualified additonal benefits payable in the first 7 contract years (and certain prescribed death benefit increases), or (2) the crediting of interest or other earnings (including policyholder dividends) with respect to such premiums. For this purpose, a death benefit increase may be considered as attributable to the payment of premiums necessary to fund the lowest death benefit payable in the first 7 contract years or the crediting of interest or other earnings with respect to such premiums if each premium paid prior to the death benefit increase is necessary to fund the lowest death benefit payable in the first 7 contract years. Any death benefit increase that is not considered a material change under the preceding sentence, however, is to be considered a material change as of the date that a premium is paid that is not necessary to fund the lowest death benefit payable in the first 7 contract years.

The bill also clarifies that, to the extent provided in regulations, a material change does not include a death benefit increase attributable to a cost-of-living adjustment that is based on an established broad-based index specified in the contract if the increase is funded ratably over the remaining period during which premiums are required to be paid under the contract (rather than over the remaining life of the contract).

Finally, it is intended that a contract which is materially changed is not to be considered a modified endowment contract if the calculation of the 7-pay premium after the material change results in a negative amount provided that no additional premiums are paid during the first 7 years after the material change.

Effective date

The modified endowment contract provisions generally apply to contracts entered into on or after June 21, 1988. In determining whether a contract is entered into on or after June 21, 1988, for purposes of this effective date, if the death benefit under a contract increases by more than $150,000 over the death benefit under the contract as of October 20, 1988, the material change rules apply as of the date that the death benefit exceeds the threshold. In determining whether the death benefit increase constitutes a material change, the death benefit payable under the contract as of October 20, 1988, increased by $150,000 is to be taken into account rather than the lowest death benefit payable during the first 7 contract years.

A contract is not to be considered entered into on or after June 21, 1988, under this $150,000 increase provision, if, as of June 21, 1988, the terms of the contract required at least 7 level annual premium payments and under which the policyholder makes at least 7 level annual premium payments. If a policyholder fails to make at least 7 level annual premium payments as required under the terms of the contract, the material change rules are to apply to the contract as of the later of (1) the last day of the contract year in which the policyholder failed to make a required level premium payment or (2) the date that the death benefit exceeds the threshold. In determining whether the death benefit increase constitutes a material change, the death benefit payable under the contract as of October 20, 1988, increased by $150,000 is to be taken into account rather than the lowest death benefit payable during the first 7 contract years.

Finally, the 7-pay premium for an insurance contract that is entered into before June 21, 1988, and that is exchanged on or after such date for another contract or that is otherwise treated under the effective date provisions as entered into on or after such date is to be reduced by the cash surrender value of the contract in the same manner as a contract that is materially changed.

b. Treatment of certain workers' compensation funds (sec. 6816(h) of the bill and sec. 6076 of the 1988 Act)

Present law

Under the Technical and Miscellaneous Revenue Act of 1988, a qualified group self-insurers' fund is not to be assessed a deficiency (and, if assessed, the collection of the deficiency is not to occur) for taxable years beginning before January 1, 1987, to the extent that the deficiency is attributable to the timing of the deduction for policyholder dividends. For taxable years beginning on or after January 1, 1987, a fund's deduction for policyholder dividends is allowed no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid by the fund.

Explanation of provision

The bill provides that if, for the first taxable year beginning on or after January 1, 1987, a qualified group self-insurers' fund changes its treatment of policyholder dividends to take into account such dividends no earlier than the date that the State regulatory authority determines the amount of the policyholder dividend that may be paid, then such change is to be treated as a change in method of accounting and no section 481(a) adjustment is to be made with respect to such change in method of accounting (i.e., a fresh start is provided with respect to the deduction of policyholder dividends of a qualified group self-insurers' fund if the change in method of accounting is made for the first taxable year of the fund beginning on or after January 1, 1987). It is anticipated that a qualified group self-insurers' fund will be allowed to adopt such a method of accounting for its first taxable year beginning on or after January 1, 1987, by filing an amended return for such year on or before the date that is six months after the date of enactment of the bill.

c. Special Estimated Tax Payments (sec. 6816(i) of the bill, sec. 6077 of the 1988 Act, and sec. 847 of the Code)

Present law

Any insurance company that is required to discount unpaid losses for Federal income tax purposes is allowed an additional income tax deduction is an amount that is not to exceed the amount of unreversed discount (i.e., the excess of (1) the amount of undiscounted, unpaid losses attributable to losses incurred after December 31, 1986, over (2) the amount of related discounted, unpaid losses). This deduction is allowed only to the extent that the amount of the unreversed discount was not taken into account in determining the amount of the deduction for an earlier taxable year. In addition, this deduction is allowed only if timely special estimated tax payments are made equal to the tax benefit of the deduction.

An insurance company that is allowed a deduction under this provision also must establish a special loss discount account which is to be increased by the amount of the deduction. The special loss discount account is to be reduced as the discount with respect to which a deduction was allowed reverses and the amount of such reduction is to be included in the gross income of the insurance company. Special estimated tax payments are to be applied against the amount of tax, if any, that is required to be paid as the result of the inclusion of an amount in gross income due to a reduction to the special loss discount account. To the extent that special estimated tax payments are not used to offset additional tax due for any of the first fifteen years beginning after the year for which the special estimated tax payments were made, such special estimated tax payments are treated as section 6655 estimated tax payments for the sixteenth year after the year for which the payments were made.

Explanation of provision

The bill contains several modifications and clarifications with respect to the special estimated tax payment provision of present law.

First, the bill provides that the amount of the deduction for unreversed discount is to be determined by considering lossess incurred in taxable years beginning after December 31, 1986, rather than losses incurred after December 31, 1986.[1]

In addition, the bill clarifies that a deduction is allowed for unreversed discount only to the extent that the deduction results in a tax benefit for the taxable year of the deduction or a prior carryback year. This clarification ensures that special estimated tax payments equal to the tax benefit of the deduction are made for the taxable year that the deduction is allowed.

The bill also provides that special estimated tax payments are to be made on or before the due date (determined without regard to extensions) for filing the return for the taxable year for which the deduction is allowed. This provision is necessary in order to clarify the due date of such payments for any taxable year for which a deduction for unreversed discount is allowed due solely to the carryback of a net operating loss. This provision is not intended to affect the revenue neutral nature of the provision, including the amount of interest payable to or by the Federal government where special estimated tax payments are timely made.[2]

The bill clarifies that any amount added to the special loss discount account must be subtracted from such account and included in gross income no later than the 15th year after the year for which the amount was added to the account. As under present law, special estimated tax payments are to be applied to be paid as a result of this inclusion.

The bill also clarifies that the authority of the Secretary of the Treasury to prescribe such regulations as may be necessary or appropriate to carry out the purposes of the special estimated tax provision includes the authority to prescribe rules that apply in cases where the deduction allowed for any year is less than the unreversed discount as of the close of such year. In addition, it is anticipated that these regulations will provide guidance on the operation of the special estimated tax payment provision in the case of net operating loss carryovers and credit carryforwards.

The bill provides that the earnings and profits of an insurance company is not be reduced by the additional deduction for unreversed discount or increased by inclusions required due to reductions to the special loss discount account. For purposes of the alternative minimum tax, however, the adjusted current earnings of a corporation is to be reduced by the additional deduction for unreversed discount and increased by the inclusions required due to reductions to the special loss disount account.

Finally, the bill provides that the deduction for unreversed discount is not subject to the section 1503(c) limitations on the use of losses in consolidation.

9. PENSION PROVISIONS

a. Treatment of Churches Under Certain Deferred Compensation Programs (sec. 6816(f) of the bill, sec. 6064 of the 1988 Act, and sec. 457 of the Code)

Present Law

Under present law, unfunded deferred compensation plans maintained by an eligible employer are subject to certain special rules (sec. 457). Eligible employers include State or local governments and nongovernmental tax-exempt organizations. The 1988 Act contained a provision that was intended to exempt church plans from the application of section 457.

Explanation of provision

As originally enacted, the 1988 Act provision did not accomplish the intent of exempting church plans from section 457. The provision clarifies the exemption from the application of section 457 for such plans. Under the provision, churches are exempt from the definition of eligible employer.

b. One-time Election With Respect To Elective Deferrals (sec. 6811(f) of the Bill, sec. 1101 of the 1988 Act, and sec. 402(g) of the Code)

Present Law

Under present law, elective deferrals are subject to certain restrictions. An elective deferral is generally defined as (1) any employer contribution under a qualified cash or deferred arrangement (sec. 401(k)) to the extent not includible in gross income under section 402(a)(8), (2) an employer contribution not includible in income under section 402(h)(1)(B), and (3) employer contributions to a tax-sheltered annuity (sec. 403(b) under a salary reduction agreement. An employer contribution is not treated as an elective deferral to a tax-sheltered annuity if it is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations.

Explanation of provision

The provision clarifies the regulatory authority in the exception to the definition of elective deferrals (sec. 402(g)(3)) to provide that a contribution is not treated as an elective deferral if, under the the salary reduction agreement, the contribution is made pursuant to (1) a one-time irrevocable election made by the employer at the time of initial eligibility to participate in the agreement or (2) a similar arrangement involving a one-time irrevocable election specified in regulations. As under present law, the regulatory authority does not apply to arrangements other than tax-sheltered annuities.

c. Effective Date With Respect to Deductibility of Certain Contributions by Self-employed Individuals (sec. 6812 of the bill and sec. 4972 of the Code)

Present Law

A nondeductible 10-percent excise tax applies to nondeductible contributions to a qualified employer plan (sec. 4972). This provision was as added by the 1986 Act. The 1988 Act provided that contributions required to meet the minimum funding rules are not subject to the excise tax, even if the contributions exceed the earned income of the self-employed individual. The 1988 Act provision was effective as if included in the Pension Protection Act of 1987.

Explanation of provision

The provision clarifies that the 1988 Act rule relating to the deduction rules for self-employed individuals is effective as if included in the 1986 Pension Protection Act of 1987.

d. Deduction for Payments Relating to Standard Terminations (sec. 6841(b) of the bill and sec. 404(g) of the Code)

Present Law

Present laws provides special rules for the deduction of employer liability payments (sec. 404(g)).

Explanation of provision

The deduction rule relating to employer liability payments treated as contributions to qualified plans is amended to clarify that the rule applies to the case of standard terminations, effective for payments made after January 1, 1986, in taxable years ending after that date.

e. Tax Treatment of Transfers of Interests in Individual Retirement Accounts and Qualified Governmental and Church Plans (sec. 6841(a) of the bill and secs. 408 and 414(p) of the Code)

Present Law

Present Law permits a transfer of an interest in an individual retirement account (IRA) to be treated as a nontaxable transfer if the transfer is to a former spouse pursuant to a divorce decree.

Special tax rules apply under present law to the transfer of an interest in a qualified plan pursuant to a qualified domestic relations order (QDRO). These tax rules do not apply to the transfer of interest in governmental or church plans because the QDRO rules do not apply to such plans.

Explanation of provision

The rule relating to transfers of interests in an IRA incident to a divorce is amended to conform to the treatment generally of such transfers under qualified plans pursuant to the Retirement Equity Act of 1984. The provision permits a transfer of an interest in an IRA to be treated as a nontaxable transfer if the transfer is to a spouse or former spouse under a divorce or separation decree.

The tax rules relating to transfers of interests in a governmental or church plan are also amended to conform generally to the tax rules applicable to other qualified plans pursuant to the Retirement Equity Act. Under the provision, the same tax rules applicable to transfers pursuant to a QDRO apply to transfers of interests in a governmental or church plan pursuant to a domestic relations order as defined in section 414(p)(1) (without regard to section 414(p)(1)(A)).

The provisions are effective for transfers after the date of enactment in taxable years ending after the date of enactment. No inference is intended with respect to whether a transfer of an interest in a governmental or church plan could meet the QDRO requirements under present law.

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[1] In this regard, it is intended that any reasonable addition to a reserve that occurs in taxable years beginning after December 31, 1986, is to be taken into account in determining the amount of unreversed discount to the extent that the addition is subject to the discounting requirements of section 846.

[2] For example, in the case where a deduction for unreversed discount results in a refund of taxes paid in an earlier taxable year, if the insurance company makes the required special estimated tax payments on or before the date that the refund is paid and the Internal Revenue Service is not required to pay interest with respect to the refund, no interest or penalty is to be imposed on the insurance company. To the extent that the special estimated tax payment is made after the payment of the refund, interest and penalties will apply only from the date that the refund is paid (or, if applicable, the first date with respect to which the Internal Revenue Service was required to pay interest).

f. Definition of compensation for purposes of IRA deduction limit (sec. 6841(c) of the bill and sec. 219 of the Code)

Present law

Under present law, the maximum deduction limit for contributions to an individual retirement account (IRA) is the lesser of $2,000 or 100 percent of compensation.

Explanation of provision

The provision provides that compensation for purposes of the maximum deduction limit includes the earned income and wages of individuals who are not subject to FICA or SECA taxes because of their religious beliefs. The provision is effective for contributions after the date of enactment.

10. EXCISE TAX PROVISION: UNDENATURED DISTILLED SPIRITS (SEC. 6816(J) OF THE BILL AND SEC. 5276 OF THE CODE)

Present law

Educational institutions are exempt from the occupational excise tax on distilled spirits to the extent they procure 25 gallons or less annually of specially denatured distilled spirits. Such acquisitions are for laboratory research purposes.

Explanation of provision

The provision corrects an omission in the exemption for educational institutions from the distilled spirits occupational tax to apply to procuring less than 25 gallons of distilled spirits free of tax, as well as specially denatured distilled spirits. Usually, alcohol used for laboratory research purposes must be free of denaturants and impurities.

Effective date

This provision is effective on the date of enactment.

11. TAX-EXEMPT BOND PROVISIONS

a. Disregard of certain financing in determination of qualification for small-issuer exception (sec. 6816(n) of 148(f)(4)(C)(ii)(II) of the Code)

Present law

Under the Tax Reform Act of 1986, an exemption is provided from the arbitrage rebate requirement for small governmental units. The exception is available only if the governmental unit and all subordinate entities reasonably expect to issue no more than $5 million on tax exempt bonds (other than private activity bonds) during the calendar year.

The 1988 Act clarified the treatment of subordinate entities: (1) An issuer, and all entities which issue bonds on behalf of that issuer, are to be treated as one issuer. The 1988 Act also made other clarifications regarding the small issuer exception.

Explanation of provision

The provision amends Code section 148(f)(4)(C)(ii)(II) as enacted by section 6183 of the 1988 Act to clarify that bonds issued by a governmental unit "to make loans to," rather than "on behalf of," other qualifying governmental units do not count in the determination of whether the issuing governmental unit has exceeded $5 million in total annual bond issuance.

b. Application of future legislation to transitioned bonds (sec. 6831(d) of the bill, sec. 1318 of the 1986 Act, and secs. 103 and 103A of the Code)

Present law

The statutory basis for the tax exemption of interest on qualified bonds was primarily contained in sections 103 and 103A of the 1954 Code prior to the Tax Reform Act of 1986. Section 1301 of the 1986 Act contained the reformation of the law involving tax-exempt bonds including the enactment of significant new provisions. The 1986 Act also contained transition relief where appropriate.

Explanation of provision

The provision clarifies that generally in the case of any bond to which the amendments made by section 1301 of the Tax Reform Act of 1986 do not apply by reason of any provision of the Tax Reform Act of 1986, any amendment of the 1986 Code (and any other provision applicable to such Code) included in any law enacted after the date of enactment of the Tax Reform Act of 1986 shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code with respect to such bond. Exceptions are provided (1) if such law expressly provides that such amendment (or other provision) shall not apply to such bond, or (2) if such amendment (or other provision) applies to a provision of the 1986 Code for which there is not corresponding provision in sections 103 and 103A (as appropriate) of the 1954 Code and which is not otherwise treated as included in such sections 103 and 103A with respect to such bond.

The provision is effective as if included in the Tax Reform Act of 1986.

c. Treatment of certain property subject to use restrictions due to financing with qualified 501(c)(3) bonds (sec. 6815(f) of the bill, sec. 5053 of the 1988 Act, and sec. 145(d) of the Code)

Present law

If the proceeds of bonds issued after October 21, 1988, by a 501(c)(3) organization are used to acquire existing residential rental property for family units, then, to be qualified 501(c)(3) bonds, the property must satisfy the low-income tenant occupancy requirement of section 142(d)(1). This requirement does not apply to bonds used to finance construction or substantial rehabilitation of residential rental property, the original use of which commences with the beneficiary bonds. In addition, this requirement does not apply to any bond issued to refund a bond issued prior to July 15, 1988, if the average maturity date of the refunding issue is not later than the average maturity date of the refunded bonds, if the amount of the refunding bonds does not exceed the outstanding amount of the refunded bond, and if the proceeds of the refunding bond are used to redeem the refunded bond within 90 days of issuance of the refunding bonds.

Explanation of provision

The provision clarifies two circumstances in which property acquired with the proceeds of qualified 501(c)(3) bonds will be treated as new property for purposes of section 145(d)(2)(A) and, thereby, not subject to the income targeting requirements of section 142(d).

First, if the housing is financed by sources other than tax-exempt debt and is later refinanced with tax-exempt debt, the facility is not considered "existing" housing for purposes of section 145(d) if there was a reasonable expectation that the facility would be so refinanced and the facility was in fact so refinanced within a reasonable period.

Second, if, for the purpose of a tax-exempt financing to replace a taxable financing, the initial use of the property was pursuant to taxable financing and, at the time of the taxable financing, State law prohibited tax-exempt financing for the property so financed, then the property will be treated as new property.

12. RESEARCH TAX CREDIT PROVISION: ELECTION OF REDUCED CREDIT (SEC. 6814(D) OF THE BILL, SEC. 4008 OF THE 1988 ACT AND SECS. 41 AND 280C OF THE CODE)

Present law

Present law, as amended by the 1988 Act, provides that the amount of any deduction allowable to a taxpayer under section 174 or any other provision for qualified research expenditures is reduced by an amount equal to 50 percent of the taxpayer's research credit determined for that year (sec. 280C(c)). However, a taxpayer is permitted to avoid a reduction of the section 174 deduction for a taxable year by electing to forgo entirely its section 41 research credit for the year (sec. 41(h)).

Explanation of provision

The provision permits a taxpayer to avoid a reduction of the section 174 deduction by electing to reduce its section 41 research credit by the amount of tax saved (assuming the taxpayer is in the highest corporate tax bracket) by not making a reduction of its section 174 deduction. An election by a taxpayer to have this provision apply to a taxable year shall be irrevocable and may be made not later than the time for filing the taxpayer's return for such year (including extensions), except that if the taxpayer's return for a taxable year must be filed before 75 days after the date of enactment of this provision, then the election under this provision may be made at any time before 75 days after such enactment.

13. LOW-INCOME HOUSING TAX CREDIT (SEC. 6831(B) OF THE BILL, SEC. 252 OF THE 1986 ACT, AND SEC. 42 OF THE CODE)

Present law

A tax credit is provided to owners of certain low-income rental housing. Property eligible for the credit need not be owned directly by the taxpayer but may be held indirectly through a pass-through entity like a partnership. However, to be eligible for the credit, such housing must be available to the general public and not used for special populations (e.g. employee housing, dormitories or hospitals).

The credit is available for 10 years after the building is placed in service in proportion to the amount of low-income housing provided. No credit is available for buildings unless an allocation of State credit authority is made for that building.

Explanation of provisions

(1) The operation of the credit in the case of trusts and estates is clarified. Specifically, the amount of credit and any penalty with respect to the credit is apportioned between beneficiaries and a trust or estate on the basis of income allocable to each.

(2) The provision clarifies that students in governmentally supported job training programs, defined as the Job Partnership Training Act and similar Federal, State or local programs, are deemed to be eligible tenants for purposes of the credit, subject to other income targeting rules.

(3) The provision clarifies that, in the case of a disposition of an ownership interest during the course of a calendar year, the credit is to be allocated pro rata between the seller and purchaser according to the number of days of ownership.

(4) In order to carry out legislative intent, the provision authorizes the Treasury Department to issue regulations permitting housing credit agencies to correct administrative errors and omissions with respect to allocations.

(5) The provision clarifies that a person purchasing an interest in a building (including an interest in a partnership owning credit property) steps into the shoes of the previous owner of such interest for purposes of the credit. This provision does not alter the application of the recapture and bond posting requirements as in effect under present law.

Amendments to the Revenue Act of 1987

1. ACCOUNTING PROVISIONS

a. Installment sales (sec. 6821(a) of the bill, sec. 10202 of the 1987 Act, and secs. 26, 453 and 453A of the Code)

Present law

Under present law, a taxpayer may elect to use the installment method with respect to certain sales of residential lots and timeshares if interest is paid on the amount of tax that is deferred under the installment method. In addition, for certain sales of property with a sales price in excess of $150,000, interest is required to be paid on the tax that is deferred under the installment method to the extent attributable to the amount by which the deferred payments arising from all dispositions of such property during any year exceed $5 million.

A taxpayer is subject to the alternative minimum tax for a taxable year to the extent that the tentative minimum tax for such taxable year exceeds the regular tax for such taxable year. The regular tax is defined as the tax imposed by chapter 1 of the Internal Revenue Code with exceptions for certain taxes and with reductions for certain credits. There is no exception under present law for the interest that is imposed with respect to certain installment sales.

Explanation of provision

In order to ensure that a taxpayer who is otherwise subject to the alternative minimum tax does not avoid the payment of interest that is imposed with respect to certain installment sales, the bill provides that the term "regular tax" does not include such interest.

b. Required payments of certain entities (sec. 6821(b) of the bill, sec. 10206 of the 1987 Act, and sec. 7519 of the Code)

Present law

Partnerships and S corporations generally are required to conform their taxable years to that of their owners, effective for taxable years beginning after December 31, 1986. Partnerships and S corporations may elect a taxable year other than a required taxable year if certain required payments are made to the Internal Revenue Service. The amount of the required payments for an election year is phased in over a four-year period beginning with election years that begin in 1987 as a means of approximating the four-year spread of income that was provided to certain partners and S corporation shareholders that owned an interest in a partnership or S corporation that was required by the 1986 Act to change to a new taxable year.

Explanation of provision

The bill provides that the phase-in rule is not to apply for taxable years beginning after 1988 unless more than 50 percent of the net income of the partnership or S corporation for the short taxable year that otherwise would have resulted had the election not been made is allocable to partners or shareholders who would have been eligible to include such income over a four-year period.

2. CORPORATE PROVISION: ADJUSTMENTS TO EARNINGS AND PROFITS AND TO BASIS OF STOCK OF A SUBSIDIARY (SEC. 6821(C) OF THE BILL, SEC. 10222(A) OF THE 1987 ACT AND SEC. 1503(E)(2)(A)(II) OF THE CODE)

Present law

The rules requiring certain adjustments to earnings and profits and to the basis of stock of a subsidiary, for purposes of determining gain or loss on dispostion of such stock, may not apply where the corporation disposing of the stock of a former member of an affiliated group is itself a former member of the group.

Explanation of provision

The provision clarifies that the rules requiring certain adjustments to earnings and profits and to the basis of stock of a subsidiary, for purposes of determining gain or loss on dispostion of such stock, apply where the corporation disposing of the stock of a former member of an affiliated group is itself a former member of the group. The provision is not intended to apply to the extent such adjustments have already been made with respect to a prior disposition.

3. REQUIRED MEALS FOR CREWS OF CERTAIN VESSELS (SEC. 6841(D)(18) OF THE BILL AND SEC. 274 OF THE CODE)

Present law

Under present law, the amount allowable as a deduction for certain expenses for food, beverages, and entertainment is limited to 80 percent of the expense. This 80-percent limitation does not apply to expenses for food or beverages required by Federal law to be provided to crew members of a commercial vessel.

Explanation of provision

The provision clarifies that the exception to the 80-percent limitation applies to food or beverages required by any Federal law (including but not limited to 46 U.S.C. sec. 10303).

Amendments related to pension provisions

1. AMENDMENTS RELATED TO THE TAX REFORM ACT OF 1986 (SEC. 6861 OF THE BILL)

a. Vesting Standards (sec. 1113 of the Reform Act, sec. 411 of the Code, and sec. 203 of ERISA)

Present law

Under present law, a plan (other than a multiemployer plan) is not qualified unless a participant's employer-provided benefit vests at least as rapidly as under 1 or 2 alternative schedules. A plan satisfies the first schedule if a participant has a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100-percent vested no later than upon the participant's completion of 10 years of service. This exception applies only to employees covered by the plan pursuant to a collective bargaining agreement.

Prior to the Act, special vesting rules applied to class-year plans. A class-year plan was a profit-sharing, money purchase, or stock bonus plan that provided for the separate vesting of employee rights to employer contributions on a year-by-year basis. The minimum vesting requirements were satisfied under prior law if the plan provided that a participant's rights to amounts derived from employer contributions with respect to any plan year were nonforfeitable not later than the close of the fifth plan year following the plan year for which the contribution was made.

The imposition of the new vesting rules described above, including the repeal of class-year vesting, generally apply to plan years beginning after December 31, 1988, with respect to participants who have at least 1 hour of service after the effective date.

Explanation of provision

The repeal of class-year vesting was not intended to adversely affect the vesting status of any participant. To fulfill this intent, the bill provides a special rule applicable to plans that after October 22, 1986, used class-year vesting. Whether a plan falls within this category is to be determined without regard to any amendment adopted after October 22, 1986, eliminating class-year vesting.

Plans that fall within the above category are to apply a special rule to any employee who (1) has an hour of service before the adoption of any amendment eliminating class-year vesting; (2) has an hour of service on or after the first day of the first plan year for which the repeal of class-year vesting is applicable to such employee with respect to the plan; and (3) has not incurred a 5-year break in service immediately before performing the hour of service described in (2). Under this special rule, for the year described in (2) above and any subsequent year, the employer's nonforfeitable right to the employee's accrued benefit derived from employer contributions is to be determined under the class-year vesting schedule that was eliminated if such schedule would yield a large nonforfeitable right than the new vesting schedule. Compliance with this rule will not cause the plan to fail the minimum participation rule (sec. 401(a)(26)).

In addition, the bill clarifies that a matching contribution is not treated a forfeitable merely because the contribution is forfeitable if the contribution it matches is an excess contribution (sec. 401(k)(8)(B)), an excess deferral (sec. 402(g)(2)(A)), or an excess aggregate contribution (sec. 401(m)(6)(B)).

b. Coordination of present and prior law

Present law

The Act contained several provisions to facilitate compliance with the provisions of the Act. Under one such provision, the Act generally allowed plans that operated in compliance with the new requirements of Title XI of the Reform Act to delay the corresponding plan amendments to a specified time.

Under present and prior law, benefits and contributions under a qualified plan may not discriminate in favor of highly compensated employees. Under prior law, a plan was not considered discriminatory merely because an employee's benefits under the plan were reduced in accordance with certain requirements to take into account the employee's social security benefits (sec. 401(1)).

The Act modified the integration rules to limit the permitted disparity between benefits for highly and nonhighly compensated employees. The Act's rules are generally ef-

fective for plan years beginning after December 31, 1988. The Act contemplated that the Secretary would prescribe rules coordinating the benefits provided under the rules of prior law and the Act. In the case of a final pay defined benefit pension plan that is frozen as of January 1, 1989, and that was integrated in accordance with prior law, proposed Treasury regulations generally have the effect of precluding benefits from being calculated based on the final average pay of the participant when the participant retires (rather than the date the plan was frozen).

Explanation of provision

The bill delays the time by which required amendments are to be made for an additional year, so that plan amendments are generally not required until before the first plan year beginning on or after January 1, 1990. The same conditions that originally applied to the delayed amendment rules continue to apply. Thus, for example, the plan must be operated in accordance with applicable requirements.

The bill also provides the same delayed amendment rules (other than those relating to a model amendment to be prescribed by the Internal Revenue Service) with respect to the plan amendments required by Title XVIII of the Act (the technical corrections title) or by the bill itself or by the technical corrections to the Act. These changes further the intent of Congress to ease the administrative burdens on employers that maintain plans by delaying the date required for certain amendments so that, in general, all required amendments can be made in a single year.

In addition, the bill provides that a collective bargaining agreement is not to be treated as terminated merely because a plan is amended pursuant to the agreement to meet the requirement of Title XI or Title XVIII of the Act. The bill does not intend to create an inference that such an amendment otherwise would be considered a termination of a collective bargaining agreement, or that an amendment made solely to conform a plan to a requirement added by another Act, is considered a termination.

The committee intends that the Secretary further facilitate the coordination between prior and present law by prescribing rules that permit a defined benefit pension plan that has frozen accruals to calculate benefits based on final average pay in accordance with a benefit formula in existence on the effective date of the Act's integration rules (and at all times during the existence of the plan or, if a shorter period of time, since 1986) if appropriate conditions, as prescribed by the Secretary, are satisfied. It is intended that among the conditions to be imposed, the Secretary will include a requirement that the employer maintain a nonintegrated plan in years after 1988 that provides a minimum benefit level (i.e., 1 percent of compensation), the employer does not maintain any top-heavy plans, and the benefit formula in effect prior to 1988 would satisfy the 50-percent offset requirement in present law.

c. Health Care Continuation Rules (sec. 1895 of the Reform Act, sec. 4980B of the Code, and secs. 602 and 607 of ERISA)

(1) Covered Employees

Present law

The health care continuation rules generally require that employers provide qualified beneficiaries with the opportunity to continue to participate for a specified period in the employer's health plan despite the occurrence of a qualifying event that otherwise would have terminated such participation. In general, qualified beneficiaries are defined to include certain "covered employees" and certain family members of covered employees.

Explanation of provision

Under the bill, the definition of covered employee includes any individual who is (or was) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan. Thus, the term "covered employee" can include an individual by virtue of the individual's performance of services as, for example, an independent contractor for a third party or as a partner for his or her partnership.

Pursuant to this provision, for purposes of the health care continuation rules, references to employer or employee in the statute are considered to include persons receiving or performing services other than in an employer-employee relationship. In addition, persons receiving services are subject to the employer aggregation rules of section 414(t) and the employee leasing rules of section 414(n) to the same extent as if such persons were employers with respect to the service performer.

The changes made by this provision are mandated by national health policy and concerns, are limited solely to the health care continuation rules, and are not intended to alter or change in any manner the current statutory and common law relationship between an individual and the person for whom the individual performs services.

This provision applies to plan years beginning after December 31, 1989.

(2) New Coverage

Present law

Under the health care continuation rules, continuation coverage may be terminated upon the occurrence of certain events. One such event is the coverage of the qualified beneficiary under the group health plan of an employer other than the employer providing the continuation coverage.

Explanation of provision

The bill deletes the provision allowing continuation coverage to be terminated upon the coverage of the qualified beneficiary under the group health plan of an employer other than the employer providing the continuation coverage.

This provision is intended to carry out the purpose of the health care continuation rules, which was to reduce the extent to which certain events, such as the loss of one's job, could create a significant gap in health coverage. The fact that a qualified beneficiary receiving group health coverage from another employer is willing to pay up to 102 percent of the applicable premium for continuation coverage (which he or she may be required to pay by the employer providing the continuation coverage) is a strong indication that the new employer group health coverage has left a significant gap in the qualified beneficary's health coverage. This is especially true when the new employer group health coverage excludes coverage for a preexisting condition that is covered by the continuation coverage.

This provision generally applies to events occurring after December 31, 1989. In addition, the provision applies to qualified beneficiaries who elect continuation coverage in 1989, and who pay for and continue to pay for continuation coverage. Thus, the provision would prohibit the termination of continuation coverage other than in accordance with the provision in the case of qualified beneficiaries who receive continuation coverage at any time after October 3, 1989. The provision would not apply, however, to a qualified beneficiary who was receiving continuation coverage in 1989, and whose coverage terminated before October 4, 1989, except to the extent the beneficiary had paid for the coverage.

(3) Payment

Present law

Under the health care continuation rules, if a qualified beneficiary elects continuation coverage under a plan, the plan is to permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

Explanation of provision

The bill clarified that a plan may not require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage. This delayed due date for the initial premium does not prevent the collection of a premium for the period of delay.

The provision is effective for plan years beginning after December 31, 1989.

(4) Multiple Qualifying Events

Present law

Under present law, the maximum period of continuation coverage depends on the nature of the qualifying events. For example, if the qualifying event is the death of the covered employee or the covered employee's becoming entitled to medicare, the maximum period is 36 months. On the other hand, if an individual obtains health care continuation rights by virtue of a reduction of hours or separation from service of the covered employee, the maximum period of continuation coverage is 18 months.

If a qualified event that gives rise to 18 months of coverage is followed within the period of continuation coverage by an event that gives rise to 36 months of coverage, the period of coverage is extended to 36 months from the date of the original event. In addition, if the individual obtains health care continuation rights by virtue of a reduction of hours of the covered employee and the covered employee separates from service with 18 months following the reduction in hours, the maximum period of continuation coverage is 36 months from the date of reduction of hours even though both events give rise to only 18 months of continuation coverage.

Explanation of provision

It is inappropriate to extend the period of continuation coverage to 36 months when a separation from service occurs following reduction in hours because the maximum period of coverage following either event is only 18 months.

Under the bill, if an individual obtains health care continuation rights by virtue of a reduction of hours and then, within 18 months, the employee separates from service, the maximum period of continuation coverage is 18 months from the date of the reduction of hours.

Under present law, if a covered employee who is still working is entitled to medicare coverage and then separates from service or has a reduction of hours, the separation or reduction in hours may be treated as the qualifying event. Thus, the spouse and dependents of the covered employee would only be entitled to 18 months of continuation coverage rather than 36 months as

was intended. The provision provides that if a covered employee is entitled to medicare and within 18 months of such entitlement, separates from service or has a reduction in hours, the duration of continuation coverage for the spouse and dependents is 36 months from the date the covered employee became entitled to medicare.

The committee intends that if a covered employee has a qualifying event that results in 18 months of coverage and the covered employee becomes entitled to medicare coverage before the expiration of the 18 months, a qualified beneficiary (other than the covered employee) who is at that time covered under the group health plan is entitled to continuation coverage for a total of 36 months from the date of the original qualifying event. Thus, this rule is the same as if, for example, a reduction in hours were followed by the death of the employee. Failure to comply with this rule is not a good faith interpretation of the continuation coverage rules.

The provision is effective for plan years beginning after December 31, 1989.

d. Technical corrections to the Retirement Equity Act of 1984 (sec. 1898 of the Reform Act, sec. 417 of the Code, and sec. 205 of ERISA)

Present law

Under present law, a plan is required to notify participants of their rights to decline a qualified preretirement survivors annuity before the applicable election period. Under the Act, the period during which notice is required to be provided to an individual is the latest of the following periods: (1) the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year in which the participant attains age 35; (2) a reasonable period of time after the individual becomes a plan participant; (3) a reasonable period of time after the survivor benefit applicable to a participant is no longer subsidized (as defined in sec. 417(a)(4)); (4) a reasonable period of time after the survivor benefit provisions (sec. 401(a)(11)) become applicable with respect to a participant; or (5) a reasonable period after separation from service in the case of a participant who separates from service before attaining age 35.

Explanation of provision

The bill clarifies that the notice period in the case of a participant who separates from service before age 35 overrides any other period during which notice might be required. In such a case, the bill provides that the notification period is a reasonable period after separation from service without regard to any other required notice periods.

This provision is effective for distributions after the date of enactment of the bill.

2. AMENDMENTS RELATED TO THE OMNIBUS RECONCILIATION ACT OF 1986 (SEC. 6871 OF THE BILL, SECS. 9202 AND 9203 OF THE RECONCILIATION ACT OF 1986, SEC. 411(a)(8) OF THE CODE, AND SEC. 3(24)(B) OF ERISA)

Present law

Under present law, for purposes of the qualified plan rules, the term "normal retirement age" means the earlier of (1) normal retirement age under the plan, or (2) the latest of (a) age 65, (b) in the case of a participant who commences participation in the plan within 5 years before attaining normal retirement age under the plan, the 5th anniversary of the commencement of participation, or (c) in the case of a participation not described in (b), the 10th anniversary of the commencement of participation.

Explanation of provision

Under the bill, normal retirement age is defined to mean the later of (1) age 65, or (2) the 5th anniversary of the time a plan participant commenced participation in the plan.

3. AMENDMENTS RELATED TO THE PENSION PROTECTION ACT (SEC. 6881 OF THE BILL)

a. Minimum funding standard and deductions

i. Modifications of minimum funding standard (sec. 9303 of the Pension Protection Act, secs. 404 and 412 of the Code, and sec. 302 of ERISA).

(1) Deficit reduction contribution

Present law

Under the Act, additional minimum funding requirements apply to defined benefit plans (other than multiemployer plans) if the assets of the plan are less than 100 percent of current liability. For such plans, the amount otherwise required to be charged to the funding standard account is increased by the sum of (1) the excess of (a) the deficit reduction contribution over (b) certain charges and credits to the funding standard account, plus (2) the unpredictable contingent event amount. The deficit reduction contribution is equal to the sum of (1) the unfunded old liability amount, and (2) the unfunded new liability amount.

Unfunded old liability generally includes unfunded liabilities as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to plan amendments after October 16, 1987). The unfunded old liability amount is increased by the amount necessary to amortize over 18 plan years the unfunded existing benefit increase liability, which in general is certain increases in liabilities due to benefit increases under collective bargaining agreements ratified before October 17, 1937. Unfunded existing benefit increase liability is unfunded current liability determined by (1) taking into account only liabilities attributable to the benefit increase, and (2) by reducing plan assets by the plan's current liability determined without regard to the benefit increase.

Unfunded new liability is the unfunded current liability determined without regard to the unamortized portion of the unfunded old liability and the liability with respect to any unpredictable contingent event benefits (without regard to whether or not the event has occurred).

The Act's new funding rule for unpredictable contingent event benefits is effective with respect to plan years beginning after December 31, 1988. However, the new rule does not apply to benefits with respect to which the event on which the benefit is contingent occurred before October 17, 1987. Such benefits are funded under the pre-Act rules; that is, generally as an experience loss.

Explanation of provision

Under the bill, as under the Act, unfunded existing benefit increase liability is unfunded current liability determined by (1) taking into account only liabilities attributable to the benefit increase, and (2) by reducing plan assets by the plan's current liability determined without regard to the benefit increase. The bill clarifies that the calculation in (2) does not reduce plan assets below zero.

Under the bill, unfunded new liability is the unfunded current liability determined without regard to (1) the unamortized portion of the unfunded old liability, (2) the unamortized portion of the unfunded existing benefit increase liability, and (3) the liability with respect to any unpredictable contingent event benefits (without regard to whether or not the event has occurred). The bill thus conforms the treatment of unamortized existing benefit increase liability to the treatment of unamortized old liability for purposes of determining unfunded new liability.

The bill provides that the new funding rule for unpredictable contingent event benefits applies to such benefits with respect to which the event on which the benefit is contingent occurs in a plan year beginning after December 31, 1988. Benefits with respect to which the contingency occurs in a plan year beginning before January 1, 1989, are subject to the otherwise applicable funding rules, generally as an experience loss. This change in the effective date is made to eliminate issues arising with respect to transition from the pre-Act funding rule to the Act's funding rule for benefits with respect to which the contingency occurs after October 16, 1987, and before a plan year beginning after December 31, 1988.

(2) Current liability

Present law

The Act provides that, in determining current liability, certain preparticipation service is to be disregarded. Unfunded current liability is the excess of the plan's current liability over plan assets. For this purpose, plan assets are reduced by any credit balance in the funding standard account.

Explanation of provision

In accordance with the legislative history, the bill provides that the rule disregarding certain preparticipation service does not apply with respect to a participant who does not, at the time of becoming a participant, have years of service in excess of the years required for plan eligibilty.

The bill also provides that the rule disregarding preparticipation service is elective. The rule was intended to provide relief for employers in certain situations, for example, if the employer establishes a new plan that takes into account past service. The rule does not need to be imposed where the employer does not need such relief. The bill provides that the election not to take advantage of the rule may be revoked only with the consent of the Secretary. Of course, if an employer does disregard preparticipation service, such service is disregarded for all purposes in calculating current liability. Thus, for example, it would be disregarded for purposes of the deduction rules as well as the minimum funding rules.

The bill provides that assets are to be reduced by any credit balance in the funding standard account for purposes of the new funding requirements (sec. 412(1)), and that, in other places where the term "unfunded current liability" is used, the Secretary may provide for such a reduction. Unfunded current liability is relevant not only for purposes of the new minimum funding requirements, but also for a number of other purposes under the Act. In calculating unfunded current liability, it is appropriate to reduce assets by any credit balance in the funding standard account for some purposes (such as the new funding rules) but not for others.

It is anticipated that no reduction will be made for purposes of the rule permitting deductions up to the amount of unfunded cur-

rent liability (Code sec. 404(a)(1)(D)), the lien on missed contributions (Code sec. 412(n)), the security requirement for certain benefit increases (Code sec. 401(a)(29)), or the additional Pension Benefit Guaranty Corporation (PBGC) premium (ERISA sec. 4006(a)(3)(E)).

(3) Valuations

Present law

Present law provides that a determination of experience gains and losses and a valuation of the plan's liability is to be made not less frequently than once every 3 years, except that such determination is to be made frequently to the extent required in particular cases under regulations prescribed by the Secretary.

Explanation of provision

The bill provides that plan valuations are to be made not less frequently than annually. Annual valuations are necessary under the Act's minimum funding rules and the new full funding limit because the minimum and maximum contributions for a plan year depend on the plan's funded status for the year.

(4) Steel employee plans

Present law

The Act provides a special funding transition rule with respect to steel employee plans. The contribution required under this special rule is, in general, the sum of (1) the required percentage of the current liability of the plan, plus (2) a portion of the unpredictable contingent event benefit liability. The required percentage depends in part on the plan's funded current liability percentage for this purpose, the unpredictable contingent event benefit liability. The required percentage depends in part on the plan's funded current liability percentage. In calculating the funded current liability percentage for this purpose, the unpredictable contingent event benefit liability and contributions relating to such liability are disregarded.

Explanation of provision

For purposes of calculating the funded current liability percentage under the steel employee plan rule, the bill provides that unpredictable contingent event benefit liability, contributions relating to such liability, and income on such contributions are disregarded. The exclusion of income on such contributions is consistent with the Act's intent to provide a separate funding rule for unpredictable contingent event benefit liability.

ii. Time for contributions (sec. 9304 of the Pension Protection Act, sec. 412(c) and (m) of the Code, and Sec. 302(c) and (e) of ERISA).

Present law

The Act requires that installment payments of estimated contributions be made throughout the plan year. This requirement applies to plans subject to the minimum funding standards other than multiemployer plans.

A special installment payment rule applies with respect to unpredictable contingent event benefits. Under this rule, the otherwise required installment is increased by the greater of (1) the amount of unpredictable contingent event benefits paid during the 3-month period preceding the month in which the installment is due, and (2) 75 percent of the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years.

If a required installment is not paid in full by the due date for the installment, then the funding standard account is charged with interest on the underpayment at the rate that is the greater of (1) 175 percent of the applicable Federal mid-term rate, or (2) the plan rate in effect under section 412(b)(5).

The Act clarifies that the employer is required to notify plan participants and beneficiaries and the PBGC if the employer fails to make required contributions with respect to a plan.

The Act provides that a lien arises if required contributions are not paid and the unpaid balance of required contributions exceeds $1 million. The lien provision is effective with respect to plan years beginning after December 31, 1987. Contributions originally due before the effective date, including contributions that would have been due before the effective date but were waived, are not subject to the lien, but are taken into account in determining whether the $1 million threshold is met.

Explanation of provision

The bill clarifies that the installment payment requirement applies only to defined benefit plans (other than multiemployer plans) that are subject to the minimum funding requirements. Thus, under the bill, the installment payment requirement does not apply to money purchase pension plans. This is consistent with the general purpose of the pension provisions of the Act, which is to address problems associated with single employer defined benefit pension plans.

The bill modifies the special installment payment rule with respect to unpredictable contingent event benefits to conform the rule to the funding rule for such benefits. Under the bill, the otherwise required installment (determined without regard to unpredictable contingent event benefits) is increased by the greater of (1) the unfunded percentage (as determined under sec. 412(1)(5)(A)) of unpredictable contingent event benefits paid during the 3-month period preceding the month in which the installment is due, or (2) 25 percent of the amount required to be contributed for the plan year under the amortization rule for such benefits (sec. 412(1)(5)(A)(ii)).

The bill adds a sanction for failure to notify plan participants and beneficiaries of the failure to make required contributions. Under the bill, a court may require an employer who fails to comply to pay the affected participants and beneficiaries up to $100 per day from the date of the failure. This sanction is consistent with the existing sanctions under ERISA for failure to provide participants and beneficiaries with required information.

The bill conforms the Act to the legislative history by providing that the notice requirement with respect to participants and beneficiaries is effective with respect to plan years beginning after December 31, 1987.

The bill clarifies that the interest rate on underpayments of required installments is the greater of (1) 175 percent of the applicable Federal mid-term rate, or (2) the rate of interest used under the plan to determine costs (including any adjustments required for plans subject to the new funding rules under section 412(1)). Thus, under the bill, the interest rate on underpayments will be at least equal to the interest rate the plan is using under the minimum funding rules.

iii. Funding waivers (secs. 9306 and 9307 of the Pension Protection Act, sec. 412(f) of the Code, and sec. 303 of ERISA).

Present law

Under the Act, the interest rate on waived contributions in the case of a plan other than a multiemployer plan is the greater of (1) 150 percent of the applicable Federal mid-term rate, or (2) the rate of interest used under the plan in determining costs.

Prior to the Act, a funding waiver could not be granted with respect to a plan for more than 5 of any 15 consecutive plan years. Under the Act, a waiver cannot be granted with respect to a plan for more than 3 of any 15 consecutive plan years. This provision of the Act applies to any waiver application submitted after December 17, 1987, and any waiver granted pursuant to such an application. In applying the Act's new limit on the number of waivers, the number of waivers which may be granted pursuant to applications submitted after December 17, 1987, is to be determined without regard to waivers granted with respect to plan years beginning January 1, 1988.

Explanation of provision

The bill provides that, for purposes of determining the interest rate on waived contributions, adjustments required for plans subject to the new funding rules under section 412(1) are taken into account in calculating the plan's interest rate. Thus, under the bill, the interest rate on waived contributions will be at least equal to the interest rate the plan is using under the minimum funding rules.

Under the bill, the reduction in the number of waivers that can be granted within a 15-year period is effective with respect to waivers for plan years beginning after December 31, 1987. In determining whether the new frequency requirement is satisfied, waivers granted with respect to plan years beginning before January 1, 1988, are not taken into account. Waivers for plan years beginning before January 1, 1988, are subject to the pre-Act frequency limit. Under the effective date provisions of the Act with respect to frequency of waivers, it would be possible to obtain a waiver that did not count for purposes of the pre-Act frequency limit or the Act's frequency limit. These changes address this situation.

iv. Limitation on interest rate (sec. 9307(e) of the Pension Protection Act, sec. 412(b) of the Code and sec. 302(b) of ERISA).

Present law

Under the Act, the interest rate used for certain purposes under the minimum funding rules is required to be (1) within a specific permissible range, and (2) within that range, consistent with the interest rate which would be used by an insurance company to establish the amount it would charge an employer to satisfy the liabilities under the employer's plan. The permissible range under the Code is, in general, not more than 10 percent above and not more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securities during a 4-year period.

Explanation of provision

To reflect the legislative history, the bill provides that these special interest rate rules apply for purposes of determining current liability and for purposes of determining a plan's required contribution under the funding rules applicable to plans with assets less than current liability. Thus, the bill clarifies that these special rules do not

apply for all purposes under the minimum funding rules. For purposes for which these special rules do not apply, the plan's interest rate is required to be reasonable in light of the experience of the plan and reasonable expectations.

The bill conforms the definition of the permissible range in ERISA to the Code definition of the permissible range.

v. Effective date of changes relating to amortization periods (sec. 9307(f) of the Pension Protection Act).

Present law

In the case of plans other than multiemployer plans, the Act reduced the period for amortizing experience gains and losses from 15 years under prior law to 5 years. This change is effective for years beginning after December 31, 1987. In Notice 89-52, the Internal Revenue Service provided transitional relief with respect to the effective date of the change in the amortization period for gains and losses.

Explanation of provision

The bill provides that the change in the amortization period for experience gains and losses applies to gains and losses established in years beginning after December 31, 1987, to conform to the legislative history of the Pension Protection Act. The bill also provides a special transition rule for certain 1987 gains and losses. Under this rule, any experience gain or loss determined by a valuation occurring as of January 1, 1988, is treated as established in a year beginning before January 1, 1988. An employer may elect to amortize gains and losses (1) in accordance with the general effective date without regard to the special rule for valuations occurring as of January 1, 1989, (2) in accordance with the special rule, or (3) in accordance with the IRS Notice.

b. Employer access to plan assets; limitations on employer reversions upon plan termination (sec. 9311 of the Pension Protection Act, and sec. 4044(d) of ERISA)

Present law

The Act provides that a plan amendment or provision providing for or increasing a reversion to the employer is not effective before the end of the fifth calendar year following the date the provision or amendment is adopted. The Act also provides a transition rule for certain plans that allows plan amendments within one year of the effective date to take effect without regard to the 5-year rule.

The Act also made other changes relating to the distribution of assets on termination that are effective, in general, with respect to distress terminations with regard to which notices of intent to terminate are provided after December 17, 1987, and plan terminations instituted by the PBGC after December 17, 1987.

Explanation of provision

The bill clarifies the effective date of the 5-year rule. First, the bill clarifies that the rule applies, in general, to plan provisions or amendments adopted after December 17, 1987.

Second, the bill clarifies the transition rule. Under the bill, a plan that does not contain any provision regarding the distribution of residual assets can be amended, within one year from December 17, 1987, to provide for an employer reversion without regard to the 5-year rule. If, however, after December 17, 1987, a plan provides for distribution of residual assets to employees, then the transition rule does not apply.

With respect to the other changes relating to distribution of assets, the bill clarifies that the changes also apply to standard terminations with respect to which the notice of intent to terminate is issued after December 17, 1987.

c. Treatment of plan terminations

i. Elimination of ERISA section 4049 trust (sec. 9312 of the Pension Protection Act, and sec. 4022 of ERISA).

Present law

Prior to the Act, the employer's liability payments for unfunded benefits in excess of guaranteed benefits were paid to a special trust established under section 4049 of ERISA. The Act eliminates the section 4049 trust, and provides that the employer's entire liability following plan termination is to be paid to the PBGC. The PBGC then is to play both guaranteed and nonguaranteed benefits to participants and beneficiaries. The amount of nonguaranteed benefits paid to participants and beneficiaries depends on the applicable recovery ratio.

In the case of terminations where the unfunded benefit liabilities exceed a certain amount, the applicable recovery ratio is based on the actual recovery from the employer (the "large plan" rule). In the case of other terminations, the applicable recovery ratio is based on the average recovery from prior terminations with respect to which the notice of intent to terminate is provided after December 17, 1987 (the "small plan" rule). In order to enable the PBGC to establish the recovery ratio for plans subject to the small plan rule, in the case of terminations with respect to which notices of intent to terminate are provided on or before December 17, 1990, payments to participants and beneficiaries are based on recovery from the particular termination. The Act provides that the transition rule does not apply if the recovery ratio is not finally determined as of December 17, 1990.

The provisions relating to the elimination of the section 409 trust apply to distress terminations with respect to which notices of intent to terminate are provided after December 17, 1987, and terminations instituted by the PBGC after such date.

Explanation of provision

The bill provides that, in determining the recovery ratio under the small plan rule, the termination taken into account are those with respect to which the notice of intent to terminate was provided after December 17, 1987, and within the 5 fiscal years of the Federal Government ending before the year in which the date the notice of intent to terminate the plan for which the recovery ratio is being determined was provided.

The bill provides that the transition rule for small plans applies to all terminations with respect to which the notice to terminate is provided after December 17, 1987, and on or before December 17, 1990. Thus, the transition rule is not limited to situations where the recovery ratio is finally determined as of December 17, 1990. This limit on the transition rule unduly limited the application of the transition rule.

The bill clarifies that the provisions apply to all terminations where notice of intent to terminate is provided after December 17, 1987. The bill also makes additional conforming changes are needed to reflect the examination of the section 4049 trust.

ii. Standards for termination (sec. 9313 of the Pension Protection Act, and sec. 4041(c) of ERISA

Present law

In order to terminate a plan in a distress termination, the plan sponsor and each member of the sponsor's controlled group must demonstrate that it meets one of several distress criteria as of the date of plan termination. In a distress termination, the plan administrator is required to provide certain information relating to plan assets and benefits to the PBGC.

Explanation of provision

The bill provides that the distress criteria must be satisfied as of the proposed date of plan termination, and clarifies that the information relating to plan assets and benefits is to be provided as the proposed termination date and, if applicable, the proposed distribution date.

d. PBGC Premiums (Sec. 9331 of the Pension Protection Act, and Sec. 4006 of ERISA)

Present law

Under present law, an additional PBGC premium is required to be paid with respect to a single-employer defined benefit pension plan if the plan has unfunded vested benefits. Also under present law, contributions to a plan are not deductible if they exceed the full funding limitation (sec. 404). Under the Omnibus Reconciliation Act of 1987, the full funding limitation is the excess (if any) of (1) the lesser of (a) 150 percent of current liability, or (b) the accrued liability under the plan (determined in a specified manner), over (2) the value of the assets of the plan (sec. 412(c)(7)).

Explanation of provision

Under present law, it is possible that deductible contributions to a plan cannot be made to a plan for a plan year because of the full funding limitation, but that an additional PBGC premium is required with respect to the plan. In order to avoid this result, the bill provides that if deductible contributions to a plan cannot be made for a plan year because of the full funding limitation, no additional premium is required with respect to the next year.

e. Miscellaneous pension provisions

i. Security rules for underfunded plans (sec. 9341 of the Pension Protection Act, sec. 401(a)(29) of the Code, and sec. 307 of ERISA).

Present law

In the case of a defined benefit plan (other than a multiemployer plan), if a plan amendment is adopted and the funded current liability percentage of the plan (taking into account the amendment) is less than 60 percent, then the contributing sponsor (or any member of the contributing sponsor's controlled group) is required to provide security to the plan. The amount of the security is the excess of (1) the lesser of (a) the amount of plan assets necessary to increase the funded current liability percentage under the plan to 60 percent, or (b) the amount of the increase in current liability under the plan attributable to the plan amendment, over (2) $10 million.

The security provisions are contained both in the Code (as a qualification requirement) and in ERISA. The Code provision provides that the Secretary of the Treasury may issue regulations with respect to partial releases of the security by reason of increases in the funded current liability percentage.

The provisions generally apply to plan amendments after December 22, 1987. Under a special rule, in the case of a plan

maintained pursuant to one or more collective bargaining agreements ratified before December 22, 1987, the provisions do not apply to plan amendments adopted pursuant to such collective bargaining agreements.

Explanation of provision

The bill clarifies that, in determining the amount of security that must be provided, the increase in current liability attributable to the plan amendment and all plan amendments after December 22, 1987, are taken into account. Thus, for example, an employer cannot avoid the security requirement by adopting a series of plan amendments, each one of which separately results in an increase in current liability that is below the $10 million threshold but which together increase current liability by more than the $10 million threshold.

The bill provides that the security provision does not apply to plans that are not subject to the minimum funding requirements. Thus, for example, the provision does not apply to church or governmental plans.

The bill conforms the ERISA provision to the Code provision by clarifying that the Secretary of the Treasury has regulatory authority with respect to partial release of the security.

The bill provides that a contributing sponsor that is required to provide security is required to notify the PBGC of the plan amendment. This change conforms the statutory provisions to the legislative history. The PBGC may assess a penalty, payable to the PBGC, of up to $1,000 for each day the required notice is not provided. This penalty is consistent with the penalty added by the Act for the failure to provide certain other information to the PBGC. Under the bill, as under the Act, the penalty is to reflect the materiality of the failure to provide the required information.

With respect to the special effective date for collectively bargained plans, the bill provides that extensions, amendments, or modifications of the bargaining agreement on or after December 22, 1987, are disregarded.

The bill also extends the $1,000 penalty, described above, to failures to notify the PBGC of the failure to make required contributions.

ii. Reporting requirements (sec. 9342 of the Pension Protection Act, and sec. 103(d) of ERISA).

Present law

Under the Act, the annual report for the plan must contain additional information regarding the funded status of the plan if the value of plan assets is less than 60 percent of current liability.

The Act authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 for each day the plan administrator fails to file an annual report.

Explanation of provision

The bill reflects the legislative history by providing that the reporting requirement applies with respect to a plan if the value of plan assets is less than 70 percent of current liability. The bill also clarifies that, in the case of plans with assets less than 70 percent of current liability, the annual report is to include the percentage which the value of plan assets is of current liability.

The bill authorizes the Secretary of Labor to bring a civil action to collect the penalty for failure to file an annual report. The bill also clarifies that the plan administrator is liable for the penalty.

iii. Coordination of provisions of the Internal Revenue Code of 1986 with provisions of ERISA (sec. 9343 of the Pension Protection Act, and sec. 403 of ERISA).

Present law

Under ERISA, plan assets cannot be returned to the employer prior to termination of the plan, except in certain limited circumstances. Prior to the Act, section 403(c)(3) of ERISA provided for the return of contributions which would otherwise be excess contributions as defined in section 4972(b) of the Code, to the extent that section 4972 provides for return of the contributions. In a conforming change, the Act replaced the references to section 4972 of the Code with a reference to section 4979 of the Code, which relates to contributions that do not satisfy the special nondiscrimination rules applicable to qualified cash or deferred arrangements and similar arrangements.

Explanation of provision

The bill deletes section 403(c)(3) of ERISA. It is no longer necessary in light of recent changes in the Code.

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), section 4972 of the Code provided an excise tax on excess contributions to certain plans maintained by self-employed individuals, and for the return of such contributions in order to avoid the excise tax. As part of TEFRA's changes conforming the rules applicable to plans maintained by self-employed persons generally to the rules applicable to other qualified plans, section 4972 (in its then present form) was repealed.

Neither present-law section 4972 of the Code nor present-law section 4979 of the Code provides for return of contributions to the employer. Thus, neither section should be a basis for the exception to the general rule prohibiting return of assets to the employer prior to plan termination.

IV. PLAN INVESTMENT IN EMPLOYER SECURITIES (SEC. 9345 OF THE PENSION PROTECTION ACT, AND SEC. 407 OF ERISA).

Present law

The Act amended the definition of qualifying employer security. This change was intended to apply only to plans that are not individual account plans.

Explanation of provision

The bill clarifies that the new definition of qualifying employer security applies only to plans that are not individual account plans.

V. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS (SEC. 9346 OF THE PENSION PROTECTION ACT, SEC. 411(C)(2) OF THE CODE, AND SEC. 204(C)(2) OF ERISA).

Present law

Present law prescribes rules for determining what portion of an employee's total accrued benefit under a defined benefit pension plan is derived from employer contributions and what part is derived from employee contributions. Present law provides that the accrued benefit derived from employer contributions is the excess of the total accrued benefit over the accrued benefit derived from employee contributions.

In the case of a defined benefit pension plan providing an annual benefit in the form of a single life annuity beginning at normal retirement age, the accrued benefit derived from employee contributions is, in general, an annual benefit equal to the employee's accumulated contributions multiplied by the applicable conversion factor.

An employee's accumulated contributions are equal to the sum of (1) mandatory contributions made by the employee; (2) interest under the plan to the end of the last plan year to which ERISA does not apply; and (3) with respect to each subsequent plan year, interest on the amounts determined under (1) and (2) at a rate equal to 120 percent of the mid-term applicable Federal rate (AFR) as in effect for the first month of the plan year. Prior to the Pension Protection Act, the interest rate in (3) is 5 percent. However, the accrued benefit derived from employee contributions cannot exceed the greater of (1) the employee's accrued benefit under the plan, or (2) the accrued benefit derived from employee contributions determined without regard to interest.

Explanation of provision

There has been some uncertainty as to the effect of the Pension Protection Act interrest rate rules for employee contributions, and the proper method for determining the accrued benefit derived from employee contributions. In addition, the present-law rules for determining an employee's accrued benefit produce inconsistencies in some cases. In order to resolve these issues, the bill modifies the rules relating to the accrued benefit derived from employee contributions.

The bill provides that, in calculating an employee's accumulated contributions, interest on mandatory contributions is credited (1) for the period up to the date for which the determination is being made at the rate determined under the present-law rules, and (2) for the period beginning with the determination date and ending on the date on which the employee attains normal retirement age, at the interest rate used under the plan in calculating the present value of accrued benefits (sec. 417(e)(3)). The conversion of the employee's contributions (plus interest) to an annuity is calculated using the interest rate used under the plan in determining the present value of accrued benefits (sec. 417(e)(3)).

The bill also eliminates the present-law limitation on the accrued benefit derived from employee contributions.

Some employers may have already amended their plans to conform to the interest rate rule of the Pension Protection Act, or may have adopted a new plan that conforms to such rule. If such plans are amended to conform to the bill, in some cases this might be considered a prohibited reduction in accrued benefits (sec. 411(d)(6)). Accordingly, the bill provides a transition rule that permits such plans to be amended to conform to the new rules without violating the reduction in accrued benefit rules.

Subtitle I. Child Care and Earned Income Credit Provisions

1. CREDIT FOR DEPENDENT CARE EXPENSES AND CERTAIN HEALTH INSURANCE PREMIUMS (SECS. 6901, 6902, AND 6904 THROUGH 6906 OF THE BILL AND SECS. 21, 6401, AND NEW SEC. 3507A OF THE CODE)

Present law

Child and Dependent Care Credit

Under present law, an individual who maintains a household that includes one or more qualifying individuals is entitled to a nonrefundable tax credit equal to a percentage of the employment-related child or dependent care expenses paid by the individual for the taxable year to enable the individual to work (sec. 21). The maximum amount of the credit is 30 percent of allow-

able employment-related expenses. This 30 percent is reduced by one percentage point for each $2,000 (or fraction thereof) of the taxpayer's adjusted gross income (AGI) between $10,000 and $28,000. The credit rate is 20 percent for taxpayers with AGI in excess of $28,000.

The maximum amount of expenses that may be taken into account in calculating the credit is limited to $2,400 per year in the case of one qualifying individual and $4,800 in the case of more than one qualifying individual. In addition, the maximum amount of expenses taken into account cannot exceed the individual's earned income or, in the case of married taxpayers, the lesser of the individual's earned income or the earned income of his or her spouse. A special rule applies for determining the income of the taxpayer's spouse if the spouse is a full-time student or mentally or physically incapable of caring for himself or herself.

A "qualifying individual" is (1) a dependent of the taxpayer who is under the age of 13 and with respect to whom the taxpayer is entitled to claim a dependent exemption, (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself, or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself.

Tax Provisions Relating to Individual Health Insurance

Present law generally does not provide tax benefits specifically designed to encourage the purchase of health insurance by individuals; however, present law does provide certain tax benefits for health insurance in particular circumstances.

Under present law, health insurance that is paid by an employer is generally excluded from an employee's gross income. This exclusion also applies for employment tax purposes. In addition, self-employed individuals are entitled to deduct 25 percent of the amount paid for medical insurance for the individual or his or her spouse or dependents; this provision is scheduled to expire for taxable years beginning after December 31, 1989. These provisions are subject to the application of nondiscrimination rules and certain other requirements.

Taxpayers who itemize deductions may deduct expenses for medical care (not compensated by insurance or otherwise) of the taxpayer or his or her spouse or dependents to the extent such expenses exceed 7.5 percent of the taxpayer's adjusted gross income. Premiums paid for health insurance qualify for the deduction.

Reasons for change

The committee intends to address two important needs of low-income working families—health insurance and child care. The committee recognizes the financial strain that the costs of these items place on low-income families and is concerned that low-income working families obtain assistance in obtaining child care and health insurance.

The committee makes two major changes to the dependent care credit in order to achieve its goals. First, the dependent care credit is modified to provide a refundable credit for expenses for health insurance that covers a child. The committee is concerned that low-income families, especially the children in these families, have adequate access to health care and are protected from the financial burden that large medical bills can place on low-income families.

Second, the bill makes the existing dependent care credit 90 percent refundable. The committee believes that the credit should be refundable so that low-income families with children obtain financial assistance in caring for the children while the parents are employed. The committee believes that refundability of the credit will remove an important barrier to the economic advancement of low-income families in that adequate child care while parents work will now be more affordable.

Explanation of Provision

The bill allows an additional credit for expenditures for certain health insurance policies and makes the present-law dependent care credit partially refundable for certain taxpayers.

Health Insurance Credit

The bill amends the dependent care credit to add a new refundable credit for health insurance expenses. The bill provides that an individual who maintains a household containing one or more qualifying individuals is entitled to a credit equal to a percentage of the individual's qualified health insurance expenses. The maximum credit percentage is 50 percent of the qualified health insurance expenses. This 50 percent is reduced by 5 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income (AGI) exceeds $12,000. Thus, the credit is zero for taxpayers with AGI in excess of $21,000.

Qualified health insurance expenses are amounts paid during the taxable year for health insurance that includes coverage for one or more qualifying individuals. For purposes of this credit, a qualifying individual is a dependent of the taxpayer who is under age 19 and with respect to whom the taxpayer can claim a dependent exemption.

Up to $1,000 of qualified health insurance expenses may be taken into account in calculating the credit. However, the maximum expenses taken into account cannot exceed the earned income of the taxpayer, reduced by employment-related expenses taken into account in determining the child care credit. Expenses, to the extent paid, reimbursed, or subsidized by the Federal government or a State or local government, are not eligible for the credit. Also, expenses for which the health insurance credit is claimed may not be deducted under the rules for health insurance of the self-employed.

Eligible taxpayers may claim credits for both dependent care and health insurance expenses.

For taxable years beginning after December 31, 1991, the health insurance credit will be refundable on an advance payment basis (similar to the present-law earned income credit).

Refundable Dependent Care Credit

The bill makes the present-law dependent care credit partially refundable. That is, taxpayers who do not have sufficient taxable income to offset the credit will be entitled to receive in cash 90 percent of the amount of the credit not offset against tax liability. However, under the provision, taxpayers with adjusted gross income (AGI) in excess of $28,000 are not entitled to claim the refundable credit, but instead are eligible for the nonrefundable dependent care credit as under present law.

For purposes of determining the amounts of credit that are refundable and nonrefundable, other credits and deductions are applied before the dependent care credit, except for the earned income tax credit which is applied after the dependent care credit.

For example, suppose a taxpayer has tax liability of $70 after the application of all credits and deductions except the dependent care tax credit and the earned income tax credit, $100 of dependent care credit (before the refundability limitation), and $150 of earned income tax credit. The taxpayer offsets $70 of tax liability with $70 of the dependent care tax credit. Of the remaining $30 of dependent care credit, $27 (90 percent of $30) may be obtained as a refund while all of the $150 of earned income credit is refundable.

For taxable years beginning after December 31, 1990, the dependent care credit will be refundable in the manner described. For taxable years beginning after December 31, 1991, the dependent care credit will be available on an advance payment basis (similar to the present-law earned income credit).

Expenses, to the extent paid, reimbursed, or subsidized by the Federal government or a State or local government, are not eligible for the credit. For example, child care expenses that are disregarded for purposes of calculating payments under the Aid to Families with Dependent Children Program which would otherwise have reduced payments under such program and expenses reimbursed under the transitional child care assistance program of the Family Support Act of 1988 are not expenses eligible for the credit.

The committee expects that the Secretary of the Treasury will provide regulations to prevent abuse of the dependent care tax credit. The committee, for example, does not intend the dependent care credit to be available in certain reciprocal dependent care arrangements that do not enable gainful employment beyond the child care arrangement.

For example, assume two neighbors agree to pay each other to care for the other's children and the child care expenses incurred by each neighbor do not enable each individual to be gainfully employed in some manner aside from providing care to the neighbor's children. In such a case, the committee does not intend the expenses to be eligible for the credit. However, the committee does not intend to prevent individuals otherwise legitimately employed as dependent care providers from obtaining the credit on eligible dependent care expenses.

Child Health Demonstration Projects

The bill authorizes the appropriation of $25 million for each of the fiscal years 1990 through 1994 to enable the Secretary of Health and Human Services to conduct demonstration projects to evaluate and extend health insurance to children under age 19 who are not covered by other public or private health programs.

The Secretary is authorized to enter into agreements with public and private organizations (for example, schools and hospitals) to provide health insurance coverage to such children. The Federal government is to share up to 50 percent of the cost of programs under such agreements.

The health care program provided by an organization pursuant to such an agreement cannot restrict enrollment on the basis of a child's medical condition or impose waiting periods or exclusions for preexisting conditions. The program can also cover the parents of the child. The Secretary may permit the organization to charge for the health care.

The Secretary is directed to publish criteria governing the eligibility and participa-

tion of organizations in the demonstration projects by January 1, 1990.

GAO Study/IRS Information Program

The General Accounting Office (GAO), in consultation with the Internal Revenue Service (IRS), under the provision, is required to conduct a study to determine (1) the effectiveness of the advance payment system and (2) how to implement such a system to avoid administrative complexity for small business. A report to the Committee on Finance and the Committee on Ways and Means with recommendations is required within one year after enactment.

The IRS is required to undertake efforts to inform the public of the availability of the credit in order to assure that persons who may be eligible will know the requirements for receiving the credit and how to apply for it.

Effective dates

The refundability feature and the modifications to the present-law dependent care credit, including the credit for health insurance expenses, generally are effective with respect to taxable years beginning after December 31, 1990. The availability of the advance payments of credit is effective for taxable years beginning after December 31, 1991.

2. modification and expansion of earned income credit for families with young children (sec. 6903 of the bill and secs. 32 and 3507 of the Code)

Present law

An eligible individual who maintains a home for one or more children is allowed an advance refundable tax credit based on the taxpayer's earned income (sec. 32). In 1989, the earned income tax credit (EITC) is equal to 14 percent of the first $6,500 of earned income. The credit is phased out at a rate of 10 percent of the amount of adjusted gross income (or, if greater, the earned income) that, in 1989, exceeds $10,240. The $6,500 and $10,240 amounts are adjusted annually for inflation, so that the maximum amount of credit and the maximum amount of income eligible for the credit, increase with inflation.

The credit is available to married individuals filing a joint return who are entitled to a dependency exemption for a child, a head of household, and a surviving spouse.

Because the earned income credit is refundable, eligible individuals may have no Federal income tax liability and yet receive monies from the Federal government. Certain Federally-supported means-tested programs disregard the earned income credit for purposes of determining eligibility for the program. Aid to Families with Dependent Children, for example, is one such program.

Reasons for change

The earned income tax credit is intended to provide relief through the tax system to low-income working families with children. The committee recognizes that the obligaiton of caring for young children places additional financial burdens on low-income working families. The earned income credit is adjusted, therefore, to provide an additional amount of credit to families with a young child. Since the committee recognizes that financial obligations of families with more young children are even more substantial, the credit amount is increased further if the family supports more than one young child.

The committee also believes that the interaction of the earned income credit with Federal-supported housing assistance programs should not act as a disincentive for work and, therefore, the earned income credit should be disregarded in determining eligibility for housing assistance.

Explanation of provisions

Supplemental Credit for Families with Young Children

The bill provides a supplemental earned income credit amount if any of the taxpayer's children are under the age of 4. The credit amount is calculated as 7 percent of earned income up to the present law breakpoint of $6,500 (as adjusted for inflation) for taxpayers with one child under age 4; the credit percentage for taxpayers with two or more children under age 4 is 10 percent.

Under the bill, the supplemental earned income credit is reduced by 10 percent (15 percent for taxpayers with two or more children under age 4) of the adjusted gross income (or earned income, if greater) that exceeds $10,000. The $10,000 amount is adjusted for inflation that occurs after 1991, but in no case will the phase out of the supplemental credit start at less than $12,000. In addition, the maximum amount of the credit is limited to $500 for taxpayers with one child under age 4, $750 for those with two.

The supplemental earned income credit is advance refundable in the same manner as the present-law earned income credit.

Treatment of Earned Income Credit for Housing Assistance

A modification of the earned income credit provides that the earned income credit is not treated as income for purposes of determining eligibility for Federal housing assistance programs.

Effective date

The provisions generally are effective for taxable years beginning after December 31, 1990, except that the provision concerning the treatment of the credit for housing assistance programs is effective for determinations made after December 31, 1989.

Subtitle J. Individual Retirement Accounts (IRAs) (secs. 6921-6923 of the bill and secs. 219 and 72(t) of the Code)

Present law

Under present law, the maximum deductible contribution than can be made to an individual retirement account (IRA) is generally the lesser of $2,000 or 100 percent of an individual's compensation. Individuals who are not active participants in an employer-sponsored retirement plan, single taxpayers with adjusted gross income (AGI) of less than $25,000, and married taxpayers with AGI of less than $40,000, may make the maximum deductible contribution. For taxpayers who are active participants in employer-sponsored retirement plans, the IRA deduction is phased out for single taxpayers with AGI between $25,000 and $35,000, and for married taxpayers with AGI between $40,000 and $50,000.

Taxpayers who are not entitled to the maximum IRA deduction may make nondeductible contributions to IRAs. As is the case with earnings on deductible IRA contributions, earnings on nondeductible contributions accumulate on a tax-deferred basis.

Amounts withdrawn from IRAs (other than nondeductible contributions) are includible in income when withdrawn. Early withdrawals, e.g., withdrawals prior to age 59½, death, or disability, are generally subject to an additional 10-percent income tax (sec. 72(t)).

Reasons for change

The committee is concerned about the national rate of personal savings, and believes that individuals should be encouraged to save. The committee believes that the ability to make deductible contributions to an IRA is a significant savings incentive. Under present law, however, this incentive is not available to all taxpayers. Further, the present-law income thresholds for IRA deductions are not indexed for inflation, so that fewer Americans will be eligible to make a deductible IRA contribution each year.

The committee believes it is appropriate to encourage individual savings by making an IRA deduction available to all taxpayers. Expanding the IRA deduction will provide all Americans with a meaningful incentive to save for their retirement years.

The committee is also concerned that Americans are not saving enough to ensure that their children will be able to afford a college education. College costs have risen dramatically in recent years. The ability to obtain a college education is an important factor in ensuring that the United States remains competitive with other nations. Housing costs have also increased, reducing the ability of many to purchase a home. Accordingly, the committee believes that there should be appropriate incentives to save for education and home ownership, and that taxpayers should be able to use without penalty amounts saved in an IRA for such purposes.

Explanation of Provision [1]

In general

The deductibility of an individual's contributions to an IRA is expanded under the provision. In general, the provision permits a deduction of one-half of the otherwise nondeductible portion of the contribution made by an individual. The provision also allows withdrawals from an IRA without imposition of the additional 10-percent income tax to the extent the amount withdrawn is used for either the purchase of a first home or certain education expenses.

Expansion of present-law deduction rules

Under the provision, an individual who contributes to an IRA may deduct the amount of the contribution that is deductible under present law, plus 50 percent of the contribution that is not deductible under present law. This additional 50-percent deduction is only allowed with respect to contributions that would otherwise have been deductible but for the active participant rule. The present-law maximum dollar limitation ($2,000) and other limitations relating to deductibility (e.g., the requirement that the IRA owner be under the age of 70½) continue to apply.

For example, assume that the combined AGI of a married taxpayer and the taxpayer's spouse is $45,000, and that the individual is an active participant in an employer-sponsored retirement plan. Assume further that the taxpayer makes a $2,000 contribution to an IRA. Under the present-law active participant rule, the taxpayer may deduct $1,000 of the contribution. Under the provision, the taxpayer may deduct $1,500, that is, the amount deductible under present law ($1,000), plus one-half of the amount of the contribution that is not presently deductible

[1] This provision is substantially the same as the provisions of S. 1678, The Savings and Investment Incentive Act of 1989, which was introduced on September 27, 1989, by Senator Bentsen and others.

($500). Alternatively, if the same taxpayer made a contribution of only $1,500, then the taxpayer could deduct $1,250 [$1,000 + (.50 X $500)].

The provision also provides that interest on loans the proceeds of which are directly traceable to an IRA contribution is nondeductible.

Withdrawals by First-Time Homebuyers

Under the provision, withdrawals by first-time homebuyers that are used within 60 days to acquire, construct, or reconstruct the taxpayer's principal residence are not subject to the 10-percent additional income tax. A first-time homebuyer is an individual who has not had an ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which the withdrawal relates. The date of acquisition is the date the individual enters into a contract to purchase a principal residence or begins construction or reconstruction of such a residence. The provision requires that the spouse of the taxpayer is also required to meet this requirement as of the date of acquisition. Principal residence is defined as under the provisions relating to the rollover of gain on the sale of a principal residence (sec. 1034).

Any amount withdrawn from an IRA for the purchase of a principal residence is to be used within 60 days of the date of withdrawal. The 10-percent additional income tax is imposed with respect to any amount not so used. However, if the 60-day rule cannot be satisfied due to a delay in the acquisition of the residence, the taxpayer may recontribute to an IRA all or part of the amount withdrawn prior to the end of the 60-day period. Any amount recontributed is generally treated as a rollover contribution (sec. 408(d)), except that the frequency limitation on rollovers between IRAs does not apply.

Rules relating to expenses for education

Under the provision, withdrawals used by a taxpayer during the year for qualified higher education expenses for the year are not subject to the 10-percent additional income tax. Qualified higher education expenses are tuition and fees paid to an eligible educational institution, books, supplies, and equipment required for courses at an eligible educational institution. Amounts withdrawn may be used for education currently provided to the taxpayer, or the taxpayer's spouse, dependents, or grandchildren. For example, amounts withdrawn may not be used to pay outstanding student loans without imposition of the additional tax.

The amount that may be withdrawn for educational expenses for a taxable year without imposition of the additional 10-percent income tax is reduced by any amount that is excludable from the taxable income of the taxpayer under the provisions relating to educational savings bonds. Of course, no amount may be withdrawn to the extent that the expenses have been provided or reimbursed by the employer of the taxpayer.

Effective date

The expansion of the deduction provisions is effective for taxable years beginning after December 31, 1990. The provisions relating to the exceptions to the 10-percent additional income tax apply to distributions after December 31, 1989, in taxable years ending after such date. The provision relating to interest on funds borrowed to make IRA contributions is effective for debt incurred after the date of enactment, in taxable years ending after such date.

Subtitle K. Amendments to the Financial Institutions Reform, Recover, and Enforcement Act of 1989

1. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED (SEC. 6931 OF THE BILL AND SEC. 597(B)(2) OF THE CODE)

Present law

Under present law, in the case of transactions other than taxable asset acquisitions, the Treasury Department has the regulatory authority to provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes to reflect such treatment.

Reasons for change

The committee wishes to clarify that it was not intended that the Treasury Department's regulatory authority to provide for appropriate adjustments to basis or other tax attributes be limited to adjustments which directly reflect the proper tax treatment of Federal financial assistance.

Explanation of provision

The provision clarifies that, in the case of transactions other than taxable asset acquisitions, the Treasury Department has the regulatory authority to prescribe rules for appropriate adjustments to basis or other tax attributes to properly take into account collateral tax effects of Federal financial assistance.

Effective date

The provision is effective as if included in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

2. TAX-EXEMPT DEBT OF STATE HOUSING FINANCE AGENCIES (SEC. 6932 OF THE BILL AND SEC. 141 OF THE CODE AND NEW SEC. 145 OF THE CODE)

Present law

In general, interest on private activity bonds issued by State or local governments is taxable. Bonds, the proceeds of which are used directly or indirectly to make or finance loans to persons other than government units are private activity bonds. In contrast, interest on qualified private activity bonds (a subset of private activity bonds) is tax-exempt. There are a number of categories of qualified private activity bonds, including: (1) exempt facility bonds; (2) qualified mortgage revenue bonds; (3) qualified small issue bonds; (4) qualified student loan bonds; (5) qualified redevelopment bonds; and (6) qualified 501(c)(3) bonds. Qualified private activity bonds generally are subject to annual State volume caps of the larger of (1) $50 multiplied by the State population; or (2) $150 million.

State and local bonds issued to provide mortgages to finance the disposition of single family residences owned by a State housing finance agency are not qualified private activity bonds unless all provisions of Code section 143 relating to qualified mortgage revenue bonds are met. State and local bonds issued to provide mortgages to finance the disposition of residential rental projects owned by a State housing finance agency to a private business user are not qualified private activity bonds.

State and local bonds issued to purchase single family residences or multi-family rental housing could be considered arbitrage bonds (as defined in Code section 148(a)) to the extent the property purchased is investment property with a yield higher than that of the bonds issued.

Reasons for change

The committee believes the extension of the implicit subsidy of tax-exempt finance for the acquisition of residential properties from the Resolution Trust Corporation and other United States Government agencies would facilitate the purchase of these assets by State housing finance agencies. By encouraging a market in these residential properties, the committee believes receivership proceeds will be enhanced, reducing the ultimate cost of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Moreover, by providing for the tax-exempt financing of specified purchases of these residential properties from State housing finance agencies, the committee intends to make available additional affordable housing.

Explanation of provision

The provision creates exceptions to the private business use test, the private security or payment test, and the private loan financing test (all related to private activity bonds) for certain State housing finance agency bonds. A State housing finance agency bond issue would qualify for this exception if at least 95 percent of the proceeds were used to: (1) acquire single family residences or residential rental projects from the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Federal Housing Authority, the Department of Veterans Affairs, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or any other agency of the United States Government; (2) issue mortgages to finance the disposition of single family residences acquired by a State housing finance agency from the above agencies to purchasers who meet the owner-occupancy requirements, the purchase price restrictions, and the family income restrictions of Code section 143 (related to qualified mortgage revenue bonds); or (3) finance the disposition of multi-family residential rental projects acquired by the State housing finance agency from the above agencies to private owners who would comply with the low-income targeting requirements of Code section 142(d). In all cases, all the dwellings being acquired or financed must be located within the jurisdiction of the State housing finance agency.

In order for these State housing finance agency bonds to be utilized as intended, the bonds are subject to the same restrictions as mortgage revenue bonds (Code section 147(h)(1)). However, the arbitrage restrictions, the State volume limitations, and all other requirements for tax-exempt private activity bonds continue to apply to these State housing finance agency bonds unless specifically exempted.

Effective date

The provision is effective on the date of enactment.

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–1994

[Millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
I. Repeal financial institution (FSLIC & FDIC) tax benefits (P.L. 101–73) (1)	5/10/89	568	31	351	310	213	1,473
II. Corporate Provisions							
A. Defer interest deduction on certain high-yield original issue discount (OID) obligations until interest is paid	(*)	18	44	86	120	141	409
B. Limit dividends received deduction with respect to certain nontaxed income of consolidated subsidiaries (effective for stock issued after effective date).	CMTE ACTN	45	92	154	209	271	771
C. Repeal nonrecognition treatment when securities are received in a section 351 transaction	(2)	164	288	289	316	359	1,416
D. Reduce built-in gain or loss threshold of sections 382 and 384 to lesser of 15% or $25 million	CMTE ACTN	12	18	17	18	19	84
E. Require basis reduction for nontaxed portion of dividends on self-liquidating ("wasting") stock	(*)	6	10	11	12	13	52
F. Modify consolidated return excess loss account recapture rules to prevent shifting of basis to debt	(*)	54	69	61	52	42	278
G. Clarify Treasury regulation authority relating to bifurcation of an instrument into debt and equity portions (section 385)	(*)	(3)	(3)	(3)	(3)	(3)	(3)
H. Require reporting to IRS of acquisitions and recapitalizations	D/o/E	(3)	(3)	(3)	(3)	(3)	(3)
I. Require Treasury study of "debt versus equity" and integration issues	D/o/E						
J. Limit net operating loss carrybacks attributable to interest expense in certain circumstances (S. 1506)	ty/e/a: 8/2/89	226	406	420	384	343	1,779
K. Require regulated investment companies (mutual funds) to distribute 98% of ordinary income to their shareholders	ty/e/a: 7/10/89	50	5	5	5	5	70
L. Adjust basis for mutual fund load charge only if shareholder holds shares for more than six months	CMTE ACTN	28	46	22	7	5	108
M. Include dividends in income of regulated investment companies on ex-dividend date (effective for ex-dividend dates after D/o/E	D/o/E	110	20	20	20	20	190
Subtotal		713	998	1,085	1,143	1,218	5,157
III. Employee benefit provisions:							
A. Repeal partial exclusion for interest paid on ESOP loans if ESOP owns less than 30% of the employer's stock (section 133)	Generally: 6/7/89	1,101	1,400	1,774	2,123	2,488	8,886
B. Permit limited use of excess pension funds to pay current retiree health benefits; reverse 401(h) letter ruling	1/1/89	585	417	380	345	321	2,048
Subtotal		1,686	1,817	2,154	2,468	2,809	10,934
IV. Foreign provisions:							
A. Conform tax years of certain controlled foreign corporations and foreign persons holding companies to the tax years of certain U.S. shareholders (with one-month exception).	ty/b/a: 7/10/89	48	71	71	71	36	297
B. Change the sourcing of income of certain corporations in commonly-controlled groups	ty/b/a: 7/10/89	20	37	41	45	49	192
C. Improve information reporting by U.S. subsidiaries and branches of foreign corporations	ty/b/a: 7/10/89	55	75	80	85	90	385
Subtotal		123	183	192	201	175	874
V. Excise tax provisions:							
A. Repeal Airport and Airway Trust Fund tax reduction trigger	1/1/90	851	1,505	1,630	1,762	1,907	7,655
B. Increase international air passenger departure tax from $3.00 to $6.00 per person	1/1/90	51	89	94	100	106	440
C. Impose $3.00-per-passenger tax on international departures by commercial ships	1/1/90	5	7	8	8	8	36
D. Impose Oil Spill Liability Trust Fund petroleum tax at $0.03/barrel (cap at $300 million)	1/1/90	43	114	60	8		225
E. Impose tax on ozone-depleting chemicals subject to the Montreal Protocol	1/1/90	384	560	753	1,171	1,442	4,310
F. Impose Wetlands Trust Fund tax on oil and gas produced offshore at $0.03/barrel of oil and $0.02/thousand cubic feet of natural gas.	1/1/90	47	80	83	85	88	383
G. Change collection of gasoline excise from semi-monthly to weekly deposits	1/1/90	111	4	1	2	4	122
H. Modify collection period for airline ticket tax (taxes billed after 6/30/90		110	6	6	7	7	136
Subtotal		1,602	2,365	2,635	3,143	3,562	13,307
VI. Accounting provisions:							
A. Repeal remaining portion of completed contract method of accounting	(*)	171	390	262	116	28	967
B. Modify treatment of cost of acquiring franchises, trademarks, and trade names (20-year amortization election for fixed and contingent payments).	CMTE ACTN	51	108	144	157	185	645
Subtotal		222	498	406	273	213	1,612
VII. Employment tax provisions:							
A. Impose income tax withholding on the wages of certain agricultural workers	1/1/90	270	68	21	22	23	404
B. Payroll tax speedup ($250,000 threshold; next-day deposit in 1990, third-day deposit in 1991 and 1992, and next-day deposit thereafter).	6/30/90	2,366	−694	100	106	1,108	2,986
Subtotal		2,636	−626	121	128	1,131	3,390
VIII. Other revenue-raising provisions:							
A. Tax pre-contribution on certain in-kind partnership distributions made within three years of contribution	CMTE ACTN	6	12	16	19	20	73
B. Restrict like-kind exchange basis shifting techniques between related parties	7/10/89	100	120	130	140	151	641
Subtotal		106	132	146	159	171	714

	Code Section	Current Law Expiration						
IX. Expiring provisions:								
A. Employer-provided education assistance (through 1991)	Sec. 127	12/31/88	1/1/89	−439	−316	−96		−851
B. Group legal services (through 1991)	Sec. 120	12/31/88	1/1/89	−127	−82	−29		−238
C. Targeted jobs tax credit (through 1991)	Sec. 51	12/31/89	1/1/90	−47	−134	−144	−80	−37	−442
D. Research and experimentation credit (with modifications) (Permanent)	Sec. 41	12/31/89	1/1/90	−398	−782	−968	−1,063	−1,194	−4,405
E. Research and experimentation cost allocation rules (64% allocation) (for 2 years).	Sec. 861	(+)	ty/b/a: 8/1/89	−335	−625	−275			−1,235
F. Business energy credits (solar, geothermal, and ocean thermal) (Permanent)	Sec. 46	12/31/89	1/1/90	−56	−81	−51	−38	−40	−266
G. Mortgage revenue bonds (Permanent)	Sec. 143	12/31/89	1/1/90	−11	−55	−128	−205	−269	−668
H. Small-issue manufacturing bonds (through 1991)	Sec. 144	12/31/89	1/1/90	−7	−39	−58	−78	−76	−258
I. Low-income housing credit (with modifications) (Permanent)	Sec. 42	12/31/89	1/1/90	−79	−333	−681	−1,058	−1,448	−3,599
J. Health insurance for self-employed (through 1991)	Sec. 162	12/31/89	1/1/90	−244	−411	−151			−806
K. Waiver of early withdrawal tax for ESOPs (through 1991)	Sec. 72(t)	12/31/89	1/1/90	−10	−20	−10			−40
Subtotal				−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. Child care, initiative and telephone excise tax:								
A. Child care initiative:								
1. Dependent care credit, refundable, advanced refundable 1/1/92; 90% refundability limit			1/1/91		−51	−1,090	−1,130	−1,229	−3,500
2. Health insurance credit; Rate: 50%; Phaseout: $12,000–$21,000			1/1/91		−46	−964	−903	−882	−2,795
3. EITC supplemental for children under 4 years old; Rates: 7% for 1 child, 10% for 2+ children; Phaseout rates: 10%, 15%; Phaseout income levels: $10–$15,000 indexed.			1/1/91		−63	−632	−681	−732	−2,108
B. Require corporate estimated tax payments on tax liability for certain Subchapter S income			1/1/90	25	(3)	(3)	(3)	(3)	25
C. Telephone excise tax:								
1. Permanent extension			1/1/91		1,612	2,732	2,930	3,143	10,417
2. Modify collection period (100% speedup, effective for taxes billed by service providers after 6/30/90)			6/30/90	102	5	5	6	6	124
Subtotal				127	1,457	51	222	306	2,163

XI. Individual retirement accounts (IRAs):							
Provide for 50% Deductibility of Contributions (effective 1/1/91), and Allow Penalty-Free Withdrawals for First-Time Homes and Higher Education Expenses (effective 1/1/90).	1/1/91 and 1/1/90	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. Other provisions:							
A. Repeal section 89	1/1/89	−154	−156	−170	−185	−202	−867
B. Continue temporary rules concerning allocation of taxes for Railroad Retirement Trust Fund	10/1/89						
C. Require exercise of Treasury regulatory authority with respect to full-funding limitation on a revenue-neutral basis	D/o/E						
D. Treat income from personal injury awards to children as earned income not subject to tax at parent's rates	1/1/87	(3)	(3)	(3)	(3)	(3)	(3)
E. Permit private foundations to use common investment funds	1/1/90	−1	−4	−8	−11	−15	−39
F. Modify rules concerning recapture of bad-debt reserves of mutual savings banks and other thrift institutions	D/o/E	1	3	10	13	20	47
G. Deny retroactive certification of WIN credit	(7)	38	28	12			78
H. Estate, gift, and generation-skipping tax provisions:							
1. Estate tax marital deduction—Overrule Howard Estate	CMTE ACTN	(6)	(6)	(6)	(6)	(6)	(6)
2. Exclude annual exclusion gifts under section 2035	D/o/E	−1	−2	−2	−3	−3	−11
3. Allow waiver of right of contribution (section 2207A) in limited circumstances	D/o/E	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
4. Repeal estate freeze rules (section 2036(c))	12/31/87	−27	−72	−146	−249	−384	−878
5. Generation-skipping transfer tax—Make $2-million exemption permanent, with modifications	CMTE ACTN	−1	−15	−23	−31	−42	−112
6. Marital deduction rules for nonresident aliens:							
a. Eliminate income requirement and other minor changes	11/10/88	−(6)	−2	−2	−2	−2	−8
b. Permit trustee discretion to make distributions to surviving spouse in case of hardship	11/10/88	−4	−2	−2	−3	−3	−14
I. Allow deduction for certain adoption expenses	1/1/90	−2	−3	−3	−3	−3	−14
J. Reinstate income averaging for farmers	1/1/90	−5	−65	−70	−75	−80	−295
K. Extend one-year deferral rule to crop payments made pursuant to Disaster Assistance Act of 1989		−12					−12
L. Provide relief to wholesale distributors of diesel fuel	12/22/87	−(6)	−1	−1	+(6)	+(6)	−2
M. Modify treatment of hedging transactions by REITs	D/o/E	(8)	(8)	(8)	(8)	(8)	(8)
N. Cost recovery:							
1. Establish 2-year class life for rental tuxedos	1/1/90	−2	−7	−8	−7	−5	−29
2. Revenue-neutral change to deduction for expenditures incurred to assist disabled	1/1/90						
O. Employee benefit provisions:							
1. Make section 401(k) plans available to section 501(c)(3) organizations	1/1/90	−15	−32	−38	−42	−56	−183
2. Change integration rules	1/1/89	(9)	(9)	(9)	(9)	(9)	(9)
3. Modify geographic limitation for VEBAs	CMTE ACTN	−5	−9	−13	−17	−20	−64
4. Modify leased employee rules per S. 5	1/1/84	(9)	(9)	(9)	(9)	(9)	(9)
5. Modify nondiscriminatory rules for dependent care credit	1/1/89	(9)	(9)	(9)	(9)	(9)	(9)
P. Tax-exempt bonds:							
1. Permit State housing agencies to issue tax-exempt bonds in connection with purchase of certain assets from troubled financial institutions.	D/o/E	−1	−4	−7	−11	−16	−39
2. Permit refunding of bonds issued by certain municipal authorities	D/o/E	−1	−4	−6	−9	−11	−31
3. Modify rules concerning tax-exempt bonds issued by 501(c)(3) organizations	1/1/90	−4	−9	−15	−22	−29	−79
4. Extend period allowed for issuance of Mortgage Credit Certificates	D/o/E	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
5. Permit financing of sports facilities with tax-exempt bonds	1/1/90	−2	−6	−11	−16	−23	−58
Q. Provide guidance for Treasury regulatory authority concerning treatment of split annuities	10/21/88	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
R. Reduce BATF alcohol occupational tax for small retail dealers	1/1/90	−5	−5	−5	−6	−6	−27
S. Provide statute of limitations for alcohol occupational taxes for periods prior to 1986	D/o/E	−2	−2	−2	−2	−2	−10
T. Increase excise tax on pension reversions to 20%	CMTE ACTN	9	4	2	1	1	17
U. Add authorization for essential air service to Airport and Airway Trust Fund	D/o/E						
V. Foreign provisions:							
1. Consider certain leased assets for purposes of the passive foreign investment company asset test	ty/b/a: 12/31/88	−6	−5	−5	−5	−5	−26
2. Modify application of passive foreign investment company rules for export trade corporations	ty/b/a: 12/31/88	−6	−4	−4	−4	−4	−22
3. Modify treatment of certain scholarships and fellowships received by nonresident aliens	ty/b/a: 12/31/89	−8	−11	−13	−13	−14	−59
W. Accounting provisions:							
1. Modify treatment of safe-harbor leases entered into by rural electric cooperatives	(11)	−12	−7	−7	−7	−6	−39
2. Farm debt relief—Limited exclusion from discharge of indebtedness income	1/1/87	−45	−18	−20	−23	−26	−132
3. Contributions for facilities to replace contaminated water supplies	1/1/89	−1	−1	−2	−2	−2	−8
4. Modify percentage of completion method of accounting for long-term contracts	1/1/90	−83	−119	−57	−35	−22	−316
5. Timber passive loss material participation exception	ty/b/a: 12/31/89	−8	−26	−30	−36	−40	−140
6. Annual accrual method of accounting not limited to sugar cane	1/1/87	−8	−8	−3	−3	−3	−25
7. Installment sales of residential lots and timeshares by C corporations (regular and minimum tax)	1/1/90	−13	−17	−12	−7	−6	−55
X. Energy/excise tax provisions:							
1. Extend section 29 credit through 12/31/92 and include production from tight sands	1/1/90	−40	−99	−168	−198	−180	−685
2. Gasohol—Provide tolerance limits for blending	1/1/90	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
3. Facilitate tax-free purchase of fuels by crop dusters	1/1/90	−3	−4	−4	−4	−4	−19
Y. Allow exclusion preferences as part of the alternative minimum tax credit	ty/b/a: 12/31/89		−24	−61	−92	−119	−296
Z. Small business exemption from recognition of gain or loss on liquidating sales or distributions (exemption from repeal of General Utilities doctrine).	1/1/89	3	1	−5	−11	−15	−27
AA. Penalty reform	1/1/90		−51	−82	−58	−25	−216
BB. IRS notice to taxpayers concerning withholding per S. 811 and S. 753	D/o/E						
CC. Increase Joint Committee on Taxation refund review threshold to $1 million	D/o/E						
DD. Technical corrections							
Subtotal		−426	−758	−981	−1,178	−1,352	−4,695
XIII. Other Provisions Adopted by the Committee							
A. Modify rules for determining cooperative patronage source income and loss from asset sales	(11)	−18	−23	−9	10		−40
B. Modify application of self-dealing rules for public charities that become private foundations	ty/b/a; D/o/E	(8)	(8)	(8)	(8)	(8)	(8)
C. Modify treatment of employer-provided qualified transportation expenses	1/1/90	−7	−9	−9	−10	−10	−45
D. Deny amortization of life estate in related-party joint purchases	7/27/89	3	5	9	14	22	53
E. Remove gifts of appreciated property as a tax preference for one year	ty/b/a/; 12/31/89	−13	−60				−73
F. Allow dividend received deduction from ACE for 20%–80% stock ownership	ty/b/a; 12/31/89	−15	−24	−20	−17	−14	−90
G. Allow alcohol fuels credit for ethyl tertiary butyl ether (ETBE)	1/1/90	−18	−51	−106	−58	−9	−242
H. Provide exception from income phaseout of passive loss rule for $25,000 exemption for rehabilitation credit and low-income housing credit.	1/1/90	−8	−21	−29	−39	−48	−145
I. Allow reserve deductions for certain minimum premium plans	(11)	(8)	(8)	(8)	(8)	(8)	(8)
J. Modification of empty-seat rule for fringe benefit purposes	1/1/90	−4	−9	−11	−12	−13	−49
K. Allow cattle breeders on election to use 10-year spread, rather than suspense account, upon change from cash to accrual method of accounting.	ty/b/a; 12/31/87	−18	−14	−15	−16	−17	−80
L. Oil and gas percentage depletion: Repeal net income limitation for production from marginal wells	ty/b/a; 12/31/90		−24	−50	−50	−49	−173
M. Exclusion for certain overseas allowances received by certain Defense Department personal	1/1/89	(8)	(8)	(8)	(8)	(8)	(8)
N. Eliminate the excise tax imposed on the Inactivated Polio Vaccine, conditional upon action of the Labor and Human Resources Committee.							
O. Tax exemption for Overseas Private Investment Corporation (OPIC)	D/o/E						
P. Continue IRS authority to assist other law enforcement agencies with undercover operations for two years	D/o/E						
Q. Require Treasury study of standards for tax exemption of certain health insurance organizations	D/o/E						
R. Clarify Treasury regulatory authority concerning variable contracts issued by controlled foreign corporations	ty/b/a; 12/31/89						
Subtotal		−98	−230	−240	−279	−342	−1,189

SUMMARY

I. Repeal FSLIC & FDIC tax benefits [1]	568	31	351	310	213	1,473
II. Corporate provisions	713	998	1,085	1,143	1,218	5,157
III. Employee benefit provisions	1,686	1,817	2,154	2,468	2,809	10,934
IV. Foreign provisions	123	183	192	201	175	874
V. Excise tax provisions	1,602	2,365	2,635	3,143	3,562	13,307
VI. Accounting provisions	222	498	406	273	213	1,612
VII. Employment tax provisions	2,636	−626	121	128	1,131	3,390
VIII. Other revenue-raising provisions	106	132	146	159	171	714

SUMMARY—Continued

Subtotal: Revenue-Raising Provisions (I–VIII)	7,656	5,398	7,090	7,825	9,492	37,461
IX. Expiring provisions	−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. Child care, initiative, and telephone excise tax	127	1,457	51	222	306	2,163
XI. Individual retirement accounts (IRAs)	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. Other provisions	−426	−758	−981	−1,178	−1,352	−4,695
XIII. Other provisions adopted by the committee	−98	−230	−240	−279	−342	−1,189
Grand Total	5,314	1,429	64	455	985	8,247

Notes: In "Effective" column—D/o/E denotes provision effective on date of enactment; ty/b/a denotes "taxable years beginning after" effective date given; ty/e/a denotes "taxable years ending after" effective date given; *denotes provision is effective for transactions after 7/10/89. Unless otherwise noted; CMTE ACTN denotes provision effective on date of Committee Action.

* Rules expire 4 months after start of a firm's first tax year beginning after 8/1/87.
[1] Estimate reflects net budget effects, including outlay effects, as estimated by the Congressional Budget Office.
[2] Provision generally would apply to transfers made by corporations after 7/11/89 and to transfers made by all other persons after the date of introduction of proposal.
[3] Gain of less than $5 million.
[4] Gain of less than $500,000.
[5] Total is not available for estimates represented by footnotes.
[6] Negligible amount.
[7] Credits first claimed after March 11, 1987.
[8] Loss of less than $5 million.
[9] Loss of less than $500,000.
[10] Effective for all open year returns as of date of enactment.

Income Security Provisions

NOTE.—Section 310(g) of the Congressional Budget Act provides that it is not in order to include in a reconciliation bill any recommendations concerning the social security programs of Old-age, Survivors, and Disability Insurance. However, based on action by the House of Representatives, it appears that the House will bring numerous issues relating to social security to the budget reconciliation conference. In order to permit a Senate position on social security issues to be developed and brought to conference, the Committee on Finance has included such issues in its reconciliation decisions. The Finance Committee's social security recommendations are described in this part of the report under the headings: "Social Security" and "Social Security and Supplemental Security Income." The legislative language to implement these recommendations is not, however, included in the materials submitted to the Budget Committee so as not to violate the prohibition in Section 310(g) of the Budget Act. It is the intention of the Committee on Finance to package these social security related provisions as a separate amendment which will be offered on the floor if the Senate chooses to waive the applicable points of order so as to permit those provisions to be included in the Senate reconciliation bill.

Social Security

SOCIAL SECURITY AS AN INDEPENDENT AGENCY

Present law.—Responsibility for administering the Old-Age, Survivors, and Disability Insurance (OASDI) program is vested in the Secretary of Health and Human Services. The program is administered by the Social Security Administration, which is headed by a Commissioner appointed by the President. SSA also administers the Supplemental Security Income (SSI) program.

Proposed change.—The proposal would establish the Social Security Administration as an independent agency with responsibility for the Old Age, Survivors, and Disability Insurance program, and for the Supplemental Security Income program.

There would be a 9-member part-time Advisory Board appointed for 6-year terms as follows: 5 appointed by the President (no more than 3 from the same political party), 2 each (no more than 1 from the same political party) by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority Member of the Committee on Finance). Presidential appointees would be subject to Senate confirmation. They would serve staggered terms. The chairman would be appointed by the President.

The Board would generally be responsible for giving advice on policies and operational issues. It would have authority to hire its own staff.

Specific functions of the Board would include: making recommendations as to the most effective methods of providing economic security through social security and supplemental security income; making recommendations relating to the coordination of such programs with other programs providing economic and health security; making an independent assessment of the annual report of the Board of Trustees and advising the President and the Congress on the implications of the assessment; recommending to the President names to consider in selecting his nominee for the positions of Social Security Commissioner and Deputy Commissioner; reviewing and assessing the quality of service that the agency provides to the public; assessing annually the state of the agency's computer technology; reviewing and assessing the agency's progress in developing needed management improvements; increasing public understanding of the social security system; reviewing the development and implementation of a long-range research and program evaluation plan for the agency; reviewing and assessing any major studies of social security; and conducting such other reviews and assessments as may be appropriate.

The agency would be headed by a Commissioner appointed by the President for a 4-year term coinciding with the term of the President, and subject to confirmation by the Senate. The Commissioner would be compensated at the rate for level I of the Executive Schedule (equivalent to Cabinet officer pay). The Commissioner would be selected on the basis of proven competence as a manager, and would be responsible for the exercise of all powers and the discharge of all duties of the Social Security Administration, have authority and control over all personnel and activities of the agency, and serve as a member of the Board of Trustees.

The President would also appoint a Deputy Commissioner, who would be subject to Senate confirmation.

Other positions established within the agency (and appointed by the Commissioner) include: a Beneficiary Ombudsman to sponsor and support beneficiary interests, a Solicitor of Social Security to provide legal advice to the Commissioner and to manage the agency's litigation workload, and a Chief Administrative Law Judge. An independent panel would nominate candidates for the position of Chief Administrative Law Judge. In addition, there would be an Inspector General appointed in accordance with the Inspector General Act.

The Commissioner (jointly with the Director of the Office of Personnel Management and the Administrator of General Services, as appropriate) would be directed to carry out demonstration projects under which the Commissioner would be able to appoint computer specialists and other professional and technical specialists without regard to the civil service classification system; perform functions relating to recruitment and examination programs for entry level employees and classification and pay range for pay ranges for identified job categories; establish higher compensation levels for geographic areas where there is difficulty in recruiting and retaining qualified employees; exercise authority relating to the acquisition, operation, and maintenance of facilities; and exercise authority relating to leasing, purchasing, or maintaining automated data processing equipment. The demonstration projects would last for a period of six years.

The Director of OPM would be directed to authorize for the Social Security Administration a substantially greater number of Senior Executive Service positions than were authorized on the date of enactment.

Appropriations requests for staffing and personnel of the Administration would be based upon a comprehensive work force plan, as determined by the Commissioner.

The Social Security Commissioner would be directed to consult on an on-going basis with the Secretary of Health and Human Services to assure (1) the coordination of the Social Security and Medicare programs and (2) that adequate information concerning Medicare benefits will be available to the public.

Rules, regulations, determinations, contracts, collective bargaining agreements, recognitions of labor organizations, and licenses in effect under the authority of the Secretary of Health and Human Services would continue under the authority of the independent agency until modified or terminated in accordance with law. The Committee directs SSA management to consult with organizations of supervisors and managers in the field on a regular basis.

INCREASE THE RETIREMENT TEST

Present law.—The primary purpose of the social security program is to provide an income for older individuals who are retired. As a way of determining whether an individual is retired, the program looks at the individual's age and earnings. Those age 70 or

above are automatically considered retired and get full benefits without regard to earnings. Those under age 70 are considered retired and eligible for full benefits only if their earnings are lower than a specified exemption level. In 1990, the exemption level for retirees age 65 to 69 is now estimated to be $9,360. Above that level, individuals will have their social security benefits phased out on the basis of a $1 reduction in benefits for every $3 of earnings.

Proposed change.—The proposal would increase the amount of earnings totally exempt from reduction under the retirement test for individuals age 65 to 69 to $11,700 in 1990 and to $14,520 in 1991—an increase of roughly $5,000 over present law. In addition, starting in 1991, the proposal would lower the rate of reduction on earnings for an additional $5,000 above that exempt amount. For earnings between $14,520 and $19,520, the reduction rate under the retirement test would be 25 percent in place of the current law rate of 33⅓ percent which would continue to apply to earnings above that level.

TREATMENT OF DEFERRED COMPENSATION

Present law.—The "contribution and benefit base" is the amount of annual earnings for each individual that is subject to social security taxes and countable towards benefit eligibility. Each year, this base is indexed to take into account the growth in wages covered by the social security system. This indexing factor also is applied to increasing several benefit determination factors, and in particular the so-called bend points of the formula for determining initial benefit eligibility. For the past several years, however, certain types of deferred compensation (e.g. 401(k) contributions) have not been included in measuring wage growth because of the way in which these items are reported on W-2 forms even though these wage payments are in fact subject to social security tax and therefore a part of "covered wages". This exclusion has slowed the growth of the wage indexing series used to increase the base.

Proposed change.—Effective for the 1990 determination of the tax and benefit base, the amount of that base would be increased by an additional 2% ($900) to take into account the past failure to include the deferred compensation payments. For subsequent years, deferred compensation would be factored into the indexing for both the base and the various affected benefit elements. Benefit factor increases would first be increased in 1993. The 1990 increase would not be used to raise the benefit factors; instead the funds generated would be used to offset the retirement test increase described above.

EARNINGS AND BENEFIT STATEMENTS

Present law.—There is no statutory requirement that the Social Security Administration provide individuals with earnings and benefit statements. Upon request, SSA currently will provide an individual with such a statement.

Proposed change.—When fully effective in 1999, the proposal would require that biennial earnings and benefit statements be sent to all those who have paid social security taxes. These statements would show what they have contributed to the social security program, estimate their future benefits at retirement (or at least describe those benefits in the case of persons under age 50), and describe the benefits that will be provided by Medicare. In the short run, the proposal would require that such statements be provided when requested and, starting in 1995, that they be provided to all individuals age 60 and above.

CHILD ADOPTED AFTER PARENT'S ENTITLEMENT TO BENEFITS

Present law.—Minor and disabled children of individuals who had paid social security taxes may qualify for benefits when those individuals die, become disabled, or retire in old age. In the case of natural children, these benefits are paid without regard to whether the child was born before or after the indivual retired or became disabled. In the case of adoptive children, however, the law requires that the child must have been adopted before the individual became eligible for disability or retirement benefits (or, at least, must have been dependent on the individual at that time.)

Proposed change.—A minor child adopted after a worker becomes entitled to retirement or disability benefits would be eligible for child's insurance benefits regardless of whether he or she was living with and dependent on the worker prior to the worker's entitlement.

CONTINUATION OF DISABILITY BENEFITS PENDING APPEAL

Present law.— A disability insurance beneficiary who is determined to be no longer disabled may appeal the determination through three levels of appeal: a reconsideration by the State Disability Determination Service; a hearing before an SSA administrative law judge (ALJ); and a review by the Appeal Council.

The beneficiary has the option of requesting that benefits be continued through the ALJ level of appeal. If the earlier unfavorable determinations are upheld by the ALJ, the benefits paid during the period of appeal are considered overpayments and are subject to recovery by the agency. (If an appeal is made in good faith, benefit repayment may be waived.) Medicare eligibility also continues, but Medicare benefits are not subject to recovery.

This option was originally enacted in 1983, and was accompanied by a requirement that the Secretary of HHS conduct a study of its impact on the OASDI trust funds and on appeals to ALJs. This report has not yet been completed. The Congress has extended the option several times, most recently in the Technical and Miscellaneous Revenue Act of 1988. The latest extension authorized the payment of benefits pending appeal of termination decisions made on or before December 31, 1989. Payments may continue through June 30, 1990.

Proposed change.—The period in which disability benefits may be paid, and Medicare eligibility continued, while an appeal is pending (through the ALJ level) would be extended for one additional year. Upon application by the beneficiary benefits would be paid while an appeal is in progress with respect to unfavorable determinations made on or before December 31, 1990, and would be continued through June 1991 (i.e., through the July 1991 check).

CONSOLIDATION OF OLD COMPUTATION METHODS

Present law.—The rules for computing the initial benefit amount payable to social security claimants have been changed many times since the program was enacted in the 1930's. In adopting new computation rules, Congress frequently allowed continued use of the old rules for individuals who would benefit from them. There are now a number of computation methods, particularly those that were established before 1965, that continue to apply to very small numbers of people. These computations have largely phased out for workers coming on the rolls, and new claims are from the relatively few remaining eligible survivors. These old computation methods currently require manual computation.

Proposed change.—All of the remaining initial computation methods that currently require manual intervention would be eliminated and consolidated. Any retired workers whose benefits are computed under one of these old computation methods and who are still working would have their benefits recomputed under a newer computation method.

LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS

Present law.—Special age 72 benefits (so-called "Prouty benefits" after Senator Winston Prouty of Vermont) were enacted in 1966 to provide some payment to individuals who, when the program began or when coverage was extended to their jobs, were too old to earn enough quarters of coverage to become fully insured. When enacted in 1966, it was expected that new entitlement under this provision would not be possible for anyone reaching age 72 after 1971. This is because individuals age 72 after 1971 who met the quarters-of-coverage requirements for Prouty benefits also would have the amount of the Prouty benefits was less than the amount of the minimum benefit payable at age 62. However, due to subsequent changes in the law, it is now theoretically possible for certain people who will reach age 72 after 1990 and who receive the frozen minimum benefit (due to a change in the law in 1977) or who receive less than the minimum benefit (due to its elimination in 1982) to become newly eligible for Prouty benefits.

Proposed change.—The proposal would include the unintended payment of Prouty benefits (due to the interaction of the Prouty benefit provision with subsequent changes in the law affecting the minimum benefit) by providing that Prouty benefits would not be payable to any individual reaching age 72 after 1971. This change would not affect any current beneficiaries.

EXTENSION OF AUTHORITY TO PRESCRIBE MAGNETIC MEDIA REPORTING REQUIREMENTS APPLICABLE TO PAYROLL AGENTS

Present law.—Section 6011(e)(1) of the Internal Revenue Code directs the Secretary of Treasury to prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. Pursuant to this authority, the Secretary has issued regulations that require employers having 250 or more employees to file returns on magnetic media. the Secretary's regulatory authority does not extend to payroll agents who are engaged in the business of preparing payroll data or filing returns for employers. As a result, high volume payroll agents need not file on magnetic media returns prepared on behalf of employers eligible for the low volume exception.

Proposed change.—The Secretary's authority to set magnetic media reporting standards would be extended to payroll agents of employers.

ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES

Present law.—The Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund are credited by the Treasury Department on an advance basis

at the beginning of each month with estimated revenues from social security payroll taxes for the entire month. This advance crediting provision was enacted as part of the Social Security Amendments of 1983, and was designed to help address the problem of the solvency of the trust funds which at that time had very low reserves. Combined trust fund assets at the end of 1989 are projected to be equivalent to 66 percent of 1990 outgo, and this "contingency ratio" is projected to grow rapidly in future years.

Proposed change.—Social security taxes would be credited to the trust funds periodically during a month as they are received.

TRIAL WORK PERIOD DURING ROLLING 5-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES

Present law.—Under present law, disability beneficiaries who are still disabled but who want to return to work despite their disabling condition are entitled to a 9-month trial work period. (The months need not be consecutive.) During this period disabled beneficiaries may test their ability to work without affecting their entitlement to disability benefits. Any work and earnings are disregarded in determining whether the beneficiary's disability has ceased.

Only one trial work period is allowed in any one period of disability. In addition, an individual who is entitled to disabled worker's benefits for wihch he has qualified without serving a waiting period (i.e., the worker was previously entitled to disabled worker's benefits within 5 years before the month he again becomes disabled), is not entitled to a trial work period.

Proposed change.—All beneficiaries would be given an opportunity to test their capacity to engage in substantial gainful activity over a sustained period of time before their benefits would be stopped by providing that a disabled beneficiary would exhaust his 9-month trial work period only if he performed services in any 9 months within a rolling 60-month period, and repealing the provision which precludes a reentitled disabled worker from being eligible for a trial work period.

EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY

Present law.—Section 505(a) of the Social Security Disability Amendments of 1980 (P.L. 96-265), as extended by the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), authorizes the Secretary to waive compliance with the benefit requirements of titles II and XVIII for the purpose of conducting work incentive demonstration projects to encourage beneficiaries to return to work. This authority will expire June 10, 1990.

Proposed change.—The work incentive demonstration project authority would be extended for three years, through June 10, 1993.

SUSPENSION OF AUXILIARY BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY

Present law.—Present law provides a 36-month extended period of eligibility to an individual entitled to disability benefits who completes a 9-month trial work period but who continues to have a disabling impairment. During this period, a disabled worker who engages in substantial gainful activity in any month (i.e., earns $300 or more, or, beginning January 1990, $500 or more) retains eligibility for medicare benefits, but no cash benefits are payable for that month.

Proposed change.—Language would be added to clarify that no monthly cash benefits are payable to auxiliary beneficiaries in any month in which the disabled individual is in an extended period of eligibility and does not receive benefits because he is performing substantial gainful activity. This is current administration practice.

AUTHORITY TO AMEND WAGE RECORDS AFTER EXPIRATION OF TIME LIMITATION

Present law.—The Secretary is required to establish and maintain records of workers' wages and self-employment income. Errors in these records may be corrected at any time up to 3 years, 3 months, and 15 days after the year in which the earnings occurred. after this time, various revisions may be made including ones in which an employer neglected to report covered wages. However, no revision is permitted where an employer misreported the amount of the earnings.

Proposed change.—The current list of revisions to earnings records that may be made after 3 years, 3 months, and 15 days from the year of the earnings would be expanded to permit the record to be changed where an entry for an employer is present but incorrect.

SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME

REPRESENTATIVE PAYEE REFORMS

Present law.—When it appears to the Secretary that the interest of an applicant entitled to social security benefits would be served thereby, the Secretary may certify payment either to the individual or to a relative or some other person (representative payee). If certification of payment is made to a person other than the individual entitled to the payment, such certification must be made on the basis of an investigation, carried out either prior to such certification or within 45 days after certification, and on the basis of adequate evidence that the certification is in the interest of the individual. The Secretary is required to ensure that all such certification are adequately reviewed.

The Secretary is also required to establish a system of accountability monitoring in cases involving a representative payee whereby the representative payee reports not less often than annually with respect to the use of the payments. The Secretary is required to establish and implement statistically valid procedures for reviewing these reports in order to identify instances in which representative payees are not properly using the payments. The requirement for annual reporting does not apply to a parent or spouse who lives in the same household as the beneficiary.

Similar provisions apply with respect to individuals who apply for SSI benefits.

An individual or entity convicted of a felony under sections 208 or 1632 of the Social Security Act may not be certified as representatives payee.

Proposed change.—Present law requirements relating to representative payees would be expanded and modified as follows:

The Secretary's determination that it is in the interest of a beneficiary to have payments made to a representative payee would have to be in writing.

The present law requirement that certification for payment to a representative payee be made on the basis of adequate evidence that the certification is in the interest of the individual would be modified to require substantial evidence, with the additional stipulation that priority be given to the immediate needs of the individual. In addition, the Secretary would be required to promulgate regulations to encourage, where appropriate, face-to-face contact with the representative payee and the beneficiary. The Secretary would also be required to develop and promulgate, through regulations, procedures to implement the investigatgion including (1) verification of the identity, including at least the social security account number, of any individual who applies to be a representative payee; (2) a determination insofar as feasible of whether the individual has been convicted of a felony under the Social Security Act or under any other Federal or State law; and (3) a determination, based on the Secretary's records, of whether the services of the individual as a representative payee have previously been terminated or suspended.

The amendment would prohibit the payment of large lump-sum retroactive benefits to a new representative payee until the investigation of the payee has been completed.

Effective March 1, 1991, the amendment would also require the Secretary to have in place a centralized, current file of the address and social security account number of each representative payee, the address and social security account number of each beneficiary for whom a representative payee is providing services, and the name and social security account number of each person who has been convicted of a felony under the Social Security Act or whose services have been previously terminated by the Secretary. On a demonstration basis, the Secretary would be required to correlate information in the file to determine whether multiple beneficiaries reside at the same address and, if so, upon request, would transmit this information to the agency or agencies of a State which are primarily responsible for regulating care facilities, providing for protective services, or serving as long-term care ombudsmen.

The Secretary would be required to provide to each beneficiary (other than a child living with his parents), and each person authorized to act on behalf of an individual who is legally incompetent or is a minor, a formal notice of the initial determination of the need for a representative payee. This notice must be provided in advance of any benefits being paid to a representative payee.

An individual who is a creditor of a beneficiary would be precluded from serving as the beneficiary's representative payee except under certain conditions.

The Secretary would be required to make good faith efforts to locate a suitable representative payee for each beneficiary for whom a suitable payee cannot readily be found. All local social security offices must have available a current list of local public and nonprofit community-based social services agencies that provide services as a representative payee.

If an individual (who has not been adjudged legally incompetent) is being paid benefits directly, the Secretary must continue to make direct payments until he completes his determination concerning the ability of the beneficiary to manage his benefits, and concerning the selection of the representative payee.

If an individual is newly eligible for benefits and it is determined that a representative payee is necessary, the Secretary must pay the individual directly until he has completed his investigation of and has selected the representative payee, or until such time as the individual has exhausted appeal rights. This requirement does not apply in the case of lump sum payments, or to a beneficiary who is likely to suffer substantial

harm if payments are made directly, or who is eligible on the basis of disability and is medically determined to be a drug addict or alcoholic.

A representative payee must be terminated or suspended if the Secretary or a court of law determines that the payee acted in violation of representative payee requirements or has otherwise not acted in the best interest of the beneficiary for whom he was authorized to perform such services, or has misused an individual's benefits.

Failure of the Secretary to investigate or monitor a representative payee that results in misused benefits would constitute an underpayment of benefits and the Secretary would be required to make repayment to the beneficiary.

In addition, in the case of termination of representative payee services based on misuse of benefits by a representative payee, the Secretary would be required to make a good faith effort to obtain restitution of misused funds.

Present law requirements with respect to monitoring representative payees would be amended to require the Secretary to provide for increased monitoring for certain categories of high-risk representative payees.

SSA would be directed to prescribe by regulation reasonable maximum fees which may be charged to an individual by a qualified organization for expenses incurred in providing services performed by the organization as the individual's representative payee. The GAO would be directed to conduct a study of the advantages and disadvantages of allowing qualified organizations that charge fees to serve as representative payees services to individuals who receive social security and SSI benefits, and to report its findings to the Ways and Means Committee in the House and the Committee on Finance in the Senate no later than January 1, 1992.

The Secretary of Health and Human Services, in collaboration with the Department of Veterans Affairs, would be required to conduct a study of the feasibility of the Department assuming lead responsibility for those individuals receiving benefits under both the Department and SSA. Among the issues to be addressed would be the need for the Department to conduct a criminal background check of the individual selected to serve as a beneficiary's fiduciary and the development of a formal channel of communication between the Department and SSA to ensure that SSA was apprised upon termination of any veteran's benefits. Upon termination of such benefits, SSA would be required to initiate or resume oversight responsibility.

In addition, the study would determine the Department's ability to annually provide to the Congress a report containing information on the number of cases in which a change in the fiduciary was required and the reason for the change; the number of cases in which misuse of beneficiary funds was discovered and the disposition of such cases, including the penalties imposed, whether the fiduciary was handling the funds of other beneficiaries, an whether those beneficiaries resided at the same address.

CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM

Present Law.—Social Security or supplemental security income benefits based on disability or blindness to a beneficiary who has medically recovered may not be terminated or suspended because the disability or blindness has ceased if (1) the individual is particiapting in an approved State vocational rehabilitation program, and (2) the Commissioner of Social Security determines that completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the disability or blindness benefit rolls. The Disability Advisory Council has recommended that the same benefit continuation provisions should be extended to beneficiaries who medically recover while participating in other approved vocational rehabilitation programs.

Proposed change.—The proposal would adopt the recommendation of the Disability Advisory Council to provide that those DI or SSI beneficiaries who medically recover while participating in an approved non-State vocational rehabilitation program would have the same benefit continuation rights as those who medically recover while participating in a State vocational rehabilitation program.

DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS

Present law.—SSA currently operates 37 teleservice centers (TSCs) that respond to inquiries from the public. In addition to providing general program information, these TSCs can schedule appointments at local offices and provide individual service, including discussing an individual's eligibility and taking specific actions regarding the individual's benefits. In recent years SSA has attempted to increase the amount of services and actions handled over the telephone by implementing a toll-free 800 number and reallocating staff resources to telephone service workstations, and by promoting its telephone service abilities with the public. Approximately 60 percent of the beneficiary population is currently covered by the new 800 number system. As the other 40 percent—who now use telephone service directly to local offices—are phased into the new nationwide system, local office numbers will no longer be listed in phone books and calls through them will be diverted to the 800 number system. In addition, non-listed local office numbers will be changed or dropped in the future thereby curtailing or eliminating other telephone channels the public has with local offices.

Proposed change.—The Secretary would be required to carry out demonstration projects testing a set of accountability procedures in at least 3 teleservice centers. Callers who provide adequate identifying information would be provided with written confirmation of the date and nature of their calls, including the name of the employee with whom they spoke, a description of any action the employee said would be taken, and any advice the caller was given. Routine communications would be excluded.

The Secretary would be required to report to the Committees on Ways and Means and Finance on these demonstrations, including costs and benefits, difficulties encountered, and an assessment of the feasibility of implementing the procedures nationally.

STANDARDS APPLICABLE IN CERTAIN DETERMINATIONS OF GOOD CAUSE, FAULT, AND GOOD FAITH

Present law

Good cause.—A Social Security beneficiary who (i) works for more than 45 hours during a month in noncovered employment outside the U.S., (ii) ceases to have a child in care, or (iii) has earnings in excess of the annual exempt amount under the earnings test, is subject to a penalty for failure to report these facts to SSA. However, if the individual can demonstrate to the satisfaction of the Secretary that he or she has good cause for failing to make a timely report, the penalty is waived. In addition, disability benefits are terminated when a beneficiary fails, without good cause, to cooperate with the Secretary in reviewing his or her entitlement or in following a treatment which is expected to restore his or her ability to work.

Fault.—The Secretary may waive overpayments to beneficiaries in cases where the individual is without fault and recovery would defeat the purposes of the program or would be against "equity and good conscience". SSA regulations state that in determining whether an individual was without fault, consideration will be given to the individual's age, intelligence, education, and physical and mental capabilities.

Good faith.—A beneficiary receiving benefits based on disability whom the Secretary determines is no longer disabled has the option of having his or her benefits continued through a hearing before an Administrative Law Judge (ALJ). Benefits paid during this period are considered overpayments. If the beneficiary acted in good faith in pursuing the appeal, repayment can be waived. SSA regulations establish a presumption that appeals are made in good faith unless the beneficiary fails to cooperate with the agency during the appeal.

Proposed change.—In making specified determinations of good cause, fault and good faith, the Secretary would be required to take into account any physical, mental, educational, or linguistic limitations that the individual has. This requirement would apply to the following situations: (1) when an individual is without fault in causing an overpayment; (2) when an individual has acted in good faith in appealing a termination of his disability benefits; (3) when there is good cause for failing to timely report certain information affecting eligibility for benefits; and (4) when there is good cause for failure to participate in a reassessment of an individual's disability entitlement or in a treatment program.

ASSISTANCE TO THE HOMELESS

Present law.—SSA has participated in projects designed to assist the homeless in qualifying for Social Security or SSI benefits. No provision exists expressly delineating responsibilities for SSA with regard to enrolling potentially eligible homeless people.

Proposed change.—The Secretary would be required to establish a program to identify homeless individuals who may be eligible for Social Security or SSI benefits and to provide reasonable assistance to them in making application. The Secretary's program would include efforts (coordinated with State or local government or nonprofit organizations) to facilitate and enourage application by homeless individuals for Social Security and Supplemental Security Income benefits.

NOTICE REQUIREMENTS

Present law.—The Secretary must use understandable language in notifying individuals of a denial of disability benefits. The law is silent regarding the language of other notices.

Blind SSI applicants and recipients may opt to be informed by telephone of a decision or action affecting them within 5 days of the mailing of written notices of such

action, to have such notices sent by certified mail, or to receive them through some other means established by the Secretary. These options are not available to blind Social Security applicants and recipients.

Proposed change.—With regard to notices about Social Security and SSI benefits, the Secretary would be required to use clear and simple language and to include information on how to contact the appropriate local social security office (including providing a telephone number) in notices generated by local and central SSA offices.

With regard to the blind, the notification options currently available to SSI applicants and recipients would be extended to Social Security applicants and recipients.

REPRESENTATION OF CLAIMANTS

Present law.—Social Security and SSI claimants and beneficiaries may use attorneys and legal assistance representatives in pursuit of their claims and in taking other action before the agency. The Secretary, however, is not required to advise them of options regarding their possible use of attorneys and legal aid representatives. When a claimant or beneficiary decides to use one, SSA requires the individual to sign a form designating an attorney or other person as his or her representative. The hard copy form then becomes the record of authorization for all subsequent dealings between the agency and the representative. SSA is under no legal requirement to maintain an automated list of attorneys and legal aid representatives who have this written authorization to assist claimants and beneficiaries with their cases before the agency.

Proposed change.—The Secretary would be required to maintain an up-to-date electronic record, accessible to SSA field offices through the agency's computer system, of the identities of legal representatives of all Social Security and SSI claimants. In addition, the Secretary would be required to include in benefit denial notices information on options for obtaining attorneys to represent the individual's interests before the agency. Such notices also would include information about the availability of legal services organizations that provide assistance free of charge to qualified claimants.

APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS

Present law.—If a claimant for Social Security disability benefits successfully appeals an adverse determination by the Secretary, benefits may be paid retroactively for up to 12 months prior to the date of the original application. If, however, instead of appealing, the claimant reapplies and is subsequently found to be disabled as of the date originally alleged, there are circumstances where retroactive benefits would be limited to 12 months from the date of the subsequent application (rather than the date of the first). This occurs when SSA determines that it cannot reopen the original decision under its "reopening rules". (SSA's administrative policy permits a case to be reopened within 12 months of an initial determination for any reason; and within 4 years (2 years for SSI claims) if there is new and material evidence or the original evidence clearly shows on its face that an error was made in the original decision.)

A reapplication in lieu of an appeal also could result in an outright denial of Social Security benefits without even considering an individual's medical evidence. This occurs when (i) the claimant's insured status ran out before the date of the original denial or the recency of work test cannot be satisfied since then, and (ii) there is no new and material evidence and no facts or issues that were not considered in making the prior decision. In this latter situation, SSA applies the legal principle of res judicata to deny the subsequent claim. Under this principle—the use of which is prescribed by SSA regulations—SSA will not consider the same claim over and over again.

Prior to May, 1989, SSA's standard denial notice informed claimants that they could reapply at any time, but did not explain the potential adverse consequences of reapplying versus appealing a denial. A May, 1989 modification to notices informs claimants that reapplying may result in a loss of benefits, but does not mention the possibility of their becoming totally ineligible.

Proposed change.—When an individual can demonstrate that he or she failed to appeal an adverse decision because of reliance on incorrect, incomplete, or misleading information provided by SSA, his or her failure to appeal could not serve as the basis for denial by the Secretary of a second application for such benefits for any period. The Secretary also would be required to include in all notices of denial, a clear, simple description of the effect on possible entitlement to benefits of reapplying rather than making an appeal. This provision will apply to adverse decisions made on or after September 1, 1990.

AUTHORITY FOR SECRETARY TO TAKE INTO ACCOUNT MISINFORMATION PROVIDED TO APPLICANT IN DETERMINING DATE OF APPLICATION

Present law.—By regulation, if an individual expresses his intention to file for Social Security or SSI benefits in a telephone call to SSA, the SSA representative is required to establish a "protective application" at the time of the call. This procedure enables an applicant to establish the date of the call as the filing date if the applicant subsequently qualifies for benefits. If the individual does not express his or her intention to file for benefits, a "protective filing date" is not assigned, even if failure to express such interest is caused by misinformation communicated in the call by the SSA representative.

Proposed change.—When an individual can demonstrate to the Secretary's satisfaction that he or she failed to file for Social Security benefits as a result of misinformation provided after December 1982 concerning eligibility provided by SSA, the individual would be deemed to have applied on the later of (i) the date the incorrect information was provided, or (ii) the date the individual met all the requirements for entitlement. The amendment would apply with respect to benefits for months after December 1982 based on written requests filed on or after the date of enactment. A similar provision would apply to SSI benefits on a prospective basis.

SAME DAY PERSONAL INTERVIEWS AT SSA FIELD OFFICE

Present law.—Nothing in current law requires SSA offices to respond promptly to individuals who visit them on matters of personal urgency or under time deadlines imposed by the agency.

Proposed change.—When an individual visits a field office during normal business hours, SSA would be directed, whenever possible, to provide the individual with a face-to-face interview with an SSA employee before the close of the business day. In the case of an individual who visits an office in response to a time-limited notice for action sent by SSA or because his or her Social Security or SSI check was lost, stolen, or not received, the Secretary would be required to assure that the individual receives a face-to-face interview with an SSA employee before the close of the business day.

SOCIAL SECURITY ATTORNEYS' FEES

Present law.—When Social Security and SSI claimants represented by an attorney in pursuing an appeal of an unfavorable decision before the agency, the attorney must have his fee approved by the Social Security Administration. If the fee is approved, the agency directly makes payment to the attorney out of any past due Social Security benefits (but not more than 25 percent of the past due benefits). Direct fee payments are not made out of past-due SSI benefits.

Proposed change.—Under the proposal there would be no review by the Social Security Administration of attorneys' fees agreed upon by the attorney and the claimant which do not exceed 25 percent of past due (or interim) benefits unless the fee totals more than $3,000 or a review is requested by the claimant or the administrative law judge who heard the appeal on the basis that the claimant was inadequately represented or that the fee is excessive in light of the services rendered. Attorneys could also ask for a review if they believe a higher fee should be set. The Secretary would have authority to increase the $3,000 limit.

In the case of individuals who are concurrently entitled to both Social Security and SSI benefits, the Secretary would be directed to reduce the amount of the Social Security benefit by the amount payable to the attorney before reimbursing a State for any assistance payments it may have made to the individual.

SUPPLEMENTAL SECURITY INCOME

COMMISSION ON CHILD DISABILITY

Present law.—The Social Security Act definition requires that in order to qualify for Disability Insurance benefits an individual must be unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that has lasted, or is expected to last, at least 12 months, or is expected to result in death. The determination must be made on the basis of medically acceptable clinical and laboratory diagnostic techniques.

In establishing the Supplemental Security Income program for needy aged, blind, and disabled individuals in 1972, the Congress agreed to use the same definition of disability under that program that is used for the Disability Insurance program. However, since the SSI program provides eligibility on the basis of disability without regard to age, the statute recognizes that ability to engage in substantial gainful activity may be an inappropriate or impossible test to apply to infants and children. For an applicant under age 18, the law provides that the child will be found to be disabled if he suffers from any medically determinable physical or mental impairment of comparable severity to what would be considered disabling in the case of an adult recipient.

Regulations require that a child must have an impairment(s) that meets or equals in severity an impairment in the Listing of Impairments. If the severity of an adult's impairment does not meet or equal the severity of an impairment in the listings, he can still be found disabled if his impairment prevents him from doing any substantial gainful work that exists in the national economy, considering his vocational factors

(age, education, and work experience). This test (or a similar test of functional capacity) is not applied to children.

Questions have been raised about the appropriateness of the standards that are being used for determining disability in children. It has been alleged that the existing system inappropriately excludes some children who are clearly suffering from very severe disabilities. There has also been a Circuit Court decision holding that the present methods for determining disability do not adequately consider the functional limitations which some medical conditions impose upon children.

Proposed change.—The Secretary of Health and Human Services would be required to establish a 15 member commission to conduct a study, in consultation with the National Academy of Sciences, of the definition of disability for determining whether a child is eligible for disability benefits under the Supplemental Security Income program, including the appropriateness of the present definition and the method of assessment that is used in making the determination. In its study and recommendations the Commission shall also address (1) whether it is appropriate to use an individualized functional assessment in determining whether a child is disabled, and if it is appropriate, what criteria should apply to such assessment; (2) the validity of a presumption of disability for children under age four who have a genetic, congenital, or perinatal disorder; and (3) how the Childhood Listing of Impairments should be revised, including the degree to which age-appropriate medical and functional criteria can validly be included in the listing; (4) whether the need by families for assistance in meeting the high costs of medical care for children with physical or mental impairments might appropriately be met through expansion of Federal health assistance programs (including Medical Assistance under title XIX of this Act); and (5) such other issues as the Secretary determines to be appropriate.

The 15 members of the Commission must include representatives from the field of medicine who are expert in the evaluation and treatment of disability in children, the study of congenital, genetic, or perinatal disorders in children, or the measurement of developmental milestones and developmental deficits in children. Other members of the Commission shall be representative of the fields of psychology, education and rehabilitation, law, insurance, administration of disability programs, or such other fields of expertise as the Secretary determines is appropriate.

The Commission must be appointed within 90 days after enactment, and must report by September 1, 1991.

The Committee does not intend that this and other amendments relating to childhood disability approved by the Committee should be interpreted by the courts as either supporting or not supporting the concept that an individualized functional assessment must be used in determining whether a child meets the definition of disability.

PREEFFECTUATION REVIEW REQUIREMENT FOR DISABLED CHILDREN

Present law.—The Social Security Administration has recently issued preliminary findings from a childhood disability study requested last year by the Committee on Finance. The study involved a review of 927 title XVI childhood disability claims that were denied in 1987. The preliminary findings from this study indicate that there are unacceptably high numbers of errors in decision-making that result in denial of SSI benefits to disabled children. For example, the study showed that 42 percent of denials were made in error in the case of the "Growth Impairment" listing; 29 percent of denials were in error in the case of the "Cardiovascular System" listing; 13 percent of denials were in error in the case of the "Digestive System" listing; and more than 10 percent of denials were in error in the case of "Mental and Emotional Disorders." These errors involve both clear decisional errors and documentation deficiencies. The study also indicates that certain types of impairments are significantly more prone to error than others.

Proposed change.—Beginning January 1990, the Social Security Administration would be required to review 50 percent of all childhood disability denials made by State Disability Determination Services. Beginning as soon as is feasible, but no later than September 1990, SSA would be required to review 50 percent of all decisions (with a larger percentage of denials than of allowances) before they become effective. The review would apply to decisions on initial claims, reconsiderations, and continuing disability investigations. SSA would be directed to target its review on those determinations which it identifies as most likely to be incorrect. This requirement for review shall apply to determinations made prior to the beginning of fiscal year 1993.

In addition, SSA would be directed to develop a schedule for updating and revising the medical listing that are now being use in determining childhood disability and to submit that schedule to the Committee on Finance and the Committee on Ways and Means.

Finally, the Committee directs the Social Security Administration to improve its procedures for gathering evidence of a child's daily activities and the effect of the physical and/or mental impairment on the child's ability to function.

REQUIRE INVOLVEMENT OF PEDIATRICIAN IN CHILD DISABILITY DETERMINATIONS

Present law.—There is no statutory requirement that a pediatrician or other appropriate specialist be involved in the evaluation of a childhood disability case.

Proposed change.—In determining the eligibility or continuing eligibility for a child under age 18 for disability benefits, the Secretary of HHS shall make every reasonable effort to assure that a qualified pediatrician or other specialist appropriate to the specific disability evaluates a child's case.

OUTREACH PROGRAM FOR DISABLED CHILDREN

Present law.—There is no statutory requirement that the Social Security Administration conduct ongoing outreach activities to identify children who may be eligible for disability under the Supplemental Security Income program and encourage their participation in the program.

Proposed change.—The Secretary of Health and Human Services would be directed to conduct an ongoing program of outreach to children who are potentially eligible for SSI on the basis of disability.

$30 MONTHLY SSI PAYMENT FOR CERTAIN DISABLED CHILDREN WITHOUT REGARD TO PARENTS' INCOME

Present law.—When disabled children are institutionalized, their parents' income is not taken into account for determining eligibility for Supplemental Security Income. Consequently, they can receive the $30 monthly personal needs allowance provided by SSI to eligible individuals who are in medicaid institutions regardless of the level of their parents' income. In the case of a disabled child living at home, however, the parents' income is counted in determining whether the child qualifies for SSI benefits. For purposes of medicaid eligibility, States are permitted to provide eligibility without regard to parents' income to certain disabled children living at home who would otherwise be institutionalized. Such "home care" children, however, do not qualify for SSI payments.

Proposal.—Children who are now ineligible for SSI but who get medicaid coverage under State home care provisions would be allowed to receive the $30 SSI personal needs allowance that would be payable to them if they were in an institution. This will be payable regardless of the amount of their parents' income.

SSI BENEFITS FOR DISABLED CHILDREN OF SERVICE PERSONNEL ABROAD

Present law.—SSI eligibility is limited to individuals who are physically present inside the United States. A member of the armed services who has a disabled child may, if the family income is low enough, qualify for SSI benefits on behalf of the child. If the service member is assigned overseas, however, the child will lose eligibility as long as the child remains out of the country.

Proposed change.—The amendment would allow continued SSI eligibility for a disabled child residing with a parent who is assigned outside of the United States while on active military service.

TREAT ROYALTIES AS EARNED INCOME

Present law.—In determining SSI eligibility and benefit amounts, income received in the form of royalties and honoraria are considered unearned income. This results in a dollar-for-dollar loss of SSI benefits.

Proposed change.—Any royalty which is earned in connection with the publication of an individual's work, or any honorarium which is received for services rendered would be treated as earned income for purposes of SSI eligibility and benefit determination. This would mean that income from these sources would be disregarded to the same extent that income from other types of earnings is disregarded (i.e., the first $65 of monthly earnings plus 50 percent of additional earnings).

SPECIAL SSI BENEFITS FOR INDIVIDUALS WHO LOSE DISABILITY INSURANCE BENEFITS

Present law.—A basic test used in determining whether an individual is disabled for purposes of Social Security Disability Insurance (SSDI) or for SSI benefits is whether the individual has earnings that constitute performance of "substantial gainful activity" (SGA). If he does, he cannot qualify for benefits. The Secretary of HHS has defined SGA as earnings of $300 a month. New regulations provide for increasing the SGA limit to $500 a month beginning in January.

In order to allow disabled SSI recipients to return to work without facing a severe disincentive, the Congress enacted legislation creating "special status" benefits under section 1619 of the Social Security Act. Section 1619 allows SSI recipients who continue to be disabled, but who, despite their impairments, begin to work at earnings above the SGA level, to continue to receive "special" SSI cash benefits. The benefit amount is reduced as earnings rise. Medicaid benefits are also continued.

Different rules apply with respect to Social Security disability beneficiaries who return to work at earnings above the SGA level. In the DI program, an individual may work without having his earnings affect his benefits during a 9-month trial work period. After the trial work period, disability benefits stop if the individual engages in SGA. However, the individual is entitled to receive a social security benefit for any month in which he does not perform SGA in the 36-month period that begins after the month in which the trial work period ends.

A Social Security disability insurance beneficiary who loses SSDI benefits because his earnings exceed the SGA level cannot subsequently qualify for regular SSI benefits (because he does not meet the basic disability definition). He therefore also cannot qualify for "special status" benefits under section 1619 which are available only to individuals who first qualify for regular SSI benefits.

Proposed change.—The amendment would permit an individual whose Social Security disability benefits cease because of work activity and who could be eligible for SSI but for the fact that he continues to engage in substantial gainful activity and, therefore, cannot establish initial eligibility for SSI disability benefits, to become eligible for cash and Medicaid benefits under section 1619. The individual would be deemed to have been eligible for SSI in the month prior to the month that Social Security disability benefits are not payable because of work activity, and his application would be deemed to have been filed in that prior month, provided that he files an SSI application during the 12-month period beginning with the first month in any period of months that a Social Security disability benefit was not payable because of work activity.

TREATMENT OF IMPAIRMENT-RELATED WORK EXPENSES

Present law.—Impairment-related work expenses of a disabled individual are excluded from earnings for purposes of determining (1) whether earnings for any month constitute substantial gainful activity, (2) the monthly benefit amount, and (3) continuing eligibility.

Proposed change.—Impairment-related work expenses would also be excluded in determining initial eligibility and reeligibility for SSI benefits and State supplementary payments.

REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

Present Law.—The Secretary is required to refer blind and disabled individuals who are receiving SSI benefits to State vocational rehabilitation agencies and is authorized to reimburse these agencies for the reasonable and necessary costs of the vocational rehabilitation services that are provided to recipients under certain specified conditions. Reimbursement is not allowable with respect to services provided to individuals who are not receiving cash benefits but who are eligible for medicaid benefits because they are in "special status" under 1619(b), are in suspended benefit status, or are receiving Federally-administered State supplementary payments but not Federal SSI benefits.

Proposed change.—The proposed change would implement a recommendation of the Disability Advisory Council to authorize reimbursement for vocational rehabilitation services provided to individuals who are not currently receiving Federal SSI benefits but who are in "special status" under section 1691(b), are suspended benefit status, or are receiving Federally-administered State supplementary payments.

SSI OUTREACH PROGRAM FOR ADULTS

Present Law.—There is no requirement that the Social Security Administration conduct a continuing outreach program to provide information about Supplemental Security Income benefits to low-income aged, blind and disabled individuals who are not receiving such benefits.

Proposed change.—The Social Security Administration would be required to establish an ongoing outreach program to inform low-income aged, blind and disabled individuals about the SSI program. The outreach program would be targeted on specific categories of individuals who are receiving social security benefits: widows and widowers, disabled adult children, and individuals age 75 or over who are likely to be eligible for SSI benefits. In conducting the program, SSA would be required to consult and cooperate with other Federal, State and private agencies which serve aged, blind, or disabled individuals and have knowledge of potential recipients of SSI benefits.

GIFTS OF TRANSPORTATION TICKETS

Present Law.—A domestic commercial transportation ticket received as a gift by an SSI recipient is not counted as income if it is not covertible to cash (e.g., if it is charged on the donor's credit card). However, if a ticket is convertible to cash it is counted as unearned income and reduces the individual's SSI benefit on a dollar-for-dollar basis.

Proposed change.—The value of gifts of domestic commercial transportation tickets given to an individual or eligible spouse would be disregarded if they are used by the individual or spouse and not converted to cash.

EXCLUSION OF INTEREST ON BURIAL SPACES

Present law.—A burial fund with a value of up to $1,500, including interest on the fund, is excluded in determining whether an individual meets the SSI resources test. Burial spaces are also excluded, but interest on the spaces is not excluded except under specified conditions.

Proposed change.—In determining income and resources for purposes of SSI eligibility, interest and other accruals on burial spaces would be excluded.

REDUCE TIME DURING WHICH INCOME AND RESOURCES OF SEPARATED COUPLES MUST BE TREATED AS JOINTLY AVAILABLE

Present law.—A husband and wife who are both eligible for SSI benefits and who have not been living apart for more than 6 months are treated as an eligible couple rather than as 2 individuals. The benefit for which they are eligible is 150 percent of the benefit for an individual. If they separate, they are considered to be a couple until they have lived apart for more than 6 months, at which time they are each eligible for individual benefits.

Proposed changes.—A married couple would be treated as separate individuals for purposes of SSI eligibility and benefit determination beginning with the first month following the month of separation.

CONCURRENT SSI/FOOD STAMP APPLICATIONS

Present law.—P. L. 99-570 (the Anti-Drug Abuse Act of 1986) amended the Social Security Act to require the Secretaries of HHS and Agriculture to develop a procedure to allow institutionalized individuals who are about to be released to make a single application for both SSI and food stamp benefits.

Proposed changes.—The proposal would allow SSA to take concurrent applications for the SSI and food stamp programs, but would not require that the applications be on a single form.

VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE

Present law.—Under present law, SSI benefit payments are computed under a system which determines the amount payable for any month on the basis of income received in the second preceding month. This applies not only to actual income of the recipient but also to certain types of in-kind income (such as the value of housing provided without charge) which are computed as a percentage of the basic SSI payment rate. When SSI benefits are increased in January of each year, this rule creates an anomaly in which for two months (January and February) the presumed income is determined by applying the percentage to a benefit rate which is no longer payable (the benefit rate for November and December). The result is that beneficiaries see their net SSI payment go up by slightly more than the cost-of-living percentage cost-of-living adjustment in March.

Proposed changes.—The proposal would provide that any rule which is used to determine the countable value of in-kind income as a percentage of the SSI benefit rate would make this computation on the basis of the SSI benefit rate in effect for the month of eligibility rather than the rate in effect for the second preceding month.

EXCLUSION OF AGENT ORANGE SETTLEMENTS IN DETERMINING ELIGIBILITY FOR NEEDS TESTED PROGRAMS

Present law.—Under Supplemental Security Income and other needs tested programs, all forms of income generally count against eligibility for benefits unless there is a statutory provision under which the income can be disregarded. Individuals who were awarded benefits under the Agent Orange litigation could, therefore, find that the Agent Orange awards result in their losing eligibility under SSI or other programs.

Proposed changes.—Agent Orange settlement payments would be excluded from income and resources under these Finance Committee programs: SSI, AFC, Medicaid, title XX social services and several other programs. This amendment was previously passed by the Senate as a free-standing bill—S. 892—but no action has been taken by the House.

AID TO FAMILIES WITH DEPENDENT CHILDREN

EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS

Present law.—States may operate an emergency assistance program for needy families with children (whether or not eligible for AFDC) if the assistance is necessary in order to avoid the destitution of the child or to provide living arrangements in a home for the child. The statute authorizes 50 percent Federal matching for emergency assistance furnished for a period not in excess of 30 days in any 12-month period. Regulations state that Federal matching is available for emergency assistance authorized by the State during one period of 30 consecutive days in any 12 consecutive months, including payments which are to meet needs which arose before the 30-day period or are for such needs as rent which extend beyond the 30-day period.

In addition, AFDC regulations allow States to include in their State standards of need provision for meeting "special needs"

of AFDC applicants and recipients. The State plan must specify the circumstances under which payments will be made for special needs.

The Department of HHS published proposed rules on December 14, 1987 to amend the emergency assistance regulations to limit assistance and services under the emergency assistance program to those provided during 30 consecutive days of need in any period of 12 consecutive months. The Department also proposed changes to prohibit States from providing, as basic or special needs, multiple shelter allowances based on the type of housing occupied. The proposed regulations would have the effect of prohibiting States from using emergency assistance or special needs funds to pay for maintaining families in welfare hotels or similar housing arrangements.

An amendment to the Omnibus Reconciliation Act of 1987 imposed a moratorium on publication of final rules through September 1988. The moratorium was extended through September 1989 by an amendment to the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Proposed change.—The Secretary of HHS would be directed not to implement the proposed regulations published December 14, 1987 with respect to the use of emergency assistance or special needs funds, but would be allowed to issue revised proposed regulations with respect to the use of emergency assistance funds that reflect the recommendations included in a report entitled "Use of the Emergency Assistance and AFDC Programs to Provide Shelter to Families" transmitted by the Secretary to the Congress on July 3, 1989. The Secretary would be prohibited from establishing an effective date for any final regulations relating to emergency assistance, or otherwise modifying current policy regarding the use of emergency assistance or special needs funds without specific legislative authority, prior to April 1, 1991. Effective with the calendar quarter beginning January 1, 1990, States would be required to identify in their financial reports any emergency assistance or AFDC special needs funds that are used to pay for housing in welfare hotels or similar housing arrangements.

MINNESOTA WELFARE REFORM DEMONSTRATION

Present law.—There is no statutory authority designed to enable States to undertake welfare reform demonstration projects the involve several Federal welfare programs.

Proposed change.—The State of Minnesota would be allowed to undertake a welfare reform demonstration project in selected counties, operated in accordance with Minnesota State law. The program will involve the AFDC, Medicaid and food stamp programs.

PENALTY FOR FAILURE TO IMPLEMENT THE JOBS PROGRAM

Present law.—The Family Support Act of 1988 provided for the establishment of a new education and training program (JOBS) to serve recipients of Aid to Families with Dependent Children. The statute gives States the option of implementing the new program beginning July 1, 1989. All States must have a JOBS program in effect by October 1, 1990. If they do not, the Secretary of HHS may find that their program is not in substantial compliance with AFDC law, and the Secretary may withhold all or part of the State's AFDC matching funds.

Proposed change.—The Secretary of HHS would be required to withhold all Federal matching for Aid to Families with Dependent Children for a State that does not implement the new JOBS program by the required date (October 1, 1990).

CHILD WELFARE/FOSTER CARE

FOSTER CARE ADMINISTRATIVE COSTS

Present law.—Concern has been expressed by both the Administration and Congress over the recent rate of increase in administrative costs for the Title IV-E foster care program. States received $118 million in Federal matching funds (50% Federal/50% State) for foster care administration in fiscal year 1983. Federal matching costs rose to $294 million in 1987. (Over this same period of time foster care maintenance payments grew from $276 million in 1983 to $422 million in 1987.) According to Administration projections, if current trends continue, administrative costs will exceed maintenance costs by 1992. Administrative costs already exceed maintenance costs in a number of States.

Various explanations have been given for the increases that have been occurring. Some of the reasons that have been put forward are: in the past some States were underclaiming for administrative costs, and only recently began to file claims for legitimate activities authorized under the law; major child welfare reforms enacted in 1980 (and regulations issued pursuant to that law) allow States to claim for activities that are far more labor intensive (involving develoment of case plans, preparing for and participating in judicial proceedings, assessment of the child and family's condition, etc.) than the kinds of activities that qualify for Federal matching under the AFDC, Medicaid, or food stamp programs; Federal cost matching definitions are unclear and extremely broad, as are cost allocation rules (e.g., certain costs for non-title IV-E-related activities are being charged to the IV-E program); and States are transferring costs to the Federal government that they themselves should be paying.

A report by the Office of Inspector General, dated October 1987, found that the Office of Human Development Services has not documented that States are systematically transferring ineligible costs to the Federal government, and that there was no evidence in the IG's studies to demonstrate patterns of abuse by the States.

In the last several years the Administration has put forward several proposals that would have the effect of putting a cap on Federal matching for foster care administrative costs. These proposals have not been agreed to by the Congress.

Proposed change.—The Office of Inspector General in HHS would be required to conduct a study of State administrative costs under the Title IV-E foster care program, including the following matters: (1) the kinds of activities that are being funded with IV-E matching funds, (2) the extent to which the activities that are being funded reflect requirements imposed on the States by section 427 of the Social Security Act, (3) the extent to which States have received reimbursement for claims to which they are not entitled, (4) the reasons why State administrative costs have increased in recent years, including an explanation of why the rates of increase have varied from State to State, (5) the extent to which States have claimed and the extent to which they have received Federal reimbursement under the IV-E program for activities that serve children other than IV-E children (e.g., reimbursement for recruitment of foster care parents regardless of whether they serve IV-E children or non-IV-E children), and (6) the extent to which States are providing in-kind rather than cash payments to match Federal funds.

In addition, the General Accounting Office would be directed to study the effects of the imposition of alternative caps on Federal matching of administrative costs (including a cap that would limit Federal matching for administrative costs to no more than a specified percentage of maintenance costs) on (1) the quality and availability of services to children receiving maintenance payments under the title IV-E program, and (2) the costs to States and to the Federal government.

A State maintenance of effort provision would be added which would limit Federal matching for title IV-E administrative costs to no more than the State received in the prior year unless the State maintains its prior year level of expenditures for child welfare services. For purposes of this provision, child welfare services would be defined to include child welfare services expenditures under title XX and title IV-B of the Social Security Act, and child welfare expenditures made by State and local agencies that participate in the administration of child welfare, foster care, and adoption assistance programs.

CHILD WELFARE SERVICES AUTHORIZATION

Present law.—The annual limit on funding for the child welfare services program (Title IB-B of the Social Security Act) is $266 million. This has been the amount authorized for the program since 1982. The appropriation for fiscal year 1989 was $247 million. Under the child welfare services program, States may provide a wide range of services to children. There is no Federal income test for these services.

Proposed change.—The authorization for the Title IV-B child welfare services program would be increased from the current level of $266 million a year to $325 million.

AUTHORITY TO TRANSFER FOSTER CARE FUNDS

Present law.—The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) allows States to transfer unused foster care funds (authorized under title IV-E of the Social Security Act) to use for child welfare services under title IV-B. The transfer mechanism works as follows:

There is a mandatory ceiling on Federal AFDC foster care payments to States if appropriations for the child welfare services program reach a specified level ($266 million a year for years after 1982). With the mandatory ceiling States that meet certain conditions may transfer any unused foster care funds to be used to provide child welfare services under title IV-B. In years in which appropriations do not reach the trigger amount, States may choose to operate under a voluntary ceiling and transfer a certain proportion of unused foster care funds to their child welfare services program.

A State's ceiling is based on the greater of: (1) the fiscal year 1978 AFDC foster care funding for the State with annual increases equal to the lesser of 10 percent or twice the increase in the consumer price index, or (2) a share of $100 million based on the State's under-18 population. In a year in which the title IV-B trigger amount has been appropriated, a State may choose to have its ceiling based on one of two options: the higher of (1) or (2) above; or (3) the 1978 funding level increased by the AFDC foster care caseload increase since fiscal year 1978 if the State's caseload (relative to its total child population) was lower than the 1978

national average foster care caseload (until the caseload equals or exceeds the 1978 national average.)

When operating under the mandatory ceiling, States—except those choosing to calculate the ceiling amount under the alternative formula (No. 3 above)—can use matching foster care funds for the title IV-B child welfare services at the IV-B Federal matching rate of 75 percent. Although the technical matching rate is 75 percent, States are allowed to use their general foster care costs to meet the non-Federal matching requirement. (Effectively, this means that the receipt of new Federal funds does not require any increase in State matching funds.) These funds cannot exceed the State's share of $141 million under the IV-B allocation formula unless certain preplacement preventive services are implemented. If the IV-B appropriations are $266 million for two consecutive years, a State cannot transfer funds from IV-E to IV-B unless all the foster care procedures and protections required for receipt of additional IV-B child welfare services funds, including preplacement preventive services, are implemented. The mandatory ceiling has been in operation only one year, 1981.

In the years when a State chooses to use a voluntary ceiling, it can transfer an amount, which together with its IV-B allocation, does not exceed what it would have received if the IV-B appropriation had been adequate to trigger the ceiling. In addition, the amount transferred, when added to its IV-B allocation, cannot exceed its share of $141 million under the IV-B allocation formula unless certain of the foster care procedures and protections specified in the 1980 legislation are implemented. If the amount of money transferred plus direct IV-B funds for any two fiscal years equal the State's share of $266 million under the IV-B allocation formula, the State cannot transfer funds unless it has implemented all the foster care procedures and protections specified in the 1980 legislation for the receipt of additional child welfare services funds, including preplacement preventive services.

States have had the option of choosing a voluntary ceiling each year since 1982. Under the voluntary ceiling, States transferred a total of $33 million in 1983, $20 million in 1985, $11 million in 1987, and $7 million in 1989 (estimate).

Proposed change.—The current law authority (which expires September 30, 1989) that establishes ceilings on Federal matching for State foster care maintenance payments and allows a State to transfer its unused foster care funds to the child welfare services program would be extended for three years (through fiscal year 1992).

FEDERAL MATCHING FOR TRAINING FOSTER CARE AND ADOPTIVE PARENTS

Present law.—Federal regulations allow States to use Federal administrative matching funds for short term training for foster and adoptive parents. Matching is at a 50 percent rate, and is limited to travel and per diem.

Proposed change.—States would be eligible to receive 75 percent Federal matching for the costs of training foster care and adoptive parents for fiscal years 1990, 1991, and 1992. States would be required to identify funds used for this purpose in their fiscal reports.

HEALTH AND EDUCATION RECORDS FOR FOSTER CARE CHILDREN

Present law.—There is no requirement under present law that States include in their case plans for foster care children any record of the child's educational and health status.

Proposed change.—A case plan for a child receiving foster care maintenance payments under the responsibility of the State must include, at the time of placement, a record of the child's educational and health status. The record must be reviewed and updated at the time each placement is made.

AUTHORIZATION FOR THE INDEPENDENT LIVING PROGRAM

Present law.—The purpose of the foster care independent living program is to help title IV-E foster care children age 16 and over prepare for independent living. States are entitled to receive their share of $45 million allocated on the basis of each State's relative number of children receiving title IV-E foster care maintenance payments in 1984. There is no State matching requirement. The independent living program was originally authorized for two years, 1987 and 1988. It has been extended for one additional year.

Proposed change.—The authorization for the independent living program would be extended for three years, through September 30, 1992. The present level of entitlement funding would be increased from $45 million to $60 million. States would be required to provide 50 percent matching for any Federal funding claimed that exceeds the present $45 million funding level. Funds could be used for services to youths for up to one year after they become ineligible for foster care payments (instead of for 6 months as under current law). The GAO would be required to evaluate the effectiveness of the program, including a comparison of outcomes for youth participating in the program with similar youths who did not.

DATA COLLECTION

Present law.—An amendment to the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) required the Secretary of Health and Human Services to establish an advisory committee to recommend (by October 1, 1987) a method of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States. Based on the recommendations, the Secretary was required to submit a report to the Congress (by July 1, 1988) including his recommendations for an adoption and foster care information system. Final regulations for the implementation of the system were required to be promulgated by December 31, 1988, and the system is to be implemented not later than October 1, 1991.

The October 1987 advisory committee report recommended that the data collection system cover all legalized adoptions, including relative and non-relative adoptions, as well as adoptions under private and public auspices. With respect to foster care, the report called for data on all children within the purview of section 427 of the Social Security Act (relating to foster care protections), including children placed under the auspices of public child welfare agencies, children placed by private agencies under contract to the public agency, and children placed privately by licensed private agencies.

The report issued by the Secretary in May of this year recommended limiting the scope of the system for adoption to only those adoptions in which the State child welfare agency is involved. With respect to foster care, it did not include the advisory committee's recommendation that the system require reporting for children placed privately by licensed private facilities.

Proposed change.—In proposing regulations to establish the foster care and adoption assistance data collection system required by section 479 of the Social Security Act, the Secretary would be required to provide for collection of (and Federal matching for) the kinds of data recommended by the Secretary's advisory committee, as follows: (1) with respect to foster care, data on all children within the purview of section 427 of the Social Security Act, including children placed under the auspices of the public child welfare agency and those placed by private agencies under contract to the public agency, and, to the extent feasible, children who are placed privately by licensed private agencies; (2) with respect to adoption assistance, all legalized adoptions, including relative and non-relative adoptions, as well as adoptions under private and public auspices. The regulations must provide for implementation of the system no later than October 1, 1992. These regulations must be proposed by March 1, 1990, with final regulations issued no later than September 1, 1990. The Secretary must provide technical assistance to the States in implementing the information systems. States could claim Federal matching for the costs of the data collection system as foster care administrative costs (title IV-E) or as parts of their child welfare services program (title IV-B).

CHILD SUPPORT ENFORCEMENT

EXTEND IRS AUTHORITY TO COLLECT CHILD SUPPORT ARREARAGES FROM TAX REFUNDS

Present law.—Under the Social Security Act, States have permanent authority to request the IRS to collect child support arrearages due to AFDC families by withholding income tax refunds due to the noncustodial parent. States have similar authority to use the IRS income tax offset mechanism with respect to families who are not receiving AFDC. However, this authority applies only to refunds payable before January 1, 1991.

Proposed change.—The current authority to collect child support arrearages on behalf of non-welfare families would be extended for five years. In addition, the current provision of law that restricts use of the IRS income tax offset procedure to collections on behalf of a non-AFDC child who is a minor would be modified to allow collections on behalf of a child of any age if the child is disabled, as determined under the DI or SSI programs.

ALLOW STATES TO USE IRS OFFSET FOR NON-AFDC FAMILIES WHEN ARREARAGE IS UNDER $500

Present law.—The child support statute now provides that States may use the IRS income tax offset procedure to collect child support arrearages on behalf of non-AFDC families only where the State determines that the amount of past-due support that is owed equals or exceeds $500. However, regulations allow States to use the IRS procedure on behalf of AFDC families where the amount of past-due support that is owed equals or exceeds $150.

Proposed change.—The $500 minimum threshold for collecting non-AFDC child support arrearages using the IRS income tax offset procedure would be removed. States would have discretion to use the same threshold amount that applies to AFDC families.

ALLOW IRS OFFSET FOR SPOUSAL SUPPORT WHEN SPOUSAL SUPPORT AND CHILD SUPPORT ARE COMBINED IN THE SAME ORDER

Present law.—With respect to AFDC families, the IRS may withhold tax refunds to collect past-due support owed to a minor child and the parent with whom the child is living. However, with respect to non-AFDC families, withholding can occur only on behalf of a minor child. Withholding is not allowed on behalf of the child's parent, even if spousal support and child support are combined in the same court order.

Proposed change.—The IRS income tax offset procedure could be used for spousal support, as well as child support, when spousal and child support are included in the same order.

TECHNICAL AMENDMENT TO ALLOW GOOD CAUSE EXCEPTION

Present law.—Under current law, as a condition of eligibility for AFDC, a parent must cooperate with the child support enforcement (IV-D) agency in establishing paternity, and in obtaining and enforcing a support order unless there is "good cause" for refusal. "Good cause" includes such factors as reasonable belief that cooperation could result in physical or emotional harm to the child or caretaker relative, and other factors established by regulation. The 1988 Family Support Act established a similar requirement for cooperation with the IV-D agency in order for a family to be eligible to receive child care transition benefits. However, the "good cause" exception was omitted.

Proposed change.—The good cause exception from cooperating with the IV-D agency would be made applicable to transitional child care benefits to make it consistent with the exception that applies to AFDC cash benefits.

UNEMPLOYMENT COMPENSATION

SELF-EMPLOYMENT DEMONSTRATION PROJECTS

Present Law.—The 1987 Budget Reconciliation Act included a provision authorizing 3 States to undertake demonstration projects under which payments would be made from the Unemployment Trust Fund to individuals otherwise eligible for unemployment compensation to enable them to undertake self-employment activities. A part of this legislation requires the States involved to repay the Trust Fund, from State general funds, the amount of any costs incurred which exceed the unemployment benefits that would have been paid in the absence of the demonstration projects.

Proposed changes.—The requirement that States repay the excess costs to the Trust Fund would be eliminated to the extent that such costs do not exceed $600,000 in the case of any State over the duration of the project.

WITHHOLDING UNEMPLOYMENT BENEFITS TO RECOUP UNPAID UNEMPLOYMENT TAXES

Present law.—Under the Federal-state system of unemployment compensation, State unemployment benefits are paid from State accounts in the Federal Unemployment Trust funds. These accounts are funded from State-imposed payroll taxes on employers in each State. Federal law requires that amounts in these State accounts may be expended only for the purpose of paying unemployment benefits. In 1987, the State of Minnesota passed a law under which individuals who, as employers, failed to pay State unemployment taxes into the fund would be subject to a withholding of any subsequent unemployment benefits for which they might become eligible so as to recoup their unpaid taxes. The Department of Labor held that this withholding of unemployment benefits to recoup unpaid unemployment taxes constituted an improper use of the funds in the State unemployment account; that is, the Department held that the funds were not being used for the sole legal purpose—the payment of benefits to unemployed individuals.

Proposed change.—The Federal rules governing allowable uses of funds in the State accounts of the Unemployment Trust would be modified to deduct from the unemployment benefits otherwise payable to an individual any amounts the individual owes to the fund as unpaid unemployment taxes.

OTHER INCOME SECURITY

DISREGARD EITC FOR PURPOSES OF CERTAIN HOUSING PROGRAMS

Present law.—Income received in the form of the Earned Income Tax Credit (EITC) is disregarded for purposes of determining eligiblity and benefits under the Aid to Families with Dependent Children and Food Stamp programs. However, it is not disregarded under Federally-assisted low income housing programs.

Proposed change.—Income received in the form of the Earned Income Tax Credit would be disregarded for purposes of specified low income housing programs.

ACCESS TO TAX INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS

Present law.—The Internal Revenue code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances (Code sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Among the disclosures permitted under the Code is disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977. This disclosure, pursuant to a written request by the agency, is for the purpose of determining eligiblity for, and the correct amount of benefits under, certain enumerated programs. Any authorized recipient of return, information must maintain a system of safeguards to protect against unauthorized redisclosure of the information.

Proposed change.—The provision allows disclosure of certain third-party and self-employment tax information to the Department of Veterans' Affairs (DVA) to assist DVA in determining eligiblity for, and establishing correct benefit amounts under, certain of its needs-based pension and other programs. Thus, the DVA will have direct access to information on the types and amounts of income received by veterans. The income tax returns filed by the veterans themselves will not be disclosed to DVA.

The DVA is required to comply with the safeguards presently contained in the Code and in section 1137(c) of the Social Security Act (governing the use of disclosed tax information). These safeguards include independent verification of tax data, notification to the individual concerned, and the opportunity to contest agency findings based on such information.

The provision also includes amendments to title 38 of the U.S. Code which assure that the Secretary of DVA will have adequate authority and resources to make use of the information made available by the amendment.

ELIMINATION OF COLLECTION OF BLACK LUNG BENEFIT OVERPAYMENTS FROM TAX REFUNDS

Present law.—Section 6402(d) of the Internal Revenue Code provides the Internal Revenue Service shall withhold tax refunds to satisfy outstanding legally enforceable debts which taxpayers owe to any Federal agency (other than overpayments of social security benefits). One type of debt collectible under the provision is overpayment of benefits under the Black Lung Benefits Act. Such overpayments may arise as a result of the reversal of initial benefit awards which may occur many months (or even years) after the individual begins to receive benefits. Under the Black Lung program, mine operators may challenge the award of benefits to an individual who has been found eligible. If the challenge succeeds, the individual is liable to repay the benefits received to the Black Lung Trust Fund.

Proposed change.—The Committee bill would provide that the tax refund offset mechanism under section 6402 of the Internal Revenue Code may not be used to collect overpayments under the Black Lung Benefits Act. The change is effective on enactment.

PROSPECTIVE PAYMENT SYSTEM (PPS) UPDATE

Present Law.—Under Medicare's prospective payment system (PPS), hospitals are paid a fixed amount per discharge, adjusted for geographic wage variation, teaching or disproportionate share status, and other factors. When PPS was created in 1983, separate fixed rates were developed for hospitals located in urban and rural areas to reflect the best available data about the relative cost of caring for Medicare patients. Under the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), a further distinction was made between hospitals located in large urban areas (over 1 million population) and hospitals in other urban areas, with the result that there are now three Medicare PPS rates. Taking into account more generous increases for hospitals in rural and large urban areas required by OBRA 1987, the basic payment rate for rural hospitals is 12-13% lower than the two urban rates.

Under present law, hospitals exempt from PPS (psychiatric, childrens', rehabilitation and long-term hospitals) are paid reasonable costs, subject to limits on the rate at which an individual institution's average cost per case can increase in a given year.

The Secretary of HHS published final rules on September 1, 1989, to be effective October 1, 1989, increasing PPS payment rates for all hosptials, (and rate-of-increase limits for PPS-exempt hospitals) by the hospital market basket, a specialized measure of hospital price inflation estimated by the Secretary at 5.5%. The market basket increase estimated by CBO for purposes of the congressional budget is 5.4%.

The President's Budget proposed legislation to provide that all hospital payment rates, and limits for PPS-exempt hospitals, be increased by the market basket minus 1.5%. The Secretary of HHS has recommended that Congress consider relatively higher increases for hospitals in rural and large urban areas, but with no change in the aggregate savings of $590 million associated with the President's proposal.

The Prospective Payment Assessment Commission (PROPAC) estimated an FY1990 market basket increase of 5.7%. PROPAC has recommended to Congress

that hospital payment rates be increased by 5% in large urban areas, 4.5% in other urban areas, and 5.6% in rural areas. PROPAC recommends an increase in the limits for PPS-exempt facilities of 6.2% (6.3% for childrens' hospitals).

Under the prospective payment system (PPS), the Secretary of HHS is required to establish a classification of hospital discharges by diagnosis-related groups (DRGs), and a methodology for classifying discharges within these groups. For each DRG, the Secretary is required to assign an appropriate weighting factor which reflects the relative hospital resources used for discharges within that DRG compared to discharges within other DRGs. The Secretary is required to "recalibrate," or adjust the classifications and weighting factors in FY88 and annually thereafter to reflect changes in treatment patterns, technology and other factors which may change the relative use of hospital resources. In FY1989, the DRG weights varied from .1242 (false labor) to 14.7080 (heart transplant).

In computing Medicare payment for an individual hosptial discharge, the DRG weight appropriate for the particular case is multiplied by the fixed PPS payment rate, which is then adjusted for geographic wage variation and other factors as appropriate.

On September 1, 1989, the Secretary published final regulations governing PPS for FY1990. In addition to recalibrating the DRG weights as required by law, the Secretary has reduced all DRG weights across the board by 1.22% to account for increases in the average mix of cases for FY86-88 that he believes are attributable to refinements in DRG coding and not to actual changes in resource requirements. The Secretary believes that without this reduction, recalibration would result in an inappropriate increase in Medicare spending.

The President's Budget assumed that DRG weights would be reduced 1.35% (later revised to 1.22%) in FY1990, and incorporated into assumptions about current law reduced Medicare spending of $530-$570 million. The Congressional Budget Office did not assume any reduction in the DRG weights in its February baseline, but estimates that the Administration's regulatory action will reduce hospital payments by $460 million.

The Prospective Payment Assessment Commission believes that the proposed reduction in the DRG weights in inappropriate because; (1) it represents an administrative reduction in overall PPS payments; (2) it is inconsistent with prior methods for accounting for casemix change; and (3) it adjusts for changes in casemix that may partly reflect changes for which hospitals should be compensated. The Commission believes that adjustments for case-mix change should be incorporated in the PPS update factor, not implemented separately through the recalibration process.

Committee Provision.—The Committee provision provides the following update factors for discharges occuring during FY90: for hospitals in large urban areas, the market basket minus 1.25 percentage points, for hospitals in other urban areas, the market basket minus 2.0 percentage points, and for hospitals in rural areas, the market basket plus 2 percentage points. Limits the rate-of-increase limits for PPS exempt hospitals to the market basket increase. The Committee provision prohibits the Secretary from recalibrating DRG weights for discharges in a fiscal year except in a manner that does not increase or decrease aggregate PPS payments that would have been made if the DRG weights had not been adjusted.

The Committee requests that PROPAC, in its report to Congress, include a study of issues relating to Medicare payment of inpatient costs of "high Medicare" hospitals. The study should include an assessment of the impact on these hospitals of the current PPS, and the factors relating to such impact. PROPAC should include in its report recommendations for payment adjustments or other appropriate mechanisms for assuring that "high Medicare" hospitals receive adequate payment for their inpatient costs under PPS. The Committee is concerned that inadequacies in PPS payment methodology may be placing "high Medicare" hospitals at an uninteded disadvantage, as these hospitals provide essential services to Medicare beneficiaries.

The Committee notes that the Technical and Miscellaneous Revenue Act of 1988 was intended to restrict the Secretary from requiring a change in policy regarding Medicare's bad debt payments to an individual hospital relative to that hospital's policy on August 1, 1987, if the fiscal intermediary had accepted the hospital's rules before that date with regard to indigency determination procedures, recordkeeping, and determining whether to refer a claim to an external collection agency.

The Committee further wishes to clarify that the Secretary may not collect from the hospital on the basis of an expectation of a change in the hospital's collection policy.

INDIRECT MEDICAL EDUCATION

Present Law.—Medicare pays teaching hospitals an additional percentage amount for each discharge to reflect the indirect costs of medical education. On average, the adjustment is 7.65% for each 0.1 increase in the hospital's ratio of interns and residents to beds. (Under present law, the adjustment is scheduled to increase to 8.29% in FY1996, when Medicare's disproportionate share adjustment is scheduled to expire.) In FY1990, about 20%, or about 1100 of the nation's 5600 prospective payment system hospitals will receive indirect medical education payments totaling $2.4 billion.

Medicare first recognized the indirect costs of medical education in 1980, when limits on hospital payment per day were adjusted upward by 4.7% for teaching hospitals. In 1982, limits on payment per case were adjusted by 6.06% for teaching hospitals. When the prospective payment system was created in 1983, to account for variation in severity of illness, the adjustment was increased to 11.59%. The adjustment was reduced to 8.1% by the Consolidated Omnibus Budget Reconciliation Act of 1986 and to 7.65% by the Omnibus Budget Reconciliation Act of 1987.

Numerous studies have been conducted analyzing the relationship between the level of a hospital's teaching activity and the hospital's Medicare cost per case. Conclusions about the appropriate level of the adjustment depend on which factors known to affect hospital costs are explicitly taken into account, as well as on the age of the data analyzed. Reductions in the indirect medical education adjustment have been recommended by the General Accounting Office (GAO) and the Prospective Payment Assessment Commission (PROPAC). GAO estimates that an adjustment factor of between 3.73% and 6.26% would be justified, depending on which factors affecting Medicare costs are taken into account, and recommends an adjustment of 5.09% as most appropriate. PROPAC recommended an adjustment of 6.6%, but also recommended that savings achieved from this reduction be redirected into increasing Medicare hospital payment rates. CBO's analysis supports adjustments between 3.5% and 9.5%. The President's Budget recommends setting the indirect teaching adjustment at 4.05%.

Committee Provision.—The Committee provision sets the indirect medical education adjustment at 6.6% for FY90 and 7.2% beginning in FY 96.

Effective Date.—For discharges occurring on or after October 1, 1970.

MEDICARE PAYMENTS FOR INPATIENT HOSPITAL CAPITAL

Present Law.—Capital-related costs related to inpatient hospital services are excluded from Medicare's prospective payment system (PPS), and are paid for on a reasonable cost basis. (Capital-related costs include depreciation, leases and rentals, interest, and until September 30, 1989, return on equity for proprietary hospitals). With the enactment of PPS in 1983, the Secretary of HHS was authorized to propose a methodology for incorporating inpatient capital costs into PPS payments. Under the Omnibus Budget Reconciliation Act of 1987, however, the Secretary is prohibited from implementing a prospective payment system for inpatient hospital capital until October 1, 1991, and is required to do so after that date.

Under the Omnibus Budget Reconciliation Act of 1987, Medicare payments for inpatient hospital capital were reduced by 12% during the last three quarters of FY 1988 and by 15% during FY 1989, so that through September 30, 1989, Medicare is paying 85% of reasonable costs for capital. (Sole community hospitals are exempt from these reductions). In FY 1990, under present law, Medicare payments for inpatient hospital capital are scheduled to revert to 100% of reasonable costs.

The President's Budget proposes setting Medicare's payment for inpatient hospital capital costs at 75% of reasonable costs, and proposes that this 25% reduction be made permanent.

Hospitals serving a disproportionate share of low-income patients receive additional payments from Medicare under the prospective payment system. ("Low income" patients are those receiving Supplemental Security Income and Medicare, or those receiving Medicaid). Hospitals with more than 100 beds that are located in urban areas, and hospitals with more than 500 beds located in rural areas, qualify for disproportionate share status if at least 15% of their patients qualify as low-income. These hospitals receive additional Medicare payments proportional to their share of low-income patients. Hospitals with fewer than 100 beds that are located in urban areas must have at least a 40% share of low-income patients, and receive a 5% add-on for each Medicare case. Hospitals with fewer than 500 beds located in rural areas must have at least a 45% share of low-income patients and receive a 4% add-on for each Medicare case. Hospitals with an add-on of 5.1% ("high disproportionate share hospitals") or more qualify for periodic interim payments (PIP).

Committee Provision.—For FY 1990, the Committee provision sets the reduction in capital-related payments at 20%. Sole community hospitals continue to be exempt from reductions in capital-related payments as provided under current law. In addition, high disproportionate share hospitals (hos-

pitals with an add-on of 5.1% or more) are exempted from reductions in capital-related payments.

The Committee provision requires the Prospective Payment Assessment Commission (PROPAC) to submit a final report to Congress by March 1, 1991, on the results of a study of the effects of payment under Medicare for capital-related costs of hospitals, including the effect on access to capital financing; trends in capital spending; and the proportion of total hospital spending for capital among different types of institutions. The bill requires the report to focus on the impact of the definition of reasonable capital costs, and include an examination of whether small or isolated rural hospitals have particular difficulty obtaining capital financing.

Effective Date.—For discharges or portions of cost reporting periods occurring during FY 1990.

HOSPITAL PAYMENT FOR HEMOPHILIA CLOTTING FACTOR

Present law.—The fixed payment for each discharge under Medicare's prospective payment system reflects the operating costs—including costs of pharmaceutical products furnished for the care of inpatients—of hospitals in FY81, indexed forward for inflation and other factors. (Certain operating costs, such as organ acquisition costs, are "passed through" to the hospital and are not reimbursed under the PPS payment).

Since FY81, the cost of clotting factor administered to hemophiliacs to control bleeding has increased significantly; the factor is manufactured from blood products which must be screened for the AIDS virus. Hospitals involved extensively in the treatment of hemophilia may therefore encounter costs in excess of the PPS average payment per case.

Committee Provision.—The bill directs the Secretary of HHS to "pass through" to hospitals the costs of hemophilia clotting factor administered to inpatients, in addition to payments made under PPS. Payment will be set at a predetermined price per unit (determined in consultation with the Prospective Payment Assessment Commission) times the number of units consumed by the patient. PROPAC and HCFA are required to develop recommendations for Congress on payment policy for hemophilia clotting factor furnished to inpatients within 18 months after enactment.

Effective Date.—Applies to items furnished between 6 and 24 months after enactment.

CANCER HOSPITALS

Present law.—There are eight hospitals in the U.S. that have been designated by the Secretary of HHS as centers extensively involved in the treatment of cancer. The Secretary has elected (by regulation) to extend to these centers an exemption from the prospective payment system (PPS). Rather than being paid under the DRG system, these hospitals are paid reasonable costs, subject to annual limits on the rate of increase in their cost per case. These are the same payment rules applied to the four types of hospitals (children's, rehabilitation, long-term and psychiatric) that are statutorily exempt from PPS. Hospitals exempt from PPS by law, however, are extended two other special payment protections not available to cancer hospitals: they are exempt from across-the-board reductions in inpatient hospital capital payments, and they continue to receive periodic interim payment (PIP) cashflow payments.

Committee Provision.—The Committee provision extends the same statutory exemption from PPS now applied to four other types of hospitals to cancer hospitals classified by the Secretary on or before December 31, 1990, and to any hospitals similarly involved in the treatment for and research on cancer that is located in a State with a PPS-waiver which applies to the Secretary for classification by September 30, 1991. While payment to these hospitals will be largely unaffected, they are no longer subject to reductions in capital payments and are eligible to receive PIP.

Effective Date.—Applies to cost reporting periods beginning on or after October 1, 1989, in the case of hospitals already classified as cancer hospitals on the date of enactment. For such hospitals, changes in capital reimbursement apply to portions of cost reporting periods or discharges occurring during and after FY 1987; eligibility for PIP is effective 30 days after enactment. For hospitals classified after enactment, the provisions apply to cost reporting periods beginning on or after the date of such classification.

MEDICARE PAYMENTS TO RURAL HOSPITALS REDESIGNATED AS URBAN AND OTHER AFFECTED HOSPITALS

Present Law.—Under the prospective payment system (PPS), Medicare pays hospitals different payment rates depending on whether they are located in an urban or rural area. This fixed rate is also adjusted to reflect geographic variation in hospital wage levels. Urban hospital payment rates are adjusted by a wage index, based on a special survey of hospitals, which measures relative hospital wages in the metropolitan statistical area (MSA) in which the hospital is located. Rural hospital payment rates are adjusted by a wage index which reflects the relative wages of all hospitals in the State that are not located within MSAs.

The Omnibus Budget Reconciliation Act of 1987 required the Secretary of HHS to treat hospitals located in certain rural counties as though they were located in an adjacent urban area. Under this provision, 55 rural hospitals were assigned to 27 MSAs in 16 different States beginning in FY 1989 and are paid the urban payment rates. This change in policy increased payments to hospitals redesignated from rural to urban, but it reduced payments to hospitals located in all urban areas into which the redesignated hospitals were added and to rural hospitals in 7 of the affected States. This occurred primarily because redesignation changes the number and composition of hospitals included in calculating the area wage index for each affected urban or rural area; the wage index drops in all affected urban areas and some statewide rural areas.

To limit some of these effects, the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) made further amendments that are effective in FY 1990-91 only. In areas where redesignation reduced the wage index—all MSAs to which hospitals were added and some statewide rural areas—the wage index will be recalculated as though redesignation had not occurred. Finally, redesignated hospitals will continue to get the urban payment amount, but will get a special wage index based only on their own wage data. This policy reduces payment to the 55 redesignated urban hospitals relative to what they would have received under OBRA 1987; in a few cases payments are even lower than they would have been before OBRA 1987.

Committee Provision.—The Committee bill provides that, in cases in which the wage index value for an urban area is computed without taking into account a rural hospital that has been redesignated as being in that area (because exclusion of the redesignated hospital yields a higher value), the redesignated hospital will still be paid on the basis of the wage index for the urban area. The September 30, 1991, sunset for the adjustment provisions is eliminated.

Effective Date.—Enactment.

AREA WAGE INDEX

Present Law.—Under Medicare's hospital prospective payment system, the fixed payment for each patient is adjusted by a wage index which reflects the relative level of hospital wages in the particular geographic area compared to national average hospital wages. The wage index is based on a survey conducted by the Health Care Financing Administration. In FY 89, the hospital wage index was based on a combination of data from FY 82 and FY 84. In FY 90, the Administration has implemented a wage index based entirely on FY 84 data. The new wage index proposed by the Secretary is computed in such a way as to reduce aggregate Medicare payments to hospitals by an estimated $15-$20 million. Under the Omnibus Budget Reconciliation Act of 1987, HCFA is required to update the wage index every three years beginning in FY 91.

Committee Provision.—The Committee is extremely concerned about the financial status of hospitals most severely affected by HCFA's decision to shift from a blended FY 82-FY84 wage index to an index based on FY 84 data only. Further, the financial stability of many hospitals has been threatened because the data on which area wage calculations are made has not been updated on an annual basis. The Committee has included a provision that requires HCFA to update the area wage index annually, beginning with FY 91. This will assist all hospitals by more accurately reflecting changes in costs of hospital labor and will protect hospitals from experiencing dramatic declines in Medicare reimbursement. The Secretary is also required to assure that revisions in the hospital wage index do not affect aggregate spending levels beginning in FY 91, and to take into account differences in State hospital codes and licensure requirements in computing the hospital wage index, to the extent possible.

FINGER LAKES HOSPITAL WAIVER

Present Law.—The Secretary is authorized to waive Medicare hospital payment rules in a State or substate area that is operating under an alternative hospital reimbursement system affecting all payers. One entity operating under such a waiver is the Finger Lakes Area Hospital Corporation, a four-county area in New York. Under current law, the Secretary cannot terminate the Finger Lakes waiver as long as, for 36-month periods beginning on or after October 1, 1983, aggregate payments for inpatient hospital care in the four-county area are less than they would have been under Medicare payment rules.

Committee Provision.—The Committee provision changes the Finger Lakes waiver test to the cumulative. Aggregate hospital payments under the waiver test will be compared to payments that would have been made under national payment rules for a period beginning October 1, 1983 and ending with the most recent data available. This extension will be effective until October 1, 1991. GAO is required to report to Congress

by October 1, 1990 on the status of the Finger Lakes waiver and whether the test should be extended permanently.

Effective Date.—Enactment.

EXCEPTIONS AND ADJUSTMENTS FOR PPS-EXEMPT HOSPITALS

Present Law.—PPS-exempt hospitals are reimbursed using a system of target amounts which are defined as the hospital's base-year costs inflated by a rate of increase limit. Hospitals below the target amount receive a bonus. The current base year for determining target amouts is generally cost reporting periods beginning in FY 1982.

The Secretary is directed to provide an exemption from, or an exception and adjustment to a hospital's target rate if events beyond the hospital's control, or extraordinary circumstances, including changes in case mix, cause a distortion in the hospital's base year costs or annual cost increases.

Committee Provision.—The bill allows the Secretary to adjust a hospital's base year if the Secretary deems it appropriate to assign a new base period which is more representative of a hospital's reasonable and necessary cost of inpatient services.

The bill requires the Secretary to publish instructions within 180 days after enactment specifying the application process to be used in providing exceptions and adjustments in target amounts for hospitals.

Effective Date.—Applies to cost reporting periods beginning on or after October 1, 1989.

CORRECTED DETERMINATIONS

Present Law.—The Health Care Financing Administration from time to time identifies errors in data submitted by an individual which, when corrected, lead to a higher wage index for all hospitals in the MSA (or rural area) in which that hospital is located. It is HCFA's policy to correct the wage index prospectively for the remainder of the year if doing so will lead to an increase in hospital payments (no correction is made if this would reduce hospital payments).

Committee Provision.—The Committee bill requires that, when errors are discovered in the wage index computation, payments to affected hospitals be adjusted retroactively to the date on which the erroneous index took effect.

RURAL HEALTH CARE PROVISIONS

Present Law

a. Urban-Rural Payment Differential.—Medicare's prospective payment system (PPS) pays hospitals a different fixed per-discharge rate for each patient. There are currently three rates, which are based on FY 1981 hospitals costs indexed forward: one for hospitals in metropolitan statistical areas with over 1 million population; one for hospitals in other metropolitan statistical areas; and one for rural areas. These rates are further adjusted for factors such as: the patient's diagnosis, the teaching status of the hospital, relative wages in the hospital's geographic area; the extent to which the hospital treats a disproportionate share of low-income Medicare patients, and whether the case was an especially costly or lengthy outlier case. Special payment rules apply to hospitals classified as sole community hospitals and rural referral centers.

When PPS was created in 1983, separate fixed rates were developed for hospitals located in urban and rural areas to reflect the best available data about the relative cost of caring for Medicade patients. Under the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), a further distinction was made between hospitals located in large urban areas (over 1 million population) and hospitals in other urban areas. Taking into account more generous increases for hospitals in rural and large urban areas required by OBRA 1987, the basic payment rate for rural hospitals is 12-13% lower than the two urban rates.

b. Regional Referral Centers.—Hospitals designated by the Secretary of HHS as regional referral centers are paid the prospective payment system (PPS) payment rates for "other urban" areas (those with fewer than 1 million persons), rather than rates for rural areas. A hospital may apply for designation as a regional referral center if it is located in a rural area and has more than 275 beds, if its caseload is made up chiefly of patients referred from outside the hospital and its immediate area, or if it is located in a rural area and meets a combination of criteria relating to the number of patients it treats and the severity of their illnesses (known as "discharge" and "casemix" criteria). (Hospitals qualifying on the basis of the discharge and casemix criteria must also meet one of three optional criteria related to the number of specialists on staff, the source of inpatients, and the number of referrals from other hospitals).

Regional referral centers qualify for higher Medicare payments for a period of three years. The hospital must meet the criteria in two of the prior three years. The Omnibus Budget Reconciliation Act of 1986, however, directed the Secretary of HHS to allow hospitals qualifying as regional referral centers as of October 21, 1986 to retain that status through cost reporting periods beginning on or after October 1, 1989. The Omnibus Budget Reconciliation Act of 1987 required the Secretary to study and report to Congress on the criteria used for the classification of hospitals as regional referral centers. This report, which was due on March 1, 1989, is not yet complete.

The Secretary of HHS has issued regulations announcing the discharge and casemix criteria for qualification as a regional referral center for FY 1990. Under these criteria, approximately 40 of the current 226 regional referral centers could lose their designation for their first cost reporting period beginning on or after October 1, 1989.

c. Geographical Classification Review Boards.—The Secretary of HHS is required to determine Medicare prospective payment system (PPS) rates for large urban, other urban and rural areas. Urban areas are defined as areas within Metropolitan Statistical Areas (MSAs) (a statistical classification developed by the Office of Management and Budget) or other areas recognized by the Secretary. The Secretary is also required to adjust Medicare payments for area differences in hospital wage levels; the Secretary has also chosen to use MSAs to define hospital wage areas. The Secretary is also authorized to make such other exceptions and adjustments to PPS payment amounts as he deems appropriate.

d. Rural Health Transition Grants.—The Omnibus Budget Reconciliation Act of 1987 authorized a program of grants to assist rural hospitals with fewer than 100 beds in developing and implementing projects to modify the type and extent of services they provide. Grants may be used to develop health systems with other providers, diversify services, recruit physicians, or improve management systems. Application for rural health transition grants is made to the Secretary of HHS through the Governor of the State. Grants are limited to $50,000 annually for two years; no more than one-third of a grant can be used for capital expenditures. The program is authorized in FY 1989 and FY 1990 at $15 million and is not authorized thereafter. The FY89 appropriation level was $8.9 million.

e. Telecommunications.—The Omnibus Budget Reconciliation Act of 1987 directed the Secretary of HHS to conduct demonstrations of the feasibility of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through the use of video communication between rural hospitals and teaching hospitals. No funds under the demonstration may be used for capital items, but payments may be made to physicians consulted via video communications. The Secretary is currently conducting one such demonstration.

f. Interim Protection for Small, Medicare-Dependent Hospitals.—No provision.

g. Disproportionate Share Hospitals.—Hospitals serving a disproportionate share of low-income patients receive additional payments from Medicare under the prospective payment system. ("Low income" patients are those receiving Supplemental Security Income and Medicare, or those receiving Medicaid). Hospitals with more than 100 beds that are located in urban areas, and hospitals with more than 500 beds located in rural areas, qualify for disproportionate share status if at least 15% of their patients qualify as low-income. These hospitals receive additional Medicare payments proportional to their share of low-income patients. Hospitals with fewer than 100 beds that are located in urban areas must have at least a 40% share of low-income patients, and receive a 5% add-on for each Medicare case. Hospitals with fewer than 500 beds located in rural areas must have at least a 45% share of low income patients and receive a 4% add-on for each Medicare case. According to CBO, rural hospitals are estimated to receive 1.7 percent of Medicare disproportionate share payments in FY1988.

h. Rural Wage Index.—The fixed payment per case under Medicare's prospective payment system (PPS) is modified by a wage index, based on hospital survey data, which measures the relative wage levels in hospitals in a given geographic area. The wage index for rural hospitals reflects the wage costs of all hospitals in a State that are not located in an urban area.

Committee Provision

a. Urban-Rural Payment Differential.—The bill requires the Secretary of HHS to design a legislative proposal to eliminate the system of determining separate payment rates for hospitals located in large urban, small urban and other urban areas. The proposal is to include a transition period which would begin eliminating the differential rates in FY1992 and would eliminate the differential completely by the beginning of FY1995. The proposal will address recommended modifications in PPS' other current payment adjustments, the use of data more recent than FY1981 to set PPS rates, and modifications in payment to PPS-exempt hospitals. The Secretary is required to recommend a methodology to reflect the severity of illness of different patients within the same diagnosis-related groups. The Secretary is also required to submit extensive impact analyses with the proposal, which will be due to Congress by October 1, 1990. The Secretary's report will be reviewed by the Prospective Payment Assessment Commission and CBO, who will report to Congress by April 1, 1991.

b. Regional Referral Centers.—The bill provides that any hospital classified as a regional referral center as of September 30, 1989, including hospitals so classified as a result of OBRA 1986, shall retain their classification for cost reporting periods beginning on or after October 1, 1989, and before October 1, 1992.

c. Geographical Classification Review Board.—The bill creates a medicare Geographical Classification Review Board to consider the applications of hospitals (either urban or rural) which wish to be reclassified into a specific urban area, or from one rural area to another, for the purposes of Medicare payment. The Board consists of five members, to be appointed by the Secretary within 60 days after enactment, including one member of the Prospective Payment Assessment Commission, two representatives of rural hospitals, and one member knowledgeable in the field of hospital costs. Applications for reclassification will be due to the Board on January 31 of each year; the Board's decision will be rendered by June 1. Negative findings may be appealed to the Secretary of HHS by July 1, with a decision due from the Secretary by September 1. There would be no administrative or judicial review of the Secretary's decision. decisions will take effect October 1.

The Board will be required to take into account (using guidelines published by the Secretary) relative wage levels and changing economic circumstances in evaluating the hospitals' requests, as well as the effects on access to inpatient hospital care by Medicare beneficiaries and the appropriateness of criteria used to classify areas as New England Metropolitan County Areas.

d. Rural Health Transition Grants.—The bill authorizes $25 million for each of FY90-92. It allows the Secretary to waive the $50,000 limit on a transition grant if he or she determines that a larger amount is necessary to assist a hospital in implementing a transition project. The bill extends the two-year limit to three years. It modifies current law so that applications for transition grants are submitted directly to the Secretary, although the hospital will be required to submit a copy of the application to the Governor's office, and comments will be received from the Governor. The bill adds to the type of arrangements hospitals may explore, the use of shared services arrangements.

e. Telecommunications.—The bill requires the Secretary of HHS to enter into agreements with and make grants to between five to ten hospitals to conduct three-year demonstrations providing telecommunications instruction and consultation to physicians in rural areas which have been designated as health manpower shortage areas. Grants may not be used for capital equipment. Projects are to begin by July 1, 1990. The Secretary is required to provide an interim report on the projects to Congress by January 1, 1992, and a final report by January 1, 1993.

f. Interim Protection for Small, Medicare-Dependent Hospitals.—The bill requires the Secretary to make an additional payment to small, medicare-dependent hospitals where necessary to assure that Medicare payments are at least equal to the reasonable cost of serving Medicare patients. Small Medicare-dependent hospitals are those with 100 or fewer beds which are paid rural rates under PPS and which depend on Medicare for at least 60 percent of their patient days or discharges. In determining reasonable cost, the Secretary is prohibited from imposing limits based on average costs incurred by hospitals. Additional payments under this provision are available for cost reporting periods beginning during FY90 and ending before FY92. For hospitals receiving periodic interim payments (PIP), additional amounts are to be include in the PIP payments.

g. Disproportionate Share Hospitals.—The Committee bill amends the current criteria under which rural hospitals may qualify for a disproportionate share adjustment in PPS payments. Effective for cost reporting periods beginning on or after October 1, 1989, rural hospitals with 100 beds or more and those classified as sole community hospitals will qualify for the adjustment if they have a disproportionate patient percentage of at least 20 percent. For sole community hospitals, the bill also increases the amount of the payment adjustment to 10 percent.

h. Rural Wage Index.—The bill requires the Secretary of HHS to study and report to Congress by January 1, 1991 on the feasibility and advisability of modifying the hospital wage index to reflect alternative definitions of labor markets on a regional, rather than urban/rural basis, including the possibility of dividing rural areas into urbanized and non-urbanized areas and dividing urban areas into inner city and suburban area. As part of the study, the Secretary will also be required to assess the effect on the level of the hospital wage index of including data from hospital-based nursing homes. The Prospective Payment Assessment Commission is required to review the Secretary's report and report its analysis to Congress by July 1, 1991.

MEDICARE "BUY IN" FOR WORKING DISABLED

Present Law.—In order to qualify for disability insurance benefits under title II of the Social Security Act, an individual must be determined to be unable to engage in substantial gainful activity by reason of a medically determinable physical or mental impairment that has lasted or can be expected to last at least 12 months.

After an individual has been entitled to disability insurance benefits for two years, he or she becomes entitled to benefits under part A of the Medicare program. An individual who is entitled to part A benefits is eligible to enroll in part B of the Medicare program, subject to payment of a monthly premium.

If an individual has earnings in excess of specified limits, he or she is considered to be engaged in substantial gainful activity and therefore no longer disabled.

During a nine-month "trial work" period, services and earnings above the limits do not affect an individual's status under the disability insurance program. Entitlement to benefits under part A of the Medicare program and eligibility for part B benefits, continue for an additional 39 months after the close of the trial work period. At the end of this period, Medicare coverage ceases.

Committee Provision.—The Committee bill permits an individual who loses Medicare benefits as a result of substantial gainful activity to enroll in part A of the Medicare program, subject to payment of the same premiums that are applicable to individuals currently eligible to enroll. (If the individual enrolled in part A, he or she could enroll or continue enrollment in part B).

The bill requires State Medicaid programs to pay all or part of an individual's part A premiums if the individual's income does not exceed 250 percent of the poverty line for a family of the size involved and if the individual meets the SSI resource standard for an individual (or a couple, when appropriate). A Medicaid program will be required to pay 100 percent of these premiums for an individual with income that does not exceed 150 percent of poverty, but could require an individual with income exceeding that level to pay a part of the premium, based upon an income-related sliding scale. A State could opt to cover individuals with incomes between 250 percent and 350 percent of poverty, but would be required to impose an income-related contribution to the part A premium for these individuals.

Effective Date.—Enactment.

STUDY OF SNF COST LIMITS

Current Law.—Most skilled nursing facilities (SNFs) are reimbursed by Medicare on a reasonable cost basis, subject to certain limits.

These limits differ, depending upon whether a facility is located in an urban area or a rural area, and whether it is free-standing or hospital-based. They are derived from the mean per diem routine service costs for the type of facility involved.

Committee Provision.—The Committee's bill requires the Comptroller General to study and report to the Congress on the appropriateness of different cost limits for hospital-based and free-standing SNFs.

The Committee notes that HCFA failed to publish an update of SNF cost limits in 1988 and expects that these limits should be revised on an annual basis.

Effective Date.—Enactment.

PART A "BUY-IN" FOR QMBS

Current Law.—Section 301 of the Medicare Catastrophic Coverage Act of 1988 (MCCA) requires State Medicaid plans to pay Medicare cost-sharing (including part B, and where applicable, part A premiums) for elderly individuals who are eligible to participate in the Medicare program and whose income and resources are below a specified level.

Most elderly individuals are entitled to benefits under part A of the Medicare program by reason of having paid the hospital insurance payroll tax on wages earned during their years of employment; and individuals with an insufficient "earnings record" may enroll in part A and pay a monthly premium during the period in which he or she is actually covered for benefits.

Entitlement to benefits under part B of the Medicare program depends upon enrollment and payment of a monthly premium during an individual's coverage period.

An individual may enroll in parts A and B only during his or her initial enrollment period, or during a subsequent general enrollment period. General enrollment periods occur during the first quarter of each calendar year.

If an individual delays enrollment beyond the initial enrollment period, his or her coverage will be delayed until the July 1 following enrollment, and the amount of the monthly premium may be increased as a penalty for late enrollment.

Although section 301 of MCCA waives the enrollment limitations and penalties for QMBs under part B of the Medicare program, it does not waive them under part A. As a result, part A coverage may be delayed significantly for some QMBs, and State Medicaid plans will be required to pay not only the basic part A premium, but also penalties for late enrollment.

Committee Provision.—The Committee bill authorizes States to enter into (or

amend) agreements with the Secretary to enroll QMBs under part A of the Medicare program in the same manner as they are enrolled in part B.

Effective Date.—Effective as if included in the enactment of MCCA.

INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS UNDER MEDICARE

Present Law.—If the Secretary determines that a skilled nursing facility or intermediate care facility does not meet the conditions of participation for the Medicare program, the Secretary may stop payments for new patients until the deficiencies are corrected, rather than decertifying the facility. This option is available in cases where the deficiencies do not immediately jeopardize the health and safety of the patients. Current law has no such provisions for inpatient psychiatric hospitals.

Committee Provision.—If the Secretary determines that a psychiatric hospital fails to meet Medicare's participation requirements and these deficiencies immediately jeopardize the health and safety of its patients, the Secretary is required to terminate the hospital's Medicare participation agreement. If there is no immediate jeopardy to the health and safety of the patients, the Secretary may choose to terminate Medicare's participation agreement with the hospital or deny Medicare payments for individuals admitted after the effective date of the finding, or both.

If non-compliance continues for 3 months after the initial finding, the Secretary must deny Medicare payments for new admissions. If the non-compliance continues for 6 months, the Secretary must deny Medicare payments until the hospital achieves compliance. Similar intermediate sanction authority is provided for State Medicaid programs.

Effective Date.—Enactment.

MEDICARE HOSPICE

Present Law.—Hospice benefits are available to Medicare beneficiaries who are certified by a physician within 2 days of admission as being terminally ill. The patient must waive eligibility for all other Medicare benefits although limited reenrollment is available. Hospices are paid one of four daily rates for the patient, depending on the type of care he receives that day (i.e., routine home care, continuous home care inpatient respite care, general inpatient care). The hospice is also subject to an aggregate cap on Medicare payments, which is annually indexed by law to the medical component of the CPI. The Secretary is required to make "appropriate" adjustments to the daily payment rates on an annual basis, and he has not increased the daily rates since a Congressionally-mandated increase in April 1986.

Committee Provision.—The Committee's bill increases the hospice payment rates now in effect by 20% effective October 1, 1989, and annually indexes the rates thereafter to the increase in the hospital market basket. The bill directs the Secretary of HHS to conduct a study of high-cost hospice beneficiaries and report his recommendations to Congress. The bill also clarifies that hospice beneficiaries are not required to waive their entitlement to Medicare's home intravenous therapy or respite benefits. In addition, the bill allows certification that the patient is terminally ill up to eight days after admission as long as verbal certification is obtained within two days.

Effective Date.—Enactment, except amendments pertaining to waiving entitlement to certain services and certification of terminal illness effective for care and services furnished on or after January 1, 1990.

CERTIFICATION AND RECERTIFICATION BY NURSES

Present Law.—Medicare covers the services of a certified nurse midwife if the services would be covered if furnished by a physician. Payment for these services is made directly to the nurse midwife but must be made on an assignment-related basis and is based on a fee schedule set no higher than 65% of physician charges. (The services of certified nurse midwives are also included within the definition of covered nurse practitioner and physician assistant services provided by a rural health clinic).

Medicare covers anesthesia and related care performed by certified registered nurse anesthetists (CRNAs) licensed by the State who meet requirements for education and training. Payment is made directly to the CRNA on the basis of a fee schedule and must be made on an assignment-related basis.

Medicare covers the services of nurse practitioners in an HMO or rural health clinic if the services would be covered if furnished by a physician or incident to a physician's service. For rural health clinics, payment is included in the flat rate per visit Medicare pays to these clinics. Medicare will also cover the services of a nurse practitioner incident to a physician's service, but payment is made as part of the physician's bill.

Committee Provision.—The bill provides that, under Medicare, nurse practitioners or clinical nurse specialists may certify or recertify a patient's need for skilled nursing facility care. The provision specifies that only nurses who are not directly or indirectly employed by the nursing facility certify or recertify the need for care. The Secretary is authorized to reduce levels of payments otherwise made to providers under Medicare and Medicaid to ensure budget neutrality.

Effective Date.—Enactment.

PROHIBITION OF BALANCE BILLING BY PART A PROVIDERS

Affected Program.—Medicare, Part A.

Current Law.—Under current law, facilities subject to cost limits are provided an exceptions process under which, if a facility's actual costs are less than the cost limit, the facility may apply for the right to "balance bill" Medicare beneficiaries for the difference between its actual costs and the cost limit.

Originally enacted primarily for the relief of hospitals, this process applies only to skilled nursing facilities (SNFs) and home health agencies (HHAs) under since most inpatient hospital services are now paid for under a prospective payment system.

Proposal.—Eliminate the exceptions process and require the Secretary of Health and Human Services to transmit to the Congress a legislative proposal for paying for skilled nursing facility and home health agency services under prospect payment systems. The proposal would be due no later than June 30, 1990.

SOLE COMMUNITY HOSPITALS

Present Law.—Under Medicare's prospective payment system (PPS), hospitals designated as sole community hospitals (SCHs) receive special treatment. A hospital qualifies as a sole community hospital under regulatory criteria issued by the Secretary of HHS. To qualify as an SCH, a hospital must either have been designated as an SCH before PPS began, or must meet one of three criteria:

It is located more than 50 miles from like hospitals; or

It is located 25–50 miles from like hospitals *and* it either (1) serves 75% of the patients in its market area or (2) is isolated by topography or weather conditions for a month or more each year or (3) it has fewer than 50 beds and would serve more than 75% of its market area except that some patients seek specialized care unavailable at the hospital; or

It is located 15–25 miles from other hospitals and is isolated by topography or weather conditions for a month or more each year.

The Secretary of HHS has published final regulations that would restructure these criteria so that all hospitals located more than 35 miles from a like hospital could qualify as SCHs. The Secretary is seeking comments on changing the criteria for hospitals between 25–35 miles from the nearest hospitals from the current criteria used for hospitals 25–50 miles away, but has made no formal proposal.

Hospitals qualifying as SCHs are paid a blended PPS rate based on 75% of their hospital-specific 1981 cost per case, trended forward for inflation, and 25% of the PPS rate for the Federal region in which the hospital is located. SCHs are also eligible for an additional payment adjustment through FY1990 if, for reasons beyond their control, they experience an annual decline in patient volume of greater than 5 percent (this adjustment is also available to a hospital that qualifies as an SCH but chooses not to be paid as an SCH). SCHs are also eligible for an additional payment adjustment to their hospital-specific rates if they add new services or facilities (this adjustment expires at the end of FY1989, but HHS has proposed extending it indefinitely by regulation). Finally, SCHs are exempt from percentage reductions in Medicare's payment of reasonable costs of hospital capital for FY1989.

(1) The bill requires the Secretary to classify as a sole community hospital any hospital located more than 35 miles from another hospital. The Secretary is required to classify as a sole community hospital any hospital located between 25 and 35 miles from another hospital if it serves at least 50 percent of Medicare beneficiaries who seek inpatient care within a 35-mile radius of the hospital (or the hospital's service area, if larger). In calculating whether a hospital meets this 50 percent rule, a hospital with fewer than 50 beds will be deemed to meet the requirement if its fiscal intermediary certifies that it would have met the requirement had some individuals not been forced to seek unavailable specialty services outside the service area. The Secretary is required to classify as a sole community hospital any hospital located between 15 and 35 miles from another hospital if other hospitals are inaccessible for at least one month of the year due to local topography or severe weather conditions. The Secretary, in developing criteria for classification as a sole community hospital, is required to take into account the time needed to travel to the nearest alternative source of appropriate inpatient care. The bill clarifies that sole community hospital status is retained by a hospital until circumstances change or the hospital requests revocation.

(2) The bill requires that, in computing payment amounts for sole community hospitals for cost reporting periods beginning on or after October 1, 1989, the Secretary base the 75% hospital specific portion on the greater of the current basis (FY1982

data) or, at the option of the hospital, information from a more recent hospital cost reporting period. Similarly, the bill requires that the 25% Federal rate be based on the greater of regional or national DRG payment rates. The Secretary is required to make an additional payment adjustment to sole community hospitals to ensure that the total amount paid to the hospital under Medicare is not less than the reasonable cost of those services for SCHs located more than 35 miles from the nearest hospital. (The Secretary will be prohibited from applying limits based on the average cost of groups of hospitals).

(3) The bill makes permanent the availability of a volume adjustment and an adjustment for new services and facilities to sole community hospitals, whether or not they choose to be paid under sole community hospital provisions.

(4) The bill extends the exemption of sole community hospitals from reductions in Medicare payments for hospital capital through FY90, and makes the exemption available to sole community hospitals whether or not they choose to be paid under sole community hospital provisions.

The committee directs the Secretary, in computing payments to sole community hospitals, to recognize the special needs of sole community hospitals that are also designated as regional referral centers and that have entered into merger agreements with additional sole community hospitals.

DENTISTS AS MEDICAL STAFF DIRECTORS

Present Law.—Hospitals must have in effect bylaws with respect to their physician staffs. While Medicare law defines "physician" to include doctors of dental medicine or dental surgery, Medicare regulations require that the responsibility for organization and conduct of a hospital's medical staff under the bylaws must be assigned only to an individual doctor of medicine or osteopathy.

Committee Provision.—The committee provision provides that hospitals with doctors of dental surgery or dental medicine shall be considered to meet requirements for assignment of the responsibility for organization and conduct of the medical staff, if the hospital is located in a State which allows dentists to serve as hospital medical staff directors.

MEDICARE ECONOMIC INDEX

Present law.—Medicare pays for physician services based on the lowest of the physician's actual charge, the physician's customary charge, or the prevailing charge level in the area. The prevailing charge level is adjusted annually to reflect changes in the Medicare economic Index (MEI).

In recent years, the increase in the MEI has been legislatively determined. OBRA of 1987 established the increase in the MEI at 3.6 percent for primary care services and 1 percent for other physician services for 1988, and at 3.0 and 1 percent for those services, respectively, for 1989. Physician services that are treated as primary care services include office medical services, emergency department services, home medical services, and nursing home services.

In the absence of legislative action, the MEI increase for 1990 will be 5.3 percent for all physician services.

Committee Provision.—The committee provision increases the MEI for 1990 by 5.3 percent for primary care services, and 0 percent for other physician services. It delays the update until April 1, 1990.

REDUCTIONS FOR OVERVALUED PROCEDURES

Present law.—OBRA 1987 provided for the reduction of prevailing charges for 11 overpriced procedures; the reductions were 2 percent across the board plus an additional sliding scale reduction of up to 15 percent. Prevailing charges for an overpriced procedure could not be reduced below 85 percent of the frequency-weighted national average prevailing charge for that procedure. The overpriced procedures were identified by the Physician Payment Review Commission (PhysPRC) at the request of Congress.

OBRA 1986 imposed limits on the amount a physician who does not accept assignment may charge a patient above the amount paid by Medicare; these limits are referred to as Maximum Allowable Actual Charges (MAACs). OBRA 1987 provided for a special limit on actual charges for overpriced procedures in order to reflect the reductions made in the prevailing charges for those procedures. The special limit was equal to 125 percent of the reduced prevailing charge plus ½ of the difference between the 125 percent level and the physician's MAAC for the preceeding year. In subsequent years, the special limit was equal to 125 percent of the reduced prevailing charge.

Committee Provision.—The committee provision reduces the prevailing charges of specified overvalued procedures by ⅓ of the difference between the prevailing charge and the estimated fee schedule amount for the procedure under a Resource Based Relative Value Scale (RB RVS). The maximum reduction would be 15 percent.

A procedure would be considered overvalued if it has been surveyed for the Hsiao study and the estimated national average allowed charge exceeds the estimated fee schedule amount under a Resource Based Relative Value Scale (RB RVS) by at least 120 percent.

Effective date.—April 1, 1990.

PAYMENT FOR RADIOLOGY AND ANESTHESIA SERVICES

Present Law.—OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. Payments for radiology services are based on the lesser of (1) *actual* charges, or (2) a fee schedule derived by multiplying a local *conversion factor* by the number of relative value units assigned to the particular service. The conversion factors were calculated in a budget-neutral manner from radiology-specific reimbursement codes.

The fee schedule applies to services provided by radiologists (board certified or board-eligible radiologists, and physicians with one-half of their Medicare charges for radiology services). Radiology services billed by other physicians are reimbursed under the reasonable charge methodology.

OBRA 1987 also provided for the establishment of a fee schedule for anesthesia services based upon a relative value guide, effective for services rendered on or after January 1, 1989. Payments for anesthesia services are based on the lesser of (1) *actual* charges, (2) the *customary* charge conversion factor multiplied by the total number of base units and time units for a particular service, or (3) the *prevailing* charge conversion factor multiplied by the total number of base units and time units. Base units are assigned on the basis of the relative value of the service, while time units are assigned on the basis of time required to perform the service. The conversion factors were calculated in a budget neutral manner.

OBRA 1986 provided for direct reimbursement of certified registered nurse anesthetists (CRNAs). Under regulations implementing the fee schedules for both anesthesiologists and CRNAs, the time for anesthesiology services is billed in 15-minute or 30-minute units, with partial units rounded up to the next full unit.

Committee Provision.—The committee provision reduces by 4 percent the prevailing charges (and fee schedule amounts, as applicable) for physician's services that are radiology services. The limits on actual charges for the services involved would be adjusted to reflect the reductions. It also modifies the method by which time units are measured for purposes of payment for anesthesia services. Payment would be based on the actual time expended rather than rounding up to the next full 15- or 30-minute unit.

Effective Date.—April 1, 1990.

CERTIFIED REGISTERED NURSE ANESTHETISTS

Present Law.—Effective January 1, 1989, the services of a certified nurse anesthetist (CRNA) are paid for under a fee schedule. This fee schedule provides for separate conversion factors depending upon whether the CRNA is medically directed by a supervising physician. The conversion factors also vary by geographic area. The current conversion factor for medically directed services averages approximately $8.50 for medically directed services and $14.00 for services that are not medically directed. CRNAs must accept assignment for their services.

Under regulations proposed in January, 1989 and currently being implemented through carrier instructions, HCFA has eliminated payment for medical direction of a CRNA by the same physician who performs the surgical procedure in which he or she supervises the CRNA. Reimbursement to physicians, including anesthethiologists and surgeons, is not prohibited in cases where the physican is not performing the surgical procedure during which the physican is supervising the CRNA. However, payments are reduced for physicians supervising more than four procedures at the same time.

Committee Provision.—Subject to the limitation specified below, uniform national conversion factors for CRNA services for 1990 would be set at $14 and $21 for medically directed and non-medically directed services, respectively.

The conversion factors would be subject to a cap in each locality equal to the conversion factor that applies for physician anesthesiology services in the locality.

The proposed regulation eliminating fees for medical direction of CRNAs by the same physician performing the surgery in which the CRNA is being supervised is codified and physicians submitting claims for medical direction in violation of the prohibition would be subject to civil money penalties.

Effective Date.—April 1, 1990.

NUCLEAR MEDICINE

Present Law.—OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The fee schedule applies to services provided by board certified radiologists and for physicians for whom radiology services constitute half their Medicare billings. The relative value scale adopted for this purpose was developed by the American College of Radiology.

Nuclear medicine is a medical specialty in which radioactive materials are adminis-

tered to patients to diagnose and sometimes treat disease. While nuclear medicine procedures are billed under radiology codes and are subject to the fee schedule, most physicians who specialize in nuclear medicine are not radiologists.

Some radiologists perform a few types of nuclear medicine procedures. ACR apparently used charges for these procedures in establishing relative values under the fee schedule.

Physicians specializing in nuclear medicine perform a wider range of services, however, and handle more complex cases. Thus, they maintain that the fee schedule does not reflect the differences in the practice of nuclear medicine by specialists and non-specialist radiologists.

Committee Provision.—The committee provision exempts physicians specializing in nuclear medicine from the radiology fee schedule until 1992. They would be reimbursed under the reasonable charge methodology during the period of the exemption.

Effective Date.—January 1, 1990.

CARDIOVASCULAR AND INTERVENTIONAL RADIOLOGISTS

Present Law.—OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The relative value scale adopted for this purpose was developed by the American College of Radiology (ACR).

Cardiovascular and interventional radiologists furnished services, such as angiographies, that involve more than one procedure. Typically, these procedures include injection of a contrast medium and supervision and interpretation of the image obtained.

If the two procedures are performed by different physicians, they may be billed separately, using both a surgery code and a radiology code. The radiology fee schedule requires a cardiovascular or interventional radiologist who performs both procedures to bill for them under a single "common procedure" code.

Although ACR included charge data drawn from some surgery codes in calculating the relative values for "complete procedures" under the fee schedule, the data that was used may include lower charges billed by other physicians using the same codes. In addition, charge data for the relevant surgery codes may not have been used in calculating the conversion factor under the fee schedule.

Before the establishment of the fee schedule, many cardiovascular and interventional radiologists billed separately for each procedure. In recognition of this fact, HCFA has permitted these physicians to continue this practice during 1989.

Committee Provision.—The committee provision authorizes those cardiovascular and interventional radiologists who have billed separately for related procedures during 1989 to continue the practice during 1990.

Effective Date.—January 1, 1990.

PORTABLE X-RAY SERVICES

Present Law.—OBRA 1987 provided for establishment of a fee schedule for radiology services based on a relative value scale, effective for services furnished on or after January 1, 1989. The relative value scale adopted for this purpose was developed by the American College of Radiology.

The fee schedule applies to services furnished by or under the supervision of a physician who is a board-certified or board-eligible radiologist, or who bills at least 50 percent of his or her Medicare part B charges for radiology services.

Portable X-ray services are radiology services usually furnished by non-physician technologists who bring X-ray equipment to the home of the patient. These services are covered by the fee schedule if they are furnished by or under the supervision of a physician to whom the fee schedule applies.

Although portable X-ray services are billed under the same procedure codes as other radiology services, they involve special equipment and additional time to perform. In recognition of this fact, HCFA has established a separate conversion factor for these services.

Committee Provision.—The committee provision excludes portable X-ray service subject to the radiology fee schedule from any reductions in the fee schedule amounts for 1990. It requires HCFA to study and report to the Congress on the costs of furnishing portable X-ray services and on the appropriateness of their inclusion under the fee schedule.

Effective Date.—April 1, 1990.

CUSTOMARY AND PREVAILING CHARGES

Current Law

(a) Customary Charge for New Physicians.—OBRA 1987 specified that the customary charge screens for new physicians (who have not been in practice long enough to have sufficient actual charge data) are to be set at a level no higher than 80 percent of the prevailing charge for the service. The provision does not apply to primary care services and services furnished in rural health manpower shortage areas.

(b) Limitation on Amounts for Certain Services Furnished by More Than One Specialty.—Calculations of prevailing charges take into account existing patterns of charges by different physician specialties. Many carriers have different prevailing charges for the same service when performed by different specialties.

Committee Provision

(a) Customary Charge for New Physicians.—The Committee bill sets the customary charge at a level no higher than 85 percent of the prevailing charge level for one year. Subsequently, payments will be made according to the fee schedule established under the physician payment reform provisions.

(b) Limitation on Amounts for Certain Services Furnished by More Than One Specialty.—The Committee bill limits the prevailing charge for certain services to the prevailing charge applicable to the specialty, designated by the Secretary, that furnishes the service most frequently nationwide. The Secretary is to make designations for services with high Part B expenditures whose prevailing charges differ by specialty.

The bill specifies that nonparticipating physicians subject to a prevailing charge reductions as a result of this provision are subject to limits on actual charges. The physician may not charge more than 125% of the reduced prevailing charge plus one-half of the difference between the previous year's maximum allowable actual charge and such reduced prevailing charge.

Effective Date.—Applies to services furnished for the 9-month period beginning April 1, 1990.

PHYSICIAN PAYMENT REFORM

Current Law

(a) Determination of Physician Payments.—Medicare pays for physician services on a fee-for-service basis under which separate payments are made for each individual service rendered. The amount Medicare pays is known as the reasonable or "approved" charge. Generally, the approved charge for a service is the smallest of the actual charge for the service by the physician; the physician's customary charge for the service; and the prevailing charge for the same service in the payment locality. Anesthesiology and radiology claims are paid under uniform national relative value scales, with conversion factors varying among geographic localities. Prevailing charges for non-participating physicians are 95 percent of those for participating physicians. Medicare payments are 80 percent of the approved charge.

(b) Overhead and Malpractice Components.—No provision.

(c) Geographic Adjustment of Overhead and Malpractice Components.—The current geographic variation in fees is due to historical patterns of charges under the usual, customary, and reasonable payment system.

(d) Payment Localities.—Carriers define the prevailing charge localities. These localities are usually political or economic subdvisions of a State. In some cases, a single prevailing charge locality is used for an entire State. There are approximately 240 prevailing charge localities nationwide.

(e) Conversion Factor.—No provision.

(f) Customary Charge Limits and Specialty Differentials.—The purpose of customary and prevailing charge limits is to determine Medicare payment levels based on individual physician charges to their patients. Medicare compares a physician's actual charge to what he or she has billed other patients in the past, and to what other physicians charge for the same services. Customary charges are physician-specific. The prevailing charges are defined by examining the charges of groups of physicians practicing within defined geographic localities. Carriers define which specialty groups are aggregated to determine prevailing charges. Most carriers recognize specialty differential for some, but not necessarily all services.

(g) Transition to Resource-Based Fee Schedule.—No provision.

(h) Periodic Recalibration of Fee Schedule.—No provision.

(i) Incentive Payments to Physicians in Health Manpower Shortage Areas.—Incentive payments, equal to 5 percent of allowed charges, are made for physicians' services furnished in a certain rural health manpower shortage areas. After January 1, 1991 these incentive payments will be expanded to include physicians' services furnished in certain urban health manpower shortage areas.

(j) Medicare Volume Performance Standards.—No provision.

(k) Updating Fees.—Customary and prevailing charge limits are updated annually on January 1. Carriers determine each physician's customary charges based on the actual charges submitted for each service during a preceding 12-month period. Prevailing charges for each service are then calculated based on customary charges. The annual update in the prevailing charges is limited to increases in the Medicare Economic Index (MEI). The Omnibus Budget Reconciliation Act (OBRA) of 1987 provided for greater change in the MEI for certain primary care services than for other services for 1988 and 1989.

(l) Reporting Requirements.—The Secretary is implementing a Common Working

File to provide linked Part A and Part B claims data from carriers and intermediaries. This system is designed to provide data to HCFA in a timely fashion.

(m) Beneficiary Protections.—A beneficiary may assign his or her right to payment from Medicare to the physician. In the case of an assigned claim, the physician agrees to accept Medicare's approved charge as payment in full. The physician bills the program directly, is paid 80 percent of the allowed charge, and then bills the patient for the 20 percent coinsurance. In the case of a non-assigned claim, the beneficiary sends the claim to Medicare, is reimbursed for 80 percent of the allowed charge, and is responsible for paying the physician the 20 percent coinsurance plus any difference between the actual charge and the approved charge.

A participating physician voluntarily enters into an agreement with the Secretary to accept assignment on all services provided to all Medicare beneficiaries for the following year. Non-participating physicians may accept assignment on a claim-by-claim basis. All physicians are required to accept assignment for Medicare patients who are also eligible for Medicaid.

Medicare provides incentives to encourage physicians to become participating physicians, including a 5 percent differential between the adjusted prevailing charges for participating and non-participating physicians. In addition, actual charges for non-participating physicians are limited by the maximum allowable actual charge (MAAC). Non-participating physicians whose actual charge for a service in the preceding year equal or exceeds 115% of the current year's prevailing charge may increase their actual charge by no more than 1 percent. Non-participating physicians whose actual charge for the preceding year is below 115% of the current year's prevailing charge may increase their actual charge over a period of time until their MAAC for the service equals 115% of the prevailing charge.

Where Medicare payments for overpriced procedures have been reduced, the statute provides for limits on charges at 125 percent of the reduced prevailing charge, after a one-year phase-in.

OBRA of 1987 provided for special limits on actual charges for radiology services paid under the radiology fee schedule and provided by non-participating physicians. The limits on actual charges for radiology services is 125 percent of the fee schedule amount in 1989, 120 percent of the fee schedule amount in 1990, and 115 percent in 1991.

(n) Public and Beneficiary Education.—No provision.

(o) Studies.—No provision.

(p) Outcomes Research Program.—The Omnibus Budget Reconciliation Act of 1986 provided for the establishment of a patient outcome assessment research program, administered by the National Center for Health Services Research and Health Care Technology. This program includes: reorganization of Medicare claims data, assessments of medical care, evaluations of patient outcomes, and other activities. OBRA of 1986 authorized to be appropriated from the Medicare Trust Funds $6 million for FY 1987, and $7.5 million for each of FY 1988 and 1989. These authorization amounts were increased by the Technical and Miscellaneous Revenue Act of 1988 and the authorization was extended through FY 1991.

Explanation of Proposal

(a) Determination of Physician Payments.—The Secretary will establish a resource-base fee schedule as the basis of payment for physicians' services under Medicare, beginning January 1, 1992, and provide for notice and comment in the Federal Register. The fee for each service will be divided into three components: (1) a relative work component, established by the Secretary using the results of the Relative Value Study at Harvard University, which reflects the physician's time and intensity of effort; (2) an overhead component which reflects overhead costs (non-physician inputs) excluding malpractice expenses; and (3) a malpractice component. These components would be combined using an additive model to produce a single relative value for each service in each locality. The basic elements of the fee schedule will be exempted from judicial and administrative review as was provided for under the hospital PPS system.

The work component would reflect activities prior to and after direct patient contact. For surgical services, payment would be based on a uniform national definition of surgical global fees. The Secretary would have discretion to develop a global definition which includes pre-operative and post-operative physicians' services with respect to surgical procedures as well as services related to the surgery furnished after discharge. With respect to physician visits and consultations, the Secretary would have discretion to establish an appropriate uniform national coding structure. In developing his recommendations for visit codes, the Secretary shall conduct a study of visit codes and consult the PPRC, the AMA CPT-4 editorial panel, and other appropriate physician groups. The Secretary would be authorized to include time in visit codes after completion of a study on the subject.

In developing the resource-based fee schedule, the Secretary would have discretion to utilize appropriate methods necessary to extend the resource-based fee schedule to all procedures such as those for low volume codes and non-surveyed procedures. The Secretary also would have discretion to establish ancillary policies to make the fee schedule operational such as policies regarding modifiers and local codes.

The current Relative Value Guide or conversion factor or both for anesthesia services could be modified in a manner as the Secretary determines to be appropriate, to be compatible with implementation of the resource-based fee schedule, after consultation with the relevant professional groups and the PPRC. The current RVS for radiologist services would be modified by adjusting the relative values, as a class, to bring them into line with the resource-based fee schedule generally. This would retain the relationships among the relative values under the current RVS for radiologist services.

Medicare payment would be 80 percent of the lesser of 1) the actual charge or 2) the resource-based fee schedule amount or the blended fee schedule payment amount during the transition to the fee schedule. For non-participating physicians, the payment amount would be 95 percent of the amount that would apply for participating physicians.

Services subject to the fee schedule would include all physician services' including chiropractors, oral surgeons, optometrists, and podiatrists defined under sections 1861(s)(1), (2)(A) and (D), (3), and (4), other than clinical diagnostic and other services the Secretary may choose to exclude. Services furnished by non-physician practitioners such as physician assistants, certified registered nurse anesthetists, clinical psychologists, and nurse midwives would continue to be paid at their current rates and would receive normal MEI increases. PPRC will conduct a study of whether future inclusion of such practitioners within the fee schedule is appropriate.

Prior to the beginning of a year beginning in 1992, in conjunction with sending physicians letters providing an opportunity for participation, the Secretary shall send information on the fee schedule amounts, for services commonly performed by the physician, for participating and non-participating physicians and the associated balance billing limit.

(b) Overhead and Malpractice Components.—Using the best data available, the Secretary initially would estimate the average work percentage, overhead percentage, and malpractice percentage for all procedures on a national average basis. Based on the most recent data available, the national average percentages would be approximately 40% for overhead and 6% for malpractice. The Secretary would be authorized to determine an overhead percentage and a malpractice percentage for each procedure code or classes of procedures on a specialty-weighted basis after he determines that accurate data are available.

(c) Geographic Adjustment of Overhead and Malpractice Components.—A geographic practice cost index (GPCI) would be applied only to the overhead and malpractice components (currently estimated together at 46 percent) of the resource-based portion of the blended fee, not to the work component. The GPCI would reflect geographic differences in the cost of practice among payment areas. Initially, the same GPCI would be used for both the overhead and malpractice cost portions of the fee. The Secretary is authorized to apply separate geographic indices for the overhead and malpractice components after the Secretary determines it is technically feasible to do so.

(d) Payment Localities.—Initially, existing carrier localities would not be changed. PPRC would conduct a study on the desirability and feasibility of using MSA or other geographic areas such as States for payment purposes. After completion of this study, the Secretary would be given authority to change geographic payment areas, in a budget neutral manner, at the beginning of a year.

(e) Conversion Factor.—The relative values for each procedure in each locality would be multiplied by a conversion factor to determine the fee schedule beginning on January 1992. The initial conversion factor would be determined by the Secretary and would be budget neutral to the estimated aggregate payments that would otherwise be made. In order to assure budget neutrality the Committee intends that the Secretary would deflate local charges appropriately by the practice cost GPCI. As described in section (k) below, during the transition to the resource-based fee schedule, the Secretary would given discretion to make adjustments in the conversion factor to maintain budget-neutrality. Beginning in 1992, the conversion factor would be updated annually according to Medicare volume performance standard system described in sections (j) and (k) below.

(f) Adjusted Prevailing Charge.—The Secretary would make budget-neutral adjustments to local prevailing charges in order to

establish an adjusted prevailing charge taking into account the elimination of customary charge limits and the elimination of specialty differentials and any other payment limitations imposed by law or regulation. The adjusted prevailing charge would be effective for payments beginning January 1, 1991 and would constitute Phase I of the transition to the resource-based fee schedule, described in section (g) below. The purpose of this phase of the transition is to facilitate transition to a resource-based fee schedule and make it much easier to perform budget-neutrality calculations. This will also allow physicians with low customary charge screens to begin increasing at the earliest possible date. Elimination of specialty differentials is consistent with the basic assumption of a resource-based fee schedule that all physicians should be paid equally for the same service. In addition, elimination of these charge limitations would greatly reduce carrier administrative workloads. Since the adjusted prevailing charges would be eliminated at the time of a fee update, it is anticipated that individual fees would not decrease as a result of this change.

(g) Transition to RBRVS Fee Schedule.—Beginning January 1, 1992, there would be a five year transition from payments based on the adjusted prevailing charges to payments based exclusively on the resource-based fee schedule using a PPS type transition. A key reason that this transition begins in 1992 is that it gives time to utilize results from Phase II of the Harvard University relative value study and to allow for adequate opportunity for scrutiny of the entire set of relative values by the medical community.

During 1992, payments would reflect a blend equal to 80 percent of adjusted prevailing charges and 20 percent of the resource-based fee schedule amounts. During 1993, payments would reflect a blend equal to 60 percent of the adjusted prevailing charges and 40 percent of the resource-based fee schedule amounts. During 1994, payments would reflect a blend equal to 40 percent of the adjusted prevailing charges and 60 percent of the resource-based fee schedule amounts. During 1995, payments would reflect a blend equal to 80 percent of the adjusted prevailing charges and 20 percent of the resource-based fee schedule amounts. In 1996 and thereafter, payments would be based entirely on the resource-based fee schedule. It is anticipated that a 5-year transition would allow for mid-course corrections if relative values were not measured accurately. It also is hoped that this transition would reduce incentives for behavioral responses to price changes by physicians.

(h) Periodic Recalibration of Fee Schedule.—The Secretary would be required to recalibrate the resource-based relative values periodically, but no less often than every five years. The Secretary would publish his methodology and provide for notice and public comment on proposed changes in relative values. The Secretary also would provide annually for inclusion of new procedures into the fee schedule. In making these determinations, the Secretary would consult with the PPRC, appropriate physician groups, and would provide for notice and comment in the Federal Register. In recalibrating all relative values, the Secretary would not be authorized to publish changes which result in savings in excess of $50 million.

(i) Incentive Payments to Physicians in Health Manpower Shortage Areas.—Beginning January 1, 1991, the incentive payment for all physicians' services provided in all health manpower shortage areas would be increased from 5 to 10 percent of the payment amount that would otherwise apply. These payments are intended to partially compensate physicians in health manpower shortage areas who would otherwise benefit from more rapid implementation of the resource-based fee schedule.

(j) Medicare Volume Performance Standards.—Beginning with fiscal year 1990, a national Medicare volume performance standard (MVPS) would be set for each year. The MVPS would be the rate at which expenditures for physicians' and other services under the Part B program would be expected to grow from one fiscal year to the next. The purpose of the MVPS process would be (i) to monitor rates of Medicare expenditure growth and its various causes; (ii) to identify those causes of expenditure growth which may be inappropriate and highlight appropriate responses, (iii) to set fiscal priorities for the program, and (iv) to provide Congress the information it needs to make informed policy decisions on the future direction of the Medicare program.

All services paid on a reasonable charge or fee schedule basis by carriers under Part B would be included in tracking performance relative to the MVPS. Hospital outpatient services paid under Part B by intermediaries could be included in MVPS when the Secretary determines that it would be both appropriate and feasible to do so. HMOs with Medicare risk contracts would be excluded from the standard. However, only physicians' services as defined in the statute would be adjusted if the standard were not met.

By May 1 of each year, beginning in 1990, the Secretary would recommend to Congress a performance standard rate of increase in expenditures for the following fiscal year. In developing this recommendation, the Secretary would take into account the inflation, increases in the beneficiary population, changes in the age composition of enrollees, changes in technology, evidence of inappropriate utilization of services, evidence of lack of beneficiary access to services, and projected effects of specific performance standard guidelines and such other similar factors the Secretary considers appropriate. In addition, the Secretary would confer with the American Medical Association, the American College of Surgeons, the American Academy of Family Physicians, the American College of Emergency Physicians, the American Society of Internal Medicine, and other associations representing the major physician medical and surgical specialties. PPRC would report to the Congress upon the Secretary's recommendations by June 1. The committee intends that the volume performance standard for FY 1990 equal the current baseline percentage increase, reduced by the net deficit reduction achieved by OBRA 87 for part B services, and further reduced by ½ of one percentage point.

Within the national performance standard, the Secretary would recommend separate volume performance standards for the category of surgical services, using the best data available, and for such other categories of physicians' services as he deems appropriate, beginning with his recommendation for fiscal year 1991. The Secretary would define surgical services in regulation by May 1, 1990 after consultation with appropriate physician organizations. In comparing actual expenditures to the national performance standard for FY 1990, the Secretary would separately evaluate performance for surgical procedures.

Initially, the MVPS would apply on a national basis. The Secretary would develop a plan under which he would provide for an annually elected group specific performance standard for qualified physician groups, no earlier than October 1, 1991. The group specific standard would permit groups of physicians, such as multi-specialty groups, hospital medical staffs, PPOs, physicians in local medical groups and others, to elect their own group standard, rather than the national standard each year. By March 1, 1991, the Secretary would report to Congress on the methods by which such a group specific standard would be accomplished and the methods by which group performance would be evaluated. In addition, the Secretary would report specifically on the feasibility of developing an index or other measures of the mix of procedures performed by different physician groups. The Secretary's report also would include a recommendation on whether sole community practitioners should be exempted from the MVPS system and/or whether separate standards should be applied for such practitioners. PPRC would comment on the Secretary's report by May 1, 1991, and the Secretary would provide for notice and comment in the Federal Register. The Secretary would not be authorized to implement the plan for an opt-out for qualified physician groups unless Congress specifically approved the plan.

The Secretary would report to the Congress by May 1 of each year, beginning in 1991, on changes in the utilization of and access to Medicare services within key geographic, population, and service-related categories. This report would include an analysis of the factors underlying these changes and their interrelationships. The categories would include utilization of services by state; utilization of services by health manpower shortage areas; visit services; surgical procedures; nonsurgical procedures; emergency services; mental health services; specific services which are most frequently performed on Medicare beneficiaries; the appropriateness of services delivered when medical practice guidelines are available for such services which the Secretary determines are appropriate.

In analyzing this data, the Secretary would monitor possible sources of inappropriate utilization of Medicare services which contribute to the overall level of Medicare expenditures and report his findings to the Congress. The Secretary would take these findings into account in recommending to the Congress an appropriate rate of increase for expenditures and an appropriate payment update each year. In addition, for patterns of utilization which are found to be inappropriate, the Secretary also would make recommendations for utilization review, physician and/or patent education, or other responses which the Secretary determined to be appropriate. Finally, the Secretary would make recommendations to address any problems of beneficiary access to care made evident by the monitoring process.

The PPRC would convene and consult a panel of physician experts, including representatives of the American Medical Association, the American College of Surgeons, the American Academy of Family Physicians, the American College of Emergency Physicians, and the American Society of Internal Medicine, to evaluate the implications of medical utilization patterns for the quality of and access to patient care and would com-

ment on the Secretary's recommendations, including the recommended performance standard and fee update.

Congress intends to enact a Medicare volume performance standard rate each year after reviewing the recommendtions of the Secretary and the PPRC. If no Congressional action is taken by October 20 of the year, the performance standard rate of increase in expenditures would be equal to the sum of the Secretary's estimate of the percentage increase or decrease in the MEI, the Secretary's estimate of the percentage increase or decrease in the average number of enrollees (other than HMO enrollees), and the average annual volume and intensity growth over the preceding five-year period (expressed as a percentage), reduced by two percentage points.

(k) Updating Fees Under MVPS.—The rate of growth in actual outlays would first be compared to the performance standard rate for FY 1990. Based on this comparison and other data from the monitoring program, the Secretary would recommend an MEI update to the Congress on May 1 of each year, beginning in 1991, for the following year. In developing his recommendation for the 1992 fee update, the Secretary would consider the percentage by which the rate of actual expenditure growth in FY 1990 exceeds or falls short of the 1990 performance standard rate, as well as other factors relevant to actual performance. The general intent would be that the Secretary would recommend an increase in the update that would otherwise apply if expenditures grow less rapidly than the standard and a decrease in the MEI update if expenditures grow more rapidly, unless the data justify an alternative.

However, the Secretary could not recommend an update less than zero, nor greater than the MEI plus 2 percentage points. Nothing in the update process should be construed to limit the increases or decreases in individual fees which are produced by transition to the resource-based fee schedule.

The Secretary would have discretion to recommend differential updates or other adjustments to the fee schedule, by procedure or by groups of procedures. In determining the need for such differential updates, the Secretary would consider evidence of changes in volume or access to services and other appropriate factors and report this evidence to the Congress. Each recommended differential update, if any, also would be limited by a floor of zero and a ceiling of MEI plus 2 percentage points.

Whether or not the Secretary recommends differential updates, he would report an update amount and the data underlying each update recommendation including an analysis of the data, for broad categories of services, including surgical services, non-surgical procedures, visits and consultations, emergency services, and any additional category of service the Secretary deems appropriate. PPRC would comment on the Secretary's recommendation(s) by June 1 of each year.

During the transition, the Secretary is authorized to adjust the conversion factor or factors in order to maintain budget neutrality by regulation. In determining a budget-neutral baseline for this adjustment, the Secretary shall utilize data contained in the most recent annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, and aggregate payments for the second preceding fiscal year, increased by the MEI update for the previous calendar year, beneficiary enrollment growth in the previous fiscal year, and the average annual volume and intensity growth over the five year period ending in the second preceding fiscal year.

Congress intends to enact the update each year after reviewing the recommendations of the Secretary and the PPRC. If no Congressional action were taken by October 20 of a year, the update would be MEI minus 2 percentage points. Congress would enact an update policy for calendar years 1990 and 1991.

The Secretary could make further recommendations to the Congress on May 1 of each year, beginning in 1992, for adjustments to the conversion factor, other than those indicated by the performance standard process or to maintain budget neutrality, based on such factors as (i) evidence of unexpected changes by physicians in response to the implementation of the fee schedule, (ii) unexpected changes in outlay projections, (iii) changes in access of beneficiaries to care, (iv) changes in the quality or appropriateness of care, and (v) factors unmeasured in the resource-based payment methodology such as the therapeutic value of services. The Secretary could make recommendations for aggregate adjustments in the conversion factor or for adjustments in the conversion factor for individual services and procedures. However, these further recommendations could only be finalized through legislation.

(l) Reporting Requirements.—Carriers would be required to profile physicians' billing patterns in a locality or payment area and to provide comparative data and feedback to physicians whose utilization patterns are significantly different from those of their peers.

The Committee expects the Secretary would use Common Working File information to obtain data relevant to the monitoring of performance standard compliance (including expenditures and service volume by procedure and specialty within payment areas) and would report such data to PPRC, CBO, CRS, and to the Congress within 30 days of its availability to the Secretary, himself.

(m) Beneficiary Protections.—As of January 1, 1992, no physician would be allowed to balance bill any beneficiary more than 125% of the blended fee schedule amount for the procedure for that year. On January 1, 1993, this balance billing limit would be reduced to 120% of the blended fee schedule amount. On January 1, 1994, this balance billing limit would be reduced to 115% of the blended fee schedule amount. The balance billing limits would remain at 115% of the fee during 1995 and after transition to the full resource-based fee schedule on January 1, 1996. The penalty for violating balance billing limits would be the same as that for violating MAAC limits. These beneficiary protections would be necessary because the resource-based fee schedule would alter existing physician fees and, especially in the case of reduced fees, physicians could recoup payments by not accepting assignment and balance billing beneficiaries.

The participation physician (PAR) program would be maintained. The current incentive for participating physicians would be retained. Allowed charges by non-participating physicians would be 95% of the allowed charges by participating physicians.

MAAC limits currently imposed on individual physician actual charges would be extended to December 31, 1991, and then eliminated.

Physicians would be prohibited from balance billing any patient who is eligible to receive benefits under the Medicaid program or to have Medicaid pay for Medicare's deductible, coinsurance, and or premiums on his/her behalf.

To enable accurate program monitoring and evaluation, physicians, suppliers, and other persons would be required to submit all claims on behalf of beneficiaries within 365 days of providing any service, effective for services provided on or after September 1, 1990. The penalty for failure to submit assigned claims within 365 days would be a 10 percent reduction in the payment that would otherwise have been made. The penalty to submit an unassigned claim within 365 days would be a civil monetary penalty and/or exclusion. The provision would facilitate measurement of performance under a volume performance standard process. In addition, such claims contain more accurate data than do beneficiary-submitted claims.

In addition, electronic submission of claims by physicians would be encouraged and a system of direct deposit of payments into designated bank accounts of participating physicians would be encouraged. The Secretary would submit a plan to Congress by May 1, 1990, on how best to accomplish these objectives. The Department of HHS would provide physicians will specifications necessary to submit claims electronically, but not with hardware or software.

The Secretary would monitor changes in participation rates, balance billing liabilities and assignment rates by specialty, type of service, and geographic area using the best data available. The Secretary would make annual reports to Congress on changes in assignment and participation rates and in balance billing amounts. If significant changes occur, the Secretary would develop a plan for addressing the changes and submit his recommendations for the plan to Congress. PPRC would review the Secretary's plan and recommendations and submit its comments to Congress.

(n) Public and Beneficiary Education.—The Secretary would be required to provide for public and beneficiary education initiatives regarding performance standards and practice guidelines and regarding changes in Medicare Part B method for paying physicians.

(o) Studies.—

(1) Geographic Payment Policy Study.—The PPRC would conduct or coordinate a study of the desirability and feasibility of using MSA or other geographic areas for Part B payment purposes and report recommendations to Congress by July 1, 1991. The study would address whether it would be desirable to retain current localities, move to a system of statewide localities, or adopt MSAs or other geographical areas for payment purposes.

(2) Study of Separate Malpractice Overhead Adjustment.—PPRC would conduct a study by July 1, 1991 of the extent to which practice costs and malpractice vary by geographical locality and specialty and the extent to which the available GPCIs accurately reflect practice costs and malpractice in rural areas. The study also would include an analysis of the special circumstances of rural independent laboratories in determining the geographic practice cost index. PPRC would make recommendations on the appropriate geographic units to use in measuring and adjusting practice costs and malpractice costs and on the feasibility and advisability of using a separate malpractice cost index. PPRC would analyze the effect

of alternative methods of allocating malpractice expenses on Medicare expenditures by specialty, type of service and geographic area. PPRC would also study, using a consensus panel and other appropriate methods, of the allocation of malpractice expenses to particular procedures which could be incorporated into the determination of relative values for particular procedures.

(3) GAO Study of Alternative Malpractice Resolution Procedures.—The GAO would study alternative method's for paying Medicare's share of malpractice expenses. GAO also would study alternative malpractice claims resolution procedures for Medicare and Medicaid patients, including arbitration and no-fault procedures. GAO would report its findings and recommendations to the Congress by April 1, 1991.

(4) Visit Code Modification Study.—The Secretary would conduct a study including recommendations on the desirability of the including time in the visit code, modifying the number of visit codes, whether greater coding uniformity results from including time in visit codes compared with clarifying the clinical descriptors or existing codes, and the ability to audit physician time accurately. The study would be completed by July 1, 1991. The Secretary consult with PPRC about any recommendations to Congress based on this study.

(5) Opt-Out Recommendations.—By March 1, 1991, the Secretary would report to Congress the standards by which a qualified physician group would be eligible for the opt-out provisions and the methods by which such an opt-out would be accomplished and by which physician group performance would be evaluated. In considering methods for evaluating physician group performance, the Secretary would specifically report on the feasibility of developing an index or other measures of the mix of procedures performed by different physician groups. The Secretary would also make recommendations on whether physicians who are sole community practices should be exempt from the volume performance standard process, or alternatively, what evaluation standards should be applied.

(6) Report on Separate Performance Standards by Geographic Area.—The Secretary would report on this subject with recommendations to Congress by July 1, 1991. The report would take into account HCFA's ability to track expenditures by state, carrier area, and by MSA and by specialty and by type of service within geographic areas. The report would also discuss the need to adjust local performance standards for referral patterns and/or border crossing; whether there should be higher or lower performance standards depends upon an area's past utilization; and whether the definition of services subject to the performance standard should be changed.

(7) Study of Economies of Scale for High Volume Providers of Certain Procedures.—The Secretary would conduct a study of economies of scale for high volume providers of certain procedures; e.g., when a provider performs more than a threshold number of procedures per year, is it cheaper on a per procedure basis to provide that procedure? If economies of scale are found, the Secretary would make recommendations to Congress for adjusting Medicare payments for those procedures to reflect savings resulting from economies of scale. The report would be completed by July 1, 1991. In developing recommendations, the Secretary would consult with the PPRC.

(8) Study of Medicaid Physician Fee.—The PPRC would undertake a study of physician fees under State Medicaid programs. PPRC would examine the adequacy and equity of Medicaid physician reimbursement, physician participation in Medicaid, and access to care by Medicaid beneficiaries. PPRC would report its findings by July 1, 1991 to Congress along with recommendations.

(9) Study of Physician Anti-Trust Issues.—The GAO would conduct a study of the effect of the anti-trust laws on the ability of physicians to act in groups to educate and discipline their peers in order to eliminate ineffective practice patterns and inappropriate utilization. The study also would address anti-trust issues as they relate to the adoption of practice guidelines by third-party players. A third issue the study would address would be the role that practice guidelines might play as a defense in malpractice cases. The report would be completed by July 1, 1991 and would include recommendations to the Congress.

(10) Study of payment for Non-Physician Providers of Medicare Services.—The PPRC would undertake a study of the implications of a RBRVS for physicians' services for non-physician practitioners including the services of certain nurses, psychologists, physical therapists, physician assistants, and other health professionals whose services can be billed to Medicare on a fee-for-service basis. The study would address (i) what the proper level of payment should be for practitioners; (ii) whether or not adjustments to payments for their services should be subject to the Medicare volume performance standard process; and (iii) what update to use for services outside the Medicare performance standard. The study also would examine the cost of furnishing and payments for portable x-ray services and would examine whether payment for such services should be made in the same manner as for radiologists' services or on the basis of a separate fee schedule. The study would be completed by July 1, 1991.

(p) Outcomes Research Program.—The Secretary, acting through the Assistant Secretary for Health, would establish and fund an outcomes assessment research and education program and a program to develop practice parameters aimed at improved medical knowledge and enhanced quality of patient care. The programs would study the effect of medical treatment on symptoms, health status and quality of life. There would be assessments of the quality, appropriateness, necessity and effectiveness of different management methods. The findings concerning the best methods of managing selected health care conditions would be disseminated broadly, and in a manner that would affect the quality and delivery of health care services.

The outcomes research programs would be dynamic, continually incorporating new medical technology and treatment information into the study agenda and the development of practice parameters. The programs would continually evolve, keeping pace with innovations in the practice of medicine and in methods used to disseminate information to providers and users of health care services.

The Committee uses the term health care professional broadly, and expects involvement of non-physician health care practitioners in the outcomes research, education, and practice parameters programs. The Committee intends that the Assistant Secretary for Health would ensure the participation of non-physician practitioners in the development of practice parameters related to the services they deliver, and in the development of methods for measuring patient outcomes and professional performance indicators.

(a) The research program.—The research program activities would include: 1) the establishment of priority health conditions for study; 2) the use of grants and contracts to assess the effect of medical and surgical treatments on patient symptoms, health status, and quality of life; 3) evaluations of alternative levels of health care, such as hospital and ambulatory care; and 4) the development of improved methods for measuring patient outcomes and professional performance.

(b) The education program.—The education program would use grants and contracts to provide state-of-the-art information to, at a minimum, health care practitioners; consumers; providers of care; accrediting bodies; educational institutions; and state and local governments.

The education program would disseminate the findings from the research program in numerous ways to maximize the outreach of patient care information and its assimilation into practice. The program would periodically evaluate the effectiveness of its outreach and its influence on health services delivery.

(c) The practice parameters program.—The practice parameters program would incorporate the findings of the research program into useful guidelines for patient care management. In order to carry out this program, the Assistant Secretary would: (1) provide matching funds at the rate of two dollars for every non-federal dollar—the funding may be in the form of grants, contracts or cooperative agreements to a variety of private sector organizations; (2) provide for the immediate development of practice parameters for procedures and services for which good information is known about their application; and (3) ensure the timely development of practice parameters for procedures and services subject to significant reductions and increases in payment as a result of the Secretary's implementation of the Resource Based Relative Value Scale.

It is intended that the practice parameters program will be closely coordinated within the Department to ensure that the needs of the Health Care Financing Administration are considered and met. The Secretary would ensure that patient outcomes information is appropriately assimilated into programs affecting the review, quality, and payment of Medicare services.

The Assistant Secretary would encourage health care professionals to adopt those practices determined through the research program to be most effective in improving health status. The practice parameters would be developed in the private sector with departmental oversight to ensure timely and representative products.

(d) Advisory Bodies.—Two independent advisory bodies would be created. To advise the Assistant Secretary for Health on the conduct of the programs, the Department would enter into a mutual agreement with the President of the National Academy of Sciences. Should the Academy not wish to enter into an agreement, the Secretary would use another appropriate public or private nonprofit entity for this advice. The advisory body would annually review the available information from the outcomes research programs and publish reports to the Congress on the status of the programs, with recommendations for improvement.

An independent advisory committee of a technical nature would be established.

Twelve voting individuals would be chosen from a range of professional expertise, including biostatistics, epidemiology, clinical trial methodology and health services research. In addition, government ex-officio members would be appointed. The Independent Advisory Committee would meet at least twice a year and provide technical advice for implementing research priorities.

(e) Report to Congress.—Not later than one year after enactment, the Secretary shall report to Congress on the considerations surrounding the establishment of a national database for outcomes research. The emphasis of the report would be the long-term objectives of the research and practice parameters programs.

(f) Budget.—The outcomes research, education and practice parameters programs would be authorized for three years, beginning in FY 1990. The amounts authorized in each of the years would be $54 million in FY 1990; $75 million in FY 1991; and $110 million in FY 1992. The monies would be divided, in differing proportions, between the general fund of the Treasury, the Federal Hospital Insurance Trust Fund, and the Supplementary Medical Insurance Trust Fund. In addition, there is authorized to be appropriated money for the Advisory functions of the nonprofit entity. These amounts would be, in each year; $200,000 in FY 1990; $200,000 in FY 1991; and $300,000 in FY 1993.

RURAL HEALTH PROVISIONS RELATED TO PART B

Present Law

a. Rural Health Clinics.—Medicare and Medicaid payments may be made to rural health clinics for health services, including services furnished by or under the direction of a nurse practitioner or physician assistant even without the presence of a physician. To qualify as a rural health clinic, a facility must be located in a rural area designated as having a shortage of personal health services or primary medical care manpower (these are definitions used for other Federal health programs). Clinics must have at least one nurse practitioner or physician assistant on staff at least 60 percent of the time the facility is open for patient care and must be located in a State that does not prohibit the delivery of care by nurse practitioners or physician assistants. Rural health clinics are reimbursed under Medicare using an all-inclusive rate per visit of 80% of reasonable costs, subject to a limit of $46 per visit (this rate was increased from $31.00, and annually indexed to the Medicare Economic Index, by the Omnibus Budget Reconciliation Act of 1987.

b. Nurse Practitioners.—Medicare authorizes coverage of services, including nonphysicians services, "incident to" physicians' services. The services of nonphysicians, including nurses, must generally be rendered under the physician's direct supervision by his or her employees. Medicare will directly reimburse registered nurses for services only under limited circumstances. Direct Medicare reimbursement is available for certified nurse-midwife services and the services of a certified nurse anesthetist. Medicare also covers the services of nurse practitioners in a rural health clinic and an HMO, but payment is made to the provider. Under Medicaid, States are required to cover the services of nurse-midwives.

c. Certified Nurse-Midwives and Social Workers in Rural Health Clinics.—Medicare payments may be made to rual health clinics for health services, including services furnished by or under the direction of a nurse practitioner or physician assistant even without the presence of a physician. The services of clinical social workers are limited to those performed under the immediate supervision of a physician.

Committee Provision

a. Rural Health Clinics.—The bill requires the Office of Rural Health to provide technical assistance to entities seeking certification as rural health clinics (RHCs), and to provide, update and distribute brochures describing RHC services. It clarifies that certified nurse-midwife services (added to RHC services by item p, below) meet the requirements for service delivery by non-physician. Reduces from 60% to 50% the percentage of time a rural health clinic must be staffed by a physician assistant or nurse practitioner, and allows the Secretary to waive this requirement for up to one year for an RHC that has been unable to hire such an individual (the waiver will be automatically approved if the Secretary does not act within 60 days). The definition of what qualifies as an underserved or understaffed area for purposes of qualifying as an RHC is classified. Areas designated by the Governor of the State and approved by the Secretary as an area with a shortage of rural health services are added to the definition. The bill provides that facilities determined by the Secretary to meet requirements under the Public Health Service Act for funding as a community or migrant health center or a provider of health care to the homeless as of September 1, 1989 is deemed to meet Medicare requirements for certification as an RHC.

b. Nurse Practitioners.—The bill provides that the services of clinical nurse specialists and certified nurse practitioners in rural areas are to be covered by Medicare if those services are legally authorized under State practice laws or regulations, whether or not the individual is under the supervision of, or associated with, a physician or other health care provider. Covered services will be those that Medicare would cover if delivered by a physician. The services of certified nurse specialists and certified nurse practitioners will be paid at 75 percent of the amount Medicare would pay for the comparable physician service. Beneficiaries would pay standard Medicare coinsurance (i.e., 20 percent of 75 percent) and the services would be delivered on an assignment-related basis.

c. Certified Nurse-Midwives and Social Workers in Rural Health Clinics.—The bill extends coverage to the services of clinical social workers and certified nurse-midwives in rural health clinics on the same basis that services of clinical psychologists and nurse practitioners are covered. Medicare will not pay the social worker or nurse-midwife directly; as with all services provided in a rural health clinic, the clinic will be paid on all-inclusive rate for each service.

CLINICAL LABORATORY SERVICES

Present Law.—Clinical laboratory services are paid for by Medicare under statewide or carrierwide fee schedules. The fee for a particular service under a fee schedule is subject to a national cap, currently set a 100 percent of the national median for all fee schedules for that service. Fee schedule amounts are updated annually by the percentage change in the consumer price index (CPI) during the proceeding calendar year. A nationwide fee schedule would be implemented beginning January 1, 1990.

Committee Provision.—The committee provision lowers the national cap to 95 percent of the nation median for all fee schedules. It also limits CPI increase for 1990 to 2 percent and delay it until April 1.

Effective Date.—April 1, 1990.

Current Law.—OBRA 87 requires the Secretary of Health and Human Services to establish by January 1, 1990, a program for certifying "high volume" physician office laboratories furnishing services under Medicare.

Committee Provision.—The bill would preserve the ability of Secretary of Health and Human Services to take action against deficient laboratories under the Medicare program, while eliminating the distinction between "high volume" and the laboratories.

Effective Date.—Enactment.

TRIP FEES FOR CLINICAL LABS

Present Law.—Section 1833(h) of the Social Security Act establishes a fee schedule for clinical laboratory services under Medicare.

The law requires the Secretary of Health and Human Services (Secretary) to pay a nominal fee to cover the appropriate costs of collecting the sample, as well as a "trip" fee to cover the transportation and personnel costs for trained personnel to travel to the location of a patient who is unable to travel.

Section 8421 of the Technical and Miscellaneous Revenue Act of 1988 requires the Secretary to establish "trip" fees on a per mile basis for certain labs during the period beginning April 1, 1989, and ending December 31, 1990. This provision is required to be implemented in a budget neutral manner.

In order to qualify for payment on this basis, a lab must demonstrate that (1) it receives 80 percent of its revenues for clinical laboratory tests from Medicare, (2) at least 85 percent of its gross revenues for such tests are for tests attributable to individuals who are homebound and or reside in a nursing facility, and (3) it performed tests for residents of at least 20 percent of the nursing facilities in the State in which it is located.

Committee Provision.—The committee provision allows two or more labs under common ownership to combine their services to measure whether thay serve at least 20 percent of the nursing facilities in the State.

It clarifies that the term "nursing facility" is not limited to skilled nursing facilities. It requires a trip fee to be paid for collecting any specimen, not just samples that must be drawn.

Effective Date.—Enactment.

COMPETITIVE BIDDING FOR CLINICAL LAB SERVICES

Present Law.—Under its current authority to conduct demonstration projects, the Department of Health and Human Services has developed a competitive bidding methodology for use in purchasing clinical laboratory services for Medicare beneficiaries.

Congress has imposed a moratorium on implementation of any demonstration projects relating to competitive bidding as a method of purchasing clinical lab services under Medicare. The moratorium has been extended several times; the current extension will expire at the end of 1989.

Committee Provision.—The committee provision extends the moratorium until January 1, 1991, and requires the Secretary of Health and Human Services to report to the Congress a methodology for a competitive bidding demonstration project.

PAYMENTS FOR DURABLE MEDICAL EQUIPMENT

Present Law.—OBRA 1987 reformed the method of paying for durable medical equipment (DME). DME was divided into six cat-

egories, and fee schedules were derived for each category. The amount payable for an item is the lesser of the actual charge or the fee schedule amount.

The fee schedule amounts for most categories of DME are based upon the average reasonable charge for an item in a base period, increased annually by the increase in the consumer price index (CPI).

Committee Provision.—The committee provision limits the update in fee schedule amounts for 1990 to 2 percent and delays the update until April 1. It limits the fee schedule amount for an item to 95 percent of the national median of the carrier fee schedule amounts for the item. In addition, it reduces the fee schedule amounts for seatlift chairs and transcutaneous electrical nerve stimulators by 15 percent.

Effective Date.—April 1, 1990.

TREATMENT OF POWER DRIVEN WHEELCHAIRS UNDER THE DME FEE SCHEDULE

Present Law.—OBRA 87 divided durable medical equipment (DME) into six categories and established a fee schedule for each category. Among the six categories are inexpensive and other routinely purchased items, customized items, and "capped rental" items. "Capped rental" items are defined in law as other items of durable medical equipment.

Payment for "inexpensive and other routinely purchased" items is made on a rental basis or in a lump-sum amount for the purchase of the item, subject to a limit equal to the average reasonable charge for the purchase of the item in the area in a base year, updated for inflation. An item is considered frequently purchased if it is acquired by purchase at least 75 percent of the time. An item is considered inexpensive if it cost less than $50.

Customized items of DME are purchased at prices that reflect the carrier's individual consideration for the specific item involved, with payment being made on a lump-sum basis. An item is considered customized if it is uniquely constructed or substantially modified to meet the specific needs of an individual patient.

Payment for a capped rental item is made in the form of not more than 15 monthly rental payments equal to 10 percent of a specified purchase price. If the medical need of patient requires for the item continues after the close of this 15-month period, further payment is limited to a servicing or maintenance fee every six months; likewise, the item must be replaced without charge if it ceases to perform its intended functions while a medical need for it still exists. Items subject to capped rental are those, such as hospital beds and wheelchairs, that do not fall within any of the other five categories of DME.

Power-driven wheelchairs and high-strength lightweight wheelchairs are tailored to meet the needs of individual patients with conditions, such as a spinal injury or cerebral palsy, that frequently occur early in life and are likely to continue substantially beyond the 15-month payment period for capped rental items. These wheelchairs are more expensive than most other wheelchairs and require periodic servicing over their useful life.

Committee Provision.—The committee provision would classify power-driven wheelchairs as "routinely purchased" items, but authorize the Secretary by regulation to specify criteria under which carriers could on a case-by-case basis, classify a wheelchair as a "customized" item.

REIMBURSEMENT FOR CERTAIN ITEMS AND SUPPLIES FURNISHED BY HOME HEALTH AGENCIES

Present Law.—Home health agencies are paid for most items and services on a reasonable cost basis, subject to certain limits.

OBRA 87 established a six-point plan, under which most durable medical equipment is paid on the basis of a fee schedule. This plan specifically extends to durable medical equipment furnished by a home health agency under a plan of care.

Although cost-sharing requirements do not apply to home health services, they apply to durable medical equipment, whether or not it is furnished by a home health agency.

In implementing the six-point plan, the Secretary of Health and Human Services (Secretary) has classified certain inexpensive and frequently replaced items, such as catheters and ostomy supplies, as durable medical equipment.

This treatment subjects these items to Medicare cost-sharing requirements and requires home health agencies to separate the costs of these items (and associated overhead) from the costs of items and services reimbursed on a reasonable cost basis.

Committee Provision.—The committee provision excludes ostomy supplies from the definition of durable medical equipment covered under home health agency services, but specifically includes them in the definition of services and items provided by home health agencies.

Effective Date.—Janaury 1, 1990.

REGISTERED NURSES AS ASSISTANTS AT SURGERY

Present Law.—Section 9338 of OBRA 86 provides for reimbursement of services furnished by a physician assistant. Payment is made to the employer of the physician on the basis of prevailing charges that may not exceed 65 percent of what a physician furnishing the same services would be paid.

The provision authorized the Secretary to adjust payments to hospitals to eliminate duplicative payments for the same services.

Committee Provision.—The committee provision requires the Secretary of Health and Human Services to conduct a study of the impact of the OBRA 86 changes for physican assistants on the employment of registered nurses as assistants at surgery. The Secretary would also be required to evaluate the feasibility of adjusting hospital payments to avoid duplicate payment for the same services.

Effective Date.—Enactment.

REIMBURSEMENT FOR NURSE-MIDWIFE SERVICES

Current Law.—Section 4073 of OBRA 87 provides for coverage of certified nurse-midwife services under the Medicare program. The legislation defines "certified nurse-midwife" as an individual who meets specified requirements and "performs services in the area of management of care of mothers and babies throughout the maternity cycle." This definition was patterned after that used with Medicaid.

The definition of "certified nurse-midwife services" limits services to those that are authorized under State law and would be reimbursable if performed by a physician or incident to a physician's service, but does not limit coverage to services furnished during the maternity cycle.

HCFA has interpreted the statutory language as excluding coverage of gynecological services for the elderly, thereby limiting coverage under this benefit to the disability population.

Committee Provision.—The bill eliminates the "maternity cycle" limitation under Medicare, but retains it under Medicaid.

Effective Date.—Applies for services furnished on or after January 1, 1990.

COVERAGE FOR ERYTHROPOIETIN

Present Law.—Reimbursement for dialysis services under the End Stage Renal Disease (ESRD) program under Medicare is structured to provide incentives for home dialysis.

Medicare coverage of drugs and biologicals furnished incident to a physician's professional services is limited to those drugs and biologicals that cannot be self-administered.

In May of 1989, the Food and Drug Administration (FDA) approved the drug erythropoietin for use in the treatment of uremic anemia in patients with renal failure. Treatment with the drug provides an alternative to the periodic blood transfusions currently required by many kidney patients with this condition.

The Health Care Financing Administration (HCFA) issued Medicare coverage guidelines for erythropoietin on June 1, 1989. Reflecting the limitation contained in current law, these guidelines limit coverage to instances in which eythropoietin is administered at a treatment facility.

Erythropoietin may be administered at the same time a kidney patient is dialyzing. Excluding Medicare coverage for erthropoietin administered by the patient at home will compel many kidney patients who receive dialysis at home to travel to a facility to receive treatment with the drug.

Committee Provision.—The committee provision provides that self-administered erythropoietin is covered under Medicare for individuals receiving home dialysis, subject to utilization controls deemed appropriate by the Secretary of Health and Human Services.

Effective Date.—July 1, 1990.

REIMBURSEMENT FOR THERAPEUTIC SHOES AND INSERTS

Present Law.—OBRA 87 provided for establishment of a demonstration project to test the cost effectiveness of providing medicare coverage of custom-molded and extra-depth shoes and inserts for a sample group of diabetics with specific foot conditions. Coverage is limited to one pair of custom molded shoes or one pair of extra depth shoes and inserts per year.

Committee Provision.—The committee provision authorizes payment annually for either one pair of custom-molded shoes with inserts and two additional pairs of inserts or one pair of extra-depth shoes with up to three pairs of inserts. It also authorizes the Secretary to substitute modifications to the shoes for one or more pairs of inserts.

Effective Date.—July 1, 1989.

HOSPITAL OUTPATIENT SERVICES

Present Law.—Medicare generally pays the reasonable costs of services provided in the hospital outpatient department, although a variety of fee schedules and prospective rates apply to many services typically provided to outpatients (surgery, radiology, clinical lab services, dialysis).

Committee Provision.—The committee provision reduces Medicare payments for all services provided in outpatient hospital departments by 2 percent, except that the reduction does not apply to capital payments.

PAYMENTS FOR HOSPITAL OUTPATIENT CAPITAL

Present Law.—Medicare generally pays the reasonable costs of services provided in the hospital outpatient department, al-

though a variety of fee schedules, limits or prospective rates apply to many of the services typically provided to outpatients (surgery, radiology, clinical lab services, dialysis). In the case of surgery and radiology, payments are directly linked in part to the individual hospital's reasonable cost of those services.

Capital costs incurred by hospitals are allocated between the inpatient and outpatient departments, and among outpatient services, in proportion to the use of these services by Medicare enrollees. Capital costs allocated to activities in the outpatient department are built into each of the reimbursement methodologies used for these services. Thus, capital costs are reflected in the reasonable costs of services to the degree that the service is reimbursed on that basis.

Committee Provision.—The committee provision reduces payments for outpatient capital by 20 percent to 80 percent of reasonable costs, but excludes payments to disproportionate share hospitals from the reduction.

Effective Date.—Discharges or portions of cost reporting periods beginning in FY 1990.

DIRECT PAYMENT TO CLINICAL PSYCHOLOGISTS

Present Law.—* * * Also, psychologists' services may be covered as "incident to" physicians' services, provided there is direct personal supervision by a physician, and program payment is made directly to the physician.

Committee Provision.—The committee provision would extend Medicare coverage to the services of clinical psychologists in all settings, and direct payment would be made to the psychologist on the basis of reasonable charges. Services would be required to be billed on an assigned basis. A clinical psychologist would be defined as an individual licensed by the State, meeting certain educational requirements, and possessing two years of experience.

Effective Date.—January 1, 1990.

LIMIT ON OUTPATIENT MENTAL HEALTH SERVICES

Present Law.—Medicare payments for outpatient mental health services delivered by a psychiatrist or other physician are limited in each calendar year to $1100. Beneficiaries are subject to a 50% copayment for these services.

Committee Provision.—The committee provision eliminates the limit on Medicare outpatient mental health services.

Effective Date.—January 1, 1990.

STUDY OF INPATIENT MENTAL HEALTH BENEFITS

Present Law.—Medicare coverage of inpatient psychiatric hospital services is limited to 190 days over the individual's lifetime (and is further limited if the individual was being treated as an inpatient upon becoming eligible for Medicare). Medicare coverage of other inpatient hospital services is unlimited (365) days annually) under the Medicare Catastrophic Coverage Act of 1988.

Committee Provision.—The committee bill requires the Secretary of HHS to conduct a study and make recommendations to Congress on the advisability of eliminating the 190-day lifetime limit for inpatient hospital care. The study is to include an analysis of the current use and financing of inpatient psychiatric services in private psychiatric hospitals, State psychiatric hospitals and general hospitals, and would also include a discussion of alternatives to a lifetime limit (such as an annual limit), including their potential costs. The report will be due on April 1, 1990.

Effective Date.—Enactment.

STUDY OF HOSPITAL OUTPATIENT COSTS

Present Law.—No provision.

Committee Provision.—The committee provision requires the Prospective Payment Assessment Commission to report to Congress on Medicare policy with regard to hospital outpatient services. The study would include an examination of the sources of growth in spending for hospital outpatient services and an analysis of the differences between the costs of delivering services in the hospital outpatient department and other appropriate settings (including ambulatory surgery centers and physician offices). The study would be due to Congress on July 1, 1990.

MUNICIPAL HEALTH SERVICES WAIVER

Present Law.—Since 1979, four cities (Cincinnati, San Jose, Milwaukee and Baltimore) have operated projects under waivers from the Health Care Financing Administration. The projects offer expanded Medicare Part B benefits not usually available under Medicare including preventive care, drugs, optometric care and dental care. These waivers were last extended under the Consolidated Omnibus Budget Reconciliation Act of 1985 and are scheduled to expire on December 31, 1989.

Committee Provision.—The committee provision extends the waivers until six months after the Secretary of HHS submits to Congress an evaluation of the projects, including information on cost and effectiveness of the services provided.

CLINICAL SOCIAL WORKERS

Current Law.—Medicare covers the services of a clinical social worker if they are delivered in an HMO and would be covered by Medicare if delivered by a physician or incident to a physician's service. The social worker must meet specific training and licensing requirements. Social services provided by hospitals, skilled nursing facilities, hospices and home health agencies are covered if prescribed by a physician. Hospital discharge planning and evaluation must be under the direction of a social worker or another appropriately qualified personnel. In all cases, there is no direct payment by Medicare to the social worker. Payment is made as part of payment to the physician, hospital or other provider.

Committee Provision.—The bill authorized reimbursement for the services of clinical social workers, if the service would be covered if delivered by a physician or incident to a physician's service and if the social worker is authorized to perform the service under State law. Covered services are defined as those which are for the diagnosis and treatment of mental illness.

Effective Date.—January 1, 1990.

REIMBURSEMENT FOR NEW TECHNOLOGIES

Program Affected.—Medicare, Part B.

Current Law.—Section 1833(i)(2) of the Social Security Act establishes reimbursement for ambulatory surgery centers (ASCs). The amount paid for facility services is 80 percent of the "standard overhead amount established by the Secretary . . . on the basis of the Secretary's estimate of a fair fee." The estimate must take into account costs incurred by ambulatory surgery centers in a manner that will ensure that payment will be less than would have been the case if the care were provided on an inpatient basis.

OBRA 87 added a new criterion for calculating the overhead amount in the case of cataract surgery involving implantation of an intraocular lens (IOL). It required the Secretary to incorporate an amount that is "reasonable and related to acquiring the cost of acquiring the class of lens involved."

The reference to "class of lens" was intended to reflect the fact that not all IOLs are the same, but the law did not specifically require the Secretary to evaluate IOLs based on new technologies.

In August 1988, the Secretary issued a notice of proposed rulemaking to implement the mandate. This rule proposed that ASCs be reimbursed a flat $200 per lens, regardless of the type involved. A final rule is pending.

Proposal.—Require the Secretary of Health and Human Services to implement a process under which interested parties could request review of the appropriate reimbursement for a class of new technology IOL. Review would be restricted to IOLs that have been approved by the FDA.

The Secretary would publish notice in the Federal Register from time to time (but not less often than twice each year) a list of the requests for review the Secretary has received.

There would be a 60-day period for public comment on the requests. The Secretary would be required to publish a notice of his determinations with respect to IOLs specified in the notice within 120 days after the close of the comment period.

MEDICARE RISK CONTRACTS

Present Law

a. Adjusted Average Per Capita Cost.—Under Section 1876(a)(1)(C) of the Social Security Act, health maintenance organizations (HMOs) or competitive medical plans (CMPs) with a Medicare risk-sharing contract are paid a per capita rate for each class of individuals who are enrolled in the organization. The per capita rate is 95 percent of the adjusted average per capita cost (AAPCC), or the Secretary's prospective estimate of the amount that Medicare would pay if the services were furnished in the same geographic area on a fee-for-service basis.

b. Disclosure of AAPCC Assumptions and Methodology.—Section 1876(a)(1)(A) of the Social Security Act requires the Secretary of Health and Human Services (HHS) to annually determine and announce not later than September 7 of each year, the per capita payment rates for the next year for each class of Medicare beneficiaries who are enrolled in an HMO or CMP that has a risk-sharing contract. The HHS Secretary is not required to disclose the policy decisions and technical methodologies used to develop these payment rates.

c. Actuarial Equivalence.—The HHS Secretary must estimate in advance the average per capita amounts that Medicare would pay for beneficiaries enrolled in an HMO or CMP paid on a risk basis in a contract year if these beneficiaries were not enrolled in the organization. The per capita estimates must include administrative costs as well as costs for Part A and Part B covered services. The Secretary must base these estimates on actual experience or data and information that assures actuarial equivalence.

d. Modification of 50-50 Rule.—At least 50 percent of the enrollment in a health maintenance organization or similar organization which contracts with Medicare on a risk basis must consist of other than Medicare and Medicaid beneficiaries for the duration of the contract year. The Secretary may modify or waive this enrollment composition requirement only if more than half of

the population in the area served by the organization are entitled to Medicaid benefits. The 50-50 requirement may also be waived for the first three years of a contract if the organization is owned and operated by a governmental entity and makes reasonable efforts to enroll non-Medicare/Medicaid individuals.

e. Physician Incentive Payments.—HMOs and CMPs have been permitted to make arrangements with physicians to assume all or part of the financial risk of providing services to Medicare and Medicaid beneficiaries. However, OBRA 1986 prohibited a health maintenance organization with a Medicare risk-sharing contract or organization with a Medicaid contract from making direct or indirect payments to a physician as an inducement to reduce or limit services provided to enrollees. This prohibition is effective April 1, 1990. Organizations that violate this requirement are subject to civil monetary penalties.

f. Temporary Waiver for Watts Health Foundation.—OBRA 1987 granted the Watts Health Foundation/United Health Plan a waiver of the 50-50 rule. That waiver expires January 1, 1990.

g. Benefit Stabilization Fund.—Each HMO or CMP with a risk-sharing contract must develop an adjusted community rate (ACR), which is an estimate of what it would charge a private member comparable to a Medicare beneficiary for the scope of services covered under its Medicare contract. If this ACR is lower than its average projected Medicare payment rate, the organization must use the difference to fund additional benefits not covered by Medicare, reduce beneficiary charges, or accept a reduced Medicare payment rate.

Alternatively, the HMO or CMP may request that a portion of the difference be deposited in a benefit stabilization fund (within the Part A and Part B Trust Funds). The fund may be drawn upon in a future year if the difference between the ACR and the Medicare payment rate is insufficient to continue financing the organization's package of additional benefits. A stabilization fund may not be established for any contract period more than 6 years after enactment of the Deficit Reduction Act of 1984, or July 18, 1990.

h. Enrollment In Medicare Risks-Contract.—In order to enter into a Medicare risk-sharing contract, an organization must be a federally qualified HMO or a competitive medical plan and have at least 5,000 members. The Secretary may contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urbanized areas. In addition, at least one-half of the enrolled membership of an organization that enters a Medicare contract must be individuals who are not Medicare or Medicaid beneficiaries.

i. Limit on Part B Services.—Medicare beneficiaries who are enrolled in HMOs/CMPs paid on a risk basis must receive all covered services directly through the organization or through arrangements made by the organization. If there is an emergency or urgently needed service, an enrollee can receive Medicare covered services outside the HMO's network (i.e. from non-affiliated providers) without prior approval and the HMO will pay for this care. OBRA 1987 limited Medicare payments to nonaffiliated Part A providers (hospitals and skilled nursing facilities) to the lower of the amount negotiated by the HMO or the amount that Medicare would have paid. The law does not address Part B charges by non-affiliated physicians and suppliers.

j. Temporary Waiver for Related Entities.—For the duration of a Medicare contract, at least one-half of the enrolled membership of a HMO or CMP must consist of individuals who are not eligible for Medicare or Medicaid services. In assessing compliance, the Secretary considers only the enrolled membership of the legal entity that contracts with Medicare.

Committee Provision

a. Adjusted Average Per Capita Cost.—The committee bill increases the per capita payment rate from 95 to 100 percent of the adjusted average per capita cost (AAPCC). This 5 percent increase will be phased in over a four year period beginning January 1, 1990. The rate will be 98 percent in 1990; 99 percent in 1991; 99 percent in 1992; and 100 percent in 1993. The increases are contingent on the Secretary's compliance with the requirements in item (c), below, related to certification of the AAPCC and submission of recommendations for modification of the AAPCC.

b. Disclosure of AAPCC Assumptions and Methodology.—The committee bill requires the Secretary to fully disclose the methodology and assumptions that will be used to establish the Medicare payment rates for individuals who are enrolled in an organization with a Medicare risk-sharing contract 45 days prior to the date that the final payment rates are issued. The purpose of this disclosure is to provide organizations with an opportunity to comment on any proposed changes prior to their effective date. This notice must be provided to organizations that have a risk-sharing contract, or organizations that otherwise request the information. The disclosure shall include the data and assumptions underlying the adjusted average per capita costs (AAPCC), including the determination of the United States per capita costs (USPCC). The disclosure shall separately identify changes from the previous year's methodology and assumptions, including any changes in Medicare covered benefits resulting from legislative, regulatory, or administrative action.

(c) *Actuarial Equivalence of the APCC.*—The Committee is aware of and concerned about the number of HMOs/CMPs that have withdrawn from Medicare's risk-contracting program. The Committee is also aware that as provider and physician payment policies are modified to reduce the rate of growth of Medicare expenses, it may be more difficult for risk-contracting organizations to participate in the program or offer additional benefits to beneficiaries. Thus, the Committee is proposing to increase the payment rate to organizations by increasing the percentage of the AAPCC. However, this increase is made with the understanding that the current payment method is imperfect. In some situations, HMOs/CMPs may be over or underpaid. Although the AAPCC is adjusted for geographic location of the organization and enrollee characteristics (age, sex, welfare and institutional status), the Committee believes that the AAPCC methodology in its current form, is an inadequate mechanism to estimate the variations among patients in terms of their resource use. Thus the Committee is imposing two conditions on the proposed increases in the AAPCC to encourage the Secretary, working with the industry, to develop a refined or new payment method on a priority basis.

The Committee bill provides that, in order for the AAPCC payment increases specified in (a) above to occur, the Secretary is required to certify to the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that the methodology used to set the adjusted average per capita costs (AAPCC) can be implemented to assure actuarial equivalence with the amount that Medicare would have spent for beneficiaries if they were not enrolled in organizations with risk-sharing contracts. Before the increase scheduled for January 1, 1991 can occur, the Secretary must submit a proposal to Congress to modify the payment method to organizations with a risk-sharing contract to better predict the future actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization. The recommendations may modify the current AAPCC formula, for example, by adding predictors of medical utilization such as health status adjustors or prior utilization measures, or may propose a new payment methodology as an alternative to the AAPCC. The goals of the revised payment method are to provide more appropriate payment to an individual organization for its actual enrolled Medicare beneficiaries and to reduce the incentives for favorable or adverse selection. The data to support the recommended changes must show that the refined or revised payment methodology is effective in explaining 15 percent of the variation in health care utilization and costs among Medicare beneficiaries. The 15 percent measure is derived from research that has been conducted on the adequacy of the AAPCC. For example, researchers at the Health Care Financing Administration have conducted several studies among elderly patients and determined that the enrollee characteristics currently used to adjust the AAPCC (age, sex, welfare and institutional characteristics) explain less than 1 percent of the inter-patient variations in utilization. Studies conducted by the RAND Corporation indicate that health measures and prior use measures may explain up to 60 percent of the variance among annual medical expenses among the non-elderly. Other studies suggest that the maximum percentage of variance that one should expect to be explained ranges between 14 and 20 percent. Thus the Committee's bill requires the Secretary to propose a revised or new payment methodology that accounts for at least fifteen percent of differences among annual medical expenses for Medicare patients.

The American Academy of Actuaries must certify that the methodology can predict 15 percent of the estimated variation. The General Accounting Office will review the recommended changes in the methodology and make a recommendation to the Congress before the January 1991 update on appropriate modifications in the payment methodology.

d. *Waiver of 50-50 rule.*—The Committee bill permits the Secretary of HHS to waive the 50-50 enrollment composition rule for an HMO or CMP with a risk-sharing contract if the following criteria are met:

1. Both the organization with the risk contract and the parent company must demonstrate profitability for the most recent 3 consecutive years. If the plan seeking a waiver is a new organization established by the parent company as part of an expansion program, the parent company must establish a reserve fund to ensure solvency of the new operation until profitability is achieved.

2. The plan must have been a Medicare risk contractor for at least three years. If the plan seeking the waiver is a new organization, the parent organization must have five years of successful experience in operating an HMO and two years experience operating plans with Medicare risk contracts in two or more states.

3. The plan seeking a waiver (or plan operated by the parent company in the case of a new plan) must have a total enrollment (including non-Medicare) of at least 100,000 enrollees.

4. The plan seeking a waiver must agree to the intensified level of review by a peer review organization (PRO) or quality review organization (QRO). A plan that is already on intensified review as a result of the identification of quality problems may not be considered for this waiver until the Secretary is satisfied that the quality problems have been corrected.

5. As a condition of the waiver, the plan must agree to fund an annual membership satisfaction survey to be conducted either by an independent survey firm or the PRO/QRO. The survey must include satisfaction measures drawn from three populations:

a. The enrolled HMO/CMP membership;

b. HMO members who have been discharged from a hospital within a previsions 30 day period, and

c. disenrollees.

The results of these surveys must be reported to the Secretary.

6. In exchange for approval of an increased proportion of Medicare enrollees, the plan with a waiver under this section must provide, at no additional charge to the enrolled beneficiary or Medicare (i.e., within the Medicare allowed coinsurance and deductible amounts), special services that are uniquely targeted toward an elderly Medicare population and are not covered by the Medicare benefit package or routinely provided to non-Medicare enrollees in the plan. These geriatric services must include a multidisciplinary geriatric assessment for each new beneficiary enrolled after the date that the waiver is approved (performed by a social worker, physician and a nurse, each of whom has a specialty in geriatrics of has completed a geriatric training program), which results in a plan for each beneficiary to treat or manage specific medical conditions and identifies a beneficiary's level of disability as determined by objective criteria that measure impairment of activities of daily living (ADL) in six areas (toileting, eating, mobility, bathing, continence and dressing) and objective criteria that measure cognitive impairment. Medicare enrollees who are determined to be dependent in 3 or more ADLs for at least 3 months would be eligible to receive home and community based long-term care services. Home and community based long-term care services are defined as non-medical services provided to prevent or delay a Medicare beneficiary from entering a nursing home. The home and community based long-term care services offered by the plan must include at least one and preferably will include more of the following services: homemaker or chore services, personal care services, adult day health care, meals on wheels, lifeline telephone assistance, transportation, geriatric case management, rehabilitation and home adaptation, special health education programs geared to the elderly, or geriatric mental health services.

7. The waiver will be approved for a three year period. The additional benefits must be available to enrollees for at least three years and may extend beyond the waiver period. The Secretary must review the organization's compliance with the terms of the waiver, including the results of the intensified quality review and the membership satisfaction surveys, on an annual basis. The waiver may be withdrawn if the plan fails to comply with any of the provisions.

8. The Secretary is required to evaluate the cost and impact of the waiver, including any impact on the financial viability of the plan, after two years and recommend to Congress whether the waiver authority should be extended or whether any changes should be made in the 50/50 enrollment requirement.

e. Physician Incentive Payments.—The Committee bill amends §1128A(b)(1) and §1876(c) and 1903(m) of the Social Security Act to prohibit an HMO or CMP with a Medicare risk contract or a prepaid plan with a Medicaid contract from making any direct and specific individual payment to a physician as an inducement to withhold or limit a specific medically necessary service to an identifiable patient. If a plan violates this prohibition, it will be subject to civil monetary penalties of $25,000 for each determination.

f. Temporary Waiver for Watts Health Foundation.—The Committee bill extends the waiver of the 50/50 rule until January 1, 1994. Beginning January 1, 1990, the HHS Secretary will conduct an annual review of Watts' compliance with quality assurance requirements, including requirements related to health outcomes and peer review of the provision of care. If Watts receives an unfavorable review and fails, after notice, to correct deficiencies, then the Secretary may suspend enrollment or payment for newly enrolled individuals.

g. Benefit Stabilization Fund.—The Committee bill makes permanent the authority to establish a benefit stabilization fund.

h. Enrollment in Medicare Risk Contract.—The Committee bill provides that CHP, the medical group affiliated with Long Island Jewish Medical Center, may include the enrollees of a State licensed health maintenance organization with whom CHP has agreed to assume full financial risk for provision of hospital and physician services for purposes of meeting the Medicare risk contracting requirement that no more than 50 percent of the enrolled membership be Medicare or Medicaid beneficiaries and the requirement that there be a minimum enrollment of 5,000 persons. The waiver will be approved for two years, and then CHP will be required to meet the 50 percent and 5,000 member requirements. The members of the HMO with whom CHP has an ageement may be not considered for purposes of any other Medicare risk contract.

i. Limit on Payment for Part B Services.—Payments for emergency and urgently needed services provided by nonaffiliated physicians to Medicare beneficiaries who are enrolled in an HMO paid on a risk basis would be limited to the amount that Medicare would have paid in the fee-for-service system.

j. Temporary Waiver of Enrollment Composition Rule for Related Entities.—For a period of two years, the Secretary may count, for purposes of the 50/50 enrollment rule, the enrolled members of an entity that is a separate corporation but is functionally integrated with a qualified HMO through common ownership or control. The Secretary must be satisfied that the entity: meets the definition of an eligible organization; provides services in the same geographic area through essentially the same physicians and providers as the contracting HMO; uses an integrated quality assurance program; and uses common grievance procedures, claims processing, management and administrative services. If some of the providers or physicians are affiliated with the entity but not with the HMO, then only the members of the entity that use common providers and physicians may be deemed to be HMO members for purposes of 50/50 determination.

TENNESSEE PRIMARY CARE NETWORK

Present Law.—No Federal Medicaid matching payments may be made for services provided by entities contracting with states on a prepaid capitation or other risk basis if 75 percent or more of the enrollees are Medicaid recipients or Medicare beneficiaries. The Secretary has waived the 75 percent limit for Tennessee Primary Care Network, Inc. since May 1984.

Committee Provision.—The Committee bill extends the Medicaid waiver of the 75/25 enrollment composition requirement for Tennessee Primary Care Network, Inc. under the same terms and conditions through June 30, 1992. Beginning January 1, 1990, the HHS Secretary will conduct an annual review of Tennessee Primary Care Network's compliance with quality assurance requirements. If Network receives an unfavorable review and fails, after notice, to correct deficiencies, then the Secretary may suspend federal matching funds for newly enrolled individuals.

The Secretary will have the authority to approve waivers of the 75 percent enrollment standard on a case-by-case basis after he has complied with the following requirements: (1) conduct a study of situations where the 75/25 percent enrollment standard is not practical and/or where alternative safeguards or procedures to private enrollment and oversight could be used to assure that prepaid health care organizations provide quality care and are fiscally sound; (2) publish in the Federal Register by April 1, 1990 for review and comment a set of minimum standards that prepaid organizations must meet to be considered eligible for an enrollment composition waiver (including standards to assure that high quality is maintained) and the terms under which waivers will be approved; and (3) publish revised standards and terms as a final notice. A waiver under this section shall initially be approved for three years; the Secretary shall determine the terms of the renewal.

END STAGE RENAL DISEASE (ESRD) COMPOSITE RATE

Present Law.—Renal dialysis services for patients with end stage renal disease are reimbursed under two methods. Under method I, hospital-based and freestanding facilities are paid a flat amount, known as the composite rate, that takes into account the proportion of patients dialyzing at home. There are two composite rates, one for free-standing facilities ($125 per treatment) and one for hospital-based units ($129 per treatment). While the Secretary of Health and Human Services has the authority to adjust the composite rate, the law does not provide for periodic, automatic inflation updates to the composite rates.

Under method II, the beneficiary makes his or her own arrangements to receive home dialysis equipment, supplies, and support services. The beneficiary (or supplier, if assignment is taken) is paid directly based

on itemized bills and the reasonable charge methodology.

In 1986, HCFA proposed to reduce the composite rate by approximately $6.00 per treatment; OBRA 1986 superseded this proposal by reducing the composite rates by $2.00 for 1987 and FY 1988. OBRA 86 mandated an Institute of Medicine (IOM) study on the effects of reimbursement policies on the quality of care. The study, which was actually conducted by the Urban Institute, was submitted to Congress in Congress in December 1988. OBRA 87 again required that a study be conducted to address, among other things, access and quality of ESRD services. Again, Congress requested that the Institute of Medicine conduct the study. The Institute's report is to be submitted three years after enactment.

HCFA has proposed to reduce the composite rates again.

Committee Provision.—The committee provision prohibits reductions in the composite rates for two years, through FY 1991. It also requires the Prospective Payment Assessment Commission (ProPAC) to study and recommend appropriate reimbursement rates for FY 1992. The study, which should take into account the preliminary provisions of the Institute of Medicine study, is due on or before June 1, 1991.

Effective Date.—Enactment.

RECONSIDERATION OF PRO QUALITY DENIALS BEFORE NOTICE TO BENEFICIARY

Present Law.—Section 1154(a) of the Social Security Act requires a Peer Review Organization (PRO) to review services to determine whether they are medically necessary, meet quality standards, and are furnished in an appropriate setting. It also authorizes the denial of payment for services that fail to meet one or more of these requirements and requires both the beneficiary and the practitioner or provider to be notified promptly of any payment denial determination. Either party may ask the PRO to reconsider its determination.

The Secretary of Health and Human Services (Secretary) has concluded that the statute requires the beneficiary to be notifed of a payment denial for substandard care before the PRO affords the practitioner or provider an opportunity for reconsideration.

PROs, physician representatives, and some beneficiary groups, have expressed concerns that this sequence of events could encourage unwarranted malpractice litigation. Others have suggested that it will be confusing to beneficiaries if a PRO sends an initial notice of a denial for substandard care, reverses its determination upon reconsideration, and then sends a second notice to the beneficiary reversing its earlier notice.

Committee Provision.—The bill requires that, in the case of denials for substandard quality of care, the provider or practitioner receive notice and opportunity for reconsideration before the beneficiary is notified.

Effective Date.—Determinations on or after date of enactment.

INVOLVEMENT OF NON-PHYSICIAN PROFESSIONALS IN PRO REVIEW ACTIVITIES

Present Law.—Peer Review Organizations (PROs) review, for medical necessity and quality, the services physicians and other health practitioners provide to Medicare beneficiaries. An adverse determination by a PRO may lead to denial of payment and other sanctions.

Under current law, these determinations may be made only by a doctor of medicine, dentistry, or osteopathy. PROs are required, to the extent necessary and appropriate, to utilize other health practitioners in the review of services furnished by other like practitioners.

Committee provision.—The provision requires that PROs establish procedures for the involvement of health care practitioners who are not doctors of medicine in the review or services provided by members of their profession.

Effective date.—Applies to contracts entered into after enactment.

DELAY MEDICARE PAYMENTS

Present Law.—Intermediaries and carriers who process Medicare bills are required to pay 95% of "clean" claims within 25 days of receipt in FY 1989 and 24 days in FY 1990 (except for bills from participating physicians, which must be paid within 18 and 17 days respectively). Under the Omnibus Budget Reconciliation Act of 1987, payments to all providers may not be made after receipt before a period of 14 days has expired in FY 1989; the Congressional Budget Office assumes that this practice will be extended administratively in FY 1990 and beyond.

Committee Provision.—The Committee provision requires that providers claims not be paid before a period of 16 days has expired following receipt in FY 1990. Requires that 95% of clean claims and within 21 days of receipt for participating physicians.

Effective Date.—Applies to claims received in the 12-month period beginning October 1, 1989.

The Committee wishes to clarify with respect to payments by Medicare and by States under Medicaid that providers may use Medicare and Medicaid receivables as collateral for loans, or may give a nonpossessory security interest in, such receivables, as long as payment by Medicare or by States under Medicaid for services rendered by the provider is always made directly to the provider.

MEDICARE SECONDARY PAYER PROVISIONS (SEC.)

Present Law

(a) Identification of Medicare Secondary Payer Situations.—Medicare is the secondary payer to other third party insurers under specified circumstances when beneficiaries may be covered by the other insurer. Medicare may be the secondary payer to automobile, medical, no-fault and liability insurance, and to employer health plans. Requirements that employers offer primary coverage to Medicare-eligible enrollees or their dependents, and penalties for failure to comply with these requirements, vary with the basis for the individual's Medicare eligibility (age, disability or end-stage renal disease) as well as with the size of the employer. For beneficiaries eligible for Medicare on the basis that they have end-stage renal disease, however, Medicare is the secondary payer to available employer-based health insurance only for the first 12 months of eligibility.

The Department of Health and Human Services (HHS) currently identifies Medicare secondary payer cases in the following ways: beneficiary questionnaires, provider identification of third party coverage when services are provided, and data transfers with other Federal and State agencies. According to HHS, no more than two-thirds of Medicare secondary payer cases are identified through these means.

Medicare contractors (insurance companies which process Medicare claims) currently are covered under the Privacy Act because they routinely handle beneficiary-specific information, including medical history and Social Security numbers. Medicare contractors currently are prohibited from unauthorized disclosure of this information, subject to criminal penalties.

The Internal Revenue Code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances. No disclosure is allowed to third parties, such as employers and private insurers. Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both. An action for civil damages also may be brought for unauthorized disclosure.

Any authorized recipient of return information must maintain a system of safeguards to protect against unauthorized disclosure of the information.

(b) Uniform Enforcement and Coordination of Benefits.—A variety of penalties exist to enforce compliance with the Medicare secondary payer provisions. Employers who do not comply with the working disabled provisions are subject to an excise tax equal to 25% of the group health plans' expenses. Failure to comply with the working aged provisions is a violation of the Age Discrimination in Employment Act of 1967, as amended. Employers who violate the secondary payer provision for ESRD beneficiaries can lose their tax deduction for group health expenses.

Medicare is the secondary payer under certain circumstances to other third party insurance, including employer health plans, automobile, medical, no-fault, and liability insurance and workers' compensation. Under most circumstances, payments made by the third party insurer are credited toward deductible requirements under Medicare Parts A and B. However, payments made by workers' compensation and liability and related insurance are not counted toward Medicare deductibles and coinsurance.

(c) Special Enrollment Period for Disabled Employees.—Under certain circumstances, Medicare is the secondary payer when individuals are covered by other third party insurers. Medicare is secondary payer to employer health plans under which beneficiaries are covered either through their own employment or a spouse's. Aged beneficiaries who have been covered under employer health plans are entitled to a special enrollment period under Medicare. Disabled beneficiaries are eligible for a special enrollment period only if they are covered under a large group health plan.

(d) No Intermediary and Carrier Matching Based on Private Activities Required.—Under current law, the Secretary may terminate an agreement with a fiscal intermediary or carrier if he finds, after applying standards and criteria regarding claims processing and overall performance, that the entity has failed substantially to carry out the agreement or that the functions provided for in the agreement are disadvantageous or inconsistent with the efficient adminstration of Medicare.

(e) Treatment of Employment as a Member of a Religious Order.—Medicare is the secondary payer to private employer-based health insurance for certain beneficiaries, including beneficiaries who work or who are covered by an employed spouse's plan. Employers must make primary coverage available to these beneficaries on the same basis that coverage is available to similar employ-

ees or spouses not covered by Medicare. The Health Care Financing Administration has indicated that it considers as "employment" services provided by members of religious orders. As a result, religious orders must offer their Medicare-eligible members primary insurance coverage if they insure younger members.

(f) Study of Medicare Secondary Payer Beneficiary Protections.—Medicare is the secondary payer to other third party insurers under specified circumstances when beneficiaries may be covered by the other insurer. Medicare may be the secondary payer to automobile, medical, no-fault and liability insurance, and to employer health plans.

If payment has been made by Medicare in a circumstance where another insurer is primary payer, the United States may bring an action against entities responsible for payment or against an entity that has been paid. This has been interpreted to authorize recoupment from beneficiaries where the beneficiary has received payment (e.g., from a liability insurer). The Secretary is authorized to waive requirements that Medicare payments be recovered in the case of an individual claim in certain circumstances.

The amounts of settlements in liability cases, and the distribution of settlements where hospitals are among the parties with a financial interest in the case, are governed by a variety of State laws. In many cases, the amount paid to providers of health care by or on behalf of a patient who receives a liability settlement may be different from the amount Medicare would have paid for the same services.

Committee Provision

(a) Identification of Medicare Secondary Payer Situations.—The Internal Revenue Service (IRS) and the Social Security Administration (SSA) must provide information to the Health Care Financing Administration (HCFA) to improve identification and collection of Medicare secondary payer cases. No later than October 15, 1989, SSA must provide IRS with the names and Social Security numbers of all Medicare beneficiaries. No later than February 1, 1990, IRS must provide SSA with a file of the names and Social Security numbers of all Medicare beneficiaries who filed a tax return for the previous calendar year. Information on spouses would be linked for individuals filing joint or individual returns to enable HCFA to identify the spouses of beneficiaries who may be covered by an employer health plan.

Information provided by IRS to SSA will be matched by SSA against the Master Earnings File to determine whether a W-2 was filed for the beneficiary or the beneficiary's spouse. SSA will provide HCFA with a listing of all Medicare beneficiaries and their spouses, and the name of the beneficiary's or spouse's employer if: 1) the beneficiary and/or spouse filed a W-2, and 2) the beneficiary and/or spouse was employed by a large employer, defined as an employer with 20 or more employees.

HCFA will use this listing provided by SSA to identify more thoroughly secondary payer cases, including Medicare beneficiaries with employer-provided health coverage through the spouse's employment. HHS's contractors will use this new information to contact employers in writing to determine whether the employer provided health coverage and the date of such coverage. Current restrictions on the disclosure of information under the Internal Revenue Code and the Privacy Act will also apply to the new information provided by SSA and IRS to HCFA.

Third party payers, such as Medicare carriers and employers, receiving taxpayers information from HHS will be subject to restrictions and safeguards on disclosure similar to those restrictions, safeguards and penalties currently provided for in the Internal Revenue Code with respect to other authorized recipients of taxpayer information.

To enable HHS to verify employer-provided health coverage, employers are required to respond to HCFA inquiries within 30 days of receiving the written request. HCFA will pay as secondary payer on all claims for beneficiaries currently covered by an employer health plan. Payments will be recovered from private insurers for claims erroneously paid for beneficiaries if the claim was submitted at a time when the beneficiary was covered by an employer health plan.

The provision expires on September 30, 1991.

(b) Uniform Enforcement and Coordination of Benefits.—Current law relating to Medicare secondary payer policy is recodified and changes are made to penalties for employers who fail to provide primary coverage where required to do so. The Social Security Act will explicitly require employers to offer all beneficiaries (aged, disabled and ESRD in the first twelve months) primary coverage to the degree it would be available to other non-Medicare eligible employees or dependents. Employers failing to comply with this requirement will be subject to an excise tax. All other requirements and penalties in current law are repealed.

Payments by workers' compensation or liability and related insurance will be credited toward Medicare deductibles and coinsurance.

Due to pending litigation, the Committee has taken no position on whether hospitals can seek imposition of liens against liability rewards in excess of Medicare payments. The Committee is aware that there are two lawsuits addressing the lien issue that have not yet been resolved. These include an appeal by HHS of the opinion by the 9th Circuit Court of Appeals in the *Oregon Association of Hospitals, et al.* v. *Bowen et al.* case (708 F. Supp 1135 (D. Oreg. 1989)) and a case filed by the American Hospital Association in District of Columbia District Court *AHA, et al* v. *Bowen,* Civil Action 88-2027 RCL (D.D.C. filed Jul. 22, 1988). Thus, the Committee believes that it is premature and inappropriate for the Congress to enact legislation before judicial review is complete.

(c) Special Enrollment Period for Disabled Employees.—The special enrollment periods available to aged beneficiaries who were covered by employer health plans are extended to disabled beneficiaries for whom Medicare has been secondary payer.

(d) No Intermediary and Carrier Matching Based on Private Activities Required.—The Secretary of HHS is barred from requiring fiscal intermediaries and carriers to match data other than data obtained under this provision with Medicare data for the purposes of identifying beneficiaries for whom Medicare is secondary payer.

(e) Treatment of Employment as a Member of a Religious Order.—Services provided by members of religious orders are not considered "employment," and religious orders need not offer their older or disabled members insurance that is primary to Medicare.

(f) Study of Medicare Secondary Payer Beneficiary Protections.—The Comptroller General of the Government Accounting Office is required to conduct a study and issue a report to Congress no later than August 1, 1990, on issues related to protection of beneficiaries' rights in cases where Medicare is the secondary payer. Specifically, the study must examine HCFA's policy with regard to the amount of recoveries from beneficiaries; how such policy interacts with State laws governing structured settlements; whether changes in such policy are needed; and which procedures used by HCFA to identify beneficiaries with insurance coverage that may be primary to Medicare result in erroneous determinations and result in beneficiary liability for payment. The required report must also include recommendations about whether Congress should broaden the circumstances under which the Secretary may waive recovery from beneficiaries.

Effective Date.—(a) Effective October 1, 1989; (b) applies to items and services furnished after enactment; (c) applies to enrollments occurring after, and premiums for months after, the second calendar quarter beginning after the date of enactment; (d) applies to agreements and contracts entered into or renewed on or after enactment; (e) applies to items and services furnished on or after October 1, 1989; (f) enactment;

HOSPITAL-BASED NURSING SCHOOLS

Present Law.—Medicare pays hospitals the direct costs of approved medical education programs, including programs to train resident physicians, nurses and allied health professionals. These costs are excluded from Medicare's prospective payment system (PPS) and are reimbursed on a reasonable cost basis (for nurses and allied health professionals) or using a special formula (for resident physicians). Costs may include stipends for residents and other students, supervisory salaries of teachers and overhead costs (i.e., classroom space).

Under current Medicare regulations, hospital costs of approved medical education programs (including nursing education) are recognized as reimburseable under the pass-through only if the program is operated by the provider. (Non-provider operated programs may involve allowable costs, but the costs are assumed to be covered under the DRG payment.) This policy, adopted in 1984, reversed an earlier policy under which hospital costs would be allowable by Medicare if incurred in support of joint programs conducted in the name of an educational institution but with support from one or more hospitals. Under pre-1984 policy, hospital costs were allowed as long as: (a) hospital support did not constitute a redistribution of non-provider costs to the provider; (b) the provider received a benefit for the support furnished and (c) the provider's support was less than the costs it would have incurred with its own program.

Based on a recent interpretation of the 1984 policy by the Provider Reimbursement Review Board, intermediaries have recently begun disallowing nursing education costs claimed by hospitals that are related to nursing schools.

The Technical and Miscellaneous Revenue Act of 1988 directed the Secretary of HHS to conduct five 5-year demonstrations of the effect of authorizing pass-through reimbursement for the clinical costs of non-hospital operated nursing education programs where a written agreement exists between the hospital and the educational institution.

Committee Provision.—The Committee bill prohibits the Secretary from recouping

from or adjusting Medicare payments before September 30, 1990, because of alleged overpayments relating to questions of whether a hospital's reported costs for nursing and allied health education programs are allowable or whether the costs are included or excluded from PPA payments for operating costs. The Secretary is required to issue regulations on these issued by June 30, 1990, in consultation with PROPAC and after allowing for public comment. The final rule may not take effect until the later of 30 days after publication or October 1, 1990. The regulations must include: criteria for determining that an education program is "hospital-operated", taking into account certain organizational and operational factors; types of allowable costs; the distinction between educational costs and operating costs of hospital services; and benefits and cost-effectiveness of the education programs.

Effective Date.—Enactment.

BASE YEAR COST FOR GRADUATE MEDICAL EDUCATION

Present Law.—Medicare pays teaching hospitals the direct costs of medical education (resident salaries, supervisory time, classroom space). Under the Consolidated Omnibus Budget Reconciliation Act of 1985, Medicare direct medical education payments to a hospital are limited in the aggregate by the number of the hospital's residents times a hospital-specific base year cost per resident indexed forward for inflation. In most cases, the Secretary of HHS is required to use 1984 as the base year for this calculation, but may choose a different year for hospitals not involved in medical education or in Medicare in 1984.

Committee Provision.—The bill allows the Secretary to use a base year other than 1984 for hospitals that were involved in medical education at the time but which have substantially upgraded their medical education program since that time, if the hospital requests the use of a different base year.

Effective Date.—Payments based on an alternative base year apply to the first cost reporting period for which the Secretary determines that the hospital's program expansion was substantially implemented

STUDY OF GRADUATE MEDICAL EDUCATION

Present Law.—Medicare issues additional payments under the prospective payment system (PPS) to inpatient hospitals with graduate medical education, to reflect the additional indirect costs associated with training medical residents. Medicare also pays, outside PPS, for the direct cost of medical education programs, such as salaries and overhead.

Committee Provision.—The Committee bill requires the Prospective Payment Assessment Commission and the Physician Payment Review Commission to conduct a study of Medicare reimbursement policy for graduate medical education costs and to submit a report to Congress by October 1, 1990. The report is to include recommendations for reforms in medical education payments, focus on ways of encouraging residencies and fellowships in priority practice areas, such as geriatrics and primary and preventive care, and practice locations, including rural areas and ambulatory and long-term care settings. Among the options the report is to consider are higher indirect cost adjustments for these priority areas, modifications in the system for reimbursing direct costs, and direct reimbursement to physicians for supervising residents.

Effective Date.—Enactment.

HOME HEALTH WAGE INDEX

Current Law.—Medicare pays home health agencies the reasonable cost of covered services, subject to annual limits. The annual limits are set at 112% of the average cost agencies incur in delivering services, but are adjusted to reflect geographic variations in wage levels. Until this year, the Health Care Financing Administration adjusted the home health limits for area wage variations by applying the same area wage index used to adjust hospital payments under the prospective payment system (the hospital wage index is based on a special survey of hospitals). The Omnibus Budget Reconciliation Act of 1987 required that, effective July 1, 1988, HCFA implement a special wage index based on audited data from home health agencies to adjust the limits. The Medicare Catastrophic Coverage Act of 1988 delayed this requirement until July 1, 1989 and substituted a requirement that the data be "verified" rather than "audited." HCFA has now published a final home health wage index effective July 1, 1989. Because in many cases the new home health wage index levels for specific areas vary widely from the hospital wage index previously used (plus or minus 60%), HCFA has announced that it cap the potential change in a home agency's limit at plus or minus 20%.

Committee Provision.—The Committee's bill requires HCFA to continue using the hospital-based wage index that was in effect for cost reporting periods beginning before July 1, 1989, until cost reporting periods beginning on or after 7/1/90.

Effective Date.—Enactment.

GAO STUDY OF HOME HEALTH PAPERWORK

Current Law.—No provision.

Committee Provision.—The Committee's bill requires the GAO to report to Congress on information collection and paperwork required of home health agencies participating in Medicare. The bill requires the report to focus on information requirements relating to coverage, reimbursement and certification and the degree to which unnecessary duplication exists. GAO is also required to make recommendations with regard to the feasibility of eliminating the requirements for dual reporting for the purposes of Medicare and Medicaid participation. GAO is required to report by June 1, 1990.

Effective Date.—Enactment.

ADVISORY COMMITTEE ON HOME HEALTH CLAIMS

Current Law.—The Medicare Catastrophic Coverage Act of 1988 created an Advisory Committee on Medicare Home Health Claims composed of representatives of the home health industry, fiscal intermediaries, physician groups and senior citizen groups. The Committee is to study the reasons for the increase in home health claims denials in 1986-7, the ramifications of the increase, and the need to reform the denial process. The Committee was required to report on its study by July 1, 1989. The report has not yet been transmitted. Such sums as are necessary are authorized.

Committee Provision.—The bill extends the Committee's authority through October 1, 1990, and requires it to evaluate and report to Congress by October 1, 1990 on the implementation of its recommendations and the effectiveness of any changes made.

Effective Date.—Enactment.

ESSENTIAL CARE HOSPITALS

Present Law.—No provision.

Committee Provision.—The bill requires the Secretary of HHS, through the Administrator of the Health Care Financing Administration, to make by August 31, 1990, four-year grants to no fewer than 10 or more than 15 rural hospitals for the cost of transforming the hospital into an essential care hospital (ECH). Services will begin no later than January 1, 1991. Grants may not exceed $100,000 annually for each year for each hospital and are to be made for costs incurred in planning, implementing and evaluating the ECH. (Grants are to be in addition to payments for services, with payments for services made on a basis described below). Applications will be submitted to the Secretary, with copies to the Governor, chief public health officer and State office of rural health if appropriate. There are authorized to be appropriated such sums as necessary to carry out the demonstration.

For the purposes of the demonstration, ECH services include limited (as defined by the Secretary) inpatient care, emergency visits, ambulatory care, outpatient surgical care, stabilization care before transfer to another facility, and other services and supplies. To be eligible for ECH status, a hospital must be located only in rural areas, at least 30 miles from a hospital and would have fewer than 50 beds. Various staffing, quality assurance, governance and affiliation requirements will apply. ECHs will be required to have a transfer agreement with referral hospitals. ECHs will be authorized to maintain swing beds.

Payments to ECHs for inpatient services will be equivalent to payments under the prospective payment system for the first year, after which the Secretary may develop a new alternative methodology. Payment for other services will be on a basis to be determined by the Secretary. The Secretary is required to waive Medicaid program requirements to allow MAFs to participate in Medicaid.

The Secretary is required to provide Congress with interim and final evaluation reports.

RURAL HEALTH PROVISIONS RELATED TO PARTS A AND B

Present Law

a. Rural Health Medical Education Demonstrations.—The Omnibus Budget Reconciliation Act of 1987 directed the Secretary of HHS to conduct demonstrations at four sites to assist resident physicians in developing field clinical experience in rural areas. Sponsoring hospitals participating in the demonstration enter into agreements to provide residents for a one-to-three month rotation at rural hospitals. Sponsoring hospitals are eligible for Medicare payment of any surpervision costs they incur. OBRA 1987 included various provisions relating to the location of the demonstration projects.

b. Prospective Payment Assessment Commission (PROPAC) Representation.—The Social Security Amendments of 1983 created the Prospective Payment Assessment Commission to advise Congress on issues related to Medicare hospital payment. PROPAC members are appointed by the Director of the Office of Technology Assessment and consists of 17 members appointed for three-year terms. The Commission's membership is to include individuals with a variety of professional, geographic and substantive backgrounds. The Omnibus Budget Reconciliation Act of 1987 specified that PROPAC should include "a balance between urban and rural representatives."

c. Office of Rural Health.—The Omnibus Budget Reconciliation Act of 1987 directed the Secretary of HHS to create an Office of Rural Health Policy to advise the Secretary

of the effects of current and proposed policies on financing of and access to health care in rural areas.

Committee Provision

a. Rural Health Medical Education Demonstrations.—The bill expands the number of sites from four to ten, with the additional six sites to be selected without regard to the geographical requirements of OBRA 1987. New projects are to begin within 6 months after enactment.

b. Prospective Payment Assessment Commission (PROPAC) Representation.—The bill expresses the sense of the Senate that at least four additional members with demonstrated experience in providing or developing rural health services should be appointed to PROPAC, and that in the future at least 25 percent of PROPAC's members should have such experience.

c. Office of Rural Health.—The bill specifically authorizes the existing rural health research center program and authorizes $13 million of each of FY90-92 for this purpose, including $3 million for the Office of Rural Health Policy. It establishes in law the current National Advisory Committee on Rural Health, and authorizes a Federal matching program to encourage States to establish offices of rural health. The grant program will be administered through the HHS Office of Rural Health. The authorization level for the program is $3.75 million in FY1990, $2.5 million in FY1991 and $1.25 million in FY1992. Federal matching funds will be available dollar-for-dollar for funds spent by a State to establish an office of rural health. However, no State may qualify for a grant in excess of 2% of the annual appropriation of the program, and no State may spend more than 20% of Federal funds on research. State offices of rural health established under the grant program will be required to carry out certain activities and will be authorized to carry out other activities.

ESRD NETWORK FUNDING

Present Law.—Under section 188(b)(7) of the Social Security Act, administrative costs of an End Stage Renal Disease (ESRD) Network are funded by reducing by 50 cents the amount otherwise payable for each treatment furnished in the areas served by the network.

This funding mechanism has the effect of limiting the funds available to administer a network to the amount actually collected in its area.

As a result, some networks have been inadequately funded to carry out their statutory responsibilities. For example, networks that cover large geographic areas with small patient loads do not have sufficient funds to finance necessary staff and travel.

Committee Provision.—The committee provision authorizes the Secretary to redistribute network administrative funds in a budget neutral manner so that each network has the minimum funding necessary to carry out its statutory responsibilities.

Remaining funds would be distributed to the networks under a formula developed by the Secretary to ensure equitable treatment for all networks, taking into account the geographic size of the network area, the number of providers of ESRD services in the area, the number of individuals who are entitled to the Medicare ESRD benefit in the area, and the proportion of the aggregate administrative funds collected in the network's area.

Effective Date.—January 1, 1990.

PROTECTIONS FOR ESRD NETWORK MEDICAL REVIEW

Present Law.—As a part of an ESRD network's responsibilities under section 1881 of the Social Security Act, network physicians are required to perform medical review of the quality and appropriateness of covered services.

Unlike physicians in the Peer Review Organization (PRO) program, ESRD network physicians are not protected from liability judgments for medical review activities conducted in good faith.

In addition, although there is statutory authority to reimburse PROs for legal costs arising from their duties, there is no comparable authority with respect to ESRD networks.

Moreover, although the ESRD networks are required to perform medical review activities, current law does not provide for the confidentiality of the information collected for these activities as it does for PROs. Thus, any medical review information gathered by the networks would be releasable.

These limitations in current law have impeded implementation of required medical review and patient grievance review activities of ESRD networks.

Committee Provision.—The committee provisions provide for the same protection for ESRD medical review activities as for PROs.

Effective Date.—Enactment.

PART B PREMIUM

Current Law.—Individuals entitled to benefits under part A of the Medicare program have the option of enrolling in part B of the program as well. Enrollees pay a monthly premium. The part B premium originally was set to ensure that enrollee premiums covered 50 percent of the costs of the part B program; the remainder of the funding came from general revenues.

Subsequent legislation limited the percentage increase in the part B premium for a year to the percentage increase in Social Security cash benefits for the same year. This had the effect of decreasing the share of program costs borne by enrollees to less than 25% by 1984.

The Tax Equity and Fiscal Responsibility Act of 1983 (TEFRA) and the Social Security Amendments of 1983 provided for part B premiums for 1984 and 1985 to be set at a level that would cover 25 percent of program costs. If there were no cost of living adjustment (COLA) under the cash benefits program, there would be no increase in the part B premium, and an individual's premium increase could not exceed the increase in his or her cash benefits. Subsequent legislation extended these provisions through 1989.

Committee Provision.—The Committee bill extends for one year (through calendar year 1990) the current provision requiring part B premiums to cover 25 percent of program costs.

Effective Date.—Enactment.

PHYSICIAN REFERRALS

Present Law.—Under the "anti-kickback" laws applicable to health care programs established under the Social Security Act, it is a felony to knowingly and willfully offer, pay, solicit, or receive remuneration in return for referral of a patient for covered items and services. The prohibition against remuneration in return for referrals extends not only to kickbacks, bribes, and rebates but also to any other form of remuneration, whether made directly or indirectly, overtly or covertly, in cash or in kind. A person convicted of violating the anti-kickback laws may be fined not more than $25,000, imprisoned for not more than 5 years, or both. A determination that a person has engaged in prohibited activities may also lead to exclusion from program participation.

Section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 requires the Secretary of Health and Human Services to promulgate regulations specifying payment practices that, although potentially capable of inducing referrals, do not pose a substantial risk of abuse and should not be considered illegal remuneration or reason for exclusion from program participation. This provision was enacted in response to provider concerns that the laws were so broadly drafted as to impede legitimate and beneficial practices.

On January 23, 1989, the Secretary published a proposed rule to provide a "safe harbor" under the anti-kickback laws for specified payment practices. Among the practices addressed in the proposed rule is referral of a patient to an entity with which the referring physician has a financial relationship, such as an investment interest or a personal services contract. This practice is sometimes referred to as a "self-referral."

The proposed rule contains a safe harbor for the payment of dividends by large corporations to physician investors, based on the assumption that these companies are large enough to ensure that a physician investor's return on investment will not be affected significantly by the volume of his or her referrals. Instead of creating a safe harbor for physician investment interests in smaller entities, such as clinical laboratories, magnetic resonance imaging centers, and durable medical equipment (DME) suppliers, the Secretary invites comments on the desirability of establishing a safe harbor for arrangements in which (1) a bona fide opportunity to invest is made available on an equal basis to individuals not in a position to make referrals, (2) there are no requirements to make referrals, (3) the existence of a physician's investment is disclosed to a referred patient, and (4) the amount of payment is not related to the number of referrals.

Practices falling outside a safe harbor are not necessarily illegal but are at risk of prosecution under the anti-kickback laws.

Due August 18, 1989, publication of the final rule has been delayed in part because of the large number of public comments received.

A provision of the Medicare Catastrophic Coverage Act of 1988 prohibits (with certain exceptions) a home IV therapy provider from providing services to a Medicare beneficiary if the referring physician has an ownership interest in, or compensation arrangement with, the provider. Sanctions include denial of payment for the services, civil money penalties of not more than $15,000 per violation, and exclusion from program participation.

The same provision required the Inspector General of the Department of Health and Human Services to study and report to Congress on the prevalence of self-referral arrangements and whether they lead to inappropriate utlilization of services.

In the study, the Inspector General found that 12 percent of physicians who bill Medicare have ownership or investment interests in entities to which they refer patients. He also found significant variation in the degree to which utilization of services by patients of physician investors exceeded utilization by Medicare beneficiaries generally. Focusing on independent clinical labs

(ICLs), independent physiological labs (IPLs), and DME suppliers, he found that patients of physician investors utilized 45 percent more clinical laboratory services, 13 percent more physiological testing services, and no more DME services, than other Medicare patients.

In conducting the study, the Inspector General discovered certain limitations in the available data. First, carriers who process part B claims do not have adequate information about physician ownership interests in entities providing services; thus it was necessary to survey a sample of providers. Second, claims for part B ancillary services generally do not contain the name or physician provider number of the referring physician; thus it was not possible to trace the services utilized by the patient of a physician investor to that physician. Finally, since members of a group practice sometimes use the same physician provider number in submitting claims for physicians services, it was not always possible to sort the patients of group practice members who were physician investors from those of members who were not.

The Consolidated Omnibus Budget Reconciliation Act of 1985 requires the Secretary to establish a system that provides a unique identifier for each physician furnishing services to Medicare beneficiaries.

The Deficit Reduction Act of 1984 provided that Medicare would only pay the person actually providing clinical laboratory services. The purposes of this "direct billing" requirement was to prevent a physician from ordering a test and billing for it at a marked up price. It was felt that this practice inflated program costs and created an incentive for overutilization of such services.

An exception was provided for lab tests that were performed by a laboratory other than the one billing for the tests. This exception was intended to permit rural hospitals to utilize referral labs for tests they were unable to perform.

Physicians have utilized this exception to circumvent the direct billing requirement by investing in "shell" laboratories that perform few if any tests, while obtaining substantial discounts from referral labs competing for their business.

Committee Provision.—The Committee provision makes four changes in current law. First, it requires any entity claiming payment under part B of Medicare to disclose to the Secretary the name and physician provider number or identifier of each physician with an ownership or investment interest in the entity. This will enable carriers to identify entities to be monitored for overutilization. Second, it requires that all part B claims contain the name and physician provider number or identifier of the referring or ordering phyisican. This will enable the carriers to match claims for part B ancillary services to referring physicians, as well as to the facility that provided the service. Third, the provision requires carriers to monitor the part B ancillary services for which physician investors refer their patients in order to detect patterns that may indicate overutilization of these services, and to report any suspected instances of unnecessary utilization to the appropriate peer review organization (PRO). Fourth, it limits the exception for referral labs to those labs that are an integral part of a rural hospital or do 70 percent of their own testing.

Effective Date.—Enactment.

DISREGARD OF COST-OF-LIVING ADJUSTMENTS IN CERTAIN MEDICAID ELIGIBILITY DETERMINATIONS

Present Law.—Whether an individual is determined to be a "qualified Medicare beneficiary" (QMB) depends upon whether his or her income is less than a specified percentage of the Federal poverty level.

Cost-of-living adjustments for cash benefits under title II and title XVI of the Social Security Act become effective on January 1 of a calendar year. The Federal poverty levels for a year are not updated until the middle of February of that year.

As a result of this lag, an individual with income near (but below) the maximum income level for QMBs for a year may lose eligibility in the following year until the new poverty levels are issued.

Committee Provision.—The Committee bill requires State Medicaid plans to disregard, during the first quarter of each calendar year, any increased income of qualified Medicare beneficiaries that is attributable to cost-of-living adjustments under title II or title XVI of the Social Security Act that become effective during that period.

Effective Date.—Enactment.

DAY HABILITATION SERVICES

Present Law.—Day habilitation services include a wide range of services provided to mentally retarded and developmentally disabled individuals in order to develop the self-help, socialization, and adaptive skills necessary for them to lead the most normal and productive lives possible. Some of these services, such as physical and occupational therapy, are services that would also be rehabilitative services if furnished to an individual recovering from an illness or physical injury.

Several State Medicaid plans have been furnishing day habilitation services for mentally retarded and developmentally disabled individuals under the statutory authority to provide rehabilitative services or clinic services.

The Health Care Financing Administration (HCFA) has recently informed these States that habilitation services for the mentally retarded and the developmentally disabled are covered in only two settings: an intermediate care facility for the mentally retarded (ICF/MR) and under a home and community based wavier authority. Otherwise and indivdual must be recovering from an illness or physical injury to be eligible for them.

Committee Provision.—The Committee bill prohibits HCFA from withholding, suspending, disallowing, or denying federal financial participation for day habilitation services furnished pursuant to a State plan provision approved on or before June 30, 1989. HCFA will be permitted to do so on a prospective basis upon issuance of final regulations clarifying when such services are covered.

Effective Date.—Enactment.

HOME AND COMMUNITY-BASED SERVICES WAIVERS

Present Law

a. Bed and Board Exclusion.—Section 2176 of OBRA 81 permitted States to obtain waivers of certain Medicaid requirements in order to establish a home and community-based service program for a defined population (such as the aged or the mentally retarded) of persons who would otherwise require long-term institutional care. Costs for bed and board are excluded from those which a State may include as Medicaid costs under a waiver.

b. Residents of Terminated ICFs/MR.—In order to obtain a Section 2176 waiver, the State must demonstrate that average per capita Medicaid costs for wavier participants are no greater than would have been incurred in the absence of the waiver.

Committee Provision

a. Bed and Board Exclusion. The Committee bill provides that the "bed and board" exclusion does not apply to the share of rent and food costs attributable to an unrelated caregiver who is residing with a waiver participant and without whom the participant would require institutional care.

b. Residents of Terminated ICFs/MR.—The Committee bill provides that, in estimating per capita costs in the absence of a waiver for persons with mental retardation or a related condition who are residents of an ICF-MR whose Medicaid participation has been terminated, the State may use the costs that would have been incurred if the facility had not been terminated.

Effective Date.—Enactment.

EXTEND OPTION FOR CORRECTION AND REDUCTION

Current Law.—In the event of noncompliance of an intermediate care facility for the mentally retarded (ICF/MR) with Federal regulatory standards, the facility's participation in Medicaid may be terminated. However, if the deficiencies do not immediately jeopardize the health and safety of clients, States may implement a plan for correction of the deficiencies and/or reduction of the number of clients served. The authority for correction and reduction plans expires on January 1, 1990.

Committee Provision.—The Committee bill permanently authorizes the option for States to submit correction and reduction plans for ICFs/MR facing a funding cutoff.

PREVOCATIONAL SERVICES

Current Law.—Habilitation services are authorized under the home and community based waiver program for persons with mental retardation or related conditions. The statute generally leaves the definition of waivered services to State discretion. In 1985, Congress specified that habilitation services, for those persons previously institutionalized in a Medicaid facility, are to include prevocational services (among other specified services).

Committee Provision.—The Committee bill allows payment of prevocational services for persons who have not resided in an institution. This provision clarifies congressional intent that prevocational services be available to persons who have not been institutionalized as well as to persons who have been institutionalized.

QUALIFIED SUBSTATE AGENCIES

Present Law.—Medicaid law prohibits providers from assigning Medicaid receivables to factors, collection agents who purchase from providers the right to collect the providers' outstanding claims. Some States, in implementing home and community-based services programs, have contracted with local governments or nonprofit agencies to manage the programs. These agencies pay service providers and then recover their costs from the Medicaid program. There have been contentions that this arrangement constitutes factoring and is therefore subject to the prohibition.

Committee Provision.—The Committee bill clarifies that the administrative arrangements with sub-State government or nonprofit agencies do not constitute factoring for the purpose of the prohibition.

Effective Date.—Enactment.

VOLUNTARY CONTRIBUTIONS

Present Law.—Medicaid is a Federal-State program under which Federal funds are available to match State expenditures to purchase specified medical services on behalf of eligible individuals.

Current regulations allow States to use as State expenditures for purposes of receiving Federal matching payments funds donated from private sources.

These funds are transferred to the State Medicaid agency, are under the agency's administrative control, and do not revert to the donor's facility or use unless the donor is a non-profit organization and the Medicaid agency, of its own volition decides to use the donor's facility.

In addition, some States use funds that are generated from taxes on health care providers to draw Federal matching funds.

In the President's proposed budget for FY 1989, the Administration indicated that it would issue regulations to limit the use of donated funds to draw down Federal matching payments.

Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 prohibited the Secretary from issuing final regulations changing the treatment of voluntary contributions or provider-paid taxes utilized by States to receive Federal matching funds under Medicaid. The prohibition expired May 1, 1989.

The President's budget for FY 1990 indicated that regulations changing the treatment of these contributions and taxes would be issued after expiration of the ban. These regulations have not yet been issued.

Committee Provision.—The Committee bill provides that, at the option of the State, financial participation by the State in Medicaid may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

The bill limits financial participation of this type to not more than 10 percent of the State's financial participation in Medicaid in a year, and provides that donations by a particular hospital may not exceed 10 percent of the hospital's gross revenues for a cost reporting period (excluding any Federal revenues under Medicare, Medicaid, or the Maternal and Child Health Block Grant).

The bill extends the prohibition on the issuance of final regulations to May 1, 1991 to the extent that it applies to provider-paid taxes.

Effective Date.—Enactment.

TREATMENT OF CERTAIN VETERANS' PENSION BENEFITS

Present Law.—Under current law, Veterans' Administration (VA) pension benefits are treated as income in determining an individual's eligibility for Medicaid.

VA pension payments are reduced by income received from other sources, such as Social Security or private pensions. In determining the amount of these reductions, however, an offset is provided for unreimbursed medical expenses.

Known as an adjustment for unreimbursed medical expenses (AUME), this offset increases the individual's VA pension to a level above what it otherwise would have been.

In the case of a disabled individual in a nursing facility, AUME may cause the individual's total income to exceed the Medicaid qualifying level.

In a State with a medically needy program, the increased income from AUME would be applied to the individual's medical expenses under the law's "spend down" requirements, thereby permitting the individual to remain eligible for Medicaid.

In a State without a medically needy program, however, the individual would lose Medicaid eligibility, become ineligible for AUME because he or she is no longer incurring the cost of institutional care, and then become eligible for Medicaid again when VA benefits became subject to full reductions for other income.

Committee Provision.—The Committee bill requires States to exclude from Medicaid-countable income any increased income attributable to AUME.

Effective Date.—Enactment.

LONG-TERM CARE DEMONSTRATION PROJECTS

Current Law.—In most States, Medicaid will cover the cost of long-term care for low-income elderly individuals who are entitled to benefits under the supplemental security income (SSI) program.

A State may cover long-term care for elderly individuals with incomes exceeding SSI eligibility levels in several ways.

First, a State may establish higher income standards for elderly individuals in nursing facilities, based upon the greater need for financial assistance these individuals would have if they were not in an institution. The income levels for these individuals may not exceed 300 percent of the SSI benefit rate for an individual.

Second, a State may opt to cover elderly individuals with incomes below 100 percent of poverty for the wider package of benefits available under its State Medicaid plan.

Third, a State may establish a "medically needy" program under which an individual with income exceeding SSI levels becomes eligible for long-term care by incurring expenses for medical care that reduce his or her income to a level specified by the State; this level may not exceed 133⅓ percent of the highest amount that would be payable under the aid to families with dependent children (AFDC) program to a family of the same size without income or resources. This process is known as "spending down"; an individual who becomes eligible for long-term care by spending down is required to contribute to the cost of his or her long-term care to the extent that subsequent income would cause the level specified by the State to be exceeded.

The Robert Wood Johnson Foundation has awarded planning grants to a number of States to investigate the potential role of public/private partnerships, and particularly private insurance, in financing long-term care.

Committee Provision.—The Committee's bill allows the State of New York to establish a demonstration project under which an individual with income and resoures above normal eligibility levels would be entitled to long-term care benefits under the State Medicaid plan if the individual purchases a State-approved long-term car insurance policy covering such care for a period preceding Medicaid eligibility.

The Secretary is authorized to waive requirements relating to statewideness, income and resource eligibility, collection of premiums, liens, recovery of assets, freedom of choice, personal needs allowance, protection of community spouse, and transfer of assets.

The Secretary would be required to award the demonstration project in a budget neutral manner.

Effective Date.—Enactment.

DEEMED STATUS UNDER MEDICAID

Present Law.—Under the Medicare program, a provider is said to have "deemed status" if it is accredited by the Joint Commission on the Accreditation of Health Care Organizations. The term refers to the fact that the law specifically provides that such accreditation will satisfy most conditions of participation under the Medicare program, thus dispensing with the need for Federal enforcement of such conditions.

Under State Medicaid plans, a State may determine, through a State agency, whether a provider qualifies for program participation, or it may involve private accrediting organizations in making such determinations.

Committee Bill.—The Committee bill requires the Secretary of Health and Human Services (Secretary) to establish a demonstration project involving not more than 10 States in which deemed status is provided to mental health facilities by private agencies designated by the State in accordance with criteria developed by the Secretary.

MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT

Present Law.—The Minnesota Department of Human Services has been testing a prepaid capitated approach to providing medical assistance under the state's Medicaid plan since July 1985.

In order to enable Minnesota to conduct the demonstration project, the Secretary of Health and Human Services (Secretary) waived Medicaid requirements relating to freedom of choice, statewideness, and comparability, as well as certain restrictions on reimbursement agreements and the release of information.

Section 507 of the Family Support Act of 1988 required the Secretary to extend the waiver until June 30, 1990.

Committee Provision.—The Committee bill requires the Secretary to extend the waiver until June 30, 1995. It also provides permanent authority for the State of Minnesota to furnish capitated care.

Effective Date.—Enactment.

MEDICAID DEMONSTRATION PROGRAM: STATE OF OREGON

Present Law.—A number of States currently operate demonstration programs which test ways of providing health care and cash assistance to low-income persons in innovative ways. Some of these projects require waivers of certain provisions of Medicaid law. The State of Oregon wishes to conduct a demonstration program to test whether expanded Medicaid eligibility and a redesigned benefit package can improve access to basic health care services to low-income persons.

Committee Provision.—The Committee bill allows the State of Oregon to apply to the Secretary to conduct a demonstration project consistent with Oregon's Senate Bill 27. The Secretary shall approve an application which carries out Oregon's Senate Bill 27 and provides for an evaluation of the demonstration. If the Secretary approves the application, the Secretary shall waive sections of Medicaid law as necessary to permit operation of the program. Among the waivers that would be permitted are: (a) relaxation of the requirement that eligibility income standards be tied to those for AFDC, so that Oregon could use a limit of 100 percent of the Federal poverty level; (b) authorization of coverage, ordinarily not permitted, of single individuals and childless couples who are neither aged nor disabled;

and (c) waiver of minimum benefit requirements, so that Oregon could rank order services based on their benefit to the entire population and medical effectiveness. (Selected services which are now mandatory might not be financed if they were determined to be of lower priority.)

Effective Date.—Enactment.

RESPITE DEMONSTRATION EXTENSION

Current Law.—Medicaid does not cover respite care services except where provided under a home and community-based services waiver approved by the Secretary under section 1915(c) of Medicaid law. OBRA 86 established a respite care pilot project under the Medicaid program in the State of New Jersey. This project is intended to determine the extent to which respite services will delay or avert the need for institutional care and how such services can enhance and sustain the role of the family in providing long-term care services for elderly and disabled individuals at risk of institutionalization. The project was to be conducted for a maximum of four years (FY 1987 through FY 1990), plus an additional period of up to 6 months for final evaluation and reporting.

Committee Provision.—The Committee's bill extends the New Jersey respite care demonstration through March, 1991, as a result of a delay in start-up.

Effective Date.—Enactment.

RETROACTIVE COVERAGE OF MEDICARE COST-SHARING FOR QUALIFIED MEDICARE BENEFICIARIES

Present Law.—The Medicare Catastrophic Coverage Act of 1988 requires State Medicaid plans to pay Medicare cost sharing (including part B and, where applicable, part A premiums) for elderly individuals who are eligible to participate in the Medicare program and whose income and resources are below specified levels. These individuals are referred to as qualified Medicare beneficiaries (QMBs) and may be eligible for Medicaid solely on that basis or as both a QMB and a member of another group qualifying for medical assistance, such as recipients of supplemental security income (SSI).

Section 1902(e)(8) of the Act requires a State to pay Medicare cost sharing obligations for an individual beginning with the month after the month in which the individual is determined to be a QMB.

If an individual is QMB-eligible, but the eligibility determination is delayed for any reason, the individual must pay Medicare cost-sharing obligations from his or her personal funds until the month after the determination is made.

Implementation of the QMB program was delayed in many States beyond its effective date of January 1, 1989. As a result, cost-sharing obligations incurred by some QMBs on or after that date have not been covered under State Medicaid plans.

Committee Provision.—The committee bill authorizes a State to treat an individual as a QMB for any month before October 1989 if the individual: (1) is determined to be a QMB before that month; (2) incurred expenses for Medicare cost-sharing for the month, and (3) would have qualified as a QMB for the month.

Effective Date.—Applies to cost-sharing expenses incurred on or after January 1, 1989, and before October 1, 1989.

EXTENSION OF DEMONSTRATION

Current Law.—Section 1115 of the Social Security Act provides the Secretary of HHS general authority to conduct experiments and demonstrations under Medicare and to waive program requirements in conducting these demonstrations. Under this authority, the Secretary approved a waiver for the demonstration project, "Modifications of the Texas System of Care for the Elderly: Alternatives to the Institutionalized Aged." Since 1980, the State of Texas has provided under this demonstration personal care services to aged and disabled individuals who are at risk of entering a nursing home. The waiver authority for this demonstration was first extended by the Consolidated Omnibus Budget Reconciliation Act of 1985, and again by the Medicare Catastrophic Coverage Act, when it was extended until January 1, 1990.

Committee Provision.—The Committee's bill extends the waiver authority for the Texas demonstration for 3 additional years, until January 1, 1993.

Effective Date.—Enactment.

MEDICAID HOSPICE

Current Law.—Hospice care is an optional State service under Medicaid. Just as Medicare beneficiaries are required to waive eligibility for the standard Medicare benefit package to qualify for Medicare hospice benefits, Medicaid hospice beneficiaries are required to waive benefits in a way that is "consistent with" the Medicare rules. The purpose of this waiver is to assure that Medicare or Medicaid hospice benefits are being used to substitute for acute care services such as inpatient hospital care Medicaid, however, covers certain services such as attendant care that are not covered by Medicare.

States covering hospice care must pay for hospice care in the same amounts, and according to the same methodology under Medicaid. In the case of a beneficiary living in a nursing home, however, the State may pay a separate rate to the hospice program in order to take into account room and board services being provided by the nursing home. Once a nursing facility resident has elected hospice care, the hospice is responsible for payment of his or her room and board to the nursing facility under an agreement. In a number of States, the payment to the hospice for room and board is substantially less than the rate for nursing homes.

Committee provision.—The Committee's bill clarifies that an individual's waiver of Medicaid benefits applies only to the types of services covered by Medicare and not to Medicaid-only services, thereby enabling beneficiaries to retain access to these services. NOTE:—The bill also requires States which cover hospice services to pay hospices an additional amount equal to at least 95% of the rate that would have been paid by the State to the nursing facility for a hospice beneficiary.

MEDICAID COVERAGE OF RURAL HEALTH CLINIC SERVICES

Present Law.—States are required to cover services by facilities designated by the Secretary as rural health care clinics if the services are otherwise covered under the State Medicaid plan. The State must pay 100 percent of the reasonable costs of the clinic in furnishing the services. For services that would be covered as rural health clinic services if furnished to a Medicare beneficiary, the State must follow the methods used by Medicare in determining reasonable cost. For other services, the State's determinations are bound by any regulations the Secretary may promulgate relating to tests of reasonableness.

Committee Provision.—The Committee bill provides that, for Medicaid purposes, a facility is to be treated as a rural health clinic if it has been determined by the Secretary to meet requirements under the Public Health Service Act for funding as a community or migrant health center or a provider of health care to the homeless. Requires States to pay, for rural health clinic services furnished to Medicaid beneficiaries, 100 percent of the reasonable costs of such services as determined by the fiscal intermediary for Medicare beneficiaries.

Cost-based provisions of this statute, when applied to provider-based rural health clinics, should serve as an incentive to restructure and maintain health care services in rural areas. The Committee believes that it would be appropriate for private physicians, hospitals, and nursing homes to consolidate their services under the rural health clinic provisions, if appropriate.

Effective Date.—Enactment.

CHILD HEALTH PACKAGE

Present Law.—a. Coverage of Pregnant Women, Infants, and Children to Age 6. The Medicare Catastrophic Coverage Act of 1988 (MCCA) requires States to offer Medicaid coverage to pregnant women and infants under one year old with family incomes below 75 percent of the Federal poverty line by July 1, 1989, and to those with family incomes below 100 percent of the poverty line by July 1, 1990. The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) permits States to establish a higher income standard for pregnant women and infants, up to 185 percent of the poverty line, and also permits States to cover children under age 2, 3, 4, 5, 6, 7, or 8 (as selected by the State) who were born after September 30, 1983, and whose family income is below a State-established income level which may be as high as 100 percent of the Federal poverty level.

b. Coverage of Children to Age 19. States must provide Medicaid for children receiving Aid to Families with Dependent Children (AFDC) and may provide Medicaid to children whose family income is within AFDC standards but who do not meet nonfinancial criteria for AFDC.

c. Continuous Eligibility for Pregnant Women, Infants, and Children. (i) Beginning July 1, 1989, States have the option of continuing coverage for a pregnant woman through the end of the second full month beginning after the end of the pregnancy, even if the woman would otherwise become ineligible during that period; the infant born to the woman remains eligible for the same period. (ii) Periodic redetermination of eligibility for Medicaid beneficiaries who are not receiving cash assistance occurs at intervals determined by the State. (iii) An individual who ceases to qualify for Medicaid benefits on one basis may still qualify on some other basis. For example, a family that is no longer financially eligible for AFDC (and hence for automatic Medicaid benefits) might still be eligible for Medicaid under a higher income standard used for the "medically needy." Under current law, States are not required, when terminating Medicaid eligibility in such a case, to determine whether the beneficiary might qualify for benefits on some other basis. Instead, the individual may be required to re-apply for Medicaid benefits.

d. Coverage of Children Receiving SSI Benefits. States are ordinarily required to provide Medicaid to any aged, blind, or disabled person receiving cash assistance under the Supplemental Security Income (SSI) program. However, section 209(b) of the Social Security Amendments of 1972 (P.L.

92-603) provided that a State could use more restrictive eligibility standards for Medicaid than those used for SSI if the State was using those standards for Medicaid on January 1, 1972. As of 1989, there are 14 "Section 209(b)" States, using criteria for Medicaid for the aged, blind, and disabled more restrictive than those used for SSI.

e. Model Application. States design their own application forms for Medicaid benefits.

f. Hospital Payment Protections. States may establish durational limits on coverage of inpatient hospital services, but may not impose these limits on medically necessary services provided to children under 1 year old in hospitals serving a disproportionate number of low-income patients with special needs. If the State pays for inpatient services on a prospective basis (under which payment rates are established in advance and may not reflect the hospital's actual costs for covered services), the State must provide additional payment to disproportionate share hospitals for patients under 1 year old who are "outliers," that is, who incur exceptionally high costs or have long hospital stays.

g. Codification of Adequate Payment. States establish their own payment levels for Medicaid services. Medicaid regulations (42 CFR 447.204) provide that payments must be sufficient to enlist enough providers so that covered services will be available to Medicaid beneficiaries to at least the extent that such services are available to the general population.

h. Required Coverage of Nurse Practitioner Services. States are permitted, but not required, to include as a Medicaid benefit services of nurse practitioners within the scope of their licenses under State law.

i. Home and Community-Based Services. Section 2176 of OBRA 81 permitted States to obtain waivers of certain Medicaid requirements in order to establish a home and community-based service program for a defined population (such as the aged or the mentally retarded) of persons who would otherwise require long-term institutional care. Waiver programs must be approved and periodically re-approved by the Secretary and must meet certain requirements, including tests of cost-effectiveness. So-called "model" waivers are a separate category of section 2176 waivers that allow States to provide support services for disabled children living at home who would require institutionalization without those services and would, if institutionalized, be eligible for Medicaid. Originally, the number of children who could be served under a model waiver was limited to 50. OBRA 87, as modified by MCCA, prohibited the Secretary from limiting coverage under any section 2176 waiver to fewer than 200 persons.

j. Home Visitation Services. No provision.

k. Early and Periodic Screening, Diagnosis, and Treatment (EPSDT). States are required to cover early and periodic screening, diagnostic, and treatment (EPSDT) services for most groups of Medicaid beneficiaries under age 21. Medicaid regulations provide that EPSDT screenings must include a health and developmental history, a comprehensive physical, vision and hearing testing, appropriate laboratory tests, and dental screening for children over 3 years old (or over 5 years old, with the Secretary's approval). The regulations require that States establish, in consultation with medical and dental organizations, a "periodicity schedule" for screenings, specifying services applicable at each stage of the beneficiary's life. States must also provide treatment for problems or conditions identified during screening. The regulations provide that, in addition to any treatment services normally covered under the State Medicaid plan, the State must provide dental care, appropriate immunizations, and vision and hearing treatment, including eyeglasses and hearing aids.

l. Foster Children. Title IV-E of the Social Security Act requires, as a condition of foster care assistance grants to States, that a case plan be developed for each Federally-assisted child placed in a home or institution, including plans for assuring proper care and services.

m. Medicaid Coordination with WIC Program. The Special Supplemental Food Program for Women, Infants, and Children (WIC) provides supplemental food and related services to certain low-income mothers and young children. Although many persons qualifying for WIC are also eligible for Medicaid, there is currently no formal coordination between the two programs.

n. Improving Public Health Coordination. No provision.

o. Use of Most Recent Data in Computing Federal Medicaid Assistance Percentage. The Federal matching percentages used for Medicaid, AFDC, and other programs are promulgated by the Secretary in October or November of each year and take effect on October 1 of the following year. The percentage calculations are based on State per capita income data, using the most recent available data.

p. Outreach as an Optional Service. States may conduct outreach activities, but would receive Federal funding at the 50 percent administration matching rate.

q. Provider Reimbursement Demonstration. No provision.

r. Maternal and Child Health Handbook. No provision.

s. Annual Report by Secretary. No provision.

t. Requirements of the Secretary. No provision.

u. Maternal and Child Health Services Block Grant. The Maternal and Child Health (MCH) Block Grant program, authorized by Title V of the Social Security Act, provides grants to States for a variety of health programs, including direct provision of preventive and primary care services to mothers and children, health screenings, immunizations, and rehabilitation services for children with special health care needs (formerly referred to as crippled children). The permanent authorization for the MCH block grant program is $561 million per year; the appropriation for FY89 is $554 million. Of this amount, approximately 84% is allocated to States; the rest is retained by DHHS to support "special projects of regional and national significance" and to conduct research, training, and genetic disease screening programs.

v. Buy-in Demonstration. No provision.

w. Medicaid Coverage of Community Health Clinic Services. States are permitted, but not required, to cover services in community and migrant health centers and providers of health care to the homeless receiving Federal grants under the Public Health Services Act. States that cover such services established their own reimbursement methodologies.

X. MEDICAID TRANSITION FOR CERTAIN AFDC FAMILIES

Present Law.—Section 406(h) of the Social Security Act provides that families who become ineligible for AFDC because of the collection of child or spousal support payments are eligible for Medicaid for the four month period beginning with the first month of ineligibility. This provision expires on October 1, 1989 (Section 20(b) of P.L. 98-378).

Committee Provision.—a. Coverage of Pregnant Women, Infants, and Children to Age 6. The Committee bill requires States to cover pregnant women and children under age 6 with family incomes below 133 percent of the Federal poverty line, effective April 1, 1990.

b. Coverage of Children to Age 19. The Committee bill permits States, effective April 1, 1990, to extend Medicaid coverage to children who are age 6 or over, but under age 19, and whose family incomes do not exceed a State-established level which may be as high as 100 percent of the Federal poverty line.

c. Continuous Eligibility for Pregnant Women, Infants, and Children. The Committee bill requires all States, effective January 1, 1990, to continue eligiblity for pregnant women until the end of the second month beginning after the end of the pregnancy. For children under 3 years old who are not receiving cash assistance, States are prohibited from conducting redeterminations of eligibility more often than every 6 months, regardless of any change in the family's circumstances. Effective on enactment, States are prohibited from terminating the Medicaid eligibility of children under 3 who lose AFDC or SSI benefits until it is determined that they do not qualify for Medicaid under any other category.

d. Coverage of Children Receiving SSI Benefits. The Committee bill requires all States, effective January 1, 1990, to provide Medicaid to persons under 18 who are receiving SSI benefits.

e. Model Application. The Committee bill requires the Secretary to develop and make available to States, by January 1, 1991, a model uniform Medicaid application form for applicants who are not receiving AFDC and are not institutionalized. Use of the form by States will be optional.

f. Hospital Payment Protections. The Committee bill requires States, effective January 1, 1990, to waive durational limits and provide outlier payments for medically necessary inpatient services provided by disproportionate share hospitals or children's hospitals to children under age 6, and for inpatient services provided by any hospital for children under age 1. The imposition of dollar limits on inpatient services for beneficiaries under age 1 is prohibited. In the case of services furnished to a child under 19 by an out-of-State hospital, the State is required to pay at the rates paid by the State in which the hospital is located, unless the two States have agreed otherwise.

The Committee is interested in alternative methods for providing payment protections for hospitals providing outpatient services to infants and to young children, particularly in disproportionate share hospitals and childrens' hospitals, similar to those provided for inpatient services in this bill.

g. Codification of Adequate Payment. The Committee bill incorporates the current regulatory requirements for provider rembursement into the statute. The Secretary is required to report to Congress, not later than January 1, 1990, on the adequacy and timeliness of States' Medicaid payment for obstetrical and pediatric services, and on factors that may delay payment to providers of such services.

h. Required Coverage of Nurse Practitioner Services. The Committee bill requires States to cover under Medicaid services of certified pediatric or family nurse practitioners practicing within the scope provided under State law, regardless of whether they are under the supervision of or associated with a physician or other provider.

i. Home and Community-Based Services. The Committee bill allows States to cover, without a waiver, home and community-based services for children who are under age 18 and who have acquired immune deficiency syndrome or are medically dependent on a ventilator for life support, effective January 1, 1990. With respect to section 2176 waivers granted or renewed on or after January 1, 1990, the Secretary is prohibited from limiting participants to fewer than 350.

It is the Committee's understanding that addicted children living in foster care homes or group homes are eligible for home and community based services and home visiting services as provided in this bill.

j. Home Visitation Services. The Committee bill permits States to cover as a Medicaid service home visitation to medically fragile pregnant women and to infants in the first 12 months of life who have medical conditions that require life-sustaining medications or equipment or technologically assisted feeding, effective January 1, 1990.

The Committee notes that, under current Medicaid law, States can finance home visitation services by lay visitors. States are authorized to furnish "case management" services to all or some groups of Medicaid beneficiaries, on a Statewide or sub-State basis. Under the expansions in eligibility included under this bill, States will be able to furnish case management services to a larger group of women and children. Lay visitors services are designed to promote access to health care and appropriate use of necessary care.

k. Early and Periodic Screening Diagnosis and Treatment. The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program was added to the Medicaid statute in 1967. Under EPSDT, all Medicaid-eligible individuals under age 21 are entitled to comprehensive preventive and primary medical, dental, vision and hearing screening, diagnostic, and treatment services as well as immunizations, vision, hearing and dental care even if not otherwise included in a State's Medicaid plan. If the conditions are discovered in a screen. Since its inception, EPSDT, the nation's largest preventive health programs for low income children, has provided comprehensive preventive health care for millions of children. Children who participate in EPSDT have been found to have annual health care costs nearly 10 percent lower than children who do not receive such services.

The EPSDT benefit package has never been described in detail in the statute. There have arisen questions regarding the content of the program, as well as which providers are qualified to furnish the EPSDT screening and treatment. Additionally, while states have always had the option to do so, many still do not provide to children participating in EPSDT all care and services allowable under federal law, even if not otherwise included in the state's plan.

The EPSDT has grown in importance as millions of additional infants and children have become eligible for Medicaid and as other, complementary for children (such as the 1986 early intervention amendments to the Education for All Handicapped Children's Act) have been enacted. In order to strengthen and clarify the scope of EPSDT and its relationship to other programs for children with special health care needs and to encourage additional providers to participate in the program, the Committee bill thus contains a series of amendments to the Act.

General screening services.—The bill clarifies that the screening services required under EPSDT include health examinations provided at specified intervals described on a State's periodicity schedule, which must meet certain requirements. The bill also clarifies that separate vision, hearing, and dental schedules that meet accepted standards of practice and are determined in consultation with appropriate professional organizations must also be established.

The Committee amendment also requires states to cover screening services furnished at intervals *other than those formally identified on the State's physical, dental, vision and hearing periodicity schedules* when there is reason to believe that a child suffers from a physical or mental illness or condition that requires further assessment, diagnosis and treatment. These interperiodic examinations may be triggered even in the case of children who already have had a physical, mental or developmental problem diagnosed, if there is reason to suspect that the illness or condition has grown more severe or has altered sufficiently so that further examination is warranted.

No prior authorization may be required for interperiodic screening and diagnostic activities, just as none may be required for a periodic exam and diagnosis. However, prior authorization may be required for treatment services.

The Committee underscores that the determination of medical necessity for these "interperiodic" screens can be made by professionals who come into contact with a child through various channels. It is imperative that a child's treatment not be delayed until he or she is due for a periodic screen. So long as a referral (including a self referral in the case of health related providers that are also EPSDT providers) is made to an EPSDT provider, the child is entitled to "interperiodic" health, dental, vision or hearing assessment or treatment services covered under the State plan.

Anticipatory guidance.—The Committee bill clarifies that anticipatory guidance provided to the child or the child's parent or guardian is a formal part of any good EPSDT assessment. This guidance includes health education and counseling to both parents and children.

Vision, dental and hearing services.—The Committee bill clarifies that, while part of EPSDT, these services are independent of the physical and developmental components of the program in the sense that a physical and developmental examination and referral are not mandatory prerequisites to vision, dental and hearing care. Moreover, each of these services is to be governed by its own professionally appropriate periodicity schedule and is subject to its own interperiodic screening rules. As with physical assessments, no prior authorization is needed for either a periodic vision, dental or hearing exam or an interperiodic exam. Referrals (including self referrals) can be made if an interperiodic assessment is determined to be medically necessary.

Treatment.—Under current law, the items and services that must be provided to all children participating in the program (in addition to the assessment and diagnostic services) are immunizations and vision, dental and hearing care. Thus, if a child with a hearing defect needed a hearing aid and speech therapy to compensate for his hearing loss, both would be covered. However, if the child had cerebral palsy and also needed physical therapy, the therapy would not be covered for the child unless it was a covered Medicaid service generally.

The Committee amendment would require that states provide to children all treatment items and services that are allowed under federal law and that are determined to be necessary as a result of even if such services are not otherwise included in the State's plan. This means that all items and services described in Section 1905(a) of the Act must be provided if medically necessary.

In implementing this provision states may utilize prior authorization and other limitations related to ensuring that all care and treatment is medically necessary. However, such limitations may not interfere with the preventive purposes of the program, which is intended to identify and correct problems before they become serious.

Neither can states restrict the classes of providers eligible to participate in the program. Providers that meet the professional qualifications required under state law to provide an EPSDT assessment, diagnosis or treatment service must be permitted to participate in the program.

The Committee also expects that in States that enroll children with managed care providers, such providers, as a condition of participation, shall be expected to demonstrate that they have employed or under contract the full array or providers necessary to furnish all items and services required under this amendment. The Committee expects that payments to such providers shall be adjusted as necessary to permit the full provision of care to screened children requiring treatment and that in assessing the quality of care received by children enrolled in such plans, the ability of plans to meet the requirements of this amendment shall be taken into account.

The Committee hopes both HCFA and the states shall take aggressive action to publicize the changes in the program, to educate providers about the fact that childen participating in EPSDT have access to all needed treatment under certain circumstances regardless of whether it is also covered under the state plan and to develop simplified claims forms that reduce the administrative burdens of participating in the program. The Committee expects that HCFA and the states will involve professional organizations in the development of such forms. All activities designed to publicize the program are reimbursable as an administrative expense.

The Committee amendment also requires the Secretary to report no later than by July 1 of each year on the number of children receiving EPSDT services by age and by basis of eligibility for medical assistance.

l. Foster Children.—The Committee bill requires, effective January 1, 1990, that case plans for foster children include a health care record that is provided to the foster care provider before the child is placed (or within 30 days after emergency placement). The foster care provider must be notified of the availability of EPSDT services. The State must develop a health care plan for the child, must ensure that the foster care provider and caseworker understand their responsibilities with respect to the child's health needs, and must periodically review

the plan to ensure that it is being adhered to.

m. Medicaid Coordination with WIC Program.—The Committee bill Requires State Medicaid plans to provide for coordination between the Medicaid and WIC programs, effective January 1, 1990. States are required to notify Medicaid beneficiaries who are pregnant, postpartum or breastfeeding women, or children under age 5, of the availability of WIC benefits and to refer such persons to the State agency administering the WIC program.

n. Improving Public Health Coordination—The Committee bill requires the Secretary to report to Congress by March 1, 1990, on a study of methods for improving coordination of public health programs, including Medicaid, WIC, and the Maternal and Child Health block grant. In competing the study, the Secretary is to consult with State Governors and the Secretary of Agriculture.

o. Use of Most Recent Data in Computing Federal Medical Assistance Percentage.—The Committee bill requires the Secretary to promulgate Federal matching percentages in April or May of each year, to be effective October 1 of the same year; the requirement applies to payments for quarters beginning on or after October 1, 1990. For the last two quarters of FY 1990, the matching percentage for a State shall be the higher of its FY 1990 percentage under current law or the new percentage calculated under this provision.

p. Outreach as an Optional Service.—The Committee bill permits States to cover as an optional Medicaid service outreach services for pregnant women and infants, effective January 1, 1990. Outreach services are defined as services to identify pregnant women and infants who are potentially eligible for Medicaid and assist them in applying for benefits.

q. Provider Reimbursement Demonstration.—The Committee bill requires the Secretary to provide for State demonstration projects to improve access for Medicaid beneficiaries to obstetricians and pediatricians. Projects will test approaches to improving provider participation, including expedited reimbursement and innovative payment methods, assistance with malpractice coverage, reducing administrative burdens, and covering services to meet the needs of high-risk pregnant women and infants. The Secretary is authorized to waive provisions of Medicaid law, with specified exceptions. A State application for a project must be approved or denied within 90 days, unless additional information is needed. The Secretary is required to report to Congress on the results of the projects by March 1, 1992. Appropriations of $10 million are authorized for each year, FY 1990 through FY 1992.

r. Maternal and Child Health Handbook.—The Committee bill requires the Secretary to develop a maternal and child health handbook in consultation with the National Commission to Prevent Infant Mortality and other organizations, with the handbook to be ready for field testing by July 1, 1990. Field testing and evaluation is to be completed by June 1, 1991, after which the handbook is to be distributed nationally to all pregnant women and new families with young children. The Secretary is to coordinate distribution through public and private agencies. Appropriations of $1 million are authorzied for each year, FY 1991 through FY 1993.

s. Annual Report by Secretary.—The Committee bill requires the Secretary to publish annually, beginning January 1, 1991, a report on the health status of children, including information from annual State reports (see item u, below) and statistics relating to child health and health services.

The Committee is increasingly concerned about the impact of the growing problem of substance abuse during pregnancy. Recent indications are that maternal and infant mortality and morbidity may be rising as a result of increased substance abuse during pregnancy. A recent study by the House Select Committee on Children, Youth and Families found that hospitals are reporting the reemergence of maternal death during labor and delivery, directly attributable to drug abuse during pregnency; in some hospitals, one of every six newborns is addicted. It is possible that the Secretary's annual report on the status of children may be an appropriate vehicle for assessing the scope of this problem, by including information on the number of newborns exposed to alcohol and other drugs, the availability of treatment slots for pregnant women and mothers, and related statistics. The treatment of substance abuse can be an important component of comprehensive prenatal care, and should be kept in mind when coordinating services for pregnant women under Title V and Medicaid.

The Committee believes it would also be valuable to have access to information not now available, including linked birth and death records that will allow better detection of infant death patterns; birth and death records that are linked to the Medicaid status of pregnant women and children; the number of children enrolled in Medicaid and the proportion using selected services, including EPSDT and inpatient psychiatric care; the number of children living in medically underserved and health manpower shortage areas; the proportion of Medicaid-enrolled pregnant women, infants and children receiving WIC or enrolled in special education programs. It is the Committee's understanding that the Secretary may require additional time to develop the data collection capacity and interagency arrangements necessary to acquire such information.

t. Requirements of the Secretary.—The Committee bill requires the Secretary to develop definitions of medically high risk pregnancies, children at high risk of medical problems, and medically uninsurable children. Definitions ar to be developed in consultation with health care groups and health insurers. The Secretary is also to develop a model health benefit package for pregnant women and children, including at least primary care and catastrophic inpatient coverage. Reports on the definitions and the benefit package are to be provided to Congress by March 1, 1990.

u. Maternal and Child Health Services Block Grant.—The Committee bill increases the permanent authorization to $711 million for FY 1990 and later years. The Federal set-aside for special projects is fixed at 15 percent. In addition to other research, training, and special programs, the set-aside is to be used to fund 3-year demonstrations of ways to extend basic health insurance to children not covered by other public or private programs. Demonstration programs could be school-based plans or plans operated by hospitals or other non-profit entities. They would have a declining level of Federal funding over the 3-year period, could charge premiums to enrollees, but would be prohibited from excluding applicants for medical reasons or imposing pre-existing conditions or waiting periods.

The Committee intends that enrollees in these demonstrations are treated no differently than individuals enrolled in other insurance plans. Thus, it is recommended that children in the program be provided identification that is similar in nature to that used by other members of the organizations operating the program.

The Committee bill requires States, beginning January 1, 1990, to use at least 30 percent of their allotments for services to children with special health care needs and at least 5 percent for primary health services projects for children, the development of service networks and case management programs for children with special health care needs, and screening for sickle-cell anemia and other genetic diseases. A State's contribution to maternal and child health programs must be at least equal to the amount provided by the State in 1989. For FY 1990 through FY 1992, States are required to develop a system of family centered community-based care for children with special health care needs, coordinating with Medicaid and other programs and providing a toll-free hotline on available medical and support services. The Secretary is required to assist in developing these systems and to compile a national directory of the States' toll-free numbers. Annual reports required from States are expanded to include data on the extent to which the State has met individuals' needs, the nature of services provided, health status outcomes, and the amounts of funds devoted to the care networks for children with special health care needs. Reports must also include a maternal and child care needs assessment, including plans for meeting identified needs and a description of how grant funds will be used under the plan. In developing the annual needs assessment and the community-based care network, the State is required to work in consultation with a maternal and child health advisory board. The board must also provide a review and comments on the State's program of "one-stop shopping," an integrated maternal and child health service delivery system coordinating Medicaid, MCH programs, and other services.

It is the Committee's intent that the amendments related to planning and accountability are permanent. States are encouraged to allocate immediately resources sufficient to ensure compliance with the new accountability requirements. The Committee encourages States to continue placing a priority on preventive and primary care both for women and infants, and for children and adolescents. The Committee notes that State allocations under the block grant are intended to achieve the purposes of Title V of the Social security Act, and that resources for State agency overhead should be efficiently allocated.

The role of the Maternal & Child Health Advisory Board created by the bill could be strengthened if other key agencies engaged in providing services to children with special health care needs are also included, such as the state lead agency administering early intervention programs, the State mental retardation/developmental disability agency, and other groups.

The Committee notes that many States have involved parent groups in developing consolidated information systems for chronically ill children, and encourages similar involvement as States undertake to implement similar requirements under this bill.

The Committee has also included authority for a demonstration of home visiting programs to high risk pregnant women and

infants, and hopes that adequate funding can be made available for this important initiative. The Committee also encourages the Bureau of Maternal and Child Health to fund diverse projects including those in sparsely populated and hard to reach areas. Applicants for funding in these areas may require technical assistance to develop proposals.

v. Buy-in Demonstrations.—The Committee bill requires the Secretary to enter into agreements with several States to conduct demonstrations of alternatives for extending Medicaid coverage, or alternative coverage, to pregnant women and children under 20 who are otherwise ineligible for medicaid and whose family incomes are below 185 percent of the Federal poverty level. Alternative coverage may include such options as enrollment under employer plans, the State's plan for its own employees, a State uninsured plan, or an HMO. If a project includes enrollment under employer plans, it must require an employer contribution. Projects must provide for premiums to be charged to families above 100 percent of the poverty level. The premium may be based on a sliding scale or may be set at 3 percent of family income. Demonstrations are to begin by July 1, 1990, and continue for three years, unless the Secretary finds the State noncompliant with program requirements. Total Federal Medicaid participation in the projects is limited to $10 million in FY90, $45 million in FY91, $55 million in FY92, and $10 million in FY93. The Secretary is required to submit an interim evaluation of the projects to Congress by January 1, 1992, and a final report by January 1, 1994.

The Committee bill requires the Secretary to enter into agreements with two States to conduct demonstrations of alternatives for extending Medicaid coverage, or alternative coverage, to individuals (including individuals who are medically uninsurable or have exhausted health insurance benefits) who are ineligible for Medicaid and whose family incomes are below 150 percent of the Federal poverty level. The Secretary may also impose an asset test, taking into account those used in other Federal programs. Alternative coverage may include such options as enrollment under employer plans, the State's plan for its own employees, a State uninsured plan, or an HMO. If a project includes enrollment under employer plans, it must require an employer contribution and, if the employer plan does not furnish all Medicaid benefits, the State must make those benefits available to enrollees. Projects must provide for premiums to be charged to families above 100 percent of the poverty level, and the Secretary may also require that plans on a sliding scale or may be set at 3 percent of family income. Demonstrations are to begin by July 1, 1990, and continue for three years, unless the Secretary finds the State noncompliant with program requirements. The Secretary is authorized to waive the requirement that State Medicaid plans operate uniformly throughout the State. Total Federal Medicaid participation in the projects is limited to $5 million in each of FY90 through FY92. The Secretary is required to submit an interim evaluation of the projects to Congress by January 1, 1992, and a final report by January 1, 1994.

w. Medicaid Coverage of Community Health Clinic Services.—The Committee bill requires States to cover ambulatory services and (in areas with a shortage of home health providers) home health services provided by community health clinics. Community health clinics include Federally-funded community and migrant health centers and providers of health care to the homeless, as well as providers that are not receiving Federal grant funds but meet the requirements for community or migrant health center funding. Payment for community health clinic services must be equal to 100 percent of the facilities' reasonable costs for providing the services.

x. Medicaid Transition for Certain AFDC Families.—

Committee Provision.—The Committee bill makes permanent the four month extension of Medicaid benefits.

Effective Date.—Enactment.

INSTITUTIONS FOR MENTAL DISEASE

Present Law.—Under current Medicaid law, amounts expended by a State for the care of individuals between the ages of 22 and 65 who are patients of an institution for mental disease (IMD) are not eligible for Federal matching funds. This exclusion, which has been effective since the beginning of the Medicaid program, was based upon the judgment that it is the responsibility of the States to provide long-term care for individuals residing in mental institutions.

Federal financial assistance is available for inpatient psychiatric care furnished in general hospitals.

The law defines an IMD as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in the diagnosis, treatment, or care of individuals with mental disease.

Current regulations provide that a determination as to whether an institution is an IMD will be based upon its "overall character." One of the tests for IMD status is whether more than 50 percent of an institution's patients have a mental disease requiring inpatient treatment.

For a single facility that is under common administration and contains a number of separately licensed units serving individuals with different needs, inclusion or exclusion of patients in these affiliated units will obviously affect whether the facility exceeds the 50 percent limit.

Committee Provision.—The Committee bill requires the Secretary of Human Services (Secretary) to study and report to the Congress by not later than October 1, 1990, on the appropriateness of continuing the IMD exclusion in light of changes in the delivery of mental health services since the exclusion was enacted.

The bill provides that any determination by the Secretary (on or after June 1, 1988) that a facility is an IMB will not take effect until October 1, 1991, if the facility meets certain requirements. The requirements are that: (1) as of June 1, 1989, the facility was certified to provide both inpatient hospital services and nursing facility services under Medicaid and had more beds certified for the provision of nursing facility services than for inpatient hospital services, (2) the average length of stay, in those units of the facility primarily providing care for individuals with mental disease, was 25 days or less for the facility's most recent fiscal year ending before June 1, 1989, and (3) the facility was not formally and finally determined to be an IMD before June 1, 1988.

Effective Date.—Enactment.

NURSING HOME REFORM: DELAY IN EFFECTIVE DATE OF FEBRUARY 2, 1989 FINAL REGULATION

Current Law.—On October 16, 1987, the Secretary of Health and Human Services (Secretary) published a notice of proposed rulemaking (NPRM) specifying revisions in the requirements for nursing homes participating in Medicare and Medicaid (52 Fed. Reg. 38582). There was a period for public comment on the NPRM.

OBRA 87, which became law on December 22, 1987, revised the requirements for these facilities substantially. While some provisions of the NPRM were similar to those of the new law, the proposed rule did not reflect a number of changes made by the statute.

On February 2, 1989, the Secretary issued a *final* rule that (1) implements those parts of the NPRM paralleling provisions in OBRA 87, and (2) incorporates those provisions of the new law that the Secretary determined to be "self executing." With respect to the "self executing" provisions of OBRA 87, the Secretary has restated the exact language of the statute.

Those parts of the rule that were based upon the NPRM were to become effective August 1, 1989 (they have subsequently been delayed until January 1, 1990), while portions implementing newly imposed statutory requirements are not effective until October 1, 1990 (the effective date specified in OBRA 87).

The Secretary provides for a comment period on the final rule.

Concern has been expressed that implementation of the final rule is premature and violates the intent of Congress that the revised conditions of participation are to become effective October 1, 1990; in addition, there has been no notice and comment period before the promulgation of *final* rules iplementing the "self executing" portions of OBRA 87.

Committee Provision.—The Committee's bill delays until October 1, 1990, the effective date of those portions of the February 1989 final rule that are scheduled to become effective on January 1, 1990. This delay would apply under both Medicare and Medicaid.

The bill also requires the Secretary to publish an NPRM with respect to the "self executing" provisions of OBRA 87.

Effective Date:—Enactment.

NURSING HOME REFORM: STATE APPROVAL OF NURSE AIDE TRAINING PROGRAMS

Current Law.—OBRA 87 revised the requirements for nursing homes participating in Medicare and Medicaid. Among other things, it requires an individual employed as a nurse aide to complete successfully a competency evaluation program, or a training and competency evaluation program, *approved by the State* in which the facility is located.

The Secretary of Health and Human Services (Secretary) was required to establish standards, not later than September 1, 1988, to guide States in approving such programs. The States were also required to specify, not later than January 1, 1989, those programs that have been approved by the States as meeting the Secretary's standards.

Publication of regulations establishing standards for State approval of these programs has been delayed; some guidance is contained in HCFA Transmittal No. 62, Sections 2504-2512, which was effective May 12, 1989.

Committee Provision.—The Committee's bill requires the Secretary to publish a proposed rule on standards for approval of nurse aide training and competency evaluation programs, and competency evaluation programs, not later than 90 days after the

date of enactment of FY 1990 reconciliation legislation.

The bill also requires a final rule to be promulgated not later than 90 days after the close of the comment period.

The bill requires States to complete approval of such programs not later than 90 days after the promulgation of the final rule.

The bill further prohibits the Secretary from taking compliance actions against a State that has made a good faith effort to comply with the program approval requirements of OBRA 87 until 90 days after promulgation of the final rule.

Effective Date.—Enactment.

NURSING HOME REFORM: GRACE PERIOD FOR CERTAIN NURSE AIDES

Current Law.—OBRA 87 requires an individual employed as a nurse aide to complete a training and competency evaluation program approved by the State in which the facility is located. Effective January 1, 1990, a facility may not employ for more than 4 months an individual who has not completed such a program.

Committee Provision.—The Committee's bill provides that the 4-month grace period does not apply in the case of a nurse aide who is retained on a per diem or other temporary basis under arrangements with a nurse aide pool or agency.

Effective date.—January 1, 1990.

NURSING HOME REFORM: NURSE AIDE TRAINING REQUIREMENTS

Current Law.—OBRA 87 requires an individual employed as a nurse aide to complete a training and competency evaluation program (or in the case of an individual employed as of July 1, 1989, a competency evaluation program), approved by the State in which the facility is located. Effective January 1, 1990, a facility may not employ an individual who has not completed such a program for more than 4 months.

The law specifies that initial training under a nurse aide training and competency evaluation program be at least 75 hours in duration.

The Secretary was required to establish standards to guide States in making program approval determinations not later than September 1, 1988. Regulations establishing such standards have been delayed.

The law permits a State to deem an individual who has completed a training and competency evaluation program before July 1, 1989, to have completed a State-approved program if the program met the requirements for approval at the time it was offered.

Committee Provision.—The Committee's bill:

(1) delays until October 1, 1990, the requirement that nurse aides complete a training and competency evaluation program, or a competency evaluation program;

(2) requires a State to waive the nurse aide training and competency evaluation requirements for an individual who (A) was hired as a nurse aide by an employer before January 1, 1990, (B) can demonstrate to the satisfaction of the State that he or she has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months, and (C) has completed a 15-hour course of instruction in basic skills developed by the State; and

(3) requires a State to waive the nurse aide training and competency evaluation requirements for an individual who (A) was employed as a nurse aide before January 1, 1990, (B) was employed as a nurse aide in the State in the 24 preceding months and (C) has completed a State-required nurse aide training program established before the date of enactment of OBRA 87.

Effective Date.—Enactment.

NURSING HOME REFORM: NURSE AIDE TRAINING PROGRAMS

Current Law.—OBRA 87 requires an individual employed as a nurse aide to complete a training and competency evaluation program. Effective January 1, 1990, a facility may not employ for more than 4 months an individual who has not completed such a program.

The law is generally silent on the details of these programs.

Committee Provision.—The Committee's bill specifies a number of requirements for nurse aide training and competency evaluation programs. The bill:

(1) prohibits the imposition of a fee for textbooks, course materials, and other items directly related to a program;

(2) requires States to ensure the availability of materials for use by approved nurse aide training and competency evaluation programs in preparing individuals for competency examinations, and requires programs to distribute materials to individuals preparing for the examination;

(3) provides that an individual may elect to take an oral rather than a written competency examination;

(4) requires that a program must address issues relating to the provision of care to cognitively impaired residents, including those with Alzheimer's disease and related disorders, in order to be approved by the State; and

(5) clarifies that a State may not contract with an extended care facility for the facility to conduct the nurse aide competency examinations for individuals it employs.

Effective Date.—Enactment.

NURSING HOME REFORM: TEMPORARY ENHANCED FEDERAL MATCH FOR NURSE AIDE TRAINING PROGRAMS

Current Law.—OBRA 87 requires an individual employed as a nurse aide to complete a training and competency evaluation program approved by the State. Effective January 1, 1990, a facility may not employ for more than 4 months any individual who has not completed such a program.

The law provides that the Federal share of expenditures for training and competency evaluation programs is 50 percent. For fiscal years 1988 and 1989, the Federal share for these programs is temporarily increased to the lesser of 90 percent or a percentage equal to the State's Federal medical assistance percentage, increased by 25 percentage points.

Committee Provision.—The Committee's bill extends the provisions relating to a temporary enhanced Federal share through FY 1990.

Effective Date.—Enactment.

NURSING HOME REFORM: NURSE AIDE REGISTRY

Current Law.—OBRA 87 requires each State to establish a registry of all nurse aides who have successfully completed a nurse aide training and competency evaluation program approved by the State.

The registry is required to include any documented findings by the State about resident abuse or neglect involving a particular nurse aide, as well as a brief statement of the nurse aide disputing the findings.

The law prohibits a facility from using a nurse aide to provide services for which the nurse aide has not demonstrated competence, or from using a nurse aide unless the facility has inquired of the State nurse aide registry about the individual.

Committee Provision.—The Committee's bill requires a facility to consult the registry of another State if the facility has reason to believe that an individual applying for employment at the facility has been employed as a nurse aide in that State.

The bill also clarifies that resident abuse or neglect does not include cases that are demonstrably beyond the control of the individual.

Effective Date.—Enactment.

NURSING HOME REFORM: RESIDENT'S RIGHT TO EXAMINE MEDICAL RECORD

Current Law.—OBRA 87 revised the requirements for nursing homes participating in the Medicare and Medicaid programs. Among other things, it requires a facility to protect and promote the rights of each resident. The statute includes a nonexclusive list of specific rights, which include the right to be fully informed in advance about care and treatment (including any changes that may affect the resident's well-being), and, except in the case of a resident adjudged to be incompetent, the right to participate in planning his or her care and treatment.

Committee Provision.—The Committee's bill provides that a resident (or in the case of a resident adjudged incompetent, his or her guardian or legal representative) has the right to examine the resident's medical records promptly upon reasonable request (as defined by the Secretary).

Effective Date.—Enactment.

NURSING HOME REFORM: REGULATORY STANDARDS FOR CERTAIN SERVICES

Current Law.—OBRA 87 revised the requirements for nursing homes participating in Medicare and Medicaid. Among other things, the law requires a facility to provide, directly or under arrangements, various types of services, including medically-related social services, dietary services, and an on-going program of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident.

Final regulations issued by the Secretary of Health and Human Services on February 2, 1989, impose less stringent requirements for social services, dietary services, and activities in nursing homes than those specified under pre-OBRA 87 law and regulations.

Committee Provision.—The Committee's bill requires that regulations relating to social services, dietary services, and activities in extended care facilities be at least as stringent as those in effect before the enactment of OBRA 87.

Effective Date.—As if included in OBRA 87.

NURSING HOME REFORM: ENFORCEMENT FOR DUALLY CERTIFIED FACILITIES

Current Law.—OBRA 87 extensively revised the requirements for nursing homes participating in Medicare and Medicaid.

In order to coordinate Federal and State enforcement efforts to maximize compliance by facilities with these requirements, current law specifies when Federal or State enforcement efforts should take precedence.

The law does not, however, address the issue of which enforcement effort takes precedence in the case of a facility that is certified as both a Medicare and Medicaid provider.

Committee Provision.—The Committee's bill provides that the enforcement rules applicable to a Medicare-certified facility will apply even if the facility is also Medicare-certified.

On a related matter, in OBRA 87 the Congress directed the Secretary to include civil money penalties in the range of intermediate sanctions he was to develop for use against providers for noncompliance with statutory requirements and conditions of participation. The Secretary has delegated responsibility for imposing civil money penalties under section 1128A to the Inspector General. By requiring that civil money penalties for noncompliance be imposed in the same manner as under section 1128A, we did not intend to dictate that the Secretary delegate this authority to the Inspector General, as well. We believe that that responsibility rests with the Secretary. We do expect the Inspector General to exercise his independent oversight responsibility to ensure that the Department uses these new intermediate sanctions effectively and efficiently to ensure that providers maintain continued compliance with the statutory and regulatory requirements for program participation.

Effective Date.—Enactment.

NURSING HOME REFORM: DELAY IN EFFECTIVE DATE OF STATE ENFORCEMENT REQUIREMENT

Present Law.—OBRA 87 substantially revised the conditions of participation for nursing facilities under the Medicaid program. To ensure adequate enforcement of the new requirements, it requires States to establish (by statute or regulation) various types of sanctions for violation of these conditions. The deadline for doing so was October 1, 1989.

Although the law requires the Secretary of Health and Human Services (Secretary) to provide guidance to State by October 1, 1988, on the establishment of these sanctions, section 1919(h)(2)(B)(i) of the Social Security Act specifically provides that failure of the Secretary to provide such guidance does not relieve a State of its responsibility for establishing such sanctions by the statutory deadline.

The Secretary has not yet issued regulations providing such guidance.

Committee Bill.—Delay until April 1, 1991, the requirement that States establish such sanctions.

RESIDENTS RIGHT TO REFUSE INTRAFACILITY TRANSFER

Current Law.—In April 1988, the Secretary of Health and Human Services (Secretary) issued a new manual to Medicare carriers to clarify what types of conditions require skilled nursing care and will make an otherwise qualified individual eligible for skilled nursing facility (SNF) services under Medicare. The manual contains detailed specifications and a number of examples of cases that would be eligible for the SNF benefit.

The Medicare Catastrophic Coverage Act of 1988 removed the requirement that an individual be hospitalized for three days before entering a SNF and changed the number of days of SNF care that an individual could receive from 100 days per spell of illness to 150 days per year. These changes became effective January 1, 1989.

Many Medicaid-eligible nursing facility residents have become eligible for SNF services under Medicare because of these changes. These individuals are frequently referred to as "dual eligibles."

In most States, reimbursement for SNF services under Medicare exceeds the reimbursement for similar services under the Medicaid State plan. As of consequences, some dual eligibles are being transferred from one part of a facility, which is not certified as a Medicare provider, to another part, which is.

Parallel incentives exist for the States: services furnished under Medicare are paid for solely from Federal funds, while Medicaid services are funding in part by the State.

Current regulations permit the transfer of a dual eligible within a facility "only for medical reasons or for his welfare or that of other patients or for non-payment of his stay" and only if the resident is given "reasonable advance notice to ensure orderly transfer or discharge and such actions are documented in his medical record . . . "

Committee Provision.—The Committee's bill clarifies that an individual who is eligible for nursing facility services under both Medicare and Medicaid may refuse to be transferred from one part of a facility to another for purposes of qualifying for Medicare coverage unless the facility can document that it will be unable to care for the individual without a transfer.

Effective Date.—Enactment.

NURSING HOME REFORM: NURSE STAFFING REQUIREMENTS

Current Law.—OBRA 87 revised the requirements for nursing services that must be provided by nursing homes under Medicare and Medicaid. It requires a facility to provide 24-hour nursing services sufficient to meet the nursing needs of its residents and to employ a registered professional nurse (RN) for at least 8 hours a day, 7 days a week.

Under Medicare, the law permits the Secretary of Health and Human Services (Secretary) under certain circumstances to waive the requirement that a facility employ a registered professional nurse more than 40 hours a week. In order to qualify for a waiver, the facility must (1) be located in a rural area with a shortage of SNF services, (2) employ an RN at least 40 hours a week, and (3) either have only patients who are certified by their physicians not to require the services of an RN or a physician for a 48-hour period or have arrangements with an RN or a physician to spend such time as necessary to provide skilled nursing services when the RN is not on duty.

Under Medicaid, waiver authority rests with the State, which is authorized to waive both the 24-hour nursing requirement and the 8-hour RN requirement if (1) the facility demonstrates that it has been unable to recruit appropriate personnel despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), (2) the State determines that a waiver will not endanger the health or safety of the residents, and (3) an RN or a physician is obligated to respond immediately to a telephone call from the facility. Although waiver authority rests with the State, the law also provides for the Secretary to assume the State's waiver authority if there is a pattern of waivers being granted in the absence of diligent efforts to recruit personnel.

Under both programs, waivers are subject to annual renewal.

Committee Provision.—The Committee's bill requires the State agency granting a nurse staffing waiver to provide appropriate notice of the waiver to the appropriate State and substate long-term care ombudsman, to the protection and advocacy system, and other appropriate State and private agencies.

The bill also requires a nursing facility that is granted a waiver to make reasonable efforts to notify present and prospective residents of the facility (or a guardian or legal representative) of the waiver.

The Committee's bill further requires the Secretary of Health and Human Services to study and report to the Congress by January 1, 1991, on the appropriateness of establishing minimum caregiver/resident ratios and minimum superviser/caregiver ratios for nursing facilities. If the Secretary determines that the establishment of such ratios is advisable, the report should specify appropriate ratios or standards.

Effective Date.—Enactment.

NURSING HOME REFORM: IMPLEMENTATION OF PASARR REQUIREMENTS

Current Law.—OBRA 87 established a process of preadmission screening and annual resident review (PASARR) for nursing facilities under Medicaid. This process is intended to prevent the inappropriate placement of individuals with mental illness or mental retardation in a nursing facility.

It does so by requiring the screening of all potential residents before admission, as well as the screening of all residents at least annually, to determine whether they are mentally ill or mentally retarded, and if they are, whether (1) they require the level of care provided in a nursing facility, and (2) whether they require "active treatment" for their mental illness or mental retardation.

If a resident is found to be mentally ill or mentally retarded and does not require nursing facility care, the individual may not reside in a facility, except under very limited circumstances. If a resident is found to be mentally ill or mentally retarded and requires nursing facility care, the individual may reside in a facility, but the State is required to provide active treatment if the individual is found to need it.

OBRA 87 permits a State to file an alternative disposition plan (ADP) for those individuals who are required to be discharged from a nursing facility under PASARR. ADPs provide additional time for States to arrange for the disposition of persons who must be discharged. This authority expired April 1, 1989; approximately 47 States submitted an ADP by the deadline.

The Secretary of Health and Human Services (Secretary) was required to develop by October 1, 1988, "minimum criteria" for States to use in making screening determinations under PASARR. It also provided that the requirement for States to conduct screening became effective January 1, 1989, whether or not the Secretary had developed these "minimum criteria."

The Secretary has not issued regulations establishing these criteria. Pending the issuance of final regulations, the Secretary issued interim guidelines, effective May 26, 1989, (HCFA Transmittal No. 42, Sec. 4250-4253 (May 1989)) for use by States in establishing PASAAR programs.

Committee Provision.—The Committee's bill includes amendments to the OBRA 87 PASARR requirements. The bill—

(1) requires the Secretary to issue proposed regulations, not more than 90 days after enactment, establishing minimum criteria for State screening programs under PASARR;

(2) prohibits the Secretary from taking enforcement actions against a State if it has made a good faith effort to comply with the statute based upon the May 26 transmittal;

(3) permits a State to amend its ADP on or before September 30, 1990 and clarifies

that an ADP may not be approved unless it provides for the disposition of all residents subject to discharge before April 1, 1994; and

(4) requires States to report to the Secretary annually on the number and disposition of nursing facility residents covered under the State's ADP.

NURSING HOME REFORM: SCOPE OF PASARR REVIEW REQUIREMENTS

Current law.—OBRA 87 established a process of preadmission screening and annual resident review (PASARR) for nursing facilities under Medicaid. This process is intended to prevent the inappropriate placement of individuals with mental illness or mental retardation in a nursing facility.

It does so by requiring the screening of all potential residents before admission, as well as the screening of all residents at least annually, to determine whether they are mentally ill or mentally retarded, and if they are, whether (1) they require the level of care provided in a nursing facility, and (2) whether they require "active treatment" for their mental illness or mental retardation.

The law implies, but does not explicitly indicate, that it is the obligation of a State to furnish "active treatment" to an individual who needs it.

OBRA 87 provides that an individual is considered to be mentally ill if the individual has a primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual Disorders, 3rd edition) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder)."

This definition encompasses conditions ranging widely in their severity.

The law does not define "active treatment," but provides that it does not include services within the scope of those a nursing facility is required to provide to its residents.

This has given rise to some confusion, particularly about whether active treatment has the same meaning for purposes of PASARR as it does for intermediate care facilities for the mentally retarded.

Committee Provision.—The Committee's bill contains a number of amendments addressing these issues. The bill—

(1) provides that an individual is considered to be mentally ill if the individual has a serious mental illness as defined by the Secretary;

(2) retains the current exclusion for individuals with a primary diagnosis of dementia (including Alzheimer's disease or a related disorder);" and clarifies that an individual with a non-primary diagnosis of dementia is also excluded if the primary diagnosis of the individual is not a serious mental illness;

(3) clarifies that a resident who is transferred from a nursing facility to a hospital for acute care services is not subject to preadmission screening upon their return to the facility;

(4) excludes from preadmission screening requirements individuals who receive inpatient acute care at a hospital, seek admission to a nursing facility from the hospital, require nursing facility services for the condition for which they received inpatient acute care, and are certified by their physician as needing nursing facility services for not more than 120 days; and

(5) substitutes the term "specialized services" for "active treatment."

Effective date.—Enactment.

NURSING HOME REFORM: RESPONSIBILITY FOR PASARR SCREENING

Current Law.—OBRA 87 established a process of preadmission screening and annual resident review (PASARR) for nursing facilities under Medicaid. This process is intended to prevent the inappropriate placement of individuals with mental illness or mental retardation in a nursing facility.

It does so by requiring the screening of all potential residents before admission, as well as the screening of all residents at least annually, to determine whether they are mentally ill or mentally retarded, and if they are, whether (1) they require the level of care provided in a nursing facility, and (2) whether they require "active treatment" for their mental illness or mental retardation.

The law requires the State mental health authority (or the State mental retardation authority) to make screening determinations based upon an independent physical and mental evaluation performed by a person or entity other than the authority.

Committee Provision.—The Committee's bill clarifies that the independent evaluations may not be conducted by a nursing facility.

Effective Date.—Enactment.

MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT

Present Law.—Under current law, States are required, in making payment for inpatient hospital services, to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs.

Section 4112 of OBRA 87 established minimum criteria for defining disproportionate share hospitals and for payment adjustments States are required to make to those hospitals.

It provided for a transition period during which a State could, instead of paying 100 percent of the minimun adjustment, pay one-third of the adjustment that would otherwise apply during the July 1988–June 1989 period, and two-thirds of such adjustment during the July 1989–June 1990 period.

OBRA 87 and the Medicare Catastrophic Coverage Act of 1988 established special rules in the case of certain States that already had a program for compensating these hospitals before the enactment of the minimum requirements.

The State of New Jersey has established an Uncompensated Care Trust Fund that reimburses acute care hospitals in the State for uncompensated care. Under waiver agreements with the Department of Health and Human Services, the State's Medicaid program contributes to the Trust Fund, as do all other payers in the State. Additional payments to disproportionate share hospitals in the State would be duplicative.

The State of Missouri has implemented a transition under which it phases in the disproportionate share adjustment by applying the full minimum adjustment to different classes of hospitals at specified intervals, rather than paying all qualifying hospitals a fraction of the minimum adjustment. The Secretary of Health and Human Services has determined that this type of transition is not permitted under the law.

Committee Bill.-Provide that New Jersey will be considered to meet the Medicaid disproportionate share requirements if the aggregate amount of payment adjustments for such hospitals under the State Medicaid plan is not less than the amount required by the OBRA 87 amendments.

Provide that the State of Missouri will be deemed to meet the disproportionate share requirements under Medicaid if the total amount it expends for disproportionate share adjustments during the period from July 1988 through June 1990 equals the minimum amount it is required by law to expend for such adjustments during such period.

Effective Date.-Enactment.

AMENDMENTS RELATED TO COMMISSIONS

Current Law.-The Omnibus Budget Reconciliation Act of 1987 created a National Commission on Children. This Commission's interim report is due to Congress by September 30, 1988 and its final report by March 31, 1989 (when the Commissioners' terms end). Currently, there is a "such sums" authorization for the Commission's activities.

The Medicare Catastrophic Coverage Act of 1988 created the U.S. Bipartisan Commission on Comprehensive Health Care. The Commission's report on long-term care is due March 9, 1989 and its report on comprehensive health care is due November 9, 1989. The Commission has a $1.5 million authorization.

Committee Provision.-The Committee's bill extends the interim and final reporting dates for the National Commission on Children to March 31, 1990 and 1991, respectively. It also extends the Commissioner's terms until March 31, 1991.

The Committee's bill further extends the final reporting date of the Bipartisan Commission to March 1, 1990, and changes its name to the Claude Pepper Bipartisan Health Care Commission.

Also, the bill adds authority to raise and spend private money for the childens' commission.

Effective date.-Enactment.

STUDY OF HCFA PERSONNEL

Present Law.-None.

Committee Provision.-The Health Care Financing Administration (HCFA), which administers the Medicare and Medicaid Programs serves more than 60 million Americans. In the past several years, Congress, through legislation, has required the agency to address major new health policy initiatives. These new initiatives require personnel with highly specialized skills. Congress is concerned that the agency is adequately and appropriately staffed to undertake these new initiatives.

OTA STUDY OF CLOSED CAPTIONING

Present Law.-No provision.

Committee Provision.-The Committee bill requires the Office of Technology Assessment to conduct a study and report to Congress by January 1, 1991, on the advisability of requiring hospitals and nursing homes participating in Medicare and Medicaid to make closed captioning available on televisions in the facilities.

Effective Date.-Enactment.

Appendix A to Title V

Senate Finance Committee List of Overvalued Procedures

Code and Description:		*Percent difference*
19162	Remove breast tissue: Modes	−10
19200	Extensive breast surgery	−16
19220	Extensive breast surgery	−12
19240	Extensive breast surgery	−13
27125	Revise hip with prosthesis	−17
27126	Revise hip with prosthesis	−15
27127	Revise hip with prosthesis	−17
27130	Total hip joint replacement	−17
27132	Total hip joint replacement	−11

27134 Revise hip joint replacement ..... −19
27137 Revise hip joint component ..... −16
27138 Revise hip joint component ..... −14
28290 Correction of bunion ..... −12
28292 Correction of bunion ..... −20
28293 Correction of bunion ..... −13
28294 Correction of bunion ..... −12
28296 Correction of bunion ..... −19
28297 Correction of bunion ..... −16
28298 Correction of bunion ..... −13
28299 Correction of bunion ..... −16
29870 Knee arthroscopy ..... −26
29871 Knee arthroscopy/drainage ..... −26
29872 Knee arthroscopy/drainage ..... −28
29874 Knee arthroscopy/surgery ..... −32
29875 Knee arthroscopy/surgery ..... −25
29876 Knee arthroscopy/surgery ..... −32
29877 Knee arthroscopy/surgery ..... −32
29879 Knee arthroscopy/surgery ..... −33
29880 Knee arthroscopy/surgery ..... −37
29881 Knee arthroscopy/surgery ..... −28
29882 Knee arthroscopy/surgery ..... −31
29884 Knee arthroscopy/surgery ..... −28
29886 Knee arthroscopy/surgery ..... −32
29887 Knee arthroscopy/surgery ..... −31
29889 Knee arthroscopy/surgery ..... −22
31000 Irrigation maxillary sinus ..... −19
31001 Irrigation maxillary sinuses ..... −20
31002 Irrigation sphenoid sinus ..... −16
31020 Exploration maxillary sinus ..... −18
31021 Exploration of sinuses ..... −23
31030 Exploration maxillary sinus ..... −25
31031 Exploration of sinuses ..... −26
31032 Explore sinus: remove polyps ..... −22
31033 Enter sinuses, remove polyps ..... −23
31360 Removal of larynx ..... −12
31365 Removal of larynx ..... −14
31367 Partial removal of larynx ..... −14
31368 Partial removal of larynx ..... −11
32440 Removal of lung ..... −11
32480 Partial removal of lung ..... −12
32500 Partial removal of lung ..... −12
32520 Remove lung and revise chest ..... −12
32522 Remove lung and revise chest ..... −10
32525 Remove lung and revise chest ..... −11
33206 Insertion of heart pacemaker ..... −35
33207 Insertion of heart pacemaker ..... −36
33208 Insertion of heart pacemaker ..... −35
33210 Insertion of heart electrode ..... −39
33212 Insertion of pulse generator ..... −33
33216 Revision implanted electrode ..... −38
33218 Repair pacemaker electrodes ..... −38
33219 Repair of pacemaker ..... −37
33232 Removal of pacemaker ..... −33
33405 Replacement of aortic valve ..... −23
33510 Coronary artery bypass ..... −25
33511 Coronary arteries bypass ..... −25
33512 Coronary arteries bypass ..... −26
33513 Coronary arteries bypass ..... −26
33514 Coronary arteries bypass ..... −26
33516 Coronary arteries bypass ..... −30
35001 Repair defect of artery ..... −12
35011 Repair defect of artery ..... −13
35013 Repair artery rupture, arm ..... −10
35021 Repair defect of artery ..... −11
35045 Repair defect of arm artery ..... −15
35081 Repair defect of artery ..... −18
35082 Repair artery rupture: aorta ..... −19
35091 Repair defect of artery ..... −18
35092 Repair artery rupture, belly ..... −14
35102 Repair defect of artery ..... −16
35103 Repair artery rupture: groin ..... −18
35112 Repair artery rupture, spleen ..... −20
35121 Repair defect of artery ..... −13
35122 Repair artery rupture, belly ..... −21
35131 Repair defect of artery ..... −11
35132 Repair artery rupture, groin ..... −15
35141 Repair defect of artery ..... −16
35142 Repair artery rupture, thigh ..... −13
35151 Repair defect of artery ..... −13
35152 Repair artery rupture, knee ..... −12
35161 Repair defect of artery ..... −15
35301 Rechanneling of artery ..... −26
35311 Rechanneling of artery ..... −26
35321 Rechanneling of artery ..... −21
35331 Rechanneling of artery ..... −21
35341 Rechanneling of artery ..... −20
35351 Rechanneling of artery ..... −22
35355 Rechanneling of artery ..... −23
35361 Rechanneling of artery ..... −24
35363 Rechanneling of artery ..... −24
35371 Rechanneling of artery ..... −26
35372 Rechanneling of artery ..... −26
35381 Rechanneling of artery ..... −22
39400 Visualization of mediastinum ..... −11
44120 Removal of small intestine ..... −12
44130 Bowel to bowel fusion ..... −11
44140 Partial removal of colon ..... −14
44141 Partial removal of colon ..... −13
44143 Partial removal of colon ..... −11
44144 Partial removal of colon ..... −12
44145 Partial removal of colon ..... −13
44146 Partial removal of colon ..... −14
44147 Partial removal of colon ..... −10
44150 Removal of colon ..... −15
44152 Removal of colon/ileostomy ..... −15
44153 Removal of colon/ileostomy ..... −17
44155 Removal of colon ..... −11
44156 Removal of colon/ileostomy ..... −20
44160 Removal of colon ..... −16
44950 Appendectomy ..... −20
44960 Appendectomy ..... −18
45378 Diagnostic colonoscopy ..... −28
45379 Colonoscopy ..... −23
45380 Colonoscopy and biopsy ..... −28
45382 Colonoscopy, control bleeding ..... −24
45383 Colonoscopy, lesion removal ..... −25
45385 Colonoscopy: lesion removal ..... −29
47600 Removal of gallbladder ..... −20
47605 Removal of gallbladder ..... −21
47610 Removal of gallbladder ..... −19
47620 Removal of gallbladder ..... −19
49500 Repair inguinal hernia ..... −22
49505 Repair inguinal hernia ..... −29
49510 Repair hernia: remove testis ..... −29
49515 Repair inguinal hernia ..... −23
49520 Repair inguinal hernia ..... −29
49525 Repair inguinal hernia ..... −27
49530 Repair incarcerated hernia ..... −28
49535 Repair strangulated hernia ..... −21
49540 Repair lumbar hernia ..... −23
49550 Repair femoral hernia ..... −28
49552 Repair femoral hernia ..... −20
49555 Remove femoral hernia ..... −23
49560 Repair abdominal hernia ..... −29
49565 Rerepair abdominal hernia ..... −29
49570 Repair epigastric hernia ..... −22
49575 Repair epigastric hernia ..... −20
49580 Repair umbilical hernia ..... −22
49581 Repair umbilical hernia ..... −29
49590 Repair abdominal hernia ..... −24
50590 Fragmenting of kidney stone ..... −16
52500 Revision of bladder neck ..... −16
52601 Prostatectomy (tur) ..... −17
52612 Prostatectomy, first stage ..... −11
52614 Prostatectomy, second stage ..... −12
52630 Remove prostate regrowth ..... −16
52640 Relieve bladder construcure ..... −18
52650 Prostatectomy ..... −25
58102 Curettage of uterus lining ..... −14
58120 Dilation and curettage ..... −13
58150 Total hysterectomy ..... −21
58152 Total hysterectomy ..... −21
58180 Partial hysterectomy ..... −12
58200 Extensive hysterectomy ..... −20
58210 Extensive hysterectomy ..... −17
58260 Vaginal hysterectomy ..... −23
58265 Hysterectomy & vagina repair ..... −21
58267 Hysterectomy & vagina repair ..... −24
58270 Hysterectomy & vagina repair ..... −21
58275 Hysterectomy, revise vagina ..... −14
58280 Hysterectomy, revise vagina ..... −18
58285 Extensive hysterectomy ..... −20
63001 Removal of spinal lamina ..... −15
63003 Removal of spinal lamina ..... −10
63005 Removal of spinal lamina ..... −16
63010 Removal of spinal lamina ..... −20
63015 Removal of spinal lamina ..... −17
63016 Removal of spinal lamina ..... −16
63017 Removal of spinal lamina ..... −15
63030 Low back disk surgery ..... −14
63031 Low back disk surgery ..... −16
63035 Added spinal disk surgery ..... −10
64716 Revision of cranial nerve ..... −30
64718 Revise ulnar nerve at elbow ..... −27
64719 Revise ulnar nerve at wrist ..... −27
64721 Revise median nerve at wrist ..... −28
65850 Incision of eye ..... −24
65855 Laser surgery of eye ..... −24
66840 Removal of lens material ..... −15
66850 Removal of lens material ..... −11
66920 Extraction of lens ..... −18
66930 Extraction of lens ..... −14
66940 Extraction of lens ..... −12
66983 Remove cataract: insert lens ..... −19
66984 Remove cataract: insert lens ..... −19
66985 Insert lens prosthesis ..... −16
67107 Repair detached retina ..... −17
67108 Repair detached retina ..... −17
67208 Treatment of retinal lesion ..... −21
67210 Treatment of retinal lesion ..... −23
67218 Treatment of retinal lesion ..... −16
67227 Treatment of retinal lesion ..... −20
67228 Treatment of retinal lesion ..... −22
69631 Repair eardrum structures ..... −14
69632 Rebuild eardrum structures ..... −10
69633 Rebuild eardrum structures ..... −10
69635 Rebuild eardrum structures ..... −11
69636 Rebuild eardrum structures ..... −10
69637 Rebuild eardrum structures ..... −14
69641 Revise middle ear & mastoid ..... −13
69642 Revise middle ear & mastoid ..... −11
69644 Revise middle ear & mastoid ..... −10
69646 Revise middle ear & mastoid ..... −10
76700 Echo exam of abdomen ..... −21
76705 Echo exam of abdomen ..... −32

76770	Echo exam of abdomen	−23
76775	Echo exam abdomen back wall	−27
92226	Extended ophthalmoscopy	−12
92230	Ophthalmoscopy/ angioscopy	−10
92235	Ophthalmoscopy/ angioscopy	−11
92265	Eye muscle evaluation	−32
92270	Electro-oculography	−33
92275	Electroretinography	−35
92280	Special eye evaluation	−35
92283	Color vision examination	−31
92284	Dark adaptation eye exam	−35
92285	Eye photography	−34
92286	Internal eye photography	−33
92287	Internal eye photography	−38
93000	Electrocardiogram: complete	−27
93005	Electrocardiogram: tracing	−24
93010	Electrocardiogram report	−27
93012	Transmission of ecg	−27
93014	Report on transmitted ecg	−22
93015	Cardiovascular stress test	−27
93017	Cardiovascular stress test	−23
93018	Cardiovascular stress test	−29
93024	Cardiac drug stress test	−19
93040	Rhythm ecg with report	−21
93041	Rhythm ecg, tracing	−18
93042	Rhythm ecg: report	−12
93045	Special ecg	−26
93501	Right heart catheterization	−31
93503	Right heart catheterization	−31
93505	Biopsy of heart lining	−26

Number of codes 245

Appendix B to Title V

LIST OF GEOGRAPHIC PRACTICE COSTS ADJUSTMENT FACTORS

Carrier-locality code	Name	Overhead only
51005	Birmingham, AL	0.903
51004	Mobile, AL	0.900
51002	North Central AL	0.862
51001	Northwest AL	0.864
51006	Rural AL	0.848
51003	Southeast AL	0.863
102001	Alaska	1.229
103005	Flagstaff (city), AZ	0.953
103001	Phoenix (city), AZ	1.045
103007	Prescott (city), AZ	0.953
103099	Rural Arizona	0.981
103001	Tucson (city), AZ	1.022
103008	Yuma (city), AZ	0.953
52013	Arkansas	0.789
205026	Anaheim-Santa Ana, CA	1.239
54214	Bakersfield, CA	1.089
54211	Fresno/Madera, CA	1.054
54213	Kings/Tulare, CA	1.046
205018	Los Angeles, CA (1st of 8)	1.218
205019	Los Angeles, CA (2nd of 8)	1.218
205020	Los Angeles, CA (3rd of 8)	1.218
205021	Los Angeles, CA (4th of 8)	1.218
205022	Los Angeles, CA (5th of 8)	1.218
205023	Los Angeles, CA (6th of 8)	1.218
205024	Los Angeles, CA (7th of 8)	1.218
205025	Los Angeles, CA (8th of 8)	1.218
54203	Marin/Napa/Solano, CA	1.219
54210	Merced/Surr. Cntys, CA	1.053
54212	Monterey/Santa Cruz, CA	1.140
54201	N. Coastal Cntys, CA	1.109
54202	NE Rural CA	1.037
54207	Oakland-Berkeley, CA	1.272
54227	Riverside, CA	1.116
54204	Sacramento/Surr. Cntys, CA	1.123
54215	San Bernadino/E. Central CA	1.114
205028	San Diego/Imperial, CA	1.125
54205	San Francisco, CA	1.311
54206	San Mateo, CA	1.311
205016	Santa Barbara, CA	1.110
54209	Santa Clara, CA	1.297
54208	Stockton/Surr. Cntys, CA	1.070
205017	Ventura, CA	1.161
55001	Colorado	0.51
307004	Eastern Conn.	1.054
307001	NW and N. Central Conn.	1.066
307003	South Central Conn.	1.113
307002	SW Connecticut	1.151
57001	Delaware	0.975
58001	D.C. & MD/VA suburbs	1.138
59003	Fort Lauderdale, FL	1.030
59004	N/NC Florida cities	0.954
59001	Rural Florida	0.900

LIST OF GEOGRAPHIC PRACTICE COSTS ADJUSTMENT FACTORS—Continued

Carrier-locality code	Name	Overhead only
1311001	Atlanta, Ga	0.990
1311004	Rural Georgia	0.830
1311002	Small GA cities 02	0.878
1311003	Small GA cities 03	0.851
112001	Hawaii	1.086
513012	North Idaho	0.913
513011	South Idaho	0.930
62110	Champaign-Urbana, IL	0.947
62116	Chicago, IL	1.195
62103	De Kalb, IL	0.951
62111	Decatur, IL	0.953
62112	East St. Louis, IL	1.008
62106	Kankakee, IL	0.951
62108	Normal, IL	0.989
62101	Northwest, IL	0.926
62105	Peoria, IL	1.044
62107	Quincy, IL	0.926
62104	Rock Island, IL	0.943
62101	Rockford, IL	1.059
62113	Southeast IL	0.926
62114	Southern IL	0.926
62109	Springfield, IL	0.987
62115	Surburan Chicago, IL	1.132
63001	Metropolitan Indiana	0.913
63003	Rural Indiana	0.851
63002	Urban Indiana	0.859
64005	Des Moines (Polk/Warren), IA	0.929
64008	Iowa City (city limits)	0.931
64003	North Central Iowa	0.886
64002	Northeast Iowa	0.887
64006	Northwest Iowa	0.862
64004	S.Cen. IA (excl Des Moines)	0.855
64001	SE Iowa (excl Iowa city)	0.897
64007	Southwest Iowa	0.865
74005	Kansas City, KA	0.990
65001	Rural Kansas	0.879
74004	Suburban Kansas City, KA	0.990
66001	Lexington & Louisville, KY	0.886
66003	Rural Kentucky	0.851
66002	Sm cities (city limits) KY	0.875
52807	Alexandria, LA	0.879
52803	Baton Rouge, LA	0.947
52806	Lafayette, LA	0.913
52804	Lake Charles, LA	0.895
52805	Monroe, LA	0.871
52801	New Orleans, LA	1.025
52850	Rural Louisiana	0.877
52802	Shreveport, LA	0.924
2120002	Central Maine	0.880
2120001	Northern Maine	0.889
2120003	Southern Maine	0.948
69001	Baltimore/surr. cntys, MD	1.032
69003	South & E. Shore MD	0.990
69002	Western Maryland	0.996
70002	Mass. Suburbs/Rural (cities)	1.046
70001	Massachusetts Urban	1.098
71001	Detroit, MI	1.170
71002	Michigan, not Detroit	1.006
72002	Northern Minnesota	0.898
72004	Southern Minnesota	0.883
1024001	St. Paul-Minneapolis, MN	0.990
1025001	Rural Mississippi	0.814
1025002	Urban MS (city limits)	0.871
74003	K.C. (Jackson County), MO	0.990
74002	N. K.C. (Clay/Platte), MO	0.990
1126003	Rural (excl rural NW) MO	0.889
74006	Rural NW counties, MO	0.904
1126002	SM. E. cities+Jeff. cnty, MO	0.955
74001	St. Joseph, Mo	0.906
1126001	St. Louis/Lg. E. cities, MO	1.015
75101	Montana	0.901
64501	Omaha & Lincoln, NE	0.869
64504	Rural Nebraska	0.800
64503	Urban (cnty pop/25000) NE	0.813
129003	Elko & Ely (cities), NV	1.041
129001	Las Vegas, et al (cities), NV	1.090
129002	Reno, et al (cities), NV	1.142
129099	Rural Nevada	1.087
78040	New Hampshire	0.961
1331002	Middle New Jersey	1.098
1331001	Northern New Jersey	1.134
1331003	Southern New Jersey	1.084
532001	New Mexico	0.906
80101	Buffalo/surr. cntys, NY	0.945
80301	Manhattan, NY	1.330
80103	N. central cities, NY	0.953
80302	NYC Suburbs/Long I., NY	1.318
80303	Poughkpsie/N.NYC suburbs	1.043
1433004	Queens, NY	1.330
80102	Rochester/surr. cntys, NY	1.011
80104	Rural New York	0.939
1334095	Rural North Carolina	0.821
1334094	Urban (city limits) NC	0.859
82001	North Dakota	0.870
1636001	Akron, OH	0.941
1636002	Cincinnati, OH	0.952
1636003	Cleveland, OH	0.963
1636004	Columbus, OH	0.952
1636005	Dayton, OH	0.934
1636009	E. Central (Steubenvl), OH	0.914
1636007	Mansfield, OH	0.908
1636013	Marion & surr. cntys., OH	0.913
1636006	Northwest (Lima) OH	0.920

LIST OF GEOGRAPHIC PRACTICE COSTS ADJUSTMENT FACTORS—Continued

Carrier-locality code	Name	Overhead only
163014	Scioto Valley, OH	0.935
1636015	Southeast (Ohio Valley) OH	0.902
1636008	Springfield, OH	0.938
163010	Toledo (Lucas/Wood), OH	0.987
1636012	W. Centr (Lake Plains), OH	0.908
1636011	Youngstown, OH	0.935
137001	OK city, et al (cities), OK	0.907
137099	Rural Oklahoma	0.833
137004	Sm. cities (northern), OK	0.830
137003	Sm. cities (southern), OK	0.823
137002	Tulsa, et al (cities), OK	0.900
138002	Eugene, et al (cities), OR	1.002
138001	Portland, et al (cities), OR	1.023
138099	Rural Oregon	0.991
138003	Salem, et al (cities), OR	0.986
138012	SW OR cities (city limits)	0.983
86502	Lg. Pennsylvania cities	1.045
86501	Philly/Pitt med schs/hosps	1.070
86504	Rural Pennsylvania	0.934
86503	Small Pennsylvania cities	0.942
87001	Rhode Island	0.966
88001	South Carolina	0.823
82002	South Dakota	0.836
544035	Tennessee	0.836
90029	Abilene, TX	0.833
90026	Amarillo, TX	0.852
90031	Austin, TX	0.911
90020	Beaumont, TX	0.900
90009	Brazoria, TX	0.900
90010	Brownsville, TX	0.842
90024	Corpus Christi, TX	0.891
90011	Dallas, TX	0.914
90012	Denton, TX	0.914
90014	El Paso, TX	0.847
90028	Fort Worth, TX	0.833
90015	Galveston, TX	0.912
90016	Grayson, TX	0.854
90018	Houston, TX	0.942
90033	Laredo, TX	0.813
90017	Longview, TX	0.878
90021	Lubbock, TX	0.835
90019	McAllen, TX	0.828
90023	Midland, TX	0.938
90002	Northeast Rural Texas	0.833
90013	Odessa, TX	0.914
90025	Orange, TX	0.900
90030	San Angelo, TX	0.854
90007	San Antonio, TX	0.877
90003	Southeast Rural Texas	0.845
90006	Temple, TX	0.840
90008	Texarkana, TX	0.837
90027	Tyler, TX	0.879
90032	Victoria, TX	0.916
90022	Waco, TX	0.826
90004	Western Rural Texas	0.803
90034	Wichita Falls, TX	0.849
91001	Utah	0.926
78050	Vermont	0.891
1049001	Richmond & Charlottesvl, VA	0.893
1049004	Rural Virginia	0.843
1049003	Sm. town/industrial VA	0.849
1049002	Tidewater & No. VA counties	0.959
93004	E. Cen & NE WA (excl Spokane)	0.989
93002	Seattle (King Cnty), WA	1.051
93003	Spokane & Richlnd (cities), WA	1.006
93001	W & SE WA (excl Seattle)	1.001
1651016	Charleston, WV	0.929
1651018	Eastern Valley, WV	0.861
1651019	Ohio River Valley, WV	0.858
1651020	Southern Valley, WV	0.853
1651017	Wheeling, WV	0.880
95113	Central Wisconsin	0.857
95140	Green Bay, WI (northeast)	0.879
95154	Janesville, WI (S-central)	0.872
95119	La Crosse, WI (W-central)	0.889
95115	Madison, WI (Dane County)	0.937
95146	Milwaukee Suburbs, WI (SE)	0.962
95104	Milwaukee, WI	0.964
95112	Northwest Wisconsin	0.868
95160	Oshkosh, WI (E-central)	0.878
95114	Southwest Wisconsin	0.857
95136	Wausau, WI (N-central)	0.866
553002	Wyoming	0.902

Additional Views of Senator William L. Armstrong

They say one grows wise by learning from mistakes. If that is true, the Senate Finance Committee should be very wise indeed.

Unfortunately, however, we do not seem wise enough to avoid putting our stamp of approval on another over-built and under-reasoned piece of legislation reminiscent of similar bills which have gotten the Senate into serious trouble recently. Watching this reconciliation bill work its way through the Finance Committee has been like watching

the tinker's junk wagon wind through the bad side of town . . . with householders heaving onto it all manner of things they can't get rid of any other way.

The English author Samuel Johnson observed: "He who expects much will be often disappointed; yet disappointment seldom cures us of expectation, or has any other effect than that of producing a moral sentence or peevish exclamation." Well, I don't know about a moral sentence, but we are sure going to hear some peevish exclamations when the Senate finishes inflicting this reconciliation bill on the country.

ABUSE OF THE RECONCILIATION PROCESS

The Finance Committee and the Senate are risking well deserved ridicule by whistling through Congress such a mish-mash under the guise of a deficit reducing reconciliation bill. All the ordinary caution, all the rules of the Senate are being distorted and misused, as we pave the way for another in a long series of legislative disasters . . . such ideas as withholding of interest and dividends, mandatory catastrophic benefits for people who already have catastrophic insurance, section 89 reform that is completely out of proportion to any perceived problem . . . and the list goes on and on.

All of these faux-pas have a lot in common; they are getting to be pretty easy to recognize by now. They are ill-considered at the time by an inattentive Congress, though enough people think they are good ideas that a kind of phony urgency is felt. Congress is stamped into approving them and, when they grow into the monsters we ought to have seen them for, it is Congress who has to come sheepishly back and undo as much of the damage as possible.

Why does the Senate repeatedly get itself into such situations? What possesses the Finance Committee to fill the reconciliation bill with legislative experiments that tinker with some of the basic building blocks of our society? There is something fundamentally wrong with the way the Committee, the Senate and indeed the whole Congress is conducting its business.

Reconciliation is supposed to be the way spending cuts are implemented, so that individual committees of the Congress come up with the savings required for our annual budget. Reconciliation is supposed to be a supplement to the normal legislative process, but every year it seems to become more and more a replacement for the legislative process. It is not, in any event, supposed to be some sort of annual legislative congaline, made up of all the ideas that, taken individually, didn't get enacted. Reconciliation has fractionalized the Senate, with each committee having become a sovereign Senate, having vast powers to enact sweeping legislation affecting the programs under its jurisdiction. Washington is rapidly becoming a kind of Swiftian fantasyland, where the Congress of Lilliputian Congresses convenes, to arc their tiny threads of regulation out over the country.

Reconciliation is an easy process to exploit, and exploit it we have. So much so that, in 1985, the Byrd Rule of procedural practice was implemented to help defend against "extraneous" provisions. The legislative excess that was the proximate cause of the Byrd Rule was a heavily protectionist provision that aided the U.S. textile industry at the expense of U.S. consumers who purchase textiles.

But abuse of the process had already become the established norm well before the Byrd Rule, and has remained so even after the rule was implemented. Almost every year has seen the reconciliation bill being used as a stalking horse for huge new expansions of the Medicaid and Medicare programs. From 1982 to 1987, for example, five separate reconciliation bills saw no fewer than 30 separate expansions of the Medicare program. And the last three reconciliation bills alone witnessed at least another 30 expansions in the Medicare program. Almost every reconciliation bill has elaborate provisions to renew expiring revenue provisions. And every Senator can name more examples.

The problem with extraneous legislation on a reconciliation bill is not so much that it violates an abstraction like the Byrd Rule—though the rule exists for a wholesome purpose and, if a lawgiving body cannot respect its own rules, how can it hope for its laws to be taken seriously by the general public? Rather, corruption of the legislative process has led directly in recent years to a more alarming and thoroughgoing corruption of the policy-making process. Instead of an ordered system of rules where the healthy clash of ideas produces ever superior ideas, our system of lawmaking is being reduced to a meaningless and content-free cycle that alternates between over-reaction and careless repair.

Which is the perfect way to describe the twin irrational impulses taht together produced this bill's provisions on physician payment reform.

PHYSICIAN PAYMENT REFORM

"It's idiotic . . . but we're supporting it."

That's what I was told when I sought the views of the administration on the physician payment reform proposal. If ever there was a case of legislators closing their eyes when they vote and just hoping for the best, this is it.

The rate of growth of health care costs is a great and legitimate concern to every member of Congress. Each year sees a further increase in the proportion of our gross national product devoted to health care and in the proportion of federal expenditures devoted to health care. But the Committee's recommendation is likely to lead to continued increases in health care costs and a gross disruption to our health care system.

When we look back on this legislation some years down the line, and we see how health care costs have accelerated instead of slowing down, I expect we will recognize that, at the very moment we were repealing Medicare Catastrophic, we were passing into law the son-of-catastrophic.

The heart of the proposal is the creation of a national fee schedule to determine physician fees under Medicare rather than use the "reasonable charge" method which reflects historical charges for a service in an area. A key premise in developing such a schedule is the idea that doctors' compensation rates should be more equal across the nation. According to this view, doctors in Palo Alto, California for example, should not receive signficantly more for performing the same service as do doctors in Portland, Maine.

In an attempt to control the growth in health care costs, this proposal develops a complicated information reporting scheme and price control mechanism. One thing we should have learned by now is that price controls don't work. Whether they be on gasoline, natural gas, inner-city rents, or physicians' fees, the result is dislocation, supply shortages and, very often, spiralling costs. The second thing we should have learned is that the more complicated the price control mechanism, the less able it will be to keep costs from increasing.

The growth of health care costs, which is rapidly becoming a fiscal nightmare, can be traced primarily to three causes. The first is simply the steady increase in federal, state and local dollars that go into health care. This might be viewed as a chicken-or-the-egg kind of problem. Are health care costs rising because the government keeps spending more, or does the government keep spending more because health care costs keep rising? The fact is, both are true. It is also a fact, however, that if governments at all levels were to slow their spending on health care, these costs would quickly stabilize.

It is a simple matter of economics. If you keep spending more on a product, eventually the price is going to start to increase. In this case, as federal health programs expanded, they expanded the availability of health care, but they also drove up the price of that care. As the price increased, the federal health entitlement programs had to increase also. And so on, until today we find ourselves facing a fiscal disaster which the physician payment proposal is intended to prevent.

A second cause of the explosion in health care costs is closely related to the first. It is the steady increase in federal regulation of medicine in this country. The genesis of this regulation was a wish to improve the quality of medicine and to protect the federal purse against fraud. However, as costs began to escalate, the Congress turned to price controls, regulations and restrictions to try to slow the escalation. What it got instead was what one always gets when controls are placed on a market: dislocations, supply restrictions, and even greater cost run-ups.

An important premise of government health care programs, and one that really came home to roost last year with the ill-conceived Medicare Catastrophic program, is that Americans should be protected from having to face high health care costs. In fact, under Catastrophic, affordable health care for the elderly was practically made into an entitlement program. For example, the typical program requires you pay something up front, after which your insurance covers 100% of the costs. Suppose instead that the patient always faced at least a minimal copayment rate. For some procedures, no doubt, the inclusion of a price mechanism into health care decisions would have little effect. For many instances, just knowing that he or she faces some personal financial costs will cause the individual to examine more closely the costs that are incurred in his or her behalf.

The Committee proposal includes an attempt to reign in the growth of health care costs. One part of the proposal would construct very specific guidelines about how various procedures and specialties should be compensated through Medicare. In order to develop these guidelines, doctors throughout the country would be required to provide detailed information about their charges and the costs they incur to provide their services. This information is then to be processed to develop national pricing guidelines.

A central tendency, and the central failing of using economic controls to replace market forces, is that the failure of controls is always blamed on an inadequancy of information or an inadequancy of power. The proposed solution, therefore, is always to get more information with which to make more informed decisions, and more power

with which to carry out those decisions. But the health care system is out of control precisely because government has tried to control it. The new approach, well-intentioned though it may be, nevertheless promises just more of the same—it is the next step in establishing a command economy in medicine that is doomed to failure.

There is another reason why the proposal will increase rather than reduce the calamity of our health care system and this one is based not on policy but on politics. Their proposal is to use their physician payment guidelines to equalize compensation rates between like services and across geographic regions so that a surgeon performing an appendectomy in Billings, Montana will be paid more nearly the same as one in Boston, Massachusetts.

They do not propose to increase Medicare expenditures while equalizing compensation rates. They intend to hold steady the rate of increase in Medicare by raising the compensation rates in Billings and reducing the rates in Boston. Unfortunately, the law of unintended consequences is going to rear its head in a big way because, while the Billings surgeon will be more than content with his windfall, the Boston surgeon is going to revolt. And he will revolt in one of a very few ways. He will either stop accepting Medicare patients, he will stop performing those services for which he deems his compensation too low, he will increase the rate at which he performs those services to increase his revenues, or he will get in touch with his Congressman and Senators and say he has got to have some relief.

Evidently, the Committee recognizes the potential for doctors in what are currently high paying specialities or geographic regions to "game" the system by making up lost income by performing more medical procedures. Therefore, the Committee proposal includes the creation of volume performance standards to monitor whether abuses are present.

Recognizing the difficulty of the situation, the proposal then leaves it up to the Secretary of the Department of Health and Human Services to suggest remedies. If the Congress chooses, it can adopt the Secretary's suggestions or come up with its own remedies. What sensible remedy would there be? Would the Congress then legislate that fewer appendectomies are to be performed in the following year? Or that certain doctors are hereby given a quota on the number of procedures for which Medicare will pay? This would seem to be where the proposal must lead. We are legislating a price control system that will lead to quotas on Medicare-covered physicians' services. What will Congress do when somebody dies because his or her operation exceeds a quota set in Washington?

At the same time that the price control system is perverting the provision of health care services, the compensation rates for the Billings surgeon will be increased, while the compensation of the Boston surgeon will be left unchanged. That is, we will level compensation rates by raising the lower rates without reducing the higher rates. I understand that the legislation is written so that higher-paid physicians are supposed to get a pay-cut. But I suspect, and I think many of my colleagues would believe this if they thought about it for awhile, that when the pay-cuts begin to phase-in, the high-priced physicians throughout the land will get enough slack put into the system that they won't face any cuts at all.

MAKING SOCIAL SECURITY AN INDEPENDENT AGENCY

A provision of this bill that is easier to understand but just as defective on policy grounds is the plan to make the Social Security Administration (SSA) an independent agency. This an idea that just does not make sense; it is bad government and bad public service.

At a time when the federal budget is plunging headlong into a rising tide of red ink, this is hardly the time to create new bureaucracies. As a part of the Department of Health and Human Services (HHS), the Social Security Administration is run far more economically. If it were separated, it would require duplicative expenditures for routine administrative costs like personnel and payroll, together with a number of other support facilities already provided efficiently within HHS.

A greater concern is what a change of this magnitude would mean to the ordinary Social Security beneficiary. Today, the local Social Security offices around the country are looked at as user-friendly places where America's seniors can go for "one stop shopping," that will cover both their Medicare and Social Security questions and needs. It doesn't make sense to force our senior citizens to deal with two federal bureaucracies in two different local offices.

Many other federal programs of HHS are directly related to Social Security programs: the social services for the elderly that are funded by the Administration on Aging; the health programs for the aged that are administered by the National Institute on Aging; and there is the essential link between Social Security and the Medicare and Medicaid programs of the Health Care Financing Administration. These programs for seniors are already complicated enough, without building up a whole second layer of bureaucracy to contend with.

Younger Americans will also be worse off if this provision becomes law and the SSA is removed from HHS. Today, approximately 9.2 per cent of disability insurance beneficiaries are children. SSA also pays retirement and survivors benefits to children. All of these SSA programs are linked to other programs within HHS, such as Head Start and the Administration on Disabilities. Tearing SSA out of HHS would disrupt a comprehensive system of programs that well serves young America.

No one has adequately explained what is supposed to be the magic of being an independent agency. Indeed, a lot of our experience of other independent agencies would suggest just the opposite.

Finally, an "independent" SSA would be run by a much lower ranking official than the Secretary of HHS, who is of course a member of the President's Cabinet. Today, America's seniors are represented at the table when the Cabinet meets; that kind of input is extremely valuable to President Bush, and I think the Social Security concerns of this country's elderly should continue to be heard in the Cabinet Room of the White House.

INCREASING THE EXEMPT AMOUNT FOR THE SOCIAL SECURITY EARNINGS TEST

Victor Hugo once said, "Greater than the tread of a mighty Army is an idea whose time has come." The provision pertaining to the retirement earnings test that is included in this reconciliation package proves Mr. Hugo's point.

The Committee's proposal increases the exempt amount by $5,000 over two years and establishes an additional $5,000 bracket in which the benefit reduction ratio is liberalized. It goes further toward mitigating the harsh tax burden on the elderly than any measure we have passed in recent history.

To understand fully the magnitude of what has been accomplished, it is necessary to delve into the history of the retirement earnings test. Social Security was established in the wake of the Great Depression. At that time, it was deemed appropriate to establish incentives for the elderly to leave the workforce and open up jobs for others. The earnings test was born of this notion.

In the Congressional Record from June 14, 1935, Senator Robert Wagner, the original chief sponsor of the Social Security Act, asserted that, "the incentive to the retirement of elderly workers will improve efficiency standards, [and] make new places for the strong and eager." There is no question that our attitudes about the elderly's participation in the workforce have changed since the 1930s. These changes were motivated by several considerations. One was the conviction that the elderly should not automatically be shunted aside when they reach a certain age. Another was that life expectancy continues to increase and the elderly are more healthy and productive than 40 years ago. At the same time, birth rates have dropped sharply and the demand for experienced labor is on the rise. There is, as alluded to above, a real need to encourage people to continue working. Directing people into retirement through excessive benefit reductions is obviously inconsistent with that goal.

Our attitudes have not simply changed somewhat. It is not an exaggeration to state that, today, Sen. Wagner's view is a complete anachronism. In the past decade, mandatory laws have been repealed and the normal retirement age under social security was salted to increase to 67 in the next century. Back in 1983, in fact, Senator Dole and I advanced a proposal to eliminate the retirement earnings test during consideration of the Social Security solvency amendments. That proposal was approved by the Senate Finance Committee and was included in the Senate-passed version of those amendments. Senator Moynihan, a longtime member of the Finance Committee and an acknowledged expert on Social Security matters, stated at the time that the proposal which would have "the most impact upon the lives of present and future retirees is the abolition of the earnings test." Unfortunately, however, this provision was dropped in conference committee at the insistence of the other body.

Despite such a promising beginning, we have made little recent progress in lessening the burden of the earnings test penalty on the elderly. Yet, congressional interest in eliminating the retirement earnings test remains strong. At least 26 bills (with 151 cosponsors) to modify substantially or eliminate the test were introduced in the 100th Congress and at least 12 bills have been introduced so far in the 101st Congress. In fact, one bill to eliminate the earnings test, introduced this session by Rep. Dennis Hastert, has garnered more than 100 cosponsors. It is clear that the will of the people and the intent of the Congress is that some action be taken to right this injustice.

In the 101st Congress, the Senate has passed amendments to increase the earnings limit on the Minimum Wage Bill, the Budget Resolution, and the Childcare legislation. All of these provisions, however were dropped in conference. With our proposal in

this reconciliation package, finally something substantial may be accomplished.

Some unfamiliar with the earnings test may be surprised at the interest this topic engenders. Currently, social security beneficiaries under 70 face sharp reductions in their monthly benefit if their wage earnings exceed a specified amount. These seniors will lose fully $1 of benefits for every $2 of income they receive above the earnings limit, today $8,880. In other words, people earning just $9,000 are subject to what is in effect a marginal tax rate that is confiscatory. Because of the earnings limit, a senior worker who should be in the lowest tax bracket may end up paying marginal tax rates as high as 83 percent (50 percent earnings test, 15 percent income tax, 7.51 percent FICA, 7.5 percent income tax on social security benefits, and 3.37 percent on Catastrophic).

If we compare the tax consequences of working, there is a starkly unequal treatment before the law. A young worker doing exactly the same work and making precisely the same income would face a marginal tax rate of 15 percent and a social security tax rate of 7.51 percent in 1989. No one would tolerate such abusive age discrimination if they could see it but because it is a hidden effect of an outdated Social Security policy, this kind of discrimination has become an appalling fact of working life for this country's wage-earning elderly.

Moreover, as alluded to above, the earnings limit is bad labor policy. According to the Social Security Administration, about 1 million people currently suffer some reduction in benefits because of the earnings limit: 700,000 workers, 115,000 dependents, 40,000 survivors, and an estimated 140,000 people who do not even bother to file. The retirement earnings test imposes a terrible disincentive on elderly citizens who want to continue workng. After contributing to the social security program for decades and reaching age 65, the elderly are presented with a stark choice: eliminate virtually all significant earnings when retired or face stiff cuts in benefits to which they are otherwise entitled. A choice like that cannot help but drive productive individuals to a full retirement or force them to forego benefits they have worked for over a lifetime.

Many elderly citizens, while ready to reduce their work activity at age 65, do not want to withdraw from the workforce completely. Many desire to remain productive and contributing members of society. Some need additional earnings to meet living and health care expenses at a time when their principal sources of income are fixed. Yet, because of the low earnings limit, there is seldom a real choice but to stop working. Caught in the earnings test trap, this is just what many of our elderly have done. Today, 83% of all men and 92% of all women age 65 and older are completely retired. Between 1970 and 1985, the retirement rate among those 65 years old has increased by 40%. In the face of the labor shortages economists are now predicting for the United States, this problem take on new dimensions.

Another supposed concern about alleviating the burden placed on our elderly by the earnings limit is that we would be helping those who did not need help. Some say that this provision benefits the relatively "rich" among social security beneficiaries—those able to continue working and earn extra income. The fact is that elderly workers earning as little as $4.65 an hour lose benefits under the test.

There is a reverse-Robin Hood feature to the earnings test that is one of the more egregious anomalies under present law. Perverse as it may seem, people with unlimited "unearned" income from pensions, investments, or stock dividends face no reductions in their social security benefits through the earnings test. Retiring executives with incomes in excess of $100,000 may not lose one penny in benefits as a result of the earnings test when the elderly person working in a local pharmacy to earn $10,000 a year faces sharp reductions in her benefits. Rather than favoring the well-to-do, this proposal should restore some sense of equity in the tax treatment of retired citizens.

Beyond the fairness question, there are also practical problems with the earnings test. Quite simply, the earnings limit is an administrative monster to the Social Security Administration. SSA spends more than $200 million a year and uses 8 percent of its employees to police the income levels of beneficiaries. In the current practice, at the end of one year, elderly workers are asked by the Social Security Administration to estimate what their earnings will be for the following year. On the basis of this "estimate," SSA assesses the penalty to be paid by the worker. For example, if the person names a certain amount, he may be told that he will only get the equivalent of 10 months of benefits over the next year. The two month "penalty" is then paid up front. That elderly worker has his benefits withheld for the first two months of the year. This is real money that the senior worker does not have to spend on food, clothing, and shelter.

At the end of that year, the Social Security Administration goes back and makes adjustments for all inaccurate estimates. As anyone can well imagine, there are quite a few adjustments to be made. In fact, the Social Security Administration estimates that 60% of all overpayments and 45% of underpayments are attributable to the earnings limit. For beneficiaries, the earnings limit can mean confusion, frustration and financial hardships because of requirements to monitor, estimate and report income levels. The result is often a sense of disillusionment in the government and in a program many believed would pay full benefits when they turned 65.

For a long time, those of us interested in doing something to raise or eliminate the retirement earnings test had to overcome quite a sizable obstacle . . . cost. Static revenue models used by the Congressional Budget Office to estimate costs of raising or eliminating the penalty are daunting. Indeed, the provision in this reconciliation package had to be "offset" completely. Finally, two former Treasury economists at the National Center for Policy Analysis did a dynamic analysis of increasing the earnings limit. In their study, they took into consideration the fact that people respond to incentives. Consequently, they concluded that raising the limit a mere $3,000 would generate $1.5 billion in extra revenue a year. According to this study, increasing the $8,880 limit to its revenue-maximizing point of $39,400 would bring in an additional $3.2 billion a year. And eliminating the earnings test altogether would inject at least 700,000 additional elderly retirees into the labor market. If these estimates are realized, we may have found that truly rare gem in the world of politics and fiscal realities—a policy change that makes money and is worth pursuing on its own merits.

Increasing the retirement earnings test is supported by the American Association of Retired Persons. In a statement given before the Subcommittee on Social Security of the House Committee on Ways and Means on May 25, 1989 they state bluntly, "AARP believes it is time to liberalize the current earnings limit." They include in their statement an excerpt from a letter they received from one of their members who stated:

"I am not alone in believing the law restricting the amount earned by Social Security is the most unfair and discriminatory law in our beloved United States. The maximum allowable amount is total earnings, and not take home pay . . .

"I am an executive secretary, a widow of one year, and I could not possibly live on the allowable earnings and my meager Social Security benefit. Would the government prefer us to live in subsidized low-cost housing, receive food stamps and/or welfare? I am too proud to do that . . ."

In their testimony, AARP summarizes the situation very well. They maintain, "we should not penalize . . . individuals who try to improve their economic situation through the only means available to them—work."

Although our efforts since the 1983 vote in the Senate to eliminate the earnings test penalty have been fruitless, I believe we have made almost unbelievable progress this year. People like Sens. Bentsen, Dole, Exon, and Roth—along with Reps. Hastert, Armey, Archer, and Brown—have worked almost unceasingly to lessen or eliminate the earnings test penalty. As a result, we are on the brink of realizing this goal. We are on the verge of taking the steps which would carry us down the path laid out by President Bush in his inaugural address when he stated, "We must bring in the generations, harnessing the unused talent of the elderly."

TABLE II.—MARGINAL TAX RATES OF ELDERLY WORKERS EARNING $8,880 [1]

[$9,360 in 1990]

	In percent	
	1989	1990
Income too Low to Pay Federal Income Taxes [2]		
FICA tax	7.51	7.65
Earnings penalty	50.00	33.00
Total	57.50	40.64
Income High Enough to Pay Income Taxes But too Low to Pay the Social Security Benefit Tax [3]		
15 percent bracket:		
Federal income tax	15.00	15.00
FICA tax	7.51	7.65
Medicare surtax	2.25	3.75
Earnings penalty	50.00	33.00
Total	74.76	59.40
28 percent bracket:		
Federal income tax	28.00	28.00
FICA tax	7.51	7.65
Medicare surtax	4.20	7.00
Earnings penalty	50.00	33.00
Total	89.71	75.65
Income High Enough to Pay the Social Security Benefit Tax [4]		
15 percent bracket:		
Federal income tax	15.00	15.00
FICA tax	7.51	7.65
Social security benefit tax	5.63	6.26
Medicare surtax	3.09	5.32
Earnings penalty	50.00	33.00
Total	81.23	67.23
28 percent bracket:		
Federal income tax	28.00	28.00
FICA tax	7.51	7.65
Social security benefit tax	10.50	11.69
Medicare surtax	5.78	9.92
Earnings penalty	50.00	33.00

Income High Enough to Pay the Social Security Benefit Tax [4]		
Total	101.79	90.26

[1] Refers to workers age 65 to 69.
[2] In 1989, taxable earnings are less than $10,800 for a couple. Most single individuals earning the earnings limit are subject to the income tax.
[3] Total income from all sources (including Social Security benefits) less than $25,000 for an individual and $32,000 for a couple.
[4] Assumes taxpayers pay tax on some of their Social Security benefits but remain under the maximum of one-half of benefits taxed. Taxpayers also pay less than the maximum Medicare surtax of $800 in 1989 and $900 in 1990.

Note.—Excerpt from study done by the National Center for Policy Analysis.

Illustrations not reproducible for the RECORD.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1989.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Finance, as ordered transmitted to the Senate Committee on the Budget, October 4, 1989. The estimates are preliminary pending review of final legislative language.

The estimates included in the attached report represent the 1990-1994 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be responsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

In addition, estimates for a Committee-approved floor amendment, containing provisions affecting Social Security, are appended to this report.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Attachment.

BUDGET RECONCILIATION OF THE COMMITTEE ON FINANCE

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994	1990–94—total
Title V: Grand total:						
Direct spending	−2940	−2075	−2172	−2423	−2797	−12404
Amounts subject to appropriation	109	154	147	83	73	566
Total deficit effect assuming appropriations	−2831	−1921	−2025	−2340	−2724	−11838
Title VI: Grand total: Spending effects of provisions of title VI:						
Direct spending	0	−5	2452	2426	2549	7422

Source: Congressional Budget Office.
*—indicates less than $500,000.

BUDGET RECONCILIATION PROVISIONS: SENATE COMMITTEE ON FINANCE

[All estimates are preliminary and subject to change. No estimates are final until final legislative language has been reviewed. Final legislative language has not been received and reviewed. By fiscal year, in millions of dollars]

Type of Spending	Provisions affecting Medicare part A	1990	1991	1992	1993	1994	Total
D	Indirect Medical education: Reduce adjustment ot 6.6%	−300	−370	−410	−450	−490	−2,020
D	Medicare Payments for Inpatient Hospital capital at 80% of costs (exempt sole community & disproportionate share hospital)	−615	−90	0	0	0	−705
D	Hospital Update: Increase hos pay rates in 1990: (A) Lge urban area: mkt basket −1.25; (B) Other urb areas: mkt basket −2.0. −2.0; (C) Rural areas: mkt basket +2.0; (D) Limits for PPS-ex hos.: mkt basket.	−430	−540	−600	−660	−720	−2,950
D	Recalibration of DRG weights, Prohibit reducing FY90 DRG weights	0	0	0	0	0	0
D	Exempt Cancer Hospitals	12	3	3	3	4	25
D	Hospital Payment for Hemophilia Clotting Factor Direct the Sec. to "pass through" to hospitals the costs of hemophilia clotting factor administered to inpatients, in addition to payments made under PPS.	4	32	36	0	0	72
D	Increase Medicare Hospice Rates	20	25	30	35	40	150
D	Finger Lakes Hospital Waiver	0	(−*)	0	0	0	(−*)
D	PPS-exempt Hospitals Adjustment	0	0	0	0	0	0
D	Annual Wage Index Update, Require HCFA to update the wage index beginning in FY91	0	0	0	0	0	0
D	GAO Study of SNF Costs Limits	0	0	0	0	0	0
D	Budget Neutrality in Updating Wage Index Requires the Sec. to assure that revisions in the hospital wage index do not affect aggregate spending levels beg. in FY1991	0	0	0	0	0	0
D	Wage Index Codes & Requirements Require the Sec. to take into account differences in State hospital codes and requirements in computing the hospital wage index, to the extent possible.	0	0	0	0	0	0
D	Dentists as Medical Staff Directors Provide that hospitals with dentists meet requirements for positions as staff direct	0	0	0	0	0	0
D	Medicare Payments to Rural Hospitals Redesignated as Urban and Other Affected Hospitals	24	30	33	36	39	162
D	Medicare Payments to Hospitals for Bad Debt Report Language only	0	0	0	0	0	0
D	Inpatient Mental Health Benefits Study	0	0	0	0	0	0
D	Corrected determination of Hospital Wage Indices to begining of FY	35	20	20	25	25	125
D	Nurse Practioners in Nursing Homes	(*)	(*)	(*)	(*)	(*)	(*)
D	Closed Captioning TV for Hospitals/NH OTA Study	0	0	0	0	0	0
	Rural Hospital Consenus Package						
D	a. Urban-Rural Payment Differential	0	0	0	0	0	0
D	b. Sole Community Hospitals 1. a hospital 35 miles from another hospital is a Sole Community Hosp. 2. 75% hospital portion on FY1982 data or more recent hospital cost reporting period. 3. Make permanent the availability of a volume adjustment. 4. Extend the exemption of SCHs from reductions in Med Payments -fy90.	90	130	140	155	165	680
D	c. Regional Referral Centers	15	25	30	15	0	85
D	d. Geographical Classification Review Board	0	0	0	0	0	0
A	e. Rural Health Transition Grants	10	25	25	0	0	60
D	f. Rural Health Clinics	3	3	3	4	4	17
D	g. Rural Health Medical Education Demonstrations	(*)	(*)	(*)	(*)	(*)	0
D	h. Telecommunications	(*)	1	1	1	0	3
D	i. Essential Community Facilities	(*)	1	1	1	1	4
D	j. Interim Protection for Small, Medicare-Dependent Hospitals	37	54	11	0	0	102
D	k. Propac Representation	0	0	0	0	0	0
D	l. Nurse Practitioners	20	20	25	25	30	120
D	m. Disproportionate Share Payments	35	80	90	100	105	410
D	n. Rural Wage Index	0	0	0	0	0	0
A	o. Office of Rural	17	17	17	0	0	51
D	p. Social Workers in Rural Health Clinics (In main Social Worker Estimate)	0	0	0	0	0	0
D	Assignment of Receivables Report Language	0	0	0	0	0	0
D	Intermediate Sanctions for Psychiatric Hospitals Under Medicare	0	0	0	0	0	0
D	Rural Referral Center Urban Wage Index (HH)	3	3	3	4	4	17
	Subtotal: part A						
	Direct spending	−1,047	−573	−584	−706	−793	−3,703
	Amounts subject to appropriations	27	42	42	0	0	111
	Provisions Affecting Medicare Parts A and B						
D/A	Medicare Secondary Payer Enforcement (2); Improve enforcement of MSP prov.						
D	Direct spending	−325	−780	−680	−420	−110	−2,315
A	Subject to appropriations	25	30	30	20	10	115
D	Medicare Secondary Payer Coinsurance & Deductibles Payments by workers' comp. or liability and related insur. would be credited toward deduct	(*)	(*)	(*)	(*)	(*)	(*)

BUDGET RECONCILIATION PROVISIONS: SENATE COMMITTEE ON FINANCE—Continued

[All estimates are preliminary and subject to change. No estimates are final until final legislative language has been reviewed. Final legislative language has not been received and reviewed. By fiscal year, in millions of dollars]

Type of Spending	Provisions affecting Medicare part A	1990	1991	1992	1993	1994	Total
D	Disabled Enrollment Period For Medicare Secondary Payer Extend the same enrollment periods to disabled beneficiaries for whom Medicare has been secondary payer	(*)	(*)	(*)	(*)	(*)	(*)
D	Beneficiary Protections For Medicare Secondary Payer GAO Study	0	0	0	0	0	0
D	Delay Medicare Payments, Delay 2 days (1)	−470	−70	−80	−80	−90	−790
D	Reconsideration of Pro Quality Denials Before Notice to Beneficiary Practitioner receive notice and opportuntiy for reconsideration before the ben. is notified	0	0	0	0	0	0
D	Medicare "Buy In" For Working Disabled Permit an individual who loses benefits on account of substantial gainful activity to enroll in Part A	(*)	4	11	19	28	62
D	Reimbursement for Certain Items and Supplies Furnished By Home Health Agencies: Exclude these items from DME and require HHA to furnish these items	6	10	10	15	15	56
D	Involvement of Podiatrists in PRO Review Activities Permit doctors of podiatric medicine to make review determinations with respect to podiatric services	0	0	0	0	0	0
D	Base Year Cost For Graduate Medical Education: Allow the Sec. to use a base year other than 1984, if the hosp. requires a dif. base yr	0	0	0	0	0	0
D	Hospital-Based Nursing/Allied Health Schools Moratorium FY 1990 only	35	0	0	0	0	35
D	Advisory Committee on Home Health Claims	(*)	0	0	0	0	(*)
D	Home Health Wage Index Req. HCFA to cont. using the hosp.-based wage index in effect on 9/89, for the 12-month cost cost reporting pd. beg. on or after 7/89	(*)	0	0	0	0	(*)
D	Religious Orders	12	15	20	20	25	92
D	Waiver of Certain HMO Requirements Treatment of Healthnet enrollees served by CHP as enrollees of CHP	0	0	0	0	0	0
D	Raise HMO Payment from 95% of AAPCC. Four year phase-in	115	200	230	305	355	1,205
	Subtotal: part A and B:						
	Direct spending	−627	−621	−489	−141	223	−1,655
	Amounts subject to appropriations	25	30	30	20	10	115
	Provisions Affecting Medicare Part B						
D	MEI Adjustment For Physician Services: Increase MEI FY90 by 5.3% (primary care) and 0% for other phy. serv. (4/90)	−655	−640	−720	−810	−910	−3,735
D	Reductions For Overpriced Procedures: Reduce prevailing charges of specified overpriced procedures by ⅕ (prevailing est, fee sch.) under a RB RVS (4/90)	−150	−235	−270	−306	−340	−1,300
D	Payment For Radiology and Anesthesia Services:						
	1. Reduce prevailing charges for physician's radiology services by 4% (4/1/90)	−50	−65	−75	−85	−95	−370
	2. Modify method of time unit measurement for the purpose of payment of anesthesia services. Payment based on actual time expended vs. rounding (4/1/90)	−40	−45	−55	−60	−65	−265
D	Payments For Durable Medical Equipment (4/90):						
	1. Wheel chairs as routinely purchased	−1	−2	−2	−2	−2	−9
	2. Other DME Savings	−65	−95	−110	−120	−140	−530
	3. Lower nat'l cap to 95% of nat'l median	−85	−185	−205	−235	−260	−970
D	Clinical Laboratory Services:						
	1. Lower nat'l cap to 95% of nat'l median (4/1/90)	−35	−85	−105	−120	−145	−490
	2. Limit CPI increase to 2% FY90.(4/1/90) (Assumes 3 month delay)	−50	−60	−75	−85	−100	−370
D	Payments for Hospital Outpatient Capital; Apply inpatient hosp. capital reduction	−10	−8	0	0	0	−18
D	Hospital Outpatient Services at minus 2%	−85	−80	−15	0	0	−180
D	Phase in of new physician customaries (4/90–12/90)	−25	−10	0	0	0	−35
D	Part B Premium: Extend through year 90 part B premiums to cover 25% of program costs	−365	−510	−540	−575	−610	−2,600
D	Designated Specialties (4/1/90)	−30	−35	−40	−45	−50	−200
D	Physician Referrals:						
D	1. Req. any entity claiming payment under part B to give the name & physician provider	0	0	0	0	0	0
D	2. Require that all part B claims contain name and physician provider of referring or ordering phy	0	0	0	0	0	0
D	3. Require carriers to monitor the part B ancillary services	0	0	0	0	0	0
D	Reimbursement For Nurse-Midwife Services: Eliminate maternity cycle (1/90)	(*)	(*)	(*)	(*)	(*)	(*)
D	Study of Registered Nurses As Assistants at Surgery Services of RNs furn. as assist. at surgery be reimbursed on the same basis as PAs	0	0	0	0	0	0
D	Watts HMO Waiver: Extend the OBRA 87 waiver until (1/1/94)	0	0	0	0	0	0
D	Portable X-Ray services: Exclude portable X-Ray serv. from any reduction in fee schedule	1	1	2	2	2	8
D	Cardiovascular and Interventional Radiologists: Those who have billed separately for related proc. during 1989 to cont. practice during 1990	(*)	(*)	0	0	0	(*)
D	Nuclear Medicine: Exempt physicians from radiology fee until 1992	3	3	1	0	0	7
D	Competitive Bidding for Clinical Lab Services	0	0	0	0	0	0
D	Reimbursement For Therapeutic Shoes: Authorize payments for modifications to shoes	(*)	(*)	(*)	0	0	(*)
D	Medicare as Second Payer for Drug Claims	(*)	(*)	(*)	(*)	(*)	(*)
D	CRNA Fee Schedule: Uniform nat'l conversion factors for CRNA set at $14 for medically directed & $21 for non-medically directed serv	65	175	195	215	220	870
D	Physician Office Labs: Repeal requirement for certification of high volume physician office labs	0	0	0	0	0	0
D	Trip Fees For Clinical Labs: Allow two or more labs under common ownership to combine their services to see if they serve 20% of nursing facilities in the State	0	0	0	0	0	0
D	Clinical Social Workers and Psychologists:						
D	Medicare would pay directly for the services of clinical social workers & psychologists	20	40	45	50	50	205
D	a. if outpatient mental health limit eliminated est. would inc. by	2	9	13	16	19	59
D	Study of Hospital Outpatient Costs	0	0	0	0	0	0
D	Municipal Health Services Waiver	0	0	0	0	0	0
D	Eliminate Limit on Outpatient Mental Health Limit on Medicare outpatient mental health services would be eliminated	20	45	60	75	95	295
D	ESRD Network Funding	0	0	0	0	0	0
D	Protections for ESRD Networks	0	0	0	0	0	0
D	Coverage of Erythropoietin	45	75	90	105	120	435
	Physician Payment Reform						
D	1. Default MEI Update	0	0	−365	−710	−1,195	−2,270
D	2. Physician Submission of Claims (9/1/90)	24	170	185	205	225	809
D	3. Rural/Inner City Access Adjustment	0	20	30	35	40	125
D	4. Medicare Volume Performance Standard	0	0	0	0	0	0
	Subtotal: Part B:						
	Direct spending	−1,466	−1,517	−1,956	−2,449	−3,141	−10,529
D	Amounts subject to appropriations	0	0	0	0	0	0
	Grand total Medicare:						
	Direct spending	−3,140	−2,711	−3,029	−3,296	−3,711	−15,887
D	Amounts subject to appropriations	52	72	72	20	10	226
	Provisions Affecting Medicaid						
D	Retroactive Coverage of Medicare Cost-Sharing for Qualified Medicare Beneficiaries	0	0	0	0	0	0
D	Disregard of COLAs in certain Medicaid Eligibility Determinations	2	5	5	5	5	22
D	Voluntary Contributions Financial participation by States in Medicaid may include the application of private funds donated by hospitals	0	0	0	0	0	0
D	LTC Waiver Extension—three years	2	2	2	1	0	7
	Nursing Home Reform						
D	Resident's Right to Refuse Intrafacility Transfer: Resident may refuse transfer unless the fac. can document that it cannot care for the individual without a transfer	0	0	0	0	0	0
D	Nurse Staffing Requirements: Modify the nurse staffing waiver provisions for nursing fac. under Medicaid to conform with those of Medicare	0	0	0	0	0	0
D	Delay in Effective Date of Feb. 2, 1989 Final Reg. Delay until Oct. 1, 1990	0	0	0	0	0	0
D	State Approval of Nurse Aid Training Programs: Reg. Sec. to publish a proposed rule on standards for approval of nurse aid train. & Comp. eval. prog. no later than 90 days after the date of enact. of FY90 reconciliation legis.	0	0	0	0	0	0
D	Grace Period For Certain Nurse Aids: 4-mos. grace pd. does not apply in the case of a nurse aide who is retained on a per diem or temp. basis with a nurse aid pool or agency.	0	0	0	0	0	0
D	Nurse Aide Training Requirements:						
	1. Delay until 10/90 the req. that a nurse aide have completed a training program	−1	0	0	0	0	−1
	2. State to waive the nurse aide training & competency eval. req. for someone hired bef. 1/90 & can demo. that he/she has served as a nurse aide at a fac. & has comp. a 15-hour course of instr. in basic skills dev. by the State.	0	0	0	0	0	0
	3. Waive nurse aide training for prior employees	−40	0	0	0	0	−40
D	Nursing Home Reform—Balance Billing	0	0	0	0	0	0
D	Medicaid Community Health Clinic Services	10	11	12	13	15	61
D	Nurse Aide Training Programs:						
	1. Prohibit States from req. indiv. to pay a fee for textbooks, course materials, and other items related to a program	0	0	0	0	0	0

BUDGET RECONCILIATION PROVISIONS: SENATE COMMITTEE ON FINANCE—Continued

[All estimates are preliminary and subject to change. No estimates are final until final legislative language has been reviewed. Final legislative language has not been received and reviewed. By fiscal year, in millions of dollars]

Type of Spending	Provisions affecting Medicare part A	1990	1991	1992	1993	1994	Total
	2. Req. States to develop & distribute materials for use by approved nurse aide training	0	0	0	0	0	0
	3. Provide that an indiv. may take an oral rather than a written examination	0	0	0	0	0	0
	4. Program must address issues relating to the prov. of care to cognitively impaired residents						
	5. State may not contract with an extended care fac. for the fac. to conduct the nurse aide examinations for indiv. it employs	0	0	0	0	0	0
D	Delay in enforcement of enforcement	−180	−90	0	0	0	−270
D	Temporary Enhanced Federal Match For Nurse Aide Training Programs	35	0	0	0	0	35
D	Nurse Aide Registry	0	0	0	0	0	0
D	Nursing Home Reform: Right to Records	0	0	0	0	0	0
D	Regulatory Standards For Certain Services	0	0	0	0	0	0
D	Scope of Pasarr Review Requirements: Provide that an indiv. is considered mentally ill if the indiv. has a serious mental illness as defined by the Sec	0	0	0	0	0	0
D	Implementation of Pasarr Requirements: Req. Sec. to issue proposed reg. not more than 90 days after enactment	0	0	0	0	0	0
D	Responsibility for Pasarr Screening: Clarify that independent evaluations may not be conducted by a nursing facility	0	0	0	0	0	0
D	Institutions For Mental Disease: Req. the Sec. to study and report to Congress bef. 10/1/90 on continuing the IMD exclusion	5	10	0	0	0	15
D	Treatment of Certain Veterans' Pension Benefit: Exclude any increased income attributable to AUME from Medicaid-countable income	25	30	30	35	40	160
D	Intermediate Sanctions for Psychiatric Hospitals: States may prov. for a suspension of payments to the hospital	0	0	0	0	0	0
D	"Dependent Child" Technical : A period of extended eligibility will cease when the family ceases to include a child	0	0	0	0	0	0
D	Minnesota Prepaid Medicaid Demonstration Project	0	0	0	0	0	0
D	Medicaid Demonstration Program: State of Oregon Test whether expanded Medicaid eligib. and a redesig. package can improve access to basic h.c. serv. to persons w/ incomes below 100% of poverty lev.	1	2	10	10	10	33
D	Home- and Community-Based Waiver:						
	Portion or rent and food costs attrib. to a live-in pers. care attend. an allowable service, if caregiver is nec. to prevent inst	0	0	0	0	0	0
	Allow prevocational and supported emp. services be prov. to individuals who haven't lived in inst	0	0	0	0	0	0
	Individuals residing in an (ICF/MR) which has decertified/terminated from part. in Medicaid are elig. for home & community-based services	0	0	0	0	0	0
	Proh. the Sec. from promulgating reg. or policies that limit the no. of days or hours of respite care that can be provided on behalf of a individual	0	0	0	0	0	0
	Delete the expiration date for submission of a 'correction & reduction' plan for an (ICR/MR)	0	0	0	0	0	0
	Allow States to deliver H&C services & targeted case mgt. serv. through qual. substate entities	(*)	1	1	1	1	4
D	Day Habilitation Services: Prohibit HCFA fro denying fed. financial part. for day habilitation services furnished pursuant to State plan provisions approved before 6/89	0	0	0	0	0	0
D	Part A "But-In" For QMBs: Authorize States to enroll QMBs under part A of Medicare in the same manner as they are enrolled in part B	(*)	(*)	(*)	(*)	(*)	(*)
D	Medicaid Transition For Certain AFDC Families: Make peranent Medicaid eligibility for the 4 mo. period beg. with the 1st mo. of ineligibility due to collection of child or spousal support payment.	8	10	10	10	10	48
D	Medicaid Hospice: A waiver of Medicaid benefits applies only to services covered by Medicare and not to Medicaid-only services (95% issue)	3	5	5	10	10	33
D	Amendments Related to Commissions Extend the interim & final reporting dates for the Nat'l Comm on Children to 3/90 & 3/91	(*)	(*)	(*)	(*)	(*)	(*)
D	Timeliness of FFP update with increase for those States who have higher rate	35	0	0	0	0	35
D	LTC Demo with Budget Neutral Language	0	0	0	0	0	0
D	Deemed Status under Medicaid	0	0	0	0	0	0
D	Medicaid Disproportionate Share Adjustment	0	0	0	0	0	0
	Child Health Options						
D	Coverage of Pregnant Women, Infants and Children up to 6th b'day up to 133% of poverty (4/1/90)	110	260	310	360	395	1,435
D	Option for children age 6–19 up to 100% of poverty (4/1/90)	20	60	70	85	90	325
D	Buy-in demonstration (7/1/90)	15	50	60	10	0	135
D	Optional Outreach for Pregnant Women and Infants (1/1/90)	20	30	35	35	40	160
D	Continuous eligibility for pregnant women and infants	15	20	25	25	25	110
D	Continuous eligibility for children under 3	10	10	10	15	15	60
D	Continuous coverage of children until redetermination completed	2	5	5	10	10	32
D	Coverage of all SSI children	2	3	4	4	4	17
D	Development of model Medicaid application	1	0	0	0	0	1
D	Hospital payment protections:						
D	All infants; all hospitals	(*)	(*)	(*)	(*)	(*)	(*)
D	Under 6 in certain hospitals	5	5	5	10	10	35
D	No dollar limits on infants	4	4	4	5	5	22
D	Out of state hospitals	(*)	(*)	(*)	(*)	(*)	(*)
D	Codify requirements for adequate payment	0	0	0	0	0	0
D	Secretary's report	1	0	0	0	0	1
D	Direct reimbursement for nurse practitioners	(*)	(*)	1	1	2	4
D	Home and community based services, 350 slots	5	5	5	10	10	35
	AIDS and ventilators	8	9	9	10	11	47
D	Optional coverage of home visiting for medically fragile infants and pregnant women	3	10	10	10	15	48
D	EPSDT Expansions	20	25	25	30	30	130
D	Health care improvements for children in foster care	(*)	0	0	0	0	(*)
D	Medicaid-WIC coordination	1	2	2	2	2	9
A	Secretary consults on coordination	1	1	1	1	1	5
A	HHS report on health status of children	2	2	2	2	2	10
D	Definitions of high-risk pregnancy, high-risk children, and medically uninsurable children and model benefits for pregnant women and children	(*)	(*)	(*)	(*)	(*)	(*)
	Medicaid total:						
	Direct spending	146	484	655	707	755	2,747
	Amounts subject to appropriations	4	3	3	3	3	16
	Package total:						
	Direct spending	−2,994	−2,227	−2,374	−2,589	−2,956	−13,140
	Amounts subject to appropriations	56	75	75	23	13	242
	State Medicaid Program spending changes:						
	Offset from Medicare savings	8	17	18	16	12	71
	Offset from Medicaid increases	120	400	540	580	620	2,260

Note.—D indicates direct spending. A indicates spending amounts subject to appropriation. * Less than $500,000. (1) These sections of bill must reference deficit reduction act to achieve savings. (2) These sections particularly sensitive to legislation language. (3) Many Medicare provisions require lead time in order to be implemented. Delay in the passage of Reconciliation beyond November 1, 1989 may change those estimates. (4) All estimates are done off of the 2/89 CBO baseline.

[S12OC9-2443]

PRELIMINARY ESTIMATES SUBJECT TO CHANGE UPON REVIEW OF FINAL BILL LANGUAGE.

BUDGET RECONCILIATION OF THE COMMITTEE ON FINANCE

[By fiscal year, in millions of dollars]

Type of spending		1990	1991	1992	1993	1994	Total
	Provisions Affecting Supplemental Security Income						
A	Commission on Child Disability	(*)	(*)	0	0	0	(*)
D	Disabled Preeffectuation Review Requirement for Disability Children Benefits:						
	SSI	1	5	15	15	15	51
	Medicaid	1	5	5	5	5	21
	Subtotal	2	10	20	20	20	72
A	Administrative Costs	5	10	10	0	0	25
	Total	7	20	30	20	20	97
A	Require Pediatrician Involvement in Child Disability Determinations	1	1	1	1	1	5
A	Outreach Program for Disabled Children Benefits:						
	SSI	2	4	5	6	7	24
	Medicaid	1	2	3	3	4	13
	Food Stamps	(*)	−1	−1	−1	−1	−4
	Subtotal	3	5	7	8	10	33
A	Administrative Costs	1	(*)	(*)	(*)	(*)	1
	Total	4	5	7	8	10	34
D	Change Deeming Rules for Children in State Home Care plans	1	2	2	2	2	9
D	Provide SSI to Children of Active Military Personnel Abroad	(*)	(*)	(*)	(*)	(*)	(*)
D	Treat Royalties as Earned Income	0	(*)	(*)	(*)	(*)	(*)
D	Special SSI Benefits for Individuals Who Lose Social Security Benefits: Based on Disability:						
	SSI	2	2	3	4	4	15
D	Medicaid	(*)	4	5	7	9	25
	Total	2	6	8	11	13	40
D	Treatment of Impairment-Related Work Expenses	(*)	(*)	(*)	(*)	(*)	(*)
D	SSI Outreach Program for Adults Benefits:						
	SSI	(*)	30	40	45	45	160
	Medicaid	(*)	35	45	50	55	185
	Food Stamps	(*)	−5	−5	−5	−5	−20
		(*)	60	80	90	95	325
A	Administrative Cost	3	10	2	(*)	(*)	15
	Total	3	70	82	90	95	340
D	Reimbursement for Vocational Rehabilitation During Nonpayment of SSI benefits	(*)	(*)	(*)	(*)	(*)	(*)
D	Gift of Transportation Tickets	(*)	(*)	(*)	(*)	(*)	(*)
D	Exclusion of Interest on Burial Spaces	(*)	(*)	(*)	(*)	(*)	(*)
D	Reduce time During Which Resources of Separated Couples Treated as Jointly Available	0	2	2	2	2	8
A	Concurrent SSI/Food Stamp Applications	0	0	0	0	0	0
D	Valuation of In-Kind Support	−4	−4	−4	−4	−4	−20
D	Exclude Agent Orange Settlements in Determining Eligibility for Needs Tested Programs	(*)	(*)	(*)	(*)	(*)	(*)
	Total Direct Spending	4	81	115	129	138	467
	Spending Subject to Appropriation	10	21	13	1	1	46
	Total Deficit Effect Assuming Appropriations	14	102	128	130	139	513
	Provisions Affecting Aid to Families With Dependent Children						
D	Emergency Assistance and AFDC Special Needs	(*)	(*)	(*)	(*)	(*)	1
D	Minnesota Welfare Reform Demonstration	(*)	(*)	(*)	(*)	(*)	1
D	Penalty for Failure to Implement the Jobs Program	0	0	0	0	0	0
	Total Direct Spending	(*)	(*)	(*)	(*)	(*)	2
	Spending Subject to Appropriation	(*)	(*)	(*)	(*)	(*)	0
	Total Deficit Effect Assuming Appropriations	(*)	(*)	(*)	(*)	(*)	2
	Provisions Affecting Child Welfare/Foster Care						
A	Report on Foster Care Administrative Costs	(*)	(*)	0	0	0	(*)
A	Child Welfare Services Authorization	43	58	59	59	59	278
D	Authority to Transfer Foster Care Funds	4	5	5	1	0	15
D	Federal Matching for Training Foster Care and Adoptive Parents	1	1	1	(*)	0	3
D	Health and Education Records for Foster Care Children	1	2	2	2	2	9
D	Authorization for Independent Living Program	45	60	60	15	0	180
D	Data Collection	1	3	7	7	7	25
	Total Direct Spending	52	71	75	25	9	232
	Spending Subject to Appropriation	43	58	59	59	59	278
	Total Deficit Effect Assuming Appropriations	95	129	134	84	68	510
	Provisions Affecting Child Support Enforcement						
D	Extend IRS Authority to Collect Child Support from Tax Refunds	0	2	2	2	2	8
D	Eliminate $500 Minimum for Tax Refund Offset	(*)	(*)	(*)	(*)	(*)	(*)
D	Allow Tax Refund Offset for Child and Spousal Support When Combined in Court Order	(*)	(*)	(*)	(*)	(*)	(*)
D	Technical—Good Cause Exemption	0	0	0	0	0	0
	Total Direct Spending	0	2	2	2	2	8
	Spending Subject to Appropriation	0	0	0	0	0	0
	Total Deficit Effect Assuming Appropriations	0	2	2	2	2	8
	Provisions Affecting Unemployment Compensation						
D	Self-employment Demonstration Projects	(*)	(*)	(*)	(*)	0	1
D	Withholding Unemployment Benefits to Recoup Unpaid Unemployment Taxes	−2	−3	−5	−5	−5	−20
	Total Direct Spending	−2	−3	−5	−5	−5	−19
	Spending Subject to Appropriation	0	0	0	0	0	0
	Total Deficit Effect Assuming Appropriations	−2	−3	−5	−5	−5	−19

BUDGET RECONCILIATION OF THE COMMITTEE ON FINANCE—Continued

[By fiscal year, in million of dollars]

Type of spending		1990	1991	1992	1993	1994	Total
	Provisions Affecting Miscellaneous Spending						
D	Black Lung IRS Reduction	0	0	0	0	0	0
D	Disregard EITC for Purposes of Certain Housing Programs	0	1	15	15	15	46
	Total Direct Spending	0	1	15	151	15	46
	Spending Subject to Appropriation	0	0	0	0	0	0
	Total Deficit Effect Assuming Appropriations	0	1	15	15	15	46
	State and Local Governments' Costs	3	23	37	49	55	167
	Spending Effects of Provisions in Title VI						
D	VA Authority to Use IRS Data	0	−68	−149	−207	−215	−639
D	Child-Dependent Care Credit	(*)	(*)	1090	1130	1229	3449
D	Child Health Insurance Credit	(*)	(*)	879	822	803	2504
D	Earned Income Tax Credit Supplemental for Children	(*)	63	632	681	732	2108
	Total Direct Spending	0	−5	2,452	2,426	2,549	7,422
	Spending Subject to Appropriation	0	0	0	0	0	0
	Total Deficit Effect Assuming Appropriations	0	−5	2,452	2,426	2,549	7,422
	Provisions Affecting Social Security						
A	Social Security Administration as an Independent Agency	(*)	1	1	1	1	4
D	Increase the Retirement Test for Beneficiaries Ages 65–69	380	860	1,020	1,070	1,120	4,450
D	Treatment of Deferred Compensation	0	5	13	7	31	56
R	(Revenue)	400	1,100	1,100	1,100	1,100	4,800
A	Earnings and Benefit Statements	(*)	(*)	(*)	(*)	(*)	(*)
D	Child Adopted after Parents' Entitlement to Benefits	5	12	16	21	22	76
	Continuation of Disability Benefits Pending Appeal:						
D	Social Security	6	18	3	5	6	38
D	Medicare	2	9	3	4	4	22
	Total	8	27	6	9	10	60
D	Consolidation of Old Computation Methods	(*)	(*)	(*)	(*)	(*)	(*)
D	Limitation on New Entitlement to Spread Age-72 Payments	0	(*)	(*)	(*)	(*)	(*)
A	Extension of Authority to Prescribe Reporting Requirements	0	0	0	0	0	0
	Elimination of Advanced Crediting to Trust Funds	0	0	0	0	0	0
D	Trial Work Period During 5-year Period for All Disabled Beneficiaries	(*)	1	1	1	1	4
D	Extention of Disability Demonstration Projects	1	6	6	6	*	19
D	Suspension of Auxiliary Benefits	0	0	0	0	0	0
	Authority to Amend Wage Records:						
D	Benefits	(*)	(*)	1	2	3	6
A	Administrative Costs	1	1	1	1	1	5
	Total Direct Spending	394	911	1,063	1,126	1,187	4,681
	Revenues	400	1,100	1,100	1,100	1,100	4,800
	Net Deficit Effect	−6	−189	−37	−26	−87	−119
	Spending Subject to Appropriation	1	2	2	2	2	9
	Total Deficit Effect Assuming Appropriations	−5	−187	−35	28	89	−110
	Provisions Affecting Social Security and Supplemental Security Income						
A	Representative Payee Reforms	10	10	4	5	5	34
D	Benefits for Participants in Non-State Vocational Rehabilitation Programs	(*)	(*)	(*)	(*)	(*)	(*)
A	Demonstrations for Teleservice Centers	1	3	1	(*)	(*)	5
A	Standards Applicable in Certain Determinations	(*)	(*)	(*)	(*)	(*)	(*)
	Assistance to the Homeless:						
D	Benefits	(*)	(*)	(*)	(*)	(*)	(*)
A	Administrative Costs	5	10	10	10	10	45
A	Notice Requirements	(*)	(*)	(*)	(*)	(*)	(*)
A	Representation of Claimants	(*)	(*)	(*)	1	1	2
D	Applicability of Administrative Res Judicata; Notice Requirements	(*)	(*)	(*)	(*)	(*)	(*)
D	Misinformation Provided to Applicants	(*)	(*)	(*)	(*)	(*)	(*)
A	Same Day Interviews	(*)	(*)	(*)	(*)	(*)	(*)
A	Attorney Fees	−2	−4	−4	−4	−4	−18
	Total Direct Spending	(*)	(*)	(*)	(*)	(*)	(*)
	Spending Subject to Appropriation	14	19	11	12	12	68
	Total Deficit Effect Assuming Appropriations	14	19	11	12	12	68

D—indicates direct spending.
A—indicates spending amounts subject to appropriation.
R—indicates revenues.
*—indicates less than $500,000.
a—Some direct spending could result from the provision, but estimates of potential effects are highly uncertain. Lack of information on the numbers of homeless individuals, their health and work history characteristics, and the specifications of the proposed program severely limit the reliability of any estimates of program costs.

Source: Congressional Budget Office.

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–94

[Millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
I. Repeal financial institution (FSLIC & FDIC) tax benefits (P.L. 101–73) (1)	5/10/89	568	31	351	310	213	1,473
II. Corporate Provisions							
A. Defer interest deduction on certain high-yield original issue discount (OID) obligations until interest is paid	(*)	18	44	86	120	141	409
B. Limit dividends received deduction with respect to certain nontaxed income of consolidated subsidiaries (effective for stock issued after effective date).	CMTE ACTN	45	92	154	209	271	771
C. Repeal nonrecognition treatment when securities are received in a section 351 transaction	(2)	164	288	289	316	359	1,416
D. Reduce built-in gain or loss threshold of sections 382 and 384 to lesser of 15% or $25 million	CMTE ACTN	12	18	17	18	19	84
E. Require basis reduction for nontaxed portion of dividends on self-liquidating ("wasting") stock	(*)	6	10	11	12	13	52
F. Modify consolidated return excess loss account recapture rules to prevent shifting of basis to debt	(*)	54	69	61	52	42	278
G. Clarify Treasury regulation authority relating to bifurcation of an instrument into debt and equity portions (section 385)	(*)	(3)	(3)	(3)	(3)	(3)	(3)
H. Require reporting to IRS of acquisitions and recapitalizations	D/o/E	(3)	(3)	(3)	(3)	(3)	(3)
I. Require Treasury study of "debt versus equity" and integration issues	D/o/E						
J. Limit net operating loss carrybacks attributable to interest expense in certain circumstances (S. 1506)	ty/e/a: 8/2/89	226	406	420	384	343	1,779
K. Require regulated investment companies (mutual funds) to distribute 98% of ordinary income to their shareholders	ty/e/a: 7/10/89	50	5	5	5	5	70
L. Adjust basis for mutual fund load charge only if shareholder holds shares for more than six months	CMTE ACTN	28	46	22	7	5	108

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–94—Continued

[Millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
M. Include dividends in income of regulated investment companies on ex-dividend date (effective for ex-dividend dates after D/o/E	D/o/E	110	20	20	20	20	190
Subtotal		713	998	1,085	1,143	1,218	5,157
III. Employee benefit provisions:							
A. Repeal partial exclusion for interest paid on ESOP loans if ESOP owns less than 30% of the employer's stock (section 133)	Generally: 6/7/89	1,101	1,400	1,774	2,123	2,488	8,886
B. Permit limited use of excess pension funds to pay current retiree health benefits; reverse 401(h) letter ruling	1/1/89	585	417	380	345	321	2,048
Subtotal		1,686	1,817	2,154	2,468	2,809	10,934
IV. Foreign provisions:							
A. Conform tax years of certain controlled foreign corporations and foreign persons holding companies to the tax years of certain U.S. shareholders (with one-month exception).	ty/b/a: 7/10/89	48	71	71	71	36	297
B. Change the sourcing of income of certain corporations in commonly-controlled groups	ty/b/a: 7/10/89	20	37	41	45	49	192
C. Improve information reporting by U.S. subsidiaries and branches of foreign corporations	ty/b/a: 7/10/89	55	75	80	85	90	385
Subtotal		123	183	192	201	175	874
V. Excise tax provisions:							
A. Repeal Airport and Airway Trust Fund tax reduction trigger	1/1/90	851	1,505	1,630	1,762	1,907	7,655
B. Increase international air passenger departure tax from $3.00 to $6.00 per person	1/1/90	51	89	94	100	106	440
C. Impose $3.00-per-passenger tax on international departures by commercial ships	1/1/90	5	7	8	8	8	36
D. Impose Oil Spill Liability Trust Fund petroleum tax at $0.03/barrel (cap at $300 million)	1/1/90	43	114	60	8		225
E. Impose tax on ozone-depleting chemicals subject to the Montreal Protocol	1/1/90	384	560	753	1,171	1,442	4,310
F. Impose Wetlands Trust Fund tax on oil and gas produced offshore at $0.03/barrel of oil and $0.02/thousand cubic feet of natural gas.	1/1/90	47	80	83	85	88	383
G. Change collection of gasoline excise from semi-monthly to weekly deposits	1/1/90	111	4	1	2	4	122
H. Modify collection period for airline ticket tax (taxes billed after 6/30/90		110	6	6	7	7	136
Subtotal		1,602	2,365	2,635	3,143	3,562	13,307
VI. Accounting provisions:							
A. Repeal remaining portion of completed contract method of accounting	(*)	171	390	262	116	28	967
B. Modify treatment of cost of acquiring franchises, trademarks, and trade names (20-year amortization election for fixed and contingent payments).	CMTE ACTN	51	108	144	157	185	645
Subtotal		222	498	406	273	213	1,612
VII. Employment tax provisions:							
A. Impose income tax withholding on the wages of certain agricultural workers	1/1/90	270	68	21	22	23	404
B. Payroll tax speedup ($250,000 threshold; next-day deposit in 1990, third-day deposit in 1991 and 1992, and next-day deposit thereafter).	6/30/90	2,366	−694	100	106	1,108	2,986
Subtotal		2,636	−626	121	128	1,131	3,390
VIII. Other revenue-raising provisions:							
A. Tax pre-contribution on certain in-kind partnership distributions made within three years of contribution	CMTE ACTN	6	12	16	19	20	73
B. Restrict like-kind exchange basis shifting techniques between related parties	7/10/89	100	120	130	140	151	641
Subtotal		106	132	146	159	171	714

	Code Section	Current Law Expiration					
IX. Expiring provisions:							
A. Employer-provided education assistance (through 1991)	Sec. 127	12/31/88	1/1/89	−439	−316	−96	−851
B. Group legal services (through 1991)	Sec. 120	12/31/88	1/1/89	−127	−82	−29	−238
C. Targeted jobs tax credit (through 1991)	Sec. 51	12/31/89	1/1/90	−47	−134	−144	−80	−37	−442
D. Research and experimentation credit (with modifications) (Permanent)	Sec. 41	12/31/89	1/1/90	−398	−782	−968	−1,063	−1,194	−4,405
E. Research and experimentation cost allocation rules (64% allocation) (for 2 years).	Sec. 861	(+)	ty/b/a: 8/1/89	−335	−625	−275			−1,235
F. Business energy credits (solar, geothermal, and ocean thermal) (Permanent)	Sec. 46	12/31/89	1/1/90	−56	−81	−51	−38	−40	−266
G. Mortgage revenue bonds (Permanent)	Sec. 143	12/31/89	1/1/90	−11	−55	−128	−205	−269	−668
H. Small-issue manufacturing bonds (through 1991)	Sec. 144	12/31/89	1/1/90	−7	−39	−58	−78	−76	−258
I. Low-income housing credit (with modifications) (Permanent)	Sec. 42	12/31/89	1/1/90	−79	−333	−681	−1,058	−1,448	−3,599
J. Health insurance for self-employed (through 1991)	Sec. 162	12/31/89	1/1/90	−244	−411	−151			−806
K. Waiver of early withdrawal tax for ESOPs (through 1991)	Sec. 72(t)	12/31/89	1/1/90	−10	−20	−10			−40
Subtotal				−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. Child care, initiative and telephone excise tax:									
A. Child care initiative:									
1. Dependent care credit, refundable, advanced refundable 1/1/92; 90% refundability limit			1/1/91		−51	−1,090	−1,130	−1,229	−3,500
2. Health insurance credit; Rate: 50%; Phaseout: $12,000–$21,000			1/1/91		−46	−964	−903	−882	−2,795
3. EITC supplemental for children under 4 years old; Rates: 7% for 1 child, 10% for 2+ children; Phaseout rates: 10%, 15%; Phaseout income levels: $10–$15,000 indexed.			1/1/91		−63	−632	−681	−732	−2,108
B. Require corporate estimated tax payments on tax liability for certain Subchapter S income			1/1/90	25	(3)	(3)	(3)	(3)	25
C. Telephone excise tax:									
1. Permanent extension			1/1/91		1,612	2,732	2,930	3,143	10,417
2. Modify collection period (100% speedup, effective for taxes billed by service providers after 6/30/90)			6/30/90	102	5	5	6	6	124
Subtotal				127	1,457	51	222	306	2,163
XI. Individual retirement accounts (IRAs):									
Provide for 50% Deductibility of Contributions (effective 1/1/91), and Allow Penalty-Free Withdrawals for First-Time Homes and Higher Education Expenses (effective 1/1/90).			1/1/91 and 1/1/90	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. Other provisions:									
A. Repeal section 89			1/1/89	−154	−156	−170	−185	−202	−867
B. Continue temporary rules concerning allocation of taxes for Railroad Retirement Trust Fund			10/1/89						
C. Require exercise of Treasury regulatory authority with respect to full-funding limitation on a revenue-neutral basis			D/o/E						
D. Treat income from personal injury awards to children as earned income not subject to tax at parent's rates			1/1/87	(3)	(3)	(3)	(3)	(3)	(5)
E. Permit private foundations to use common investment funds			1/1/90	−1	−4	−8	−11	−15	−39
F. Modify rules concerning recapture of bad-debt reserves of mutual savings banks and other thrift institutions			D/o/E	1	3	10	13	20	47
G. Deny retroactive certification of WIN credit			(7)	38	28	12			78
H. Estate, gift, and generation-skipping tax provisions:									
1. Estate tax marital deduction—Overrule Howard Estate			CMTE ACTN	(6)	(6)	(6)	(6)	(6)	(6)
2. Exclude annual exclusion gifts under section 2035			D/o/E	−1	−2	−2	−3	−3	−11
3. Allow waiver of right of contribution (section 2207A) in limited circumstances			D/o/E	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
4. Repeal estate freeze rules (section 2036(c))			12/31/87	−27	−72	−146	−249	−384	−878

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–94—Continued

[Millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
5. Generation-skipping transfer tax—Make $2-million exemption permanent, with modifications	CMTE ACTN	−1	−15	−23	−31	−42	−112
6. Marital deduction rules for nonresident aliens:							
a. Eliminate income requirement and other minor changes	11/10/88	−([6])	−2	−2	−2	−2	−8
b. Permit trustee discretion to make distributions to surviving spouse in case of hardship	11/10/88	−4	−2	−2	−3	−3	−14
I. Allow deduction for certain adoption expenses	1/1/90	−2	−3	−3	−3	−3	−14
J. Reinstate income averaging for farmers	1/1/90	−5	−65	−70	−75	−80	−295
K. Extend one-year deferral rule to crop payments made pursuant to Disaster Assistance Act of 1989		−12					−12
L. Provide relief to wholesale distributors of diesel fuel	12/22/87	([6])	−1	−1	+([6])	−1−([6])	−2
M. Modify treatment of hedging transactions by REITs	D/o/E	([8])	([8])	([8])	([8])	([8])	([8])
N. Cost recovery:							
1. Establish 2-year class life for rental tuxedos	1/1/90	−2	−7	−8	−7	−5	−29
2. Revenue-neutral change to deduction for expenditures incurred to assist disabled	1/1/90						
O. Employee benefit provisions:							
1. Make section 401(k) plans available to section 501(c)(3) organizations	1/1/90	−15	−32	−38	−42	−56	−183
2. Change integration rules	1/1/89	([9])	([9])	([9])	([9])	([9])	([9])
3. Modify geographic limitation for VEBAs	CMTE AGTN	−5	−9	−13	−17	−20	−64
4. Modify leased employee rules per S. 5	1/1/84	([9])	([9])	([9])	([9])	([9])	([9])
5. Modify nondiscriminatory rules for dependent care credit	1/1/89	([9])	([9])	([9])	([9])	([9])	([9])
P. Tax-exempt bonds:							
1. Permit State housing agencies to issue tax-exempt bonds in connection with purchase of certain assets from troubled financial institutions.	D/o/E	−1	−4	−7	−11	−16	−39
2. Permit refunding of bonds issued by certain municipal authorities	D/o/E	−1	−4	−6	−9	−11	−31
3. Modify rules concerning tax-exempt bonds issued by 501(c)(3) organizations	1/1/90	−4	−9	−15	−22	−29	−79
4. Extend period allowed for issuance of Mortgage Credit Certificates	D/o/E	−([6])	−([6])	−([6])	−([6])	−([6])	−([6])
5. Permit financing of sports facilities with tax-exempt bonds	1/1/90	−2	−6	−11	−16	−23	−58
Q. Provide guidance for Treasury regulatory authority concerning treatment of split annuities	10/21/88	−([6])	−([6])	−([6])	−([6])	−([6])	−([6])
R. Reduce BATF alcohol occupational tax for small retail dealers	1/1/90	−5	−5	−5	−6	−6	−27
S. Provide statute of limitations for alcohol occupational taxes for periods prior to 1986	D/o/E	−2	−2	−2	−2	−2	−10
T. Increase excise tax on pension reversions to 20%	CMTE ACTN	9	4	2	1	1	17
U. Add authorization for essential air service to Airport and Airway Trust Fund	D/o/E						
V. Foreign provisions:							
1. Consider certain leased assets for purposes of the passive foreign investment company asset test	ty/b/a: 12/31/88	−6	−5	−5	−5	−5	−26
2. Modify application of passive foreign investment company rules for export trade corporations	ty/b/a: 12/31/88	−6	−4	−4	−4	−4	−22
3. Modify treatment of certain scholarships and fellowships received by nonresident aliens	ty/b/a: 12/31/89	−8	−11	−13	−13	−14	−59
W. Accounting provisions:							
1. Modify treatment of safe-harbor leases entered into by rural electric cooperatives	([11])	−12	−7	−7	−7	−6	−39
2. Farm debt relief—Limited exclusion from discharge of indebtedness income	1/1/87	−45	−18	−20	−23	−26	−132
3. Contributions for facilities to replace contaminated water supplies	1/1/89	−1	−1	−2	−2	−2	−8
4. Modify percentage of completion method of accounting for long-term contracts	1/1/90	−83	−119	−57	−35	−22	−316
5. Timber passive loss material participation exception	ty/b/a: 12/31/89	−8	−26	−30	−36	−40	−140
6. Annual accrual method of accounting not limited to sugarcane	1/1/87	−8	−8	−3	−3	−3	−25
7. Installment sales of residential lots and timeshares by C corporations (regular and minimum tax)	1/1/90	−13	−17	−12	−7	−6	−55
X. Energy/excise tax provisions:							
1. Extend section 29 credit through 12/31/92 and include production from tight sands	1/1/90	−40	−99	−168	−198	−180	−685
2. Gasohol—Provide tolerance limits for blending	1/1/90	−([6])	−([6])	−([6])	−([6])	−([6])	−([6])
3. Facilitate tax-free purchase of fuels by crop dusters	1/1/90	−3	−4	−4	−4	−4	−19
Y. Allow exclusion preferences as part of the alternative minimum tax credit	ty/b/a: 12/31/89		−24	−61	−92	−119	−296
Z. Small business exemption from recognition of gain or loss on liquidating sales or distributions (exemption from repeal of General Utilities doctrine).	1/1/89	3	1	−5	−11	−15	−27
AA. Penalty reform	1/1/90		−51	−82	−58	−25	−216
BB. IRS notice to taxpayers concerning withholding per S. 811 and S. 753	D/o/E						
CC. Increase Joint Committee on Taxation refund review threshold to $1 million	D/o/E						
DD. Technical corrections							
Subtotal		−426	−758	−981	−1,178	−1,352	−4,695
XIII. Other Provisions Adopted by the Committee							
A. Modify rules for determining cooperative patronage source income and loss from asset sales	([11])	−18	−23	−9	10		−40
B. Modify application of self-dealing rules for public charities that become private foundations	ty/b/a; D/o/E	([8])	([8])	([8])	([8])	([8])	([8])
C. Modify treatment of employer-provided qualified transportation expenses	1/1/90	−7	−9	−9	−10	−10	−45
D. Deny amortization of life estate in related-party joint purchases	7/27/89	3	5	9	14	22	53
E. Remove gifts of appreciated property as a tax preference for 1 year	ty/b/a/; 12/31/89	−13	−60				−73
F. Allow dividend received deduction from ACE for 20%–80% stock ownership	ty/b/a; 12/31/89	−15	−24	−20	−17	−14	−90
G. Allow alcohol fuels credit for ethyl tertiary butyl ether (ETBE)	1/1/90	−18	−51	−106	−58	−9	−242
H. Provide exception from income phaseout of passive loss rule for $25,000 exemption for rehabilitation credit and low-income housing credit.	1/1/90	−8	−21	−29	−39	−48	−145
I. Allow reserve deductions for certain minimum premium plans	([11])	([8])	([8])	([8])	([8])	([8])	([8])
J. Modification of empty-seat rule for fringe benefit purposes	1/1/90	−4	−9	−11	−12	−13	−49
K. Allow cattle breeders on election to use 10-year spread, rather than suspense account, upon change from cash to accrual method of accounting.	ty/b/a; 12/31/87	−18	−14	−15	−16	−17	−80
L. Oil and gas percentage depletion: Repeal net income limitation for production from marginal wells	ty/b/a; 12/31/90		−24	−50	−50	−49	−173
M. Exclusion for certain overseas allowances received by certain Defense Department personal	1/1/89	([8])	([8])	([8])	([8])	([8])	([5])
N. Eliminate the excise tax imposed on the Inactivated Polio Vaccine, conditional upon action of the Labor and Human Resources Committee.							
O. Tax exemption for Overseas Private Investment Corporation (OPIC)	D/o/E						
P. Continue IRS authority to assist other law enforcement agencies with undercover operations for 2 years	D/o/E						
Q. Require Treasury study of standards for tax exemption of certain health insurance organizations	D/o/E						
R. Clarify Treasury regulatory authority concerning variable contracts issued by controlled foreign corporations	ty/b/a; 12/31/89						
Subtotal		−98	−230	−240	−279	−342	−1,189

SUMMARY

I. REPEAL FSLIC & FDIC TAX BENEFITS [1]	568	31	351	310	213	1,473
II. CORPORATE PROVISIONS	713	998	1,085	1,143	1,218	5,157
III. EMPLOYEE BENEFIT PROVISIONS	1,686	1,817	2,154	2,468	2,809	10,934
IV. FOREIGN PROVISIONS	123	183	192	201	175	874
V. EXCISE TAX PROVISIONS	1,602	2,365	2,635	3,143	3,562	13,307
VI. ACCOUNTING PROVISIONS	222	498	406	273	213	1,612
VII. EMPLOYMENT TAX PROVISIONS	2,636	−626	121	128	1,131	3,390
VIII. OTHER REVENUE-RAISING PROVISIONS	106	132	146	159	171	714
Subtotal: REVENUE-RAISING PROVISIONS (I–VIII)	7,656	5,398	7,090	7,825	9,492	37,461
IX. EXPIRING PROVISIONS	−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. CHILD CARE, S CORPORATION, ESTIMATED TAX, AND TELEPHONE EXCISE TAX	127	1,457	51	222	306	2,163
XI. INDIVIDUAL RETIREMENT ACCOUNTS (IRAs)	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. OTHER PROVISIONS	−426	−758	−981	−1,178	−1,352	−4,695
XIII. OTHER PROVISIONS ADOPTED BY THE COMMITTEE	−98	−230	−240	−279	−342	−1,189
GRAND TOTAL	5,314	1,429	64	455	985	8,247

Notes: In "Effective" column—D/o/E denotes provision effective on date of enactment; ty/b/a denotes "taxable years beginning after" effective date given; ty/e/a denotes "taxable years ending after" effective date given; *denotes provision is effective for transactions after 7/10/89. Unless otherwise noted; CMTE ACTN denotes provision effective on date of Committee Action.

* Rules expire 4 months after start of a firm's first tax year beginning after 8/1/87.
[1] Estimate reflects net budget effects, including outlay effects, as estimated by the Congressional Budget Office.
[2] Provision generally would apply to transfers made by corporations after 7/11/89 and to transfers made by all other persons after the date of introduction of proposal.
[3] Gain of less than $5 million.

[4] Gain of less than $500,000.
[5] Total is not available for estimates represented by footnotes.
[6] Negligible amount.
[7] Credits first claimed after March 11, 1987.
[8] Loss of less than $5 million.
[9] Loss of less than $500,000.
[10] Effective for all open year returns as of date of enactment.

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, July 21, 1989.

Hon. JAMES R. SASSER,
Chairman, Senate Committee on the Budget, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to H. Con. Res. 106, the Congressional Budget Resolution Conference Report, the recommendations of the Governmental Affairs Committee to effect the required budgetary savings are enclosed.

These savings are achieved by removing the United States Postal Service from the unified Federal budget and through Federal pension and postal reforms.

Sincerely,

JOHN GLENN.
Chairman.
WILLIAM V. ROTH,
Ranking Minority Member.

COMMITTEE ON GOVERNMENTAL AFFAIRS—BUDGET RECONCILIATION RECOMMENDATIONS

Pursuant to H. Con. Res. 106, the Congressional Budget Resolution Conference Report, the Committee on Governmental Affairs has approved legislation which is projected to reduce the fiscal year (FY) 1990 budget deficit by approximately $2.9 billion. These savings are achieved through removing the United States Postal Service from the unified Federal budget and through federal pension and postal reforms.

POSTAL REORGANIZATION

The Committee has approved legislation that amends Chapter 20 of title 39, United States Code, to remove the receipts and disbursements of the Postal Service fund from the totals included in the budget submitted by the President, the Congressional budget, and the estimates used to calculate the deficit under the Balanced Budget and Emergency Deficit Control Act of 1985, beginning in fiscal year 1990. Using the Congressional Budget Office (CBO) baseline, the effect of removing the Postal Service from the budget totals, as specified in the Committee's legislation, is approximately $1.8 billion in FY 1990.

The reconciliation agreement would also phase-out direct subsidies to the Postal Service for retirement cost-of-living adjustments (COLAs) and survivor health benefit premiums. Under the terms of the legislation, the Service is required to make a one time payment of $400 million in FY 1990 to cover a portion of past unfunded COLA liabilities. For future years, the Service is required to pay on amortized, prorated basis the COLA cost of each new group of retirees. In addition, the Postal Service is required to assume payment of retiree survivor's health benefit premiums beginning in FY 1990. Using CBO estimates, the cumulative impact of these prorated COLA and health insurance premium payments by the Postal Service to the federal government will be $106 million by the end of FY 1994.

DEFERRED PAYMENT OF RETIREMENT LUMP-SUM CREDIT

The Committee has approved legislation that provides for deferred payments of the lump-sum credit that certain federal and postal employees elect to receive upon retirement. Under the terms of the reconciliation agreement, an employee whose annuity commences after September 30, 1989, and before October 1, 1990, would receive 50 percent of the amount of the lump-sum credit which such employee elects at the time of retirement, and 50 percent of the amount of the lump-sum credit on the date 12 months after the date on which the lump-sum credit would otherwise have been paid. The remainder of the lump-sum credit shall be payable with interest. The CBO estimates that this deferral of payments will reduce the Federal budget deficit by $700 million in FY 1990.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 20, 1989.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget has prepared the attached cost estimate for the reconciliation recommendations of the Senate Committee on Governmental Affairs.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill Number: Not available.

2. Bill Title: Reconciliation Recommendations of the Senate Committee on Governmental Affairs.

3. Bill Status: As ordered reported by the Senate Committee on Governmental Affairs, July 13, 1989.

4. Bill purpose: The bill would require lump-sum annuities of federal employees to be paid over two years for employees retiring in fiscal year 1990.

In addition, the bill would exclude the receipts and disbursements of the Postal Service fund from the totals in the budget submitted by the President, the Congressional budget, and the estimates used to calculate the deficit under the Balanced Budget and Emergency Deficit Control Act of 1985, beginning in fiscal year 1990. The bill would also exempt the Postal Service fund from sequestration, and would make the following other changes affecting the Postal Service:

Require the Postal Service to deposit $400 million into the Civil Service Retirement Fund at the end of fiscal year 1990, and to pay additional sums to the Civil Service Retirement Fund for cost-of-living adjustments (COLAs) given to Postal Service annuitants who retire on or after October 1, 1990, their survivors, and survivors of individuals who die on or after October 1, 1990, while employed by the Postal Service; and require the Postal Service to pay for health benefit premiums for survivors of certain former employees of the Postal Service and survivors of individuals who died on or before October 1, 1986, while employed by the Postal Service.

5. Estimated Cost to the Federal Government: On an aggregate basis, only one provision of the bill would have a net effect on federal spending. The spreading of lump-sum annuity payments over two years would reduce outlays by $700 million in 1990, but would increase outlays by $750 million in 1991.

Placing the Postal Service fund off-budget and modifying Postal Service payments in the Civil Service Retirement Fund and for health benefits would only change the mix between on-budget and off-budget spending, and would not affect total federal spending. In years in which the Postal Service is operating at a surplus, this would have the effect of increasing the on-budget deficit; in years when disbursements by the Postal Service exceed receipts, the on-budget deficit would be reduced.

The following table shows the estimated budget impact of the bill, based on the baseline projections underlying the 1990 budget resolution.

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
On-Budget					
Partial deferred payment of lump-sum credit:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	−700	750	0	0	0
Postal Service budgetary treatment:					
Estimated budget authority [1]	−3,400	−550	−2,710	−2,020	−1,710
Estimated outlays [1]	−1,770	570	−780	670	720
Postal Service payment to the civil service retirement fund:					
Budget authority	0	0	0	0	0
Outlays [1]	−400	0	0	0	0
Postal Service funding of COLA's:					
Estimated budget authority	0	0	0	0	0
Estimated outlays [1]	0	(2)	−5	−14	−26
Postal Service funding of health benefit premiums:					
Estimated budget authority [1]	−6	−8	−12	−15	−20
Estimated outlays [1]	−6	−8	−12	−15	−20
Total on-budget:					
Estimated budget authority	−3,406	−558	−2,722	−2,035	−1,730
Estimated outlays	−2,876	1,312	−797	641	674
Off-Budget					
Postal Service budgetary treatment:					
Estimated budget authority [1]	3,400	550	2,710	2,020	1,710
Estimated outlays [1]	1,770	−570	780	−670	−720
Postal Service payment to the civil service retirement fund:					
Budget authority	400	0	0	0	0
Outlays [1]	400	0	0	0	0
Postal Service funding of COLA's:					
Estimated budget authority	0	(2)	5	14	26
Estimated outlays [1]	0	(2)	5	14	26
Postal Service funding of health benefit premiums:					
Estimated budget authority [1]	6	8	12	15	20
Estimated outlays [1]	6	8	12	15	20
Total off-budget:					
Estimated budget authority	3,806	558	2,727	2,049	1,756
Estimated outlays	2,176	−562	797	−641	−674
Total on- and off-budget:					
Estimated budget authority	400	(2)	5	14	26

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated outlays	−700	750	0	0	0

[1] On-budget and off-budget effects are offsetting; there would be no net effect on Federal spending
[2] Less than $500,000.

Some of the off-budget spending increases shown in the table may be entirely or partially offset if future rate increases are adjusted to cover these costs. The first such increase, under baseline assumptions, would be in fiscal year 1991.

The effects of this bill fall within budget functions 370, 550, 600 and 950.

Basis of Estimate

Partial Deferred Payment of Lump-Sum Credit.—Under current law, federal civilian employees retiring after September 30, 1989, and electing to receive their contributions to the civil service retirement system in lump-sum amounts, would receive 100 percent of their lump-sum amounts upon retirement. The bill would change the payment schedule to 50 percent of the lump-sum amount the first year, and the remaining 50 percent plus interest one year after retirement. This new payment plan would be effective for all employees retiring after September 30, 1989 and before October 1, 1990.

Postal Service Budgetary Treatment.—For purposes of this estimate, the budget resolution baseline has been used to show the effect of removing the Postal Service fund from the budget totals, as specified in the bill. The baseline for the Postal Service fund reflects operating costs, capital expenses, borrowing, income from investments, federal appropriations, and mail revenue. It also incorporates adjustments for two future rate increases. The change in treatment mandated by the bill would reduce on-budget outlays by $1.77 billion in 1990, but would increase on-budget spending in three of the next four years. Aggregate federal spending would not be affected.

Under current law, the operations of the Postal Service are exempt from sequestration, but its administrative expenses are considered sequestrable resources and are subject to across-the-board reductions. The bill would exempt all Postal Service resources from sequestration. To the extent that a sequester of Postal Service resources would contribute to the savings required under sequestration percentage applied to other nondefense discretionary programs in order to reach the same deficit target.

The bill would also exclude the Postal Service from the estimates used to calculate the deficit for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. In years when the Postal Service disbursements exceed receipts, the deficit in the budget base would be less than under current law, and the savings required by sequestration would be reduced. On the other hand, when Postal Service receipts exceed disbursements and net outlays are expected to be negative, excluding the Postal Service from the budget base would increase the savings required from sequestration, thus increasing the percentage applicable to other programs.

The Postal Service has authority to borrow up to $10 billion for capital and operating purposes. Outstanding Postal debt at the end of fiscal year 1989 is estimated to be over $6 billion. The Postal Service has borrowed almost all of this amount from the Federal Financing Bank to fund its capital investment program, and we would expect this practice to continue. Under current scoring treatment, which we would not expect to change if the Postal Service were moved off-budget, the use of borrowing authority is reflected as budget authority when obligations are made, and as outlays when obligations are liquidated.

Postal Service Payment to the Civil Service Retirement Fund.—The bill would require the Postal Service to make a one-time payment of $400 million to the Civil Service Retirement Fund, to occur at the end of fiscal year 1990. This would result in off-budget outlays and on-budget offsetting receipts of $400 million.

Postal Service Funding of Cost-of-Living Adjustments (COLAs).—The bill would make the Postal Service pay, in fifteen annual installments, for the increase in the unfunded liability of the Civil Service Retirement Fund resulting from providing COLAs to reitrees, and survivors of retirees, of the Postal Service. This change would be effective for all Postal Service employees retiring on or after October 1, 1990, and thus would result in costs beginning in fiscal year 1991. The Postal Service would be liable only for the portion of the retiree's total years of service that is attributable to Postal Service employment. payments would be negligible in 1991, but would grow to $26 million by 1994.

Postal Service Funding of Health Benefit Premiums.—This estimate assumes that the number of survivors grows at the rate of 800 per year and is based on the average benefit premium for annuitants. The fiscal year 1989 average benefit premium is about $150 per month and is projected to grow by 16 percent in fiscal year 1990 and by 12 percent per year thereafter. Postal Service payments are estimated to be $6 million in 1990, increasing to $20 million in 1994.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimates:

On July 14, 1989, CBO transmitted a cost estimate for the reconciliation recommendations of the House Committee on Post Office and Civil Service, as ordered reported by that committee on July 12, 1989. CBO estimated an on-budget savings of $2.8 billion in 1990, and on-budget costs of $1.7 billion over the 1991-1994 period. CBO also estimated that there would be off-budget costs of $2.5 billion in 1990, and off-budget costs of $1.9 billion over the 1991-1994 period, which could be entirely or partially offset beginning in 1991 if future rate increases are adjusted as a result. The House committee's recommendations include a number of provisions not in the Senate bill, including an increase in Postal Service borrowing authority, changes in the Postal Service's borrowing, deposit, and investment procedures, and a change in the timing of the Postal Service payment to the Department of labor for workers' compensation.

On July 14, 1989, CBO transmitted a cost estimate for H.R. 982, as ordered reported by the House Committee on Post Office and CIvil Service, July 12, 1989, and on June 27, 1989, CBO transmitted a cost estimate for H.R. 982, as ordered reported by the House Committee on Government Operations, June 27, 1989. Both bills had identical language regarding the budgetary treatment of the Postal Service, but did not contain the other provisions in this bill.

9. Estimate prepared by: Mitchell Rosenfeld, Michael Pogue, Cathy Ellman, and Alan Fairbank

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

TITLE VII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 7001. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) TREATMENT OF THE POSTAL SERVICE FUND.—(1) Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following new section:

"§ 2009a. Budgetary treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President; or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902), for any fiscal year."

(2) The table of sections for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund."

(b) CONSTRUCTION.—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight authority of the Congress under law, rule, or regulation with respect to the budget and operations of the United States Postal Service.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

SEC. 7002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) DEPOSIT OF CERTAIN FUNDS IN FISCAL YEAR 1990.—From the funds available to the United States Postal Service in fiscal year 1990, the Postal Service shall deposit into the Civil Service Retirement Fund established under section 8348 of title 5, United States Code, an amount equal to $400,000,000 at the end of fiscal year 1990. Such payment shall be considered as a prior year's loss for purposes of adjusting postal rates under part IV of title 39, United States Code.

(b) UNFUNDED LIABILITY OF POSTAL SERVICE.—Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any esti-

mated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1990, or to their survivors, or to the survivors of individuals who die on or after October 1, 1990, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

"(3) In determining the amount for which the Postal Service is liable under this subsection in cases in which the benefits involved are based on service of an individual who performed 1 or more forms of service besides employment with the Postal Service, the amount of the Postal Service's liability shall be prorated to reflect only that portion of total service which is attributable to employment with the Postal Service.".

SEC. 7003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SURVIVORS OF EMPLOYEES AND FORMER EMPLOYEES OF THE POSTAL SERVICE.

(a) GENERALLY.—Section 8906(g)(2) of title 5, United States Code, is amended by inserting "or for a survivor of such an individual or of an individual who died on after October 1, 1986, while employed by the United States Postal Service," after "1986,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 7004. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after September 30, 1989, and before October 1, 1990.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit to this section is as follows:

(1) 50 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334)e)(3) of title 5, United States Code.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, October 5, 1989.

Hon. JIM SASSER,
Chairman, Budget Committee, Senate, Washington, DC.

DEAR CHAIRMAN SASSER: The 1990 Budget Resolution, adopted on May 4, 1989, required the Senate Labor and Human Resources Committee to submit the recommendations to save $70 million in fiscal year 1990. The attached material represents the Labor Committee's compliance with that mandate.

The Labor and Human Resources Committee has achieved its savings through two proposals. We have raised the Pension Benefit Guarantee Corporation (PBGC) premium rate from $16 per participant in a plan to $18 per participant.

The second proposal will close a loophole in the Stafford Student Loan Program by prohibiting medical schools from classifying residents as students for purposes of a student loan deferment. To avoid unnecessary hardship on the residents, we have included language to ensure that residents can receive forebearance upon request, without a fee, and without adverse consequences on their credit record.

The total reduction in federal expenditures achieved by the Labor Committee recommendations, after accounting for $1 million in outlays for an educational forgiveness provision, is $74 million.

The Committee has also included several provisions which require immediate legislative action. Any costs associated with these provisions are offset by the revenue raised from increased penalties assessed under OSHA, MSHA and ERISA.

On behalf of the Senate Labor and Human Resources Committee, I am pleased to forward these recommendations to the Budget Committee for inclusion in the 1990 Senate Reconciliation bill.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources.

SUBTITLE A—PENSION PLANS

OVERVIEW

Pension Plan Terminations

The United States relies on a three-tiered system to provide income to individuals in their retirement years. The Social Security system, financed jointly through mandatory employer and employee contributions, provides a minimum level of income support to individuals. Employer-sponsored pension benefits, where funds are set-aside on a tax-deferred basis, supplement Social Security payments. Individuals may further supplement their income needs in retirement through private savings.

In recent years, the need for adequate employer-sponsored retirement benefits has intensified. Pressure to reduce Social Security benefits and the failure of individuals to set-aside sufficient discretionary savings have increased reliance on the private retirement system. In addition, Americans are living longer and retiring earlier, increasing the need for a viable system to provide income support to individuals during their retirement years.

In 1974, Congress enacted the Employee Retirement Income Security Act (ERISA) to safeguard the employer-sponsored retirement benefits earned by millions of workers. Over forty million workers, plus an additional 10 million retired workers, are currently covered by the private pension benefit system. There are two basic types of pension plans—defined benefit and defined contribution plans. Defined benefit plans rewards long-service workers by guaranteeing a certain level of benefits during retirement. Retirement benefits generally are calculated to provide a specific percentage of a worker's final or average salary. Sixty five percent of employers offering plans provide defined benefit plans. Eighty percent of pension plan participants are covered by a defined benefit plan. In contrast, defined contribution plans are akin to bank accounts in which employers contribute a specific dollar amount each year. Defined contribution plans often are used as a supplement to a basic defined benefit plan.

To ensure benefit security, ERISA established minimum standards for tax-deferred pension plans including standards relating to coverage, vesting, benefit accrual, and plan funding. Other requirements enacted to protect plan participants and beneficiaries include detailed reporting and disclosure rules and fiduciary protections. ERISA adopted longstanding trust law principles to ensure that plan fiduciaries act solely in the interest of participants and beneficiaries and that assets are held for the exclusive purposes of providing benefits to participants. ERISA also established the Pension Benefit Guaranty Corporation (PBGC), a Federal government agency that guarantees the pension benefits promised to workers and retirees in defined benefit pension plans.

ERISA generally has been successful in protecting the pension benefits promised to workers. Some weaknesses remain, however, that allow employers to jeopardize the benefit security of workers and their beneficiaries and put the PBGC at risk to a greater degree than is desirable or necessary. In recent years, the termination of defined benefit pension plans by employers who seek to recover what are considered "excess" pension assets has jeopardized the retirement security of millions of workers and retirees. Since 1981, two thousand employers have terminated defined benefit plans in order to recapture $20 billion. Two million workers and retirees have been affected by these terminations. Very often these terminations are related to merger and takeover activity. According to the General Accounting Office, 40 percent of the terminations occurred incident to a merger or takeover.

Defined benefit pension plans accumulate such significant "excess" assets because they are funded to provide benefits based upon future salary levels and years of service. ERISA's minimum funding rules permit

employers to pre-fund pension benefits to ensure that sufficient funds are set aside to provide the benefits needed decades into the future. Most employers, for reasons of prudence and tax advantage, choose either to fund their plans by a level amount each year or to make greater contributions in the early years of a plan. The tax-deferred treatment for funds contributed to a pension plan provides a tremendous incentive to employers to fund their plans adequately. Decades of this prefunding have led to billions of dollars being set aside for benefits not yet paid out.

Strong investment returns over the past decade also have contributed to the amount of assets accumulating in pension plans. Although pension plans are required to amortize investment returns if greater (or lower) than plan estimates over future years, the prior limit of 15 years was too long to reduce "excess" assets in the short run. (The Omnibus Budget Reconciliation Act of 1987 reduced the period for amortization of new gains and losses to 5 years.) According to the Department of Labor, approximately $250 billion has accumulated in pension plans for liabilities not yet due.

Both title I of ERISA and the Internal Revenue Code provide that plan assets must be used to provide benefits exclusively to participants and beneficiaries and generally may not inure to the benefit of an employer. However, when an employer terminates a single-employer defined benefit pension plan, the employer is only liable for benefits accrued up to the date of plan termination. Both ERISA and the Code permit an employer, through explicit plan language, to recover residual assets in excess of termination liabilities. The drafters of ERISA did not anticipate the incentive to terminate created by the disparity between the assets contributed to meet the ongoing funding needs of a pension plan and the liabilities owed upon premature plan termination.

Unfortunately, many employers have been greatly tempted by the ready cash that pension plans contain. In 1981, a German conglomerate bought the Great Atlantic and Pacific Tea Company (A&P) and terminated the pension plan to finance the takeover. The buyer realized that even though the assets in the pension plan were necessary to meet *future* pension liabilities, an employer may terminate the plan and only be liable for the benefits that workers have accrued *up to the date of termination.* Because plan termination is the only means through which an employer may obtain pension assets, employers have an incentive to terminate pension plans to gain access to the assets.

The A&P pension termination was the beginning of a disturbing trend. In 1981, 35 employers terminated pension plans and recaptured pension assets. By 1983, the number had risen to 166 and by 1984, 329 companies had applied to recover pension assets. This trend led many workers and retirees, unions, and several members of Congress to seek changes in the law. The agencies with responsibility for regulating defined benefit plans (i.e., the Department of Labor, the Department of Treasury, and the PBGC) became concerned that employers' interest in obtaining excess assets would result in the discontinuance of defined benefit plan coverage for large numbers of American workers. Several Congressional hearings were held in both the House and Senate on this issue, and members of Congress urged the Administration to review the problem. (See History of Congressional Action below.)

It took three years for the Reagan Administration to determine the legality of these pension plan terminations. Initial agency positions determined that the practice was illegal, but the agencies were overruled by the President's Domestic Policy Council. In mid-1984, the Department of Labor, the Internal Revenue Service and the PBGC, jointly issued the Asset Reversion Implementation Guidelines. The Guidelines sanctioned pension plan terminations with employer reversions and permitted "sham" terminations where employers either split plans in two or terminate a plan and immediately reestablish an identical plan stripped of assets (spin-off terminations and termination/reestablishments). The Guidelines were criticized by many (including several Members of Congress) who believed that stronger action could and should be taken to safeguard benefit security.

The Guidelines allow employers to eliminate all assets in excess of termination liabilities. This leaves any reestablished defined benefit plan with few or no assets to serve as a "cushion." The elimination of any assets cushion severely jeopardizes participant benefit security. A reestablished plan would no longer contain sufficient assets to provide benefits to workers in the future and is inconsistent with funding rules that have been designed to require employers to contribute (and to deduct) amounts that will lead to the accumulation of assets sufficient to pay retirement benefits. The cushion also protects the plan against adverse investment performance and may be used to fund future benefit increases. For retirees, the stripping down of a plan through a Guidelines termination generally means that there are no assets left to provide cost-of-living adjustments.

In 1985, terminations increased dramatically as 582 employers terminated plans and recaptured $6 billion in pension assets. Congress remained concerned about the effect of these terminations on workers pension benefits and required the Secretary of Labor to conduct a study of employer reversions upon pension plan termination (the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272). Importantly, the study found that terminations with employer reversions did jeopardize the retirement benefit security of workers and retirees. The Administration concluded that terminations "reduced participant's benefit security with respect to future benefit accruals and may also discourage the employer from granting ad hoc benefit increases or cost of living allowances for retirees."

On February 19, 1987, the Administration submitted to the Congress a series of legislative recommendations relating to the termination and funding of single-employer defined benefit pension plans. The proposal submitted to Congress was more comprehensive than originally requested and covered both overfunded and underfunded plan terminations. The House Committee on Education and Labor and the Senate Committee on Labor and Human Resources adopted many of the provisions contained in the Administration proposal and included them in the Budget Reconciliation Act of 1987. Separate provisions were passed by the House Ways and Means Committee and the Senate Finance Committee. Congress enacted both sets of recommendations. The Labor Committees' provisions were deleted in conference after an impasse arose over the provisions affecting underfunded plans.

In 1988, the Treasury Department agreed to suspend the issuance of all determination letters permitting employers to recover pension assets upon termination from October 24, 1988 until May 1, 1989. In February 1989, the Senate Subcommittee on Labor held a hearing to receive testimony from the Administration on their efforts to reconsider the reversion problem. The Administration agreed to continue to review the matter.

In April, Senator Metzenbaum, chairman of the Subcommittee on Labor, introduced S. 685, the Employee Pension Protection Act. The bill protects the pension benefits of workers and retirees upon plan termination and encourages employers seeking to recover pension assets to reestablish new pension plans. The Subcommittee on Labor held a hearing on the bill on April 11.

Transfers of Pension Assets to Retiree Health Benefits

The issue of transferring "excess" pension assets to retiree health benefit plans first surfaced during the Reagan Administration's study of the funding and termination of defined benefit pension plans in 1987. The Administration recognized that employers' obligations for retiree health benefits were growing rapidly while the law restricted an employer's ability to pre-fund the benefits. The Administration's legislative proposal to Congress recommended that both ERISA and the Internal Revenue Code be amended to permit the transfer of pension assets, above a sufficient cushion, to help employers meet their growing retiree health care liability. The proposal was quite controversial for several reasons. Longstanding pension policy prohibits transfers of pension plan money from ongoing pension plans for any purpose. The money contributed to pension plans is viewed as the deferred wages of workers, wages set aside to provide them with pension benefits. Moreover, existing law set no standards for the provision of retiree health benefits. Members of Congress and the Administration agreed that any serious proposal had to ensure that tax free contributions to retiree health benefit plans actually benefited retirees. The transfer issue raised complex policy questions that needed detailed consideration. Due to the complicated nature of the proposals being debated with respect to overfunded and underfunded plans, the transfer proposal was deleted.

During this time, the Financial Accounting Standards Board (FASB) was working on a proposed statement to require employers to report their retiree health liabilities on corporate balance sheets. The proposed statement was finally released in February, 1989. The statement establishes accounting standards for employers' accounting of post-retirement benefits other than pensions, primarily post-retirement health care. The statement will generally become effective in 1992.

The reporting requirements contained in the FASB accounting statement have created incentives for many employers, particularly large employers, to reduce these liabilities from their balance sheets prior to 1992. Some of these large employers have resumed their effort to amend ERISA and the Code to permit transfer of pension assets to offset existing retiree health liabilities. These companies have argued that such transfers would increase federal revenues at least in the short run, because health care deductions need not be taken if untaxed pension funds are used to pay for benefits. The federal government's urgent need for revenues has transformed what was once an

issue of public policy into an attractive fiscal proposal. The House Ways and Means Committee has adopted, as part of its budget reconciliation recommendations, provisions to permit limited transfers of pension plan assets for retiree health benefits. The Ways and Means Committee did so reluctantly in order to meet the Committee's Budget Reconciliation instruction.

HISTORY OF CONGRESSIONAL ACTION

Congress first became concerned about the security of the retirement benefits promised to workers in well-funded pension plans after the 1981 plan terminations involving the Great Atlantic & Pacific Tea Company (A & P) and Harper & Row Publishers. The House Select Committee on Aging held oversight hearings on June 7, 1982 and September 28, 1983 on this emerging issue. Witnesses included representatives of the Reagan Administration, union officials and corporate executives.

On March 15, 1984, Senator Howard M. Metzenbaum, ranking minority member on the Subcommittee on Labor of the Senate Committee on Labor and Human Resources, introduced S. 2435 to impose a nine-month moratorium on employer reversions of assets from terminated pension plans. Identical legislation was introduced by Congressman Edward R. Roybal, chairman of the House Select Committee on Aging, on March 16, 1984 (H.R. 5168).

The Senate Subcommittee on Labor held a hearing on April 4, 1984 on S. 2435. Testimony was presented by representatives of the Administration, older worker organizations, union officials, business organizations, and corporate executives. On November 5, 1984, Congressman Roybal introduced H.R. 6404 to provide for controls on terminations of pension plans where employers seek to recover pension plan assets.

On June 6, 1985, Congressman Roybal introduced H.R. 2701 to protect the retirement benefits of workers and retirees affected by pension plan terminations and employer reversions. On June 12, 1985, joint oversight hearings were held on overfunded pension plans by the Subcommittee on Labor-Management Relations of the House Committee on Education and Labor and the House Select Committee on Aging. Witnesses included representatives of the Administration, pension plan participants and retirees, union officials and business representatives. Senator Metzenbaum and Congressman Roybal reintroduced legislation to impose a nine-month moratorium on pension plan reversions on July 30, 1985. (S. 1532, H.R. 3121).

In 1985, Congress required the Secretary of Labor to study the effects of pension plan terminations where employers recover residual assets. The study requirement was included as part of the Single-Employer Pension Plan Amendments contained in the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272). As a result of the study, the Reagan Administration concluded that the termination of well-funded pension plans jeopardized the retirement benefit security of workers. On February 19, 1987, the Reagan Administration sent to the Congress a legislative proposal on the funding and termination of defined benefit pension plans.

On March 24, 1987, the Senate Subcommittee on Labor and the House Subcommittee on Labor-Management Relations held a joint oversight hearing on the Administration's proposal. Secretary of Labor William Brock testified on behalf of the Administration. Other witnesses included retired workers, senior citizens' organizations, union officials and business organization representatives. Congressman Roybal introduced legislation to prohibit reversions on April 6, 1987 (H.R. 1942). On July 28, 1987, the House Education and Labor Committee reported legislation modifying the Administration proposal as part of the Committee's 1987 Budget Reconciliation amendments. The Committee recommendations were included in H.R. 3545, the Omnibus Budget Reconciliation Act, which was enacted by the House on October 29, 1987 (H. Rept. 100-391). The Senate Committee on Labor and Human Resources reported identical provisions as part of its budget reconciliation amendments on October 9, 1987. The Senate enacted its amendments to H.R. 3545 on December 11, 1987 by voice vote. The Senate insisted on its amendments and requested a conference. The conferees reached tentative agreement on pension protections for workers and retirees affected by well-funded pension plan terminations. The provisions were deleted however, when the conferees could not reach agreement on other pension issues.

On March 9, 1988, Congressman William L. Clay, chairman of the House Subcommittee on Labor-Management Relations, introduced H.R. 4111 to impose a moratorium on pension plan reversions until October 1, 1989. Senator Metzenbaum introduced identical legislation on April 4, 1988 (S. 2284). On June 23, the Senate Committee on Appropriations in its executive session included S. 2284 in H.R. 4783, the 1989 appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies (S. Rept. 100-399). On July 26, S. 2284 was removed from H.R. 4783 during debate on the Senate floor, the Senate enacted a resolution encouraging Congress to increase the excise tax on reversions to 60% until May 1, 1989. On September 8, the Senate Finance Committee adopted the excise tax provision as part of S. 2238, the Technical Corrections Act of 1988. The Senate enacted S. 2238 as an amendment to H.R. 4333, the Technical and Miscellaneous Revenue Act of 1988, on October 11, 1988. During conference, the excise tax was deleted. The Treasury Department agreed to suspend the issuance of all requests for determination letters where employers attempt to recover pension plans assets upon termination from October 24, 1988 until May 1, 1989. The Treasury Department also agreed to review the pension plan termination issue.

On February 9, 1989, the Senate Subcommittee on Labor held an oversight hearing to receive testimony from the Bush Administration on the moratorium on reversions and the Administration's consideration of the pension plan termination problem. Witnesses included representatives of the Departments of Labor and Treasury, current and retired workers, union officials, senior citizens' organizations and business representatives.

On April 4, 1989, Senator Metzenbaum and Representative Clay introduced the Employee Pension Protection Act of 1989 (S. 685, H.R. 1661). The Senate Labor Subcommittee held a legislative hearing on April 11, 1989. Witnesses included current and retired workers, union officials, senior citizens' organizations and business representatives. On April 18, the Subcommittee on Labor-Management Relations held a hearing and favorably reported H.R. 1661 with one technical amendment. On July 5, 1989, the House Committee on Ways and Means adopted provisions to permit a one-time transfer of "excess" pension plan assets to retiree health benefit plans as part of its Budget Reconciliation Act recommendations. On July 13, Congressman Clay offered an amendment to the House Committee on Education and Labor's Budget Reconciliation recommendations which would impose a ban on employer reversions and permit employers to transfer "excess" pension assets to retiree health benefit accounts provided certain minimum standards are met. The amendment was favorably reported by a roll call vote of 21-11 and the Committee favorably reported its Budget Reconciliation amendments by voice vote. The Committee on Education and Labor separately reported H.R. 1661 by voice vote on July 13.

COMMITTEE EXPLANATION OF SUBTITLE A—PENSION PLANS

Under S. Con. Res. 30, the Concurrent Resolution on the Budget for 1990, the Committee on Labor and Human Resources is instructed to reduce spending outlays by $70 million in FY 1990 (S. Rept. 101-20). The primary recommendation adopted by the Committee to meet its Budget Reconciliation instruction increases the annual premium paid to the Pension Benefit Guaranty Corporation by single-employer pension plans by $2, from $16 to $18 per participant. The Congressional Budget Office estimates that the premium increase will reduce spending outlays by $65 million each year.

The Committee has been acutely concerned over the problems related to the funding and termination of defined benefit pension plans for the past six years. As stated previously, our country is becoming increasingly dependent upon the pivate retirement system to ensure that the retirement income needs of our citizens are met. The Social Security system cannot provide sufficient retirement income for the majority of Americans. We must have an adequate supplemental retirement income system.

We also must assure that the termination of defined benefit pension plans does not put the federal government unreasonably at risk. The federal government, through the Pension Benefit Guaranty Corporation, insures most of the pension benefits promised to employees under defined benefit pension plans. The PBGC is intended to be self-financing. Employers pay an annual premium to the PBGC, and the PBGC becomes the trustee of all pension assets in insufficiently funded pension plans.

The PBGC has generally operated at a loss since its inception. When ERISA was enacted in 1974, the premium was initially set at $1.00 per participant. After two years of operation, the PBGC had a deficit of over $40 million. In 1977, Congress raised the premium to $2.60. By 1982, the PBGC's liability had risen to $150 million and it became apparent that a substantial premium increase was needed. In 1985, as part of the Consolidated Omnibus Budget Reconciliation Act, the premium was increased to $8.50. Despite the increase, the financial liability of the PBGC rose to approximately $1 billion due to the termination of several seriously underfunded pension plans in late 1985. Congress was again forced to raise the PBGC premium to $16 and impose an additional variable premium upon certain underfunded pension plans as part of the Omnibus Budget Reconciliation Act of 1987.

Since 1987, the PBGC's liability has continued to skyrocket, rising to nearly $4 billion. (The PBGC has contested $2 billion of its liability, which represents the pension

obligation resulting from the termination of the LTV Corporation pension plans. The PBGC lost at both the district and appellate court levels. It is unlikely that the PBGC will be relieved of this liability.) The exorbitant liability of the PBGC poses a serious threat to the financial solvency of the PBGC, and thus to the federal government.

Both Congress and the Administration have long been concerned that significant pension plan overfunding or underfunding may jeopardize workers' retirement benefits and the defined benefit pension system. The Budget Reconciliation Acts of 1985 and 1987 contained legislative reforms, in addition to the PBGC premium increases, which addressed problems posed by underfunded plans.

The Committee remains concerned over the effects of the termination of overfunded pension plans and believes that reform is needed in this area. To the extent that under current law employers have an incentive to terminate well-funded pension plans, the Committee believes legislative reforms are necessary. The substantive reforms adopted by the Committee will reduce the incentive to terminate and thus, will stabilize the pool of employers maintaining defined benefit pension plans and financing pension insurance through the PBGC. The Committee's substantive reforms include legislative recommendations to reduce the incentive to terminate by allocating a share of "excess" pension assets to workers and retirees and by permitting, in limited circumstances, the transfer of "excess" pension assets to retiree health benefit accounts.

Therefore, the Committee amendments relating to pension plans contain a number of interrelated provisions: 1) S. 685, the Employee Pension Protection Act of 1989, as amended; 2) amendments to title I of ERISA to permit certain qualified transfers of "excess" pension plan assets to retiree health benefit accounts; and 3) changes in civil penalties assessed against violators of the labor and pension laws. The Committee expects that these recommendations will reduce the federal deficit in fiscal year 1990 and in following years.

CHAPTER 1—FIDUCIARY RESPONSIBILITIES RELATING TO PLAN TERMINATIONS

This chapter contains the provisions of S. 685, the Employee Pension Protection Act, as amended.

Longstanding trust law doctrine, from which much of pension plan law and ERISA derive, requires those persons empowered to control pension plan assets to act exclusively for the benefit of the individuals covered by the plan. Many individuals and pension law experts have long felt that this principle should prohibit any recovery of pension assets by an employer.

The Act clarifies ERISA's general requirement that a pension plan fiduciary must hold plan assets for the exclusive purposes of providing benefits to participants and their beneficiaries and must discharge his or her duties solely in the interests of participants and beneficiaries with respect to the plan assets of terminated plans. An exception to this rule is created to permit fiduciaries to distribute pension plan assets to the sponsor of a plan (*i.e.*, the employer) provided that the requirements of this Act are met.

Under current law, an employer is required to fund a defined benefit pension plan so that it will provide benefits in the future. An employer may terminate a pension plan at any time, provided 60 days notice has been provided to participants and the PBGC, and the plan contains sufficient assets to meet its benefit liabilities up to the date of plan termination. A significant disparity can exist between the funding needs of an ongoing pension plan and the liabilities owed by the plan if prematurely terminated. It is this disparity that enables an employer to arrange for the termination of a pension plan at a time when the plan contains an artificial "surplus". In the overwhelming majority of these terminations, the employer reestablishes another pension plan immediately, but the new plan is stripped of the funds needed to provide future benefits. In addition, an employer may terminate an overfunded plan and recapture assests, even though the employer maintains other underfunded plans for which the PBGC is liable. Clearly, an employer should not be able to benefit while the federal government is at risk.

The Act seeks to define more properly the funding needs of a pension plan in order to reduce the incentive to terminate solely to recapture an artificial surplus. The Act retains the provisions of current law which permit an employer to terminate its pension plan at any time and which require the satisfaction of benefit liabilities under the plan. In those situations where an employer is using the termination to recover pension assets, the Act amends title I of ERISA, to add requirements that the named pension plan fiduciary assure that a qualified replacement plan is in existence and that all of the employer's pension plans are sufficiently funded before any assets that are truly surplus may be distributed to the employer.

Therefore, under the Act, an employer may receive a distribution of plan assets remaining in the final distribution of assets in accordance with the terms of the plan if: (1) such distribution occurs after the satisfaction of all benefit liabilities and employee contributions, (2) there is an established replacement plan, and (3) each defined benefit plan maintained by the employer or a member of the employer's controlled group has assets sufficient to pay all liabilities under the plan.

In determining what comprises a qualified replacement plan, the Committee looked toward the type of plan that best protects the expectations of the participants in the terminated plan and the funding needs of that replacement plan. In the most preferable situation, the employer establishes a defined benefit plan identical to the terminated plan (defined by the Act as a complete replacement plan). The Act requires that a complete replacement plan contain sufficient assets to meet the future funding needs of the plan. In addition, the Act requires a one-time retroactive cost of living adjustment to retirees and certain terminated vested participants in the plan. This requirement reflects the reality that cost of living adjustments are generally provided out of the gains earned by a plan. Such gains no longer exist if the employer is permitted to strip them out of the plan.

Under the Act, a complete replacement plan is defined as a single-employer defined benefit plan which meets the following requirements:

(1) the current value of the assets of the plan is at least 125% of the projected benefit liabilities of the terminated plan (projected benefit liability is the actuarial present value of benefit liabilities under ERISA including an assumption for increases in future compensation levels at a rate equal to 5% a year);

(2) participants and beneficiaries under the terminated plan retain the same status as participants or beneficiaries; (3)(A) each participant's benefits are equivalent in amount and form to his or her benefits under the terminated plan and (B) the benefits of retired and terminated vested participants are increased by the excess of the percentage increase in the Consumer Price Index over the percentage increase in such benefits under the terminated plan (a terminated vested participant is a participant who has a nonforfeitable right to benefits under the terminated plan and who terminated during the period beginning 3 years before the plan termination);

(4) the rate of benefit accrual is equal to or greater than the rate of accrual under the terminated plan;

(5) participants are credited with amounts of past service credit at least equal to the amount credited under the terminated plan; and

(6) all benefits remain nonforfeitable.

In the less preferable, but accepted situation, the employer uses the termination of the pension plan as an opportunity to reduce the benefits or pension protections provided under a replacement plan. In order to assure that such a replacement plan (termed a substantial replacement plan) is not a sham, the Act sets minimum standards to provide some protection to participants. In addition, because of the less protective structure of such a plan, the Act requires a larger cushion in a substantial replacement than in a complete replacement plan. The larger cushion is intended to compensate for the greater benefit loss incurred by participants and to encourage employers to establish a complete replacement plan.

The Act defines a substantial replacement plan as a single employer plan, either defined benefit or defined contribution which meets the following requirements:

(1) the current value of the assets of the plan or in the individual accounts of each participant is at least 135% of the projected benefit liabilities of the terminated plan;

(2) all participants and beneficiaries under the terminated plan retain the same status as participants or beneficiaries;

(3) participants are each credited with an amount of past service at least equal to the amount credited under the terminated plan;

(4) the benefits of participants remain nonforfeitable;

(5) the rate of benefit accrual is at least (A) for defined benefit plans, 2% times the participant's number of years of service during the period of consecutive years, up to 5, of the participant's greatest aggregate compensation, or (B) for defined contribution plans, 4% of each participant's annual compensation; and

(6) the benefits of all retired and terminated vested participants is increased by the excess of the percentage increase in the Consumer Price Index over the percentage increase in such benefits.

To prevent abuse, the requirements pertaining to a complete replacement plan or a substantial replacement plan must be maintained for 5 years subsequent to the final distribution of assets under the terminated plan. Each person who acts as a plan sponsor or as a fiduciary at any time on or after the termination shall be jointly and severally liable for violation of this section.

Finally, the Act prohibits a named pension plan fiduciary from distributing pension assets to an employer if the employer fails to establish a new pension plan. In this situation, the greatest loss is experienced by

pension plan participants. Public policy should not permit employers to contribute funds tax-free for the purpose of providing pension benefits and then recover those funds if the employer decides to abandon its pension plan. The funds set aside for future benefits should be used to protect the retirement needs of workers and retirees.

Therefore, under the Act, if a complete or substantial replacement plan is not established upon the termination of a defined benefit pension plan, before the distribution of assets from the terminated plan, a named plan fiduciary shall allocate plan assets as follows:

(1) to all participants, an amount equal to 135% of the projected benefit liabilities of the plan for such participant;

(2) to retired participants and terminated vested participants, an amount equal to the excess of the percentage increase in the Consumer Price Index since the date of termination over the actual percentage increase in benefits since such date; and

(3) the remainder to all participants in category (1) on a pro rata basis.

Assets shall be allocated within each category in the order listed and on a pro rata basis. The funds allocated to participants who are not yet retired must be transferred to another qualified retirement arrangement. A named fiduciary shall take such actions as are necessary to ensure that any distribution to a participant under this Act is in the form of a direct transfer to an individual retirement plan.

Chapter 2—Transfer of Pension Assets to Retiree Health Accounts

Currently, both ERISA and the Internal Revenue Code prohibit the use of pension plan assets for any purpose other than to provide retirement income to plan participants. To the extent that the Internal Revenue Code is amended to permit limited transfers of pension assets to certain retiree health benefit accounts, the Committee proposes to amend ERISA provided three requirements are met. First, the pension plan must be adequately protected. No transfer of assets may be allowed to jeopardize the funding of the pension plan or the pension benefits promised to participants. Second, certain minimum standards must be applied to the retiree health benefit plan to assure that participants are adequately protected. There currently are no standards for the provision of these benefits. Third, amendments to permit employer access to pension assets from ongoing pension plans must also protect workers and retirees upon plan termination. The Committee believes that amendments to ERISA must comprehensively address the needs of both workers and employers with respect to the use of pension plan assets.

The Act amends title I of ERISA to permit the qualified transfer of excess pension assets to a retiree health benefits account established and maintained under section 401(h) of the Internal Revenue Code of 1986. Assets transferred may be used only to provide benefits to participants and beneficiaries in the pension plan. Excess pension assets are those assets in excess of 150% of the benefit liabilities of the plan at the time of the transfer. The amount transferred may not exceed the present value of the retiree health benefits that are currently accrued. In order for a transfer to be qualified, (1) the pension plan participants must be vested; (2) any assets transferred may be used only to provide retiree health benefits (any excess must be returned to the pension plan); (3) the retiree health plan may not be significantly reduced to increase the cost of health benefits to retirees; and (4) the health benefits may not be provided on a basis which discriminates in favor of highly compensated employees. The pension plan administrator must provide 60 days notice of the transfer to the Secretary of Labor and to each participant and beneficiary. The notice must state the amount of excess pension assets in the plan, the amount to be transferred, and the amount of retiree health benefit liabilities to be funded with the pension assets.

Additional review of these issues is imperative. Accordingly, the Secretary of Labor is directed to conduct a study of the need for additional standards relating to ongoing transfers of pension plan assets and of the use of pension plan assets to protect the needs of workers and retirees.

Chapter 3—Civil Penalties

This chapter is an integral element of the Committee's budget reconciliation package, both from a policy standpoint as well as from a budget standpoint. The policy justifications for the changes in civil penalties are discussed in detail below. As a budgetary matter, the Committee on Joint Taxation has indicated that Chapter 1 of the Committee's budget reconciliation recommendation will result in reduced revenues to the federal treasury in fiscal year 1990 and thereafter. According to Congressional Budget Office estimates, however, the increased civil penalties in this chapter more than offset any reduced revenues from Chapter 1. In addition, the civil penalties amended in this chapter are solely within the jurisdiction of the Labor and Human Resources Committee and do not affect the jurisdiction of any other committee.

MSHA Penalties

The Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) provides for a civil penalty of not more than $10,000 against an operator for each violation of a mandatory health or safety standard or other violation of the Act. According to the Department of Labor, civil penalties were first assessed by the Mine Safety and Health Administration (MSHA) under the Federal Coal Mine Health and Safety Act of 1969. The Department has indicated that there has been no increase in the $10,000 maximum civil penalty since 1969.

While the statutory maximum has remained unchanged for two decades, the cost of living (as measured by the consumer price index) has increased by over 300 per cent. Inflation has decimated the deterrent effect of this penalty. In real terms, the current mine safety civil penalty ceiling is now less than $3,100. Therefore, to restore the civil penalty ceiling to its original level, the Committee has agreed to triple the maximum penalty from $10,000 to $30,000.

OSHA Penalties

The Occupational Safety and Health Act of 1970 (29 U.S.C. 666) authorizes a number of civil penalties: fines up to $10,000 for each willful or repeated violation of the Act; fines up to $1,000 for each serious or other-than-serious violation; fines up to $1,000 for each violation of the posting requirements; and fines up to $1,000 per day beyond a stated abatement date for failure to correct a violation. The maximum civil penalties under the OSH Act have never been increased. Like the civil penalties for mine safety violations, OSH Act civil penalties, in real dollar terms, have been reduced dramatically by inflation. A tripling of the OSH Act maximum civil penalties is necessary just to keep pace with inflation.

Merely returning OSH Act civil penalties to their original 1970-level, however, will not correct the woefully inadequate enforcement history of the Occupational Safety and Health Administration (OSHA). Last year, this Committee held extensive oversight hearings of OSHA. One major conclusion from those hearings is that OSHA has not lived up to its stated purpose: to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions." The penalties assessed simply are not large enough to force employers to comply with the law. For example, in fiscal year 1988, the average fine for construction accidents involving one or more fatalities *and* one or more serious or willful violations was less than $1,500.

Therefore, to provide for civil penalties with "real teeth", the Committee has increased the existing maximum penalty levels by five times. Under the Committee's approach, the maximum allowable penalties will be: $50,000 for each willful or repeated violation; $5,000 for each serious or other-than-serious violation; $5,000 for each violation of the posting requirements; and $5,000 per each day beyond a stated abatement date for failure to correct a violation.

These amounts are discretionary ceilings. In practice, most fines imposed are a mere fraction of the maximum penalty. For example, in the *Film Recovery* case decided several years ago, workplace conditions were so egregious that a corporate executive was convicted of murder in the death of a worker, but the civil penalty imposed by OSHA was a mere $2,400. In order to ensure that violators are in fact fined at an effective level, the Committee has adopted mandatory minimum penalties for certain OSH Act violations. Mandatory minimum penalties are relatively common in federal law. The President's Council on Integrity and Efficiency, in a 1988 study of federal civil money penalties, listed several dozen statutory provisions containing mandatory minimum penalties. For exampe, the civil penalty for smuggling merchandise by airplane in violation of the customs laws, is twice the value of the merchandise, "but not less than $10,000." 19 U.S.C. 1590(c).

The new mandatory OSH Act minimum penalties are scaled to reflect the nature of the violation—higher penalties for more egregious offenses. The mandatory minimums are: $5,000 for a willful violation; $1,000 for a repeated violation; $500 for a serious violation and $100 for an other-than-serious violation. These mandatory minimum penalties are penalty floors and they are not intended to become penalty ceilings. The Committee expects OSHA to issue fines well above these mandatory minimum levels when the violation warrants such a penalty.

ERISA Penalties

Under ERISA, the Secretary of Labor has discretionary authority to assess civil penalties in cases where ERISA has been violated through either: (1) a plan administrator's failure or refusal to file an annual report; or (2) a transaction prohibited by ERISA engaged in by a party in interest (see ERISA sections 502(c)(2) and 502(i)). Such penalties have rarely been assessed. Recent regulations proposed by the Department of Labor concerning violations of section 502(c)(2) indicate that in the future the Secretary of Labor intends to take a more aggressive role in the issuance of its civil penalty authority.

Since the enactment of ERISA, there has been continual criticism of the Department's ability to protect the pension and welfare benefits promised to workers and guaranteed under ERISA. The Department has broad authority to monitor employee benefit plans and deter violations of the law. The Department's primary source of information about employee benefit plans derives from the annual report required to be filed by plans under ERISA. According to the Department, almost 25% of the annual reports expected to be filed are either not filed or deficient in some respect. Proper filing of these annual reports is crucial to the Department's enforcement ability.

In fact, the most recent report of the Department of Labor's Inspector General was especially critical of the information provided by these reports. The Inspector General concluded that the inadequacy of the information collected and lack of resources seriously hampered the Department's ability to protect pension plan participants. Although the Department oversees approximately 5.5 million employee benefit plans, the Department only has the resources to audit less than 3000 reports each year. Fiduciary violations are found in one-fourth of the plans audited. Employee benefit plans currently contain $2 trillion in assets. Without the ability to audit these plans properly, enforcement to assure the benefits promised to workers is nearly impossible. For these, reasons, it has become apparent that the Department must use its enforcement powers more vigorously to make the protections of ERISA meaningful.

The provisions adopted by the Committee strengthen the Department's ability to enforce and deter violations of ERISA through changes in the assessment of civil penalties for violations of the law. First, any failure or refusal to file an annual report will be assessed a mandatory $200 civil penalty. If the violation is not remedied within 90 days, the Secretary retains its current authority to assess a penalty of up to $1,000 a day for noncompliance. The Secretary may waive or reduce the penalty if the violation is found to have been the result of an action or omission taken in good faith. Second, in those cases where the Department has found a violation of ERISA which has resulted in a loss of assets to the plan, a mandatory civil penalty of 20% of the assets restored to the plan is imposed. Such violations include embezzlement of plan funds, self-dealing, conflicts of interest, failure to act for the exclusive benefit of plan participants, failure to diversify investments, and failure to comply with plan documents. Under current law, the Secretary has the authority to assess a civil penalty based upon the total amount of the transaction involved in the violation. The change adopted by the Committee limits the amount of the penalty to a percentage of the amount of the assets restored to the plan. This change will assure that the penalty reflects the loss to the participants of the plan. More effective use of the Secretary's civil penalty authority will strengthen the benefits provided under private pension system and reduce the risk to the federal government due to plan asset abuse.

SECTION-BY-SECTION ANALYSIS

Section 8001. Short title.

Entitles this Act the Employee Pension Protection Act of 1989.

Section 8002. Clarification of general rules governing fiduciary standards applicable to plan assets of terminated plans.

Clarifies that, except as provided in this Act, a pension plan fiduciary must hold plan assets for the exclusive purposes of providing benefits to participants and their beneficiaries and must discharge his or her duties solely in the interests of participants and beneficiaries with respect to the plan assets of terminated plans.

Section 8003. Fiduciary standards of title I relating to employer reversions.

Redesignates section 414 of ERISA as section 415 and creates a new section 414 entitled "Employer Reversions Upon Plan Termination".

Under section 414(a), an employer may receive a distribution of plan assets remaining in the final distribution of assets in accordance with the terms of the plan if:

(1) such distribution occurs after the satisfaction of all benefit liabilities and employee contributions,

(2) there is established and maintained a complete replacement plan or a substantial replacement plan, and

(3) each defined benefit plan maintained by the employer or a member of the employer's controlled group has assets sufficient to pay all liabilities under the plan.

Under section 414(b), a complete replacement plan is defined as a single-employer defined benefit plan which meets the following requirements:

(1) the current value of the assets of the plan is at least 125% of the projected benefit liabilities of the terminated plan;

(2) participants and beneficiaries under the terminated plan retain the same status as participants or beneficiaries;

(3)(A) each participant's benefits are equivalent in amount and form to his or her benefits under the terminated plan and (B) the benefits of pay status and terminated vested participants are increased by the excess of the percentage increase in the Consumer Price Index over the percentage increase in such benefits under the terminated plan;

(4) the rate of benefit accrual is equal to or greater than the rate of accrual under the terminated plan;

(5) participants are credited with amounts of past service credit at least equal to the amount credited under the terminated plan; and

(6) all benefits remain unforfeitable.

Under section 414(c), a substantial replacement plan is defined as a single employer plan, either defined benefit or defined contribution, which meets the following requirements:

(1) the current value of the assets of the plan or in the individual accounts of each participant is at least 135% of the projected benefit liabilities of the terminated plan;

(2) all participants and beneficiaries under the terminated plan retain the same status as participants or beneficiaries;

(3) participants are each credited with an amount of past service at least equal to the amount credited under the terminated plan;

(4) the benefits of participants remain nonforfeitable;

(5) the rate of benefit accrual is at least (A) for defined benefit plans, 2% times the participant's number of years of service during the period of consecutive years, up to 5, of the participant's greatest aggregate compensation, or (B) for defined contribution plans, 3% of each participant's compensation; and

(6) the benefits of all pay status and terminated vested participants is increased by the excess of the percentage increase in the Consumer Price Index over the percentage increase in such benefits.

Under section 414(d), the requirements pertaining to a complete replacement plan or a substantial replacement plan must be maintained for 5 years subsequent to the final distribution of assets under the terminated plan. Each person who acts as a plan sponsor or as a fiduciary at any time on or after the termination shall be jointly and severally liable for violation of this section.

Under section 414(e), the Secretary of Labor shall issue regulations under which the requirements of section 414(b) or (c) are met by the establishment of two or more plans if each participant under the terminated plan receives identical treatment to that which they would have received under a single complete or substantial replacement plan.

Under section 414(f), the provisions of this section are applicable to the extent in compliance with sections 401(a)(4) and 415 of the Internal Revenue Code of 1986.

Under section 414(g), certain terms are defined:

(1) projected benefit liabilities is the actuarial present value of benefit liabilities under title IV of ERISA including an assumption for increases in future compensation levels at a rate equal to 5% a year.

(2) a terminated vested participant is a participant who has a nonforfeitable right to benefits under the terminated plan and who terminated during the period beginning 3 years before the termination.

Section 8004. Fiduciary duties relating to allocation and distribution of plan assets to participants and beneficiaries upon plan termination in the absence of a complete or substantial replacement plan.

If a complete or substantial replacement plan is not established upon the termination of a defined benefit pension plan, before the distribution of assets from the terminated plan, a named plan fiduciary shall allocate plan assets as follows:

(1) to all participants an amount equal to 135% of the projected benefit liabilities of the plan to such participant;

(2) to pay status participants and terminated vested participants an amount equal to the excess of the percentage increase in the Consumer Price Index since the date of termination over the actual percentage increase in benefits since such date; and

(3) to all participants in category (1) on a pro rata basis.

Assets shall be allocated within each category in the order listed and on a pro rata basis. The provisions of this section are applicable to the extent in compliance with sections 404(a)(4) and 415 of the Internal Revenue Code of 1986.

Section 8005. Fiduciary duties relating to direct trustee-to-trustee transfer of plan assets to individual retirement accounts or annuities upon plan termination.

A named fiduciary shall take such actions as are necessary to ensure that any distribution to a participant under this Act is in the form of a direct transfer to an individual retirement plan.

Section 8006. Study by Comptroller General of Small Employer Plan Terminations.

The Comptroller General shall study the extent to which employers with less than 25 employees terminate defined benefit pen-

sion plans with surplus assets and the effect of the Act on small employers.

Section 8007. Qualifying Employer Security to Include Interest in Publicly Traded Partnership.

Section 407(d) of ERISA is amended to include certain publicly traded partnerships (defined in section 7704(b) of the Internal Revenue Code of 1986) in the definition of a qualifying employer security.

Section 8008. Effective date.

The amendments made by this Act shall apply in the case of any termination under title IV of ERISA if the date of the final distribution of assets is on or after January 1, 1989.

Section 8011. Transfer of Excess Pension Assets to Retiree Health Accounts.

Section 403 of ERISA is amended to permit certain "qualified transfers" of excess pension assets to a retiree health benefits account established and maintained under section 401(h) of the Internal Revenue Code of 1986.

A qualified transfer means any transfer of excess pension assets where (1) any assets transferred shall only be used to pay for retiree health benefits, (2) benefits may not be significantly reduced after the transfer, (3) all participants in the plan immediately before the transfer have a nonforfeitable right to retirement benefits after the transfer, and (4) benefits are not provided on a basis which is discriminatory in favor of highly compensated employees. Excess pension assets means the value of the plan's assets in excess of over 150% of the benefit liabilities of the plan.

Not later than 60 days before a qualified transfer, the administrator of the plan shall notify the Secretary of Labor and each participant and beneficiary in the pension plan of the transfer. The notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, and the amount of health benefit liabilities to be funded with the assets transferred.

The Secretary of Labor shall study the need for additional standards relating to transfers of excess pension assets to health accounts.

The amendments made by this section shall generally apply 6 months after the date of the issuance of regulations necessary to carry out the requirements of this section.

Section 8021. Occupational Safety and Health.

Section 17 of the Occupational Safety and Health Act of 1970 is amended as follows:

(1) in subsection (a), by striking "$10,000 for each violation" and inserting "$50,000 for each violation, but not less than $5,000 for each willful violation and not less than $1,000 for each repeated violation";

(2) in subsection (b), by striking "$1,000 for each such violation" and inserting "$5,000 for each such violation, but not less than $500 for each such violation";

(3) in subsection (c), by striking "$1,000 for each such violation" and inserting "$5,000 for each such violation, but not less than $100 for each such violation";

(4) in subsections (d) and (i), strike "$1,000" and insert "$5,000."

Section 8022. Employee Retirement Income Security.

Section 502(c)(2) of the Employee Retirement Income Security Act is amended by striking "may" and inserting "$200".

Section 502(i) is amended by striking the first sentence and inserting a mandatory civil penalty of 20 percent of the amount recovered by the Secretary.

Section 4006(a)(3)(A)(i) is amended by striking "$16" and inserting "$18.

Section 8023. Mine Safety and Health.

Section 110(a) of the Federal Mine Safety and Health Act is amended by striking "$10,000" and inserting "$30,000".

CHAPTER 4—PENSION PORTABILITY

Under current law, pension plan asset accumulations are increasingly being distributed at job termination and "cashed-out" in the form of lump sum distributions of an employee's entire pension plan account. This is especially so in the case of defined contribution plans, although even defined benefit plans are increasingly taking on the form of cash accumulation accounts to be distributed upon termination of employment.

In spite of the fact that under certain circumstances such cash distributions are subject to an additional 10 percent income tax, the means under current law to encourage such sums to be saved and invested for retirement purposes has proved inadequate. Studies demonstrate that the vast majority of pension plan lump sum distributions are used for current consumption and that few reinvest such amounts for retirement in individual retirement accounts or annuities. Additionally, current law prohibits a substantial percentage of the distributions made each year by private and governmental pension plans from being transferred, or "rolled-over," into retirement savings arrangements—namely, that portion of a distribution representing the return of an employee's own plan contributions made on an after-tax basis.

Currently, pension plan sponsors wishing to facilitate pension portability do not have a direct pension portability vehicle to which they can transfer employee pension accumulations. Pension plans cannot directly transfer amounts to individual retirement arrangements, nor can employee contributions, upon distribution, be reinvested in a tax-free retirement arrangement. These restrictions severely frustrate the ability of mobile employees, among them teachers and engineers, to take advantage of so-called buy-back provisions under which pension plans permit the repurchase of prior service. In addition, many companies have not established pension plans for their workers, often because costs and complexity of pension plan administration.

Generally, the Pension Portability amendment is designed to improve long-term retirement income security and address issues of competitiveness and worker mobility by enhancing pension portability, pension coverage, national savings, and captial formation.

The amendment amends ERISA to: (1) permit salary reduction contributions to simplified employee pensions (SEP's). Any size employer who does not currently have a pension plan can contribute to a SEP on behalf of the employees and each employee can match the amount of the employer's contribution on a salary reduction basis. (2) allow a separate-line-of-business test for SEP's. Employers and employees may contribute to a SEP on a separate-line-of-business basis to the extent that employees under all other lines of business are also covered under a pension plan. (3) Clarifying and simplifying ERISA for pension plans using IRAs as a funding vehicle. The ERISA funding rules would be made inapplicable to SEP's and other IRA pension plans, and to eliminate the inconsistency of SEP rules under current law, ERISA would be conformed to vesting, participation, and distribution rules applicable to SEP's under the Internal Revenue Code.

Portability, national savings and capital formation would be enhanced because: (1) IRAs would serve as the portability vehicle for benefit transfers from qualified plans. Such benefit transfers could consist of both taxable and non-taxable benefits subject to appropriate reporting requirements. Separate accounting under an IRA of such amounts (including earnings thereon) would make such amounts eligible to be transferred back to a qualified plan. (2) Such IRA portability vehicles would be subject to the REA spousal protection rules as though they were defined contributions plans, not subject to the sec. 412 minimum funding rules (i.e., as if they were profit-sharing plans). By treating such a vehicle as a transferee plan under section 401(a)(11), the spouse or nonspouse beneficiary designation under a qualified plan would continue to be effective with respect to benefits so transferred. (3) Such IRA portability vehicles would have to make available at least the following core distribution forms (lump sum, joint and survivor and single life or quasi-annuity form, ten year installment period).

Transfer of nondeductible employee contributions to IRAs would permit all or a portion of an employee's benefit under a qualified plan (including the employee's investment in the contract) to be transferred directly upon the employee's separation from service (without current tax) from the plan to an IRA.

Qualified plans that allow for single sum distributions would have to provide employees who are eligible for a distribution under the plan with an option to transfer their benefits to an IRA in a direct trustee to trustee transfer. A plan would be allowed to provide this portability transfer option as the only option or as one of other distribution forms (including the Joint and Survivor form as under current law) and, if the plan provides, to permit employees to elect out of the portability transfer option and receive their benefits in cash. A plan must provide an explanation of the tax consequences of taking cash versus the tax-free portability transfer.

Portability of pensions in any amount would be encouraged by allowing plans, without obtaining employee or spousal consent, to transfer the pensions of terminating employees to portable pension plans. This is allowed, and the current $3,500 restriction would be eliminated, because the receiving IRA would be treated as a transferee plan that protects any spouse and provides a "core" set of distribution options.

Direct trustee-to-trustee transfers would always be allowable among IRAs, and as under current law, previous "rollovers" or transfers from qualified plans to IRAs, which are separately accounted for, may be transferred back to such qualified plans.

SECTION-BY-SECTION ANALYSIS

Section 8031. Short title.

Entitles this Act the Pension Portability Act of 1989.

Section 8032. Findings and declaration of policy.

Summarizes the findings of Congress that employees' pension monies are increasingly

being cashed out and used for consumption purposes and that it is desirable to create and encourage the portable pension accounts for the purpose of reversing this trend by preserving use of pension monies for retirement purposes.

Section 8033. Definition of simplified employee pension plan for purposes of title I of ERISA.

Defines a simplified employee pension plan as a pension plan consisting of one or more employee pension plans within the meaning of Section 408(k)(1) of the Internal Revenue Code of 1986.

Section 8034. Application of reporting and disclosure requirements to simplified employee pension plans.

Amends section 110 of ERISA to require the Secretary of Labor to issue regulations pertaining to simplified employee pension plans.

Section 8035. Application of participation and vesting requirements to simplified employee pension plans.

Amends section 202(a)(1)(B) of ERISA, redesignating clause (i) as clause (iii) and inserting a new clause (ii). This provides minimum participation requirements for simplified employee pension plans. No plan can condition participation by requiring that an employee have attained any age greater than 21 or have performed more than three years of service of the immediately preceding 5 years.

Section 203(a)(1) is also amended to state that a simplified employee pension plan meets minimum vesting standards, if an employer's rights in his accrued benefit derived from the employer's contributions are nonforfeitable.

Section 8036. Distribution requirements for simplified employee pension plans.

ERISA, part 2, subtitle B of title I is amended by redesignating 211 as 212, and by inserting a new section 211, entitled "Distributions of Accrued Benefit Under Simplified Employee Pension Plans".

Under section 211, each simplified employee pension plan or portable pension plan shall provide that:

(1) the distribution of the accrued benefit with respect to each participant will be only in a permitted retirement income form in accordance with this section,

(2) no distribution may be made without the consent of the participant (or the beneficiary in the case of the participant's death), and

(3) upon timely written application by the participant or beneficiary, in the case of the participant's death, the accrued benefit with respect to the participant will be distributed in accordance with such application.

Under section 211(b) distribution of the accrued benefit under a simplified employee pension plan is made in a permitted retirement income form if it is made:

(1) as a qualified joint and survivor annuity (within the meaning of section 205(d) or

(2) as any other joint life annuity (including a cash refund annuity) or

(3) as a single life annuity (including a refund annuity) or

(4) as any series of substantial equal periodic payments described in the Internal Revenue Code section 72(t)(2)(A)(iv).

Under section 211(c), in any case in which a plan participant elects a form of distribution under section 211(b), spousal consent is required, and the request needs to be made in writing.

Under section 211(d) the administrator of a simplified employee pension plan shall, immediately before making a distribution pursuant to this section, provide to the individual who is to be a recipient of the distribution, a written explanation of whether the distribution may or may not be subject to an Internal Revenue Code penalty and/or income tax, as well as the condition of the applicable permitted retirement income forms and participant and spousal rights.

ERISA section 3, paragraph 8 is also amended so that in the case of a simplified employee pension plan, the term beneficiary means the spouse of any other person designated by the participant according to the terms of the plan. Requirements are also added so that the spouse must consent in writing if another beneficiary is named.

Section 8037. Inapplicability of funding requirements to simplified employee pension plan.

Amends ERISA section 301(a) so that ERISA's funding rules do not apply to simplified employee pensions.

Section 8038. Effective date.

The amendments shall apply with respect to taxable years beginning after December 31, 1992.

Section 8039. Utilization of simplified employee pensions as portable pension plans.

Amends ERISA section 3 to define a portable pension plan as a pension plan consisting of one or more simplified employee pension plans, individual retirement accounts or individual retirement annuities. These plans must meet the requirements of section 408(k) of the Internal Revenue Code with respect to amounts contributed by employers on behalf of employees.

Section 8040. Safe harbor for portable pension plans under ERISA, Title I.

ERISA, part 4, subtitle (B) of title I is amended by redesignating section 414 as section 415 and inserting a new section 414. Section 414(a) clarifies that portable pension plans should be treated as pension plans under ERISA section 404(c).

Section 8041. Requirements relating to distribution from pension plans constituting transfers to portable pension plans.

ERISA section 203(e) is amended by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively and inserting a new paragraph (2) provides that direct transfer to a portable pension plan from any other pension plan of the entire nonforfeitable benefit of a participant under such other pension shall not be treated as a distribution in violation of paragraph (1), to the extent such transfer meets the requirements of section 208(b).

A new section 2(B) provides that for purposes of subparagraph (2)(A), a transfer of less than the entire nonforfeitable benefit shall be treated as a transfer of the entire nonforfeitable benefit if the excluded portion of the benefit consists solely of distributed employee contributions which are not includible in gross income for purposes of the Internal Revenue Code of 1986 by reason of the distribution.

A new section 3(A) is added stating that any distribution of the entire nonforfeitable benefit of a participant, beneficiary, or alternate payee as would be subject to additional tax under section 72(t) of the Internal Revenue Code of 1986, if such benefit were distributed other than in a direct transfer to a portable pension plan, shall be treated as a distribution in violation of paragraph (1) unless it is made as such a direct transfer to a portable pension plan, irrespective of any consent to a distribution made in any other manner.

Section 3(B) states that in any case in which a portable pension plan does not accept deposits of less than the dollar amount specified in section 408(k)(2)(C) of the Internal Revenue Code of 1986, the entire nonforfeitable benefit of each participant under any other pension plan is directly transferred to such portable pension plan.

Section 8042. Effective date.

In general the amendments apply with respect to taxable years under the Internal Revenue Code of 1986 beginning after December 31, 1992.

In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by the third section of this subchapter shall not apply to employees covered by any such agreement in plan years beginning before the earlier of January 1, 1993 or the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after the date of the enactment of this Act), or January 1, 1994.

SUBTITLE B—EDUCATION

Chapter 1—Higher Education

Stafford Student/Medical Residents.—Most student borrowers in the Stafford Student Loan program (formerly the Guaranteed Student Loan Program or GSL) must begin to repay their loans six months after they leave school. One exception to this rule is for medical residents. In addition to the six months grace period that all borrowers are given, medical residents receive an additional deferment for the first two years of residency. During this period the interest on the loans is paid by the Treasury.

Medical students often borrow large sums of money to finance their education. For those graduating from medical school in 1988, the average indebtedness was almost $40,000. High debt levels can create repayment burdens for medical graduates—especially while they are in residency and receive modest stipends. In response, medical schools have begun to classify their residents as students for purpose of a student loan deferment. This practice now costs the taxpayers $10 million a year.

The Labor Committee proposes to close this loophole by including S. 1258, "The Medical Residents' Student Loan Amendments of 1989", in its reconciliation package. Under this provision, residents will no longer be permitted to receive deferments as "students". Residents will continue to receive the two year internship deferment and the six month grace period. The reconciliation package takes steps to ensure that medical residents will have access to forbearance. This means that no loan payments will be made, but the interest will be added on to the outstanding principle. More importantly, the provision requires that medical and dental residents receive forbearance upon demand. It further provides that they receive forbearance without being charged a fee and that the receipt of forbearance not be reported to credit bureaus. Taken together, the provisions included in the Labor Committee legislation will save the Treasury $10 million and will ensure that medical

and dental residents with high debt levels will have access to forbearance.

The provision included here was designed with the assistance of the higher education associations. The Department of Education provided technical assistance in drafting this provision.

Emergency Power to Terminate Schools and Lenders in the Stafford Loan Program.—The Labor Committee's reconciliation proposals include a new section that would codify the Secretary of Education's authority to prevent fraud and abuse which threaten the integrity and viability of the student aid programs, by taking short-term emergency actions against participating institutions and lenders. These provisions explicitly authorize the Secretary to withhold funds from a postsecondary education institution or a lender, to withdraw the institution's authority to obligate federal student aid funds, and to stop the issuance of guarantee commitments on loans made by a lender for up to 60 days. The Secretary would have this authority in situations where he receives reliable information that an institution is violating program requirements and determines that immediate action is warranted to prevent misuse of federal funds and that the likelihood of the loss of federal funds outweighs the importance of following limitation, suspension, or termination procedures. This emergency action would terminate after 60 days unless limitation, suspension or termination procedures are initiated against the institution prior to the 30th day. In that event, the emergency action would last until the conclusion of those proceedings. This inherent authority to protect federal funds has been used by the Secretary many times over the years pursuant to regulations. However, a United States District Court recently ruled that the emergency action regulations are not authorized by the current statute. This amendment, by codifying this authority, will remove any doubt as to the Secretary's authority to take short-term emergency actions.

The Committee is particularly concerned, however, that affected institutions be provided due process in connection with these emergency actions. Therefore, the Committee has expressly provided that any institution subject to an emergency action shall have the opportunity, if the institution requests it, to show cause that the action is unwarranted as is the case under the current regulatory authority.

Supplemental Loans for Students.—The Committee is concerned about reports that borrowing under the SLS program by students in private career schools has increased sharply is the last two years. However, the Committee notes that there is little evidence to document the extent and nature of this problem. As a result, the Committee is reluctant to take precipitous action. We have have included a provision that will delay the disbursement of proceeds from a SLS loan for 30 days. The Committee intends to look more closely at borrowing patterns under the SLS program and will identify and, if necessary, recommend additional steps to address this issue.

DISCRETIONARY INFORMATION FEE PROHIBITED

The Committee firmly believes that in the vast majority of cases, information supplied by students in the Pell Grant Needs Analysis, Section 411, and the Congressional Methodology, Title IV part F, is sufficient to determine eligibility for federal student aid. In some cases, however, there may be extenuating or unique circumstances that would qualify an otherwise ineligible student. This is the reason for Section 479A, Discretion of Student Financial Aid Administrators, in the Higher Education Act 1965 as amended.

The Committee is of the mind that financial aid administrator discretion should be exercised on a case-by-case basis, and should not provide the possibility of a blanket exception to the provisions of either the Pell Grant Needs Analysis or the Congressional Methodology. It is very difficult for the Committee to understand why a school or a multiple data entry processor would have to collect general information for financial aid administrator discretion. It is equally concerned that any general exception to either Section 411 or Title IV Part F that might be made because the collection of such information would undermine current law.

Further, in no circumstances does the Committee believe that a student should be levied a fee for providing any information required to meet the provisions of financial aid administrator discretion as provided in Section 479A, Section 411F(12), and Section 480(d).

CHAPTER 2—BILINGUAL EDUCATION AWARDS

The Department of Education awarded bilingual education grants to the Franklin-Northwest Supervisory Union of Vermont in fiscal years 1984, 1985 and 1986. Although these grants were reviewed, approved and renewed by the Department, it has since sought repayment of the grants. The Department claims that, although the funds were spent on the instruction of children, they were not spent in accordance with the Bilingual Education Act. At no time has the Department suggested that there has been bad faith on the part of the supervisory union.

Franklin-Northwest Supervisory Union is located in a poor, rural area of the State of Vermont. The Committee believes that since there is no issue of bad faith and since the supervisory union is incapable of repaying the funds in dispute in any event, the interests of the Department and the children of the supervisory union will be best served by deeming the grants to have been spent in accordance with the provisions of the Bilingual Education Act.

SUBTITLE C—LOW INCOME TREATMENT ASSISTANCE PROGRAM

Low Income AIDS/HIV Treatment Assistance Program

Introduction—The "Low Income AIDS/HIV Treatment Assistance Program of 1989" provides a three year authorization for federal grants to the states to assist low income individuals with AIDS or HIV disease receive treatments which prolong life and prevent serious deterioration of health. The legislation is intended to stabilize the current federal program for AIDS/HIV treatment assistance (previously authorized for 12 months and 6 months) and requires States to match federal contributions to the program.

Background and Need—As of mid-1989, over 100,000 Americans have been diagnosed with AIDS and between 1 million and 1.5 million are estimated to be infected with HIV, the AIDS virus.

As a result of the nation's strong commitment to biomedical research in AIDS, there have been significant recent advances in the treatment of HIV infection itself as well as therapies to treat and prevent AIDS-associated infections and neoplasmas. Such advances, paired with progress in the medical diagnosis and clinical management of HIV disease, mean that AIDS is increasingly being viewed as a chronic, treatable illness.

The Committee believes that the availability of effective treatments for HIV and related illnesses is an essential component of the nation's urgent public health campaign to bring the AIDS epidemic under control. The most compelling incentive that society can provide for individuals to step forward for HIV testing and counseling in the availability of proven medical interventions which can extend life and reduce suffering.

In the committee's view, the overriding reason for providing federal assistance AIDS/HIV treatment is the transmissible nature of the illness. By providing incentives for infected individuals to seek medical treatment as early as possible, care providers and public health officials gain the opportunity to deliver education and counseling that has been demonstrated to dramatically reduce rates of transmission.

From a public health perspective, AIDS represent a unique threat to our citizens and to future generations. This illness was effectively nonexistent in our nation a decade ago and today directly jeopardizes over a million Americans. The committee believes that rationing access to treatment for AIDS and HIV disease based on the individual's inability to pay would ultimately result in more American unknowingly becoming infected with HIV, thus increasing the total cost of the epidemic.

The committee has also concluded that continuing access to AIDS/HIV treatments for low income persons will permit many HIV infected individuals to continue working and earning, thus eliminating their need to turn to public assistance programs for life saving assistance. In addition, access to early treatment can help reduce utilization of hospitals. Currently, the added demand for services created by the HIV epidemic is taxing many inner city health systems to the point of breakdown.

This program will provide life sustaining therapeutics to individuals who face both poverty and otherwise certain death. It is a compassionate and cost-effective measure designed to assist those persons in severe economic distress who are also combatting HIV.

Explanation of Legislation.—The program is to be administered by the Health Resources and Services Administration (HRSA) and provides grants to the States based on the relative number of diagnosed AIDS cases in a State compared to all U.S. cases (as reported by the Centers for Disease Control.) No funds will be distributed to a State until it has expended any funds provided to it by HRSA under previous federal grants to fund treatments for AIDS and HIV disease.

The legislation requires that States which elect to participate in the program contribute one dollar of state funds for every federal dollar contributed to the program. (In States which elect not to participate, localities may apply to participate in the program.) The program is established for a period of three years; not less than $30,000,000 shall be provided in fiscal year 1990 and such sums as may be necessary in fiscal years 1991 and 1992.

It is the committee's intention that the States make every effort to ensure that persons served under the program are low income individuals who otherwise would have no means of obtaining life prolonging treatment. Each State must take reasonable steps to determine that individuals seeking

treatment under the program are not eligible for reimbursement of treatment expenses by any other third party payor or benefits program.

In acting to provide continuity of funding for AIDS and HIV treatment assistance, the committee intends that the Secretary, acting thru HRSA, shall take steps to obtain complete information on future utilization of the program. In particular, the Committee expects to receive detailed information on the number of individuals served by the program, procedures for targeting assistance to low income persons, and economic and health characteristics of the individuals enrolled. HRSA shall also conduct an evaluation of the program's effectiveness in meeting the overall need for AIDS/HIV treatments in each participating State or locality. This evaluation should include measures of cost effectiveness and patient outcomes.

The Committee intends that the National Commission on AIDS shall review the information and evaluations prepared by HRSA and develop recommendations for an integrated and comprehensive program for delivery of essential treatment to people with AIDS and HIV disease.

SUBTITLE D: MCKINNEY TECHNICAL AMENDMENT

The technical amendment made to Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 USC 11449) will allow grant recipients to maintain and expend their funds in the fiscal year in which they are awarded and the two succeeding fiscal years. Under the current law, funds must be expended in the year awarded and the one succeeding fiscal year. This charge has bipartisan support on the Labor Committee and is supported by the Department of Labor and the Office of Management and Budget. This provision has no cost according to the Congressional Budget Office.

SUBTITLE E—HEALTH SERVICES RESEARCH

Summary of the Subtitle. As reported by the Committee, this Subtitle authorizes a new title IX of the Public Health Service (PHS) Act to establish a new Agency for Health Services Research to replace the National Center for Health Services Research (NCHSR) and the council on Health Care Technology currently authorized under sections 305 and 307 of the Act respectively. The purposes of the new Agency will be to enhance the quality, appropriateness, and effectiveness of health care services. The Agency will also enhance access to such services through the promotion of improvements in clinical practice and in the organization, financing, and delivering of health care services.

The Agency will be headed by an Administrator, who will conduct and support research, training, demonstration projects, evaluations, and the dissemination of information on health care services and the delivery of such services.

The Administrator will promote the development and application of appropriate health care technology assessments. The subtitle provides for the establishment of a clearinghouse for information on health care technologies and their assessment at the National Library of Medicine.

The Subtitle directs the Administrator to conduct and support research on the outcomes of health care services and procedures in order to identify the manner in which diseases and disorders can most effectively and appropriately be prevented, diagnosed, and treated.

The Subtitle authorizes the establishment of an Office for Quality and Effectiveness in Health Care. The Office will develop, monitor, and update practice guidelines that may be used to determine the most effective and appropriate prevention, diagnosis, and treatment of diseases and disorders; and standards of quality, performance measures, and medical review criteria for assessing or reviewing the provision of health care and assuring the quality of care.

The Subtitle authorizes the establishment of an Advisory Council for Health Services Research, Evaluation, and Policy to advise on activities to carry out the purpose of the Agency, and make recommendations on priorities for a national agenda and strategy for research, demonstrations, and evaluations with respect to health care; the development and applications of health care technology assessments.

The Subtitle authorizes appropriations of $75 million for FY 1990, $100 million for FY 1991, and $150 million for 1992 for the Agency for Health Services Research.

The Subtitle repeals existing authorities under section 305 and 309 of the PHS Act authorizing the NCHSR and the Council on Health Care Technology, respectively.

Section-by-section analysis—Section 8401 of the bill provides that the act may be cited as the "Health Services Research and Policy Act of 1989."

Section 8402 amends the PHS Act by Authorizing a new Title IX—AGENCY FOR HEALTH SERVICES RESEARCH and establishes the following subsections under this new title:

Section 901 of the PHS Act as established by this section defines the following terms as used in this new title; Administrator, Agency, Assistant Secretary, and Council.

Section 902(a) provides for the establishment within the PHS of an Agency for Health Services Research. Section 902(a) provides that the purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services through the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services. Section 902(c) provides for the appointment by the Secretary, with the advice and consent of the Senate, of an Administrator to head the Agency and carry out the authorities and duties of this title.

Section 903 provides for general authorities and duties of the Administrator. Section 903(a) directs the Administrator to conduct and support, research, training, demonstration projects, evaluations, and the dissemination of information on health care services and the delivery of such services. Subsection (b) requires the Administrator, in carrying out subsection (a), to undertake and support research, demonstration projects, and evaluations on rural health care services; and on low-income groups, minority groups, and the elderly. Section 903(c) authorizes the Administrator to provide financial assistance to public or nonprofit entities to meet the costs of planning and establishing new centers, and operating new and existing centers, for multidisciplinary health services research, demonstration projects, evaluations training, policy analysis, and demonstration on the matters in subsection (b). Section 903(d) provides for coordination of required activities under the Act with any activities authorized by the Social Security Act.

Section 904 provides for the dissemination of the information and data obtained under research and other activities under this title. Subsection (a) requires the Administrator to:

promptly disseminate the results of research, demonstration projects, or evaluations conducted or supported under this title;

promptly make data developed in such research, demonstrations, and evaluations available to the public;

provide indexing, abstracting, translating, publishing, and other services that lead to a more effective and timely dissemination of information on health care to public and private entities and individuals engaged in improvement of health care delivery and the general public, and undertake programs to develop new or improved methods for making such information available;

assist State and local governments through a user liaison progam.

Section 904(b) prohibits the Administrator from restricting the publication or dissemination of data, except as limited in subsection (c). Subsection (c) limits the use of the results obtained under this title to the purpose for which it was provided, unless consent was supplied. Such information may not be released in other form unless the consent of the individual supplying the information is obtained. Section 904(d) requires the Administrator to enter into an agreement with the National Library of Medicine to implement subsection (a)(3).

Section 905(a) requires the Administrator to promote the development and application of appropriate health care technology assessments under this title:

by identifying the needs in, and establishing priorities for, the assessment of specific health care technologies;

by developing and evaluating criteria and methodologies for health care technology assessment;

by conducting and supporting research on the development and diffusion of health care technology;

by conducting and supporting research on assessment methodologies; and

by promoting education, training under section 487 of the PHS Act, and technical assistance in the use of health care technology methodologies and results.

Section 905(b) requires the establishment of a clearinghouse for information on health care technologies and their assessment at the National Library of Medicine. Section 905(c) requires the Administrator to consult and coordinate activities with agencies in the PHS and other interested Federal agencies in carrying out the provisions of this section.

Section 906, as established by this Subtitle, authorizes health services outcome research. Subsection (a) requires the Administrator to conduct and support research on the outcomes of health care services and procedures in order to identify the manner in which diseases and disorders can most effectively and appropriately be prevented, diagnosed, and treated. Such research shall include studies of the effect of health care on morbidity, mortality, complications, symptoms, changes in physical and emotional health, the quality of life of the patient, and patient and family satisfaction.

Section 906(b) requires the Administrator, in conducting the research specified in subsection (a), to conduct or support evaluations of the comparative effects, on health and functional capacity, of alternative services and procedures utilized in preventing, diagnosing, and treating diseases and disorders.

Section 906(c) requires the Administrator to establish priorities with respect to the diseases and disorders for which evaluations

are to be conducted under subsection (a). Section 906(c) also specifies the criteria for establishing such priorities. Finally, it provides that the Administrator may, with respect to services utilized in preventing, diagnosing and treating diseases and disorders, conduct or support assessments of the extent to which:

rates of utilization vary among similar populations for particular diseases and disorders;

uncertainties exist concerning the effect of utilizing a particular service or procedure; and

inappropriate services and procedures are provided.

Section 906(d) requires that to facilitate the research required under section 906(a), the Administrator conduct and support (1) research with respect to improvement of the methodologies and criteria utilized in conducting research on such outcomes; and (2) evaluations of methodologies that utilize large data bases in conducting research with respect to outcomes of health care services and procedures.

Section 906(e) requires that, to promote the research described in section 906(a), the Administrator, consistent with section 904(g), develop and promote the use of uniform standards and formats in the collection and maintenance of information on the outcomes of health care services and procedures, including the extent of health and functional capacity resulting from such services and procedures.

Section 906(f) requires that the Administrator provide for the dissemination of research findings described in section 906(a), and the education of providers in the interpretation and use of the research.

Section 906(g) requires that the Administrator to conduct and support evaluations of the activities carried out under section 906 to determine the extent to which these activities have had an effect on the practices of physicians in providing medical treatment, the delivery of care, and the outcomes of health care services and procedures.

Section 906(h) requires that the Administrator may conduct or support research with respect to improving methods of disseminating information on the effectiveness and appropriateness of health care services and procedures.

Section 907 of the Act specifies the requirements for peer review with respect to grants and contracts. Section 907(a) provides that appropriate technical and scientific peer review be conducted with respect to each application for a grant, cooperative agreement, or contract under this title. In addition, it requires that each peer group that receives an application report its finding and recommendations respecting the application to the Administrator in such form and manner as the Administrator requires.

Section 907(b) prohibits the Assistant Secretary and the Administrator from approving an application for a grant, cooperative agreement or contract unless the application is recommended for approval by a peer review group established under this section. In the case of an application for financial assistance for which direct costs will not extend $50,000, the Assistant Secretary or the Administrator may make appropriate adjustments in the procedures otherwise established by the Assistant Secretary or the Administrator for the conduct for peer review under this section.

Section 907(c) requires that the Administrator and the Assistant Secretary to establish such technical and scientific peer review groups as may be necessary to carry out this section. It provides that such groups be established without regard to specific provisions of title V of the United States Code (concerning Federal Government organizations and employees). It requires that members of any peer review group established under this section be appointed among individuals who are not officers or employees of the United States and who by virtue of their training or expertise are eminently qualified to carry out the duties of such peer review group. The section also provides that the peer review group continue to exist unless otherwise provided by law. Section 907(d) provides that, with respect to technical and peer review under this section, such review of applications for research, demonstration projects, or evaluations by conducted by different peer review groups than the ones that conduct such application reviews for dissemination activities or the development of research agendas (including conferences, workshops, and meetings). Section 907(e) provides that the Secretary may issue regulations for the conduct of peer review under this section.

Section 908 of the Act describes provisions with respect to development, collection, and dissemination of data described in section 902(b), the Administrator shall, to assure the utility of such data, establish guidelines for uniform methods of developing and collecting such data. Such guidelines shall include specifications for the development and collection of data concerning the outcomes of health care services and procedures.

Section 909 of the Act provides additional provisions with respect to grants and contracts. Section 909(a) prohibits the administrator and the Assistant Secretary from providing any financial assistance grants, cooperative agreements, assurances, and information. Section 909(b) authorizes the Administrator or the Assistant Secretary, on the request of an applicant for assistance under this title, to provide supplies, equipment, and services in lieu of funds with a corresponding reduction in the amount of financial assistance provided. Section 909(c) provides that contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 USC 529; 41 USC 5).

Section 910 of the Act describes administrative authorities for the Agency. Subsection (a) provides for the appointment of a deputy administrator and other officers and employees. Subsection (b) provides for the acquisition of building facilities for the Agency and the acquisition, construction, improvement, repair, operation, and maintenance of laboratory, research, and other necessary facilities and equipment. Subsection (c) authorizes the Assistant Secretary and the Administrator, in carrying out this title, to make grants to, and enter into cooperative agrements with, public and nonprofit private entities and individuals, and when appropriate, enter into contracts with public and private entities and individuals. Subsection (d) authorizes the utilization of personnel and other resources of the Department of Health and Human services (HHS) in carrying out this title. Subsection (e) authorizes the use of consultants. Subsection (f) authorizes the Assistant Secretary and the Administrator to obtain the use of not more than 50 experts or consultants with appropriate scientific or professional qualifications and to provide for their travel expenses. Subsection (g) authorizes the Assistant Secretary and the Administrator, in carrying out this title, to accept voluntary and uncompensated services.

Section 8421 of the bill authorizes a part B to title IX—Practice Guidelines. Section 911 of the Act as amended describes the purpose of part B is to authorize the Assistant Secretary of the Department of HHS to establish an Office to develop, monitor, and update practice guidelines.

Section 912 of the Act as amended provides for the establishment of an Office for Quality and Effectiveness in Health Care. Section 912(a) requires the Assistant Secretary to establish such an Office for the purpose of promoting the quality, appropriateness, and effectiveness of health care. Under the process established in section 913 of this title, the Office is required to provide for the development, monitoring, and updating of:

relevant guidelines that may be used to determine the most effective and appropriate prevention, diagnosis, and treatment of diseases and disorders; and

the standards of quality, performance measures, and medical review criteria for assessing or reviewing the provision of health care and assuring the quality of care.

Section 912(b) requires that the guidelines, standards, performance measures, and review criteria be based on the best available research and professional judgment, and be in formats appropriate for use by health care providers. Subsection (c) authorizes the Assistant Secretary to enter into contracts with public or nonprofit private entities to carry out subsection (a).

Section 913 provides for panels of experts and consumers. Subsection (a) requires the Assistant Secretary to convene panels of qualified experts, practicing physicians, health care providers, and health care consumers for developing, monitoring and updating performance measures authorized under section 912. Subsection (b) allows for the authorization of additional panels to develop the criteria for subsection 914(b) and provide advice to the Assistant Secretary on the activities carried out by this title. Subsection (c) requires the Assistant Secretary to publish the date on which a panel will be convened in the Federal Register not later than 14 days before the meeting takes place. There must be a 90-day period for the public to submit comments on the action of the panel, and after the comment period the panel must reconvene to issue final guidelines, standards, or review criteria. Section 913(d) requires the Assistant Secretary to consult with the heads of offices and agencies of the PHS and other Federal departments or agencies.

Section 914(a) requires the Assistant Secretary to provide an agenda for developing the guidelines, standards, performance measures, and review criteria, including:

identifying specific diseases and disorder for which guidelines are to be developed;

identifying specific procedures for which guidelines are to be developed; and

identifying specific aspects of health care for which standards are to be developed, including those that are to be given priority.

Section 914(b) requires the Assistant Secretary to establish standards and criteria to be used by the expert panels in the development and periodic review of the guidelines, standards, performance measures, and review criteria. These standards will be established to ensure that contracts are entered into with appropriately qualified entities in accordance with the requirements of this title. The Assistant Secretary shall con-

duct and support ongoing research with respect to monitoring and improving the standards and criteria developed under this subsection.

Section 914(c) requires the Assistant Secretary to promote and support the dissemination of the guidelines, standards, performance measures, and review criteria established in section 912(a). Dissemination will be carried out through organizations representing health care providers and health care consumers, peer review organizations, and other entities. It will also include the development of training programs focused on the interpretation and use of information by various health care providers.

Section 914(d) requires the Assistant Secretary to conduct and support evaluations of the effect of the program's guidelines, standards, and review criteria on the clinical practice of medicine.

Section 914(e) requires the Assistant Secretary to make recommendations to the Administrator on activities that should be carried out under section 903(a)(2), including recommendations of particular research projects in the area of evaluating outcomes of health care services and procedures, developing standards and criteria, and promoting utilization of the guidelines, standards, performance standards, and review criteria in section 912 of this title.

Section 8431 of the Bill amends title IX of the PHS Act to add a new Part C—General Provisions. This part C establishes several new sections of title IX of the PHS Act.

Section 921(a) of the Act as amended authorizes the establishment of an Advisory Council for Health Services Research, Evaluation, and Policy. Subsection (b) of this section describes the duties of the Council, which, in general will be to advise the Secretary, the Assistant Secretary, and the Administrator on activities to carry out the purpose of the Agency under section 902(b). In doing this the Council is directed to make recommendations to the Assistant Secretary and the Administrator on priorities for:

a national agenda and strategy for research, demonstration projects , and evaluations with respect to health care;

the development, monitoring, and updating of guidelines for clinical practices, standards of quality, and performance measures with respect to health; and

The development and application of appropriate health care technology assessments.

Section 921(c) provides for the membership of the Advisory Council. The Council will have appointed and ex officio members, with appointed members having voting powers. The Assistant Secretary is directed to appoint 15 appropriately qualified public members who are representatives of professions and entities concerned with, or affected by, activities under this title. Of such members:

five shall be individuals distinguished in the conduct of research, demonstration projects, and evaluation with respect to health care;

three shall be individuals distinguished in providing health care;

three shall be individuals distinguished in the fields of health care financing, business, law, ethics, economics, and public policy;

two shall be individuals with experience in the manufacture of health care products; and

two shall be individuals representing the interests of consumers of health care.

Ex officio members of the Advisory Council will include the heads of the offices and agencies of the PHS, the Health Care Financing Administration (HCFA) Administrator, the Assistant Secretary of Defense for Health Affairs, the Chief Medical Officer of the Department of Veterans Affairs, and such other Federal officials as the Assistant Secretary considers appropriate providing health care;

Subsection (d) of section 921 provides for terms of service for Council members. Subsection (e) provides for the filling of vacancies. Subsection (f) provides for the designation of a chairperson. Subsection (g) provides for Council meetings to be held not less than once during every 4-month period, and otherwise at the call of the Administrator, the Assistant Secretary, or the chair. Subsection (h) provides for compensation and reimbursement of expenses for council members. Subsection (i) directs the Administrator to carry out its duties. Subsection (j) provides that, notwithstanding section 14(a) of the Federal Advisory Council Act, the Advisory Council shall continue in existence until otherwise provided by law.

Section 922(a) of the PHS Act as amended by the Bill authorizes appropriations of $75 million for FY 1990, $100 million for FY 1991, and $150 million for FY 1992 for the Agency for Health Services Research. Of the amounts appropriated, at least 7 percent of the amount appropriated under the preceding sentence for any fiscal year or $5,000,000 whichever is less, shall be made available each year for activities directly undertaken through the Agency, and not less than $1 million each year for the liaison program referred in section 904(a)(4). Section 922(b) provides that, in addition to amounts made available under subsection (a) to conduct and support evaluations under this title, the Secretary shall, from amounts made available under section 2313, make available an additional amount equal to 7.5 percent of the amount available under section 2313 to conduct and support such evaluations.

The remaining sections of the Subtitle include general provisions. Section 8441(a) repeals section 305 of the PHS authorizing the National Center for Health Services Research and Health Care Technology Assessment. Section 8441(b) repeals section 309 of the PHS authorizing the Council on Health Care Technology.

Section 8442 of the Subtitle contains technical and conforming amendments to remove references to NCHSR and related authorities in the PHS Act. Subsection (a) amends section 304 of the Act to remove references to NCHSR and its duties and, in some cases, to change references to NCHSR to the new Agency for Health Services Research. Subsection (b) amends section 306 of the Act to provide funding for NCHS. Section 8442(c) amends section 307 of the Act to remove references to section 304, 305, and 309, and add reference to the new title X of the Act.

Section 8442(d) amends section 308 of the Act to change the section heading from "General Provisions Respecting Sections 304, 305, 306, 207, and 309, to "General Provisions Respecting Sections Effectiveness, Efficiency, and Quality of Health Services." Section 308(a) is amended to remove reference to sections 305 and 309 and to change a reference from NCHSR to the new Agency. Section 308(b)(1) is amended to remove references to sections 305 and 309. Subsection (b)(2) providing for peer review of grants or contracts under NCHSR exceeding $50,000 is amended to remove references to NCHSR and to provide for such peer review of grants or contracts under NCHS only. Subsections (c) and (d) of section 308 are amended to remove references to section 305 and 309. In addition paragraph (2) of subsection (d) is removed. Subsections (e) and (f) are amended to remove references to sections 305 and 309. Subsection (g)(1)(A) of section 308 is amended to change a requirement for publishing of results of research, demonstrations, and evaluations under sections 304 and 305 to section 306. Subsection (g)(1)(C) is stricken. Subsection (g)(2) is amended to remove references to sections 305 and 309. Subsection (h)(1) of section 308 is amended to strike "section 304, 305, 306, and 309" the first time it appears and insert in its place, "section 306"; and to strike the phrase the second time it appears and insert "any of such sections." Subsection (i) of section 308, authorizing appropriations for NCHSR, is stricken.

Section 8443 of the Subtitle includes transitional and savings provisions. Subsection (a) provides for the transfer of personnel and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds connected with the functions vested in the Administrator for the Agency for Health Services under this Act for appropriate allocation. Unexpended funds transferred thus shall be used only for the purposes for which they were originally authorized and appropriated. Subsection (b) provides for the continuation in effect of all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents that have been issued, made, granted, or allowed to become effective in the performances of functions vested in the Administrator of the Agency under this Act.

Section 8444 provides that this Subtitle and the amendments made by it shall take effect on October 1, 1989, or on the date of enactment, whichever occurs first.

Committee Views—This subtitle repeals sections 305 and 309 of the PHS Act, and establishes a new title IX of the Act, which effectively replaces the National Center for Health Services Research and Health Care Technology Assessment with new agency, the Agency for Health Services Research. This agency maintains many of the functions of the former NCHSR, but also includes a broadening of the scope of the agency's research activities. The subtitle also requires the Assistant Secretary for Health to establish an office for the development of practice guidelines and sets up a national Advisory Council on Health Services Research, Evaluation, and Policy.

The Committee supports continued research, evaluation, and training into the organization, financing, utilization, and quality of health services. The Committee believes, however, that the overall impact of health services research on national health policy and medical practice has been limited by the lack of prominence and visibility given to those government entities that are engaged in such research. The establishment of a new Agency for Health Services Research will evaluate health services research to a position of stature equal to the other agency activities in the PHS.

The establishment of practice guidelines is an important component of the government's efforts to improve the quality of health care that we purchase as individuals and as a society. The committee believes that the manner in which these guidelines are established is of particular concern. The Committee believes that it is important that

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such guidelines be developed by outside individuals who are expert in their field, using the best available information and judgement, with the government facilitating the process. Also, it is placed within the Public Health Service, although in an office separate from health services research activities.

To guarantee that health services research will continue to provide critical information about our health care system, it is necessary to provide training opportunities in health services research at the pre- and post-doctoral levels. It is the Committee's intent that such training opportunities be provided throughout the authorization period through the individual and institutional National Research Service Award (NRSA) grants. The committee notes that dramatic changes have occurred in the organization, financing, and delivery of dental care as well as in population demographic, and dental disease rates. Because understanding these changes and their impact on health care is vital to maintaining high quality care while improving the cost-effectiveness and accessibility to our nation's oral health care delivery system, the Committee directs that at least one institutional NRSA award have a dental focus.

SUBTITLE F—MENTAL HEALTH PLANNING GRANTS

This provision extends section 1924 of the Public Health Act, which provides for grants to States to assist in development of the state comprehensive mental health service plans required under Section 1925. Section 1925 requires states to plan and implement a comprehensive system of community-based care for the chronically mentally ill or suffer a financial penalty in the form of loss of some block grant funds. Such a system of community-based care for the mentally ill is long overdue; the failure to develop such a system in most states and communities has contributed to homelessness, excessive rates of institutionalization, inhumane living conditions and hopelessness among the mentally ill, and heartbreak for their families.

While the requirement to establish such a system of care continues whether or not grants are made under section 1924, it is clear that the grant money dispensed so far has been extremely important in helping states to develop good plans. With the plans now entering the crucial implementation phase, it would be foolish to fail to provide modest extra resources to help states revise and implement their programs.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1989.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Labor and Human Resources, as ordered transmitted to the Senate Committee on the Budget, October 5, 1989.

The estimates included in the attached report represent the 1990–1994 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals. CBO understands that the Committee on the Budget will be responsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Provisions reducing spending in programs within the jurisdiction of the Senate Committee on Labor and Human Resources.

2. Bill status: As ordered transmitted to the Senate Committee on the Budget by the Senate Committee on Labor and Human Resources, October 5, 1989.

3. Bill purpose: The purpose of this bill is to reduce federal expenditures authorized by the Senate Committee on Labor and Human Resources in response to budgetary requirements established for that Committee by the concurrent Resolution on the Budget for fiscal year 1990. In addition, this bill authorizes funding for a new agency for Health Services Research and Policy, increases the authorization for the State Comprehensive Mental Health Services Plan, and requires the Department of Education to conduct a study on indebtedness.

4. Estimated changes to CBO baseline:

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1994
Direct spending:					
Stafford Student Loan Program:					
Estimated Budget Authority	−10	−15	−15	−15	−23
Estimated Outlays	−10	−15	−15	−15	−23
PBGC Premium Increase					
Estimated Budget Authority	−65	0	0	0	0
Estimated Outlays	−65	−65	−65	−67	−67
Forgiveness of Certain Repayments:					
Estimated Budget Authority					
Estimated Outlays	1				
Direct Spending Total:					
Estimated Budget Authority	−75	−15	−15	−15	−23
Estimated Outlays	−74	−80	−80	−82	−90
Revenues:					
Employee Pension Protection Act	−119	−300	−300	−200	−200
ERISA Filing Penalty	20	20	20	20	20
Title I ERISA Violations	25	28	32	36	41
OSHA Civil Penalty	65	165	200	250	300
MSHA Civil Penalty	30	30	30	30	30
Revenues Total	21	−57	−18	136	191
Net Deficit	−95	−23	−62	−218	−281
Authorizations:					
PBGC Funding:					
Estimated Authorization	65				
Estimated Outlays	65				
Study of Indebtedness:					
Estimated Authorization	[1]				
Estimated Outlays	[1]	[1]			
Agency for Health Services: Research and Policy Authorization Level	75	100	150		
Estimated Outlays	29	75	115	85	19
State Comprehensive Mental Health Services Plan Authorization Level	5	5			
Estimated Outlays	3	5	2		
Authorization Total:					
Authorization Level	145	105	150		
Estimated Outlays	97	80	117	85	19

[1] Less than $500,000.

The spending effects of this bill fall in Functions 500, 550, 600, and 800.

Basis of Direct Spending Estimates:

Stafford Student Loan Program. This bill would explicitly prohibit medical schools from classifying medical residents as students. As a result, any medical resident who had been classified as a student would no longer be eligible for in-school interest subsidies, although such resident still would be eligible for interest subsidies under a maximum two-year deferment provision. It is not known how many medical residents this would affect, but based on discussions with several people knowledgeable about the loans of medical residents, classifying residents as students has been a recent and growing phenomenon. CBO assumes that approximately 5,000 residents would be affected. Because the average residency is 3.6 years and the current deferment is for a maximum of two years, federal interest subsidy outlays would decline by an estimated $10 million in 1990 and $20 million in 1994.

This bill would provide that cash disbursements of loans to first-year first-time undergraduate students in the Supplemental Loans to Students program be made 30 days after the beginning of classes. This change is assumed to be effective October 1, 1989 and is estimated to have negligible impact on federal costs in 1990 and lower costs by $3 million in 1994.

This bill includes a provision to allow the Secretary of Education to take emergency actions to limit, suspend, or terminate any school from the Stafford Student Loan Program (SSLP) when information is obtained that such an organization is in violation of the SSLP law and regulations. We cannot estimate any reductions of program costs as a result of this new authority because we do not know when and how the Secretary of Education would use this authority.

PBGC Premium Increase. Section 8022 in chapter 3 of this bill would increase the Pension Benefit Guarantee Corporation (PBGC) premium by $2 in fiscal year 1990. The premium rate would be raised from $16 per participant in a plan plus any additional premiums paid by underfunded plans to $18 per participant plus any additional premiums paid by underfunded plans.

In addition, in fiscal year 1990 the $2 PBGC premium increase would be credited to the general fund of the Treasury. At the same time, an amount equal to the additional premiums collected by the Treasury would be authorized to be appropriated to the PBGC fund. After fiscal year 1990, the $2 premium increase would automatically go to the PBGC fund.

Forgiveness of Certain Repayments. The bill would forgive $788,138 of disallowed Bilingual Education Act expenses owed to the Department of Education by the Franklin-Northwest Supervisory Union in Vermont.

Basis of Revenue Estimates: Employee Pension Protection Act. Chapter 1 of Subtitle A places additional restrictions on employer terminations of pension plans when those terminations would result in a reversion of excess plan assets to the employer. These restrictions, effective January 1, 1990, are expected to reduce the value of assets reverting to employers. A reduction in asset reversions will reduce revenue because reversions are subject to a 15 percent excise tax and to corporate income taxes. The projection of revenue losses was estimated by the Joint Committee on Taxation. The Congressional Budget Office concurs in that estimate.

Chapter 2 of Subtitle A would allow employers to transfer excess pension assets from pension plans to accounts that pay for retiree health benefits. Because the 15 percent excise tax on such transfers remains in place, no employers are expected to make such transfers. Therefore, the Joint Committee on Taxation and the Congressional Budget Office estimate that this provision would have no revenue effect.

ERISA Filing Penalty. Section 8022 in chapter 3 of this bill would require any pension plan that either fails to file or files a

deficient annual report (5500 form) to pay an automatic $200 civil penalty. The Department of Labor estimates that 10% of the one million 5500 forms it receives are significantly late or deficient and would result in a penalty.

Title I ERISA Violations. This bill would impose a mandatory civil penalty for any violation of the Employee Retirement Income Security Act (ERISA) of 20% of the assets involved. Such violations include the failure to act solely in the interest of plan participants, conflicts of interest, failure to diversify investments, and failure to comply with plan documents. The Department of Labor has recovered over $100 million a year from ERISA violations in past years and expects recoveries to grow over the projection periods.

OSHA Civil Penalty. Section 8021 in chapter 3 of this bill increases the maximum allowable amounts and enacts mandatory minimum amounts for civil penalties levied by the Occupational Safety and Health Administration (OSHA). Specifically, the bill (1) increases the allowable maximums of all current law civil penalties by a factor of five, and (2) enacts mandatory minimums of $5,000 for "willful" violations, $1,000 for "repeated" violations, $500 for "serious" violations, and $100 for "not serious" violations. This estimate is based on data on OSHA penalties assessed and collected and information from the OSHA staff and others. Assuming an effective date of October 1, 1989, CBO estimates the resulting revenue gains from this provision to be $65 million in fiscal year 1990, $165 million in fiscal year 1991, and $300 million by 1994.

MSHA Civil Penalty. Section 8023 in chapter 3 of this bill increases the maximum allowable civil penalties levied by the Mining Safety and Health Administration ((MSHA) by a factor of three. This provision is assumed to take effect on October 1, 1989. CBO estimates revenues will increase by $30 million per year in fiscal years 1990 through 1994. This estimate is based on historical data on MSHA penalties collected. This estimate should be viewed as the maximum potential revenue gain. If penalties are tripled, some violations may be deterred, and therefore, penalties collected might be somewhat lower. Because no information on the likely response to higher penalties is available, we are unable to quantify that effect in this estimate.

Basis of Authorization Estimates: This estimate assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data. Authorization levels not specified in the bill were estimated by CBO.

PBGC Funding. This bill authorizes an amount equal to the $2 increase in the PBGC premium collected by the Treasury to go to the PBGC fund in fiscal year 1990.

Study of Indebtedness. The Department of Education is directed to conduct a study of the level of student loan indebtedness among graduate and professional students. The study is to be completed within a year and is estimated to have negligible budget costs.

Agency for Health Services Research and Policy. The bill would establish an Agency for Health Services Research and Policy. The main purpose of the agency would be to conduct and support research and to disseminate the resulting information on such issues as: the quality and effectiveness of health care services, outcomes of health care services, health care technologies, health care costs and productivity, and health care promotion. Authorization levels for all of the provisions are stated in the bill for fiscal years 1990–1992. Outlays are estimated using spendout rates computed by the CBO based on similar public health service program data.

State Comprehensive Mental Health Services Plan. This bill would authorize funds for development grants under the State Comprehensive Mental Health Service Plan. Authorization levels are stated for fiscal year 1990 and 1991.

Low Income AIDS/HIV Treatment Assistance Program. This bill would allocate $30 million in fiscal year 1990 and such sums as necessary in fiscal years 1991 and 1992 from the Public Health Emergency Fund to states for the treatment of low-income individuals suffering from Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV). This bill allows monies in the Public Health Emergency Fund to be used for the AIDS/HIV treatment program; the legislation does not authorize any additional appropriations to the Fund. Therefore, this provision would not affect overall federal costs.

5. Estimated cost to State and local government: Only the Low-Income AIDS/HIV Treatment Assistance program would affect the budgets of state and local governments. The Secretary of Health and Human Services would require states receiving AIDS/HIV grants to contribute $1 of non-federal funds for every $1 of federal funds in each fiscal year. Currently, there are no funds in the Public Health Emergency Fund although the Fund is authorized to be appropriated such sums as may be necessary each year to maintain a balance of $30 million.

6. Estimate comparison: None.

7. Previous CBO estimate: None

8. Estimate prepared by: Deborah Kalcevic, (226-2820 Cathy Ellman, (226-2820) Larry Ozanne, (226-2684) Karen Graham, and Caroline Ratcliffe.

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, July 24, 1989.

Hon. JIM SASSER,
Chairman,
Hon. PETE V. DOMENICI,
Ranking Minority Member,
Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR JIM AND PETE: Pursuant to section 5(b)(8) of the Concurrent Resolution on the Budget for Fiscal Year 1990 (H. Con. Res. 106), and the unanimous action of the Committee at a July 13 1989, meeting, the Committee on Veterans' Affairs is submitting to the Budget Committee the enclosed legislative and report language recommending budget savings. The reconciliation instructions contained in section 5(b)(8) of the budget resolution require this Committee to report changes in laws within this Committee's jurisdiction sufficient to reduce both budget authority and outlays for veterans' programs by $496 million in budget authority and $666 million in outlays in fiscal year 1990.

In order to satisfy these requirements, our Committee unanimously voted to recommend the enclosed legislation, which would (a) extend for one year, through fiscal year 1990, the current one-percent fee payable for Department of Veterans' Affairs (VA)-guaranteed and VA vendee loans and 0.5-percent fee on assumptions of VA-guaranteed loans, and (b) postpone for one year, through fiscal year 1990, the effective date of restrictions in current law that otherwise will preclude VA from selling vendee loans without recourse.

We believe that these recommendations provide the most reasonable means for the Committee to satisfy our reconciliation instructions consistent with our commitment to reducing the national deficit while continuing to ensure fair and equitable treatment to our Nation's veterans.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman.
FRANK H. MURKOWSKI,
Ranking Minority Member.

Enclosures.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 1989.

Hon. ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the provisions reducing spending in programs within the jurisdiction of the Senate Committee on Veterans' Affairs, as ordered transmitted to the Senate Committee on the Budget by the Senate Committee on Veterans Affairs, July 13, 1989.

The estimates included in the attached report represent the 1990–1994 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals. CBO understands that the staff of the Committee on the Budget will be responsible for interpreting how the savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill title: Provisions reducing spending in programs within the jurisdiction of the Senate Committee on Veterans' Affairs.

2. Bill status: As ordered reported by the Senate Committee on Veterans' Affairs, July 13, 1989.

3. Bill purpose: To reduce expenditures authorized by the Senate Committee on Veterans' Affairs in response to budgetary requirements established for that committee by the Concurrent Resolution on the Budget for fiscal year 1990.

4. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1984
Budget Authority	−665	−92	−57	−45	−36
Outlays	−665	−92	−57	−45	−36

The impact of this bill would fall in budget function 700.

Basis of Estimates: Section 9001(a). This subsection would extend through September 30, 1990, the authority of the Department of Veterans Affairs (VA) to charge a

fee of one percent of the mortgage principal on home loans to veterans that are guaranteed by the VA.

[By fiscal years, in millions of dollars]

	1990	1991	1992	1993	1984
Budget Authority	−169	−10	0	0	0
Outlays	169	10	0	0	0

This estimate was prepared from a model that interrelates the various obligation and collection activities of the veterans' home loan guaranty program. The model is based on historical relationships and projects these relationships using past trends and expectations of future economic activity.

The estimate assumes that fees would be paid on 227,100 guaranteed loans in 1990, with an average principal value of $78,400. Additional fees would be paid on direct loans made to purchasers of VA-owned real property that was acquired by the agency from foreclosures of guaranteed loans. Agency-financed sales of such property are estimated at $809 million in 1990.

Section 9001(b). This subsection would extend through September 30, 1990, the authority of the VA to sell loans without recourse to the government in the event of default.

[by fiscal years in millions of dollars]

	1990	1991	1992	1993	1994
Budget Authority	−496	−82	−57	−45	−36
Outlays	−496	−82	−57	−45	−36

The savings from this subsection result from the fact that proceeds from the sale of loans without recourse presently are credited to the revolving fund as offsetting collections, while proceeds of recourse loan sales come into the revolving fund as an increase in the unobligated balance of the fund. Offsetting collections directly offset outlays and reduce the need for appropriations to finance fund deficiencies. An increase in the unobligated balance, on the other hand, will also reduce the fund's appropriation requirements, but it will have no effect on outlays. Further, budget authority in the form of borrowing authority is generated by recourse sales, because they are considered to be the equivalent of borrowing. Because of these accounting differences, the budget authority and outlays of the revolving fund would be reduced by the continuation of non-recourse loan sales, even though the net long-term return from non-recourse sales is less than the comparable return from recourse sales.

This estimate assumes that the VA would employ the same senior/subordinate sales structure in 1990 that has been used for the non-recourse sales in 1988 and 1989. The estimate further assumes that the return on the 1990 sales would be similar to the return experienced with the 1988 and 1989 sales. The outyear savings represent the income from the subordinate certificates that are retained by the VA as a portion of the proceeds from the senior/subordinate sales structure.

5. Estimated cost to State and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be significantly affected by the enactment of this bill.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: K.W. Shepherd.

9. Estimate approved by: C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

TITLE IX. VETERANS PROGRAMS

SEC. 9001. HOME LOAN GUARANTY PROGRAM.

(a) ONE-YEAR EXTENSION OF LOAN FEE.—Section 1829(c) of title 38, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) ONE-YEAR POSTPONEMENT OF RESTRICTIONS ON WITHOUT-RECOURSE VENDEE LOAN SALES.—Section 1833(a)(3) of title 38, United States Code, is amended by striking out "October 1, 1989" each place it appears and inserting in lieu thereof "October 1, 1990".

TITLE IX—BUDGET RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON VETERANS' AFFAIRS

Introduction

Section 5(b)(8) of the Concurrent Resolution on the Budget for Fiscal Year 1990 (H. Con. Res. 106) requires the Senate Committee on Veterans' Affairs to submit to the Senate Committee on the Budget recommendations for changes in laws within the jurisdiction of the Committee on Veterans' Affairs that in FY 1990 would reduce budget authority by $496 million and outlays by $666 million.

On July 13, 1989, the Committee met in open session and unanimously agreed to recommend legislative provisions that would (a) extend for one year, through FY 1990, the current one-percent fee for VA-guaranteed and vendee home loans and the current 0.5-percent fee on assumptions of VA-guaranteed loans and (b) postpone for one year, through FY 1990, the effective date of restrictions in current law that will otherwise preclude VA from selling vendee loans without recourse.

Discussion

Loan Fees

The fee for home loans guaranteed or made by VA was originally enacted as a 0.5-percent fee in section 406 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) for the 3-year period ending September 30, 1985. Public Law 98-369 increased the fee to one percent, made the fee applicable to vendee loans, and extended the fee to September 30, 1987; Public Law 100-136 extended the fee through November 15, 1987; and Public Law 100-198 established a 0.5-percent fee on assumptions of VA-guaranteed loans and extended the fees through September 30, 1989.

The Committee historically has opposed unreasonably high fees on VA-guaranteed home loans. Unfortunately, falling real estate and financial markets have created significant financial problems for the loan program over the past few years. Extending current loan fees, while allowing veterans to finance the fees with the loan principal, has proven a modest and reasonable way to help keep the program solvent and continue this important benefit program for veterans.

Extending current loan fees through September 30, 1990, would save $169 million in both budget authority and outlays in FY 1990.

Vendee Loan Sales

The reconciliation legislation also would postpone for one year, through FY 1990, the effective date of the restriction in current law that otherwise will preclude VA from selling vendee loans without recourse beginning October 1, 1989.

Public Law 100-203, which codified the December 1987 Economic Summit agreement, previously postponed these without-recourse restrictions through September 30, 1989.

A vendee loan represents credit extended by VA to finance the sale of a home VA acquired as the result of a foreclosure on a VA-guaranteed loan. A sale of vendee loans "with recourse" means that VA agrees to take back the loan if the loan goes into default. A sale "without recourse" is a sale without this commitment.

Under a scorekeeping convention adopted by the Office of Management and Budget (OMB) in 1987, and later by the Congressional Budget Office (CBO), the proceeds of vendee loan sales with recourse are not counted as receipts for budget scorekeeping purposes but the proceeds of without-recourse sales are counted as receipts. This scorekeeping result occurs even though, as noted in the July 17, 1989, CBO cost estimate for this provision, "the net long-term return from non-recourse sales is less than the comparable return from recourse sales."

Effective October 1, 1989, section 1833(a)(3)(C)(ii) of title 38 will prohibit VA from selling vendee loans without recourse unless the amount it receives is at least equal to the unpaid balance of the loan. That restriction effectively will preclude any without-recourse sales. If Congress postpones the effective date of this restriction through FY 1990, CBO assumes that VA—in accordance with OMB directions—will continue in FY 1990 to make all its vendee-loan sales without recourse. The projected proceeds of those sales constitute the expected savings of $496 million in both budget authority and outlays.

Cost Estimate

The Congressional Budget Office has prepared the following cost estimate for the Committee-recommended provisions.

Mr. SASSER. Mr. President, I thank the Chair.

I am prepared to yield now to the distinguished Senator from Colorado.

Mr. ARMSTRONG addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. ARMSTRONG] is recognized and he yields himself time on the bill.

Mr. ARMSTRONG. Mr. President, I have heard someplace that one grows wise by making mistakes and profiting from them. But I judge that the Senate has not profited much from past mistakes because we are about to make our 10th annual mistake on the reconciliation bill.

Each year this process has gone a little further over the rails. I think it was the English author, Samuel Johnson, who said something to the effect that people who have great expectations are often disappointed, and that in fact the result is either a moral sentence or peevish expectation.

I do not have any anticipation that the result of considering this bill is going to be any moral sentence, but we are already hearing plenty of peevish expectations, and we scarcely started, and justifiably so. This bill, this 1,300 page bill, this bill which weighs 12 pounds 15 ounces, this bill which is a

perversion of the legislative process which is, as one newspaper described it, "garbage," this bill, which the chairman of the committee has correctly and apparently described as "larded with provisions" that are by any reasonable standard unrelated to the reconciliation process, this bill which trashes the legislative process, corrupts the budget process, comes before us at the very last minute.

Here we are confronted with a 1,300 page bill. As far as I know, the first copy seen by the eyes of man was at about 11 o'clock this morning—at least that is when I first saw a copy of it. It comes before us and Senators are supposed to pretend they can legislate responsibly on this kind of legislation. In my view, Mr. President, that is impossible. I remind my colleagues of section 89 of the catastrophic health care bill, and how in the middle of the night we doubled Social Security, and many other similar legislative faux pas.

We are about to do the same thing again. I know quite a bit about what is in this bill. I do not know everything. I do not think there is a single Senator who has more than a general idea of what is contained in this legislation.

That is one reason—not the only one—we ought to go cautiously, we ought to trim this bill back, not to 300 or 400 or 500 pages, but to actually what is needed to meet reconciliation—not the letter of reconciliation, Mr. President, but the spirit of reconciliation, a tightly drawn package of legislative proposals designed to curtail spending, or if it be the will of the body, to raise taxes.

That is not my preference, but that certainly would be within the spirit and letter of reconciliation, in order to bring the Senate, the Congress, within the guidelines of the Gramm-Rudman target. I am not one of those who has a great horror of the sequester. I am inclined to think that probably sequestering is better than where we are going, unless we can markedly improve this bill.

Mr. President, I want to, at the outset, express my profound dismay and concern at the way this bill has been handled and about what is in the bill, about the parliamentary situation we find ourselves in, and really, about what it portends, not only for the 1990 budget, but what it says about the Senate, about where we are and where we are going.

Mr. President, I have already made the point that I think it is impossible as a practical matter for any Senator, let alone anybody else, to really know what is in this legislation in any detail—certainly not in sufficient detail to legislate thoughtfully and wisely. More than that, we have a parliamentary situation which is, at best, somewhat murky. I am going to talk about that in detail a little later.

I want to put it in this context: When you have the bill the contents of which are difficult, almost impossible for Senators to fully comprehend, being debated under very short time limits, with limitations on amendments and with points of order which have yet to be heard, and about which the outcome is not readily predicted, you get a situation in which nobody actually knows what is going on, in which the general public cannot tell what is going on, in which, as a practical matter, nobody is responsible, because it is not clear what the effect of any particular provision will be.

We have been there before, and I mentioned earlier some of the unwise and ultimately unpopular legislation that resulted. I hope, even at this later hour, even after a week or more of frustration, that our leaders are going to be able to hammer out some kind of an agreement under which we may drastically reduce the size and breathtaking scope of this piece of legislation.

The bill we have before us, I guess, at least is not as bad as the House bill which contained almost 2,000 pages of text, but we do have a 13-pound bill, over a thousand pages; and I guess I said earlier it was the 10th time. I believe it is only the ninth time we have considered the reconciliation bill. The first was taken up in 1977, after Congress approved a major expansion in the Farm Crop Support Program. The Senate Budget Committee, under the leadership of Chairman Muskie, added to the second budget resolution a reconciliation bill to trim crop support $700 million below the levels which were set in that farm bill. That was a rifle shot. It was a specific bill aimed at cutting a specific spending provision. It failed. The Senate rejected it.

We had reconciliation again in 1980, 1981, and twice in 1982, and again in 1984, and each time under both Democratic and Republican leadership, Congress broadened the reconciliation process. They were called omnibus bills and with the passage of time the bill has become not only an omnibus reconciliation bill, it is gradually becoming an omnibus legislative vehicle, because it is where you put everything that did not get passed that you are interested in during the year.

It is going to get worse and worse. I do not think this is the worst it is ever going to be, because if we do not do something now by amendment or point of order in some way, we are going to encourage this irresponsible process, and next year's bill, instead of being 1,000 pages, will be 1,500 pages, and instead of 13 pounds, it will be 20 pounds, going further and further out of control.

The issue, some will recall, came to a head during the Senate's consideration of the Consolidated Omnibus Budget Reconciliation Act of 1985, following adoption of a major textile import provision which was said to promote economic recovery in the U.S. textile and apparel industry and its workers and to reduce unemployment.

Senator BYRD offered an amendment on October 24, 1985, to deal with what he correctly termed "Pandora's box," which has been opened to the abuses of the reconciliation process. That amendment was adopted on a unanimous vote of 96 Senators. At the time, the majority leader said, "That process was never meant to be used as it is being used. There are 122 items in the reconciliation bill that are extraneous."

Senator BYRD went on to say this:

> So if the budget reform is going to be preserved, and more importantly, if we are going to preserve the deliberative process of this U.S. Senate, which is the outstanding, unique element with respect to the U.S. Senate, action must be taken now to stop this abuse of the budget process.

My colleague, Senator BYRD, was right then. We are again at an intersection where we must intercede if we want to preserve this process. Many of us on both sides of the aisle believe this thing has gone so far off the rails, and we will be loath to vote for a reconciliation instruction in the budget which would call forth another reconciliation bill.

Senator BYRD was completely correct in complaining of 122 extraneous items in the bill of 1985. I call to your attention the fact that the bill we are now considering contains far more, perhaps upward of 300 extraneous provisions. This bill is crammed with extraneous provisions. The unfortunate fact, however, is that as our leaders and as Senators and staffers have conferred over the last several days, we have not been able to completely agree as to what is extraneous and what is not.

In the 1985 debate, Mr. BYRD went on to say that "Extraneous"—and I am quoting now—"is determined by whether or not the language contributes to reducing the deficit and balancing the budget. Otherwise, it is extraneous."

Mr. President, we adopted the Byrd rule and, subsequently on December 19, 1985, the Senate adopted Senate Resolution 286 regarding extraneous material in the House reconciliation bill. The problem, as we all know, is that a 20-hour time constraint exists on reconciliation. So we just do not have the time nor the opportunity to deal with a bill of vast legislative scope.

We do not have the time to deal with pension reform, environmental cleanup, the value of a new independent Social Security Administration, and a multitude of new agricultural marketing orders, to name just a few of the hundreds of extraneous items that are in this bill.

What about deficit reduction which supposedly is the main purpose of a reconciliation bill anyway? After all, that is our stated goal: To bring us somehow within the guidelines of the Gramm-Rudman-Hollings budget target so as to head off sequester. We are not going to do that, Mr. President. We are not going to head off sequester. I am sure, as we are sitting here, there is no way this piece of legislation in any form will be signed into law in time to head off sequester. A sequester will in fact occur. That does not suggest the passage of this bill in vain, but it does tell us something about how far out of kilter the process is because we are doing now what we should have done weeks, if not months, ago.

Before I give the Senate a laundry list of some extraneous issues, I would like to take a moment to review sort of big numbers. We have heard this bill contains a total of $42 billion in deficit reduction over a 5-year period through 1994. How do we get there?

In the first place, this bill contains a 5-year total of spending cuts of just $8 billion. This bill also contains tax increases of $43 billion, that is right. Under this bill, taxes go up by $43 billion.

Let me cite a few issues which, in my view, should not be handled in a reconciliation bill. Yet each of them is in here—pension reforms, $2.6 billion; a subsidy for REA; a regulatory program for CFC; new agricultural marketing orders for crops from Vidalia onions to kiwi; independent Social Security Administration; financing services from the airport airways trust fund, added Medicare programs; creation of new agencies on health and services research; the cleanup of Lake Onondaga, NY.

Some of these may be meritorious. In fact, I happen to know of a number of extraneous provisions in this bill which in fact are meritorious. Some of them in fact are the substance and text of legislation which I have myself introduced, bills that I believe in, bills that on proper occasion I would be prepared to speak for, fight for, and vote for but which do not belong, in my view, in a reconciliation bill.

When we left last Saturday afternoon, many of us said a word of encouragement to our leaders who met late on Saturday and again on Sunday and I believe this week as well to try to somehow find an agreement as to how we could strip this bill down.

Mr. President, I am advised as of this moment that effort has not been successful. I believe that there are three lists floating around here. There is a list which is agreed I think by everybody to be extraneous items. There is a second group of provisions in this bill which seems to many of us to be clearly extraneous but which have not yet been agreed upon; perhaps they will be agreed upon.

Then there is another group of items and including some of the most offensive or maybe I should say most abusive provisions which probably are not technically extraneous which do not technically violate the Byrd rule though they may violate some other rules but which in fact constitute the perversion of the process which we have talked about earlier.

It appears to me that even at this late date we ought to focus attention on all three categories of items and get them all out of there. The mere fact that something may be technically within the scope of the reconciliation rule if it veers far afield, if it creates a new program, if it creates new spending, it seems to me that it should not be in this bill and we ought to have a broad enough gauge approach to this to reach an agreement to strip all such provisions, those that are offensive as well as those that we love, out of this legislation, that if we are really going to do this, perhaps this is one of those rare moments in the Senate when we just all agree to lay aside our pet project including, may I say to my friend from Tennessee, capital gains, IRA's, child care, physician payment reform, Social Security, and whatever, and just lay them all aside and say they are not reconciliation. Let us deal with reconciliation and then subsequently take up each and every one of these subjects on their own merit in an appropriate legislative vehicle.

Mr. President, some people, including I think my colleague from Tennessee, the chairman of the committee, is concerned because capital gains has arisen as an issue. Capital gains is not in this bill. A motion to add it as a provision in the Finance Committee portion of the reconciliation bill was defeated on a tie vote. There is in the House version of the bill, a capital gains provision that was adopted.

But I want to say a word about this and I want to caution my colleagues that capital gains should not be the lightning rod for the consideration of the reconciliation bill. In my opinion, capital gain is a worthy and important issue and deserves to be debated and if we are going to have a lot of dogs and cats in this bill, we have a lot of provisions. While they may be technically nonextraneous but are extraneous in a commonsense understanding of that word, then we ought to take up capital gains and in fact capital gains probably is not technically violative of the rules. At least at some point we think it would be in order to take it up and, if we have not agreed to some way to strip the bill down to its bare essentials, then we will take it up and should under those circumstances. But the better practice it seems to me is to really cut this thing down to a narrowly drawn package of deficit reduction measures and leave everything out, everything out that is a pet project of someone else that does not fit that prescription.

I know that some people blame the President for the problems we are having because he has been fighting for capital gains and I think the budget summit conference was mentioned earlier by my colleague from Tennessee, and I want to add a word to that. I do not think one believes that a specific capital gains provision was agreed to as a part of the budget summit, but I do think the record is very, very clear that it was contemplated. Let me quote from the summit document talking about what would result from the summit conference agreement.

This is a quote from that document:

> The specific measures composing the governmental receipts figure will be determined through the regular legislative and constitutional process. Agreements reached between the administration and the congressional tax-writing committees on revenue legislation reconciled pursuant to this agreement will be advanced legislatively when supported by the President of the United States.

The fact of the matter is the President always had this in mind, always said it and had it in mind. He had it in mind when it went through the House of Representatives when it adopted a capital gains provision. He still has it in mind.

I do not know of any reason in my mind that the President of the United States ought to roll over and play dead and fail to advocate what he believes in. I say that at the same time emphasizing I personally believe in the agreement to take everything out of this bill we ought to take capital gains out, too, and put it someplace else. If we are going to leave in some people's pet items or worthy project, I do not know why the President should be treated any worse than anyone else.

The President has participated in the process. He believes in the capital gains provision. I believe in the capital gains provision. It is evident to me that a majority of Senators believe in a capital gains reduction. It may be that as many as 60 Senators believe in a capital gains reduction, and we may have to find that out, although at some time or another on this bill or another bill we are going to vote on it at a time when only 50 Senators would have to be for it to pass it. It is my belief from my interpretation of the rules that that could happen on this particular piece of legislation.

But I cannot agree with my colleague from Tennessee that somehow the President is out of line or off base fighting for what he believes in for a very popular and worthy tax change.

Mr. President, I also do not agree with the notion that somehow this is extraneous because somebody thinks it might increase the deficit. There is a

healthy intellectual dispute as to whether or not reducing the capital gains would actually increase or reduce Federal revenues. I do not want to go into that at this point, but it is a well-known fact that on at least two occasions in the Nation's history, when we cut capital gains tax rates, the result has been an increase in resulting tax revenues.

Mr. President, I want to close by referring as I did at the outset to the parliamentary situation we find ourselves in. I guess it is the commonly held belief we are not going to be able to reach an agreement on what is extraneous and what is not. We are either going to have to vote on it or a point of order will be made or in some other way resolve it short of having an agreement between our two leaders. I hope that is not true.

I hope our leaders will take one more run at it and perhaps we can agree. If we do not, we are going to find ourselves in a situation in which some items will be stricken, but I worry many others which ought to be stricken will not be. If that happens, my guess is that there will be many of us who will just be constrained to vote against the bill even though some of the provisions left in may be things that we are interested in.

Maybe this is just an impractical idea, maybe it is too idealistic to think that this body at this time understanding the pressure we serve under, each of us could agree to set aside some of our pet projects, that we could agree that the process is more important than gaining a particular advantage on a particular bill. But I do not think so. In fact I have forgotten who it was who said this, but I earnestly believe it to be true that every noble idea is first seen to be impossible.

And so, if somebody wants to say either here or in the cloakrooms that it is impossible for us to reach such an agreement, then perhaps they are right. But I am not that cynical. I think it is possible for us to reach an agreement. I am prepared to support it and make some sacrifices, but I am also prepared to yell pretty loud if something comes up purporting to be stripping all of these extraneous provisions if in fact it is not.

With that word of explanation, I know there are others on the floor who have strong feelings about this bill. I am eager to hear the debate. I look forward to at least the possibility that we may be able to greatly improve this bill during the course of our consideration of it.

Mr. SASSER. Mr. President, I yield to the distinguished chairman of the Finance Committee such time as he may consume.

The PRESIDENT pro tempore. The Senator from Texas [Mr. BENTSEN] is recognized for such time as he may consume.

AMENDMENT NO. 992

(Purpose: To make certain modifications in the bill)

Mr. BENTSEN. I thank the distinguished chairman of the Budget Committee.

Mr. President, one of the toughest problems we have is trying to keep our hospitals across the country solvent. And yet one of the responsibilities we were charged with in the Finance Committee was to see what reductions we could make in Medicare.

One of the proposals we adopted was to pay the hospitals in smaller cities by starting with the market basket, inflation for hospitals and increase the amount of money paid under Medicare to these hospitals by that market basket minus 2 percent.

The administration had proposals that would also cut back on the rapid increases we are seeing in Medicare.

I am about to propose an amendment, and I assure you it is not an extraneous amendment. It gets to the heart of much of what we have done in reconciliation in the way of hospital payments under Medicare. The amendment I am proposing is one that is cosponsored by my good friend, the distinguished Senator from Minnesota, who is one of the outstanding authorities on the concerns of Medicare and Medicaid and hospitals; by the minority leader, the distinguished Senator from Kansas; by Senator ROCKEFELLER, who is a member of the Finance Committee, who heads the Subcommittee on Medicare and long-term care and is a Senator from West Virginia; and by Senator BAUCUS, from Montana, who has concerned himself with hospital payment issues for many years.

The amendment that I send to the desk revises three provisions that were agreed to by the Committee on Finance which affect Medicare payments to hospitals. First, the amendment would increase the update factor under the prospective payment system for hospitals in smaller urban areas; that is, urban areas of less than a million in population. The committee provision includes an update of those rates by the market basket increase minus 2 percent. This amendment would change the update to market basket minus 1.75 percent.

Now, if someone said, "A quarter of 1 percent, of what significance is that?" I would say when you are operating on the thin margins that many of the hospitals in our country are operating on today, that is significant. This will be a substantial help because, under that amendment, about 1,500 hospitals will receive a total of $40 million in additional Medicare payments in fiscal year 1990.

Now that the CBO estimates that we have received indicates that additional relief is possible, I believe this change is important because it helps hospitals in the smaller urban areas which receive the smallest payment increase under the committee's recommendations. With this amendment, the reconciliation bill will include differential payment increases for hospitals in large urban and small urban areas consistent with the differentials recommended by the Prospective Payment Assessment Commission.

Next, the amendment would reduce the cut in medicare payments to hospitals for inpatient and outpatient capital costs for fiscal year 1990.

Restoring the capital cut is especially important to rural hospitals. I would say to the distinguished President pro tempore that in his State of West Virginia rural hospitals are affected; and I would say the same to the manager for the Republicans of this bill, the distinguished Senator from Colorado, to the distinguished Senator from Tennessee, and to my friend from Minnesota, and I would say the same as chairman of the Finance Committee, because in Texas we have had a great many rural hospitals close. So this helps in that regard.

The committee included a 20-percent reduction in capital payments for both inpatient and outpatient services. This amendment would lower this reduction to 18 percent, which is 7 percent lower than the 25 percent level recommended by the President.

I would have preferred to have been able to lower it to 15 percent. That would have been 10 percent less than the President's recommendation. I am hoping that we will be able to work something like that out in conference. I am advised by the Budget Committee that the changes included in this amendment are possible within the savings achieved by the Committee on Finance and the committee's title is still in full compliance with the reconciliation instructions.

Mr. President, I know that many of the Nation's hospitals are carefully assessing the effect of the Senate's reconciliation action on Medicare payments for fiscal year 1990. I am hoping that this amendment can be agreed to.

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. DURENBERGER, Mr. DOLE, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. WARNER, Mr. KERRY, Mr. PRYOR, Mr. RIEGLE, Mr. SIMPSON, Mr. BOREN, and Mr. CHAFEE, proposes an amendment numbered 992.

On page 385, line 18, strike "2" and insert "1.75".

On page 387, line 14, strike "20" and insert "18".

On page 533, line 16, strike "20" and insert "18".

Mr. BENTSEN. Mr. President, I ask unanimous consent that throughout the day other Members may sign on as cosponsors of this particular amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDENT pro tempore. Who yields time on the amendment?

The controller of time is the mover of the amendment and the manager of the bill unless the manager agrees with the amendment, in which case the minority leader or his designee will control time.

Mr. SASSER. Mr. President, it is a bipartisan amendment. I ask unanimous consent that time be equally divided between both sides, Mr. President.

Mr. ARMSTRONG. Mr. President, I will be glad to yield time to the Senator from Minnesota. I yield to the Senator as much time as he may need.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. DURENBERGER] is recognized for as much time as he may consume out of the time off his side on the amendment.

Mr. DURENBERGER. Mr. President, I rise in support of and as a cosponsor of the amemdment by my colleague from Texas, the chairman of the Finance Committee. I believe that the chairman of the Finance Committee has accurately stated the effect of the amendment, which is to provide for a payment of capital to all of the hospitals in this country under the Medicare payment system at 82 percent of the cost of their capital as opposed to current law which is 85 percent of their capital costs or the original language which had been in the reconciliation language coming from the Senate Finance Committee, which was 80 percent.

Mr. President, I do feel fairly strong about these capital reimbursement issues. They are not the largest part of what we pay in Medicare payments to America's doctors and hospitals. But they have been a contentious part of that payment system over some period of time.

The original proposal on the DRG system was to fold capital costs into the regular operating costs. We have never been able to find a comfortable way to do that and, as a result, the system has grown over the last several years of directly compensating for actual costs.

In the last 2 years, we have reduced from 100 percent to a lesser amount the total capital cost reimbursement.

The reason I sponsor this amendment, which will have the effect of changing the amount of payment from an 80-percent payment to an 82-percent payment, Mr. President, is because I really do hope my colleague, the chairman of the Finance Committee, who will certainly be the chairman at least of our side, if not of the reconciliation conference committee, will fight not just to hold the Senate language but will fight to hold the House language, if possible, in a conference with the House.

That does not seem to be the most appropriate suggestion to make to the chairman of the Finance Committee, who has come with the language we are amending, but we have had a great deal of discussion in the last week or so about the most appropriate way in which the payments for cost of capital might be appropriated as between rural hospitals and small urban hospitals and what we call disproportionate-share hospitals.

So my personal preference, Mr. President, is we not make any of these distinctions. We have the distinctions already on the direct reimbursement side for operating expenses and they cause us nothing but confusion. They are discriminatory. They were originally out there for some very good reasons, most of which either we have long since forgotten or they have been in one way or another lobbied against, as contrary to the best interests of some of the hospitals and the community involved.

The Senator from Texas has taken the lead in this session, along with our colleague, the Republican leader from Kansas, on getting rid of these so-called urban-rural distinctions in hospital reimbursement. And by the year 1996, I think, according to the proposal of the Senator, which is also contained in reconciliation, we hope to eliminate most of these artificial distinctions between urban and rural hospitals.

So it is for that reason I rise to state my concern for this amendment and my hope, when we get the conference, the Senate might be able to bend even more in the direction of the House because I do not think it is a good time to start drawing distinctions between different kinds of hospitals on the capital issue.

We both recognize the problems of the so-called disproportion share hospital: high Medicare patients; high populations of indigent persons; in many cases, at least, high severity index.

But using the capital reimbursement area as a way to help those kinds of hospitals, at least this Senator thinks, is inappropriate. We already make adequate provision for them in indirect teaching reimbursement. We make provision for them in the disproportionate share reimbursement. I, for one, am very chary about starting down the line of making special provisions in the area of capital.

So I strongly recommend to my colleagues they join as cosponsors of this amendment which I understand, and I trust, will be accepted by the managers on both sides.

I yield the floor.

Mr. BAUCUS. Mr. President, I am pleased to join in offering this amendment today with the distinguished chairman of the Finance Committee and other committee members.

This amendment addresses a very serious shortcoming with the Medicare provisions approved by the Finance Committee last week.

Let me say that for the most part, I am extremely satisfied with our Medicare provisions. We made great improvements for Medicare's treatment of rural hospitals.

However, we did fall short on two matters that are also very important to hospitals. One is Medicare payments to hospitals for capital expenses. The other is the inflation increase for small urban hospitals, of which there are four in my State.

This amendment addresses both of those issues. In my view our amendment does not go far enough to improve Medicare payments for the hospitals that will feel the effect of budget cuts. But we have made a good-faith effort to restore as much of the cuts as we can, consistent with responsible fiscal policy.

In the Finance Committee deliberations on Medicare hospital payments, I told the distinguished chairman of my serious concern about the effect of the cuts. I thank Senator BENTSEN for his support on this amendment.

I urge my colleagues to support our amendment.

The PRESIDENT pro tempore. Who yields time?

Mr. BENTSEN. Mr. President, I do not know if anyone on this side is asking for further time. If the other side is prepared to yield back, I am prepared to yield back.

Mr. ARMSTRONG. I am ready to vote.

The PRESIDENT pro tempore. All time is yielded back. If there be no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 992) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. I move to lay that motion on the table.

The PRESIDENT pro tempore. The question is on the motion to lay on the table the motion to reconsider. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I yield such time to the Senator from Illinois as he may consume.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I want to speak in general on this process we are going through and what we are doing. But I want to take just a moment to commend the senior Senator from Texas and our colleague from Minnesota for their leadership on this hospital amendment.

Texas has lost 81 hospitals. Illinois has lost 32 hospitals in the last 9 years. It has been grim for a lot of communities.

I do not know about the situation in Texas, but in Illinois, the communities generally, that have lost hospitals are the communities that need them the most. I appreciate the leadership that both my colleagues are giving in this area.

Mr. President, I want to talk about where we are in this budget process and where I think we have to go. If we were to ask people in the State of Illinois or West Virginia or Colorado or Utah or Tennessee what is the fastest growing item in the budget, I think most people would say defense. The reality is the fastest growing item in this budget, by far, is interest. And what are we getting for it? Not one thing.

On of the little things we do now, when we list interest in the budget, it is "net interest" rather than "gross interest."

What is the difference? Well, we subtract the interest earned by the trust funds, particularly the Social Security trust fund, before we list interest. The real figure is the gross interest figure.

The gross interest figure for fiscal year 1980 was approximately $74.8 billion. The fiscal year that we have just come out of, we do not know the final figure yet, but the gross interest expenditure will be approximately $234 billion.

For this next fiscal year we accept the optimistic forecasts of OMB in this budget resolution. We assume we can sell bonds at an average of 5.5 percent this fiscal year.

I see my colleague, the distinguished senior Senator from Illinois, on the floor, the former State Treasurer of Illinois. He has a pretty good idea, as all of us do, whether we can sell bonds for 5.5 percent. We are living in a dream world if we think that. But that is the premise of this.

But even if we sell bonds at 5.5 percent, this fiscal year we will spend $263 billion on interest and the next fiscal year—the chairman of the Appropriations Committee is presiding here—next year unless something happens that I do not foresee, for the first time in the Nation's history, the No. 1 expenditure of the Federal Government will be interest.

We just cannot go on like this indefinitely. There are those who say, well, things seem to be going along fine. It is like us getting out on a lake where there is thick ice at one point and some water out there somewhere, and we are getting out on that ice and it is getting thinner and thinner. I cannot tell my colleagues where it is going to break, but I know it is going to break.

The reality is if the Simon family spends more money than we take in, and I go to the banker in Carbondale. IL, and I say I would like to borrow some money because we want to spend more money than we are taking in, and I have a good asset sheet, the banker may lend me that money. And he may do that a second year and a third year. But at some point a prudent banker is going to say to me: You better get your house in order and get things accommodated.

The international bankers at some point are going to say the same thing to us. I cannot tell when it is going to happen, but it is going to happen. When I attend town meetings in Illinois, one of the things that I am occasionally asked is why do we not get tougher on the Japanese; because they sense the competiton with Japan, the economic competition.

One of the reasons we do not get tougher is a very simple one, and it is not talked about much. But the reality is, Japan is our banker. It is pretty dificult to get tough on your banker. We have to get a hold of our financial situation, and we are fooling ourselves. At this point, there is a surplus of about $68 billion in Social Security funds. But that is a surplus in theory.

At some point, many of us in this Hall will want to retire. We would like to get a little Social Security income. At the turn of the century, those Social Security expenditures are going to go up. We ought to take the Social Security trust funds off the budget. It was a great mistake ever to put them on. And when I say "we," I mean the President, I mean Members of both parties. I think what we are doing is taking the easy way out, and we are basically ducking on this whole deficit problem. We just cannot continue it indefinitely. Even if we could, does it make sense to spend a higher and higher percentage of our tax dollar on interest rather than on goods and services? One may be a conservative; one may be a liberal; one may be a Republican or a Democrat; I think it does not make sense at all.

I just noted that my friend, the senior Senator from New York, walked onto the floor. He had a very interesting study made. It was one of the most significant studies. It ties in directly with what we are talking about. The question was asked: What if we took the Social Security trust funds off separately and then balanced the budget; what would happen in the next 5 to 10 years to interest rates in this country? As far as interest rates go right now, the prime rate is 10.5 percent. Do you know what the projection is? Interest rates in this country would drop down to a prime of approximately 3 percent. Can you imagine what that would do for housing construction, industrial expansion, and all kinds of things, if we did not continue just to duck this problem indefinitely? It is one of the most significant studies I have seen in my years in Congress, and I want to commend my colleague from New York for that study.

There is another reason we ought to get ahold of this. I generally vote with my friends in labor on things because philosophically I have a sense of kinship there, but it is something they have not paid attention to. They have opposed a balanced budget amendment to the Constitution. The question is, Mr. President, who pays the taxes and who receives the taxes?

As I said, the fiscal year we are in right now, at a minimum, the gross interest expenditure for the Federal Government will be $263 billion. Who pays that? By and large, it is people of limited income. It is the people who are watching us in session right now. Who receives that income? By and large, it is those who are more fortunate among us, and not more fortunate just among us; increasingly those who are more fortunate in other countries. It is Robin Hood in reverse: Taking from people of limited income; giving to those who are more fortunate. The biggest welfare program in this Nation is not food stamps, it is not AFDC; it is interest payments. And that welfare program is one that takes from people of limited income and gives to the more fortunate.

Mr. MOYNIHAN. Will the Senator from Illinois yield for a question?

Mr. SIMON. I always yield to my colleague from New York.

Mr. MOYNIHAN. Would he be aware—I think he especially would be—that it now takes the taxes of every man and woman living west of the Mississippi River to pay the interest on the debt?

Mr. SIMON. The Senator from New York comes up with these little bits of information that I am not aware of. I was not aware of that. Again, it is a dramatic way of saying what is happening. Most people do not realize that a higher and higher percentage of their tax dollar is going for interest, and for those of us who favor meeting some of these national needs, we face a choice: Are we going to spend an increasing percentage of our tax dollars on interest, or do we get those interest payments down and start paying attention to education needs?

In the last 10 years, if you exclude the inflationary factor, the cost for people going to college in this country has risen 40 percent, and student aid has risen 3 percent. We just cannot keep that up indefinitely without hurting ourselves.

We know that when we have intensified preschool programs in disadvantaged areas, there is a dramatic change in the dropout rate, teenage pregnancy rate, and crime rate. It is not theory; we know it, but we are not doing anything about it because we

say we do not have the resources to do anything about it.

What if we really got ahold of things, which we are not in this reconciliation package, and sent a message to the financial community, "We are going to get ahold of things," and interest rates started to drop? When you have a $2.8-trillion indebtedness, each 1 percent you reduce interest rates, you save $28 billion a year. So 1 percent would save more money than the Federal Government spends in total on education. If we exclude school lunches, we spend about $21 billion on education. We have massive health care needs that we ought to be paying attention to, and we are not. When I go to a town meeting or when I come across people like the woman who recently came with her son, and his arm was in a sling—he caught his arm in a cornpicker—they face $80,000 worth of hospital and medical bills. He had his arm sewn back on. That family is devastated. Can we as a nation do something about it? Of course, we can. We have the resources. What we lack is the courage and the will to do something about this deficit.

If we got ahold of it and reduced interest rates, that would be a tremendous help, also, just to the average citizen. The average young couple today who wants to buy a house just cannot do it. I was interviewed this afternoon on television and asked about the homeless in our country. Part of the answer is we are not building public housing as we once were. But another part of the answer is we have interest rates so high in terms of home mortgages that the average young couple today cannot afford to buy a new house so we do not expand the housing construction in this country, and, as population expands and housing construction does not, who gets the housing? Those of us who can afford it. Who gets squeezed out? Those who cannot afford it. They are the homeless on the streets of the wealthiest nation on the face of the Earth.

The prime rate in the United States today is 10.5 percent. The prime rate in West Germany and Japan today is roughly 3.5 percent. Can we do better? Of course, we can do better.

Finally, Mr. President, I think we need a different kind of a summit, and I know my colleague from Tennessee may differ with me on this because he has been abused some because of summits, and the President pro tempore, one of the most distinguished Senators ever to serve in this body, has been through his share of summits. We just had a summit meeting on education where the President met with the Governors. I think it would be appropriate, incidentally, if the President really wants to be the education President, for him to meet with the leaders in the House and the Senate who are interested in education for a different kind of a summit to get something done at the Federal level.

But what we really need is for the President of the United States to say we have to face this deficit problem as he, frankly, has not. And we need Members of the House and Senate who are courageous enough and willing enough to say we are going to risk some votes and popularity out there and face this problem and have a summit meeting, like we had on Social Security about 8 or 10 years ago, and really face this problem.

We can continue to duck and duck and duck, but we do it at the peril of our children and our grandchildren.

When I was first elected to the State legislature, Mr. President, I received a letter from a man in a small community called South Roxana, IL. He had 13 points to his letter. The first 12 were increased services he wanted from government and the 13th point was cut taxes.

We have adopted his program, and we just cannot continue.

Mr. President, if I may be immodest, I am going to become a grandfather for the first time in February, and I am looking forward to that. But I want to see that that grandchild has a bright future in this county, brighter than mine and brighter that yours, and that can be. But if we continue down this road of bigger and bigger deficits indefinitely, it will not be.

I just read an article today, the first sentence of which was, "The United States is the greatest economic power on the face of the Earth." Unless we change our habits, that sentence will change, and in the future at some point it will read, "The United States was the greatest economic power on the face of the Earth."

That decision is up to us. We need to show courage on both sides of the aisle. The President has to show courage. We have to be willing to risk popularity. I think it is great that the President has a 70-percent popularity rating, but you just cannot constantly run for reelection. You also have to lead. That is true for the President. It is true for us. I hope at some point we show the courage to really lead.

I yield my time to the Senator from Tennessee.

Mr. HATCH addressed the Chair.

The PRESIDENT pro tempore. Who yields time?

Mr. HATCH. May I have some time?

Mr. ARMSTRONG. Mr. President, I yield such time as he may require to the Senator from Utah.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH] is recognized for such time as he may require.

Mr. HATCH. I thank the Chair and I thank my distinguished colleague from Colorado.

Mr. President, I understand the distinguished Senator from Tennessee, the chairman of our Budget Committee, would like to proceed and that he will shortly be making a motion, but before that occurs I would like to ask the distinguished Budget Committee chairman some questions just so we can understand some of the ramifications of what is going on, and then afterward I would like to propound some questions to the Chair if I could.

First of all, I would like to ask the distinguished chairman of the Budget Committee: The original deadline for all committees to report their pieces of reconciliation was really mid-July, is that correct?

Mr. SASSER. I would say to my friend from Utah, it is my understanding that the deadline was August 3, but he is within the ball park.

Mr. HATCH. But that was after extensions from the mid-July period?

Mr. SASSER. That is correct.

Mr. HATCH. In other words, it is true that there were two extensions from that particular time?

Mr. SASSER. There was at least one extension.

Mr. HATCH. I believe there were two. And is it true that if there were two or one, whichever the case may be, such extension or extensions were granted by unanimous consent of the Senate?

Mr. SASSER. That is correct; they were granted by unanimous consent.

Mr. HATCH. The Senator from Tennessee, the distinguished chairman of the Budget Committee, I know has a sincere interest in protecting the integrity of this budget process.

MR. SASSER. I do, indeed, I say to my friend from Utah.

Mr. HATCH. I believe that. Let me ask what he understands the consequences to have been if the original deadline had not been extended? Does he agree with the answer given to a question put by the distinguished minority leader that committees may submit legislation for inclusion in the reconciliation bill irrespective of this deadline?

Mr. SASSER. I was distracted momentarily. Will the distinguished Senator repeat his question, please.

Mr. HATCH. I would just like to ask the Budget Committee chairman, the distinguished Senator from Tennessee, what the consequences are if the original deadline had not been extended. And then I ask, does he agree with the answer given to a question put by the distinguished minority leader that committees may submit legislation for inclusion in the reconciliation bill irrespective of the deadline?

Mr. SASSER. I say to my friend from Utah that committees that do not submit their information pursuant to the reconciliation instructions on or before the deadline act at their peril. Those committees that file late do so at their risk. And the Budget Commit-

tee at its option, may vote out a reconciliation bill without the tardy committee's reconciliation list being included; go to the floor; and on a motion to recommit, any Senator may write the reconciliation results for the tardy committee that did not adhere to the deadline.

So my point is that committees that are tardy and do not subscribe to the deadline do so at their risk.

Mr. HATCH. If they submit their report or their materials after the deadline, then the Senator seems to be saying that any Senator can amend those submissions?

Mr. SASSER. What I am saying is that if the Budget Committee goes forward and reports out a reconciliation bill absent a committee meeting its specific reconciliation requirements—for example, if the Committee on Labor and Human Resources, on which the distinguished Senator from Utah has served so ably for so many years, did not comply with the deadline to meet the reconciliation instructions and if the Budget Committee chose to go ahead and report out a reconciliation bill, then in that case on a motion to recommit any Senator would be in a position of being able to, in essence, write the Committee on Labor and Human Resources reconciliation results for it, subject to the will of the committee.

In other words, what I am saying to my friend from Utah is that the tardy committee to some extent throws itself on the mercy of the Budget Committee and on the mercy of the entire body.

Mr. HATCH. This is a frustrating approach, it seems to me. As the distinguished Senator from Tennessee knows, the Labor Committee has failed to meet the deadlines that have been set even though it has submitted its own report in spite of the deadlines. Now we have experienced some rather sudden changes in the Senate rules in the space of just a few days.

For instance, when I learned that the Committee on Labor and Human Resources planned to remark up the reconciliation package we had acted on last August, we inquired of the Senate Parliamentarian if the committee could submit language after the August 4 deadline without unanimous consent. The answer was no.

Mr. SASSER. If I could say to my friend from Utah, the Labor Committee filed a reconciliation report with the Senate Budget Committee prior to August 3, which was the extended deadline. Subsequent thereto, the Labor Committee filed a modified reconciliation report with the Senate Budget Committee. The committee, acting on advice of counsel, took the position that since any Senator can modify his or her amendment prior to the Senate taking action on it, any committee has the right to modify or may modify their reconciliation report prior to the Budget Committee taking action on it.

Mr. HATCH. In other words, once the deadline is met, if the committee meets it, then the committee can amend its reconciliation work any time thereafter until the Budget Committee acts?

Mr. SASSER. Until the Budget Committee acts. That is my understanding.

Mr. HATCH. That has not been my understanding. After we inquired of the Senate Parliamentarian if the committees could submit after the August 4 deadline without unanimous consent, the Parliamentarian said no.

Only a few days later the minority leader put the same question to the Chair and after some deliberation the response was given that yes, committees could submit material for inclusion in the budget reconciliation bill. This whole sequence of events suggests there may be some selective interpretation of the rules that is going on right now.

I am gravely disappointed by this, Mr. President. The rules of the Senate are it seems to me, revered by every Member of this body and we depend upon them for order and equity.

When they can be seemingly changed overnight to suit some specific political need it shakes the whole foundation of our institution. What is the understanding of the Senator from Tennessee as to the purpose or purposes of the deadline set by the Budget Committee?

Mr. SASSER. The purpose of the deadline I think is self-explanatory. It simply is saying to the committees that you must report by the deadline. If the committee chooses to ignore that deadline, then they do so at their peril. If the Budget Committee chooses to go ahead and report a reconciliation bill absent the reconciliation report from the tardy committee, then the tardy committee may find the U.S. Senate as a whole or the Budget Committee itself actually writing the reconciliation report for the tardy committee and directing how that committee shall make the necessary savings. This, in essence deprives that committee of a substantial portion of its jurisdiction as a result of its failure to act. But I say to my friend from Utah that result only comes if the Budget Committee chooses to go forward and report.

Mr. HATCH. From what the distinguished Senator has said, it would seem to me there would be no real incentives other than the one he mentioned, that the Budget Committee might act ahead of them. They might be foreclosed. There would be no incentive for the committees to report on time. So the idea of the deadline is to permit the Budget Committee to accept the various components of the Budget Reconciliation Act, file a report, to have the legislation ready for timely consideration by the Senate so as to prevent the mandatory sequester order on October 15.

Mr. President, I want to thank the Senator from Tennessee for his answers. It seems to me, however, that this entire 1989 budget reconciliation process has become an unmitigated farce if this is the way the rule is going to be followed.

You can do just about anything you want to do in these committees regardless of the deadline as long as the Budget Committee does not act, which it usually does not, and it will not do. It would be crazy to do that. So deadlines mean nothing, budgetary deadlines mean nothing, Budget Committee deadlines mean nothing, and Senate deadlines and reconciliation deadlines mean nothing unless the Budget Committee acts. Anybody can do what they want to do. That is exactly what the Committee on Labor and Human Resources has done.

The deadlines were established to ensure expeditious consideration of the bill. To me, they have been completely violated in this particular instance.

And by the way, adding things to this reconciliation bill have a tendency to hold it up, have a tendency to cause a lot of discontent, and is clearly legislating on this bill, and have no relationship as far as I can see to budgetary matters other than certain special interests in this country which want those measures. To me that is not the way to run a budget process.

I am not blaming the distinguished Senator from Tennessee, who I believe believe in the integrity of the process and would like to keep it that way. But I am saying to my colleagues around here that the process is being abused. It certainly is being abused with regard to the submissions by the Committee on Labor and Human Resources, the committee upon which I am the ranking minority member.

If that is what we are going to use the reconciliation process for, then it is not a process with integrity. It means that any time the majority wants to do whatever they want to do they can do it regardless of integrity, regardless of the rules with very minor exceptions. We are just 1 week away from a mandatory sequester trying to do the impossible, and we put up with this kind of rulemaking.

What is even more alarming is the fact that Senators are actually going to vote for a stack of papers that I am informed is taller than Dr. Ruth. The bill was just filed this morning. Our committee staff is poring over it like you cannot believe, and there is no way they can do it. Are we going to run the country on this type of an approach?

We do not have the slightest idea of what is buried in this reconciliation bill. The whole country has to be bound down by this system. The reason we have not acted promptly is because everybody is legislating on this bill, contrary to what reconciliation was supposed to be all about.

No report has been filed by the committee, at least as far as I know. Maybe it has been by now. If it has, it certainly has not been filed by today. The committee only reported the bill this morning. The bill has not even been printed. I admit we are in a bind for time. I am not blaming the distinguished Senator from Tennessee for it. But I am pointing out what a lousy process it is, and especially if we allow committees like the Labor and Human Resources Committee which always has hotly contested issues to slip those hotly contested nonrelated issues into this bill.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me for a moment?

Mr. HATCH. I will.

It is shocking.

Mr. ARMSTRONG. I have listened with interest and growing admiration to the statement of the Senator from Utah. I would like to ask if he is aware there is sort of in the corners of the Chamber, in the Cloakrooms, and in the committee rooms a sort of floating caucus that is trying to stimulate interest in the idea of stripping out everything from this bill that does not really address itself directly to curtailing the deficit, that in fact there are two or three points of view. One is we ought to strip out those things which are technically in violation of the rules, but that there is a broader sort of bipartisan good government movement which we are trying to pump up a little, the effect of which would be to strip out maybe as much as 80 or 90 or maybe 95 percent of this bill, even good provisions, worthy provisions some of them, even as I have previously confessed provisions which I myself have sponsored, authored and support, but just to take all of that out on the theory that rather than abuse the process we ought to deal only with spending reductions, or if it be the pleasure of the body tax increases to meet our Gramm-Rudman-Hollings targets and then take up each of these provisions on their own or in packages to be agreed upon later but not under reconciliation.

It sounds to me from the statement of the Senator from Utah that he probably would be a candidate to join that movement, and I invite him to do so.

Mr. HATCH. I am joining that movement. I can only speak from our side of the floor that is true, but I believe it is true that many on the other side agree. I cannot believe they are going to try to slip by on the American public and on businesses and labor all over America rules and statutory enactments that have no relationship to this just because the AFL-CIO wants it.

Mr. ARMSTRONG. If the Senator will yield one more moment, I would like to advise him of one pitfall. I think there is a general sense on both sides of the aisle that this bill has readily become grossly overweight.

Mr. HATCH. I have had colleagues on the other side of the aisle tell me that.

Mr. ARMSTRONG. I think that is right. In fact this issue first surfaced publicly by the distinguished majority leader. It is not a partisan issue but here is a concern I nonetheless feel. If the standard by which this bill is stripped is nothing but a strict interpretation of the so-called Byrd rule, the result will be to drop a lot of provisions out of the bill. But it will be also to leave in the bill many, many provisions which though they may be in technical compliance with the rule, or may in the opinion of some Members be in technical compliance, will not be in compliance with the spirit of reconciliation which is to forbid using this legislative vehicle under limited debate and so on for general legislative purposes.

I just mention this because we really need to air this issue with our colleagues, appeal to their conscience, and hope that we can get a large number to encourage those who are working on this matter at this very moment to bring back something that everybody could get behind enthusiastically.

Mr. HATCH. I think that the distinguished Senator from Colorado speaks very articulately on this issue, and I agree with him. If we are going to have integrity in this process and have colleagues working on both sides of the aisle—and I know there is sincerity on both sides of the aisle—I think we have to have a process that works and one that has integrity and one where one side or the other is not trying to take advantage of the other side. I think what is happening is atrocious here. Hopefully, we can come to that conclusion.

This is not a budget reconciliation package. This is a legislative pack mule carrying all sorts of baggage that has little or nothing to do with reconciliation.

I assure my colleagues that not all the extraneous provisions have been or have even been suggested to be dropped by this agreement. In fact, several major changes that I have mentioned in the labor and employment law have been left in the reconciliation bill. They are arguing that they should be left in the reconciliation bill even if we strip off extraneous matters. Yet, these changes are obviously extraneous to reconciliation. Yet, they are not at all insignificant to the employers and employees who have to adapt to them.

Some of the provisions in this bill have not even been subject to committee hearings. So it is clearly at attempt to take advantage of a reconciliation process that is limited in time and in procedure at a time when everybody is pressured to get out of here and to get this session of Congress closed.

I have to object to that procedure. I happen to know that the distinguished chairman of the Budget Committee, a friend of longstanding, is trying to maintain some semblance of order in the reconciliation process, and I believe he deserves the support of us here on the floor.

So I am going to raise objection to proceeding. But I have to raise these issues, because if this is the way we are going to do it, it is unfair. If this is the way we are going to do it, it is not right. If this is the way we are going to do it, "Katie bar the door." To me, it is the wrong way to do it.

I hope the chairman will help to bring some order to this, and our ranking member as well, so that we will be fair about this. I can tell you that on the Labor Committee, one reason we have a very difficult time passing labor legislation one way or the other is because both sides are afraid that the delicate balance between management and labor is going to be upset.

Here we have been taking advantage of an almost readymade, tailored system to get around the rules and to not have debate and not even have committee processes and hearings, to pass legislation that is hotly contested and very much disliked by people on both sides of the aisle, because of the procedural advantage. That is not right.

Let me, if I can, propound a few questions to the Chair, because I would like to know where we are. I think these are basically simple questions. I am not trying to do anything other than to establish where we are, at the outset. I am concerned about this.

Mr. SASSER. Before my distinguished friend from Utah and the ranking member of the Labor Committee propounds those questions to the Chair, if I could just respond to some very valid points that he raised, just briefly.

First, let me say to my friend from Utah, subcommittees ought to report on time. There is no doubt about that, that committees ought to report their reconciliation reports in a timely manner.

The remedy of the Budget Committee, I might say, is very limited, and if a committee is tardy in reporting, we simply have the extraordinary remedy, really, of coming to the floor and seeking to write that committee's

reconciliation report for them on the floor, which is very untidy process and one that could be very chaotic.

I could not agree more that committees ought to report on time, and just the pressure of colleagues here in the Senate, I think, would have a lot to do with committees being more timely in reporting pursuant to reconciliation instructions.

Yes, I agree, this bill is loaded down with the extraneous matters—1,376 pages, this reconciliation bill is. If this reconciliation bill were stripped of extraneous matters, I am advised by staff that it would amount to about 100 pages. There is no doubt that we have too many extraneous matters in this bill; even as we speak, the staff of the distinguished Senator from New Mexico, and the senior staff majority staff of the Budget Committee are working to develop a bipartisan effort to strip this bill down and cast off many of these extraneous matters.

I say, though, to my friend from Utah, that we ought to be very careful.

Mr. HATCH. Will the Senator yield?

Mr. SASSER. Yes.

Mr. HATCH. I think the Senator ought to exclude all the extraneous matters if you are going to do that, not just many of them.

Mr. SASSER. Let me say to my friend from Utah, he and I have no philosophical difference there, but we need to be very careful not going beyond the provisions here of the Byrd rule.

Now, my friend from Utah made a very powerful and persuasive case that we need to abide by the rules of the Senate, and the rules should not be tailored for either the majority or the minority or for any particular Senator's interest.

Now, as presently before us, it is the Byrd rule that defines what is extraneous. Beyond that, I think——

Mr. HATCH. If the Senator will yield. If the Byrd rule applies, the Byrd rule ought to be applied fairly and equitably.

Mr. ARMSTRONG. If I may join this free-for-all——

Mr. SASSER. If I might be allowed to finish, that is the reason we are attempting to move on this in a bipartisan fashion, so that there can be agreement on both sides of the aisle as to what the Byrd rule is applicable to, what is extraneous. And let us get those out now if our colleagues then have a disagreement with this agreement. They are free to come to the floor and raise their own points of order and move on from there.

Now, the frustration of my distinguished friend from Utah as to what has occurred on this reconciliation bill sounds very similar to an anguished speech I heard the then minority leader, now the President pro tempore of the Senate, ROBERT BYRD, make in 1981 when we were confronted with the first reconciliation bill to come before this body that was loaded with extraneous material: changes in well-established law without the first moment of a hearing.

This reconciliation bill had been constructed in consultation with the then Director of Office of Management and Budget, David Stockman. That is what established the precedent for this bill here that we find so objectionable. I think it is incumbent upon the majority and the minority here today to try to rectify that error that was perpetrated on this body in 1981. We are reaping the whirlwind of it today.

Mr. HATCH. That is when the Byrd rule came up and really came into force.

Mr. SASSER. I say to my friend from Utah, if memory serves me correctly, the Byrd rule did not come into being until 1983 or 1985.

Mr. ARMSTRONG. Mr. President, if I may make the point——

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. ARMSTRONG. If the Senator will yield to me, two points: First the so-called Byrd rule was a great reform, but the Byrd rule is not the sine qua non of fairness. We can adhere strictly to the Byrd rule and still have a process which is horrendously abusive.

If what I am hearing my friend from Tennessee say, that we are not going beyond the Byrd rule in stripping this bill down, I say to my friend we are going to holler on this side and make the point that it is not fair and an abuse of the legislative process.

Let me challenge the Senator to do this: Rather than wait until some hour later in the evening to let us know what is going to be in his motion, how about letting us look at the list now. I am aware of at least three lists floating around.

One is a list which everybody agrees on its face is a technical violation of the Byrd rule. I assume that would be included in his motion.

The second is a list of matters about which the two staffs have conferred and which I am advised there remains some dispute, though it seems clear to us at least violate the Byrd rule.

Third is a list of things that probably are not technical violations of the Byrd rule but which nonetheless abuse the process. They are exactly the kind of provisions that the Senator from Tennessee mentioned, things that make unnecessary changes in existing programs, unnecessary in the sense that they are not the cause and effect of the budget deficit, that they are changes that could and should be considered separately.

So I would just ask the Senator to please go beyond a narrow interpretation of the Byrd rule. It may be that by insisting that only going that far that the Senator can gain advantage either for his party or some provision in which he is interested, and it is absolutely a fact if you do what I say it is going to be somewhat to my disadvantage because it kicks out of this bill some provisions I love.

I appeal to the Senator for the sake of the process, for the integrity of the process, to look at it in a more expansive way so that we make this fair, not just technically comply with the rules.

The PRESIDENT pro tempore. The Senator from Utah has the floor.

Mr. HATCH. Mr. President, if I could regain the floor a moment, I know there will be a lot of discussion on this. I also know the distinguished Senator from Texas would like to have the floor. I would like to ask the basic questions because in the context of considering the budget reconciliation bill what I am seeking here is to reaffirm my understanding of several important procedures. So I would like the Chair to respond to the following questions:

No. 1, am I correct that the 20-hour limitation relative to a budget reconciliation bill, inclusive of sublimits, applies to debate and does not constitute an overall cap on consideration, for instance, in contrast to the cloture rule?

The PRESIDENT pro tempore. Would the Senator restate the question? The chair is having difficulty in hearing.

Mr. HATCH. I will. Am I correct that the 20-hour time limitation relative to this budget reconciliation bill, inclusive of sublimits, applies to debate and does not constitute an overall cap on consideration in contrast to the cloture rule itself?

The PRESIDENT pro tempore. It applies to debate. It is inclusive of amendments, motions, points of order, appeals, and quorum calls when such quorum calls occur immediately prior to a vote and it is also inclusive of the time consumed—it is not inclusive of the time consumed.

Mr. HATCH. It does not constitute an overall cap on the consideration.

Mr. ARMSTRONG. Mr. President, I could not quite hear the Chair's observation. I heard the Chair to say it is not inclusive and the rest of the Chair's declaration was garbled. Would the Chair restate?

The PRESIDENT pro tempore. It is not inclusive of the time consumed on a rollcall vote. It is not inclusive of the time consumed by quorum calls when such quorum calls occur immediately prior to a rollcall vote.

Mr. ARMSTRONG. I thank the Chair.

Mr. HATCH. Let me go further. Everything that happens on this matter except for what the distinguished President has stated is inclusive within the 20 hours. It does end the debate. I agree with that. But it is not an overall cap on consideration of the bill.

The PRESIDENT pro tempore. It is an overall cap.

Mr. HATCH. That is not my understanding. Let me ask the second question.

The PRESIDENT pro tempore. Let me read the Senator the rule.

Mr. HATCH. Perhaps I can clarify with the second question and then I will have the Senator read the rule if that is the case. Am I correct that the time consumed in reading an amendment is not charged against time available for debate?

The PRESIDENT pro tempore. The time consumed in reading an amendment is not charged.

Mr. HATCH. That is what I understand.

Number three, am I correct that upon the expiration of the time for debate, amendments may still be offered, be read and be voted upon without debate, and that such amendments need not have been already pending when the time for debate elapsed?

The PRESIDENT pro tempore. The Senator is correct.

Mr. HATCH. That is what I meant by consideration. I thought that would clarify it. I appreciate the indulgence of the Chair.

Am I correct that no point of order will lie against an amendment until after the amendment has been read and that, absent cloture, the reading of an amendment may be waived only by unanimous consent?

The PRESIDENT pro tempore. The Senator is correct.

Mr. HATCH. Number 5, am I correct that the Chair has no power to enforce rules relating to germaneness of amendments and extraneous subject matter unless a point of order is first raised from the floor?

The PRESIDENT pro tempore. The Senator is again correct.

Mr. HATCH. I thank the Chair, because those rules are as I view them and as I understood them, and the Chair I think has succinctly answered as I understood them. So I thank the Chair and I thank my colleagues, and I yield the floor.

The PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, in response to the questions or the statements made by the distinguished Senator from Colorado, let me say that perhaps he is unaware that the distinguishsed Senator from New Mexico [Mr. DOMENICI] and myself had discussed prior to his urgent return to New Mexico following the death of his father-in-law that we would attempt to compile a list of extraneous amendments that we could agree upon that we would then seek to have declared extraneous and stripped from this bill.

What I seek to do is await the arrival of the distinguished ranking member and then carry out that commitment by going over this list with him, selecting those on which we can agree are extraneous, and then moving on them.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I am aware of that. But the point I want to make and which I urgently request him to consider, and I believe that the Senator from New Mexico will not see it any different than I do, though of course he will speak for himself when he arrives, is that technical compliance with the rule is not a standard of justice in this case, that we need to go beyond that.

The reason is very simple. As the Senator knows full well, there are many provisions which really violate the spirit of the rule while being technically in compliance. How does that happen? It happens, for example, if you start a new spending program, even a costly new program, even a new legislative initiative that cost money over a period of years, but folded into a provision which is in overall compliance, that is, if the whole title complies, then an offending individual provision within that title is in effect sheltered from the rule. I think that is an oversight in the way the rule is drawn.

At some time during this afternoon and this evening I will submit at least by example a number of typical programs like that, but let me mention a couple just to illustrate the point. We believe, for example—let me just say I believe—that modification to the therapeutic shoe demonstration program probably does not technically violate the rule in question, is probably not a technical violation, but it is not reconciliation legislation either; or expanded coverage for psychologists or the added coverage of clinical social work which, by the way, is a quarter of a billion dollar outlay item over the next 4 years and yet for the reason I just explained is in technical compliance; or the exclusion of accountable income from certain benefits for veterans that adds $160 million in outlays over the next 4 years, but we think it is in technical compliance because it is part of a title that complies; or the Oregon medicaid demonstration program which is a good program, by the way—it cost $33 million; it is sheltered from the rule, from an attack under the rule we believe because the whole title is in compliance; or the optional coverage of home visitor services which adds $4 billion in outlays.

In fact, Mr. President, I have a list here at some point we can get into, everything from mortality reduction for foreigners, deduction for more than first generation skipping transfer tax, IRA's, gifts of appreciated property, on and on which might not technically violate the rules but which certainly violate the spirit of the rules and which constitute the abuse of the process within the meaning of the discussion which the Senator from Tennessee opened and which the Senator from Utah has elaborated on.

So I want to renew my appeal for a broad-gauged look at this which is not too legalistic but which in fact attempts to get the spirit of reconciliation. If we want to change the process, if we want to have a process available to us as a viable vehicle next year, we have to do what is right and not just in a technical sense this year.

Mr. SASSER. Mr. President, I have an basic disagreement with my friend from Colorado, but the facts are that technical enforcement is the only neutral means that we have of choosing among competing arguments here. Many of these definitions, when we get beyond the technical aspects or the technical decisions are highly subjective, and I suspect that my friend and I might agree on many of these.

But I think the task before us is first to look at those that are out of technical compliance. Let us remove those. And that is what I think the Senator from New Mexico and I are trying to do together in a bipartisan fashion. Then we address the others and see which one of those we feel in consultation with various and sundry of our colleagues ought to be extraneous. We do this in consultation with the Parliamentarian. If we feel they are extraneous, then we will move to strip them. If there is any Member of this body who feels that we have overlooked any item that does not rightfully have a place in this reconciliation bill, then they may move to strike it on the grounds that it is out of compliance with the Byrd rule and extraneous.

So the door is open for every Member to enforce their rights as to what they perceive to be extraneous to this reconciliation bill. And I would say to my friend from Colorado and others who share his interest, as I do, be my guest because I frankly would like to reduce this reconciliation bill down to purely and simply a highly refined reconciliation bill. My point is let us be careful before we overrun these technical safeguards that have been set up by the Byrd rule. They are more than technical safeguards; they are the rules of the U.S. Senate, and it is those rules that protect the minority which may be in the majority one of these days.

So that is my view, Mr. President. I think if we will all work together here, I think we can reach the result that we all wish to reach.

Mr. ARMSTRONG. Mr. President, I am not trying to have the last word. In fact, I do not even entertain the notion that what we are saying at this moment will be the last word.

But if I could have the attention of my colleague from Tennessee, I want to see if I could just bridge the gap a little further. He and I do not have

any disagreement about strictly and absolutely enforcing the letter of the rule. All I want to say to him is that that is not enough. If all we do is enforce the rule, we have failed and the process is being abused.

The result of that may or may not be the passage of a bill that I am going to like. It may or may not be the passage of a bill at all. It could result in a bill which would not gain a majority within this Chamber. It might result in the passage of a bill which would be vetoed by the President.

But if that is all we do, whatever the outcome with respect to this bill, it is a certainty that the process has been seriously jeopardized.

There are a lot of us who, frankly, will never vote for a reconciliation instruction again if all we do is just enforce the letter of the rules, because the letter of the rules will not eliminate the abuse. The rules simply are not drawn tightly enough. That is not to criticize those who wrote the rules.

In 1985, let us remember what happened within the rules. One of our most distinguished members brought to the floor a proposal, a legislative proposal to reduce the number of Commissioners on the Federal Communications Commission, a very controversial matter. He got it through within the rules. We all looked at it and said, Well, you got away with that, but that should not be permitted. It is just not good practice.

I do not say it to criticize him. In fact, I have laughed with him about it. He made the rules work for him. But that does not make it right anymore than if we strip out a half or two-thirds or 75 percent of the abusive provisions under technical compliance with the rules. If we leave a half or a third or 25 percent of the abusive provisions, we have not done our job. We have done the process a disservice and set the stage, I think, for chaos in the future. And we are very close to chaos now, as is evident.

But how can anybody in good conscience vote for a reconciliation instruction if you can hide an offending provision and wrap it in a provision which is protective of a point of order; in other words, if you can put in here something which on its own violates the so-called Byrd rule, but wrap it in something else to prevent the Byrd rule from reaching it.

That is all I am saying to the Senator from Tennessee. I am not trying to impede the process in assuring compliance. I am saying that does not go far enough.

Unless the Senator from Tennessee wants to say something, I was going to yield to the Senator from Texas.

Mr. SASSER. If I may yield myself a very short amount of time.

Mr. President, let me say to my friend from Colorado, for whom I have the greatest respect, I think we are treading on dangerous ground indeed when we take the position here that the rule may not be adequate, so let us go beyond the rule on this particular occasion because we think the offense here is so egregious. Those circumstances can change from day to day.

It is my view that we ought to abide by these rules—abide by the Byrd rule. Then, if my friend from Colorado or any other Senator is dissatisfied with the remainder that may be in this reconciliation report, a motion to strike is in order and would be entertained, I am sure, by the Chair. And if the Senator from Colorado or any other Senator, including the Senator from Tennessee, can persuade 51 Members of the body that the motion to strike is well taken, then it will prevail. So there is adequate remedy here first by the application of the Byrd rule, and then by the ordinary rules of the Senate, to get this reconciliation down to a point where it is at least agreeable to the majority in this body.

The PRESIDENT pro tempore. Who yields time?

Mr. ARMSTRONG. Mr. President, I judge that we are going to return to the discussion of this issue in due course. I thank my friend from Tennessee for the interesting discussion.

Now I would like to yield such time as he may consume to the distinguished Senator from Texas, a silver-tongued orator and a hardnosed budget balancer.

The PRESIDENT pro tempore. The Senator from Texas [Mr. GRAMM] is recognized for such time as he may require.

Mr. GRAMM. I thank my dear colleague from Colorado.

Mr. President, I listened to this discussion about what is technically within the rules and what is not. It seems to me that we have forgotten what we are here to do.

On Monday, there will be an announcement that we have missed the deficit reduction targets of a law that we adopted in the Senate by some 70 votes. The Office of Management and Budget, as charged under that law, will find that the deficit is about $117 billion. We have a deficit target of $100 billion. And so they will issue a finding to the President and, based on that finding, the President will be required to impose an across-the-board cut in budget authority to reduce spending by $17 billion. That will be divided equally between defense and nondefense, and every program, project, and activity except for the handful that have some degree of protection will be affected.

Mr. President, let me first note that if anybody needs a clear indictment of the U.S. Congress, that indictment is going to be sealed and delivered on Monday. I found some interesting quotes the other day. I was going to bring them down here and read them, and then I thought it is basically unfair to read back to people things they have said on the floor of the Senate.

But there were some 25 or 30 Members of the Senate on the day we adopted this budget compromise—let me make it clear Mr. President, that it was not my compromise. I had nothing to do with negotiating it—but there were 20 or 30 Members who got up and said we are not doing enough; that what is called for in this budget is too trivial, so unimportant that we are not meeting the challenge.

Well, Mr. President, maybe we were and maybe we were not. But we adopted that budget. That budget was agreed to by the bipartisan leadership of both Houses of Congress and by the President.

In fact, even though many said it was not a great agreement, it was hailed as being a bipartisan compromise, something that we had not had in the Reagan era. Well, Mr. President, here we are only a handful of days before an automatic cut goes into effect because we have not enforced that agreement.

I think it is also important, and maybe I am a little sensitive about it because of the name of the law in question, the Gramm-Rudman law, but I have heard in the last several days a lot of people trying to pin this failure on that law we adopted in 1985.

Quite frankly, Mr. President, it reminds me of a drunk who tries to blame the wrench for his inability to fix the leaking faucet. I submit that is the reason that we have this huge bill before us with matters such as "The Congress finds that domestically produced limes are grown by many individual producers;" and "The Congress finds that mushrooms are important food that is a valuable part of the human diet"; and "The Congress finds that pecans are a native American nut that is an important food and is a valuable part of the human diet."

Mr. President, we cannot blame the Gramm-Rudman law for this. In fact, I raised a question in the Budget Committee this morning. Everybody was ranting and raving about this bill, and I wondered: Did God send this bill down? Where did this bill come from? How did it magically appear on every desk in the Chamber? Everybody is against it. But the plain truth is, this bill was adopted overwhelmingly in the committees of the U.S. Senate, and we make up those committees.

So, the first point I make, Mr. President, is we cannot blame the process. The plain truth is the reconciliation bill before us is a misuse of a process that, in the past, has been abused from time to time but has also been used very, very effectively.

What we have seen here is really a combination of things. No. 1, an effort

to see a train coming along and add something in the back so that train might pull it. I think also, Mr. President, we are seeing an effort to kill the process. I think many of the people who would love nothing better than to suspend the only fiscal restraint that we have in place in the country are really using the perversion of this process as a way to try to kill that fiscal restraint.

We really have before us a massive document that consists of, really, three kinds of things. A very, very small amount of this document is made up of legitimate, clear-cut savings that modestly meet the requirement necessary to avoid that automatic cut from going into effect.

I submit in probably 20 pages we could write out, in its simplest and most basic form, what those items were. And I submit, Mr. President, those are the items we ought to be debating here.

The second set of items are things that will be dealt with by the Byrd rule. Let me make it clear, Mr. President, I am glad we have the Byrd rule as part of the process. I think it is vitally important that that rule be extended. The problem is, again, it is simply one more wrench of a different size to do a different job. But it is only as good as those who are using that wrench.

If we apply the Byrd rule, I assume that all of the provisions related to agriculture will be stricken out. I do not mean to be picking on agriculture, but the bill is so thick I had not had time to read past agriculture. But I assume that all of these provisions relating to pecans, mushrooms, limes, potatoes, honey, kiwis, papayas, and Vidalia onions will be stricken out.

We have here—in this bill that is meant to avoid across-the-board cuts of Medicare, and cuts that will affect the veterans' hospitals—the definition of a Vidalia onion.

I submit, Mr. President, the Byrd rule in all probability will knock these provisions out. If anybody moves to waive the Byrd rule, I am going to oppose them, and I am going to vote against them, and I look forward to that rule being used.

But I submit, Mr. President, that rule is not powerful enough to deal with the real problem we face because, even after we have employed the Byrd rule and have stricken the definition of Vidalia onions and all these other things, we are still going to have a lot of provisions in this bill that really do not belong here.

Let me just pick the worst provision of the House bill so nobody takes it personally that I am talking about their provision in this bill. Even if we do our work, even if we get down to these 20 pages I am talking about, we still have to go to conference with the House with a bill that is two or three times this thick. Our problems there are provisions such as a provision of Medicaid that actually raises spending by $12 billion at the Federal level and imposes $10 billion of costs on the States.

Mr. President, as I understand it—at least in terms of our experts who have looked at it, and clearly the Parliamentarian will rule as to what the Byrd rule really means—this Medicaid provision will not be stripped. If we had a conference report come back that had a $12 billion expansion in Medicaid as a cost to the Federal Government and a $10 billion expansion in Medicaid costs to the States, the Byrd rule would not lie against that provision.

But is there anybody here who really believes, in the name of saving $5.3 billion, we ought to be adopting a provision that raises the deficit by $12 billion and requires the States to spend an additional $10 billion? I submit, Mr. President, nobody here really believes that ought to be in this bill.

If our objective here is not to simply engage in sparring, some of which is partisan, some of which is everybody trying to protect his turf, but if our objective is really to try to deal with the deficit problem to avoid the across-the-board cut, then what we need to do is to sit down and go through these items. On items that clearly do not save money—that in fact cost money even though they technically are not going to be stripped by the Byrd rule—what we need, Mr. President, is an agreement that we go through and strip all of those items out.

I submit if we do not do that, we are going to go through whatever amount of time we have here, have lots of speeches and we will probably have some people who are so outraged by some of these provisions that they will send another one of these stacks down. One of our poor clerks will have to read them, which is cruel and unusual punishment and banned under the eighth amendment to the Constitution. And then we will end up, probably, not getting 51 votes. We probably will not adopt it.

Then, if we do adopt it, does anybody really believe that the President is going to sign a bill that makes the ABC child care bill the law of the land as part of an effort to save $5.3 billion? Is there anybody here who believes that the President would sign a bill that raised the deficit by $12 billion and imposed a $10 billion cost on the States, in the name of saving $5.3 billion?

Not the President I know and love. We know a lot of time has been spent on this, and I congratulate the leadership of the Senate that stayed over the weekend, that worked on Sunday, that tried to come up with an agreement. But the plain truth is we are wasting our time here.

Some people would say we are wasting our time because I am speaking. But I think we are wasting our time because, unless we work out an agreement to take these items out, (a) the bill is probably not going to be adopted, or (b) the bill is certainly going to be vetoed. And all this time these automatic cuts are going to be in place. And I know everybody feels at the moment that that is far away and we can blame somebody else for those across-the-board cuts. We can blame Gramm-Rudman or we can blame the other party or we can blame the President.

But my guess is that in the final analysis, the American people are wise and, because of their wisdom, this system works. They are going to blame us. So I submit that the quickest way to get the job done, the job we came here to do, is to reduce the deficit and to avoid the automatic cuts. I am confident we are eventually going to do it. I am just saying why not save ourselves a whole bunch of time, wear and tear, save the American people a lot of anxieties about these cuts, save all the costs about letting them go into effect and then having to come back and reverse them, by simply sitting down with a few of our leaders and going through this package with the strictest definition: Does it save money? Is it really what reconciliation is about? Take all this stuff out, come down here with a 20-page bill that everybody can sit down and read in 45 minutes and then offer it, pass it, hopefully on an overwhelming vote, maybe a unanimous vote, and then go to conference with the House. Then we can say to the House, if you have different savings, let us negotiate them." But do not come in here with a child care bill; do not come in here with a flea prevention act for canines. Let us just focus on what we are trying to do here in terms of saving money.

Mr. ARMSTRONG. Will the Senator yield? If the Senator does not want the flea prevention act, how does he feel about the empty seat rule? Has he heard of that?

Mr. GRAMM. No.

Mr. ARMSTRONG. May I inform the Senator, contained deep down inside this bill is a provision that affects the so-called empty seat rule. Does the Senator think the question of how a taxpayer treats the empty seats on a charter aircraft is a reconciliation measure, or does he think it is more like the flea prevention act he mentioned?

Mr. GRAMM. Let me say this: I think when payments under Medicare are cut by 2 percent because we are debating the definition of the Vidalia onion, or because we are debating the empty seat rule, I know there will be

people who will say, God did it; it is God's fault or it was the President's fault or it was Gramm-Rudman's fault. But I really believe that the American people are going to see through that and they are going to see that it is our fault, and I think they are not going to be very happy.

Mr. ARMSTRONG. If I can engage the Senator for a moment more. The Senator from Texas has given us an insightful analysis of some provisions in this bill, particularly those in agriculture. I turned to the section on finance because I happen to be a member of the Finance Committee, and there are the same kind of provisions in the finance section of this bill as he mentioned in the agriculture portion of the bill. For example, there is a safe harbor leasing provision for rural electric co-ops. There is a change in the taxation of alien students who receive Fulbright scholarship equivalent funds; that is, those who come to this country and receive scholarships, should we tax them or not? Should we have a reciprocal arrangement with other countries? There is a new section on 401(k) plans. There is a change in the diesel fuel tax. They are endless. I am talking about dozens of provisions of that kind, some of which are changes that are needed. Some of them are desired; some are not.

The point I want to emphasize is that in the finance section of the bill, in the commerce section of the bill, in every section of the bill, it is just like the agriculture part; not that these provisions are all wrong but that they do not belong in this bill because we cannot debate them; we do not have the time to focus on them; we do not have a committee report. They are not subject to amendment in the same way they would be otherwise. They are not before us under the traditional rules of debate.

The Senator said he thinks the American people are going to see through this if we do not fix this up. Is the Senator not aware what is going to happen when we get down to the last hour of debate; that Senator after Senator is going to come down and say I am against this, it is terrible, it is drastic, it is awful, but we have no choice? Does the Senator realize that is what is going to be said? And how does the American public know they are going to be bamboozled?

Mr. GRAMM. I am going to tell them.

Mr. ARMSTRONG. I thank the Senator and appreciate his willingness to spare with me a little. We are really heading way off the track.

If the Senator would address one more issue. I tried to make some of the arguments earlier that the Senator has so eloquently presented. One of the issues which came up was this response: That we should only enforce the rules; we should only enforce the so-called Byrd rule and if we go beyond that, if we try to formulate an agreement of some kind to drop out provisions which violate the spirit but not the letter of the so-called Byrd rule, that somehow we would be chartering into dangerous territory; that somehow we would be creating a precedent that would be unusual for the Senate. What does the Senator say to an argument like that?

Mr. GRAMM. Let me say, I think it depends on what you are trying to do. I understood we were here trying to reduce the deficit. If that is our objective, I think it is clear that under the rules of the Senate, under the precedents of the Senate, that we can engage in all kinds of activities. Any Member of the Senate could send down a 1,000-page amendment and require that it be read. That would be perfectly within their rights. It would not, as I understand with the answer of the distinguished President pro tempore; count toward the time on this bill. So technically they could do that. We know that technically under the rules you can use this bill to raise the deficit by twice as much as we are trying to save. The question is not whether you can do it; the question is whether you want to do it.

I submit that the people here who are serious about trying to deal with the deficit problem should be willing to address the issues, not on the basis of how we can narrowly define the procedure to protect people who are trying to destroy the process, but how we can function as the greatest deliberative body in the world in trying to make the process work.

Let me finally say, and I will yield the floor because our distinguished Senator from South Carolina is here, but let me make a final point related to all these items in this bill. One of the reasons that I ran for the Senate was because in the House of Representatives you have such binding rules. You never really get to debate the legitimate agenda of the American Nation. The great thing about the Senate is if somebody wants to deal with an empty seat provision that the distinguished Senator from Colorado talked about, all they have to do is to raise that as an amendment on any bill. If somebody wants to define Vidalia onions, all they have to do is raise an amendment on any bill and they can require the Senate to debate and vote on it.

Quite frankly, I think it is a legitimate thing to do and I probably would be inclined to look with favor on doing it. Obviously, you can try to do it in this bill, but the point is why not do it another day on another bill rather than when we are dealing with a very important process here in trying to achieve deficit reduction.

Mr. President, a final point and then I will conclude. We have a mechanism that is a pretty good wrench, going back to my analogy. If we apply it with some skill, we can fix this leaky faucet; we can reduce the deficit; we can strengthen a recovery that has created 21 million new jobs; we can try to keep that recovery going, a recovery that is now the longest peacetime economic expansion in American history.

But to do that we have to decide that is what we are here to do; that we are not here to do all these other things; we are not here to engage in political sparring; we are here to use the wrench to fix the leaky faucet.

So I submit that what we ought to do is get about that task, and the only way we are going to do that is to sit down on a bipartisan basis and throw all the extraneous matters out of this bill. My guess is, Mr. President, that half of these provisions in this bill, that are really extraneous to what we are doing here, are things I favor. If somebody will offer them tomorrow as an amendment, I will vote for half of them because I think they are good ideas. But today is not the day to be doing that. Today is the day to be reducing the budget deficit. But to those who do not want to do that, I hope they will remember it is not our effort to balance the budget that is failing, it is the Senate and the Members who make it up.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I yield as much time as he shall require to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

Mr. THURMOND. Mr. President, I thank my distinguished colleague.

Mr. President, I wish to proceed as if in the morning hour.

The PRESIDING OFFICER. The Senator may proceed.

THE PRESIDENT'S TRIP TO SOUTH CAROLINA

Mr. THURMOND. Mr. President, I was deeply dismayed to read a newspaper story from South Carolina this morning in which President Bush was subjected to sharp criticism for his recent visit to our State to view the damage from Hurricane Hugo. This kind of partisan rhetoric, I believe, does a disservice to the many fine people of South Carolina who now are rebuilding their homes, their churches and schools, and their lives.

Several days after Hurricane Hugo devastated South Carolina and caused an estimated $5 billion in damages, I asked President Bush to come to our State. It was my hope that a personal

visit by the President would not only help ensure maximum Federal aid in the rebuilding process, but also would show our shell-shocked residents that our Nation, and indeed the world, is deeply concerned about their plight. President Bush gladly responded and came to South Carolina. He toured both rural and urban areas and he met with residents and local officials. The President also assured our State that any and everything that could be done would be done. For this, I was both proud and thankful.

In the days following the President's trip to South Carolina, I heard from many, many residents of our State. All with whom I spoke said the President's trip lifted their sagging spirits and gave them hope that the Federal Government would assist in helping them put their lives back together. Our able Governor Carroll Campbell, whose round-the-clock efforts yielded extraordinary results in the days leading up to and following the hurricane, said the President's trip was vital in illustrating to the Nation the problems our State is now facing.

Because the devastation was so great, at my request the President approved $1.1 billion in emergency aid for victims of the hurricane. After returning to Washington, President Bush did not forget South Carolina. At the urging of Governor Campbell, the President announced that the Federal Government will pay 100 percent of the cost of repair and cleanup after the State pays $8.5 millon. Had President Bush not taken this action, our State's financial future would have been seriously weakened.

These are just two of the many actions the Federal Government and the President have taken to help our beleaguered residents. For coming to South Carolina and the billion-dollar-plus aid the President has approved for hurricane victims, I want to say publicly, from the bottom of my heart, thank you, Mr. President.

In conclusion, I also want to apologize to the President for the criticism that was made concerning his visit to our State. It will be decades before the nightmarish Hurricane Hugo fades from the memory of South Carolinians. President Bush, by visiting our State and marshalling Federal aid, has helped us begin that process. Thank you, again, Mr. President.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Tennessee.

Mr. SASSER. Mr. President, let me say to my distinguished friend, the senior Senator from South Carolina, that the hearts of the Nation go out to the people of South Carolina for the tragedy they have suffered in the past few weeks following the ravages of Hurricane Hugo.

South Carolina has a special place in the heart of the Senator from Tennessee. I had the privilege and honor to reside for a number of months at a place called Parris Island, SC, the Marine Corps recruit depot, some years ago, and my family and I have traditionally vacationed at Pawleys Island, SC, over the past 22 years, a beautiful, scenic part of this country which suffered savage damage at the hands of Hurricane Hugo.

When the distinguished junior Senator from South Carolina, Senator HOLLINGS, in concert with his senior colleague, Senator THURMOND, came to the Budget Committee to discuss privately with myself and the chairman of the Appropriations, Committee, Senator BYRD, the needs of the people of South Carolina, we were pleased to respond to the pleas of our friends, the Senators from South Carolina, Senator THURMOND and Senator HOLLINGS. We fervently hope that this Federal largess is being put to good use. We trust it is. I want to say to my friend, the senior Senator from South Carolina, that we understand the sadness of many of the people he represents, and we are indeed sympathetic with the tragedy they have suffered through this terrible act of God that took place just a few weeks ago.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Tennessee for his remarks and for his fine cooperation in this matter.

After my first trip to visit the devastated area in my State, I came back and requested the administration to submit a request for the $1.1 billion, and I am very pleased they did that. The Budget Committee and the Appropriations Committee cooperated well, including Senator HOLLINGS and others, and we are very grateful this money was obtained. Again, I thank the administration and the President for requesting that money and thank the Congress for passing the appropriations.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

Mr. ARMSTRONG. Mr. President, earlier this afternoon, we adopted an amendment by the Senator from Texas [Mr. BENTSEN] and the Senator from Minnesota [Mr. DURENBERGER]. I ask unanimous consent that Senator SIMPSON be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I also ask that I be added as a cosponsor to the amendment of the Senator from Texas and the Senator from Minnesota.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

Mr. SASSER. Mr. President, I have just received from the Joint Committee on Taxation a revised estimate of the revenue effect of items reported pursuant to budget reconciliation instructions. I ask unanimous consent that these revised estimates be printed in the RECORD.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–1994

[In millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
I. Repeal financial institution (FSLIC & FDIC) tax benefits: (P.L. 101–73) [1]	5/10/89	568	31	351	310	213	1,473
II. Corporate provisions:							
A. Defer interest deduction on certain high-yield original issue discount (OID) obligations until interest is paid	(*)	18	44	86	120	141	409
B. Limit dividends received deduction with respect to certain nontaxed income of consolidated subsidiaries (effective for stock issued after effective date).	10/3/89	45	92	154	209	271	771
C. Repeal nonrecognition treatment when securities are received in a section 351 transaction	(2)	164	288	289	316	359	1,416
D. Reduce built-in gain or loss threshold of sections 382 and 384 to lesser of 15% or $25 million	10/3/89	12	18	17	18	19	84
E. Require basis reduction for nontaxed portion of dividends on self-liquidating ("wasting") stock	(*)	6	10	11	12	13	52
F. Modify consolidated return excess loss account recapture rules to prevent shifting of basis to debt	(*)	54	69	61	52	42	278
G. Clarify Treasury regulation authority relating to bifurcation of an instrument into debt and equity portions (section 385)	(**)	(3)	(3)	(3)	(3)	(3)	(3)
H. Require reporting to IRS of acquisitions and recapitalizations	D/o/E	(3)	(3)	(3)	(3)	(3)	(3)
I. Require Treasury study of "debt versus equity" and integration issues	D/o/E						
J. Limit net operating loss carrybacks attributable to interest expense in certain circumstances (S. 1506)	ty/e/a: 8/2/89	226	406	420	384	343	1,779
K. Require regulated investment companies (mutual funds) to distribute 98% of ordinary income to their shareholders	ty/e/a: 7/10/89	50	5	5	5	5	70
L. Adjust basis for mutual fund load charge only if shareholder holds shares for more than six months	10/4/89	28	46	22	7	5	108
M. Include dividends in income of regulated investment companies on ex-dividend date (effective for ex-dividend dates after D/o/E)	D/o/E	110	20	20	20	20	190
Subtotals		713	998	1,085	1,143	1,218	5,157

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–1994—Continued

[In millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
III. Employee benefit provisions:							
A. Repeal partial exclusion for interest paid on ESOP loans if ESOP owns less than 30% of the employer's stock (section 133)	Generally: 6/7/89	1,101	1,400	1,774	2,123	2,488	8,886
B. Permit limited use of excess pension funds to pay current retiree health benefits; reverse 401(h) letter ruling (effective 10/4/89)	Generally: 1/1/89	585	417	380	345	321	2,048
Subtotals		1,686	1,817	2,154	2,468	2,809	10,934
IV. Foreign provisions:							
A. Conform tax years of certain controlled foreign corporations and foreign personal holding companies to the tax years of certain U.S. shareholders (with one-month exception).	ty/b/a: 7/10/89	48	71	71	71	36	297
B. Change the sourcing of income of certain corporations in commonly-controlled groups	ty/b/a: 7/10/89	20	37	41	45	49	192
C. Improve information reporting by U.S. subsidiaries and branches of foreign corporations	ty/b/a: 7/10/89	55	75	80	85	90	385
Subtotals		123	183	192	201	175	874
V. Excise tax provisions:							
A. Repeal Airport and Airway Trust Fund tax reduction trigger (10)	1/1/90	851	1,505	1,630	1,762	1,907	7,655
B. Increase international air passenger departure tax from $3.00 to $6.00 per person (10)	1/1/90	51	89	94	100	106	440
C. Impose $3.00-per-passenger tax on international departures by commercial ships	1/1/90	5	7	8	8	8	36
D. Impose Oil Spill Liability Trust Fund petroleum tax at $0.03/barrel (cap at $300 million)	1/1/90	43	114	60	8		225
E. Impose tax on ozone-depleting chemicals subject to the Montreal Protocol	1/1/90	384	560	753	1,171	1,442	4,310
F. Impose Wetlands Trust Fund tax on oil and gas produced offshore at $0.03/barrel of oil and $0.02/thousand cubic feet of natural gas.	1/1/90	47	80	83	85	88	383
G. Change collection of gasoline excise from semi-monthly to weekly deposits	1/1/90	111	4	1	2	4	122
H. Modify collection period for airline ticket tax (taxes billed after 6/30/90)		110	6	6	7	7	136
Subtotals		1,602	2,365	2,635	3,143	3,562	13,307
VI. Accounting provisions:							
A. Repeal remaining portion of completed contract method of accounting	(*)	171	390	262	116	28	967
B. Modify treatment of cost of acquiring franchises, trademarks, and trade names (20-year amortization election for fixed and contingent payments).	10/3/89	51	108	144	157	185	645
Subtotals		222	498	406	273	213	1,612
VII. Employment tax provisions:							
A. Impose income tax withholding on the wages of certain agricultural workers	1/1/90	270	68	21	22	23	404
B. Payroll tax speedup ($250,000 threshold; next-day deposit in 1990, third-day deposit in 1991 and 1992, and next-day deposit thereafter).	6/30/90	2,366	−694	100	106	1,108	2,986
Subtotals		2,636	−626	121	128	1,131	3,390
VIII. Other revenue-raising provisions:							
A. Tax pre-contribution gain on certain in-kind partnership distributions made within three years of contribution	10/4/89	6	12	16	19	20	73
B. Restrict like-kind exchange basis shifting techniques between related parties	7/10/89	100	120	130	140	151	641
Subtotals		106	132	146	159	171	714

	Code section	Current law expiration						
IX. Expiring Provisions:								
A. Employer-provided education assistance (through 1991)	Sec. 127	12/31/88	1/1/89	−439	−316	−96		−851
B. Group legal services (through 1991)	Sec. 120	12/31/88	1/1/89	−127	−82	−29		−238
C. Targeted jobs tax credit (with modifications) (through 1991)	Sec. 51	12/31/89	1/1/90	−47	−134	−144	−80	−37	−442
D. Research and experimentation credit (with modifications) (Permanent)	Sec. 41	12/31/89	1/1/90	−398	−782	−968	−1,063	−1,194	−4,405
E. Research and experimentation cost allocation rules (64% allocation) (for 2 years)	Sec. 861	(*)	ty/b/a: 8/1/89	−335	−625	−275			−1,235
F. Business energy credits (solar, geothermal, and ocean thermal) (Permanent)	Sec. 46	12/31/89	1/1/90	−56	−81	−51	−38	−40	−266
G. Mortgage revenue bonds (Permanent)	Sec. 143	12/31/89	1/1/90	−11	−55	−128	−205	−269	−668
H. Small-issue manufacturing bonds (through 1991)	Sec. 144	12/31/89	1/1/90	−7	−39	−58	−78	−76	−258
I. Low-income housing credit (with modifications) (Permanent)	Sec. 42	12/31/89	1/1/90	−79	−333	−681	−1,058	−1,448	−3,599
J. Health insurance for self-employed (through 1991)	Sec. 162	12/31/89	1/1/90	−244	−411	−151			−806
K. Waiver of early withdrawal tax for ESOPs (through 1991)	Sec. 72(t)	12/31/89	1/1/90	−10	−20	−10			−40
Subtotals				−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. Child Care, S Corporation Estimated Tax, and Telephone Excise Tax:								
A. Child care initiative:								
1. Dependent care credit, refundable, advanced refundable 1/1/92; 90% refundability limit			1/1/91		−51	−1,090	−1,130	−1,229	−3,500
2. Health insurance credit; Rate: 50%; Phaseout: $12,000–$21,000			1/1/91		−46	−964	−903	−882	−2,795
3. EITC supplemental for children under 4 years old; Rates: 7% for 1 child, 10% for 2+ children; Phaseout rates: 10%, 15%; Phaseout income levels: $10,000–$15,000 indexed.			1/1/91		−63	−632	−681	−732	−2,108
B. Require corporate estimated tax payments on tax liability for certain Subchapter S income			1/1/90	25	(3)	(3)	(3)	(3)	25
C. Telephone excise tax:									
1. Permanent extension			1/1/91		1,612	2,732	2,930	3,143	10,417
2. Modify collection period (100% speedup, effective for taxes billed by service providers after 6/30/90)			7/31/90	102	5	5	6	6	124
Subtotals				127	1,457	51	222	306	2,163
XI. Individual Retirement Accounts (IRAs):									
Provide for 50% Deductibility of Contributions (effective 1/1/91), and Allow Penalty-Free Withdrawals for First-Time Homes and Higher Education Expenses (effective 1/1/90).			1/1/91 and 1/1/90	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. Other Provisions:									
A. Repeal section 89			1/1/89	−154	−156	−170	−185	−202	−867
B. Continue temporary rules concerning allocation of taxes for Railroad Retirement Trust Fund			10/1/89						
C. Require exercise of Treasury regulatory authority with respect to full-funding limitation on a revenue-neutral basis			D/o/E						
D. Treat income from personal injury awards to children as earned income not subject to tax at parent's rates			1/1/87	(3)	(3)	(3)	(3)	(3)	(5)
E. Permit private foundations to use common investment funds			ty/b/a: 12/31/89	−1	−4	−8	−11	−15	−39
F. Modify rules concerning recapture of bad-debt reserves of mutual savings banks and other thrift institutions			D/o/E	1	3	10	13	20	47
G. Deny retroactive certification of WIN credit			(7)	38	28	12			78
H. Estate, gift, and generation-skipping tax provisions:									
1. Estate tax marital deduction—Overrule Howard Estate			10/4/89	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
2. Exclude annual exclusion gifts under section 2035			D/o/E	−1	−2	−2	−3	−3	−11
3. Allow waiver of right of contribution (section 2207A) in limited circumstances			D/o/E	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
4. Repeal estate freeze rules (section 2036(c))			12/31/87	−27	−72	−146	−249	−384	−878
5. Generation-skipping transfer tax—Make $2-million exemption permanent, with modifications			10/4/89	−1	−15	−23	−31	−42	−112

ESTIMATED REVENUE EFFECTS OF ITEMS REPORTED PURSUANT TO BUDGET RECONCILIATION INSTRUCTIONS—FISCAL YEARS 1990–1994—Continued

[In millions of dollars]

Item	Effective	1990	1991	1992	1993	1994	1990–94
6. Marital deduction rules for nonresident aliens:							
a. Eliminate income requirement and other minor changes	11/10/88	−(6)	−2	−2	−2	−2	−8
b. Permit trustee discretion to make distributions to surviving spouse in case of hardship	11/10/88	−4	−2	−2	−3	−3	−14
I. Allow deduction for certain adoption expenses	1/1/90	−2	−3	−3	−3	−3	−14
J. Reinstate income averaging for farmers	1/1/90	−5	−65	−70	−75	−80	−295
K. Extend one-year deferral rule to crop payments made pursuant to Disaster Assistance Act of 1989		−12					−12
L. Provide relief to wholesale distributors of diesel fuel	4/1/88	(6)	−1	−1	+(6)	+(6)	−2
M. Modify treatment of hedging transactions by REITs	D/o/E	(8)	(8)	(8)	(8)	(8)	(8)
N. Cost recovery:							
1. Establish 2-year class life for rental tuxedos	1/1/90	−2	−7	−8	−7	−5	−29
2. Revenue-neutral change to deduction for expenditures incurred to assist disabled	1/1/90						
O. Employee benefit provisions:							
1. Make section 401(k) plans available to tax-exempt organizations	1/1/90	−15	−32	−38	−42	−56	−183
2. Change integration rules	1/1/89	(9)	(9)	(9)	(9)	(9)	(9)
3. Modify geographic limitation for VEBAs	10/3/89	−5	−9	−13	−17	−20	−64
4. Modify leased employee rules per S. 5	1/1/84	(9)	(9)	(9)	(9)	(9)	(9)
5. Modify nondiscriminatory rules for dependent care exclusion per S. 5	1/1/89	(9)	(9)	(9)	(9)	(9)	(9)
P. Tax-exempt bonds:							
1. Permit State housing agencies to issue tax-exempt bonds in connection with purchase of certain assets from troubled financial institutions.	D/o/E	−1	−4	−7	−11	−16	−39
2. Permit refunding of bonds issued by certain municipal authorities	D/o/E	−1	−4	−6	−9	−11	−31
3. Modify rules concerning tax-exempt bonds issued by 501(c)(3) organizations	1/1/90	−4	−9	−15	−22	−29	−79
4. Extend period allowed for issuance of Mortgage Credit Certificates	D/o/E	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
5. Permit financing of sports facilities with tax-exempt bonds	1/1/90	−2	−6	−11	−16	−23	−58
Q. Provide guidance for Treasury regulatory authority concerning treatment of split annuities	10/21/88	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
R. Reduce BATF alcohol occupational tax for small retail dealers	1/1/90	−5	−5	−5	−6	−6	−27
S. Provide statute of limitations for alcohol occupational taxes for periods prior to 1986	D/o/E	−2	−2	−2	−2	−2	−10
T. Increase excise tax on pension reversions to 20%	10/4/89	9	4	2	1	1	17
U. Add authorization for essential air service to Airport and Airway Trust Fund	D/o/E						
V. Foreign provisions:							
1. Consider certain leased assets for purposes of the passive foreign investment company asset test	ty/b/a: 12/31/88	−6	−5	−5	−5	−5	−26
2. Modify application of passive foreign investment company rules for export trade corporations	ty/b/a: 12/31/88	−6	−4	−4	−4	−4	−22
3. Modify treatment of certain scholarships and fellowships received by nonresident aliens	ty/b/a: 12/31/89	−8	−11	−13	−13	−14	−59
W. Accounting provisions:							
1. Modify treatment of safe-harbor leases entered into by rural electric cooperatives	(11)	−12	−7	−7	−7	−6	−39
2. Farm debt relief—Limited exclusion from discharge of indebtedness income	1/1/87	−45	−18	−20	−23	−26	−132
3. Contributions for facilities to replace contaminated water supplies	1/1/89	−1	−1	−2	−2	−2	−8
4. Modify percentage of completion method of accounting for long-term contracts	1/1/90	−83	−119	−57	−35	−22	−316
5. Timber passive loss material participation exception	ty/b/a: 12/31/89	−8	−26	−30	−36	−40	−140
6. Annual accrual method of accounting not limited to sugar cane	1/1/87	−8	−8	−3	−3	−3	−25
7. Installment sales of residential lots and timeshares by C corporations (regular and minimum tax)	1/1/90	−13	−17	−12	−7	−6	−55
X. Energy/excise tax provisions:							
1. Extend section 29 credit through 12/31/92 and include production from tight sands	1/1/90	−40	−99	−168	−198	−180	−685
2. Gasohol—Provide tolerance limits for blending	1/1/90	−(6)	−(6)	−(6)	−(6)	−(6)	−(6)
3. Facilitate tax-free purchase of fuels by crop dusters	1/1/90	−3	−4	−4	−4	−4	−19
V. Allow exclusion preferences as part of the alternative minimum tax credit	ty/b/a: 12/31/89		−24	−61	−92	−119	−296
Z. Small business exemption from recognition of gain or loss on liquidating sales or distributions (exemption from repeal of General Utilities doctrine).	1/1/89	3	1	−5	−11	−15	−27
AA. Penalty reform	1/1/90		−51	−82	−58	−25	−216
BB. IRS notice to taxpayers concerning withholding per S. 811 and S. 753	D/o/E						
CC. Increase Joint Committee on Taxation refund review threshold to $1 million	D/o/E						
DD. Technical corrections							
Subtotals		−426	−758	−981	−1,178	−1,352	−4,695
XIII. Other Provisions Adopted by the Committee:							
A. Modify rules for determining cooperative patronage source income and loss from asset sales	(11)	−18	−23	−9	10		−40
B. Modify application of self-dealing rules for public charities that become private foundations	ty/b/a; D/o/E	(8)	(8)	(8)	(8)	(8)	(5)
C. Modify treatment of employer-provided qualified transportation expenses	1/1/90	−7	−9	−9	−10	−10	−45
D. Deny amortization of life estate in related-party joint purchases	7/27/89	3	5	9	14	22	53
E. Remove gifts of appreciated property as a tax preference for one year	ty/b/a/; 12/31/89	−13	−60				−73
F. Allow dividend received deduction from ACE for 20%–80% stock ownership	ty/b/a; 12/31/89	−15	−24	−20	−17	−14	−90
G. Allow alcohol fuels credit for ethyl tertiary butyl ether (ETBE)	1/1/90	−18	−51	−106	−58	−9	−242
H. Provide exception from income phaseout of passive loss rule for $25,000 exemption for rehabilitation credit and low-income housing credit.	1/1/90	−8	−21	−29	−39	−48	−145
I. Allow reserve deductions for certain minimum premium plans	(11)	(8)	(8)	(8)	(8)	(8)	(8)
J. Modification of empty-seat rule for fringe benefit purposes	1/1/90	−4	−9	−11	−12	−13	−49
K. Allow family farm corporations that were required to use an accrual method of accounting, by reason of the 1987 Act, to elect a 10-year spread rather than a suspense account.	ty/b/a; 12/31/87	−18	−14	−15	−16	−17	−80
L. Oil and gas percentage depletion: Repeal net income limitation for production from marginal wells	ty/b/a; 12/31/90		−24	−50	−50	−49	−173
M. Exclusion for certain overseas allowances received by certain Defense Department personnel	1/1/89	(8)	(8)	(8)	(8)	(8)	(5)
N. Eliminate the excise tax imposed on the Inactivated Polio Vaccine, conditional upon action of the Labor and Human Resources Committee.							
O. Tax exemption for Overseas Private Investment Corporation (OPIC)	D/o/E						
P. Continue IRS authority to assist other law enforcement agencies with undercover operations for two years	D/o/E						
Q. Require Treasury study of standards for tax exemption of certain health insurance organizations	D/o/E						
R. Clarify Treasury regulatory authority concerning variable contracts issued by controlled foreign corporations	ty/b/a; 12/31/89						
S. Technical amendments to the Financial Institutions Reform, Recovery, and Enforcement Act							
Subtotals		−98	−230	−240	−178	−138	−884

SUMMARY

I. Repeal FSLIC & FDIC tax benefits [1]	568	31	351	310	213	1,473
II. Corporate provisions	713	998	1,085	1,143	1,218	5,157
III. Employee benefit provisions	1,686	1,817	2,154	2,468	2,809	10,934
IV. Foreign provisions	123	183	192	201	175	874
V. Excise tax provisions	1,602	2,365	2,635	3,143	3,562	13,307
VI. Accounting provisions	222	498	406	273	213	1,612
VII. Employment tax provisions	2,636	−626	121	128	1,131	3,390
VIII. Other revenue-raising provisions	106	132	146	159	171	714
Subtotal: Revenue-raising provisions (I–VIII)	7,656	5,398	7,090	7,825	9,492	37,461
IX. Expiring provisions	−1,753	−2,878	−2,591	−2,522	−3,064	−12,808
X. Child care, S corporation, estimated tax and telephone excise tax	127	1,457	51	222	306	2,163
XI. Individual retirement accounts (IRAs)	−192	−1,560	−3,265	−3,613	−4,055	−12,685
XII. Other provisions	−426	−758	−981	−1,178	−1,352	−4,695
XIII. Other provisions adopted by the committee	−98	−230	−240	−178	−138	−884
Grand total	5,314	1,429	64	556	1,189	8,552

Notes: In "Effective" column—D/o/E denotes provision effective on date of enactment; ty/b/a denotes "taxable years beginning after" effective date given; ty/e/a denotes "taxable years ending after" effective date given; *denotes provision is effective for transactions after 7/10/89. Unless otherwise noted; **denotes this regulatory authority is to be exercised on a prospective basis.

[1] Rules expire 4 months after start of a firm's first tax year beginning after 8/1/87.

[1] Estimate reflects net budget effects, including outlay effects, as estimated by the Congressional Budget Office.
[2] Provision generally would apply to transfers made by corporations after 7/11/89 and to transfers made by all other persons after 10/2/89.
[3] Gain of less than $5 million.
[4] Gain of less than $500,000.
[5] Total is not available for estimates represented by footnotes.
[6] Negligible amount.
[7] Credits first claimed after March 11, 1987.
[8] Loss of less than $5 million.
[9] Loss of less than $500,000.
[10] Under the Gramm-Rudman-Hollings Act, excise taxes that are dedicated to trust funds are carried as though they are extended without change after the scheduled expiration date.
[11] Generally effective for taxable years beginning after 12/31/88; in addition, applies to all taxable years beginning before 1/1/90, if the taxpayer so elects in its return for a taxable year beginning before 1/1/90.

Mr. SASSER. Mr. President, I see no Senator wishing to speak at the moment. I suggest the absence of a quorum and ask unanimous consent it be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call at roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I yield to the Senator from Washington such time as he may require.

The PRESIDENT pro tempore. The Senator from Washington [Mr. ADAMS], is recognized for such time as he may require.

Mr. ADAMS. Mr. President, I thank the manager of the bill for granting me this period of time. I also want to give him both my congratulations and my commiserations on being the chairman of the Budget Committee.

In terms of the budget, process has shaped policy. Surely, by now, we all realize that the most brilliantly conceived strategy will go nowhere if we do not have the appropriate process to implement it.

In the budget process, Congress starts with what is, in theory at least, the ultimate tool; control over the Federal purse. This constitutional concept, however, has not always been translated into practical power. Prior to 1974, for example, it was the executive branch of Government which was the guiding force behind fiscal policy. They took the lead because they had the tools: The economists, the data, the analysts, and everything else.

The President took data from the departments and agencies, shaped it at OMB, and submitted a fiscal year budget plan which was used as a markup document. The assumptions about data and the projections of economic activity were simply accepted and the appropriations system acted on marginal parts of line items.

I was, and am, convinced that the Congress had both a right and an obligation to develop a mechanism which would allow it to participate in the budget making process as, at least, an equal partner with the executive. To achieve that goal, the legislative branch created a budget process which allowed the Congress to develop a strategic planning document that provided a realistic alternative to the executive budget.

The Congressional Budget and Impoundment Control Act of 1974 provided the necessary power to control revenue, spending, and debt limit legislation through a process which coordinated the work of the authorization and appropriation committees. In order to provide the Congress with the independent information needed to make decisions in these areas, the act also established a House and Senate Budget Committee as well as a Congressional Budget Office.

Now, however, it appears that the process I helped to design just doesn't work anymore. Changes in the nature of the Congress, changes in our economic status, changes in our political philosophies—all of these factors, and more, have made the original budget process less effective, less meaningful, and more time consuming than it used to be. We saw signs of this collapse in 1981, when the executive branch developed an elaborate plan to assure the passage of their legislative agenda. That plan jammed the original budget process and then forced a year end grouping of appropriation bills into one giant reconciliation bill. The net result was a package which few people understood and which everyone has lived to regret.

We have been struggling to deal with the policy consequences of that disaster ever since. The Gramm-Rudman-Hollings bill was designed to be a process-oriented fix. It proved that two wrongs don't make a right. Rather than promoting rational decision making, this procedure—when combined with the basic budget morass—has created a philosophic and practical mess. Philosophically, we have adopted a strategy which, first of all, minimizes the value of making decisions about what priority we want to assign to specific programs; second, maximizes the advantages of refusing to reach compromises; and, assumes that only the threat of a disastrous sequester will be sufficient to compel the Government to take the problem of the deficit seriously. Practically, the current process has increased the emphasis placed on the technicalities of the budget process such as scorekeeping, crosswalks, snapshots, midterm reports, points of order, and 302(b) allocations; created a set of rules which frustrate the Congress' ability to work its will; and served to make it more difficult to meet the statutory deadlines for consideration of the budget resolution.

Mr. President, I was the first chairman of the Budget Committee in the House of Representatives when this was being created. I, frankly, have been appalled by what has occurred since 1981 with this process. I think that the present budget chairman and ranking member have inherited the wind. This is a tragedy in many ways for the processes of the U.S. Senate, the Congress, and the people of the United States.

As I said, in terms of the budget, its process has shaped policy and it was never created to do that.

I would like to recall a moment of history. In 1972, 1973, and 1974, when the problem was the Congress was appropriating money in the regular fashion, there were problems of entitlement programs that were growing without individual appropriations. And then President Nixon was impounding money; in other words, not spending it, just as he saw fit. In other words, the budget process or system had broken down. And so a great compromise was achieved; Richard Bolling being one of those that had worked on it; ROBERT BYRD, of the Senate; many Members, including some that are no longer in the Senate or the House, worked on this matter at great length.

The compromise that was achieved was that there would be no more impoundment, that money that was appropriated would be spent unless the President specifically came to the Congress and asked for a rescission or another technical type of legislation that allowed a particular appropriation to be changed.

Another thing that has been forgotten is that the budget process was part of the rules of the House and of the Senate; it was not part of the regular legislative process. It was deliberately created that way so that a budget resolution was adopted in the spring by the House and the Senate, without a signature of the President, to guide the various committees in their work. All of the committees contributed to this. It was to occur in the spring of the year prior to the appropriations committees' meeting, prior to the authorizing committees' moving forward.

Then an orderly process moved through the Congress, known as the budget process, whereby the various committees of the Congress, authorizing and appropriating, would act in their turn, first the authorizing committees granting authorization where

it was necessary, if it were a short authorization, or if authorizations were in place for a 2- or 3-year period, they were available, and then the House would move.

I well remember in 1974 going to each of the appropriations chairmen, after having gone to the authorizing chairmen, the budget chairmen, and saying, "This is the target, this is what must be met; each of you please give to us your share and then we will sit and talk," an informal process at that time to divide among all the committees the moneys that were to be available to the money-raising process. We had a very good money-raising process at that point in time.

I am going to refer in a moment to Mr. Stockman's book as to what would have happened if the Republicans had not come in in 1981 and changed it. That process was that as inflation or as the money changed in the economy, the income tax would follow it. And, therefore, we had each year a certain increase in the amount of money available. We were dealing in those years with a deficit in the budget of less than $30 billion.

If you will examine the budget resolution of 1976, which was the first complete budget resolution in schedule G, you will see set forth a complete program where every program that was indexed to inflation was kept, all others were kept at their same rate, no new programs were adopted, and the budget automatically balanced from 1980 at the time of the Presidential election. I remember that being created. It was created as part of an effort to show in the first budget process that the Congress itself had control over the purse strings.

As part of that first process, there were two budget resolutions; the first one in the spring to target and then the one that we are now working on in the fall, which was the result of all the appropriations bills being passed and the authorizations being in place. And I might state that every appropriation bill was passed in that year prior to the end of 1976 when we had our final drop-down date of October 15.

The reconciliation was never created to be a legislative vehicle for anything other than correction of the budget process to make it fit the original target. It was a good process and it was a process that worked up through 1980. It did not work as well as we might have wished because some new programs came into place. Without new programs, it would have come very close to balancing out in that year.

This is not just my speculation or the fact that I happened to be that first chairman. But I have read with great interest—and I recommend to my colleagues if they have not read it, not that I want to sell this book, but it is a book by David Stockman, entitled "The Triumph of Politics," in which he describes how this process was destroyed in 1981.

I want to read, to confirm what I have just said, on page 133. You will remember when they came in with their budget they had a proposal to increase spending on the defense side and reduce it on the domestic side. They had a scenario which we now call the budget numbers or projections for the future. This is what would have happened, and the President was going to say it. This is on page 133: "On a 5-year basis, our giant tax cut,"—and this is outside of the quote—which was in the continuing resolution and the reconciliation which the chairman actually defined as the Trojan horse and he called, in this one, the capital gains a Trojan horse.

> On a five-year basis, our giant tax cut and big defense buildup cost nearly $900 billion. Our domestic spending cuts, including the $44 billion magic asterisk, came to only about half that.
>
> So how could you worsen the budget by $900 billion, cut it by $450 billion, and still come out with a balanced budget? The answer was buried in Murray Weidenbaum's visceral computer. We were peering into the veil of the economic future. We were betting the fiscal house of the United States on our ability to predict the precise shape and composition of a $4 trillion economy all the way out to 1986.
>
> One single number that didn't appear in the white paper might have made a profound difference. It blared out a clear message: *Murray, go slap it again. Your first answer doesn't compute.*
>
> If you projected the *inherited* budget policy, Carter's mess, the one which had brought us to "a day of reckoning," as the President said that night, with our Rosy Scenario economic forecast, what did you get? That was the missing number: *a $365 billion surplus* over five years.

In other words, Stockman admits—and he does at several other points in his book—that if we had continued the budget policies of that time, we would not have the problem of a $100 billion deficit today. We would have had $365 billion extra to spend with no increase in the national debt. That is how bad the Carter budget was under their own figures.

But they went ahead anyway. It was going to work. There was the Laffer curve, there was the magic asterisk—and people have forgotten that—that was $44 billion in cuts that was going to appear someplace, somehow.

It has bothered me, Mr. President, as we have gone through these last few weeks, that we have tried hard to pass the appropriations bills and get to a point of completing the Congress' business before we arrived at this date. A lot of effort went into that. We almost made it. I regret the fact we did not just proceed and finish with our business, because we now find, for example, we have still appropriations bills out that cannot be handled until after this reconciliation is over.

What was the reason we had this very sophisticated process known as the budget process and the policies that we tried to develop, the Congressional Budget Office with OMB watching us? Its whole purpose was to move from simply using the President's budget, the President's figures, and the President's projections, to utilizing a congressional system that could stand and be either the loyal opposition or the loyal supporter to an executive branch order that came up in the form of the President's budget.

The President's budget is a political document. It is supposed to be. The congressional response is a political document. But when we finish with it, it is no longer a political document. After it has passed through the authorizing and appropriating process, it is a real document.

At that point I had always believed it was up to Congress to develop its own plan and compare it with what the President had proposed and to see what would actually happen. The budget process is in its original instance a strategic planning document, arrived at early on to tell us what will be debt, what will be revenue, what will be spending, coordinated with the authorizing and appropriating committees to create a final figure.

What happened is what we had designed just is not working anymore. I do not think we ought to do away with the budget process. But I support completely the budget chairman's proposal and the corrections that were attempted by the Byrd rule to bring the reconciliation process down to a point where it corrects and does not attempt to legislate, which would replace, completely, the authorizing and appropriating committees.

We saw the collapse of the budget process when it was blocked in 1981 and we had, instead, one big bill. It was so heavy that one of my former assistants stepped on the scale as he was carrying it back to the House of Representatives, and it weighed 21 pounds. We are dealing with the potential of that again.

Ever since 1981, we have been dealing with the consequences of trying to overcome that disaster. Gramm-Rudman-Hollings was simply designed as a process fix, which proved that two wrongs cannot create a right.

Philosophically, we have arrived at a point where now we have once again an attempt to use one big bill to put through particular items that cannot be vetoed or would not be vetoed, and we are going to be in 2, 3, 4, maybe 5 days of debate trying to determine what to do with this process.

I see other Members are on the floor now to discuss it. I will, at a later time, discuss a different part of this budget process. But I wanted to express my deep concern and also to bring back

some of the basic fundamentals on which this budget process was grounded. It was never intended to be the overall dominant document and process that drove the authorizing committees and the appropriating committees into the shadows. It was never intended that it should arrive at the end of the year with everyone in a panic of what to do at that point.

It provides an excuse for our not having done our work early and I am hopeful that we will correct it. But before correcting it on this day and on tomorrow and on the next day and on Monday, I hope we do not use it to pass legislation that should go through the regular process. Do not use it for that.

Use it for deficit reduction. Strip this reconciliation down to just what is necessary, pass it, confer with the House on the same basis and let us get out of this death trap. Then go back, next year, to dealing with the budget process as a strategic tool and as a system for making the Congress perform well and for stating to the administration: This is what we will do; no more, no less.

I thank the chairman for granting me this time and I wish him very well during this next 3 days. Hopefully it will only be 1 day, that he will be able to have a short version, quickly voted, that carries out the purpose of the Budget Act.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. SASSER. Mr. President, I yield to the Senator from Maryland, such time as he may consume. But, before doing that, Mr. President, may I propound a question to my distinguished friend from Washington?

The distinguished Senator from Washington alluded to a book written by the former director of the Office of Management and Budget, Mr. David Stockman. I will ask my friend if he recalls, in 1981, when the effort was being made to drive the so-called Economic Recovery Act through both Houses of this Congress—what we knew here as the Kemp-Roth tax cut through this House—and if he recalls the passage wherein Mr. Stockman recounts a conversation in the parking lot with Mr. Darman, the now-director of the Office of Management and Budget? Mr. Stockman indicated that things were out of control, that they lost control of this legislation and that this tax cut was going to be so massive that it could destroy the revenue base of the U.S. Government.

Mr. Stockman looked at Mr. Darman and he said: What shall we do?

After a long period of meditation, Mr. Darman, according to Mr. Stockman's account, looked at Mr. Stockman and said: Now it is us against them. Let us win and we can fix it later.

I ask my friend from Washington if he recalls that passage in that volume?

Mr. ADAMS. I recall that passage very well. That is exactly what happened. They got to a point at the end of their process where they could not make it come out in any way. That is why I referred to the particular part of the magic asterisk, and the visceral, Murray Weidenbaum computer. Because that massive tax cut, they could not figure out any way that it would ever be offset or could do anything, other than drive us into a massive deficit.

Mr. SASSER. Precisely. And I say to my friend from Washington that is exactly what occurred. I alluded earlier to a document issued in January 1988 by the Office of Management and Budget; the Office of Management and Budget of then President Reagan, which indicated that this massive tax cut of 1981 deprived the U.S. Government from 1980 forward of $1.441 trillion. I say to my friend from Washington, there is your budget deficit, and there is what has doubled the national indebtedness of this Republic over the past 8 years.

That is why, referring to the conversation recounted in this book, the national debt stood at slightly over $900 billion, and that is why it stands at $2.8 trillion today. In other words, it took this country over 200 years to build up an indebtedness of a little over $900 billion. Since the passage of this so-called Economic Recovery Act in 1981, we have seen that indebtedness spiral to $2.8 trillion.

Mr. SARBANES. Will the Senator yield?

Mr. SASSER. I yield to the distinguished Senator from Maryland.

Mr. SARBANES. First of all, I want to thank the very able Senator from Washington for his presentation and for bringing us back to David Stockman, his book and his plan.

The Senator from Tennessee is talking about our own internal debt and the deficit, but there is another dimension to what resulted from those policies, that is our international debt which flowed out of these same policies, just as sure as the sun rises in the east. We now are a debtor nation internationally.

I want to impose on my colleagues for just a minute here, and I will come back and use them again, but this is a chart that shows the U.S. net external asset position. It shows whether you are a creditor or debtor nation internationally.

In 1980, we were a creditor nation. We had a positive position, which then deteriorated because we ran these large trade deficits related to these budget deficits, the very thing the Senator from Washington has been talking about, and we went into a debtor position. It is getting worse year by year. These are the projections out as to what will happen by the year 2000. We will be a debtor nation internationally to the tune of almost $2 trillion.

What that means is the people abroad have more claims on us than we have on them, and we are paying money out to them in terms of interest and dividends because they have holdings. Not only are we moving into that situation, but the counterpart is this comparison in net asset positions.

Take a look at this chart. This shows the United States moving from being a creditor nation to being a debtor nation. This shows Japan and West Germany moving into the surplus positions.

One of the consequences of these policies, that the Senator from Tennessee and the Senator from Washington have been talking about, is this path that Stockman put us on. When you think of the United States as a world power and the United States international position, we see the United States moving from being in a positive position moving into a very deep debtor position while Japan and West Germany move into a very strong surplus position, this line is actual and this line is projected, but it shows a diminishing of America's strength and power internationally.

Mr. SASSER. May I propound a question to the distinguished Senator from Maryland, who is not only a very able Senator but is a distinguished economist in his own right? According to the chart exhibited here by the Senator from Maryland, it indicates that in 1980, the United States was a net creditor nation, and unless memory serves me incorrectly, at that point, or some time shortly after 1980, the United States was the world's largest net creditor nation; that is, the nations of the world owed the United States more than any other nation was owed up to about 1983.

Mr. SARBANES. That is right.

Mr. SASSER. Following that time, we have now reversed that situation and have become the world's largest net debtor nation, the fastest swing in economic history of a country being a large creditor nation to a large debtor nation. I ask my friend from Maryland if that is not correct?

Mr. SARBANES. That is absolutely correct.

Mr. SASSER. We heard much discussion on the floor of this body and in the Budget Committee this morning as to the danger of the national debt and the danger of the national indebtedness. But I will ask my friend from Maryland and call upon his expertise as an economist, given the danger of the national debt, is it even more dangerous that we have this very large debtor relationship with regard to the other nations of the world because with regard to the national indebted-

ness, a large percentage of that is Americans owed money by the American Government.

With regard to what my friend has alluded to a moment ago, moving this country into a net debtor situation, we have a situation where the United States owes other nations substantial amounts of money. Is that more dangerous in and of itself than even the national debt?

Mr. SARBANES. We are then in the hands of others, people abroad, and their claims on us. In effect, these claims come out of what otherwise could be our standard of living. We then have to work in order to pay these claims that are held by foreigners. If the debt is held internally, it is not desirable, but it is held by other Americans, and you get a redistribution. Some Americans are working to pay the Government debt that is held by other Americans. When you have this indebtedness held abroad, it, in effect, limits the American capability.

It is very interesting. When President Bush went to the economic summit in Paris back in July, again reflecting this weakened international economic position—let me just read a handful of the headlines: "Bush Heads to Europe With Economic Plans and Economic Limits"; "Bush Fixes U.S. Role as More Modest One"; "A Change: Ideas Not Made in U.S.A." "Bush Went Not Like a Conqueror, a Commander, But Like a Tourist."

Secretary Brady, after the summit, testified before the Joint Economic Committee, and the headline on that one is, "U.S. Cannot Fund Global Program, Hill Panel Told." It says: "Treasury Secretary Nicholas Brady said yesterday that he had a serious worry over the growing inability of the United States because of its huge budget deficit to provide much, if any, money for its own foreign initiatives, including global environmental controls, Third World debt and support for free market policies in Eastern Europe." That is an admission by our own Secretary of the Treasury.

He was asked by the chairman of the Joint Economic Committee, of which I am very privileged to serve as the vice chairman, whether America's foreign policy is constrained by our domestic fiscal predicament and whether other nations better able to finance international activities are picking up the baton of leadership. Secretary Brady admitted: "The fiscal pressures that we are under in this country certainly do circumscribe our ability to flesh out that leadership with the presentation of funds. In addition," he went on, "it is a source of some embarrassment in worldwide forums to not be able to come up with our prescribed and agreed to subscriptions to the World Bank and other multilateral activities."

You cannot ride into town standing tall in the saddle if you owe everybody that you see on every street corner as you move along. That is what is happening to us, and it is happening to us because of the policies that the Senator from Tennessee and the Senator from Washington have talked about, and the broader issues that are involved in this reconciliation.

This reconciliation is the effort to close out the budget process, but the budget process in its entirety, including the reconciliation, involves these large issues.

Mr. MITCHELL. Mr. President, will the Senator yield briefly?

Mr. SARBANES. I yield.

The PRESIDENT pro tempore. The Senator from Tennessee has the floor.

Mr. MITCHELL. Will the Senator from Tennessee yield?

Mr. SASSER. Mr. President, I yield to the distinguished majority leader.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have discussed this matter with the distinguished Republican leader, and I now ask unanimous consent that the Senator from Maryland be recognized to address the Senate for 40 minutes, following which the Senator from Rhode Island be recognized to address the Senate for 20 minutes; that upon the completion of the remarks of the Senator from Rhode Island, the Senate stand in recess until 9:30 p.m. this evening with the time during the recess to be charged against the bill.

Mr. SARBANES. I would say to the majority leader and also to the Senator from Rhode Island, I may not take the full 40 minutes, so I might well move along quicker than that.

Mr. MITCHELL. In that event, the recess would simply commence earlier, but the time for recess would remain the same, and so the time charged against the bill would be the same. I so clarify my request.

The PRESIDENT pro tempore. The time would be equally charged against both sides?

Mr. MITCHELL. Yes. That is correct.

Mr. DOLE. The Senator is talking about 2 hours?

Mr. MITCHELL. It would be slightly over 2 hours if it occurred now and they used the full 60 minutes. Otherwise, it would be a greater amount of time to the extent that either the Senator from Maryland or the Senator from Rhode Island did not use the full allotted time.

Mr. DOLE. Fine.

The PRESIDENT pro tempore. Is there objection to the request?

The Chair hears no objection, and it is so ordered.

The Senator from Maryland [Mr. SARBANES] is recognized for not to exceed 40 minutes.

Mr. MITCHELL. Mr. President, if I might, before the Senator resumes his discussion, say to the Members of the Senate, I understand the distinguished Senator from New Mexico will be returning during that period. He is expected to arrive some time prior to 9 o'clock, and that following the resumption of the consideration of the bill at 9:30, we anticipate that action will be taken with respect to amendments.

No amendments requiring a rollcall vote have yet been offered, although there has been a great deal of discussion and the time has been running against the bill. So that we anticipate, as of now at least, that there will be amendments offered this evening which may require rollcall votes. That is not yet certain, and we will await the arrival of the distinquished Senator from New Mexico and the ranking member and the opportunity for him to consult with the distinguished chairman of the Budget Committee, Senator SASSER.

Mr. DOLE. Will the Senator from Tennessee yield to me to propound a question to the majority leader?

The PRESIDENT pro tempore. The Senator from Maryland has the floor.

Mr. SARBANES. I yield.

Mr. DOLE. I have been advised that the Senator from New Mexico would be willing, if the majority leader and the manager on the other side had an interest, to take additional time off the bill up until midnight and go out now and come back in the morning and then offer the amendment in the morning.

He is in Chicago now. He has not left Chicago. It is probably going to be about 9 o'clock before he is on the floor, between 8:30 and 9. If that were done, I do not know how many hours would remain.

The PRESIDENT pro tempore. The Chair inquires, Is the suggestion to the effect that the time until midnight, even though the Senate were not in session, would be charged equally against both sides?

Mr. MITCHELL. Mr. President, may I suggest to the Senator, to make it simpler, that we simply agree that 10 hours will have been charged against the bill, which would be approximately the amount of time that would be consumed by midnight and then return tomorrow morning understanding that we have 10 hours to go.

I personally, as I have indicated previously to the distinguished Republican leader, prefer to use up to 12 hours today, leaving 8 hours tomorrow so that, hopefully, we could complete action tomorrow.

I do not want to press that if there is any reluctance but that would be my preference, and I believe it would be of interest to most of the Members of the Senate.

Mr. DOLE. In my view, I could probably do the 10 hours without further consultation with the ranking member, who has not been here because of a death in the family. If it moves along quickly tomorrow, as I think it will, we can always yield time back then.

Mr. MITCHELL. Let me inquire of the Senators from Maryland and Rhode Island whether they would prefer to complete their remarks this evening or be recognized tomorrow when we resume to make the remarks?

Mr. SARBANES. I think I probably prefer to do it now since I am here.

Mr. CHAFEE. Likewise, Mr. President, I would prefer to do mine now.

Mr. MITCHELL. Then, Mr. President, I will withdraw the unanimous-consent request previously made and propound instead a request that the Senator from Maryland be recognized to address the Senate for such time as he uses, and that upon the completion of his remarks, the Senator from Rhode Island be recognized to address the Senate for such time as he uses; that when the Senate stands in recess this evening, it do so until 9 a.m. tomorrow morning, at which time the Senate resume deliberation on the reconciliation bill, and that 10 hours have been charged against the bill at that time.

Mr. DOLE. Ten hours remaining?

Mr. MITCHELL. That is correct. There would then be 10 hours remaining under the Budget Act.

The PRESIDENT pro tempore. The Chair inquires, Is it the intention of the majority leader that the Senate recess immediately upon the conclusion of the remarks by the Senator from Rhode Island [Mr. CHAFEE]?

Mr. MITCHELL. The answer is no. I had intended at that point to determine whether there was any need for a brief wrap-up with the distinguished Republican leader. The request was that when the Senate does recess tonight, it be until 9 o'clock tomorrow morning. But if this consent is granted, it would then be my intention to announce to Senators there will not be any rollcall votes this evening and we will have used up by agreement half the time on the bill, or 10 hours, and then we will resume tomorrow with a much better opportunity to complete action on the bill tomorrow.

Mr. DOLE. Mr. President, as I understand, the remaining 10 hours will be equally divided?

The PRESIDENT pro tempore. Is that the request?

Mr. MITCHELL. The time that remains to be equally divided.

Will the Senator yield for just a moment?

Yes, Mr. President, that is agreeable.

Mr. DOLE. I have one, hopefully, temporary reservation. We are on the telephone now with a Member on this side.

Mr. MITCHELL. I thought it was an offer that could not be refused.

Mr. DOLE. I hope it will not be refused.

Let me say in the interim, I know some of my colleagues came a long distance to be here today, but I hope they understand we did it in deference to Senator DOMENICI, who has been the chairman of this committee and the ranking Republican. There was some thought he might be back a bit earlier, but he is not going to be back until 8:30 or 9. It was something he could not avoid; his father-in-law passed away.

So I hope my colleagues who came back but who have not voted eight or nine times understand that. But I hope we could have approval of the request.

Mr. MITCHELL. Mr. President, might I say to all of my colleagues, including a number of Senators on our side who have spoken to me about returning today, that of course when the decision was made last Saturday to return today and to take up the reconciliation bill, none of us could have perceived the death of Senator DOMENICI's father-in-law or the timing and circumstance that would occur.

In any event, we will have succeeded in using up the 10 hours on the bill without the necessity for a lengthy session this evening.

Mr. President, I renew my request.

The PRESIDENT pro tempore. The Chair inquires: Is it the intention of the majority leader upon the completion of the remarks by the Senator from Rhode Island [Mr. CHAFEE] that there be no further discussion or action with respect to the reconciliation bill?

Mr. MITCHELL. That is correct. And make clear that the time remaining tomorrow, that is 10 hours, would then be equally divided between the two sides.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears no objection. It is so ordered.

The Senator from Maryland.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if the Senator will yield, and I thank him for his graciousness, I advise Senators that there will be no further rollcall votes this evening, and that the Senate will return to the consideration of this bill at 9 o'clock in the morning with half the time having been used, 10 hours remaining, and it is my hope and expectation that we will remain in session tomorrow to complete action on this bill, and then proceed immediately to the Nicaragua Election Assistance Act. If we can hopefully get more time charged against the bill tomorrow, perhaps less than the 10 hours needed on this bill, we may complete action on all of those matters tomorrow.

If we have success in doing that, Mr. President, and in an effort both to inform Senators so that they can make plans for this weekend, and as an inducement thereto, if we complete action by tomorrow night on both of those matters, then the Senate would be in session on Monday to commence debate on the constitutional amendment with respect to the flag burning, but there would be no votes on Monday.

So that if we can complete action tomorrow night, we can look forward to no Saturday session, no Sunday session, and although the Senate will be in session debating, no rollcall votes on Monday.

I thank the distinguished Republican leader. I thank my colleagues, and especially my colleague from Maryland for his graciousness. I yield the floor.

The PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair.

Mr. SASSER. If I may propound a question to the Senator from Maryland who just a moment ago was alluding to the fact—or responded to my question, would be a more accurate way of putting it—that the funds owed abroad or the net debtor position now of the United States was a greater danger to this country than the international debt.

I inquire of my friend from Maryland if he is aware of the fact that as a percentage of gross national product the Japanese run a larger national debt than the United States Government. That is, the Government of Japan has a larger internal debt, or a larger national debt, a larger deficit as a percentage of gross national product than does the United States Government.

The difference being that the Japanese Government finances their national indebtedness internally, borrowing from Japanese citizens, Japanese corporations, et cetera; whereas the United States, beginning in the decade of the 1980's, following the passage of this Economic Recovery Act, has begun financing a significant portion of its national indebtedness with funds borrowed from abroad.

I wonder if my friend from Maryland is aware of the fact that in 1986 when the national yearly deficit peeked at $220 billion the U.S. Government was at that time borrowing 20 cents out of every dollar that it spent. And of the 20 cents that it borrowed 10 cents came from abroad. In other words, we were borrowing 10 percent of the money to finance our indebtedness from abroad, and of that 10 percent we were borrowing from abroad, 5 percent was borrowed from the Japanese.

So in essence, I ask my friend from Maryland, are we not slowly but surely

mortgaging the sovereignty of this country as well as the future of our children to the Japanese principally, and other foreign holders of United States Government indebtedness?

Mr. SARBANES. The Senator is absolutely correct. Let me show the Senator, because we are really getting into this problem when we owe it externally. We have to pay it. We are not paying it to ourselves where we may have a redistribution. We are paying it outside. It has to come out of our standard of living in order to meet the claims which others have on us.

I triggered all of this by reference to Stockman. This is the U.S. current account balance. It encompasses everything involved in trade, not only merchandise trades, goods, but also services. What happened is the U.S. went into a deficit situation on its current account balance in about 1982, and it has come straight down here. It came up a little bit, is now projected to proceed out on this path. So we are going to continue to run this deficit in our current account balance. As a trading nation, we are in a negative position.

We are projected to remain in a negative position. Every year we run a deficit in our current account balance adds that much more to our debtor status. We go that much deeper into debt because we are importing more than we are exporting. Now what has happened? So the reverse side of that or the corollary is that you get this deterioration in your net asset position, your external asset position. So every year that you run a deficit in current account, it gets reflected in this net external position.

Here is what has happened. Last year for the first time in 30 years the United States began to report deficits in trade in services particularly for investment earnings—you have trade in goods, trade in services. We have been running these deficits in trade of goods for a number of years.

In other words, Japan and others were exporting goods into the United States, we were not getting the same access into their markets, the dollar was overvalued, and our competitive position was effected. So we were bringing in more than we were sending out. Therefore, we were running a deficit. But that was offset somewhat by these holdings we had abroad compared to the holdings that others had here. So we would get a plus on the return on our investments earnings.

Last year the United States began to report for the first time in 30 years deficits in trade and services. This reflects rising payments to foreigners on their assets in this country. Those are payments which will continue to rise. This is money we are borrowing that gives them a claim on us, and we have to service that claim. We have to pay interest or dividends if it is an equity investment on that claim.

This has a tremendous potentially adverse impact on our national standard of living; these rising debt service payments.

Mr. SASSER. Let me ask the Senator from Maryland this question, if I may: Would the situation of the United States be analogous to the situation of the country of Mexico or the country of Brazil where the populations have been forced to undergo an actual reduction in their standard of living in order to service their external debt?

Mr. SARBANES. I say to the Senator we are on that path. We are not where they are because while our debt is larger, as he indicated earlier, we are the largest net debtor country. We have a stronger economy to service that debt than does Mexico or Brazil.

So we are not yet in the same posture in which they find themselves, but we are beginning to start on that path, and that is one source of concern. A second source of conern is, in my own view, is that you cannot for long be a debtor nation and also be the world's leader. It is just a basic inconsistency between those two things, and these newspaper headlines that I read earlier about the position in which President Bush found himself when he went, not like a conqueror or a commander, but like a tourist, to Europe.

Mr. SASSER. If I may interrupt the distinguished Senator there and just inquire if he agrees with this point. A case in point is the trip of the President of the United States to Poland. Here is a nation that is striving for democracy, that has labored for decades under the yoke of Communist tyranny, and the President of the United States offered, as I recall, $100 million to deal with a problem, a Polish economic problem, that totals, by conservative estimates, some $9.5 billion.

Is it not true, I ask my friend from Maryland, that the Poles and the Polish Government, rather than looking to the United States in their time of need when they are on the verge of, or have broken, it appears, out of the tightly held Soviet bloc, rather than looking to what we perceive to be the leader of the free world for aid and help, are looking to the countries of Western Europe and not to the United States.

I ask my friend from Maryland if that is not the case.

Mr. SARBANES. Well, the difficulty is the United States is not able to fully play a role. I think the countries of Western Europe should play a role as well, because I think they also have strong interests in what is happening in eastern Europe, and they now have strong economies.

The fact is that the United States, when it tries to put that all together and draw on these other Western European countries to make a significant contribution, is not able to come to the table itself with a significant enough package.

The President went, and he talked about $100 million. He has now tried to raise that in the face of the strong congressional effort to be more responsive to the Polish situation. We have a situation in Poland that may be a transforming event of the postwar period. We have gone through this entire postwar period; we have sought to contain communism; we have tried to find ways for countries that have fallen or have been caught behind that Iron Curtain to be able to come out from behind it, to develop open, pluralistic societies, move to democratic values, move to an open-market economy.

Now we have a nation that is desperately trying to do so. There is no guarantee that they will succeed. In fact, the odds are very long on that proposition. Here is the United States, the leader of the free world, finding itself in a position where it cannot respond.

It is difficult for a debtor to lead its creditors, and we need to exercise some leadership. That is why these questions become enormously important, this hearing with Secretary Brady, where he admitted a serious worry over the growing inability of the United States because of its huge budget deficits to provide much for its own foreign initiatives.

So that is the situation in which we find ourselves. Let me say to the Senator from Tennessee, he was absolutely right a few moments ago to put his finger on the impact that this might have on our own standard of living. At the time when these latest figures came out that showed that we now were in a deficit in investment earnings, three commentators in the New York Times had this to say:

Pat Choate, the Vice President of TRW. I quote him:

> To anyone who can compute figures on a computer rather than on a napkin, it is an indication of our net debtor status. This means that more of our income in the future will go to service our debt, rather than to investment. It also means our standard of living will decline.

You see, if we have these external creditors that we have to pay interest and dividends to on their assets in this country, these capital outflows are claims on future U.S. output. They will take funds out of the U.S. economy which otherwise would have been available to us for investment purposes. We have to pay it out, instead of having it here to use.

Lester Thurow, the dean of the Sloan School of Management at MIT, said:

> What we have been doing is moving our real standard of living from the present period to a period in the future. In the future the standard of living will be lower

than it would have been, had we not been living beyond our means.

Roger Altman, vice chairman of the Blackstone Group—these are all highly respected observers and commentators—said:

More and more of our Nation's gross national product will be diverted to service our debts. Long-term, if we do not reduce our deficit, American income will fall.

So that is the position we are now finding ourselves in. In other words, these become claims on the future standard of living of our people. We are passing on to the next generation a burden which should never have been passed on to the next generation.

Mr. SASSER. May I ask the Senator from Maryland this question: Some of my colleagues, one or two, particularly on the other side of the aisle, have raised the defense in times past that, well, the United States has been a debtor country in years past. The United States was a net debtor country up until about 1908, some time prior to the turn of the century.

Is not the answer to that question that I ask my friend from Maryland, the fact that the United States was a net debtor country before the turn of the century was because it was borrowing foreign capital, principally British and French capital, to build the great railroads and to build the industrial base that made this country the great power and the leading country of the world that it is today; and is it not a fact that we are presently borrowing money from abroad today simply to pay the interest on the national debt, getting nothing literally in return for; or a case can be made that we are borrowing money from the Japanese to finance the operations of the United States Navy in the Far East, to guard the Japanese home islands, to guard the long Japanese oil lifeline from the Middle East, borrowing the money from the Japanese to finance the operation of that Navy and paying interest on it to them at the same time, while we protect their oil lifeline?

Mr. SARBANES. The United States was a debtor country up until about World War I, much like developing countries anywhere in the world are.

In other words, you have countries that are seeking to develop. They do not have the capital, and they borrow from those countries that are in an advanced stage in their economic development, in order to develop. But most of that borrowing—and I do not have the charts with me on net investment—but most of those borrowings at that time were then put into productive investments in this country.

As the Senator pointed out, you built the railroads, you developed the mines, you constructed the factories; these were all productive enterprises, so you borrowed money in order to do it, but you were establishing a base with which to service those borrowings from your earnings out of the industrial and agricultural development that was taking place in this country.

Beginning about World War I, we moved into a critical status. We became the country that was supplying capital abroad for other countries to develop because our economy had reached that stage of development.

Now we have gone back into a debtor status, and, the borrowings show, not primarily for productive investments. This borrowing has gone really to fund the consumption binge. In other words, we have been living beyond our means over those years, and we built up these obligations.

Of course, what it means, and we are moving down this path, is we are going to be borrowing money from foreign investors in order to pay the interest and dividends on past borrowings.

As you move down that path, borrowing to pay interest on borrowing is a certain road to bankruptcy.

It is one thing to borrow to fund productive investment which you project out, and people do that all the time.

That is what good business investment decisions often reflect, borrow and make investment. That is improving productivity capacity. It improves efficiency. Then they are able to return, to pay back the borrowings and also contribute to the rising standard of living.

If you start borrowing simply to pay the interest on past borrowing, then you are really starting down the road to ruin, and that to some extent is what has been happening to us.

As I indicated, this growing international indebtedness creates enormous problems for our leadership in the world economy. As I showed, while the United States is piling up huge international debts, Germany and Japan are piling up equally massive stocks of foreign assets, beginning not only with your own creditors but creditors to the world, and that is reflected in this.

I invite the Senator to take a careful look at this chart. In 1980, the United States had a net asset creditor position here, Japan had a small one, West Germany had a small one. That continued along here running into 1982 and 1983. Then you see the United States moves into a debtor position, and it is worsened down to here. Here is where we are now. Meanwhile Japan and West Germany continue to improve their net asset position.

We were all surplus countries back here, the United States by far the largest, but we were all surplus countries; then the United States moved negative on this chart. The other countries continue and these then are projections out. These are the projections people make on the basis of the current trends, and you can see where they are taking the United States and where they would take Japan and West Germany.

As I said earlier, it is very difficult for a debtor to lead its creditors. We are at a time, as the Senator pointed out, of unprecedented change in Eastern Europe, an area which has historically been the source of much international instability, and yet our lack of resources has hampered the process of developing an effective response from the West to the huge changes taking place in the East.

Mr. President, I ask unanimous consent that this article about the appearance of Treasury Secretary Brady on the Hill entitled "U.S. Can't Fund Global Problems, Hill Panel Told," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, July 20, 1989]

U.S. CAN'T FUND GLOBAL PROGRAMS, HILL PANEL TOLD

(By Stephen E. Nordlinger)

WASHINGTON.—Treasury Secretary Nicholas F. Brady said yesterday that he had a "serious worry" over the growing inability of the United States, because of its huge budget deficits, to provide much, if any, money for its own foreign initiatives, including global environmental controls. Third World debt and support for free-market policies in Eastern Europe.

Summing up with unusual candor the just completed seven-nation economic summit in Paris, Mr. Brady also told the congressional Joint Economic Committee that it was "the source of some embarrassment in world forums" for the United States to be unable to provide on a timely basis the funds requested for the World Bank and other international organizations.

Mr. Brady expressed doubt whether the country's cash shortage meant that "the baton is passing to other countries," as suggested by Representative Lee H. Hamilton, D-Ind., the panel's chairman.

But the thrust of Mr. Brady's testimony indicated that the United States, while the world's largest economy, was seeing its influence dwindle because of its standing since 1985 as the world's largest debtor nation, with borrowings from abroad of more than $700 billion.

"Because of the tight fiscal constraints, we are not in a position to put a lot of resources to deal with economic problems," Mr. Hamilton said. "What does this mean for U.S. foreign policy? It seems to me the baton is passing to other nations better able to provide financing than we are."

"While I don't think the baton is passing, I do have to agree with you" on the financing issue. Mr. Brady said, "It is a serious worry. I have to agree with you."

Departing from the usual Washington criticism of Japan, Mr. Brady went out of his way to praise Tokyo for putting $5.5 billion behind the administration's debt-relief package for developing countries. The United States has been unable to commit any funds.

"We wouldn't be where we are now without the help they've given," Mr. Brady said. But he criticized West Germany, among countries with large trade surpluses, for declining so far to commit any funds to the debt-reduction plan, which was endorsed last weekend by the summit leaders, including Bonn.

Along the same line, Mr. Brady said it "bothers" him that the United States must turn to the World Bank and the private banking system "to do the foreign aid job" once assumed by the U.S. government.

"After [U.S. funds for] the Middle East, there is very little left to do the kind of growth-oriented programs we should be financing" overseas, he said. Mr. Brady said commercial banks and the World Bank must make loans so that eventually "they get their money back," which he said means they might not necessarily be financing the kind of development programs most likely to lead to long-term growth in the recipient countries.

Mr. Brady conceded the shortcoming of President Bush's limited aid program for Poland that was announced during his visit there last week.

Of the $5 billion in proposed rescheduling of Polish debts this year, a central part of the Bush aid package, Mr. Brady said it could be "subject to a lot of questions in terms of the amount of hard money" it produces. Overall, the six-part Bush package fell far short of the hopes of Polish leaders.

Addressing in his testimony a key summit issue of improving the global environment, Mr. Brady also acknowledged that President Bush felt constrained in "pushing hard" to form a consensus for adopting uniform goals and regulations on such issues as protecting the ozone layer and reducing global warming.

Mr. Brady said he was "encouraged" by the environmental commitment of the summit nations but "disappointed" by the lack of firm decision-making.

"If you push too hard . . . the other countries remind you that they all have different regimes and there is no one sure way to proceed," he said. "We do it one way, and that way is not necessarily the way they do it."

The United States committed no funds to clean up the environment, and the summit, while calling for "decisive action," adopted no common goals for reducing pollution.

Mr. SARBANES. Mr. President, this heavy external borrowing put control of significant elements of our own economy in the hands of foreign investors. Today our interest rates—and this is the point the Senator from Tennessee made and I want to make this point and one other and then I will conclude—are increasingly determined not by the Federal Reserve, but by the attitudes of foreign investors toward the U.S. economy.

At the moment those attitudes are positive and a lot of people say, "Well, you see, they are willing to send their money here. What is the problem?" They are willing to put in the money; they are funding these large deficits. What difference does it make?

Investor attitudes can change very quickly, and a shift in investor confidence could throw the U.S. economy quickly into recession.

Second, even if they are willing to send it in, that is a claim on the future generation. It is going to come back out of our standard of living in the future. It is going to have to be paid, and to that extent what could otherwise have been our standard of living is going to be lowered from what we might otherwise have achieved.

We have seen the power of international investment in the area of the dollar. Recently, despite Government agreements to stabilize the dollar, the international capital markets pushed its value upward, jeopardizing the turnaround in the U.S trade. This trade deficit may worsen significantly because of the depreciation of the currency. The moral of all of that is in the weakness of our Government's policy to influence investment decisions.

It is interesting what has happened is that the U.S. need for extensive international borrowing has made us dependent on foreign trade.

There is a marvelous line by Blanche DuBois, in Tennessee Williams' play, where she talks about being dependent upon "the kindness of strangers." Dependent upon the kindness of strangers in my view in not an appropriate position for the world's largest economy and the historic leader of the Western alliance to find itself. Unfortunately, that is the case and we need to recognize this. We need to come to grips with this.

The Senator has been trying to do that, and he is a very able and effective leader of the Budget Committee. We need to address this international situation, and we need to address the importance of investments here at home.

It is now being proposed to have a capital gains tax break when we have a deficit that we want to reduce. With this enormous deficit facing us that we need to get down, why is it being talked about to give a further tax break to the highly advantaged? Not only to do we have a deficit to reduce, but I am frank to tell you I think it is clear that we are not making certain investments in the future strength of our economy that are essential: Education, health, research and development, and the Nation's physical infrastructure.

At what point are people finally going to say we have to do something about these bridges that are collapsing, about these water systems that are deteriorating. In some of our large cities it is estimated that a third to a half of the water supply is lost because of deteriorated infrastructure of the water system. We have roads that need repair. We have airports that are overcrowded and people cannot move around the country. That all comes out of our productivity. If you spend an hour and half sitting in a car unable to move or 3 hours in an airport because of the breakdown of the transportation system, that is time wasted that could otherwise have been producing.

The other countries are doing it. We need to wake up to what is happening because the other countries are doing it, and they are gaining a competitive advantage. They are strengthing their economies. They are investing in the education of their young people, bringing them up to a high level of skill. They are addressing the health needs of their people.

This is a chart on research and development, nondefense research and development. If there is anything that is going to keep you at the cutting edge of a modern economy, it is research and development, particularly, in my judgment, nondefense research and development. Look at this. This is 1971. This is a percentage of gross national product. This is the United States, Japan, West Germany. In 1971, there was some difference but not that much difference amongst the three countries in the investment in research and development.

I do not think I have to make the case as to why that is an important investment. You are going to really stay ahead in the high technology of the modern world.

Look at what has happended. The United States has, in effect, moved almost on a level basis. Japan and West Germany have put a significantly larger percentage of their GNP into research and development. Japan in particular now has moved to the very top there, then West Germany, and then the United States. Look at that gap on the far side of that chart between our investment in nondefense research and development compared with Japan and West Germany.

These charts tell an important lesson. There is an important lesson that lies behind those charts and this budget document that the Senator has been wrestling with all year where he tries to hold on to some of these important priorities in order to build the strength of America's economy in the future.

The Senator has been absolutely on target in recognizing that if we fail to make certain investments in education, in research and development, in improving our Nation's transportation network, our communications network, tomorrow's economy is not going to be stronger. Tomorrow's economy will be weaker.

By every measurement we have completely neglected the Nation's physical infrastructure: The road network, the rail network, the air network, our ports, our water and sewer systems, the basic infrastructure you need for the private sector to do its job.

We have always had this complementary relationship between the public and the private sector and that is breaking down. The private sector cannot do its job if the truck is tied up for 4 hours on the streets and it cannot move through in order to deliver the goods. What does that do to your productivity and your efficiency?

The same thing is happening with respect to air. It is in every city in the

country now. That system is so overloaded it is not working anymore. People know that. They experience it every day. They can see it right in front of their eyes.

We take these comparative scores on educational achievement at the high school level. We are lagging behind. That was one of the focuses at Charlottesville at the education summit. But we got no action program out of that in order to try to come to terms with it.

So I simply close, Mr. President, by thanking the very able and distinguished Senator from Tennessee for the leadership he has exercised on this budget issue. He has tried to move us in the direction of the important priorities. He has tried to keep this reconciliation measure on target in terms of what its focus should be so that it is not simply all over the lot, everyone trying to put their pet project on a very important measure.

This is the final piece in this budget effort. The budget effort itself needs to be taken to a new level, which I know the Senator is concerned about doing in the coming year. But we ought not to be playing games with this reconciliation measure. It ought not to be a 1,400-page document out here dealing with everything you can imagine, including now, apparently, this proposal to try to tack a capital gains provision on this measure as well.

We need to come to terms with these serious economic problems. The ordinary person has not yet felt the brunt of these trends. But, looking ahead, the warning flag ought to be flying and we ought to be concerned to remedy these trends. The Senator from Tennessee has been trying very hard to do that. But if we fail to do it, we are going to find ourselves mortgaged to others in the future, dependent upon the kindness of strangers, and we are not going to be able to exert our world leadership.

I think it is important. People say, well, what difference does it make? I think it is important for the United States to be able to exercise its world leadership responsibilities. I think that the United States in the post-World War II period has exercised that leadership, generally speaking, in a beneficient manner. It has brought a breadth to the vision of the world that has seen our own advancement as part of the advancement of others. In other words, we have not treated it as a zero sum game where we get ahead and others fall behind. We have come at it from the point of view that, well, let us improve it for everyone. Let us have an open international trading economy that everyone will benefit from. Let us have a general rise in living standards not only in this country but elsewhere in the world. And that, in fact, our best chance for a peaceful and prosperous world, to be able to enjoy that, is if others are also moving up as well.

So I think we have exercised that leadership well. But we are losing the wherewithal with which to be the leaders. You cannot be the leaders and be this large debtor nation. And we have to come to grips with that.

I commend the Senator from Tennessee for his effort to try to do that. I strongly support him in the stand he has taken, trying to turn back and away from this reconciliation measure all of the favorite sort of pet projects one or another Member of this body may have. This is serious business and we need to be serious about it.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Under the order, the Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. SASSER. Mr. President will the Senator from Rhode Island yield to me for about 30 seconds?

Mr. CHAFEE. I am delighted to yield.

Mr. SASSER. Mr. President, I wish to express my appreciation to the Senator from Maryland for his kind remarks regarding the Senator from Tennessee. One of the joys of serving here in this body is being able to associate with individuals with the intellectual capacity and energy of our distinguished colleague from Maryland. I commend and congratulate him for the very perceptive message that he has brought today to the U.S. Senate. I thank my colleague from Maryland.

Mr. SARBANES. I thank the Senator for his gracious remarks, and I thank the Senator from Rhode Island for yielding.

THE STRATOSPHERIC OZONE AND CLIMATE PROTECTION ACT OF 1989

Mr. CHAFEE. Mr. President, numerous committees on both sides of the Capitol have held hearing after hearing on the problems of global climate change and similar hearings on the destruction of the ozone layer. In the not too distant future it is my hope that the Senate will have the opportunity to actually do something about these problems.

The vehicle to do this would be legislation that has been labeled the Stratospheric Ozone and Climate Protection Act of 1989. Perhaps it is not possible that this legislation will survive in connection with this reconciliation measure. If that is so, so be it. It may be that a general effort to strip legislation that is not directly connected with reducing the deficit from the budget will succeed. I will not argue with that effort. But I certainly do hope that we are able to bring this legislation before the Senate before the conclusion of this year.

Now what am I talking about? I am talking about an issue that I believe is extremely important for everybody in the United States to understand.

This legislation, the Stratospheric Ozone and Climate Protection Act, does the following: It focuses on the control of chlorofluorocarbons, known as CFC's. These are manmade chemicals that have been identified as being responsible for the destruction of the ozone layer. CFC's are persistent, extremely stable chemicals that rise up from 6 to 20 miles, reaching the stratosphere. In the stratosphere, the Sun's ultraviolet radiation breaks the molecule apart and frees the chlorine component.

The chlorine component, then, attacks and destroys the ozone layer that is there.

What is this ozone layer? Why do we spend so much time worrying about it? The ozone layer is the Earth's main shield against ultraviolet radiation. A decrease in the stratospheric ozone, this layer, allows more of this radiation to come through onto the Earth.

The experts tell us that the abundance of this, the excess that comes through, that is normally prevented by the ozone layer, but will come through as the ozone layer is destroyed, increases the rates of skin disease, skin cancer rates in humans, it increases cataracts, it potentially destroys the immune suppression system that all of us have in our bodies, and it makes us susceptible to all types of diseases. That is the effect on humans: On the cataracts, on the suppressive system, on skin cancer.

But that is not all. It also presents a serious threat to our food crops and to all forms of life on land and in the seas.

Most of us are familiar with this connection, that CFC's destroy the ozone layer. But there is another destructive element to CFC's and that is in connection with the global climate change that is predicted to occur as a result of an intensified greenhouse effect.

What is the greenhouse effect? The threat of uncontrolled global climate change is caused by the accelerating accumulation of certain gases in the atmosphere and these gases are carbon dioxide, they are chlorofluorocarbons, and they are methane.

These gases, when they get into the atmosphere, act as a thermal blanket around the Earth and they trap within the Earth's atmosphere the heat that is there. In other words, the sun pours heat down on the Earth and the Earth reflects it up and it dissipates and thus keeps the globe at a relatively normal, constant temperature.

When this blanket is wrapped around the Earth that prevents the heat from escaping, then we have

what is known as the greenhouse effect. Obviously, if the heat can get in but it cannot get out, the Earth warms up.

What are these gases? Carbon dioxide is the worst offender. That is estimated to cause about 50 percent of the global warming.

CFC's are estimated to account for 15 to 20 percent of this warming. But, each molecule of CFC has approximately 20,000 times more impact on global climate than does a single molecule of carbon dioxide.

One might say, if that is true, then, how come carbon dioxide is responsible for 50 percent of the global warming? That comes about because there are many more molecules of carbon dioxide released than there are of CFC's. Furthermore, we can see that just a slight increase of the CFC's does tremendous destructive damage and causes the greenhouse effect. On the other hand, if we can reduce the CFC's, just keep working on pulling them down, then each step in that direction is extraordinarily important in our efforts to overcome the greenhouse effect.

Why are we worried about the greenhouse effect? What does it mean to our world? The statistics are extraordinarily interesting and alarming. An increase, with this global warming effect; in the global average temperature of 2.7 to 9.9 degrees Fahrenheit over the next 40 to 60 years is anticipated.

Let me say that again. Roughly an increase from 3 degrees to 10 degreees Fahrenheit over the next 40 to 60 years is estimated to occur, will occur, due to these gases, these greenhouse gases that are in the atmosphere.

What does an increase of 3 to 10 degrees Fahrenheit mean? Let us compare it to what has happened in the history of the globe. In the past 10,000 years the temperature has only increased by 3 degrees in 10,000 years. We foresee that the temperature will increase by 3 to 10 degrees in the next 40 to 60 years.

This means nature just cannot adjust to this, this rapidly. It is impossible to do so. The extinction of numerous species of plants and animals and a significant interference with nature's evolutionary responses will occur.

Reduced soil moisture content and altered storm patterns will seriously disrupt the agriculture of our Nation and the agriculture of every nation in the world.

A rise in sea level of 1 to 4 feet over the next 60 years will occur, and a continuing sea level rise in the succeeding years.

It is easy to overstate the uncertainty that surrounds this issue. A lot of people will say: Prove it. It is true that scientists disagree on these matters. They disagree whether the greenhouse effect has actually started. There is no scientific consensus about the precise timing of these changes. They can argue whether it is 3 degrees or 10 degrees or 7 degrees; they can argue whether it is going to happen in 40 years or 50 years or 60 years. Nevertheless, there is a remarkable degree of scientific consensus concerning the massive threat that is posed by uncontrolled global climate change.

Specifically, most experts agree if we do not change our pattern of polluting the atmosphere, many of us, our children and our grandchildren, will experience devastating climate changes of a magnitude and at a rate that will preclude natural evolutionary responses. In other words, nature will just not be able to respond quickly enough.

There is consensus on another point. By the time there is scientific proof for every detail of this problem, when we can get all the scientists to agree, and that is going to take quite a while and will be a massive undertaking—when they do agree it will be too late. It will be too late to avoid the most devastating impacts of an intensified greenhouse effect and of the global climate changes.

So we just cannot wait another 10 years and have more research to decide to do something. We must move immediately to reduce the atmospheric concentration of these greenhouse gases that I mentioned: carbon dioxide, CFC's, methane. At the same time we must implement additional strategies for coping with the changes that have already taken place or will take place.

I get back to CFC's. CFC's, as I say, are the cause of the destruction of the ozone layer. They contribute 15 to 20 percent of the greenhouse effect. So, if there is one gas that we ought to attack immediately, that is it.

That does not mean we should not try to reduce the carbon dioxide emissions or the methane emissions. But by reducing the CFC's we get a double effect. We solve the ozone layer problem and we reduce the greenhouse gases.

Under the leadership of the U.N. Environment Program called UNEP, we have made an excellent start in connection with CFC's reduction. In September 1987 the Montreal Protocol on Substances that Deplete the Ozone Layer was negotiated and it was signed by more than two dozen nations. It was a remarkable achievement. The protocol entered into force in January of this year, and more than 30 nations are now parties to the protocol.

Unfortunately, since this was negotiated in 1987, scientists have observed and measured losses of ozone on a global scale. In other words, we knew then what was happening over the Antarctic, but now we have been seeing it all over the world.

It has been discovered that destruction of the ozone layer is not limited to these remote sections of the Antarctic that we are familiar with. Equally alarming are reports from the Antarctica, reports showing this year's hole in the ozone layer now covers 10 million square miles. The expectation is that the severity of ozone loss over the Antarctic this year will match the disaster of 1987.

In other words, this is a cumulative process, it is getting worse and worse. In 1987, measurements revealed losses greater than 50 percent of the total ozone column and greater than 95 percent between the altitude of 15 to 20 kilometers; that is in the 9 to 12 miles up from the Earth.

(Mr. ROCKEFELLER assumed the chair.)

Mr. CHAFEE. Mr. President, measurements of actual ozone loss over Antarctica and across the entire globe are significantly greater than the computer models predicted. These measurements raise serious questions about the adequacy of the control measures that were agreed upon in Montreal in 1987, and they really question whether our existing EPA regulations are sufficient.

There are six main elements to this act that I am so interested in and that I am urging upon the Senate.

First, this act establishes a national policy that the production and use of five of the most destructive CFC's, which are CFC 11, 12 113, 114, and 115, the halons and carbon tetrachloride should be reduced and eliminated as expeditiously as possible. That is the national policy that is set forth in this act.

It directs the Administrator to implement a phaseout schedule to control, reduce, and eliminate production of CFC's more rapidly than the schedule set forth. We shall do this if new information suggests such accelerated schedule may be necessary. We shall do it if the Administrator determines, based on the availability of substitutes, that an accelerated schedule is attainable, or, three, if the Montreal protocol on substances that deplete the ozone layer is modified to include a schedule that is more stringent than the act I am discussing.

Second, subject to acceleration by the Administrator, as outlined above, the act places the five most destructive CFC's that I previously referred to on a production phasedown schedule. In other words, using 1986 as a base, the Montreal protocol says we must reach a 20-percent reduction by 1993 and a 50-percent reduction based on the 1986 figures; 50 percent of that must be reduced by 1998. There is an additional step: Virtual elimination of these five most dangerous CFC's by the year 2000.

Third, the Montreal protocol only freezes production of halons and does not regulate carbon tetrachloride, but these are powerful ozone depleters. This act puts those chemicals on the same phaseout schedule as the five most dangerous CFC's I referred to before.

Fourth, where the Montreal protocol will allow unlimited production and use of other less potent ozone depleting chemicals and, in turn, continue the threat to the ozone layer, the Montreal protocol does not deal with these other substitutes that are also ozone depleters. This act puts a limit on the production and use of those.

Fifth, the act includes a supplement to the production phaseout. This is extremely important. All through the refrigerators of the United States, through the cooling systems currently are CFC's and the worst thing that could happen is that these be released into the atmosphere. So this act significantly reduces these emissions by requiring that they must be recaptured and destroyed in a fashion that will not release them into the atmosphere. That is what we call overcoming the practice of venting these chemicals. The venting of these chemicals will be prohibited by January 1, 1992.

EPA is directed to promulgate standards for control of emissions to the lowest achievable rate and for the use of alternative substances.

The sixth part of this act is as follows: Twelve months after it becomes law, importing into the United States of the five most destructive CFC's, of halons, of carbon tetrachloride in bulk or in products will be prohibited unless EPA certifies that the country of origin, in other words, where these CFC's are coming from or where they have been used, for instance, to clean microchips in computers, the EPA must certify that the country that is shipping those into the United States has embarked on a phaseout and a regulatory program of its own.

Mr. President, it is extremely important that we eliminate these chemicals as quickly as possible. We have seen projections that a 3- to 5-year delay in the phaseout of these chemicals means that for the next 20 or 30 years, there will be elevated chlorine levels in the atmosphere. In other words, it takes a long time, some 10 to 12 years, for these chemicals to work their way up into the atmosphere. So that if we stop everything right now, those CFC's that have previously been vented by the destruction of an air conditioner in an automobile, for example—I think we have all seen when the air-conditioner is not working properly, the mechanic just vents the gases that are in there. That is releasing these CFR's. When an old refrigerator is thrown in a dump and the tractor runs over it as it is buried, the CFC's are released. Those CFC's that are released now and that were released 10 years ago have not yet caused their destruction. They are on their way upward. The sooner we stop this the better. It does not do any good for anybody to say, "Well, what is the hurry?"

I do not know whether the Chair is familiar with the famous French marshal, Marshal Loti who was in North Africa with his gardener looking over the garden and they were planting a century tree. The marshal was quite anxious to have it planted and the gardener said, "Well, what is the hurry? It will not bloom or for a hundred years." The response of Marshal Loti was, "Then plant it now." The same applies to the CFC problem. Now is the time to do something about it.

As introduced, my bill would have phased these chemicals out totally by the year 1997. The latest version of the bill has an absolute deadline, no question, by the year 2000. But I think we can do a lot better than that.

We had meetings with all sorts of parties that are interested in this, that are seeking substitutes, but they just say they cannot do it. I would like to see these chemicals eliminated not by the year 2000, not by the year 1997, but by the year 1995, and we ought to direct our energies in that direction.

This bill is structured to force reductions and eliminations as soon as possible. The producers have testified that they intend to eliminate the chemicals by the year 2000. They can meet that goal. I think we can do better. That is the goal the President set, but I think our goal, our ambitions have to be loftier than that.

By waiting for measurements of actual ozone loss, by failing to take appropriate action on the basis of credible, undisputed scientific theory, governments around the world have allowed this major environmental threat that would have been manageable had we tackled it earlier. Now it has become an environmental crisis.

It is hard to think that we originally started wrestling with this matter before I came to the Senate. I believe it was around 1972 that freon in the freon cans were abolished; in other words, CFC's is cans, freon cans, such as dispensable shaving cream, no longer were CFC's permitted in those cans starting in 1972 in this country. If we kept up that head of steam, we would have found substitutes, just as substitutes were found in those dispensing cans.

So our challenge is to take action as rapidly as possible to reduce the threat of additional damage to the ozone layer, to reduce the rate and magnitude of human-induced global climate change.

There has been a great deal of misinformation circulating about the legislation I am discussing. I will just mention three of the points that are raised in criticism of it. First, some say it is a new bill; we are rushing into this; we ought to take our time; where did you get this from anyway? It has come out of nowhere.

I first introduced this legislation in February 1987, nearly 3 years ago, and again I introduced it in this Congress, in March of this year. Since we introduced it, in the Environment Committee we have held 6 days of hearings, the most recent being May 19 of this year. We received testimony from all affected parties and numerous scientific experts. It has been a very open process and nobody can complain we are rushing into this.

Second, some suggest that this bill bans the production of the alternatives known as HCFC's, hydrochlorofluorocarbons. People say you ban those. We have not banned them. That is nonsense. The controls in this bill will allow HCFC production to grow for a while, at the same time bringing the chlorine concentrations in the atmosphere back down to the 1985 levels is our goal.

Third, this bill was approved in the Environment Committee by a vote of 13 to 0 on July 21. It seems to me, Mr. President, as Members of the Senate we are in a unique position to make a difference for the sake of our children and all future generations. I believe we have a responsibility to leave this wonderful globe we are riding around on at least as clean and as healthy as we found it, and hopefully better. The time has come to stop abusing Mother Earth.

The Stratospheric Ozone and Climate Protection Act of 1989, the bill I have been discussing, offers us an opportunity to make an extremely positive contribution to the betterment of the world. There is no question that this legislation breaks bold new ground. As stated in a letter being circulated by environmental groups in support of this legislation, "Enactment of this bill is the first concrete action Congress can take to reduce the two global threats of ozone depletion and greenhouse effect." So I urge all my colleagues to support it when it comes before the Senate for a vote.

In conclusion, I remind everyone about a bit of graffiti that I saw. It seems to sum it all up. It said, "Be nice to the Earth. Good planets are hard to find."

I hope we will all remember that and do everything we personally can to make this world, its environment, a better place.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 213. Joint resolution to designate October 22, 1989, as "National Red Ribbon Week for a Drug-Free America."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 75. A concurrent resolution to congratulate His Holiness the XIV Dalai Lama of Tibet for being awarded the 1989 Nobel Peace Prize.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2991) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. WHITTEN, Mr. ROGERS, Mr. REGULA, Mr. KOLBE, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3015) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

Solely for consideration of Senate amendments numbered 1 through 135 and modifications committed to conference: Mr. LEHMAN of Florida, Mr. GRAY, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. SABO, Mr. WHITTEN, Mr. COUGHLIN, Mr. CONTE, Mr. WOLF, and Mr. DELAY.

As additional conferees solely for consideration of Senate amendments numbered 136 through 144 and modifications committed to conference: Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. COUGHLIN, Mr. REGULA, Mr. EDWARDS of Oklahoma, Mr. GREEN, Mr. ROGERS, and Mr. SKEEN.

The message further announced that pursuant to the provisions of section 1 of Public Law 94-371, as amended, the Speaker appoints Mr. RAY to the Franklin Delano Roosevelt Memorial Commission on the part of the House, to fill the existing vacancy thereon.

The message also announced that pursuant to section 6160 of Public Law 100-690, the minority leader appoints Mr. OXLEY to the National Advisory Commission on Law Enforcement on the part of the House, to fill an existing vacancy thereon.

ENROLLED BILL SIGNED

At 4:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 248. An act to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The President pro tempore (Mr. BYRD) announced that he had signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House:

H.R. 1300. An act to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990;

H.R. 2788. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes;

H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month;"

H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day;" and

H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1765. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notification of an excess in the amount appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty Inc. due to exchange rate gains in the fourth quarter of 1989 that will be placed in BIB's currency reserve account to offset future exchange rate losses; to the Committee on Appropriations.

EC-1766. A communication from the Chairman of the National Credit Union Administration, transmitting pursuant to law, his report and recommendations with respect to discriminatory lending practices by mortgage lenders; to the Committee on Banking, Housing, and Urban Affairs.

EC-1767. A communication from the Assistant Secretary of Housing and Urban Development (Policy Development and Research), transmitting, pursuant to law, the second report on the Federal National Mortgage Association for 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-1768. A communication from the Administrator of the National Oceanic and Atmospheric Administration, transmitting, pursuant to law, notification of the Administration's intent to contract for the performance of certain services at the Integrated Systems Laboratory of the National Weather Service, Silver Spring, Maryland; to the Committee on Commerce, Science, and Transportation.

EC-1769. A communication from the Secretary of Commerce, transmitting pursuant to law, the annual report of the Secretary of Commerce for fiscal year 1988; to the Committee on Commerce, Science, and Transportation.

EC-1770. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on Federal Government Energy Management for fiscal year 1988; to the Committee on Energy and Natural Resources.

EC-1771. A communication from the Deputy Associate Director for Collection and Disbursements Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1772. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1773. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Mangement Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1774. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Innovative Coke Oven Gas Cleaning System for Retrofit Applications"; to the Committee on Energy and Natural Resources.

EC-1775. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, an informational copy of a Building Project Survey; to the Committee on Environment and Public Works.

EC-1776. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, notice of a request for an advisory opinion on a change in first class delivery standards; to the Committee on Governmental Affairs.

EC-1777. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, notice of a prehearing conference on first class delivery standards realignment; to the Committee on Governmental Affairs.

EC-1778. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a report on the activities of the Federal Courts under the Equal Access to Justice Act for the 12 month period ended June 30, 1989; to the Committee on the Judiciary.

EC-1779. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, a report entitled "Coordination of Federal Equal Employment Opportunity Programs" for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-1780. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Public Health Service Act to make needed improvements in the Health Education Assistance Loans Program; to the Committee on Labor and Human Resources.

EC-1781. A communication from the Commissioner of the Rehabilitation Services Administration, transmitting, pursuant to law, the annual report on Federal activities related to the Rehabilitation Act of 1973, as amended for fiscal year 1988; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-339 A resolution adopted by the City Commission of Boynton Beach, Florida urging review of the Cable Communication Policy Act and expressing concern about the need for greater local government regulatory authority; to the Committee on Commerce, Science, and Transportation.

POM-340. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Foreign Relations:

"JOINT RESOLUTION FROM STATE OF MAINE

"We, your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the President of the United States and the Members of the United States Congress as follows:

"Whereas, governments are and must be responsible and accountable for the actions of the people they govern; and

"Whereas, acts of aggression against the citizens of other countries by lawless people and governments that do not recognize fundamental principles of international law must be strongly condemned by civilized nations; and

"Whereas, We view with outrage and revulsion the cowardly, despicable and unwarranted act of hanging Lieutenant Colonel William R. Higgins, United States Marine Corps, a member of the United Nations peacekeeping force, in retribution for an unrelated grievance against an ally of this nation; and

"Whereas, It is considered appropriate for a duly authorized government to protect, secure and bring to justice those who harm, molest or detain its citizens unlawfully and without cause; now, therefore, be it

"Resolved: That we, the members of the One Hundred and Fourteenth Legislature of the State of Maine now assembled in the First Special Session, request and urge the President and the Members of Congress of the United States in their capacity as leaders of a prominent world power to take any actions and bring any sanctions against those governments and lawless people sufficient to deter them from future aggressions against citizens of this nation; and be it further

"Resolved: That the President and the Members of Congress of the United States demand the immediate release of American hostages wherever and by whomever held and treat failure to comply with this demand in a most serious and appropriate manner; and be it further

"Resolved: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Maine Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 604. A bill to amend title 31 of the United States Code to increase settlement authority and expand coverage relating to claims for damages resulting from law enforcement activities (Rept. No. 101-163).

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. 1750. An original bill to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for fiscal year 1990 (Rept. No. 101-164).

By Mr. LEAHY, from the Committee on Appropriations without amendment.

H.R. 3385. A bill to provide assistance for free and fair elections in Nicaragua.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER, from the Committee on the Budget:

S. 1750. An original bill to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for fiscal year 1990; placed on the calendar.

By Mr. GORTON (for himself and Mr. HEINZ):

S. 1751. a bill to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 1752. A bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman Hollings through fiscal year 1997; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports the other committee have thirty days of continuous session to report or be discharged.

By Mr. BAUCUS (for himself and Mr. PRYOR):

S. 1753. A bill to amend the Internal Revenue Code of 1986 to restore income averaging for qualified farmers; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON (for himself and Mr. HEINZ):

S. 1751. A bill to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and hazardous materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SAFE TRANSPORTATION OF FOOD ACT

● Mr. GORTON. Mr. President, today, I am introducing Senate companion legislation to H.R. 3386, the Safe Transportation of Food Act introduced by Congressman CLINGER of Pennsylvania. I congratulate Congressman CLINGER for introducing this measure and for already participating in a hearing on this important issue. I hope that my colleagues in the Senate will also appreciate the urgency in this matter and will act expeditiously.

I was appalled to read reports, first detailed in the Seattle Post-Intelligencer that some trucking companies are alternately hauling chemicals and edible liquids such as fruit juices or cooking oils in the same tanker trucks. What is worse, this practice is legal. While trucking firms could be charged under the Food, Drug, and Cosmetic Act if adulteration of food occurs, this law offers the consumer very little real protection. It is simply not good enough to rely on our ability to detect contamination after-the-fact. The risk is too great.

Mr. President, there are really two risks here. First and foremost, there is

a genuine health risk to consumers—a longstanding concern of mine. And second, if we do not move promptly to eliminate this risk, we may also diminish consumer confidence in the safety of American food, and in government's ability to insure that safety. On behalf of consumers and producers, we must do better.

The bill I am introducing today would prohibit the transport of food in a cargo tank which has been used to transport a hazardous material or hazardous waste. It would also prohibit the transport of solid waste in a refrigerated motor vehicle. I recognize that this will be a costly requirement, but it is a price we must pay—consumers must have confidence that the food they eat is safe.

During the last several months, the Washington State Department of Agriculture has conducted a tanker truck investigation. I quote from an October 3 statement from the Department: "My investigation of the June 5, 1989 trucker complaint on Valley Express DBA Premium Tanker Transport in Yakima, WA, confirms foods and chemicals are being hauled in the same tankers intrastate, interstate, and internationally. Tanker cleaning practices are varied and of questionable sufficiency and there is a shortage of suitable cleaning facilities available."

Mr. President, during the last few weeks we have heard tales of truck drivers being told to put drops of deodorant or chlorine in a tank after a washout to mask odors, we have heard of falsified washing reports, and we have documented reports of tanks hauling waste automotive oil one way and palm oil the other. These are not isolated events. They have been shown to be happening nationwide.

Food safety is simply too important to be left solely up to an individual operator's conscience. My bill will direct the Secretary of Transportation to develop regulations to ensure that liquid foods and liquid chemicals will no longer be hauled in the same truck. In this way, we can assure both safety to food, and confidence to consumers.

Mr. President, I ask unanimous consent that the text of the bill appear in the record following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Transportation of Food Act".

SEC. 2. REFRIGERATED MOTOR VEHICLES.

Effective beginning on the 180th day following the date of the enactment of this Act, no person shall use a refrigerated motor vehicle to provide transportation of solid waste.

SEC. 3. CARGO TANKS.

Effective beginning on the 180th day following the date of the enactment of this Act, no person shall use a cargo tank to provide motor vehicle transportation of food if such tank has been used to transport a hazardous material or hazardous waste.

SEC. 4. WAIVER AUTHORITY.

After notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this Act or any regulation issued under this Act with respect to any class of persons, class of motor vehicles, class of solid waste or hazardous material, or food if the Secretary determines that such waiver is not contrary to the public interest. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.

SEC. 5. REGULATIONS.

(a) ISSUANCE.—Not later than 150 days after the date of the enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out the objectives of sections 2, 3, and 4. Such regulations may include requirements relating to recordkeeping, labeling of vehicles, monitoring of compliance, and which classes of persons, vehicles, and materials need waivers under section 5.

(b) RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to issue regulations pursuant to subsection (a).

SEC. 6. ADDITIONAL MEASURES.

(a) STUDY.—

(1) DESCRIPTION.—The Secretary shall conduct a study to determine—

(A) those measures, in addition to the prohibitions of sections 2 and 3, which are necessary to assure that food transported in refrigerated motor vehicles and cargo tanks is not made unsafe as a result of such transportation, and

(B) those measures with respect to the transportation of food, or of solid waste, hazardous materials, or other materials, or of both by motor vehicles (in addition to refrigerated motor vehicles and cargo tanks) which are necessary to assure that such food is not made unsafe as a result of such transportation.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section.

(b) REGULATIONS.—

(1) ISSUANCE.—Not later than the 365th day following the date of the enactment of this Act, the Secretary, on the basis of the results of the study conducted under this section, shall issue such regulations with respect to the transportation of food, or of solid waste, hazardous materials, or other materials, or of both by motor vehicles as the Secretary determines are necessary to assure that such food is not made unsafe as a result of such transportation.

(2) TRANSMITTAL TO CONGRESS.—The Secretary shall transmit to Congress the regulations issued pursuant to paragraph (1).

(3) LIMITATION.—The regulations issued pursuant to paragraph (1) shall not take effect before the 90th day following the date of their transmittal to Congress.

SEC. 7. POWERS AND DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall have the same powers, duties, and authorities under this Act as the Secretary has under section 109 (other than subsections (d) and (e)) of the Hazardous Materials Transportation Act.

(b) ANNUAL REPORT.—The Secretary shall prepare and submit to the President for transmittal to Congress on or before June 15 of each year a comprehensive report on transportation regulated under this Act during the preceding calendar year.

SEC. 8. PENALTIES.

(a) CIVIL.—

(1) IMPOSITION.—Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of a provision of this Act or a regulation issued under this Act shall be liable to the United States for a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense.

(2) ASSESSMENT.—The amount of civil penalty under this subsection shall be assessed by the Secretary by written notice.

(3) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(4) RECOVERY AND COMPROMISE.—A civil penalty under this subsection may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States. Prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary.

(5) SET-OFF.—The amount of a civil penalty under this subsection, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged.

(6) DEPOSIT.—All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(b) CRIMINAL.—A person is guilty of an offense if he willfully violates a provision of this Act or a regulation issued under this Act. Upon conviction, such person shall be subject, for each offense, to imprisonment for a term not to exceed 5 years or a fine determined in accordance with title 18, United States Code, or both.

SEC. 9. SPECIFIC RELIEF.

(a) IN GENERAL.—The Attorney General, at the request of the Secretary, may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of a provision of this Act or an order or regulation issued under this Act. Such district courts shall have jurisdiction to determine such actions and may grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(b) IMMINENT HAZARD.—

(1) GENERAL RULE.—If the Secretary has reason to believe that an imminent hazard exists, the Secretary may petition an appropriate district court of the United States, or upon his request the Attorney General shall so petition, for an order suspending or restricting any transportation subject to regulation under this Act which is responsible

for such imminent hazard or for such order as is necessary to eliminate or ameliorate such imminent hazard.

(2) EXISTENCE.—As used in this subsection, an imminent hazard exists if there is substantial likelihood that serious harm will occur prior to the completion of an administrative hearing or other formal proceeding initiated to abate the risk of such harm.

SEC. 10. RELATIONSHIP TO OTHER LAWS.

(a) PREEMPTION AS GENERAL RULE.—Except as provided in subsection (b), any requirement of a State or political subdivision thereof which is inconsistent with any requirement of this Act or any regulation issued under this Act is preempted.

(b) EXCEPTION.—A requirement of a State or political subdivision thereof which is not consistent with any requirement of this Act or any regulation issued under this Act is not preempted if, upon the application of an appropriate State agency, the Secretary determines in accordance with procedures to be prescribed by regulation, that such requirement (1) affords an equal or greater level of protection to the public than is afforded by the requirement of this Act or the regulations issued under this Act, and (2) does not unreasonably burden commerce. Such requirement shall not be preempted to the extent specified in such determination by the Secretary for so long as such State or political subdivision thereof continues to administer and enforce effectively such requirement.

SEC. 11. DEFINITIONS.

As used in this Act—

(1) COMMERCE.—The term "commerce" means—

(A) trade, traffic, or transportation in the United States which is between a place in a State and a place outside of such State (including a place outside of the United States) or is between 2 places in a State through another State or a place outside of the United States, or

(B) any trade, traffic, or transportation in any State which is not described in subparagraph (A).

(2) HAZARDOUS MATERIAL.—The term "hazardous material" has the meaning such term has under section 103 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802).

(3) HAZARDOUS WASTE.—The term "hazardous waste" has the meaning such term has under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(4) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on highways; except that such term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(5) FOOD.—The term "food" means (A) articles used for food or drink for man, and (B) articles used for components of any such articles.

(6) PERSON.—The term "person" means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but such term does not include (A) the United States Postal Service, or (B) for the purposes of sections 8 and 9, any agency or instrumentality of the Federal Government.

(7) REFRIGERATED MOTOR VEHICLE.—The term "refrigerated motor vehicle" means any motor vehicle which is capable of being used to transport refrigerated products for human consumption.

(8) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(9) SOLID WASTE.—The term "solid waste" has the meaning such term has under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(10) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(11) TRANSPORTS OR TRANSPORTATION.—The term "transports" or "transportation" means any movement of property in commerce by motor vehicles.

(12) UNITED STATES.—The term "United States" means all of the States.●

● Mr. HEINZ. Mr. President, Senator GORTON, Congressman CLINGER and I are introducing today, legislation to ban the practice of backhauling garbage in refrigerated food trucks and to ban backhauling of chemicals in food carrying tank trucks.

The practice of backhauling is simply this: when food goods are transported in one direction, instead of returning with empty trucks to the point of origin, transporters use their food trucks to haul back garbage or chemicals. The reason why backhauling has become so commonplace is for the simple reason that solid waste refuge has grown in alarming proportions.

The proliferation of trash is causing a landfill capacity crisis around the country. At present, 75 percent of our garbage is deposited in landfills, while 11 percent is recycled and 13 percent is burned in waste-to-energy plants. In less than 8 years, more than half of our existing landfills will close. As landfills reach capacity and close, pressure mounts in large trash producing areas to transport their trash to other areas.

A few years ago, backhauling began as landfills in the east reached their capacity and had to turn west in order to find empty landfills. Many truckers thus began backhauling trash on their return route instead of returning home empty. However, the problem is not solely interstate, but intrastate as well. In my home State of Pennsylvania, 57 of our 67 counties send waste to other counties for disposal. While in itself, intrastate transportation of trash is not alarming, the practice of backhauling trash and chemicals in refrigerated food trucks is cause for concern.

In my own State of Pennsylvania, my constituents recall too well the crash of a refrigerated food truck on Interstate 80 near Clearfield, PA. When the State police opened it, they had to run for cover because a cloud of noxious, visible fumes rolled past the doors and into their faces. The methane gas was a byproduct of the truck's load: baled garbage. Mr. President, that truck's previous load had been produce hauled into New York City's supermarket's.

Some will argue that backhauling is necessary in the competitive environment of trucking deregulation. Backhauling lowers prices for consumers through the more efficient use of transportation. Prior to deregulation, trucks returned with empty cargoes which adds to the cost of transporting goods. But, Mr. President, isn't it ironic that when you buy food goods at a lower price, you pay the higher price of the uncertainty that those goods may have been transported in containers that carried garbage or chemicals.

It is with this concern that we introduce the Safe Food Transportation Act of 1989. This legislation will do four things, Mr. President:

Ban the hauling of garbage in refrigerated food trucks.

Ban the hauling of consumable foods in tanker trucks that have been used to ship hazardous liquids.

Instruct the Secretary of Transportation to undertake a study of the hauling of garbage in dry vans that are used to transport food to the marketplace.

Require the Department of Transportation to draft regulations within 180 days after enactment of the bill.

Mr. President, I have come before this body many times to introduce legislation to reduce the proliferation of solid waste. I have warned my colleagues that the growth of trash and its derivatives will cause numerous problems in the present and near future. Backhauling is a prime example of this growing problem and its condition.●

By Mr. HEINZ:

S. 1752. A bill to exclude the Social Security trust funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings through fiscal year 1997; pursuant to the order of August 4, 1977, referred jointly to the Committee on Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY TRUTH IN BUDGETING ACT

Mr. HEINZ. Mr. President, Today I rise to introduce what I think is the most important piece of legislation that we could enact to deal with that, entitled "The Social Security Truth in Budgeting Act."

Mr. President, my proposal is straightforward. It is to the point. It takes the Social Security trust fund out of this annual deficit deception game we play and ensures our commitment to current and future retirees. My proposal simply makes it clear, perfectly clear, as we might say, that using Social Security surplus funds to

reduce the deficit is bad budget policy and we are not going to do it anymore.

There are three principal reasons why the Social Security Truth in Budgeting Act is not only appropriate but primary to any discussion involving the reduction of the deficit. I trust that, as I review these three points, the sense of urgency that I feel will become clear to all our colleagues.

First, absent the Heinz approach that I will enumerate, Congress will continue its practice of clandestine borrowing from the trust fund reserves to mask the true size of our national debt and allow that debt to keep spiraling. It is time for the Congress to admit to itself and, more importantly, to the American people that postponing tough choices does not make them any less painful to make.

With the passage of the Social Security Truth in Budgeting Act I propose, we will have replaced our practices of deceptive budgeting with Financial honesty, and I believe that is what the American public wants and certainly deserves from the Congress.

Second, my legislation honors our obligation to protect the Social Security trust fund for current and future retirees. When Pesident Roosevelt signed the Social Security Act to law some 54 years ago, he sealed a compact between Government and the public. Yet, Congress is now undermining the very spirit of this compact and risks defaulting on its obligation through the annual misapplication of trust fund reserves.

The problem is, of course, that the surpluses we apply toward the deficit today are owed to the retirees of the future. It is the responsibility of this body and of the Congress to ensure that when the baby boomers reach retirement age, beginning around the year 2015 or 2020, that they receive the benefits that they are paying for and to which they are entitled.

I ask any of my colleagues who doubt the necessity of this legislation to tell me where are we going to get the $9.6 trillion in current dollars that we are going to owe to today's beneficiaries of the year 2020 when we get there in the year 2020. $9.6 trillion. If the trust fund is not protected, the Government will have to slash benefits or hike taxes through the roof or borrow from the public on a literally unimaginable scale.

A third reason why this legislation is approprite to any discussion of deficit reduction is the issue of interest on the national debt. Gramm-Rudman-Hollings was a commitment to reduce Government borrowing, and thus simultaneously reduce interest paid out on Government debt. But our current use of Social Security reserves simply replaces one form of borrowing with another. Instead of reducing the interest burden on the Government, we are adding to it.

Right now we are spending about 25 cents out of every dollar in general revenues just to pay interest on the national debt. If we continue to borrow and spend Social Security reserves as we do today, by the year 2000, just 10 years from now, we will be spending about 60 cents of every revenue dollar just to pay interest.

The legislation I am introducing today will remove the Social Security Trust Fund from the Gramm-Rudman-Hollings calculations immediately and halt the use of the OASDI Trust Fund from being used to cut the national deficit. This will be achieved, first, by adjusting the current Gramm-Rudman-Hollings targets upward by an amount equal to the current CBO estimate of the OASDI surplus for fiscal years 1991, 1992, and 1993.

Mr. President, second, extends the Gramm-Rudman-Hollings targets through fiscal year 1997. There would be no additional fiscal impact from fiscal years 1990 through 1993; in other words, changing the Gramm-Rudman-Hollings targets upward by the amount of the anticipated OASDI surplus will not cause Congress to have to cut additional spending or raise additional revenues in fiscal years 1990 through 1993.

And, third, once our Social Security Trust Funds are taken off budget, it is important that they remain fully protected. Therefore, this proposal would retain the equivalent Gramm-Rudman-Hollings 60-vote point of order before any legislation may be considered to use any of the Social Security surplus funds beyond the purposes of current law.

Mr. President, I urge my colleagues' support for a plan that would ensure future retiree benefits. It is this Senator's view that every day we postpone removing the trust fund, the more difficult and intimidating the task will become. The day of reckoning for honest budgeting cannot be postponed for future generations. That day is today. I ask my colleagues to consider this proposal as a pledge to honest budgeting and a healthy economy.

Mr. President, it is time for Congress to admit to itself, and more importantly, the American public, that postponing tough choices doesn't make them less painful to make. There is no question that the legislation I am offering today forces us to continue for several years more to make the difficult decisions required to continue to reduce the deficit down to a balance between revenues and spending.

But we will have replaced our practices of deceptive budgeting with financial honesty, and I believe that is what the American public wants and deserves from Congress.

Second, my legislation honors our obligation to protect the Social Security trust fund for current and future retirees. When President Roosevelt signed the Social Security Act into law 54 years ago, he sealed a compact between Government and the public. Yet Congress now undermines the very spirit of this compact and risks defaulting on its obligation through misapplication of trust fund reserves.

The problem, of course, is that the surpluses we apply toward the deficit today are owed to retirees in the future. It is the responsibility of Congress to ensure that when the baby boomers reach retirement age—around the year 2020—they receive the benefits to which they are entitled. According to intermediate projections in the 1989 Social Security Board of Trustees Report, in 2020 the balance of the old age survivors disability income [OASDI] trust fund will be $9.6 trillion in current dollars. These combined trust funds are estimated to become exhausted in the year 2046.

If we continue to pillage these trust funds, I ask my colleagues who oppose me to tell me where we will get the $9.6 trillion that will be owed to beneficiaries. If the trust fund is not protected, the Government will have to slash benefits, raise taxes, or borrow still more from the public.

There is some irony that Congress saved the Social Security goose 5 years ago only now to melt down the golden egg. In 1983, the Bipartisan Commission on Social Security Reform, organized by President Reagan and chaired by Alan Greenspan, crafted the rescue of the then-troubled program. The short-term crisis was resolved and the trust fund reserves began to grow. By using these funds as we are, we undo what the Commission has done, and push the program back to a precipice of disaster.

A third reason why this legislation is appropriate to any discussion of deficit reduction is the issue of interest. Gramm-Rudman-Hollings was a commitment to reduce Government borrowing and thus simultaneously reduce interest paid out on Government debt. Our current use of Social Security reserves simply replaces one form of borrowing with another. Instead of reducing the interest burden on the Government, we are adding to it.

The numbers speak for themselves, we already pay out more than 40 cents of every dollar of our non-Social Security revenues just to make interest payments on this debt. If we continue to postpone honest reduction effort, by the year 2000 as much as 60 cents of every such dollar will be required to cover interest due.

And, of course, there will be far less available to finance the responsibilities of general government: the investment we make each year in education, training, health, and the readiness of our Armed Forces. A dollar committed to interest payments is a

dollar that will never help educate a single child, train one dislocated worker or find a cure for AIDS or cancer.

It is important to note that the Social Security Trust in Budgeting Act requires that interest paid to the OASDI trust fund be shown in our Federal budget in the same fashion as other interest. Only by accurately accounting for all OASDI interest payments will we know both what our actual deficit is and how much or little we have to spend to meet Government's many other responsibilities. We must also recognize the benefits that would be realized by the Social Security Trust in Budgeting Act which I propose, not just the adverse consequences of our failure to enact it.

One extraordinary benefit is that we would be able to buy in the entire publicly held portion of the national debt by the year 2007. The Treasury no longer would be competing with the private sector and borrowing in increasing amounts from abroad, while driving up interest rates at home. The cost of borrowing for a house, and automobile, or starting or expanding a business would shrink dramatically. Instead of being locked into refinance an ever-increasing burden of government debt, vast amounts of savings would be freed for investment in job creation and industry. Virtually every economist agrees that the United States would be able to enjoy an unparalleled period of prosperity.

Mr. President, I have addressed our colleagues on this issue before. I was pleased that on May 3, 1989, the Senate passed a resolution which I introduced with Senator MOYNIHAN and Senator HATCH to restore truth and accuracy to the budget process by removing the Social Security trust fund from our calculations. I offered in support of that resolution the findings of the National Economic Commission. In fact, the only recommendation that the National Economic Commission agreed on was that the Social Security fund should be removed from the annual Gramm-Rudman-Hollings deficit reduction game.

The legislation I am introducing today will remove the Social Security trust fund from GRH calculations immediately and halt the use of the OASDI trust fund from being used to cut the national deficit.

This will be achieved by:

First, adjusting the current GRH targets upward by an amount equal to the current CBO estimate of the OASDI surplus for fiscal years 1991, 1992, 1993. There would be no additional fiscal impact in fiscal year 1990 to 1993. In other words, changing the GRH targets will not cause Congress to have to cut additional spending or raise additional revenues in fiscal year 1990 to 1993;

Second, by extending the GRH targets through fiscal year 1997. This will give Congress the additional time needed to reduce the larger indicated deficit in manageable increments of about $25 billion per year, as under current law;

Third, once the OASDI trust funds are taken off the budget, it is important that they are fully protected. Therefore, this proposal would retain the equivalent GRH 60 vote point of order before legislation may be considered to use any of the Social Security surplus funds; and

Finally, this legislation specifies that all payments to the OASDI trust fund from general revenues, including interest, will be recorded as outlays in the budget of the United States.

I urge my colleagues' support for a plan that would ensure future retiree benefits. Every day we postpone removing the trust fund, the more difficult and intimidating the task will become.

The day of reckoning for honest budgeting cannot be postponed for future generations. That day is today and I ask my colleagues to carefully consider this proposal as a pledge to honest budgeting and a healthy economy.

By Mr. BAUCUS (for himself and Mr. PRYOR):

S. 1753. A bill to amend the Internal Revenue Code of 1986 to restore income averaging for qualified farmers; to the Committee on Finance.

RESTORING INCOME AVERAGING FOR QUALIFIED FARMERS

Mr. BAUCUS. Mr. President, today with Senator PRYOR I am introducing a bill to restore income averaging for America's farmers and timber owners. Income averaging for tax purposes is invaluable for America's farmers and timber owners because their livelihood is subject to economic and natural forces far greater than those faced by any other sector of American business. Farmers are subject to weather causing dramatic changes in the crops they can produce. Their livelihood is also subject to commodity prices that vary widely over a short period of time. Because of these forces beyond their control, few other taxpayers are subject to such volatile swings in income from year to year.

In my view the 1986 Tax Reform Act moved in the wrong direction when it repealed income averaging for farmers and timber owners. Income averaging was repealed because the change to only two income tax rates—15 percent and 28 percent—most taxpayers are subject to the same tax rates on their income in each year. Unfortunately for farmers, this premise does not hold true.

Many farmers earn nothing in a bad year but can earn $50,000 in a good year. And they see that pattern repeated over and over again. In the good years they will be subject to the 28-percent tax rate even though their average income taking into account the good years and the bad years would not be subject to that rate.

Yet, the income tax that an average salaried worker with a family would pay on the same average income could be less than one-half of the income tax that the farm family in our example would have to pay. The family farmer is treated unfairly only because of the volatility of his income.

The Baucus legislation which I am pleased to introduce provides that farmers will have the right to average their incomes in future years as they were allowed to do through 1986. To target assistance to small- and medium-sized farmers; this amendment limits the use of income averaging to those farmers whose annual sales are less than $5 million.

I urge that the legislation be passed.●

ADDITIONAL COSPONSORS

S. 253

At the request of Mr. GORE, his name was added as a cosponsor of S. 253, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

S. 346

At the request of Mr. WIRTH, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Montana [Mr. BAUCUS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 432

At the request of Mr. ROCKEFELLER, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 432, a bill to direct the Secretary of Transportation to identify scenic and historic roads and to develop methods of designating, promoting, protecting, and enhancing roads as scenic and historic roads.

S. 478

At the request of Mr. DODD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 478, a bill to provide Federal assistance to the National Board for Professional Teaching Standards.

S. 543

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 543, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that act, and for other purposes.

S. 1256

At the request of Mr. ROTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1256, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of flexible individual retirement accounts the interest on which is exempt from tax, to allow a credit for contributions by low-income persons to such account, and for other purposes.

S. 1277

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1365

At the request of Mr. COATS, the names of the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. HATCH], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of S. 1365, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for projects to demonstrate innovative alternatives to the incarceration of persons for nonviolent offenses and drug related offenses.

S. 1565

At the request of Mr. DOLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1565, a bill to amend the Internal Revenue Code of 1986 to encourage the continued exploration for the production of domestic oil and natural gas resources.

S. 1651

At the request of Mr. MCCAIN, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. ROBB], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.S. organization.

S. 1653

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1653, a bill to preserve the solvency of the railroad retirement system.

S. 1720

At the request of Mr. MCCONNELL, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1720, a bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes.

SENATE JOINT RESOLUTION 164

At the request of Mr. NICKLES, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating 1990 as the "International Year of Bible Reading."

SENATE JOINT RESOLUTION 183

At the request of Mr. SIMON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 198

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. FOWLER], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. BOREN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Dakota [Mr. PRESSLER], the Senator from New York [Mr. MOYNIHAN], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 198, a joint resolution designating November 1989 as "An End to Hunger Education Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. BIDEN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 212

At the request of Mr. SASSER, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915–23."

At the request of Mr. HATCH, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

SENATE CONCURRENT RESOLUTION 47

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Concurrent Resolution 47, a concurrent resolution expressing the sense of the Congress on multilateral sanctions against South Africa.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

BENTSEN (AND OTHERS) AMENDMENT NO. 992

Mr. BENTSEN (for himself, Mr. DURENBERGER, Mr. DOLE, Mr. ROCKEFELLER, Mr. BAUCUS, Mr. WARNER, Mr. KERRY, Mr. PRYOR, Mr. RIEGLE, Mr. BOREN, Mr. WALLOP, Mr. SASSER, Mr. ARMSTRONG, Mr. KOHL, Mr. MITCHELL, Mr. SIMPSON, Mr. CHAFEE, and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1750) entitled the "Omnibus Budget Reconciliation Act of 1989", as follows:

On page 385, line 18, strike "2" and insert "1.75".

On page 387, line 14, strike "20" and insert "18".

On page 533, line 16, strike "20" and insert "18".

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

HELMS AMENDMENT NOS. 993 AND 994

Mr. CHAFEE (for Mr. HELMS) proposed two amendments to the bill (S. 1291) to extend and amend the Library Services and Construction Act, and for other purposes, as follows:

AMENDMENT No. 993

On page 6, between lines 5 and 6 insert the following:

SEC. 5. ANTIDISCRIMINATION PROVISION.

Section 6(b) of the Act is amended by—

(1) striking "and" at the end of paragraph (3);

(2) redesignating paragraph (4) as paragraph (5); and

(3) inserting the following new paragraph (4) after paragraph (3);

"(4) provide assurances that libraries within the State shall not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings; and".

On page 6, line 6, strike "5" and insert "6".

On page 6, line 7, strike "amended" and insert "further amended".

On page 6, line 22, strike "6" and insert "7".

On page 7, line 11, strike "7" and insert "8".

On page 7, line 22, strike "8" and insert "9".

On page 8, line 4, strike "9" and insert "10".

On page 8, line 13, strike "10" and insert "11".

On page 8, line 20, strike "11" and insert "12".

On page 9, line 10, strike "12" and insert "13".

On page 10, line 1, strike "13" and insert "14".

On page 11, line 24, strike "14" and insert "15".
On page 12, line 9, strike "15" and insert "16".
On page 12, line 12, strike "16" and insert "17".
On page 13, line 17, strike "17" and insert "18".
On page 13, line 20, strike "18" and insert "19".
On page 14, line 7, strike "19" and insert "20".
On page 14, line 19, strike "20" and insert "21".
On page 15, line 1, strike "21" and insert "22".

AMENDMENT No. 994

On page 8, line 2, strike "licensed or certified".
On page 8, line 3, after "centers" insert "which are licensed or certified by the State, or otherwise meet the requirements of State law".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JOHNSTON, Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place on Thursday, November 2, 1989, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the findings of the study conducted by the Monitored Retrievable Storage [MRS] Commission, to be released on November 1, 1989, and the Department of Energy's plans for including an MRS in the waste management system.

Those wishing to submit testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attn: M. L. Wagner.

For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that the hearing originally scheduled for October 19, 1989, at 9:30 a.m. has been rescheduled. The hearing will now take place on October 31, 1989, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC. The hearing may continue into the afternoon if needed.

The hearing is a continuation of an earlier hearing held on October 5, 1989. The purpose of this hearing is to receive testimony on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner. The hearing will also focus on Senate bills S. 972 and S. 1304.

Those wishing to submit written testimony for the printed hearing record should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attn: M.L. Wagner. For further information, please contact Mary Louise Wagner or Teri Curtin at (202) 224-7569.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold a field hearing in Atlanta, GA, to receive testimony on Forest Service Management practices. The hearing will be held on October 30, 1989, between 9 a.m. and 12 noon at the Georgia Supreme Court building.

Senator WYCHE FOWLER will preside. For further information please contact Ben Yarbrough of the subcommittee staff at 224-5207.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on the black market and South Korean trade practices on Thursday, October 19, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON WATER AND POWER

Mr. MITCHELL. On behalf of Mr. BRADLEY, Mr. President, I would like to announce for the public that the field hearing on Glen Canyon Dam operations before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources which was scheduled to take place on October 14, 1989, in Grand Canyon Village, AZ, has been postponed. The hearing will rescheduled in the near future.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

ADDITIONAL STATEMENTS

NATIONAL BIBLE WEEK

● Mr. HOLLINGS. Mr. President, I rise to call my colleagues' attention to the approach of National Bible Week, which this year is slated for November 19 through 25. This 49th annual observance of National Bible Week is in the best American tradition. Its inspiration and sponsorship are from the grassroots, and, from its inception, this celebration has remained proudly nonsectarian and nongovernmental. Indeed, the interfaith Laymen's National Bible Association, which spearheads this annual observance, has expressly refrained from asking Congress to adopt a resolution or to enact legislation supporting National Bible Week.

Mr. President, the Laymen's National Bible Association was formed in 1940 by a small group of New York business and professional men who sought to encourage Americans to appreciate our Nation's religious heritage. They saw the Bible—the primary sacred text of the overwhelming majority of religious Americans—as a uniquely rich lode of faith, spiritual guidance, and moral teaching.

The observance of National Bible Week has been held every year since 1941. It involves people from a broad range of faiths. Local observances take place in thousands of communities all across the land, conducted as often by civic clubs, fraternal groups, libraries, bookstores and the like as by churches or synagogues.

Without funding from any denomination or faith group, the costs for the annual observance are covered mainly through support from corporations and individuals. National Bible Week has come to be widely regarded as the corporate sector's interfaith response to the moral and ethical dilemmas that confront Americans from all walks of life.

Out of respect for the Constitution's separation of church and state, the sponsors have never sought official sanction or legislative backing for their observance. However, the sponsors have welcomed the personal support and involvement of Government leaders down through the years. Most Presidents have served as honorary national chairman, and every President has issued a message saluting Bible Week. Mayors and Governors issue Bible Week proclamations, and other Senators and Representatives have given public endorsement, too.

This year, Representative BOB STUMP of Arizona and I are serving as congressional cochairmen of National Bible Week. We recognize that Americans view the Bible in many ways. However, no one doubts that it has left a profound imprint on the United States, so much so that President Andrew Jackson once referred to the Bible as "The rock upon which our republic rests."

Mr. President, to challenge all Americans to remember the Bible's place in our Nation's history and its relevance to our daily lives, the Laymen's National Bible Association will mount a public service advertising campaign and conduct other educational and promotional activities during National Bible Week. It is a proper time to remind ourselves and our fellow citizens that, as the Psalmist said, "The word of the Lord is right; and all his works are done in truth."●

NEIGHBORHOOD CLEANERS ASSOCIATION

● Mr. D'AMATO. Mr. President, the Neighborhood Cleaners Association [NCA] is paying tribute this weekend to their executive director, Mr. Bill Seitz for 40 years of service to the industry.

NCA, which is headquartered in New York City, represents the neighborhood dry cleaners in nine States and has become a progressive force for the drycleaning industry. They have worked every year with us and the president at the national level to highlight the contributions of the drycleaning industry, and especially the small dry cleaner, by sponsoring Good Grooming Month each April. Throughout the past several years they have embarked upon several activities of special concern and have highlighted their industry's contributions to all of us.

NCA was a participating sponsor in the restoration effort of the Statue of Liberty and instituted a program among all of its members and their customers to raise money to "help groom the most important lady in the world." They have sponsored small business programs which have provided new opportunities to many Americans, especially the Korean-Americans. They led the way in developing a hazardous waste pickup system for dry cleaning waste in an effort to clean up the environment long before the RCRA legislation mandated such action, demonstrating their concern and need for a clean and safe environment. As an organization, NCA is an example of how the private sector and Government can work together to provide all of us a better America.

Mr. President, any organization, however, is made up of people who are willing to lead them in a positive direction and NCA has such a person in Bill Seitz, who for 40 years has been the major force behind these NCA contributions.

Therefore, Mr. President, I ask you and all my colleagues to join with all of those who will participate in the October 15, 1989, tribute to Bill Seitz for his 40 years of leadership and service to the Neighborhood Cleaners Association and leading them in their significant contributions to all of us.●

J. MICHAEL BISHOP AND HAROLD E. VARMUS AWARDED NOBEL PRIZE

● Mr. WILSON. Mr. President, I rise today with great admiration and pride for two remarkable scientists and fellow Californians, J. Michael Bishop and Harold E. Varmus, who have been recently awarded the Nobel Prize in medicine. I ask my colleagues to join with me in the Chamber of the U.S. Senate and record their brilliant and lasting discoveries in the field of medicine.

The successful partnership of these two American scientists lead to the clarification in 1976 of the longstanding controversy over the cause of cancer. Their discovery determined that cancer was not caused by invading viruses, but instead, was caused by pre-existing normal genes in our bodies. These genes have undergone a change caused by various ingested substances such as tobacco smoke, toxic wastes, and radiation.

Since joining the staff at the University of California, San Francisco, Dr. Bishop and Dr. Varmus have been outstanding professors, and their collaborated effort in research has been a forefront for modern scientific developments. Their commitment to improve the medical community and their desire to enhance and preserve the quality of health for all people are outstanding. The Nobel Prize is a most fitting and prestigious award to honor and rcognize their achievements.

I am proud to salute the enormous contributions J. Michael Bishop and Harold E. Varmus have made over the past three decades to the medical world. I wish them both continued success and know their research will continue to set precedent in the scientific community.●

THE 1990 FARM BILL: PREFERENCES OF INDIANA FARMERS

● Mr. LUGAR. Mr. President, next year the Senate will rewrite our Nation's basic agricultural policies. The 1985 Food Security Act expires next year and Congress will work toward its reauthorization.

Every American will be affected by the farm bill we write next year, but no group of Americans will be more directly affected than farmers. It is important for us to know, therefore, how farmers view current agricultural policy and how they believe our farm laws could be improved.

Three agricultural economists at Purdue University recently published the results of a poll on agricultural policy. Though the farmers in my State may differ from farmers elsewhere on a few issues, I believe the polling data reflects the views of most farmers in this country.

Mr. President, 5 years ago Indiana farmers, like farmers elsewhere, were in trouble and needed our help. One-fourth of the farmers then supported mandatory supply control programs, while another fourth urged elimination of such programs. In 1984 Congress listened. We crafted a farm bill that struck a balance and answered the needs of the farming community.

In 1989, farmers who completed the Purdue survey are saying something different. Fully 42 percent would prefer the gradual elimination of all production controls, while another 31 percent would like Government payments decoupled from production. A mere 8 percent want mandatory supply control. The 1985 Food Security Act apparently has made market-oriented programs more popular, and heavy-handed Government production controls less so.

Farmers' opinions on target prices show more of a split. Though one-third would like to keep target prices and index them to inflation, another third would prefer to see target prices phased out over 5 to 10 years. Two other options—keeping target prices at their current levels and cutting them by 2 to 4 precent a year—were favored by 12 and 11 percent, respectively. Here again, support for high target prices has weakened since the 1984 survey.

Forty-four percent of farmers favor doing away with commodity loan rates entirely. Another 29 percent want loan rates based on a moving average of market prices. Finally, 16 percent believe loan rates should be raised significantly. By contrast, in 1984 one-half of farmers supported higher loan rates.

Another topic sure to be addressed next year is crop acreage bases and the need to give farmers greater flexibility in making planting decisions. In the Purdue survey, about 50 percent would like a more flexible system, with each producer able to select his crop mix within a total farm base. Only 28 percent prefer to continue the current crop-specific base system.

Payment limitations on farm programs, always controversial in Washington, are the source of disagreement in Indiana as well. While 38 percent would like to retain the current $50,000 limit on direct payments, another third would like to see it decreased. And 11 percent want no limit on payments, while 6 percent want an even higher limit than present.

Soil and water conservation issues will be at the forefront of the farm bill debate. One of the most significant policy decisions Congress made in 1985 was linking eligibility for Federal subsidies to farmers' willingness to undertake sound conservation measures. Some 56 percent of Indiana farmers agree that soil conservation and water quality compliance should be a condition for receiving Federal benefits. However, only 13 percent are in favor of additional government regulation to achieve environmental goals. About one-third would support taxes on fertilizer and chemicals to reduce excessive use.

In the areas of crop insurance and other risk management policies, one third of farmers favor a continuation of the current subsidized crop insurance program, but a fifth would prefer to eliminate crop insurance and have

the Government provide limited disaster assistance when catastrophic weather losses occur, as in 1988. Another 14 percent favor doing away with both crop insurance and disaster programs.

Mr. President, we often hear only from constituents who believe Government needs to do more. The poll taken by Purdue University suggests to me that many farmers are not eager to expend the role of Government in agriculture; quite the opposite, in fact. The farmers in my State favor policies that respond to market signals, leaving decisions on grain production and marketing where they belong: in the hands of farmers, not the Government. I hope the farm bill we draft in 1990 will take into account the views of these hard-working farmers.

Mr. President, I want to commend Marshall A. Martin, associate professor of agricultural economics, Bob F. Jones, professor of agricultural economics, and research assistant Dennis Shields for conducting and publishing this most interesting and valuable survey. I ask that an article from the August 1989 issue of the Purdue Agricultural Economics Report, which summarizes the poll results, be printed in the RECORD.

The article follows:

THE 1990 FARM BILL: PREFERENCES OF INDIANA FARMERS

(By Marshall A. Martin, Bob F. Jones, and Dennis Shields, Associate Professor, Professor, and Research Assistant, respectively, Department of Agricultural Economics)

The Food Security Act of 1985 expires in 1990 (Glaser). Consequently, the debate over the next farm bill is now underway. To provide Indiana farmers an opportunity to express their preferences over possible provisions in the 1990 Farm Bill, the Department of Agricultural Economics at Purdue University conducted a mail survey of a randomly selected sample of Indiana farmers in February 1989. There were 409 completed surveys returned (27 percent of those mailed to farmers).

Based on a comparison of the characteristics of the farmers in the sample with recent Census of Agriculture data (U.S. Department of Commerce—Bureau of the Census), the sample was judged to be representative of Indiana farmers. About 14 percent of the survey respondents farm fewer than 50 acres, 34 percent farm between 50 and 180 acres, 30 percent farm between 180 and 500 acres, 14 percent farm between 50 and 1,000 acres, and 8 percent farm more than 1,000 acres.

Farmers were asked to share their opinions on possible provisions in the 1990 Farm Bill and related policy issues. The remainder of this article summarizes the survey findings.

PRODUCTION CONTROLS

Indiana farmers' views on production controls and associated price supports are mixed. Forty-two percent prefer the gradual elimination of all commodity programs, while 31 percent would favor a separation of government payments from production (decoupling). Only 8 percent desire a mandatory supply control program. Three percent suggested other options, and 7 percent had no response to the question.

Compared to a similar survey in 1984 prior to the passage of the Food Security Act of 1985, Indiana farmers' views appear to have changed (Martin). Support for a mandatory acreage reduction program has declined from slightly over one-fourth to 8 percent, while support for the elimination of government supply control programs has increased from about one-fourth in 1984 to 42 percent in 1989.

A larger proportion of the operators of farms with gross sales under $40,000 and those who farmed less than 180 acres prefer the complete elimination of farm programs. The moderate-sized operators more frequently expressed a preference for the current program as well as a willingness to separate government payments from production requirements, i.e., decoupling. Those who farm more than 500 acres generally oppose the elimination of all farm programs and tend to favor the current program or decoupling. Grain farmers are more often supportive of the present program than are livestock producers. Livestock producers more frequently favor the elimination of current farm programs.

TARGET PRICES

Attitudes towards the role of target prices also are mixed. About one-third want target prices phased-out completely over a 5- to 10-year period. However, another one-third want to retain target prices and increase them annually at the rate of inflation. About 12 percent prefer to keep target prices fixed at current levels ($2.84 per bushel for corn and $4.10 per bushel for wheat). A similar number (11%) would favor a gradual annual reduction in target prices of 2 percent to 4 percent to reduce federal budget expenditures and to discourage overproduction. Others (10%) had no opinion or favored other alternatives.

Support for high target prices has declined. Five years ago the majority (56%) of the farmers surveyed favored the continuation of target prices with about 40 percent wanting them held constant. Only 4 percent wanted target prices lowered. In 1984 target prices for corn were $3.03 per bushel and for wheat were $4.38 per bushel.

Larger grain farmers generally want to retain or increase current target levels. Livestock producers are more likely to want target prices reduced or phased out. Those farmers with more years of schooling generally want target prices phased out also.

LOAN RATES

Many farmers (44%) would favor the complete elimination of all loan rates and commodity loan programs. Others (29%) favor a loan rate based on an average of market prices during the previous 5 years. Still others (16%) believe that loan rates should be raised and be the primary policy instrument to support commodity prices. Eleven percent had no response.

In 1984 one-half the farmers wanted loan rates raised, about 20 percent wanted them held constant, and only 2 percent wanted them reduced. However, under the provisions of the Food Security Act of 1985 loan rates were reduced substantially, mainly as a tool to increase international competitiveness of U.S. grain and reduce stock levels. For example, the loan rates for corn and wheat were reduced from $2.55 and $3.30 per bushel, respectively, in 1984 to current levels of $2.06 and $2.58.

Small farmers generally prefer the elimination of loan rates. Many of the larger grain producers favor higher loan rates. However, livestock producers favor lower loan rates.

PAID LAND DIVERSION

In the 1980's farmers have in some years had the option of receiving additional payments to divert more acres than were required for the minimum acreage reduction program. Thirty-eight percent of the farmers surveyed believe that an annual paid land diversion program to control production should be continued as an option available to the Secretary of Agriculture when stocks become burdensome. However, 29 percent think this program could be discontinued. But a large number (26%) are unsure about whether this program should be discontinued.

Larger grain producers generally want the paid land diversion program continued. Livestock producers and smaller farmers are less supportive.

MARKETING LOAN

Under the 1985 Act, a marketing loan became available for rice and cotton. The marketing loan program allows farmers to take out a commodity loan at the announced loan rate. However, if the market price never surpasses the loan rate, farmers may repay the loan at the market price rather than the loan rate value. The difference between the loan rate and market price becomes an implicit government subsidy. The intent of the program is to move a commodity onto the market rather than allow it to accumulate in government storage through loan forfeiture.

Expansion of this approach to wheat, soybeans, and feed grains was authorized in the 1985 Act. However, former Secretary of Agriculture Lyng opposed this, arguing that such a program would be too expensive.

When asked if they favored the extension of marketing loans to include wheat, soybeans, and feed grains, 40 percent of the Indiana farmers surveyed said no. Twenty-eight percent said yes. A similar number (26%) are unsure. Larger grain producers are more supportive of the marketing loan concept.

ACREAGE BASES

Historically, several approaches have been used to determine the acreage of program crops that farmers may plant and how much land must remain idle. The 1985 Act continued the acreage reduction program (ARP) concept. Each year the Secretary of Agriculture announces the percentage acreage reduction within the limits set by the Act. To determine the number of acres to idle a farmer must multiply the ARP percentage times his base acres for each eligible crop, e.g., a farmer with 100 corn base acres and a 10 percent ARP would be eligible to plant 90 acres of corn and idle 10 acres.

The base acres for each crop under the 1985 Act are determined by the area planted or considered planted to a particular crop during the 5 preceding crop years. Although not implemented by the Secretary of Agriculture, the 1985 Act also allows for a set-aside program as a percentage of the normal farm acreage base, which includes all crops planted and idled acres.

A concern of many farmers has been the lack of flexibility of crop acres under the 1985 Act, i.e., farmers participated in the acreage reduction program not only to enjoy program benefits but also to avoid the loss of base history and thereby retain maximum eligibility for future programs. Thus,

when soybean prices rose relative to market prices for program crops such as wheat and feed grains, farmers did not expand their soybean acreage.

About 50 percent of the Indiana farmers surveyed favor a more flexible acreage base with each farmer able to select individual crop acreages within a total crop acreage basis. Others (28%) prefer a continuation of the current crop specific base acreage approach.

PAYMENT-IN-KIND (PIK)

Current support for the Payment-in-Kind (PIK) program is relatively weak and many farmers are uncertain if it should be continued. This is a sharp change in farmers' views compared to 5 years ago. PIK certificates were instituted in 1983 and the continuation of the PIK program was strongly favored by two-thirds of the Indiana farmers who responded to the policy survey in 1984. In the 1989 survey, when asked if they favored the continuation of PIK certificates as long as government stocks exist, only 31 percent said yes and 36 percent said no. It is important to note, however, that 25 percent are unsure and 8 percent did not respond to the question.

FARMER-OWNED GRAIN RESERVE

Indiana farmers' support for a grain reserve has declined. In 1984 about one-half the farmers favored the continuation of the farmer-owned reserve, about one-fifth were oppposed, and 28 percent were undecided. In the 1989 survey only 37 percent favor its continuation, while 28 percent are opposed, and 35 percent are unsure or did not answer the question. Higher market prices and declining stock levels may have influenced farmers' views now compared to 5 years ago.

PAYMENT LIMITATIONS

Farm legislation for over two decades has contained provisions to limit the size of government payments to farmers. In the 1984 survey three-fourths of the respondents favored payment limitations with about one-half favoring the continuation of a $50,000 payment limit per farmer and the rest about equally divided between higher and lower payment limitations.

In the 1989 survey, 38 percent favor the continuation of a $50,000 payment limitation per farmer. One-third want the limit decreased, and only 6 percent want it increased. Eleven percent want payment limits completely eliminated, 6 percent suggested other alternatives, and 5 percent did not respond. Operators of smaller acreage or those with annual gross sales under $40,000 generally want the payment limit decreased while operators of larger acreages or those with annual gross sales over $250,000 are much more likely to prefer an increase in the payment limit or its complete elimination. Moderate sized farmers are generally more supportive of a continuation of the current payment limit of $50,000. Younger farmers more often want the payment limit increased.

SOIL CONSERVATION AND WATER QUALITY

It is widely anticipated that the 1990 Farm Bill will include provisions to improve the environment. Policy measures to reduce soil erosion and improve ground water quality are expected.

In the 1984 survey, three-fourths of the respondents supported a recommendation which would link soil conservation practices to eligibility for price and income payments. The 1985 Food Security Act includes provisions that require farmers to develop conservation plans by 1990 and fully implement these plans by 1995.

These soil conservation provisions have been controversial. When asked in the 1989 survey, 56 percent of the farmers concurred that soil conservation and water quality compliance should be a condition for receiving government farm program benefits. Twenty-four percent said no, and 20 percent were not sure or did not respond to the question. Younger farmers are more likely than older farmers to favor this proposal. Also there is less support for this proposal among larger farmers than among smaller farmers. Farmers who are college graduates strongly support the proposal.

Government regulation of farming prices is not very popular among Hoosier farmers. Only 13 percent of the respondents desire additional government regulations of farming practices to achieve soil conservation and water quality goals. Most (44%) prefer government cost sharing to establish conservation and water structures. About one-third would support taxes on fertilizer and chemicals to reduce excessive use. Older farmers are more supportive of taxes on fertilizer and chemicals than are younger farmers. Government payments to producers to modify cultural practices or remove land from production were supported by 26 percent.

CROP INSURANCE

Several past farm bills have provided for Federal crop insurance to cover losses from natural disasters. However, in years of major drought such as 1988, the Congress usually has responded with special emergency legislation. When asked what our national policy should be to deal with production risk associated with natural disasters such as drought, about one-third of the respondents preferred a continuation of the current voluntary crop insurance program where farmers pay about 70 percent of the cost and government pays about 30 percent. About one-fifth of the farmers would prefer the elimination of the current Federal crop insurance program and instead have the Congress provide limited disaster assistance when a severe national disaster occurs such as in 1988. However, 14 percent favor the elimination of all government crop insurance and disaster assistance programs. Only 9 percent favor legislation that would require farmers to buy Federal crop insurance to be eligible for government program benefits. Yet 14 percent were not sure, 5 percent did not respond, and 2 percent suggested other alternatives.

A significant number of the smaller farmers want all government disaster programs eliminated. Support for the current crop insurance program appears to be strongest among the mid-sized farmers.

DAIRY POLICY

Dairy policy has often been controversial. Six percent of the Indiana farmers who returned the survey were dairymen. Of these dairy farmers, only 17 percent have more than a 50-cow herd. Thirty percent of the dairy farmers favor the elimination of all dairy price support programs, 23 percent want to continue the current program, 20 percent prefer production quotas and price supports based on the average cost of production, 13 percent want to give the Secretary of Agriculture more authority to set milk price supports, and 13 percent are not sure what future dairy policy should be. A comparison of all respondents indicates attitudes on dairy policy similar to those of dairy farmers.

AGRICULTURAL CREDIT POLICY

For many years the Farmers Home Administration has served as a creditor of last resort for many farmers who cannot obtain credit through commercial channels. When asked if the government should continue to lend money to farmers with limited capital who cannot get credit from other sources, 44% said no, 28 percent said yes, 20 percent were not sure, and 8 percent did not respond.

PROGRAM PAYMENT DISTRIBUTION

Slightly over one-half of the Indiana farmers favor a change in farm programs which would give a higher proportion of price and income support payments to smaller farmers. As might be expected, the response to this question is highly correlated with farm size. Farmers with annual gross sales less than $100,000 are supportive of this proposal, while larger farmers with annual gross sales over $250,000 are not.

FARM PROGRAMS AND STRUCTURE

Farmers' views on whether farm programs should be used to influence the number and size of farms are quite divided. Forty-six percent said yes, while 40 percent said no, and about 8 percent did not respond. Small operators with less than 180 acres of annual gross sales less than $40,000 think farm programs should influence farm size and numbers while those who operate more than 500 acres or whose annual gross sales exceed $250,000 disagree.

DOMESTIC FOOD PROGRAMS

There are strong and opposing views among Indiana farmers concerning the level of government expenditures on domestic food assistance programs. In 1987 the U.S. government spent $19 billion on food stamps, school lunches, and other food assistance programs. Slightly over one-third (37%) agreed that this amount should be increased. Slightly more (39%) disagreed. About one-fourth were unsure or did not respond.

RURAL DEVELOPMENT

There has been growing interest in the Congress and in rural communities to expand efforts to encourage economic development in rural areas. Over one-half (53%) of the respondents favor increased Federal government funding for rural development programs to expand employment and economic activity in low-income rural communities. Only about one-fifth disagree. Support for rural development efforts is inversely associated with educational levels. Those with less years of schooling are more supportive. Rural development is an issue that is likely to receive increased attention in the 1990 Farm Bill.

INTERNATIONAL TRADE AND DEVELOPMENT

Since the early 1970's international trade has become extremely important to U.S. agriculture. After rapid growth in the 1970's, agricultural exports declined in the early 1980's and have only begun to recover since 1986. Changes in domestic policies, e.g., lower loan rates and export subsidy programs, economic recovery in other countries, and a weaker U.S. dollar have contributed to the recent increase in the value and volume of U.S. agricultural exports.

Indiana farmers strongly favor efforts to reduce world trade barriers (78%), especially grain producers and those who are college graduates. Over one-half (58%) favor bilateral and multilateral efforts to reach separate trade agreements and reduce farm and export subsidies to enhance world agricul-

tural trade. There is less enthusiasm, however, to enter into joint agreements with other nations to limit production and establish marketing controls. Thirty-six percent agree, 30 percent disagree, and 34 percent have no opinion.

The United States has been a major source of foreign food assistance under P.L. 480 since the 1950's on both a donation and concessional sale basis. Most farmers (43%) favor the continuation of efforts to fund food aid to low-income nations. However, 21 percent disagree, and 29 percent have no opinion.

Private and public funds have financed the development of foreign markets for U.S. agricultural products. Most farmers (47%) favor additional farmer-financed foreign market development efforts. However, again there are other views with 21 percent saying no, 23 percent unsure, and 9 percent who did not answer the question.

Farmers' views on the effectiveness and level of expenditures on export subsidies vary. Partly in response to the use of export subsidies by the European Community, the U.S. began an Export Enhancement Program in 1985. Since then the U.S. has spent several billion dollars on agricultural export subsidies, especially for wheat. Most Indiana farmers (46%) favor the continuation of these export subsidies. While 11 percent disagrees, a large number (32%) are unsure, and 11 percent did not answer the question. Large grain producers are more likely to favor the continuation of these export subsidy programs. The support for a reduction in U.S. agricultural import barriers is relatively weak. About one-third would favor such efforts, about one-fourth would not and, about another one-third are uncertain.

U.S. agricultural development assistance programs in low-income countries have been controversial for many years. Despite research evidence and country-specific experience where the U.S. has assisted a country to develop its agricultural sector and subsequently that country has become a strong importer of U.S. agricultural and nonagricultural products, many farmers still do not support economic development efforts directed towards agriculture by the U.S. Agency for International Development. Less than one-third (30%) of the respondents favor such efforts, while over one-third (38%) do not. Again, many are unsure (21%) or did not answer the question (11%).

FEDERAL BUDGET DEFICITS

Federal budget deficits have been a major national concern throughout the 1980's. Despite the Gramm-Rudman-Hollings Budget Amendment, efforts to reduce the Federal budget deficit have been only modestly successful. The deficit during each of the past 3 years has exceeded $150 billion.

Most Indiana farmers (53%) favor across-the-board cuts to reduce the Federal budget deficit. About one-fifth disagree, however.

There is strong support to cut defense expenditures (57%), social programs excluding Social Security (50%), and farm program expenditures (49%). Also farm programs are reduced, 36 percent favor across-the-board cuts, 36 percent favor the continuation of payments to small and moderate sized farmers, 11 percent would make payments only to farmers with severe financial need, and 7 percent would cut some programs more than others. About 10 percent had no response or suggested other alternatives. Larger grain farmers are more likely to support across-the-board cuts, while smaller farmers favor cuts in payments to larger producers and prefer that payments be made on the basis of financial need.

There is very little support for a tax increase (16%) as a budget balancing technique. However, a majority of farmers would favor an increase in user fees for government services (49%) and increased efforts to collect taxes due the Federal government (71%).

Farmers clearly do not want Social Security payments reduced. Only 11 percent favor this. Farmers with annual gross sales under $40,000 strongly disagree with any efforts to reduce Social Security payments. Also, as expected, older farmers were more likely to disagree.

SOME INDIANA ISSUES

The survey included a few policy questions that may be addressed in future sessions of the Indiana General Assembly.

Corn Check-off. In recent years there have been two soybean check-off referenda and one for corn in Indiana. All were defeated. When asked in this survey if they would favor a corn check-off of one cent per bushel with the funds allocated for research and market development as determined by an elected board that included only Indiana corn producers, 41 percent of the respondents said no. A slightly smaller number (37%) said yes. About one-fifth were unsure, and 4 percent did not respond. These responses parallel the vote in the December 1987 corn check-off referendum when 37 percent of the Indiana corn producers voted yes and 63 percent voted no.

College graduates and mid-sized farmers are more likely to support a corn check-off.

Roads and Bridges. Many Indiana residents have expressed concern in recent years with the declining condition of rural roads and bridges. Farmers are especially concerned about the need for all weather roads and stronger bridges that support heavy loads of grain and are safe for the movement of large farm equipment.

The survey asked if they would favor a 2-cent-per-gallon increase in the Indiana gasoline and diesel fuel tax with no exemptions for farm use but the requirement that all tax revenues could only be allocated for the repair of rural roads and bridges. Despite the frequently expressed concern about the poor state of Indiana rural roads and bridges, over one-half (56%) responded negatively to this proposal and less than one-third (28%) would favor such a tax to generate revenues to repair rural roads and bridges. Eleven percent were unsure, and 5 percent did not answer the question.

Agricultural Credit from the State of Indiana. Farmers' views on state agricultural credit programs such as the Indiana Agricultural Development Corporation and the Treasurer's Farm Program appear to be quite mixed. One-fourth do not favor this type of credit program. However, 29 percent favor more of this type of credit, 30 percent favor a continuation of the same level, and 13 percent want it reduced. Only 2 percent had no response. Larger farmers tend to be more supportive of additional agricultural credit.

CONCLUSIONS

Indiana farmers remain divided in their views on many food and agricultural policy issues. Furthermore, their views appear to have changed on some issues during the past 5 years.

Perhaps the most significant change in views is with respect to mandatory production control programs. Only 8 percent favored this in 1989 compared to slightly over one-fourth in 1984. Furthermore, the support for elimination of farm programs has increased from about one-fourth to 42 percent.

The support for soil conservation programs remains relatively strong. While there are some differences of opinion about the size of the Conservation Reserve Program, most farmers favor its continuation.

The Uruguay Round of General Agreement on Tariff and Trade (GATT) negotiations are underway in Geneva, Switzerland. A major goal of these multilateral trade negotiations is to reduce barriers to trade. Indiana farmers strongly support efforts to open world markets to U.S. agricultural products.

Indiana farmers are concerned about the Federal budget deficit and favor cuts in budget expenditures including farm program expenditures. However, they are vehemently opposed to tax increases as a means of balancing the Federal budget. They are more supportive of increases in user fees for government services.

At the State level, farmers generally do not favor any "tax." The majority oppose a corn check-off, a tax on fertilizer and pesticides to improve ground water quality, and a fuel tax to repair rural roads and bridges. The challenge before Indiana policymakers and agricultural leaders will be to devise ways to increase agricultural efficiency and profitability while minimizing environmental damage and taxpayer costs.

The challenge before the national agricultural community and policymakers as the 1990 Farm Bill is written will be to increase program flexibility, protect U.S. agriculture from extreme downside, price and income risk, and retain the competitive position of U.S. farmers in world markets.

As was the case when the 1985 Food Security Act was written, there will be pressures to minimize budget costs. However, two other forces will be prominent as the 1990 Farm Bill is drafted. The ongoing GATT trade negotiations will likely force policymakers to seek ways to reduce trade distortions and maintain the competitive position of U.S. farmers. Second, the environmental and food safety movement is stronger as well as better organized and financed than it was in the past. Additional soil conservation and water quality provisions very likely will be included in the next farm bill.

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DR. IAN W. TAYLOR

● Mr. SIMON. Mr. President, recently one of Illinois' most distinguished citizens was honored by the village of Wheeling. The village declared March 21, 1989, "Dr. Ian W. Taylor Day." Dr. Taylor has contributed over 31 years of public service as an outstanding veterinarian in his city. In addition, the

Lions Club has recognized him after 29 years of perfect attendance. He is the official goodwill ambassador and the chairman of the international relations committee, having attended meetings in 57 different countries.

Because of his outstanding commitment to such worthy causes the House of Representatives of the State of Illinois saw fit to commend him on his work with the Lions Club and his outstanding contributions to his community.

I, too, congratulate and commend Dr. Taylor in his untiring efforts to his community and to his country. I ask that the Illinois House of Representatives resolution be printed in full in the RECORD.

The resolution follows:

STATE OF ILLINOIS—HOUSE RESOLUTION NO. 1022

Whereas, the members of this body are pleased to recognize a significant milestone in the life of Dr. Ian W. Taylor of Wheeling; and

Whereas, it has come to our attention that Dr. Ian Taylor has received recognition from the Lions Clubs International for his Outstanding Work in International Relations Activities; and

Whereas, after 29 years of perfect attendance at Lions Club meetings, Dr. Taylor is the official Goodwill Ambassador and Chairman of the International Relations Committee; and

Whereas, Dr. Ian Taylor constantly promotes Lions and the International aspects of Lionism in his Arlington Heights Club, his District, his Multiple District and everywhere he travels; and

Whereas, during his annual overseas vacation trips, Ian Taylor represents the Arlington Heights Lions Club and district I-F in a noteworthy manner; and

Whereas, no one in the 63 year history of the Arlington Heights Lions Club has ever received such an award so it is an honor to recognize Dr. Ian Taylor for his contributions; therefore be it

Resolved, by the House of Representatives of the eighty-fifth General Assembly of the State of Illinois, that we congratulate Dr. Taylor on being recognized by the Lions Clubs International for his Outstanding Work in International Relations Activities; that we commend him for his outstanding contributions to his community; and that we extend our best wishes to him for continued success in his future endeavors; and be it further

Resolved, That a suitable copy of this preamble and resolution be presented to Dr. Ian Talyor.●

WHAT IT TAKES TO MAKE A SCHOOL SUCCEED

● Mr. SIMON. Mr. President, the question of what it takes to make a school succeed is a difficult one to answer. There are four articles in a recent Christian Science Monitor that address that very issue. It appears that in these examples the success rate is determined by dedicated teachers, committed staff and involved parents.

Joyce Carey is Illinois' new teacher of the year. She team teaches a second/third grade class with Kathryn Keller at Glen Ellyn's Benjamin Franklin Elementary School. Three of the components which make Carey's system work are its dedicated teachers, its parental support and its flexible environment.

The joint class is taught in such a way that there are numerous small groups and Carey and Keller are in contact with all the students in both the two main groups and the smaller subgroups continuously. The variety of levels make the program unique in that the students learn cooperatively and they teach each other.

The parental support within the system is admirable. Carey uses parents as assistants in the classroom, and not just for field trips and other activities as she has done in the past. She expects the problem not to be finding volunteers, but picking from the large number of applicants.

Florida's new teacher of the year is Dee Dee Noonan. She focuses on some of the new problems that students today are facing. Her students deal with the problems of AIDS, teenage pregnancy, and gun control. Schools, she claims, are not only supposed to provide an academic education, but also a moral and social education.

Noonan speaks in favor of the restructuring of the teacher certification and teacher education system. Current teaching programs, she claims, do not teach future educators about many of the new problems today's children are facing.

She feels that it is important not only to know her students academically, but personally as well. She describes herself as field and research oriented. Her students take many learning field trips and she even brought a group to Washington last year. She gets to know her students outside the classroom. This type of involvement helps her to understand them and deal with them more effectively in the classroom.

At John Marshall Elementary School in Glendale, CA, the staff is the key ingredient. It is modestly funded, overcrowded and the children are from varied backgrounds. Over 80 percent of the students speak English very poorly or not at all when they first begin classes. But the school consistently sends out students who know their math, their geography, and their language.

The staff is unusually devoted and dedicated. The cohesiveness is necessary. With such a diverse student body, no single teacher can meet the needs of the children. The school stresses order in an environment which is always changing. Both students and teachers understand what is expected of them. Limited homework is given to children as young as kindergarten age, and disciplinary rules are clearly spelled out. It is a tough but fair system.

At Harlem's A. Phillip Randolph Campus High School 95 percent of its graduates continue on to college. The dropout rate is under 2 percent. Lottie Taylor, the school's principal is the power behind the success rate. Randolph is a minority school. Three-fourths of its students are black. One-fourth are Hispanic. Just under 50 percent receive public aid. She doesn't always do things strictly "by the book." But her methods succeed. She is described as a "tough good lady." She's begun many substantial programs: a full-time medical clinic; a system whereby students who do poorly in the first term can redeem themselves in the second, and an academic camp among others. The students have responsibilities as well as rights. Besides giving their best effort to their class work, before graduation all must devote 80 hours of their time to their community. This successful approach does not fit into any specific plan; it is based simply on respect and goals.

These four schools and their faculties are to be commended. In a time of serious problems in our schools including drugs, dropout rates, and apathy these schools are an example to us that our education system can work. I urge my colleagues to read these articles and ask for to have them printed in full in the RECORD.

The articles follow:

[From the Christian Science Monitor, Sept. 27, 1989]

A STAFF WITH DEDICATION—TEACHERS COPE WITH OVERCROWDING, LOW FUNDING, AND ETHNIC DIVERSITY IN THIS SUBURBAN SCHOOL

(By Scott Armstrong)

GLENDALE, CA.—When Thomas and Rozik Sarkissian, Armenians from Iran, moved to the United States last year, they had intended to live next to relatives in La Crescenta, Calif., who would help them get settled and learn English.

Instead they ended up starting a new life in the town next door, Glendale, so their two children could attend the John Marshall Elementary School, which they had heard about from friends while overseas.

"It was very important for me to live next to my sister," says Mrs. Sarkissian.

"But the reason we came to this country was for our kids. The school was most important to us."

At a time when American education appears in decline, the John Marshall Elementary School in this suburban community north of Los Angeles is one institution that seems to work.

The nondescript structure, shoehorned between apartment buildings and mini-malls in a busy section of town, consistently produces students who score well on tests and has won recognition from state and federal education officials.

Yet John Marshall is a school that shouldn't work. It is overcrowded, modestly funded, and faced with a student body as diverse as a Chinese menu. Eighty-five per-

cent of the students speak something other than English as their primary language.

The school isn't a melting pot as much as an entire stove. Close to half the students are Armenian, with Hispanics and Koreans making up a large percentage of the rest, though pupils from more than 30 countries are represented. Many are recent immigrants from low-income families.

Nor are the facilities platinum plush. You won't see telescopes, a manicured baseball diamond, or a swimming pool. The playground, what's left of it (much has been taken up by portable, mobile-home-like classrooms while an addition to the main building is completed), is tar, the library a converted storage room in the basement.

"In spite of the limitations, they have done an exceptional job," says Vaughn Heinrich, a high school principal in Caldwell, Idaho, who evaluated the school for the US Department of Education. "Many of these students can't speak English when they start. The fact that usually within a year they can speak it fluently is remarkable."

Johnny *can* read here. So can Ivan, Ho, and Pedro. The reason for the school's apparent success is some old-fashioned virtues: hard work, devotion, and community involvement.

The teachers' parking lot begins to fill up by 7:00 a.m. The staff is unusually cohesive. Part of this is out of necessity: With so many students from so many different cultures, no one teacher can meet all a pupil's needs.

But those who have taught elsewhere maintain that the esprit de corps at John Marshall, as well as the attention to student concerns, is rare.

"Kids do not slide through the cracks here," says Maral Guarino, a sixth-grade teacher who came to John Marshall from a private school five years ago. "There is a lot more follow-up."

A premium is put on order and consistency in a school where change is constant. Students and teachers know what is expected of them. Pupils are promptly in their seats by the sound of the second bell. Homework is given to students four times a week (including kindergarteners). Ground rules for discipline are clearly spelled out.

"We are firm but we smile," says third-grade teacher Marjorie Schafer.

The Apollonian tone starts at the top, with Nancy Jude, the school principal. Harboring a Swiss-watch attention for efficiency, she runs what one teacher calls a "tight but fair ship."

Dr. Jude, who looks in frequently on classes and greets parents picking up students after school, came to the campus 10 years ago, at a time when John Marshall was undergoing an enrollment surge and rapid ethnic changes. She set out to recruit teachers eager to work with minority students.

"When almost 90 percent of the students are limited English proficient, the focus of the school is on ESL [English-as-a-second-language] instruction," she says. "Certainly the basics are the emphasis."

Jude is sitting at a round desk in her temporary office. A whistle dangles from her neck. Outside, beyond two barred windows, children can be heard socking tether balls and traversing jungle gyms.

"This school spends a lot of time helping these people learn to work with each other," she says. "Many of them come from countries where it is savvy to beat the system. We spend a lot of time on values—waiting in line, honesty, being considerate of other children."

English-language and bilingual instruction are strong here. While many schools give students only a few months of English before putting them in the regular classroom, John Marshall has eight levels of ESL classes that can extend over several years.

The main part of the school standing today was built in the 1930s with Works Progress Administration money. Crowded and compact, it has the look of buildings of the era—sturdy, blocky, the type that if you didn't check the nameplate on the door you might mistake for the local department of water and power.

Until 10 years ago, the school was largely Anglo with a few Hispanics. But the ethnic composition has changed dramatically since then, reflecting the influx of immigrants to southern California, America's new Ellis Island.

First the Hispanic population surged. Then came a large infusion of Vietnamese refugees in the early 1980s. Now Armenians from the Soviet Union and Iran are pouring into this community, which already has one of the largest concentrations in the United States.

With each wave, the school has had to adjust, like a parent who has just found out there will be more kids coming to the birthday party. Currently the school is short of Armenian teachers and assistants.

Different expectations arise with different cultures. Some Armenian parents, used to rigorous schools in Iran, want to know why their children aren't getting more homework. Some Armenian children, used to discipline with a stick, find rules lax here.

"It is kind of easy," says Eric Ganrazian, a sixth-grader from Iran who takes a break from looking at onion cells under a microscope.

Tarick Ahmed, in high-top tennis shoes, pauses while building a rhombus.

"This school teaches you in a nice way," says the son of Egyptian parents. "I call my friends and tell them they should move here."

Most find the cultural mix enriching. Many teachers spend time after hours learning a new language or about Armenian dance. Students reared on burritos make Korean fans. Even parents become more active in the school: John Marshall holds several meetings a year in which school officials explain how they teach.

"Because a lot of the students are immigrants, many parents are even more concerned about finding out about the school," says Carol Shareghi, president of the local Parent-Teacher Association.

If John Marshall has adjusted well to the racial diversity, the number of students poses another problem. The population of the school has doubled in 10 years, to 850. Twelve portable classrooms have been set up on the playground to handle the overflow while the school is enlarged.

Even with the addition, however, the student-teacher ratio will remain high (more than 30 to 1). Students are funneled through the lunchroom in five shifts so all can be served.

"The teachers here deserve so much credit," says Mrs. Shareghi. "But even the most brilliant teachers can get discouraged when there are so many children in a classroom"

Through it all, John Marshall seems to turn out students who understand fractions and how to locate the Philippines. The short answer to how the school does it, if there is one, says Jude, is staff. "Just dumping a lot of money on a school doesn't mean it will work. It is the attitude of the staff. Here, they don't give up."

[From the Christian Science Monitor, Sept. 27, 1989]

A PRINCIPAL WITH POWER—STRONG LEADERSHIP CUTS THROUGH THE BUREAUCRACY TO MAKE THIS INNER-CITY HIGH SCHOOL WORK

(By Jonathan Rowe)

NEW YORK.—The textbook budget is only $25 per student. In some classrooms, students can barely hear, what with carpenters' power saws whining in the halls.

Then there's the science teacher assigned by the Board of Education. A disaster. He has survived in the system because other principals chose to pass their problem along rather than endure an exhausting dismissal process.

Small problems, perhaps, as things go in the New York public schools. ("School Opens With a Murder" was the Newsday headline the day after summer vacation ended.) But Lottie Taylor isn't one to settle for less bad. She's on the phone, as she often is, wheeling and dealing like a general manager in the National Basketball Association.

Maybe she can find a graduate student to "assist" the disappointing teacher. She raises money for just such emergencies, so she can avoid delays and red tape. It's not strictly by the book. But her students can't wait while the bureaucrats play games. "You do what you have to do to get the material across to your kids," she says.

Mrs. Taylor is principal of the A. Phillip Randolph Campus High School in Harlem. Hailed by former Education Secretary William Bennett and the subject of a TV documentary, Randolph is an inner-city school that works.

Randolph is a minority school. Three-quarters of the students are black. Another quarter are Hispanic. Almost half receive public assistance. Yet more than 95 percent of Randolph graduates go to four-year colleges, many to the very finest. The dropout rate is less than 2 percent.

While concerned parents and a bright student body certainly help, Taylor is by all accounts the guiding force. "She makes you believe anything is possible for these kids," says Martha Harvey, president of the school's Parents Association.

Yet Taylor's plaudits have not spared her the daily harrassments and absurdities of New York's public school bureaucracy. Her story shows that to make an urban school work it's not enough to fight television and crack. One has to fight the system as well.

"It can wear you down," Taylor says. "Yet I can't let that be an excuse to not educate the students the best that I can.

"If they want to fire me—no sweat," she says. "I will go out into the community and work with the parents."

The first thing a visitor notices at Randolph is the order. The school occupies an old (1924) stone building on the fringe of City College next to the drug warren of St. Nicholas Park. Originally, Randolph was to be a model school, run jointly by the school system and the college. But 10 years of planning and union pressures diluted the idea.

The previous principal, a white male, fell victim to bitter racial politics. By the time Taylor arrived, "things were just falling apart," recalls Margaret Ketly, a guidance counselor at the school.

Today, the wood is polished and the lockers work. Major renovation work is in progress. A uniformed guard greets visitors politely in a starched white shirt. Classes are purposeful and planned to the last detail.

Students waiting to speak with a visiting reporter (who arrives, sheepishly in this setting, 15 minutes late) are put to work stuffing envelopes. "There is something to do every minute," Taylor says.

But this is not the macho order of principal Joe Clark of Newark, N.J., with his trademark bullhorn. Taylor shows that mothering qualities are no less important.

To be sure, she is a "a tough, good lady," as one admirer put it. Taylor walks the halls between classes, admonishing young men who tower over her to remove their baseball hats and show some respect. The curriculum is demanding, and she drives her teachers hard. She is legendary for standing firm against the city and union bureaucracies.

"They can't touch me because I'm steel," she says, without exaggeration. "Some people translate that into another five-letter word."

But Taylor also attends to her students' smallest daily needs. Some live in disordered households and have trouble getting up in the morning. So Taylor raised money to provide computerized wake-up calls. (Boogie music followed by "Hi. This is Mrs. Taylor. I'm here to remind you that you have a date at 8 so don't be late.")

When the Board of Education ordered the schools to devote a day to workshops on drugs, AIDS, and the like, Taylor asked "One day?" She raised the money—again outside school channels—to install a full-time medical clinic.

She arranged the school year so that students who do poorly in the first semester can redeem themselves in the second. She's started an academic summer camp and done—it seems—a zillion other things. "We are going to save these kids because they are mine," she says. "You come to Randolph, and you are *mine*."

Teachers get the same kind of attention: special programs, extra cash, pats on the back. The approach here does not fit neatly into conservative or liberal agendas; it's based simply on aspiration and respect. At the outset of each class, teachers, students, and parents all sign a contract laying out what they expect from the course and what they will do in return.

"Children have rights too," she says. "That's a hard thing for a lot of teachers to accept." But with rights come responsibilities. Before they graduate, students devote 80 hours to community service—to give back a little of what the school gives them.

"From the very first day you step into this school, everyone here wants to accomplish something, wants to go someplace higher," says Vaughn Malone, the student body president, Mr. Malone wants to become a lawyer because, as he explains it, "a lot of my brothers are in jail."

There are city educators who think Taylor has gotten more than her share of glory. Yes, she's a good principal, they say. But look at what she has to work with: a new school, without entrenched faculty politics and a link with City College that is a magnet for grants. Randolph was planned to have a complete cross section of students, but Taylor has tilted the mix toward the best and brightest. There are grumblings about skimming the cream and leaving local "zoned" schools to deal with the rest.

"They do a good job, but they are not a typical school," says one school official who asked not to be named.

But Randolph isn't typical. Last year, 3,000 students applied for 115 places in the school's special pre-med program, funded by the Macy Foundation. The intellectual, Spike-Lee look common in the corridors.

But Randolph also accepts underachievers and special-education students and lifts their sights as well. "That's the success of it," says Mrs. Harvey of the parents association.

Taylor is a handsome woman with bronze skin and fierce protective instincts. The whole "skimming" issue sets her off.

As a youngster in Harlem, she recalls, her parents had to lie about their address to send here to a first-rate high school. What's so wrong with providing that kind of school for bright Harlem kids today? Randolph has a higher percentage of blacks than any other high school in Manhattan, she says.

When I march [at graduation] I march with a whole class of minorities," Taylor says, with not a little indignation. "What happended to these kids before A. Phillip Randolph existed?"

The key, she says is giving principals the authority to do their job. "Change will come at the school level with principals who say, 'The heck with this bureaucracy.' "

PARENTS WHO CARE

Martha Harvey thinks it's just a matter of setting a good example.

Mrs. Harvey is president of the A. Phillip Randolph High School Parents Association, and it's a commitment she and her fellow board members take seriously.

They meet through the summer and at least two times a month during the school year. Some even give up vacation time. And some stay on after their own kids graduate, to help the next group learn the ropes.

"We feel that by doing, we exemplify what we expect our kids to do," Harvey says.

This is not a group that runs bake sales. They press the school for real changes, such as mid-term reports, which teachers resisted.

They also run political interference at the New York Board of Education for Lottie Taylor, the principal, such as supporting her in cutting on administrator instead of a classroom teacher.

Mrs. Taylor encourages such involvement. To her, lack of parent participation is the big gap in a pet conservative school reform; vouchers, which let families shop for schools.

Taylor is all for parental choice. But she thinks the voucher lobby talks too much about choice and not enough about responsibility.

"There is a broader obligation on the part of the parent once he chooses. The parent has to be a real parent."

[From the Christian Science Monitor, Sept. 27, 1989]

A CLASS ILLUSTRATES WHAT WORKS—PRESIDENT BUSH MIGHT LEARN A THING OR TWO FROM A VISIT TO THE BENJAMIN FRANKLIN SCHOOL

(By Laurent Belsie)

GLEN ELLYN, IL.—The Benjamin Franklin Elementary School looks like somebody's grade school memory. Outside the red-brick two-story building, children line up to wait for the bell. No spiked or wildly colored hair here. Glen Ellyn, Ill., is an upper-middle-class, conservative, family-centered place, says Principal Doug Craig, on his way to greet the children. "This is a throwback to the '50s," he says.

But walk inside the school past the office, into the large class room on the right, and old memories fast-forward into the 1990s. If President Bush wants to see what's right with education in America, he ought to see the team-taught classroom of Joyce Carey and Kathryn Keller.

"What story problem would have the solution 16 hot dogs?" Mrs. Carey asks a set of eager listeners on a Monday morning.

One boy tells of a barbecue where three hot dogs are added to 13 already on the grill. Another student adds one hot dog to 15. Someone else gets mixed up and tells about nine cowboys and how seven get wiped out. Rather than dismiss the story, Carey draws nine cowboys on the board, to the great amusement of her students, then shows what happens when you wipe out seven.

Joyce Carey is Illinois's new Teacher of the Year. And it's easy to see how dedication and a natural teacher's instinct pay off.

While this teacher's specific techniques wouldn't apply everywhere, there are certain universal elements behind their success:

A flexible teaching environment. The 52 second- and third-graders in the class are divided into two main groups according to grade level, but there is a lot of mixing as small groups break off for specific activities directed at their needs. A student may join a small reading group for one week or the whole semester. The class is team-taught, so Carey and Ms. Keller are in repeated contact with all the students.

Dedicated teachers. It would take a sophisticated flow/chart to describe the comings and goings of the Carey-Keller kids during the week. One has violin lessons; others leave for gifted-talented programs, speech assistance, or remedial needs. Carey and Keller spend hours planning. Typically, they get in around 7 a.m. and leave at 6 p.m. The pair has included students with disabilities from a nearby school in the regular teaching. The idea, Carey says, is that by letting students learn cooperatively, they will teach each other.

Parental support. Virtually every parent in the district expects his or her child to go on to college or some form of post-secondary education, says Mr. Craig, the principal. Every day, many parent volunteers are at work in the school. And the community has been willing to funnel a lot of its tax money into the schools, he says. Last year, which was the first time that Carey and Keller taught the second- and third-grade combination, they only used parents for social activities, such as field trips. This year, Carey hopes to bring parent assistants into her classroom.

"It will be more difficult for us to decide whom to pick [rather] than not having enough volunteers," she says.

The fact that these elements—flexibility, dedicated teachers, and parental support—make good schools is no surprise. The question is how to encourage these things.

The No. 1 policy has to be patience, Carey says.

"So many times, change is initiated in the classroom: 'Let's do this, let's do that.' We do it for one year and we expect to see fantastic changes. And you're not going to get that.

"I would say to Mr. Bush and everyone involved: 'Whatever changes you propose, we have to provide the economic backing, the

professional backing for more than one year.'" Nor should policymakers focus solely on the classroom, she says.

"My philosophy is: We are teaching the total child. . . . So if you do that, you have to look at where the child starts. And that would be at home. Maybe part of this educational reform needs to look at services and agencies that can provide help for the future student." That way, students would come to school prepared, Carey says—fed, cared for, well-treated by society.

Finally, teachers should have maximum flexibility in the classroom, Carey says. In exchange, teachers should be held responsible for the students' achievement. "The big question is: How do you measure?"

Craig points proudly to last year's results from the Iowa Test of Basic Skills, which show Franklin students in the top 1 or 2 percent in the nation. But more is going on in this classroom.

When one Carey-Keller student lost a family member recently, the teachers decided to tell the class in simple terms what had happened. Not only did the class go out of its way to help a classmate, a few students on their own wrote the surviving family member to express their sympathy.

"How do you measure that?" Carey asks. No one, not even Carey, has answered that one yet.

[From the Christian Science Monitor, Sept. 27, 1989]

EVER-EXPANDING ROLE CHALLENGES TEACHERS—IN FLORIDA, TEACHING ABOUT AIDS, DRUGS, MORALITY—AND NOW GUN EDUCATION—STRETCHES THE DEFINITION OF "SCHOOLING"

(By Kirsten A. Conover)

Gulf Breeze, FL—When Dee Dee Noonan decided to become a teacher, salary wasn't an issue: She was in eighth grade.

Even with her first teaching job, she didn't consider the pay. "I loved teaching, I wanted to be a teacher, and—by golly—that's what I was going to do," she says.

But today, as Florida's Teacher of the Year, Mrs. Noonan sees higher salaries as one of many sure-fire ways to improve the nation's educational system.

"If we're going to attract the best and the brightest," says Mrs. Noonan in an interview at Gulf Breeze High School, "you're going to have to pay them competitive entry salaries."

The social-studies teacher goes on to say that salaries and benefits have improved in the past five years but are still not satisfactory. Teachers have been given "all this additional responsibility," she says—the nation's problems have become the schools' problems.

Noonan should know. She's been at the pulse of the high school classroom for 15 years, starting in her hometown of Huntsville, Ala., moving on to Las Vegas, Nev., where she married and had her two children (now 6 and 9), then settling in Florida.

Florida is often considered a magnifying glass for the nation—grappling with explosive population, drugs, immigration, poverty, racial tensions, and teacher shortages. It has some of the nation's highest dropout, crime, and teenage-pregnancy rates.

These problems have always been present, says Noonan, but "we haven't had them in the numbers that we have now." And it follows that because of those numbers, the role of schools has changed "drastically."

"Schools aren't supposed to provide you with just an academic education—they're also supposed to provide you with a social education and a moral education," says Noonan, who has a master's degree in school curriculum. She points to courses on sex, drugs, and AIDS. Now gun education will be taught in elementary schools. "We're also taking a look at dealing with crack cocaine babies," she says.

Like many educators, Noonan stresses the importance of reaching disadvantaged or "at-risk" children. This nip-it-in-the-bud attitude translates into support programs for young children.

Noonan also advocates national teacher certification and a restructuring of the teacher-education system. "Get rid of the dinosaurs," she exclaims—the "outdated" colleges of education that "don't teach you how to deal with these problems."

Even children not considered at-risk are under a lot of pressure, Noonan says. For example, a child with both parents living at home is likely to come home to an empty house because both parents work. "That gives kids an awful lot of time to do things maybe they shouldn't be doing. . . . So the schools are starting to pick up the slack."

"[Children] are bombarded with technology," she continues, "All these outside influences encourage them to do the very things that we're trying to keep them away from."

She also worries that students are being driven by the allure of the dollar. More than ever, they're holding down after-school jobs for spending money. Many say they want careers in business, not science, math, or education.

Are parents falling short? No, says Noonan, "many don't know *how* to get involved." Parents' attitudes and expectations count for a lot, she says, and it's up to schools and communities to work together to involve parents.

Involvement is something close to Noonan's heart. In the words of her principal, Richard Mancini, "She goes to great lengths to bring history alive to her students," and "goes way out of her way in terms of her involvement with students in and out of school."

Noonan speaks of herself as being research-oriented and field-oriented. She takes her law classes on field trips to courts and even maximum-security prisons.

Last January she took a group of students to Washington for a first-hand view of the government and to witness the inauguration. Some got to speak with the president and several cabinet members. Recalling the tears she saw in some students' eyes during the ceremony, Noonan considers the trip one of the most meaningful experiences she's had as a teacher.

"We do a lot of activities outside of school, and I really make a point to get to know my kids—it's important to me," says Noonan, who also heads the school's yearbook project.

She likes to know their families, their aspirations. "It helps me understand them and deal with them better in the classroom," she says, adding "I think that's why all teachers should try to have this type of relationship with their kids."

[From the Christian Science Monitor, Sept. 27, 1989]

FIRST, SAY LEADERS, THE NATION MUST AGREE ON EDUCATIONAL GOALS

(By Lucia Mouat)

BOSTON.—Despite a general consensus that United States public schools need major reform, most Americans see the problems as everywhere but in their own backyard. They tell pollsters year after year that their own neighborhood schools and their own children are doing all right.

Chester Finn, former assistant secretary of education and now head of the Educational Excellence Network, points to results of a recent global survey of math and science performance among 13-year-olds.

"It didn't surprise me that American kids were at the bottom of the world in math performance," he says. "What *did* surprise me was their answer to one of the background questions: 'Do you think you're good at math?' Guess whose kids led the world thinking they were good at math while trailing the world in *being* good at math?"

In Dr. Finn's view, the president and governors meeting in today's summit would do the nation a service by "beaming out" the message to the American public that the problems in education are "not just somebody else's, 'they're yours, Joe and Sally.' There's kind of a discontinuity between the national perception of a problem and the awareness that it means that I, and my kids, and their school, have to do things differently."

The Monitor asked seven educational leaders, ranging from policymakers and academics to teachers and administrators, what one change could most improve public school performance. Three, including Dr. Finn, put agreement on national educational goals and ways to measure them at the top of their list.

"We need a clear sense of what is a minimally adequate, educated Amercian," says Finn.

"I think we're very close to agreement on what the goals should be," says Richard Mills, Vermont's Commissioner of Education. "A national agenda is just floating right there."

"The challenge now is to find a balance between local control and national results," says Earnest Boyer, president of the Carnegie Foundation for the Advancement of Teaching. "We need to give a lot of freedom to local schools to creatively pursue the goals set."

No one advocated a national curriculum or standardized test. And none of the educators argued that a national strategy for education reform is the whole answer. More changes are needed if student performance is to improve.

STUDENTS MUST WORK HARDER

Part of the unwillingness to demand more of today's students stems from the assumption that if standards are raised for everyone, the disadvantaged minority student will suffer, says Diane Ravitch, adjunct professor of history and education at Columbia University's Teachers College. Consequently little is usually demanded of students in either group. The results of such small expectations, she says, follows students into the job world where it often shows up in low productivity.

Parents should do more, says Dr. Ravitch. "They need to act as parents, to say 'I want you to accomplish something,' and to set limits on their kids' activities and TV-watching."

TEACHERS MUST DEMAND MORE

Patrick Welsh, author of "Tales out of School" and a teacher at T.C. Williams High School in Alexandria, Va., says youngsters who don't measure up are often passed along from grade to grade: "Korean kids will tell you that in their country education is a privilege and you don't mess around with it. In the American system of universal education, nobody pays the price. If a teach-

er steps in, in cities where there's a mix of kids, it's going to be low-income black kids who are penalized. The NAACP [National Association for the Advancement of Colored People] and the [National] Urban League will start screaming and no principal wants that. Teachers know the kids will just play the system. . . . We don't value education enough."

Mr. Welsh also argues that more poor teachers need to be weeded out and that better teaching is needed: "We need people who think smarter and who aren't just into rote memory and controlling kids."

Having time to watch one another teach would help many good teachers become better ones and to feel less isolated, he says.

MORE MONEY, SPENT MORE FAIRLY

"Improving the schools is going to cost money—people have to come to terms with that," says Clarie Sheff, superintendent of schools in Hull, Mass.

Speaking from the perspective of one who has witnessed repeated voter rejection of tax levies for schools and a new state budget crunch, she says a better and fairer way of financing schools must be found—and that the federal government should lead the way.

"Look at Bush saying he wants to be the 'education president' and then look at how he fund things," she says. "If he can bail out the savings and loans, why isn't he doing the same for schools? It's all talk and no action."

CLASSROOM "REALITY CHECK" FOR REFORM

Bernard Gifford, vice president of education at Apple Computer and former dean of the Graduate School of Education at the University of California at Berkeley, uses the analogy of a funnel. At the top are national academic groups, each acting independently, pouring in curriculum ideas that they think teachers should teach. "The problem is that the experts never get together and that they're always adding things. I've never seen any group of scholars recommend that anything be eliminated. . . . Teachers either become confused or cynical."

Dr. Gifford has a specific suggestion for the Bush summit: "I would ask the governors and the President to rate and rank every reform in terms of how it will actually impact on the quality of the relationship between pupil and teacher. . . . Many 'reforms' haven't had one iota of impact there. . . . We need to stop talking about reform from the top down and start talking about it from the bottom up."●

THE POPE'S TOUR THROUGH EAST TIMOR

● Mr. DURENBURGER. Mr. President, today Pope John Paul II made his first pastoral visit to East Timor, a former Portuguese colony that was invaded and forcible annexed by Indonesia in 1975. I focus upon this particular territory, of all the places the Pope is visiting, to restate my grave concern about the appalling abuse of human rights that continue to occur under the auspices of the Indonesian Government. The Pope's brief tour through East Timor presents an excellent opportunity for the rest of the world to shed light upon this unresolved situation. Although I am encouraged by the resumption of talks between officials of Indonesia and Portugal, who have met three times since last May under the guidance of the Secretary General Peres de Cuellar of the United Nations, the plight of the East Timorese people remains a travesty and no exceptional efforts have been made to effectively address the problems still plaguing this island.

The United Nations Security Council and the General Assembly have consistently refused to recognize Indonesian sovereignty over the past 15 years, and Portugal continues to remain the administrating power under international law. There has been a great deal of concern expressed about the Pope's visit to East Timor in fear that his trip would impart de facto recognition of Indonesian administration of the island. The Vatican has not recognized Indonesian sovereignty in the past, and has continued to keep the bishop of East Timor, who is not a member of the Indonesian Conference of Bishops, under its direct control. It has assured those concerned that this position has not changed.

In light of the Pope's visit, the world must be made aware of the grim and desperate human rights situation that has been observed and reported in East Timor. I have spoken out in the past against this situation by leading 47 of our Senate colleagues in sending a letter, coauthored by Senator LEVIN, to former Secretary of State Shultz, which outlined our concerns about human rights violations, the restrictions on international observation groups, and armed conflict in East Timor. More recently, 118 Members of the House of Representatives signed a letter to President Bush raising similar concerns on the occasion of Indonesian President Suharto's June 1989 visit to Washington. Since that time, few changes have been made and the situation persists.

Although the Indonesian Government largely opened East Timor to commerce and tourism in January of this year, this opening was incomplete as the Government has continued to place restrictions on access to and travel within the East Timor. International human rights organizations are still not allowed to enter this territory and the visits of foreign delegations are carefully controlled. The Government also maintains a firm hold on the press as well as on all lines of communication throughout the area.

Reports and statements from such organizations as Amnesty International, have made us more aware of the extent to which human rights are being violated in this territory. This organization has reported as commonplace such incidences as mass arrests for what appear to be political reasons, the torture and ill treatment of citizens in police and military custody, extrajudicial executions, and detainment of prisoners for their nonviolent or religious beliefs.

I would like to commend the head of East Timor's Roman Catholic Church, Bishop Carlos Ximenes Belo, for his courage in repeatedly condemning the human rights violations in East Timor. More recently, he described the atmosphere in East Timor in the period leading up to this papal visit as an "environment of terror." Under these circumstances, Pope John Paul's words on Monday, October 9, as summarized by Reuters News Agency, that "human rights and self-determination must be respected" are especially welcome.

At this time, I would like to call my colleagues' attention to this morning's latest AP newswire regarding East Timor and the papal visit. Regretfully, I must relay to you the grim news that fighting broke out this morning between the police and civilians before the altar where Pope John Paul II was finishing his benediction to about 600,000 people. The protesters, shouting "Viva Independence" and "Viva Papa," were met by baton-wielding police who hit the youths as they unfurled banners expressing their proindependence sentiments. At least four people were injured.

The Pope himself lent his support to the East Timorese by urging Indonesia in his homily to respect the human rights of the people of predominantly Catholic East Timor. He asked that Indonesia "act with wisdom and good will toward all" in search for a peaceful solution to East Timor's problems, and requested that they bring about "a speedy improvement of conditions of life" on this island.

As a Member of the United States Senate and an advocate of human rights throughout the world, I feel compelled once again to remind my colleagues about this situation in East Timor, and to personally urge the Indonesian Government to respect the rights and will of the people of East Timor. I fully support the people of East Timor in their request that a referendum be called on the status of the territory. I believe that every consideration be given to these people in their attempts to attain the right to self-determination and fundamental freedoms and that they be encouraged to continue efforts to preserve their own identity, their culture, language, and religion.

I would like to call to my colleague's attention an article that appeared in the Washington Post on October 10, regarding the Pope's visit to East Timor, as well as an article that appeared in the Economist on September 30, that also pertains to this issue.

Mr. President, I ask that the aforementioned articles from the Washington Post and the Economist be printed

in the RECORD immediately following my remarks.

The material follows:

[From the Economist, Sept. 30, 1989]

THE POPE IN ASIA; NO TIME FOR TIMOROUSNESS

Pope John Paul is no stranger to explosive situations, but one that awaits him on his trip to Asia from October 6th to 16th will demand even more sensitive handling than most. The minefield is East Timor, a former Portuguese possession annexted by Indonesia in 1976 in the wake of Portugal's 1974 revolution.

Three-quarters of East Timorese 700,000 people are Roman Catholic. Most are opposed to Indonesian rule, some of them fighting a guerrilla war which obliges the Indonesian government to keep an army on the island. Bishop Carlos Ximenes Belo sent a letter to the United Nations secretary-general in May seeking support for a referendum that would allow the East Timorese to decide their own future. The Catholics at first feared that the Pope's visit would amount to tacit recognition of the Indonesians' right to be there. In fact, Vatican, like the UN, Portugal and some governments, does not recognize East Timor's annexation. Bishop Belo's diocese is administered direct from Rome.

Catholics make up only 3% of Indonesia's total population of some 178m, the vast majority of whom are Muslims. But the Catholic church is making gains; in 1941, when the Dutch still ruled the country, there were 540,000 Catholics, most of them Dutch. Now there are at least 4.4m. As in South Korea, the growth has been mainly amoung the middle class. One attraction is the excellence of Catholic schools, only 55% of whose pupils are, in fact, Catholic. The Catholic ritual also seems to attract many Indonesians, whose native religions are mystical in character.

Indonesian bishops had been hoping for a papal visit for a long time, not least because they reckoned that it would strengthen the church's position against attacks by strongly anti-Catholic (and anti-Christian) Muslin fundamentalists. The government also worries about the fundamentalists. To appease them the papal visit will be a state visit—the Pope is head of the Vatican state—rather than a pastoral visit to his flock. But the call on East Timor will be a pastoral one. Another potentially contentious issue was the languae the Pope should use to celebrate mass when in East Timor: the local Tetum or Bahasa-Indonesian. This has been resolved by a decision to say it in Latin.

The test of the soundness of this diplomatic footwork will be what happens on October 12th, when the Pope arrives. Jakarta Radio announced last week that security would be tightened during the visit to East Timor to "prevent undesirable elements form exploiting the event".

[From the Washington Post, Oct. 10, 1989]

CONTROVERSY RISES OVER POPE'S EAST TIMOR TRIP—IN INDONESIA, PONTIFF TALKS OF HUMAN RIGHTS

(By Peter Wise)

LISBON, October 9.—The four hours Pope John Paul II spends in the disputed territory of East Timor on Thursday may prove to be the most politically controversial moments of the 10-day journey to Asia that he began last week in South Korea and continued in Indonesia today.

Portugal, the colonian ruler of East Timor until Indonesia invaded the island territory in 1975, is confident the Pope will use his visit to condemn alleged human rights violations by Indonesian security forces, including torture, summary executions and disappearances.

On arriving in Indonesia today, the pontiff told President Suharto and other Indonesian government officials in a speech that human rights and self-determination must be respected, Reuter reported, "At times nations are tempted to disregard fundamental human rights in a misguided search for political unity based on military or economic power alone. But such unity can easily be dissolved," the Pope said.

Lisbon government officials have also said they expect John Paul to appeal for a negotiated solution to the 14-year conflict in East Timor, which humanitarian organizations estimate has resulted in the deaths of at least 100,000 of the island's original population of 700,000 people.

But privately, the Portuguese government has expressed concern to the Vatican that Indonesia will seek to portray the visit as representing papal recognition of its sovereignty over East Timor, according to diplomatic sources in Lisbon.

For its part, the Pope has sought to relieve such concerns by saying his visit is purely pastoral and he has a duty to the largely Catholic population there. The Vatican does not recognize Indonesian sovereignty over East Timor and the Diocese that covers the island is administered directly from Rome.

Lisbon officials have voiced their fears to Rome, through diplomatic channels, that the Jakarta government will orchestrate the Pope's visit to show the world a false picture of peaceful stability and popular support for Indonesian rule in East Timore, the sources said.

Lisbon-based leaders of the Convergencia Nacionalista, a coalition of two resistance movements fighting a guerrilla campaign for East Timor's independence, said human rights groups and Catholic church sources in East Timor have reported a growing number of arrests and interrogations since April.

The resistance leaders said the alleged repression is aimed at preventing any sign of opposition to Indonesian rule emerging during the papal visit. They also said thousands of Indonesians were being sent to the territory to ensure that crowds greeting the pope were sympathetic to Jakarta.

Indonesian troops invaded East Timor in December 1975 after Portugal's colonial forces withdrew amid an outbreak of fighting between rival independence movements. The following year, Jakarta formally annexed the Hawaii-sized territory off northwestern Australia.

Jakarta claims that an East Timorese assembly chose integration with Indonesia in 1976, but the United Nations does not recognize Indonesian sovereignty. Portugal, still the administrating power under international law, is pressing for an act of self-determination that will allow the East Timorese to decide their own future.

Nationalist guerrillas have been fighting Indonesian rule from bases in the mountainous east of the island since 1975. Jose Guterres, a spokesman for the main resistance movement, Fretilin, said the guerrillas number 3,500 men armed with G-3 and Mauser automatic rifles.

Reports from East Timor have indicated that at least 20 Indonesian battalions—more than 15,000 men—are stationed in the territory following a military buildup that began before a visit by Suharto last November, according to Guterres. He said Indonesian troops were engaged in anti-guerrilla offensives involving artillery, air and naval bombardments.

Last year, almost half of the members of the U.S. Congress wrote a letter to then secretary of state George P. Shultz expressing concern about human rights violations in East Timor. In June, 118, members of the House of Representatives signed a similar letter to President Bush.

Indonesia strongly denies charges of human rights abuses. Speaking to the U.N. Special Committee on Decolonization in New York in August, Agus Tarmidzi, an Indonesian representative, described such allegations as "well-worn half-truths, distortions and outright falsehoods,"

In August, the U.N. Subcommittee for Human Rights in Geneva approved a motion acknowledging steps by Indonesia to allow more access to East Timor since January but lamenting that "more detentions, torture and summary executions have allegedly taken place since the end of 1988."

In a report on East Timor presented to both U.N. bodies, the London-based human rights group Amnesty International said it had "received reports of grave violations of human rights over the last year, including mass arrests for what appeared to be political reasons, unfair trials, torture of prisoners in police and military custody, extra-judicial executions, incommunicado detention and 'disappearances.'"

The Amnesty report said people had been arrested for involvement in the dissemination of documents calling for a referendum on the political status of the territory and detailing alleged human rights abuses. Some were documents signed by the head of the Roman Catholic Church in East Timor, Bishop Carlos Ximenses Belo, according to Amnesty.

In February, Belo wrote to U.N. Secretary General Javier Perez de Cuellar asking for the United Nations to help bring about a referendum on the future of East Timor. Last December, in a pastoral note quoted in the Amnesty report, Belo said detainees were commonly subject to "blows, kickings and beatings." Some reports from East Timor have suggested that Indonesian authorities may seek the replacement of Belo because of his outspokenness.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session and consider the following nomination: Calendar No. 382, David G. Ball, to be Assistant Secretary of Labor. I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF LABOR

David George Ball, of Connecticut, to be an Assistant Secretary of Labor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CORRECTION IN THE ENGROSSMENT OF S. 1711

Mr. MITCHELL. Mr. President, I ask unanimous consent that in the engrossment of S. 1711, as passed October 5, 1989, subsection (g) of amendment No. 973 be corrected to read as follows, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRINTING OF SENATE DOCUMENT 101-3

Mr. MITCHELL. Mr. President, on behalf of Senator BINGAMAN, I ask unanimous consent that Senate document 101-3 (101st Congress, 1st session), relating to the impeachment of Judge Alcee L. Hastings, be reprinted, with 350 copies printed for the Senate document room, 150 copies printed for the Secretary of the Senate, and 150 copies printed for the Impeachment Trial Committee.

Mr. President, our supply of this document, which is 69 pages in length, is now exhausted. The Senate will need copies of the document for its use during the closing arguments, deliberation, and voting on the impeachment articles against Judge Alcee L. Hastings, and the document room and the committee need copies for further distribution. I thus request authorization for the reprinting of this Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

DWIGHT D. EISENHOWER MEDICAL CENTER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration on H.R. 2987, the Dwight D. Eisenhower Department of Veterans Affairs Medical Center, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill [H.R. 2987] to rename the Department of Veterans Affairs Medical Center in Leavenworth, Kansas as the Dwight D. Eisenhower Department of Veterans Affairs Medical Center.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I rise today in support of my distinguished colleagues Senator KASSEBAUM and Congressman SLATTERY, who introduced the House bill, in renaming the veterans' affairs medical center in Leavenworth, KS, after a national hero and Kansan who served his country and the world—Dwight David Eisenhower.

Eisenhower's outstanding career was one of Kansas' greatest contributions to the Nation and the world. The unique political skills of this farmboy from Kansas helped forge and hold together an unprecedented world alliance that achieved victory and secured peace for Western democracy.

Eisenhower grew up in Abilene, KS. He came from a poor family, working in a creamery and selling vegetables to help his family meet expenses. His distinguished military career began when he entered West Point, and reached its zenith as the Commander in Chief of the combined allied expeditionary forces in Europe.

In December 1944, Eisenhower was given the newly created rank of five-star general, less than a year later becoming Army Chief of Staff. Following this tour of duty, he retired briefly from active service. But his country would not let him retire for long; President Truman called Eisenhower to serve once again—this time as supreme commander of NATO forces in Europe. Some time later, Eisenhower received his most distinguished promotion: the people of the United States elected him their President.

Once again, Eisenhower served his country well. He ran for President promising to go to Korea, and as President saw the signing of the truce that remains intact today. His term also saw the addition of Alaska and Hawaii to the Union. He sent the Army to Little Rock, AR, to enforce the landmark racial desegregation decision. The "open skies" policy of weapons verification with the Soviet Union was originally his brainchild.

Mr. President, the life and accomplishments of Dwight Eisenhower are far too distinguished and numerous, and time too limited to recite fully here. This Nation owes him special honor. Naming the Leavenworth VA medical center in Leavenworth, KS, in his memory is a fitting tribute. My good friend and fellow Kansan, Senator KASSEBAUM, introduced legislation July 25 to render this tribute and rename this medical center. Her determination and persistence have played a major part in bringing this effort to completion; Kansans and all veterans owe her thanks for her commitment.

This hospital serves our veterans. It assists those men and women who have given so much for our country, and in fact, to whom we owe the preservation of our freedom and democracy. As a veteran, I understand the needs of my fellow veterans, and the debt that this country owes them. This hospital is one way our Nation attempts to pay this debt.

Mr. President, I believe that Dwight Eisenhower would be proud to have his name on this hospital that serves fellow veterans. I think that Senator KASSEBAUM and I can speak for all Kansans when I say that we would be honored to rename the Leavenworth VA medical center after this distinguished hero.

October 14, 1990 is the centennial of Eisenhower's birth. I think the time is right to bestow this well-deserved honor. As part of the celebration I join Senator KASSEBAUM in seeking to rename the State's oldest veterans affair medical center after one of Kansas' greatest sons, Dwight David Eisenhower.

Mrs. KASSEBAUM. Mr. President, it is with great pleasure that I have this opportunity to vote for final passage of H.R. 2987, the House version of a bill I introduced in the Senate to redesignate the Veterans' Administration medical center in Leavenworth, KA, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center." I am honored that my colleague Senator DOLE joined me as a cosponsor of this bill. The renaming of this historic facility would be fitting, for two reasons. First, President Eisenhower had very close ties with the State of Kansas. In the town of Abilene, KA, can be found not only the Eisenhower Museum and Library, but also his family home and final resting place.

Second, next year will commemorate the 100th anniversary of President Eisenhower's birth. As members of the Eisenhower Centennial Commission, Senator DOLE and I will be engaged in a number of activities throughout the country. In fact, the rededication of the Leavenworth hospital will act as a major event in kicking off the Eisenhower Centennial celebration in Kansas, which will be held in the last week of January 1990.

Dwight David Eisenhower has proved to be one of the most popular Presidents of all time, and his midwestern roots can be found in the legacy of his Presidency: a genuinely bipartisan domestic and foreign policy; a Federal Government living within its means; significant international exchanges founded on the notion that reasonable and sound negotiation can be effective; and a national commitment to education, science, and technology. He was a decent and good-humored man, a strong leader, with a vision both practical and farsighted.

For these reasons, I believe designating the Leavenworth VA hospital in President Eisenhower's honor would be a fitting tribute.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2987) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calender item No. 233, S. 1291, a bill to extend and amend the Library Services and Construction Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1291) to extend and amend the Library Services and Construction Act, and for other purposes, reported with amendments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted as shown in italics.)

S. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Library Services and Construction Act Amendments of 1989".

(b) REFERENCES.—References in this Act to "the Act" are references to the Library Services and Construction Act (20 U.S.C. 351 et seq.).

SEC. 2. DEFINITIONS.

Section 3 of the Act is amended—

(1) in paragraph (2)—

(A) by striking "and initial equipment" and inserting "and for the purchase, lease, and installation of equipment";

(B) by striking "to conserve energy" and inserting "to ensure safe working environments and to conserve energy"; and

(C) by striking "includes machinery" and inserting "includes information and building technologies, video and telecommunications equipment, machinery"; and

(2) by adding at the end thereof the following new paragraphs:

"(17) The term 'handicapped individual' means an individual who is physically or mentally impaired, visually impaired, or hearing impaired.

"(18) The term 'network' means any local, statewide, regional, or interstate cooperative association of library entities which provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers for improved supplementary services for the clientele served by each type of library entity.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AMENDMENT.—Section 4(a) of the Act is amended to read as follows:

"SEC. 4. (a) There are authorized to be appropriated—

"(1) for the purpose of making grants as provided in title I, $100,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(2) for the purpose of making grants as provided in title II, $55,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(3) for the purpose of making grants as provided in title III, $35,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(4) for the purpose of making grants as provided in title V, $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(5) for the purpose of making grants as provided in title VI, $10,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years; and

"(6) for the purpose of activities as provided in title VII, $500,000 for fiscal year 1990, and such sums as may be necessary for each of the 4 succeeding fiscal years.

There shall be available for the purpose of making grants under title IV for each of the fiscal years 1990, 1991, 1992, 1993, and 1994, 1.5 percent of the amount appropriated pursuant to each of paragraphs (1), (2), and (3) for each such fiscal year. There shall be available for the purpose of making grants under section 5(d) for such fiscal years 0.5 percent of the amount appropriated pursuant to each of such paragraphs for each such fiscal year.".

(b) CARRYOVER OF FUNDS.—Section 4(b) of the Act is amended by striking "and for the next succeeding fiscal year" and inserting "and is authorized to remain available until expended".

SEC. 4. ALLOCATIONS.

(a) AMENDMENT.—Section 5(c) of the Act is amended to read as follows:

"(c)(1) From one-half of the sums available pursuant to the second sentence of section 4(a) for any fiscal year, the Secretary shall allot an equal amount to each Indian tribe that submits an approved application under section 403.

"(2) From the remaining one-half of the sums available pursuant to such second sentence, the Secretary shall make allocations to Indian tribes that (A) are receiving an allocation under paragraph (1) of this subsection for such fiscal year; and (B) have submitted approved applications under section 404.

"(3) In making allocations under paragraph (2)—

"(A) no funds shall be allocated to an Indian tribe unless such funds will be administered by a librarian; and

"(B) the Secretary shall take into account the needs of Indian tribes for such allocations to carry out the activities described in section 402(b).

"(4) In making allocations under this subsection, the Secretary shall take such actions as may be necessary to prevent an allocation from being received to serve the same population by any 2 or more of the following entities as defined in, or established pursuant to, the Alaska Native Claims Settlement Act:

"(A) an Alaskan native village,

"(B) a regional corporation, or

"(C) a village corporation.".

(b) CONFORMING AMENDMENT.—Section 6(g)(2) of the Act is amended by inserting after "section 5(c)(2)" the following: "in the same fiscal year in which it has received an allocation under section 5(c)(1)".

SEC. 5. RESOURCE SHARING COORDINATION.

Section 6 of the Act is amended—

(1) in subsection (d)(1), by striking "and construction" and inserting ", construction, and interlibrary cooperation and resource sharing"; and

(2) by adding at the end thereof the following new subsection:

"(h) The Secretary shall coordinate programs under titles V and VI of this Act with the programs assisted by titles I, II, and III of this Act, and shall provide to the head of the State library administrative agency the opportunity to comment on any application for a grant under title V or VI of this Act prior to the awarding of the grant, in order to assure that such grants from the Secretary are for purposes consistent with the long-range program required under subsection (d) of this section.".

SEC. 6. MAINTENANCE OF EFFORT.

Section 7 of this Act is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) In fiscal year 1990, and every fifth fiscal year thereafter, each State library agency may review its expenditures in the second fiscal year preceding fiscal year for which the determination is made under the programs from State and local sources and file with the Secretary a statement to establish a current, revised expenditure level to be used for measuring the maintenance of effort required under subsections (a)(1)(B) and (a)(2).".

SEC. 7. INTERGENERATIONAL LIBRARY SERVICES.

Section 101 of the Act is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) for assisting libraries in developing intergenerational library programs that will match older adult volunteers with libraries interested in developing after school literacy and reading skills programs for unsupervised school children during afterschool hours;".

SEC. 8. CHILDCARE LIBRARY OUTREACH.

Section 101 of the Act is further amended by inserting after paragraph (5) the following new paragraph:

"(6) for assisting libraries in providing mobile library services and programs to licensed or certified child-care providers or child-care centers;".

SEC. 9. LIBRARY LITERACY CENTERS.

Section 101 of the Act is further amended by inserting after paragraph (6) the following new paragraph:

"(7) to establish and support model library literacy centers, coordinated by the

State library administrative agency with other interested State agencies and nonprofit organizations to reduce the number of functionally illiterate individuals and to help them reach full employment;".

SEC. 10. USE OF TITLE I FUNDS.

Section 102(a) of the Act is amended by adding at the end thereof the following new sentence: "In carrying out its program to accomplish the purposes of this title, a State may make subgrants to library systems or networks which include libraries other than public libraries, if the purpose of the subgrant is to improve services for public library patrons".

SEC. 11. RATABLE REDUCTIONS OF MAJOR URBAN RESOURCE LIBRARIES.

Section 102(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) No State shall, in carrying out the provisions of paragraph (2) of this subsection, reduce the amount paid to any major urban resource library below the amount that such library received in the year preceding the year for which the determination is made under such paragraph (2), except that such amount shall be ratably reduced to the extent that the total Federal allocations to the State under section 5 for purposes of this title for the applicable fiscal year are reduced or that the 1990 Census shows the population of the city served by such library has decreased.".

SEC. 12. STATE ANNUAL PROGRAM.

Section 103 of the Act is amended—

(1) in paragraph (3), by striking "and institutionalized individuals";

(2) in paragraph (4)—

(A) by striking "(A)"; and

(B) by striking everything following "elderly" the first place it appears and inserting a semicolon; and

(3) by striking paragraph (5) and inserting the following:

"(5) describe the uses of funds to make library services and programs more accessible to handicapped individuals.".

SEC. 13. TECHNOLOGY ENHANCEMENT.

(a) DEFINITION.—Section 3 of the Act is further amended by adding at the end thereof the following new paragraph:

"(19) The term 'technology enhancement' means the acquisition, installation, maintenance, or replacement, of substantial technological equipment (including library bibliographic automation equipment) necessary to provide access to information in electronic and other formats made possible by new information and communications technologies.".

(b) USE OF TITLE I FUNDS.—Section 101 of the Act is further amended—

(1) by striking "and" at the end of paragraph (8) (as redesignated by section 7(1));

(2) by striking the period at the end of paragraph (9) (as redesignated by section 7(1)) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) for assisting public libraries in making effective use of technology to improve library and information services.".

(c) USE OF TITLE II FUNDS.—Title II of the Act is amended—

(1) by inserting "AND TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the heading of such title;

(2) by inserting "AND LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the head of section 201;

(3) by inserting "and technology enhancement" after "construction" each place it appears in sections 201, 202(a), 202(b), 203(1), 203(2), and 203(3);

(4) by striking "section 3(2)" in section 202(a) and inserting "sections 3(2) and 3(19), respectively"; and

(5) by inserting "AND TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the heading of section 203.

(d) USE OF TITLE III FUNDS.—Section 302(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (1); and

(2) by inserting before the period at the end of paragraph (2) the following: "; and (3) developing the technological capacity of libraries for interlibrary cooperation and resource sharing".

SEC. 14. PRESERVATION OBJECTIVES IN CONSTRUCTION.

Section 203 of the Act is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(5) follow policies and procedures in the construction of public libraries that will promote the preservation of library and information resources to be utilized in the facilities.".

SEC. 15. RESOURCE SHARING.

Sections 301 and 304(a) of the Act are amended by striking "eventual" and inserting "attaining".

SEC. 16. PRESERVATION COOPERATION.

Title III of the Act is amended by adding at the end thereof the following new section:

"PRESERVATION PROGRAMS

"SEC. 305. (a) The long-range program and annual program of each State under this title may—

"(1) include a statewide preservation cooperation plan that complies with this section; and

"(2) identify the preservation objectives to be achieved during the period covered by the long-range plans required by section 6.

"(b) A statewide preservation cooperation plan complies with this section if—

"(1) such plan specifies the methods by which the State library administrative agency will work with libraries, archives, historical societies, scholarly organizations, and other agencies, within or outside the State, in planning, education and training, coordinating, outreach and public information, and service programs to ensure that endangered library and information resources are preserved systematically; and

"(2) such preservation plan is developed in consultation with such parties and agencies as the State archives, historical societies, libraries, scholarly organizations, and other interested parties.

"(c) A State that has a statewide preservation cooperation plan that complies with this section may use funds under this title to carry out such plan.

"(d) The State library administrative agency may contract part or all of the preservation program under this section to other agencies or institutions.".

SEC. 17. LIBRARY LITERACY GRANTS.

Section 601(e) of the Act is amended by striking "$25,000" and inserting "$35,000".

SEC. 18. GRANTS FOR FOREIGN LANGUAGE MATERIAL AQUISITION.

Section 501 of the Library Services Construction Act is amended by adding the following new subsection at the end thereof:

"(d)(1) The provisions of subsection (c) shall not apply to any major urban resource library.

"(2) The Secretary shall not use more than 30 percent of the funds appropriated under this title to provide grants to major urban resource libraries in excess of the amount of the limitation described in subsection (c).

SEC. [18.] *19.* EVALUATION AND ASSESSMENT.

(a) AMENDMENT.—The Act is further amended by adding at the end thereof the following new title:

"TITLE VII—EVALUATION AND ASSESSMENT

"PROGRAM AUTHORITY

"SEC. 701. The Secretary is authorized to carry out a program for the purpose of evaluation and assessment (directly or by grants or contracts) of programs authorized under this Act.".

(b) CONFORMING AMENDMENT.—Section 5(a) of the Act is amended by striking out paragraph (5).

SEC. [19.] *20.* PUBLIC LIBRARY SERVICES.

(a) TITLE I HEADING.—The heading of title I of the Act is amended by inserting "PUBLIC" before "LIBRARY".

(b) SECTION 101 HEADING.—The heading of section 101 is amended by inserting "PUBLIC" before "LIBRARY".

SEC. [20.] *21.* EFFECTIVE DATE PROVISION.

The amendments made by this Act shall take effect on October 1, 1989.

Mr. PELL. Mr. President, it is a pleasure to rise today on behalf of S. 1291, the Library Services and Construction Act Amendments of 1989.

The Subcommittee on Education, Arts and Humanities held a joint hearing with the House Subcommittee on Postsecondary Education on April 11, 1989, at which testimony was received from a broad cross-section of individuals from the public library field. The support for reauthorizing LSCA was broad and enthusiastic. It became very clear that libraries play an important role in communities across America.

This act, which was first signed into law in 1956 by President Eisenhower, continues to be the single most significant source of Federal funds for our Nation's public libraries. The importance of libraries to an educated American citizenry is undeniable and it is crucial that these institutions—be they urban or rural, large or small—be kept strong, viable, and growing.

The LSCA has successfully provided much-needed Federal support to the States through a system of formula grants. While the total amount is a small percentage of all library aid, these moneys have been targeted toward particularly critical areas. These areas include services to the physically handicapped and the elderly and to communities with little or no access to a public library.

In more recent years, the LSCA has been expanded to provide a set-aside to support library services to American Indians and native Hawaiians and to address the specific needs of illiterate and multilingual populations. In addition, the problems in providing adequate library services to urban populations have been acknowledged to be just as profound as those of providing services to rural populations.

It is the intent of these 1989 amendments to ensure the continuity of these important library services by reauthorizing the LSCA for another 5 years. As the Committee on Labor and Human Resources began its review of LSCA in anticipation of this reauthorization, its was generally agreed that significant changes to the act should await the recommendations of the White House Conference on Library and Information Services.

The White House Conference, authorized in the last Congress, is to be held not later than September 1991. Preliminary conferences in the States will occur at which major issues currently facing the library community will be discussed at length. It is prudent to await the findings generated by this Conference so that they can be part of any future congressional discussion on changes to the LSCA.

The modifications then in this reauthorization bill are largely technical in nature and have been incorporated in response to requests from the Department of Education and the national public library community. However, the two areas of technology and preservation do receive increased emphasis in the bill because the projected needs in these areas are not adequately provided for in current law. The States are given greater latitude in using LSCA funds for purchasing and maintaining technological equipment and they are given the option of using title III funds for developing programs to address preservation needs. The added emphasis on preservation programs will hopefully encourage libraries to protect endangered materials and preserve them for future generations.

In addition, title I purposes have been expanded to include literacy and childcare activities; a new title VII has been added for the evaluation and assessment of LSCA by the Department of Education and various technical amendments have been included to increase flexibility and efficiency of current LSCA programs. Title V, which supports the acquisition of foreign language materials by public libraries, has also been amended by waiving the maximum grant available to major urban resource libraries. This action recognizes the increasing demand on these libraries for such materials and the escalating cost of them.

I commend these Library Services and Construction Act Amendments of 1989 to my colleagues and ask that they join me in supporting this legislation which will reaffirm our commitment to our Nation's public libraries.

Mrs. KASSEBAUM. Mr. President, I join with the distinguished chairman, Senator PELL, in support of this legislation which reauthorizes programs that provide library services to individuals across the country.

The original Library Services and Construction Act was signed into law in 1956 for the primary purpose of assisting States in extending library services to rural America. For Kansas, this was a very important step. At that time, only one in six Americans had access to a public library.

Today, all 50 States enjoy the services that public libraries provide. Piled high in the stacks of books are dreams for our youth to hold, ideals to which to aspire. Found behind the doors of the local public library are gifts waiting to be snatched up and carried home. Aldous Huxley once noted that "Every man who knows how to read has it in his power to magnify himself, to multiply the ways in which he exists, to make his life full, significant and interesting."

I believe that, for the most part, LSCA is operating well. The bill we are considering today reauthorizes the original Library Services and Construction Act, or LSCA, and makes minor modifications and technical changes to the act to help our Nation meet the needs of our ever-changing society. It builds upon the initial purpose of the act and attempts to continue a tradition of providing services while encouraging innovation and preservation of resources.

The Library Services and Construction Act Amendments is composed of seven titles. The first title strengthens State library administrative agencies and major urban resource libraries. The second title, Public Library Construction, is a popular program which provides funds for the construction of public libraries. Title III provides funds for the development of interlibrary cooperation and resource-sharing programs which will permit individuals even greater access to resources currently available to them.

Title IV strengthens the programs available to native Americans and title V provides funds for libraries to purchase materials in foreign languages. Title VI addresses the problem of illiteracy now facing our Nation by designating funds for the development of literacy programs.

The last title is title VII which allows for the evaluation and assessment of library programs. The purpose of these funds is to provide a review of programs supported under the authority of the LSCA and the degree to which they are reaching their intended populations. Since the Library Services and Construction Act receives a relatively small share of Federal funds, I think it is important that we account for how those dollars are spent.

The focus of the act as it stands today is to encourage innovation and to reach out to groups such as the disadvantaged, elderly, and handicapped—who might not otherwise be able to enjoy the treasures to be found on library shelves. As Thomas Carlyle so wisely noted, "All that mankind has done, thought, gained or been: it is lying as in magic preservation in the pages of books."

Mr. COCHRAN. Mr. President, I am pleased to join my colleagues today in voicing my support for S. 1291, the Library Services and Construction Act Amendments of 1989. The passage of this bill represents the Senate's continuing commitment to our Nation's libraries.

In reauthorizing the Library Services and Construction Act, the Labor and Human Resources Committee talked to hundreds of librarians across the country who expressed their support for the existing program. As a result, the bill we are considering today takes into account their views and suggestions. This bill continues the programs under the act for an additional 5 years and also includes many improvements. I am particularly pleased that we are increasing the authorization level for "Title VI—Literacy Grants," to $10 million. In addition, libraries would be eligible to receive individual grants of $35,000 under this title to conduct adult literacy activities, an increase of $10,000.

The "Title I—Library Services Grants" have been used generally to expand programs serving the elderly, handicapped, and underserved areas. Under this reauthorization measure, libraries would be allowed to establish model literacy centers in cooperation with other entities such as public television. I am pleased that title I funds may now be used for these purposes, and I thank the chairman of the subcommittee, Senator PELL and Senator KASSEBAUM for including this language in the bill.

Since its enactment in 1956, the Library Services and Construction Act has remained the largest source of Federal assistance for our Nation's libraries. The 1989 reauthorization improves upon the commitment made in 1956. It is my hope that this legislation will be approved by the Senate.

Mr. HATCH. Mr. President, I appreciate the Senate's prompt consideration of this bill. I am a strong supporter of libraries and the opportunities they give to Americans throughout the country.

The purpose of the original act was to enable citizens, regardless of their location, to have access to library services. This act has encouraged local governments in Utah and elsewhere in the country to expand their library services. As we continue to emphasize the value of literacy in the United States, we have to provide library services to enable all citizens to have access to good literature and resource materials. This has been done in urban areas by establishing centrally located libraries. In rural areas this has been accomplished by establishing libraries and also by developing bookmobiles

which can provide those services to outlying areas which cannot build and support a local library.

This bill will allow us to continue to provide these valuable services to the citizens of this country. This bill is just one step in our fight to increase the literacy level of our citizens.

Mr. BOSCHWITZ. Mr. President, I rise today in support of the Library Services and Construction Act Amendments of 1989. The Library Services Act was first signed into law by President Eisenhower in 1956 to assist States in providing library services to underserved areas.

One of the underserved areas today is the child care provider. Both in-home providers and center-based providers have a need for additional educational material for the children. Providers who work to provide an educationally stimulating environment spend an increasing amount of time and money to obtain the necessary materials. While the public library oftentimes has all the materials that a provider would want, what is the best way to bring the provider and the library together?

It is difficult for providers to take all their children to the library or to find time after hours to check out the desired materials.

It was for these reasons that I introduced an amendment to allow libraries to use their title I funds to provide bookmobiles or other appropriate vehicles to deliver books, tapes, videos, and educational toys to licensed or certified family providers, child care centers, or other providers that meet State eligibility requirements.

Mr. President, I want to thank the Committee on Labor and Human Resources for accepting my amendment and I look forward to hearing from child care providers on the utilization of this provision.

Mr. President, I yield the floor.

Mr. JEFFORDS. Mr. President, I rise in support of the Library Services and Construction Act [LSCA]. This bill represents the largest Federal program which specifically funds libraries. The money go toward construction of facilities, general library services, library services for Indian tribes, foreign language materials acquisition, and library literacy programs.

There can be no questioning the importance of this bill to my own State of Vermont. Two-thirds of the libraries in Vermont serve populations of fewer than 2,000 people. These are geographically isolated areas without access to major metropolitan libraries. Yet, while geographically isolated, they are not isolated from access to information, thanks to the services rendered to them through the LSCA.

Title I of the bill provides my State of Vermont with education and training for its librarians, 90 percent of whom come to libraries with no training whatsoever.

In 1988, Title II of the bill provided Vermont with $100,000 for building construction and improvement. Last year, Vermont used this money to help finance a new town library where previously none existed. Federal funds only accounted for 10 percent of the total costs, but to a small State such as my own 10 percent is crucial.

Title III of the bill is probably the single most important title of LSCA for my State. Title III moneys go to facilitate interlibrary loans and access to information. Because of this money, each of the small libraries throughout the State can access the large research libraries such as the one situated at the University of Vermont. This telecommunications capability is at no expense to the university—all access is done through computer network. Clearly, this effective and essential activity could not have been provided without Federal money.

Furthermore, LSCA provided Vermont with $50,000 worth of computer printed catalog cards which otherwise would have had to be done by staff. It provided consultant services to libraries for computer training, catalog updates, and general services. Finally, LSCA has provided institutional libraries with long overdue services for the blind and handicapped.

This bill clearly expands services to States. It gives children and adults a glimpse into a whole new world by giving them access to information and books. I have outlined the financial assistance provided to Vermont through the LSCA—what I cannot do so easily but which is far more important is tally the countless number of children and adults who have benefited from this program.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 993

(Purpose: To prevent libraries which receive financial assistance under Library Services Construction Act from discriminating in providing space for public meetings)

AMENDMENT NO. 994

(Purpose: To amend the provision regarding licensing and certification of child-care providers and child-care centers)

Mr. CHAFEE. Mr. President, I send two amendments to the desk on behalf of Senator HELMS, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. HELMS, proposes amendments en bloc numbered 993 and 994.

The amendments numbered 993 and 994 are as follows:

AMENDMENT No. 993

On page 6, between lines 5 and 6 insert the following:

SEC. 5. ANTIDISCRIMINATION PROVISION.

Section 6(b) of the Act is amended by—

(1) striking "and" at the end of paragraph (3);

(2) redesignating paragraph (4) as paragraph (5); and

(3) inserting the following new paragraph (4) after paragraph (3):

"(4) provide assurances that libraries within the State shall not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings; and".

On page 6, line 6, strike "5" and insert "6".

On page 6, line 7, strike "amended" and insert "further amended".

On page 6, line 22, strike "6" and insert "7".

On page 7, line 11, strike "7" and insert "8".

On page 7, line 22, strike "8" and insert "9".

On page 8, line 4, strike "9" and insert "10".

On page 8, line 13, strike "10" and insert "11".

On page 8, line 20, strike "11" and insert "12".

On page 9, line 10, strike "12" and insert "13".

On page 10, line 1, strike "13" and insert "14".

On page 11, line 24, strike "14" and insert "15".

On page 12, line 9, strike "15" and insert "16".

On page 12, line 12, strike "16" and insert "17".

On page 13, line 17, strike "17" and insert "18".

On page 13, line 20, strike "18" and insert "19".

On page 14, line 7, strike "19" and insert "20".

On page 14, line 19, strike "20" and insert "21".

On page 15, line 1, strike "21" and insert "22".

AMENDMENT No. 994

On page 8, line 2, strike, "licensed or certified".

On page 8, line 3, after "centers" insert "which are licensed or certified by the State, or otherwise meet the requirements of State law".

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Rhode Island?

Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from North Carolina.

The amendments (No. 993 and 994) were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Item No. 237, H.R. 2742, the House companion bill; that all after the enacting clause be stricken; that the text of S. 1291, as amended, be inserted in lieu thereof; that the bill be read the third time, passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

S. 1291 INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1291 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m., Friday, October 13.

There being no objection, the Senate, at 7:41 p.m., recessed until Friday, October 13, 1989, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1989:

DEPARTMENT OF COMMERCE

HARRY F. MANBECK, JR., OF CONNECTICUT, TO BE COMMISSIONER OF PATENTS AND TRADEMARKS, VICE DONALD JAMES QUIGG, RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

DAVID E. LEWIS, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (ACQUISITION AND FACILITIES). (NEW POSITION.)

CONSUMER PRODUCT SAFETY COMMISSION

JACQUELINE JONES-SMITH, OF MARYLAND, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR A TERM OF 7 YEARS FROM OCTOBER 27, 1989, VICE TERRENCE M. SCANLON, RESIGNED.

JACQUELINE JONES-SMITH, OF MARYLAND, TO BE CHAIRMAN OF THE CONSUMER PRODUCT SAFETY COMMISSION, VICE TERRENCE M. SCANLON, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF COMMANDER:

ANTHONY DEPREE, JR.
WILLIAM C. HELGESON
PAUL G. MILLER
JUDITH M. HAMMOND
JON W. PERTERSON
DAVID E. ELLIOTT
JOHN R. FROST
STEWART L. GINGRICH
ALBERTO J. GASTON
JOHN R. ODOM III
STANLEY J. WALZ
LARRY R. MANTHEI
GARY A. DEHNEL
RONALD W. BATSON
DONALD J. ALCIATI
KENT E. FISHER
LESLIE H. SMITH
DENIS A. KREMER
JOHN E. SCHRINNER
JONATHAN V. EMBLER
KURT A. CARLSON
REX J. PROSSER
VIVIEN S. CREA
GABRIEL O. KINNEY
JERRY R. PENSKA
DAVID M. GIRAITIS
MICHAEL L. STAFFORD
JAMES H. SCHAEFFER
MICHAEL A. ROBERTS
DAVID F. MILLER
RONALD R. WESTON
RICHARD R. BEARDSWORTH
JOHN C. BURSON
TERENCE M. HURLEY
RICHARD E. LANG
PHILIP M. SANDERS
WILLIAM J. LEE II
MICHAEL L. HARDIE
JAMES L. HOUSE
PETER K. MITCHELL
THOMAS W. SECHLER
LAWRENCE I. KEIRN
RICHARD A. KOEHLER
MARK A. FISHER
JOSEPH F. AHERN
DAVID M. LOERZEL
JAMES M. DWYER
DANIEL G. HENDERSON
DANIEL F. RYAN II
MARCUS E. JORGENSEN
MICHAEL E. SAYLOR
GARY KRIZANOVIC
STEFAN G. VENCKUS
SCOTT W. ALLEN
JEMES M. GARRETT
VICTOR J. ZOSCHAK, JR.
JOSEPH A. CONROY, JR.
JOSEPH P. BRUSSEAU
JAMES C. VANSICE
BRUCE A. RUSSELL, JR.
ALBERT F. SUCHY IV
SCOTT F. KAYSER
STEPHEN K. TONEY
MICHAEL W. COLLIER
DANA A. GOWARD
JOHN T. O'CONNOR
RICHARD S. HARTMAN, JR.
ROBERT M. WICKLUND
GARY W. PALMER
JOHN T. MURRAY
WALTER E. HANSON, JR.
ARTHUR E. BROOKS
CHARLES L. MILLER
JOSEPH C. BRIDGER III
MICHAEL L. MAXEY
MYLES S. BOOTHE
WILLIAM G. BRACELAND
TIMOTHY C. HAUGAN
MICHAEL M. BLUME
THOMAS D. JOHNS
JAMES E. SPENCE
RONALD R. BORISON
ROBERT L. PORTER, JR.
STEVEN M. WALDMANN
HARVEY E. JOHNSON, JR.
DALE G. GABEL

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE OF CAPTAIN:

WAYNE R. GRONLUND
BENJAMIN B. PETERSON

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADE OF COMMANDER:

LEONARD J. KELLY
RONALD A. NILSEN

CONFIRMATION

Executive nomination confirmed by the Senate October 12, 1989:

DEPARTMENT OF LABOR

DAVID GEORGE BALL, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF LABOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

B-1B "HARD RIDE" PROVES TO BE A THRILLING SUCCESS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. HUNTER. Mr. Speaker, I want to call to my colleagues' attention an excellent article regarding the B-1 bomber that recently appeared in the Air Force Times. This article clearly shows that the B-1 can and is fulfilling its mission. I would encourage all my colleagues to read this article and to support the B-1 bomber.

[From the Air Force Times, Oct. 9, 1989]

B-1B "HARD RIDE" PROVES TO BE A THRILLING SUCCESS

(By David Fulghum)

MOUNTAIN HOME AFB, IDAHO.—With deadpan matter-of-factness, Maj. Robert W. Nicholson, Jr., described his feelings of fleeting mortality as granite cliffs flashed by the porthole of his B-1B.

"I was thinking about staying alive," said the instructor defensive systems officer describing a Sept. 21 flight during which his crew—members of the 319th Bombardment Wing from Grand Forks AFB, N.D.—flew the big bomber on "hard ride."

Hard ride only recently has been approved for use by operational units after an extensive test program, wing officials said.

Previously, "soft" and "medium" ride were used, which inflicted far less G force on the aircrew but might make the aircraft easier to track, they said.

As the system has proved its reliability, Strategic Air Command has removed restrictions on its use, wing officials said.

Trusting the B-1B's terrain-following radar system to perform feats faster than the eyes and hands of even the best pilots, they sizzled through a range of 5,000- to 10,000-foot mountains at a constant distance of less than 500 feet above the ground.

With solid rock only an instant away at their 630 mph penetration speed, crew members have developed tricks to lessen the tension, Nicholson said. Because only the pilot and co-pilot can see when a precipitous drop is coming, they call out "pushover" before they get to the top of a mountain or ridge, he said.

"It's too drastic if you (the defensive and offensive systems operators in back) don't know what is going on," Nicholson said.

In fact, low flight involves all four crew members, with the pilot and co-pilot calling out the location of approaching mountains, the offensive systems officer reporting their heights and the DSO suggesting the best way to fly around them, Nicholson said.

Because of the attention-riveting aspects of low flight on hard ride in the B-1B and the lack of room for error, Nicholson said, "there's no way I would (fly) in the aircraft" without complete trust in the system.

While it is easy to find critics of the B-1B in the halls of Congress, Nicholson's obvious enthusiasm was much more representative of the general feeling on the flight line here.

Air and ground crews were just short of euphoric about the performance of the big bomber as they finished the 8th Air Force's nearly month long Mighty Warrior '89 exercise.

For the first time, they tested the ability of large numbers of B-1Bs—attended by big-engined KC-135R Stratotankers—to complete a heavy combat schedule while flying from a bare-bones base and while isolated from much of their SAC home-base support, said Col. Harvard L. Lomax, the wing commander.

To deploy to a fighter base, "as we would to Europe . . . was novel," said Maj. Jeff Steig, tanker operations officer for the exercise.

Mountain Home is a base for F-111s and EF-111s. After the arrival of an advance party to set up tents, showers and other basics, seven bombers, four tankers and about 400 people were deployed there for 12 days of intensive flying and conventional bombing practice, he said.

After spraying to rid the area of black widow spiders and ants, the camp settled into a routine broken only by a single case of heat exhaustion. Entertainment was provided by busing camp members to university football games and shopping trips to Boise, Idaho; pingpong tournaments "if the wind wasn't bad"; and the chance for many—including aircrews—to watch live B-1B bombing for the first time.

The bomber force completed all 69 planned takeoffs on time and each crew flew eight or nine sorties, said Col. Walter L. Mosher, the wing's deputy commander for maintenance.

Moreover, it was all squeezed into a quarter of the normal training time, said Capt. Jeff Smith, a B-1 aircraft commander.

The schedule, which required a bomber to fly as often as four times in a single day, was met despite damage to four engines, said Lt. Col. John Priecko, commander of the 46th Bombardment Squadron.

Ice formed on air inlets, broke loose and was sucked into the engines, causing damage, Priecko said.

The ice formed after several aircraft descended through layers of rain clouds that began at 25,000 feet, Priecko said. If the B-1s had been at low level, air friction would have kept ice from forming, he said.

Problems arose when the aircraft were descending at low speed, Priecko said. Sensors to detect ice buildup missed some areas, he said, adding that improvements in the deicing system are in the works.

The supporting tankers flew 58 sorties—missing only one takeoff—pumped 1.2 million pounds of fuel, hauled 1,020 passengers and provided the logistics train to Grand Forks to quickly provide needed spare parts, Steig said.

"Two years ago, we couldn't have done this," Priecko said. "We're on a roll."

BOMBING WITH THE B-1B

Of the bombing sorties, four were scrubbed for possible mechanical problems, two because of thunderstorms in the range area and one because an unauthorized truck drove across the target, a preliminary report said.

Despite these problems, the crews put 76 percent of their bombs on the target at an average distance from the center of 128 feet, Mosher said. This was accomplished even though the B-1's speed has cut the time for a bomb run from six or seven minutes to two or three minutes, he said.

Ten years ago, that distance would have been a winning score; "now, it's average," Mosher said.

"The only reason it wasn't 100 percent hits was because we were trying out a lot of new techniques," said Maj. Glenn Pallazza, assistant chief of the offensive systems branch.

Squadron officers said the most embarrassing part of the exercise was an experiment to see how well crews could bomb by sight. Poor scores lowered the average and showed the crews' attempts to judge the release point by sight was the worst bombing method available.

A factor in increasing accuracy is that the radar used for bombing is so sensitive that it can spot the corner posts in chainlink fences, said Capt. Kevin Heard, an OSO. Such small checkpoints can be used as reference points for precisely locating targets, he said.

While a B-52 can hit a hangar-sized target, the phased-array radar on the B-1 can accurately bomb something as small as a trash bin, Heard said. The sensitivity results from the radar creating an artificial antenna a third of a mile long, he said.

Moreover, it is a sensitivity that the eye—stunned by movements of 1,000 feet per second—cannot match, Heard said.

The bombing improved as the exercise progressed, and the last bomb dropped on a Sept. 21 mission to an airfield in "East Slavia"—actually Tolicha Airfield on one of the bombing ranges north of Nellis AFB, Nev.—hit within nine feet of the target.

The bomb was dropped by Capt. Jerry Murphy, an instructor OSO who was assigned to the planning staff but wheeled his way onto a mission. After studying tapes of the other drops, he thought he saw a way to improve.

Murphy is vague with outsiders about the exact process that gave him such extraordinary accuracy.

The OSO said he used different offsets as aiming points than the other OSOs did. Squadron mates said he cranked a little "'Kentucky windage' into the computer." The result was a bomb dropped within a desk's length of where it was aimed.

"I think we've started breaking the code" that will allow them to routinely bomb with such precision, Murphy said.

Originally, B-1 crews started with B-52 Stratofortresses and FB-111 bombing data, Priecko said. Now, practitioners such as Murphy are learning the strengths and special capabilities of the B-2, he said.

The precision is so good, B-1 units "may pick up the role of destroying (single) buildings" instead of the area bombing done by heavy bombers in the past, Nicholson said.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"We're writing the book on (B-1) tactics," said Capt. John Ballentine, operations officer for Mighty Warrior.

In addition, tactics developed for the B-1 may be used by crews of the Air Force's newest bomber, the B-2A, said Brig. Gen. Patrick P. Caruana, newly appointed commander of the 42nd Air Division at Grand Forks.

Having flown the B-2 simulator, Caruana said it is a high-performance aircraft and will deliver its weapons essentially the same way the B-1 does.

BEATING FIGHTERS AND RADAR

To hit their targets, B-1s first must get through enemy defenses.

Prior to Mighty Warrior, various B-1 crews skirmished with Navy F-14 Tomcats, Canadian F/A-18 Hornets and the Air Force's F-15 Eagles and F-16 Fighting Falcons, Ballentine said. Afterward, they went over the missions while face to face with the fighter pilots they flew against, he said.

As a result, B-1 pilots are little worried by interceptors, Ballentine said. The radar signature of the B-1 is so slight and the defensive avionics good enough that radar missiles cannot lock on, he said.

While the B-1's defensive electronics have been the main criticism of the B-1 and they will never perform as hoped, they do function well enough to let the aircraft survive existing air defenses, Capt. Daniel P. Grenier said.

The ECM system on the aircraft now can sort threats by priority and react against them automatically. The system also knows when it is dangerous to use ECM, he said.

The philosophy of deception and camouflage is to ensure that the aircraft is never spotted, so that it does not have to overpower defenses, Grenier said.

Ballentine said his confidence in the ECM has doubled, and in his experience it invariably has forced pursuit aircraft to abandon their radar missiles and switch to infrared missiles or guns.

Flares can lure the heat-seeking missiles away from the bomber.

Moreover, with friendly fighter support to keep the defenders busy, the B-1 becomes even harder to attack, Grenier said. With the bomber flying four or five miles ahead of the escort, any defender turning behind the B-1 would itself become a target, he said.

"It proved the value of mutual support to us," Grenier said.

As for the big land-and ship-based surveillance radars, the B-1 crews again said they were not worried.

They are vulnerable only at high altitudes where they sometimes fly to conserve fuel en route to distant targets, a squadron pilot said.

However, to attack the B-1s at such altitudes would require one-way missions, because even long-range fighters such as the MiG-29 Fulcrums would use up all their fuel just reaching the bombers before they descended to low altitude and disappeared into the background, he said.

After flying in recent months against U.S. shipboard and land surveillance radars, crews think that with surprise, 95 percent of an attacking B-1 force can get through existing defenses undetected, Nicholson said.

"Offensively, we're better than we thought," Priecko agreed. The only radar that was effective in spotting the B-1 was the computer-enhanced variety aboard Aegis cruisers, he said.

During recent exercises with Air National Guard F-4 Phantom IIs escorting B-1s, the formation's position was revealed by the fighters' heavy smoke trail against a white cloud layer, Nicholson said. Other than this one visual sighting, the bombers got through U.S. defenses, he said.

"We surprised a lot of fighter people," said a senior pilot. "They can't find us and can't catch us.

The enemy gets one pass and then the B-1 is gone, Priecko said. The bomber is a big plane with lots of gas that allows it to outrun interceptors for hours, he said.

SPARE PARTS

A critical part of Mighty Warrior was to test how few spare parts a large B-1 detachment could deploy with and still keep its aircraft flying.

After experimenting with smaller deployments of up to five B-1s, Mosher—the 319th BMW's deputy commander for maintenance—and his team were able to predict their needs fairly well.

About 60 percent of the repairs were made the same day. The rate went up to 80 percent after one day and to 90 percent after two days, Mosher said. The longer delays resulted when parts had to be flown from Grand Forks, he said.

Of 250 types of items brought with them, including commonly used gaskets, screws and bolts, only 70 were used, said SSgt. Peter Bohannon, NCO in charge of the wing's war-readiness section. Of 130 parts requested, more than 100 were on hand, he said.

There have been some surprises in maintaining the B-1, Mosher said. Engine nozzles wear out faster than expected because of the high turbulence encountered flying low-level missions in the mountains, he said.

This was not a specific Mighty Warrior problem, Mosher said.

But high tire use was attributable to the exercise because Mountain Home's asphalt runways used them up at a faster rate than concrete runways, said Steig, whose transports hauled in spare parts.

Overall, the 15 percent attrition rate of missions scrubbed at the last minute because of maintenance problems just did not occur, said Capt. Alan Byerly, a maintenance officer.

In addition to canceling no missions, the detachment had less than 13 percent of its aircraft requiring repair at any time, Mosher said.

"What's shocking all of us is the reliability," he said.

They simply didn't have any major problems, said A1C Stephen Neal, a defensive avionics, navigation, communications systems specialist. No planes were grounded because of the much-maligned electronic countermeasures system, he said.

The biggest challenge came in the form of an unexpected technical order that grounded five of seven planes for 48 hours until inspections and repairs were made, Mosher said. During that time, the two remaining B-1s were flown up to four times a day by different crews, and no missions were scrubbed, he said.

PRIOR B-1B COMPLAINTS

Mosher and other maintenance officials talked about some of the problems that plagued the B-1 in the past.

Terrain-following software: The computer software problems essentially have been licked and aircrews are routinely flying their aircraft between 300 and 500 feet, even in the mountains.

The B-1s routinely are starting to use a new version of the software (designated 4.5), which almost eliminates unexpected "fly ups," Mosher said. (At any hint of malfunction during low-level flight, the B-1 is designed to automatically climb to an altitude above the highest terrain.)

Smith, who has about 60 flying hours with the new software, said enough imperfections have been removed from the software that he has had no fly ups that he did not initiate.

After wringing the system out "like never before" during Mighty Warrior, aircrews are so confident that they plan to begin terrain-following night flights in October, Ballentine said.

Restriction remain only on flying over heavy snowpacks and sand, materials that give readings different from other surfaces, Smith said.

Defensive electronics: The best plan is to never get in a position where ECM has to be used to foil an enemy air- or ground-launched missile, Nicholson said.

When the system is on, it does not emit signals that would give away the B-1's position until they are needed, Nicholson said. When jamming is used, it emits only in a certain direction, he said.

Moreover, when ECM emits jamming signals that could reveal its position, it does so only for a short time and then shuts down, Nicholson said.

While improvements in the defensive system continue, "we have what we need" to survive today's threat, Nicholson said. "But it's a chess game, (and) we have to stay a step ahead."

Stall-inhibiting system: SIS II has been improved so the B-1 can fly at low levels carrying more weight, Ballentine said. That means more fuel and an increased strike range for the bomber, he said.

It allows pilots "to press closer to the margins of the (flight) envelope than before" without getting into trouble, Smith said.

Overall, Mighty Warrior '89, for the B-1B and its aircrews, is both an end and a beginning.

It is an end in that the original crews—carefully selected from among top bomber, transport and training pilots—are completing their tours and being transferred.

They are being replaced by less rigorously selected aircrews, including the first second lieutenant to serve as B-1 co-pilot.

While the new crews are younger, they are more than a match in aggressiveness and enthusiasm for those they replace, Heard said. Moreover, since they are "growing up in the system," they have fewer bad habits to overcome and adjustments to make, he said.

Mighty Warrior is a beginning in that the B-1 can begin taking its place as a qualified bombing craft that routinely can drive on targets at 200 feet altitude and more than 600 mph.

The B-1B's performance in Mighty Warrior and in the months before is the "best evidence for the skeptical," Lomax said.

Mighty Warrior has put an end to the old joke that SAC bombers can fly anywhere in the world, but can only land at home.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MILLER of California. Mr. Speaker, I recently had the honor of delivering the keynote address on September 30 at the Conference on the U.N. Convention on the Rights of the Child, held by the East Bay Chapter of the United Nations Association of the U.S.A.

I am submitting my remarks at the Conference for the record:

REMARKS OF CONGRESSMAN GEORGE MILLER

Good morning. I am honored to be with you this morning, and I am pleased to be among so many activists who have dedicated your lives to improving the well-being of children.

THE U.N. CONVENTION AND THE STATUS OF CHILDREN

In November, the United Nations General Assembly will take up the proposed Convention on the Rights of the Child. This landmark treaty, if approved and ratified, would place many basic human rights for children in international law for the first time.

Much of the publicity surrounding the Convention has focused on the status of children across the globe, and especially on the status of children in the Third World. Whether it is the killing and maiming of children of children in Central America, the famine in Ethiopia and sub-Sahara Africa, or the tens of thousands of child soldiers killed in the Iran-Iraq war, the state of the world's children is shocking.

More than 38,000 children die every day due to a lack of food, shelter, or primary health care. Approximately 800,000 infants die each year of neonatal tetanus alone, which can be prevented by immunizing the mother.

More than one billion people—the majority of them children—either have no home or live in inadequate housing.

Over 100 million children throughout the world are forced to work under hazardous and often fatal conditions, many for almost no pay.

In the last Congress, I introduced legislation to help stop the worldwide exploitation of child labor. As a result of this legislation, the Secretary of State must now report to the Congress on which countries abide by internationally recognized child labor rights. This law also directed the U.S. delegation to the U.N. to call further attention to the exploitation of child laborers.

This legislation is just a beginning. It is my hope that the Congress will vote to ban the importation of items produced in violation of child labor rights.

U.S. CHILDREN IN CRITICAL CONDITION

However, you don't have to go abroad to discover that we need a broader recognition of children's rights. The House of Representatives Select Committee on Children, Youth, and Families, which I chair, was created in 1983 to develop an accurate picture of American children, and to document their needs and their status. Our goal is to develop a comprehensive strategy for assuring that the next generation of Americans comes to maturity as healthy, as well educated, as economically competitive, as mentally and physically developed, and as prepared to succeed as we can deliver them.

Now, after six years of studies, hearings and reports, we must confirm the sad finding that America's children are growing up in crisis—and it is a crisis that will afflict them for decades to come.

The much-heralded economic expansion of the 1980s seems to have left millions of our children behind:

Between 1979 and 1987, childhood poverty increased 24 percent. More than 13 million children are now living in poverty, making children America's poorest age group.

In 1985, more than one quarter of the nation's 1-4 year olds were not fully immunized against rubella, diphtheria, tetanus, and pertussis. Moreover, the percentage of children who received their immunizations in the first two years of life significantly between 1980 and 1985.

Increasing numbers of children and youth are suffering the effects of homelessness and sexual abuse.

The U.S. has the highest infant mortality rate in the industrialized world.

Drop-out rates in some urban high schools exceed 50 percent, pushing the number of drop-outs to over a million young people a year.

Drugs are slaughtering thousands of young people a year, turning many metropolitan areas into open prisons of desperation, crime, poverty, and unemployment, and destroying a generation of young men.

There isn't a single public institution that serves our children and families that is not in a state of full-blown crisis because of the combination of poverty, inadequate health care, drugs, AIDS, violence, and mental illness. And as these crises have been growing, we have contributed to them by slashing housing programs, cutting student loans, reducing federal support for anti-drug programs, and leaving huge gaps in the social welfare safety net.

The United States is one of the richest countries in the world, yet compared to other industrialized countries, we are extremely tight-fisted when it comes to children and families.

Sixty-seven nations—but not the U.S.—provide a monthly or weekly cash benefit to families for every child regardless of income and work status of parents. Single mothers often receive additional assistance.

Many European nations—but not the U.S.—provide maternity grants at the time of childbearing to assist with the cost of supplies and equipment for the new baby.

The United States and South Africa are the only major industrialized nations that do not guarantee some form of job-protected maternity leave and national health care.

Nearly 15 million American women of childbearing age have no private or government health insurance covering maternity. In contrast, 10 European nations have set uniform national standards for perinatal care.

Not only does the U.S. lack the policies of other nations, but those programs that do exist are frequently funded at low levels that serve only a fraction of the eligible women and children. We, as a society, are already paying a terrible price for abandoning our neediest and most at-risk citizens. We are paying a price in crime, in unemployment, in developmentally disabled babies, in premature deaths, in lower productivity among workers, in the billions we spend on prisons, on courts, on intensive care units—on cleaning up for the indifference we have allowed to become national policy.

I have recently introduced legislation that would seek to end this indifference. It would ensure that by the end of the Bush Administration:

Every eligible woman could receive prenatal health care and nutritional assistance;

Every impoverished child would be immunized, would have access to routine health care, and could attend Head Start.

Yet it is far from clear that this legislation will become law.

THE NEED FOR THE CONVENTION AND WHAT IT PROVIDES

I am sure that many of us believe that children have the right to demand adequate housing, health care, nutrition, education, and protection. Sadly, American society has been slow to recognize these rights.

This is why the U.N. Convention on the Rights of the Child is so vitally important. If approved and ratified, it will represent an international consensus on what all nations owe their children and youth. The rights provided by the Convention include:

The right to food, and shelter;

The rights to education and basic health care;

The right to protection from sexual exploitation, family violence, illicit drugs, exploitative labor, and cruel or degrading punishment.

The convention would also provide:

(1) A legal framework for the protection of children and their families;

(2) A monitoring system to hold governments accountable for their treatment of children;

(3) A vehicle for mobilizing advocates and teaching children about peace and human rights.

The one area in which the Convention is lacking concerns the tragic practice of sending child soldiers into combat. Children are being recruited as soldiers in armed conflicts throughout the world. As many as 100,000 thousand child soldiers were killed in the Iran-Iraq war alone. Surprisingly, international law currently sanctions child soldiers as young as 15.

When final touches were being put on the treaty last year, several nations tried to raise the minimum combat age to 18, but the United States objected. Indeed, our government singlehandedly stymied efforts to get children off the world's battlefields. Thirty-five Members of Congress joined me in wrting to the Administration to express our outrage. Sadly, we have seen no evidence of a change in the President's position.

Despite the absence of an increase in the minimum combat age, however, the U.N. Convention deserves our unhesitating support. The treaty will serve as a moral lever for those in the Congress and around the world fighting to increase our government's commitment to children. By setting out a legal framework for protecting children and their families and establishing a monitoring system, we can hold governments throughout the world accountable for improving the lives of children.

Make no mistake about it: industrialized nations that agree to the Convention will not automatically invest in children nor will the Convention provide the essential resources to undeveloped countries. But like the Geneva Conventions, which have effectively set standards for conduct in war, the Convention on the Rights of the Child will set an international standard for the treatment of children.

Our tasks are clear. First, it is essential to ensure that the Convention receives approval by the U.N. General Assembly in November. Once approved, twenty of the U.N.'s member nations must ratify it before it becomes effective. Therefore, we must all strive to ensure first that the Convention is approved, then that it is ratified, and finally that it's contents are widely known. International private sector organizations have been instrumental in guiding the treaty to its current position. Now that we're onto the playing field, grassroots organizations, such as your, need to step up their campaign.

This week, Members of Congress are joining me in urging President Bush to give strong U.S. approval to the treaty. Your help is needed, too, to rally support for the convention. I urge all of you to write the President and your representatives in the Congress to tell them that you support the treaty. Moreover, after the Convention becomes international law, your efforts to ensure that the treaty is widely known will be central to its effectiveness.

SALUTE TO THE ALLIED COUNCIL OF SENIOR CITIZENS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MOODY. Mr. Speaker, I rise today to pay tribute to the Allied Council of Senior Citizens of Wisconsin which will be celebrating its 25th anniversary on October 14, 1989.

I have been privileged to work with the Allied Council on many important issues facing today's senior citizens. I have been impressed with the dedication and enthusiasm they bring to each cause they approach. They have worked on a wide range of issues including affordable health care for the elderly, crime prevention programs, and the cleanup of the Milwaukee River estuary. Their concern reaches beyond their membership to all future generations of senior citizens.

For 25 years the Allied Council of Senior Citizens has represented the unique social and political interests of Wisconsin's senior population. They have insured that their membership has a voice in local, State, and Federal legislation which affects their daily lives. They continue to fight hard to guarantee that senior citizens have the means to live their lives in peace and dignity.

Mr. Speaker, I am privileged to honor the members of the Allied Council of Senior Citizens of Wisconsin on their 25th anniversary. I look forward to continuing working with all of them on the many critical problems facing America's senior citizens.

CONGRATULATIONS ST. MARY'S COLLEGE OF MARYLAND

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DYSON. Mr. Speaker, I rise to congratulate St. Mary's College of Maryland for its outstanding performance in a recent survey of American colleges sponsored by U.S. News & World Report. St. Mary's was ranked first out of 74 regional liberal-arts colleges located in the northern United States. This well-deserved national recognition is a source of pride for me and for all Marylanders.

The college's historical roots reach far back into Maryland's past. Founded in 1840 in St. Mary's City, the State's first capital, St. Mary's is the oldest public college in Maryland. Because it is a State school, St. Mary's stands out from many of the other institutions of higher learning honored in this survey. State funding enables St. Mary's to offer affordable tuition prices, yet the college remains dedicated to scholarship and maintains the environment to foster such dedication. In an age of skyrocketing costs for postsecondary education, St. Mary's commitment to provide low-cost education for its students is indeed special.

The five categories according to which the colleges were ranked were academic reputation, student selectivity, retention patterns, faculty quality, and financial resources. Of the 74 northern colleges, St. Mary's was found to be the most selective about its student population. This selectivity, combined with considerable faculty accessibility, small class size, and an exclusively liberal arts curriculum, are elements of the St. Mary's educational experience worthy of the highest praise.

This kind of distinction has the positive effect of nurturing the excellence it seeks to honor. I have every confidence that St. Mary's College will strive to maintain, if not exceed, the standards commended in the U.S. News & World Report study. St. Mary's' growing reputation will encourage more students to apply for admission and generate increased funding, enhancing further the quality of the college community.

Mr. Speaker, I would like to take this opportunity to pay tribute to the hard work and the dedication to quality of the administrators, faculty, students, and support personnel of St. Mary's College. I would like to thank them for making St. Mary's an example of academic excellence at a time of difficulty for American education. Once again, my congratulations and my heartfelt thanks to everyone.

ESOP's—AN AMERICAN SUCCESS STORY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BALLENGER. Mr. Speaker, I wanted to pass along a message—the Employee Stock Ownership Plan [ESOP] is not broken—so, let's not fix it. In fact, ESOP's are an American success story that benefit our economy and democracy. The following article clearly addresses the focus of current legislation, and I urge you to read it closely.

If you want to take a positive step to help working Americans, support ESOP's and ensure that ESOP laws are utilized properly, then you may be interested in legislation that I introduced.

My bill, H.R. 3364, will aid in the establishment of ESOP's by doing three things: First, require the ESOP to hold at least 20 percent of the corporation's stock before the ESOP lender interest exclusion is available; second, limit the ESOP lender interest exclusion—even if the 20 percent threshold is met—to loan proceeds of $100 million or less, and; third, allow an exception of the $100 million limit for ESOP's which would hold over 50 percent of the corporation's stock. In addition, my bill does not change current law on the deductibility of dividends paid on ESOP stock or affect voting rights requirements.

[From the Journal of Commerce, Oct. 2, 1989]

DON'T MEDDLE WITH ESOPS

(By Louis O. Kelso and Patricia Hetter Kelso)

House Ways and Means Chairman Dan Rostenkowski, D-Ill., wants to take back a tax incentive that encourages loans to employee stock ownership plans, or ESOP's, by exempting half the interest received from income tax.

Senate Finance Committee Chairman Lloyd Bentsen, D-Texas, wants to limit this exclusion to ESOPs that provide employees with at least 30% ownership of the company and grant employees full voting rights.

Both legislators think that banks and other qualified lenders are munching too greedily on this particular tax carrot. Rep. Rostenkowski estimates an $8 billion loss to the U.S. Treasury if Wall Street proceeds with plans to trade tax-sheltered ESOP debt publicly.

Both Rep. Rostenkowski and Sen. Bentsen are friends of ESOP's; they simply want to correct what they regard as an abusive loophole, while engaging in the Procrustean task of cutting the federal budget deficit to fit the Gramm-Rudman Act. Even popular programs like the ESOP must sacrifice a few pounds of flesh to the deficit, they say.

But ESOP tax incentives are in a class apart. They are Congress' sharpest tools for eliminating the chief cause of future budget deficits—welfare payments, open and disguised, to the growing numbers of Americans who are falling behind in their struggle to earn an adequate living.

More than half of all federal and state taxes are levied to support the unemployed and their families. Another 15% to 20% of federal and state taxes are levied to support boondoggles—economic activities artificially contrived to foster full employment.

Successful ESOP companies—and they're the majority—pay more taxes after establishing ESOP's than before. They also hire more people. A spectacular case in point is Tennessee's North American Rayon Co., rescued from extinction by an ESOP just before Christmas 1985. Its payroll has grown from 1,100 to 1,400. The average employee's ESOP account is between $8,600 and $9,000.

ESOPs are thus the answer to Sen. Bentsen's rhetorical question: "Does anybody think we can compete abroad with countries whose cost of capital is half of what ours is?" ESOPs were designed to lower the corporations' capital costs. Loans channeled through ESOPs provide money for expansion, working capital, modernization or other capital expenditures. As the debt is repaid with pretax dollars, an equivalent amount of stock is paid for and simultaneously allocated to employees.

Sen. Bentsen complains that ESOP tax incentives were granted to "benefit employees," not to reduce taxes for banks and

other financial institutions and improve corporate financial statements. But one of the beauties of a properly designed ESOP is that the corporation cannot use it to benefit itself without also benefiting its employees.

Sen. Bentsen also wants Americans to save more. The ESOP is the most efficient savings generator ever devised. ESOP stock is savings that painlessly build up in each employee's account over a working lifetime.

ESOPs work in many other ways to make companies more competitive. Take one of the biggest costs, pensions—now so wastefully and expensively funded because contributions are invested in low-yield secondhand securities of other companies. Cashed in at retirement, ESOP stock can supplement or substitute for conventional pension plans.

As for the congressional charge that ESOP financing has become big business with big profits for Wall Street, it is less than 1% as big as the pension fund business. Why would Congress want ESOPs to remain a cottage industry? As it is, less than 3% of 1988's $750 billion of voluntary capital transactions were ESOP-financed. The other 97% were financed in ways that make the rich richer and do nothing for working people, who as consumers as well as producers make or break our economy.

None of Wall Street's non-ESOP financings are governmentally punished if they fail to build capital ownership into at least 30% of employees—a requirement that would keep employees from obtaining even a small ownership stake in the biggest corporations.

Indeed, non-ESOP financings generate no capital ownership for employees at all, except for the few managers needed to help negotiate with deals. When Rep. Rostenkowski worries about high corporate debt, he is confusing short-term ESOP debt that automatically converts itself into employee-owned equity with long-term non-ESOP debt that reduces the number of stockholders, reduces equity and totally neglects employees.

In "Brave New World Revisited," Aldous Huxley advised: "If you believe in democracy, make arrangements to distribute property as widely as possible."

There is a message in that for Sen. Bentsen and Rep. Rostenkowski and other members of Congress. It is: The ESOP isn't broken. It's working for our economy and for our democracy. So please don't fix it!

TRIBUTE TO KIRKWOOD, MO, ON THE OCCASION OF ITS 125TH ANNIVERSARY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BUECHNER. Mr. Speaker, I rise today in tribute to a city which epitomizes all that we sentimentally ascribe to the image of a hometown. Kirkwood, MO, is a community reminiscent of the art of Norman Rockwell with its strong sense of tradition and community. It is with great pride that I salute my hometown, Kirkwood, MO, on the occasion of its 125th anniversary.

Kirkwood is one of the many midwestern towns that grew up because of the railroads in the late 19th century, and the old train station still stands in the center of town as a monument to the city's origins. Two St. Louis real estate developers, Richard Elliott and Hiram Leffingwell, began the first planned community west of the Mississippi, and in 1865 the group of houses and businesses that sprang up around the train station received their charter of incorporation from the State of Missouri. Against the backdrop of reconstruction, a young Kirkwood began to expand in all directions. Despite its proximity to urban St. Louis, Kirkwood has always maintained its own sense of identity and history, and it has justly earned its title, "Queen of the Suburbs." I know that somewhere, Mr. Elliott and Mr. Leffingwell are proud of the community they envisioned.

The old train station has seen six generations pass, and it has witnessed its children going off to five different wars. Although the station has seen six generations of change, connecting the advent of the telephone with that of the space shuttle, it has also seen six generations of constancy. Senior citizens now watch their grandchildren play baseball or soccer in the same park where they once played. The pews and vestibules of its churches rest the knees and souls of the old families, as well as the newcomers. The oldest high school football rivalry west of the Mississppi, the annual turkey day game between the Kirkwood Pioneers and the Webster Groves Statesmen is now in its fourth generation, with its competitive fire undiminished. And while the trolley on Main Street has been replaced by cars on Argonne, Lindbergh Boulevard will always be called Kirkwood Road between Big Bend and Manchester.

Today, Kirkwood is a modern, medium-sized suburb of more than 30,000 people. It has its share of people of wealth, as well as those on hard times, though the charity of its citizens has traditionally done much to alleviate the latter. Whether it is the Greentree Festival, or year-round, residents enjoy over 300 acres of park land, including the very large city park, with its community center and theater. Kirkwood Library is one of the best muncipal libraries in the Midwest, with over 116,000 books, and Kirkwood High School's journalism program has been called the best in the country. Its parochial and public schools constantly score in the upper percentiles of students tested, and now Kirkwood is home to Meramec Community College, one of the Nation's prototypical 2-year institutions merging students just out of high school with those reentering the job market, and those just interested in learning. The little train station just west of St. Louis has engendered a thriving community with a strong legacy from the past and a sense of purpose for the future.

Mr. Speaker, there is so much I could say about Kirkwood that would be lost upon anyone who has never been there, and still more that would mean nothing to anyone who has never lived in Kirkwood, but I will say this: There are few things nearer to the heart of the American spirit than the hometown with its strong sense of belonging and community. On the occasion of its 125th anniversary, I submit that Kirkwood is exactly that, home in all of its majestic simplicity.

BILL PRESENTMENT AND VETOES

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mrs. MARTIN of Illinois. Mr. Speaker, the Rules Subcommittee on the Legislative Process, on which I serve as the ranking Republican member, recently held a hearing on the subject of the pocket veto and H.R. 849 introduced by the subcommittee chairman, Mr. DERRICK. H.R. 849 would clarify that a President may only pocket veto a bill at the end of a Congress and require the Clerk of the House to notify the Speaker in writing whenever the President does not sign or return a bill within 10 days.

I am still not satisfied that this is a proper area for a legislative solution since the courts will ultimately have to resolve the constitutional issues involved, regardless of what we do. To date, various courts have spoken with mixed voices on the issue of whether the President can pocket a veto between sessions of a Congress or even within the same session when one or both Houses have recessed for more than 3 days.

Nevertheless, this debate raises some related issues which I think should be addressed if we do move on H.R. 849. One is the expeditious presentment of the bills to the President once they have finally passed both Houses. The time now varies widely depending not just on practical considerations, but on political considerations as well. I do not think the timing of presentment should be a matter for political discretion.

It should only be a ministerial function once Congress has acted. The officers involved in processing legislation should act expeditiously to present a bill to the President once the Congress has exercised its political judgment by finally clearing a bill. And most legislation is indeed sent to the President within a week after the Congress has acted.

But there are instances in which bills are held up for much longer periods for other than technical or practical reasons. At the end of the last Congress, for example, two bills which were eventually pocket vetoed, were not presented to the President until over 3 weeks after our October 22 adjournment—well after the November 8 elections.

And in this Congress, the congressional disapproval resolution on the FSX fighter plane was held up for over 6 weeks before it was finally sent to the President, and the minimum wage bill for 2 months.

Mr. Speaker, another related problem is the manner in which vetoed bills are handled once they are returned by the President. Despite the constitutional mandate that the originating House proceed to reconsider a vetoed bill after the President's veto message has been entered on the Journal, a procedural device has been used in recent years to give priority to motions to refer or postpone rather than to proceed to a vote on overriding the veto.

Prior to the use of this device, it was customary for the Speaker to put the

question on reconsideration immediately after the reading of the veto message. In that way, the previous question would precedence over motions to postpone or refer. If the previous question was adopted, the House would proceed to a vote on override; and if defeated, it would then be in order to offer the alternative motions.

To deal with these problems, I am today introducing a bill which incorporates the pocket veto provisions of the Derrick bill, with modification, and adding provisions to ensure the expeditious presentation of bills to the President and permit an expeditious vote on overriding a veto. Under the latter provision, the Speaker would be required to immediately put the question on reconsideration of a vetoed bill, and the previous question motion could only be preempted by a motion to postpone to a day certain of up to 10 legislative days. A motion to refer would still be in order if the previous question was defeated.

In conclusion, Mr. Speaker, I think these additional provisions will provide greater balance to the Derrick bill by not only protecting against Presidential abuse of the pocket veto, but by ensuring that the Congress acts fairly, responsibly and expeditiously both in presenting legislation to the President and in considering a vetoed bill returned by the President.

At this point in the RECORD I include a summary of my bill, and an article from Roll Call on the delays in presentment.

The materials follow:

H.R. 849

SUMMARY OF MARTIN BILL ON BILL PRESENTMENT & VETO PROCEDURES

(To provide rules and procedures for the expeditious printing, enrollment, signing and presentation of legislation to the President, to define what types of adjournments prevent the return of legislation by the President, and to provide procedures for the reconsideration of vetoed measures)

Sec. 1(a). Printing Bills and Joint Resolutions. Sec 106 of Title I of the U.S. Code is amended in the third sentence by requiring that bills and joint resolutions passed by both Houses be printed *"immediately;"* that they be signed by the presiding officers of both Houses *"promptly;"* and that they be submitted to the President *"forthwith."*

Sec. 1(b). Adjournment Preventing return of a bill. A new sec. 115 is added to Title I of the U.S. Code prohibiting the pocket veto of a bill unless the last scheduled session, and any subsequent special session, of a Congress, has adjourned sine die.

Sec. 2. Clerical Amendment. The table of sections is amended to reflect the addition of new sec. 115 to Title I of the Code.

Sec. 3(a). Speaker's Responsibility in Signing Bills. House Rule I, clause 4, is amended to require the Speaker to *"promptly"* sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas, and to *"promptly"* sign all enrolled bills, whether or not the House is in session.

Sec. 3(b). Speaker's Duty on Vetoed Measures. House Rule I, clause 5 is amended by adding a new paragraph requiring the Speaker to immediately state the question on reconsideration of a vetoed measure after the veto message is read, without intervening motion or business. A demand for the previous question may only be preempted by a motion to postpone the vote on reconsideration of the vetoed measure for up to ten legislative days.

Sec. 3(c). Duty of Clerk in Certifying Passage of Measures. House Rule II, clause 3, is amended to require the Clerk to "promptly" certify the passage of all bills and joint resolutions.

Sec. 3(d). Duty of Clerk Regarding Unreturned Measures. House Rule III, clause 5 is amended to require the Clerk to notify the Speaker in writing of any bill not returned by the President when 10 days have elapsed since it was presented to him.

Sec. 3(e). Duties of House Administration Committee. House Rule X, clause 4(d)(1) is amended to require the House Administration Committee to take all necessary steps to ensure that enrolled measures are *promptly* presented to and signed by the presiding officers of both Houses, and of presenting any such House originated measure to the President *forthwith.*

Sec. 4. Amendments to the Rules of the Senate. This section is preserved for the Senate to provide comparable rules if it wishes.

Sec. 5. Effective Date. The provisions of the Act would take effect upon enactment.

[From Roll Call, Aug. 7-13, 1989]

WHY DID IT TAKE SIX WEEKS TO GET THE FSX BILL FROM ONE END OF PENNSYLVANIA AVENUE TO THE OTHER? MICHEL IMPLIES DEMOCRATS DELAYED ARCANE ENROLLING PROCESS TO PUT OFF VETO BY BUSH

(By Carin Dessauer)

House Minority Leader Bob Michel (R-Ill) recently demanded to know why a joint resolution that passed the Senate on May 16 and the House on June 7 did not get to President Bush's desk until July 19.

Michel's letter to House Speaker Tom Foley (D-Wash) and Senate Majority Leader George Mitchell (D-Maine) on Senate Joint Resolution 113, which expressed Congressional disapproval of the White House agreement with the Japanese on developing the FSX fighter, points up a little-known quirk of government procedure.

The quirk is that the Constitution makes no mention of how long Congress can take to send a bill that it's passed on to the President.

With the FSX resolution, the delay in sending the legislation to the White House meant a delay in the President's vetoing it.

When Michel wrote his letter, the resolution still had not been sent up Pennsylvania Avenue—six weeks after it had been passed by both Houses. When it did reach the White House shortly after the letter was sent, Bush, as expected, vetoed it.

By tradition, after legislation passes both Houses, it is "enrolled" on artificial parchment, heavy sheets of paper held together with a brass pronged clip. It is then signed by the leaders of both Houses and sent to the White House.

The process should only take a few days, or, at most, two weeks.

But in the case of the FSX resolution, which would have put restrictions on a Japanese-US agreement to co-produce the fighter, the delay seemed to have political reasons behind it.

Michel wrote in his letter to the Democratic leaders: "Some have speculated that this Resolution is being held in the Senate in anticipation of passage of a defense authorization bill, to which the FSX resolution could be attached, thus forcing the President to veto the entire defense authorization in order to accommodate his desire to veto the FSX disapproval."

Michel added: "I hope that the signing of this legislation is not being delayed to achieve some partisan advantage. Once the Congress has acted, it would seem to me that the procedures for sending legislation to the President are purely ministerial in nature and should not be used to serve ulterior motives. There has been enough abuse of procedure. . . ."

While the Constitution specifies that a president has ten days to consider whether to sign legislation, it places no time constraints on Congress. Nowhere in the Constitution or in Congressional rules is there regulation of the procedure by which legislation goes from the Capitol to the White House.

Staffers in the offices of the Parliamentarians and the Clerks say that the flow is normally smooth and that few delays occur. "As soon as the legislation is enrolled and signed, it can be sent," one staffer said. But the same staffer admitted that from time to time, legislation is delayed for political purposes.

Another bill that was delayed on its way to the White House this year was minimum wage legislation. It passed the House on March 23 and the Senate on April 12, but did not arrive at the White House until June 13. The President, as expected, vetoed the bill—the same day he received it.

Rep. Terry Bruce (D-Ill), a primary sponsor of the FSX legislation, denies that dilatory tactics were used on the fighter resolution.

And Speaker Tom Foley (D-Wash) told Roll Call that the reason for not sending the FSX legislation to the White House sooner was that the President was out of the country.

A staffer with the Secretary of the Senate told Roll Call that his office was told by the Senate leadership to hold onto the legislation after it was passed. "We were not given any reason to hold it," said the staffer, who did admit that over the years legislation has been held for political purposes.

NATIONAL BOXING GOODWILL AMBASSADOR

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. JACOBS. Mr. Speaker, when it comes to security, there probably isn't a safer building in the world than the Longworth Building. That's because of our champion prize fighting friend Jim Balukevich.

What follows is a brief description of just why Mr. Balukevich is such a distinguished citizen of our country.

NATIONAL BOXING GOODWILL AMBASSADOR

The one individual that unofficial title brings to many minds (and who has, incontestably, earned such honorable recognition) is Jim Balukevich . . . long time member of the Washington, D.C. Boxing

Commission, and founder of the D.C. Boxing Hall of Fame.

This transplanted New Englander was born at Nashua, New Hampshire, where he eventually captained its 1933-34 H.S. basketball team; winning a college basketball scholarship as a result thereof. He turned it down to join the U.S. Army, and it was while stationed at Schofield Barracks, Oahu, Hawaii, that he went out for the boxing team . . . and wound up winning a bronze medal in the Hawaiian Division Boxing Tournament, in 1938.

An interesting sidelight of his Hawaii duty was his election to the social-political post as the wartime "Cock-Eyed Mayor" of the island town of Kaunakakai (pronounced cow-na-cock-eye), succeeding Hollywood's Warner Baxter. Ironically, Jim was subsequently made "Mayor for a Day" of his old hometown, Nashua (while on furlough from Camp Davis, N.C., in 1940), and received a replica of the key to the same city from Mayor James Donchess during a return visit last year.

Alaska duty followed, from which he was shipped to Corregidor (in the Philippines). It was Jim's outfit that liberated Saipan on June 15, 1944, which explains retired Ben Blaz (now a Congressman) referring to Balukevich as "The Liberator of the Islands" (Marianas, Guam, Saipan and Tinian), and Jim was again made a Mayor . . . this time of Garapan (Saipan's biggest city). The title "Mayor" suits this gentleman, really, as his present employment in D.C. keeps him in constant touch with politicians of all persuasions on Capitol Hill, and he attends scores of congressional affairs and parties. It is, therefore, genuinely fitting that he is also often referred to as "The National Veteran Boxers Association's Man in Washington."

Jim is a George Washington University graduate and remains active in its psychology chapter, as well as being a member of the National Honor Society in Psychology. Representative Fred Grandy (formerly of "Love Boat") recently added to Jim's academic credentials by presentation of an honorary degree from the University of Okoboji, a college of physical education in Iowa; also adding a spoof of Ph.D. in "Uplifting Behavior." At this point, it does well to point out that this goodwill ambassador—for all seasons—has been the deserving recipient of many, many awards and citations for boxing-related as well as community endeavors, and was inducted into the D.C. Boxing Hall of Fame, in 1987.

His travels throughout the country attending V.B.A. functions and promoting the welfare of the veteran boxer also compliments his memberships in the American Association for the Improvement of Boxing (A.A.I.B.) and the West Coast's Cauliflower Alley Club (Mike Mazurki, President). He is in constant demand as a "Presenter" and speaker at boxing, wrestling and other sports events, and constantly criss-crosses the U.S. voicing his welcome opinions on legislation re boxing bills to strengthen the sport. He advocates the establishment of a National Federal Boxing Commission, and Congressman Bill Richardson has recommended that he serve as commissioner when it someday becomes a reality. He has seen many fighters come and go but still ranks Joe Louis as "the best boxing champ I ever met . . . and I doubt there will ever be gentlemen like Joe in boxing again."

This 74-year old former boxer is also a member of the "Honorable Order of Kentucky Colonels," an Honorary Lieutenant Colonel Aide-de-Camp in the Alabama State Militia, an Admiral of the Georgia Navy, a member of No. Carolina's "The Order of the Long Leaf Pine," a designated Ambassador of Good Will of the Cherokee Nation, a Deputy Marshal of Dodge City, a graduate of the U.S. Army Language School at the Presidio of Monterey, California (Russian), and a sport historian and artist on Capitol Hill. And somehow, he's also managed the time to contest and win the Senior Olympics Middleweight Boxing Championship (65-69 age group) in 1980, 1982 and 1984 (held at the Bob Hope U.S.O. Center, Hollywood, California, and the National Skip-rope Championships in 1981, 1982, and 1984 . . . proof positive that "A boxer may retire from the ring, but he never retires his love of the sport."

On November 10, 1989, Jim Balukevich's many laurels and accolades will be enhanced by his induction, it was read into the Congressional Record that "he is the kind of person that personifies the very best that the manly sport of boxing embodies." Anyone knowing this gentleman will readily re-echo those of this extra fine human being are at the helm.

The boxing world offers its congratulations, and I'm honored having his friendship.

SUMMIT HERALD'S 100TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. RINALDO. Mr. Speaker, I wish to call the attention of the Members of this House to the 100th anniversary of the Summit Herald, one of the oldest weekly newspapers published in New Jersey.

Founded in October 1889, by David M. Smythe, the Summit Herald has grown in circulation and reputation as a local newspaper dedicated to covering the wide variety of activities that take place in the city of Summit and the surrounding area. It has chronicled the growth of Summit and its suburban neighbors with accuracy and a sense of community responsibility.

Since David Smythe founded the newspaper in a building at Morris and Springfield Avenues, Summit, it has been operated by several outstanding editors. They include Edward Winthrop Gray and John W. Clift; Clift's son, Fred, sold the newspaper to Norman S. Garis, Fred L. Palmer, and J. Edwin Carter, and in 1946, Carl S. Hulett and Eve Forbes bought the Herald. After Mr. Hulett's retirement in 1967, Mrs. Forbes and Norman E. Rauscher were responsible for the operations of the Herald. It was later sold to the late Helen Vance Levenson, who moved the Herald to 80 South Street, New Providence, where it now operates under the ownership of Ingersoll Publications. The present editor is Yvonne Stecher.

Since its founding a century ago, the Herald has seen Summit grow from a small township of slightly more than 2,500, to a suburban city of 22,000. The Herald has chronicled Summit's change from a farm area to a residential town.

During the last 100 years the Herald has been in the forefront of positive and momentous change in all areas of life. The Herald was a leader in updating local news coverage and has won several national and State Press Association awards over the years. It initiated the Summit Herald Camp Fund in 1949 and the Summit Christmas Fund in the early 1950's for needy local families.

I join the residents and business people of the Summit area in paying tribute to one of the city's most indispensable traditions, a newspaper devoted to the free exchange of ideas and a positive force in the communities it serves.

BAN ON IMPORTED AND DOMESTIC ASSAULT WEAPONS OPPOSED

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. HUBBARD. Mr. Speaker, recently I cosponsored legislation which would ban the importation and domestic manufacture of certain semiautomatic assault weapons.

Since cosponsoring H.R. 1190 on September 18, I have received nearly 1,500 telephone calls and letters in my Washington and western Kentucky district offices from constituents expressing their views about the legislation. Of these constituents, approximately 900 oppose the legislation and my cosponsoring H.R. 1190.

While I remain a cosponsor of and committed to H.R. 1190, I believe it only fair to convey to my colleagues the views of my constituents opposed to the proposal as I did last week for those constituents of mine who support the legislation.

As such, I would like to share with my colleagues a letter I recently received from 10 of my constituents, only 2 of whom are members of the National Rifle Association, who state in no uncertain terms their opposition to H.R. 1190.

The letter from my 10 constituents follows:

SEPTEMBER 19, 1989.

HON. CARROLL HUBBARD,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN HUBBARD: We are very disappointed in your recent decision to support H.R. 1190 by co-sponsoring that anti-Constitutional legislation. It is our understanding that your decision was reached as a result of your recent mail poll and the tragedies of Louisville and Stockton. We have talked to several people who think that H.R. 1190 strictly pertains to true assault weapons, i.e., select fire or fully automatic weapons. It is a virtual certainty that the outcome of this poll would have been different if the facts were known to the average participant of your poll. We offer as reference a call-in poll conducted by WTVF [Channel 5] in Nashville, Tenn. on September 15, 1989. The result of that poll were 58% opposed to banning semiautomatic weapons. No doubt that several western Kentuckians participated in that poll.

While the killings in Louisville and Stockton were tragic, it is not the basis for trying to legislate away the Second Amendment rights provided for the law abiding citizens of this country to keep and bear arms. This

right was certainly not intended by our forefathers to be limited to hunting arms, but arms necessary to maintain a free country from any potential dictatorial government. This includes the arms of the day, which certainly includes semi-automatic firearms.

As bad as the aforementioned shootings were, anyone proficient with firearms knows that both incidents could have had a much higher death toll if the shooters were using plain ordinary shotguns which are more lethal at close range than any rifle, semi-automatic or otherwise. To ban semi-automatic firearms will not only violate the Constitutional rights of the people, but could educate the lunatics of the country about an even more deadly weapon.

Also, if you are so concerned about senseless killing, why not address a real killer, which is alcohol. The bus crash in northern Kentucky killed more innocent people than any shooting spree. Last Saturday night on I-24 in your own western Kentucky area a reportedly drunk driver going the wrong way on the interstate killed two people and injured four more. One of the innocent victims was a sixteen year old girl. Certainly these alcohol related killings are more common than some maniac on a shooting spree, yet you are not banning alcohol. Where is your indignation concerning that menace? We certainly view a drunk driver as more of a death threat to us than someone on a shooting spree.

In summary, we would like to say that you have disappointed many western Kentuckians. We request that you honor your campaign platform to oppose gun control. If you cannot do that we will cast our support to a candidate at the next election who can. You have been a long time friend of the gun owner. Please show us you still are and withdraw your support from H.R. 1190.

Sincerely,

Gary Haddock, Hopkinsville; Grant McKibben, Jr., Hopkinsville; Robert Dunnagan, Cadiz; Lindsey Champion, Cadiz; Sherry M. Grace, Crofton; Sue A. Jones, Hopkinsville; Daniel S. Heltsley, Hopkinsville; John W. Berry, Pembroke; Michael Berry, Pembroke; Joe Shelton, Pembroke.

Please note that of the above signed only two are NRA members, so opposition to your bill is not limited to the NRA.

AN ENVIRONMENTAL "NOBEL PRIZE"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MILLER of California. Mr. Speaker, all Members of the House of Representatives should join in saluting Richard and Rhoda Goldman of San Francisco who have established the Goldman Environmental Prize to honor grassroots environmentalists around the world.

The Goldmans have been avid environmentalists throughout their lives and have made truly significant contributions to preserve and protect our natural resources. The Goldman Environmental Prize is a magnificent addition to the Goldmans' life-long support of environmental activists and causes.

The Goldman Environmental Prize will be very much like the MacArthur fellowships. Annually, $360,000 will be divided among six "ecological warriors", one from each inhabited continent. This is by far the largest cash prize for environmental activists in the world. The first winners will be announced next spring—during the celebrations for Earth Day.

Honoring grassroots activists around the world is a brilliant idea. The work of these people is absolutely crucial if our environment—our global environment—is to be preserved for future generations. This work finally will be recognized in a fitting and appropriate way. Equally important, the award should encourage others to get involved in environmental issues—and follow the footsteps of the Goldman Prize winners.

I am pleased that the Goldman award is an international one. The threats to our environment are global—the greenhouse effect, the destruction of our rain forests, the pollution of the oceans and waterways, the proliferation of hazardous wastes, the extinction of wildlife—and the response to these and other threats must also be global. The Goldman award underscores the importance of international cooperation. It will link environmental activists together throughout the world. This will become a powerful force to preserve our planet.

Mr. Speaker, the Goldmans deserve our thanks and our congratulations.

TRIBUTE TO THEATRE X

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MOODY. Mr. Speaker, I am privileged to honor Wisconsin's premier experimental theater group, Theatre X, on the occasion of the 20th anniversary of its founding.

For 20 years Theatre X has challenged theater patrons around the world with its unique style of original theater. The Theatre X troupe has performed to critical acclaim throughout much of Europe, and maintains an annual residency at the Mickery Theater in Amsterdam. On the national level, Theatre X has toured extensively and maintained residencies with highly esteemed theater groups such as Seattle's New City Theater and San Francisco's Life of the Water. Theatre X is one of Wisconsin's finest contributions to the vitality and quality of the arts. We are pleased and proud to have Theatre X represent Milwaukee's cultural community through its work.

Founded in 1969 by Conrad and Linda Bishop, John Schneider, Flora Coker, John Kishline, and Deborah Clifton, Theatre X has the distinction of being one of the longest-surviving experimental theater groups in our country. Its longevity is due, in part, to the excellence of its original works and to the dedication and skill of its members. Theatre X has become, in the words of the National Endowment for the Arts, "a piece of living history."

Theatre X has been dedicated, from its inception, to exploring the cogent social and personal issues of contemporary life. The "X" of Theatre X represents the unknown factor—like an algebraic expression, Theatre X can change in relationship to the world around them. This flexibility and insistence on exploring the meaning of contemporary life results in a unique and challenging style of theater. By challenging our world, Theatre X helps us to come to a better understanding of the forces that shape the world we live in.

The work of Theatre X has not gone unnoticed. "A History of Sexuality," written by Theatre X members John Schneider, John Kishline and Milwaukee writer Julia Romanski, was nominated in 1988 for Outstanding Achievement on the American Stage. "I Can't Stop Loving You," written by Theatre X Members John Kishline and Wesley Savage, was nominated for 1 of the 10 best new plays of 1988 by the American Association of Drama Critics. John Schneider was the 1988 recipient of one of eight National Endowment for the Arts grants given "to encourage the development of professional playwrights of exceptional talent." Theatre X deserves these awards, and merits more.

Mr. Speaker, I am proud to honor Theatre X on its 20th anniversary, and wish them well for continued success.

OUTSTANDING EMPLOYEES OF SHORE UP! INC.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DYSON. Mr. Speaker, I rise today to congratulate and pay special recognition to some of the dedicated and truly outstanding employees of Shore Up! Inc. Shirley Ballard, Elaine Dixon, Yvonne Henry, Edna Jackson, Eva Johnson, Freddy L. Mitchell, Elsie Waters, Lena Wilson, and Alice Young will be honored on October 20, 1989, at a special staff recognition dinner in Delmar, DE. I salute these very special friends who have served the people of Maryland's Eastern Shore for 20 years or more as employees of Shore Up! Inc.

Located in Salisbury, MD, Shore Up! Inc. began as the Worcester County Community Action Committee and its members were originally appointed by the Worcester County Commissioners. The committee was formed to implement antipoverty projects and community action as mandated by the Economic Opportunity Act, which was signed into Federal law on August 20, 1964. Today Shore Up! Inc. operates in the three Lower Eastern Shore counties of Somerset, Wicomico and Worcester, and in the Mid-Shore counties of Kent, Queen Anne's, and Talbot. The growth and success of Shore Up! Inc. has had a positive impact on the lives of countless individuals and families.

Mr. Speaker, I wish to take a moment to tell my colleagues a little bit about some of the people who have contributed to the success of Shore Up! Inc. Through their individual and their collective efforts, these individuals have made Maryland a better place to live.

Shirley Ballard joined Shore Up! Inc. in 1967 as a teacher at the Pocomoke Head Start Center. She was promoted to center coordinator at the Snow Hill Center in 1989. Shirley is a graduate of Worcester High School and in 1983 she graduated from Cortez Peter's Business School. She received her CDA in 1965

from the Banks Street College in Washington, DC, and she attended Chesapeake College where she earned her certification in Early Childhood Development in 1987. Shirley is presently attending classes at the University of Maryland-Eastern Shore where she is working toward her BA in Early Childhood Development. Married to Francis H. Ballard, Shirley has three children: Beverly, Dwayne, and Michael Ballard.

Elaine Dixon joined Shore Up! Inc. 20 years ago as a cafeteria aide at the Snow Hill Head Start Center. She has since been promoted to head cook at the Salisbury Commissary. A graduate of Worcester High School, Elaine is married to Teamer Dixon and they have one daughter, Judy Faye Dixon.

Yvonne Henry has been with Shore Up! Inc. for 21 years. She started as a teacher aide at the Berlin Head Start Center in 1968 and was promoted to aide assistant in 1984. Yvonne graduated from Jason High School in Georgetown, DE, and she attended classes in Early Childhood Development at Salisbury State University in 1978, 1979, and 1980. Yvonne, who is currently enrolled in CDA classes, has three children: Carolyn, Janet, and Kevin Henry.

Edna Jackson has 23 years of experience at Shore Up! Inc. She began her career as a research aid and was promoted to director of Social Services for Head Start. From 1975 until 1981, she served as the social service and parent involvement coordinator. In 1981, Edna assumed the position of Head Start Project Director. A graduate of Worcester High School, Edna received her BA in sociology from the University of Maryland-Eastern Shore in 1976. She has also attended various courses at Salisbury State University. In 1985, Edna completed the Head Start Master Executive Training at Texas Tech University. Married to the late Raymond "Ray" Jackson, Edna has six children: Mary Purnell, Raynetta, Lena, Bruce, Ivan, and Keith Jackson.

Eva Johnson joined Shore Up! Inc. in 1967 as a teacher aide at the Snow Hill Head Start Center. She was promoted to teacher at the Snow Hill Center in 1972, and she is presently located at the Salisbury Head Start Program. A graduate of Worcester High School, she also attended Woodbridge School for Secretaries from 1971 to 1972. Eva received her CDA from Banks Street College in Washington, DC in 1980, and AA certificate was awarded by Chesapeake College in 1986. Currently enrolled at Salisbury State University, Eva is working toward here AA degree in early childhood. She has two children, Veronica Collick and Michael Johnson.

Freddy L. Mitchell has spent 20 years at Shore Up! joining in 1969 as the project director for Head Start. Freddy has served as the executive director of Shore Up! Inc. since 1974. A graduate of W.S. Creecy High School in North Carolina, he received his BS from Elizabeth City State University in 1968. Freddy attended the University of Maryland-College Park and he received his master of education in 1973 from Salisbury State University. Freddy and his wife, Judylynn, have two children, Courtni Lee-Lynn and Frederick Lee R. Mitchell.

Elsie Waters began her career with Shore Up!, Inc. as a teacher aide at the Pocomoke Head Start Center in 1967. In 1968, Elsie received here DCA in Early Childhood Development from Chesapeake College. In 1975, she received a promotion to teacher at the Stockton Head Start Center. Elsie graduated from Worcester High School and she received here DCA in 1981 from Banks Street College in Washington, DC. She is presently attending Chesapeake College, Wor-Wic Tech and Salisbury State University, working toward her AA degree. Elsie is married to Gentry H. Waters, Jr.

Lena Wilson joined Shore Up!, Inc. in 1969 as a program organizer. She held the position of social worker for the Head Start Program from 1970 until 1972. Lena has been with the MAC Program since 1972, and she is presently a site manager. A graduate of Salisbury High School, Lena also attended Salisbury State University. Lena has three children: Marva Greene, Selina Dashiell, and Fulton W. James, Jr.

Alice Young has been with Shore Up!, Inc. for 22 years. Starting as a social worker at the Berlin Head Start Center and a teacher aide in the Snow Hill Center, she was promoted in 1978 to teacher at the Berlin Head Start Center. Alice graduated from Worcester High School, received her DCA in 1981 from Banks Street College in Washington, DC, and received her certificate in Early Childhood Development from Chesapeake College in 1987. She has also taken numerous courses at the University of Maryland-Eastern Shore and at Salisbury State University. She is presently attending Wor-Wic Tech. Alice is married to Clarence Young and they have four children: Hamilton, Clarence, Jr., Margaret, and Michelle Young.

Mr. Speaker, I join with Shore Up!, Inc., and the families and friends who will gather on October 20 to recognize the contributions of these individuals who have given so much to make a difference in the lives of others.

The first 25 years were full of success for Shore Up!, Inc. and for the people that it serves. Through the dedicated efforts of its employees, Shore Up!, Inc. will continue to serve local communities by "Helping Others To Help Themselves."

THANKING THE FEDERAL EMERGENCY MANAGEMENT AGENCY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BALLENGER. Mr. Speaker, on Friday, September 22, after causing widespread destruction in South Carolina, Hurricane Hugo entered North Carolina and passed through my congressional district. The hurricane force winds caused hundreds of thousands of people to be without power, and caused millions of dollars of damage to homes and businesses. By October 3, every county in my district had been declared a Federal disaster area, making us eligible for disaster assistance from the Federal Emergency Management Agency [FEMA].

This past weekend, I visited the FEMA Disaster Assistance Center in Hickory. While there, I was handed a letter from one of my constituents whose house was destroyed when it was struck by six trees. I was moved by the letter because she expresses so much confidence and gratitude for the efforts of the Federal Government. I would like to quote her letter, "You can go 40 years—maybe longer—thinking what government is all about is taxes and rules, and appreciating neither. Then suddenly disaster strikes * * * And it dawns on you, the system—at least this part of it—is set up to care. You feel held, nurtured * * * It makes you want to cry."

Far too many times the system that we are so proud to serve is harshly criticized. Most recently, FEMA has been subject to this criticism in the handling of its hurricane relief efforts in the Carolinas, the Virgin Islands, and Puerto Rico. I realize there are problems in the process; however, the efforts I witnessed this weekend impressed me. I wanted to share these words of praise from my constituent and also thank the people working in the Disaster Assistance Center offices across the Carolinas, the Virgin Islands, and Puerto Rico.

A TRIBUTE TO DR. WALLACE E. JONES

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BUECHNER. Mr. Speaker, I rise today in tribute to a man who has devoted himself and his life to the service of God and his fellow man. On November 5, 1989, Dr. Wallace E. Jones will be celebrating his 30th anniversary as pastor of Fee Fee Baptist Church; this is a major milestone in a long and distinguished career. Dr. Jones' dedication to his faith and his brethren should be an inspiration to us all.

The term pastor is taken from the latin word for shepherd, and I can think of no better word to describe Dr. Jones' vocation: to guide and care for his own small flock, leading as a patient father in a congregational family.

I would certainly be remiss if I did not mention Dr. Jones' distinguished record of service within the Baptist Church, for his accomplishments are far too many to list here. Most notably, though, Dr. Jones has been president of the St. Louis Baptist Pastor's Conference, president of the Missouri Baptist Convention, chairman of the nominating committee for the St. Louis Baptist Mission Board, a member of the constitution committee for the Missouri Baptist Church, and a featured speaker at numerous Missouri Baptist events. Yet for all these and dozens of other positions and honors, Dr. Jones' career has always centered around Fee Fee Baptist Church, and its community of worshippers who have found God through this church and its leader.

Fee Fee Baptist Church is the oldest Baptist church west of the Mississippi River. Its outstanding record of charity and missionary support are unparalleled, an apt reflection of the pastor's commitment. Most importantly, however, the integrity of the church community, the closeness and family spirit of the congregation are unquestionable, and these are the

greatest tribute to Dr. Jones. They are an example from which all churches and all people can learn.

Mr. Speaker, in an age where greed and hedonism make the headlines every day, we should all be greatful for men such as Dr. Jones who devote their lives to the spiritual well-being of those around them. Therefore, I ask this assemby to join me in honoring this man for this 30-year commitment to his congregation, to his faith, and to his God.

DRUGS AND WHITE AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DORNAN of California. Mr. Speaker, the drug war is intensifying and that is good. But in fighting the war we must be careful to attack all sources of the problem. According to David Gergen in the September 18 U.S. News and World Report, some white liberals are arguing that this epidemic is merely a black problem. But as Mr. Gergen makes clear, the drug plague crosses boundaries of color, creed, income, and education. This country's drug epidemic affects all segments of society, not just the predominantely black inner-cities.

Mr. Gergen's article makes some very good points about this issue. Therefore, I would like to submit the article to the CONGRESSIONAL RECORD so that my colleagues, especially my liberal colleagues, may glean some wisdom from Mr. Gergen's comments.

DRUGS AND WHITE AMERICA

(By David R. Gergen)

Just below the surface of the drug debate, a dangerous notion is taking hold. Some white liberals are beginning to argue that the nation's drug epidemic is essentially a black problem. Lay off whites smoking dope out in the suburbs or on campuses, they say, and concentrate the government's firepower on the devastation in America's urban ghettos.

It is easy to understand the sentiment. Especially since the introduction of crack in the mid-1980s, drugs have ripped apart the country's inner cities. Blacks now make up 12 percent of the nation's population, but according to the most recent statistics of the National Institute on Drug Abuse, they account for 50 percent of hospital patients given emergency treatment for heroin, 55 percent of those treated for cocaine, 60 percent of those treated for PCP. As homicide rates reach startling levels, television pictures show a steady stream of black assailants—and victims. One out of every 2 men sent to prison in America today is black. While President Bush has made an admirable start against drugs, the nation must commit far more of its resources and energies to the inner cities before it can end this catastrophe.

But it is reckless to assume that we can therefore forget about drugs in mostly white suburbs and schools. White America cannot go AWOL in this war. While drug use appears to be declining within the middle class, it is still estimated that 76 percent of those who use illegal drugs are white. Half of the country's students experiment with an illicit drug before they leave high school, and most of them are white. Casual use of drugs by affluent whites is also pumping most of the profits into pockets of drug lords, helping them prey upon inner cities. Poor blacks simply do not have $110 billion a year to keep the drug factories operating.

Figuring out answers for the inner cities may be difficult, but it is not hard to see what works among middle-class whites. Jail works. David Crosby of the band Crosby, Stills & Nash says that a year in the Texas pen finally cured him of addiction after six trips to the hospital had failed. Suspension from school, along with counseling, also works. William Bennett's drug-strategy report last week pointed out that since adopting such policies, public schools in Anne Arundel County, Md., have experienced an 80 percent decline in drug offenses.

There is one other weapon even more promising if only more American businesses had the guts to use it: Drug testing. The U.S. military has scored dramatic results through random urine tests, reducing drug use by 82 percent since 1981. A turning point for the Navy came after an A-6 pilot crashed on the flight deck of the carrier U.S.S. *Nimitz*, killing 14. Autopsies found that six members of the deck crew had marijuana in their bodies. The Navy quickly began random tests of everyone in uniform, and since then marijuana use among young enlisted men has been cut from 47 percent to 5 percent. Retired Adm. Paul J. Mulloy, who administered the program, says that its secret was not punishment—the Navy went light on discharges—but the fear of getting caught.

IBM, AT&T and 3M are among the private companies that have successfully begun testing job applicants and, where suspicions arise, some of their employes. Their programs are both sensitive and sensible about their workers. But such efforts are also the exception because fewer than half of the Fortune 500 companies have initiated testing programs, scared off by costs and labor opposition. If the nation is to be serious about stamping out drugs, business should do its part by adopting testing programs. With 117 million Americans now in the work force, testing represents one of the fastest and most effective ways to discourage drug abuse.

Other weapons can be found that also will work. The key is to ensure that the war is fought on all fronts and by all hands. It must unite us, not divide us. Some blacks suspect that whites are allowing drugs to spread through black neighborhoods as a form of genocide. Clearly, white Americans must provide all the resources necessary to help blacks regain control over their lives. But white Americans cannot blame drugs on blacks and refuse to see that they themselves have a drug problem, too.

TRIBUTE TO OFFICER GABRIEL VITALE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. SCHEUER. Mr. Speaker, it is with great pride and respect that I rise today in tribute to Officer Gabriel Vitale. Officer Vitale was a courageous man who served his community with distinction as a patrolman with the New York City Police Department until his untimely death in December 1980 from a wound he sustained while on patrol one evening with his partner and good friend of many years, Officer James Smith.

Officer Vitale was assigned to the 109th Flushing Precinct of the New York City Police Department where he served for 2 years. Prior to his dedicated service in Flushing, Officer Vitale served for 6 years at the 103d Police Precinct in Jamaica, as well as the 28th Precinct in Harlem. Most importantly, he was awarded a commendation for bravery in the line of duty.

The son of Jim and Christine Vitale grew up in the close-knit community of College Point, Queens, where he attended St. Fidelis Church and Flushing High School along with his sister, Mary Ann, and his brother, Jim. Officer Vitale was also employed by the General Foods Corp. and later by Vitality Milk Farms. Prior to joining New York's Finest, Gabriel Vitale spent 2 years overseas in devoted service to his country.

Mr. Speaker, in addition to his meritorious service to his profession, wearing the uniform he loved, Officer Vitale devoted countless hours of his spare time to the youth of his community, especially the disadvantaged teenagers, whom he believed would grow up to lead successul lives if only afforded the caring attention and guidance they so desperately needed. Officer Gabriel Vitale provided that essential guidance to these youngsters.

Furthermore, Gabriel Vitale an avid sportsman, was both a baseball umpire and a basketball referee for the local Catholic Youth Youth Organization. On June 17, 1989, approximately 9 years after his death, the residents of the Bay Country-Bell Owners Cooperatives Corp. of Bayside gathered along with the Vitale family and his fellow officers to dedicate a park and children's playground in honor of Officer Gabriel Vitale to the children of his community whom he gave so much and received so much in return.

As well as having the strengths of his career, and the admiration of his fellow officers, Gabriel Vitale is survived by a loving family; namely, his parents, Jim and Christine Vitale; his sister, Mary Ann Meyer; his brother, James, Jr., his sister-in-law, Gertrude; and his four lovely children Ninette, Cynthia, Gabriel, Jr., and Mark. The Vitale family anxiously awaits the birth of their first grandchild, due to arrive around the holidays this coming December.

Mr. Speaker, I appreciate this opportunity to honor the memory of Officer Gabriel Vitale, a truly heroic man who dedicated his entire life to helping others, and whose selfless devotion and support of the youth of the Queens community shall never be forgotten.

TRIBUTE TO MISS DOROTHY L. DORMAN

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mrs. BENTLEY. Mr. Speaker, it gives me great pleasure to offer my heartiest congratu-

lations to Miss Dorothy L. Dorman, principal of Padonia Elementary School in my district, upon being selected as a 1989-1990 National Distinguished Principal from Maryland by the Maryland Association of Elementary School Administrators [MAESA].

The award is part of an annual, nationwide effort to promote educational excellence in elementary and middle schools as well as to bring attention to the fundamental importance of the school principal. Dorothy was chosen for this distinguished prize by a committee of peers from across the State who recognized her outstanding dedication and her 25 years of service to the education profession.

Indeed—with qualifications such as hers—it's difficult to imagine anyone who deserved this award more than she did.

A graduate of Goucher College and the teachers college of Columbia University, Dorothy has remained a staunch advocate of public education throughout her years of service. During her 8 years as a principal—first at Middleborough Elementary School and now at Padonia, where she has been for 2 years—her creativity and innovative leadership drew praise from children, parents, fellow administrators, and teachers alike.

The qualities that has truly made her a great educator, however, has been her intense love of children, her warmth, and her keen sense of humor. She prides herself on her ability to reach out to her young people—whether it be through developing a self-worth through praise program or by offering lessons to non-English speaking students.

Indeed qualities such as these cannot be simply learned from a book but must come from a feeling which rests in one's heart. Dorothy Dorman has this feeling—and for that the children of her elementary school have been truly blessed.

Mr. Speaker, on October 17, 1989, Dorothy will journey to Washington to join other distinguished principals from 49 States at a ceremony sponsored by the National Association of Elementary School Administrators. The following day she will be duly honored at an awards banquet to be held at the J.W. Marriott Hotel.

I urge you—as well as all my colleagues—to join me in extending to Dorothy Dorman as well as the other distinguished principals from across the country my best wishes and kudos for a job well done. In terms of our Nation's educators, certainly they are the cream of the crop.

And—to Dorothy Dorman—I extend my best wishes and congratulations for a job well done.

DALAI LAMA'S PRIZE

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DOUGLAS. Mr. Speaker, I first met the Dalai Lama of Tibet 10 years ago and knew him then as a man of peace. My town's newspaper has well outlined the reasons this very special person has just been awarded the Nobel Peace Prize and I offer it into the RECORD verbatim. It is time the President met with His Holiness and I urge him to do so.

[From the Concord Monitor, Oct. 6, 1989]

DALAI LAMA'S PRIZE

On grounds of saintly patience alone, Tibet's Dalai Lama deserves the Nobel Peace Prize he was awarded yesterday. For three decades, Tenzin Gyatso, the 14th Dalai Lama, has lived in exile and counseled his people in non-violence while the Chinese government carried out a deliberate program of cultural genocide in Tibet.

The Tibetans have considered themselves a sovereign nation since their founding in 127 B.C. For ages, protected by the tallest mountains in the world, they lived in a peaceful Buddhist theocracy presided over by successive god-kings, or Dalai Lamas.

China invaded Tibet in 1950 and drove the Dalai Lama into exile in 1959. He was 14 years old. There followed a program of peace through brutal repression that has led to rioting and a demand for independence. In riots last spring, Chinese troops killed 60 Tibetans.

Since the Chinese invasion, 1.2 million Tibetans have been killed by fighting or by calculated starvation. While killing Tibetans, the Chinese government embarked on a program to populate the vast Tibetan plateau with Chinese. Settlers were offered subsidized housing, triple pay and outright grants of cash. Today, Chinese outnumber Tibetans in their homeland 7.5 million to 6 million.

Tibetans are denied health care, and their life expectancy has sunk to 20 years below that of the Chinese settlers. China has reportedly used Tibet as a nuclear-waste dumping site, and Chinese troops have destroyed more than 6,000 temples during their occupation. A few have been rebuilt as tourist attractions to lure foreign cash, but the Tibetan culture, one based on scholar-monks, has nearly been destroyed.

The Dalai Lama seeks independence for Tibet in areas other than foreign policy, which would remain in Chinese hands. Tibetans want democracy. China has made feeble attempts to meet with the Dalai Lama and placate Tibetans. But, though Tibet is a hypersensitive subject with Chinese diplomats, China has felt little world pressure considering the horrors it has perpetrated.

The Nobel Committee certainly intended to send the Chinese a message by awarding the Dalai Lama the world's most respected award. We hope that message is received in Washington as well.

Despite repeated congressional entreaties, including one sponsored by Rep. Chuck Douglas, the Bush administration, like those before it, has done virtually nothing to aid Tibetans for fear of angering China and risking a long closure of its potentially vast market to American business.

So far, President Bush has refused to meet officially with the Dalai Lama. The Dalai Lama's award should give the president the excuse and the courage to welcome Tibet's leader to the White House.

REPRESENTATIVE MILLER SALUTES DVC'S 40TH ANNIVERSARY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MILLER of California. Mr. Speaker, Diablo Valley College in Pleasant Hill, CA, will celebrate 40 years of service to our community on October 20, and I know that all Members of the House of Representatives will want to join me in extending congratulations to this innovative and highly respected institution of higher learning.

As a DVC alumnus myself, I deeply appreciate the opportunity that this college has provided many thousands of students to further their education and their careers.

DVC is an important component of California's pioneering higher education system—an innovation that brings quality resources right to the community. Because of DVC, thousands of men and women have been able to acquire further education, return to the classroom for training that will accelerate their careers, and nourish their intellectual curiosity.

Now, more than ever before in our Nation's history, the availability of high quality, affordable education is an essential component of our economic growth and international competitiveness in the world marketplace.

As a member of the House Education and Labor Committee, I have set as a personal goal the policy that every American should have the opportunity to attend an institution of higher education, not just following high school, but throughout their lives. DVC offers that opportunity today to tens of thousands of Contra Costans, and it serves as a model for continuing, community education.

I join our community in congratulating the admininstration, the faculty, and the student body—past and present—of DVC for 40 years of contributions to our community and our Nation. I am proud of my long relationship with the college, and proud to represent DVC in the Congress of the United States.

TRIBUTE TO SISTER MARY RITA CULLISON, C.S.J.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DYSON. Mr. Speaker, I rise today to honor a very special woman, Sister Mary Rita Cullison, who is celebrating her 50th anniversary as a nun. She has devoted her entire life to helping others and I am happy to join in her celebration.

Sister Mary Rita was born in my home county of St. Marys, and attended St. Michael's Elementary School and High School. This instilled in her a lifelong love of learning and teaching. She has pursued both as a student of music and education at Nazareth College, where she has attained a master's degree in music education. She has studied

and taught at Immaculata College and served for 4 years as superior and principal at Our Lady of Sorrows School in Hartford, CT.

Sister Mary Rita returned to St. Marys County in 1971 to care for her ailing parents and to continue her work in education. She has taught and served as principal at St. Michael's School. Her presence and leadership has helped the school reach an all-time record enrollment of 297 in 1973.

She is an ever active woman, Mr. Speaker, walking a mile every day, rain or shine, and her efforts on behalf of St. Michael's School and its students will long be remembered. Her work has served the people of southern Maryland very well. In 1987, her long fight to get national accreditation for St. Michael's School brought that school the recognition and accreditation it deserves.

I offer my warmest congratulations to Sister Mary Rita Cullison, Mr. Speaker, and wish her the very best on this important anniversary.

THE UNITED STATES MUST RATIFY THE U.N. CONVENTION ON DRUGS (H. RES. 263)

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. GILMAN. Mr. Speaker, the United States has joined with a number of other countries in negotiating an international treaty, entitled the Convention against Illicit traffic in Narcotic Drugs and Psychotropic substances, which was signed in Vienna, Austria, on December 20, 1988. However, the Senate has yet to ratify the treaty. Thus, today I am introducing a House resolution (H. Res. 263) calling on the other body to expeditiously give its advice and consent to the U.N. Convention and calling on the President to ratify the Convention as soon as possible after the Senate has given its advice and consent.

The treaty is designed to establish legal means to combat all aspects of illicit drug traffic and to strengthen international cooperation in suppressing the international criminal activities of illicit traffic.

Drug trafficking by its very nature is a critical international problem in need of an international solution. This treaty is an important step in our effort to bring the entire international community into the war against drugs. I believe it deserves the full and strong support of the Congress.

Accordingly, I invite my colleagues' support for this measure and I request that the full text of this legislation (H. Res. 263) be inserted at this point in the RECORD.

H. RES. 263

Whereas illicit drug production and trafficking, drug abuse, and drug-related crime and violence have brought misery and despair to millions of people all over the world;

Whereas illegal drugs are wreaking havoc on American society, are threatening democracy and stability in Colombia, Peru, and Bolivia, as well as elsewhere in the Western Hemisphere, and are increasingly impacting on countries in Europe, Asia, and other regions of the world;

Whereas the manufacture, trafficking, and use of illegal drugs endangers the economic, social, and political foundations of all countries;

Whereas criminal organizations engaged in illegal drug trafficking generate huge financial profits, enabling them to endanger the peace and security of all countries;

Whereas illegal drug trafficking is an international criminal activity which demands a comprehensive, cooperative, and coordinated international response;

Whereas international and regional organizations; such as the United Nations, Organization of the American States, the Andean Parliament, the European Community, and other similar institutions are appropriate mechanisms to address the international problem of narcotics trafficking; and

Whereas the United States has joined with other countries in negotiating an international treaty, entitled the Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (signed in Vienna, Austria, on December 20, 1988), which is designed to establish legal means to combat all aspects of the illicit drug traffic and to strengthen international cooperation in suppressing the international criminal activities of illicit drug traffickers; Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Senate should expeditiously give its advice and consent to ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and

(2) the President should ratify that convention as soon as possible after the Senate gives its advice and consent.

FIGHTING THE WAR ON DRUGS

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. CLARKE. Mr. Speaker, I am pleased to share an article prepared by two of my constituents, Andee and Gil Atkisson, who operate the Peter Vitalie and Sterling Billiard Co. in Rosman, NC. They have a very interesting and original approach to helping fight the war on drugs. I commend this article to my colleagues.

FIGHTING THE WAR ON DRUGS

Nestled in among the Blue Ridge Mountains in southwestern North Carolina rests the tiny hamlet of Rosman. In recent writings this quaint community has been referred to as "A State of Mind". Rosman has a total population of 515 and this count is taken during family reunion weekend, but most important, the Peter Vitalie and Sterling Billiard manufacturing companies are located here. The Vitalie and Sterling companies are snuggled in between the beautiful frazier fur Christmas trees and the rambling French Broad river, with its fantastic waterfalls.

Andee and Gil Atkisson, owners of the two famous billiard companies, moved their facilities from Anaheim, California last year because they recognized that 75% of their market was east of the Mississippi and they had researched the labor force and the ideal climate. They accepted a tremendous challenge and have employed seventy-one local mountain-born natives. The Atkissons personally trained these youngsters, who have an average age of twenty-four years and as a result have finished craftsmen, as exhibited in the Vitalie and Sterling pool tables. These young craftsmen refer to these companies as theirs and have developed a close-knit mountain family. The Atkissons claim that their employees are the best, and most loyal and dedicated workers in the world.

The above support has provided the time and opportunity for Andee and Gil Atkisson to accept two giant tasks. The first is to have the game of pocket billiards included in the International Olympics as a competitive sport. Andee, who also hand carves tables that are valued at $100,000, claims that billiards should have been one of the original sports in the Olympics, as history dates it back to the year 1164. Andee loves to quote from Dr. William Hendrick's "History of Billiards", the facts that in 1586, Mary, Queen of Scots, was deprived of her table at Fotheringay Castle and was later wrapped in the tablecloth for her burial. She also tells of Louis XVI and Marie Antoinette playing billiards on the eve of their imprisonment in 1792.

They realize that they have a monumental task ahead for the Olympics. The present goal is to gather enough world-wide support to have pocket billiards as an "exhibition" sport at Barcelona, Spain in 1992. In laying the groundwork for this mission the Atkissons first sought the advice of Howard Miller who served as Treasurer of the United States Olympic Committee for the past four years. Miller's advice was to form an international organization in order to generate the support and momentum to gain world-wide support for the Olympics. The General Counsel for the U.S. Olympic Committee has also provided ideas and support to this movement and Gil Atkisson who serves on the Board of Directors of the Billiard Congress is seeking the backing of this prestigous group. Nick Varner who is the World Champion states, "Men and women will have a long deserved opportunity to participate in the Olympics in a sport that is ranked second in active competition world-wide". With the possibility that either Atlanta or Toronto will be the home for the 1996 Olympic Games the billiard industry will continue on its unprecedented roll.

While researching the Olympic concept the Atkissons were studying the overwhelming involvement by the "Yuppie" Business Group who are demanding posh billiard parlors. They have discovered that it is great to take a date or go single to an upswing billiard parlor where there were no drugs. Findings indicate that up to ninety-percent of the pool tables being sold are going into private homes where parents are keeping their families close knit, provide a great neighborhood gathering place and they are keeping the kids off the streets and away from the drug scene. College advisors and psychologists have discovered that it is much more effective to counsel over a game of pool, than by sitting in an office.

Provided with this knowledge, the Atkissons are working with Dr. William Hendricks, Nick Varner, (who was also intercollegiate billiard champion while at Purdue), and other leaders to organize community, high school and college competitive teams. Hendricks presently offers a course in billiards at Southern Illinois University. Atkisson states that he is finding that the greatest number of guys and gals playing pool are not the cheerleaders or other varsity athletes. This competition will open a new

outlet to a different group of students. Gil Atkisson goes on to state that "this is the greatest medicine and therapy available without a doctor's prescription".

Pocket billiards can be the greatest defense against drugs in the world.

The Peter Vitalie and Sterling Companies are of high hopes that other private industries and businesses will pick up on their lead and develop their own anti-drug programs. Andee Atkisson, with great enthusiasm indicated that for groups buying five tables, the company will provide one free. This is our commitment to the drug war.

The Atkissons are convinced that the little company can make a big difference in America. Their attitude and actions reek with determination and confidence. They feel that they as David can conquer Goliath in this Herculean task.

DOMESTIC VIOLENCE AFFECTS THE ELDERLY TOO

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DOWNEY. Mr. Speaker, October 1989 has been designated "National Domestic Violence Awareness Month", and I would like to commend my friend and colleague, Representative LOUISE SLAUGHTER of New York for writing this important resolution which was signed by the President on October 6.

According to the National Center for Domestic Violence, three to four million women suffer from various forms of domestic violence each year. However, it is also important to note that over one million older Americans are physically, emotionally or financially abused by their own relatives each year.

As the Chairman of the House Select Committee on Aging's Subcommittee on Human Services, I held a hearing this summer to assess our Nation's response to the tragic problem of elder abuse. Elder abuse, an especially cruel form of domestic violence, is not a new problem in our society, but widespread public concern with the issue is a fairly recent phenomenon. According to a Congressional study, one of every 25 Americans over the age of 65 suffers moderate to severe abuse. This reflects an increase of 100,000 cases a year in less than 10 years. A typical victim of elder abuse is female, 75, frail, and living in the home of a relative. Because many elders suffer at the hands of their own family members and are afraid to report it, and because there is no universal reporting system, this figure may not accurately reflect the total number of abused seniors.

The Subcommittee hearing was held on the tenth anniversary of the first National Conference on Abuse of Older Persons held in Boston, MA. At that conference, the problem of elder abuse was for the first time identified as a national tragedy. Prior to that time, it was a hidden problem. Since that conference, a Federal response has emerged, but it has been inadequate. Over the past 10 years, the Federal role in the prevention of elder abuse has been evolving, but it has been greatly slowed by the lack of public attention, the lack of funds due to cutbacks in major programs and the failure of appropriate funds for new programs, the lack of a clear understanding of the nature of the problem, and finally, the lack of pressure from State and local governments.

So much needs to be done if we are to match to the commitment that our Nation has given to the victims of child abuse and spousal abuse. If we do not act quickly and responsibly, the number of seniors who will be abused will grow rapidly.

Currently there are only three pieces of legislation in place which recognize elder abuse as a problem and attempt to deal with it. They are title XX of the Social Security Act—Block Grants to States for Social Services, the Child Abuse Prevention Act Amendments, and the Older Americans Act.

As the Chairman of the Subcommittee that has oversight responsibility over the Older Americans Act, I am proud that under the leadership of the late Claude Pepper, a provision was added to the Older Americans Act authorizing $5 million in fiscal year 1988 and such sums as may be necessary through fiscal year 1991 for elder abuse prevention activities. More attention will be focused on this provision in the upcoming 1991 reauthorization of the Older Americans Act.

In my home State of New York, the Department of Social Services and the New York State Office on Aging have been working together to coordinate the development of policy regarding protective services for elderly adults. In 1988, over 30 percent of all protective service cases involved abuse of the elderly in some form.

We might characterize these past 10 years as the development of the Federal response. In this second decade, we must work together to strengthen resources necessary to deal with this national problem. States are beginning to take the lead in identifying the problem, and we must work more closely with the States and with local governments in handling the growing problem.

While it is important to acknowledge that domestic violence is a grave problem in our country, it is also important that we recognize that our Nation's seniors are being victimized and take the proper steps to prevent it.

IN MEMORY OF JOHN M. KINNAIRD

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. SHUSTER. Mr. Speaker, when I was first elected to the House as a member of the 93rd Congress, and subsequently assigned to the Committee on Public Works and Transportation, one of the first transportation trade association representatives I became acquainted with was a man named John Kinnaird. John was with the American Trucking Associations as vice president, Government relations.

In the course of conducting my responsibilities as a committee member and attempting to achieve "90-day wonder" status by helping to bring a highway bill to the House floor in the early weeks of the first session, I came to know a few people I could count upon to give me straight answers and valid information on behalf of their respective industries. John Kinnaird was one of this group. On a scale of 1 to 10, John was an 11 for honesty, reliability, and integrity. In subsequent Congresses, until John's retirement in 1981, I benefited from his friendship and his knowledge of the motor carrier industry he so ably represented.

Mr. Speaker, the news of John Kinnaird's death on September 5 came as a shock to me and my many present and former colleagues who remember him. An article about John in Transport Topics is a worthy tribute to this fine man, and I would like to submit it for the RECORD.

[From Transport Topics, Sept. 11, 1989]

JOHN KINNAIRD DIES; FORMER LEGISLATIVE CHIEF AT ATA

John Morrow Kinnaird, a transportation attorney and former vice president of government relations at American Trucking Associations, died of cancer Sept. 5 at his home in Pawley's Island, S.C. He was 68.

Mr. Kinnaird joined ATA in 1967 as a special counsel to assist in liaison with Congress and federal agencies. He became assistant chief counsel for public affairs in 1969, and was named a vice president when the government affairs division was established in 1971. He headed the division until he retired in 1981.

Before his service with ATA, Mr. Kinnaird had distinguished himself as a motor carrier attorney, both in private practice and with Consolidated Freightways, and as a public official in his native Kentucky.

"John Kinnaird was a multi-talented lawyer and politician who headed the ATA Capitol Hill staff with skill and dignity," said former ATA president William A. Bresnahan, who hired Mr. Kinnaird. "He deserves much of the credit for the industry's many legislative successes. He earned the respect of members of Congress and gave lobbying a good name."

Mr. Bresnahan added that one of Mr. Kinnaird's "lesser known skills was as a dancer. He could do the Charleston with the best of them."

Bennett C. Whitlock Jr., another former ATA president, who succeeded Mr. Bresnahan, praised Mr. Kinnard as "one of the most respected industry representatives on Capitol Hill."

"The trucking industry was fortunate to have him head ATA's government relations division during the critical battle on deregulation. His keen political instincts were immensely valuable," Mr. Whitlock said.

J. Robert Halladay, ATA senior vice president of federation relations and a colleague of Mr. Kinnaird's for many years, added: "John was truly a class guy—a gentleman in every respect who was also a savvy, gutsy political infighter when circumstances required. He greatly increased ATA's stature and effectiveness on Capitol Hill."

Mr. Kinnaird was born in Lancaster, Ky., and attended public schools in Lexington. He interrupted his studies at the University of Kentucky in 1942 to join the U.S. Army. He became an aviation cadet, received a commission and wings in 1943, and later served as a fighter pilot in the China-Burma-India theater during World War II.

After earning a law degree from the university in 1948, he was in private practice in Nicholasville, Ky., until 1956. During this period he also served in several positions in state government: assistant attorney general, counsel to the Kentucky State Police, assistant commissioner of motor transporta-

tion and commissioner of motor transportation.

From 1956 to 1961 he held various positions with Consolidated Freightways in Menlo Park, Calif, starting as assistant general counsel and serving as a vice president for three years.

He moved to the Washington, D.C., area in 1961 and was associated with two law firms—Galland, Kharasch, Calkins & Lippman and Rea, Cross, Knebel and Kinnaird—before he joined ATA. He also served as executive secretary of the Committee on Transportation Practices, a coalition of trucking organizations formed to stamp out illegal transportation, for five years.

He is survived by his wife Sarah; daughters Jula Kinnaird, Patsy Hardin and Anne Ringham; and three grandchildren.

TRIBUTE TO SAMUEL M. CANNON, JR.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DYSON. Mr. Speaker, I rise today to express my heartfelt sorrow at the passing of one of the true pioneers of radio broadcasting on Maryland's Eastern Shore, a dedicated community leader, and a friend of many years, Samuel M. Cannon, Jr. Sam Cannon died suddenly on Friday, September 8, 1989. I express my deepest sympathies to his mother, Grace, and wife Ellen, his two daughters, Melody Fletcher and Taffie Stephens, his grandchildren, and his many, many, friends in Cambridge and throughout the Eastern Shore.

Sam Cannon was a U.S. Navy veteran of World War II. He begin his career at radio station WCMD, now known at WCEM, in Cambridge, in 1949, and had remained there in a variety of roles for these past 40 years. Colleagues and listeners will always fondly remember Sam for his "Sunday Morning Get-'Em Up Gospel Show," as the voice of Santa Claus reading children's letters at Christmas, and for the characters of Grandpap and Matilda which he so vividly portrayed.

Sam Cannon's radio personalities served as true inspiration to many of his followers. But it was in his commitment to his community that Sam will be sorely missed. Truly a leader among leaders, Sam was a past president of the Dorchester Chamber of Commerce, president of the Cambridge Rotary Club, a member of the Board of Directors of the Dorchester General Hospital, and a member of the American Power Boat Association. Sam Cannon will always be remembered as the voice of the Cambridge Power Boat Regatta.

I will forever treasure the occasions that I had the pleasure of being in Sam's company. He always had a smile and kind words of encouragement for me. I believe that one of my district's outstanding newspapers, the "Daily Banner," described Sam best when the paper quoted WCEM General Manager Blake Wise, "Sam's all right. It's those that are left behind that are experiencing a loss. There's no way to replace him. There's only one Sam Cannon."

INTRODUCTION OF THE INCARCERATED VETERANS REHABILITATION AND READJUSTMENT ACT OF 1989

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BROWN of California. Mr. Speaker, together with several of my colleagues, I introduced today the Incarcerated Veterans Rehabilitation and Readjustment Act of 1989. I urge my colleagues to support this legislation and further promote our Government's efforts to reach out and help all those Vietnam veterans who continue to suffer, either physically or emotionally, as a result of their military service in Vietnam.

Over the past decade our country has come a long way in helping Vietnam veterans recover from the effects of their service in Southeast Asia. Parades have been held in their honor, movies, and books have vividly portrayed the stark reality of the war, and the Vietnam Veterans Memorial has honored those who perished in the war. Most importantly, the Readjustment Counseling Service has successfully reached out to many Vietnam veterans who continue to suffer emotionally from their wartime experiences. The nearly 200 vet centers now operating throughout the country are the most concrete manifestation of our commitment to addressing the service-connected readjustment problems of Vietnam veterans.

Incarcerated veterans, however, have been largely ignored by efforts to reach out to Vietnam veterans. Outreach from vet centers into penal institutions has been the exception rather than the rule, despite the fact that over 20 percent of inmates incarcerated in State penal institutions and 17 percent of those in Federal institutions are veterans. These veterans are entitled to, and in need of, veterans benefits and services. Indeed, if recent studies are any indication, it is safe to assume that over one-quarter of incarcerated Vietnam veterans suffer from total or partial Post Traumatic Stress Disorder [PTSD], the most common and serious psychological disability afflicting Vietnam veterans.

The vet center program is uniquely qualified to reach out to incarcerated Vietnam veterans. Vet center personnel are our Nation's foremost experts in diagnosing and treating PTSD and other readjustment problems affecting Vietnam veterans. These centers have the resources to address the service-connected readjustment needs of incarcerated Vietnam veterans. What is needed, however, is legislation which will ensure that these resources are used to meet this need.

The Incarcerated Veterans Rehabilitation and Readjustment Act provides a comprehensive and cost-effective program through which the existing resources of the Readjustment Counseling Program can be used to reach out to incarcerated Vietnam veterans. The bill has three primary goals: identifying veterans upon their entry into the criminal justice system; providing the veteran with treatment for service-connected disabilities while incarcerated; and ensuring that, when necessary, such treatment is continued following incarceration to promote the veteran's adjustment to civilian society. Additional provisions require the Department of Veterans Affairs [DVA] to develop a training curriculum for use by prison personnel, and other interested professionals, in diagnosing and treating PTSD, and authorize the U.S. Parole Commission to include vet center counseling in the parole programs for incarcerated veterans. Finally, the bill requires the DVA to develop a program to extend the bill's provision to state and local penal institutions, where the majority of incarcerated veterans reside.

The focus of this bill is on the veteran, not the criminal. The bill does not excuse veterans for their crimes, nor does it have any impact on their sentence or eligibility for parole. The bill recognizes, however, that although they may be incarcerated, a veteran should not be denied treatment for service-connected problems. Doing so runs contrary to our legal and moral commitment to veterans and to our belief in the rehabilitation of criminal offenders. Indeed, it makes little sense to incarcerate and eventually release a veteran without making an effort to address a factor which may have contributed to criminal behavior. It would be a shame, moreover, if we fail to realize the vet center program's potential for playing a leading role in this effort.

There are those who will question the propriety of assisting incarcerated veterans at a time when other veterans programs are suffering due to budget constraints. This is a valid concern, and I am in no way advocating cuts in existing veterans programs to fund this legislation. I do believe, however, that with minimal outlays, the vet center program, in cooperation with groups such as the Vietnam Veterans of America [VVA], can provide important assistance to incarcerated veterans. With 33 incarcerated chapters comprising over 3,000 members, the VVA is at the forefront of efforts to help incarcerated Vietnam veterans come to grips with their wartime experiences. It's time for the DVA to do its part.

In its recent news release announcing the creation of new clinical teams to treat PTSD, the DVA stated that the teams would be located in areas with significant underserved veteran populations. I hope my colleagues, and the DVA, will recognize that incarcerated veterans are an underserved veterans population deserving of our attention. The Incarcerated Veterans Rehabilitation and Readjustment Act provides a sensible program for meeting this goal, and I urge my colleagues to support it. For the record I have attached a summary of the bill's major provisions.

OUTLINE OF THE BILL

TITLE I—INCARCERATED VETERAN ASSESSMENT AND ASSISTANCE

Requires the Federal Bureau of Prisons to identify veterans in federal prisons and inform them of their rights with regard to veterans benefits, including the availability of counseling services within the penal institution.

TITLE II—INCARCERATED VETERAN REHABILITATION COUNSELING

Requires the DVA to provide readjustment counseling to incarcerated veterans suffering from service-connected mental and psychological disorders. Requires that

incarcerated veterans be provided with medical examinations, within the prison, necessary to determine their eligibility for service-connected disability compensation, and to ensure that interested veterans can be placed on the DVA's Agent Orange registry. Requires the DVA to designate a liaison between each federal prison and the nearest "vet center" and DVA regional office to coordinate veterans' services and benefits.

TITLE III—READJUSTMENT COUNSELING EDUCATION

Requires the DVA to develop a training curriculum for use in assisting FBP medical and psychiatric professionals, and other interested parties, in acquiring the expertise necessary to diagnose and treat service-connected psychiatric disabilities.

TITLE IV—POST-INCARCERATION READJUSTMENT SERVICES

Requires the DVA to inform an incarcerated veteran of his rights and responsibilities with regard to veterans benefits and services upon release from prison, including readjustment counseling from the nearest "vet center." Permits the U.S. Parole Commission to require veterans to take advantage of the services offered by the DVA "vet center" program as a condition of parole.

TITLE V—STATE AND LOCAL OUTREACH ASSISTANCE

Requires the DVA to develop a program to extend the provisions of the bill to veterans incarcerated in state and local penal institutions. This provision is particularly important since the majority of incarcerated veterans reside in state and local penal institutions.

TITLE VI—ANNUAL REPORTS

Requires the DVA, FBP, Department of Labor, and the U.S. Parole Commission to submit to Congress an annual report relating to their activities in implementing the bill.

TOWN OF PORTSMOUTH SUPPORTS THE FLAG

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MACHTLEY. Mr. Speaker, I would like to share with the House of Representatives an initiative recently pursued by the town of Portsmouth, RI. On September 25, 1989, Portsmouth's town council adopted a resolution urging me to support an amendment to the Constitution making the burning of the American flag an illegal act. I fully agree with the position of Portsmouth's town council, and would ask that its resolution be printed at this point in the CONGRESSIONAL RECORD.

TOWN OF PORTSMOUTH, RI, RESOLUTION

RESOLUTION REQUESTING AND SUPPORTING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA MAKING THE BURNING OF THE AMERICAN FLAG AN ILLEGAL ACT

Whereas the Town Council of the Town of Portsmouth recognizes, supports and proudly represents the Constitution of the United States of America and the freedoms it provides us with; and

Whereas the Town Council recognizes, supports and proudly represents the American Flag and the freedoms and honor it has symbolized. Whether it was our original fight for independence, our victorys during the war, our landing on the moon or our draping of the caskets of fallen Presidents, the flag has always symbolized honor and victory of freedom; and

Whereas the Town Council feels that our Constitution provides us with numerous opportunities to lawfully express ourselves without having to destroy the very symbol which represents these freedoms; and

Whereas the Town Council recognizes those men and women and the families of those men and women who have given the ultimate sacrifice in the preservation of our Nation and it's symbol: Now therefore, be it

Resolved by the Town Council of the Town of Portsmouth, That:

1. This Town Council supports and requests that an Amendment to the Constitution of the United States of America making the burning of the American Flag an illegal act be introduced; and

2. That such an Amendment is not intended to restrict any freedoms of speech or expression that we may have, but rather re-enforce these freedoms by preserving it's symbol: Now, therefore be it further

Resolved by the Town Council of the Town of Portsmouth, That:

1. A copy of this resolution be forwarded to our Honorable United States Senators and United States Representatives,

2. A copy of this resolution also be forwarded to our Honorable Senators and Representatives of the State of Rhode Island; and

3. A copy of this resolution also be forwarded to the Honorable Town Councils of the Towns and Cities of the State of Rhode Island: Now, therefore, be it further

Resolved by the Town Council of the Town of Portsmouth, That this resolution shall be in full force and effect upon adoption.

Passed and adopted this twenty-fifth day of September, 1989.

HUBERT E. LITTLE,
President, Portsmouth Town Council.

HONORING THE 60TH ANNIVERSARY OF PUBLIC SCHOOL 139, THE REGO PARK SCHOOL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to one of the outstanding educational facilities in my district, Public School 139, the Rego Park School, which this year will celebrate its 60th anniversary of service to the community of Rego Park in Queens County. On October 19, 1989, the school will hold a special anniversary dinner dance to commemorate this landmark occasion. The following day there will be an all-day celebration with special events featuring performances by the students.

Throughout its 60 years the Rego Park School has remained committed to the highest standards of teaching and educational excellence. The school has concentrated on the fundamentals in helping prepare its students for future achievement, not only in academic endeavors, but also in life as members of the Queens community and also of our great Nation as a whole. This excellence is due to the commitment of P.S. 139's administration, teachers, and support staff working together toward the common goal of educating their students. Their success is evidenced by P.S. 139's student reading and math scores consistantly ranking among the best in New York City.

Over the past six decades the Rego Park School has been a fine example of providing children with unique and innovative programs. Included in these programs are special science classes and a great books seminar. In addition the school has sponsored a wide variety of trips to places such as New York's famous museums, the Statue of Liberty, and the Empire State Building. Its students have been exposed to cultural events including visits to the Brooklyn Academy of Music, Carnegie Hall, and Lincoln Center. Ten years ago during the Rego Park's School golden anniversary celebration, the graduating class made a trip to Washington, DC. As the guests of our late colleague, Joseph P. Addabbo, the students toured the Capitol, highlighted by a visit to the House gallery.

P.S. 139 is part of our country's long legacy of public education. We, in the United States, have prided ourselves on the quality and availability of educational resources for our young. Our goal has been to provide the opportunity for all of our children, rich or poor, to fulfill their intellectual potential. Schools such as P.S. 139 are the cornerstones of Rego Park and other communities all around this Nation. A special notice goes to Dr. Robert Fredericks, P.S. 139's principal; Edith Frishstick, the teacher's chapter chairwoman; and the many young students who have organized the events for the celebration. An anniversary such as this 60th for the Rego Park School reminds us of how we need good schools for the continued growth and prosperity of our Nation. Mr. Speaker, I call on my colleagues in the House of Representatives to pay tribute to all at the Rego Park School for their achievements in the past and to convey their best wishes for future success.

HONORING THE SEVENTH ANNUAL EL RANCHO HIGH SCHOOL HALL OF FAME RECIPIENTS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989,

Mr. TORRES. Mr. Speaker, on Saturday, October 21, 1989, at a special recognition dinner, the El Rancho Unified School District will honor three alumni of El Rancho High School who will be inducted into the hall of fame.

The El Rancho Unified School District was the first district to establish a hall of fame for high school graduates who graduated at least 15 years prior to this date. 1989 candidates to be inducted have gained local, statewide, or national recognition in any area of endeavor as an alumnus of the school

DR. LEOBARDO "LEO" FELIPE ESTRADA, CLASS OF 1962

Dr. Leo F. Estrada is an associate professor at the Graduate School of Architecture and Urban Planning at UCLA and Senior Scholar at the Tomas Rivera Center in Claremont, CA. He received his B.A. from Baylor University in 1966, and his M.A. and Ph.D. from Florida State University in 1968 and 1970, respectively. Prior to his present position he taught at North Texas State University, the University of Texas, El Paso, and the University of Michigan.

Dr. Estrada also has a record of public service, having worked at the U.S. Bureau of the Census in 1975 to 1977 and returned in 1980 to assist in managing the 1980 Decennial Census of the U.S. as a staff assistant to the deputy director. He presently serves as chair of the Hispanic Advisory Committee to the Census Brueau on the 1990 Census.

LYDIA (TERRAZAS) WELLS, CLASS OF 1969

Lydia Wells is a principal at Corona-Norco Unified School District. She received her B.A. in 1974 and her M.A. in administration in 1979 from California State University, Long Beach.

Ms. Wells has served as elementary principal, coordinator of compensatory education; management trainer; classroom teacher; government liaison to varous State level representatives and has been active in recruitment, both in and out of the State of California.

Outstanding achievements have included: Implementation of Partnership in Education Program; Implementation of 2-year Kindergarten Program; Implementation of Title VII Bilingual Demonstration Program, Grades K–4; member of the National Principals Academy; Nominated Who's Who in American Education and the first American female administrator to have gone trhrough the El Rancho School System.

HECTOR A. GONZALES, M.D., CLASS OF 1974

Dr. Gonzales received his B.S. from Stanford University and received his M.D. from the University of San Francisco. His internship and residency were served as Kaiser Permanente Hospital in Los Angeles. In 1983, he received his licensure in the State of California and in 1985 board certification in American Academy of Family Practice.

Dr. Gonzales serves on the Child Abuse Team, Diabetes Advisory Committee and Diabetic Instructor to Spanish speaking patients at Kaiser Permanente.

Dr. Gonzales is clinical instructor to second-year medical students at the University of Southern California School of Medicine. In addition, Dr. Gonzales has been the El Rancho High school football team physician since 1985.

Mr. Speaker, I ask my colleagues to join with me in congratulaing the El Rancho Unified School District for honoring alumni who have excelled in their chosen careers; and in commending the 1989 inductees to the El Rancho Hall of Fame for their leadership in the community and for providing positive role models for the present day students of El Rancho High School in Pico Rivera.

NEIL J. CARROLL HONORED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. GUARINI. Mr. Speaker, on October 14, 1989, at the Villa Nova Restaurant in Bayonne, NJ, the Bayonne Sicilian Citizens Club will honor Neil J. Carroll as its Man of the Year.

Mr. Carroll is being honored for his tireless efforts to serve the people of Bayonne, Hudson County, and all of New Jersey.

Frank Carine, president of the Bayonne Sicilian Citizens Club, and Luciano Ventrone, the dinner-dance chairman, joined a large chorus of admirers in praising Mr. Carroll's leadership, vision, and dedication to improving society.

"Neil is a community activist who has been involved in many community and civic activities," Carine said. "In all his endeavors, he has worked to help the people of Bayonne and Hudson County. He is a true servant of the people and the Bayonne Sicilian Citizens Club is proud to honor him as its Man of the Year."

I have known Neil Carroll for over 30 years. He served as my chief-of-staff for 10 years, and previously served with distinction for former Congressman Cornelius Gallagher, Joseph LeFante, and Dominick Daniels. He has worked on numerous gubernatorial and Presidential campaigns in New Jersey and is currently executive director and campaign manager of the Hudson County Democratic organization as well as deputy political director of the Jim Florio for Governor Committee.

Throughout his career, Neil has been a strong leader, an astute political adviser, and a trusted friend to many. He is well known throughout the State for his intelligence and integrity. He is respected for his honesty and his awesome political abilities. He is admired for his unfailing faith in democracy, justice, and the promise of the American dream.

Since I first began to work with Neil 30 years ago, my respect for his abilities and character has continued to grow. He is tireless in his efforts to promote the cause of the Democratic Party and our Nation: The guarantee of equal opportunity for all Americans. In every way, he is the portrait of the ideal citizen. He is committed to improving the lives of his fellow citizens. He is dedicated to protecting the environment, the health of our families, and the well-being of our elderly. And he is determined to ensure that our children have a future of opportunity and hope.

Neil's service to his country started back in 1944, when he joined the Navy in World War II. He returned to the Navy several years later to fight in Korea. When he left the Armed Forces at the end of the Korean war, he embarked on a long public career that continues to make a difference today.

Neil's involvement in the Hudson County community reaches far beyond his government positions. He is a past exalted ruler of the Benevolent Protective Order of the Elks, Lodge 434, a member of the American Legion, and a member of the Knights of Columbus. He is active in the community of St. Andrew's Parish and has done much to support the Deborah Heart Hospital.

Neil and his wife Mary have been married for almost 40 years. Together, they have four children, Neil Jr., Patricia, Kathy, and Mary Sue, and three grandchildren.

He was a devoted son to his mother, Susan (Susie) Carroll and to his father, Cornelius Carroll, Sr. Cornelius Carroll was police chief of Bayonne for many years as well as the supervisor of the Bayonne sports program. Neil's late brother Donald had also served as supervisor of the Bayonne sports program.

Neil Carroll is a man whose commitment to public service is unmatched. With more Neil Carrolls in the world, the challenges this Nation faces would be far less daunting. But even with only one Neil Carroll, we have gone far in our community to improve the lives of our children and our families, and begun to lay the foundations for a better future.

Neil Carroll serves as a shining example of what one person can do to serve our country. I hope that many will try to follow his footsteps. And I look forward to watching and participating in his life's mission to make America a better place.

I know my colleagues here in the House of Representatives will join me in saluting this dedicated public servant, Neil Carroll.

ABORTION FUNDING

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the motion to agree to the Senate language on abortion funding in the fiscal year 1990 Labor, Health and Human Services, and Education appropriations bill. The Senate language permits an exception to a ban on Medicaid funding for abortion in the cases of rape or incest. The House bill already allows for Medicaid funding of abortion when the life of the mother is endangered.

Since being elected to the House of Representatives, I have always felt that abortion should be allowed in the tragic and unconscionable circumstances of rape and incest. The Senate language affirms this position, while otherwise barring the use of Federal funds to perform abortions.

I am personally opposed to abortion, but I do believe that expectant mothers and the victims of the crimes of rape and incest should be protected against life-threatening and criminally-induced pregnancies, respectively.

Last year, President Reagan waged an impassioned campaign to veto the fiscal year 1989 Labor-HHS-Education bill if it contained the same Senate language which allowed for abortion in the cases of rape or incest. It appeared that all Federal funding for health, social services, and education would be imperiled indefinitely unless Congress passed the bill without the exceptions for abortion. I was, therefore, constrained to vote for the bill, without the rape and incest exceptions, even though I believed those exceptions were needed. The president had boxed us into a corner on passage of this important bill.

Last fall President Bush campaigned on the position that there should be exceptions on abortion funding in cases of rape or incest. I agree. It seems unlikely to me that he can

veto this bill because of the presence of these exceptions.

TRIBUTE TO SAM MEYERSON

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. WEISS. Mr. Speaker, too often the seniors of this country go unrecognized for their many accomplishments and for the exciting and active lives they live even after retirement. I rise to salute a fellow New Yorker, Sam Meyerson, who recently retired after a 66-year career at the publishing firm of Simon & Schuster.

In the year 1923, Sam Meyerson was a boy of 14. As his family could not afford to allow him to attend high school during the working hours, Sam was to take classes at night, and seek daytime employment. With polished shoes and a hand-me-down suit, he set out from his parent's apartment in Williamsburg, Brooklyn to Manhattan to find a job. He was quickly hired by a fledgling book publishing company which had just been founded by Richard Simon and Max Schuster. Sam Meyerson was their first employee.

As the firm of Simon & Schuster grew, Sam Meyerson played a major role in its development. He progressed from chief of then mail room to assistant treasurer to director of mail order books. Later he became editor and vice president in charge of all business books.

After his many years dedicated to Simon & Schuster, Mr. Meyerson continues to maintain a busy schedule. He and his lovely and witty wife, Rhoda, now serve as business managers for their daughter's jewelry business, which designs and distributes nationally from the Empire State Building. Sam and Rhoda Miller Meyerson have been married for 57 years. An avid tennis player who learned to play the game on the bumpy lawns of Prospect Park in Brooklyn during Bill Tilden's era, Sam Meyerson can still be found on the tennis courts two or three times a week, playing singles or doubles.

Sam Meyerson has established an unusual mark in work longevity and perseverance which contributed to this country's prominence around the world in the field of book publishing. His friends and family are all very proud of him, as are we in Congress.

RECOGNIZING THE PLIGHT OF THE RURAL DISABLED

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. DE LA GARZA. Mr. Speaker, earlier this year, I introduced a joint resolution, House Journal Resolution 146, to designate the week of October 7 through October 14, 1989 as "National Week of Outreach for the Rural Disabled." My humble purpose was to draw attention to the plight of the 3.4 million rural Americans living in our country today who are disabled.

Unfortunately, this resolution did not attract the necessary number of cosponsors. I respect the concern many of our colleagues have expressed about the proliferation of commemorative legislation. But, Mr. Speaker, I believe this particular resolution and the plight of the rural disabled deserve some attention here on the House floor today.

In years past Congress has worked diligently to make government offices, schools, and other institutions more readily accessible to the disabled.

However, these efforts have almost entirely been focused on urban settings. For many reasons, cost, and so forth, we have ignored or been unable to address the needs of the rural disabled who face their own unique set of challenges.

Many of the things we take for granted every day in urban America are much more limited in rural America. An adequate network of public transportation and quality health care that is affordable and close by would be tremendously helpful.

Educational and employment opportunities in many areas are few and far between. These are basic necessities of life.

And, of course, it's not surprising that social and recreational activities are much more limited for a handicapped person living in rural America than in our cities.

Fortunately, there are people out there who are attempting to assist the rural disabled and make others more aware of the existing situation.

One such group is the National Future Farmers of America—the FFA—which utilizes their educational scholarship and award program to recognize the outstanding accomplishments of young rural disabled Americans.

The FFA Program is known as BRIDGE—building rural initiative for the disabled through group effort. Selected scholarship winners are FFA members who have exhibited exceptional abilities in overcoming handicaps. A national award is also given to the local FFA chapter that has demonstrated the most effective outreach to the rural handicapped.

This is but one example of the efforts being made on behalf of the rural disabled. There are many, many more that could be cited.

Mr. Speaker, I believe Americans everywhere should be more aware and sensitive to the difficulties encountered by disabled Americans in rural areas. That was the purpose of House Joint Resolution 146.

I want my fellow rural Americans to know that I am deeply honored to be a spokesman on behalf of the thousands of Americans who daily face the harsh reality of being handicapped in rural America. I salute you for your courage and your perseverance.

Mr. Speaker, regardless of our action here in Congress on this resolution, I would hope all Americans would join me in recognizing this week as the National Week of Outreach for the Rural Disabled.

INTRODUCTION OF RESOLUTION TO PROHIBIT EXTRANEOUS MATTERS IN RECONCILIATION BILLS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. CONTE. Mr. Speaker, I rise to introduce a House resolution to reform the budget process here in the House by prohibiting extraneous matters on reconciliation bills. This change in the House rules is made necessary by the budgetary mess in which we find ourselves.

On October 16, just a few days away, the Congress is about to experience a train wreck in the budget process. On October 16, there will be a final report issued by the Office of Management and Budget, accompanied by a final order signed by the President, indicating that we have failed to meet our budgetary targets for fiscal year 1990, and invoking across-the-board spending cuts in discretionary Federal programs of at least 4.3 percent for defense programs and 5.3 percent for domestic discretionary programs.

How did we get ourselves into this mess? Because we failed to pass a reconciliation bill in a timely fashion. That reconciliation bill is the vehicle in our budgetary process that makes the programmatic savings in entitlement and other programs necessary to meet the savings targets in the springtime budget resolution. Under the Budget Act, that reconciliation bill is to be passed by June 15. Yet here we are in October, debating the bill for the first time, with the Senate yet to act.

And why have we failed to pass a reconciliation bill on time? In large part, because the reconciliation bill before us, H.R. 3299, has become a Christmas tree, including all sorts of extraneous, unnecessary, and many times controversial provisions that have nothing to do with the budgetary savings that are supposed to be the purpose of the bill. H.R. 3299 is a huge bill, taking up two volumes, 1,935 pages long, weighing 6½ pounds.

Unlike the Senate, which has certain restrictions against this kind of piling on of legislation, the House has no rule against attachment of extraneous provisions. Mr. Speaker, the experience we are undergoing this year proves that such a rule is necessary. Consequently, I am calling for the enactment of the resolution I introduce today. In fact, the best place to enact it would be as part of the reconciliation bill we have under consideration.

This provision has been introduced as part of the package of reforms proposed by the Republican leadership and others. But the need for this specific change in the rules is overwhelming and urgent. What has happened this year must never happen again. I urge the adoption of this resolution.

AFRICAN-AMERICAN CULTURAL AND HISTORICAL MUSEUMS WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MFUME. Mr. Speaker, today I am introducing legislation designating the week of April 16, through 22, 1990 as "African-American Cultural and Historical Museum Week." This initiative will serve to promote and encourage the progress of the many fine institutions around the country who have brought greater understanding of African-American history and culture to millions of Americans.

Since the late 1800's, African-American museums have increased from a handful of underground museums to nearly 100 diverse and vibrant institutions in nearly 90 percent of the Nation's cities today. Their budgets range from $2,000 to more than $1,300,000 and range between an annual 400 to 200,000 visitors.

While many of these museums share similar characteristics, each has made a distinctive contribution to the broadening of our knowledge of the active participation of African-Americans in the development of this Nation. These museums also play an important role in the propagation of African-American history as a whole and have brought a greater understanding of the contributions made by individuals of African ancestry to all Americans.

These indispensable institutions have instilled a strong sense of cultural identity and personal inspiration to people both within and outside the African-American community. Furthermore, these museums have preserved the splendid culture of African-Americans and ensured the proper interpretation of their outstanding achievements that have impacted this Nation and the entire world.

Indeed, Mr. Speaker, African-American historical and cultural museums are vehicles for educating and preserving the saga of the black experience for everyone, but especially for the communities they represent. Similar to other museums, African-American historical and cultural museums collect and use artifacts of esthetic and historical significance to instruct and learn.

Mr. Speaker, I would like to particularly bring to the attention of Members in this august body the great blacks in Wax Museum located in my own district of Baltimore. Established in 1983, this exceptional museum is the first to display life-size wax figures and scenes of contemporaries and historical personalities of African ancestry assembled in a permanent collection. The vivid and graphic characters and scenes on display includes great Americans such as Martin Luther King, Booker T. Washington, and Malcolm X and a number of lesser known yet important figures. I am proud to have such a unique and distinguished museum in my district, and I encourage Members to visit this celebrated museum whenever visiting Baltimore.

I would also like to commend the African-American Museums Association [AAMA]. This nonprofit organization serves to focus and work toward the needs of African-American museums in the United States. The AAMA has distinguished itself as the unified voice of the African-American museum commuity and has been in the forefront of advocating the interests of African-American museums, people, and cultural heritage.

I think it is quite fitting that we in Congress acknowledge the important contributions of African-American museums to this Nation. I urge my colleagues to support this resolution and look forward to having it passed by both Houses and enacted into law.

A TRIBUTE TO ANGELO K. TSAKOPOULOS

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. FAZIO. Mr. Speaker, I rise today to honor Angelo K. Tsakopoulos, a dear friend and one of Sacramento's, and indeed, one of California's most prominent citizens. He will receive the prestigious AXIOS "Man of the Year" Award on October 13 in Los Angeles, CA.

AXIOS, which means "worthy," is an organization of prominent Greek American business and professional leaders from throughout the Los Angeles area who have joined together to promote, foster and encourage good Government and quality leadership; to assist deserving students through grants and scholarships to educational institutions; and to promote and preserve Hellenic culture and traditions. The AXIOS "Man of the Year" recipients include some of the most prominent businessmen, philanthropists, and community leaders of the Nation. George Christopher, former San Francisco mayor, His Eminence Archbishop Lakovos, primate of the Greek Orthodox Church of North and South America, U.S. Senator PAUL SARBANES, Alex G. Spanos, Stockton builder-sportsman, and Dr. John Brademas, president of New York University are a few of the previous outstanding recipients.

It is most appropriate that AXIOS recognize Angelo Tsakopoulos, for he personifies the American dream. He came to the United States in 1951 from Tripolis, Greece, at the age of 15. His first year he spent with an uncle in Chicago learning English and shining shoes. He soon moved to a more familiar climate, Lodi, CA, where, while attending high school, he began his entrepreneurial ventures by moonlighting in the melon business. He then went to college at the University of Illinois, Chicago, later transferring to Sacramento State University. During this time he developed an interest in real estate, working as a real estate salesman and as a waiter to support himself. But these demanding jobs did not deter him from finding the time to complete his education and from boxing for his university's team.

After serving his country in the Armed Forces, Angelo decided to pursue his interest in real estate. By 1963 he had opened his own company. Today, that company is one of the most successful in California.

From these humble beginnings, Angelo has established himself as a leader and a humanitarian. Over the last two decades, he has played a major role in the development of Sacramento as a prominent urban center. This role will undoubtedly continue because of his tremendous talent. The community's faith in his talent has most recently been exhibited by Southern Pacific Railroad when they asked Angelo's company to develop a 15 square block area in the heart of downtown.

However, Angelo's contributions encompass a greater area than the homes, buildings and industrial complexes he has constructed. Angelo has also donated his time and millions of dollars to worthy organizations such as the Asian Community Convalescent Home, the Sisters of Mercy, Catholic Diocese of Sacramento, the Greek Orthodox Church, the Folsom Historical Society, Crocker Art Museum and others. A firm believer in education, he has also sponsored many conferences on such varied topics as the United States Constitution, the Cyprus conflict, and the Armenian holocaust. Additional educational interests include his creating the Kazantazakis Chair at San Francisco State University, and endowing chairs and major programs at McGeorge School of Law, Dartmouth College, Sacramento State University, and the University of California at Irvine's Thesaurus Linguae Graecae Center. Furthermore, he has funded the teaching of Demotic Greek in local high schools.

Angelo proudly maintains ties to his Greek heritage by supporting many Hellenic organizations and by being an Archon in the Greek Orthodox Church. He cofounded Dynamis, a Hellenic organization; he is the west coast representative for the Society of Greek Heritage; and he is a major supporter of the American Hellenic Institute and the United Hellenic American Conference.

He is a devoted family man who enjoys spending time with his six children, two grandchildren, and his wife, Sofia. He is also an avid hunter, golfer, and helicopter skier.

Angelo Tsakopoulos is truly an outstanding American and a pillar of society. I am proud to honor him today as a great businessman, leader, philanthropist and friend. I know my colleagues join me in saluting him for all his tremendous accomplishments.

LEGISLATIVE ACTION NEEDED ON ASSAULT WEAPONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MAZZOLI. Mr. Speaker, I rise again today in support of Federal legislation banning semiautomatic assault weapons and legislation creating a Federal 7-day waiting period before a gun can be purchased.

Nearly a month has passed since the tragic shooting at the Standard Gravure plant in Louisville and concerned citizens, organizations, and community groups are continuing to work together to enact sensible State and Federal gun laws.

Recently I read in the Louisville Courier-Journal that leaders of the unions representing employees at Standard Gravure have joined the calls for a State assault-weapons ban in Kentucky. Many of the 9 dead and 13 wounded in the gunfire at the plant were union members.

Don Frazier of local 19N, and Jim Jenkins of local 552M of the Graphic Communications Union, and John McCarty of Mailers local 99 should be commended for taking the lead on this issue. I wish them good luck and stand ready to help.

Meantime, we at the Federal level must work for uniform Federal laws on assault weapons and gun waiting periods and I urge my colleagues in the House to support quick action on these measures.

SECRETARY BAKER MAKES RIGHT DECISION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. PORTER. Mr. Speaker, I applaud the decision yesterday of Secretary of State, James Baker, to make the U.S. Government a full state member of the International Union for Conservation of Nature and Natural Resources [IUCN].

Over IUCN's distinguished 40 years history, it has become the premier multilateral organization addressing global environmental issues. IUCN now comprises 61 national governments, 128 Government agencies, and over 400 nongovernmental organizations [NGO's] in 120 countries worldwide.

Mr. Speaker, today I would like to thank my colleagues in the House who joined me in a letter to Secretary Baker last month that signaled our support for his decision for full U.S. membership in IUCN. His decision demonstrates U.S. commitment in solving today's increasingly urgent challenges of tropical deforestation and global climate change. We can now expand our conservation role as U.S. technical experts from agencies such as Commerce, Agriculture, EPA, and Interior can better interact with their counterparts around the world to help save critical species and ecosystems now under environmental seige.

HONORING THADDEUS KRULIKOWSKI

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. PALLONE. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Thaddeus Krulikowski for being selected to participate in the Bell Atlantic-American Association for the Advancement of Science, Institute for Middle School Science and Technology Teachers. Mr. Krulikowski was selected to participate in the program because of the outstanding contributions he has made to the district's science and computer education programs.

During this prestigious program, Mr. Krulikowski completed a graduate course on communications and information technology at George Washington University. Throughout the course, Mr. Krulikowski worked closely with distinguished scientists to develop educational materials tailored for use in the classroom. As a result, Mr. Krulikowski is now helping other teachers to improve the quality of their computer education programs.

As one of his former students, I know from experience that Mr. Krulikowski is one of New Jersey's finest educators. What I find particularly noteworthy is that Mr. Krulikowski continues to extend his knowledge for the benefit of the community. In addition to his 26 years of teaching in the Long Branch Middle School, Mr. Krulikowski has had the responsibility of coordinating computer education technology courses for the district, and has served as a computer consultant to the Long Branch Ronald McDonald House. He is also an instructor for the Monmouth Adult Education Commission. For years, he has been an active member of the Long Branch Education Association, the Monmouth County Education Association, and the New Jersey Education Association.

Mr. Speaker, it is with great pride that I extend congratulations to Mr. Krulikowski. His selfless dedication to education has enriched the lives of thousands of students.

TRIBUTE TO PAT FLANAGAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Ms. PELOSI. Mr. Speaker, Pat Flanagan is practically a San Francisco monument, and certainly a permanent fixture in Fish Alley. He has devoted his life's energies to Fishermen's Wharf and the fishing industry that created San Francisco's historic wharf.

Pat has made an immeasurable contribution to our community. His vigilance in safeguarding San Francisco Bay's waters and fisheries is unflagging. San Francisco's fishing industry is only as good as the quality of water where fish are taken.

One of the first red flags waved on excessive dredging and disposal activities in San Francisco Bay was by Pat Flanagan. Through Pat's surveillance, it was discovered that these activities were contributing to a decline in water quality and fish species near the Alcatraz dumpsite.

Thanks to Pat's efforts, this problem was elevated to attract the attention of a broad constituency of fishermen, environmentalists, Federal agencies, and lawmakers. All of these parties are now involved in a more comprehensive review of the Bay's water quality and the possible environmental effects of dredge disposal in the bay. Pat Flanagan may be the bay's best watchdog.

Pat's most recent publication is a report entitled, "Analysis of the Economic Impact of the Commercial Fishing Industry on the City and County of San Francisco." It represents 201 pages of blood, sweat, and tears—and love—for Fishermen's Wharf.

Pat Flanagan's dedication to the fishing industry and the high environmental standards that support this industry is to be applauded. Pat worked closely with former Congressman Phillip Burton to sustain the commercial fishing industry; he worked with former Congresswoman Sala Burton on the breakwater project; and in the same tradition Pat is continuing to convey the interests of the fishing community to my office.

Over these years of working with Federal legislators, Pat has played an essential role in building and rebuilding Fishermen's Wharf. Since the early 1970's, Pat has championed the revival of Fishermen's Wharf to maintain its practical and historical value and to keep alive the industry created by the waterfront pioneers of over 100 years ago.

Recent market studies conducted by the Port of San Francisco suggest that there are promising opportunities for establishing Fishermen's Wharf as a prominent seafood center in both domestic and international markets. A preliminary design plan for "Fishermen's Wharf Commercial Seafood Center" would provide a modern infrastructure for the fishing fleet and handlers, along with fisheries researchers to work side by side with the commercial fishing industry.

I look forward to continuing my work with Pat, and other Fish Alley dwellers, the Port, and the city to realize this dream for our community. We can all be thankful for the Pat Flanagans in the world who live to dream and to bring life to their dreams.

A BILL TO AMEND THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BARTLETT. Mr. Speaker, today I am introducing an amendment to Public Law 100-347, the Employee Polygraph Protection Act. Mr. WILLIAMS, Mr. YOUNG and Mr. DARDEN are joining me in offering this amendment.

One intent of the EPPA was to protect employees from abusive practices by polygraph examiners; however, the act inadvertently restricts some State polygraph boards from policing polygraph abuse at the State level. Many States have some type of polygraph regulatory boards that ensure that polygraph examinations are conducted in a professional and ethical manner. These boards conduct field inspections of polygraph examiners throughout the State to monitor compliance with State laws. Under section 9(b) of the Employee Polygraph Protection Act, these boards are no longer able to carry out these inspections. According to the new Federal law, polygraph examinations may only be disclosed to the employer, the examinee, or through a court order. This legislation would allow Government regulatory agencies to inspect polygraph examinations for the purpose of licensing polygraphers and ensuring their compliance with State laws.

I hope my colleagues will join me in quickly passing this amendment, which would enable

States to carry out the intent of the Employee Polygraph Protection Act, by continuing to provide adequate examination of the practices of polygraph examiners.

IN RECOGNITION OF CAPT. THEODORE O. ATWOOD

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. LOWERY of California. Mr. Speaker, the men and women of the Armed Forces serve our country with loyalty, integrity, and commitment. Navy Chaplin Capt. Theodore O. Atwood has served with all these fine qualities and a great deal more.

Captain Atwood has provided counseling and guidance to military families for 36 years. He has always gone the extra mile in his service to the naval community. He makes himself available 24 hours a day for needed mental health assistance. Most recently, he was instrumental in helping the families of the U.S.S. *Vincennes* during their time of unrest. He has made time to be an inspirational leader in the San Diego community. He also served as the head of the Dependent's Assistance Board, a one-of-a-kind program pioneered in San Diego to lend special emergency assistance to Navy dependents in times of severe emotional need. If a military family was in need, you would find Captain Atwood at their side.

Captain Atwood's selfless service to our great Nation has not gone unnoticed. His compassion and dedication to the spirit of human beings has touched the lives of many.

Mr. Speaker, please join me in congratulating Captain Atwood on the occasion of his retirement from 36 outstanding years of military service and in applauding his efforts at making the world a little brighter for military families around the world.

THE RIDGE-GOODLING AMENDMENT

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. LEWIS of Florida. Mr. Speaker, it was unfortunate that the House was denied the opportunity to address the Ridge-Goodling amendment during the consideration of the fiscal year 1990 Commerce, Justice, and State appropriations. The intent of this amendment was simple—should illegal aliens be given the right to representation during consideration of the 1990 census? I believe not.

Our Constitution guarantees equal representation to all legal residents of the United States. It does not and should not, however, grant this same precious right to illegal aliens. The Ridge-Goodling amendment would have upheld the principles of equal representation under which our Government was founded. It required the Secretary of Commerce to use tabulating procedures that are feasible and appropriate in order to ensure that illegal aliens are not counted in the 1990 census for reapportionment.

I do not believe that our Founding Fathers intended to allow individuals who cannot vote and who break the law the opportunity to determine the political makeup of our Government. The right to representation is a privilege—a privilege to be shared by those who abide by and respect the laws of this Nation. Those who have crossed our Nation's borders illegally are not entitled to this privilege.

Mr. Speaker, I supported the intent of the Ridge-Goodling amendment. That amendment stood on the basic constitutional principle: If our Government is by consent of the governed, it makes no sense to give illegal aliens—who are here without the consent of the governed—political representation in the Congress at the expense of those who are legitimately part of our political community. We must ensure the American people proper apportionment and representation so that all legal citizens of this country receive equal opportunity to be heard.

VOLUNTEERS CRUCIAL TO VETERANS' HOSPITALS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MONTGOMERY. Mr. Speaker, recently I commended volunteers at the Bay Pines, FL, Department of Veterans Affairs [DVA] Medical Center for their selfless dedication to caring for sick and disabled veterans. While singling out the successful volunteer program at Bay Pines, I hasten to emphasize that it is indicative of the volunteer effort in our DVA medical facilities nationwide.

Frankly, we just couldn't run our veterans' hospitals without volunteers. The more than 11.3 million hours of service annually performed by regularly scheduled volunteers equate to over 5,000 full-time equivalent positions which have supplemented the efforts of DVA employees. Further, organizations have demonstrated their commitment to the needs of veteran patients by contributing millions of dollars for supplies and equipment for patient comfort, recreation, or religious needs.

In the 42-year existence of the DVA voluntary service, hundreds of thousands of individuals representing themselves and more than 350 organizations have donated more than 350 million hours of volunteer service to the compassionate care and comfort of hospitalized veterans and their visiting family members. These volunteers perform in more than 200 designated and described assignments.

During 1988 alone, 85,000 volunteers ranging from age 14 to 90 plus contributed some 12.6 million hours of service to the Nation's hospitalized veterans. Indications are that this year's numbers will be even greater.

Mr. Speaker, volunteers are an invaluable manpower resource for our veterans' medical facilities. I'm sure my colleagues will want to join me in applauding the scores of individuals and organizations who so generously give their time and compassion to caring for the Nation's defenders.

THE REPUBLIC OF CHINA CELEBRATES 78TH ANNIVERSARY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. GEKAS. Mr. Speaker, On October 10, 1989, people throughout the world joined in recognizing the accomplishments of the citizens and leadership of the Republic of China. This year marks the 78th anniversary of the Republic of China. From its humble beginnings on mainland China in 1911, the Republic of China has blossomed into a nation of industrial and economic vitality. The people and leadership of the Republic of China stand today as models for developing nations throughout the world.

The friendship between the Republic of China and the people of the United States has a long and productive history, in which both nations have benefited from commercial and cultural exchanges. I ask my colleagues to join with me in acknowledging the accomplishments of the Republic of China and in wishing President Lee Teng-hui continued success as a leader.

DR. NANCY SZWEC CZARNECKI, PRESIDENT OF THE JEFFERSON MEDICAL COLLEGE ALUMNI ASSOCIATION

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Dr. Nancy Szwec Czarnecki, the newly elected president of the Jefferson Medical College Alumni Association.

Mr. Speaker, Dr. Czarnecki has earned an important place in the history of the Jefferson Medical College in Philadelphia. In addition to becoming the first woman president of the Alumni Association, Dr. Czarnecki is also the first woman to be accepted by and to graduate from the school.

After graduation from Jefferson, Dr. Czarnecki completed her internship at Nazareth Hospital, of whose medical staff she is a member. She is also on the staffs of Frankford and Northeastern Hospitals.

Certified by both the American Academy of Family Practice and the American Board of Family Practice, Dr. Czarnecki is a member of the Pennsylvania Medical Society, the Philadelphia County Medical Society, and the Philadelphia Academy of Family Practice. She also serves on the advisory board of the National Cancer Institute community health watch.

Before becoming president of the alumni association, Dr. Czarnecki served as vice president and as secretary of the alumni executive committee. She was also a member of the executive committee's dean search com-

mittee, and for 6 years was chairperson of the Jefferson career day committee.

Despite the demands of her career, Dr. Czarnecki has raised four children with the help of her husband, Joseph. The two physicians have been in a family-practice partnership since 1967.

Dr. Nancy Czarnecki deserves great recognition for her accomplishments at Jefferson Medical College. As the first woman president of the alumni association, she will serve as a role model to all women pursuing careers in medicine.

TRIBUTE TO GEORGE P. SMITH II

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. MYERS of Indiana. Mr. Speaker, anniversaries provide an opportunity for both reflection and appreciative recognition.

Twenty-five years ago, George P. Smith II, was graduated from the Indiana University School of Law with the degree of doctor of jurisprudence. Since his graduation, Mr. Smith has combined a rich and rewarding career in teaching with that of an internationally recognized one as lecturer and scholar and that of a conscientious public servant who has served with the Foreign Claims Settlement Commission of the U.S. Department of State, the Environmental Protection Agency here in Washington, and the late Governor Winthrop Rockefeller.

He has proven himself to be a conscientious and loyal son of Indiana. Indiana University conferred its Distinguished Alumni Service Award upon him in June 1985, and established an endowed distinguished professorship of research in his honor in 1986.

Professor Smith's writings are especially significant since they have illuminated many areas of human concern. This is especially so with his work in law, science, and medicine where he has shown himself to be a creative and insightful scholar.

I congratulate Professor Smith on his quarter century as a dedicated teacher and conscientious public servant and wish him another 25 years of fulfilling service.

TRIBUTE TO FORMER PRESIDENT JIMMY CARTER

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. RUSSO. Mr. Speaker, it's necessary to remind ourselves on occasion that in a world beset with problems and a nation grown perhaps a bit too cynical and anxious, that good and decent people continue to do good deeds, that serving the public is not the personal purview of those of us in elected office.

Often I have spoken here of unselfish private citizens and paid tribute to unsung heroes whose names never appear in a headline or on a plaque. Today, I take special pleasure, however, in paying tribute to a man whose name is known around the world.

Writer Stanley W. Cloud last month in Time magazine produced a thoughtful and informative piece on the man who "may be the best former President America has ever had." I agree. Former President Jimmy Carter has "redefined the meaning and purpose of the modern ex-Presidency."

The Carter Presidential Center in Atlanta, for example, is not just a library, but a clearinghouse for ideas and programs intended to solve international problems and crises. One of those programs is Global 2,000, Inc., an international aid organization aimed at improving disease control and agricultural productivity in Third World countries—led by Norman Borlaug, the agronomist whose work to bring the green revolution to India and Pakistan earned him the Nobel Peace Prize in 1970.

President Carter circles the globe—using the power and prestige that are his, not as a means to personal gain and self-aggrandizement, but as a vehicle to enhance support for programs that are to benefit others.

I commend Mr. Cloud's article, "Hail to the Ex-Chief" to my colleagues and I commend both Jimmy and Rosalynn Carter for their continuing work to make this land and this world a better place.

HAIL TO THE EX-CHIEF

(By Stanley W. Cloud)

In Ojubi, Ghana, on a sweltering African afternoon, James Earl Carter Jr. sits at one end of a large grassy field and acknowledges the applause of farmers gathered around the perimeter. Many of the farmers have samples of their harvest in baskets before them—corn, sorghum, squash, fruit. Large clouds play tag in the blue sky overhead, while at the opposite end of the field, the stern chiefs of several local villages sit dressed in traditional robes, each carrying a staff topped by a gilt talisman of his authority. On a platform in front of Carter, a local agricultural official in tan trousers and a T shirt bends to speak into a microphone. "President Carter," he says, "we are very grateful to you. Because of what you have done, for the past two years maize has been very wonderfully produced in this area. This is wonderful. In fact, we love you."

Jimmy Carter grins.

Jimmy Carter is a happy man. Despite everything—despite his disappointing presidency and the Iran hostage crisis, which helped deliver him into Ronald Reagan's eager hands; despite the scorn of various pundits and self-appointed guardians of Washington society; despite his own manifest and manifold weaknesses as a politician; despite "lust in my heart," "malaise" and "killer rabbits"—Carter has discovered life after the White House. More than that, he has redefined the meaning and purpose of the modern ex-presidency. While Reagan peddles his time and talents to the highest bidder and Gerald Ford perfects his putt and Richard Nixon struggles to gain a toehold in history, Carter, like some jazzed superhero, circles the globe at 30,000 ft., seeking opportunities to Do Good.

And finding plenty of them. One moment he's in China, trying to mediate between the leaders in Beijing and their unhappy Tibetan subjects. The next he's in Panama, prowling the streets before dawn on election day, paying a surprise call on the vote counters—bellowing at them in his "modest" Spanish, "Are you honest people, or are you thieves?"—and emerging to denounce Manuel Noriega for "taking the elections by fraud." Then, almost before you know it, Carter is swooping down on sub-Saharan Africa, trying to help eradicate disease or persuade farmers to enlist in the Green Revolution. And this week, in Atlanta, the former President is to convene negotiations—after a year of personal diplomacy—between the Marxist-Leninist government of Ethiopia and the Eritrean rebels to end a quarter-century of civil war.

With all this activity, Carter has emerged as the best ex-President the U.S. has had since Herbert Hoover, another one-termer whose failures in office did not prevent him from decades of productive public service afterward. In a way, Carter has used the White House as a stepping-stone to better things and better days. Says Carter: "As President, I wouldn't have had time to do all the things I'm doing now."

Busy as he is, Carter, who will turn 65 next month, and his marginally less hyperactive wife Rosalynn, who turned 62 last month, do manage to find time for more traditional pastimes: tennis on their backyard court in Plains, Ga., for example, and early-morning jobs wherever they may happen to be. The Carters also still read a fair amount. He was so impressed with John le Carré's new novel, Russia House, that he's rereading Tinker, Tailor, Soldier, Spy and wishing he could meet the author; she has just completed Gabriel Garcia Márquez's Love in the Time of Cholera. And there is bird watching in Africa, fly-fishing from Colorado to the Andes, and furniture making in Carter's home workshop in Plains, where he has turned out, among other handsome pieces, the canopied four-poster bed he and Rosalynn—whom he often calls "Rosie"—share.

But leisure time has never been that important to Carter. If he and Rosalynn, having written no fewer than six books between them since 1981, are giving their word processors a rest for a while, both still teach Sunday school whenever they're home. And both periodically don their carpenter's aprons, pack up their hammers, saws and chisels, and travel to the South Bronx or Philadelphia or, next year, Tijuana, Mexico, to help build low-cost housing. More than anything else, the picture of Jimmy Carter wearing a baseball cap, faded jeans and running shoes, and helping build a new house, like a good neighbor at a Georgia barn raising, captures the essence of his ex-presidency.

Not that he and Rosalynn haven't had their share of defeats and sadness: the closely spaced deaths in 1983 of his younger sister Ruth of cancer and his famous mother Miss Lillian, followed by the loss of his antic younger brother Billy last year. Even so, in the couple's 1987 book, Everything to Gain, Rosalynn wrote, "If we have not achieved our early dreams, we must either find new ones or see what we can salvage from the old. If we have accomplished what we set out to do in our youth, then we need not weep like Alexander the Great that we have no more worlds to conquer. There is clearly much left to be done, and whatever else we are going to do, we had better get on with it."

It is a lesson the Carters learned the hard way. After the dramatic improbability of Carter's victorious 1976 presidential campaign, losing the 1980 election to Ronald Reagan was a terrible blow. The incoming First Couple didn't make things any easier. During the transition, the Reagans suggested that the Carters should vacate the White

House early to give Nancy more time for redecoration—a notion the Carters rejected out of hand. "We were elected to serve a full term," says a still angry Rosalynn, "and we were going to serve a full term." Carter was wounded again when he and fellow former Presidents Nixon and Ford, recruited to represent President Reagan at Anwar Sadat's funeral, were assigned to the relatively cramped tail section of Air Force One. So the three ex-Presidents, none of them then comfortable in the others' presence, sat in nervous silence for most of the long trip to Cairo. (On the way back however, Carter and Ford began forming what became a close friendship.)

Adjusting to life back in Plains was something of a trial as well. The Carters worked, successfully, to reverse the damage that hucksterism and celebrity had done to the tiny Georgia hamlet. And Jimmy puttered in his workshop and began organizing his papers in preparation for writing his 1982 memoir, Keeping Faith. Otherwise, there seemed little to do but brood. The famous Carter peanut warehouse had long since been sold, for $1.2 million. The 2,000-acre Carter farm—actually, it's two farms—was largely worked by lessees. With enforced idleness came more self-doubt and self-pity. Says a friend: "Carter was pretty much of a pain in the ass at that time. He needed a lot of hand holding and reassurance."

The creation of the Carter Presidential Center in Atlanta turned out to be crucial to his self-rehabilitation. With his usual obsessive attention to detail, he envisioned the center not just as another presidential library but as a clearinghouse of ideas and programs intended to solve international problems and crises. The idea became reality when the center was established at Emory University in 1982, and even more so when its permanent headquarters opened in 1986. Located on 30 acres of woods and gentle hills in the Virginia Highlands section of Atlanta, it consists of four low-profile, circular pavilions connected by interior walkways and exterior colonnades, all in a modern, neo-federalist style with faint echoes of the White House and fainter echoes of Jefferson's Monticello. Inside, the Carters have adjoining offices, plus a small but comfortable apartment. Apart from the library and museum, operated by the Federal Government, the Carter Center, with an annual budget of $16 million and a staff of 125, is financed by private donations, mostly from abroad.

The center's many programs form the agenda of Carter's ex-presidency. Notable among them is Global 2000 Inc., an international aid organization aimed at improving disease control and agricultural productivity in Third World countries. The work is enhanced by the leadership of Norman Borlaug, an agronomist whose efforts to bring the Green Revolution to India and Pakistan won him the Nobel Peace Prize in 1970, and Dr. William H. Foege, the Carter Center's executive director, who played a major role in the worldwide eradication of smallpox. Global 2000's principal financial backer is Ryoichi Sasakawa, 90, a Japanese multimillionaire industrialist whose checkered résumée features extreme-right-wing imperialist activities in Japan during the 1930s, but whose later years have been devoted largely to supporting charitable causes.

The key to Global 2000 and the center's other programs is Carter himself. His hair may be thinner and grayer these days, his face more deeply etched, but he is plainly in charge. As a former President, he is able to gain access to foreign leaders, thereby often ensuring his programs the kind of high-level support on which success depends. On a ten-day trip to Africa in July, Carter—the first active U.S. President ever to set foot in the sub-Saharan part of the continent—swept from the Sudan to Ethiopia, back to the Sudan and on to Zimbabwe, Zambia, Nigeria and Ghana. The warm receptions he received from the heads of government were doubtless prompted in part by the many trappings of power he brought with him, including Secret Service protection and an opulent, private Boeing 727, complete with crew and a walnut-paneled double bedroom. (The plane is donated by the London-based Bank of Credit and Commerce International, another Carter Center backer.) Carter, the unassuming Plains populist who once banned *Hail to the Chief* and famously carried his own suit bag, retains a modest personal style but today seems far more comfortable with his perks. Still, as he said shortly after arriving in Africa, "I didn't come here in a position of leadership. I came in a position of follow-ship."

In Addis Ababa, where he stayed in Haile Selassie's decaying old palace, he spent two hours with Ethiopia's President Mengistu Haile Mariam putting the finishing touches on arrangements for this week's peace talks. In the Sudan, Carter had an hour with Lieut. General Omar Hassan Ahmed el Bashir, who only four weeks earlier had overthrown the elected government of Prime Minister Sadiq al Mahdi, to urge negotiations in that country's civil war. In Zambia, Carter lunched at the statehouse with President Kenneth Kaunda, one of the last of the old African independence-movement leaders, who hailed his guest as "not only a great person but a great servant of God and man," while, outside, impalas and peacocks roamed the grounds and private golf course.

Four years ago, when Carter, Borlaug and Sasakawa began trying to bring the Green Revolution to Africa, they signed up a paltry 40 farmers in four countries—the Sudan, Ghana, Tanzania and Zambia. This year there are 85,000, plus uncounted others who, while not officially participating, have begun to use the same improved seeds, fertilizers and farming methods that have yielded such impressive results for their neighbors—300% to 400% increases in corn, sorghum and millet. Although Carter needs and seeks the support of the governments in the countries where his programs are established, his team stresses local administration and the direct involvement of small-scale farmers, whose minds have been focused wonderfully by recent African famines.

At a 200-acre farm in Ojubi, about an hour's drive from Ghana's capital, Accra, Carter inspected a new corn crop literally as high as an elephant's eye. With a farmer's knowing touch, he plucked ears from the stalks, peeled back the husks and admired the golden kernels. This year 46 farmers are working the plot of dry yet newly fertile land. But Carter made a point of introducing one of only two farmers who were involved when the project began in 1987, a woman named Sarah Dazi. "As you know," Carter said with his large and famous smile, "in our country the women also take the lead." From there he proceeded to a nearby celebration of Global 2000's early success. He posed for pictures with farmers and their wives and applauded as brilliantly clad stilt dancers gyrated on their 150-ft. thin wooden limbs to the rhythms of a native band. Later, Carter was installed with great pomp as an honorary village chief. To signify his new office, he was given a chief's robe and a hand-carved wooden stool decorated with tribal symbols of *nyansapow* (cooperation).

For Carter, improved agricultural output is closely linked to the disease-control measures he is also promoting. Seriously ill farmers, he reasons, cannot plant and harvest. Polio and river blindness are two major afflictions that the team hopes eventually to eliminate. But as a demonstration project, Global 2000 has first targeted the vulnerable life cycle of the Guinea worm. Once common in many parts of the world, the worm, which is ingested in drinking water drawn from ponds, is today confined to a belt across central Africa and the subcontinent, where it severely incapacitates some 10 million people each year. The Carter Center hopes to eradicate the Guinea worm in six years, mainly by educating villagers to filter or boil pond water before drinking it and by providing deep wells to replace freshwater ponds. Progress has already been made. Carter visited villages in Nigeria and Ghana that have, with Global 2000's assistance, virtually wiped out the worm. In a Nigerian village, he stood beside the local pond, under a canopy of lush green trees and reminded the villagers that the pond was still infested with the worm's nearly invisible larvae. While photographers snapped pictures, he urged the villagers not to drink from the pond unless they first used the fine-mesh filters distributed by Global 2000. Beside him stood a small boy, his leg badly swollen with a Guinea-worm infection.

Not all the villages Carter visited were completely satisfied with his help. In one, following the usual dancing and singing, the chief rose to speak. "You arrived last year from out of the blue," he said to Carter, "and you gave us a well and a pump." The village appreciated that. But there was this one small problem. Because the well is only 40 ft. deep, it goes dry three months out of the year. "We know that you, Mr. President," said the chief, "will not be happy with a half-measure solution to our problem." On the spot, Carter convened a meeting with his advisers and promptly announced that the well would be drilled to 70 ft. The chief smiled. The villagers cheered.

Next morning the former President began the return trip to Plains. He was relaxed and voluble about his new life, about his future plans (he will never again run for public office, he insists), about the problems he had as President ("Ted Kennedy had a vendetta against me") and about Africa. "I find Africa to be the most challenging and intriguing of any place in the world," he said. "It's facinating to meet with so many first-and second-generation revolutionaries." Carter has no natural enemies anymore, which is liberating. If he sometimes accepts money from donors with dubious backgrounds—Sasakawa, for example, or the Bank of Credit and Commerce International, which has been indicted on money-laundering charges—no one complains, at least not if the money goes to worthy causes.

In many ways, of course, Carter is the same old Jimmy; still indiscriminate with superlatives ("very wonderful"), still using what a former aide calls his "One Hundred Ways to a Better Vocabulary" approach to public speaking, still wearing the same kind of seven-league, heavy-soled wing tips he always has. But he's lost the hard edge. He's productive again, and seems finally at peace

with the conflicts between his well-known born-again Christianity and his life as a public man. Says he on that sometimes touchy subject: "My Christian faith is just like breathing to me or like being a Southerner or an American. It's all part of the same thing—the sharing, the compassion, the understanding, the dealing with the poor and the destitute and the outcasts." If there is a bit of the white man's burden in that and if Carter sometimes falls victim to Christianity's age-old Catch-22, the sin of pride, well, it doesn't seem very important in the scale of things.

And you get the feeling that maybe this is what he thought the presidency would be like—all good works, no Ted Kennedys or Tip O'Neills or bureaucrats or special interests—when he set out from Plains many years ago, naively determined, against the odds, to make a difference.

POSTAL SERVICE OFF-BUDGET DECISION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. VISCLOSKY. Mr. Speaker, on September 12, 1989, the House passed H.R. 982, a measure which removes the Postal Service from the Federal budget. I voted against passage and would like to take this opportunity to explain my vote.

My vote against H.R. 982 was premised on my belief that removing any program, service, or agency from the unified Federal budget is bad policy. It is an abdication of congressional responsibility and an evasion of budget discipline. By removing certain programs or services, the burden of budget reduction is shifted to those that remain on budget. Furthermore, by taking such an action, the true fiscal status of the Federal Government is obscured.

Every Member of this House is aware of the Federal budget deficit that confronts this Congress and our Nation. It impacts every piece of legislation we consider, every Federal program we wish to enact, and every service the Federal Government provides. If we are sincere in our efforts to address the budget deficit, we must be honest about the depth of the problem.

I firmly believe that in order to balance the Federal budget, all items must be placed on the negotiating table, clear priorities established, and all Americans asked to share in the sacrifices to be made. Just as no segment of our society should be saddled with an inequitable burden, no group should receive undue protection.

It is our duty to make the tough choice, to say "no" when it is not fashionable. We must not give in to short-term solutions at the expense of long-term stability.

In conclusion, I want to assure every member of the Postal Service that my vote of September 12 was not lightly considered or founded on a lack of support for the job that they do. Rather, it was based on my fundamental concern over ruinous budgetary policy of obfuscation, evasion, and illusion.

SKELTON PARTICIPATES IN CELEBRITY READER PROGRAM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. SKELTON. Mr. Speaker, during a recent visit to my district I had occasion to become familiar with, and participate in a unique education program. I was invited to be a "Celebrity Reader" by Sylvia Honeywell to teach her third grade class in California, MO.

My understanding of the Celebrity Reader Program is that periodically, through the course of the school year, people are invited into the classroom to read passages from their favorite works of literature. Then the students get a chance to discuss with the celebrities how reading has been important in shaping their lives.

The program does a good job of exposing the children to the successful people in their community, and of making those people aware of the outstanding young people we have in our schools. It would be very hard not to be impressed by the enthusiasm of these eager young people.

I offer this statement to the RECORD with the hope that it can be used to promote this program. It is a small, but significant opportunity to create positive discussions between the generations, which is the very essence of education.

COMMEMORATE THE 50TH ANNIVERSARY OF THE CHESTER WATER AUTHORITY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1989

Mr. SCHULZE. Mr. Speaker, on October 17, 1989, the Chester Water Authority of the city of Chester, PA, will commemorate its 50th anniversary of service to a community of 31,000 customers. The water authority covers an area spanning over 50 miles of Pennsylvania and Delaware linking the Delaware and Susquehanna Rivers.

The Chester Water Authority has continually enjoyed a tradition of dependable service to its family of customers and acted as a reliable safeguard to the natural water resources of the entire area it serves. This tradition has ensured its success as a public utility.

In 1989, the Chester Water Authority rededicated itself to recognizing that the health and well-being of the community depends on the protection and preservation of the environment.

SENATE—*Friday, October 13, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER:

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

*Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal. And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not love, I am nothing. And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not love, it profiteth me nothing. Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up, Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil; Rejoiceth not in iniquity, but rejoiceth in the truth; Beareth all things, believeth all things, hopeth all things, endureth all things. Love never fails * * *.*—I Corinthians 13:1-8.

Eternal God who art love, in the context of so-called hard-ball politics, the word "love" sounds out of place; but help us to understand its power to forgive, to heal, to reconcile, to unite. Impress upon us the reality that love transcends controversy by infinity. And, let the love of God prevail in this place.

In the name of Him who is incarnate love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

Mr. MITCHELL. Mr. President, I understand that under the previous order, the Senate will now immediately resume consideration of the reconciliation bill, and I inquire and ask you whether or not that is correct.

The PRESIDENT pro tempore. The majority leader is correct. The clerk will state the title of the bill.

The assistant legislative clerk read as follows:

A bill (S. 1750) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for fiscal year 1990.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of no quorum has been raised. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I will again suggest the absence of a quorum, but I request that the time be charged equally to both sides.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, what is the pending business?

The PRESIDENT pro tempore. The pending business is the reconciliation bill.

Mr. HEINZ. Mr. President, I ask unanimous consent to speak out of order, as in morning business.

The PRESIDENT pro tempore. How much time will the Senator wish to speak?

Mr. HEINZ. The Senator from Pennsylvania [Mr. SPECTER] and myself, for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 1754 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEINZ. Mr. President, I thank the Chair.

I certainly urge our colleagues to join in cosponsoring this legislation.

I am pleased to yield the remainder of my time to my colleague from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I thank the Chair. I thank my distinguished colleague.

Mr. President, I have been asked to request unanimous consent that all time consumed by Senator HEINZ and myself on this legislation be counted against the reconciliation bill because it is the intent of the leadership to keep the clock running for the allotted time. I so ask unanimous consent.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1754 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 10 a.m. and that the time between now and then be charged against the bill equally against both sides.

There being no objection, the Senate, at 9:19 a.m., recessed until 10 a.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

RECESS UNTIL 11 A.M.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. this morning, and that the time be charged against the bill equally divided.

The PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the Senate, at 10 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

The PRESIDENT pro tempore. The senior Senator from Alabama [Mr. HEFLIN], is recognized.

Mr. HEFLIN. Mr. President, I ask unanimous consent that I be allowed

to speak in morning business and that the time be charged equally each side relative to the reconciliation bill.

The PRESIDENT pro tempore. Without objection, the Senator will be permitted to speak out of order with the time running equally against both sides.

DR. A.G. GASTON HONORED BY NATIONAL BUSINESS LEAGUE

Mr. HEFLIN. Mr. President, the National Business League will hold its 89th annual convention in Birmingham, AL, October 17-20, 1989. The league was founded by the late Dr. Booker T. Washington, who also founded what is now called Tuskegee University, in Tuskegee, AL.

On Friday night, October 20, 1989, the National Business League will bestow its highest award on Dr. A.G. Gaston, an Alabama entrepreneurial pioneer, for his 66 years of success in business.

Dr. Gaston's successful business life unfolds in story-book form. He says that every business that he has ever started was based on a real need in the community. He filled each need as he recognized it.

In 1923, Dr. Gaston started an insurance company in Birmingham, AL, with less than $500. It was an offshoot of the Booker T. Washington burial society. It became the nucleus of a network of corporations which he now owns or controls with combined assets in excess of $95,000,000.

In 1939, he and his wife, Minnie, founded the Booker T. Washington Business College in Birmingham, AL, because they could not find enough qualified clerks and typists to service their businesses. Although Dr. Gaston says that they never intended to make any money out of it, it proved to be a very lucrative investment during the war. Today, the business college is owned and operated by Mrs. Gaston. She boasts of having graduates in well-placed government positions throughout the country.

In 1954, Dr. Gaston opened the only first-class motel and restaurant in Birmingham that would accommodate black travelers. It was the only public facility available to the late Dr. Martin Luther King, Jr., and his associates during the demonstrations there.

In 1957, Dr. Gaston founded the Citizens Federal Savings & Loan Association to provide home mortgage money for blacks who could not borrow it from other financial institutions in significant amounts. It's now Citizens Federal Savings Bank. Capital was over 60 million dollars as of September 30, 1986. In May of this year, the bank was rated the safest savings and loan in Birmingham by Bauer Communications Inc, of Miami.

In 1962, the mayor of Demopolis, AL, presented to Dr. Gaston the city's native son award. Since that time, the mayor has declared August 31 of each year as "Dr. A.G. Gaston Day" in the city of Demopolis, AL, for all times.

Not only is this 97-year-old stalwart a leader in the business community, but also in community relations. He firmly believes that money is no good unless it contributes something to the community.

Thus, in 1963, he founded Gaston Home for Senior Citizens because, at the time, there were no first-class nursing homes for blacks in the State of Alabama.

In 1966, he contributed $50,000 to a fundraising drive to start an affiliate to the Boys' Clubs of America to meet the recreational needs of over 2,000 boys in a high-crime neighborhood of the city of Birmingham. Police records show a 50-percent drop in juvenile crime after the A.G. Gaston Boys' Club was established.

Dr. Gaston's business, education and civic awards, honors and achievements are such that they could fill a book. However, I would like to list his educational background and the various corporations for which he serves as board chairman and chief executive officer. Dr. Gaston is a graduate of Tuggle Institute, Birmingham, AL. He holds honorary doctorates from the following institutions of high education: Tuskegee University, Daniel Payne College, Birmingham, AL; Paul Quinn College, Waco, TX; Allen University, Columbia, SC; Monrovia College and Industrial Institute, Monrovia, Liberia, West Africa; Edward Waters College, Jacksonville, FL; Alabama A&M University, Normal, AL; doctor of laws: Pepperdine University, Los Angeles, CA; University of Alabama; Troy State University, AL; and the University of Montevallo, AL.

He serves as board chairman and chief executive officer of the following Alabama corporations:

Booker T. Washington Insurance Co.;

A.G. Gaston Home for Senior Citizens;

New Grace Hill Cemetaries, Inc.;

Zion Memorial Gardens;

Vulcan Realty and Investments Corp.;

Gaston Gardens I and II;

Smith & Gaston Funeral Directors, Inc.;

Citizens Federal Savings Bank;

Booker T. Washington Broadcasting Co. (WENN Radio FM and WAGG AM); and

A.G. Gaston Construction Co.

Mr. President, I have known Dr. Gaston personally for the last 40 years or so. He is truly a financial wizard extraordinaire. He says that he never set out to become rich—only to fill needs. He is considered today Birmingham's most successful businessman—color notwithstanding. I can think of no one more deserving of the highest and best award of the National Business League than Dr. A.G. Gaston.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of having no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call at roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum but I ask unanimous consent that the time for the quorum call be charged equally against both sides relative to the tolling of the time on the Budget Reconciliation Act.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding the time of the quorum call would not be charged against either side under the Budget Act; is that true?

The PRESIDENT pro tempore. What is the Senator's question?

Mr. STEVENS. Mr. President, I might state that my objective is to stop further time from running on the Budget Act until we get back to consideration of the reconciliation bill that is before us. My inquiry is whether, if I object, the time would be charged to either side under the Senator's request.

The PRESIDENT pro tempore. A quorum call, if made immediately preceding a vote, is not charged; otherwise, a quorum call is charged against the time.

Mr. STEVENS. Mr. President, the effect of the Senator's request is that the time now is equally divided rather than the person asking for the call.

The PRESIDENT pro tempore. That is correct.

Mr. STEVENS. I will not object. Parliamentary inquiry. How much time is left to each side, Mr. President?

The PRESIDENT pro tempore. The majority has 4 hours and 6 minutes; the minority has 4 hours 42 minutes.

Mr. STEVENS. I thank the Chair. I might state to the Chair and to the Senate I intend to object to any further charging of time against this bill until we are back on the bill, if it is possible to do that. I thank the Chair.

The PRESIDENT pro tempore. Will the Senator repeat his request.

Mr. HEFLIN. I ask unanimous consent that there be a quorum call and that the time be equally charged against both sides during the period that the quorum call exists and that the time tolled be subtracted from the remaining time of the Budget Reconciliation Act.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I be permitted to speak out of order until 12 o'clock noon, and that my statement in its entirety together with footnotes appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, parliamentary inquiry: will this time be charged against the time on the reconciliation bill?

Mr. BYRD. Yes. I ask unanimous consent that the time be equally charged on the reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I have great love and affection for my friend from West Virginia but some of us have amendments to this bill and will be foreclosed if the time keeps running against the reconciliation bill.

Mr. President, if the order has already been entered, I will not ask that it be rescinded but I want to state from my point of view that many of us have amendments to this bill. Unless we can start the clock running on the bill, we cannot offer our amendments.

I have great respect and affection for my friend and the Chair has already ruled on his request. So I will not ask that it be reversed now.

Thank you.

Mr. BYRD. Mr. President, I fully understand the problem which the distinguished Senator from Alaska is addressing, and as I have indicated to him I will be perfectly willing to withhold my remarks until some future time. My remarks have to do with the history of the Senate, and always throughout this series of remarks I have only done them with the understanding that there is no other business to be transacted at that point.

So I would have no feeling at all toward the Senator. I would be happy to yield the floor and let Senators offer amendments if they wish.

Mr. STEVENS. Mr. President, I appreciate the generosity of the distinguished President pro tempore. But it would do me no good to attempt to offer amendments when the managers of the bill are in conference. I am trying to get them to come back here, and conduct the floor as managers of the bill and let us offer amendments.

So with due respect and gratitude I do not think even my friend's generosity would bring them back right now. We have to find some way to get them back.

I thank my friend.

Mr. BYRD. I thank my friend.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE UNITED STATES SENATE

THE SENATE FILIBUSTER—1789-1917

Mr. BYRD. Mr. President, Filibuster!—bane of Senate majority leaders, redoubtable weapon of legislative minorities, target of editors and cartoonists' harpoons, the object of obloquy and scorn. The word is said to have come from the Dutch word *vrijbuiter,* or "freebooter," and passed into the Spanish as *filibusteros,* "who were West Indian pirates, using a small swift vessel called a *filibote.*" [1] To the average American, it means obstructive tactics in a legislative body and is quickly associated with the United States Senate, and it is not unfamiliar to state legislatures around the country.

Obstructive tactics in a legislative forum, although not always known as filibusters, are of ancient origin. Plutarch tells us that when Caesar returned to Rome after a sojourn in Spain, his arrival happened at the time of the election of consuls. "He applied to the Senate for permission to stand candidate," and Cato strongly opposed his request and "attempted to prevent his success by gaining time; with which view he spun out the debate till it was too late to conclude upon any thing that day." [2]

Filibusters were also a problem in the British Parliament.

In nineteenth-century England, even the members of the cabinet accepted the tactics of obstruction as an appropriate weapon to defeat House initiatives that were not acceptable to the government. Opposition leaders had no qualms about the employment of wordy speeches to delay and hinder the majority. "It is told of no less a personage than Sir Robert Peel that, in 1831, he made no fewer than forty-eight speeches in fourteen days." [3] In 1881, the House of Commons sat for 154 days and 1,400 hours, 240 of which were after midnight. Debates on the Land Bill "took up 58 sittings," and on the Coercion Bill, twenty-two sittings, with 14,836 speeches delivered, 6,315 of them by Irish members. Nearly 2,000 points of order were raised during the session. Speaker Brand, on January 31, after a sitting of forty-one hours, declared, "Mr. Parnell [the Irish Leader], with his minority of 24, dominates the House. When will the House take courage and reform its procedure?" Speaker Brand then "simply put the question." [4]

That the members of the British Parliament were not alone in the use of lengthy speeches as a means of obstruction is clear from the "wonderful examples on record":

> How modest seems the seven-hour obstruction speech of the Social Democrat, Antrick, in the German Reichstag, and even the twelve-hour oratorical effort of Dr. Lecher in the Austrian House of Deputies, compared with a twenty-six-hour speech which was delivered in 1893 in the parliament of British Columbia, or with the thirty-seven-hour address in which a delegate in the Roumanian Chamber of Deputies, in 1897, demanded the indictment of Joan Bratiano! . . . In April, 1896, a sitting of the Canadian House of Commons devoted to a bill dealing with the schools in Manitoba lasted a hundred and eighty hours, and in Chile a single speech is reported to have extended through ten days of a session." [5]

France, too, had her troubles, undoubtedly, the word *cloture* coming from the French.

There was protracted debate in the first session of the First Congress regarding the permanent site for the location of the Capital. Fisher Ames, a member of the House from Massachusetts, complained that "the minority . . . make every exertion to . . . delay the business." [6] Senator William Maclay of Pennslyvania complained that "every endeavour was used to waste time," that Senators Lee, Butler, and Grayson "refused to go on the Business as Gunn was absent," and that, when Senator Gunn finally arrived, "then they wanted to go and see the Ballon let off," the reference being to a hot-air balloon that was one hundred feet in circumference, the ascension of which had been much advertised. (Incidentally, the balloon caught fire, and "the experiment ended in failure.") [7] Maclay observed that "there is really such a thing as Worrying weak or indifferent Men into a Vote," and that "no business ever could have a decision, if Minority Members, were permitted to move reconsiderations, Under every pretense of new Argument." [8]

Long speeches and other obstructionist tactics were more characteristic of the House than of the Senate in the early years. But the House, on February 27, 1811, "decided . . . that after the previous question was decided in the affirmative, the main question should not be debated." [9]

The Senate was a much smaller body and the members were more staid and polite and dignified than were the members of the House, where most of the action occurred and most of the spectacular battles were fought prior to the Jacksonian era. However, with the election of John Randolph of Virginia to the Senate in 1825, the speech-making landscape began to change. Randolph had served previously in the House where he had been notorious for his extreme eccentricity and long-winded, vitriolic diatribes. Pity the person inside or outside the Chamber who came under the

lash of his biting sarcasm and merciless invective. Randolph had fought several duels and was a man of ungovernable temper, as well as great ability, who engaged in "long and rambling discourses," whose friends "pardoned him as one half insane," and whose enemies "ascribed his irrationality to drink." [10] One may marvel at the incongruity of his sentences, the perverted logic, the roving discourse, the deluge of words that flowed with ease from the caustic tongue of Randolph. His speeches brimmed with irrelevancies; yet, there were often flashes of brilliancy in his long and desultory harangues.

Fragments from Niles' Register of August 26, 1826, will amply demonstrate his elocutionary dexterity during debate on a bill adding to the number of circuit judges, with not one word by Randolph concerning the subject matter of the debate.

Randolph made a passing reference to difficulties "where the legislature or the judicature is separated by any long interval of space, an interval in practice, not an interval in distance—I count as the German store wagoners do, by hours, not by miles."

Then, after a brief reference to how the Whigs "always toasted the constitution, church and state," he returned to the "difficulty . . . of distance; it is as the squares of the distances; I should not be far wrong if I should say it was as the cube—it is like the misery of wearing spectacles and taking care of a spectacle case—it is as the square of the diameters." From there, he made a quantum leap to the Dismal Swamp Canal bill and then to the gerrymanderings of states into districts by "canals and roads for the purpose . . . of pleasing men, and not for doing good to the public . . . for the purpose of making a job . . . all the other cows in our pen having ceased to give any milk." He then turned to the construction of roads in Ireland, "where they have the finest roads in the world," but they "were not intended for the benefit of the Irish." Randolph bemoaned the "taxes imposed on the poor Irish. What is it to them," he asked, "whether there are roads or not, who go with naked feet?" The subject turned abruptly to floods and droughts. Regarding drought, the difficulty was in getting "the earth to act as a condensor, not as a repeller and evaporator—*c'est le premier pas qui coute*—then, sir, it never rains—but it pours." Randolph then averred that "we are to take our measures for man as he is—not the creature he is described to be . . . in Eutopias, Atlantus's or in romances of any sort." In the fortification of a town, every man would pursue his own interests and make out his own case. "Leave it to a committee of carpenters", he declaimed, "and a bill will be brought in to fortify the city with wood; leave it to the tanner, and it will be leather; leave it to the stone-mason, and it will be stone." Randolph continued: "Then comes this bog trotter, with his spade on his shoulder, and his wheelbarrow in his hand, and says there is nothing, my dear sir, like turf—all fortifications should be made of turf."

Randolph acknowledged that he had "fallen into a bad habit, when addressing the Senate, of saying too much—*ne quid nimis*," and then plunged right in to a reference to "the people." And who were the people, he asked rhetorically, and then proceeded to provide his own answer: "They who are now turning the furrow and whistling—I hope they have the heart to whistle—while their corn is putting in the ground, and they are giving it the first working." These were the people, allowed Randolph, "out of whose corn houses the horses and asses of Washington are to be fatted."

Then followed a long discourse on slavery and life in the South, and the statement that there was "not a family in the State of Virginia, who, in point of fine mahogany furniture, Turkey carpets, expensive wine, great show . . . who maintain a style of expense equal to that, I won't say of a chief clerk, but a secondary clerk in our departments here."

In his address to the Senate, Randolph said that he had been held up "as any man will be who speaks his mind fairly and boldly, without any qualification, as a blackish sort of a white, and a whitish sort of a black—as an advocate for slavery in the abstract." Then he spoke admirably of Britain's Lord Liverpool who, he said, felt his way "as every wise statesman and physician does" instead of rushing onward "like a rash young man, just come to his estate—put a beggar on horseback and he will ride to the devil . . . who spends, and thinks he cannot get rid of it quick enough, and instead of ten years finds it does not last two."

The vast expanse of Randolph's loquacity knew no limits. "What is the Baconian philosophy?" queried the Senator. "A philosophy of induction—of severe reasoning founded on severe experiment—founded not on one experiment" but on many. "Sir Joseph Banks," he announced, "made but one experiment to make the fleas into lobsters, according to Pindar, but they would not become lobsters, damn their souls." Wondered the irrepressible Randolph, "how do you know, if he had made another experiment, but he would have succeeded—perhaps the want of some acid or alkali prevented it."

Nor was the press to escape his excoriation. "The press is at this moment bribed—it is in the hands of some of the most profligate men of this country." As to abuse in the newspapers and anonymous letters, he never wasted his time on them. "Any man," declared Randolph, "who will write an anonymous letter in the newspaper which he is afraid to own, would, if you would give him the opportunity, put poison in your drink." Hence, as we can see, Randolph's speech was a stellar performance in verbal gymnastics, but there was never a word about circuit judges! [11]

Randolph served in the Senate less than fifteen months, having been appointed to fill an unexpired term. Failing of reelection to the Senate, he was again elected to the House and later served a brief stint as Minister to Russia, a post from which he shortly resigned. He was once more elected to the House, where he had served less than three months of his term when he died on May 24, 1833. Thus ended the life and career of this complex man whose volcanic temperament and virulent tongue could well have made him, in a later age, the arch-filibusterer of them all.

The dawn of complicated procedural filibustering in the Senate was yet a long way off when, at the opening of the Twenty-seventh Congress on March 4, 1841, the Whig majority determined to get rid of the Senate's official printers, Blair and Rives. A motion by Senator Willie P. Mangum of North Carolina to dismiss the printers of the *Globe* was debated from March 5 until March 11. The debate developed into a "prolonged and acrimonius contention, relevant to the subject but spun out by the Democrats through lengthy arguments based on grounds of constitutionality and expediency." [12] Among the most noted of the Democratic combatants were Senators John C. Calhoun of South Carolina, Thomas H. Benton of Missouri, William R. King of Alabama, and James Buchanan, who was later to become president. The arguments were lengthy and heated, with King and Senator Henry Clay of Kentucky engaging in personal and scathing terms, as the following exchange will attest:

> Mr. Clay. If there was no other ground for his [Mr. Blair's] dismissal, he (Mr. Clay) would go on the ground of infamy of character of the print and the Printer . . . and let him tell Senators that, the other day, when the late [former] and the present President, in a manner so honorable to themselves, were exchanging courtesies with each other—a spectacle with which every manly man must be gratified—that day was fixed upon by this *Globe*, as a foreign minister told him—for he (Mr. Clay) scarcely ever saw the dirty sheet—that day this man . . . selected to issue a tirade of abuse and scurrility against the President in power . . . It was but an attempt to prolong their [the Democrats'] power . . . and to force on them (the present [Whig] majority) unacceptable, unwelcome Printers . . . The time had now come, and he trusted they [the Whigs] should avail themselves of it, and . . . adopt the resolution. . . . Mr. King of Alabama said he was not disposed to enter into a long argument. . . . his indig-

nant feelings would not permit him to reply to the imputation of motive by which it was alleged his side of the [Senate] were actuated. Such imputations were unworthy of the person who uttered them. . . . But who is this Mr. Blair, who has been so violently assailed on this floor? If his (Mr. King's) recollection served him aright, this man Blair resided years gone by in the State of Kentucky. . . . He was then the political friend of the Senator from Kentucky; his intimate associate. . . . Was he infamous then? He presumed not. He (Mr. King) knew nothing of Mr. Blair . . . until he made his appearance in this city some years past. Since that time, he had been on terms of social intercourse with him—had observed his conduct . . . and he felt bound to say, that for kindness of heart, humanity, and exemplary deportment as a private citizen, he could proudly compare with the Senator from Kentucky, or any Senator on this floor by whom he has been assailed. . . .

. . . Mr. Clay of Kentucky said . . . he believed the *Globe* to be an infamous paper, and its chief editor [Blair] an infamous man. . . . But a Senator [Mr. King], who he supposed considered himself responsible, had gone a step further, and had chosen to class him (Mr. Clay) with Blair, and to consider Blair as equal to him in every point of view—in reputation and every thing else . . . and for the Senator from Alabama [Mr. King] to undertake to put him on an equality with Blair, constrained him to say that it was false, untrue, and cowardly.[13]

Clay's words were so offensive that King challenged him to a duel. Clay who had once dueled with John Randolph, accepted the challenge. The duel was averted only when the warring Senators were brought before a magistrate and placed under a peace bond. The March 11, 1841, *Newark Daily Advertiser* had this to say:

"What a humiliating spectacle for the world to contemplate! Two American Senators arrested in the very temple of Liberty on an errand of *murder*!—How long will public sentiment tolerate men who thus publicly set at defiance the laws of God and man, and contemptuously violate the moral sense of the nation, in the very Halls consecrated to its protection!"

The obstruction wore down and the filibuster ended in defeat for those who launched it. The printers were dismissed.

Four months later, another delay occurred, this time on a bank bill, dear to the hearts of the Whigs but anathema to the Democrats. On June 21, Clay announced the report of the bill from a committee, but to the disappointment of Clay and other Whigs, the Democrats proceeded to debate the bill at length. On July 15, an annoyed Clay announced that the majority should control the business of the Senate and that he would offer legislation to that end, believing that a limitation of debate would carry. King of Alabama demanded to know whether Clay really intended to introduce such a measure to throttle debate.

Clay responded, "I will, sir; I will." King's defiant reaction was blunt. "I tell the Senator, then, that he may make his arrangements at his boarding house for the winter."

The threat of a filibuster was unveiled and clear. An indignant Benton blasted the "design to stifle debate."

"Sir," he declared, "this call for action! action! action! . . . comes from those whose cry is, plunder! plunder! plunder!" Calhoun, denouncing "a palpable attempt to infringe the right of speech," let it be known that he would resist any gag attempt.

Clay never pursued his announced proposal for limiting debate, as other Whig senators indicated that they would not support such a move. Debate on the bank bill ended with its passage finally on July 28.[14]

Five years later, in 1846, there occurred a lengthy debate on the question of termination of the treaty with Great Britain concerning the Oregon territory. Long speeches delayed a decision for more than two months until the Senate finally passed the resolution, and a peaceful settlement of the Oregon boundary was reached.[15]

Also in 1846, war with Mexico was declared, and President Polk asked Congress for an appropriation of $2 million which he intended as an initial payment to Mexico for territory that he hoped the Mexican government would ultimately be willing to cede to the United States. The House approved the request but attached the Wilmot Proviso, so named for its author, David Wilmot of Pennsylvania, prohibiting slavery in any territory so acquired. The appropriation bill came up in the Senate on the morning of August 10, noon being the hour set for final adjournment. Senator Dixon Lewis of Alabama moved to strike out the antislavery provision, whereupon Whig Senator John Davis took the floor. In the meantime, the House adjourned, leaving it up to the Senate to accept the amendment, else the appropriation would not become law. Davis talked the bill to death, saying that if the bill passed, the President "will feel justified in prolonging the war until . . . additional territory is acquired." Polk renewed his request for the money in December when Congress reconvened. Fierce debate again ensued. Senate delays tied up the appropriation for more than a month, but finally the bill, minus the Wilmot condition, was approved.[16]

On January 16, 1850, Senator Henry Foote of Mississippi introduced an omnibus bill to organize the Western territories, including California, Mexico, and Deseret—a vast area extending from present-day Arizona and Nevada to Utah, and proposing the separation of Texas into two states. Southern representation would be increased in the Senate, mitigating the admission of California as a free state. The Judiciary Committee, on the same day, reported a bill to toughen regulations governing the capture and return of fugitive slaves. These proposals, together with northern demands for an end to slavery in the District of Columbia and southern demands for a new fugitive slave law, set the stage for the historic debates which culminated finally in the compromise of 1850. Henry Clay unveiled a set of eight compromise proposals which he believed would settle the slavery issue for many years. The Senate wrangled, and Clay complained bitterly of the long delays: "To postpone, to delay, to impede, to procrastinate, has been the policy of the minority in this body. . . ."

Finally, legislation passed the Senate after the admission of California and other proposals were stricken, and only the provision for the territorial government for Utah remained. Senator Stephen A. Douglas of Illinois then pressed for passage of a bill to admit California. That measure quickly encountered sudden and stiff resistance. "Dilatory motions to adjourn, postpone, lay on the table, amend, and so on were employed, although by no means exploited to their full possibilities." The bill for California's admission passed on August 13, and the other compromise measures were adopted before the session ended. As soon as one proposal was settled, Douglas brought up the next. Where Clay had failed to secure passage of his omnibus package of compromises, Douglas succeeded in their enaction as separate proposals, piece by piece.[17]

On Monday, January 26, 1863, Senator Lyman Trumbull of Illinois, Chairman of the Judiciary Committee, called up a House bill to indemnify the President and other persons for suspending the writ of *habeas corpus*.[18] The legislation was considered necessary by the administration for the effective prosecution of the war. The bill was being considered as in Committee of the Whole on January 27, when Senator Willard Saulsbury of Delaware, in lengthy remarks, referred to President Lincoln as "a weak and imbecile man; the weakest man that I ever knew in a high place." Saulsbury, stating that he had conversed with the President, repeated his assertion, "I never did see or converse with so weak and imbecile a man as Abraham Lincoln, President of the United States." Other senators charged Senator Saulsbury with transgressing the rules of the Senate, and the vice-president, after Saulsbury accused other senators of "blackguardism," ruled the senator out of order "in attributing such language to members of the body," and ordered him to "take his seat."[19] Saulsbury appealed the ruling of the Chair and proceeded to speak on the appeal, in the course of which he again attacked the president, saying, "if I wanted to paint a tyrant; if I

wanted to paint a despot . . . I would paint the hideous form of Abraham Lincoln." The vice president then ruled that Saulsbury's remarks were not pertinent to the question of order and again ordered him to take his seat, whereupon Saulsbury shouted, "The voice of freedom is out of order in the councils of the nation!" The vice president then instructed the sergeant at arms to take Saulsbury in charge "unless he observed order." Saulsbury's response was, "Let him take me," and the vice president ordered the sergeant at arms to "take the Senator in charge." The *Congressional Globe* shows that the assistant sergeant at arms, Isaac Bassett approached Mr. Saulsbury, who was seated at his desk, and, after a brief conversation, they left the Senate Chamber. The vice president then put the question on the appeal, and the decision of the Chair was sustained.[20] The debate continued on the *habeas corpus* bill, during which debate Senator Saulsbury persisted in his attempts to speak without leave of the Senate after having been ruled out of order. The Presiding Officer again ordered Saulsbury to take his seat and, upon the Senator's refusal to do so, gave the order to the sergeant at arms to "take the Senator in charge." Saulsbury then said, "Let him do so at his expense." Here, the *Globe* records that the sergeant at arms approached Mr. Saulsbury, who was sitting at his desk, and that "It was understood that Mr. Saulsbury refused to retire, but at a subsequent period he left the chamber," a rather bland portrayal of what had, in reality, taken place, for Saulsbury, in a scene reminiscent of the Foote-Benton altercation in April 1850, had brandished a gun and threatened to shoot the sergeant at arms on the spot. Later in the day, Saulsbury again returned to the Chamber and sought to gain the floor and was again told by the Presiding Officer to take his seat. At this point, a roll-call vote occurred on an amendment, after which the *Globe* shows no further interruptions by Saulsbury.[21]

On the following day, January 28, Senator Daniel Clark of New Hampshire offered a resolution to expel Saulsbury from the Senate, the resolution charging Saulsbury with having brought into the Senate "a concealed weapon," having behaved "in a turbulent and disorderly manner," and having drawn "said weapon" and threatened "to shoot [the] Sergeant-at-Arms." Senator Clark asked that the resolution lie over until the next day.[22] On Thursday, the 29th, Saulsbury apologized to the senate, not for what he had said about President Lincoln but for the "violation of the rules of the body," following which Senator Clark announced that he would not proceed with his expulsion resolution, and the matter was dropped.[23]

The *habeas corpus* bill had passed the Senate on January 27 and had gone to a House-Senate conference. The conference report was laid before the Senate on March 2. A heated debate again occurred, with Senator William A. Richardson of Illinois threatening to "express, at length, our opinions in reference to this whole measure, to which we are opposed." Senator Lazarus W. Powell of Kentucky expressed resentment at "an imputation that our object was to do what is commonly called filibustering."[24]

The debate went on throughout the day of Monday, March 2, with motion after motion to adjourn. At about 5 o'clock in the morning of Tuesday, March 3, Republican Senator Samuel C. Pomeroy of Kansas was presiding when a heavy-handed parliamentary action took place. Immediately following a roll-call vote rejecting a motion to adjourn, Mr. Pomeroy, in a voice scarcely audible, put the question: "The question is on concurring in the report of the committee of conference. These in favor of concurring in the report will say 'ay'; those opposed 'no.' The ayes have it. It is a vote. The report is concurred in." Senator Trumbull moved quickly to take up another bill, and the motion was agreed to. Several senators had not heard the Chair submit the question on the adoption of the conference report, and, amid the confusion, when Trumbull moved to consider another matter, Senator Powell, unaware that the report had already been agreed to by a voice vote, insisted that the consideration of the conference report be continued and that he desired the yeas and nays on its passage. A heated discussion then occurred over what had transpired and was ended only by an adjournment until noon of the same day, Tuesday, March 3.[25]

When the Senate reconvened at noon, the heated discussion was renewed, with the opponents of the *habeas corpus* bill insisting on reconsideration and a vote. When it was pointed out that the enrolled bill had already been signed by the Speaker and the Senate President pro tempore[26] and was on the way to the White House, a staged vote was arranged on a motion requesting the House to return the bill to the Senate for reconsideration, which, of course, was by now impossible of execution. This was done, nonetheless, as a way of having a test vote which would give senators opposed to the bill a way of going on record against it. The motion requesting return of the bill was rejected by a vote of 13 to 25.[27]

The unsuccessful filibuster of 1863 was "the first in Senate annals which can be said without shadow of doubt to have been truly intense,"[28] and it failed because of slick maneuvering by the majority in the face of a small but determined minority.

The next filibuster of equal or greater magnitude occurred sixteen years later, in 1879. It marked a forward development in the attempt to deal with obstructive tactics. On June 16, the Senate proceeded to take up a House appropriation bill containing a provision that no money in the act could be paid "for the subsistence" of the army "to be used as a police force to keep the peace at the polls at any election." On Tuesday, the 17th, debate got underway and continued on the 18th.

Republicans scathingly attacked the provision, with Senator Roscoe Conkling of New York leading the opposition. Repeated motions to adjourn, points of order, appeals, motions to table, motions to instruct the sergeant at arms, and breaking of quorums went on incessantly throughout the night until the Senate adjourned at 11:51 a.m. on Thursday, June 19, to reconvene nine minutes later at noon.[29]

When the dust from the all-night wrangling had settled, thirty roll-call votes and nine quorum calls had occurred after six o'clock p.m., Wednesday evening, with little else to show for the all-night session. On Friday, tempers had subsided, and the bill was passed shortly before two o'clock a.m. on Saturday, June 21.

The bitter filibuster had produced two minor but progressive developments in the Senate's experience with obstructive tactics in parliamentary warfare. On Thursday, June 19, when the Senate reconvened at noon following the all-night Wednesday session, the following occurred:

The President pro tempore called the Senate to order and said: "The Chair is informed by the journal clerk that owing to the length of the session yesterday and its prolongation during the night, the Journal . . . has not been finished; and the Chair suggests that the reading of it be dispensed with until it be finished."

Mr. CONKLING. "I object, Mr. President; and I insist upon the observance of the . . . rule . . . which requires the Chair to cause the Journal to be read, first of all, after calling the Senate to order."

The PRESIDENT pro tempore. "The Journal can be read as far as it is made up; but what is not made up cannot be read. The Clerk will read the Journal as far as it is made up."

Mr. CONKLING. "I object to anything being done until the Journal is read."

The PRESIDENT pro tempore. "The Journal will be read as far as it is made up."

Mr. CONKLING. "There will not be anything done until the rest of it is read."

The Journal of yesterday's proceedings was read in part.

The PRESIDENT pro tempore. "Petitions and memorials are now in order."

Mr. CONKLING. "Has the Journal been read?

The PRESIDENT pro tempore. "All that has been written up has been read."

Mr. CONKLING. "I submit to the Chair that the rule requires that the Journal of the preceding day's proceedings shall be

read. I demand the reading of the whole of those proceedings, and object to anything being done until the Journal is read. . . . "

The PRESIDENT pro tempore. "It is the opinion of the Chair that the Senate cannot be prevented from transacting business by a failure to write up all the Journal, and that the rule does not require an impossibility. As far as the Journal has been written up it has been read. The rest of it, in the opinion of the Chair, must be read hereafter. Therefore, the Chair overrules the point of order made by the Senator from New York."

Senator Conkling appealed the Chair's ruling, and Senator Frank Hereford of West Virginia moved to table the appeal. On a roll-call vote, the appeal was tabled, 33 to 4. A quorum not having voted, the Chair directed the clerk to call the roll to establish a quorum. Forty-eight senators, a quorum, being present, the question recurred on the motion to table the appeal of the ruling of the Chair. The vote was 26 to 4 in favor of tabling. No quorum having voted, the clerk again called the roll of senators and fifty-two senators answered their names. The roll-call vote again recurred on the motion to table Conk- ling's appeal of the Chair's ruling, and the vote in favor of tabling was 32 to 3, again no quorum. At this point, Senator Thomas F. Bayard, Sr., of Delaware asked that Senator Zachariah Chandler of Michigan, being present but not having answered to his name, be required, under the rule, to assign his reasons for not voting, to which the Michigan Senator responded that he viewed this "as an attempt in an unconstitutional manner to overturn . . . a standing rule of this body that cannot be overturned except in the regular way, and I will not vote to make a quorum to do an unconstitutional and wrong act." The presiding officer then stated it to be his duty to put the question to the Senate, "Shall the Senator from Michigan, for the reasons assigned by him, be excused from voting?" The yeas and nays were ordered and the vote was 33 to 0 that the senator not be excused. Again no quorum had voted, obviously because several senators who were present had remained silent, declining to vote when their names were called. The President pro tempore then announced:

"No quorum has voted. The Chair has counted the Senate. There is a quorum present, but no quorum voting. . . .

. . . The Chair does not think the fact that a quorum has not voted is conclusive evidence that a quorum is not present. On the contrary, in the opinion of the Chair, he has a right to count the Senate. He has counted the Senate and found that a quorum is in attendance; but a quorum has not voted." [30]

Thus, the Chair had ruled that the Senate could not be prevented from doing business when the Journal of the previous day had unavoidably not been completed; and that, on a call to establish the presence of a quorum, the Chair could count a quorum if one were physically present, though silent—a tactic known as "quorum-breaking." Republicans had effectively used the tactic, sitting in their seats and declining to answer to their names on roll-call votes so as to produce a no-quorum situation, and then answering to their names on the quorum call that automatically followed.

Filibusterism had come to full flower in the Senate, but precedents, though weak at the beginning, were being shaped to gnaw at its branches, if not yet at its roots. "To count a quorum present to allow the Senate to proceed to business, and to count a quorum on a vote in order to declare a motion carried, are different things." [31] The first step had been taken; the second step would await the passage of almost thirty years.

In the closing days of the 46th Congress, the Democrats attempted repeatedly to take action upon nominations submitted by outgoing President Rutherford B. Hayes, but Republicans, in the minority, demonstrating their adeptness in the use of the filibuster weapon, refused to consider the appointments and resorted to obstructionist tactics to delay action until the new president, James A. Garfield, could fill the vacant offices. The Senate that met on March 4, 1881, was evenly divided with thirty-seven Republicans, thirty-seven Democrats, and two Independents. In Volume I of *The Senate; 1789-1989*, I have already related the events which led to the victory of the Republicans when Senator William Mahone of Virginia, representing a breakaway faction within his state's Democratic Party, known as the "Readjustors," joined with the Republicans to control the Senate. The shoe was then on the other foot, and the Democrats filibustered with a vengeance. When New York Republican Senators Roscoe Conkling and Thomas C. Platt resigned because of a patronage quarrel with President Garfield, the deadlock was broken. The Democrats had a two-vote majority and, in the interest of wrapping up the session, they agreed not to reopen the question of committee control. In return, the Republicans permitted the Democrats to maintain control of the Senate's officers and patronage.[32]

Another celebrated filibuster was launched when a so-called "Force Bill" was called up in the Senate by Senator George F. Hoar of Massachusetts on December 2, 1890. The bill provided for federal supervision of Congressional elections and was directed against Negro disqualification and intimidation in the southern states. Republicans saw the legislation as a way to make political gains in the south, while, to Democrats, it represented an attack on states' rights. Democrats gave lengthy Senate speeches and resisted the bill with might and main. On December 23, Senator Nelson W. Aldrich of Rhode Island introduced a resolution making it in order for any senator, after a matter had been considered "for a reasonable time," to demand that debate be closed, after which, without further debate, a vote would occur on cloture. The resolution provided for majority cloture, following which no motions other than to adjourn or recess would be in order and no proceedings respecting a quorum would be in order except when, on a division or roll-call vote, a quorum was shown to be lacking. Every Senator would be limited to one speech and "not exceeding thirty minutes." [33]

The debate continued up to December 24, when there was a brief respite until Monday, December 29, followed by another short recess from the close of business on December 31 until Monday, January 5, 1891, when the Senate set aside the elections bill to take up currency legislation. Action was completed on the currency bill on January 14, after which the Senate returned to the elections bill. The vote to proceed to the bill was a tie, 33 to 33, broken only by the casting vote of Vice President Levi P. Morton in favor. The Democrats, who thus far had resorted only to speech-making, resolved to talk until the session ended on March 4. The Republicans were determined to overcome the minority by keeping the Senate in continuous session, and it became a contest of physical endurance. Throughout the day and night of Friday, January 16, until 6 p.m. on Saturday, the 17th, the Senate was in session, with Senator Charles J. Faulkner of West Virginia nominally holding the floor for eleven and one-half hours, during which the Senate was unable to muster a quorum for approximately eight hours. Not until 9:30 a.m. was the Senate able to maintain a quorum.[34] Between the hours of midnight Friday and 9:30 a.m. Saturday, the roll was called eight times, on procedural matters only. The sergeant at arms was ordered to request the attendance of absent senators, and he reported to the Senate that seven members were too ill to comply, one said he was "much too fatigued to attend," others would not answer the knock at their doors, Senator Matthew Butler of South Carolina simply "refused to obey the summons," and Senator James H. Berry of Arkansas "requested me to report to the Senate that he would come when he got ready." [35]

After this exhausting session proved beyond the endurance of the majority, the Republicans abandoned the strategy of continuous session, and they concentrated, instead, on Aldrich's proposal for cloture which he called up on January 20, 1891. At 2 o'clock, the elections bill, being the unfinished

business, was laid before the Senate by the vice president, thus displacing the resolution on the rules change.[36] Concerned that a way would be found to throttle debate, the Democrats worked feverishly to find a way to displace the hated Force bill and, by allying themselves with the silverites, they were able to accomplish this. On Monday, January 26, Senator Edward O. Wolcott of Colorado moved to proceed to a bill making an apportionment of Representatives in Congress, the motion carrying by the narrow vote of 35 to 34.[37] The filibusterers had succeeded in killing the Force bill in a battle waged from December 2 to January 26.

In August 1893, a filibuster erupted on legislation to repeal the silver purchase provisions of the Sherman Silver Purchase Act. The country was in the midst of a financial panic, and the administration of Grover Cleveland supported repeal. Congress was called into session on August 7, and Senator Daniel W. Voorhees of Indiana, known as the "Tall Sycamore of the Wabash," led the fight for the administration. On August 29, Voorhees reported the House bill in the Senate and the filibuster began. Republican Senator Fred T. Dubois of Idaho was one of the leaders of the obstructionist alliance in which silver Republicans joined with silverites and "farmer" Democrats. The President had recommended repeal of the law. "Lines of battle were drawn; against the financial East, stood the Far West and most of the South. Silverites from the latter sections demanded more silver, not less. Free and unlimited coinage was their goal, their panacea for the financial ills of the country." [38]

On Wednesday, October 11, the Senate met a 11:00 a.m., and remained in session thirty-eight hours and forty-five minutes before adjourning at 1:45 a.m. on Friday, the 13th, during which time there were four roll-call votes and thirty-nine quorum calls, twelve of the quorum calls occurring between 6:20 p.m. Thursday and the adjournment at 1:45 Friday morning. Senator William V. Allen of Nebraska held the floor throughout Wednesday night until almost 8 a.m. on Thursday, when, "after having spoken some fourteen hours with interruptions" from eleven quorum calls, one roll-call vote, and speeches by colleagues, he surrendered the floor. On Monday, October 16, the Senate met from 11:00 a.m. until 10:00 p.m. Twelve roll-call votes and thirteen quorum calls occurred. The tactic of "breaking quorums" was blatantly resorted to by unabashed filibusterers. The yeas and nays would be demanded and seconded, then the obstructionists would remain silent when their names were called. Less than a quorum voting, the presiding officer would announce that no quorum was present though a plain quorum was in sight, and then he would order the clerk to call the roll for a quorum. A quorum would answer. The roll-call on the vote would then recur, and, again, the filibusterers would decline to vote. Over and over again, hour after hour, the ludicrous scene would repeat itself.

Finally, on October 24, the filibusterers yielded and a vote on passage occurred six days later, on October 30, the bill passing by a vote of 43 to 32. "For forty-six days, then, the filibusterers had performed upon the Senate stage; and the endeavor failed only because some of its participants deserted the enterprise." [39] Democrats had felt the pressure from the Administration and surrendered, leaving silverites too few in number to carry on the fight.

On March 3, 1897, Senator Matthew S. Quay of Pennsylvania conducted a one-man filibuster, hoping to include in a naval appropriation bill a maximum purchase price of $400 per ton for armor plate. On March 1, Quay had moved unsuccessfully to table an amendment by Senator William B. Chandler of New Hampshire lowering the price to be paid for armor from $400 to $300. Quay decided to filibuster the conference report on the naval appropriation bill when it came back to the Senate, hoping that, with the March 4 adjournment deadline approaching, he could force the Senate to agree to a figure higher than $300. On the night of March 3–4, Senator Quay, even before the conference report was ready for Senate action, put the Senate through one quorum call after another. When the Senate overrode the president's veto of a private relief bill by a vote of 39 to 7, with forty-four senators not voting, Senator Quay immediately suggested the absence of a quorum. Irritated senators made points of order that Quay was out of order in doing so. The Chair ruled that, when the presence of a quorum has been established by a roll call and no business has intervened, a Senator can not immediately thereafter suggest the absence of a quorum.[40]

In the end, Quay's efforts proved to be in vain, as the House receded from its position in support of $400 per ton for armor plate and concurred in the Senate's lower figure. Senator Quay had prepared a lengthy speech with which to wear down his colleagues, but, in the face of this sudden turn of events, he contented himself by inserting his remarks—filling 176 pages of the Congressional Record![41] But another arrow had pierced the armor plate of the filibuster; henceforth, following a roll call that shows a quorum present and without intervening business, a point of no quorum cannot immediately be made.

On the night of March 3, 1901, Senator Thomas H. Carter of Montana waged a successful filibuster against a rivers and harbors appropriation bill. With the automatic adjournment deadline of noon the next day, March 4, the outcome sought by Carter was a sure bet. He protested the bill's funding for small improvements. The bill went to its defeat.[42]

During consideration of an appropriation bill on the night of March 3, 1903, Senator Benjamin R. "Pitchfork Ben" Tillman of South Carolina demanded the inclusion for his state of some $47,000 as a claim for expenses incurred in the war of 1812 and threatened to filibuster to the death of all bills before the Senate by talking until the noon adjournment the next day. At his desk was a pile of books, and opened for use was a volume of Byron's poems. The Senate capitulated in the face of this threat, and the $47,000 was included in the bill.[43]

When the conference report on the Deficiency Appropriations Bill came up in the House, Representative Joseph G. Cannon of Illinois, speaking for the House managers, deplored the Senate rules which permitted a single member, by threat of a filibuster, to impose his will on a majority of both Houses. Cannon said that the auditing officers of the treasury, in the adjustment of accounts, had found due to the State of South Carolina "the sum of 34 cents," but the Senate had proposed "granting to the State of South Carolina $47,000." Stating that the House conferees had objected, Cannon said that, in the House, "we have rules . . . by which a majority, right or wrong, mistaken or otherwise, can legislate." In the Senate, he said, there were no such rules, and that "an individual member of that body can rise in his place and talk for one hour, two hours, ten hours, twelve hours." The House conferees, Cannon said, were unable to get the Senate to recede from "this gift . . . against the law, to the State of South Carolina." Cannon delivered a scathing condemnation of the Senate rules:

> By unanimous consent another body [the Senate] legislates, and in the expiring hours of the session we are powerless without that unanimous consent. "Help me, Cassius, or I sink!"
>
> Unanimous consent comes to the center of the Dome; unanimous consent comes through Statuary Hall and to the House doors and comes practically to the House. We can have no legislation without the approval of both bodies, and one body . . . can not legislate without unanimous consent. . . . Your conferees had the alternative of submitting to legislative blackmail at the demand, in my opinion, of one individual . . . or of letting these great money bills fail. . . .

Cannon went on to say that, in his opinion, the Senate "must change its methods of procedure" or the House, "backed up by the people, will compel that change," else the House would become "a mere bender of the pregnant hinges of the knee, to submit to what any one member of [the Senate]

may demand of this body as a price for legislation."

Representative Cannon concluded his remarks to prolonged applause and cheers, but Senator Tillman's filibuster threat had prevailed.[44]

On March 2, 1907, as the 59th Congress was coming to its close, Senator Jacob H. Gallinger of New Hampshire sought to push legislation to increase the subsidy to American merchant shipping. Other senators opposed the subsidy as an enforced burden on the taxpayers. A Senate filibuster immediately threw a dark cloud over the adjournment landscape. Democratic Senator Edward W. Carmack of Tennesee, who was retiring from the Senate, took the floor on Sunday, March 3, and his obstructive loquacity consumed the day and evening of Sunday and he showed up ready to unload his vocal guns on the subsidy target when the Senate met early the next day. Senator Gallinger, not wishing to see other legislation sacrificed in the remaining few hours of the dying session, abandoned the bill. Carmack had triumphed (he died in a gun fight in Nashville twenty months later), and "Senators had learned well the futility of opposing a determined filibuster in a short session immediately before the automatic 4th of March adjournment." [45]

On Friday, May 29, 1908, the conference report on the Aldrich-Vreeland bill to amend the national banking laws was laid before the Senate on motion by Senator Nelson W. Aldrich of Rhode Island. A brief but bitter filibuster ensued, and out of it came some significant interpretations of the Senate rules that would henceforth strengthen the hands of opponents of filibustering. Filibusters on conference reports are inherently much more difficult to successfully wage than on bills because conference reports are not amendable, and that circumstance was a parliamentary disadvantage to the opponents of the banking legislation who saw it as benefiting the moneyed interests of the country. Republicans saw it as a way to deal with bankruptcies and other pressing financial problems facing the nation. Senator Robert M. LaFollette of Wisconsin, a Republican who distrusted Aldrich, led the opposition to the conference report. LaFollette immediately took and nominally held the floor for more than eighteen hours.[46] However, during that time, his lengthy speech was interrupted often for colloquies, three roll-call votes and twenty-nine quorum calls, twenty-four of which LaFollette himself demanded.[47] In those days, senators holding the floor did not lose the floor when quorum calls occurred, and LaFollette resorted repeatedly to the tactic of suggesting the absence of a quorum so as to force the majority to maintain a quorum while, at the same time, LaFollette was resting during the time consumed by the quorum calls. That LaFollette's tactics were not popular among his colleagues was evident from the interruptions of his speeches and the numerous parliamentary inquiries and points of order that were made during the many hours he held the floor.

Senator Aldrich, in managing the conference report, proved to be an astute floor manager and a resourceful opponent of filibustering. Important precedents were established as effective weapons in debating with obstructionist tactics. After the Senate had been paralyzed for hours by LaFollette's torrent of words and time-consuming quorum calls, Aldrich rose to a question of order: "We have had 32 roll calls within a comparatively short time, all disclosing the presence of a quorum. Manifestly a quorum is in the building. If repeated suggestions of the want of a quorum can be made without intervening business, the whole business of the Senate is put in the hands of one man, who can insist upon continuous calls of the roll upon the question of a quorum. My question of order is that, without the intervention of business, a quorum having been disclosed by a vote or by a call of the roll, no further calls are in order until some business has intervened."

Mr. LAFOLLETTE. "Mr. President, I just wish to suggest, in order that it may appear upon the Record that debate has intervened since the last roll call."

Mr. ALDRICH. "That is not business . . . My suggestion was that debate was not business."

The vice president then submitted the question of order to the Senate and, by a vote of 35 to 8, Aldrich's point of order was sustained. Subsequently, Senator Lee Overman of North Carolina inquired of the Chair "whether, after a speech has been made," the question of a quorum could be raised, to which the vice president replied, "The Chair is of the opinion that that is not in order." [48]

Thus, the Senate had taken an important step beyond the precedent of March 3, 1897, when Senator Quay had attempted a quorum call immediately after one had just been concluded and had been ruled out of order, in which instance no debate had intervened. Hence, the net had been drawn tighter by Aldrich.

Another signal precedent had been set in the 1908 session; namely, the Chair would count silent members present in the chamber in order to validate a division or roll-call vote on which a quorum did not vote. This evolved from a situation in which Senator Charles Culberson of Texas had the floor and was speaking when Senator Lafollette rose to make a parliamentary inquiry of the Chair:

The VICE PRESIDENT. "Does the Senator from Texas yield to the Senator from Wisconsin?"

Mr. CULBERSON. "I prefer to go on, Mr. President."

Mr. LAFOLLETTE. "It is not necessary for the Senator from Texas to yield to the Senator from Wisconsin when the Senator from Wisconsin rises to a parliamentary inquiry."

Mr. ALDRICH. "I make the further point of order that in order to make a parliamentary inquiry a Senator must be in possession of the floor, and that he can not take the floor by asking to make a parliamentary inquiry and then make any motion."

The Chair ruled that Aldrich's point of order was well taken and LaFollette appealed the ruling, stating that "a hundred times" he had seen senators rise and, "without any assent upon the part of the Senator who had the floor, raise the question that no quorum was present." "Is it possible," he asked, "that important proceedings in the Senate, if one man can get the floor, may be conducted here for an unlimited period of time in the presence of the Presiding Officer and one single Senator, he declining to yield the floor?"

Senator Aldrich moved to table the appeal, and, on a division, the appeal of Senator LaFollette was tabled by a vote of 32 to 14. Senator Thomas P. Gore of Oklahoma then said that the division disclosed that a quorum was not present.

The VICE PRESIDENT. "The division disclosed the existence of a quorum."

Mr. GORE. "It takes forty-seven to constitute a quorum . . . I should like to say that there are ninety-two members of this body . . . A division disclosed the presence of forty-six. As I understand, it takes one more than half to constitute a quorum."

The VICE PRESIDENT. "There was present a Senator who did not vote . . . the Chair has counted the Senate, and there is a quorum present." [49]

So, here again, a former precedent, that of June 19, 1879, in which the Chair had counted a quorum to determine whether enough senators were present to do business, had now been expanded to include a count by the Chair to declare a vote valid in acting on the business of the Senate, even though a quorum of members had not actually voted.

The forces of Aldrich prevailed and the conference report was adopted on May 30, 1908, but one other aspect of this historic, but brief, filibuster should be mentioned. Senator Aldrich's parliamentary acumen was demonstrated when he sought and obtained the yeas and nays before all debate had been concluded. As a consequence, the Senate was ready for quick action in proceeding to an immediate vote if an opportunity should come when no senator held the floor, thus bringing the obstruction to a sudden end. The usual course was to order the yeas and nays after all debate had ceased and just prior to taking the vote. The utility of Aldrich's forethought was evident at a

later time when Senator Gore, who was blind, completed speaking and the vice president immediately put the question on adopting the conference report. Aldrich's name being at the top of the alphabet, he promptly responded. Senator Weldon Heyburn of Idaho sought in vain to get recognition.

The VICE PRESIDENT. "The question is on agreeing to the report of the committee of conference."

Mr. ALDRICH. "I ask that the roll be called."

The VICE PRESIDENT. "The secretary will call the roll."

Mr. HEYBURN. "Mr. President—"

The secretary proceeded to call the roll and Mr. Aldrich responded to his name.

Mr. HEYBURN. "I addressed the Chair before the commencement of the roll call."

Mr. ALDRICH. "The roll call cannot be suspended."

Mr. HEYBURN. "I do not ask that it be suspended. It was started with undue haste. I was addressing the Chair." [50]

Heyburn had clearly sought recognition before Aldrich responded on the roll call, and, as one historian has observed, "it must be said that the filibuster was overcome by doubtful practice" and "for the first time since the practice had risen to great prominence in the Senate, a majority ruthlessly confronted filibusterism with restraints." [51]

Notwithstanding the sharp practices that had been used, the 1908 rulings were important milestones on the long road toward curtailment of the reckless license of filibusterers.

Filibusters continued to erupt intermittently prior to the adoption of the cloture rule in 1917, which is the subject of another of my addresses, but reference to only one of these will be made here, that being the prolonged debate in 1915 over the Ship Purchase Bill. The legislation authorized the United States to purchase, construct, equip, and operate merchant vessels in the foreign trade. World War I had begun in July 1914 with the assassination of the Austrian crown prince, Archduke Francis Ferdinand and his wife, Sophie, on June 28, and had spread to the seas, with German torpedo boats and cruisers attacking shipping. German submarines roamed the oceans. There was a shortage of vessels and, as a result, high shipping charges. Supporters of the legislation argued that it would bring about a more rapid movement of goods and reduced shipping costs. Opponents lined up with the shipping interests and attacked the bill as being socialistic. The Republican minority in the Senate announced that they would strongly oppose the measure, and a lengthy filibuster stretched the debate out, day after day, for weeks. Discussions went on into the evenings, and, on Friday, January 29, an all-night session occurred. Beginning at 11 o'clock Friday morning, the Senate did not rest until 11:15 p.m., Saturday, a total of thirty-six hours and fifteen minutes. It was a night to remember, a night of parliamentary wrangling and confusion, with the Senate tying itself in knots on top of knots. There were points of order in layers, with appeals, from the Chair's rulings, motions to table, quorum calls, demands that senators be required to assign their reasons for not voting, warrants of arrest issued for absent senators, and votes on the motions. Senators disputed the Chair's rulings and challenged the power of recognition by the Chair without the right of appeal; there were questions of privilege, and the calling to order of senators by the Chair, and there were cries for the regular order. The scene was one of wild uproar and choas. Finally, Senator Reed Smoot of Utah gained recognition and the tumult subsided. Smoot opposed the bill, saying that he favored the building of an American merchant marine by the granting of subsidies. Of the pending bill, he called it "undemocratic, unrepublican, un-American, vicious in its provisions, and . . . dangerous and mischievous if it ever becomes law." Smoot's was one of the outstanding speeches in the history of filibusters. A *New York Times* story, dated January 30, stated that Smoot "settled down with evenly modulated voice to an address that lasted, without even the interruption of a rollcall, for 11 hours and 35 minutes."

During his speech, Senator Williams of Mississippi interrupted Smoot to ask if he had "calculated the amount of money that he is costing the American shippers by his speech?" Williams opined that it was costing "$20,800 an hour" and that "if it continues much longer, he [Smoot] will very nigh bankrupt them." [52]

The Democratic majority had decided upon a strategy of continuous session, but, as always, the hours became as long and wearing upon the majority as on the minority, with senators sleeping "on couches in chamber" and cat-napping "in cloakrooms." [53]

Finally, after thirty-six-and-a-quarter hours, thirteen roll calls, and five quorum calls, the Senate recessed over to Monday, February 1. The filibuster then continued, with no sign of concluding. The session of February 8 began at noon and ran until 6:10 p.m. on Wednesday, the 10th, a total of fifty-four hours and ten minutes, during which time there were thirteen roll-call votes and nine quorum calls, six of the votes pertaining to challenges of the Chair's rulings and four occurring on motions to adjourn or to recess.[54]

At one point during the six-weeks filibuster, the Democrats found themselves having to play the role of delaying the action on the bill when several of their members went over to the side of the Republican opposition, and it was only after absent Democrats heeded urgent calls to return to Washington from distant points around the country that the majority party was again in a position to press for a vote on the legislation. Referring to the dilemma that had temporarily confronted the Democrats, Senator James A. Reed of Missouri said:

Mr. President, a few evenings ago we listened to a speech here that lasted all night, delivered by the Senator from Utah [Mr. SMOOT]. The Republican side of this Chamber appeared to be well-nigh exhausted. It looked as though tired nature was to bring a surcease to our woes of waiting, when some Democrats entered into an arrangement with the Republican side of the Chamber whereby dilatory motions were to be offered to this bill and a combination effected between a small portion of the Democrats and nearly all of the Republicans; and then, having finally secured the attendance of Senators who have been brought here thousands of miles, who were absent for good and sufficient cause, we now witness the performance of last night, when, by a concerted action, nearly every Republican in this body went to his home, to his bed, with the understanding that the verbal stalwart who was then occupying the floor would hold it until a certain hour, when these gentleman might rise from their couches, put forward another individual capable of talking several hours, a physical logician, an athletic orator, who could stand the exertion of remaining upon his feet and employing his vocal chords, the proposition being that again they would come here in relays, all of this . . . to deny the people whom this body represents any opportunity to have their will as so represented crystallized into law.[55]

In an effort to force the constant attendance of senators and thus avoid the loss of quorums, Senator Reed proposed the following standing order of the Senate, effective until otherwise ordered:

All Senators are required to appear forthwith in the Senate Chamber and to remain in the Chamber until excused by the Senate. Any Senator disobeying this order shall be in contempt of the Senate and shall be brought to the bar of the Senate and dealt with as the Senate may order.[56]

Commenting on the state of affairs then prevailing under filibuster conditions in the Senate, Senator Reed observed:

We have witnessed now for weeks not an attempt to do business, but an attempt to prevent the doing of business; not a purpose to come to a vote, but a deliberate conspiracy to prevent a vote. Senators have been arranged in relays, a part of them to retire to their downy couches of ease and to the embracing arms of sweet slumber, while one or two able-bodied and lung-experienced aerial athleles continue to pour forth a ceaseless flow of eloquence, which invariably would be characterized outside of this Chamber by language which is not here parliamentary, and therefore may not be employed . . . it might be said that in the attempt to defeat this remedial legislation gentlemen were willing to obstruct the very machinery created by the law for the enactment of legislation for the expression of the will of the people.[57]

Senator John Sharp Williams of Mississippi gave notice of his intention to move to amend Rule XXII of the standing rules as follows:

Any Senator arising in his place and asserting that in his opinion an attempt is being made on the floor of the Senate to obstruct, hinder, or delay the right of the Senate to proceed to a vote, the Chair shall, without permitting any debate thereon, put the question to the Senate, "Is it the sense of the Senate that an attempt is being made to obstruct, hinder, or delay a vote?" And if that question shall be decided in the affirmative, then it shall be in order, to the exclusion of the consideration of all other questions, for any Senator to move to fix a time for voting on the pending bill or resolution and all amendments thereto, and the said motion shall be decided without debate: *Provided, however,* That the time fixed in said motion for taking the vote . . . shall be at least two calendar days after the day on which said motion is made.[58]

Needless to observe, neither Senator Reed's proposed order to force the constant attendance of senators nor Senator Williams' proposed cloture rule was ever approved, and the filibuster was eventually successful after having raged for thirty-three calendar days. On February 18, the majority surrendered, and the matter was shelved. A sizeable and determined minority's opposition having proved to be insurmountable on the battlefield of the Senate floor, the Ship Purchase Bill was dead.

The precedents established in earlier filibusters—particularly in 1879, 1897, and 1908—and those which would come in the future would be as important as the 1917 cloture rule itself in guiding the Senate through future stormy seas of filibusterism.

FOOTNOTES TO THE SENATE FILIBUSTER—1789-1917

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14. Burdette, pp. 22-24.
15. Ibid., p. 25.
16. Ibid., pp. 25-7.
17. Ibid., pp. 27-8; Robert C. Byrd, *The Senate, 1789-1989* (Senate Document 100-20, GPO, Washington, 1988), Vol. 1, pp. 187-88, 197-98.
18. *The Congressional Globe,* Thirty-seventh Congress, 3d sess., p. 518.
19. Ibid., p. 549.
20. Ibid., p. 550.
21. Ibid., pp. 552-53.
22. Ibid., pp. 558-59.
23. Ibid., p. 584
24. *Congressional Globe,* 37th Cong., 3d sess., pp. 1436-37.
25. Ibid., p. 1477.
26. Ibid., p. 1490.
27. Ibid., p. 1494.
28. Burdette, p. 34.
29. *Congressional Record,* 46th Cong., 1st sess., pp. 2123-55.
30. Ibid., pp. 2172-2175.
31. Burdette, p. 39.
32. Byrd, pp. 323-26.
33. *Congressional Record,* 51st Congress, 2d sess., p. 819.
34. Ibid., p. 1443.
35. Ibid., pp. 1440-42.
36. Ibid., p. 1565.
37. Ibid., p. 1740.
38. Burdette, p. 59.
39. Ibid., p. 68.
40. *Congressional Record,* 54th Cong., 2d sess., pp. 2736-37.
41. Ibid., pp. 2754-2930.
42. Burdette, pp. 69-72.
43. Ibid., p. 72.
44. *Congressional Record,* Fifty-seventh Cong., 2d sess., pp. 3058-59.
45. Burdette, pp. 78-79.
46. Ibid., p. 84.
47. *Congressional Record,* Sixtieth Cong., 1st sess., pp. 7161-7201, 7220-26.
48. Ibid., pp. 7195-96.
49. Ibid., pp. 7158-59.
50. Ibid., p. 7259.
51. Burdette, pp. 90-1.
52. *Congressional Record,* 63rd Cong., 3rd sess., p. 2600.
53. *New York Times,* January 30, 1915.
54. *Congressional Record,* 63rd Cong., 3rd sess., pp. 3229-3412.
55. Ibid., p. 3321.
56. Ibid., p. 3314.
57. Ibid., p. 3321.
58. Ibid., p. 3339-40.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I express my particular appreciation to the gracious and accommodating President pro tempore. As it happens, I rise briefly to call attention to work which he set in order a little more than year ago, the subject of which we find ourselves once more caught up with on the Senate floor; that is to say, the problems of the finances of the Federal Government.

In 1988, the Congress established the National Economic Commission, the purposes of which was to inquire into the issue of the Federal budget deficit and its implications for the Nation. We had hoped for a bipartisan result, and, to a degree that might surprise persons, we got one. The then majority leader, now our President pro tempore, the incomparable chronicler of our institution and leader of it for so many years, Senator BYRD, appointed Mr. Lee Iacocca, Mr. Lane Kirkland, and the Senator from New York to be his representatives on the Commission.

Mr. President, the report of the Democratic Commissioners said something very simple. I would like, if I can, to take just a few minutes to summarize it. It begins:

Hamilton called it "political arithmetic," and that about sums it up.

This was the subject of his first Report on the Public Credit, sent to the House of Representatives on January 14, 1790, just eight and one-half months after Washington took the oath of office, and the great Republic commenced a beleaguered, problematic existence.

In this report Hamilton set forth first principles. "The political arithmetic of the new nation must balance. We must pay our debts, meet our expenses, establish our credit."

"Memory has faded of the absolute centrality of this issue."

The Constitution had come about because of the embarrassments that attended a nominal nation that could not pay its debt. Its debt had not been honored, and credit had collapsed. When the new Constitution came into effect, enlightened friends of good government rejoiced in the new integrity of our finances.

Let me quote one paragraph:

To justify and preserve their confidence; to promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy. These are the great and invaluable ends to be secured, by a proper and adequate provision . . . for the support of public credit.

He then went ahead to say that the debt incurred by the States in the Revolutionary War had to be paid in full, on time, with interest. He said the intense interest of the European nations in seeing whether we would do this was understandable and that the fact that we were in debt was equally understandable. He made a nice point, and I quote him, about the nature of the debt of the United States at that time: "It was," he wrote, "the price of liberty."

Mr. President, over the years, as the Commission reported, the United States has recurrently gone into debt in times of national crisis—the most difficult was the Civil War—and thereafter has gone into surplus to pay back that debt. The 1980's changed this in the most dramatic way. During 8 years of the previous administration

we incurred a debt, in a time of peace and general economic ease, almost equal to the debt incurred in the Second World War.

Now we have the aftermath. We have interest beginning to eat up our resources. It now requires the income tax of every person, man and woman, west of the Mississippi River, to pay the interest on the debt. That is a transfer of wealth from labor to capital of a kind we have never seen. Labor, income tax on what you earn; interest, what you get from what you hold and own.

Mr. President, it has paralyzed this body. We are here in the middle of reconciliation, and only the distinguished President pro tempore is on the floor. We are paralyzed. We are incapable of attending to the Nation's business. We are using the Social Security trust funds to pay for the current expenses of Government.

An elemental trust, a payroll tax, is financing this Government. It took us 30 years to amend the Constitution to provide for a graduated income tax. We have already repealed that amendment in our practices of the past 4 years.

I only wish to say that what Senator BYRD did, in appointing that Commission, was not wrong. It may be that some reader of the CONGRESSIONAL RECORD on this point would like to read the summary of the Commission's report of the Members of the Democratic side, which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PART I—THE RISKS OF WISHFUL THINKING

The National Economic Commission was created to find a bipartisan solution to an issue that had become increasingly divisive: the federal budget deficit and its implications for the longer-term economic health of this nation. The hope was that the Commission would develop recommendations on questions that had eluded the executive and legislative branches over recent years. The failure of the Commission to do so on a bipartisan basis is a disappointment to the Democratic appointees to the Commission.

Despite public accounts to the contrary, the Commission was not sharply divided on the basic issues. The majority of Commissioners share the same concerns about the future economic strength of this nation and most agree on the need for substantial deficit reduction. With few exceptions, the members of the Commission believe that our national savings rate is too low and that the long-term prospect for strong economic growth is threatened.

The ability of the Commission to fulfill its mandate, however, diminished as the Presidential campaign progressed. The Commission believed it was esssential to keep its deliberations low key and out of the Presidential campaign. Unfortunately, the campaign produced no real discussion by either candidate of budgetary problems and the effects of continued deficits. The President has stated a clear and strong commitment to the "Flexible Freeze" fiscal policy on which he campaigned. The Commission received clear signals that the new administration would not consider significant deviations from the "Flexible Freeze" concept. When applied to the Commisson's work, it readily became apparent that these constraints left no serious basis for discussion of any other budgetary approach, or any bipartisan recommendations.

We respect the Republican appointees' understandable desire to support the new President and his budget proposals. However, in our view, the administration's budget does not fulfill the mandate of this Commission and is not a plan that we can support. We reject the administration's approach because it leads nowhere. It combines a temporary fix for a long-term problem with economic projections that make the problem invisible for the time being.

Our first instinct when it became clear that a bipartisan consensus could not be reached was to prepare a detailed "Democratic" plan. However, on reflection, we believe that offering a minority plan is not what we were appointed to do, does not reflect the bipartisan intent of the Congress when it established the Commission, and is not our proper role. Our role, as set forth in the legislation establishing the Commission, was to provide a bipartisan plan to assist the executive and legislative branches bridge their differences, not contribute to more division with yet another partisan approach, as we believe has now occurred.

We are confident, however, that the Commission's efforts may be useful and may contribute to the ability of the President and Congress to deal with the budget problem. The Commission served as a forum for public debate on this issue at a time when the Presidential campaign in 1988 failed, on the whole, to address it seriously. The Commission and its staff have distilled much of the public comment about the deficit, from leading economists and policy experts and from concerned citizens, into a volume of background papers that will serve as a source for further discussion on the budget between the Congress and the President. And, most importantly, most Commissioners agreed on several important elements of the budget problem. Consensus on these points should energize the Congress and the President as they tackle the budget in the coming months.

We would like to make two basic points with which we believe many of our Republican colleagues agree:

First, that deficits do matter. Coming to grips with our policy of spending more money than we take in must be this nation's first priority. Rationalizations of the policy debacle that has led to the immense deficits are an irresponsible answer to a serious problem. Republicans and Democrats must work together to address the problem in a realistic way. We have heard from many prominent economic and financial leaders, including the past and current Chairmen of the Federal Reserve Board. The consensus view is that specific and credible deficit reduction measures are needed on the order of $30 billion to $40 billion per year for the next three to four years. We accept and support this consensus.

Second, that budget process reform is an important element of any deficit reduction effort. It should include movement towards biennial budgeting, clearer enforcement of budget goals, and other bipartisan proposals.

That said, we have four fundamental concerns about the administration's approach to deficit reduction.

First, we believe that the economic assumptions underlying the President's budget are overly optimistic, particularly over the five year period. We have learned through experience that when faulty assumptions fail to materialize, the anticipated real increases in national savings required for capital accumulation and economic growth are gone too.

Second, the President's approach to deficit reduction is inherently unbalanced and cannot be sustained over the long term. The proposals contained in the administration's budget have been severely criticized for their lack of detail and specificity, particularly those for domestic spending programs. However, even without a detailed list of budget reductions, the broad outlines of fiscal policy are clear: continued sharp reductions in domestic spending. Their approach rules out any discussion of additional revenues and relies heavily on harsh and disproportionate reductions in domestic spending, many of which have been rejected repeatedly by the Congress and the American people.

The President's "Fexible Freeze" for 1990 calls for $21 billion in spending reductions for domestic programs. Defense, in contrast, is fully adjusted for inflation so that on a comparable basis it is untouched. Beneficiaries of entitlement programs such as medicare and civil service retirement would lose ground under the administration's proposals. For example, medical benefits would be reduced $5 billion below the amount under current law and civil service and military retirement benefits would be cut about $3 billion. Many of these elderly beneficiaries have made pension, savings, and retirement decisions based on the assumption that they will continue to receive the benefits now guaranteed in law. Budget reduction strategies that constrain growth below currently projected levels would result in financial difficulties for some recipients particularly if they were applied for an extended period of time. It is very unlikely that a majority of the Democratic or Republican members of the Congress will vote for such disproportionate cuts, especially in light of the budget policies of the last four years.

Third, the administration's budget is a one year plan designed to avoid the Gramm-Rudman-Hollings (G-R-H) sequester: it is not a viable long-term approach to deficit reduction. A proposal that relies on overly optimistic economic assumptions and severe domestic spending cuts may work for one year, but over the long term, is neither theoretically sound nor politically realistic. If it permits the Nation to muddle through this year, it does so with risk and makes the problem for ensuing years even more difficult.

Fourth, while the administration is to be commended for facing up to the long neglected savings and loan problem, its budget does not do so in a creditable way. It shows federally-guaranteed off-budget borrowing as a form of deficit reduction that offsets the true cost of the saving and loan bail-out program. As a result, the administration shows a decline in outlays for the program of $9.2 billion in 1990.

The savings and loan industry represents one of the most serious economic problems facing the nation. We should solve it in the most efficient and least costly manner we can. Such a solution precludes off-budget slight-of-hand, and we should recognize that

by showing it on the government's books correctly even if doing so requires a one-time exception to the Gramm-Rudman-Hollings deficit targets.

ECONOMIC ASSUMPTIONS

The NEC is charged with solving the deficit problem. Since it is a long-run problem it must be dealt with using a credible long-term budget plan that in turn must be based on a reasonable set of long-range economic assumptions that do not understate the problem. Optimism is no substitute for responsibility.

Economic forecasting is not an exact science, and errors have been made over the past several years on both sides of the equation. However, according to the Congressional Budget Office (CBO), the budget projection contained in the first congressional budget resolution for the fiscal years 1980-87 had an average error in the deficit of about $42 billion for the year ahead. Optimistic economic assumptions were responsible for about $23 billion of this error, adding amounts to the deficit ranging from a low of $1.4 billion in 1981 to a high of $76 billion in 1982.

Considering the track record on economic projections, it makes sense to choose a set of assumptions that are either mid-range or somewhat pessimistic. That is the prudent course to follow. It is not the choice made by the administration. The economic assumptions used for their budget are at best clearly at the optimistic end of the range of current forecasts for the near term and lose total credibility in the long term. The forecast prepared by the nonpartisan CBO, in contrast, matches quite closely the consensus of private forecasters.

If the Republican plan were based on CBO economic and technical assumptions the deficit targets would simply not be met. Table 1 shows that under current CBO assumptions, the administration's plan (excluding asset sales) misses the target by $22 billion in 1990. By 1993, the year of a balanced budget, the plan misses by $81 billion. If the social security trust fund surplus is excluded the shortfalls are $90 billion and $184 billion, respectively.

The "lost savings" from optimistic economic assumptions, which total $173 billion over the four year period, further delay our goal of a balanced unified budget by 1993.

TABLE 1.—ADMINISTRATION BUDGET DEFICITS

[Fiscal years, in billions of dollars]

	1990	1991	1992	1993
Administration estimates (excluding asset sales)	−95	−64	−31	2
Revised estimates (based on CBO assumptions) [1]	−122	−105	−62	−81
G-R-H deficit targets	−100	−64	−28	0
Revised deficit excluding social security surplus and asset sales [1]	−190	−184	−183	−184

[1] NEC staff estimates using CBO economic and technical reestimates of President Reagan's 1990 budget. CBO's official reestimate of President Bush's budget is not yet available and could differ by small amounts.

UNSUSTAINABLE DOMESTIC REDUCTIONS

The administration has made a major point of the fact that if the economy maintains its strong upward growth trend budget receipts will naturally increase by $82 billion in 1990. This, they claim, is enough to reduce the deficit by the $63 billion necessary to meet the G-R-H deficit target with $19 billion left for program "increases". However, the natural growth of $82 billion includes an increase of almost $30 billion in social security contributions and other earmarked taxes.

This argument would make sense if the economy that produced the $82 billion were not changing in other ways. First, about $50 billion of that is the result of inflation—that part of economic growth represented by price changes, not real new economic activity. This same inflation affects federal buying power and the value of federal payments for entitlement programs such as social security and programs for the poor. Furthermore, like it or not, the population of the U.S. is aging, so costs for social security and medicare go up whether or not there is inflation. And, because of past deficits, interest costs continue to rise. In fact, social security, interest, and programs for the poor, all of which are programs even the administration admits should not be cut, use up $6 billion more than the $19 billion available. Other legal commitments—including medicare—require an additional $18 billion. That leaves the rest of the budget without any adjustment for inflation or funds for new initiatives.

As impractical as this is for the next year's budget, it is devastating for the longer range. Absorbing inflation for five years in a row requires programs cuts of at least 14 percent in discretionary programs and even more if the inflation level moves above the optimistic projections of the administration. Transportation, education, environmental and law enforcment activities are a few examples of programs that would be scaled back under such a proposal. Federal domestic discretionary spending has already borne the brunt of budgetary restraint in the 1980s, declining from almost 6 percent of gross national product (GNP) at the start of the decade to less than 4 percent at present. Under this plan, domestic discretionary spending would fall to about 3 percent of GNP by 1993. We see no evidence that the American people—nor, on a bipartisan basis, the Congress—are willing to support such a reduction. In fact, as the President has so effectively stated in his February 9 State of the Union message, the need for additional resources has accelerated in recent years, particularly in the areas of education, housing, environmental programs, drugs, space and science, research and development, day care, child adoption, and health care—in order to produce a kinder and gentler America.

Apparently the administration thinks nobody notices what is going on in our country. But they do. Asking the American people to accept the logic of the administration's budget is like expecting a family to deal with inflation and support a newly retired parent without any increase in wages. It may be possible, but surely no one would expect that it would go by unnoticed or that it could be done without some sacrifice by members of the family.

THE NEED FOR VISION

Over the next decade we face both opportunities and risks. We have the opportunity to use this period of economic growth and stability to move toward a budgetary surplus, increase our national savings rate, channel these savings into productive investment, and guarantee a rising standard-of-living for future generations. We face the risks of continued large budget deficits and huge trade deficits that perpetuate our extremely low saving rate and threaten the Nation's long-term prospect for strong economic growth.

We need to provide for an adequate defense and to invest in our domestic economy, but we also have responsibility to pay the bills. In 1981 the nation made what the Republican Senate Majority Leader at the time called "a riverboat gamble." We lost. The "new economics" did not work out. Reduced tax rates did not bring about increased revenues. Still there was a theory, indeed a new and legitimate school of economic thought. If it was wrong-headed, it was not weak-minded. Today, however, on the basis neither of theory nor evidence, we are asked to believe that the deficits will go away on their own like some friendly monster in a Disney cartoon.

The people of this Nation can be trusted. Tell them the truth and make clear the alternatives—with the rewards and penalties for the country that each involves—and they will make responsible choices.

We are confident that the Congress and the American people will support the President in the kind of meaningful and realistic long-run deficit reduction program that will leave our children a legacy of fiscal responsibility and assure that the Nation maintains its position as the economic leader of the free world as we move towards the twenty-first century.

Mr. MOYNIHAN. I would record, Mr. President, the report was cordially received by the administration but no action of any kind was ever taken. The commissioners were never asked to report to the President. We were never asked to even report to his financial officers. The thought that this would go away was pernicious and devastating and indeed the title of our summation is called, the risks of wishful thinking.

I say once again the then majority leader, now President pro tempore, has taken us so beautifully through the history of this institution, and the Constitution begins in the context of a crisis of the credit of the United States, a crisis in what Hamilton, our first Secretary of the Treasury, called political arithmetic. Until we get that right, everything else will go wrong.

Mr. President, that is about what is happening in this Nation in consequence of the last decade.

I very much thank the distinguished—I dare not say venerable, it sounds like it might refer to too ancient a circumstance, I say simply, honored beyond the equal of any Member of this floor—the distinguished President pro tempore.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I thank my friend from New York [Mr. MOYNIHAN] for the very able work and great amount of time that he and other Commission members put in on the occasion to which he addressed his remarks, into the formulation of the report, which was an excellent report. And, as he has stated, it is to be regretted that little, if any, use has been made of it since.

But, hopefully, it can still shed light, Mr. President, on the problem which has grown only worse since the time of the filing of the report.

Mr. STEVENS. Mr. President, will the distinguished President pro tempore yield.

Mr. BYRD. Yes, I will be happy to yield.

The PRESIDING OFFICER (Mr. FORD). The Senator from Alaska.

Mr. STEVENS. On behalf of those of us who may have amendments to offer, I would request, if it is possible, that we might recess rather than charging this time against the bill with the understanding we would yield back the time if it is not later needed. I understand there is a very great possibility now that there is an agreement coming forth from the majority-minority leaders' office that the Senate will support and there will be no necessity for time to offer amendments. But if that does not materialize, for some reason it is frustrated, it is my understanding now there is about 7½ hours remaining on the bill. Am I correct?

The PRESIDING OFFICER. Approximately 7 hours remain.

Mr. STEVENS. I have great respect for the leadership and I do not wish to make such motion myself, but I do make the request that we consider recessing and not charging this time further against this bill to see if we can work it out without having the possibility that we would come back to the floor with very little time remaining and have a number of Senators who wish to have amendments considered if the projected compromise is not achieved.

Mr. BYRD. Mr. President, I am advised that the distinguished majority leader would like for the Senate to stand in recess but with the time equally charged against both sides. Is the distinguished Senator from Alaska amenable to such a request?

Mr. STEVENS. No, Mr. President, this Senator is not amenable to that. I regret that. If the time is continued to be charged, I would like to have the bill before the Senate and I would like to offer some amendments.

Mr. BYRD. I thank the distinguished Senator from Alaska.

Mr. President, I fully understand his desire to offer amendments and therefore in view of the fact that the majority leader does wish to have a recess not charged, I have no alternative but to suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I am entirely in agreement to let that be charged against both sides if the Senator would like to have that done. The time is roughly equal but I will get my material and come back.

Mr. BYRD. Yes. I ask unanimous consent that the time be charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m., and that at 2 p.m. when the Senate resumes consideration of the reconciliation bill there be deemed to be 5½ hours remaining on that bill, that time to be equally divided to each side.

The PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I forgot to ask the majority leader, I do not want to delay anything. I wonder if he will add to that before we go on recess that I can have 2 minutes to explain my absence from the Senate yesterday?

Mr. MITCHELL. Certainly.

Mr. President, I ask unanimous consent that the Senator from New Mexico be recognized to address the Senate for such time as he may wish to use, and that upon the completion of his remarks the Senate stand in recess until 2 p.m. under the conditions previously stated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico, Senator DOMENICI, is recognized.

ABSENCE FROM THE SENATE SESSION

Mr. DOMENICI. Mr. President, actually I have a great deal of remorse about not being in the Senate yesterday because it was a sad day for my family, and my wife, Nancy Burk. Her father, 85-year-old William Lee Burk, died 3 days before. So I was in New Mexico, and I remained there to be with the family for his funeral.

I might, while I am addressing the Senate, say that I consider it a real privilege to have married into that family. This distinguished gentleman is sort of a self-made man, raised a beautiful family, worked hard all his life, and, as one of his grandchildren said yesterday, he was the epitome of a true American. He would have been thrilled, as one of them said at the funeral ceremony, to see people in the world looking for what America has.

So I do not normally miss Senate sessions, certainly not when it is debating budget issues.

I returned last night, and I will continue hopefully today to see if we cannot together resolve this very serious problem we have on the reconciliation bill.

I thank the Senate for giving me a few moments to discuss my absence.

RECESS

The PRESIDENT pro tempore. The Senator from New Mexico yields the floor.

Under the previous order, the Senate stands in recess until the hour of 2 o'clock this afternoon.

Thereupon, the Senate, at 12:14 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the PRESIDENT pro tempore.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I further ask unanimous consent that I speak out of order; that all time I consume be charged to this side of the aisle.

The PRESIDENT pro tempore. How much time does the Senator desire?

Mr. PRYOR. The Senator from Arkansas will speak no longer than 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE $2 MILLION PRESIDENTIAL REVOLVING DOOR

Mr. PRYOR. Mr. President, when Ronald Reagan left the White House 9 months ago, he became the immediate beneficiary of a Federal largesse bestowed upon former Presidents. Three decades ago, out of concern over the welfare of our former Chief Executives, Congress acted to avoid commercialization of the Office of the President of the United States. In recognition of their unique status as elder statesmen, a law was passed that provided Herbert Hoover, Harry Truman, and their successors a pension and an office allowance. Subsequent legislation gave the Nation's former Presidents funding for libraries to house the papers of their Presidency, free mailing privileges, and Secret Service protection. In many regards, such benefits can be viewed as an expression of gratitude on the part of the American people for their years serving this Nation in the capacity of President of the United States.

For several years now, a number of us in the Congress have been concerned that the somewhat beleaguered taxpayer is being asked to contribute too much to support former Presidents. Some moderate adjustments have been made to the law to alleviate those concerns. For example, starting with President Bush, the friends and associates of a former President who raise money to build a Presidential library will also have to establish an endowment to cover the heretofore tax-

payer-borne cost of maintaining such a facility. I have long thought that some additional modifications were in order. After reading the May 11 New York Times column by William Safire and an article in the Washington Post this past Saturday, I am convinced that reconsideration of the benefits we bestow on former Presidents is particularly well recommended.

These two articles, which I will ask unanimous consent to insert in the RECORD immediately following my statement, pertain to the trip former President Reagan will be taking to Japan in 2 weeks. The trip, which may have been arranged by former USIA Director Charles Wick while he and President Reagan were still in office, will net the former President $2 million for two 20 minute speeches. Another apparent beneficiary will be the Reagan Presidential library, which will reportedly receive a gift of $2 million from the Government of Japan, to be used as the former President sees fit. This, by the way, is the very same library that then President Reagan insisted be exempt from the law requiring a private maintenance endowment—thereby leaving the taxpayer to pay the estimated million-dollar annual operating cost for his library.

So, here we have a trip to Japan that will enrich former President Reagan and his library to the tune of $2 million each. And what will the taxpayers get out of Mr. Reagan's trip to Japan. They will get the tab for his Secret Service protection. And, I might add, I hope that protection is more than adequate to protect this fine gentleman. I cannot help wondering whether this is proper for the American taxpayer to foot the bill for this trip to Japan for the former President when he will be making two 20-minute speeches and receiving a speaker's fee of $2 million. We owe our former Presidents protection and respect, but do we owe them a guarantee to underwrite whatever future business ventures they may undertake for personal gain?

My staff was unable to learn the precise cost of the additional overseas protection because the Secret Service claimed such information was not readily available. However, I can tell you the tab for protecting our former Presidents has risen $3.8 million in the last year to a estimated total cost of $12.1 million in fiscal year 1990.

Should Ronald Reagan reimburse the American taxpayer or otherwise offset the expense for Secret Service protection while in Japan making $2 million? He is not required to do so. Moreover, given that he insisted his library be exempt from the endowment law and his failure to respond to my request that he voluntarily comply with this law, I doubt he will do so. But, the case is certainly worth considering. And the issue and the question remains.

Another world-traveling former President, Richard Nixon decided a few years ago to provide for his own security services. Perhaps there is an equitable middle ground between the Reagan and Nixon situations regarding public funding of protective services for former Presidents when they are traveling on profitmaking ventures. I plan to discuss this matter with the Secret Service in the near future. If some administrative accommodation cannot be reached on this matter, I will introduce legislation to make sure the taxpayer does not get stuck with the bill when our former Presidents are off actually increasing their personal fortunes.

Mr. President, I ask unanimous consent that an essay in the New York Times of May 11, 1989, and also an article written by Mr. Safire, also an article in the Washington Post of October 7, 1989, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 11, 1989]

RECRUITING REAGAN

(By William Safire)

The payoff scandal that toppled a Japanese Prime Minister is now reaching out to entangle a former U.S. President.

The hiring of Ronald Reagan by Japanese businessmen to serve as their glad-hander and front man for a festive week in Tokyo—within one year of his leaving office—strikes the nostrils with the force of week-old sushi.

We learn from Steven Weisman, Tokyo bureau chief of The New York Times, that before the Recruit scandal exposed the corruption between Japanese corporations and politicians, the Fujisankei Communications Group hired Ronald Reagan for two speeches and assorted ceremonies in October.

I am told the fee to Mr. Reagan will be 270,000,000 yen, or about $2 million; this one week's work is more than he earned during eight years in the White House.

The two jobs, however—as U.S. President and as master of ceremonies at the "Premium Imperiale of the Arts" in Japan—are not unconnected. President Reagan, in 1983, favored the founder of the Fujisankei conglomerate by agreeing to an exclusive interview in one of his newspapers, and in 1988 brought him into the Oval Office to discuss the possibility of the visit that turned out to be so lucrative.

Who was President Reagan's agent in this deal? None other than Charles Wick, his California crony who was head of the United States Information Agency. In October 1988, on one of his last overseas flings at taxpayer expense, Charlie listened to an offer in Tokyo from Hiroaki Shikanai, son of the executive who had already sounded out the President in the White House. In February of this year, Mr. Wick closed the deal on private citizen Reagan's behalf.

However, Fujisankei (a competitor of Recruit Company, and a hefty contributor to the Reagan Library) was not the only Japanese corporate bidder for the Reagan services. Shuwa Corporation, with extensive real estate holdings in major U.S. cities, reportedly offered $5 million. "I did not regard that as a serious offer," Mr. Wick told The Times. He insisted "there were no serious discussions or negotiations with anybody else."

Note the qualifying word *serious*. I suspect that was Mr. Wick admitting, artfully, that such discussions or negotiations did take place, but he chooses to characterize them as trivial, or not serious. If Mr. Wick seriously discussed such an offer while holding public office, he would be in deep trouble, as would Mr. Reagan.

Was this deal hastily changed after the exposure of corruption of officialdom by wealthy corporations like Recruit? Apparently so; former Prime Minister Nakasone and friends were supposed to be central in the Reagan visitation; now he is burdened with allegations and is out of the Reagan deal completely.

Did Charlie Wick get a commission on the deal he agented? (He's entitled to at least 27 million yen.) Not to my knowledge; however, Mr. Reagan or his friends are apparently leaning on President Bush to have his agent appointed U.S. Commissioner General of the 1992 Seville Exposition. This final favor would put Mr. Wick in charge of a quasi-commercial operation costing taxpayers $15 million.

What's wrong with all this? Certainly the breaking of the million-dollar barrier is joyful news for all of us who speak for fees; why can't a buddy arrange for his old boss to get a bundle?

First, the Attorney General here, as well as law officers in Japan, will want to see what sort of private negotiations may have been held while Mr. Reagan and his agent were in office. Then Congress will want to look into circumstances around the award of the Seville plum.

Let's assume Charlie was careful to put the Japanese on ice until he could lawfully close the deal. And let us grant our former leaders the right to make money in great fistfuls, especially in memoirs—it's a free country, and they are private citizens.

But there is such a thing as seemliness, decorum, respect for high office once held. In Japan, lining the pockets of officials was a way of fast-track corporate life; just as the Japanese are setting themselves right, no former American President should set them an example of how to use an artistic front to take down a few hundred million yen.

If this foreign revolving-door ripoff is right, then what would be wrong with a Return Address at Bitburg, for a million marks, or the dedication of the Gorbachev Glasnost Center for a million rubles? For a former President with a hot agent and no sense of sleaze, the profit opportunities are endless.

[From The Washington Post, Oct. 7, 1989]

MUTTERING IN TOKYO OVER REAGANS' TOUR—EX-PRESIDENT BEING PAID $2 MILLION BY MEDIA GIANT

(By Fred Hiatt)

TOKYO, October 6.—The chartered Boeing 747 has been refurbished with bedroom and shower for the trans-Pacific trip. Perry Como has been booked for an evening's entertainment. In the "R-Project" was room, busy staffers have equipped themselves with "The White House Cookbook" and videotapes of "Santa Fe Trail" and "Bedtime for Bonzo."

Ronald and Nancy Reagan are coming to town, and all of Tokyo—or at least the Fujisankei Communications Group, which is paying an estimated $7 million for their visit—is excited. Radio and television sta-

tions owned by Fujisankei are airing commercials about the Oct. 20-28 trip, and dozens of subway and train stations display posters of the former First Couple and the message, "This fall, the Reagans will come with smiles from America."

Not all is smiles in the planning of the extravaganza, however. Despite Fujisankei's generosity—Reagan will deliver two 20-minute speeches during his week here and receive approximately $2 million—Reagan's aides are miffed that the Japanese company is not doing more to help some American relatives of Japan-based soldiers who will be hitching a ride on the chartered jet, according to officials here.

And the Japanese government, a co-host of the Reagan visit, is miffed that Reagan won't hold a news conference and otherwise be more active during the official two-day state visit part of his tour.

"It seems almost that Reagan wants to take a rest during the government portion," one Japanese official said. "In theory, it's a joint invitation by the government and Fujisankei. But in financial terms, it's all Fujisankei, and the government cannot spend so luxuriously."

The government is, however, considering donating $2 million to the Reagan Presidential Library Foundation while Reagan is here.

Fujisankei is Japan's largest media company, with television and radio stations, a national newspaper and dozens of other properties, including a recently purchased 25 percent stake in Britain's Virgin Records. As part of its contract with the Reagans, Fuji's television network will conduct exclusive interviews with both Ronald and Nancy Reagan, as well as featuring a documentary on the former president's life and trip on the day Reagan leaves Japan.

Fujisankei officials said 10 billion yen ($7.1 million) is a very rough estimate of their costs for the trip, not counting the salaries of two dozen staffers working full-time on its preparation. But they said they are motivated by concern for U.S.-Japanese relations, not desire for corporate glory. Group chairman Nobutaka Shikanai is of Reagan's age and conservative bent and reportedly views the former president as a true hero of U.S.-Japanese relations and a friend of Japan.

"The U.S.-Japan relationship is becoming more and more emotional," said Takehiro Kiyohara, an organizer of the "R-Project" at Fujisankei. "It means a lot that the Great Communicator would come . . . and talk directly to the Japanese people."

To further that purpose, the media company is sparing no expense. The Reagans will travel with a retinue of about 20, not including Secret Service agents, according to U.S. officials. Charles Z. Wick, a Reagan friend and former U.S. Information Agency director who helped negotiate the contract with Fujisankei, is scheduled to come with his wife, as are Nancy Reagan's hairdresser, Julius Bengtsson, and Reagan's chief of staff, Frederick J. Ryan, and his wife.

Fujisankei agreed to rent a TWA 747 for the group so that the Reagans could make the trip nonstop and in comfort, officials said. Once they arrive in Tokyo, the couple will be flown by helicopter to Fujisankei's open-air sculpture museum near Mount Fuji.

There, the Reagans will spend their first weekend resting in an official guest house that is being refurbished for them. The redecoration, which cost more than $140,000, includes an elevator, new wallpaper and an extra-large bathtub into which hot-spring water will be piped.

The rest of Reagan's official schedule consists of appearances at several meals, concerts and award ceremonies. "We heard he's not very much interested in tourism or sightseeing," a Fujisankei official said.

During the two days of his state visit, the Reagans will lunch with the emperor and empress, and will attend a large dinner given by Prime Minister Toshiki Kaifu, a lunch cohosted by former prime ministers Yasuhiro Nakasone and Noboru Takeshita and a dinner given by U.S. Ambassador Michael Armacost.

Japanese officials, who warmly remember Reagan's free-trade rhetoric and friendship for Japan, also wanted the former president to hold a news conference and perhaps meet the public in other ways. But Reagan aides said no.

Returned to the embrace of Fujisankei, Reagan will give two speeches, one on politics and one on economics, at luncheons arranged by welcoming committees composed of luminaries of Japanese business and society, including Sony Corp. chairman Akio Morita and fashion designer Hanae Mori.

He will attend a Friendship Concert featuring Perry Como, Placido Domingo, the Harlem Boys Choir and several Japanese stars at a new 17,000-seat arena. The most expensive tickets cost more than $100 (Domingo is charging $680 for tickets to separate dinner-concert here) and proceeds will be donated to the Reagan library.

Finally, Reagan will give brief congratulatory remarks at the first annual Praemium Imperiale award ceremony, which Fujisankei has underwritten. The prizes, for lifetime excellence in the arts, carry a cash award of $100,000, and Fujisankei hopes they will eventually carry the prestige of a Nobel.

One reason Fujisankei is relucant to reveal the exact fee it will pay Reagan, in fact, is that it is paying less to several other world leaders who helped judge the prizes, including former prime ministers Edward Heath of Britain and Amintore Fanfani of Italy, both of whom also are to attend the ceremony.

Sources here and in the United States confirmed that Reagan will receive about $2 million for the trip. But Japanese sources said that some of the funds will go to the Reagan library and not to Reagan personally.

Reagan spokesman Mark Weinberg said that money was "no motivation" in the Reagans' decision to come to Japan. "They have a very high regard for the people of Japan and very warm memories of their previous visits here," Weinberg said.

Meanwhile, the Reagan team finds itself in a small tiff about the 200 family members who have been invited to fly along and visit U.S. service members stationed here. The Reagans will arrive in Tokyo and leave from Osaka, but TWA cannot carry the dependents on what would essentially be a domestic flight between the two cities.

Japan's Transport Ministry has not been eager to waive its rules, and Fujisankei, perhaps feeling it has anted up enough, said the family members are not its problem.

Mr. PRYOR. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the time expended in this quorum be charged equally against both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

SOCIAL SECURITY TRUST FUND

Mr. HEINZ. Mr. President, in a moment I am going to send an amendment to the desk and ask that it be printed in the RECORD. I do not choose to offer it at this time, but I want it to appear in the RECORD so that people can see specifically the issue that I am going to refer to.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill, add the following:

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $165,000,000,000;

"(F) with respect to fiscal year 1991, $139,000,000,000;

"(G) with respect to fiscal year 1992, $114,000,000,000;

"(H) with respect to fiscal year 1993, $99,000,000,000;

"(I) with respect to fiscal year 1994, $75,000,000,000;

"(J) with respect to fiscal year 1995, $50,000,000,000;

"(K) with respect to fiscal year 1996, $25,000,000,000;

"(L) with respect to fiscal year 1997, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1997".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1997".

SEC. 5. POINT OF ORDER.

Title IV of the Congressional Budget of 1974 is amended by adding at the end thereof the following:

"PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS

"SEC. 408. (a) POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any bill or resolution that contains a provision—

"(1) including the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act in any calculation of the deficit for the United States Government; or

"(2) modifying current law with respect to authorized uses of the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act (except for the use of such reserves for the payment of cost of living increases for recipients).

"(b) WAIVER OR SUSPENSION.—A point of order under this section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

SEC. 6. TREATMENT OF INTEREST PAYMENTS FROM THE GENERAL FUND.

Section 201(f) of the Social Security Act is amended by inserting "and shall be treated as outlays from the General Fund of the Treasury" before the period.

Mr. HEINZ. Mr. President, I am not going to offer this amendment to the reconciliation bill which is before us, for the simple reason that I anticipate that the Senate will agree sometime later this afternoon to substantially strip virtually all, if not all, of the so-called extraneous provisions from the reconciliation bill now on the floor.

If we had not agreed to this procedure, I might well be offering this as an amendment to the reconciliation bill, because it deals with the very fundamental issue that reconciliation is supposed to deal with; namely, reducing the Federal budget deficit. And unless we do a better job of reducing that deficit than we now do, we will see subsequent Senates and Congresses reaching well into the year 2000, I fear, going through exercise after exercise, bringing reconciliation bills to the floor that do not reconcile very much, and which have the effect of pretending to reduce the budget deficit when they do very little, or even the opposite.

Yesterday, Mr. President, I came here to the Senate floor to introduce legislation, the Social Security Truth in Budgeting Act. I described that legislation rather briefly then, and the bill that I introduced yesterday, as I say, is the sum and substance of this legislation.

I come back to the floor today because I think this issue is still relevant, even if we are not going to adopt any amendments other than a motion to strip this bill, because this issue is one we must deal with this month or, at least if not this month, in the context of any debt ceiling legislation that is going to come before the Senate. It is this Senator's view that unless this Senate acts to take the Social Security trust fund off budget and adjust the Gramm-Rudman-Hollings procedure, as required, to take account of that, there is no way that a debt ceiling bill can possibly, even remotely, stand a chance of passing in this body.

Many of my colleagues to whom I have talked feel very strongly about this issue and who I believe would subscribe to that very comment, which I think speaks for itself.

What I also noted on the wire earlier today is that a number of our colleagues, most of the Members of the Democratic leadership, including the Speaker of the House, held a press conference to talk about honest budgeting and the Social Security trust fund—very much the same subject that I addressed here on the floor yesterday.

I gather that the substance of the press conference this morning was to endorse legislation to take the trust fund out of the deficit game, and I salute that. I think that resolve speaks to my belief that the truth is not a partisan issue, and as elected officials all of us have a collective responsibility to tell the American people the truth, the whole truth, nothing but the truth, irrespective of party, and that includes the truth about the state of the national deficit.

So, Mr. President, I think our House and Senate colleagues hit the nail on the head this morning: The Congress cannot continue to operate a Federal budget out of the payroll taxes of workers which are supposed to be dedicated to their retirement someday.

We cannot claim a victory over debt by continuing to sweep spending excesses under a rug of trust fund surpluses. Democrat or Republican, we must not place the financial security of millions of retirees on the chopping block of our own deceptive accounting books.

The amendment that I asked to be printed in the RECORD at the beginning of these remarks makes it perfectly clear that using surplus funds from the Social Security Program to reduce the deficit is not just a bad budget policy, it is a dishonest budget policy, and worse, it is bad for America.

There are three very brief reasons why I think we should all feel a sense of urgency about this.

First, the game of deficit deception, if continued, is going to make us look like fools. We will get to 1993 when the deficit is supposed to be zero, and assuming we continue to meet the Gramm-Rudman-Hollings targets—it would be a first if we did in actuality, but let us pretend for the moment that we actually do—we will find that it is not zero, but actually $100 billion and growing. We will have a deficit because we are spending money that is pledged to the Social Security trust fund. The trust fund will be charging us interest, and we will have a very tough time explaining how on one day we were dressed in our fine balance-the-budget clothes, and the very next day we are stripped naked, having to admit we have at least a $100 billion problem.

Mr. President, the Senate and the Congress should not put themselves in that position. We need to act now. We need to act this year. We need to act this month.

The second reason we need to act is that we have an obligation to the people who both pay in and who take out of the Social Security trust funds. We obviously have an obligation to present retirees, but the people who pay in today are the retirees of tomorrow, and if we continue to spend the Social Security revenues in excess of expenditures, we are going to find that we do not have the money to pay today's workers in retirement because we have already borrowed and spent the money.

Let me give you a number that ought to shock everyone in this Chamber. As we know, the bulk of the baby-boom generation, those people roughly age 35 to 43, are going to be reaching retirement age around the year 2020. According to the intermediate U.S. projections from the 1989 Social Security Board of Trustees report, the balance in the old age and survivors

disability income [OASDI] trust fund will be $9.6 trillion in current dollars.

If we continue our current policy of borrowing that money and spending it, the general fund of the Treasury is going to owe that $9.6 trillion back to the Social Security trust fund.

Mr. President, where are we going to get that money? We think that $200 billion is a pretty big problem around here. As a matter of fact, we have real problems reducing the size of the deficit by $25 billion or $30 billion. So where are we going to get $9.6 trillion as that debt comes due?

There are only three places we could go to get it. We either slash Social Security benefits down to almost nothing, or hike taxes up through the roof, or we borrow on a scale literally unimagined and I think unimaginable.

The National Economic Commission in it's spring report did not agree on much. But it did agree that we should stop the current practice of borrowing and spending the Social Security surpluses each year. Commission members understood that having saved the Social Security goose 5 years ago, it is the most irresponsible of policies to melt down that golden trust fund egg today.

The third reason why this legislation is appropriate to any discussion of deficit reduction is what I call the issue of interest. Mr. President, the Gramm-Rudman-Hollings procedure that drives reconciliation is a commitment to reduce Government borrowing and simultaneously reduced interest paid on Government debt.

Our current use of Social Security reserves simply replaces one form of borrowing with another. Thus instead of reducing the interest burden on the Government, we are adding to it.

Let me give you a number or two. In 1989, the interest on the national debt was 169 billion, 8 percent of which went to pay interest on our clandestine borrowing from the trust fund. If we continue to spend the Social Security surplus to mask the Federal deficit by the year 2000, over 41 percent of the total interest owed by the Federal Government on our national debt will go directly to cover trust fund borrowing money we use to run general Government, will be required to cover the interest due.

I know a lot of our colleagues may say, "Well, I am not going to be here in this Chamber in the year 2000; why should I worry, why should I care?"

Well, Mr. President, we have had plans for the last 8 years to reduce the deficit, and here we are with a huge one, the reason for this reconciliation bill.

What I can tell you is that the amount of interest we now pay out is crippling our ability to meet the responsibilities of general Government today, and when it begins to eat further into the dollar, as it will within the decade, there will be even less to invest to meet the responsibilities of general Government.

And what are those responsibilities? They are the investments we make each year in such vital priority areas as education, training, health care, the war on drugs that we just undertook, the readiness of our Armed Forces.

Mr. President, what happens to a dollar committed to interest payments? If it is going to the public, it is going to some big financial institution or wealthy investor. If it is going into the Social Security trust fund, it is going in to make up the actuarial surplus that we need.

But I can tell you this, irrespective of where it goes, it is a dollar that is never going to help educate a single child, or train a dislocated worker, or help find a cure for AIDS or cancer.

I think it is critical to note that the Social Security Truth in Budgeting Act, the amendment and the bill that I have been talking about, requires that interest paid to the Social Security trust fund be shown in our Federal budget in the same fashion as other interest, and when we do that, I think we are going to be in for a big surprise.

Mr. President, there are some people who will say, "Well, look, we have had a unified budget ever since roughly 1968 when Lyndon Johnson put the Social Security trust funds on budget, which had the effect of making the Vietnam war look a lot less costly." They will say, "You do not need to do this. It is not going to make any difference. We have been doing this for 20 years."

To someone who says that, I would say two things. First, look at where we are today. It is not a very pretty picture. We are going to be on the threshold of having to pass a permanent extension of the debt ceiling bill at a level in excess of $3 trillion, $2 trillion of that added in the last 9 years.

But, by the same token, let us look at the benefits of what I propose. The extraordinary benefit is that we would be able, by no later than the year 2007, to literally buy in all the publicly held national debt; whether it is held in Omaha or Osaka, we will be able to buy it all in. That is to say that $3 trillion that is out there today will be retired. We will have done something that we all talk about, which is to get rid of that burden on our children.

How is it going to affect us? I assume we will be if not in the Senate, at least active in our communities. What is going to happen, Mr. President, is that the Treasury will be playing a smaller and smaller role, starting at once, in going into the marketplace as they do every week to add to and to refinance the existing national debt and, by about 17 years from now, the Treasury would literally be not competing at all with the private sector in borrowing increasing amounts both at home and abroad.

In other words, the financial operation of the Federal Government would no longer be driving up interest rates and with interest rates, the cost for borrowing on a house, an automobile, starting or expanding a business. You do not have to be an economist to know that when interest rates drop dramatically, the cost of capital, the cost of borrowing, drops dramatically, and instead of being locked in, therefore, to refinancing an ever-increasing burden of Government debt, we would create a vast pool of savings, a trillion dollars literally, and those moneys would be free for investment in job creation and industry. And this is a tenet with which virtually every economist I have talked to, and those who have written articles on this subject, agrees. The United States under these circumstances would be able to enjoy a literally unparalleled period of prosperity.

Mr. President, this is not the first time I have taken the floor to discuss this legislation. I was pleased that, on May 3 of this year, the Senate passed a resolution which I introduced—it was cosponsored by the senior Senator from New York, Senator MOYNIHAN, and by Senator HATCH, from Utah—the sense of which was that it was time for us this year to restore truth and accuracy to the budget process by removing the Social Security trust funds from our budget calculations.

I offered, in support of that resolution at that time, the findings of the National Economic Commission. As I said, the National Economic Commission disagreed on almost everything, but the one thing they agreed upon is that the Social Security trust fund should be removed from the annual Gramm-Rudman-Hollings deficit reduction game.

So the amendment that I have offered today will remove the Social Security trust fund from the Gramm-Rudman-Hollings calculation immediately. It will halt the use of the OASDI trust fund from being used to disguise the size of our national debt.

How does it do it? Mr. President, I have no particular pride of authorship, and I have talked to many of our colleagues on this subject. I have talked on our side of the aisle to Senators GRAMM and RUDMAN and to Senator DOMENICI; and on the other side of the aisle to Senators MOYNIHAN and HOLLINGS. Although I have had my own ideas, and these track fairly closely with legislation I introduced last year, nonetheless, I think it is fair to say what I am about to describe represents a consensus as to what the Senate ought to do. I think that consensus is reflected in the legislation that I sent to the desk by doing the following four things.

First, after taking the OASDI trust fund off budget, the first thing we do is to adjust the current Gramm-Rudman-Hollings targets upward by an amount exactly equal to the Congressional Budget Office's estimates of the OASDI surpluses for fiscal years 1991, 1992, and 1993. What that means is that there would be no additional fiscal impact on us in those fiscal years through 1993. In other words, although we are changing the Gramm-Rudman-Hollings target, we here in Congress will not have to cut any additional spending or raise any additional revenues than we would otherwise have to.

The second element is that we are going to extend the Gramm-Rudman-Hollings targets 4 additional years, through fiscal 1997, from 1993 to 1997. During that period, we will continue to reduce the actual deficit, which in fiscal 1993 would be roughly $100 or $99 billion, by approximately $25 billion a year; going 100, 75, 50, 25, until it is zero in fiscal year 1997.

Third, once the OASDI trust funds are taken off the budget, it is important that they be fully protected. Therefore, the proposal of the Heinz amendment, the Social Security Truth in Budgeting Act, would retain the equivalent Gramm-Rudman-Hollings 60-vote point of order before any legislation could be considered to use any of the Social Security surplus funds for any other purpose than that of current law. By the way, that current law clearly includes continuing annual cost of living increases.

Finally, this legislation specifies that all payments to the OASDI trust fund from general revenues, including interest, will be reported as they always should have been as outlays in the budget of the United States.

Mr. President, I urge my colleagues' support for a plan or a plan substantially like this that would ensure future retirees' benefits. Every day we postpone removing the trust fund, the more difficult and intimidating the task will become.

The day of reckoning for honest budgeting, in this Senator's view, cannot be postponed for future Congresses or future generations. The day that we should take this action is today or, if not today, very shortly after today. I ask my colleagues to carefully consider this proposal as a pledge to honest budgeting and ultimately the healthiest of economies that we would ever come to know.

Mr. President, since I have not offered this as an amendment, I do not need to withdraw it, but I do urge all my colleagues to examine it and to give me their thoughts and suggestions on how to improve it, if possible, and to join with me in making sure that calendar year 1990 and preferably the month of October 1989 is the year that we meet the confidence that our retirees and our workers who will be retirees had placed in us to do the right thing.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask permission that I be able to speak as in morning business and that the time be charged to our side.

Mr. BURNS. Mr. President, this is my first time through the budget process. I do not have the institutional memory of many of my colleagues on budget matters, although I have listened with interest to many of their horror stories. And I am certainly not an expert. In fact, I would say that in many regards I am speaking as an objective observer when I say that this is one of the biggest challenges I have ever seen.

I do not mean that as an insult to my colleagues who have been here a lot longer than I, and who have tried to obtain true deficit reduction. I know it is not easy, and I commend those who worked over the weekend to come up with a solution to this year's problems.

But before I address the pending reconciliation bill, I want to speak for a couple of minutes about certain aspects of the budget process prior to this point which make no sense to me, or—I would venture to say—most of the American people.

As a good mainstream Republican, I have often stated that true deficit reduction can only occur if we reduce Federal spending. I truly believe that. However, my first lesson in congressional budgeting came when the President's budget was first presented. At that time, I learned that the standard by which Congress measures which programs are cut and which ones receive increases is called the "current services" baseline. This standard assumes a 6-percent spending increase in every Federal program this year. How we will ever truly cut spending using this method escapes me. That is why I cosponsored the Commonsense Budget Act of 1989 authored by my good friend, Senator BOSCHWITZ. This legislation would require the President and Congress to compare budget numbers to what we actually spent the prior year. If that legislation was included in this reconciliation bill, then I would definitely vote for it.

My second budget lesson occurred when the Commerce Committee, of which I am a member, was considering its title of this massive reconciliation bill. We were presented with a number of options prepared by the committee staff, and as I looked over them I noticed that there were no spending cut recommended. They were all user fees or revenue raisers. Now, I thought, by the very definition of reconciliation, that committees were directed to "report legislation by a certain date that decreases spending or increases revenues." However, when a number of my colleagues and I raised the possibility of cutting spending, we were told that we could not do so—that cuts would not be scored or counted in our committee work on reconciliation. The logic of that still escapes me, and I intend to look into it further.

Now, to the matter at hand—this 1,316-page monstrosity. I have listened with interest to the comments made by Senators ARMSTRONG, HATCH, GRAMM, and others regarding the extraneous provisions in this bill. I have heard the chairman of the Budget Committee say that the provisions that truly address the budget deficit only make up approximately 100 pages of this bill. I say let's consider that 100-page bill. I'm sure that it is not perfect, but at this point it is at least manageable.

I can join many of my colleagues in saying that there are many provisions in this bill which I would like to see enacted. A number of bills which I have previously cosponsored, and urged the Senate to adopt on a number of occasions are incorporated in this bill. The repeal of section 89 of the IRS Code comes immediately to mind.

The Finance Committee also included a number of important rural health initiatives which I strongly support. These include the elimination of the urban-rural differential in Medicare reimbursement that currently exists. This is the essence of a bill, introduced by Senators BENTSEN and DOLE, of which I am a cosponsor. The classification of certain hospitals as regional referral centers would be continued for 3 years. This is the essence of a bill which I cosponsored with Senator MCCLURE. There are many other important initiatives as well.

There are also a number of provisions in this bill which I would hope are never enacted.

So I believe that in the name of fairness, and to restore some of this body's credibility on fiscal matters, we must strip all the extraneous provisions and just deal with the deficit reduction matters. I will support my colleagues in upholding the Byrd rule, and I will support my colleagues who want to go further.

Finally, I would still have serious reservations about even adopting a stripped-down version of this bill. I reserved judgment in May when we passed the fiscal year 1990 budget resolution on the $5.3 billion in revenues to be raised by the Finance Committee. I would say now that a number of the revenue provisions in this bill are questionable at best.

For example, there are a number of quick fixes which raise revenues this fiscal year by simply accelerating col-

lections. This approach, for the most part, is a one-time benefit to Government, but a long-term cost in additional paperwork for the taxpayer. These include: Changing collection of gasoline excise from semimonthly to weekly deposits, speeding up payroll tax deposits, and requiring estimated tax payments on corporate subchapter S income.

The best example of how far we are going with these accounting gimmicks is a provision included in this bill which stretches out the lump-sum annuities of Federal employees retiring next year from a 1-year payment to a 2-year payment. This provision saves $700 million in fiscal year 1990, but increases spending in fiscal year 1991 by $750 million. I do not call that deficit reduction.

Finally, I want to address the question of a capital gains tax cut. I also expressed my hope that this would be included as a part of this deficit reduction package in May. I am tired of hearing people say that the President is willing to trade deficit reduction for capital gains. I want to remind my colleagues that the President sees his capital gains proposal as deficit reduction and I agree.

Far too often we have heard how a reduction in the capital gains tax will benefit only the wealthy. Frankly, I'm confused. We must all be made aware that cutting capital gains increases the total amount of taxes paid by the more affluent. In fact, capital gains taxes paid by the wealthy more than doubled from $8.7 billion in 1979 to $18.4 billion in 1985. Under the Bush-Jenkins plan, revenues would increase by $9.4 billion in the first 3 years.

Now, I don't know about anybody else, but when we can decrease taxes and increase revenues to pay for:

Earned-income tax credits for low-income working families;

R&D tax credits to foster increased spending on research and development; and

Low-income housing credits to encourage the building of low-income housing.

This represents a sound policy—a policy that not only encourages investment but also raises revenues to pay for programs for the less fortunate.

And how about all the cattlemen and ranchers in the State of Montana. Cattlemen in particular, who oftentimes must keep their stock for extended periods of time, are not only adversely affected by a high capital gains tax rate but are further hurt by the fact that no indexing on such gains occurs. Mr. President, the same case can be made for the timber industry as well. As we all know it takes anywhere from 30 to 100 years for one single crop rotation to occur. In other words, if we would harvest and subsequently plant lodgepole pines today, they would not be ready for another 100 years. For the approximately 20,000 private wood lot owners in my State, a reduction in the capital gains tax and, more importantly, the fact it will be indexed for inflation, provides a vital incentive to go forward with the President's "Greening of America" initiative.

I think one of the most important things I have learned since arriving, is that this country must attempt to maintain a consistent policy on taxation. This body seems to be preoccupied with changing the Tax Code, as has occurred in the budget reconciliation package. Now I realize this will be no easy task, but if we are to plan for long-term investments, we cannot continue to change the rules in the middle of the game.

Mr. President, I intend to vote against the budget reconciliation package unless we are able to strip the bill of all extraneous provisions and provide the Senate and the American people with a true deficit reduction package free of budgetary gimmicks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORM IN THE CHICAGO PUBLIC SCHOOLS

Mr. KERREY. Mr. President, this morning I rise to celebrate a great political victory in Chicago, a triumph of grassroots political democratic action.

It is a triumph with many heroes. They were unwilling to accept the defeat which accompanied the reluctant acceptance of the status quo. These heroes include Designs for Change, Leadership for Quality Education, the American Federation of Teachers, the Parent Teachers Association, and other community and business groups who have demonstrated a willingness to put private capital on the line.

They include Chicago's Mayor Richard Daley whose support and advocacy were crucial. Former Mayor Harold Washington also deserves much credit. They include State representative John Cullerton and Gov. Jim Thompson who were willing to bring the State of Illinois into a city-school district partnership.

It is a triumph born of a faith that parents, teachers, and neighborhood leaders can run our public schools better than a top down, central board. It is a triumph over the entrenched bureaucracy that fought hard against it because they feared the heat of increased, direct accountability. Hundreds of bureaucrats have already been cleaned out from their comfortable jobs, and tenure is no longer a way of life for Chicago's 540 principals.

Mr. President, we have been in politics long enough to appreciate how dramatic this change is. Two days ago the decisions about Chicago's 410,000 public school students were being made by a central board. This morning, the schools of America's third largest school district are in the hands of 3,240 parents, 1,080 neighborhood leaders, and 1,080 teachers.

The intricate political negotiations which produced this radical transformation were extremely difficult and risky. The reformers share the same goals as those of Solidarity leaders who have set Poland on a new and dangerous course. The heroes of Poland and the heroes of Chicago looked at the status quo and found it to be lacking. They both have proposed radical solutions to ordinary problems.

The web of associations and rivalries inside Chicago's many social, economic and political groupings had to be addressed and understood by the valiant crew of committed citizens who have earned this victory. Again I find a parallel in Eastern Europe. In this case it rivals the effect of the factions inside and outside of Hungary's Communist Party as they move to shift toward a market economy and greater political freedoms. In both instances the established and entrenched bureaucrats resisted the changes because their jobs were jeopardized.

Mr. President, it is instructive for us to consider why the heroes in Poland and Hungary are extolled almost daily on the Senate floor while their American counterparts are not. In part it is because we are more skeptical of political action here at home. In part it is because national political leaders—like us—always worry about being challenged by an up and coming local leader. In part it is because we simply do not notice. Mostly, however, it is because we know if we watch too closely we will eventually have to spend some money.

Mr. President, we should not abandon the heroes of Poland and Hungary. Their accomplishments and the excitement of the Eastern European movements deserve our full attention. With the leaders of reform risking so much and with so much of the causes of peace and freedom at stake, now is not the time to be timid in Eastern Europe.

I am not here this morning arguing against helping the freedom fighters of Hungary and Poland. Rather, I am here to argue for the help of freedom fighters here at home in Chicago, IL.

The call to action was given on September 28, 1989, by President Bush at the University of Virginia in Charlottesville:

> I do not counsel a naive nostalgia, some tame adherence to the past. Business as usual is not getting us where we need to go. So when hallowed tradition proves to be hollow convention, then we must shatter tradition. The polls show what every PA board member already knows—the Ameri-

can people are ready for radical reforms. We must not disappoint them.

The people of Chicago have shattered tradition. They have shown they are ready for radical reforms. They are on the threshold of radically restructuring one of the worst school districts in America. Forty percent of Chicago's students drop out of school, and those who graduate perform very poorly on national scores.

If, in the isolation of these Senate Chambers, my colleagues do not feel the tragedy of the current situation in American schools today, listen to the voices of these American business leaders:

"The making of a National disaster," says David T. Kearns, chairman of Xerox Corp.

"A third world within our own country. If we continue to let children who are born in poverty fail to get the kind of education that will allow them to participate in our economy and our society productively, then some time in the 21st century this Nation will cease to be a peaceful, prosperous democracy", says Brad Butler, former chairman of the Procter & Gamble Co.

"The American dream turned nightmare", says James E. Burke, chief executive officer of Johnson & Johnson.

"Even the telephone operator job is now computerized. Directory assistance operators search a huge electronic data base to retrieve and deliver information to customers. Most of our clerical jobs require word processing, computer skills or both. In 1987, fewer than 30 percent of employment candidates met our skill and ability requirements for sales, service, and technical jobs. Only 15 percent scored at the proficient level on our typing test, and almost 50 percent of those tested were not qualified for jobs requiring even light typing. Over all, we estimate that fewer than 1 in 10 applicants meets all our qualifications standards", says John L. Clendenin, chairman of the board of the Bell South Corp.

These American leaders and many others are sounding the alarm. We need to hear the call and respond when our help is needed.

Mr. President, the parents, neighborhood leaders, and teachers who have taken over Chicago's schools need our help. They have found willing partners in the business community, city hall, and State government. Now, they need a Federal partner. For this cannot be seen as another local problem; this must be seen as a national crisis and challenge.

Mr. President, I propose to match the radical response of the people of Chicago with our own brand of radicalism. I propose to create a U.S. Educational Trust Corporation which will be a new Federal tool to renew America's schools.

As I envision it, the Educational Trust Corporation will become a partner with school districts, cities, States, and businesses like those of Chicago who are committed to making desperately needed structural changes. The Educational Trust Corporation will make 20- to 30-year performance-based commitments to help local parents, neighborhood leaders, and teachers.

To provide the Educational Trust Corporation with a source of funds, I would propose to close the loophole in our income taxes that permit very high income Americans to pay 5 percent less in taxes. This "bubble," as it has been called, will generate approximately $5 billion in revenues each year. I would further propose to use the model of Resolution Trust Corporation, which will enable us to bail out our savings and loans to permit the Educational Trust Corporation to sell 50 billion dollars' worth of bonds so that our work can progress more rapidly.

Let me make it clear that I see the Federal role to be limited to two general things the Federal Government does efficiently and very effectively. The first is to collect money. The local property tax base, supplemented with State income, sales, and most recently lottery revenues, simply cannot generate the dollars needed to dramatically improve the quality of people who run our schools and teach our children.

The second thing the Federal Government does well is to leverage higher performance standards. In this case I am proposing a carrot rather than a stick. I am proposing a Federal response to local action rather than a top down coercive Federal move.

This is entirely consistent with the action taken by President Bush and America's Governors to develop national education goals, and with the goals proposed on September 15, 1989, by the Senate Democratic leadership. These goals included early childhood development; basic skills; graduation and literacy rates; math, science, and foreign languages; access to higher education; and teacher shortages.

If the Educational Trust Corporation were in business today, it would already have begun to negotiate with school districts like Chicago. The Corporation would encourage additional changes needed if American children are to become all they were meant to be. The Corporation could do this by negotiating legitimate partnership contracts that required each party—schools, city, State, businesses and Federal Government—to perform according to agreed upon guidelines and standards.

The changes proposed by Chicago are as radical as they are necessary. They will create an environment of enhanced responsibility for teachers, principals, and parents. The potential for dramatic improvement is very great.

One thing has not changed, Mr. President, and cannot be changed by statute: The people who are hired to be the schools' principals and teachers will determine the eventual outcome of Chicago's reforms. The competition for good managers and bright teachers to leave education for higher salaries will only intensify. In short, Mr. President, the people of Chicago will eventually need money if they are to succeed.

In the reporting of the changes taking place in Hungary, an old Transylvanian adage was retold that applies to the school reform in Chicago: "The wolf changes its fur once a year, but it is still a wolf." The nearly 5,400 newly elected school council members and the children in 628 Chicago schools face such a wolf this morning, as they look into an uncertain and promising future.

The people of Chicago should not be left to fight this battle on their own. President Bush is right: Americans feel the time is right to act. Americans are ready, willing, and able to get the job done. What they need is a Federal educational partner who shares their powerful sense of urgency and has the same willingness to risk it all on the future of our children.

I yield the floor. I suggest the absence of a quorum.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, might I respond to my colleague from Nebraska and commend him for what he has just said. It is interesting that he is commenting on something that happened in the city of Chicago. If my colleague, Senator DIXON, or I were up commending the city of Chicago, you would say it is provincialism on our part, and you would expect it.

I think it is significant that a Senator from Nebraska is today commenting on what has happened in the city of Chicago and saying this is exciting.

We are going to have to do some exciting things, some creative things. Whether it is precisely as the Senator from Nebraska suggests, I do not know. But I like the thrust of it. I would differ on the bond issue part of it; we do not need any more indebtedness on the part of the Federal Government, but the rest of the idea, it seems to me, is fundamentally sound.

We are going to have to do something. We had a nice summit with the President and the Governors, great public relations, and I hope it does some good. It cannot do any harm.

But what we need, Mr. President, is a summit in Washington with the President of the United States and some key people like the Senator from Nebraska, who is creative and who says let us create a Federal partner-

ship so we can do something about the school situation.

The Senator mentioned the 45 percent dropout rate in the city of Chicago. Do you know what the drop rate is in our No. 1 competitor economically, Japan? Two percent. The Senator mentioned teachers. Teachers in Japan are paid approximately the same as lawyers, doctors, and engineers, the top 10 percent. Teachers in Japan on college entrance exams score way above average. I regret to say—I do not mean this disparagingly; there are a lot of good, fine teachers in this country—American teachers score below average.

Can we do something about it? Of course we can, if we make it a priority. The Senator from Nebraska, who is a new Senator but is one of the finest—we have discovered that in a short time—is saying let us do something and let us be creative about it. If we really want to do something about education in this country, let us have the President of the United States not just with a fine public relations gesture in Charlottesville, VA. Let us get together in Washington and talk about a Federal partnership. And then we are going to have to use some resources.

The Senator from Nebraska is absolutely right. One of the reasons we do not talk more seriously about education is when we do we are going to have to devote resources to it.

I ask unanimous consent that a statement by Congressman DAN ROSTENKOWSKI in today's New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRAMM-RUDMAN? LET THE AX FALL

(By Dan Rostenkowski)

WASHINGTON.—Now that the House has passed the Omnibus Budget Reconciliation Act of 1989, the deficit reduction bill designed to avoid automatic spending cuts under Gramm-Rudman, I have some advice for the members of the Senate, where the debate has stalled. If you think that the Federal budget deficit should be reduced, the surest way to accomplish that goal is to shelve this legislation and allow the Gramm-Rudman spending cuts to go into effect next Monday.

Every criticism of Gramm-Rudman is true. It is mindless, it represents an abdication of responsibility by the President and the Congress and it sends an awful signal to the markets about our ability to govern.

For all of its faults, however, Gramm-Rudman has one thing going for it—it can result in more real deficit reduction than we will ever achieve from the budget reconciliation bill.

The spending cuts under Gramm-Rudman, distributed across the board between defense and nondefense programs, would reduce the Federal deficit by $16 billion next year and by $80 billion over the next five years. By comparison, the legislation working its way through the Congress will reduce the deficit by only $16 billion over the next five years and will result in growing deficits in 1993 and beyond.

At the beginning of this year, we had a tremendous opportunity to confront the deficit. We had a new President, a new Congress and a growing public awareness of the need to put our fiscal house in order. Instead of grasping the opportunity, we decided on a "slide-by" budget, one that would provide only modest deficit reduction but that would set the stage for a grand compromise next year.

Whatever semblance of budget discipline existed at the beginning of this year's legislative process, however, has all but disappeared in recent weeks. The House, for example, rushed to accommodate budget-busting amendments to this bill. In addition to abandoning fiscal responsibility, the House fully retreated on several important initiatives, like repealing the catastrophic health care program, and started the assault on tax reform by passing a reduction in the capital gains tax.

I have been particularly distressed with the cynicism of President Bush's economic advisers, and his supporters in the Congress, in their approach to the entire debate. The Director of the Office of Management and Budget, Richard Darman, has enthusiastically decried "now-nowism": the pursuit of immediate gratification rather than planning for the future. The Secretary of the Treasury, Nicholas Brady, has forcefully endorsed incentives to encourage long-term economic growth.

Yet the Administration has substituted "slide-by" budget plans, blue smoke and mirrors, off-budget financing and short-term revenue "surges" for sound budget discipline. The President's budget advisers have been driven by political concerns, with little, if any, regard for the real consequences of their budgetary actions.

Popularly elected presidents enjoy their greatest power and influence in their first year in office. George Bush is no exception. Yet he is squandering his influence to pursue a tax cut for the wealthiest 5 percent of our population in a year when our deficit exceeds $130 billion and study after study show the gap between rich and poor widening. What kind of priorities does that represent?

Our refusal to attack the deficit would be comic if it were not so irresponsible. We want the Federal Government to step up the war on drugs, but we are unwilling to pay for it. We can't walk down the street without stepping over living, breathing examples of homelessness. We can't keep up with the bills for a cleaner environment. We hide the bills for the savings and loan bail-out off-budget. We have 37 million Americans without health insurance and a child poverty rate that is a disgrace.

In a year when we should have been engaged in a serious debate about the national priorities, the deficit provided a wonderful fog to obscure the hard decisions that should have been made.

It's the sad truth that we have a President who refuses to lead and a Congress that is institutionally incapable of leading the deficit reduction effort. This has left budgetwatchers wondering what crisis will force the President, the Congress and even the public to finally confront the deficit.

The answer is Gramm-Rudman. Let the cuts go into effect next Monday. Make them permanent and make them hurt. And when the budget process begins next year, maybe all of us, starting with the President, will be ready to meet our collective responsibilities to govern.

Mr. SIMON. I have not always agreed with my House colleague, Congressman ROSTENKOWSKI, but he is saying we have to get hold of this deficit situation. He is saying letting sequester take place is not good but it is better than just drifting.

This ties in with what the Senator from Nebraska just said. When you have a $2.8-trillion indebtedness, if you reduce interest rates 1 percent, you save $28 billion. What if we were really to get hold of this deficit, signal the financial markets we are doing it, reduce interest rates 2 percent—that still puts us more than double the interest rates in Japan and West Germany—and use half of that on education? That would mean a 130-percent increase in Federal expenditures on education.

I think we are fortunate to have as a colleague the Senator from Nebraska. I simply want to stand up here and say I commend him for talking about, facing, and coming up with some creative ideas as a nation. We have to do this.

Mr. KERREY. Will the Senator yield?

Mr. SIMON. I am pleased to.

Mr. KERREY. The Senator from Illinois has pointed out that if we were to take dramatic action on the deficit we could free up additional resources by reducing the amount of money required to service the debt of this Nation. That is a much more desirable way to fund what I am talking about. There is no question that I support it totally. If we could come up with a way to not sequester, but come up with a way to give the Federal Reserve the room to move so as to be able to expand the money supply and get interest rates going down, trying to get a couple hundred basis points relived on interest rates, it would be far more desirable because we have I think to look at trying to produce more products and goods and services. We do not simply need to be looking all the time for ways to tax our way out of this problem.

I would also point out in response to the Senator saying how a problem in Illinois is something the Senator from Nebraska will be concerned about: One, it is the Senator from Illinois who called upon us in the United States of America to be concerned about the freedom of people living in Poland, and that our response should not be timid, that our response not fall short of the mark, and it was a great opportunity here. If we did not seize that opportunity, that opportunity is likely not to come up again, the world could change, the door could slam in our face, we could find ourselves faced with the repressive government in Poland, and a much worse situation than we have right now—that we had to seize the opportunity while it is

there. He called to our attention the needs of the people of a nation across the Atlantic Ocean. We commend him for it.

I would call to the Senator's attention as well something that I know he understands. That is we have a similar kind of urgency to act in the United States today. Today there will be 3,000 children in the United States of America who will drop out of school. Monday there will be another 3,000 who will drop out of school; 3,000 students in the United States of America each and every day will drop out. They need a response. They need the kind of radical response that I see the citizens of Chicago being willing to attempt. They have taken over their schools.

Finally, I would point out I happened to be presiding the day that the Senator pointed out that the new Senate in Poland is being put together by freshmen Senators, and the risks associated with turning over representative democracy to the decisions of freshmen. Consider in Chicago we now have 5,400 freshmen members of the school council starting a business of running their schools. It is an enormous problem. It is extremely risky for these people to be attempting this.

Whether or not we can find the resources or not as I would like to do, at the very least we need to focus our attention upon people who are genuinely fighting for freedom right here at home, fighting for economic freedom for these young people so they will not leave the schools, fighting for prosperity for our future, and fighting for opportunity today.

I appreciate very much the Senator from Illinois calling our attention and urging us to action. I appreciate very much his kind thoughts.

Mr. SIMON. I thank my colleague from Nebraska. I agree with him on both accounts. First, there is no question we have to seize this opportunity in Poland particularly, and also in Hungary. We simply have to use the resources. This is one of those turning points in history. But in fact, every day for those 3,000 young people who drop out of school, that is a turning point for them in their history, and right now we have a dramatic change in Chicago.

There are going to be some bumps along the road. It is not all going to be smooth. But they recognize they have a problem of enormous proportions, and they are doing something about it. It is exciting.

We ought to be responding. We ought to be responding for a variety of reasons. But the Senator from Nebraska is right on target, and my hope is that somehow we can grasp this thing.

Frankly, and I do not mean this disrespectfully to the President. President Bush has been great in reaching out to those of us who are in Congress in both political parties in talking about various issues that are coming up, much better than under the Reagan Presidency.

Cabinet members are reaching out to us much more. But we are not facing the tough problems, the deficit. We are not facing that. This education thing we are not facing. The President has said he wants to be the education President, and he has proposed a $422-million program. That is nice. Four hundred and twenty-two million is one-thirtieth of 1 percent of the budget, almost nothing. He has proposed in his education budget one eight-hundredth of what he is suggesting we do to get that mission to Mars over. I think we had better—nothing against Mars; I do not know anyone from Mars—take a look at people in Omaha, and Blair, NE, where I hoped to be up there for a college homecoming this weekend at Dana College. Instead I am here on the floor of the U.S. Senate, and apparently we are going to be here tonight and tomorrow. But in Chicago and elsewhere we have to pay attention to our future. And that is in our schools. We are not doing it as we should.

I simply want to commend again the Senator from Nebraska [Mr. KERREY] saying let us do something. I hope the response will not just be silence on the part of the administration and our colleagues here in the Senate and the House.

Mr. President, I question the presence of a quorum.

Mr. President, I ask that the time consumed by my colleague from Nebraska and I be divided equally against the two sides in terms of the budget reconciliation.

Mr. DOMENICI. Reserving the right to object, and I will not object. Parliamentary inquiry. How much time remains on the bill?

The PRESIDING OFFICER. The Senator from New Mexico controls 2 hours and 6 minutes, and the Senator from Tennessee controls 1 hour and 59 minutes on the Democratic side, and all that time is charged.

Mr. DOMENICI. Of all the time used, it is charged to them?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. The suggestion from the Senator from Illinois is that it not be that way; rather it be equally, and I assume we will have about 2 hours and 1 minute?

The PRESIDING OFFICER. One hour and about 50 minutes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I question the presence of a quorum, and I ask that the time be equally divided during the quorum period.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I assume that this body is awaiting a motion by the leadership, or perhaps Senator SASSER, the manager of the bill, to strip this bill of extraneous measures. Apparently it has been agreed to, and I heartily concur with this agreement.

I watched my friend from Colorado, Senator ARMSTRONG, pick up this 13-pound bill yesterday and say "this is no way to legislate," and indeed, he was absolutely right. It is no way to legislate.

I have a couple of goodies in this bill myself. I know that sometimes all of us feel a little bit unclean in committees, because once we start to slice the melon, nobody wants to be left at the station, nobody wants to go home and tell his people that the melon has been sliced, and they did not get any of it.

So we just keep doing these things to ourselves over and over again. That, Mr. President, is not to say that all of the 250 so-called extraneous items in this bill are without merit. On the contrary, a number of them, in my opinion, are highly meritorious. Every one of them will be considered at some point later, even capital gains, the President's version of which I strenuously oppose.

I read in the Washington Post about 3 weeks ago, several articles in the same edition, about the disarray of the Democrats. They said we are bankrupt for new ideas, and as a Member of the Democratic Party, of course that hurts; it stings when people write those articles. Interestingly enough, the same day, the New York Times had an article about how the Democrats were finally getting it together. It is hard to know who to believe these days.

I am not going to relieve myself of a political tone here. I just want to say that maybe the Democrats have not been brilliant with new ideas recently, but just because an idea is new does not make it good. For example, I do not think SDI is a good idea. I thought for a while that the Stealth bomber was a good idea, but now at $600 million each for a plane that may not even come close to fulfilling the mission for which it was bought, it certainly does not look like it is going to be a very good idea.

I do not believe going to Mars at a cost of $400 million, when we have three million people in this country without homes, is a good idea.

I do not think the fact that we rank 18th in infant mortality rates, well behind Panama, in the number of our children who die before the age of 1 is a good idea. It is a real mystery to me that we spend $150 billion a year that we do not have and we cannot provide homes for the homeless and we cannot seem to provide health care for the most vulnerable in our society, our children. Twenty-one percent of the children in the country below the age of 14, live below the poverty line. Can we really call ourselves a great nation and stand on the Senate floor and admit those irrefutable figures? I do not think adding 600 percent to the national debt in 13 years is a good idea. I did not think that the tax cut in 1981 was a good idea, and I stood right here at this desk—I was 1 of 11 Senators who voted against that bill—and made a very simple statement. I said you pass this tax cut and you are going to create deficits big enough to choke a mule. We promptly passed the tax cut and created deficits big enough to choke a mule and so far nothing has been done to rectify it. I mentioned a while ago I was opposed to the President's proposal on capital gains. I do not think it makes any sense. Why would we want to add $12 billion to the deficit over the next 5 years? Mr. President, did you know as of 10 minutes ago the stock market is down 110 points today? It is in a free-fall. You remember, on October 19, 1987, just 2 years ago, 6 more days and it will be 2 years, the stock market dropped 500 points in 1 day. I am not sure what caused this precipitous fall today, but I can tell you that at the root of it is the deficit. You pick up the Wall Street Journal in the morning and you are going to see big headlines in every paper in the country about the stock market and what happened to it today.

There are still 30 minutes left before the market closes, and it is dropping about 10 points every 10 minutes.

You will see stories in the morning about how the inflation figures that came out today might have caused it or airline stock or junk bonds, or some other event caused it. Underlying it all is the fact that the deficit is still out of control and the people of this country perceive that Congress is unwilling to address it.

Why would I vote for a bill—you can call this liberal, you can call it populist, you can call it anything you want to—why would I vote for a bill that adds $12 billion to a deficit that is out of control and 60 percent of the $12 billion goes to the two-tenths of 1 percent of the richest people in America?

A person near and dear to me said yesterday the people are tired of you Democrats redistributing the wealth or at least trying to. I said you are talking to a Democrat who is pretty sick of the redistribution of wealth too. In the last 8 years the top 20 percent of the people of this country have increased their share of the national wealth by 16 percent while the bottom 20 percent have lost 9 percent. I am pretty sick of that kind of redistribution, and now we want to add to the pocketbooks of those who have been blessed with prosperity.

So why would I vote for a bill that increases the deficit by $12 billion and 90 percent of it goes to people who make over $75,000 a year? In my State the median income is about $25,000. We have very few people who would ever derive a dime from this bill.

Mr. President half the families in my State make less than $25,000 a year and half of them make more. I recently listed my farm for sale, long before this bill was even considered. It is like cutting my heart out to sell my farm, but I just do not get enough rent off of it to warrant keeping it. I do not get to go there and enjoy it like I once did; wallow in the wild flowers, commune with nature, and watch coyotes, raccoons, and squirrels play.

So I decided to put it on the market. And if George Bush has his way, he will put an extra $30,000 in my pocket and I am not going to create one job by selling my farm. All I am going to do is not pay $30,000 in taxes that I was willing to pay when I put the farm on the market.

I have watched the stock market in the last few days and the volatility of it, and I have told some of my colleagues that I believed the market was very jittery. I told my wife Betty, as recently as 3 days ago that the market is ready for another tumble. There was simply no underlying economic factor to justify the increases we have been witnessing.

Mr. President, stripping this budget reconciliation bill of all the extraneous items is an excellent idea. It is not going to con the market, it is not going to reassure the American people that Congress is finally serious about deficits, but we will say to the American people at least we are disciplined enough here to do something that is very difficult. You know what we are striking out of that bill, among 249 other items including a $1.2 billion authorization for child care. Other than perhaps Senator DODD, I do not believe there is a person in this body who feels stronger about that bill than I do, and I hate to see it stripped out because we have to start all over again, and I know how difficult that is. Maybe impossible.

The President has threatened to veto the bill if that is in it, despite the figures I just gave you about the poverty level of children in this country, despite the fact that 87 percent of the women in this country who work say they do it out of economic necessity. They do not do it so they can go out and kick up their heels; they do it so they can go to work and provide the persons they love more than life itself, their children, with clothing, housing, and a decent education. And the least Congress can do is to assist in providing decent facilities for these children to be left in, a safe wholesome environment while their mothers do what they have to do—work.

It is especially critical to single women, heads of households. It does not speak well for us, Mr. President, that probably less than 50 percent of the fathers of this country who have the obligation of supporting their children, do so.

I am almost ashamed to admit this on the floor of the Senate, but I voted against Everett Koop when he came up for confirmation here as Surgeon General of the United States. All the public health administrators of the United States opposed Everett Koop.

I watched Nova last night on PBS, and I watch PBS more than I do anything else, and Nova is always good but last night there was an especially good documentary on former Surgeon General Everett Koop. I tell you he is not just the finest Surgeon General we ever had. He is a brilliant man. My daughter and I watched it. I said, "He is absolutely brilliant." She said, "he may be but really all he is saying, Dad, are just things that make common sense."

He talked about how the administration got upset when he came out with a book on AIDS because he was very explicit about how you deal with AIDS. He was very explicit about the fact that this is not just a homosexual problem. He was very specific about the fact that it is going to spread through the heterosexual community one of these days. He was specific about the fact that teenagers who think that because only 2 percent of the teenagers of this country are known to be infected, they think they are safe. But you know where the highest incidence of AIDS is? It was among people between the ages of 20 and 27. You know something else. They became infected when they were teenagers, they just were not showing symptoms of AIDS. So now the incidence of AIDS amongst teenagers, based on a very detailed story said just 3 days ago, say teenagers are very cavalier about AIDS and have not changed their habits.

Then I heard some people on the other side from the Surgeon General saying abstinence is the only way to deal with AIDS.

I can tell you, Mr. President, that that is a happy thought. But I wondered how some of those people who were talking conducted themselves when they were teenagers and youngsters. And the Surgeon General is saying it is not a question of whether that is the only solution. He was

saying that in case they do not abstain, and about 70 percent do not, what do you do then?

Mr. President, I hope this bill will pass without further ado. If the leadership moves to table all the amendments, I am going to support the leadership. I want the bill passed. I am not interested in proclaiming victory.

A reporter asked me a while ago, "How can I possibly not write this as a great victory for the President?"

I said, why does someone have to have a victory?

I must tell you that in all candor, one of the things that used to irritate me most about Ronald Reagan; mind you Mr. President, I said one of the things. Every time he won a battle here in the Congress, he called it a great victory for the people and every time he lost one he could not believe how partisan and irresponsible Congress was. But, nobody is winning here except the American people. You do not have to have political winners and political losers in every bill that passes.

Of course, the press is going to report it one way or the other. There is not any way to stop that. But I am grateful to the chairman of the Appropriations Committee, the majority leader, the minority leader, the ranking members, the chairman and ranking members of the Budget Committee for sitting down and negotiating in good faith and coming up with the idea of stripping this bill of all those extraneous items.

Mr. President, do you want to hear something really sad? For over 100 years, the lower Mississippi River Delta has been the poorest area in America. I think my former distinguished colleague Senator Stennis, before he left the Senate, said his one regret was that he had never done anything to alleviate and address the problems of poverty in what we in that area call the delta. Eleven million people living from the southern tip of Illinois to the mouth of that river in New Orleans, 11 million people and over 40 percent of them living below the poverty line. And so I introduced a bill to do something about it.

I take some pride, Mr. President, in the fact that this situation has existed 100 years and as best I can tell, I am the first person to ever even notice, let alone try to do something about it. But last year I got a bill passed to establish a commission, funded at $2 million, to study the problems over a 2-year period and come to Congress with recommendations on how we can alleviate what I consider to be the worst blights on this great Nation.

It is hard to get anybody interested in something unless it happens in their State. I had no difficulty lining up every single Senator in the seven States affected to cosponsor the bill. They know and understand the problem. But you have difficulty getting anybody else's attention.

I will tell you an interesting little personal story. Senator BRADLEY, our esteemed, beloved colleague from New Jersey was in Mississippi last year. He was campaigning for MIKE ESPY. MIKE ESPY's district is in the heart of the delta. He has in his district, Tunica County, which has consistently been the poorest county in America, well over 50 percent poverty for as long as the memory of man runneth.

And when I walked in that door across this Chamber on Monday morning, Senator BRADLEY came toward me and said, "Don't you have a bill in here on the delta?" I said, "Yes." He said, "Put me down as a cosponsor." I said, "I don't understand this." He said, "I spent the last 3 days in that area and I will help you any way I can. I could not believe what I saw."

And today the Wall Street Journal has a long, detailed description of the problem. Mr. President I ask unanimous consent at this point that the Wall Street Journal article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 13, 1989]

RIVER OF DESPAIR: ALONG THE RICH BANKS OF THE MISSISSIPPI LIVE POOREST OF U.S. POOR

(By Dennis Farney)

ELAINE, AR.—It could be a dog house, up on bricks above the gluey yellow clay. Except that it is bigger than a dog house—and a human being lives inside.

In the dank, dark interior of his two-room shack, 63-year-old Robert Britton sits on a bed with sheets gray-black with grime. His conversation rambles at the edge of incoherence. He hitches a pant leg up and down in an absent, almost mechanical way.

You leave him, finally, standing on his porch. "Don't you worry about me," he says with a wild laugh. A cold rain beats down on his grim little house and those surrounding it.

To the north, up the winding, gunmetal-gray Mississippi River, Renee Lamm talks with quiet wonderment of her medical practice, straight out of the Great Depression.

COUNTY'S SOLE DOCTOR

She is the only doctor in Lake County, Tenn. The nearest X-ray machine is 35 miles away. Dr. Lamm tries to diagnose with a second-hand microscope, then usually discovers her patients can't afford the medicine. She recently helped save an infant boy with a liver abscess as big as a softball. She blames sewage-polluted drinking water.

"These are the kind of things you see in Haiti or Mexico," Dr. Lamm says softly. "Not the United States."

But this is the lower Mississippi Delta, certified by Congress as the poorest region in America. Poorer than Franklin D. Roosevelt's Tennessee Valley, poorer than John F. Kennedy's Appalachia. Poorer and much blacker—and thus politically neglected until a rising black vote began transforming Southern politics.

Further proof of that transformation comes Monday, when a year-old commission makes it initial report to Congress and the White House. It will test whether Washington, hamstrung by deficits and debating how many B-2 bombers to buy at $500 million apiece, has time and money for a rural region where infant mortality rates in some counties rival those of Third World countries.

BURDEN OF HISTORY

Behind the statistics assembled by the Lower Mississippi Delta Development Commission lie the paradox and the burden of Delta history.

"We have the river. We have a central location. Yet we've had 100 years of poverty," says Ed Jones, a retired Tennessee congressman and a member of the commission. "It's not just economically based. The effort to keep some down kept all down."

Or, at least, most down.

For here is a region that epitomizes the extremes of American wealth and poverty. It is almost unbelievably fertile, with topsoil 25 feet thick or more. It has mansions and big cars and a wealthy gentry that for decades has gathered round the fountain in the ornate lobby of Memphis's grand old Peabody Hotel. It has fields of cotton like white flowers in bloom, rice and soybeans and venerable tress that lend a benignant grace to even the poorest dwelling. Its place names roll off the tongue like molasses—Tallahatchie and Yalobusha; Gilt Edge, Tenn., and Braggadocio, Mo.

But, especially along the Mississippi, it has county poverty rates that range from 20% to 50%-plus. In testimony before the commission, one Tennessee civic leader told of building a fence around a school to keep children from playing in raw sewage. It has white as well as black poverty, and good ol' boys who gather over coffee to talk of dove hunting and running deer with dog packs.

Official segregation, of course, is dead. But a de factor segregation lives on. In Helena, Ark., black youths cruise over lower Walnut Street at night; whites cruise Cherry Street, a block away.

What the Delta doesn't have is a stabilizing middle class. "Most of our 'middle class' is two paychecks away from poverty," says Wilber Hawkins, the commission's own executive director. At West-Helena, Ark., attorney L.T. Simes dryly observed in one hearing: "Some have said that we have too many rich people and too many poor people."

The poor tend to melt into the background, along back roads or in notorious neighborhoods such as Sugar Ditch, a place of shacks and open sewers finally cleared away by Tunica, Miss., after it helped land the town on CBS-TV's "60 Minutes" several years ago. But they stand out grimly in a place they call The Line. It is a grubby little neighborhood in West Helena where blacks bring their dreams to die.

"You can get a lady here for $5," says Linda Messenger, an energetic federal worker who grew up not far away. Then she talks of a woman who sold herself for 25 cents. Behind a dumpster on a street.

"In this area, a good husband is hard to find," says Ms. Messenger, who has three children and has married a second time. After a series of brutal experiences, she reached a determined conclusion: "I'm not going to let men pull me down."

Out beyond The Line, in a small house amid the soybean fields, a 31-year-old woman named Beulah (she declines to give her last name) struggles to survive with seven children and no husband in the home. She sits watching Oprah Winfrey on TV

and talking—haltingly, as in a dream—of her life and her children: "I just started so fast."

Beyond sheer poverty and human wreckage, the Delta got a bigger dose than either the Tennessee Valley and Appalachia of what Mr. Jones, the former congressman, calls "the plantation mentality." It is an ingrained attitude—rooted in the region's history. The landowning rich remain complacently superior. "Whereas they once rode horses [to oversee their holdings] they now ride pickups," Mr. Jones says. The poor, too often, remain apathetic, without any realistic job prospects and utterly dependent on welfare.

In Phillips County, Ark., home of The Line and the hardscrabble town of Elaine, government transfer payments are a top industry, bringing roughly $20 million a year. "Everybody's on relief and food stamps," Mr. Jones says. "You can't help them, except keep them alive."

HIGH INFANT MORTALITY

Even that can be hard to do. The commission notes that 1980-84 infant-mortality rates in four Mississippi counties exceeded 25 per 1,000—worse than Panama's. And its statistical portrait of the region portrays a social fabric fraying away like a cheap rug on the floor.

The commission estimates that 47 of the 214 counties in its target area have poverty rates exceeding 30%, with many of the rest topping 20%. Based on 1979-80 census figures, it says that in Lake County, Tenn., some households (a loose definition that could mean one person or a dozen) were trying to live on as little as $1,954 a year, excluding Social Security.

That Pope County, Ill., had a high-school dropout rate just shy of 53%. And that only four Arkansas counties accounted for one-third of that state's infant mortality in 1986.

At rock bottom, measured by its estimated 50% poverty rate, is Tunica County, Miss. Bobby H. Papasan, a thoughtful, candid man who is the former school superintendent there, defended his town and county on CBS. But he admits, "One of the ways we kept down the dropout rate was to pass out cheap diplomas. And, let's face it, our definition of high-school education may have been one of the lowest going."

It is almost impossible for an outsider to see the world as Tunica children see it, he says over lunch at the Blue and White Restaurant. He recalls questioning young children to determine the boundaries—the outer limits—of their world. For many, the world ended short of the county line. Today, he says, some of the best high-school graduates, girls as well as boys go into the military. It's a way out, an escape.

But the Delta already has witnessed one great escape, a forced human migration that ranks with that of the Dust Bowl Okies to California. The post-World War II agricultural revolution brought great machines that prowled the fields like metal beasts. That uprooted tens of thousands of sharecroppers and propelled them into cities such as Memphis and Chicago.

FROM BAD TO WORSE

Sharecropping was bad. The plantation owner tethered the sharecropper with lines of credit from the plantation store; when another plantation "brought" him, it paid off his debts. But what the great migration left behind may be worse: A land that, for many, has no jobs of any kind.

To create jobs, Democratic Rep. Mike Espy talks of building "value added" processing plants to supplement the largely agricultural economy. As a case in point, he has already persuaded the Army to eat about 65% more catfish—after cotton, Mississippi's largest cash crop, he says. Mr. Espy, a House leader in the commission legislation, represents a Delta district where unemployment averages 12% but, among blacks, nears 50% in some counties.

Rep. Espy, in 1986 the first black elected to Congress from Mississippi since Reconstruction, epitomizes a second revolution, a still-continuing political upheaval that has reshaped the Delta and made creation of the commission politically possible. The civil-rights movement of the 1960s produced the Voting Rights Act and a swelling black vote. The black vote, as much as anything, was responsible for the 1986 elections of several white Democratic senators, among them Georgia's Wyche Fowler, Alabama's Richard Shelby and Louisiana's John Breaux. At the same time, traditionally gut-Democratic Mississippi has two Republican senators now, Thad Cochran and Trent Lott, who themselves are reaching out to black voters.

These crosscurrents create a unique window in time when a concerted Delta development program is at least politically possible. But creating it won't be easy, and funding it will be even harder.

"The country's broke, unfortunately," says Arkansas Democratic Sen. Dale Bumpers, the prime Senate sponsor of the commission. "And you cannot put in enough Federal money, even if we had it, to solve the problem." (The commission is charged with designing a 10-year recovery program.) Instead, Sen. Bumpers talks of a combination approach: Some new money, a retargeting of existing federal programs, more federal-state-local cooperation and more federal purchases of Delta products. "It's supposed to take 10 years. It may take a second 10 years," he says.

At stake is the future of a region already bypassed by much of the postwar economic boom and now in danger of being left hopelessly behind in a computer-age America. "All we want is a little piece of the pie," says John E. Vaughn, the Tiptonville, Tenn., city attorney. "It's a wealthy country. Just a little piece of the pie."

Mr. BUMPERS. But I have warned the people of the delta not to think the U.S. Treasury is going to solve the problem. We are broke. We are broke. We are not going to be able to take money out of the Treasury and do it. Oh, we might be able to help some. But this Commission is going to have to come up with some creative ideas. Maybe we could make more purchases by the Pentagon or government in general from suppliers in the delta. But for us to sit by and allow this shameless poverty to exist in a land of plenty is unacceptable, and I intend to continue pursuing that as long as I am in this body.

Mr. President, one other little thing that is unrelated. I was reading an article in the same Wall Street Journal about Roh Tae Woo, the President of Korea, who is coming here next week to visit with President Bush. We welcome him. I guess he is really the first democratically elected head of state the South Koreans have had.

We are doing everything we can to promote democracy all over the world—Hungary, Poland, South Korea, you name it. And this morning, as you know, a bunch of rioters broke into the American Ambassador's residence in South Korea, and looted the place. In my opinion, that was obviously done to embarrass the President of South Korea as he came to this country for an official visit.

As you know, Mr. President, I offered an amendment the other evening, along with Senators BENTSEN and JOHNSTON, to start withdrawing our troops from South Korea. But I want that decision, which certainly is going to be made, I want it to be made on the realities, not some episode that a few renegade students in South Korea caused in an effort to embarrass their President. The amendment to start withdrawing our troops from South Korea stands on its own merits, stands on its own rationale.

It is true that as long as we have the kind of presence that we have in South Korea now, the dissidents are going to blame us for every untoward thing that happens in the country. And perhaps one reason to remove ourselves would be to remove ourselves as the lightning rod and perceived cause of every untoward thing that happens in South Korea.

Mr. President, I will close. I know the Senator from South Carolina is waiting to speak. But I just want to say that once we pass this bill today, this reconciliation measure, I will be pleased, grateful to those who negotiated this compromise to get it passed. But this body is going to still be faced with the country's No. 1 problem, the deficit. When you consider the fact that in 1976, when Jimmy Carter held up his right hand and said, "I will," the deficit was a little over $400 billion. Mr. President, that was 13 years ago.

You think about the deficit at that time, created during the preceding 187 years; that was the year we celebrated our 200th birthday but actually it was the 200th birthday of the Declaration of Independence. It was not until 13 years later that the First Congress convened. So I guess you could say that that $400 billion debt the country owed at that time was what we had accumulated from 187 years of our history. And listen to this: In 13 years, in 13 years, we have increased the debt 600 percent to $2.8 trillion.

So, when my daughter said last night, Surgeon General Koop may be a brilliant man, but he is just talking sense, I thought, there is not a dirt farmer in my home county of Franklin, in the great State of Arkansas, who does not know this country is not going to make it continuing our present path. When we consider where we stand in education, infant mortali-

ty, 38 million people with no health care, 3 million people homeless, getting drug use under control which will cost tens of millions, dead last in education by every measure, the billions we are going to have to spend to clean up our environment, or as Chief of Seattle once said: foul our nest until we won't be able to sleep in it.

What is it, 50 million, 80 million bridges in this country that are falling in? Think about our problems. It is going to take, not just some creative thinking, Mr. President, but it is going to take some spine stiffener.

In the fall of 1986, some of us said, "Instead of cutting the tax rate from 38 percent to 28 percent, leave it at 38 percent until we see the deficit on a definite downward spinal."

We said let the Defense Department take a 5-percent cut, too. We cut the costs of living for everyone, and we promised to balance the budget in four years. We had 43 cosponsors on that bill, Mr. President.

Senators began to come on the floor and people said: You better not vote for that. You know how volatile cost-of-living increases are. We had 43 cosponsors and we only got 25 votes. Sure enough, when I ran in 1986 I had to face that. But I got 62 or 63 percent of the vote, so I just say to my colleagues, it is not fatal to do something that is really responsible around here and go home and talk to your folks about it. Don't be afraid to talk sense to them. They know common sense when they hear it.

Mr. President, this is the first time I have spoken on the floor for some time. This is the first time I have spoken on this bill. I hope I haven't inconvenienced anybody, but the Senator from South Carolina has waited patiently, Mr. President, and I yield the floor and give the Senator from South Carolina an opportunity to speak.

The PRESIDENT pro tempore. The senior Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I ask unanimous consent to proceed as if in morning business and charge it to this side.

The PRESIDENT pro tempore. Without objection, the Senator may proceed to speak out of order and with the time charged against the time on his side.

FLAG PROTECTION AMENDMENT

Mr. THURMOND. Mr. President, I rise today to have printed in the RECORD three articles and a resolution unanimously adopted by the American Legion in support of a constitutional amendment to protect the American flag. The resolution was adopted by the Legion at their 71st national convention in Baltimore, MD, earlier this year, and was included in the October 2, 1989, edition of The American Legion News Service, along with three other articles about the flag.

Speaking from the standpoint of my own involvement with the American Legion, I know of no group more qualified to speak and write about the importance of the flag to the life of our country. These are the people who have worn the uniform, borne the battle scars, and literally carried the flag into battle. Because of their experiences, many of them have a depth of understanding of the flag, which many Americans may not have.

Accordingly, when their 3 million members speak, it is important that we carefully consider what they have to say. In this case, they have spoken in a clear voice in support of a constitutional amendment to protect the flag.

Shortly after being discharged from the Army at the end of World War II, I joined American Legion Post 30 in Edgefield, SC, and later moved my membership to post 26 in Aiken, where I maintain my permanent residence. Today, I am proud to be a life member of the Legion. The members of the American Legion are true believers in America and the inherent goodness of our people. The principles of the Legion are lofty, and its work with Boys and Girls State, Americanism oratorical contests, and high school summer baseball programs represents the best of what is good for America.

I personally believe an amendment to the Constitution is the best way to assure protection of this enduring symbol of our Nation, and I am pleased to be the sponsor of such an amendment.

Just last week, the Senate passed H.R. 2978, a flag-protection statute, which I supported. However, as mentioned, I continue to believe a well-drafted constitutional amendment is the most prudent course to follow to ensure the integrity of the American flag. We will soon have the opportunity to vote on a constitutional amendment. I see no reason why this Congress should not also pass the amendment. As a practical matter, the Federal statute would likely be in place, while the State legislatures consider a proposed constitutional amendment.

Mr. President, in closing, I want to also take this opportunity to commend the newly elected national commander of the Legion, Miles Epling, for his fine leadership on flag protection. In addition, I want to commend the immediately past national commander, H.F. "Sparky" Gierke, for his testimony before the Senate Judiciary Committee on a flag-protection amendment. Each of these men have given a great amount of their time to this Nation, not only in the Armed Forces, but also in their leadership posts.

Mr. President, I ask unanimous consent that the articles and resolution I previously mentioned be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBJECT: FLAG DESECRATION

Approved as Consolidated—Resolution No. 355 (Convention Committee on Americanism)

Whereas, The Constitution of the United States provides many readily available methods of expression which can be used as a form of protest; and

Whereas, There exist federal and state penal codes to protect the Flag of the United States from desecration, and

Whereas, The Supreme Court of the United States, in TEXAS vs. JOHNSON, decided June 21, 1989, ruled that an individual could not be prosecuted for desecrating the Flag of the United States, as such an act was constitutionally protected as freedom of speech under the First Amendment to the United States Constitution; and

Whereas, This ruling established a precedent which may invalidate all existing state and federal laws which have been enacted to protect the Flag of the United States from such malicious abuse and desecration; and

Whereas, Neither our Founding Fathers, members of Congress and State Legislators, nor any responsible person in the history of our Republic, ever intended that anybody should be allowed to desecrate and mutilate the very Flag which has stood as a beacon of hope to the oppressed peoples of the world; and

Whereas, The Flag of the United States is a living symbol of all our freedoms, morally obligating all responsible citizens to preserve, protect, and venerate the Flag of the United States; and

Whereas, Protection of the Flag of the United States from desecration can only be assured by the enactment of a Constitutional Amendment; and

Whereas, The American Legion spearheaded the development and adoption of the United States Flag Code and the several laws enacted to protect the Flag of the United States; now, therefore be it

Resolved, By the American Legion in National Convention assembled in Baltimore, Maryland, September 5, 6, 7, 1989, That the American Legion express its unequivocal opposition to allowing desecration of the Flag of the United States; and, be it further

Resolved, The American Legion encourage its members and all Americans to wage a "positive protest" through a petition drive in support of the adoption and ratification of a Constitutional Amendment, giving the Congress the power to enact narrowly drawn legislation to protect the Flag of the United States, and by displaying the Flag of the United States on a daily basis; and, be it finally

Resolved, That the American Legion petition the governments of the United States and the Fifty States, seeking adoption and ratification of a Constitutional Amendment giving the Congress the power to enact narrowly drawn legislation to protect the Flag of the United States.

COMMANDER CALLS FOR "REDOUBLED" CAMPAIGN FOR FLAG'S PROTECTION

WASHINGTON.—National Commander Miles S. Epling has called on the more than 3,000,000 members of The American Legion

to redouble their efforts to seek a constitutional amendment to protect the U.S. Flag from physical desecration.

"We have won a big victory in forcing the House of Representatives leadership to permit a full House vote on a flag amendment proposal," Epling said, citing:

1) The effect of the "first wave" of more than one million signatures on Legion petitions presented Aug. 31 to Congress.

2) The results of a Gallup Poll which showed a large majority of Americans support a constitutional amendment to protect the flag.

3) And Congress' reaction to a flood of phone calls to House and Senate members by Legionnaires from a phone bank at the National Convention in Baltimore, where delegates unanimously approved a resolution calling for a constitutional amendment to protect the flag.

In a letter to all post and department commanders, and other Legion leaders, Epling appealed to all Legionnaires, Auxiliary members, and Sons of The American Legion to continue the campaign to gather signatures on petitions calling for a constitutional amendment.

"We may have won a battle," Epling said, "but the war is not over until the flag is protected by a constitutional amendment." The National Commander asked that all members also set up telephone banks in their communities and appeal to their neighbors to contact their Congressmen and Senators by mail and by phone.

"We know that a piece of flag protection legislation like that passed by the House on September 12th will not survive a court test", Epling said. "We must keep up the pressure on both the House and Senate by more petitions and phone calls because both bodies have scheduled votes on flag amendment proposals during the week of October 16th. We will not be satisfied until Congress has adopted and the states have ratified a constitutional amendment that prohibits physical desecration of our flag."

Commander Epling reminded all commanders to appoint a three member Citizens Flag Honor Guard Committee at post, district, and department levels, to oversee the campaign to achieve an amendment. Names and addresses of the Flag Honor Guard Committee members should be sent to the Americanism Commission at National Headquarters as soon as possible.

Senate Panel Hears Legion on Flag Amendment

WASHINGTON.—The American Legion's support for a constitutional amendment to protect the U.S. flag from desecration is as strong as ever, and is bolstered by a groundswell of petition signers and the results of a Gallup Poll, Congress has been told.

Testifying before the Senate Judiciary Committee, Immediate Past National Commander H.F. "Sparky" Gierke said, "I urge the members of Congress to resist the most expedient course of action and take instead the most effective one."

Gierke's testimony before the committee, chaired by Senator Joseph Biden, D-Del., followed comments by Sens. Robert Dole, R-Kan. and Alan Dixon, D-Ill. Both senators supported the efforts to draft and approve a constitutional amendment.

In his opening statement, Sen. Biden noted that the hearing followed by one day the House's approval by a 380-38 margin of a statute to protect the flag. The bill, which one member of the House called the "Flag Burners' Protection Act of 1989," is designed to make it illegal for anyone to destroy the flag.

"The purpose of this hearing is to decide what, if anything, should be done to protect the flag," Sen. Biden said. Besides Sens. Dole and Dixon, representatives of the major veterans' organizations discussed their groups' view on flag protection.

The committee's ranking minority member, Sen. Strom Thurmond of South Carolina, said that he supported the statutory and the amendment process. "A statute might protect the flag," he said. "A constitutional amendment definitely would.

"If anyone understands the meaning of the flag, it is the veterans of this country."

Senator Dole's testimony centered on his support for a constitutional amendment as the only reliable remedy to the dilemma of how to effectively protect the U.S. flag.

"After the (Supreme Court) decision in June, I was puzzled and disappointed," Dole said. "I couldn't put it together. You can't destroy money. You can't destroy a mailbox. In some states you can't even cut those tags off your mattress, but the Supreme Court said that you can burn the flag."

He referred to the Legion-sponsored Gallup Poll, which showed an overwhelming number of Americans support a constitutional amendment and do not feel that their rights will be threatened.

"The amendment we propose will protect the flag," Dole said. "It will do nothing more and it will do nothing less."

"It is clear that the people of this country are angry. I do not question anyone's integrity or patriotism, but we must understand that the flag is the one symbol that unites us as a nation. It transcends all of our differences and our diversity.

"The flag deserves constitutional protection."

Senator Dixon noted that public opinion polls across Illinois showed overwhelming support for a constitutional amendment. "This issue is still alive across the country, even if it is not in the headlines. The people know what they want."

"The people," Dole noted sardonically, don't get to hear from the 'experts.' They have to make up their own minds."

Sens. Patrick Leahy, D-Vt., and Paul Simon, D-Ill., said that they deplored flag burning, and supported a way to punish those who would desecrate the flag, but stopped short of endorsing an amendment. "We cherish the Constitution," Leahy said. "We have to be careful about chipping away at the Bill of Rights."

Sen. Orrin Hatch, R-Utah, said that he would not only vote for an amendment, but would also vote against legislation. "We cannot get into the business of trying to overturn Supreme Court decisions by passing statutes," he said. "The proposed amendment does not alter the Bill of Rights in any way."

Senator Biden asked Gierke if the Legion would continue to support a constitutional amendment if he could guarantee that a statute would protect the flag and not be overturned by the Supreme Court.

"The American Legion does not seek to complicate this issue," Gierke said. "But, I don't know how you can make such a guarantee."

Biden also asked if the Legion would be opposed if patently offensive groups displayed the U.S. flag at their meetings. "We are simply trying to undo what has been done," the Legion's former commander said. "As long as any group displays the flag properly and shows it the proper respect, the proposed amendment would not apply."

Flag Protection Proposal Draws Delegates' Unanimous Approval

BALTIMORE.—The 71st National Convention of The American Legion unanimously adopted a resolution calling for a constitutional amendment to protect the U.S. flag from physical desecration.

Resolutions from 32 departments were consolidated into Resolution 355—"Flag Desecration." Gary Sammons of Michigan, chairman of the Convention Committee on Americanism, in presenting the resolution to the delegates for their action, said most Americans feel anguish, hurt, and humiliation over the U.S. Supreme Court decision considering flag burning as part of political protest constitutionally protected as a freedom of speech under the First Amendment.

The resolution details the Legion's concern over that decision, noting the ruling "establishes a precedent which may invalidate all existing state and federal laws which have been enacted to protect the flag."

The resolution calls for the Legion to continue to lead the nationwide petition drive in support of a constitutional amendment. Before the convention opened, more than one million signatures had been counted.

The resolution also continues the Legion's positive protest theme to display the flag in accordance with the U.S. Flag Code which was developed with significant Legion coordination.

After the passage of Resolution 355, the house lights dimmed and an video production, featuring actor Larry Wilcox, was shown on two giant television screens. Wilcox told of his strong support for the constitutional amendment and deep belief in the flag which he described as "probably my best friend."

With adoption of the resolution, many delegates used a phone bank in a room at the Convention Center to call their lawmakers. In 12 hours of operation more than 8,000 calls were made. At one point the flood of calls jammed a telephone exchange in Washington.

In an emotional seconding speech in favor of the resolution, Daniel J. O'Connor of New York exhorted the delegates to "raise your voices through local legislators. The hour has come to call for a constitutional amendment." O'Connor drew a roar of approval from the delegates when he said the American people were tired of letting "some coconut, or some stupid crackpot, or even some intellectual jackasses ignorant beyond common sense" desecrate the flag without fear of punishment.

Delegates also received a special "Stand By Our Flag" kit which included bumper stickers, and flag pins.

After the convention's action on the flag amendment resolution, a member of the House Judiciary Committee affirmed the Legion's position that the flag will not be protected by legislation without a constitutional amendment.

Charles G. Douglas, R-N.H., told delegates "The Flag Protection Act of 1989" (H.R.-2978) is a "sham and a shame."

"It's a sham because it doesn't do what you want it to do, and it's a shame because a constitutional amendment would fix what is broken." he said.

He called on delegates, and all Legionnaires, to contact their representatives and

voice their concern that legislation under consideration will not protect the flag.

On the eve of the Convention in Baltimore, National Commander H.F. "Sparky" Gierke presented to Congress the signatures of more than 1 million Americans who support a constitutional amendment to protect the Flag of the United States from physical desecration.

Gierke delivered the petitions during a news conference in the U.S. Capitol. The signatures, gathered by members of The American Legion and the American Legion Auxiliary, were presented to Sens. Robert Dole, R-Kans.; and John Warner, R-Va.; and Reps. Gerald Solomon, R-N.Y.; and Charles Douglas, R-N.H.

"The Supreme Court decision struck a nerve," Gierke said. "In the small town of Cedarburg, Wisconsin, population 9,005, Legionnaires from Post 288 went to the county fair, the shopping center, and door-to-door, and collected 5,173 signatures. Nearly every adult citizen in that town supported a constitutional amendment."

Gierke also released the results of a Gallup Poll that showed that nearly two-thirds of those polled support a constitutional amendment to protect the flag. Seventy percent of those asked believe a flag protection amendment would not place their freedom of speech in jeopardy.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1755 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). Is there objection to charging the time equally? Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 3385

Mr. MITCHELL. Mr. President, I ask unanimous consent that amendments numbered 996 through 1001 be considered as having been timely filed for purposes of rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this consent was necessary because the Senate was in recess today when these amendments could have been filed. It does not add amendments to the list that are in order, postcloture.

OMNIBUS BUDGET RECONCILIATION ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the reconciliation bill 1 hour after the list of matter to be stricken has been available on the Senate floor and that at that time there be a total of 3 hours for debate remaining on the bill, equally divided and controlled between Senators SASSER and DOMENICI, and that the majority leader be recognized to offer the joint leadership motion to strike matter from the bill on which there will be 1 hour equally divided, and at the expiration or yielding back of time the Senate proceed to vote on the motion without any intervening action, and that any amendment or debatable motion offered thereafter be considered under a time limitation of 30 minutes, and that the control and division of time be in the usual form.

I further ask unanimous consent that after S. 1750 has been read for the third time, the Senate then proceed to the House companion measure, H.R. 3299, that all after the enacting clause be stricken, the text of S. 1750 as amended be substituted in lieu thereof, the bill be read for the third time, and the Senate proceed to vote on passage of the bill without any intervening action or debate.

I further ask unanimous consent that if the leadership motion to strike matter is defeated, this agreement be null and void and there then be a total of 3 hours remaining on S. 1750, equally divided, with all other provisions of the Budget Act in effect.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

Mr. DOLE. Reserving the right to object, and I shall not object, in accordance with what we were requesting before the request was entered, this means everything—we talked about striking matter—that is everything, including the Finance Committee?

Mr. MITCHELL. That is correct.

Mr. DOLE. That is the entire load.

Mr. MITCHELL. That is correct. As the distinguished Republican leader and I discussed in advance, the reference in the first sentence of this request, which I now repeat, "1 hour after the listed matter to be stricken has been available on the Senate floor," the reference to the listed matter to be stricken there includes the entire list, including the Finance Committee portion.

As the distinguished Republican leader knows, the Budget Committee portion of the list, which embraces all other committees, is now complete. We are awaiting the final decision by the chairman and ranking member of the Finance Committee with respect to the listed matters within the jurisdiction of the Finance Committee to be stricken. When that is received, that will be incorporated into the document which the Budget Committee has prepared, and when that complete list is ready on the Senate floor, Senators will then have 1 hour to review it. They can determine what is proposed to be stricken. Thereafter, the expiration of that hour, the Senate will resume consideration of the reconciliation bill, and I will be recognized to offer the joint leadership motion to strike that matter.

Mr. DOLE. If the majority leader will yield further, in addition, they are going to get a list of what is in and what is out? I think that is going to be possible.

Mr. MITCHELL. I am advised that the list that will be available will be the list of all matters to be stricken. I know that there are some additional documents which have been prepared by some staff members identifying lists of what will remain, but I understand from the staff those may not be complete at that time. When we say a list of matter to be stricken, it is the complete list of matter to be stricken, inclusive of finance. We will try to have information available at that time as to what remains as well. The list of what remains is not included in the definition of the term which I have stated in this unanimous-consent request.

Mr. DOLE. I say further, it is a substantial amount. We weighed the material before and it was almost 13 pounds. Now it is down to 3 pounds something. So we are striking out 9 pounds. I cannot tell you what is in it, but it is 9 pounds.

Mr. MITCHELL. If the standard of our progress is by weight, then we are making progress.

Mr. DOLE. Some would say we are.

Mr. DOMENICI. Could I ask the distinguished majority leader, that hour will start to run when the list is available on the floor.

Mr. MITCHELL. That is right.

Mr. DOMENICI. Might he tell us now how we will start that 1 hour running? When we have the list, are we to announce it or is the majority leader to announce it?

Mr. MITCHELL. It is my intention that we would do two things: That we would come back and have the Senate resume session, at which time we would announce here that the list is available, and, in addition, we will, through the Cloakrooms of both parties, hotline every office to notify them that the list is ready, so that Senators will be advised both through our coming back in and making a public statement to that effect and through the mechanism of our respective Cloakrooms notifying each office immediately by phone.

Mr. DOMENICI. This is it. I am told that is what was. This is what it looks like now. I think that is progress. I have not read it yet.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 5:15 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 8:30 p.m. when called to order by the Presiding Officer [Mr. ROBB].

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I want to thank the distinguished chairmen and ranking members of the Budget and Finance Committees and their staffs, who have been laboring vigorously to prepare for the Members of the Senate the documents which I am about to describe and which are now available for review by interested Senators. They include a document prepared by the Finance Committee which lists all matters relating to spending provisions in the finance title of this bill that are to be stricken; a document from the Finance Committee that lists all revenue matters which are to be stricken; and a document embracing the jurisdiction of all other committees, which identifies all matters to be stricken in the proposed motion to strike, which will be the order of business when the Senate returns to consideration of this matter.

Mr. President, the unanimous-consent agreement now in force provides for the offering of a motion to strike. The Finance Committee has prepared an amendment that strikes all of their titles and inserts only the agreed-to matter. To accommodate this amendment I ask unanimous consent that an amendment that strikes and inserts be in order, in lieu of the motion to strike previously provided for.

The PRESIDING OFFICER. Is there objection? Without objection, it so ordered.

Mr. MITCHELL. Mr. President, in the previous order it was anticipated that there would be 1 hour before we commenced action on the legislation. In view of the lateness of the hour and the fact that the preparation of the lists proved to be more time consuming than anticipated, it is my view that we should commence action on the bill again at 9, which would be about a half-hour from the time the final lists were ready. Many Senators have been here and reviewed portions of the list that have been available. I apologize for the inconvenience this may cause to Senators but, on the other hand, it will enable us to complete action earlier than otherwise anticipated, or earlier than would otherwise be the case. I have had a number of Senators urging that course of action as well.

Accordingly, Mr. President, I ask unanimous consent that the previous order be modified and that the Senate return to consideration of the reconciliation bill at 9 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, the previous unanimous-consent order is modified in accordance with the majority leader's request.

Mr. MITCHELL. Mr. President, Senators should be aware that the manner of proceeding will be as follows: At 9 we will return to consideration of the reconciliation bill. The order of business then will be a motion to strike, which I will make in behalf of the joint leadership, and which will be subject to 1 hour of debate, equally divided.

Thereafter there will be remaining, if the full 1 hour is consumed, 2 additional hours during which other amendments can be offered if Senators so choose. Any such amendment offered would be subject to a 30-minute time limit, equally divided. I do not now know whether any such amendments will be offered. It is my hope that the motion to strike will prevail and that there will be no further amendments offered. But, of course, Senators are free, particularly after reviewing the results of the motion to strike, to offer such amendments as they choose.

It is our hope that we will be able to proceed expeditiously to completion of action on this bill, there having already been a lengthy delay which I know has caused all Senators great inconvenience.

So, Senators should be prepared, if they have an interest in participating in the debate on the motion to strike, to be present in the Senate at or immediately following 9 p.m., at which time that will occur.

Mr. President, I again want to extend my thanks to the distinguished chairmen and ranking members of the Budget and Finance Committees who, along with their staffs, have been working very earnestly and very hard over the past several hours to advance us to this point.

I will be pleased to yield to the distinguished ranking member of the Finance Committee if he cares to make any additional comment; and the chairman of the Budget Committee and the chairman of the Finance Committee are here as well.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, I agree with everything the majority leader said. I wonder if he would mind if I asked him an unrelated question as to what he plans to do about Nicaragua.

Mr. MITCHELL. Mr. President, I will be pleased to respond. Earlier this evening I was asked in behalf of the distinguished Republican leader if I would agree to delay action on that matter until Tuesday; have the cloture vote on Tuesday, and take it up thereafter. I indicated my willingness to do so, and am prepared to do so at this moment, provided the other interested parties agree. It is my understanding, I am not certain of all, but I believe most of those contacted on our side are prepared to do so and we are awaiting confirmation from the Republican leader and the administration that they wish to do that.

I think it would be more convenient for the Senators, preferable for all concerned, if we just completed action on reconciliation tonight and then agreed to a vote on the cloture petition at a time certain—I suggest immediately following the party caucuses on Tuesday—and then dispose of the matter at that time.

Mr. PACKWOOD. So, looking at the clock now, absent Nicaragua, and I will check with the minority leader and see what his position is, we will probably finish at 1 a.m.? By the time we count votes, 1 a.m. on reconciliation, and we may or may not go to Nicaragua, depending upon whether or not the majority leader gets consent to go Tuesday?

Mr. MITCHELL. I think the answer to the first question is, if all the time is used and if several amendments are offered and consume the time, the estimate of the Senator from Oregon of the time of completion of this bill is probably accurate.

But I do not know that we will use all of that time. I do not know, for example, if any Senators are going to request or demand rollcall votes on any of these matters. So it might be less time, depending upon the circumstances and, I assume, what happens to the motion.

Mr. PACKWOOD. I thank the leader.

Mr. MITCHELL. I will be pleased to yield now to the chairman of the Budget Committee if he has any further comment he wishes to make on the subject.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. I thank the distinguished majority leader. I think all that needs to be done now is to allow interested Senators to review these lists and we are ready to get underway at 9 p.m.

Mr. MITCHELL. I thank the Senator.

I am pleased now to ask the distinguished chairman of the Finance Com-

mittee for any further comments he would like to make.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. I would like to say apologies are due no one. What we are witnessing here are some of the most extraordinary efforts I have seen in my years in the Senate. What we are seeing is months and months of effort put together to put this legislation through, and put it together, and then we are seeing cooperation between the leadership of the minority and the majority to see that we move as expeditiously as possible to go ahead and comply with what has to be done on reconciliation. And to see that kind of concurrence and staff work to cut out billions of dollars of items, highly controversial items, is extraordinary indeed, and I congratulate those who participated in the process. I particularly congratulate the majority leader for his efforts from the very beginning to strip this bill.

Mr. ARMSTRONG. Mr. President, if the leader will yield to me.

Mr. MITCHELL. Yes, I yield.

Mr. ARMSTRONG. I would like to recall that on Saturday afternoon of last week, the Senate adjourned and some of us went trudging home with sort of a sense that this was about as tough as it had ever been around here. Yet I recall that as the Senate completed its work on Saturday, we said to our two leaders, Please try again; please see if you can somehow, even though you have been at it for days, if you can go back into a conference and find some way to clean up this bill to be something we can be proud of and can get behind."

I want to acknowledge publicly, as we all have privately, that our two leaders, Senator MITCHELL and Senator DOLE, along with the leaders of the Finance Committee, the Budget Committee, and a handful of others, have really done us a great service. They have vastly improved this legislation.

More to the point, I hope what we are seeing is not just an extraordinary singular event but the start of a new custom, the start of a new spirit around here when it comes to reconciliation.

Earlier in the day, I visited for a moment with the distinguished President pro tempore, who is the author of the so-called Byrd rule which has served us well in the past, and which, in effect, we are amplifying and expanding here today.

I said, "I hope, Mr. BYRD, what we are seeing is a new custom, a new tradition and, in fact, would it not be a good idea if it became a new rule." I commend that thought for the future, that we will not go back to the old ways but either by custom or amending the Senate rules, that we nail this down tight; that the reconciliation process will not in the future be abused as it was almost abused on this occasion.

For tonight we have plenty to do to pass this bill, but I did not want the moment to pass without acknowledging a debt of gratitude to our leaders for getting us out of the fix we were in and raising us to a standard that we can all repair.

Mr. MITCHELL. Mr. President, does the Republican leader wish to comment?

Mr. DOLE. I have an inquiry. Between now and 9 o'clock, can people make statements generally on the bill, not on any amendment, does the majority leader want to wait?

Mr. MITCHELL. That is perfectly fine. If Senators wish to speak, I think Senators should be permitted to speak to the bill to the extent he or she wishes. Does the Senator from Rhode Island wish to address that?

Mr. CHAFEE. I do. Because then when we come back, we will be addressing specific provisions rather than an opportunity to speak generally under the procedure. If we can do that, it is my understanding we are just going out anyway until 9 o'clock.

Mr. SASSER. May I inquire of the majority leader, is it the intention of the majority leader to go out now until 9 o'clock, or is this time to be consumed by Senators speaking on the procedure or speaking on the bill?

Mr. MITCHELL. It was my intention to go out, not having been aware that any Senators wished to address the subject of the bill generally, but if Senators are desirous of doing so, then I would be prepared for the next 15 or 17 minutes to permit such discussion to occur.

Mr. SASSER. May I say to the majority leader that I am prepared to make some opening comments with regard to the action which we are urging upon the Senate. I assume that the distinguished ranking member of the Budget Committee is prepared to do so also. I was under the impression that the majority leader will make the motion to strike.

Mr. MITCHELL. Yes, I will.

Mr. SASSER. In conjunction with the distinguished minority leader. At that time, perhaps the two leaders will have a statement to make, and my statement and that of the distinguished ranking member would follow theirs.

I am willing to follow the procedure that will be the most expeditious here and get us out as soon as possible.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes, I yield.

Mr. DOLE. Apparently there is some waiver authority in the arrangements that I did not know anything about. I have had requests from somebody on this side that we now waive the rural health provisions.

If we are going to start down that road—everybody would like to get everything waived that is not in there. If that is going to be the policy, then we need to have the policy, and if we are going to permit that, I do not see how we are going to have an agreement if people can go around the Budget Committee chairman, the Finance Committee chairman, and ranking members and get a waiver.

I have had a request from Senator GRAMM of Texas to waive the rural health provision. If that is the procedure we are going to follow, then we have to prepare to have a lot of waivers, I assume.

Mr. MITCHELL. I will be pleased to discuss that with the distinguished Republican leader, and I now yield the floor with the understanding that Senators may address the subject. If the chairman and the ranking member of the Budget Committee wish to address the subject of the motion to strike to save time later, why, there is certainly no objection to that on my part.

Mr. President, I will make clear to Senators then that at 9 o'clock, I will seek recognition for the purpose of filing the motion to strike, and the chairman or ranking member, and others who may wish to do so can discuss that and other aspects of the bill.

Mr. DOMENICI. I assume I am in charge on my side and Senator SASSER is on the other side? I think a couple of Senators on my side want to speak for a few moments. We want to be fair and give some time to their side before 9 o'clock. Would the Senator like 3 or 4 minutes?

Mr. CHAFEE. I am going to ask for 5 minutes. It seems to me that the distinguished chairman of the Budget Committee and the ranking member will obviously have a chance to address the Chamber when 9 o'clock comes, as I understand it.

Mr. DOMENICI. I yield 5 minutes to the Senator from Rhode Island on my time on this side, and then it will be the other side's turn if that is what the Senator likes. Does the Senator prefer to go first?

Mr. SASSER. I prefer to speak after the motion to strike is laid down.

Mr. DOMENICI. Would the Senator like to split the time between now and 9 o'clock, half on our side and half on his?

Mr. SASSER. If somebody wants to speak over here. If I may inquire of the distinguished ranking member, are we going to speak generally on the procedure here?

Mr. CHAFEE. That is what I was going to do.

Mr. DOMENICI. I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I just wish to say that in the Senate, occasionally all Senators do join together in an effort to rise above what can be

seen as self-interest and to take the high road. I believe that that is what we are on the way to doing this evening.

The amendment before us will strike any provision in the budget reconciliation package which does not bring in additional revenues or does not reduce spending. Others have explained and will explain this amendment in considerable detail, so I will not take up the body's time to do that now, but I do want to make a couple of points that I believe are important.

What we are doing tonight is right and in the interest of everyone here. Many of us have worked hard over the past few months to include in the reconciliation bill matters that are of deep concern to each of us. I speak as one of those Members.

There are many provisions in the Environment and Public Works portion in the Finance Committee packages about which I feel strongly. I admit to having some fear as to the ultimate fate of those provisions if they are not included here. But the Finance Committee, I believe, for too long has accomplished too much of its business each year through the reconciliation process. I think that is unfair to the majority of the Members in the Senate. It is always unfair to the public, I believe, because our policy decisions may not always be the best, but when they are included in the reconciliation measure, of course, it is accompanied by a limited time and all of the provisions that are applied to so much of the debate around here are not there.

Some have lamented that stripping down of this package signals the death of many important policy initiatives. I do not agree. In fact, I believe the opposite might be true. I am optimistic that our actions today are the first step toward a better tax and a better health policy, for example. Those are issues that we deal with in the Finance Committee, and I hope they will lead us as a committee to begin to act as I believe the committee should, by carefully considering and passing legislative initiatives separately and by allowing the full Senate the opportunity to consider those initiatives in a broad and considerate and deliberative manner.

I am particularly optimistic about the health care policy issues and the implications about the actions we are taking tonight. In the United States, we spend more than $500 billion a year on health care. That is $1½ billion every single day of the year, more than any other industrialized country in the world, as a percentage of GNP at a cost of a far greater amount in actual dollars.

Yet dissatisfaction with this system, our health care system, is growing by leaps and bounds. There are 36 million Americans with no health care insurance, and many of them are children.

The cost of health care is leading to labor problems. Companies are finding it difficult to keep up with the increases in the cost of insurance all across our Nation. If we act today to strip the measure of these health policies, indirectly it will be assisting them because I believe all of us will now begin to act on individual proposals with the careful attention and thoughtful views of each Member. With our actions tonight, we will affirm the principles for which the Senate stands. No longer will issues of tremendous importance to the Nation be hidden under the protective coat of reconciliation. The protections afforded reconciliation measures on the Senate floor supercede all other rules of the Senate. They prevent us from acting as a truly deliberative body.

So, Mr. President, I believe we should go forward with the course set this evening by the distinguished majority leader and our leader on the Republican side. It may not be easy to swallow what we are being asked to give up in this bill. Every one of us is giving up some measure about which we deeply care. But when the dust settles, I believe we will be proud of what we have done. I am optimistic that we will restore the Senate to its role as the protector of those with minority views.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I wish to associate myself with the remarks that have just been made by Senator CHAFEE. The fact is that this Senator and others are giving up many important pieces of legislation we had hoped could be attached to this particular measure, but that is not possible given the circumstances which now confront the Senate and with the sequester coming up on Monday next. I am not happy with the whole budget process, but we voted this measure out of the Budget Committee, of which I am a member, the other day. I voted for it only with the understanding that I reserved the right to make my final determination on the floor of the Senate.

It seems to me, Mr. President, as difficult as this is going to be for all of us, it may set the record straight; it may send the message loudly and clearly to each Member of this body, each committee and subcommittee of the Senate, that we have drifted and drifted and drifted to the point that we come down to only one or two massive bills each year and we begin hanging all kinds of ornaments on that massive bill, not unlike the manner in which you might hang ornaments on a Christmas tree.

That is not, in my opinion, the way the Senate has traditionally enacted legislation. It seems to me, Mr. President, as difficult as this is going to be tonight, it has to be done. I hope that if nothing else comes out of this, we will realize that the reconciliation structure is supposed to be a means to restrict spending. This bill does not restrict spending, unfortunately, as much as I think it should. Therefore, I suspect, with some shortcomings and with some grave reservations that I have, I will be placed essentially in the position of most of the Members of this body that we must move ahead with this piece of legislation, as bad and unacceptable as it is, as far as deficit reduction is concerned.

Another way to put that, Mr. President, would be as bad as this is, it is still better than nothing. Therefore, I hope that we will move ahead with the motion to kill most or all of the extraneous measures on this piece of legislation and then quickly dispose of any amendments that are offered thereafter.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, the distinguished majority leader is not on the floor at this time. It is my understanding that he intends to offer the motion to strike at 9 o'clock. So I would suggest the absence of a quorum to be charged equally against both sides.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9 o'clock having arrived, the Senate will resume consideration of S. 1750, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1750) entitled the "Omnibus Budget Reconciliation Act of 1989".

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Debate on the bill is limited to 3 hours to be controlled by the Senator from Tennessee [Mr. SASSER] and the Senator from New Mexico [Mr. DOMENICI].

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

AMENDMENT NO. 1004

(Purpose: To strike all matter from the bill that does not reduce the deficit)

Mr. MITCHELL. Mr. President, for myself, Senator DOLE, Senator SASSER, Senator DOMENICI, Senator BYRD, Senator BENTSEN, and Senator PACKWOOD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL), for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, Mr. BENTSEN, and Mr. PACKWOOD, proposes an amendment numbered 1004.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MITCHELL. Mr. President, the purpose and effect of this amendment may be summed up in a single sentence. The purpose of the reconciliation process is to reduce the deficit. I repeat, the purpose of the reconciliation process is to reduce the deficit.

The amendment is lengthy, consisting of many pages, words, and numbers, but it has that fundamental objective. As I said when I addressed the Senate a week ago Thursday, the reconciliation process has in recent years gone awry. The special procedures included in the Budget Act as a way of facilitating deficit reduction items became a magnet to other legislation which is unrelated to the objective of reducing the deficit.

No useful purpose will be served by attempting to trace the history of that development. We are all familiar with it. We have all been participants in it. But it is time now to restore the reconciliation process to its original objective. That is what this amendment does. It asks sacrifice of every Senator. It asks discipline of every Senator. It asks that the regular legislative process be restored to the dignity it once had.

I urge all Senators to join in supporting this amendment. I urge all Senators to join in helping us engage in meaningful action on the deficit. I urge all Senators to join in opposing any effort to restore provisions that may be stricken by this amendment.

We can act decisively, we can act responsibly, we can exhibit discipline, and we can exhibit restraint if we so choose.

That opportunity is now before us. I urge every Senator to participate in taking up that challenge.

I hope every Senator will support this amendment. I encourage every Senator to support this amendment. I urge every Senator to support this amendment.

Mr. President, I am now pleased to yield to the distinguished Republican leader.

The PRESIDING OFFICER (Mr. BRYAN). The Republican leader is recognized.

Mr. DOLE. Mr. President, first I thank the majority leader, and I thank all my colleagues.

Mr. President, we have been doing a lot of negotiating. I guess negotiating—we had a lot of meetings, had a lot of discussions, marched up and down, backward, forward, and I guess the longer we had negotiations the clearer it became to many people that we had an opportunity here that we should not let pass.

The bottom line, as I see it, is discipline. Do we have the will to be responsible, to really reduce the Federal deficit or do we undercut the process by piling on important programs, taxes, and other legislative goodies that cost the taxpayers millions in the name of deficit reduction? Many of these provisions have never even had a hearing, never had a hearing, and not one witness from anyplace came in to testify for or against most of the provisions.

I do not believe the American people share the view that maybe some of us do on the floor. I will confess nice little things I have in the bill are gone. We have heard a lot of talk lately about good government, and we are all for good government my Republican colleagues and my Democratic colleagues. I say as far as my Republican colleagues are concerned I think it was their commitment and conviction that helped lead us to this moment, and to this agreement. I will tell you precisely what happened.

We had a caucus yesterday afternoon about 1:30. At that time all the focus had been on capital gains, and it is a very important provision. I will say more about that in a moment.

But I must say many of my colleagues said unless we can clean up the reconciliation bill they were going to find it very difficult to support any capital gains or anything else.

So they in affect directed the leader to have the staff put together something that went beyond the Byrd rule; something that extended—I guess you would call it an extension of the Byrd rule. So I asked the staff, the budget staff, to put together a package because the message I had from nearly everyone in the room is they really wanted to strip down the reconciliation package—not half way, not part of the way, but all of the way.

So while some wanted good government, some wanted better government, and that is what our caucuses I think on both sides of the aisle have been telling us, the leaders, the past couple of days.

So I congratulate Senator DOMENICI, Senator ARMSTRONG, Senator PACKWOOD, and many others on this side of the aisle for their leadership during this tough challenge. And I am certain accolades could go to their counterparts on the other side, as well as to the distinguished majority leader for his cooperation and communication. His door was always open. He demonstrated that, above all, the institution must work, and it is working.

I think the distinguished President pro tempore, Senator BYRD, said it probably best on Sunday when he said the only reason we really exist as an institution is for a couple of reasons. First, we have the right to amend, and we have the right to debate. The reconciliation process was, in effect, destroying us as an institution. So you think about that over the weekend. It makes a lot of sense.

I have no quarrel with the House. They have different rules. They are a different body. I am very proud to have served in the House of Representatives.

Let me also say there are many worthwhile items being stripped out of the bill. A lot of the materials in the Senate program, that 12-pound, 15-ounce package there, were good programs. They were good for Kansas, good for America. But I guess in the final analysis we all decided this was not the place for all of those good programs.

For example, there is a rural health care package, which the distinguished chairman of the Finance Committee and this Senator and others have worked hard on to design. I have already had a request—can we not waive that, can we not sort of get that in there. Nobody will ever know the difference. Just put it in there.

You cannot do that. As I understand the agreement, there are critical and long overdue reforms in the physician reimbursement programs under Medicare. Additionally, the hard-pressed independent marginal oil producers were given relief by this bill. I guess the more important thing is how do we return to the normal legislative process, which has gotten out of hand the past 8 years, and which everyone in this body has been probably guilty of to some extent in some areas. Certainly this Senator has, and I am certain others have.

I believe the proposal such as the rural health care package and others are meritorious in their own right and can withstand the test of the normal legislative process, and they should. Reducing the deficit is a priority; the deficit keeps climbing, and we have not had much success in getting it down. I am not certain everybody in America understands all the inside baseball that goes on around here, whether they understand reconcilia-

tion and conference committees and motions to strike, but I do believe the American people recognize responsibility when they see it, and tonight they are seeing responsibility in action.

That is the whole purpose of this amendment. The authors will oppose any effort to add back individual provisions, and I certainly urge our colleagues to support those efforts. That does not mean that a provision that some Senator might have—and I will speak to this side of the aisle—will not be picked up in another revenue bill or in a separate piece of legislation. We are not here to pass judgment on what Senators may have in mind as far as legislation is concerned. On this package, it is going to be a reconciliation bill in the finest sense of the word.

Finally, let me say a word about capital gains. Let me be very clear; the President of the United States and his leader in the Senate have not retreated 1 inch in support of this critical tax reform proposal, nor has anything changed its status in this Chamber. The votes are here, I believe, the majority; we think we have the votes, and we think the leadership on the other side has the process. The process means 60 votes. We do not have 60. We have well over 50. Capital gains does have a clear majority, a clear bipartisan majority, and I believe it is an item that is good for America, and I believe Republicans and Democrats will work together to get capital gains reform this year.

We do not have today, enough votes, as I have indicated. We cannot beat the majority on procedural votes, and many colleagues on the other side, for reasons that are probably very good, have decided to stick with the leadership on procedural votes. I have learned how things work here. If you are in the majority, you control pretty much the flow of legislation and what happens.

I do believe we have come to understand that we have a majority, so we are putting aside capital gains today, but I can promise my colleagues on both sides of the aisle who support the effort, and the President, that we will be back ready to win, ready to let the majority prevail on this matter at the earliest opportunity. There are going to be a number of opportunities.

Finally, I say again that I commend the leadership on both sides, particularly the budget leadership and the Finance Committee and others who have a rather active role to play in this entire debate. I believe we have made the right decision. No one could predict precisely what may happen on the House side. It seems to me that if we stick together, as we are doing here, in the conference, that we can have a great impact on what may happen. I think it would be the intent of the distinguished ranking Republican on the Budget Committee to move to instruct the conferees at the appropriate time.

I thank the Chair.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chairman recognizes the Senator from Tennessee [Mr. SASSER] and advises he controls 27 minutes.

Mr. SASSER. Mr. President, with this amendment we are firing a shot, I believe, for fiscal responsibility, a shot that I think will be heard throughout the corridors of this Congress. I believe it will be heard at the other end of Pennsylvania Avenue, and perhaps may even be heard as far away as Wall Street, which this evening, I think, is in dire need of some good news. With this amendment, we are putting a deficit reduction bill back in the category of being a deficit reduction bill. It is an amendment that sets this body's priorities straight.

What we are seeking to do is to remove from this reconciliation vehicle, all extraneous matter, everything that does not either reduce Federal spending or raise Federal revenues will be stricken. That is the purpose of a reconciliation bill. Extraneous matters have been accumulating on these reconciliation bills now for a number of years, to the point that they are on the verge of sinking the reconciliation bill, and in so doing, defeating the budget process.

At some point in the not too distant future, if we continue down the path that we have been going, the Parliamentarian, on a point of order, will be forced to rule that a so-called reconciliation bill is not a reconcilation bill at all, that it is simply a vehicle for so much extraneous matter that deficit reduction has become a subordinate and wholly incidential purpose for which a so-called reconciliation bill will be offered in the future. I do not say that to impugn the worth of many extraneous matters on this reconciliation bill.

We heard a lot of debate yesterday. It was pointed out by some of our colleagues, in a somewhat disparaging way, that this is a vehicle for looking after the interest of kiwi fruit farmers or those who raised a certain type of vidalia onion.

I want to say to my colleagues tonight, there are an awful lot of very worhty measures being carried by this reconciliation bill, matters that are critical and crucial in importance to the environment, like doing something about chlorofluorocarbons that are poisoning the very globe on which we live; an important provision for doing something about wetlands that are being destroyed in Louisiana; and authorization for essential air services, rural health provisions, Medicare provisions. It goes on and on.

So there are many worthy things on this reconciliation bill, matters that I would vote for, if they were not being presented on this particular bill, indeed, matters that I would speak for on the floor of this Senate. But when we started out yesterday, we had a reconciliation bill that consisted of almost 1,400 pages, with over 250 items that were purely extraneous, and that reconciliation document should have consisted, Mr. President, of only 100 pages.

I want to commend the majority leader and Senator BENTSEN on our side of the aisle, who have worked so hard to strip this bill clean, and also the distinguished President pro tempore of the U.S. Senate, Senator BYRD. Last Thursday, when the majority leader, Mr. MITCHELL, offered the idea of stripping this bill clean on behalf of myself and Senator BENTSEN, we did so on the hope that there would be a majority here in the U.S. Senate who would take a stand on behalf of the integrity of the process.

What we are seeing right now, I say to my colleagues is something of a phenomenon. After months and months of work in the various committees of the U.S. Senate producing worthy legislation that ended up on this reconciliation instrument, we are seeing these same committees come forward and voluntarily striking this extraneous matter. I think in the interest of fiscal resonsibility and in the interest of a sound budget process and, I might say, in the interest of safeguarding and refurbishing the institution of the U.S. Senate. That ought to be grounds for celebration if we can do that here this evening on a bipartisan basis.

I would venture to say that most Americans who even heard the phrase "budget reconciliation" over the past few days or weeks, think budget reconciliation stands for some kind of forum for discussing the capital gains tax. That is how it has been played out in the media and that is how I initially think it was conceived in this Chamber.

But the U.S. Senate, I think this evening, Mr. President, is acting in the finest traditions of this body. I commend the distinguished majority leader, the distinguished President pro tempore, Senator BENTSEN, those on my side of the aisle who have worked so long and hard on this bill. I commend our distinguished minority leader, and certainly this could not have occurred this evening without the cooperation, suggestions, and energy of the distinguished ranking member of the Budget Committee from New Mexico, Mr. DOMENICI.

It is my deep hope that this evening those in other locations in this city who may have seen budget reconciliations in another way and those who might have sought to subordinate the deficit to another agenda will think long and hard about this bipartisan

action that has been taken this evening by the U.S. Senate.

I think it is fair to say that the House of Representatives needs to understand that we must work toward a clean bill in conference. That is absolutely imperative if we are going to minimize the negative impact of the sequester that is looming over us.

Let me make this point here, and I think it is very important. We are estimating that this totally stripped down reconciliation vehicle will produce some $50 billion in deficit reduction over the next 5 years. That compares to the $29 billion, we were going to get out of the 1,350-page document that we began with yesterday morning. In short, this action, I think, moves us decisively to bring this budget more nearly into balance. It moves us decisively toward our Gramm-Rudman targets both for this year and in the years ahead.

I think most importantly, it moves us decisively toward the kind of fiscal soundness and fiscal order that we must have if we are to maintain the economic strength of this Nation of ours.

Mr. President, I urge all of our colleagues to support this motion to strike that is before us this evening, and I yield now to the distinguished ranking member of the Budget Committee.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico and informs him that he has 21 minutes under his control.

Mr. DOMENICI. I thank the Chair.

Mr. President, I yield myself 5 minutes.

Let me first say to Members on our side that I cannot thank them all this evening by name. There are only a few present but there are so many who rose to the occasion and caused this to happen. Clearly, a frustration has begun to set in about this process.

There are a few things about the U.S. Senate that people understand to be very, very significant. One is that you have the right, a rather broad right, the most significant right, among all the parliamentary bodies in the world to amend freely on the floor. The other is the right to debate and to filibuster.

When the Budget Act was drafted, the reconciliation procedure was crafted very carefully. It was intended to be used rather carefully because, in essence, Mr. President, it vitiated those two significant characteristics of this place that many have grown to respect and admire. Some think it is a marvelous institution of democracy, and if you lose those two qualities, you just about turn this U.S. Senate into the U.S. House of Representatives or other parliamentary body.

Over the last few days, much has been said about the failure of our budget process. I call everyone's attention to the fact that Budget Act provides for a motion to strike. It was there from the very beginning on reconciliation.

I say to my good friend, the chairman of the Appropriations Committee, the Byrd rule came along to try to minimize what we put in reconciliation. But the motion to strike was there from the beginning. The process did not fail. We failed. Today, we do not fail, because processes without the will are useless. Today, we are using a process and hopefully in about 35 minutes, we will exhibit our will to use the process.

I say to anyone here who is critical of the evolution of reconciliation and the budget process, the motion to strike was there last year, the year before, the year before, and since we started. But only this week, did it finally dawn on large numbers of U.S. Senators that if we did not stop this, there would be no freestanding revenue measures to vote on in this place. There would be no authorization bills to speak of, no Medicare reform. We can go on for every important issue. Who will bring them to the floor if they can wait until there is a reconciliation instruction and include everything and anything you desire in a committee.

Mr. President, that is the rule of the U.S. House of Representatives. If the House Rules Committee clears a bill, it makes no difference to them whether it is on reconciliation or freestanding. They set the rules for debate in that institution then and there. We do not have that. The only rules committee we have is the floor of the U.S. Senate and a relatively new one called reconciliation.

Today we have met the enemy. As Pogo says "We met the enemy and he is us." We are going to use the process available under the Budget Act to strip from this bill not only those matters which the Parliamentarian would call extraneous but also those which were never intended because they are not pure deficit reduction matters. Thus, they are broader than the Byrd rule, irrelevant and extraneous, and we are going to strike them.

Mr. President, let me suggest that there are a couple of other reasons we ought to do this. There are some who say let the sequester fall. Come the 16th it will start. There are some who are saying, "We hope you do not do anything." I am not one of those. I think the planned train wreck of the Gramm-Rudman-Hollings law was there to be avoided. It was there to be avoided by rational decisionmaking and I think we ought to avoid it by rational legislation.

If we go to conference with this measure, and the House measure which is much beyond this 13-pound bill, it will probably take 3 to 7, maybe 8 weeks in conference. I say to those who are here we have never had a reconciliation come out of conference sooner than 4 weeks except one time and it was a very, very small one. Most took 7 and 8 and 9 weeks.

I hope the U.S. House of Representatives wants to get rid of the sequester as badly as we do. If they do, clearly that conference will be a short one. They will understand that they can run all those measures through their Rules Committee. They should seriously consider a stripped down bill that will knock out the sequester next week. Then we can go about our business about passing the appropriations bills and get on with the business of the Senate.

Mr. President, as far as capital gains, the Senator from New Mexico believes this is the best approach to assure capital gains and assure an up-or-down vote in this Senate. Clearly sooner than later, because of our action on this measure, we will need a revenue measure on this floor. We need to extend the research and development tax credits and many other things, so we need a tax bill.

I am very hopeful we will get one. That will be good for the Senate. It will be good for our processes. If we need Medicare and Medicaid reform, it will be good to have them on the floor of the Senate, not in the body of a 2,000- or 3,000-page bill.

I believe with that, plus short-term and long-term debt extension, the will of Senate is going to be worked on capital gains. It could not on this bill because of the complexities of the process and the leadership of the majority.

I close by saying I hope none of the Senators who have provisions in this bill that are being stricken think that the Senator from New Mexico is against them, against their provision. I hope we are not being arbitrary. I think we have tried our very best. I think the distinguished chairman and ranking member of Finance have been extremely fair in their bill as has everyone else. I think those who have matters that are important will get their chance in due course. We may have an awful lot more legislation on the floor, but I think that is the way it ought to be.

With that, I wish to thank the chairman of the Finance Committee and the ranking member, and obviously the chairman of the Budget Committee, and the two leaders. We are doing something significant tonight for the U.S. Senate, but most of all for the people of this country we are getting $14 billion worth of deficit reduction in the first year, 1990, and, I say to my friend from Oregon, $56 billion over 4 years. That is what this bill does.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I have discussed this with the managers and the distinguished Republican leader. So far as we know, no Senator has requested a rollcall vote on this amendment. Unless some Senator does so request, it is my intention that we will act on this amendment by voice vote. If any Senator has an amendment he or she wishes to offer they should be on notice to be present to offer it soon, because if there are no further amendments after this, the time will be yielded back and we will proceed to a final vote on reconciliation by rollcall followed immediately thereafter by a rollcall vote on the cloture motion on the Nicaragua Elections Act. That is our plan as of this time.

We hope to be able to complete action on this amendment by voice vote, then proceed to any others which may be offered. If there are none to be offered, then proceed to final passage by rollcall vote followed immediately by a rollcall vote on the cloture motion.

Mr. DOMENICI. Might I say to the majority leader, I will confirm this with Senator DOLE. He told me a minute ago to the contrary on the rollcall vote on this amendment, unless he has just talked to you.

We are OK.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield such time on the amendment as the Senator from Texas may consume.

Mr. LEAHY. Will the Senator withhold? I just want to make sure I understood this on Nicaragua. Did the majority leader say that we would or would not go forward on Nicaragua tonight?

Mr. MITCHELL. We will go forward tonight.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Thank you, Mr. President.

Mr. President, let me join with the others in what I think is an extraordinary effort on the part of the leadership on both sides of the aisle in moving forward to strip down this reconciliation bill.

When you are chairman of a committee, you have the responsibility to work within the rules that are given to you. That is what we did in the Finance Committee.

But I have long disagreed with the trend that I have seen taking place with respect to reconciliation and the limitations on debate and amendments that are a part of that process. So I am supportive of this effort. But let no one think that we do not have a job left after tonight is over.

Extraordinary change? Let me show you how extraordinary it is. Here is a table displaying the spending items, these items amount to millions of dollars in spending. These were the spending items the Finance Committee included in its reconciliation bill.

Now spending items on reconciliation can be listed on one page.

Lest anyone think that there is not a job still to be done for the people of this country, let me tell you about some of the things that were struck. We deleted a rural health package, what I think is the finest piece of legislation for rural health care that we have had before this body in many years. Rural hospitals are closing around the country, and they need our help.

Major improvements in health care coverage of pregnant women, infants and children were also struck. Fundamental reform in the way physicians are paid under the Medicare Program—struck. Months and months of work went into those reforms.

Extensive improvements in mental health benefits under the Medicare Program and numerous income security provisions designed to address the needs of disabled children and children in foster care were also struck.

Provisions that would let people on Social Security earn more money without suffering a deduction in their Social Security benefits under the Finance Committee approved bill, to retirees who work could earn about $5,500 more than they would be able to earn under current law.

Those are some of the major provisions that we have struck.

We are striking the IRA. I think expanding and restoring the IRA is terribly important to the average family in America to take care of their retirement, to buy that first home that is becoming more difficult for young couples all the time, and to take care of that college education that was struck.

I understand the controversy with the capital gains. And I am one who has supported capital gains time and time again in the past. But I must tell you I felt a lot more enthusiasm for lower capital gains taxes when the top rate was 90 percent and then 70 percent and then 50 percent. Then we agreed to cut the top rate for people earning the most money all the way down to 28 percent. And part of the argument by the Reagan administration was that we could afford to cut that tax rate on ordinary income because we would save $22 billion over 5 years by increasing the rate on capital gains income from 20 to 28 percent. And then we get the interesting figures from this administration that we will save $16 billion over 5 years if we will bring it down from 28 percent to 15 percent. They still haven't explained that one to me.

I am talking about some important things, too, on the revenue loser side. I am talking about repeal of section 89 that was passed by a vote of 99 to zip, 99 to 0, in this body. I am talking about mortgage revenue bonds, that had 86 cosponsors; low-income housing credits, that had 72 cosponsors; extension of the research and development credit, that had 53 cosponsors; and extension of the targeted jobs credit with 36 cosponsors. Those are some of the things we are going to have to come back to in this body and that is what I hope we can do early on in a revenue measure. And the House is pretty sparing in the number of revenue measures that it allows us.

Now let me talk about the other body just for a moment, because one of the problems we face is going to conference with the House. Will our House colleagues understand what we have done and the steps we have taken to try to get back to the proper use of reconciliation? Will they give us credit for trying to make real progress in reducing the deficit or will they sit there with all the House approved provisions as bargaining chips while we sit there with none?

Well, I must tell you, I am much encouraged by a statement made today by the chairman of the Ways and Means Committee.

It says:

I commend the Senate for passing a clean budget reconciliation bill. Three months ago, on July 12, I urged this exact course of action in the House. Unfortunately, in July and again in September, the Administration rejected a clean reconciliation bill, referring to pursue a misguided capital gains cut for the wealthiest Americans.

In July and again in September, I predicted that to go beyond a clean reconciliation bill invited deep divisions on controversial and expensive issues such as capital gains, catastrophic health insurance, child care and section 89. To my regret but not my surprise, those divisions materialized in the Ways and Means Committee and the floor of the House of Representatives. The reconciliation bill—a bill whose purpose is to reduce the budget deficit, however marginally—turned into a political football that actually will increase the deficit in a few short years. It was for this reason that I voted against the bill both in committee and on the House floor.

Although I am encouraged by the Senate action, it is uncertain whether a clean bill can be achieved in the upcoming conference with the Senate. The bill passed by the Senate appears to reflect only an "institutional" agreement within the United States Senate. The position of the Administration and the House Republicans is unknown. Even Administration support for a "clean" reconciliation bill is largely irrelevant, particularly to House Republicans, as we learned when the House passed, over the Administration's silent objection, amendments relating to catastrophic health insurance and section 89.

In addition, House conferees would not be prepared under any circumstances to accept a "clean" bill whose provisions are devised and defined by the Senate alone. Important differences will remain over the basic $5.3 billion revenue package and the $2.7 billion

Medicare savings—differences that can only be resolved in a conference with the Senate.

Nevertheless, I am hopeful that a truly clean bill can be achieved through the normal give and take in the upcoming conference with the Senate. As desirable as the result would be, however, I will not be party to any "side deals" or private understandings regarding the debt ceiling or a subsequent legislative "vehicle." In the face of a $130 billion deficit, I remain committed only to the achievement of responsible and real deficit reduction. I have no interest in the political games and avoidance of responsibility that have marked the Administration's budget policies up to now.

He goes on to say how much he is encouraged by the Senate action and how much he hopes that the Senate's action can assist the other body in bringing about real deficit reduction. Chairman ROSTENKOWSKI's encouraging response, and I know he is sincere in his statement that he is going to do his best to try to bring about a deficit reduction bill.

But the job that we face in trying to see that we preserve the reconciliation process in conference will be formidible.

Let me make another point. I have heard some comments, too, about how many amendments are included in the measure reported by the Finance Committee.

If we use the gross numbers there, the bill raises $37 billion and spends $29 billion over 5 years. Those are the figures that have been cited. Let us put that in context.

The Joint Tax Committee did revenue estimates of the tax part of the fiscal year 1990 budget that the Bush administration submitted in February of this year. The Joint Tax Committee's estimates reject the proposition that the capital gains tax cut is a big long-term money gainer. And once we go through those estimates of the Joint Tax Committee and count the outlay savings in the same way the Finance Committee did, the Bush tax proposal raises $34.4 billion over 5 years in taxes, but spends $52.1 billion on new tax breaks.

Consider that, and then they have lost $17.7 billion over 5 years.

When I compare that with the Finance Committee's product before we stripped this bill, a gain of over $8 billion over 5 years, the Finance Committee did not do a bad job. So I think it is important that we put these things in perspective, to see what we will be facing in the weeks ahead as we review these things and present them to this body, which I am committed to try to do in as short a time as we can reasonably do it.

Once again, an incredible transformation has taken place through the contribution of Senators like the chairman of the Appropriations Committee, the distinguished Senator from West Virginia; and the chairman of the Budget Committee, the Senator from Tennessee; and the ranking minority member, Senator DOMENICI from New Mexico; and the majority and minority leaders. I think this is as dramatic a change as I have seen in a piece of legislation since I have been in this body. I hope we can put it through and accomplish its objectives.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have three Senators on my side who desire to speak: Senator GORTON for 3 minutes, Senator RUDMAN for 5 minutes, and Senator COHEN for 3 minutes. And I believe that is about all the time I have.

In whatever order the Chair would recognize them, I would yield them that much time at this point.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I join with my colleagues in congratulating our distinguished leaders and the chairmen and ranking minority members of the Budget and Finance Committees, together with the other Members of the U.S. Senate who, this evening, have joined together to cause the U.S. Senate to deliberate and to work as it ought to work. In fact, it is deliberating and working in the way it ought to work in two distinct ways.

First, we are doing what we ought to do. As the distinguished majority leader said earlier during the course of this debate, the purpose of a reconciliation bill is to reduce the budget deficit. It is certainly clear this bill, if this amendment is passed, will do so only modestly. It is certainly clear our task next year will be even more difficult than it has been this year.

But it is also true that this reconciliation bill, if this amendment passes, will reduce the budget deficit, consistent with the budget resolution which we passed earlier this year and with the budget agreement involving the White House and both Houses of Congress. It, therefore, represents both responsibility and progress.

Second, and equally important, by this course of action this evening we are not doing what we ought not to do. The distinguished minority leader pointed out that many of the extraneous elements in this resolution before this amendment include good legislation.

From a brief review of that legislation, I know this Senator agrees with well over half of those pieces of substantive legislation. But all of them, whether this Senator agrees with them or not, share one feature in common: They have not been debated on the floor of the Senate and cannot be effectively debated as a part of a reconciliation bill. They cannot effectively be amended as a part of a reconciliation bill.

Thus, their inclusion, whether they are good, bad, or indifferent, would utterly destroy the very purpose of the Senate of the United States, as so eloquently described by the President pro tempore last Sunday. It is absolutely essential that, even with this legislation, we have the right to debate and the right to amend.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORTON. I urge we agree to the amendment and pass the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. RUDMAN. Mr. President, let me add to what has been said very briefly about the majority leader, the Republican leader, and the leadership of the U.S. Senate who participated in bringing this reconciliation bill to us tonight in the form in which it was presented. It is, really, a monumental achievement, as we look back over the several years. It was aided greatly by the foresight of the distinguished President pro tempore, who promulgated the Byrd rule.

I would say it was informally advanced beyond the Byrd rule by what we have now adopted. I guess I would call it an informal Dole-Mitchell-Sasser - Domenici - Packwood - Bentsen amendment which simply said: If it does not raise revenue or save money, we do not want it in here.

I wish the distinguished President pro tempore might offer that as a formal amendment. It would save us a lot of grief in the coming years.

Mr. President, there ought to be a lesson in what happened here today and yesterday and last week. This all started when the distinguished majority leader suggested that this had gone too far. The Republican leader that night, and others, joined in that and has brought us to here.

It has taken too long. Here we are, several days into the new fiscal year, still not having set the budget process in concrete. We must go to the House of Representatives in conference if this passes. We have an interesting situation from a bargaining point of view. We have nothing to bargain with, which is the way it was planned.

We are going there with a clean reconciliation bill and we are simply saying: If you do not want that sequester to continue beyond next Monday or Tuesday or Wednesday, either join us, or it will continue to run.

But we should not have taken so long to get there. And we ought to have learned something collectively, all of us here. That is, and I have heard the distinguished President pro tempore say this in meetings of our committee: We spend far too much time on a process which was designed to be somewhat more efficient than it is. We wait until the very end of the

year to get these appropriations bills passed, if at all. Many have yet to be conferenced.

The net result of that, Mr. President, is what the distinguished President pro tempore said on Sunday about this body, which has the ability to debate and amend and consider legislation. I will tell my colleagues, if there is a great disappointment to this Senator in my 8 years here, it is that some of the most important issues we can discuss we never have the chance to debate and amend on this floor because we are totally immersed in this budget process from January to December; maybe this year shorter.

So I hope, Mr. President, we might learn from what we did this year, that next year we might come to an early agreement with the administration, if that is possible; we might move in a manner unlike past years, and, hopefully, have an opportunity to debate other legislation which is of vast importance.

The distinguished chairman of the Finance Committee ticked off a whole series of legislation which needs serious attention on the floor. We cannot give it that attention if we spend our entire lives debating appropriations, budgets, and reconciliation.

I hope maybe this year we have finally learned the lesson. I am not sure that we have, but I hope we have.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator from Tennessee yield for a question?

Mr. SASSER. Yes, I will yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as the distinguished Senator from New Hampshire just pointed out, the House has many extraneous matters in their bill. One relates to a matter within the jurisdiction of my committee. It involves the Tongass National Forest. It is a vitally important bill, one of the top matters on the environmental list of virtually every environmental organization in the United States.

My question is, What is the advice of the distinguished chairman of the Budget Committee?

Are we to understand that there will be no bargaining with respect to House measures which are nongermane, which are extraneous?

Mr. SASSER. I say to my friend from Louisiana, that will have to be determined once conferees are appointed and once we enter into a conference with the House of Representatives. We received some encouragement that the House themselves may engage in some ex post facto stripping of their own reconciliation bill.

I say to my friend from Louisiana that this process has proceeded with the majority leader, Senator MITCHELL, conferring on a daily basis with the Speaker of the House of Representatives, Mr. FOLEY. I think the distinguished Senator from Louisiana was off the floor a moment ago when the Senator from Texas read into the RECORD a recent comment, I think this afternoon, of the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, commending the Senate for stripping our bill and indicating that perhaps there would be some movement on the House side in that regard.

To sum it up, I would say to my friend from Louisiana, we are going to have to proceed as we can and just see what occurs.

Mr. JOHNSTON. I ask the question in this sense: We can go to conference and bargain, as we usually do, and I have a lot of sympathy for a lot of the provisions in the House bill, I want to tell the Senator. But I do not want to go in there and take a tough line and say no bargain on this thing and be an ogre in the environmental community when I believe that they have a lot of justice on their side. On the other hand, I do not want to waste a lot of time if the Senate is going to make up its mind that we are really not going to go with these kinds of amendments.

I think we ought to decide here tonight, and the distinguished minority leader just gave me some language which someone is going to put on to instruct, nonbinding language. I would like an expression from the key leaders here what we are really going to do when we get to the House. I, for one, would feel pretty bad about having lost what I think is a very good provision here, lost to purity, only to lose our purity when we get over in conference.

Mr. SASSER. That is a point well made, and I think we will just have to plow that furrow when we come to it, I would say to my friend from Louisiana, but I am hopeful we will find perhaps some of our House colleagues have some of the old-time religion by the time we get to conference, also.

Mr. President, I yield such time on the amendment to the distinguished President pro tempore as he may consume.

The PRESIDING OFFICER. The Chair informs the distinguished Senator that there are 3 minutes remaining on the time.

Mr. SASSER. Mr. President, would it be appropriate at this time to indicate that if the distinguished President pro tempore should consume more than 3 minutes—and I anticipate that he will—that we can yield such time as he may consume off our portion of the bill?

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. BYRD. Mr. President, John Stuart Mill said, "On all great subjects, much remains to be said." This is a great subject, the reconciliation bill, and much remains to be said. The hour is late. I would not impose on the patience and time of my colleagues were it not, in my judgment, a moment worthy of comment from me.

I have seen the Senate many times when it gave me reason to be concerned about its future. I have also seen it on some occasions when it gave me reason to be proud. One such occasion was when the Panama Canal Treaties were approved. I knew then how difficult it was for the Senators on both sides of the aisle to rally to support the approval of the ratification of those treaties. Senators did it in the face of tremendous opposition from all over the country, but they arose to the need of the moment, and I think that they wrote in large letters the character of the U.S. Senate.

Tonight I think that we should pause to reflect upon this institution to which Gladstone, that great English statesman who lived during the long reign of Queen Victoria and who was Prime Minister of England four times, referred when he spoke of the U.S. Senate as "that remarkable body, the most remarkable of all the inventions of modern politics." That is what this institution is. There have been 1,792 men and women who have served in this body since its beginning in 1789, and every Member of this Senate ought to reflect upon that, and it is not too much to say that Senators who serve in this body are a chosen people, a body of 100 Members, like the early Roman senate which was made up of 100 nobles, and later 200, later 300. Sulla increased the number to 600 and Caesar to 900, and Augustus brought it back to 600.

There have been other senates. The senate of Sparta. Lycurgus, the lawgiver, is remembered. The first and most important institution that he created was a senate made up of 28 senators whose purpose it was to keep the authority and power of the kings within proper bounds.

The U.S. Senate is the centerpiece of the great compromise. It is the masterpiece of the men who wrote the Constitution. They had all of the history of their English forebears and brethren and the history of other European parliaments before them. They knew very well the experience of Englishmen who had by the sword and with their blood wrested from monarchs over the centuries the prerogatives and the rights of Englishmen and the prerogatives and the rights of Parliament. They also had the colonial experience. They were wise men, and they saw the need for a system of checks and balances, and the Senate was the balance wheel of that system. The Senate was given extraordinary powers: judicial powers, the power to

try the highest officer of the Government; executive powers, the power to approve the ratification of treaties and to approve nominations; and investigative powers. But the basic cement that was the very foundation of this balance wheel were two in number, the right to debate and the right to amend. The other body may amend, but the other body may also issue a rule which, if agreed to, will confine amendments to one in number or two in number or three or none and direct that a certain Member will be the only Member who will offer that one amendment or those two amendments.

The House has the previous question, but not the Senate. The Senate allows unrestricted debate. We now and then restrict ourselves through the cloture motion, which first was created in 1917. But the right to debate and to amend is why we should be proud of this institution, why we should revere it.

The Constitution, in section 7 of article I, says that measures that raise revenues shall begin in the House of Representatives, but it also says that the Senate may propose or concur with amendments as on other bills. So there is a constitutional right reposed in the Senate to amend even revenue bills.

The Senate and the House have their tensions between them, as do the executive and the legislative, all these with the built-in tensions that the forefathers took great care to fashion in order to make this a system of checks and balances.

But in the reconciliation bill, we were about to inflict our own mortal wound, as Cassius did with the same dagger that he had plunged into Caesar's blood, bringing a bill of such magnitude here which contained scores of measures, on any one of which the Senate should have had the opportunity to debate at full length and to amend. What hidden pieces of legislation might come to the floor in a package of this size? What hidden legislation we might vote upon and come to regret at a later time?

This is an institution for the protection of minorities, an institution in which the minority can put a bridle on the majority for at least a while until the country can be awakened to the mistakes that might otherwise be visited upon the people. We should not view this Senate lightly, and never should be party to weakening this institution, with which we have been blessed.

Yes, there were limitations on debate in 1919 in the League of Nations debate, and in 1926 in the World Court debate, limitations through the cloture rule, but their price was substantial concessions by the majority.

The Senate is the forum of the States. There is no other forum in this Government where the States stand as equals—little Rhode Island stands equal to Alaska or California or Texas or New York—the only forum in which minorities are protected against the sudden waves of passion that might sweep over the Nation.

A reconciliation bill is a super gag rule, the foremost ever created by this institution. Normal cloture is but an infinite speck on the distant horizon when compared with a reconciliation bill. Cloture may be invoked on any measure, motion, or matter. Sixteen Senators sign a cloture petition; parts of 3 days transpire before cloture is invoked; and when it is invoked, it is invoked on only one matter or one measure or one motion. Then there are 30 hours of debate. The provision is within that rule that that time may be extended by a three-fifths majority vote to whatever—40 hours, 50, 75 or 100 hours. But not so with reconciliation. Reconciliation comes to the floor. There is no opportunity to debate a motion to proceed, whereas, under cloture, an attack can be made by the minority even on the motion to proceed. The minority ought to be zealous in protecting that right; the minority may be on this side of the aisle tomorrow, as it was yesterday.

Under reconciliation there is no motion provided to extend that time beyond 20 hours, but there is a motion that is nondebatable and can be invoked by only a majority of Members to reduce the time, and it can be reduced to 10 hours or to 5 hours or to 2 hours or to 1 hour without debate. Only a majority vote is needed to reduce it to no time:

Mr. President, I move that the time remaining on reconciliation be reduced to no time. What can you do about it? Weep. Reconciliation is one real beartrap.

And so it has been with sorrow that some of us have seen what has been happening on reconciliation. It is a process which has gotten out of hand and, if continued, it will undermine the deliberative nature of the institution.

It is a process by which committees of the Senate may dictate to the Senate. You take what we give you. There is not a thing you can do about it. Oh, yes, you can strike. But you take what we give you.

And within those committees that determination is made by a majority. There is a 17-member committee, and 9 members of the committee can determine that. Send that to the Budget Committee, and the Budget Committee has no alternative but to send it to the Senate, and here we are faced with a super, super, colossally super, gag rule.

So we ought to take the utmost care in handling this legislative weapon.

Mr. President, I have had my faith renewed in this institution in these recent hours. I compliment the majority leader. He has the toughest job in this town. He cannot fire any of us—not any of us. We can dare him to try. He has the toughest job.

I compliment the minority leader. These two men had to work together, and we have witnessed some real statesmanship in their work. I knew it was here before today.

I have seen LLOYD BENTSEN before when he has faced tough assignments and when he has also said, "I will do my best."

The same can be said of JIM SASSER, one of the bright young men that I have seen come to this Senate and take the Senate to heart. We ought, like Paul, to be stricken blind for a moment that we might see revealed in the bright light of truth, what this institution is.

Yes, there were important measures wrapped into this reconciliation bill. But I hope that this is the beginning of the end of the abuse of the reconciliation process. I hope that it will be a lesson learned by all of us that we might in the future take heed, and remember not to put that measure that is so dear to our hearts into the reconciliation package. I hope the other body will take the action of this body to heart as well. They ought, too, to experience joy in this moment because, after all, the Senate is one of the two Houses of the Congress—the people's branch.

Mr. President, I close by saying, as I began, that human ingenuity can always find a way to circumvent a process. And reconciliation is a process. It has been abused terribly. But I have regained my faith. We are told in the Scriptures:

> Remove not the ancient landmark, which thy fathers have set.

The Constitution is the old landmark which they have set. And if we do not rise to the call of the moment and take a stand, take a strong stand against our own personal interests or against party interests, and stand for the Constitution, then how might we face our children and grandchildren when they ask of us as Caesar did to the centurion,

> How do we fare today?

And the centurion replied,

> You will be victorious. As for myself, whether I live or die, tonight I shall have earned the praise of Caesar.

I not only compliment, but I also thank Members who have risen in this moment to do the responsible thing. We are going to look back on this day. So when you go with pride to meet the other body in conference, go with strong hearts, with confidence, and a determination that you are going to uphold the principles that our forefathers, men of this institution, stood for. Yours is an equal body—the Senate.

When Aaron Burr walked out of the Old Senate Chamber on March 4, 1805 after he had sat in the chair, and presided over the impeachment trial of Supreme Court Justice Samuel Chase—Burr had killed Alexander Hamilton in a duel at Weehawken, NJ. He sat in that chair as though nothing had ever happened. Warrants had been issued in the State of New Jersey and New York for his arrest. But he presided over that trial with a degree of fairness that was commended by friend and foe alike.

As Burr bade goodbye to the Senate over which he has presided for 4 years, this is what he said. And I close with his words because I think they may well have been written for a moment like this. He said:

This House is a sanctuary; a citadel of law, of order, and of liberty, and it is here—

It is here—

in this exalted refuge—here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God averts, its expiring agonies will be witnessed on this floor.

[Applause. Senators rising.]

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, when I stood here 8 nights ago to make the proposal that has led us to this moment, I could not have foreseen and did not foresee what would occur.

But if nothing else had occurred, the difficulty of the past 8 days, particularly for those handful of us who were involved in it throughout, would have been worth it for the privilege and the opportunity to have heard the words of the distinguished President pro tempore of the Senate this evening, one of the most remarkable persons who has ever served in the U.S. Senate, and I might say, who has ever served the U.S. Senate.

On behalf of every Senator—and although the occasions are rare in which I feel I can speak for more than one Senator, on this one I feel I can speak for 99 of them: Thank you, thank you. We appreciate the Senator's words, his presence, and the privilege of serving with him.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, Senator DOMENICI has given 3 minutes to the Senator from Maine.

Mr. COHEN. Mr. President, let me add just two words to the comments made by my colleague from Maine. It has been said that words are but the empty vessels into which we pour the meaning of our minds.

I say there are few in this Chamber that can match the President pro tempore and his command of words, his deep reverence for history, and for his love of this institution. I believe that we are all grateful beneficiaries for the meaning of your mind.

Justice Holmes once said that we cannot live our dreams. It is enough if we can give but a sample of our best and know in our hearts it has been nobly done.

On behalf of my colleagues, certainly on this side, and I believe the other as well, the Senator has given a sample of his best, and in our hearts, we know it has been nobly done.

Mr. President, I do not have the historical background of the distinguished Senator from West Virginia. But I came to Congress in 1972, and at that particular time, President Nixon was involved in the impoundment process. At that time, he accused Congress of engaging in irresponsible spending. It was, if I can borrow Hemingway's phrase, a "movable feast" that he was faced with every single year, and he impounded the budget.

There were some in Congress that believed President Nixon should have been impeached for his impoundment policies. Fortunately, wisdom prevailed, and there were no articles of impeachment on impoundment, but, rather, it served as the impetus for the construction of the Budget Act itself in which this process called reconciliation was an integral part.

Unfortunately, if you can show me a reform, I will show you a scandal deferred. We had political action committees that came in as a basic reform to the contribution system back in the early seventies. Today it is being attacked as being scandalous in operation. The same thing has happened with the reconciliation process.

I want to pay tribute not only to the distinguished Senator from West Virginia but to two other people in this Chamber tonight—three, but he is not here, I will mention him in absentia—both of my colleagues over here, PHIL GRAMM and WARREN RUDMAN.

A lot has been said about the Gramm-Rudman bill. DAN ROSTENKOWSKI recited in a statement he made earlier, and also in an article in the New York Times today that every criticism of Gramm-Rudman is true. "It is mindless. It is an abdication of the President on the part of the President and Congress."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield 2 additional minutes off the bill.

Mr. COHEN. "For all of its faults, Gramm-Rudman has one thing going for it. It can result in more real deficit reduction than we will ever achieve in the budget reconciliation bill."

He wrote this article before the action was taken today. Nonetheless, what he pointed out under Gramm-Rudman-Hollings—I understand the Senator from South Carolina would like separation from Gramm-Rudman—$16 billion will be saved in the first year and $80 billion over 5 years, compared to the reconciliation bill that the House had to pass, that would provide for $16 billion over 5 years and a growing deficit thereafter.

The process had become abused. I think we owe a great deal of credit to, and we would not be here tonight if it were not for the Gramm-Rudman-Hollings Act. It has forced us to do that which we are required to do, and that is to measure up to our responsibilities. I think we owe a great deal of thanks to our three colleagues of the Senate for forcing us to do what we have an obligation to do.

It has been said on television today by a respected businessman that the stock slide this afternoon was attributed to the news about the postponement of capital gains. I must say that I find that incredible to accept. The heart of our problem is not that we do not have enough preferential treatment for capital gains, but we do not have enough preferential treatment for fiscal responsibility.

This action that we are taking tonight is the first step in a long time that we are taking toward fiscal responsibility. So I want to commend all of my colleagues, the majority leader, minority leader, and all who have been involved in this process for the courage demonstrated in measuring up to meeting those responsibilities.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes, 44 seconds remaining.

Mr. DOMENICI. Do I have time remaining on the amendment?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. SASSER. Mr. President, has all my time expired on the amendment?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1004) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time on the bill?

Mr. SASSER. How much time is remaining on the bill, Mr. President, may I ask?

The PRESIDING OFFICER. The Senator from Tennessee has 35 minutes; the Senator from New Mexico has 1 hour.

Mr. SASSER. Mr. President, I know of no amendments on our side.

Mr. LEVIN. Will my friend from Tennessee yield on that issue?

Mr. SASSER. Do I yield for the purpose of offering an amendment?

Mr. LEVIN. I had intended to offer an amendment, and I will do something other than that, if I can be yielded 3 minutes.

Mr. SASSER. If the Senator can do something other than that, I am pleased to yield.

Mr. LEVIN. I see the Senator from Missouri is on the floor. He can help me.

Mr. SASSER. I yield 5 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, I had intended, along with Senator SYMMS and Senator LIEBERMAN, to offer an amendment to strip from this bill a new tax on amateur radio operators. We have never before taxed ham radio operators, ever. They are volunteers who perform a valuable public service at no cost to the public. They help us in times of national emergencies, including tornadoes, hurricanes, and earthquakes. They do it on a volunteer basis. I do not think that anybody in this body actually intended to initiate a new tax on these ham operators, but the bill before us does have, for the first time, several fees from $35 to $105 on ham radio operators.

I was going to introduce an amendment to strike these fees. I understand the reasons the leadership does not want this bill open to amendment; it would open another kind of floodgate which they want to avoid, and I can respect that. On the other hand, I think that if we were voting on this amendment under ordinary circumstances, that the managers of the bill for the Commerce Committee would accept this amendment.

I have talked to Senator HOLLINGS, who does not like this new fee. I have had a brief conversation with Senator DANFORTH now, and he can speak for himself. But given the exigencies here tonight, and the resistance to opening up this bill to any amendment, even to strip a new tax, and this would, of course, meet the Byrd rule if this amendment were introduced, I will not offer this amendment, because I believe that the managers of the bill, when they go to conference, will be in a position to take care of this problem.

But it is a problem. There are about 450,000 amateur radio operators in this country; these are volunteers, people who perform their service not-for-profit. They have always been exempted by the FCC from these fees. And I think that the vast majority of this Senate would want to avoid any new tax on these ham operators under normal circumstances.

I wonder if my friend from Missouri might comment on the issue that I have raised.

Mr. DANFORTH. Mr. President, speaking only for myself, and Senator HOLLINGS is not on the floor, I understand that Senator LEVIN has spoken to Senator HOLLINGS about this matter and that this is also in accordance with his views. In the Commerce Committee we not only met but we exceeded our instructions under reconciliation.

The amendment in question that was raised by Senator LEVIN is $4 million. We can take care of this and still be over our reconciliation instructions.

But what we have attempted to do in the Commerce Committee is to set up a general user fee scheme for people doing business with the FCC, but we never really focused on the question of the amateur radio operator. So as a matter of policy and also a matter of dollars we would be prepared to work with the Senator from Michigan. This is, of course, on the assumption that we do in fact go to conference with the House. If there is a conference with the House I want to assure the Senator from Michigan that I will do everything I can to work with him and I believe that we can drop this particular matter from the legislation.

Mr. LEVIN. I thank my friend from Missouri.

Mr. President, the Commerce Committee has chosen to impose unprecedented fees on the amateur radio operators to help meet our reconciliation targets.

The proposed budget reconciliation of the Commerce Committee provides for approximately $43 million in additional revenues to the FCC supposedly to cover the FCC's administrative costs in licensing radio services. $3.78 million would come from new fees charged to amateur radio operators for the first time.

The proposal assesses $35 for the following categories: new license; modification of license; renewal of license; reciprocal permit for alien amateur license; renewal or modification of amateur club, RACES, or military recreation station license; special temporary authority; and a $105 fee for a request for a waiver.

Current law specifically exempts the following radio services from licensing charges: local government, police, fire, highway maintenance, forestry-conservation, public safety, and special emergency radio. These radio services are not the subject of the Commerce Committee's proposal. In addition current law states that the FCC "may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest."

To date, the FCC has, under this waiver provision, exempted other public service efforts from licensing fee requirements, including amateur radio operators and public broadcasting.

Earlier this year, the FCC provided at Congress' request, a list of licensing fees—many of them new—that would raise significant moneys for purposes of reconciliation. The fees were supposed to reflect the actual administrative costs for the licensing. The bulk of the estimated fees for the amateur radio operators were no more than $5, and the FCC said explicitly that it was not making a recommendation that such a fee be imposed.

However, the Commerce Committee chose to raise $3.78 million of the $43 million required, from fees on amateur radio operators, through fees for above the $5 cost estimated by the FCC and even though they continued to exempt public broadcasting as well as the other public service efforts already exempted by law.

Such a fee for amateur radio operators is unfair and unwise.

The amateurs perform a valuable role for our Nation in public safety, disaster relief, and emergency communications for national defense, among other services. The amateurs were the vital link in communications during Hurricane Hugo, earthquakes in Mexico and El Salvador, and—in my own backyard—the 1987 Detroit metropolitan disaster.

Amateur radio operations serve as an excellent educational tool for our young children. They demonstrate the excitement and practical rewards of applied science. Amateur radio operations also provide a tremendous source of pleasure and pride to handicapped and retired individuals.

Amateur radio operators serve as an important but unofficial link to the rest of the world—allowing informal and directly personal communications between persons of widely divergent cultures—an Australian farmer and a Boston engineer. One enterprising American even communicated for a lengthy period of time with a Soviet cosmonaut orbiting the Earth. Such relations bring a tremendous advantage to our overall efforts of world peace and friendship.

Moreover, the amateur radio operator community already administers much of their administrative burdens, including conducting their own licensing examinations on a voluntary basis. It has been estimated that the amateurs have saved the FCC $1 million a year from 1983 to the present by administering their license examinations on a voluntary basis.

Not only that, Mr. President, but the FCC, as I said before, has indicated that the $35 proposed fee is significantly higher than the administrative costs these fees are designed to recover. In effect, therefore, a sizable portion of these fees is really a tax.

Amateur radio operators perform similar services to the radio services that are already exempt from such fees by law. They are intimately involved in issues of public safety and disaster relief, and they work without profit. In fact, amateurs pay for their own equipment. If we are to address their work in any way, it should be with praise and thanks, and not with new charges.

Mr. President, if I had offered this amendment tonight, it would not have caused us to exceed the reconciliation target, because the Commerce Committee reported, and this bill includes, save $12 million in excess of the target.

Mr. President, I ask unanimous consent that the amendment I had intended to offer be printed in the RECORD at this point and that the letter to me of Mr. George Race the Michigan section manager for the American Radio Relay League, Inc. be printed in the RECORD following the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In the material under the caption "Private Radio Services" contained in the "Schedule of Charges" to be prescribed by the Federal Communications Commission, in section of title III, strike the following:

7. Amatuer license:

a. New license (per application)	35.00
b. Modification of license (per application)	35.00
c. Renewal of license (per application)	35.00
d. Reciprocal permit for alien amateur license	35.00
e. Renewal or modification of amateur club, RACES, or military recreation station license	35.00
f. Special temporary authority (Initial, modifications, extensions)	35.00
g. Request for waiver	
(i) Routine (per request)	105.00
(ii) Nonroutine (per rule section/per station)	105.00

THE AMERICAN RADIO RELAY LEAGUE, INC.,
September 27, 1989.

Senator CARL LEVIN,
Russell Building, Washington, DC.

DEAR SENATOR LEVIN: I am writing in regard to House Resolution 3299. Introduced into the House on September 20, 1989, this bill contains a license fee proposal that will have a financial impact on the more than 500,000 Amateur Radio operators across the nation.

These Amateur Radio Operators provide a volunteer radio communications service to Federal, State, County and Local Government. Many nonprofit organizations are also served as well. Reliable primary and secondary communications links are provided where and when needed. This service is absolutely free! Federal Communications Commission rules strictly prohibit compensation, of any kind, for services rendered.

Amateur Radio communications is often the first and only link with the outside world when disasters occur. It is ironic that as HR-3299 was being introduced into the House, Amateur Operators were providing emergency communications in the wake of hurricane Hugo. Still other Amateur Radio Operators were preparing for Hugo's arrival at our Southeastern coastal areas. As I write this letter, hundreds of Amateur Radio Operators are handling Health and Welfare messages to and from the Caribbean and our own devastated coastal areas. Others are working in the disaster areas, providing primary communications for Police, Fire, Emergency Management, Red Cross and Salvation Army operations. Using their own equipment, without remuneration of any kind, these volunteers give freely of their time and expertise in service to others.

When President Bush speaks of a better and kinder Country through voluntarism, he is speaking of the heart of Amateur Radio. We are "amateurs" only by virtue of our volunteering of time, skill and equipment. We are professionals when it comes to Emergency Communications in service to our Nation.

As the elected representative of Amateurs Radio Operators in Michigan, I ask that you act in our behalf to prevent the passage of any Bill that will have a financial impact on our hobby.

Sincerely,

GEORGE RACE,
WB8BGY ARRL Michigan Section Manager.

ALBION, MI.

Mr. LEVIN. Mr. President, I commend Mr. Race not only for his efforts as one of our Nation's hams, but for his thoughtful and articulate letter on the unfairness and inappropriateness of these fees.

Mr. President, I would also like to point out that in addition to Senators SYMMS and LIEBERMAN, Senator DODD would have cosponsored my amendment.

TAXES ON LANDING AND TAKE-OFF RIGHTS AT HIGH DENSITY AIRPORTS

Mr. SIMON. Mr. President, I rise to join my colleagues from the State of Illinois, New York, and New Jersey who are among 15 of us opposing one provision by the Senate Commerce Committee in the Omnibus Budget Reconciliation Act of 1990. This provision would raise a minimum of $239 million in new revenues from only four airports, O'Hare, La Guardia, Kennedy, and Washington National from a slot fee on landing and takeoff rights of the air carriers serving those airports.

The slot fee was adopted without public notice or a formal hearing by the committee with jurisdiction over taxes or by the Senate Commerce Committee to consider its consequences. Large payments averaging $70,000 per slot per year will be paid by the carriers and will be deposited in the general fund for budget reduction purposes.

These costs will be passed on to passengers at the four airports, but will not be paid by passengers at competing airports. Worst of all there will be no direct benefits to those passengers, the carriers, the airports, or their host cities, nor will it serve as a solution to other problems of capacity, safety, or airline competition.

One carrier at Chicago O'Hare, United, will be charged up to $55 million and a second carrier, American, more than $45 million. Air Wisconsin, a regional airline serving O'Hare will pay $3.5 million pushing its fares above those of its competitors not paying slot fees.

This slot fee is being imposed at a time when Chicago O'Hare Airport, lacking Federal discretionary funding assistance, has increased its debt burden by over 4,000 percent over the past 6 years. The airlines are now contributing a 433-percent increase in terminal rates and a 14.5-percent increase in landing fees there.

The Federal Aviation Administration is authorized to establish the slot fees based on the value of each slot to its holder. Yet the U.S. Circuit Court of Appeals here in Washington, DC, in 1976, ruled that an agency may include only those direct and indirect costs it incurs in conferring a special benefit on the recipient in a case brought by the National Cable TV Association against the Federal Communications Commission. It may not charge the recipient for expenses incurred in serving an independent public purpose.

The value of these slots to the carriers is based on the revenues and profits of each flight. In the same case I just cited, the circuit court ruled that an agency cannot calculate its fees on the basis of the return on investment or profit to be derived by the recipient as a result of the benefit. Otherwise the agency is unlawfully attempting to levy a tax rather than charging a fee.

A serious ripple effect on U.S. carriers serving overseas markets is another impact not fully considered when the slot fee was adopted. The U.S. Government has historically supported cost-based fees on U.S. carriers landing abroad. That objective will be difficult if not impossible to achieve if this additional value based tax is imposed on foreign carriers using the high density airports.

Traffic has grown at other large and medium sized commercial airports as well as at the four high density airports that will not have to pay a slot fee. Other airports experience the same kind of delays that tie up traffic at the high density airports. Thunderstorms, heavy snow, hazardous winds, and poor visibility occur throughout the system.

In Chicago, traffic is also delayed by inadequate airline control facilities and personnel. After airline controller operational errors, they climbed from 5 in 1987 to 28 in 1988, I sponsored a bill, enacted into law, that requires the Federal Aviation Administration to produce and carry out a plan to bring the Chicago airline control system up to standards that provide for peak

period travel. That is expected to require several years to implement.

We can no longer build or even expand airports in many large cities where the service is needed the most. An airport is an unwelcome neighbor. Yet if these central cities are to remain in the mainstream of the national and global economy, air carrier service must not only remain intact, but make the fullest and most efficient use of the airport capacity that is already there.

I am very grateful for the excellent work of the Senate Commerce Committee in its oversight of aviation safety and service and airport development during the decade following aviation deregulation. I agree that the issue of allocating landing and takeoff rights between new entrants and incumbent carriers remains, and the issue of increasing the capacity of the airline control system must also be solved. This proposal does not address these problems, nor is it fair to cities whose airports will now have to compete with others not paying the higher costs.

AIRPORT SLOT FEES

Mr. DIXON. Mr. President, let me first take this opportunity to commend the distinguished chairman of the committee, Mr. HOLLINGS, and all members of his committee, for complying with the difficult obligations under budget reconciliation.

I must, however, express my deep concern over language in their reconciliation package that raises $239 million through fees imposed on landing and takeoff slots at the Nation's four high density airports—Kennedy and La Guardia in New York, Washington National, and Chicago O'Hare International.

This proposed fee is discriminatory in that it would be assessed against only four airports, as well as the carriers and passengers using those facilities. Such a proposal would give carriers that serve airports other than the four in question a direct competitive advantage.

O'Hare Airport in Chicago is hit hardest of all by this provision. It is estimated that the fee will average over $70,000 for each landing and takeoff slot. With 1,668 slots, O'Hare's cost alone will be over $120 million. That means O'Hare will have to pay over 50 percent of the total cost.

O'Hare and its airlines make the largest contribution to the airport trust fund of those user fees already imposed by the Federal Government, yet rank a low 21 out of the top 24 airports on return of Federal discretionary dollars. In other words, O'Hare is already paying in more than other airports to the Federal Government, while getting back less.

O'Hare has nonetheless pressed forward with $2 billion in capital improvements, with only 1 percent of the funding from Federal sources. This has caused O'Hare's annual debt service to increase 4,239 percent in 6 years; terminal rental charges have had to increase 433 percent and landing fees 14.5 percent to cover the increased debt.

The proposed slot fee will further aggravate the cost discrepancy between O'Hare and non-high-density rule airports, and may encourage some airlines to move their operations elsewhere.

The most immediate consequence will be an increase in air fares for all flights in and out of O'Hare. Higher air fares will make O'Hare less desirable as a hub transfer point and will result in passengers seeking cheaper alternative routings which avoid Chicago. Ironically, this Government-imposed penalty on Chicago passengers will result in increased fares at the same time Congress is focusing attention on the desirability of lower air fares.

Furthermore, the proposed fee is to be value based. That fact will force airlines to achieve the maximum yield from the use of each slot. This means airlines will be forced to drop marginally profitable short-haul lines, such as those serving downstate Illinois communities, and transfer the use of such slots to long-haul, larger aircraft which can support the increased cost of a per-seat-mile-based slot assessment.

Given the discriminatory nature of the slot fee proposal, and the adverse impacts it will have on the affected airports, this type of Federal action must be more fully reviewed before being implemented as part of budget reconciliation.

I therefore urge the conferees to reconsider this matter in conference, and refrain from imposing such fees.

Mr. KOHL. Mr. President, I would like to raise a specific concern I have about this bill with regards to an action taken by the Commerce Committee.

In its reconciliation package, the Commerce Committee included a provision to institute airport slot fees at the four airports that were designated as high density by the Federal Aviation Administration [FAA] in 1968: National Airport in Washington, DC, La Guardia and Kennedy Airports in New York, and O'Hare Airport in Chicago. This provision is designed to generate $239 million in revenues in fiscal year 1990.

While I certainly appreciate the difficult decisions faced by each committee in meeting its reconciliation instructions, I am disappointed in the Commerce Committee's decisions to include this particular provision. The imposition of airport slot fees would have an immediate, significant adverse economic impact on the air carriers that operate slots at these four airports. The eventual effect of these fees is likely be an increase in air fares and a reduction in services and routes offered by affected air carriers.

To accomplish the $239 million revenue goal, the average fee per slot per year would have to be approximately $70,000. Let me explain the probable impact of this on United Express, a carrier based in Wisconsin that serves 21 cities, among them Chicago. United Express operates 50 federally allocated air carrier slots at O'Hare Airport. Imposition of these fees at this rate would mean an annual additional operating cost to United Express of $3.5 million. Their estimates indicate that, to offset this cost, they would need to add an additional 3,500 passengers per year. That is a very significant increase in the regional market that United Express is operating in.

Mr. President, no hearing has been held on this proposal by the Commerce Committee. In addition, it is questionable whether the language adopted by the committee constitutes a fee proposal or a tax. A fee implies a return for services rendered by the Federal Government. Yet there are no additional services provided to air carriers at the four high density airports, and no special services provided to carriers in possession of slots.

The high density rule was instituted by FAA in 1968 to minimize air traffic congestion at heavily used airports. However, the rule now—21 years later—is decidedly outdated. Other airports not covered by the rule are equally congested. The purpose and design of the high density rule needs to be reexamined, and I hope that the Commerce Committee will consider doing so in the near future. However, until there is some revision to the rule, the imposition of airport slot fees on carriers at these four airports is completely arbitrary and unfair to the carriers involved.

Mr. President, there are many reasons not to support this bill, this being just one. And I will not support this bill. While I do not intend to offer an amendment to strike this provision, I am hopeful that this language will be dropped in conference, the House-passed bill having no similar provision. It is an arbitrary action, and one that would endanger the economic viability of many air carriers, which is neither wise given the current volatility in our domestic airline industry nor in the best interest of the air traveling public. I hope that my colleagues will join with me in urging conferees to reject this provision.

Mr. SASSER. Mr. President, do any Senators wish to offer any additional amendments at this time?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the distinguished minority leader.

Mr. DOLE. Let me repeat what the Senator said. If anyone wishes to offer an amendment—I am not going to say they are going to pass—now is the time to do this. They have 30 minutes.

We made an agreement we are going to defeat any amendments, so I hope there are none on this side.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am one who through the day asked for time to present my amendments. My staff and I have gone over the leadership amendment. It is fair and balanced. There is no reason for us to offer amendments. We have been treated equally. I had three amendments I was going to offer. I have no amendments in this bill after the leadership amendment is adopted.

In interest of complying with the request of the leadership and the distinguished President pro tempore, I do not offer them.

I congratulate them on the procedure and congratulate them on leaving the time available in case it was needed.

Mr. SASSER. I thank the Senator from Alaska for his time.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Mr. President, it appears there are not going to be amendments. We will, therefore, be proceeding shortly to a rollcall vote on final passage of the reconciliation bill and immediately thereafter on the cloture of the Nicaragua Elections Assistance Act. Therefore, Senators who are not now on the floor or on the Hill I hope are being alerted by their offices so that they can return and be present for the vote.

We had previously, I believe, through both Cloakrooms, notified Senators votes were imminent. I know many Senators are not present on the floor. So I merely take this opportunity to give Senators a few moments' notice so that all Senators who are not present can be notified by their offices and return to the Senate because we have two rollcall votes coming up very shortly.

Mr. SASSER. Mr. President, may I inquire how much time in total is remaining on the bill?

The PRESIDING OFFICER. The Senator from Tennessee has 27 minutes; the Senator from New Mexico has 58 minutes.

Mr. SASSER. Mr. President, if the Senator from New Mexico is prepared to yield back his time, we will be prepared to yield back our time on this side of the aisle. And we do not want to work a hardship on any Senators who may be some distance away, but I will say to the distinguished majority leader that I think he announced an hour and half ago we were going to have a rollcall vote on this measure. They should have had adequate notice.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to Senators on this side I have heard from none of them that have any amendments. We are ready to yield back very shortly. I hope if anyone has any amendments they will call it to our attention.

I yield to my friend Senator SYMMS.

Mr. SYMMS. Mr. President, I say to my dear friend if it were not for the responsibility that the leadership is exerting here on both sides of the aisle this Senator would have several amendments on this bill, but I am going to restrain myself.

FOREIGN REPORTING REQUIREMENT MODIFICATION

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter I have received this evening from Treasury Secretary Nicholas F. Brady, on the increased reporting and compliance measures by U.S. taxpayers which are controlled by foreign entities—section 6403 of the Senate bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, October 13, 1989.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR STEVE: Thank you for your letter of September 27, 1989, regarding section 11403 of H.R. 3299, the 1989 Revenue Reconciliation bill. As you know, that section provides for increased reporting and compliance measures by U.S. taxpayers which are controlled by foreign entities.

I appreciate your comments. We have heard a great deal about the impact of these provisions on international trade and investment and understand the significance of the concerns you raised.

We support the goal of developing appropriate procedures to increase compliance with U.S. tax laws by foreign-owned U.S. entities. Nevertheless, we recognized that overbroad rules in this area could unduly burden taxpayers and discourage trade and investment. For this reason, we have worked closely with Hill staff to clarify and refine the House-passed provision.

As it stands now, in the form reported by the Senate Finance Committee, we believe the provision is intended to ensure that the recordkeeping requirements and penalties imposed on foreign-owned companies are no different, in general effect, to those imposed on U.S.-owned companies, recognizing the unique tax administration problems present where information pertinent to a U.S. tax examination is controlled by non-U.S. persons. This intent is consistent with how Treasury intends to exercise its regulatory authority under the provision should it be enacted.

In this regard, we note that the Finance-reported bill and Committee report reflect the following differences from the House bill:

1. The requirement that the foreign owner appoint the U.S. taxpayer as its agent is clarified so that such agency is limited to an appointment solely for purposes of summons enforcement under the Internal Revenue Code and not for any other purpose of federal or state law.

2. The disallowance rules which automatically eliminate deductions and the cost of goods sold in transactions between the U.S. taxpayer and its foreign owner are replaced with Treasury authority to value such deductions and costs, at its discretion, on the basis of available, credible information.

3. Provided it is clear that deductions and costs can be valued at Treasury's discretion on available information when a taxpayer fails to maintain required records and to make them available at Treasury's request, it is unnecessary to require that records generally be maintained in the U.S. The bill, therefore, grants Treasury broad regulatory authority to specify, limit, or eliminate the categories of the records to be maintained in the U.S. and to enter into individual record retention agreements with a taxpayer modifying the general rules in appropriate specific cases.

4. If records are, under regulations, required to be maintained in the United States they will not be required to be translated until the time specified in Treasury regulations which we expect would be when the records are requested.

5. Treasury is authorized to disregard certain *de minimis* failures in applying the penalty provisions.

6. Where bilateral tax treaty procedures are both adequate and practical in their application to protect the U.S. government's interest in a given case, the Internal Revenue Service is expected to use those procedures before issuing a summons to the designated agent.

We will also suggest that the Conference Committee make several additional refinements:

a. that the Statement of Managers clarify that the summons authority in this provision for testimony of employees of the foreign owner extends only to explanations of transactions relevant to the examination of the U.S. taxpayer and documents pertinent thereto and can frequently be satisfied by testimony of employees of the U.S. taxpayer;

b. that the bill and Statement of Managers make clear, as is already clear under the Senate bill with respect to documents that, once persons are present in the U.S. pursuant to a summons issued under the provision or under regulations promulgated under the provision, their presence is intended solely for federal tax enforcement purposes and they will not be subject to legal process in federal or state non-tax litigation;

c. consistent with paragraph 3, above, and the bill as reported by the Finance Committe, that the Statement of Managers clarify that there is no general rule requiring maintenance in the U.S. of records of related, non-U.S. persons, but that, generally, record maintenance in the U.S. would be required under regulations only where there are reasons to believe that such records would not be timely and completely produced upon request; and

d. that the Statement of Managers state that the bill, consistent with Congressional intent and Treasury's intent with respect to regulations, as I describe above, in no way discriminates against foreign-controlled U.S. corporations in violation of any treaties and, therefore, the treaty override "backstop" language in the Ways and Means and Finance Committee reports is unnecessary

and, given our common goals under this provision, undesirable.

We would appreciate any assistance you can provide us in working with Hill staff and Conference Committee Members so that the Senate's amendment to these provisons and the further refinements described above are included in the bill produced at Conference.

Sincerely,

NICK.

BOND ARBITRAGE REGULATIONS

Mr. SYMMS. Mr. President, one of the issues we did not adequately address during Finance Committee markup is the need for relief for State and local government bond issuers from the administrative burdens imposed by the arbitrage rebate requirement of the 1986 act.

The 243-page arbitrage rebate regulations, which provide only partial guidance and are written in a fashion that mere mortals cannot understand, were supposed to clarify for State and local issuers the easy administrative means through which issuers would comply with the rebate requirements.

Even the Treasury Department acknowledges what a disaster these regulations have proven to be and worked on seeking relief during House consideration of the reconciliation bill.

I understand there is much sympathy among the members of the Finance Committee and among the Senate as a whole to fix the problems associated with the rebate requirements. The House attempted to fix the problem but I think their provision is a bit restrictive. Let me elaborate on the problems a bit.

The House bill provides that a rebate is not required for financings in which 75 percent of the proceeds will be used for construction when 10 percent are spent in 6 months; 50 percent in 12 months; 90 percent in 18 months; and 100 percent in 24 months. For many issuers, especially in Northern States like Idaho, public buildings cannot be completed in that tight a time schedule.

I understand that Texas may not have the problem, which Northern States have, of short construction seasons, but it does have restrictive borrowing statutes that run afoul of the House provision. I am sure Texas is not the only State with restrictive borrowing procedures because States are far more sensitive about controlling public borrowing than we are here at the Federal level.

As I understand it, one of the factors State and local governments find so aggravating about the rebate situation is not that they might owe a rebate to the Federal Government—though that ought to be aggravation enough—but that even when they are not earning arbitrage, they have to set up elaborate internal systems or pay high-priced consultants to prove they aren't earning arbitrage and don't owe anything.

We at the National level establish enough mandates that State and local governments must pay for, but which provide a beneficial result, that we should not also be establishing needless and costly bean counting requirements for local governments.

I urge my colleagues who will be on the conference for reconciliation to ensure that we provide adequate relief for State and local governments so they are able to comply with a requirement that shows some public purpose at the Federal level and is workable and sensible at the State and local level.

Please remember that nobody can pour concrete year round in Boise, or any other northern city, so we must not have the Federal law mandate it. In order for my municipalities to be relieved of a needless bean counting procedure, we should establish a 36-month construction cycle. This will assure that they are not pouring concrete at a time of the year when it is unsafe.

I hope our conferees on this reconciliation will be attending to this problem in conference. I will be reminding each Senator at the appropriate time of the needs of the real world in this matter.

TAX ON DOMESTIC OFFSHORE OIL

Mr. President, I rise today to voice my opposition to the new tax on domestic offshore oil and gas production contained in S. 1750, the budget reconciliation bill. This proposal would impose a new wellhead tax of $0.03 per barrel and $0.02 per MCF on all offshore oil and gas production. The proceeds from this tax would be dedicated to fund a program, which has not yet been authorized, for wetlands maintenance and restoration.

While the objective of protecting our significant wetlands is laudable, the funding mechanism is misdirected. Let me outline just a few of the reasons why this proposal is misdirected.

First, this new tax has not received a fair public hearing in the Senate Finance Committee. It was included in the chairman's mark as one of hundreds of tax provisions and adopted without thorough consideration of its impacts.

Second, the Congress has not yet authorized a wetlands protection program into which these funds would flow. This is a clear example of placing the cart before the horse and is an abrogation of established legislative procedure. The authorizing committees of jurisdiction have not yet advanced a wetlands protection program. The proposed tax has not yet received public review in the House and Senate Tax Committees. The Appropriations Committees of jurisdiction have not reviewed or recommended spending levels for the program. None of these steps has been taken.

Third, this tax discriminates against a narrow segment of a single industry. It singles out offshore production of the oil and gas industry. Loss of wetlands is an onshore problem and is not confined to coastal areas or areas of oil and gas activity. The factors contributing to wetlands loss are well documented and include natural subsidence, agriculture, urban expansion, as well as natural resource development activities. Oil and gas activities have been directly linked to only a small percentage of wetlands loss. To suggest that offshore or onshore oil and gas activities should bear the entire burden for funding this program is unfair and without foundation.

Fourth, a tax on offshore oil and gas production creates further competitive imbalances for domestic producers of offshore oil and gas. Proponents of this measure erroneously argue that these additional costs can be recouped by the producer. I suggest to you that because these same producers compete with foreign and domestic oil that is not subject to this tax, these additional costs cannot be recouped and the profitability of offshore development will be reduced. Less profitability may not only affect the economics of future offshore development, but may have the perverse effect of reducing investment in onshore development. Taken all together, our national energy security will be further eroded.

There are many more reasons than I have given in this short time to oppose this tax. But, in summary, suffice it to say that this new tax abrogates established congressional procedures for authorizing and funding new programs; it discriminates against an industry that is only a small part of the problem, it adversely affects the competitiveness of our domestic oil and gas industry, and further jeopardizes our national energy security.

I urge my colleagues to oppose this provision and strip it from this reconciliation bill.

REVENUE BONDS

Mr. President, I would like to call the Senate's attention to an aberration in the application of the ceiling for small issue industrial revenue bonds. The current rule is that the investment limit of $10 million cannot be exceeded for 3 years after the exempt bonds are issued even if the investments are paid for with non-tax-exempt financing. This is based on the idea that if the project expands in less than 3 years perhaps it was not a true small issue in the first place.

I think a serious argument can be made that such a prohibition makes no sense at a time when the United States is competing worldwide for manufacturing facilities. But my amendment does not go that far. The amendment simply says that any capital expenditures with respect to facili-

ties which are not functionally related to the original ones financed by the tax-exempt bonds should not be counted in the application of the ceiling. If a company used industrial revenue bonds to finance a shoe factory last year and now sees an opportunity to assemble VCR's or computers, they should not be precluded from using non-tax-exempt financing to build a facility to do this totally unrelated activity.

I do not believe the drafters of the original limitation ever thought about, much less intended, it to have a negative impact on unrelated manufacturing facilities.

The amendment I hope to include in a subsequent revenue measure has no revenue impact because it does not expand tax-exempt financing. That financing would remain limited by both the $10 million individual cap as well as the overall volume cap. It would, however, allow companies the flexibility to expand into new product lines with their own money and I believe that is good tax policy.

Mr. DOMENICI. Mr. President, I yield back the remainder of the time we have on this side of the aisle.

Mr. SASSER. Mr. President, I am prepared to yield back the remainder of my time. Before doing so I would just like to make one short comment. I notice the distinguished Senator from West Virginia has left the Chamber.

But I did wish to express my appreciation for the splendid address that he presented to the Senate here this evening, and I wish to express my appreciation to him for his kind remarks.

The distinguished President pro tempore does us all a great service in reminding us from time to time that we are Senators of the United States with an obligation and a responsibility to respect and uphold the traditions of this institution.

I know I reflect the views of all my colleagues in expressing our appreciation for his very perceptive remarks this evening.

ORDER FOR TECHNICAL CORRECTIONS

Mr. SASSER. Mr. President, I ask unanimous consent for the staff to make technical corrections to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the Commerce Committee package as contained in the budget reconciliation bill includes several new FCC fees and several fee increases, including a new common carrier fee for so-called field audits. Since the new fee schedule calls for the imposition of a $62,000 fee for a field audit, it would be useful for the FCC to define specifically what a field audit is and when the fee will be assessed.

The FCC has traditionally sent its auditors out into the field to investigate the financial practices of the telephone companies to make sure that they comply with the FCC's rules. The FCC estimates that it will conduct 15 such field audits in the coming fiscal year.

I am told that once the new fee schedule is enacted, the FCC will conduct a rulemaking to resolve certain key issues concerning these field audits. I ask that the Commission provide detailed answers, through its rulemaking process, to the following questions:

What is the FCC's definition of a field audit? For what kinds of field audits would the FCC assess a fee? Would routine field visits or informal inquiries qualify as a fee-generating field audit?

Some people fear that these new fees will give the Commission an incentive to increase unjustifiably the frequency of these audits. These new audit fee provisions should not be interpreted as a congressional grant of authority for the FCC to conduct audits which would not otherwise be conducted, just because a fee would be collected.

Mr. HOLLINGS. I would like to join my colleague Senator INOUYE, in discussing how the new field audit provisions might be implemented. I commend my distinguished colleague for the relevant and insightful questions that he has asked the Commission to address through its rulemaking process. I am hopeful and expect that the answers to his questions will more precisely define the matter in which the Commission will enforce its authority to conduct field audits and to assess this fee.

Mr. D'AMATO. Mr. President, I rise today to state my staunch opposition to a provision added to this bill which creates slot fees at the Nation's four high-density airports: JFK International Airport; LaGuardia Airport; Washington National Airport; and Chicago O'Hare International Airport. This unfair proposal will place these airports at an immediate, severe competitive disadvantage and will ultimately result in higher fares for consumers.

This amendment was added to the reconciliation bill by the Committee on Commerce, Science, and Transportation in an effort to raise a total of $239 million. The average annual per slot charge to slotowners would be about $71,000 per year. Some individual airline slotholders would be billed tens of millions each year; for example, American Airlines, $48 million; United Airlines, $58 million. Others such as Pan Am, and TransWorld Airlines would owe as much as $13 million and $16 million respectively. For the New York area airports, the Port Authority of New York and New Jersey tells me that about $80 million would be raised from airlines and passengers.

These charges are onerous, geographically discriminatory, and would not yield any aviation benefits to the four affected high-density airports. The $239 million estimated to be raised would simply go back into the pot for general deficit reduction, not into the Aviation Trust Fund. The four high-density airports are not the Nation's busiest airports, they are regionally clustered together, and they do not represent a fair sampling of air carriers serving all airports of similar size. It makes no sense to burden these airports with such heavy charges and not to apply them to Denver, Atlanta, Los Angeles, Dallas, or other airports with high-density traffic patterns. I do not advocate spreading these charges to other airports, but merely point out the inequity in singling out the four high-density airports.

The high density airport traffic rule was created in 1969, when aircraft were smaller and slower, and air traffic control systems were less able to handle increasing traffic. Today, many of the reasons for the rule no longer exist. Of the four high-density airports, only Chicago O'Hare ranks in the top five busiest airports in terms of passengers handled or operations. In terms of aircraft operations, LaGuardia ranks 25th, National 28th, and JFK 35th. Busier airports are not burdened by this rule, or the slot fee proposal. I am not now arguing to delete the high-density rule—although in 1983, the FAA itself proposed to rescind it except for National—or to apply slot fees to other airports, but I believe it underscores the blatant unfairness of this proposal.

These fees are thinly disguised new taxes being used to generate large amounts of revenues for deficit reduction. The proposal discriminates by exempting general aviation and commuter flights, and it does not create a legitimate user fee related to the cost to the Government of providing any service. I strongly urge the conference committee members who will consider this bill to drop this tax provision which is not contained in the House reconciliation bill.

Passenger fares will increase for all flights arriving and departing from the LaGuardia and JFK Airports, as well as from the other two high-density airports. At a time when consumers are complaining about higher airfares, this proposal will drive fares upward. The high cost of the slot fees will force air carriers to achieve maximum yield from the use of each slot. In the case of some short-haul markets which use smaller aircraft—mainly markets in upstate New York—the result will be total loss of service or, most assuredly, loss of jet service. Remaining service is likely to be by smaller commuter aircraft since they are exempt from slot fees.

In addition to my other objections I would like to point out the adverse

international implications of this ill-conceived proposal. At a time when the U.S. Government is a party to bilateral air transport agreements which commit the United States to impose only cost-based user charges for international air carrier landing rights, this proposal will put those agreements in jeopardy and will most likely result in the vigorous pursuit of countervailing tariffs by our bilateral trading partners. I have already heard from foreign air carriers who suggest that this proposal will have very negative implications for international air travel.

Mr. President, I urge my Senate colleagues to oppose this provision. If it is considered in a joint conference committee, it is my hope that this objectionable item will be deleted.

PROPOSAL TO IMPOSE FEES ON AIRPORT LANDING AND TAKEOFF SLOTS

Mr. LAUTENBERG. Mr. President, I would like to take a few moments to express my opposition to a provision contained in the reconciliation package before us.

On July 27, the Committee on Commerce, Science, and Transportation approved its reconciliation package, meeting its target of $450 million in revenues or savings. The committee proposed obtaining more than half that amount—$239 million—through the imposition of fees on landing and takeoff slots at the Nation's four high-density airports—Kennedy, LaGuardia, O'Hare, and Washington National.

I am extremely concerned about the discriminatory nature of the committee's proposal. The slot fee would be assessed against only four airports, and the carriers and passengers using those facilities. Carriers serving other airports would receive an immediate and direct competitive advantage created by governmental action. Passengers flying to or through these airports would be subjected to fare increases, based solely on the budgetary process, not on the need to make aviation safety or airport capacity improvements.

Further, the committee proposal provides that the slot fee may be assessed against foreign carriers only to the extent permitted by international law and treaty obligations. Therefore, the fee would also grant some international carriers a competitive advantage over domestic carriers in the same market.

Mr. President, we are all on committees. We all know the difficult choices that must be made in order to meet the targets set in the reconciliation process. I commend the Commerce Committee for struggling to meet its assigned target. But this fee was a choice that should not have been made. But unfortunately, it was made, on a 13 to 5 vote, without the benefit of hearings or wide discussion on the subject matter.

The Department of Transportation is given several guidelines: That the fees can only be applied to the four airports previously cited; that slots of commuter airlines be exempt; that slots held by foreign carriers be assessed a fee only to the extent allowed under the bilateral agreements covering those carriers' entry into the United States; and finally, that the sum total of the fees be at least $239 million in fiscal year 1990.

There was no assessment of what these slots are really worth; no indication whether the committee believed that the right to land at National at 9 a.m. is as valuable, less valuable, or more valuable than the right to land at National at 2 in the afternoon, or at LaGuardia, Kennedy, or O'Hare at 11 at night. There was no signal as to whether or not the committee wanted the airlines to just pass those fees through to the consumer, or absorb those costs. And, Mr. President, there was no provision that the hundreds of millions of dollars raised through these so-called user fees would in any way benefit those paying them. There is no assurance that these funds would be used to improve aviation safety, to expand airport capacity, or to improve the service airline customer receive.

In spite of the many problems with this slot fee proposal, procedural limitations make it difficult to remove the provision from the Senate reconciliation bill. That would require an offset, which could face problems of germaneness. However, the outlook in conference is more promising for those of us who oppose this provision. There is opposition to this proposal among many of our House colleagues. In addition to the concerns about the discriminatory nature of these fees, they believe this is really not a user fee, but a tax.

This matter deserves fuller consideration than it has received to date. The conference with the House will provide a means for review and reconsideration of this proposal. It is the hope of this Senator that the conferees will recognize the problems with this proposal, and not include it in the conference version of reconciliation.

REMOVAL OF THE LOW-INCOME AIDS TREATMENT ASSISTANCE PROGRAM ON PROCEDURAL GROUNDS

Mr. KENNEDY. Mr. President, I understand the parliamentary situation that we face on reconciliation but I regret to have to remove the Low-Income AIDS Treatment Assistance Program. This program not only provides life sustaining therapeutics to individuals who face both poverty and death, but also advances our public health effort to bring the AIDS epidemic under control. It is clear to public health officers across this country, and to the Labor Committee, that the most compelling incentive for individuals to step forward for HIV testing and counseling is the availability of medical interventions which have been proven to extend life and reduce suffering. This program creates such incentives for low-income individuals for whom available treatments would not otherwise be a realistic option.

The authorization begins a process of cost sharing with States with a significant incidence of AIDS. It will also gather important program data upon which we can make future policy determinations. This program enjoys broad bipartisan support and I am hopeful that it will be swiftly enacted in the days ahead.

I thank the ranking minority member of the Labor Committee for his ongoing support for sound AIDS policy, and all of the other Members of this body who have rallied for this program. In accordance with the wishes of the leadership, I will support removing the Low-Income AIDS Treatment Assistance Program from the reconciliation package on purely procedural grounds, in order to avoid sequestration. Nevertheless, it is my hope to move this critical program forward with all deliberate speed.

I ask that the dear colleague letter concerning this program and the letters of support from a wide array of public health, religious, and governmental organizations be inserted in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 2, 1989.

DEAR COLLEAGUE: We write to express our support for the inclusion in the FY '90 Labor/Health and Human Services Appropriations Conference Report of $30 million to extend the Public Health Service grant program to states for AIDS treatment assistance. This program does more than make life prolonging therapies available to low income individuals with HIV disease, it also helps to bring the AIDS epidemic under control.

The availability of effective treatments for HIV is the most compelling incentive for individuals to step forward for HIV counseling and testing. By providing access to treatment, caregivers and public health officials gain a crucial opportunity to deliver AIDS education that has been demonstrated to facilitate behavior change and reduce transmission of the AIDS virus.

Among the many diseases which confront us, HIV is unique because it is both lethal and transmissible, through sexual contact, sharing of needles, and from mother to newborn. AIDS was effectively non-existent in our nation a decade ago and today directly jeopardizes a million Americans. Rationing access to treatment for HIV disease based on the patient's ability to pay would ultimately result in more Americans unknowingly becoming infected—thus increasing the human and fiscal toll taken by AIDS.

Providing federal funds to assist low-income individuals obtain treatment for AIDS and HIV disease is not just an act of compassion, it is a key part of the public health strategy to end this epidemic. We urge you to actively support both funding

and renewed authorization for this program.

Sincerely,

Edward M. Kennedy, Orrin G. Hatch, Joseph Biden, Bob Packwood, Tim Wirth, Carl Levin, Chuck Robb, Frank R. Lautenberg, Pete Wilson, Alfonse D'Amato, Lloyd Bentsen, Spark Matsunaga, John H. Chafee, Patrick Leahy, John F. Kerry, Claiborne Pell, Howard Metzenbaum, Herb Kohl, Joseph I. Lieberman, John Glenn, Bill Bradley, Barbara A. Mikulski, J. Bennett Johnston, Terry Sanford, Paul Simon, Donald Riegle, Slade Gorton, Christopher Dodd, Alan Cranston, Paul Sarbanes, Jim Jeffords, Daniel Patrick Moynihan, Nancy Landon Kassebaum.

AN URGENT MESSAGE TO THE PRESIDENT AND MEMBERS OF CONGRESS FROM STATE COMMISSIONERS OF HEALTH

Please Don't Turn Your Backs "I want all our citizens with HIV infection to know that we are in this fight with them all the way. We are on their side, doing everything we can. We will not turn our backs."—Louis W. Sullivan, M.D., Secretary of Health and Human Services, May 6, 1989.

In recent weeks federally financed research efforts have yielded breakthrough information in the fight against AIDS. In many people who have no symptoms, but who are infected with HIV, the underlying cause of AIDS, early treatment with the drug AZT has been shown to delay the onset of AIDS and to enhance both length and quality of life. The news augments an earlier announcement that the preventive use of the drug pentamindine in aerosol form can forestall the pneumonia that has been the principal cause of AIDS-related hospitalization and death in the United States. For the million or more Americans infected with HIV, this is a time of hope. For too many of them this hope will never be realized—without your help.

Access to treatment will buy precious time as scientists continue to search for even more effective therapies. Failure to guarantee access to treatment will result in needless suffering.

The availability of treatment provides a new opportunity to slow the spread of HIV infection. Those who received ongoing treatment will be in close contact with clinicians and counselors who can help them make profound behavioral changes necessary to interrupt the spread of HIV. Men, women, and adolescents will be given a new reason and new support for considering the importance of prevention.

Developing outpatient services now will enable us to conserve scarce medical resources. If adequate ambulatory treatment is available, unnecessary and costly hospital stays can be reduced.

Congress can act now. The Congress should renew and broaden the drug subsidy program due to expire on September 30. The program was first enacted as an emergency measure two years ago to ensure access to AZT for people with full-blown AIDS. As the recent studies have demonstrated, hundreds of thousands more Americans can now benefit from early drug therapy.

This is an epidemic. It requires national leadership. As Commissioners of Health, concerned about AIDS, we see an unparalleled opportunity for bold policies that can match the strides of science.

COMMISSIONERS OF PUBLIC HEALTH

Alabama: Claude Earlfox, M.D., M.P.H.
Alaska: Elizabeth Ward
Arizona: Glyn Caldwell, M.D.
Arkansas: M. Joycelyn Elders, M.D.
Colorado: Thomas Vernon, M.D.
Connecticut: Frederick Adams, D.D.S., P.H.
Delaware: Lester Wright, M.D., M.P.H.
Georgia: James Alley, M.D.
Hawaii: John Lewis, M.D.
Illinois: Bernard Turnock, M.D.
Indiana: Woodrow Meyers, Jr., M.D.
Kansas: Charles Konigsberg, M.D.
Kentucky: Carlos Hernandez, M.D., M.P.H.
Louisiana: David Ramsey.
Michigan: Raj Wiener.
Minnesota: Sister Mary Madonna Ashton
Mississippi: Alton Cobb, M.D., M.P.H.
Missouri: Robert Harmon, M.D.
Montana: Donald Pizzinni, M.E.S.
Nebraska: Greg Wright, M.D.
Nevada: Joseph Jarvis, M.D.
New Hampshire: William Wallace, Jr., M.D.
New Jersey: Molly Coye, M.D.
New York: David Axelrod, M.D.
North Dakota: Robert Wentz, M.D.
Ohio: Ronald Fletcher, M.D.
Oklahoma: Joan Leavitt, M.D.
Oregon: Kristine Gebbie, R.N.
Pennsylvania: N. Mark Richards, M.D.
South Carolina: Michael Jarrett.
South Dakota: Charles Anderson, Ed.D.
Tennessee: Richard Light, M.D.
Texas: Robert Bernstein, M.D.
Utah: Sheldon Elman.
West Virginia: George Lilly, Jr., Ed. D.
Wisconsin: George MacKenzie.
Wyoming: Larry Meuli, M.D.

NATIONAL COMMISSION ON AIDS

STATEMENT ON THE FISCAL YEAR 1990 APPROPRIATIONS

We, the Members of the National Commission on Acquired Immune Deficiency Syndrome (AIDS), strongly support the increased in AIDS funding endorsed by both Houses of Congress and the Administration. While we believe that much work remains to secure adequate funding for the national battle against AIDS, we also recognize the fiscal challenges facing the Congress.

We are particularly pleased that the Senate Committee on Appropriations has increased the total AIDS budget to accommodate humane and cost-effective programs designed to meet the burgeoning care needs resulting from the HIV epidemic. The Congress made clear the priority it places on the health care needs of people with AIDS and HIV in the AIDS legislation that was unanimously approved last fall. Being able to provide access to lifesaving medical treatment to those who face poverty and death is not only a compassionate response to the crisis but a sound public health strategy for bringing the epidemic under control. The most compelling incentive for individuals to step forward for HIV counseling and testing is the availability of effective treatment and appropriate medical care.

The Commission is most invigorated by the task of advising both the Administration and the Congress. It is a responsibility that we accept with great determination. Given the gravity of the HIV epidemic, we are fortunate to have an abundance of sound data on which to base our public health policy decisions. With this in mind, we urge the Congress to be deliberative in its policy-making processes and to resist fragmented approaches to public policy via amendments to the FY '90 Appropriations bill.

The National Commission on AIDS stand ready to review and comment on proposals under consideration by the Congress for addressing the challenges presented by the HIV epidemic.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 12, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The American Medical Association understands that you have proposed a mechanism for the federal funding of AZT. This proposal would provide grants to states so that the cost of AZT could be covered for certain AIDS patients.

As you know, the AMA previously has expressed support for federal funding of AZT for AIDS patients. Recently reported results at the Fifth International Conference on AIDS add to the evidence that the survival experience of AIDS patients taking AZT significantly improves.

The existing temporary funding scheme for AZT has reached the brink of termination on several occasions. This situation is unfortunate for the AIDS patients who would be devastated without continued access to AZT.

The AMA supports your efforts to include a longer-term solution to the problem of funding AZT treatment as part of reconciliation legislation. Your leadership and initiative on this and other AIDS issues is to be commended.

Sincerely,

JAMES H. SAMMONS, M.D.

THE UNITED STATES CONFERENCE OF MAYORS,
Washington, DC, July 18, 1989.

Senator EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of The United States Conference of Mayors, I am writing to inform you of our nation's cities full support for a three year authorization for the Low Income Treatment Assistance Program for AIDS/HIV treatment assistance, and to commend you for your leadership on this issue. Over 250 mayors met last month in Charleston and passed a policy resolution in support of early intervention for the treatment of HIV infected persons. I have enclosed a copy of our policy for your review.

As you know, in the early years of the battle against AIDS, prevention education was the sole tool available to combat this disease. Now, however, with promising new drugs such as AZT and aerosolized pentamidine, hope is available for those infected with HIV, if they can afford the costly treatments.

The funding Congress has twice provided for the AZT treatment program has been enormously helpful in assisting low income persons to obtain this life prolonging treatment. Early indications for the success of aerosolized pentamidine are even more promising in treating pneumocystis pneumonia, the most common killer of those with AIDS. Increased access to these drugs will enable HIV infected persons to remain healthy—avoiding costly hospital care which is already straining the budgets of federal, state and local governments.

It is the Conference of Mayors' belief that the Low Income AIDS/HIV Treatment Assistance Program would be best retained as

a solely federal program. Establishing a state option to "opt out" of the federal-state matching requirement would shift the financial burden of the program to cities—the level of government least able to absorb these added costs or raise moneys in support of the program. Such a move would be an unprecedented shift from the established federal-state partnership in financing health care in America.

As you are well aware, the vast majority of AIDS cases to date occur in our major cities. Our mayors find themselves on the front line of this disease, with local government bearing a significant financial proportion of this *national* epidemic. The Low Income AIDS/HIV Treatment Assistance Program should remain as it was originally intended: a clear federal commitment to dealing with a national health crisis that is overwhelming the capacity of state and local resources.

The U.S. Conference of Mayors is very supportive of your efforts to authorize the Low Income Treatment Assistance Program. We look forward to working with you to ensure that treatment for HIV infection and AIDS is made available to all who need it. Please do not hesitate to call Richard D. Johnson, Assistant Executive Director, at 293-7330, if you or your staff have any questions or if we can be of any assistance to you.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH,
July 17, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 24 deans of the schools of public health, I wish to reaffirm our support for a provision that would facilitate access to drugs for low income persons with HIV infection. As you know well, such funding expires September 30, and the sooner the issue is addressed, the more effectively states can plan for therapies. We, therefore, support you in your efforts to make such provision as soon as possible in the Congressional legislative season.

Sincerely,

D.A. HENDERSON, MD, MPH,
ASPH President and Dean, School of Hygiene and Public Health, The Johns Hopkins University.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH, LIST OF DEANS, JULY 1989

Dean Juan Navia (Acting), School of Public Health, University of Alabama-Birmingham, 305 Tidwell Hall, Birmingham, Alabama 35294 (205) 934-2288.

Director Norman A. Scotch, School of Public Health, Boston University, 80 East Concord Street, A-407, Boston, Massachusetts 02118-2394 (617) 638-4640

Dean Robert C. Spear (Acting), School of Public Health, University of California-Berkeley, 19 Earl Warren Hall, Berkeley, California 94720 (415) 642-2523

Dean A.A. Afifi, School of Public Health, University of California-Los Angeles, Center for Health Sciences, Rm. 16-035, Los Angeles, California 90024 (213) 825-6381

Dean Allan Rosenfield, School of Public Health, Columbia University, 600 West 168th Street, New York, New York 10032 (212) 305-3929

Dean Harvey Fineberg, School of Public Health, Harvard University, 677 Huntington Avenue, Boston, Massachusetts 02115 (617) 732-1025

Dean Jerrold M. Michael, School of Public Health, University of Hawaii, 1960 East-West Road, Honolulu, Hawaii 96822 (808) 948-8491

Dean Jacob A. Brody, School of Public Health, University of Illinois at Chicago, Health Sciences Center, P.O. Box 6998, Chicago, Illinois 60680 (312) 996-6620

Dean Donald A. Henderson, School of Hygiene and Public Health, The Johns Hopkins University, 615 North Wolfe Street, Baltimore, Maryland 21205-2179 (301) 955-3540

Dean Edwin Krick, School of Public Health, Loma Linda University, Loma Linda, California 92350 (714) 824-4578 or (800) 854-5661

Dean Stephen H. Gehlbach, School of Public Health, 108 Arnold House, University of Massachusetts, Amherst, Massachusetts 01003-0037 (413) 545-1303

Dean June Osborn, School of Public Health, University of Michigan, 109 South Observatory Street, Ann Arbor, Michigan 48109-2029 (313) 763-5454

Dean Robert L. Kane, School of Public Health, University of Minnesota, A-304 Mayo Memorial Building, Minneapolis, Minnesota 55455-0318 (612) 624-6669

Dean Michel A. Ibrahim, School of Public Health, University of North Carolina, Campus Box 7400, Rosenau Hall, Chapel Hill, North Carolina 27599-7400 (919) 966-3215.

Dean Allen C. Meadors (Acting), College of Public Health, University of Oklahoma, P.O. Box 26901, Oklahoma City, Oklahoma 73190 (405) 271-2232

Interim Dean Thomas Detre, Graduate School of Public Health, University of Pittsburgh, 111 Parran Hall, Pittsburgh, Pennsylvania 15261 (412) 624-3000 or 624-2396

Dean Juan Silva-Parra, School of Public Health, University of Puerto Rico, G.P.O. Box 5067, San Juan, Puerto Rico 00936 (809) 758-2525 x 1402

Director F. Douglas Scutchfield, Graduate School of Public Health, San Diego State University, San Diego, California 92182-0405 (619) 594-6317 or 594-4239

Dean Winona Vernberg, School of Public Health, University of South Carolina, Columbia, South Carolina 29208 (803) 777-5032

Dean Peter J. Levin, College of Public Health, University of South Florida, MHH-104, 13301 Bruce B. Downs Blvd., Tampa, Florida 33612-3899 (813) 974-3623.

Dean Palmer Beasley, School of Public Health, University of Texas, Health Science Center at Houston, Reuel A. Stallones Building, P.O. Box 20186, Houston, TX 77225

Dean J.T. Hamrick (Acting), School of Public Health and Tropical Medicine, Tulane University, 1430 Tulane Avenue, New Orleans, Louisiana 70112 (504) 588-5397

Dean Gilbert S. Omenn, School of Public Health and Community Medicine, University of Washington, SC-30, Seattle, Washington 98195 (206) 543-1144

Chairman Burton R. Singer, Department of Epidemiology and Public Health, Yale University, School of Medicine, P.O. Box 3333, 60 College Street, New Haven, Connecticut 06510 (203) 785-2867

Dean Haroutune K. Armenian, Faculty of Health Sciences, American University of Beirut, Beirut, Lebanon (Affiliate Member).

Eugene J. Gangarosa, Director, MPH Program, Division of Public Health, Emory University, 1599 Clifton Road, Atlanta, Georgia 30329 (404) 727-7806 (Affiliate Member)

Dean David Carpenter, School of Public Health, SUNY at Albany, Tower Building 2523, Empire State Plaza, Albany, New York 12237 (518) 473-7553 (Affiliate Member)

JULY 19, 1989.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We, the undersigned denominational and interfaith agencies, thank you for your leadership in the passage of S. 586 which authorized a six month extension of federal subsidies to provide the life saving drug AZT to low income persons living with AIDS.

The effectiveness of this particular treatment has been well documented in scientific literature, but is dependent on regular, continuous prescribed use. Its availability for low income persons, however, has been equally dependent on short term appropriation authorizations. While certainly not a permanent solution, a longer term effort is needed to ensure persons living with AIDS that they at least can depend on the availability of AZT for the course of their treatment.

In addition, with the emergence of other forms of treatment for HIV infection and AIDS, there needs to be a mechanism for states and the federal government to provide a more stable source of support for such treatment to low income persons with AIDS.

It is our understanding that the Low Income AIDS HIV/Treatment Assistance Program could provide this increased assurance. This proposal calls for the authorization of a 36 month, interim AIDS/HIV treatment program to be funded at $30 million in FY 90 with similar amounts in the remaining years. The program would be administered by the Health Resources and Systems Administration with a 50/50 split of cost between the federal government and the states.

It is essential that the appropriate federal agencies take what they have learned from the success of the AZT authorization extension and apply it to other life saving treatments. With the availabiliy of additional treatments to low income persons will come additional benefits, not only to those receiving the treatments, but to society as well. Many of the new treatments, in particular aerosolized pentamidine, have been proven effective as a preventative agent in the treatment of pneumocystis pneumonia. This particular opportunistic infection lead to the death of over 17,000 persons last year. At the current time this life perserving treatment is unavailable to thousands of persons with AIDS because no mechanism such as the AIDS Treatment Program is in effect. This program should be targeted at the most needy. 85% of persons with AIDS currently receiving treatments like AZT have incomes below 200% of the poverty level. These persons should be those most eligible for such a program.

While we are well aware that this type of effort will not provide a permanent solution to the ongoing financial and treatment needs of low income persons with AIDS, it is a dramatic step forward. We support your continuing efforts to bring this type of essential health care to persons with AIDS and know that we will urge your fellow

members of Congress to support this measure as well.

Sincerely,

Kenneth T. South, Public Policy Advocate, AIDS National Interfaith Network.

Jim Matlock, Director, Washington Office, American Friends Service Committee.

Benita Gayle-Almelah, American Jewish Committee.

Silly Timmel, Director, Washington Office, Church Women United.

Ruth Flower, Friends Committee on National Legislation.

Joseph R. Hacala, S.J., Director, National Office, Jesuit Social Ministries.

Donna T. Morton Stout, JD, M.Div., Associate General Secretary, Issues Development and Advocacy Unit, The United Methodist Church.

Mary Cooper, National Council of the Churches of Christ in the U.S.A.

Mary Jane Patterson, Director, Washington Office, Presbyterian Church, U.S.A.

Rabbi Lynne Landsberg, Religious Action Center of Reform Judaism.

Jay Lintner, Director, Washington Office, Office for Church in Society, United Church of Christ.

Robert L. Alpern, Director, Washington Office, Unitarian Universalist Association of Congregations.

Father Robert J. Brooks, Washington Office, The Episcopal Church.

NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
Miami, FL, September 17, 1989.

To Whom It May Concern:

At its 20th Annual Convention and Community Health Institute, the National Association of Community Health Centers has passed the following resolutions, developed by the AIDS Task Force and approved today by the NACHC House of Delegates:

1. As a major provider of primary care for a large percentage of our population nationally, community health centers are already confronting and accepting the responsibility for the care of significant numbers of HIV-infected individuals.

It is crystal clear that the epidemic which is now sweeping our country will not be confined to the poor, to the IV drug abuser, the homosexual, or the transfusion recipient.

HIV infection will spread throughout the entire population. There is no family that is immune. This disease now threatens not only our lives but the health care delivery "non-system" on which all of us depend.

The challenge posed by HIV infection presents a crisis which must be faced squarely now if we are going to survive. It is incumbent upon all that we maintain our comprehensive approach to health care which includes all health services: disease prevention and health promotion for our entire population, to include perinatal, pediatric, adult and geriatric care.

In a society which has homelessness, substance abuse, violence, racism and is closer to collapse than we care to realize, it is important that we now use the HIV epidemic to bring us together. If we fulfill our primary care mission as was the original intent, we can improve our health care overall, and end the categorical approaches and the attendant waste and duplication which continue to plague us.

The National Association of Community Health Centers must bring the collective weight of our communities to strengthen the existing coalition, and clearly establish its leadership profile and begin to coordinate a national effort to fight AIDS.

2. The recent announcements with reference to the new uses of AZT are both welcome and frustrating: welcome because they bring hope and the promise of longer life to a previously doomed population; frustrating because the drug AZT is costly and out of the reach of most community health center users.

We call upon our national association to lead the fight to make AZT and all other effective therapeutic measures available, not just to the affluent, but to all members of our society.

To that end we call on our government to use its inherent powers to bring the new medicines to the population whose lives depend on them. AZT is our immediate goal and we need it now.

JOHN HOLLOMAN, M.D.,
Chairman, AIDS Task Force.
ROLAND J. GARDNER,
President.

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
Washington, DC, July 12, 1989.

DEAR SENATOR: The promising news about early intervention for people with HIV infection, as well as therapeutics for people with AIDS, is tempered by a policy challenge to find a way to finance the care and treatment theoretically available but realistically unaccessible.

Two years ago, the Senate passed a special measure with bi-partisan support to provide financial assistance to people with HIV infection and related diseases in order to purchase drugs. At the time, AZT was the newest and most promising drug, but its price was virtually unaffordable for most Americans. Since that original program, Congress has supported two extensions with a promise to enact a more permanent and equitable program.

We are writing to urge your support for a three year authorization on a bill to provide financial assistance to people with HIV infection for the purpose of purchasing life extending medical therapies and treatments. This program would be designed to assist low income individuals and should include both federal and state matching funds. We believe that such a program is in keeping with our nation's commitment to extend the productive lives of those who are HIV infected, as well as meeting the equity concerns of a public health epidemic.

Currently, funds avaiable from the federal government will expire on September 30, 1989. Without a new authorization and corresponding appropriations, thousands of Americans will be faced with the cruel dilemma of treatment vs. poverty or death. There is much to be proud of in our scientific advances of late, but these advances are truly meaningless without the opportunity for people to access the new treatments and therapies.

We look forward to your support of this worthwhile program.

Sincerely,

AIDS Action Council.
AIDS National Interfaith Network.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of University Affiliated Programs.
American College Health Association.
American Nurses' Association.
American Psychological Association.
American Public Health Association.
American Red Cross.
Americans for Democratic Action.
American Foundation for AIDS Research.
American Jewish Committee.
American Medical Students Association.
Center for Population Options.
Chronic Fatigue Syndrome Information Institute, Inc.
City of New York.
Human Rights Campaign Fund.
Legal Action Center.
National AIDS Network.
National Association of Counties.
National Association for Home Care.
National Association of Public Hospitals.
National Association of Social Workers.
National Council on La Raza.
National Gay and Lesbian Task Force.
National Hospice Organization.
National Minority AIDS Council.
National Network of Runaway and Youth Services.
National Puerto Rican Coalition.
National Women's Health Network.
Parents/Friends of Lesbians and Gays
Rainbow Lobby.
United Food and Commercial Workers International Union.

REGARDING CFC REGULATORY PROVISIONS

Mr. BAUCUS. Mr. President, many of my colleagues have inquired about provisions of the reconciliation bill adopted by the Environment and Public Works Committee with respect to regulation of chlorofluorocarbons or CFC's. I will take a few moments to respond to those inquiries.

The stripped down version of the reconciliation bill we are considering does not include parts A and B of the Environment Committee's legislation. Those are the parts that include a statutory phaseout of the production, distribution and importation of ozone-depleting chemicals and provided for a methane study.

It is my view, and that of many of my colleagues on the committee, that those provisions are not extraneous within the meaning of the Byrd rule which restricts consideration of non-budgetary matters on reconciliation. However, the package before us does not include the CFC phaseout and we do not intend to offer amendments restoring it to this bill.

CFC legislation has been, and remains, a top priority of the Environment and Public Works Committee. Over the course of the past 3 years the Subcommittee on Environmental Protection has held 10 hearings on the subject of ozone depletion and global climate change. While implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer represents a major step in curbing production and use of ozone-depleting substances, it is my firm belief that additional legislative controls are needed.

The severity of the problem was the subject of a Washington Post article last Friday, October 6. The article describes the scientific assessment of the seasonal hole in the ozone layer over Antarctica for this year. NASA scientists estimate that this year's hole covers 10 million square miles, with

ozone depletion occurring at the rate of 1.5 percent per day. It is believed that the ozone destruction that occurs this year will be similar to that recorded in 1987 when nearly 50 percent of the Antarctic ozone layer was destroyed.

While the legislation reported by the committee was criticized by some for not going far enough, and others for being too stringent, I believe that it provides a necessary and fair approach to eliminating the most destructive chemicals from the environment in the shortest timeframe. As the single largest producer and consumer of CFC's and other ozone-depleting chemicals, the United States has an obligation to act as quickly as possible. Therefore, it is my intention to push for action on CFC legislation in the near future.

Finally, I'd like to clear up some basic misconceptions about the legislation and the committee's actions. Opponents of the CFC subtitle have argued that it somehow materialized out of thin air and that the committee short-circuited conventional legislative procedures. Nothing could be further from the truth. As noted previously, the committee has held exhaustive hearings on the subject. My distinguished colleague from Rhode Island, Senator CHAFEE, and I sponsored legislation both last Congress and this year on the issue. The two bills that formed the basis of the reconciliation piece were the subject of a hearing held by the Environmental Protection Subcommittee in May.

The fact that the committee recommended CFC legislation as part of reconciliation is consistent with the budget summit agreement and a proposal included in the President's budget for the coming year. The President explicitly proposed capturing the market value for limited rights to produce CFC's in fiscal year 1990.

I will not consume more of the Senate's time on this matter today. However, I want to stress that the absence of CFC control provisions in the reconciliation bill does not signify the end of the matter. We will bring such legislation before the Senate in the near future.

RECONCILIATION FY 1990 BUDGET RESOLUTION

Mr. GRASSLEY. Mr. President, yesterday the Senate Budget Committee voted against this reconciliation package by a vote of 9 to 6. I voted no.

Since that vote, Mr. President, the reconciliation bill has been transformed from a Christmas tree free-for-all to a responsible deficit-reduction measure.

The purpose of reconciliation is to reduce the deficit. It is not intended as a vehicle for pet legislation, particularly when that legislation has not undergone public hearings; and particularly when the cost of these pet programs will mushroom in the out years.

In my view, this bill now more resembles a clean deficit-reduction measure. It is consistent with the instructions of the budgt resolution passed in May which I supported.

I would also indicate, Mr. President, that I am a strong supporter of the capital gains tax rate cut, and I regret that we did not have an opportunity to support it as part of reconciliation. Nonetheless, I intend to support that provision on the next possible vehicle in the weeks ahead.

Mr. President, I wish to commend the efforts of the Senate leaders—on both sides of the aisle—to rein in the unbridled process that led to this reconciliation hodgepodge. I only regret that this herculean effort did not take place 3 months ago. I urge the passage of this bill. Thank you, Mr. President.

BUDGET RECONCILIATION

Mr. KERRY. Mr. President, I applaud the patient and persistent efforts of the leadership to produce a budget reconcilation resolution that maintains the integrity of the congressional budget process.

Like many of my colleagues, I realize how painful it is to have programs I care deeply about for the constituents in Massachusetts not included in this resolution. However, I think it is much more important that the reconciliation process not be abused or misused.

Like other of my colleagues, I expect to fight for items important to Massachusetts on other pieces of legislation that will not harm the reconciliation process.

As I stated clearly as one of the early sponsors of Gramm-Rudman, I believe it is incumbent upon the Congress to enact a responsible budget process. And part of a responsible budget process is the maintenance of the integrity of the reconciliation process.

Therefore, I applaud the leadership for their efforts to ensure that the integrity of the process is maintained and for having the courage and wisdom to present the Senate with a product that strengthens our budgeting process.

Mr. D'AMATO. Mr. President, I support the efforts of the bipartisan leadership to regain control of the budget reconciliation process. In particular, I applaud bringing the tax writing process out of the back room and out from behind the protection of reconciliation. While I lament the demise of some very important and meritorious provisions that were in this bill, I accept the wisdom of the leadership and accept that these provisions must await another day. And I assume that this day will come in this session of this Congress.

I will not attempt here to identify all of the important and meritorious provisions that were in this bill and are needed for the well-being of millions of Americans, including many in my State of New York. Mr. President, tax provisions for group legal services, targeted jobs tax credits, mortgage revenue bonds, low-income housing credits, employee provided educational assistance and small issue IDB's must be enacted this year or these provisions will expire. Obviously, we need a tax bill this year.

Mr. President, the small businesses of America need the repeal of section 89, the monster that the Congress with good intentions created in 1986. They also need the 25-percent deduction for medical insurance of self-employed individuals. Again, we need a tax bill this year.

The lamentable condition of Lake Onondaga near Syracuse, NY, needs the attention of this body to reclaim this wonderful natural resource. Many, many additional important matters must be addressed. I am hopeful that this will be a productive session of Congress which deals with each of these matters in the studious manner which they deserve and which the Senate can be proud of.

I should not overlook many meritorious provisions which remain in this bill. We have taken some important steps toward eliminating some of the bias in the Tax Code in favor of misuse of high-yield debt financing. This is important and it should become law as part of reconciliation.

Finally, I will address an issue that should and hopefully will be resolved during subsequent legislation this year. As my colleagues are aware, the Tax Reform Act of 1986 was designed to remedy the allegation that the prior tax system was unfair and exceedingly complex. After extensive review of the then existing structure, the Congress enacted a broad and comprehensive reform of the tax system. The act provided for the reduction of tax rates through base broadening and a strengthening of the alternative minimum tax [AMT]. While the alternative minimum tax has proved to be an effective means for ensuring that all taxpayers, corporate and individual, pay taxes on their economic income, the provision has significant design shortcomings and has produced a variety of inequitable and unintended consequences. One of the more obvious and egregious examples is the so-called book backstop alternative for calculating AMT depreciation.

Under current law, corporations are subject to an alternative minimum tax which is payable to the extent that it exceeds the corporation's regular tax. The tax is imposed at a flat rate of 20 percent on alternative minimum tax income in excess of a $40,000 exemption amount. The foreign tax credit is allowed against the minimum tax and a minimum tax credit is available in certain instances.

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On January 1, 1990, all corporations will be compelled to undertake a series of complex and unnecessary calculations in figuring their AMT income. As currently drafted, every corporation subject to the AMT will compute its tentative minimum tax income and then compare the result with a second calculation called adjusted current earnings [ACE]. The most difficult and complicated adjustment mandated by ACE is the depreciation adjustment which, in effect, requires taxpayers to compare regular straight line depreciation with financial statement or book depreciation. This latter adjustment is very costly to capital intensive companies and discriminates against assets purchased prior to 1990.

The AMT depreciation anomaly is particularly onerous for leasing companies because under Financial Accounting Standards Board [FASB] rules there is no book depreciation permitted on financial leases and the full amount of tax depreciation could then become the ACE depreciation adjustment. While it is clear that the Congress intended to slow down the tax benefits associated with tangible assets, it was neither intended nor assumed that the full amount of the depreciation would become a preference and therefore fully taxable. Finally, Federal tax policy with regard to the change to ACE was based on the presumption that tax rules should be the basis for tax calculations and not the taxpayers book treatment of an item.

Recognizing these problems the Congress attempted to restructure the AMT as part of the Technical Corrections Act of 1988. Unfortunately these improvements were not included as part of the final legislation and we are once again confronted with the uncertainty and inequity created by the so-called book backstop provision. Only this time we are faced with the fast approaching deadline of January 1, 1990.

Mr. President, I applaud what has been accomplished here today and challenge my colleagues to now deal directly and effectively with this unfinished business.

Thank you, Mr. President.

Mr. LEVIN. Mr. President, I will vote for this bipartisan bill.

However, I want to make clear that I support many of the provisions which have been struck. I trust that the Senate will be allowed to vote for them as part of a free standing bill in the near future. I am pleased to hear the chairman of the Finance Committee's commitment to try to do this.

For instance I support the repeal of section 89. I also support the extensions of the targeted jobs tax credit, the low-income housing credit, the mortgage revenue bond program, the employer-provided educational assistance income exclusion, the research and development tax credit, the health insurance deduction for the self-employed, and the renewable energy tax credits among others. I also support the provisions to improve rural health care, to restore income averaging for farmers, to allow retirees to earn more income without losing Social Security benefits, to expand tax credits for child care and to expand the eligibility for individual retirement accounts. I cite these provisions only as examples of the many provisions in the original reconciliation bill which I supported.

Mr. SASSER. Mr. President, I am prepared to yield back all of my time at this point.

The PRESIDING OFFICER. The Senator from Tennessee has yielded back his time. The Senator from New Mexico yields his.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10:45 the Senate proceed to vote on H.R. 3299 and that the yeas and nays are requested.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order the clerk will read the bill for a third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order the clerk will report the House reconciliation bill, H.R. 3299.

The assistant legislative clerk read as follows:

A bill (H.R. 3299) entitled the "Omnibus Budget Reconciliation Act of 1989."

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Does the Republican leader seek recognition?

Mr. DOLE. Mr. President, I direct my question for information of Members. I understand that shortly after the vote on reconciliation there will be a cloture vote; is that correct?

Mr. MITCHELL. That is correct. As soon as there is final disposition of this matter, and that will be a very short time, after the vote there will be a cloture vote on the Nicaragua Elections Act, so Senators should remain. There will be a second vote after this vote and then there are several amendments in order and pending to that measure so that we could be here for some time after that with possibility of several rollcall votes thereafter.

If neither of the managers or the distinguished Republican leader has anything further, Mr. President, I remind Senators that the vote will occur at 10:45.

Mr. President, I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold?

Mr. MITCHELL. Yes, I withhold and I yield the floor.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, the text of S. 1750, as amended, is substituted in lieu thereof, and the House bill is deemed read a third time.

The Senator from Kentucky.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. FORD. Mr. President, my distinguished friend from Maine, Mr. COHEN, said a few moments ago that the crash of the stock market today or the fall of 191 points was because we have not passed the capital gains.

I have not heard that all day. My news and the ticker tape and all that was that this afternoon and middle afternoon, the financial people notified those who wanted to purchase United Air Lines that they could not finance it, almost $7 billion, and that is what caused the huge slide in the last hour, hour and a half.

On June 23, Senator MCCAIN and I introduced a piece of legislation that has now cleared the Commerce Committee. It relates to giving authority to the Secretary of Transportation to be in at the beginning of the leveraged buyouts of airlines.

Now we are getting into a lot of trouble. Foreign airlines are buying a piece of that. They are even structuring the purchase of the type of airlines that are purchased by American airlines. You can look at the recent cancellation of the Airbus and the purchase of Boeing. I do not have any problem with that. But it shows the influence of the foreign air carriers on the American leveraged buyouts.

So I would just like to say to my friends that I am hopeful that this piece of legislation will be brought before the Senate in the next few days, either freestanding or as an amendment to another piece of legislation, so that we can get on with giving the Secretary of Transportation the authority. He went before Northwest. The only leverage he had was to cancel their certificate as a carrier, and he jawboned and got some results. So I think it is time we look at the leveraged buyout situation as it relates to airlines.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill and that this unanimous-consent request supersede the prior request with respect to technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

By virtue of the order previously entered, the question now occurs on the passage of H.R. 3299, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and the Senator from Wyoming [Mr. WALLOP] would each vote "yea."

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—87

Adams	Ford	Matsunaga
Armstrong	Fowler	McCain
Baucus	Garn	McClure
Bentsen	Glenn	Metzenbaum
Biden	Gore	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moynihan
Boschwitz	Gramm	Murkowski
Bradley	Grassley	Nickles
Breaux	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Heinz	Pell
Burdick	Humphrey	Pressler
Burns	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Riegle
Coats	Kassebaum	Robb
Cochran	Kasten	Rockefeller
Cohen	Kennedy	Roth
Conrad	Kerrey	Rudman
Cranston	Kerry	Sanford
D'Amato	Kohl	Sarbanes
Danforth	Lautenberg	Sasser
Daschle	Leahy	Simpson
Dodd	Levin	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Symms
Durenberger	Lugar	Thurmond
Exon	Mack	Warner

NAYS—7

Dixon	Hollings	Simon
Heflin	McConnell	
Helms	Shelby	

NOT VOTING—6

Boren	Hatfield	Wilson
DeConcini	Wallop	Wirth

So the bill (H.R. 3299), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1750 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, is there any time for debate?

Mr. MITCHELL. If I may, this unanimous-consent request has to do with the indefinite postponement of the Senate reconciliation bill. We have just passed the House bill. I renew my request, Mr. President.

The PRESIDING OFFICER. If we can have order in the Chamber so the unanimous-consent request can be heard, the Senate will proceed with its business.

The majority leader has renewed his unanimous-consent request. Without objection, it is so ordered.

Mr. MITCHELL. It is my understanding under the previous order there is no time limitation on debate. Mr. President, I yield to the distinguished Senator from New Mexico.

MOTION TO INSTRUCT

Mr. DOMENICI. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Mexico, Mr. DOMENICI, moves that in relation to H.R. 3299, the conferees be instructed to insist on the Senate amendment and to accept no House language which does not result in savings or in revenue increases, as envisioned by the Budget Act description of reconciliation.

Mr. DOMENICI. Mr. President, I have asked the distinguished majority leader, the chairman of the Budget Committee, and the minority leader, Senator DOLE, and they indicate they concur in that motion.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. SIMON. Parliamentary inquiry. Is this motion debatable?

The PRESIDING OFFICER. This motion is fully debatable.

Mr. SIMON. I will oppose the motion. Let me just point out I voted "no" on the reconciliation. Among other things, there is a fee schedule for five airports in this country, one of which is O'Hare, which will pay half the fees. I, frankly, did not make any amendment, did not make a big issue about this on the floor. I think it is something the conference ought to be able to consider and if this motion is agreed to, we cannot consider it. I think there very well may be other mistakes in this thing.

Mr. MITCHELL. Will the Senator yield?

Mr. SIMON. I will be pleased to yield to the majority leader.

Mr. MITCHELL. The motion to instruct has no binding effect on the conferees. It is an expression of the Senate and the Senate urging that the Senate conferees adhere to the Senate position.

Mr. SIMON. If the majority leader says this is simply a sentimental gesture, then——

Mr. MITCHELL. I do not think I used those words.

Mr. SIMON. May I inquire of the Senator from New Mexico?

Mr. DOMENICI. I might say a motion to strike is clearly in order in conference. I am not suggesting that would not be in order. It seems to me that with an 87-to-7 vote that we ought to buttress our conferees with a statement saying we do not want a bill like the one we just got rid of.

Mr. SIMON. The process I wholeheartedly support, and I thank the Senator from New Mexico, and I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I make a parliamentary inquiry. I understand under the unanimous-consent agreement that we would move immediately to the vote on the cloture motion on the Nicaraguan elections.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Mr. President, I ask unanimous consent to proceed out of order for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, I say to my colleagues before we agree to this motion, it is 11:10 at night on Friday evening. We are about to enter a debate that has matters in it that go beyond just a $9 million appropriation. This is not the time, regardless of where it comes out on this issue, to be debating something of this significance, in my view. I regret we are here at this hour, but this is a matter that could have been decided a month ago with proper consideration.

I just urge, despite the efforts of the majority leader and others, that we reject this motion and defeat the

motion on cloture and debate this on Tuesday, when we come back, or Monday. I will be glad to come back on Monday and debate all day and vote on Tuesday. To debate at 11:10 on a Friday night something of this import is a mistake. The Members are tired and they want to get back to their States. It is a mistake.

We ought not invoke cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, free and fair elections in Nicaragua are an important goal, one that is in the national security interests of the United States, and the interests of the people of Nicaragua and the entire hemisphere. Because of the importance of the question of how best to assure this, it is my belief that this late hour—nearly midnight—is not the appropriate time to begin and complete this debate.

Mr. MITCHELL. Mr. President, I ask unanimous consent to address the Senate for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the unanimous-consent agreement was entered into yesterday. The Senator from Connecticut was present on the floor when it was entered into, and I said at that time that we would move to cloture after acting on the reconciliation bill. I predicted that it would occur late tomorrow night, meaning tonight. Rarely have my predictions been so accurate. No one objected at that time. We had 2 hours of debate yesterday on the subject. Everyone had a chance to express their views. It was understood and accepted by everyone that the cloture vote would occur late tonight. This is not the first, and I regret to advise Senators it will not be the last time we debate an issue at 11 o'clock at night. Therefore, having entered into an agreement with the full, open——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MITCHELL. I ask for 30 more seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. With the full, open and informed consent of every Senator including the principal participants in this issue, I see no basis now for not proceeding. We agreed to proceed. We anticipated we would proceed at this time. We said we would proceed at this time, and I suggest we proceed at this time.

Mr. LEAHY. Mr. President, as manager of the bill, I ask unanimous consent that I be allowed to proceed for 45 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as manager of the bill, I am prepared to go forward, just so all Senators understand, however they vote. If we get cloture, we will complete it, I understand from the majority leader, tonight but that means a number of votes and my estimate would be at least 5 hours, possibly 7 hours, but it will be real debate because the matters will come close together if we have cloture tonight. All Senators should be aware of that. I am perfectly prepared to go forward, but that is really what the schedule will be.

Mr. STEVENS. Regular order.

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

The Senate resumed consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, following the disposition of the reconciliation bill, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua. Signed by 18 Senators as follows:

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, Bill Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua, be brought to a close. The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Wyoming [Mr. WALLOP], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—52

Armstrong	Gore	McConnell
Bentsen	Gorton	Mitchell
Biden	Graham	Murkowski
Bond	Gramm	Nickles
Boschwitz	Grassley	Packwood
Bradley	Hatch	Pell
Breaux	Heinz	Reid
Bryan	Hollings	Robb
Chafee	Jeffords	Roth
Coats	Kassebaum	Sanford
Cochran	Kasten	Sasser
Cohen	Lautenberg	Simpson
Danforth	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Lugar	Thurmond
Durenberger	Mack	Warner
Exon	McCain	
Garn	McClure	

NAYS—42

Adams	Fowler	Matsunaga
Baucus	Glenn	Metzenbaum
Bingaman	Harkin	Mikulski
Bumpers	Heflin	Moynihan
Burdick	Helms	Nunn
Burns	Humphrey	Pressler
Byrd	Inouye	Pryor
Conrad	Johnston	Riegle
Cranston	Kennedy	Rockefeller
D'Amato	Kerrey	Rudman
Daschle	Kerry	Sarbanes
Dixon	Kohl	Shelby
Dodd	Leahy	Simon
Ford	Levin	Symms

NOT VOTING—6

Boren	Hatfield	Wilson
DeConcini	Wallop	Wirth

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

May we have order in the Chamber so the business of the Senate can proceed?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, cloture not having been obtained on this vote, it would be my intention—I note the presence of the distinguished Senator from Iowa on the floor who has been the principal opponent to this measure—to file another cloture petition if we can get agreement; that we would then have a vote on that cloture petition immediately following the caucus on Tuesday as we had contemplated doing earlier this evening but were not able to get agreement on then it is my feeling that if we did not get cloture then, there would be no further effort; if cloture were obtained, that we would then proceed to consider the amendments that have been agreed to, under the prior order,

were in order, had cloture been obtained on this measure.

I inquire of the Senator from Iowa or the distinguished Republican leader, if they wish to comment on that suggestion.

Mr. SABARNES. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. SARBANES. I take it there is a unanimous-consent request that now limits the number of amendments to the measure; is that correct?

Mr. MITCHELL. That is correct.

Mr. SARBANES. I am told that is not correct.

Mr. MITCHELL. It is no longer in effect. It qualified certain specified amendments to be in order if cloture had been invoked, even though the amendments might not otherwise have been germane, had cloture been invoked.

Mr. HARKIN. If I can ask the distinguished majority leader to yield, I want to make it clear—as I know the majority leader knows—to all Senators here this evening, earlier this evening I was asked by the distinguished majority leader if I would be amenable to putting off the cloture vote until 2 o'clock on Tuesday. I said, yes, I would. It was not my intent to have a cloture vote tonight. I agreed to put it off until 2 o'clock Tuesday. It was not this Senator's objection.

Mr. MITCHELL. The Senator is absolutely correct. It was my suggestion as well that we put it off until after the conference on Tuesday, but that consent could not be obtained from all Senators. There was objection to it. Therefore, we had to proceed this evening under the agreement. It was my desire to postpone it until then as well, and the Senator is quite correct, he agreed to it.

Mr. HARKIN. Under the agreement entered into before, that unanimous-consent agreement now has been vitiated by the fact that cloture was not invoked; is that my understanding?

Mr. MITCHELL. I inquire of the Chair as to the accuracy of that assertion.

The PRESIDING OFFICER. The Chair will consult the Parliamentarian.

Can the Senator from Iowa repeat his question?

Mr. HARKIN. The unanimous-consent agreement that was entered into pertaining to the cloture vote that was just taken specified certain amendments and individuals who could offer those amendments. Since cloture was not invoked, is that agreement limiting the number of amendments and those individuals who could offer those amendments still in force, or has that agreement that limits the number of amendments and those who can offer those amendments been done away with by the fact that cloture was not invoked?

The PRESIDING OFFICER. The question as stated by the Senator from Iowa would require the answer that the agreement is not vitiated by the failure to invoke cloture.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. HARKIN. Yes.

Mr. LEAHY. Without losing his right to the floor.

Mr. HARKIN. I do not know if I have the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I yield to the Senator from Vermont.

Mr. LEAHY. I ask the distinguished majority leader—Mr. President, possibly there is a way to get around the question of what was the agreement or not. I think there are a number of people in this body who voted against cloture tonight, who are perfectly willing to see this matter come to a vote and either to vote for or against it, willing to have a straight up-or-down vote.

Might I ask the distinguished majority leader and the distinguished Republican leader if it might be possible to craft a unanimous-consent agreement here that would say we would start the whole process exactly as we had it here at 2 o'clock, or whatever time we finished our caucuses on Tuesday, and then plan to go straight through until completion?

In other words, we would have a cloture vote at 2 o'clock on Tuesday. If that did not succeed, then that is probably the end of it. But if that succeeded, we could go down to a similar agreement as we had before, until we complete it. I understand that would require setting aside whatever else was pending at that time. But I say to the distinguished leaders on both sides of the aisle that I am perfectly prepared, as a manager of this bill, to go forward at that time. I would assume my distinguished colleague and friend from Wisconsin would be, too. I cannot speak for him on the unanimous-consent agreement, but if we went through the same procedure, we would probably complete it by supper time or so on Tuesday.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. May I make a suggestion which perhaps could enable us all to go home and come back to this another day. I will ask the Senator through the Chair, the Senator from Iowa, if he would be agreeable, if we file another cloture petition this evening, to schedule the vote on that cloture petition at 2:15 p.m. on Tuesday, on the condition that we enter into an agreement which would, as the previous agreement did, qualify for consideration post cloture in the event cloture is then invoked, to certain specified amendments, including an amendment which was listed to be offered by Senator DODD, relative to no funds to the Nicaraguan Government, that would now be listed as an amendment to be offered by the Senator from Iowa?

Mr. HARKIN. If the distinguished majority leader will yield, I still have a question about the process. The amendments that were listed and the agreement entered into pertain to nongermane amendments that would be allowed under post cloture. I inquire of the Chair, is it correct that this agreement in no way limits others who may want to offer germane amendments, post cloture, if cloture is invoked?

The PRESIDING OFFICER. Timely filed germane amendments are not limited.

Mr. HARKIN. Under the unanimous consent proposal agreement proposed by the distinguished majority leader, when would germane amendments have to be timely filed in order to be considered after post cloture, if the cloture vote is to be taken at 2:15 p.m. on Tuesday next?

The PRESIDING OFFICER. Second-degree amendments would have to be filed by 1:15 p.m. Tuesday next.

First-degree amendments would have to be filed by 1 p.m. the next day of session after the motion is filed.

Mr. HARKIN. I assume that Monday would be a day.

Mr. MITCHELL. That is correct, but since it is unlikely we would be in by 1 p.m. Monday, I would propose that we include in the consent request the permission to file first-degree amendments prior to 6 p.m. on Monday.

That would give the Senator and anyone else who wishes to file an amendment ample time to do so. I have not had time to discuss this with the distinguished Republican leader, but I assume that will be acceptable to him.

Mr. HARKIN. We will be in session Monday.

Mr. MITCHELL. We will be in session Monday, but not prior to 2 p.m. I do not want to preclude the Senator.

Mr. HARKIN. My last question to the distinguished majority leader is on the agreement just propounded as to the amendment that was just mentioned, that this Senator would be allowed to offer that either as a first- or second-degree amendment. Is that correct?

Mr. MITCHELL. I am sorry. I did not understand the question.

Mr. HARKIN. On the amendment that is initially going to be offered by Senator DODD——

Mr. MITCHELL. I propose to include that in the Senator's request.

Mr. HARKIN. Would the Senator be allowed to offer it as either a first- or second-degree amendment?

Mr. MITCHELL. This does not limit it.

Mr. HARKIN. It does not limit it.

The PRESIDING OFFICER. The Senators to the left will refrain their conversations so the business of the Senate can go on.

Mr. MITCHELL. Mr. President, will the Senator be agreeable on those terms?

Mr. HARKIN. This Senator will be agreeable.

Mr. MITCHELL. Why do I not propound the request?

Mr. President, accordingly I will propound the unanimous-consent request. If any Senator has objection, he or she may object.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday next, a quorum call under rule XXII being waived, the Senate proceed to vote on the motion to invoke cloture on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua; that the following amendments be in order regardless of the outcome of the cloture vote:

An amendment by Senators ADAMS and HARKIN relative to the transfer of this funding to a drug program; an amendment by Senator DODD relative to funding to the National Endowment for Democracy and observer groups; an amendment by Senator HARKIN relative to no funds to the Nicaraguan Government; an amendment by Senator HARKIN to reducing funding and shifting funding to observer groups; and amendment by Senator HARKIN relative to no funds from the National Endowment for Democracy, only in-kind assistance.

I further ask unanimous consent that the time for filing first-degree amendments be extended from 1 o'clock p.m. on Monday, which would ordinarily apply until 6 p.m. on Monday, and I further ask unanimous consent that the amendments listed above, in addition to being in order regardless of the outcome of the cloture vote, could be offered either as first- or second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, add one amendment by Senator DOLE relative to funding of Nicaraguan opposition.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, accordingly there will be no further rollcall votes this evening.

Mr. DOLE. Mr. President, will the Senator yield before everyone leaves?

Mr. MITCHELL. Yes.

Mr. DOLE. We are not going to do any more on this tonight, but I am advised that the Presidents of Guatemala, El Salvador, and Honduras will be writing Ortega to see if they want to extend the registration period. The deadline is October 22.

We are not going to have any registration this Sunday. It will be one additional Sunday. I have prepared a letter and I think everyone will find it to be precisely as it is, it is a letter to Commandante Daniel Ortega, signed by Senators, where we indicate we believe in truly free and fair elections. For this reason we are concerned over the absence of a mechanism for registration of voters living as exiles or refugees in El Salvador, Honduras, and Costa Rica. There are more than 100,000 Nicaraguans who wish to participate in the election, and so forth.

The point is we would like to extend the date for 60 days beyond the October 22 deadline. So I hope that maybe some Members will take a look at this and sign it on the way out. We think a pretty good showing, half or more of the Senators, may have some impact on Daniel Ortega.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my intention, therefore, that the Senate will return to session at not earlier than 2 p.m. on Monday, and we will state the precise time in the closing order; that there will be debate on the constitutional amendment on the flag, but no votes on Monday; and then we will resume action on that measure Tuesday morning, going to this measure Tuesday afternoon.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield for a question?

Mr. MITCHELL. I yield.

Mr. LEAHY. Is it the distinguished majority leader's intention, if cloture is voted on Tuesday then, to stay on this matter until it is completed?

Mr. MITCHELL. Yes, it is.

Mr. LEAHY. I appreciate that. I will tell the distinguished majority leader, even though I oppose the underlying legislation, I absolutely concur with that and I think we should just stay completely through it and finish it by early evening on Tuesday.

Mr. MITCHELL. Mr. President, I thank the Senator.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 3385, an act to provide assistance for free and fair elections in Nicaragua.

George J. Mitchell, Bob Kerrey, Harry Reid, Bob Dole, John H. Chafee, Bob Kasten, Terry Sanford, T. Daschle, Dennis DeConcini, Frank R. Lautenberg, Connie Mack, Richard G. Lugar, John Heinz, Mitch McConnell, William Cohen, Al Simpson, Bill Armstrong, Lloyd Bentsen.

Mr. MITCHELL. Mr. President, I ask unanimous consent that, if cloture is invoked on H.R. 3385, the Senate remain on the bill until its disposition notwithstanding any previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

THE 99TH ANNIVERSARY OF DWIGHT D. EISENHOWER'S BIRTH

Mr. DOLE. Mr. President, tomorrow is a special day for my State of Kansas, for the United States, and, indeed, for the free world as we know it today. Tomorrow marks a very special anniversary—a birthday—for a man from Abilene, KS, named Eisenhower.

Eisenhower. It's a name that stands tall among the giants of American history. It is synonomous with courage, vision, and leadership. Few Americans have had such an impact on their nation, let alone the world.

Tomorrow, October 14, is the 99th anniversary of Dwight D. Eisenhower's birth. Although it has been almost three decades since he left office, his standing among our Presidents continues to rise.

In fact, a recent poll of historians puts him in the top 10, behind only Wilson and FDR in this century. Not bad for a small-town boy from Kansas.

Ike has always been a hero to me, but I'm not alone on that score. Generations of Kansans agree, along with millions of others worldwide. He was my commander-in-chief when I enlisted in the Army in December 1942; he was my party's leader when I first ran for office in 1952; and he remains a role model for all those who want to dedicate their lives to public service.

But when you get right down to it, Eisenhower's mark was that of a true

leader, of men in war, of the people of his country, and of all nations that strive for peace. His public career produced some remarkable achievements. Let me cite just a few that were mentioned recently when distinguished Americans were asked what they thought Eisenhower's greatest success was:

Leading the allies to victory in World War II;

Forging the creation of NATO;

Ending the Korean War;

Giving America 8 years of peace and prosperity when he was in the White House;

Exercising real fiscal discipline, as evidenced by his three balanced budgets—that's right, three;

Inspiring the Nation with his integrity, decency, and good will; and

Managing peace in the nuclear age.

There are many other accomplishments that could be cited; creating the Interstate Highway System; establishing NASA; supporting free and fair trade; and demonstrating a commitment to equality with his dramatic action to enforce integration in Little Rock. The list could, literally, go on and on.

Nevertheless, reviewing these achievements is not simply an exercise in nostalgia.

That is why I am honored to serve as Chairman of the National Bipartisan Dwight D. Eisenhower Centennial Commission. Paying tribute to Ike during the coming centennial years affords us a special opportunity to revisit some of the seminal events of our time, and to learn from them. Perhaps the most important part of Ike's legacy to our generation was his unshakable faith in freedom.

He would have relished the vision of this generation of Communist leaders being forced to admit the bankruptcy of their ideology and their policies. He would have been excited by the rapid evolution toward democracy in Poland and Hungary, where people long starved for freedom are now moving rapidly and purposefully to regain control of their own nation.

More than 40 years ago, at the height of the cold war, Ike agreed to meet with a Soviet leader being hailed then for bringing new thinking and openness to his rule over the Soviet empire. In his historic meeting with Nikita Khrushchev, President Eisenhower started the process of summitry not because he believed that the fundamental competition between freedom and communism could be negotiated away; but because of his conviction that—despite the differences in our systems—we shared a common interest in waging that competition in ways that would not lead to nuclear war.

President Reagan and President Bush have learned well the lesson that Eisenhower was teaching. We can deal with our adversaries, through dialog and, above all, through strength.

Ike was not without his faults, of course. But when you add it all up, few leaders are his peer.

After all these years, I still like Ike. So does Kansas. And so does America.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, as we continue to work on the issues of the day, I ask that we not forget that today is the 1,672 day that Terry Anderson has been held in captivity in Beirut.

REMARKS BY ARNOLD I. BURNS, FORMER DEPUTY ATTORNEY GENERAL OF THE UNITED STATES, AT THE BOYS CLUBS OF AMERICA'S ANNUAL YOUTH OF THE YEAR CONGRESSIONAL BREAKFAST

Mr. THURMOND. Mr. President, I recently had the pleasure of serving as co-host for the Boys Clubs of America's annual youth of the year congressional breakfast with Representative STENY HOYER of Maryland. At this breakfast, 5 young men representing the 1,300,000 boys and girls currently served by Boys Clubs of America were honored as "Youth of the Year" finalists.

That morning we had the opportunity to hear a remarkable and inspiring speech by Mr. Arnold I. Burns, former Deputy Attorney General of the United States and a vice president of the board of directors for Boys Clubs of America. With great insight and perspicacity, Mr. Burns addressed the compelling and deadly serious topic of our ravaged inner cities and the despair in which so many young Americans live.

Mr. President, I ask unanimous consent that the text of Mr. Burn's speech be included in the RECORD, and I would respectfully urge my colleagues to turn an attentive eye and ear to his important message as we consider these weighty issues.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ARNOLD I. BURNS

Good morning, we are gathered here this morning to celebrate and honor five "Youth of the Year" finalists. These outstanding young leaders have performed a wide array of valuable services in their Clubs and communities.

Anthony, James, John, Felix and Brent—I salute you for giving generously of your time, talents and energy to help family, friends and neighbors. I applaud you for your exceptional dedication to high moral principles. You have distinguished yourselves among your peers by exhibiting a strong and healthy attitude toward life and work, and your good deeds have made a vital contribution to the improvement of our society.

How I wish that all young people had such strong and healthy attitudes? And how I wish that good physical and mental health were characteristic of all American society. Unfortunately, this is not the case.

No, I cannot, in good conscience, give a clean bill of health to America. Disease runs rampant in our inner cities. It is a disease of the spirit that cripples and kills.

Our inner cities are plagued by crime, drugs and violence. There is an epidemic of illiteracy, illegitimacy, filth and poverty. And poverty spawns hunger, homelessness, frustration, anger and despair.

Kids growing up in our cities don't know how to break the cycle of poverty, failure and more poverty. They don't know where to turn for help. They need emergency treatment. But who will cure their ills?

Today, I would like to examine the health of America's young people and check their vital signs. As the examination proceeds, I will discuss the symptomology, diagnosis, treatment and prognosis of our inner city boys and girls. So, if you will bear with me while I put on my doctor's uniform, we'll begin this important examination.

(Put on jacket, penlight, tongue depressor, mirror and stethoscope.)

Good morning. I'm Dr. Burns, Chief Internist and Director of Emergency Medicine at D.C. General Hospital.

At 2:03 a.m., a 16-year-old boy was admitted to the hospital by a police officer. The officer found the patient wounded on the street after being caught in cross-fire during a drug deal gone sour.

The patient spoke mostly in Spanish, and Dr. Carmen Rodriguez, a resident here at the hospital, helped me take a brief history.

In taking the history, I learned that the patient has no father and that his immediate family consists of four brothers and sisters who are being raised by his mother. The patient ran away from home when he was 14. He has spent most of the last two years on the streets and is a member of a street gang.

I first examined the puncture wound to the right thigh that the patient received during the gun fight. Bone fragments and tearing of tendons were evident, along with resultant weakness beyond the injury to the lower extremity.

As the examination proceeded, I observed needle marks in both anti-cubital fossa and inflamation and excoriation in the nasal passages indicating heroine and cocaine use. There was also questionable jaundice in the eyes and a fine tremor in the hands.

The patient had old scarring on his back and was missing several teeth. Hospital records obtained when the patient was admitted to the emergency room four years ago indicated that he had been physically abused during childhood. The case had been referred to a social worker at the time, but was never pursued.

The patient weighs 103 pounds and is short of stature—only 5 feet, 2 inches tall. He is thin, and loose musculature of the abdomen raises the possibility of malnutrition.

Hematologic studies indicate an increased MCV (mean corpuscular volume) raising the possibility of ethanol abuse. Chemistries in-

dicate elevated liver enzymes which support this indication and which also strongly suggest hepatitis. I ordered further hematologic studies to rule out the possibility of AIDS.

The patient was then examined by Dr. Greenberg, head of the psychiatric unit, who filed a report indicating severe depression with suicidal tendencies, extremely anxiety, fear and feelings of inferiority. In Dr. Greenberg's opinion, the patient tried to stifle these feelings by using illegal drugs and alcohol. Use of illegal drugs, in turn, explains why the patient was shot in cross-fire during a drug deal and, consequently, why the patient has an injury to the right thigh.

What, then, is the clinical diagnosis of the various symptoms exhibited by the patient? In summary, the diagnosis I believe to be most inclusive and accurate is acute and abject neglect by family and society.

I would like to point out that this diagnosis is not unusual among inner city teenagers. This case is not at all atypical. Today almost two-thirds of all high school seniors have tried illegal drugs. By the 12th grade, 80 percent of all boys and girls are periodic drinkers. Each year, more than 1 million teenagers become pregnant. Remember, more than 14 million youngsters live in poverty.

Acute neglect is a condition that hampers and cripples millions of girls and boys each year. What is my prescription for the ailments afflicting our youngsters? The most successful way to treat them, in my opinion, is membership in a Boys & Girls Club. Clubs provide a secure environment for young people at-risk of drug and alcohol abuse, premature sexual involvement and juvenile crime. By providing a safe place for young people to go, Clubs help disadvantaged boys and girls "beat the streets." Clubs give young people a chance to develop self-esteem and the social skills they need to become a productive members of society.

Most Clubs are located in neighborhoods with drugs, crime and poverty are everyday facts of life. Who belongs to Boys & Girls Clubs? Sixty-six percent of our members come from families earning $15,000 per year or less; 77 percent are from families with three or more children; 51 percent are from minority families; 47 percent are from single-parent families, and 29 percent are from families receiving public assistance. The Club frequently is the only place in the neighborhood where kids can play and learn under the supervision of a trained, professional adult.

Clubs help their members stay out of trouble with the law, and Club staff become "second parents" to many boys and girls who often turn to them for advice and guidance. Boys & Girls Clubs serve over 1 million boys and 300,000 girls in over 1,100 Club units operated by nearly 600 locally-governed organizations. A total of 56,434 Board and program volunteers help to make the Boys & Girls Club Movement work, and 15,525 full- and part-time staff members enable Clubs to provide youth development services on a daily basis. The care, concern and understanding that young people receive from the Club staff foster trust and the development of sound values.

Research supports this mode of treatment. A 1986 survey conducted by Louis Harris and Associates for Boys Clubs of America revealed that nearly 70 percent of all alumni believe they were kept away from drugs and alcohol due to involvement in their Clubs. Three out of four alumni believe their experience at the Club helped them to avoid difficulty with the law. And nine out of 10 alumni feel that being in a Club had a positive effect on their lives, gave them skills for leadership, helped them get along with others, and influenced their success in later life.

Former Club members who felt they had started life with the most obstacles to overcome—blacks, Hispanics, the economically disadvantage and those from tough neighborhoods—gave their Club the most credit for their success as adults.

Yes, the care, concern and understanding that young people find at the Boys & Girls Club cure many ills of our inner cities. These positive qualities lead boys and girls to the threshold of health and strength of character.

What, then, is the prognosis for millions of children suffering from abandonment and neglect? This, my friends, will depend largely upon what we as a nation and as a society choose to do about the situation. The prognosis can be very good if we make the concerns of our young people a national priority. Boys & Girls Clubs already look after 1,300,000 youngsters. By 1991, at the conclusion of our Outreach '91 program, we will be caring for an additional 700,000 boys and girls, bringing the total number of youth served to 2 million.

A good prognosis also requires that we practice preventive and holistic medicine. It is truly said that an ounce of prevention is worth a pound of cure. Our top priority is to expand drug prevention education. Some people foolishly think that the drug problem is a Colombian problem or a Burmese problem or a Laotian problem. It is not. It is an American problem. So long as our citizens are willing to buy and use drugs, we will have drugs reaching our markets. We must—we must—dry up the market. We have got to change our peoples' attitudes about drugs—the way we have about alcohol. We've got to take casual users out of the marketplace by arresting and publicly ostracizing them. And we must instill in our children a full understanding of drugs and offer them a viable, exciting, fulfilling substitute for idleness, drugs and then crime.

Making our young people healthy again is going to take a massive, collaborative effort on the part of many youth service organizations, private enterprise, and government at the city, state and federal levels. Some federal agencies have stepped up to the plate and joined with us in our war on drugs: Terry Donahue of the Office of Juvenile Justice and Delinquency Prevention, Dr. Elaine Johnson of the Office of Substance Abuse Prevention, and Jane Kenney of the Action Agency.

These individuals and agencies have joined and financially supported our efforts in public housing. They have helped provide alternatives, as we convince kids to say "No" to drugs.

The FBI's demand reduction unit has joined forces with Boys Clubs of America to develop after-school initiatives focusing on high-risk youth. We all know this war cannot be won until the demand for drugs decreases. The FBI working with local Boys & Girls Clubs will make a difference.

We need a determined effort to stem the epidemic of despair that plagues America's young people. Happily, Americans know how to come to the aid of each other, and we know how to fight disease when it attacks the health and well-being of our children. If we band together, we can win the war on drugs, we can win the war on poverty, and we can win the war on crime!

Ladies and gentlemen, let me close by reminding you that there is more to medicine than just needles, pills and incisions. Love needs to be a fundamental part of the healing process.

How great it would be if every disadvantaged boy and girl could receive enough love and affection to restore his or her health and vitality. Remember, our children need us. When just one child suffers, the pain is felt by many people. But when millions of children are hurting, our whole nation is at-risk.

Let us not be afraid to show our love and concern, and let us resolve here and now to give more of our time, our talents and our treasure to help our children recuperate and get back on the road to good health. Believe me, your kindness will be repaid many times over. In this way, you, too, can experience some of the same satisfaction that doctors and nurses feel. For when people help others who are injured and who are in need, they also help themselves and all humanity.

Thank you.

CONGRATULATIONS TO COLORADO'S NOBEL PRIZE WINNERS

Mr. WIRTH. Mr. President, I rise today to salute and honor University of Colorado professor, Thomas Cech and University of Colorado medical school graduate, Sidney Altman, recipients of the 1989 Nobel Prize in chemistry.

Their extraordinary studies determining that ribonucleic acid, or RNA, can actively aid chemical reactions, rather than simply serve as a genetic messenger, have become a turning point in studies in chemistry. Their discovery about RNA shattered the long-held belief that biological reactions are always catalyzed by proteins. Since the Cech-Altman discovery, some scientists have speculated that, because RNA can act as a catalyst, it may have been the original life form.

The findings of these devoted researchers have far-reaching implications. Beyond requiring most chemistry text books to be rewritten, the new information about RNA will help other researchers to combat a myriad of viral diseases—from the common cold to AIDS. While clearly I am not a scientist who will use Dr. Cech's and Dr. Altman's discovery as a launching pad to unravel more biological questions, as a Coloradan, I am exceptionally proud of their work and dedication.

The awarding of the Nobel Prize in chemistry by the Royal Swedish Academy of Sciences to these men reaffirms what I already knew—that Colorado is home to critical scientific research in a variety of fields. Colorado is leading the world in the effort to better understand the world in which we live. Work being completed at the University of Colorado—CU to Coloradans—the National Center for Atmospheric Research, the Solar Energy Research Institute, the forest and

range experiment stations, and the NOAA aeronomy lab is providing valuable insights to our natural world.

I am confident that all other Coloradans join me in saluting the accomplishments of Dr. Cech and Dr. Altman and applauding the fact that their work has received this notable, international honor.

CONGRATULATIONS TO GINA TURITTO

Mr. BURDICK. Mr. President, it takes a special kind of person to help children with special needs. Gina Maria Turitto is one of those outstanding individuals willing to devote her talent, time, and energy to helping her students reach their full potential.

I am delighted that Gina has been named the North Dakota Teacher of the Year by the Association for Retarded Citizens for her work with mentally handicapped students at Saxvik Elementary School in Bismarck. I would like to take this opportunity to commend Gina and all special education teachers for their efforts to educate students with special needs and make their lives a little brighter.

Gina's mother, Darlene Turitto, works in my Bismarck office. The whole family is very proud of Gina and of this well-deserved honor. I ask unanimous consent that the announcement of this year's North Dakota Teacher of the Year award be printed in the RECORD at this point.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

[From a Bismarck Public Schools news release, Oct. 11, 1989]

NORTH DAKOTA TEACHER OF THE YEAR

Gina Turitto is one of those lucky people who has always known what she wanted to do as a career. Now she will be honored in her chosen field. Turitto, a special education teacher at Saxvik Elementary in Bismarck, has been named the outstanding North Dakota Teacher of the Year by the State Association for Retarded Citizens.

Turitto says she is thrilled and honored to be recognized by such a respected group as the A.R.C. She feels she won the award because of her 'personal touch' with educable mentally handicapped students. "Over the years," Turitto says, "parents have told me that the most important thing I do for their children is treat them like individuals, determine their specific needs and design teaching techniques to fit."

One recent example is the reading program Turitto is working on with an eight-year-old multiply handicappped girl. The student cannot point or read aloud, but she can choose words by using the 'eye-gaze' method of looking at them. "I thoroughly enjoy helping students reach their fullest potential," says Turitto. "I believe students can achieve anything if they have teachers who are innovative, creative and have a positive attitude.

Turitto has taught special education in Bismarck for ten years. She is a firm believer in the integrated approach to teaching the handicapped. All of her students at Saxvik are currently mainstreamed into 'regular' education classrooms for a part of their day. Turitto says, "It's more work because I have to help the classroom teacher with modified lesson plans and discipline problems, but I've seen the benefits, and it's worth it!" Saxvik is one of several public schools in Bismarck that is involved in a pilot integration program through the Department of Public Instruction.

Jack Bye, the executive director of the Association for Retarded Citizens, says mandatory education for all handicapped people has always been a main focus of the group. He says the A.R.C. recognizes teachers like Gina because of it's belief that education is the key to unlocking the potential of handicapped citizens.

Turitto's name and others were submitted to the state association by local A.R.C. units. Candidates for the award were judged on the basis of three criteria: a positive influence, attitude and thinking regarding the education of persons with mental retardation; a willingness to assist in the Association's goal of providing full educational opportunities for all mentally retarded citizens; and a significant involvement with parents and others in the educational process.

Turitto will be presented with the North Dakota Teacher of the Year award at the state A.R.C. convention Friday, November 10 at 6:30 p.m. at the Ramada Inn in Grand Forks.

RURAL AMERICA'S WAR ON DRUGS

Mr. PRESSLER. Mr. President, last week the Senate unanimously passed the 1989 National Drug Control Strategy bill. I am pleased that the rural drug problem was addressed in the drug bill. I am hopeful that certain provisions directed at rural States such as South Dakota will remain part of the package when the bill comes out of conference committee.

In particular, the Biden amendment to the Drug Control Strategy Act calls for each State to have a minimum of 10 Drug Enforcement Administration [DEA] special agents. My home State of South Dakota has a total of four DEA agents. According to the South Dakota attorney general, the most needed resource is personnel to work on drug-related crime. Additional personnel are needed in the areas of training, intelligence collection, analysis and dissemination of drug-related information, and the establishment of multijurisdictional drug task forces.

The Biden amendment would provide more of the Federal resources South Dakota needs to effectively combat the rural drug problem. The Biden amendment is a step in the right direction toward solving the rural drug problem in South Dakota. Therefore, I urge the Senate and House conferees to protect this provision.

ETHANOL BASED FUEL ADDITIVE-ETBE FUEL OF THE FUTURE

Mr. DOLE. Mr. President, America is at a crossroads. As we approach the 21st century, we must look to our own energy resources in order to remain strong. This year we have an opportunity to send a strong signal that the United States is committed to further development of alternative fuels that will strengthen this Nation by reducing foreign oil imports.

As all my colleagues know, oil imports are on the rise. Nearly 50 percent of the total deliveries in the United States are imports. It doesn't take an expert to understand that we are reaching the dangerous levels of 1973 and 1979 when OPEC was first able to affect gas supplies through painful oil embargoes. We must look to America first in the development of a secure, domestic energy supply.

Mr. President, I have been a supporter of alternative fuels for many years. In particular oxygenated fuels, such as ethanol blends, show great promise in reducing our dangerous reliance on foreign oil imports. Ethanol development will enable the United States to never again be dependent on OPEC.

At the same time, we have a unique opportunity to address and contribute in a positive way to environmental protection and economic development of our depressed rural, agricultural areas.

American farmers will see new markets for agricultural products, including increased demand for millions of bushels of corn used in ethanol production. In addition, rural communities, dependent on the health and well-being of American agriculture, will see economic benefits as well.

American consumers will have available a high-performance fuel additive that will reduce air pollution, improve our balance of trade, and reduce Fedral Farm Program costs.

Cities in nonattainment with Federal air pollution standards will see lower ozone levels and dramatically reduced hydrocarbon aromatics levels with ethanol blends.

Mr. President, I recently received an interesting article from Secretary of Agriculture Clayton Yeutter. It is a clear and concise description of a new ethanol-based fuel additive, ETBE. ETBE is an improvement on gasahol in several areas. First, it is easier to transport to gas stations because it extracts less water in the pipeline unlike straight gasoline.

Second, ETBE is lower in oxygen content than gasoline and has the potential to significantly boost octane ratings for fuel and as a result provide higher performance levels for automobiles. Also, because it is less volatile, ETBE offers the U.S. refining industry

a way to sell butane. ETBE burns butane more efficiently and can meet EPA's strict air quality standards.

On October 4 the Senate Finance Committee approved an amendment which would clarify the blenders tax credit and provide that ethanol use in the manufacturer of ETBE would qualify for the Federal alcohol fuels credit. I believe it was the intent of Congress when the alcohol fuels credit was established in 1980 that the credit apply to new and perhaps unforseen ethanol fuel uses. This clarification is necessary for the commercialization of ETBE.

Mr. President, it is not often that one product can provide so many benefits. It is absolutely irresponsible to wait until a crisis is at hand. The benefits of an alternative fuels policy for America are clear: A stable and secure domestically produced energy supply; jobs and economic development for thousands of rural Americans; and cleaner air for our urban areas suffering from the threat of federally imposed sanctions for failure to meet ambient air standards.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Wallaces Farmer, Aug. 8, 1989]

NEW ETHANOL-BASED FUEL ADDITIVE SHOWS PROMISE

(By Jake Jacobsen)

A massive new demand for corn could be on the horizon. An estimate of that demand has been put at 3.3 billion bushels annually. This potential demand springs from the development of a new ethanol-based fuel additive.

The people who are working to develop the potential for that new demand are chemists, microbiologists, oil refiners, automobile engineers, bankers, lawyers, salesmen, and farmers.

The company in the Plains developing this new product which uses corn to make alcohol describes its efforts in Nebraska and Kansas as "building a bridge between agriculture and petroleum refining."

And as always, the politicians are also at work—even in Washington. President George Bush came to Nebraska to gain stature as an environmentalist. But why Nebraska? He could have gone to Chicago, Los Angeles, New York, or just about any other major city for a political statement about his commitment to clean air.

Audiences would have been larger. They're the folks choking on polluted air—not us.

Bill Wells, president of American Eagle Fuels, believes President Bush came to Lincoln, Nebr., because Wells's company has a gasoline additive that will help the President make good on his commitment to clean air.

And judging by the speech that Bush made, the President was grateful to Wells for the new product—ETBE or ethyl tertiary butyl ether. He mentioned the product many times in his speech, and said he wanted ETBE to become a household word.

Okay. ETBE needs ethanol and a substance called isobutane to become a household word. Nebraska has a lot of corn and a stable supply due to irrigation for providing the ethanol. Kansas is the third largest producer of butane for making isobutane behind Texas and Louisiana. And both Kansas and Nebraska have the cattle to consume the high-protein byproduct of ethanol production.

One other ingredient is required. It's a bacteria called Zymomonas mobilis which ferments grains. A special strain of this bacteria is needed, and it comes from the University of Queensland in St. Lucia, Australia.

Brewers make strong beer with this bacteria. It has an advantage over yeast because there is a greater yield of alcohol. American Eagle's Wells points out that by using the bacteria, 10% more alcohol is produced over conventional bacteriums used.

One and one-half years ago Wells, who hails from Texas and has a PhD in inorganic chemistry from the University of Texas-Austin, and others involved in bio and chemical technology made their decision that Nebraska was the place to introduce the bacteria. American Eagle Fuels owns the rights to use Zymomonas in making ETBE anywhere in the world.

Not only does Wells point out that Nebraska has the corn and Kansas the butane, but "Nebraskans have a history of doing things new," he says, "It was here that the first tax credit was granted for corn-based alcohol fuel." That was 15 years ago. Today, Wells says he feels that his company has the product that will make the most sense in the nation's energy mix going into the 21st Century.

And he hopes ETBE will certainly become a household word. As the new product was on the lips of George Bush in June, so it is hoped by Wells's company that ETBE will also soon be on the lips of everyone who burns gasoline or diesel fuel.

But promises, hopes, and reality in the ag world have come and gone. Ethanol and gasohol-blended gasolines have certainly had a stormy battle helping to fuel America's automobile energy needs.

Signs at gas stations announcing that their fuel is alcohol free still abound, even in major corn-producing areas. Automobile manufacturers still blame alcohol-blended fuel for vapor lock in engines, especially fuel-injected ones. Many people argue that it takes more energy to produce ethanol from corn than is produced.

Despite this, gasohol has managed to carve out a respectable market share. Americans pump 100 billion gallons of gasoline a year. Contained in those gallons are 116 million gallons of ethanol. Also in the total market are 100 million gallons of another fuel additive—MTBE, which is made from cheap natural gas imported into the US.

According to Wells, the critics of gasohol, as it's now made from ethanol distilled from grains, are off base. "Several years ago the federal government commissioned a scientific look at the energy required to produce ethanol and the energy the process yielded," he explains.

"It was concluded that if you took in the value of the by-products for cattle feed and the carbon dioxide produced that was readily available to plants, it was an efficient process."

On the question of vapor lock, Wells concedes that's a problem. But he also points out that car manufacturers in designing fuel-injected engines have engineered systems that often return up to 80% of the gasoline to the tank for reuse. "That gas can get awfully hot," points out Wells. "No wonder vapor lock can be a problem."

As for gas stations starting wars with each other as to which gas is better—gasohol or no-alcohol gas—Wells says. "It's the nature of a competitive business.

"Most stations are independents these days. If their supplier isn't buying gasohol from a refiner and the competition across the street is and selling if for the cheaper price, it's natural that competitive forces are going to lead to bad mouthing gasohol."

But according to Wells, the lack of gasohol supplies is exactly what causes a lot of commotion.

ETBE could solve a major problem for refiners and help deliver more ethanol-based gas to stations, claims Wells. "The problem with transporting gasohol in pipe-lines is that it has a higher oxygen content than straight gasoline. It tends to extract water in the pipeline and there's a problem with vaporization."

Wells's company and the Environmental Protection Agency (EPA) have produced test results showing that ETBE has a lower oxygen content compared to gasohol. "This would make ETBE an attractive blend for refiners," believes Wells. "It would also solve another problem dealing with octane."

The president of American Eagle Fuels says that because ETBE uses ether in its make-up and is lower in oxygen content than either gasohol or MTBE, the potential for higher octane ratings is there. "Not only would ETBE help build a bridge between agriculture and the refining industry, but there's a potential for a bridge to the auto industry as well," says Wells. "It's no secret that what sells cars in the US market is high performance.

"Since engines have been built to perform without lead, a lot of that potential for increased performance has gone by the wayside. I feel that there is the possibility for ETBE to boost octane ratings and help car manufacturers sell increased performance."

Another bonus to ETBE, says Wells, is that because it's less voltitle it offers a way for the refining industry to sell expensive butane. Butane is a by-product of refining and under current strict anti-pollution regulations, it's difficult to put it back into gasoline. But according to test data. ETBE burns butane efficiently enough to meet tight air quality standards.

Refiners have also been adding what are called aromatics and oilfins (a highly combustible by-product) to up octane ratings. But the EPA is set to come down hard on the octane boosters because they are a leading cause of smog. One of three compounds, benzene, is cance-causing. Because the ether in ETBE, octaner could be boosted without blending so many of these potentially dangerous additives into gasoline. The auto and refining industries would be helped in meeting the standards set in the President's newly proposed Clean Air Act.

But ag, auto, and oil industries have too often been at odds, adds Wells. In his business role of bringing diverse groups together. Wells points out, "It has been tough selling a big refiner on a product such as gasohol when you've driven tractors into the refiner's headquarters and demanded that he use your product.

"ETBE has the potential to help everyone solve a problem and offer them something better."

Does that mean that Wells is sending a very pointed message to the gasohol indus-

try for adjusting its approach to ethanol's mix in the energy market of the future? "Yes, it does," he says.

It's no secret that American Eagle Fuels and its president have battled in the past for a share of Nebraska Corn Board check-off dollars.

Despite the political infighting that has gone on between varied interests in the ethanol industry, one independent point of view has been made very clear. The EPA, which is charged with implementing new clean air standards, is extremely interested in ETBE.

It has already given the go-ahead to a 13 percent ETBE blend in gasoline. American Eagle Fuels feels that its new product can be blended as high as 23 percent with gasoline for maximum benefits. The EPA is reserving judgment until tests with car fleets in day-to-day driving conditions are tabulated.

This is being arranged by the company. Also being negotiated with the government is the blended-fuel tax credit which would make ETBE an attractive price alternative to straight gasoline as gasohol now is.

Wells has publicly pointed out that if the tax credit is given and the EPA gives the okay to a 23 percent ETBE blend, this would open a potential market for 3.3 billion bushels of corn being distilled for ethaels of corn being distilled for ethnol ETBE each year. That is if the 100 billion gallons of gas pumped by us had an ETBE additive.

That's a big "if" concedes Wells. Not that he isn't confident that the EPA and the tax people will give his company's product the green light.

But it's going to take forceful mandate by the President to set the regulations which would give an advantage to ETBE into motion. The big question is will that mandate come following the politically generated excitement caused by President Bush's visit to the Plains?

At least one sign from Washington points that it will come. And the direction is pointing towards ETBE and corn. Following the President's flying visit to Nebraska, a report was made to Congress by the Federal Government's Office of Technology Assessment (OTA). The gist of the report stated that the Administration's proposals for clean air would fail if a policy relying on "compressed natural gas and methanol" were followed.

The OTA study presented to Congress further stated that replacing gasoline with ethanol's competitor—methanol—would be the most expensive way to clean up air pollution.

The cost would be about $30,000/ton of air pollutants removed via methanol-blended gasoline versus $425/ton for less volatile gasolines, says the OTA.

Less volatile gasoline is what ethanol is and has been about. ETBE is an even less volatile additive, according to reports filed by the EPA.

Wells explains that he's not sure if the political process will move towards ETBE, but adds, "While President Bush was Vice President he was in charge of deregulation.

"Getting government off people's backs" was his mandate. Slapping the oil refining industry and auto makers with new clean air rules no doubt smacks of regulation. But this is a new mandate we're faced with. Our balance of trade deficit is huge. Imported oil will become an increasingly large share of that deficit.

"Clean air is becoming a rapidly shrinking renewable resource due to automobiles in our major cities. Corn is our most abundant renewable resource. I believe that ethanol and ETBE can harness that resource to renew our polluted air and help regenerate our trade deficit. Eliminating our dependence on foreign oil, and paying farmers a fair market price for growing fuel, should be a mandate that will help us clean up the air."

Now it's up to President Bush.

FARMERS USING ALCOHOL FUELS

While the nation debates the increased use of alcohol fuels for future energy needs, a number of Nebraska producers have been burning pure alcohol in various engines. The results have been good, they report.

The following producers agreed to install injection units on a variety of diesel engines. The engine trials were part of a cooperative effort between the Nebraska Wheat Growers Association and Nebraska's Central Community College.

In Imperial, Jim Haarberg has a 235 hp engine which, when fueled by diesel, pumps 1400 gal. of water per minute.

"With alcohol injection the Well's output has increased by about 175 gal./minute," says Haarberg. "Engine temperature has dropped 3 to 5 degrees. The engine runs smoother and the exhaust smoke problem has cleared up when burning alcohol."

At McCook, Ron Friehe, reports that his semi-tractor has considerably better fuel consumption with alcohol—5.05 mpg versus 4.2 mpg. He also says exhaust temperature is lower—1000° compared to 1100° when burning diesel.

Also in McCook, Randy Peters states that his 4-WD tractor with a 505 cu. in. engine runs more efficiently with alcohol.

"My tractor also has more lugging power," says Peters. "The exhaust temperature is 50 degrees cooler.

"In 250 hours of testing we've replaced burning 3 gal. of diesel fuel an hour with 3 gal. of alcohol. Our productivity has increased by two acres more an hour."

From Gurley, Leon Kriesel also notes he has improved performance with alcohol burned in his IHC 3588 4-WD tractor engine.

"There's noticeable pickup in the engine speed and power," says Kriesel. "The rpm range has gone up from around 2300 to around 2400.

"My fuel-savings figures come out about equal. The increase in performance is the strong point. With the alcohol, the engine works easier."

STATIC ENGINE TESTS OF LOW-PERCENTAGE BLENDS OF ETHYL TERTIARY-BUTYL ETHER (ETBE) IN GASOLINE

(By Peter E. Jenkins, University of Nebraska-Lincoln and William J. Wells and Calvin T. Harling, American Eagle Fuels, Inc.)

Interest in ethyl tertiary-butyl ether, ETBE, as a gasoline blending component has grown among refiners for a variety of reasons. Compared to the similar methyl tertiary-butyl ether, MTBE, it has been reported to have higher octane response, lower volatility and blending vapor pressure, lower water solubility, equivalent or better distillation curve response, and higher caloric content per gallon. Under the "substantially similar" EPA ruling, aliphatic ethers up to 2.0 weight percent oxygen may be present in unleaded gasolines, corresponding to 12.7 percent ETBE versus only 11 percent MTBE. Made from the reaction of ethanol and isobutylene, stoichiometry indicates only a 9 percent shrinkage or reactants volume compared to 13 percent for MTBE and 20 percent for alkylate, these being the most likely and highest value alternatives for isobutylene utilization. Unlike the ethanol it is made from, ETBE could be shipped on pipelines and will lower the vapor pressure of gasoline it is blended into rather than raise it.

Environmental considerations for ETBE are also important. Oxygenate blends are required in winter months in both Denver and Phoenix, and other cities may follow. The substantial vapor pressure lowering of ETBE compared to both ethanol and MTBE is a positive step, but equivalent carbon monoxide exhaust reduction to 10 percent ethanol would require a 22 percent ETBE blend, both being about 3.5 weight percent oxygen. This is beyond the level permitted by the "substantially similar" ruling and would require a 211.F waiver to the Clean Air Act.

In order to determine the performance and combustion characteristics of ETBE blends to ascertain whether they make suitable fuels for spark ignited (SI) engines, static engine tests are needed to determine octane response, exhaust emissions profiles, and fuel economy. We report here, for a variety of low-percentage ETBE blends in Indolene and in-use gasolines, results of research and motor octane determinations, as well as engine performance data obtained from dynamometer studies.

PROJECT SUMMARY—ETBE PHYSICAL PROPERTIES AND ENGINE TESTING

ETBE DESCRIPTION

As documented in the supporting attachments, a new entrant in the octane race, ethyl tertiary-butyl ether or ETBE, holds great promise to become an important and highly valued component of motor gasoline in the near future. As either derivative of ethanol, this product would be initially sought for use in high quality super premium gasoline, a rapidly growing market segment currently excluded to traditional gasohol by the major oil companies in favor of a methanol derivative, MTBE. ETBE has similar octane response compared to ethanol, but has two important improvements: (1) blends of ETBE do not separate from gasoline when exposed to water, and (2) blends of ETBE lower significantly the vapor pressure of the base gasoline. Not only would refiners have a method of refinery blending ethanol and shipping it through pipelines, the vapor pressure lowering also allows blending of additional low cost and high octane butane, a pressuring agent normally restricted to winter months. Pricing for ETBE, and the ethanol contained in it, would be at octane value plus a butane credit. This contrasts with ethanol in gasohol, which is sold today at a discount to improve margins.

CLEAN AIR IMPLICATIONS

Use of oxygenates in mandate programs for Clean Air Act attainment of carbon monoxide standards (Denver, Phoenix) is also on the rise, but MTBE has captured nearly all of this market from ethanol as well. Not only is the fungible nature of MTBE cited as well as its greater availability and ease of transportation through pipelines, but also the slight vapor pressure elevation of ethanol blends which allegedly leads to increased evaporative emissions and atmospheric ozone levels is claimed as reason to prefer MTBE. This is unfortunate, because at 10 percent ethanol, gasoline contains in excess of 3.5 weight percent oxygen,

giving considerably more carbon monoxide reduction than the maximum allowable 11% MTBE at only 2.0% oxygen. Supply restrictions usually hold MTBE concentrations to 5-10% in these programs, although future maximum oxygen levels will tend to push these percentages up. Even if the new waiver for 15% MTBE is allowed, this would give only 2.7% oxygen and would put an impossible strain on short MTBE supplies caused by methanol unavailability.

ETBE SOLUTION

The best solution seems to be 22% ETBE blends. These dramatically lower the vapor pressure while providing 3.5% oxygen. The ethanol contained in a 22% blend is that of conventional 10% gasohol, but without the demerits of phase separation and vapor pressure increase. Most importantly, there is no shortage of grain, now and in the future, to make the ethanol required. Under current law, however, aliphatic ethers such as ETBE can only be added to gasoline up to 2.0% oxygen. This corresponds to 12.7% ETBE. A waiver to the Clean Air Act would have to be obtained to allow 22% ETBE blends.

PRELIMINARY EVALUATION NEEDED

Considerable data will have to be gathered to have a successful waiver application. Before the most expensive tests are run, the 50,000 mile emissions system durability fleet tests, one must verify the physical properties and engine combustion characteristics of ETBE and its blends to confirm its benefits. The budget which follows estimates the costs for these vital preliminary investigations, which are listed in chronological order.

CONCLUSION

In summary, ETBE represents not only a growth market for fuel ethanol and the grain to produce it, but also the first clear pathway for ethanol to be sold into gasoline at octane value; that is, the price of gasoline plus a premium, instead of minus a discount. The track record of MTBE contract pricing will be plain to investing institutions, and even if ETBE were no better than MTBE it would receive similar pricing, making investment in new grain ethanol plants attractive. In fact, as we hope to conclusively demonstrate with this research program, ETBE is probably superior to MTBE in terms of solubility in water, octane improvement, volumetric shrinkage of reactants, vapor pressure lowering, distillation curve response, and materials compatibility. All these should add to a greater value for grain ethanol received in the form of ETBE as compared to either MTBE or fuel grade ethanol for gasohol.

FUTURE STUDIES

The separate issue of economics; whether regarding applicability of the Blender Tax Credit, improved ethanol yields through bacterial fermentation, or relative value of ethanol vs. methanol to ether manufacturers and users; is beyond the scope of this study and will be part of other investigations. Also, fleet tests will be part of other investigations. Also, fleet tests will be necessary once these preliminary examinations are completed.

[American Eagle Fuels, Inc., Lincoln, NE, June 13, 1989]

EXECUTIVE BRIEFING ON ETBE AND ITS CLEAN AIR IMPLICATIONS

American Eagle Fuels is a unique partnership of government and industry. The State of Nebraska owns 49% of our company, the funds for their investment having come from a special voluntary corn check-off program. Additional support of our work has been provided by the State's corn producers as a grant. The State University here in Lincoln has also been helpful at every turn, the most visible of the efforts being executed by Professor Jenkins.

Our research and development efforts have had two goals; first, to lower the production costs of grain derived ethanol; and secondly, to improve the value received for that ethanol. To achieve the first objective, we have been developing, at our own small ethanol plant near Eagle, Nebraska, a grain fermentation process that uses a naturally selected species of bacteria instead of the usual yeast. The base technology comes from the University of Queensland in Australia, and the Animal Sciences Department here at this University performed important animal feeding studies on the protein-rich by-product distillers grains. The alcohol produced by this process is in high yield and exceptionally pure, making it ideal for further processing into ethanol derivatives, which brings us to the second part of our work.

To increase the value of ethanol, we have been developing a process to convert it from an alcohol to an ether, making it more compatible with gasoline and fuel delivery systems. This ether is ethyl tertiary-butyl ether, or ETBE for short. We have simply grafted the ethanol molecule to a common chemical found in petroleum refineries, isobutylene. The result is a clean burning, oxygenated gasoline component with high octane and low vapor pressure. ETBE can be blended with gasoline, shipped on product pipelines and stored in terminals without fear of phase separation through water contact. Our process development has been assisted by Dr. William Scheller, also a professor here in Lincoln acknowledged as the "Father of Gasohol," and by the Rohm and Haas Company, who has donated catalyst and technical support.

We have also performed many tests on ETBE, and we have come to understand that it will be as useful in improving urban air quality as it will in providing an enormous new outlet for domestic surpluses of grain and butane, which in turn can be converted to isobutylene. Use of these surpluses materials in our gasoline pool could reduce our balance of payments, reduce our dependency on imported crude oil, and reduce federal farm support program costs. As a Texan from an oil and gas producing and refining town, I understand the importance of combining ethanol with surplus butane from the natural gas and petroleum refining industries.

In the clean air area, it is well known that an oxygenated gasoline blend, containing about 3.5% oxygen in the form of alcohols or ethers, will reduce exhaust emissions of carbon monoxide by 20 to 30%, and reduce exhaust emissions of unburned hydrocarbons, which are precursors to harmful ground level ozone, by 10 to 15%. A 22% blend of ETBE delivers this oxygen level, but also much more. Its low blending vapor pressure of only 4 psi will reduce gasoline volatility by 10 to 15%, cutting down evaporative emissions and helping refiners meet EPA's new low volatility standards, while increasing their available octane to cover the loss of toxic lead from the gasoline pool. Also, as refiners remove high pressure butane from gasoline in order to meet the new standards, processing with ethanol to make ETBE will be a way to add butane back into the pool in an environmentally sound manner.

Importantly, 22% ETBE will substitute for as much as 60 to 70% of the aromatics or olefins currently in gasoline. Both of these are highly photochemically reactive, and olefins are implicated in fuel injector plugging, which leads to decreased efficiency and more unburned fuel emissions. Aromatics are toxic in their own right, and they lead to formation of the carcinogen benzene in the exhaust.

Finally, there is a net positive greenhouse gas benefit for fuel use of ethanol or its derivatives such as ETBE, due to consumption of carbon dioxide during photosynthesis of the grain growing plant.

A summary of the clean air benefits attributable to 22% ETBE blends are shown on the chart to your left.

We hope that this brief sketch has illustrated the important role which ETBE can play in energy security, farm jobs, grain and gas liquids utilization, gasoline octane enhancement and quality improvement, and most importantly—assistance in attainment of national clean air quality standards.

ARMENIAN GENOCIDE RESOLUTION

Mr. PRESSLER. Mr. President, last week I joined Senator DOLE and more than 50 other Members of this distinguished Chamber in introducing Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-23."

Since that time, several additional Senators have been added as cosponsors. Unfortunately, several Senators have withdrawn their cosponsorship of this worthwhile resolution. I am aware of an intensive lobbying effort by Turkey against the resolution. That lobbying has taken various forms, including telegrams and letters to Senators from Turkish-American groups and American corporations with business interests in Turkey.

The principal allegations of those who are lobbying us are: First, the Armenian Genocide did not occur; second, the Armenian Genocide resolution is an unbearable insult to our Turkish allies; and third, enactment of the resolution will destroy our mutual defense and economic relationships with Turkey.

Mr. President, these assertions are false. First, the Armenian Genocide is an historical fact of the Ottoman Empire. The reality of that genocide is well documented in contemporary eyewitness accounts. Second, the resolution refers not to misdeeds of the Republic of Turkey, but to actions of the antecedent Ottoman regime. It is no insult to modern Turkey. Third, enactment of the resolution could destroy our close relationships with Turkey only if Turkey deliberately chose to break its ties with our Nation. I cannot believe that a reliable ally would choose to do such a thing.

It is unfortunate that the politicians in Ankara have chosen their present course of action against the Armenian Genocide resolution. Instead of putting this issue to rest by a simple recognition of the historical fact, as Senate Joint Resolution 212 does, Turkish politicians and their allies deny the reality of the genocide and threaten dire consequences if Congress passes the resolution.

Turkey would do itself much good by dropping its antagonism toward the Armenian Genocide resolution. Acceptance of historical facts would not blemish the character or image of Turkey. Continued denial of those facts is injurious to world perceptions of Turkey. The world would respect Turkey more if its leaders stopped trying to obscure the awful crimes committed against Armenians by the long defunct Ottoman empire.

Mr. President, I urge Senators to cosponsor Senate Joint Resolution 212 and to encourage the Judiciary Committee to report it promptly for Senate floor action this year.

Remembrance of the slaughter of 1.5 million Ottoman-era Armenians is a positive step. It reaffirms the high value the American people place on respect for human rights and the dignity and worth of each individual human being.

DEXTER GUNDERSON

Mr. PRESSLER. Mr. President, I rise today to pay special tribute to a fellow South Dakotan, Dexter Gunderson, who unselfishly spent part of his life serving South Dakotans as State Director of the Farmers Home Administration [FmHA].

Anyone who is familiar with FmHA knows that proper administration of FmHA programs is crucial to the economy of a state like South Dakota. Thousands of our farmers and livestock producers are dependent on FmHA financing for funds to operate their farms and ranches. Towns and cities across South Dakota depend on FmHA funding for special needs, such as water and waste systems. Thousands of South Dakotans from all walks of life live in houses and apartments made available because of FmHA funding. FmHA is a vital contributor to South Dakota's overall economy.

Dexter Gunderson guided and administered FmHA programs and policies fairly and effectively during his tenure as State Director. He held his position during the 1980's—a turbulent time in agriculture. High-interest rates, low livestock and commodity prices, sinking real estate values, overproduction, adverse weather conditions, and poor fiscal policies from the preceding decade contributed to desperation in the agricultural community. What was needed was financial leadership that would be unwavering, fair and equitable.

Dexter Gunderson answered the call to duty in a most admirable fashion. He was not content just to fill the position. He always did more than he was asked to do. Dexter gave of himself unselfishly because of his commitment to his state and his fellow South Dakotans. Highly unpopular yet necessary programs and policies were implemented. A less competent leader could not have done what Dexter accomplished in the face of much adversity and public criticism. His abilities and fair administration won Dexter the admiration and support of employees within the state FmHA organization, as well as recognition from national officials.

Mr. President, I quote from a letter sent to the South Dakota FmHA office after an exit review. "The attached composite ratings on the results of the subject review conducted on your State's operations were presented to me at the June 29, 1989 exit conference. I commend you and your staff for the achievements as reflected by the superior ratings given by the Community Programs Division, Business and Industry Division, Personnel Division, and finance office-Financial and Management Analysis Staff. Much work went into these achievements. There were no marginal ratings." This letter was signed by Neal Sox Johnson, Acting Administrator of FmHA in Washington, DC.

As you can, see Dexter Gunderson was commended for a superior performance in the administration of his organization in South Dakota.

I am proud to share my respect and admiration for Dexter Gunderson with my colleagues here in the U.S. Senate. Seldom has a public servant given so much to his fellow man in the face of great adversity.

The state of South Dakota is a better place because of Dexter Gunderson. Words cannot express the appreciation I feel for his past service. I only wish more people would serve their fellow citizens as unselfishly as Dexter has.

SECONDARY SCHOOL RECOGNITION PROGRAM

Mrs. KASSEBAUM. Mr. President, the Department of Education recently announced the selection of 218 schools as award recipients under the Secondary School Recognition Program.

This program honors schools which have attained high standards of educational excellence, and I am especially pleased that three schools from the state of Kansas were selected to receive this award. These schools include Blue Valley High School, Topeka High School, and Leawood Middle School.

Blue Valley High School was commended as being a place where students success and well-being lie at the heart of educational activities. During a time of rapid growth, the school has maintained a 16 to 1 student-teacher ratio, and teachers are actively encouraged to undertake professional development activities. The school has developed systematic, personal home-school communications methods, and parents are very much involved with the education of their children. Participation in activities such as parent conferences averages between 85 and 95 percent.

Topeka High School [THS] was cited as being unusually effectively in serving a large racially and ethnically diverse student population. There is strong student participation in problem solving. Reviewers took particular note of the strong sense of "family" which pervades the school, observing that this is a unique strength for a large urban school. As a one-time member of the THS family, I take a special pleasure in this award.

Leawood Middle School was described by reviewers as "one of the top middle schools in the country." There is strong community support for the school. The response rate to requests for parent volunteers exceeds 50 percent, and participation in activities such as parent conferences is even higher. Both teachers and students arrive early and stay late at school in order to work together on academics and activities.

The common denominator among these three schools is their emphasis on creating a community spirit. They have recognized that the key to success is the active involvement of all parties—students, teachers, parents, administrators, school board members, and community residents. Each participant is seen as an important part of the quest for excellence. Everyone who has contributed to the success of these schools is to be commended and can take enormous pride in the recognition given their efforts by the Department of Education.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:11 p.m., a message from the House of Representatives, delivered by Mr. Bogart, one of its clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2978) to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by Mr. Johnson, one of its clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2087. An act to transfer a certain program with respect to chid abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes;

H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986;

H.R. 2978. An act to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag; and

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILL SIGNED

The PRESIDENT pro tempore [Mr. BYRD] announced that he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

H.R. 3282. An act to amend title 5, United States Code, to authorize the continuation of the peformance management and recognition system through March 31, 1991, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 13, 1989, he had presented to the President of the United States the following enrolled bill:

S. 248. An act to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 1754. A bill to amend the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 1755. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 1754. A bill to amend the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and for other purposes; to the Committee on Environment and Public Works.

SOLID WASTE DISPOSAL ACT AMENDMENTS ACT

Mr. HEINZ. Mr. President, the disposal of solid waste in this Nation has reached a breaking point. In the next 10 years, one-third of our landfill capacity will be full. At the same time, waste generation has increased by 80 percent since 1969. Each of us, on average, throws away 3.6 pounds of garbage every day—enough annually to fill a convoy of 10-ton trucks 145,000 miles long, more than seven times the circumference of the planet.

Currently, around 75 percent of our garbage is deposited in landfills, while 11 percent is recycled and 13 percent is burned in waste-to-energy plants. Despite the imminent collapse of our existing solid waste disposal system, Mr. President, most States have not devised programs to reduce their waste stream or implemented programs to increase recycling of reusable products.

In Pennsylvania, New Jersey, West Virginia, Kentucky, and other States, the problem is more acute. In those States 100 percent of existing landfill capacity will be full—to the brim—in the next 5 years. And many more States will exhaust their landfill capacity in the next 10.

Since we are making far too little progress in reducing the generation of solid waste, these States will shortly have to take extreme steps—siting many new landfills, building tremendous numbers of incineration facilities, or worse, moving the problem to some other State and dumping the waste there.

Last year, Congressman BILL GOODLING and I asked the General Accounting Office to review those Superfund sites which are also sanitary landfills. In my State of Pennsylvania, 24 of our 77 landfills are already Superfund sites and 3 of those have been given permission by the State to expand further. New York, New Jersey, and Wisconsin also had more than 20 Superfund landfills.

Mr. President, the continued generation of solid waste will certainly lead to more landfills. If we continue to exercise haphazard control over where these landfills are sited and allow States to do as they please in managing their waste, I can assure my colleagues that there will be more Superfund sites, in more States.

Today, I am introducing legislation to require each State to create a comprehensive management plan to reduce the growing amount of waste in their own State, and to penalize States that act irresponsibly and try to dump their garbage in their neighbor States.

Under my legislation, the plan which each State must develop and provide to EPA must include:

First, a thorough estimate of the amount of municipal and commercial solid waste and waste residuals generated, by type of waste, projected for the next 20 years.

Second, a clear statement of degree to which recycling and source reduction will affect the volumes.

Third, a comprehensive analysis of the State's capacity to manage the identified wastes and whether the treatment or disposal facility meets current environmental standards.

Fourth, the methods by which the State plans to have new capacity available by their planning dates.

Fifth, the amount of waste the State will accept from other States or send to other States. In addition, each State must certify that based on their State plan and based on any agreements made with other States, they will have adequate capacity to manage all solid waste for the next 20 years.

Further, our legislation deals strongly with those States which do not comply. If a State fails to develop a plan and certification in a timely fashion, or fails to implement its plan, the State could lose a significant portion of its Federal highway funds.

No State may dispose of its waste in interstate commerce without an agreement with the receiving State. Violations of this provision are subject to a $50,000 fine.

And the consent of Congress is given to agreements among States to dispose of solid waste.

Mr. President, I recognize that these requirements are stringent and are intolerable of noncompliance, but we must address—strongly and promptly—a problem that literally threatens to engulf and swamp us. Each year, we must find ways to dispose of over 250 million tons of residential, commercial, and industrial waste. We're almost out of space to put it in, and yet the amount of waste has been increasing, not decreasing.

My legislation provides real incentives and real penalties for States to meet the challenge and get their solid waste problem solved. I urge my colleagues to join us in cosponsoring this legislation.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Solid Waste Disposal Act Amendments Act of 1989".

AMENDMENTS

SEC. 2. (a) Section 4003(a) of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end thereof the following:

"(7)(A) The plan shall include provisions setting forth—

"(i) the amount of municipal and commercial solid waste and waste residuals, which will be generated in such State for the next 20 years, including the types of waste;

"(ii) a clear statement of degree to which recycling and source reduction will affect such amount so generated;

"(iii) the State's existing capacity to manage such amount of waste by treatment or disposal facilities which meet existing environmental standards;

"(iv) the methods by which the State plans to have new capacity available by its planning dates; and

"(v) the amount of solid waste the State will accept from other States or send to other States.

"(B) In any case in which a State, upon the expiration of the 24-month period following the date of the enactment of this paragraph, does not have an approved plan, as modified by the requirements of this paragraph, or fails to submit its certification pursuant to subsection (e), the Secretary of Transportation shall withhold 20 percent of the amount required to be apportioned to such State under each of the paragraphs (1), (2), (5), and (6) of Section 104(b) of title 23, United States Code, for each year that the State fails to have an approved plan, as so modified, or has failed to give such certification.".

(b) Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end thereof the following:

"(e) CERTIFICATION.—(1) Within 24 months following the date of the enactment of this subsection, each State shall certify to the Administrator that such State, based on its plan, or on agreements made with any State or States, or both, will have adequate capacity to manage all solid waste generated in that State for the next following 20 calendar year period following the date of such certification.

"(2) In any case in which a State fails to manage its solid waste in accordance with its plan and certification in any calendar year, the Secretary of Transportation, with respect to the first such calendar year, shall withhold 20 percent of the amount required to be apportioned to such State for the next following calendar year under each of the paragraphs (1), (2), (5), and (6) of section 104(b) of title 23, United States Code. For each calendar year thereafter in which such State so fails, the Secretary shall withhold, from such amount required to be apportioned to such State for the calendar year next following the calendar year in which such failure occurred, a percentage equal to the percentage withheld for the immediately preceding calendar year in which such a withholding took place, plus an additional 20 percent.

"(3) For purposes of this paragraph, a State shall be considered to have failed to manage its solid waste in accordance with its plan and certification, if such State, during any calendar year, is required to transport to another State, for disposal or treatment, an amount of its solid waste generated during such calendar year which is in excess of 20 percent of the aggregate amount of solid waste generated within such State within such year.".

UNLAWFUL TRANSPORTATION OF WASTE

SEC. 3. (a) It is unlawful for any State generating solid waste to transport or cause to be transported such waste in interstate or foreign commerce (as defined in section 10 of title 18, United States Code), unless such generating State is transporting or causing the transportation of such waste under a written agreement such State agrees to accept the waste for treatment or disposal.

(b)(1) The Administrator may issue an order assessing a civil penalty for any violation of subsection (a) in an amount not to exceed $50,000.

(2) The Administrator may commence a civil action for any violation of subsection (a) in any appropriate United States district court for appropriate ruling, including a temporary or permanent injunction.

(c) The consent of the Congress is given to two or more States to negotiate and enter into agreements or compacts not in conflict with any law or treaty of the United States for cooperative efforts and mutual assistance for the management of solid waste, and the approval of Congress is hereby given to any such agreement or compact so entered into.

INTERSTATE COMMERCE COMMISSION JURISDICTION

SEC. 4. The Interstate Commerce Commission, in consultation with the Department of Justice, shall have the responsibility to investigate and review from time to time, interstate operations and agreements involving the transportation, treatment and other disposition of solid waste for the purpose of ensuring lawful operations and agreements.

SANITARY LANDFILLS

SEC. 6. (a) On and after September 20, 1989, no sanitary landfill shall thereafter be established—

(1) within a 50 year floodplain;

(2) within wetlands; or

(3) within 2 miles of a State or national park boundary or a State or national forest boundary, or a State or national wild and scenic river or river study area.

(b) Landfills sited under authority of the Solid Waste Disposal Act shall be required—

(1) to have in place methods to detect and prevent leakage, leaching, or contamination of soils and waters beyond its boundaries;

(2) to show financial responsibility capabilities for damages resulting from its operations;

(3) to have appropriate requirements for source separation and recycling prior to disposal; and

(4) to have appropriate requirements for closure and postclosure care of landfills.

Mr. SPECTER. Mr. President, in the interest of time I shall summarize my approach to this legislation. I am glad to join with my distinguished colleague, Senator HEINZ, in introducing this important landfill legislation. Whenever I travel through my State, in our 67 counties, I find the recurrent problem of landfills.

People of my State receive some 5.5 million tons of solid waste each year from out-of-State, and in a State which has a total remaining capacity estimated at being only 9.5 years, it is expensive. From one end of Pennsylvania to the other these problems of solid waste disposal present an acute environmental problem. Perhaps nowhere in Pennsylvania and perhaps nowhere in the United States is the problem of solid waste disposal more acute than in Scranton, PA.

In response to citizens' requests and citizens complaints about a serious garbage problem in Scranton, I visited there on August 8 of this year and found an absolutely intolerable situation where there were large accumulations of garbage presenting a serious problem to residents of suburban Scranton. There were health and welfare considerations and no realistic means to combat the problem. The difficulty arose because garbage was being imported to Pennsylvania, specifically Scranton, from New Jersey, and under existing constitutional standards for interstate travel there was no way that local government could deal with this problem.

Senator HEINZ and I responded to these concerns, have conferred, and have prepared the legislation which is being introduced today which seeks to present a comprehensive solution, and not only for the problems of Scranton, not only for the problems of Pennsylvania, but for the problems of the country because it is a major nationwide concern, and the solution which we have crafted calls for each State to formulate a comprehensive plan.

To the extent possible, Mr. President, States ought to accommodate their own problems but if that is not feasible then there ought to be a fee charged through the Environmental Protection Agency carefully calculated to reward those locales and those States which solve their own problems and to provide a fund which may compensate States which are recipients of solid waste disposal.

This legislation further calls for enforcement by the loss of moneys from the interstate federal highway fund.

This, let me candidly say, is the beginning of a very complex problem, one which has not been adequately addressed by the Federal Government either in the executive or the legislative branch. This in my judgment is a significant first step forward. I believe we should have hearings on this issue, and we should come to grips with it because it is a major problem confronting our Nation.

Mr. President, if my colleagues could have been in Scranton on August 8 and could have seen the anguish on a large group of citizens assembled there in a town hall on this terrible problem of health and welfare caused by the importation of garbage from a neighboring State, New Jersey, and if my colleagues could have heard the complaints which I have heard across my State, and doubtless many have in their States, they would realize, as Senator HEINZ and I have that this is a problem that must be addressed.

Mr. President, in the interest of time, I ask unanimous consent that my prepared statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR ARLEN SPECTER TO AMEND THE SOLID WASTE DISPOSAL ACT

Mr. President, today my colleague from Pennsylvania, Senator Heinz, and I introduce legislation to devise a fair and workable solution for the nation's solid waste disposal problems.

Across the country states are experiencing the acute impact of dwindling landfill capacity and limited means to provide adequate alternative methods of disposal. As a consequence, some states no longer possessing adequate capacity, have opted for the more economical solution of shipping large quantities of their solid waste to cheaper out-of-state landfills, instead of incurring the increased costs associated with establishing new local facilities. This has given rise to the significant legal challenge of finding equitable procedures for the regulation of interstate transportation of solid waste. If a solution is not found soon, landfill shortages very likely will begin emerging throughout entire regions of this country with dire social and environmental results.

For this reason, Mr. President, we are introducing legislation which provides incentives for states to devise realistic long-term plans for handling the disposal of solid waste.

Our bill requires states to update their present solid waste management plans and provide estimates as to the amount of municipal and commercial waste they expect to generate in the next 20 years. The new plans also must contain a comprehensive review of existing landfill capacity and methods, including export of garbage, for disposing of excess waste. Each state will have 24 months, after the date of enactment, to file an amended plan with the Environmental Protection Agency in which it will certify that based on its plan, or on agreement made with any state or states, that it has made adequate provisions to manage its solid waste disposal for the next 20 years.

The legal precedent for such an approach is clear. If a state has an approved plan for complying with minimum waste disposal requirements as set forth in the Resource Conservation and Recovery Act (RCRA), then the state has a priority obligation to ensure that it adheres to its plan. Local landfills receiving out-of-state waste jeopardizes the state's ability to operate within its plan, and in turn risks noncompliance with federal standards. Federal legislation would serve the purpose of imposing penalties on those states circumventing RCRA requirements and encourage them to find solutions which do not inhibit other states' abilities to adhere to their plans.

This bill contains what I believe to be a sensible approach to the challenge of finding penalties and incentives which are fair to all states. Accordingly, Senator Heinz and I advocate the imposition of a fee, to be determined by the Environmental Protection Agency, which will be imposed on each state for every ton of solid waste it exports. The fee will provide an incentive for states to find local solutions for their trash problem. Proceeds from the fee will be used to partially compensate those states receiving another state's solid waste. Another incentive called for in this legislation will be the threat of withholding highway money from those states which fail to manage their solid waste disposal in accordance with their federally certified plan.

Mr. President, we face a serious problem. Yet it is a problem which does not lack solutions. I applaud the laws and regulations already enacted by some states that are resulting in an environmentally sound and economically efficient combination of recycling, landfilling, and incineration in much the same manner as recommended by the Environmental Protection Agency as national policy.

That being the case, why do we find it necessary to propose legislation to set national standards for waste disposal? This legislation is necessary, Mr. President, because Pennsylvania and similarly situated states find that implemention of their own carefully constructed waste management plans is threatened by the burden imposed on them by disproportionate amounts of solid waste being transshipped from other states.

According to Commonwealth of Pennsylvania reports, approximately nine million tons of municipal solid waste are generated in state per year, of which one million tons are shipped out-of-state. Pennsylvania landfills now receive approximately 5.5 million tons of solid waste per year from out-of-state sources. At this rate, Pennsylvania estimates state landfills have approximately 9.5 years of capacity remaining. These alarming statistics reflect the difficulty Pennsylvania faces in implementing the recycling legislation enacted in the state last year to provide for solid waste planning.

The state legislation mandates recycling by counties and provides state funding for municipalities to achieve their recycling goals. Under the new law, at least 25 percent of all municipal waste in the Commonwealth must be recycled by January 1, 1997. Yet, how can the State of Pennsylvania, and states in similar situations, have confidence in these plans when their goals and guidelines are being undermined by the increasing accumulation of out-of-state garbage?

Mr. President, I am personally familiar with the anxiety that the landfill crisis provokes in local communities. On August 8, I met with Lackawanna County officials, envionmental group representatives, and many area residents at the Keyser Valley Community Center in Scranton, Pennsylvania, to discuss the solid waste issue. At that meeting, I heard first-hand the deep concerns expressed by area residents, and we discussed possible solutions to this problem.

One approach was the creation of an interstate compact involving Pennsylvania, New York, and New Jersey to address the tri-state area's trash disposal problems. At that meeting, I indicated that I would explore the regional concept as it related to solid waste disposal.

After circulating the draft compact proposal to local interested parties, I received an analysis on August 15 from representatives of a local enviromental group, Citizens Alert Regarding the Environment (CARE). CARE reported that the "compact proposal is fine and every proposal that is made is a step forward," while urging that the concept be expanded to place the responsibility for waste disposal on those states exporting solid waste. Thus, the bill we introduce today not only incorporates the original interstate compact initiative, but also includes a broader approach to better define the states' individual responsibilities in addressing the solid waste disposal problem.

Our legislation will authorize the establishment of interstate compacts that will enable states to come together and forge mutually acceptable cooperative solutions to this problem. The creation of such compacts also will address the need for states to reach agreements on the current and evolving methods for waste management. Today, approximately 76 percent of the nation's garbage is deposited in landfills while 11 percent is recycled and 13 percent is burned in waste-to-energy plants or incinerators. While these source reduction efforts are helpful, we must face the fact that landfills are and will be a necessary part of our future because not all waste can be recycled or burned. The formation of interstate compacts can help states collectively plan for the most efficient mix of source reduction methods and landfills.

One example of the use of compacts, as my colleagues are aware, was the enactment of "Low-Level Radioactive Waste Policy Act Amendments" implemented in 1985 to tackle similar problems associated with the disposal of low-level radioactive waste. The advantage of such an approach is that states ultimately would see it as more economical, and also manageable, for regional groupings of states collectively to devise solid waste disposal programs than for states to follow independent plans. Given the many differences in solid waste generation and available landfills from state to state, I believe this to be the only reasonable approach. Thus, the bill we are introducing today contains, as I mentioned earlier, incentives in the form of fees charged on waste transported out-of-state in excess of a state's adopted plan.

As my colleagues are aware, previous attempts to regulate trash disposal have not been very successful. For example, the Supreme Court in *City of Philadelphia* v. *New Jersey* (437 U.S. 617 [1978]) found that it was unconstitutional for states to adopt statutes that closed their borders to the importation of solid waste. The Court held that trash, although it has no inherent value, constitutes a commodity. Thus, it would be a violation of the Commerce Clause for states to restrict access to their landfills from out-of-state muncipalities. Nevertheless, the theory behind this decision is that states should not enact laws to isolate themselves from national problems, which points to the need for federal guidelines and procedures for solid waste disposal that are monitored by a federal agency. In the bill Senator Heinz and I are introducing today, the Interstate Commerce Commission will be charged with oversight authority to monitor states' compliance with federal guidelines.

Mr. President, some of my colleagues from states less affected by trash disposal problems may question the need for a federal solution to what they see as a local problem. The facts, however, clearly reflect the rapidly worsening situation arising from insufficient landfill capacity and its threat to the environment.

The Environmental Protection Agency estimates that there were almost 6,000 municipal solid waste landfills in operation nationwide in 1988. Of those, more than 2,000, or one-third, are scheduled to be closed within four years. The U.S. Conference of Mayors also estimated that more than half of our cities will have exhausted their landfill capacity within the next ten years.

Information obtained from the National Solid Waste Management Association (NSWMA) cites three cases in densely popu-

lated Northeastern States which further highlight the problem:

"By 1995, according to the New York State Legislative Commission on Solid Waste Management, all landfills currently operating within that state will reach their capacity and close. Since 1982, in fact, the number of facilities has declined from 500 to fewer than 270, while only one interim site has been opened.

"Since 1976, the number of landfills in New Jersey has decreased from more than 300 to fewer than 100, 12 of which provide over 90 percent of the state's remaining capacity. Faced with what the National Solid Waste Management Association terms "an acute shortage of disposal space." 11 counties must send their garbage to out-of-state facilities. Over half the state's refuse is presently "exported" to other regions.

"Officials at the Connecticut Department of Environmental Protection have calculated that most of the state's landfills can operate for only two more years. Already, 50 percent of all solid waste in the state is deposited in only nine major facilities."

This impending shortage appears even more problematic given trends in the composition of household refuse—increased use of non-biodegradable plastics and other artificial materials which take up valuable disposal space. Records indicate that Americans throw away almost 160 million tons of trash each year, or nearly 3.6 pounds per person daily. Some experts predict that this trend will increase to six pounds per day by the end of the century.

Mr. President, it would not be productive to point a finger at other states and municipalities with solid waste disposal problems. As I described earlier, Pennsylvania faces acute landfill shortages of its own. The pervasive national dimension of this impending crisis suggests that a passive response which assumes the problem will work itself out at the state level is patently insufficient. Current national capacity is so limited that one state's crisis today will most certainly become its neighbor's tomorrow. One solution is to encourage states to coordinate their solid waste disposal plans, which is the basis of the legislation we propose today.

Accordingly, I urge my colleagues to join in support of this legislation so we can address the serious national problem of solid waste disposal.

By Mr. THURMOND:

S. 1755. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

FEDERAL SUPPORT OF STATE DEFENSE FORCES

Mr. THURMOND. Mr. President, as a strong supporter of preparedness in the common defense of our Nation, I rise today to introduce legislation which would authorize Federal support of State defense forces. This legislation will not cause increased Federal spending, but will contribute to the preparedness of our Nation and our States in times of national emergency.

Mr. President, I venture to say that many of my colleagues are not aware that 23 States have some form of State defense force, nor are they aware of the hundreds of citizens who are involved in this patriotic service. The history of the State defense forces goes back to World War I when it was called the "Home Guard" and its primary function was to assume the duties of the National Guard units that were activated.

In 1940, a model State Guard Act was developed, and throughout World War II the State Guard performed such vital functions as coastal defense and installation security against sabotage. After the war all State forces, except the National Guard, were banned. With the beginning of the Korean war, "temporary" National Guard units were set up to replace those Guard units which were federalized. The Korean experience resulted in the Congress amending title 32, to allow the States to set up State defense forces.

Today, the mission of the State defense force is to back up the National Guard. This backup is mostly for problems of domestic security—such as crowd control or use during natural disaster. During times of National Guard callup—which happened 249 times during fiscal year 1989—the State defense forces are the only organized forces available to the Governor to react to emergency situations.

Mr. President, the State defense forces are supported entirely by the State although, in many instances, individual members of the force pay for their own uniforms and equipment. Despite State support, the State defense forces often do not have personnel qualified to train new personnel. Virtually all are poorly equipped and some do not have any equipment at all. The legislation I am introducing today will help address these problems. With the passage of this bill:

The Army can issue or sell surplus supplies and equipment;

Retired military personnel, who do not have any other mobilization mission, will be allowed to join State defense forces so that, at least during peacetime, their experience and expertise could be used by the defense forces for the training of others;

The Army can lend training manuals to the State defense forces;

State defense forces may use Army training facilities when there is room for them;

State defense force personnel may attend active training schools when there is room. This training will normally be funded by the State; and

The National Guard Bureau may help States with organization and mission definition of the State defense forces.

Mr. President, there is no doubt that the State defense forces perform a vital function. My legislation does not attempt to justify the mission—the mission exists. This bill—without adding to the budget—will allow the State defense forces to be equipped, trained, and organized in order to contribute to the preparedness of our Nation. As we enter a period of constrained defense budgets and possible reduction of active force structure, National Guard callup in the event of a national emergency is more likely. With a prepared State defense force, we need not be concerned about who will assume the functions of the National Guard.

Mr. President, before I went into World War II, I happened to have been a member of the State Defense Force of South Carolina. They are all volunteers, unpaid and trained in order to assist our State to be prepared to take care of emergencies if and when the National Guard is called out.

Mr. President, I urge my colleagues to join me in support of this bill, and ask unanimous consent that a copy of this legislation appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL SUPPORT OF STATE DEFENSE FORCES

(a) IN GENERAL.—(1) Title 32, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—STATE DEFENSE FORCES.

"Sec.
"901. Definitions.
"902. General policy.
"903. Membership.
"904. Arms and equipment.
"905. Uniforms: sale and wear.
"906. Training assistance.
"907. Federal coordination.
"908. Non-Federal status.
"909. Security clearances; criminal history information.

"§ 901. Definitions

"In this chapter:

"(1) The term 'State defense force' means a military force defense force organized by a State to serve as a State military reserve force that would train to become actively operational when the State National Guard forces are federalized or otherwise not available in or adequate to the needs of the State. A State defense force need not be so named by the State to be a State defense force for purposes of this chapter.

"(2) The term 'State' includes the District of Columbia and any territory or commonwealth that has an organized National Guard.

"(3) The term 'national emergency' means an emergency declared by the President or the Congress.

"§ 902. General Policy

"(a) State defense forces are considered to be in the national interest as a reserve force of the several States—

"(1) to maintain public safety and order;

"(2) to protect essential resources and facilities;

"(3) to combat terrorism; and

"(4) to perform essential services when National Guard forces are federalized or otherwise not available or adequate to the State.

"(b) State defense forces meet an essential need of the Nation and are in the interest of National security.

"§ 903. Membership

"(a) Qualifications for membership in a State defense force shall be determined by the State sponsoring the defense force. A member of the armed forces may not be a member of a State defense force unless such membership is authorized under regulations prescribed by the Secretary of Defense or, in the case of the Coast Guard, by the Secretary of Transportation. Membership in a State defense force does not exempt any person from the provisions of the Military Selective Service Act or from any military duty or service that such person may be required to perform by virtue of membership in the armed forces.

"(b) A State may require an oath of allegiance to a chief executive of a State before a person becomes a member in the State defense force of that State. Any such oath shall include an affirmation of support for the Constitution of the United States and shall not include a provision that would limit a person's appointment or enlistment in an armed force.

"(c) Membership in a State defense force may not by itself limit a person from enlistment or appointment in an armed force.

"§ 904. Arms and equipment

"(a) The Secretary of a military department may issue or loan to a State such equipment, small arms, and uniforms as may be necessary for its State defense force to train and perform such functions as may be designated by the Governor and approved by the Chief of the National Guard Bureau. The issuance of any such items may be made on a reimbursable basis if determined appropriate by the Secretary concerned. Items issued or loaned under this subsection may be made only from items that are excess or obsolete for the needs of the military department concerned.

"(b) The Secretary of Defense shall prescribe policies and procedures to carry out subsection (a). Such policies and procedures shall—

"(1) ensure that items specified in subsection (a) may not be issue or loaned if to do so would affect adversely the readiness of active or reserve forces; and

"(2) provide that when any property issued or loaned is no longer needed by a State defense force, it shall be reported to the Secretary of the military department concerned and that any subsequent disposal of such property shall be carried out in accordance with the Federal Property and Administrative Services Act of 1949.

"§ 905. Uniforms: sale and wear

"(a)(1) Notwithstanding chapter 45 of title 10, a member of a State defense force may wear a uniform normally prescribed for wear by members of an armed force if—

"(A) the uniform as prescribed for wear by members of the State defense force includes distinctive devices or accoutrements identifying it as a uniform of a State defense force;

"(B) such uniform does not include a designation bearing the name of an armed force; and

"(C) The Secretary of the military department concerned approves State regulations for the wear of such uniform.

"(2) Before approving State regulations, the Secretary of the military department concerned shall ensure that such regulations include provisions regarding manner of wear of the uniform and periods of wear in such a manner that the wearer of the uniform will not tend to discredit that armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may sell uniforms, items of uniforms, indicia of grade, and individual equipment to members of State defense forces.

"(c) A former member of the armed forces, a member of the Retired Reserve, or a regular member who is retired may wear such decorations and medals awarded for military service or valor on the uniform such person wears as a member of State defense force.

"§ 906. Training assistance

"(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretrary of a military department may provide training and training assistance for State defense forces. Such training and assistance may include—

"(A) the provision or loan of training manuals and instructional materials, including training devices used for active and Reserve forces;

"(B) the use of Federal military training facilities;

"(C) attendance at service schools on a space-available basis; and

"(D) the services of active or Reserve members of the armed forces skilled in training.

"(2) Transportation and travel expenses are not authorized members of the State Defense Forces for any training under this section.

"(3) The Secretary of the military department concerned may establish priorities and conditions for the provision of the training authorized by this subsection.

"(b) Under regulations prescribed by the President, an executive department or an independent agency of the Federal Government may provide such training and training assistance to a State for the State defense forces of that State as is in the interests of national security and not detrimental to the primary operational requirements of the department or agency concerned. Training under this subsection may be of the same quality as the training authorized by subsection (a) and shall be with the agreement of the Secretary of Defense.

"(c) The Secretary of a military department and the head of a department or agency referred to in subsection (b) may require reimbursement from a State for the cost of providing training or training assistance to the State defense force of that State. Reimbursement normally should be required in the case of training provided a member of a State defense force for a period exceeding 14 days.

"§ 907. Federal coordination

"The Chief of the National Guard Bureau shall serve as the means of communication between a State and the Federal Government on matters involving the State defense force of such State.

"§ 908. Non-Federal status

"A member of a State defense force is not a member of the armed forces or an employee or agent of the United States for any purpose, including legal liability or legal defense. Any such member is responsible to the State sponsoring the defense force. A member of a State defense force who is injured or who dies while performing training or duties on behalf of the State defense force may not be provided military or federally sponsored health care, other than emergency care. Federally sponsored disability and death benefits may not be provided as a consequence of a person's status as a member of a State defense force.

"§ 909. Security clearances; criminal history information

"(a) The Secretary of a military department may conduct such background investigations as the Secretary determines necessary and appropriate as a condition to allowing access to classified information by a member of a State defense force.

"(b) A State sponsoring State defense force is encouraged and requested to make available to officials of the State defense force the criminal history information described in section 520a of title 10. The State defense force should maintain a record of criminal history information pertaining to a member in order that security clearances may be expedited in time of mobilization or national emergency.".

(2) The table of chapters at the beginning of such title is amended by adding at the end the following new item:

"9. State Defense Forces ..... 901".

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 109 of title 32, United States Code, is amended to read as follows:

"(a) In time of peace, a State or territory, Puerto Rico, or the District of Columbia may maintain no troops other than those of its National Guard, a naval militia authorized by chapter 659 of title 10, and defense forces authorized by chapter 9 of this title.".

(2) Subsection (b) of such section is amended by striking out "by subsection (c)" and inserting in lieu thereof "by chapter 9 of this title".

(3) Subsections (c), (d), and (e) of such section are repealed.

ADDITIONAL COSPONSORS

S. 269

At the request of Mr. RIEGLE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 269, a bill to prohibit the disposal of solid waste in any State other than the State in which the waste was generated.

S. 479

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 479, a bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses and for other purposes.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 567

At the request of Mr. BOREN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method and for other purposes.

S. 720

At the request of Mr. BOREN, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit and for other purposes.

S. 959

At the request of Mr. DASCHLE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 959, a bill to amend title III of the Public Health Service Act to make improvements in the National Health Service Corps scholarship program, and for other purposes.

S. 1277

At the request of Mr. FORD, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. EXON], the Senator from North Carolina [Mr. SANFORD], the Senator from Nevada [Mr. BRYAN], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1277, a bill to amend the Federal Aviation Act of 1958 to prohibit the acquisition of a controlling interest in an air carrier unless the Secretary of Transportation has made certain determinations concerning the effect of such acquisition on aviation safety.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1547

At the request of Mr. BUMPERS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1547, a bill to provide special rules for health insurance costs of self-employed individuals.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1557, a bill to amend title 17 United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1560

At the request of Mr. BURNS, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations relating to underground storage tanks, and for other purposes.

S. 1577

At the request of Mr. BOREN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1678

At the request of Mr. COCHRAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1678, a bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities and passive loss rules.

S. 1737

At the request of Mr. BOSCHWITZ, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1737, a bill to extend the Small Business Development Center Program.

SENATE JOINT RESOLUTION 212

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution commending the decision of the Board of Immigration Appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

AMENDMENTS SUBMITTED

OMNIBUS BUDGET RECONCILIATION ACT

HEINZ AMENDMENT NO. 995

(Ordered to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to the bill (S. 1750) to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990, as follows:

At the appropriate place in the bill, add the following:

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget"

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $165,000,000,000;

"(F) with respect to fiscal year 1991, $139,000,000,000;

"(G) with respect to fiscal year 1992, $114,000,000,000;

"(H) with respect to fiscal year 1993, $99,000,000,000;

"(I) with respect to fiscal year 1994, $75,000,000,000;

"(J) with respect to fiscal year 1995, $50,000,000,000;

"(K) with respect to fiscal year 1996, $25,000,000,000;

"(L) with respect to fiscal year 1997, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1997".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1997".

SEC. 5. POINT OF ORDER.

Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

"PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS

"SEC. 408. (a) POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House

of Representatives to consider any bill or resolution that contains a provision—

(1) including the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act in any calculation of the deficit for the United States Government; or

"(2) modifying current law with respect to authorized uses of the reserves of the old-age, survivors, or disability insurance program established under title II of the Social Security Act (except for the use of such reserves for the repayment of cost of living increases for recipients).

"(b) WAIVER OR SUSPENSION.—A point of order under this section may be waived or suspended only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.".

SEC. 6. TREATMENT OF INTEREST PAYMENTS FROM THE GENERAL FUND.

Section 201(f) of the Social Security Act is amended by inserting "and shall be treated as outlays from the General Fund of the Treasury" before the period.

ASSISTANCE FOR FREE AND FAIR ELECTION IN NICARAGUA

HARKIN AMENDMENTS NOS. 996 THROUGH 998

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill (H.R. 3385) to provide assistance for free and fair elections in Nicaragua, as follows:

AMENDMENT No. 996

Before the period at the end of the bill, insert the following:

"Provided further, That of the funds made available under this Act for the National Endowment for Democracy, no cash assistance shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidate".

AMENDMENT No. 997

Strike out "up to $3,000,000" and all that follows through "1990" and insert in lieu thereof the following: "up to $2,500,000 of the funds made available by section 9 of Public Law 100-276 may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $1,000,000 for election support and monitoring to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy; and (2) up to $1,500,000 for election support and monitoring of which up to $400,000 shall be made available to ONUVEN, the United Nations Election Monitoring Team in Nicaragua, and of which up to $400,000 shall be made available for the Center for Training and Election Promotion, and of which up to $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which up to $300,000 shall be made available for the Center for Democracy: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That no cash assistance shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidate: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990".

AMENDMENT No. 998

Strike the period at the end of the bill and insert ": *Provided further,* That notwithstanding any other provision of this Act, no funds shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government.

ADAMS (AND HARKIN) AMENDMENTS NOS. 999 AND 1000

(Ordered to lay on the table.)

Mr. ADAMS (for himself and Mr. HARKIN) submitted two amendments to the bill H.R. 3385, supra, as follows:

AMENDMENT No. 999

Strike all after the enacting clause and insert the following:

SEC. 1. TRANSFER OF FUNDS.

That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, are hereby rescinded, but—

(1) $4,500,000 shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986; and

(2) $4,500,000 shall be available for purposes authorized by section 501 of title I of the Omnibus Crime Control and Safe Streets Act for the use by States and units of local government in the States for programs designed to identify and prosecute criminals who sell drugs to children or use children in furtherance of drug-related crimes.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5134(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

AMENDMENT No. 1000

On page 1, line 7, strike all after "Public Law 101-14," and insert in lieu thereof the following: "shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

(a) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, craft, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

DODD AMENDMENT NO. 1001

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 3385, supra, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. STATEMENT OF POLICY.

With respect to the upcoming elections in Nicaragua, presently scheduled to occur on February 25, 1990, it shall be the policy of the United States to encourage the national reconciliation of opposing political forces in that country, to strengthen democratic processes and procedures in cooperation with indigenous democratic forces, and to support election monitoring and oversight by appropriate national, regional, and international groups.

SEC. 2. FUNDING AUTHORITY.

(a) Notwithstanding any other provision of law, of amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available under section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available under section 2 of Public Law 101-14, may be made available by the Administrator of the Agency for International Development, for assistance to further the promotion of democracy and national reconciliation in Nicaragua, except that such assistance shall not exceed—

(1) $7,000,000 in assistance for programs and projects through the National Endowment for Democracy and consistent with the National Endowment for Democracy Act (including the specific requirement contained in section 505 of such Act that "funds may not be expended either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office"); and

(2) $2,000,000 in assistance to support election monitoring and related activities in Nicaragua, of which not less than—

(A) $750,000 shall be available only to support the election-monitoring project of the

United Nations and Organization of American States;

(B) $400,000 shall be available only for the Council of Freely-Elected Heads of Government; and

(C) $350,000 shall be available only for programs of the Center for Democracy.

(b) The provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this section.

SEC. 3 REPORTING REQUIREMENTS.

The Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives shall be informed in writing within 5 days of decisions made to fund specific programs and projects pursuant to this Act.

HARKIN AMENDMENT NO. 1002

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 3385, supra, as follows:

At the end of the amendment, add the following *":Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government."

HARKIN AMENDMENT NO. 1003

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. ADAMS to the bill H.R. 3385, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. TRANSFER OF FUNDS.

That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, are hereby rescinded, but—

(1) $4,500,000 shall be available only for the purposes authorized by section 5111(a) of the Drug-Free Schools and Communities Act of 1986; and

(2) $4,500,000 shall be available for purposes authorized by section 501 of title I of the Omnibus Crime Control and Safe Streets Act for the use by States and units of local government in the States for programs designed to identify and prosecute criminals who sell drugs to children or use children in furtherance of drug-related crimes.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5134(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session.".

OMNIBUS BUDGET RECONCILIATION ACT

MITCHELL (AND OTHERS) AMENDMENT NO. 1004

(Ordered to lie on the table.)

Mr. MITCHELL (for himself, Mr. DOLE, Mr. SASSER, Mr. DOMENICI, Mr. BYRD, Mr. BENTSEN, Mr. PACKWOOD, and Mr. ARMSTRONG) proposed an amendment to the bill S. 1750, supra, as follows:

In title I, strike the following:

Sec. 1102. Oat acreage limitation program.

Sec. 1106. Technical amendments to 1985 farm bill.

Sec. 1107. Amendment to the Disaster Assistance Act dealing with replanted acreage (ghost acres).

Sec. 1201(b). Use of export enhancement program to promote the sale of meat in U.S. commissaries.

Sec. 1203. Prohibition on duty drawback claims by exporters using exports promotion programs.

Sec. 1301. REA refinancing and interest write-down.

Sec. 1302. New commercial products research.

Sec. 1401-1413. Soybean Promotion Program.

Sec. 1501-1507. Cotton Promotion Program.

Sec. 1601-1617. Pecan Promotion Program.

Sec. 1701-1714. Mushroom Promotion Program.

Sec. 1801-1814. Lime Promotion Program.

Sec. 1901-1907. Potato Promotion Program.

Sec. 1921-1926. Honey Promotion Program.

Sec. 1941. Kiwifruit, Nectarines Program.

Sec. 1951. Papaya Marketing Order.

Sec. 1961. Egg Promotion Program.

Sec. 1971. Peanut Inspection and Quality Requirements.

Sec. 1981. Vidalia Onions Marketing Order.

In title II, strike the following:

Sec. 203-205. Flood insurance studies.

In title IV, strike the following:

Sec. 4005-4022. CFC regulatory program and phase-out of CFCs.

Sec. 4023-4028. Methane assessment program.

Sec. 4031. CFC advisory committees.

Sec. 4032. CFC grant authorization ($100 million).

Sec. 4034. Authorization for EPA abatement and R&D activities.

Sec. 4102. Diversion of NRC penalties to educational institutions.

Sec. 4301. Onondaga Lake, NY grant programs ($0.5 to $1.0 billion authorization).

Sec. 4401. Magnetic levitation transportation grant program ($6 million authorization).

In title V, strike the following:

Sec. 5001. Commission on child disability.

Sec. 5002(b). Require Pediatrician involvement in child disability determinations.

Sec. 5014. Allow concurrent SSI/food stamp applications.

Sec. 5023. Penalty for failure to implement the JOBS program.

Sec. 5031. Foster care administrative costs.

Sec. 5033. Increase Child Welfare Authorization from $266 million to $400 million.

Sec. 5045. Good cause exemption.

Sec. 5101(b). Budget neutral recalibration of PPS rates.

Sec. 5107(a-c). Wage index requirements: Annual update, budget neutrality, use State Hospital codes.

Sec. 5108. Finger Lakes Waiver and GAO report.

Sec. 5109. New base period for exempt hospital target amounts.

Sec. 5121. GAO Study of skilled nursing facility costs.

Sec. 5123. Intermediate sanctions for psychiatric hospitals.

Sec. 5124(b-d). Other hospice requirements and studies.

Sec. 5125. Budget neutral allowance of certifications by nurse practitioners for certain services.

Sec. 5126. Prohibition on nursing home balance billing.

Sec. 5128. Permitting dentists to serve as medical directors.

Sec. 5203(e). HHS study of portable X-rays.

Sec. 5222. Definition of physician office labs.

Sec. 5223. Trip fees for clinical laboratories.

Sec. 5224. Moratorium and study on laboratory demonstration.

Sec. 5226. CRNA fee schedule study.

Sec. 5233(f). Study on eliminating 190 day limit on inpatient psychiatric care.

Sec. 5235. ProPAC study on out-patient hospital costs.

Sec. 5236. Extension of municipal health services demonstrations.

Sec. 5238. Review of new technologies.

Sec. 5302. ESRD changes and studies.

Sec. 5303. Reconsideration of PRO denials before notice to beneficiary.

Sec. 5307. Require flexibility in determining the base year for medical education costs.

Sec. 5308. Required studies on graduate medical education.

Sec. 5309. Continued use of the same Home Health Wage index.

Sec. 5310. GAO study of home health paperwork.

Sec. 5311. Modifications to advisory committee on home health.

Sec. 5314. ESRD Networks.

Sec. 5501(a-d). Restrictions on physician referrals.

Sec. 5602. Prohibit HCFA from denying FFP for day habilitation services in certain instances.

Sec. 5603(a). Rent or food costs attributable to a live-in personal care are allowable.

Sec. 5603(b). Allow individuals from a decertified ICF/MR to get home care.

Sec. 5603(c). Technical changes to habilitive services.

Sec. 5603(d). Prohibit HHS from issuing certain rules.

Sec. 5603(e). Eliminate expiration date for corrective plans.

Sec. 5603(f). Allow states to deliver home care through substate entities.
Sec. 5606. Budget Neutral long-term care waiver for New York.
Sec. 5607. Modifications to "deemed" status under Medicaid.
Sec. 5608. Minnesota prepaid Medicaid demonstration.
Sec. 5609. New Jersey respite care demonstration.
Sec. 5610. Demo of Minnesota Family Investment Plan.
Sec. 5612. Retroactive coverage of Medicare cost sharing for OMBs.
Sec. 5644. Disproportionate share hospitals.
Sec. 5645. Intermediate sanctions for psychiatric hospitals.
Sec. 5702. Collection of Black Lung overpayments.
Sec. 5704. Technical changes to the Pepper Commission.
Sec. 5705. Required study of HHS personnel.
Sec. 5706. OTA study of closed caption TV at hospital.
Sec. 5111(a). Eliminate Urban-Rural Payment Differential.
Sec. 5111(c). Establish Medicare Geographic Classification Appeals Board.
Sec. 5111(d). Increase Authorization for rural hospital transition grants by $10 million per year.
Sec. 5111(e). Telecommunications demo (subject to approps).
Sec. 5111(g). Rural hospital wage index study.
Sec. 5206(h). Patient outcome assessment research authorization.
Sec. 5301(b-c). Require HHS to disclose payment methodology for HMOs and other requirements and studies.
Sec. 5301(d). Waiver of Certain HMO rules for Health-Net.
Sec. 5301(e). Physician Payment Incentive Restrictions.
Sec. 5301(f). Extend Watts Waiver for 4 years.
Sec. 5301(g). Making Benefit Stabilization fund for HMOs permanent.
Sec. 5301(h). Tennessee Medicaid Enrollment Waiver.
Sec. 5301(i). CHP(Long Island) Waiver of HMO requirements.
Sec. 5305(b). Medicare Secondary Payor protections for the working aged.
Sec. 5305(d). Precludes HHS from requiring Matching based on private activities for intermediaries.
Sec. 5305(f). MSP study by GAO.
Sec. 5305(g). Medicare as secondary payor for drug claims.
Sec. 5312. Authorization for Essential Community Hospital Demonstration.
Sec. 5313(b). Establish grant program for rural health centers; at $13 million authorization level.
Sec. 5313(c). Establishment of Advisory Commission on Rural Health.
Sec. 5313 (d). Matching Grants to establish state offices of rural health at $4 million authorization level.
Sec. 5313 (e). Sense of the Senate on ProPAC representation.
Sec. 5604. Allow state matching payments from voluntary contributions or state taxes.
Sec. 5624. Increase and alter maternal and child health block grant authorization to $711 million.
Sec. 5625. Annual report on health status of children.
Sec. 5626. Required development of model Medicaid application.
Sec. 5627. Various administrative and report requirements on HHS secretary.
Sec. 5630. Require adequate payments for obstetrical and pediatric services.
Sec. 5635. Required handbook on child health and authorization for funding.
Sec. 5636. Demonstration project to improve access of pregnant women and infants to MDs.
Sec. 5640. Clarification of termination when no child is revenues; in household.
Sec. 5643 (a). Delay implementation of 2/2/89 rule.
Sec. 5643 (c). No delegation of responsibility.
Sec. 5643 (d). Resident's rights to refuse inter-facility transfer.
Sec. 5643 (f). Patient's rights to records.
Sec. 5643 (g). Regulatory requirement on screening review.
Sec. 5643 (h). Required regulations.
Sec. 5643 (j). Revision of alternative disposition plans.
Sec. 5643 (k). Required state reports.
Sec. 5643 (l). Definition of mentally-ill.
Sec. 5643 (m). Clarification with respect to admission and readmission.
Sec. 5643 (n). Substitution of "specialized services" for "active treatment".
Sec. 5643 (o). Maintaining regulator of standards.
Sec. 5643 (p). Requirements for nurse training waivers.
Sec. 5643 (q). Study of staffing requirements.
Sec. 5643 (r). Clarification of dually eligible facilities.
Sec. 5643 (t). Nurse Aide Registry.
Sec. 5002 Preeffectuation review requirement for disabled children.
Sec. 5003. Outreach program for disabled children.
Sec. 5004. $30 monthly SSI payment for disabled children without regard to parents' income.
Sec. 5005. Benefits for children of military stationed abroad.
Sec. 5006. Treat royalties as earned income.
Sec. 5007. SSI benefits for those who lose SSDI.
Sec. 5008. Exclude impairment-related work expenses at eligibility.
Sec. 5009. Reimburse for vocational rehabilitation during nonpayment of SSI benefits.
Sec. 5010. SSI Outreach for Adults.
Sec. 5011. Exclude gifts of transportation tickets.
Sec. 5012. Exclude interest on burial spaces.
Sec. 5013. Reduce time during which resources of separated couples treated as jointly available.
Sec. 5016. Exclusion of Agent Orange settlements in determining eligibility for needs tested programs.
Sec. 5021. Emergency assistance and AFDC special needs.
Sec. 5022. Minnesota AFDC demonstration.
Sec. 5032. Extend ceilings and transfer authority for foster care.
Sec. 5034. Increase foster parent training reimbursement.
Sec. 5035. Require health and education plans and require comprehensive health plans.
Sec. 5036. Authorization for Independent Living Program.
Sec. 5037. Improve data collection and accountability.
Sec. 5041. Extend IRS Intercept for five more years.
Sec. 5042. Eliminate $500 minimum for tax refund offset.
Sec. 5043. Extend IRS authority to collect child support.
Sec. 5044. Allow tax refund offset for child and spousal support when combined in court order.
Sec. 5051. Self-employment demonstration program.
Sec. 5104. Blood clotting factors for hemophelia patients.
Sec. 5105. Exemption of cancer hospitals from PPS.
Sec. 5106. Added payments for "Lugar" and related hospitals.
Sec. 5110. Corrected determinations of wage index to 10/1/87.
Sec. 5111 (b). Extend higher payment for some rural referral centers.
Sec. 5111 (f). Added payment for Medicare dependent hospitals.
Sec. 5111 (h). Added payments for rural disproportionate share hospitals.
Sec. 5112. Permitting Medicare buy-in for continued benefits for the disabled..
Sec. 5122. "Buy-In" under part A for qualified medicare beneficiaries.
Sec. 5124 (a). Increase payments to hospices.
Sec. 5127. Classification of, and increased payment for, sole community hospitals.
Sec. 5203 (c). One year exemption of nuclear physicians.
Sec. 5203 (d). "Split billing" exceptions for interventionist radiologists.
Sec. 5204 (b). CRNA fee schedule.
Sec. 5207 (a). Inclusion of nurse midwives as covered services for rural health clinics.
Sec. 5207 (b). Expanded areas for rural health clinics.
Sec. 5207 (c). Coverage of nurse practitioners in rural areas.
Sec. 5227. Clarifying coverage of certified nurse midwife services.
Sec. 5228. Add coverage of erythropoietin when self-administered.
Sec. 5229. Modifications to therapeutic shoes demonstration.
Sec. 5233 (a-c). Expand coverage of psychologists.
Sec. 5233 (d-e). Eliminate limit on mental health services.
Sec. 5234. Expand skilled nursing facility coverage to nurse practitioners.
Sec. 5237. Add coverage of clinical social workers.
Sec. 5301 (a). Phase in increased payments to HMOs.
Sec. 5301 (j). Limit on emergency medical services and out of area coverage.
Sec. 5301 (k). Humana 50/50 waiver.
Sec. 5305 (c). Special enrollment period for disabled employees.
Sec. 5305 (e). Treatment of religious orders under MSP.
Sec. 5306. Prohibits HHS from collecting repayments from certain nursing and allied health.
Sec. 5313 (a). Expansion of medical education demos.
Sec. 5601. Disregard of COLAs in certain Medicaid eligibility determinations.
Sec. 5605. Exclude from countable income certain veteran's benefits.
Sec. 5611. Oregon Medicaid Demonstration Program.
Sec. 5613. Long-term care waiver extension.
Sec. 5614. Improve hospice payment.
Sec. 5615. Increase Medicaid payment for rural health clinics.
Sec. 5616. Mandatory coverage of certain low-income pregnant women and children.
Sec. 5617. Optional coverage of certain low-income pregnant women and children.

Sec. 5618. Continuous eligibility for pregnant women, infants and children under 3 years old.
Sec. 5619. Various increases in hospital payments for children.
Sec. 5620. Required coverage of nurse practitioners.
Sec. 5621. Optional state coverage of home services for children.
Sec. 5622. Optional coverage of home visitor services.
Sec. 5623. Increase home care "slots".
Sec. 5628. EPSDT expansions.
Sec. 5629. Require coverage of all SSI children.
Sec. 5631. Health care for foster care children.
Sec. 5632. Required use of most recent data if it increases matching payments to states.
Sec. 5633. Optional outreach for pregnant women and infants.
Sec. 5634. Required Medicaid-WIC coordination.
Sec. 5637. Medicaid coverage of community health clinic services.
Sec. 5638. Cost-limited Medicaid "buy-in" demo.
Sec. 5639. Cost-limited low income family demo.
Sec. 5641. Institutions for mental disease.
Sec. 5642. Required Medicaid payment for the poor disabled enrolling in Medicare.
Sec. 5703. National Commission on Children.
In title VI, strike the following:
Sec. 6108. Extension of IRS assistance in case of undercover operations.
Sec. 6208(c). Treasury study of debt vs. equity.
Sec. 6109. Allocation of taxes for Railroad Retirement Trust Fund.
Sec. 6327. Coal industry pension.
Sec. 6328. Coal industry pension study.
Sec. 6331. Require exercise of Treasury regulatory authority.
Sec. 6513. Essential Air Service.
Sec. 6517. Polio vaccines.
Sec. 6651. Study on Sec. 833 deduction.
Sec. 6661. IRS notice on withholding.
Sec. 6663. Increase Joint Tax refund review threshold.
Sec. 6685. Deductions for disabled.
Sec. 6686. OPIC tax exemption
Sec. 6714. Penalty reform.
Sec. 6715. Penalty reform.
Sec. 6738. Penalty reform.
Sec. 6904. Study of advance payments.
Sec. 6905. Program to increase public awareness.
Sec. 6906. Demonstration projects for health insurance to children.
Sec. 6508(b). Wetlands trust fund.
Sec. 6711-6743. Penalty reform.
Sec. 6931. Treatment of transactions in which Federal financial assistance is provided (financial institutions).
Sec. 6672. Self-dealing involving private foundations.
Sec. 6115 (b) and (c). Mortgage Credit Certificate.
Sec. 6211. Small business exemption from recognition of gain or loss on liquidating sales.
Sec. 6212. Rural electric co-ops, safe harbor leasing.
Sec. 6301-6303. Repeal Section 89.
Sec. 6303(a). Leased employees and dependent care.
Sec. 6303 (b) and (c). Dependent care credit.
Sec. 6341. Sec. 401(k) plans for tax-exempt organizations.
Sec. 6342. Modify geographic limitation on VEBAs.
Sec. 6344. Employer provided transportation expenses.
Sec. 6345. Empty seat rule & fringe benefits.
Sec. 6404. Modifies treatment of certain scholarships received by non-resident aliens.
Sec. 6405(a). Exception from passive foreign investment company rules for export trade corporations.
Sec. 6405(b). Leased assets for the passive foreign investment company asset test.
Sec. 6406. Overseas DOD personnel allowances.
Sec. 6510. Small diesel fuel tax relief.
Sec. 6511. Reduce BATF occupation tax.
Sec. 6512. Statute of Limitations for occupational taxes.
Sec. 6514. Gasohol—tolerance levels for blending.
Sec. 6515. Facilitate tax-free purchase of fuels by crop dusters.
Sec. 6516. Classify ETBE as eligible for ethanol fuels tax credit.
Sec. 6611. Modifications of minimum tax.
Sec. 6623. Drought deferral extension.
Sec. 6624. Farm Debt.
Sec. 6625. Contributions to replace contaminated water supplies.
Sec. 6626. Timber passive loss material participation exception.
Sec. 6627. Annual accrual method of accounting.
Sec. 6628. Installment sales of residential lots & timeshares by C corporations.
Sec. 6629. Recapture & cattle breeders.
Sec. 6630. Modify rules for cooperative patronage income.
Sec. 6630(A). Treatment of hedging transactions by REITS.
Sec. 6630(C). Income averaging for farmers.
Sec. 6641. Rules concerning tax-exempt bonds issued by 501(c)(3) organizations.
Sec. 6642. Refunding bonds.
Sec. 6643. Tax-exempt bonds for sports facilities.
Sec. 6652. Insurance reserves and tax deductions.
Sec. 6671. Use of common investment funds by private foundations.
Sec. 6681. Deduction for certain adoption expenses.
Sec. 6683. Marginal oil and percentage depletion.
Sec. 6684. Recovery period for rental tuxedos.
Sec. 6691. Repeal estate freeze rules.
Sec. 6692. Generation-skipping transfer tax.
Sec. 6694. Allow waiver of right of contribution (Sec. 2207A).
Sec. 6695. Exclude annual exclusion gifts from Sec. 2035.
Sec. 6696. Terminal interest rules.
Sec. 6801-6882. Technical corrections.
Sec. 6901. Health insurance credit.
Sec. 6902. Dependent care tax credit.
Sec. 6903. Earned income tax credit and eligibility.
Sec. 6921-6923. IRAs.
Sec. 6932. State Housing Agency Bonds.
Sec. 6815. Treatment of split annuities.
Sec. 6110. Extends Sec. 29 credit.
Sec. 6611(d). Gifts of appreciated property.
Sec. 6101-6107. Extension of expiring provisions.
Sec. 6111-6115(a). Extension of expiring provisions.
In title VIII, strike the following:
Sec. 8031-8043. Pension portability.
Sec. 8104. Study of indebtedness.
Sec. 8106. Sanctions against institutions and institutions' agents.
Subtitle C. Low Income Treatment Assistance Program.
Subtitle D. Stewart B. McKinney Homeless Assistance Act.
Subtitle E. Health Services Research.
Subtitle F. State Comprehensive Mental Health Services Plan.
Sec. 8001-8003. Fiduciary responsibilities relating to plan terminations.
Sec. 8011. Transfer of excess pension assets to retiree health accounts.
Sec. 8021. Occupational safety and health.
Sec. 8022(a)(1)-8022(a)(4). ERISA violations.
Sec. 8023. Mine safety and health.
Subtitle B, Chapter 2 Treatment of bilingual education awards.
Strike all of title V and VI and insert in lieu thereof the following:

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

SEC. 5000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—

TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON FINANCE

Sec. 5000. Amendment of the Social Security Act; table of contents.

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

Sec. 5101. Prospective payment hospitals.
Sec. 5102. Reduction in indirect medical education payments.
Sec. 5103. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.

PART II—Provisions Relating to Part B of Medicare

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

Sec. 5201. Updating payments for physicians' services.
Sec. 5202. Reduction in payments for certain overvalued procedures.
Sec. 5203. Reduction in payments for radiology services.
Sec. 5204. Anesthesia services.

SUBPART B—PAYMENT FOR OTHER SERVICES

Sec. 5221. Clinical diagnostic laboratory services.
Sec. 5222. Durable medical equipment.
Sec. 5223. Payments for capital for hospital outpatient services.

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Sec. 5301. Delay in payments in fiscal year 1990.
Sec. 5302. Medicare as secondary payer.

PART IV—MEDICARE PART B BASIC PREMIUM

Sec. 5401. One year extension of part B premium minimum.

Subtitle B—Medicaid

Sec. 5501. Miscellaneous Medicaid provisions.

Subtitle C—Income Security

Sec. 5601. Proposed amendments to authorize the offset of unpaid contributions from unemployment compensation (with technical amendments).

Subtitle A—Medicare

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

SEC. 5101. PROSPECTIVE PAYMENT HOSPITALS.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) in subclause (V), by striking "1990" and inserting in lieu thereof "1991" and redesignating such subclause as subclause (VI); and

(3) by inserting after subclause (IV) the following new subclause:

"(V) for fiscal year 1990, the market basket percentage increase plus 3 percentage points for hospitals located in a rural area, the market basket percentage increase minus 0.7 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 1.4 percentage points for hospitals located in other urban areas, and".

SEC. 5102. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "1.89" and inserting in lieu thereof "1.752"; and

(B) in subclause (II), by striking "1.43" and inserting in lieu thereof "1.329".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in subclause (I)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987"; and

(B) in subclause (II)—

(i) by striking "1985 and" and inserting in lieu thereof "1985,", and

(ii) by inserting "and by section 5102 of the Omnibus Budget Reconciliation Act of 1989" after "1987".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1989.

SEC. 5103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 13.5 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1990 (excluding such payments for such fiscal year for hospitals described in section 1815(e)(1)(B)).".

PART II—PROVISIONS RELATING TO PART B OF MEDICARE

SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES

SEC. 5201. UPDATING PAYMENTS FOR PHYSICIANS' SERVICES.

(a) DELAYING MEI UPDATE UNTIL APRIL 1.—

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in prevailing or customary charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of reasonable charge or on the basis of a fee schedule if the fee schedule is subject to an annual adjustment based on the percentage increase in the MEI (as defined in section 1842(i)(3) of such Act).

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide such physicians, at the beginning of the 9-month period beginning on April 1, 1990, with such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) UPDATE.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iv) For purposes of this part for physicians' services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) zero percent for radiology services,

"(II) 2 percent for other services (other than primary care services), and

"(III) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

SEC. 5202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVALUED PROCEDURES.

(a) REDUCTION IN PAYMENTS FOR IDENTIFIED OVERVALUED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ¼ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of (I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)) and (II) the adjustment factor (specified under clause (iii) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified under subparagraph (C)(ii)) reduced by the percentage change (specified under subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor' for a locality is .54 plus the product of .46 and the geographic practice cost index value (specified under subparagraph (C)(iv)) for the locality.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in Appendix A of the explanation of subtitle B of title X (Committee on Ways and Means) contained in the report of the Committee of the Budget, House of Representatives, to accompany H.R. 3299 ('Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overpriced by at least 15 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in the Appendix referred in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in the Appendix referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended—

(A) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(B) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

SEC. 5203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERVICES.

(a) FEE SCHEDULES FOR RADIOLOGIST SERVICES REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) 1990 FEE SCHEDULES.—(i) For radiology services furnished under this part during 1990, after March 31 of such year, the fee schedules under this subsection shall be 95 percent of the amounts permitted under the fee schedules developed for 1989 under subparagraph (A).

"(ii) For portable X-ray services furnished under this part during 1990, after March 31 of such year, clause (i) shall be applied by substituting '97' for '95'.".

(b) REDUCTION IN PREVAILING CHARGES FOR RADIOLOGY SERVICES.—(1) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(15) The prevailing charge levels for radiology services furnished during 1990, after March 31 of such year, shall be 98 percent of the prevailing charge levels for such services furnished during 1989.".

(2) Section 1842(j)(1)(D) of such Act, as amended by subsection (a)(2) of this section, is further amended—

(i) in clause (ii)(IV), by inserting "or (b)(15)" before the comma at the end, and

(ii) in clause (iii)(II), by striking "or (b)(14)(A)(i)" and inserting "(b)(14)(A), or (b)(15)".

(c) 1-YEAR EXEMPTION OF NUCLEAR PHYSICIANS.—(1) In applying section 1834(b)(6) of the Social Security Act with respect to services furnished during 1990, after March 31, of such year, the term "radiologist services" does not include nuclear medicine services performed by, or under the direct supervision of, a physician who is certified by the American Board of Nuclear Medicine or by the American Board of Radiology (with Special Competence in Nuclear Radiology).

(2) The Secretary of Health and Human Services shall make such adjustments in the fee schedule under section 1834(b) of the Social Security Act as may be necessary to ensure that the exclusion required by paragraph (1) neither increases nor decreases the total amount that would have been expended in 1990 for radiologist services (including the services excluded pursuant to this paragraph) but for the exclusion.

(d) INTERVENTIONAL RADIOLOGISTS.—In applying section 1834(b) of the Social Security Act to radiology services furnished in 1990, the exception for "split billing" set forth at section 5262J of the Medicare Carriers Manual shall apply to services furnished in 1990 in the same manner and to the same extent as the exception applied to services furnished in 1989.

SEC. 5204. ANESTHESIA SERVICES.

For purposes of payment for anesthesia services (whether furnished by a physician or by a certified registered nurse anesthetist) furnished under part B of title XVIII of the Social Security Act on or after April 1, 1990, the time units shall be counted based on actual time rather than rounded to full time units.

SUBPART B—PAYMENT FOR OTHER SERVICES

SEC. 5221. CLINICAL DIAGNOSTIC LABORATORY SERVICES.

(a) SETTING FEE SCHEDULE UPDATE FOR 1990 AT 3 PERCENT.—Paragraph (2)(A)(ii) of section 1833(h) (42 U.S.C. 1395l(h)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) in subclause (II), by striking "1988." and inserting "1988, and"; and

(3) by adding at the end the following new subclause:

"(III) the annual adjustment under clause (i) to become effective on April 1, 1990, shall be an increase of 3 percent.".

(b) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Paragraph (4)(B) of such section is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis," and inserting "and before January 1, 1990,", and

(B) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

SEC. 5222. DURABLE MEDICAL EQUIPMENT.

(a) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking "in 1989" and inserting "in 1989 and the first 3 months of 1990",

(B) in clause (i), by striking "or" at the end,

(C) in clause (ii), by striking "for the preceding year" and inserting "for the last day of the preceding year",

(D) by redesignating clause (ii) as clause (iii), and

(E) by inserting after clause (i) the following new clause:

"(ii) in the remaining months of 1990, is the amount specified in clause (i) increased by 3 percent, or".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and the first 3 months of 1990",

(B) in subclause (I), by striking "or" at the end,

(C) in subclause (II), by striking "1990, 1991," and inserting "1991",

(D) in subclause (II), by striking "for the previous year" and inserting "for the last day of the previous year",

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

"(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (8)(C)(i), by striking "(A)(ii)(I)" and inserting "(A)(ii)"; and

(C) in paragraphs (8) and (9)—

(i) in subparagraph (B)(i), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)"; and

(ii) in clauses (ii) and (iii) of subparagraph (C), by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)".

(b) ADJUSTMENT BY SECRETARY FOR OVERPRICED ITEMS.—Paragraph (1) of section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(c) TREATMENT OF POWER DRIVEN WHEELCHAIRS.—

(1) AS ROUTINELY PURCHASED.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair (other than a customized wheelchair that is classified as a customized item under paragraph (4) pursuant to criteria specified by the Secretary),".

(2) AS CUSTOMIZED ITEM.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall by regulation specify criteria to be used by carriers in making determinations on a case by case basis as whether to classify power-driven wheelchairs as a customized item (as described in section 1834(a)(4) of the Social Security Act) for purposes of reimbursement under title XVIII of the Social Security Act.

(3) The amendments made by paragraph (1) shall apply to items furnished on or after April 1, 1990.

SEC. 5223. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPATIENT SERVICES.

Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 13.5 percent for services provided in cost reporting periods beginning during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a sole community hospital (as defined in section 1886(d)(5)) or is eligible to be paid as a sole community hospital for the period.

"(III) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital for a cost reporting period if the hospital is a hospital (described in section 1815(e)(1)(B)) for the period.

"(IV) The Secretary shall apply the reduction described in subclause (I) to services for which payment may be based on a blended rate under section 1833(n) or 1833(i)(3); however, the reduction shall be applied only to that portion of the payment based on hospital costs.".

PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

SEC. 5301. DELAY IN PAYMENTS IN FISCAL YEAR 1990.

(a) PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and inserting "25"; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(b) PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(1) in paragraph (2)(B)(ii)(IV), by striking "24" and "17" and inserting "25" and "20", respectively; and

(2) in paragraph (3)(B)—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 15 days.".

(c) NECESSARY RESULT.—Any transfer of outlays, receipts, or revenues pursuant to this section, is a necessary (but secondary) result of a significant policy change for purposes of section 202 of Public Law 100-119.

SEC. 5302. MEDICARE AS SECONDARY PAYER.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

(A) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(12) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION FOR VERIFICATION OF EMPLOYMENT STATUS OF MEDICARE BENEFICIARY AND SPOUSE OF MEDICARE BENEFICIARY.—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) DISCLOSURE BY HEALTH CARE FINANCING ADMINISTRATION.—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan),

"(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818 or section 1818A.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B)."

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),".

(ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on October 1, 1989.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request

that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(C) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers the information received under subparagraph (B) for the purposes of carrying out this subsection.

"(D) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such Code), as disclosed under subparagraph (C), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first—

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than October 15, 1989.

PART IV—MEDICARE PART B BASIC PREMIUM

SEC. 5401. ONE-YEAR EXTENSION OF PART B PREMIUM MINIMUM.

Section 1839(e) (42 U.S.C. 1395q(e)) is amended by striking "1990" each place it appears and inserting in lieu thereof "1991".

Subtitle B—Medicaid

SEC. 5501. MISCELLANEOUS MEDICAID PROVISIONS.

(a) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

(2) WAIVERS FOR CERTAIN NURSE AIDES.—Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—

(A) in subparagraph (A), by striking "any individual" and inserting in lieu thereof "any individual (except an individual described in subparagraph (H))", and

(B) by inserting at the end thereof the following new subparagraph:

"(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—

"(i) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (A), a State shall waive such requirements with respect to an individual who—

"(I) was hired as a nurse aide by an employer before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that such individual has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months, and

"(III) has completed a 15-hour course of instruction in basic skills developed by the State.

"(ii) WAIVERS.—With respect to the nurse aide training and competency requirements described in subparagraph (a), a State shall waive such requirements with respect to an individual who—

"(I) was employed as a nurse aide before January 1, 1990,

"(II) can demonstrate to the satisfaction of the State that he or she has served as a nurse aide in the State in the preceding 24 month period, and

"(III) has completed a nurse aide training program that was required by the State and established before December 22, 1987.".

(b) DELAY IN REQUIREMENT FOR REMEDIES.—Section 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is amended by striking "October 1, 1989" and inserting in lieu thereof "April 1, 1991".

(c) EFFECTIVE DATES.—Except as provided in subparagraph (B), the amendments made by this section shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Income Security

SEC. 5601. PROPOSED AMENDMENTS TO AUTHORIZE THE OFFSET OF UNPAID CONTRIBUTIONS FROM UNEMPLOYMENT COMPENSATION (WITH TECHNICAL AMENDMENTS).

(a) IN GENERAL.—Section 303 is amended by adding at the end the following new subsection:

"(j)(1) The State agency charged with administration of the State law may deduct and withhold from the unemployment compensation otherwise payable to an individual an amount equal to the unpaid contributions, as defined in section 3306(g) of the Federal Unemployment Tax Act (26 U.S.C. 3306(g)), owed by the individual to the State's unemployment fund.

"(2) Any amount deducted and withheld under this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State's unemployment fund in satisfaction of the contributions owed.

"(3) For purposes of this subsection, the term 'unemployment compensation' means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).".

(b) DEDUCTIONS FROM BENEFITS.—Section 303(a)(5) is amended by striking out the last proviso and inserting in lieu thereof the following:

"*Provided further*, That amounts may be deducted from unemployment benefits and otherwise payable to an individual and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of this section.".

(c) FEDERAL UNEMPLOYMENT TAX.—Section 3304(a)(4) of the Federal Unemployment Tax Act is amended by amending subparagraph (D) thereof to read as follows:

"(D) amounts may be deducted from unemployment benefits and used in payment of obligations owed by the individual solely as provided in subsections (d), (e), (g), and (j) of section 303 of the Social Security Act."

TITLE VI—REVENUE MEASURES

SEC. 6001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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Subtitle A—Corporate Provisions

SEC. 6201. DIVIDEND RECEIVED DEDUCTION NOT ALLOWED FOR DIVIDENDS ON PREFERRED STOCK OF CERTAIN SUBSIDIARIES.

(a) IN GENERAL.—Section 246 (relating to rules for applying deduction for dividends received) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEDUCTION DISALLOWED ON PREFERRED STOCK OF SUBSIDIARY TO EXTENT TAXABLE INCOME REDUCED BY LOSSES OF GROUP.—

"(1) GENERAL RULE.—No deduction shall be allowed under section 243, 244, or 245 in respect of the disallowed portion of any applicable dividend.

"(2) APPLICABLE DIVIDEND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable dividend' means any dividend—

"(i) on stock described in section 1504(a)(4) in any corporation which is a member of an affiliated group filing a consolidated return other than the common parent (hereinafter in this subsection referred to as the 'distributing corporation'), and

"(ii) paid out of the current earnings and profits of the distributing corporation for the taxable year (as determined under section 316(a)(2)).

"(B) LIMITATION BASED ON CONSOLIDATED LOSS OFFSET.—The aggregate amount of dividends treated as applicable dividends under subparagraph (A) shall not exceed the consolidated loss offset of the distributing corporation.

"(3) DISALLOWED PORTION.—For purposes of this subsection, the term 'disallowed portion' means the portion of an applicable dividend which bears the same ratio to such dividend as—

"(A) the consolidated loss offset, bears to

"(B) the separately computed taxable income of the distributing corporation.

"(4) CONSOLIDATED LOSS OFFSET.—For purposes of this subsection, the term 'consolidated loss offset' means, with respect to any distributing corporation, any of the following items of any other member of the same affiliated group as such corporation which are treated as used to offset the separately computed taxable income of such corporation:

"(A) Any net operating loss or any net operating loss carryover under section 172.

"(B) Any loss from the sale or exchange of any capital asset or any capital loss carryover under section 1212.

"(C) The deduction equivalent (determined in the same manner as under section 383) of any excess credit or any excess credit carryover (determined under section 383 without regard to any foreign tax credit allowed under section 27(a)).

"(5) SEPARATELY COMPUTED TAXABLE INCOME.—The term 'separately computed taxable income' means the taxable income of a distributing corporation computed as if it were not a member of an affiliated group.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection, including regulations—

"(A) preventing the avoidance of this subsection through the transfer of assets with built-in losses to the distributing corporation, through delaying dividend payments, or through the use of tiered entities; and

"(B) exempting dividends from the application of this subsection if the taxpayer can establish such dividends were paid from previously taxed income."

(b) REPORTING REQUIREMENTS FOR DIVIDENDS.—Section 6042(a) (relating to returns regarding payments of dividends and corporate earnings and profits) is amended by inserting "or" at the end of subparagraph (B) and by adding after subparagraph (B) the following new subparagraph:

"(C) who makes payments of applicable dividends (within the meaning of section 246(f)(2)) to any corporation a portion of which is not allowable as a deduction under section 243 or 245 by reason of section 246(f),".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to distributions after October 2, 1989, in respect of stock issued after such date.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by this section shall not apply to distributions after October 2, 1989, in respect to stock issued after such date pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such issuance.

(3) SPECIAL RULE WHEN SUBSIDIARY LEAVES GROUP.—If, by reason of a transaction after October 2, 1989, a corporation ceases to be, or becomes, a member of an affiliated group, the amendment made by this section shall apply to any distribution in respect of the stock in such corporation after the date of such cessation or commencement, unless such transaction is of a kind which would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.

(4) RETIRED STOCK.—The amendments made by this section shall apply to distributions in respect of stock described in paragraph (1) or (2) if such stock is retired (or acquired) by the corporation or another member of the same affiliated group, unless such retirement is pursuant to an obligation to reissue under a binding written contract in effect on October 1, 1989, and at all times thereafter.

(5) SPECIAL RATE FOR AUCTION RATE REFERRED.—For purposes of this subsection, auction rate preferred stock shall be treated as issued when the contract requiring the auction became binding.

SEC. 6202. DEFERRAL OF INTEREST DEDUCTIONS ON CERTAIN HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Subsection (e) of section 163 (relating to interest deductions on original issue discount obligations) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULE FOR ORIGINAL ISSUE DISCOUNT ON CERTAIN HIGH YIELD OBLIGATIONS.—Any portion of any original issue discount on an applicable high yield discount obligation (as defined in subsection (i)) otherwise deductible by a C corporation shall not be allowable as a deduction until paid. For purposes of the preceding sentence, rules similar to the rules of subsection (i)(3)(B) shall apply in determining the time when original issue discount is paid."

(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—Section 163 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable high yield discount obligation' means any debt instrument if—

"(A) the maturity date of such instrument is more than 5 years from the date of issue,

"(B) the yield to maturity on such instrument equals or exceeds the sum of—

"(i) the applicable Federal rate in effect under section 1274(d) for the calendar month in which the obligation is issued, plus

"(ii) 5 percentage points, and

"(C) such instrument has significant original issue discount.

For purposes of subparagraph (B)(i), the Secretary may by regulation permit a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the taxpayer establishes to the satisfaction of the Secretary that such higher rate is based on the same principles as the applicable Federal rate and is appropriate for the term of the instrument.

"(2) SIGNIFICANT ORIGINAL ISSUE DISCOUNT.—For purposes of paragraph (1)(C), a debt instrument shall be treated as having significant original issue discount if—

"(A) the aggregate amount which would be includible in gross income with respect to such instrument for periods before the close

of any accrual period (as defined in section 1272(a)(5)) ending after the date 5 years after the date of issue, exceeds—

"(B) the sum of—

"(i) the aggregate amount of interest to be paid under the instrument before the close of such accrual period, and

"(ii) the product of the issue price of such instrument (as defined in sections 1273(b) and 1274(a)) and its yield to maturity.

"(3) SPECIAL RULES.—For purposes of determining whether a debt instrument is an applicable high yield discount obligation—

"(A) any payment under the instrument shall be assumed to be made on the last day permitted under the instrument, and

"(B) any payment to be made in the form of another obligation (or stock) of the issuer (or a related person within the meaning of section 453(f)(1)) shall be assumed to be made when such obligation (or stock) is required to be paid in cash or in property other than such obligation (or stock).

"(4) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means any instrument which is a debt instrument as defined in section 1275(a).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) regulations providing for modifications to the provisions of this subsection in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances where such modifications are appropriate to carry out the purposes of this subsection, and

"(B) regulations to prevent avoidance of the purposes of this subsection through the use of issuers other than C corporations, agreements to borrow amounts due under the debt instrument, or other arrangements."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to instruments issued after July 10, 1989.

(2) EXCEPTIONS.—

(A) The amendments made by this section shall not apply to any instrument if—

(i) such instrument is issued in connection with an acquisition—

(I) which is made on or before July 10, 1989,

(II) for which there was a written binding contract in effect on July 10, 1989, and at all times thereafter before such acquisition, or

(III) for which a tender offer was filed with the Securities and Exchange Commission on or before July 10, 1989,

(ii) the term of such instrument is not greater than—

(I) the term specified in the written documents described in clause (iii), or

(II) if no term is determined under subclause (I), 10 years, and

(iii) the use of such instrument in connection with such acquisition (and the maximum amount of proceeds from such instrument) was determined on or before July 10, 1989, and such determination is evidenced by written documents—

(I) which were transmitted on or before July 10, 1989 between the issuer and any governmental regulatory bodies or prospective parties to the issuance or acquisition, and

(II) which are customarily used for the type of acquisition or financing involved.

(B) The amendments made by this section shall not apply to any instrument issued pursuant to the terms of a debt instrument issued on or before July 10, 1989, or described in subparagraph (A) or (D).

(C) The amendments made by this section shall not apply to any instrument issued to refinance an original issue discount debt instrument to which the amendments made by this section do not apply if—

(i) the maturity date of the refinancing instrument is not later than the maturity date of the refinanced instrument,

(ii) the issue price of the refinancing instrument does not exceed the adjusted issue price of the refinanced instrument,

(iii) the stated redemption price at maturity of the refinancing instrument is not greater than the stated redemption price at maturity of the refinanced instrument, and

(iv) the interest payments required under the refinancing instrument before maturity are not less than (and are paid not later than) the interest payments required under the refinanced instrument.

(D) The amendments made by this section shall not apply to instruments issued after July 10, 1989, pursuant to a reorganization plan in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1986) if the amount of proceeds of such instruments, and the maturities of such instruments, do not exceed the amount or maturities specified in the last reorganization plan filed in such case on or before July 10, 1989.

SEC. 6203. SECTION 351 MADE INAPPLICABLE TO CERTAIN TRANSFERS OF SECURITIES.

(a) GENERAL RULE.—Section 351(a) (relating to nonrecognition in cases of transfers to corporations controlled by transferor) is amended by striking "or securities".

(b) EXCEPTIONS FOR CERTAIN EXCHANGES.—Section 351 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) CERTAIN TRANSFERORS PERMITTED TO RECEIVE SECURITIES WITHOUT RECOGNITION OF GAIN OR LOSS.—

"(1) IN GENERAL.—In the case of the following exchanges, subsections (a), (b), (d), and (e) shall be applied by substituting 'stock or securities' for 'stock':

"(A) Any exchange in pursuance of a plan of reorganization.

"(B) Any exchange where the stock or securities received in the exchange are distributed in a transaction to which section 355 (or so much of section 356 as relates to section 355) applies."

(c) CONFORMING AMENDMENTS.—Subsections (b), (d), and (e)(2) of section 351 are each amended by striking "or securities".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to transfers after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such transfer.

(3) CORPORATE TRANSFERS.—In the case of property transferred (directly or indirectly through a partnership or otherwise) by a C corporation, paragraphs (1) and (2) shall be applied by substituting "July 11, 1989" for "October 2, 1989". The preceding sentence shall not apply where the corporation meets the requirements of section 1504(a)(2) of the Internal Revenue Code of 1986 with respect to the transferee corporation (and where the transfer is not part of a plan pursuant to which the transferor subsequently fails to meet such requirements.)

SEC. 6204. PROVISIONS RELATED TO REGULATED INVESTMENT COMPANIES.

(a) REQUIREMENT TO DISTRIBUTE 98 PERCENT OF ORDINARY INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 4982(b)(1) (defining required distribution) is amended by striking "97 percent" and inserting "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to calendar years ending after July 10, 1989.

(b) TREATMENT OF CERTAIN MUTUAL FUND LOAD CHARGES.—

(1) IN GENERAL.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOAD CHARGES.—

"(1) IN GENERAL.—If—

"(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

"(B) such stock is disposed of within 6 months of the date on which such stock was acquired, and

"(C) the taxpayer subsequently acquires stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LOAD CHARGE.—The term 'load charge' means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

"(B) REINVESTMENT RIGHT.—The term 'reinvestment right' means any right to acquire stock of 1 or more other regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

"(C) NONRECOGNITION TRANSACTIONS.—If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to charges incurred after October 3, 1989, in taxable years ending after such date.

(c) REGULATED INVESTMENT COMPANIES REQUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND DATE.—

(1) IN GENERAL.—Subsection (b) of section 852 (relating to treatment of companies and shareholders) is amended by adding at the end thereof the following new paragraph:

"(9) DIVIDENDS TREATED AS RECEIVED BY COMPANY ON EX-DIVIDEND DATE.—For purposes of this title, any dividend received by a regulated investment company with respect to any share of stock shall be treated as received by such company on the later of—

"(A) the date such share became ex-dividend with respect to such dividend, or

"(B) the date such company acquired such share."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act.

SEC. 6205. LIMITATION ON THRESHOLD REQUIREMENT UNDER SECTION 382 BUILT-IN GAIN AND LOSS PROVISIONS.

(a) GENERAL RULE.—Clause (i) of section 382(h)(3)(B) (relating to threshold requirement) is amended to read as follows:

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than the lesser of—

"(I) 15 percent of the amount determined for purposes of subparagraph (A)(i)(I), or

"(II) $25,000,000,

the net unrealized built-in gain or net unrealized built-in loss shall be zero."

(b) CONFORMING AMENDMENT TO ADJUSTED CURRENT EARNINGS PREFERENCE.—Subparagraph (H) of section 56(g)(4) (relating to treatment of certain ownership changes) is amended by striking clause (ii) and all that follows and inserting the following:

"(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any ownership change or acquisition pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such change or acquisition.

(3) BANKRUPTCY PROCEEDINGS.—In the case of a reorganization described in section 368(a)(1)(G) of the Internal Revenue Code of 1986, or an exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3) of such Code), the amendments made by this section shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before October 3, 1989.

SEC. 6206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK TREATED AS EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by striking subsection (f) and inserting the following:

"(f) TREATMENT OF DIVIDENDS ON CERTAIN PREFERRED STOCK.—

"(1) IN GENERAL.—Any dividend with respect to disqualified preferred stock shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held the stock.

"(2) DISQUALIFIED PREFERRED STOCK.—For purposes of this subsection, the term 'disqualified preferred stock' means any stock which is preferred as to dividends if—

"(A) when issued, such stock has a dividend rate which declines (or can reasonably be expected to decline) in the future,

"(B) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or

"(C) such stock is otherwise structured—

"(i) to avoid the other provisions of this section, and

"(ii) to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss on the disposition of the stock.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass-thru entities, and

"(2) providing that the rules of subsection (f) shall apply in the case of stock which is not preferred as to dividends in cases where stock is structured to avoid the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any stock issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

SEC. 6207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS ACCOUNT RECAPTURE BY REDUCING BASIS OF INDEBTEDNESS.

(a) GENERAL RULE.—Subsection (e) of section 1503 (relating to special rule for determining adjustment to basis) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF ELECTION TO REDUCE BASIS OF INDEBTEDNESS.—Nothing in the regulations prescribed under section 1502 shall permit any reduction in the amount otherwise included in gross income by reason of an excess loss account if such reduction is on account of a reduction in the basis of indebtedness."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendment made by subsection (a) shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

SEC. 6208. OTHER PROVISIONS RELATING TO TREATMENT OF STOCK AND DEBT; ETC.

(a) CLARIFICATION OF REGULATORY AUTHORITY UNDER SECTION 385.—

(1) IN GENERAL.—Subsection (a) of section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by inserting "(or as in part stock and in part indebtedness)" before the period at the end thereof.

(2) REGULATIONS NOT TO BE APPLIED RETROACTIVELY.—Any regulations issued pursuant to the authority granted by the amendment made by paragraph (1) shall only apply with respect to instruments issued after the date on which the Secretary of the Treasury or his delegate provides public guidance as to the characterization of such instruments whether by regulation, ruling, or otherwise.

(b) REPORTING OF CERTAIN ACQUISITIONS OR RECAPITALIZATIONS.—

(1) IN GENERAL.—Section 6043 is amended by striking subsection (c) and inserting the following new subsections:

"(c) CHANGES IN CONTROL AND RECAPITALIZATIONS.—If—

"(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

"(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

"(d) CROSS REFERENCES.—

"For provisions relating to penalties for failure to file—

"(1) a return under subsection (b), see section 6652(c), or

"(2) a return under subsection (c), see section 6652(l)."

(2) PENALTY.—Section 6652 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000."

(3) CONFORMING AMENDMENTS.—

(A) The subsection heading for subsection (a) of section 6043 is amended by striking "CORPORATIONS" and inserting "CORPORATE LIQUIDATING, ETC., TRANSACTIONS".

(B) The section heading for section 6043 is amended to read as follows:

"SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS."

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6043 and inserting the following:

"Sec. 6043. Liquidating; etc., transactions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions after March 31, 1990.

SEC. 6209. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—In the case of an S corporation, for purposes of this section—

"(A) The following taxes shall be treated as imposed by section 11:

"(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

"(B) Paragraph (2) of subsection (d) shall not apply.

"(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

"'(ii) the sum of—

"'(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

"'(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.'

"(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

"(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

SEC. 6210. LIMITATIONS ON REFUNDS DUE TO NET OPERATING LOSS CARRYBACKS OR EXCESS INTEREST ALLOCABLE TO CORPORATE EQUITY REDUCTION TRANSACTIONS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(M) EXCESS INTEREST LOSS.—

"(i) IN GENERAL.—If—

"(I) there is a corporate equity reduction transaction, and

"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,

then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraphs (A) and (B), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.

"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.

"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means—

"(I) a C corporation which acquires stock, or the stock of which is acquired, in a major stock acquisition,

"(II) a C corporation which makes distributions with respect to, or redeems, its stock in connection with an excess distribution, or

"(III) any C corporation which is a successor corporation of a corporation described in subclause (I) or (II).

"(iv) OTHER DEFINITIONS.—For definitions of terms used in this subparagraph, see subsection (m)."

(b) CORPORATE EQUITY REDUCTION INTEREST LOANS AND CORPORATE EQUITY REDUCTION TRANSACTION DEFINED.—Section 172 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CORPORATE EQUITY REDUCTION INTEREST LOSSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'corporate equity reduction interest loss' means, with respect to any loss limitation year, the excess (if any) of—

"(A) the net operating loss for such taxable year, over

"(B) the net operating loss for such taxable year determined without regard to any allocable interest deductions otherwise taken into account in computing such loss.

"(2) ALLOCABLE INTEREST DEDUCTIONS.—

"(A) IN GENERAL.—The term 'allocable interest deductions' means deductions allowed under this chapter for interest on the portion of any indebtedness allocable to a corporate equity reduction transaction.

"(B) METHOD OF ALLOCATION.—Except as provided in regulations and subparagraph (E), indebtedness shall be allocated to a corporate equity reduction transaction in the manner prescribed under clause (ii) of section 263A(f)(2)(A) (without regard to clause (i) thereof).

"(C) ALLOCABLE DEDUCTIONS NOT TO EXCEED INTEREST INCREASES.—Allocable interest deductions for any loss limitation year shall not exceed the excess (if any) of—

"(i) the amount allowable as a deduction for interest paid or accrued by the taxpayer during the loss limitation year, over

"(ii) the average of such amounts for the 3 taxable years preceding the taxable year in which the corporate equity reduction transaction occurred.

"(D) DE MINIMIS RULE.—A taxpayer shall be treated as having no allocable interest deductions for any taxable year if the amount of such deductions (without regard to this subparagraph) is less than $1,000,000.

"(E) SPECIAL RULE FOR CERTAIN UNFORESEEABLE EVENTS.—If an unforeseeable extraordinary adverse event occurs during a loss limitation year but after the corporate equity reduction transaction—

"(i) indebtedness shall be allocated in the manner described in subparagraph (B) to unreimbursed costs paid or incurred in connection with such event before being allocated to the corporate equity reduction transaction, and

"(ii) the amount determined under subparagraph (C)(i) shall be reduced by the amount of interest on indebtedness described in clause (i).

"(F) TRANSITION RULE.—If any of the 3 taxable years described in subparagraph (C)(ii) end on or before August 2, 1989, the taxpayer may substitute for the amount determined under such subparagraph an amount equal to the interest paid or accrued (determined on an annualized basis) during the taxpayer's taxable year which includes August 3, 1989, on indebtedness of the taxpayer outstanding on August 2, 1989.

"(3) CORPORATE EQUITY REDUCTION TRANSACTION.—

"(A) IN GENERAL.—The term 'corporate equity reduction transaction' means—

"(i) a major stock acquisition, or

"(ii) an excess distribution.

"(B) MAJOR STOCK ACQUISITION.—

"(i) IN GENERAL.—The term 'major stock acquisition' means the acquisition by a corporation pursuant to a plan of such corporation (or any group of persons acting in concert with such corporation) of stock in another corporation representing 50 percent or more (by vote or value) of the stock in such other corporation,

"(ii) EXCEPTIONS.—The term 'major stock acquisition' shall not include—

"(I) a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies, or

"(II) except as provided in regulations, an acquisition in which a corporation acquires stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)) other than the common parent of such group.

"(C) EXCESS DISTRIBUTION.—The term 'excess distribution' means the excess (if any) of—

"(i) the aggregate distributions (including redemptions) made during a taxable year by a corporation with respect to its stock, over

"(ii) the greater of—

"(I) 150 percent of the average of such distributions during the 3 taxable years immediately preceding such taxable year, or

"(II) 10 percent of the fair market value of the stock of such corporation as of the beginning of such taxable year.

"(D) RULES FOR APPLYING SUBPARAGRAPH (B).—For purposes of subparagraph (B)—

"(i) PLANS TO ACQUIRE STOCK.—All plans referred to in subparagraph (B) by any corporation (or group of persons acting in concert with such corporation) with respect to another corporation shall be treated as 1 plan.

"(ii) ACQUISITIONS DURING 24-MONTH PERIOD.—All acquisitions during any 24-month period shall be treated as pursuant to 1 plan.

"(E) RULES FOR APPLYING SUBPARAGRAPH (C).—For purposes of subparagraph (C)—

"(i) CERTAIN PREFERRED STOCK DISREGARDED.—Stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.

"(ii) ISSUANCE OF STOCK.—The amounts determined under clauses (i) and (ii)(I) of subparagraph (C) shall be reduced by the aggregate amount of stock issued by the corporation during the applicable period in exchange for money or property other than stock in the corporation.

"(4) OTHER RULES.—

"(A) ORDERING RULE.—For purposes of paragraph (1), in determining the allocable interest deductions taken into account in computing the net operating loss for any taxable year, taxable income for such taxable year shall be treated as having been computed by taking allocable interest deductions into account after all other deductions.

"(B) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), the corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(C) MEMBERS OF AFFILIATED GROUPS.—Except as provided by regulations, all members of an affiliated group filing a consolidated return under section 1501 shall be

treated as 1 taxpayer for purposes of this subsection and subsection (b)(1)(M).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) for applying this subsection to successor corporations and in cases where a taxpayer becomes, or ceases to be, a member of an affiliated group filing a consolidated return under section 1501,

"(B) to prevent the avoidance of this subsection through related parties, pass-through entities, and intermediaries, and

"(C) for applying this subsection where more than 1 corporation is involved in a corporate equity reduction transaction.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to corporate equity reduction transactions occurring after August 2, 1989, in taxable years ending after August 2, 1989.

(2) EXCEPTIONS.—In determining whether a corporate equity reduction transaction has occurred after August 2, 1989, there shall not be taken into account—

(A) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989,

(B) acquisitions or redemptions of stock after August 2, 1989, pursuant to a binding written contract (or tender offer filed with the Securities and Exchange Commission) in effect on August 2, 1989, and at all times thereafter before such acquisition or redemption, or

(C) any distribution with respect to stock after August 2, 1989, which was declared on or before August 2, 1989.

Any distribution to which the preceding sentence applies shall be taken into account under section 172(m)(3)(C)(ii)(I) of the Internal Revenue Code of 1986 (relating to base period for distributions).

Subtitle B—Employee Benefit Provisions

SEC. 6301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) EXCLUSION AVAILABLE ONLY WHERE EMPLOYEES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—Subsection (b) of section 133 (defining securities acquisition loans) is amended by adding at the end thereof the following new paragraph:

"(6) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER ACQUISITION OR TRANSFER.—

"(A) IN GENERAL.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless, immediately after the acquisition or transfer referred to in subparagraph (A) or (B) of paragraph (1), respectively, the employee stock ownership plan owns (after application of section 318(a)(4)) at least 30 percent of—

"(i) each class of outstanding stock of the corporation issuing the employer securities, or

"(ii) the total value of all outstanding stock of the corporation.

"(B) STOCK.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(ii) TREATMENT OF CERTAIN RIGHTS.—The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A).".

(b) TERM OF LOAN MAY NOT EXCEED 15 YEARS.—Paragraph (1) of section 133(b) is amended by adding at the end thereof the following new sentence: "The term 'securities acquisition loan' shall not include a loan with a term greater than 15 years."

(c) VOTING RIGHTS.—Subsection (b) of section 133, as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(7) VOTING RIGHTS OF EMPLOYER SECURITIES.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless—

"(A) the employee stock ownership plan meets the requirements of section 409(e)(2) with respect to all employer securities acquired by, or transferred to, the plan in connection with such loan (without regard to whether or not the employer has a registration-type class of securities), and

"(B) no stock described in section 409(l)(3) is acquired by, or transferred to, the plan in connection with such loan unless—

"(i) such stock has voting rights equivalent to the stock to which it may be converted, and

"(ii) the requirements of subparagraph (A) are met with respect to such voting rights.".

(d) TAX ON DISPOSITION OF SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS.—

(1) IN GENERAL.—Chapter 43 is amended by inserting after section 4978A the following new section:

"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES TO WHICH SECTION 133 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of an employee stock ownership plan which has acquired section 133 securities, there is hereby imposed a tax on each taxable event in an amount equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 10 percent of the amount realized on the disposition to the extent allocable to section 133 securities under section 4978A(d).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means any of the following dispositions:

"(1) DISPOSITIONS WITHIN 3 YEARS.—Any disposition of any employer securities by an employee stock ownership plan within 3 years after such plan acquired section 133 securities if—

"(A) the total number of employer securities held by such plan after such disposition is less than the total number of employer securities held after such acquisition, or

"(B) except to the extent provided in regulations, the value of employer securities held by such plan after the disposition is less than 30 percent of the total value of all employer securities as of the time of the disposition.

"(2) STOCK DISPOSED OF BEFORE ALLOCATION.—Any disposition of section 133 securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EXCEPTIONS.—Rules similar to the rules of section 4978A(e) shall apply.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by the employer.

"(3) SECTION 133 SECURITIES.—The term 'section 133 securities' means employer securities acquired by an employee stock ownership plan in a transaction to which section 133 applied, except that such term shall not include—

"(A) qualified securities (as defined in section 4978(e)(2)), or

"(B) qualified employer securities (as defined in section 4978A(f)(2)).

"(4) DISPOSITION.—The term 'disposition' includes any distribution.

"(5) ORDERING RULES.—For ordering rules for dispositions of employer securities, see section 4978A(d)."

(2) CONFORMING AMENDMENTS.—

(A) Section 4978A(d) is amended by redesignating paragraphs (3) and (4) as paragraphs (5) and (6) and by inserting after paragraph (2) the following new paragraphs:

"(3) Third, from section 133 securities (as defined in section 4978B(d)(3)) acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Fourth, from section 133 securities (as so defined) acquired before such 3-year period unless such securities (or proceeds from the disposition) have been allocated to accounts of participants or beneficiaries."

(B) Section 4978A(d)(5), as redesignated by clause (i), is amended by striking "Third" and inserting "Fifth".

(C) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978A the following new item:

"Sec. 4978B. Tax on disposition of employer securities to which section 133 applied.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to loans made after June 6, 1989.

(2) BINDING COMMITMENT EXCEPTION.—The amendments made by this section shall not apply to any loan—

(A) which is made pursuant to a binding written commitment in effect on June 6, 1989, and at all times thereafter before such loan is made, or

(B) to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on June 6, 1989, and at all times thereafter before such securities are acquired.

(3) REFINANCINGS.—The amendments made by this section shall not apply to loans made after June 6, 1989, to refinance securities acquisition loans (determined without regard to section 133(b)(2) of the Internal Revenue Code of 1986) made on or before such date or to refinance loans described in this paragraph or paragraph (2), (4), or (5) if—

(A) such refinancing loans meet the requirements of such section 133 of such Code (as in effect before such amendments) applicable to such loans,

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the later of—

(i) the last day of the term of the original securities acquisition loan, or

(ii) the last day of the 7-year period beginning on the date the original securities acquisition loan was made.

For purposes of this paragraph, the term "securities acquisition loan" shall include a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code.

(4) COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by this section shall not apply to any loan to the extent such loan is used to acquire employer securities for an employee stock ownership plan pursuant to a collective bargaining agreement setting forth the material terms of such employee stock ownership plan which was agreed to on or before June 6, 1989, by one or more employers and employee representatives (and ratified on or before such date or within a reasonable period thereafter).

(5) FILINGS WITH UNITED STATES.—The amendments made by this section shall not apply to any loan the aggregate principal amount of which was specified in a filing with an agency of the United States on or before June 6, 1989, if—

(A) such filing specifies such loan is to be a securities acquisition loan for purposes of section 133 of the Internal Revenue Code of 1986 and such filing is for the registration required to permit the offering of such loan, or

(B) such filing is for the approval required in order for the employee stock ownership plan to acquire more than a certain percentage of the stock of the employer.

SEC. 6302. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h) ACCOUNTS.

(a) IN GENERAL.—Section 401(h) is amended by adding at the end thereof the following new sentence: "In no event shall the requirements of paragraph (1) be treated as met if the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the date on which the account is established."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions after October 3, 1989.

Subtitle C—Foreign Provisions

SEC. 6401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

"(b) SPECIFIED FOREIGN CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified foreign corporation' means any foreign corporation—

"(A) which is—

"(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

"(ii) a foreign personal holding company (as defined in section 552), and

"(B) with respect to which the ownership requirements of paragraph (2) are met.

"(2) OWNERSHIP REQUIREMENTS.—

"(A) IN GENERAL.—The ownership requirements of this paragraph are met with respect to any foreign corporation if a United States shareholder owns, on each testing day, more than 50 percent of—

"(i) the total voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of all classes of stock of such corporation.

"(B) OWNERSHIP.—For purposes of subparagraph (A), the rules of subsections (a) and (b) of section 958 and sections 551(f) and 554, whichever are applicable, shall apply in determining ownership.

"(3) UNITED STATES SHAREHOLDER.—

"(A) IN GENERAL.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).

"(B) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term 'United States shareholder' means any person who is treated as a United States shareholder under section 551.

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a specified foreign corporation described in subsection (b)(1)(A)(i), the required year is—

"(i) the majority U.S. shareholder year, or

"(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(B) 1-MONTH DEFERRAL ALLOWED.—Except as provided in paragraph (2), a specified foreign corporation may elect, in lieu of the taxable year under subparagraph (A)(i), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(C) MAJORITY U.S. SHAREHOLDER YEAR.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(I) each United States shareholder described in subsection (b)(2)(A), and

"(II) each United States shareholder not described in subclause (I) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such subclause.

"(ii) TESTING DAY.—The testing days shall be—

"(I) the first day of the corporation's taxable year (determined without regard to this section), or

"(II) the days during such representative period as the Secretary may prescribe.

"(2) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a foreign personal holding company described in subsection (b)(3)(B), the required year shall be determined under paragraph (1), except that subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.—

(1) IN GENERAL.—Section 563 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) FOREIGN PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15th day of the 3rd month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account under this subsection, be considered as paid during such taxable year. The amount allowed as a deduction by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed foreign personal holding company income of the corporation for the taxable year computed without regard to this subsection.

"(2) SPECIAL RULES.—In the case of any distribution referred to in paragraph (1)—

"(A) paragraph (1) shall apply only if such distribution is to the person who was the shareholder of record (as of the last day of the taxable year of the foreign personal holding company) with respect to the stock for which such distribution is made,

"(B) the determination of the person required to include such distribution in gross income shall be made under the principles of section 551(f), and

"(C) any person required to include such distribution in gross or distributable net income shall include such distribution in income for such person's taxable year in which the taxable year of the foreign personal holding company ends."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 563 (as redesignated by paragraph (1)) is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (c)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Taxable year of certain foreign corporations."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after July 10, 1989.

(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.

SEC. 6402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.—If 2 or more domestic corporations

would be members of the same affiliated group if—

"(1) section 1504(b) were applied without regard to the exceptions contained therein, and

"(2) the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a),

the Secretary may by regulations provide for resourcing the income of any of such corporations or for modifications to the consolidated return regulations to the extent that such resourcing or modifications are necessary to prevent the avoidance of the provisions of this subpart."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after July 10, 1989.

SEC. 6403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) 25-PERCENT FOREIGN-OWNED CORPORATIONS REQUIRED TO REPORT.—

(1) Paragraph (2) of section 6038A(a) is amended to read as follows:

"(2) is 25-percent foreign-owned,".

(2) Subsection (c) of section 6038A is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) 25-PERCENT FOREIGN-OWNED.—A corporation is 25-percent foreign-owned if at least 25 percent of—

"(A) the total voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a '25-percent foreign shareholder').

"(2) RELATED PARTY.—The term 'related party' means—

"(A) any 25-percent foreign shareholder of the reporting corporation,

"(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

"(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

"(4) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(5) RECORDS.—The term 'records' includes any books, papers, or other data.

"(6) SECTION 318 TO APPLY.—Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

"(A) '10 percent' shall be substituted for '50 percent' in section 318(a)(2)(C), and

"(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person."

(b) U.S. RECORDKEEPING REQUIREMENTS.—Subsection (a) of section 6038A is amended by inserting before the period at the end thereof the following: "and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)".

(c) INCREASE IN PENALTY.—Subsection (d) of section 6038A is amended to read as follows:

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—

"(1) IN GENERAL.—If a reporting corporation—

"(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

"(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records."

(d) ENFORCEMENT OF INFORMATION REQUESTS.—Section 6038A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request to examine records or produce testimony related to any such transaction or with respect to any summons for such records or testimony.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the correct treatment of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

"(3) APPLICABLE RULES IN CASES OF NONCOMPLIANCE.—If the rules of this paragraph apply to any transaction—

"(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

"(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be treated as a final order which may be appealed.

"(C) SUSPENSION OF STATUTE OF LIMITATIONS.—If the reporting corporation brings an action under subparagraph (A) to quash the summons referred to in paragraph (2)(A), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any transaction to which the summons relates shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 10, 1989.

Subtitle D—Excise Tax Provisions

SEC. 6501. 9-MONTH SUSPENSION OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Subsection (a) of section 4283 (relating to reduction in aviation-related taxes in certain cases) is amended by striking "during 1990" and inserting "after September 30, 1990".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4283(b)(1)(A) is amended by striking "1988 and 1989" and inserting "1989 and 1990".

(2) Paragraph (3) of section 4283(b) is amended—

(A) by striking "December 1, 1989" and inserting "September 1, 1990", and

(B) by striking "during 1990" and inserting "after September 30, 1990".

(3) Subsection (q) of section 6427 is amended by striking "during 1990" each place it appears and inserting "after September 30, 1990".

SEC. 6502. INCREASE IN INTERNATIONAL AIR PASSENGER DEPARTURE TAX.

(a) IN GENERAL.—Section 4261(c) (relating to tax on use of international travel facilities) is amended by striking "$3" and inserting "$6".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after December 31, 1989.

SEC. 6503. SHIP PASSENGERS INTERNATIONAL DEPARTURE TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Transportation by Water

"Sec. 4471. Imposition of tax.

"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax of $3 per passenger on a covered voyage.

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the person providing the covered voyage.

"(c) TIME OF IMPOSITION.—The tax imposed by this section shall be imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States.

"SEC. 4472. DEFINITIONS.

"For purposes of this subchapter—

"(1) COVERED VOYAGE.—

"(A) IN GENERAL.—The term 'covered voyage' means a voyage of—

"(i) a commercial passenger vessel which extends over 1 or more nights, or

"(ii) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States, during which passengers embark or disembark the vessel in the United States. Such term shall not include any voyage on any vessel owned or operated by the United States, a State, or any agency or subdivision thereof.

"(B) EXCEPTION FOR CERTAIN VOYAGES ON PASSENGER VESSELS.—The term 'covered voyage' shall not include a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means any vessel having berth or stateroom accommodations for more than 16 passengers."

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Transportation by water."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to voyages beginning after December 31, 1989.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter B of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6504. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE EFFECT ON JANUARY 1, 1990.

(a) TAX TO TAKE EFFECT ON JANUARY 1, 1990.—

(1) IN GENERAL.—Subsection (f) of section 4611 (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (1) and (2) and by inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1992."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 4611(f) is redesignated as paragraph (2) and is amended by striking "the commencement date" in subparagraph (A) and inserting "January 1, 1990,".

(b) 3 CENT RATE OF TAX.—Subparagraph (B) of section 4611(c)(2) is amended by striking "1.3 cents" and inserting "3 cents".

(c) OIL SPILL LIABILITY TRUST FUND TO BE OPERATING FUND.—

(1) IN GENERAL.—For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986, the commencement date is January 1, 1990.

(2) CONFORMING AMENDMENTS.—

(A) Section 9509 (relating to Oil Spill Liability Trust Fund) is amended by adding at the end thereof the following new subsection:

"(f) REFERENCES TO COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT.—For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives or the Oil Pollution Liability and Compensation Act of 1989, S. 686 of the 101st Congress as passed by the Senate."

(B) Paragraph (3) of section 9509(b) is amended by striking "(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)" and inserting "(on January 1, 1990)".

(C) Paragraph (1)(A) of section 9509(c) is amended by striking the last sentence.

SEC. 6505. EXCISE TAX ON SALE OF CHEMICALS WHICH DEPLETE THE OZONE LAYER AND OF PRODUCTS CONTAINING SUCH CHEMICALS.

(a) IN GENERAL.—Chapter 38 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Ozone-Depleting Chemicals, Etc.

"Sec. 4681. Imposition of tax.

"Sec. 4682. Definitions and special rules.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

"(2) any imported taxable product sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) OZONE-DEPLETING CHEMICALS.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

"(i) the base tax amount, multiplied by

"(ii) the ozone-depletion factor for such chemical.

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1990	$1.07
1991	1.12
1992	1.67
1993	3.15
1994 or thereafter	3.15.

"(2) IMPORTED TAXABLE PRODUCT.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

"SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) OZONE-DEPLETING CHEMICAL.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'ozone-depleting chemical' means any substance—

"(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) OZONE-DEPLETING CHEMICALS.—

"Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetrafluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane.

"(b) OZONE-DEPLETION FACTOR.—For purposes of this subchapter, the term 'ozone-depletion factor' means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

"Ozone-depleting chemical:	Ozone-depletion factor:
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0.

"(c) IMPORTED TAXABLE PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'imported taxable product' means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

"(2) DE MINIMIS EXCEPTION.—The term 'imported taxable product' shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creating an

aerosol or foam, or manufacturing electronic components.

"(d) EXCEPTIONS.—

"(1) RECYCLING.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

"(2) USE IN FURTHER MANUFACTURE.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is used (and entirely consumed) by the manufacturer, producer, or importer thereof in the manufacture or production of any other chemical.

"(B) CREDIT OR REFUND.—Under regulations prescribed by the Secretary, if—

"(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

"(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(3) EXPORTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

"(B) LIMIT ON BENEFIT.—

"(i) IN GENERAL.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured or produced by any person during a calendar year shall not exceed the sum of—

"(I) the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and

"(II) the aggregate tax imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989).

"(ii) 1986 EXPORT PERCENTAGE.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the article for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(f) SPECIAL RULES.—

"(1) FRACTIONAL PARTS OF A POUND.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(g) PHASE-IN OF TAX ON CERTAIN SUBSTANCES.—

"(1) TREATMENT FOR 1990.—

"(A) HALONS.—The term 'ozone-depleting chemical' shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—No tax shall be imposed by section 4681—

"(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

"(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser in the manufacture of rigid foam insulation, or

"(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

"(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) TREATMENT FOR 1991, 1992, AND 1993.—

"(A) HALONS.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of:	The applicable percentage is: For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
Halon-1211	7	5	3
Halon-1301	2	1	1
Halon-2402	4	2	1.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of sales or use during:	The applicable percentage is:
1991	23
1992	16
1993	8.

"(3) OVERPAYMENTS WITH RESPECT TO CHEMICALS USED IN RIGID FOAM INSULATION.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

"(A) the tax paid under this subchapter on such substance, over

"(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

"(h) IMPOSITION OF FLOOR STOCKS TAXES.—

"(1) JANUARY 1, 1990, TAX.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

"(2) OTHER TAX-INCREASE DATES.—

"(A) IN GENERAL.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

"(i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over

"(ii) the prior tax (if any) imposed by this subchapter on such substance.

"(C) TAX-INCREASE DATE.—For purposes of this paragraph, the term 'tax-increase date' means January 1 of 1991, 1992, 1993, and 1994.

"(3) DUE DATE.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before April 1 of such year.

"(4) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Ozone-depleting chemicals, etc."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 6506. ACCELERATION OF DEPOSIT REQUIREMENTS FOR GASOLINE EXCISE TAX.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collection), as amended by section 6504, is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) FREQUENCY AND TIME FOR DEPOSIT OF TAXES ON GASOLINE.—

"(1) GENERAL RULE.—Any person whose liability for tax under section 4081 exceeds $100 in any month of a calendar quarter shall make deposits of such tax with respect to tax periods in any month in the succeeding quarter as determined under paragraph (2).

"(2) TIME OF DEPOSIT.—

"(A) IN GENERAL.—Any deposit of tax required with respect to any tax period under paragraph (1) shall be payable on or before—

"(i) the 9th day after the close of the tax period, or

"(ii) if such deposit is made by wire transfer to any government depository authorized under section 6302, the 14th day after the close of the tax period.

"(B) TAX PERIODS.—Each month shall include 4 tax periods ending on the 7th, 14th, 21st, and last days of such month.

"(3) SPECIAL RULE WHERE 9TH OR 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (2) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to payments of taxes for tax periods beginning after December 31, 1989.

(2) SPECIAL RULE.—Notwithstanding section 6302(f) of the Internal Revenue Code of 1986, as added by subsection (a), in applying such section in September 1990, the due date for the third tax period of such month with respect to 9-day payers and the due date for the second tax period of such month with respect to 14-day payers shall be September 27, 1990.

Subtitle E—Miscellaneous Provisions

PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS

SEC. 6601. LIKE KIND EXCHANGES BETWEEN RELATED PERSONS.

(a) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS, ETC.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

"(f) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—If—

"(A) a taxpayer exchanges property with a related person,

"(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

"(C) before the date 2 years after the date of the last transfer which was part of such exchange—

"(i) the related person disposes of such property, or

"(ii) the taxpayer disposes of the property received in the exchange from the related person which was of like kind to the property transferred by the taxpayer, there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

"(2) CERTAIN DISPOSITIONS NOT TAKEN INTO ACCOUNT.—For purposes of paragraph (1)(C), there shall not be taken into account any disposition—

"(A) by reason of the death of the taxpayer,

"(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

"(C) with respect to which it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person bearing a relationship to the taxpayer described in section 267(b).

"(4) TREATMENT OF CERTAIN TRANSACTIONS.—This section shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection.

"(g) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(1) IN GENERAL.—If paragraph (2) applies to any property for any period, the running of the period set forth in subsection (f)(1)(C) with respect to such property shall be suspended during such period.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This paragraph shall apply to any property for any period during which the holder's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property,

"(B) the holding by another person of a right to acquire such property, or

"(C) a short sale or any other transaction.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be necessary to prevent the avoidance of the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer.

PART II—ACCOUNTING PROVISIONS

SEC. 6621. CHANGES IN TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

(a) CONTINGENT PAYMENTS.—Paragraph (1) of section 1253(d) (relating to treatment of payments by transferee) is amended to read as follows:

"(1) CONTINGENT SERIAL PAYMENTS.—

"(A) IN GENERAL.—Any amount described in subparagraph (B) which is paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name shall be allowed as a deduction under section 162(a) (relating to trade or business expenses).

"(B) AMOUNTS TO WHICH PARAGRAPH APPLIES.—An amount is described in this subparagraph if it—

"(i) is contingent on the productivity, use, or disposition of the franchise, trademark, or trade name, and

"(ii) is paid as part of a series of payments—

"(I) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

"(II) which are substantially equal in amount (or payable under a fixed formula)."

(b) $100,000 LIMITATION ON CERTAIN PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1253(d) is amended by adding at the end thereof the following new subparagraph:

"(B) $100,000 LIMITATION ON DEDUCTIBILITY OF PRINCIPAL SUM.—Subparagraph (A) shall not apply if the principal sum referred to in such subparagraph exceeds $100,000. For purposes of the preceding sentence, all payments which are part of the same transaction (or a series of related transactions) shall be taken into account as payments with respect to each such transaction."

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 1253(d) is amended—

(A) by striking all that precedes "If" and inserting:

"(2) CERTAIN PAYMENTS IN DISCHARGE OF PRINCIPAL SUMS.—

"(A) IN GENERAL.—", and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(c) OTHER PAYMENTS, ETC.—Section 1253(d) is amended by adding at the end thereof the following new paragraphs:

"(3) OTHER PAYMENTS.—

"(A) IN GENERAL.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) or (2) does not apply shall be treated as an amount chargeable to capital account.

"(B) ELECTION TO RECOVER AMOUNTS OVER 20 YEARS.—

"(i) IN GENERAL.—If the taxpayer elects the application of this subparagraph, an amount chargeable to capital account—

"(I) to which paragraph (1) would apply but for subparagraph (B)(ii) thereof, or

"(II) to which paragraph (2) would apply but for subparagraph (B) thereof,

shall be allowed as a deduction ratably over the 20-year period beginning with the taxable year in which the transfer occurs.

"(ii) CONSISTENT TREATMENT.—An election under clause (i) shall apply to all amounts which are part of the same transaction (or a series of related transactions).

"(4) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement or any period of amortization under this subsection, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(b) TECHNICAL AMENDMENTS.—

(1) DEPRECIATION ALLOWABLE.—Subsection (r) of section 167 is hereby repealed.

(2) DEDUCTION SUBJECT TO RECAPTURE.—

(A) Subparagraph (C) of section 1245(a)(2) is amended by striking "or 193" and inserting "193, or 1253(d) (2) or (3)".

(B) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "section 185" and inserting "section 185 or 1253(d) (2) or (3)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers after October 2, 1989.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before the transfer.

SEC. 6622. RESERVES OF MUTUAL SAVINGS BANKS AND OTHER THRIFT INSTITUTIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end thereof the following new subsection:

"(f) ORGANIZATIONS FAILING 60-PERCENT ASSET TEST.—

"(1) GENERAL RULE.—In the case of any taxpayer described in subsection (a)(1) which ceases to be so described or which fails to meet the requirements of subsection (a)(2)—

"(A) except as provided in this subsection, this section shall not apply for the disquali-

fication year or any succeeding taxable year, and

"(B) if the taxpayer maintained any reserve for bad debts for its last taxable year before the disqualification year, the rules of paragraph (3)(A) of section 585(c) (without regard to paragraph (4) thereof) shall apply for the disqualification year with respect to the portion of such reserve allocable to additions to such reserve under the experience method of subsection (b)(3).

"(2) SUBSEQUENT LOSSES.—If paragraph (1) applies, the taxpayer shall continue to maintain its remaining reserves for loans held by the taxpayer as of the 1st day of the disqualification year and—

(A) the rules of subsection (e) shall continue to apply to such reserves, and

(B) the taxpayer shall charge against such reserves for any taxable year losses resulting from loans held by the taxpayer on such 1st day to the extent that the cumulative losses from such loans as of the close of such taxable year (reduced by recoveries) does not exceed the cumulative amount included in gross income by reason of paragraph (1)(B) as of the close of such taxable year.

"(3) DISQUALIFICATION YEAR.—The term 'disqualification year' means the 1st taxable year ending after the date of the enactment of this subsection for which a taxpayer described in subsection (a)(1) ceases to be so described or fails to meet the requirements of subsection (a)(2).

"(4) ELECTION IRREVOCABLE.—An election under paragraph (1), once made, is irrevocable."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

PART III—EMPLOYMENT TAX PROVISIONS

SEC. 6631. TREATMENT OF AGRICULTURAL WORKERS UNDER WAGE WITHHOLDING.

(a) IN GENERAL.—Paragraph (2) of section 3401(a) (defining wages) is amended to read as follows:

"(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or".

(b) CREW LEADER RULES TO APPLY.—Section 3401 is amended by adding at the end thereof the following new subsection:

"(h) CREW LEADER RULES TO APPLY.—Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 6632. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—

"(1) IN GENERAL.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall, for the year specified in paragraph (2), make deposits of such taxes on the applicable banking day after any day on which such person has an amount equal to or exceeding the threshold amount of such taxes for deposit. Rules similar to the rules of section 5061(e)(3) shall apply to the threshold amount in the preceding sentence.

"(2) SPECIFIED YEARS.—For purposes of paragraph (1)—

"In the case of:	"The applicable banking day is:
1990	1st
1991	3rd
1992	3rd
1993	1st
1994	2d.

"In the case of:	"The threshold amount is:
1990	$1,950,000
1991	$1,500,000
1992	$1,600,000
1993	$1,700,000
1994	$1,775,000."

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts required to be deposited after July 31, 1990.

(2) RULE FOR 1995 AND THEREAFTER.—For calendar year 1995 and thereafter, the Secretary of the Treasury shall prescribe regulations with respect to the date on which deposits of such taxes shall be made in order to minimize the unevenness in the revenue effects of the amendment made by subsection (a).

PART IV—OTHER PROVISIONS

SEC. 6681. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS OF CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary—

"(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and

"(B) if any property so contributed is distributed by the partnership (other than to the contributing partner) within 3 years of being contributed—

"(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

"(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

"(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph.

"(2) SPECIAL RULE FOR DISTRIBUTIONS WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED OUTSIDE PARTNERSHIPS.—Under regulations prescribed by the Secretary, if—

"(A) property contributed by a partner (hereinafter referred to as the 'contributing partner') is distributed by the partnership to another partner, and

"(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

"(i) the 180th day after the date of the distribution described in subparagraph (A), or

"(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).

"(3) OTHER RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of paragraph (1) shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items. Any reference in paragraph (1) or (2) to the contributing partner shall be treated as including a reference to any successor of such partner."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of property contributed to the partnership after October 3, 1989, in taxable years ending after such date.

SEC. 6682. ELIMINATION OF RETROACTIVE CERTIFICATION OF EMPLOYEES FOR WORK INCENTIVE JOBS CREDIT.

(a) IN GENERAL.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—".

(b) EFFECTIVE DATE.— The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987.

Subtitle F—Coordination With Budget Act

SEC. 6701. COORDINATION WITH BUDGET ACT.

Any transfer of outlays, receipts, or revenues pursuant to this title (including section 6209, 6507, 6631, or 6632) is a necessary (but secondary) result of a significant policy change for purposes of section 202 of the joint resolution entitled "Increasing the statutory limit on the public debt" (Public Law 100-119), approved September 29, 1987.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 17, 1989, at 2:30 p.m. to consider the following:

AGENDA: SENATE JUDICIARY COMMITTEE BUSINESS MEETING

(Tuesday, October 17, 1989 at 2:30 p.m. in SD-226)

I. NOMINATIONS

United States Circuit Court

Conrad K. Cyr, to be United States Circuit Judge for the First Circuit Court of Appeals

United States District Court

Rebecca Beach Smith, United States District Court Judge for the Eastern District of Virginia

Marvin J. Garbis, United States District Court Judge for the District of Maryland

Department of Justice

Stuart M. Gerson, Assistant Attorney General, Civil Division, Department of Justice

United States Attorney

Jeffrey R. Howard, to be United States Attorney for the District of New Hampshire

Robert W. Genzman, to be United States Attorney for the Middle District of Florida

Michael D. McKay, to be United States Attorney for the Western District of Washington

U.S. Marshals

Herbert M. Rutherford III, to be United States Marshal for the District of Columbia

II. COMMEMORATIVES

S.J. Res. 158—A bill to designate October 22 through 28, 1989, as "World Population Awareness Week."—Kerry

S.J. Res. 159—A bill to designate April 22, 1990 as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.—Gore

S.J. Res. 164—A bill to designate the year 1990, as the "Inernational Year of Bible Reading."—Nickles

S.J. Res. 177—A bill to designate October 29, 1989, as "Fire Safety at Home—Change Your Clock, Change Your Battery Day."—Bond

S.J. Res. 181—A bill to establish calendar year 1992 as the "Year of Clean Water."—Mitchell

S.J. Res. 184—A bill to designate the periods commencing on November 26, 1989 and ending on December 2, 1989, and commencing on November 28, 1990 and ending on December 2, 1990, as "National Home Care Week."—Hatch

S.J. Res. 186—A bill to designate the week of March 1 through March 7, 1990 as "National Quarter Horse Week."—McClure

S.J. Res. 194—A bill to designate November 12-18, 1989 as "National Glaucoma Awareness Week."—Lautenberg

S.J. Res. 196—A bill to establish the month of October, 1989, as "Country Music Month."—Gore

H.J. Res. 401—A joint resolution to establish the month of October, 1989 as "Country Music Month."—Gore

S.J. Res. 204—A bill to designate October 28, 1989 as "National Women Veterans of World War II Day."—Nunn

S.J. Res. 212—A bill to designate April 24, 1989, as "National Day of Remembrance of the Seventy-Fifth Anniversary of the Armenian Genocide of 1915-1923."—Dole

S.J. Res. 213—A bill to designate October 22 through October 29, 1989 as "National Red Ribbon Week for a Drug-Free America."—Boschwitz

III. BILLS

S. 32—A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes—Thurmond

S. 458—A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes—DeConcini

S. 438—To amend chapter 96 of title 18, United States Code—DeConcini

S. 865—To amend the Sherman Act regarding retail competition—Metzenbaum

S.J. Res. 14—Joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation—Thurmond

S.J. Res. 23—Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations—Dixon

S. 1259—A bill to amend section 3143 of title 18, United States Code, to require the detention of any person found guilty of a violent offense pending sentence of appeal, and for other purposes—Simon

S. 594—A bill to establish a specialized corps of judges necessary for certain federal proceedings required to be conducted, and for other purposes—Heflin

S. 84—A bill to amend title 28, United States Code, to provide Federal debt collection procedures—Biden

S. 993—A bill to implement the convention on the prohibition of the development, production, and stockpiling of bacteriological (biological) and toxin weapons and their destruction, by prohibiting certain conduct relating to biological weapons—Kohl

S. 185—A bill to amend title 18 of the United States Code to punish as a federal criminal offense the crimes of international parental child abduction—Dixon

S. 198—A bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs—Hatch

S. 497—A bill entitled the "Copyright Remedy Clarification Act"—DeConcini

S. 1271—A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments—DeConcini

S. 1272—A bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed terms of such Commissioners, and for other purposes—DeConcini

S. 459—A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1985, with respect to the use of inventions in outer space—Gore

S. 82—A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated—Thurmond

S. 1563—A bill granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact

S. 1485—A bill to grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa—Grassley

S.J. Res. 183—Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget—Simon

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

INTERNATIONAL PANEL ON UNESCO

● Mr. MOYNIHAN. Mr. President, I rise today to bring to the attention of my colleagues a report on an issue of great significance to the United States. Five years ago the United States withdrew from the U.N. Educational, Scientific and Cultural Organization [UNESCO]. Ambassador Jean Gerard, the U.S. representative to UNESCO, gave three reasons for the decision to withdraw: The increasing politicization of UNESCO, the corruption which had crept into the financial and recruiting practices there, and the attitude of the Director General at the time, Mr. Amadou M'Bow, who consistently expressed anti-United States views. A further significant reason was the assault on the free flow of information under the rubric of a "New World Information and Communications Order."

Today UNESCO is under new leadership and has instituted many reforms. The new Director General, Federico Mayor, is a distinguished biochemist from Spain. I have met with Director General Mayor. He is a serious man, and he appears to recognize how far UNESCO had strayed from its substantive mission.

Because of the recent changes at UNESCO the United States can once again consider rejoining. This question is being discussed in many forums. Last April I presided over a hearing before the Committee on Foreign Relations which explored the changes being made at UNESCO. Recently hearings were held in the House. Now the United Nations Association-USA has released the conclusions of an important new study which was conducted under the leadership of the extremely distinguished former Senator from Vermont, Robert T. Stafford. The study analyzes the stake which the United States has in the activities of UNESCO. Another study, to be released shortly, will address directly the question of whether the United States should rejoin the organization.

Because of the importance of this issue, the high quality of the report and the distinction of the members of the UNA-USA panel, I believe that the report and its conclusions deserve close attention, and I ask that the contents of the report be printed in the RECORD.

IN THE MINDS OF MEN

(Summary of Findings of the Report of the International Panel on UNESCO)

If the architects of the U.N. system had not thought to create a UNESCO in 1945, some such institution would have to be created today. The problems and needs in the sectors addressed by UNESCO—education, science, culture and communication—are by now inescapably international.

In its first years UNESCO compiled an impressive record as the intellectual center of the multilateral system, enjoying high prestige and access to intellectual circles around the world. But to recall what UNESCO was only underscores the dramatic deterioration since. While its core programs have continued, a sense of the organization's greater purpose and public respect for its competence have faded; the departure of three

member states in quick succession was more symptom than cause of the agency's troubles. The world community has had to reexamine what it expects of UNESCO and the means by with UNESCO can fulfill those expectations.

UNESCO's primary role must be one of energizer and catalyst, a generator of ideas for concerted action among professional communities and governments rather than an administrator of sprawling programs. This role demands access to the leading thinkers and practitioners in UNESCO's fields. For an organization like UNESCO their defection is the most deadly by far. If UNESCO's only constituency is government bureaucracies, its creative spark will be gone and its usefulness spent. In fact, the intellectual communities' commitment to the agency has weakenened as UNESCO's performance has seemed to slacken.

OPPORTUNITY AND PURPOSE

At UNESCO a process of renewal is already under way, restoring some measure of confidence about the agency's competence and potential effectiveness. To sustain this, UNESCO must have a program relevant to the interests and needs of the professional and intellectual communities both in developed countries, where these communities and their networks are well established, and in developing countries, where UNESCO must nurture their growth and independence.

Of course, it is important to recall the budgetary realities that sharply limit UNESCO's reach. With a regular budget of only U.S. $175 million a year, the agency cannot be expected to furnish a remedy for every transborder problem that falls under its umbrella. This is a caution that Director-General Federico Mayor has wisely elevated to a first principle of his reform program: Do less to do better.

Still, after the sharp program curtailments of 1985-6, the panel recommends approval of the modest (2.5 percent) real budgetary increase the Director-General has requested for program "reinforcement" in the next biennium. Such an increase would be a sign of returning confidence in the agency and its improved management.

Acknowledging the financial constraints, the panel notes several areas in UNESCO's fields of specialization that merit the organization's attention in coming years:

Education

The 1980s were not a good decade for this core UNESCO concern, with many countries slashing education expenditures as part of debt adjustment programs. UNESCO often seemed on the sidelines, making little impact on the policy debate. Furthermore, one of UNESCO's principal weaknesses was shown to be its shallow roots in the education sectors of developed countries.

For UNESCO to be truly relevant worldwide it must be a global resource to feed new thinking—even leaking fresh ideas past the defenses of educational bureaucracies, whether state or professional. At the same time, it must work closely with these bureaucracies on priority programs, of which the promotion of *literacy* is obviously the most urgent. The panel views *adult education* (including maintenance of literacy skills and exchanges of research on "functional illiteracy"), the *education of ethnic and racial minorities* (of growing urgency in the developed countries) and the *measurement of student ability and achievement* as other important areas for UNESCO activity. UNESCO should help to spark wider dialogue on a number of other areas where it has a comparative advantage—science education, core school curricula, teacher training and qualifications, and interculturral studies.

Science

UNESCO is the only overarching agency that deals with "pure" as well as applied science and reaches across all scientific disciplines. It is also the one international agency that helps to promote the development of science—and particularly of a "scientific culture"—in countries where it is not yet rooted. The strengthening of nongovernmental scientific organizations in Third World countries must be a conscious priority of UNESCO's science program.

Topping the world's scientific agenda at the end of the century are problems of environmental quality and sustainability. UNESCO is the one multilateral agency that works with all the research disciplines relevant to environmental problems, and it has long organized scientific collaboration in these fields. While continuing to promote research, the organization must now forge clearer lines of cooperation with the U.N. Environment Programme. UNESCO has had less success in its social science program, yet sound research on the human impact of environmental problems is required before workable policy responses can be devised.

Culture

UNESCO's activities in the cultural sector are well managed and successful. However, because of political demands UNESCO's resources—even the "resource" of undertaking an international safeguarding campaign—have been spread too thinly.

Communication

The panel concurs with the emerging consensus in UNESCO's governing bodies that the organization must move beyond the confines of the "new information order" debate to "a new strategy on communication" if it is to meet the urgent communication challenges of the 21st century. Indeed, the rapid development of communication technology, which is thrusting UNESCO into the role of global switching point to access data bases worldwide, could make much of the debate of the 1970s obsolete and raises other fundamental issues about which UNESCO should encourage new thinking.

The panel sees two distinct but compatible principles as essential underpinnings of UNESCO's communication program, neither limiting the other: (1) defense of the "free flow of ideas, by word and image," and (2) remedying serious imbalances in communication capabilities around the world that keep information and ideas from entering the international flow. UNESCO's efforts to increase diversity and improve the balance should include training and support for independent print and broadcast facilities, and in particular for independent journalists.

The panel sees a fundamental issue emerging in the new information technology: the potential "commodification" of information. More and more, international flows of information services are being placed in categories of conventional trade and treated simply as commercial issues. But the impact of communication on culture in general is so profound that it should also be viewed in a context broader than trade. Distinguished scholarship is a prerequisite for informed debate on the implications of these issues.

Human rights

UNESCO has a constitutional mandate to promote universal respect for human rights and diffuse worldwide a human rights cultural awareness. The agency's efforts seem to have lost momentum over the past decade. UNESCO needs closer relationships with leading nongovernmental human rights groups, it should look more often to outside organizations than to its permanent staff when it comes to carrying out program activities, and it should do a better job of coordinating its work with other international human rights units.

UNESCO's procedure for hearing rights complaints was reasonably successful a decade ago, but governments charged with violations now seem to treat it less seriously. The secretariat should solicit recommendations from nongovernmental human rights organizations about ways to improve its effectiveness and the Executive Board should take up long-stalled cases in public sessions.

WHOLENESS

It is clear that the emerging issues in UNESCO's several fields of competence present challenges that national governments cannot meet by acting alone. It is also clear that UNESCO's effectiveness in meeting these challenges depends in part on the active participation of the leading nations that withdrew from membership in the mid-1980's. Although the organization has demonstrated it can survive without them, it survives severely disabled.

The panel members from the other regions of the globe welcome the findings of their American colleagues that a return to UNESCO is important to America's interests in the multilateral system. It is inconceivable that the United States would have interests in science, culture, education, and communication so different from those of the rest of the world that it could not participate in the one U.N. agency that looks after these sectors.

RICHNESS OF PARTICIPATION

Were the United States, Britain, and Singapore to rejoin UNESCO, the organization would regain its universality yet remain an underperformer. The organization requires a fundamental structural reform to realize its mission fully.

The key to UNESCO's success is *professionalization:* Agency decision-making must embrace the expertise and commitment of professionals in all UNESCO's fields of competence. Characteristically, the organization's most successful efforts have been in those areas—science prominent among them—in which the relevant professional communities have been involved in every aspect of the program, including management. UNESCO's governing bodies should define broad program guidelines and appropriate funds among the major program areas, leaving specific allocations within program areas to the secretariat on recommendations of expert oversight councils in each sector.

National commissions

UNESCO's founders had hoped that national commisions would enable the agency to forge grassroots ties to the world's professional and intellectual communities. The quality of the national commissions, however, is very uneven. The panel believes they must be strengthened by requiring that most members be drawn from outside government ministries, designated directly by their institutions and associations, with periodic review by the Executive Board of

each member state's national commission to ensure it is validly constituted. Nominations for the Executive Board should be considered by the General Conference only if they originally emanate from validly constituted national commissions. A formal process of consultations by Executive Board members with the national commissions of their own and neighboring countries should be established.

The executive board

An organ originally intended as a small "executive" body of distinguished persons has become an institution of such unmanageable size and agendas that it cannot effectively fulfill the functions originally entrusted to it. The length of Executive Board meetings is excessive—and a strong disincentive for individuals of distinction and responsibility to consider serving on it.

Substantial restructuring is required. The panel recommends the reallocation of work within the Board to shorten its meeting periods and endow it once again with a genuine oversight function. It should meet once a year, with virtually all of its time devoted to meetings of its committees and commissions for detailed review of the organization's programs; the work of these panels should not be rehashed in plenary sessions of the full Board.

The Bureau of the Board, an existing body of 12 members, should become its nerve center, reviewing and integrating the various commission reports and maintaining close oversight of the secretariat's work and the agency's program. The Bureau should prepare the agenda of the General Conference and act as the Board's search committee for candidates for Director-General.

To encourage the highest quality of members on the Executive Board, the network of international nongovernmental organizations should evaluate candidates to be presented to the General Conference. Board members should be permitted to serve two consecutive terms, and the Board should have a core staff of its own. Fundamental structural reforms will enhance the quality and stature of the Executive Board—and its effectiveness.

The general conference

UNESCO's supreme legislative body, the General Conference, also needs—and should welcome—a streamlining of its proceedings to lighten its workload and shorten its sessions, drawing on the experience of other specialized agencies.

The General Conference should transfer responsibility for a number of administrative, financial, and personnel matters to the Executive Board. It should concentrate its most important policy-making business in a few days, scheduling together the kind of priority items that should command the attention of top-ranking government ministers and other delegates of distinction whose time is previous.

Finance

Since overall budgetary authorizations can become a divisive issue, the panel suggests that the General Conference create a formal mechanism through which major and minor contributors, enjoying comparable negotiating power, can reach early agreement on a spending ceiling. For the immediate future, in expectation that large contributors may return to membership after the 1990-91 budget and assessments are fixed, the General Conference should authorize the creation of a separate account for any unanticipated revenues, to be used primarily for nonrecurring expenses.

Effective direction

Director-General Mayor has initiated far-reaching reforms that hold the promise of restoring professionalism to the management of the agency. There is some evidence, however, that the agency may need a single management alter ego to the Director-General. To ensure freshness and innovativeness in the top job, a limitation to no more than two successive terms for the Director-General seems appropriate.

An intellectual center

It is essential that the organization secure some of the world's most eminent personalities in its several fields to help chart the agency's direction and shape its program. The panel recommends—perhaps initially on a trial basis—the creation of a prestigious "council of eminent advisers," composed of distinguished men and women in the areas of science, education, culture, communication, and human rights, nominated by the Director-General after consultation with the nongovernmental community, and confirmed by the General Conference. The council would advise the secretariat and Executive Board about emerging issues on which international cooperation is essential and about the research programs needed to respond to them; recommend pilot projects for the agency to initiate; control a modest budget subject to approval by the Director-General and the Bureau; and propose to the Director-General the names of experts for appointment to the sectoral oversight councils.

The council of eminent advisers would serve as the intellectual center for UNESCO, linking it directly to the leadership of the world's premier academic, research, and creative networks.

CONCLUSION

The panel believes it is essential that the world community grasp the current opportunity to reform and give new life to the U.N.'s educational, scientific, and cultural organization. Its work is important now and will become more so with the relentless globalization of problems. Despite remarkable progress in recent years, UNESCO needs to undergo an even more profound transformation with fundamental structural reform and a concentrated mission to anticipate and meet the challenges of the coming century.

UNA-USA AMERICAN PANEL ON UNESCO

CHAIRMAN

Robert T. Stafford, Former United States Senator (Republican of Vermont).

PANEL MEMBERS

Mary Hatwood Futrell, Former President, National Education Association; Vice President, World Confederation of Teaching Professions.

Walter Rosenblith, Professor Emeritus, Massachusetts Institute of Technology; Former Vice President, International Council of Scientific Unions.

John R. Stevenson, Counsel, Sullivan & Cromwell; President, National Gallery of Art Board of Trustees.

Leonard R. Sussman, Senior Scholar in International Communications, Freedom House.

Esteban Torres, Member, United States House of Representatives (Democrat of California); Former Permanent Representative of the United States to UNESCO.●

NORTH AMERICAN WETLANDS CONSERVATION ACT

● Mr. CHAFEE. Mr. President, in July, the Committee on Environment and Public Works voted unanimously to report S. 804, the North American Wetlands Conservation Act. This legislation enables the United States to fulfill its commitment, under the North American Waterfowl Management Plan, to protect important wetland habitats throughout the United States, Canada and Mexico.

Countless species of waterfowl and other birds, fish and wildlife depend on wetland areas for nesting, feeding and spawning. The combined effects of drought conditions in the prairies of the United States and Canada and the continuing conversion and development of wetlands, have contributed to a wetlands loss rate of over 400,000 acres per year. This has led to precipitous declines in populations of ducks, geese, and other migratory birds.

In 1986, the United States Secretary of Interior and the Canadian Minister of the Environment signed the North American Waterfowl Management Plan. This plan is a strategy for protecting, restoring and enhancing wetland areas throughout the continent in order to restore waterfowl populations to levels of just a decade ago. In a speech before a Ducks Unlimited gathering earlier this year, President Bush expressed support for the North American Waterfowl Management Plan and for legislation designed to achieve its habitat protection goals.

S. 804 provides the structure and the funding to implement the North American Waterfowl Management Plan and protect wetlands for the benefit of all species which depend upon such habitats. Earlier this week, the House of Representatives passed legislation similar to S. 804. I urge my colleagues to lend their support to S. 804. Let's get this bill to the President.

Mr. President, an excellent article on this issue by the Director of the Fish and Wildlife Service John Turner was printed recently by the Orvis News in Manchester, VT. I ask that a copy of this article be printed in the RECORD following my remarks.

The article follows:

IS THERE STILL HOPE FOR WATERFOWL?

My roots are in Wyoming. I grew up in Jackson Hole where I was blessed with opportunities to develop lifelong addictions for fishing, hunting, wildlife photography, running rivers, or just wandering high country.

Like most outdoor persons, some of my most memorable wildlife encounters have involved waterfowl. Exploding ducks lifting from the cold quiet of a frosted beaver dam at dawn. The pristine cry of sandhill crane parents trying to decoy this invading fly fisherman from a new hatchling. Against a red late day sky, V'ed flocks of geese and ducks overhead announcing the final chapters of fall. These are images I want my two sons and daughters, along with future gen-

erations of Americans, to be able to enjoy for the enrichment of their lives.

Unfortunately, as I begin my watch as director of the U.S. Fish and Wildlife Service, the number of ducks making flights across our land has declined sharply. This year's projected fall flight of 64 million birds is the second lowest on record and is well under the 100 million bird flights that were common in the 1970s. In short, ducks have taken a battering during the 1980s as persistent drought—the "big dry" we call it out West—and perhaps more lasting forms of habitat loss and destruction have ravaged their breeding grounds on the vast U.S. and Canadian prairies.

As waterfowlers know all too well, the duck decline has resulted in some of the most restrictive hunting regulations of the last quarter century. These reductions in bag limits and season lengths have worked (the duck harvest was cut 50 percent last year) and are generally in effect again this year.

Most hunters understand the need for these restrictions. They are willing to sacrifice to help duck numbers recover. Many are concerned to the point they believe the very future of waterfowl hunting hangs in the balance. Beyond hunting restrictions, they are asking, what is being done for ducks?

What more hunters and all lovers of wildfowl need to know is that there is an exciting battle plan to bring ducks back to our skies . . . it's called the North American Waterfowl Management Plan. Devised by Canadian and U.S. waterfowl experts and signed into being by the two governments in 1986, the Plan proposes to do nothing less than restore fall flights of ducks to the 100 million level by the year 2000.

The Plan is a massive undertaking. Its goal is to raise $1.5 billion to restore and enhance 6 million acres of waterfowl habitat between now and the end of the century. Stopping the destruction of wetlands—the biggest factor in waterfowl declines—is what this plan is all about. The effort will play a leading role in President Bush's and Interior Secretary Lujan's excellent goal of saving the country's precious wetlands. The Plan will also yield substantial added benefits for shore and wading birds and a host of other wetland wildlife species.

I first heard about the Plan a year or so ago, but I really wasn't aware of its ambitious goals until it became a part of my portfolio when I was sworn in as Director of the Fish and Widlife Service this August. Well, I'm a believer now. The North American Waterfowl Management Plan offers our best (and maybe our last) chance to have sufficient numbers of waterfowl to maintain and improve the great sport and tradition of waterfowl hunting. I want other hunters and wildlife lovers throughout America to become believers. Everyone needs to climb aboard. The Plan will need massive levels of citizen interest and support if it is to achieve its fullest potential. The payoff is worth your involvement.

In spite of its relative anonymity, the North American Plan has accomplished a great deal in its first two years. Three dozen projects—ranging from small farmlands to huge government-owned sites—have been started from coast to coast, and many more are about to be launched. Encompassing millions of acres, these projects are focused in and coordinated under "Joint Venture" areas (see map).

What is Joint Venture? As the name implies, it is a partnership. It is important to note that these Joint Ventures are not just a federal show of the governments of Canada and the United States. Rather, the mainspring is a unique partnership that includes the states and provinces in both countries and more than 40 private conservation groups—outfits like Ducks Unlimited, the National Wildlife Federation, Izaak Walton League, and The Nature Conservancy. (The Orvis News in May reported on the partnership efforts by Ducks Unlimited and The Nature Conservancy to restore wetlands in California and South Dakota.) At a time when both private and public funds are hard to come by, this partnership is incredibly important to the Plan's success.

Some of the Plan's first money came from 12 state fish and wildlife agencies which somehow squeezed a total of $1 million out of their hard-pressed budgets to get the ball rolling. Ducks Unlimited put up a matching amount, the U.S. Government provided $2 million through the federally-created National Fish and Wildlife Foundation, and Canada raised $4 million to match the amount raised in the United States. The $8 million was then used on the Canadian prairies to begin a major habitat improvement effort in the Quill Lakes area of Saskatchewan.

Projects under the Joint Ventures aren't measured by size alone. The Ohio Divison of Wildlife is spearheading an effort to protect 5,200 acres of freshwater coastal marshes and estuaries along Lake Erie under auspices of the Plan. On a smaller scale yet, the Fish and Wildlife Service recently leased 640 acres of riceland near Kaplan, Louisiana, as a resting and feeding area for wintering waterfowl. In both cases, the size of these tracts is less significant than their importance as feeding areas for waterfowl.

Our country's participation is headed by the U.S. Fish and Wildlife Service, whose professionals are front-line veterans in the struggle to conserve wetlands. In addition, increasingly valuable wetlands conservation work is being undertaken by such agencies as the Bureau of Land Management, the U.S. Forest Service, and the Corps of Engineers.

Private landowners, who own 66 percent of the remaining wetlands in the United States, are also pitching in. Under the Farm Bill of 1985, many farmers have agreed to protect or even restore their wetlands. Landowner cooperation and positive support have been outstanding so far in Joint Venture areas where real pick and shovel work has begun.

I'm still a greenhorn when it comes to life in our nation's Capitol, but I immediately discovered that the North American Plan and the cause of conserving wetlands have strong support in the White House, on both sides of the aisle in Congress, and with sportsmen and conservation groups in Washington, D.C.

President Bush helped set the tone when he established "no net loss of wetlands" as one of his top environmental priorities, noting that we have already lost one half of the wetlands that existed when the Pilgrims landed. Subsequently, a number of bills to increase support for the North American Plan have been introduced in Congress by Republicans and Democrats alike. Finally, in a June speech at a Ducks Unlimited waterfowl symposium, President Bush endorsed the North American Plan and set up an interagency task force under the Domestic Policy Council to help develop united Federal policy to save wetlands and, "to stop the destruction of these precious habitats."

With this kind of interest, it appears marshes, estuaries, potholes, bogs, and swamps—as well as the plant and animal communities they support—are on the verge of becoming socially and politically acceptable inside Washington's Beltway.

Still, all of us who have spent time enjoying waterfowl and countless other wetland species know that much remains to be done. You can learn about the North American Plan and become involved. Join cooperative efforts of local clubs and national hunting, fishing, and conservation groups. Your help is critical in insuring that some of our most precious wild resources don't become memories.

The future of wild wings and wild lands will be an important test of the real wealth of our society and the overall well being of our nation's environment. Ducks and geese—and all they represent, need everyone's help now. Welcome aboard.

Joint Ventures are the cooperative efforts that are the heart and soul of the North American Plan.

The six United States habitat Joint Ventures are:

The U.S. Prairie Joint Venture will protect 1.1 million acres of "pothole" habitat.

The Lower Mississippi Vally Joint Venture will protect 300,000 acres of wintering habitat.

The Central Valley Venture will protect 80,000 acres of pintail habitat in California.

The Gulf Coast Joint Venture will protect 386,000 acres of wintering habitat.

The Great Lakes-St. Lawrence Lowlands Joint Venture is designed to protect 10,000 acres of black duck habitat.

The Atlantic Coast Joint Venture will protect 50,000 acres of breeding and migration habitat for black ducks.●

HONORING COL. JAMES C. ADAMSON, U.S.A. NASA ASTRONAUT

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to Col. James C. Adamson, a U.S.A. NASA astronaut. Colonel Adamson will be a mission specialist for the five-member crew voyaging into space on the shuttle *Columbia.*

Adamson grew up in Groveland which is in Livingston County, NY. The town is thrilled as well as proud that Adamson will be venturing into space. Through the colonel's outstanding work and accomplishments, he proved his ability to be one of the five crewmembers to set out on this latest exploration on the *Columbia.*

Colonel Adamson is definitely one of the most qualified astronauts we have in America today. His lists of accomplishments include being a West Point graduate, test pilot, having a master's degree in aeronautical engineering from Princeton University, and serving as a Vietnam helicopter pilot. These qualifications allowed him to be 1 of the 17 new astronauts out of 5,000 applicants in 1984.

Mr. President, I would like to wish Colonel Adamson the best of luck in his space travel on the *Columbia* and look foward to his safe return. Thanks

to him, Americans will learn tremendously from his experience.●

NO VISA FOR ARAFAT

● Mr. BOSCHWITZ. Mr. President, the U.N. will soon hold its annual debate on Palestine. Because of this, the question has once again arisen as to whether the State Department should issue a visa to PLO chairman Yasser Arafat if he applies for one.

Some argue that with the beginning of the United States-PLO dialog, based on Arafat's statement in Geneva last year recognizing Israel's right to exist, renouncing terrorism, and accepting Security Council Resolution 242, conditions have changed and a visa should be granted. I disagree. I urge that the State Department continue to refuse to issue a visa to Yasser Arafat.

Developments over the past year have continued to raise doubts as to whether the PLO truly wants a peaceful solution to the Israeli-Palestinian dispute. Arafat himself has continued to speak in terms which lay open to question the extent of his commitment to such a solution.

And just this past August, a congress of the PLO's largest organization, Fatah—which Arafat heads—issued a political program that was so extreme and objectionable that it could only lead to the conclusion that Arafat is unwilling to live in peace with an independent Jewish state.

Mr. President, I believe many Americans agree with me that Arafat should not be granted a visa. Recently, the writer George Will eloquently argued the point against letting him into the United States. I commend to my colleagues' attention Mr. Will's article.

The article follows:

[From the Washington Post, Sept. 17, 1989]

NO VISA FOR ARAFAT

(By George F. Will)

Nine months after a diplomatic debacle, the United States is in danger of making matters worse. The Bush administration, which is relentlessly and sometimes obnoxiously eager to underscore the obvious—that it is not the Reagan administration—may well pick up where the Reagan administration left off in appeasing the Palestine Liberation Organization.

The question is: What will happen if Yasser Arafat requests a visa to visit his kindred spirits, of which there are all too many, at the United Nations?

Late last autumn, to enable it to do what it had long wanted to do—deal directly with the PLO—the State Department became Arafat's lyricist, coaxing him to sing the right (well, the State Department's idea of the right) words. The three U.S. conditions were recognition of Israel, acceptance of U.N. Resolution 242 and renunciation of terrorism. The PLO did none of the three, but feigned agonies of surrender, so State ruled that it had done all three.

The PLO slightly softened its rhetoric of implacable hostility toward Israel, hostility still enshrined in the PLO covenant, which declares Palestine "invisible" and vows "elimination of Zionism in Palestine." The PLO "accepted" Resolution 242 (as the PLO misconstrues it to require complete withdrawal to the 1967 borders).

But the PLO accepted 242 in the context of "relevant" U.N. resolutions. These—"Zionism is racism" and the rest—have the cumulative meaning of mandating Israel's destruction.

Today, as 10 months ago, the PLO, speaking to its constituencies, reassures them that its diplomatic maneuvers are merely part of a phased approach to the liquidation of Israel. The two-stage, two-state strategy is to reduce Israel to indefensible borders by means of a PLO satrapy on the West Bank, and then use violence.

Regarding terrorism, the PLO said: We never have used it, we promise to stop using it, and attacks against Israelis are not terrorism. Since then, the PLO has increased terrorism in three ways. There have been more attacks across the border, including squads from the Fatah faction. PLO radio from Baghdad incites and praises terrorism within pre-1967 Israel, such as the act of plunging an Israeli bus into a ravine. And there has been a sharp increase in murders of moderate Palestinians—89 so far—on the West Bank.

Israel has serious plans for accommodating its security needs and Palestinian political aspirations. Israelis cite as a possible model Spain's concessions to Catalan cultural and political autnomy. (Implicit in that analogy is Israeli annexation of the West Bank.) Refugee camps could be replaced by towns for $2 billion—if, say, 10 European nations would put their money (a mere $40 million each for just give years) where their mouths incessantly are. But what moderate Palesinians will come forward to negotiate? They see other moderates murdered, and the United States is worse than merely mute, it is absolving the "umbrella organization."

Concerning whether the PLO is a terrorist organization, State's position is: it cannot be such an organization because we are talking with it, and we are not allowed to talk with terrorists. State also says the PLO is an "umbrella organization" and that Fatah is one faction bound by Arafat's supposed renunciation of terrorism. How does State verify compliance? The point of the PLO "umbrella" structure is to allow appeasement-minded Westerners to say they cannot trace a thread of responsibility for Palestinian terrorism.

Six months ago, Arafat reaffirmed the PLO goal of "the complete liberation of the Palestinian soil and the establishment of a Palestinian state over every part of it." Five months ago the head of the PLO's political department said: "The recovery of but a part of our soil will not cause us to forsake our Palestinian land. . . . We shall pitch our tent in those places which our bullets can reach. . . . This tent shall then forth the base from which we shall later pursue the next phase."

Three months ago, the leader of the PLO's second largest faction said: "The establishment of a Palestinian state in the West Bank and Gaza will be the beginning of the downfall of the Zionist enterprise. . . . [Our goal] is the complete liberation of the national Palestinian soil." Last month the Fatah conference in Tunis reaffirmed that the 1948 partition of Palestine was a "crime."

The Bush administration, which prides itself on believing that all differences are splitable, cannot imagine implacability and therefore cannot recognize it in the PLO. Or so say critics, who hope they are not proven correct by a visa for Arafat.●

PRIME MINISTER BENAZIR BHUTTO—RECIPIENT OF THE W. AVERELL HARRIMAN DEMOCRACY AWARD

● Mr. KERRY. Mr. President, Benazir Bhutto, Prime Minister of the Islamic Republic of Pakistan, recently was chosen to receive the prestigious W. Averell Harriman Democracy Award, given by the National Democratic Institute for International Affairs [NDI]. Long recognized for its work around the world in the ongoing struggle for democracy, NDI acknowledged Prime Minister Bhutto's efforts in the restoration of democracy in Pakistan after 11 years of military dictatorship.

Unfortunately, the Prime Minister herself could not come to the United States to receive this award. Instead, the Prime Minister sent her mother and Senior Minister, Begum Nusrat Bhutto, to accept it on her behalf. No stranger to the struggle for democracy, Begum Bhutto delivered an eloquent address which I believe all Members of the Senate—and indeed all Americans—should be interested to read, and I ask that her speech be inserted in the RECORD at the conclusion of these remarks.

Begum Bhutto's words are a magnificent exposition on democracy, on the values we hold dear. They contain a timely reminder to Americans that "students and workers around the world today are quoting Madison, not Marx, Lincoln, not Lenin" as they pursue political change, and an appeal to Americans for support as Pakistan strives to give meaning to its newfound freedom.

Mr. President, I believe the new, democratic Government of Pakistan deserves that support. People all over the world know the story of Benazir Bhutto's recent rise to power, of her election as Prime Minister after years of imprisonment, harassment, and detention at the hands of the political and military opposition. Last November's elections in Pakistan were the first relatively free and fair elections in Pakistan in more than a decade. And today Prime Minister Bhutto is the first woman to lead a Moslem nation since the 13th century.

There is, however, an ongoing struggle in Pakistan to solidify democracy. Pakistan faces a myriad of problems which are not new—economic underdevelopment, rampant illiteracy, a rising scourge of drugs, and the burden of providing for an ever-growing Afghan refugee population, now numbering well over 3 million. What is new, Mr. President, is the way the Bhutto government is attacking these problems: aggressively and successfully.

In response to Pakistan's enormous economic and social problems, the first

months of leadership by the Bhutto government have provided many heartening signs. The new Government of Pakistan has moved to cut spending, reduce the deficit, privatize industry, and welcome foreign investment. Inflation once in the double-digits today is less than 10 percent, and continues downward. Bureaucratic redtape is being eliminated and the private sector is once again alive with investment initiatives. A serious and sustained assault on drug trafficking has begun with criminals being arrested, prosecuted, and extradited.

Mr. President, I am proud to voice my support today for the government of Prime Minister Bhutto and for the people of Pakistan. Their dream of democracy merits our support and deserves the chance to succeed.

Mr. President, I ask that the attached speech by Begum Nusrat Bhutto be included in the RECORD at this point.

The remarks follow:

SPEECH BY SENIOR MINISTER BEGUM NUSRAT BHUTTO

Speaker Foley, Vice President Mondale, Congresswoman Ferraro, Chairman Kirk, and Dear Friends, I stand before you tonight, deeply honored and very grateful to accept on behalf of my Prime Minister—and my daughter, Benazir Bhutto—the W. Averell Harriman Democracy Award, recognizing her efforts to restore democracy in Pakistan and her commitment to strengthening democractic institutions worldwide. You will forgive a very proud mother for complimenting the Institute on its choice.

Benazir sends with me her greetings and her deep appreciation for this award, named in honor of a great American, whose contributions to the promotion and preservation of democratic values is legendary. And for Benazir to be receiving this award along with another great American, Speaker TOM FOLEY, only doubles the honor. Benazir wishes to accept this award not just for herself—but also on behalf of the millions in Pakistan—and across the world—who battled to see democracy restored to our nation.

Many of those who fought, suffered—and some—some gave their lives so that others might breathe free. In our hearts, we shall always remember them. And in rocognizing Benazir this evening, you pay honor to their sacrifice, too.

No discussion of the restoration of democracy in Pakistan would be complete without mentioning the invaluable work of the National Democractic Institute—and particularly its leadership in monitoring the November 1988 elections. For the first time in 11 years, Pakistanis were able to participate in relatively free and fair elections. And the relative absence of fraud in those elections was due in no small measure to the fine work of NDI. On behalf of Benazir, myself and millions of Pakistani men and women, long deprived of human dignity and hope, I thank you.

In Pakistan, we are emerging from a long, national nightmare into a new era of freedom and justice, but our work—and yours—has just begun. Democracy has a global agenda. And it can be found in the recent surge of democratic movements around the world, and in the calls for reform in authoritarian regimes.

Earlier this year speaking at the Harvard commencement, Prime Minister Bhutto called for the creation of a new Association of Democratic Nations. Her goal was clear and straightforward: To form an international union committed to representative democracy, committed to the notion that all governments should be accountable to the people whom they serve.

On Benazir's behalf, I reiterate that call today. Governments often have found it convenient and wise to band together, usually at times of grave external threat, and most successfully, during times of war. Indeed, the world had not suffered from a lack of international organizations.

By last count, there are over 2,650 international organizations, ranging from the grand to the mundane; from organizations dedicated to peace to organizations dedicated to cooperation in seed testing and cotton planting. But there has never been an international organization bringing together nations solely on the basis of their adherence to constitutional government and the commitment to the values of democracy.

The need for such an organization is particularly acute for the world's new democracies, for nations making the difficult transition from autocracy to freedom. The time is long overdue for those of us who believe in what we preach, to help others around the world who share our values. In South America, in Asia, in Eastern Europe—and even in the Soviet Union—the old order is crumbling in the face of democratic change.

From the politburo to the communal farm, the tender shoots of freedom are sprouting, the roots of which lie deep in the soil of the North American continent. The world is changing more rapidly than perhaps we realize. We stand as an international community confronting an opportunity, an opportunity unseen in the world for at least 70 years since the victory of democratic nations in World War I.

Today's world leaders must decide: Will they cooperate in shaping the awesome change sweeping the globe or let another opportunity go by.

The time is right for assertive action to promote democracy—for coordinated efforts to create an Association of Democratic Nations. An association committed to the proposition, manifest in the United Nations Universal Declaration of Human Rights, that "freedom is not the sole prerogative of a lucky few, but the inalienable right of all human beings." An association prepared to use the force of moral suasion and the incentive of economic action. An association to preserve democracy in nations in crisis—and to promote democracy in nations undertaking reform.

Democratic nations owe it to themselves, as a matter of self-interest, and to others, as a matter of morality, to expedite and educate, to encourage and cajole, to provide incentives and assistance in the promotion of democratic values around the world. Prime Minister Bhutto's proposal acknowledges the realities which separate nations, but gives expression to the hopes which unite them.

Freedom can be a fragile thing. Despite political and economic progress, emerging democracies confront a myriad of problems associated with development. Not every democracy organizes itself in the same way; nor does every democracy express itself the same way.

But Prime Minister Bhutto has identified two elements essential to all democracies: Elections, at regular intervals, open to all significant political parties, fairly administered and based on a broad or universal franchise and a system, both political and legal, which guarantees fundamental human rights, including freedom of expression, conscience, speech, and association.

Members of an Association of Democratic Nations could assist each other in many ways. But let us begin with the assurance of impartial elections. The National Democratic Institute has proven in Pakistan—and other nations—that the presence of observers is a deterrent to fraud. Governments tend to act more responsibly when they know the whole world is watching—and reporting. In countries without established democratic traditions, representative government is always at risk.

But an Association of Democratic Nations could balance those risks: By mobilizing world opinion, by strengthening the institutions of freedom, and by helping to build new institutions to guarantee human rights, the principles of justice, and due process of law.

Ultimately, the Association of Democratic Nations, as envisaged by Prime Minister Bhutto, could consider stronger steps: Channeling economic assistance to democracies, or applying economic sanctions against nations where freedom has been denied or diminished. Most donor nations are democracies. It is only fitting that they should nurture the values with which they have achieved political maturity and economic prosperity.

The recent effort to create a multilateral assistance initiative in support of democracy in the Philippines need to be a one-time achievement. It could be the forerunner of many such efforts organized and implemented through the Association of Democratic Nations. Criteria for assistance, agreed upon and applied by both donor and recipient nations, would have tremendous force in protecting transitional democracies. A moral framework for foreign policy, as proposed here, may be seen by some as a departure from standard operating procedure. If so, it is long overdue.

Morality, as expressed in international opinion, has played a far larger role in international relations than many seem prepared to recognize. It has played a significant role in changing the order in South America, South Asia, and now, in Eastern and Central Europe. And if morality did not intervene to save the life of my husband, Prime Minister Zulfikar Ali Bhutto, by the 1980's it was sufficiently strong to help save myself and my daughter Benazir—and to secure our release from prison under the previous military dictatorship in Pakistan.

The emphasis today on democracy and human rights in movements around the world is an outgrowth of an international moral consensus. Democratic structures, by providing freedom and fairness, are commendable in their own right. By providing predictability and stability, they enhance the quality of life for all. Throughout the world, liberty is on the move.

As democratic forces gain momentum in the last years of this century, the Association of Democratic Nations can take the lead in shaping the future. "A tomorrow," in Benazir's words, "better than the yesterdays we knew."

Today, we in Pakistan, as others before us, have joined you in the ranks of the world's democracies. We look, along with much of the world, to the United States, the world's greatest democracy, to help us protect our developing freedoms—to assist us in address-

ing new priorities. We, in Pakistan and across the developing world, seek with your help to build a new freedom, to define a new democracy.

Let Americans remember that while freedom is the universal political aspiration for all people, students and workers around the world today are quoting Madison, not Marx, Lincoln, not Lenin. It is a "government of the people, by the people, for the people" to which we all aspire.

In my husband's last letter to our daughter Benazir, written from the horror of his death cell, Prime Minister Zulfikar Ali Bhutto's final words quoted Senator Robert F. Kennedy: "Every generation has its central concern, whether to end war, erase racial injustice, or improve the condition of the working man. Today's young people appear to have chosen for their concern the dignity of the individual human being, they demand a limitation on excessive power. They demand a government that speaks directly and honestly to its citizens. The possibilities are too great, the stakes too high, to bequeath to the coming generation only the prophetic lament of Tennyson: 'Ah, what shall I be at fifty * * * if I find the world so bitter at twenty-five.' "

Our legacy to the next generation must be the blessing of freedom. We can be a catalyst for democracy and a bulwark against repression. Together, I believe, we can change the world. to quote Benazir: Time, justice and forces of history are on our side. For, in the words of Islam: "Tyranny cannot long endure."

We proved that in Pakistan. Together, we can prove it all over the world. Thank you.●

VAMOS

● Mr. LEAHY. Mr. President, Vermonters are known for their concern for people in need overseas, and for their willingness to try to help those people. As chairman of the Foreign Operations Subcommittee, I can attest to the number of letters and calls I have received from Vermonters who support efforts to improve the lives of children, women, and the poor from Central America to the Far East.

I recently learned about a group of Vermonters who have been working hard to improve conditions in the lives of our closest neighbors in Mexico. Two years ago, Patty Coleman and Ike Patch visited Mexico to see for themselves poverty that they later declared as beyond their worst nightmares. They returned to Vermont and decided to establish a nonprofit corporation, Vermont Associates for Mexican Opportunity and Support [VAMOS].

The organization has collected $30,000 mostly in small donations from over 500 Vermonters. All of the money is used to directly assist Mexicans in the area around Cuernavaca, a city of 1 million people located about 50 miles southwest of Mexico City. Overhead expenses, such as printing and administrative costs, are paid by the VAMOS directors.

The money is already helping to improve the lives of many Mexicans living near Cuernavaca. VAMOS has been able to provide the small amount of resources these people need to help lift themselves out of poverty. Donations have bought sewing machines for three clothing cooperatives, equipment for a mining cooperative, start-up funds for food cooperatives that can cut a family's food cost by one-third, and day care centers to care for children of working mothers.

VAMOS has seen remarkable results from people who are given a special opportunity to help themselves. I would like to take this opportunity to commend the founders of VAMOS for their important initiative. The many VAMOS volunteers and donors also deserve a special acknowledgement for their efforts to help our neighbors in Mexico.●

NATIONAL FALLEN FIREFIGHTERS' MEMORIAL

● Mr. GORTON. Mr. President, 134 of our Nation's career and volunteer firefighters lost their lives in the line of duty in 1988. Services for these courageous men and women will be held at the Eighth Annual National Fallen Firefighters' Memorial Service this Sunday.

I would like to specifically mention the firefighters from Washington State who are no longer with us: Lincoln McGowan, State of Washington Department of Natural Resources-Contractor, Lacey, WA; Robert R. Sittner, Skagit County FPD No. 7, Mount Vernon, WA; and Jean Verville, State of Washington Department of Natural Resources-Contractor, Lacey, WA. The citizens of the State of Washington owe a permanent debt of gratitude to these courageous and dedicated professionals, and to their families.

Fires kill several times more Americans than all other natural emergencies combined. The cost of fires in terms of both human life and economics is tremendous. I salute these individuals and commend the courage of their families for their service to their communities, their State, and the Nation.●

IN RECOGNITION OF JOSEF GINGOLD

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of my colleagues a great American, teacher, and musician, Josef Gingold. Professor Gingold will celebrate his 80th birthday on October 28, 1989.

A distinguished professor emeritus of music at Indiana University, Professor Gingold emigrated to the United States, with his family, after the First World War, beginning his formal musical education at the Third Street Settlement School in New York. Not only is he a world-renowned violinist and concertmaster, but Professor Gingold has influenced and guided several hundred professional violinists and string players who fill our great American orchestras and concert stages. In fact, the Minnesota Orchestra and the St. Paul Chamber Orchestra boast 18 Gingold students who attended his weekly master classes.

Truly an American treasure, Josef Gingold's influence on music in America as both performer and pedagogue is equaled by few. Year after year, young violinists from as far away as Australia, Asia, Europe, South America, and even from behind the Iron Curtain, travel to Bloomington, IN, for an opportunity to work with the great master. As a guest professor, he has brough the American school of violin to the Paris Conservatory, the Toho School in Tokyo, and the Britten-Pears School in England. Professor Gingold's three-volume set of orchestral excerpts is the standard text used by students and professional orchestra players the world over.

Concertgoers and music lovers everywhere have been touched by Josef Gingold and his relentless dedication to teaching. He is revered and loved by all who have had the good fortune to know him or hear his music. On behalf of his students and those who love classical music, I thank him for all that he has contributed to the advancement of his art, and wish him the very best in his 81st year.●

THE PEACE CORPS—A BIRTHDAY OF AN IDEA

● Mr. CHAFEE. Mr. President, how many of our Nation's great achievements can be traced back to their inception, that first moment an idea or thought is uttered for consideration? For instance, we recognize the day we first sent man to the Moon, but do we recall the first time we realized it could be done?

Today I would like to recognize a moment that occurred 29 years ago on October 14 at the University of Michigan. Presidential candidate John F. Kennedy asked the students gathered, "How many of you are willing to spend 2 years in Africa or Latin America or Asia working for the United States and working for freedom?" This challenge began a movement which led to the formal organization of the Peace Corps a year later.

Since that time, thousands of Americans have helped people in remote countries all over the world become more self-sufficient. The corps was created to promote peace and international understanding. It gave Americans the opportunity to educate themselves about the world, and, in turn, educate the world about the United States. For their efforts, volunteers received a monthly stipend and a token payment—or nest egg—at the end of their service.

Mr. President, people who volunteer for the Peace Corps don't do so for the money or the glamour. Peace Corps service is not used as a stepping stone for one's career. Ask someone who has served in the corps why he or she joined. Don't be surprised if the answer is patriotism or idealism, a desire to help those less fortunate or a passion to change the world.

This reasoning may sound naive in 1989 and more appropriate of the first volunteers who joined the corps in 1961. Yet I believe we are beginning to see the pendulum swing away from the "me generation" of the eighties to a more compassionate citizenry of the approaching nineties. Americans are taking a closer look at this country and realizing that the problems plaguing our Nation—drugs, illiteracy, homelessness—can be alleviated if everyone lent a hand.

There are many volunteer programs already in operation across the country that are doing a good job with their resources. But imagine what could be accomplished if every citizen gave 2 hours of his or her time every week! I'm not saying this would wipe out the demand for drugs or make everyone functionally literate, but we would be so much closer to making these goals a reality.

This year there has been a growing interest in national service, and many bills have been introduced in both the House and Senate that address this issue. There is a good possibility that one may be enacted into law this Congress. I am very much in favor of national service and have been closely considering each proposal.

I am troubled, however, that the discussion so far has focussed more on the incentives for performing service rather than the reasons why we all should offer a little of our time. I think it is time to change the "what's in it for me" mentality to "what can I do for you." Compassion cannot be mandated, nor should it be "bought" through offering housing or school loan vouchers.

If we are to develop a national volunteer corps, we should look to the reasons why the Peace Corps has been so successful in its efforts to recruit volunteers. Twenty-nine years ago a challenge was offered and our Nation responded. Since then over 130,000 individuals have volunteered their services in almost 100 countries. The Peace Corps continues to receive over 10,000 applications each year from individuals willing to share 2 years of their lives helping people throughout the world.

Today I hope you will join me in paying tribute to a simple idea that has changed the lives of so many here and abroad—the Peace Corps.●

WILLIAM D. JORDAN HONORED BY THE UNIVERSITY OF ALABAMA

● Mr. SHELBY. Mr. President, I rise today to pay tribute to one of Alabama's outstanding educators—William D. Jordan, a long-time faculty member of the university of Alabama's College of Engineering. In a ceremony due to take place today, the College of Engineering's Material Testing Laboratory in Hardaway Hall will be renamed the W.D. Jordan Laboratory.

Dr. Jordan has served the University of Alabama as a faculty member for 40 years. Bill Jordan has been an inspiration to the college of engineering, its faculty, its students and its alumni. Bill Jordan has spent his life in service to the college, the university and the Tuscaloosa community. This is, Mr. President, a fitting tribute for a worthy man.

Dr. Jordan's experience with the lab goes back almost 50 years, back to when he studied there as a student during his undergraduate days at the university.

Bill Jordan's interest in engineering began while in high school. After graduation, he came to the University of Alabama where he earned a bachelor of science degree in mechanical engineering in 1942, followed by a master of science degree in 1949. He received a doctorate from the University of Illinois in theoretical and applied mechanics in 1952.

From 1942 to 1946, Jordan was on active duty with the U.S. Army where he achieved the rank of captain. From 1946 to 1973 he led a distinguished career in the Army Reserves where he achieved the rank of colonel and received the Meritorious Service Medal upon his retirement.

Bill Jordan began his 40-year career with the University of Alabama in 1946, as an engineering instructor. He then climbed the academic ranks to the positions of assistant professor, associate professor and professor of engineering mechanics.

From 1961 to 1968 and 1981 to 1986, Dr. Jordan served as head of the department of engineering mechanics and from 1968 to 1981, he was the head of the department of aerospace engineering, mechanical engineering, and engineering mechanics.

Mr. President, I wish that I could be with Bill Jordan and his wife Carolyn and his three children, Lucy, Rebecca and William today to share with them and the university community this exciting event. I am proud to serve as one of Bill's representatives in Washington, and prouder still to call him my friend.●

PUT THE TRUST BACK IN THE SOCIAL SECURITY TRUST FUND

● Mr. HOLLINGS. Mr. President, this morning I joined with the distinguished majority leader, Senator MITCHELL, and others to unveil our proposal for taking the Social Security surpluses off budget for purposes of calculating compliance with Gramm-Rudman-Hollings. This leadership initiative will be a critical first step toward restoring truth in Federal budgeting. And, let's face it, until we acknowledge the truth—the scale and enormity—of our deficits, then we will continue on our current wreckless course of do-nothingism, denial, and deception.

The late John Mitchell, when he was Attorney General in the Nixon administration, used to say over and over again, "Watch what we do, not what we say." Well, the American people would do well to take that same advice if they want to understand just how desperate our current fiscal crisis really is.

Look not at what we are saying, but at what we are doing. We say that the budget deficit for 1990 will be just under $100 billion. Yet, lo and behold, at the end of this month we are going to raise the debt limit by some 300 billion dollars to allow for expected public borrowing during fiscal year 1990. Now, if the deficit is only $100 billion, why are we going to borrow $300 billion? The answer is simple. We are going to borrow $300 billion in 1990 because the true deficit, once you cut through all the monkeyshine, is going to be $300 billion. We arrive at that fanciful $100 billion projection only by indulging in enough fraud and larceny and malfeasance to land an ordinary citizen in the penitentiary.

Of course, the most reprehensible fraud in this great jambalaya of frauds is the systematic and total ransacking of the Social Security trust fund in order to mask the true size of the deficit. As we all know, the Social Security payroll tax has become a money machine for the U.S. Treasury, generating fantastic revenue surpluses in excess of the costs of the Social Security program. Excess Social Security tax revenues will be $65 billion in 1990 alone—boosted by yet another rise in the Social Security tax rate, slated to kick in January 1. By 1993, the annual Social Security surplus will soar to $99 billion.

The public fully supported enactment of hefty new Social Security taxes in 1983 to ensure the retirement program's long-term solvency and credibility. The promise was that today's huge surpluses would be set safely aside in a trust fund to provide for baby-boomer retirees in the next century.

Well, look again. The Treasury is siphoning off every dollar of the Social Security surplus to meet current operating expenses of the Government. By thus reducing the deficit, we mask the true enormity of the Federal budget

crisis while creating the illusion that Congress and the administration are actually doing something about deficits.

Mr. President, our proposed amendment, which we intend to attach to the debt-ceiling bill, would put Social Security surpluses off budget for purposes of calculating the Federal budget deficit beginning October 1, the first day of fiscal 1990. The distinguished junior Senator from Texas and his Republican colleagues, aiming to rescue the administration's read my lips strategy, plan an alternative amendment that would put Social Security off budget in the distant future, in 1994.

By 1994, however, a cumulative sum in excess of a half-trillion dollars will have been borrowed from the Social Security trust fund, and the denuded trust fund will be piled high with IOU's. Those IOU's are a charming bookkeeping nicety, but the sheriff who tries to collect on them is truly going to have his work cut out for him.

The hard fact is that, in the next century, the Social Security system will find itself paying out vastly more in benefits than it is taking in through payroll taxes. And the American people will wake up to the reality that those IOU's in the trust fund vault are a 21st-century version of Confederate banknotes.

Of course, the Treasury would have the option of raising taxes to repay the astronomical sums we have borrowed from the trust fund. But that would be a brazen ripoff of working Americans, many of whom will be retirees obliged to pay a second time for the benefits they have already earned.

On the other hand, if the Treasury wimps out and chooses not to raise taxes to reimburse the trust fund, then there will be no alternative but to slash Social Security benefits. The most likely scenario is that Social Security payments would be turned into just another means-tested welfare program for the very poor; if you make more than say, $15,000 per year, then forget about collecting any Social Security benefits.

Any way you slice it, it is a lousy public policy to borrow massively from the Social Security trust fund with no credible plan for reimbursement. Of course, the immediate damage from this approach is that it allows us to mask the true scale of the Federal budget deficit, thus making it easier for us politicians to sit on our hands.

This is a gross breach of faith with the American people. Social Security is perhaps the most successful social program ever enacted by the Federal Government. Without question, it is the most effective antipoverty program in history. Social Security is not charity or welfare. On the contrary, it is a supplementary retirement fund that workers pay for with their hard-earned money.

I say it is time to stop playing games with Social Security and the Government's finances. It is time to use honest budget numbers and to make honest budget choices. By all means, let us begin by putting Social Security truly in trust and totally off budget.

Mr. President, I ask unanimous consent that the text of my original bill be printed in the RECORD at this point:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Preservation Act."

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(A)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1986, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $165,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $139,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $114,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $91,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $61,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $31,000,000,000;

"(K) with respect to the fiscal year beginning October 1, 1995, $0.

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1995"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1996".

(b) EFFECTIVE DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1996".

SEC. 5. REVIEW METHODS OF MAXIMIZING INVESTMENT RETURN ON TRUST FUNDS.

Paragraph (5) of section 201(c) of the Social Security Act (U.S.C. 401(c)) is amended by inserting "(including investment policies which maximize the return on the Trust Funds within the requirements of subsection (d))" after "managing the Trust Funds".●

HOUSING REFORM PROPOSAL

● Mr. GARN. Mr. President, this past week marked an important and positive step for housing. Secretary Kemp proposed a sweeping reform package to turn around some of the problems that have plagues the Department of Housing and Urban Development. I commend the Secretary for responding to the urgency of this problem with an objective, responsible proposal.

With the introduction of this proposal, it is time for Congress to act. Just as we addressed the FSLIC crisis, we must move immediately to halt practices and programs which have drained HUD and the taxpayer.

As ranking member of the Senate Banking Committee, I hope to join the chairman of the committee, Senator RIEGLE, to advance Secretary Kemp's housing reform package. Chairman RIEGLE and I worked effectively in a bipartisan manner to advance the FIRREA legislation. It is my belief that we can duplicate this effort to respond with similar urgency to the problems in our Nation's housing programs.

The proposal of Secretary Kemp targets those activities of the Department which are in dire need of attention and restructuring. Just last week the GAO testified before the Senate Banking Committee to explain the nature of the $4.2 billion loss of the FHA program in 1988. This loss marks a major turnaround for the program after a decade of financial soundness. Over $960 million of this loss stems from just one program, the coinsurance program.

Although it is clear that the FHA has incurred substantial losses for a variety of reasons, one thing is clear: We have not paid enough attention to managing and monitoring activities that relate to the FHA funds. Secretary Kemp acknowledges the need for focus and reform related to the FHA. Three out of the five areas of the administration's package target FHA. The proposal established a chief financial officer for HUD and a Comptroller to oversee the FHA program. It terminates the title X Land Development Insurance Program, a program which has almost a 50-percent default rate. And, the proposal gets FHA out of the business of insuring vacation

homes. These steps and others clearly move in the direction of restoring the integrity and soundness of the FHA program.

In addition to programmatic problems, the Department has been overwhelmed by influence peddling. Whether Republican or Democrat, a consultant with the right ties or connections could benefit from assisting developers with HUD contracts. In some circumstances the consultants have made as much as $300,000 on a single project. Low-income housing programs were not designed to be money-making programs for consultant and lobbyists in Washington. Realistic reform must get HUD out of the business of being a political cash register.

Secretary Kemp's proposal does just this. The proposal requires the registration of consultants, and it ensures that HUD funding used in conjunction with the low-income tax credit is used efficiently and only in situations of need. It eliminates CDBG discretionary funding, a pool of funding which has become prime for special congressional projects which are not truly needed like bike racks and swimming pools.

Secretary Kemp's proposal represents a broad range of concerns about the Department of Housing and Urban Development. It is a proposal that reflects congressional investigations, independent financial audits, and press accounts. It takes into consideration management issues and structural problems with programs. It is a welcome overhaul of an agency that has so desperately needed attention and reform.

These have certainly been trying times at HUD. Not many could have withstood the confusion and pressure. In the face of these problems, Secretary Kemp has exhibited incomparable leadership and resilience. I truly look forward to working with his administration to "clear the decks" and move onward.●

REVISION OF SOLID WASTE DISPOSAL BILL

● Mr. SPECTER. Mr. President, I take this opportunity to point out to my colleagues a revision in the legislation Senator HEINZ and I announced this morning regarding the disposal of solid waste. As my colleagues know, when the Senate convened this morning, Senator HEINZ and I introduced a bill to address the rapidly decreasing landfill capacity in Pennsylvania and throughout the Nation.

The version of the bill we originally planned to introduce, and which I discussed in my floor statement, included a provision to impose a fee, per ton of solid waste, on States currently exporting solid waste to other States. The amount of this fee was to be determined by the Environmental Protection Agency. Revenue raised through the fee would be placed in the U.S. Treasury and would be used to compensate—in part—those States currently accepting out-of-state solid waste.

During the Senate's review of the bill throughout the day, however, tax implications were raised in light of the fee provision which would require extensive review by the Finance Committee, rather than the Committee on Environment and Public Works. Given the urgency of the landfill situation and the need for prompt action to avert an environmental crisis, Senator HEINZ and I decided this evening to revise the bill by omitting the fee provision at this time. We plan to introduce, however, a separate, freestanding bill containing this provision in the near future.

Mr. President, to reiterate my statement expressed this morning, this approach, which focuses on incentives for States to form regional compacts to address solid waste issues, represents a significant beginning to address a difficult problem. Therefore, I urge my colleagues to join us in support of this initiative to address landfill problems nationwide.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar Order No. 377. I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF THE INTERIOR

David Courtland O'Neal, of Illinois, to be an Assistant Secretary of the Interior, vice J. Steven Griles, resigned.

STATEMENT ON THE NOMINATION OF DAVID C. O'NEAL TO BE ASSISTANT SECRETARY OF THE INTERIOR FOR LAND AND MINERALS MANAGEMENT

Mr. McCLURE. Mr. President, on October 4, 1989, the Committee on Energy and Natural Resources favorably reported the nomination of David C. O'Neal to be Assistant Secretary of the Interior for Land and Minerals Management by a unanimous vote.

Mr. O'Neal currently serves as the Assistant Secretary of Mine Safety and Health at the Department of Labor, and prior to that was Deputy Director of the Bureau of Land Management at the Department of the Interior. From 1976-81, he served as Lieutenant Governor of the State of Illinois and was active in a number of State energy and mining-related programs. His background and experience in Federal and State government make him well qualified for the position of Assistant Secretary for Land and Minerals Management.

Mr. President, I urge my colleagues to join me in supporting Mr. O'Neal's confirmation as Assistant Secretary of the Interior for Land and Minerals Management.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

ORDERS FOR MONDAY, OCTOBER 16, 1989

RECESS UNTIL 2 P.M.; MORNING BUSINESS; BEGIN CONSIDERATION OF S.J. RES. 180

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m. on Monday, October 16; that following the time for the two leaders there be a period for morning business until 3 p.m., with Senators permitted to speak therein for up to 5 minutes each; and that, at 3 p.m., the Senate begin consideration of Calendar Order No. 257, Senate Joint Resolution 180, the constitutional amendment relating to flag desecration.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M., MONDAY, OCTOBER 16, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 11:56 p.m., recessed until Monday, October 16, 1989, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate October 13, 1989:

DEPARTMENT OF JUSTICE

ROBERT W. SWEET, JR., OF VIRGINIA, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, VICE VERNE L. SPEIRS, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

RONALD S. CONDRON	STANLEY J. LANDER
MICHAEL J. BECHTEL	RICHARD W. CUSSON, JR.
ROBERT L. KOHLHOFF	GENE L. SCHLECHTE
PHILIP T. STANLEY	PATRICK J. CUNNINGHAM,
PHILLIP L. STEPHENSON	JR.
LAWRENCE E. SOLBERG	JACK R. BENTLEY

MARK J. SIKORSKI
MARK H. LANDRY
PETER J. DINICOLA
WILLIAM P. VIETH, JR.
MARK J. BURROWS
KEVIN G. ROSS
MANSON K. BROWN III
MARK L. MILLER
CLINTON S. GORDON
WILLIAM F. MEYN, JR.
ROBERT W. MCCARTHY III
WAYNE N. COLLINS
JAMES A. WATSON IV
BRIAN J. O'KEEFE
LEE T. ROMASCO
MARTIN L. JACKSON
FREDERIC C. HARWOOD
JAY R. HICHMAN
RONALD F. WOHLFROM
CLIFFORD K. COMER
JAMES A. MCKENZIE
WILLIAM P. LAYNE III
WILLIAM J. WAGNER
RICHARD C. YAZBEK
STEPHEN L. KANTZ
JEFFREY B. STARK
EDDIE V. MACK
DWIGHT K. MCGEE
JOSEPH R. CASTILLO
ROBERT A. VANZANDT
JOHN W. YOST
ANDREW G. GIVENS
PAUL A. PREUSSE
KURT R. WELLINGTON
JON M. BECHTLE
BRUCE W. BLACK
MICHAEL J. LAPINSKI
GEORGE S. SABOL
KENNETH KEEFE
MITCHELL R. FORRESTER
RONALD J. RABAGO
THOMAS J. CHUBA, JR.
MARK E. ASHLEY
MATTHEW J. VAUGHAN
ROBERT E. REININGER
KENT P. MACK
LANCE W. CARPENTER
BRYON ING
STEVEN H. RATTI
WAYNE C. PARENT
MICHAEL P. RAND
MICHAEL J. MANGAN
JEFFREY E. BRAGER
DOUGLAS R. CARLSON
JAMES K. DABNEY
STEVEN F. BUTLER
MICHAEL R. SAFFORD
ALEXANDER P. MUNOZ
PATRICIA B. DARCY
ROBERT V. PALOMOBO
WILLIAM D. ELEY
EDWARD J. GLEASON
BRIAN R. CONAWAY
JOSEPH A. BIGLEY, JR.
EGBERT DEJONG
HUBERT L. HOOD, JR.
MICHAEL D. VALERIO
THOMAS C. RIGGS
JOSEPH H. EWALT
MICHAEL T. BURNETT
MICHAEL G. FETROW
RONALD S. LEIDNER
GERALD R. HAGAN
WALCOTT J. BECKER, JR.
ALEX C. MCMAHAN, JR.
ALLAN J. COATES
DALE L. WALKER
GUY R. SORENSEN
THOMAS H. SPECHT
JOHN H. SMITH
GARLAND M. LEWIS
JOSEPH W. EVANS, JR.
CHARLES R. BARBER
JEFFREY D. ELLISON
DARRELL W. WILLIAMS
STEVEN D. HARDY
KEVIN E. DALE
MICHAEL E. NELSEN
ROBERT L. HURST
ARTHUS J. LAMONTAGNE
MICHAEL KOPITO
CHRISTOPHER W. LILLIE
GINA M. JACOBSON
JAMES M. FARLEY
KEN F. KRAUSE
JEFFREY A. GABRIELSON
JAMES M. OBERNESSER
MICHAEL L. SCHAFERSMAN
THOMAS R. CAHILL
PHILIP K. DAGNESE
GLEN E. HENSLEY
GARRY L. DANIEL
HENRY D. REED
ROBERT M. AUSTIN
DOUGLAS P. RIGGINS
JOHN J. LAPKE
WILLIAM J. MCHENRY
PATRICK T. KEANE
JOHNNY L. HOLLOWELL
GUY A. TETREAU
JAMES X. MONAGHAN
STEPHEN P. GARRITY
RHAE A. GIACOMA
STEVE M. SAWYER
DUANE M. SMITH
JAMES W. KELLY
DARRELL C. FOLSOM
LAWRENCE M. FONTANA
MICHAEL T. COVEY
LARRY D. CHEEK
DANIEL A. NEPTUN
EARL W. FAIRCHILD, JR.
GARY J. FOX
ROBERT P. RUTLEDGE
PAUL D. JEWELL
ARNE O. DENNY
EARLE G. THOMAS IV
WILLIAM J. UBERTI
RUSSELL F. GLENDENNING
JOHN C. GIFFORD
CHRISTOPHER C. COLVIN
DOUGLAS J. WISNIEWSKI
ROBERT W. NUTTING
BRADLEY M. JACOBS
CHET A. HARTLEY
GREGORY A. KMIECIK
ALLEN LOTZ
KURT W. NANCARROW
DAVID B. MCLEISH
FRANCIS J. STURM
DAVID C. SPILLMAN
CHRISTOPHER A. ABEL
NORRIS E. MERKLE
WILLIAM D. WIEDENHOEFT
WILLIAM H. JONES
DAN S. TAKASUGI
CHRISTOPHER J. CONKLIN
KEVIN S. COOK
DANE S. EGLI

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

EDWARD S. CARMICK, xxx-xx-xxxx
NOWLAN K. DEAN, xxx-xx-xxxx
GLORIA B. DUFFY, xxx-xx-xxxx
TERRY H. GOFF, xxx-xx-xxxx
JAMES R. HICKMAN, xxx-xx-xxxx
MURL E. LEIBRECHT, xxx-xx-xxxx
CHANDRAKANT P. SHAH, xxx-xx-xxxx
JOEL TRUJILLO, xxx-xx-xxxx

To be lieutenant colonel

RAYMOND L. GRAHAM, xxx-xx-xxxx
RONALD E. GRIMWOOD, xxx-xx-xxxx
DAN M. HENSHAW, xxx-xx-xxxx
MOHAMMED S. UDDIN, xxx-xx-xxxx

To be captain

KAREN A. FOX, xxx-xx-xxxx
DONALD R. YOHO, JR, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

JAMES D. ALLMAN, xxx-xx-xxxx
PETER S. BARRINGER, xxx-xx-xxxx
BARRY D. BARRUS, xxx-xx-xxxx
LARRY D. ELLISON, xxx-xx-xxxx
VINCENT CHUNG-HON HU, xxx-xx-xxxx
FRANK J. RESCH, xxx-xx-xxxx
JON E. SCHIFF, xxx-xx-xxxx

To be major

GEORGE W. CASTRO, xxx-xx-xxxx
JON G. FULLER, JR., xxx-xx-xxxx
WILLIAM T. GILLESPIE, xxx-xx-xxxx
ALAN E. PALMER, xxx-xx-xxxx

To be captain

RICHARD H. VILLA, xxx-xx-xxxx

MEDICAL SERVICES CORPS

To be lieutenant colonel

JAMES M. DAVIS, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be major

CHARLES P. MENDEZ, xxx-xx-xxxx

CHAPLAIN CORPS

To be first lieutenant

MICHAEL J. STACY, xxx-xx-xxxx

JUDGE ADVOCATE

To be major

BENEDICT C. VIGLIETTA, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be major

DALE H. RATH, xxx-xx-xxxx

THE FOLLOWING CADET, U.S. AIR FORCE ACADEMY, FOR APPOINTMENT AS A SECOND LIEUTENANT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTIONS 9353(B) AND 531, TITLE 10, UNITED STATES CODE, WITH A DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ALAN L. MATHIS, xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be colonel

JAMES J. IRELAND, xxx-xx-xxxx

To be lieutenant colonel

Y.M.S. BUSHAN, xxx-xx-xxxx
SUN HWAN CHI, xxx-xx-xxxx
JESUS H. ISERN-AMARAL, xxx-xx-xxxx
SILLOO B. KAPADIA, xxx-xx-xxxx
STEPHEN A. MCGUIRE, xxx-xx-xxxx
PRIMO B. MILAN, xxx-xx-xxxx
ODIE V. NEWBORN, xxx-xx-xxxx
SHAKUNTALA PATEL, xxx-xx-xxxx
ARTHUR T. SCHERER, xxx-xx-xxxx
ZE D.P.B. WALTER, xxx-xx-xxxx

NURSE CORPS

To be lieutenant colonel

CAROLYN E. BASKERVILLE, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be colonel

*EDUARDO C. CUISON, xxx-xx-xxxx

To be major

*ALBERT D. CAIN, xxx-xx-xxxx
*DAVID A. COMPTON, xxx-xx-xxxx
*STEVEN A. ELG, xxx-xx-xxxx
*JOHN T. PAUL, xxx-xx-xxxx
*EDWARD B. MCWHIRT, xxx-xx-xxxx

VETERINARY CORPS

To be major

* RAYMOND K. HINES, xxx-xx-xxxx

ARMY NURSE CORPS

To be major

* BLAIN J. THOMAS, xxx-xx-xxxx

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593 AND 3353:

MEDICAL CORPS

To be colonel

JOHN L. CHAMBERLAIN, III, xxx-xx-xxxx
MARSHALL R. JOHNSON, xxx-xx-xxxx
JAMES O. MENZOIAN, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

CARL A. ANDERSON, xxx-xx-xxxx
LEO H. CAPOCCHI, xxx-xx-xx...
DAVID E. CULLIGAN, xxx-xx-xx...
JAMES M. GIFFIN, xxx-xx-xxxx
FRANK H. ISE, xxx-xx-xxxx
HERBERT E. JACOB, xxx-xx-xxxx
SIMON JAMESON, xxx-xx-xxxx
JOHN J. JEHL, xxx-xx-xxxx
CHARLES B. KAHN, xxx-xx-xxxx
ROBERT J. KAMINSKI, xxx-xx-xxxx
HARLEY D. KELLEY, xxx-xx-xxxx
DONALD W. KUNDEL, xxx-xx-xxxx
CHARLES R. MABRY, xxx-xx-xxxx
MACK C. POOLE, xxx-xx-xxxx
RAMON M. RUBIO, xxx-xx-xxxx
JOSEPH F. RUDA, JR., xxx-xx-xxxx
JOHN L. SORENSON, xxx-xx-xxxx
ARCHIE D. WALDEN, xxx-xx-xxxx

CONFIRMATION

Executive nomination confirmed by the Senate October 13, 1989:

DEPARTMENT OF THE INTERIOR

DAVID COURTLAND O'NEAL, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, October 13, 1989*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we meditate on all the blessings of life, O God, we especially pray for the blessing of peace in our lives and in our world. Our earnest petition and prayer, O gracious God, our fervent hope, is that people will learn to live together in reconciliation and respect so the terrors of war will be no more. As You have created each person, O God, we pray that You would so guide our hearts and minds that every person of every place and background will focus on Your great gift of life, and so learn to live in unity. May Your special blessings be upon the peacemakers of our world and may Your eternal spirit be with us always. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Arizona [Mr. KYL] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. KYL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HUMAN RIGHTS VIOLATIONS IN YUGOSLAVIA

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, yesterday our committee had a visit by the Prime Minister of Yugoslavia.

It was a revealing performance. I asked him pointblank about human rights violations in his country. Despite the charges by Amnesty International, he denies that a problem exists.

But it was not what he said; it was how he said it. What his eyes said to me is that he is unconcerned about the torture his political opponents are getting.

The Prime Minister wants political unity in Yugoslavia. And it looks to me like he will get it at the expense of the innocent victims who oppose him.

The Prime Minister also wants economic assistance from the United States. But there are a lot of Members who are fed up with regimes who torture their own people with one hand and extend the other hand for humanitarian aid.

Mr. Speaker, let us send him home this time with empty pockets.

INTRODUCTION OF HUD REFORMS LEGISLATION

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, last week, HUD Secretary Jack Kemp announced a very positive package of reforms intended to put a stop to the type of fraud and mismanagement that has plagued HUD over the last 20 years, under Democrat and Republican administrations alike. I invite my colleagues on both sides of the aisle to join me as an original cosponsor of that reform package when it is introduced.

Mr. Speaker, I am a member of the Employment and Housing Subcommittee of the Government Operations Committee which has been investigating the HUD scandal. The panel is looking into allegations of political favoritism and influence peddling. We have heard allegations that Community Development Block Grant funding has been used to make political contributions to local politicians, as well as to buy cocaine. Any taxpayer would be outraged if presented with such information, we did not implement reforms that ensure it could never happen again.

The Kemp plan does that. Once implemented, it will ensure that funding decisions are made out in the open, not behind closed doors for the benefit of political patrons. It will ensure that projects are funded on the basis of merit, not on the basis of who is advocating them at a particular time. It provides better targeting of funds to serve those who need help most.

I want to commend Secretary Kemp not only for stepping forward with a comprehensive reform package, but also for his leadership and quick action as reports of mismanagement came to light. The Department could not have been led through this troubled time by a more able and capable individual than our former colleague, Jack Kemp.

I hope OMB will expedite its review of the reforms so that this House can take them up as quickly thereafter as possible.

HOW TO GET SERIOUS ABOUT DEFICIT REDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, our colleague DAN ROSTENKOWSKI has a thoughtful and provocative article about our budget problems in today's New York Times.

I think his argument accurately reflects the frustration many of us feel about the budget debate. It is an exercise in evasion that is both misleading and phony. I join the chairman of the Ways and Means Committee in saying that its time to get serious about deficit reduction.

I hope his forceful argument will convince others as well.

[From the New York Times, Oct. 13, 1989]

GRAMM-RUDMAN? LET THE AX FALL

(By Dan Rostenkowski)

Now that the House has passed the Omnibus Budget Reconciliation Act of 1989, the deficit reduction bill designed to avoid automatic spending cuts under Gramm-Rudman, I have some advice for the members of the Senate, where the debate has stalled. If you think that the Federal budget deficit should be reduced, the surest way to accomplish that goal is to shelve this legislation and allow the Gramm-Rudman spending cuts to go into effect next Monday.

Every criticism of Gramm-Rudman is true: It is mindless, it represents an abdication of responsibility by the President and the Congress and it sends an awful signal to the markets about our ability to govern.

For all of its faults, however, Gramm-Rudman has one thing going for it—it can result in more real deficit reduction than we will ever achieve from the budget reconciliation bill.

The spending cuts under Gramm-Rudman, distributed across the board between defense and nondefense programs, would reduce the Federal deficit by $16 billion next year and by $80 billion over the next five years. By comparison, the legislation working its way through the Congress will reduce the deficit by only $16 billion over the next five years and will result in growing deficits in 1993 and beyond.

At the beginning of this year, we had a tremendous opportunity to confront the deficit. We had a new President, a new Congress and a growing public awareness of the need to put our fiscal house in order. Instead of grasping the opportunity, we decided on a "slide-by" budget, one that would provide only modest deficit reduction but

that would set the stage for a grand compromise next year.

Whatever semblance of budget discipline existed at the beginning of this year's legislative process, however, has all but disappeared in recent weeks. The House, for example, rushed to accommodate budget-busting amendments to this bill. In addition to abandoning fiscal responsibility, the House fully retreated on several important initiatives, like repealing the catastrophic health care program, and started the assault on tax reform by passing a reduction in the capital gains tax.

I have been particularly distressed with the cynicism of President Bush's economic advisers, and his supporters in the Congress, in their approach to the entire debate. The Director of the Office of Management and Budget, Richard Darman, has enthusiastically decried "now-nowism": the pursuit of immediate gratification rather than planning for the future. The Secretary of the Treasury, Nicholas Brady, has forcefully endorsed incentives to encourage long-term economic growth.

Yet the Administration has substituted "slide-by" budget plans, blue smoke and mirrors, off-budget financing and short-term revenue "surges" for sound budget discipline. The President's budget advisers have been driven by political concerns, with little, if any, regard for the real consequences of their budgetary actions.

Popularly elected presidents enjoy their greatest power and influence in their first year in office. George Bush is no exception. Yet he is squandering his influence to pursue a tax cut for the wealthiest 5 percent of our population in a year when our deficit exceeds $130 billion and study after study shows the gap between rich and poor widening. What kind of priorities does that represent?

Our refusal to attack the deficit would be comic if it were not so irresponsible. We want the Federal Government to step up the war on drugs, but we are unwilling to pay for it. We can't walk down the street without stepping over living, breathing examples of homelessness. We can't keep up with the bills for a cleaner environment. We hide the bills for the savings and loan bail-out off-budget. We have 37 million Americans without health insurance and a child poverty rate that is a disgrace.

In a year when we should have been engaged in a serious debate about the national priorities, the deficit provided a wonderful fog to obscure the hard decisions that should have been made.

It's the sad truth that we have a President who refuses to lead and a Congress that is institutionally incapable of leading the deficit reduction effort. This has left budget watchers wondering what crisis will force the President, the Congress and even the public to finally confront the deficit.

The answer is Gramm-Rudman. Let the cuts go into effect next Monday. Make them permanent and make them hurt. And when the budget process begins next year, maybe all of us, starting with the President, will be ready to meet our collective responsibilities to govern.

UPDATE ON ACTIVITIES OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I do not intend to use but a fraction of the allotted time granted, and the reason for that is to continue and complete the report that I gave last Friday with respect to the conduct and the progress of the business undertaken by the House of Representatives' Committee on Banking, Finance and Urban Affairs.

I might say in view of the 1-minute special order a few minutes ago with respect to the reform package of Secretary Kemp that also as chairman of the Subcommittee of the Banking Committee on Housing and Community Development, that there is quite a bit of confusion, and I guess it is understandable to the external world that finds it difficult to understand our procedural methods and environment that the Government Operations Subcommittee that has been conducting the hearings has been doing so on the basis of the report that the inspector general of HUD gave us earlier this year, the first report in obedience to the letter that I had directed to that same inspector general a year ago on June 9, to be precise.

The Government Operations Subcommittee is a housekeeping subcommittee and not a legislative committee. The subcommittee of substance that has jurisdiction on the legislative aspects is the Subcommittee on Housing and Community Development.

Just last week I received the second inspector general's report in obedience to the second letter that I addressed to him on June 24 last year. It has taken that long to get the report, and it has to do with what we called the section 8 existing housing programs, the first report, and which has scandalized the Nation as a result of the hearings of the Government Operations Subcommittee, which had to do with the so-called section 8 moderate rehabilitation program.

I want to disabuse any of my colleagues' minds or any citizens' minds about what these abuses have been about. Just the predecessor colleague who spoke out in the 1-minute referred to scandals in both Republican as well as Democratic administrations, and I think that is unfair. There is nothing in this history of the administration of these programs from FHA to the recent enactment, and I say recent, 1978, the moderate rehab programs, to indicate that any prior administration to the Reagan Republican administration had such things as collusion between HUD officials and developers and speculators at any time in the history of those programs. It just simply had not happened until we had the maladministration, the corrupt administration of Reagan's HUD.

As chairman of the subcommittee, I had been since 1981 pointing out what turned out to be these revelations now. I think the record should be clear so there will not be any sliding off.

□ 1010

Of course, we commend Secretary Kemp. We have given him full support. We were the first to ask him to appear before the Committee on Banking, Finance and Urban Affairs soon after he was confirmed.

As a matter of fact, I was the only Congressman present at his swearing in. So, of course, we are in consolance with what he is seeking.

Again, let me disabuse any misconception that my colleagues might have. Eighty percent of the reforms that Secretary Kemp is asking for are not in the legislative or the policy or the programmatic side of things; they are in the administrative side of things, ethics, the conduct and issuance and promulgation of rules to govern the administration of programs. That is something we cannot legislate on.

There is no way we can pass a law to make any hired hand in the administrative branch honest or efficient, which has been true since the beginning of our form of government.

The President under the Constitution is charged with faithfully executing the laws. That means laws and policies. If the President does not faithfully do so, the only thing available is impeachment.

I want to remind my colleagues that I was the only one to introduce an impeachment resolution on Mr. Reagan on March 5, 1987.

So I think we should keep the record straight here so we do not again make the mistake that in merely creating an image that something is being done, we really do not address the fundamental issues.

I would like to return to the source of the comments I wish to make in the continuation of the report.

I promised my colleagues when I was elected chairman of the House Committee on Banking, Finance and Urban Affairs that I would report faithfully as we progressed into the year, a very fateful year.

We came aboard at a time when we had finally averted what we had seen and had spoken about from the wells here, but which, unfortunately, as in the case of HUD, we could not muster any kind of public attention.

I do not know what we can do about that. We do not write the newspapers. We do not determine what is newsworthy of reporting. That has been left to our free and independent press, as it should be, and I am all for it.

But be that as it may, I have always thought since I came to Congress that it did not make sense for us to compartmentalize ourselves in our individual committees.

President Woodrow Wilson in his epical book on the Congress said that we were a conjury of disconnected or disaggregated little fiefdoms, meaning that in every committee and subcommittee you inherently had a small version of the House of Representatives.

That is true. So many of our citizens, when they witness the business here, fail to see Members present and feel that Members are not attentive.

That is untrue. Even during discussion of some bills on business pending on the House floor, in the absence of a recorded vote, relatively few Members are present.

But that does not mean the Members are absent. They are watching either on our in-house television the proceedings on the House floor, or they are busily attending to the business of the subcommittees and committees, most of which will be having hearings and shaping and molding the legislation that will be on the calendar for discussion by the full House.

But I have never felt that we should compartmentalize ourselves where we do not communicate among ourselves. I did not think that the responsibility of the chairmanship of a committee ended by conducting its business, setting the agenda, and then when and if legislation was produced and cleared by the Rules Committee, it would be handled on the House floor. I felt we had to communicate.

Sometimes we have placed with the best of intentions almost impossible burdens on administators. I know I have seen over the course of seven presidencies administrators come on the same issue to seven different committee and subcommittee hearings just on the House side, not counting the Senate side. So I feel we have to have some intercommunication.

I pledged on January 4, the day after we convened for the 101st Congress, that as a newly-elected chairman of the Banking Committee I would be reporting, and I did so last week.

I said among other things that one reason I have stayed on the Banking Committee is that it has always been my field of interest. When I was in the State Senate of Texas I was privileged to have served as a chairman of the Senate's Committee on Banking.

When I was a member of the city council of the city of San Antonio, my own specialty was understanding and interpreting the finances of the municipality. It was tremendously helpful.

I was very much privileged to have been referred as a member to the Banking Committee when I first came to Congress 28 years ago. I have tried to serve under my oath faithfully and well my duties as a member of the Banking Committee for those 28 years.

I feel that behind every single activity you have financing or banking, and in all the history of mankind, of governments, particularly ours, this is particularly true.

I said among other things last Friday that behind almost every event, whether it is war or any international event during peacetime, there is a financial question. I said that, and I repeat it now, that it is possible to win a war in the field and lose it at the finance tables. And we have done that.

World War I and its aftermath is being repeated after World War II. The scene is different, the names of the countries involved are different, but the basic things are not different that are exerting forces.

I pointed out last week that the situation with respect to the American financial and banking system is quite critical. There are many reasons for it.

We have a unique system. We have a dual system of State banking and national banking. No other country that I know of, particularly in the industrialized world, has anything like it.

With the world as it is today, not as it was after World War II, everything has changed. I believe that we in the Congress have not kept pace with change.

This is something that any student of the CONGRESSIONAL RECORD will show I have been saying for no less than 26 years. However, time and events are catching up on us. I believe we have reached the point of no return with respect to the enforcement of some of the laws that in anticipation we had a hand in shaping.

I reported last Friday on one of several pieces of legislation, and that was the legislation that was passed in order to report international flow of cash and domestic cash transactions of large amounts by our national banks particularly, but also by all of the insured banks under the Federal depository insurance laws as well, resulted from a hearing that I initiated.

I was able to persuade the subcommittee at that time to come to my hometown of San Antonio in 1976 to conduct hearings and to pass subsequent legislation, including the 1978 International Banking or Finance Act. That act provided for the neutrality or reciprocity in banking penetrations, if you want to call it that, among the industrialized nations.

I repeat, at the bottom of everything is banking and finance. It has been true all along and it is true now, more than ever.

I reported last week that for instance things such as the war against drugs, it is a misnomer. I told my colleagues that you can spend all of the wealth, all of the substance of this country, you can appropriate all the moneys available, and you are not going to win the war on drugs until you plug the hole of those that are reaping financial benefit from the illicit drug trade.

□ 1020

And that is many billions of dollars. And it involves banking institutions, it involves highly placed members of our society. And until that is addressed, everything will be in vain, I tell my colleagues.

So I intend to have some amendments that will bring up to date the transactions that I think are at the heart of controlling, if ever we do, this situation. It is like king crime, in 1978 and 1979, I had so many special orders I was criticized on the then judicial system, of Federal Judge John W. Wood. That was going to be forgotten like the murder of Jimmy Hoffa.

But we kept attention on it. And I am proud to say that the Director of the FBI called me to give me credit for having kept that alive and enable them to have the first five indictments 2 years after I started those special orders.

But behind all of that was financing. It was the tie-in between the stolen vehicles going into Mexico, for instance, and coming back by way of illicit drugs. I pointed out how certain car models had certain values in pounds of marijuana or kilos of marijuana or cocaine or, at that time, heroin.

So that the end result was that I said: However, the criminal element, king crime, is so highly organized, so penetrative of our society that it is impossible now to remove those tentacles. Until we separate the involvement of the political, the business and the highly placed people of power, we will have no control over king crime.

Part of that now is the outgrowth in this tremendous thing we call the illicit drug trade. But that is beside the point. On this occasion I want to give and ask consent that I present at this time for the RECORD a chart of the financial institutions, the leading world banks, because that reveals that just within the last 5 years the 12 principal banks are Japanese today. Our No. 1 bank 10 years ago is today No. 13 or 15, who knows by now?

The thing that arouses me and concerns me greatly is the greed, the percentage of penetration now. I referred to the direct acquisition of assets by foreign venture capital during the Reagan administration. It was during Reagan's administration that we became a debtor nation for the first time since 1914. When President Roosevelt wanted to build the canal in Panama, we had to go to the French capitalists and borrow $40 million in that day and time to build it with.

We were not a creditor nation. By 1914 we were, and we were the only creditor nation in two world wars.

We are no longer that. We are now the biggest debtor nation.

I pointed it out last Friday that both governmental debt structure, both on budget and off budget, what the Europeans call contingency debt, has grown to undue proportions, $2 trillion. That is impossible to imagine.

But the private debt of our citizenry is the greatest of all. The private corporate debt structure of the corporations of our country is astronomical. It is really unhealthy.

Now the day of reckoning is inevitable, but here we are now, not a creditor nation, a debtor nation. It was our debt that enabled the allies to win two world wars, nothing else, our credit. Without our credit, the allies would have lost World War I within less than a year and World War II within less than a year.

But now we are a debtor nation. All of this happened just within the last 6 years.

The fantasy and delusion, I call it a giant national Jonestown that we have been living on, where the delusion was that we had prosperity, all of it on borrowed money, fickle investment money that can pull out overnight.

Now when it did in the case of Chicago's Continental Illinois, the bank collapsed. It was nothing else that triggered it off.

Of course, there were underlying factors, but the immediate factor was a pullout of those foreign money and deposits in that bank overnight.

And this is where we have reached this stage now.

Mr. Speaker, I wanted to offer this chart to show the status and ratings of the banks. But more importantly, the most ominous thing, and I think now we are getting some attention: We have reached a point where the penetration, which is both heavy on the part of Japanese as well as European, mostly Great Britain, into our banking institutions. That has now reached what I consider to be an unacceptable percentage. It is a little better than 21 percent today.

The big announcement about the No. 1 Japanese bank having moved into our banking system and the acquisition of the investment side of Manufacturers Hanover Trust in New York, but before that and still continuing on an unaddressed question is the hostile takeover of banks.

The regulator, Federal Reserve Board, failed to make any kind of judgmental evaluation when we had the first attempt involving the Bank of New York in which, in order to save itself, it was calling on the Bank of Italy to come in with the infusion of capital.

Fortunately, or maybe unfortunately, with the withdrawal of that threat, an amicable merger or agreement was reached. But the question still remains: What will we do about this very unhealthy takeover, merger-type of approach in the case of the banks?

The regulators have not, the Congress must establish some policy.

So in the case of the penetration of the foreign financial banking interests in the takeover or penetration of our depository financial institutions known as our banking system of the United States, I think it is too unhealthy for it to have been allowed to reach 21 percent-plus. That is dangerous to the national interest and to the safety and soundness of the American banking system.

I would ask leave at this point that I may place in the RECORD a chart showing the extent of this penetration of our banking system.

The chart referred to follows:

TABLE 7.—PENDING MERGERS AND ACQUISITIONS AT YEAREND 1988 OR ANNOUNCED IN 1989 (AS OF AUGUST 31, 1989)

Acquiree	Acquiror	Status
Bank of Delaware	PNC Financial (PA)	Closed March.
BanPonce (PR)	Banco Popular (PR)	Announced August.
Central Banking Sys. (CA)	Security Pacific (CA)	Cancelled May.
Commercial Natl Corp (LA).	Deposit Guaranty (MS)	Announced July.
Equitable Bancorp (MD)	MNC Financial (MD)	Announced August.
Exchange Intl. (IL)	LaSalle National (IL)	Do.
First Ohio Bnshs	Fifth Third Bancorp (OH)	Do.
First Pennsylvania	Meridian Bancorp (PA)	Do.
First RepublicBank (TX) (NCNB Texas).	NCNB Corp (NC)	Closed August (100% ownership).
Florida National Banks	First Union (NC)	To close October.
Howard Bancorp (VT) [1]	BankNorth Grop (VT) [1]	To close November.
Deposit Insurance Bridge Bank (TX) (MCorp).	Banc One (OH)	Announced June.
Midwest Finl Group (IL)	First of America (MI)	To close October.
National Bnshs (TX)	Equimark (PA)	Announced August.
Nevada National (NV)	Security Pacific (CA)	Closed January.
Trustcorp (OH)	Society Corp. (OH)	Closed July.
Ultra Bancorp (NJ)	NatWest Bancorp (NY)	Announced March.

[1] These two companies will merge to form a new company named BankNorth Group.

TABLE 8.—FOREIGN-OWNED LARGE U.S. BANKS

Bank (Acquiree) and home State	Assets December 31, 1988	Ownership (acquiror)
Marine Midland Banks (NY).	$25,964	Acquired December 1987 by Hongkong & Shanghai Banking Corp.
Union Bancorp. (CA)	15,010	Purchase by California First Bank, a subsidiary of Bank of Tokyo, from Standard Chartered Bank (London).
Nat'l. Westminster Bank USA (NY).	13,286	Acquired April 1979 by Nat'l. Westminster Bank (London).
Barclay's USA (NY)	12,223	Owned by Barclay's Bank (London).
Harris Bankcorp. (IL)	11,276	Acquired Sept. 1984 by Bank of Montreal.
First American Bankshares.	10,640	Owned by First American Corp. (Saudi Arabia)
Bank of Tokyo Trust (NY).	6,946	Owned by Bank of Tokyo (Japan).
Sanwa Bank (CA)	6,430	Owned by Sanwa Bank (Japan).
BanCal Tri-State (CA)	6,340	Acquired January 1984 by Mitsubishi Bank (Japan).
European American Bancorp. (NY).	5,909	Privately held by six European banks.
Fuji Bank & Trust (NY).	4,910	Owned by Fuji Bank (Japan).
Israel Discount Bank (NY).	4,311	Owned by Israel Discount Bank Ltd. (Israel)
La Salle National (IL)	3,718	Acquired August 1979 by Algemene Bank (Netherlands)
IBJ Schroder Bank & Trust (NY).	3,422	Owned by Schroder's Limited (London)
Bank Leumi Trust (NY).	3,140	Owned by Bank Leumi Le-Israel (Tel Aviv)
First NH Banks	3,023	Acquired April 1988 by Bank of Ireland
Mitsui Manufacturers Bank (CA).	1,608	Acquired June 1981 by Mitsui Bank Ltd., (Japan)

Note.—Banks in table 8 are not listed among the 300 because they are not publicly owned. For the sake of brevity, we also limited the list in this table to banks larger than $1.5 billion.

TABLE 9.—WORLD'S FIFTY LARGEST BANKING COMPANIES RANKED BY TOTAL ASSETS DEC. 31, 1988 [1]

[In billions of dollars]

Rank and company	HQ city	Assets	Market capital [2]
1—Dai-Ichi Kangyo Bank	Tokyo	$379.3	$66.1
2—Sumitomo Bank	Osaka	363.2	69.6
3—Fuji Bank	Tokyo	360.5	67.1
4—Mitsubishi Bank	Tokyo	349.0	59.3
5—Sanwa Bank	Osaka	330.7	49.3
6—Industrial Bk of Japan	Tokyo	273.0	71.6
7—Norinchukin Bank	Tokyo	236.9	NP
8—Tokai Bank	Nagoya	227.6	30.5
9—Mitsui Bank	Tokyo	211.4	29.7
10—Credit Agricole	Paris	210.6	NP
11—Mitsubishi Tr. & Bkg.	Tokyo	208.3	24.7
12—Citicorp	New York	207.7	10.1
13—Banque Nationale De Paris	Paris	196.9	3.1
14—Barclays Bank	London	189.3	7.8
15—Bank of Tokyo	Tokyo	185.4	22.5
16—Long-Term Credit Bk of Japan.	Tokyo	184.8	30.9
17—Sumitomo Trust & Banking	Osaka	182.5	21.9
18—Credit Lyonnais	Paris	178.8	2.3
19—National Westminster Bank	London	178.4	7.2
20—Taiyo Kobe Bank	Kobe	175.5	16.6
21—Mitsui Trust & Banking	Tokyo	174.9	16.1
22—Deutsche Bank	Frankfurt	172.1	10.1
23—Yasuda Trust & Banking	Tokyo	167.1	13.5
24—Societe Generale	Paris	155.4	4.2
25—Daiwa Bank	Osaka	150.7	16.3
26—Bank of China	Beijing	150.0	NP
27—Dresdner Bank	Frankfurt	130.2	4.6
28—Cie Financiere de Paribas	Paris	121.6	4.3
29—Toyo Trust & Banking	Tokyo	120.9	9.4
30—Nippon Credit Bank	Tokyo	115.2	17.7
31—Hongkong & Shanghai Bkg	Hong Kong	113.2	4.4
32—Union Bank of Switzerland	Zurich	110.9	7.5
33—Kyowa Bank	Tokyo	110.6	11.5
34—Swiss Bank Corp.	Basel	102.6	5.5
35—Commerzbank	Frankfurt	101.7	2.7
36—Midland Bank	London	100.8	4.1
37—Chase Manhattan Corp.	New York	97.5	3.3
38—BankAmerica Corp.	San Fran	94.6	5.3
39—Lloyds Bank	London	93.7	4.3
40—Shoko Chukin Bank	Tokyo	93.2	NP
41—Saitama Bank	Urawa	93.2	10.8
42—Westdeutsche Landesbank	Dusseldorf	93.0	NP
43—Bayerische Vereinsbank	Munich	91.7	2.4
44—Banca Nazionale Del Lavoro	Rome	91.0	NP
45—Royal Bank of Canada	Montreal	90.2	4.8
46—Zenshinren Bank	Tokyo	86.9	NP
47—Algemene Bank Nederland	Amsterdam	85.1	2.2
48—Amsterdam-Rotterdam Bank	Amsterdam	84.0	2.0
49—J.P. Morgan & Co.	New York	83.9	7.4
50—Istituto Bancario San Paolo	Turin	81.6	NP
Total		8,186.5	764.7

[1] Japanese Banks as of Mar. 31, 1988.
[2] Market capitalization data, from Business Week, as of May 31, 1989.
NP = Not publicly owned.
Source: Assets data, from Fortune.

I think it will reveal to my colleagues when you see the record the need for us to do something. So in pursuance of that, I have just addressed a letter to the distinguished chairman of our Subcommittee on Financial Institutions, Supervision, Regulation and Insurance, the gentleman from Illinois [Mr. ANNUNZIO], who is also the ranking member of the Committee on Banking, Finance and Urban Affairs, specifically requesting that his subcommittee, which has the proper jurisdiction of this subject matter, initiate immediately a review of the International Banking Act of 1978, in which we think we have the fundamental predicate for legislation. Why have not our administrators or regulators followed through on the plain congressional intent of that 1978 act and allowed, without advising Congress of any alarm or caution, this degree of penetration and particularly the tremendous amount and volume of the Japanese banks which, as I say and repeat, are now the chief and biggest

and leading banking institutions of the world?

The letter referred to follows:

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, October 13, 1989.

Hon. FRANK ANNUNZIO,
Chairman, Subcommittee on Financial Institutions, Supervision, Regulation and Insurance, Washington, DC.

DEAR FRANK: The International Banking Act of 1978 established a federal regulatory framework, based on the principle of national treatment, governing the entry and operations of foreign banks in the United States. National treatment accords foreign banks equality of competitive opportunity with domestic institutions in similar circumstances, even if some specific regulations or requirements applied to foreign banks differ from those affecting domestic banks. While national treatment has served to facilitate the rapid expansion of foreign owned and controlled banks in the United States, I am concerned that U.S. financial institutions have not been, in practice, accorded equality of competitive opportunity abroad.

At present, it is estimated that foreign banks operating in the U.S. have captured 21% of the domestic banking market, while U.S. banks are swiftly retreating from markets in Europe, Japan, Hong Kong, and Latin America. I am concerned that this trend may be the result of our domestic authorities not being as sensitive in enforcing the national treatment policy as have been several of our foreign competitors. Accordingly, I respectfully request your Subcommittee undertake a study of the national treatment policy to determine if this policy is effective in providing U.S. financial institutions with true equality of competitive opportunity abroad, and if not, what changes need to be made to have this goal realized.

Such a study should include an analysis of whether laws and regulations related to foreign bank operations and activities in the U.S. are being effectively enforced, whether U.S. laws and regulations governing a foreign bank's U.S. operations are similar to those employed by competitor nations and whether or not there is a need to modify these controls to ensure that U.S. banks are not operating at a disadvantage domestically or abroad vis-a-vis foreign banks.

It would also be helpful if this study included an analysis of the mechanisms foreign countries use to control foreign investment. For example, Canada utilizes an oversight board to review foreign investments. Would it be favorable for the U.S. to employ such a mechanism?

In addition, it would be helpful to have a better understanding of the impact that foreign banks have on the domestic banking market. It is imperative that we have clear and complete information on the number and financial position of foreign owned and controlled banks operating in the United States, and whether or not reporting requirements for foreign banks are adequate and being properly enforced. It is also important to understand how the presence of foreign banks affects the profitability of domestic banks as well as how such presence affects the availability of credit to domestic corporations and individuals.

The growth of foreign banks in the U.S. has important implications for both our domestic financial system as well as the future availability of credit for U.S. corporations and individuals. It also is imperative that the U.S. financial institutions receive "equality of competitive opportunity" when competing abroad. I commend you for holding hearings aimed at studying the impact of Europe 1992 on U.S. financial institutions. I respectfully request your Subcommittee undertake this study so that we may fully understand the implications of the trend towards greater foreign presence in the U.S. banking system, coupled with a shrinking U.S. presence in the international banking arena.

Thank you for your consideration of this request. I look forward to working with you on this most critical and sensitive issue.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

□ 1020

Now behind all of this, we must never forget that where we might have been very nonchalant and complacent, both in the case of Europe as well as the case of Japan, I have spoken out since 1964 on our need to revise, in light of the developments in Europe, the reality of the new world is that we have generations today right on the threshold of power in all of these countries that do not remember World War II. We must never forget what I have said repeatedly that the German leader, Chancellor Kohl, and the Russian leader, Mr. Gorbachev, were both 15 years of age at the time of World War II.

Now all of that has changed. However, the United States, we have 300,000 plus of our military in Germany alone, not counting the families and the relatives there.

Now, that world has changed. However, we are budgeting and we are spending 60 to 65 percent of our defense budget, so-called defense budget, which I think today would be no less than $315 billion, for what is nominally understood that is the defense of Europe. But what Europe?

Our mindsets, at least the Presidential mindsets up to now, and congressional mindsets, have been a Europe of 1947. Well, that is gone forever.

As I said last week, we may have changed the designation of our troops from occupation to defense, but we are occupied, and when we ask how many troops do the French have and where, how many troops do the British have and where, then it becomes very interesting. At a time when Europe is integrating, it has developed now a currency unit and a monetary system that I cannot help but believe is a potential for displacing the dollar as the international reserve unit. I pointed out to my colleagues last Friday that to contemplate even that possibility is awesome, because if the dollar is replaced as the international reserve unit, and I want to assure my colleagues that that danger I have been pointing out since 1979 is very grave and present and clear, and it would be catastrophic to think of the consequences, because all of that debt that we piled up would have to be paid back in somebody else's currency, not our dollars. So I persist in speaking out, but it would be helpful if I had some help.

I am instructing and suggesting to our distinguished chairman of the subcommittee that he undertake, as soon as possible on the part of the subcommittee, which is one of the largest subcommittees in the whole Congress, to review immediately and see what we can do about implementing that 1978 act. We do have reciprocal agreements, but if we do not enforce ours, and the Japanese do theirs, and the Europeans do theirs, then we have, I think, a very unwholesome and a rather dangerous situation for the United States financial and, therefore, economic system.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and to include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LANTOS.

ADJOURNMENT

Mr. GONZALEZ. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes a.m.), under its previous order the House adjourned until Monday, October 16, 1989, at 12 noon.)

EXECUTIVE COMMUNICATIONS, ET CETERA

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1826. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles (Transmittal No. 90-04), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1827. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles (Transmittal No. 90-03), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

1828. A letter from the Chairman, Equal Employment Opportunity Commission,

transmitting a report on the Commission's interagency coordination of Federal equal employment opportunity activities for the period October 1, 1987 through September 30, 1988, pursuant to 42 U.S.C. 2000e-14; to the Committee on Education and Labor.

1829. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles and services (Transmittal No. 90-04), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1830. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Japan for defense articles and services (Transmittal No. 90-03), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1831. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Francis Terry McNamara, of California, Ambassador Extraordinary and Plenipotentiary-designate to Cape Verde; Cresencio S. Arcos, Jr., of Texas, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Honduras, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1832. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1833. A letter from the Secretary of Transportation, transmitting a report on the synchronization, interoperation, and minimum standards for radio navigation systems, pursuant to Public Law 100-223, section 310; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 1727. A bill to modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes; with amendments (Rept. 101-182, Pt. 2). Referred to the Committee of the Whole House on the state of the Union.

[Pursuant to the order of the House on Oct. 12, 1989, the following reports were filed on Oct. 13, 1989]

Mr. BROOKS: Committee on the Judiciary. H.R. 1622. A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments (Rept. 101-279). Referred to the Committee of the Whole House on the state of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2138. A bill to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work; with an amendment (Rept. 101-280). Referred to the Committee of the Whole House on the state of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2806. A bill to amend section 511 of the Controlled Substances Act to make technical, clarifying, and administrative amendments, and for other purposes (Rept. 101-281, Pt. 1). Referred to the Committee of the Whole House on the state of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3045. A bill to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities (Rept. 101-282). Referred to the Committee of the Whole House on the state of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3152. A bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons (Rept. 101-283). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MORRISON of Connecticut (for himself, Mr. GEJDENSON, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY, and Mr. ROWLAND of Connecticut):

H.R. 3468. A bill to amend the act entitled "An Act to extend the Wetlands Loan Act," to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. STARK (for himself, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. GIBBONS, Mr. RUSSO, Mr. PANETTA, Mr. GRADISON, Mr. SLATTERY, Mr. DOWNEY, and Mr. JENKINS):

H.R. 3469. A bill to amend title 31, United States Code, to prevent newly established Federal agencies from increasing the national debt through unauthorized borrowing; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 45: Mr. BRENNAN.

H.R. 1932: Mr. DONALD E. LUKENS.

H.R. 2596: Mr. GUNDERSON, Mr. ARMEY, Mrs. PATTERSON, Mr. HUGHES, Mr. COX, and Mr. CAMPBELL of California.

H.R. 2614: Mr. GARCIA, Mr. TRAFICANT, Mr. MILLER of Washington, and Mr. CAMPBELL of California.

H.R. 3028: Mr. BOEHLERT.

H.R. 3296: Mr. LEVINE of California, Mr. LEVIN of Michigan, Mr. ROE, and Mr. WAXMAN.

H.R. 3307: Mr. ATKINS, Mr. DWYER of New Jersey, Mr. MCNULTY, and Mr. WILSON.

H.R. 3380: Mr. SAVAGE, Mr. MYERS of Indiana, and Mr. LEWIS of California.

H.R. 3398: Mr. DREIER of California.

H. Con. Res. 66: Mr. PENNY.

H. Con. Res. 175: Mr. ENGEL, Mr. FROST, and Mr. WAXMAN.

H. Con. Res. 187: Mr. MRAZEK, Mr. GALLEGLY, Mr. MCNULTY, Mr. HORTON, Mr. CRANE, Mr. JAMES, Mr. FAUNTROY, Mr. HYDE, Mr. LEVIN of Michigan, Mr. PAXON, Mr. NEAL of North Carolina, Mr. VALENTINE, Mrs. MARTIN of Illinois, Mr. ARMEY, Mr. FOGLIETTA, Mr. NELSON of Florida, Mr. TOWNS, Mr. OWENS of New York, Mr. GILMAN, Mr. ATKINS, Mrs. COLLINS, and Mrs. BENTLEY.

EXTENSIONS OF REMARKS

I AM NOT YOUR BOY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mr. DANNEMEYER. Mr. Speaker, on October 7 I took part in a forum under the banner of "Public Policy Implications of Contemporary Homosexuality." I shared the podium that day with William Allen, Chairman of the U.S. Civil Rights Commission.

Chairman Allen chose as his topic "Blacks? Animals? Homosexuals?: What is a Minority?" For just the announcement of the subject matter, Chairman Allen was vilified by the homosexual movement and its activist cattle prods on the political left. How dare Bill Allen compare homosexuals to animals. How dare Bill Allen deny the equality to sodomy in the same manner he affirms the rights of blacks. How dare Bill Allen participate in a conference that would even suggest that homosexuality is a behavioral pathology.

Mr. Speaker, the voices which attacked Chairman Allen prior to his even uttering a single word at the conference are evidence of the fascist-like activities of the militant homosexual movement whenever anyone is found in disagreement with them. Oh, how liberal and open-minded these smug people are until they encounter a differing opinion.

Chairman Allen released a letter to the public he wrote to the gentleman from California, Mr. EDWARDS. I commend the letter and the following editorial from my district.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, October 9, 1989.

Hon. DON EDWARDS,
Member, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE EDWARDS: I enclose to you the copy of the speech I delivered on 7 October at a seminar on "Public Policy Implications of Contemporary Homosexuality," and about which you expressed considerable apprehension in the days immediately preceding. You will find upon reading it, I trust, that your apprehensions were entirely unfounded.

This is the second time in a very few months that you have employed veiled threats to try to determine my mind. You either have not read or have not understood my previous response. I wish to be clear: I am not your "boy."

Rather than to presume upon my conduct or understandings, and thence to command me, you have the right and the means to inquire honestly. I will even seek to explain what you do not know. All else is illegitimate and mere usurpation.

In all candor, however, I do not expect so gracious a change in your conduct at this late hour. It becomes increasingly apparent that your readiness to jump to conclusions, and to spark public outcry without evidence or foundation, stems rather from an inveterate spirit of hostility—a predisposed opposition. That in turn probably signals a change only for the worse, rather than the better. Failing as you have to spark serious doubts about my utilities, I imagine you will next revert to what has become by now a ritual in Washington politics—namely to seek to impugn my character or to question my honesty, to criminalize the policy differences at the root of it all.

If it must be so, then let it be. Go right ahead and seek revenge where you cannot compel compliance. I fear not. For I know this: no matter what you do to me, there is a justice, and you will one day feel it.

Most sincerely,

WILLIAM B. ALLEN,
Chairman.

[From the Orange County Register, Oct. 10, 1989]

AN UNCIVIL WRONG

Why wait to read a speech before passing judgment on it? That seems to be the philosophy of most of the members of the U.S. Civil Rights Commission. On Friday, six of the panel's eight members issued a vitriolic press release blasting their chairman, California political scientist William Allen, for his intention to address an Orange County seminar on homosexuality sponsored by a conservative group dedicated to "traditional values." The commissioners focused particular bile on the announced title of the remarks: "Blacks? Animals? Homosexuals? What is a Minority?" They decried it as "thoughtless, disgusting, and unnecessarily inflammatory."

But the real thoughtlessness was displayed by these civil rights worthies themselves, who tried to censor Mr. Allen without knowing what he was going to say. After hearing his remarks on Saturday, one might have been left wondering what all the ruckus was about. Imagine a drama critic panning a play he didn't attend. That's the kind of irresponsibility the commissioner's exhibited.

As it happens, the speech was mild to tone and judicious in substance. It was anything but an exercise in homosexual-baiting. Rather, it was a somewhat professorial exploration of the broad concept of human rights and the narrower issue of how—or whether—the idea of "homosexual rights" fits within that philosophical framework.

Mr. Allen's argument is complex but worth trying to simplify and summarize. In essence, he says human rights arise from the common characteristics that unite all men and women and distinguish men and women from animals. He warns that if we divide the human family into arbitrary groups and grant special rights based on membership in those groups, we risk losing sight of our common human nature, that sense in which "all men are created equal," as the Declaration of Independence put it. Such arbitrary divisions carry with them the implication that the favored groups are more equal than others—and blur the distinction between the human and the subhuman that is the ground of all human rights.

Building on that premise, Mr. Allen cautions against granting special homosexual rights, just as he has argued before against special protected status for other minority groups. He urges homosexuals rather to seek to vindicate their rights as *individuals* not as members of a special group.

That argument is challenging and merits discussion, not knee-jerk denunciation.

What about the title? It was meant to provoke interest, no question. But what's wrong with that? Every popular author or doctoral candidate or television producer worth his or her salt tries for the same effect.

Then there's the question of whether Mr. Allen should have addressed this particular symposium, one sponsored by people who consider homosexuality harmful and sinful. But why shouldn't he have spoken there? He says he is willing to talk about civil rights to any group that asks him. Everybody who believes in the open exchange of ideas should say more power to him.

BECOMING A PART OF THE AMERICAN DREAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Ms. ROS-LEHTINEN. Mr. Speaker, as is so often the case, events beyond the control of our Government are dictating United States policy. And in the case of immigration, recent events in the Soviet Union have refocused our attention on an area which has been contentious and divisive since the earliest days of our republic.

After decades of steady pressure from presidents and congresses of both parties, synagogues and churches, religious and human rights organizations, foreign governments and thousands of ordinary citizens, the Soviet Union is finally beginning to allow Jews and Pentecostal Christians to emigrate.

As a refugee from tyranny, I know first hand what America means as a haven from persecution, whether religious, economic, or political in nature. And we must all realize that continued, controlled immigration is not only part of the core of our shared values, but also good for us as a Nation. Immigrants from every corner of the globe have immeasurably enriched us as a Nation, and our boundless wealth means that those of us who came earlier have a responsibility to those who now hope to join us.

While the Soviet Union has seen a liberalization and a decrease in official anti-Semitism, Soviet Jews are still a persecuted minority. Indeed, while official, state sponsored anti-Semitism is on the decline, some observers have noted a reawakening of anti-Semitism in the public at large, sadly linked with the rebirth of nationalism among the Soviet peoples. And while we all fervently hope that reform and liberalization will continue, we must be prepared for the possibility that a backlash

can occur, with all the devastating human consequences that may entail. Soviet history is too full of twists and turns for us to assume that any liberalization, however broad and however needed, will continue indefinitely.

The United States clearly has a moral responsibility to accept these refugees. After years of pressure, Mr. Gorbachev has finally had the courage to meet our challenge. And given the possibility of a crackdown at any time, the case of the Soviet Jews is a special case.

But over the long term, Congress and the Administration need to overhaul our Nation's immigration policy. Our present policy is confusing, inadequate, and at times, contradictory.

Mr. Gorbachev's Soviet Union has finally begun to live up to some of the norms of the civilized world. By letting the Soviet Jews emigrate, he has taken a dramatic, overdue, and welcome step. We as a society must be prepared to accept these refugees, offer them haven, and allow them to join us in becoming part of the American dream.

COMMITTEE HEARINGS SHOULD BE OPEN TO ALL NEWS MEDIA—HOUSE RESOLUTION 253 WILL INSURE SUNSHINE FOR CONGRESSIONAL ACTIVITIES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mr. LANTOS. Mr. Speaker, last week I introduced House Resolution 253 to amend the Rules of the House of Representatives to permit our committees to allow live media coverage by radio and television of the testimony of a witness appearing under subpoena.

House rule XI 3(f)(2) currently provides that "No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing by radio or television is being conducted." At "the request of any such witness who does not wish to be subjected to radio, television, or still photograph coverage, all lenses shall be covered and all microphones used for coverage turned off."

Recent developments involving the investigation of waste, fraud, and abuse at the Department of Housing and Urban Development by my Subcommittee on Employment and Housing of the Government Operations Committee have convinced me that this rule should be changed in order to assure the right of the American people to know the activities of their Government. I am also convinced that unless this rule is changed, the ability of House committees to conduct serious oversight investigations will be increasingly difficult.

Two weeks ago, in a highly unusual move, two of the witnesses before our subcommittee invoked this right. Former HUD Secretary Samuel Pierce and his former Executive Assistant Lance Wilson invoked this rule to prevent television and radio coverage of their appearance before the subcommittee.

Since the adoption of this House rule in 1970, this right has been invoked only on three previous occasions: First, in 1978 by Marina Oswald Porter, the widow of Lee Harvey Oswald, in her testimony before the Select Committee on Assassinations; second, by Ralph and Joseph Bernstein and Barry Knox in 1984 before the House Subcommittee on Asian and Pacific Affairs during the investigation of corruption and embezzlement by Ferdinand and Imelda Marcos of the Philippines; and third, by Michael Milken in his appearance in 1988 before the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee securities irregularities.

Although this rule has been used infrequently, there is a very disturbing trend. The rule has been in existence now for 19 years, but six of the seven individuals who have invoked it have done so in the last 4 years.

Mr. Speaker, the voluntary cooperation of witnesses with House committees is important to the success of our oversight investigations. With this increasing use of the right to prohibit television and radio coverage of committee hearings, witnesses now have an incentive not to appear voluntarily. If they refuse to cooperate and the committee must subpoena their appearance, they then have the right to limit media coverage. Unless this rule is modified, Mr. Speaker, I see the real likelihood that conducting oversight hearings will be increasingly difficult in the future.

House Resolution 253, which I introduced, modifies the right of subpoenaed witnesses to prohibit television, radio, and still photographic coverage of congressional hearings. House rule XI (3)(f)(2) as amended by this resolution would allow witnesses to prohibit television and radio coverage of their appearance before a House committee "unless a majority of the members of the committee voting, a quorum being present, vote otherwise." This important change in House rules gives our committees the opportunity to consider and then vote upon witnesses' efforts to close hearings to television, radio, and still photography.

Mr. Speaker, it is important to understand the background of House rule XI(3)(f)(2). It was adopted by the House in 1970 as part of the Legislative Reorganization Act of that year. This rule has no connection with the series of rule changes adopted by the House in 1955 to protect witnesses in the aftermath of the McCarthy era.

At the very same time that the House adopted this rule, however, the Senate approved a very different procedure. Senate rules permit each individual committee to make its own rules regarding television cameras and microphones. There is no general rule in the Senate allowing witnesses, even those appearing under subpoena, to restrict media coverage of committee hearings. While rules of the Senate do not establish a precedent for this body, they are indicative of the current trends that clearly favor greater openness in the proceedings of the Congress.

There is well-established precedent for taking the approach envisioned in my legislation to change this House rule.

For over a decade now, the House of Representatives has permitted full gavel to gavel coverage by television and radio of its proceedings. The only exception to this policy of complete openness are the extremely rare instances when classified materials are discussed by the entire House. For over 2 years, the other body—the Senate—has permitted full television and radio coverage of its proceedings. To deny full media access to our committee proceedings is a reversal of this trend toward greater openness in Congress.

The House earlier voted to permit one of its select committees to allow full media coverage of the testimony of subpoenaed witnesses, despite House rule XI(3)(f)(2). Paragraph (4) of House Resolution 12 of the 100th Congress—the legislation establishing the House "Select Committee To Investigate Covert Arms Transactions with Iran," the so-called Iran-Contra Committee—specifically authorized the select committee by a majority vote of a quorum of the committee to open its hearings to full media coverage.

Mr. Speaker, the time has come for us to change a House rule, which no longer serves the best interest of the American people and which does not serve the best interest of witnesses who appear before our committees. In an era when the vast majority of the American people rely on the electronic media for news, it is essential to permit full media access to the workings of congressional committees.

It is most unlikely that this proposed rule change will have any impact upon our investigation of HUD, but I feel very strongly that this change must be made. The American people have the right to know through the media of television and radio what is happening in their Congress, and unless this change is made, our task of conducting the people's business will be much more difficult.

I urge my colleagues in the Congress to join me in supporting this change of House rules. It is time to change an outdated rule which allows one person to keep congressional hearings closed from public view. The American people are served by greater openness—not by limitations on media coverage of our activities.

ROCHESTER FOUNDATION FOR PERSONS WITH BRAIN/HEAD INJURY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Ms. SLAUGHTER of New York. Mr. Speaker, we need affordable programs to help brain- and head-injured persons to reestablish themselves after their post-trauma rehabilitation. These injuries affect over 700,000 people each year in the United States. The causes are many, including motor vehicle accidents, sports injuries, and strokes. New medical procedures are increasing the numbers of survivors, and our country continues to make progress in the areas of inpatient and outpatient rehabilitation. But affordable, long-term programs are virtually nonexistent.

These people, who are often quite young, usually have only two options—lifelong dependency on family members or confinement

to institutions that are inappropriate for their needs. Research data from across the country indicates that the most pressing needs, for brain- and head-injured individuals, are vocational and recreational opportunities. They need to regain or learn to compensate for the loss of their abilities; they need activities to help avoid the social isolation which frequently accompanies brain or head injury; and they need to be able to use their time constructively.

I am proud to note that, within the 30th Congressional District of New York, a not-for-profit organization has very recently been formed to address these needs. The Rochester Foundation For Persons With Brain/Head Injury is an innovative, all-volunteer group whose purpose it is to provide financial and human resources for the creation of a nonresidential, community-based vocational training and recreational center. This center will be organized and operated by brain- and head-injured individuals along with a support staff. They will offer varied social and vocational activities to assist the participant to function more independently at home and in the community.

Organizations such as the Rochester Foundation For Persons With Brain/Head Injury are the first step toward fulfilling the unmet needs of the brain and head injured. I admire and congratulate its founders, President Joan Swarthout and Chairman Janice Avery, for their tireless and selfless dedication to this cause. I wish them every success, and I urge my colleagues to join me in encouraging and supporting similar efforts in their home districts.

A TRIBUTE TO UPLAND POLICE CHIEF COY D. ESTES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a man who has committed all of his professional life to the highest level of community service, the chief of police in Upland, CA, Coy D. Estes. Chief Estes is retiring on November 1 after a distinguished 27-year career with the Upland Police Department.

Chief Estes' career began in 1962 as a reserve officer for the Upland Police Department. Over the years, he was consistently promoted to higher ranks—regular officer, sergeant, lieutenant, captain—and was appointed chief of police in April 1976. Remarkably, Chief Estes had the opportunity to serve in every rank within the police department.

During his tenure with the Upland Police Department, Chief Estes initiated many new and innovative programs to serve the local community. Dozens of community programs with on-going emphasis on police and community relations and crime prevention have been established under his stewardship. His devotion to drug education among students led to the implementation of the DARE [drug abuse resistance education] program for the local school system. And, most notably, these contributions to the community, and others, have been made while maintaining one of the lowest crime rates in the county.

Chief Estes' community involvement goes beyond his commitment to law enforcement. He is a past board member of the Upland Boys Club, a past president of the Upland Foothill Kiwanis Club, a past president and board member of the West End YMCA, a member of the Ontario Masonic Lodge and a board member of the Upland Traffic Safety Advisory Committee. Chief Estes is also a member of the California Police Chiefs Association and the California Peace Officers Association. In the past, he has been recognized for his many contributions including an award from the Foothill PTA Council for his work with youth in the field of drug education and awareness, and recognition from Kiwanis for outstanding community services in the field of youth drug education.

A lifelong resident of the Upland area, Chief Estes has also been blessed with a fine and loving family, sharing his life for the past 32 years with his wife Shirley, and having two children, Clay and Karen.

Mr. Speaker, I am proud to recognize the many fine achievements and contributions of Chief Coy Estes as he begins a most well-deserved retirement. I join all of my friends in Upland and the surrounding area in wishing him good health and God's speed.

A SALUTE TO CENTRAL KENTUCKY FIRE FIGHTERS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mr. HOPKINS. Mr. Speaker, I rise today in honor of the outstanding work of our firefighters in central Kentucky. This past weekend I had the distinct honor of speaking to the participants of the central Kentucky Firefighters Association's training workshop. Their hard work, dedication and self-sacrifice is exemplary of the outstanding work of all firefighters throughout the bluegrass area.

For many, many years, I have admired the dedication and courage of our firefighters who are engaged in some of the most dangerous work conceivable. Eighty-five percent of the 3 million men and women who comprise the fire services are volunteer. Every day they risk their lives to protect the lives, health, and property of others for little, if any compensation.

In honor of their commitment, I joined the congressional fire services caucus which was formed to provide a nationally coordinated effort to promote the interests of the fire services and the needs of our firefighters.

I am a proud cosponsor of legislation to designate Saturday, October 14 as "National Firefighters Day."

I am also a cosponsor of the fire service bill of rights, a monumental initiative that will better protect and promote America's fire service. Among its many provisions, the bill will create a system of grants to permit every local fire department to acquire hazardous material response equipment. It will improve access to surplus Federal property and establish a fire department loan fund to help fire departments obtain state-of-the-art equipment. To protect the spouses and children of fallen firefighters, the bill establishes a scholarship fund to provide for their college education. It provides funding support to permit worthy students to pursue graduate degrees in fire safety engineering. It will return control of the National Fire Academy to the U.S. Fire Administration and will create a National Fire Center and Museum in Washington, DC, to celebrate the contributions and achievements of our firefighters over the past 200 years. The bill will also provide assistance in developing new technologies on how we can better treat burn victims.

All of these important initiatives will not cost the American taxpayers a cent because the bill authorizes the U.S. Mint to sell a commemorative coin honoring the 200th anniversary of the death of Ben Franklin, the father of the American fire service.

I am also pleased to announce that I am an original cosponsor of legislation that will soon be introduced which will provide $2 million of Federal funding for Kentucky firefighters. One million dollars will pay for new equipment for volunteer fire departments. Another million dollars will go to the Forest Service to provide training for volunteer firefighters across the Commonwealth.

Mr. Speaker, as we celebrate National Fire Prevention Week, it is truly fitting to pay tribute to our unsung heroes in the fire service and commend them for their contributions to our continued health, safety, and progress.

FLORIDA INTERNATIONAL UNIVERSITY RANKS HIGH IN ITS CLASS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, I rise today to recognize the outstanding academic achievement of my alma mater, Florida International University in Miami, FL. For the second year in a row, U.S. News & World Report's annual ranking of universities and colleges has singled out FIU, from 200 universities, for its quality in education.

This year FIU has placed sixth among the top 15 Southern universities in the category of schools where few doctorates are awarded and more than half of the bachelor's degrees are awarded in professional fields.

Of the ranking, Dr. Modesto "Mitch" Maidique, president of FIU said: "It is a serious attempt to establish a measurement of quality."

Mr. Speaker, I would like all my colleagues to join me in congratulating Dr. Mitch Maidique and the fine staff of Florida International University for their commitment to education.

H.R. 3469, THE FEDERAL AGENCY DEBT MANAGEMENT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1989

Mr. STARK. Mr. Speaker, today I am introducing legislation, along with Chairman ROSTENKOWSKI, and Congressmen PICKLE, GIBBONS, RUSSO, JENKINS, DOWNEY, GRADISON, PANETTA, and SLATTERY which amends chapter 31 of the United States Code, dealing with the Government's borrowing authority and the public debt. This legislation curbs certain unauthorized borrowings by newly established agencies or instrumentalities of the Federal Government which have the authority to borrow from the Treasury.

For this purpose, such entities would be permitted to borrow only from the Treasury, and would not be permitted to issue any obligations or otherwise borrow any amount, guarantee any obligation or incur any direct or contingent liability to pay any amount in respect of an obligation. The legislation is applicable to agencies or instrumentalities established under any law enacted after December 31, 1988.

I wish to emphasize that this bill would only affect agencies or instrumentalities established after December 31, 1988, and which have an ability to borrow directly from the Treasury, meaning that the full faith and credit of the U.S. Government backs the principle and interest of those borrowings. It would not affect such agencies as the FDIC, Sallie Mae and Fannie Mae, or any other long-established Government agency.

It also would not affect any agency whether off or on budget that does not have the authority under law, to borrow directly from the Treasury. The primary purpose of the legislation is to protect the public debt from unauthorized increases.

The Oversight Subcommittee of the Committee on Ways and Means will conduct hearings on H.R. 3469 on Tuesday, October 24, 1989.

Mr. Speaker, the legislation I introduced today is effective for direct or contingent obligations incurred, issued, or guaranteed on or after December 1, 1989. I have chosen the December 1 date to allow the administration, the Treasury Department, the General Accounting Office, the Congressional Budget Office, and other interested parties the opportunity to make technical comments to the draft legislation at the Oversight Subcommittee hearing on October 24. I wish to put the administration on notice, however, that the chairman of the committee and I will demand written assurance from the Treasury Department and the administration that financing arrangements as I have described in this statement have not been entered into during this period allowed for technical comments.

SENATE—*Monday, October 16, 1989*

(Legislative day of Monday, September 18, 1989)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us remember Ruby Paone on her way to visit her 19-year-old niece, who was seriously injured in an accident.

*God that made the world and all things therein * * * giveth to all life, and breath, and all things; and hath made of one blood all nations * * * to dwell on all the face of the earth, and hath determined the times before appointed and the bounds of their habitation; that they should seek the Lord * * *.*—Acts 17:24-27.

God of truth and justice, these words of St. Paul spoken on Mars Hill, Athens, call to mind the categorical claim of Thomas Jefferson: "God, who gave us life, gave us liberty," and his penetrating question: "Can the liberties of a nation be secure, when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God?"

Help us distinguish between human rights and anarchy. Help us remember that the Constitution viewed human rights as inalienable because grounded in the belief of a Creator God who endowed them, that this Creator God is holy, and that these rights assume absolute morality as given in Ten Commandments, not "ten suggestions." Save us from the deceitful delusion that freedom means to do as one pleases—or what feels good. Save us from moral/ethical anarchy.

In His name who said, "Blessed are the poor in heart." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders this afternoon there will be a period for morning business until 3 o'clock, with Senators permitted to speak therein for up to 5 minutes each. At 3 o'clock, the Senate will begin consideration of the constitutional amendment relating to flag desecration. There will be no rollcall votes today. Debate is expected to continue on the amendment until into this evening and to resume tomorrow.

THE ADMINISTRATION'S CONFUSION CONCERNING CHEMICAL WEAPONS ARMS CONTROL

Mr. MITCHELL. Mr. President, press reports over the past week indicate that the Bush administration now intends to continue producing chemical weapons even after signing a treaty which would ban the production and stockpiling of such weapons. If true, these reports are deeply disturbing and represent a step backward in the effort to control the international proliferation of chemical weapons. Unless the President clarifies his position on this issue, makes a decision and makes it known, it is likely that little progress will be made in Geneva toward achieving the multilateral treaty prohibiting chemical weapons which the President, ironically, has stated is one of his highest arms control priorities.

Reportedly unable to resolve deep bureaucratic divisions within his own administration, the President appears to have selected a so-called compromise approach in which we both build and destroy chemical weapons over a period of nearly 10 years. This compromise is likely to set back the effort at Geneva to negotiate a comprehensive ban on chemical weapons, since it serves to make legitimate those countries which are seeking to acquire chemical weapons, encouraging the very proliferation of chemical weapons which the treaty is intended to prevent.

This position is inconsistent not only with our, the United States, negotiating position at Geneva, but it is inconsistent even with the administration's own statements on chemical weapons arms control.

At the recent ministerial meeting in Wyoming between Secretary of State Baker and Soviet Foreign Minister Shevardnadze, a number of initiatives in the area of chemical weapons arms control were announced. The two sides signed a memorandum of understanding concerning bilateral data exchanges and verification experiments, and they characterized this initiative as an effort to intensify efforts toward achieving the common goal of a global ban on all chemical weapons. Indeed, in the joint statement issued at the conclusion of their meeting, the two sides reaffirmed the objective of early conclusion of a comprehensive, verifiable and truly global ban on chemical weapons.

The issue of chemical weapons arms control was of sufficient priority for the administration in September that the ministerial meeting also produced a joint statement on chemical weapons. In that statement, the two sides stated that the early conclusion of a ban on the production and possession of chemical weapons is one of the highest priorities for the international community.

I repeat that, Mr. President. We stated as one of our highest priorities, a ban on the production of chemical weapons.

Two days after the conclusion of the ministerial meetings, President Bush addressed the United Nations and included substantial proposals concerning chemical weapons arms control in his remarks. President Bush noted that he had personally presented the draft text of a treaty banning the production and possession of chemical weapons at the Conference on Disarmament in Geneva 5 years ago. He reiterated his own commitment to a treaty that will eliminate all chemical weapons.

That the United States has been committed to achieving a total ban on the production of chemical weapons is made clear by reviewing the record of the negotiations in Geneva. The draft text of the Convention on the Prohibition of Chemical Weapons which President Bush himself presented in 1984 called for the signatories to the treaty to cease immediately all activity at each of its chemical weapons production facilities, except that required for closure. The current text being discussed in Geneva includes a similar provision:

> Each state Party with any chemical weapons production facility shall cease immediately all activity at each chemical weapons production facility except that required for closure.

It is quite clear from these excerpts of treaty text that the United States

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

has steadfastly pursued the goal of banning production of chemical weapons, and the intention has been that production should cease soon after agreeing to the treaty. If, as a result of opposition from within his bureaucracy, President Bush has retreated from this objective, he is taking a major step backward in the effort to control the proliferation of chemical weapons.

The pursuit of a comprehensive and global ban on chemical weapons is the right policy. Achieving such a ban would enhance our own security, that of our allies, and that of many countries in troubled regions of the world where the danger of the production of chemical weapons is most pronounced. Time and technology are not standing still. The evidence of the past 2 years is that many of the restraints—moral, political, and military—against the use of chemical weapons are weakening, and the appetities of many nations to possess these weapons appear to have been whetted.

The objective of achieving a global ban on chemical weapons is one which is widely shared in the Congress. This past June, in a letter to President Bush, I joined over 70 of my colleagues in pledging our support for the administration's efforts to seek a treaty banning the production and stockpiling of chemical weapons. President Bush should build on this support to seek early agreement on a treaty.

This is a time for vigorous American international leadership, for policies to match our own rhetoric, and for the United States to pursue a consistent and purposeful course. Timidity, mixed signals, inconsistent statements, and weakened commitments to longstanding objectives could result in the loss of an historic opportunity to prevent the spread of chemical arsenals around the globe.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time. And I reserve all of the leader time for the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the remaining time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business to extend until the hour of 3 p.m. today, during which time Senators will be permitted to speak for not to exceed 5 minutes each.

The senior Senator from New York [Mr. MOYNIHAN] is recognized for not to exceed 5 minutes.

THOUGHT GIVEN TO VULNERABILITY OF THE PANAMA CANAL

Mr. MOYNIHAN. I thank the distinguished President pro tempore for recognizing me. I rise on two subjects, of which the first is the Panama Canal.

We have heard on this floor in recent days and we have read in the press a great deal of criticism of President Bush's restraint in the matter of the use of force in the recent coup attempt against Gen. Manuel Noriega.

I was not privy to any of the discussions and do not wish to make more than a general comment which is intended—and I wish to be open about this—to be supportive of the President and to suggest why he may have felt that restraint was in order.

My comments, Mr. President, address the nature of the canal and its vulnerability to attack and closure. If I may say, the first great canal built in this country was the Erie along the Mohawk Valley. It opened the Great Lakes and the West to the United States and is a matter of local pride for New York and for this Senator.

The Panama Canal was built to take motorized traffic, as against mule-drawn barges. The fixtures, the engineering arrangements and the engineering equipment were produced by the General Electric Corp. in Schenectady, NY.

Mr. President, closing a canal through sabotage is about as simple an operation as anyone could undertake. It is a simple fact regarding the Panama Canal: The vulnerable point is the Culebra Cut. We now call it the Gaillard Cut after the American engineer who did it. It runs 8 miles north and south at the point of the Continental Divide. It cuts through the Continental Divide. It is about 500 feet wide and about 42 feet deep. It has huge steep slopes on each side. There is persistent sloughing off, sometimes close to landslides, from the cut down into the water. Dredges operate continually, Mr. President. About 1 million cubic yards of soil is removed every year. One million cubic yards come down routinely.

Mr. President, one howitzer drawn at random from the inventory of any field artillery regiment set 10 miles away with, may we say, 20 rounds, would reduce the Gaillard Cut to a blocked ditch in the course of a 20-minute barrage. If you did not have a howitzer handy, you could hike up with six men and, say, 1,000 pounds of plastic explosives and you would have a ditch filled. You could clean it up. It probably would not take more than 2 years, possibly 3, depending on the state of hostilities and the general atmosphere in the Canal Zone and its surroundings.

If you wanted to get into more exotic work, blowing up the dams that make Gatun Lake would require nothing more than civil war technology, Mr. President. It happened all the time with our canal systems during the Civil War, a century and a quarter ago. There we would be with a canal closed while we have treaty obligations to keep it open, keep access.

This would not be devastating to our economy. The development of the piggyback container freight train as a transcontinental device has changed the economics of the canal. But it would change our image in the world.

A President who gave some thought to the vulnerability of the canal to sabotage in the aftermath of a nationalist uprising might be deemed to be carrying out his constitutional duties with care and responsibility.

ST. CROIX

Mr. MOYNIHAN. Mr. President, yesterday I flew to the island of St. Croix, which is, of course, one of the Virgin Islands. It is an American territory situated in the Leeward Island chain of the Caribbean. The island of St. Croix was struck by Hurricane Hugo as no other piece of territory. No other area in the path of the hurricane, which began in Guadeloupe and ended, of course, in Charleston, sustained such total destruction.

The hurricane hung over St. Croix, which is a small island, for almost 8 hours—from about 2200 hours on Sunday evening to about 0700 hours the following morning. Winds were just below the fiercest ever recorded, as an average, and gusted to about 200 miles an hour. The last such hurricane to hit the region was in 1928.

As you would imagine, Mr. President, the way of man, the world over, in such settings, the construction that followed in recent years, forget the hurricane of 1928, and the result is, Mr. President, that about half of the houses on the island are ruined. A more conservative view would be that about one-third are damaged beyond any prospect of repair and it would not be exaggerating to suggest that at least two-thirds have been damaged seriously. As with the pattern of hurricanes, you can see a situation where 500 yards apart one building will have disappeared and another building will be untouched.

The large hotels built along the northern coast east of Christiansted are empty and ruined. The major hospital had to be evacuated. Old Christiansted is badly damaged but intact. I am happy to report to this body that the counting house in which Alexander Hamilton began his career as a young man is intact. Alexander Hamilton's place is there, as indeed are the stone buildings of the 18th century. Almost all else is in ruin.

Mr. President, I have seen hurricanes and their aftermath from time

to time. I served in the Caribbean in the Navy years ago. I have never seen the like of such damage.

The U.S. Government has responded superbly. The Federal Emergency Management Agency [FEMA] has been on the spot almost from the moment the eye of the hurricane left the shores of St. Croix.

I was there yesterday with Mr. Grant Peterson, the Deputy Director, and I have to tell you I have not seen anything the likes of this effort any time. To give you a sense of what was involved, Mr. President, there was no water, there was no food, there was no electricity and as a very important point there were no communications with St. Thomas, which is the main island. Charlotte Amalie is the capital. There was no radio communication. It was patched together by ham operators through the National Guard.

I toured with Governor Farrelly, a very able and distinguished chief executive there, and his equally able Lieutenant Governor Hodge and Gen. Robert L. Moorehead of the National Guard for the Virgin Islands. I can report that water has been restored. The efforts of the Geological Survey to do that have been magnificent. Power is back, not fully. Water is being made available but the island is a ruin. It could take generations to recover the prosperity that has developed in recent years, a prosperity primarily based on tourism.

There is the Amerada Hess refineries. There is some bauxite but basically the 50,000 inhabitants live off tourism. We had some bad panic in the early days. We have had to bring, Mr. President, a brigade of military police to patrol—brigade. Not a battalion, three battalions. I do not think we have had such deployment in an American territory in our history. Maybe, I do not know it.

People were evacuated with some of the accompanying mistakes that you cannot easily overcome. It was announced that the Coast Guard was evacuating American citizens. Well, I do not have to tell the distinguished President pro tempore they are all American citizens on St. Croix.

In the aftermath, the Corps of Engineers has done brilliant work; the U.S. Public Health Service. Every uniformed service of the U.S. Government was on that island yesterday—the Public Health Service, the Coast Guard, Army, Navy, Air Force, Marines, and the National Guard. Units from Mississippi and Alabama coupled together field hospitals.

In that hospital I ran into a group of doctors and nurses who had volunteered from Atlanta. GA. They obviously had been working night and day and day and night. I do not think they recognized who I was or what I was saying until I said I would give their greetings to SAM NUNN and WYCHE FOWLER. Then they got the point that I was from Washington.

Mr. President, there has to be a response. It has to be a long-term one. I hope the President, who certainly responded quickly with respect to the declaration of emergency, will now put in place a system that will tend to this matter over the next decade at the very least. The emergency is over. It was coped with, thanks to superb discipline and astonishing coordination by Government agencies and volunteer efforts from as far away as Guam. The Governor of Guam sent generating equipment. But now comes a much more difficult time, the emergency has passed and the devastation remains.

Mr. President, I thank the Senate for its courtesy in attending this matter.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized for 10 minutes.

Mr. DOLE. I thank the Chair.

SEQUESTRATION

Mr. DOLE. Mr. President, today it is official; we have a sequester. Congress has missed its deficit cutting deadline again, and now the Gramm-Rudman-Hollings ax must fall, cutting $16.1 billion in spending across the board.

A lot of people in this town are saying sequester is not such a bad thing. Sequester cuts, they say, are at least real and permanent, while a good number of budget reconciliation cuts are short lasting and nothing more than smoke and mirrors.

RECONCILIATION IS BETTER THAN SEQUESTER

I do not buy that argument. The savings in budget reconciliation are not perfect, but that is not the point. We were elected to Congress to do a job; legislate. That means making tough decisions about what to cut, rather than allowing some automatic, meat-ax process to aimlessly make those choices for us.

Unfortunately, Congress has not provided much leadership on the budget front. Let us face it; we would not need GRH if Congress had been doing its job. Instead of making tough choices, we have been playing dodge ball.

Nevertheless, last Friday night, by stripping the reconciliation bill clean of all its legislative goodies, the Senate showed we are capable of making some very tough choices. If we want to send a signal to Wall Street and it is good the market is up some 40 points now maybe not because of what we did—and around the world that Congress is serious about the deficit, this is it; and I hope the House is listening.

Many of the items in that original Senate bill were good for Kansas and good for America, but the reconciliation process was never intended to be the last train out of the station for every Senator's bright idea. Reconciliation was supposed to cut the deficit. Period.

So, I believe the Senate acted responsibly when it decided that a 13-pound budget reconciliation bill was not the right vehicle for every goodie we could not pass through the regular process. Many of these provisions have never had a single witness from anywhere to testify for or against them in a hearing.

Moreover, our ability to amend or debate these items was severely restricted under the reconciliation process, as was pointed out very eloquently last Friday evening by the distinguished Presiding Officer, the President pro tempore, the senior Senator from West Virginia, Senator ROBERT C. BYRD.

By piling on our favorite provisions, we undercut the budget process, and worse, normal Senate procedure. Reconciliation, the last train out of the station, had come close to being the biggest train wreck of the year.

THE HOUSE MUST FOLLOW OUR LEAD

Now it is the House's turn to show some discipline. If the House accepts our changes—our leadership challenge—we can move quickly to cut $14.1 billion from the deficit, meet the $110 billion Gramm-Rudman-Hollings target, and restore the sequestered funds. If the House insists on clinging to its current overloaded package, it will guarantee a Presidential veto, a permanent sequester, and the well-deserved disgust of the American people.

I do not believe that will happen. I served in the House of Representatives for 8 years, and I can tell you the Senate has no monopoly on responsibility or wisdom, despite our sometimes, some would say, self-promotion as the "world's greatest deliberative body." The House will look carefully at what we have done, and it should. But, in the end, I hope the House will do the right thing and approve a deficit-reduction-only reconciliation bill. You can be certain that America and Congress' reputation will be better off for it.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. With objection, it is so ordered.

The Senator from Maine is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 1756 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. A point of no quorum has been raised. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas [Mrs. KASSEBAUM] is recognized for not to exceed 5 minutes.

RELEASE OF WALTER SISULU IN SOUTH AFRICA

Mrs. KASSEBAUM. Mr. President, South African nationalist leader Walter Sisulu and seven other prominent political prisoners were released yesterday from prison after more than a quarter century of confinement.

The tragedy of apartheid is clearly evident in the tragedy of individual lives in South Africa. Walter Sisulu's life dramatically reflects that tragedy. But his strength, courage, and determined leadership under duress also has become a symbol for hope not only within South Africa but around the world.

The road to true freedom for the prominent black leaders just released and for the black majority in South Africa is still a long and hard one. But the unconditional release of Walter Sisulu and the other political prisoners is an important step toward national reconciliation and a sign of new leadership on the part of President F.W. de Klerk. It is important for us to recognize this positive gesture by the new President of South Africa.

What follows over the next couple months is going to be critical for the future of South Africa. The unconditional release of the seven imprisoned leaders is widely being seen as a trial run for the release of Nelson Mandela, possibly later this year.

Neither the release of Mr. Sisulu nor Mr. Mandela should take place in a vacuum. Negotiations for national reconciliation must accompany the release of Mr. Mandela in order to ensure a peaceful transition from apartheid. I believe it is incumbent upon the South African Government to continue to build on the release of Walter Sisulu to create a climate for negotiations. Lifting of the state of emergency, lifting the ban on political parties, and removing the apartheid laws such as the Group Areas Act, are all measures which are needed to create such a climate.

Building confidence that negotiations can be conducted peacefully is also incumbent not only upon the Government but also the black majority. The call by Walter Sisulu and the other leaders of the opposition to South African blacks to conduct their protests peacefully in order not to jeopardize the release of Nelson Mandela is an important measure.

Mr. President, the events in South Africa over the weekend can open the door to peaceful change there. But this can only happen if all sides are committed to change and to seizing what can be a historic opportunity.

I yield back the remaining time, Mr. President, and suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,675th day that Terry Anderson has been held in captivity in Beirut.

On February 22, 1989, Terry Anderson was honored by the National Press Foundation. I ask unanimous consent that the text of this citation and a brief biographical note be printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

SPECIAL CITATION: TERRY ANDERSON

The National Press Foundation honor Terry Anderson, held hostage since March 16, 1985, for his courage and his inspiration to journalists around the world. He has conducted himself throughout his ordeal with exceptional dignity and forbearance. The award, accepted by his sister, is intended to once again focus national attention on his plight.

Terry Anderson, the Associated Press correspondent kidnapped and held in Lebanon since March 16, 1985, is a veteran newsman who started his career in the Marine Corps.

He served six years as a Marine, as a combat correspondent in Vietnam and as a reporter, anchorman and station manager for the Armed Forces Radio and Television Service in Japan. He was discharged as a staff sergeant and spent three years as a radio and television newsman at KRNT and KCCI-TV in Des Moines, Iowa.

Mr. Anderson joined the AP in Detroit in May 1974 in a temporary slot, left after five months to work as an editor on the Ypsilanti (Mich.) Press, and rejoined the wire service in Louisville, KY, in April 1975. He later had AP posts as a foreign desk editor in New York, as newsman in Tokyo, and as news editor in Johannesburg.

The journalist first went to Lebanon on a temporary assignment soon after the Israeli invasion there in June 1982. In October, the assignment was made permanent and he became Beirut news editor. He was promoted to chief Middle East correspondent in September 1983.

Mr. Anderson was kidnapped at gunpoint on a Beirut street by three young men who sped off in a green Mercedes. He had spoken earlier of the perils facing a newsman in Lebanon. "There's no story worth getting killed for," he said, telling of situations in which gunmen had ordered reporters to leave areas in which they were trying to cover news events.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Morning business is closed.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE AMERICAN FLAG

The PRESIDENT pro tempore. Under the order previously entered, the Senate will now proceed to the consideration of Senate Joint Resolution 180, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 180) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate proceeded to consider the joint resolution.

Mr. BIDEN. Mr. President, I was 30 seconds too late in the request I am about to make, and that is, I ask unanimous consent that we be able to return to morning business for 5 minutes.

The PRESIDENT pro tempore. Would the Senator like to speak out of order for 5 minutes?

Mr. BIDEN. I would like to speak out of order for 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for 5 minutes to speak out of order.

Mr. BIDEN. I thank the Chair.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 1757 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. Mr. President, may I respectfully inquire of the Chair as to whether the order of business is now Senate Joint Resolution 180?

The PRESIDENT pro tempore. That is the order of business.

Mr. DIXON. Mr. President, I urge my colleagues to vote for the flag protection amendment to the Constitution, Senate Joint Resolution 180.

There are two central questions each Senator must consider in this debate: Why do we need an amendment to the Constitution? And, why do we need one now?

We need to pass Senate Joint Resolution 180 in my opinion, because it is the only effective way to protect our cherished flag. We need to pass this legislation now, in order to ensure that no time is lost in the event the recently passed flag statute, so ably sponsored by my distinguished friend, the chairman of the Judiciary Committee, is found to be unconstitutional.

In the aftermath of the Court's decision in Texas versus Johnson, many of us in Congress considered a variety of ways of ensuring the protection of the American flag. A majority of the Senate concluded that the best defense of the flag would be in the form of an amendment to the Constitution, and the result was the introduction of Senate Joint Resolution 180 cosponsored by 53 Senators, Democrats and Republicans alike.

The process of amending the Constitution is long, yes—but I argue properly and necessarily so. I do not view the amending of the Constitution lightly. But I do sincerely believe that the decision in Texas versus Johnson was wrong, and that the most effective way in which to redress the issue is by way of a constitutional amendment.

Many people have argued that the decision by the Supreme Court was a victory for free speech. However, I agree with Justice Stevens' dissent. He said:

I have no doubt that the interest in preserving [the] value [of the flag as a symbol of freedom, equal opportunity and religious tolerance] for the future is both significant and legitimate. Conceivably that value will be enhanced by the Court's conclusion that our national commitment to free expression is so strong that even the United States as ultimate guarantor of that freedom is without power to prohibit the desecration of its unique symbol. But I am unpersuaded.

Indeed, the decision by the Supreme Court could be viewed as a victory for those who view free speech as an absolute right. However, the right of free speech is not and never has been absolute. Chief Justice Rehnquist, in his dissent, cited the unanimous decision in Chaplinsky versus New Hampshire, which said in part:

Allowing the broadest scope to the language and purpose of the fourteenth amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of free speech, the prevention and punishment of which have never been thought to raise any constitutional problem.

Justice Stevens further stated:

In *Los Angeles City Council* v. *Taxpayers for Vincent* * * * [This Court said] that "the first amendment does not guarantee the right to employ every conceivable method of communication at all times and in all places."

Mr. President, I have no quarrel with Gregory Johnson, or anyone else, for that matter, who expresses an opinion, positive or negative, about anything at all. I might disagree with them, but that is their right. On the other hand, I strongly disapprove of Gregory Johnson's action while expressing his opinion. The act of burning the American flag, I contend, was and is not, protected speech. As Justice Stevens stated, "It was Johnson's use of this particular symbol, and not the idea that he sought to convey by it or by his many other expressions, for which he was punished."

In response to the Court's decision, the Congress faces three options. First, we can do nothing. The argument given for this option is that the Court made the correct decision and no reason for redress exists. The second option my friend from Delaware has carried out in his usual competent way, and that is to enact a statute which would be content neutral, that is, would only prohibit the action, and not hinder an individual's right of free expression.

Mr. President, I supported the passage of H.R. 2978. It is my understanding from what I read in the media, Mr. President, and see in the media that the President of the United States probably will permit this statute to become law without his signature, thus, expressing his approval of the idea while indicating his commitment to a constitutional amendment.

I supported H.R. 2978 and I supported it, Mr. President, because it may work. I am a lawyer, not a great constitutional lawyer, but I believe there is a possibility that it might work. It just may be sufficient to adequately protect the American flag from the types of atrocious acts committed by Gregory Johnson in Dallas.

I would be the first to say that, if the courts uphold H.R. 2978, a constitutional amendment becomes unnecessary. However, we cannot know with certainty what the Supreme Court will do if faced with this statute. I believe, therefore, that we should continue to push forward with the third option, the constitutional amendment.

The constitutional amendment, I believe, would provide the surest protection against further acts of desecration.

Should the Supreme Court uphold the constitutionality of the flag desecration statute, Mr. President, there will be ample opportunity to stop the constitutional amendment. We do not have to go forward with it. But I remind my friends, it takes a two-thirds vote of both Houses to pass a constitutional amendment and send it on to the States. Thirty-eight States have to approve it. So it is a lengthy process that will undoubtedly take a number of years.

If, however, the Court eventually overturns the statute, we will have wasted considerable time by not starting to move forward with the constitutional amendment now. It is essential to move forward on both tracks. If the Congress is committed to protecting the flag, it should allow both tracks to proceed, Mr. President.

Former Chief Justice Warren, in his dissent in Street versus New York, stated succinctly:

I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace.

I believe, Mr. President, that the Supreme Court's closely divided 5 to 4 opinion was in error. I was delighted to support the statute which has passed here overwhelmingly. I am delighted the President will let it become law, albeit without his signature. I hope the court will reverse itself or find some reason to narrowly distinguish the other opinion and say the statute in this case is a good one.

But, Mr. President, I think courts are like human beings. They do not like to admit mistakes. I think there is an unlikely eventuality that will take place, and so I believe we are in jeopardy of protecting the flag if we do not turn to this constitutional amendment.

Mr. President, this body overwhelmingly gave approval to H.R. 2978, the flag protection bill. I was delighted to vote for it. I urge my colleagues to likewise support Senate Joint Resolution 180. Our flag, Mr. President, and our Nation deserve our support.

I thank the Chair. I thank my colleagues. I yield the floor.

Mr. THURMOND. Mr. President, I rise today to express my strong support for Senate Joint Resolution 180, a proposed amendment to the Constitution authorizing the Congress and the States to prohibit the physical desecration of the American flag.

Immediately after the recent Supreme Court ruling in Texas versus Johnson which allows the contemptuous burning of the American flag, I introduced a proposed constitutional amendment to overturn that unfortunate decision.

Also, after bipartisan discussions with Members of the Senate, President Bush transmitted language for a 27th amendment to the Constitution addressing the Johnson decision. I joined with 51 of my colleagues as a cosponsor of the proposed amendment which we are considering today.

Last week, the House completed action and approved a Senate-passed version of a bill to punish certain physical acts of destruction with the flag. While I supported the statutory approach, I remain convinced that the bill which passed the Congress last week will likely not survive constitutional scrutiny in light of the Johnson decision.

As we learned from the hearings before the Judiciary Committee, there is sharp disagreement among some of our Nation's top constitutional schol-

ars as to whether a Federal statute seeking to overturn the Johnson decision would be constitutional.

William P. Barr, Assistant Attorney General for the Office of Legal Counsel at the Department of Justice, representing the Attorney General of the United States testified on behalf of the administraton in favor of the proposed amendment. He stated that the President and the Attorney General were "convinced that, in light of the expansive decision of the Court, a statute simply would not suffice, and that the only way to ensure protection of the flag is through a constitutional amendment."

There were other constitutional scholars who testified and shared the opinion that only a constitutional amendment could be effective in reversing the Johnson decision. Robert H. Bork, former Judge for the D.C. Circuit Court of Appeals, Charles J. Cooper, former Assistant Attorney General, Stephen B. Presser, professor of law at Northwestern School of Law, and Eugene W. Hickok, professor of Political Science of Dickinson College all testified that a constitutional amendment is needed to reverse the Johnson decision.

President Bush has indicated that he will allow the bill recently passed to become law but believes it will not withstand a constitutional challenge.

In the Johnson decision, the Supreme Court held that flag burning for expressive purposes is conduct protected by the first amendment. Further, if such conduct is to be prohibited, the Government's reason must be important and unrelated to expression.

Efforts to protect the flag as our symbol of nationhood is inherently and necessarily related to expression. It is the intent of the sponsor and cosponsors of this proposed constitutional amendment to unequivocally authorize the Congress and the States to prohibit flag burning and other contemptuous acts of desecration with the Flag.

I firmly believe that an overwhelming majority of American citizens want the Congress to allow for the prohibition of flag burning as communicative conduct.

The Supreme Court clearly states in the Johnson decision that the Government's interest in protecting the flag as a treasured national symbol does not overcome an individual's first amendment right to burn the flag for communicative purposes.

As a statement of national policy, should we be content with a Federal statute which some feel equivocates our respect for the flag by avoiding the issue of contemptuous conduct with the flag. It is my belief that while the bill recently passed technically evades the subject of contemptuous desecration of the flag, it may well be ruled unconstitutional because it would prohibit that very type of flag destruction.

If we are truly serious with efforts to protect the flag as our most unique and precious symbol of cherished American values, as the embodiment of American democracy, then a 27th amendment to the Constitution should be adopted.

PRE-JOHNSON

Mr. President, prior to the Supreme Court ruling in Texas versus Johnson, the U.S. Congress and 48 states had adopted legislation to protect the physical integrity of the American flag. The Supreme Court in the Johnson decision struck down these laws and has brazenly said no to the American public who have spoken through the Congress and 48 State legislatures.

When the legislature in my home state of South Carolina and presumably the 47 other States adopted laws to protect the flag, they believe their action was on solid constitutional footing. Now the Supreme Court has come along and dramatically changed the landscape concerning protection for the American flag. The Congress, representing the American public, now has a responsibility to restore to the States their proper authority to protect the flag.

Mr. President, there have been arguments by opponents of this proposed constitutional amendment that any such amendment will encourage a variety of widely differing State laws protecting the flag. I would respond by once again noting that there are currently 48 States that have already passed flag protection statutes. It is my belief that once a constitutional amendment is adopted, these States would simply allow their current statutes to remain in place and would not rush to enact new ones, unless they found it advisable to do so.

BEGINNING THE AMENDMENT PROCESS

Mr. President, our Founding Fathers understood that the Constitution would, on occasion, need to be amended and they included a deliberately complicated procedure in the Constitution for amending that great document.

In article V of the Constitution, two-thirds of both Houses of Congress can proposed amendments or two-thirds of the State legislatures can call a Constitutional Convention for proposing amendments. These proposed amendments become a part of our Constitution when ratified by three-fourths of the State legislatures. Incidentally, the last method I mentioned has never been used to amend the Constitution.

A proposed constitutional amendment could take years before it is considered in the requisite number of State legislatures.

In view of the probability that the recently passed flag statute may not withstand constitutional scrutiny, we should take action now to pass this proposed amendment so the State legislatures can begin considering its ratification.

There are some who oppose amending the Constitution to overturn a Supreme Court decision. I hasten to point out that since adoption of the Bill of Rights, the first 10 amendments, one-fourth of the remaining amendments to the Constitution were proposed to overturn particular Supreme Court decisions. It is not a novel idea to amend the Constitution in response to actions taken by the Supreme Court.

Amending the Constitution is a serious matter. It should only be entered into after careful thought and open debate in response to demanding circumstances. The record of the hearings and congressional debate coupled with the public outcry against the Johnson decision attest that we face circumstances which demand an amendment to the Constitution.

CONCLUSION

Mr. President, we are a blessed Nation. American citizens enjoy freedoms and liberties which are the envy of the world. There is a wide variety of political views in this country and yet we overwhelmingly support the fundamental ideals and traditions of the American community. As Americans, we have every right to question Government policy and to express ourselves in a myriad of ways. Prohibiting the contemptuous desecration of the flag will not deny citizens their right to freedom of speech. There are any number of other ways to express discontent with governmental decisions. Those avenues should and will go unimpeded.

What we are attempting to establish with this proposed constitutional amendment is national policy concerning the flag. I firmly believe that the American public looks upon the flag as the most recognizable and revered symbol of democracy which has endured throughout our history.

It is incumbent upon this Congress to swiftly pass this proposed constitutional amendment and send it to the States to allow the American public through their legislatures the opportunity to be heard on this important issue.

I urge my colleagues to join the sponsors and cosponsors of this proposed amendment as we seek to protect our most cherished symbol of democracy from contemptuous desecration.

Mr. BIDEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, today we embark on what in my view is one of the most solemn tasks any Member of the U.S. Senate can engage in; that is, the task of deciding whether to amend

the U.S. Constitution, a document that, together with the Magna Carta, stands as one of the greatest monuments to liberty in the history of all mankind.

Since June 21, when the Supreme Court decided the case of Texas versus Johnson, there has been a lot of talk and a lot of rhetoric about the need for a constitutional amendment, particularly the one proposed in Senate Joint Resolution 180, about what the amendment would do and what that amendment means.

All this talk and all this rhetoric have produced, in my view, a lot of myths, unintentionally, I might add, because I do not doubt for a moment the sincerity of those in this body who believe that we need to amend the Constitution in order to protect the flag. But nonetheless, Mr. President, a number of myths have arisen.

Of these, there are about eight that I think need to be set straight. So before we vote on this constitutional amendment, Mr. President, I think it is important, as I am sure the Presiding Officer and all my colleagues do, that we are sure what we are voting on. There are all kinds of constitutional amendments. One could be for a constitutional amendment to protect the flag intellectually and philosophically and believe that it is important enough to be made apart of the Constitution, but that same Senator might very well reject one proposed amendment to protect the flag and accept another.

So anyone who shares my view that the amendment that we are going to vote on sometime this week is not the appropriate amendment need not reach the conclusion that under no circumstances could one or should one pass an amendment. There are all types of amendments and the wording of these amendments is critically important.

I know my colleagues have been incredibly busy. One need only turn on the local news to see the hours this body has been keeping and the degree of difficulty of the issues with which we have been dealing to know that we have been very much engaged, and I suspect that not all of my colleagues have had the opportunity at this point to look—which is the reason for debate—extremely closely at the wording and impact of the amendment in question.

Mr. President, in my capacity as chairman of the Judiciary Committee, I had the honor, privilege, and duty of spending the August recess listening to some of the finest minds in America who both believe we should amend and we should not amend the Constitution. Some would testify that we should amend the Constitution but the particular amendment in question was not the way to do it. Others, believe we should do nothing, including the Biden legislation or similar Biden-Roth legislation or similar legislation which has now passed both Houses and the President indicates he will allow it to become law. I understand it is literally today that it arrives on the President's desk. So I have had the opportunity to listen to and speak with some of the best minds in this country both in favor of and against the amending of the Constitution and this particular amendment.

So I have reached the conclusion that on this particular amendment there have been, as I said earlier, some myths that have arisen. There are those who at this point think they may be for it who think it does certain things that it does not do and think it does not do other things which it does do.

So before we vote on this amendment, Mr. President, we had better know what we are voting on, and we need to separate fact from fiction, and truth from myth. And I emphasis once again that I do not think any Member of this body for or against this constitutional amendment is intentionally or would intentionally mislead deliberately or propose something that they thought to be other than the truth.

But we have a special responsibility because, when it comes to amending the Constitution, the usual checks and balances do not apply. Once we approve a constitutional amendment, the President cannot sign it or veto it. The Supreme Court cannot strike it down. Our vote is final, the final say in Washington.

Make no mistake about it. The language of what we adopt here will be the language that is adopted and added to the Constitution. What we send to the States is unalterable. The States cannot change a single word, a phrase, a comma or a period. They can only vote up or down, yes or no, on the particular constitutional amendment that we send to them—ratify or reject. Caution, restraint, and the utmost care must be our guide as we debate and vote this week on the proposed constitutional amendment.

Mr. President, today I intend to try, at least from my perspective, to separate fact from fiction and truth from myth with respect to the administration's proposed constitutional amendment.

The first myth is that the amendment makes it illegal to destroy, to desecrate, or to harm the flag. This amendment, if we passed it tomorrow, the House passed it tomorrow and all the States required passed it tomorrow, the moment it became an amendment to the Constitution would do no such thing. In and of itself it would not stop lawn flag burning, and it would not stop what everyone concludes desecration means. It would do nothing.

If 67 Members of the body, 291 Members of the House and 38 States ratify this amendment, even if all that happens, it will still be legal to burn the flag, to mutilate, defile or deface it or do anything else to it, including destroy it.

The reason is simple. All the proposed amendment does is permit Congress and the 50 States, should they so choose, to make these acts illegal. The amendment itself does nothing, not a thing to protect the flag on its own.

The second myth is that the proposed constitutional amendment does more to protect the flag than the legislation we passed 2 weeks ago and which will become law of the land in 10 days. President Bush said last week that we need this amendment because the statutes we have passed are not enough to protect the flag.

Well, Mr. President, nothing could be further from the truth. In 10 days, it will be the law of the land that "whoever knowingly mutilates, defaces or physically defiles, burns, maintains on the floor or ground or tramples upon the flag of the United States, shall be either fined or put in jail or both."

It will be against the law to burn the flag at any time, anywhere, under any circumstances, except if you are disposing of the flag that becomes worn and dirty through everyday use, and in any other situation, if you destroy the flag, you will go to jail or be fined, period.

I submit, Mr. President, that the law we passed 2 weeks ago will provide the broadest protection for the flag that is possible. We have already made it illegal to burn the flag in every circumstance, save one. No greater protection is possible. So why do the administration and many of my colleagues want this amendment? Let me explain, from my perspective, at least.

Under the Texas versus Johnson decision, the Supreme Court said in effect, if we want to make flag burning illegal, we better make it illegal in all circumstances, and not just to single out offensive flag burning. So that is what we did with the statute we passed 2 weeks ago. We made it illegal all across the board to burn the flag, other than in those circumstances where it is not provided under military code and the Boy Scouts, et cetera, where you can burn a flag as a proper means of disposal, all of the flag that is no longer a fitting symbol.

We do not need a constitutional amendment to pass that sort of blanket flag protection, but the administration wants a constitutional amendment. Why? Mr. President, what I am about to say may seem a bit strange, but I will, over the course of this debate, go into great detail, if that is appropriate, in laying out word for word the testimony of the administra-

tion, because I wonder, why do they want this. If in fact this statute we passed overwhelmingly here, in both Houses, Republican and Democrats alike, is unconstitutional, well, clearly the President would veto it. For, as he pointed out in another circumstance, a chief executive officer has to make a judgment on his own, whether or not something is constitutional or otherwise. If he thought it unconstitutional, he clearly would veto it. If in fact he thought it constitutional, then he would let it become law.

So why are we pushing on this amendment, since the President has concluded that there is this overwhelming prospect of being constitutional; otherwise he would, under his oath and all that he has said in another context—we remember in the middle of a campaign when a former Governor did not sign into law a statute that would have been, in the mind of that Governor unconstitutional, even though the State legislature passed it, relating to the flag and the Pledge of Allegiance, the President pointed out properly that the Chief Executive Officer must make his own judgment. If he believes it is unconstitutional, he understands; if he does not, he should let it become law. The President is letting this become law, the statute.

I am convinced the President is not just being political. The articles written that the President is just being political, by those who want to criticize him, this is not merely politics; this is too important for a President to play with the Constitution for politics.

So why the need for the amendment? Well, the conclusion I reached is because they want to punish only offensive flag burning—that is, only those circumstances where the flag is burned where they find the burning offensive. They want to discriminate among flag burnings.

The administration wants the States to be able to ask all sorts of questions before deciding whether to arrest someone for burning a flag. They want States to ask first, who burned the flag; why did they burn the flag; what did they say when they burned the flag; did anyone see them burn the flag; and was anyone offended by the burning of the flag? Only once these questions have been asked and answered does the administration want the States to decide whether or not to arrest someone for burning the flag. They want the States to first know whether it is a well-kept businessman in a three-piece Brooks Brothers suit who burned the flag or a long-haired college dropout with torn jeans and an earring who burned the flag.

They want the States to first know whether an emotional veteran has offered the burning of a flag as a symbol of the loyalty and sacrifice of his fallen comrades or as a symbol of protest.

I asked during the hearings, I say to my friend from North Carolina, what would be the situation; why do you not like my statute, whether or not you think it would pass constitutional muster? And the administration witness said, well, because it is content neutral. It would make all flag burning illegal.

I said, let me ask you, how would you feel about someone, an emotionally committed Vietnam veteran, kneeling down before the Vietnam Memorial and very ceremoniously taking a brand new flag and folding it and then lighting a match to it and saying, I am burning this flag in the name of all the brave men who died, who are listed on this monument, to sanctify their death as a commitment to this country? They said, we do not want to arrest that guy. The flag is being burned, a brand new, nice, clean flag. But, if that same veteran knelt down with a motorcycle jacket on and an earring in his ear and said in anger, I am burning this flag because my brothers and their friends—and named them on the monument—died in vain, and I am angry, and he burned the flag, they want to be able to arrest that guy.

They want to get at, Mr. President, the reason for this amendment; the way it is worded, is to be able to arrest some people who burn a flag in a circumstance that they find offensive, but not arrest other people who burn a flag in a circumstance that would not have any ill intent when the burning was done. Now, I am not talking about ceremonial burning, which the Biden amendment, as altered, put into the statute. Under the statute now that will become law in 10 days, you will be able to burn flags under military ceremonies and other appropriate ceremonies. It is legal to do it that way, but all other flag burning will be illegal.

The reason I dwell on this point for the moment, this amendment is designed to get at certain types of speech, not all speech, only those which people find offensive. This is not just about protecting this national symbol.

For me, God bless him, the emotional veteran offering the flag up as a sacrifice of his love for his country I find also wrong because the physical integrity of the flag is what I am intending to protect. It should not be burned. It should not be destroyed.

Back to why this amendment. The administration wants to know whether someone who is burning the flag on January 22 to commemorate the lives lost in the *Challenger* disaster is one who is doing it to protest space policy that they believe led to the disaster or as a holy sacrifice to those who lived under this constitutional amendment. States would be able to make that kind of distinction. You are going to go to jail because you burned the flag in a way I did not like, and you are not going to go to jail even though you burned the same flag but you did it in the way I like it.

That is what this is all about, Mr. President. The answers to these questions are not necessarily under what will soon be the law of the land. That is because the law we passed protects the flag in all circumstances, not just in some. It protects the flag whether it is burned in public or in private. It protects the flag no matter how the person burning it is dressed or what he or she says, and it protects the flag no matter what motivates the person burning the flag.

The amendment in contrast, Mr. President, is intended to allow the States to pick and choose so that flag burning is illegal in certain situations, in certain circumstances, and involving certain people. Our statute punishes all flag burners. The administration wants to punish only anti-American flag burning and allow pro-American flag burning if that were to occur. They need to change the Constitution, Mr. President, to do that.

The statute which will soon become law does not allow them to do that, Mr. President. To burn is to burn is to burn, and it is illegal.

But before we support the change the adminstration wants, let us remember which goes further to protect the flag—the statute or the amendment. The answer is clear, simple, and unequivocal. The statute goes much further in protecting the flag.

Assuming that it is constitutional—as I do and the President must or he would not let it become law—so the first myth, the statute is broader in its application and does more to protect the flag from being desecrated than the amendment.

And this leads me to the third myth surrounding the proposed amendment, the myth that the amendment does not amend the first amendment. Everyone says when they come before us here that we revere the Constitution, that our intent is not to, for the first time in our history, even propose let alone vote on proposed amending of the first amendment. Nobody wants to say that. At least no one I have heard wants to say that. Therefore, a myth has arisen. And that myth is that if we pass this amendment, it will do nothing to the first amendment, it will do no violence.

Mr. President, 200 years of history have shown that the first amendment means the Government cannot pass laws that distinguish between certain types of speech and certain ideas, saying some are acceptable and some are not, punishing the former and not

the latter—this discrimination the first amendment prohibits.

I want to reiterate. The essence of the first amendment is that the Federal Government and, in turn, the States have now ruled 60 years ago that the Bill of Rights applies to them, the essence of the first amendment is the State, local, or Federal cannot discriminate among types of speech. It did not say I like that kind, I do not like that kind. That is the essence of the first amendment. Cut everything else away, that is what it is about because we have, as a people, a greater faith in the individual and the collective wisdom of Americans to choose and choose what is right than we do to have the Government tell us what is right and what is wrong as it relates to speech.

Mr. President, that is exactly the kind of discrimination that would be allowed under the administration's proposed amendment and that is why the proposed amendment would in fact amend the first amendment. This probably sounds a little strong, a pretty strong statement from a person who believes that it is possible to draft a constitutional amendment to protect the flag that does not do violence to the first amendment.

That is my position. That has been my position from the outset, and it remains my position after the testimony that I have heard over almost an 8-week period. It is possible to draft a narrow constitutional amendment protecting that flag and not doing violence to the first amendment.

But I believe, Mr. President, and hope to be able to show to my colleagues over the next several days or however long the debate takes, that the amendment in question does just that. It does not protect the flag as much as it should be protected and it does alter the first amendment because it says States will be able to discriminate among the various types of activities relating to destroying the flag.

On the face of it, of course, the amendment sounds innocuous enough. All it says is "The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States of America."

On the surface who could be against that? I cannot be against that on the surface. What we have is a wolf in sheep's clothing I think unintended. I do not think that has been thought through very well.

Just listen to the testimony of William Barr, head of the Justice Department's Office of Legal Counsel and the chief witness for the administration at the hearings held before the Judiciary Committee on the constitutional amendment.

And I might add for the record, I asked the Attorney General to testify, or any member of the administration, and they said the spokesperson for the administration on the constitutional amendment on the flag is Mr. Barr, a very qualified, bright attorney.

He came before us and he said that this amendment, the administration's amendment, one would "permit the legislatures to focus on the kind of conduct that is really offensive."

I know not many of my colleagues are here today but their staffers who will be listening, please at least know what you are voting on. He said this amendment and I quote "will permit the legislatures to focus on the kind of conduct that is really offensive."

That means certain kinds of conduct, certain types of conduct, as associated with desecrating the flag, they may not find offensive. They only want to get the kind that they find offensive.

Keep in mind, by the way, that was the problem with the Texas case. It said that if you are only going to detemine whether or not to send this fellow to jail on whether or not he offended someone else by his actions. Then you are obviously getting at speech. If one guy stood up there and burned the flag and had not offended anyone, then he is not guilty of anything. But if another guy stands and burns the flag and says "Red, white, and blue, I spit on you," which was what was said by Mr. Johnson, that is offensive. So put that guy in jail, and not this guy in jail.

That is not protecting the flag. That is saying I am going to censure certain kinds of speech. That is why I wrote the statute that I wrote. It said both of them should go to jail because I want to protect the flag not discriminate between speech that I like and speech that I do not like.

Obviously, I do not like the language "red, white, and blue, I spit on you," but I also would not like a businessman standing up and saying, "I am burning this flag to demonstrate how well-made American products are, and the flag is a symbol of our progress."

That would offend me as much as the other fellow. As I said during the hearing, I do not think there is a Senator in here, if, on the way out tonight, walking down the stairs, in one of the trash containers you saw a flag draped over the container burning with no one around, I expect every one of us would have the immediate same reaction—and this is not a debating ploy; I believe this from the bottom of my heart—every one of us would rush over and pull that flag out and try to put out the fire. Because it is our national symbol; not because the fellow who put it in there did it in anger or by accident. It does not matter. It is our symbol.

But, what the administration and Mr. Barr says is, permit the legislatures to focus on the kind of conduct that is really offensive. He went on to say, and that "offering legislatures the option of prohibiting only intentionally contemptuous physical desecration is a significant advantage of the amendment over the statute."

Did you hear what I just said? The administration says you should give the legislatures the option of prohibiting only the intentionally physical desecration of the flag, intentionally, and here is the important word, contemptuous—contemptuous.

So what this amendment says and the reason why the administration wrote it as broadly as it did, or narrowly depending on your focus, is because the statute I wrote was too broad for them. They only want to put people in jail that they did not like when they do something intentionally or unintentionally to the flag and not those that they like. That is why the first amendment is at risk here for the first time in over 200 years, Mr. President.

Charles Cooper, another key witness for the administration, was even more frank. He said "No one really wants a neutral flag statute." And he questioned whether it is true, in his words "That all we want to do is to protect the physical integrity of the flag."

Now, again, I ask my colleagues to listen to that. Mr. Cooper says, "Look, all we want to do is protect that flag. Or do we not want to do something more than protect the flag? Do we not want to be able to affect speech as it is associated with that flag?"

He says, "Biden, all you want to do is protect the flag. That is not what we want. We want to do more than that."

Mr. President, can anyone—and I know no one is here now, and this is a bit of a rhetorical thing because I am sure others will want to debate this with me tomorrow and the next day—but I challenge anyone to tell me that that is not designed to deal with speech.

Some may think that that is a good thing to do. But I am just trying to deal with the myth. The myth is, do not worry, fellows and ladies of the Senate, if you vote for this amendment, you will do nothing to the first amendment. Let us face it straight up. If you vote for this amendment—and it is the intention of the sponsor, the President, the administration—the intention is to impact on and limit for the first time in our history the first amendment.

Now you may want to do that. I disagree with you. You may want to do that, though, and it is your right. And it would be constitutional to do it, by the way. I am not saying anybody who wants to do that is un-American or bad or not a good Senator or violating the Constitution. But let us deal with the myth, Mr. President. Make no mistake about it, it is the intention of the drafter of this legislation to be able to go after speech, certain kinds of

speech; that which we find offensive will be punished and that which is not offensive will not be punished.

Indeed, Mr. President, the Congress, the administration, to be more precise, does not want a neutral statute or a neutral amendment because that would not give Congress and the States the power to pick and choose among the views that it agrees and disagrees with, punishing the latter and not the former. They will only be satisfied if the Congress and the 50 States have that power, the power to censor. Indeed, what the administration is advocating is something that not even the most conservative Justices on the Supreme Court have advocated—allowing Government to censor views that it does not like.

And in fairness to conservatives on the Court, I might add they have been the strongest proponents of not allowing Government to censor. It is no accident that the two most conservative members recently added to the Court were the two members who voted to set Gregory Johnson free; the two most conservative new appointees, Mr. Kennedy and Mr. Scalia.

This amendment will amend the first amendment because we will be saying for the first time in our history that the Government can outlaw an action if the action contains an idea that the Government does not like.

If this amendment passes, a legislature could, under the amendment, pass a law saying that no foreign-owned corporation could fly the American flag. I do not think, quite frankly, I find that offensive.

I must admit—maybe I should not admit it, but I must, that when I see—I ride by a Toyota dealership—maybe it is because I come from a State that produces so many American cars—I live in a State that I think is the second-largest producer of American automobiles per capita in the Nation. And I ride by the Toyota dealership and there is a flag, 50 by 50 or 50 by 60, flying, an American flag above a Toyota dealership, foreign-made cars putting Americans out of work. Let us not get into whether they should or should not be putting them out of work. But I must admit it bothers me.

Now, were I a State senator instead of a U.S. Senator, and this amendment were law—this is no exaggeration, Mr. President, this is fact—I could go under this constitutional amendment to my State legislature and I could get the bulk of my colleagues in the State senate—because we are such an overwhelmingly pro-American automotive State, so many jobs are at stakes; it would not be rational, I admit; it would not be rational; we all know that all politics is not all rational—I could get through the State senate a law saying that foreign dealerships could not fly the American flag. And it would be legal. It would be legal under this amendment.

Now, that might not bother some of you. You would say, that is OK. Let me put it this way: I would not get in trouble in my State for introducing such an amendment. I do not doubt whether the Senators from Michigan would get in trouble. I imagine that if in the State of West Virginia such an amendment were put in the State legislature saying that no imported oil dealership that had imported oil in such a coal State could fly the American flag, I doubt whether many people would get in trouble in West Virginia voting for that.

I do not know your State, obviously, Mr. President, as well as you, or no one knows it as well as you. I expect it is not that much different than mine. I could go through States all across the Nation and give you examples of how that could happen. It would be legal. Is that what we want this amendment to do? Is that what we are about protecting the flag?

A State legislature could make a law saying that only a Republican and Democratic and no other could fly the flag at their convention and use it in their advertisements. Literally, that can be done under this amendment.

Mr. President, we have all been around awhile. Do you remember the American Party? Pretty powerful party in my State. George Wallace won my State in 1968 in the Democratic primaries, the convention.

What was the symbol of the American party? The American flag. The legislature, controlled by the Democrats and Republicans could under this amendment, pass a law saying that the American Party could not use the American flag as their symbol and it would be constitutional.

I am not saying they would. But strange things have happened, Mr. President. Is that what we want to do? Is that protecting the flag? Or is that doing what the administration wants, being able to choose among certain actions relating to the flag, because the bill says "physical desecration"?

Mr. President, my State legislature and yours and the other 50 States, under this amendment, could each pass a law saying that no one other than a U.S. citizen could purchase or display a flag. That could be done. It would be totally legal.

They could pass a law saying that artists who are Communist or Socialist could not paint the American flag.

They could pass a law saying that Mr. Mapplethorpe, or whatever his name was, the guy who caused so much controversy here, now passed away, and we debated over obscenity of publicly financed art projects, that he could not paint an American flag. And that would be constitutional and legal.

All these laws censor certain viewpoints, Mr. President, and all these laws could be passed under this proposed amendment. I could give many more examples. I will not.

But let no one be mistaken, then; this amendment is intended to override the first amendment. It would allow the States to do things that for 200 years they have never been allowed to do.

And this brings me, Mr. President, to the fourth myth surrounding this amendment, the myth that it will accomplish what its proponents intend it to accomplish. That is, ironically, this amendment as written may not even reverse Texas versus Johnson.

I see my friends from Mississippi and Iowa on the floor, looking at me like: Well, what is he about to say here? I ask my colleagues, because they are right fellows who take this seriously, to listen to what I am about to say on this one point.

There is a body of thought and constitutional expertise that says even if this amendment were passed and there was enabling legislation in the States, it would not overrule Texas versus Johnson, even if it were in the Constitution.

Let me explain why. One witness, a professor named Eugene Hickok, a supporter of the constitutional amendment who testified before our committee and a former special assistant at the Office of Legal Counsel during the Reagan administration, quite candidly said in our committee the following:

> As it currently states, the proposed amendment would not provide Congress with any more authority to protect the flag than it has at this moment. Amending the Constitution with the language suggested by the President would do nothing to alter the constitutional landscape carved out by this court in Johnson.
>
> When writing legislation under the authority of this proposed amendment, the Congress would still have to consider the first amendment and the Court's understanding of how that amendment might limit Congress' ability to protect the flag.

What Professor Hickok, and what Prof. William Van Alstyne and what Prof. Walter Dellinger, and what Prof. Gordon Baldwin, and what Prof. Brady Williamson, all of whom agree with Professor Hickok, mean, is this: The proposed amendment says that Congress and the States "shall have power to prohibit the physical desecration of the flag."

It reads a lot like other clauses in the Constitution that give Congress and the States power to do something. But whenever the Congress and the States exercise that power, they are limited in how far they can go by the protection of the Bill of Rights and other amendments.

Let me give an example. The 16th amendment to the Constitution says that Congress has the power to impose

income taxes, not unlike this amendment would say the Congress has the power to prohibit the physical desecration of the flag. The 16th amendment, which is already in the Constitution, and operative, says the Congress shall have the power to impose income tax, just as this proposed amendment says that Congress and the States shall have the power to prohibit desecration.

But the power of Congress to impose taxes does not mean that it can impose one tax on white Americans and another, greater tax, on black Americans. Congress, in other words, still has to abide by the equal protection clause of the 5th and 14th amendments when it imposes taxes.

So although we put a 16th amendment in law saying we can impose taxes, that 16th amendment is governed by and limited by the other provisions of the Constitution.

Let us take a look at it another way. Suppose we pass a constitutional amendment to balance the budget and it says something as simple as Congress must balance the Federal budget, which is not a bad idea.

Let us assume we had such an amendment. The Congress could not then proceed to balance the budget by taxing Jews one amount, Protestants another amount, and Catholics another amount, Why? Because despite a constitutional amendment requiring a balanced budget, the Congress must still abide by the first amendment, which allows the freedom of exercise of religion.

So, just as the power to tax and the power to balance the budget is limited by the Bill of Rights, so, too, would be the power to prohibit the physical desecration of the flag of the United States of America. It would be limited by the existing amendments.

Interestingly, my good friend from Alaska, Senator STEVENS, whom I suspect is for this amendment, understood this point very well when, in 1970, he introduced a constitutional amendment to prohibit the burning of the flag. That year he proposed an amendment to protect the flag. His amendment said, straight up: "Notwithstanding any other provision of this Constitution, the Congress shall have the power to—"and then he went on. Because he understood, I expect, Mr. President, that unless we say in the amendment "Notwithstanding any other provision of the Constitution," then all other provisions of the Constitution pertain and limit this amendment, just as they limit the 16th amendment in taxation.

On the other hand, had the 16th amendment been written as follows: "Notwithstanding any other provision of the Constitution," then this body could stand here and say: We are going to tax white people more than black people. We are going to tax women more than men. They could do that, Mr. President.

They could do that, Mr. President, if it had said, "notwithstanding any other provision of the Constitution." But absent that language, it means that all other provisions of the Constitution pertain. We cannot tax men more than women or women more than men, and we cannot say by this amendment to the Constitution that it can override the first amendment, which is the stated purpose of this amendment.

Mr. President, Professor Hickok put it well when he said—and remember now, he is a supporter of amending the Constitution to prohibit the burning of the flag. He said:

> If you feel that the Johnson case is bad constitutional law, it seems to me that you should be straightforward in your response to it as opposed to trying to find ways to get around having to say what you really think.

There is only one reason why this amendment does not say, Mr. President, "notwithstanding any other provision of the Constitution." It is because they want to perpetuate the myth that you can vote for this amendment and not amend the Constitution. But irony of all ironies, Mr. President, by failing to be straightforward and honest about what you are intending to do, the administration has produced an amendment that is meaningless because it cannot—it cannot—override the first amendment as written. And that is the stated purpose. Then you cannot discriminate against certain kinds of flag burning; then you are back to Biden, all burning, a content-neutral amendment.

I realize, not that there is anyone here incapable of following that, but it is such an unusual argument and, quite frankly, Mr. President, one I had to be educated to after four long hearings over an 8-week period. But it is quite simple. There is a body of constitutional expertise in this country that says—and they are right in this Senator's opinion—that unless you say, notwithstanding any other provision of the Constitution, you will not even have been able to overrule Texas versus Johnson because Texas versus Johnson was struck down by the Supreme Court of the United States of America on the grounds that it violated the first amendment.

So for all this effort the President would have us undergo, with all this effort of getting supermajorities in this body and in the States, we will have produced a gnat; we will have given birth to a gnat; we will have, in fact, solved nothing. Fortunately, we will have solved it, because we already passed the statute which will be law.

But think about that a minute. It does not even overrule Texas versus Johnson unless you are straight up and say: "I want to amend the first amendment." And why does no one want to say that, Mr. President? Because they want to perpetuate the myth that we are not the first Congress in the history of this Nation to propose limiting the Bill of Rights. That is why, or at least that is the only thing this Senator can come up with. I can think of no other rational explanation. It does not mean there is not one. I just cannot think of one, and I have been searching for a long time.

Mr. President, I think, if nothing else, the curtain has been lifted. They either have to say what they mean in the amendment or face up to the fact that they have offered an amendment that means nothing, absolutely nothing, nothing at all, and that it would do nothing, absolutely nothing, to reverse Texas versus Johnson.

Mr. President, I have no doubt that the administration does not agree with Professor Hickok and the other witnesses who testified on the proposed amendment who are worried it will do nothing. But, if you agree with the administration that they are wrong, the situation only gets worse and not better.

Let us assume, again, as we lawyers do, and the Chair is an attorney as is the manager of this bill and the Senator from South Carolina. We are attorneys. Let us argue in the alternative, as we say. Let us assume that Professor Hickok and Senator BIDEN and others are wrong about the meaninglessness of this amendment. Let us assume without saying, "notwithstanding any other provision of the Constitution," that this amendment could overrule the first amendment. Let us assume that for the sake of argument, which is the administration's argument, I am certain. We do not end with a better result; we end with a worse result. The reason is this: If their proposed amendment is interpreted to override the first amendment, which it has to do in order to reverse Texas versus Johnson—we all admit that, and I assume no one will challenge that—in order to overrule Texas versus Johnson by this amendment, it has to affect the first amendment.

Let us assume it is able to overrule Texas versus Johnson. There is nothing in its text to indicate that it does not override the entire Constitution then. If that is the case, we really have entered uncharted waters. If the amendment overrides the first amendment without saying so, maybe it also overrides the sixth amendment, guarantee of jury trials when a person is charged with desecrating the flag. If it overrides the first amendment without saying it, why does it not override the sixth amendment? Why could we not then say anyone charged with burning the flag, such a heinous offense, that they are the only people charged with

a criminal offense that do not have a right to a jury trial, because it follows if you can overrule the first, why not the sixth?

There is no logic that would keep that from happening that I am aware of. If it overrides the first, as the administration argues, then it overrides the fourth amendment so the State can conduct general house-to-house warrant with seizures looking for evidence of desecration, or, in the case of desecration of a flag, it could in an attempt to corroborate what was done—let us assume that there was a videotape taken on the burning of the flag, and the person who burned the flag had it taken and gave it to someone else and they had it in their home. Right now, in order to get that videotape, there would have to be probable cause to get a search warrant. Under this amendment, if you can override the first amendment, you can override the fourth amendment. It would be the only case I know of in American law whereby you would be able to, as a matter of principle, in order to get that damning evidence, have a warrantless search.

Mr. President, it could also override the eighth amendment so that we could punish desecration without having met the standard of cruel and unusual punishment. I know this sounds bizarre, but to take this to its logical extreme, anybody who burns the flag, cut their hand off. Well, if it can override the first, it can override the eighth. I do not think any informed legislature in this country, and they are all informed, would ever do that. But arguably, Mr. President, it would be allowed. If you go out and murder someone, or be a serial murderer, hack them up, throw them away, you are still protected by the eighth amendment from cruel and unusual punishment. But if you burn the flag, you lose your hand. I am not saying any legislature would do that, but think of the uncharted waters we are entering the way this amendment is drafted. It could override the 14th amendment to define desecration so that it is only legal for whites to use the flag and no one else. There is no place in American history for that anymore.

Does anyone doubt 20 years from now or 40 years from now or 80 years from now, there could not be a legislature in this country that would allow that to happen? This would allow that. I do not expect it to happen, but I do not think we can act lightly, Mr. President. When we are amending the Constitution of the United States of America, we should know what we are doing. Although at this time and place, with an enlightened public, none of these crazy things might come to pass, what about 50 years from now, 100 years from now?

I am talking about a document we all revere that has a couple hundred years on it and hopefully will have a couple thousand years on it before it is no longer operative. We are not passing this for next week or next month or next year. We are passing it for my great-great-great-grandchildren.

Mr. President, we just had a bill on the floor of the Senate to recompense Japanese-American citizens for being put in relocation camps in World War II, nothing we are all particularly proud of today. Looking back in history, one can explain how it happened, not condone but explain.

What kind of conditions are going to sit out there 1 year or 5 or 7 or 10 years from now? We cannot think that what we are writing will be applied only in a way that we intend it at this moment. The Chair knows better than anyone else in this body that in interpreting constitutional law the document is what is looked at. If it is clear on its face, then it does not matter what the Senator from Delaware or the Senators from any other State thought it meant when he voted for it.

Does anyone really want to send an amendment to the States that could allow such laws or could be legally argued to have overridden the rest of the Constitution if a State chose to do it? Because to reiterate the point, Mr. President, if it can, without explicitly stating so, override the first amendment, which is the objective to get at Texas versus Johnson, then tell me, anyone, how it would not just as legally override the other amendments even though that is not the intention and even though that is probably not how it would be applied at least today, tomorrow, next year, 2 years, 10 years from now.

Mr. President, for the sake of argument, I am willing to assume that the amendment can do what the administration wants it to do. For the sake of argument, let us assume that this amendment does not do violence to the first amendment, both of which I disagree with but for the sake of argument to make my next point, all that does is get us to the fifth myth, the myth that we know the kinds of laws the States will pass because physical desecration is easy to define and because, as Mr. Barr, the administration's witness put it, a ban on desecration is particularly well suited for preserving the symbolic value of the flag.

Let me ask this of those who believe that physical desecration is easy to define and well suited to protect the flag. I am not being facetious when I ask these questions. Is it physical desecration of the flag to depict the flag on hotdog wrappers, paper cups, or other commercial products? Is that physical desecration of the flag? Is it physical desecration, as I said, to fly a giant flag over a foreign-car dealership? Is it physical desecration to place a flag on a pair of boots similar to those the President gave the leader of China? Boots, after all, have been the symbol of repression.

Is it physical desecration to allow a fanatical white supremacist group to fly the flag at one of its camps in the northwestern woods while they take target practice at images of blacks, Jews, and Hispanic children? Is it physical desecration of the flag to let the Aryan Nation wear the flag on their uniforms? To me it is. This is as much desecration as somebody walking on that flag—these people are animals—but maybe it is not to somebody else.

Is it physical desecration for the hate-filled Nazis, the American Nazi Party, as they goosestep through Skokie, IL, a predominantly Jewish neighborhood with a number of concentration camp survivors, to fly the flag next to the swastika at the head of their parade? Where I come from that is desecration. And every fiber in my being says that is desecration, for they stand for everything the flag is in place to keep from happening.

Is it physical desecration for the Ku Klux Klan to embroider the flag on their dunce caps, whatever you call those pointed things that they wear on their heads, or is it physical desecration for the Ku Klux Klan as they meet and have their rallies to have the American flag embroidered on their silk pajamas?

Is it physical desecration for them to do that while they are burning crosses, telling folks like me who are Catholic, it is not a good idea to be around here, or blacks, that we are really not equal? Where I come from, you get my family to vote on that one being physical desecration.

Is it physical desecration for the Subaru car company to paint the American flag on their cars as they drive up the top of the mountain advertising sponsorship of the American Olympic ski team? That always bothers me, by the way. I do not mean that in the national sense, but the American ski team sponsored by Subaru is somehow inaccurate anyway.

Does anyone doubt that if this amendment passes, a State legislative body might not pass a law defining any one of the acts that I have mentioned as physical desecration? I would like to be the manager of the bill in the State legislature when one of our colleagues would introduce a bill saying the American Nazi Party cannot fly the flag for it is physical desecration and see who votes against it. Talk about a litmus test vote, that would be a good one, would it not. You would be able to do a lot of mailings off of that one.

Does everybody think no one is going to do that in any State legislative body? Or maybe we do want to

make that desecration of the flag. Maybe that is what we are trying to do. Maybe that is what this amendment is intended to do. If it is, let us say so.

We just do not know what sort of wild card phrase we are writing into the Constitution with these words "physical desecration."

There is a sixth myth, Mr. President, that is related to the one I just discussed, the myth that legislators, in Mr. Barr's words "would have the power under the amendment that they had prior to June 21 so that there is nothing new." That argument will be heard and made in a very articulate manner by one of my colleagues who is on the floor at this moment, the distinguished Senator from Iowa [Mr. GRASSLEY]. He and others believe that and will so state.

If we pass this constitutional amendment, we are doing nothing but putting things back to the way they used to be.

Mr. President, it is not the status quo that we will be passing. Mr. Barr also testified that if this amendment were adopted, the States would "have wide latitude" to prohibit conduct toward the flag, that they would be "permitted and obliged to draw a line," and that they would have "substantial discretion" in fashioning flag-owners.

How will the State use this wide latitude and a substantial discretion? Might the State of Michigan use its wide latitude and substantial discretion to prohibit Toyota, Honda, and other foreign car makers from using the flag in any advertisements on the grounds that they are implying that it was made in America or it had something to do with American ingenuity? Might the State of Georgia or the State of Florida use its wide latitude and substantial discretion to prohibit American Airlines from using flags on their airlines in an effort to help Eastern Airlines who employs tens of thousands of workers in their States?

We have all been in legislative bodies a long time. Screwy things happen. I wonder what would have happened in the State of Iowa 5 years ago during the serious farm crisis they were having when John Deere was shutting down plant after plant and Japanese-made and German-made farm equipment was being brought into the State. I wonder what would have happened if the State legislature passed a law, introduced a law saying none of the foreign farm implement dealers can use the American flag in any of their advertisements. I would like to see the guy who voted against it when tens of thousands of folks in the State of Iowa directly and indirectly associated with John Deere and other major farm implement manufacturers were going out of business.

Might the State of Vermont use its wide latitude and substantial discretion to prohibit the Socialist Party from using the flag because it has decided that it does not want any more Socialist mayors?

Up until last year, Mr. President, the only freely elected Socialist, avowed Socialist, member of the Socialist Party who was elected was elected in the State of Vermont.

It is beyond question that the State of Vermont or similar States could pass a law saying the Socialist Party could not in any way fly the American flag? I see the Senator from Vermont is here. I know he knows his constituency is much too enlightened for that but how about in 10, 20, 30, 40 years?

Mr. LEAHY. Mr. President, will the Senator from Delaware yield at that point without losing his right to the floor?

The PRESIDENT pro tempore. Does the Senator from Delaware yield?

Mr. BIDEN. I am happy to yield for that purpose.

Mr. LEAHY. I might note the Socialist mayor referred to always flew the flag at meetings of the city council, meetings of the mayor, and so forth. It does not apply to all Americans no matter what our particular political beliefs might be. The city council in that city represents the diversity of the city, ranging from extremely conservative Republicans to liberal Republicans, extremely conservative Democrats to liberal Democrats, and members of the mayor's own party.

I cannot imagine any one of them ever standing for any law that would say that some could and some could not fly the American flag as Americans because every single one of them wanted to fly it, and every single one of them while they used to disagree totally on most issues would unite on the one—that they each had the right to fly it.

I yield back to my friend from Delaware.

Mr. BIDEN. I thank my colleague.

I realize I have spoken much longer than I ordinarily do, and I will speak about another 10 minutes. I see other colleagues who would like to speak.

I do so because I feel so strongly about the Constitution. I feel so certain that although we can pass the proper amendment, this is the wrong amendment, and will do things no one intends it to do other than the stated case made by the administration.

There is a seventh myth, Mr. President, associated with defining the flag of the United States which the statute uses. The administration is just as confident in the State's ability to define the flag as their ability to define physical desecration.

The legislation that will become law in 8 days narrows—this is not the constitutional amendment, the legislation we have already passed, and in 10 days because it went to the President's desk today and he announced he would let it become law—in 10 days when it becomes law narrows the definition of the flag to that which is commonly displayed.

According to the administration, however, under the proposed amendments, States could adopt virtually any definition of the flag which would allow them and in Mr. Barr's words to "protect depictions of the flag" such as posters, murals, pictures, buttons, and any other representation they wished to protect or prohibit from protection.

Mr. President, if that is the case, the legislature could make it illegal to crumble a paper cut with the representation of the flag on it, make it illegal to spill coffee on a paper placemat in a restaurant which has a picture of the flag on it, make it illegal to throw out buttons that have the representation of the flag on it, make it illegal to scrape a sticker off a car that has a depiction of the flag on it, make it illegal to cut a birthday cake that has a representation of the flag on it, or conversely, make it illegal to allow depiction of the flag on any of those things.

I do not know how many times I have heard people say they think it is unseemly for advertisers to use the flag the way they do for crass commercial purposes. Well, the fact is that defining the flag will not be easy, and some States could well decide to include things that none of us ever thought of as the flag.

Mr. President, the eighth and last myth I will talk about now is that the amendment is necessary because only it will end the litigation on the subject.

I heard some say when I introduced my statute, "Well, look. Even if you are right, BIDEN, and you can protect the flag and it is constitutional to do it by statute, you are going to generate so much litigation about that law." This myth says that the amendment is a preferred way, preferred to the statute, because the statute will cause lawsuits over its constitutionality while the amendment will not.

Mr. President, the truth is precisely the opposite. When one thinks about it, it is the amendment that will stimulate a generation of litigation. It will create and these are Prof. Walter Dellinger's words "an entirely new jurisprudence of the 27th amendment."

Just imagine the kind of litigation we might have with potentially 50 different State definitions of physical desecration and 50 different definitions of what constitutes a flag.

What if the State of Maryland defines physical desecration and the flag to include representations of the flag on clothing but the District of Columbia does not.

Does a woman traveling from Delaware to a gala in Washington who chooses to wear a sequined dress that she has purchased for several thousand dollars with a representation of the flag embroidered on it have to first check the State law before she gets in the car? Should she change out of her dress as she crosses the Maryland line and change back into it as she reaches Washington, or should she keep the dress and hope she is not stopped and run the risk of being dragged into court?

Can one State decide that it is obscene to wear a bikini with the stars across the top, and the stripes on the bottom, while others do not? If Mississippi says it is, and California says it is not, can you be arrested for sending a bathing suit like that from Biloxi to Berkeley, or is that interstate transportation of an illegal material?

By the way, Mr. President, I am not making these up. There are bathing suits women buy now that have the flag on them. I can take you—I cannot take you. I am sure I can find someone who will take you to various department stores and bathing suit stores.

Let us assume they are on the beach and a woman is wearing an extremely revealing bathing suit that has the flag on it. A local legislative body can conclude that is obscene, the flag should not be able to be worn that way, and yet it can be all right for a matron wearing a size 40, full length, old-fashioned bathing suit with the flag on it.

What are we getting ourselves into here? Could there be litigation over whether draping the flag over Mother Liberty constitutes physical desecration of the flag? Or, as was pointed out in the House hearing, when a Member of Congress draped the flag over her body to have her photograph taken for a magazine, is that physical desecration of the flag?

I see the smile on Members' faces. When that was raised before, some said it depends on the politics of the person over whom the flag is draped. That is probably true, by the way. To think that you are not going to have litigation based on this, if the State of Delaware determines that it is improper to use the flag for crass commercial reasons and the State of Pennsylvania does not? Where did you advertise your product?

Ironically, Mr. President, we are doing exactly the opposite of what I think most Members want done. Why is it that we usually pass constitutional amendments? I respectfully suggest the reason we do is to ensure that we have uniformity throughout the Nation. That is the primary reason, Mr. President—so that you cannot prohibit speech in Wilmington, DE, any more than you can in Sacramento, CA; so that you can impose a tax in New York City as well as Biloxi, MS; so that you can protect the rights of black people in Flint, MI, as well as Decatur.

Mr. President, that is usually the reason why we pass constitutional amendments. Is it not kind of strange; here we are passing a constitutional amendment in the name of having a uniform standard to protect that flag. That is the reason for constitutional amendments; we want to protect the flag.

Mr. President, by definition, we are saying we are lucky to have 50 different standards, 50 different laws, defining in 50 different ways what constitutes desecration. If that is the case, why do we need a constitutional amendment? If we are going to protect the flag, Mr. President, for Lord's sake, let us protect the flag. I do not want an uninformed legislature in any part of the country, as well as informed one, passing a law that allows that flag to be burned or destroyed, for any reason.

So, Mr. President, if we want a statute to the constitutional amendment, it should say here is the standard; the amendment says you cannot burn the flag under these circumstances, bang, bang, bang, bang, bang, and make it a national standard. Why is it any less reprehensible to burn a flag in Louisiana than it is in Montana, or in Delaware than it is in the State of Washington? If it is wrong, it is wrong. That is what the Constitution is for. Those are broad principles.

Mr. President, I do not know the answers to all the questions I have raised. I guess the States can make those judgments, and we can say, "See you in court." But if we want litigation, Mr. President, I will bet my colleagues anything that passage of this amendment, if it becomes the 27th amendment, will spur more court cases than anything that we have done to the Constitution. It almost guarantees it, Mr. President. I do not want litigation; I want protection.

Mr. President, what it boils down to is this: In an effort to unify the country, to rally us around a national symbol that reflects who we are and embodies we the people, this proposed amendment does exactly the opposite; it leaves up to 50 State legislatures to decide whether they can protect the flag, knowing that they think they can go far beyond what they were able to do before, and if they do, how to protect them. It will spawn years of litigation trying to determine what all this means and why, and it does this when we have already passed a law that does it all and does all we said we wanted to do, what all of us in this Chamber want to do, to protect the flag. I believe the flag is worth protecting, because it symbolizes the bond we all share, a bond that unites us as members of one community.

America is, more than any other nation on Earth, the land of heterogeneous people. They are made up of all different races, backgrounds, and all different religions. The genius of the American system is that it takes this heterogeneity, which in other countries and other systems is a great weakness, and turns it into a strong ally; America forges strength out of the heterogeneous society, and it is not easy.

Mr. President, we are taught in school that because we are different, we are strong. The honest-to-goodness truth is because we are different, we fear one another. The fact that we are black and white does not send us running to one another, embraced to herald our differences. The fact that we are Christian and Jew does not have us each singing the praises of the other. The fact is that people fear that which is different.

But the brilliance of this Nation has been that we have allowed ourselves to be the most diverse democracy in the history of mankind, in spite of the fact that human nature fears that which is different, because we have made a covenant; we have all said that the Constitution as a document will be the means by which we will all agree to seek to realize our aspirations and our dreams. It is that document that binds us together.

If France tomorrow reverted to a monarchy, France would not change, Mr. President. You define a Frenchman based on his ethnicity, as with a German and an Italian. But how do you define an American? How can you define who an American is? In no other way than in political terms, the forum of government to which we subscribe.

That flag is the symbol of that government. That is why those who have criticized me for wanting to protect the flag legislatively say, well, the Germans do not protect their flag, or the British, and so on. They do not need it like we do, Mr. President. There is an ethnicity that binds them together. People who are different, people who are fundamentally different need symbols, as well as substance, to bind them. That cloth is binding and warrants being protected.

Mr. President, this amendment will not do that. This amendment will not overturn Texas versus Johnson. This amendment will not do anything other than fray the document that that flag embodies, by allowing for the first time in our history an explicit amendment to the Constitution's first amendment, and Lord only knows how many others.

Mr. President, I submit that we will in 10 days as a matter of law in this Nation binding all Americans, in all 50 States, in the entire country, have one standard, and it says, "Do not burn me

or you go to jail; that is the law." And in 10 days it will be the law and it is constitutional, at least the vast majority of both Houses of this Congress thought so and the President thought so or otherwise he would be, as a matter of conscience, required to have vetoed it.

So why are we doing this unless it is to go beyond protecting the flag and attempting to amend the first amendment?

Mr. President, if protecting your flag is your concern, and I know it is of all Members of this Chamber, if that is what is at issue we have a law making it illegal to defile the flag.

Mr. President, let us assume the Senator from Delaware and the President of the United States and others are wrong and that it turns out to be an unconstitutional law. That is the time to come back here forthwith and draft an amendment, but this time draft an amendment that is precise, and draft an amendment that makes it illegal to burn the flag without doing violence to the rest of the Constitution and that sets a national standard rather than a hodgepodge of 50 different laws generated and spawning thousands, over time, pieces of litigation.

I thank my colleagues for their indulgence. I have much to say on this when the debate ensues, but I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I rise in support of the proposed constitutional amendment, and I do it because it will take a constitutional amendment to protect the physical integrity of the flag of the United States.

This constitutional amendment before us is the only responsible means to change the result of Texas versus Johnson.

It is the only solution for those who think that there is a crime when someone mutilates, defaces, burns, or tramples upon the flag.

It is the answer for those who think that what Gregory Johnson did to the flag—not his verbal utterance—was not protected by the Constitution.

After Texas versus Johnson, I am convinced that the only response to the Supreme Court's decision is to amend the Constitution.

Mr. President, we did recently enact H.R. 2978, the so-called flag protection statute. It prohibits the mutilation, defacing, physically defiling, burning, maintaining on the ground or floor, or trampling upon the flag in all cases except to allow disposal of old or worn flags.

The President has apparently decided to allow the bill to become law without his signature. I wish that he had vetoed it.

I understand that the enactment of H.R. 2978 will lead many of my colleagues to presume that we have solved the problem of flag burning in the United States. My colleagues will think that there is no longer a need for a constitutional amendment, that somehow we have done all that needs to be done through the passage of that statute.

This view, Mr. President, is wrong. In my judgment it is profoundly wrong.

I start from the proposition that to protect the flag from physical desecration in no way impairs, restricts, or diminishes the first amendment principle of freedom of speech. On this point, I am at odds with the distinguished chairman of the Judiciary Committee who just spoke, and who raises all sorts of possibilities that that might be the case.

Protecting the flag from physical desecration does not prevent a single idea and/or thought from being expressed. It does not interfere with the numerous ways of communicating an idea. Rather, it merely prevents conduct with respect to one object and one subject alone: our flag.

We can withdraw that one subject from the threat of physical desecration without limiting freedom of speech. For many years, a Federal statute and the laws of 48 States did protect the flag from physical desecration.

Who here can say that any harm was done to the first amendment from any of those 48 State statutes or our Federal statute?

For all these many years were we less free to express ourselves? Of course not.

Our committee hearings and recent events have reinforced my belief that we are obliged to respond to the Supreme Court, and I want you to know, Mr. President, that I do not take such a responsibility lightly.

The hearings held by our committee have convinced me that a statute such as H.R. 2978, will not survive a legal challenge, nor does a statute have the certainty of a constitutional amendment.

As described by my statement opposing H.R. 2978 about 10 days ago, the Judiciary Committee hearings convinced me that there is sufficient disagreement with the effects of H.R. 2978 to leave in doubt its constitutionality.

Specifically, I do not believe the contention that the statute is content-neutral.

As I stated to my colleagues previously, the majority opinion in Johnson clearly states that allowing some types of conduct with the flag, while proscribing other conduct, would not be constitutional.

Quoting from the majority opinion:

> If we were to hold that a State may forbid flag-burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag * * * promotes that role * * * we would be saying that * * * the flag itself may be used as a symbol * * * only in one direction. We never before have held that the Government may ensure that a symbol may be used to express only one view of that symbol * * *.

Finally, I am uncomfortable with attempting to overturn a Supreme Court decision, which is grounded in the Constitution, by the passage of a mere statute. We have had some very persuasive testimony on that point.

So, I prefer the proposed constitutional amendment.

Senate Joint Resolution 180 provides for the following amendment to the Constitution: "Congress and the States shall have power to prohibit the physical desecration of the flag of the United States."

I believe that adoption of this amendment will return the law to its status before the Texas versus Johnson decision and restore the power to Congress and the States to prohibit flag desecration, which I believe is a power they always had.

I believe it does that and nothing more.

In Johnson, the Court said it could not pick and choose which symbols were so unique as to warrant protection. The Court said:

> There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American flag alone.

This amendment establishes just such a category in the Constitution's text.

To those critics who maintain that any amendment that attempts to prohibit the physical desecration of the flag tinkers or tampers with the first amendment, or seeks to overturn protections inherent in the first amendment by restricting its free speech guarantee, I say that those people are missing the point.

A significant number of respected constitutional law scholars testified before the Judiciary Committee that this constitutional amendment does not replace the language or the principles of the first amendment; it does not amend that amendment; it does not tinker or tamper with it.

It simply overturns a Supreme Court decision that incorrectly interpreted that amendment.

In addition, Senate Joint Resolution 180 does not "trump" other portions of the Constitution, such as the cruel and unusual clause of the eighth amendment, or the prohibition against unreasonable searches or seizures in the fourth amendment.

There is no power in this proposed constitutional amendment to trump anything.

The only power in the constitutional amendment before us is the power to prohibit the physical desecration of the flag—period.

Let me say this as plainly as can be: Nothing in the language of Senate Joint Resolution 180 or in the intentions of its sponsors give power to Congress or the States to override any other provision of the Constitution.

A good example of the truth of this position is provided by the 16th amendment, which conveys upon Congress the "power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Phrased in the same style as this proposed constitutional amendment, the 16th amendment has not brought about the dire consequences that critics are now ascribing to Senate Joint Resolution 180.

The power to tax incomes is pervasive. Yet, the 16th amendment has not trumped the 8th amendment. The right to a speedy trial under the sixth amendment is applicable to a tax prosecution. In short, the 16th amendment has certainly not trumped other protections existing elsewhere in the Constitution.

While interesting as an academic exercise, I do not view these criticisms as having any practical concern.

And while I appreciate the concern that Congress should not act in haste by amending the Constitution, nothing the Congress does regarding an amendment to the Constitution is automatic or pro forma.

By very thoughtful and intentional design, the passage of an amendment by two-thirds of both the House and the Senate signals only the beginning of the process—one that is cumbersome at best.

As we all know, the States must have their opportunity to speak to the issue through the ratification process. Only upon the positive affirmation of three-fourths of the State legislatures does an amendment become a part of the Constitution.

That is how it should be; and thankfully, that is how it is.

I know many of my colleagues fear the effect that a flag protection amendment might—in theory—have on some first amendment rights.

And of course we must be serious and thoughtful in our deliberations about a change in the Constitution. But remember, that great document is now inviolate. The Founding Fathers—to their credit—provided for amendments, albeit through a most cumbersome process—and properly so.

Indeed, a number of the amendments are a direct response to Supreme Court decisions. These include the 11th amendment, prohibiting the exercise of Federal judicial power over a case brought by a citizen of one State against another State; the 13th amendment, abolishing slavery in the United States; the 14th amendment, granting the former slaves citizenship and all rights and privileges pertaining thereto; and the 16th amendment, establishing the Federal income tax.

On thoughtful reflection, I will vote for the passage of Senate Joint Resolution 180 because a constitutional amendment is the only real solution to restore the law to the status quo prior to the Supreme Court's June 1989 decision in Texas versus Johnson.

I do not believe that it will lead down some slippery slope toward abolition of the first amendment.

Indeed, I believe that without it, we may already be traveling down a path that will make indistinguishable the difference between liberty and license.

I thank the Chair and I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I oppose the pending constitutional amendment to authorize Congress and the States to ban physical desecration of the flag.

The issue before us today is not whether Senators are for the flag or against the flag.

All Senators—and all but the tiniest handful of Americans—cherish the flag as the symbol of our Nation and the freedoms we enjoy. All of us condemn flag burning, because the act of desecrating the flag casts contempt on our country, our heritage, and our history.

We honor the flag, not for its design or its colors or its fabric; we honor the flag because of what it stands for—the ideals of liberty that are written in the Constitution and enshrined in the hearts of generations of Americans.

Those who gathered in Philadelphia in 1787 to draft the Constitution were some of the finest minds the world has ever known. But they left Philadelphia that summer knowing that the Constitution they had prepared was incomplete, because it lacked specific protections for the fundamental freedoms essential to guarantee liberty.

And so, as a condition for acceptance of the Constitution, a Bill of Rights would also be submitted to the States and ratified as part of the Constitution. For two centuries, the Constitution and Bill of Rights have served as the enduring charter of our liberties, a model for freedom-loving peoples throughout the world.

And for two centuries, nothing—not a bitterly divisive civil war, not a shattering depression, none of the other dramatic changes that have transformed the Nation from a cluster of quarreling colonies to the world power it is today—has caused America to amend the Bill of Rights.

Yet now, we are being asked to do so—partly because of concern over the obnoxious act of a protester who burned the flag, but largely because of an unseemly effort to gain partisan political advantage from the incident.

There can be no doubt that Gregory Lee Johnson committed a despicable act. He burned the flag at the 1984 Republican Convention to express his anger at President Reagan. But Johnson was not prosecuted for starting a fire, or inciting a riot. He was prosecuted under a Texas statute which made it a crime to mistreat the flag in a way that would seriously offend others. Johnson was prosecuted because he used the flag to express his point of view.

The Supreme Court ruled that the Constitution prohibited the State of Texas from prosecuting Johnson for his protest. Justice Brennan said:

> We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents.

As Justice Kennedy stated in his concurring opinion:

> It is poignant but fundamental that the flag protects those who hold it in contempt.

Johnson's actions were deplorable, and the Court's decision that he must go free generated an initial firestorm of public outrage, which ignited this unwise effort to amend the Constitution. But the Court's ruling shows a deep understanding of the true meaning of the Constitution; and with the passage of time, millions of Americans have indicated that they are unwilling to tamper with the Constitution in order to outlaw a particular form of dissent.

The public pressure for a constitutional amendment has subsided—but the partisan pressure has not.

President Bush's initial instinct was to acquiesce in the Supreme Court's decision and defend the Court for protecting the freedom of speech guaranteed by the Constitution.

He could have said nothing more, and watched the public clamor settle down. Instead, after lunch with Lee Atwater, the chairman of the Republican National Committee, the President launched a campaign to enact a constitutional amendment to overrule the Court's decision.

As a Presidential candidate, President Bush had waged a partisan political campaign around the flag during the election of 1988. But it is a very different thing for President Bush, as President of all the people, to use his high office to wage a similarly partisan and similarly political campaign around the flag in 1989.

The Atwater-Bush amendment will do more violence to the Constitution than Gregory Lee Johnson could possibly have hoped to accomplish by his puny act of protest. For the first time

in 200 years, an amendment would be enacted that creates an exception to the guarantee of freedom of speech protected by the Constitution.

It is wrong to desecrate the Constitution to prevent desecration of the flag. We do not respect the flag—indeed, we disrespect the flag—when we diminish the freedoms for which it stands.

No constitutional freedom is more central to our democratic tradition than freedom of speech.

The concept of free and open debate is the cornerstone of our democracy. If the Government can censor its critics, then the ideal of free debate becomes an empty promise.

The words of the first amendment are simple and majestic:

> Congress shall make no law * * * abridging freedom of speech.

The Atwater-Bush amendment would undermine that fundamental liberty. For the first time in our 200-year history, it would create an exception to the freedom of speech our Constitution protects.

Enacting that exception would irreparably damage our remaining liberties.

Thoughout our history, freedom of expression has rested on the idea that the Constitution requires us to tolerate opposing viewpoints—not just those we approve, but those we despise as well. That tolerance is a fundamental part of our American creed. We proudly teach it to our children; it is perhaps the most distinctly American virtue.

The proposed constitutional amendment would end that broad tolerance. Freedom of speech would protect all of us, except those who burn the flag in protest. If we adopt such an amendment, and made an exception to the first amendment because of our concern over a single act of flag burning, what will we say the next time the majority is offended by some other form of protest?

Must other offensive views be tolerated, once we have adopted an exception to the first amendment to protect others' sensibilities on the flag? If we yield to the temptation to stifle unpopular, offensive views today, there is no fair way to draw the line against other offensive views tomorrow.

For these reasons, I oppose any effort to amend the Constitution to outlaw flag desecration. Nevertheless, the administration's proposed constitutional amendment is particularly flawed.

The amendment provides that governments may prohibit—physical desecration of the flag—but the enacting resolution indicates that the amendment would authorize governments to prohibit any display of the flag in a contemptuous manner.

During the Judiciary Committee hearings on the proposed amendment, it became clear that the amendment could be used to stifle use of the flag to communicate any message. The administration's witness embraced the Black's Law Dictionary definition of desecration, which includes "to put to an unworthy use."

Thus, a State legislature could outlaw any use of the flag that a majority of its members find unworthy. For example, the amendment would authorize a legislature to bar the use of the flag in the advertisements of a particular political party. It could even be used to prevent the flag from being carried at the head of a protest march, if a city council concluded that doing so would constitute a contemptuous display of the flag.

Worse, the proposed amendment does not indicate which constitutional provisions it would amend. Indeed, the fact that the proposal would not explicitly limit the first amendment prompted several witnesses, including one testifying in favor of the amendment, to conclude that the proposal would not change the outcome of the Johnson case at all.

But the amendment could just as easily be read as eliminating all constitutional restrictions on flag desecration laws, so that any of the 50 State legislatures, or the more than 7,000 city and county councils, could pass laws barring particular groups from carrying the flag, or authorizing the police to conduct midnight warrantless searches for mistreated flags or to imprison flag desecrators without a trial.

Once a constitutional amendment is proposed by the Congress, it is forever out of our hands. Once an amendment is ratified, it becomes part of our national charter for all time. We ought not to place in the Constitution an amendment restricting our fundamental freedoms, when no one can say with certainty just what that amendment means.

Finally, it is preposterous for those who believe that some response to the Johnson decision is required to tamper with the Constitution to protect the flag, when a statute may well be all that is necessary to achieve their goal.

Nothing more clearly demonstrates the partisan political nature of this debate than the insistence of the Atwater-Bush flag brigade that only a constitutional amendment can accomplish their objective. There will be time enough for Congress to consider such an amendment in the future, after the Supreme Court has ruled on the constitutionality of the flag protection statute now awaiting action by the President. Surely, it is unseemly for Congress to rush to amend the Constitution, when enactment of legislation can do the job.

The proposed constitutional amendment will not bring flag burning to an end. Love of country cannot be legislated; it springs from affection for the democratic principles, the free traditions, and the generous and noble character that are uniquely American.

As Justice Brennan wrote:

> [T]he way to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong.

We respect the flag most—and protect it best—when we honor the freedoms for which it stands.

I urge my colleagues to reject the proposed constitutional amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I understand there has been a great deal of debate on this this afternoon. I was going to speak at some length this afternoon, but there are a number of other Senators who have had a chance to speak, and I understand we will also address this issue tomorrow. Tomorrow afternoon, beginning at 2 or 2:30, we will turn to Nicaragua.

So, I am not going to speak on this issue this evening. I might ask my good friend from South Carolina if he is going to speak on this matter this afternoon? Because, if he is not, I would suggest the absence of a quorum. The leadership may want to go into morning business and wrap up things here today.

Mr. THURMOND. Mr. President, in response to the question of the able Senator, the Senator from Virginia [Mr. WARNER] is coming over to speak this afternoon. I spoke once. I will not speak any more today. But the Senator is welcome to speak.

I think we ought to get along with it. I am not going to make any long speeches.

Mr. LEAHY. I might tell my friend from South Carolina I was trying to get some idea of the schedule. I find everybody is asking me what the schedule is going to be this afternoon. I am like the passenger on the train. They are not really letting me run it. They might let me toot the whistle now and then, but they are not letting me run it.

Mr. THURMOND. This is a very important subject. I am sure a great many Senators wish to express themselves, but I think they will make brief statements to be on record on the question.

I suggest the Senator go ahead and speak if he wants to speak.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I inquire if the Senator is going to make a statement. If he is not, I will introduce a bill on habeas corpus for a few minutes.

Mr. LEAHY. As the distinguished Senator from South Carolina knows, this is a matter of considerable importance to me. Since I will be here anyway, I wish to leave room for others who wish to speak now. I will be on the floor for several days on this and will speak a number of times. If the Senator from South Carolina wishes to introduce legislation or to speak on something else, of course, I will not interfere with that at all.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1760 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I want to speak briefly on the pending legislation. I have spoken before—as a matter of fact, I believe the Senator from Virginia was presiding when the flag issue came up before—and I indicated at that point I felt it would be a great mistake to amend the Constitution.

Every time there is an unpopular court decision, there is a rush to say let us solve this by amending the Constitution. Fortunately, in most cases, we have resisted the temptation.

Back some time ago, prior to the time of the Senator from Virginia, my time, and Senator LEAHY's time, there was an unpopular decision of a court on the question of polygamy, and we came very close to having a constitutional amendment to outlaw polygamy. Fortunately, we did not trivialize the Constitution at that time. My hope is we will now do the same.

I have great respect for the flag. We have a flag flying from our home on a flagpole in deep southern Illinois. We are proud to have that flag flying. It means a great deal to us.

I attended a concert Saturday night in Chicago, of all things, of the Red Army Chorus, and the final number of that concert—these are people in Soviet uniforms, with a flag in the background—was "God Bless America." I have to tell you, it was a moving experience in view of all the relationships we have had with the Soviet Union.

I have great respect for the flag, but I also have great respect for the Constitution.

We ought to be very careful and cautious indeed before we amend the Constitution. If there are sweeping things of major importance to the future of the Nation—I will give you an example; that is, the proposal to amend the Constitution to require that we have a balanced budget unless there is a 60 percent vote of Congress to the contrary.

There you are dealing with something that is very sweeping. There I think whatever our opinion, we are dealing with fundamental policy.

Here we are dealing with one person in Texas burning the flag and the Supreme Court in a 5 to 4 decision that did not even invalidate the Texas statute in unusual circumstances. The Court said that was not a violation of the Constitution; that he could burn the flag under freedom of speech.

I disagree with that decision. The all-time champion of freedom of speech in the history of the U.S. Supreme Court, Justice Hugo Black—I wish I could have had the opportunity to meet him, to know him—even believed the liable laws were unconstitutional, and fortunately his view did not prevail. I do not know what we would be reading if his view prevailed. But even Justice Hugo Black said freedom of speech does not include burning the flag. I think he was right.

I think a properly crafted statute could reverse that court decision. We passed the statute. I am sure we will work out whatever minor details remain with the House on that. We will get a bill to the President. The President has already indicated he is not going to veto it.

Let us let that remain for awhile to see what the court says about the statute. But let us not rush to amend the Constitution. Let us hold high and revere the Constitution, and amend it only if there is a great national need. That great national need is not here on this issue, and I hope, Mr. President, that we will not move in that direction.

Unless someone else wishes to have the floor, I see my colleague from Vermont is about to take the floor. I yield the floor.

Mr. LEAHY. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. I wish to congratulate the distinguished Senator from Illinois for his speech. I totally agree with the points he has made. As I said, I will speak further on this subject a little later on. Certainly the statute before the President now shall pass the test of constitutionality.

I sat through much of those hearings, listened to the constitutional lawyers who spoke about it; distinguished lawyers, distinguished scholars, distinguished constitutional analysts, and they testified that it will pass the muster of constitutionality. I am convinced of it.

I am convinced also that is the way it should go, not to touch the Bill of Rights. After all, the Bill of Rights has survived 200 years. It has never been amended.

We have had world wars, a great Civil War, Presidential assassinations, great depressions, expansion of this country, and slavery, and throughout all of those times the United States resisted the temptation to amend the Bill of Rights. Now we are asked to amend the Bill of Rights because of the publicity-seeking action of one jerk before the cameras in Texas. We are now asked to amend the Bill of Rights.

We did not amend it during world wars, we did not amend it during the depressions, Presidential assassinations, the Civil War, expansion of the West, and all of the other matters facing the Nation. But we will do it because of a 10 second act in front of the television cameras by some publicity seeker?

Mr. President, none of us would be able to stand up and say we are truly the conscience of the Nation, of this body, if we allowed that to happen.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the distinguished Senator from Illinois jogged my memory when he mentioned Justice Hugo Black. While we are waiting for the majority and minority leaders to come to the Chamber, I will recollect the time I met Hugo Black.

I was a young law student at Georgetown. We had invited, because of an event going on, most members of the Supreme Court as our guests. We received a call back saying that they would come but not if there was a head table. They wanted to sit at individual tables with the law students.

You can imagine the thrill of those of us in law school who heard this. We drew our names, by lot, to determine who we would sit with. I was a member of the student government, and my name never came up that way, but I ended up sitting next to Hugo Black, who had long been a hero of mine; and he invited my wife, who was

then a nurse at the VA hospital here in Washington, putting me through law school, to come and join me.

It was a most remarkable luncheon. Justice Black, as we stepped aside and let him precede us into the dining room, took my wife by the arm and said with such cordial southern courtesy, "Please, go ahead of us, my dear." He told the law students, all of whom were male in that day, that none of us could lend the dignity and charm to the table that she could, and went from there.

When he heard I was from Vermont, he talked about the famous saying, "As goes Maine, so goes Vermont," that was heard right after the Roosevelt landslide. Before that, Maine, which always voted first, used to indicate which way the country would go in elections, and they would say, "As Maine goes, so goes the Nation." Well, during the Roosevelt landslide, President Roosevelt carried all but two States, Maine, and my own State of Vermont. We have a tradition in Vermont as being the most Republican State in the Union.

I had mentioned that saying, "As Maine goes, so goes Vermont," attributed to, I believe, former Postmaster General James Farley. Justice Black said, "That Farley takes credit for that, but that was my saying. I was sitting there having a drink with Franklin" and I realized that he meant President Roosevelt "and he heard the results coming in, and I turned to him and said, 'as Maine goes, so goes Vermont.'" And Justice Black said, "that Jim Farley ran right out and claimed that as his own."

We got into further discussions of Vermont, and he told me he was coming up to campaign in Vermont for one of our losing Democratic candidates for the Senate. All Democratic candidates have lost in Vermont, with the exception of myself, and that is purely because they have changed enough now that they want to show some tolerance by allowing at least one token Democrat to come in; and I do appreciate that, as far as I am the token. He talked about going up and campaigning, because Democrats were always trying to put up someone good.

He told me about a campaign almost 30 years before in Burlington-Winooski—and I mention this because Justice Black had no idea who was going to sit at the table; none of us did—but he remembered almost to the vote what the votes had been in that campaign in Vermont. They had gotten a number of other States, but almost 30 years later he remembered almost to the vote.

Then we went on to more serious things, although I would have loved to have heard him tell political stories for the rest of the day. One of the students raised the point about the Constitution. I remember to this day Justice Black reaching in his pocket and pulling out this little dog-eared copy of the Constitution and giving his answer. He flipped it open, and some of the letters had worn off, he had gone through it so many times. He obviously knew it by heart. He said, "Here is where it is." He was going through that Constitution and he said, "You all ought to carry one of those with you every day; do not forget the Constitution," he said. "Do not ever forget the Constitution. That is what guides us, what holds us together." He said, "The Constitution is above everything. Do not ever forget it."

I hope I never have. We have had debate, and we will have debate this week on the flag, and this is what we really come down to. What are we going to remember more, a momentary political poll or the Constitution, which outlasts all polls and outlasts all of us, as it should.

Let us hope that long after we are gone, long after our successors and our successors' successors are gone, the Constitution will endure. Justice Black said at that luncheon that that is above us all. That is really what has to endure. It endures if we keep it simple and strong; it endures if we do not let a passing moment or a passing fancy or a passing concern, or worse yet, a passing political poll, or passing political ad, sway us. We must remember that the Constitution is for the long term. We are but for the short term, all of us. As U.S. Senators and as Members of the House, as Presidents, or Governors, we are for the short term.

The Constitution of this country survives. The Constitution is for the long term. It has to outlive us all, no matter what our political feelings are on this particular issue or any other issue. We must always keep in mind that we serve here because the Constitution makes this body possible. We serve here because the Constitution makes this Government possible. We stand here only for that short time; no matter how many years, it is only a short time, only a moment in history, as compared to the Constitution.

During the time we serve, whatever that period of time is, 6 years, 12 years, or whatever number of years it is, let us remember that the first day we stood in this Senate as U.S. Senators, we took an oath to preserve that Constitution. We took an oath to put that Constitution above ourselves, above our political parties, above our States, above every other interest. That is what we have to remember in this debate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SIMON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, the Senate has a traditional constitutional obligation to drag its feet. Not out of indecision, but out of prudence—to ensure we have a Government attentive to the quiet as well as the strident. Madison saw the Senate as a protection "against the transient impressions into which the people might be led." Washington called it "the saucer into which legislation is poured to cool."

But time distinguishes temporary enthusiasm from firm democratic purpose. It has been several months since the Supreme Court's flag decision. We have been through a summer heated by discontent. Now tempers have cooled—but wills have also hardened.

It is evident to me in town meetings. I read it in my mail. But, most of all, I see it in the determination fixed in the faces of veterans. The American flag must be guaranteed respect—even if that takes a constitutional amendment.

These angry men and women are not political activists by nature. But they have been actively provoked. The Court's decision was rooted in an obscene paradox—accusing those who want to protect the flag of debasing the values it embodies, while elevating the actions of a deformed and calloused conscience to the category of protected speech.

When veterans opposed to flag burning stripped away the Court's veneer of sophistry, they found themselves accused of betraying democratic principle—an accusation belied by their sacrifice. They were patronizingly lectured on their deficient respect for the Constitution—an odd lesson, especially for those crippled in its defense. These wounds will not easily heal. And this issue will not easily die.

Some symbols are elevated and ennobled by a unique use and history. We talk of ground hallowed by the blood of patriot soldiers. Or colored cloth set apart from ordinary use to embody the highest hopes of common men. This is our long practice. And it should not be abandoned lightly.

It is my conviction that some men and women have earned the right to see that these symbols are respected by those who benefit from their sacrifice. Protecting the American flag is not required to preserve the Republic—it is not as fragile as that. But it is, I believe, a requirement of conscience—owed as a trust to those we ask to risk death in service of that symbol. This trust is fragile. And by this constitutional amendment, we have a rare opportunity to strengthen it.

Mr. HELMS. Mr. President, on June 21, 1989, the Supreme Court insulted the American people. With one decision, five men in black robes managed to insult the most precious symbol of our country, the hard won liberties handed down to us by American patriots, and our sense of national pride—the American flag.

Since that dark day in June, a flood of self-annointed legal scholars and self-proclaimed guardians of the Bill of Rights have praised those five justices for their bewildering contribution to political discourse—precisely what we have come to expect of people locked in ivory towers insulated from reality.

But, Mr. President, that is not how the American people feel.

The American people do not need any fancy words or convoluted theories to understand that what the Supreme Court did in June was simply wrong. They instinctively and correctly understand that more than free speech is at stake in this debate. The issue is clear: will each citizen be allowed to decide for himself whether his State or the Federal Government will have the authority to ban the wanton destruction of our most precious symbol?

Mr. President, the American people know that overturning the Supreme Court's decision will do nothing to inhibit anyone's right to free speech. In fact, anyone who has bothered to read the Texas statute knows that Texas did nothing whatsoever to prevent anyone from standing up and saying anything he or she wants to say about this country or its leaders.

I am not a lawyer, but I find it interesting that the concept of informed political speech has been turned on its head by this Court. The Justices declared that flag burning is political expression and hence not to be regulated like shouting "fire" in a crowded theater. Mr. Justice Brennan reached that conclusion because he found it incomprehensible that anyone who saw that malcontent in Texas contemptously burn the American flag, could regard such an action as a personal insult or an invitation to fight.

Perhaps Mr. Justice Brennan would do well to look outside his window on Veterans Day and watch the thousands of outraged men and women who view the Justice's reasoning as incomprehensible. Ask them if burning their flag is an outrage or an invitation to fight. They will set him straight.

The fundamental question remains—and should remain: What is wrong with letting the people decide whether this Nation should protect the honor of the American flag under which so many fought and sacrificed?

Mr. President, the flag of the United States represents the noblest aspirations of our people and the hope of oppressed peoples around the world who look to this country to keep the hope of freedom alive. We have the opportunity to remedy the damage done by the U.S. Supreme Court. Let us proceed this day not merely to enact a statute but to move toward a constitutional amendment to make clear to the Supreme Court's slim majority that their specious reasoning has been rejected.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL SIGNED

Under the authority of the order of January 3, 1989, the Secretary of the Senate, on October 16, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, Kansas as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center".

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 6:18 p.m., a message from the House of Representatives announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. MOLLOHAN, Mr. CHAPMAN, Mr. ATKINS, Mr. WHITTEN, Mr. GREEN, Mr. COUGHLIN, Mr. LEWIS of California, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 24) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such acts, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2748. An act to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 16, 1989, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents which were referred as indicated:

EC-1782. A communication from the Secretary of Agriculture and the Acting Administrator of the Agency for International Development, transmitting jointly, pursuant to law, the third quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development Missions; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1783. A communication from the Director of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for October 1989; pursuant to the order of January 30, 1975, as modifed on April 11, 1986; referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1784. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-1785. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-1786. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-1787. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report with respect to converting the aircraft maintenance function at Reese Air

Force Base, Texas, to performance under contract; to the Committee on Armed Services.

EC-1788. A communication from the Comptroller of the Currency, transmitting, pursuant to law, a report on loan discrimination required under the Financial Institutions Reform, Recovery, and Enforcement Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-1789. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1790. A communication from the Assistant Secretary of the Interior (Territorial and International Affairs), transmitting, pursuant to law, a report on the impact of the Compact of Free Association on the United States territories and commonwealths, and Hawaii; to the Committee on Energy and Natural Resources.

EC-1791. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fifth annual report on carcinogens which covers 1989; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-341. A joint resolution adopted by the Legislature of the State of California to the Committee on Agriculture, Nutrition, and Forestry:

"Assembly Joint Resolution No. 60

"Whereas repeated years of low moisture in the national forests of the Sierra Nevada have created stress conditions in the timber which grows in those areas; and

"Whereas that stress and the associated weakening of the general health of the timber, and individual trees within the stands of timber, have reduced the ability of those trees to fight off attacks of natural enemies, specifically insects; and

"Whereas populations of harmful insects have increased to epidemic proportions and are continuing to increase; and

"Whereas those conditions have resulted in unprecedented timber mortality in the affected national forests; and

"Whereas two billion board feet of timber has been lost due to insect damage in 1989, one billion of which is merchantable, which quantity exceeds the amount of timber lost in forest fires in 1987; and

"Whereas the existence of large quantities of dead timber exacerbates the insect problem by providing rich breeding grounds for insect populations; and

"Whereas dead timber can be utilized for useful products for only a relatively short period of time after it has died; and

"Whereas the established resources management programs of the United States Forest Service have been significantly disrupted by changing priorities due to pressures to limit the quantity of forest-produced commodity goods and services available to the public in this country, and individual forest units are generally unable to react in a timely manner to this resource emergency as a result of those changing priorities; and

"Whereas although much of the damaged timber is not commercial in nature, accessible, or located upon environmentally sensitive lands, to fail to take emergency measures to harvest commercial timber from commercially classed lands will certainly result in a dangerous buildup of forest fuels, increasing the risk of forest fires and thereby endangering high-value timber, wildlife, recreation, watershed, and private residential lands in the area; and

"Whereas the best defense against insect depredation is the maintenance of strong and healthy timber stands; now, therefore, be it

"Resolved by the Assembly and Senate of California, jointly, That the Legislature of the State of California respectfully memorializes the Regional Forester of the Southwest Region of the United States Forest Service to take all appropriate action, including requesting additional money and staff, if needed, to ensure the prompt and timely salvage of the timber that is dead, dying, or likely to die as a result of the massive buildup of the insect population; and be it further

"Resolved, That the United States Forest Service is respectfully memorialized to engage in prompt efforts to rehabilitate and reforest the affected lands to encourage the development of strong and healthy timber stands through purposeful forest management practices; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-342. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution No. 4

"Whereas, discrimination based on age, gender, national origin, or ancestry violates our nation's primary ideals and tears our nation's social and economic fabric; and

"Whereas, discrimination based on age, gender, national origin, or ancestry cannot be tolerated or condoned but must be discouraged by every level and branch of government; and

"Whereas, discriminatory practices by certain social clubs have impaired or denied the rights of citizens to fully and openly participate in the social and economic life of their communities; and

"Whereas, citizens are free to choose their associations but should have no right to receive a collective tax benefit at the expense of their fellow citizens whose rights and dignity are effectively impaired or denied by those associations; and

"Whereas, the federal government already prohibits tax exempt status for social clubs with certain discriminatory practices; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation amending Section 501(i) of the Internal Revenue Code so as to deny tax exempt status to those social clubs which practice discrimination based on age, gender, national origin, or ancestry; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-343. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution No. 20

"Whereas, throughout California, people are becoming more concerned about the critical shortage of affordable housing for low- and middle-income families; and

"Whereas, the strain of buying a home in California has become worse, as mortgage interest rates are rising and are expected to continue to rise gradually, further reducing the number of families who can afford to buy homes; and

"Whereas, during the last few months of 1988, the affordability index was at a record low, with the number of people who could afford homes at 12 percent; and

"Whereas, one of the biggest roadblocks to first-time home purchase, especially for younger families, is the downpayment, as many potential purchasers cannot afford the monthly mortgage payment, and assembling the large downpayment required for even a moderately priced home keeps these consumers out of the homebuying market; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to enact federal legislation addressing and providing necessary relief from these problems, to provide as follows:

(1) An individual retirement account or qualified cash or deferred arrangement under Section 401(k) of the Internal Revenue Code shall not lose its tax-exempt status if amounts are distributed to, or it is used as security for a loan by, an eligible participant for the acquisition of any dwelling unit which is to be used as the principal residence of the eligible participant in exchange for an ownership interest in that residence. An "eligible participant" means an individual on whose behalf an individual retirement plan is established or who is a participant in a qualified cash or deferred arrangement, and who (and whose spouse) has had no present ownership interest in a principal residence during the three-year period ending on the date of the acquisition of that residence.

"(2) Amounts made available under the individual retirement account or qualified cash or deferred arrangement for the acquisition of the residence shall not be treated as taxable distributions.

"(3) An owner of an individual retirement annuity who borrows money under or by use of that contract to use for the acquisition of his or her first home shall not be required to include in gross income the value of that contract.

"(4) Interest deductions relating to loans secured by amounts attributable to qualified cash or deferred arrangements under paragraph (1) shall not be disallowed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FOWLER, from the Impeachment Trial Committee (In Re. Judge Walter L. Nixon, Jr.):

Special Report entitled "Report of the Impeachment Trial Committee on the Articles Against Judge Walter L. Nixon, Jr. (Rept. No. 101-164).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 1756. A bill to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine; to the Committee on Energy and Natural Resources.

By Mr. BIDEN:

S. 1757. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. HARKIN, Mr. HEINZ, Mr. KOHL, Mr. SASSER, and Mr. RUDMAN):

S. 1758. A bill to provide for the establishment of an Office for Small Government Advocacy, and for other purposes; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself and Mr. HOLLINGS):

S. 1759. A bill for the relief of Amalia Hatzipetrou and Konstantinos Hatzipetrou; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1760. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

By Ms. MIKULSKI:

S. 1761. A bill to establish a national center for information and technical assistance relating to all types of family resource and support programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself, Mr. LUGAR, Mr. ROBB, Mr. DOLE, Mr. MATSUNAGA, Mr. ROTH, Mr. REID, Mr. SHELBY, Mr. CONRAD, Mr. DASCHLE, Mr. BENTSEN, Mr. LAUTENBERG, Mr. INOUYE, Mr. GORE, Mr. MURKOWSKI, Mr. CHAFEE, Mr. DIXON, Mr. STEVENS, Mr. LIEBERMAN, Mr. COHEN, Mr. BOREN, Mr. GRAMM, and Mr. BUMPERS):

S.J. Res. 215. Joint resolution acknowledging the sacrifice that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Con. Res. 76. Concurrent resolution welcoming members of the Canadian Parliament on their visit to the Capitol; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 1756. A bill to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine; to the Committee on Energy and Natural Resources.

MAINE ACADIAN CULTURE PRESERVATION ACT

Mr. MITCHELL. Mr. President, I rise to introduce legislation that will establish a "Maine Acadian Cultural Center." I am pleased to be joined in this effort by my distinguished colleague, Senator COHEN.

Most people think of Acadians only in two contexts.

One is the great poem by Henry Wadsworth Longfellow, Evangeline. The poem described the mass displacement of the Acadians by the British over a decade beginning in 1755 in which the Acadians were forced from their homes and exiled to other British or French colonies. The other is the best known group of the displaced Acadians, those who resettled in Louisiana and became known as "Cajuns."

The Acadian people first came to North America in the early 17th century, eventually establishing settlements in the region that now includes Nova Scotia, New Brunswick, and Prince Edward Island in eastern Canada.

Many of the Acadians originally settled or resettled in the northern part of what is now the State of Maine, in the area known as the St. John River Valley. It is that group that would be recognized with this legislation.

The legislation would establish a Maine Acadian Culture Preservation Commission. Seven of the eight members of the Commission will be appointed by the Secretary of the Interior from nominations submitted by Maine groups or individuals.

Commission members will advise the National Park Service how to conduct activities and programs to interpret the story of Maine's Acadian settlers and their descendants as well as preserving and perpetuating Acadian music, arts, crafts, and folklore. That will occur in three principal ways.

First, assisting efforts to identify, gather, and preserve sites, data, artifacts, and objects associated with Acadians in Maine.

Second, entering into cooperative agreements with owners of properties of natural, historical, or cultural significance so they can be visited and enjoyed by the public.

Third, establishing a center whose activities would celebrate, preserve, and perpetuate Acadian culture.

My legislation would require the Federal Government to cover the full costs associated with the Commission, which we expect to be a very modest amount. But Federal financial support would be limited to 50 percent of the costs of the cooperative agreements and the cultural center. The remainder would have to come from State or local sources, including private donations.

There is growing interest in Maine in preserving Acadian culture. Just this year, the Maine legislature has approved a $150,000 grant to the University of Maine at Fort Kent to house Franco-American and Acadian cultural archives. I also want to give credit to the Speaker of Maine's House of Representatives, John Martin, who first raised this concept with me.

I am sorry to say that most Americans know very little about the Acadian people who have lived in this country and the State of Maine for more than 200 years.

In that time, they have greatly contributed to the culture, history, and economic growth of Maine and the Nation.

Those contributions deserve to be recognized. It is equally important that the culture and history of this people be celebrated and preserved lest it be lost to future generations.

I sincerely hope that will be accomplished through enactment of this legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis of the proposed Maine Acadian Culture Preservation Act and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maine Acadian Culture Preservation Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize an important contribution made to American culture and history by the Acadian immigrants from France who settled in Nova Scotia and, following expulsion by the British in 1755, resettled in various North American colonies, including the territory that eventually became the State of Maine;

(2) assist local and State governments and other public and private entities in the State of Maine in interpreting the story of the State's Acadian settlers and their descendants as well as preserving and perpetuating Acadian music, arts, crafts, and folklore; and

(3) assist in identifying, gathering, and preserving sites, historical data, artifacts, and objects associated with the Acadians in Maine for the benefit and education of the public.

SEC. 3. MAINE ACADIAN CULTURE PRESERVATION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Maine Acadian Culture Pres-

ervation Commission (referred to as the "Commission"), which shall consist of 8 members appointed by the Secretary of the Interior (referred to as the "Secretary") not later than 6 months after the date of enactment of this Act, as follows:

(1) one member, who shall serve as Chair, appointed from among recommendations submitted by the Governor of the State of Maine;

(2) one member appointed from among recommendations submitted by the Speaker of the House of Representatives of the State of Maine;

(3) one member appointed from among recommendations submitted by the President of the Senate of the State of Maine;

(4) one member appointed from among recommendations submitted by the Chancellor of the University of Maine System;

(5) three members appointed from among recommendations submitted by State and local historic, cultural or historic preservation organizations; and

(6) one additional member appointed by the Secretary.

(b) TERMS.—(1) Members of the Commission shall be appointed for terms not to exceed 3 years.

(2) The Secretary may stagger the terms of initial appointments to the Commissions in order to assure continuity in operation.

(c) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) TERMINATION.—The Commission shall terminate 20 years from the date of enactment of this Act.

(g) SUPPORT.—The Director of the National Park Service shall provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall advise the Secretary with respect to—

(1) the selection of sites for interpretation, preservation, and development by means of cooperative agreements pursuant to section 5; and

(2) the development and implementation of a comprehensive interpretive program of the Acadian culture in the state of Maine pursuant to section 6(d).

SEC. 5. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this Act, the Secretary is authorized, after consultation with the Commission, to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance associated with the Acadian people in the State of Maine, pursuant to which agreements the Secretary may provide management services and program implementation.

(b) RIGHT OF ACCESS.—Each cooperative agreement shall provide that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through such properties and interpreting them to the public.

(c) ALTERATION OF PROPERTIES.—Each cooperative agreement shall provide that no changes or alterations shall be made in the property covered by the agreement except by mutual agreement between the Secretary and the other party to the agreement.

SEC. 6. ACADIAN CULTURAL CENTER.

(a) IN GENERAL.—The Secretary is authorized, after consultation with the Commission, to establish a center for the preservation, perpetuation, and interpretation of Acadian culture within the State of Maine.

(b) ACQUISITION OF LAND.—The Secretary is authorized to acquire lands and interests therein, not to exceed 20 acres in total, by purchase, donation, or exchange, and to develop, operate, and maintain interpretive and preservation facilities and programs at the center in furtherance of the purposes of this Act.

(c) OPERATION.—The Secretary may contract with public and private entities for the operation of the center in accordance with program standards approved by the Secretary.

(d) INTERPRETIVE PROGRAM.—In connection with center operations the Secretary shall develop and implement a comprehensive interpretive program of the Acadian culture in the State of Maine, including preparation of interpretive and informational materials, exhibits, films, lectures, and other educational materials.

(e) STATUTORY AUTHORITY.—The Secretary shall administer properties acquired and cooperative agreements entered into pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.) and other statutory authority for the conservation and management of natural, historical, and cultural resources.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS TO THE COMMISSION.—There are authorized to be appropriated to the Commission such sums of money as may be necessary for the performance of its duties under this Act.

(b) LIMIT ON EXPENDITURES BY THE SECRETARY.—The Secretary is authorized to expend annually, in the performance of the Secretary's functions under sections 5 and 6, amounts equal to 50 percent of the aggregate cost of performing those functions, the remainder of such cost to be paid with non-Federal funds.

SECTION-BY-SECTION ANALYSIS OF THE BILL FOR MAINE ACADIAN CULTURAL CENTER

Section 1: titles the bill as the "Maine Acadian Culture Preservation Act.

Section 2: expresses the legislation's purposes: to recognize the contributions of Acadian immigrants to this country and assist efforts at preserving, perpetuating and interpreting that culture in Maine.

Section 3: establishes a "Maine Acadian Culture Preservation Commission" for 20 years. The Commission will have eight members appointed by the Secretary (from nominations submitted by specified groups or individuals). Commission members shall serve three-year terms. They will receive no compensation, but will be paid a per diem. The National Park Service will provide the Commission staff support and technical services.

Section 4: proscribes the duties of the Commission: to advise the Secretary of the Interior in siting, establishing and implementing the cooperative agreements and the Maine Acadian Cultural Center authorized in the legislation.

Section 5: authorizes the Secretary to enter into cooperative agreements with owners of properties associated with the Acadian people in Maine. Under the agreements, the Secretary may provide management services, program implementation and financial assistance. The only restrictions on the property owners will be the requirements for the National Park Service to have access to the public portions of the property in order to conduct visitors through the properties. In addition, no changes or alterations could be made to the properties without the agreement of the Secretary.

Section 6: authorizes the Park Service to acquire up to 20 acres of land, by purchase, donation or exchange for a Center for the interpretation and preservation of Acadian culture within the State of Maine. The Park Service is authorized to develop, operate, and maintain interpretive facilities and programs at the Center, although public and private entities could be contracted to operate the center in accordance with program standards approved by the Secretary.

Section 7: authorizes such sums as may be necessary to carry out sections 5 and 6. Federal support is limited to 50% of the total costs.

By Mr. BIDEN:

S. 1757. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

HABEAS CORPUS REFORM ACT

Mr. BIDEN. Mr. President, for some time now the Senate, on both sides of the aisle, has expressed its displeasure over the way our Federal courts review death penalty sentences imposed in State criminal trials. Some Senators have complained about the delays involved in these Federal habeas corpus actions, as they are known, and others have complained about the lack of adequate counsel available to capital prisoners who are seeking full and fair review of their claims; that is, people who have been convicted of a capital offense.

Last year's drug bill, the Anti-Drug Abuse Act of 1988, set out a procedure to consider legislation or for considering legislation to reform the habeas corpus actions in capital cases. The act provided that, following the report of the special committee on habeas corpus reform, chaired by now retired Justice of the Supreme Court Lewis F. Powell, I was instructed, as chairman of the Judiciary Committee, to "introduce a bill to modify Federal habeas corpus procedures after having faithfully considered the report and recommendations of the special committee."

As required by law, I have studied the report of the Powell committee and today, within the provisions provided by the act, I am introducing a habeas corpus reform bill.

Before I explain some of the particulars of my bill, let me examine the basic principle of the Powell Commission's report on habeas corpus.

The Powell Committee studies the issue that we have debated for many, many years here in the Senate. It has been the issue of debate, I know the Presiding Officer knows, at least for the 17 years that I have been a Senator and I suspect for the many more years that the Presiding Officer has been in the U.S. Senate. We found that much of the delay in capital cases was attributable to repetitive applications for habeas corpus review in Federal courts.

In response, the Powell committee recommended that a special procedure be created for capital cases that would provide each State prisoner with a single opportunity to litigate all available claims available to him or her in Federal court. In other words, the committee recommended that the State prisoner get just one bite out of the apple.

The committee recognized, however, that review of death sentences is an enormously serious and important undertaking and that if there were to be only a single opportunity for Federal review of the State death cases, the procedure would have to provide the prisoner in question new safeguards, safeguards that do not now exist. Nothing less would be sufficient to guard against the possibility of mistake or prejudice in carrying out the death sentence, according to the Powell committee.

Therefore, the Powell committee proposed that the one-bite-at-the-apple rule would apply but only if the prisoner had been afforded court-appointed counsel at every step of the proceedings for them to be able to make this habeas corpus one-bite-at-the-apple procedure. If the State provides such counsel—that is, court-appointed counsel—to capital prisoners, the Powell committee proposed they could limit those prisoners to a single round of litigation in Federal court.

This quid pro quo is the essence of the Powell plan. The bill I am introducing today adopts this quid pro quo approach. It provides that State prisoners who are afforded qualified counsel at trial and throughout State death penalty proceedings shall have only a single opportunity to litigate their habeas corpus claim in Federal court.

Mr. President, some may think this odd for the Senator from Delaware, who opposed the changes in this rule on past occasions, largely due to the risk of error in the applications to be proposing legislation that will, to use the common description given by some, speed up execution. But I see no irony in this proposal. Delay for delay's sake serves no one in the capital punishment system—a system that I do not oppose on moral grounds, have occasionally supported for specific death penalty cases, and generally have argued more safeguards should be built into the system when there is going to be a capital offense available to the prosecution.

It is, obviously, harmful to the system itself and to the families of crime victims and to all if, in fact, the system is allowed to be, shall we say, prostituted; allowed to be used and manipulated in a way that was never intended. But, less obviously, it does nothing for the capital prisoner, either.

The current system does much to delay the inevitable and does too little to help the prisoner with legitimate challenges to their sentences brought before the Supreme Court through habeas corpus.

The Powell quid pro quo, which I support, recognizes this. With some simple, but essential, changes, it should result in a system that is an improvement over the present system in all respects.

My bill adopts the structure and text of the legislation recommended by the Powell committee in many respects, but there are a number of areas in which I have made changes necessary, in my view, to ensure that this streamlined procedure is as fair as possible.

First, it is essential to the success of the Powell committee's approach that the counsel appointed to represent the defendant in State proceedings be qualified counsel. The Powell report included no standards governing the qualifications of attorneys appointed in capital cases, but yet spoke to the need for qualified counsel. My bill includes such standards, adopting the minimums enacted by Congress in the 1988 drug bill as part of the appointment of counsel requirement made applicable by that law.

In other words, we have already set the standards in the 1988 drug bill where we call for the appointment of counsel in specific circumstances and we set out criteria for that counsel that that counsel must meet. Essentially what I do, Mr. President, is take that standard and apply it to the habeas corpus cases, as well.

Second, the Powell report provides for a second Federal habeas corpus application in only the most narrow circumstances, when the claim of factual innocence was not previously presented due to State action or facts not available at the time. I believe that this safety valve provision should be broader than that recommended by the Powell Committee.

For example, in my bill, a prisoner can bring a second habeas corpus application in Federal court if—and I say if—it is necessary to avoid a miscarriage of justice, an established legal standard currently in place that ensures that in extraordinary cases justice will be done. The Powell plan repeals this miscarriage of justice exception. I believe it is necessary to provide the Federal court with the power to prevent unjust executions.

Third, the Powell report limits claims prisoners can raise in Federal court to those claims raised earlier in State court proceedings. While I understand the principles motivating this proposal, I believe that, if we are going to adopt the one-bite-out-of-the-apple approach, the single review provided in Federal court must be as thorough as possible. Keep in mind, Mr. President, what I am proposing here and what the Powell commission is proposing is a significant change in what is presently available.

There is no one-bite-out-of-the-apple. You can take, 3, 2, 10, 9,000, if possible, bites out of the apple. That is the reason for the reform.

The bill I am proposing and what the Powell commission proposed is only one shot in Federal court. And my view, Mr. President, is that we should, in fact, not limit that one bite out of the apple to only issues raised in State courts if there is good reason for there to be additional issues raised.

Therefore, my bill would allow a prisoner to present in Federal court any claim that bears on the legality of his death sentence, as long as the reasons that this claim was not presented in State court was due to ignorance or neglect of his attorney, or, again, if the court's failure to consider such claim would result in the miscarriage of justice.

So, notwithstanding the fact, Mr. President, I propose a claim may be brought that was not raised in State court in this one chance in Federal court, even under those circumstances I limit it, as does the Powell commission. It is limited only to circumstances where there was ignorance on the part of the attorney representing the person sitting on death row, and therefore it did not get raised, or, the second provision I put in my bill, there would be a miscarriage of justice resulting. Obviously, that is a judgment for the court to make, if there would be a miscarriage of justice.

Fourth, the Powell committee recommended that the time period for filing habeas corpus petitions should be limited to 6 months. Currently there is no time limit whatsoever. I agree that there should be some time limit on filing such petitions for otherwise a prisoner with no incentive to speed the arrival his State execution might delay the filing of his claim indefinitely. Six months, however, is too short a time for a qualified and presumably very busy attorney to drop what other work he or she might be doing, conduct a thorough investigation of the case, and prepare an appro-

priate filing for this one bite out of the apple.

For that reason, Mr. President, my bill would require the State habeas corpus petition to be filed within 1 year.

Finally, Mr. President, the Powell committee made no provision for capital prisoners who have the benefit of favorable Supreme Court rulings decided after their trial and direct appeals. My bill remedies this and instructs the court to apply the most recent Supreme Court ruling to the claims brought by capital prisoners where appropriate. Again, if we are going to speed the process under which the death sentences are reviewed, then it seems to me we must do all we can to ensure the review proceedings are complete.

Again, we are making a significant tradeoff here. Right now there are no limits on the number of times a prisoner can seek habeas corpus in a Federal court. We are limiting that to one time.

In sum, I believe the proposal I am introducing today is a reasonable compromise among the competing concerns in this area, balancing a prisoner's right to have full review of his claims with the State's interest in ending delay in capital sentences. Hopefully it will give us a system that is both faster and fairer for all conerned.

Mr. President, in closing I commend the Powell committee for its thorough work and thoughtful recommendations. I am pleased to announce today our first hearing on habeas corpus reform will be held on November 8, and our first witness at that hearing will be the distinguished Justice Powell himself.

I look forward to having his insights on his proposal and the bill that I am introducing today. The President's plan, and any other alternatives that may be proposed in the coming weeks, will also be considered at that time.

Mr. President, I ask unanimous consent that the text of the bill and a side-by-side comparison of my bill and the Powell committee's recommendations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Habeas Corpus Reform Act of 1989".

SEC. 2. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Counsel in capital cases; trial and post-conviction; standards.

"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort and in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, such a prisoner, the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner: *Provided*, That nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence; or

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"(c)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Counsel in capital cases; trial and post-conviction; standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to indigents charged with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding this subsection, a court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

"§ 2262. Law controlling in Federal habeas corpus proceedings; retroactivity

"In cases subject to this chapter, all claims shall be governed by the law as it was when the petitioner's sentence became final, supplemented by any interim change in the law, if the court determines, in light of the purpose to be served by the change, the extent of reliance on previous law by law enforcement authorities, and the effect on the administration of justice, that it would be just to give the prisoner the benefit of the interim change in the law.".

SIDE-BY-SIDE COMPARISON OF POWELL AND BIDEN BILLS

Section	Powell bill	Biden bill
2256(a)	This subchapter establishes an optional procedure for Federal habeas cases involving State capital offenders	Same.
2256(b)	This procedure is applicable only if the State in which the defendant is convicted appoints qualified counsel in State post-conviction proceedings.	Same, but the requirement of qualified counsel applies at trial and for certiorari review as well, and the standards of qualification are made explicit in Sec. 2261.
2256(c)	There must be a procedure for appointing counsel or establishing that the defendant has waived counsel	Same, except the procedures for determining competency to waive counsel are made explicit.
2256(d)	Counsel appointed for post-conviction review shall not be the same as trial counsel	Same.
2256(e)	Ineffectiveness of counsel in State or Federal habeas proceedings shall not be a ground for relief in federal habeas proceedings.	Same.
2257(a)	Execution orders shall be stayed if the State has chosen to follow the procedures in this subchapter	Same.
2257(b)	The stay of execution expires if: (1) the defendant fails to comply with the time requirements; (2) the Federal habeas petition is denied; or (3) the defendant waives Federal habeas proceedings.	Same.
2257(c)	No successive Federal habeas petitions unless: (1) the claim was not previously presented: (2) failure to raise the claim the result of State action, new law, or new facts that could not have been discovered previously; and (3) the claim suggests factual innocence.	There are three alternative grounds for allowing a successive petition: (1) 1 and 2 from the Powell bill; or (2) 3 from the Powell bill; or (3) that review is necessary to avoid a miscarriage of justice.
2258	Require petitions for collateral review to be filed in 6 months	Require petitions for collateral review to be filed within 12 months.
2258(a)	The time period is tolled during certiorari review of a direct appeal	Same.
2258(b)	The time period is tolled during State collateral review, but not including certiorari review of such collateral review.	The time period is tolled during State collateral review, including certiorari review of such collateral review.
2258(c)	The court is permitted to extend the time for filing Federal habeas by 60 days for good cause	The court is permitted to extend the time for filing Federal habeas by 90 days for good cause.
2259(a)	The Federal habeas court may refuse to consider a claim not raised in State court unless the default was due to: (1) state action; (2) new law; or (3) new facts that could not have been discovered previously.	The Federal habeas court may consider any claim, as limited by 2259(c) below.
		Same.
2259(b)	The court shall rule on the merits after completion of an evidentiary record	Same.
2259(c)	No provision	The Federal habeas court may refuse to consider a claim not raised in State court, but may not refuse review where the default was due to ignorance or neglect, or if the failure to consider a claim would result in a miscarriage of justice.
2260	Certificates of probable cause are not required for appeal of Federal habeas	Same.

SIDE-BY-SIDE COMPARISON OF POWELL AND BIDEN BILLS—Continued

Section	Powell bill	Biden bill
2261	No provision	Standards for appointment of counsel: The standards are the same as those enacted in the 1988 drug bill for death penalty cases (21 U.S.C. 848(q)(4)), except that counsel for collateral review would be different from trial counsel.
2262	No provision	The Federal habeas court could determine, on the basis of a balancing test, whether changes in the law would apply retroactively to issues raised habeas cases.

Mr. THURMOND. Mr. President, I commend the distinguished Senator from Delaware for his interest in habeas corpus matters. We had a hearing a couple of weeks ago in which the distinguished chairman presided. We had a lady there whose face had been disfigured. A defendant killed three people and he tried to kill her and thought he killed her and he left her for dead. Anyway, she was able to come to testify.

This defendant was tried and convicted 10 years ago, and he was sentenced to the electric chair. And he has had his fourth appeal to the Supreme Court of the United States. His fourth appeal is pending now.

This is utterly ridiculous. It brings the criminal justice system in disrepute and we must take steps to pass a habeas corpus bill that remedies this situation.

I am glad the distinguished Senator has introduced a bill on this subject and I shall introduce the recommendation of the Powell committee. We will have those two bills before the committee. I have already introduced a bill now before the committee, which I think is a good bill. But we will have all three there as we consider the matter and try to get the best out of all three.

I do think this is important. I hope the Members of the Senate will act promptly on this measure and not delay it. It needs to be passed. Some of these defendants have gone to the Supreme Court over and over again; although the State courts have settled the matters many years ago.

I look forward to working with the distinguished chairman on this important subject.

Mr. BIDEN. Mr. President, I say to the Senator that he has been calling for this reform for some years now. I hope he will have an opportunity to look closely at the proposal I have made. Nonetheless, however it works out, I look forward to working with him and I am sure we will be able to resolve it.

Mr. THURMOND. Mr. President, I feel sure we will be able to bring in a good bill. We have the one my colleagues introduced and the one I introduced and, for the record, the recommendations of the Powell committee. We will try to take them all and get the best of all three and bring it to the Senate.

I thank the chairman again for his interest in this matter. It is very important to the welfare of this country and to promote the criminal justice system.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. HARKIN, Mr. HEINZ, Mr. KOHL, Mr. SASSER, and Mr. RUDMAN):

S. 1758. A bill to provide for the establishment of an Office for Small Government Advocacy, and for other purposes; to the Committee on Governmental Affairs.

SMALL GOVERNMENTS REGULATORY PARTNERSHIP ACT

● Mr. GLENN. Mr. President, I rise today to introduce the Small Governments Regulatory Partnership Act. Small governments are at the core of the American federalist system—yet we in the Federal Government often forget them, disregard them, or underestimate the role and effect of them.

Small governments provide most of our citizens with their first and most consistent contact with participatory democracy. Many Americans live in towns, townships, and villages primarily administered by volunteers. These are the communities where everyone pitches in to govern, and the quality of government service provided is made better because of it.

Local governments form the base upon which the success of our most vital national programs rests. We in Washington entrust local officials throughout the country with the implementation of Federal plans to safeguard our citizens' environment, their health, and their livelihood.

It is possible, however, that the Federal Government can ask too much of local governments. Placing large regulatory burdens on small governments can stifle creative community programs and discourage enthusiastic local volunteers—in short, endanger and undercut the very policies devised and promoted at the Federal level.

In 1980, Congress passed the Regulatory Flexibility Act—RFA—to ensure that this sort of uneven regulatory burden-sharing would not occur. The RFA applies to virtually every Federal regulation. Briefly, the RFA mandates that when a Federal agency issues a regulation, it must certify whether the regulation will affect "small entities"—small businesses and small governments. And, the agency must propose alternative regulations which would achieve the same purpose but place less burden on small entities.

Last Congress, in a hearing before the Governmental Affairs Committee, witnesses testified that the Regulatory Flexibility Act is not working for small governments. Nine years ago, the National Science Foundation reported that local governments dealt with more than 1,000 Federal and State mandates annually; our witnesses told us that, during the 1980's, this number has increased dramatically.

The committee found three particular weaknesses in the act. First, the RFA assigns responsibility for its enforcement to the Small Business Advocate, who is part of the Small Business Administration. The Advocate is understandably more interested in convincing Federal agencies to apply the RFA to small businesses than he is in convincing them to apply it to small governments. Second, the RFA's waiver provisions allow Federal agencies to bypass some of the act's requirements without adequate explanation. And third, in attempting to comply with the RFA, many Federal agencies do not have access to reliable or complete data to analyze the effects of their proposed regulations on small governments.

The bill I am now introducing, the Small Governments Regulatory Partnership Act, addresses each of these issues. To improve enforcement of the RFA for small governments, the bill establishes an Office for Small Government Advocacy in the Office of Management and Budget. The bill vests this Office with powers similar to those of the Office of the Small Business Advocate. The Office for Small Government Advocacy will monitor Federal agency compliance with the Regulatory Flexibility Act, and track the regulatory burden imposed by the Federal Government on small communities.

The Office for Small Government Advocacy will be aided by Small Government Coordinators, which the bill establishes in each of the major rulemaking agencies. These Coordinators will watch their own agencies' actions under the Regulatory Flexibility Act and provide support and data to the Office for Small Government Advocacy. At least two times a year, these Coordinators will meet on an interagency committee to share information.

The Office for Small Government Advocacy will also have the benefit of advice from a council created by the bill that will be comprised of outside experts; many of these experts will be acting local officials.

Another component of the Small Governments Regulatory Partnership

Act consists of amendments to the RFA itself. For example, the bill clarifies that the Regulatory Flexibility Act applies to small governments as well as to small businesses. Also, the bill makes it more difficult for agencies to exercise some of the RFA's waiver provisions; for instance the legislation requires that agencies back up, with some evidence and citation of data sources, claims that a proposed regulation will have no ill effects on small entities.

Finally, the Small Governments Regulatory Partnership Act addresses the problem of inadequate data on small governments. It requires agencies to use standard measures when analyzing the effect of regulations on small governments. It also mandates that agencies collect these data using uniform procedures. These provisions should make it easier for different offices within one agency to share such data, and for the Federal Government as a whole to track its regulatory impact on small governments more accurately.

In brief, the Small Governments Regulatory Partnership Act can make the RFA work for local governments. It will force those of us in Washington to face the fact that we do indeed operate in a federal system. And, it will force us to be cognizant of the effects that our legislation and regulations have on our Nation's small communities.

Local governments have always been our partners—but too often our silent partners. And as silent partners, they have often suffered. It is my sincere hope that the Small Governments Regulatory Partnership Act will provide local governments with the clear convincing voice they deserve—and that all of us who care about effective Federal Government want them to have.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Governments Regulatory Partnership Act of 1989".

TITLE I—ESTABLISHMENT OF THE OFFICE FOR SMALL GOVERNMENT ADVOCACY AND SMALL GOVERNMENT COORDINATORS

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the term "small government" means—

(A) the governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand; and

(B) any government of a political subdivision of a State determined by an agency—

(i) after consultation with the Office for Small Government Advocacy established under section 102;

(ii) after an opportunity for public comment;

(iii) which is appropriate to the activities of such agency;

(iv) which is based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of a jurisdiction; and

(v) which is published in the Federal Register with such relevant factors; and

(2) the term "agency" means any agency as defined under section 551(1) of title 5, United States Code.

SEC. 102. ESTABLISHMENT OF THE OFFICE FOR SMALL GOVERNMENT ADVOCACY.

There is established within the Office of Management and Budget an Office for Small Government Advocacy (hereinafter referred to as "the Office"). The management of the Office shall be vested in a Director for Small Government Advocacy (hereinafter referred to as "the Director") who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be a person familiar with small government needs and problems and with the Federal regulatory process.

SEC. 103. PRIMARY DUTIES OF THE OFFICE FOR SMALL GOVERNMENT ADVOCACY.

The primary duties of the Office for Small Government Advocacy shall be to—

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the regulatory policies and activities of agencies which affect small governments;

(2) represent the views and interests of small governments before agencies whose regulatory policies and activities affect small governments;

(3) develop proposals for changes in the regulatory policies and activities of any agency which will better fulfill the purposes of this Act and communicate such proposals to the appropriate agencies;

(4) monitor the costs and other burdens of Federal regulation on small governments, including the cumulative effect of such regulation, and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulatory burdens placed on small governments;

(5) monitor agency compliance with chapter 6 of title 5, United States Code, as such chapter applies to small governments;

(6) oversee and consult with the Small Government Coordinators established under section 107;

(7) chair the Interagency Committee of Small Government Coordinators established under section 108; and

(8) consult and cooperate with the Small Government Advisory Council established under section 109.

SEC. 104. STAFF AND POWERS OF THE OFFICE FOR SMALL GOVERNMENT ADVOCACY.

In carrying out the provisions of this title, after consultation with the Director of the Office of Management and Budget, the Director for Small Government Advocacy may—

(1) employ and fix the compensation of not more than five additional staff personnel as the Director determines necessary;

(2) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code; and

(3) use the services of the Advisory Council established under section 108.

SEC. 105. ASSISTANCE OF GOVERNMENT AGENCIES.

Each department, agency, and instrumentality of the Federal Government shall furnish to the Director such reports and other information as the Director determines necessary to carry out his duties under this Act.

SEC. 106. REPORTS.

(a) On December 1 of each year, the Director shall transmit to the Governmental Affairs Committee of the Senate and the Speaker of the House of Representatives a report on actions taken under this Act. The report shall include—

(1) a summary of all proposals offered under sections 103 (3) and (4), and an accounting of all actions taken pursuant to such proposals;

(2) a detailed assessment, prepared in consultation with the Small Government Coordinators, of the costs and other burdens of Government regulation on small governments including the cumulative effects of such regulation;

(3) a description of the activities of the Director under chapter 6 of title 5, United States Code;

(4) an account, prepared in consultation with the Small Government Coordinators, of agency compliance with chapter 6 of title 5, United States Code, including a list of cases in which agencies did not comply because of insufficient data;

(5) a summary of the activities of the Interagency Committee of Small Government Coordinators; and

(6) a summary of the activities of the Small Government Advisory Council.

(b) Such report shall be based upon, but not be limited to, the information submitted by the Small Government Coordinators under subsections (b)(2)(C) and (b)(4) of section 107.

SEC. 107. SMALL GOVERNMENT COORDINATORS.

(a) For the purposes of this section, the term "agency" shall mean any agency as defined by section 551(1) of title 5, United States Code, which is and has been required by section 553 of such title or any other law, to publish general notices of proposed rulemaking, unless the head of that agency certifies that the agency does not issue a significant number of rules affecting small governments, publishes such certification in the Federal Register, and receives approval of such certification from the Director of the Office of Small Government Advocacy. Such certification shall be made by an agency head and approved by the Director of the Office of Small Government Advocacy annually.

(b) There is established in each agency a Small Government Coordinator who shall report directly to the head of the agency. The Small Government Coordinator shall be responsible for—

(1) representing the small government perspective on agency rules and policies as such policies are developed;

(2) overseeing agency efforts to comply with chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions, including—

(A) developing agency guidelines for the full implementation of chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions;

(B) working with agency regulatory policy personnel, national organizations representing small governments, local elected officials, public policy experts, and the Office for Small Government Advocacy to develop alternative regulatory proposals which accomplish the stated objectives of applicable statutes and which minimize the impact of regulations on small governments; and

(C) reporting to the Director of the Office for Small Government Advocacy, no later

than October 1 of each year, on the agency's compliance with chapter 6 of title 5, United States Code, including a list of cases in which the agency did not comply because of insufficient data;

(3) overseeing the establishment of an agency's data bank on small governments as required by this Act;

(4) reporting to the Director of the Office for Small Government Advocacy no later than October 1 of each year, on the activities of the Small Government Coordinator and his involvement in the rulemaking process; and

(5) participating in the Interagency Committee of Small Government Coordinators established under section 108.

SEC. 108. INTERAGENCY COMMITTEE OF SMALL GOVERNMENT COORDINATORS.

(a) There is established, within the Office of Management and Budget, the Interagency Committee of Small Government Coordinators (hereafter referred to as the "Committee") which shall be composed of—

(1) the Director of the Office for Small Government Advocacy, who shall serve as the Chairman of the Committee;

(2) the Small Government Coordinators established under section 107; and

(3) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, who shall serve as an ex-officio member of the Committee.

(b) Upon the request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist the Committee in carrying out its duties.

(c) The Director of the Office of Management and Budget shall provide to the Committee such administrative and support services as the Committee may request.

(d) The Committee shall meet at the call of the Chairman, but not less than once every six months.

(e) The purpose of the Committee is to coordinate the programs, plans, activities, and policies of the Small Government Coordinators.

SEC. 109. SMALL GOVERNMENT ADVISORY COUNCIL.

(a) No later than six months after the date of the enactment of this Act, the Director shall establish an advisory Council (hereafter referred to as the "Council") comprised of not more than fifteen members. The Director shall select as members persons with extensive understanding of and experience with the operations of small governments. No less than eight members of the Council shall be acting as small government officials. The Director shall choose the members with a view toward achieving balance with respect to the regions, the sizes of small governments, and the occupations represented on the Council.

(b) The purpose of the Council is to advise the Director to ensure that the programs and policies carried out by the Office for Small Government Advocacy are familiar to and meet the needs of small governments.

(c) The Council shall elect a Chairman and meet at his call, but no less often than every six months.

(d) The Director shall meet with the Council on a regular basis, but no less often than every six months, to discuss and receive advice on the Office's progress in carrying out its duties under this Act.

(e) No later than October 1 of each year, the Council shall submit a report on its activities to the Director.

TITLE II—SMALL GOVERNMENT CONSIDERATIONS IN THE ANALYSIS OF REGULATORY FUNCTIONS

SEC. 201. THE ROLE OF THE DIRECTOR OF THE OFFICE OF SMALL GOVERNMENT ADVOCACY.

Chapter 6 of title 5, United States Code, is amended—

(1) in section 601(5) by inserting "consultation with the Office of Small Government Advocacy and" after "unless an agency establishes, after";

(2) in section 602 through 611 by inserting "and the Director of the Office of Small Government Advocacy" after each place that "Chief Counsel of Advocacy for the Small Business Administration" appears; and

(3) in section 612 by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The Director of the Office of Small Government Advocacy is authorized to appear as amicus curie in any action brought in a court of the United States to review a rule. In any such action, the Director is authorized to present his views with respect to the effect of the rule on small governmental jurisdictions.

"(d) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

"(e) A court of the United States shall grant the application of the Director of the Office for Small Government Advocacy to appear in any such action for the purposes described in subsection (c).".

SEC. 202. INCREASED SCOPE IN DEFINITION OF IMPACT OF REGULATION ON SMALL ENTITIES.

Chapter 6 of the title 5, United States Code, is further amended—

(1) in section 602(a)(1) by striking out "significant economic impact" and inserting in lieu thereof "significant impact";

(2) in the first sentence of section 603(c) by striking out "significant economic impact" and inserting in lieu thereof "significant impact";

(3) in section 604(a)(3) by striking out "significant economic impact" and inserting in lieu thereof "significant impact";

(4) in the first sentence of section 605(b) by striking out "significant economic impact" and inserting in lieu thereof "significant impact";

(5) in section 609—

(A) in the first sentence by striking out "significant economic impact" and inserting in lieu thereof "significant impact"; and

(B) in paragraph (1) by striking out "significant economic impact" and inserting in lieu thereof "significant impact"; and

(6) in section 610—

(A) in subsection (a)—

(i) in the first sentence by striking out "significant economic impact" and inserting in lieu thereof "significant impact"; and

(ii) in the third sentence by striking out "significant economic impact" and inserting in lieu thereof "significant impact"; and

(B) in the first sentence of subsection (b) by striking out "significant economic impact" and inserting in lieu thereof "significant impact"; and

(C) in the first sentence of subsection (c) by striking out "significant economic impact" and inserting in lieu thereof "significant impact".

SEC. 203. ADEQUACY OF DATA.

Section 603(b) of title 5, United States Code, is amended—

(1) in paragraph (5) by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(6) a description of data resources used in making the determinations under this subsection including a description of outreach efforts undertaken by the agency; and

"(7) a statement as to whether adequate information was available upon which to determine the number of small businesses, small organizations, and small governmental jurisdictions affected by the proposed rule and the significance of that impact.".

SEC. 204. CERTIFICATION PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) in the first sentence by striking out "Sections 603" and inserting in lieu thereof "Section 603(c)"; and

(2) in the second sentence by striking out "or at the time of publication of the final rule, along with a succinct" and inserting in lieu thereof ", along with a".

TITLE III—DATA BANKS ON SMALL GOVERNMENTS

SEC. 301. GOVERNMENT ACCOUNTING OFFICE REPORT.

Within six months after the date of the enactment of this Act, the General Accounting Office shall issue a report which develops and assesses—

(1) at least three measures with which agencies can measure the impact of the implementation of Federal regulations on small governments; and

(2) a standard designation of government size categories which agencies can use in data collection on small governments.

SEC. 302. ESTABLISHMENT OF DATA BANKS ON SMALL GOVERNMENTS.

(a) Each of the Government Coordinators established under section 107 shall ensure the establishment and oversee, within the agency of the coordinator, a data bank on small governments. The data bank shall contain all information collected by the agency relating to the impact of the implementation of Federal regulations on small governments and shall be used as an agency-wide resource for the development of the comprehensive, cumulative estimates of regulatory burden required under sections 106(a)(2) and 107(b)(2)(C).

(b) The head of each agency with a Small Government Coordinator shall direct all offices of such agency to assist the Small Government Coordinator by contributing, in a timely fashion, all information collected by the agency relating to the impact of the implementation of Federal regulations on small governments.

(c) To further facilitate the establishment and maintenance of the data banks on small governments, each Small Government Coordinator shall issue guidelines which shall govern all information collected by the agency relating to the impact of the implementation of Federal regulations on small governments. The guidelines shall include a designation of—

(1) three measures developed by the General Accounting Office under section 301(1), as measures which shall be incorporated into studies or surveys performed by the agency and relating to the impact of the implementation of Federal regulations on small governments; and

(2) the standard government size categories established by the General Accounting Office in section 301(2) as categories with which agency analyses relating to the

impact of the implementation of Federal regulations on small governments shall be reported.●

● Mr. LEVIN. Mr. President, I am pleased to join my colleague, Senator GLENN, in introducing the Small Governments Regulatory Partnership Act of 1989. This bill is essential to obtaining more effective and consistent application of and compliance with the Regulatory Flexibility Act of 1980.

All too often, the Federal programs we create to respond to real problems result in extensive regulations that sometimes bear little relationship to the real world. Frequently, the regulations are blind to the differences between regulated groups and have been particularly insensitive to the needs of small entities.

I came to the Senate directly from local government. As a former Detroit city council president, I am all too familiar with the difficulties local governments face in responding to the demands put on them by Federal agencies. This burden is great for large metropolitan areas such as Detroit, but it can be overwhelming for those small governments which constitute a majority of the local governments in the Nation.

These small, local governments are often comprised of individuals who work on a part-time or volunteer basis, and who are seldom experts in the wide variety of Federal programs that they must address. Their access to individuals who are experts may be limited or impossible. These individuals are dedicated people who are forced to make do with whatever resources are available to them. Yet our Federal programs frequently overlook these limitations and place unfair burdens on them.

In response to this situation, the Regulatory Flexibility Act of 1980 was enacted to force agencies to take into account the needs and limitations of small entities, both small businesses and small communities, when formulating regulations.

Last September, the Governmental Affairs Committee, chaired by Senator GLENN, held hearings to review the effectiveness of this law. It became apparent that the Regulatory Flexibility Act has not been consistently implemented and compliance by many agencies has been woefully inadequate, particularly with regard to our small communities.

One of the primary reasons cited for the lack of compliance with regard to small communities, was that the office charged with the enforcement of the act, the Office of Advocacy, was located within the Small Business Administration. A natural result of this situation was that the concerns and needs of small communities were lost to the greater emphasis placed on small businesses.

The legislation we are introducing today stems from the concerns raised at the September hearing and the excellent work of the National Association of Towns and Townships in focusing our attention on the problems of small communities. The bill creates a separate framework to increase the sensitivity of agencies to the needs of small, local governments. It establishes an Office for Small Government Advocacy in the Office of Management and Budget similar to the current Office of Advocacy in the Small Business Administration, and establishes small government coordinators in each agency. The bill tightens the certification process which allows agencies to excuse themselves from their responsibilities under the Regulatory Flexibility Act. The Small Governments Regulatory Partnership Act also calls for the development of a comprehensive data bank, similar to the one which now exists for small businesses.

Mr. President, the sooner we pass this bill, the sooner we will realize our earlier promise to this country's small communities. I thank Senator GLENN for his good work in this area and look forward to working with him on getting this bill enacted.●

● Mr. SASSER. Mr. President, I rise today in support of the Small Government Regulatory Partnership Act of 1989.

Tennessee has more than 400 governments representing less than 50,000 people. These small counties and communities are centers of farm activity and good places to build strong families and rear children. They are pleasant communities where our seniors retire. They are wholesome retreats from the stresses of city life. They are communities of small businesses and specialized industries. They are a vital part of what makes Tennessee, Tennessee.

This year, this Congress has had considerable discussion of the need to revitalize rural America and to reinvest in this much undervalued American asset. The Small Government Regulatory Partnership Act of 1989 gives us another opportunity to support small communities in Tennessee and in States across our Nation.

These small governments are very different from their larger cousins. Many are managed by volunteers or with very few paid employees. To get the job done, they must spend as much time as possible serving the residents and solving problems, and as little time as possible filling out forms. They must also be allowed the flexibility to join with other communities to solve difficult problems like providing for landfills and toxic waste disposal.

In 1980, the Congress passed the Regulatory Flexibility Act to address some of these issues. In hearings before the Senate Committee on Governmental Affairs last year, we found that there were weaknesses in the Regulatory Flexibility Act that needed to be addressed.

We found that to make the law work the way the Congress intended, there must be someone in the executive branch who looks out for the well being of small governments on a day-to-day basis and through every step of the rulemaking process. To address that issue, this legislation creates an Office of Small Government Advocacy in OMB. It requires each Federal agency to designate a small government coordinator to look out for small governments. It requires those who have the responsibility of advocating for small governments to stay in touch with local elected officials through a small government advisory committee. And very importantly, the law requires those responsible to make a detailed annual report to the Congress.

We also found that the law lets agencies off the hook too easily, in terms of assessing the impacts of Federal regulation on small governments. In essence, the agency can get out of looking closely at those impacts by having the Secretary declare that the regulation does not impact small governments. Under this bill, the department will have to justify a finding of no impact, by a detailed analysis. This bill does away with the incentive to avoid the responsibility for considering the impacts on small governments.

Finally, we found that good data about the impact on small governments was hard to come by. The bill designates to GAO the job of organizing the data collection process and developing appropriate measures of regulatory impact on small governments. This is no mean task. There is plenty of room for improvement.

As we struggle with the Federal budget deficit, and as you know the job is getting harder every day, we have a responsibility to try to understand how our actions affect subordinate governments. We know all too well, we cannot do it all from Washington. We need to make sure that what we require of small governments, improves the quality of life for our citizens and does not interfere with the local governments' ability to do the best job they can. The Small Government Regulatory Partnership Act of 1989 is a step in the right direction.●

● Mr. HEINZ. Mr. President, I rise today to join my colleague from Ohio, Senator GLENN, as an original cosponsor of the Small Governments Regulatory Partnership Act, which will close loopholes in the Regulatory Flexibility Act [RFA] and make the Federal regulatory process more responsive to the concerns of State and local governments.

Currently, without substantive discussion or review, Federal agencies can certify a proposed rule would have a negligible effect on small communities, releasing the agency from all RFA requirements. Such a certification has become commonplace since Federal agencies do not have standardized, easily accessible data to use when assessing the impact of a proposed rule on local governments. The result is that our smallest communities find themselves drowning in Federal regulations that were certified as negligible.

The Federal bias against our small communities is amplified by the lack of a true advocate for small governments within Federal agencies. Regulatory flexibility is successfully applied to small businesses through the Small Business Administration but small governments are often left fending for themselves.

My colleagues, no doubt, can think of many examples in their States where Federal regulations place an excessive burden on small governmental units. One example which comes to mind is the application of section 89 of the Internal Revenue Code to State and local governments.

The existing rules, which have been thoroughly discussed on the Senate floor, do not take into account the unique compliance problems of State and local governments. Small governments in Pennsylvania and across the Nation are faced with severe budget constraints, statutorily mandated benefits, and legislated salaries.

However, had the RFA been adhered to as it will be under this legislation, section 89 would have been flagged early on as a disaster waiting to happen and never would have seen the light of day. The harm a proposed regulation could cause a small government will be a key part of the Federal rulemaking process.

Our small towns and townships daily face a variety of challenges in serving the needs of our local neighborhoods. The Federal Government should sensitize itself to their limitations.

This legislation strengthens the Regulatory Flexibility Act in three ways. First, by establishing within the Office of Management and Budget an office for small government advocacy managed by a presidentially appointed director. Second, within each agency a coordinator for small governments will be put into place. Third, a data bank on small governments will be established containing all information collected on the impact of Federal regulations on small governments. With these three provisions in place, small communities with fewer than 50,000 people will be awarded the necessary flexibility in implementing Federal regulations.

This legislation will make Federal rulemaking more responsive with regard to its impact upon State and local governments and will help to lessen the burden of the Federal Government upon our smaller communities.●

By Mr. STEVENS (for himself and Mr. HOLLINGS):

S. 1759. A bill for the relief of Amalia Hatzipetrou and Konstantinos Hatzipetrou; to the Committee on the Judiciary.

RELIEF OF AMALIA HATZIPETROU AND KONSTANTINOS HATZIPETROU

● Mr. STEVENS. Mr. President, I am introducing a bill with Mr. HOLLINGS for the private relief of Amalia and Konstantinos Hatzipetrou.

Mrs. Hatzipetrou is a 50-year-old Greek national. She has a life-threatening case of cervical cancer and in need of U.S. medical treatment.

She first came to the United States for medical treatment in 1986. She then returned to Greece where her treatment results were less than satisfactory. Currently, she is receiving medical treatment at the University of Pennsylvania Medical Center where her doctors feel she must stay for optimal medical care. However, the Immigration and Naturalization Service has given her until October 25 to return to Greece. This is her final extension.

Many on Capitol Hill have known Mrs. Hatzipetrou's sister, Ms. Liria Vouzikas as the owner of the Senate Hair Salon for a number of years. She, along with the rest of Mrs. Hatzipetrou's siblings, now reside in the United States. Only her parents, aged 89 and 74, still reside in Greece. Her family has suffered one tragedy after another, with a seriously ill brother and the recent loss of a niece. Now, as the family struggles with Amalia Hatzipetrou's health problems, they are fighting to permit her to stay with them in the United States to receive the treatment she needs.●

By Mr. THURMOND:

S. 1760. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

PROVISION OF SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

Mr. THURMOND. Mr. President, I rise today to introduce the legislative recommendations of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases chaired by former Associate Supreme Court Justice Lewis Powell. This committee, commonly referred to as the Powell committee, was formed by the Chief Justice William Rehnquist in June of 1988. The Powell committee was charged with inquiring into the "necessity and disirability of legislation directed toward avoiding delay and the lack of finality" in capital cases in which the prisoner had or had not been offered counsel. Pursuant to the Chief Justice's request, the Powell committee has made its recommendations and has proposed a legislative remedy to the problem of habeas corpus review in capital cases. It is these recommendations I introduce today.

This Nation is facing a crisis in its criminal justice system. Federal habeas corpus and collateral attack procedures are in dire need of reform. This is evidenced by the glut of habeas petitions in the Federal system. The large increases in the number of habeas corpus filings, many of which are frivolous and used as a delaying tactic, require that legislation be enacted to address this problem.

Habeas petitions have grown by vast numbers in recent years. Last year, Federal district courts received an incredible 9,880 habeas petitions. The problem of these numerous filings is compounded by the extraordinary delay in habeas corpus filings. The result is a criminal justice system which is overburdened with piecemeal and repetitious litigation and years of delay between sentencing and a final judicial resolution of the criminal matter.

Mr. President, on August 3 of this year I took the floor and made a statement regarding the need for habeas corpus reform. In that statement I discussed a particular case which exemplifies the problem of habeas corpus abuse. In February of 1979, Ronald Wommer went on an 8-hour crime spree in South Carolina. By the time he was finished, four people were murdered. Woomer, who has never disputed his guilt, was convicted of murder and sentenced to death that summer. He was first sentenced on July 18, 1979—over 10 years ago—to die in the electric chair. He is still on South Carolina's death row. The Woomer case is a prime example of the obstruction of justice and inordinate delay surrounding these habeas corpus cases.

On the first day of this Congress, I introduced legislation, as I have since the 97th Congress, which would appropriately address this problem. My bill, S. 88, is a much broader bill than the legislation I am introducing today as it applies to all criminal cases, not just capital offenses.

Pursuant to law, Senator BIDEN introduced legislation which embodies a modified version of the Powell recommendations. Yet, since the Powell committee spent a significant time formulating its recommendations and the Chief Justice has expressed a belief that the need for strong habeas reform is urgently needed, I believe there should be a Senate vehicle which fully embodies the Powell committee recommendations. As the Judiciary Committee prepares to hold hearings on habeas corpus reform, I

look forward to working with Senator BIDEN on S. 88 and the bills we introduce today in an effort to formulate the best legislative solution.

Mr. President, it is appropriate that the Powell committee recommendations be before the Senate for consideration. This legislation I am introducing today proposes new statutory procedures for Federal habeas corpus review of capital sentences. The Powell committee proposal is aimed at achieving the following goal: Capital cases should be subject to one complete and fair course of collateral review in the State and Federal system, free from the time of impending execution, and with the assistance of competent counsel for the defendant. Once this appropriate, fair review is completed, the criminal process should be brought to a conclusion.

This proposal allows a State to bring capital litigation by its prisoners within the new statute by providing competent counsel for inmates on State collateral review. Participation in the new procedures is optional with the States. This legislation also provides for a 6-month period within which a Federal habeas petition must be filed. This 6-month period begins to run on the appointment of counsel for the prisoner and is tolled during the pendency of all State court proceedings. In addition, this legislation provides for an automatic stay of execution, which is to remain in place until Federal habeas proceedings are completed. This provision ensures that habeas claims not be considered by a court under the time pressure of an impending execution.

In summary, this proposal balances the need for finality in death penalty cases with the requirement that a defendant have a fair examination of his claims. Therefore, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendants case.

In closing, we cannot continue to delay action on legislation to correct the growing problem in habeas corpus cases. Criminal cases must be brought to a close. Endless consideration of issues that have no merit in criminal cases and are filed only for purposes of delay must be eliminated from our judicial system. The principles of justice, upon which our criminal system is based, demands that we take action to address the habeas problem.

For these reasons I urge my colleagues to carefully consider this measure.

Mr. President, I ask unanimous consent that the full text of the bill and a copy of the Powell committee report be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1760

Be it enacted by the Senate and House of Representaives of the United States of America in Congress assembled,

SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

(a) Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or sttute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

§§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State to have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State Court of record of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application of any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed, the petition for reflief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under Section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless-

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to prevent the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the filing in the appropriate State court of record of an order issued in compliance with section 2256(c) of

this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) subject to subsection (b), during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; and

"(3) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

"(b)(1) The time requirement established by subsection (a) shall be continuously tolled under paragraph (2) of that subsection from the date the State prisoner initially files for post-conviction review until the date of final disposition of the case by the highest court of the State so long as all State filing rules are timely met.

"(2) Tolling shall not occur under subsection (a)(2) during the pendency of a petition for certiorari before the Supreme Court following State post-conviction review.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) When a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts, unless the prisoner shows that the failure to raise or develop a claim in the State courts—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the execise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.".

SUPREME COURT OF THE UNITED STATES,
Washington, DC, September 22, 1989.

Hon. JOSEPH R. BIDEN, JR.,
Chairman, Senate Judiciary Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I forward herewith the report and proposal received by the Judicial Conference of the United States on September 20, 1989, from its Ad Hoc Committee on Federal Habeas Corpus in Capital Cases. The Ad Hoc Committee, chaired by Justice Lewis F. Powell, Jr., has given careful consideration to this subject over the past year.

In receiving this report, the Judicial Conference determined to discharge Justice Powell's committee, to make the report publicly available, and to defer any further consideration of the report until its next meeting, scheduled for March 13, 1990. I shall advise you at that time as to any additional action the Conference might take with respect to the report.

Sincerly,

WILLIAM H. REHNQUIST.

[Committee report and proposal from the Judicial Conference of the United States ad hoc Committee on Federal Habeas Corpus in Capital Cases, Aug. 23, 1989]

AD HOC COMMITTEE ON FEDERAL HABEAS CORPUS IN CAPITAL CASES COMMITTEE REPORT

I. INTRODUCTION

Studies of public opinion establish that an overwhelming majority of our citizens favors the death penalty for certain murders. The Supreme Court has made clear that the evolving standards of decency embodied in the Eighth Amendment permit imposition of this punishiment for some offenders. Of course, both the Court and society have recognized that, because it is irreversible, death is a unique punishment. This realization demands safeguards to ensure that capital punishment is administered with the utmost reliability and fairness.

But our present system of multi-layered state and federal appeal and collateral review has led to piecemeal and repetitious litigation, and years of delay between sentencing and a judicial resolution as to whether the sentence was permissible under the law. The resulting lack of finality undermines public confidence in our criminal justice system. Of course, any system of review entails some delay. It is not suggested that the delay needed for review of constitutional claims is inappropriate. But much of the delay inherent in the present system is not needed for fairness. Adding to the problem is the fact that prisoners often cannot obtain qualified counsel until execution is imminent. The resulting last-minute rushed litigation disserves inmates, and saps the resources of our judiciary.

To address these problems, Chief Justice William H. Rehnquist formed this Committee in June 1988. His charge to us was to inquire into "the necessity and desirability of legislation directed toward avoiding delay and the lack of finality" in capital cases in which the prisoner had or had been offered counsel. The Chief Justice appointed as members of this Committee Chief Judge Clark of the Fifth Circuit, Chief Judge Roney of the Eleventh Circuit, District Judge Hodges of Florida and District Judge Sanders of Texas. The States in the Fifth And Eleventh Circuits have by far the greatest numbers of prisoners subject to capital sentences, and each of these judges has had extensive experience with federal review of capital cases. The chairman of the Committee, retired Associate Justice Lewis F. Powell, Jr., served as Circuit Justice for the Eleventh Circuit while sitting on the Supreme Court. Professor Albert M. Pearson of the University of Georgia School of Law, who has experience representing defendants in capital cases, was the Reporter for the Committee. William R. Burchill, Jr., General Counsel of the Administrative Office of the U.S. Courts, served as Secretary.

The Committee met six times and considered with care the problems associated with collateral review of capital sentences. We invited written comments from a broad spectrum of interested parties and organizations, and received a number of helpful presentations. These included the views of state and federal prosecutors groups urging abolition of the death penalty, state executives and legislators, and criminal defense and public defender organizations. The responses contributed to our findings, which follow, and to the formulation of the legislation we propose.

II. FINDINGS

A. Unnecessary Delay and Repetition

The Committee identified serious problems with the present system of collateral review. These many be broadly characterized under the heading of unnecessary delay and repetition. The lack of coordination between the federal and state legal systems often results in inefficient and unnecessary steps in the course of litigation. Prisoners, for example, often spend significant time moving back and forth between the federal and state systems in the process of exhausting state remedies. Frequent litigation over motions for stays of execution is another example of an unnecessary step in the process. Under current procedures, a prisoner has no incentive to move the collateral review process forward until an execution date is set, and at this point additional litigation over a request for a stay of execution is inevitable.

The existing system also fosters piecemeal and repetitive litigation of claims. Because res judicata is inapplicable to federal habeas proceedings, many capital litigants return to federal court, with second—or even third and fourth—petitions for relief. Current rules governing abuse of the writ and successive petitions have not served to prevent these endless filings. Another example of piecemeal litigation is the fact that current rules allow at least three petitions for certiorari to the United States Supreme Court—after direct review, after state collateral proceedings, and after federal collateral proceedings.

Few would argue that the current state of dealth penalty administration is satisfactory. There are now approximately 2,200 convicted murderers on death row awaiting execution. Yet since the Supreme Court's 1972 Furman decision only 116 executions have taken place. The shortest of these judicial proceedings required two years and nine months to complete. The longest covered a period of 14 years and six months. The length of the average proceeding was eight years and two months. The Committee does not believe eight years are required for the appropriate habeas review of state criminal proceedings.

The Committee's analysis of cases from Alabama, Florida, Georgia, Mississippi, and Texas shows that 80% of the time spent in collateral litigation in death penalty cases occurs outside of state collateral proceedings. A table showing the average time periods and ratios in death penalty cases in these States is attached to this report.

The relatively small number of executions, as well as the delay in cases where an execution has occurred, makes clear that the present system of collateral review oper-

ates to frustrate the law of 37 States.[1] The collateral review process tends to be erratic and frequently is repetitious. The long separation of sentence and executive often hampers justice without improving the quality of adjudication.[2] This Committee believes that any serious reform proposal must address the problems of delay and repetitive litigation.

B. The Need for Counsel

A second serious problem with the current system is the pressing need for qualified counsel to represent inmates in collateral review. As the Supreme Court recently reaffirmed in Murray v. Giarratano, provision of counsel for criminal defendants is constitutionally required only for trial and direct appellate review. Because, as a practical matter, the focus of review in capital cases often shifts to collateral proceedings, the lack of adequate counsel creates severe problems. This situation is not likely to be remendied by the new provisions of the Anti-Drug Abuse Act of 1988 that require appointment of counsel in capital federal habeas corpus proceedings.

Capital inmates almost uniformly are indigent, and often illiterate or uneducated. Capital habeas litigation may be difficult and complex. Prisoners acting pro se rarely present promptly or properly exhaust their constitutional challenges in the state forum. This results in delayed or ineffective federal collateral procedures. The end result is often appointment of qualified counsel only when an execution is imminent. But at this stage, serious constitutional claims may have been waived. The belated entry of a lawyer, under severe time pressure, does not do enough to ensure fairness. In sum, the Committee believes that provision of competent counsel for prisoners under capital sentence throughout both state and federal collateral review is crucial to ensuring fairness and protecting the constitutional rights of capital litigants.

C. Last-Minute Litigation

Another disturbing aspect of the current system is that litigation of constitutional claims often comes only when prompted by the setting of an excution date. Judicial resources are expended as the prisoner must seek a stay of execution in order to present his claims. Justice may be ill-served by conducting judicial proceedings in capital cases under the pressure of an impending excution. In some cases last-minute habeas corps petitions have resulted from the unavailability of counsel at any earlier time. But in other cases attorneys appear to have intentionally delayed filing until time pressures were severe. In most cases, successive petitions are meritless, and we believe many are filed at the eleventh hour seeking nothing more than delay.

The foregoing types of abuses have no place in a rational system of justice. The merits of capital cases should be reviewed carefully and deliberately, and not under time pressure. This should be true both during state and federal collateral review. But once this review has occurred, absent extraordinary circumstances there should be no further last-minute litigation.

III. THE COMMITTEE PROPOSAL

In response to the problems described above, the Committee proposes new statutory procedures for federal habeas corpus review of capital sentences where counsel has been provided. Separate procedures for capital cases are appropriate in light of the special problems of capital litigation. The incentives facing the capital litigant are unique. The inmate under captial sentence, whose guilt frequently is never in question, has every incentive to delay the proceedings that must take place before that sentence is carried out. Such an inmate is avoiding the punishment prescribed by the law of the State. In contrast, prisoners serving an ordinary term of years have every incentive to bring their claims to resolution as soon as possible in order to gain relief. And they are serving their sentences while litigation takes place.

The Committee's proposal is aimed at achieving this goal: Capital cases should be subject to one complete and fair course of collateral review in the state and federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. When this review has concluded, litigation should end.

The specific operation of our proposed legislation[3] is described in notes following each statutory section. Some general comments are appropriate here. The proposal allows a State to bring capital litigation by its prisoners within the new statute by providing competent counsel for inmates on state collateral review. Participation in the proposal is thus optional with the States. Becuase it is optional, the proposal should cause minimal intrustion on state prerogatives. But for States that are concerned with delay in capital litigation, it is hoped that the procedural mechanisms we recommend will furnish an incentive to provide the counsel that are needed for fairness.

The statute provides for a six-month period within which the federal habeas petition must be filed. The filing period begins to run only on the appointment of counsel for the prisoner, or a refusal of the offer of counsel. The filing period also is tolled during the pendency of all state court proceedings. In view of the provision of counsel, the tolling provisions, and the fact that the exhaustion requirement mandates that the prisoner's federal petition present the same claims contained in the state petition, the six-month period ensures adequate time for the development and presentation of claims. A further extension of time is available for cases where good cause is shown. Although the time period may seem short in view of the fact that no time limit whatsoever exists at present, it should be noted in comparison that six months is far longer than the time provided for appeals in the state and federal systems, or for seeking certiorari review in the Supreme Court.

Importantly, the statute provides for an automatic stay of execution, which is to remain in place until federal habeas proceedings are completed, or until the prisoner has failed to file a petition within the allotted time. This automatic stay ensures that claims need not be evaluated under the time pressure of scheduled execution. It should substantially eliminate the rush litigation over stay motions that is troubling for both litigants and the judiciary.

Federal habeas proceedings under the proposal will encompass only claims that have been exhausted in state court. With the counsel provided by the statute, there should be no excuse for failure to raise claims in state court. The statute departs from current exhaustion practice by allowing for immediate presentation of new claims in federal court in extraordinary circumstances. In the event the entire counseled state and federal collateral process concludes without relief being granted, the statute includes new mechanisms to promote finality. Subsequent and successive federal habeas petitions can no longer be the basis of a stay of execution or grant of relief absent extraordinary circumstances and a colorable showing of factual innocence.

IV. CONCLUSION

The fundamental requirement of a criminal justice system is fairness. In habeas corpus proceedings fairness requires that a defendant be provided a searching and impartial examination of his claims. Fairness also requires that if a defendant's claims are found to be devoid of merit after such examination, society is rightfully entitled to have the penalty prescribed by law carried out without unreasonable delay.

Every capital defendant is now entitled to competent counsel at state trial and appeal and, under recent congressional enactment, in federal habeas corpus proceedings. The Committee's proposal seeks to fill a gap that now exists by encouraging the appointment of competent counsel also in state habeas or collateral proceedings. The proposal further assures that upon completion of state proceedings a defendant will have one opportunity to have his claims reviewed carefully by the federal courts. Thereafter, if no infirmity in the conviction has been found, judicial proceedings will be at an end, absent exceptional new developments.

The Committee believes that its proposal will go far to rectify the current chaos in capital litigation—periodic inactivity and last-minute frenzied activity, scheduling and rescheduling of execution dates—which diminished public confidence in the criminal justice system. In sum, adoption of this proposal will significantly enhance fairness in death penalty litigation.

SUMMARY OF DEATH PENALTY LITIGATION STATISTICS BASED ON 50 CASES FROM FLORIDA, TEXAS, ALABAMA, MISSISSIPPI, AND GEORGIA

Average times crime to:	*Months*
Conviction	13
End of state direct appeal	40
Direct certioriari review by U.S. Supreme Court	47
Execution	106
Valid sentence to:	
End of state direct appeals	27
Certiorari denied on direct review	34
Execution	93
Total time:	
State collateral	9
Federal collateral	38
All collateral	47
Percentage ratios:	
Sentence to cert. on direct/sentence to execution	36
Down time [1] sentence to execution	14
State collateral/sentence to execution	10

[1] Federal law also provides for capital punishment in certain cases. See P.L. 100-690, 102 Stat. 4387 (Anti-Drug Abuse Act of 1988) (murders committed in connection with narcotics offenses).

[2] Contrary to what may be assumed, the Constitution does not provide for federal habeas corpus review of state court decisions. The writ of habeas corpus available to state prisoners is not that mentioned in the Constitution. It has evolved from a statute enacted by Congress in 1867, now codified at 28 U.S. § 2254.

[3] Our proposal would add a new Subchapter B dealing with Capital Cases. Sections 2241-2255 of Subchapter A will not be changed. We refer to these changes simply as a proposed "statute" or as a "proposal."

Average times crime to:	*Months*
Federal collateral/sentence to execution	40
Total collateral/sentence to execution	50
State collateral/total collateral	20
Federal collateral/total collateral	80

[1] Time when no proceedings are pending in any court.

STATUTORY PROPOSAL—CHAPTER 153. HABEAS CORPUS

Subchapter A. General Provisions [a proposed redesignation]

[Sections 2241-2255 would not be changed.]

Subchapter B. Capital Cases: Special Procedures [new]

Section 2256. Prisoners in state custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.—

(a) This subchapter shall apply to cases arising under section 2254 brought by prisoners in state custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

(b) This subchapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in state post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for state law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all state prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

(d) No counsel appointed pursuant to subsections (b) and (c) to represent a state prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

(e) The ineffectiveness or incompetence of counsel during state or federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this subchapter. This limitation shall not preclude the appointment of different counsel at any phase of state or federal post-conviction proceedings.

Comment: Subsection (a) defines the scope of what would be new subchapter B, which establishes rules and procedures that apply solely to section 2254 cases involving prisoners under capital sentence. The aim of this subchapter is to provide a mechanism for the post-conviction litigation of capital cases that will enhance procedural safeguards for the prisoner and yet is less time consuming and less cumbersome from the viewpoint of the jurisdiction seeking to enforce its death penalty. There is no intent to alter the substantive scope of federal habeas corpus review under section 2254.

Subchapter B offers an alternative to the present process of post-conviction review in capital cases. If it is applicable, it would in all but the most unusual of capital cases limit each prisoner to a single opportunity for federal habeas corpus review under section 2254. This limitation would advance the state interest in the finality of criminal convictions and capital sentences. But to avail itself of subchapter B's more structured habeas corpus review procedures, a State would have to establish a system for the appointment and compensation of competent counsel throughout all stages of state post conviction review. The purpose of this mechanism is to assure that collateral review will be fair, thorough, and the product of capable and committed advocacy. While subchapter B attempts to strike a realistic balance between the values of judicial efficiency and procedural fairness in the context of a federal system, it does not impose a solution on the States. Each State must assess the utility of subchapter B for itself. Unless a State takes the affirmative steps required in sections 2256(b) and (c), its litigation of capital cases under section 2254 will be governed by the statutory and court rules that presently apply to all federal habeas corpus cases.

Central to efficacy of this scheme is the development of standards governing the competency of counsel chosen to serve in this specialized and demanding area of litigation. This mechanism is to be established by state statute or by rule of the state court of last resort. The Committee believes that it is more consistent with the federal-state balance to give the States wide latitude to establish a mechanism that complies with subsection (b). The final judgment as to the adequancy of any system for the appointment of counsel under subsection (b), however, rests ultimately with the federal judiciary. If prisoners under capital sentence in a particular State doubt that a State's mechanism for appointing counsel comports with subsection (b), the adequacy of the system—as opposed to the competency of particular counsel—can be settled through litigation.

If the requirements of subsection (b) are satisfied, the state mechanism must offer counsel to all state prisoners under capital sentence. In addition, it must provide for the entry of an appropriate judicial order based on the state prisoner's response to the offer of counsel. Judicial control of this process is necessary to establish a clear point in time to determine the applicability of sections 2257 and 2258. It is also necessary to assure that a full record exists showing which state prisoners have appointed counsel and which do not.

Under subsection (c), all indigent state prisoners under capital sentence would be entitled to counsel in state post-conviction proceedings as a matter of right. If an indigent prisoner is not competent to decide whether to accept or decline the State's offer, the State must appoint counsel in any event. If a prisoner is not indigent, which would be the rare case, he would not be entitled to the appointment of counsel even if he accepted the State's offer. Finally, in some instances, a prisoner might reject the offer of counsel. This rejection would become effective and binding only after a judicial inquiry into the prisoner's understanding of the legal consequences of his decision.

Subsection (d) establishes a rule requiring the appointment of new counsel at the state post-conviction phase of capital litigation. The primary reason for the rule is that during the post-conviction review, ineffective assistance of trial and appellate counsel is frequently a major issue. It would be unrealistic to expect a capital defendant's trial or appellate counsel to raise a vigorous challenge to his own effectiveness. A secondary reason is that trial and appellate counsel in death penalty cases serve under great pressure and often work themselves to the point of emotional and physical exhaustion. They are understandably less able to undertake a fresh and dispassionate consideration of the issues raised or possibly overlooked at trial and on direct appeal. The appointment of new counsel at the state habeas phase will do as much as can be done to overcome these difficulties. The Committee, however, did not believe the rule should be absolute. In some cases, the prisoner under capital sentence may have such trust and confidence in his trial or appellate counsel that he would desire the attorney-client relationship to continue during state post-conviction review. Subsection (d) would permit, though not require, continued representation if the prisoner and his counsel expressly make a request to the appointing authority established by the State.

Subsection (e) provides that the ineffectiveness or incompetence of counsel during state or federal post-conviction review in a capital case is not a ground for relief in section 2254 proceedings. This rule reflects settled constitutional doctrine which limits ineffective assistance of counsel challenges to those criminal proceedings to which the Sixth Amendment right to counsel attaches. *Murray* v. *Giaratano*, 109 S. Ct. 2766 (1989), *Pennsylvania* v. *Finley*, 481 U.S. 551 (1987). The Committee recognizes that the competence of counsel during all stages of state and federal post-conviction review is of the utmost importance in capital cases. However, as far as federal review in a proceeding under section 2254 is concerned, it believes that the focus should be on the performance of a capital defendant's trial and appellate counsel. The provision of counsel under the new statute therefore does not involve the creation of any potential claim of ineffective assistance of counsel in collateral review. The effectiveness of state and federal post-conviction counsel is a matter that can and must be dealt with in the appointment process. Only one who has the clear ability and willingness to handle capital cases should be appointed under subsections (b) and (c). If at any time during state or federal post-conviction review it appears that appointed counsel is unable to discharge his obligations in a timely and competent manner, the remedy is for the court to appoint a replacement, and to permit post-conviction review to go forward.

Section 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.—

(a) Upon the entry in the appropriate state court of record of an order pursuant to section 2256(c), a warrant or order setting an execution date for a state prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254. The application must recite that the State has invoked the post-conviction review procedures of this subchapter and that the scheduled execution is subject to stay.

(b) A stay of execution granted pursuant to subsection (a) shall expire if:

(1) A state prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258; or

(2) Upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

(3) Before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a state prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

(c) If one of the conditions in subsection (b) has occurred, no federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

(1) the basis for the stay and request for relief is a claim not previously presented in the state or federal courts;

(2) the failure to raise the claim is (A) the result of state action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for state or federal post-conviction review; and

(3) The facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed.

Comment: This subchapter rests on the assumption that every state prisoner under capital sentence should have one opportunity for full state and federal post-conviction review before being subject to execution. Although this appears to have been the practice in capital cases since *Furman* v. *Georgia*, 408 U.S. 238 (1972), it has never been formally recognized as such. Many state prisoners under capital sentence have struggled to secure a stay of execution—often against the vigorous opposition of the State—before availing themselves of even one chance to pursue state and federal post-conviction review. Stay of execution litigation often has been subject to tight deadlines, and places unrealistic demands on judges, lawyers, and the prisoner.

If applicable, section 2257 would eliminate stay of execution litigation during a state prisoner's first request for post-conviction relief. It provides for a mandatory stay of execution in capital cases at any time following the appointment of counsel pursuant to section 2256(c). If an execution date has been set, the prisoner can obtain a stay as a matter of right simply by making application to any federal court that would have jurisdiction over the case in a proceeding brought under section 2254. In practice, however, even this step is not likely to be necessary. If a State takes the steps required in section 2256 to bring its capital litigation under this subchapter, there will be no reason to set an execution date until the completion of state and federal post-conviction review. At that juncture, the federal courts would have no authority to stay executions except under the very limited circumstances identified in section 2257(c).

Subsection (b) establishes the duration of a stay of execution issued under this subchapter. In effect, it provides that a stay of execution issued under subsection (a) will remain in effect as long as state and federal post-conviction review in a capital case is being actively pursued by the state prisoner.

The relationship between subsection (b)(1) and section 2258 is particularly important. Under subsection (b)(1), a stay of execution remains in force as long as the state prisoner files a section 2254 petition in federal court within the 180-day period set forth in section 2258. It is important to emphasize here that the object of the 180 days period established in section 2258—which includes the right to apply for a 60-day extension—is not to produce default. Rather it is one of a series of provisions in this subchapter designed to stimulate the orderly and expeditious consideration on the merits of all federal issues arising in capital cases.

If a state prisoner files a petition under section 2254 within the time period set forth in section 2258, subsection (b)(2) extends the right to a stay of execution to include the entire period that the case is pending before the district court, the court of appeals, and the Supreme Court if a petition for certiorari is filed. The right to a stay would expire after the opportunity for Supreme Court review has passed or after the Supreme Court has considered a petition for certiorari and has denied the petition or disposed of the case without overturning the capital sentence. The Committee assumes that in capital cases the state prisoner will want to pursue every opportunity for federal post-conviction review open to him, including Supreme Court review. But once this review process comes to its conclusion with a reversal of the capital sentence, it is the Committee's belief that federal review should end.

In subsection (b)(3), the authority of a federal court to stay the execution of a state prisoner expires if there is a waiver of the right to pursue habeas corpus review under section 2254. To eliminate doubt about the validity of the waiver, subsection (b)(3) requires that the prisoner announce the decision before a court of competent jurisdiction and in the presence of his counsel. It also requires the court—which can be state or federal—to advise the prisoner of the consequences of the waiver decision.

After the occurrence of one of the conditions resulting in the expiration of the right to a mandatory stay of execution under subsection (b)(2), federal review in capital cases pursuant to section 2254 is extremely limited. Subsection (c) would thereafter permit a stay of execution and the grant of relief in a capital case only if: (1) the claim has never been raised in state or federal court previously; (2) there is a valid excuse for not discovering and raising the claim during the prisoner's initial opportunity for state and federal post-conviction review; and (3) the facts underlying the claim raise a serious doubt about the prisoner's guilt of the offense or offenses for which the death penalty was imposed.

The third of these conditions is clearly the most important. In the Committee's view, if there is any doubt about the sentencing phase of a capital case, it should be raised during a state prisoner's initial attempt to obtain post-conviction review. Often factual guilt is not seriously in dispute. Both the prisoner and his counsel have every incentive to ask whether all relevant informaton in mitigation of punishment was presented and whether the sentencing phase of the trial was otherwise conducted in a constitutionally fair manner. Given the clear incentive to do this, the Committee does not believe that the federal courts should have to consider a second petition under section 2254 which challenges only the sentencing phase in a capital case. As subsection (c) reflects, the only appropriate exception is when the new claim goes to the underlying guilt or innocence of the state prisoner under capital sentence.

Section 2258. Filing of habeas corpus petition; time requirements; tolling rules.—Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate state court of record of an order issued in compliance with section 2256(c). The time requirements established by this section shall be tolled:

(a) From the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a state prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for state law purposes.

(b) During any period in which a state prisoner under capital sentence has a properly filed request for post-conviction review pending before a state court of competent jurisdiction; if all state filing rules are met in a timely manner, this period shall run continuously from the date that the state prisoner initially files for post-conviction review until final disposition of the case by the highest court of the State; provided, however, the tolling rule established by this subsection does not apply during the pendency of a petition for certiorari before the Supreme Court following such state post-conviction review.

(c) During an additional period not to exceed 60 days, if counsel for the state prisoner: (1) moves for an extension of time in the federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 and (2) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180 day period established by this section.

Comment: Section 2258 requires a state prisoner under capital sentence to file a section 2254 petition within 180 days from the entry of an order under section 2256(c). In almost all cases, this will be an order appointing counsel to initiate state post-conviction review. But even if a state prisoner is not entitled to the appointment of counsel or simply rejects the State's officer of appointment, the 180 day period applies to all capital cases if the State is subject to this subchapter.

In death penalty jurisdictions, the sole incentive for a prisoner initiate post-conviction review is either the scheduling of an execution date or the threat to schedule one. The disadvantages to this method of administering capital litigation persuaded the Committee to recommend the mandatory stay of execution provisions in section 2257. But it is clear that there must be some substitute mechanism to cause understandably reluctant state prisoners to seek post-conviction review when such action may remove the only obstacle preventing the State from carrying out the death sentence.

The entry of an order under section 2256(c) is such a substitute. It begins the running of the filing period in capital litigation. Unless the state prisoner actively litigates his case after his conviction and cap-

ital sentence have become final on direct appeal, he risks losing the right to file a section 2254 petition in federal court. Thus, the 180 day filing requirement serves the state interest in promoting finality in capital cases. At the same time, this subchapter serves to advance that interest only if the State provides prisoners under capital sentence with the means—competent counsel at state expense—to assert their legal rights in state post-conviction proceedings. As stressed earlier, the interaction of sections 2256, 2257 and 2258 is designed not to produce finality through procedural default but rather through a structured process of post-conviction litigation that brings all potentially meritorious claims to the attention of the state and federal courts before the imposition of the death penalty becomes legally permissible.

There are several important tolling rules in section 2258. With one exception the filing period does not run after the filing of a section 2256(c) order as long as a capital case is pending for consideration before a court of competent jurisdiction. The policy underlying section 2258 is to encourage litigants to initiate the post-conviction review process and to keep it moving from stage to stage. If delay in the litigation process is due to slow judicial consideration of death penalty litigation, that time obviously should not be and is not counted in computing the 180 day period under section 2258.

Under section 2258(a), the 180 day period is tolled when a state prisoner files a petition for certiorari in the Supreme Court after affirmance of his capital sentence on direct appeal to the state court of last resort. It is extremely important to recognize, as section 2258(b) makes clear, that there is no comparable tolling rule to permit the filing of certiorari petitions after state post-conviction review. The Committee believes that multiple opportunities for Supreme Court review are not essential to fairness in the consideration of capital cases. In this vein, it would point out that of the 106 capital cases in which the Supreme Court has granted certiorari since 1972, only 2 came to the Court from state post-conviction review. Elimination of this step does not result in disadvantage to the state prisoner, since all issues raised in state post-conviction review can be carried forward in a section 2254 petition and ultimately presented to the Supreme Court.

The filing period is also tolled under section 2258(b) during any period that a capital case is pending for post-conviction review before a state court of competent jurisdiction. After all state post-conviction review has been completed, including review by the court of last resort, the 180 day period begins to run again if the capital sentence is undisturbed. The next step for the state prisoner is to file a section 2254 petition in federal district court. If counsel for the state prisoner properly discharges his responsibilities, default under the 180 day rule will not occur.

In the event that counsel experiences some difficulty in filing a section 2254 petition on time, subsection (c) authorizes a 60 day extension upon a showing of good cause in the federal district that would have jurisdiction over the section 2254 petition when ultimately filed.

Section 2259. Evidentiary hearings; scope of federal review; district court adjudication.—

(a) Whenever a state prisoner under a capital sentence files a petition for habeas corpus relief to which this subchapter applies, the district court shall:

(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the state courts except when the prisoner can show that the failure to raise or develop a claim in the state courts is (A) the result of state action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for state post-conviction review; and

(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

Comment: Subsection (a) defines the scope of federal review in capital cases to which this subchapter applies. It authorizes the district court to consider only those federal claims actually raised and litigated in the state courts. If the section 2254 petition presents no new claims, the district court will proceed to rule on the merits of the claims properly before it as long as the state evidentiary record and findings of fact are adequate. If they are deficient in any respect recognized under section 2254(d), the district court must complete the evidentiary record before addressing the issues on the merits. To this extent, subsection (a) does not depart from existing law and practice.

If a petitioner asserts a claim not previously presented to the state courts, the district court can consider the claim only if one of the three exceptions to the general rule listed in subsection (a)(1) is applicable. In that case, the district court must conduct an evidentiary hearing necessary to a full and fair consideration of the claim and in accordance with subsection (b) adjudicate it on the merits along with all other issues presented in the section 2254 petition.

As far as new or "unexhausted" claims are concerned, section 2259 represents a change in the exhaustion doctrine as articulated in *Rose* v. *Lundy*, 455 U. S. 509 (1982). Section 2259 bars such claims from consideration unless one of the subsection (a)(1) exceptions is applicable. The prisoner cannot return to state court to exhaust even if he would like to do so. On the other hand, if a subsection (a)(1) exception is applicable, the district court is directed to conduct an evidentiary hearing and to rule on the new claim without first exhausting state remedies as *Rose* v. *Lundy* now requires. Because of the existence of state procedural default rules, exhaustion is futile in the great majority of cases. It serves the state interest of comity in theory, but in practice it results in delay and undermines the state interest in the finality of its criminal convictions. The Committee believes that the States would prefer to see post-conviction litigation go forward in capital cases, even if that entails a minor subordination of their interest in comity as it is expressed in the exhaustion doctrine.

Section 2260. Certificate of probable cause inapplicable.—The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this subchapter except when a second or successive petition is filed.

Comment: The premise of this subchapter is that a state prisoner under capital sentence is entitled to one opportunity for state and federal post-conviction review before being subject to execution. Consistent with this premise, the Committee believes that in a section 2254 proceeding, a state prisoner should be allowed to appeal from the district court to the court of appeals as a matter of right. With one exception, section 2260 eliminates the certificate of probable cause requirement in cases to which this subchapter is applicable. The exception arises when a second or successive petition is filed. Even if such a petition is authorized under the provisions of section 2257(c), the right to appeal in that instance will be governed by section 2253 rather than section 2260.

By Ms. MIKULSKI:

S. 1761. A bill to establish a national center for information and technical assistance relating to all types of family resource and support programs, and for other purposes; to the Committee on Labor and Human Resources.

FAMILY RESOURCE ACT

● Ms. MIKULSKI. Mr. President, I am very pleased to introduce today a significant bill aimed at informing the Nation, and the world, about the good things being done for American families by American families. Mr. President, we all know too well the statistics about how the American family has changed over the last few decades.

Hardly a week goes by without the media focusing on how families are changing in our country. But we rarely hear about how our families are successfully adapting to the changes besetting them and their communities.

Well, in fact families have been in the forefront of developing services and programs to help themselves and other families to alleviate the stress and isolation they often face. Families in communities all across the country have increasingly come together to create community-based parent education and support services. These programs constitute what has come to be commonly referred to as the "family resource and support" movement.

It is the family resource and support movement which I am here to tell you about today. More importantly, I am today introducing a bill aimed at getting the word out around the country about this movement. I should note here that I am especially pleased that families and community and State leaders in my home State of Maryland are in the vanguard in this exciting movement.

Let's step back for a moment, first, and look at why such a movement has developed in this country. The families in our country are changing. These changes include the continually increasing numbers of mothers working outside the home; changes in family structure brought about by divorce, remarriage, and single parenthood, especially among teenagers; growing geographic mobility of fami-

lies; and spiralling poverty among children, particularly in female-headed households.

The result of these changes often is isolation and frustration within families, placing them at risk of a range of social problems. Traditional social institutions, both public and private, have been slow to respond to the changes in family life, to the needs within families, and to their potentially costly and long-term repercussions. For the most part, the delivery of social services to families in the United States continues to operate on a casualty-based, crisis-driven system. Resources are primarily devoted to treating existing, well-defined problems rather than building the capacity of families to avoid problems or to deal effectively with them at an early stage.

Virtually no supportive services are available to children or parents in the critical years before a child enters school, even though research and experience indicate strongly that much of a child's important physical, social, and intellectual development occurs in these early years. This is the period in which positive support to parents in the form of parenting education, child development information, peer support, and links to other community services can increase parents' confidence and competence in their job of being parents. Their children in turn benefit from improved child rearing practices and a more secure and nurturing home environment.

In response to this unmet need for supportive services, families in communities across the country have organized family resource and support programs to help themselves. These programs are significantly and deliberately different from traditional social service programs. Rather than focusing on a limited and carefully circumscribed group of families who are in the midst of severe problems, family resource and support programs reach out to all families in the community, with the goal of helping them function better so as to enhance their quality of life and avoid or lessen problems which might develop later.

Family resource and support programs exist in a range of settings, including community centers, schools, the workplace, or wherever it is convenient for families to meet. In some cases, traditional social service agencies—child care centers, community mental health agencies, Head Start programs, or health clinics—have added family resource and support components to their existing program.

Family resource and support programs also differ fundamentally from traditional social service programs in their interaction with participants. The services they offer begin with and build on a family's strengths, seeking to empower families to meet their own needs. As a result, parents are closely involved in setting the direction of a family resource and support program and work as partners with program staff.

Several State government agencies—including my home State of Maryland's Department of Human Resources—have recognized the potential of family resource and support programs for assisting parents at an early point, thereby avoiding family crises and problems which State agencies would later have to address.

These family support centers are prevention oriented drop in programs that serve young parents and their children from birth to age three. All of the centers target teen parents because they, and their children, are most vulnerable to the negative consequences of early childbearing. The centers' overriding objective is to interrupt the cycle of poverty among young parents and their children by preventing additional pregnancies, encouraging, and—whenever possible—enabling them to complete their education, acquire job skills, and increase their parenting competencies and confidence. To achieve the center's objectives, participants and staff plan a combination of structured and unstructured activities. At the core of all the services is a focus on enhancing child development.

Mr. President, there is no better investment we could make with our national resources. In order to assure the development of effective family resource and support programs within communities wanting to develop such programs, the bill I am introducing today would create a national center whose primary goal is to promote the establishment of model family resource and support programs around the country. The national center would promote the development of family resource and support programs in two key ways. First, the national center would establish a clearinghouse to systemically identify, collect and disseminate information on all types of family resource and support programs around the country. I want to point out here that a seemingly small but essential function of this clearinghouse is to inform individual parents either of existing family resource and support programs within their communities or to provide training and technical assistance to them in setting up such a program in their community if one does not already exist.

The second important task of the national center is to identify different types of model family resource and support programs. The purpose of this task is to work with the model program administrators to develop training and technical assistance materials and seminars for use by other communities in setting up such model programs.

Finally, this bill would also mandate the conduct of evaluations of the various types of family resource and support programs. Evaluations of these programs are critical for informing both practitioners and policymakers about which types of programs are most effective in order to direct future investments in these exciting programs.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Resource Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on incomes below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently live below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) PURPOSE.—It is the purpose of this Act to—

(1) stimulate the development and expansion of family resource and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to assure that their children enter school prepared and ready to learn.

SEC. 3. DEFINITION.

As used in this Act, the term "family resource and support programs" means community-based services that offer sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

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(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

SEC. 4. ESTABLISHMENT OF NATIONAL CENTER ON FAMILY RESOURCE AND SUPPORT PROGRAMS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Office of Human Development Services, shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resource and support programs.

(b) FUNCTIONS.—The national center established under subsection (a) shall serve as a national information, training, technical assistance, and material development souces for family resource and support progams. Such center shall—

(1) establish a clearinghouse to develop and maintain a data base on all types of family resource and support programs;

(2) develop and maintain a system for disseminating information of all types of family resource and support programs and on the state of family resource and support program development, including information concerning the most effective model programs;

(3) develop and sponsor variety of training institutes and curricula for family resource and support program staff.

(4) identify several model programs representing the various types of family resource and support program to develop technical assistance materials and activities to assist other agencies in establishing family resource and support program; and

(5) develop State-wide networks of family resource and support programs for the purposes of sharing and disseminating information.

SEC. 5. EVALUTION.

The Secretary of Health and Human Services shall, through grants or contracts to awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resources and support programs.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF CENTER.—To carry out section 4, there are authorized to be appropriated $2,300,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.

(b) EVALUATION.—To carry out section 5, there are authorized to be appropriated $700,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.●

By Mr. COCHRAN (for himself, Mr. LUGAR, Mr. ROBB, Mr. DOLE, Mr. MATSUNAGA, Mr. ROTH, Mr. REID, Mr. SHELBY, Mr. CONRAD, Mr. DASCHLE, Mr. BENTSEN, Mr. LAUTENBERG, Mr. INOUYE, Mr. GORE, Mr. MURKOWSKI, Mr. CHAFEE, Mr. DIXON, Mr. STEVENS, Mr. LIEBERMAN, Mr. COHEN, Mr. BOREN, Mr. GRAMM, and Mr. BUMPERS):

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 30, 1989, as "National Military Families Recognition Day"; to the Committee on the Judiciary.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

● Mr. COCHRAN. Mr. President, I am introducing legislation to designate November 20, 1989, as "National Military Families Recognition Day."

Military families deserve special recognition for the sacrifices and hardships which affect each family member. Periodic and extended separations from their military members, whether it be husband, wife, or child, is the norm. Military personnel are reassigned every 2 years. This means that the families are continually moving, thereby limiting job opportunities for spouses and limiting their ability to establish roots in any community. Military children must readjust to new school systems and new surroundings only to be uprooted once again.

As of March 1989, nearly 1.2 million active duty personnel were married out of a military force of 2 million. Dependents now total approximately 3 million. From these numbers, it is obvious to see what a significant impact these families have on our Nation's defense.

This resolution would set aside one special day to pay tribute to these military families and the contributions that they make toward our Nation's defense. We owe a special debt of gratitude to these supportive military families and the role that they play in maintaining a happy, healthy environment for our service members at home and abroad. I applaud their dedication.

Mr. President, I urge my colleagues to join me in this effort and to cosponsor my joint resolution designating November 20, 1989, as "National Military Families Recognition Day."●

ADDITIONAL COSPONSORS

S. 346

At the request of Mr. WIRTH, the names of the Senator from Nebraska [Mr. EXON] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act and for other purposes.

S. 511

At the request of Mr. INOUYE, the name of the Senator from Missouri [Mr. DANFORTH] was added as cosponsor of S. 511, a bill to recognize the organization known as the National Academies of Practice.

S. 583

At the request of Mr. FOWLER, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as cosponsor of S. 583, a bill to establish national standards for the manufacture and labeling of certain plumbing products in order to conserve and protect water resources and for other purposes

S. 856

At the request of Mr. MURKOWSKI, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 856, a bill to amend title 13, United States Code and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States.

S. 1400

At the request of Mr. INOUYE, the name of the Senator from Ohio [Mr. GLENN] was added as cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1430

At the request of Mr. KENNEDY, the name of the Senator from North Carolina [Mr. SANFORD] was added as cosponsor of S. 1430, a bill to enhance national and community service, and for other purposes.

S. 1560

At the request of Mr. BURNS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as cosponsor of S. 1560, a bill to suspend the enforcement of certain regulations ralating to underground storage tanks and for other purposes.

S. 1682

At the request of Mr. BENTSEN, the name of the Senator from Michigan [Mr. LEVIN] was added as cosponsor of S. 1682, a bill to amend the Internal Revenue Code of 1986 to encourage savings by increasing the amount of deductible contributions which may be made to an individual retirement account, to allow distributions from individual retirement accounts to be used without penalty to purchase a first home or to pay for higher education expenses, and for other purposes.

SENATE JOINT RESOLUTION 205

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATOR JOINT RESOLUTION 205

At the request of Mr. GLENN, his name was added as a cosponsor of Senate Joint Resolution 205, a joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

SENATE JOINT RESOLUTION 212

At the request of Mr. DOLE, the name of the Senator from Missouri [Mr. DANFORTH] was added as cosponsor of Senate Joint Resolution 212, a joint resolution designating April 24, 1990, as "National Day of Remembrance of the Seventy-fifth Anniversary of the Armenian Genocide of 1915 to 1923."

At the request of Mr. LAUTENBERG, his name was added as cosponsor of Senate Joint Resolution 212, supra.

At the request of Mr. GRAHAM, his name was withdrawn as a cosponsor of Senate Joint Resolution 212, supra.

SENATE CONCURRENT RESOLUTION 76—WELCOMING MEMBERS OF THE CANADIAN PARLIAMENT

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 76

Whereas the United States and Canada share a contiguous border and equally contiguous history, having been explored and settled as European colonies, having established their national independence and self-government, and having coexisted peacefully since the founding of the Dominion of Canada in 1867;

Whereas the United States and Canada share a mutual heritage of democracy, and have allied themselves to preserve and defend their liberty and security during two world wars and other international conflicts;

Whereas the Congress of the United States and the Canadian Parliament, as legislative bodies, share an unwavering commitment to representative government under our respective constitutions;

Whereas the Congress of the United States and the Canadian Parliament for the past three decades have established and maintained regular contact and cooperation through meetings of the Canada-United States Interparliamentary Group; and

Whereas the Canadian Embassy in Washington has recently moved to a handsome new building at the base of Capitol Hill, as a new neighbor to the United States Capitol: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States welcomes and salutes the Speaker of the Senate, the Speaker of the House of Commons, and other members of the Canadian Parliament on their visit to the Capitol, and reaffirms the strong ties of friendship and mutual support between our national legislatures.

AMENDMENTS SUBMITTED

ASSISTANCE FOR FREE AND FAIR ELECTIONS IN NICARAGUA

ADAMS (AND HARKIN) AMENDMENT NO. 1005

(Ordered to be held at the desk.)

Mr. ADAMS (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill (H.R. 3385) to provide assistant for free and fair elections in Nicaragua, as follows:

On page 1, line 7, strike all after "Public Law 101-14," and insert in lieu thereof the following: "shall be available only for the purposes authorized by Section 5111(a) of the Drug-Free Schools and Communities Act of 1986.

SEC. 2. ACTIVITIES FOR LATCHKEY CHILDREN.

(a) Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended by inserting at the end thereof the following new subsection:

"(c)(1) Funds received under section 5124(a) may be used to implement programs for latchkey children involving school and community activities before and after school, on weekends, and during summer months, which may include—

"(A) athletic activities;

"(B) community service activities;

"(C) activities involving arts, crafts, and other programs to stimulate creativity among latchkey children; and

"(D) educational instruction in subjects otherwise not available during the normal school day such as foreign languages or programs designed to improve a student's ability to resist involvement with substance abuse.

"(2) For purposes of this section, the term 'latchkey children' means elementary and secondary school age children who are unsupervised by an adult for more than 11 hours per week before school or after school, or on a regular basis on weekends or during the summer when school is not in session."

HARKIN AMENDMENTS NOS. 1006 THROUGH 1010

(Ordered to lie on the table.)

Mr. HARKIN submitted five amendments intended to be proposed by him to the bill H.R. 3385, supra, as follows:

AMENDMENT NO. 1006

At the appropriate place in the bill, add the following: "*Provided further,* That no cash assistance made available by this Act shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidate".

AMENDMENT NO. 1007

At the appropriate place in the bill, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua: *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to any agency, instrumentality or official of the Government of Nicaragua".

AMENDMENT NO. 1008

At the appropriate place in the bill, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua".

AMENDMENT NO. 1009

At the appropriate place in the bill, add the following: ": *Provided further,* That notwithstanding any other provision of this Act, no funds made available by this Act shall be made available, directly or indirectly, to the Government of Nicaragua or to any agency, instrumentality or official of such Government".

AMENDMENT NO. 1010

On page 1, beginning on line 4, strike out "up to $3,000,000" and all that follows through "1990" and insert in lieu thereof the following: "up to $2,500,000 of the funds made available by section 9 of Public Law 100-276 may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $1,000,000 for election support and monitoring to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy; and (2) up to $1,500,000 for election support and monitoring of which up to $400,000 shall be made available to ONUVEN, the United Nations Election Monitoring Team in Nicaragua, and of which up to $400,000 shall be made available for the Center for Training and Election Promotion, and of which up to $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which up to $300,000 shall be made available for the Center for Democracy: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That no cash assistance shall be provided by the National Endowment for Democracy or its grantees to any political party, alliance or candidates: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990".

DISTRICT OF COLUMBIA APPROPRIATIONS, 1990

MIKULSKI (AND OTHERS) AMENDMENT NO. 1011

Mr. MITCHELL (for Ms. MIKULSKI) (for herself, Mr. SARBANES, Mr. WARNER, and Mr. ROBB) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 15 to the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, as follows:

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over an employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

(2) EDUCATIONAL SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Service.

"(B) The Boards shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WIRTH. Mr. President, I would like to announce for the public that hearings have been scheduled before the full Committee on Energy and Natural Resources.

The hearings will take place Thursday, October 26, at 9:30 a.m. and Tuesday, November 7, 1989, at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearings is to receive testimony on the provisions relating to the Public Utility Regulatory Act [PURPA] contained in subtitle B of title III of S. 324, the National Energy Policy Act of 1989. The first day of hearings will consist of testimony from administration witnesses and the second day of hearings will focus on testimony from utilities, public utility commissions, economists, and trade associations.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the full committee, SD-306, Washington, DC 20510-6150.

For further information, please contact Leslie Black, professional staff member, at (202) 224-9607 or David Harwood, Senator WITH's office, at (202) 224-5852.

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources to receive testimony on amendment No. 267 to S. 406, the Competitive Wholesale Electric Generation Act of 1989.

The hearing will take place on November 9, 1989, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the committee, SD-306, Washington, DC 20510.

For further information, please contact William B. Conway, Jr., senior counsel at (202) 224-7149.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 16, 1989, to hold a hearing on and to consider the nomination of Sidney L. Jones to be an Assistant Secretary of the Treasury for Economic Policy.

ADDITIONAL STATEMENTS

WILLISTON, VT, VOLUNTEER FIRE DEPARTMENT

● Mr. LEAHY. Mr. President, I read this wonderful article about the Williston, VT, Volunteer Fire Department that appeared in one of our local newspapers. This is one of many volunteer fire departments throughout the State of Vermont, and is the backbone of what community spirit in small-town America is all about. I am extremely proud of the men and women who take the time to keep this spirit alive and commend them on a job well done.

I ask that the article from the Burlington Free Press be printed in the RECORD.

The article follows:

ANSWERING THE CALL: WILLISTON VOLUNTEERS SAVE LIFE DURING CELEBRATION

(By Mai Maki)

The volunteers at the Williston Fire Department thought they were getting Saturday night off to celebrate their 40th anniversary at the Sheridan Inn in South Burlington.

But before the evening was over they were back in action, doing what they've been doing for four decades, saving a life.

Just before the firefighters' dinner celebration broke up about 8:30 p.m., a woman stumbled into the lobby of the Sheridan asking the desk clerk to call her an ambulance. She collapsed shortly after telling workers there that she had taken an overdose of pills.

The firefighters, trained as emergency medical technicians, forced air into her lungs and revived her. She was then taken to Medical Center Hospital of Vermont by the University of Vermont Rescue, where she was being examined late Saturday night.

Earlier in the night, four or five of the firefighters' scanners had crackled and squawked, calling on the Williston Fire Department to put out a chimney fire on Country Crossing, but the firefighters would not let their celebration be interrupted. They'd arranged for the Richmond Fire Department to mind the shop in their absence.

From 5:30 to 8:30 p.m. the Williston crew had a brief rest from the 180 calls a year they answer. They spent the time swapping stories and memories.

The department was founded in 1949 by two Williston residents who raised $18,000 for a fire truck and twice asked the town to accept their service—the town refused the first time around. Since then it has grown to include 25 members and more than half a dozen trucks.

In the interim, the Williston department has seen many changes, but has remained the same in many ways.

For instance, it has remained under the command of co-founder Howard Lunderville.

"The camaraderie is still there, always the same, but the learning and teaching and the techniques have changed and advanced so much," Williston Fire Department Sgt. Mike Murray said.

Robert Kilpeck, president of the Vermont Firefighters' Association, said the amount of training a firefighter must undergo has increased dramatically over the past few decades—from one general course to five courses.

"You just can't go in and fight them anymore the way you used to. Construction is more complicated and with all of these synthetic materials, you have to learn a lot more special techniques," Murray said.

Gov. Madeleine Kunin attended the celebration to thank the fire department "on behalf of all of the people in Vermont that depend on volunteer firefighters."

"You really represent the best in your field. Forty years isn't bad," she said, " . . . You are only volunteers in that you give your time, but you are very professional in every other aspect and in the level of your service."

Chief Donald Sutton of St. Michael's Fire and Rescue, vice president of the Vermont Firefighters' Association, praised the department for its service to Williston, saying it was in the spirit of former U.S. President John F. Kennedy's call to community service.

"You are the 10 percent of your town who are the people who care. We in the fire and rescue service are very special breed," he said.●

SOVIET FAMILY WISHES TO EMIGRATE

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of my colleagues the seemingly endless plight of a family in the Soviet Union which yearns to leave that country. Today, Norbert and Natalia Magazanik awoke and began the 12th year of their continuing battle to receive permission from Soviet authorities to be allowed to emigrate from the Soviet Union.

During recent years, the Magazanik family had looked with renewed hopes as Mikhail Gorbachev's policy of perestroika provided many Jews who desire to emigrate from the Soviet Union that most precious of documents—an exit visa. However, these hopes have been dashed. Clearly, the exit gates have not been fully opened.

Norbert Magazanik is a cardiologist. He was a Deputy Medical Director of a Hospital in Moscow but had to leave that position when he applied for permission to emigrate. Natalia is an engineer. They have two children, Olga and Alexander.

Natalia recently conducted a hunger strike to protest the second recent refusal by the Moscow City Court of their request to emigrate. The Magazanik family has been trying to obtain such permission for 12 years, but Natalia continues to be refused on grounds that she has had access to classified information over 20 years ago.

Natalia graduated from the School of Engineering in 1962, and worked as a chemical engineer at the Institute of Glass from 1955 to 1965. In 1965 she started working for the All-Union Research Institute of the State Patent Expertise. In 1974, Natalia left the Institute; since then has not had access to classified information.

The Magazaniks are in a desperate situation. Professionally, Natalia is working as a secretary at a housing committee, while Norbert is working as a general practioner in a private clinic. He and Natalia are both being deprived of the types of work in which they could make their greatest contributions.

The family lives from day to day without knowing whether their ultimate dream of being allowed to emigrate will come true. This has taken a great emotional toll on them.

In April 1989, the Magazaniks received yet another refusal and were also told they could not reapply for permission to emigrate until November 1990.

I call on the Soviet authorities to grant the Magazaniks that which they want so dearly—the chance to live their lives in the country of their choice. There have been many welcome changes in Soviet policies recently, changes which have intimately touched the lives of many people. I call upon the Soviet authorities to make one more change, one which is long overdue.●

COSPONSORING S. 1577

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1577, a bill to amend the Internal Revenue Code [IRC] of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference in the alternative minimum tax [AMT].

Prior to enactment of the 1986 act, deductions for charitable contributions of appreciated property did not give rise to a minimum tax preference. Current law, however, includes such contributions under the AMT, but allows only the deduction of the amount donors originally paid for the work of art, rather than its current market value, which is typically far higher.

The consequences of the 1966 act on donations of appreciated property, principally works of art, has been dramatic. It is estimated that from 1987 to 1988 donations of art works to large museums dropped from $94.6 million to $67.1 million, a decrease of over 29 percent. Similarly, over the same period small and medium-sized museums suffered a drop of almost 33 percent, from $38.8 million to $26 million. These figures demonstrate an alarming trend which threatens to grow worse.

Museums have historically depended heavily on the public spiritedness of donors of art, in addition to a wise tax policy that facilitates charitable gifts. As the Code is presently constituted, however, potential donors are dissuaded from committing works of art to the public domain. If this trend continues, museums nationwide will begin to slow but certain decline—a decline from which we would all suffer.

I urge my colleagues to join in this effort to remedy a clear problem. American wants a vibrant and healthy museum community. This measure will significantly further that end.●

"PRUDENCE" OR PARALYSIS?

● Mr. HOLLINGS. Mr. President, Sunday's Washington Post ran a superb article titled "Panama: How America Lost Its Will to Act," by former Assistant Secretary of State Elliot Abrams. His idea, simply put, is that the recent, botched opportunity in Panama is symptomatic of a broader state of mind in Congress and the administration: An extreme aversion to risk, a bias in favor of inaction and passivity, a state of mind that says "When in doubt do nothing, and stay in doubt all the time." I realize that there is a broad spectrum of opinion in this body regarding Mr. Abrams, but pay attention to the message not the messenger. His message is right on the money.

By all means, we must be prudent in our foreign policy, but let us not make a cult of prudence as the be all and—too often—the end all, the reason for saying no, the rationalization for doing nothing. Let us remember that failure to act is itself a form of action, with real consequences. Likewise, failure to make a decision is itself a kind of negative decision, with real consequences. For confirmation on this score, ask the widows of the Panamanians who sought our aid in ousting Noriega.

Whether in Congress, in the bureaucracy, or in the White House, "prudence" has become the mask for passivity and paralysis. Yet this is a patently false brand of "prudence." The great Presidents of our past would remind us that there is also such a thing as prudent risk taking and prudent boldness, even—to coin an oxymoron—prudent recklessness. Indeed, it is exactly these qualities that we call leadership.

Mr. President, I ask that Mr. Abrams article be printed in the RECORD at this point.

The article follows:

[From the Washington Post, Oct. 15, 1989]

PANAMA: HOW AMERICA LOST ITS WILL TO ACT

(By Elliott Abrams)

Behind the latest Panama debacle lies a much deeper problem, one that afflicts nearly every agency and institution of the United States government: We have evolved over the last 15 years a system in which it is much easier to resist action than to act, and in which the penalties for action far exceed those for inaction.

Panama shows how this paralysis has intimidated our national-security agencies. It's the latest chapter in a story that began for the military with Vietnam and for the CIA with the Church committee investigation in 1975-76.

Under Ronald Reagan, and apparently under George Bush, the Joint Chiefs of Staff have opposed the use of force in Panama. They were willing to step aside and let the CIA act, let Treasury undertake an economic blockade or let State run off to the Organization of American States for help.

In the Reagan administration, the JCS fought for this position with every weapon in the Washington arsenals: delay, obfuscation, gross exaggeration of the military threat from the Panama Defense Force, leaks of sensitive White House meetings and plain contempt for the civilians who disagreed. While I, from my post at the State Department, deeply disagreed, I also sympathized: The chiefs knew that plans can easily go astray and did not care to be left holding the bag if the civilians ducked for cover. They rightly assumed that the political aftermath a U.S. invervention might be bloodier than the battle itself.

The CIA's wounds are even fresher and arguably deeper. I was fascinated to read in the press that the first reaction of the CIA agents told of the Panama coup plan by its plotters was "Don't kill Noriega!" Not "Where's your support?" or "How's your operational security?" or "How can we help?" but "Don't kill Noriega." And it is said that that advice may well explain why the plotters did not do so, only to be killed instead by Noriega hours later.

Now why would skilled CIA field agents respond that way? Perhaps because they were thinking not about Manuel Antonio Noriega, but instead about Joseph Fernandez, the former CIA station chief in Costa Rica. Fernandez is now under indictment by the Iran-contra special prosecutor for allegedly giving illegal aid to the contras—an object lesson in the dangers of sticking your neck out.

Without violating rules of secrecy, it is possible to say that any coup against Noriega ran the risk of resulting in his death; and killing a head of government is a violation of a U.S. executive order, respect for which the Senate Intelligence Committee has repeatedly stressed. So for CIA agents, the gain from a possible successful coup may have seemed microscopic compared with the risk of hearings, investigations ("What did the chief of station know and when did he know it?"), and even criminal indictments were Noriega to lose his life in such a coup. Moreover, the success would be institutional, or national; the indictment would be awfully personal. Result: caution and inaction.

Indeed, this sort of caution—political caution, not professional caution—has hampered CIA activity in Panama over the last year. If intelligence was short on the day of the coup, I for one would blame the guys on the Intelligence Committee rather than those in the CIA. But the point here is not Panama; instead, it is that once again inaction is made safe and attractive because the potential costs of action are raised so high.

It is in this context that bashing President Bush over Panama is unfair. Whatever the administration's failure of policy or will, and I believe both were ingredients in the fiasco, there is blame to share for literally everyone over Panama, not least the Reagan administration in which I served, and there is a far more serious problem in getting action out of our institutions.

Two examples will help explain what has caused this gridlock. First, the organization of the Congress. Long gone are the days in which Sam Rayburn, Lyndon Johnson and a handful of committee chairmen could make deals that settled business quickly and efficiently. When I arrived on the Hill in the 1970s as a Senate staffer, chairmen such as Richard Russell of the Armed Services Committee and Scoop Jackson (my boss) of the Interior Committee did not simply throw their weight around and intimidate the bureaucrats: They actually wrote legislation and made sure the public's business was completed. The Foreign Relations Committee regularly passed foreign-aid budgets and State Department authorization bills on time.

The turning point probably came in the 1970s, when mark-ups were ordered out of the back rooms and into public, so that grandstanding became more common than problem-solving. Can it be an accident that while Congress fails to formulate a fiscal policy for the country, the Federal Reserve Board, which does it work in secret, maintains a sensible monetary policy?

These days, authorization bills may never get passed, the continuing resolution has become a fixture, and indeed it has become just about impossible to pass a national budget. Congress has created the budget committees, whose failure to solve the problem then led to Gramm-Rudman, whose failure will lead God knows where.

Surely the atomization of power into endless lists of subcommittees was another fatal step, eroding the power of anyone to get anything done. What was once a well-organized feudal system now seems closer to an anarchist's dream.

The incredible proliferation of Hill staffers, their numbers tripling during the '70s, adds spice to the poison. As an ex-staffer, I well remember the delight we took in tossing bombs into the executive agencies; and when the negative work was done, there was always the task of dreaming up new laws that just had to be passed.

The high number of staffers, far from aiding members, reduces their control over their own affairs and those of their institution. Moreover, it means that much public business is in the hands of young people whose agenda have little to do with making our institutions work, with comity, with compromise—in a word, with politics in the sense of representing voters by getting their business done. If there is a particular art form that represents the contribution of the Hill staffer to our culture, it is the accusatory hearing, wherein administration officials are abused for the edification of the public in the modern pillory we call C-SPAN.

But as Congress reorganized itself so as to render its own efficient action impossible, a second development—a different kind of politics—led it and the executive to claw at each other in ways that make both branches less effective. As the Democrats gained seemingly permanent control of the Hill, while Republicans kept winning the White House, excessive partisanship came to suffuse interbranch rivalries.

Rivalry between these two branches is part of the constitutional scheme. That rivalry, however, has histocially been tempered when one house's majority is loyal to a president of the same party, or, more importantly, by each party's knowledge that it will soon enough switch control of branches with the other. But since the late '60s, the Democrats have basically fought executive power while the Republicans have grasped it, and traditional interbranch rivalry has become a nasty, sometimes vicious brawl.

Nowadays, it isn't enough to defeat an administration's policy goals, or even to get someone fired: The scent of blood is in the air, and political opponents are viewed as enemies who deserve to have their lives ruined. And if all else fails to produce the sought result, there's always the rumor mill: I well remember the Senate Foreign Relations Committee staffer who traveled to Mexico in the spring of 1987, when I was assistant secretary of state and Iran-contra was young, and told the embassy staff that I would be indicted in a matter of weeks. I never received an apology from her, or from the senator who employs her. Such is war.

The effects are personal, in that the players in these battles are people, but they are institutional as well. This fierce, even vicious partisanship makes cooperation in the conduct of the public's business difficult, and sometimes impossible. While neither branch can act without the other on domestic and even most foreign policy matters, both have endless opportunities for sniping, blocking, recriminating and other sports.

Action can often be stopped—by withholding funding, or calling hearings, or launching investigations, for example—or, if that doesn't work, the people who undertake the action can be punished for their temerity. Colleagues of embattled officials learn that pushing through a controversial program is dangerous indeed: There are so many object lessons walking around nowadays that any sane official thinks twice before undertaking any controversial action. Safer to let the in-box pile up, and tell Senator X that, no, action on that project was never contemplated.

There have been moments of action in recent years, exceptions that prove the rule. First, a strong president can blast his way through, as Ronald Reagan did in his first term. What is required is a big electoral victory, a clear program, energy and guts. Thus did Reagan prevail against the air traffic controllers, bomb Libya, invade Grenada, arm the contras and cut taxes. And it must be said that in all of this he captured, by symbolizing and transmuting into a political agenda, the national mood. For a related, second exception to the rule of paralysis is that Americans will respond when pushed too far. In the 1970s, they were pushed too far by Soviet expansionism, and by the growing intrusiveness and expense of government at home.

So a mood can develop, and be exploited, to permit quite impressive action. But such occurrences really are exceptions. They require awfully good timing in the meeting of candidate and popular sentiment, and demand that the candidate's energy not flag when he is president. For the resistence will be fierce and sooner or later every president becomes a lame duck. Reagan II, his second term, was no replica of Reagan I.

Optimists would argue that this is no problem, much less a crisis, for only with extremely strong public support should a president be able to redirect so much of public policy so quickly. Today, with the growth of government reduced, with Gorbachev's reforms replacing Brezhnev's expansionism, who needs an activist administration? Who needs to unleash the CIA, or goose the Joint Chiefs? Who cares who lost Panama, and who wanted Panama in the first place?

There's an element of truth underlying this Pollyanna-ish analysis, for our system's current loginess is no proof it would not respond to a major push from within our borders or without. You didn't need Franklin Roosevelt to react to Pearl Harbor. But this view begs the question, which is not how we conduct public business during rare moments of national crisis, but whether, without such unusual stimuli, the system works. Can the system wake itself up without special injections of adrenalin?

I doubt it. The system of checks and balances has been replaced by a system of checks and cross-checks. It is in fact this phenomenon that is cited by the unusual number of members of Congress who have quit in frustration in recent years, and it is the standard experience of policymakers. It is just so damn hard to get anything done. Moreover, as then-secretary of state George Shultz pointed out a couple of years ago, even if something does get done, the issue is never settled and you fight over the same matter year after year.

After a false good start, the replacement of Reagan-Byrd-Wright with Bush-Mitchell-Foley has had no real impact. If there are "solutions" to the impasse problem, they are not exactly quickies: Have Congress reconcentrate power in fewer hands; have a president and a Congress of the same party; decriminalize political disputes. Prayer is more likely to provide prompt relief.

Let's hope the optimistic are right: In a crisis we'll all hang together, and meanwhile, relax. Italy has done very well without a functioning government for decades. Anyway, our economy is okay and the Soviets are preoccupied with their own political and economic implosion. If this is the End of History, who needs Lyndon Johnson and Sam Rayburn?

The trouble is, we'll find out too late whether they are right or not. The Noriega blip showed us our radar screen isn't working and our maintenance procedures are flawed. We may be learning habits of government that are too deeply ingrained to throw out instantly in a crisis; we may be teaching officials self-protective modes of behavior that will control their actions even in a crisis; we may be building national security apparatuses unable to respond as we would like if the Soviets decide they like having an empire after all. Suppose, that is, that history decides not to end?

Bashing Bush won't help here, and getting rid of Noriega would just barely scratch the surface of the problems that confront us. Still, you've got to start somewhere.●

REPORT OF AMERICAN PANEL ON UNESCO

Mr. MOYNIHAN. Mr. President, last Friday I submitted to the attention of my colleagues a report of the United Nations Association-USA investigating the United States' interests in the activities of the United Nations Educational, Scientific and Cultural Organization, otherwise known as UNESCO. I noted that much has changed since the United States withdrew from UNESCO in 1984. Indeed, so much has changed that the United States is now carefully considering whether to rejoin the organization.

Last April I presided over hearings on this question. The issues are difficult. UNESCO has tremendous potential for good. But its prior leadership had aligned with those who wished to suppress, not promote, the free flow of information under the guise of a "New World Information Order." It suffered from a host of ills. It had become politicized.

Today the United Nations Association released the second part of its study, which directly addresses the question of whether UNESCO has changed enough to justify a decision by the United States to rejoin its ranks. In this the distinguished panel which prepared the report has performed an admirable service. They analyze the issues with intelligence and care. Under the leadership of our distinguished former colleague, Robert Stafford of Vermont, the UNA-USA panel reached the following conclusion: Assuming this fall's general conference demonstrates its confidence in the new Director-General Frederico Mayor's leadership by approving the substance of his medium-term plan, the U.S. panel recommends that the United States resume its membership in UNESCO early in 1990.

I commend the panel for its efforts and I strongly urge my colleagues to examine the full body of the panel's recommendations on this important issue. Mr. President, at this time I ask that the conclusions of the United Nations Association-USA panel be printed in the RECORD.

The conclusions follow:

A FORUM IN RESTORATION

(Summary of Findings of the Report of the American Panel on UNESCO)

Nearly five years have passed since the United States left UNESCO. The shock of U.S. withdrawal has given the other industrialized democracies considerable leverage in pressing for reform in the organization. Today, with new leadership under Director-General Federico Mayor, and with a new program plan attuned to the world's intellectual and professional communities, the agency is certainly more hospitable to Western ideas than seemed the case in the decade. At this crucial moment for the direction of the organization, the United States must decide whether its interests will be better served by participating in UNESCO's work or by staying outside it.

The fundamental question is whether UNESCO's activities are important enough that Americans should even care about shaping the organization's direction. First, are these activities relevant to, and do they have an impact on, America's wide-ranging interests—in science, culture, education, human rights, and communication? Second, are U.S. political objectives affected by UNESCO's actions? Has the agency made progress in remedying the problems that the U.S. government cited as causes for American withdrawal? A corollary to this is the tactical question: If the United States does wish to press for additional reform of UNESCO, will continued nonparticipation strengthen or weaken American influence in the organization? How should the U.S. structure its participation in UNESCO if it decides to resume its membership?

America's intellectual and professional communities are key to the nation's continued competitive edge in world affairs. The U.S. panel asked a broad spectrum of American nongovernmental organizations in these communities to assess UNESCO's work and deficiencies. The finding: UNESCO's work is relevant to these organizations' purposes; the agency's management under the last director-general was UNESCO's biggest problem, followed by the intrusion of political controversies; and with the reform program initiated by Director-General Mayor now under way, the U.S. should renew its participation.

Taking UNESCO's program sectors one by one and examining American interests and needs in each, the U.S. panel found:

UNESCO has considerable importance to America's scientific community. It allows American scientists the access to research and observational sites worldwide that is essential to their own pioneering work, and it promotes global scientific inquiry into common problems. The most urgent problems facing world science today are those relating to the natural environment—an area in which UNESCO has done groundwork for decades.

UNESCO could be useful in addressing a number of problems confronting American education, and it is clearly important for disseminating America's democratic educational ideas abroad. UNESCO's work in literacy in developing countries—where improvement in education is essential for economic and political development and, thus, for peace and stability—promotes a historic American interest.

UNESCO has a unique and important role in promoting cultural diversity and, with its World Heritage program, preserving mankind's cultural patrimony—something that is of keen interest to many Americans. The organization is charged with protecting the cultural freedom of creative people and, as administrator of the Universal Copyright Convention, is a forum for addressing infringements of their economic rights as well.

UNESCO is the international system's lead agency in shaping communication policy, with implications for the enhancement, or limitation, of the free flow of information. U.S. participation in the global information debate is crucial for the successful advocacy of freedom of ideas and will help to assure that legitimate concerns about the distribution of communication capabilities around the world do not result in assertions of any form of control over the information being communicated.

UNESCO's growing role as a clearinghouse for communication technologies makes it valuable to a U.S. telecommunications industry now competing for access to markets in the developing countries.

UNESCO's human rights program is useful in deepening respect for human rights on a universal basis—helping root individual liberties and rights and gender and racial equality in the life and culture of societies worldwide.

The United States has a range of political interests that are affected by UNESCO, beginning with the nation's enduring interest in preserving the multilateral system in which UNESCO is a founding partner. Certainly the U.S. absence from the international agency that deals with education, science, and culture-areas in which Americans have been so often at the forefront—is something of an aberration. Furthermore, when a political issue does arise in a U.N. agency (the admission of a would-be member state was one such issue in 1989), the U.S. absence can have repercussions for American political interests.

When the United States withdrew from UNESCO, it made a threefold indictment: (1) The organization was badly managed; (2) it was embarked on excessive budgetary growth; (3) its activities had become highly politicized and divisive. Since 1984 the organization has made some clear and undeniable progress in correcting all three problems:

1. *Organization and Personnel Management.* By the early 1980s virtually all decision-making had been centralized within the Director-General's office, depriving even the top program managers of effective authority for their own programs—most visibly with respect to hiring. Management reform has been one of the major priorities of the new Director-General. Returning to UNESCO's program directors the effective authority for their own programs, including hiring, he has commissioned an outside review of the agency's administration. To date there has been clear progress in replacing patronage with professionalism.

2. *Budgetary Growth.* In the early 1980s, when major contributors were attempting to freeze U.S. agency spending levels, the UNESCO secretariat and representatives of developing countries pressed for substantial increases in real money terms, which the U.S. found unacceptable. With the loss of U.S. and British funding in mid-decade, UNESCO was forced to make deep and painful budget cuts. After four years of zero growth on this shrunken base, Director-General Mayor has requested 2.5 percent growth in real money terms for 1990-91, although in June 1989 the Executive Board, a key UNESCO governing body, failed to endorse any increase at all. Clearly runaway budget growth is no longer a fact at UNESCO.

3. *Politicization.* The frequent introduction of politically charged issues into UNESCO operations, more than any other factor, alienated key segments of the American public. After the pullout by the United States and the United Kingdom, the suggestion that Japan, West Germany, and others might do the same helped to persuade a majority of delegates that the secretariat required new leadership. There is now ample evidence that politicization of issues has eased in the deliberations of the governing bodies, and the 1989 General Conference may offer further proof of this change.

On the communications controversy, the Third World has moderated its position over the past decade. Still, for many Americans the way this issue is resolved will be a litmus test, indicating whether the organization's governing bodies have indeed turned away from polarizing political posturing to achievement-oriented problem-solving. This more balanced and constructive approach needed to renew UNESCO's dynamism should be evidence at the 25th General Conference this fall.

GENERAL CONCLUSIONS ABOUT U.S. PARTICIPATION IN UNESCO

The U.S. panel concludes that under the leadership of Federico Mayor, UNESCO seems headed on the right track. Reversing the condition of *rigor mortis* that set in with sterile political debates and patronage and had alienated even the professional communities it was intended to serve, the organization is moving vigorously to reinvolve the world's distinguished intellectual leaders of the nonstate sector in a dynamic, practical program that addresses humanity's urgent needs in UNESCO's special fields.

Assuming this fall's General Conference demonstrates its confidence in Mayor's leadership by approving the substance of his medium-term plan, the U.S. panel recommends that the United States resume its membership in UNESCO early in 1990.

The panel concludes that by remaining outside the agency after the General Conference has approved policy reforms the United States has long sought, America will sacrifice any credibility to press for futher reform. In short, there is no more mileage to be gained by staying out. Indeed, there is little doubt that, without an American return, the management of the organization would pass into the hands of much less congenial leaders.

If the U.S. government requires a specific signal as proof of UNESCO's sustained progress, then the administration must make clear that the United States will renew its membership if the General Conference sends that signal. To convey the seriousness of American intent, the United States should send a blue-ribbon observer delegation to the General Conference, to be led by Americans who have distinguished themselves in the several program sectors addressed by UNESCO: leading scientists, educators, cultural creators and preservationists, human rights advocates, and communication leaders.

RESTRUCTURING AMERICAN PARTICIPATION

Simply returning to UNESCO will not be enough. The U.S. panel is convinced that changed circumstances since UNESCO's founding require a reassessment of the way we organize our participation. Responsibility for American participation in the work of the other specialized agencies of the U.N. system is vested in an appropriate department of government, with State Department control over political issues and U.S. budgetary contributions. When the U.S. returns to UNESCO, the Congress should consider where the primary responsibility for coordinating U.S. substantive participation in the organization should be assigned administratively, given the specialized interests of the State Department, the Department of Education, the science agencies, and even the Smithsonian Institution.

The constitution of the U.S. National Commission for UNESCO should also be reviewed with an eye to ensuring that U.S. policymaking for UNESCO reflects the pluralism of America's varied interests in its work. Under the current law, the National Commission may have up to 100 members. The panel recommends that Congress halve its size and that two-thirds of the members be drawn from nongovernmental groups working in UNESCO's program areas. Of the remaining seats, those for federal government representatives should be allocated among key agencies by law. The panel further recommends that the reorganized commission seek extrabudgetary resources from outside the federal government to support an innovative research and outreach program.

U.S. REPRESENTATION

America's permanent delegates and its Executive Board representatives should have some familiarity with—and serious concern about—UNESCO's intellectual domains. (The panel views the two roles as distinct but compatible.) The permanent delegate to UNESCO should be chosen by the President, with advice from the National Commission. The choice of U.S. representatives for UNESCO's Executive Board is a somewhat different matter. The international panel recommends that any country's nominee for the Executive Board originate in its (predominantly nongovernmental) national commission. The U.S. panel recommends that the U.S. National Commission enter at least four names in nomination, from which the White House would select one to recommend to the General Conference as the American candidate for election to the Board.

The National Commission should also have a role in assembling the national delegation to the General Conference.

AMERICANS IN THE SECRETARIAT

During the last two decades the number of Americans employed in the UNESCO secretariat was always far below that to which the U.S. was entitled under the geographic distribution system—a "quota" based on the share of the agency budget each country is assessed.

The office of recruitment in the State Department's Bureau for International Organization Affairs is understaffed, overextended, and unable to stay in close touch with the many specialized networks through which promising candidates for UNESCO posts might be found. The reconstituted National Commission, with its expertise and contacts, should do that active recruitment in these specialized networks and in universities, taking the burden from the overwhelmed recruitment office in State.

FUNDING

Given federal deficits, the payment of some $43 million in annual dues may present difficult budgetary choices. Nonetheless, the President should include funds for the entire U.S. assessment for UNESCO when he submits the 1991 budget (for the calendar year beginning October 1990) to the Congress, and Congress should resist the urge to peck away at the needed appropriation. After five years of doubting the seriousness of the U.S. interest in UNESCO, Congress must not undercut the policy decision to return by shortchanging the organization.

This contribution must not be used to provide a windfall refund to the organization's other major contributor states, nor should be secretariat willy-nilly restore programs slashed in 1985, building in new recurring costs. Rather, the U.S. should propose (and the General Conference authorize) the creation of a special account for such new funds until the end of the biennium. These funds, to be disbursed by the Director-General with Executive Board oversight, should be used primarily for nonrecurring expenses that help to strengthen priority programs.

THE FUTURE

Despite recent progress, much needs to be done if UNESCO is to regain the intellectual stature it enjoyed in its first three decades and reclaim a leadership role in its fields of endeavor. The report of the international panel surveys a wide range of hu-

manity's urgent needs in these fields, finds that UNESCO is in the best position or organize an effective response to such needs, and recommends far-reaching structural reform to carry it out. The accomplishment of this profound reform will require American support and American leadership.●

SENATE JOINT RESOLUTION 205, DESIGNATING DECEMBER 3 THROUGH 9, 1989, AS NATIONAL CITIES FIGHT BACK AGAINST DRUGS WEEK

● Mr. GLENN. Mr. President, Last week, the Governmental Affairs Committee held a hearing on the drug war at the State and local level. Here in Washington, we use—and overuse—the word "war" to describe the Federal contribution to drug control. At our hearing, we learned that, to State and local government officials, the "war against drugs" is more than a rhetorical device—it's a reality.

U.S. Governors and mayors face daily the cost in human dignity and human life exacted by the illegal drug trade. They receive daily body counts generated by drug-related crime. They wrestle daily with overflowing prisons and treatment centers.

We heard some shocking battle field stories from the Governors and mayors who testified before our committee. We heard of police forces outgunned by drug gangs. We heard of treatment centers too full to take on those who voluntarily would enter their programs. We heard of a town so financially strapped by its efforts to stem the drug trade that its policemen had to buy their own guns.

Wars are not glorious. They drain resources from programs for the public good. They embody violence and death—especially the death of the young.

In the District of Columbia this year alone, there have already been over 335 homicides. Almost 60 percent of these killings involved drugs. Almost 10 percent represent the murder of children under 18 years old.

We often forget this tragic side of war in our rush to turn the neatest phrase about drug policy—whether it be the Congress or the President's. Sadly, it is a side that those serving at the State and local levels cannot forget.

Today, I rise to ask that I be added as a cosponsor to Senate Joint Resolution 205. This legislation answers the National League of Cities call for Congress and the President to name a week in December "National Cities Fight Back Against Drugs Week."

This resolution will serve two purposes. The first is obvious. It will provide a fixed time when cities can bring to the attention of the Nation their efforts to stem the trade and use of drugs in their jurisdictions.

The second purpose is less obvious—but perhaps more important. The resolution sets aside a week when we in Washington can listen to what those who run our cities have to say about fighting the drug war. And, if we are to help win that war at the Federal level, we must listen.

I commend Senator BIDEN for introducing this resolution and the National League of Cities for conceiving it. I ask that my name be added as a cosponsor.●

ORDER TO PRINT S. 933

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 933, the Americans With Disabilities Act, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELCOMING MEMBERS OF THE CANADIAN PARLIAMENT

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 76) welcoming Members of the Canadian Parliament on their visit to the Capitol.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being on objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 76) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 76

Whereas the United States and Canada share a contiguous border and equally contiguous history, having been explored and settled as European colonies, having established their national independence and self-government, and having coexisted peacefully since the founding of the Dominion of Canada in 1867;

Whereas the United States and Canada share a mutual heritage of democracy, and have allied themselves to preserve and defend their liberty and security during two world wars and other international conflicts;

Whereas the Congress of the United States and the Canadian Parliament, as legislative bodies, share an unwavering commitment to representative government under our respective constitutions;

Whereas the Congress of the United States and the Canadian Parliament for the past three decades have established and maintained regular contact and cooperation through meetings of the Canada-United States Interparliamentary Group; and

Whereas the Canadian Embassy in Washington has recently moved to a handsome new building at the base of Capitol Hill, as a new neighbor to the United States Capitol: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States welcomes and salutes the Speaker of the Senate, the Speaker of the House of Commons, and other members of the Canadian Parliament on their visit to the Capitol, and reaffirms the strong ties of friendship and mutual support between our national legislatures.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1990—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 3026 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3026), making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1989.)

Mr. ADAMS. Mr. President, the conference report presented here today represents a major step forward in the District's efforts to combat drugs and crime in the Nation's Capital. The report includes many items that were part of the Senate version of the bill.

It also represents something that we don't often see around here, a balanced budget. The District is required by law to submit a balanced budget and we are required to keep it that way. We have been able to do that while also providing for significant resources to attack the District's drug epidemic.

The problems of the District are not isolated. Drugs and crime are everywhere. According to recent press re-

ports most of the Washington suburbs have experienced marked increases in drug related crime and murders. Over the past Columbus Day/Yom Kippur weekend the District recorded its 351st murder and 19 other people were shot. During the same period the suburb of Prince Georges County recorded its 91st homicide of the year. Over the previous weekend six people were murdered in the District.

Mr. President, this conference report responds to this carnage by providing $31.8 million in additional Federal funds for the District's drug emergency. $17.5 million of these funds will be used to hire 700 new police, which will be added to the 300 contained in the District's proposed budget to return the District to its 1969 level of police officers of 5,100.

We have also found that the court system is in dire need of help to deal with the increased number of drug felons. The conference agreement includes $4.8 million for the courts. This includes funds for eight additional judges, which is subject to action by the authorizing committees. It is the conferees hope that those committees will act before this session of Congress is over in keeping with the emergency nature of the conferees action. Drug offenders must be tried and punished as swiftly as possible after arrest.

Mr. President, the conferees have included funds for drug treatment. Law enforcement is necessary to stabilize the streets but the long-term battle will not be won unless we can treat and rehabilitate addicts. The conference agreement provides $2 million to begin a program to provide treatment on demand for addicts who are preganant. Too many crack addicted babies are born in Washington, DC. Our first goal should be to try and save these innocent children. On that point, Mr. President, we have retained language included by the Senate which establishes a task force in the District's Department of Human Services which will report back within 1 year on a plan to provide services to substance abusing pregnant women and their infants.

Finally, the conferees have included $1.3 million for the DC public school system to expand after school programs particularly in high-risk neighborhoods. We have to give our children an alternative to the enticement of drug activity on the streets.

The conferees share our strong belief that we have to work with the District government to make the streets of our Capital City as safe as possible. We believe in home rule and we do not want to run the District of Columbia. But we do want to help the District of Columbia cope with this plague.

The remainder of the of the bill contains $430.5 million for the Federal payment to the District. This payment is provided to the District in lieu of the Federal Government paying property taxes on its vast land holdings in the District. This payment has not increased in 3 fiscal years, and in fact is below the fiscal year 1987 level. Since that time the cost of city services have increased by 12 percent and the Federal budget outlays have increased by 8 percent, without an increase in the Federal payment to the District.

The conference agreed to a Senate provision appropriating $8.7 million for the first quarter payment to the District for water and sewer services provided to the Federal Government. This represents a reduction of more than $26 million below the House allowance and a departure from past practice. Since 1954 the Federal Government has made a lump-sum payment to the District for these services, the conference agreement includes language authorizing the District government to begin billing and receiving payment from the various Federal agencies beginning in January 1990.

Mr. President, the Senate conferees also took the Armstrong amendment to conference. The Armstrong amendment amends the D.C. Code to make it legal in the District for any educational institution affiliated with a religious organization to discriminate against homosexuals. This amendment was prompted by a court decision involving Georgetown University. The court held that the District's Human Rights Act prohibited the university from denying use of facilities and services to homosexual student groups, while upholding the university's right to deny university recognition. The conference agreement modified it to more closely follow the court's decision.

Like the Armstrong amendment, the conference agreement would have allowed any religious educational institution to deny endorsement, approval, or recognition to those who promote sexual lifestyles contrary to its religious doctrine. The conference agreement also allowed denial of use of religious facilities and services.

Mr. President, the Armstrong amendment goes far beyond its stated intent to protect religious freedom. It allows a school to fire a teacher, or expel a student, or in fact not admit an otherwise qualified student, based on their sexual preference—a criteria that 13 States and 80 localities, including the District of Columbia, do not permit. Of course, if this provision becomes law nothing restricts the District Council's authority as it pertains to title 1 of the D.C. Code.

Mr. President, on balance this conference agreement provides a good compromise and will go a long way to attaching the drug and crime evils in the Nation's Capital. It is important that we enact this bill as soon as possible to begin to stem this tide of violence that grips this city.

Mr. President, in closing I want to express my appreciation to the Senate conferees for their attention to this bill, and to the able House conferees led by Representative JULIAN DIXON and Representative DEAN GALLO who as always represented their body with knowledge and distinction.

Mr. President, I ask unanimous consent that a brief statement outlining the other highlights of the conference report, and a statement of the budgetary impact of the conference report, in compliance with section 308(a) of the Budget Act, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ADAMS ON THE CONFERENCE REPORT TO ACCOMPANY H.R. 3026 DISTRICT OF COLUMBIA APPROPRIATIONS BILL, 1990

Mr. President, I would like to briefly summarize the other provisions in the conference agreement. In amendments number 1 and 16 the House has agreed to provisions included by the Senate permitting the District government to bill Federal agencies directly for the cost of water and sewer services which they use. Under current law this payment is made by a lump-sum amount, the conference agreement includes $8,685,000 for the first quarter payment. This change will take place on January 1 1989 for a one year trial period at the end of which the committees will review the system in connection with the fiscal year 1991 budget request to determine the efficiency and effectiveness of this new system of billing and collecting for these services.

Amendment 2 provides an advance appropriation of $20,300,000 for fiscal year 1991 to the District of Columbia to complete the Correctional Treatment Facility being constructed in Southeast Washington. This brings to $85 million the total cost of the CTFG, $70.3 million, or 83% of the total, to be borne by the Federal government and $14.7 million, or 17%, to be borne by the District of Columbia government.

Under amendment 3 the conference agreement provides for $31,772,000 in Federal funds and $150,000 in local D.C. funds by transfer to address the Drug Emergency in the District, as recommended by the State.

Mr. President, the House also accepted amendment 21 of the Senate bill which establishes a Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abusing During Pregnancy in the District of Columbia Department of Human Services. The task force will report to the Congress within one year after the date of enactment of this Act at which time it will cease to exist.

Mr. President, this conference agreement includes several items that will provide the D.C. courts with additional resources to address their increasing caseloads, within the courts existing structure. These additional resources are the results of the eloquent testimony of the Chief Judges of the Court of Appeals and Superior Court, as well as the fine justification material provided to the Congress by the Executive Officer of the District of Columbia Courts, Mr. Larry P. Polansky. Mr. Polansky will retire at the end of this calendar year after more than ten years with the District's court system.

He was formerly the Deputy State Court Administrator for the State of Pennsylvania and Chief Deputy Administrator for Operations and Services at the Philadelphia Court of Common Pleas where he was responsible for a major portion of the administrative management of a large urban court and gained valuable experience that has been invaluable to the District of Columbia. Mr. Polansky's professionalism and integrity will be missed by his colleagues at the court system and his cooperative nature and energetic spirit will be missed by those in the Congress who have come to rely on him as a national leader in court administration. We wish him, and his wife Eunice, much happiness and well deserved relaxation in their future endeavors.

BUDGETARY IMPACT OF CONFERENCE REPORT—PREPARED IN CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 308(a), PUBLIC LAW 93-344, AS AMENDED

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount of bill	Committee allocation	Amount of bill
Comparison of amounts in the bill with Committee allocations to its subcommittees of amounts in the First Concurrent Resolution for 1990: Subcommittee on the District of Columbia	540	538	560	[1] 560
Projections of outlays associated the recommendation:				
1990				[2] 533
1991				
1992				4
1993				12
1994 and future years				4
Financial assistance to State and local governments for 1990 in bill		358		538
	Direct loans		Loan guarantees	
Credit authority estimates, 1990				

[1] Includes outlays from prior-year budget authority.
[2] Excludes outlays from prior-year budget authority.

INSURANCE COVERAGE OF MAMMOGRAMS

Mr. HOLLINGS. Mr. President, a recent survey by the National Centers for Disease Control shows the District of Columbia ranks 15th in mortality for breast cancer. This occurrence is unnecessary and unfortunate in view of the fact that the early detection of breast cancer through routine mammography substantially reduced the mortality rate for this disease.

Mr. President, 1 in 10 American women will develop breast cancer. This year alone, the disease will claim the lives of about 43,000 American women. Scientists, however, estimate that the death rate from breast cancer would drop 30 percent if women over 40 years of age had a routine mammography. And, the treatment for breast cancer is most successful when the disease is detected early. In this regard, 90 percent of women whose cancer is found at the earliest stage can be treated successfully.

Many States are recognizing the critical role early detection plays in improving the survival rate for women with breast cancer. In fact, 24 States now require health insurance companies to cover screening mammograms for women without symptoms of breast cancer. Mr. President, this insurance trend is gaining speed; the number of States requiring coverage doubled between 1988 and 1989.

It is my understanding that the District of Columbia does not require reimbursement for mammograms. I would think, Mr. President, that a requirement of this kind in the District of Columbia would significantly reduce their high mortality rate for breast cancer.

Would the Senator from Washington agree that we should ask the District of Columbia Insurance Administration to provide us with a report outlining the impact of such a requirement on insurance providers within this jurisdiction?

Mr. ADAMS. I agree with the Senator from South Carolina. It is a tragedy that every woman, particularly those in the high-risk groups, do not have available to them the means for early detection of breast cancer. Although I do not have statistics as precise as those quoted by the Senator from South Carolina, I would also encourage the insurance administration to look into the impact and need for coverage of PAP smear's as a way to improve early detection of cervical cancer.

So, Mr. President, I would agree with the Seantor and join him in calling on the District's Insurance Administration to report to the Committees on Appropriations of the Senate and House of Representatives and to the District of Columbia Council, so that they may perpare appropriate legislation, by January 1, 1990.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the amendments in disagreement numbered 5, 7, 11, 16, 18, and 19 be considered and agreed to en bloc, that the motions to reconsider the vote by which the amendments were agreed to be laid upon the table en bloc.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

The amendments in disagreement numbered 5, 7, 11, 16, 18, and 19 considered and agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum stricken and inserted by said amendment, insert "$861,341,000, of which $150,000 shall be derived by transfer from "Governmental Direction and Support" ".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That $17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended".

Resolved, That the House receded from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That funds provided under this head in Public Law 100-202 (101 Stat. 1329-94) to match private contributions to the District of Columbia Public Schools Foundation shall be available until September 30, 1990".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 133. (a) It is the purpose of this section to improve the means by which the District of Columbia is paid for water and sanitary sewer services furnished to the Government of the United States or any department, agency, or independent establishment thereof.

(b) Section 106 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 102; D.C. Code, sec. 43-1552) is amended by—

(1) striking in subsection (a) all that follows the sentence beginning with "Payment shall be made as provided in subsection (b)"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for water services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal quarter, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled, 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal de-

partments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate convenants pursuant to water and sewer revenue bond sales.

"(3) Each Federal department, independent establishment, or agency receiving water services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(c) Section 212 of the District of Columbia Public Works Act of 1954 (68 Stat. 108; D.C. Code, sec. 43-1612) is amended by—

(1) striking in subsection (a) all that follows ": *Provided*, That"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for sanitary sewer services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal year, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate covenants pursuant to water and sewer revenue bond sales.

"(3) Each Federal department, independent establishment, or agency receiving sanitary sewer services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of charges for sanitary sewer services involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(d) The first sentence of subsection (d) of section 207 of the District of Columbia Public Works Act of 1954 (68 Stat. 106) is amended to read as follows: "Whenever a property upon which a sanitary sewer service charge is a public park, or uses water from the water supply system of the District for an industrial or commercial purpose in such a manner that the water so used is likewise not discharged into the sanitary sewage works of the District, the quantity of water so used and not discharged into the sanitary sewage works of the District may be excluded in determining the sanitary sewer service charge on such property, if such exclusion is previously requested in writing by the owner or occupant thereof and approved in writing by the District government in advance of the billing period involved.".

(e) The amendments made by this section shall take effect January 1, 1990, and shall terminate December 31, 1990.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendemtn, insert:

SEC. 138. Section 11-903, District of Columbia Code, is amended to read as follows:

"§ 11-903. Composition.

"Subject to the enactment of authorizing legislation, the Superior Court of the District of Columbia shall consist of a chief judge and fifty-eight associate judges."

Resolved, That the House recede from its disagreement to the amendment to the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section numbered "138" named in said amendment, insert "139".

HOUSE AMENDMENT TO SENATE AMENDMENT NO. 15

The PRESIDING OFFICER. The question now recurs on the House amendment to the Senate amendment No. 15, which the clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the number stricken and inserted by said amendment, insert "39,262.".

SEC. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:

(1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or

(2) The position is to be filled as follows:

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(b) Subsection (a) of this section shall not apply to any position for which the City Administrator certifies that:

(1) The position is necessary to the fulfillment of an identified essential governmental function; and

(2) The position cannot be filled from within the District of Columbia government:

(A) At a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(c) The City Administrator shall submit the certification required by subsection (b) of this section to the Council on the 1st day of each month

AMENDMENT NO. 1011

Mr. MITCHELL. Mr. President, on behalf of Senators MIKULSKI, SARBANES, WARNER, and ROBB, I move to concur in the House amendment to the Senate amendment No. 15 with a further amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL], (for Ms. MIKULSKI) (for herself, Mr. SARBANES, Mr. WARNER, and Mr. ROBB), proposes an amendment numbered 1011.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over an employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e)(5) of the District of Columbia government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

(2) EDUCATIONAL SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services.

"(B) The Boards shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989."

AMENDMENT CONCERNING THE DISTRICT OF COLUMBIA

Ms. MIKULSKI. Mr. President, I offer an amendment on behalf of myself and Senators SARBANES, ROBB, and WARNER.

Mr. President, the D.C. government initiated a residency requirement for employees of the District government in 1980. As you know, Congress responded in the fiscal year 1989 D.C. appropriations bill with a mandate to change the requirement because it created a second class of citizens composed primarily of Maryland and Virginia residents.

On January 6, 1989, the D.C. Council removed the residency requirement and adopted a preference system which became effective March 6, 1989. However, the existing preference system adopted by the Council, is essentially still a residency requirement because it is so unfair.

The existing preference provides to District residents: Gives 10 additional points to D.C. residents in hiring and promotions which is in effect a residency requirement.

The motion offered to the amendment in disagreement will keep the basic structure of the District's system but will reduce the preference to a reasonable 5 points for new hires and promotions of existing employees. A letter from Mayor Barry to Congressman HOYER dated October 3, 1989 states that he has sent to the D.C. Council rules and regulations to implement most of the modifications contained in the amendment but only for new employees.

Mr. President, there are 909 officers that are affected by the current law thereby requiring them to live in the District for 5 years after being hired. A survey conducted by the Fraternal Order of Police indicated that almost 90 percent of the 909 young officers affected indicate that unless a change is made they will quit because they may be fired unless they maintain their residence in the District. We cannot allow these brave men and women who are waging the war on drugs at the front line to be concerned with losing their job based solely on where they choose to live.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I understand the Chair has an announcement.

The PRESIDING OFFICER. I do.

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER BY JUDGE WALTER L. NIXON, JR., TO THE AMENDED ARTICLES OF IMPEACHMENT AND BRIEF IN SUPPORT OF THE ARTICLES OF IMPEACHMENT

The PRESIDING OFFICER. The Chair submits to the Senate for printing in the Senate Journal and in the CONGRESSIONAL RECORD the replication of the House of Representatives to the answer by Judge Walter L. Nixon, Jr., to the amended articles of impeachment, as well as the House of Representatives' brief in support of the articles of impeachment, pursuant to Senate Resolution 127, 101st Congress, 1st Session, and the unanimous consent agreement obtained October 5, 1989, which replication and brief were received by the Secretary of the Senate on October 16, 1989.

The material follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 13, 1989.

Hon. WYCHE FOWLER, JR.,
Chairman, Impeachment Trial Committee, Washington, DC.

(Attention: Anthony Harvey).

DEAR MR. CHAIRMAN: Enclosed please find the original and twelve (12) copies of the House of Representatives' Replication to Judge Nixon's Answer to the Amended Articles of Impeachment, for filing in connection with the Nixon impeachment.

Per Mr. Purdy's instructions, also enclosed is the original of the House of Representatives' Brief in Support of the Articles of Impeachment. A copy of the brief has been forwarded to the Government Printing Office for binding.

This letter will also confirm that copies of these documents have been served today upon counsel for Judge Nixon.

Sincerely,

ALAN I. BARON,
Special Counsel.

[In the Senate of the United States, Sitting as a Court of Impeachment]

IN RE IMPEACHMENT OF JUDGE WALTER L. NIXON, JR.

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF JUDGE WALTER L. NIXON, JR., TO THE AMENDED ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and counsel, replies to the Answer to the Amended Articles of Impeachment of Respondent, Judge Walter L. Nixon, Jr., as follows:

Article I

The first paragraph of Respondent's Answer to Article I simply summarizes that Article and requires no response by the House of Representatives.

The House of Representatives denies each and every allegation set forth in the second, third and fourth paragraphs of Respondent's Answer to Article I.

Article II

The House of Representatives denies that Article II has been materially changed by the amendment, which simply changed the phrase "in any way influence" to "that in any way influenced," so as to conform exactly with the evidence at trial. The remainder of the first paragraph of Respondent's answer to Article II simply summarizes that Article and requires no response by the House of Representatives.

The House of Representatives denies each and every allegation set forth in the second, third and fourth paragraphs of Respondent's Answer to Article II.

The House also denies Judge Nixon's contention that the amendment changes the substance of the charge contained in Article II. In both the original version and amended Article II, the question raised is whether Judge Nixon influenced anyone in connection with the Drew Fairchild drug case. The evidence adduced at trial established that Judge Nixon did in fact influence Forrest County District Attorney Paul Holmes and Wiley Fairchild in connection with the drug case, and knew he had done so. Accordingly, Judge Nixon's grand jury testimony at issue in Article II was false or misleading as charged.

Article III

The first paragraph of Respondent's Answer to Article III simply summarizes that Article and requires no response by the House of Representatives.

With regard to all remaining paragraphs of Respondent's Answer to Article III, the House of Representatives denies each and every allegation in the answer that denies the acts, knowledge, intent or wrongful conduct charged against respondent in Article III, or that otherwise suggests that respondent's grand jury testimony and interview statements were true and correct. The House of Representatives further states that Article III properly alleges an impeachable offense, is not subject to a motion to dismiss, and should be considered and adjudicated by the Senate sitting as a Court of Impeachment. The House of Representatives incorporates by reference, in its Replication to Respondent's Answer to Article III, its response to the Answer of Respondent to Articles I and II.

1. *Article III(1)*

In addition to the foregoing, the House of Representatives responds to Repondent's Answer to the specific allegations of Article III(1)(A) through (G) as follows:

(A) The House of Representatives denies that the impeachment charge alleged in Article III(1)(A) is "virtually identical" to the Count II prejury charge on which Respondent was acquitted by the jury, and further denies that the jury verdict of acquittal on Count II of Respondent's criminal indictment in any way bars consideration by the Senate of Article III(1)(A).

(B) The House of Representatives denies that the impeachment charge alleged in Article III(1)(B) is "virtually identical" to the Count II perjury charge on which Respondent was acquitted by the jury, and further denies that the jury verdict of acquittal on Count II of Respondent's criminal indictment in any way bars consideration by the Senate of Article III(1)(B). The House of Representatives also denies that the allegations in subsections (A) and (B) of Article III(1) are "duplicitious and redundant." Subsections (A) and (B) of Article III allege two distinct false or misleading statements by Respondent, and both subsections should be considered and adjudicated by the Senate.

(C) The House of Representatives denies that Article III(1)(C) "does not accurately describe or refer" to actual statements by Respondent.

(D) The House of Representatives denies that the statement by Respondent referred to in Article III(1)(D) is "vague and imprecise," and states that the Senate can and should deem this to be a material or misleading statement.

(E) The House of Representatives denies that Article III(1)(E) "distorts" or "omits material portions" of Respondent's actual statement in a "misleading manner."

(F) The House of Representatives denies that the allegations in subsection (E) and (F) of Article III(1) are "duplicitous and redundant." Subsections (E) and (F) of Article III(1) allege two distinct false or misleading statements by Respondent, and both subsections should be considered and adjudicated by the Senate.

(G) The House of Representatives denies that Article III(1)(G) "does not accurately describe" Respondent's statement during the April 1984 interview.

2. *Article III(2)*

In addition to the foregoing, with regard to Respondent's Answer to the specific statements alleged in Article III(2), the House of Representatives agrees that the statement of Respondent set forth in Article I is also the basis for Article III(2)(A), and that the statements of Respondent set forth in Article II are also the basis for Article III(2)(D), (F) and (G).

The House of Representatives denies that the statement of Respondent set forth in Article II is also the basis for Article III(2)(E), inasmuch as the specific statement set forth in Article III(2)(E) was not an "underscored material declaration" in Count IV of Respondent's criminal indictment found by the jury to be false. Article III(2)(E) addresses a separate, distinct instance, not alleged in Article II, when Judge Nixon swore to the grand jury that he never talked to anyone, including the State prosecutor, about the Drew Fairchild case. However, the House of Representatives acknowledges that the statements set forth in Articles II and III(2)(E) were each part of Respondent's lengthy response during his grnad jury testimony to the question, "Judge, do you have anything you want to add?"

The House of Representatives denies that Article III(2) is "multiplicitous, redundant and fundamentally unfair." Article III properly alleges an impeachable offense, is distinct from Articles I and II, and should be considered and adjudicated by the Senate. The House of Representatives denies that any portion of Article III is defective, and will oppose any motion to dismiss all or part of Article III.

The House of Representatives denies that Article III(2)(G) has been changed in a "material" manner by the amendment, which simply changes "in any way influence" to "that in any way influenced" so as to conform exactly to the evidence at trial.

The House of Representatives denies that Article III(2)(B) "distorts and misstates" Respondent's actual grand jury testimony.

First affirmative defense

The House of Representatives denies each and every allegation of this purported defense. This defense was abandoned by Judge Nixon prior to trail, and no evidence has been presented in support of this defense. The House of Representatives further states that this purported defense is not relevant to the Impeachment Articles and is insufficient as a matter of law. This purported defense of "vindictive prosecution" is a question particularly appropriate for judicial resolution that has been finally resolved by the judicial branch against Respondent without pending appeal. Respondent should thereby be estopped from raising this issue during the impeachment proceedings. The House of Representatives further asserts that such "vindictive prosecution," even if true as alleged, cannot excuse or be a defense to the misconduct by Respondent set forth in the Articles of Impeachment.

Second affirmative defense

The House of Representatives denies each and every allegation of this purported defense. The House of Representatives assets that this purported defense is not relevant to the Impeachment Articles and is insufficient as a matter of law. This purported defense of prosecutorial misconduct is a question particularly appropriate for judicial resolution that has been finally resolved by the judicial branch against Respondent. Respondent should thereby be estopped from raising this issue during the impeachment proceedings. The House of Representatives further asserts that such prosecutorial misconduct, even if true as alleged, cannot excuse or be a defense to the misconduct by Respondent set forth in the Articles of Impeachment.

Wherefore, the House of Representatives states that each of the Articles of Impeachment presents a valid basis for removing Respondent from office. Each of the three Articles should be considered and adjudicated by the Senate.

With regard to Respondent's demand for "trial before the full United States Senate," the House of Representatives denies that Article I, Section 3 of the Constitution requires that evidence be taken by the full Senate, rather than by a Committee formed pursuant to Senate Impeachment Rule XI.

Respectfully submitted,

The U.S. House of Representatives,

(By) ALAN I. BARON,
Special Counsel.

Managers of the House of Representatives: Jack Brooks, Don Edwards, Benjamin L. Cardin, F. James Sensenbrenner, William E. Dannemeyer.

Impeachment Trial Staff: Alan I. Baron, Special Counsel; Peter E. Keith, Assistant Special Counsel.

House Judiciary Committee staff participating in the impeachment proceedings: William Jones, General Counsel; Daniel Freeman, Counsel; Catherine A. LeRoy, Counsel; Colleen Kiko, Counsel.

Date: October 13, 1989.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. on Tues-

day, October 17, and that following the time for the two leaders, there be a period for morning business until 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF PENDING BUSINESS
RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL Mr. President, I further ask unanimous consent that at 10 a.m. on tomorrow the Senate resume consideration of Senate Joint Resolution 180, a constitutional amendment relating to desecration of the flag, and I ask unaniomous consent that on tomorrow the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M., TUESDAY, OCTOBER 17, 1989

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 6:24 p.m., recessed until Tuesday, October 17, 1989, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 16, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have promised, O God, that You are our refuge and strength, a very present help in trouble. We pray that Your spirit, that spirit that heals and nurtures and gives new life, will show us the way we should walk. Whatever our circumstances, whatever our fears or hopes, may Your presence, O God, abide with us now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Washington [Mr. MCDERMOTT] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. MCDERMOTT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, Kansas, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3299. An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 71. Concurrent resolution congratulating Malta on the 25th anniversary of its independence.

DISPENSING WITH CALL OF CONSENT CALENDAR ON TODAY

The SPEAKER. Without objection, the call of the Consent Calendar will be dispensed with.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON WAYS AND MEANS

The SPEAKER laid before the House the following resignation as a member of the Committee on Ways and Means:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, October 5, 1989.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, H-209, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I am writing to formally offer my resignation, effective immediately, from my seat on the House Ways and Means Committee.

I offer this resignation with mixed emotions. Since 1977 I have been a member of the Committee. These years have been very exciting and productive with the passage of Tax Reform, the Omnibus Trade Bill, Welfare Reform and other major legislation. I am proud of my contributions in these areas and will be sad to resign my position.

At the same time, I am excited about my recent election to the post of Majority Leader. I feel that great days lie ahead for the House and our Nation. I believe that my new responsibilities will require all my time and energy.

In advance, thank you for your consideration of this request.

Yours very truly,

RICHARD A. GEPHARDT.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE JUDICIARY AND AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following resignation as a member of the Committee on the Judiciary and as a member of the Committee on Public Works and Transportation:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 13, 1989.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, H-204 The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective immediately, I hereby resign from the Committee on the Judiciary and the Committee on Public Works and Transportation in order to accept an appointment to the Committee on Ways and Means.

Sincerely,

BENJAMIN L. CARDIN,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 265) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That the following Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture, Gary Condit, California.

Committee on the Budget, Richard A. Gephardt, Missouri, to rank after Leon E. Panetta, Chairman.

Committee on Government Operations, Gary Condit, California.

Committee on House Administration, Thomas J. Manton, New York.

Committee on Interior and Insular Affairs, Tim Johnson, South Dakota.

Committee on Post Office and Civil Service, Charles A. Hayes, Illinois.

Committee on Public Works and Transportation, Pete Geren, Texas.

Committee on Ways and Means, Benjamin L. Cardin, Maryland.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution on Friday, October 13, 1989:

H.R. 2087. An act to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes;

H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986;

H.R. 2978. An act to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag; and

S.J. Res. 213. A joint resolution act designating October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

CAPITAL GAINS: BAD MEDICINE FOR A SICK MARKET

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, George Bush's honeymoon is most assuredly now over. The wakeup call came from General Noriega, and the President just received his first cold shower from Wall Street.

Mr. President, it is time to get to work, time to decide why is it you sought the Presidency, to tell us where it is you would take America.

These comments and this analysis one might certainly expect from a Democratic Member, but, Mr. President, listen to this, if you will, from the president of the Chase Manhattan Bank: "There are some very significant issues out there such as the fiscal deficit, our relations with Japan, that have to be the subject of major initiatives. I'd like to see that initiative, and I haven't. There is no agenda."

Mr. President, listen to not only your critics but to your fans. It is time to lead our country.

RECOGNITION OF WORLD FOOD DAY

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, today October 16, more than 140 countries around the world, including the United States, are celebrating the ninth annual World Food Day as designated by the Congress and the United Nations Food and Agriculture Organization [FAO].

The annual designation of World Food Day helps raise global consciousness about hunger and malnutrition at home and throughout the world. As well, it is a day to recognize the efforts of those individuals involved in food production, distribution, and other hunger relief efforts.

In the United States, 400 private voluntary organizations and more than 15,000 organizers from all 50 States are participating in educational activities, news briefings, and other events to inform the public about the food needs of millions of people throughout the world.

In Nebraska, my constitutents are participating in a national teleconference outlining the current world food situation. A public discussion at the University of Nebraska is planned to review our State's international food relief efforts in Morroco and elsewhere. And "Stop-the-Hunger" Awards will be made to several Nebraskans involved in these food relief efforts.

World Food Day 1989 has a special relevance to the United States and our northern neighbor, Canada. Both nations play critical roles in world food security. The United States alone is the world's largest food producer, exporter, and importer.

The United States and Canada provide close to two-thirds of all food aid. More than half of all the food distributed to avert starvation in Africa came from the farms of North America.

World Food Day is a time for us to recognize those providing food assistance, critical food needs that continue, and our ability to end hunger if we focus and direct our talents and resources.

MAKING COSTA RICA SAFE FOR DEMOCRACY

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I am sure that it is a great comfort to the overburdened American taxpayer to know that the National Endowment for Democracy has spent almost a half million of our tax dollars to promote democracy in Costa Rica.

Yes, you heard me right.

Half a million of your tax dollars, not just to promote democracy in Latin America's oldest and most stable democracy, but to join with the drug-running General Noriega to gin up opposition and personal attacks on the Nobel Prize-winning President Oscar Arias. Yes, our tax money was used to underwrite a magazine that attacked his political amateurism and asserted that his peace plan was impugning the national virility of Costa Rica.

Mr. President, embarrassing as this disclosure may be, it highlights the underlying sham of the National Endowment for Democracy.

NED is an open invitation to international scandal. We are subjecting ourselves to international ridicule, confirming the worst charges about U.S. political interference, and underwriting activities which, if conducted by a foreign nation in the United States, would be blatantly illegal.

If promoting democracy is the goal, let us spend the NED's $16 million budget right here at home in America, where our own voter registration is low, where our own election turnout is disgraceful, and where our own political campaigns could contain a lot more civic education.

If the Democratic and Republican Parties, and the AFL-CIO and Chamber of Commerce are so anxious to promote NED activities abroad, by all means they should raise money and do it. But once and for all, let us get the U.S. Government out of the business of subsidizing electoral imperialism.

□ 1210

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. As the Chair announced on July 23, 1987, it is not in order to address the President in debate. Members must address their remarks to the Chair. Although Members may discuss past and present Presidential actions and suggest possible future Presidential actions, they may not directly address the President, as in the second person.

HUMAN RIGHTS IN CUBA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, several weeks ago, two subcommittees of the House Foreign Affairs Committee held a joint hearing on the status of human rights conditions in Cuba. There was serious concern expressed at that hearing about the abuses of human rights in Cuba and particularly the recent detention of leading human rights leaders in Cuba.

Now, I have learned of the arrest of additional human rights monitors in Cuba only days after our panels' examination of the repression continuing under Castro's regime.

The arrest in the last several weeks of 4 additional Cuban human rights activists brings to 26 the total number either serving prison sentences or awaiting trial in Cuba. These detentions come after the members of the U.N. human rights commission visited Cuba but failed to render any conclusions based on their observations.

I urge my colleagues to join me in condemning this continuing outrage against human rights and civil liberties in Cuba and in calling on Cuban authorities to release those being held for their actions in support of human rights.

APPROACHING CRISIS IN THE AMERICAN ECONOMY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today our government is on automatic pilot as across-the-board cuts are due here in Washington.

Now, let us look at the facts. Since World War II America has given $600 billion away in foreign aid with nothing to show for it except Marcos and Baby Doc.

America defends South Korea and their students yell Yankee go home. America protects Japanese oil and they ship us toasters. America spends $120 billion a year to protect NATO

countries, and they meet every year to plan strategies to ship us more goods.

The truth of the matter is Congress is nothing more than a board of trustees overseeing the biggest bankruptcy in history, and no one down here other than the gentleman from Missouri [DICK GEPHARDT], and a few others can see it.

The bottom line is we have a crisis ahead that will make the 1929 crash look like a fender bender, and for all those that keep making light of it, in about 10 years try and eat your Toyota.

DOES THE UNITED STATES PRODUCE ENOUGH FOOD TO FEED THE WORLD?

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, last week an Agriculture Subcommittee held a hearing on our U.S. grain reserve. One of the questions which arose was: "Does the United States produce enough food to feed the world?" The answer subcommittee members received was a resounding yes. However, there was significant debate about why the food the United States produces does not get to hungry people around the globe.

It is particularly appropriate that today, World Food Day, we again ask why, when enough food is produced to feed the world, people still go hungry.

More than 100 million people in Africa, almost 500 million people in Asia, and millions more in Latin America do not obtain enough food to maintain nutritionally sufficient diets. Even in our own country, in both urban and rural areas, there are millions of people who go hungry every day.

Mr. Speaker, it is critical that we ensure that the agricultural resources of our country are effectively utilized in the effort to eradicate hunger in our Nation and throughout the world.

WILL AMERICA MORTGAGE ITS FUTURE?

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the Wall Street bullies are at it again. Today the Wall Street Journal has blamed legislation that would require review by the Secretary of Transportation and approval of junk bond, foreign-influence, leveraged buyouts in our major airlines as the cause of the crash of the stock market last Friday.

Why is the Wall Street Journal so exorcised with legislation that would restrict leveraged buyouts? Is it because they are afraid of someone spoiling the party? The boom of speculative profits and fat commissions that flow when these companies are put into play? The United deal alone would yield one quarter of $1 billion in commissions for this leveraged buyout.

This is a play that occurs with no eye to the future productivity or competitiveness of major sectors of U.S. industry. It is a fight to the death, or perhaps the bankruptcy, of the future commerce of this Nation.

Who will Congress and the President back? Those who want to manage American airlines and American industries into a position of world leadership in the next century, or those, like the editors of the Wall Street Journal and the junk bond kings and speculators who want to sell American industry, mortgage our future, and to hell with the future productivity and capacity of this Nation.

Mr. Speaker, Randall Araskog, chairman of ITT, said:

> People wish the government would do something about leveraged buyouts, do something about takeovers, do something about Donald Trump. Where is the leadership? Where is the guy who can say: "enough is enough"?

Mr. Speaker, I hope that there are 218 Members in this House who can say enough is enough.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not earlier than 4:30 p.m.

AUTHORIZING DISTRIBUTION OF "A TRIBUTE TO MICKEY LELAND"

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3294) to authorize distribution within the United States of the U.S. Information Agency film entitled "A Tribute to Mickey Leland."

The Clerk read as follows:

H.R. 3294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED "A TRIBUTE TO MICKEY LELAND".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "A Tribute to Mickey Leland"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) deposit that film in the National Archives of the United States; and

(B) make copies of that film available for purchase and public viewing within the United States.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. BERMAN] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3294 which would authorize the release in the United States of a film made by the U.S. Information Agency.

As the Members are aware, program materials created by the USIA may not be distributed in the United States without specific legislative authority. Many times over the past years, we have provided for the U.S. distribution of films which have been of specific historical or cultural value. Mr. Speaker, this film is of special interest to us as it contains a tribute to the work and dedication of the Honorable Mickey Leland.

Although the film is less than 10 minutes long, it provides a portrait of a man dedicated to improving the lives of others both in this country and overseas. I do not believe that this film should be saved only for foreign audiences. It is of value to us and to Mr. Leland's family. I urge the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my support for H.R. 3294, legislation to authorize the U.S. Information Agency to distribute overseas the film entitled "A Tribute to Mickey Leland."

Mickey was a friend and colleague of mine, and I am saddened over his tragic death in Ethiopia.

This film is important because it shows how Mickey devoted himself wholeheartedly to those who suffer in Ethiopia, the victims of communism, famine, and war. It shows how one man who is determined to make a difference can change things for the better. That is what serving in Congress is all about.

I urge my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I commend the distinguished chairman of the International Organization Subcommittee, the gentleman from California [Mr. DYMALLY] and the ranking minority member, the gentlelady from Maine [Ms. SNOWE], for bringing this bill to the floor.

I rise in support of H.R. 3294, a bill to authorize the distribution within the United States of the Information Agency film entitled "A Tribute to Mickey Leland." Our Nation has much to be proud of when we reflect about Mickey's tireless work on behalf of the world's hungry. It is important, therefore, that we disseminate information with regard to his many substantive accomplishments.

Today, as President Bush signed a proclamation declaring October 16, 1989 and 1990 as World Food Day, he noted Mickey's dedication to the hunger issue. Mickey always supported this important day by taking part in its many observances.

In addition, today the winners of the 1989 Presidential and Hunger Awards were announced. Mickey was given the lifetime achievement award. His commitment to the issue took him on his last mission to the Ethiopian refugee camps where he lost his life, seeking to help arrange for food aid already enroute to Southeast Asia to be diverted to the stricken region.

Accordingly, I support H.R. 3294 and invite our colleagues to join with us.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BERMAN] that the House suspend the rules and pass the bill, H.R. 3294.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1220

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3294, the bill just passed.

The SPEAKER pro tempore. (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

SUPPORT FOR PEOPLE OF COLOMBIA

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 194) to express the support of the Congress for the courageous people of Colombia, as amended.

The Clerk read as follows:

H. CON. RES. 194

Whereas President Virgilio Barco and the people of Colombia have shown tremendous courage and fortitude in standing up to the atrocities of the Colombian drug traffickers;

Whereas Colombian drug traffickers have assassinated a popular Presidential candidate, Senator Luis Carlos Galan; a Minister of Justice, Rodrigo Lara Bonilla; and Attorney General, Carlos Mauro Hoyos; an effective antinarcotics police chief, Colonel Jaime Ramirez Gomez; and an influential newspaper editor, Guillermo Cano Isaza;

Whereas Colombian drug traffickers have executed nearly 200 Colombian judges, 11 Supreme Court justices, and 4 Counsels of State;

Whereas Colombian drug traffickers have massacred thousands of others, including mayors, law enforcement officers, public officials, journalists, lawyers, and doctors, because of their antidrug activities, and have included in these massacres innocent family members and bystanders;

Whereas Colombian drug traffickers have been conducting a reign of terror which have effectively disrupted drug prosecutions in Colombia and prevented extraditions of drug traffickers;

Whereas the drug traffickers have financed the training and operations of paramilitary death squads that have been implicated in the assassination of hundreds of political and labor activists in Colombia;

Whereas in August 1989 following the brutal assassination of Presidential candidate Galan, President Barco utilized his state of siege powers to legislate by decree the extradition of drug kingpins and the seizure of their assets;

Whereas since then the Government of Colombia has seized millions of dollars of drug assets, arrested between 11,000 and 12,000 drug trafficking suspects, and on September 6, 1989, extradited a high level drug consiprator, Eduardo Martinez Romero, to the United States for prosecution;

Whereas the drug traffickers have responded to President Barco's bold actions by declaring an all-out war on the Government, the judiciary, and the press of Colombia, including their families;

Whereas the drug traffickers have vowed to kill 10 judges for every drug trafficker extradited and have targeted for assassination a judge in New York City;

Whereas the drug traffickers have commenced bombing public places and offices, such as the recent brutal attack on the office of the respected newspaper, El Espectador;

Whereas the drug traffickers have dramatically escalated their campaign of violence and intimidation against Colombian society;

Whereas the drug traffickers are exporting their terror by smuggling the illegal, deadly drug cocaine into the United States, Latin America, the Caribbean, and Europe; and

Whereas this cocaine traffic has resulted in an overwhelming increase of drug abuse and drug-related violence in the United States and elsewhere: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends President Barco of Colombia and the Government and people of Colombia for their courage and strength in standing up to the drug traffickers;

(2) expresses to the Government and people of Colombia the support, respect, and empathy of the Congress and the people of the United States in this most difficult time; and

(3) commends the Administration's cooperation with the Government of Colombia and urges the Administration to continue to make available appropriate equipment, training, intelligence, and financial aid to help Colombia successfully overcome the heinous activities of the drug traffickers.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. BERMAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 194, as amended, in support of the people of Colombia in their fight against narcotics trafficking in that country.

The people of Colombia have been under siege from narcotics traffickers for many, many years. The list of atrocities committed by the traffickers is long. We were all horrified when the Palace of Justice was attacked in 1985 by radical elements in Colombia allegedly under the direction of narcotics traffickers. As this resolution points out, over 200 Colombian judges, as well as countless other public officials, have been assassinated in recent years in an attempt by the Colombian cartels to neutralize the Colombian judicial system.

The brutal and audacious August assassination of Presidential frontrunner Luis Carlos Galan proved the final straw for the Colombian Government. Since this atrocity, the Colombian Government has waged an all-out assault on the trafficking organizations in Colombia. Thousands of traffickers have been arrested, millions of dollars in assets have been confiscated, and the extradition treaty with the United States has been reinstated. As of this weekend, four high level Colombian traffickers have been extradited to the United States to stand trial in U.S. courts.

The United States has responded to Colombian appeals for assistance by providing $65 million in emergency military assistance to Colombia and the President, in his narcotics control strategy, has proposed even more economic and military assistance in the coming years. It would be my hope that the House will consider the President's proposed increased funding for antinarcotics assistance for the Andean countries in the near future,

either as part of an overall antinarcotics package or on its own. I would also like to point out to my colleagues the offer of support from various donors which has been organized by the United States Information Agency for El Espectador, which has been in the forefront of the fight against narcotics trafficking in Colombia.

Mr. Speaker, this resolution is an appropriate statement of the support of the Congress for the Colombian people. I would like to commend my good friend from New York, the chairman of the Select Committee on Narcotics Abuse and Control, for introducing this resolution and would urge its unanimous adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this resolution, which commends the people of Colombia and President Barco for their brave struggle against the international cocaine traffickers.

The people of Colombia merit our praise. Under the leadership of President Barco they have united to confront the drug barons.

In the war on drugs, brave deeds and not mere words are needed. President Barco has accepted the challenge of saving his country from total lawlessness. Events have made his job one of the toughest in the world. But he is determined to restore the rule of law in his country.

It takes a man of strong character to do what President Barco has already done. He has imposed a state of siege and arrested thousands of drug trafficking suspects. He confiscated the assets of drug kingpins. He has already extradited a leading money launderer to the United States. With U.S. equipment and assistance, President Barco has stood up to the drug traffickers.

President Bush has also taken a tough line on drug trafficking. His antinarcotics strategy calls for a concerted attack on the drug cartels and their networks. The administration is cooperating closely with the Colombian Government in this critical battle.

The abuse of illicit narcotics is an international problem that demands international cooperation. Our Nation must help by reducing the demand for drugs. The United States and Europe must work together to control moneylaundering through the banks. Industrialized nations must ensure that processing chemicals are not shipped to drug laboratories in Colombia or elsewhere.

Colombia and the United States cannot win the drug war alone. International cooperation is essential.

I respect President Barco's courageous decision to do everything necessary to save his country from the drug barons.

With this resolution, we have an opportunity to send a clear message of support and concern to President Barco and his people. I urge my colleagues to support this timely resolution.

Mr. BERMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL], the sponsor of the resolution.

Mr. RANGEL. Mr. Speaker, I am pleased that the House is considering House Concurrent Resolution 194, commending the Government and people of Colombia. The Government under the leadership of President Barco and the many law-abiding citizens of Colombia have demonstrated great courage and resolve in their stance against the drug trafficking organizations.

The drug traffickers of Colombia are some of the most ruthless, vicious criminals in the world. Not only are they merchants of a dangerous, even deadly product—cocaine—but they conduct their business by threats, bribes, assassinations, bombings, kidnapings, and other terrorist type activities.

I believe the terms originated in Colombia, but we have had to coin new words to describe these criminals and their activities—narcoterrorists and narcoterrorism. Unfortunately, today, they are common words used in almost every newsstory we read about Colombia.

Mr. Speaker, it is easy for us in the U.S. Congress to talk tough on drugs, because we do not have to fear that our talk will cost us our lives or the lives of our families. Our Colombian colleagues do not have it so easy.

Many throughout the Colombian executive, legislative, and judicial branches of government, many in local governments, many in the press, and many civic leaders are outspoken opponents of drug trafficking. A number of these courageous individuals have been the target of narcoterrorist attacks, and we mourn their loss. It attests to the integrity of the Colombian people that so many bravely continue this fight, in spite of the incredible danger.

The tragic events of August were a call to arms on both sides of this war on drugs. While the most imminent threat of narcoterrorism may be directed at Colombia, the drug traffickers threaten us all. This is not Colombia's war; it is our war, collectively. We must stand in solidarity with our brothers and sisters in Colombia against this evil. We must lend them our support. And we must enlist the support of our allies in the Hemisphere and around the world in this international struggle.

I would like to insert into the RECORD a letter I recently received from President Barco concerning House Congressional Resolution 194. Allow me to share with you now some brief passages; President Barco writes:

> You and I both know that we are just beginning this international battle against organized crime, a battle that will be won if we are able to cooperate and present a united front. We must jointly attack these vicious criminals at all levels . . .
>
> Expressions of support, commitment and understanding, such as yours, give our people greater encouragement to continue fighting the international cocaine business and the drug mafia.

Mr. Speaker, it was out of my deep respect for the Colombian people and their immense courage that I introduced this resolution. Since then, there have been several significant events for which we should commend the Colombian Government. In spite of serious threats, the Supreme Court of Colombia upheld President Barco's decree which permits the extradition of Colombian nationals to face drug trafficking charges. Just this weekend, three additional Colombian drug suspects were extradited to the United States.

I hope that all of my colleagues will join with me today in showing that the entire United States House of Representatives supports and appreciates the efforts of Colombia against the drug traffickers.

PRESIDENCIA DE LA REPÚBLICA
Bogotá, September 19, 1989.

Hon. CHARLES B. RANGEL,
Chairman, Select Committee on Narcotics Abuse and Control, United States House of Representatives, Washington, DC.

DEAR CHAIRMAN RANGEL: On behalf of the people of Colombia and in my own, I wish to thank you for your letter of August 21st. Your expressions of sympathy for the tragic events that have occurred are deeply appreciated.

The Resolution 194 that you presented before the House of Representatives of the United States on September 11th, shows your profound understanding of Colombia's situation and your continuous support in our struggles against the drug traffickers.

You and I both know that we are just beginning this international battle against organized crime, a battle that will be won if we are able to cooperate and present a united front. We must jointly attack these vicious criminals at all levels: the producers, the distributors and the consumers of illegal drugs.

You have been a firm friend through these difficult times. Expressions of support, commitment and understanding, such as yours, give our people greater encouragement to continue fighting the international cocaine business and the drug mafia.

Sincerely,

Virigilio Barco

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, as a cosponsor, I am pleased to rise in support of House Concurrent Resolution 194 expressing the support of the Congress for the courageous people of Colombia.

The decision of the Colombian Government to vigorously pursue the leaders and members of the international narcotics trafficking cartels operating in Colombia merit the strong support and commendation of all of us who are fighting to end the deadly drug menace afflicting our citizens.

The Colombian Government's actions, supported by our own administration's efforts, deserve all the help we can offer. For too long, it appeared that the United States was carrying out a fight against drugs that was not being given sufficient attention by our allies in Latin America. In more recent years, that has changed, and especially now with Colombia's total commitment to combat the narcotraffickers, we can be hopeful that we finally have the cooperation we need to be more effective against the organized drug cartels.

House Concurrent Resolution 194 recognizes these actions, commends President Bush and commends the Government and people of Colombia for their courageous dedication in what is literally a fight for their lives, and for ours, too.

I urge my colleagues to give their unanimous support for this resolution.

□ 1230

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 194, expressing the support of the Congress for the courageous people of Colombia in their efforts to combat the drug traffickers.

As a senior member of the Foreign Affairs Committee and the Narcotics Select Committee, I want to commend the distinguished gentleman from Michigan [Mr. CROCKETT] and the distinguished gentleman from California [Mr. LAGOMARSINO], respectively chairman and ranking minority member of the Foreign Affairs Subcommittee on Western Hemisphere Affairs, for bringing this resolution, which I have cosponsored, to the floor of the House for consideration. I also want to commend my good friend, CHARLES RANGEL, the author of this resolution, the chairman of the House Select Narcotics Committee and a leader in the effort to combat drugs, both at home and abroad, and the ranking member of our selected committee, the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. Speaker, the drug traffickers are conducting a reign of terror in Colombia. The Colombian judicial system has become paralyzed and understandably so. The drug traffickers have murdered over 200 judges, 11 supreme court justices, a minister of justice and an attorney general, and numerous public officials, journalists, law enforcement officers, and civilians in a continuing campaign of violence. Hardly a day goes by when there is not a drug-related assassination or bombing.

However, when the cartels assassinated the popular presidential candidate, Luis Carlos Galan, they went too far. The Colombian people and the government, led by its courageous president, Virgilio Barco, were so outraged that a widespread and severe counterattack against the traffickers was implemented.

In recent months the Colombian authorities have rounded up over 12,000 drug suspects, seized millions of dollars worth of property and assets belonging to the drug traffickers and revived the extradition process.

The United States has provided Colombia with $65 million worth of emergency military assistance, as well as $2 million to help protect judges. More assistance will follow as part of the President's $2 billion, 5-year Andean military, law enforcement and economic assistance program. Hopefully Europe, Canada, and Japan will join us in the effort to help Colombia fight the drug lords.

The Colombian people and government are engaged in a heroic struggle against the drug cartels. They deserve our praise and they need our support. Accordingly, Mr. Speaker, I urge my colleagues to support this important resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, it is important, without question, that the resolution be clear in its support of the Colombian people, because they are both the allies and the victims of the terrible ravages of that war that exists in their own country.

However, there is another, grander reason we must pass this resolution and get the message out to the Colombian people as swiftly and as strongly as possible, and that is the rumor, if it is just a rumor, that the Government of Colombia or some members of that government were willing to sit down and negotiate with the drug dealer kingpins in Colombia for some kind of cease-fire for accommodation or realization of common goals or whatever these negotiations might have tried to produce, which would be a horrible thing to contemplate.

If we can demonstrate to the people of that country and the leadership, that if they stand firm and that they follow the tenets of the international community which is willing to come to their side to help them, then we can shove aside any inclination that any person in Colombia might have to enter into negotiations with the drug lords in that country.

I hope that we pass the resolution and that we have a clear bell of support resounding from this Chamber that the people of Colombia need to resort to nothing more than their own strengths, not to negotiate with the enemy.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], the vice chairman of the Select Committee on Narcotics Abuse and Control.

Mr. COUGHLIN. Mr. Speaker, I rise to fully endorse House Concurrent Resolution 194, which commends the Colombian Government and people for their courage in fighting the ruthless drug trafficking organizations. I would like to commend Mr. RANGEL, the author of this resolution and the Chairman of the House Select Narcotics Committee, for his continuing efforts to combat the blight of drugs at home and abroad.

The Colombians are hitting back hard at the drug kingpins. President Barco, ruling by executive decree, has pledged to do to the traffickers the one thing they fear most, to extradite them to the United States to face justice.

A handful of men run the trafficking organizations. If these cartel leaders are arrested and extradited to the United States, and if their financial assets are seized and forfeited, their operations, at least for a time, will become paralyzed. Already, four Colombians have been extradited to the United States on drug trafficking and money laundering charges.

The Colombians, in their national crackdown on the drug cartels, have seized some key trafficker assets, including their private fleet of jet planes, and have continued to destroy clandestine labs used to process cocaine.

The $65 million emergency military assistance package, offered by the White House last month, will help them to step up these efforts. Additional United States assistance for Colombia will follow shortly as a key part of the new anti-drug strategy unveiled by President Bush on September 5. The President's Andean initiative calls for substantial military and economic assistance for Colombia, as well as for Peru and Bolivia, over the next several years.

The Colombian people and the Colombian Government deserve our moral and material support, as well as our praise and respect, for their heroic struggle against cocaine trafficking. Their fight against the traffickers is also our fight. Their enemy is our enemy.

I strongly support this resolution (House Concurrent Resolution 194) and urge my colleagues to join me in sending this message of commendation to the brave people of Colombia.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from California [Mr. BERMAN] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 194), as amended.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DESIGNATING CERTAIN LANDS IN LOS PADRES NATIONAL FOREST AS WILDERNESS AND SESPE CREEK AND THE SISQUOC RIVER AS WILD AND SCENIC RIVERS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1473) to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek and the Sisquoc River in the State of California as wild and scenic rivers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND POLICY.

The Congress finds that—

(1) areas of undeveloped National Forest System land on Los Padres National Forest have outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) it is in the national interest that certain of these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations; and

(3) geologic evidence and production data suggest that a producing oil and gas field adjacent to the proposed Sespe Wilderness extends into such area.

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act, the following National Forest System lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in Los Padres National Forest and the Angeles National Forest, California, which comprise approximately 211,000 acres, which are generally depicted on a map entitled "Sespe Wilderness Area—Proposed" and dated September 1989, and shall be known as the Sespe Wilderness;

(2) certain lands in Los Padres National Forest, California, which comprise approximately 30,000 acres, which are generally depicted on a map entitled "Matilija Wilderness Area—Proposed" and dated May 1988, and shall be known as the Matilija Wilderness;

(3) certain lands in Los Padres National Forest, California, which comprise approximately 51,000 acres, which are generally depicted on a map entitled "San Rafael Wilderness Addition—Proposed" and dated September 1989, and which lands are hereby incorporated in, and shall be deemed to be a part of, the San Rafael Wilderness;

(4) certain lands in Los Padres National Forest, California, which comprise approximately 11,600 acres, which are generally depicted on a map entitled "Garcia Wilderness Area—Proposed" and dated September 1989, and shall be known as the Garcia Wilderness;

(5) certain lands in Los Padres National Forest, California, which comprise approximately 36,000 acres, which are generally depicted on a map entitled "San Emigdio Wilderness—Proposed" and dated September 1989, and shall be known as the San Emigdio Mesa Wilderness; and

(6) certain lands in Los Padres National Forest, California, which comprise approximately 38,000 acres, which are generally depicted on a map entitled "Ventana Wilderness Addition—Proposed" and dated September 1989, and which lands are hereby incorporated in, and shall be deemed to be a part of, the Ventana Wilderness.

SEC. 3. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act. Any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) FIRE PREVENTION AND WATERSHED PROTECTION.—Notwithstanding any provision of the Wilderness Act, in order to provide for the continued viability of the watershed affected by these wilderness designations, and to provide for the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture is authorized to take whatever actions in the Sespe, Matilija, Garcia, San Emigdio Mesa, Ventana, and San Rafael Wilderness areas which are deemed necessary for fire prevention and watershed protection including, but not limited to, fire presuppression and fire suppression measures and techniques utilized elsewhere on the National Forest System.

(c) SESPE CONDOR SANCTUARY.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary of Agriculture may take such measures and utilize such facilities as are necessary for the management of the Sespe Condor Sanctuary, including (but not limited to) road, vehicular, and helicopter access, and related facilities. Such measures are to be taken only for the preservation and protection of the California Condor and related habitat as part of the recovery program for the Condor.

(d) SPECIAL MANAGEMENT RESTRICTION.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.) and section 5112 of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (30 U.S.C. 226-3), the Secretary of the Interior may, under existing authority, issue oil and gas leases for the subsurface of the Sespe Wilderness. Such leases shall not allow surface occupancy and may be entered only by directional drilling from outside the Sespe Wilderness.

(e) ADJACENT MANAGEMENT.—The Congress does not intend that wilderness areas designated under this Act lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 4. FILING OF MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area designated in section 2 shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia.

SEC. 5. RELEASE TO NONWILDERNESS USES.

The table contained in section 111(e) of the California Wilderness Act of 1984 (98 Stat. 1631) is amended by striking all lines pertaining to further planning areas on the Los Padres National Forest. These areas shall be released to nonwilderness uses in accordance with Section 111 (except for subsections (e)) of such Act.

SEC. 6. DESIGNATION OF WILD AND SCENIC RIVERS.

In order to preserve and protect for present and future generations the outstandingly remarkable values of Sespe Creek, the Big Sur River, and the Sisquoc River, all in California, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) SESPE CREEK, CALIFORNIA.—The 4 mile segment of the main stem of the creek from its confluence with Rock Creed and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it leaves section 26, township 5 north, range 20

west, to be administered by the Secretary of Agriculture as a wild river.

"( ) SISQUOC RIVER, CALIFORNIA.—The 31-mile segment of the main stem of the river extending from its origin downstream to its confluence with Burro Creek, to be administered by the Secretary of Agriculture as a wild river.

"( ) BIG SUR RIVER, CALIFORNIA.—The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana wilderness in Los Padres National Forest, to be administered by the Secretary of Agriculture as a wild river.".

SEC. 7. STUDY RIVERS.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraphs at the end thereof:

"( ) PIRU CREEK, CALIFORNIA.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru.

"( ) LITTLE SUR RIVER, CALIFORNIA.—The segment of the main stem of the river from its headquarters downstream to the Pacific Ocean. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

"( ) UPPER SESPE CREEK, CALIFORNIA.—The main stem from its confluence with Chorro Grande Canyon downstream to its confluence with Rock Creek and Howard Creek.".

SEC. 8. VENTANA LAND EXCHANGE.

(a) MAP.—The map entitled "New Los Padres Dam Project—Forest and Wilderness Boundary Adjustment—Los Padres National Forest" dated September, 1989 (hereafter in this section referred to as the "map") shall describe the lands for which exchanges and other actions are authorized by this section. The map shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, District of Columbia.

(b) BOUNDARIES.—Upon completion of the exchange, the boundaries of the Ventana Wilderness and Los Padres National Forest are hereby modified as necessary to accommodate the land exchange authorized by this section.

(c) GENERAL AUTHORITY.—Subject to valid existing rights, the Secretary of Agriculture is authorized and directed to offer for exchange to the California-American Water Company the lands comprising Parcel A and to receive, in exchange for Parcel A, all right, title and interest in Parcel B, as generally depicted on the map. The title to Parcel B shall be in California-American Water Company and the title conveyed in the exchange shall be by general warranty deed and shall be otherwise acceptable to the Secretary. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exhanging Parcel A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the event that the California-American Water Company does not acquire title to Parcel B.

(d) MANAGEMENT.—Upon acquisition by the United States, Parcel B shall be thereafter managed as National Forest Wilderness and shall be withdrawn from all forms of location and entry under the mining and mineral leasing laws and from the geothermal leasing laws.

SEC. 9. OFF-ROAD VEHICLE TRAIL.

The Secretary of agriculture shall construct in the area adjacent to the San Emigdio Mesa Wilderness a trail for off-road vehicles that connects the Long Canyon trail with the Sulphur Springs trail.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1473, as amended, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1473 sponsored by my colleague from California, Mr. LAGOMARSINO, would designate wilderness and wild and scenic rivers in the Los Padres National Forest in California. Throughout the committee markup process, I have worked closely with Mr. LAGOMARSINO, Mr. LEVINE, Mr. THOMAS, and Mr. PANETTA to resolve any concerns they have with the bill. These negotiations have been reasonably successful and we have a bill that, while not completely agreeable to all, is generally acceptable and I believe an equitable compromise. The bill as amended now has bipartisan support and I thank my colleagues from California for their cooperation.

H.R. 1473 would accomplish the following:

First, it designates approximately 378,000 acres of wilderness. This is approximately 135,000 more wilderness acres than the bill as introduced. It designates four new wilderness areas—Sespe, the Matilija, the Garcia, and the San Emigdio Mesa and it adds lands to the existing San Rafael, called La Brea, and Ventana Wilderness Areas.

Second, it eliminates the provision in the original bill which would have allowed off-road vehicle use on the Johnston Ridge trail in the Sespe Wilderness.

Third, it designates three wild and scenic rivers: Sespe Creek, the Sisquoc River, and the Big Sur River. It adds 4 additional miles to the upper Sespe which were not in the original bill.

Fourth, it designates three rivers to be studied for wild and scenic river designation—Piru Creek, the Little Sur River, and upper Sespe Creek. These are additions to the original bill. Study designation for the upper Sespe is a fair compromise between those who want to protect Sespe Creek and those who would like to develop its water resources. Study status would protect segment II of the upper Sespe for 6 years and give Congress a chance to revisit the issue.

Fifth, it directs the Secretary of Agriculture to construct a loop trail outside of the wilderness for off-road vehicle users.

Sixth, it also directs the Secretary to accomplish a land exchange with the California-American Water Co.

This bill adds significantly and substantial additions to the Wilderness System in the Los Padres National Forest. Over 50 percent of the acreage that the Forest Service studied as further planning areas would become wilderness. The Los Padres National Forest would end up with a total of 791,000 acres of wilderness in 9 areas, which is 45 percent of the national forest's total acreage. This is a much higher percentage of wilderness than the average for national forests which is less than 20 percent. I urge my colleagues to support the passage of this worthy piece of legislation.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1473, the legislation I introduced designating certain areas in the Los Padres National Forest in California as wilderness and adding portions of the Sespe, Sisquoc, and Big Sur Rivers—also located in the forest—to the National Wild and Scenic Rivers system. Since introducing this bill, the Interior Committee has amended it, further expanding both the wilderness and wild and scenic river designations making this a forestwide bill.

As my colleagues may recall, I introduced, along with Senator PETE WILSON, legislation similar to the original version of H.R. 1473 last Congress. Unfortunately, we adjourned before being able to consider it. Senator WILSON will be introducing a new companion measure to H.R. 1473 in the other body.

I am very encouraged that our colleague, BRUCE VENTO, the chairman of the Interior Subcommittee on National Parks and Public Lands considered

my bill in a very timely and positive manner. He and his able staff, particularly Dale Crane, Jim Bradley, and Heather Huyck were instrumental in bringing this legislation, important to both me and my district, to the House floor. I very much appreciate the friendly cooperation of Chairman VENTO and look forward, in my capacity as ranking Republican for parks on the subcommittee, to continue working in this same spirit on other conservation and land management measures.

I also want to thank Interior Committee Chairman MO UDALL for his support and for bringing this measure before the full Interior Committee in a very timely manner. Like Chairman VENTO's, his support was essential and very much appreciated. The support and cooperation of my colleagues LEON PANETTA and BILL THOMAS of California was also very critical and much appreciated.

H.R. 1473 as originally written would designate two wild and scenic rivers—portions of Sisquoc River and Sespe Creek—create two new wilderness areas and expand an existing wilderness within the Los Padres National Forest. It would implement key recommendations of the U.S. Forest Service following completion of the final management plan for the forest.

I should point out that the Forest Service did an extensive review with much public input. The Forest Service's final plan was based on over 1,800 written comments, 91 percent of which were individual responses, not petitions or form letters; over 10,000 other comments; and 11 public meetings and hearings from Salinas in the north to Pasadena in the south. There is real breadth and quality in this input. I strongly believe this reflects the hard work of Los Padres Forest Supervisor Art Carroll and his staff, particularly forest planner Gerry Little. My colleagues should be aware that Art and Gerry came to Washington just before the subcommittee markup and provided critical insight and assistance in crafting the final version of this bill.

H.R. 1473 as originally introduced is based on this responsible Forest Service recommendation completed last year under the competent leadership of supervisor Art Carroll. It is, I strongly believe, a balanced, reasonable bill designed to satisfactorily address the core concerns of all the diverse interests involved—from water development to environmental preservation. The broad base of support it has—from local farmers and economic development interests to noted environmentalists and the whole spectrum of recreational interests is testimony to its careful drafting. In its original form, H.R. 1473 addressed only the river and wilderness portions in the 21st and 19th Congressional Districts which ELTON GALLEGLY—an original cosponsor—and I represent, respectively.

Since his visit to the Sespe region in Ventura County over Memorial Day weekend and the subsequent informational hearing this past July, I have worked very closely with Parks Subcommittee Chairman VENTO in an effort to address the additional concerns of the environmental community. We expanded my bill to include over 135,000 additional acres of new wilderness, to increase the Sespe Wild and Scenic River designation, to add portions of the Big Sur River as wild and scenic, and to designate studies of the Little Sur River, Piru Creek, and the remainder of segment II of Sespe Creek. H.R. 1473, through Chairman VENTO's amendment in the nature of a substitute, is now a forestwide bill incorporating provisions affecting the districts of Representatives LEON PANETTA and BILL THOMAS. Clearly, it is significantly larger than the Forest Service's final plan. With the adoption of this bill, approximately 45 percent of the Federal lands within the forest would be designated wilderness.

While I worked very closely with Chairman VENTO in crafting the additions in my district and, in general, support these provisions, I am not totally satisfied with the end product. I am concerned that in an effort to address the further concerns of some in the environmental community, we did not give the proper attention and weight to the concerns of other forest users—like those in the off-road vehicle recreation community. They, too, enjoy use of the forest and I am disturbed that some new wilderness additions were made at the expense of this community.

In particular, I am opposed to the deletion by the Interior Committee of my special Johnston Ridge Trail language that keeps this important trail and access route to the Sespe Hot Springs open. In the subcommittee, I offered an amendment to reincorporate the special Johnston Ridge Trail provisions during full committee consideration. Unfortunately, while the vote was close, I did not prevail. While I believe this bill would be superior with the Johnston Ridge Trail kept open, the omission of this special provision does not warrant delaying consideration of this important bill.

Furthermore, I am concerned about some of the boundaries of the new proposed San Emigdio Mesa Wilderness Area. This area was incorporated into the bill with very little public input. In fact, much of the public didn't even know it was being considered. I hope these speedy decisions, made without proper survey of this territory by the Forest Service and others, do not bear too many burdens. In response to these concerns, I am encouraged that the Interior Committee has agreed that some modifications can be made during the Senate's consideration of this issue.

For example, I have recently learned that important platinum and chromium mining interests are located in the southernmost parts of the San Emigdio Mesa Wilderness. In light of Congress' actions 3 years ago with the 1986 Anti-Apartheid Act in which we stated our objective to reduce dependence on South Africa for strategic minerals such as these, I believe it is very prudent and very much in our national security interests to exclude these small bits of acreage from the wilderness. I am not opposed to expanding the wilderness in other areas to compensate for these minor modifications provided that we do not jeopardize ORV trails or the proposed State ORV trail system. Already these interests have made their fair share of compromises.

I am also recommending that the Senate carefully consider the wilderness boundary near the special geological site in the proposed San Emigio Mesa Wilderness area. While I fully agree that the geological site should be included in wilderness, I disagree about including the access road to this site. This road is open to the public today and is the only means for children, the elderly, and handicapped—those unable to hike long distances—to enjoy the wonders of this special area. I am hopeful that all will agree that minor modifications like these enhance, not degrade, the quality of this legislation.

Since I introduced this bill, debate has arisen about the proposed wild and scenic designation for the Sespe River. My bill originally proposed that 27.5 miles of the Sespe be designated as "wild and scenic." Upon further review with Subcommittee Chairman VENTO, I agreed to add a further 4 miles of the creek, from the confluence of Rock and Howard Creeks to Trout Creek, to the designation as "scenic." In proposing portions of Sespe Creek for wild and scenic designation, great care was taken to leave two sites, Cold Springs and Oat Mountain, open for possible future development.

Southern California is facing serious water shortages which will only become more severe in the years to come. As the local water conservation district testified, usage continues to outstrip supply. Even after the strictest of conservation and recycling measures and the utilization of State water resources, Ventura County is predicted to be short of water in the future. Already, overpumping of the aquifer underneath the Oxnard Plain has led to salt water intrusion from the ocean. Salt water intrusion has recently been found in the deeper Fox Canyon aquifer. This jeopardizes the future of the fertile, extremely pro-

ductive farmland on the plain. Continued salt water intrusion will economically, agriculturally, and environmentally ruin this rich area. Sespe water is a critical factor in reversing the salt water and recharging the Oxnard aquifer. It is also tied into the Freeman Diversion Dam on the Santa Clara River, a conservation project popular with the environmental community, that uses Sespe runoff to recharge the Oxnard Plain aquifer. My colleagues may recall that Congress has already appropriated $11 million in loans to build the Freeman diversion project.

While H.R. 1473 precludes water development at the site that water interests have determined to be the best for a dam, the Topatopa site in the heart of the wild and scenic river and wilderness area, it does leave two other possible dam sites—Cold Springs and Oat Mountain—outside of the designation as alternatives. My bill is silent on dams. It does not authorize any water projects, it only leaves the option for the future open. While there are currently neither plans nor proposals for any dams, the serious water concerns of the future dictate that we not rule out such possibilities today.

Leaving the Cold Springs and Oat Mountain sites open is critical for local support for this measure. Some key local economic development groups, like chambers of commerce and the farm bureau, initially opposed H.R. 1473 believing it went "too far." However, they now support the current Sespe provisions as a reasonable, responsible compromise and testified before the National Parks and Public Lands Subcommittee to that effect. The city council of Ventura has endorsed the Sespe provisions in the bill.

The bottom line is that a careful compromise on the Sespe Creek has been crafted. I am very encouraged that the full Interior Committee agrees. For the RECORD, I am submitting an editorial that appeared in the Ventura County Star-Free Press, a leading paper in my district, following the Interior Committee's markup of H.R. 1473. I believe this editorial is right on the mark and, as the commentary warns, we should be very careful not to miss "the forest for the creek."

All in all, I believe we have a good bill that does address the core concerns of all the diverse interests involved. I urge my colleagues to join me in supporting my bill.

CITY OF SAN BUENAVENTURA,
Ventura, CA, July 18, 1989.

Congressman ROBERT LAGOMARSINO,
House of Representatives, Washington, D.C.
Re: H.R. 1473.

DEAR CONGRESSMAN LAGOMARSINO: Last night, July 17, the City Council of the City of San Buenaventura took formal action to support H.R. 1473. This action was taken to support both the wild and scenic designation for the Sespe and to preserve options for future water supplies.

You are to be complimented for the work you have put into reaching this compromise proposal. As in the past, we thank you for your work on issues and projects that are of importance to us.

Sincerely,

JAMES L. MONAHAN,
Mayor.

[From the Ventura County Star-Free Press, Oct. 5, 1989]

THE FOREST AND THE CREEK

The eternal protection of most of Ventura County's pristine and rugged backcountry came a large step closer Wednesday, but it won't be realized until California's two senators can agree over how much of the backcountry's life-blood, Sespe Creek, is to be preserved as a wild and scenic river.

The encouraging news from Washington came from the House Interior Committee, where members unanimously approved a bill by Rep. Bob Lagomarsino of Ventura that would designate as wilderness 378,000 acres of the Los Padres National Forest. Included in the measure is the 211,000-acre Sespe Wilderness and the designation of parts of three rivers—the Big Sur in Monterey County, the Sisquoc in Santa Barbara County and Sespe Creek in Ventura County—for inclusion in the national wild and scenic rivers system.

Rep. Lagomarsino grudgingly accepted a compromise on the most contentious aspect of the bill—the exclusion of parts of the Sespe Creek that would keep open the prospect of building dams at two sites. An amendment offered by Rep. Mel Levine, D-Los Angeles, was added that would require the Forest Service to further study whether to include a 10-mile stretch that includes one of the potential dam sites, Cold Spring, in the Rose Valley area north of Ojai.

Rep. Lagomarsino and his Ventura County colleague on the committee, Rep. Elton Gallegly, resisted the amendment, but ultimately accepted it as a necessary compromise. It is mostly symbolic, as no dam was going to be built there, or even likely proposed, during the six-year study period. Also, the Forest Service will most likely be conducting the additional studies in any event, as the result of an appeal by environmentalists of the Los Padres management plan.

Rep. Lagomarsino was optimistic following the committee vote that his bill will be approved on the House floor, with little or no debate, in a matter of weeks.

If that happens, the fate of the forest will be left to the Senate, where protocol for this sort of legislation requires that the two senators from the affected state agree to the particulars. At this point, they do not.

Republican Sen. Pete Wilson has introduced a bill identical to Rep. Lagomarsino's—one that follows the Forest Service's recommendations for wilderness and wild river designations. Those recommendations include the Sespe Creek compromise that excludes the two potential dam sites.

Democratic Sen. Alan Cranston three weeks ago introduced a bill that goes well beyond those recommendations. Sen. Cranston's bill would designate as wild—and thus bar any dam construction—the entire 55-mile stretch of Sespe Creek. It also adds nearly 70,000 acres to the proposed Sespe Wilderness Area and would include the undammed sections of Piru Creek in the wild and scenic rivers sytem.

Sen. Cranston's bill undoubtedly pleases the committed environmentalists who have resisted any compromise. But it also threatens to delay passage of the wilderness legislation and rejects as meaningless the years of careful study that went into the adoption of the Forest Service recommendations.

As a matter of policy, we continue to believe that the long-term interests of Ventura County are best served by maintaining the option of a Sespe Creek dam, however remote the possibility may be. But even those who disagree with that view ought to consider what their stridence is jeopardizing.

By nearly anyone's definition, the Lagomarsino-Wilson bills are a triumph of conservationism. They would protect more than 900 square miles of the Ventura County backcountry from motorized vehicles, mining, oil development and other intrusions from man. They would declare a dam off-limits along the Sespe at the Topa Topa site—the one site with enough water storage potential to attract the interest of outside water developers.

That is a lot to gain, and thus a lot to put at risk over a few miles of Sespe Creek—especially when no proposal for a dam now exists, and the possibility of such a proposal emerging any time soon is so remote.

Sen. Cranston and his supporters are in danger of being blinded by zealousness. At this point, it would seem, they can't see the forest for the creek.

□ 1250

Mr. VENTO. Mr. Speaker, I appreciate the comments of the gentleman from California [Mr. LAGOMARSINO], and obviously his cooperation in this has been outstanding. We are able to work and move forward with this bill today because of that, and there are other Members of the delegation that have made contributions to this, as I mentioned earlier, one of them being certainly the gentleman from California [Mr. PANETTA].

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise today in support of H.R. 1473, a bill to designate additional wilderness and wild and scenic rivers in the Los Padres National Forest. I urge the House to vote in support of this important legislation.

H.R. 1473, which was introduced by my colleague, the Honorable ROBERT LAGOMARSINO, would designate certain lands in the Los Padres National Forest as wilderness and would designate Sespe Creek, Big Sur River, and the Sisquoc River as wild and scenic rivers.

Mr. Speaker, the Los Padres National Forest is an important resource in central California, providing a source of recreation and enjoyment for many residents of the region. In addition, the forest serves as a critical watershed area for this highly productive agricultural region of the State.

H.R. 1473, as amended in the Committee on Interior and Insular Affairs, includes a number of provisions affecting the 16th District of California—provisions which I helped develop and am pleased to see in this final package.

Specifically, these provisions would add nearly 38,000 acres to the existing Ventana Wilderness in the Los Padres National Forest. The areas in this addition include Bear Mountain, Black Butte, and Junipero Serra Peak. Each of these areas provides an important addition to the existing wilderness and warrant the permanent protection afforded by this bill.

In addition, H.R. 1473 would designate the Big Sur River as a wild and scenic river from its headwaters to the point at which it emerges from the Ventana Wilderness. This designation is largely consistent with the recommendation of the Forest Service in accordance with its recently completed land management plan for the Los Padres Forest, and is supported by local conservation interest as well.

H.R. 1473, as amended, would also direct the Secretary of Agriculture to continue its study of the Little Sur River, from its headwaters to the Pacific Ocean, for possible inclusion in the wild and scenic rivers system. The legislation specifically directs the Secretary to consult with the Big Sur Multiagency Advisory Council during this study to ensure that local interests and concerns are recognized and reflected in the Forest Service's final recommendations. The Big Sur Multiagency Advisory Council has served an extremely valuable role in providing for the protection and thoughtful development of the Big Sur area. I look forward to the Council's valuable input into the Little Sur study.

Finally, Mr. Speaker, H.R. 1473 as amended, provides for an exchange of lands in the northernmost part of the forest, to permit the possible expansion of the Los Padres Reservoir on the Carmel River, should this alternative be selected by the Monterey Peninsula Water Management District and approved by the public. The Forest Service will receive 100 acres of land in exchange for 50 acres of private land. The lands acquired in the exchange will be added to the Ventana Wilderness in accordance with the bill.

Mr. Speaker, I want to thank my colleague, Mr. LAGOMARSINO, for his initiative in introducing this bill. I also want to express my gratitude to the chairman of the Public Lands Subcommittee, Mr. VENTO, and the chairman of the Interior Committee, Mr. UDALL, for their assistance in incorporating into H.R. 1473, the provisions of the bill which I have discussed.

I believe that these provisions make H.R. 1473 a better bill, and help to provide a more comprehensive approach to protecting the unique natural resources of the Los Padres National Forest.

I urge my colleagues in the House to vote in favor of H.R. 1473.

Mr. VENTO. Mr. Speaker, I just want to rise again to reiterate my appreciation for the gentleman from Missouri [Mr. VOLKMER], the subcommittee chairman on the Agriculture Committee, for his cooperation in providing for this bill to move forward and for the work of the gentleman from California [Mr. PANETTA] on the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I want to join the gentleman from Minnesota [Mr. VENTO] in thanking the gentleman from Missouri [Mr. VOLKMER] as well and I also neglected earlier to commend Rick Healy of the committee staff, too. He was actually the one who came out there and trudged around through the river and its wilderness area, as well as Lori Stillman and Matt Reynolds on my staff.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1473, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CLARA BARTON PARKWAY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1310) to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway".

The Clerk read as follows:

H.R. 1310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION OF PARKWAY.

The portion of the George Washington Memorial Parkway extending from the intersection of such Parkway and MacArthur Boulevard in Montgomery County, Maryland, to the intersection of such Parkway and Canal Road in the District of Columbia is hereby redesignated as the "Clara Barton Parkway".

SEC. 2. REFERENCES.

Any reference in a law, rule, map, document, record, or other paper of the United States to the George Washington Memorial Parkway that includes the portion of such Parkway redesignated as the "Clara Barton Parkway" shall be deemed to include a reference to the "Clara Barton Parkway".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity both to honor an American woman whose accomplishment in founding the American Red Cross helps us every day and to assist tourists and commuters in the Washington area by renaming part of the George Washington Memorial Parkway the Clara Barton Parkway. H.R. 1310, a bill introduced by Representative CONNIE MORELLA, designates the Maryland section of the George Washington Memorial Parkway—from the District line to the parkway's end—as the Clara Barton Parkway.

The parkway goes right by her Glen Echo, MD, home, now a national historic site. You can clearly see her house, which also served as headquarters for the American Red Cross, from the parkway. There is a close connection between the woman and the parkway. Today the organization she founded—the American Red Cross—saves lives through its first aid training and blood donation programs, assists after disasters such as Hurricane Hugo and forms a key part of our Nation's social fabric.

Various people—including other Members of Congress—testified about getting lost as a result of having one road—the George Washington Memorial Parkway—go through two different States with two different destinations. Renaming this parkway the Clara Barton Parkway will help decrease such confusion. It will also recognize a worthy figure in American history.

Mr. Speaker, I endorse H.R. 1310 and recommend its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1310 to redesignate a certain portion of the George Washington Memorial Parkway as the Clara Barton Parkway.

The legislation provides that the 8-mile segment of the parkway in Maryland would be named the Clara Barton Parkway. The redesignation is intended to eliminate the confusion which currently exists due to the same name designation for the parkway in both the States of Maryland and Virginia. In addition, the name change would honor Clara Barton, whose home—

which has been designated the Clara Barton National Historic Site—is located close to the parkway in Glen Echo, MD.

Clara Barton was a noted humanitarian and founder of the American Red Cross. She served as its president from its founding in 1881 to her resignation in 1905. She is also known for her role in promoting women's rights and was the first American woman to hold a diplomatic passport. In addition, she was very active in founding free schools in the east, particularly for factory workers. Naming a portion of the George Washington Memorial Parkway after Clara Barton is certainly an appropriate tribute to this remarkable woman.

H.R. 1310 is sponsored by my good friend and colleague, Representative MORELLA, who I would like to commend for her work on this legislation. She has invested a great deal of time and effort on this issue over the past few years and has done an outstanding job in moving this legislation forward.

Mr. Speaker, H.R. 1310 is a good bill which deserves enactment. I know of no opposition to this legislation which would result in very minimal cost to the Federal Government. Therefore, I urge my colleagues to approve H.R. 1310.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, H.R. 1310 is a bill which will rename the section of the George Washington Parkway on the Maryland side of the Potomac River, the Clara Barton Parkway. Cosponsoring this legislation are my colleagues whose districts touch upon either end of this approximately 6 mile stretch, Congresswoman BEVERLY BYRON on the northern end and Delegate WALTER FAUNTROY on the southern end.

The purpose of this name change is to avoid the confusion of having two parkways running on either side of the river, bearing the same name. During my testimony before the Subcommittee on National Parks and Public Lands, I read an extremely amusing but at the same time pitiful letter that was sent to Ron Shaffer, better known as "Mr. Gridlock," and published in his weekly column in the Washington Post. Every wrong turn and request for directions was chronicled by the unfortunate writer who had spent 90 minutes of "dazed" driving going first in one direction and then another on the George Washington Parkway on both sides of the Potomac River. The hapless traveler ended up in uncontrollable tears at the CIA headquarters.

I am sure that most of you here in the House are familiar with this part of the roadway, but for those of you who are new to Washington or may live in another part of the District of Columbia or Virginia, the section to be renamed runs from its intersection with MacArthur Boulevard at the David W. Taylor Naval Ship Research and Development Center, and the beginning of Canal Road—which is not a part of the George Washington Parkway—at the Chain Bridge. The confusion over the naming of the roadway has long been chronicled in the paper and in the travel lore of the city. In addition, emergency vehicles serving this area can be confused as to where to go and often must spend extra time to get the exact location.

Early champions of this change include Maryland State delegate, Jean Roesser, Naomi Ulmer; and Jean Cryor, editor of the Bethesda and Potomac Gazette. Every State senator and delegate in the Montgomery County, MD, the Montgomery County Council, and Maryland Governor William Donald Schaefer, have joined in the movement to rename the parkway for Clara Barton. They were represented at the hearing by State Senator Howard Denis who represents the area.

In the hearing on the bill before the subcommittee, American Red Cross President Emeritus, George M. Elsey, testified why Clara Barton's life should be commemorated here in Washington. Mr. Elsey pointed out that Clara Barton is one of both America's and the world's genuine heroes—that her work has been continued for over 100 years by Red Cross volunteers, which today number over 1.1 million, and that her house, a National Park Service Historic Site, overlooks the parkway in Glen Echo and served as the first headquarters of the American Red Cross.

Clara Barton led a multifaceted life and has been known through history for a variety of diverse achievements. She supported the first schools for factory workers in Worcester County, MA, and the first free schools in the State of New Jersey. Remarkably, Clara Barton became the only female worker employed by the Government when she moved to Washington in 1854 and went to work for the Patent Office, and, as one of the earliest female Government workers, was surely a role model for future women in Government.

But she is best known for her contribution toward establishing the concept of first aid, which we now take for granted but which she introduced in 1904, and for expanding disaster relief from just wartime to all natural disasters. This latter accomplishment was achieved in connection with her successful campaign over a 12-year period, to have the United States sign the Treaty of Geneva in 1882, beginning a commitment to humanitarian aid that has been a proud tradition ever since in America.

Elizabeth B. Pryor, a historian and biographer of Clara Barton, has identified Clara Barton as the most decorated woman in American history. This area of the George Washington Memorial Parkway, so closely identified with the Clara Barton House and the life of this remarkable woman, is a fitting tribute to one of America's greatest heroes, male or female. Not incidentally, we will forever end the confusion caused by two parkways with the same name. I ask for your support for H.R. 1310, which will designate the Maryland side as the Clara Barton Parkway.

Mr. FAUNTROY. Mr. Speaker, it is with enthusiasm as an original cosponsor of H.R. 1310 that I speak in support of the passage of this legislation to redesignate a portion of the George Washington Memorial Parkway in the District of Columbia and in Montgomery County, MD, as the Clara Barton Parkway.

The renaming of this highway segment on this side of the Potomac in honor of Clara Barton is most appropriate for a number of reasons. Ms. Barton, who resided in Glen Echo, MD, for the last 15 years of her life, is a national hero and a fitting role model to our developing young leaders today, both women and men. As the founder of the American Red Cross and as one of the early proponents of a free public school system, Clara Barton has certainly earned her place in our esteem. Ms. Barton is also remembered for her courage and foresight as an activist with Frederick Douglass and with Susan B. Anthony in the black civil rights movement and women's rights movement, respectively. Her home in Glen Echo—which also served as a dormitory, supply center, and first permanent headquarters for the American Red Cross—has been preserved for posterity as the Clara Barton Historic Site under the administration of the National Park Service. Certainly, redesignating a portion of the parkway so near home as the Clara Barton Parkway is not too great a salute to this outstanding woman's spirited commitment and lasting contributions to our Nation's people and to people throughout the world.

Renaming this particular parkway segment will also serve to alleviate much of the longstanding confusion resulting from the highway segments on both sides of the Potomac bearing identical names. I need not elaborate on the frustrations to which many motorists can testify who have mistakenly taken the wrong turn and found themselves on the wrong portion of the George Washington Parkway, on the wrong side of the river, and indeed even in the wrong State—during rush hour. Redesignating the D.C. and Maryland segments of this heavily traveled road as the Clara Barton Parkway will help to alleviate a good deal of this confusion.

I commend my distinguished colleague Congresswoman CONNIE MORELLA for her leadership in introducing and guiding H.R. 1310 toward passage. On September 14, 1989, a most informative hearing was conducted by

the House Interior Subcommittee on National Parks and Public Lands to consider the impact of this legislation; and a wide range of testimony strongly favored the name change for this highway segment. Mr. Speaker, I join enthusiastically with Mrs. MORELLA, with Congresswoman BEVERLY BYRON, the bill's other original cosponsor, and with so many leading spokespeople for the region in urging my colleagues in the House to pass this legislation without further delay.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill H.R. 1310.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, on Monday, October 16, I was unexpectedly detained on business in the 19th District of Pennsylvania, and was unable to participate in activities on the floor of the House. Had I been present, however, I would have voted "yea" on House Concurrent Resolution 194, and "yea" on H.R. 1310.

PERSONAL EXPLANATION

Mr. GARCIA. Mr. Speaker, due to engagements in my district, I was unable to cast votes on Monday, October 16. If I had been present, I would have voted in favor of the following: House Concurrent Resolution 194, Support for the People of Colombia; H.R. 1310, designating the Clara Burton Parkway.

I was also not present on Tuesday, October 17. Had I voted, I would have voted in favor of the conference report on the 1990 Treasury-Postal Service appropriations bill.

PROVIDING FOR STUDY TO ADD ST. MARYS RIVER TO WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 76) to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system, as amended.

The Clerk read as follows:

H.R. 76

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION AS STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segement from its headwaters to the confluence of the Bells River.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 76, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 76, introduced by our colleague Representative CHARLES BENNETT, would provide for a wild and scenic river study of the St. Marys River in Florida and Georgia.

For most of its 120-mile length the St. Marys River forms the State boundary between northeast Florida and southeast Georgia. The river contains resource values that were judged significant in the 1982 nationwide rivers inventory prepared by the National Park Service. The inventory described the St. Marys as an attractive, clear, subtropical swamp river with varied and colorful flora and white sandbars. The list of plant and animal resources found along the twisting, serpentine river corridor is quite extensive, in fact, over 40 rare or endangered species have been identified within the St. Marys watershed; which I might add is one of the few largely undeveloped river watersheds remaining in the Eastern United States.

In hearings before the Committee on Interior and Insular Affairs, the National Park Service and the other witnesses present were supportive of study designation for the St. Marys River. Based on the committee's review of the river and with the consultation of the sponsor and other interested parties, the legislation before the House today provides that the study terminate at the confluence of the Bells River, just west of St. Marys, GA. This would delete the final 4½ miles of the St. Marys River from study consideration. That section of the river is developed and has commercial river traffic, with occasional river dredging. It is extremely unlikely that segment would be eligible for wild and scenic designation in any case.

Mr. Speaker, the study provided by H.R. 76 will provide the information necessary to make a complete and careful assessment of the St. Marys' potential for addition to the National Wild and Scenic Rivers System. I want to take this opportunity to commend the legislation's sponsor, Representative BENNETT. He has been a forceful and tireless advocate for conservation initiatives in this region. I also appreciate the input I received from our other colleagues in the area, whose districts include portions of the St. Marys River. I believe the bill, as amended, is a good proposal and one that merits our favorable consideration.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 76, to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the Wild and Scenic Rivers System.

As the subcommittee chairman has explained, the St. Marys River traverses approximately 120 miles from its headwaters in the Okefenokee Swamp before flowing in the Atlantic Ocean. A portion of the river serves as a boundary between the States of Florida and Georgia and its mouth forms the entrance to the Kings Bay Naval Submarine Base. The river's corridor is heavily forested and remains primarily undeveloped. In fact, it is one of only a few remaining pristine blackwater river systems in Florida. The 1982 nationwide rivers inventory, by the National Park Service, concluded the St. Marys River was worthy of further study for potential preservation.

H.R. 76 is sponsored by my colleague from Florida. Representative BENNETT, who deserves to be commended for his efforts on this legislation. Although the corridor of the St. Marys is primarily private land, we have been assured that Mr. BENNETT has been working with all interested and affected parties who apparently have no objections to the proposed study. In addition, the administration supports H.R. 76 and has indicated that the study would cost only about $175,000.

H.R. 76 is a good bill which enjoys broad-based support. Therefore, I urge my colleagues to approve this legislation.

□ 1310

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

As has been indicated the gentleman from Florida [Mr. BENNETT], the dean of the delegation, has been active on this and other issues affecting his area. He has personally worked hard for the park designation of Port Caro-

line. After a good deal of work the last Congress passed the Timucuan National Preserve, which is a substantial area preserved, and again the gentleman brings to us a bill that is important and timely with regard to the type of development that is taking place. We have a chance here to study and perhaps go on to preserve a 120-mile watershed in the Eastern United States.

It is because of his leadership and tenacity in working with the Members and for his constituents that this bill is here. I believe that this type of vision, this type of devotion, is one which will inure to the benefit of future generations.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT], the dean of the Florida delegation.

Mr. BENNETT. Mr. Speaker, I express deep appreciation to the gentleman from Minnesota [Mr. VENTO] and the chairman of the full committee. I appreciate the staff and all they have done to bring this legislation before us.

Mr. Speaker, I rise in support of H.R. 76, as amended, my bill to study the St. Marys River for possible inclusion in the Wild and Scenic River System. The St. Marys is a beautiful and wild river and forms the border between Florida and Georgia.

I recently went by boat down and upriver from a central spot and have visited many other parts of it during my lifetime, years ago. I worked for the enactment of the Wild and Scenic Rivers Act, which is designed to help protect from degradation selected U.S. rivers. Such rivers are to possess outstanding scenic, recreational, geological, fish, wildlife, historical, and cultural values. As I looked out at the river on that recent day and reflected on what it means to the area, it seemed clear to me that the Wild and Scenic River Act could have been drafted just for the St. Marys.

The St. Marys River is an attractive subtropical waterway with many unusual characteristics. It is one of the few remaining pristine blackwater river systems in Florida. Hardwood and pine/palmetto forests dominate the upper reaches of the river, gradually turning to a marshy estuarine environment as the stream approaches Cumberland Sound.

Endangered red-cockaded woodpeckers, peregrine falcons, and West Indian manatees live in and around the St. Marys. Threatened species along the river include ospreys, American oystercatchers, Florida black bears, bald eagles, and Atlantic sturgeon.

As the northern boundary of subtropical Florida, it is a middle ground between the varied flora of southeastern Georgia and the transitional botanical species of northern Florida. The water is clear and contrasts strikingly with strips of white sand. It drains from the Okefenokee Swamp in southeast Georgia and meanders east until it empties into the Atlantic Ocean.

Today, the river is relatively undeveloped. Traffic is mostly in the lowest reaches. The countryside bordering the river is mostly all flat pine country interspersed with hardwoods and cattle grazing pastures, and with human populations rather sparse. It is not until the lower reaches that population comes into focus, particularly on the Florida border. Substantial commercial utilization concentrates on the vicinity of the coastal towns of St. Marys and Fernandina. Upstream traffic is more generally recreational, for which the St. Marys has good future potential.

Not only is the St. Marys impressive from the standpoint of environment and recreation, but it also is a river of historic significance, and reminders of a colorful chronology are numerous along the lower segment.

The little town of Kings Ferry, FL, is where the road from British Savannah ran to Spanish St. Augustine, and a number of old houses are near the river. A mile or so downstream is where the British Fort Tonyn stood and was captured by the patriots in 1778. White Oak Plantation has left us some tabby remains further downriver, a plantation owned by Zephaniah Kingsley, the principal slave importer in the early 1800's in Florida. The colonial Spanish established missions in the vicinity of the St. Marys River in the 16th century, and a mission recently excavated on Amelia Island dates to the 17th century. In 1812, an American invasion force crossed the river into Spanish territory and occupied Fernandina, proclaiming it part of the United States; however, the American Government disavowed this action and the area returned to the Spanish. The St. Marys River and the town of Fernandina were long associated with pirates and other disreputable elements of Southern colonial history. Nearby Fort Clinch State Park and the Fernandina Beach Historical District provide places of historical interest close to the river corridor. At least eight sovereign flags have flown over the river in its long history dating back to the mid-1500's. So, it is clearly a historic river.

It is so easy to look at something as pristine, beautiful, and important as the St. Marys and say: "No need to worry; it will always be this way." That's not true, particularly in this case. As the population continues to increase in the south Georgia-north Florida area, there is bound to be more development pressure and pollution problems. Kings Bay Naval Submarine Base in Camden County, GA, has caused a population boom in the Kingsland-St. Marys area, and development is sprawling from Jacksonville. In fact, concern has been already raised about fish in the river. Florida health officials are planning to test more fish after potentially harmful levels of mercury were found in some initial samples.

Right now, however, the St. Marys is in relatively good shape. That might not always be the case, and we should act now before something bad happens. The National Park Service in 1982 issued its nationwide rivers inventory, which included the St. Marys and clearly demonstrated why the river should be further investigated for preservation possibilities.

A Federal wild and scenic river study could play an important role in bringing everyone together at one table to discuss the river and reach some conclusions as to how it should be managed to protect it from the devastations of modern-day society. I think consensus can be reached on what to do about the river and that the various local governments will eventually sign off on a workable wild and scenic river plan. We need to get this study through, however, to bring this all to a head.

Again, I thank Chairman VENTO and the ranking minority member RON MARLENEE for moving this bill quickly through the committee process. I beleive Senator FOWLER plans to introduce a companion in the Senate, so it looks good for Senate passage as well.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND], whose district adjoins the study area.

Mr. ROWLAND of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to ask a question of the gentleman from Minnesota [Mr. VENTO]: During the course of the study, would private property owners be able to carry on their normal business activities? For example, would they be able to harvest trees or construct buildings and those kinds of things they normally would be doing?

Mr. VENTO. Mr. Speaker, would the gentleman yield?

Mr. ROWLAND of Georgia. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, yes, they would be able to continue on with normal activities that they would be doing during this period. It is a 3-year study and a 3-year period for Congress to act. This envisions a period of time for Congress to act. The gentleman from Georgia knows the other restrictions, but generally normal activities can proceed.

Mr. ROWLAND of Georgia. Mr. Speaker, I thank the chairman for that explanation.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 76, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COPYRIGHT FEES AND TECHNICAL AMENDMENTS ACT OF 1989

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1622) to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments, as amended.

The Clerk read as follows:

H.R. 1622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Fees and Technical Amendments Act of 1989".

SEC. 2. FEES OF COPYRIGHT OFFICE.

(a) FEE SCHEDULE.—Section 708(a) of title 17, United States Code, is amended to read as follows:

"(a) The following fees shall be paid to the Register of Copyrights:

"(1) on filing each application under section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made, $20;

"(2) on filing each application for registration of a claim for renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, $12;

"(3) for the issuance of a receipt for a deposit under section 407, $4;

"(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document covering not more than one title, $20; for additional titles, $10 for each group of not more than 10 titles;

"(5) for the filing, under section 115(b), of a notice of intention to obtain a compulsory license, $12;

"(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $20 for a document covering not more than one title; for each additional title, $2;

"(7) for the issuance, under section 706, of an additional certificate of registration, $8;

"(8) for the issuance of any other certification, $20 for each hour or fraction of an hour consumed with respect thereto;

"(9) for the making and reporting of a search as provided by section 706, and for any related services, $20 for each hour or fraction of an hour consumed with respect thereto; and

"(10) for any special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

The Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation.".

(b) ADJUSTMENT OF FEES.—Section 708 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In calendar year 1995 and in each subsequent fifth calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.".

(c) CONFORMING AMENDMENT.—Section 704(e) of title 17, United States Code, is amended by striking out "708(a)(11) and inserting in lieu thereof "708(a)(10)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act and shall apply to—

(A) claims to original, supplementary, and renewal copyright received for registration, and to items received for recordation in the Copyright Office, on or after such effective date, and

(B) other requests for services received on or after such effective date, or received before such effective date for services not yet rendered as of such date.

(2) PRIOR CLAIMS.—Claims to original, supplementary, and renewal copyright received for registration and items received for recordation in acceptable form in the Copyright Office before the effective date set forth in paragraph (1), and requests for services which are rendered before such effective date shall be governed by section 708 of title 17, United States Code, as in effect before such effective date.

SEC. 3. TECHNICAL AMENDMENTS.

(a) SECTION 111.—Section 111 of title 17, United States Code, is amended—

(1) in subsection (c)(2)(B) by striking out "recorded the notice specified by subsection (d) and"; and

(2) in subsection (d)—

(A) in paragraph (2) by striking out "paragraph (1)" and inserting in lieu thereof "clause (1)";

(B) in paragraph (3) by striking out "clause (5)" and inserting in lieu thereof "clause (4)"; and

(C) in paragraph (3)(B) by striking out "clause (2)(A)" and inserting in lieu thereof "clause (1)(A)".

(b) SECTION 801.—Section 801(b)(2)(D) of title 17, United States Code, is amended by striking out "111(d)(2) (C) and (D)" and inserting in lieu thereof "111(d)(1) (C) and (D)".

(c) SECTION 804.—Section 804(a)(2)(C)(i) of title 17, United States Code, is amended by striking out "115" and inserting in lieu thereof "116".

(d) SECTION 106.—Section 106 of title 17, United States Code, is amended by striking out "118" and inserting in lieu thereof "119".

(e) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall be effective as of August 27, 1986.

(2) The amendment made by subsection (c) shall be effective as of October 31, 1988.

(2) The amendment made by subsection (d) shall be effective as of November 16, 1988.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House a bill, H.R. 1622, entitled the "Copyright Fees and Technical Amendments Act of 1989."

The purpose of H.R. 1622 is to change the fee schedule of the Copyright Office to account for the inflation that has occurred since the schedule was established in 1978. Briefly stated, the bill amends section 708(a) of the Copyright Act of 1976 by doubling the fee schedule. The bill also grants the Register of Copyrights the authority to adjust the fee schedule by regulation solely to reflect, at 5-year intervals, increases in the Consumer Price Index. Last, the bill makes technical amendments to the Copyright Act to correct minor errors in recently enacted public laws. With one exception, all of the amendments correct errors of cross-references to section numbering or paragraph designation.

H.R. 1622 is a good government bill, that was proposed by the Copyright Office during an oversight hearing before my subcommittee, the Subcommittee on Courts, Intellectual Property, and the Administration of Justice. The bill is not only supported by the Copyright Office and the Library of Congress, but has also garnered support from a broad cross section of the copyright community, including the Recording Industry Association of America, the Motion Picture Association of America, the Computer and Business Equipment Manufacturers Association, the National School Boards Association, the Authors League of America, and various bar associations.

H.R. 1622 is a bipartisan measure, with the strong support of the ranking minority member of the subcommittee, Mr. MOORHEAD. I thank Mr. MOORHEAD for his assistance.

The Register of Copyrights, Ralph Oman, has referred to copyright registration as the best deal in government, and I agree with him. But, since 1976, inflation has cut the real price of fees by 50 percent. Today, the fees must be raised, or services diminished.

The Library of Congress does not recommend a 100-percent fee-based registration system, since the Office performs valuable services not directly related to maintenance of the public record.

A broad consensus for the bill was developed because the Register has promised that a significant portion of the additional earned fee revenues will be used to improve the Office's services to authors, copyright owners, and the public. My subcommittee, in its oversight capacity, will hold the Register to his promise.

If the fee bill is enacted into law, the Office will continue the international copyright institute program in order to encourage protection of American works abroad. This is a successful program that the ranking minority member, Mr. MOORHEAD and I helped to start. Further, the Office will reduce the processing time for issuance of a certificate of registration and will decrease the excess work-on-hand in cataloging the registration records. In addition, the Copyright Office will reinstitute the mailing list service to inform interested members of the public of Office regulations and other copyright developments. Moreover, the Office will automate the card catalog of pre-1978 registrations. Finally, the Register is actively considering a regulatory change that would allow group registration of magazines, journals, and newspapers. Under current law, the Register is authorized to set a fee for a special service like group registration. This fee could be substantially less than if the group of works was registered individually. I am highly supportive of the Register's initiative in this regard.

In conclusion, H.R. 1622 is a necessary piece of legislation that, as is the requirement of all intellectual property legislation, will benefit the public.

I urge an "aye" vote for H.R. 1622.

□ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend our subcommittee chairman, Mr. KASTENMEIER, for his work on this legislation, which I am a cosponsor. Also, our chairman, Mr. BROOKS, and our ranking member, Mr. FISH, have been very helpful in bringing this bill to the floor.

H.R. 1622 would provide an increase in copyright fees charged those who register their copyrights and in return receive the protection of life of the author plus 50 years. A sum of $20 is a small price to pay for this type of protection. Ten years ago we found to our surprise that the Patent and Trademark Office was in serious trouble. It took us a number of years before we got that Office back on its feet. We had to substantially increase the filing fees for patents and trademarks over the objections of a number of organizations.

Fortunately, the Copyright Office is not in the condition the Patent Office was 10 years ago. But my point is that these agencies must have the support and resources necessary to do the type of job we expect. What concerns me for example, is that since fiscal year 1979, the Copyright Office workload has increased 42 percent, while during the same period the staffing level of that Office has decreased 23 percent. This decrease occurred not because of modernization or efficiency but because of less and less money available to get the job done.

This is too important an agency for us not to provide the resources necessary to do the job we expect.

I urge your support for H.R. 1622.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the subcommittee chairman, Mr. KASTENMEIER, and the ranking minority member of the subcommittee, Mr. MOORHEAD, for processing this legislation which is so very important to the successful operation of the Copyright Office. Most of us on the Judiciary Committee have had the need to use this Office in responding to constituent questions and in drafting legislation.

Enactment of H.R. 1622 would return the Copyright Office to its historic ratio of earned fees versus office expenses. It would mean that the Copyright Office would earn approximately $14 million in fees to set off the approximately $19 million it takes to run the Office.

Enactment of this proposal, as has been pointed out, would raise the basic registration fee to $20 from the present $10. At $20, the registration fee is still a fantastic bargain.

I urge a favorable vote on H.R. 1622.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume in order to further acknowledge the contributions of the gentleman from New York [Mr. FISH]. We are delighted now to have him as a member of the subcommittee. He has had a longstanding interest in the Copyright Office and in intellectual property, and he makes considerable contribution to this and to other legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 1622, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1622, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COPYRIGHT REMEDY CLARIFICATION ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities.

The Clerk read as follows:

H.R. 3045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF COPYRIGHT AND EXCLUSIVE RIGHTS IN MASK WORKS.

(a) COPYRIGHT INFRINGEMENT.—(1) Section 501(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'anyone' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer,

or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 5 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 511. Liability of States, instrumentalities of States, and State officials for infringemnet of copyright

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.".

(3) The table of sections at the beginning of chapter 5 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright.".

(b) INFRINGEMENT OF EXCLUSIVE RIGHTS IN MASK WORKS.—(1) Section 910(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.".

(2) Section 911 of title 17, United States Code, is amended by adding at the end the following new subection:

"(g)(1) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of the owner of a mask work under this chapter, or for any other violation under this chapter.

(2) In a suit described in paragraph (1) for a violation described in that paragraph, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include actual damages and profits under subsection (b), statutory damages under subsection (c), impounding and disposition of infringing articles under subsection (e), and costs and attorney's fees under subsection (f).".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1976, Congress enacted the Copyright Act, which completely revised our copyright laws. One of the law's central premises was that a uniform system should be established. Pursuant to this premise, the Congress decided that, in general, defendants in copyright infringement suits would be treated equally, no matter what their status. In other words, if States infringed copyrights, the Congress intended that they should be held fully liable, for money damages as well as other relief.

However, in 1985, the Supreme Court held in Atascadero State Hosptial versus Scanlon that unless Congress explicitly and unambiguously abrogates the 11th amendment, States are immune from suits for money damages. While Atascadero was not a copyright case, it raised analogous questions about the copyright law. In fact, a number of Federal circuits have relied on Atascadero in deciding that, while Congress did intend to apply all copyright infringement remedies to the States, the language of the statute is not sufficiently clear. They have therefore held that the States are immune.

Because of these decisions, copyright owners are often unable to obtain fair and full relief when their copyrights are infringed. Injunctive relief, which is still available, prevents only future violations. It does not compensate for past harm, as monetary damages do.

Pursuant to these decisions, copyright owners have also been denied statutory damages and attorneys' fees. These kinds of recoveries are often essential to protect the rights of individual authors and small entrepreneurs, and to enable them to obtain counsel. During consideration of H.R. 3045, some in the educational community suggested that we should make an exception to the law to exempt States from liability for statutory damages and attorneys' fees. The concerns that the educational community has raised were specifically addressed in the 1976 revision effort. In the interests of the uniformity and equity that are essential premises of the Copyright Act, these concerns were rejected. I believe that the agreements made at that time continue to be vaid and should be supported now.

H.R. 3045, the Copyright Remedy Clarification Act, will encourage the creative process that benefits us all. Unless the legitimate rights of copyright owners are protected, many authors will not take the risks that creative endeavors often entail.

H.R. 3045 simply clarifies what Congress intended in the 1976 Copyright Act. When States infringe copyrights, they are liable for money damages. It does so by incorporating certain standards set forth by the Supreme Court in its last term. These standards must be met in order effectively and constitutionally to abrogate the 11th amendment.

Another constitutional question that arose during the committee's examination of the 11th amendment has also been resolved. It is clear that Congress is constitutionally empowered to abrogate that amendment pursuant to its 14th amendment powers. However, Congress' powers to enact the copyright laws arise under article 1 of the Constitution. Until the Supreme Court's last term, it was unclear whether Congress had the power to abrogate the 11th amendment pursuant to article I. Last June, the Court decided five cases that led the committee to conclude that Congress does have such power. This potential constitutional obstacle to H.R. 3045 has therefore also been eliminated.

The Register of Copyrights and the administration recommend that the Congress enact H.R. 3045. In addition, a wide range of parties with diverse interests in the copyright law support this bill.

In short, through various judicial decisions issued after the copyright law was enacted, an important loophole in that law was created. H.R. 3045 fills that loophole. It clarifies that the intent of Congress in 1976 was to authorize imposition on the States of all available copyright infringement remedies, and that this continues to be our intent.

I thank my colleagues on the subcommittee, and in particular my colleague CARLOS MOORHEAD, for their strong support of this legislation. I urge my colleagues in the House to support it as well.

□ 1330

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to concur in the remarks of the chairman of the Subcommittee on Courts, Intellectual Property and Administration of Justice, Mr. KASTENMEIER, and indicate my strong support for H.R. 3045, the Copyright Remedy Clarification Act. I would also like to commend the ranking member of the full Judicary Committee, Mr. FISH, as well as other members of the subcommittee for taking the initiative on this important issue.

The need for a careful study of the law in this area and indeed for the legislation was prompted by the Supreme Court's decision in *Atascadero State Hospital* v. *Scanlon,* 473 U.S. 234 (1985). In Atacadero the Supreme Court held that in order for Congress to abrogate State's immunity in a statute it must specifically include States in the defendant class. After Atascadero, several district courts addressing the issue found that States were immune from suit for damages in copyright infringement cases. These courts rather than looking at the Copyright Act is a whole, focused instead on the language that Congress had written in establishing the defendant class in the copyright act and found that congressional intent was less than clear with regard to whether or not the States were covered.

It was back on August 3, 1987, that the chairman and I wrote to Ralph Oman, the Register of Copyrights, requesting that the Copyright Office conduct a study of the copyright liability of the States and the 11th amendment. The Copyright Office report for which I commend Mr. Oman and his fine, staff was submitted on June 27, 1988, and concluded that:

• • • Congress intended to hold States responsible under the Federal copyright law, and that copyright owners have demonstrated that they will suffer immediate harm if they are unable to sue infringing States in Federal court for money damages.

Using the Copyright Office report as a starting point, the Courts Subcommittee held 2 days of hearings on H.R. 3045. The thust of the majority of the testimony presented to the subcommittee concurred with the conclusion of the Copyright Office report and urged Congress to act quickly before the problem became greater. I was not a member of the Courts Subcommittee when it considered the 1976 revision of the Copyright Office. It is clear to me that Congress in fact intended to cover the States under the 1976 act and H.R. 3045 is merely a reaffirmation of the that intent. It is also important to note that H.R. 3045 will in no way change the substantive rights of copyright owners. Mr. Speaker, H.R. 3045 has strong support from the vast majority of the copyright community and accordingly, I urge my colleagues' support for the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3045, which would amend the Copyright Act to provide that a State may be sued in Federal court for infringement. This is merely a reaffirmation of Congress' original intent when it enacted the 1976 revision of the Copyright Act, but it is important we do so, and I commend the chairman of the Subcommittee on Courts, Intellectual Property and the Administration of Justice, Mr. KASTENMEIER, as well as the ranking minority member of the subcommittee, Mr. MOORHEAD, for addresing this issue in a timely manner.

Up until the Supreme Court's decision in *Atascadero State Hospital* V. *Scanlon,* 473 U.S. 234 (1985), courts had held that State governments were subject to suit for damages for copyright infringement. However, in Atascadero the Supreme Court enunciated a very stringent legislative intent standard that Congress must meet if it wishes to abrogate State sovereign immunity. Applying the standard set out in Atascadero lower courts began holding that Congress' intent was no sufficiently clear in the 1976 act and therefore States were immune from suit for damages in copyright infringement cases.

The thrust of H.R. 3045 is to make unmistakably clear Congress' original intent in a manner consistent with the Atascadero decision. The legislation has strong support and I urge my colleagues' support for its passage.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIR] that the House suspend the rules and pass the bill, H.R. 3045.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3045, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. The suspensions that were listed for today which were not heard for one reason or another, can they be rescheduled for tomorrow as part of the suspension calendar originally placed for tomorrow?

The SPEAKER pro tempore. The Chair understands that is exactly what is expected to happen regarding H.R. 2806 and Senate Concurrent Reslution 61. They will be on tomorrow's calendar.

Mr. GEKAS. Mr. Speaker, I thank you for that explanation.

□ 1340

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MCDERMOTT). Subject to the return of the House to legislative business, the Chair will now move to special orders.

ANOTHER CONTINUING RESOLUTION WOULD MAKE CONGRESS A REPEAT OFFENDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, last year, or perhaps it was the previous year, when we underwent the crisis of a continuing resolution, we wound up at 3 o'clock in the morning on the day before Christmas and presented to then-President Reagan a bill containing thousands of provisions about which we knew very little and which he was compelled to sign into law because there was no alternative because otherwise the Government would grind to a halt if he did not sign it. We found out later then, just like we did at other times in similar circumstances, that secret provisions, public interest provisons, personal interest provisions, and all kinds of goodies were contained in that mammoth piece of legislation which had to be undone or which had to be submitted at least to public criticism.

We should not be indulging in that continuing resolution kind of dilemma that we face every year. I have phrased it in previous presentations as a syndrome in which the Congress of the United States is a repeat offender.

The Congress passed a law a long time ago saying that October 1 is the deadline, that it is and should be the

deadline for completing the budget of the United States. Who violates that law? The Congress of the United States. And because of so many instances in which that violation has been repeated, Congress is indeed a repeat offender.

I introduced a piece of legislation a few years ago which I think could help to resolve this problem and which will come before the Rules Committee very shortly when it reconvenes for the purpose of seeing whether we can extend the concurrent resolution even beyond the state to which we have appended it already.

My proposition is a simple one, and because it makes common sense, I know it does not have a chance of passing. Nevertheless, I am going to try to go before the Rules Committee to make it in order. It simply states as follows: That if the Congress of the United States should fail to pass a budget by October 1 in any given fiscal year, then automatically the budget will return to the previous year's appropriations for a full year.

What will that do? That will end for all time the crisis management that we have to indulge in for the 25-day period or the 10-day period or the 6-month period in which we have a continuing resolution. That will allow the Congress in its own good time to adopt a budget if it wants to enact a new budget. It cannot harm that procedure. And guess what? It will save money because last year's appropriations, no matter what they are, have to be within proportions which do not call for increases in the rate of spending or increases in spending at large.

So, Mr. Speaker, I am asking to have the CONGRESSIONAL RECORD reflect my intent to go before the Rules Committee, and I ask all the Members who will learn of this move on our part to support this endeavor so that we can put Congress on parole at least from its own offenses and not allow this to occur again.

NEW SPOUSAL IMPOVERISHMENT PROTECTION FOR MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, one of the best features of the Medicare catastrophic coverage package was the protection it offered to prevent spousal impoverishment. Before catastrophic, beneficiaries' families were often forced to spend down their assets to pay for medical care; healthy wives and husbands were left with little or no resources so that their ill spouses could qualify for financial support.

Fortunately, even the movement to repeal catastrophic recognized the need to retain spousal impoverishment protection. In eight States, however, this protection will overlap community property laws already on the books. Today, I am introducing legislation which modifies the spousal impoverishment protection by permitting Medicare beneficiaries in community property States to use their own States' laws to determine the level of community assets which a healthy spouse may retain. In no case will the new level of protection fall below the current minimum.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, October 12, 1989, the Chair declares the House in recess until 4:30 p.m.

Accordingly (at 1 o'clock and 46 minutes p.m.) the House stood in recess until 4:30 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ROSE) at 4 o'clock and 30 minutes p.m.

□ 1630

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROSE). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H. Con. Res. 194, by the "yeas" and "nays"; and

H.R. 1310, by the "yeas" and "nays."

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SUPPORT FOR PEOPLE OF COLOMBIA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 194, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BERMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 194, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 348, nays 0, not voting 84, as follows:

[Roll No. 289]

YEAS—348

Ackerman	Frenzel	McDermott
Alexander	Frost	McEwen
Anderson	Gallegly	McGrath
Andrews	Gallo	McHugh
Annunzio	Gaydos	McMillan (NC)
Archer	Gejdenson	McMillen (MD)
Armey	Gekas	McNulty
Aspin	Gephardt	Meyers
Baker	Gibbons	Mfume
Ballenger	Gilman	Michel
Barnard	Glickman	Miller (CA)
Bellenson	Gonzalez	Miller (OH)
Bennett	Gordon	Miller (WA)
Bentley	Goss	Moakley
Bereuter	Gradison	Mollohan
Berman	Grandy	Montgomery
Bevill	Grant	Moody
Bilirakis	Gray	Moorhead
Billey	Green	Morella
Boehlert	Gunderson	Morrison (CT)
Boggs	Hall (OH)	Morrison (WA)
Bonior	Hamilton	Mrazek
Borski	Hammerschmidt	Murphy
Bosco	Hancock	Murtha
Boxer	Harris	Myers
Brennan	Hastert	Nagle
Broomfield	Hawkins	Natcher
Browder	Hayes (IL)	Neal (MA)
Brown (CA)	Hayes (LA)	Neal (NC)
Brown (CO)	Hefley	Nielson
Bruce	Hefner	Oakar
Bryant	Henry	Oberstar
Buechner	Herger	Obey
Bunning	Hertel	Olin
Burton	Hiler	Ortiz
Bustamante	Hoagland	Oxley
Byron	Hochbrueckner	Packard
Callahan	Holloway	Pallone
Campbell (CA)	Hopkins	Panetta
Cardin	Houghton	Parker
Carper	Hubbard	Parris
Carr	Huckaby	Pashayan
Chandler	Hughes	Patterson
Chapman	Hyde	Paxon
Clarke	Inhofe	Payne (NJ)
Clement	James	Payne (VA)
Clinger	Jenkins	Pease
Coble	Johnson (CT)	Pelosi
Coleman (MO)	Johnston	Penny
Coleman (TX)	Jones (NC)	Perkins
Combest	Jontz	Petri
Condit	Kanjorski	Pickett
Conte	Kaptur	Pickle
Cooper	Kasich	Poshard
Costello	Kastenmeier	Pursell
Coughlin	Kennedy	Rahall
Cox	Kennelly	Rangel
Coyne	Kildee	Ravenel
Craig	Kolbe	Ray
Dannemeyer	Kolter	Regula
Davis	Kostmayer	Rhodes
de la Garza	Kyl	Ridge
DeFazio	Lagomarsino	Rinaldo
DeLay	Lancaster	Ritter
DeWine	Lantos	Roberts
Dickinson	Laughlin	Robinson
Dicks	Leach (IA)	Roe
Dixon	Lehman (CA)	Rogers
Donnelly	Lehman (FL)	Rohrabacher
Dorgan (ND)	Levin (MI)	Ros-Lehtinen
Dornan (CA)	Levine (CA)	Rose
Downey	Lewis (FL)	Roukema
Dreier	Lewis (GA)	Rowland (CT)
Duncan	Lightfoot	Rowland (GA)
Durbin	Lipinski	Russo
Dwyer	Livingston	Sabo
Dymally	Lloyd	Saiki
Dyson	Long	Sangmeister
Eckart	Lowery (CA)	Sarpalius
Edwards (CA)	Luken, Thomas	Savage
Edwards (OK)	Lukens, Donald	Sawyer
Emerson	Machtley	Saxton
English	Madigan	Schaefer
Erdreich	Markey	Scheuer
Espy	Martin (IL)	Schiff
Fascell	Martinez	Schneider
Fawell	Matsui	Schroeder
Fazio	Mavroules	Schulze
Fields	Mazzoli	Schumer
Fish	McCloskey	Sharp
Flippo	McCollum	Shaw
Ford (MI)	McCurdy	Shays
Frank	McDade	Shumway

Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—84

Akaka
Anthony
Applegate
Atkins
AuCoin
Bartlett
Barton
Bateman
Bates
Bilbray
Boucher
Brooks
Campbell (CO)
Clay
Collins
Conyers
Courter
Crane
Crockett
Darden
Dellums
Derrick
Dingell
Douglas
Early
Engel
Evans
Feighan
Flake
Florio
Foglietta
Ford (TN)
Garcia
Geren
Gillmor
Gingrich
Goodling
Guarini
Hall (TX)
Hansen
Hatcher
Horton
Hoyer
Hunter
Hutto
Ireland
Jacobs
Johnson (SD)
Jones (GA)
Kleczka
LaFalce
Leath (TX)
Lent
Lewis (CA)
Lowey (NY)
Manton
Marlenee
Martin (NY)
McCandless
McCrery
Mineta
Molinari
Nelson
Nowak
Owens (NY)
Owens (UT)
Porter
Price
Quillen
Richardson
Rostenkowski
Roth
Roybal
Schuette
Sensenbrenner
Smith (FL)
Solarz
Stangeland
Sundquist
Tallon
Weiss
Wheat
Whittaker
Yatron

□ 1652

The SPEAKER pro tempore (Mr. ROSE). The Chair wishes to note a disturbance in the visitors gallery in contravention of the law and the rules of the House.

The doormen and police will remove from the gallery those persons participating in the disturbance.

Mr. COLEMAN of Texas changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

CLARA BARTON PARKWAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1310.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1310, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 353, nays 0, not voting 79, as follows:

[Roll No. 290]

YEAS—353

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boxer
Brennan
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Cox
Coyne
Craig
Dannemeyer
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hyde
Inhofe
James
Jenkins
Johnson (CT)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Young (FL)

NAYS—0

NOT VOTING—79

Akaka
Applegate
Atkins
AuCoin
Bartlett
Barton
Bateman
Bates
Bilbray
Boucher
Brooks
Campbell (CO)
Collins
Conyers
Courter
Crane
Crockett
Darden
Dellums
Dingell
Douglas
Early
Engel
Evans
Feighan
Flake
Florio
Foglietta
Ford (TN)
Garcia
Geren
Gillmor
Gingrich
Goodling
Guarini
Hall (TX)
Hansen
Hatcher
Horton
Hoyer
Hunter
Hutto
Ireland
Jacobs
Johnson (SD)
Jones (GA)
Kleczka
LaFalce
Leath (TX)
Lent
Lewis (CA)
Lowey (NY)
Manton
Marlenee
Martin (NY)
McCandless
McCrery
Mineta
Molinari
Nelson
Nowak
Owens (NY)
Owens (UT)
Porter
Price
Quillen
Richardson
Rostenkowski
Roth
Roybal
Schuette
Smith (FL)
Stangeland
Sundquist
Tallon
Weiss
Wheat
Whittaker
Yatron

□ 1703

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 2916, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1990

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2916) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees: Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, and Messrs. MOLLOHAN, CHAPMAN, ATKINS, WHITTEN, GREEN, COUGHLIN, LEWIS of California, and CONTE.

The Chair reserves the right to appoint additional conferees.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on the following rollcall numbers.

Rollcall No. 289.

Rollcall No. 290.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 373, HOUSE JOINT RESOLUTION 106, AND HOUSE CONCURRENT RESOLUTION 57

Mr. CAMPBELL of California. Mr. Speaker, my name was inadvertently added as a cosponsor of several joint and concurrent resolutions, by reason of confusion between my name and that of the gentleman from Colorado [Mr. CAMPBELL]. I, therefore, ask unanimous consent to withdraw my name as a cosponsor of House Joint Resolution 373, House Joint Resolution 106, and House Concurrent Resolution 57.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PATIENT ACCOUNT MANAGEMENT DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 380) designating October 4, 1989, as "Patient Account Management Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I simply want to identify our colleague, the gentleman from California [Mr. BATES], as the author and principal sponsor of House Joint Resolution 380.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 380

Whereas the American Guild of Patient Account Management represents 4,500 members in 44 chapters across the Nation;

Whereas patient account management personnel directly influence the health care delivery system of the United States by efficiently managing the administrative needs of health care providers;

Whereas hospitals and physicians depend on the expertise of patient account management personnel to monitor effective and positive cash flow;

Whereas patient account management personnel provide patients with important and relevant information, guidance, and assistance to understand and manage medical bill, the complex systems of Medicare, Medicaid, insurance coverage, and health care reimbursement; and

Whereas patient account management personnel are part of the financial backbone of the health care system in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 4, 1989, is designated as "Patient Account Management Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, line 3, strike out "October 4, 1989," and insert "October 18, 1989,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint resolution designating October 18, 1989, as 'Patient Account Management Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1710

THE DAY OF SEQUESTRATION

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, I take this time today to address a very important subject, one that is timely, because today is the day of sequestration. It is the day that those of us who have followed the budget reform process for a number of years have been waiting on.

I see my friend and colleague, the gentleman from Mississippi [Mr. WHITTEN], the author of the Budget and Impoundment Act of 1974, is here with us, and I think that he would agree with me that the Budget and Impoundment Act has not achieved any of the things that it set out to achieve. It has achieved sequestration, and some would argue that that is possitive. But the fact is that with sequestration the budget numbers that are included as a basis for sequestration are arbitrary, and that in 1992, when the budget is allegedly to be balanced, there will be in fact no balance, but there will be about a $300 billion deficit.

There is much talk that the Congress should enact a Truth in Budgeting Act, and I propose at this time that the House take the initiative to do so. We cannot have reform until we have the truth, and until the American people know the truth, they will not know the seriousness of the problem that faces us.

I have introduced two bills, first, H.R. 3411, which deals with the definition of "deficit." It would be the first step of a two-step process that would change the definition of "deficit" to include all the money that the Government owes. That is what we would tell the American people. Under the present system, we do not tell the people how much the Government owes. It is argued that those who are sophisticated and follow the budget know that the deficit is about $100 billion more than what we owe.

That would be the first step. It would be an easy, painless step for Congress to take. It requires no courage because it does nothing other than tell the American people the truth about the deficit.

Now, the next step would take a little courage. That is H.R. 1420. That would reform the process itself and get into the numbers and determine what the deficit level should be over the next several years. That is simply it.

Those bills are now pending before the Committee on Government Operations. Those Members who wish to tell the American people the truth about the deficit are welcome to join with us, and I invite their support for this important initiative.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the chairman of the Appropriations Committee.

Mr. WHITTEN. Mr. Speaker, let me say that I join with the gentleman, and may I say, since my name was mentioned here, that the Budget Act is completely opposite to that which I recommend.

May I say further that in 1974 we did have a study. I was a senior member of that committee, and what we set out to do was to let the Congress control entitlements and backdoor spending. Since 1974 entitlements and backdoor spending have increased 4.7 times, and the discretionary fund for the rest of the Government ends up about $157 billion out of a budget of $1,300 billion.

So may I say, Mr. Speaker, that while the gentleman is completely correct, what they are doing now and what is simply going on now is completely opposite to the intent that we had in our recommendation.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Mississippi for his contribution, and I repeat to my colleagues in the House that this requires no courage. It only requires a redefinition of the word, "deficit," in the Budget Act. It would require us to count it all and to tell the American people how much our Government owes.

VETERANS SUFFER FROM POST-TRAUMATIC STRESS DISORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 60 minutes.

Mr. JONTZ. Mr. Speaker, I rise today to address the subject of post-traumatic stress disorder, and I am joined today by my distinguished colleague from Indiana's Eighth Congressional District, the gentleman from Indiana, Mr. FRANK MCCLOSKEY.

Mr. Speaker, the gentleman from Indiana joined the Oversight Investigations Subcommittee of the Committee on Veterans' Affairs in a hearing that we conducted in Huntington, IN, on September 15 and presented very important testimony to that subcommittee at that time.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I would like to commend the distinguished gentleman from Indiana [Mr. JONTZ] for arranging this special order, but, more importantly, for his continuing leadership on the Committee on Veterans' Affairs serving the very, very important causes of our Nation's veterans.

As the gentleman from Indiana [Mr. JONTZ] mentioned, we recently had a very enlightening hearing, and there was a hearing in Fort Wayne, attended also by the gentlewoman from Indiana [Ms. LONG], who is also a member of the Veterans' Affairs Committee, and also the gentleman from Illinois, Mr. LANE EVANS, both of whom should be commended. We had very revealing testimony at those hearings as to our concerns with post-traumatic stress disorder.

Mr. Speaker, The Department of Veterans Affairs is doing this Nation's Vietnam veterans a great disservice with its lack of consistent and predictable policy in dealing with the treatment, services, and benefits available to veterans who suffer from post-traumatic stress disorder.

The agency's current policy is so unpredictable and inconsistent as to be nearly nonexistent. It can be compared to throwing darts. This lack of policy, coupled with a widespread indifference within the agency to its effects on the veteran is appalling. It continues the war for many veterans despite nearly 20 years since combat involvement in Vietnam. A systematic and comprehensive policy is direly needed.

I would like to give a casework perspective of what these veterans are facing. Since 1983 my office has worked on more than 500 veterans cases. Over 10 percent of these cases involve claims for service connection or treatment for post-traumatic stress disorder. These cases are, by nature, the longest running cases among veterans' concerns.

One veteran's claim is denied for precisely the same reason that another veteran is awarded a service-connected designation. No other veterans casework area is as uncertain, unpredictable, and time-consuming as this.

Let's take the case of a constituent of mine whom I'll call Joe Smith. Joe is a Marine who served a year in Vietnam as an aircraft radar systems technician. He was awarded a number of medals and awards for his service in Vietnam. These include the Air Crew Insignia, awarded only to Marines who have engaged enemy aircraft, or served in operations against an enemy fortified position.

Shortly after his return, Joe began experiencing symptoms of post-traumatic stress disorder—flashbacks, recurring nightmares, and began isolating himself from family and friends. In 1981, Joe—after numerous visits to VA facilities and vet centers—applied for service-connected disability benefits. His case was complicated by unavailable combat logs, which were eventually declassified and made available after my office intervened.

Despite Joe's tenacity, the diligence of several congressional staffers, and evidence contained in his combat records, he has been denied a total of seven times. These denials have been made with total disregard for the fact that even the Department of Veterans Affairs own psychiatrists and vets center personnel have diagnosed his condition as post-traumatic stress disorder.

About a month ago, Joe's claim was again denied. The Board of Veterans' Appeals doesn't deny that Joe suffers from post-traumatic stress disorder, merely that it is service-connected. Given his combat records and service awards, I find this ludicrous.

In another case, the Board of Veterans' Appeals ruled that a veteran suffered from a personality disorder with antisocial behavior, not post-traumatic-stress disorder. This diagnosis was made despite the fact that a VA psychologist stated that if anyone suffers from the condition, it is this individual.

This type of diagnosis is not uncommon. The agency will frequently deny a claim based on a condition which is itself a symptom of post- traumatic stress disorder. It is absurd that such a diagnosis could even be made, refuting their own personnel.

If the VA cannot abide by decisions and findings of their own personnel, who is competent to make determinations within the agency?

Numerous other post-traumatic stress disorder cases are pending in my office. I will summarize by saying that these other cases are similar to the two I've mentioned. Waiting for the declassification of combat logs needed to make their case, long delays while waiting for a decision or appeal of an adverse decision, a frequent finding of symptoms as cause, and bureaucratic red tape compound this problem. To tell a Vietnam combat veteran his condition is unrelated to wartime service, or to deny claims based on the fact that there is a personality disorder is just plain wrong.

Two programs within the Department of Veterans Affairs deserve special mention and praise. The Combat Veterans Treatment Program, and the Vet Center Program provide treat-

ment to veterans afflicted with post-traumatic-stress disorder.

Vet centers are an invaluable resource for Vietnam veterans having readjustment problems. The centers offer counseling and programs designed specifically for post-traumatic stress disorder veterans. The vet center in Evansville, IN has been praised by many, many veterans who have benefited from its services.

A common thread that runs through nearly every case is the veterans' recognition of the need for treatment. Many veterans get this help from the Combat Veterans Treatment Program.

Since its inception at the VA hospital at Marion, IN, this long term, intensive, inpatient program teaches veterans to cope with the stresses of day-to-day living. They learn to manage flashbacks, and the rage and depression associated with post-traumatic stress disorder. Many credit the program with saving their lives. Unfortunately, this highly acclaimed program has been scaled back at the Marion hospital because of staffing and budgetary problems. The program can now only accommodate just over one-fourth of the patients previously treated. It is sad that as the incidence and awareness of this ailment increase, the most beneficial treatment program available is decreased.

Another disconcerting component of the inpatient treatment involves a serious catch-22 after dismissal. Since many of these veterans are not technically service-connected, their access to any necessary medication following discharge from an inpatient is limited. Most veterans are given a 30-day supply, but because their disability is not classified as service-connected, the prescription cannot be refilled on an outpatient basis. This essentially puts the treatment—and the veteran—back to square 1. It seems a tragic waste of resources to provide such a fragmented and incomplete regimen.

This trend of widespread indifference to post-traumatic stress disorder within the Department of Veterans Affairs must stop. For years the attitude has been to question the very essence of proof of post-traumatic stress disorder. The burden of proof rests on the veteran, yet the agency frequently denies the existence of proof.

What is needed is a more rational, predictable and comprehensive approach to providing benefits, services, and treatment to these veterans. Three bills are pending before the committee which would go far in establishing such a system.

Congressman JIM JONTZ has introduced a bill which provides a comprehensive plan for the improved treatment of veterans with post-traumatic stress disorder, by making treatment more accessible.

Another bill, introduced by Congressman SAM GEJDENSON of Connecticut, calls for standardizing the criteria for treatment and diagnosis of post-traumatic stress disorder.

Treatment for any condition is not readily forthcoming without a service-connected designation. This is not an easy task given the experience of a number of veterans from the Evansville, IN, area. A third bill, introduced by Congressman ROBERT KASTENMEIER would provide a presumption-of-service connection to Vietnam theatre veterans afflicted with post-traumatic stress disorder. This measure would provide a standardization, or as some would believe, creation, of criteria for determining a service connection.

I am pleased to lend my support to these bills and urge my colleagues to do the same. The Vietnam veterans of this Nation deserve no less. Thank you.

□ 1720

Mr. JONTZ. Mr. Speaker, I thank the gentleman from Indiana [Mr. MCCLOSKEY] for his participation today, for sharing his experiences with the casework in his office and also for his participation in our hearing on September 15. I know that the gentleman is a former member of our Committee on Veterans' Affairs in the House, and he remains dedicated to the cause of veterans. All veterans in our State are appreciative of his service.

Mr. Speaker, the obstacles that our Nation's Vietnam veterans have faced in getting the Government to respond to the problem of agent orange are well known. But what isn't as well understood or appreciated is that fact that hundreds of thousands of Vietnam veterans—and a significant number of veterans of earlier conflicts, too—are struggling with what is too often Government indifference to another health problem of serious magnitude: posttraumatic stress disorder [PTSD].

The Subcommittee on Oversight and Investigations of the Veterans' Affairs Committee under the chairmanship of my colleague LANE EVANS recently held a field hearing on the services, benefits, and treatment provided by Hoosier veterans suffering from PTSD. Along with our colleague JILL LONG, we traveled to Huntington, IN, to hear from veterans, DVA officials, and others with an interest in PTSD. I'd like to commend the fine work of LANE EVANS and JILL LONG on this hearing, and I'd also like to thank our colleague FRANK MCCLOSKEY for testifying at Huntington.

We also held a forum on PTSD for Vietnam veterans at the Seventh Annual Vietnam Veterans Reunion in Kokomo, IN. There we heard from over 30 veterans on their personal experiences with PTSD, the problems they are encountering with the DVA, and listened to their recommendations on what we can do here in Congress to make sure these veterans are getting the treatment and services that they deserve.

First, Mr. Speaker, I'd like to address the question of how this problem has evolved. Homecomings and counseling usually furnish vets with a transition from stress, even severe stress known as "shellshock" in World War I and "combat fatigue" in World War II. But there was no homecoming for many Vietnam veterans—no debriefing, and little counseling. Many vets returned in civilian dress, and the wounded were often returned from a Vietnamese jungle to a stateside hospital within 24 hours. While most Vietnam veterans readjusted back into civilian life without many problems, others had difficulties in reestablishing family ties, educational and employment careers, and simply placing their Vietnam experience in some understandable context.

Beyond the usual stresses of war, the Vietnam war was surrounded by many extraordinary circumstances—problems in distinguishing the enemy from the nonenemy, ambiguous objectives, widespread terrorism, and unusual brutality. Perhaps the greatest inhibiting factor was the extent of the national debate about the value, conduct and meaning of the war.

This left many Vietnam veterans alienated. Most didn't join the veterans' service groups and more stayed away from the Government and from the VA. As with many issues and problems surrounding the Vietnam war, PTSD has been grossly misunderstood by the public.

At the forum on PTSD, I, along with my colleagues and fellow Veterans' Affairs Committee members JILL LONG and LANE EVANS heard from a wife of a PTSD sufferer who told us about the lack of public and media understanding of the disorder. After her husband had put on his combat fatigues and put on camouflage face paint, he went into the woods to "relive" his Vietnam experience. The headline in the hometown paper the next day led the public to believe that he was some sort of terrorist, and ignored the fact that this type of behavior could be attributed to PTSD.

PTSD, unfortunately, was not even formally recognized by health professionals until 1980—a decade after many of our men and women had left Vietnam.

A long awaited study, undertaken by the Research Triangle Institute under contract with the DVA, concludes that as many as 15 percent of Vietnam theater veterans are presently suffering from PTSD, and another 11 percent have some effects of PTSD.

This number, much higher than previously estimated, equals over 800,000

of the 3.1 million men and women who served in Vietnam.

□ 1730

Over 479,000 men and women currently have full-blown PTSD. The study also showed that rates are much higher among Hispanic—27.9 percent—and black—20.6 percent—war veterans than among white war veterans—13.7 percent.

But what the DVA has to offer veterans with PTSD is far from adequate to meet the needs that exist. Only 10 percent of the Vietnam veterans who now have PTSD have been treated by the VA in the last year.

The 16 inpatient treatment facilities which exist offer varying degrees of treatment. Only two of the units have been funded through the central DVA office. The rest, such as the recently reopened unit at the Marion VAMC in the Fifth Congressional District of Indiana which I represent, were created from existing resources and exist on a very tenuous basis given the funding crisis in the VA health care system.

In Indiana alone, they are estimated to be around 10,000 veterans suffering from PTSD. Only 18 received treatment from the Fort Wayne VAMC in 1988, and just 19 at the Indianapolis VAMC. While the inpatient PTSD unit at the Marion VAMC and the four vet centers in the State pick up some of the slack, these numbers are still very low, and I imagine that they could be applied nationwide.

Another issue is outreach. Vet centers were designed to reach out to Vietnam veterans with readjustment problems and give them the help that they need to get back on their feet. While they do a good job in my opinion, there is still a lot to be done if only 10 percent of those with PTSD are getting treatment from the VA. Many veterans don't realize that they have PTSD or are not aware of the help that is available. We heard from one veteran in Kokomo who didn't realize that the flashbacks and other problems that he was having were in fact symptoms of a disease until he stumbled across a pamphlet on PTSD said, "Hey, that's me."

Many more veterans are afraid of the stigma attached to PTSD—crazed veterans and all—and have been reluctant to come forward because of the likely repercussions to come from their employer or their friends.

Even more reluctant to come forward are active duty personnel. A recent study of Pentagon officers who served in Vietnam showed that 20 percent of these officers display symptoms of PTSD. Many more are expected to experience "delayed" PTSD, or symptoms of PTSD that begin appearing after leaving the military service. We need to make sure that there is a better awareness within the military regarding treating active duty personnel with PTSD.

At the hearing and at the forum, we also heard from families of PTSD sufferers as to the problems and lack of attention that they receive from the DVA. Part of the healing process, according to clinical PTSD specialists, involves helping the family as a whole. The RTI study included interviews with spouses of Vietnam veterans who revealed that PTSD has had a negative impact not only on the veterans' own lives, but also on the lives of their spouses and children.

The basic problems of coming back to children you don't know and families that have gone ahead without you, perhaps compounded by joblessness and alienation, have led to many problems for veterans with PTSD and their families. If a veteran does get admitted on an inpatient basis, he returns from treatment a different person—alienated again. The cycle can go on and on. It would be much more effective for the VA to include family participation in the healing process, rather than admitting and readmitting the affected veteran time after time.

While there should be no doubt in anyone's mind that PTSD is a service-related disability, a relatively small amount of veterans with PTSD are receiving benefits for their disability. According to the Indiana Regional Office of the VA, however, only 269 of the estimated 10,000 Hoosier veterans with PTSD are receiving disability compensation.

According to testimony that we heard at the hearing, diagnostic examinations for PTSD only involve the veteran, and are often completed in 20 to 30 minutes. It is the opinion of clinical psychologists that it takes at least 2 to 3 hours with a veteran and his or her family to make and accurate diagnosis. My colleague FRANK MCCLOSKEY pointed out the problems that his caseworkers are having in securing treatment and benefits for veterans with PTSD, saying that one veteran was given a disability rating for the same reason that another one was denied.

Perhaps this difficulty in securing favorable disability determinations relates to another problem that disturbs me about the VA's attitude toward PTSD. If anyone should believe that PTSD is a bona fide, legitimate mental disorder caused or triggered by combat or combat-related experience, it should be the VA. But that is not the impression I have received from testimony at our hearing or from talking to mental health professionals. Too many VA psychiatrists, I am told, take a so-called Freudian approach to mental health concerns, focusing on the extent to which problems encountered in adulthood are often the result of a childhood experience.

This mode of psychological thought has not been in the mainstream for quite a while, and I find it hard to believe that it would continue on at the VA. One Vietnam veteran with PTSD was told by the VA that his problems stemmed from "flunking the second grade," and not from the horrors of his war experience in Vietnam. Perhaps more research into the causes and treatment of PTSD within the VA would address this problem and help to update the psychological mode of thinking within the organization.

I first became aware of the PTSD issue through the treatment facility at the Marion VAMC, and the program's director, Dr. Donald Schmidt. The program has been popular with its patients, and has been a quality program. But the capacity of the program has never been more than 12 beds, and thus only the most severe cases have been treated.

Nationally, waiting lists exist for many DVA inpatient PTSD units, with delays as great as 18 to 20 months before admission. This is inadequate for many veterans who have serious PTSD problems now. Since PTSD can be a chronic illness in many cases, time spent waiting will not make a veteran better—over one-half of the men and one-third of the women that ever had PTSD still have it. PTSD is not a problem that will just go away.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. JONTZ. I am happy to yield to the gentleman from New York for whatever he would like to add.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman for arranging the time to discuss this very important issue, and I want to commend the gentleman for conducting hearings on the issue.

I also want to associate myself with the remarks of the gentleman from Indiana [Mr. MCCLOSKEY] who spoke so eloquently with regard to this issue.

This is an important issue. I have had the opportunity very recently, along with my colleague, the gentleman from new York [Mr. FISH] to confer in the Montrose Hospital in Westchester in New York State, Westchester County in New York State, with some of our Vietnam veterans and hospital administrators with regard to this very subject, and with regard to the lack of attention being given nationally to this problem, and it certainly is a stressful problem.

I would like to note for the record a recent comment that I received from one of the presidents of the Vietnam veterans chapter in my area, chapter 333, from Jerry Donnellan, who is one of our leaders in veterans' affairs in my region in New York State in our 22d District. In his recent letter to my office, he states:

This is a condition that although recently realized has plagued combat veterans through all the wars. Simply put, post-traumatic stress is a normal reaction to an abnormal set of circumstances. The reason we feel so strongly about this is that it could be at the root of many other problems plaguing veterans, such as substance abuse, marital problems, unemployment and even suicide. The truly frightening part of PTSD is that the majority of veterans suffering from it are not aware that their condition may be a direct result of their wartime service.

Mr. Donnellan goes on to state:

PTSD like any normal illness, can affect a veteran to greater or lesser degrees. Likewise, the treatment can vary from simply counseling sessions to extended in-patient treatment.

Another fact that may not be generally known is that veterans can be compensated financially for PTSD in the same way that they are compensated for physical wounds received in combat.

One of the problems, of course, is to get PTSD determined to be a disabling problem for a veteran, and for that reason a number of us have joined in cosponsorship of H.R. 794, that is entitled Vietnam Veterans Post-Traumatic Stress Disorder Compensation Act, introduced by our colleague, the gentleman from Wisconsin [Mr. KASTENMEIER], and I note that our good colleague is one of the cosponsors on that measure. I would hope our other colleagues would join with us in making this a presumptive finding of a disabling condition so that there would not be any question of entitling the veteran to the kind of assistance that is so sorely needed.

I would like to note that from a recent article in the New York Sunday News that was dated May 28, 1989, a timely article around the Memorial Day period, it was an article entitled, "Remember The Vets Who Suffer" by Steven Bentley. It starts off:

Memorial Day is here and you are going to hear a lot of speeches full of nationalistic rhetoric this week, but that rhetoric will serve only to paper over a $600 million shortfall in funding for veterans' health care programs and cover up our Nation's other unmet moral obligations to, in Abraham Lincoln's words, "Care for those who have borne the battle."

□ 1740

Then it goes on to mention how little help here has been with regard to treating post-traumatic stress syndrome, and it states that there are only 12 units in the United States; around 500 beds are earmarked for stress disorder, 500 beds in the entire Nation. Most of them lack funding. Most of them lack trained and experienced staffs. Therapy practices vary widely because of nonexistent clinic guidelines and a lack of coordination. They do not deal effectively with the problems of multiple illnesses like, say, alcoholism and stress disorder that compound each other. There is little or no family involvement or therapy, and some have year-long waiting lists.

Then it goes on to note that, as author Richard A. Gabriel had pointed out, 300,000 out of the 800,000 U.S. ground soldiers who saw combat in World War II were psychiatrically discharged, 300,000 out of 800,000.

A $10 million, 5-year study completed by Research Triangle Institute for Congress concludes that 479,999 Vietnam veterans have full post-traumatic stress disorder, another 350,000 have a partial version of the illness, and included in these figures are more than half the combat veterans. Where do we find the casualties? A study commissioned by the American Legion reports that more than 1 million veterans have significant problems, and that their civilian income is a clear measure of those problems. The average veteran makes $3,000 to $5,000 less per year than his peers in similar education and with many below the poverty level.

In 1986, a special congressional committee chaired by Senator TOM DASCHLE of South Dakota placed the number of homeless Vietnam veterans at 82,000 to 110,000. Two years ago the New England Journal of Medicine published a study that estimates the number of veterans to have committed suicide since returning from Vietnam at 59,000.

Those statistics certainly point to the significance of this problem and how crucial it is.

Again, I want to commend the gentleman from Indiana for bringing this to the attention of the floor and to our colleagues. I hope that our colleagues will join together with all of us concerned about this issue to try to do something substantive about resolving it.

Mr. JONTZ. Mr. Speaker, I want to thank the gentleman from New York for participating in this special order. I think the observations he has had to share are right on target. I am sure that what he has found in talking to the VA officials in New York and the veterans in New York is along the lines of what we found in talking to the veterans and the VA in Indiana. I appreciate his leadership on this issue and thank him very much for his comments.

Legislation which I introduced in late July, H.R. 3037, would address this problem and other components of the PTSD issue. I would like to thank the Vietnam Veterans of America and the Wabash Valley Vietnam Veterans in Indiana for their good work in developing the legislation. I would also like to thank the 62 Members, including my colleagues JILL LONG, LANE EVANS, and FRANK MCCLOSKEY, who have cosponsored H.R. 3037.

To finish my statement let me summarize the components of this legislation. The bill would add at least 30 additional inpatient PTSD units to VA medical centers over the next 5 years, which would make a total of roughly one VA inpatient PTSD unit per State. These need to be staffed by full-time PTSD specialists, whether they be psychologists, psychiatrists, family therapists, or other mental health professionals. The need for this expansion is obvious. With waiting lists up to 20 months long for treatment and with veterans traveling hundreds of miles to seek treatment for PTSD at sites like the VA Medical Center at Marion, an expansion of 30 inpatient units is a modest proposal, in my estimation.

I was pleased to see that the DVA has added 23 PCT's, or PTSD clinical teams, to existing VA hospitals through the United States. These teams will help to alleviate the shortfall in PTSD care, but should not be considered long-term solutions to this problem given the VA funding crunch. Centrally funded inpatient units are the way which we should go.

This legislation would also require the DVA to add at least 40 vet centers for readjustment counseling. We heard from many veterans in Indiana who were pleased with the services that vet centers had to offer, and I have visited several myself. I appreciate the good work that the staff of the vet centers do with their limited resources.

I learned from Dr. Arthur Blank, director of the Vet Center Program, that cities as big as Toledo, OH, and Nashville, TN, are without vet centers. These outreach and counseling centers are popular and effective in treating Vietnam veterans with PTSD. Vet center staff members often travel many miles to help veterans with their readjustment problems. I am sure that some of the costs of expanding the Vet Center Program would be offset by savings in travel time and expenses.

The Vet Center Program is celebrating its 10th anniversary this year. I am sure that my colleagues with vet centers in their districts are pleased to have these services available to the Vietnam veterans in their districts. If my colleagues that do not have a vet center in their district had a chance to visit one, I am sure that they would agree that adding more vet centers would be an excellent way to reach out to these hundreds of thousands of veterans that are having readjustment problems but cannot get help.

H.R. 3037 would authorize stable funding for VA contract counseling programs for PTSD, which serve veterans in areas not served by VA facilities. We heard at the hearing that only five individual PTSD cases were contracted out of the Indianapolis VAMC catchment area last year. This is a tool that could be very beneficial in reducing the burden on overcrowded hospitals that are besieged by veterans suffering from PTSD who

could otherwise be assisted by private clinics.

In addition to expanding treatment, the bill would encourage the DVA to recruit qualified professionals to administer PTSD care by encouraging the inclusion of psychiatrists, psychologists and others who specialize in the treatment of PTSD in the Health Professionals Scholarship Program. One step that we must take if we are to expand the treatment of PTSD is recruiting qualified professionals to staff these programs.

H.R. 3037 would give permanent, statutory authority to the Advisory Committee on Readjustment of Veterans. Similar to the POW and Women Veterans Advisory Committee, the group would continue to advise and report on activities relating to PTSD. If we want the DVA to focus on the issue of PTSD, then we are going to have to make sure that veterans' groups and PTSD treatment professionals have their voices heard by the Secretary.

The bill would also create a research program for the treatment of PTSD. While a lot of attention has focused on exploring the causes and extent of PTSD, little coordinated study has been done on the treatment of PTSD. This program, conducted within the VA, would study the best treatment methods for PTSD to insure that quality care can be given on a consistent basis throughout the country. We have heard that treatment for PTSD varies widely from place to place. Research on PTSD can help the VA to service those veterans with the disease in a much more effective manner.

Finally, H.R. 3037 would establish a pilot program for PTSD care in halfway houses. This program would be similar to the halfway house program for drug and alcohol abuse treatment, and would take an additional burden off of the already overcrowded VA medical system. This halfway house program comes at the suggestion of a local veterans group in Indiana along with a VA administrator.

We heard from many veterans in Indiana that they have been reliving the war for the last 20 years. It is time that the Congress and the DVA give all veterans suffering from PTSD a welcome home.

Mr. Speaker, this past Wednesday Robson James Mabry, a veteran who earned a Bronze Star for his service to our country in Vietnam, was found dead at the foot of the Tampa Vietnam War Memorial. He took his life.

Mabry had been to the VA twice, as recently as 1987. He was never diagnosed as having posttraumatic stress disorder, but a Tampa area veterans leader believes that Mabry was among the million Vietnam vets who have suffered from PTSD.

Mr. Speaker, the VA's own study shows that only 10 percent of the Vietnam vets currently suffering from PTSD received any help from the VA during the past year. We must do better.

Ms. LONG. Mr. Speaker, I am pleased to join my colleagues, and commend Mr. JONTZ, for calling this special order to further highlight the issue of posttraumatic stress disorder.

Before I begin, let me say that I am grateful to the gentleman from Illinois, the chairman of the Oversight and Investigations Subcommittee, Mr. EVANS, for bringing the subcommittee to my congressional district last month. Mr. EVANS' dedication to the needs of our Nation's veterans is well known in the House of Representatives. As chairman of the subcommittee, he helps to shape the priorities of the full House Veterans' Affairs Committee.

I also thank my distinguished colleague, Mr. MCCLOSKEY, a former member of the Veterans' Affairs Committee, for traveling to the hearing to testify. The hearing which was held in Huntington, IN, gave veterans from northeastern Indiana the opportunity to testify on the services and care available to those with posttraumatic stress disorder, a condition commonly referred to as PTSD.

Mr. Speaker, those with PTSD can suffer from nightmares, flashbacks, and a severe withdrawal from society. Many sufferers of PTSD find it difficult to hold a job for any period of time, and many turn away from their families and friends, the very people who most want to help them.

PTSD is most common among veterans of the Vietnam war. Veterans of other wars, however, can also suffer the symptoms associated with the disorder. Like Vietnam veterans with the disorder, they need and should have access to treatment programs and deserved benefits.

Without question, however, it is Vietnam veterans who are most affected by PTSD. As Chairman EVANS has said, a full 15 percent of Vietnam veterans suffer from the disorder. However, only a very small number of these veterans have been helped by the programs provided by the Department of Veterans Affairs.

Congressman JONTZ, an Indiana colleague and member of the Veterans' Affairs Committee, has put together a thoughtful piece of legislation. The bill, H.R. 3037, would expand the number of vet centers, and the number of inpatient PTSD units to improve the services provided to veterans with this disorder. I am proud to be a cosponsor of this bill, along with Chairman EVANS, Mr. MCCLOSKEY, and 60 other Members of the House, and I applaud Mr. JONTZ for introducing it.

Our Nation's veterans have earned our respect. They have also earned the right to receive the treatment and care they need. Although it is not a physical injury, PTSD is the direct result of combat experience. The men and women who suffer from it should have access to the best possible treatment.

GENERAL LEAVE

Mr. JONTZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1750

WORLD FOOD DAY 1989: FOOD AND THE ENVIRONMENT

The SPEAKER pro tempore (Mr. DORGAN of North Dakota). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 30 minutes.

Mr. BEREUTER. Mr. Speaker, today is World Food Day and the theme for the U.S. Government's observance of World Food Day is an especially important theme. Food and the environment. The natural linkage of the two should be obvious but often mankind acts in a fashion that violates that natural linkage. The result is malnutrition and starvation on one hand and environmental degradation on the other. Each problem complicates the other in a vicious cycle.

Earlier today this Member had the privilege of being the keynote speaker at the U.S. Government observance of World Food Day at the U.S. Department of Agriculture. Honored at the event was Dr. Verghese Kurien of India, 1989 World Food Prize Laureate, for his work on milk for the millions in India. It was introduced by Secretary Clayton Yeutter. It was a diverse audience of schoolchildren, diplomats, leaders of American and international private voluntary organizations, and U.S. Government officials.

This Member also takes special note of two other awards that were bestowed this morning for work on hunger. The Presidential "End Hunger Award" was granted posthumously for his outstanding contribution to our late colleague, Representative Mickey Leland of Texas, my friend and distinguished colleague who chaired the Select Committee on Hunger of the House of Representatives. As all of us know, he and 15 others were tragically killed in a plane crash in Ethiopia in August. This was one of many trips that he and other members of the Select Committee have taken to learn first-hand about the food needs in remote, desperately poor regions of the world. Mickey Leland had a dedication, restlessness, and drive that focused global attention on the devastation of hunger and famine—perhaps more than any other current or past Member of Congress. We on the Select Committee on Hunger feel his death as a great loss and will rededicate ourselves, under the leadership of Representative TONY HALL and Representative BILL EMERSON, to accomplishing the work Mickey Leland was not able to finish

on behalf of the hungry of America and the world.

Another award today has, to the satisfaction of this Member, recognized the contributions of the organization, Volunteers in Overseas Cooperative Assistance [VOCA] and the many U.S. citizens who have served through VOCA as international volunteers to build up agriculture and cooperatives in the Third World through the Farmer-to-Farmer Program. This program is one in which this Member takes great pride, satisfaction, and continued interest. It provides a valuable volunteer, people-to-people link to address international food and hunger needs.

As this Member focused his thoughts on the interrelationship between food and the environment, thoughts turn to my home State. When one drives westward across Nebraska on Interstate 80 or, as the pioneers did in their wagon trains on the Oregon Trail—150 years ago—you pass through the rich rolling hills and the eastern stretches of the Great Plains—along the shallow, wide bed of the Platte River. Quite naturally, one thinks about the environment and the rich soils for agriculture production. This is a place where the land and the sky and the people and the weather stay in very close touch with one another. The beginning line of "America the Beautiful" gives you a picture of Nebraska's farm country: "Oh beautiful, for spacious skies, for amber waves of grain."

This is a kind of beauty we want to pass on to our children and grandchildren, as our forefathers did to us. Spacious clean skies. Abundant food. Healthy, well-nourished people. The question is how to maintain those conditions and healthy people. That is what World Food Day is all about—sharing our ideas and visions about how to feed everyone in the whole world while living in harmony with out natural environment.

In our lifetimes conditions are changing worldwide even more dramatically and rapidly than ever. These changes are happening in our environment, in our economies, and in politics. Things are changing so fast that even the scientists, economists, and political leaders don't yet fully understand what is happening. Global weather patterns may be shifting due to the atmospheric pollution. Desertification and water shortages are now constraining livelihoods in many parts of the world, sometimes as a result of intensified agricultural production. The ripple effects of financial and trade policies affect the lives of people in distant countries. People are growing impatient with economic systems that are not productive and with political systems in which they cannot have an effective voice.

It is a real challenge to find the way to pass on a productive world to future generations. As we make progress in correcting earlier mistakes like the improper application of DDT that killed the birds and water pollution that killed the fish, new and unexpected problems appear—holes in the ozone layer, accelerating destruction of tropical forests, and the permanent loss of thousands of species of plants and animals.

Even more sadly, people are still dying and environments are being degraded for reasons that could readily be prevented. It is a real failure of policy and failure of imagination and collective intellect when we know to correct or avoid a problem and yet we do not organize ourselves so that others take advantage of that knowledge. The fact that there are 750 million hungry people in a world which can produce enough food to feed them is a terrible and unacceptable failure. Unfortunately, the policy process and the political process within and between nations responds slowly. It seems that we must have a crisis before anything constructive happens.

There are some major changes that must take place in our own thinking if we want to make these changes work for good instead of against us. Most importantly, we must know the right questions, and trust ourselves to find new ways to answer these questions, working together as a nation and as part of a world community.

Today, World Food Day, is a good time for us to share with each other what we think are the right questions to ask for the world today. I would challenge every American—young person or adult, public servant or private citizen—to go home and write down their own list of important questions to be answered. The survival of this Earth as a good home for us requires the best ideas from each of us if we are going to live together in peace and prosperity.

Here are this Member's suggestions for just three questions to ask that will help us to develop the right answers to the challenges of world hunger and a healthy environment.

First, how important is it for everyone on Earth to have access to the basics of a productive life? I think it is very important.

It is a sad fact, documented by the World Health Organization, that 20 percent of the world's population, or 1 billion people, are too malnourished or sick to be economically or socially productive. Think of the wasted productive capacity when that proportion of the world's population is doomed by malnutrition or disease to be dependent on others instead of self-supporting. UNICEF estimates that at least 35,000 people die every single day for reasons that can easily be prevented. Most of them are children under 5 years old dying from a combination of malnutrition, diarrhea, and vaccine-preventable diseases. That is a preventable tragedy which kills more people every day than the Armenian earthquake. Imagine if the morning newspaper headlines read "Crash of 75 jumbo jets, full of children; no survivors." That is the magnitude of this preventable disaster this very day—every day, all year long—every year.

Experts now agree that these deaths can be eliminated by the year 2000 with an integrated approach to basic nutrition and health, involving the four dimensions of adequate food, primary health care, basic education, and safe water and sanitary waste disposal. Plans are already in existence for such a program. The cost is modest. UNICEF's report on "State of the World's Children 1989" estimates that well-directed expenditures of less than $20 per person per year, most of which is already budgeted by national governments, international organizations, private voluntary organizations, or other sources, can provide the basis of food, health care, education, and water supply and sanitation for all.

Permanent programs that eliminate the root causes of hunger and disease will have to be based on public-private partnerships among governments, international organizations like the Food and Agriculture Organization [FAO], the World Health Organization [WHO], UNICEF, and the World Bank, together with grassroots groups in the developed and developing world. The fundamental question is whether we have the will to end these preventable deaths.

My second question is: Do we want to be on friendly terms with nature or not? The answer should be obvious for all who wish to survive and to have our children and grandchildren survive in a hospitable environment. Ecological thinking has too often been thought of as "antiprogress" when, in fact, it is essential for progress. There has been a tendency to look at nature as a source to exploit. Now, gradually, people are waking up to the fact that we are all part of the same system. If we ignore nature or treat it as a slave, sooner or later it seems to retaliate.

Nature's well-being is important for our well-being and vice versa. This is particularly true of the links between hungry poor people and the environment. As the report issued by the World Commission on Environment and Development stated to the world community in 1987:

> Poverty is a major cause and effect of environmental problems. It is therefore futile to attempt to deal with environmental problems without a broader perspective that encompasses the factors underlying world poverty and international inequality.

The Commission called for a major new commitment to Third World de-

velopment, using economic practices attuned to environmental needs.

Science is our best ally in working hand-in-hand with nature to enhance the goods and services that our natural environment can provide. And agriculture, since prehistoric times has been the premier arena for friendly cooperation between man and nature. The first agriculturalists, gathering seeds from swamps and wild meadows to plant in their cultivated fields, were the true forerunners of the rice research scientists at the International Rice Research Institute today. By working with nature and with each other, we can continue to feed everyone. But the ability to do so depends on approaching nature with respect and learning to sustain its health and productivity.

My third question is whether people are ready to work together to do what it takes to organize a world without hunger.

It is a tragic fact that most starvation in the world today is caused by man—not by the limits of nature or lack of agricultural ingenuity. It is often the result of civil wars in which the food supply for civilians becomes a pawn in a political struggle. The right of noncombatants to food during situations of conflict is explicitly protected in the Geneva Conventions. Article 25(1) of the Universal Declaration of Human Rights also states that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food * * *". To starve people into submission and refuse to allow relief supplies to go to them should be as abhorrent to all of us as slavery is. If all nations and all people promised never again to use food as a political weapon, we would have made a major improvement in the humanity of the human race.

On a more positive note, there are numerous areas for useful international collaboration between people and between nations in food supply and distribution for hungry people. The World Food Program, the International Fund for Agricultural Development [IFAD], and FAO itself provide good examples of what can be achieved through international programs to use food-for-work and other forms of assistance to improve sustainable food production, incomes, and nutrition of the poorest people in the developing world, most of whom live in rural areas.

In Congress we have strongly supported our bilateral Public Law 480 Food for Peace Program since its inception in 1954. The United States Government's Food for Peace Program has now provided over $40 billion in grants and concessional sales of food to countries and people without enough food.

However, we must recognize that there are other areas of peril and opportunity for cooperation that lie ahead. The outcome of the GATT negotiations on agricultural subsidies could have a major effect on whether international markets for food continue to be subject to major distortions based on subsidies and trade barriers. Debt reduction negotiations will affect the resources available to the poorest countries for food imports and for improving their domestic agricultural productivity. The U.S. Food for Peace Program will need to be reauthorized and perhaps reshaped in the 1990 farm bill.

Also, there are some new needs and some new ideas that need to be explored in the immediate future. A combination of trends—an unusually low level of international food reserves, rising grain prices, and budgetary constraints on the amount of food aid funding from traditional donors, including the United States—makes the food situation for many of the poorer nations and people in the world especially precarious in the next few years. Yet this is the same moment when special action in rural areas of the poorest countries would have the highest payoff in eliminating hunger while restoring and enhancing the natural environment. Some of the investment needed could and should come in the form of food payments for work on rural infrastructure projects like land terracing, water management, tree replanting, and road maintenance, as well as income-generating projects.

In the Congress this Member has been promoting several bills and resolutions that identify new possibilities for collaboration. Some of this legislation has already been enacted. One idea is to make more use of debt-donations and debt-swaps for development activities. Private voluntary groups and UNICEF have already begun to trade donated debt paper back to governments in exchange for domestic currencies for investments in environmental conservation, water supply, and other development activities. Bringing down an unmanageable level of debt while putting more funds into the voluntary sector and development work is good all around.

Another idea is to encourage countries with financial surpluses, such as Japan, to work with countries with high agricultural production capabilities, like the United States, to build in a higher level of security in world food supplies for the poorest of the poor through arrangements for special food purchases under long-term contracts for specific relief and development purposes. The World Food Council and other international stocks will be needed in the next decade for interventions to insure adequate levels of basic nutrition for the very poor in the world. Such financing arrangements could be an important part of any new arrangement. With the hunger, poverty, and environment links becoming clearer to everyone, and with a 1990 decision on a new farm bill, we could design our food production targets and the administration of our food aid program to make the most difference in the global conquest of hunger.

Mr. Speaker, in conclusion, I would like to quote a 12-year-old friend of mine, Miss Hope Temple, on what the real question is regarding the problems of hunger and the environment. When asked how we can solve these problems, she put it simply. "How are we going to do all this? We in America have food and we have vaccinations, but other people are dying every day because they don't. We are hurting nature and that is not good for us or for nature. If everybody would be willing to help, then it could be different. It's as easy as that." She went on to ask: "Would you be willing to help these people? Would you be willing to recycle? Would you be willing to give up a dollar or two? Would you be willing to work together? This Member asks every American child and adult, "Would you be willing to do your part to help the poorest one-fifth of the human race become productive, to protect our natural environment, and to work together in new ways to help each other?" The answer must be a resounding "yes." It is increasingly clear that the future of the planet and mankind is in our collective hands. Hunger, a hospitable environment, peace, and prosperity for all of us, and future generations, are inextricably linked together.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACOBS (at the request of Mr. GEPHARDT), for today, on account of constituent business.

Mr. AKAKA (at the request of Mr. GEPHARDT), for today and tomorrow, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GEKAS) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 30 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. GEKAS, for 5 minutes, today.

(The following Members (at the request of Mr. KASTENMEIER) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
(The following Member (at the request of Mr. JONTZ) to revise and extend his remarks and include extraneous material:)
Mr. WYDEN, for 30 minutes each day, on October 17 and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)
Mr. GREEN.
Mr. BARTLETT in two instances.
Mr. KYL.
(The following Members (at the request of Mr. KASTENMEIER) and to include extraneous matter:)
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. ROE.
Mr. GARCIA in two instances.
Mr. STARK.
(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)
Mr. COURTER.
Mr. BEREUTER.
Mr. HORTON.
Mr. LOWERY of California.
Mr. LAGOMARSINO in three instances.
Mr. LIVINGSTON.
(The following Members (at the request of Mr. JONTZ) and to include extraneous matter:)
Mr. CROCKETT.
Mr. SOLARZ.
Mr. FAUNTROY.
Mr. PANETTA.
Mr. LANTOS.
Mr. MILLER of California.
Mr. ENGEL.
Mr. SYNAR.
Mr. RANGEL.
Mr. YATRON.
Mr. HARRIS.
Mr. TOWNS.

SENATE CONCURRENT RESOLUTION REFERRED

Concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 71. Concurrent resolution congratulating Malta on the 25th anniversary of its independence; to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2087. An act to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes;
H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986;
H.R. 2078. An act to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag; and
H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

SENATE JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 213. Joint resolution to designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America."

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On October 13, 1989:
H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month;"
H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day;"
H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month;"
H.R. 1300. An act to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990; and
H.R. 2788. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes.
On October 16, 1989:
H.R. 2978. An act to amend section 700 of title 18, United States Code, to protect the physical integrity of the flag;
H.R. 2087. An act to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes; and
H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 6 o'clock p.m.) the House adjourned until tomorrow, Tuesday, October 17, 1989 at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1834. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act provisions governing eligibility of certain entity-type applicants for disaster emergency loans; to the Committee on Agriculture.
1835. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act to delete reference to obsolete procedures for evaluation of applications for community and business programs loans and grants, and to eliminate the requirement for county committee certification prior to release of liability under community and business loans and grants; to the Committee on Agriculture.
1836. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 331(d) of the Consolidated Farm and Rural Development Act to extend the authority of the Secretary of Agriculture to settle debts to all programs administered through the Farmers Home Administration; to the Committee on Agriculture.
1837. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a copy of "Report on Loan Discrimination"; to the Committee on Banking, Finance and Urban Affairs.
1838. A letter from the Board of Governors, Federal Reserve System, transmitting a copy of "Report on Loan Discrimination"; to the Committee on Banking, Finance and Urban Affairs.
1839. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.
1840. A letter from the Director, Administrative Office of the U.S. Courts; transmitting a draft of proposed legislation to authorize additional judicial positions for the courts of appeals and district courts of the United States, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.
1841. A letter from the Administrator, Federal Aviation Administration, transmitting a report on the progress it is making in improving the airmen and aircraft registry system, pursuant to Public Law 100-690, section 7207; to the Committee on Public Works and Transportation.
1842. A letter from the Secretary, Department of Labor, transmitting the fifth report on trade and employment effects of the Caribbean Basin Economic Recovery Act, pursuant to 19 U.S.C. 2705; to the Committee on Ways and Means.
1843. A letter from the Secretary of Agriculture, transmitting the fourth annual report on agricultural trade consultations with major producing countries, pursuant to 7 U.S.C. 1736r(c); jointly, to the Committees on Agriculture, Foreign Affairs, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 3402. A bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform; with amendments (Rept. 101-278, Pt. 3). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 76. A bill to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for the potential addition to the wild and scenic rivers system; with an amendment (Rept. 101-284). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1310. A bill to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway" (Rept. 101-285). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1473. A bill to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek and the Sisquoc River in the State of California as wild and scenic rivers, and for other purposes; with an amendment (Rept. 101-286). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3341. A bill to amend the Sherman Act to increase the fines that may be imposed for a violation of such act (Rept. 101-287). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3259. A bill to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers (Rept. 101-288). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FASCELL: Committee on Foreign Affairs. H.R. 3402. A bill to promote political and economic democracy in Poland and Hungary as those countries develop and implement programs of comprehensive economic reform; with an amendment; referred to the Committees on Agriculture, Education and Labor, Energy and Commerce and Public Works and Transportation for a period ending not later than October 17, 1989, for consideration of such provisions of the amendment reported from the Committee on Foreign Affairs as fall within the jurisdictions of those committees pursuant to clause 1(a), (g), (h), (p) of rule X, respectively (Rept. 101-278, Pt. 2). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY (for himself, Mr. DELLUMS, and Mr. DYMALLY):

H.R. 3470. A bill to establish a Supreme Court of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BRUCE:

H.R. 3471. A bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish a Division of Allied Health Professions within the Health Resources and Services Administration, to initiate a pilot program concerning allied health research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GREEN (for himself, Mrs. MARTIN of Illinois, Mrs. JOHNSON of Connecticut, Mr. PERKINS, Mr. BRYANT, Mr. HOCHBRUECKNER, Mr. SUNDQUIST, Mr. CROCKETT, Mr. SHUMWAY, Mr. AKAKA, Mr. HENRY, Mr. ERDREICH, Mrs. PATTERSON, Mr. KILDEE, Mr. DORNAN of California, Mr. MOLLOHAN, Mrs. COLLINS, Mr. MARTIN of New York, Mr. SMITH of New Jersey, Mr. BEREUTER, Mr. MANTON, Mr. LAGOMARSINO, Mr. NIELSON of Utah, Mr. SPRATT, Mr. MAVROULES, Mrs. BOXER, Mr. ATKINS, Mr. DEWINE, Mr. SCHUMER, Mr. TRAXLER, and Mr. YATRON):

H.R. 3472. A bill to amend chapter 110 of title 18, United States Code, to create remedies for children and other victims of pornography, and for other purposes; to the Committee on the Judiciary.

By Mr. KOSTMAYER:

H.R. 3473. A bill to amend the Higher Education Act of 1965 to prohibit student financial aid from covering the cost of room and board for students who are incarcerated; to the Committee on Education and Labor.

By Mr. STARK:

H.R. 3474. A bill to amend title XIX of the Social Security Act with respect to the spousal allowance provided for individuals residing in community property States; to the Committee on Energy and Commerce.

By Mr. WALSH (for himself, Mr. MOODY, Mr. HENRY, Mr. COURTER, Mr. ROSE, Mr. AKAKA, Mr. PENNY, Mr. LAGOMARSINO, Mrs. UNSOELD, Mr. TOWNS, Mr. MCNULTY, Mr. LENT, Mr. FUSTER, Mr. BLILEY, Mr. LIVINGSTON, Mr. FAUNTROY, and Mr. PACKARD):

H.R. 3475. A bill to direct the Director of the Peace Corps to drape a flag of the United States over the casket of each deceased Peace Corps volunteer or former volunteer; to the Committee on Foreign Affairs.

By Mr. GEPHARDT:

H. Res. 265. Resolution designating membership on certain standing committees of the House; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

293. The SPEAKER presented a memorial of the House of Representatives of Maine, relative to requesting the President and the Congress to impose sanctions against governments of countries with ties to terrorist organizations; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MILLER of Washington:

H.R. 3476. A bill to remove certain prohibitions to the licensing of a vessel for employment in the coastwise trade of the United States for the vessel *Arctic Sounder*; to the Committee on Merchant Marine and Fisheries.

By Mr. STARK:

H.R. 3477. A bill for the relief of Milton Faccini; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 614: Mr. ANNUNZIO.

H.R. 1085: Mr. JOHNSON of South Dakota and Mr. PENNY.

H.R. 1180: Mr. MCNULTY.

H.R. 1602: Mr. JOHNSTON of Florida.

H.R. 1699: Mr. FLIPPO, Mr. HARRIS, Mr. DERRICK, Mr. GEREN, Mr. TALLON, Mr. SMITH of Florida, and Mr. DARDEN.

H.R. 2144: Mrs. BOGGS.

H.R. 2426: Mr. HUGHES and Mr. PEASE.

H.R. 2675: Mrs. BOXER and Mr. CAMPBELL of California.

H.R. 2945: Mr. SCHEUER, Mr. MORRISON of Connecticut, Mr. DEFAZIO, Mr. PALLONE, Mr. LEVINE of California, Mr. GIBBONS, Mrs. MEYERS of Kansas, and Mr. HUTTO.

H.R. 2960: Mr. BLAZ.

H.R. 3017: Mr. TORRICELLI, Mr. BONIOR, and Mr. ROSE.

H.R. 3050: Mrs. SAIKI, Ms. LONG, Mrs. COLLINS, Mr. EVANS, Mrs. BOXER, Mr. MRAZEK, and Mr. SOLARZ.

H.R. 3069: Mr. OWENS of New York, Mr. EVANS, Mr. DWYER of New Jersey, Mr. UDALL, Mr. FROST, Mr. JOHNSON of South Dakota, Mr. MILLER of Washington, and Mr. ACKERMAN.

H.R. 3155: Mr. ROE, Mr. ATKINS, Mr. HUGHES, Mr. ACKERMAN, and Mr. NEAL of North Carolina.

H.R. 3321: Mr. CALLAHAN, Mr. GUNDERSON, Mr. HEFNER, Mr. JOHNSON of South Dakota, Mr. BEREUTER, Mr. PAYNE of Virginia, Mr. YOUNG of Alaska, Mrs. SMITH of Nebraska, Mr. JONES of North Carolina, Mrs. BYRON, and Mr. NEAL of North Carolina.

H.R. 3323: Mr. MILLER of Washington.

H.R. 3350: Mr. DREIER of California, Mr. DORNAN of California, Mr. INHOFE, Mr. BAKER, Mr. KYL, Mr. WALKER, Mr. HENRY, Mr. REGULA, Mr. ARMEY, Mr. HANCOCK, Mr. MADIGAN, Mr. GALLEGLY, Mr. GEKAS, Mr. HILER, Mr. OXLEY, Mr. SUNDQUIST, Mr. LIVINGSTON, Mr. MCEWEN, Mrs. JOHNSON of Connecticut, and Mr. PAXON.

H.R. 3380: Mr. MADIGAN, Mr. HILER, Mr. FOGLIETTA, Mr. ENGEL, Mr. BRUCE, Mr. LEVIN of Michigan, Mr. BROWN of California, Mr. MARTIN of New York, Mr. PALLONE, Mr. CLAY, Mr. CHANDLER, Mr. MAVROULES, Mr. KOLTER, Mr. WISE, Mr. SAXTON, Mrs. BENTLEY, and Mr. PAYNE of New Jersey.

H.R. 3386: Mr. WELDON, Mr. GEKAS, Mr. RHODES, Mrs. VUCANOVICH, Mr. LAGOMARSINO, Mr. LIGHTFOOT, Mr. BOEHLERT, Mr. BUNNING, and Mr. HOCHBRUECKNER.

H.J. Res. 121: Mr. HORTON, Mr. MARKEY, Ms. KAPTUR, Mr. RANGEL, Mrs. COLLINS, Mr. KOLTER, Mr. TOWNS, Mr. FLIPPO, Mr. HALL of Ohio, Mr. DE LA GARZA, Mr. ACKERMAN, Mrs. MARTIN of Illinois, Mrs. BENTLEY, Mr. EMERSON, Mr. NATCHER, Mr. MCEWEN, Mr. BLILEY, Mr. LEWIS of Florida, Mr. NEAL of North Carolina, Mr. WALSH, Mr. GAYDOS, Mr. VANDER JAGT, Mr. BUNNING, Mr. HUTTO, Mr. SCHUETTE, Mr. CARPER, Mr. SOLOMON, Mr. MOAKLEY, Mr. TAUKE, Mr. DURBIN, Mr. LAFALCE, Mr. NELSON of Florida, Mr. ROE, Mr. FALEOMAVAEGA, Mr. BATEMAN, Ms. LONG, Mr. COBLE, Mr. PASHAYAN, Mr. HENRY, Mr. FASCELL, Mr. SOLARZ, Mr. BRENNAN, Mr. CONYERS, Mr. COSTELLO, Mr. FORD of Michigan, Mr. KOSTMAYER, Mr. LEHMAN of Florida, Mr. LIPINSKI, Mr. MILLER of California, Mr. OWENS of Utah, Mr. Borski, Mr. CLARKE, Mr. CLEMENT, Mr. LANCASTER, Mr. STAGGERS, Mr. BOEHLERT, Mr. HAMMERSCHMIDT, Mr. OBERSTAR, Mr. GEJDENSON, Mr. MURTHA, Mr. RAVENEL, Mr. FUSTER, Mr. MCNULTY, Mr. ROBINSON, Mr. MORRISON of Connecticut, and Mr. BARNARD.

H.J. Res. 142: Mr. PALLONE, Mr. NAGLE, Mr. ROGERS, Mr. ROWLAND of Georgia, Mr. TORRICELLI, and Mr. CROCKETT.

H.J. Res. 214: Mr. ENGEL, Mr. MARKEY, Mr. SMITH of Texas, and Mr. MAZZOLI.

H.J. Res. 241: Mr. MCCLOSKEY, Mr. COUGHLIN, Mr. COLEMAN of Texas, Mr. ANNUNZIO, Mrs. COLLINS, Mr. DORNAN of California, Mr. FAZIO, Mrs. MARTIN of Illinois, Mr. MILLER of Ohio, Mr. NIELSON of Utah, Mr. YOUNG of Alaska, Mr. DWYER of New Jersey, Mr. UDALL, Mr. CAMPBELL of Colorado, Mr. STARK, Mr. CLARKE, Mr. HYDE, Mr. LEVIN of Michigan, Mr. GALLEGLY, Mr. RAVENEL, Mrs. LOWEY of New York, and Mr. SYNAR.

H.J. Res. 278: Mr. NELSON of Florida and Mr. CONDIT.

H.J. Res. 286: Mr. WYLIE, Mr. ERDREICH, Mr. NATCHER, Mr. MARTINEZ, Mr. COLEMAN of Missouri, Mr. MCCLOSKEY, Mrs. BOGGS, Mr. FISH, Mr. FASCELL, Mr. HAMILTON, Mr. GORDON, Mr. LAFALCE, Mr. ROGERS, Mr. HOPKINS, Mr. MONTGOMERY, Mr. SOLARZ, Mr. MARTIN of New York, Ms. KAPTUR, Mr. COYNE, Mr. SPENCE, Mr. JENKINS, Mr. LANTOS, Mr. OWENS of Utah, Mr. PALLONE, Mrs. JOHNSON of Connecticut, Mr. HAYES of Illinois, Mr. PERKINS, Mr. KASTENMEIER, and Mr. WOLPE.

H.J. Res. 367: Mr. BALLENGER, Mr. BATES, Mrs. BENTLEY, Mrs. BOXER, Mr. CONTE, Mr. FALEOMAVAEGA, Mr. FISH, Mr. LAFALCE, Mr. MRAZEK, Mr. SHAYS, Mr. SMITH of Florida, Mr. SMITH of Vermont, Mr. SPENCE, and Mr. WAXMAN.

H.J. Res. 389: Mr. MCEWEN and Mr. SMITH of New Hampshire.

H.J. Res. 405: Mr. DANNEMEYER, Mr. BONIOR, Mr. MILLER of Washington, Mr. BOUCHER, Mr. ENGEL, Mr. WALGREN, Mr. LEWIS of Georgia, Mr. PANETTA, Mr. GUARINI, Mr. FROST, Ms. SLAUGHTER of New York, Mr. HUGHES, Mr. MAZZOLI, Mr. EVANS, Mr. OWENS of Utah, Mr. RICHARDSON, and Mr. THOMAS A. LUKEN.

H.J. Res. 417: Mr. FORD of Michigan and Mr. PALLONE.

H.J. Res. 420: Mr. FRANK, Mr. OWENS of New York, Mr. BURTON of Indiana, Mrs. COLLINS, Mr. CONYERS, Mr. DEWINE, Mr. DYMALLY, Mr. ENGEL, Mr. ESPY, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FROST, Mr. FUSTER, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HORTON, Mr. HOYER, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. MCNULTY, Mr. MRAZEK, Mr. MURPHY, Mr. OLIN, Mr. RANGEL, Mr. SMITH of Florida, Mr. STOKES, Mr. TOWNS, Mr. KOLTER, and Mr. FAZIO.

H. Con. Res. 79: Mr. PEASE.

H. Con. Res. 186: Mr. NELSON of Florida, Mr. KOLBE, and Mrs. BENTLEY.

H. Con. Res. 201: Mr. ARMEY, Mr. BATEMAN, Mr. BENNETT, Mr. BEVILL, Mr. BOUCHER, Mr. BROWDER, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. DE LA GARZA, Mr. DORNAN of California, Mr. FAZIO, Mr. FASCELL, Mr. FAUNTROY, Mr. GOSS, Mr. HARRIS, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HENRY, Mr. HORTON, Mr. HYDE, Mr. KANJORSKI, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LEWIS of Florida, Mr. DONALD E. LUKENS, Mr. MCDERMOTT, Mr. MARTINEZ, Mr. MINETA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOORHEAD, Mrs. MEYERS of Kansas, Mr. NAGLE, Mr. NIELSON of Utah, Ms. OAKAR, Mr. PACKARD, Mr. PAXON, Mr. ROE, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SKAGGS, Mr. SKELTON, Mr. SMITH of Florida, Mr. VOLKMER, Mr. WALKER, and Mr. WILSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 106: Mr. CAMPBELL of California.

H.J. Res. 373: Mr. CAMPBELL of California.

H. Con. Res. 57: Mr. CAMPBELL of California.

EXTENSIONS OF REMARKS

A CLIMATE OF TERROR AGAIN GRIPS GUATEMALA

HON. GEO. W. CROCKET, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. CROCKETT. Mr. Speaker, kidnapings, death threats, bombings, and murders on a scale unseen since civilian President Vinicio Cerezo took office in 1986 have shaken Guatemala and raised fears of a renewed terror campaign of the sort that seized this Central American country a decade ago.

Thus begins a recent Washington Post report on the unfortunate country of Guatemala. The human rights situation steadily deteriorated last year and this year following two attempted military coups. Apparently, one of the concessions made to the coup plotters was to permit human rights violators in the military to operate with greater impunity. The result has been an increase in killings, torture, kidnapings, and disappearances that has taken Guatemala back to the days before the advent of civilian government.

This phenomenon is both a cause and a reflection of a decline in President Cerezo's authority vis-a-vis the military. This predicament is not surprising. From the beginning, the United States has been at best a lukewarm supporter of President Cerezo. We have refused to recognize his powerlessness and the abuses that have been perpetrated by a military that he cannot control. Every coup attempt, and every increase in repression, has been rewarded by increases in unconditional military aid to the very forces that conduct or condone the repression. By refusing to recognize the problem, we have been unable to address it. We have failed to insist—and to support President Cerezo in insisting—that the military hand over power and cease its abuses as a condition of our aid. Now our benign neglect of the threat to democracy and human rights in Guatemala is coming back to haunt us—and Guatemala's democrats.

It is late—but not yet too late—to give Guatemalan democracy some real backing. The United States Embassy in Guatemala should stop denying and condoning these abuses. And the administration should withhold fiscal year 1990 military aid until the human rights situation turns around.

The Washington Post article follows:

[From the Washington Post, Sept. 29, 1989]

"CLIMATE OF TERROR" AGAIN GRIPS GUATEMALA—KILLERS, BOMBERS SAID TO TARGET CIVIL RULE

(By Lee Hockstader)

GUATEMALA CITY.—Kidnappings, death threats, bombings and murders on a scale unseen since civilian President Venicio Cerezo took office in 1986 have shaken Guatemala and raised fears of a renewed terror campaign of the sort that seized this Central American country a decade ago.

Although many government officials and diplomats blame rightwing extremists for much of the violence, it is a measure of the instability here that no one can say for sure that other sectors, including drug traffickers, government security forces and leftist guerrillas, have not been responsible for some of it.

Diplomats and politicians say that if the violence continues on the way to elections late next year, it could pave the way for the return of an authoritarian, repressive government of the type that Cerezo's Christian Democratic Party replaced nearly four years ago.

"Things have deteriorated rapidly," Factor Mendez, director of the independent Center for Investigation, Study and Promotion of Human Rights in Guatemala, said in an interview, "It's not just one group or sector that's responsible, but several with a common interest—to create problems of instability for the government."

Human rights activists trace a steady increase of violence since a failed coup attempt by disgruntled right-wing military officers in May. In the last six weeks, 11 students from San Carlos University have been kidnapped in the capital. The bodies of five have been found bearing signs of torture. The other six are still missing.

Ramiro Castillo Love, a banker from one of the nation's wealthiest families, was murdered at his home Aug. 25, just weeks after the assassination of Danilo Barillas, a prominent member of Cerezo's Christian Democratic Party and a former ambassador to Spain.

In the first half of September, according to the Guatemala-based newsletter Central America Report, 27 deaths across the country were attributed to political violence, most of them in the rural provinces of San Marcos, Chimaltenango and Quetzaltenango, where a small but durable leftist guerrilla insurgency has increased operations in recent months.

Bomb and grenade attacks in this capital have knocked out electricity and caused property damage to stores, offices and a hotel in an elegant section of town.

At the same time, death threats to student, labor, and community and political figures appear to have increased sharply. This week, the White Hand, a right-wing terrorist group that had been relatively inactive in recent years, circulated a death list with dozens of prominent names.

The threats have unnerved political activists who had taken advantage of the civilian government under Cerezo to organize and assume a more vocal role in national politics.

"I can't deny that I'm scared," said Ramiro Menchu, a board member of a large labor federation. "All of us in the union movement are scared. Many have left. We don't know who at any moment will be the next victim. That's how delicate the situation is right now."

It has become almost a regular feature of local newspapers to recount the flights into exile in Spain, Mexico or Australia of individuals and families frightened by threats or violence.

At San Carlos, the nation's largest university, student organizations traditionally thought to sympathize with the guerrillas have been hit hard. Of 16 student directors of the Association of University Students, only five are still active. Six have quit because of threats, two have fled the country and three have been kidnapped.

"There's a climate of terror here," said a 24-year-old San Carlos law student, who asked not to be named. "Students who used to hang around and get a bite to eat after class now go straight home."

"There has always been a certain level of threats and intimidation," said Rosalina Tuyuc, head of a group of widows whose husbands were killed in political violence. "Now the threats are being fulfilled."

Earlier this month, the escalating violence led the State Department to issue a travel advisory warning Americans about the danger of travel in Guatemala. U.S. Embassy Charge d'Affaires Philip Taylor has also issued statements condemning the violence as the work of "enemies of democracy" who "prefer terror and violence to debate and dialogue."

There is no shortage of explanations for the motives of the violence, although many analysts agree it is neither from a single source nor centrally directed.

In an interview, Defense Minister Gen. Hector Gramajo blamed right-wing former army officers and businessmen who failed to overthrow the government in coup attempts this year and last, as well as the "extreme left" and drug traffickers at San Carlos University.

Almost no one suggests Cerezo's government is directly sponsoring the violence, as military governments did a decade ago when an official counter-insurgency campaign killed thousands of guerrillas, Indians, politicans and civic activists.

Nor has the level of violence to date approached that of the late 1970s and early 1980s. However, a number of groups charge that government security forces and army intelligence officials, if not directly involved, are guilty of complicity for not taking steps to stop the terror.

"The government knows who it is, or could know, and they're doing nothing to stop it," said Nineth de Garcia, head of the Mutual Support Group, which aids families of victims of political violence.

Gen. Gramajo rejected the idea that the government is permitting the violence, blaming instead the judicial system, which he said is inept. "We depend on the judicial system. To ask the military to solve the problem is unfair."

Garcia and others also blame Cerezo for not trying to reverse a last-minute move by his predecessor granting amnesty to all members of the military involved in the counter-insurgency campaign. "They never prosecuted anyone from the previous government," she said, "so the people who killed then are ready to kill again. They're unpunished."

Some observers say the right wing has lost patience with the more open political climate under Cerezo, including strikes this summer by teachers and postal workers that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

shut down schools and stopped mail delivery.

Whatever the cause of the violence, many analysis agree that the effect is to undermine Cerezo's government, which took over in 1986 after 16 years of often brutal rule by military regimes. The violence, they say, fosters a sense of insecurity and mistrust as well as a conviction that civilian democracy cannot work here.

"If the situation continues as it is or gets worse, the people who will lose are Cerezo's Christian Democratic Party," said one European diplomat. "The change will favor the man who promises to restore order."

That man may be Efrain Rios Montt, a retired general who seized power in a 1982 coup and held power for about a year and a half.

Although Rios Montt's government was marked by massacres of Mayan Indians in the Guatemalan highlands, he is remembered by many of his countrymen as a strongman who restored order and got common crime off the streets.

Rios Montt's bid could be blocked by a constitutional prohibition against candidates who took part in coup attempts. Rios Montt, arguing that the 1985 constitution cannot be applied to him retroactively, is seeking a ruling from the Constitutional Court.

DISABLED PEOPLE WANT TO WORK

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BARTLETT. Mr. Speaker, this article written by Wendy Carol Roth, and SSDI recipient, accurately outlines the barriers of current law and describes how the H.R. 8 compromise, included in H.R. 3299 as part of the budget reconciliation, will make it possible for SSDI recipients to return to the work force. One hundred and ninty four Members of the House have cosponsored H.R. 8, the Social Security Work Incentives Act, and support this compromise. Its compromise provisions must be retained the final budget reconciliation package so that disabled people like Wendy Roth will have the opportunity to return to work.

LET US WORK!

(By Wendy Carol Roth)

I never expected to receive Social Security benefits at the young age of 36, but I do. And I never thought that, by accepting help from the government, I'd entered a situation where trying to return to work could cost me money. Yet, unless some antiquated laws are changed in Congress. I and the millions like me have little financial incentive to return to work. On the contrary, we face severe economic penalties if we again become employed.

We want to work, but the law discourages us.

It could one day do the same to you: People with disabilities from the only minority group that anyone can join at any time. Those between ages 35 and 60 are four times more likely to become disabled than to die.

I never had any intention of joining the ranks of the unemployed—subsidized or otherwise. Yet, for the past two years, I have received Social Security Disability Insurance (SSDI). For 15 years, I worked as a television producer for NBC's *Today*, ABC News, PBS and for seven years with Phil Donahue. Plus, I hold two degrees—a B.A. from Princeton and an M.A. from Stanford. Unfortunately, I also suffer from a severe case of multiple sclerosis, which generally has weakened me and deprived me of any walking abilities. I now rely on an electric wheelchair to get around.

Still, I always expected to work.

With television studios and other meeting places often beyond my wheelchair's reach. I devoted more energy to my writing career. Meanwhile, I applied for SSDI, to which I felt entitled. As a taxpayer, I had contributed to the system and, after all, a situation like mine is one reason why such government programs exist. Financial assistance is often necessary as one learns to manage disabilities and finds jobs suited to new limitations.

After much effort, I made $75 writing one month, $135 the next. Two months later, I sold a third article for $350. Modest earnings by anyone's standards. But I was quickly disqualifying myself from receiving further SSDI support. In government parlance, I soon would be considered "gainfully employed" and back on my feet, so to speak. I only wish it were that easy to be cured!

Individuals like me on SSDI risk losing our benefits after we've earned more than $75 a month nine times. (In January 1990, it will be raised to $200.) These nine "trial work months" need not be consecutive. Trial work months are how the government lets SSDI recipients test if they can manage returning to work, even with our impairments. But after this trial period is exhausted, our cash benefits, which are determined by a worker's average lifetime earnings, can be terminated whenever we earn more than $300 a month. (In January, it becomes $500). Our medical benefits, which we receive through Medicare after two years on disability, also eventually will be canceled. These are especially precious and the reason why many are on SSDI, since private insurers usually will not provide a disabled person with adequate health insurance. Even the new $500 earnings limit is not much of a work incentive. The average months SSDI benefit for disabled persons is $530, which one can receive without ever trying to work. And try paying for medical expenses, housing and food with $500 a month!

I am not alone in this dilemma: 2.8 million disabled American workers receive SSDI benefits. Only one of every 200 of them ever rejoins the labor force. The price for self-sufficiency is often too high. An additional 3 million disabled Americans receive federal assistance through Supplemental Security Income (SSI). These people have less than $2000 in liquid assets.

Like me, nearly one million of those receiving SSDI are under the age of 45—at the prime of our work lives.

How the law can change. The Social Security Work Incentive Act of 1989, sponsored by Reps. Steve Bartlett (R., Tex.) and Robert Matsui (D., Calif.) and Sens. Robert Dole (R., Kan.) and Donald Riegle Jr. (D., Mich.), would make it possible for persons with disabilities to ease themselves back into the work force. The proposals include a new "Medicare buy-in" program, allowing disabled workers to contribute on a sliding scale to their health insurance until they are fully responsible for their Medicare premiums. If work becomes impossible again, full SSDI cash benefits could resume.

The proposed revisions also would allow those who qualify as "disabled adult children" to work while taking advantage of a graduated cash-benefits program. The revision originally was intended for all SSDI recipients, but the bill's sponsors later limited it to this small group, hoping to get at least some reforms passed this session.

In 1986, similar reforms allowing the disabled to work were made permanent in the SSI program. Last year, more than 35,000 SSI recipients were back in the work force earning a salary—and thus paying taxes and saving the government millions of dollars.

What does the Social Security Administration say about changing the law? "We wholeheartedly agree with the principle of the reforms, but working out the details within our budget is going to take some work," said Deputy Commissioner Lou Enoff. The agency's concern, according to Enoff, is that many moderately disabled people now functioning in the work force without SSDI support might be eligible to join if the law becomes too liberalized.

I asked Representative Bartlett about the potential rise in costs to the government if the law were changed. Bartlett responded: "The Social Security Administration's estimates are grossly inflated. The accountants are unable to see that, whenever more people are working, the country and the taxpayers benefit." Bartlett suggested that even if 10,000 of those receiving SSDI returned to work, the government would save $70 million per year in cash benefits alone, not to mention the additional taxes collected from these new workers.

As the bill approaches a vote this fall, I continue to write for magazines and develop television projects, and I have a book contract. Like many people with disabilities, I want to work. I feel that my soul, apart from my pocketbook, depends on it. Though it might jeopardize my disability benefits (even writing this article does that), I am committed to devoting my heart, mind and education to the "gainful activity" this society and I deserve.

Our country cannot afford to have its disabled citizens forever unemployed. Do not penalize us. Just let us work!

What you can do. Ask your Representatives and Senators to vote "yes" on the Social Security Work Incentive Act of 1989 (HR 8 and S1358). Also, urge your Congressmen to work for expanding the provisions to benefit everyone with disabilities who wants to work.

TRIBUTE TO JUSTICE EDWIN F. BEACH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Justice Edwin F. Beach, who has been selected as this year's recipient of the prestigious Ben E. Nordman Public Service Award. The award, named after a renowned Ventura County attorney and community activist, is given annually to a member of the legal profession who has made outstanding contributions to the community.

Justice Beach began his law practice in Santa Paula, CA, in 1950. At that time there

was no public defender, and one of Justice Beach's noteworthy cases was the defense of an accused murderer who could not afford counsel.

A judge for more than 20 years, he has sat on the Santa Paula Justice Court, Ventura County Municipal and Superior Courts and the State Court of Appeals in Los Angeles, from which he retired in 1986. Justice Beach still donates time to sit on the bench in local courts and serves as visiting judge in other counties on special assignment. Before assuming the bench, Justice Beach was president of the Ventura County Bar Association.

Over the years, Justice Beach, the father of seven children, has been a Boy Scout leader and served on the boards of directors of Children's Home Society, Campfire Girls, the Santa Paula Elementary School District and the Ventura County Symphony. He helped found the Blanchard Community Library Endowment and the Santa Paula Theater Center. He raised thousands of dollars and devoted countless hours of time not only to these groups but also to boys and girls club, 4-H and hospice projects.

I ask my colleagues to join me in recognizing Justice Edwin F. Beach for his exemplary record of professional and civic achievements. Ed Beach is truly a model community leader, one who every community would love to have. My wife, Norma, and I wish our good friends, Ed and Janet, the very best.

TRIBUTE TO THE YOUNGSTOWN PRIDE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Youngstown Pride who, in front of more than 7,000 fans, came from behind and defeated the Calgary 88's 118 to 116, with a thrilling rally in the final 2 minutes of the game to capture the World Basketball League championship.

Although the professional basketball franchise in Youngstown is only 2 years old, the Youngstown Pride has developed a reputation as a team who peaks at the right time, playing extremely well during the final month of the season. This year, Pride won 11 of the final 12 games, including a WBL record of 8 consecutive games, to increase themselves suddenly to second place in the final WBL standings. In the history of Youngstown sports, no basketball team has ever won a world championship. The Youngstown Pride is the first team to capture the league crown and this has covered plenty of excitement and self-esteem in the Mahoning Valley.

The 1989 season has been described as an "incredible season" for the Youngstown Pride and its fans. The team has drawn over 101,000 fans and averages over 3,400 fans per game despite owning the smallest market in the World Basketball League. The Four on the Floor tournament involved the top four teams in the league in a best of three format, which included Calgary 88, Illinois Express, Las Vegas, and, of course, Youngstown Pride. In the first round, Youngstown defeated the Illinois Express twice to advance to the championship round. Calgary needed all three games to dispose Las Vegas, which they did. This brought the two teams, Youngstown and Calgary, together for the final round of the Four on the Floor. The final contest between these two teams has been compared to the type of victory that people talk about again and again and the kind of win movie directors like to recreate.

Mr. Speaker, I would like to take this opportunity to congratulate the Youngstown Pride for their impressive and exciting victory of the World Basketball League championship. Teamwork and motivation worked as the Pride scored the last seven points of the game including two clutch free throws to bring home Youngstown's first ever professional team championship. I am honored to represent these tremendous athletes and outstanding individuals.

A CONGRESSIONAL SALUTE TO THE 60TH ANNIVERSARY OF THE SAN PEDRO KIWANIS CLUB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. ANDERSON. Mr. Speaker, it is with a strong sense of pride and great enthusiasm that I rise today to salute the San Pedro Kiwanis Club. On Friday, October 20, 1989, the San Pedro Kiwanis Club will celebrate its 60th anniversary. This occasion gives me the opportunity to express my deepest appreciation for the many years of service this organization has provided to San Pedro and the surrounding community. As a nearly 50-year Kiwanian, I'm only a few years behind.

The San Pedro Kiwanis Club was formed by a group of 31 professionals and businessmen on July 28, 1929, some 14 years after the first Kiwanis Club began in Detroit. This 60-year-old organization has made significant contributions to the community through its sponsorship of youth groups and many other community organizations. Among these groups are the Key Clubs of San Pedro, Mary Star of the Sea, Miraleste High Schools and the Kiwanette group at San Pedro High. All these youth groups raise money for charity and do community service projects, such as the Fishermen's Fiesta, Street Faire, and pancake breakfasts.

The San Pedro Kiwanis Club also supports the San Pedro YMCA, Door Key Project at the San Pedro YWCA, the Salvation Army, the Harbor Foundation for the Retarded, San Pedro Boy's Club, Meals on Wheels, Heifer Project, Interfaith Shelter, Toberman Settlement House, California Parks Ministry, Harbor View House, Boy Scout Troop No. 1075 for the trainable mentally retarded, as well as the Toys for Tots program. As you can tell from this rather lengthy list, my district has benefited greatly from this organization's efforts.

The hard work and determination of the officers and members of the San Pedro Kiwanis Club have not just been limited to San Pedro. Several San Pedro Club presidents have gone on to become district and regional officers. Edgar Jensen, Ted Springfield, Clyde Lheureux and Bud Olds served as lieutenant governors, for California, Nevada, Hawaii Division 19, in 1941, 1950, 1951, and 1980, respectively. But Olds was recently elected as 1990-91 governor-elect at the August 1989-90 district convention in Anaheim for the California, Nevada, Hawaii District.

My wife, Lee, joins me in extending our congratulations to this wonderful asset to the San Pedro community. We look forward to providing assistance to the San Pedro Kiwanis Club and its incoming president, Dr. Walter "Willie" Wolleat. Hail Kiwanis, International .

CENSUS ISN'T FOR ILLEGAL ALIENS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BEREUTER. Mr. Speaker, this week House and Senate conferees will begin negotiations on the Commerce, State, Justice appropriations bill that will determine whether illegal aliens are to be counted in the 1990 census for the purpose of reapportioning the House. This Member commends to these conferees and my other colleagues the following particularly insightful editorial that appeared in the October 6, 1989, edition of the Omaha World-Herald. The editorialist argues that illegal aliens have no constitutional right to congressional representation.

Furthermore, the editorial merits close examination for its clear statement that in counting illegal aliens for purposes of the census we are penalizing those immigrants who are playing by the rules in entering the United States legally. This essay brings into sharper focus the issues surrounding this controversy.

CENSUS ISN'T FOR ILLEGAL ALIENS

The House of Representatives has voted to support the Census Bureau's plans to include illegal aliens in the 1990 census count of population in the states. Opposition to that idea has arisen in the Senate, with good reason.

Getting an accurate count is next to impossible. For obvious reasons, people who are in this country in violation of its immigration laws prefer to minimize their contacts with representatives of the government. An undercount seems likely.

One of the main reasons the Founding Fathers provided for a census was to determine how many representatives each state would have in the House of Representatives. Illegal aliens have no constitutional right to congressional representation.

The move to represent illegal aliens in the census reflects the desire of certain states and municipalities to receive larger federal aid packages that are population-based. Populations in fast-growing places—such as Arizona, Florida, Texas and California—determines the size of the congressional representation for such states. More representation for fast-growing states comes at the expense of states that are not growing as fast and that do not have large populations of illegal aliens.

Some people believe that a partial count of illegal aliens in 1980 added one congressional seat to the California delegation in the House and one to New York state. This was unfair to other states, which became underrepresented as a result. If the same policy is followed more thoroughly in 1990, Pennsylvania, to give one example, could lose one of its seats because of bloated counts in other states.

The pressure of illegal immigration may have been relieved by the amnesty that Congress provided several years ago. But it is still a serious problem. Including illegal immigrants in the census would be another step toward legitimizing their status, in effect putting them ahead of would-be immigrants who followed the rules. Such a policy would almost certainly be self defeating in the long run.

THE MATHER SCHOOL: CELEBRATING 350 YEARS OF PUBLIC EDUCATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. DONNELLY. Mr. Speaker, I rise today to commemorate the 350th anniversary of the Mather School, America's first elementary school and the oldest continuously operating school in the Nation.

This year on October 20 the Mather School celebrates an accomplishment that stands as a tribute to the educational values that are a cornerstone of our society. In May 1639 the people of Dorchester, MA, decided to establish a school that was "to teach English, Latin, and other tongues, and also writing." It was named after prominent Dorchester minister Richard Mather, father of Increase Mather and grandfather of Cotton Mather.

The Mather School began as a one-room structure with six students and one teacher. The community levied a tax on its citizens to pay for the school's operation. This marked the first time that a school in North America was supported by a direct tax levied upon the citizens of the community. The Mather School was established on the premise that it be a "free" school, open to all children regardless of their economic status. Following its opening, the people elected three wardens to oversee the operation of the school, thus establishing America's first school board.

The rigorous academic year and strict discipline of the school's early years seem overwhelming by today's standards. Students attended school 12 months a year, 6 days a week, without vacation. Discipline "with the rod" was the norm and there was a heavy emphasis on religion in the curriculum, with the Bible serving as the sole textbook.

Since then the school was adapted according to the changing structure of American society. In 1784, girls were admitted for the first time. The present building on Meeting House Hill, erected in 1904–05, reflects the value that turn-of-the-century Bostonians placed on public education. The architectural complexity of the schoolhouse, and the quality of the school's interior made the Mather School a "jewel in the crown of the city's nationally acclaimed public school system." Today, the school reflects the changing structure of urban America. The school serves 550 students who are overwhelmingly minority and disadvantage.

After a period of readjustment following school desegregation in the 1970's, the Mather has begun to establish an identity as an inner-city school with a proud tradition and a new mission. The Mather's celebration of its 350th year is an appropriate time for the Nation to celebrate a long and proud history of taxpayer-supported public schooling. The Mather School is a symbol of something that has made this Nation great.

Mr. Speaker, I want to expecially acknowledge the contributions of Kim Marshall, principal of the Mather School, and the entire faculty and staff for their fine work. I want to commend the Mather School for its long tradition of service to the Dorchester community, and for promoting the ideals of hard work and the importance of a quality education.

CPL. JUNIUS RUCKER, DALLAS POLICE OFFICER OF THE MONTH

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BRYANT. Mr. Speaker, our local law enforcement agencies and their dedicated employees are our first line of defense against crime. It is always a great pleasure for me, as a member of the House Committee on the Judiciary and its Criminal Justice Subcommittee, as well as a Dallas resident, to join in paying tribute to some of our best local law enforcement officers.

Dallas Police Cpl. Junius Rucker has been recognized as October Officer of the Month, and I take pride in calling his achievements, described in the Dallas Police News, to the attention of my colleagues and fellow citizens.

The article follows:

OFFICER OF THE MONTH—CORPORAL RUCKER RECEIVES OCTOBER AWARD

Southeast Cpl. Junius Rucker, a 10-year veteran, has been selected as the October Officer of the Month by the Dallas Area Police Awards Committee. He will be honored during an Oct. 11 luncheon hosted by the Oak Cliff Lions Club.

Assigned to the first watch, Cpl. Rucker has been a field training officer since 1984. His supervisor, Sgt. Larry Barbee, said, "It is in the role of a field trainer that Cpl. Rucker excels. He has been commended several times by his trainees for his contagious enthusiasm and sincere interest in their performance."

In addition to his role as a FTO, Cpl. Rucker displays strong leadership among his fellow officers. He volunteers to assist other officers, particularly younger officers, on major calls. The officers within his sector solicit his advice on both professional and personal matters.

"The accomplishments of officers such as Cpl. Rucker are often overlooked," Sgt. Barbee said. "He goes about his business in a quiet, efficient manner. However, his contribution to our department cannot be overlooked or understated."

Cpl. Rucker has spent his entire career at the Southeast Division. During that time, he has received 19 commendations including 12 for the apprehension of felony suspects.

He and his wife, Denise, have five children and three grandchildren.

ONE HUNDRED AND NINETY FOUR MEMBERS SUPPORT H.R. 8, THE SOCIAL SECURITY WORK INCENTIVE ACT

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BARTLETT. Mr. Speaker, 194 Members of this House have cosponsored H.R. 8, the Social Security Work Incentive Act. The House has included a compromise to H.R. 8 in H.R. 3299, the budget reconciliation package which removes barriers to work for Social Security Disability Insurance [SSDI] recipients. The Senate Finance Committee's budget reconciliation package has similar provisions.

This compromise removes an essential disincentive to work by allowing SSDI recipients to return to work without the risk of losing their health care benefits. A similar work incentive was enacted in 1986 for supplemental security income [SSI] recipients which has resulted in an increase of 20,000 SSI recipients who now have earnings.

These provisions must not be stripped from the final budget reconciliation package. Without these provisions, current law will prevail which is a catch-22 for disabled persons. Under current law a disabled person who is unemployed has health insurance, the same disabled person with a job does not.

Today, only one-half of 1 percent of disabled people on SSDI return to work because of the barriers in current law. By giving SSDI recipients the opportunity to buy into the Medicare system, as the compromise does, a major work disincentive is eliminated. The average SSDI benefit is $550 per month or approximately $7,000 per year. If 1,000 SSDI recipients return to work the Government will save $7 million in annual benefits; if 10,000 return to work, $70 million will be saved, and if 100,000 return to work, $700 million will be saved. In addition, these workers will become taxpayers and contribute to the economy.

Regardless of the outcome of the other items in reconciliation, H.R. 8 must be retained and signed into law. Disabled people will return to work and improve their lives. American productivity will increase with a larger labor force, and the taxpayers will benefit with lower costs.

I urge the cosponsors of H.R. 8, many of whom will be conferees on the budget reconciliation package, to retain these provisions that promote employment opportunities for disabled people.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. GARCIA. Mr. Speaker, due to scheduling conflicts, I was unable to cast votes on October 12. Had I been present, I would have voted in favor of House Resolution 262, providing for consideration of H.R. 2978, the Flag Protection Act. However, I would have voted against passage of the bill on grounds of the question of the constitutionality of the bill.

I also would have voted "yes" on H.R. 1495, the Arms Control Authorization Act of 1989, and "no" on H.R. 2748, the Intelligence Authorization Act for Fiscal Year 1990.

TRIBUTE TO S. SGT. T. WILLIAMS AND SRA. R. NINER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise today to give special recognition to two Air Force law enforcement officers who were instrumental in the recent arrest of two men in the possession of drugs.

S. Sgt. Timothy Williams and SrA. Richard Niner, members of the 4392d Security Police Squadron, Vandenberg Air Force Base, intercepted a speeding vehicle on Highway 1, near the base, on September 16. They became suspicious of the two occupants of the vehicle because of their inability to produce identification. A backup unit from the local Sheriff's Department was called to the scene, and after a thorough search of the vehicle, $1,500 worth of crack-cocaine was discovered. Both men have been incarcerated in the Lompoc Jail.

Unfortunately, even beautiful Santa Barbara County is not exempt from drug problems. I am very encouraged that the Air Force and the Sheriff's Department continue to closely work together to keep northern Santa Barbara County drug and crime free. Our war on crime and drugs is exactly that—a battle against these evils. I agree that since we have declared this war, our military, too, must be involved, though in a careful and selective way. This bust on Highway 1 is an excellent example of civilian-military cooperation.

All too often defense budgets and issues are seen in terms of exotic weapons—like stealth bombers and carrier battle groups. Actions like this recent arrest by S. Sgt. Williams and SrA. Niner remind us that our Armed Forces are certainly more than tanks and jets. Our military actually provides a broad range of defense. Indeed, a good example of this spectrum of defense can be found right at Vandenberg Air Force Base. The base is critical for strategic deterrence with its ICBM testing programs and is helpful in local community defense by helping to keep our neighborhoods safe through local police actions like the one I have highlighted today.

The greatest asset of the Armed Forces continues to be its people: America's soldiers, sailors, and airmen. S. Sgt. Williams and SrA. Niner have done a great service to our County and deserve a special thanks and recognition. Keep up the good work!

TRIBUTE TO DISTRICT ATHLETES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to high school athletes of my 17th Congressional District who have displayed noteworthy accomplishments on the gridiron and golf course.

Shawn Patton, a Campbell Memorial running back, rushed the ball for 202 yards on 25 carries to aid in a Red Devil victory over Wooster. Shawn scored on a 56-yard touchdown run and threw an 11-yard pass for another score in the 28 to 8 defeat of Wooster. Shawn has already amassed 1,005 yards this season and has helped lead Campbell Memorial to seven victories.

In that game, coach and assistant principal Ed Rozum was forced to coach due to his administrative status while Campbell schools were on strike. The teachers, however, expressed their support for the team by displaying a sign that conveyed their blessing.

Quarterback John Ryan connected on 12 of 19 passes for 155 yards as the Boardman Spartans defeated Lakewood St. Edwards. John completed two of those passes for touchdowns and tallied another on the ground in the 35 to 0 victory. John, a junior, is filling the position once held by NFL great Bernie Kosar of the Cleveland Browns.

Boardman High School is also home of the girls' fourth annual Ohio golf coaches State championship tournament. During the tournament held on Ohio State's Gray Course, Boardman players posted the following scores: Kelly Cap, 90; Sue Brenner, 94; Michelle Kolb, 99; Tracy Kelecave, 99; and Keri Ferguson 106.

Zack Sahli of North Jackson Milton scored four touchdowns in a 42 to 20 victory over Lowellville. In that game, Zack carried the ball 18 times for 135 yards.

Quarterback Mark Brungard of Springfield Local threw two touchdown passes against South Range. Mark completed 18 of 36 passes for 252 yards.

Mr. Speaker, I would like to take this opportunity to congratulate Shawn, Ed, John, Kelly, Sue, Michelle, Tracy, Keri, Zack, and Mark for their accomplishments and service to their communities. We praise them for their dedication and the contributions they have made to our area. I am honored to represent these outstanding individuals.

"REVIVING 'LITTLE TOWN' RADIO"

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. KYL. Mr. Speaker, I include an article entitled "Reviving 'Little Town' Radio," which appeared in the August 9, 1989, edition of the Washington Post to be reprinted in the Record.

[From the Washington Post, Aug. 9, 1989]

REVIVING "LITTLE TOWN" RADIO

GLOBE, AR.—When Willard Shoecraft first hit the airwaves 50 years ago, radio was most people's major source of news and entertainment.

"Radio was a great and wonderful thing," says Shoecraft, who is back at the helm of a station he founded, massaging listeners daily with his gentle yet authoritative and mellifluous voice, a throwback to an era when radio was king.

At 68, Shoecraft is an engaging entrepreneur, raconteur, on-air pro and civic-minded world traveler.

He's also an example for others, though he insists on minimizing that.

When Shoecraft started June 1, 1939, just out of Phoenix Union High School, changing records at KGLU in Safford, he worked 70 hours a week, including the 6 a.m. sign-on to 12:15 a.m. sign-off on alternating Sundays as record master of ceremonies, "whatever that is." The pay was $10 a week.

In those days the dial was less cluttered. There were six stations on the air in Arizona, compared with more than 180 today.

"It was the prime entertainment in those days, and it probably was fed a lot by the Depression," Shoecraft says. "If you could get enough to buy a radio, this was your family entertainment, and it was free."

Standard fare included Bob Hope, Bing Crosby and the Kraft Music Hall, the Firestone Hour, Arturo Toscanini and the NBC Symphony Orchestra.

"The best entertainment in the whole world. . . . To my way of thinking, it's still just as magnetic if it's done right. Of course, the competition now is fierce."

"Shoecraft, self-taught, has met that competition with his own brand of "little-town radio" a comfortable mix of talk, information, music and general help, plus a large dose of local news. "If it's news in Globe, we've got it."

The philosophy is simple: Interact with listeners.

Here's the formula:

A morning "Open Line" call-in show;

"The Money Tree," offering $20 or more to callers who correctly answer five true-false questions, like whether President Truman sold his memoir rights in 1953 to the Saturday Evening Post (he didn't; they went to Life magazine);

"Trading Post," a daily swap shop;

Requests for work, clothing or other help for local needy citizens.

Then there are Larry King, California Angels' baseball and other sports.

"He's been so involved in the community through the radio station," says Sheldon Miller, manager of the Chamber of Commerce. "He caters to just so many people."

Frank B. Healy, a close friend since childhood, says Shoecraft's "word is as good as

his signature." But "he's a poor poker player."

It's often difficult to get a straight answer from Shoecraft, Healy says. "I think I'm the only one who can outjoke him at times."

Shoecraft has lived in Globe since 1943. In 1958, he went on the air with his own station, KIKO-AM, originally broadcasting from the lobby of the Copper Hills Hotel. Eventually, he stuck a deal with Inspiration Copper Co. to build a mobile-home park, and moved KIKO into one. He built stations in Safford and Winslow and sold them, then in 1979 established KIKO-FM, with the highest FM signal possible, carrying 80 miles into Phoenix.

Over the years, he's made the most of turning bad luck into good fortune.

For instance, there was the time a hunter shot a telephone line, jumbling signals so a conversation between two women was broadcast over KIKO, Shoecraft faced a threat of being sued until he became friends with one of the women's sister, Billie, whom he married.

Shoecraft played piano in a bar, served on the city council and as vice mayor, and once ran for the state senate. "I was soundly beaten," he says.

He served on the hospital and industrial development boards and was active in scouting. He and Billie, who died in 1976, raised three sons: an account-developer and noted balloonist, an attorney and a school administrator.

He subsequently married Billie's nurse, Ruth.

Now, Shoecraft is running KIKO a second time. He sold the stations in 1987 for $1.75 million and bought back the AM station in June 1988 for $125,000.

He provided "a vehicle for people to vent their feelings, sometimes in anger, sometimes in excitement, sometimes in joy, but whatever, the people have had an opportunity to be part of that radio station," Miller says.

One other thing sets Willard Shoecraft a bit apart: Since an accident when he was 8, he has had no legs.

It's one the few things he doesn't talk much about.

WELFARE REFORM

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LIVINGSTON. Mr. Speaker, from time to time, we fine-tune our welfare system. But we haven't brought about any meaningful solutions in an awfully long time. Sooner or later, we must attack the root causes of poverty instead of encouraging its proliferation.

We all know that problems exist, but perhaps we fail to truly visualize how bad they are. In case you haven't thought about them in awhile, the letter below describes the frustration flowing in the wake of our inaction.

ROBERT L. (BOB) LIVINGSTON,
Congress of the United States, House of Representatives, Washington, DC.

DEAR MR. LIVINGSTON: My name is Val Zimmer, I am a Junior at the University of New Orleans. I receive no grants or Federal funds to go to school. I work in the off months and part-time during school; I pay for school myself. Also, my overall G.P.A. is a 3.50 which is very good.

I am not crying to you because of this situation; I will do anything to better myself and my future. However, I am really concerned about the future of the city and State that I was born and raised in: New Orleans, LA. Most of my classmates and I will have to move to another State to find a good job and fewer hassles.

Much has to be done to turn this city and State around. I hope you will take my opinions very seriously because my opinions are shared by a very large number of people that I have spoken to, including students, blue-collar and white-collar workers, teachers, blacks, whites, and many others.

One of the biggest problems of this State is the policies of the welfare system. Granted, we do need welfare, but it needs to be overhauled. Why should these people be allowed to sit home, do nothing and get a check every week? Most of these people receive welfare, food stamps, free housing, Medicaid and other benefits and they are always crying for more. These people have been getting a free ride since the day they were born, and they will continue to rape the Government unless something is done. More stringent requirements for social programs should be installed. Also, strict penalties for people who are caught that take advantages of the welfare system. And people who do qualify for benefits should be required to do some form of work. They could paint their housing project, clean the streets, any form of work and responsibility. The chain of dependence on the Government must be broken.

Another problem of this same welfare class is their illegitimate birth-rate. If the parent can't support herself, how can she support her new-born child? The answer is that she can't and this is the problem. The child will be raised in a hostile environment, probably by one parent, and he will depend on the Government for his survival. This is not fair for the welfare mother, the welfare child, and not fair to the rest of the country that is paying for this. Welfare women should be given birth-control devices bonuses and special privileges if they do not have children. And they should be allowed to have only one child. You may say "What about her rights". Well, what about my rights. I made a total of $7,000 last year; this figure is well below the poverty line. If I want to get married, I can't because I can't afford it. I do want to have kids, but I can't because I can't afford it. The welfare families get more Government money for every child they have; so why shouldn't they have children. This must be stopped.

Finally, the drug problem that has engulfed this country is caused by illegitimate birth-rate, welfare, and free housing. These illegitimate children are born because their mothers are on welfare. The children grow up in the already overcrowded and hostile environment of housing projects. Very few of these children will get the experience or the education needed to make money legitimately. And therefore, for them, the best way to make money is to get involved with drugs.

This problem is a very serious problem and it needs to be addressed immediately. The welfare system was not designed to handle this large number of people. The working class is getting smaller and the welfare class is getting larger. What happens when New Orleans, LA has a larger welfare class than a working class? For the sake of the State and everyone living here, would you please pass the legislation that is needed to reform this welfare system. You would help the working class but more importantly, you would help the welfare class. The drug problem would begin to decline, the overcrowded housing wouldn't be so overcrowded, and these people can start to support themselves. Please hurry, time is running out!

Sincerely Yours,

VAL J. ZIMMER.

ELENA ESPINOSA, THOMAS CHANG, AND MARIANO SOSA—WINNERS IN THE ESSAY CONTEST: "WHAT IT MEANS FOR ME TO BE IN AMERICA"

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LANTOS. Mr. Speaker, I would like to pay tribute today to three constituents of mine who have been selected winners in an unusual but very significant essay contest. The three were selected as first place winner and two runners-up in an essay competition among students of adult education classes in citizenship or English-as-a-second language [ESL]. The topic of their work was "What It Means for Me To Be in America." The competition was sponsored by Lodge No. 1112 of the Benevolent and Protective Order of Elks in San Mateo, CA. I commend the Elks for their public spirited effort in sponsoring this competition.

First place winner was Elena Espinoza of San Mateo, CA. Runners-up were Thomas Chang also of San Mateo and Mariano Sosa of Burlingame. I would also like to pay tribute to the dedicated teachers who inspired and encouraged these students in their studies—Marcia Cohn, Angela Brandi, and Theresa Bruno.

The winners were recognized at a special luncheon held recently at the College of San Mateo as part of a day-long series of events marking the bicentennial of the U.S. Constitution and the bicentennial of the U.S. Congress. The events gave special focus to the Library of Congress, and Librarian of Congress, Dr. James Billington, was the key participant in those events.

Mr. Speaker, I commend these outstanding adult education students for their excellent essays and for their effort in studying English and American citizenship. Their work reflects a strong commitment to informed participation in our free and democratic society. This informed citizen involvement is essential to the proper functioning and the preservation of our democratic government and way of life.

Mr. Speaker, I insert these three excellent essays in the CONGRESSIONAL RECORD:

WHAT IT MEANS FOR ME TO BE IN AMERICA

(By Elena Espinoza)

I have lived in the United States for over twenty years. The reason why I came was because America offers a variety of opportunities. I feel lucky to be in America. I have been given the opportunity to work and progress in life. In Peru, where I am from, I could have never accomplished as much as I did here. For example, my brother is a doctor in Peru. He doesn't make as much as

a doctor would here. He could never afford to come to visit me. I don't have the education and schooling as my brother but with the opportunities that America provides I am able to save enough to see him and my family.

America is a good, beautiful country. It offers people from all over the world a good education and job. That is why people come because America is a small world of all cultures and opportunities. I also like America because it has fair laws which are equal for all. This is something that my country is missing. For example, I like how the government protects the children until they are 18 years old and the senior citizens. This is very important to me. In my country, the government overlooks the elderly and the children that need help. Some turn to the streets and have to beg for money to eat.

In eight months, I will be taking my test for citizenship. I have learned all about the constitution and the first ten amendments. The Bill of Rights protects many of the rights of the people and has been helping the people for almost 200 years. I am so excited to finally become an American citizen. My children were born here so for me it will be an honor. Some day I will be able to vote and perhaps have a seat on a jury. America has offered me so much that it make me very happy.

WHAT IT MEANS FOR ME TO BE IN AMERICA

(By Thomas Chang)

America is a great democracy. Thanks to the Constitution I enjoy freedom of speech, freedom of worship, freedom from want, freedom from fear. America has an infinitely valuable treasure in this Constitution which divides the government into three branches to prevent a dictatorship. During more than 200 years of tradition America has made progress, and people come from all over the world adding their cultures.

America's land is beautiful, having many natural resources. I must appreciate the good things that were passed on to us by those who came before. I must be a good citizen.

In 1929 I was born in Korea, which was occupied by the Japanese. I was brought up in a state of extreme poverty under a dictator. The government controlled the economy with food, suppressed speaking and writing, and changed family names to Japanese. When a holiday occurred only the sun flag flew. In 1937 the Japanese fought China. Two years later World War II began, and the government started to ration food. We were facing famine conditions. But on August 15, 1945, the Japanese unconditionally surrendered.

On June 25, 1950 North Korea invaded the South starting the Korean War. I was under communist rule about three months. They were gentle in appearance but cruel at heart. They made all decisions; people had no human rights. The war ended in 1953, and from that time on my family and I desired to immigrate to the U.S. In 1972 we got permission.

I suffered for a long time. Thank God, here in America I have liberty, peace, justice, and equality. Freedom is very important in my life. I must repay America's kindness. I have to learn English to communicate with many people and relatives, to have the right to pledge allegiance to the flag and to be a good citizen. I'll do volunteer social work to repay my country for its Constitutional guarantees.

WHAT IT MEANS FOR ME TO BE IN AMERICA

(By Mariano Sosa)

My name is Mariano Sosa. I came to this country in 1981 from my country (Guatemala). I like the U.S.A. because I can study, work, and live in peace. The last time somebody asked me, what is the United States for me? I answered that the United States is the world.

It is the world because there are many cultures, languages, races, colors (of people). My family lives in Guatemala. I don't want to go back to live there because I like to live here. I love the law, because it is not necessary to have blue eyes, brown hair, and to be tall to live in this country and to have responsibilities and rights like the natives in the U.S.A.

There are many reasons to live, to live this country. Now I am studying to have a better future. I want to be an able person in the society of the United States. I think that when I learn to speak the official language, I'll go to the college or university to follow my career. Because I am in accounting, I want to be an accountant.

ARAFAT STATEMENT IS REGRESSIVE DIPLOMACY

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. SIKORSKI. Mr. Speaker, the United Nations reconvened this month and atop its agenda is a resolution by the Arab States to expel Israel. So what's new? This happens every year and why should this year be any different? I'll tell you why. Because the PLO has supposedly moderated its stand.

Since the PLO Chairman Yasser Arafat's historic statement in Geneva last December, the definitions of terrorism and PLO have undergone some very enterprising interpretations depending on the incident and the audience. Arafat has found it necessary to shroud words and deeds in order to please both his constituency and the United States.

An environment has been created, as tenuous as it may be, which has fostered a flurry of diplomacy. We have seen Israeli Prime Minister Yitzhak Shamir's 4 points and election plan. We have seen Egypt's President Mubarak's "10 point plan." And now, we have seen Secretary of State James Baker introduce his 5 points. All have attempted to bring the main players in the Israeli-Palestinian conflict closer together and make conditions ripe for peace.

But for conditions to be ripe there must be peaceful intentions, diplomatic compromise, clarity and unambivalence. Only then can integrity, confidence and trust sit at the negotiating table.

So, if the Arab States are unwilling to make a sign of conciliation at the United Nations and withhold their Israel expulsion resolution and if the PLO hasn't brought its charter in line with its statement of December, then on what basis does Israel have reason to reduce its suspicions and negotiate in good faith?

Yasser Arafat was in Japan just lask week. In Japan—a nation whose unfair trade practices with Israel was the subject of a letter sent by over 100 Members of Congress to the then Japanese Prime Minister Sosuke Uno—Arafat made the following very unequivocal threat:

Recently trade relations between Japan and Israel have expanded. Have you forgotten the 200 million Arabs and the friends of the 200 million Arabs in the world? Do you know how much of the oil the world imports comes from the Arab world? It is not necessary for you to think of our interests. Think of your own interests. Coincidentally, Japan upgraded the PLO office in Tokyo to a mision in appreciation for the PLO's declaration to renounce terrorism and recognize the right of Israel to exist.

The United States should not dawdle on this extortion of a major world government. The 1989 foreign aid authorization bill states that U.S. policy is "opposed to restrictive trade practices or boycotts imposed by foreign countries against countries friendly to the United States." Japan, has been a leading offender of this policy and now that it has made recent progress with companies like Mitsubishi opening trade with Israel, the PLO is turning up the heat. The United States must firm up Japan's resolve to stand tall against the PLO shake down.

After 40 years of unabashed terrorism and a declared desire to destroy the State of Israel, statements such as this in Japan and the statement in August at the Palestinian National Convention does not instill confidence in the sincerity of negotiating partners. Let Arafat employ his "power of speech" on his Arab allies to make peace and refrain from embarking on the expulsion resolution path in the United Nations instead of using it to strongarm Japan. What is needed here are confidence building measures, to be taken by all parties involved, to show that a leopard can indeed moderate its spots.

UNIVERSITY CLUB DIAMOND JUBILEE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LAGOMARSINO. Mr. Speaker, this year marks the 70th anniversary of the Santa Barbara University Club. The first organizational meeting of the University Club was held March 29, 1919, and on June 20, 1919, Mr. Ralph W. Hersey was elected the club's first president.

On July 16, 1919, the club began serving meals. The rate schedule was: breakfast 35 cents, lunch 50 cents, and dinner 75 cents.

On June 29, 1925 Santa Barbara experienced an earthquake with a magnitude of 6.2 that devastated the town, particularly the central business district. The University Club withstood this temblor magnificently. Some repairs were necessary, but none extremely severe, the advantage of good solid frame construction when building in "earthquake country."

The strength of the club and its members was tested during the difficult times of the depression—resignations continually outnumbered new memberships and there were a large number of delinquent accounts during those hard times. It was a difficult time for the

club, but it survived, due to the diligent and careful supervision of a cautious and conservative board of directors.

World War II was another challenge to the University Club as many members were called away to various branches of the military service. To ease the pressure of the times, dues were waived for members for the period of their service. After the war ended many members returned to Santa Barbara and the club was back in full swing.

The 1950's and the 1980's both could be called the decade of expansion for the University Club. During the 1950's the club physically expanded with one extensive renovation as well as acquisition of more property.

In 1983 the club's by-laws were changed to include the female gender anywhere the masculine was referred to. At this time a special processing method was worked out so that the members of the Santa Barbara Associates, an organization serving the needs of professional women, were admitted to club membership. Today Molly Dahm serves as the first female manager since the founding of the club in 1919.

I congratulate the University Club of Santa Barbara on the occasion of its 70th anniversary and I wish the members well in the years to follow. May you celebrate another 70.

TRIBUTE TO THE OHIO FRATERNAL CONGRESS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Ohio Fraternal Congress which for 72 years has helped financially support various inspirational organizations in our country and my community.

The Ohio Fraternal Congress originated in 1917 with Franklin Rubrecht presiding as its first president for 20 years. From 1937 to the present, a new president has been elected every year to serve the congress. Peter Maravich is now the 53d person to act as president of this respected, collective body. This year, Mr. Maravich has decided to bring the congress to the Youngstown area to celebrate its 72d annual congressional banquet.

The Ohio Fraternal Congress represents approximately 500,000 members. The members consist of various ethnic backgrounds. Of the 102 fraternals in the United States and Canada, 63 belong to the Ohio Fraternal Congress. This group has aided financially many organizations who attempt to reach out and serve those in need. In our area alone, the congress has supported such dedicated groups as the Hattie Larlham Foundation, Inc., Community Guidance of Greater Cleveland Area, the Holy Family Cancer Home, and the Deaf and Blind Apostolate of St. Augustine Church. Each of these programs provide the guidance and motivation for those who need help or who feel desperate or lonely.

Mr. Speaker, I would like to take this opportunity to congratulate the Ohio Fraternal Congress for its impeccable service to its country and community. The reason for the congress' success stems from its understanding and compassion for other people's problems. We are deeply indebted to these members for their dedication and the contributions they have made to our area's causes. I am honored to represent these outstanding individuals.

CONVENTION II

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. SYNAR. Mr. Speaker, for the past 14 years a group of young people have gathered in the Nation's capital, under the auspices of Convention II, to debate the merits of several proposed amendments to the Constitution of the United States. This exercise in democracy offer the participants an opportunity to review and vote on crucial constitutional issues facing our Nation today.

Convention II's 1989 meeting ran from February 7 until February 11 and was composed of 92 student delegates from grades 9 to 12. They were aided by 18 advisers which were made up of teachers and administrators, and 23 college students who acted as staff members. Other participants included 106 Members of Congress who were in the Convention II founders committee which provided advice and assistance to the program. Ten prominent business people and educators comprise the Convention II, Inc. Board of Directors. Fifteen educators and former advisers serve as the National Advisory Council.

Mr. Speaker, I would respectfully request that the following findings of the 1989 conference be inserted in the RECORD:

CR 102—Relative to the Right of Privacy (Defeated 30 for, 58 against).

CR 412—Relative to the Prohibition of the Possession of Hand Guns by Civilians (Defeated 17-57).

CR 509—Relative to the Basic Human Need for Shelter (21-45).

CR 302—Relative to the Electoral College (Defeated 34-52).

CR 206—Relative to the Presidential Item-Veto (Defeated 55-30).

CR 403—Relative to Capital Punishment (Defeated 34-48).

CR 103—Relative to Giving D.C. full Voting Representation in Congress (Defeated 38-50).

CR 503—Relative to the Official Language of the U.S. (Defeated 37-48).

CR 107—Relative to the Right of an Individual to have an Abortion (Defeated 42-45).

CR 109—Relative to Minority Rights (Defeated 47-39).

CR 202—Relative to the War Powers of the Congress and the President (Passed 60-29).

CR 402—Relative to the Terms of Supreme Court Justices (Defeated 24-64).

CR 310—Relative to Naturalized Citizens (Defeated 58-30).

CR 512—Relative to a Balanced Budget (Defeated 20-66).

CR 108—Relative to Euthanasia (Defeated 38-45).

CR 308—Relative to the repealing of the 22nd Amendment Defeated 25-57).

Although four resolutions obtained a majority vote the Rules of the Convention II require a two-thirds vote of the Convention for passage of a resolution. Only one resolution received this thus indicating the resistence of the delegates to modify the Constitution. Perhaps this represents a national sense of satisfaction with the Constitution. Or maybe these delegates were unable to reach sufficient compromises on the ultimate question concerning these constitutional changes.

The only resolution to be approved by the Convention, CR 202, specifically mandated that neither the Congress nor the President could send draftees into an armed conflict until a formal Declaration of War has been passed.

The Delegates to Convention II wish to extend their appreciation to the Members of the U.S. Senate and House of Representatives, who enabled them to deliberate in several historic and inspirational chambers on Capital Hill.

The Official Journal of Convention II 1989 will soon be available. For a copy of the Journal, and for further information regarding Convention II, please contact Richard Werner at Convention II National Headquarters, P.O. Box 1987, Washington D.C. 20013-1987, (202) 544-1789.

Respectfully submitted,

THOMAS ROONEY,
Convention Secretary.

Mr. Speaker, I would invite all my colleagues to join me in commending the Convention II Conference Board and participants for their fine work in encouraging thoughtful consideration of important constitutional issues before the American people today.

A MEADOW OF HONOR FOR VETERANS OF WAR

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BENNETT. Mr. Speaker, I submit for the RECORD a copy of an article that appears in this week's issue of Insight on the News entitled, "A 'Meadow of Honor' for Veterans of War?" This brief article talks about my bill, H.R. 88, which would set aside an appropriate area in Arlington National Cemetery for the burial of uncasketed, cremated remains. A spot has already been chosen, and plans are ready to implement this legislation. The area will be a pleasant greensward not suitable for casketed remains. It will include a small wall similar to a mini-Vietnam memorial.

H.R. 88 has already passed the House and hearings have been held in the Senate. My good friend and colleague, BOB GRAHAM, is the principal Senate sponsor, with Veterans' Affairs Chairman ALAN CRANSTON and ranking minority member FRANK MURKOWSKI as original cosponsors.

This type of burial is purely optional. It will serve to extend the life of Arlington National Cemetery, which the House Committee on Veterans' Affairs says will run out of casket space by 2020 and urn space by 2029. I acknowledge that, in the beginning, use of this will probably be light. However, as William Phipps, professor of philosophy, Davis and Elkins College, Elkins, WV, said in his statement in favor of my bill:

A generation from now, when grave space is exhausted at the Arlington National Cemetery, it is actually likely that the majority of body disposals in the United States will then be by cremation, even as it is now in some states and in some cities * * *. If it is attractive enough, there may well be many people who would prefer the greensward rather than an internment plot. This would thereby extend the options for others at the cemetery beyond 2020, the anticipated date for the exhaustion of available burial plots.

I thank all those who have seen the logic in this legislation and have joined me as cosponsors. At date of House passage, 79 other Members of the House had joined me in this needed legislation, including such stalwarts as full committee chairman SONNY MONTGOMERY and subcommittee chairman HARLEY STAGGERS.

Those testifying on behalf of the bill in the House included representatives from the Paralyzed Veterans of America, the Non Commissioned Officers Association, and the Veterans of Foreign Wars. The Bush administration strongly endorses the bill, and the director of the cemetery is a proponent, having already put together the needed planning.

So, Mr. Speaker, I submit the above-mentioned article and look forward to seeing this needed legislation sent on to the President. It is forward looking, meaningful, and appropriate legislation.

A "MEADOW OF HONOR" FOR VETERANS OF WAR?

(By Eric Felten)

As the veterans of World War II grow older, Arlington National Cemetery in Virginia is running out of space. Rep. Charles E. Bennett hopes that veterans can continue to be buried at Arlington and has introduced a bill that would make an area of the cemetery that would otherwise not be used into a meadow where ashes are spread beneath the sod.

The Florida Democrat, whose son was buried in such a greensward in Falls Church, VA, wrote to the assistant secretary of the army for civil works to suggest the interment option, saying that "there are many people in modern life who would prefer pushing up grass, daisies and trees to having a stone marker." The only marking would be a metal or stone plaque listing the names of all buried in the meadow.

Rick Graham, a spokesman for Bennett, stresses that burial in the greensward would be voluntary and says the bill should pass easily. Arlington National is expected to run out of casket space by 2020, urn space by 2029.

A CONGRESSIONAL SALUTE TO LARRY DEVAN WILLIAMS

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to an outstanding member of the teaching profession, Larry Devan Williams. Mr. Williams has been selected as a recipient of a Presidential Award for Excellence in Science and Mathematics Teaching. This program, administered by the National Science Foundation on the President's behalf, recognizes those men and women who exemplify the highest standard of teaching quality.

Mr. Williams has been a mathematics and computer education teacher at Eutaw High School in Green County, AL, since 1984. His dynamic and interactive teaching style has put the gift of mathematics more easily within the reach of many of his students. He has encouraged greater student involvement in the disciplines of mathematics and computer education by organizing and serving as an adviser to the Mu Alpha Theta Mathematics Club, the Alpha Chi Sigma Computer Club, and the Eutaw High mathematics teams in algebra I, algebra II, geometry, trigonometry, precalculus, and computer education. With his guidance, Eutaw High School teams have attended many regional computer and mathematics tournaments. I am sure that his students would give him an "A+" in both teaching and inspirational skills.

Although the Presidential Award is probably the most prestigious recognition to date, the success of Mr. Williams' innovative teaching style has long been appreciated by both State and local educational authorities and the parents of his students. We, in the seventh district of Alabama know that education is an investment in our future. That future is made more promising by the generous talents of such fine teachers as Mr. Williams.

Congratulations to Larry Devan Williams for a job well-done. Long may he share the invaluable gift of learning with us.

CONGRESSIONAL SALUTE TO SYLVIA L. ULMER, RETIRING CITY CLERK OF PATERSON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. ROE. Mr. Speaker, it is with the greatest admiration and pride that I rise today to salute a truly outstanding public servant whose tireless dedication to her profession, her church and her community have truly made the City of Paterson, NJ, a better place to live.

I am speaking of Mrs. Sylvia Ulmer, the Paterson city clerk, who is retiring after 17 truly productive years in that position, and 37 years of devoted service to the city of Paterson overall. In recognition of her many invaluable contributions and her numerous outstanding achievements, Mrs. Ulmer will be honored with a dinner-dance on Thursday, October 19, 1989, at The Tides in Haledon, NJ.

Mr. Speaker, I know that, along with being a great source of pride to Mrs. Ulmer, this event will also bring great honor to her family; her loving husband, Joseph Ulmer, Sr., and her children, Patricia and Bryan. And I also know that this event's success will be the direct result of the vigorous efforts of the retirement dinner committee and its hard working chairperson, Jane E. Williams.

Mr. Speaker, Sylvia Ulmer, a graduate of Eastside High School in Paterson, began her career with the city of Paterson in 1952 after successfully passing a civil service clerical test. She attended Sherwood Business Evening School and, with great effort and dedication, worked her way to the top of the civil service clerical ladder. This dedication led to Mrs. Ulmer being named acting city clerk in 1967, and to her appointment to the prestigious position of municipal clerk in 1972.

With this landmark appointment, Mrs. Ulmer became the first Black municipal clerk in the State of New Jersey. During this time she also completed courses at the Rutgers University extension division, which resulted in her being cerified as a registered municipal clerk by Rutgers and the State of New Jersey. Sylvia Ulmer attained tenure in 1977. During her long and oustanding career with the city of Paterson, Mrs. Ulmer has served under seven Mayors, two presidents of the board of aldermen and eleven city council presidents.

Mr. Speaker, along with her professional accomplishments, Mrs. Ulmer has also been highly active in her community. She served as a member of the board of Passaic County Vocational-Technical High School from 1979–1987, serving as president of the board in 1986–1987. She also served as president of the Association of Vocational and Technical Schools of New Jersey.

Among her many activities and memberships, Sylvia Ulmer served as president, vice president, and secretary of the Municipal Clerks Association of Passaic County. She is also a member of the Municipal Clerks Association of New Jersey and the International Clerks Association, and she has served as a member of New Jersey Black Elected and Appointed Officials, the NAACP, the National Council of Negro Women, the YWCA board of directors and the Paterson Girls Club.

Mr. Speaker, Sylvia Ulmer has also been an active member of the Canaan Baptist, Church, where she belongs to the emergency choir, and where she organized and directs a parent support group ministry. Mrs. Ulmer also is a member of the East 34th Street Block Association, and the Coordinating Council of Citizens Alliance for a Drug Free Paterson.

As a result of her numerous efforts on behalf of her profession, church, and community, Sylvia Ulmer has received numerous awards. During Black History Month in 1984, she was given a special award for being the first black city clerk of the State of New Jersey. She was also honored by the Alpha Kappa Alpha Sorority, the Sam Hughes Scholarship Fund, the Falls City Post of the American Legion and the Beauticians Association. She was also honored as Mother of the Year in 1983 and received the Christian Service Award from the Canaan Baptist Church and the Calvary Baptist Church that same year.

Mr. Speaker, I appreciate this opportunity to present a brief portrait of an outstanding and truly invaluable public servant whose dedicated efforts on behalf of her profession, community, and church have made her city, State, and our Nation a better place to live—Mrs. Sylvia Ulmer, retiring city clerk of Paterson, NJ.

TRIBUTE TO COUNCIL 46 P.N.A.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Council 46 of the Polish National Alliance which is celebrating its 75th anniversary this year. The council was founded on April 19, 1914, at the Free Polish Krakusy Hall at 903 Franklin Avenue in Youngstown, OH. When the council was formed, there were only 300 members. Today the council is comprised of 8 lodges, four in Youngstown, OH, two in Campbell, OH, one in Warren OH, and one in Newton Falls, OH. These eight lodges now have a combined membership of 1,238 people.

Council 46 is part of the Polish National Alliance which is the largest fraternal organization of Americans of Polish descent in North America. Since 1915, Council 46 has taken part in all of the quadrennial conventions of the alliance.

Council 46 P.N.A. has been deeply involved with the youth in its area. For many years the organization supported a youth group which presently is composed of 35 children. The council has held various membership drives in the community to get people more involved in the organization and to become more aware of the Polish National Alliance's charitable and educational causes.

Council 46 is very proud of three of its members who have attained very admirable positions in the Polish National Alliance. These noteworthy individuals include Mr. Joseph Habuda, former vice censor of the P.N.A., Mrs. Irene Wallace, former lady commissioner of District IX, director and vice president of the P.N.A., and Mrs. Mary Grabowski who served two terms as the lady commissioner of District IX, P.N.A.

Mr. Speaker, I would like to take this opportunity to congratulate Council 46 of the Polish National Alliance on its 75th anniversary. The council's success stems from its understanding and compassion for other people's problems. We are deeply indebted to the members of Council 46 for their dedication and the contributions they have made to our area's causes. I am honored to represent these outstanding individuals.

THE PORNOGRAPHY VICTIMS PROTECTION ACT OF 1989

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. GREEN. Mr. Speaker, today I am introducing the Pornography Victims Protection Act of 1989. This bill is the improved successor of H.R. 1213, which garnered strong bipartisan support from 118 of our colleagues in the 100th Congress and was considered at a hearing held by the Judiciary Subcommittee on Crime.

We can no longer stand by and say that pornography is a "victimless crime." A Federal Commission has documented that abuses of coercion, intimidation, and fraudulent inducement into posing and performing are rampant in the pornography industry which is controlled by organized crime. The victims often are people who were sexually abused as children and/or are financially distressed. This, to me, is the major outrage of pornography; and it is time to empower the victims by providing them with legal recourse for the harm that has been done to them. The legislation I propose today is unique contrasted to all other pornography legislation because it confronts the pornography problem and provides the opportunity for justice without infringing on our first amendment rights.

The Pornography Victims Protection Act of 1989 would allow victims of pornography, both child and adult, who are coerced, intimidated or fraudulently induced into posing or performing in pornography to institute Federal civil actions against the producers. If they prevail, such victims would receive treble their actual damages and cost of bringing suit. Furthermore, the bill authorizes the Attorney General to seek $100,000 in civil penalties from any person violating Federal child or adult pornography statutes. If the Government prevails, it is authorized to distribute the penalty money among all of the identified victims in the case.

In addition to providing monetary and injunctive relief to victims, direct civil actions will facilitate enforcement of related criminal statutes. Like a direct action for victims, a government action for civil penalties will be subject to a lower burden of proof than in a criminal prosecution, and this should facilitate action against pornographers. Unlike direct actions, victims would not be required to come forward publicly. This is an especially valuable benefit in child pornography cases, since many child victims are unwilling or unable to endure the severe traumas of courtroom testimony.

To deal with concerns raised by the booksellers and publishers, the legislation has been rewritten to focus exclusively on targeting and penalizing producers. All criminal provisions embodied in the bill apply only to the producers and not the transporters or distributors. This bill provides a sound and constitutional mechanism for deterring sexual exploitation and compensating victims.

Due to its dubious legal status and organized crime involvement, pornography is primarily an underground industry with little or no accountability toward its work conditions or product. Obscenity law only addresses the offense to society's sensibilities and ignores the victimization that is part and parcel of the pornography industry. Without conflicting with our first amendment rights, the Pornography Victims Protection Act would provide civil remedies to the forgotten victims whose hurts are unaddressed by current obscenity laws.

Mr. Speaker, I believe the Pornography Victims Protection Act of 1989 will effectively combat a great degree of sexual exploitation in the United States and should like to take this opportunity to encourage my colleagues to cosponsor.

ALLIED HEALTH PROFESSIONS PROMOTION ACT OF 1989

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. BRUCE. Mr. Speaker, I rise today to introduce the Allied Health Professions Promotion Act of 1989.

Today the health care field is reaching a crisis. In a recent survey by the American Hospital Association of more than 3,000 hospitals, one-fourth of those surveyed said they have cut services. More than 15 percent have closed beds or units and approximately 13 percent had sent patients to other hospitals because their staff was lacking.

In the rehabilitation fields the vacancy rates for available personnel have risen up to as much as 20 percent in some regions, while in others, almost every slot is empty. For those who want to become physical or occupational therapists, they have the pick of almost any area of the country or any place to work, because there are seven jobs for every one physical or occupational therapist.

In the next 31 years, the number of Americans over the age of 65 will increase from 21.1 million to 54.5 million. The demand for all health care workers will increase by 42 percent by the year 2000, because of the increased average age. The demand for physical therapists will increase by 87 percent. In contrast to this, the entire labor force is expected to increase by only 19 percent.

While the demand will continue to climb for health care professionals, the supply will not. The American Medical Association reports that the number of graduates of professional programs and the quality of these graduates has been declining steadily.

The baby boom days have ended and the labor pool is decreasing. Today the majority of health care workers are women, but the opportunities for women in other fields have increased dramatically during the past 20 years. The health care field is also suffering from a poor image, low salaries, and long hours.

The bill that I am introducing today will help many involved in the allied health field. An allied health professional can be almost anyone involved in health care—be it a nurse, a clinical technician, a physical therapist, or an occupational therapist.

Funding increases will be authorized through this legislation for those allied health programs most in need, particularly in fields relating to the care and rehabilitation of the elderly and disabled. Recruitment, improved teaching programs, and traineeships will help recruit talented individuals into the rehabilitation field.

In addition, a division of allied health professions and advisory council will be established within the Health Resources and Services Administration's Bureau of Health Professions, and a pilot program in allied health research would be developed to design and fund a program of grants for allied health research projects.

My distinguished colleagues, I am very concerned with the state of our health care

system in this country. I believe that with legislation such as this we will come closer to finding a solution to the crisis that affects us. I hope that this bill will help improve the quality of care and number of health care professionals in the rehabilitation field. As our country's population begins to age and our medicine becomes more sophisticated, the need for physical therapists, occupational therapists, and many more health care professionals increases. Congress must not wait for this crisis to grow before acting.

CELEBRATING THE CUBAN PEOPLE'S SPIRIT OF FREEDOM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mrs. ROS-LEHTINEN. Mr. Speaker, the Cuban people struggled for almost a century to win their independence. A tyrannical government—responsive to an ideology foreign to that of our continent—has temporarily curtailed the freedom that was conquered with so much sacrifice.

Last week, on October 10, one more anniversary of the beginning of the longest of the various wars for independence fought by the Cubans was commemorated.

On this new anniversary it is my strong wish, Mr. Speaker, to pay homage and admiration to the spirit of the Cuban people for liberty and freedom.

WALNUT CREEK CELEBRATES 75 YEARS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in celebrating the 75th anniversary of the incorporation of the city of Walnut Creek, CA.

Known simply as the Corners prior to its renaming and the establishment of a U.S. post office in 1862, Walnut Creek continues to be situated at a crossroads where the many elements are brought together which make this city exciting and diverse. While developing into a vibrant, prosperous metropolitan city, Walnut Creek has retained the charm and closeness evident during its early years.

Not wanting to miss an opportunity, Walnut Creek's early public leaders prepared for the city's future economic growth when they advocated for incorporation as a means of attracting investors during the 1915 Panama Pacific International Exposition in San Francisco. As the city's subsequent leaders have continued to highlight the area's inherent assets, Walnut Creek is now considered one of the bay area's most important economic centers.

Balancing this success in the business arena, Walnut Creek is also recognized as one of northern California's leading cultural arts centers. Since the days in 1930 when Clark Gable filmed his movie "The Sporting Blood" at Heather Farm race track, Walnut Creek's contribution to the cultural enrichment of the community has been the focal point of efforts in both the public and private sectors. The highlight of this important contribution will be the completion of its $17.5 million regional center for the arts late in 1990. The city's rich history of providing diverse cultural experiences for its residents earned Walnut Creek the distinction of being chosen as the United States most livable city by the U.S. Conference of Mayors.

Receiving such an honor is indeed fitting during Walnut Creek's diamond jubilee year, and serves as a testament to the pride and love the people of Walnut Creek share for their city. The past 75 years have seen Walnut Creek emerge as one of the bay area's most dynamic communities, and I look forward to being a part of their future successes.

DR. GEORGIA THOMAS-PARKS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Dr. Georgia Thomas-Parks, who will be the speaker at the NAACP's "Freedom Fund" banquet on October 20. Dr. Parks has made great contributions to the field of social work as an administrator, educator, researcher, and consultant. She has not only done outstanding work in the United States but has also taken her expertise abroad.

Dr. Parks was an assistant professor at the University of Nigeria where she was directly responsible for all aspects of the social work program. She was also hired by the Nigerian Government to develop a social welfare discipline in a British-oriented higher educational program. This project resulted in an autonomous undergraduate social work department.

Dr. Parks also did work with the Rastafarians who live in the Virgin Islands. The project resulted in a better understanding of the Rastafarious people, especially in dealing with their health care practices, religious beliefs, and lifestyle. The study served as the basis for a program developed by the Labor Department that was used to better meet the needs of the Rastafarious people. The study was also used by Job Corp centers throughout the United States, the Virgin Islands, and Puerto Rico.

Dr. Parks was raised in Warren, OH, and is married to Dr. J. Benson Parks. They have three children, ages 20, 18, and 16. Dr. Parks has been a teacher and administrator at some highly respected universities including Howard University, University of Oregon, and Rutgers University. She is presently the area director for the Massachusetts Department of Mental Health.

Mr. Speaker, I would like to take this opportunity to congratulate Dr. Georgia Thomas-Parks for her extraordinary service to her community and country. Dr. Parks is a true humanitarian who has made great strides in the field of social work. Her success stems from her understanding and compassion for other people's problems and we are indebted to Dr. Parks for her dedication to mankind. I am honored to represent this outstanding woman from my 17th Congressional District.

HONORING STEPHEN DiBRIENZA AND ANNETTE SCALA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. SOLARZ. Mr. Speaker, I rise today to join the Independent Neighborhood Democrats in honoring Councilman Stephen DiBrienza and Annette Scala. These two distinguished community activists represent the best Brooklyn has to offer and have continually given their best to their neighborhoods.

To understand the significance of their achievements, it is necessary to reflect on the organization which will honor them on October 27. Born of the antiwar and political and social reform movements which swept Brooklyn and the rest of the Nation two decades ago, IND has remained true to those basic principles from which it was born.

I feel a personal bond to IND and its members because their political roots are very much my own. They have fought the same battles I have, whether for a healthier environment, economic development, safer streets, or a more responsive educational system. Most of all, we have shared a commitment for open and honest democratic institutions from Cadman Plaza to Tiananmen Square.

It is, therefore, with some pride that I join my distinguished colleagues, Assemblywoman Eileen Dugan, State Senator Martin Connor, and district leaders Joan Millman and John McElhinney, in calling IND "home."

IND will honor a very special elected official, Councilman Steve DiBrienza. Steve started out as a young community activist. At first, no one knew who he was or what to make of his youthful exuberance so he was assigned the only job where other more senior members could keep an eye on him: club driver.

Anyone who doubted Steve's abilities and motivation was soon set straight. Steve quickly rose in the esteem of his neighbors. He proved himself equal to every test: fighting to bring transportation bond issue funds to Brooklyn's working waterfront, a successful run for district leader, a leader in the Catholic Youth Organization, and a community organizer.

Steve's greatest test came when he challenged the powerful majority leader of the city council. Steve nearly won this seemingly hopeless battle and in the process taught the rest of us an important lesson. In 1985, when the incumbent retired, there were any number of potential candidates for the open seat. But the voters recognized Steve's years of effort, his vision, and his commitment. In the end, there was no real contest.

Steve DiBrienza represents the true reform tradition. As a member of the city council, he has continued to fight for those causes which brought him into politics many years ago. One need only visit the Third Street or Carroll Street Bridges or read his important report on

the state of our waterfront to find examples of Steve's ability to work effectively for our communities.

IND will also honor another remarkable individual. While she holds no elective office, I doubt there is an elected official in south Brooklyn who does not in some way depend on Annette Scala. Her clear vision and boundless energy are continually evident in the life of our borough.

In much the same way, Annette has served IND with a dedication and skill that have kept the club going through good times and bad. She is always ready, with fresh ideas, and with a drive that keeps others involved.

Annette's efforts on behalf of our public school system best illustrate her special brand of community activism. Together with her husband, Philip, Annette fought for reform of the community school board. Their involvement comes from the most basic of concerns: they are the parents of two children in the public school system. They took to heart the purpose of decentralization and fought to make it work for their children. Thanks to Annette and Philip, all children in district 15 will enjoy a brighter future.

As a senior member of Councilman DiBrienza's staff, Annette takes the title public servant to heart. She embodies the ideals of a responsive government and remains among the most effective voices for our community.

By honoring Steve DiBrienza and Annette Scala, IND pays homage to its own roots.

Mr. Speaker, the American system of democracy works best at the grassroots. When concerned citizens mobilize to fight for a more responsive, more honest system of government, then we all benefit. Steve DiBrienza and Annette Scala, in their lives and their work, embody that principle. I am pleased to join the Independent Neighborhood Democrats in honoring them today.

COOPERATIVE EDUCATION WEEK

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. DERRICK. Mr. Speaker, this week, October 16–20, has been declared Cooperative Education Week in Virginia. The declaration by Gov. Gerald Baliles is of personal interest as this marks the third year of my participation in the Cooperative Education Program in conjunction with Virginia Commonwealth University.

The program with the students has been invaluable. New students come to learn about our Government in a hands-on fashion every semester, and they leave with knowledge that could never be acquired in a classroom environment. In addition, the students and staff in concern create a work environment that is balanced to afford the student an opportunity to sample all the occupational related flavors offered in a congressional office.

This program is important. We would all benefit from the experience of a cooperative education program like the one at Virginia Commonwealth University as well as from other schools throughout the country. The outstanding students participating in this program have been hard working and eager to learn about government in a genuine sense. It has been an extremely worthwhile experience, and one I certainly plan to continue.

BUDGETARY TREATMENT OF SOCIAL SECURITY AND OTHER TRUST FUNDS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. HORTON, Mr. Speaker, when Congress passed Social Security amendments in 1977 and 1983, it made a compact with American workers and employers. In establishing FICA payroll taxes substantially above those needed to pay for current benefits, an agreement was made that American workers and employers would pay more today, to help ensure that their retirement in later years—the retirement of the baby boom generation—would be adequately funded. I can't help but wonder if this compact has become just an illusion.

Last Thursday, in a hearing held by the Subcommittee on Legislation and National Security of the Committee on Government Operations, we heard testimony characterizing as a myth the assumption that the surplus funds being collected today will provide a nest egg to pay for the deficit occasioned by the baby boom's retirement tomorrow. A second witness testified that accumulations in the Social Security trust fund represent only an "accounting fiction".

Despite the current trust fund surplus, economists have stated that Americans in their 30's and 40's will have to accept lower benefits or make their children pay higher taxes to fund benefits equal to those received today.

Thursday's hearing was intended to examine the budegtary treatment of Federal trust funds, including the Social Security trust fund. Yet, in attempting to determine the proper role of these funds in calculating the Federal deficit, it is also necessary to look at whether the funds are being handled in a manner which honors the commitments made to the American people.

Whether it be Social Security, the Highway Trust Fund, the Aviation Trust Fund, or one of the other approximately 160 Federal trust funds, American taxpayers should be able to count on the fact that when they are told that a specific tax will go toward a specific program, the money will indeed be available for that program.

Mr. Speaker, I am leaning strongly toward supporting legislation that goes beyond the off-budget treatment already accorded to Social Security, to fully exclude Social Security trust funds from deficit calculations. In fact, I am inclined to support similar off-budget treatment, when appropriate, for other trust funds.

Deficit reduction remains an imperative. With another budget deadline looming today—a deadline triggering more than $16 billion worth of across-the board program cuts—the need for responsible deficit reduction has never been more obvious.

But deficit reduction should not be achieved by withholding trust fund moneys or enacting accounting gimmickery. We need to reduce the deficit, but we must also stay true to the commitments already made to the American taxpayer.

CHRISTINE HEGEMAN WINS J.C. PENNEY AWARD FOR COMMUNITY SERVICE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. YATRON. Mr. Speaker, today I would like to pay special recognition to a distinguished citizen of Reading, PA. The person I am speaking of is Christine Hegeman, who recently was recognized as a finalist for the 1989 James Cash Penney Award for Community Service.

Although Christine has a full-time job as a catalog sales supervisor in the thrift drug division of J.C. Penney, she spends anywhere from 100 to 150 hours a month doing volunteer work in her community. She helps the sick and injured through her work with three area ambulance services, the Exeter ambulance, the Lower Alsace ambulance, and the Governor Mifflin ambulance. Christine also teaches CPR as well as first-aid to the public and works to improve her own skills through continuing education in such areas as trauma life support. Moreover, Christine has initiated a support group for individuals with neurofibromatosis.

A recommendation for Christine from one of the agencies she serves is a tribute not just to the many hours of volunteer work she puts in but to the kind of character she exhibits. The recommendation describes Christine as a "friend of the community." It talks of her kindness, assistance, and comforting manner with terrified patients and the dying.

Mr. Speaker, Christine Hegeman is indeed a remarkable woman. She is a most deserving recipient of the recognition that has been bestowed upon her through the James Cash Penney Award and I congratulate her for this special achievement. I also want to thank Christine for giving so generously of herself, her time, and her energy. Christine Hegeman is a shining example of one of our greatest qualities as human beings—the ability to care for others—and she truly represents the best in American voluntarism.

A TRIBUTE TO THE BELLEVILLE-NUTLEY COLUMBUS DAY PARADE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. COURTER. Mr. Speaker, today I would like to recognize the communities of Belleville and Nutley, NJ, and thank them for bringing their communities together once again to celebrate Columbus Day.

The Belleville-Nutley Parade Committee is comprised of members from both communi-

ties. Mr. Jaye Tarantino serves as the chairman of the Belleville committee, while the Nutley committee is led by Mr. Bob Rusignuolo. Mr. Gabe Nazziola, the general chairman of the parade, oversees the entire program and works to bring both communities together.

This group of proud Americans has been united by the honor of being asked to march in the sixth annual Columbus Day Parade. This is an event in which all Americans should exist. The annual celebration of the birth of our discoverer is a significant day in the lives of all Americans. This is a tradition which I hope will be able to continue and grow as your parade helps to promote this as a national holiday.

ADDRESS BY THE HONORABLE JOHN LINDSAY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. PANETTA. Mr. Speaker, I have known John Lindsay, former mayor of New York City, for over 20 years. In that time I have always greatly respected his thoughts on the issues of the day, from the concerns of the citizens of Manhattan Borough to our relations with the world. Recently he spoke at the Llangollen International Musical Eisteddfod in North Wales and raised the significance of two vital international issues, global environmental deterioration and global economic injustice.

I want to share his wisdom with the American people and ask that his remarks be reprinted here.

The text of the address follows:

REMARKS OF HON. JOHN V. LINDSAY AT THE LLANGOLLEN INTERNATIONAL MUSICAL EISTEDDFOD, NORTH WALES, GREAT BRITAIN, JULY 6, 1989

Friends, all. My wife Mary and I have been to hundreds of festivals in many parts of the world. This may well be the best we have ever seen. It is simply magnificent.

I wish to thank Lord Emlyn Hoosen, the distinguished Welshman and Queens counselor for inviting us here. It is also he whom we must all thank for his many efforts to make this the great festival that indeed it is.

As I stand here today, I wish I spoke the Welsh language. It is one of the oldest in all of Europe. It is also one of the most beautiful and musical. It is an APT vehicle for the people of Wales to express their wisdom and sensitivity.

This festival was first held in 1947 to bring the peoples of the world together after the ravages of World War II.

I remember those war years well. How lucky I was. My life was saved on the battlefield by British gunners during the invasion of Sicily and by Australian Scouts in Southeast Asia. After serving in the Navy during World War II, I returned to the United States to capture my law degree at Yale University. Following graduation in 1948, I traveled back to Great Britian to visit the parents of a young friend of mine, a comrade-at-arms in the R.A.F. who was killed in aerial combat. He was their only son. As a memento they gave me his school cufflinks and I've treasured them. They've reminded me of both my friendship with a fallen British airman and the special relationship that will always exist between his nation and my own.

This festival exemplifies the legacy of peace and harmony that the Welsh have given to the world.

As an American, I particularly appreciate the special contribution Wales has made to both my nation and to history.

Just think of three great Americans of Welsh descent:

Thomas Jefferson—A Founding Father and President of the United States, ardent protector of basic human freedoms and civil rights, architect, inventor, musician, botanists, and a most modern, civilized man.

D. W. Griffith—The father of the American film industry. His pioneering work laid the foundation for the film and broadcast media which have done so much to promote world understanding.

Frank Lloyd Wright—The great architect who accomplished so much in helping man understand his relationship with his environment. He summed up his vision of architecture's purpose when he said: "No house should ever be on any hill or on anything. It should be of the hill, belonging to it so hill and house could live together, each the happier for the other."

Jefferson, Griffith, Wright, great men of great vision. Great men who helped build our society and shape its future. All were of Welsh ancestry. Their achievements, however, made them men of the world in the truest sense.

Fresh vision and courage are urgently needed today as we approach another crossroads in history—one fraught with both peril and promise.

The end of the cold war may well be in sight. We might be witnessing the closing chapter in this tragic saga and a halt to the waste of billions of dollars on armaments. These resources should be spent instead on alleviating human misery. With the cold war no longer dominating our leaders' thinking, what new vision of the world will shape their agenda?

Words and phrases like "glasnost" and "perestroika", and "negotiate, but verify" are generalities, not vision. We need more. We must demand greater thoughtfulness and bravery from our leadership, and from ourselves. True democracy means we the poeple, all of us, must show that we are willing to accept new realities and deal with them accordingly.

Two new wars, as perilous as the old, cold war are now being waged on two new fronts. They are:

The war against environmental suicide and the war against economic injustice.

These converging perils are in many ways as dangerous as the one posed by the Axis threat of the late 1930's and early 1940's. They are especially troubling because as a famous American comic strip character once said: "We have met the enemy and they is us."

Each of us is guilty of a dozen daily offenses against our environment. Every mile we drive, every time we discard a newspaper or the material containing our food and drink, we contribute to the world's pollution.

Similarly, each of us is caught up in some way in a global economic system that is driving the have's and have not's further and further apart throughout the world.

To win these wars, we must not only rise above our immediate personal needs or parochial interests. We must also summon the best men and women in our society to lead us in the battles against environmental degradation and economic injustice.

I call on Frank Lloyd Wright's successors to present a vision of how we may live in greater harmony with our physical environment. To help us balance our need for progress and growth with our need to return to our world that which we take from it.

I call on Thomas Jefferson's successors to present a vision of how to transform an arms race into a campaign for economic justice. To help us avoid economic nationalism or regionalism and promote a system where equal opportunity to produce and market can help narrow the wide gulf between rich and poor nations that now exists.

And, lastly, I call on D.W. Griffith's successors to continue to provide vivid views of our common humanity that can help us move beyond the cold war and address these new perils with greater international cooperation.

These hopes notwithstanding, we can't forget the startling images recently transmitted instantly around the world from Tiananmen Square. In Beijing the cries for economic justice and freedom were suppressed by the faceless totalitarianism that characterized the cold war. The aftermath of that struggle will continue to occupy us for a while.

Ladies and gentlemen, the future is ours if we can find the vision to recognize its promises and the will to realize its potential. For clarity, we are fortunate to have the guiding legacy of many great Welshmen.

It is their sons and daughters that I thank for the opportunity to speak today.

Thank you all, let the music continue.

HONORING DOMINICK MASULLO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. ENGEL. Mr. Speaker, on October 19, 1989, the Columbia Association of the New York City Housing Authority Police Department will be honoring one of my constituents, retired police officer Dominick Masullo.

Dom Masullo served as a member of the housing authority's police force from 1979 until 1984 when an injury in the line of duty forced his early retirement. During his time on the force he served on the anticrime team and as an aide to the commanding officer of support services.

Even after leaving the force, Dom still is keeping his commitment to protecting the people, in this case, one of the most vulnerable segments of society, our children.

In November 1984 Dom Masullo and a small number of other dedicated individuals started an organization called Children Are Precious. Children Are Precious deals with the serious problem of abused and abducted children. Though less than 5 years old, this organization has now established itself across Bronx County and will hopefully go citywide within the next year. Among other services it provides, sensitivity training to the New York City Board of Education, the Archdiocese of New York, and the New York Police Department. It also works with children and parents by providing safety seminars.

In December 1988 the offices of Children Are Precious were severely damaged by fire. By June 1989, thanks to the hard work of Dom, his staff, elected officials, and the community at large, Children Are Precious had new headquarters.

Dom Masullo is a shining example of what dedication and concern are all about. I am proud to join those who are honoring him.

TRIBUTE TO GLEN MILLS SCHOOL

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. WELDON. Mr. Speaker, it is with great pride that I rise today to pay tribute to the Glen Mills School which will celebrate its centennial on October 20, 1989.

The Glen Mills School provides educational and vocational opportunities for young men with special needs in a style unlike any other school of its kind. Located in beautiful Thornbury Township, Delaware County, PA, the Glen Mills School educates its students in a country setting which few comparable schools can offer.

The curriculum includes a variety of levels from a learning center that teaches basic skills to college preparatory courses. Every student that attends Glen Mills participates in an academic program suited to his specific needs. The end result is an educational experience which better prepares him for reentry into society.

The vocational curriculum includes many hands-on opportunities ranging from an optical lab to an FM radio station. Vocational skills learned in the classrooms and the fully equipped shops, provide the students with training and practical experience.

Mr. Speaker and fellow colleagues, Glen Mills School operates on the basic premise that all students have an unlimited potential to learn and develop. We in Pennsylvania are very proud of the school's outstanding educational record. Please join me in congratulating the Glen Mills School for its 100 years of achievement.

IN RECOGNITION OF MR. MORRIS CASUTO

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. LOWERY of California. Mr. Speaker, it affords me great pleasure in calling your attention to Mr. Morris Casuto, an outstanding community leader in the 41st Congressional District of California.

Mr. Casuto presently serves as the director of the Anti-Defamation League of B'nai B'rith. As such, he has created many successful programs that assist in fostering the awareness and respect for different ethnic and religious backgrounds. By developing and implementing the Evangelical and Catholic-Jewish dialog groups he has contributed significantly to improving communication among San Diego's religious leaders. Recently, he initiated an innovative police training program that focuses on the dangers of racial extremism and bigotry while teaching officers to be sensitive to the public.

Mr. Casuto has not only devoted his career to public service, but much of his free time. Over the years he has been involved with the Integration Task Force, the Mexican-American Foundation, and the San Diego Pops. He presently serves as a member of the advisory board of the San Diego Law Center and on the advisory committee for the San Diego Cancer Society.

Mr. Speaker, please join me in saluting Mr. Morris Casuto for his determination to reduce prejudice and discrimination in San Diego. His efforts have been significant and are sincerely appreciated.

INTRODUCTION OF A BILL FOR THE PRIVATE RELIEF OF MILTON BRUNO FACCHINI

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. STARK. Mr. Speaker, today I am introducing a bill for the private relief of Milton Bruno Facchini. Milton Facchini was born deaf on June 19, 1965, in Sao Paulo, Brazil. In 1983, Milton's sister, Ivone, who is also deaf, met and married Mr. Anthony Caloroso of Hayward, CA, and subsequently moved to the United States. Mr. Caloroso is a deaf computer operator at Wells Fargo Bank in Concord, CA. In 1983, Milton's father passed away and earlier this year, his mother passed away.

Milton has only one relative left in Brazil with whom he can communicate, a 70-year-old uncle. He has graduated from the eighth grade, worked in an office and now works in a bank. His sister, Ivone Caloroso, has taken the vocational rehabilitation tests. She just started training courses in the English language in order to qualify for a job. She is also studying the Constitution so that she can become a U.S. citizen. Milton plans to do the same thing if he is admitted to the United States. I believe, Mr. Speaker, that granting Milton U.S. citizenship and allowing him to live with his family is the compassionate thing to do.

CONGRATULATIONS TO ELIZABETH CLEMONS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. COSTELLO. Mr. Speaker, it is not often enough that we offer congratulations on the floor of this House to those who set high standards in the field of education. Today I would like to recognize a constituent of mine who has truly excelled in this field and has been an example to other educators of commitment and dedication to teaching.

Elizabeth Clemons, who teaches fourth grade at St. Augustine of Canterbury School in Belleville, IL, is among eight teachers and four principals who have recently been awarded Distinguished Educator Awards in Illinois.

The awards, cosponsored by the Illinois State Board of Education and the Milken Foundation, are given to those applicants demonstrating the finest aspects and talents involved in teaching. Elizabeth was among 500 teachers and principals nominated for the award.

As we continue to debate the importance of education and our role in increasing funding for educational programs, we should also be aware that our Nation's teachers are the most important link in that process. I want to again congratulate Elizabeth Clemons on this fine achievement.

ALBERT GRADY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. TOWNS. Mr. Speaker, today, I rise to pay homage to one of life's unsung heroes, Mr. Albert Grady of Brooklyn, NY.

The greatness of a nation depends upon the individual contributions of its citizens. It is in the sacrifice of commitment and concern of these ordinary people that we grow and prosper as a society. Mr. Albert Grady's story is unlikely to appear on the evening news, but his contributions have enriched the lives of others in important ways.

Albert Grady was born in a small town in Georgia in 1909. He moved to New York City at the age of 18. As a young man alone in a great city he struggled to support himself by holding various jobs. He understood the value of education and training and sought a means to obtain a career instead of merely a job. After completing difficult coursework, he became an electrician. He worked as an electrician in the public and private sectors. He was an electrician with the Kings County Hospital from 1951 until his retirement in 1974.

Retirement has not slowed down Mr. Grady. Since 1974, he and his wife have traveled extensively to such farflung destinations as Asia, Europe and the Carribean.

In addition to traveling, Mr. Grady has devoted much time to his family. In 1987, he was recognized as Father of the Year by Cornerstone Baptist Church.

However the essence of Mr. Grady's achievements have been in his service to the community. He has maintained his active involvement in the community. He is an active member of the NAACP; the financial secretary of the Bedford Stuyvesant Senior Citizens Council; treasurer of the HI-12 club; member of the Long Island Consistory; a Shriner with the Abu Bekr Temple No. 19 and a loyal and active Royal Arch Mason of the African 459 Lodge.

In essence, Mr. Albert Grady exemplifies the meaning of service and dedication. We would all do well to emulate his example.

TRIBUTE TO PHASE: PIGGY BACK, INC., CELEBRATES 20 YEARS OF EXCELLENT AND DEDICATED SERVICE TO COMMUNITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. RANGEL. Mr. Speaker, I rise before you and my colleagues today to bestow upon you the wonderful virtues of an organization that on October 20 will be celebrating 20 years of providing invaluable and dedicated service to the Harlem community. This organization of which I speak is Phase: Piggy Back, Inc.

Founded in 1968 out of the hearts and minds of four men from Harlem, Phase: Piggy Back was formed out of its parent company, Operation Helping Hand, Inc., a nonprofit, drug-free corporation.

The goal of these men was to give to the community that they cared for so much. They held a genuine concern for Harlem and wanted to do something about the problems and ills of drug addiction that plagued the neighborhoods. They put their plan into action by organizing "block jamborees" in order to help bring the residents of Harlem together to meet and exchange ideas, and also to gain and share new perspectives.

Since 1970, Phase: Piggy Back has been providing a drug free education and prevention program. Offering such services as drug prevention, family and individual counseling, therapy groups, and remedial academics, they also provide help with financial, housing, legal, and veteran assistance.

The dedication and determination of these four men—Andrew Henderson, Arthur Mitchell, Jose Ferrer, and Abukarriem Shabazz—made Phase: Piggy Back the fine organization that it is today. It is an organization that is totally sensitive to the needs of the addict. Using a drug-free approach as a means of further establishing the importance of independence as it relates to substance abuse, they know that it is important to raise people's cultural and social awareness. They do this through invaluable service and training.

Phase: Piggy Back highly stresses the concept of total community involvement. People being their main concern, they are strongly about saving lives and the community so that there will be something here for future generations.

Being the chairman of the Select Committee on Narcotics Abuse and Control, I am always happy to learn of fine organizations such as this one, that are doing something to help fight the problem of substance abuse. I am sure I share the sentiments of the residents of Harlem when I say, we are fortunate to have this organization in our midst making such a great contribution to the community. They are a true mark of excellence.

A TRIBUTE TO THE DISTRICT OF COLUMBIA ARMY NATIONAL GUARD BAND

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 16, 1989

Mr. FAUNTROY. Mr. Speaker, it gives me great pleasure to call to the attention of my fellow Members the history and mission of the 257th Army Band of the District of Columbia Army National Guard. Covering a span of 65 years serving the Nation's Capital, this band is comprised of 53 active members, with 5 of their members having more than 20 years of service in the band.

The 257th Army Band is the District of Columbia National Guard's band. The band's mission is "to provide music in support of official military ceremonies, formations, and activities. To include Army Recruiting and community relations." Known as the "Band of the Capital Guardians," the band has, in its 65 years, traveled from the Virgin Islands to Canada. In times of war, the band has been stationed in locations from Alaska to the British West Indies.

The 257th Army Band supports both military and community activities in the Washington, DC, metropolitan area. In addition to the Concert and Marching Bands, the 257th has many diverse ensembles to suit any event or need:

Stage Band, led by S. Sgt. Leroy Barton, Jr., jazz and big band style music.

Stone Bisquit, led by Sgt. Gregory G. Deutsch, rock and roll.

Encore Ensemble, led by Sfc. Diana K. Page, providing background music for social military functions.

The Unchained Ensemble, led by Sfc. John R. Jenkins, performing light improvisational jazz for all occasions.

Saxophone quartet, also led by S. Sgt. Leroy Barton, Jr., arrangements for four saxophones.

Bass Quintet, let by S. Sgt. Walter H. Appel, music arranged for two trumpets, French horn, trombone, and tuba.

Woodwind Quintet, led by Sfc. Larry J. Alverson, music arranged for flute, clarinet, oboe, French horn, and bassoon.

Bass Choir, led by Sfc. David R. Rorick, music arranged for brass ensemble without woodwind or percussion accompaniment.

Barbershop Quartet, led by Sgt. Roger A. Nale, four voices, two tenors, baritone and bass, combining in perfect harmony.

Historically the band is the consolidation of three bands: (1) Band Section of the 121st Engineers, organized February 5, 1924; (2) Band Section, Service Battery of the 260th Coastal Artillery, organized January 12, 1939; and (3) 91st Army Band, organized November 23, 1953.

All of these bands served primarily as units of the District of Columbia National Guard. The band(s) inducted into Federal service from (1) February 3, 1941 to May 31, 1943 and (2) January 6, 1941 to May 25, 1946. On December 10, 1943, the 260th was redesignated as the 257th Army Band. Consolidation of the first two bands was on March 3, 1947, and they were designated as the 257th Army Ground Forces Band. The third band was consolidated with them on March 1, 1959, finally designated as the 257th Army Band.

Like any other National Guard unit, the band performs 48 drill periods (4 hours each) and 15 days of active duty annual training a year. Unlike other units, who perform a one weekend a month drill, the band drills on most Monday nights throughout the year. This enables us to maintain our level of proficiency on our individual instruments as well as our ability to perform as an ensemble. The band is only as good as the musicians that comprise it. It's for this reason that we are very thankful for the dedicated and professional citizen-soldier musicians that make up the 257th.

257TH ARMY BAND ROSTER

Commander: Chief Warrant Officer Two John W. Dean;

First Sergeant: First Sergeant Kenneth C. Perry;

Drum Major: Sergeant Dean L. Dyer.

Brass Group Leader: SFC James F. Morehouse.

Trumpet: SSG Walter H. Appel, SFC David R. Rorick, SSG William M. Ward, SSG Joshua L. Pruden, SSG Charles J. Lietwiler, SSG Herbert B. Callands, SGT Raleigh R. Sapp, SGT Nicholas G. Sandifer, SGT Roger A. Nale, and SPC Connie L. Mitchell.

French Horn: SFC Donald G. Crowe, SFC James F. Morehouse, SSG Roger J. Whitworth, 1SG Kenneth C. Perry, and SSG Donita A. Burner.

Trombone: SSG Stewart W. Hobbs, Jr., SGT Lonnie E. Paxton, SGT Christopher J. Skowronski, and PV2 Michael A. Johnson.

Euphonium: SGT Thomas E. Jackson and SGT Helen M. Gillespie.

Tuba: SFC Bruce L. Keck, SPC David J. Yates, and SPC Michael Horton.

Training NCO (full time): SFC James F. Morehouse.

Supply Sergeant (full time): SGT Dean L. Dyer.

Woodwind Group Leader: SFC Diana K. Page.

Flute: SFC Diana K. Page, SFC Larry J. Alverson, SFC Penelope H. Carson, and SSG Leslie D. Owen.

Oboe: SSG Rosalie R. Wilson.

Bassoon: SGT Dean L. Dyer.

Clarinet: SFC John R. Jenkins, SSG Houston L. Hemphill and SSG Leroy Barton, Jr.

Alto Saxophone: SGT Reginald A. Henry.

Tenor Saxophone: SPC George W. Campbell III.

Baritone Saxophone: SPC Arthur W. Crownover IV.

Percussion Group Leader: SSG James Hallameyer.

Percussion: SGT Ernest Betancourt.

Tympani: SSG Robert M. Sclater.

Guitar: SSG Stephen F. Hendricks, SSG Humberto Caballero, SGT Gregory G. Deutsch, and SGT Patrick S. Verdine.

Librarian: SSG Charles J. Lietwiler.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees

to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 17, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 18

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on commercial time limits for children's television programs on cable TV.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on third world debt and U.S. trade.
SD-538

Budget
To hold joint hearings with Committee on Governmental Affairs on budget reform issues.
SH-216

Environment and Public Works
To hold hearings on the nominations of E. Donald Elliott, of Connecticut, and LaJuana S. Wilcher, of Kentucky, each to be an Assistant Administrator, Environmental Protection Agency.
SD-406

Governmental Affairs
To hold joint hearings with the Committee on the Budget on budget reform issues.
SH-216

2:00 p.m.
Judiciary
To hold hearings on legal issues raised by the termination of Oliver North's retirement pay.
SD-226

OCTOBER 19

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 870, to label consumer products containing substances that contribute to the depletion of the ozone layer in the upper atmosphere, to regulate the sale, distribution, and use of such substances in consumer products and services in and affecting interstate commerce, and to recapture and recycle such substances.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on South Korean trade practices, focusing on the black market.
SD-342

Small Business
To hold hearings on the nomination of Kyo R. Jhin, of Maryland, to be Chief Counsel for Advocacy, Small Business Administration.
SR-482A

10:00 a.m.
Foreign Relations
Business meeting, to consider the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Treaty Doc. 101-4).
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Joint Economic
To hold joint hearings on econmists' and regulators' perspective on deregulation.
2359 Rayburn Building

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian land.
SR-485

OCTOBER 20

9:45 a.m.
Environment and Public Works
To hold hearings on the nominations of Forrest J. Remick, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission, and David C. Williams, of Illinois, to be Inspector General, Nuclear Regulatory Commission.
SD-406

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings to review the investigation of the HUD moderate rehabilitation program (section 8).
SD-538

Judiciary
To hold hearings on the nominations of S. Jay Plager, of Indiana, to be U.S. Circuit Judge for the Federal Circuit, George W. Kindberg, of Illinois, to be U.S. District Judge for the Northern District of Illinois, Donald B. Ayer, of Virginia, to be Deputy Attorney General, Department of Justice, and K. Michael Moore, of Florida, to be Director of the U.S. Marshals Service, Department of Justice.
SD-226

Labor and Human Resources
To hold hearings on the nomination of Debra R. Bowland, of Louisiana, to be Administrator of the Wage and Hour Division, Department of Labor.
SD-430

OCTOBER 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on the protection of water quality.
SR-332

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Jerry R. Curry, of Virginia, to be Administrator of the National Highway Traffic Safety Administration, Department of Transportation.
SR-253

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation to provide for the establishment of a Federal fish inspection program.
SR-332

Energy and Natural Resources
Public Lands, National Parks and Forest Subcommittee
To hold hearings on S. 1046, to study the Merrimack River in New Hampshire for inclusion in the National Wild and Scenic Rivers System, S. 1302, the Big Thicket National Preserve Addition Act, S. 1524, to study segments of the Pemigewasset River in New Hampshire for inclusion in the National Wild and Scenic Rivers System, S. 1559, to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, S. 1594, to revise the boundary of Gettysburg National Military Park, and H.R. 1472, to establish the Grand Island National Recreation Area in Michigan.
SD-366

OCTOBER 25

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on cable carriage of local broadcast signals.
SR-253

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold joint hearings with the Committee on Energy and Natural Resources on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

Energy and Natural Resources
To hold joint hearings with the Committee on Agriculture, Nutrition, and Forestry on issues relating to the national forest planning process as provided in the National Forest Management Act of 1976.
Room to be announced

OCTOBER 26

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study, on activities of the National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on cotton.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on proposed legislation to promote and encourage travel in the U.S., and to review the National Tourism Policy Act (P.L. 97-63).
SR-253

OCTOBER 27

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 1236, to require a waiting period and certain documentation prior to the sale, delivery, or transfer of a handgun.
SD-226

OCTOBER 31

9:30 a.m.
Energy and Natural Resources
To resume hearings on the Department of Energy's efforts to improve the operations and management of its atomic energy defense activities and its efforts to restore public credibility in the Department's ability to operate its facilities in a safe and environmentally sound manner, and on S. 972, S. 1304, and other related measures with respect to the environment, safety, and health aspects of operation of the Department of Energy's nuclear facilities.
SD-366
Governmental Affairs
To hold hearings on trade and technology issues.
SD-342

NOVEMBER 1

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
SD-562

10:00 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on programs administered by the U.S. and Foreign Commercial Service.
SR-253

NOVEMBER 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the findings of the study conducted by the Monitored Retrievable Storage (MRS) Commission and the Department of Energy's plans for including MRS in the waste management system.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat production.
SR-332

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on Indian health facilities.
SR-485

NOVEMBER 3

1:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on proposed legislation to extend international trading rules to agriculture in the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations.
SD-215

NOVEMBER 6

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on the U.S.-Japan Structural Impediments Initiative (SII).
SD-215

NOVEMBER 7

9:30 a.m.
Energy and Natural Resources
To resume hearings on S. 324, to establish a national energy policy to reduce global warming, focusing on provisions relating to the Public Utility Regulatory Policy Act contained in Subtitle B of Title III.
SD-366

2:00 p.m.
Finance
International Trade Subcommittee
To resume hearings on the U.S.-Japan Structural Impediment Initiative (SII).
SD-215

NOVEMBER 8

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 891, to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.
SR-253

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on a proposed committee amendment to S. 406, Competitive Wholesale Electric Generation Act.
SD-366
Governmental Affairs
To hold hearings to examine the current status of science and math education.
SD-342

NOVEMBER 15

9:30 a.m.
Veterans' Affairs
To hold hearings on health care for rural veterans.
SR-418

NOVEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

NOVEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the implementation of the Cable Telecommunications Act (P.L. 98-549).
SR-253

POSTPONEMENTS

OCTOBER 17

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on wheat.
SR-332

OCTOBER 18

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 952, to stimulate the design, development, and manufacture of high definition television technology.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the international decade of natural disaster reduction
SR-253

10:00 a.m.
Foreign Relations
To hold hearings on the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Treat Doc. 100-20).
SD-419